

MANUFACTURING - TOBACCO

1998

JAN - OCT

Ban on tobacco adverts 'would be ineffective'

Josey Ballenger
BD 8/1/98 (198)

GOVERNMENT should introduce legislation to increase the legal smoking age by two years to 18, make underage consumption an offence and enforce penalties on sales to minors, the Freedom of Commercial Speech Trust said yesterday.

Such policies should be promoted in preference to the "ineffective" banning of tobacco in industry-sponsored sporting events, the trust said. Health Minister Nkosazana Zuma has announced that a Tobacco Products Control Amendment Bill would be tabled in Parliament early this year. The legislation may ban smoking in public places and abolish sponsorship of sporting events by the tobacco industry. The trust was formed in 1996 to represent the media and marketing industry in defending the principle of freedom of commercial speech from threatened intrusions by an overenthusiastic government.

The trust said yesterday any interference in the right of a legal product to legitimate and responsible marketing communications was a "regressive move". The proposed legislation was tantamount to censorship and contrary to the principles of a market-driven economy, it said. The trust's executive director, Graham Langmead, said government should instead consider bumping up SA's legal smoking age.

Langmead noted that it was illegal for minors to purchase — but not consume — tobacco products, and the law regarding the sale of tobacco products to underage smokers was not being enforced.

Langmead said attempts in some European countries to curb smoking, especially among young people, by abolishing advertising had not worked. The "tobacco or health" programme administrator of the World Health Organisation, Neil Collishaw, disputed the claim, saying there had been a long-term decline among "youth" smokers in Norway, Iceland and Finland, all of which had banned tobacco advertising and taken other antitobacco measures in the 1970s.

Collishaw said an independent 1991 study of Organisation for Economic Co-operation and Development countries showed that price increases and advertising bans had both been successful in reducing smoking over 26 years.

Spending cuts 'are c

EMERGENCY measures announced this week to steer Gauteng hospitals' spending back into the black are a threat to their competency, hospital superintendents say.

The proposed cuts include reducing overtime payment and employment of contracted personnel, and the compulsory use of only generic drugs.

Ga-Rankuwa Hospital superintendent Reg Broekmann said his hospital would be severely affected by the decision to lay off contracted workers. Most nurses and pharmacists were in this category.

The hospital received a revised budget from the Gauteng health department this week. The new budget trimmed R6m a month from Ga-Rankuwa's spending until the end of this financial year, which included a R3m a

month cut on salaries, Broekmann said. The money available for overtime has already been spent by the end of October.

"These emergency measures will not solve the problem, but rather create a bigger one," said Dr Andre van der Walt, Pretoria Academic Hospital's acting chief superintendent.

His hospital was instructed to reduce overtime payments by 50%. "Doctors will work for free forever," Van der Walt said.

It was inevitable for the hospital to overspend on its current budget of less than R400m. "In fact, we do not see it as overspending, but as underbudgeting. We informed provincial government that our budget was too small." He said for overspending to be curbed the government needed to outline clear policy directions.

UK sets 'well defined' conditions for Zimbabwe

HARARE — Britain said yesterday it was prepared to help finance Zimbabwe's land resettlement programme provided designed schemes were transparent, beneficial to the poorest in the country and that government fulfilled its obligation regarding protection of investment.

It could not support President Robert Mugabe's government programme to seize 1 500 mostly white-owned farms, and warned that the takeovers would harm Zimbabwe's international credibility.

British Foreign Office Minister Tony Lloyd said the programme failed to meet conditions that would allow Britain to contribute aid towards the resettlement of landless blacks on seized properties.

He said Britain also was dismayed that some land already acquired by the state for resettlement lay idle long after it was vacated by owners.

Lloyd said Britain viewed seizures, scheduled to start this year, as breaching ownership rights, and that they were unlikely to benefit the poor and were not being carried out transparently.

"We are prepared to continue discussions on how we can help but our conditions are well defined," he said.

Lloyd said one aim of his two-day visit

was to show "there's no ambiguity in Britain's position" on land seizures.

In November, Mugabe's government released a list of the 1 500 "nonproductive" farms targeted for handover to landless peasants. It gave farmers a month to lodge appeal notices.

Mugabe said then that Britain should be the one to compensate "its children", mostly the descendants of British settlers.

"It wasn't my generation who benefited from colonialism," Lloyd said yesterday. "Britain has no direct obligation."

Farming leaders predicted a 40% drop in agricultural production if the takeovers began after the harvesting season ended in August this year, as the government had indicated.

Britain's commitment to help finance Zimbabwe's land resettlement programme was in the spirit of good relations and was part of its moral obligation towards poverty alleviation worldwide.

The resettlement scheme should benefit the poorest people, he said.

The scheme should also be implemented according to Zimbabwean law and in compliance with the international obligations Zimbabwe had already signed — Reuter, AP-DJ.

Opposition to challenge Moi victory

NAIROBI — Kenya's second most popular political party said yesterday it would file a legal challenge to President Daniel arap Moi's fifth electoral victory.

"We will take Moi to court," Jackson Muniyao, secretary-general of the Democratic Party, said at an opposition rally in central Nairobi's Uhuru Park where Moi took the presidential oath on Monday.

"I would like to say: reject the election results," Muniyao told 2 000 supporters.

In contrast to past opposition events, no police were deployed to control the crowd.

Moi won a chaotic, two-day general election with 40% of the vote. His nearest challenger was Mwai Kibaki, the Democratic Party's candidate, who gained 31%.

Kibaki, runner-up to Moi, said his party would sit in parliament but continue to reject the results. "The DP will not accept the elections were not rigged," Kibaki said.

The electoral commission yesterday said the ruling Kanu party could nominate six extra MPs, while the DP could name two MPs and the NDP, FORD-K, SDP and Safina one each — Sapa-AP, Reuter.

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Rembrandt fumes after Marlboro decision

Tim Cohen

LONDON — Marlboro men can take a deep puff and rest easy following a decision by a British court to reject Rembrandt's claim that it had the right to prevent brand owner Philip Morris from marketing the cigarette in southern Africa.

Rembrandt brought an action in the British High Court last year, claiming that it was entitled to restrain Philip Morris from exporting Marlboro's to SA.

Rembrandt based its argument on rights it purportedly acquired in a wider international agreement reached with Philip Morris in 1981 about the marketing of various brands owned by both companies. As part of the agreement, Philip Morris

paid Rembrandt \$350m for a 22% stake and rights to market several of Rembrandt brands, including Rothmans and Peter Stuyversant in America.

The companies agreed at the time that the licensed production of Marlboros in SA would take place only if both parties agreed and would take place only after a "substantial launch".

Judge Rimer rejected Rembrandt's assertion that this clause and others like it implied Philip Morris had promised that, even during the period pending the execution of such an agreement, Philip Morris would not, by itself, exploit its trademarks in southern Africa.

The judge partly based his argument on the fact that the brand was, in fact, at the

time being distributed in SA through a local distributor.

Court documents obtained by the New York Times showed that one of the underlying issues in the case was smuggling.

There were suggestions made by both companies that the other was turning a blind eye to smuggling in order to grab market share.

Philip Morris, which has been selling Marlboros to Mozambique, Namibia, Botswana and Zambia since 1994, said it had no reason to believe that any of its customers were involved in contraband trade.

A spokesman for Rembrandt said the case was being appealed and it could therefore not comment on the case.

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TOBACCO PRODUCTS CONTROL BILL

Where there's smoke there's fire

Zuma plans to tighten the screws on tobacco advertising

The tobacco industry's multimillion rand sponsorship for sport could be banned along with all tobacco advertising if parliament passes a new Bill to be tabled shortly by Health Minister Nkosazana Zuma

The Tobacco Products Control Amendment Bill gives Zuma the discretion to impose stricter controls on the tobacco industry, including a total ban on advertising

It aims to bring SA in line with the European Union and other developed countries with stringent antismoking policies

The Bill promises to be one of the most fiercely contested on the parliamentary calendar. Zuma and the industry first locked horns two years ago over her initiative to have compulsory health warnings on cigarette advertisements and packets

If the Bill bans sports sponsorship as well as all tobacco advertising, the Professional Soccer League stands to lose more than R20m over three years in Rothmans sponsorship, and the media industry about R256m annually (5% of total adspend in 1996)

National Council Against Smoking executive director Dr Yussuf Saloojee has given substantial input to the Bill, including the suggestion that sports and the media be compensated for lost revenue out of the Excise tax on cigarettes

This has worked well in Australia over the past 10 years, where Excise tax has replaced tobacco sponsorship of sports and the arts and has been used to buffer the media against the loss of tobacco advertising revenue

Saloojee says a health promotion body funded out of the Excise tax could easily underwrite the R20m-R30m spent by the tobacco industry annually on sports promotion

Zuma's case is backed by research from the Economics of Tobacco Control Project, housed in the University of Cape Town's school of economics, which says curtailing tobacco advertising would discourage growth in demand for cigarettes

"Our econometric estimates show that a

1% increase in the growth of advertising expenditure would increase growth in consumers' demand for cigarettes by 0,18%-0,24%," says project head Prof Iraj Abedian

"Limiting advertising by cigarette manufacturers and promoting anticigarette awareness are both effective weapons in discouraging growth in demand for cigarettes"

His findings are disputed by the Tobacco Institute, which represents major tobacco companies and farmers. It has denounced the Project's research as "seriously flawed" and cites international evidence of its own

sponsorship of sport and cultural events does not have the same impact as product advertising "I've never heard of anyone taking up smoking or smoking more because of sports sponsorship"

He was seeking an urgent meeting with Health Department officials this week ahead of Zuma's press briefing in parliament on Friday, where he fears she will divulge details of the Bill on which there has been no consultation with the tobacco industry

About 30% of SA adults smoke. Official figures show cigarette consumption has declined considerably since 1992

But the Tobacco Institute denies that consumption has fallen, arguing that the figures have been distorted by an increase in the consumption of smuggled cigarettes

However, the Project's principal researcher, Rowena van der Merwe, says the decline is largely due to increases in the Excise tax on cigarettes — from 32% of the retail price in 1996 to 50% last year. She expects further hikes in the 1998/1999 Budget. She argues that another 50% (52% when Vat included) increase in the tax is

possible and would bring SA in line with other developed countries. Taxes account for only 30% of the retail price of cigarettes in the US, compared with 64% in Canada, 65% in Australia and 77% in the UK

Van der Merwe disputes the tobacco industry's claim that more stringent tobacco control policies would harm employment

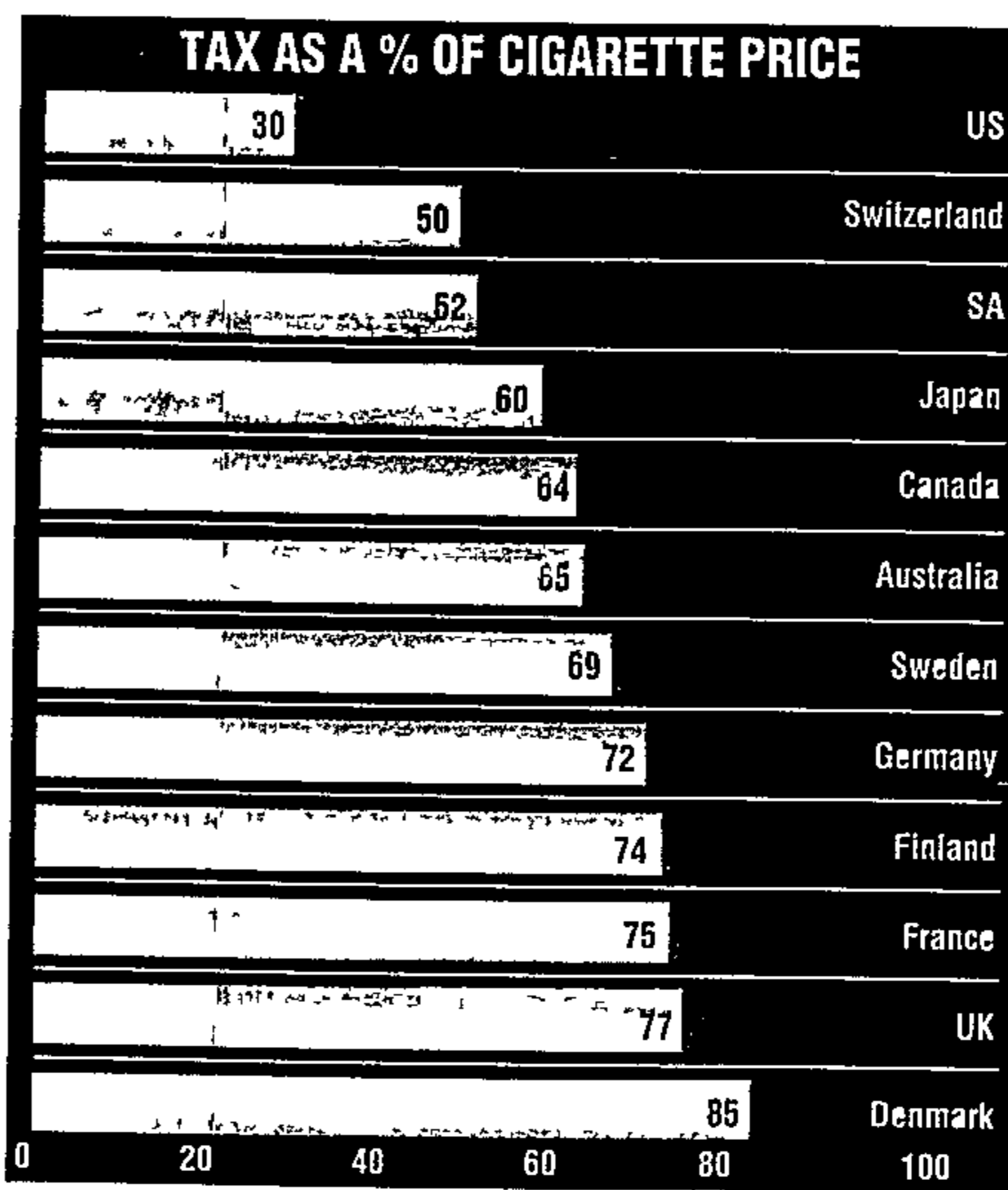
The Project claims that between 10 000 and 34 000 (net) jobs could have been created in SA in 1995 if all smokers had kicked the habit

This is because smokers who quit usually spend their cigarette money on recreational goods, clothing, transport, communication and educational services

Thus, in theory, a job lost in the tobacco industry is counteracted by a net increase of jobs in other sectors

Independent researchers monitoring the tobacco industry say no research has been done to gauge the effect of a near or total ban on tobacco advertising on the fiscus, jobs, sporting sector or media industry in SA

Claire Bischoff



that advertising restrictions have had little or no effect on aggregate cigarette consumption

If this is the case, then the tobacco industry has little to fear from the pending legislation

Rothmans International SA public affairs director Abri du Plessis says the spon-

Zuma turns up the heat in her war on smoking

A ban on lighting up in public and at work is on the cards

HENRY LUDSKI

THE Minister of Health, Dr Nkosazana Zuma, is considering banning smoking in public and in the workplace to protect children and non-smokers.

She is also weighing up a ban on all cigarette advertising.

Zuma said this week she would amend the Tobacco Products Control Act this parliamentary session to further protect public health.

"Why shouldn't I impose an outright ban on smoking in the workplace and in public places? Why should I have to stand in passport queues and inhale the smoke of other people?" she asked.

"And why shouldn't the non-smoker be protected at work, on public transport and in public places? If we

can protect the rights of smokers, why shouldn't we protect the rights of non-smokers?" she asked.

Zuma's anti-smoking sentiments have put the multibillion-rand tobacco industry on its guard.

But the Tobacco Institute of South Africa has chosen to wait and see, saying it will be in a position to comment only once Zuma makes available particulars of her proposed changes to the Act.

South Africans smoke about 25 billion cigarettes annually, generating an estimated R3-billion in taxes.

In 1997, the Minister of Finance, Trevor Manuel, imposed a 52 percent tax on cigarettes. Smokers are likely to be forced to cough up even more when the Budget is announced on March 12 — if Zuma has her way.

She said the main thrust to legislative changes would be to protect children. Steps had to be taken to

prevent them from being "bombarded" with pro-smoking messages.

If there were a way to protect children without imposing a ban on cigarette advertising, she would consider it, she said.

She urged the public to get involved, saying the debate on tobacco controls should be stimulated by the media and other sectors.

"Why do people always have to wait for me to come with all the answers? I want the public to determine what steps I should take to protect them," she said.

South Africans will get a chance to air their views on the matter later this year when the parliamentary portfolio committee on health holds public hearings on the Tobacco Products Control Amendment Bill.

The committee's chairman, Dr Abe Nkomo, himself a heavy smoker, said on Friday that the amendments were

part of the "armoury" open to the ANC to deal with the issue of substance abuse.

The issue of an "optimal mix" of control measures will also come under the spotlight at a conference in Cape Town this week due to be attended by key players in the formation of tobacco control policy.

A spokesman for the Department of Health, Gonda Perez, said this week police were investigating several cases of contraventions of the legislation on displaying health warnings and nicotine and tar contents.

Last week, in the first case of its kind in South Africa, the comedian Mel Miller demanded R2,5-million from the cigarette company Benson & Hedges, claiming his vocal cords had been irreparably damaged.

● **Comment, Page 20;**
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WS

Smokers may face another price shock

(198) ET (198) 19/2/98

CHRISTO VOLSCHENK
ECONOMICS EDITOR

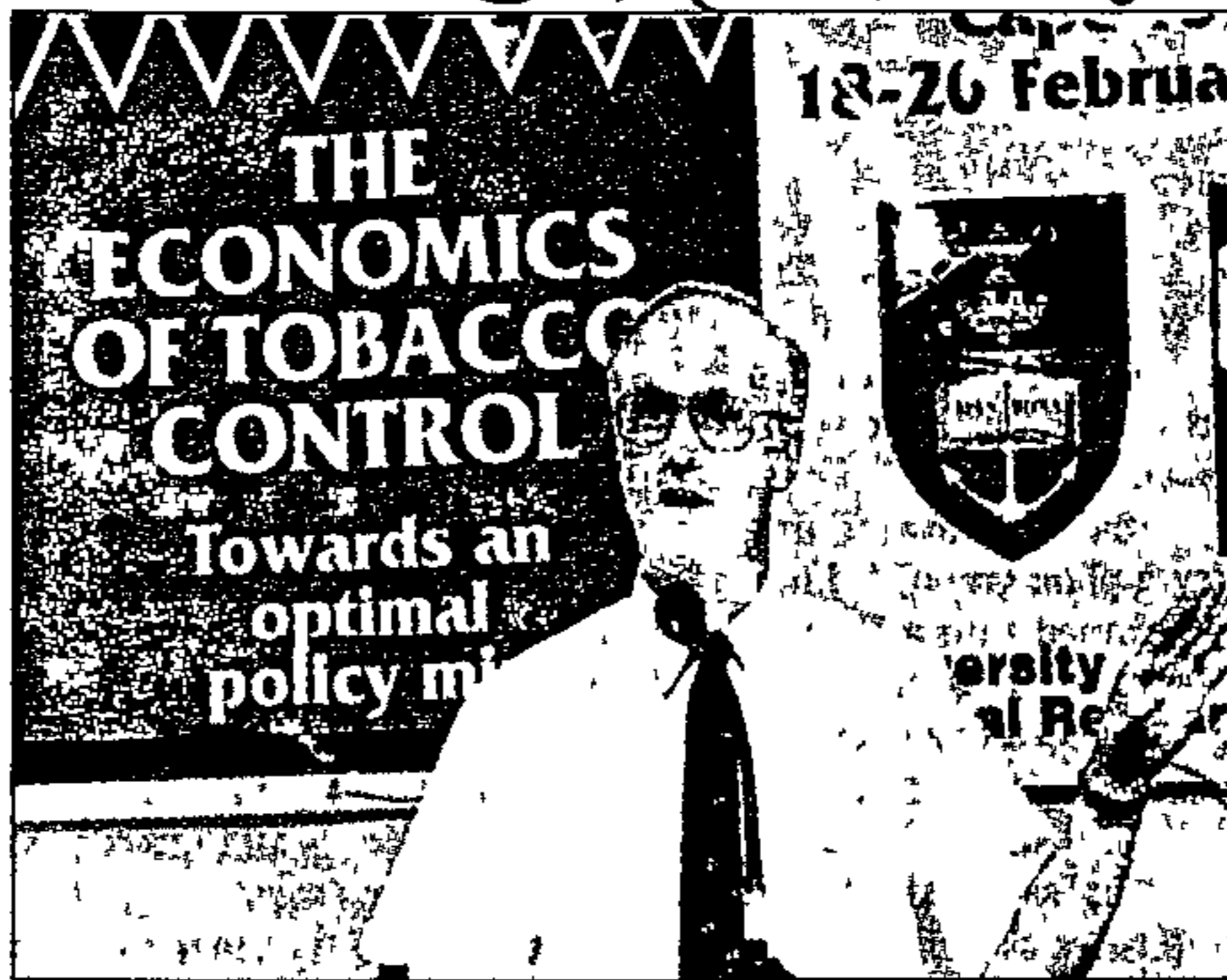
Cape Town — Smokers could be in for another cigarette price shock if Nkosazana Zuma, the health minister, accepts a suggestion by a team of researchers to raise the excise duty on cigarettes by 50 percent in the coming Budget.

The team forwarded the proposal yesterday at a Cape Town conference on smoking organised by the World Bank

The excise duty on cigarettes was increased by 54c a pack in last year's Budget, which brought the excise duty on tobacco products to about 50 percent of the retail price of cigarettes including VAT

The price increase cut cigarette consumption by price-sensitive smokers in the months after the Budget.

A team of researchers based



BREATHING EASY Ken Warner, a US anti-tobacco researcher, addresses yesterday's conference

PHOTO ANDREW BROWN

at the University of Cape Town said a 50 percent increase in excise duty in the next Budget "would increase government revenue substantially and de-

crease consumption of cigarettes without affecting the profitability of the tobacco industry in any major way"

The conference will con-

clude tomorrow with policy suggestions to the government on how to reduce smoking

Delegates to the conference expected a big rise in the excise duty to be among the proposals

After the conference Zuma's spokesman said the minister would take her cue from the policy proposals generated by the conference and "it would not be too late to include its proposals in the Budget on March 11"

The researchers said in developing countries such as South Africa, a rise in excise duties was a "more potent tool for reducing smoking than in developed countries, because consumers were more price-sensitive"

Last year the government collected about R1,8 billion in excise duties from smokers. If the researchers get their way, 50 percent more (R2,7 billion) will be "extracted" from smokers in the next financial year

ZUMA GUNS FOR TOBACCO MERCHANTS

Smoking under fire at city conference

CT 19/2/98

(198) (198)

WILL THERE COME a time when smokers have to register as addicts to get prescribed cigarettes like heroin junkies getting their dose of methadone? Health Writer **JUDITH SOAL** reports.

BY 2025 cigarettes will only be available in regulation black-and-white boxes, nicotine will be licensed as an addictive drug and its distribution and sale controlled by health authorities, all tobacco advertising and sponsorship will be banned and sports and arts bodies will look back "incredulously" at their predecessors who accepted money from tobacco companies.

This prediction was made by Professor Judith MacKay, director of the Asian Consultancy on Tobacco Control, at an international conference on the economics of tobacco control that started in the city yesterday. She said this situation would be attained by countries that were taking tobacco control seriously now.

And South Africa certainly is taking tobacco control seriously now, thanks to the efforts — some say crusade — of Health Minister Nkosazana Zuma.

Zuma said at the conference opening she was preparing for a "titanic battle" in the next few months over the introduction of new laws to control tobacco. She planned to "effectively ban smoking in public places" and was "considering" banning tobacco advertising, sponsorships and promotions.

Clearly Zuma was among friends.

"I have been accused of all sorts of things in the press, they say I am 'Nanny Zuma' and that I make the deputy-president (smoker Mr Thabo Mbeki)'s life hell, but my primary guide is not a dislike for tobacco but a steadfast concern for public health."

She said tobacco was responsible for three million deaths a year and that this toll was rising.

"While fewer people are smoking in industrialised countries, in the developing world there are 800 million smokers, and this is increasing. Seventy percent of future deaths from tobacco will be in developing countries."

"All but four African nations import more tobacco than they export, using precious foreign exchange. The profits go to transnational tobacco manufacturers, while only a small amount goes to tobacco growers. The profits go to Wall Street and shareholders in Britain, but the harm stays in Africa."

Zuma said tobacco companies were also targeting women. "This problem is greatest in the Western Cape (where) in some communities about 40% of women smoke, compared to the national average

of 12%."

Other smoking-related facts to emerge included:

- The Western Cape has the highest rate of smoking-related deaths in the country — one in five of the 25 000 reported annually by 1990.

- The smoking rate among the coloured population is on the rise — as are deaths from lung cancer.

- About 34% of South Africans — 7,6m people — smoked in 1995.

- The tobacco industry spent R256m on advertising in 1996.

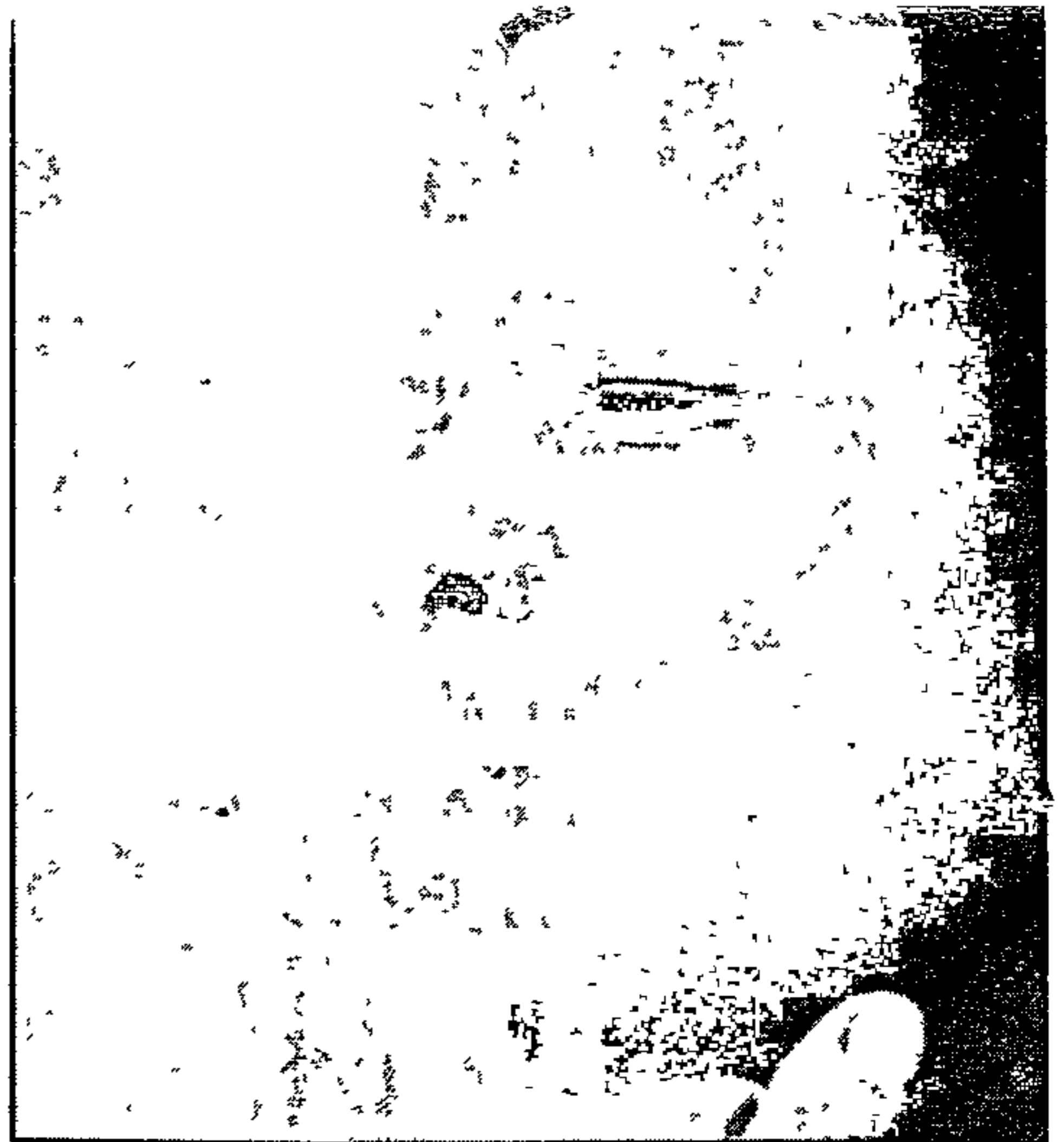
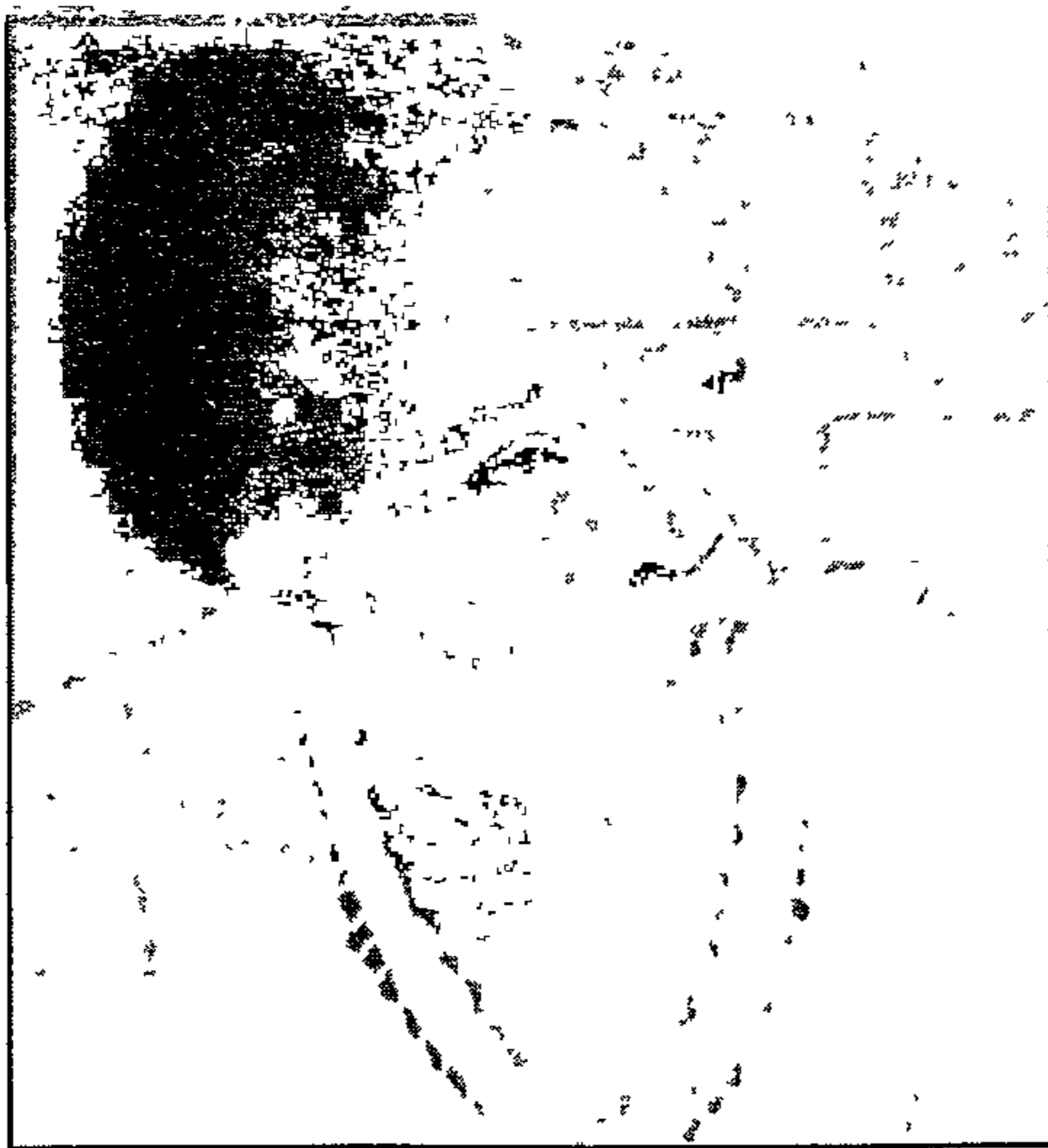
- The economic costs of smoking, due to lost productivity because of hospitalisation and death, exceed R2,5bn.

- The direct treatment costs for smoking-related diseases in the public sector alone are about R1,5bn a year.

The conference is the culmination of a research project into the economic effects of tobacco use. Tobacco companies are increasingly using economic arguments to justify their existence, saying jobs will be lost and sponsorships will suffer if further tobacco controls are implemented. The research team set out to test these claims.

"Initially we tried to work with the tobacco companies," said conference chairperson Professor Iraj Abedian, "but they refused. They guarded their data with their lives — or some might say, profits."

● See Business Report, Page 21.



Health Minister Nkosazana Zuma called on South Africans yesterday to change their benign tolerance of cigarette smoking. She told a three-day conference hosted by the University of Cape Town and the Medical Research Council that about three million people died worldwide each year from tobacco-related illnesses. But the man in the picture is one of millions who are ignoring warnings that smoking is the major cause of cancer.

Time to fight smoking habit - Zuma

Researchers say about 30 million people will be killed by smoking this decade

THE time has come to change society's relatively benign tolerance of tobacco and to correct mistaken impressions about the importance of tobacco to the economy, Health Minister Dr Nkosazana Zuma said yesterday.

Addressing a conference of international tobacco control experts at Sea Point, Cape Town, Zuma said the seriousness of health problems caused by tobacco needed urgent attention.

The three-day conference - titled Economics of Tobacco Control - is being hosted by the University of Cape Town and the Medical Research Council and has drawn delegates from 17 countries.

It aims at sharing research findings with scientists worldwide, invites debate with researchers from the tobacco industry and intends to formulate policy proposals for tobacco control.

"We all know about the three million deaths worldwide each year from tobacco-related illnesses," Zuma told delegates.

"Researchers (now) tell us that an estimated 30 million people will be killed this decade by smoking," she said.

She said while fewer people were smoking in

industrialised countries, there were an estimated 800 million people who smoked in the developing world and the number was increasing.

"Lung cancer is the most common cancer in the world and 85 percent of cases in men and 46 percent in women are due to tobacco."

Tobacco use in South Africa was declining, with consumption falling at a rate of three percent a year since 1990.

She said surveys showed the number of smokers had dropped from 30,2 percent of the population in 1996 to 28,4 percent in 1997.

The tobacco epidemic was an entirely self-imposed one but was not spread by deadly viruses and bacteria.

"This epidemic is sustained by the search for profit, it is all about money," Zuma said.

The tobacco industry repeatedly emphasised the importance of tobacco to the economy, the number of jobs it created and the tax revenue it generated.

Yet a recent international conference had highlighted the health and social costs of tobacco as a major threat to sustainable and equitable development.

The best weapon the Government had to deter smoking was taxation - the price at which cigarettes were sold - Zuma

Time to get tough on tobacco industry, says Zuma

Star 19/2/98

(198) &

Cape Town - The time had come to change society's relatively benign tolerance of tobacco and to correct impressions about the importance of tobacco to the economy, Health Minister Dr Nkosazana Zuma said yesterday

The seriousness of the health problems caused by tobacco warranted urgent attention, she said at the opening of a conference of international tobacco-control experts in Sea Point, Cape Town

The three-day conference - titled Economics of Tobacco Control - is hosted by the University of Cape Town and the Medical Research Council, and has delegates from 17 countries

It aims to share research findings with scientists worldwide, invite debate with researchers from the tobacco industry, and formulate policy

proposals for tobacco control

"We all know about the 3 million deaths worldwide each year from tobacco-related illnesses," Zuma told delegates

"Researchers tell us that an estimated 30 million people will be killed by smoking this decade"

While fewer people were smoking in industrialised countries, there were an estimated 800 million people who smoked in the developing world, and this number was increasing, she said

"Lung cancer is already the most common cancer in the world, and 85% of cases in men and 46% of cases in women are due to tobacco

"In the developing world, the highest rates are to be seen in those countries where the smoking habit has been relatively long established - South

Africa, Zimbabwe, China and the eastern Mediterranean"

"This epidemic is sustained only by the search for profit, it is all about money"

The tobacco industry repeatedly emphasised the importance of tobacco to the economy, the number of jobs it created and the tax revenue it generated. Yet a 1993 World Bank study estimated that tobacco use resulted in a global net loss of \$200-billion a year

"This is more than the total current health expenditures in all developed countries combined," Zuma said

The profits went mainly to the transnational manufacturers, while only a small amount went to the growers

"The profits go to Wall Street and shareholders in Britain, but the harm stays in Africa," she said

The best weapon the SA Government had to deter smoking was taxation - the price at which cigarettes were sold

Tobacco use in South Africa was declining, with consumption falling at a rate of 3% a year since 1990

Surveys showed the number of smokers had dropped from 30,2% of the population in 1996 to 28,4% last year

However, the Health Department was concerned about the lack of protection for non-smokers from passive smoking

"In order to overcome these problems, the department proposes to amend the current legislation so as to ban smoking in public and in the workplace

"We may ban tobacco advertising, sponsorships and promotions, and raise to 18 the age at which minors can buy cigarettes" - Sapa

Relegate smoking to 'privacy of home'

BD 19/2/98 (198)

CAPE TOWN — Smoking in SA should be relegated to the privacy of the home or to the great outdoors, Health Minister Nkosazana Zuma said yesterday.

She told an antismoking conference that developing countries like SA were increasingly at risk from aggressive international cigarette makers, squeezed out of industrialised markets.

"In many respects tobacco companies are on the retreat, but this has only fuelled their determination to expand into new markets. They are on the offensive in developing countries," she told the Economics of Tobacco Control conference.

Zuma said 3-million people around the world died each year from smoking and the toll was rising, an estimated 800-million people smoked in the third world, which would see 70% of all future deaths from tobacco. The highest rates of lung cancer in the developing world were in countries where smoking was an established habit, such as SA, Zimbabwe and China.

Zuma said SA had made little progress to curb smoking with measures taken in other countries, with smoking still freely allowed at work, in restaurants and on public transport.

"To overcome these problems the health department proposes to amend current legislation so as to effectively

ban smoking in public and in the workplace," she said.

"We are considering banning tobacco advertising, sponsorships and promotions and raising the age at which minors can legally buy cigarettes to 18." Following the lead of others in the US, an SA man is suing a tobacco company for allegedly promoting his smoking habit.

She said opinion polls showed overwhelming support from smokers and nonsmokers for a ban on smoking in public places and for the regulation of tobacco advertising.

Josey Ballenger reports that the Cancer Association of SA said it supported Zuma's imminent legislation to curb tobacco advertising and sponsorship, which targeted particularly young people.

The SA Institute for Medical Research's national cancer registry has estimated that if there is no change in current smoking patterns, 1,8-million of SA's 21-million people aged up to 19 will die prematurely over the next 40 years from tobacco-related diseases.

"A ban on advertising and sponsorship will, as it has done in other countries, reduce smoking rates ... and ultimately save lives and enormous health care costs for the government," the association said.

BAT accuses smoking conference of bias

(198) CT (BR) 20/2/98

ADELE SHEVEL

Johannesburg — The government was failing to get the views of the tobacco industry at its Economics of Tobacco Control conference in Cape Town, Steven Jurgens, the managing director of British American Tobacco (BAT), said yesterday.

He said the tobacco industry should be involved in dialogue with the government to formulate legislation pertaining to the industry instead of having draconian measures imposed upon it. The industry had not yet seen the proposals. "Before we know it, it will be a fait accompli."

Jurgens said it was a one-sided emotional debate that precluded the tobacco industry from participating.

The industry would agree to measures to raise the legal age of buying cigarettes to 18, but he rejected the notion that smoking should be banned in public workplaces.

Industry could assist in the formulation of effective alternatives like dedicated smoking and non-smoking areas combined with education.

He said there was a misguided belief that the restriction of advertising and sponsorship would reduce the incidence of smoking.

He said communist countries that had previously not allowed cigarette advertising had a high incidence of smoking, as did Finland. "It is not about trying to convince non-smokers to smoke but that smokers can make an informed choice of brand."

BAT spent more than R50 million a year on advertising in this country. If the industry was restricted from taking part in sport, music or outdoor sponsorship, it would focus on international events that were televised locally. These local events would lack further patronage, he said.

Excise duties on the tobacco industry have increased 177 percent from 1994 to 1997, which had been passed on to the consumer. A large rise in excise duties caused people to buy contraband and cheaper products, available under the counter — "which makes it more accessible for children."

Jurgens said it might be more effective to combine moderate excise increases with youth education programmes.

High taxes and advert controls drag cigarette consumption down

(198) Ed. 20/2/98

Linda Ensor

CAPE TOWN — There was an estimated 20% decline in cigarette consumption between 1994 and last year because of higher taxes and more stringent advertising controls, University of Cape Town economist Rowena van der Merwe said yesterday.

Despite this, there was still scope for a further rise in excise duty, Van der Merwe said at a conference on the economics of tobacco control. The excise duty was increased to

52% from 32% in last year's budget. A rise above this would generate more revenue for the state and reduce the demand for cigarettes. Even with an excise duty of 52%, consumption had not fallen to such an extent that revenues suffered.

Excise revenue collected from tobacco last year was about R1,7bn compared with R1,2bn in 1995 — an increase in real terms of almost 5%.

Van der Merwe said between 1970 and 1988 the real price index of cigarettes declined from 100 to 63,

while excise duties fell from 46% of the total price in the 1970s to 20% in the early 1990s. This meant a higher profit margin for cigarette companies and represented a failure on government's part to optimise revenue from cigarettes, thereby effectively encouraging consumption.

Van der Merwe estimated that government lost about R1,9bn in revenue in 1995 alone as a result of excise duties not keeping pace with inflation.

"In a developing country like SA, taxation is a more potent mechanism

to reduce consumption than in developed countries because consumers of cigarettes tend to be more price sensitive in developing countries," Van der Merwe said. "High excise duties are therefore strongly synonymous with a reduced consumption."

Regarding advertising, research showed that a 1% rise in the growth of advertising expenditure translated into a growth in cigarette demand of between 0,18% and 0,24%. In 1996, the industry spent R256m on tobacco advertising. This suggested limiting ad-

vertising could curb smoking.

In 1995, about 34% of SA's population, or about 7,6-million people, smoked, spending about R1,6bn on their habit. In 1996, 27,5-billion cigarettes were consumed in SA.

Van der Merwe also said that about 2-billion cigarettes were smuggled into SA annually, representing between 5% and 7% of the total market and a loss of R100m in government revenue in 1995. SA-manufactured cigarettes had been exported and then smuggled back to avoid customs duties.

20%

Mixed feelings over plans to ban puffing billys in public places

SHARKEY ISAACS
STAFF REPORTER

City workers have mixed feelings about plans by Health Minister Nkosazana Zuma to effectively ban smoking in public places, including workplaces, in the next few months.

She is also considering banning tobacco advertising, sponsorship and promotions.

Some people, like Edwina de Gee of Mitchell's Plain, says her smoking has not affected her productivity at work. A ban on smoking in buildings would mean workers would have to be given breaks to smoke outside, reducing productivity.

"I don't feel smoking should be regulated by law. It should be left to the building's lessee or owner and, in my case, to my employer."

Louise Botha said she could see herself and her colleagues standing outside smoking and stubbing out the cigarette ends on the pavement.

"It's a habit we just can't give up so we shall need treatment to help us give it up. Dr Zuma will have to be



Edwina de Gee of Mitchell's Plain: 'productivity will diminish'

put us on some sort of medical aid to treat us."

Pat Chenninats of Cape Town said smoking was a bad habit but she was unable to give it up.

"Why must laws be introduced to stop us smoking inside buildings? At present restaurants have zones for smokers and I will have to quit going



Louisa Botha of the Northern Suburbs: 'picture all the cigarette butts'

to restaurants the day they adopt the new laws," she said.

"Alcohol is more dangerous than smoking and causes many crimes so why don't they control the sale of alcohol?"

Non-smoker Emmanuel Scott, a visiting Librarian soccer player, said he had no objection to smoking.

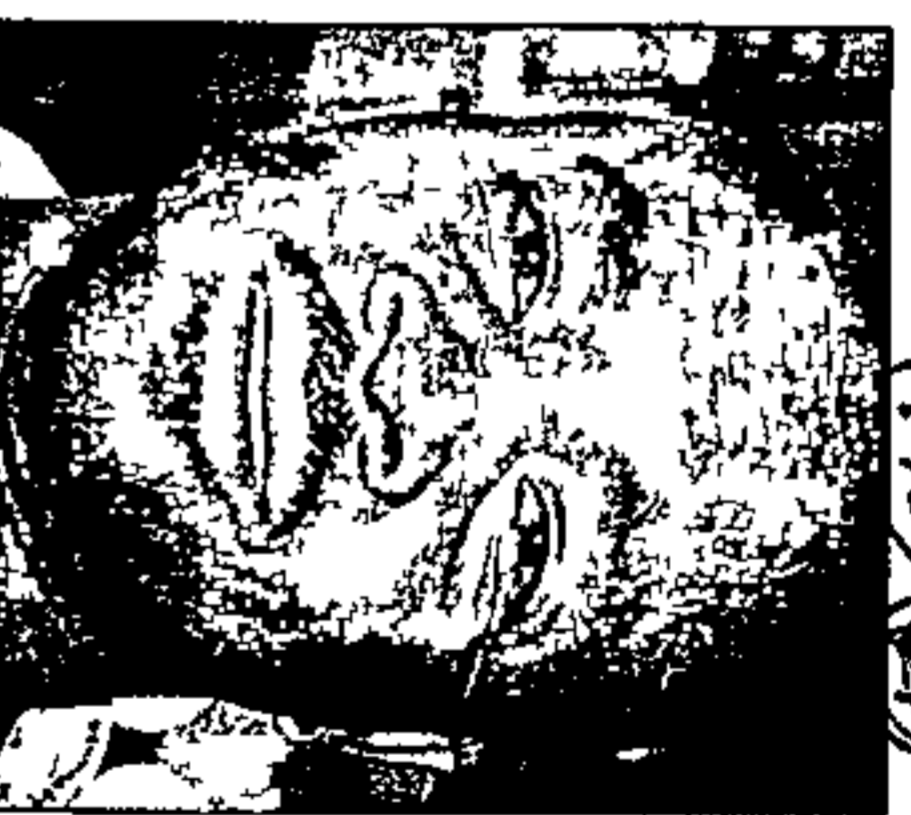


Pat Chenninats of Cape Town: 'provision should be made for smokers'

"People should be allowed to smoke when and where they like."

Jacob Mpetswa of Nyanga East said he had been smoking for 13 of his 31 years. "How long will such laws last before they again change?"

Non-smoker Francois Fredericks of Mitchell's Plain said he sympathised with colleagues who

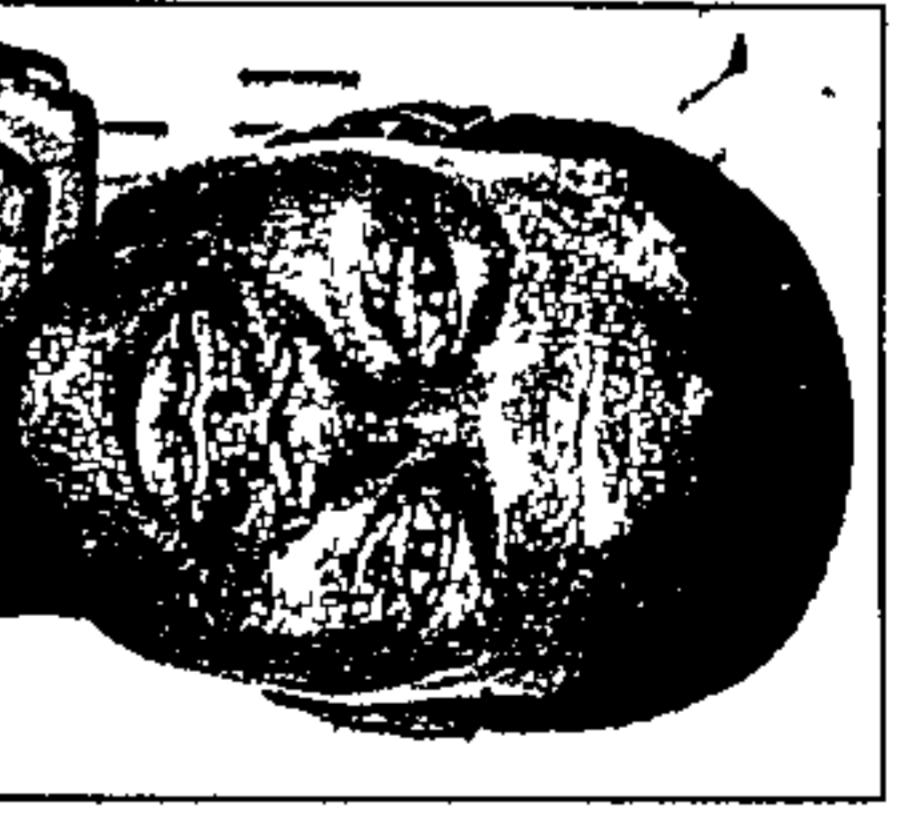


Librarian Emmanuel Scott: 'people should be allowed to smoke where they like'

asked to move away from smokers.

"Smoking is a health hazard and a law controlling smokers would be a good thing."

Pat Mampana of Sea Point said while she did not smoke, she did not object to others smoking. "So I don't think it should be controlled by a law."



Jacob Mpetswa of Nyanga East: 'laws should not be introduced'

Washington - House commerce committee chairman Thomas Bliley has ordered tobacco companies to turn over to Congress more than 39 000 secret documents containing information on the industry's marketing and scientific research.

39 000 burning secrets ordered into open

Mr Bliley said the companies had been served with subpoenas requiring the documents be turned over by March 12.

"This will put in the public eye all of the secrets of the tobacco industry," he said - Reuters



Francois Fredericks of Mitchell's Plain: 'control legislation is a good idea'

ART 20/21/98
(198)



Can't sponsor sport in secret - tobacco firms

ARG 21/2/98 (198) (87)
Zuma 'totally unrealistic'

ANDREA WEISS

Health Minister Nkosazana Zuma says she does not mind tobacco companies sponsoring sporting events - as long as they don't use it to advertise cigarettes.

But the tobacco industry says it is "totally unrealistic" to expect companies to sponsor sport secretly.

Dr Zuma's remark comes in the wake of an announcement that the Government is considering banning smoking in public and work places, with a possible ban on tobacco advertising and sponsorships.

According to the tobacco industry, a ban on sponsorships would cost soccer R20-million over the next three years, and a ban on advertising would deprive the media industry of around R250-million a year in advertising revenue.

Dr Zuma said at an international tobacco control conference in Cape Town this week that a "titanic" battle was on the cards in the next few months.

The only area where Dr Zuma and the industry are in accord is over the raising of the age limit of the sale of cigarettes to 18.

The limit is currently 16 but the constitution defines children as being under the age of 18, something which the trade association, the Tobacco Institute, supports.

In an interview with Saturday Argus Dr Zuma refused to be drawn on when any of the proposed measures would be implemented.

She said she was not yet ready to reveal such details.

However, she believed the debate should be around whether it was healthy for sports in South

Africa to be associated with tobacco and smoking.

She appealed to non-tobacco companies to consider sponsoring sports because "indeed, no self-respecting sports person smokes and no successful sports person smokes".

"Why do we deceive the public, especially young people, and put tobacco images linked to sports, because then kids think smoking and sports go together . . . We should be promoting things that are in line with a healthy sports person at sporting events or even at cultural events I'm saying let's

'The effect of banning cigarette advertising is at best inconclusive'

discuss it."

The Tobacco Institute, representing tobacco manufacturers and farmers, has responded to Dr Zuma's suggestion that they should provide anonymous sponsorship, saying it was "totally unrealistic".

An institute spokesman said: "Speaking in terms of commerce, it would be totally unrealistic to expect tobacco companies just to donate money secretly to sporting bodies.

"You could say that the boards of tobacco companies would not be able to justify such donations to their shareholders."

He said the industry had not been afforded any consultation. He believed talks should involve tobacco companies, sporting bodies, the media, hospitality industry

and trade unions.

The Tobacco Institute will approach the Department of Health with a view to "securing a meaningful opportunity to consult". The industry did not wish children to smoke and therefore supported the raised age limit.

On the issue of an advertising ban, he said that any evidence of the efficacy of such a ban was "anecdotal and, at best, inconclusive".

"A total ban would be undemocratic, would infringe on commercial freedom of speech and would cause the media unjustifiable losses," he said.

On sponsorships he said there was no evidence to suggest that they caused people to take up smoking or to smoke more cigarettes.

"All that a sponsorship ban would do would be to prohibit tobacco companies from making a contribution to society," he said.

Most formal employers already had smoking policies and the industry believed Government intervention in this area was superfluous.

He said: "What we hope is that we can settle this complicated issue by a meaningful process of consultation. We don't see the minister as an enemy and we don't want her to see us as an enemy."

According to a stock exchange report, the news of stricter tobacco controls saw shares in the investment holding company Remgro drop by 230c to R36,70 on Thursday. Remgro owns a third of Rothmans International of London.

The drop in share price was also linked to the application for voluntary liquidation by L Suzman, the country's oldest and largest cigar and cigarette distributors.

Sponsor but don't advertise, says Zuma

By ANDREA WEISS

Health Minister Nkosazana Zuma says she does not mind tobacco companies sponsoring sporting events - as long as they don't use this as an opportunity to advertise cigarettes.

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Star 21/2/98
(198)

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However, she believed the debate should be around whether it was healthy for sports in South Africa to be associated with tobacco and smoking. She appealed to non-tobacco companies to consider sponsoring sports because "indeed no self-respecting sports person smokes, and no successful sports person smokes".

A Tobacco Institute spokesman said the industry had not been afforded any consultation.



ALL FIRED UP: Health Minister Nkosazana Zuma is targeting tobacco companies' sponsorship of sport.

CIGARETTE PRICES MAY SHOOT UP

Anti-smoking lobby strikes forceful blow in city talks

CT 23/2/98

(198) (27)

A SMOKING INDUSTRY chief claimed that his industry was 'excluded' from the Economics of Tobacco Control conference last week, but a conference organiser denied this. Health Writer **JUDITH SOAL** reports

ROUND 86 to the anti-tobacco lobbyists. By highlighting shocking statistics on the costs of smoking and undermining arguments about the economic benefits of the tobacco industry, the conference on the Economics of Tobacco Control held in Sea Point last week struck a blow for the smoke-free lobby.

And if the tobacco industry's reaction was anything to go by, it was a blow that hurt.

In an article published in *Business Report* during the conference, British American Tobacco (BAT) managing director Mr Steven Jurgens claimed that the industry was being "excluded".

He said it was a "one-sided, emotional debate" that stopped the industry from participating in the formulation of government policy at the conference.

But the conference organisers disagreed. "To say they have been excluded is an out and out lie," said the Medical Research Council's Ms Greer van Zyl.

She said last week that eight representatives of the tobacco industry were attending the conference. "They're in the audience right now."

In an apparent reference to Jurgens' criticism, conference chairperson Professor Iraj Abedian took some time during the closing session on Friday to ask for input from the industry. Delegates looked around suspiciously, wondering just who these infiltrators were and whether or not they would speak up.

"They've been gagged," cried one jeering voice.

At last a lone soul braved it, but not very far. "I would just like to know whether (Dr) Hugh High's paper will be made available like the others have been," asked a man who left before the *Cape Times* could get his name.

High, a UCT lecturer who delivered a paper on the relationship between tobacco consumption and advertising, was criticised during the closing sessions for a presentation that was "unprofessional, poorly researched and insulting to the conference". It seems that the tobacco industry did have more than silent representation during the week. High, whose paper suggested that tobacco advertising did not significantly increase consumption, has produced research for the industry — enough to discredit him in the eyes of this community.

Abedian promised to distribute the paper, but was quickly interrupted by that tireless South African anti-tobacco campaigner who now works for the World Health Organisation, Dr Derek Yach. Yach agreed that the paper should be sent out, but insisted that the heated audience discussion following High's presentation be included.

Clearly neither side is about to concede any ground, particularly as Health Minister Dr Nkosazana Zuma prepares to table new legislation to further restrict tobacco advertising. There is much speculation about how far this legislation will go — Zuma spoke initially of a total ban, but now says she will try to avoid that "if there is a way of protecting the children without it".

Is that Round 87 to the industry?

● Your packet of cigarettes could go up by more than R1,50 soon, if proposals from the tobacco control conference held in the city last week are accepted.

A team of researchers based at the University of Cape Town have recommended that excise on cigarettes increase by 50% in the coming budget. With VAT, this would mean about a R1,50 increase.

But it could be more because tobacco companies normally use such occasions to introduce their own price increases.

Even without an industry increase, addicts will have to fork out an extra R550 a year — meaning a tobacco habit of a packet a day will cost you about R2 555 a year.

However, sources predict that the government will moderate the proposals and introduce an increase of around 20% — about 60c a box.

● See Business Report Page 20

Tax 'the best way to curb smoking, especially among children and the poor'

Global anti-smoking policies urged

CT (PR) 27/2/98

(87) (198)

CHRISTO VOLSCHENK

ECONOMICS EDITOR

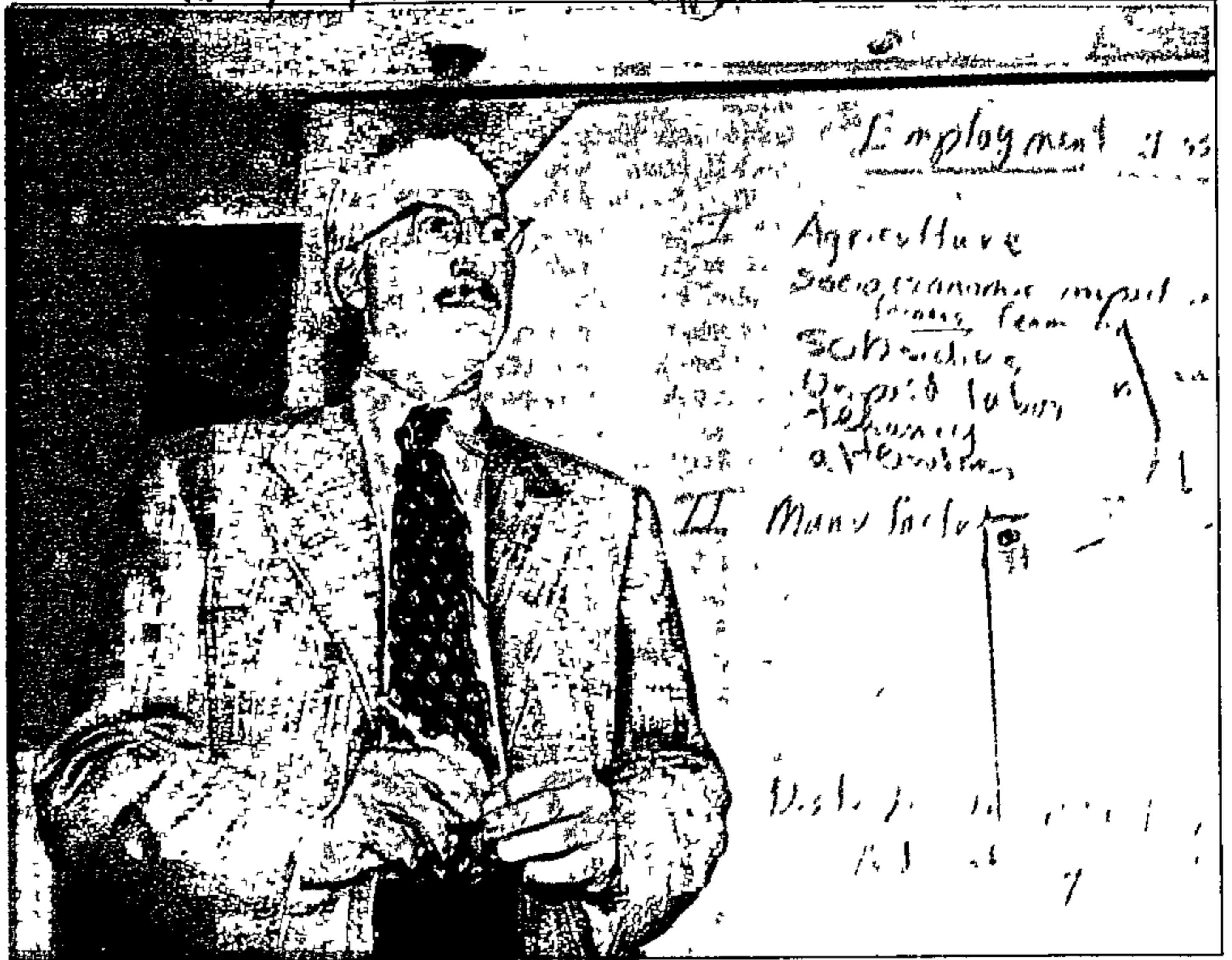
Cape Town — At the end of a three-day anti-smoking conference on Friday attendants from 26 countries urged governments all over the world to increase excise duties on cigarettes, ban all direct and indirect advertising and promotion of tobacco products and to stop selling cigarettes at duty free shops at airports

The attendants produced a consensus policy statement in which they said "proposals to decrease tobacco consumption through tax increases, a ban on advertising and promotion of tobacco products and health education, were consistent with global trends of tobacco control"

No suggestion was made in the policy statement on the amount by which excise duties should be increased in South Africa or in any other country

Earlier in the week a spokesman in the office of Nkosazana Zuma, the health minister, said the government would take its cue on whether to increase excise duties in the Budget from the policy proposals of the international conference

Over 120 economists and policy makers attended the conference, which was the first international conference of its kind. The World Health Organisation (WHO), the World



INCREASE TAXES Thomas Novotny of the World Bank puts the case for higher taxes on tobacco products at the anti-smoking conference in Cape Town

PHOTO ANDREW BROWN

Bank and a number of other international agencies were also represented

Late last year researchers at the University of Cape Town suggested that excise duty on cigarettes could be increased 50 percent without damaging the profitability of manufacturers

Iraj Abedian, the head of the research team at the university

and the chairman of the conference, said the proposal to increase excise duties was presented to the government

In the policy statement attendants urged the government to increase excise duties annually at a rate higher than the ruling inflation rate since "tax increases are the most effective tool to reduce tobacco consumption, es-

pecially amongst children and the poor"

"There should be greater global and regional co-ordination on tobacco issues"

The conference urged governments to co-operate with the WHO in its effort to draft and implement an international protocol or treaty on the control of tobacco consumption

'Govt should hike cigarette taxes to protect children'

Linda Ensor

BO 23/2/98
CAPE TOWN — Governments should impose higher taxes on cigarettes to push up prices and reduce consumption, an international conference of about 120 tobacco control experts from 26 countries resolved at the weekend

Furthermore, all direct and indirect advertising, the promotion of tobacco products, trademarks, brand names and logos should be banned "so that the world's children can grow up free from commercial pressures to smoke"

There was unanimity that one of the most effective ways of deterring smoking among the youth was to raise taxes

The experts, who were predominantly economists involved in re-

searching the economics of tobacco control, called for greater global and regional co-ordination on tobacco issues

They say global tobacco control problems can be best controlled through global law and recommended that "all states worldwide, provide the necessary technical and financial support to the World Health Organisation to hasten the preparation and implementation of an International Framework Convention on Tobacco Control and related protocols"

Another resolution called on the World Bank to make a manual for developing nations to help them estimate economic costs of tobacco and analyse effects of the tax structure on prices

"As demonstrated by research in several countries (including SA) these recommended measures designed to reduce domestic smoking prevalence would have no significant effect on employment, output and national income," the resolution noted.

The economists felt their most difficult research challenge was to measure the effectiveness of policy options relative to their cost.

Econometric studies should also be used to pin down the effects of advertising on tobacco consumption.

The findings were as yet inconclusive, University of Michigan public health professor Kenneth Warner said.

"Clearly there is also a critical need to develop a precise understanding of the price elasticity of demand in a number of countries," he said

Comment: Page 11

Grant kickstarts tobacco project in Cape

BD 9/3/98 (198)

A GRANT from Eastern Cape Premier Makhenkesi Stofile's discretionary Reconstruction and Development Project fund has kickstarted a tobacco enterprise situated in Balfour, a small town in the province

Called the Balfour Communal Irrigation Project, it will see 15 farmers each getting just over 2ha of land to farm. The grant is worth R659 502

According to a study done by the directorate of agricultural economics in the agriculture and land

affairs department, the project will generate a turnover of R500 000 a year if well managed.

From this turnover, the farmers will be able to generate a "disposable surplus" of R111 187 which will then be available as remuneration to them. The grant will be used to fund the building of a tobacco-drying shed (R165 000), the setting up of an irrigation system (R198 902) and the purchasing of equipment (R295 600)

The project was officially handed over to the community yester-

day by MEC for agriculture and land affairs Max Mamase at a ceremony which included the handing over of a tractor, the switching on of a new electric pump and the harvesting of tobacco.

Agriculture and land affairs spokesman Thembalani Stamper said on Friday "the Eastern Cape's tobacco industry is still very limited, but the industry is growing at a fast pace and is already positively influencing the transformation of agriculture in the province" — ECN

Lighting up is going to lighten your pocket too

HEALTH WRITER

FORGET the 46c increase on a box of cigarettes announced yesterday. Fags will go up by at least 51c (because of VAT) and possibly more like R1 if prices increase the way they did last year.

This is according to Dr Yussuf Saloojee, executive director of the National Council Against Smoking

"In 1997 cigarettes went up by R1,53. Most of this increase, 81c, was due to increases by manufacturers and retailers."

If the same percentage increases apply this year, based on the 46c tax, a box of cigarettes will go up by at least 86c.

But Saloojee's figures were disputed by

Mr Abrie du Plessis, public relations manager of Rothmans, yesterday

"He is lying I don't know where he got those figures from. The tobacco manufacturers didn't increase their recommended prices at all after the Budget last year, and we won't this year"

He did admit that some retailers had used the opportunity to increase the selling price "Of course the same may happen now"

He could not say whether manufacturers would put their prices up later in the year, but if the anti-tobacconists get their way and consumption goes down, you can be certain the die-hard puffers will be coughing up more

(198)

CT 12/3/98

Parliament's puffers hit by double blow

(198)

Members of Parliament who smoke were hit by a double blow on Budget day. First, there was the increase in cigarette duty. Then details of a new smoking policy for Parliament were pushed under their doors.

Warned that the policy "will be enforced by management", MPs were told that, henceforth, smoking is prohibited within the parliamentary complex. Even the corridors and passageways - the traditional meeting ground for chats - have been included in the ban. On top of this, smoking is permitted in offices only if co-workers don't object.

But there are some areas set aside for those who can't kick the habit, including in the various bars in the complex, three courtyards and the garden.

Still, help is at hand: "Parliament will, to the extent that it is able, assist members and staff to break the habit," the memo said. And if that doesn't work, there are always next year's excise duties... -

Staff Reporter

Star 12/3/98

Fifteen farmers to gain from tobacco project

A MORE than half a million rand grant from the Eastern Cape MEC for finance and economic affairs' discretionary reconstruction and development programme fund has been used to begin a tobacco project in Balfour, a small town in the province.

The R659 502 project, called the Balfour Communal Irrigation Project, will result in 15 farmers each getting just over two hectares of land to farm

According to a study done by the directorate of agricultural economics in the department of agriculture and land affairs, the project will, if properly managed, generate a turnover of R500 000 a year.

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remuneration to them.

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Southern 12/3/98

10c/l fuel levy hike will boost revenue by R1,7bn

Samantha Sharpe

CAPE TOWN — The fuel levy has been increased by 10c/l, which is expected to boost government revenue by R1,7bn in the new financial year.

Finance Minister Trevor Manuel said the levy was one of the largest components of retail fuel prices, being fixed at 76,8c/l in respect of leaded petrol, 70,4c/l for unleaded petrol and 66,1c/l for diesel.

However, in the context of the recent slide in international oil prices, the hike will not necessarily

translate into a commensurate increase in petrol prices.

It was more likely to provide a soft revenue source for the finance ministry.

Manuel said in his budget speech the fuel levy increase would come into effect from April 1, coinciding with the monthly fuel price adjustment, if any.

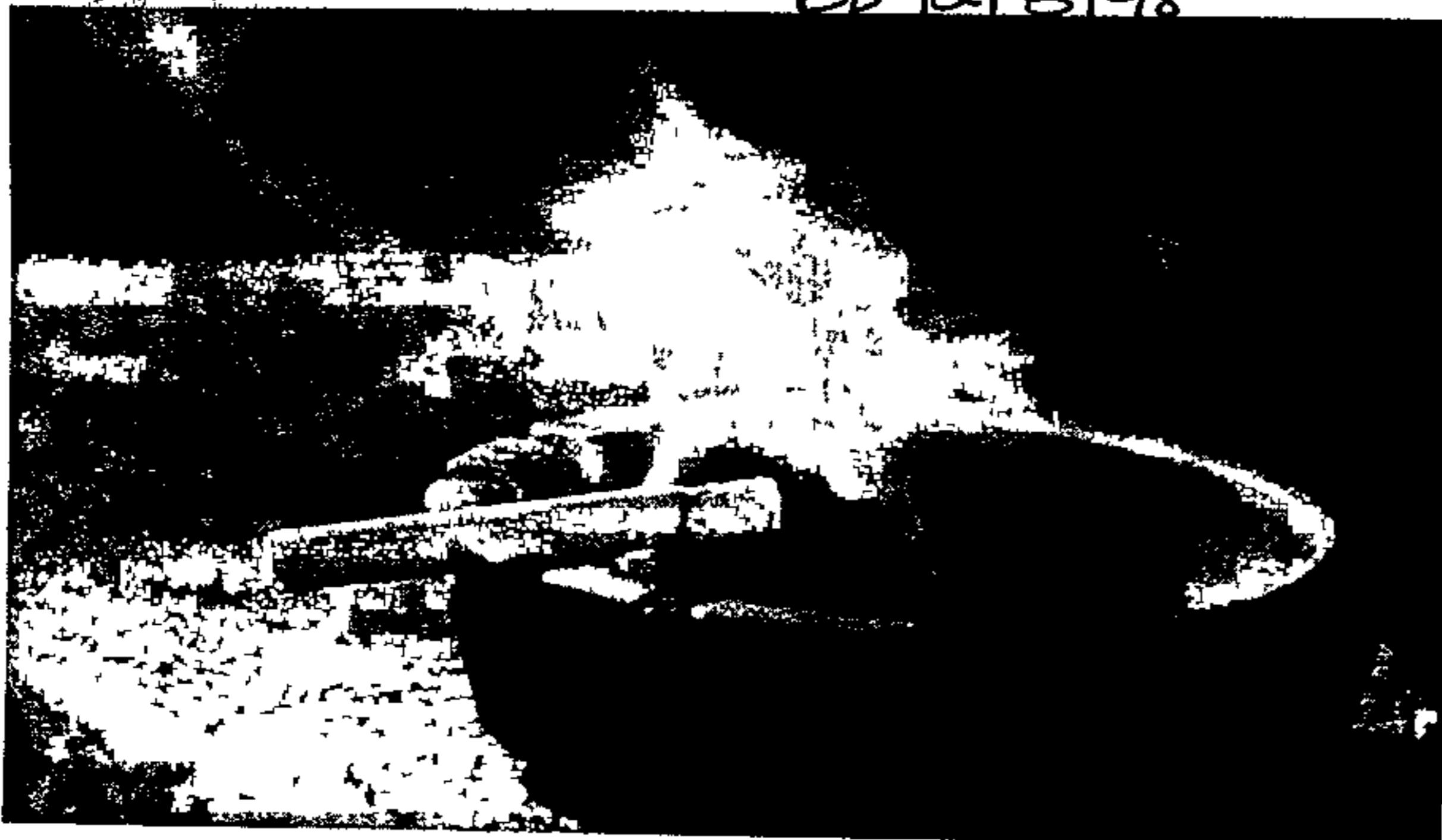
While the levy constituted 7,4% of total revenue collections accruing to the national revenue account, the latest increase would bring the total to 8,1% of national revenue.

Manuel said this would add

less than 0,5% to consumer price inflation, making it a good means of improving revenue.

The 1998/9 budget also includes a R682,1m allocation to the department of transport for national road maintenance, translating into a 4c/l share of the total fuel levy rate.

The allocation followed a cabinet decision at the end of last year that the National Road Agency would in future receive appropriations for road construction and maintenance, converted to a dedicated assignment of part of the existing fuel levy.



Government is to clamp down on evasion of value-added tax, particularly prevalent in the export of cigarettes to neighbouring countries.

Duties on luxury consumer goods reduced by 5%

Linda Ensor

CAPE TOWN — Ad valorem duties on a range of consumer goods were reduced from 15% to 10% in yesterday's budget with immediate effect.

Goods including perfumes, beauty products and electronic, camera and sound equipment would be cheaper and the temptation to avoid paying tax by un-

dervaluing imported goods would lessen, the budget review stated.

The duty on computers and related equipment was cut by 1% to 5%. To counteract the effects of a single rate of VAT, the range of luxury items subject to ad valorem duties was extended to goods such as cordless telephone sets, cellular phones, video cameras, caravans, boats and dishwashers.

The addition of new luxury

items was kept to a minimum in line with a finding of the Katz Commission that to extend it excessively would result in ad valorem excise duties having to be administered alongside VAT.

The net effect of broadening the consumption tax base by adding to the list was offset by the lowering of rates on existing products. The overall effect would therefore be revenue-neutral.

Convicted tax offenders face public exposure

Samantha Sharpe

CAPE TOWN — Taxpayers failing to furnish annual tax returns could find themselves blushing in the glare of public scrutiny following a proposal in the 1998/99 Budget to publish the names of convicted tax law offenders.

While the receiver of revenue has the power to release the names of guilty VAT Act offenders, those flouting the Income Tax and Customs and Excise Act have, so far, re-

mained nameless.

Finance Minister Trevor Manuel warned that guilty parties would no longer be awarded the privilege of anonymity, with all those convicted of tax law offences to be publicly exposed as part of government's drive to improve tax morality.

"It is only right that those who pay their due should know whose tax default they are paying for. It is accordingly proposed that the tax laws should be amended to provide

for the publication (of the names) of persons convicted of offences in terms of these laws," Manuel said.

In keeping with reforms in other countries and SA's more open new democracy, government also intended examining the current secrecy provision contained in various tax legislation, Manuel said.

This would include an investigation into how these secrecy provisions could be amended to enhance tax morality and effective revenue

collections, which remained the driving force behind tax reform in SA, he said.

Improved tax collection and a broader tax base would net the fiscus an estimated R2bn in revenues in the new financial year, with government firmly committed to broadening the tax net. Teams had already been established in each revenue office under close supervision by SA Revenue Service regional offices to undertake this task.

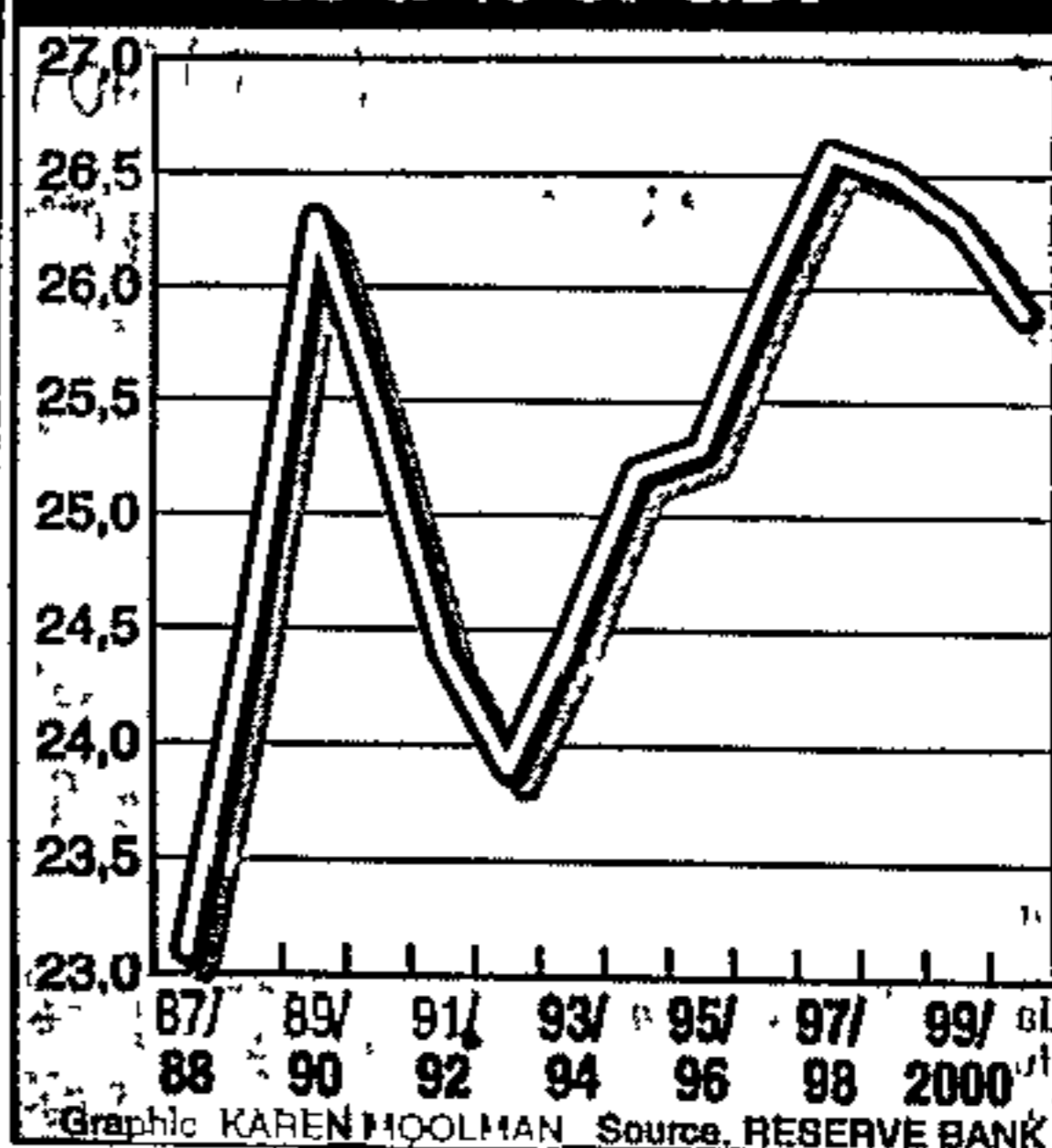
This project was a long-

term measure to decrease the default rate, change the culture of nonpayment and attain acceptable levels of tax compliance, Manuel said.

"Activities have included information-gathering, cross-checking tax information and business-to-business inspections and street walks using up to 1 500 revenue service personnel at a time."

As at October 1 last year, about 33% of the entities evaluated for income tax purposes were unregistered.

Total revenue as a % of GDP



Officials plans to clamp down on VAT evasion

Samantha Sharpe

CAPE TOWN — Government intends clamping down on "serious VAT evasion", which the finance ministry said yesterday was taking place through the false declaration of exports into neighbouring countries.

Finance Minister Trevor Manuel said in the budget review that VAT evasion, particularly prevalent in the export of cigarettes and liquor to neighbouring countries, cost the country R150m in lost revenue.

The severity of the problem had forced government to propose the exclusion of liquor and tobacco products from the current export incentive scheme, he said.

The proposed measures meant traders from neighbouring countries would not be able to buy these products free of VAT in SA or obtain a refund of the tax at a land border post.

"The zero-rating in respect of such products will only apply in relation to exports where an SA vendor consigns or delivers goods to purchasers outside SA," Manuel said.

The proposals enjoyed the full support of the liquor and tobacco industries, with implementation to take place with immediate effect, and a Government Gazette published to announce the necessary changes in the scheme.

However, Manuel said if the proposals did not curb current evasion levels, additional measures could follow.

"Advisory notes in this regard were also posted to vendors with their returns," he said.

ANDREW TRENCH
London

New war of words over passive smoking

LAST Sunday, the threat of passive smoking was supposed to be a myth. By the end of the week, cigarette smoke was killing babies again.

The opening assault on one of the anti-smoking lobby's articles of faith came with a front-page report in last week's Sunday Telegraph under the banner headline "Passive smoking does not cause cancer".

The report, leaked to the newspaper by the tobacco industry, claimed that the World Health Organisation was suppressing research, based on a 10-year study, which showed there was no proven link between passive smoking and illness.

The research compared 650 lung-cancer patients with 1 542 healthy people. It looked at people who were married to smokers, those who worked with smokers, those who both worked with and were married to smokers, and those who grew up with smokers.

The results were consistent, the report said, with there being no additional risk for a person living or working with a smoker. If anything, the results showed that passive smoking could have a protective effect against lung cancer. It also stated "There was no association between lung-cancer risk and ETS (environmental tobacco smoke) exposure in childhood".

A spokesman for BAT Industries, the tobacco and insurance giant, said "It confirms what we and many other scientists have long believed — that while smoking in public may be annoying to some non-smokers, science does not show that being around a smoker is a lung-cancer risk".

The World Health Organisation was outraged by the report, accused the tobacco industry of staging a publicity stunt and insisted its report did, in fact, link passive smoking to illness.

The anti-smoking lobby's hand was further strengthened a few days later when a report by Britain's Scientific Committee on Tobacco and Health was published. The study by the government-backed group said that passive smoking caused up to 80 cot deaths a year in Britain and that babies whose parents smoked were twice as likely to be the victims of sudden infant death than those whose par-

ents abstained. They also had a 50 percent chance of developing other difficulties like asthma, it said. Passive smokers had a 20 to 30 percent chance of developing lung cancer, and a 23 percent chance of heart disease. Smoking caused 120 000 deaths in Britain yearly — about a fifth of all deaths.

The committee urged the British government to ban smoking in public places and to outlaw all tobacco advertising. People also had to be told more clearly about the risks they faced from smoking, including those from passive smoking.

In South Africa, Dr Yusuf Saloojee, the executive director of the SA National Council against Smoking, reacted angrily to the leaked report. "The tobacco industry is merely trying to misrepresent scientific data," he said. A study by the International Agency for Research into Cancer, which is linked to the World Health Organisation, did find a link between passive smoking and lung cancer, he said. It reported a 16 percent rise in risk to non-smoking women married to smokers.

A separate report, released by the Independent Scientific Committee on Tobacco and Health last week, found one in five cot deaths was caused by mothers who smoked. This study, accepted by the British government, Saloojee said, would lead to stronger policies to cut passive smoking there.

Edward Shalala, spokesman for the Tobacco Institute of Southern Africa, said the results of the leaked World Health Organisation study were not statistically significant.

Leaks and conflicting reports foul the air in tobacco debate

ST 15/3/98

(198) (80)

"But they appear to be consistent with our view that scientific evidence, as a whole, does not show that ETS causes lung cancer or any other disease in non-smokers."

The new row comes at an increasingly desperate time for the tobacco giants, whose industry is being slowly eroded by vigorous public health policies and damaging lawsuits. Nowhere is this more evident than in the US, where, in California on January 1, smoking was banned in all public places, including bars.

This kind of policy, combined with litigation by former smokers claiming damages, has turned the screws on the tobacco giants, leading to a deal last year in the US between the tobacco companies Philip Morris and RJR Nabisco and the US attorney general. Still to be accepted by Congress, it proposes a \$370-million (about R1.8-billion) settlement from the companies in return for which class action suits could come to an end.

In Britain, proposed health regulations raise the prospect of workers being able to sue their employers if they are exposed to cigarette smoke. But government officials say privately that they are reluctant to legislate a smoking ban, preferring to have changes introduced by public consensus. There is a fear of creating a "nanny state", an issue that has become more sensitive since the government banned beef on the bone amid fears of "mad cow" disease.

● Additional reporting by Jessica Bezuidenhout

US tobacco settlement will slash industry profit

(198) BD 26/3/98
WASHINGTON — Enacting the proposed multibillion-dollar national tobacco settlement will reduce the tobacco industry's operating profit by about 23% while bringing about a dramatic reduction in youth smoking, according to new US treasury estimates.

Testifying before the senate commerce committee this week, Lawrence Summers, the deputy treasury secretary, said that previously planned rises in federal excise taxes combined with the new assessments required by the settlement would increase the price of a pack from \$1.94 today to \$3.19 over five years. The estimate is lower than that of some private analysts, who believe that higher state taxes and mark-ups by retailers will push prices up even higher.

Summers said every 10c increase in the price of cigarettes led to approximately 700 000 fewer teenage smokers and there was little evidence the price rise would lead to the creation of a large black or grey market in cigarettes. "Even in the context of legislation that produced a price increase significantly higher than that being considered, cigarette prices in the US would still be significantly lower than has proved workable in other countries," he said.

Summers was speaking at the final hearing of the committee on the settlement and his comments marked the latest attempt by the Clinton administration to persuade congress to approve the deal.

The White House has budgeted for \$65.5bn in revenue from the settlement, but its legislative prospects remain uncertain — Financial Times.

NO haze about Rupert's view on unions

RISING in a haze of tobacco smoke, Johann Rupert shows his visitors to their seats. As maker of Rothmans, Dunhill and Stuyvesant cigarettes, he evidently believes in the product. And as son of the founder and head of the family firm, he is not about to apologise for lighting up.

For a man of evident means, he has a modest base of operations, a drab modern building in Stellenbosch, a pretty town set among vineyards. His empire is global besides ranking among the world's half dozen biggest cigarette makers, it takes in such up-market trinkets as Cartier watches and Montblanc pens.

It is also, in true SA fashion, a structural nightmare. It consists mainly of two companies, Rembrandt in SA and Richemont in Switzerland. Rembrandt, SA's biggest company by asset value, is controlled through a pyramid structure, with three holding companies piled on top of it. The empire is wildly diverse, taking in gold mines, banks, pay television and a great deal more.

Rupert is not about to apologise for that either. Bear in mind, he says, the peculiar conditions facing SA business in the apartheid years. First, there was a rigid system of exchange controls, so cash generated in SA was bottled up. Second, the economic incompetence of the old government ensured there was no point in leaving money in the bank.

"From the mid-70s, with erroneous fiscal and monetary policies, we suffered years of negative real interest rates," Rupert recalls. "That was combined with double taxation of dividends and very high rates of personal tax. So the only way companies could

Johann Rupert smokes without apology throughout an interview about where he is now and where he is going, report Tony Jackson and Victor Mallet (198)

serve their shareholders was by acquiring companies and managing them better." Granted, he said, the company went into some odd areas as a result and not all the investments were successful.

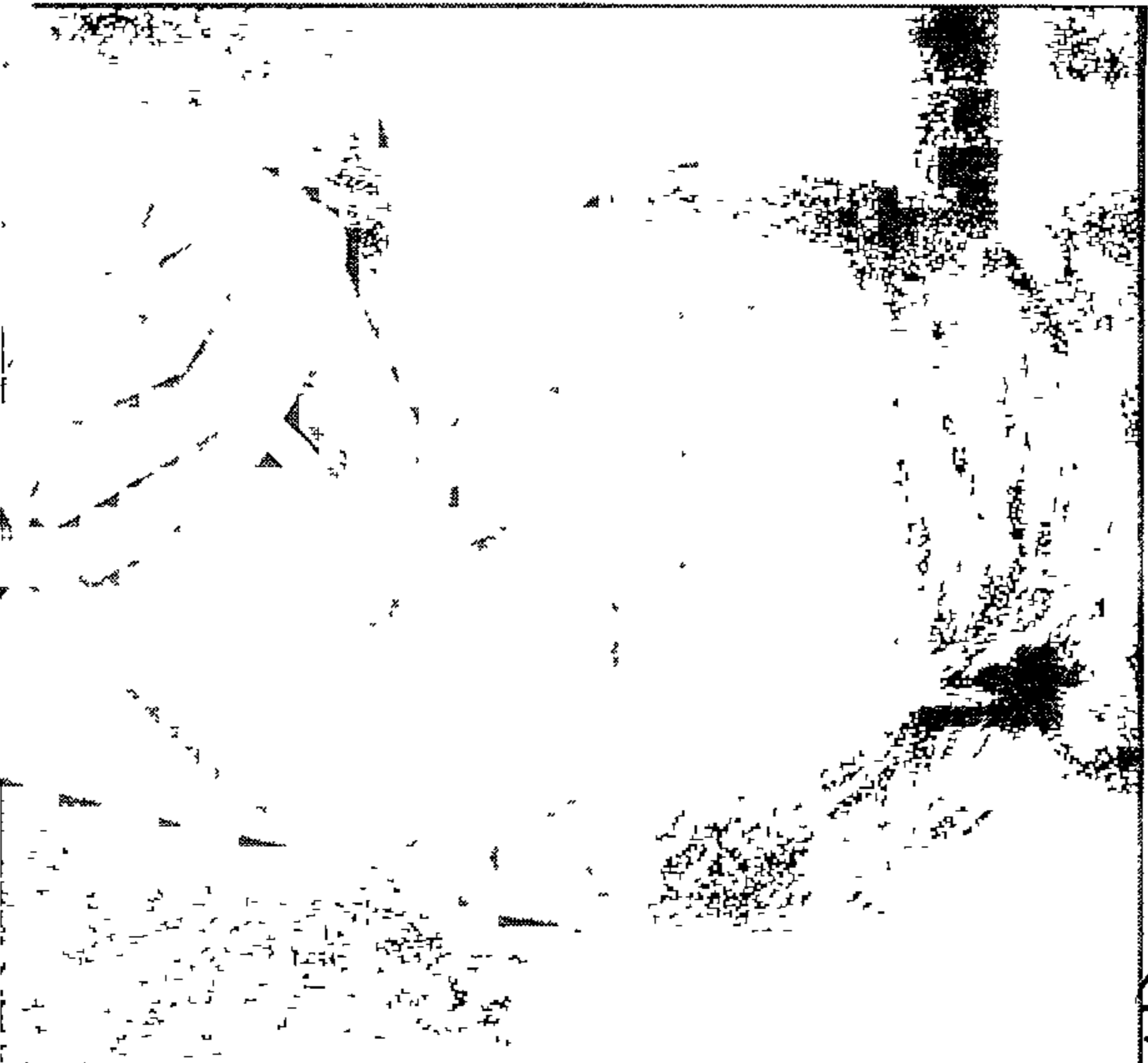
"We couldn't grow in cigarettes here, we already had 60%-70% of the market. We certainly accept that we are too widely diversified. I think a lot will change when foreign exchange controls are lifted. What about the pyramid structure of his empire? Nowadays the practice of controlling companies through minority stakes is frowned upon especially if, as in Rembrandt's case, it is buttressed by multiple-voting shares.

Rupert shrugs this off. "When my father started the company, the then-controlling shareholders gave him a couple of weeks to find other shareholders, because they didn't believe he was going to make it. The only way in which he could was to form pyramids."

Why is control still so important? "Simple. I'd much rather go and play golf than work for somebody else. I'd rather live on my farm. My father would not have worked all of his life if he hadn't had control over the company and neither would I."

"None of my male antecedents has ever worked for the government in SA, or for somebody else. We've been poor. My grandfather suffered hard times, but he would not work for the state," he said.

Another criticism levelled at Rembrandt, as at other big SA conglomerates, is that of being a



RUPERT

monopoly. Rupert's estimate of a 70% share of the market is perhaps too modest; others would put it at 85%. It is also notable that

Philip Morris, the world's biggest cigarette maker with its Marlboro brand, is not in SA at all. "A lot of the criticism about mo-

BD 27/3/98

nopolies is self-serving," he said. "It is not that difficult to enter the SA market if you have staying power. Two or three years ago, Philip Morris' unutilised borrowing capacity was more than SA's total foreign debt. Does someone want to tell me potential foreign investors are precluded?" One foreign investor who seems to think so is Tony O'Reilly, head of the US food group Heinz. In his personal capacity, O'Reilly owns several SA newspapers. Has he not commented publicly about the difficulty of getting into the food market?

"Oh, give me a break. Tony made noises, but he is street smart. He is a good friend and he has just been my guest here for three days," said Rupert. "But what Mandy Rice-Davies said is very true: he would say that, wouldn't he?"

Rupert is a very prominent Afrikaner businessman and in Stellenbosch, we are deep in the heart of Afrikaner territory. There is one obvious question what does Rupert think of the African National Congress government? "Friendlier than the previous group, and certainly more competent," he replies promptly. "I know a lot of my colleagues complain about access. I have never had a problem. And they take note of concerns. Their predecessors never did."

Besides, he said, they ran the economy better. "They're fiscally far more prudent than their predecessors. The central government has been really exemplary in

cutting expenditure." What about the one topic that raises the hackles of white SA business — government's labour laws, particularly the proposed mandatory quotas for black employees? His answer is more cautious and slightly indirect.

First, he agrees with government's argument that the political liberation of 1994 was only the first step. The next step must be economic liberation. As a pro-fessed admirer of former UK prime minister Margaret Thatcher, he is unbending in his hostility to one of the most powerful forces in black SA, the trade unions.

The real problem, he said, concerned the huge proportion of the black population who were out of work. "I don't believe in the so-called golden triangle of government, business and the unions."

Who looks after the unemployed? "We don't, because we're here to create wealth for society. The government, being in bed with the trade unions, have their hands tied behind their backs. The trade unions, representing a maximum of 1.8-million people, are certainly not representing the unemployed." A simple example, he said. "Suppose you put an advert out for 100 people. There are 2,000 people lining the streets, and you employ them. A month later the unions come in and two months later there is a strike."

"Those people are perfectly happy to work for R2,000 a month. At that price, you can compete against Asian imports. At R3,000 a month, it's marginal. At R3,500 a month, you don't have a business. This happened to a friend of mine in Cape Town. It is going to take time, but people are going to have to understand that unions destroy jobs." — Financial Times

Ad campaign to get SA youth smoking

(198) M+G 9-16/4/98

Ralph Borland

A division of a major advertising agency has been contracted by cigarette giant Rothmans to create a brand aimed at a new generation of smokers 18 to 24-year-olds

Insiders at Ogilvy & Mather Rightford Searle-Tripp Makin say the Cape Town-based advertising agency took up a multi-million contract to market brands owned by Rothmans

It caused "quite a stink" within the firm, which has an internal non-smoking policy decided by employees

But the agency has been tasked not only with marketing Rothmans's existing brands, it also has to develop a new brand aimed at the barely legal 18 to 24-year-old market segment

Ogilvy & Mather gave the project to students at the Red and Yellow School of Advertising, part of the agency

The lecturer in charge of this project, Brian Searle-Tripp, expressed surprise that "Ogilvy & Mather are going public on this" when approached for details. In fact, Ogilvy & Mather is reluctant to disclose the existence of the campaign. Responding to a request for an interview with Ogilvy & Mather's creative director in charge of the campaign, business director Neil Hamman said through a secretary that the marketing of a new cigarette brand had been "hypothetical" and proposed by "junior members" in the past

After consulting with Ogilvy & Mather superiors, Searle-Tripp rescinded an initial offer to show "some of the ideas students have come up with so far", refused an interview, and would no longer acknowledge the existence of the campaign. Rothmans's advertising department did not respond to inquiries

Though, as an Ogilvy & Mather employee explained, "no project is concrete until it has been completed", the youth brand campaign has gone far beyond a "hypothetical" level

Students at the Red and Yellow School work on real and imaginary projects. As with all their "real" or "live" advertising campaigns, students were asked to keep details of the Rothmans campaign confidential

Katherine Everett, the health promotions director for the Cancer Association of South Africa, said the campaign is clear evidence that the tobacco industry specifically targets young people

"This is something they consistently deny, but which has already been proven through court cases in the United States," she said

"We will use this news [of youth-directed marketing] to strengthen our case in lobbying the government for a ban on all cigarette advertising," said a Cancer Association representative

The Ministry of Health is sympathetic to its cause. The continued promotion of smoking entails huge health care costs to the country

'Freedom' clouded by smoke

(198) 80 17/4/98

Banning tobacco advertising in SA may be harmful to the nation's health, writes **Anthony Norton**

THE department of health's proposal to ban the advertising of tobacco products is certain to test the limits of the constitutional protection of freedom of expression

No doubt the tobacco companies will contend that their right to advertise their products falls squarely within the right of freedom of expression. This provides that everyone has the right to freedom of expression, which includes, among other things, freedom to receive or impart information or ideas. Accordingly, they would claim legislation seeking to outlaw such advertising is unconstitutional.

If the practices in the US and Canadian constitutional cases are followed, our Constitutional Court is likely to be faced with a two-stage inquiry.

First, does cigarette advertising fall within the ambit of freedom of expression, and second, is government's interest in regulating such advertising substantial, such that regulation directly advances government's interest and does so in a manner that is no more extensive than is necessary?

The first stage of the inquiry is likely to be decided in favour of the tobacco companies. The advertising of cigarettes, whether directly in magazines, movies and on billboards, or indirectly by sponsorship of sporting events, will in all probability be deemed "commercial expression" and therefore subject to constitutional protection. In the US, commercial expression does not enjoy the same level of protection as political, cultural or artistic expression.

In Canada, on the other hand, commercial expression enjoys the same protection as other forms of expression.

Irrespective of whether the Constitutional Court chooses to follow the American or Canadian model, it seems likely tobacco companies will succeed in demonstrating that cigarette advertising is indeed expression falling within the ambit of a constitutional right.

The second leg of the inquiry will be a more difficult one, and one which is certain to raise a variety of issues. The argument before the court will essentially revolve around the question of whether the regulation of tobacco advertising directly promotes government's interests and whether it does so in a manner that it is no more intrusive of the right to freedom of expression than is necessary to attain government's objective.

This raises the obvious question of what government's interest is in banning the advertising of tobacco products.

Government's reply will no doubt be that smoking cigarettes is deleterious to one's health, and a ban on the advertising of tobacco products will lead to a decline in the number of people smoking and consequently a corresponding decline in the number of people suffering from smoking-related illnesses. This in turn will relieve the drain on the health budget.

The argument will proceed further that in order to achieve this objective the means adopted by government is no more extensive than is necessary to serve the governmental interest

and has been tailored in a reasonable manner to achieve the desired objective.

The salient point at issue will be whether a sufficient nexus can be shown between a ban on the advertising of tobacco products and a consequent decline in the number of people smoking and a corresponding decrease in the number of smoking-related illnesses.

This connection will have to be proved to a considerable extent to obviate the harm incurred by infringing the right to freedom of expression.

Although government will no doubt try to have the ban on tobacco advertising seen in relation only to the alleged harm caused by smoking, it is suggested that the ban should be seen in the broader context of infringements against commercial speech in general.

If the purported interest in banning tobacco advertising is to protect the public at large from the alleged harm caused by smoking, then surely the public should also be protected from the harm caused by alcohol, which is arguably more dangerous than smoking could ever be proved to be, and also poses dangers to innocent third parties who may be the victims of drunken driving, domestic violence and so forth.

While tobacco products are required by law to bear labels stating that the products are dangerous to one's health, no such requirements have been stipulated for alcoholic beverages. Similarly, excessive consumption of red meat has also

been medically proven to contribute to among others, heart disease and obesity, which also present a real potential danger to the public.

Presumably, once tobacco advertising had been prohibited, lobby groups could turn their attention to alcohol, red meat and any other substance or products which could pose potential dangers to the public.

Should the advertisement of alcohol, red meat, rave energy drinks and other products which could conceivably cause harm to the public also be banned? Similarly, should advertising by casinos which promotes gambling and causes a variety of social ills not also be banned so as to demonstrate some form of consistency in eradicating social ills?

Although, the Constitutional Court may decide to follow the US constitutional authorities and afford lesser protection to commercial expression than other forms of expression, the fact remains that commercial proprietors have a considerable interest in disseminating their message so as to facilitate the effective functioning of a capitalist economy.

If government is permitted to erode freedom of expression under the guise of safeguarding the public's interest, it will not be long before they will turn their attention to artistic expression and other forms of expression which could be said to be "dangerous" to public morals.

□ Norton is an attorney with Hofmeyr Herbstein Ginwala & Cluver Incorporated

A myth stubbed out: ads may reduce smoking

THIS week European Union (EU) health officials are expected to agree to ban tobacco advertising at a future date.

The aim is to reduce smoking among young people and is based on the belief that children's preferences are significantly influenced by advertising. However, aside from the immediate risks to jobs in tobacco marketing, publishing and advertising, and a significant loss of commercial free speech, there is considerable doubt that the primary aim of the ban would be achieved.

Prof Hugh Hugh of the University of Cape Town has just reviewed the worldwide literature on the tobacco-advertising-consumption relationship for

A proposal to ban cigarette advertising in SA is on government's agenda.
Roger Bate looks at a similar issue brewing in Europe

the Institute of Economic Affairs

According to his analysis, the average adult in countries belonging to the Organisation for Economic Co-operation and Development that have advertising bans consumes 3,3% more tobacco than do individuals in countries with regulated advertising and warning labels.

More specifically, Italy, Portugal, France and Norway have had advertising bans for many years, during which time smoking levels have increased, particularly among young women.

Yet those countries — such as the UK, Belgium and the Netherlands — that have allowed advertising in recent decades, have seen a faster decline in smoking over the same period than countries belonging to the organisation, which have stricter rules. The alleged positive relationship between advertising and total tobacco consumption may be a myth.

Conventional wisdom is that advertisers can easily create demand for products among a naive public. It is consequently assumed that an advertising ban would reduce demand for the products concerned, thereby protecting consumers from wanting things that are bad for them. Evidence however suggests that consumers tend not to believe exactly what advertising says — rather, they combine advertising hyperbole with other personal information to reach purchasing decisions.

According to Martin Duffy of Manchester University, this may explain why advertising restrictions on tobacco can serve to increase, rather than decrease, tobacco consumption since the health warnings on tobacco products are no longer widely disseminated. Consumers in countries with bans are not reminded regularly that smoking is dangerous.

High demonstrates that for mature markets, such as with toothpaste and tobacco, each company advertises its brands in the belief (almost certainly true) that to cease advertising is to concede the market to competitors. Consumers are loyal to brands but can be persuaded to change, especially if product

BB 27/14/98 (198)

differentiation is possible. High says mature market advertising bans "do not reduce total demand, only the likelihood for changes in brand market shares".

For example, the dangers of tobacco were first widely disseminated in the 1960s and many people subsequently stopped smoking. Others, who did not want to quit, switched to "safer" cigarettes, lower in tar and with filter tips, when they were first advertised as less bad than their competitors. A ban today would reduce the likelihood of new, perhaps more socially acceptable products, reaching the market.

What about the EU health ministers' desire to help the young and impressionable? The Joe Camel cartoon character used in RJ Reynolds's tobacco advertisements (now discontinued) are alleged by many anti-tobacco groups to have encouraged young people to start smoking in the US. A paper in the *Journal of the American Medical Association* said Joe Camel was as familiar to six-year-olds as Mickey Mouse.

The UK government report on Camel said "the evidence on consumption is not sufficient to establish that the campaign does actually increase smoking".

Today's children are bombarded by advertising and become astute at a very young age at discerning what is and what is not a commercial. Peer group pressure among rebellious teenagers and family habits are more important in determining whether someone will start smoking, concludes High.

Like politicians, most health professionals cannot acknowledge that tobacco adverts do not induce smoking because then they would have to acknowledge that bans do not work and that their own anti-tobacco propaganda is probably doomed to fail.

Perhaps advertising bans provide success for politicians. After all, bans make them look good by acting to promote public health, but they do not endanger the tobacco taxes that treasures the world over rely upon. — Financial Times

□ Bate is an economist at the Institute of Economic Affairs in the UK

Anti-tobacco bill 'to protect children'

By JOVIAL RANTAO
Political Correspondent

Legislation to ban tobacco advertising is to be tabled in Parliament before the end of the year, Health Minister Nkosazana Zuma told the National Assembly yesterday.

Introducing the debate on the health budget vote, Zuma said the anti-tobacco bill would be one of five pieces of legislation to be tabled by her department. The other four are the Sterilisation Bill, the Social

Health Insurance Bill, a medical scheme bill and a national health bill.

Zuma said the aims of the tobacco-control policies were to prevent people, especially children, from starting to smoke.

In the proposed legislation, a ban on smoking in public places and a ban on the advertising of tobacco products has been proposed.

The bill had been opposed by the private sector, which stands to lose substantial

advertising revenue

Sports bodies too have expressed their concern

The bill has brought opposition from the Food and Allied Workers' Union. Most workers in the industry likely to be affected are Fawu members

The Sterilisation Bill aims to permit women to be sterilised with their consent

The Medical Aid Schemes Amendment Bill includes minimum health-care benefits, which will protect lower-income-group families

5/5/98 2 (198)

LAW TO BE PASSED BEFORE YEAR END

Zuma on course to table anti-tobacco (198)

A MAJOR UNION is opposed to the anti-tobacco law to be passed this year. JOVIAL RANTAO reports.

HEALTH MINISTER Nkosazana Zuma's controversial legislation which would ban tobacco advertising is to be tabled in Parliament before the end of the year, the minister told the National Assembly yesterday.

Introducing the debate on the health budget vote, Zuma said the anti-tobacco legislation would be one of the five pieces of legislation to be tabled by her department. The other four are the Sterilisation Bill, the Social Health Insurance Bill, Medical Scheme and the National Health Bills.

Zuma told Parliament that the aims of the

government tobacco control policies were to prevent people, especially children, from starting to smoke.

"It's also to protect the right of non-smokers and assist smokers to quit the habit. Since the early 1990s, many tobacco control measures have been implemented in South Africa by the new government. In May 1995 we announced regulations regarding mandatory health warnings to appear on the packaging of all tobacco products and advertisements. The regulations have gone a long way in raising awareness of the dangers of smoking."

In the legislation, the Department of Health has proposed

- A ban on smoking in public and work places
- A ban on advertisement of tobacco

products to protect children

Before being tabled in Parliament, the anti-tobacco legislation has been fiercely opposed by the private sector which stand to lose millions in advertising profits. Also, sports bodies who stand to lose major financial backing, have expressed their concern.

It is understood that negotiations have taken place between the departments of sports and health to minimise the impact of the legislation on sports development which rely heavily on sponsorship, mainly from tobacco firms.

Also, the legislation has elicited opposi-



NKOSAZANA ZUMA

tion from the Food and Allied Workers' Union (Fawu) which, through Cosatu, is an ANC ally.

Fawu accused Zuma of failing to consult it about proposed amendments to tobacco legislation. The majority of manufacturing workers in the industry, which might be rocked by retrenchments once the ban becomes effective, were Fawu members.

The Sterilisation Bill aims to permit women to be sterilised with their consent. Where a woman would be unable to consent, procedures would be laid out to enable her to

be sterilised without violating her rights.

The Medical Aid Schemes Amendment Bill includes the reinforcement of community rating in medical scheme contributions and the introduction of a prescribed set of minimum health care benefits.

Through the new regulations to be applied to the medical scheme industry, it would become a condition of registration that schemes must offer a prescribed set of minimum benefits, which would include insurance for the cover for the cost of public hospital care.

This was to prevent large numbers of lower- and middle-income employees and their families being "dumped" in public health institutions because their insurance cover had been exhausted.

Legislation
of 5/5/98

ANALYSIS

Smuggling benefits tobacco firms

(198) (998) 30 5/5/98

Is the tobacco industry, directly or indirectly, helping to fuel the lucrative trade in cigarette smuggling, asks Nic Turner

THE thorny issue of smuggling has emerged to plague the American and British tobacco industries as they push aggressively into new markets

About one-third of all exported cigarettes end up being smuggled every year and questions about the rampant trade in contraband are increasingly being directed at the source of the product

Although manufacturers say smuggling damages legitimate trade, research from inside and outside the industry shows that smuggled cigarettes help the companies establish a competitive edge in new markets

Recent court cases that link tobacco industry executives with smuggling syndicates have added to the suspicion that tobacco companies not only benefit from smuggling, but that in some cases, there may be complicity with the illegal trade

In the US, present and former employees of Brown and Williamson, a subsidiary of British American Tobacco (BAT), have been charged with smuggling cigarettes into Canada, while in Hong Kong courts have charged a former commercial director of BAT with accepting bribes from a smuggling syndicate

The case in Hong Kong, involving \$1.2bn worth of BAT cigarettes smuggled into China, has seen charges laid which include smuggling, corruption, and tax evasion, the murder of a witness and the disappearance of 11 others

Asian Consultancy on Tobacco Control head Judith Mackay is an expert witness in the trial of Jerry Lui, the BAT executive who faces charges of corruption "People are being killed. The world is going to see the outrageous behaviour that is going on," she said

In SA, where smuggled cigarettes are estimated to cost the government more than R100m in lost revenue each year, antitobacco organisations have stopped just short of accusing tobacco barons of complicity. However, Yussuf Saloojee, the executive director of the National Council Against Smoking, said smuggling was a win-win-win situation for the industry because, firstly, it continued to sell cigarettes, secondly the confiscation of smuggled cigarettes did not mean loss of



Johannesburg vendors cash in on the tobacco trade

Picture TREVOR SAMSON

revenue to the industry, and thirdly, smuggled cigarettes entering a country at lower prices would fuel demand and increase sales

The industry itself has acknowledged that smuggling helps establish a market presence. A 1995 report compiled for BAT by NatWest Securities stated that in China legal imports were restricted "However, since BAT cigarettes reach the Chinese market through informal channels, mostly from Hong Kong, this had little effect on volumes"

The local tobacco industry says that smuggling hurts business and that they have tried to stop it. Stephen Jurgens, MD of BAT SA, said his company did everything in its power to control its distribution networks and that smuggling occurred as a result of higher taxes on cigarettes "Where you have a price differential, you will find people interested in exploiting that. But we, as legal manufacturers, do not support that business," he said

Cigarettes are smuggled into SA through "round tripping". They are exported to neighbour-

ing countries, only to reappear on SA streets, often at cut-rate prices and without the required health warnings. Because taxes on cigarettes in SA are higher than its neighbours, smugglers stand to make a huge profit

It is estimated that about 2-billion cigarettes are smuggled into SA each year, which represents a contraband market share of between 5% and 7%. The smuggling is arranged through crime syndicates, passed through a wide range of owners and distributed in nonofficial outlets. When the tobacco industry undertook its own investigation last year, it found more than 1 000 outlets selling smuggled cigarettes

Mozambique is known to be a smuggling hot spot. Last year customs officials at the border post between Mpumalanga and Mozambique confiscated cigarettes worth more than R11m. A transnational syndicate is believed to have recruited Spoornet employees and their counterparts in Mozambique. The cigarettes are smuggled in false compartments in trains and trucks and eventually make their way to street vendors. It is

believed containers of smuggled cigarettes also enter SA through Durban harbour

In a submission to government in December, the tobacco industry said no local manufacturers were directly involved in exporting cigarettes as they sold to wholesalers and that smuggling caused major upsets to the distribution system. The industry said it co-operated fully with the SA Revenue Service to combat smuggling

The tobacco distribution system in SA is fragmented. With more than 400 wholesalers competing for business from about 90 000 businesses, it is easy for rogue wholesalers to undercut legitimate sellers. Value-added tax related fraud and smuggling are considered key factors in the closure of Suzmans, one of the largest local distributors

VAT fraud, estimated to cost government more than R150m annually, saw traders claiming VAT on cigarettes intended for export, without the cigarettes ever leaving the country. New measures were announced in this year's budget to counter this. The industry supports these moves, but says excise

taxes must also be lowered to stop smuggling

In fact, higher taxes on tobacco saw an increase in government revenue of R400m last year, while tobacco consumption dropped by 8%. According to the National Council Against Smoking, taxes in SA are comparably low and a breakdown of last year's increase on a pack of cigarettes shows that 54% was due to industry price hikes, while taxes accounted for only 35% of the price increase

Researcher Luk Joossens, who published a study on smuggling patterns in Europe, said that while it was true that the incentive for smuggling was tax avoidance, it was not true that smuggling was linked to the level of taxes. "In countries with the highest taxes in Europe, such as the Scandinavian countries, there is little evidence of smuggling, while in Spain, Italy and many central and eastern European countries, where taxes and prices are much lower, the illegal sale of international brands is widespread," he said

Saloojee said a recent London case showed that tobacco companies did have the power to stop the illicit trade

"After Marlboro products started to appear on southern African markets, Rembrandt asked Phillip Morris to take action to stop illegal imports into SA. Marlboro is now less easily available in SA

Neil Collishaw, a researcher for the World Health Organisation, found that about 300-billion cigarettes went missing every year. He concluded that a large number were smuggled. A US foreign agricultural services attaché report on the tobacco trade in 1994 said that of SA's total tobacco exports, which amounted to 21 859 tons, a staggering 18 409 tons went to Mozambique

Saloojee questioned how smugglers were getting hold of these products

"If the tobacco companies are doing all they can, then their accounting practices are useless. I just do not accept that they are doing all they can"

Joossens said "the truth about smuggling is that the tobacco companies are the chief beneficiaries of this trade"

□ Turner is a freelance journalist

101 (other) uses for the dreaded weed

There are many amazing uses for hemp, dagga's distant cousin. And there's no hope of it getting you high. So how come it's still illegal? *Span 9/15/98 (198)*

Many farmers might just feel a financial high if the current ban on the cultivation of hemp is lifted

CLAUDIA MPEITA looks at this useful cash crop

Deep in the countryside near Rustenburg a group of scientists have opened South Africa's first legal dagga farm. Strangest news of all, the police supplied the seeds. But, before users of the Sacred Herb become too excited: these experiments have nothing to do with getting high.

The reason: dagga's distant cousin, hemp, is being touted as the 21st century's answer to some very vexing depletion problems. For starters, it has been predicted that the domestic supply of wood fibre could fall short of demand in the next 20 years. Hemp has been identified as an alternative.

and development of hemp as a viable cash crop is being spearheaded by the South African Bast Crops Consortium.

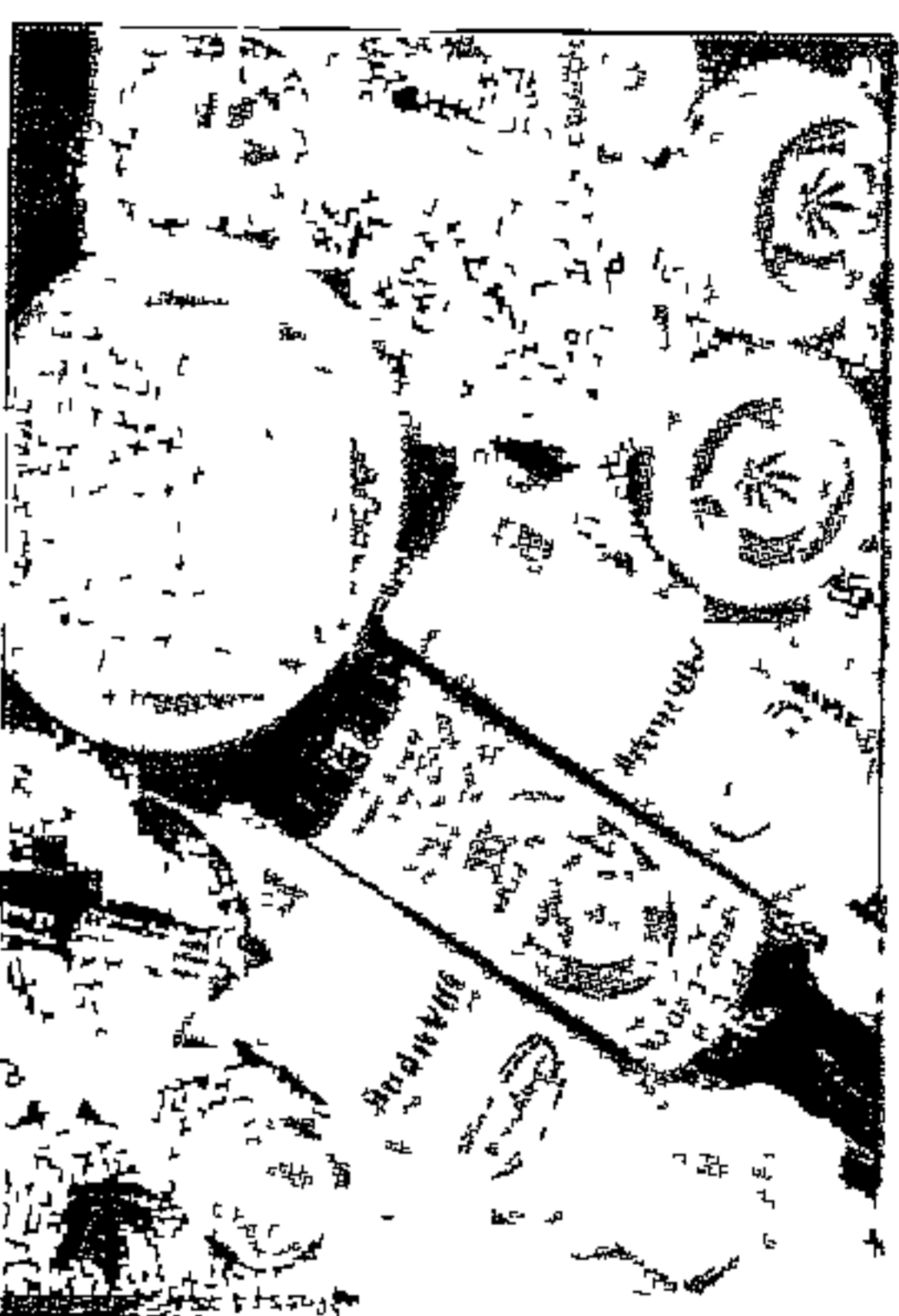
Big business in the form of Mas-omite Africa, who distribute wood-based panel products and PG Bison, producers of mineral fibre ceiling tiles and insulation, are also involved in the initiative.

Research into the cultivation of hemp for local conditions has been conducted at South Africa's first legal dagga farm at the Tobacco and Cotton Research Institute in Rustenburg.

So far the farm has yielded the first cannabis gene bank in southern Africa, about 40 cultivars, using European Union-certified cultivars and dagga seeds from the police.

The manager of the project, James Wynn, remains cautious - for obvious reasons - about the programme. "Before we launch an industry with cultivars that have abuse potential, we need to develop cultivars that will yield high fibre but low tetrahydrocannabinol (the stuff that makes you high) and that are adapted to perform in southern Africa. It is expected that it will take another three to five years to cross and multiply cultivars before they can be used by farmers.

"Once the industry is up and running farmers will be able to



QUITE A HANDFUL Hemp is an ingredient in a surprising number of products

realise a quick economic return. Ten tons per hectare of hemp can be harvested in four months compared to seven years for trees," he explains.

"There is a high value market for hemp seed oil, and wood-based products like medium-density fibre board and chip board also stand to benefit from the hemp industry".

Hemp fibres have been introduced into plastics to make stiffer, stronger and more impact resistant products.

As a fuel hemp stalks are sulphur-free and can also be converted into non-toxic glue. In addition, hemp oil makes a very durable, long-lasting paint that renders wood highly water-resistant.

The Rustenburg project is soon to enter its second phase when seeds acquired from a Russian gene bank, with a fibre yield of 30%, will be multiplied and crossed with local dagga seeds.

Water Affairs and Forestry Minister Kader Asmal has been one of the biggest supporters of



IT'S ROPE NOT DOPE: Even a hemp joint the size of a telephone pole wouldn't get any dagga fan high

Photos CHRIS ADLAM

hemp. He has called on the pulp and paper industry to recognise the potential of alternative fibre crops, saying that hemp could produce yields of fibre equivalent to wood yields and would both

increase pulp volumes and accelerate local economic development.

Hemp is currently cultivated for fibre and seed in over 25 countries around the world.

In 1995, hemp's worldwide sales were R375-million, according to Hemptech, a California consulting firm that tracks the industry. Annual sales are expected to reach R3-billion by 2001.

Hemp has a history spanning thousands of years and if all the claims of a hemp renaissance are to be believed, then in the words of George Washington "Sow it everywhere".

Tobacco boss backs Zuma on youth ban

But industry digs in heels over advertising

By CHRIS MOERDYK
National Marketing Editor

The South African arm of a multinational tobacco company would support Health Minister Nkosazana Zuma's campaign to prevent the country's youth from taking up the smoking habit but would "vigorously defend the industry's right to advertise"

Its support comes as the European Parliament this week approved a ban on all tobacco advertising. Hoardings and glossy ads in print media will gradually disappear by the year 2006 under a guideline approved by a solid majority of the Strasbourg parliament.

It still awaits adoption by the 15 health ministers in the Council of Ministers. The directive is not a law in itself, but requires each nation to legislate accordingly.

A ban on tobacco sponsorship of Formula One motor racing and ads at the race courses will not take effect until 2006. The only exemption will be for advertising in tobacco shops and stalls.

On Zuma's campaign, the managing director of British American Tobacco in South Africa, Steven Jurgens, said he would support a call to have the legal age at which teenagers could buy cigarettes and tobacco raised from 16 to 18. "We would also cut off supplies to any of our retailers found selling cigarettes to children under the legal age."

Jurgens said "we want to show that we are being responsible when it comes to the question of tobacco and children. Dr Zuma says her main aim is to prevent kids taking up the smoking habit. We agree with her. We want to help her do it."

APR 16/15/98
198
We are prepared to put our money where our mouth is and invest millions of rands in promotions aimed at children, warning them of the dangers of smoking."

Jurgens said he was disturbed that Zuma had appeared interested in consulting the tobacco industry last year and had agreed to meet with the industry in January, but that "so far, that meeting hasn't happened."

"It seems we might have to wait to put our case to the relevant parliamentary committee, but I fear that might be too late."

Commenting on Zuma's intention to press ahead with legislation banning tobacco advertising, Jurgens said that in countries such as Finland and Hungary where such bans had been applied, "there was no reduction in smoking among the youth. In fact, in some cases, smoking increased among young people."

Why were governments so intent on banning tobacco advertising and doing nothing to impose outright bans on smoking?

Said Jurgens "There is a lot of money involved, for one thing. In South Africa, for example, quite apart from corporate tax on our profits, the Government receives about 50% of the selling price of a packet of cigarettes in tax revenue."

He added that, in many cases, loans and donations from United Nations-linked agencies carried conditions such as the imposition of anti-smoking legislation.

Jurgens agreed that banning tobacco advertising was one of the softest options the Government could take. What made it worse was that it would be the "thin edge of the wedge" of the banning of other advertising categories.

Paper fined for tobacco ad

CLIVE SAWYER
POLITICAL CORRESPONDENT

Only one complaint laid against a company for allegedly failing to conform to regulations on tobacco advertising has resulted in a conviction.

This was disclosed in the National Assembly by Health Minister Nkosazana Zuma in reply to questions by Ken Andrew of the Democratic Party.

Four individuals had laid complaints, Dr Zuma said.

However, the Department of Health had taken no action for alleged failure of companies to conform to the regulations. The only successful charge was against a newspaper,

which was fined R500.

Outstanding complaints included an alleged violation by the owner of a building in Main Road, Rondebosch, which displays two large neon advertisements for a brand of cigarettes.

In a separate question, Ruth Rabinowitz of the Inkatha Freedom Party asked whether Dr Zuma would consider allowing brief courses of the medicine AZT for HIV-positive mothers before the birth of their babies.

Recent research had shown that a brief course of AZT contributed significantly to the prevention of HIV being transferred from mother to baby during the birth.

Dr Zuma said the matter was under discussion.

Speed wobble for new law on municipal police forces

CLIVE SAWYER
POLITICAL CORRESPONDENT

Legislation allowing municipalities to set up police agencies, which has come under fire because councils doubt they have the money to implement it, is to be delayed.

Safety and Security Minister Sydney Mufamadi initially asked Parliament to ensure the legislation was approved by the end of next month.

But the bill is now expected to go through Parliament only by August.

The urgency of approving the bill by the end of June was to allow municipalities to take account of the legislation when drafting budgets for their new financial year, which starts in July.

The bill provides for municipal police services to be in charge of traffic policing, by-laws and crime prevention.

In spite of the delay, councils have been told to go ahead with planning for spending on municipal services, provided they believe they have the money and other resources to do so.

"We guarantee there will be a bill empowering them to do so by about August, at the latest September," said Mohseen Moosa, chairman of the National Council of Provinces committee on security and justice.

The bill was discussed at a joint meeting of the NCOP and National Assembly committees on safety and security yesterday.

The SA Local Government Association told the NCOP meeting that it supported the principles of the bill. National Assembly safety and security head Rapu Molekane said there would have to be clarity about the allegiance of municipal police to the Government.

Industry concerned about tobacco laws

CHRISTO VOLSCHENK

Cape Town — Several interest groups in the tobacco industry registered yesterday their concern that they had not been consulted by Nkosazana Zuma, the health minister, on her intended amendments to the Tobacco Products Control Act, which include a ban on the advertising of tobacco products

A spokesman for Zuma confirmed that the minister hoped to push the amendments through before the end of the year. But he denied the amendments were being rushed through without proper consultation of all stakeholders in the industry.

Tobacco RSA, an organisation that represents tobacco farmers in South Africa, the Food and Allied Workers Union and Tobacco Institute of Southern Africa, a Cape-based research institution, said in a joint statement they had not been consulted on the effect the intended amendments would have on the economy.

“We wish to point out that we have not been consulted by the ministry of health or the department of health, neither have we been asked to participate in an economic impact assessment of the measures which minister Zuma intended to implement,” the groups said.

But Vincent Hlongwane, Zuma's spokesman, denied that the amendments were being rushed through without proper consultation.

“We have consulted interest groups and will go on consulting groups,” he said.

Last year, 606 South African farmers planted 15 113 hectares of tobacco and produced 28 million kilograms of tobacco valued at R375 million.

The industry interest groups said that they opposed attempts by “world bodies such as the World Bank to impose tobacco control models on the southern African region which are insensitive to the development issues of the region”.

Unions join outcry about tobacco act

Louise Cook

(198)

20/11/98

TRADE unions at the weekend joined in the furore over Health Minister Nkosazana Zuma's proposed amendments to the Tobacco Products Control Act and expressed concern about a lack of consultation.

The amendments, if passed, would impede advertising of tobacco products, ban tobacco companies from sponsoring sports events and raise the legal age for buying cigarettes to 18. Tobacco manufacturers and farmers have accused the minister of not consulting them.

The Food and Allied Workers' Union agreed "We are concerned about the failure of the health ministry and the department to consult with either of our organisations, as well as with a wide variety of other stakeholders. The tobacco industry directly employs more than 35 000 people. Including dependants, 150 000 people are directly or indirectly benefiting from the agricultural side of the industry."

The union said the industry contributed R3,6bn to state coffers last year.

"No tobacco control policy should be made without conducting a detailed assessment of the likely economic impact on SA and other Southern African Development Community countries. There should also be an inclusive process of policy formulation that allows all stakeholders an opportunity to participate," the union said.

The minister's adviser, Yussuf Saloojee, said the biggest threat to jobs in the industry came from tobacco manufacturers.

"In the decade between 1986 and last year no less than 46 000 jobs were lost in the industry due to manufacturers importing tobacco and farmers giving up production of burley tobacco because quality problems killed off the local market."

Zuma was not available for comment.

The proposed amendments are expected to go to Parliament this year.

Zuma's smoker shock

Health Minister aims to kick butt over puffing away in all public areas

TWEET GAINSBOROUGH-WARNING

Smokers throughout South Africa will soon be hounded out of public places - an outright ban on smoking in areas ranging from banks to shopping malls is looming

Anti-smoking controls, in terms of amendments to South Africa's tobacco laws, are due to be tabled in Parliament soon

Cape Town city authorities are gearing up for the anti smoking era, with regulations already in place or in the pipeline ready to be implemented when the new

law is promulgated. The tough measures against smoking in public come in addition to the proposed ban on tobacco adverts and sports sponsorship by tobacco companies

The new law will designate areas where smoking is allowed. Public places are defined in the proposed amendments to the Tobacco Products Control Act as health facilities, banking facilities, accommodation establishments, libraries, museums, galleries, post offices, schools, creches, shopping malls, retail stores, theatres, cinemas, sports stadi-

ums and public terminuses. The amendments will also ban smoking in municipal buildings, in lifts and on public transport

Vincent Hlongwane, spokesperson for Health Minister Nkosazana Zuma, said "We are trying to balance the needs of the smoker and the rights of the non-smoker"

Michael Popkiss, Medical Officer of Health for Cape Town, said existing regulations to control smoking in public places in the city could not be enforced until the amendments were passed by Parliament. He said amendments

to the existing tobacco law would enable municipalities to enforce the ban on smoking in public places

Once the amendments had been passed, he said it would be possible to enforce the designation of smoking and non-smoking areas, making it possible to penalise certain property owners for not having "no smoking" signs

"You can't stop someone smoking in a public place if there is no indication of it being a no-smoking area," he said. Dr Popkiss said the



OUTLAWED smoking in public places may soon be banned
Picture: ANDREW INGRAM

Outright ban to make life tough for smokers

From page 1

aim of the ban was to protect those who did not smoke

He said one in three adults smoked but smoking was becoming more common among teenagers, at whom tobacco advertising was strongly targeted

The South Peninsula municipality has published tough anti-smoking proposals, which will become enforceable once Parliament passes the new law

The municipal regulations propose fines for people who smoke in non-smoking areas

The size of the fines have not yet been decided

The ban on smoking in public places proposed in the South Peninsula has drawn strong reaction from smokers, who feel it infringes on their constitutional freedom

Ian Bromfield, the municipality's health officer, said there had been a big shift in recent years towards health consciousness

Smoking was one area in which positive steps could be taken, he said

He said surveys carried out a few years ago had indicated the public's willingness to support measures to curb smoking in public places

But smokers aren't taking the proposed anti-smoking laws lying down. Edward Shalala, of the Tobacco Institute of South Africa, said "We haven't been consulted on the amendments"

The anti-smoking lobby has, and we believe that this is discrimination"

Tobacco companies point out that attempts in Britain to ban smoking in public places have resulted in four UK tobacco companies challenging the government in court because there had been no consultation with them

South African tobacco companies are considering whether to challenge the new law in the Constitutional Court

Mark Fyfe, owner of Kennedy's Cigar Bar in Long Street, said "I can't see the new amendment being a problem"

Una Abrahams, a long-time smoker, said she was happy with the proposal for designated smoking areas

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All fired up over smoking

Star 20/6/98

(198)

Most smokers hate the habit, while non-smokers say it does more than get in their hair

Whether you are getting it second hand or whether it's the first thing you grab in the morning, smoking has become as much a menace as hooting taxis along Louis Botha Avenue, if not worse.

Most smokers you speak to will confess that smoking is a bad habit they wished they had never started.

In fact, a recent survey showed that seven out of 10 smokers and nine out of 10 non-smokers would support a ban on smoking in public places.

But what starts people on that long and frustrating road that they later try to turn away from?

"I started smoking when I was 15 because it was fun," says Edith Willis of Roodepoort. "I had this friend at school in Kimberley who was a bit on the wild side and she prompted our little clique to smoke."

"Now, the first thing I do when I open my eyes in the morning is light up. Sometimes it makes me feel lame but I can't stop myself," she says.

Willis' husband and two children have devised all sorts of schemes to help her stop smoking but up until now none have been successful.

"My kids once came up with this plan that every time I smoked in the bedroom, bathroom and in the car, I would be fined R5. It lasted for about a day."

Promised her family

Puffing on her third cigarette for the day in the corridor outside her office, waving her long, beautifully manicured fingers, she philosophises on why she can't stop, even though she would like to.

"I once promised my family that when I turned 40 I would stop. That birthday came and went. I think it needs to come from oneself - you can't stop to please other people."

Stubbing out her cigarette and waving away any remnants of smoke in the air around her, she says. "It's still one of the last *lekker dinge in die lewe* left."

For Valerie (30), smoking is culturally taboo - besides being a bad habit.

Depending on how conservative the community you're in, African culture does frown on women who smoke. It's not the thing for decent women to do in public (or in private).

As a human resources practitioner, part of her everyday dress for work is a rather traditional brightly coloured head-wrap with a couple of dreadlocks peeping out underneath.

"When I'm at home in the Free State I don't smoke at all - out of respect for my parents and relatives."

"But one day I went to a tavern with some friends and found some of my father's friends there. I had to make several trips to the bathroom to have a couple of puffs on the sly."



ON CLOUD NINE: But don't you believe it. Research shows that where there's smoke, there's fire. Most smokers would die to be able to give up the habit and they wonder how they ever started in the first place. Photograph: CATHY PINNOCK

For Valerie, smoking is a way to relax. "When I'm stressed at work there's nothing like a couple of drags on a cigarette to calm me down."

For journalist Peta Krost there's no such thing as an ex-smoker - only reformed smokers, much the same as reformed drug addicts and alcoholics. Krost, who started smoking when she was 15 to "look cool", stopped about four years ago.

"I smoked between 20 and 40 cigarettes a day and I remember the exact day I stopped - September 26 1994. "I was sick, and when I lit my cigarette it tasted horrible. I stubbed it out and decided 'I'm not having another puff' - and I haven't since."

Krost explains that even though she has not touched a cigarette for such a long time, all it would take is one puff for her to be back to 20 a day.

For Tal Berman, smoke is so unbearable that she finds it hard to socialise with people in restaurants, pubs or clubs.

As a natural therapist, she believes that respect for one's body, spirit and



claudia MPETA

mind is interconnected. "If you're not taking care of your body, then chances are you're not in touch with your spiritual and mental needs. If you're spiritually aware, smoking is not something you want to do to your body."

"I smoked the odd cigarette here and there when I was in high school, but I found it disgusting and harmful to myself and others. It also stinks."

For Berman, it's difficult to date people who smoke. "Once, many years ago, I dated a smoker; but I constantly had to ask him to brush his teeth, wash his hands and change his jersey. The relationship didn't work."

According to psychologist Belinda PODE, there are different reasons why people smoke.

There is the obvious biochemical factor of nicotine, which very quickly gives pleasure, relief or release.

"The faster a drug reacts in the bloodstream, the more addictive it is."

"A few years ago, smoking was seen as a

very Western, sophisticated, on-the-move thing to do," says PODE.

"The younger generation start smoking because it's a no-no and it's one of their ways of asserting their own choices, even if it's the wrong one."

"On a social level, smoking helps people to feel less self-conscious or bored in social situations. It basically gives them something to do with their hands."

"Some people really enjoy smoking, it's like a little reward they give themselves with a cup of coffee or with a whisky," she says.

Wrong issue

"When it gets to people who can't make a move without a cigarette in their hands, we're talking about people who might have a tendency towards a dependent personality, who maybe feel out of control and who cannot stand by their own decisions."

"The reason that campaigns to stop smoking aren't always successful is that they're addressing the wrong issue. People don't smoke because it's not dangerous, they smoke because of what they're getting out of it," PODE asserts.

THIS IS A COPY OF THE ORIGINAL DOCUMENT

Smoking, pregnancy join 'death cause' list

Mossy Ballenger

(198) (27)

SMOKING and pregnancy would be listed on death certificates if they were considered to be contributory factors to the cause of death, the health department said at the weekend.

Health authorities said the data on the new death notification forms, to be printed within the next few months, would reflect the "background" to fatalities. At present causes of death did not explicitly point to pregnancy complications or tobacco. A person who

died as a result of an abortion or child-bearing, for example, might have "excessive bleeding" or another medical term cited as the cause of death. Similarly, a person might die of "inability to breathe" without any reference to smoking-related lung cancer.

SA Institute of Medical Research cancer registry head Dr Freddy Sitas said the death notification form would ask the next of kin whether the deceased had smoked five years before

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Smoking (198)

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Continued from Page 1

death, in order to help the health department, statisticians and researchers tabulate information on tobacco-associated mortality.

Sitas said a World Bank study showed that unless smoking behaviour changed in developing countries, within 30 years premature deaths caused by tobacco would exceed deaths expect-

ed by AIDS, tuberculosis and child-birth complications combined.

SA registered 3 500 new lung cancer cases and 3 510 related deaths a year. A 1997 Medical Research Council study showed one-third of SA adults smoked, which translated into a potential average 66 000 smoking-related deaths a year over the next four decades.

Sitas warned that US tobacco companies would soon target young black women in Africa as a new market "because they do not yet smoke".

Forces combine in their war ~~(87)~~ against smoking (198)

By **THEMBA SEPOTHELE**

The newly formed national council of the South African Medical Association (Sama) has joined the World Medical Association and the Department of Health in their fight to combat smoking.

On the last day of its first council meeting in Pretoria yesterday, the council said it was determined to reduce the number of smokers because tobacco companies were targeting Africa for sales.

The deputy chairman of Sama's science and education committee, Dr Edoo Baker, said the council had rallied support around professional bodies and both governmental and non-governmental organisations such as the Tobacco Action Group.

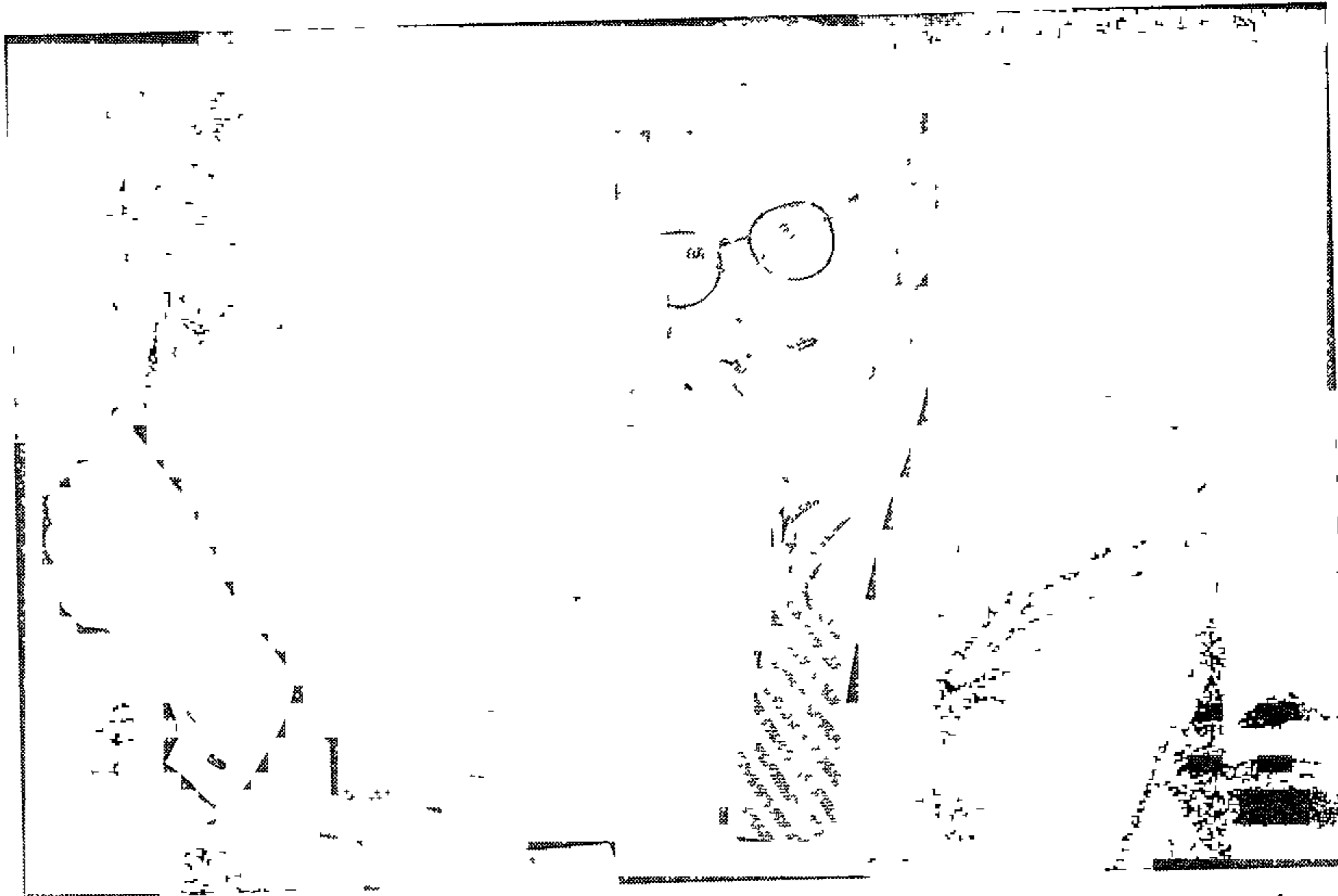
"Africa is seen as an easy target, and the way tobacco companies advertise it is essential that this joint activity be extended to other countries. We should build on the South African experience to combat tobacco use in Africa."

The World Medical Association plans to build a multi-million-rand centre to provide doctors and healthcare workers with information and training.

WMA chairman Dr Anders Milton said there was a need to step up the anti-smoking campaign: "Tobacco is a killer. The habit is one of the major causes of morbidity and mortality."

The council will hold an anti-tobacco day in November.

SAW 22/6/98



Breaking a 'deadly' cigarette, World Medical Association chairman Dr Anders Milton announces an anti-tobacco project that will see a southern African regional centre in Pretoria disseminate information about the dangers of smoking

Picture TYRONE ARTHUR

Campaign targets doctors who smoke

Josey Ballenger

ANOTHER effort to stub out smoking was launched yesterday, but this one came with an ironic bent to target stressed-out doctors and nurses who succumb to the bad habit

The World Medical Association and the newly formed SA Medical Association announced yesterday that they would create an information centre in Pretoria to raise awareness among southern African doctors and nurses, who would then pass it on to "each and every patient"

Although the professionals learn about the dangers of smoking from their training and life experience, "doctors themselves smoke and drink because of stress. We must convince them that smoking itself is a disease," said Edoo Barker, vice-chairman of the SA association's science and

education committee

Anders Milton, chairman of the global association, said that the project aimed to get doctors and nurses to discuss the dangers of smoking "with each and every patient", to restrict or ban teenagers — another target group — from buying tobacco products and to increase taxes

Milton said that he had been impressed by the work done in SA and by Health Minister Nkosazana Zuma

Barker said that a conference would be held in November to garner support from other countries in the region, which were being targeted as a new market by tobacco companies

"Zimbabwe and Zambia are in a really dangerous situation because the tobacco industry is targeting them with inferior products that would not be accepted in Europe," he said

Smuggled cigarette packs coming into SA without health warnings were another problem

Forming smoking cessation guidelines for the health profession and assessing regional resources would feature on the conference's agenda

Milton and Barker said that it was "too soon" to estimate costs for the centre — which would be located in Pretoria — but it would be "several million"

However, this would be paltry compared to what the tobacco industry spent on advertising and promoting its products

In the US, for example, anti-tobacco initiatives spent only 2% of what the industry did, Barker said

Both organisations said they would look for external funding, and the World Medical Association had already received pledges of support

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BLANKET BAN ON TOBACCO ADVERTISING

Govt's tough new curbs on smoking

CT 15/7/98 (198)

THE TOBACCO industry has vowed to "fight to the finish" amendments to tobacco legislation that ban tobacco advertising, sports sponsorship and smoking in public spaces. Health Writer **JUDITH SOAL** reports.

How it affects you

THE cabinet has approved a draft bill that can make smoking in public places a criminal offence and ban tobacco advertising in all forms. The bill will now go before Parliament and should be effective before the end of the year.

The Tobacco Products Control Amendment Act outlaws:

- Smoking in enclosed public spaces — including the work place — as regulated by local authorities or the Health Ministry
- Advertising or promoting tobacco products
- Displaying tobacco trademarks, logos, brand names or company names anywhere except on cigarettes boxes or packaging.
- Giving out cigarettes for free or at a reduced price

It includes provisions for these regulations to be phased in gradually.

"The draft bill has been passed by the cabinet, it has their full support," Health Minister Nkosazana Zuma's spokesperson Vincent Hlongwane said yesterday. "We trust that it will soon be passed into law."

There are stiff fines for anyone contravening the regulations. People smoking in public places will be fined R200, anyone selling cigarettes to teenagers under 16 (including those sold through vending machines) faces a R10 000 fine and those advertising tobacco products will be fined R200 000. Under these regulations, tobacco companies will no longer sponsor sport or cultural events, as they will not be able to get any publicity by doing so. (The industry spent about R45m on sponsorships and R256m on tobacco advertising last year.)

They will not be allowed to produce or distribute caps, T-shirts, or any product sporting a cigarette brand name or logo.

"People who already have a Camel T-shirts or Winston tog-bag can relax, they can still be used, but companies will not be able to produce more or distribute them, even for free," said Yussuf Saloojee of the National Council Against Smoking. "Also, tobacco companies have been going to technikons and events where young people gather, and giving out free cigarettes. They won't be able to do this." The draft bill also bans so-called below-the-line advertising.

"In other countries where tobacco advertising has been banned, companies have started promoting different products," said Saloojee.

"For example, on the assumption that smokers drink more coffee than non-smokers, in Singapore they are selling Benson & Hedges coffee. This makes a mockery of advertising controls as it keeps the tobacco logo and name in the public arena. This will be banned here."

Major tobacco sponsorships of sporting events include the Rothman's July, Rothman's Cup Soccer, the Winfield Rugby Tri-nations and Super-12, the Camel Trophy and Gunston Surfing — the longest running sponsorship in South Africa. These will all contravene the new laws.

"It is unlikely that the sponsorships will be terminated immediately," said Katherine Everett of the Cancer Association.

"The ban will probably apply only to new contracts, so it will give sports officials time to negotiate other deals. We have seen in other countries that companies are quick to step into the gap, because sponsorships are such an effective form of advertising."

"This happened recently when Standard Bank took over the Benson & Hedges cricket series."

The draft act has been sent to all stakeholders — including tobacco companies — for comment. After legal and language details have been checked, it will be tabled in Parliament and debated by the portfolio committee on health.

"The Cancer Association supports this legislation for the same reason that the tobacco companies oppose it — because advertising encourages people, particularly young people, to smoke," said Everett.

The industry has often denied that advertising increases the consumption of tobacco, saying it only influences the choice of brand. Yet they have vowed to "fight to the finish" to oppose the controls.

"We are calling together every one who is affected by this, from the unions to the farmers, the retailers," said the Tobacco Institute's Francois van der Merwe. "If necessary we will go to the Constitutional Court. There will be severe economic implications if this law is enforced."

THE draft bill makes provision for the following life-style changes:

Smokers:
No smoking in enclosed public places (except smokers' areas), including offices, corridors at work, company cafeterias, lifts, stairwells, restaurants and other public areas.
If you are caught doing so, you will be fined R200.

You will be able to smoke on the street.
You may not send your children to buy you cigarettes.
You can keep wearing your Camel T-shirt or use your Winston gym bag.
You will never get one of these again.

Non-smokers:
You will be free from unhealthy and unpleasant cigarette smoke in your office, the corridors at work, company cafeterias, lifts, stairwells, restaurants and other public areas.
You will have the legal high-ground over anyone breaking this law.

You are less likely to suffer from conditions caused by passive-smoking.
Your children will not be able to buy cigarettes.
Your children will not be exposed to tobacco advertising.
Your favourite sports event might lose its sponsorship.

Anti-smoking groups hail draft tobacco bill

BY ANSO THOM
Health Reporter

(87)
(198)

ASIAN 17/17/98

Groups opposed to smoking have welcomed the Government's draft Tobacco Control Bill, describing it as a victory for the "weak", which included the youth and non-smokers.

Dr Yussuf Saloojee, director of the National Council Against Smoking, described it as an important piece of legislation to protect the health of children.

He said the critical points in the bill were the protection of the health of South Africa's youth and protecting the right of non-smokers to clean air.

Sections of the bill that are causing an uproar include the proposed ban on advertising of tobacco products on other goods, the promotion of tobacco products through sponsored events, and the free distribution of tobacco products as gifts or cash prizes.

Smoking could also be banned in enclosed public places or workplaces. The sale of tobacco products from vend-

ing machines would be restricted to places inaccessible to people under the age of 16.

Anyone smoking in a public place could face a R200 fine, an advertiser could face a fine of up to R200 000 and anyone selling tobacco products to a person under 16 years could face a R10 000 fine.

The Department of Health said in a statement that the health warning on tobacco-product packaging and advertisements, introduced in 1995, had had little impact.

"We need to act against advertising which encourages young people to see smoking as a symbol of independence," said Dr Gonda Perez, director of health promotion.

The Government has invited the public to comment on the bill before August 14

Tobacco companies complained that only one company had received a copy of the bill and that the notice of the deadline had not been communicated to them. They also want to discuss the proposed control legislation with the department.

COMPANY NEWS

Timber companies fund research into hemp production

RAVIN MAHARAJ

Durban — Masonite and PG Bison, both timber products companies, were funding research into hemp production at South Africa's first experimental cannabis farms, Alan Wilson, the chairman and managing director, said yesterday.

The farms, which are situated around the country, are controlled by the Agricultural Research Council and endorsed by the department of trade and industry, which believes there are competitive advantages and great export potential for hemp.

But the government still needs to legalise hemp produc-

tion by clarifying the difference between hemp and dagga. The two are related to cannabis, which was outlawed because of its narcotic effects. Requests to grow and process hemp must also be ratified by the Medicines Control Council.

Wilson said the companies had provided about R150 000 to

research the development of a suitable hemp cultivar, which could also be used as a timber substitute.

He said the vision was to provide a cash crop to produce fibre, which was quicker to grow than timber, and would be able to meet long-term production needs.

Timber eucalyptus trees take

about 10 years to grow, which has meant negative cash flow for companies like Masonite.

Wilson said the advantage of growing a suitable timber substitute was that it could be grown in one to two years, and was more easily available to the smaller farmer. The project was still in the research stage, he said.

Rothmans weighs its options on bill

Josey Ballenger

DD 23/7/98

ROTHMANS SA, the country's largest tobacco manufacturer, said yesterday it had not ruled out legal action against the health department on the grounds that the contents and the handling of the Tobacco Products Control Amendment Act was "unconstitutional"

Public affairs manager Abrie du Plessis said the company was studying the contents of the bill with its legal adviser and hoped to begin a process of consultation with the department

"I am not going to commit myself to a legal challenge, but there is a possibility, depending on legal advice

"The bill seems to breach the protection of freedom of speech in the bill

(198)
of rights, and the procedure in (its) drafting — we were in fact excluded — also seems to be unconstitutional in terms of openness, transparency and public participation," Du Plessis said

The bill proposes bans on advertising, sponsorship of sporting events, smoking in certain public and work places and restricting cigarette vending machines to areas where people under 16 do not have access to them

Meanwhile, the cabinet's social and administrative affairs committee referred the bill back to the health ministry yesterday to resolve certain issues before it could be considered by the full cabinet. A cabinet source said the bill was unlikely to pass this year, given the lengthy legislative process

Cabinet comes out smoking on Zuma's bill

ARG 20/7/98

(198) ~~(87)~~

The Cabinet has unanimously approved draft legislation that will allow the minister of health to ban smoking in the workplace and all tobacco advertising, including sponsorships.

Health Minister Nkosazana Zuma told a media briefing after the Cabinet meeting yesterday that the government was not criminalising smoking, and she did not believe the restrictions would have a negative effect on sport.

"We think that sports should not be associated with smoking because there is no association between good sports people and smoking," she said.

The Tobacco Products Control Amendment Bill will allow her, by notice in the Government Gazette, to ban smoking in any public place – the definition of which includes a workplace – on pain of a R200 fine.

It will end all tobacco advertising, including the use of logos and brand or company names, and the use of logos or names "for the purpose of advertising any organisation service, activity or event". Offenders will face a R200 000 fine.

No manufacturer, importer, distributor or retailer of tobacco products will be allowed to finance, organise, or promote an activity that involves the use of a tobacco trade mark, logo, brand or company name.

Shops will, however, be allowed to put up signs at point of sale indicating that tobacco products are available there.

The bill, which has already run into opposition from the tobacco industry, gives Dr Zuma the power for the first time to decide on permissible tar and nicotine levels in tobacco products.

It bans free distribution or unusual discounting of tobacco products, and limits cigarette vending machines to premises inaccessible to children under 16, at risk of a R10 000 fine.

She said the prohibition on sponsorships would be phased in. Her department had discussed the bill with Sport Minister Steve Tshwete "and that's why it was unanimous in Cabinet" – Sapa.

Cabinet yes to tough smoking laws

Health minister's crusade against the habit a step closer to law with nod to draft legislation banning lighting up in many places, and all advertising

By JOYIAL RAMTAO
Cape Town

In its strongest message yet against smoking, the Cabinet has approved Health Minister Dr Nkosazana Zuma's draft legislation that would ban smoking and tobacco advertising and impose heavy penalties on violators.

According to the Tobacco Products Control Amendment Bill, approved unanimously yesterday, any person found guilty of smoking in public places, places of employment, on public transport and any other place where smoking would be prohibited, would be guilty of an offence and liable on conviction to a fine of R200.

According to the draft legislation, smoking will be prohibited in any indoor or enclosed areas which are open to the public. Smokers will also not be allowed to light up in corridors, lobbies, stairwells, lifts, cafeterias, washrooms or any common area frequented by other employees during normal working hours.

No person will be allowed to advertise using any tobacco trade marks, logos, brand names or company names for the purposes of advertising any organisation, service, activity or event.

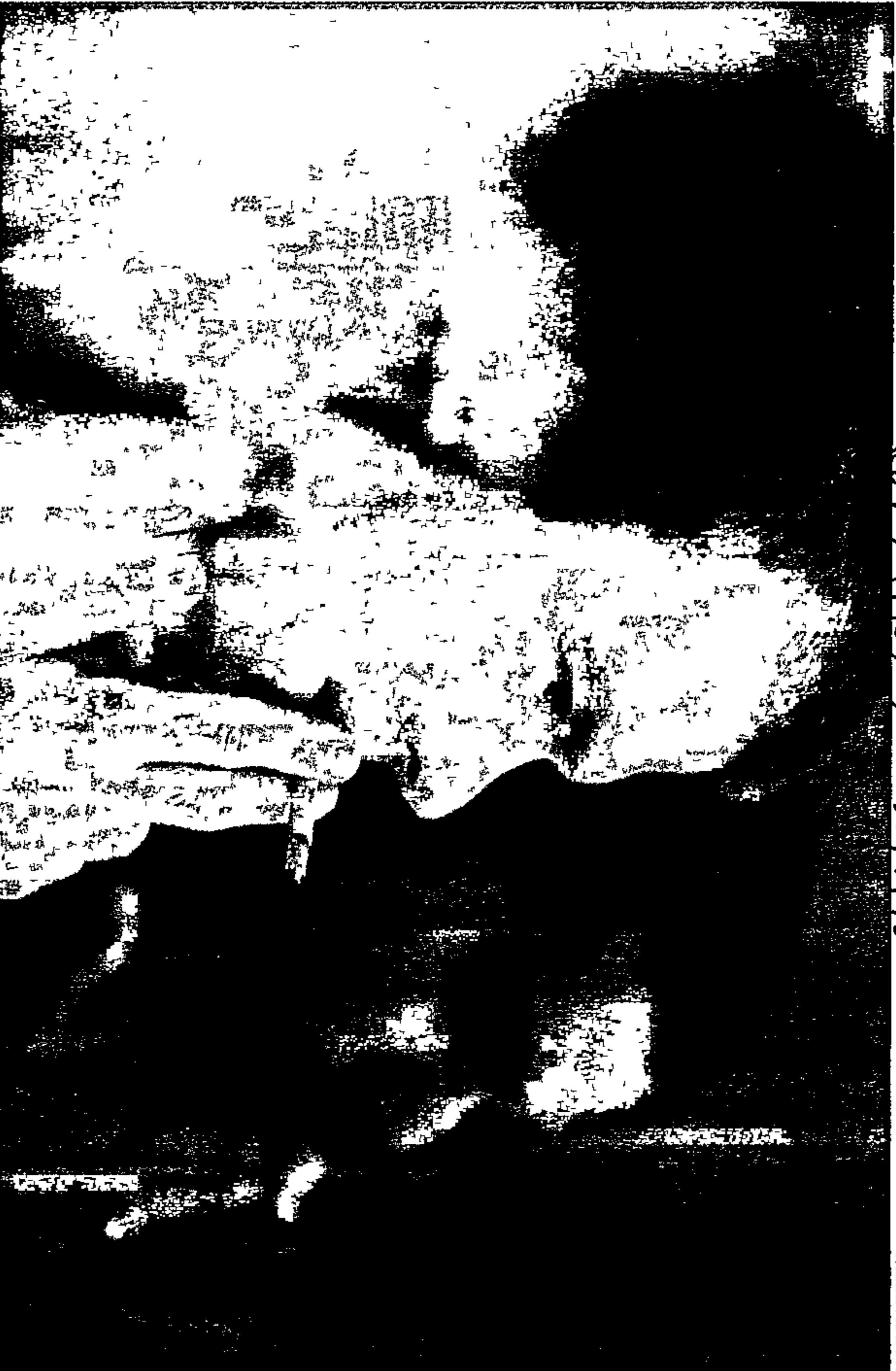
No person would be allowed to sell tobacco products unless the package carried a warning concerning the potential health hazards of smoking.

Manufacturers, importers and distributors guilty of organising and sponsoring activities which involve promoting tobacco could face a penalty of up to R200 000.

Individuals who would be found guilty of the same offences could be fined R10 000. Apart from hitting the profits of tobacco manufacturers, the legislation is set to strike a heavy blow at sports bodies and sportsmen and women who rely heavily on tobacco com-

(198) Star 30/7/98

THEMBA HADEBE



Puffers on the retreat... new legislation banning any smoking in any public places, offices and factories will force smokers out on the streets for their fix.

panies for sponsorship. It will also affect the advertising industry and most newspapers and magazines, which have benefited to the tune of millions from carrying tobacco adverts.

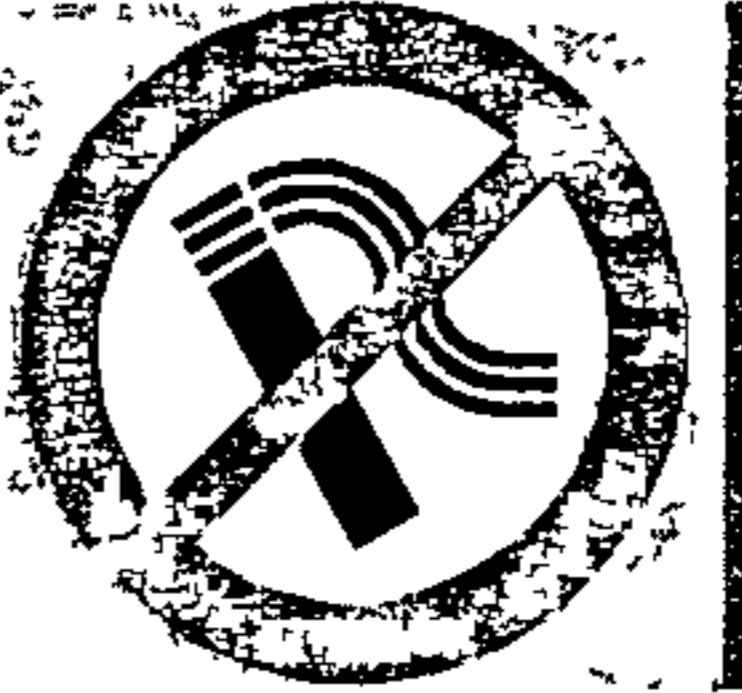
The legislation, which has already been met with stiff opposition from tobacco manufacturers, is set for rigorous and emotional debate when it becomes the subject of public hearings hosted by Parli-

Zuma has had extensive consultations with Sports Minister Steve Tshwete - one of the heavy smokers in the Cabinet - who has supported the bill without reservation.

Tobacco companies were free to continue to give money to sports organisations and individuals as long as they did not advertise their products.

She believed that advertising linking smoking with social success, business advancement and sporting prowess had a harmful effect by encouraging young people to start the habit.

The sale of cigarettes from vending machines would be restricted to places normally inaccessible to people under 16.



NO SMOKING

1. Public places
 2. Places of employment
 3. Public transport
 4. Any other place where smoking would be prohibited
- FINE: R200**

NO TOBACCO ADVERTISING

1. Trademark
 2. Logo
 3. Brand name of company on tobacco products
- FINE: R200 000**
R10 000
(Individuals)

Cabinet nods to tobacco Bill

THE Cabinet yesterday unanimously approved draft legislation that will allow the Minister of Health to ban smoking in the workplace and prohibit all tobacco advertising, including promotion through sponsorships

Health Minister Nkosazana Zuma told a media briefing in Cape Town after the Cabinet meeting that the Government was not criminalising smoking, and said she did not believe the restrictions would negatively affect sport development

"We think that sports should not be associated with smoking because there is no association between good sportspeople and smoking," she said

The Tobacco Products Control Amendment Bill will allow her, by notice in the Government Gazette, to ban smoking in any public place - the definition of which includes a workplace - with a liability of a R200 fine

It will end all tobacco advertising, including the use of logos and brand or company names, and the use of logos

or names "for the purpose of advertising any organisation, service, activity or event" Offenders will face a R200 000 fine.

No manufacturer, importer, distributor or retailer of tobacco products will be allowed to finance, organise, or promote an organised activity that involves the use of a tobacco trade mark, logo, brand or company name

Shops will, however, be allowed to put up signs at point of sale indicating that tobacco products are available there

The Bill, which has already run into opposition from the tobacco industry, gives Zuma the power for the first time to decide on permissible tar and nicotine levels in tobacco products

It bans free distribution or unusual discounting of tobacco products, and limits cigarette vending machines to premises inaccessible to children under 16, at risk of a R10 000 fine -

Sapa

(198) (198)

SECRET

(27)

Cabinet supports Zuma in smoke-out

JOVIAL RANTAO
PARLIAMENTARY BUREAU

In its strongest message yet against smoking, South Africa's multi-party cabinet has approved Health Minister Nkosazana Zuma's draft legislation which would ban smoking and tobacco advertising and impose heavy penalties on those guilty of violating the law.

According to the Tobacco Products Control Amendment Bill, approved unanimously yesterday, any person found guilty of smoking in a public place, place of employment, public transport or any other place where smoking would be prohibited, would be guilty of an offence and liable on conviction to a fine of R200.

Manufacturers, importers and distributors guilty of organising, promoting and sponsoring activities which involve the use of a tobacco trade mark, logo, brand name or company name would face a penalty of up to R200 000.

Individuals found guilty of the same offences would be fined R10 000.

Apart from hitting the profit margins of tobacco manufacturers, the legislation is set to strike a heavy blow to sports bodies, sportsmen and women who rely heavily on tobacco companies for sponsorship.

It would also be costly to the advertising industry and newspapers.

The legislation, which has met with stiff opposition from tobacco manufacturers, is set for rigorous and emotional debate when it becomes the subject of public hearings hosted by Parliament's health committee.

"We will have to phase in the legislation so that there's no abrupt end to sponsorships.

"We will also look at existing contracts and within that context decide how to phase in the legislation," Zuma said.

She had consulted Sports Minister Steve Tshwete extensively, who had supported the Bill without reservation. "We think the development of

CT 30/9/88 Bt (1988)



NO BUTTS: Nkosazana Zuma

sports should not be associated with smoking. Sport should not be associated with smoking."

Advertisers "want to hook young people into smoking" she said.

She did not believe the bill would disadvantage development in sports

and cited cricket as one of the sports which had stopped sponsorship from a tobacco company and found an alternative backer for its development programmes.

The tobacco companies were free to give money to sports organisations and individuals as long as they did not advertise their products.

She believed that the association of smoking with social success, business advancement and sporting prowess through use of advertising and promotion had had a harmful effect by encouraging children and young people to start smoking.

The legislation, aimed at reducing the incidence of tobacco-related illness and death, also empowers the minister to declare permissible levels of tar, nicotine and other constituents which tobacco products may contain.

The sale of cigarettes from vending machines would be restricted to places in which sales from such machines would be inaccessible to persons under the age of 16 years.



Smoke ban gets mixed reaction

(198)

By Mokgadi Pela

A SNAP survey conducted by *Sowetan* yesterday showed mixed views on Government plans to ban smoking in public places and ban the advertising of tobacco in sport

Bheki Shange of the Zola Advice Office said. "It's a good move in that we have so many people suffering from smoking-related diseases like cancer. In fact, it is long overdue

"I also agree that tobacco companies shouldn't be allowed to advertise in sport. We should remember that while sport is about life, tobacco is about death. The two can never live side by side"

Amos Cebekhulu of Jabulani, Soweto, agreed with Government's intention to ban smoking in public places. "However," he added, "I don't support the idea that tobacco companies may not sponsor sport. Where are we going to get the money to sponsor sport from?"

Miss Thembi Dlamini of Estcourt, KwaZulu-Natal said: "I support both steps wholeheartedly. How long must we let these tobacco moguls have their way?"

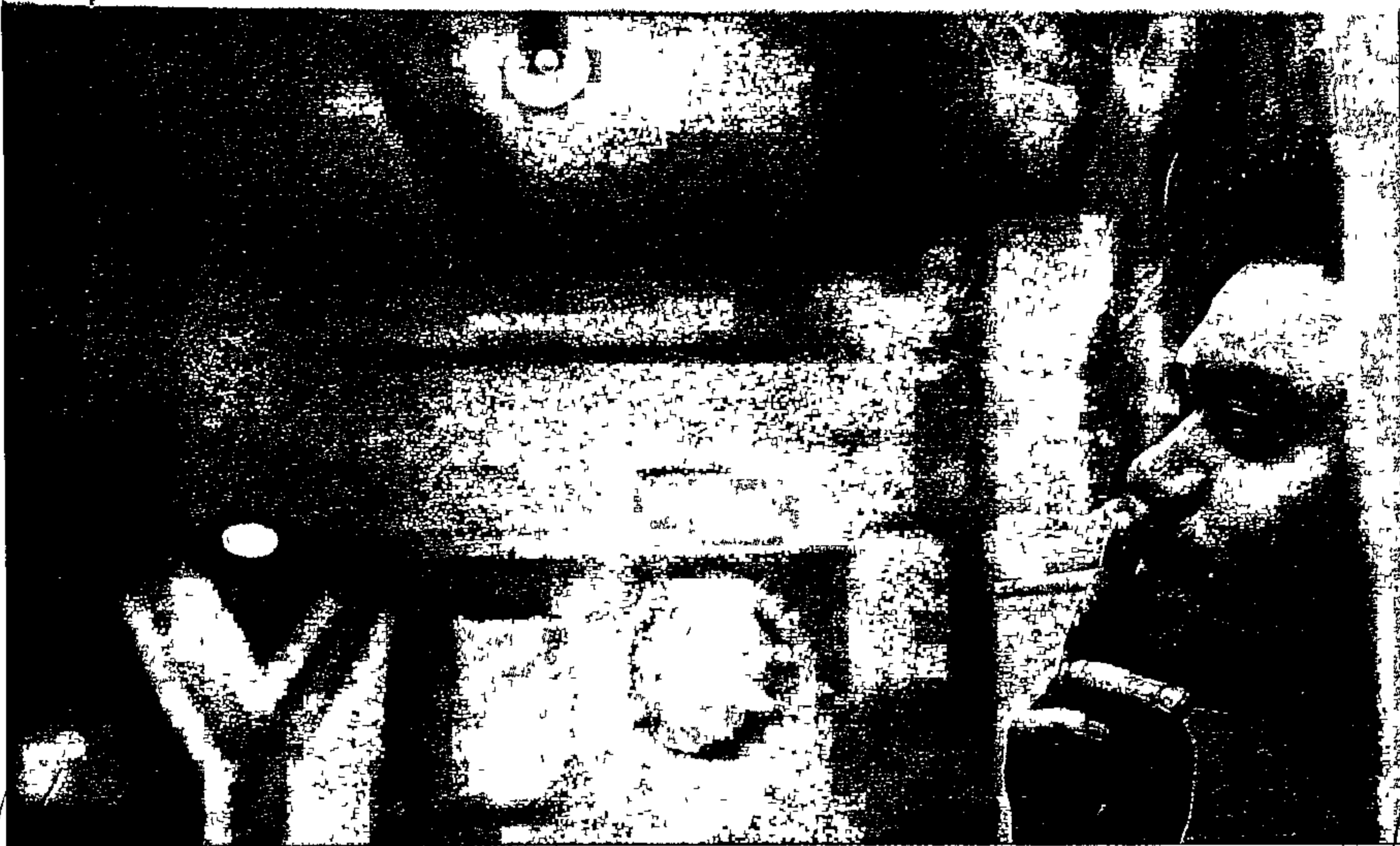
Her friend, Mr Frank Affik, said Government was right in banning smoking in public places but felt that "it should not prevent tobacco companies from sponsoring sport"

Mr Maurice Letlaka of Mondeor, Johannesburg, said. "While smokers should respect the rights of non-smokers, we should guard against ostracising them (smokers).

"From a business point of view, I think Government is going overboard. Any product has a right to be marketed. I find it ironic that while Government targets cigarette companies, they allow manufacturers of weapons to advertise freely."

The reactions follow Cabinet's approval this week of the draft legislation to ban all tobacco advertising and to prohibit smoking in public places

Sowetan 31/7/98



The end of an era - smoker Suren Ramdheo enjoys a smoke during his lunch break in a Johannesburg bar. He and others will have to learn to adjust when new legislation bans smoking in all public places - including bars and restaurants.

Enclosed smoking room would be in order if company allowed it

By Anso Thom
Health Reporter

Companies will be within their rights to allow smoking in designated areas - as long as the smoke does not affect non-smokers - if the draft anti-smoking legislation is passed by Parliament, according to Health Minister Dr Nkosazana Zuma's spokesperson.

But Zuma's Tobacco Products Control Amendment Bill, which was passed by the Cabinet on Wednesday, would severely limit smoking in the workplace, with heavy penalties imposed on offenders.

Zuma's spokesperson Vincent Hlongwane said that if companies decided to ban smoking outright - a route which banks chose more than a year ago - "their policy would be in line with the proposed

government legislation. Asked whether enclosed smoking rooms would be permitted, Hlongwane said it would be up to each company to decide.

"Our attitude is that no one should be subjected to secondary smoke. Should the company feel that it has a responsibility towards employees to supply them with a smoking room, it is entirely up to them," he said.

A smoking room would be an enclosed area which did not expose non-smokers to secondary smoke.

"The Government does not want to be seen to be prescriptive on what the company's policy should be," he added.

He also said that smoking employees sharing an office while "smoking their lungs out" could agree to allow smoking in their enclosed office space, as long as it was not in conflict with company policy.

The draft law defines a workplace as any indoor or enclosed area in which employees perform their duties of employment. This includes any corridor, lobby, stairwell, lift, cafeteria, washroom or common area frequented by employees.

Smoking is also defined as sniffing, sucking or chewing a tobacco product as well as holding or otherwise having control over an ignited tobacco product.

A spokesperson for First National Bank said they felt justified in instigating a non-smoking policy in the workplace.

"We did have a few problems in the beginning, but everyone now realises it is better for their health," she said.

'If they can't catch killers, how will they be able to nab puffers?'

By MELANIE-ANN FERIS

New legislation prohibiting smoking in public places has been received with mixed feelings by smokers and non-smokers alike, and is causing some consternation in the hospitality industry.

While most smokers feel the bill will encroach on their rights, the major concern among non-smokers is that there will be no policing of the laws. Said non-smoker Pierre Wolmarans: "If they cannot catch murderers, how will they catch smokers?"

Bar and restaurant owners are unsure how the new legislation will affect them. They say it is not clear whether smoking will be banned entirely, or whether special areas separating smokers from non-smokers must be provided.

Johnny Berdanis, owner of a coffee shop and restaurant,

believes he will lose clients. "As a smoker, I cannot imagine going to a restaurant or pub and not smoking," he said.

Peter Cumberlege, consultant to Fedhasa, the hotel and liquor Association, said the association could not yet advise its members of steps they had to take to comply with the new legislation because there was still not complete clarity on the contents of the draft bill. "The draft still has to go through the parliamentary process before it becomes law," he said.

Fedhasa was concerned about the influence the new legislation will have on the client base in restaurants, bars, shebeens and taverns, Cumberlege said.

The bill defines a public place as any indoor or enclosed area open to the public, and includes workplaces, corridors, lobbies, stairwells, lifts, cafeterias and washrooms.

Tobacco Institute breathing fire over approval of bill

The Tobacco Institute has slammed draft tobacco control legislation approved by the Cabinet as being draconian, and said it might even be unconstitutional.

"The approval of the (Tobacco Products Control) bill came as a surprise, in view of the fact that a non-official copy of the bill only became available recently, and that some media reports indicated the public had until August 14 to forward comment to the Department of Health," the institute's statement said.

"The fact that this bill was put before the Cabinet before any of the stakeholders had handed in their submissions confirms that it was never the intention of the department to involve stakeholders."

The Cabinet approved the

bill unanimously on Wednesday.

The bill will allow Health Minister Dr Nkosazana Zuma, by notice in the Government Gazette, to ban smoking in any public place - the definition of which includes a workplace - on pain of a R200 fine.

It would end all tobacco advertising, including the use of logos and brand or company names, and the use of logos or names "for the purpose of advertising any organisation, service, activity or event." Offenders would face a R200 000 fine.

No manufacturer, importer, distributor or retailer of tobacco products would be allowed to finance, organise or promote an organised activity

Cabinet and even the minister have been fully informed of the full implications of this draft, which could even be unconstitutional."

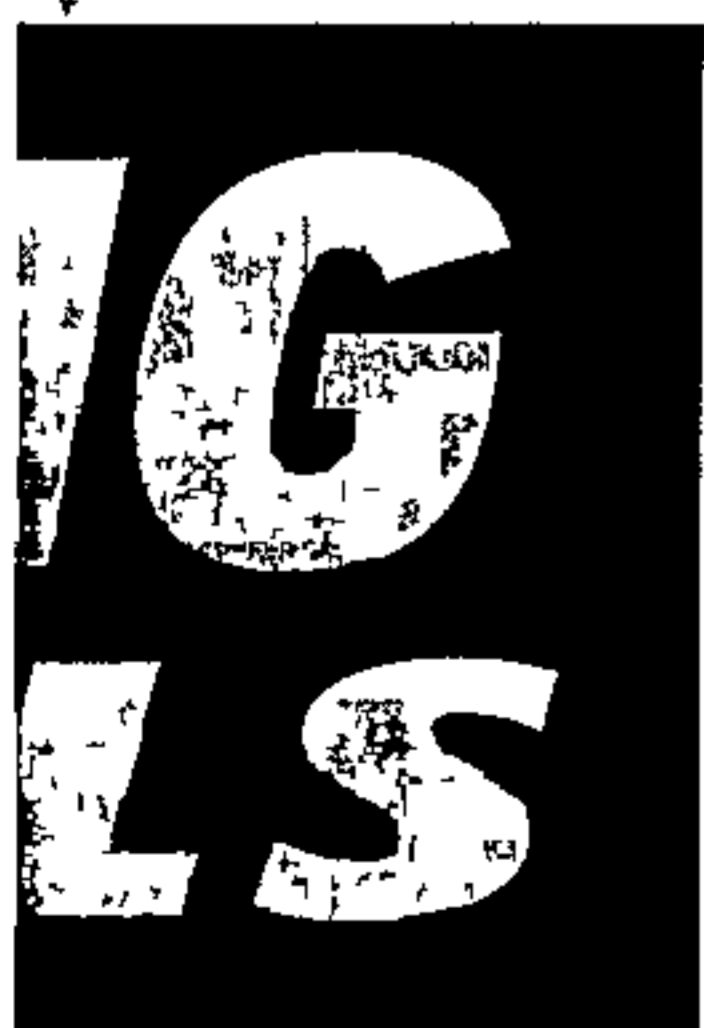
The institute said it believed Zuma's promise of a phase out was just an attempt to appease the stakeholders threatened by the bill. "We call on the Department of Health to make full disclosure of its plans in this regard."

The institute said it had always supported reasonable tobacco control and was willing to co-operate to develop a policy that would balance youth issues, economic issues and constitutional issues.

The department should allow all stakeholders access to the studies it claimed would be used to justify the bill before Parliament, it said - Sapa.

“We doubt they're fully informed of implications”

on tobacco products. "We find it difficult to reconcile this draconian bill with the minister's stated aim of addressing the issue of youth smoking. We doubt whether the



PURCHASE
ES WITH
SERVICE

Smokers cast out on to city streets

(198)

PIETER MALAN
ARG 1/8/98

It's a scene that could soon become commonplace all over the city. Groups of smokers huddled outside on pavements because they are not allowed to smoke in the office.

Although Parliament still has to pass the Tobacco Products Control Amendment Bill, which will outlaw smoking in all public places, some Cape Town employers have already banned their employees from smoking in the office.

If Parliament gives the nod to the new law – and it is generally accepted it will – smokers could be fined up to R200 for smoking in any enclosed public space, including offices, company cafeterias, lifts, stairways and restaurants. People will only be able to smoke at work if their office has an enclosed smokers' area.

Some city employers have already banned smoking in their buildings altogether, making no provision for smoking rooms.

Standard Bank employees have been smoking on the streets of Cape Town for some months now, and smokers working at Woolworths' Plein Street head office have been similarly "cast out".

Enjoying his mid-morning smoke outside the Standard Bank office in Hertzog Boulevard, Quintin Paulsen said the bank had gradually phased in a no-smoking policy.

He said the bank used to have designated smoking areas, but these had disappeared. Now all smokers were forced to smoke outside on the pavement. Apparently the cigarette smoke spread from one office to another through the airconditioning system.

Mr Paulsen said "I definitely smoke less now than before, which I guess is a good thing. Nowadays I smoke about three cigarettes a day. But it means I really enjoy them."

Other Standard Bank workers said they had no problem with the fact that they were forced to smoke outside.

"Apart from it being a bit unpleasant to stand out here in winter when it rains, it's fine. We respect our colleagues' right not to work in a smoke-filled office," said one woman.

"And with the boss a smoker as well, he doesn't mind when we are out here. In fact he is standing over there having a smoke himself," she laughed.

But Woolworths maintenance worker Jacobus Abrahams said he was still struggling to get used to the idea.

Smoking in the Woolworths head office had been banned since the beginning of July. Now smokers have to smoke on the street or on a balcony on the sixth floor.

"Smokers are less productive now, having to go up and down the lift all day just to catch a smoke," he said, while smoking his second cigarette of the morning.

Anti-smoking bill sets off wave of controversy

By SANDILE MEMELA

THERE is no smoke without fire and it would seem that the government has started a blaze of controversy with the opposition and big business for its new legislation which prohibits smoking in public places

It was last Wednesday that Health Minister Nkosazana Zuma was given full approval by the Cabinet for a draft legislation to ban all tobacco advertising and to impose heavy fines for violations

In a nutshell, the Tobacco Products Control Amendment Bill lays down the law that anyone found guilty of smoking in a public place, in the workplace, on public transport and any other place where smoking is not allowed would be guilty of an offence and liable on conviction to a fine of R200

This law, which has been praised by anti-smoking groups like the Cancer Association, has drawn a lot of smoke from the National Party and the Tobacco Institute, who are breathing fire over its approval.

The NP claims "the legislation is moving way beyond a simple health issue - it is touching on the very nature of freedom of choice and attacking the very principles of market economy"

In the same echo, the Tobacco Institute (TI) said "We find it

difficult to reconcile this draconian bill with the Minister's stated aim of addressing the issue of youth smoking"

Yet Zuma said the legislation would also ban the sale of cigarettes to children under 16

In the United States, many



TAKING A PUFF Smokers on the street.

smokers have become used to the idea of moving out of public space to smoke

Consequently, smoking has been greatly reduced in that country.

It is this development in the United States that has made the government confident that it is taking the right course in its steps against smoking

"The tobacco control policies are an integral part of the government's plan to enhance health education programmes that foster life skills development

"This should not be seen as an

isolated policy bent on clamping down on the tobacco industry magnates, but should be viewed as a crucial component of the government's primary health-care commitment to its citizenry," said the ANC.

But smoking, much as it admittedly kills, has been a source of funding to various sporting codes, industries like advertising and provides employment to thousands of workers.

Its banning may adversely affect soccer through the Rothman's Soccer Cup which is worth R6,6-million a year.

It is feared that the ban may drain a substantial source of income to the country's major sports including soccer, rugby, cricket and horse-racing. The Premier Soccer League may be hard-hit. The body has committed itself to lobby with the government.

"Our consultation will continue because several contractual aspects have to be looked into," said Khumalo.

Ironically, Sport and Recreation Minister Steve Tshwete has sided with Minister Zuma's decision on the issue.

But smoking has been the advertising industry's lifeblood and stands to lose contracts amounting to billions.

Even the media may lose substantial amounts through the loss of smoking ads.

□ See Page 10

(198)
**Zuma's
 law has
 loophole
 for global
 firms**

ST 2/8/98

MULTINATIONAL tobacco companies could exploit a loophole in Health Minister Nkosazana Zuma's tough new law against cigarette advertising by sponsoring international events televised in South Africa, writes **MARCIA KLEIN**

Government spokesman Joel Netshitenzhe confirmed yesterday that there would be no black-out on international sporting events sponsored by tobacco companies such as the Winfield Tri-nations rugby competition between SA, New Zealand and Australia.

However, tobacco advertising on tri-nations games played in South Africa would not be allowed, he said.

This side-stepping of the proposed legislation is expected to see SA companies ploughing their money into foreign sponsorship of events that are televised locally.

While harsh restrictions on tobacco advertising are fairly common around the world, the rapid growth of satellite television is making it virtually impossible to apply restrictions uniformly.

Zuma this week signalled her intention to effectively stub out all forms of tobacco advertising with the Tobacco Products Control Amendment Bill. But the tobacco industry is fuming and the liquor industry, acutely aware that it is the next target of her puritanical attention, is preparing for what could be a huge battle, possibly already lost.

Adindex figures show that last year, liquor and tobacco companies spent R234,2-million and R194,9-million respectively on advertising.

For some time, the tobacco industry has seen the writing on the wall, and warning labels were introduced more than two years ago at considerable expense to South Africa's two major cigarette manufacturers, Rembrandt and BAT SA.

Topsport head Edward Griffiths said he understood there would be a blanket ban on sports events which included product endorsement or broadcast or event sponsorship. He said the SABC would be affected in terms of the Rothmans Cup Soccer, the Rothmans July and the Gunston 500, although he expected other sponsors could step in. He said it was not clear if the same restrictions would apply to international sports events broadcast in South Africa that might include international tobacco sponsorships.

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Tobacco industry 'was not consulted'

Louise Cook

27 (198)
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THE Tobacco Institute, representing the tobacco industry including farmers and manufacturers, has condemned the cabinet's approval last week of Health Minister Nkosazana Zuma's proposed new law to ban all tobacco advertising and smoking in public places.

The institute said the industry was caught off guard by the move as it had seen only an unofficial draft of the bill.

"The fact that this bill was put before the cabinet before any stakeholders had handed in their input, confirms that it was never the intention of the health department to involve stakeholders."

Institute CEO Edward Shalala said: "We find it difficult to reconcile this draconian bill with the minister's stated aim of addressing the issue of smoking. Had the (health) department seen fit to consult with the tobacco industry, it would have discovered a willingness to work together to make reasonable, rational and sustainable tobacco control legislation."

The proposed new law was discussed recently at a meeting between Land and Agriculture Minister Derek Hanekom and the SA Agricultural Union. Details were not disclosed.

However, Hanekom undertook to "raise the issue of the possible negative impact on jobs in the tobacco industry with his cabinet colleagues", the agriculture department said.

However, when the bill was approved on Wednesday Hanekom was in hospital.

Farmers, trade unions and manufacturers were worried that the Tobacco Products Control Amendment Bill would wipe out thousands of jobs in SA and have an adverse effect on the tobacco industries of neighbouring countries.

SA imports tobacco from neighbouring states and, in farming circles, tobacco growing was seen as a labour-intensive practice that deserved support to create more jobs.

The bill proposes fines of up to R200 000 for any industry player which breaks the law and R10 000 for individuals.

Union slates Zuma's plans to oust tobacco companies

ARC 3/18/98

(198)

THABO MABASO
BUSINESS REPORTER

Plans by the health ministry to introduce legislation to curb tobacco companies sponsoring sporting events have been slated by the Food and Allied Workers Union

The union argues that the legislation will lead to huge job losses in the

Southern African region

"Southern Africa is the world's third largest tobacco-growing region, and the tobacco industry is a major employer. More than 35 000 in South Africa are directly employed in the tobacco industry, of whom 28 000 are farm workers," a union spokesman said

"We believe the measures proposed by the draft bill are irresponsible,

with insufficient understanding of the effects of the prescriptions of the bill on the 35 000 workers directly employed in the industry"

The union spokesman said implementation of the bill would damage the economies of Southern African countries like Zimbabwe, Malawi and Tanzania, which were heavily dependent on tobacco

The Tobacco Products Control

Amendment Bill, which will make it illegal for tobacco companies to link their names publicly to sporting events like the Rothmans July Handicap and the Rothmans Cup soccer spectacular, is part of efforts by health minister Nkosazana Zuma to curb smoking

The union spokesman said the tobacco industry spent about R40-million a year promoting sport, cultural

activities and emergency services, and added "The proposed ban will have a negative impact on the development of sport and cultural activities in our marginalised communities."

He also accused the ministry of not consulting all stakeholders in the industry before formulating the bill, and called on it to re-open talks with everyone in the industry. "In a new democracy, the develop-

ment of a democratic culture is of critical importance. We need to develop sustainable solutions that are based on the development of tolerance and that seek to empower people through public education processes," he said.

The union believed the draft proposals needed to be debated democratically among all interested and affected parties, and planned a conference of all stakeholders on Saturday.

from sports

Star 3/8/98

Hotel body slams tobacco bill

HEALTH REPORTER
AND SAPA

Approval of the Tobacco Amendment Bill by the Cabinet last week smacked of undemocratic argument and a non-transparent consultative process, the Federated Hospitality Association of SA said yesterday.

Fedhasa said it was surprising that the bill was approved last week because, according to the Health Department,

the deadline for comments and submissions from stakeholders and interested parties was August 14.

The bill calls for a ban on smoking in public places.

Vincent Hlongwane, spokesperson for Health Minister Nkosazana Zuma, said there would be public hearings: "Nothing is yet cast in concrete, and input is more than welcome. It is premature to complain."

Shock for smokers as govt moots levy

ANDRE KOOPMAN
PARLIAMENTARY BUREAU

ET 4/8/98

SMOKERS could be in for a further price increase on cigarettes as the government considers imposing levies on tobacco to replace revenues lost through a ban on sports tobacco advertising, the *Cape Times* has learned exclusively.

This was revealed last night by Dumisane Zulu, spokesperson for Sports Minister Steve Tshwete. And highly placed sources in the ministry have confirmed that government is seriously considering such a levy.

Zulu said that like other countries where tobacco advertising in sport had been banned, there should be some kind of levy in order to compensate for loss of sponsorships. A levy would not necessarily mean an increase in cigarette prices, he added.

Sports bodies, the media and cultural groups have predicted that multi-million rand losses would follow the ban championed by Health Minister Nkosozana Zuma.

The future of events such as the Gunston 500 surfing competition and the staging and broadcast of Formula One racing has been questioned, given their heavy dependence on cigarette sponsorship.

The draft bill banning advertising or promotion of tobacco products, including a ban on brand names and cigarette logos, was approved by the cabinet last week.

But Tshwete said yesterday that President Nelson Mandela would meet Formula One racing chief Bernie Ecclestone later this month to discuss plans for a South African Grand Prix. Tshwete said at a media briefing that he would also attend the meeting which was "quite

critical". He was reassuring about the event being staged in South Africa despite the ban.

"We will have the race. We want to clear every hurdle in getting Formula One here," Tshwete said.

Both he and Zuma have said that the bill will be phased in and Zuma said recently that existing contracts would be honoured. "It is in our interests to ensure that South Africa does not lose the chance to host the Formula One event," Tshwete said. He added that the bill would be phased in — in consultation with sports bodies and sponsors — and that there would be no "guillotine" on advertising.

Ecclestone was aware of developments in South Africa but "he has not reacted up to now" Tshwete said the government had to walk a tightrope between the health of society and not endangering the continued existence of elite sport and sport development.

Sporting bodies — including the Professional Soccer League, organised rugby and motor sport — had frankly described the bill as "draconian" in discussions with him before it being accepted by the cabinet, Tshwete said. They predicted it would create problems given the size of the economy.

At the same time, they understood they could not be seen to be leading supporters of tobacco advertisements. The interests and obligations of sports would "always be jealously guarded by government".

"I assure you every single contract will be looked into fairly and agreements will be struck with all stakeholders as to how and when the phasing out and the phasing in will be done," he said.

Tshwete said he and Zuma would

□ Turn to Page 3

CAPE TIMES
TUESDAY, AUGUST 4, 1998

CT 4/8/98 Another shock for smokers

□ From Page 1

look at other financial means of lessening the effects of the ban.

Meanwhile, Reuter reports that a spokesperson for AA Racing, owned by the Automobile Association which has handled negotiations for the event, said a preliminary deal had been agreed on to stage the race.

"We have signed a contract with Bernie Ecclestone," Selwyn Nathan said. "But that does not guarantee we will get the race. We are waiting for next season's calendar in October to see. The race, last held in South Africa in 1993, would, as in the past, take place at Kyalami near Johannesburg."

Last year when Belgium passed a law banning all tobacco advertising and sponsorship from the start of 1999 with no phasing-in period, Ecclestone threatened to cancel immediately the Spa-Francorchamps Formula One race for 1998.

A rash of legal actions by the local race organisers, businesses and the regional government against the federal government persuaded Ecclestone to change his mind, but his muscle-flexing made a deep impact on other nations.

The European Union also passed legislation last year to phase in bans on tobacco sponsorship of events like motor racing and show jumping.

No butts or maybes for determined Zuma

GODZUMA, Nanny of the Nation — you name it, she's been called it Health Minister Nkosazana Zuma spoke to Health Writer JUDITH SOAL about the legislation that's causing all the trouble

What she said

"I'm getting used to the names by now," Health Minister Nkosazana Zuma said yesterday, donning a wry (and rare) smile. "What is important is whether we are transforming society for the better, and I think we are."

There's been a lot of talk about Zuma's latest attempts to transform society in the form of the Tobacco Products Control Amendment Act.

The legislation gives her the power to ban smoking in public places, and places a total ban on tobacco advertising. It is expected to become law after receiving the unanimous blessing of the cabinet.

Yet despite the number of newspaper columns the legislation has generated, there has been surprisingly little detail about what the act will mean.

For a start, the new laws do not rule out office "smoking rooms", although they may regulate where these are permissible.

"The main focus is to protect non-smokers. If there is a way to make sure they don't have to breathe polluted air, then smoking rooms are fine.

"If the smokers' area shares the same air conditioning as the rest of the building and the smoke is just recycled around, then obviously this is not fine,

ET 5/8/98

- Special smoking rooms "may" be allowed in the workplace
- There will be no "smoke police"
- Bars will not be exempt from smoking controls.
- There may be restrictions on the amount of tar and nicotine cigarettes can contain
- Existing sponsorships of sporting events will be allowed to continue only for "a year or two"
- An increase in the price of cigarettes is likely

finalised. The draft bill gives Zuma the power to "declare that the smoking of tobacco products in any public place or particular kinds of public places is prohibited or may only take place on (certain) conditions" by publishing a notice in the government gazette.

Clearly Zuma wouldn't give herself that power if she didn't intend to use it, but the nature of the restrictions hasn't yet been spelled out.

She said yesterday that bars and clubs would not be exempt from the measures. Nor would buses, taxis or restaurants.

"There is nothing we can do about people smoking in private homes, non-smokers have a choice if they want to go there or not, but for the rest we have a duty to non-smokers to protect them. Our constitution guarantees them this."

There has been a lot of speculation about the policing of the regulations. Delighted cartoonists have portrayed "tobaccops" holding guns to the heads of unsuspecting diners enjoying a post-dinner puff.

The public has expressed outrage that police members will stop attending to violent crimes and be transferred to smoking duty. Zuma says this isn't what she has in mind.

"It will be policed by you and me. We



NOT A NANNY Health Minister Nkosazana Zuma says smokers are law-abiding citizens — they just need to be told to stop smoking

do not want to bring in the police force. We believe smokers are law-abiding citizens. You must just tell them to stop smoking."

Nevertheless the legislation provides for a R200 fine for breaking the restrictions.

An area of the new laws that has

received little attention is the provision for the minister to control the contents of cigarettes.

According to the draft, "the minister may, by notice in the government gazette, declare the permissible levels of tar, nicotine and other constituents which tobacco products may contain."

Zuma says she is particularly concerned about tar. "We are considering putting an upper limit on what is permissible."

The other main thrust of the legislation is the ban on all forms of tobacco advertising.

As soon as the regulations become law, it will be illegal to "display or use, other than in a private capacity, tobacco trade marks, logos, brand names or company names."

This puts paid to sports sponsorships like Winfield Rugby or Rothmans Cup Soccer.

Although Zuma and Sports Minister Steve Tshwete have spoken of "phasing in" these restrictions to protect existing sponsorships, Zuma said companies should be under "no illusions" that sponsorships would be able to run their course.

"It will be a very short phase-in. If they have a 10-year contract, they won't be able to finish it. And it will only apply to contracts already existing. If people negotiate a contract now, while the bill is being discussed, it will not be allowed to stand."

"We will give sporting organisations time to negotiate new contracts, but it won't be more than a year or two."

Zuma confirmed that the department was considering increasing levies on cigarettes.

"South Africa has some of the cheapest cigarettes in the world, and we could do with a big increase in levies. Research has shown that price affects children particularly."

"Adults are likely to keep smoking if the price goes up by a rand or so, but children would rather buy CDs or go to the movies, and it is children that we want to discourage from smoking."

"Maybe it is a nanny state, but do they want to return to the kind of state we had before, when people were told where to live, where to go to school, who they could fall in love with?"

"They will be able to take their complaints to the health portfolio committee so there is still time for comment."

The committee is expected to discuss the legislation at the end of the month.

Zuma has little time for criticism that she is creating a "nanny state."

"Maybe it is a nanny state, but do they want to return to the kind of state where to live and where not to live, where to go to school, who they could fall in love with? A state where the government manufactured chemicals that were used to kill people?"

"We are trying to protect people's health and protect the rights of non-smokers, who up to now have had to accept that their health is being damaged by other people's smoking. Does this mean it is a nanny state?"

And then there's the word "nanny."

"In South Africa 'nanny' has particular connotations. A nanny is a black woman who lives in the back yard and looks after your children while they are young, then when they grow up they despise her. I believe it is an unfortunate choice of words."

She said it was up to Finance Minister Trevor Manuel to decide whether income from the levy would be used to compensate for the loss of sports sponsorships.

The tobacco industry claims it was not properly consulted on the new legislation and says Zuma is determined to "bulldoze" it through Parliament.

"What is consultation?" asked Zuma. "We did consult them, but consultation does not mean we must keep consulting until they agree. They will never accept tobacco restrictions, no matter how long we speak to them."

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SA tobacco laws will be 'flexible'

(198)
Sowetan 7/8/98

SOUTH Africa's new tobacco laws will be applied in a flexible rather than a selective manner, Health Minister Dr Nkosazana Zuma said yesterday.

Speaking to journalists in Cape Town, she said the new laws did not mean the immediate cessation of existing contracts between sporting bodies and tobacco companies.

"We will be flexible with each case, but we would like sporting organisations – particularly soccer – to start looking for new sponsorships in view of the fact that it plans to host the 2006 World Cup."

The rules of the world soccer control body, Fifa, did not allow tobacco advertising, she said.

Zuma's remarks were in reply to a question as to whether or not her proposed new tobacco laws would not negatively impact on South Africa's chances of hosting the Formula One Grand Prix.

Sports Minister Mr Steve Tshwete announced earlier this week that President Nelson Mandela would meet Formula One boss Bernie Ecclestone on

August 19 to discuss plans for a South African Grand Prix in the light of the Government's proposed crackdown on tobacco sponsorship.

Zuma also briefed journalists on projects her ministry were undertaking this year, including a flying doctor programme and a tele-medicine system.

Flying doctor

The flying doctor programme, which aims to make health services accessible to all South Africans, particularly in rural areas, had been successful in Northern Cape, she said, and it was planned to be extended countrywide.

Zuma said the tele-medicine system would bring healthcare, education and service to South Africans in areas of great need.

"Pilot projects in North West and other areas have proven to be successful, and we intend expanding these services throughout the country."

The district health system and the campaign against HIV-Aids were also going well, she said. – Sapa.

Godzuma, Nanny of the Nation – you name it, she's been called it. Health Minister Nkosazana Zuma spoke to Judith Soal about the legislation that's causing all about her to huff and puff

Every which way, smokers are on run

Straw 7/8/98

(198) (197)

"I'm getting used to the names by now," Health Minister Nkosazana Zuma said, donning a wry (and are) smile "What is important is whether we are transforming society for the better, and I think we are"

There's been a lot of talk about Zuma's latest attempts to transform society in the form of the Tobacco Products Control Amendment Act. The legislation gives her the power to ban smoking in public places and places a total ban on tobacco advertising.

It is expected to become law this year after receiving the unanimous blessing of the Cabinet recently.

Yet despite the number of newspaper columns the legislation has generated, there has been surprisingly little detail about what it will mean.

For a start, the new laws do not rule out office "smoking rooms", although they may regulate where these are possible.

"The main focus is to protect non-smokers. If there is a way to make sure they don't have to breathe polluted air, then smoking rooms are fine."

"If the smokers' area shares the same air conditioning as the rest of the building and the smoke is just recycled around then obviously this is not fine. But if there is an extraction fan, we may say it is okay," Zuma said.

The reason for the "ifs" and "maybes" is that the controls on smoking in public places haven't been finalised. The draft bill gives Zuma the power to "declare that the smoking of tobacco products in any public place or particular kinds or public places is prohibited or may only take place on (cer-



What Zuma has said so far

- Special smoking rooms "may" be allowed in the workplace.
- There will be no "smoke police".
- Bars will not be exempt from restrictions on smoking.
- There may be restrictions on the amount of tar and nicotine cigarettes can contain.
- Existing sponsorships of sporting events will be allowed to continue, but only for "a year or two".
- An increase in the price of cigarettes is likely.

tain) conditions" by publishing a notice in the Government Gazette. Clearly Zuma wouldn't give herself that power if she didn't intend to use it, but the nature of the restrictions haven't yet been spelt out.

She said yesterday that bars, clubs and other drinking holes would not be exempt from the measures. Nor would buses, taxis, or restaurants.

"There is nothing we can do about people smoking in private homes, non-smokers have a choice if they want to go there or not, but for the rest we have a duty to non-smokers to protect them. Our constitution guarantees them this."

There has been a lot of speculation about the policing of the regulations. Delighted cartoonists have portrayed "tobacops" holding guns to the heads of an unsuspecting diner enjoying a post-dinner puff. The public has expressed outrage that police members will stop attending to violent crimes and be transferred to smoking duty. Zuma says this is not what she has in mind.

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to stop smoking."

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One area that has received little attention is the provision for the minister to control the content of cigarettes.

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Zuma says that she is particularly concerned about tar. "We are considering putting an upper limit on just what will be permissible."

The other main thrust of the legislation is the ban on all forms of tobacco advertising. As soon as the regulations become law, it will be illegal to "display or use, other than in a private capacity, tobacco trade marks, logos, brand names or company names."

This will quickly put paid to huge sports sponsorships like Winfield Rugby or Rothmans Cup Soccer.

Although Zuma and Sports Minister Steve Tshwete have spoken of "phasing in" these restrictions to protect existing sponsorships, Zuma said

companies should be under "no illusions" that sponsorships would be able to run their course.

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"They will be able to take their complaints to the Health Portfolio Committee so there is still time for comment."

The committee is expected to discuss the legislation at the end of the month.

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Zuma's smoke gets up tobacco

trade's nose

The Health Minister's enthusiasm is not shared by alcohol and cigarette purveyors, writes **MARCIA KLEIN**

HEALTH Minister Nkosazana Zuma's controversial Tobacco Products Control Amendment Bill, unanimously accepted in parliament — a Bill which she believes will be enforced by mutual respect between smoking and non-smoking individuals — has not been met with similar applause by the tobacco, advertising, liquor, sports and media industries.

They all stand to lose millions in advertising and sponsorships, not to mention the huge costs they may have to incur in applying health regulation warnings to products and advertisements.

Over the past few years the tobacco industry has withdrawn from most major sponsorships and placed health warnings on packs. Rembrandt and BAT SA spent R57-million in 1995 adhering to health warning rules.

Tobacco industry statistics suggest that a shrinking industry could have a widespread effect on the economy. About 35 000 people are directly employed in the tobacco industry, and southern Africa is the third-largest tobacco exporting region in the world.

The industry generates R3.6-billion in excise and VAT a year, excluding company and personal taxes. It spends R250-million annually on print and media advertising and R40-million promoting sport, cultural activities and emergency services.

It has been suggested that the liquor industry is next on Zuma's agenda. The ramifications could be enormous.

According to Adindex figures, liquor and tobacco companies spent R234.2-million and R194.9-million respectively on advertising in 1997.

Some major tobacco sponsorships still remain, including the Rothmans Durban Jubilee. One of the largest sponsorships was Benson & Hedges' support of cricket, recently taken over by Standard Bank. Lexington pulled out of golf, leaving it to the cellphone and IT companies.

Business Marketing Intelligence Sports Info director Johan Grobler says there is still about R30-million of tobacco sponsorship money going into sport. Pressure on the liquor industry has seen liquor sponsorships follow a similar falling trend, but there are still some major sponsorships in place. SA Breweries is a major sponsor of sport, particularly soccer and cricket. J&B is a big sponsor of horse racing.



SMOKIN' HOT .. Nkosazana Zuma, who is plinning her hopes on mutual respect between puffers and abstainers

Grobler says sports sponsorship last year totalled R670-million, 10% of which was liquor and tobacco.

Industry spokesmen allude to international research which shows there is no link between advertising and abuse and none between advertising and increased consumption. The only effect perceived is brand-switching.

Restrictions on liquor advertising vary considerably. There are only nine countries with laws requiring warnings, including Brazil, Colombia, Costa Rica, Ecuador, Honduras, Mexico, South Korea, the US and Zimbabwe.

The rapid growth of satellite television is making it almost impossible to apply restrictions uniformly, but Zuma says her law applies in SA without exception.

SA Breweries spokesman Adrian Botha says "We have no fight with the government and are continually in dialogue." He says the industry understood that no decisions had been made on liquor advertising, and that the recent publicity is aimed at trying to elicit as much public debate as possible.

"SA liquor companies already have a strict code in terms of advertising and it is

working well. We think we should be able to advertise a legitimate product."

Botha says SAB is probably the oldest sports sponsor in the country. It does not see any link between sponsoring football and abuse.

Chan Mekan, director of the Association for Responsible Alcohol Use, representing most manufacturers and wholesalers, says any comparison with tobacco is "wrong and dangerous", as there is nothing wrong with moderate use of alcohol.

He says the industry has imposed a voluntary restraint on claims of any beneficial effect, on condition there are no unreasonable restrictions placed on the industry. It also voluntarily states on adverts that alcohol is not for sale to people under the age of 18, and advertises on TV only at certain times.

The Food and Allied Workers' Union has called for a summit at the end of the month relating to the Tobacco Products Control Amendment Bill.

The union has been supported by various organisations including Fedhasa, the Freedom of Commercial Speech Trust and the Association of Marketers.

UP IN SMOKE

As it stands, government's proposed antitobacco legislation could render the use of the Springbok emblem illegal, say trademark lawyers. Ac-



According to the proposed Act, a cigarette trademark may not be used on any nontobacco product or service, such as clothing, even if the logo or spelling of the name is dif-

ferent, as long as it is a recognisable variation.

But there's a cigarette called Springbok, which has been sold by United Tobacco in SA since 1923, with a Springbok emblem on the pack. This presumably will make it illegal to wear a Springbok jersey or to distribute any articles bearing a Springbok emblem.

Since the proposed law does not distinguish between local and foreign brand names, it seems you will also not be allowed to sell McDonald's hamburgers (there's a MacDonald's cigarette in Canada), Lux soap, Mars bars and Life magazine all share names with cigarette products in different countries.

Dr Owen Dean, senior trademark partner at the Pretoria law firm of Spoor & Fisher, says "the Bill bans any trademark from use by anyone in SA on nontobacco products if it has been used for cigarettes anywhere in the world". So it's back to the drawing board for government's legal draftsmen.

Tony Koenderman

Batsa maintains a solid market share

(198) CT(PM) 24/8/98

MARC HASENFUSS

CAPE EDITOR

Cape Town — British American Tobacco South Africa (Batsa), which distributes brands like Benson & Hedges and Camel in South Africa, shrugged off anti-smoking sentiment by more than doubling pretax profit of R62 million in the six months before the end of June.

Headline earnings came in 111,5 percent higher at 622c a share. Shareholders were rewarded with a special dividend of 600c a share and an interim payout of 311c.

Stephen Daintith, the finance director of Batsa, said the increase in profitability reflected the effects of higher overall volumes, cost reduction programmes, price increases and improved focus on domestic brand portfolios.

"Although we continue to see some declines in the domestic cigarette market following another significant excise increase, we have maintained our solid market share"

Daintith said the 600c a share special dividend, which amounts to over R36 million, stemmed from the build up of cash reserves from the Willards disposal and an exceptionally good profit performance.

However, he noted a growth in working capital because of corrective increases in tobacco leaf stock holdings.

"A higher level of accounts receivable . has also contributed to the increased working capital."

Daintith cautioned that if the Tobacco Products Control Amendment Act was passed it could have a significant effect on Batsa's ability to communicate with consumers.

"We intend to oppose this bill with great vigour," he said.

Prospects for the company's business remained very good, he said. "We expect our renewal strategy to reinforce the good performance .. through the remainder of the year."

Batsa closed 150c higher at R48 on the JSE on Friday

Trust's warning on tobacco Bill

(198) ~~(198)~~ Sowetan 24/8/98

Sowetan Business Reporter

THE Freedom of Commercial Speech Trust has warned that the Tobacco Products Control Amendment Bill contains weaknesses which may open it to legal challenge

The trust, representing the media, marketing and advertising industries in South Africa, has lodged a formal response to the Bill with the Health Ministry

Piet Delport, executive director of the trust, said in a statement in Johannesburg on Friday that legal opinion was that the Bill incorporated severe and extensive restrictions on commercial expression which could "amount to censorship of certain private communications"

The advertising ban contained in the Bill could be vulnerable to constitutional attack, he said

The trust, however, would prefer to negotiate with Government and not seek confrontation

"Surely it is not in South Africa's best interest that Government and

business get involved in costly and time-wasting legal wrangles. We call on government to withdraw this legislation until proper consultation has taken place," said Delport

Too wide

Delport said the trust noted that the Bill, as it was presently drafted, was so wide as to prohibit,

- private communications between tobacco manufacturers and tobacco distributors

- the importation of foreign magazines which contained tobacco advertising

- television broadcasts of sporting events such as Formula 1 Grand Prix, where tobacco sponsorship was permissible and where tobacco advertisements appeared on billboards and racing cars

"We are not opposed to Government's legitimate goals to promote health. We are more than willing to work with Government to find common ground after consultation with all interested parties," he said

Industry fights non-smoking bill

Vuyo Mvoko

CAPE TOWN — The tobacco industry has asked the high court here to instruct Health Minister Nkosazana Zuma to hand over to the industry all the information her department took into account when drafting the Tobacco Products Control Amendment Bill

The urgent court application, filed on Thursday and scheduled for a hearing today, is only the beginning of a fight the industry intended putting up against the government over the bill, sources said.

The bill, which has raised the ire of the industry and is currently going through Parliament, seeks to ban smoking and tobacco advertising in public places

Health ministry spokesman Vincent Hlongwane confirmed yesterday that court papers had been served on Zuma to appear before the Cape High Court today

He would, however, not say

BD 25/8/98 (1989)
what the minister intended to do.

Sources said the tobacco industry based its application on the provisions of the constitution.

In particular sections dealing with the public's right of access to government information; public participation in policy making; democratic governance to ensure accountability, responsiveness and openness; and the bill of rights

Excluded

The industry was of the view that it was "deliberately excluded" from processes leading to the minister's introduction of the law, while stakeholders opposed to tobacco "were allowed full access".

The bill was not entirely open to public scrutiny and participation, an industry source said.

For this reason, whatever facts Zuma had at her disposal had to be "interrogated".

The deadline for comment from

people who have not had the opportunity to do so is August 31

The industry wanted an extension of the deadline, but once its court application had been dealt with.

The Freedom of Commercial Speech Trust, which represents the media, marketing and advertising industries, warned last week that the bill contained drafting weaknesses that opened it to legal challenges.

The executive director of the trust, Piet Delport, proposed that the bill "be withdrawn on the basis that its drafting is faulty and that proper consultation with all interested parties should take place before any further proposed legislation is tabled"

Tobacco Institute of Southern Africa representative Edward Shalala and Rothmans International's Abrie du Plessis preferred not to comment on the matter yesterday, saying it was now "sub judice".

Tobacco control bill 'could violate freedom of speech'

~~198~~ (198) CT (MR) 25/8/98
LYNDA LOXTON

PARLIAMENTARY CORRESPONDENT

Cape Town — The Freedom of Commercial Speech Trust warned yesterday that the proposed Tobacco Products Control Amendment Bill contained drafting weaknesses that could open it to legal challenge.

Pief Delport, the executive director of the trust, said the bill "incorporated a severe and extensive set of restrictions on commercial expression which could amount to censorship of certain private communications."

"Surely it is not in South Africa's interests that government and business become involved in costly and time-wasting legal wrangles," he said.

"We call on government to withdraw this legislation until proper consultation has taken place."

The bill effectively prohibited communications between tobacco manufacturers and distributors, Delport said.

It also prevents imports of foreign magazines containing tobacco advertisements and keeps tobacco companies from sponsoring

television coverage of sporting events.

"Clearly, this is not what government means," Delport said.

"Various ministers and government spokesmen have already been forced to issue public statements that it is not government's intention to implement such draconian measures."

Delport said the trust did not seek confrontation with the government over the bill.

But the bill did appear to negate the freedom of expression clauses guaranteed in the constitution, he said.

Industry fumes over mooted tobacco law

ET 25/8/98

(198)

JUDITH SOAL and JOYAL RANTAO

THE tobacco industry takes its fight to delay the impending controls on smoking and tobacco advertising to the Cape High Court today.

The Tobacco Institute of South Africa and three of the country's largest tobacco companies — British-American Tobacco SA, R J Reynolds and Rothmans International — have applied for an urgent interdict to stall the legislation published in the Government Gazette last week.

Minister of Health Nkosazana Zuma is to appear in court to defend the Tobacco Products Control Amendment Bill, which would give her the authority to ban smoking in public places.

They would also outlaw all forms of tobacco advertising, including tobacco companies' sponsorship of sports and cultural events.

The bill has the unanimous blessing of the cabinet.

The tobacco industry claims it has not been properly consulted and has not been given sufficient time to prepare submissions to the portfolio committee on health.

"There have been so many changes to the draft legislation," Rothmans International spokesperson Abrie du Plessis said

last week. "We've only just received a final copy and the closing date for submissions is August 31. Do you think this is reasonable?"

The application for the interdict also calls on the government to give the industry scientific data supporting its claim that passive smoking affects the health of non-smokers.

It has asked for copies of the research and documentation on which the decision has been based to ban tobacco advertising and sponsorship.

The industry has claimed that a clampdown on advertising in Scandinavian countries increased tobacco consumption, possibly because health warnings were not published.

Yussuf Saloojee of the National Council Against Smoking says this claim is "twaddle".

"I have in front of me a document from Norway that clearly shows tobacco consumption has declined since 1975, when the advertising ban was introduced. Most important, the number of young people taking up smoking has also declined."

Zuma has dismissed the criticism that the industry has not been consulted adequately.

"We did consult them, but con-

sultation does not mean that we must keep consulting until they agree," she said recently. "The tobacco industry will never accept tobacco restrictions, no matter how long we talk."

Zuma's spokesperson, Vincent Hlongwane, said yesterday that the Department of Health would cooperate with the courts, although Zuma had not done anything that warranted their intervention.

"All this case can do is delay the bill," he said. "If they want information, we will give it to them. We will be guided by the courts."

However, if the court granted the order, it could set a precedent.

"Anyone could turn around and say that they are opposed to say, the Termination of Pregnancy Act, and that they were not properly consulted."

The department hoped the tobacco control laws would be passed before the end of the year, Hlongwane said.

Since it was approved by the cabinet last month, the bill has also elicited an avalanche of angry responses from sporting bodies, trade unions and newspapers.

The Freedom of Commercial Speech Trust (FCS), which represents the media, marketing and advertising industries, warned yesterday that weaknesses in the draft-

ing of the bill could leave it open to other legal challenges.

Restriction of commercial expression could "amount to censorship", said Piet Delpoit, executive director of the FCS.

Under the proposed legislation, it would be an offence to sell cigarettes to people under 16.

It would also be an offence to smoke in public places, places of employment and public transport. Anyone found guilty could be fined R200.

Manufacturers, importers and distributors that contravene the provisions on sponsorship would risk fines of up to R200 000.

Individuals convicted of the same offences would be fined R10 000.

The portfolio committee on health is to hold public hearings on the bill next week.

Once it has been passed by Parliament, the legislation is to be phased in.

It also empowers the minister to declare permissible levels of tar, nicotine and other constituents that tobacco products may contain.

The sale of cigarettes from vending machines would be restricted to places where the machines would be inaccessible to persons under the age of 16.

Boesak 'used relief funds for banquet'

But no one pitched, court told

LENORE OLIVER
STAFF REPORTER

Allan Boesak spent nearly R8 000 of Foundation for Peace and Justice funds on a banquet for American civil rights leader Jesse Jackson - but no one turned up.

This was the evidence of forensic auditor Dawn King, who is testifying in the Cape High Court trial of Dr Boesak, who has pleaded not guilty to 32 fraud and theft charges involving R1,1-million. The State alleges he misappropriated money intended for victims of apartheid.

Dr Boesak is a former president of the World Alliance of Reformed Churches and Western Cape leader of the African National Congress.

Yesterday Mrs King told the court documentation proved there had been several transactions from the foundation's accounts which benefited Dr Boesak.

In April 1990, R7 831 was paid to Claridges Hotel for a banquet in

honour of Mr Jackson

"Everything was arranged - but no one pitched," said Mrs King.

"The money was taken from the foundation's crisis relief account - and this was clearly not a crisis."

Mrs King told the court that in 1989 the Church of Norway gave R111 656 to the weekly newspaper Vrye Weekblad.

"The foundation was approached by Vrye Weekblad to act as a conduit for the funds.

"This was agreed upon but the funds never reached the newspaper and were instead deposited into the foundation's travel costs account.

In September 1990 a cheque was made out to the furniture store Joshua Doore for R2 300 for Dr Boesak and another for R14 000 made out to Allied Bank for his wife Elna. These amounts were recovered from the debtors loan account.

Mrs King testified that amounts were often deposited in Dr Boe-

sak's personal bank account to decrease overdrafts.

Dr Boesak also regularly paid his car instalments at Wesbank and Bankfin with money belonging to the foundation. These amounts were never less than R2 000.

Evidence before the court was that from 1990 to 1993 Dr Boesak used foundation money to pay

■ PG Glass R1 125.

■ Parow municipality R28 for electricity.

■ R3 255 to the Radio and Alarm Centre for work done to his car.

■ R4 805 for a gate and burglar bars at his Constantia home;

■ More than R50 000 towards his bond account.

During this period more than R130 000 was paid into Dr Boesak's personal account.

Other occasions on which Dr Boesak used the money included a birthday lunch and meals at various restaurants.

The case continues.

Tobacco giants tackle Zuma in court

LENORE OLIVER
STAFF REPORTER

The tobacco industry has taken Health Minister Nkosazana Zuma to court in its first step towards challenging impending controls on smoking and tobacco advertising. The Tobacco Institute of South-

ern Africa and three of the country's largest tobacco companies have applied to the Cape High Court for an urgent interdict ordering the minister to make available information she used in drafting proposed legislation published in the Government Gazette last week. Yesterday advocate Schalk

Burger, for the tobacco industry, told the court that farmers, sporting bodies, the media and the tobacco industry would be affected by the proposed law.

He told the court that he was not aware of anywhere in the world where such restrictive legislation was in place.

Tobacco court case off to smoking start

JUSTICE WRITER

THE High Court challenge by tobacco companies against the controversial Tobacco Products Bill got under way yesterday

This came when the Tobacco Institute of South Africa, British American Tobacco (South Africa) Ltd, R J Tobacco International (Pty) Ltd and Rothmans International South Africa (Pty) Ltd brought an urgent application for an order directing Health Minister Nkosazana Zuma to make available all information pertaining to the Tobacco Products Control Amendment Bill

The bill seeks to ban advertisements of tobacco products, the display of tobacco trademarks, logos, brand or company names, and ban smoking indoors or in enclosed public places

In his opening address Schalk Burger, SC, for the applicants, told Justice Siraj Desai the Tobacco Institute was not invited

to comment or told when comment was expected to reach Zuma

The bill could prejudice tobacco farmers, workers in the tobacco industry, the media which relies on advertising revenue from tobacco manufacturers, sporting bodies and events which rely on sponsorship

Burger said the bill does not only seek to ban smoking in public places. He said that it also constitutes an extensive and far reaching effort to regulate the substance and manner in which information concerning tobacco products may be communicated

Burger said in terms of section 195 of the Constitution, people's needs must be responded to.

The public must be encouraged to participate in policy-making and transparency must be fostered by providing the public with timely, accessible and accurate information

The hearing continues today

27/8/98

(198)

Business and labour unite against tobacco bill

Pearl Sebalo

A JOINT business, labour and sports committee is to launch an urgent court interdict against the health department in order to challenge the proposed Tobacco Products Amendment Bill which would ban tobacco advertising.

The group includes three Congress of SA Trade Unions (Cosatu) affiliates and the Freedom of Commercial Speech Trust, representing the media, marketing and advertising industry. It will also

seek an urgent meeting with Deputy President Thabo Mbeki to discuss the bill.

At a meeting in Midrand yesterday, the parties complained that the bill was unconstitutional and the drafting process suffered from a lack of transparency.

Association of Marketers executive director Derrick Dickens said no date had been set for the court challenge. The Food and Allied Workers Union, SA Commercial, Catering and Allied Workers Union and the SA Workers Union would

consult their members about the committee's decision. Their response would dictate whether to seek an interdict.

The unions have also warned of "rolling mass action" if the government did not withdraw the bill. The action would include marches to Parliament and demonstrations across the country.

Dickens said concerned business organisations would also participate in the protests.

A campaign would also be launched to inform the public about

the implications of the legislation, which bans tobacco adverts, the sponsorship of sport by tobacco firms and smoking in public places.

The group said that if the bill was passed in its present form, it would have a serious effect on the economy, resulting in the loss of millions of rands in advertising revenue to media organisations, severely affecting the viability of the industry.

As the legislation would also result in the loss of jobs, it ran directly against government's job creation policies, the group said.

28/8/98



Association of Marketers executive director Derrick Dickens speaking in Midrand yesterday. Picture: TREVOR SAMSON

Judgment reserved in anti-smoking bill case

ARG 28/8/98
LENORE OLIVER
STAFF REPORTER

Judgment has been reserved in the application by the tobacco industry for a court order compelling Health Minister Nkosazana Zuma to produce information on which she based controversial new anti-smoking legislation.

The Tobacco Institute of Southern Africa and three of the country's largest tobacco companies have applied to the Cape High Court for an urgent interdict ordering the minister to make information available before they make representations against the bill which will ban smoking in public places and cigarette advertising among other things.

(198)
Sahalk Burger, for the tobacco industry, told the court that farmers, sporting bodies, the media and the tobacco industry would be affected by the proposed law.

He was not aware of anywhere in the world where such restrictive legislation was in place.

Jan Heunis argued for Dr Zuma that the bill was incapable of affecting any rights

"It is my submission that the applicant (tobacco industry) cannot hold the legislative process to ransom by insisting on access to information ostensibly to protect their rights. They have no rights to be protected against an Act which is not unconstitutional," he said

Mr Justice Siraj Desai was on the Bench.

TOBACCO BILL

WHAT'S LEFT AFTER THE IFS AND BUTTS BURN OUT (1998)

State's coughed up enough

More than 20 countries around the world have banned tobacco advertising, sponsorship and promotion. SA will soon become one of them.

This year the European Union became the latest to pass such a ban, which will be phased in over the next eight years to allow sport and the media time to find new sources of revenue.

Countries that have instituted a complete ban include Australia, New Zealand, Thailand, Singapore, Norway, Sweden and Finland.

In SA, the media stands to lose about R200m/year in tobacco advertising. And new sponsorships will have to be

SMILES AND FROWNS

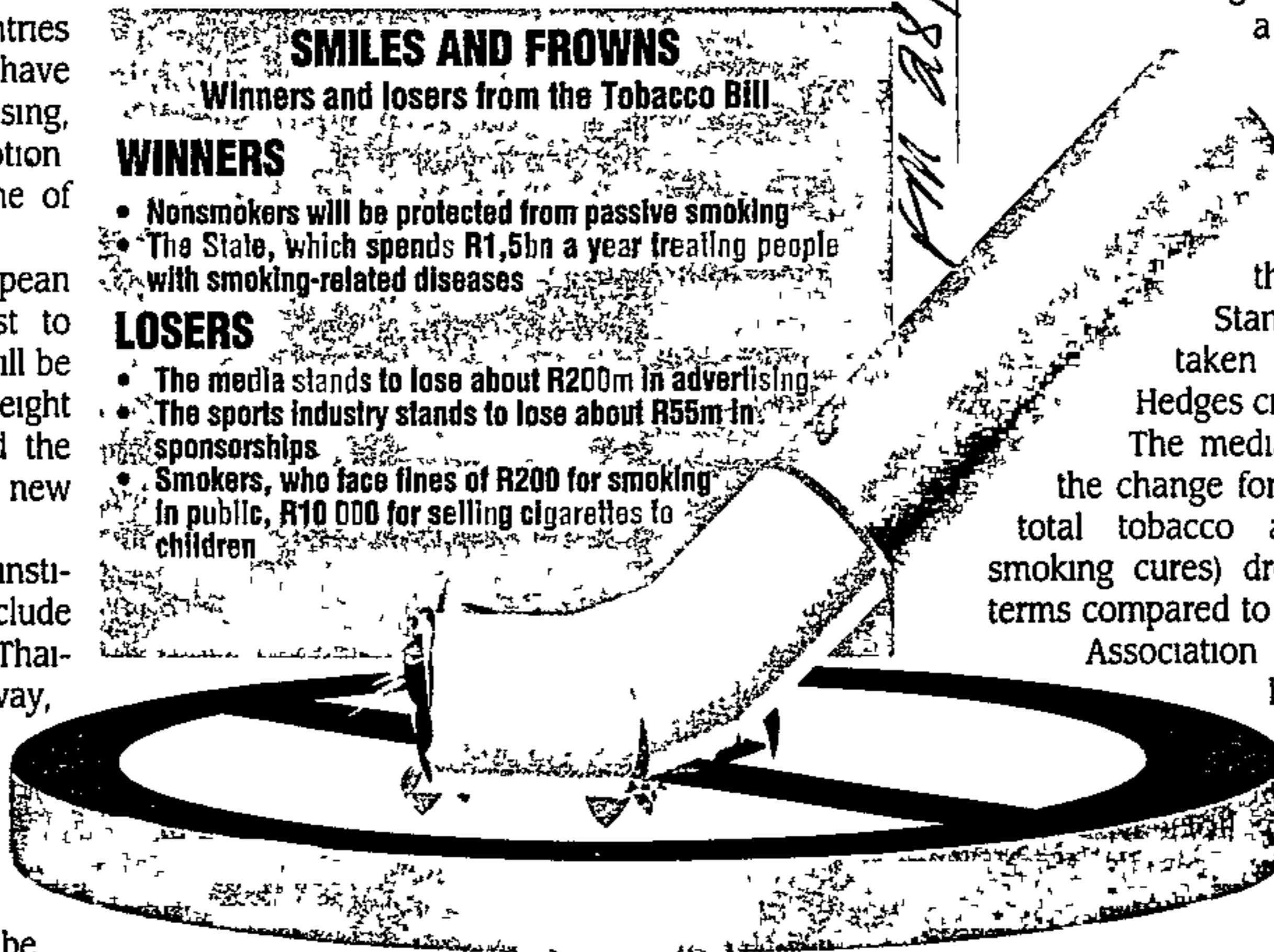
Winners and losers from the Tobacco Bill

WINNERS

- Nonsmokers will be protected from passive smoking
- The State, which spends R1,5bn a year treating people with smoking-related diseases

LOSERS

- The media stands to lose about R200m in advertising
- The sports industry stands to lose about R55m in sponsorships
- Smokers, who face fines of R200 for smoking in public, R10 000 for selling cigarettes to children



found for sporting events that rely on about R55m/year from tobacco companies (see graphic)

Health Minister Nkosazana Zuma has said that the Tobacco Products Control Amendment Bill, which was gazetted last week, will be phased in so as not to prejudice sport or the media unduly. The Bill does make provision for this, but, unlike the EU legislation, fails to stipulate a time frame.

Industry players say new sponsors are waiting in the wings to take over major sporting events from the tobacco industry. Standard Bank has already taken on the Benson & Hedges cricket series.

The media, too, has anticipated the change for some time. Last year, total tobacco advertising (excluding smoking cures) dropped by 11% in real terms compared to 1996, and the National Association of Broadcasters (NAB) has already decided not to flight any more tobacco advertisements on radio.

But what about the inevitable long-term loss of jobs in

the tobacco industry? It employs about 35 000 people, mostly in rural areas and is one of SA's highest paying manufacturing industries.

The Health Department is relying on a study by the University of Cape Town's Economics of Tobacco Control Project, which has found that 9 000-50 000 jobs could have been created in SA in 1995 if all smokers had kicked the habit overnight. This is because smokers who quit usually spend their cigarette money on things like recreational goods, clothing, transport, communication and educational services. In theory, a job lost in the tobacco industry is counteracted by a net increase in jobs in other sectors.

However, the Food & Allied Workers' Union (Fawu) has rejected the study as at best speculative and at worst arbitrary. Fawu economist Reza Daniels says it pays little attention to the dynamics of an economy that is failing to create jobs, and disregards the regional specificity of tobacco production and manufacturing.

The Commercial Freedom of Speech Trust — which represents the associations of marketers, advertising agencies, chambers of commerce and the print media, among others — argues that the Bill infringes the freedom of commercial speech enshrined in the Constitution. But executive director Piet Delport says the trust's senior legal advisers believe a Constitutional Court challenge on those grounds is unlikely to succeed (see *Advertising & Marketing* page 97).

The Bill sets out to ban all forms of communication involving tobacco products, on the understanding that this will discourage growth in demand.

It also gives the Minister the power to ban smoking in any public place, including the workplace, and to set the maximum permissible levels of tar, nicotine and other constituents in cigarettes.

It sets steep fines of R200 for persons caught smoking in public places, R10 000 for persons selling cigarettes to children and R200 000 for breaking the advertising and sponsorship provisions.

The debate comes down to weighing the public health benefits against the gradual loss of sectoral jobs, decline in revenue for certain industries and freedom of speech.

The department says it costs the State more than R1,5bn/year to treat people for smoking-related diseases and the economy R2,5bn in lost production. Worse still, the National Cancer Registry estimates that 2m of the 19m children alive today will die of smoking-related diseases if current trends continue.

This is the big picture and it makes a compelling case in favour of the legislation.

Claire Bissek

NEW

Vehicle makers take up issue of alcohol-blended petrol

Sasol 'will be responsible'

By Roy Cokayne

16/9/98

Fawu threatens legal action on the tobacco bill

Roy COKAYNE

Pretoria — Vehicle manufacturers would hold Sasol responsible for any consequential warranty claims resulting from blending alcohol with some of its 93 octane petrol, a National Association of Automobile Manufacturers of South Africa (Naamsa) spokesman said yesterday.

"The manufacturers are quite firm on this

"In line with worldwide practices, the fuel produced and supplied by all companies must be suitable for the vehicle park, and Sasol must guarantee the quality of its fuel," the spokesman said

Alfonso Niemand, the communications manager for Sasol, said the company was confident that the petrol/alcohol blend would not cause any inconvenience to motorists

"In the unlikely event of cases of incompatibility between the blend and vehicle fuel systems, Sasol will ensure that the motorist is not out of pocket," Niemand said

He added that the question of consequential warranty claims resulting from the introduction of the petrol/alcohol blend from December 1 this year had not yet been discussed with the vehicle manufacturers.

However, the Naamsa spokesman said Sasol was claiming that it was the joint responsibility of the vehicle manufacturers and Sasol to ensure their vehicles could operate on alcohol-blended fuel.

The spokesman said vehicle manufacturers were testing the blended fuel on their vehicles to confirm its compatibility with the components and fuel systems of their vehicles.

He said Naamsa was comfortable that there should not be any problems with the petrol blend but had a standardised warranty system in place that would highlight any problems at an early stage.

"One must acknowledge the addition of alcohol to petrol is not without precedent and has some positive features, such as enhancing the octane of fuel, and has certain benefits in terms of emission," the spokesman said

"However, Sasol has failed to mention that the maximum level of alcohol in petrol in Europe is 5 percent by volume while the SABS standard is 12 percent by volume, which is quite different," he said

Niemand stressed that motorists would not incur any extra costs when they filled up with Sasol-produced petrol that contained alcohol

Johannesburg — The Food and Allied Workers' Union (Fawu) yesterday threatened legal action if Nkosazana Zuma, the health minister, did not withdraw the Tobacco Products Control Amendment Bill as tabled in parliament on Monday

Sabata Ngcal, Fawu's media officer, said Zuma last Friday granted a three-week extension to the submissions deadline for the bill. But this extension was violated when the bill was tabled in parliament on Monday

Ngcal said this concerned and angered the union "Fawu feels the action taken by the minister is not compatible with the principles of democracy enshrined in our constitution." The bill intends to ban smoking in public places as well as all forms of tobacco advertising





Tobacco bill hits at wrong target

Banning advertising will take away rights of consumer and manufacturer, writes Piet Delport

make an informed choice

The proposed Tobacco Products Control Amendment Bill aims to prohibit all advertising of tobacco products, including the usage of a tobacco product, trade mark, and also all event and sponsorship. Why has the issue become so emotional?

The reason is that advertising has been targeted as bad for your health as the consumption of the product itself. But, research has shown that peer pressure and not advertising is the most important trigger to start smoking. An advertising ban will therefore not deter people from taking up smoking, in fact in countries where the ban has been in operation the consumption of tobacco has actually risen. The Bill of Rights states that it is a basic right to impart and receive information. An advertising ban will therefore not only take away the right of the manufacturer of a legal product to advertise the product, it will also take away the basic right of the consumer to receive the information to

The health costs may be high, but so is the excise duty on the sale of tobacco products - in excess of R2-billion per-year. The Government states that it must protect the rights of non-smokers. While it must be remembered that smokers have certain rights too, this can be eas-

ily achieved through properly considered provision that will regulate smoking indoors. The youth is important to all of us, and therefore it is important to ensure that young people do not start smoking.

Why is it then that the proposed Bill allows people over the age of 16 to buy cigarettes, while the legal age for driving a car and voting is 18? In an act of self regulation the liquor industry states that it is not to be sold to people under 18.

The Bill also states that children are encouraged to smoke through the association in advertisements of smoking with social success, business advancements and sporting prowess. If this is a proven fact, it could be easily remedied by targeting and regulating these so called "lifestyle ads."

The youth of this country do not need less information. They need more information to help them cope with peer pressure and to teach them about the dangers of smoking. Liquor abuse and unsafe sex. An initiative to give them more information, not less, will em-

power them to face the daily choices. To create the impression through an advertising ban that a product is forbidden, will only enhance desirability of the product.

What the tobacco advertising ban will also achieve is to directly take an estimated R300-million that is spent on advertising out of the economy. This will further infringe on the right of the consumer to receive information as marginal media enterprises will be forced to close down. This loss in ad-spend will have the effect that thousands of jobs will be lost, directly as well as indirectly, a price that SA cannot afford.

It is scant consolation that you are able to breathe clean air if you are jobless and must resort to crime to make a living. The effect of the ban on event sponsorships is equally drastic. The list of well-known sponsorships is long, with the Rothmans July, Gunston 500, Rothmans Soccer Cup and Winfield Tri-Na-

The argument is that if these sponsors disappear, there would be other sponsors to take their place, with the cricket sponsorship a case in point. The fallacy of this argument becomes clear if it is taken into account that the source of sponsorship money is not infinite. The sponsorships that substitute that of tobacco will only amount to a reallocation, with the result that other events will lose their sponsorship. Government has already declared that the next target is liquor advertising, which will have the effect that the sponsorship resources will be reduced even more drastically. The result? A race to the bottom. What then is the solution? It is clear that the health aims of the government are important. What is equally clear, however, is that these aims could be easily achieved if, in contrast to the proposed Bill, a sensible, rational and consultative approach is followed, while taking the total effect of the proposed measures into account.

■ Dr Piet Delport is executive director of the Freedom of Commercial Speech Trust

31/9/98

Anti-puffers bill survives first round

Judge rules against tobacco giants (198)

By ADELE BALETA
and LENORE OLIVER

Health Minister Nkosazana Zuma has won the first round in a legal battle against tobacco giants who tried to snuff her controversial anti-smoking legislation in the Cape Town High Court

Mr Justice Siraj Desai yesterday dismissed with costs an urgent application by the tobacco industry to order Dr Zuma to disclose the information on which she based her Tobacco Products Amendment Control Bill

Dressed in an elegant white and blue linen suit, a triumphant Zuma said after the ruling that she "felt good" but that she was "quite aware that there is still a long fight ahead"

She said the judgment was a victory for the parliamentary and legislative process because it gave a strong message that "no one is allowed to stop the process, no one is allowed to filibuster the process".

After the judgment was handed down, Edward Shalala, CEO of the Tobacco Institute of Southern Africa, said: "This is a sad day for democracy" He said the tobacco industry had not yet decided whether to appeal against the ruling

The bill, among other provisions, severely restricts smoking in public places and slaps a ban on tobacco advertising and sponsorship of sporting and cultural events by tobacco companies

The tobacco institute and three of

Star 5/9/98
the country's largest tobacco companies argued during proceedings that they were legally entitled to the information they had requested and could not make meaningful representations on the bill, at the minister's invitation, without it.

Zuma's legal team maintained that the information was public knowledge and therefore easily ascertainable by the applicant.

Mr Justice Desai agreed with Zuma's legal team that the introduction of a bill did not establish rights.

"It only affects the rights of others once it becomes law," the judge said.

In other reactions to the finding, Yussuf Saloojee of the National Council Against Smoking said the "wonderful" judgment was important for health in South Africa

Katherine Everett of the Cancer Association of SA said the ruling meant the parliamentary process could go ahead and prepara-

tions for the portfolio committee hearings on the Tobacco Bill could be heard this year.

The Association of Marketers said in its reaction "It's sad because the bill is badly written and flawed, and it won't attain its objective, which is to stop children smoking. Banning advertising won't stop kids from smoking. Studies have shown that the opposite happens"

Kakishi Masemola of the Food and Allied Workers Union said Zuma had failed to consult with the union. Fawu is opposed to the bill because it would result in job losses in the tobacco and farming sectors



TRIUMPHANT Dr Nkosazana Zuma in court yesterday

Zuma comes out smoking against tobacco bosses

But unions slam lack of consultation

(198)

ARG 5/9/98

ADELE BALETA AND LENORE OLIVER

Health Minister Nkosazana Zuma has won the first round in a legal battle against tobacco giants who tried to stub out her controversial anti-smoking legislation in the Cape High Court.

Mr Justice Siraj Desai dismissed with costs an urgent application by the tobacco industry to order Dr Zuma to disclose the information on which she based her Tobacco Products Amendment Control Bill.

Dressed in an elegant white-and-blue linen suit, a triumphant Dr Zuma said after yesterday's ruling that she "felt good", but that she was "quite aware that there is still a long fight ahead".

She said the judgment was a "victory" for the parliamentary and legislative process because it gave a strong message that "no one is allowed to stop the process, no one is allowed to filibuster the process".

After judgment, CEO of the Tobacco Institute of Southern Africa Edward Tshalala said: "This is a sad day for democracy," adding that it violated the letter and spirit of the constitution. He said the tobacco industry had not yet decided whether to appeal against the ruling.

The bill includes provisions which severely restrict smoking in public places and it slaps a ban on tobacco advertising and sponsorship of sporting and cultural events by tobacco companies.

The tobacco institute and three of the country's largest tobacco companies argued during proceedings that they were legally entitled to the information they had requested and could not make "meaningful" representations on the bill, at the minister's invitation, without it.

Their legal representatives said Section 32 of the constitution guaranteed their right to the information. The section spells out access to information - that anyone had the right of access to any information held by the State, or that was held by another person and was required for the exercise or protection of rights.

Dr Zuma's legal team maintained that the information was public knowledge and therefore easily ascertainable by the applicant and that there was no obligation to make such information available.

In other reaction to the finding, Yussuf Saloojee of the National Council Against Smoking said the "wonderful" judgment was important for health in South Africa.

"It shows that the tobacco indus-

try has taken an obstructionist position to try and delay and kill the bill before next year's elections. We are delighted the judge did not allow this tactic to succeed."

Katherine Everett of the Cancer Association of SA said the ruling meant the parliamentary process could go ahead.

Derrick Dikins, the executive director of the Association of Marketers said in his reaction: "It's sad because the bill is badly written and flawed and it won't attain its objective, which is to stop children from smoking. Banning advertising won't stop kids from smoking. Studies have shown smoking happens even more, especially among the youth, as a symbol of defiance."

The bill had a ripple effect on all industries. The loss of the Gunston 500 and the Rothman's Durban July would cost the city R800-million in lost revenue.

Kakishi Masemola of the Food and Allied Workers Union said no matter what the outcome of yesterday's judgment, Dr Zuma had failed to consult with the union over the bill.

The union was opposed to the bill because it would result in massive job losses in tobacco manufacturing and farming sectors where there were about 35 000 jobs

New Bill a threat to tobacco vendors

By Isaac Moledi

THE Tobacco Vending Association (Tova) has called on the Ministry of Health to consult them on the implications of the controversial amended Tobacco Products Control Bill before it is voted on by the portfolio committee on health

Tova's last-minute attempt comes after the ministry's two pieces of legislation, the Tobacco Products Amendment Bill and the South African Medicines and Medical Devices Regulatory Authority Bill, were tabled before Parliament on Thursday

The tobacco Bill provides for the prohibition of advertising and promotion of tobacco products while the medical Bill provides for the regulation and registration of medicines for human and animal use

The tobacco Bill is aimed at banning tobacco advertising and the sale of cigarettes to children under the age of 16

It will also outlaw the placement of cigarette vending machines in any area accessible to children under the age of 16

In a statement on Friday, Tova spokesman Ari Zeleznak said this broad definition would preclude

placing the vending machines in restaurants and pubs which are licensed to serve food, eradicating 90 percent of the areas in which the machines are placed

The proposed legislation would virtually wipe out the R90 million tobacco vending industry without in any way impacting on youth smoking statistics, he said

"If even one percent of the current sales of vending machines were to children under 16, I would be shocked," he said

"There are dozens of easier, cheaper alternatives for teens to buy cigarettes including spazas, hawkers and grocers or simply getting their friends to buy them a box"

Zeleznak said the industry was a globally competitive business with locally made machines now accounting for half the new machines in the country

He said Tova had submitted a report on the effects of the Bill on its industry to the Ministry of Health and had asked to be allowed to make a representation to the portfolio committee on health

"All we've had by way of response is a receipt of document note," said Zeleznak

Bill 'will keep young people from smoking'

Primarashni Pillay

(198)

DD 10/9/98

and would continue to decline even if health legislation was not enacted

THE tobacco industry's main contribution to SA's economy was not jobs and wealth but increased health costs and lost productivity, Yussuf Saloojee, executive director of the National Council Against Smoking, said yesterday.

Saloojee said more working days were lost in SA as a result of absenteeism caused by smoking-related diseases than from strikes.

Saloojee was commenting on the Tobacco Products Amendment Bill which calls for the prohibition of advertising and promotion of tobacco products and the banning the sale of cigarettes to children under the age of 16. He said the bill would reduce the pressure on young people to begin a lifelong addiction to tobacco as "children are a key market for the tobacco industry".

He explained tobacco industry marketing documents released during court trials in the US revealed members of the industry are experts on when, how and why children smoke.

The industry's internal marketing documents revealed "the high school student is the base of their business".

Saloojee said in Norway, Finland, New Zealand and France cigarette sales decreased by between 14% and 37% from the year advertising was totally banned up to 1996.

He said while the SA tobacco industry spent R240m a year on advertising and promotions, it claimed it did not influence adults or children to smoke. The industry also said the banning of advertising and promotions would not reduce tobacco consumption but that thousands of jobs would be lost as a result.

Saloojee said the number of tobacco farmers in SA had declined

"The main reason for job losses in tobacco growing are the activities of the cigarette manufacturers and not actions by health groups." Money not spent on cigarettes would be spent on other goods and services, thereby creating new jobs.

Saloojee said government's revenue from tobacco taxes had increased in recent years from about R1,7bn to about R3,7bn "which was good for government but resulted in health losses in treating diseases related to smoking".

Prof Harry Seftel, chairman of the National Council Against Smoking, said tobacco companies' sponsorship of sport was "the work of the devil" as sport was related to health while smoking was related to death and disease.

SA Medical Association health care executive Loyiso Mpuntsha stressed that "non-smokers subsidise smokers for public health services by sharing these facilities. Simple actuarial sense would require smokers to pay higher premiums for health services, commensurate with their added burden of disease and risk to the depletion of health budgets".

Anti-tobacco mission wins support

(1987)

By ANSO THOM
Health Reporter

Health Minister Dr Nkosazana Zuma's anti-tobacco bill has been welcomed by the medical, nursing and health promotion community who say it will go a long way towards reducing the burden of smoking-related diseases.

The South African Medical Association (Sama), the Democratic Nursing Organisation of SA, the Cancer Association of SA, the Heart Foundation and the Council Against Smoking yesterday said Zuma's bill would protect "the health and rights of our children".

The Tobacco Products Control Amendment Bill would end the advertising and promotion of tobacco products, prohibit their free distribution, limit smoking in public places including the workplace, and allow for the regulation of tobacco products' nicotine and tar levels.

The bill is set to be tabled in Parliament before the end of the year, after receiving cabinet approval last month.



Backing for her bill ... Dr Nkosazana Zuma.

Dr Yussuf Saloojee, director of the National Council Against Smoking, said a ban on tobacco advertising and promotion had been recommended by the World Health Organisation and the World Bank.

He said similar bans were in place in countries such as Australia, Belgium, France, Italy, New Zealand, Singapore and Thailand.

The associations said at yesterday's press conference that children and developing coun-

tries had become the key markets for the tobacco industry, which had revealed in their internal marketing documents that high school children formed the basis of their business.

He said the annual reports of the Tobacco Board revealed that jobs in the industry had decreased from 74 000 in 1986/7 to 35 000 in 1996/7.

The number of tobacco farms had also declined, from 1 540 to 606.

Saloojee said the income from tobacco tax had increased from R1,7-billion to R3,7-billion.

Dr Loyiso Mputsha, Sama's healthcare executive, said the hospitalisation of people with smoking-related illnesses at state institutions had cost R1,5-billion in 1994.

Saloojee said: "It was established in 1994 that for every R1 received from tobacco tax, R2 was spent on treating diseases or making up for work time lost due to sick leave.

"We must keep in mind that the idea of this bill is not to ban smoking, but to limit it," he added.

Dissatisfied hawkers

March on Civic Centre

By LUMKA OSHANT

10/9/98

The streets of Johannesburg were deserted yesterday as hawkers stopped business to march to the Civic Centre in Braamfontein, where they presented a memorandum and ticket fines to Southern council chief executive Officer Chris Ngcobo.

The hawkers were dissatisfied about the fines, varying between R50 and R400, issued by the traffic department for trading 5 metres from an intersection.

The hawkers are also opposed to foreign hawkers and say foreign hawkers occupy "their" space.

These foreigners are allowed to trade anywhere and do not pay any fines, while "we get about 100 fines. We will not pay the fines," said Greater Johannesburg Hawkers Planning Committee chair-

person Mamehles Solomon.

Not only were the hawkers' leaders opposed to foreign traders but they also complained about locals who cooked pap and stew on the street. These informal restaurants made Johannesburg untidy, said the leaders, and their owners did not belong to any hawker organisation.

Ngcobo offered the hawkers' leaders help to find solutions to their gripes - particularly their problem with foreigners.

He reminded the hawkers that South Africans will never be allowed while in exile in African countries.

He made it clear that the hawkers would have to pay their fines and cautioned that fines, which were ignored - as many of those presented yesterday - were court charges.

'Members of
Fawu at
Rothmans not
on a go-slow'

(182) René Grawitzky (198)

130 14/9/98

THE Food and Allied Workers Union (Fawu) has denied allegations that its members at Rothmans International's Heidelberg plant had embarked on a go-slow and committed acts of sabotage by mixing different cigarette brands to pressurise management to meet demands

Management has refused to comment, but confirmed that parties have been engaged in wage negotiations since June and were meeting today

Fawu said the situation at the plant was tense and the relationship with management had broken down. Workers were disillusioned and demoralised as negotiations had dragged on from June while they have been expecting increases from July

Management was attempting to intimidate and provoke workers, it said. Ten workers had allegedly been dismissed for "minor issues"

The dispute takes place amid heightened tension around the Tobacco Products Amendment Bill. Rothmans said that there was no link between the dispute and the fact that the union was campaigning against the bill

At the outset of negotiations the union was demanding a 10% increase and a 15% housing allowance

Workers in the tobacco industry are among the highest paid in the country

The bill will bring an end to the advertising and promotion of tobacco products, prohibit their free distribution, limit smoking in public places and allow for the regulation of tobacco products' nicotine and tar levels



cigarette companies are targeting women and children in the developing world, using marketing tactics that have been outlawed in their own countries

Poor the butt-end of tobacco kings

(198) Doughton 2/10/98

GIANT cigarette companies are using aggressive marketing tactics in the developing world that are illegal in the countries where they are headquartered. They are specifically targeting children and women.

Tobacco marketing restrictions, if they exist at all in developing countries are generally weak or poorly enforced. Only about eight have comprehensive tobacco marketing restrictions, compared with about 30 industrialised countries.

In Cambodia, for example, ice-cream wagons are covered in adverts for Mild Seven cigarettes encouraging children to smoke.

"There's one rule for the rich and another for the poor," says Emma Must of the World Development Movement (WDM), which is campaigning for an end to this double standard.

"We need global rules because it's a global industry. What these companies cannot do at home they should not be allowed to do overseas," she says.

WDM is calling on the British government to support the World Health Organisation (WHO) in pushing for a legally binding convention that would impose global standards on tobacco marketing.

Falling sales

The tobacco companies are targeting developing countries because of falling sales in their traditional markets in the industrialised world.

Consumption per capita in developed countries fell by 10 percent between 1970 and 1994. During this time, it rose by 67 percent in developing countries.

"They have to find a way to feed the monsters they've built. Just about the only way will be to increase sales to the developing world," says Robert Morelli, a former tobacco company employee.

The consumption of cigarettes per adult in developing countries is expected to exceed that in industrialised countries within a few years.

"In the developing world rates are rising in direct response to the cigarette companies marketing campaigns," says Amanda Sandford, of Action on

Health Minister Nkosazana Zuma's controversial legislation banning all advertising of tobacco products and sports sponsorships by tobacco companies passed its first test in Parliament yesterday. But as, **Katy Salmon** reports, people in the developing world, particularly children, are now being targeted by unscrupulous companies marketing cigarettes.

Smoking and Health (ASH)

The South Korean experience seems to prove her point. Between 1987 and 1990 spending on tobacco advertising and promotion skyrocketed by 641 percent.

Within the first year smoking rates among teenage boys rose from 18 percent to 30 percent, says the World Health Organisation (WHO). The rate among teenage girls rose from under two percent to nearly nine percent.

The increased rate of cigarette consumption will have a devastating effect on health in the developing world if present trends continue.

WHO predicts that deaths in developing countries due to smoking related diseases will rise from one million to seven million a year by 2030.

Deaths in the developed world will grow from two to three million over the same period.

While new marketing techniques are blossoming in developing countries, Western governments are introducing heavy legislation to prevent cigarette promotion.

As knowledge about the health risks of smoking increases, it is becoming less socially acceptable. In Britain, tobacco advertising on television and radio has been illegal for over a decade.

A European Union directive adopted in June will outlaw most tobacco promotion in Europe within five years. Advertising in newspapers and magazines will be outlawed by 2002.

In the following year, tobacco sponsorship of all events not organised at the world level will be banned.

In Britain smoking is now banned in many public places. In most workplaces, cinemas, restaurants and on public transport it is now illegal to smoke.

In London it is common to see people

huddled in office doorways, forced to go out on to the street to light up.

Toronto, Canada, has taken the most extreme step so far by banning smoking in all bars. It remains to be seen whether this idea will be followed in other Western cities.

WDM fears that, as restrictions in the developed world tighten tobacco marketing campaigns in developing countries will become even more aggressive.

Free cigarettes

It has accused British American Tobacco (BAT) of employing glamorous young women to hand out free cigarettes to kids and adults in video arcades and discos in Chile.

BAT is the British company that makes brands like Lucky Strike, John Player, Silk Cut, Benson and Hedges, and Embassy.

Chris Proctor, a spokesman for the company, says "I can't believe that's the case. We have strict marketing principles that we don't sell or market to children. Anyone that we caught giving a cigarette free to a kid wouldn't be with the company too long."

Emma Must, of WDM, replies "We have so much evidence - photographs and eyewitness accounts. In Vietnam BAT has just brought out rucksacks with Five Five Five - their brand over there - on them for adults and Five Five Five Light for kids."

"All the evidence points to the fact that they are targeting women and children using marketing methods that have been banned over here."

"They may be able to deny it now but one day they will have to defend it in public," she says - *Gemini News*.

(The writer Katy Salmon, is a British freelance journalist who writes regularly for *Africa Analysis*.)



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Consumption per capita in developed countries fell by 10 percent between 1970 and 1994. During this time it rose by 67 percent in developing countries.

"They have to find a way to feed the monsters they've built. Just about the only way will be to increase sales to the developing world," says Robert Morelli, a former tobacco company employee.

The consumption of cigarettes per adult in developing countries is expected to exceed that in industrialised countries within a few years.

"In the developing world rates are rising in direct response to the cigarette companies' marketing campaigns," says Amanda Sandford of Action on

Health Minister Nkosazana Zuma's controversial legislation banning all advertising of tobacco products and sports sponsorships by tobacco companies passed its first test in Parliament yesterday. But as, **Katy Salmon** reports, people in the developing world, particularly children, are now being targeted by unscrupulous companies marketing cigarettes.

Smoking and Health (ASH)

The South Korean experience seems to prove her point. Between 1987 and 1990 spending on tobacco advertising and promotion skyrocketed by 641 percent.

Within the first year smoking rates among teenage boys rose from 18 percent to 30 percent, says the World Health Organisation (WHO). The rate among teenage girls rose from under two percent to nearly nine percent.

The increased rate of cigarette consumption will have a devastating effect on health in the developing world if present trends continue.

WHO predicts that deaths in developing countries due to smoking related diseases will rise from one million to seven million a year by 2030.

Deaths in the developed world will grow from two to three million over the same period.

While new marketing techniques are blossoming in developing countries, Western governments are introducing heavy legislation to prevent cigarette promotion.

As knowledge about the health risks of smoking increases it is becoming less socially acceptable. In Britain, tobacco advertising on television and radio has been illegal for over a decade.

A European Union directive adopted in June will outlaw most tobacco promotion in Europe within five years. Advertising in newspapers and magazines will be outlawed by 2002.

In the following year, tobacco sponsorship of all events not organised at the world level will be banned.

In Britain smoking is now banned in many public places. In most work places, cinemas, restaurants and on public transport it is now illegal to smoke.

In London it is common to see people

huddled in office doorways, forced to go out on to the street to light up.

Toronto, Canada, has taken the most extreme step so far by banning smoking in all bars. It remains to be seen whether this idea will be followed in other Western cities.

WDM fears that, as restrictions in the developed world tighten tobacco marketing campaigns in developing countries will become even more aggressive.

Free cigarettes

It has accused British American Tobacco (BAT) of employing glamorous young women to hand out free cigarettes to kids and adults in video arcades and discos in Chile.

BAT is the British company that makes brands like Lucky Strike, John Player, Silk Cut, Benson and Hedges and Embassy.

Chris Proctor, a spokesman for the company, says "I can't believe that's the case. We have strict marketing principles that we don't sell or market to children. Anyone that we caught giving a cigarette free to a kid wouldn't be with the company too long."

Emma Must of WDM, replies "We have so much evidence - photographs and eyewitness accounts. In Vietnam BAT has just brought out rucksacks with Five Five Five - their brand over there - on them for adults and Five Five Five Light for kids."

"All the evidence points to the fact that they are targeting women and children using marketing methods that have been banned over here."

"They may be able to deny it now but one day they will have to defend it in public," she says - *Gemini News*.

(The writer Katy Salmon is a British freelance journalist who writes regularly for Africa Analysis.)

Lighting up in public could land you in jail

MD 7/70/98

(198)

CAPE TOWN — People unwilling or unable to pay a R200 fine for smoking at work could be sent to jail if the National Council of Provinces approves last-minute changes to the antitobacco bill championed by Health Minister Nkosazana Zuma.

The council of province's health committee agreed informally yesterday that the proposed fine for lighting up in public places — which includes the workplace — should be linked to an alternative of "such imprisonment as may be determined"

It also agreed that the fine — a flat R200 in Zuma's version of the bill — should be set at up to R200 for individuals and not less than that amount for corporate bodies

The committee last week formally approved several technical amendments to the measure, the Tobacco Products Control Amendment Bill, which has already been sent to the provinces for their approval

The committee also agreed to strengthen the bill with a clear ban on smoking in public places

In its existing form, a torturously-phrased clause proposes to allow Zuma to set conditions for smoking in public places, "except where such instances in which the smoking of tobacco products

in any public place is prohibited"

Yesterday's amendment proposes instead a simple blanket ban on smoking in any public place, with ministerial power to grant exemptions

Members decided not to press ahead with a proposal to tighten a clause that forces vendors to sell tobacco products only in packages, by adding the requirement that the packages be sealed

Free State African National Congress delegate Isabella Direko said that selling loose cigarettes was "the order of the day" in the townships, while party colleague Stefan Grove, of Mpumalanga, said he thought the additional restriction was impractical

Western Cape delegate Neels Ackermann, whose province opposes the entire bill, said it was ironic that a governing party claiming to represent poor people should try to make it more difficult for them to buy cigarettes

Health ministry adviser Ian Roberts said the reason why the addition was desirable was that tobacco companies deliberately targeted children overseas by trying to sell single or low numbers of cigarettes in packages.

Yesterday's meeting was called at short notice to rectify an incorrect list of the amendments approved last week — Sapa

Ministers to get code of ethics

By JOVIAL RANTAO
Political Correspondent

Cape Town - Legislation which provides for the establishment of a code of conduct for executive members of the Cabinet will not affect or delay the prosecution of any ministers or provincial MECs before a court of law, Water Affairs and Forestry Minister Kader Asmal has assured Parliament

Introducing the Executive Members Ethics Bill in the National Council of Provinces, Asmal said the criminal law, specifically the provisions dealing with corruption and bribery, would continue to govern the conduct of members of the executive.

"That is an important levelling instrument which makes the executive fall in line with the ordinary citizen in such matters, and so it should be.

"In particular, ministers will be specifically governed by the code of conduct in regard to financial interests," he said

He added that the bill would extend the application of the code of conduct on financial interests to the president, premiers and MECs

The bill, which has been passed by the National Assembly, was yesterday unanimously approved by all provinces represented in the NCOP.

The bill will now be forwarded to President Mandela for enactment.

Smoking at work could mean jail

Star 7/10/98

(198 X)

Those unable to pay a fine of R200 for lighting up in the wrong place could be imprisoned

SAPA
Cape Town

People unwilling or unable to pay a R200 fine for smoking at work could be sent to jail if the National Council of Provinces approves last-minute changes to Health Minister Nkosazana Zuma's anti-tobacco bill.

The NCOP's health committee yesterday agreed informally that the proposed fine for lighting up in public places - which includes the workplace - should be linked to an alternative of "such imprisonment as may be determined".

It also agreed that the fine - a flat R200 in Zuma's version of the bill - should be set at up to R200 for individuals and not less than that amount for corporate bodies.

The committee last week formally approved several technical amendments to the measure, the Tobacco Products Control Amendment Bill, which have already been sent to the provinces for their go-ahead.

Yesterday's proposals will have to be printed as last-minute amendments on the order paper for today's NCOP plenary, where the bill was to be debated

The committee also agreed to strengthen the bill with a clear ban on smoking in public places.

In its existing form, a tortuously phrased clause proposes to allow Zuma to set conditions for smoking in public places, "except where such instances in which the smoking of tobacco products in any public place ... is prohibited".

The amendment proposes instead a simple blanket ban on smoking in any public place, with ministerial power to grant exemptions

Members decided not to press



Dr Nkosazana Zuma ... no mercy for members of the smoking fraternity.

ahead with a proposal to tighten a clause that forces vendors to sell tobacco products only in packages, by adding the requirement that the packages be sealed

Free State ANC delegate Isabella Direko said the selling of loose cigarettes was "the order of the day" in most townships, while party colleague Stefan Grové, of Mpumalanga, said he thought the additional restriction was impractical.

Western Cape delegate Neels Ackermann, whose province opposes the entire bill, said it was ironic that a governing party claiming to represent poor people should try to make it more difficult for them to buy cigarettes.

Health Ministry adviser Dr Ian Roberts said the reason why the addition was desirable was that there was evidence from overseas court cases that tobacco companies deliberately targeted children by trying to sell single or low numbers of cigarettes in packages.

Yesterday's meeting was called at short notice to rectify an incorrect list of the amendments approved last week.

ANC provinces support Zuma's tobacco bill

Wyndham Hartley

CAPE TOWN — The African National Congress (ANC) in the provinces closed ranks yesterday to leave KwaZulu-Natal and the Western Cape as the only voices of opposition in the National Council of Provinces to Health Minister Nkosazana Zuma's "tobacco bill".

Despite ANC provinces Free State and Eastern Cape having expressed reservations at the committee stage that there had not been sufficient time for public hearings and consultations in the provinces, they supported Zuma yesterday.

THE SA Human Rights Commission announced yesterday that it would co-host a conference on racism and xenophobia next week as recent attacks on foreigners had exposed the seriousness of the problem.

Commission chairman Barney Pitso said the commission was aware that there was a problem with attitudes towards foreigners.

The slaying last month on

The seven ANC provinces also approved the amendments to the bill which were brought by Mpumalanga province through an entry on the order paper. The amendments allow for prison sentences for some of the more serious offences in the Tobacco Products Control Amendment Bill. The flat fine of R200 for smoking in a public place has been limited by the phrase "not exceeding R200" but the potentially smister "such penalties as may be determined" was approved, raising the possibility of imprisonment for smoking in the wrong place.

National Party member Neels Ackerman from the Eastern Cape again asked

PD 8/10/98

(198)

why the bill was introduced in the council first. He said it interfered with the exclusive rights of local government to regulate public places and advertising billboards.

When asked whether she had consulted her Southern African Development Community colleagues, who increasingly were relying on tobacco exports to SA for foreign exchange, Zuma replied she was legislating for SA and not the rest of the world and saw no reason to consult them.

She denied a personal motive in driving the legislation through. The only benefit was the improved health of South Africans and their children.

Fedhasa fumes over ban on smoking in public

of 8/10/98

(198)

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DAN SIMON
TOURISM WRITER

A TOTAL ban on smoking in public places will be detrimental to South Africa's tourism industry, according to the Federated Hospitality Association of South Africa (Fedhasa)

The association said the results of a recent survey conducted at travel industry meetings in Brazil, the Czech Republic, England, Hong Kong, Hungary, Italy, Japan, Malaysia and Switzerland "indicat-

ed the importance" of accommodating the preferences of smokers and non-smokers in public places such as restaurants, hotels and conference facilities

Fedhasa spokesperson Peter Cumberlege said "Some 2 405 travel professionals were interviewed to establish how they view accommodating the preferences of smokers and non-smokers and how these views affect where they send their customers

"Results show that more than 90% of groups sent to the United

States, the United Kingdom, Spain, Brazil, France and Italy include smokers and non-smokers "

On the proposed ban on smoking in public places in South Africa, Cumberlege said this was "clearly a threat" to the country's tourist industry

Cumberlege said that one of the sectors of the industry which would be most affected by the proposed ban was the conference industry

"Why would South Africa willingly disadvantage itself further by

refusing to accommodate the preferences of tourists and business people choosing to spend their money here?"

Cumberlege added that restaurant and bar owners should be allowed to decide on their own smoking policy

● A bill to ban smoking in the workplace and tobacco advertising was approved by the National Council of Provinces yesterday

Health Minister Nkosazana Zuma urged delegates to help her protect children from tobacco

"Just as surely as smoking causes cancer, so the industry targets our children and youth," she said

"The best way to keep (the tobacco industry's) hands off kids is to ban all tobacco advertising, promotions and sponsorships and to enforce the laws against sales to minors "

Two provinces — Kwazulu-Natal and the Western Cape — voted against the bill, mainly on the grounds that it would lead to job losses and unfairly restrict freedom of speech — Sapa

Zuma denies tobacco job-loss claims (198)

Star 8/10/98

BY JOVIAL RANTAO
Political Correspondent

Cape Town - Health Minister Dr. Nkosazana Zuma has rejected claims by the tobacco industry and unions that her tough legislation, which would outlaw advertising of tobacco products and ban smoking in public places, would lead to the loss of at least 35 000 jobs.

In a passage marked by a lively and emotional debate, the Tobacco Products Amendment Bill was approved by seven provinces, led by the ANC and rejected by the National Party-led Western Cape and Inkatha Freedom Party-governed Kwa-Zulu Natal.

The draft legislation, which was supported by the ANC and opposed by the NP, the Democratic Party and the Freedom Front, now goes to the National Assembly for debate.

Introducing the controversial Tobacco Products Amendment Bill in the National Council of Provinces, Zuma tabled a strong case for the legislation and said the plight of tobacco companies and farmers was not restrictive legislation but the cost and quality of the tobacco leaf.

"The tobacco industry

argues that tobacco is vital to our economy because it creates jobs and is an important farm crop. Yet, despite greatly increased consumption of tobacco in South Africa, since 1950 the number of tobacco farms and the amount of land cultivated have both steadily declined."

She added that the main reasons for job losses in the industry were due to the inferiority of tobacco grown in South Africa and the importing of tobacco, which led to an outflow of foreign exchange and a loss of jobs.

The Government, she emphasised, could not keep the ailing farm economy alive by sacrificing the health of smokers.

Zuma said most cigarette-related business would remain for many years, and the gradual reduction of jobs would allow an orderly transition.

She added that the main contribution of tobacco was not jobs but increased health costs and loss of productivity. "More working days are lost to South African industry each year due to absenteeism caused by smoking-related diseases than from strikes."

► Smokers wait for clarity

Tobacco bill may still go up in smoke in court

(198) 9/10/98

The way in which Health Minister Nkosazana Zuma has slammed her controversial tobacco bill through the National Council of Provinces raises the possibility of legislative skulduggery, writes political correspondent Wyncham Hartley

WHY did Health Minister Nkosazana Zuma choose to introduce the controversial Tobacco Products Control Amendment Bill in the National Council of Provinces? It is the first time that a health bill has been introduced in this manner

Usually it is tabled in the National Assembly by the minister and, once the house committees and the house itself have approved the measure, it goes to the provinces



ZUMA

Initially, Zuma intended to follow this procedure. This is clearly demonstrated by the fact that the first sight the public had of the tobacco bill was when it was tabled in the assembly. On all published bills there is a number, the name of the measure, who tabled it and where. It is clearly recorded that it was B117-98 and introduced in the assembly by the minister

Then the nature of the beast was changed. It was suddenly a bill initiated by the select committee on social services because the Constitution precluded Zuma from initiating a bill in the provinces where this right is reserved for members and committees of the council. Why?

It must be remembered that health is a shared competence in

Schedule four is quite clear on the issue — the centre and the provinces share the power to legislate on health.

This means that there is a logical reason for a health bill to go to the provinces first. The constitution effectively provides for that eventuality by saying that both the provinces and the assembly may initiate

But Zuma has forgotten one thing: there is a further schedule in the constitution, schedule five, which specifies the exclusive areas of provincial competence which national government may tamper with only under specific conditions. Under the exclusive control of provincial and local government, schedule five includes advertising billboards in public places and the public places themselves.

Those are powers which Zuma is tampering with. She intends, through this new law, to ban tobacco advertising which will make a town council which sells a billboard to a tobacco company guilty

of a crime. Also in schedule five is the simple entry — public places. Zuma intends to ban smoking in public places and the law will grant her the powers to grant exemptions from this ban. But this is a power the constitution vests in local government

The constitution says ministers may not tamper with these exclusive powers unless it is to protect national security, maintain economic unity, maintain essential national standards or essential minimum standards, or to prevent one province from doing things that harm another province

This bill will not protect national security. It may even harm it because many soldiers and policemen smoke. Economic unity is not under threat, in fact quite the contrary, because the tobacco industry provides huge amounts of money for state coffers

What Zuma cannot escape is that the constitution says any legislation which tampers with the schedule five powers must be dealt with by the assembly first. This is a point the Western Cape delegation warned about both at the committee stage and again in the provinces this week. They insisted the bill was "in the wrong place". Why?

It may be that all Zuma was trying to do was spread the load between the two committees of Parliament and thus ease the passage of the bill into law. By introducing it into the provinces, the first round of public hearings would be in the provinces. However, many provinces failed in this respect and came back with half-baked mandates and with complaints that they had not had enough time for consultations. At the committee stage, two African National Congress (ANC) provinces abstained from voting for this reason.

If the bill had been introduced in the assembly, the hearings would have been held in the full glare of publicity in Parliament

where there are a host of journalists and newspapers represented. Hearings in the provinces are badly reported.

Zuma says now that there will be hearings in the assembly committee, but the sting will have gone out of the debate. The ANC has already indicated its support, as have seven of the nine provinces (all of them ANC provinces).

What good will further representations to yet another committee do? The assembly has been presented with a *fait accompli*. It is difficult to understand the haste which has characterised the handling of this bill.

Some sections were poorly thought out, such as the fact that children found illegally smoking in public places will now be regarded as criminals, particularly if they cannot afford to pay the fine.

Zuma is clearly passionate about legislating against tobacco companies and those who smoke. The irony is that by employing what could be regarded as legislative skulduggery, she may have committed fatal errors that could see this law struck down by the Constitutional Court.

Medical Scheme Bill 'must go to Nedlac'

Business seeks court interdict against Zuma

(198) CT (HR) 9/10/98

LYNDA LOXTON

PARLIAMENTARY CORRESPONDENT

Cape Town — Business South Africa (BSA) yesterday sought a court order to compel Nkosazana Zuma, the health minister, to submit the Medical Scheme Bill to Nedlac before it was passed by parliament, it said in a statement

It said Zuma's failure to have done so already "amounts to the omission of a necessary step in the legislative process"

"BSA has approached the courts to seek an order requiring Nedlac to consider the bill, and interdicting the minister and the portfolio committee from proceeding with the legislative process until Nedlac has considered the bill and reported to parliament"

BSA said that over the past four years it had "made repeated requests for an open and inclusive consultation process on proposed legislative changes affecting medical schemes. BSA has consistently maintained that the terms of the bill, and its impact on employment conditions and costs, bring it within the ambit of legislation that is required to be submitted to Nedlac"

Medical scheme membership in South Africa was almost exclusively employment-based. Contri-

butions by employers and employees to medical schemes made up about 17 percent of formal sector salaries, with employers generally contributing 50 percent

"The bill will profoundly impact on the BSA members in their capacities as employers and employer representatives, and on employees," it said

The bill would "radically amend the regulatory framework of the private health sector. The combination, inter alia, of open

enrolment, forced community rating and guaranteed post-retirement membership will lead to severe financial pressure in existing medical schemes and undermine the sustainability of the sector as a whole"

BSA had repeatedly appealed for independent and objective actuarial and economic analyses of the bill, particularly to assess the effects of the development of future demand and the costs of services. Such analyses have not been undertaken

"BSA believes that it has taken every step within its power to resolve this matter outside the courts. Despite its attempts, however, BSA has no other option"

BSA asked for the bill to be referred to Nedlac during last month's public hearings, but the request was turned down

BSA has repeatedly appealed for independent analyses of the document

Adding fuel to health minister's fire

(198) ST (BT) 11/10/98

HEALTH Minister Nkosasana Zuma's controversial Tobacco Products Control Amendment Bill, which got the nod from the National Council of Provinces this week, will be supported further by a book which calls for even higher excise tax on cigarettes than the 50% currently in place.

The book, *The Economics of Tobacco Control Towards an Optimal Policy Mix*, published by the Applied Fiscal Research Centre of UCT, will be launched on Tuesday.

The book reflects largely on a conference of the same name held in SA in February, which ended by calling on governments worldwide "to introduce immediate tax increases above the rate of inflation and to ban advertising and promotion of tobacco products."

ANTI-SMOKING CAMPAIGN
BY MARCIA KLEIN

The book concludes that these actions should lead to big decreases "in the global tobacco epidemic, which if left unchecked will almost certainly kill about 100-million adults worldwide over the next 20 years, half of them in middle age."

The book comes out largely in support of Zuma's Bill, which prohibits advertising and promotion of tobacco products, bans the free distribution of tobacco products, limits smoking in public places, including the workplace, and allows for the regulation of nicotine and tar levels of tobacco smoke.

It examines various debates, including the social costs of tobacco and the benefits of the tobacco industry to governments,

societies and economic growth. Here the book argues that empirical analysis suggests the net contribution of tobacco jobs to the economy is minimal at best. It argues that raising tobacco taxes increases revenue and decreases consumption, and supports the view that taxation "is the single most effective measure to reduce demand."

In her chapter on SA, economist Rowena van der Merwe says that in a developing country like SA, excise tax is a more potent mechanism to cut consumption because consumers are price-sensitive.

She says the level of excise tax is "an important and practical instrument for the control of consumption", particularly as smoking is most prevalent among lower income groups. In 1997, 52% of the retail price

of a packet of cigarettes went to government as excise duty, 5% to the farmer, 23% to the manufacturer, 6% to the wholesaler and 14% to the retailer.

She claims the revenue-maximising level of cigarette tax "does not seem to have been met in 1998 either the optimal tax rate may be well above the current 50% of the retail price."

According to the book, employment in the industry declined by an average annual rate of 5.6% in the decade to 1995. Van der Merwe says the industry employs 0.1% of SA workers, so elimination of these jobs would raise the SA unemployment rate by less than one tenth of one percent. According to the book, the tobacco industry's contribution to government was R1.7-billion, or 1.2% of government revenue, in 1997.

Tar reduction could help to save smokers from themselves

Star 13/10/98 (198) (87)

'No such thing as a safe cigarette', but important to reduce harmful chemicals

GRAPHIC GAIL IRWIN

By ANSO THOM
Health Reporter

A reduction in the tar content could see a decrease in smoke-related diseases caused by the more than 4 000 chemicals in cigarettes, according to health experts

With tar being the main culprit that kills people, and nicotine being the drug that keeps people smoking, Health Minister Dr Nkosazana Zuma's intention to reduce the tar and nicotine levels in cigarettes would be beneficial for those people who couldn't or wouldn't stop smoking, according to Dr Yussuf Saloojee of the Council Against Smoking

Saloojee hastened to point out, however, that there was "no such thing as a safe cigarette", but that it was important to reduce some of the harmful chemicals

The tar affects the flavour of a cigarette, while the nicotine is the addictive ingredient.

"People smoke for nicotine, but are killed by tar," he said, explaining that the council would like to see a progressive reduction in tar with enough nicotine to satisfy the smoker's craving

Edward Shalala, chief executive officer of the Tobacco Institute of southern Africa said Zuma's proposal was not one of the controversial provisions contained in the bill

"It needs to be phased in, allowing us time to replant or import the right tobacco. We will have to make some serious adjustments"

According to the Tobacco Action Group, which includes the Heart Foundation and the Cancer Association of South Africa, a cigarette contains 4 800 chemicals - including 43 cancer causing agents and 200 known poisons similar to those found in car exhaust

What is nicotine?
A chemical substance in tobacco. After being inhaled in tobacco smoke it reaches the brain in 6-8 seconds giving the smoker a rush that becomes addictive

What is tar?
The minute solid particles found in tobacco smoke

Poisons in 'tar' Here are 10

Acetone	Methanol
Ammonia	Naphthalene
Arsenic	Nicotine
Butane	Phenol
Carbon monoxide	Polonium - 210

(There are more than 4 000 chemicals in tobacco smoke)

Filter
Plays no role. Supposed to "filter" solids and liquids (incl tar), but doesn't do this effectively as filters are full of holes

Paper
Cellulose acetate. Contributes to formulation of carbon monoxide and carbon dioxide

Taste
(Or strength) is related to the level of tar. The higher the tar content, the stronger the cigarette. 'Light' cigarettes can have as little as 1mg of tar

Flavour
Menthol, for example, stays the same whatever the strength of the cigarette

fumes. Carbon monoxide and lead are among these

Saloojee said when an organic material such as tobacco burned, it produced, among other things, tar, which contains many other chemicals

Tar is defined as the minute solid particles found in tobacco smoke, similar in some respects to the tar found on roads. It contains the cancer causing chemicals like benzopyrene and nitrosamines

Saloojee said tobacco smoke contained a mixture of gases, solid particles and liquid droplets that passed through a very fine filter. "The filter is supposed to hold back the solids and liquid, but hundreds of chemicals get through," Saloojee said

He said the introduction of

"smoother" cigarettes caused people to inhale more deeply, causing cancers to be located "more deeply" in the lungs

"We know the main reason people smoke is for the nicotine. If there was no nicotine, they wouldn't smoke"

Research still needs to be done

"There are so many chemicals that interact that we don't know what it all does or how they interact, but it is a fact that tar helps the smoker to assess the strength of the cigarette," he said, adding that the nicotine and tar levels in a cigarette tended to go together

Saloojee said the council would like to see a progressive reduction in tar, leading eventually to a tar-free cigarette

"The tobacco industry has spent millions of dollars in the United States trying to manufacture a low-tar cigarette. They can, but a lot of research and work still needs to be done," Saloojee added

He said the European Union was looking at measures similar to Zuma's

The World Health Organisation indicated in a legislative document that it supported any actions that made cigarettes less harmful for those unable to stop

WHO representative in SA, Welile Shasha said they supported all efforts to reduce smoking. "We also support reducing the tar and nicotine in cigarettes," he added

Freedom of Commercial Speech Trust lashes out at tobacco bill

Wyndham Hartley

CAPE TOWN — The Freedom of Commercial Speech Trust will not participate in the "fatally flawed" Parliamentary process on the Tobacco Products Control Amendment Bill and has vowed to challenge the legislation in court should it become law.

The trust announced yesterday that its chairman, Neil Jacobsohn, was mandated to launch a court

challenge if this was necessary.

Jacobsohn said the way in which Health Minister Nkosazana Zuma had introduced the bill to Parliament, through the National Council of Provinces, "amounted to a manipulation of the accepted principles of consultation and of the legislative process." Jacobsohn said participating in the process by giving evidence during next week's public hearings on the bill would give le-

gitimacy to this abuse of power.

"We therefore suspend our participation with immediate effect and reserve our right to take legal action on the process and the substantive aspects of the bill should it become law."

The trust is one of more than 80 organisations scheduled to give evidence at public hearings on the bill on Monday and Tuesday.

There have been complaints that to introduce the bill in the

(198) 2016/10/198

National Council of Provinces first was constitutionally incorrect because it dealt with exclusive provincial powers.

Jacobsohn said the trust was denied its constitutional right to be consulted. He denied the health department's claims that the trust was consulted and appealed to Zuma to withdraw the bill and start again with proper consultation.

Parliamentary health committee chairman Abe Nkomo could

not be reached for comment. However, a spokesman in his office said the hearings would go ahead.

Meanwhile, Sapa reports that International Tobacco Growers' Association CE David Walder said in Johannesburg yesterday the leaders of Africa's tobacco industry supported SA tobacco growers in their fight against the bill.

Walder said Africa's tobacco growers believed that the whole of central and southern Africa would

be severely affected by the legislation because tobacco was a major foreign exchange earner and employment provider.

Organisations scheduled to make presentations to the committee include health nongovernmental organisations, tobacco companies, advertising agencies, newspaper groups, doctors, sports bodies, trade unions, a Cape Town high school and the Council for Apostolic and Zion Churches.

Rate hikes push up inflation to 9%

Greta Steyn

INFLATION shot up to a surprisingly high 9,1% last month from 7,6% in August as sharp hikes in mortgage interest rates continued to take their toll.

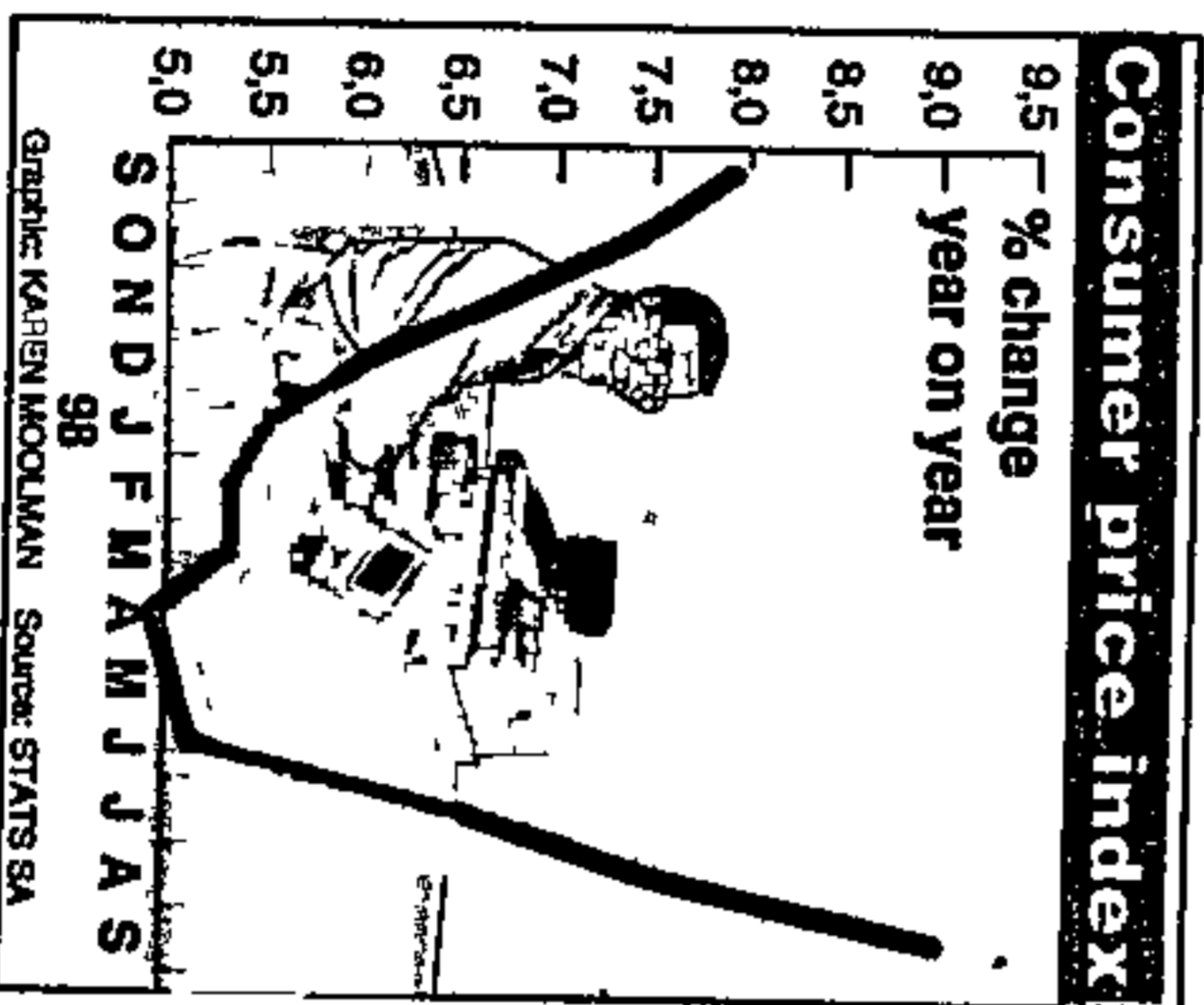
The markets shrugged off the worse than expected figure, as it was severely distorted by interest rates, and preferred to focus on core inflation, which edged up to 7,7% last month from 7,6% in August.

Core inflation, excluding mortgage rates, volatile food items, value-added tax and assessment rates, is the Reserve Bank's preferred indicator of underlying inflationary pressures.

The Bank, which has set an informal target of 5% for core inflation, takes the indicator into account when making interest rate decisions.

While there is a danger that headline inflation will hit double digits, core inflation is expected to remain comfortably below 10%.

Month-on-month, the overall consumer price index (CPI) rose 1,7% in



allow interest rates to fall," it said. ABN Amro Securities economist Johan Rossouw said if the effect of mortgage rate hikes were removed from the

Children's greatest impetus to smoke came from peer pressure and advertising, said

cancer victim Dennis Woest, who lost his voicebox after 33

years of smoking. Woest, best known for radio adverts against

smoking, said that he had spoken at more than 200 schools and had encountered 14-

year-olds who wanted cessation programmes at school because they could not quit. "The

more I deal with children, the more I'm adamant they are really

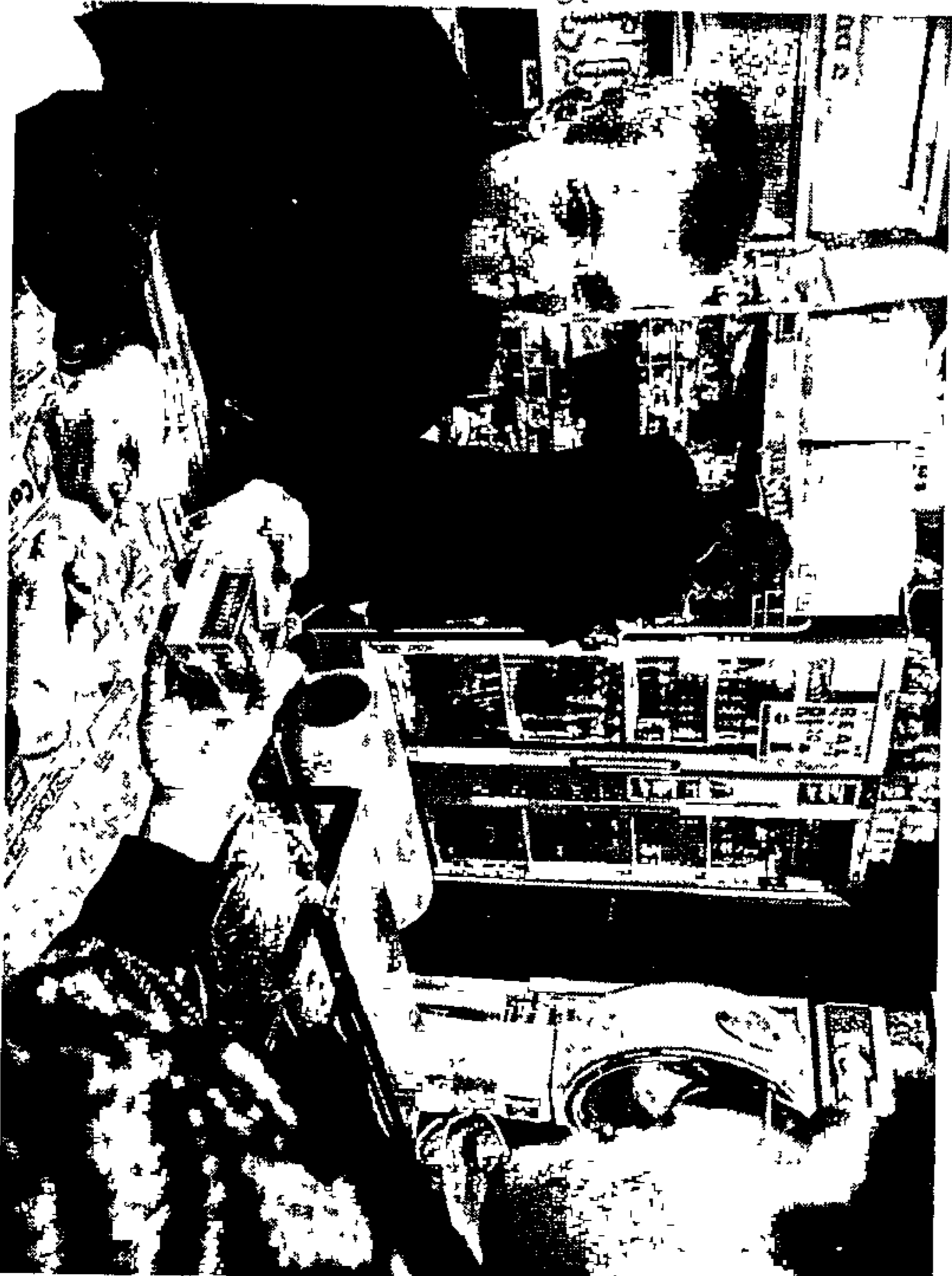
being exploited," he said. Woest has come

out strongly in favour of the Tobacco Products Control Bill which aims

to ban tobacco advertising and sponsorship and

smoking in the workplace. He is one of about 90 individuals

and organisations who will testify at next week's parliamentary hearings on the bill.



Tobacco lobby to boycott hearings on

By RAPHAEL BANDA

Freedom of Commercial Speech Trust opts for legal action to fight law, but allies will

The umbrella body representing the tobacco industry and other opponents of the controversial anti-tobacco legislation will boycott next week's public hearings on the bill and will instead institute legal action against the Government.

The Freedom of Commercial Speech Trust handed a letter to the portfolio standing committee on health yesterday, announcing that it was withdrawing from the parliamentary process surrounding the

bill. The trust was scheduled to make a submission to the committee on Monday.

But the SA Chamber of Business (Sacob), a major affiliate of the trust, announced it would still make a written submission to Parliament.

Sacob senior economist Bill Lacy said yesterday that there were diverse views within the trust on the tobacco bill, adding it had no obligation to seek authority from the trust because it

was an associate member.

Neil Jacobsohn, chairperson of the trust, said the process of developing the draft legislation was "fatally flawed".

He said his organisation, formed a year ago, would take legal action against Health Minister Nkosazana Zuma "on the process and substantive aspects of the bill."

He urged the minister to withdraw the bill and to start "a proper process of consultation".

"We are not a pro-tobacco body. We support the idea of a sensible tobacco policy. The bill is not in South Africa's interest," Jacobsohn said.

Observers said the pullout by the trust from the process would not affect the lobbying because a number of organisations would make presentations on Monday and Tuesday.

"Their interests are fairly well represented by others," said Katherine Everett of the

Cancer Association, who added that her organisation had collected 56 000 signatures from members of the public supporting the ban on tobacco advertising.

Michael Farr, CEO of Satour, said: "There can be no doubt that this legislation is going to annoy tourists who are smokers," but he doubted that it would impact negatively on tourist numbers. Last year, 5,4 million for-

eigners visited South Africa, while the year before 4,9 million people visited these shores.

"The reality we are facing is annoyance and irritation on the part of tourists who are smokers," Farr said.

But Peter Cumberlege of the Federated Hospitality Association of South Africa warned that South Africa could lose its competitive edge as an international conference venue if the legislation was passed.

He said this happened to Los Angeles when it imposed restrictive tobacco laws.

The Association of Marketers argues that the ban on advertising will cost the print media R74-million.

According to the Tobacco Institute of Southern Africa, the tobacco industry contributed about R3,6-billion to State coffers.

Unions are concerned the legislation could cause massive job losses.

At least 80 submissions will be made to the portfolio committee next week.

make submissions

Zuma bill
(1988) Alan 16/10/88

THE chairman of Parliament's health committee, Dr Sokhaya Nkomo, gave up smoking last week as the most widely lobbied legislation ever to hit Parliament, the Tobacco Products Control Amendment Act, was introduced in the National Council of Provinces

Nkomo's decision to quit was wise. Once the law his committee is considering is passed, he will be unable to smoke in his office in Parliament, in the corridors, in the canteen, in the bar, while playing snooker on the second floor, while travelling by taxi or while dining at his favourite restaurant

The Bill with the portentous name has two major objectives: the elimination of smoking in public and the ending of tobacco advertising

Both objectives have ignited a bonfire of lobbying by powerful interests. Tobacco companies and those who carry their advertisements have mobilised against the advertising ban, and the hospitality industry has taken up the cudgels against the ban on smoking in public

Far from diluting her legislation, the lobbying appears to have hardened the attitude of Health Minister Nkosazana Zuma. Last week, a new clause empowering her to control the strength of cigarettes was inserted into the Bill, giving her the right to declare in the Government Gazette how much tar and nicotine they may contain

And she has produced a law that is close to loophole-free. To "smoke" is defined in the legislation as "to inhale, exhale, hold or otherwise have control over an ignited tobacco product, weed or plant", and public place means "any indoor or enclosed area which is open to the public and includes a workplace and a public conveyance"

Having "control over" has no doubt been included to cover those who will put down their cigarettes and claim not to be smoking as a policeman walks by their office window

As if imagining the nooks and crannies of Parliament where Nkomo might retire for an illicit drag, the law specifies that a workplace also means "any corridor, lobby, stairwell, elevator, cafeteria, washroom or other common area frequented"

Among those fighting the total ban on smoking in public is non-smoker Luci Buckland of the International Hotel and Restaurant Association. Her message to the Health Department is "We've got a reasonable solution based on correct ventilation that can accommodate smokers and non-smokers". Her association wants Zuma to adopt the British model, where restaurants, hotels and the government are negotiating a compromise that will protect the rights of non-smokers to clean air and not alienate smokers from these institutions

What exactly the impact of the ban on public smoking will be on restaurants and hotels remains a matter for speculation. Says Hugh von Zahn, the chairman of the SA Restaurant Association "We're concerned about job losses". He says that when a smoking ban was introduced in California and in Massachusetts, restaurants lost 20 percent of their business

Von Zahn, also a non-smoker, runs a restaurant in Simon's Town. With much of its seating in the open air, his smoking patrons are likely to continue to climb into Sunday breakfast on his patio and light up afterwards without fear of breaking the law. That, of course, depends on whether the umbrellas, the awnings and the leafy canopy of trees outside count as the trappings of an "enclosed area", something lawyers will no doubt spend many hours in court trying to establish

Zuma's reply to the concerns of the hoteliers and restaurateurs is to point out that more than 70 percent of smokers and 90 percent of non-smokers support restrictions on smoking in public places. Far from leading to job losses, she says, a reduction in smoking "would lead to a net gain in employment in all other sectors of the economy"

Quoting from a University of Cape Town study on employment in the tobacco manufacturing sector in the 50 years ending in 1995, she says "Let us not be fooled: the principal contribution of the tobacco industry is not as a source of employment or revenue, but its contribution is in the leading role it plays as sources of illness and premature death"

But the jobs debate has not been confined to the slanging match between Zuma and the tobacco industry. Also ranged against Zuma are members of the ANC's trade union federation ally, Cosatu. Unions under its umbrella, like the Food and Allied Workers Union and the SA Commercial, Catering and Allied Workers Union, are concerned at potential job losses that will be caused by the law

Fawu's Reza Daniels is frustrated at Zuma's refusal to bend to pressure, even from her party's political allies. "She has not consulted us, she's spoken to

us, but remained intransigent to our suggestions". Daniels, who made "an educated choice" to quit smoking, argues that those who work on farms producing tobacco in remote rural areas will not easily find employment if they lose their jobs

The 45 000 workers who may be laid off could raise new problems for Zuma. "We're going to get to a point where smoking is no longer a problem, but malnutrition will be a Department of Health problem"

On Zuma's "second front" — her ban on tobacco advertising — the war of words has raged as fiercely. Those opposed to the ban have been led by the Tobacco Institute of Southern Africa, which has hired the Sussens Group to help it communicate its case. The institute has been trying to steer the debate away from the health consequences of smoking and onto the more fashionable terrain of freedom of speech. Says the submission the institute is to put before tomorrow's committee hearings "Constitutionally protected rights and freedoms, such as intellectual property and freedom of expression, are impinged upon"

The Bill has effectively imposed "an almost total ban on communication by tobacco companies and other parties about tobacco products", says the institute. And, it says, Zuma has not consulted properly, has not passed on information and has been "vague and ambiguous" in the legislation which will "result in a multitude of unintended consequences"

On the constitutionality of her actions, Zuma says a choice must be made "If commercial speech needs protection, then so, emphatically, do children also need protection. Almost every constitution worldwide, including our own Constitution, permits restrictions on freedom

to protect the welfare of the public". Her job, she says, is to "keep the tobacco industry's hands off kids" by banning all advertising, promotions and sponsorships

Among those not impressed with Zuma's intransigence on the legislation is the recently formed Freedom of Commercial Speech Trust, which will not be attending this week's hearings

It objects to what it sees as a determination by Nkomo and Zuma to push through the legislation without taking into account the views of those making submissions

The 180 written and verbal submissions are to be presented to the committee, with each party having 15 minutes to talk on its proposals and to field questions in the words of Nkomo "We are balancing openness with efficiency. You've got conflicting fundamental rights — the right of access to health and the right to freedom of expression. In the interests of the greater majority, the government has got to intercede on behalf of the weak."

The brevity of the hearings and the chairman's strong views could make Nkomo's committee seem like a plant rubber stamp. Over the two days, Nkomo will have to show that he is willing to take seriously the concerns of the myriad opponents of the Bill without compromising legislation that the ruling party has pegged its pre-election reputation on

More immediately, he will have to sit through the most difficult week of his parliamentary career without lighting up

Will he ever smoke again? "If I can survive next week, I think I'll be okay," he says

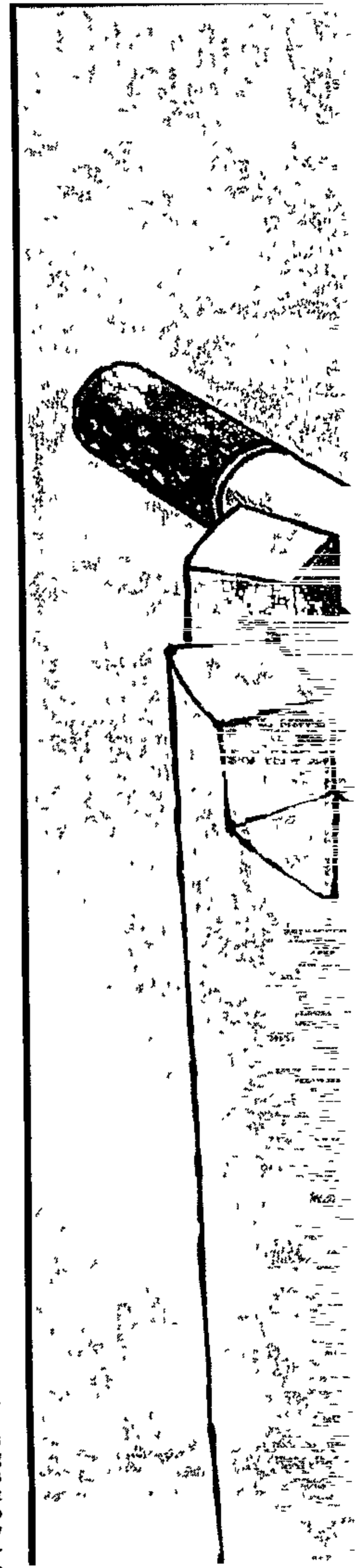
● If you have a view, make it count by voting in our on line poll on smoking, and by voicing your opinion in our politics forum, all at www.suntimes.co.za

The charge of the 'light-up' brigade

ST 18/10/98

(198)

Tomorrow, Parliament's health committee will hear submissions on legislation aimed at curbing tobacco advertising and smoking in public. RAY HARTLEY looks at the arguments for and against the law



Next round of talks on ⁽¹⁹⁸⁾ Tobacco Bill

same item 19/10/98

By Ido Lekota

THE controversial Tobacco Products Control Amendment Bill – which calls for the banning of cigarette advertising – is once more on centre stage of the parliamentary schedule this week

Today at least 88 people from sectors ranging from the tobacco industry to sports as well as the public sector, are expected to give evidence before the health portfolio committee on the pros and cons of the Bill

Already, the Bill has sparked controversy within the tobacco industry with claims that its passing will lead to loss of revenue and eventually loss of jobs.

Health Minister Nkosazana Zuma, on the other hand, seems intent to weather the storm the Bill has created

During her parliamentary addresses Zuma has argued that the major contribution the tobacco industry has made to the South African economy is in health costs

She said thousands of man-hours were being lost in South Africa because of absenteeism caused by ill health

Zuma also argued that if the Bill became law those currently buying cigarettes might end up buying other goods or services and eventually create new jobs

The Bill has been passed by both the National Assembly and the National Council of Provinces and is to be read for the second time next month

Also to be discussed in Parliament this week is the Prevention of Organised Crime Bill which is aimed at giving the police more

powers to fight organised crime and gangsterism

In terms of the Bill, it will be a criminal offence to be a member of a gang that is involved in criminal activities or to recruit someone into such a gang

The Bill gives the State the power to confiscate property believed to be acquired through criminal proceeds

Already the Bill has been criticised by human rights organisations such as the National Democratic Lawyers Association (Nadel) and the Human Rights Commission

According to Nadel, the Bill would criminalise the majority of black working class youth, especially in the so-called coloured communities where gang membership "is a means of survival"

Meanwhile, the Freedom of Commercial Speech Trust has threatened to take the Government to court should the Bill be enacted in its current form

Chairman of the trust Mr Neil Jacobsohn said in Johannesburg at the weekend, that the body would at the same time "withdraw from taking part in the flawed parliamentary process which seeks to legitimise Government's planned anti-tobacco legislation"

He said "For us to continue taking part by giving evidence before the portfolio committee on health would amount to giving legitimacy to this abuse of the process

"We therefore suspend with immediate effect all our participation in the process and reserve our right to take legal action on the process and the substantive aspects of the Bill should it become law"

v 19/10/98

Juggernaut

BY CHARLENE SMITH AND MATTHEW BURRIDGE

Three crucial bills aimed at transforming the healthcare system have been stopped in their tracks as Health Minister Nkosazana Zuma's policies face an unprecedented wave of legal challenges and protest this week.

The Medicines and Related Substances Control Amendment Bill has already been interdicted by pharmaceutical manufacturers, the Tobacco Products Control Amendment Bill has been interdicted by the tobacco industry, and the Medical Schemes Bill is now threatened with a similar fate.

To add to Zuma's woes, about 350 foreign-qualified doctors - many of them South African citizens - met in Johannesburg at the weekend to protest at the withdrawal of work permits and their working conditions. The foreign doctors are threatening major court action.

But Health Department spokesperson Khangelani Hlongwane said Zuma valued the foreign doctors and had no plans to "bundle them onto the next aircraft".

He said there was a perception in the department that there were deliberate attempts to frustrate the passage of legislation. "There are those who sinister motives who seem to be frustrating the passage of legislation that is aimed at transforming healthcare delivery".

Hlongwane said Zuma was not obliged to attend any of the public hearings on the tobacco amendment bill this week.

The Freedom of Commercial Speech Trust umbrella body, which represents the tobacco industry, handed a letter to the portfolio committee on health last week announcing that it was withdrawing from the parliamentary process surrounding the bill and would be instituting legal action against the Government.

Trust chairperson Neil Jacobson said the Health Department's behaviour in introducing the bill was a manipulation of the accepted principles of consultation and of the legislative process. "We have been denied our constitutional right to consultation, to the extent that the department has resorted to misrepresentation of the facts in official documentation".

According to observers, if tomorrow's application succeeds, it is likely that the bill could be tied up legally for at least two more years, delaying the introduction of Social Health Insurance, aimed at revolutionising the medical aid industry.

Also tomorrow, Business South Africa will challenge in the Cape Town High Court the passing of the Medical Schemes Bill, aimed at regulating medical aid schemes. BSA has applied for an interdict against Zuma and the chairperson of Parliament's portfolio committee on health, Dr Abe Nkomo, saying the bill impacts on employment conditions and costs.

Court actions against key reform measures proposed by the health minister will undermine her reform programme, critics warn

(198) (453) (229) RM

Bid to derail Zuma

Business Day

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Tobacco bill will cause huge revenue losses, opponents warn

Wyndham Hartley



Abe Nkomo, chairman of the portfolio health committee. Picture: TRONEARTHUR

CAPE TOWN — The Tobacco Products Control Amendment Bill would result in substantial job losses, the closure of newspapers and magazines, huge revenue losses to the treasury and a ripple effect throughout the economy, business and labour representatives predicted in Parliament yesterday.

At public hearings before the health committee yesterday, organised by business and labour, rejected suggestions in the bill's explanatory memorandum that they had been consulted during the drafting of the legislation.

They indicated that they were planning litigation against the bill if the African National Congress-dominated committee failed to amend it.

Anti-tobacco groups bombarded the committee with predictions of deaths from tobacco use.

Tobacco (198)

Continued from Page 1
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Senior print media representatives said that if the bill was approved, newspapers and magazines would lose R150m in advertising overnight. The advertising industry and cities that hosted high-profile events sponsored by tobacco companies also condemned the bill. Durban alone would lose more than R800m as a result of the loss of the sponsorship for the Durban July horse race and the Gunston 500 surfing tournament, said Derrick Dickens of the Association of Marketers.

The Tobacco Institute of SA suggested that almost 100 000 people were employed directly or indirectly by the tobacco industry and that it added the value of about R10bn to the economy. The institute's CEO, Edward Shalala, tabled a document which said that it also contributed R4,5bn to government's coffers.

Graham Langmead, the executive director of the Print Media Association, said in a written submission that banning tobacco advertising "will dramatically reduce the advertising income of the majority of our members' titles and this will put a considerable number of jobs in the industry at risk".

Suggesting that such a ban violated the constitution, he said the transformation of the print media would also be affected because there would be fewer jobs available for affirmative action. Some publications would have to close.

He warned that public health warnings now carried on all tobacco advertisements — the cost of which was borne by the tobacco industry — would also be lost as a result of a ban.

Peter Cumberlege of the Federated Hospitality Association of SA said that small medium and micro-enterprises would be hit hard and the tourist industry would be harmed.

He suggested that enterprises be allowed to choose between serving smokers or nonsmokers.

In contrast, Iray Abedian of the Applied Fiscal Research Centre at the University of Cape Town said that from a public health perspective, the bill was on the right path. Research showed that advertising had a significant role in generating increased cigarette consumption.

Continued on Page 2

Tobacco ad ban under fire

Jobs at stake, warns news group MID

(198) RAU 20/10/198



JENNY WALL
HEALTH REPORTER

Newspapers would become smaller, a setback for a medium whose role was to inform and educate. The most important issue was that the bill would set a precedent by denying companies the right to promote their products. He said 95% of newspaper readers were over 18.

Pages of newspapers and back pages of magazines meant children were exposed to advertising. Tobacco advertising communicated that smoking was normal and an attractive thing to do, she said. "Images prevalent in South African cigarette advertisements speak to teenagers' personal and developmental concerns, such as the need for independence, rebelliousness, self-confidence and social acceptance, the need to be sexually appealing and the need to have fun."

Tobacco companies have the right to promote their products within reasonable bounds and the Tobacco Bill should focus on the content of advertising rather than banning it completely. This is the view of Rory Wilson, managing director of Independent Newspapers Cape, who yesterday urged the National Assembly portfolio committee on health to be cautious about restricting the rights of commercial interests to promote and sell their wares.

He said newspapers would support a ban on "lifestyle advertising" as this might be especially attractive to children. Independent Newspapers stands

to lose R14,5-million nationally in advertising revenue as a result of the Tobacco Amendment Bill, which will ban all tobacco advertising and sponsorship and make smoking in public an offence. Mr Wilson said a total ban on tobacco advertising would be a severe setback for newspapers and might lead to job losses.

Placing a total ban on tobacco advertising in newspapers would not achieve Health Minister Nkosasana Zuma's objective of protecting children, which Independent Newspapers supported. Amy Seidel Marks, marketing lecturer at the Graduate School of Business at the University of Cape Town, told the committee the deliberate placing of advertisements on front

pages of newspapers and back pages of magazines meant children were exposed to advertising. Tobacco advertising communicated that smoking was normal and an attractive thing to do, she said. "Images prevalent in South African cigarette advertisements speak to teenagers' personal and developmental concerns, such as the need for independence, rebelliousness, self-confidence and social acceptance, the need to be sexually appealing and the need to have fun."

Parliament generates plenty of smoke

People are passionate about tobacco control - whether it's the right to smoke wherever one likes or the right not to breathe in other people's smoke.

Smoking is an economic issue, it's a freedom of choice issue and it's a health issue. This week the National Assembly portfolio committee on health is being inundated with people wanting to have their say on the Tobacco Products Control Bill.

More than 90 individuals and organisations are making submissions on the bill, which seeks to ban

smoking in the workplace and tobacco advertising and sponsorships. Does banning cigarette advertising reduce cigarette consumption? Yes, said Iraj Abedian, director of the Applied Fiscal Research Centre at the University of Cape Town and co-editor of the recently published book *The Economics of Tobacco Control*. It was one of many control measures which had led to declining tobacco consumption in developed countries. But in other parts of the world consumption had increased. Tobacco companies had had to

change their focus and now 80% of the world's smokers lived in developing countries. Professor Abedian said tobacco control policies had to be coordinated worldwide. Poor nations were now footing the tobacco bill for rich nations.

The next step in regulation was to ban tobacco advertising and sponsorship. There has been some opposition to regulatory measures from trade unions which fear job losses if cigarette consumption declines. Is this well-founded? No, said Professor Abedian. In South Africa there were no single-crop tobacco farms and it was quite easy to change to other crops. There would not be a loss of jobs because for the next 20 years, while policies took effect, there would still be as many smokers.

Professor Abedian said a mix of policies to control tobacco was needed, depending on a country's specific circumstances. Raising prices has already had an effect on cigarette consumption in South Africa, but there was a limit to this.

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Industry proposes to restrict tobacco ads

CT 20/10/98

(198)

THE tobacco industry has proposed that the Health Ministry restrict tobacco advertising rather than banning it.

In a submission to Parliament yesterday, the Tobacco Institute of South Africa (Tisa) said the Tobacco Products Control Amendment Bill was "badly drafted and totally unreasonable" and would lead to "harsh, absurd and unintended consequences".

Tisa chief Edward Shalala (like everyone who spoke yesterday) said his organisation supported the motivation behind the bill — to protect children from smoking — but believed this could be achieved in less restrictive ways. He has proposed.

- Banning adverts that associate smoking with social success, business advancement and sporting prowess;
- Banning tobacco adverts during the screening of films for under-18s;
- Restricting the size of tobacco adverts in newspapers (to 200 column centimetres) and magazines (to a single page),
- Banning adverts in publications that have an adult readership of less than 75%;
- Restricting outdoor advertising to under 36m² and keeping it more than 400m away from schools,

- Banning advertising outside shops;
- Raising to 18 the age at which teenagers can be sold cigarettes

These proposals are a departure from the industry's previous stance, which rejected all controls on advertising.

In an earlier submission, Rory Wilson, the managing director of Independent Newspapers (Cape) — which publishes the *Cape Times*, the *Cape Argus* and 12 community newspapers — said 95% of newspaper readers were over 18 and therefore did not need to be protected from tobacco advertising.

"We suggest that to place a ban on newspaper advertising will not achieve the objectives of protecting children," he said.

"We agree that lifestyle ads that show people on ski slopes, beaches or in helicopters are not appropriate. We support a ban on this type of advert."

Wilson said banning advertisements set a dangerous precedent that denied a group of advertisers the right to advertise their products.

"We believe it would be better to restrict the content of adverts and to ban misleading ads, rather than a complete ban."

THE WORDS CAME OUT AS IF FROM A ROBOT

Smoking and 'the health question'

PT 20/10/98

(198)

THERE WERE more than 40 presentations to Parliament's health portfolio committee. Only one brought silence to the crowded chamber. Health Writer **JUDITH SOAL** reports

PARLIAMENT'S Old Assembly Chamber was busy yesterday. Tobacco company executives, health workers, politicians, lawyers, journalists and the like strolled in and out, muttering to their colleagues, answering cell-phones, pouring coffee and often paying little attention to the submissions on the Tobacco Products Control Amendment Bill.

But there was one moment when the activity stopped and the air went cold. It was when cancer victim Dennis Woest turned on his electronic voice simulator.

All day submissions had been prefaced with "I don't want to talk about the health side of it. I have no problem with that. I want to talk about economics (read jobs/freedom of speech/prece-

dents/legalties/jack of consultancy)." But when Woest spoke, "the health side of it" couldn't be ignored.

Here was a man who communicated by pushing air from his mouth into his oesophagus, then bringing it up again, like a burp. "You could say I have to burp up speech," he explained.

In 1989, when he was 49, Woest was diagnosed as having cancer of the vocal chords. He had smoked 20 to 30 cigarettes a day for 33 years.

"I had to have a laryngectomy. They cut my neck from ear to ear, you can still see the scars. Then they flipped my head over backwards and removed everything that was in my throat."

Woest taught himself to speak in three months, but many patients who have similar operations aren't able to.

Some of them have to use an electrical device called an electro-larynx to stimulate speech. As he was explaining this, Woest took out his electro-larynx to demonstrate.

"Imagine Talking Like This In A Supermarket," he said.

The words came out as if from a robot. Oddly electronic with a tinny ring.

"I know people who have stopped answering the phone or leaving their homes because when they start to speak everyone laughs at them or makes some comment," Woest said, back to his rasping, burping voice.

After his operation, Woest lost his job as a bus driver in Johannesburg. He was pensioned off and his income dropped by a third. Nine years later his medical bills still run to thousands of rands every month.

"I am lucky, I have a medical aid, but there are many people like me out there who have no medical aid and have to rely on the state for help. Many of them are just put into a room and fed."

Woest laughs when he hears the economic arguments against tobacco control.

"How can they talk about job losses in the industry? What about the people like me who lost their jobs through illness?"

And don't talk to Woest about the right to advertise. "The tobacco industry talks about freedom of speech.

"Well, I'm just lucky that I can speak at all."

"I know people who have stopped answering the phone or leaving their homes because when they start to speak everyone laughs at them or makes some comment," Woest said, back to his rasping, burping voice.

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"How can they talk about job losses in the industry? What about the people like me who lost their jobs through illness?"

"The tobacco industry talks about freedom of speech. I'm just lucky that I can speak at all."



SURVIVING: Cancer victim Dennis Woest can't smell and breathes through a hole in his throat. He can't swim or shower. "If I get water (in the hole) and don't get it out within three minutes I will die." **PICTURE: ALAN TAYLOR**

Knives out in tobacco battle

star 20/10/98

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Forceful arguments for and against
as some strange bedfellows get to
grips with Zuma's proposed legislation

BY JOVIAL RANTAO
Cape Town

There were unlikely alliances yesterday when some of South Africa's most powerful institutions came to Parliament to do battle over the Tobacco Products Amendment Bill

The proposed legislation will ban tobacco advertising and sponsorship, and make smoking in public places illegal

In the camp ranged against Health Minister Dr Nkosazana Zuma's tough anti-smoking legislation were bodies as diverse as a trade union, a newspaper house, a burger chain and the Premier Soccer League. They warned of revenue losses amounting to hundreds of millions of rands and the loss of thousands of jobs

In the Zuma camp was a collection of activist academics and anti-tobacco activists, who warned that smoking-related deaths could climb to 1.0 million worldwide within two years

Representatives of the marketing industry and tobacco farmers argued there had been no consultation from Zuma on the bill, which they said would not pass a test in the Constitutional Court

They said the legislation, if approved, would lead to multi-million-rand losses to their respective industries and job losses in, among others, the tourism industry

They even argued that proposed anti-smoking legislation would make it illegal for the national rugby team to use the name "Springbok", because it was also a tobacco trademark

It would lead to the end of the Rothmans Cup, one of the top soccer competitions

They also said coastal cities such as Durban could stand to lose millions a year from events such as the popular Gunston 500, which would be banned if the bill became law

Dr Owen Dean, a patents lawyer, argued that the bill would mean that American burger giant McDonald's would be prevented from using its trademark, which was also registered in South Africa as the trademark of a Canadian tobacco company

The Food and Allied Workers' Union, a Cosatu affiliate

that has emerged as an unlikely opponent of Zuma, said a total ban on tobacco advertising would lead to a huge loss of jobs.

Fawu general secretary Mandla Gxanyana said the job losses would occur in the farming, processing and manufacturing sectors. He said banning tobacco sponsorship would limit the development of athletes and pupils from previously disadvantaged backgrounds

Anti-tobacco lobbyists - medical and health groups - argued that the bill was aimed at protecting children, who, they said, were the target of tobacco advertisers. They accused the tobacco industry of distorting, confusing and clouding issues of passive smoking and health

The lobbyists tabled strong arguments that the bill was required to curb smoking and tobacco usage in SA, particularly by the youth. Dr Yussuf Saloojee, executive director of the Council Against Smoking, said

Marketers and farmers warn of severe losses

the council believed the bill would make a big contribution to reducing the burden of cancer, heart disease and complications of pregnancy

Dr Amy Seidel Marks, a senior lecturer from the Graduate School of Business at the University of Cape Town, accused tobacco companies of distorting facts to attract the young. "Although the tobacco industry claims it targets only adults with information about its products so that they can make informed choices about its use, the advertising and promotion of cigarettes is so pervasive and omnipresent in society that children and youth are also reached," she said

The Tobacco Institute of Southern Africa, one of the strongest opponents of Zuma's legislation, said the bill and the process of consultation were seriously flawed

► More reports

By Jovial RANTAO

Print media warns of revenue and job losses

Cape Town - Independent Newspapers (Cape) and the Print Media Association of South Africa (PMASA) have called for a review of proposed legislation which would outlaw smoking in public and prohibit the advertising of tobacco products.

In separate submissions to Parliament's portfolio committee on health yesterday, both Independent News-

papers and the PMASA warned that the banning would dramatically reduce the advertising income of newspaper titles and jeopardise jobs in the publishing industry.

Rory Wilson, managing director of Independent News-

papers (Cape) - which publishes the *Cape Times*, the *Cape Argus*, the *Weekend Argus*, and 12 community newspapers - said the focus should be on the content of tobacco advertising rather than banning it completely.

Wilson said Independent Newspapers Holdings would lose about R14.5-million in national advertising revenue. "This would possibly result in the retrenchment of staff because this loss, coupled with current economic conditions, would be a severe setback."

"The knock-on effect would be the reduction in news-



Health Minister Zuma

papers' sizes. This is due to the fact that advertising support determines the size of

(198)

newspapers," he said. Independent Newspapers fully supported the principle of tobacco advertisers not using lifestyle advertising in their communication, but they should be restricted to a "brand-only" approach.

Wilson said he was concerned that the proposed legislation would further restrict the rights of a group of advertisers to promote their products.

"Is there not a danger that the rights of other advertisers in carrying out their lawful business will be prescribed at some other time and under some other pretext?" he asked.

Graham Langmead, executive director of the PMASA, which represents publishers of at least 600 titles, said banning the advertising of tobacco products would be a contravention of the constitutional freedom to conduct business within a market-driven economy.

He said that the PMASA was concerned that interfering with free commercial speech would dramatically affect the publishing industry and print media in South Africa.

Langmead said self-regulation was the worldwide solution, and urged the Department of Health to work together with the Advertising Standards Authority of South Africa to address lifestyle advertising.

Tobacco bill should be put on ice until tested — DP

Wynndham Hartley

CAPE TOWN — The Democratic Party (DP) is to ask Parliament's health committee to put the controversial anti-tobacco bill on ice until its legality has been tested, following a second day of largely uncontested evidence, during parliamentary hearings, that the legislation was unconstitutional.

DP health spokesman Mike Ellis said expert testimony from lawyers and academics on the unconstitutional nature of the bill had been devastating and persuaded him that the bill should be tested

He said the members of the committee had a duty to do this before the bill went any further through the system.

It is understood that while the African National Congress (ANC) members of the committee were determined to ram the bill through Parliament when the hearings began on Monday morning, by last night there was considerable doubt about what the correct thing to do was.

Hugh High, from the department of business law at the University of Cape Town, said the bill was clearly unconstitutional because the state had no compelling evidence to justify an interference

with a constitutionally entrenched right

"It is not sufficient that the state, when tampering with fundamental liberties, show that the intrusion may have a desirable effect; it must show clearly and unambiguously that the intrusion will have the desired effect."

High said there was no evidence that he knew of which would help Health Minister Nkosazana Zuma to prove this. He challenged anti-tobacco lobby claims that tobacco advertising resulted in an increase in consumption.

"Neither the minister nor anyone else can show a clear and convincing relation-

ship between tobacco advertising and total tobacco consumption," High said.

Stellenbosch university academic Gerhard Erasmus said the bill was unconstitutional because of the way in which it tampered with exclusive local government powers and for the way in which it criminalised private behaviour.

He said section 12 of the constitution protected individuals' rights to make decisions and choices without having obstacles placed in their way by the state.

Chris Cox, speaking on behalf of the International Hotel and Restaurant Association, also challenged the contention

that there would be little economic disturbance caused by the legislation. He said the American experience was that huge sums of money were lost in California and New York when a smoking ban in public places was introduced. Smokers dined out less often and spent 40% less time in restaurants. He said more than R20bn and 62 000 jobs were lost as a result of a smoking ban in the US.

The National Party asked for the health department to submit the scientific basis of the legislation. "The committee will begin its deliberations on the bill this morning."

Zuma's anti-tobacco law could cost state R6bn a year

(198) (198)

CT 21/10/98

JOVIAL RANTAO

HEALTH Minister Nkosazana Zuma's proposed ban on smoking and tobacco advertising has been likened to the "obsessive laws enacted by Nazi Germany", and an economist has warned that the ban could lead to a loss of 15 000 jobs and R6 billion a year in government revenue

On the second and last day of public hearings on the Tobacco Products Amendment Bill, P Black of the Corporation for Economic Research, told Parliament's health committee that the tobacco industry's annual contribution to the GDP was over R10bn

Black said his analysis showed that the number of jobs created and supported by the tobacco industry increased from 86 754 in 1995 to 99 489 in 1997.

Tobacco farming and manufacturing supported by far the highest proportion of total jobs (78%), but it was worth noting that some 25% of the total was created in advertising and promotions last year, he said

Leon Louw, executive director of the Free Market Foundation, said Zuma's legislation was similar to the extreme and obsessive laws enacted by Nazi Germany

"I'm not saying this law does all the other things Hitler did, but I am saying laws of this kind are characteristic of authoritarian and totalitarian regimes, and we in South Africa want to be moving towards emancipating and freeing our people, rather than imposing more restrictions on them," Louw said.

His comments drew a strong objection from ANC MP Mtutuzeli Mphahlele, who said the government's policies could not, under any circumstances, be compared to those of Nazi Germany

Keith Gretton, an international adviser to tobacco companies, said a World Health Organisation study on risk factors in heart disease had found no statistical association between smoking and heart disease

Gretton said an attack on smoking in public places and passive smoking might be politically correct, but was not scientifically or legally justified

His submission was later challenged when the Cancer Association

tabled a press release from the WHO, which said claims that it had not been scientifically proved that there was an association between passive smoking and a number of diseases, including lung cancer, were not true

Colin Marais, managing director of Airport Advertising said a ban on tobacco advertising would have "a negative impact on our financial results" South Africa could not afford to offend international visitors who smoke

Earlier, the committee heard appeals from schoolgirls, who appealed for help to stop their colleagues from smoking

Lizelle Barnes and Alana Bolligello, from the Alexander Sinton High School, said smoking had become part of academic and social life in their school

"Many of our peers smoke about 15 cigarettes per day.

"Teachers are trying to combat this problem, but they are limited in their power to do anything due to the shortage of teachers," Barnes said



TOTALITARIAN: Zuma's bill has been criticised

Pros and cons in the Great Tobacco Debate



Health Minister Nkosazana Zuma is in the hot seat this week, facing attacks from the tobacco industry over her bid to ban smoking in public places and tobacco advertising, and from Business SA over proposals to regulate the private health sector.

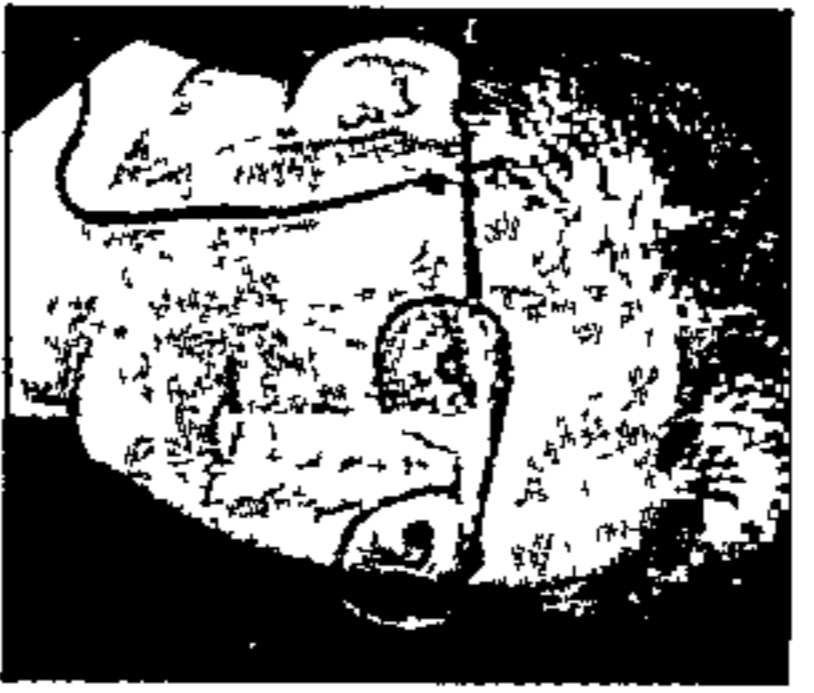
Hearings on proposed anti-tobacco legislation resumed yesterday with a presentation from high school pupils; Free Market Foundation executive director Leon Louw compared the proposed tobacco controls to laws enacted by

Nazi Germany; and a tobacco industry adviser said an attack on smoking in public places and passive smoking might be politically correct, but it was not scientifically or legally justified.

(198) Alan 21/10/98

Proposals likened to laws passed by Nazis

Cape Town - Health Minister Nkosazana Zuma's proposed tobacco controls were similar to the extreme and obsessive laws enacted by Nazi Germany, Leon Louw, executive director of the Free Market Foundation, told parliamentary hearings yesterday.



A measure against freedom ... claims Leon Louw



Non-smoker with an iron fist. Adolf Hitler

It was no coincidence that Hitler had been a non-smoker, he told the portfolio committee on health.

ANC MP Mthuzeli Ntshongane said it was outrageous for Louw to "compare us with Hitler. We are not making a

law that sends people to the gallows. We are making a law that saves a significant portion of our communities."

The Government's policies could not, under any circumstances, be compared to those of Nazi Germany.

Louw said he would not apologise for his statement. At the time when Hitler passed "this sort of law", the free world had been appalled, and had said this sort of measure was not appropriate in a free society.

"I'm not saying this law does all the other things Hitler did, but I'm saying laws of this kind are characteristic of authoritarian and totalitarian regimes, and we want to be moving towards freeing our people rather than imposing more controls and restrictions on them." - Sapa

Puffing is part of many pupils' lives

Cape Town - The parliamentary hearings on proposed anti-tobacco legislation resumed yesterday with a presentation from several Cape Town high school pupils, who said smoking had become part of the academic and social life in their school.

Luzelle Barnes, a Grade 10 pupil at Alexander Sinton High School in Athlone, told the health portfolio committee that almost 40% of her classmates were smokers.

"Many of our peers smoke about 15 cigarettes a day," she said. "Teachers are trying to combat this problem, but they are limited in their power to do anything due to the shortage of teachers since rationalisation took place in education."

According to the Department of Health, one of the main goals of the Tobacco Products Control Amendment Bill, which seeks to ban tobacco advertising and

sponsorships, is to make children less vulnerable to pressures to take up smoking. Barnes said tobacco advertisements presented "a facade that youngsters are ill equipped to unravel".

Classmate Alana Bolligello told the committee that some would argue that smoking was an individual's choice. "But are the youth allowed to make an informed, democratic decision when

smoking is glamorised and portrayed as socially desirable?" she asked. "How free is the decision or choice that the youth is expected to make, when being socially accepted by their peers?" Barnes said after the presentation that "quite a large majority" of pupils at the school smoked. "Some walk around with a cigarette in the school grounds. Sometimes, if a teacher's not in class, they will smoke in class." - Sapa

Campaign politically correct but unjustified, says adviser

Cape Town - An attack on smoking in public places and passive smoking might be politically correct, but it was not scientifically or legally justified, a tobacco industry adviser said yesterday.

Speaking at parliamentary hearings on draft legislation to ban tobacco advertising and smoking in public places, adviser Keith Gretton said a World Health Organisation study on risk factors in heart disease had found no statistical association between smoking and heart disease.

Gretton, who is employed by the British American Tobacco company in the UK, but was brought out to testify at the hearings on behalf of the industry as a whole, said a passive smoker was clearly exposed to much less smoke than an active smoker.

"So if smoking is not associated with heart disease, it is improbable at least that passive smoking is associated with heart disease."

"There has not been a risk established for respiratory diseases from being exposed to environmental tobacco smoke (ETS) at

home or at work." Referring to a 1993 report by the United States Environmental Protection Agency (EPA), which declared environmental tobacco smoke a carcinogen and led to bans on public smoking, he said public health agencies were not above manipulating science to achieve politically correct public-policy goals. In July this year a US

There has been incredible deception

judge had thrown out the EPA report, agreeing that the agency had misled the US public and abused its power to establish smoking restrictions that had no scientific backing. "There has been incredible deception on the part of some agencies that really should know better on the science of ETS

He said the responsible approach to advertising should surely be that, if a product was legal, it should be okay to advertise it in a responsible and controlled way. Tobacco advertising currently provided the Government with the free opportunity to advertise the harmful effects of smoking. It would cost the Government about R30-million a year to replace this opportunity. Mearns also said South Africa was seeking to encourage tourism "and we cannot afford to offend our international visitors who smoke" - Sapa

ANC to ram home Zuma's tobacco laws

BD 22/10/98 (198)

Wyndham Hartley

CAPE TOWN — Health Minister Nkosazana Zuma and the African National Congress-dominated parliamentary health committee are determined to push the Tobacco Products Control Amendment Bill and the Medical Schemes Bill into law, despite charges that the former is unconstitutional and demands for the latter to be processed by the National Economic, Development and Labour Council (Nedlac).

The National Assembly's health committee went through the tobacco bill on an informal basis yesterday and after long delays as the ANC caucused, finally decided that it would vote on the bill tomorrow morning. Given the ANC's majority on the committee, it is certain to be endorsed.

The ANC, the National Party, the Democratic Party and the Pan Africanist Congress have suggested amendments to the bill. The ANC's amendments do not address the concerns which emerged in public hearings.

It also emerged that Zuma was making plans to keep the Medical Schemes Bill before Parliament by dropping key financial clauses which could have rendered it vulnerable to a Constitutional Court challenge.

Meanwhile, Business SA (BSA) has applied for an interdict to stop Parliament from discussing the bill because it has not been before Nedlac. The application will be heard in the Cape High Court this morning.

Zuma has withdrawn the bill and replacement legislation with all the levy implications removed is likely to be reintroduced later today. BSA has modified its application to include any

changed medical schemes legislation in an attempt to forestall the tabling of an amended bill.

Committee chairman Abe Nkomo said there was no truth in the suggestion that the dropping of the financial aspects of the medical schemes legislation for later inclusion in a money bill was a way of trying to circumvent today's ruling. He said it was a technical decision to conform with parliamentary procedure.

Despite pleas yesterday from all opposition parties to hold back the tobacco bill until its legality had been assessed, the ANC pushed ahead with discussions. Nkomo said it was not the committee's job to test each bill before it for constitutionality.

Nkomo asked Mapula Masemola, a state law adviser, to address the committee on the issue of constitutionality. Opposition members and other stakeholders reacted fiercely when she told the committee that "prima facie the bill is constitutional".

Democratic Party MP Mike Ellis said that it was "nonsense" to suggest that the opposition was asking for a constitutional check on all bills. However "this bill has been hammered by legal experts in two days of hearings like no other legislation I have been involved with".

Ellis pleaded with Nkomo and the ANC to spare both the committee and Parliament the damage that would result from the approval of unconstitutional legislation. He said it was absolutely certain that the tobacco bill would go to the Constitutional Court.

The committee is scheduled to begin work on the Medical Schemes Bill after the court ruling is given.

Opposition parties want to 'phase in' Tobacco Bill

(198) ~~CTB~~ 22/10/98

OPPOSITION parties have tabled amendments that if accepted, would force Health Minister Nkosazana Zuma to phase in the Tobacco Products Amendment Bill once it becomes law

The parties have also warned that the draft legislation, which has proposed a ban on tobacco advertising and smoking in public buildings, would be tied up in court should it be the subject of a legal challenge

"If this happens it may be years before anti-smoking measures will be passed by this Parliament," cautioned Democratic Party health spokesperson Mike Ellis

The National Party, the DP and the Inkatha Freedom Party have — during informal discussions on the bill — asked Parliament's portfolio committee to amend the legislation to ensure that a fixed phasing-in period would be included.

The parties are expected to table

the amendments at a formal committee, which will culminate in voting on the bill tomorrow

NP health spokesperson Kobus Gous said other amendments from his party were meant to take out some "unintended consequences" of the bill by making it more specific.

The NP has also proposed that the definition of advertising in the bill should be qualified by saying that prohibited advertisements would be those aimed at people under the age of 18

The NP has also challenged the health department to supply scientific justification for its claim that banning tobacco advertising would reduce smoking among young people

The DP has asked that the bill be withdrawn until its constitutionality has been tested, specifically with respect to freedom of expression. — Own Correspondent

By Pamela Dube
Political Reporter

THE Pan Africanist Congress has taken a sudden shift in support of the tobacco industry, joining the growing opposition to Health Minister Nkosazana Zuma's Tobacco Products Control Amendment Bill.

PAC MP Patricia de Lille yesterday joined forces with the Democratic Party, saying the Bill was unconstitutional. She urged the portfolio committee on health to suspend discussions until the court's pronouncements on its constitutionality.

While saying the PAC supported the Bill in principle, De Lille said "I'm not convinced that it is consistent with the Constitution."

She took a swipe at Zuma, saying the proposed legislation "is too draconian and relies too heavily on

PAC joins opposition to Zuma's tobacco Bill

restrictions and controls. Dr Zuma has good intentions but continually tries to realise them in a heavy-handed way."

The tobacco industry has threatened to take Zuma to court on the Bill. DP MP Mr Mike Ellis said legal opinion was that the proposed legislation "disregarded the rights, values and principles of all citizens" as enshrined in the Constitution.

Ellis said while the objectives of the Bill were laudable, the DP was of the

view that "it would be a folly to allow a Bill to be passed in Parliament knowing that in its present form it is the subject of constitutional challenges."

The African National Congress, on the other hand, remained steadfast in its support of the Bill.

The committee's chairman, ANC MP Dr Abe Nkomo, dismissed the proposal to suspend the Bill and said "Does it mean we will have to take every Bill to constitutional lawyers before discussing it?"

The Department of Health has also maintained that the state's legal advisers have endorsed the Bill as being consistent with constitutional obligations.

Zuma and health experts have argued that smoking is a health risk - which in most cases results in sudden death.

Statistics show that smokers and passive smokers are at a high risk of lung and throat cancer and cardiovascular diseases.

However, the National Party and Inkatha Freedom Party argued that these statistics had not been scientifically obtained. IFP MP Dr Ruth Rabinowitz cautioned about the argument that "there is no proof that passive smoking is harmful to children, or any other person other than a smoker".

The NP's Mr Kobus Gous suggested that the Government first commission scientific researches on

● The impact of tobacco advertising on the youth and how it will lower the incidence of smoking among the youth.

● The impact of passive smoking on the incidence of lung cancer and heart disease, and

● A study to indicate what the effects of a total ban on tobacco advertising would have on the economy, job creation, job losses and sports sponsorships.



Parties call for gradual phasing-in of tobacco law

(198)

Star 22/10/98

BY JOVIAL RANTAO
Political Correspondent

Cape Town - Opposition parties have tabled amendments which, if accepted, would force Health Minister Dr Nkosazana Zuma to phase in gradually the Tobacco Products Amendment Bill, once it is approved by Parliament and becomes law.

The parties have also warned that the draft legislation - which has proposed a ban on tobacco advertising and smoking in public - would be tied up in legal proceedings should it be the subject of a court challenge.

"If this happens, it may be years before anti-smoking measures will be passed by this Parliament," cautioned Democratic Party health spokesperson Mike Ellis.

The National Party, the DP and the Inkatha Freedom Party have - during informal discussions - asked Parliament's portfolio committee to amend the legislation to ensure that the fixed phasing-in period would be included.

The parties are expected to table the amendments at a formal committee meeting which will culminate in voting on the bill, also fiercely opposed by the tobacco industry and media interests.

NP health spokesperson Dr Kobus Gous said other amendments from his party were meant to take out some "unintended consequences" of the bill by making it more specific.

The NP has also proposed that the definition of advertising in the bill be qualified by saying that prohibited advertisements would be those aimed at people under the age of 18.

The NP has also challenged the health department to supply scientific justification for its claim that banning tobacco advertising would reduce smoking among young people.

The DP has asked that the bill should be withdrawn until its constitutionality has been tested specifically with respect to the freedom of expression.

Said Ellis "We accept that the objectives of the bill are laudable

We share the view put forward by many of the presenters that it would be folly to allow a bill to be passed by Parliament knowing that in its present form it is to be the subject of constitutional challenges, and also that legal opinion suggests that the challenges are likely to be upheld by the courts."

Pan Africanist Congress MP Patricia de Lille said her concern was that the legislation was too draconian and relied too heavily on restrictions and controls.

"The PAC favours a more gradual approach which would not cause major and sudden economic disruption for our country and its immediate neighbours, the Southern African Development Community," De Lille said.

The ANC national health committee, in a submission, has expressed support for the legislation and accused tobacco companies of targeting Third World countries such as South Africa to increase tobacco consumption.

► **Tobacco bill debate**

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Smoking guns for David

(198) Nov 22/10/98

Tobacco Bill debate: both sides present powerful arguments

By JOVIAL RANTAO
Political Correspondent

It's almost like the biblical battle between David and Goliath, only this time it is not clear whether David will emerge as the victor

The often robust debate on whether tobacco advertising and smoking in public places should be banned - brought on by the tabling in Parliament of the Tobacco Products Control Amendment Bill which proposes the ban - has pitted the health sector (David) against the might of the tobacco marketing industries and the media

At the public hearings hosted by Parliament's Health Committee, academics, some from the same institutions, squared up against each other. They looked at the same statistics and research and interpreted them differently. Allegations of deceptions, cover-ups, smokescreens, suppression of information and of Cosatu-affiliated trade union leaders being flown by tobacco companies to oppose legislation by an ANC Cabinet minister flew thick and fast.

It was pointed out that after failing to win the battle in Europe and other countries, tobacco conglomerates were now targeting South Africa and other poorer countries to keep their industry alive

In Parliament this week, the tobacco industry employed the best legal minds money can buy. They were ably assisted by experts from all over the world, armed with reams of research from the United States, Australia, the United Kingdom and Canada, designer suits and foreign accents

For close to 40 hours, MPs were bombarded with a flood of statistics on how many millions would be lost to the economy and how many jobs would be lost and even the threat Dr Nkosazana Zuma's legislation would be to the tourism industry

The tobacco industry said if approved, the legislation would lead to millions in rand losses to the industry and job losses in, amongst others, the tourism industry

The Tobacco Products Control Amendment Bill, they strongly argued, would make it illegal for the national rugby team to use the name "Springbok", because it was also a tobacco trademark

It would lead to the end of the multi-million rand Rothmans Cup, one of the most prestigious competitions in soccer, the number one sport in South Africa. Coastal cities such as Durban could stand to lose R800-million per year from events such as the popular Gunston 500, which will be

banned if the bill becomes law.

United States hamburger giant McDonald's would be prevented from using their trademark, which was also registered in South Africa as the trade mark of a Canadian tobacco company The Food and Allied Workers Union, the Cosatu affiliate which has emerged as an unlikely bedfellow, with other opponents, against Zuma, said a total ban on tobacco advertising would lead to a huge loss of jobs

The Tobacco Institute of Southern Africa (TISA), one of the strongest opponents of Dr Zuma's legislation, said the bill and the process of consultation was seriously flawed

TISA asked the committee to consider whether a total ban on all communication on tobacco, even between members of the tobacco trade and

adult consumers, was constitutional and whether the total ban on smoking in all public places is constitutional, reasonable, practical and enforceable.

In response, the health and anti-tobacco lobby tabled spine-chilling statistics and heart-rendering stories about how tobacco would kill as many people as those killed by the Aids pandemic

Dr Yusuf Salojee, executive director of the Council Against Smoking, warned unless smoking behaviour changed, worldwide deaths from tobacco would increase from the current 3,5 million to 10 million annually by the year 2025, "with 70% of these future deaths occurring in the poor nations of the world, where the already overburdened health services are unprepared for this coming epidemic"

"The World Health Organisation estimates that by 2025, that is over the next 27

GRAPHIC JASON ASKEW



years, about 500-million people worldwide will die of tobacco-related diseases. That is a numbing figure. That is the death toll from World War II every three years for 27 years. That is Bhopal every two hours for 27 years. That is the Titanic every 43 minutes for 27 years. That is a Sharpeville for every minute for 27 years. Bhopal and the Titanic were accidents. Tobacco deaths are not," Dr Salojee added

There was silence in the Old Assembly Chamber in Parliament when 57-year-old Masi Mbasu, who is dying from lung cancer, told the committee that, as a 17-year-old, he was attracted to smoking by an advert that portrayed a smoker as a strong man. "I started to smoke 'Boxer' because I wanted to be as strong as the man in the advert so my picture would be in the news-

papers. When I'm coming strong in Cape Town said.

Twenty-four Johannesburg but has lost his voice to cigarettes, tale.

He his mouth into ing it up again, I have to burp up

On October Woeist was his vocal chords, cigarettes a day a laryngectomy. So emotional

David, Goliath

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SON ASKEW



any amount of money yielded by the tobacco advertising

On the second and last day of public hearings, Professor P Black, from the Corporation for Economic Research, told Parliament's Health Committee that studies showed that the tobacco industry's total annual contribution to the GDP was over R10-billion

Black said his impact analysis of the tobacco industry on the South African economy showed the number of jobs created and supported by the tobacco industry increased from 86 754 in 1995 to 99 489 in 1997

"While tobacco farming and manufacturing supported by far the highest proportion of total jobs (78%), it is worth noting that some 25% of the total were created in the expenditure-induced sector in 1997," he said

The Print Media Association, (PMASA) which represents publishers of at least 600 titles, said banning advertising of tobacco products would be a contravention of the constitutional freedom to conduct business within a market-driven economy The organisation said the bill was not about smoking, but about freedom of expression.

"The loss of income from tobacco advertising will result in a considerable reduction of income for the Tobacco Advertising Research Foundation. The foundation conducts qualitative research which assists the whole of the marketing and communications industry

The research ensures the rands spend on advertising are 'bullseyed' and not wasted Such research would have to be curtailed, the information dramatically reduced and the end result could be wasteful advertising rands," said Graham Langmead, executive director of the PMASA

He said the PMASA was concerned that a domino effect on the banning and interference in the rights of free commercial speech are going to dramatically affect the publishing industry and print media in South Africa.

While it remains unclear whether the two opposing factions will ultimately agree on the bill, it has become increasingly clear that its passage, like that of two other bills piloted by Zuma, will be delayed by the court action instituted by the financially strong tobacco industry.

It would seem that no matter how many stones David has in his sling, the Goliath that is the tobacco industry will take some time and loads of money to fall, if it ever does

people worldwide diseases That is is the death toll every three years for 27 every two hours for every 43 min- is a Sharpeville for Bhopal and the Tobacco deaths are

the Old Assembly when 57-year-old from lung can- that as a 17-year-smoking by an ad- as a strong 'Boxer' because I the man in the ad- ld be in the news-

papers When I discovered that I wasn't becoming strong I tried to stop but could not," Mbasa, a breadwinner from Khayelitsha in Cape Town said

Twenty-four hours earlier, former Johannesburg bus-driver Dennis Woest, who has lost his voice because of his addiction to cigarettes, delivered a heart-rending tale

He communicates by pushing air from his mouth into his oesophagus, and bringing it up again, like a burp. "You could say I have to burp up speech," he explained.

On October 27 1989, when he was 49, Woest was diagnosed as having cancer in his vocal chords. He had smoked 20 to 30 cigarettes a day for 33 years He had to have a laryngectomy

So emotional has the exchange been,

and so strong do the parties feel about their respective positions, that the Zuma legislation was compared with the extreme and obsessive laws enacted by Hitler in Nazi Germany Representatives from the tobacco industry were repeatedly asked whether profits took precedence over the health of their children.

At the heart of the exchange between Government and the tobacco companies is the survival of the R10-billion-a-year industry which the companies, tobacco farmers fear, will be annihilated.

An economist has warned that the ban would lead to a loss of 15 000 jobs and R6-billion annually to Government revenue. Anti-tobacco lobbyists have warned that the cost to the economy of nursing victims of tobacco addiction would be higher than



Zuma's Bill set to take heavy flak

Sowetan 23/10/98

By Ido Lekota

CONTROVERSY surrounding the Tobacco Products Control Amendment Bill, which bans the advertising of tobacco products is set to reach fever pitch today when the parliamentary health committee votes on the legislation.

The Bill also prohibits smoking in public places such as restaurants and the workplace - with a fine of up to R200 for anyone contravening the ban. It also makes it a criminal offence to sell cigarettes to persons under 18 and those doing so could be fined up to R10 000.

Already opposition parties, espe-

cially the Democratic Party and Pan Africanist Congress, have questioned the Bill's constitutionality.

However, the African National Congress is expected to ride the storm and use its majority in the committee to push the Bill through.

Strange bedfellows

The architect of the Bill, Health Minister Dr Nkosazana Zuma, has suffered scathing attacks from the tobacco industry and its allies.

Ironically, the Bill has also created strange bedfellows with the tobacco industry and the Congress of South African Trade Unions-affiliated Food and Allied Workers Union on one side

Their main criticism is that banning tobacco advertising will lead to a drop in cigarette sales, resulting in job losses.

Zuma has argued that the major contribution the tobacco industry has made to the economy is in the form of health costs.

Smoking, Zuma has argued, also contributes to loss of productivity as sick people stay away from work.

If the Bill is passed, she has said, those currently buying cigarettes might use the money to buy other goods or services, eventually creating new jobs.

The main objective of the Bill, according to Zuma, is to protect chil-

dren from the onslaught of tobacco companies which are targeting them to expand their market.

During public hearings in Parliament on the Bill this week, experts speaking on behalf of the tobacco industry argued that there was no scientific proof linking smoking to lung cancer.

Economic implications

Parliament was also told that the ban would cost 15 000 jobs and R6 billion annually in Government revenue.

The Corporation for Economic Research also said the tobacco industry was contributing at least R10 billion to the Gross National Product, and there-

fore had serious economic implications for the country.

The Tobacco Institute of Southern Africa has also questioned the constitutionality of banning all tobacco advertising and whether the total ban on smoking in public places was reasonable, practical or enforceable.

Another concern has been the impact the ban will have on sport sponsorship. Zuma has said that, if passed, the law will be phased in. This will give sports organisations the opportunity to look for alternative sponsors.

The DP has warned that legal expenses will cost the taxpayer between R7 million and R10 million if the Bill becomes law.

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Pro-smoking lobby fails in High Court

By Ido Lekota

23/10/98

BIG business' attempt to derail Health Minister Dr Nkosazana Zuma's plan to increase private sector participation in the provision of basic health services suffered a major blow yesterday

Judge Deon van Zyl dismissed an application in the Cape High Court by Business South Africa to block the passing of the Medical Schemes Bill, which it wanted referred to the National Economic Development and Labour Council before being considered by Parliament

The Bill is aimed at expanding access to medical aid schemes, especially for the elderly and sickly, who currently tend to be excluded because they are regarded as high risks

The parliamentary health portfolio committee is expected to vote on the Bill today

According to the Bill, when admitting a member and his or her dependants, the medical aid scheme cannot determine contributions on the basis of their age, gender, past or present health status

Restructuring

The basis of the Bill is that old and sickly members will be cross-subsidised by the young and healthy

In his ruling Van Zyl said Nedlac was obliged to consider "all significant changes to social and economic policy" before they were introduced in Parliament

He also agreed that the restructuring of social health and medical schemes would have important socio-economic consequences

However, he said Zuma, who was cited as the first respondent by BSA, was not legally bound to submit such legislation to Nedlac

During the discussion of the Bill at a health committee meeting in Parliament yesterday, health director-general Dr Ayanda Ntsaluba said the proposed legislation was aimed at stopping the medical aid schemes' practice of "dumping old and sick previous members on to the public health sector"

According to the Bill any medical aid member who received basic health services from a public hospital must remunerate the public sector for the services rendered

Health group blows smoke in the face of opposition

Dr Zuma's 'heavy-handed' anti-tobacco bill looks set to stub SA into cigarette-free zone



CUTTING DOWN, the proposed bill restricts smoking in public places and bans tobacco advertising

Picture: HANNES THIAR

ESTELLE RANDALL

The controversial Tobacco Products Control Amendment Bill was approved by Parliament's portfolio committee on health yesterday despite tough opposition, including threats of Constitutional Court challenges.

This paves the way for the bill to be debated by the National Assembly on November 5 and, if approved, signed into law.

The bill, already passed by the National Council of Provinces, restricts smoking in public and work places, bans tobacco advertising, promotion and free distribution of tobacco products, and restricts sale of tobacco products to those older than 16 years.

The Government will also regulate the tar and nicotine content of tobacco products. Those who contravene the new regulations will face stiff penalties which could include imprisonment.

The bill provides for a phasing in of the new provisions and the phasing out of existing sponsorships

In public hearings this week critics warned the committee that the advertising ban was unconstitutional and the Freedom of Commercial Speech Trust said it would challenge the bill in the courts.

After the bill was approved yesterday, Tobacco Institute chief executive Edward Shalala criticised the African National Congress for not seriously considering submissions made to the committee during four days of public hearings but said there were no immediate plans to challenge the bill in the courts.

"We'll wait until it's gone through the National Assembly," he said.

Mr Shalala also ruled out any immediate approaches to consult Health Minister Nkosazana Zuma on when the advertising ban would be phased in.

The Food and Allied Workers' Union (Fawu) said it planned to meet the Government before the bill went to the National Assembly.

Katisho Masemola, Fawu's economic coordinator, said the union would not seek to delay the bill through court challenges because it

wanted to retain "constructive engagement".

Abe Nkomo, the health committee chairman, said he was satisfied with the process of approving the bill.

"If there are court challenges, so be it. Let's see what happens, whether the bill will pass the scrutiny of eminent judges," he said.

Dr Nkomo said the bill brought to fruition some of the health policy matters which had been on the ANC's agenda since 1992.

Ray Mahope, the Health Department's chief director of national health systems, said he believed the bill would stand the test of constitutionality.

"There is no clause which is overtly unconstitutional," he said.

He added that Dr Zuma was open to further consultation with stakeholders on specific regulations in the bill, including issues of sponsorships, smoking in public places and the ban on tobacco advertising.

During this week's public hearings, the tobacco industry and advertising companies suggested that advertising be restricted to pro-

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hibit "lifestyle advertising", which promotes the association of tobacco with wealth, success and happiness.

They also warned that thousands of jobs would be shed as a result of the bill's stringent provisions. Similar warnings were voiced by the tobacco industry when the Government introduced strict regulations on tobacco advertising in 1995.

Fawu, which supported proposals that tobacco advertising should be restricted rather than banned, suggested that more research be done into the effect the bill would have on employment in the industry.

However, University of Cape Town academic Iraj Abedian, who has headed a two-year study into the economics of the tobacco industry in South Africa, argued that job losses would be minimal.

"In South Africa about 30% of people are addicted to tobacco and won't give up smoking, so the manufacture will continue.

"The bill is aimed at curbing future consumption and we are only likely to see the effect in the next generation - over a 20-year period."

Professor Abedian cited anti-tobacco campaigns in the United Kingdom and Norway, where the effects on the tobacco industry were felt only 18 to 28 years later.

Although official statistics showed a 20% drop in cigarette consumption in South Africa in the past five years, this had not been matched by a decline in the industry.

"Instead, profits increased - despite government imposed health warnings on cigarette packets and tobacco advertising and the drop in cigarette consumption."

About 30 000 tobacco industry jobs had been shed in the past 20 years, but this had resulted from increased tobacco imports and increased automation of the industry.

Although South Africa featured among the world's top 10 cigarette manufacturers, most cigarette production were for local consumption, with less than 5% destined for export, said Professor Abedian.

Countries in southern Africa from which South Africa imported tobacco - such as Zimbabwe - would also have time to adapt, he believes.

Opposition parties yesterday also warned of the dangers of the bill being held up in court challenges if it retained its stringent prohibitions on tobacco advertising.

The Democratic Party asked that the bill be withdrawn until its constitutionality had been tested, specifically with respect to the freedom of expression.

"We accept that the objectives of the bill are laudable," said DP health spokesman Mike Ellis, "but it would be folly to allow a bill to be passed by Parliament knowing that it is to be the subject of constitutional challenges and also that legal opinion suggests that the challenges are likely to be upheld by the courts."

Pan Africanist Congress MP Patricia de Lille said the legislation was too draconian and relied too heavily on restrictions and controls.

"Dr Zuma has good intentions but tries to realise them in a heavy handed way.

"The PAC favours a more gradual approach which would not cause major, sudden economic disruption for our country and its immediate

neighbours, the Southern African Development Community," said Ms De Lille.

The Inkatha Freedom Party called for advertising to be restricted to "product information" only and for tobacco sponsorships of sport and culture to be allowed to continue.

ANC members of the health committee rejected proposals to water down the ban on tobacco advertising by limiting it to "lifestyle" adverts, radio and TV adverts, and restrictions on the size and placement of print and billboard adverts.

Instead, they closed a loophole which could have allowed generic tobacco advertising, and made other minor amendments - such as allowing people to wear clothing with tobacco logos without fear of prosecution if the intention was not to promote tobacco products.

Other amendments were aimed at giving the courts the right to determine penalties for contraventions of the legislation and enabling the health minister to regulate exemptions for "unintended consequences".

Tobacco bill gets nod of health committee

(198) *STW 24/10/98*

Cape Town - A bill to ban all tobacco advertising and sponsorship, and prohibit smoking in the workplace, was approved by Parliament's health portfolio committee yesterday. It will be debated in the National Assembly on November 5, and will then require only the signature of President Mandela to become law.

The bill has been fiercely opposed by the tobacco industry, media and advertising groups, and some unions, and is likely to be challenged on the basis that it is unconstitutional.

The portfolio committee approved the bill with only minor amendments. It will allow the courts to impose a fine of up to R200 or "such penalties as may be determined" for smoking in the workplace or other public places, and sets a fine of up to R200 000 for breaching the ban on advertising.

The Tobacco Action Group commended the health committee for approving the bill. Rejecting claims that it was unconstitutional, the group said the Bill of Rights sought to protect political, cultural and religious speech, not speech promoting the use of a harmful product.

The bill "promoted health and sustainable economic development, and made no infringements on liberty beyond what was acceptable in a democratic society" - Sapa

Tobacco bill opponents huff and puff for justice

By ZOLILE NQAYI

(198)

THE CONTROVERSIAL and fiercely opposed Tobacco Bill was this week approved by Parliament's Health Portfolio Committee

The bill criminalises smoking in public places and seeks to ban tobacco sponsorship and advertising

Opponents of the bill are now likely to take it to the Constitutional Court. They contend that it is unconstitutional as it hinders personal choice and contravenes the Bill of Rights' clause on freedom of choice

The Freedom of Commercial Speech Trust has indicated that should the bill become law, it will challenge it

The bill, opposed by groups of interests that include the tobacco industry, sections of organised labour

and the media, will now be debated in the National Assembly on November 5

Fines of up to R200 or a possible jail sentence will be imposed for smoking in public places or in the workplace and a fine of up to R200 000 for breaching the ban on tobacco advertising.

The health portfolio made minor changes to the bill. One of these will permit people to wear clothing with tobacco logos without fear of prosecution

Business SA's (BSA) court action that Health Minister Nkosazana Zuma should have referred the matter to the National Economic, Development and Labour Council (Nedlac) first, was rejected

Judge Deon van Zyl said there was no law that compelled the Min-

ister to consult Nedlac

BSA has indicated that it will appeal the decision

The bill was passed despite strong opposition from the National Party, Democratic Party, Freedom Front and the PAC

Edward Shalala, chief executive of the Tobacco Institute of Southern Africa, said the bill was bulldozed through, even though most of the organisations which attended the public hearings were opposed to it

"It appears the ANC never considered these submissions seriously. Not only did the Committee approve the bill without the benefit of a single piece of evidence from the Health Department and the Ministry to justify it, but it went further and made amendments which have made the bill more draconian"

CP 25/10/98

Light-up at end of tunnel as Zuma agrees tentatively to pass laws for smokers

JOVIAL RANTAO
PARLIAMENTARY BUREAU

TOURIST and hospitality venues may be excluded from the ban on smoking in public places proposed by Minister of Health Nkosazana Zuma

talty Association of South Africa (Fedhasa) that these places be excluded from the definition of "public places" in the Tobacco Products Amendment Bill

In its request, Fedhasa listed hotels, bed and breakfasts, guest houses, game lodges, restaurants, clubs, taverns, shebeens, pubs, cigar bars, conference centres, and gambling and gambling establishments

It argued that the tourist and hospitality industry be allowed to accommodate smokers, but that it should also be required to make special provisions to protect the rights of non-smokers

It suggested that specific criteria be set down by law to ensure the acceptable segregation of smokers and non-smokers

The Tobacco Products Amendment Bill, which had already been approved by the National Council of Provinces, was the more contentious of the two controversial pieces of legislation passed by the portfolio committee on health on Friday. The other was the Medical Schemes Amendment Bill

Both pieces of legislation were opposed by the National Party, the Democratic Party, the Freedom Front and the Pan-Africanist Congress

The tobacco bill is to be debated by the National Assembly on November 5, when the ANC is expected to use its majority to steamroller it through

However, the bill faces strong challenges in the courts

The court actions are likely to delay its implementation once it has been signed into law by President Nelson Mandela

The Freedom of Commercial

Speech Trust, a vehement opponent of the Tobacco Products Amendment Bill, which it says is unconstitutional, is also to launch a court challenge

Its chairperson, Neil Jacobsohn, said the trust was deeply disappointed that — even after widespread and strenuous opposition at the public hearings — Zuma had ignored the "many voices of reason"

It had argued that the legislation was unconstitutional and would have a harsh effect on the economy

The Tobacco Products Amendment Bill is the third of Zuma's bills to be challenged in court

The others — the Medical Substances Amendment Bill and the Medical Scheme Bill — have been challenged in the courts by big business

CT 26/10/98

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(198)

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"We made our position perfectly clear," Jacobsohn said

"We were mandated by our members to take legal action should the bill become law

"We will start briefing our legal team to challenge this flawed and ill-conceived legislation"

The Tobacco Institute of Southern Africa has accused the ANC of ignoring submissions made during the public hearings

Tourist areas may yet escape smoking ban

Star 26/10/98 (288) (198)

Govt sources reveal Zuma may yield to industry submissions

By JOVIAL RANTAO
Cape Town

The lucrative tourist and hospitality sector, including hotels, restaurant, shebeens, pubs, and gaming and gambling organisations, might be excluded from the ban on smoking in public places as proposed by Health Minister Dr Nkosazana Zuma

Sources in the Department of Health told The Star that Zuma and her advisers had tentatively agreed to a proposal from the Federated Hospitality Association of South Africa (Fedhasa) to exclude tourist areas from the ban outlined in the Tobacco Products Amendment Bill

Fedhasa has requested Zuma to exclude hotels, bed-and-breakfasts, guest houses, game lodges, restaurants, clubs, taverns, shebeens, cigar bars, conference centres, gaming and gambling establishments and pubs from the definition of a "public place", as set out in the bill

One of Fedhasa's proposals argues that the tourist and hospitality industries should be allowed to accommodate both smokers and non-smokers by conforming to specific criteria in the regulation that ensures "regulated, effective, practical and acceptable segregation and the protection of the rights of non-smokers"

The bill, the most contentious of the two controversial pieces of legislation passed by Parliament's health committee on Friday, is set to be approved by the National Assembly, but faces strong challenges in the courts

The ANC is expected to use its majority on November 5, when the bill will be debated by the National Assembly, to steamroll it through

The bill will be sent to President Nelson Mandela for his signature but its implementa-

Tobacco lobby vows to launch legal attack on bill

tion is likely to be delayed by court action

The bill - which prohibits smoking in public places and bans tobacco advertising and sponsorships - was, alongside the Medical Schemes Amendment Bill, passed by the committee. This was done despite opposition from the National Party, the Democratic Party, the Freedom Front and the Pan Africanist Congress

The Freedom of Commercial Speech Trust, one of the strongest opponents to the bill, which has argued that the draft

legislation is unconstitutional, has announced that it would launch a court challenge against the bill

Trust chairman Neil Jacobsohn said the organisation was deeply disappointed that, even after much opposition and the tremendous outcry from so many diverse parties during public hearings, Zuma had chosen to ignore "many voices of reason"

"We made our position perfectly clear," said Jacobsohn. "We were mandated by our members to take legal action should the bill become law. And we will now start the processes of briefing our legal team to challenge this flawed and ill-conceived legislation."

The bill has already been passed by the National Council of Provinces, and will be debated by the National Assembly on November 5.

The Tobacco Institute of Southern Africa, which has maintained that the legislation is unconstitutional and will have a harsh impact on the economy, has accused the ANC of ignoring submissions made during the public hearings.

The bill will be the third piece of legislation from the controversial health minister to be challenged in courts

The Medical Substances Amendment Bill and the Medical Scheme Bill have both been challenged in the courts by big business



Waiting for work: Ernest Khethelo, right, and colleagues outside SA Breweries in Newlands. They can wait for more 10 hours in heat or rain for casual work

'Thousands of jobs at stake' / Mandela bound for Nigeria

(198) ARG 28/10/98

ARGUS CORRESPONDENT AND SAPA

Johannesburg - It is ironic that the Government is pushing ahead with the Tobacco Products Control Amendment Bill which would cost thousands of jobs, while holding the Job Summit to increase employment, say the Federated Hospitality Association of SA and the Freedom of Commercial Speech Trust

Fedhasa's acting executive director Peter Cumberlege said the bill would have a serious economic impact

on the hospitality industry, one of the few that could reduce unemployment

Freedom of Commercial Speech Trust executive director Piet Delpont said provisions banning tobacco advertising would drain the economy of about R400-million a year

The ban on sports sponsorships would mean the cancellation of the Rothman's July and the Gunston 500, unless other sponsors were found. If cancelled, the KwaZulu Natal economy would lose about R800-million in tourism money

Johannesburg - President Mandela will not attend Friday's Presidential Jobs Summit as he will be on a state visit to Nigeria, government officials said today

A spokesperson in the presidential office confirmed this

A Labour department spokesperson said President Mandela would open the conference using a video-taped message

Some six hundred delegates are expected to attend the summit, which will seek ways to address the coun-

try's chronic unemployment problem where more than a fifth of the population is out of work

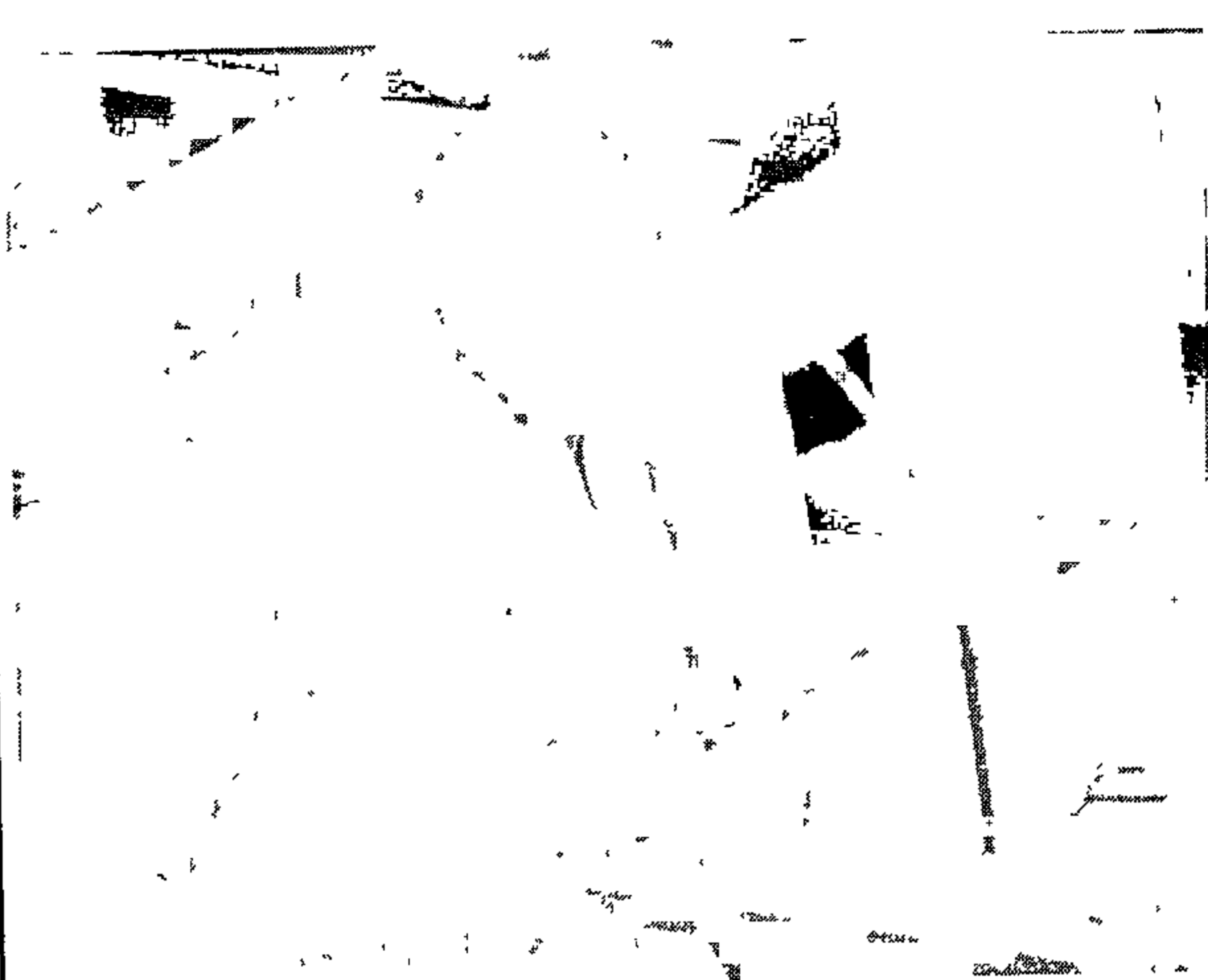
The President travels to Nigeria tomorrow after receiving the report of the Truth and Reconciliation Commission

President Mandela is due to talk with Nigerian ruler General Abdulsalam Abubakar on regional and continental questions. General Abubakar has led Nigeria since the death of former military ruler General Sani Abacha on June 8 - Reuters

MANUFACTURING - TOBACCO

1998

NOV. - DEC



Health Minister Nkosazana Zuma addressed the National Assembly yesterday on the Tobacco Products Control Amendment Bill. Picture TYRONEARTHUR

ANC stands alone on smoking policy

Zuma's controversial tobacco bill appears to be headed for the Constitutional Court

(198) BD 4/11/98
Wyndham Hartley

CAPE TOWN — Health Minister Nkosazana Zuma produced smoking heavyweights, and recently reformed smokers from the cabinet to support her tobacco bill, but the African National Congress stood alone in support for a bill apparently destined for the Constitutional Court

Sport Minister Steve Tshwete, who smokes a pipe, and Water Affairs Minister Kader Asmal, who recently stopped a 50 cigarette a day habit, both spoke in support of Zuma's Tobacco Products Control Amendment Bill during the second reading debate in the National Assembly yesterday. It was a clear move to try and rebut suggestions that there have been differences of opinion in the cabinet.

Zuma, supported by Tshwete, accused opposition politicians of representing "commercial interests" and expressed the hope that they would support "the right of our children not to be victims of an addictive product." She said that this was the beginning of a titanic struggle "be-

tween us and those who profit from the substance tobacco"

Inkatha Freedom Party MP Ruth Rabinowitz said her party supported the intentions of the bill. She said that balance and good reason should be reflected in the legislation, a "caring state" and not a "nanny state"

Democratic Party MP Mike Ellis said that he was certain the bill would end up in the Constitutional Court. He said much of the anti-tobacco legislation that had been achieved in the past was due to DP members Marius Barnard and Carole Charlewood and it sincerely wanted to support the bill, but this was not possible.

Pan Africanist Congress MP Patricia de Lille said that all the ANC could do after hosts of representations had been made was to tighten the legislation still further. She said the good intentions of the legislation did not make it lawful.

Asmal called Zuma a remarkable minister and challenged the opposition to do their worst and prove the measure unconstitutional. The National Assembly will vote on it this week.

Tobacco is a dying sector, says Zuma

(198)

LYNDA LOXTON

ETOR 4/11/98
Cape Town — Nkosazana Zuma, the health minister, yesterday strongly defended her move against tobacco advertising and sponsorships, saying that the industry was dying out anyway because it was uncompetitive

Speaking in the national assembly during the debate on the Tobacco Products Control Amendment Bill, Zuma said she had "agonised" over the spectre of job losses in the tobacco industry because of her proposed ban on tobacco advertising, sponsorship and smoking in public areas.

But, she said, the health of the nation was far more important, and statistics indicated that the tobacco industry was in decline

"The number of tobacco farms in South Africa has declined and will continue to decline even if health legislation is not enacted," she said

This was because South African tobacco was more expensive than tobacco from Zimbabwe and Malawi. It was also inferior in quality

As a result, local cigarette manufacturers found it more profitable to import tobacco while unwanted South African tobacco was exported at a loss

Zuma said money not spent on tobacco would go towards other goods and services, "thereby creating new jobs"

The bill was sharply attacked by opposition parties, who said it would be difficult to implement, could be unconstitutional and was an attack on the freedom of speech.

Union urges study on law's effects

(198)
MOTSHIDISI MOKWENA

THE government needs to carry out a study on the economic impact which anti-smoking legislation will have on tobacco industry employees as well as the countries from which South Africa imports tobacco, according to the Food and Allied Workers' Union (Fawu).

The union said that instead of consulting extensively with interested parties inside and outside the country, the government had imported policies based on different economic conditions elsewhere.

Fawu said the regulation of the tobacco industry should be "based on the economic realities that prevail in Southern Africa, which is the world's third-largest tobacco exporting region".

According to Edward Shalala, who represents the interests of cigarette manufacturers and tobacco farmers, the government had used a "cut and paste" method when formulating the tobacco bill.

By taking aspects of equivalent bills from countries such as Australia,

the government had "come up with the strictest, most draconian tobacco bill", he said.

"The bill has made South Africa jump to the top of the list in becoming the strictest country in the world with regard to tobacco legislation."

He added that even the strictest countries had exemptions in its tobacco legislation.

However, South Africa was "following the path of a total and not a partial ban".

Fawu general secretary Mandla Gxanyana pointed out that the government had made no plans to cater for the negative impact which the bill would have on employment not only in this country but in Southern Africa as a whole.

"This will cause substantial decrease in employment. Workers and their dependants in rural areas will be the hardest hit because they have very limited opportunities for re-employment in other areas."

He added that unemployment in the tobacco sectors of Malawi, Mozambique and Zimbabwe could force people to seek economic oppor-

tunities in South Africa.

The president of the Malawi Confederation of Unions, Kenneth Mhango, argued that more than 500 000 Malawians who worked on tobacco farms would lose their jobs if the bill was passed and tobacco production reduced.

"The tobacco bill will be a blow to Malawi. We will suffer serious economic setbacks because 40% of the revenue that is generated by our country comes from the tobacco that is exported to South Africa."

Fawu economic co-ordinator Khatishi Masemola said South Africa was capable of formulating its own tobacco policies in line with the country's economic development.

Tobacco control was a complex issue and a "holistic solution" needed to be found.

The union believed it was possible to achieve the objectives of discouraging the country's youth from smoking and enhancing general awareness of the health risks associated with smoking without the "negative impact" that would result if the bill was passed.

SCATHING EXCHANGES IN HOUSE

Smoking bill approved despite fervent protest

(198) at 5/11/98

PARLIAMENT yesterday decided on where you can smoke, how you can vote for local government and who controls what you are allowed to hear and see. **ANDRE KOOPMAN** reports.

THREE pieces of legislation which will touch the lives of every South African were approved by the National Assembly yesterday

They include the Tobacco Products Control Bill, the Broadcasting Bill and the Local Government and Municipal Structures Bill. Parliament and its committees sat until late in an attempt to approve these and other bills before the National Assembly adjourns tomorrow.

The Tobacco Products Control Bill, which will ban smoking from public places and prohibit tobacco advertising, was passed after a debate characterised by scathing exchanges. It will be referred to the President for signing into law.

All opposition parties yesterday fought last-ditch battles against the bill. The sole exception was Louis Green of the African Christian Democratic Party, which has consistently supported the bill and its feisty champion, Health Minister Nkosazana Zuma.

Green said his party unreservedly supported the bill for moral reasons since it protected the health of children. He commended the minister for her boldness and tenacity in the face of fierce protest "in opposing those who profit from the addiction of others".

For every rand received in tobacco tax, two rand was spent on health care and making up for costs incurred by the economy as a result of sick leave, Green said.

Dr Ruth Rabinowitz of the Inkatha Freedom Party said she opposed the bill with "great sadness".

While she supported the minister's attempts to reduce smoking and prevent the creation of new tobacco



UNDER FIRE: Health Minister Nkosazana Zuma

addicts among the youth, she could not support the bill because it was "unconstitutional".

The Democratic Party's Mike Ellis said that while he supported the bill, he could not agree with the methods used to "rush it through Parliament".

It was "silly" to approve legislation that was regarded as unconstitutional by the "best legal minds in the country" and that was due to be challenged in the Constitutional Court. In the interim the tobacco companies would "make merry" in selling their products, he said.

● The Broadcasting Bill was also approved, with all opposition parties dissenting except the ACDP's Green, who abstained.

Green said that while he welcomed the way the department had responded in accommodating the concerns of Christian radio stations, the additional powers of regulation conferred on Broadcasting Minister Jay Naidoo were "ominous".

Suzanne Vos (IFP) said she "fiercely

opposed" the bill because of the excessive powers of regulation it would give the minister in contravention of the Constitution. Both Vos and Dene Smuts (DP) said the independence of the Independent Broadcasting Authority was seriously undermined by the bill.

It was approved by 213 votes to 110, with two abstentions. It will now be referred to the National Council of Provinces (NCOP).

● The Local Government and Municipal Structures Bill, which provides for a revised framework for local government, was approved by the National Assembly by 216 votes to 111, with two abstentions, and was sent to the NCOP for consideration.

All opposition parties except the Pan Africanist Congress opposed it.

Responding to opposition charges that the bill was unconstitutional, meddlesome and prescriptive, Yunus Carrim, the chairperson of the Constitutional Affairs Committee, said the committee had given "considered attention to opposition views that the bill is unconstitutional".

The committee had "gone to great lengths" in investigating the matter and was "utterly clear that the bill is constitutionally sound".

The committee had spent "excruciating hours" listening to legal and technical objections to the bill, Carrim said. Even if the bill were to be returned by the Constitutional Court, the committee would make technical adjustments but politically it "would not deviate from the central thrust of the bill".

The issue at stake was not the bill's constitutionality but the "nature, scope and depth of transformation" it brought, he said.

● The National Assembly also passed the Demobilisation Amendment Bill, the Labour Relations Amendment Bill and the Cultural Institutions Bill.

MPs sneak last drag as Zuma bill is passed

Cape Town - A handful of African National Congress MPs enjoyed what could be one of their last legal smokebreaks in Parliament yesterday before giving their support to tough new anti-tobacco legislation.

The ANC shrugged aside the concerted opposition of most minority parties and tobacco and advertising industry groups to move the Tobacco Products Control Amendment Bill a step closer to law.

The African Christian Democratic Party was the only opposition group to support the

ANC in the 213-106 vote.

The bill, which will ban tobacco advertising and sponsorship, and criminalise smoking in public places, must still go to the National Council of Provinces for ratification before President Nelson Mandela signs it into law.

Opponents of the bill claim it is unconstitutional, and the Freedom of Commercial Speech Trust has already said it will challenge the measure in court.

When the National Party called for a division yesterday afternoon, and Speaker Dr

Frene Ginwala announced that the bells would be rung for five minutes to summon absent MPs for the vote, Finance Minister Trevor Manuel asked her whether the time could be used for a smoke break.

Several of Manuel's party colleagues, including MPs Salie Manie, Dirk du Toit and Tsediso Ntaopane, hurried out to sneak a quick puff below a nearby flight of stairs, despite the fact that the Parliament has banned smoking in most public areas of the building - Sapa

Star 5/11/98

(198)

Smoke cloud over new Tobacco Bill

(198)

Spekman
5/11/98

By Pamela Dube
Political Reporter

THE CONTROVERSIAL Tobacco Products Control Amendment Bill was passed by Parliament yesterday but with a cloud about its constitutionality still hanging over its head

The Bill received support from only the African National Congress and African Christian Democratic Party

The main opposition parties have maintained that aspects of the Bill dealing with a ban on tobacco advertising were unconstitutional, saying they were inconsistent with Section 6 of the Constitution dealing with freedom of expression

With Parliament's endorsement the only process that can block the Bill from becoming law would be a court challenge by the tobacco industry

After passing the Bill, Speaker Frene Gin-wala instructed that it be sent to President Nelson Mandela to sign into law

Throughout months of accusations and threats of legal action by the tobacco industry and opposition parties - particularly the Democratic Party - Health Minister Dr Nkosazana Zuma remained steadfast in arguing that the health of the nation could not be sacrificed for 'the economic gain of the few'

Zuma's arguments have been supported by court judgments in places such as the United States, which forced the tobacco industry to admit that aggressive advertising had been aimed at hooking schoolchildren on smoking. Western countries have also acknowledged that tobacco is addictive

Zuma has also been supported by research in other countries indicating that smoking and passive smoking caused cancer of the throat and lungs

Opposition parties, while insisting that the Bill's intentions were plausible, have on the other hand stood by the tobacco industry's arguments that such a law could only add to the loss in income and jobs

In any case Zuma has maintained that banning sports sponsorship would not result in teams losing the much-needed financial support

Sports and Recreation Minister Mr Steve Tshwete announced this week that the Government was in the process of locating sources of revenue to fill the gap when the ban is effected 'Sport will not be abandoned in a financial desert. There is absolutely no basis for panic'

The ban has had the support and recommendation of the World Health Organisation and the World Bank "indicating that the measures are prudent in both health and economic terms" Zuma said in Parliament this week

Zuma has said that contrary to the tobacco industry's insistence, their main contribution "to our economy is not jobs and wealth but increased health costs and lost productivity"

Recruit new smokers

She said the fact that the industry spent R240 million on advertising annually was an obvious indication the intention was to recruit new smokers (mainly youths) and maintain those addicted

While opposition parties insisted that many South Africans would suffer financially because of the bans, the statistics showed that where such laws had been passed internationally, job and economic losses had not been severe

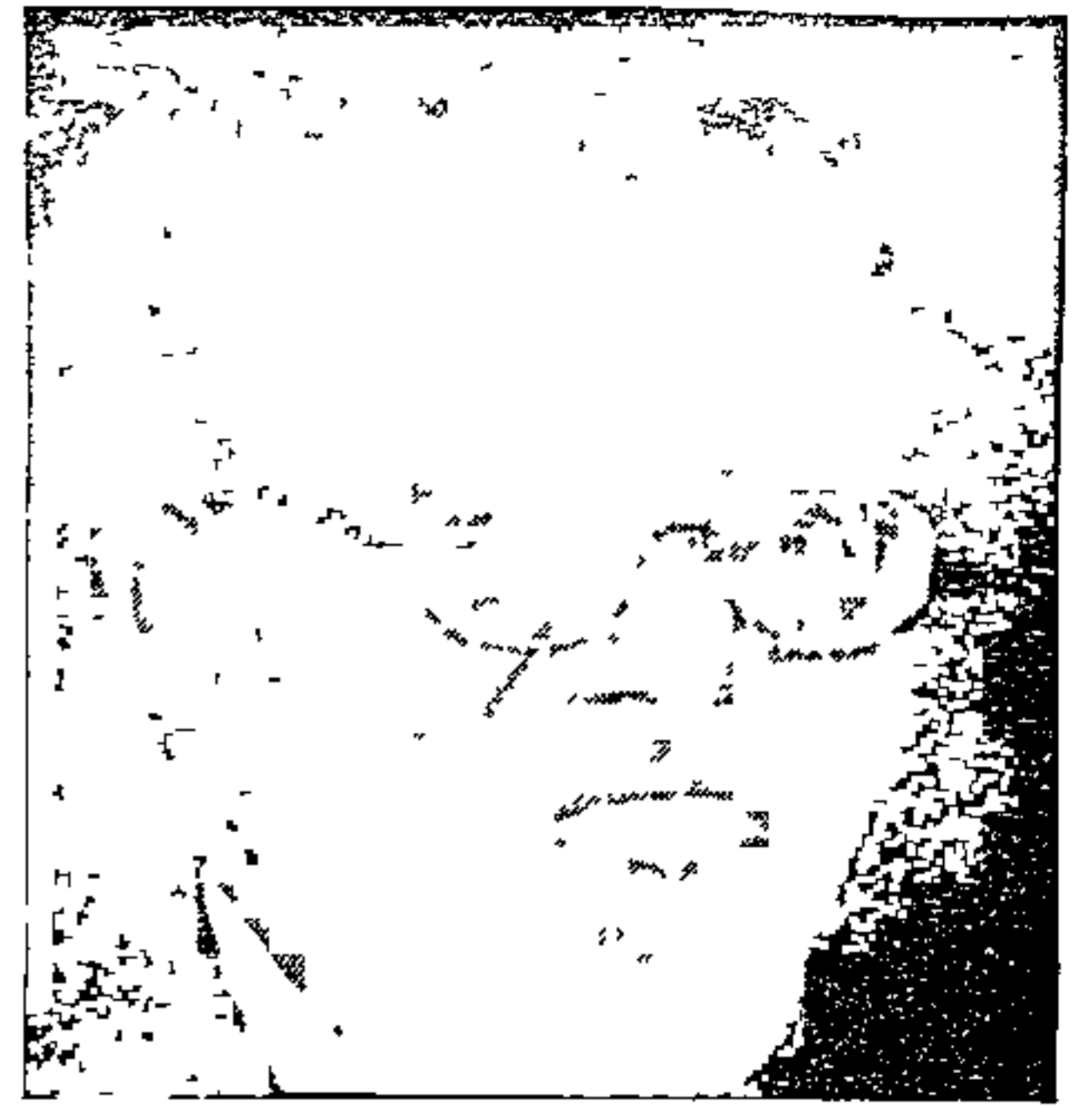
Zuma has throughout assured workers in the industry that the new law will not mean immediate and drastic implementation resulting in massive job losses

Other provisions include

- Prohibiting free distribution of tobacco products, particularly to the youth,

- Regulating smoking in public places, including the workplace. Zuma had, however, had to agree to the amendments suggested by the hospitality industry that public places such as restaurants and hotels provide properly ventilated venues for smoking, and

- Regulation of nicotine and tar levels in cigarettes.



‘We do not have a choice: the marriage must be broken (between sport and the tobacco industry)’

Sports Minister Steve Tshwete



‘After 50 years of tobacco dependency, for months now I have been living healthily, without the cancer stick’

Water Affairs and Forestry Minister
Kader Asmal

Trust asks Mandela not to sign bill

Wyndham Hartley

CAPE TOWN — The Freedom of Commercial Speech Trust has appealed to President Nelson Mandela not to sign the controversial tobacco bill into law and to avoid potentially expensive litigation by having the constitutionality of the legislation checked.

This emerged yesterday after the social services committee of the National Council of Provinces voted seven to nine to approve the changes which the National Assembly had made to the bill.

The bill was introduced in the National Council of Provinces some weeks ago and now requires only the formal approval of the council and the signature of Mandela to become law.

The trust's appeal was delivered to Mandela last week after the National Assembly approved the bill which will eventually ban all tobacco advertising and sponsorships and outlaw smoking in public.

It is almost certain the bill will be challenged in the Constitutional Court if it is signed into law following widespread opposition to it from some political parties, the tobacco industry, the trust and some legal academics during parliamentary hearings.

Edward Shalala of the Tobacco Institute of SA said after yesterday's vote that the institute reserved the right to take whatever action was necessary. The Freedom of Commercial Speech Trust's letter to Mandela is understood to ask him to stop the bill so that another anti-smoking policy can be developed without the possible loss of jobs and money. The trust maintains also that the consultation process preceding the tabling of the bill had been flawed.

The social services committee also approved the Medical Schemes bill and the SA Medicines and Medical Services Regulatory Authority bill.

(198) 10/11/98

W Cape digs in as tobacco bill gets OK

ARC 12/11/98 (198)

CLIVE SAWYER
POLITICAL CORRESPONDENT

The Tobacco Products Control Amendment Bill passed its final parliamentary hurdle today when the final version was approved by seven of the nine provinces in the National Council of Provinces.

It is a matter of speculation when and if the bill, which bans tobacco advertising and event sponsorships - and smoking in "public" places, including hotels, restaurants and pubs - will be implemented, because it appears certain to be challenged in the Constitutional Court.

The bill was opposed by the Western Cape and KwaZulu Natal

Western Cape delegate Neels Ackermann (National Party) said the Government had failed to convince the province that the bill was constitutional.

He said the legislation had been "bulldozed" through Parliament's two houses without adequate consultation and would damage the economy through its negative effect on job creation.

Mr Ackermann challenged the Government to immediately implement the bill, which he said would remove R250-million of advertising from the media.

The bill, initially tabled in the NCOP, was amended by the National Assembly and today's vote was to approve the amended version.

Parliament huffs and puffs in passing tobacco bill

LYNDA LOXTON

PARLIAMENTARY CORRESPONDENT

Cape Town — The national council of provinces (NCOP) yesterday passed the controversial Tobacco Products Control Amendment Bill, paving the way for the end of tobacco advertising worth about R250 million in the media and advertising industry.

The bill was opposed by the Western, Cape and KwaZulu Natal Neels Ackermann, a West-

ern Cape delegate, said the bill was possibly unconstitutional, "unbalanced, draconian and one-sided".

He doubted whether it could be implemented because of the many unintended consequences it would have, especially in criminalising a portion of society. The bill also bans smoking in public places.

Ackermann facetiously challenged the government to implement the ban on tobacco advertis-

ing immediately as there was no mechanism to phase this in as planned. To phase the ban in would be "immoral", as children would continue to be exposed to tobacco advertising, which is what the government claims is the main reason for the bill.

After the bill was passed, Piet Delpoit, the executive director of the Freedom of Commercial Speech Trust, issued a statement warning that the government was also planning "far-reaching

and intrusive" regulations which would affect the liquor industry.

Delpoit said the recently passed Liquor Bill contained a clause that allowed Alec Erwin, the trade and industry minister, and Nkosazana Zuma, the health minister, to determine the content and manner in which public health notices on the manufacture, distribution, sale and consumption of liquor had to be displayed.

"The powers given to the

relevant ministers are extremely wide and are an infringement of the freedom of commercial speech," said Delpoit.

The NCOP also passed a bill aimed at transforming the South African Special Risks Insurance Association (Sasria) into a state-owned company. This will allow the government to use several billion rands from Sasria's reserve to pay off debt.

Parliament adjourned yesterday until February 6

Controversial Tobacco Bills clear the last hurdle

(198)

ET 13/11/98

JOVIAL RANTAO

ON its last sitting day, the National Council of Provinces yesterday approved 14 pieces of legislation, including three controversial bills from Health Minister Dr Nkosazana Zuma.

Despite opposition from the National Party and the Freedom Front, the council passed the Tobacco Products Amendment Bill, the Medical Schemes Bill and the South African Medicines and Medical Devices Regulatory Authority.

The Tobacco Products Amendment Bill, which bans cigarette advertising and smoking in public places, was passed without debate. The bill was sent back to the council for the chamber to approve minor amendments made to the legislation by the National Assembly.

The bill, which faces a flood of court challenges, will now be sent to President Nelson Mandela for his signature.

The Tobacco Institute of Southern Africa (Tisa) said yesterday that in passing the bill, both the council and the National Assembly had dismissed concerns about the constitutionality and the harsh economic consequences of the bill.

"The vast majority of organisations which came to the public hearings opposed the bill and made constructive submissions in an attempt to address the constitutionality of the bill and its harsh economic impact. It appears these submissions were ignored. The tobacco industry has not yet decided whether or not to challenge the bill in the Constitutional Court but reserves its right to do so," said Tisa chairman Edward Shalala.

The Medical Schemes Bill was approved by the NCOP yesterday, over the opposition of the NP and FF, and with Inkatha Freedom Party abstaining.

Neels Ackermann, an NP delegate from the Western Cape, said the new bill would bring medical aid schemes to their knees by mak-

ing medical aid prohibitively expensive.

Ben van der Walt, FF delegate from Gauteng, said easy access to scheme membership and the wide definition of dependants would lead to the collapse of schemes.

Zuma strongly rejected the claims, saying it made no sense to limit dependants to the immediate family of scheme members, because premiums would have to be paid for every dependant.

The South African Medicines and Medical Control Devices Regulatory Bill calls for the establishment of a regulatory body, with which all medical practitioners, including pharmacists, veterinary doctors, homeopaths and herbalists must register the medicines they are dispensing.

The NCOP also approved the Refugee Bill, which makes provision for the granting of "an influx refugee status" whereby a group of people who have fled their country due to political stability are granted group refugee status.

SMART MONEY

Where there's smoke, there's money

The furor about the new anti-smoking legislation is not about individuals' rights, argues Michael Metelits

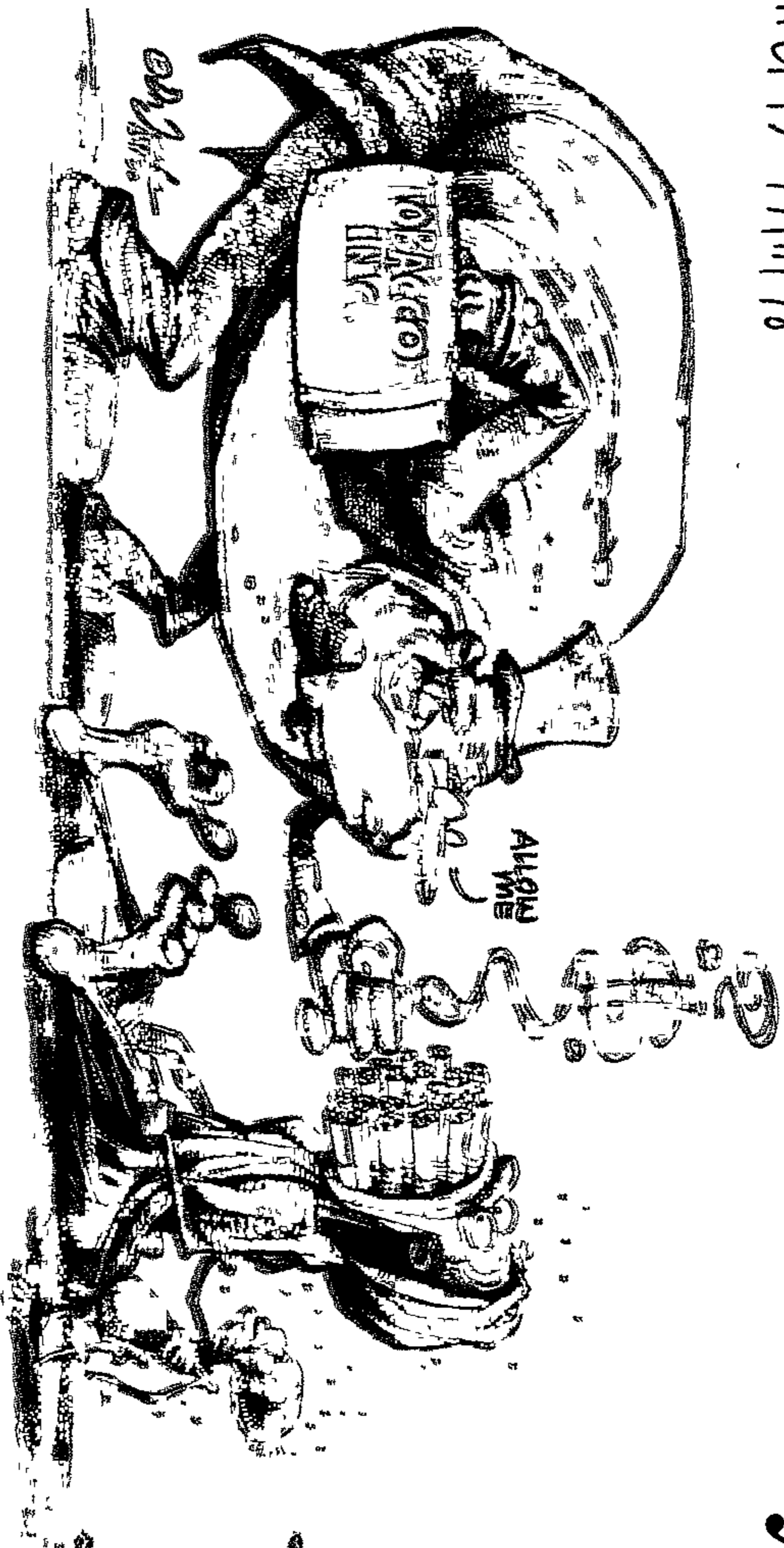
Minister of Health Nkosazana Zuma's Tobacco Products Control Amendment Bill fired up a huge controversy as tobacco firms, lobbyists and unions squared off against the government and anti-smoking groups over sport sponsorships, smoking in public and advertising bans.

It's tempting to say that the centre of it all is a conflict between those who want to spend a night out without second-hand smoke and those who want to indulge their legal addiction. But the heart of the matter is money.

New smokers and large-scale prestigious advertising contribute to the bottom line of tobacco firms and they are fighting hammer and tongs to preserve their current rights.

Dr Yussuf Saloojee, executive director of the National Council Against Smoking, estimates sport sponsorship by the tobacco industry at R48-million in South Africa.

He insists that replacement sponsors would not be difficult to come by. "Televised sports are very high-profile," he says, "and sponsors want their brands associated with them." He cites the recent Vodacom sponsorship of soccer and Standard Bank's replacement of Benson & Hedges in cricket as examples.



Rembrandt's Anton Rupert attacked early versions of the Bill on the grounds of "freedom of commercial speech." Organisations like the Food and Allied Workers' Union have called the Bill a destroyer of jobs.

Saloojee argues that money will be spent on other economic sectors, fuelling growth and offsetting any job losses in the tobacco industry. Measures contained in the Bill would merely

bring South Africa's tobacco regime in line with Organisation for Economic Co-operation and Development countries. Smoking is slowly on the wane in the industrialised world. And this is the source of much of the problem.

The 1997 agreement between various plaintiffs and five major tobacco firms, including Philip Morris and British-American Tobacco (BAT), to settle suits by American states for

\$368.5-billion seems to have shifted the battle's location, not its substance.

Linda Mackay, director of the Asian Consortium on Tobacco, argued last year that tobacco was a major threat to sustainable and equitable global development, promoting higher mortality and illness rates in developing countries which can afford them the least.

To PAGE 36

P.T.O.

Smoke (198) and money

mtg 12-19/11/98

From PAGE 33

She suggests that "transnational tobacco companies" are targeting the Third World as markets dwindle in developed countries. A number of Asian countries have been threatened with trade sanctions on behalf of United States tobacco firms.

South Africa is one of those target markets selected to bolster the profits of BAT, Philip Morris, RicheMont, RJ Reynolds (RJR), Gallaher and Imperial Tobacco. While the Rupert family is still prominent in the Rembrandt group — which is affiliated with Rothmans International — Swiss firm RicheMont AG has a controlling interest in Rothmans. British firm BAT sells most of its cigarettes outside the United Kingdom and is publicly owned, as are Gallaher and Imperial, the other two large British firms.

BAT is probably the world's second-largest tobacco firm, after Philip Morris. Gallaher delinked in 1997 from its parent company, American Brands, and has the largest share of the UK market. Philip Morris and RJR are publicly owned US firms, and the latter is controlled by RJR-Nabisco. BAT and the Rembrandt group are the major firms in South Africa, while French firm Seita licenses its Gauloise and Gitanes brands all over the world.

While all the major tobacco firms have diversified interests, they still make most of their money from tobacco, says Peter Armitage, an analyst for Merrill, Lynch. "Rembrandt is an investment trust with about 15 other holdings, but at least half their business is still tobacco."

And that business is still profitable. BAT made £1.634-billion from tobacco in 1997. Rothmans International pulled in £810-million. Annual returns on investment, for example, for BAT were 16.49% in 1997, and Rembrandt returned 15.52% for the year ended 1998. These returns are in line with or better than the domestic bond market.

BAT experimented most with financial services, acquiring Allied Dunbar, Farmers Insurance and Threadneedle, but then split the group to merge those firms with Zurich Insurance. But most tobacco firms are still tobacco firms. Rather than diversify out of tobacco, they have decided to move into developing countries where there are fewer restrictions.

This would be fine if most of the lawsuits that are driving firms to these markets didn't include memos like a 1980 Brown & Williamson note recommending the firm admit smoking is addictive and causes lung cancer, that they are selling habit-forming poison.

Mackay points out that the push on the part of these firms to sell cigarettes in the Third World is based on declining volume as a result of advertising bans in the developed world.

Segregation, a traditional remedy for social unease in the US and South Africa, may work, allowing non-smokers non-smoking areas, and letting smokers kill themselves slowly. Additional taxes could make cigarettes more expensive, but might off-set the social cost of medical treatments.

But the real issues aren't rights, they're money. How much money will tobacco firms make? How many jobs do the companies provide? How much revenue does the government make? How much will it cost to treat the effects of smoking? How much should smokers contribute to these costs by way of taxes? These issues are fuelling a debate over how much money we are prepared to allow cigarette firms to make, and at what cost.

The health of our nation must not be compromised

IT IS generally assumed that an agriculture minister represents farmer interests and would therefore automatically support farmer lobbies against legislation — such as environmental laws and labour laws — that might have a negative impact on a particular group of producers

The assumption goes that a minister of agriculture would automatically support farmer lobbies against policy measures such as trade liberalisation that may expose a particular group of farmers to the fierce competition of global economic forces

And so it is assumed that the agricultural minister would defend tobacco farmers against excise duties and anti-smoking legislation

Are these assumptions correct? Should a minister of agriculture protect a particular industry if it is incompatible with the overall thrust to achieve competitive growth of the

Agriculture Minister Derek Hanekom comes out in support of the Tobacco Bill

sector as a whole? Am I supposed to turn a blind eye to bad environmental practices? Or public health and public safety matters?

Of course not. These are simply rhetorical questions

Our farmers have often said that they believe in a free market economy and support sound economic policies that steer our country towards competitiveness and economic growth

Our farmers are responsible citizens who would not want our environment damaged, and would not want our population exposed to health risks from agricultural products

The minister of health wants a healthy population. We all do. Smoking damages our health. We all know that. Smoking-related illnesses are a huge drain on our health

resources. She either ignores this, or introduces measures that result in a reduction in smoking. Obviously she would be failing in her duty if she did not act decisively

Draconian? That is absurd

The arguments against the Tobacco Bill are loaded with contradiction. Pointless banning advertising, they say, because people will smoke anyway. Then why the fuss from the industry? Of course advertising encourages smoking, and of course the minister of health — and all of us — should view this with concern, and introduce effective measures against the promotion of the consumption of a health-damaging product

Jobs may be lost, and we should not treat this lightly. But a significant number of jobs in the industry will be lost only if there is a

MD 18/11/98 (198)

significant drop in the demand for the product — if fewer people smoke. And every responsible citizen must acknowledge that this would be good news when it comes to the health of the nation

By far the most jobs in the industry are in the production of tobacco on farms. But if the demand for the product declines, does this necessarily result in the shedding of jobs?

No, it does not. There are frequent shifts in commodity production in the farming sector in response to international and local supply and demand. Already there has been a general shift towards the higher value horticultural sector during the last few years, as we move towards the greater competitiveness of the sector and begin to exploit our

comparative export advantages

There are viable alternative crops to tobacco, that are labour intensive and can be produced competitively in the areas where tobacco is produced. In any event, the reduction in demand would be gradual (unless Minister Nkosazana Zuma's legislation achieves spectacular results in the short term) and there would be sufficient time for farmers to adjust

The argument that there will be significant job losses is spurious. But there might be, and rather than spending our time fighting what is essentially a positive initiative, we should concentrate our energies on analysing the market, and investigating viable alternatives. We could do this by way of a cluster study, as has been done very successfully in the wheat industry

But the health of our nation cannot be compromised

Mandela halts Zuma bills for legal checks

CLIVE SAWYER
POLITICAL CORRESPONDENT

ARG 19/11/98

(198)

President Mandela has taken the unusual step of holding up some of the most contentious bills approved by Parliament this session - including those on tobacco advertising and liquor - while his lawyers check to see whether they are constitutional.

The bills - which also include those on broadcasting, medical schemes, and a fundamental restructuring of local government - were virulently attacked by opposition parties and lobbyists, who cited legal opinions that they were unconstitutional.

If the president's lawyers find the constitutional validity of the bills in doubt, they will be referred back to Parliament for redrafting.

This could save taxpayers millions of rands in Constitutional Court actions.

Big commercial interests have indicated they would consider court action against the Tobacco Control Amendment Bill, and some minority parties and local governments

have said they would oppose the Municipal Structures Bill in the Constitutional Court.

Sapa reports that Mr Mandela's legal adviser, Fink Haysom, said that about 15 to 20 bills were ready for the president's assent.

Mr Mandela, who is in Cape Town, is expected to sign the less contentious legislation later this week.

But about eight bills approved by Parliament this session were being given "more attention" by presidential legal advisers.

In debate on Health Minister Nkosazana Zuma's anti-tobacco legislation, Pan Africanist Congress MP Patricia de Lille said it would be better to ensure the constitutionality of legislation before processing it through Parliament, rather than having to deal with a costly Constitutional Court challenge after it was approved.

In the National Council of Provinces, the Western Cape said

it welcomed the health-care aims of the tobacco bill, but opposed it because it believed it to be unconstitutional.

Earlier, the Democratic Party and Inkatha Freedom Party urged Mr Mandela in a letter not to sign the Broadcasting Bill



Nkosazana Zuma

New tobacco bill hailed as

triumph for public health

US expert praises Zuma's 'spectacular' effort

DI CAELERS
SPECIAL WRITER

Durban - South Africa's new anti-smoking bill puts the country at "the forefront of nations" and is a model for the triumph of public health over entrenched tobacco interests.

Health Minister Nkosazana Zuma's Tobacco Products Control Amendment Bill was hailed yesterday by United States anti-tobacco activist Richard Daynard, professor of law at North Eastern University in Boston, who praised her "spectacular stewardship" of the bill.

Professor Daynard was speaking here at an international public health

law colloquium, hosted by the Medical Research Council and the University of Durban-Westville. But he sounded warnings for South Africa, too, saying "tobacco companies fight dirty" and their "enormous profits are built on addiction, connections and lies".

The Government would need lawyers on call to provide accurate advice on the credibility, or not, of legal threats that would inevitably come from tobacco companies' "expensive and well-connected attorneys".

"No fixed set of tobacco control policies will stop the industry for long... (and) broad authority should be vested in the health department or some expert body, to adopt additional public health measures, if necessary."

Professor Daynard, said South Africa could also expect laws restricting tobacco advertising to be attacked as violating constitutional free speech guarantees.

He said that the argument was that banning cigarette advertising was only the start and would end with the banning of speech criticising the Government.

"The short answer is that one thing has nothing to do with other. Expanding the market for an addictive and deadly product in order to make a commercial profit is entirely different from exercising the political rights that make a country democratic," he said.

Statistics showed that in the US, environmental tobacco smoke was the

third leading preventable cause of death and - after active smoking and alcohol abuse - was responsible for 10% of all tobacco-related deaths. Most US states had sued the tobacco industry for reimbursement for tobacco-caused health care expenses they had paid.

The Department of Health's director-general Ayanda Ntsaluba said yesterday the tobacco laws were just one area in which South Africa needed to create a legal framework.

"We need to develop public-health legal expertise, people who are familiar with public health and comfortable with the nuances of the constitution."

Dr Ntsaluba said such an investment, if begun now, would see a system firmly in place in five years.

Tobacco bill out of line with spirit of compromise

(198)
A lack of consultation in bill's formulation may result in law that fails to deliver, writes **Steven Jurgens**

BD 25/11/98

THE process that led to the formulation and adoption of the SA constitution was characterised by an admirable sequence of consultations, negotiations and compromise

These steps were followed by a period of government of national unity which brought together political parties with different views and styles of operation. Nevertheless, they worked together in shaping a new political dispensation in the interest of all South Africans.

These historical events illustrated the maturity of SA's different interest groups in being able — notwithstanding their differences — to shape a constitution hailed as one of the best in the world.

The spirit as well as the principles that characterised the formulation of our constitution have however not been embraced by all of the government officials and departments.

The Tobacco Products Amendment Bill, a pending piece of legislation, is the product of a process that is completely out of line with the legal framework and principles set out in the new constitution.

The same is true for the pharmaceutical, medical aid and lottery bills.

After talk and media reports about the pending Tobacco Products Control Bill, British American Tobacco approached the health ministry suggesting that a consultative process be set in place.

In our discussions, it became clear that there were certain areas where opposite views were held as well as some where the ministry and the industry could work in collaboration.

What appeared to be an achievement of this meeting was that, first, both parties were no longer going to rely on the media regarding each other's interests and intentions. Second, both parties agreed there was a need for further consultation on the tobacco bill.

Against this background, Health Minister Nkosazana Zuma undertook to set up a consultative process between the industry and the ministry.

Sadly the minister did not honour her undertaking to involve the tobacco industry and other stakeholders.

This, in our view, is a direct violation of the constitutional requirements of open and transparent public participation in policy and legislative processes.

To make things even worse, the ministry claimed to have consulted the tobacco industry while the reality was that they apparently consulted antismoking lobbyists only. Had the ministry kept its under-

taking, it would have discovered that the tobacco industry acknowledged the right of the government to make and implement reasonable tobacco control policies and that the industry was and still is willing to play a constructive role in the process.

We have repeatedly been told that the pending legislation will bring SA in line with other first world countries.

What, for example, we are not being told is that the 1993 US Environmental Protection Agency report upon which many antismoking campaigns were based has just been overruled by a US high court as scientifically unsound.

The presiding judge ruled that the report on environmental smoke was biased and did not follow proper legal or scientific procedures to reach its findings.

In Australia, "Living Health", a smoking and health campaign, had to be reviewed and replaced after its failure to deliver on promised objectives.

The common features of most of such campaigns are that they are noninclusive in their formulation processes, they have a disregard for consultation and tend to cherry pick "scientific evidence" to suit certain political agendas.

The SA health ministry's approach has not been any different from those referred to above. This type of justice is not without negative consequences.

In SA, for example, the pending tobacco legislation, if adopted as it stands now, will prohibit, among other things, advertising by a whole range of people unrelated to the tobacco industry.

There are also other elements of the bill which, in our view, are more than anything else a thumb suck and will not in any way contribute towards some of the intentions stated in the bill, such as the curtailment of underage smoking.

In a realisation of flawed legal processes and the consequent waste of public resources, the UK government has just introduced the Better Regulation Guide. Prime Minister Tony Blair remarked "If our regulatory framework is excessive or poorly conceived, we all suffer from resultant red tape."

"The intended benefits of the regulation disappear often by less choice, higher prices and lower employment and investment. I have therefore decided that no regulatory (voluntary codes) proposals which have an impact on businesses, charities and voluntary bodies should be considered without an assessment of risks, costs and benefits, a clear analysis



Is the Tobacco Products Amendment Bill, now under review, the product of a process that is completely out of line with the legal framework and principles set out in the new constitution?

of who would be affected and an explanation why nonregulatory measures would be insufficient. It should also be published for consultation at an early stage so that it is open to comments, improvement and corrections by any interested parties."

The Better Regulation Guide is a good example of a legislative model that could be adopted for our own country's benefit. The disregard of the legal and economic process and principles currently displayed by the health ministry is a cause for grave concern.

It is not only a departure from the principles set out in the constitution, but is also a violation of constitutional rights. The prescriptive approach of the health ministry is not justifiable.

If tobacco, a legal product, is regulated in such arbitrary fashion, what is next? Will SA be used as a platform of product regulation for the rest of Africa?

Be that as it may, we strongly believe that the situation can still be rescued by an all-inclusive consultative process as enshrined in our constitution.

We believe that President Nelson Mandela should not sign the bill and should refer it back to the drawing board.

In this manner, we believe that the relevant authorities and ourselves will be able to design tobacco control policies which are practical, sustainable and which balance health, economic and constitutional matters.

The results of the actions of the health minister and her department, together with the "antis" approach, is a bill formulated in such a way that it will not only fail to deliver as expected, but will also have unintended and undesirable economic and constitutional consequences.

□ Jurgens is managing director of British American Tobacco

COMPANIES Growth of Rothmans tobacco sales in East offsets Western decline

Rembrandt goes on slowing

MARC HASENFUSS

CAPE EDITOR

Cape Town — Rembrandt, the rand-hedge tobacco and industrial conglomerate, came out smoking in the six months to September 30 to beat market expectations with an 18 percent increase in bottom line profit to R1,25 billion, Johann Rupert, the chairman, reported yesterday.

Analysts, who initially expected Rembrandt to deliver growth of between 15 and 16 percent, pronounced the R2,40 a share earnings as "sound and encouraging".

One noted that Rembrandt's one-third-owned tobacco business, Rothmans International (RI), was growing strongly in Asia and the Pacific Rim and would offset declines in cigarette sales in maturer markets such as Europe and the Americas.

"The core tobacco business looks robust and capable of growth for at least a few more years," he said.

Rupert noted that the net favourable currency effect on Rembrandt's share of RI's profit was R84 million. The average pound/rand exchange rate for the

period under review was R9,78 compared with last year's R7,51.

A segmental analysis of Rembrandt's results showed the Trade Mark group (RI as well as majority stakes in Stellenbosch Farmers Winery, Distillers Corporation and Gilbeys) contributed 13,5 percent more to bottom line at R687 million.

Rupert said the lower R160 million contribution from Rembrandt's mining interests stemmed from lower earnings from Gold Fields and Trans Hex, the diamond miner.

However, the sluggish mining performance was offset by the contribution from the company's industrial interests to R117 million, more than three times greater than that of the previous period.

Rupert said the industrial interests chipped in R83 million more to bottom line after Rembrandt's share of Rainbow Chicken's losses was cut by R62 million. The share of Malbak's net income increased R20 million on the back of an increased stake in the packaging group.

Thys Visser Rembrandt's managing director, said last night that the challenge for the

months ahead was to improve the contributions from the industrial interests.

The company's financial services interests, which include stakes in Absa and Sage, increased 18 percent to R100 million.

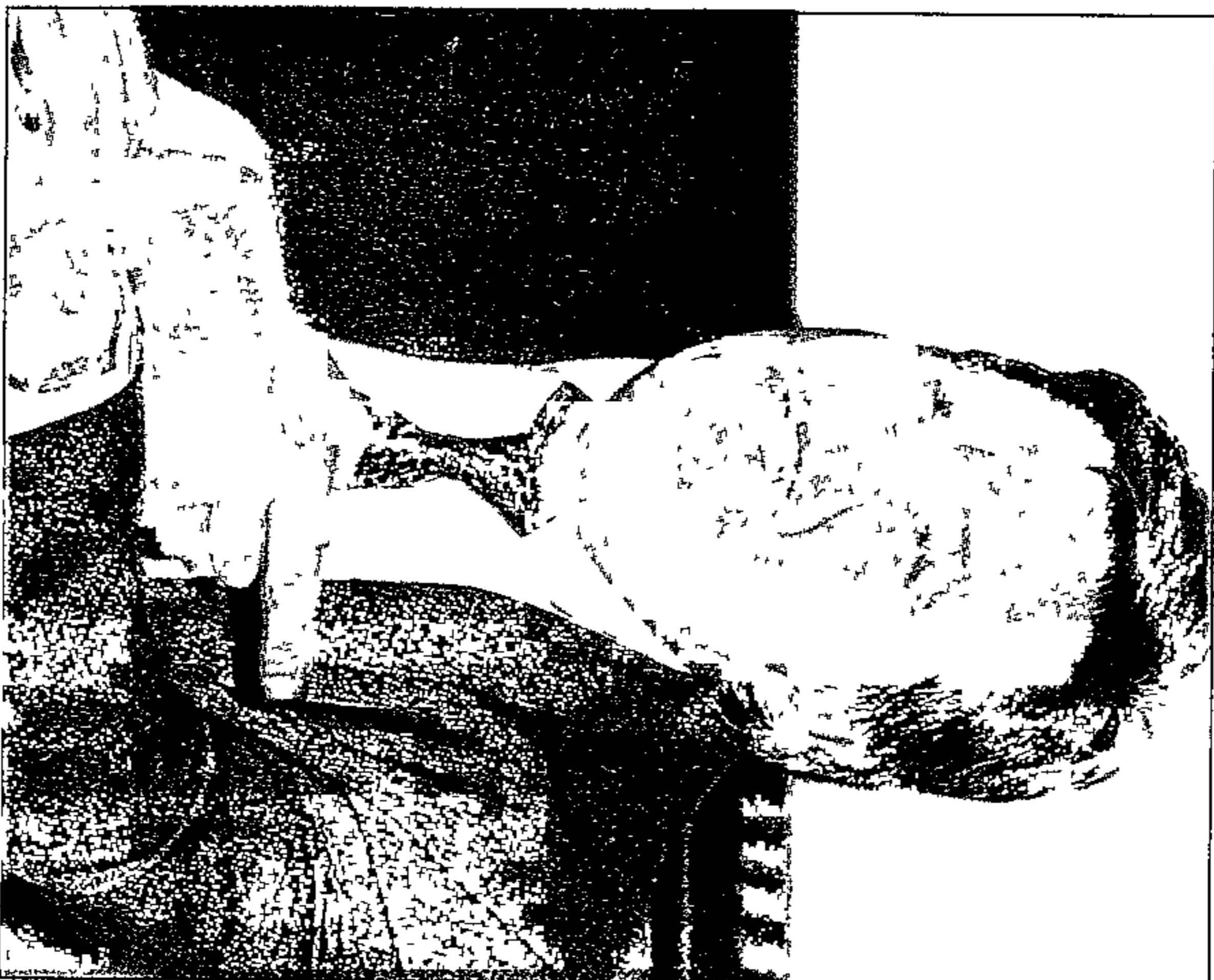
Rembrandt's corporate finance and other interests, which reflect interest from the cash pile and a share of Vodacom's profits, contributed 23 percent more at R190 million.

The company's cash resources at the end of the interim period had increased from R1,97 billion to R2,08 billion.

Rupert noted that earnings after exceptional items (which amounted to R112 million) were 39 percent higher than last year, but he cautioned that Rembrandt's income did not necessarily accrue evenly throughout the year.

Rembrandt closed 20c down at R38,30, with almost 400 000 shares changing hands. The share is midway between its R47,25 annual high and its R27 low.

□ Business Watch, Page 2; Richemont results, Page 3



LEADER OF THE PACK Johann Rupert says cutting Rainbow Chicken's losses helped lift industrials

PHOTO: JOHN WOODROOF

Tobacco firms take heart from EU move

DD 21/12/98 (198)
Wyndham Hartley

CAPE TOWN — The Tobacco Institute of SA has welcomed a European court ruling allowing tobacco companies to challenge European bans on advertising because it could mean that Health Minister Nkosazana Zuma's controversial tobacco bill can also be challenged successfully.

Institute CE Edward Shalala said the UK's major tobacco companies had won the first round of a fight to have an EU ban on advertising and sponsorship overturned.

A High Court judge had cleared the way for the companies to challenge the Brussels edict in the European Court of Justice; he said.

"The SA Tobacco Products Control Amendment Bill passed by Parliament this year is even more draconian than the proposed European Union measures. We have yet to make a decision on whether to challenge the constitutionality of SA's proposed Tobacco Products Control Bill," Shalala said.

The UK High Court judge said there were questions over the validity of the EU directive, adopted last week as part of Health Secretary Frank Dobson's white paper on smoking.

David Swan, CE of the UK-based Tobacco Manufacturers' Association, was reported as saying the high court decision was sensible.

"The government should not implement legislation founded on this directive until the very serious question mark over its legal validity has been decided by the European Court of Justice," Swan said.

Zuma's Tobacco Products Control Amendment Bill also seeks to ban advertising of tobacco products and makes it a criminal offence to sell tobacco or cigarettes to minors or to smoke in public places.

President Nelson Mandela did not sign the bill into law last month but referred it for further legal scrutiny to determine whether or not it was constitutional.

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Sales double as SA's yuppies puff away

Nicola Jenvey takes a look at the local and international resurgence of cigar smoking

(198) 60 28 11a 19g

DURBAN — Cigar smoking has become a fashionable pastime among the upwardly mobile internationally, and SA's yuppies have not been tardy in following suit.

Worldwide, cigar sales were on a declining trend from the end of the 1950s to the early part of the current decade, when interest was re-generated in the influential US market — despite the powerful antitobacco lobby — when celebrities such as Claudia Schiffer, Tom Selleck, Demi Moore, Mel Gibson and Whoopie Goldberg took to the evil weed.

During the initial heady days of the revival, worldwide demand for good quality cigars outstripped supply by 20%, exacerbated by US restrictions on trade with Cuba.

The cigar trend reached SA last year and sales have grown substantially over the past 18 months.

Andrew Pittaway, marketing manager at Brasant Enterprises — the agent for Ritmeester and one of two licensed distributors of Cuban cigars in SA — says the local cigar market's annual turnover has climbed to about R35m from R17m in 1995, while the number of "stucks" sold has nearly doubled to about 13-million a year.

Brasant believes it sells 70%-75% of cigars bought in SA. However, the local tobacco industry does not col- late exact cigar sales figures, and Brasant bases its estimate on the assumption that Ritmeester claims 57% of the market, with other brands in the stable making up the rest of its estimated total market share.

Pittaway expects SA sales to stabilise at 20-million a year by 2010. This compares with a US market which appears to have peaked already. According to Cigar Insider, a US industry newsletter, the country's retail sales are expected to be flat this year after soaring to \$1.4bn last year from just \$192m in 1992.

Meanwhile, the blue haze now filling restaurants and exclusive cigar



Brasant Enterprises marketing manager Andrew Pittaway

bars around SA is proof of a still growing interest in the habit locally.

Traditionally regarded as a status symbol associated with success, cigars of varying types are now within the grasp of even the moderately successful. However, the price tag dangling from some of the Cuban, Dominican Republic and certain US

offerings remains out of reach of all but the seriously wealthy.

Three years ago, Cape Town boasted a total of four cigar-friendly restaurants. Today the figure is closer to 100, and even liquor outlets are stocking cigars as an added accompaniment to after-dinner ports and cognacs.

In Durban, the list extends to about 25 restaurants, including several of the city's Top 10. Pittaway says the fastest growing demand is among women aged between 25 and 40 years.

The financial reasoning behind restaurateurs offering cigars speaks for itself. Mark-ups begin at 100% and, given that the average cigar takes an hour to smoke, there is more time for expensive ports and brandies, each with their own margins. The impact on a restaurant's bottom line is estimated at R10 000 a month in some cases.

Pittaway believes one reason for the growing popularity of the habit is the perception that cigars are less damaging to the health than cigarettes because the smoke is less frequently inhaled. Most cigars have a lower nicotine and tar level than the average cigarette.

However, the cigar boom may be curtailed should Health Minister Nkosazana Zuma have her way. Although an amendment to the proposed antitobacco legislation recognises restaurants and clubs as private property and thus not subject to the ban on smoking that will affect public areas, a cloud remains over the issue that is as thick as the haze formed by the product itself.

Pittaway hopes that the legislation will not affect cigar smoking "too severely." However, he realises that advertising and promoting individual brands will become increasingly difficult.

Continued sales of the product will have to depend on perceptions of lifestyle associated with cigar smoking, rather than on particular cigars. Pittaway believes this can be achieved via direct contact with retail establishments and the prominence of humidors in restaurants, hotels and clubs.

Meanwhile, love them or hate them, cigars will be an integral part of the new millennium celebrations.

MANUFACTURING - TOBACCO
1999

Tobacco barons in R125bn deal

ET(DR)12/1/99 (198)

MARC HASENFUSS

CAPE EDITOR

Cape Town — Rothmans International, the tobacco arm of Rembrandt and RicheMont, the diversified holding companies, yesterday clinched a R125 billion merger with British American Tobacco (BAT)

The deal with the world's second biggest cigarette maker spurred RicheMont, which owns 68,7 percent of Rothmans, up 970c to a new high of R102,40 with almost 3,8 million shares changing hands

Rembrandt, which holds a 33 percent stake in Rothmans, finished 295c stronger at R42,75 with almost 1,3 million shares traded.

Market analysts said the share price reaction was understandable because the deal catapulted Rothmans, the fourth largest cigarette maker, into the "really big league"

They also noted that Rothmans' extensive brand portfolio would allow BAT to close the gap on bigger rival Philip Morris

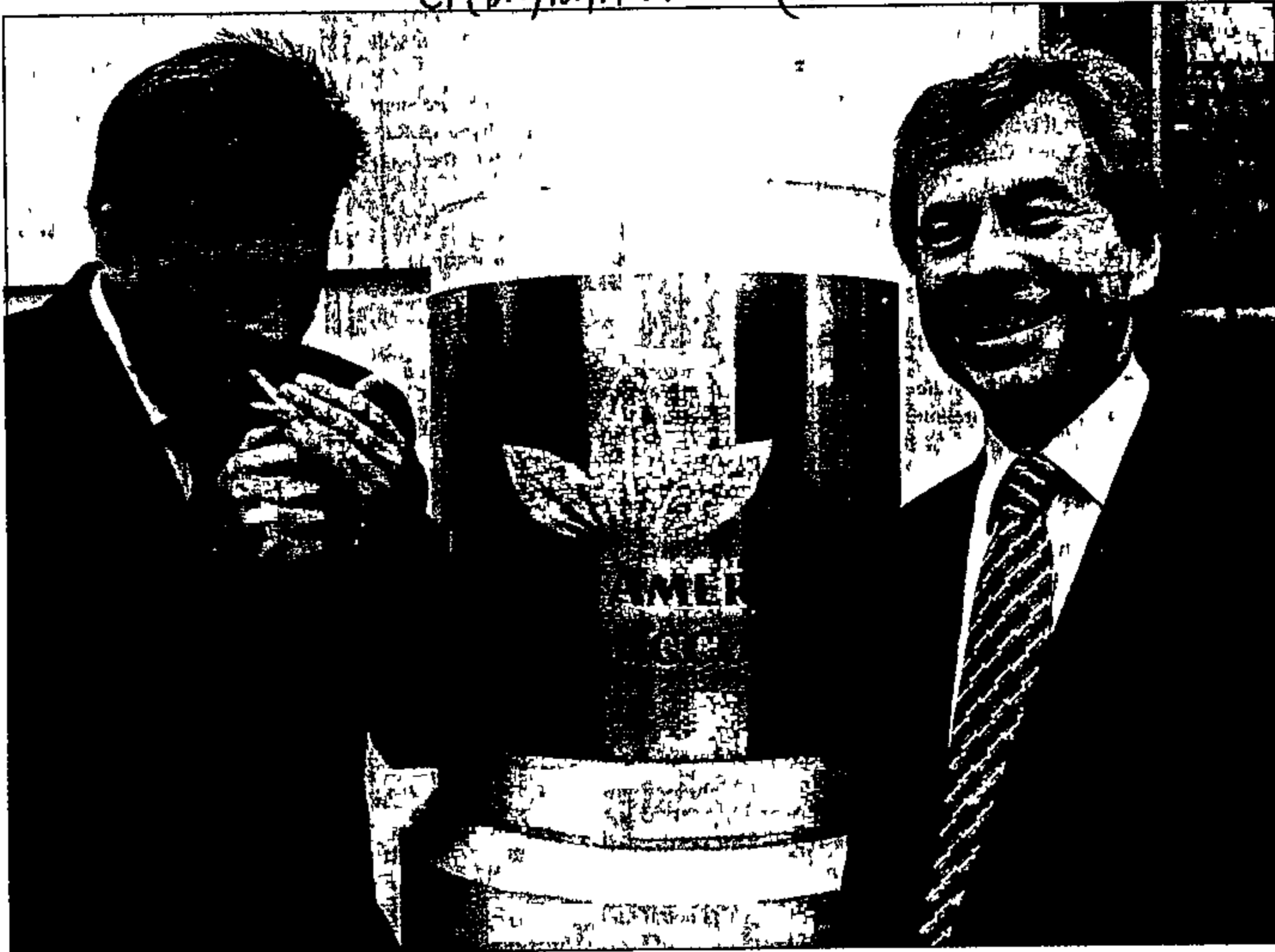
The enlarged tobacco company, which will retain BAT's name, will have a combined market share of 16 percent.

Rembrandt (11,7 percent) and RicheMont (23,3 percent) will collectively hold 35 percent of the enlarged BAT. Their combined stake will be worth roughly R45 billion

Cost savings, mainly in sales and distribution, are expected to top R2,4 billion by the third full year following the merger.

Analysts noted that the enlarged company would have strong representation on all continents, a stronger position in mature markets like western Europe and a lucrative foothold in faster growing emerging economies.

They said that BAT could access the UK market through Rothmans while BAT would improve Rothmans' penetration



LEADING LIGHTS Rembrandt's Johann Rupert, left, and BAT chairman Martin Broughton share the feeling of success yesterday in London after clinching the deal which gives the two companies increased access to both mature and emerging markets worldwide

PHOTO REUTERS

of the Japanese market.

Johann Rupert, the chief executive of RicheMont and chairman of Rembrandt, said the long term interests of Rothmans International were best served by being part of a larger tobacco business that would have an enhanced market position and a greater scale of operations

He stressed that through their shareholding in the enlarged tobacco company, RicheMont and Rembrandt, would retain an investment in the global tobacco industry and

would be able to benefit from the future growth and synergies arising from the combination of BAT and Rothmans.

Rupert said "Martin Broughton, the chairman of BAT and I have spent a lot of time discussing the enlarged BAT's future strategy

"I am fully supportive of the board's plans to develop the enlarged group through a mix of organic growth, investment in new markets and selective acquisitions"

Rupert last night discounted speculation that Rembrandt and

RicheMont might look at increasing their shareholding in BAT "My main aim now is putting this deal to bed."

Broughton said the merger represented a major step forward in the achievement of BAT's vision to become the world's leading tobacco company.

"It will enable us to play to our proven strengths in managing a portfolio of brands while shifting resources to the premium international brands sector which enjoys higher margins," he said

Major brands in the enlarged company include Rothmans, Lucky Strike, Peter Stuyvesant, Kent, Dunhill, Benson & Hedges, Players, State Express 555, Winfield and Pall Mall.

Broughton said the injection of Rothmans' strong international brand portfolio would increase the proportion of BAT's sales derived from the premium and international brand segments to around one third of the total.

"As a result BAT's margins will improve," he said.

Rothmans, BAT create new force in tobacco sector

R120bn all-share merger places new group tantalisingly close to market leader Philip Morris

Tim Cohen

CAPE TOWN — The R120bn all-share merger between British American Tobacco and Rothmans, jointly owned by Richemont and Rembrandt, would create a company large enough to take on the US giants and become the world's largest tobacco group, company executives said yesterday.

The new group, which will be 35%-owned by Rothmans shareholders, will bring together the second- and fourth-largest tobacco companies making about 900-billion cigarettes a year with market share of just more than 16% of global production.

This level of production will put it tantalisingly close to market leader Philip Morris, whose 17% market share is based on its best-selling Marlboro brand, and well ahead of global number three RJ Reynolds, which sells the Camel brand.

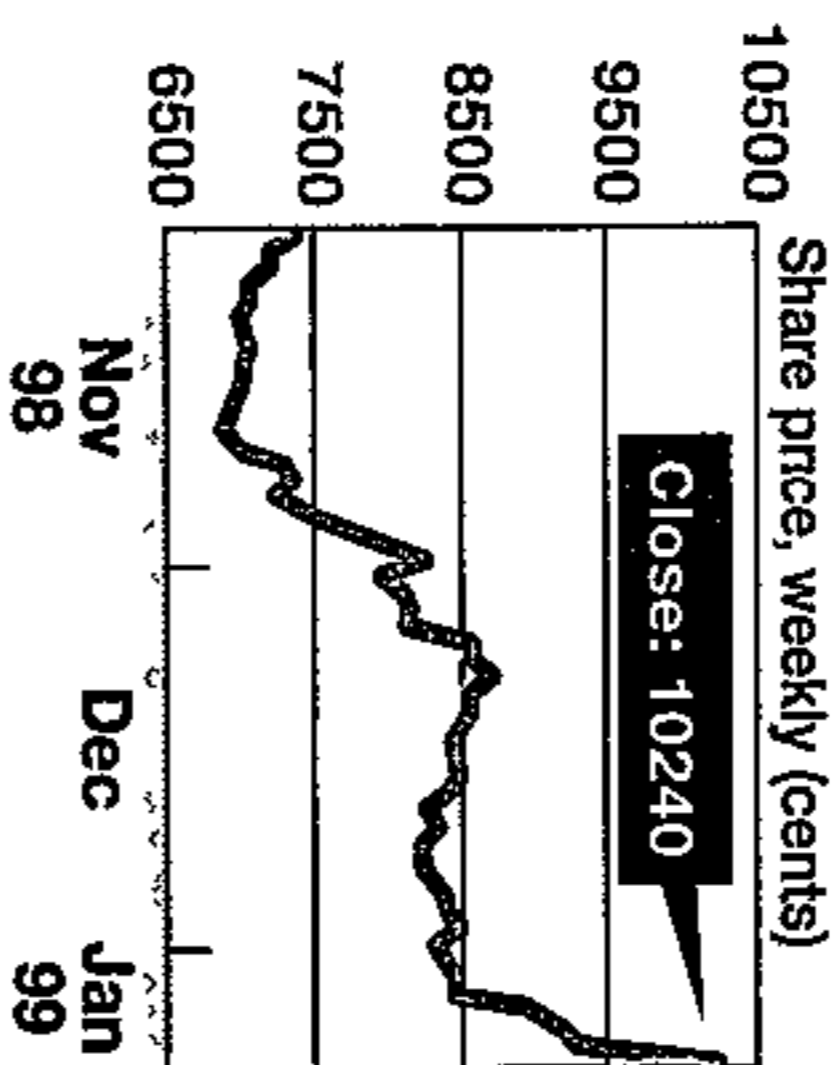
But the deal may come at the cost of an as yet unspecified number of job losses, factory closures and the shedding of brands which may be demanded during the substantial regulatory hurdles the deal will need to clear.

The announcement of the proposed deal was significant enough to jolt the Johannesburg Stock Exchange one percentage point higher, with R382m worth of Richemont stock traded as it surged 10.5% higher to R102.40, while the Rembrandt Group (Remgro) ended 7.5% higher at R42.75. In London BAT's 10% rise to 625p sparked a mild dose of merger fever among tobacco stocks.

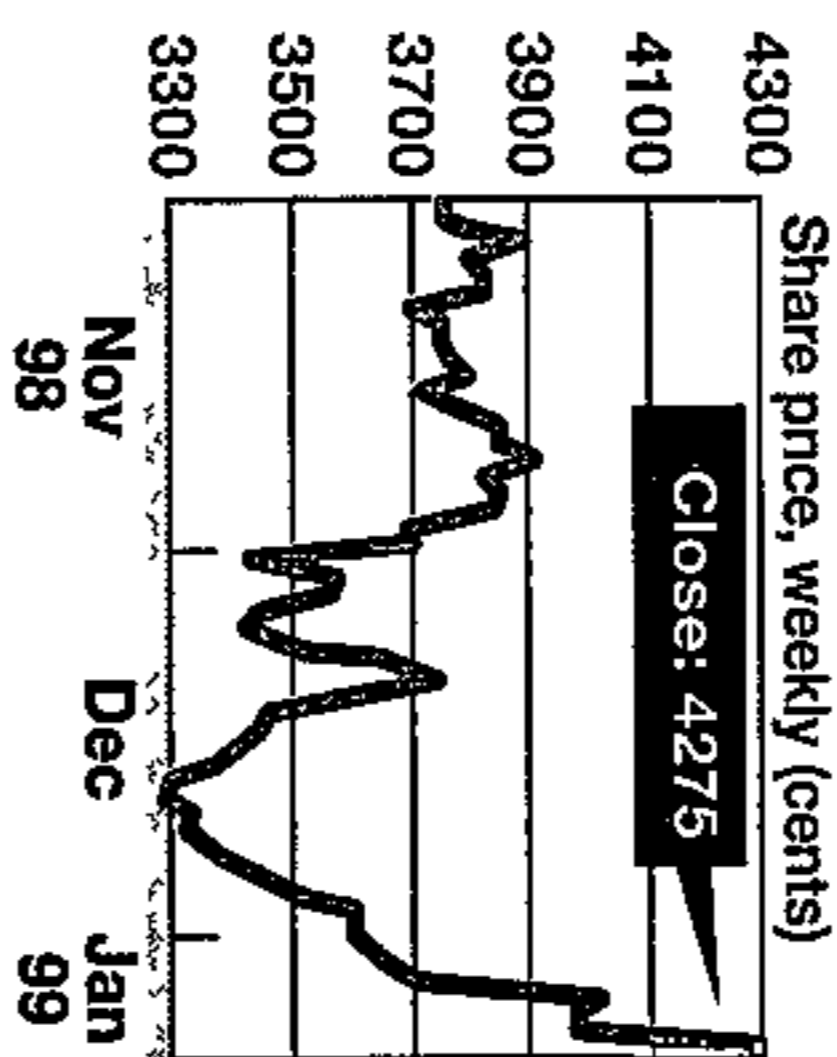
BAT will issue new shares at 541p.

Shareholders gain from deal

Richemont Securities



Rembrandt Group



KAREN MOOLMAN Source I-NET BRIDGE

worth \$4.6bn in total, to Richemont and Rembrandt to finance the acquisition. The group will retain the BAT name and BAT chairman Martin Broughton will remain in his position.

Johann Rupert, chairman of Richemont and Remgro, and Rembrandt chairman Jan de Plessis will join the BAT board as nonexecutive directors. Rothmans CE Bill Ryan will join BAT as deputy chairman.

Commenting on the loss of direct control over Rembrandt, Rupert said that in the current global environment, companies faced being "re-

structured or restructured." Given the pain of being restructured by an outsider, it was more advisable to be part of the planning of the restructuring.

Rothmans, which is 66%-owned by Richemont and 33%-owned by Rem-

brandt, will gain control of 35% of the enlarged group. The two companies, both ultimately controlled by the Rupert family, will enter a special voting agreement which will restrict their voting interest to 25%.

BAT intends declaring a special interim dividend of 4p a share, to cost \$63m, and expects to propose a final 1998 dividend of 16p a share.

Broughton said he saw one-off cash costs in achieving savings of \$400m while the company said it would take a \$60m rationalisation charge in 1998, much of it in the last quarter. Rothmans is also to pay a \$150m dividend to Richemont and Rembrandt.

He said the deal represented an "excellent fit" for both companies and would make the enlarged BAT "the clear market leader" in emerging markets, which analysts say are the areas for highest growth.

The deal will give the enlarged BAT strong positions in a variety of regions, including SA where it will have more than 90% of the market. Its brands will include Lucky Strike, Benson & Hedges, Rothmans, Winfield, Dunhill and Peter Stuyvesant.

The enlarged group will have leading positions in Latin America, Africa, Asia and Australia, plus a greater presence in western Europe, which will give it stronger pricing power.

Broughton said the group had already held preliminary discussions with regulatory authorities and hoped to complete the deal by the second quarter of this year. Regulatory approval is expected to be required in the EU, SA, Australia, Canada, and New Zealand.

Cost savings of \$250m a year by the third full year of the merger are predicted, and there are expected to be redundancies among the combined global workforce of more than 70 000, but no details were available.

Reuters reports Broughton said the deal reinforced his confidence in the world cigarette market. Although the total market was flat, he said the industry's profit growth would increase above global growth in gross domestic product. "The rationale behind the merger is the big cost savings available, the good geographical fit, improving profit margins and the strong cash generation."

Restaurateurs look for smoke

but find no fire

(198) ~~212~~ CT 12 11 99
NEW YORK Restaurateurs in New York City and Massachusetts have fought anti-smoking laws, arguing that the bans will drive away customers. But several studies released yesterday show that the fears are unfounded.

The findings are based on the first comprehensive studies of the impact of anti-smoking laws on the restaurant industry, according to the Substance Abuse Policy Research Programme.

The studies, which were funded by the programme, were based on analyses of taxable sales receipts from restaurants in the Big Apple and in the state of Massachusetts.

The findings are published in the January issue of *The Journal of Public Health Management and Practice*. This month's issue is devoted entirely to studies that look at various aspects of anti-smoking laws in public places.

The Substance Abuse Policy Research Programme said the results were significant because New York City is the leading restaurant market in the United States. Its Smoke-Free Air Act was signed into law in January 1995 and bans smoking in nearly all public places, including restaurants with more than 35 indoor dining seats.

Many New York restaurant owners had joined the tobacco industry in trying to fight the law, saying it was bad for business and would result in a loss of jobs. They also argued that the public did not support the law and that it would be difficult to enforce.

The analysis showed that sales in New York City restaurants have increased by two percent since the anti-smoking law became effective. In the rest of New York State, where smoking laws are less stringent, sales decreased by four percent.

Between 1993 and 1997 the city gained 19,347 new restaurant jobs, an 18% increase. The number of restaurants in the city rose six percent in this period.

The study also found that most New York City restaurants had complied with the law, with city inspectors finding evidence of illegal smoking in only two percent of the 251 restaurants randomly sampled.

The study of Massachusetts restaurants found that, on average, restaurant revenue in smoke-free towns rose four percent. Restaurant revenues in communities that did not severely restrict smoking rose two percent over the same period.

The researchers pooled towns into two groups, 32 with smoke-free rules and 302 without them. A community was considered smoke-free if a diner could eat anywhere without being exposed to second-hand smoke.

The researchers compared total per capita taxable meal revenue for each group of towns from January 1992 through December 1995. Drawing a trend line for each group, they found no divergence between the two groups of communities.

A growing number of Massachusetts communities have adopted restaurant smoking restrictions. Between 1981 and 1998, more than 139 cities and towns — out of 351 — have enacted some type of smoking restriction for restaurants.

Last October, Boston implemented a public health regulation similar to that of New York City. — Reuter

Competition chiefs tipped to fume (198) over merger

MARC HASENFUSS

ET(MR) 13/11/99

Cape Town — The R125 billion merger between British American Tobacco (BAT) and Rothmans International could face competition challenges in various countries around the world, it emerged yesterday

The merger, if approved, will give the new enlarged company a 16 percent share of the world's cigarette market, just behind market leader, Philip Morris, which holds about 17 percent

Rothmans International, owned by Richemont and Rembrandt, and British American Tobacco, will effectively corner 90 percent of the South African cigarette market, a development that will certainly draw attention from the Competition Board

And, according to Dow Jones, the European Commission may insist on cigarette brand disposals in the Netherlands before approving the merger. Rothmans and BAT account for about half of sales in the Netherlands

An official at the commission dealing with such issues said "alarm bells go off when a concentration reaches a market share of around 40 percent"

Thys Visser, the managing director of Rembrandt, said yesterday informal discussions had already been held with the Competition Board in SA, and further dialogue would take place

"We can't contemplate which way any decisions will go at this stage. It's also too early to speculate on whether there will be any rationalisation of brands"

Visser stressed the matter was highly complex in a number of countries where BAT and Rothmans operated. "There's lots of work ahead in this merger"

Richemont edged down R2 to R100,40 on the JSE yesterday, while Rembrandt added 20c to R43. Batsa, the JSE-listed subsidiary of BAT, surged R4 to R52,50

R130-bn deal in 'industry on defensive'

JEREMY LAURANCE

London - The merger of British American Tobacco and Rothmans International to create a R130-billion cigarette machine has been hailed by commercial interests, but condemned by anti smoking campaigners who say it amounts to a declaration of war on the developing world.

The deal will create a global corporation producing a staggering 900 billion cigarettes a year at a time when tobacco sales are declining in the west.

With a war chest swollen by savings from rationalisation - jobs will go, a BAT spokesman has admitted - the new multinational is expected to target the growing markets in China, Africa, India and the Far East.

In doing so, it is set to cause more deaths than any war, disease or famine has yet claimed.

According to health experts, it is estimated that cigarettes will claim four million lives a year worldwide by 2000 and 10 million a year by 2030, of which seven million will be in the developing world.

But the question is whether the tobacco industry dies before its customers. The 90s has been a decade of unparalleled turmoil for the industry in the west, with anti-smoking legislation and a clutch of multi-billion-rand lawsuits turning smokers into social pariahs.

The marriage of BAT and Rothmans is set to be followed by further partnerships as the industry repositions itself.

The anti-smoking pressure group Ash has claimed that more people would die worldwide as a result of the deal.

The British Medical Association said "This is an industry on the defensive. What is alarming is that it is overtly striving to permit new



Now we're really smokin'. Richemont chief executive Johann Rupert lights up as British American Tobacco chairman Martin Broughton looks on. The Rupert family's Richemont and Rembrandt companies will control a 35% stake in BAT

smokers in the developing world because it is under huge pressure in western markets."

The deal will reinforce BAT's position as the world's second-biggest private cigarette company behind the United States company Philip Morris, makers of Marlboro.

Rothmans is the fourth largest cigarette group and the combined operation, which employs 2 300 people in the United Kingdom, will control more than 16% of the global cigarette market, 1% less than Philip Morris's share.

The new company will still be well behind the state-owned Chinese National Tobacco Corporation

thought to hold about one-third of the market.

Only Rothmans, which makes Peter Stuyvesant and Dunhill and has an agreement with Philip Morris to market Marlboro in Britain, has significant sales in the UK.

BAT's international brands include State Express 555, Lucky Strike, Kent, Players and Pall Mall. It also makes Benson & Hedges for sale outside the UK - Britain's B&Hs are made by Gallaher.

Despite the retreat from smoking in the west, global sales are continuing to rise, up by one-quarter since 1980. Estimates suggest that smoking is declining by 1% a year in industrial

countries, but rising by 2% a year in the developing world.

BAT has cashed in on this growing third world market. It sells 240 brands manufactured in more than 50 countries and owns the top-selling brand in 30 markets.

Analysts calculate, however, that western companies have barely scratched the surface of markets in the developing world.

For instance, in China barely one in ten cigarettes sold comes from a western manufacturer, the remainder being produced by the state-owned corporation.

Partly because of government involvement in the industry, China

is heading for the world's greatest smoking disaster, claiming the lives of an estimated 100 million Chinese men now under 30, one-third of the young male population.

The figure is based on the world's largest study of the hazards of tobacco in which scientists from China, the US and Britain interviewed the families of one million people who died between 1986 and 1988.

Professor Richard Peto, of Oxford University, one of the principal authors of the study published in the British Medical Journal, said Chinese adults severely underestimated the risks of smoking, with 60% unaware that it caused lung cancer.

"If this merger means more cigarette sales, it'll mean more cigarette deaths because half of all smokers eventually get killed by their habit unless they manage to quit," said Professor Peto. "BAT and Rothmans currently provide one-sixth of the world's tobacco."

"The cigarettes sold by these two companies are already causing more than half a million deaths a year and, 20 years from now, they will be causing a million deaths a year worldwide."

Tobacco companies already are targeting young people in promotional events across the developing world.

In 1997, BAT sponsored China's first rave event in the town of Shenzhen.

The company logo was displayed prominently on video screens and elsewhere in the night club.

In Malaysia, the company evades the ban on direct advertising by promoting the "Benson and Hedges Bistro" - a coffee shop in Kuala Lumpur.

Advertisements for the café are broadcast across the country - "The Independent" in Medan.

A close contest for number one spot

The merger of BAT and Rothmans puts pressure on a tobacco industry already under strain, writes **Tim Cohen**

9D 19/11/99

(198)

AS K Remgro and Richemont CE Johann Rupert why he decided to swap a huge, strong, growing, cash-generating business for a minority shareholding and he answers with this quick lesson in the facts of life. Essentially the rules are these: "Don't eat at a place called Morn's, don't play cards with a man called Doc, don't argue with people who buy ink by the gallon, and to these I would add, don't put saving face before facing facts."

So, then, what are the facts of the tobacco business? The first and most important fact of the tobacco business is that it is not growing particularly fast, and indeed, in many places it has been shrinking. Analysts estimate that overall, the market is increasing globally by only about 1% a year.

Faced with outright hostility by governments in the developed world and presumably the realisation by members of the public that smoking is bad for you, there has been a 3% to 5% decline in consumption.

This leads to the second fact of the tobacco business. All the growth in tobacco consumption is now focused in the developing world. It is an unpalatable but undeniable fact that growth in this industry will take place where governments are least hostile and where populations are least educated about the harmful effects of smoking. Thus it is that the market in developing countries is estimated to be growing by 6% to 8% a year.

Hence, companies with the preponderance of their business in the developing world are definitely at an advantage.

Then there is the third fact of life, which applies not only to the tobacco business but to all business in the closing years of the current millennium. Investors have become so accustomed to growth that they have come to expect it, and even demand it, especially from listed companies.

This, combined with the declining business environment globally, has increased the pressure to merge significantly, resulting in a series of megamergers across a variety of apparently unconnected sectors. Just over a month ago, Bankers Trust and Deutsche Bank, shortly before that it was BP and Amoco, and shortly before that

It was Chrysler and Mercedes-Benz.

Executives from all four companies involved in BAT's takeover of Rothmans indicated that to a greater or lesser extent, all of these factors played a part in their decision. "You are either a 'restructuring' or a 'restructure'," Rupert said. Rothmans is a solid company, but five or six years down the line there is a risk that the industry will have consolidated and Rothmans might not have been part of it.

Both Rupert and BAT chairman Martin Broughton laid great stress on the quality of fit between the two companies. For example, the UK is a strong area for Rothmans, while Japan is a strong area for BAT.

But in certain areas the fit is almost too good, in the sense that the new BAT will have a degree of market share which will make most competition authorities look askance. In BAT's own estimate, the combined sales would make up 60% of the market in Australia, 80% in Canada and a massive 95% in SA.

In normal circumstances, this might be enough to kill the deal stone dead, but in an industry where a handful of companies have always dominated, and which is often a monopoly, regulatory approval is not expected to pose major challenges although some brands might have to be sacrificed.

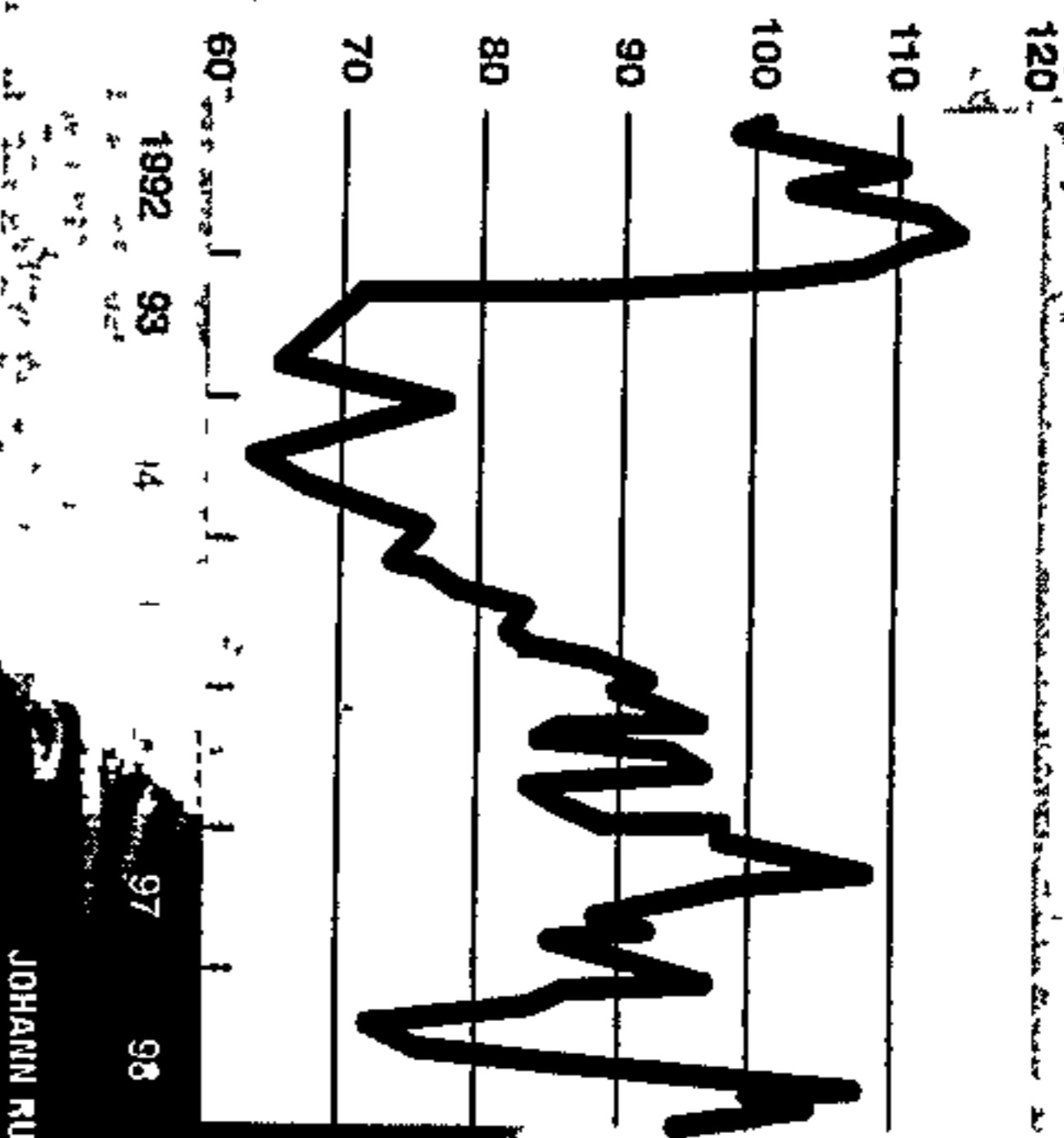
What neither company stated openly, but what they both hinted at, was that their combined geographical spread would give them the edge in what was now essentially a two-horse race in the fight to win new smokers in developing markets.

The other horse has many other virtues. It is more profitable, its overall debt is lower, and crucially, it has the global lead brand in Marlboro.

By comparison, the new BAT's brand focus looks messy, even though it will have some leading international brands like Rothmans, Lucky Strike, Kent, 555 and Peter Stuyvesant.

Analysts estimate that Philip Morris's 10 brands generate 70% of its sales volume, while the 10 largest brands of a combined BAT and Rothmans would account for only 25% of its sales. But what Philip Morris will not have is momentum. BAT, after all, began its life as the merger

World tobacco equities Index
Relative to the total market index (common currency terms)



JOHANN RUPERT
Graphic: MATTHYS MOSS Source: FINANCIAL TIMES/DATASTREAM

of the foreign operations of an American and a British company, and it therefore was not able to enter the home markets. As volumes increase in the developing world, so will BAT's market share, and in time, the ambitious management of BAT hopes it will achieve the coveted number one spot.

So the deal clearly puts BAT on the offensive, chasing Philip Morris's leading slot, but it is also a defensive move because it is hoped the merger will result in cost savings which will benefit shareholders regardless of the new company's overall market share — and these savings will be substantial.

BAT estimates that \$250m in cost savings will come through each year after three years, but Meryll Lynch analyst Peter Arnitage says they might come through quicker. About 45% of the cost savings will be made up in sales and distribution, 35% in operations, such as closing factories, and 20% in overheads.

These savings alone will increase the new company's earnings a share by between 10% and 15%, Arnitage estimates.

For the rest of the industry, the BAT/Rothmans merger just piles on the pressure even more. One BAT executive reportedly noted that he would not have liked to have been in the headquarters of RJR Nabisco on Monday morning.

RJR CE Steven Goldstone is under intense pressure to boost the company's stock price which has been hit hard

by the anti-tobacco legislation in the US. The larger European tobacco companies such as Imperial in the UK, Seda of France and Reemstma of Gals many will also have to rethink their positions, and may do so in conjunction with RJR, but even then they will look tiny compared with the two giants.

There is also one curious aspect to the deal. Remgro and Richemont will collectively be issued with shares of the value of 35% of the new BAT, but this will be made up of a 25% voting stake and essentially a put option on the remaining 10%. Furthermore, the Remgro and Richemont stake will be limited to a maximum of 25%.

This apparently inelegant arrangement is in fact rather neat way to deal with the concerns of both sides. BAT was concerned about a reverse takeover, while for Remgro and Richemont, the difference between a 25% and a 35% stake, when the next largest shareholder owns less than 5%, was not a concern. In exchange for a lesser voting stake, Remgro and Richemont have some insurance against a total market meltdown.

There is also some unfinished business, and this is Remgro, which now appears, more than ever, to be distinctly undervalued investment trust with a rather odd portfolio. But Rupert insists that dealing with this must wait until the BAT/Rothmans deal has bedded down. Besides, global pressures or not, after having three successive holidays disturbed by major deals, Rupert is going to try to complete his current vacation

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9D 13/1199

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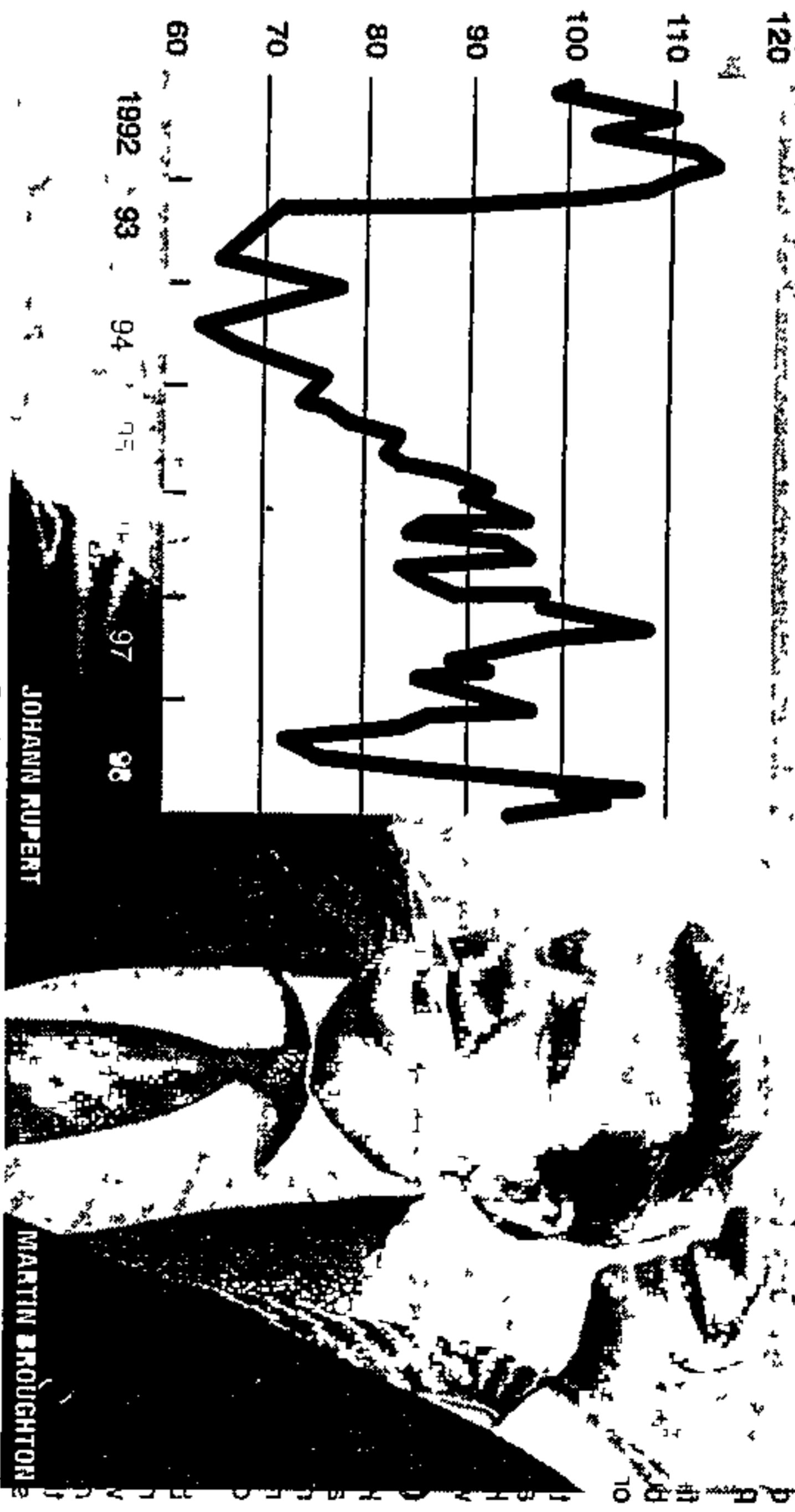
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The Fox Column

RICHEMONT/ROTHMANS

TAKING THE DEFENSIVE VIEW ON TOBACCO

(198)
FM 15/1/99

In the early Nineties, the Swiss-based Richemont paid a hefty sum to enlarge its stake in the international tobacco company, Rothmans International, in which it then held about 32%. Rothmans, which had earlier been built up by Rembrandt's founder, Anton Rupert, subsequently became a wholly owned Richemont subsidiary, and was delisted from the London Stock Exchange.

Richemont CE Johann Rupert now views the planned merger of Rothmans with the larger British American Tobacco (BAT) as a "consolidation" of the groups' tobacco interests. But, however you look at it, Richemont, with Rembrandt, will be passive minority shareholders in the much enlarged BAT tobacco empire.

Together they will have only a 25% voting interest. BAT managers will be in charge, though Rothmans CE Bill Ryan becomes deputy CE and (Johann) Rupert and Richemont financial director Jan du Plessis will be non-executive directors.

Rupert's willingness to enter into this deal says much about his view on the direction of things in the tobacco industry. Rothmans shareholders gain exposure to a much larger and potentially more profitable tobacco group. The stated rationale includes rich opportunities for cost savings, improved growth prospects and better profit margins.

The merged company should be more competitive in tougher international markets. Perhaps shareholders will see improved cash flows. But for Richemont and Rembrandt — the latter injected its SA tobacco interests into Rothmans in exchange for a one-third stake in the UK company a couple of years ago — the move also looks distinctly defensive.

Last year's legal battle in the US promises huge changes for the industry, in the US and elsewhere. In November, the US tobacco companies agreed to settle a series of state lawsuits for US\$206bn. Since then the Nicaraguan government has filed suit against 11 tobacco makers (including BAT), seeking to recoup costs of treating smoking-related illnesses. Guatemala did the same last May. Brazil has threatened to follow.

At the same time, the US government is seeking to tighten restrictions on tobacco advertising. Other countries, such as Britain, Canada and, now, SA are doing the same.

The likely effect is continuing consolidation and fiercer competition in the tobacco industry. As Rupert reportedly said this week, one can "either be a restructurer or a restructuree". RJR Nabisco's international tobacco arm is viewed as being in play. More mergers could follow this week's deal.

With their domestic turf becoming less healthy, the US tobacco companies are expected to pay more attention to international markets. That could present a big risk for middleweight players such as

Rothmans. Even after the merger, BAT would face an immensely powerful adversary in the US leader Philip Morris.

On the other hand, BAT and Rothmans will entrench some powerful positions in non-US markets. In SA, for example, they have about 95% monopolistic market shares. Can be wonderful for those who have them.

This merger is the latest in a series of major deals Rupert has entered into since he became chairman of Rembrandt about 12 years ago. First, in 1988, when sanctions against SA were at their height, the foreign interests — tobacco and luxury goods — were moved into the new Swiss-based company, Richemont. The stated reason was to position these busi-

nesses for Europe 1992, a milestone in the emergence of Euroland.

Richemont later simplified the holding structure for various businesses. In late 1996 it swapped a large stake in the developing pay-television company Nethold, which was losing money, for a minority interest in the larger and profitable French company, Canal+. Later, in a depressed market, it bought out minorities in Vendôme, holding company for the group's luxury goods interests.

In the broader Rembrandt/Richemont family, most of the deals and reshaping have occurred in the Swiss group. Once the tobacco merger is bedded down, it can only be a matter of time before more attention is turned to Rembrandt. ■

RICHEMONT/REMBRANDT/BAT

(198) fm 15/1/99

SMOKING OUT THE OPPOSITION

BAT steals a base from Philip Morris as it takes its stake of the world market to 16%

On Monday (January 11), Geoffrey C Bible, chairman and CEO of the mighty US-based Philip Morris, must have been smoking — out of his ears. He woke up to the news that his company's position as the world's leading international tobacco company was being seriously threatened by old rivals British American Tobacco (BAT).

During the night, world number two BAT had concluded a £5.28bn super-deal to merge with world number four Rothmans International and increase its share of the global tobacco market to around 16%. Putting it within a whisker of Philip Morris and out of sight of world number three RJ Reynolds.

Johann Rupert, who controls Rothmans through Swiss-based Richemont and SA's Rembrandt Group, neatly dodges answering whether he discussed doing a deal with another major tobacco player, saying only "We all talk to everybody." And neither Philip Morris nor Bible is talking to the media. But the deal is a missed opportunity for this US\$72.05bn per year (1997) company at a time of great consolidation in the stagnating tobacco industry.

News of the deal has been cheered by the various markets. In London, BAT jumped 84p to close at 625p on Monday. While in Johannesburg, gains in Richemont and Rembrandt helped send the All-Share index to its highest level in two months. Richemont leapt 970c to R102.40 and Rembrandt stock put on R3 to close at R42.80.

Once completed, the all-paper deal will give Richemont and Rembrandt a combined 35% of the enlarged BAT, 25% in ordinary shares and the balance in convertible preference shares. Making them by far the largest shareholders in BAT, with the next largest investor holding just 3% of the company.

Richemont and Rembrandt's voting interest has been limited to 25%, but the Rupert family will clearly exercise a great deal of control over the new group. Rothmans CE Bill Ryan will be joining as deputy MD and Rupert

and Richemont FD Jan du Plessis will be taking up non-executive positions.

Rupert is quick to stress that the move is not an attempt to divest from tobacco, and that the shareholders' interests are best served by participating in a larger tobacco business.

"We were offered a cash alternative for more than 25% of the company but decided not to take it. Richemont and Rembrandt's roots are in tobacco and we wish to continue this involvement through holding BAT for the long term."

From many angles this deal — billed by Rembrandt advisers SG Hambros as "the largest corporate transaction in which an SA company has been involved" — makes sound financial sense. It means the new BAT will enjoy market leadership in 55 markets around the world and a good mix of developed (static but cash generative) and developing (cash consuming) markets.

With the addition of Rothmans' premium international brands, such as Dunhill and Peter Stuyvesant, BAT will also be able to better cover the market and leave little room for competitors. These two factors mean that the extended company will be able to

dominate its existing markets and attack new areas.

The other substantial benefit of the deal is that it will bring economy of scale benefits. Annual cost savings of not less than £250m are expected to be achieved in the third full year following the merger, with the greatest saving expected to come from sales and distribution. These will, however, come with costs of about £400m.

The merger is expected to generate neutral earnings in the first year for both Richemont and Rembrandt, before the one-off costs of achieving synergies, and earnings enhancing in subsequent years. In future, Richemont will no longer consolidate its interest in Rothmans, which will

HOW THEY SHAPE UP

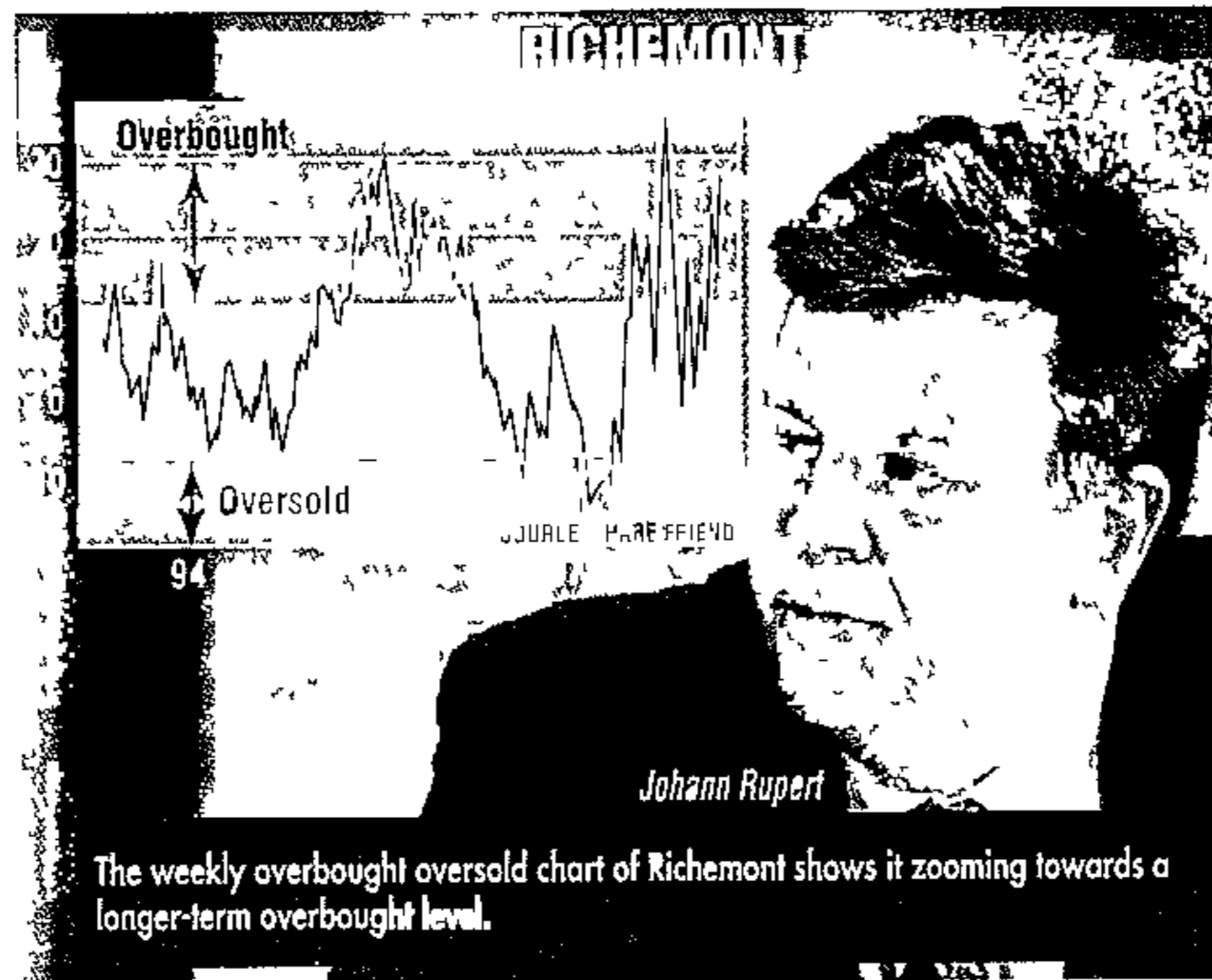
Philip Morris

Turnover (year end 1997)	\$72.05bn
Cigarette sales (1997)	946.7bn
Countries/territories	over 180
Staff	150 000
Major brands	Marlboro, Bond Street, Chesterfield, Philip Morris, Virginia Slims

SOURCE: COMPANIES

New British American Tobacco

Turnover (1997, est)	\$34.5bn
Cigarette sales (1997, est)	929bn
Countries/territories	over 100
Staff (approx)	70 000
Major brands	Rothmans, Dunhill, Peter Stuyvesant, Pall Mall, Lucky Strike, Benson & Hedges



The weekly overbought/oversold chart of Richemont shows it zooming towards a longer-term overbought level.

have an impact on the income statement.

The two groups are hoping to finalise the merger by the second quarter of 1999. BAT chairman Martin Broughton does not believe the parties will be forced to make any major changes by any regulator. But a confrontation seems likely in Australia, Canada and SA. In SA, Rothmans holds 85% of the market and the listed British American Tobacco South Africa (Batsa) holds another 10%. Together they would have a virtual monopoly.

Competition Board spokesman Wouter Meyer says of the deal "There will be concentration in the market for cigarettes and we will have to look at the implications with a view to deciding what we should do."

Concern over the competition issue locally seems to be re-

flected in the Batsa share, which put on a modest R1,50 on Monday to R48,50. Though on Tuesday it belied up a further R4. Batsa MD Steven Jurgen says he cannot yet measure the potential impact of the deal in SA, saying only that the "synergies globally do apply locally".

Assuming the merger does go ahead, the big question for the market will be how the other tobacco companies will react — more specifically, how Philip Morris will react. The diversified Philip Morris group produced about 946,7bn cigarettes (new BAT est 929bn) during 1997 and has a staff of 150 000. It is said that eight years ago the company's unutilised credit line was greater than SA foreign debt.

BAT and Philip Morris aren't volunteering answers to this. But Rupert's feeling is the competition will remain the same.

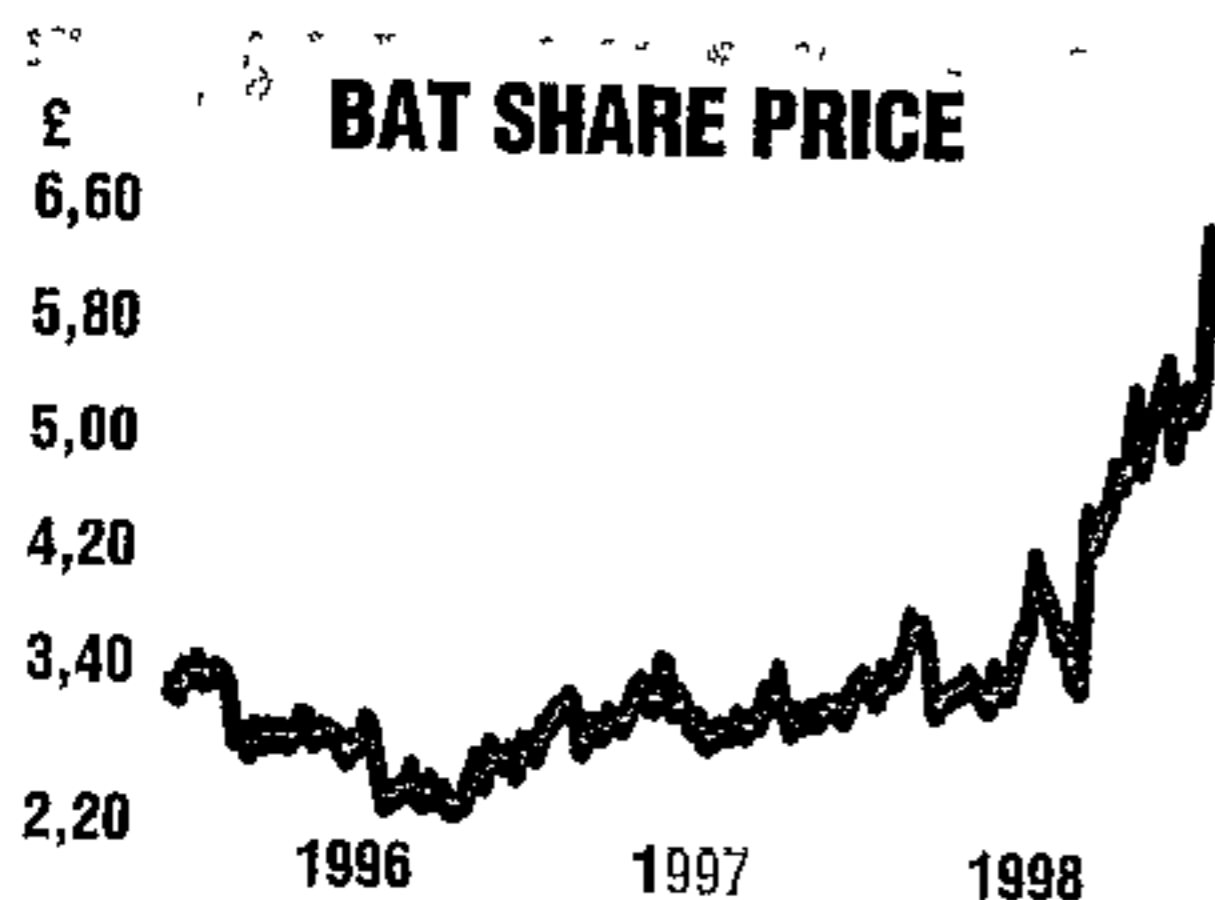
Rupert is understandably pleased with the deal and the fortune made through tobacco. He has positioned the company to do the best it can in a difficult market and unlocked value in both companies. Rembrandt's holding in BAT amounts to around R32,80 per share and Richemont's holding to about R65,60 per share. Interestingly, one analyst says "The family appears to have changed its tune in terms of hanging on jealously to things. If you take a medium-term view you could see that change materially".

As for investing in the dynamic Batsa, it would be wise to exercise restraint, until the Competition Board gives an indication of where it is leaning. It does seem likely that the two groups will, however, need to do some bending or breaking of assets to get the necessary approval.

Finally, this deal does raise the question of whether Rupert and co will start looking for controlling stakes in new assets or to restructure further. Asked about this, Rupert says "I have had no holiday for a bloody long time. I want to get back to SA and spend a week with my kids. If you ask me again in a month's time I may have an answer".

Who was it who said "Holidays are for amateurs"?

Stuart Rutherford



SUPER GROUP/HCI/CREDITSURE

FROM THE SILENCE OF THE MADDING CROWD

There could well be a pleasant surprise incubating

Most new entrants to the financial services sector require a send-off rivaling that of the *Titanic*. Bells jangle, whistles blow, brokers cheer and investors pile in. That's what the textbook says, at least.

But Unifer has been the exception. While the occupants of the JSE were other-

wise occupied on Clifton or Long Beach, Super Group, HCI and Creditsure stitched together a new bank focusing on microlending and asset-based finance for small and medium-sized businesses. Christened Unifer — short for Unibank Investment Holdings (incorporating Ferreira's Financial Services) — the new financial services company

will take over Creditsure's listing in development capital and apply for a transfer to financial services.

The share has meandered since an early rise in September to 300c (neatly coinciding with the release of the first cautionary). Its less-than-brisk progress could be attributed to more than the timing of the new announcement. Unifer lacks a track record and a new CEO has yet to be appointed.

Prospects, however, look appetising and its backers, particularly Super Group, are top-class.

With a microlending book worth R1bn, Unifer claims second place in the microlending market behind Theta (whose book is three times as large). The short-term market is valued at R10bn-R14bn. Super Group financial director Joel Klotnick says the huge long-term market has yet to be quantified.

There's much chat about synergies and cross-selling. The 400 000 union members invested in HCI and 850 000 members contracted to Ferreira's will be married to Unibank's banking licence. So Ferreira's

no longer needs to fund its cash-hungry microlending book by borrowing from institutions at high interest rates. In addition, Ferreira's and HCI plan to expand Unibank's microlending operation, which has 700 000 clients.

However, the transition from union member to client isn't automatic — Fer-

reira's sells to only 350 000 of its membership base. Yet it's a market built on strong contacts, which Unifer has in spades. "Though HCI won't be selling at ground level, it will introduce the bank to the union hierarchy, which will help Unibank-style products that union members need, particularly group sureties and arrangements," says

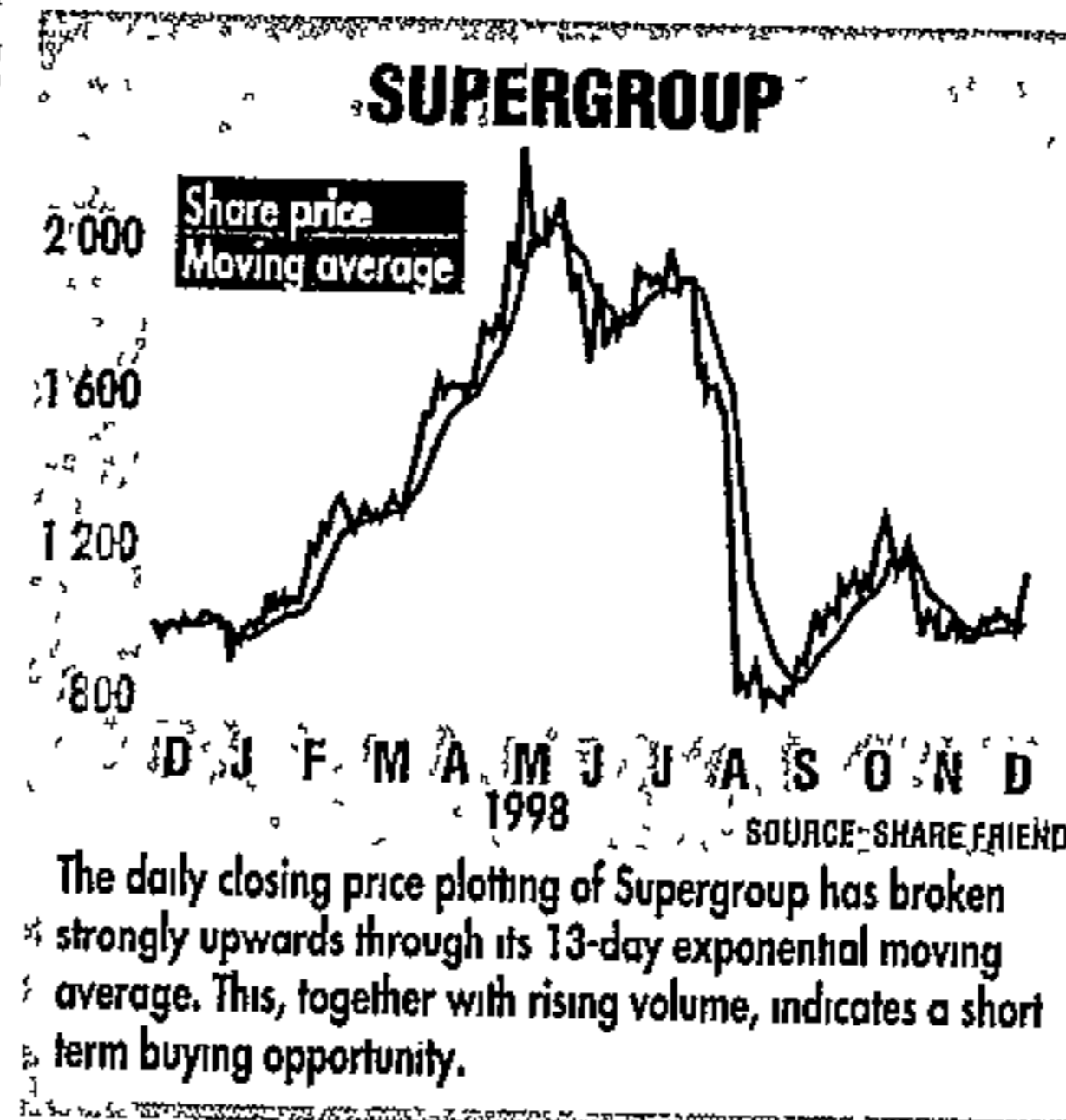
HCI CE Johnny Copelyn. Ferreira's will use existing distribution in the form of 250 salespeople.

Unifer's risk will be reduced by its use of debit orders attached to members' payrolls — one of the main reasons Ferreira's had a bad-debt ratio of less than 1% over the past 19 months. Other cross-selling will focus on insurance. Ferreira's 350 000 funeral policyholders will switch from Fedsure to Unifer's Global and Constantia Insurance.

Unifer is being sold on the attentiveness of its two parents and their contacts. Super Group plans to flex connections in its transport operation, Bluefin, to seed microlending south of the Sahara.

More importantly, Unifer's plans to provide asset-based funding will feed off investment holding companies HCI and Super Group.

These ambitions are being rated less highly by analysts and earn smaller margins than microlending, given the sardine-packed competition in that market. However, this business (backed by a R1,3bn book) will be the next-largest engine of



Remgro shares surge on news of deal with BAT

Rupert ups stake in tobacco market

ART 17/1/99 (198)

Johannesburg - Shares in South Africa's Rembrandt Group (Remgro) and Richemont rallied on the Johannesburg Stock Exchange today after news of a merger worth an estimated R125-billion between Rothmans International and British American Tobacco (BAT)

Rothmans is effectively owned by South Africa's Rupert family through a Swiss-based luxury goods company Cie Financiere Richemont AG, and its Cape Town-based industrial holdings group, Remgro

Shares in Remgro and those in Richemont listed in South Africa, which will hold a combined 35% stake in an enlarged BAT, rose as much as 12% in opening trade on the Johannesburg exchange

Richemont was trading at R101 20, up R8,50, by 10am, and 1,5-million

shares had changed hands. It was the most-traded share by value, accounting for more than a third of the morning's R400-million turnover

Remgro shares moved up R3,40 to R43,20 as 396 000 traded

The proposed mega-merger helped send the JSE's all-share index to its highest level in two months

BAT shares listed in South Africa, however, were unmoved at R47 in slim trade of only 11 500 shares

BAT's merger with Rothmans, set for completion in the second quarter of the year, will combine the world's second and fourth largest cigarette makers and have a global market share of more than 16%

BAT will issue £4,6-billion worth of shares at £5,41 each to Richemont-Rembrandt as part of the deal

Remgro chairman and Richemont chief executive Johann Rupert will

join the BAT board as a non-executive director

"The board of Remgro believes that their shareholders' interests are best served by participating in a larger tobacco business, one which will have enhanced market positions and greater scale of operations," a Rembrandt company spokesman said

"Through its equity shareholding in the enlarged BAT group, Remgro will retain its investment in the global tobacco industry for the long term, and will be able to benefit from the future growth and synergies arising from the combination of BAT and Rothmans," the spokesman said

Remgro would hold an 11,33% stake in the enlarged BAT worth about £1,5-billion, which would boost tobacco's role in group net asset value to around 50% from about 35%, analysts said - Reuters

Tobacco, liquor and broadcasting bills halted

Star 22/1/99(198)

By JOVIAL RANTAO
AND RYAN CRESSWELL

Opposition parties and lobby groups have lauded President Nelson Mandela's decision to refer three controversial pieces of legislation - on smoking, liquor and broadcasting - back to Parliament for reconsideration and technical refinements.

Mandela, in a move said to avert a flood of legal challenges, has referred Health Minister Dr Nkosazana Zuma's controversial Tobacco Products Amendment Bill, Communications Minister Jay Naidoo's Broadcasting Bill, and Trade and Industry Minister Alec Erwin's Liquor Bill back to Parliament.

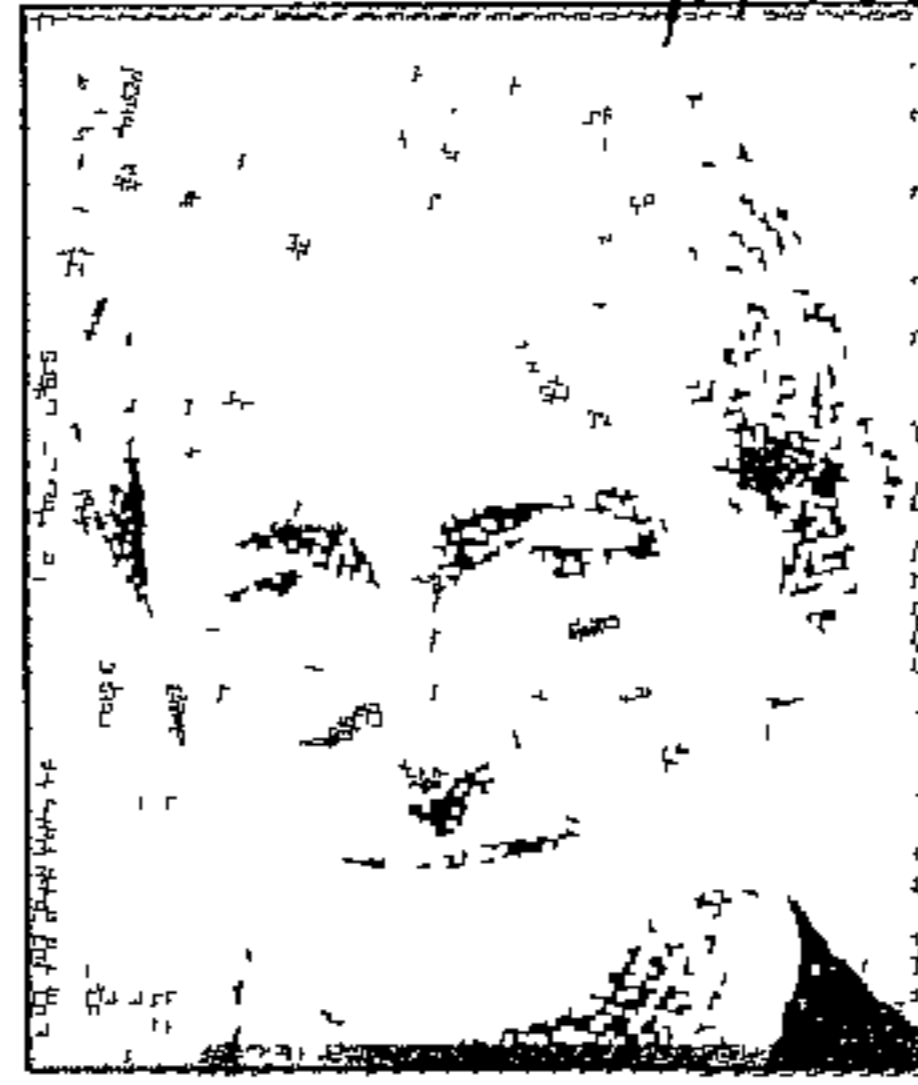
All three bills were, despite fierce opposition from the New National Party and Democratic Party, approved by the National Assembly and the National Council of Provinces last year. Mandela's office said the



Nkosazana Zuma

Tobacco Bill, which bans smoking in public and outlaws advertising of tobacco products, needed refinement to remove ambiguous terms.

The president was advised that section 3(2) of the bill, in prohibiting the organisation of, or promotion of, or financial assistance to, an "organised activity" by tobacco-related enterprises failed to define



Alec Erwin

"organised activity"

The wide ambit of this term would mean that unrelated activities protected by the Bill of Rights, especially freedom of association, would be proscribed.

This defect may be cured by a more precise definition of "organised activities", the statement said.

Zuma has welcomed the

decision, saying the move would help strengthen the constitutionality of the legislation.

The Liquor Bill, which forces all liquor manufacturers, from those brewing sorghum beer at home to the major manufacturers, to be registered, and introduces Sunday liquor sales, was sent back as some clauses needed clarification by the Constitutional Court.

Mandela was concerned, his office said, that the Broadcasting Bill gave the broadcasting minister an imprecise and potentially over-broad power to regulate even on matters which fell under the Independent Broadcasting Authority.

Witwatersrand University politics professor, Tom Lodge, said the objections would delay the enactments until the second half of the year.

Lodge said the objections came from hurried legislation last year. MPs had been pressured to finish off legislation.

LEGISLATION SENT BACK

Mandela filters smoking bill

JOHANNESBURG: The pressure to finalise legislation last year caused some ministers to hurry the process. This left their handiwork vulnerable to constitutional attack, according to one political commentator. **RYAN CRESSWELL** reports. (198)

OPPPOSITION parties and lobby groups have lauded President Nelson Mandela's decision to refer three controversial pieces of legislation — on smoking, liquor and broadcasting — back to Parliament for reconsideration and technical refinements

In a move to avoid a flood of legal challenges, Mandela has referred Health Minister Nkosazana Zuma's Tobacco Products Amendment Bill, Trade and Industry Minister Alec Erwin's Liquor Bill and Posts and Telecommunications Minister Jay Naidoo's Broadcasting Bill back to Parliament

All three bills weathered fierce opposition from the New National Party and Democratic Party and were approved by the National Assembly and the National Council of Provinces last year

In a statement, Mandela's office said he had been advised that the Tobacco Bill, which bans smoking in public and outlaws advertising of tobacco products, needed to be refined to remove ambiguous terms

"The President is advised that section 3(2) of the bill, in prohibiting the organisation, or promotion of, or financial assistance to an 'organised activity' by tobacco-related enterprises, fails to define 'organised activity'.

"The very wide ambit of this term would mean that activities unrelated to the purposes of the act and protected by the Bill of Rights, especially freedom of association, would be proscribed. This defect, the President is advised, may be cured by a more precise definition of the

'organised activities' contemplated by the bill," the statement from Mandela's office said

Zuma has welcomed the President's decision to refer the bill back to the Assembly, saying the move would help strengthen the constitutionality of the legislation

She also acknowledged concerns raised by Mandela regarding some technical aspects of certain provisions of the bill

Freedom of Commercial Speech Trust executive director Piet Delpoort welcomed the delay and said the trust was willing to work with the government but had not been consulted in any way

"We understand the principles of health but there has to be some balance. The issue is not about smoking but about freedom of speech," he said

But Refiloe Serote, Gauteng health promotions manager for the Cancer Association, called the delay a "serious setback"

The Liquor Bill, aimed at regulating the liquor industry by forcing all liquor manufacturers, from those brewing sorghum beer at home to the major manufacturers, to be registered, and introducing Sunday liquor sales, was sent back because some of its clauses needed to be clarified by the Constitutional Court

CT 22/1/99

Western Cape Business Promotion and Tourism MEC Hennie Bester welcomed the referral of the Liquor Bill back to Parliament, saying it was unconstitutional

Bester said he had reservations about the need for a liquor bill as provinces have the power to draft their own legislation. He said the revised law should recognise the provinces' "exclusive competence" to regulate liquor licensing

Mandela was concerned that Naidoo's Broadcasting Bill gave the minister an imprecise and potentially over-broad power to regulate, even on matters that fell under the Independent Broadcasting Authority

"While this may be a matter of draftsmanship, the President is advised that the current formulation unnecessarily exposes the bill to constitutional attack and that the minister's regulatory power should be defined and restricted so as not to expose him to the allegation that his power over-

laps with that of the authority," Mandela's office said

Witwatersrand University politics Professor Tom Lodge said the objections would "delay" the enactments until the second half of the year

"It is probably bad news for supermarkets and good news for smokers and journalists," he said

Lodge said the objections were the result of hurried legislation last year that lacked detailed advisory referrals

He said MPs had been under tremendous pressure to finish off legislation



WELCOMES MOVE:
Nkosazana Zuma

Bills sent back to Parliament

Slap in the face for Zuma, Naidoo and Erwin as Mandela sends tobacco, broadcasting and liquor legislation back to drawing board

Wynndham Hartley

CAPE TOWN — President Nelson Mandela has referred the tobacco, broadcasting and liquor bills back to Parliament to have their constitutionality examined.

Mandela has rejected only one other piece of legislation, the Remuneration of Public Office Bearers Bill, during the course of his presidency.

Legal advice to the president was that all three bills, approved by Parliament late last year, were vulnerable to constitutional challenge and should be modified before he could sign them into law.

Mandela said his decision to send the bills back was not taken lightly. The legislation should be on the firmest consti-

BD 22/1/99

tutional foundation

His action is a slap in the face for Health Minister Nkosazana Zuma, Broadcast Minister Jay Naidoo and Trade and Industry Minister Alec Erwin. It means that the legislation is likely to be enacted only after the election.

All three bills passed through Parliament after considerable protest in both public hearings and the relevant committees. All three were threatened with Constitutional Court challenges.

The advice to the president that the Liquor Bill was framed unconstitutional indicates it is in the deepest trouble. The bill attempts to legislate in the area of liquor licensing, an exclusive provincial competence. Central government is con-

stitutionally allowed to interfere in the exclusive powers of the provinces only for reasons of national security, economic unity, or to prevent a province from violating the rights of another.

This is first time legislation has been rejected by the president because it tampered with the powers of the provinces.

Mandela was also advised that if a nationwide system of licensing was implemented and later found unconstitutional, it would cause confusion and uncertainty in the liquor industry as the legality of the licences would be in question.

Western Cape Business Promotion Minister Hennie Bester, who petitioned Mandela to reject the Liquor Bill, welcomed the decision. He said he had

warned Parliament that it usurped provincial powers.

Mandela said the Broadcasting Bill's purpose was not unconstitutional, but some of its provisions violated the constitutionally guaranteed independence of the Independent Broadcast Authority.

Inkatha Freedom Party MP Suzanne Vos, who with Democratic Party MP Dene Smuts petitioned the president on the Broadcasting Bill, said yesterday that the bill in its present form was not good law and should be redrafted.

The Freedom of Commercial Speech Trust, which was poised to launch a constitutional challenge to the Tobacco Products Control Amendment Bill, said its objections did not centre on the bill's

restrictions on smoking but its ban on certain kinds of advertising. It applauded Mandela's decision.

Mandela's advisers found that the intention to ban tobacco advertising was not unconstitutional, but where the legislation impinged on fundamental rights it should not be "overly broad". The prohibition of "organised activities" financed with tobacco money was so wide it could infringe on the freedom of association. The clause which could allow prohibition of smoking in private dwellings was also considered too broad.

The bill's return has been welcomed by DP health spokesman Mike Ellis and his counterpart in the New National Party, Kobus Gous.

Tobacco bill sent back to square one by Mandela

AKG 22/1/99
(198)

President Mandela has given the pro-smoking lobby a temporary boost by deciding to send the controversial anti-tobacco bill back to Parliament.

A statement yesterday from the president's office stressed that although Mr Mandela did not believe the aims of the bill - to stamp out smoking and ban tobacco advertising - were unconstitutional, two sections of the bill might be.

The sections in question outlaw smoking in public places and ban sponsorship by tobacco companies of organised events.

The statement said Mr Mandela feared that the definitions of what constituted a public place and an organised activity were too vague and therefore open to interpretation unintended by the bill's drafters.

Tobacco lobbyists had threatened to go to the Constitutional Court.

Mr Mandela also decided yesterday to send two other controversial bills back to Parliament for reconsideration on grounds of questionable constitutionality.

The Liquor Bill removes the constitutional right of the nine provinces to issue their own licences to make and sell alcoholic drinks.

The Broadcasting Bill, which creates an Independent Broadcasting Authority, may also contravene the constitution because it gives wide power to the Government to interfere in broadcasts - Reuters

Holy smoke!

These *Star 23/1/99* fags are *(198)* foul ...

By JERMAINE CRAIG

A small part of a consignment of 16 million counterfeit cigarettes, smuggled into the country by a crime syndicate, is being sold to unsuspecting smokers.

Several cases containing 50 cartons each of the cigarettes have been confiscated from at least 68 outlets in and around Cape Town, said the manufacturers and distributors of a leading brand.

Smokers have complained bitterly about the inferior tobacco, saying that, when lit, it tastes distinctly different from the original product, the country's biggest seller.

Investigations are continuing, but it's believed that several people have been selling the counterfeit goods directly to small retail outlets, which in turn sell them to the public.

Near perfect

At first glance it's virtually impossible to tell the difference between the counterfeit product and the real thing, because the packaging is a near perfect replica of the legitimate product.

With excise duty on cigarettes having gone up by 258% since 1994, it's feared that cigarette smuggling and the counterfeiting of leading brands will increase.

This could pose a serious threat to the local tobacco industry and the government in terms of millions of rands in lost tax income.

Abrie du Plessis, a board member of the Tobacco Institute of Southern Africa, representing all major tobacco manufacturers and also the tobacco farming community, spoke to the *Saturday Star*.

Page 2

Counterfeit cigarettes leave smokers gasping

Star 23/1/99 (198)

stock in the marketplace which appeared to be counterfeited. Two containers, each containing 8 million cigarettes, had come into the country, but customs authorities detected and confiscated the bulk of them.

when he bought them at a shop in the area. He found that cigarettes from the approximately 10 packs he bought tasted markedly different from the brand he had been smoking for more than 20 years.

He said the first consignment to enter the country was detected in Durban two months ago and was confiscated by customs authorities before it reached the marketplace.

"At this moment there is still a small amount of counterfeit stock on the streets in Cape Town and is being removed. We advise retailers to be cautious of any cigarettes offered to them outside the normal channels and at a price which would make them suspicious. We would advise them to contact the company or customs and excise immediately to report this."

"It tasted terrible, you can't believe it. After a couple of puffs it took the taste away from the back of your throat. You couldn't even eat afterwards," said Greeff.

Du Plessis said that, according to investigations, it seemed the consignment was a "test marketing" of the leading brands in South Africa to see what success could be achieved by smuggling in counterfeit cigarettes.

The same happened a few days later in the Port Elizabeth-Uitenhage area, and just before Christmas it was discovered that the counterfeit cigarettes were being sold to traders in Cape Town.

Du Plessis said the bulk of the counterfeit cigarettes, believed to be the syndicate's "test marketing" of leading brands, had been removed from the marketplace, but a small quantity was still on the streets.

Du Plessis said retailers found in possession of counterfeit goods would have the stock confiscated and they would lose the money they had paid for it.

They could also be charged under the Counterfeits Act, which allowed for a maximum penalty of R5 000 per item.

Smokers who tried the fake cigarettes said there was a distinct difference between the fakes and the originals. They said the tobacco was dry and had a bitter taste. They also report a slight burning sensation when the smoke is inhaled.

He added that steps would be taken to inform traders and help them to identify counterfeit stock.

Maxwell Greeff, from Uitenhage, first encountered the fake cigarettes last month

Controversial Bill fires up tobacco industry

ST (PT) 31/1/99 (198)

Cigarette producers are putting pressure on government to have a say in redrafting tobacco legislation, writes JANETTE BENNETT

THE tobacco debate is all fired up again the industry has stepped up its lobby to challenge the Tobacco Products Control Amendment Bill after President Nelson Mandela declined to sign the controversial Bill late last week

Mandela referred the Bill back to the National Assembly, asking for a more specific definition of "organised activity" by tobacco-related enterprises, and questioning the "over-broad" definition of "public place"

Also sent back, with question marks over "constitutional uncertainties", were the Liquor Bill and the Broadcasting Bill

Steven Jurgens, managing director of British American Tobacco SA (Batsa), responded promptly this week "Like many other stakeholders who lobbied against the Bill, we feel vindicated Sending the Bill back to the National Assembly indicates that the drafting process was poor," he said

British American Tobacco (BAT) and Rothmans International are working towards a massive merger which will see them secure 16% of the global market, second only to Philip Morris with 17% In SA, the merged group will hold more than 90% of the market

Jurgens said government now had a golden opportunity to re-examine a range of issues — not just the definitions of "public place" and "organised activity" Foremost is the right to freedom of commercial speech — or advertising "This is a constitutional right, and we can't compromise here"

Jurgens stressed that the industry did not oppose tobacco legislation per se, but it believed restrictions should be "reasonable and practical"

"Through Tisa (Tobacco Institute of Southern Africa) representations, the industry was proactive in trying to make amendments to the Bill But we were not heard, we were not given a constructive role," he said

"Instead the Bill was put together quickly with no input from stakehold-

ers. The result is a cut-and-paste of the world's worst in tobacco legislation"

The main aims of the Bill, says Health Minister Nkosazana Zuma, are to reduce pressure on young people to start an addiction, to protect the constitutional right of non-smokers to a smoke-free environment, and to attempt to reduce the harm cigarettes do to those who cannot or will not stop smoking

It will do this by prohibiting advertising and promotion of tobacco products, prohibiting free distribution of products, limiting smoking in "public places", and allowing for regulation of tar and nicotine levels

Jurgens agrees with some of the ends, but not the means "We, too, do not want children to smoke We've launched campaigns against under-age smoking"

Batsa and Rembrandt spent R57-million to comply with health warning rules in 1995 They have been developing lighter cigarettes to meet customer needs, "but if our right to commercial speech is restricted, how will we communicate to our customers that lower-tar cigarettes are available?"

But what if all else fails and the Bill is enacted?

Jurgens does not believe restricting advertising will stop people smoking. "What is clear from the many markets in which we operate and face restrictions is that we survive, and we grow"

Jurgens said the tobacco industry would not be the first to suffer if the "Draconian" rules were introduced

First to feel blanket restrictions would be the hospitality industry and tourism, as well as the media The tobacco industry spends R250-million a year on print and media advertising, and R40-million on promoting sport, cultural activities and emergency services "Do we want job losses at a time when the country has a 45% unemployment rate?" Jurgens asked

The government itself would be a victim — the industry generates R3 6-billion a year just in excise and VAT

Tobacco companies warned of health lawsuits

The National Council Against Smoking yesterday warned South African cigarette manufacturers to re-evaluate the threat of lawsuits from people who became sick or died from smoking

Spokesperson Dr Yussuf Saloojee said in a statement this followed the awarding of \$51 million (about R306-million) in punitive damages against the tobacco giant Philip Morris Inc by a California jury last Wednesday

Patricia Henley (52) contracted inoperable lung cancer after smoking Marlboro cigarettes for 35 years. She sued the company for punitive damages

"The message from the California jury is clear. Irresponsible corporate behaviour will be punished

"When a company knowingly sells a harmful product and then deliberately lies and tries to hide the dangers from the public, then that company will have to pay for the resulting harm," Saloojee said

He alleged that South African cigarette companies, like their US counterparts, have for decades tried to confuse the public about the dangers of smoking and the addictive nature of nicotine

"The Tobacco Institute of SA

still rashly maintains that cigarettes are not addictive," he said

During the four-week US trial evidence was presented that the tobacco companies knew since 1946 that smoking cigarettes caused cancer, yet failed to warn smokers of the dangers

In finding Philip Morris guilty of negligence and fraud, the jury rejected arguments that Henley should have been aware of the health risks of smoking and that it was her own fault she became ill because she had chosen to keep smoking instead of quitting

The US industry has now lost three of its last five trials - Sapa

(198)

HOW 10/2/99

Nicotine addicts will bear brunt of huge excise duty increases

Linda Ensor (198)

CAPE TOWN — An additional R495m will go up in smoke this year as nicotine addicts bear the brunt of huge excise duty increases. Drinkers will fork out an extra R179m for their favourite beer, cider and wine.

However, there is good news for mineral water and soft drink consumers, provided the duty cuts are passed onto them.

Their indulgence will be 19% or R56m cheaper.

The decline of 2,83c a litre to 12c a litre, is likely to contribute to significant volume growth.

Together with improved collection efficiency, revenue hopes to raise an additional R818m this fiscal year from excise duties.

Finance Minister Trevor Manuel used the health argument to justify the punitive rise in the cost of tobacco products, which will see a pack of 20 cigarettes cost 41c (20%) more.

Duties on cigarette tobacco go up by 76c for a 50g packet, on pipe tobacco by 39c on a 25g packet, and on cigars by 3 669%, to R7,33 from 20c per 23g packet.

Beer will cost 4,6c more a litre, or 1,6c more per 340ml can, unfortified wine by 3,4c a litre, or 2,5c per 750ml bottle, and cider by 8c a litre or 2,7c per 340ml can.

Spirits go up by 75,5c per litre, or 56,6c per 750ml bottle. For whiskey, this translates into a 12,4% rise.

The budget review notes that the imposition of excise duties on carbonated soft drinks is an anomaly in international terms, and new tax codes in the European Union prohibit such levies.

"It is trusted that the manufacturers of soft drinks will honour their commitment to pass on the reduction in excises to consumers in the form of lower retail prices.

"Moreover, the Federation of Soft Drink Manufacturers undertook to plough the secondary benefits back into the South African economy by providing direct support to small and medium-sized enterprises particularly those with close links to the industry," the budget review says.

Stamp duties on customs and excise documents are to be increased by a total of 60% to 100c (40c) with effect from April 1, generating an estimated R1,2m.

This is the first such increase since 1983.

However, stamp duties for antenuptial and postnuptial contracts, duplicate originals, partnership agreements and powers of attorney will be abolished, as they are not considered cost-effective from an administrative point of view.

BD 18/2/99

Hike on duty 'excessive' — tobacco sector

Nicola Jenvey

(198)

DURBAN — The annual "sin tax" adjustments drew mixed cries of criticism and relief yesterday as the health lobbyists welcomed the move to bring tobacco excises in line with international levels, but manufacturers labelled it "excessive"

"The government is pricing a legal product — enjoyed by tens of thousands of people around the world — out of the reach of the average consumer

"Internationally, climbing excise duties have brought decreasing volumes and thus government revenue, but also a dramatic rise in smuggling," British American Tobacco financial director Steven Daintith said

Tobacco excise increases were more than twice inflation and now accounted for 45% of the retail price

Daintith believed "a reasonable level" of excise reflected the abilities of a consumer to afford the product and was therefore linked to economic wealth

However, analysts argued that in Africa, tobacco excises averaged 40%, South America 58% to 65%, France 76%, US 30% and Canada 58% to 75%

Thus local consumers could expect further disproportionate excise rises in the next few years if government achieved its stated 50% margin

Amalgamated Beverage Industry financial director John Busschau said the 19% cut in the soft drink excise duty alleviated "some of the hard times for both producers and consumers"

Beverage analysts said the decrease was part of the strategy to discontinue excise on nonalcoholic beverages in line with

international practice

Lower mineral water and soft drink prices stimulated demand in emerging market segments

Responding to the 4,5% excise increase on beer, SA Breweries beer division marketing director Tony van Kralingen said "no one welcomed a price increase, but it is not unreasonable"

It was pleasing to see further progress made on closing the "unfair gap" between beer and wine, he said

Analysts said wine excises were still "more favourably attractive" and argued government should consider taxing absolute alcohol volumes

They believed the beer and cider levels were now in line with international standards, while wine would rise steadily until equality with beer was reached

BD 18/2/99

Tobacco bill changes may not stave off challenge

Wyndham Hartley

CAPE TOWN — The controversial tobacco bill has been amended to allow people to smoke in their homes, but the draft amendments are still not enough to stave off a Constitutional Court challenge on the grounds that the legislation violates the right to free speech

The proposed amendments, to be dealt with by the parliamentary health committee next week, deal only with the bill's definitions of an "organised activity" and "private residence", omitting some of the broader concerns that were raised by stakeholders in the advertising and publishing industries

The narrow focus of the amendments stems from the president's legal advisers' findings that a ban on tobacco advertising would be legal. The parliamentary com-

mittee is allowed to address only those sections commented on by the president

Last month President Nelson Mandela refused to sign the bill into law on the grounds that it might be unconstitutional. He sent it back to Parliament for review.

A spokesman for the Freedom of Commercial Speech Trust said yesterday the proposed amendments did not address the trust's concerns. Former trust president Neil Jacobsohn and current chairman Peter Vundla had appealed to Health Minister Nkosazana Zuma on the freedom of speech aspect of the Tobacco Products Control Amendment Bill to avoid litigation, but there had been no response.

The spokesman said declarations that it had been consulted on the bill were simply not true. It was not enough to say that an invitation to a public hearing at the last moment of a rushed process was consul-

(198)
BD 10/12/99
tation. There were also concerns about the procedures followed in getting the tobacco bill through Parliament and this, with the failure to give the trust a chance to air sensible and rational proposals, were further reasons for a Constitutional Court challenge, he said.

The trust fully supported government's intention of stopping smoking among youngsters and in public places, but believed it was using unconstitutional means to achieve those goals.

It is understood that more than R1m has been raised to mount a court challenge, should this prove necessary.

Parliament's health committee is set to decide on the amendments to the bill on Monday and will send them to the National Assembly and the National Council of Provinces for approval before the bill is again sent to Mandela for his signature.

FINANCIAL TIMES

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(198)
BD 19/2/99

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It's a 3 669% sin for cigar aficionados

Belinda Beresford

(198) M+G 19-25/2/99

Anyone wanting to follow American President Bill Clinton's lead with Monica Lewinsky in developing novel favourites before any enjoyment wanes in the face of a 3 669% increase in excise duty

Cigar aficionados will pay an extra R7,33 per 23g in excise charges, up from just less than 20c. Deputy President Thabo Mbeki with his famous pipe is also going to face an impressive 166% rise in import duties on pipe tobacco. The increases are part of the government's strategy to raise customs duty on tobacco products to try to encourage South Africans to just say no to the health-hazardous weed.

In his speech, Minister of Finance Trevor Manuel told Parliament that the expected hike in so-called sin taxes is intended to

"contribute in this way to healthy living in this chamber and elsewhere"

He also commented that brandy and Coke drinkers should rest easy. While the cost of their brandy may have gone up (spirits face a 6.5% increase in import duty), the price of Coke should come down. Mineral waters and soft drinks enjoy a more than 19% fall in excise duties, which translates to about 1c per 340ml can.

Rather hopefully, the *Budget Review* states "It is trusted that the manufacturers of soft drinks will honour their commitment to pass on the reduction in excises to consumers in the form of lower retail prices." So look forward to a drop in the cost of highly priced mineral water at upmarket gym chains.

The government intends to abolish excise taxes on carbonated soft drinks, but says it is unable to do so immediately for financial reasons. Most alcoholic beverages will see a tax in-

crease in nominal terms with the exception of sorghum beer. The *Budget Review* notes that, contrary to their image in some quarters, South Africans are only moderate drinkers.

The 1998 edition of *World Drink Trends* shows that consumption per capita is down around four to 4.9 litres per person — amateur stuff compared to survey leaders Portugal and Luxembourg. Both consume between 11 and 11.3 litres of absolute alcohol per head.

The government has aims to have total taxes on tobacco products at around 50%, which accounts for the jump in cigar excise duties. Smokers will pay about R2,45 in taxes on a pack of 20 cigarettes in the most popular price category. Fuel is also going up from April. Fuel's Day the fuel levy on petrol will go up by 4c a litre. The government expects fuel consumption to rise by just less than 4% in the new financial year, with diesel usage up fractionally less.



Up in smoke: Thabo Mbeki's smoking days may be limited following a 166% hike in import duties on pipe tobacco

Pay to government	1998	1999	% change
Income tax	11 160	11 160	0%
Other tax	0	0	0%
Total pay to government	11 160	11 160	0%
Receive from government			
Car subsidy	3	3	0%
Services not included			
Health (R601)	2 404	2 404	0%
Welfare (R1)	1 980	1 980	0%
Housing (R1)	894	894	0%
Education (R1)	4 852	4 852	0%
Other	11 458	11 458	0%
Total receive from government	28 695	28 695	0%
Net return	17 355	17 535	1%
Net return per capita	695	695	0%
Return per capita	179	179	0%

Tax burden: Redistribution effect of central government — 1998/1999. SOURCE: EQUISec

Changes to bill 'do not meet concerns'

BD 22/2/99 (198)

Tobacco bill amendments 'slap in the face for Mandela'

Wyndham Hartley

CAPE TOWN — The minor amendments proposed by the health department for the controversial tobacco bill did not meet the concerns expressed by President Nelson Mandela when he sent the bill back to Parliament, the Tobacco Institute says

Tobacco Institute CEO Edward Shalala described the proposed amendments as "draconian" and a "slap in the face" for Mandela, who returned the bill to Parliament last month because he feared that parts of it were unconstitutional

Shalala said there were two key paragraphs in a letter Mandela sent to National Assembly speaker Frene Ginwala inviting a wider look at the tobacco bill than that decided by the National Assembly's health committee

The committee apparently decided at a hastily convened meeting last week that only the definitions of "organised activity" and "private residence" would be considered when it met again today

The health department has drafted amendments only in those two areas

Shalala said the committee was ignoring the President's reference to unintended consequences and to placing the bill on the firmest possible constitutional foundation

He said the changes made to the two clauses made matters significantly worse for the tobacco industry. In their new form the mea-

asures could stop the day-to-day functioning of the tobacco industry

The definition of organised activity as it was framed in the amendments could prevent an employee of a tobacco company from taking his or her spouse to an office party

The amendments remained too broad and constituted a massive violation of freedom of association, he said

The private residence amendments were such that parents would not be able to smoke in their homes simply because they had children, and appeared to be a contradiction of what Mandela had asked Parliament to look at

"This bill has already done a lot of damage, limiting the freedom of expression and of association clauses, and the rules of procedure have been violated willy nilly," Shalala said

The industry had not yet taken a final decision on a constitutional court challenge to the bill, he said

Democratic Party health spokesman and MP Mike Ellis said his party was very disappointed with the amendments — which "change very little indeed" — and with the failure of the minister to use the opportunity to consult widely on the type of amendments which were now needed to the legislation

Ellis appealed to Health Minister Nkosazana Zuma to re-open negotiations with interested parties "so that the principles which are contained in the legislation are not tied up in the constitutional court for years"

Omar's problem Over Budget cut

Tobacco (198)
Bill fight
continues

By Malcolm Ray

JUSTICE Minister Dullah Omar yesterday warned of impending problems in his department arising from the reduced budgetary allocation

He said the critical challenge of implementing a forest of new legislation this year depended on the availability of resources, personnel and technical back-up, all of which presupposed enough money to foot the bill

The Justice Ministry was allocated, R2,82 billion, down from an expected R5,6 billion in terms of the three-year rolling budget expenditure projection. Though the department retained a 1,3 percent share of total spending, its allocation has been cut in real terms

Contrary to expectations, the provision for justice, safety and security and correctional services - the three key departments of the criminal justice system - totalled R23,5 billion

In his Budget last week, Finance Minister Trevor Manuel said the real decline in the allocation against inflation allowed for "modernisation and several initiatives aimed at improving the efficiency of the courts"

However, it was doubtful whether the tight room to manoeuvre would allow for funding capital programmes. The problem facing justice was a developing crisis between capital programmes and expenditure. Also potentially problematic was the discrepancy between personnel costs and operating expenses

According to Omar, a computerised central records system for prosecutors and court officials, the long needed fingerprint directory for police and special prisons to keep prisoners awaiting trial (who will make up 30 percent of the total prison population this year) will be dif-

ficult to implement within the limited budget

"Urgently needed capacity to finance the necessary infrastructural investments and cover personnel and operating costs will have to be dealt with," Omar said

As things stand, he said the department would be "borrowing from Peter to pay Paul"

He cautioned, however, against a perception that the criminal justice system was on the brink of collapse

"There are ways to work within the budget to release much-needed funds for capital programmes. The problem does not necessarily have to be addressed through more money

"There is room for improvement by concentrating on problem areas in the system," he said

He said "sound fiscal management" should be a defining characteristic of the department's finances in the current fiscal year

"Over the next year, we will see to it that better management, efficiency in administration and the courts, and more efficient use of resources square up with the projections of the Medium Term Expenditure Framework

"We will also do well by getting rid of unnecessary demands on the justice system and more streamlined case handling," he said

"No one is suggesting that such measures are solutions to our needs. Through tighter expenditure we will be able to assess more accurately what sort of budget vote is appropriate," he said

Omar, however, added he was confident enough money would, in time, be made available to ~~ensure~~ there was an office of the Public Protector in every province

He also said the Government was determined to deal with corruption, which was a "shocking occurrence" in the private sector.

AFRICAN National Congress MPs on the health portfolio committee rejected opposition calls yesterday for a new round of public hearings on the Tobacco Products Control Amendment Bill and accused opposition parties of delaying tactics

This came after opposition parties suggested that ANC proposals for changes to the tobacco Bill could stop people from smoking in their own homes if there were children playing there

The New National Party was one of three opposition parties that balked at ANC amendments to the Bill that were discussed by the health portfolio committee yesterday, saying they were being rushed through Parliament

The Tobacco Products Control Amendment Bill was approved by Parliament last year, but sent back by President Nelson Mandela because the feared private homes could be subject to the proposed ban on smoking in the workplace, and that the ban on tobacco sponsorship of "any organised activity" was too wide

The ANC amendments specifically exclude private homes from the definition of "workplace", except when a home is being used for child-care activities "including pre-school activities and post-school activities"

NNP health spokesman Kobus Gous said yesterday that this was a "shocking piece of definition", and asked whether it would prevent him from smoking if his children played at home after school - a post-school activity

Inkatha Freedom Party health spokeswoman Ruth Rabinowitz said she had problems with the idea of an "enclosed area" in the original definition of workplace. This could be taken to include a sports stadium, and someone had even suggested it could cover the Kruger Park

The committee will continue its discussions on the bill today - *Sapa*.

ANC proposals 'could snuff out smoking in the home'

THE African National Congress' proposed changes to the tobacco bill could bar people from smoking in their own homes if children are playing, New National Party health spokesperson Kobus Gous has said

The proposed amendments were discussed by the portfolio committee on health yesterday

The NNP was one of three opposition parties that balked at the proposed ANC amendments, saying they were being rushed through Parliament

ANC members of the committee rejected calls for a fresh round of public hearings and accused opposition parties of delaying tactics

The Tobacco Products Control Amendment Bill, approved by Parliament last year, has been sent back by President Nelson Mandela, who says the ban on tobacco sponsorship of "any organised activity" is too broad and fears that the proposed ban on smoking in the workplace could encompass private homes

The ANC amendments specifically exclude private homes from the definition of "workplace", except when a home is being used for child-care, "including pre-school and post-school activities"

This was a "shocking definition", Gous said. He asked if it would prevent him from smoking if his children were playing at home after school

Inkatha Freedom Party health spokesperson Ruth Rabinowitz said she had problems with the idea of an "enclosed area", included in the original definition of workplace. This could

be taken to include a sports stadium. Someone had even suggested it could refer to the Kruger Park

Mike Ellis of the Democratic Party said the definition, given in the amendments, of "organised activity" was as wide as before and could prevent members of the committee from meeting tobacco industry representatives

He wondered if the definition would

also prevent the industry from doing business

"As I read that particular amendment, maybe it does — that would be silly," Ellis said

Referring to the committee's haste in finalising the bill last year, he said he was "beginning to hear the sound of yet another bulldozer rushing through this room"

The committee is to continue its discussions today — Sapa



'BAN TOO BROAD':
President Mandela

(198)

ET 23/2/99

Parliament fumes over tobacco law

Wyndham Hartley

ANC accuses opposition MPs of filibustering and wasting time

(198) PD 23/2/99

CAPE TOWN — A desperate rear-guard action by opposition parties against proposed new amendments to the tobacco bill was described yesterday as a filibustering waste of time to prevent Parliament passing it this session.

African National Congress (ANC) attempts to push ahead and discuss its proposed amendments, at a meeting of Parliament's two health committees, were continually disrupted when the New National Party (NNP), the Democratic Party (DP) and the Inkatha Freedom Party (IFP) kept raising objections.

Central to their arguments was that the committee was interpreting President Nelson Mandela's objections to the Tobacco Products Control Amendment Bill too narrowly. They said that while Mandela had mentioned two clauses specifically — organised activity and private residence — he had further urged the committee to put the bill on the firmest constitutional foundation possible.

The committee is not reconsidering this part of the President's letter, which would lead to it being debated again in its entirety.

Committee chairman Abe Nkomo said that he was happy with the opinion from Parliament's legal section, which was that the committee had to confine itself to the two sections specifically mentioned in Mandela's letter. Opposition blocking moves amounted to filibustering, he said.

Ruth Rabinowitz of the IFP said Mandela had indicated that "ministerial power to deal with unintended consequences", by granting exclusions from the bill, would not protect it from constitutional challenge. These unintended con-

sequences included job losses, museum closures and meetings.

"We believe that such arbitrary empowerment of the minister contravenes the constitutional right to equality before the law," Rabinowitz said.

She expressed concern at the definition of "enclosed area", saying this could be applied to the Kruger National Park, and be used to outlaw smoking there.

Kobus Gous of the NNP said the definition of private residence and "children present" exclusions could mean that people were for-

bidden to smoke in their own homes if there were children playing in the garden. It was a "shocking piece of definition", he said.

The DP's Mike Ellis said the ANC's amendments did not address any of the President's doubts, and the bill was again being treated with undue haste.

Nkomo asked committee members from all parties to form a "wording" committee to come up with formulations which all parties would support. He said the opposition parties should bring their suggested amendments to today's meeting for consideration.

The committee is due to meet again today.

Zuma huffs over crèche puffs

(198)

ET 24/2/99

JUDITH SOAL
HEALTH WRITER

IF you run a crèche from your home or offer any kind of pre- or post-school activities for children, you will soon not be allowed to smoke when children are on the premises — not even outside

This is according to the ANC's amendments to the Tobacco Products Control Bill, expected to be passed into law during this parliamentary session. President Nelson Mandela sent the bill back to Parliament earlier this year so that certain definitions could be tightened up to protect the legislation from an expected barrage of Constitutional Court challenges.

The amendments suggested to the

Health Portfolio Committee this week exclude private residences from the definition of a "workplace", but introduce new restrictions when homes are offered for "child-care activities, school activities or other activities for children, including pre-school activities and post-school activities"

They make it illegal for anyone to smoke tobacco either inside a child-care building or in a playground when children are around (Presumably this applies when these services are offered for financial gain, not when the neighbour's children come around to do their homework)

This clause gives an indication of the types of restriction the public can expect once the legislation is passed. Although the bill sets the framework for controlling smoking in public,

exactly what the rules will be has not been finalised. But Health Minister Nkosazana Zuma's aims are clear.

"We will do whatever it takes to protect children from influences that will start them smoking and to protect the rights of non-smokers," Zuma's spokesperson Khangelani Hlongwane said again yesterday.

The Health portfolio committee's debate on the amendments was postponed for the second time yesterday after the parties failed to agree even on what they were supposed to be discussing.

Weary committee chairperson Abe Nkomo said he hoped it would be finalised today.

"We are trying to reach consensus," he said, "although it is proving to be hard work."

Tobacco bill concession

(198) AR6 24/2/99

Employers will be allowed to designate special smoking areas when proposed anti-tobacco legislation imposes a general ban on smoking in the workplace, Parliament's health portfolio committee decided today.

This was one of the concessions made by the ANC to opposition parties after a flurry of last-minute negotiations on the controversial measure.

The committee's changes to the Tobacco Products Control Amendment Bill are designed to deal with President Mandela's reservations about its constitutionality.

The bill was approved by Parliament last year, but Mr Mandela refused to sign it. Instead, he asked MPs to define the "organised activity" that tobacco companies may not openly sponsor, and to exclude private

homes from the definition of "workplace", where smoking will be banned.

Committee members spent more than an hour in talks with each other, parliamentary and state law advisers, and tobacco industry representatives.

The finalised amendments will ban tobacco companies from backing any activity or event organised "for the purposes of entertainment, sport or recreation, or for educational or cultural purposes", and where tobacco logos or brand names are used "in the name of or portrayal of the event".

The definition of workplace now specifically excludes a private dwelling, but will make it illegal to smoke in a home used for "commercial child care activities or for schooling". An employer will be allowed to set aside a portion of the workplace as a smoking area. - Sapa

Trust starts fax campaign to persuade MPs to change bill

Wyndham Hartley

CAPE TOWN — The African National Congress (ANC) component of the National Assembly's health committee stopped opposition attempts yesterday to modify the ministerial powers granted to Health Minister Nkosazana Zuma in the tobacco bill

At the same time the Freedom of Commercial Speech Trust began lobbying influential members of the ANC in Parliament to try to get further amendments to the Tobacco Products Control Amendment Bill and avoid a bruising and expensive Constitutional Court battle. (198)

The trust faxed letters to ANC members appealing to them to "halt this wasteful process"

When the committee met yesterday, New National Party MP Kobus Gous said he was placed in the position of helping the ANC make the legislation constitutional when he was opposed to it anyway

He said that when President Nelson Mandela sent the tobacco bill back to Parliament, he warned that the powers given to the minister to limit the unintended consequences of the bill did not protect the act from constitutional challenge

Gous said that these powers should be curtailed, but committee chairman Abe Nkomo said it had already been decided to limit the committee to only two issues

Nkomo said the issues were what constituted a private home and when smoking was allowed there, and the definition of organised activities which will no longer be allowed to receive money from tobacco companies once the bill is law

These were the issues identified by Mandela, he said, and the committee had to confine itself to them

The letter the trust faxed to MPs, such as Johnny de Lange who heads the justice committee, said the restrictions on the private activities of tobacco companies obliterated the right of freedom of association

It said also that the outright ban on advertising tobacco products was "not a limitation but an extinction of the right to freedom of expression"

BO: 24/2/99

ANC relents on tobacco bill

Wyndham Hartley

(198)

BD 25/2/99

CAPE TOWN — The African National Congress (ANC) yesterday made a major concession to opposition calls to amend the controversial tobacco bill

In Parliament's health committee, it allowed a clause which provides for the creation of designated smoking areas in the workplace

The bill as originally drafted bans smoking in the workplace and in any enclosed area. This raised fears that farm workers would not be able to smoke in fields, because a farm is technically an enclosed area.

An all-party special "wording" sub-committee of the health committee has worked for two days to find areas of agreement on the two issues identified by President Nelson Mandela when he sent the Tobacco Products Control Amendment Bill back to Parliament.

Mandela wanted the committee to look again at the definitions of organised activity and workplace and private residence because his legal advice was that they were "over-broad".

Allowing employers to designate smoking areas will allow them to cater for smokers in a way which least influ-

ences productivity. Designated areas will still have to comply with regulations decided by the minister so that employers do not designate their entire buildings as smoking zones.

It has also been decided to allow smoking in private residences unless they are used for childcare and even then it will be allowed in similarly designated areas. The ANC also relented in the area of organised activity and allowed a change which will mean that spouses of tobacco company employees will be able to attend functions such as Christmas parties without all the logos having to be removed.

Democratic Party MP Mike Ellis welcomed the changes. The ANC had listened to argument and a better law had resulted, he said. It was a pity that the entire bill was not before the committee so that all the unconstitutional aspects could be ironed out in this spirit.

Ellis argued that the minister's powers to make regulations usurped democracy by legislating through regulation.

Inkatha Freedom Party MP Ruth Rabinowitz, claiming that the designated area idea came from her party, said the change put the IFP on the same side as the ANC in favour of the bill.

BOSSSES 'MAY' BUILD SMOKING AREAS

Life in the nicotine ghetto ⁽¹⁹⁸⁾

CT 25/2/99

EMPLOYERS "may" provide smoking areas at work, according to changes in the tobacco bill approved by the health committee. Health Writer **JUDITH SOAL** reports.

YOU might be able to smoke at work once the new tobacco controls become law — but only in special smoking areas. And don't think that you can declare your own corner of the office an official nicotine zone. To be legal these areas will need to meet criteria laid down by Health Minister Nkosazana Zuma.

"They will probably need to be completely enclosed and perhaps have an outside window," a member of the health portfolio committee said yesterday.

Zuma has already said that smoking areas should not share an air-conditioning system with the rest of the building. "That would just be pointless," she told the *Cape*

Times when the Tobacco Control Amendment Bill was first tabled.

Although Zuma has always maintained that smoking sections would be provided for in the restrictions on smoking to be finalised later this year, opposition parties are claiming victory because this provision has now been written into the bill.

But employees be warned: The bill does not say that smoking areas "must" be provided, just that they "may".

If your boss is unsympathetic to your addiction, or smokers are in the minority in your company, you might still find yourself out on the street.

The clause on smoking in the

workplace was one of the amendments accepted by the health portfolio committee yesterday after President Nelson Mandela sent the bill back to it to define the concepts of a "workplace" and "organised activity".

Mandela felt the terms were too broad and made the bill vulnerable to Constitutional Court challenges.

The amendments exclude private homes from the definition of workplaces, except where these homes are used for childcare. A new clause introduced yesterday allows for smoking areas to be established in these homes as well.

According to the bill, tobacco companies are banned from sponsoring any "organised activity", which has been defined in the amendments to include public activities "for the purposes of entertainment, sport or recreation,

or for educational or cultural purposes" where tobacco logos or brand names are used "in the name of or portrayal of the event".

Private events attended by shareholders or employees and their spouses have been excluded to allow the industry to hold functions like Christmas dinners.

These amendments will be referred to Parliament next Wednesday, where once again the ANC has vowed to restrict the debate to the two definitions, despite opposition parties' determination to voice their objections to the entire bill.

Whatever they say, the Health Ministry is confident the restrictions will become law in the next few months. It is also gearing itself up for the barrage of court challenges from a tobacco industry intent on protecting its bottom line.

Embattled bills get the nod

(762) (786) (198)
POLITICAL CORRESPONDENT

Controversial laws on tobacco advertising and liquor have been approved a second time by the National Assembly after being sent back by President Mandela because of doubts about their constitutionality.

The Tobacco Products Control Amendment Bill was approved with amendments, but could still face a Constitutional Court challenge from big tobacco industry players

The Liquor Bill was left unchanged in what appeared to be a round-trip route through Parliament to enable Mr Mandela to refer the bill to the Constitutional Court

In a January letter, Mr Mandela said he could refer the bill to the court only after it had been submitted for signature to him by the Assembly a second time

The constitutionality of the bill has been queried because of its intervention in the liquor licensing powers of provinces.

The Tobacco Products Con-

trol Amendment Bill was amended to change the definition of "organised activities" at which tobacco advertising and sponsorship would be banned

This would exclude private activity arranged by a tobacco industry member, attended only by shareholders, employees and spouses

The other amendment was to change the definition of workplace to allow smoking areas to be designated in private dwellings used as workplaces.

ARG 4/3/99

'Going out' for a smoke (198) can affect productivity.

Sowetan Business Staff

THE expected ban on smoking in public places, including the workplace, is following a world trend. In South Africa it looks as if Health Minister Zuma will have her way. But such a ban has serious negative connotations for productivity.

Says Sante van Zyl, managing director of the newly formed Tornex SA, which offers a smoke control system of Japanese-origin. "An employee who is far from his desk or workstation is not a productive worker."

"Banishing an employee from the building or relegating him or her to a tiny, hidden corner to have a smoke means that the person is out of sight and is not supervised."

"A smoker also has his or her rights," she points out.

Smoking rooms and smoking areas

can never be a perfect solution to conflict between smokers and non-smokers.

The problem is serious. Realising this, a group of South African businessmen joined forces to launch Tornex. Van Zyl's fellow directors are Toyota chairman Bert Wessels, Dr Johan van Zyl, Flip Wilken and Len Botha.

The Tornex answer is a revolutionary "air flow control" system which creates "air curtains" within which smokers and non-smokers can live in harmony.

Artificial "tornados" conduct cigarette smoke in a pre-determined direction where the air is absorbed by filters and purified to a level of 96 percent by the DOP measurement method.

According to Van Zyl, the system is easy to install, comes with a maintenance contract, and is available on lease from Wesbank.

9/13/99
Sowetan

Bodies unite to fight smoking

(198)
Sowetan
15/3/99

By Bhungani Mzolo
Health Reporter

BIG guns in the international medical world and the pharmaceutical industry have joined forces in the fight against tobacco smoking

Under the banner "Tobacco Free Initiative", the World Health Organisation has brought together representatives of the World Medical Association, the International Council of Nurses, the International Federation of Dentists and the International Pharmaceutical Federation to spearhead worldwide anti-tobacco plans for the next three years

General secretary of the World Medical Association Dr Delon Human, who is also chairing the World No Tobacco Day steering group, said five major objectives had been identified for the World No Tobacco Day on May 31. These are

- Promoting smoking cessation to

the public,

- Implementing more effective counselling by health professionals,
- Pursuing a smoke-free United Nations and smoking cessation programmes for the UN personnel,
- Awarding worldwide tobacco-free medals and prizes, and
- A symbolic event at WHO headquarters in Geneva on May 31

"We will be focussing this year specifically on smoking cessation by coordinating our websites, journals and meetings," Human said

"Tobacco advisory kits will be made available to offer health professionals state-of-the-art information to help patients stop smoking

Human said it was significant that these bodies have for the first time come together for such a project

"The reason is that tobacco is a common enemy and cooperation constitutes a win-win relationship, not only for health professionals but most importantly for patients"

Zuma's anti-smoking bill passed for second time

JOVIAL RANTAO
PARLIAMENTARY BUREAU

HEALTH MINISTER Nkosazana Zuma's controversial anti-smoking legislation has been approved by the National Assembly and will now be sent to President Nelson Mandela to sign it into law

The Tobacco Control Amendment Bill was, however, passed with objections from the Western Cape and KwaZulu-Natal provinces. Both provinces have maintained that the legislation is unconstitutional as it encroaches on the powers of provincial legislatures

The bill went through the National Assembly and the NCOP for the second time after President Mandela had sent them back, expressing concern about the constitutionality of some clauses

The Tobacco Institute of Southern Africa, one of the fiercest opponents of the

et 25/3/99 (198)
bill, said by approving the bill, Parliament had missed an opportunity to remedy at least some of the problems in the bill

"Instead the National Assembly and the NCOP chose to ignore his concerns and ram through a bill that is even more unreasonable, impractical and unenforceable than before. The drafters of the bill are out of step with the new South Africa and approach constitutional freedoms simply as an obstacle to making policy," the institute's president Edward Shalala said

"Freedom of expression is the lifeblood of our new and fragile democracy. This bill, which provides for an outright ban on the advertising of tobacco products and sponsorship by tobacco companies, violates this precious freedom. By banning smoking in public places, and through its draconian definition of organised activity, it imposes drastic limitations on other freedoms like freedom of association."

Tobacco bill gets the nod from NCOP

(198)

BY JOVIAL RANTAO
Star 25/3/99

Cape Town Health Minister Dr Nkosazana Zuma's controversial anti-smoking legislation has been approved by the National Council of Provinces and will now be sent to President Nelson Mandela to sign it into law.

The Tobacco Control Amendment Bill was however passed with objections from the Western Cape and KwaZulu-Natal. Both provinces have maintained that the legislation was unconstitutional as it encroached on the powers of provincial governments.

The bill went through the National Assembly and the NCOP for the second time after Mandela had sent it back, expressing concern about the constitutionality of some clauses.

The Tobacco Institute of Southern Africa (TISA), one of the fiercest opponents of the bill, said that by approving the bill, Parliament had missed an opportunity to remedy at least some of the problems in the bill.

"Instead, the National Assembly and the NCOP chose to ignore his (Mandela's) concerns and ram through a bill that is even more unreasonable, impractical and unenforceable than before.

"The drafters of the bill are out of step with the new South African approach to constitutional freedoms simply as an obstacle to making

"Freedom of expression is the lifeblood of our new and fragile democracy. This bill, which provides for an outright ban on the advertising of tobacco products and sponsorship by tobacco companies, violates this precious freedom.

"By banning smoking in public places, and through its draconian definition of organised activity, it imposes drastic limitations on other freedoms like freedom of association," said TISA president Edward Shalala.

Revised tobacco ~~(198)~~ bill gets the green light

POLITICAL CORRESPONDENT

ARG 25/3/99

A revised version of Health Minister Nkosazana Zuma's controversial legislation on tobacco advertising and sponsorships has been approved by Parliament, with the National Council of Provinces giving it the nod by seven votes to two.

The Western Cape and KwaZulu Natal opposed the bill, which could face a Constitutional Court challenge from tobacco industry players and non-government organisations.

Speaking for the Western Cape, Neels Ackermann said anomalies in the bill included that it would ban smoking in nature reserves, but contained an exemption which would allow smoking in designated areas in crèches.

In a hotel, employees would be allowed to smoke in a designated area but guests would not be allowed to light up anywhere in the building.



KwaZulu Natal's delegation said they were happy with the amendments, but could not support the bill unless further changes were made.

Replying to the NCOP debate, Dr Zuma noted that continual price increases were another effective measure discouraging children from smoking.

While adult smokers tended not to give up in spite of annual increases of excises in tobacco, children were much more responsive to such measures because they had less disposable income and would stop smoking to have money for other items like videos or the cinema.

In a statement issued after the bill was approved, Edward Shalala of the Tobacco Institute said Parliament had ignored Mr Mandela's concerns to "ram through a bill that is even more unreasonable, impractical and unenforceable than before".

The bill, which provides for an outright ban on the advertising of tobacco products and sponsorship by tobacco companies, violated freedom of expression, he said.

"By banning smoking in public places, and through its draconian definition of organised activity, it imposes drastic limitations on other freedoms such as freedom of association," said Mr Shalala.

Describing the bill as "similar in many ways to past security legislation", Mr Shalala said it might be used to restrict the freedom of other sectors in the future.

"We believe the bill and the new amendments are unconstitutional and we reserve our rights in this regard," he said.

UCT's child health boffins rally to support controversial anti-tobacco legislation

HEALTH WRITER

(198)
Cape Town University's department of paediatrics and child health has thrown its weight behind the coun-

try's new tobacco bill, slamming tobacco smoke as a "major hazard" to the health of children.

About two-thirds of African children lived with a smoker in their homes, an alarming statistic because "passive smoking" caused childhood illness and deaths.

Environmental tobacco smoke, known commonly as passive smoke, was one of the most common indoor pollutants to which children were exposed, it said.

Failure to protect children from the hazards of tobacco constituted a violation of their rights to health, maximum development and a safe, clean environment as entrenched in the Rights of the Child, ratified by South Africa in 1995.

3 months' breathing space for smokers

JUDITH SOAL
HEALTH WRITER

(198)
ET 26/3/99

RESTAURANTS, employers and advertisers have at least three months to prepare for the new tobacco controls passed in the National Council of Provinces on Wednesday.

Health Minister Nkosazana Zuma said yesterday she was confident President Nelson Mandela would sign the bill into law when it is presented to him for a second time. Earlier this year he sent it back to the health committee for the concepts of "a workplace" and "organised activity" to be defined.

Zuma's department believes the affected parties have already had ample time to prepare for the changes.

"People have known about this bill for well over a year now," Zuma's spokesperson Khangelani Hlongwane said yesterday. "But we will not be unreasonable. We will give them at least three months' grace to wind down their commitments."

There are two aspects to the bill. The first is to ban smoking in public places, except for designated smoking areas. The finer details of this ban have not yet been finalised, but Zuma has stressed that smoking areas will have to have separate ventilation systems. The regulations should be promulgated, after discussions with the "stakeholders", within about six months.

The second aspect, to stop tobacco advertising and sponsorship, will probably be enforced before then.

"We have always said there will be a phase-in period. It will be about three months," said Hlongwane. "But if people feel they have a reason why they cannot come in line immediately, we will listen."

Hlongwane said Constitutional Court challenges would only be delaying the inevitable.

"We believe it would not help the case

of those opposed to this bill," he said. "It works to our advantage because it conscientises the public even more and shows those people up for what they are. It is all about vested interest."

The passing of the tobacco controls was celebrated by health groups yesterday.

"We believe this brings South Africa close to a profoundly positive achievement in the control of cancer," the Cancer Association's Katherine Everett said.

"Between 1994 and 1997, the prevalence of smoking dropped from 34% of the population to 27%. Our calculations show that this will save 450 000 premature deaths over the next 40 years."

"The new law can only improve these figures."

UCT's child health unit also welcomed the bill.

"This bill aims to protect children and adolescents from the advertising campaigns of the tobacco industry and South Africa joins the growing list of countries — including Norway, Australia and Thailand — that have outlawed the glamorisation of tobacco in the media."

"Tobacco smoke is one of the most common indoor pollutants to which children are exposed even before birth. Research shows that this exposure results in low birth weights, foetal deaths and respiratory problems like asthma. In later life it also puts children at risk of cardiovascular disease and cancers."

At a public meeting this week Zuma said that although the bill was always labelled "controversial" in the media, she had received enormous support from the public.

"People stop me on the streets and in the airports and tell me to keep up the good work. We know there are those with vested interests who are opposed to the bill, but we believe most people support us."

New laws on labour get support of Fedusa

(198) FRANK NXUMALO (198)

ET (BR) 31/3/99 LABOUR EDITOR

Johannesburg — The first national congress of the Federation of Unions of South Africa (Fedusa), the country's second-largest trade union federation after Cosatu, came out yesterday in support of the amendments to section 189 of the new Labour Relations Act, the prohibition of child labour and local government as the preferred provider of municipal services

Section 189 deals with retrenchments for operational reasons. Organised labour unanimously believed it to be a legislative loophole that made it easy for employers to retrench.

On Monday Membathisi Mdladlana, the labour minister, told the congress that a code on retrenchments, which would read together with section 189, would soon be promulgated.

Chez Milani, the general secretary of Fedusa, said "The section, as it currently stood, was unacceptable and the amendment must amount to that. Any retrenchments must be negotiated and not (merely) consulted."

Milani said Fedusa would participate in the national programme against child labour to protect the right of the child as enshrined in international labour conventions.

"Fedusa unions will enforce national legislation by reporting employers of child labour."

As to municipal restructuring, Milani said "The preferred method of delivery (should be) through the public service before any private and public sector partnership is considered."

CIGARETTE SMUGGLING

RETAILERS FIND THERE'S NO SMOKE WITHOUT FIRE

(198) (199)

FM 16/4/99

Contraband smokes could be 10%-20% of the SA market

International crime syndicates are making a killing exporting top cigarette brands, then smuggling them back into SA, where they find a ready market — estimated at about R2bn/year — undercutting the legal product

The illegal trade — mainly in favourite brands such as Peter Stuyvesant, Rothmans and Benson & Hedges — is taking its toll on legitimate traders. Last year L Suzman, a Johannesburg tobacco wholesaler, went into liquidation, and former MD Chris van der Walt blames the smuggling as an important factor in the company's collapse

Thirty billion cigarettes worth R10,5bn are legally sold each year in SA (see graphs). Van der Walt estimates that a further 20% — 6bn smokes — declared for export are smuggled back in annually and sold on the black market

It's called roundtripping: crime syndicate members — often apparently legitimate wholesalers — buy stock ostensibly for export. The goods leave the country, usually for Botswana, Lesotho, Namibia and Swaziland (BLNS countries), the exporter reclaims 14% Vat at the border

posts and then the consignments are smuggled back into SA and sold

Even more attractive to roundtrippers are non-BLNS states, notably Mozambique and Angola. Here the roundtripper escapes excise duty as well as Vat — a 60%-plus bonus

It's a global business, but has received little publicity here, where information is severely restricted by the industry's and SA Revenue Service's reluctance to discuss the problem

Of L Suzman's collapse, Van der Walt says the illegal product "was at least 10% cheaper than we could sell it. Our margins were only 7%-7,5%, so we'd have had to sell at a loss to compete on a price basis"

"The tobacco industry has small margins. These people had 14% to play with. Roundtripping is highly organised. A number of them were identified as *bona fide* wholesalers who were able to sell the product at 7% or 8% discount. You'd know they'd be roundtripping. Every now and then they'd be raided, but the authorities found it difficult to police"

In a submission to government, one L Suzman executive said a regular client "who historically purchased about R700 000 stock a month no longer purchases anything, but continues to offer its clients the same brands of cigarettes"

Rothmans International controls 85% of the SA cigarette manufacturing market, mainly with Peter Stuyvesant, Rothmans, Dunhill and Craven A

The company's public affairs manager, Abrie du Plessis, handles all smuggling matters on behalf of the cigarette industry. There is a Tobacco Institute of Southern Africa, but its president, Edward Shalala, refers all inquiries about smuggling to Du

Plessis "At the moment our feeling is the problem's gone down," he says "Either it's gone down, or it's gone totally underground and we don't see it any more"

The SA Revenue Service holds what information it has close to its chest. Revenue investigator Pieter Swart says he knows the number of confiscated cigarettes held in State warehouses across the country, as well as the number of arrests made. "But I'm unable to release these figures at such short notice"

Customs officials are more forthcoming, though they are aware of the sensitivity and will speak only on terms of strict anonymity. One senior Customs officer says in January two containers seized at Durban docks contained 6m SA-manufactured Peter Stuyvesant cigarettes that had been roundtripped back from the Gulf state of Dubai. The cargo had been declared as mineral water. The case is under "intensive investigation" with a view to criminal prosecution

"The cigarettes were meant for the export market outside the BLNS countries," says the Customs officer. "We can't establish where they were first exported to, but they were shipped back again from Dubai"

Last December a cargo of 890 000 Peter Stuyvesant cigarettes was seized as smugglers tried to roundtrip it back into SA at the Komatipoort border post with Mozambique. The cigarettes were hidden in a false compartment in a supposedly empty container

Just weeks ago there was a big seizure at Beit Bridge, the border with Zimbabwe, where cartons of roundtripping cigarettes were being tossed across the border fence. Arrests were made

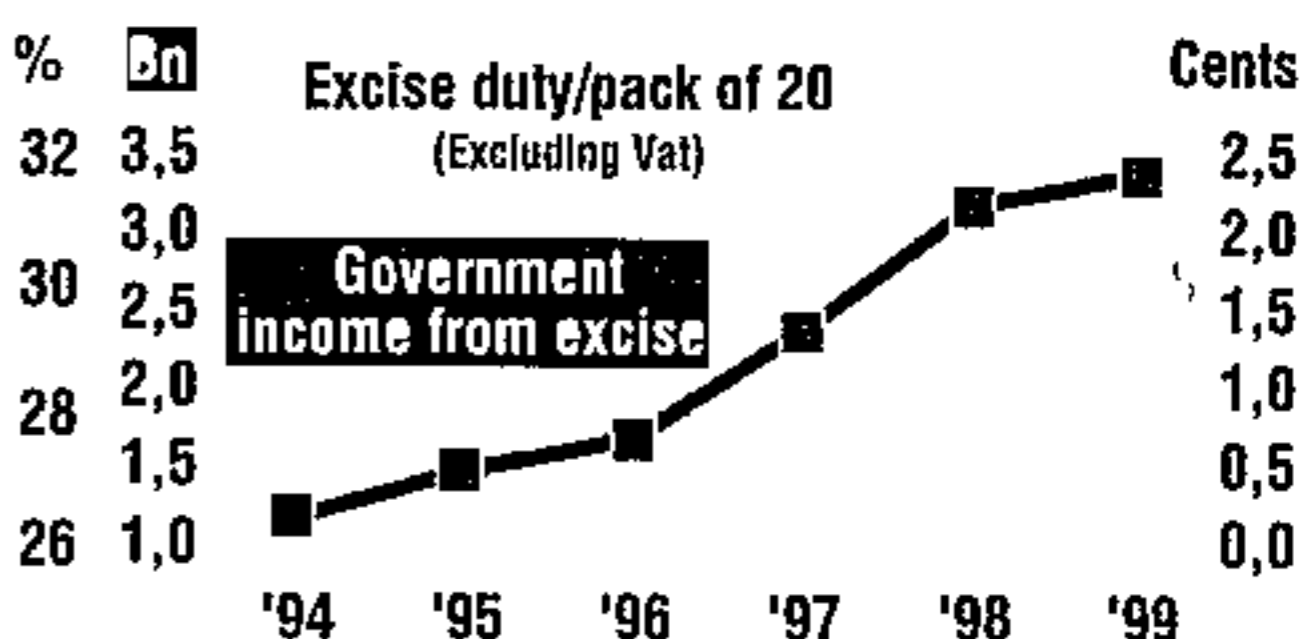
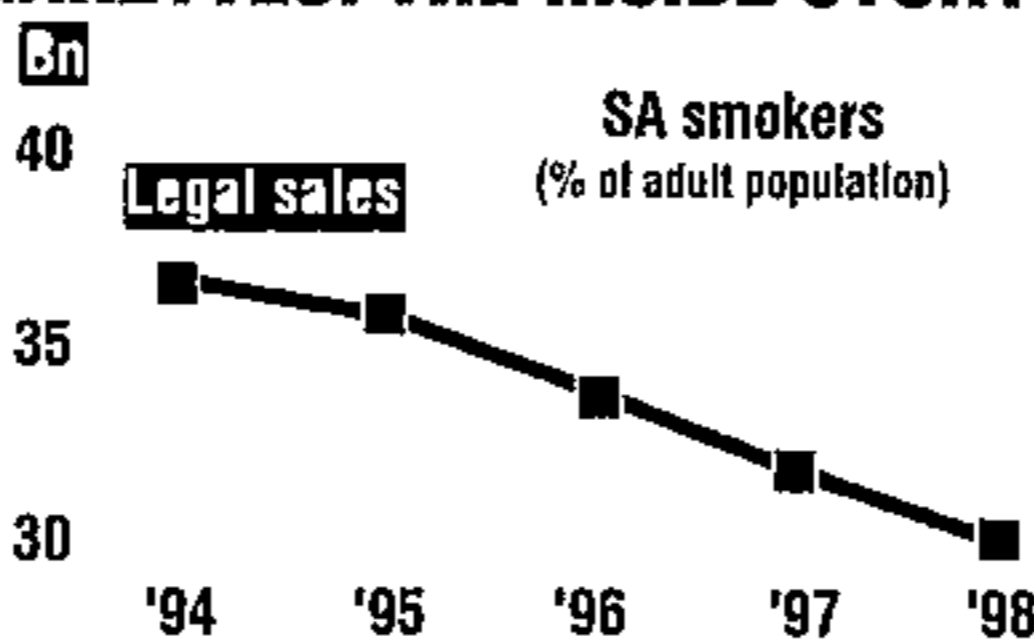
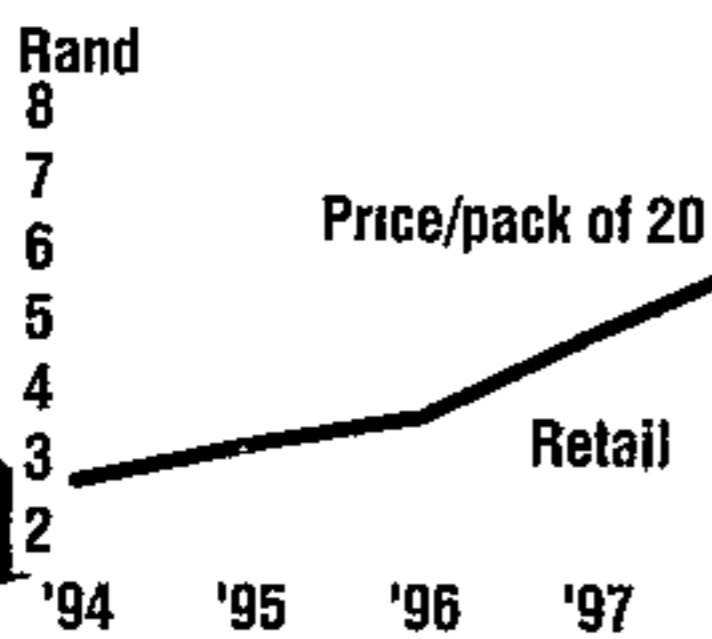
For every shipping container of SA-made cigarettes roundtripped back from non-BLNS states, government loses R1,2m in Vat and excise duty

"Cigarette roundtripping is a major problem," says the Customs officer. "It's done by organised crime syndicates and there's a distinct pattern"

"Millions of confiscated roundtripped cigarettes are sitting in State warehouses



CIGARETTES: THE INSIDE STORY



in Johannesburg, Cape Town and Durban. But millions more are getting through and finding their way on to the market. Our problem is we can't find the offset points — where these cigarettes are sold on the streets. Who is taking them?" he says.

Du Plessis says there are about 7m smokers in SA — 28,5% of the adult population. While the number has remained "fairly stable", legal sales of cigarettes have fallen by 6,8bn/year since 1994.

Whether the decline is due mainly to illegal sales or to smokers smoking less is unclear. But there can be little doubt that the 330% increase in excise duties over this period — hiking the price of a packet of 20 from R2,80 in 1994 to the present R7 — has sweetened the market for smugglers.

"Cigarette smoking is now down to affordability," says Du Plessis. "If the product becomes unaffordable the person will either stop smoking or start looking for contraband. Traditionally you could save 50c-75c a pack by buying contraband."

But Du Plessis thinks stricter law enforcement is forcing smugglers to sell stock more quickly, bringing down the price.

British American Tobacco (BAT), the second-biggest SA cigarette manufacturer, with 11% of the market and Benson &

Hedges as its main brand, agrees that roundtripping is a threat.

"It's always a problem where you have big price differentials in the marketplace and leaky borders," says MD Steven Jurgens. "Our borders are not patrolled and they're vast. Excise levels in SA are significantly higher than in surrounding countries. That's an incentive to contraband, any way you look at it."

"The same is true for other excise products, but cigarettes are the most mobile. We've always said that between 5% and 10% of all cigarettes sold in SA are roundtripped."

Canadian police claim smuggling has fallen 80%-90% since that government cut cigarette excise duties by 48% in 1994.

Jurgens criticises the SA government's policy of steadily increasing cigarette excise each year, towards a rate of 50% of the manufacturers' selling price. "In countries around us you have much lower levels — 30% and 40%. There's a margin in there for any trader," he says.

"We are aware that people buy product

here as export and roundtrip it. We collaborate with Customs & Excise. We've identified shops we know sell contraband product, and it's a sizeable problem."

"The industry is unfairly criticised as being a driver in this illegal business. We're not. We have domestic businesses to protect and circumventing defeats all purposes. We're strong in our desire to help government address these problems," he says.

» Millions of confiscated roundtripped cigarettes are sitting in State warehouses. But millions more are getting through and finding their way on to the market «
Senior Customs Officer

While the industry maintains the number of smokers is fairly constant, the antismoking lobby insists it's going down. Yussuf Saloojee of the National Council Against

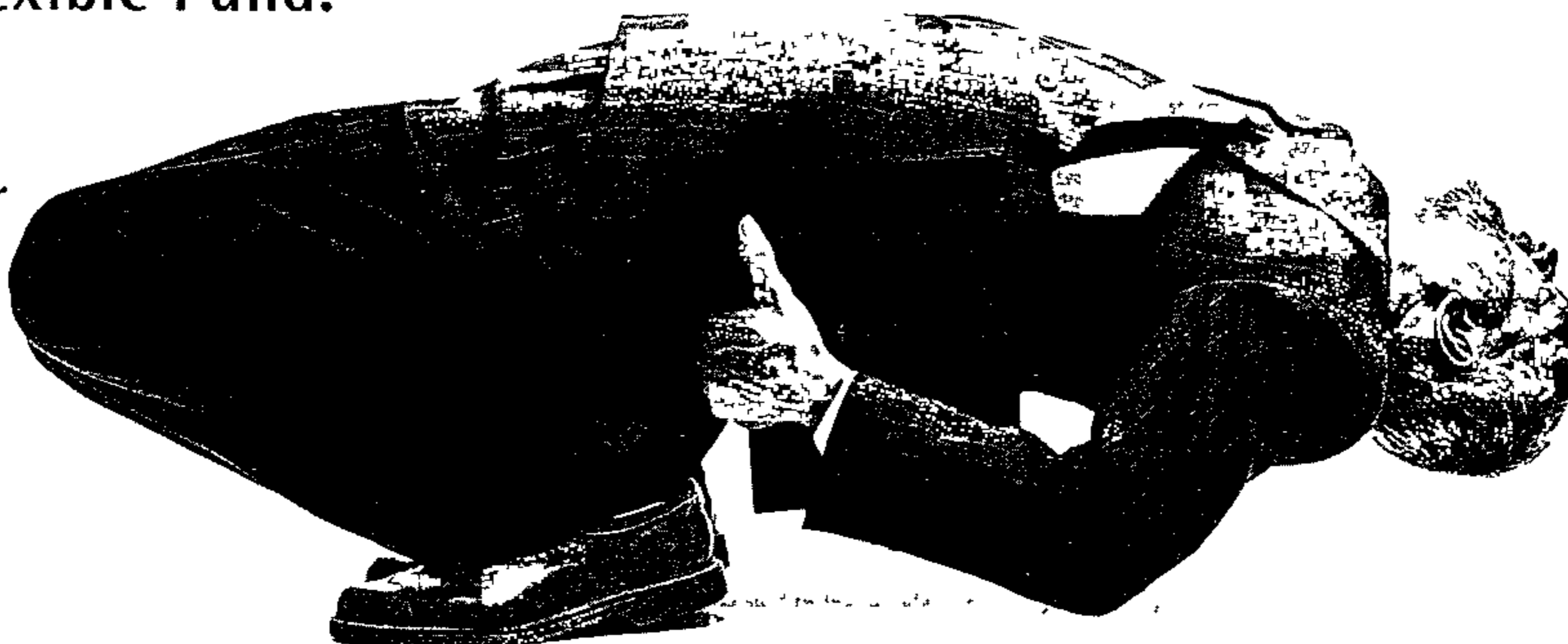
Smoking claims average adult cigarette consumption fell from 1 720 in 1991 to 1 150 in 1997.

"Smuggling is a problem," he admits. "But cigarette consumption is declining. If you look at tobacco leaf usage for the production of cigarettes in SA, you'll find it has gone down, whether the leaf ends up in legal sales or is being smuggled back."

Jack Lundin

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Freedom of speech body wants Zuma to reconsider tobacco advertising ban

Star 27/4/99 (198)
By HOPEWELL RADEBE

The Freedom of Commercial Speech Trust wants Health Minister Dr Nkosazana Zuma to reconsider the total ban on tobacco advertising

Trust chairperson Peter Vundla said the trust believed there was a chance to resolve the dispute over the restrictions on the freedom of commercial expression imposed by the Tobacco Products Control Amendment Act, which was passed into law on April 14 and gazetted last week

The act prohibits advertising of tobacco products in any form. However, specific regulations on advertising and on smoking in public places have yet to be formulated

Vundla said the trust would present alternatives to the Department of Health, but did

not say what they were

The act was passed because it influenced children to start smoking, Zuma's spokesperson Khangelani Hlongwane said yesterday, adding that the public should not be confused by the hopes of lobby groups to "re-invent the wheel"

He conceded, however, that in drawing up regulations to implement the act, the ministry was obliged to involve interested parties

"Constructive input by lobby groups will be welcomed. But there is no possibility of amending the act, which was drafted with the aim of protecting children and making the environment of non-smoking persons safer," he said

Vundla said that until the process of consultation had been exhausted, no action to challenge the act would be considered

(Rm. lls)	COMPANY TAX	PERSONAL INCOME TAX	VAT INDIRECT TAXES	TOTAL
Farming	22.3	51.9	69.1	143.3
Co-ops	14.8	33.3	23.6	71.7
Manufacturing	270.6	330.0	870.4	3919.2
Wholesale	24.8	56.1	88.2	169.1
Retail	41.9	95.1	148.8	285.8
Total	374.4	566.5	3648.0	4589.1



AND ZUMA HAS THE LAST LAUGH Health Minister Nkosazana Zuma has a lot to be happy about

Tobacco industry fumes as SA passes toughest smoking law in the world

(198.) ST (BT) 25/4/99

The prohibition of tobacco advertising and sponsorship means the potential loss of thousands of jobs and millions of rand, writes JANETTE BENNETT

SOUTH Africa now has the toughest anti-smoking legislation in the world, together with Finland and Niger. After the gazetting on Friday of the Tobacco Products Control Amendment Act, the controversial piece of legislation became law.

It will come into effect on a date still to be fixed by promulgation in the Gazette.

The legislation was ratified by President Nelson Mandela on April 14, after the National Assembly passed the Bill for the second time, with amendments. The Act bans all forms of tobacco advertising and places strict restrictions on where people may smoke.

But the Act is not out of the woods, and still faces challenges.

"We reserve the right to consider taking the Act to the Constitutional Court," British American Tobacco (SA) managing director Steven Jurgens said on Friday.

"We are very disappointed that a poorly drafted Bill has been gazetted. And we maintain it will not meet its objectives of curtailing under-age smoking. For us, the issue is very much about being able to inform adult consumers who have made a choice."

BAT and the Tobacco Institute of SA (Tisa) have recommended the minimum age of tobacco sale be lifted from 16 to 18 years. But, said Tisa CE Edward Shalala, "I don't think we were ever heard."

He added, "The legislation is as least as strict as the world's strictest, if not the strictest."

If other experiences are anything to go by, a total ban could see an increase in youth smoking. Executive director of the SA Association of Marketers, Derrick Dikens, told a BAT conference in the Northern Province last week

that youth smoking had increased in every country where cigarette advertising had been restricted.

"The main reason for youth smoking is because it is a symbol of adulthood. The new legislation adds the attraction of making it a symbol of defiance," he told BT.

Jurgens said BAT had always indicated it was prepared to work with Minister Zuma to reduce tar and nicotine content in cigarettes, address workplace smoking and tackle under-age smoking. "But we stand by our principles of freedom

'If SA lost the chance to hold the F1 Grand Prix, the country stood to lose some R450m and about 3 800 temporary and permanent jobs'

of commercial speech, and we won't compromise on this."

Shalala said the gazetting was "incomprehensible."

Although the Act is unlikely to affect cigarette consumption, which has dropped by about 10% due to price rises, its effects will ripple through the economy.

It appears however, Zuma has not entirely slammed the door on looking at options to a total ban. She met with the Freedom of Commercial Speech Trust on Thursday, and, according to a carefully-worded statement released late on

Friday, the trust will present her with options "on the issues pertaining to restrictions that will not target children."

If it is implemented as it stands now, the Act's effect, Dikens said, would be sharply felt in the media and advertising.

Advertising would feel it first, losing about R500-million. He said tobacco brands were major accounts of at least three big advertising agencies, and there were serious concerns about whether these agencies would survive.

Print media would lose about R150-million, and certain publications would be forced to close, Dikens said.

And the Act creates some bizarre scenarios. Will South Africans be able to read foreign magazines carrying cigarette advertising? Will advertising be blocked on satellite TV? Will South Africans be able to watch global Formula One events on TV?

Banning tobacco sponsorship for sport and other events will take many hundreds of millions of rand, and thousands of jobs, out of the economy. Dikens gave this example: if SA lost the chance to hold the F1 Grand Prix, the country stood to lose some R450-million, about 3 800 temporary and permanent jobs, and a lot of positive publicity which could boost tourism.

Durban stood to lose the Rothmans July and Gunston 500 — taking about R800-million out of the city's coffers, Dikens said.

In 1997 tobacco and related industries contributed R9.9-billion to the economy, and R4.6-billion to government revenue. Figures show over 45 000 people, mostly rural women, are directly employed in the industry. It indirectly supports another 100 000 jobs.

Tobacco industry fumes as SA passes toughest smoking law in the world

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Tobacco ads now banned

(198)

By Bhungani Mzolo
Health Reporter

THE giant tobacco industry has warned Health Minister Dr Nkomo Zuma that she could face a Constitutional Court challenge following the passing of the Tobacco Product Control Amendment Act last week.

According to Zuma's spokesman Mr Khagelani Mlongwane the Act was gazetted last Friday after it was signed by President Nelson Mandela a fortnight ago.

The tobacco industry has lashed out at the Act saying it is unconstitutional.

The Act seeks to protect children from becoming addicted to smoking by banning tobacco advertisements and sports sponsorship by tobacco companies.

● In addition the act prohibits the free distribution of tobacco products.

● Limits smoking in public including the workplace and

● Allows the Health Minister to regulate the nicotine and tar levels of tobacco smoke.

Mr Edward Shabala of the Tobacco Institute of Southern Africa described the provisions of the Act as draconian and unconstitutional in that it interferes with the freedom of commercial speech.

Shabala said once the Tobacco Institute had studied the new Act it would decide whether or not to take the minister to court.

British American Tobacco (BAT) managing director Mr Steven Jurgens said the tobacco legislation would lead to huge revenue and job losses.

Companies will go out of business and jobs will be lost and not necessarily only in the tobacco industry, he said.

He said those who would be adversely affected included the media, advertising, film and radio production, printing, promotion and design, sponsorship and marketing.

Jurgens said new paper would lose about R150 million a year in advertising.

The ban on advertising therefore will not only take away the right of the producer of a legal product to advertise, it will also take away the basic right of the consumer to receive information and make informed choices.

The advertising ban is likely to affect major sporting events including Formula 1 racing the



Health Minister Nkosazana Zuma

Rothmans July Handicap and the Gunston 500 riding championships.

BAT said the country stood to lose R435 million at the time of the Formula 1 Grand Prix.

Industries that are going to be affected included hotels, car hire companies, restaurants, transport companies including airlines, insurance companies, promotions, telecommunications and broadcasting.

A spokesman for the National Council Against Smoking Dr Yusuf Saloojee said many countries with excellent democratic traditions including France, Australia and Norway had banned tobacco advertising to protect the public welfare.

The Act will reduce the pressure on young people to begin a life-long addiction, he said.

Saloojee said as people switched from smoking they would spend their money on other products. He dismissed claims that sport would suffer financially. "Soccer has been with us for years without tobacco sponsorship and it will continue to be with us for many more years."

Chief executive officer of the National Soccer League Mr Joe Ndlela said he would comment after his meeting with the departments of health and sport scheduled for next month.

The Freedom of Commercial Speech Trust, which met Zuma just before the Bill was passed, said it would withhold its comment until it had had another meeting with Zuma to present her with alternatives to a total ban on advertising.

66171/86 LAMOROSA

Tobacco Bill hailed as 'progressive' ⁽¹⁹⁸⁾

Sowetan 29/4/99

By Bhungani Mzolo
Health Reporter

THE controversial Tobacco Products Control Amendment Bill has been hailed as one of the most "responsible and progressive public health laws ever in this country"

Dr Priscilla Reddy of the Medical Research Council (MRC)'s Tobacco Control Research said this legislation, which was signed into law by President Nelson Mandela last week, puts South Africa at the forefront of countries concerned about their communities' health

"It is a fitting finale to President Mandela's term, as it will entrench laws that will protect children in generations to come," she said

Reddy said for tobacco control to be effective, a multifaceted approach was needed and that included education, increased taxation and comprehensive legislation

"The Minister of Health needs to be congratulated for her unflagging efforts, in the face of vociferous objections from the tobacco industry, to table a Bill that protects the lives of millions of South Africans"

Reddy said the MRC would monitor the legislation's effects, and, together with tobacco control advocates nationwide, would push for the education and greater awareness of the danger of smoking aimed at children, to prevent them from starting to smoke

This programme would include educating non-smokers about their rights

Political parties have also welcomed the new legislation. President of the Socialist Party of Azania, Mr Lybon Mabasa, said the new Act was in line with development all over the world

"Today in the world, it is recognised that smoking causes more harm than good" Mabasa said while the party was aware that jobs could be lost, it was important that cancer be prevented at all costs "This is not an emotional legislation but a progressive one"

The Democratic Party's Mr Jack Bloom said the party was not convinced that the new law was constitutional. He said the party was concerned with the right of the freedom of commercial speech, the definition of what a public place is and job losses

"I think it could end at the Constitutional Court," Bloom said.

A good reason to quit

Smokers' world to shrink under far-reaching act

(198) ARU 4/5/99

DI
CAELERS



HEALTHWRITER

The countdown for smokers in South Africa has begun in earnest.

With the recent gazetting of the controversial Tobacco Products Control Amendment Act, health department officials, health groups and the tobacco industry are now set to start the process of drawing up the necessary regulations.

The law, which bans tobacco advertising and sponsorship, and clamps down on smoking in public places, is among the most far reaching in the world and is attracting plenty of international attention – and recognition.

Although the legislation was gazetted on April 23, it will come into effect only once the Health Department finalises the regulations that go with it – which Khangelani Hlongwane, Health Minister Nkosazana Zuma's spokesman, said would take several months. Mr Hlongwane said the final decision on the regulations lay with the Government and that they should "tie in with the basic tenets of the legislation".

A version of the act was passed by Parliament last year, but was sent back by President Mandela because of concerns about its constitutionality.

In March, Members of Parliament approved changes to exclude private homes from the definition of work place, and to define which organised activities tobacco companies might not publicly sponsor.

Another last-minute change will allow for special smoking areas when the general ban on smoking in the workplace comes into effect.

Other areas addressed by the new legislation is the banning of the distribution of free tobacco products, and vending machines in places accessible to children under 16.

Addressing the Cape Town Press Club last week, Dr Zuma said the legislation, which would be promulgated soon, did not remove the rights of smokers but rather restored the rights of non-smokers.

"Nowhere in the law does it say you shouldn't smoke. But it says you



Smoked out: fighting up in public places and tobacco advertising are set to become relics of the past, thanks to the new tobacco legislation.

cannot force the person sitting next to you to smoke."

Dr Zuma said a major focus was to protect children from being "bombed" with messages that made smoking out to be glamorous, pointed to smoking as a way to attain success, sports prowess or as "a way to find yourself a nice girlfriend".

It made good business sense to target children because research showed that few people over the age of 25 started smoking.

"It is the children that we are trying to protect," she said.

In the United States, April 22 was the deadline for 4 100 of the tobacco industry's advertising billboards to be turned over for use for anti-smoking messages.

The settlement, reached last November, applies in 46 states and the Campaign for Tobacco Free Kids in the US said this was a significant step in the effort to limit the ability of tobacco companies to market their products to children.

Under the agreement, tobacco companies agreed to pay states \$206-billion and submit to advertising and

marketing restrictions, including handing over the billboard leases. The restrictions ban all outdoor advertising including billboards in arenas, stadiums and shopping malls.

The Cancer Association of South Africa's Katherine Everett said the gazetting of the law would put to rest rumours that the ANC would not go ahead with it now because of the upcoming election.

"It is also most important that Mr Mandela's lawyers are satisfied that the latest amendments are constitutionally sound. We are most encouraged," she said.

There would be a phase in period during which local authorities and employers could prepare for its implementation but Ms Everett said the final specifics would be spelt out fairly soon.

According to statistics, the number of South Africans who smoke has dropped from 34% in 1995 to 28% now.

Ms Everett said anti-smoking campaigns of the past years had already achieved a drop in smoking prevalence but that the legislation would force this even further downward.

"The legislation is a profoundly

positive achievement in terms of tobacco control," she said.

Priscilla Reddy, the Medical Research Council's Tobacco Control Research co-ordinator, said Mr Mandela had "signed one of the most responsible and progressive public health laws ever in this country, and indeed, this legislation puts South Africa at the forefront of public health law internationally".

Dr Reddy said the legislation would protect children of future generations. The MRC would monitor the effects of the legislation and, together with tobacco control advocates nationwide, would push for education and greater awareness of the dangers of smoking aimed at children to prevent them starting to smoke.

"For tobacco control to be effective, a multi-faceted approach is needed which includes education, increased taxation and comprehensive legislation. (Dr Zuma) needs to be congratulated for her unflagging efforts, in the face of vociferous objections from the tobacco industry, to table a bill which will protect the lives of millions of South Africans," said Dr Reddy.

Writing's on wall for billboards

(198) RRUF 7 5 1 9 9

Mushrooming billboards in metropolitan Cape Town have prompted a special investigation by the Cape Metropolitan Council.

The metropolitan council is to spend R500 000 to ensure a unified policy to control outdoor advertising throughout the city.

This has emerged in the wake of an investigation by the City of Cape Town into how 56 billboards, earmarked for sites across the Peninsula, had been approved by its signage department, apparently against internal policies.

A survey by the Cape Argus has found that problem billboards exist in most areas of the Cape metro, among them billboards which distract motorists and "third party" signs which are erected on private property.

The metropolitan council said some local councils used outdated and inconsistent policies, while others had no policy or several different policies inherited from the old administrations.

Rodney Steinhofel, the metropolitan council's manager of transport information, acknowledged the six local councils were experiencing many problems.

Several had approached his department for guidance, he said.

NORMAN JOSEPH
METRO REPORTER



Mr Steinhofel said the City of Cape Town was using a new policy, while the City of Tygerberg had recently commissioned a survey for its area.

He said a multi-disciplinary team consisting of consultants, planners, environmentalists, and a legal expert, who were meeting once a month, would contact all the local councils in its investigation. The survey will be used as a guideline to draw up proposals for the unified policy.

To compound the problems, some local authorities were reluctant to enforce the regulations and this resulted in a proliferation of advertising signs throughout the Cape metro area, many of which were "inappropriately placed".

Some local authorities also benefited from billboards which can bring in substantial incomes. Mr Steinhofel said that although electronic and normal message sign boards were an advantage to people



Roadside distractions: officials are worried that the growing number of billboards, like this one on the M5, are a road safety threat.

it could not be allowed on certain routes because it affected motorists' safety.

He said local councils had appealed for guidance on how to control billboards and signage.

City of Cape Town spokesman Theo Koopman said the council was aware of many illegal billboards, and that the council was currently acting against several people responsible for erecting unauthorised signs.

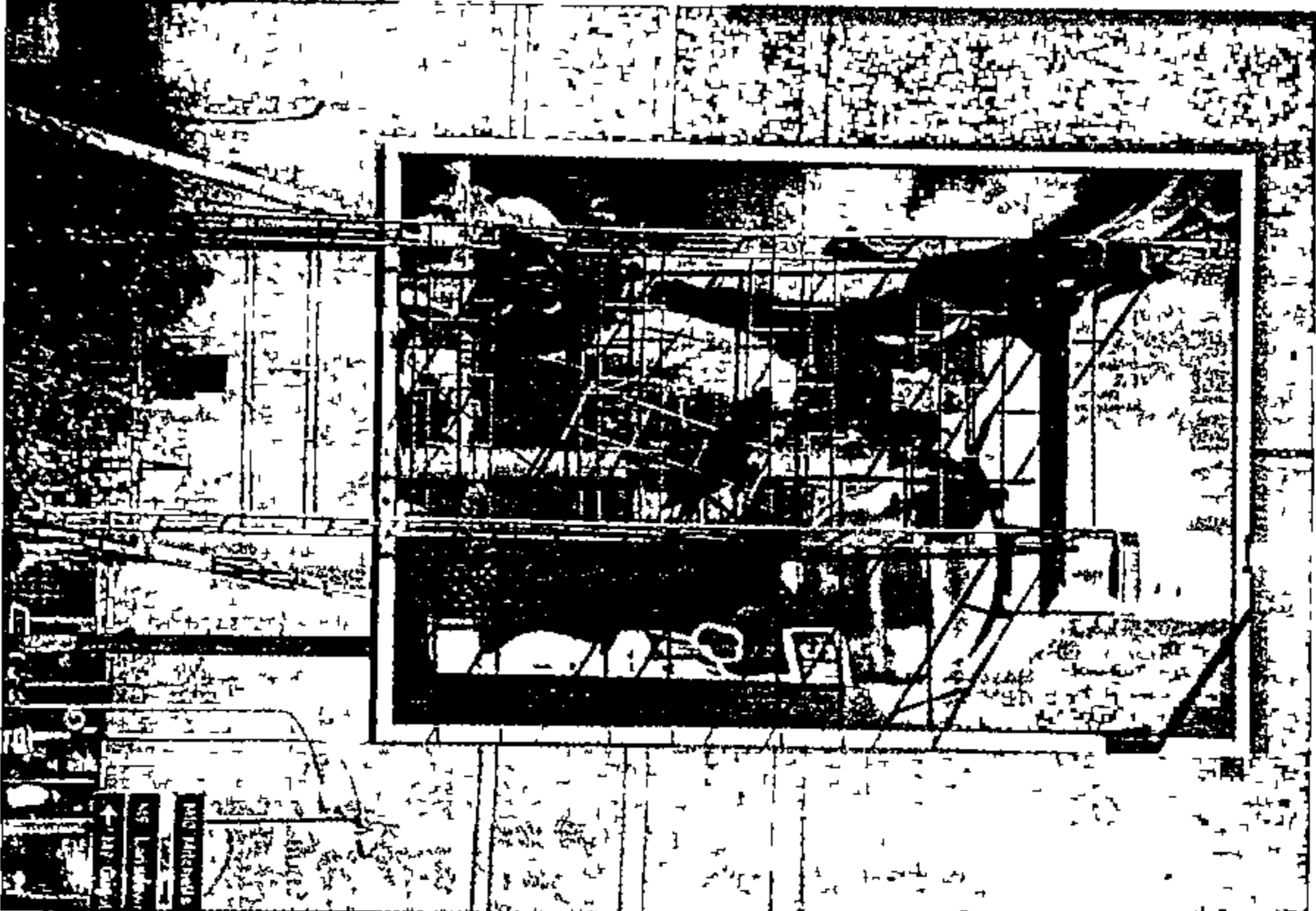
Among the billboards being investigated is one on the Black River Parkway freeway near Matieland.

The Cape Argus also received several complaints from residents in the South Peninsula about billboards along the M3 freeway near Tokai, On Kapseweg and Steenberg roads near Westlake.

Neville Riley, the council's planning department chairman, was aware of the metropolitan council's plan to formulate a unified policy.

He said billboards were not a major problem in the municipal area but the construction of illegal signage structures posed a headache.

Although his department has only two officials monitoring billboards, regular blitz operations were carried out to remove illegal structures.



Going up: one of the mushrooming billboards - this one en route to Mitchell's Plain.

LEON USTRONDE

WHO honours Zuma

THE World Health Organisation (WHO) has honoured Health Minister Nkosazana Zuma with an award for her work in controlling tobacco consumption

The "Tobacco-Free World Award" was presented to Zuma at a ceremony in Geneva on Monday by WHO director-general Dr Gro Harlem Brundtland, the Department of Health said

Brundtland, a former Norwegian prime minister, said South Africa's efforts to rein in the tobacco industry would send a clear message to the rest of the world that tobacco deaths were an unnecessary burden on individuals and countries

"We congratulate you on your work

- you have strengthened our hand and given hope to many countries," Brundtland said as she handed over the certificate to Zuma

Zuma said "This honour will give us encouragement to continue with our efforts to protect the people and especially the children of South Africa against the hazards posed by tobacco consumption"

President Nelson Mandela recently signed legislation - developed by Zuma and her officials - that will protect children from tobacco advertising and exposure to tobacco smoke

South Africa's tobacco laws also prohibit smoking in public places and ban all forms of tobacco advertising -

Sapa

Sowetan 19/5/99

Rembrandt's profit floats 35% higher on tobacco smoke

ET (BR) 18/6/99 (198)

MARC HASENFUSS

CAPE EDITOR

Cape Town - Rembrandt, the industrial powerhouse, left market forecasters gasping yesterday when it delivered a 35 percent increase in bottom-line profit to R2,85 billion in the year to March 31 after another strong performance from its core tobacco interests

Earnings came in at R5,49 a share, well ahead of market expectations of only R5,01

David Sylvester, a stockbroker at SG Frankel Pollak, said this was a superb set of results from a group dominated by its vast tobacco interests

"All divisions performed well, but the focus on tobacco over the past five years has paid handsome rewards despite the government's health policy"

Sylvester said it was clear South Africa's re-entry into the world economy had seen Rembrandt refocus on its core business, producing snappy

results in a sluggish economy

"With the international trend of meagre mergers and unbundling with refocusing on core businesses, one can expect more of the same in the months ahead"

Rembrandt's Trade Mark group, comprising its one-third stake in Rotmans International (RI) as well as its controlling interests in Stellenbosch Farmers Winery, Distillers Corporation and Gibbys, lifted its contribution to the bottom line by 30 percent to nearly R1,6 billion

Rembrandt's share of RI's earnings was boosted by the rand-pound exchange rate, which averaged out at R9,64 for the year compared with R7,75 in 1998

The company's mining interests, Gold Fields and Trans Hex, showed a marked improvement with earnings coming in at R369 million The contributions from industrial interests, which were buoyed by reduced losses at Rainbow Chickens, were up 73 percent at R301 million

services interests in Absa and Sage performed soundly to increase their contribution to bottom line to R232 million

Once again Rembrandt's second biggest profit contributor, at R398 million, was Corporate Finance and other interests, which stems mainly from interest earned from Rembrandt's cash pile of more than R2 billion

Rembrandt's shares responded positively to the results, edging up R1,60 to R49,40 with almost 1,8 million shares changing hands

CIGARETTES

FM 2/7/99

(198)

SA PUFFERS MAY SAY: WELCOME TO MARLBORO COUNTRY

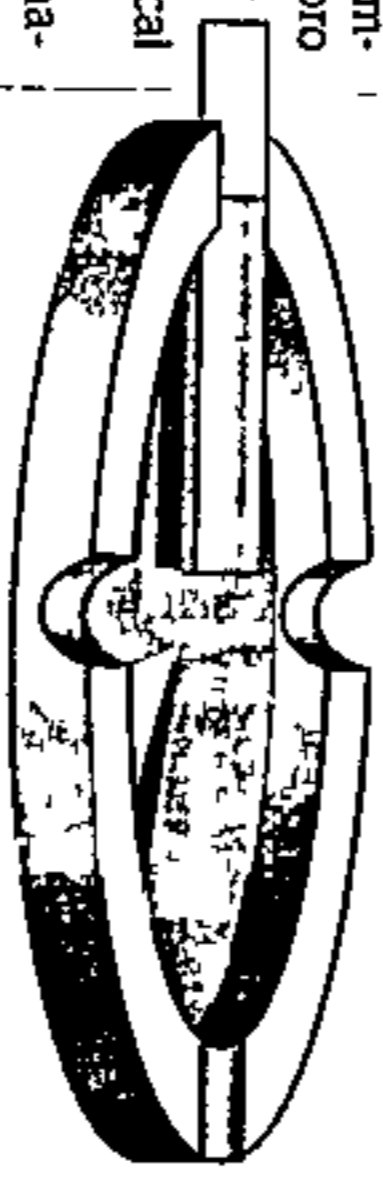
But fag peddlers cough nervously as world number one eyes SA

From Marlboro country to Mandela country rumours are rampant that the world's most recognised cigarette is coming to the good old R S of A. Marlboro cigarette maker Philip Morris (PM) has yet to announce itself but has already

- ▢ Approached staff of at least one local cigarette company about joining them
- ▢ Stepped up its advertising in international magazines that circulate in SA
- ▢ Talked to SA distributors and importers.
- ▢ Approached key SA government departments including the Health Ministry.
- ▢ Brought stock into the country and progressed with an investigation of how best to enter the SA market

PM's timing schedule is unknown but there are some real incentives to launch in SA now. The Competition Board has just cleared up a long-running dispute between Rembrandt and Philip Morris over

SA CIGARETTE MARKET



Philip Morris International is the world's largest manufacturer of cigarettes. In SA, it is the market leader. Others (L to R) Reynolds, Mastermind, Imports, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

their rights to the Marlboro brand. Rothmans International and British American Tobacco SA (Batsa) which jointly control 95% of the SA cigarette market are to merge as part of a worldwide deal (see Companies & Markets January 15 & May 28). And RJR Nabisco's international to-

bacco business third in SA has recently been sold to Japan Tobacco for US\$8bn. Just how the new Tobacco Products Control Act Amendment will affect PM is moot. If implemented it will ban all tobacco advertising and effectively freeze market shares in SA. That might encourage PM to rush in and launch while it can or it may be considered too politically insensitive.

The entry of PM would be a big deal for SA where excise taxes have risen 330% since 1994 and a resulting decline in total sales of 20% over the past four or five years. PM is the world's number one international tobacco company with a 17% market share, with financial firepower and marketing savvy in abundance. Batsa MD Steven Jurgens says PM's modus operandi in new markets is always the same. "When Marlboro enters it is through imports. They assign an importer agent and distributor and open a marketing office. They target the top end of the market and go for distribution in the entertainment and convenience trade. They advertise heavily. Finding a local manufacturer for PM looks doubtful. Three companies have cigarette manufacturing plants in SA. Rothmans Batsa and Mastermind Tobacco.

Company Mastermind is a small East London-based operation focused mainly on exporting low-priced cigarettes to Africa. Batsa currently manufactures Camels, Aspens and Winston cigarettes for RJR Reynolds in SA under agreement. Rothmans manufactures and markets one PM brand, Chesterfield under a long-term licence. But Jurgens and Rothmans international spokesman Abrie du Plessis both say PM shouldn't expect any favours.

I would think that with PM holding 17% of the international market and we (the merged entity) holding 16%, the competition between us would be so intense that it would preclude any kind of co-operation," says Du Plessis. Mastermind did not return the FM's phone calls, but it has had an agreement to manufacture cigarettes for RJ Reynolds. The general flux in the market has presented the local companies with real headaches. "We are monitoring competitive activity closely," says RJ Reynolds external relations consultant Arnold Peck. "It is difficult to plan your strategy when there are so many unknowns. We haven't seen what the merger will bring, and then there is the Tobacco Bill." Jurgens says he is concerned — by Philip Morris whom he describes as the "ulti-

mate competitor" and by the possibility of having a "dark market" where no advertising is allowed. "We have had plans in place to counter Philip Morris for some time. We adjust them as we gather more intelligence," he says. But we would support our key equities our brands."



Batsa MD Steven Jurgens concerned about a likely Philip Morris entry.

Jurgens says in a dark market "what remains is price, and price wars. But the tobacco industry has learnt in places like Australia that this is not in the interests of the company or the consumer, who get confused about the value of the product." Du Plessis says Rothmans would defend its market share but adds "we are not

overly concerned. These rumours have been around since the middle of last year." The merger between BAT and Rothmans is part of a global consolidation in the industry. Jurgens says BAT looked at buying RJR's international business, but decided against it. BAT is intent on wresting the world top spot from Philip Morris. This month it announced it is considering making a £7bn cash offer for Inasco, Canada's biggest tobacco company.

Batsa now has the support from minority shareholders to permit the SA merger. Du Plessis says they intend to reduce the domestic brand portfolio and cut costs. Indicators are that Rothmans SA MD Jacques Kruger will be taking over the top position in the merged company because of his company's dominance — with 85% of the SA market. Jurgens confirms he will be leaving. "There will be other opportunities in the group outside SA," he says. That's a big loss, since Jurgens took control of Batsa in late-1996. The company has been wildly successful. This is reflected in the share price. When Jurgens joined Batsa, he was required to buy shares in the company, so he bought 100 at the market price of R12.50 a share. The buyout offer — two-and-a-half years later — was R120.00. Stuart Rutherford

To ban tobacco's messenger or not

(198) 21/8/99

A sensible solution must be found

THE Freedom of Commercial Speech Trust is a representative body of the marketing media and advertising industries. The Trust, through its member organisations, represents some 85,000 members.

We defend a principle not individual products and defend the legitimate business interests of our members. Our comments on the tobacco legislation must be seen in that light and should not be seen as support for tobacco as a product. The Trust is not directly or indirectly funded with tobacco money, and operates on the following basic principles:

- To negotiate openly and in good faith on matters of freedom of commercial speech with all relevant parties, including government and
- to provide the SA consumer with more information about products, rather than less on the basis that if a product is legally manufactured and sold it has the right to be responsibly promoted.

We agree with the basic principles as to public health and smoking as stated in the preamble to the Act, but we are firmly of the opinion that the total ban on tobacco advertisements goes beyond what is needed to protect those principles. We believe that a sensible solution can be found that will serve the interests of all the parties concerned being primarily the government, the media and the advertisers. This is especially important as it is calculated that the ban on tobacco advertising will have as a direct effect that R400 million will be lost. The ripple effect on jobs and job creation will be enormous.

We believe the same objectives as stated in the preamble to the Act can be achieved through a restriction on advertising rather than a total ban. The present provisions that totally ban all advertising and promotions are extremely wide. Some examples illustrate that the ban goes further than is necessary to protect legitimate government interests.

■ The definition of "trade marks" is too wide and non tobacco trade mark usage will also be prohibited under certain of the sections. The general prohibition in section 3 of the Act actually states that "No person shall advertise including... it is extremely wide, and the wearing of clothing bearing a tobacco trade mark by an individual could be an offence in terms of this provision, if it is aimed at the public. This also prohibits the transmission of satellite feeds carrying direct or indirect tobacco advertisements, and the marketing of imported magazines with tobacco advertising.

■ If this wide interpretation is not accepted, the contrary situation which is even more problematic, is that all advertising of tobacco will only be moved offshore. The result is that

there will not be less advertising but that the R400-million advertising expenditure will now be outside South Africa.

■ In addition a total ban on tobacco advertising will result in the disappearance of the health notices currently displayed on advertisements. Thus consumers will get less information on which to base their decisions on smoking or non smoking.

What are the alternatives we propose?

■ Self regulation
The Trust is firmly committed to the principle of self regulation. Extensive self regulation of cigarette advertising already exists in the Advertising Standards Authority (ASA) Code of Advertising Practice. Most of our members subscribe to this Code. The ASA is an effective self regulating body of the advertising industry that works in the public interest. It is highly respected in the advertising and marketing industries and its penalties and sanctions are severe. The ASA Code presently has extensive provisions pertaining to the restriction of tobacco advertising that address the concerns of the Department of Health. The Code, for instance, prohibits the advertising of tobacco products to children.

We urge that, as a first alternative, the present system of self-regulation should, in partnership with the Department of Health, be used for the restriction of the advertising of tobacco products.

■ Effective restrictions - not a ban. As a second alternative we recommend that

In light of the Constitution and the importance of free speech, a total statutory ban on advertising is inappropriate and too broad to serve the interests of government. We recommend that tobacco advertising should, as an alternative, only be restricted in the Act, with the following as possible examples:

Restriction of the size and type of newspaper advertisements. This will comply with the principle as stated in the preamble to the Act that "lifestyle advertisements" are unacceptable. Less restrictions should apply in the case of magazines with an adult readership profile.

■ Cinema advertisements can be restricted to screenings where the age restriction of the feature film is 18 years. Restrictions in respect of tobacco advertising should not be more onerous than that in other countries. If this is the case it will seriously hamper the electronic and printed dissemination of information and will have far-reaching effects on those media industries and eventually the consumer - Peter Vundla is chairman and Piet Delpoit director of the Freedom of Commercial Speech Trust.

■ Self regulation
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WHERE THERE'S SMOKE This smoker seems to be puffing more smoke on the debate to ban tobacco advertisements

The debate on the total ban of tobacco advertising as proposed in the Tobacco Products Control Amendment Act 12 of 1999 is far from over. Piet Delpoit and Peter Vundla of the Freedom of Commercial Speech Trust and Blanche Pitt of the Department of Health state their arguments

Thinking before you light up

WORLDWIDE tobacco kills three-million people each year. In South Africa deaths from cigarette smoking are on the rise.

The World Health Organisation calls it a "global public health emergency" and has asked that urgent measures be taken to control tobacco, including a ban on advertising and promotions.

The South African government has legislation in the pipeline to ban tobacco advertising in the interest of the public. Such moves in other countries have resulted in declines in cigarette smoking. With cigarette smoking poised to become one of the leading causes of death, it is the responsibility of government to prevent this burden on society.

The Freedom of Commercial Speech has decided to open the debate on banning of tobacco advertising which was tabled in Parliament last year and considered in great depth, with a final decision by Parliament to ban all tobacco advertising to protect the health and welfare of children.

Why a total ban on advertising?

Many countries have tried partially to ban tobacco advertising. These include Sweden, France and the UK. The UK had an agreement with the tobacco industry to restrict advertising to adult exposure points. The industry, however, found a way around this and since then all these countries have a total ban on advertising.

Partial bans produced partial results and the European Union and other countries have moved to a total ban.

Children are influenced by advertising and brand names. Despite a ban on cigarette advertisements on SABC television, children associate brand names such as the Gunston 500 and Rothman's Cup with cigarettes.

What economic impact will a total ban on tobacco advertising have? A study undertaken by the School of Economics and the University of Cape Town concluded that a reduction in tobacco consumption in South Africa would result in a net gain in jobs - not job losses!

This is because people who stop smoking spend their money on other goods and services, like recreation and education. These service industries are more labour intensive than cigarette manufacturing. They also provide jobs that create sustainable economic growth and development and not death and disease.



market cigarettes to children. Tobacco is the only legal consumer product that kills when used exactly as the manufacturers prescribe.

The tobacco industry has traditionally argued that their intention is not to recruit new smokers but influence brand choice internal US tobacco industry documents, however, reveal how important the youth market is to the tobacco industry. The hook for trapping youngsters to smoke is advertising.

Tobacco advertising aimed at youth presents smoking as an entry point into adulthood and deliberately associates cigarettes with alcohol parties, fashion, popularity, glamour, independence success and moving up in the world.

Eliminating the powerful and pervasive commercial messages that encourage smoking will enhance the ability of people to make intelligent and informed decisions.

Tobacco companies have known of the cancers, heart disease and addictiveness associated with tobacco for many years but have consistently denied its harmful effects. Promotion of tobacco is thus deceptive.

Smokers and potential smokers have the right to know this and then to decide. Addiction caused by smoking cigarettes is an assault on freedom of choice. Addiction denies the smoker free choice to stop smoking.

The physical difficulty to stop has manifested itself in a widespread desire by youngsters to quit smoking but find it virtually impossible to do so. The danger of tobacco promotion is that it encourages or supports a decision to smoke that is made voluntarily but through addiction becomes irrevocable without great effort.

Is this freedom of choice? The case for banning tobacco advertising and promotion is to assist the individual in a struggle against tobacco. The government does not argue for a ban on smoking. The serious health implications posed by cigarette smoking justifies an intervention on the part of the government to control advertising and promotion of tobacco. Policy makers have a clear responsibility to create conditions for children to grow up in an environment which is free from commercial pressures to start smoking cigarettes.

Freedom of speech is an important right. It is not the intention to allow commercial companies to deliberately mislead the public. The tobacco industry knows that smoking kills but continues to associate sports and glamour with cigarettes. Many countries with excellent democratic traditions have banned tobacco advertising, promotion and sponsorship. They have placed the freedom of children to grow up healthily above the freedom of industry to promote a deadly, addictive drug for profit. Blanche Pitt is national director of health promotion.

Restrict advertising — poll

(198) (34) BD 6/8/99

Majority of South Africans want tobacco advertising curbed, writes Jethro Goko

MORE than seven in every 10 urban South Africans believe advertising should be banned or restricted for tobacco, alcoholic beverages, hand guns and ammunition, and abortion clinics

This is one of the findings of a recent survey conducted for Business Day by market research group ACNielsen Market Research Africa (MRA)

The survey, using MRA's multibus subscription research service, was conducted among a sample of 2 489 households spanning all races and income groups and representing 13.7-million adult urban South Africans

Respondents were asked to look at a list of everyday products and services and say for each one whether the makers should be allowed to advertise freely, or whether the advertising should be restricted, or banned entirely

Respondents agreed advertising should be restricted or banned for four tobacco products — cigarettes (71%), cigars (77%), loose tobacco (75%) and snuff (72%)

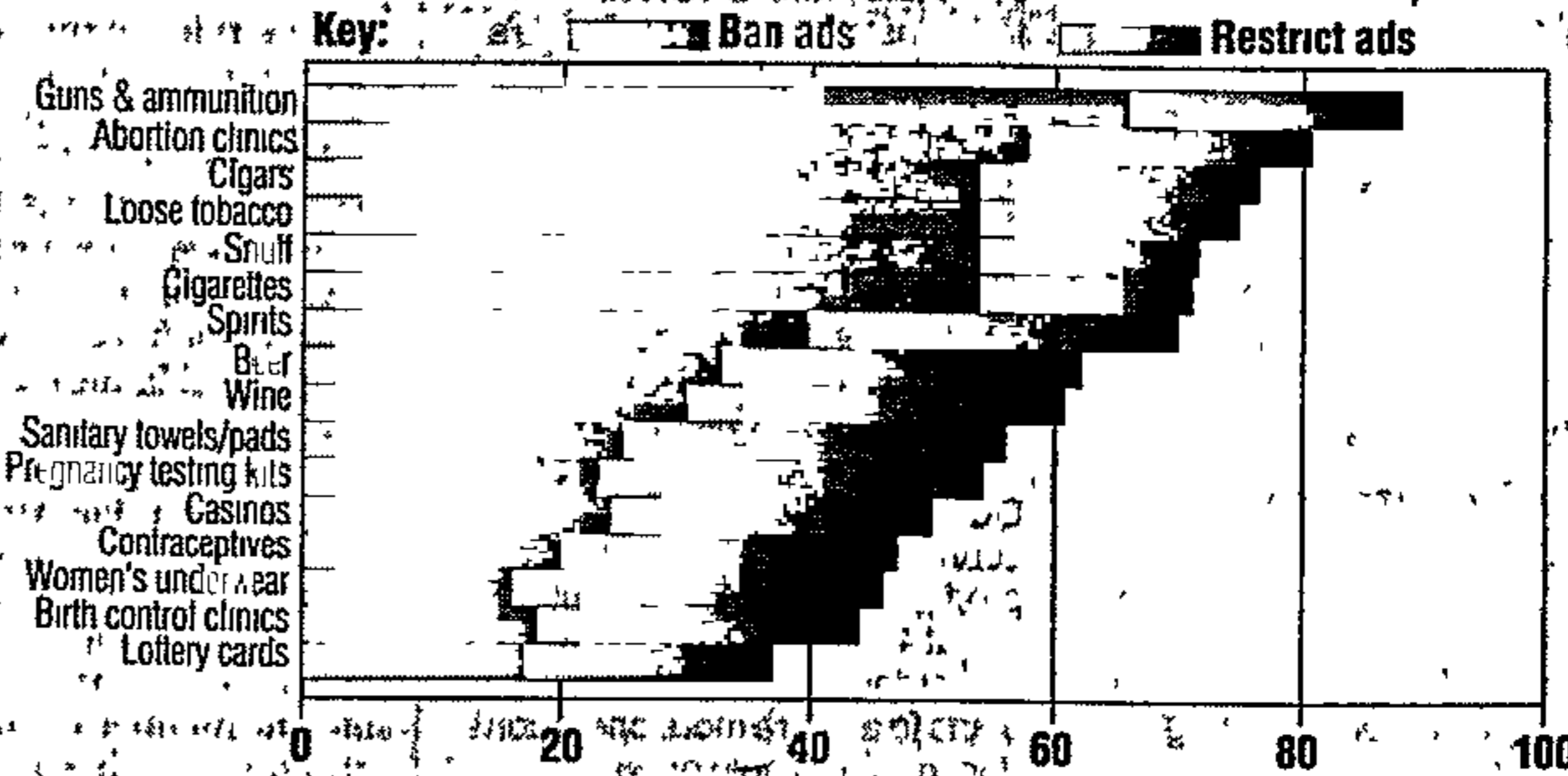
The level of agreement on cigarettes ranged from 76% of blacks and Indians, 67% of coloureds, to 59% of whites. Women were more in favour of restricting or banning advertising, at 76%, with males somewhat lower, at 65%.

When analysed geographically, almost six in 10 Eastern Cape urban adults and more than half of all Free Staters favoured outright banning. Interestingly, the Free State also exhibited the biggest proportion — three in 10 — who opted for cigarette advertising free of restrictions

Commenting on the results, Anna Maree, MD of ACNielsen MRA, said the inclusion by the public of other products and services in the "ban or restrict" category would be disconcerting for advertisers and marketers

"More than six in 10 South Africans be-

Which advertising should be banned or restricted?



Graphic KUBEN DAVID Source AC NIELSEN MRA MULTIBUS SURVEY, APRIL 1999

lieve that the alcoholic beverages wine and beer should be subject to advertising bans or restrictions, rising to seven in 10 in the case of spirits

"Eight in 10 would clamp down on abortion clinic ads, while the greatest pressure comes from the almost nine in 10 who would restrict or ban advertising for hand guns and ammunition." The last item was easier to understand, given the perceived high number of crimes involving firearms and the public's well publicised concern with violent crime

Manufacturers of women's underwear (55%) and operators of lottery cards (63%) will doubtless be pleased to note the small, but solid majority of South Africans who support their right to advertise freely

Unrestricted advertising for birth control

clinics and for contraceptives was also approved by more than five in 10 urban adults

However, pregnancy testing kits failed the test, with fewer than half the population supporting their right to advertise free of restrictions. Despite the endorsement of Indians — the most enthusiastic supporters of the proposition at 71% — the total population's approval rate was reduced to 46%, largely due to the muted support of blacks with a relatively low 42%

Asked to comment, Piet Delpert, executive director of the Freedom of Commercial Speech Trust, said that while restrictions on communications may — under certain exceptional circumstances — be acceptable, a total ban on any type of communication would seem to be unconstitutional

Now 75% of public places must be smoke-free - law

■ R200 fines for smoking ■ Regulations to be phased in

PARLIAMENTARY BUREAU AND SAPA

Anti-smoking regulations published today say that 75% of the space in public places, including offices, restaurants and pubs, must be smoke-free.

The fine for smoking in a non-smoking area will be R200

There will be no legal requirement for employers or restaurateurs to provide smoking areas. Smoking rooms must have separate ventilation to prevent passive smoking.

The regulations flow from the Tobacco Products Control Amendment Bill approved by Parliament earlier this year.

The act contains clauses to ban tobacco advertising and publicised sponsorship, and smoking in public places, but gives the minister of health the power to regulate phasing-out periods and exemptions.

The act has been signed by former President Mandela, but will not come into force until the regulations have been finalised.

In terms of the regulations published today, a number of cigarette brands could be banned because their tar content exceeds the maximum allowed by the regulations.

These brands include John Player International Filter, Camel Plain, Craven A Menthol Filter, Gunston

Toasted, Gitanes, Gauloises filter, Gold Dollar and Belmont filter.

The tar limits are based on World Health Organisation guidelines, which provide for a further lowering of the maximum within two to three years, a move which would bring more brands into the net.

The regulations will also provide for the phasing-out of existing tobacco sponsorships and a deadline for the withdrawal of tobacco advertisements in the print and other media.

The regulations are expected to be issued in four parts, dealing with smoking in public places such as the workplace, restaurants and hotels, exemptions and existing contractual

obligations in advertising and sponsorship, tar and nicotine levels, and point-of-sale advertising.

In drawing them up, the department held discussions with bodies that would be affected by the bans.

These included sports organisations, organisers of events like the Rothmans July Handicap and motorsport events, and representatives of the advertising and media industry.

The draft will be open for comment for three months before being finalised.

An earlier version was given to industry, labour and the anti-smoking lobby for comment, but was not made public.

ARL 3/12/99

(198)

MOVE TO OUTLAW CERTAIN BRANDS

Tobacco companies under fire

(198) CT 3/12/99

JUDITH SOAL
HEALTH WRITER

SMOKERS beware Your favourite cigarettes may soon become illegal unless the manufacturer agrees to reduce its tar content, according to regulations published in the Government Gazette today.

Brands affected include John Player International Filter, Camel Plain, Craven A Menthol Filter, Gunston Toasted, Gauloises Filter, Gitanes, Gold Dollar and Belmont Filter.

The public has three months to comment on the regulations, which flesh out the details needed to enforce the Tobacco Products Control Amendment Bill.

The health department was unforthcoming on the regulations yesterday, but a source said they covered four areas. Smoking in public places, the maximum amount of tar permitted in cigarettes, advertising where cigarettes are sold and exemptions from the ban on tobacco sponsorship and advertising.

The source said it had been decided that at least 75% of all public places, including restaurants, bars, offices, hotels and schools must be smoke-free.

"As the law states, an area for smoking can be set aside in public places," he said. "What the regulations do is spell out the specifications for that smoking area."

Besides being limited to 25% of the total area, smoking rooms have to have a separate ventilation system to protect non-smokers from passive smoking.

There is also no legal requirement for employers or restaurateurs to provide a smoking area.

"It is up to the employer. Smokers can't demand to be accommodated but non smokers are guaranteed fresh air, that is what the regulations are about."

The fine for smoking in a non-smoking area is R200.

The limits on the amount of tar in cigarettes are said to be in line with the latest World Health Organisation recommendations, which stipulate that 15mg of tar and 1.5mg of nicotine should be the maximum allowed. After two or three years these limits will be dropped to 12mg tar and 1.2mg nicotine.

It's not only the smokers of macho

brands like Gunston Plain that will be affected. When the limit is dropped brands like Courtleigh Slims and Kent Filter will be out of bounds.

"Manufacturers will have to reduce the tar content, otherwise they cannot sell cigarettes legally, it's as simple as that," said the source.

The regulations are said to make provision for existing tobacco sponsorships to run their course, and to set a date for the last cigarette advertisements to be published or screened.

Priscilla Reddy, the Medical Research Council's head of health promotion, welcomed the regulations yesterday.

"These controls are in line with developments all over the world which aim to improve public health and reduce the burden of chronic diseases on our healthcare system," she said.

"They also give those people unfortunate enough to be addicted to tobacco the opportunity to behave graciously and to stop endangering the health of their fellow citizens."

She said it would be up to the public to police the regulations.

"It would be ridiculous for the police to be called out to stop someone smoking in public. Rather we need to educate smokers about their responsibilities, and non-smokers about their rights. After all, two-thirds of our population don't smoke."

Rothman's International spokesperson Abne Du Plessis said the industry was hoping they would be given time to reduce the tar content of cigarettes.

"When limits were imposed in Europe the manufacturers were given three years to get down to 14mg and another five years to get to 12mg. We are hoping we get a similar time frame."

He said farmers had to change the types of tobacco planted and develop their blends.

"If we are not given sufficient time we will make submissions to the ministry."

The industry has not decided whether to challenge the tobacco controls in the Constitutional Court.

"First we need to look at the regulations and then talk to our lawyers," he said.

Health Minister Manto Tshabalala Msimang is expected to hold a press conference on the regulations today.

Anti-smokers welcome gazetting of Tobacco Act

Sowetan 7/12/99

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By Bhungani Mzolo
Health Reporter

THE gazetting of the controversial Tobacco Control Amendment Act has been welcomed for contributing to a safer, healthier and cleaner indoor environment

The Act, which proposes the prohibition of advertising tobacco products on goods other than tobacco, the promotion of tobacco products through sponsorship events and the free distribution of tobacco products as gifts or cash prizes, appeared in the *Government Gazette* on Friday

Dr Yussuf Saloojee of the National Council against Smoking said "The draft regulations are a necessary, appropriate and opportune response to

a major health hazard which kills four million people a year worldwide"

Saloojee said there was overwhelming consensus in the medical community that passive smoking causes diseases in nonsmokers, including lung cancer and heart attacks in adults, and lung disease, middle-ear infections and asthma attacks in children

"The South African public have long demanded the restriction by law of smoking in public places. More than 70 percent of both smokers and non-smokers support this measure," he said

However, the tobacco industry has described the Act as "draconian" and earlier this year the then President Nelson Mandela referred it to Parliament, apparently because there were clauses that were unconstitutional

On the ban on tobacco promotions Saloojee said it was an essential component of any strategy designed to reduce smoking among the youth

"The council is, however concerned that existing sponsorship contracts will be allowed to continue until 2001," he said

"The industry's ability to recruit youngsters to smoking through the promotion of pop concerts and sports should be ended as soon as possible"

The Act forces employees to have designated smoking areas as well as give the health minister powers to decide the amount of tar and nicotine in cigarettes

A number of companies in South Africa have long implemented the policy of barring smoking in public and have designated areas for smoking

In spite of known health risks, young people still regard smoking as sophisticated, writes **Chené Blignaut**

Ssssmoking! SA's cool youth continue to light up

It is 9pm on a Wednesday and a popular city pub is filling up fast with funky teenagers and young people out for a night of fun.

At a table near the door a group of trendy young women are engaged in lively conversation. Their excited comments and laughter are punctuated by long drags from their cigarettes and at least one packet of cigarettes forms the centrepiece among the keys, cellphones and purses on every table.

In spite of the health risks and new anti smoking laws the youngsters still regard smoking as cool and sophisticated.

The prevalence of smoking among South Africa's youth is one of the reasons behind the anti smoking regulations proposed in the Tobacco Products Control Amendment Act.

The public have three months to comment on the controversial regulations which were published at the beginning of the month.

In terms of the proposals 75% of public places including bars, restaurants, offices, hotels and schools will have to be smoke-free. The fine for smoking in a non-smoking area will be R200.

A reduction in the tar content in some cigarettes and a clampdown on cigarette advertisements and sponsorships are also proposed.

According to Medical Research Council statistics for 1998, 24% of South African men between 15 and 24 smoke compared with 56% of women in the same age group.

Although teenage boys tend to smoke more than girls, young coloured women smoke as much as their male counterparts, according to Kriesla Steyn, leader of the council's chronic diseases of lifestyle programme.

Another cause for concern was the sharp increase in smoking among urbanised African women, she said. Although adult smoking rates had dropped since the introduction of compulsory risk warnings on cigarette packs, and advertisements, young smokers appeared more resistant to the measures.

Dr Steyn blamed peer pressure, continued exposure to advertisements, and starting smoking for the increasing awareness of the youth on risk. "And once they start they are hooked. Nicotine is the most addictive substance known to man," said Dr Steyn.

Young people were also not even fronted with sick people suffering from lung cancer, and other smoking-related illnesses, she said.

No one around them is dying, said This was borne out by health psychologist Helgen Sibiya, who said Smoking is seen as a sign of adult

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hood. Teenagers can pretend they are not children anymore by flaunting adulthood in the form of a cigarette. Dr Schomer said cigarettes were still seen as a symbol for so many good things, including sophistication, happiness, adulthood, sex appeal and success.

Smoking is an acceptable coping mechanism, which is reinforced by society. Adverts portraying cool and sexy young men and women were the main culprits followed closely by peer pressure.

The previous people by time hooked included physical addiction, comparable to heroin, combined with a powerful physiological and mind addic- tion.

At the time of writing, your model was in a state of denial. It is a powerful way for the young to look through the veil of their quick hits of nicotine, to see their true selves. Long after 12 smoking, a 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

Another problem was that smoking is associated with many of the club and bar scene. It is impossible for the young to see the health consequences of smoking without being in a club or bar. The young people from smoking are not only being exposed to the health consequences of smoking, but also to the peer pressure of smoking. The young people who are not smoking are being exposed to the peer pressure of smoking. The young people who are not smoking are being exposed to the peer pressure of smoking.

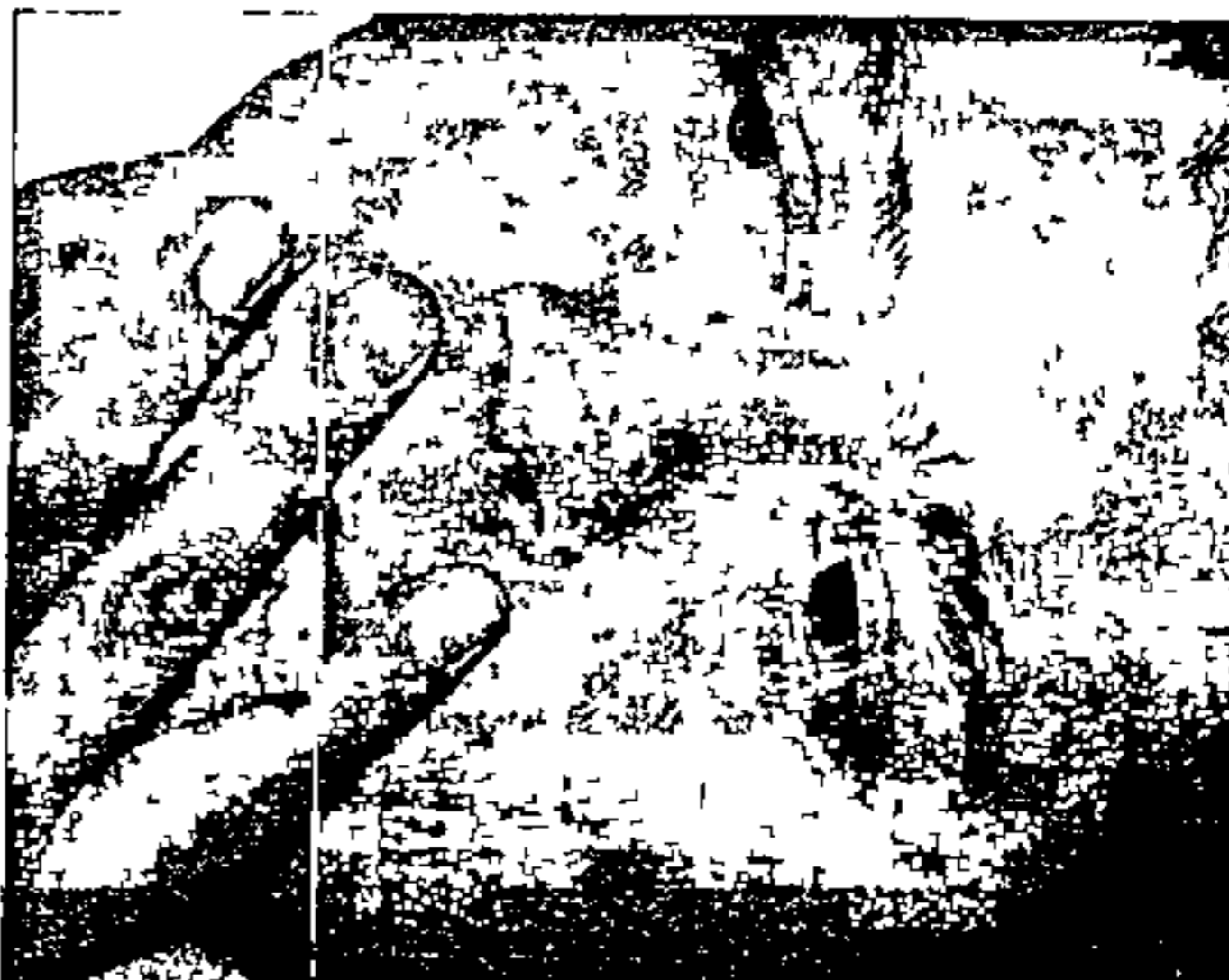
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who speak out against smoking. Dr Schomer said public attitudes towards smoking were definitely becoming more negative and more non-smokers were becoming aware of and vocal about their rights. However, we as non-smokers should make it clear that we don't hate smokers, we just hate their habit. The person is not evil, only the habit, he said.

The tough proposals have provoked a fight between health authorities and the tobacco companies, who call the measures draconian and unconstitutional. The hospitality industry has also complained that it implemented the measures could hurt business.

But the National Council Against Smoking counters their arguments saying the regulations follow World Health Organisation guidelines and are consistent with laws in other countries such as Australia, New Zealand, France and Sweden. The council argues that the regulations will not be an imposition on non-smokers.

In the contrary, the fact that they ignore the requirements of 75% of their point and customers has caused the need to legislate. If it is true that voluntary created smoke-free spaces, there would be no need for the government to act. The council said in a statement.



HOOKED Cape Town firefighter Craig van Reenen, 24. My parents smoke so I have been a passive smoker all my life. I'm addicted. Anyway, I inhale smoke all day long, cigarettes are not going to make a difference.



PEER PRESSURE Jacquie, 18, of Cape Town, started smoking three years ago. Everyone else smoked and I wanted to see what it was about. I can last two days without buying a new packet, I am not addicted.



UNCOOL Andrea Toerien, 22. I have never smoked and sometimes young people get almost angry when I tell them that I don't smoke or they can't believe it.



SECURITY Stellanbosch student Michael Burgess, 25. I have just come from class and it is the nicest thing to have a cigarette with a beer. It is a behavioural habit.

Tobacco regulations seen as 'draconian'

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Belinda Anderson
DURBAN stands to lose an annual R800m cash injection if the proposed tobacco advertising regulations come into force early next year. Sponsored events such as the Rothman's July and Gunston 500 may fall away due to what the lobby groups call a de facto ban on tobacco advertising in SA. If the regulations went through as they stand, it would dry up all sponsorships by the second quarter next year, said Tobacco Institute CEO Edward Shalala. Other tobacco sponsored events such as the Grand Prix and Superbike races bring in \$120m through international television rights. Tobacco advertisers self regulate by not advertising on television, so their ad-spend is pumped into sponsorships and cinemas. "Those who do advertise on television will battle to pay for sponsorships as well," said Association of Marketers executive director Derrick Dickens. The lobby groups representing the interests of advertisers and the tobacco industry describe the regulations, drawn up to implement the Tobacco Products Control Amendment Act, as "draconian" and the impact as "massive". Radio stations lost R70m last year and the print media lost the R176m arising from the industry.

Dickens estimates that 50% of outdoor advertising and 60% of cinema advertising is for tobacco products. The lobby groups say instead of discouraging smoking, the advertising legislation will stimulate job losses at all levels of the economy. "Our concern is nobody has thought through the ripple effect this will have on our economy," said Dickens. Dickens and Shalala say international experience shows the more smoking is discouraged the more young people are likely to smoke. "The biggest selling cigarette brand, Death, demonstrates this," said Dickens. The draft regulations do not ban tobacco advertising, but restrict it to black and white lettering, of which 30% of the content must contain health warnings. "No marketer with any brains is going to throw money away like that," said Dickens. Farmers' lobby group Tobacco RSA chairman Francois van der Merwe said the short-term reduction of tar yields might jeopardise the livelihoods of tobacco farmers and their 40 000 workers. Mpumalanga and the Northern Province would be most seriously affected. Shalala said "The industry has always supported reasonable tobacco control, but the conditions and time frames are impossible to fulfil. The drafting shows an intention to restrict even the little leeway which parliament has allowed."