



B.U.G.A.U.P.

GRAFFITI AND THE LAW

The first billboards to fall foul to BUGA UP's sprays were refaced not as part of some elaborately planned political process, but as a spontaneous expression of frustration and anger. This was seen as the only way to answer back to advertisers pushing destructive life styles.

Although those early spray-can guerillas realised that their actions might bring them into conflict with the law, it did not occur to them that this might actually work to their advantage, or at least to further the cause in the long term.

COST EFFECTIVENESS

Since then, however, there have been over 40 court cases as a result of BUGA UP activities. From the very beginning, it became evident that the publicity generated by these controversial (and often amusing) cases was a very cost-effective way of recruiting supporters. The forum of the courts also offered the opportunity to explain publicly why the graffitist had taken such dramatic action.

Initially, the defence offered was fairly simplistic, usually amounting to little more than a statement that the accused believed that there was no other way of stopping 'unhealthy promotions' and that the action taken was appropriate in the circumstances.

Although the judiciary was generally sympathetic to the defendant's motives, usually a technical breach of the law was found and token fines imposed. In some cases, the graffitists refused on principle to pay their fines, choosing instead to spend a few days in gaol.

'LAWFUL EXCUSE'

The usual charge levelled against graffitists has been that they 'did maliciously injure a billboard without lawful excuse'.

The main line of defence put forward over the years has been that there was a 'lawful excuse'. This defence is made available by the law so that the courts can, for example, have reason to acquit someone charged with

breaking into a house, if he had done so to rescue a child trapped inside.

This argument was put to a magistrate earlier this year when a Sydney filmmaker, Martha Ansara, was caught 'red-handed' after improving a billboard. Initially, she was charged with 'marking premises with paint'. Since the court had previously found that billboards do not constitute 'premises', this charge would not have stuck. Faced with the prospect of an acquittal on this technicality, Ansara persuaded the police to change the charge to 'malicious injury', so that she could present a meaningful defence.

NOT ENOUGH EXCUSE

Ansara told the court that she felt compelled to correct the untruthful statement of the billboard, which was telling us that smoking is a good thing to do. She explained how her mother had recently died of lung cancer as a result of smoking. She also said that a member of her family who had been addicted to both heroin and tobacco found tobacco the harder to get off. When she made a film on drug abuse, she learned that tobacco and alcohol, not heroin, are Australia's biggest drug problems, and became aware of the frightening political power of the legal drug industry.

The magistrate listened attentively to her argument, as well as to expert testimony from a doctor who elaborated on the seriousness of the smoking epidemic. While obviously sympathetic to the cause, he felt that the excuse was not good enough, and imposed a nominal fine.

Ms Ansara has lodged an appeal and hopes that the higher courts will reverse the ruling.

SERIOUS ALARM

Back in August 1982, a Sydney artist, Richard Bolzan, was outraged to find an Alpha Romeo racing car emblazoned with Marlboro advertising in the foyer of the New South Wales Art Gallery. The car was ostensibly part of an exhibition called 'Art

and Technology', but Bolzan suspected that the car had more to do with advertising than with art when he discovered that Philip Morris (manufacturers of Marlboro) were sponsoring an exhibition in the gallery.

He came back on a busy Sunday afternoon, wearing a costume covered in no-smoking stickers, and, approaching the car, he pulled out a strong chain from under his clothes and padlocked himself to the roll-bar of the car.

A large contingent of supporters then entered the gallery and began ritualistically dumping cigarette butts and ash over the car, while Bolzan read an open letter addressed to the trustees of the gallery, urging them to sever their relationship with tobacco sponsors. He said that he would not leave until a representative of the gallery spoke to him.

In court, the police claimed that several members of the public had been alarmed by the event, and witnesses, including art gallery attendants, gave evidence that they were frightened that paintings in the gallery would be damaged.

PERFORMANCE ART

Bolzan argued that 'performance art' is quite common in the gallery, and that people go there to be confronted with new ideas.

The magistrate said that he recalled a time when a naked woman had played a cello on the roof of the gallery, and that there had been exhibitions featuring naked people which were probably quite shocking. He asked one of the gallery personnel whether any action had been taken against these performers. The answer was, predictably, no.

The magistrate said that no one could have thought that any violence or danger was imminent, and a 'reasonable person' would have realised that the event was simply a peaceful protest and would not have been 'alarmed or affronted'.

While no magistrate has yet accepted a 'lawful excuse' in BUGA UP cases, the activists are confident that what they are forced to do is not only morally justified but also legal, and it is only a matter of time before the law properly reflects community sentiment.

