

Dr Janet Woollard MLA
Chair
Education and Health Standing Committee
Legislative Assembly
Parliament of Western Australia
Parliament House
Perth Western Australia 6000

Dear Dr Woollard

Thank you for your invitation to provide a written submission to the Inquiry Into The Tobacco Products Control Amendment Bill 2008.

The measures in this Bill will reduce the community's exposure to secondhand smoke, and prevent the tobacco industry from promoting their products and smoking to children and adults through the display of tobacco products in retail outlets.

I will now address seriatim the terms of reference for this Inquiry:

To consider the adequacy of the proposed actions in the Bill to protect children and adults from the harmful consequences of passive smoking.

Since the mid 1980s, more than 13 major national and international published reports have reviewed the scientific evidence about the health effects of secondhand cigarette smoke.

Consequently, it is now well-established that secondhand smoke causes coronary heart disease and lung cancer in non-smoking adults, induces and exacerbates a range of mild to severe respiratory effects in infants, children and adults, and increases the risk of Sudden Infant Death Syndrome and a range of other serious health outcomes in young children:
(http://www.tobaccoinaustralia.org.au/downloads/chapters/Ch4_Secondhand.pdf.)

The Heart Foundation has campaigned in Australia since the mid 1980s to increase awareness about the links between exposure to secondhand smoke and cardiovascular disease including coronary heart disease and stroke in smokers and non-smokers.

It is estimated that exposure to secondhand smoke increases the risk of an acute heart disease event in the non-smoker by about one quarter to one third. Recent British research suggests that taking into account all sources of

exposure, secondhand smoke may account for an excess risk of up to 60 per cent for coronary heart disease in heavily exposed non-smokers.

Consistent with this evidence, a recent review and several well-designed studies have confirmed that the introduction of smoke-free policies is followed by a rapid reduction in heart attacks among both smokers and non-smokers.

There are more than 4,150 admissions for acute myocardial infarction (heart attack) in Perth hospitals each year.

From the published scientific evidence referred to above, comprehensive smoke-free policies can reduce the number of heart attacks in Western Australia by up to 19 per cent.

In effect, it can be estimated that existing legislation requiring enclosed workplaces, pubs and clubs to be smoke-free, has reduced the number of heart attacks in WA by an estimated 975 each year.

The proposed restrictions on smoking in outdoor eating and drinking areas will further reduce the number of heart attacks, again reducing pressure on our overstretched public hospitals.

The Heart Foundation strongly supports all changes in public policy that create comprehensive smoke-free public places and workplaces. Protecting the public from exposure to secondhand smoke requires a systematic regulatory response from government.

In particular, the Heart Foundation strongly supports proposed amendments to the Tobacco Products Control Act 2006 to require the following areas to be smoke-free as defined in the Bill:

- Outdoor eating and drinking areas
- Outdoor playing areas
- Passenger cars
- Safe swimming areas

There is strong evidence to support extending current laws to make more public places and outdoors spaces such as alfresco eating and drinking areas, children's playgrounds and the patrolled areas of public beaches smoke-free.

The Federal Government's National Preventative Taskforce has, after reviewing the published evidence, recommended the extension of state and territory laws that protect against exposure to secondhand smoke (<http://www.preventativehealth.org.au/internet/preventativehealth/publishing.nsf/Content/tech-tobacco>).

In support of this recommendation, the Taskforce cites an expert scientific review by the International Agency for Research Against Cancer of the effectiveness of smoke-free policies in reducing population exposure to secondhand smoke. This review determined that there is sufficient evidence to accept that laws restricting smoking in workplaces and other public places reduce population exposure to secondhand smoke and the consumption of cigarettes, and respiratory symptoms in workers. It found that such policies provide net benefits to business, with no adverse affects on overall sales in the hospitality industry. It also confirmed that smoke-free policies at home increase adult's chances of quitting, and reduce the likelihood of children taking up smoking.

There is also evidence showing that the quality of air in outdoor areas where smoking is permitted can be poor. The Department of Health in NSW measured the air quality in these areas and found a level of pollution from secondhand smoke to exceed the WHO-recommended 24-hour exposure limit of 25 micrograms per cubic metre. A third of the hotels in this study recorded twice this limit, with some areas exceeding it by 500 per cent.

There is strong public support for extending current laws to make more public places and outdoor spaces such as alfresco eating areas and outdoor sporting stadiums smoke-free.

Dr Woollard, in her second reading speech for this Bill, noted that, in 2005 The Cancer Council WA surveyed over 400 Western Australian's to gauge their support for extending smoking bans to include alfresco dining and outdoor sporting stadiums.

Dr Woollard stated, "public backing for a ban on smoking in alfresco dining areas was very high. The results indicated very strong support amongst non-smokers (84% in favour) and even 54% of smokers in favour.

A ban on smoking in outdoor sporting stadiums also received strong support from both non-smokers and smokers, with 87% and 64% providing a positive response.

An online survey conducted by The West Australian earlier this year asked, "Should smoking be banned in alfresco eating areas?" 89% of respondents answered "yes".

Opposition from the tobacco industry and its supporters

The Standing Committee can expect that measures designed to reduce the community's exposure to secondhand smoke will be opposed by the tobacco industry and its supporters because of their self-interest in maintaining the status quo.

Experienced advocates for improvements in public health gauge the strength of this opposition as a reliable measure of the likely effectiveness of the change in public policy that is being proposed.

The Australian Hotels Association (AHA) has stated publicly their opposition to make outdoor drinking and smoking areas smoke-free.

They claim that patrons will desert hotels and restaurants if their outdoor areas become smoke-free, and that these businesses will suffer financially.

There is no objective evidence whatsoever, from Australia or internationally to support this claim. On the contrary, studies published in the peer-reviewed scientific literature have confirmed, using objective indicators of economic impact including sales tax receipts and revenues, employment, and the number of restaurant and bar licences issued by state health departments and state liquor authorities, that there is no evidence of negative economic impacts.

The AHA has also stated that the hotel industry invested \$25 million to improve the outdoor areas of hotels in WA to accommodate smokers in response to the previous government's policies.

The hotel industry made a commercial decision to make this investment fully aware of the risks. Furthermore, there is no convention that binds a new government to the decisions of its predecessor.

The AHA argues that they need to accommodate the needs of patrons who smoke by providing outdoor areas in which smoking is permitted.

By doing so, hoteliers are allowing their staff and non-smoking patrons to be exposed to the harmful health effects of secondhand smoke in these smoking areas. It also calls into question whether, as an employer, hoteliers are meeting their obligations to provide a hazard-free workplace under the Occupational Health and Safety Act.

The AHA also argues that by providing outdoor smoking areas they are contributing to the acceptance, by patrons who smoke, of indoor smoking bans. Again, there is no objective evidence to support this claim, on the contrary, there is overwhelming evidence that following implementation smoke-free areas increase in popularity and acceptance by the community.

The acceptance of smoke-free outdoor areas is demonstrated by the growing number of local governments in Western Australia that are passing regulations for this requirement following consultation with their communities. The most recent example is the City of Perth that recently released for public comment its regulations for smoke-free alfresco areas.

The AHA states that there will be logistical difficulties in enforcing smoke-free outdoor eating and drinking areas.

This claim is not supported by the experiences of every other country where comprehensive smoke-free legislation has been implemented. As noted by

the World Health Organization, smoke-free environments have proven to be popular, easy to implement and enforce, and, resulted in either a neutral or positive impact on businesses.

Prohibiting smoking in cars carrying children

As with other amendments proposed in this Bill, prohibiting smoking in cars in which children are passengers has a strong foundation of evidence. Research conducted overseas has confirmed that there are alarming levels of toxic chemicals produced in secondhand smoke when people smoke in their cars.

The proposed amendment to prohibit smoking in cars in which children are passengers has been legislated in South Australia effective from 31 May 2007, and in Tasmania from 1 January 2008. This law has also been adopted by an increasing number of states in the US, provinces in Canada, Puerto Rico and South Africa.

As community support is strong for protecting the health of children, this measure will be largely self-enforcing. A recent Cancer Council of WA survey recorded that 87% of those interviewed supported a prohibition on smoking in cars when children are present.

In the first year following implementation of this legislation in South Australia, 125 offences and 38 cautions were recorded. The Heart Foundation has been informed that it would appear enforcement of this law has not resulted in a drain on police resources in that State.

Likewise in Tasmania, since 1 April 2008, there have been 15 infringement notices and 30 cautions issued to drivers for smoking in cars carrying children. Again, the Heart Foundation understands that the enforcement of this law has not been a drain on police resources.

For the information of the Standing Committee, laws prohibiting smoking in vehicles carrying children have been adopted in the Canadian provinces/territories of Nova Scotia, Ontario, British Columbia and the Yukon Territory, the Canadian municipalities of Wolfville (Nova Scotia), Surrey (British Columbia) and Okotoks (Alberta), the U.S. states of California, Maine, Arkansas, and Louisiana, the U.S. municipalities of Bangor (Maine), Keyport (New Jersey), West Long Branch Borough (New Jersey) and Rockland County (New York), as well as South Africa, Puerto Rico and the Australian states of South Australia, Tasmania, New South Wales and Queensland. In Canada, the provinces Prince Edward Island (draft bill announced) and Manitoba (announcement by Premier) are moving forward with legislation. In Australia, the Governments of the Australian Capital Territory and the state of Victoria have announced their intention to bring forward such legislation. In the U.S., bills are currently before several U.S. state legislatures.

Overall, the Heart Foundation believes strongly that the proposed additional restrictions on smoking will reduce the community's exposure to secondhand smoke and encourage smokers to give up smoking. They will put further

downward pressure on the prevalence of smoking and reduce the entirely preventable deaths and disease caused by smoking in Western Australia.

To consider the adequacy of the proposed actions in the Bill to protect children and adults from tobacco promotion.

It is appropriate to note here that by reducing public areas in which people can smoke will do much to reduce the promotion of smoking as an acceptable activity. This is supported by the strong evidence that a major determinant of children taking up smoking is seeing adults smoking and having parents or siblings who smoke.

The Bill proposes to prohibit the display of tobacco products in retail outlets.

Again, the Heart Foundation strongly supports this measure because research has confirmed that such displays are one of the most effective forms of tobacco advertising and promotion.

The display of cigarettes and other tobacco products at point-of-sale is a vital marketing and promotional strategy for the tobacco industry, especially because, since the late 1980s, state and federal legislation has prohibited many forms of tobacco advertising.

The advertising of smoking through the display of cigarettes in retail outlets normalises smoking and presents the use of tobacco as a harmless everyday activity.

As noted by Dr Woollard in her Second Reading Speech... "The tobacco industry has known for years that tobacco displays in shops are a critical form of advertising to attract new child smokers, hooking them to an addictive product that will eventually kill half of long-term users. We also know these product displays undermine the commitment of people who have recently quit smoking to stay off cigarettes."

The importance of retail displays to the tobacco industry has been confirmed in the March/April 2008 edition of Australian Convenience Store News:

"Some communications are both appropriate and necessary in a competitive market. Consumers need information about the products on offer to make a selection; and seeing the product is one of the most basic forms of information. Consumers need to see the product to know it is available.

This has been confirmed by what has happened in South Australia, where some stores have opted to completely cover their tobacco displays to comply with the regulations, and this has been to the benefit of competing stores. It seems that what is on display sells."

In the same publication, Mr Paul Gerza, Brand Manager, Peter Stuyvesant, Imperial Tobacco Australia said:

“Most customers know that their brand may be hidden and that they may need to ask for it. They know to ask if it is not on display. However, visibility of premium brands is critical to the growth of revenue.”

Recent research conducted by our colleagues at the Centre for Behavioural Research in Cancer in Victoria confirmed that nine out of ten adult smokers never decide on the brand or type of cigarettes to buy based on the cigarette display in shops.

This particular amendment will be vehemently opposed by the tobacco industry and some sections of the retail industry, which will provide further evidence of its likely impact in reducing the sale of tobacco products.

The Heart Foundation urges the Education and Health Standing Committee to not be influenced by the disingenuous arguments that will be put forward by the tobacco industry and its supporters. For many retail outlets not displaying tobacco products will require minimal change to their current operations, easily accommodated by their current display units, many of which are provided by the tobacco manufacturers.

Legislation to prohibit the display of tobacco products at point-of-sale has been passed in Tasmania, effective 2 February 2011; NSW, effective April 2009 and the Victorian government has committed to prohibiting retail displays from January 2011.

The changes to public policy contained in The Tobacco Products Control Bill 2008 will further reduce the exposure of the WA community to the harmful effects of secondhand cigarette smoke. It will also limit the tobacco industry's ability to market their products, the consumption of which results in the premature and preventable death of at least half of all smokers that use the product as the manufacturer intends.

The successful passage of this Bill by the Parliament of Western Australia will do much to assist this State to regain its title as the leading state in regard to tobacco control and Public Health.

Maurice Swanson
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30 January 2009