Submission

No 40

INQUIRY INTO TOBACCO SMOKING IN NEW SOUTH WALES

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Date Received:

Theme:

Summary

The Director
Joint Select Committee on Tobacco Smoking in New South Wales
Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

18 April 2006

Dear Mr Torbay MP

Re: Royal Australasian College of Physicians (RACP) submission to the Inquiry into Tobacco Smoking in New South Wales

The RACP welcomes the opportunity to present their concerns to this Parliamentary Inquiry on the impact of smoking. In 1962 the Royal College of Physicians in London drew attention to the dangers of cigarette smoking in its report *Smoking and Health*, and it is 56 years since Sir Richard Doll first raised the alarm and alerted governments to the fatal link between smoking and disease.

Introduction

In Australia the RACP comprises over 7,000 Fellows, including Fellows of the College itself (physicians and paediatricians), and Fellows of its Faculties of Public Health Medicine, Rehabilitation Medicine, Occupational Medicine and of its Chapters of Palliative Medicine, Addiction Medicine, Community Child Health and Sexual Health Medicine. The Joint Faculty of Intensive Care Medicine is part of the RACP and the Australian and New Zealand College of Anaesthetists. In addition, the RACP encompasses 28 Specialty Societies representing the spectrum of practice in Internal Medicine and Paediatrics across 23 sub-specialties.

The RACP has evolved to bring together different groups of physicians who share common ideals in medical practice. Physicians and paediatricians are medical experts to whom patients with complex and difficult or chronic diseases are referred. They emphasise the treatment of the whole individual within a social context. This requires not only a high level of medical expertise, but high cognitive competence and the ability to communicate exceptionally well with patients, other medical practitioners such as general practitioners, other health team members and medical trainees. These ideals have led the RACP to a unique position among the specialist medical colleges. Not only is the RACP the key professional training and education body for physicians in Australia and New Zealand, it has also emerged as a key informant and influence in health policy over a range of areas.

In 2005 the College published its policy on tobacco[1] and it is this document that will inform the submission to the Inquiry into Tobacco Smoking in New South Wales. The policy applauds the good progress made in reducing smoking prevalence over the past twenty years. However, the College is concerned about the high prevalence of smoking in NSW (20.9% of the population are regular smokers) and supports the claim that NSW is falling behind other jurisdictions and best practice in reducing the deaths, disabilities and costs caused by tobacco.

(a) Costs and other impacts of smoking

Smoking is still the largest single cause of preventable death and disease in NSW resulting in 6,608 deaths (2002) and social costs of $6.6b.[2]

Unlike the glamourisation of smoking depicted in films, it is the most socially disadvantaged families that suffer the greatest burden of illness and costs from smoking. From an equity point of view, beneficiaries of lower smoking prevalence would be families in the lowest socioeconomic group [3] and Indigenous families where smoking rates are a staggering 50% with very little change since 1995. [4]

The evidence clearly demonstrates that governments have an enormous amount to gain from accelerating declines in smoking prevalence including: reduced health care costs; and higher productivity rates from people who would be healthier and living longer, more productive lives.

Recommendation 1:
That the NSW government boost its investment in tobacco control by increasing its funding commitment from $1.78 per capita to the recommended range between $5.70 and $8.50 per capita per annum.[5]

(b) Effectiveness of strategies to reduce tobacco use

Evidence worldwide and within Australia confirms that well funded comprehensive strategies can be extremely cost effective in reducing tobacco use. In 2003 a national report by Applied Economics[6] has shown that expenditure on comprehensive tobacco control programs results in greater public health gains than expenditure on any other prevention program. The authors estimate that the cost of anti-tobacco public health campaigns conducted between 1971 ad 2000 delivered a net benefit of $8.4 billion

[1] RACP, *Tobacco policy: Using evidence for better outcomes* 2005
[2] New South Wales department of Health, *NSW Tobacco Action Plan 2005-2009 - Background Paper* (accessed on 18.04.2006 at www.health.nsw.gov.au)
[3] Junor W, Collins D, Lapsley H. *The macroeconomic and distributional effects of reduced smoking prevalence in New South Wales.* The Cancer Council New South Wales. Sydney June 2004
[4] National Aboriginal and Torres Strait Island Health Survey 2004/05 at www.ausstats.abs.gov.au/Ausstats/subscriber.nsf/0/B1BCF4E6DD320A0BCA25714C001822BC/$File/47150_2004-05.pdf
[5] Recommended funding levels in the National Tobacco Strategy 2004-2009 - Guide to planning and investing in tobacco control at http://www.health.gov.au/internet/wcms/Publishing.nsf/Content/phd-pub-tobacco-tobccstrat2-cnt.htm/$FILE/tobacco_planning.pdf
[6] Applied Economics, *Returns on Investment in Public Health: An Epidemiological and Economic Analysis,* Department of Health and Ageing, Canberra 2003.

(averted number of deaths and disease) thus representing a benefit cost ration of nearly 50:1.

The main threat to the effectiveness of tobacco control, however, is political pressure from powerful industry groups including tobacco sellers, the Australian Hotels Association and Clubs NSW. For example:

Industry opposition to smokefree laws

Sponsored for many years by tobacco companies, the Australian Hotels Association (AHA) and Clubs NSW have aggressively lobbied government to delay, weaken and undermine smokefree laws - contrary to Occupation Health and Safety (OHS) and Disability Discrimination laws. Despite a long and intense period of consultation that commenced in 1993 between government, health and industry groups, the final deal has resulted in the longest delay and the biggest loophole for NSW. Political donations from clubs and pubs have averaged almost a million dollars a year and at a time when NSW has fallen behind other jurisdictions in legislating for an end to smoking in pubs and clubs. Whilst pubs and clubs are smokefree in Tasmania (from January 2006), in Queensland and WA (from July 2006), in the ACT (from December 2006) the compromise for NSW means that smoking will continue indoors until July 2007 and beyond indefinitely in areas up to 75% enclosed.

Industry opposition to "out of sight" tobacco displays

Contrary to the health advice that the government received from NSW Health, the Minister Assisting the Health Minister (Cancer), Mr. Frank Sartor reversed his announced plan in February 2004 for tobacco displays to be moved out of sight in retail outlets, following opposition from tobacco retailers. As retail outlets are now the main place where children, young people and recent quitters are confronted daily with prominent tobacco product displays, other state governments in contrast are moving towards an out of sight policy. The Tasmanian government in 2004 successfully introduced a regulation requiring the display of large graphic health warnings - resulting in all Coles stores in Tasmania adopting an out of sight policy.

Banning displays of addictive, lethal products in shops, as part of a comprehensive strategy, is ethically and socially responsible as it will help reduce the uptake of tobacco by young people, assist recent quitters in avoiding relapse, and will signify that governments take the dangers of tobacco seriously. Evidence confirms that tobacco products are a form of advertising, retail settings are the main channel for promotion and adolescents who see retail marketing at least weekly are more likely to experiment with smoking.[7]

Many legal products are stored out of sight and recently the NSW Premier foreshadowed new legislation to protect property by banning the displays of spray cans. If governments can ban some product displays to protect property, surely they can protect children by introducing an out of sight policy – particularly when over 80% of smokers say they know their brand and are not influenced by displays.

[7] "Out of Sight" policy of the Cancer Council Australia at http://www.ashaust.org.au/lv4/POSposTCCA.doc)

Recommendation 2:
That the current review of the Public Health Act and related legislation be amended, in accordance with the priorities in the NSW Tobacco Action Plan 2005-2009, to:

- ***Reduce the illegal supply of cigarettes to minors by ending the sale of tobacco products from vending machines in remaining restricted areas.[8]***

- ***Protect the health of children and young people by requiring all remaining tobacco advertising displays to be stored out of sight; and***

- ***Improve public health outcomes by introducing a registration scheme for tobacco sellers to cover the costs of regulation to improve retailer education, compliance and enforcement. [9]***

(c) Effects of smoke-free indoor venues on initiation and maintenance of smoking habit

Evidence indicates that comprehensive smokefree laws can result in a significant increase in calls to Quitlines in the short-term and reduction in smoking rates in the longer-term. Young adults (18-25) are especially encouraged into more frequent smoking by "social smoking" at the pub or club. Independent published studies show that benefits include positive impacts on smoking behavior and cessation efforts, strong community support and reductions in smoking uptake amongst young people.[10]

(d) Factors affecting initiatives for smoke-free indoor areas

The single, largest threat to the health of workers in hospitality venues is the recently passed Smoke-free Environment Amendment (Enclosed Places) Regulation 2006 as it will continue to expose staff and members of the community to second hand smoke in rooms that only have to be 25% open in order for smoking to be allowed. Major concerns are that this regulation is contrary to the OHS Act, is unworkable as part of broader legislation and will make it difficult for WorkCover NSW to carry out its functions of ensuring compliance with the OHS Act.

Even though there is an absolute duty of care in the OHS Act, complaints about smoke in pubs or clubs have been inadequately dealt with by WorkCover inspectors as they have been instructed to defer to the phased in partial bans in the Smokefree Environment Act 2000 regardless of a fundamental clause in the OHS Act that says:

> **"No right to smoke in an enclosed public place (Part 5, section 21)**
> Nothing in this Act is to be construed as creating or preserving a right of a person to smoke in an enclosed space".

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[8] (as in the ACT from September 2006 at http://www.legislation.act.gov.au/a/2004-49/current/rtf/2004-49.rtf

[9] Recommendations in Commonwealth commissioned report endorsed by IGCD at http://www.health.gov.au/internet/wcms/publishing.nsf/content/health-pubhlth-strateg-drugs-tobacco-other.htm/$FILE/licensing_tobacco.pdf

[10] (studies at www.ashaust.org.au/SF'03/effective.htm)

Independent research, expert health evidence, scientific opinion, community polls and legal consistency with Occupational Health and Disability Discrimination laws requires that all indoor public areas – including those mostly or partly indoors – should be smokefree; that there should be clear and adequate separation of smoking and non-smoking areas; and that no employee should be required to work in any area where smoking is permitted. Failure to achieve these aims will result in preventable harm to employers, patrons, and could lead to further compensation claims from workers with second hand smoke injuries.

Recommendation 3:

- ***That the Smokefree Environment Amendment (Enclosed Places) Regulation be amended to protect both workers and patrons, in accordance with legal obligations under OHS law, to ensure that indoor area genuinely smokefree and that staff should not be required to work in any area where smoking is permitted.***

- ***The Occupational Health and Safety Act 2000 should be consistently enforced in licensed areas to ensure that all hospitality workers have the same rights as other workers, to work in safe, smokefree workplaces.***

- ***All exemptions to smokefree public places laws should be removed, including those on "high roller" gambling rooms.***

- ***Political donations from tobacco interest groups and the gambling lobby are rejected as a form of political influence that is undermining both the democratic process and community health.***

(e) Effectiveness of media, educative, community and medically-based Quit initiatives

Evidence shows that these initiatives are highly cost-effective but NSW has not yet put in place a standardized protocol for ensuring that all smokers in health care settings are identified, assessed and offered treatment – including follow up support. Improving support services for the eight out of ten smokers who want to quit is a key component of the NSW Tobacco Action Plan 2005-2009. However, this important action plan is currently under-funded and therefore unlikely to achieve its goals unless funding is increased in line with the recommended levels in the National Tobacco Strategy (refer Recommendation 1).

As the Federal Government has a role in tobacco control and is concerned to improve retention rates of an ageing workforce, it has recently identified prevention and reducing chronic diseases (including tobacco diseases) as a priority. Through Council of Australian Governments' (COAG), there is an opportunity for state governments to reform and increase funding allocations over the next four years.

Recommendation 4:
That the NSW Government take action to ensure that funding reform through COAG is achieved to accelerate further declines in preventable, chronic diseases.

(f) Adequacy of budget for smoking control initiatives

Compared to best practice recommendations for effective tobacco control, NSW is lagging behind in its per capita funding commitment despite recent well received funding increases to the Cancer Institute for reducing cancer rates, including from tobacco.

Australia currently spends less on tobacco control than any other English-speaking country. It also spends less per person affected and death caused than on many other conditions, less than recommendations of independent scientific bodies, less on media advertising than successful commercial marketers and less than justified by economic analysis.

Sixteen years ago, a NSW Parliamentary Inquiry into "Drug Abuse among Youth" by the Social issues Committee (1990) [11] found that cigarette smoking was the most serious drug problem, that there was no safe level, that passive smoking was a serious concern and that it would be a dereliction of government responsibility to allow tobacco advertising to continue, including at point of sale. Key recommendations at the time included establishing a Health Promotion Foundation to solve the funding crisis and that all tobacco advertising at POS and public venues should be prohibited. Advice from a NSW Parliamentary Inquiry has yet to be implemented.[12]

In summary, the main obstacles to further important gains in tobacco control are:

- complacency by government leaders that "enough has been done";
- the political influence of the hotels, clubs and tobacco retailers; and
- an uncritical acceptance of industry arguments for delaying or watering down further regulation (e.g. "it's a legal product", its about "choice", "ventilation is effective", "businesses will close down" etc) in preference to supporting expert recommendations from health authorities.

(g) Smoke-free Environment Amendment (Motor Vehicle Prohibition) Bill 2005

Extending smokefree transport legislation to include privately owned cars has benefits for population health including protecting children, reducing car accidents and lowering the incidence of cigarette-caused fires, based on the following studies:

- Children, in particular, would benefit if secondhand smoke exposure was eliminated from the confined space of a car, as evidenced by the comprehensive

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[11] http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/8B9E4085638D2A32CA256F2B0022AE7B
[12] IBID

list of secondhand smoke harm in California Air Resources Board report 2006 (see Table 1, p.5)[13] and other studies.[14] For example, emissions from one cigarette smoked in an average-sized moving car with vents open but windows closed (as they would be on a cold day), indicate that secondhand smoke particle concentration within the vehicle is estimated to peak at over 2000 micrograms/cu.m and averages 415.8 micrograms/cu.m over the ensuing hour. This level is much higher than would normally be experienced in household exposure.[15]

- Smoking in cars has been shown to be a significant factor in causing road accidents. Smoking while driving is a danger - and at least as hazardous as some other distractions that have been banned (eg use of mobile phones whilst driving). A recent review on smoking and car safety[16] found that smokers have an increased risk of being involved in motor accidents and identified smoking as a distraction. The review concluded that "it is clear that smoking while driving is a hazard." In other studies, smoking has been found to almost double the risk of car death - identifying smoking while driving as an independent factor increasing accident risk. [17]

- Over 4,000 fires each year are caused by discarded cigarettes and many are thrown from car windows - despite several education campaigns and significant penalties to reduce the threat to human life, property and the environment. Cigarette-caused fires in Australia each year kill an average of fourteen people (mostly children) and cost the nation more than $80 million.[18]

Concerns over enforcement issues should not be regarded as a barrier to further safety measures, as cars are already regulated by enforcement officers (eg laws require the wearing of seatbelts, no drinking or speeding, no mobile phone use etc). Community support is strong as evidenced by a survey in 2004 of more than 1300 Australians in 800 households that found 73% support banning smoking in cars carrying children.[19]

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[13] www.arb.ca.gov/toxics/ets/finalreport/srpfind.pdf;
[14] www.ashaust.org.au/lv3/Lv3informationparents.htm
[15] (Refer studies by Dr Neil E. Klepeis at http://simsmoke.org/cgi-bin/R.cgi/car1.R).
[16] Young K, Regan M, Hammer M D*river distraction: a review of the literature* Monash University, Accident research centre Report No. 206 November 2003.
[17] (refer http://tc.bmjjournals.com/cgi/content/full/14/suppl_1/i28)
[18] Chapman S, Balmain A, *Time to legislate for fire-safe cigarettes in Australia* in Medical Journal of Australia 2004; 181(6): 292-293.
[19] (Stollznow Research, 2004, unpub.)

Recommendation 5:

That the NSW government extend legislation for smokefree transport to include privately owned cars to: protect children; reduce road accidents; and lower the incidence of bush fires caused by discarded cigarettes.

If you would like any further clarification on the points or any other information please contact Mary Osborn on 02 9256 9606 or by email at mary.osborn@racp.edu.au

Yours sincerely

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