

# BILLBOARD DEFACERS GAIN MAJOR LEGAL BREAKTHROUGH



**A SUCCESSFUL court appeal by a doctor who painted an anti-smoking message on a cigarette poster has "BUGA UP" claiming a major victory in the "war of the billboards.**

His appeal was heard on May 25 and Dr Chesterfield-Evans was acquitted on a legal technicality which BUGA UP (Billboard Utilising Graffitists Against Unhealthy Promotions) claims is a landmark.

Based on a 1974 precedent, it was found the paper on which Dr Chesterfield-Evans painted his slogan did not constitute "premises" within the meaning of the act.

In September last year Sydney general practitioner Dr Arthur Chesterfield-Evans was convicted of "wilfully marking a premises with paint under the Offences in Public Places Act.

He had pleaded not guilty on the grounds of necessity. The defence of necessity is based on the principle that it is lawful to commit a minor offence to prevent a greater wrong.

Dr Chesterfield-Evans said he sprayed the poster to prevent young children from taking up smoking and suffering from its effects.

"I was so staggered at winning the appeal I forgot to ask for costs, so I'm still out around \$300 for the whole thing," a jubilant Dr Chesterfield-Evans told the "Star Enquirer."

Another BUGA UP spokesperson said prosecutions for defacing billboards would now have to be under the charge of malicious injury because prosecution under the Offences in Public Places Act was no longer available.

"And that is a charge we would be happy to defend because our actions actually improve the advertisements," he said.



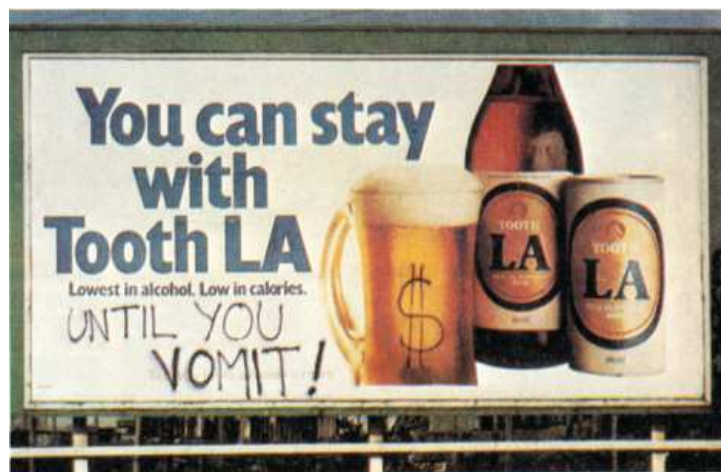
Both the advertising and tobacco industries are annoyed with BUGA UP which is classified as a group of vandals costing them more than \$100,000 annually in poster replacements.

Mr Neville Trethowan of the Outdoors Advertising Association says each poster defaced by BUGA UP costs \$120 to replace.

This cost, he says, is borne by the advertising company responsible for erecting the poster.

Mr Trethowan is far from happy with the result of the court case and says he is "upset with the efforts of the NSW Police which resulted in this non-conviction."

"It was blatant vandalism and we in this industry seem to have-to suffer from vandalism."



"It is the same as when people vandalise trains and buses," he says.

BUGA UP, Mr Trethowan says, is "a minority self-interest group" whose membership has been "fairly static" in the last couple of years.

"The only time it increases is in areas where there is some kind of demonstration - like in Hobart when the anti-dam protestors were there.

"It relates to the type of people in the area."

"If a product is legally available to sell, it should also be legal to advertise it. "

"Cigarette and liquor posters are not the only ones being vandalized they are also subjecting movie posters and other things to vandalism."

"They are trying to take away the right to advertise."

Mr Bruce Cormack of the Advertising Federation of Australia doesn't like talking about the activities of BUGA UP.

"I don't want to contribute to giving them publicity," he said.

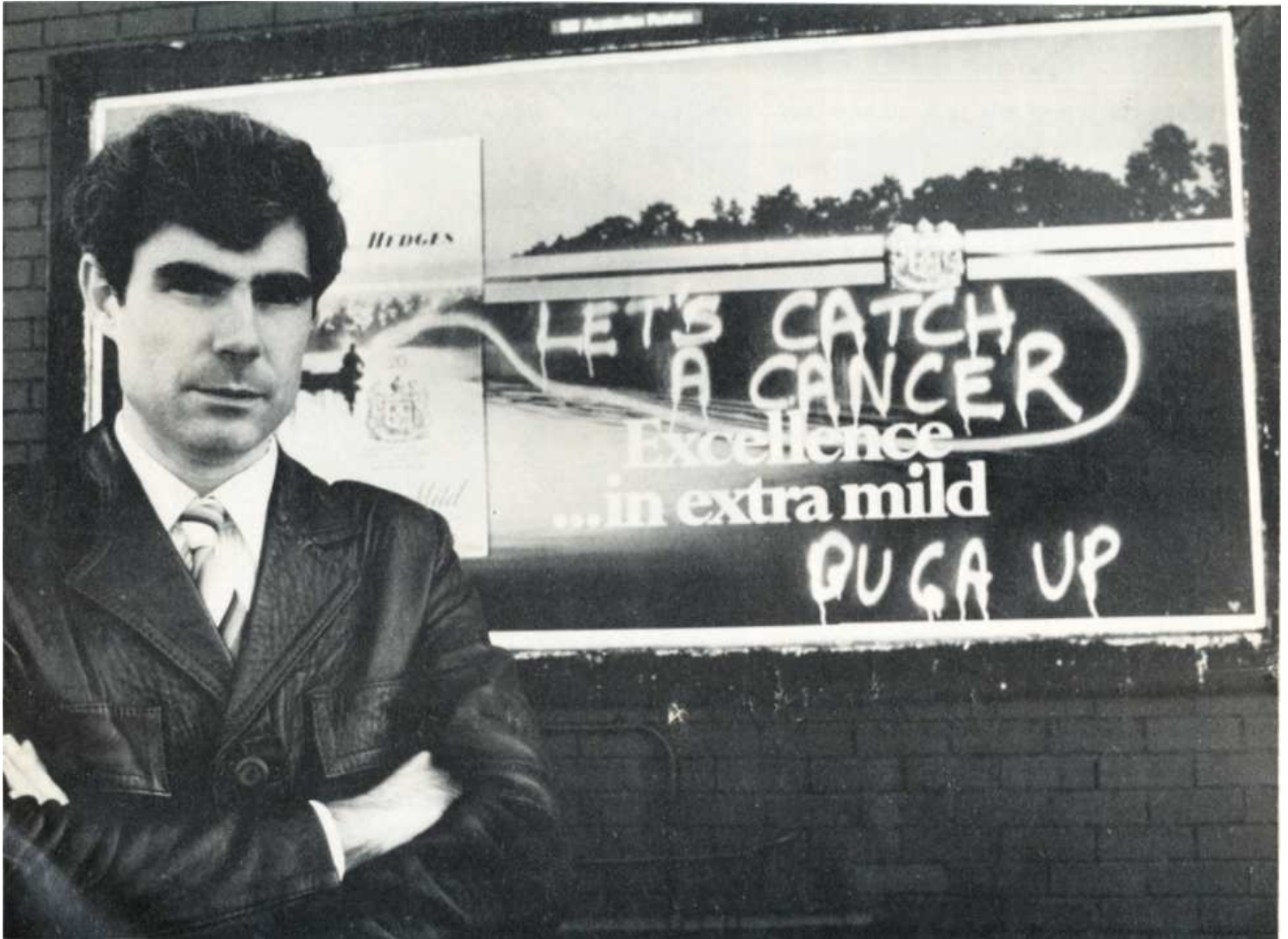
"All the association has to say is that BUGA UP is an irresponsible group of vandals which is totally unacceptable to the community."

Despite the criticism both he and BUGA UP have been under, Dr Chesterfield-Evans says he will continue to paint graffiti on billboards until the government cracks down on cigarette advertising.

He said anger through his own personal experience dealing with "respiratory cripples" led him to take such strong action.

"It is very discouraging to go and, see a respiratory cripple and send him to hospital with terminal lung cancer and then get in your car and see 1500 billboards telling people that, smoking is fantastic - it makes me very angry," he said.

Dr Chesterfield-Evans says he sees BUGA UP as a catalyst to the eventual changing of laws which permits the advertising of what he calls "addictive drugs."



*Dr Chesterfield-Evans says : "Billboards telling people smoking is fantastic make me very irate."*

He agrees that present laws give tobacco companies the right to advertise their products.

"It is legal to advertise them honestly - but there is no right to deliberately mislead people," he says. "If they want to advertise a cigarette saying this will give you eight times the risk of having a heart attack between the ages of 40 and 50, and will shorten your life by an average of four years if you smoke a packet a day, then let them go right ahead."

The advertising and tobacco companies and BUGA UP now seem to have only one thing in common.

They both acknowledge the issue of whether promotion of tobacco and alcohol products should be permitted will eventually have to be settled through a test case in the Supreme Court.

**BRAD TURNER**  
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