15. Up in smoke: combating tobacco through legislative reform

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This chapter focuses on tobacco control and the reform of tobacco use in Australia—policy areas I have been involved in now for about 12 years. Combating the harm caused by tobacco has been a long battle, involving a series of difficult policy reforms. To comprehend how much progress has been made to date, think back to the famous 1946 Camel cigarettes advertisement, 'more doctors smoke Camel than any other cigarette', which resulted from a survey of 113 000 US doctors. Ronald Reagan sent packets of Chesterfields to people for Christmas. General practitioners would even prescribe cigarettes to their patients; 'Take up smoking,' they would say, 'it will be good for you'! And remember that in the 1950s three out of every four Australian men smoked!

Today, this is no longer the case. Health professionals do not endorse cigarette brands and very few actually smoke. Less than 20 per cent of Australian males now smoke. There have been huge changes in the prevalence of smoking. It became popular initially from the beginning of the twentieth century, followed by a steady increase in consumption during the world wars and the 1950s. There was a subsequent explosion in per capita consumption in the 1970s with saturation advertising, followed by a dramatic decline in popularity since that decade. Health concerns are now predominant in the minds of many. And yet, while Doll and Peto discovered a definitive link between tobacco and lung cancer in 1954, it took another 30 years for per capita consumption to significantly drop. If we measure progress by the decline in usage then there is a long lead time between when society finds something out and when we start to change our ways. There might be a change of policy, but it can take a while for a change in actual outcome.

Elements of a successful tobacco-control reform agenda

The progress made in reducing smoking's harmful impacts results from an enormous amount of sustained work, both inside and outside government. When we examine the changes in smoking legislation enacted across time, it is remarkable to think that even quite recently the situation was so different. For example, smoking on domestic airlines was banned in Australia only in 1987. It seems inconceivable that anyone would even attempt to smoke on an airline nowadays—they would be stabbed to death with a plastic knife!

Most anti-tobacco reforms have been entrenched and gradually extended, but they have not always been easy to bring about. The Victorian *Tobacco Act* of 1987, for instance, was a groundbreaking piece of state legislation, which created a tax on tobacco, allowing the government to gain revenue from tobacco sales in order to buy out tobacco sponsorship in sports and the arts, and use it for health promotion and research. It had taken Nigel Gray, then head of the Anti-Cancer Council of Victoria, decades of lobbying. In fact it took him eight health ministers until he found one, David White, who shared his interest. Gray had long been plotting such legislation, and in Minister White he found someone who was receptive—fundamentally because his father was dying of emphysema. In addition, it took a series of skilful negotiations by Gray to raise awareness of the need for such legislation, including winning the support of the churches and both major media organisations. The success of this bill also relied on some clever politicking, particularly in the Victorian Upper House, between White and his opposite number, Mark Birrel.

After the initial slog to get this bill into law, it has since proved a tremendous success. Moreover, many other countries have copied this approach. Thailand has even superseded this model, with the Thai Health Program introducing a surcharge on tobacco and alcohol. They are doing a highly effective job at health promotion, and we can now learn from their example.
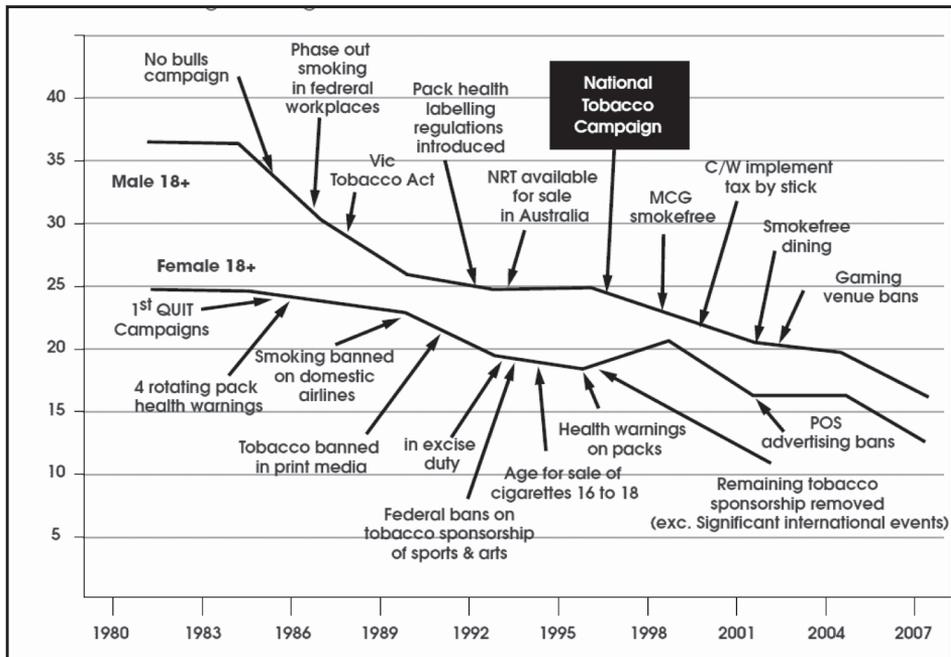

Figure 15.1 Milestones in reducing smoking in Australia, 1980–2007

Source: The Cancer Council of Victoria 2009

The key characteristics of successful tobacco reform are that it is progressive, determined, comprehensive and sustained. Often we are looking for quick policy fixes, but these rarely exist as we are dealing with substances that are highly addictive, the manufacture, promotion and the sale of which are backed by enormously powerful multinational tobacco firms. Thus, we need to build sustainable regulation and reinforcing messages that can enhance the overall approach. For instance, where we have an effective, scaled-up national anti-smoking communication campaign, this not only helps people understand why they might want to give up smoking, it will also help change community attitudes to the policies themselves.

To change attitudes, we were particularly interested to ensure that a constant flow of health communications, counter-advertising and the banning of advertising for tobacco would occur. We had to actively combat the acceptance of tobacco to see attitudes change. This is no mean feat, as the original tobacco advertising was extremely effective, and most people like me could remember all the popular jingles for a host of cigarette companies.

Evidence gathering is also critical for bringing about successful tobacco reforms. Close monitoring, annual surveys, annual evaluations and major project evaluations all ensure a constant flow of information is fed to policy makers who often have to make some very tough decisions, both within the bureaucracy and within the political part of government.

Legislation regulating cigarette advertising, promotion and sponsorship has been critical to success. There was a major shift against smoking when sponsorship was taken out of sport and the arts. I was always amused that the arts should be sponsored by tobacco, particularly the Australian Opera (after all, it is surely difficult to sing without a voice-box lost to tobacco-related cancer!). The ban put an end to this unholy partnership. And, more than anything else, smoke-free legislation applying to premises and public spaces has been instrumental in changing public attitudes towards tobacco use.

Pricing and taxation have a highly significant role in a successful tobacco-control reform agenda. But to increase taxes and enact legislation require community mobilisation—meaning community understanding *and* support for particular approaches. It is vital that we understand what these mean, and that there is good social marketing and counter-advertising against the cigarette manufacturers. One of the earliest forms of such counter-advertising in Victoria successfully utilised humour, with the popular television character Alf Garnett helping to spread the anti-smoking message.

Pushing for tobacco reform against industry resistance

The contemporary challenges associated with tobacco reform are still formidable. In 2008 I was lucky enough to be asked to chair the National Preventative Health Taskforce, where Health Minister, Nicola Roxon, asked us to look at obesity, tobacco, and the harmful use of alcohol. Regarding tobacco, we reported to the Federal Government that they should do two things: first, they should increase the price of tobacco; and second, they should improve communications on the dangers of smoking.

In May 2010, the Government acted by increasing the tobacco excise by 25 per cent, meaning the price of a packet of 30 cigarettes increased by about $2.16. This move was greatly welcomed, but remember there are now countries that have considerably higher levels of cost per pack of 30 and Australia has dropped to seventeenth among the Organisation for Economic Cooperation and Development (OECD) countries with regard to the cost of tobacco. So, relatively speaking, a packet of cigarettes in Australia remains cheap. The research behind this price hike predicts approximately 25 000 young people will not take up cigarettes as a result, and about 100 000 people will quit. In addition—perhaps counter-intuitively—this will have a bigger effect on those from lower socioeconomic strata than those at the higher end. Critics labelled this a regressive tax that will not work. But the evidence coming from the Centre of Behavioural Research in Cancer and the Centre of Tobacco Control at QUIT certainly suggests otherwise.

The big social marketing campaigns are principally aimed at the general population, but they also target high-risk groups including pregnant women, prisoners and people with mental illness. The Government is also allocating a significant amount of money to an Indigenous tobacco-control program. When I worked in an Aboriginal medical centre in Alice Springs during the mid 1980s, there was absolutely no interest in tobacco control, both in town and in remote Indigenous communities. Now that is no longer the case, and there is real potential for Aboriginal communities to take this issue on, and achieve some tangible gains. I am very hopeful they will succeed.

It is important to note here in designing these campaigns that tobacco reforms should never vilify the smoker. We target the companies because we know that if they stop producing and promoting as much as they currently do, the population will be much better off health-wise and economically. One of the few social problems with the smoke-free laws is that people end up smoking outside, which can lead to smoker vilification and ostracism. In this way, the vilification does not necessarily come from the policy makers; it comes from other individuals who do not necessarily want someone else's smoke close by

or in their nostrils. Yet, it is not a particularly good idea to vilify the smoker, or the person who is overweight, or the person who is drinking too much. We must focus on the behaviour, not on the person, and we are largely succeeding in this endeavour.

In April 2010, the Rudd Government announced that, from 2012, Australia would become the first country to introduce mandatory plain packaging. This is a historic event in Australia's anti-tobacco history, as we will become the world's pioneer in introducing such tough measures. Consequently, the campaign to combat this is coming straight from New York and London—from the tobacco giants intent on preventing this law being followed by other countries. These firms have been vehemently challenging plain packaging, and they have an absolute right to do this. But paradoxically, they are saying on one hand there is no evidence that plain packaging will work, yet on the other hand they are doing everything they can to stop it. The fact they are so concerned is a fine example of what is called the 'screen test': you know a particular reform is likely to hit the tobacco companies hard when it provokes a heated response.

Yet the principal opponents of tobacco reform have painted themselves into a corner. The tobacco companies stated their position early in the debate and have largely stuck to this line for decades. In effect, for years the tobacco industry told us that tobacco did not cause cancer and was not addictive. They persisted with this position for a long time, even though it was later proven that their own internal information showed they were aware that the contrary was in fact true. This became transparent after the 'Minnesota Agreement' of 1998 under which tobacco companies were required to release millions of pages of their own internal documents to show what positions they were taking. These documents prompted many people to ask whether such companies were really working in the public interest.

Obviously, the tobacco companies remain enormously powerful and wealthy, making them ruthless in chasing down people who oppose them. An example has been British American Tobacco's attempts to sue Peter Gordon, a prominent Melbourne lawyer who has previously tackled the tobacco industry. The tobacco industry is utterly relentless in their willingness and capacity to obstruct, deny, and delay, and work without any ethical standards or moral compass.

And yet, even though the tobacco companies have great wealth and power, the tobacco industry is consistently voted as the least reputable industry in the world, thus reducing their ability to sway policy makers. By virtue of what they have done for such a long period, and denying the acknowledged dangers that tobacco is both addictive and causes cancer, most sensible politicians do not worry about them—a situation very different to 30 years ago, when these companies had much more political sway. But since then they have continually

damaged their reputation to the point where they are marginal to the policy process. For instance, the National Preventative Health Taskforce wanted to consult with the alcohol and food industries about the problems related to the harmful use of alcohol and obesity, but when it came to smoking there was absolutely no obligation to consult with the tobacco companies, because they have done such a horrendous job, and have proven themselves to be unethical in so many ways, over such a long period.

Mobilising for change: framing the community debate

I wish now to highlight the features that have influenced the decision making in tobacco-control policy over time, and in particular examine how the debate was successfully framed. We must first understand that community opinion has been vital to supporting policy makers in the decisions they have had to make. So, the framing of the debate was crucial. In addition, the concerted efforts of the Australian jurisdictions are a great example of how competitive federalism works, and a testament to citizen advocacy and changing community attitudes.
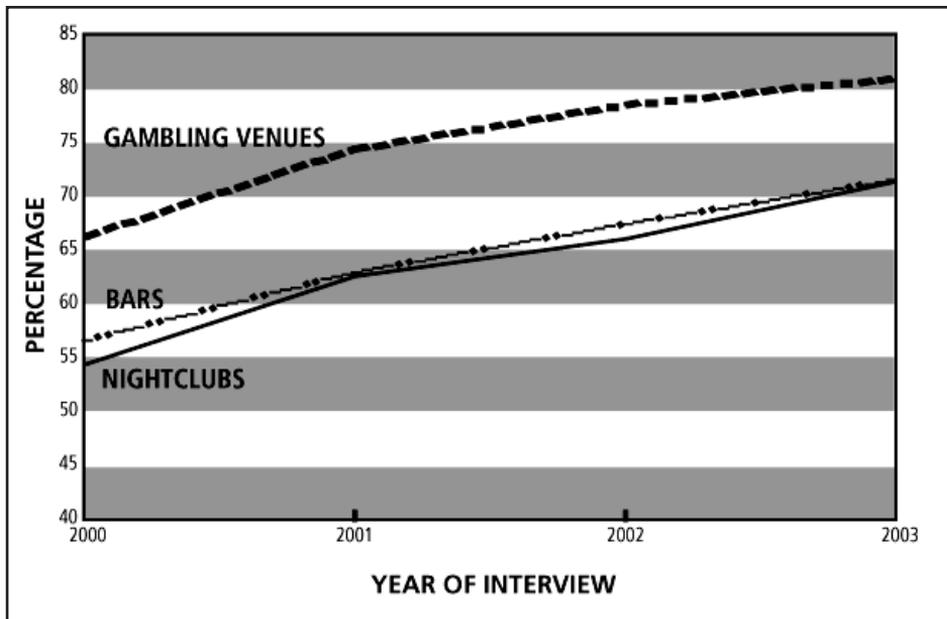

Figure 15.2 Approval for smoking legislation among Victorians

Community opinion underscored policy success. When QUIT Victoria actively began campaigning for smoke-free laws in hotel bars in 2000, public support for such measures was about 55 per cent, yet it had risen quickly to more than 70

per cent by 2003; and in gambling venues from 65 per cent to 81 per cent over the same time. Such a dramatic endorsement from the public gave legislators an enormous amount of confidence to push ahead with the reforms. We also know, however, from the obesity and alcohol debates, that such a level of public support for a particular reform does not necessarily mean it will become law, but it is encouraging nonetheless.

What is interesting from our research, however, is such endorsement is also high amongst smokers. In fact, surveys found that over three years, support from smokers for banning smoking in gambling venues went from a mere 20 per cent to a majority. It is intriguing that the majority of smokers would want to support bans on them smoking whilst they are gambling. In all likelihood, such support can be explained by the fact that about 75 per cent of people who smoke actually want to give up. Consequently, even smokers understand that tobacco reform is in their best interests.

We also found that support from smokers for anti-tobacco legislation is actually greater once it has been implemented. For example, when I was working at Vic Health, we worked with the Moonee Valley Racing Club trying to make some of their areas smoke free. Initially, the punters were opposed to such measures, but largely changed their view after the reforms were introduced. Essentially, this occurred because patrons were initially fearful such measures would be detrimental to them, but soon realised they would actually help them smoke a little less. Again, this trend is reassuring for both politicians and policy makers looking to craft anti-tobacco reforms.

A similar pattern of smoker approval was witnessed in South Australia when smoking in cars where a child was present was banned in 2007. Surveys conducted pre and post the introduction of this legislation suggested that far from a backlash against such a move, public approval had increased from both smokers and non-smokers. Such data only serve to strengthen the reform mandate.

Furthermore, over the past decade there has been an increase in support for taxing tobacco products to pay for health promotion. The winning of public support is the result of a careful campaign to inform the public that revenue from this tax is going into health education, thus differentiating it from a simple price hike. In this way, if the public can be shown that a tax has a particular worthy purpose, they are more likely to give it support. Again, such success encourages governments to intervene in this area.

So, how has the community debate been so successfully framed? There are three specific aspects to mention: redefining the problem, urging competitive federalism in policy responses, and empowering citizens. The first concern was

to focus on the issue of 'second-hand smoke', because once it emerged that people have a significantly greater risk of developing health problems if they are around passive smoke—especially people living with smokers or people who are in an industry where they are exposed to a significant amount of tobacco smoke—public perceptions began to change. This development moved the problem from being one for just 'the smokers' to being one for the wider community. It also added an element of self-interest to the debate; previously non-smokers wanted smokers to quit simply for these people to improve their health, but now non-smokers realised they themselves were being impacted by smoking. This fundamentally changed how the issue was understood.

The same is also true of alcohol, where the public debate is changing from being concerned about individual drinkers doing themselves damage to being concerned about the effects their drinking has on them and on their family, through physical and sexual assaults, car fatalities and a host of other secondary effects. In this way, the issue of passive drinking has begun to gain importance in much the same way as has passive smoking.

Second, competitive federalism emerged as an important element in bringing about tobacco reform. Take the 'Dirty Ashtray Award'—an annual 'prize' presented by the Australian Medical Association (AMA) and Action on Smoking and Health (ASH) to the state deemed to have shown the least progress in efforts to combat tobacco usage. When I worked at Vic Health, I distinctly remember one health minister who was particularly keen on not winning this award. This friendly, parochial competition actually works. Overall, there is a high level of competence at the state level in bringing about tobacco reforms, and when the Commonwealth reinforces this competence, and convenes these groups together, I have witnessed how federalism can actually work for the better.

So, while it is good to have states trying to outperform each other, it is equally important that the states work well together—something illustrated in the national tobacco campaign. Such inter-jurisdictional cooperation could be used as a role model for successful federalism in many other areas.

Empowering citizens and encouraging citizen advocacy were the third aspect of the way the debate was reframed to bring about tobacco reform. A few decades ago there were many cases of graffiti targeting billboards advertising unhealthy products and unhealthy promotions by a group called BUGA UP (Billboard Utilising Graffitists Against Unhealthy Promotions). Often these were people involved in the health industry expressing their views in a very visible—if illegal—fashion. These grassroots campaigns helped drive community interest in a novel way, and there is currently a renaissance of such graffiti, most famously seen in August 2010 on a Tattersall's advertisement outside the Royal Children's Hospital in Melbourne.

We can also reflect on the following quote from Simon Chapman, a well-known public health advocate based at Sydney University, who is anxious to control the tobacco industry. For Chapman, 'tobacco advocates in Australia have successfully reframed the debate to show that tobacco advertising is a highly researched, beguiling, and deadly tune whistled to the nation's children by faceless trans-national corporations interested only in profit maximization' (Chapman and Wakefield 2001:279). It is an interesting view, and itself uses the language of advertising to convey a message.

Such grassroots advocacy against the tobacco industry can be hugely effective. We know from research undertaken by the Centre for Behavioural Research in Cancer that vilification of tobacco companies actually tends to help people give up smoking. One explanation is that people do not want to be hoodwinked into smoking.

But the companies will often attempt to strike back to encourage new demographics to take up the habit. In 1990, for instance, Marlboro launched an aggressive campaign to attract young smokers. In that year, they noted '23 percent of the population was 15 years of age and under, and 17 percent between 16 and 24 years of age—a significant market opportunity indeed' (Jones 2002:3433). Marlboro's approach was to portray their product as a cult brand. They knew that tobacco was addictive, and that it caused cancer, but they banked on Marlboro's reputation as trumping any concerns over health effects. And some young smokers will often take up the habit knowing full well the harm it can cause them.

Nowadays, however, tobacco companies prefer to target developing countries—the countries with the least regulation. In Indonesia, for example, Marlboro has bought Kretek, which makes clove cigarettes. Marlboro is now putting these clove cigarettes into Marlboro packets as a way of eventually attracting Kretek smokers to Marlboro cigarettes. Market research has shown such a ploy has an amazing capacity to deliver commercial results very quickly.

The cultivation of tobacco is also now conducted largely in the developing world. Following the political strife in Zimbabwe of the early 2000s, for example, much of that country's production moved to Mozambique, where they now have a highly effective agricultural extension-worker system. Tobacco companies are now established in Mozambique, where they are paying taxes and employing local people, meaning it will be extremely difficult to move them on.

Back in Australia, tobacco companies set up and financed the Australian Retailers Association to help oppose the government's plain-packaging legislation. We are beginning to see how these corporations function—raising doubts about even the most indisputable scientific evidence, adopting a strategy of information

laundering, promoting scientific spokespeople who misrepresent peer-reviewed scientific findings, attempting to shift the focus away from meaningful action, and creating other organisations to do the bidding. In August 2010, Coles and other big retailers distanced themselves from this campaign, and it is likely others will follow.

Concluding thoughts: appraising Australian tobacco reform

Essentially, the success of Australian tobacco reform can be measured by the fact that since the adoption of anti-smoking measures, smoking rates have dropped and are forecast to drop even further. In other words, hundreds of thousands of Australians have already been spared a premature death as a result of these reforms. Similar results apply to reforms in road safety, where as a result of a comprehensive approach including legislative action and enforcement, social marketing, community mobilisation, political will and adequate funding, an estimated 45 000 people in Australia have not been killed, and 600 000 people have escaped serious injuries since 1970. Many of us can thus be grateful that someone in our family has not died much earlier because of public-policy reforms made in the areas of both tobacco and road safety.

Ultimately, as a result of the anti-smoking reforms, we hope to see the smoking rate in Australia drop below 10 per cent by 2020. If this scenario eventuates, there would then be one million fewer smokers in Australia, and of the remaining smokers, many would be smoking significantly less. It would be one of the most profound impacts on our public's health in Australian history.

We are already seeing medical evidence of the success of these reforms. Lung cancer rates per thousand in Australia are today as low as they were in 1963. This represents almost 50 years of data, so is a convincing indication that progress is being made. In women, the figure is only now starting to flatten out, but in men especially it is impressive. Moreover, death rates for chronic obstructive pulmonary disease have now dropped to levels seen in the 1950s. A similar pattern can be observed in rates of coronary heart disease, which are now as low as they were immediately after World War II. While tobacco control has been a major factor in such improvements, exercise and nutritional changes are also part of the explanation for the decline.

So, to conclude, Australia's tobacco reforms consist of a comprehensive package of measures enacted over a significant amount of time. They are the result of many tough decisions made by policy makers that were not always popular, but subsequently became so. For the most part, a tougher regulatory approach

to the promotion of tobacco has been adopted in conjunction with attempts to engender community mobilisation against smoking. We might wish to contrast this proactive approach with that followed thus far in relation to alcohol reform, which has remained highly liberalised in terms of availability and new licences for provision. We do not advocate alcohol prohibition, but there are certainly problems with our country's health as a result of such proliferation. To tackle the social problems of alcohol abuse, valuable lessons could be learned from the successes of past tobacco reforms.

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