

Special Reports

Monitoring the Ontario Tobacco Strategy



THE ONTARIO
TOBACCO
RESEARCH
UNIT

UNITÉ
DE RECHERCHE
SUR LE TABAC
DE L'ONTARIO

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Monitoring Report

Part 1

**Tobacco Control Highlights:
Ontario and Beyond
2001/2002**

August 2002

Tobacco Control Highlights: Ontario and Beyond

Ontario Tobacco Research Unit

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PREFACE

This report is part of a new series on monitoring and evaluation, initiated by the Ontario Tobacco Research Unit in 2002. The series incorporates and expands upon the content of the two previous Evaluation Reports and the seven Annual Monitoring Reports released to date. The objective of this reorganization is to provide more in-depth analysis and to do so in a more timely fashion. This Report is the first of four “modules” that will make up the new annual series. The full series consists of:

Module 1. Tobacco Control Highlights: Ontario and Beyond – a summary of recent developments, providing context for subsequent modules;

Module 2. OTS Project Evaluations: A Coordinated Review – a largely qualitative summary of accomplishments by OTS projects funded in the previous year;

Module 3. Indicators of Progress – quantitative data from a variety of survey and other sources measuring progress in Ontario;

Module 4. Annual Surveillance Report – a discussion of the results and implications of the findings in the other three modules.

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The Ontario Tobacco Research Unit's monitoring and evaluation activities of the OTS are conducted under the guidance of the OTRU Monitoring Working Group, which includes all OTRU Principal Investigators. The Working Group is chaired by Tom Stephens. Shawn O'Connor coordinates Work Group activities.

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TOBACCO CONTROL HIGHLIGHTS: ONTARIO AND BEYOND

Ontario is home to Canada's largest city, as well as the national capital and more than one-third of the country's population. As a result, Ontario frequently finds itself in a leadership role on many political and social fronts. In the realm of tobacco control, the province manages to perform respectably in some areas but trails in others.

This report is intended to provide contextual information for the monitoring of the Ontario Tobacco Strategy (OTS) for the reporting year April 1, 2001 to March 31, 2002. The first section outlines the most significant developments in tobacco control at the national level. The middle section provides an overview of developments on the provincial and territorial scenes. Tobacco control developments in Ontario are presented in the third section. International and tobacco industry developments are documented in an Appendix and provide additional context.

In the interest of accuracy, major events falling just outside the monitoring period are briefly noted and will be discussed more thoroughly in 2003. Although every effort has been made to be as accurate as possible, we have not attempted to comprehensively record all tobacco control developments in the jurisdictions under examination. Rather, we have reported significant events that, by comparison, inform us of where we stand in Ontario and where tobacco control might advance.

NATIONAL

Legislation

Bill S-15, the Tobacco Youth Protection Act, received First Reading in the House of Commons on May 30, 2001 following cross-country hearings and considerable lobbying spearheaded by the legislation's author, Senator Colin Kenny.¹ The bill, described as "an act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada", would have raised \$360 million per year from a levy on the industry. The legislation, a re-write of the similar Bill S-13, which was rejected on a technicality, had earlier received unanimous Senate approval and also earned some tobacco industry support. Despite originating with the Liberal Party, the bill did not have support from the Prime Minister's Office. In a June 12th Speaker's Ruling, Don Boudria declared the bill null and void on "both procedural and constitutional grounds." In the Speaker's judgment, it constituted a tax and not a levy, and taxes cannot originate in the Senate.²

Federal government announces a five-year, \$480 million tobacco-control program.

Partly in anticipation of the failure of Bill S-15, the federal government announced a five-year, \$480 million tobacco-control strategy in April 2001,^{3,4} with some \$210 million devoted to media campaigns and another \$55 million provided to the RCMP and other policing agencies to combat smuggling and

to monitor tax changes. The strategy aims to reduce smoking by 20% in 10 years, and to reduce sales by 30%.

Product Regulation

In January 2002, the Canadian Cancer Society released a study suggesting that Canada's precedent-setting cigarette pack health warnings, launched a year earlier, were proving to be effective at discouraging smoking. An Environics Research Group study found that 90% of smokers noticed the new warnings; 43% of smokers who noticed them were more concerned about the health effects of smoking because of the new warnings, and 44% of those same smokers said the new warnings increased their motivation to quit smoking.⁵ Of those who attempted to quit smoking, 38% said the warnings were a factor in motivating them in their quit attempts. A March 2002 survey, also conducted by Environics on behalf of the Canadian Cancer Society, indicated that 76% of Canadians supported health warnings, with 59% support among smokers.⁶ Eighty-three per cent of Canadians and 72% of smokers also supported the detailed health information, including tips on quitting, found on the inside of cigarette packages.

On World No-Tobacco Day in May 2001, then-Health Minister Allan Rock announced the appointment of members to a Ministerial Advisory Council on Tobacco Control.⁷ Minister Rock also issued a challenge to the tobacco industry to remove the words "light" and "mild" from their products, giving them 100 days to respond. Dissatisfied with the industry reaction, he announced before the Annual General Meeting of the Canadian Medical Association in August that he was banning the "deceiving labels."⁸ In December 2001, the government published a notice in the *Canada Gazette* to inform interested stakeholders that the Health Department was considering regulation of the terms "light" and "mild" and invited comment from interested parties.⁹ This followed the release of findings from the International Expert Panel on Cigarette Descriptors convened by the Ministerial Advisory Council, which concluded "that 'light' and 'mild' cigarettes are no safer than regular cigarettes."¹⁰ In January 2002, health groups urged the new Health Minister, Anne McLellan, to act upon the Expert Panel's conclusions.¹¹

'Light' and 'mild' cigarettes are no safer than regular cigarettes – *International Expert Panel on Cigarette Descriptors*.

Showing that it would continue to test the limits of current and future regulation, Imperial Tobacco launched a new product, Player's Silver, in October 2001 explaining that the brand originally was to be launched as Player's Ultra Light.¹² Imperial Tobacco described this as "a good illustration of its commitment to respond to government initiatives 'with an open mind.'" In reality, however, this proved that regulations could not solve the problem of misleading descriptors if they only addressed use of the words "light" and "mild."

In June 2001, then-Health Minister Allan Rock announced that the amounts of benzene, hydrogen cyanide and formaldehyde contained in cigarette smoke must be printed on packages, along with the amount of tar, nicotine and carbon monoxide already voluntarily displayed by most tobacco companies.

The listing of toxic emissions, along with mandatory graphic health warning labels, and health information related to tobacco use on the inside slides or leaflets are the three components of the Tobacco Products Information Regulations, which came into force on June 26, 2000.¹³ In November, a national public education campaign was announced, which centred on sending information on the six listed compounds (benzene, hydrogen cyanide, formaldehyde, tar, nicotine, and carbon monoxide) to health care professionals across the country.¹⁴

Taxes

In November 2001 then-Finance Minister Paul Martin and Health Minister Allan Rock announced an increase in federal taxes on tobacco products “as part of the Government’s comprehensive strategy to improve the health of Canadians by discouraging tobacco consumption.” The tax increases re-established a uniform federal tax rate for cigarettes across all provinces and territories. The federal tax increases amounted to \$2.00 per carton of cigarettes for sale in Quebec, \$1.60 in Ontario and \$1.50 in the rest of Canada.¹⁵ There were concurrent announcements of tobacco tax hikes by the provincial governments of Ontario, Quebec, Nova Scotia, New Brunswick, and Prince Edward Island. (See Figure 1, below.) The November increases brought the federal excise tax on cigarettes to a uniform rate of \$6.85 per carton of cigarettes for sale in all provinces and territories. An excise duty of \$5.50 per carton also applies to all cigarettes for sale in Canada, bringing the total federal excise levies to \$12.35 per carton.

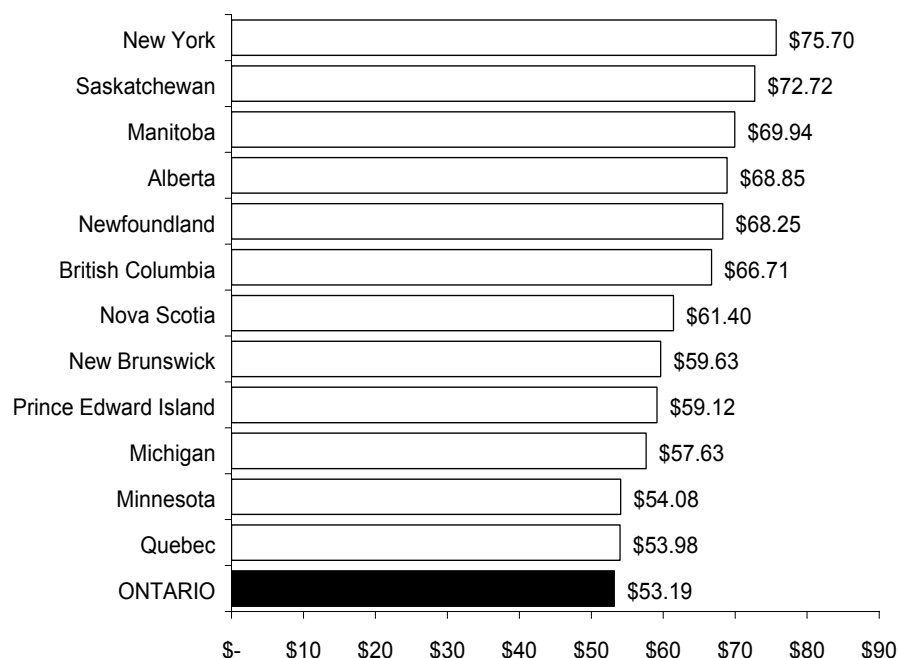
Partly in an effort to combat smuggling, the export tax was increased by \$1.50 per carton of cigarettes and tobacco sticks, and \$1.50 per 200 grams of fine-cut tobacco. The export tax is two-tiered and tax on exports that do not exceed the threshold of 1.5% of a tobacco manufacturer’s annual production is refundable to the foreign importer and domestic Canadian manufacturer upon proof of payment of foreign taxes. According to Ministry of Finance figures, the tobacco tax changes announced in November 2001 would increase federal revenues by \$240 million per annum.¹⁶

In the February 2002 Budget Speech, the Minister of Finance announced a 4¢ increase in the per unit tax rate for cigarettes, tobacco sticks, and loose tobacco, but no change to the tax rate on cigars.¹⁷ The tax hike raised the price for a carton of cigarettes from \$50.59 in April 2001 to \$61.90 in April 2002.

Several months past the reporting period, the federal government announced a further tobacco tax increase (\$3.50 per carton) in conjunction with a number of other provinces, including Ontario and Quebec, which will raise federal revenues by \$370 million per annum. (Additional details will be provided in next year’s report.) Figure 1 shows combined federal and provincial taxes incorporated into the price of a carton of cigarettes.

Saskatchewan has the distinction of charging the highest cigarette prices in the country, with the cost of the average carton rising to \$72.50. Ontario is in the unenviable position of having the lowest price of cigarettes in Canada and neighbouring US border states.

Figure 1: Price per Carton of Cigarettes, by Province and US Border States



Source: Smoking and Health Action Foundation, June 2002

Research Initiatives

During National Non-Smoking Week in January, former Health Minister Allan Rock—now the current Minister of Industry and Minister responsible for the Social Sciences and Humanities Research Council of Canada (SSHRC)—announced in partnership with the Canadian Tobacco Control Research Initiative four new research projects on tobacco control. These projects will examine smoking habits among teenagers, the impact of tobacco controls in Calgary health care facilities, how families with young children deal with second-hand smoke, and the relationship between the tobacco industry and advertising industry.¹⁸

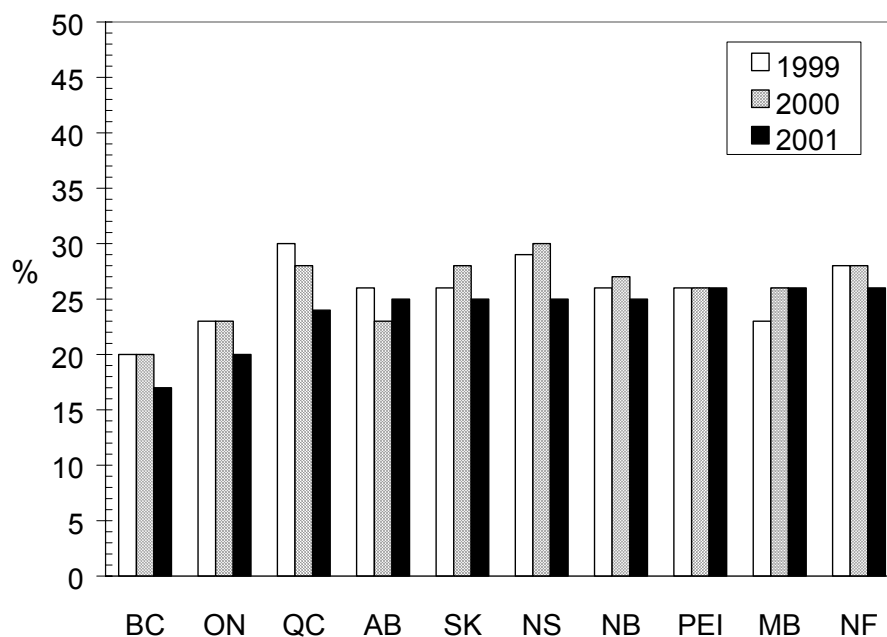
The importance of controlling and reducing second-hand smoke exposure was underlined by the release of a new study, *Environmental tobacco smoke and deaths from coronary heart disease in Canada*.¹⁹ The Health Canada report, published in February's issue of *Chronic Diseases in Canada*, indicated that population-attributable risk estimates for 1997 suggest "over 800 Canadians died of CHD (coronary heart disease) caused by passive exposure to ETS (environmental tobacco smoke)." The authors argued that this figure is likely

Over 800 Canadians died of CHD (coronary heart disease) caused by passive exposure to ETS – *Margaret de Groh and Howard Morrison, Centre for Disease Prevention and Control, Health Canada.*

an underestimate of the total number of CHD deaths attributable to ETS because the study did not estimate the number of deaths among non-smokers caused by ETS exposure in the workplace. Dr. Howard Morrison, one of the study authors and acting head of Health Canada's Cancer Division, noted that while the increased risk posed by second-hand smoke is statistically low, the end result is equivalent to "crashing a few airplanes."²⁰

Data from the most recent release of the *Canadian Tobacco Use Monitoring Survey* (CTUMS) showed that the overall rate of smoking in Canada in 2001 continued a decline that started in the mid-1990s. An estimated 22% of Canadians aged 15 and over, or 5.4 million people, were current smokers—about 20% of women and 24% of men.²¹ This compared with 31% in 1994, the highest point reached in the last decade. Twenty-two percent is the lowest overall level recorded since regular monitoring of smoking began in 1965, when 50% of the population of Canada smoked. By further comparison, two decades ago, 38% of Canadians were smokers. Provincial estimates range from a low of 17% (British Columbia) to a high of 26% (Manitoba, Newfoundland, and Prince Edward Island), as shown in Figure 2.

Figure 2: Current Smokers, by Province, Age 15+, Canada 1999-2001



Source: Canadian Tobacco Use Monitoring Survey (1999-2001, Annual)

Lawsuits

In March 2002, Canada petitioned the US Supreme Court to revive its US\$1 billion civil action against R.J. Reynolds Tobacco Co., five related companies, and the Canadian Tobacco Manufacturers' Council.²² In the suit, launched in December 1999 under the US Racketeering Influenced and Corrupt

Canada revives its
US\$1 billion civil action
against R.J. Reynolds
Tobacco Co., March 2002

Organizations (RICO) law, the Canadian government claimed it was defrauded of hundreds of millions of dollars by the defendant's alleged conspiratorial involvement in cigarette smuggling. In a 2-1 decision, the US Court of Appeals had earlier declared that the 18th century Revenue Rule forbids Canada from seeking damages for lost taxes in a foreign country.

PROVINCES AND TERRITORIES

British Columbia

A contentious and unusual battle over smoke-free regulations occurred in British Columbia during the reporting period. The Workers' Compensation Board is responsible for the *Occupational Health and Safety Regulation* with respect to Environmental Tobacco Smoke. In January 2002, Graham P. Bruce, Minister of Skills Development and Labour, directed the WCB to repeal BC Regulation 58/2001, adopted under a previous government, and replace it with significantly weaker measures.²³ The panel rejected the minister's recommendation but, days later, the new regulation was approved, taking effect May 1st 2002.^{24,25,26}

As part of its Tobacco Strategy, the province had earlier revised its Environmental Tobacco Smoke Regulations for the hospitality industry and long-term care and correctional facilities. According to new regulations that came into effect in September 2001, all employers covered under the Act "must control employee exposure to second-hand smoke."²⁷

Even before the regulatory revisions were announced, a complaint was filed before the BC Human Rights Commission in October 2001 by Airspace Action on Smoking & Health, Physicians for a Smoke-Free Canada, asthma sufferer Sera Kirk, and the Canadian Auto Workers Union.²⁸ The complainants charged that due to the pernicious effects of environmental tobacco smoke on all workers and members of the public the then-announced delay in implementation of the regulations constituted discrimination in employment and public access for workplaces not covered by regulation.

British Columbia is the only province to maintain its own repository of once-secret tobacco industry documents, collected from court-mandated industry archives in Minnesota, US and Guildford, UK.²⁹ British Columbia became the first jurisdiction in Canada and the Commonwealth to launch a lawsuit against tobacco companies in November 1998. In February 2002, the British Columbia Supreme Court struck down the Tobacco Damages and Health Care Costs Recovery Act. British Columbia passed new legislation and on January 24, 2001, resumed its legal action against the tobacco industry.³⁰ The then newly-elected Liberal government indicated in July 2001 that it would proceed with the previous administration's lawsuit to recover the health-related costs of smoking,³¹ but no new developments were subsequently announced.

British Columbia is the only province to maintain its own repository of once-secret tobacco industry documents.

Alberta

Days after announcing a \$2.25 a pack increase in tobacco taxes in March 2002, Alberta Minister of Health and Wellness Gary Mar committed \$8.7 million to the Alberta Alcohol and Drug Abuse Commission for tobacco education and cessation activities for the 2002/2003 fiscal year and an additional \$3 million to the Ministries of Revenue and Gaming for tobacco tax enforcement.³²

At \$3.82, Alberta has the highest per-capita spending in tobacco control in Canada.

While individual cities continue debating and implementing widely varying second-hand smoke by-laws, Minister Mar also announced that measures to limit the use of tobacco in public places and workplaces were being considered, along with restrictions on access to tobacco products. Many of the policy initiatives outlined by Minister Mar were based on the June 2001 Alberta Alcohol and Drug Abuse Commission report, *Reducing Tobacco Use in Alberta: A Comprehensive Strategy*.³³

Saskatchewan

The proclamation of the Tobacco Control Act in March 2002 moved Saskatchewan to the forefront of tobacco control in Canada.³⁴ Saskatchewan has become the first province to “ban the display and promotion of tobacco products in places where youth have access.”³⁵ Tobacco companies pay retailers handsomely to set up what are known as power walls—impressive displays used as a visual lure for customers—but these lucrative presentations are now banned. The Act also:

- Requires restaurants, bars, bingo halls, billiard halls, casinos and bowling centres to have a minimum of 60% non-smoking seats by January 1st, 2004
- Prohibits smoking in other enclosed public places where children have access
- Prohibits the provision of cigarettes to anyone under the age of 18
- Increases the penalties for retailers and employees who provide tobacco products to anyone under the age of 18
- Restricts cigarette vending machines to a specific location in age-restricted establishments such as casinos and bars

Saskatchewan is the first province to ban the display and promotion of tobacco products in places where youth have access. Saskatchewan cigarette prices are also the highest in Canada.

However, the Health Ministry had a well-founded basis for its action; it has been demonstrated that industry-funded programs like Operation ID are expressly designed to fail as preventive measures, even as they succeed in earning community support for the industry (see Ontario section below for additional details).

Manitoba

In January 2002, Health Minister Dave Chomiak unveiled a multi-year tobacco control strategy focusing on youth.³⁶ A Teen Cessation Pilot Project would be extended to the entire province and a Youth Advisory Committee established “to ensure strategies are relevant and useful.” The Minister also announced that legislation would be introduced to amend the Non-smokers

Health Protection Act to prohibit the display and promotion of tobacco products in retail outlets where minors are allowed. As well, litigation against the tobacco industry to recover health care costs would continue to be studied.

In February, the Review Committee on Improving Workplace Safety and Health issued its report,³⁷ recommending that steps be taken to ensure that workers

are not exposed to second-hand/environmental tobacco smoke in the workplace, and that the government consult stakeholders (for example, the hospitality and entertainment industry) on this matter and then proceed to develop a strategy and action plan for implementation of this recommendation.

A Manitoba physician stimulated national debate when he issued an ultimatum to his smoking patients, telling them to either quit or find a new doctor.³⁸ Winnipeg's Frederick Ross, a family physician for twenty-six years, said he was "fed up with wasting [his] time treating people with smoking-related diseases." Dr. Ross found the response to his ultimatum "surprisingly positive." Although there was some negative response to the physician's initiative, the College of Physicians and Surgeons of Manitoba noted that Dr. Ross was within his rights to choose which patients to treat. There was also general understanding for the frustration felt by a doctor whose patients refused or were unable to respect his best medical advice.

Quebec

Quebec reimburses nicotine replacement therapy under the Quebec drug insurance plan.

In December 2001, the Quebec Health Ministry (Ministère de la Santé et des Services Sociaux) unveiled its Tobacco Control Strategy 2001-2005 (*Plan québécois de lutte contre le tabagisme 2001-2005*).^{39,40} The plan allocated \$15 million for the first year of the plan, with \$4 million devoted to youth prevention strategies, \$4.9 million for cessation, \$3 million to ensure enforcement of the Tobacco Act (Loi sur le tabac) and \$3.1 million for research and evaluation.

In mid-January 2002, a Stop Smoking telephone service (Ligne "J'arrête!") was introduced, to be run jointly by the Société Canadienne du Cancer and the Quebec Council on Smoking and Health (Conseil québécois sur le tabac et la santé).⁴¹

Dr. Fernand Turcotte of the Département de médecine sociale et préventive, Faculté de médecine, Université Laval received funding, effective December 2001, from the Quebec Ministry of Health to set up a provincial tobacco research unit (L'unité québécoise de recherche sur le tabagisme).⁴² The unit will carry out tobacco-related research and monitor the provincial tobacco control program.

In February 2002, the federal and Quebec governments announced their support for the First International Francophone Tobacco Control

Conference, or CIFICOT (Première Conférence internationale francophone sur le contrôle du tabac),^{43,44} organized by the Quebec Public Health Association (Association pour la santé publique du Québec) and the Quebec Coalition for Tobacco Control (Coalition québécoise pour le contrôle du tabac). The Conference will take place in Montreal from September 15-18, 2002 with participants expected from more than 50 francophone states and jurisdictions.

New Brunswick

In September 2001, the New Brunswick Anti-Tobacco Coalition was established to co-ordinate the implementation of the *New Brunswick Anti-Tobacco Strategy*.⁴⁵ The Strategy, released in the fall of 2001, comprised four main goals having eighteen objectives in total. The Strategy's vision is a tobacco-free province and its mission underscores a desire to "work collaboratively to change attitudes and behaviours towards tobacco products and tobacco use in order to build support for anti-tobacco measures."⁴⁶ Provincial organizations have so far agreed to take action in eight key areas:

- develop coordinated, multi-faceted community-based social marketing strategy
- advocate for adequate and sustainable funding
- identify and increase the skills and knowledge base of provincial stakeholders
- examine the attitudes and beliefs around tobacco use
- increase anti-tobacco awareness among 5-24 year olds
- reduce youth access to tobacco products
- develop a coordinated cessation network
- support legislation such as that for smoke-free places

Nova Scotia

Partly in response to having the highest smoking prevalence in the country at 30% in 2000, the province launched *A Comprehensive Tobacco Control Strategy for Nova Scotia* in October 2001.⁴⁷ The strategy, which secured \$1 million in initial funding, addresses the following key elements:

- Pricing and Taxation
- Smoke-free Legislation and Policy
- Treatment and Cessation
- Community-based Programming
- Youth Smoking Prevention
- Media and Public Awareness
- Monitoring and Evaluation

When the Strategy was announced, Premier John Hamm and Health Minister Jamie Muir made a commitment to introduce legislation in the spring 2002 session of the legislature respecting both smoke-free public places and workplaces.⁴⁸

Also in October, GPI Atlantic issued a Health Department commissioned report, *The Economic Impact of Smoke-Free Workplaces: An Assessment for Nova Scotia*.⁴⁹ The first of its kind in Canada, the study concluded that smoke-free workplace legislation would lower the province's high smoking rate, cut cigarette consumption by 20%, and save \$200 million a year in avoided health costs and productivity losses. The report also found that restaurant workers are exposed to twice the amount of second-hand smoke as those Nova Scotians employed in offices with a smoking ban. Bar and casino workers are exposed to levels that are three to six times as high. Food service workers have a 50% higher rate of lung cancer than the general population.

Prince Edward Island

In August 2001, Health and Social Services Minister Jamie Ballem launched a new initiative aimed at reducing the number of Islanders exposed to second-hand smoke in their vehicles.⁵⁰ As part of this initiative, signs with the message 'smoke free vehicle' were to be distributed to Islanders upon vehicle registration. The automobile campaign came on the heels of a smoke-free homes initiative that saw approximately 20,000 smoke-free home signs distributed to children the preceding October.

Data released on World No-Tobacco Day in May 2001 from CTUMS 2000 supported the success of the Islands' smoke-free home campaign: fewer children were regularly exposed to second-hand smoke in their home, with rates falling from 44% in 1996-1997 (National Public Health Survey) to 27% in 2000. This represented the greatest reduction in children exposed to second-hand smoke in Canada. Minister Ballem credited the success to cooperation between government and the PEI Tobacco Reduction Alliance.

Newfoundland

In May 2001, the Tobacco Health Care Costs Recovery Act was introduced in the Newfoundland Legislature,⁵¹ aiming to recover costs from the tobacco industry for expenses incurred in treating smokers made ill by their use of tobacco products.

In late July 2001, acting Health Minister Gerald Smith announced amendments to Newfoundland's 1994 Smoke-Free Environment Act. The new measures would ban smoking in restaurants as of January 1, 2002, but exceptions were granted for food establishments that have a club, lounge, or special events liquor license, in designated smoking areas, during the hours that youth under the age of 19 are not allowed on the premises. The regulatory amendments made Newfoundland the first province to prohibit smoking in restaurants and also extended the Act's earlier ban to boys and girls clubs; games arcades; shopping malls; common areas of hotels, motels and convention centres; air, bus and marine vessel passenger terminals; and public libraries.

Newfoundland is the first province to prohibit smoking in restaurants.

Yukon

Over the reporting period, the Yukon Tobacco Reduction Strategy Office was in the planning stages of a new campaign that was to be introduced in phases, beginning May 31st on World No-Tobacco Day and continuing into the fall. The Northern Usage of Tobacco, Alcohol and Illicit Drugs (NUTAID) survey, conducted by Health Canada, began collecting data for all Territories in 2002, but full results will not be published for several years.

Northwest Territories

In May 2001, *Smoke Alarm: A Summary Report on Smoking in the Northwest Territories* was released,^{52,53} revealing some disturbing findings:

- Over 60% of Aboriginal adults between the ages of 25 and 44 years are current smokers
- 47% of 10-14 year olds attempting to buy cigarettes were asked their age
- 43% of NWT women in their childbearing years smoke cigarettes, and 69% of those women continue to smoke during pregnancy.

Armed with this information, NWT Minister of Health and Social Services Jane Groenewegen asserted the need to develop a comprehensive strategy aimed at: protecting prenatal mothers and young children from tobacco smoke, reducing uptake of smoking by children and adolescents, and promoting effective cessation programs and supports for current smokers. A complementary publication, *The Facts About Smoking in the Northwest Territories*,⁵⁴ also released in May, provides in-depth analyses of the various factors associated with smoking behaviour in the NWT.

Nunavut

During National Non-Smoking Week in January 2002, Nunavut Health and Social Services Minister Ed Picco announced the launch of a poster illustrating the deadly chemicals found in cigarettes including arsenic, lead and propylene glycol.⁵⁵ The poster was developed by the British Columbia government and adapted for use in Nunavut.

Following the adoption in January 2002 of a plan “that would preserve the social peace and prevent laws from being broken in and around the bar,” the Ikkaqivvik Bar in Kuujuaq was granted a license to open the first non-smoking bar in Nunavut.⁵⁶ The bar opened in April.

ONTARIO

Funding

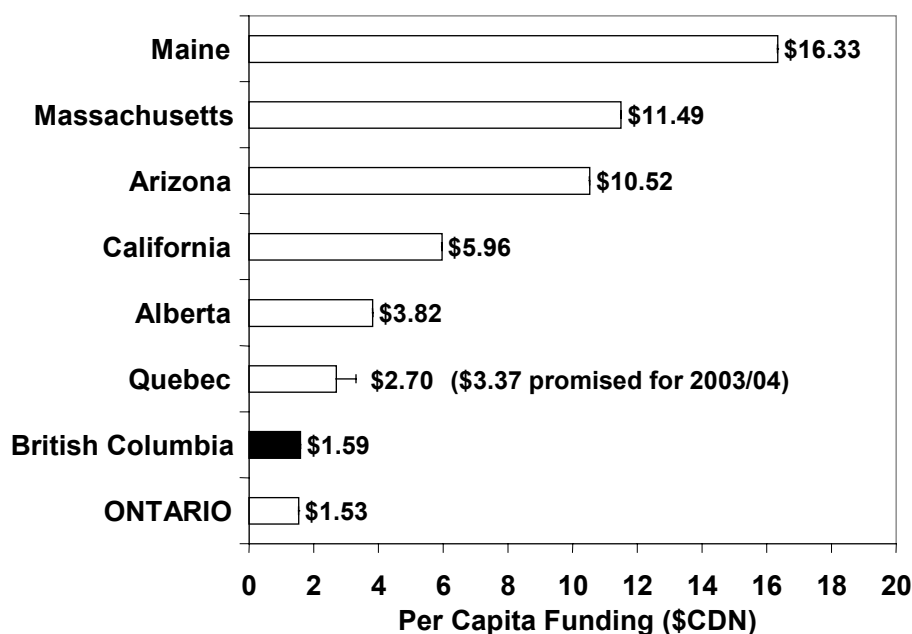
Over the past fiscal year, OTS spending was \$18.2 million, or \$1.53 per capita, a drop from the \$19 million spent in 2000/2001. The Ministry of Health and Long-Term Care did not fund a request for proposal (or RFP) initiative for community projects in 2001 as they had done the previous year as part of the renewal of the OTS begun in 1999. A new RFP, however, was

announced in the Spring of 2002 to provide funds to successful respondents to plan, implement, and evaluate locally-based tobacco control efforts in priority areas including youth, smoke-free settings and populations at risk.

Overall, the province's tobacco control expenditure is a significant improvement on the 36 cents per capita mark decried in the Minister of Health's February 1999 Expert Panel report, *Actions Will Speak Louder Than Words: Getting Serious about Tobacco Control in Ontario*.⁵⁷ However, it still falls well below the US\$5-15 range recommended by the US Centers for Disease Control and Prevention, in its guide *Best Practices for Comprehensive Tobacco Control Programs*,⁵⁸ a standard supported by the authors of *Actions Will Speak Louder Than Words*. Figure 3 shows per capita funding in leading US jurisdictions and in several Canadian provinces with recognizable tobacco control programs. With funding at a level of \$1.53 per capita, Ontario has lost the distinction of being the leading provincial spender in tobacco control, which it had held until recently.

Figure 3: Per Capita Funding for Tobacco Control (2001/2002), by Provinces and US States with Comprehensive Strategies.

Among the provinces, Ontario ranks fourth in per capita tobacco control expenditures but has the lowest cigarette prices.



Price

For the third straight year, Ontario held the unenviable distinction of charging consumers the lowest cigarette prices anywhere in Canada and bordering US States (as shown in Figure 1),⁵⁹ even after factoring in the June 2002 tax increase. Ontario had matched a federal hike of \$1.60 per carton in November 2001, but this was still smaller than the concurrent hikes of \$2.50 per carton in Quebec, New Brunswick, and Nova Scotia and \$2.00 per carton

in Prince Edward Island. Although the province's current \$53.19 average carton price is only marginally lower than Quebec's (\$53.98), it is \$20 below the new Canadian leader, Saskatchewan, where a carton of 200 cigarettes now sells for \$72.72.

Youth

In February 2002, the Ontario Medical Association (OMA) issued a Position Statement titled *More Smoke and Mirrors: Tobacco Industry-Sponsored Youth Prevention Programs In the Context of Comprehensive Tobacco Control Programs in Canada*.⁶⁰ Among many other conclusions, the OMA noted:

Tobacco industry documents make clear that their youth access programs have little or nothing to do with reducing youth smoking; The failure of these programs is inevitable because they are voluntary; Programs based on presentation of ID do not substantially reduce youth access; Youth access and educational programs target the wrong outcome, access, rather than consumption; By emphasizing the adults-only status of tobacco use, tobacco industry programs reinforce young peoples' desire to use tobacco.

Tobacco industry youth access programs have little or nothing to do with reducing youth smoking –
Ontario Medical Association.

The OMA Position Statement has relevance across Canada and its effect can already be seen in the application of Saskatchewan's Tobacco Control Act.

Second-Hand Smoke

Over the past decade, hundreds of studies and a half-dozen major reviews have causally linked second-hand smoke exposure to premature death and a host of diseases and medical conditions in both adults and children. Various analyses have also shown that regulations to limit second-hand smoke exposure decrease youth initiation and help smokers quit their nicotine addiction.^{61,62,63,64}

In May 2001, the Ontario Tobacco Research Unit released *Protection from second-hand tobacco smoke in Ontario: A review of the evidence regarding best practices*.⁶⁵ The authors concluded from their review that exposure to second-hand smoke causes an estimated 1100 to 7800 deaths per year in Canada, at least one-third of them in Ontario. They also noted there is no safe level of exposure to second-hand smoke and that ventilation cannot provide a viable solution to those associated problems. Consequently, the authors recommended that the Ontario government move immediately to comply with existing laws and regulations by making all workplaces governed by the Ontario Occupational Health and Safety Act smoke-free; take immediate steps to ensure that all other Ontario workplaces and public places are made smoke-free; and advise that all Ontario residents make their homes smoke-free in order to protect themselves, their children and their visitors from second-hand smoke.

Over the course of the reporting year, the government did not take province-wide steps to address the 'best practices' authors' recommendations. Ontario's 1994 Tobacco Control Act,⁶⁶ which remains in force, outlines the "prohibition of smoking in certain places" but exempts various categories of workplaces from regulation. Individual municipalities have debated and

adopted their own bylaws during the reporting period. On April 25, 2001, Ottawa City Council voted unanimously for what may be the country's most progressive municipal by-law, establishing 100% smoke-free public places and workplaces. The measures, which came into force on August 1st, have been subject to repeated court challenges by PUBCO (Pub and Bar Coalition of Ontario), a group of bar and restaurant owners. In June 2001, the Ontario Campaign for Action on Tobacco published an updated Ontario By-Law Comparison⁶⁷ and in September also posted a list of *Municipalities in Canada with Smoke-Free Laws for Restaurants and Bars*, compiled by the Canadian Cancer Society.⁶⁸ A number of additional municipalities have either enacted or entered into debate on establishing or updating their smoke-free regulations since these lists were published.

Lawsuits

In June 2001, Imperial Tobacco was handed a victory in Ontario Small Claims Court when Mme Justice Pamela Thompson ruled against plaintiff Joseph Battaglia.⁶⁹ Mr. Battaglia had initiated court proceedings against Imperial in 1997 charging that the company was responsible for his addiction to smoking and for a heart condition attributed to smoking Imperial brands.

Ontario Tobacco Control Conference

In March 2002, as the reporting year ended, the Ontario Tobacco Control Conference was held in Toronto.⁷⁰ The Conference objectives included:

- To profile tobacco control progress and issues in Ontario since the renewal of the Ontario Tobacco Strategy
- To profile leading international tobacco control initiatives and best practices
- To increase the profile of the tobacco issue on the agenda of health intermediaries, government, and the media
- To link research, program and policy, and
- To strengthen the tobacco control network in Ontario

With plenary sessions and keynote speakers on a host of topics, including tobacco control denormalization, media campaigns, litigation, ventilation, and tobacco industry programs, as well as 62 concurrent sessions and 20 poster displays, the conference was highly regarded by participants.

CONCLUSION

The Speakers' Abstracts from the Ontario Tobacco Control Conference demonstrate the range of concerns and capacities of the province's tobacco control and public health communities.⁷¹ The cost of tobacco use in Ontario remains unacceptably high. The tobacco industry vigorously pursues new initiatives to replace smokers who succeed in quitting as well as those who fail to quit and "stop smoking" because they die.

Sometimes, an individual can act to effect change. Noted broadcaster and author Peter Gzowski died of Chronic Obstructive Pulmonary Disease

(COPD) in January 2002, only 67 years old. One of his last acts was to record the narration for a programme on COPD that aired⁷² in April 2002, after his death. Gzowski's courageous but disturbing appearance will have sent a powerful message to anyone who saw the programme, but the vast majority of the target audience could not be reached by a single documentary shown at an off-peak viewing hour. It will take global changes and a serious commitment by individuals, communities, and governments alike to implement the "best practices" needed to save current and future generations from the devastating toll of tobacco. Ontario can lead the way or it can follow good examples, but it cannot accept the status quo. Thousands of lives are at stake.

APPENDIX

International

Legal Proceedings

In early May 2001, the Australian Supreme Court handed down a verdict heralded as the first successful damage claim for cancer caused by passive smoking.⁷³ Non-smoker Marlene Sharp, who developed cancer of the larynx after working behind a Port Kembla bar for 11 years, was awarded AU\$466,000, setting another significant Australian precedent.

The first successful damage claim for cancer caused by passive smoking was handed down by the Australian Supreme Court in 2001.

In October 2001, the US Supreme Court ruled it would not review a decision by an appeals court that had upheld the earlier dismissal of lawsuits brought by Guatemala, Nicaragua and the Ukraine against US tobacco companies.⁷⁴ The high court's decision let stand the lower court's dismissal of foreign government claims seeking reimbursement of money spent on treating their citizens for smoking-related illnesses.

In February 2002, a Brooklyn federal judge dismissed two lawsuits: one filed by the European Community (EC) and ten member states, the other by 24 departments of the Republic of Colombia and the Capital District of Bogota.⁷⁵ Both suits sought to hold Philip Morris and other US companies liable for tax revenues allegedly lost by governments because of the companies' involvement in cigarette smuggling. The EC complaint, brought against Philip Morris and R.J. Reynolds in November 2000, was joined in early 2001 by Italy, Germany, France, Spain, Portugal, Greece, Belgium, The Netherlands, Finland and Luxembourg.⁷⁶ The original complaint was dismissed on a technicality in July 2001, but the door was left open for a re-filing of the lawsuit. However, Judge Nicholas Garaufis found that the plaintiffs had again run afoul of the Revenue Rule.

Also in February 2002, new charges were laid by the European Union (EU) alleging that tobacco companies had violated a US trade embargo for more than a decade by illegally sending billions of cigarettes into Iraq.⁷⁷ The Iraq charge focuses on R.J. Reynolds and Japan Tobacco Inc—which acquired R.J. Reynold's international cigarette business in 1999—but there are also allegations that Philip Morris was involved in the Iraqi shipments.

International Agreements

The second, third and fourth sessions of the Intergovernmental Negotiating Body charged with establishing the precise language of the Framework Convention on Tobacco Control (FCTC) were held during the reporting year.⁷⁸ The goals of the Framework Convention are to establish global standards and restrictions on:

- advertising and sponsorship promotion
- tobacco smuggling
- the treatment and cessation of tobacco dependence
- tobacco packaging and labelling
- exposure to tobacco smoke
- sales to youth
- testing and reporting standards
- scientific, technical and legal cooperation
- and research and surveillance

The FCTC is scheduled to be signed and ratified in 2003 though the target date is subject to change given the slow pace of negotiations.

The *European Report on Tobacco Control Policy* was issued during the WHO European Ministerial Conference for a Tobacco-free Europe, held in Warsaw, Poland in February 2002.^{79,80} The report found a “complex and contrasted picture of achievements and failures,” with progress notably slowed by Germany’s industry-friendly manoeuvres. Health Ministers from 51 European countries signed the *Warsaw Declaration for a Tobacco-Free Europe*,⁸¹ supporting

comprehensive measures designed to discourage smoking, including higher taxes on cigarettes and bans on tobacco advertising, sponsorship, and promotion. The declaration also urges countries to restrict smoking in the workplace and public spaces and to improve access to smoking cessation therapy, and promises more support for tobacco-control efforts in the emerging democracies in eastern Europe.⁸²

However, not one month later, the European Union granted Poland an exemption from higher tobacco excise tax until 2009 “to stave off possible social discontent” ahead of the country’s entry into the EU.⁸³

Product Regulation

Several tobacco firms introduced, or continued to test market, a variety of new products destined for either the smoking-alternative or harm-reduction market. In December 2001 the American Cancer Society, American Heart Association, American Legacy Foundation, American Lung Association, American Medical Association and the Campaign for Tobacco-Free Kids jointly petitioned the US Food and Drug Administration (FDA), urging it to regulate five alternative products.^{84,85,86,87,88} The products included: Ariva tobacco lozenges (or “cigaletts”) from Star Scientific;^{89,90} supposedly “low carcinogen” cigarettes—Omni by Vector Tobacco and Advance from Star and Brown & Williamson; the Eclipse device from R.J. Reynolds; and Nicotine Water from S.F. Garret.

The petition to the FDA followed the November 2001 release of a National Cancer Institute report, *Monograph 13: Risks associated with smoking cigarettes with low machine-measured yields of tar and nicotine*.^{91,92,93,94} The Monograph authors found that tobacco companies designed cigarettes specifically to fool Federal Trade Commission (FTC) tests, and that the nominally lighter cigarettes were

no safer.^{95,96} The FTC has reported that 87% of cigarettes sold in the US are low-tar brands marketed with descriptions such as “light” and “ultra-light.” Smokers often delay quit attempts, feeling “safer” with “light” or “low-tar” cigarette yields. The same problem of a perceived reduction in risk, but no tangible health benefit, is highly likely to be occurring with the industry’s more innovative products.

Tobacco Industry

Legal Proceedings

The greatest financial defeat for the tobacco industry occurred in June 2001 when a Los Angeles jury found Philip Morris liable for the lung cancer that afflicted plaintiff Richard Boeken.^{97,98} The jury awarded Mr. Boeken US\$5.54 million in compensatory and US\$3 billion in punitive damages. However, Superior Court Judge Charles W. McCoy who denied a Philip Morris motion for a new trial reduced the award in August to US\$100 million.⁹⁹ Mr. Boeken died in January 2002 at age 57.¹⁰⁰

In another defeat for Philip Morris, a jury in Portland, Oregon awarded US\$150 million to the estate of Michelle Schwarz who began smoking in 1964 and died of lung cancer in 1999 at age 53 after smoking Merit low-tar cigarettes.^{101,102} The jury found that Philip Morris had falsely represented that low-tar cigarettes are healthier than regular ones.

A number of international court rulings, involving suits brought by Canada, the European Community, Colombia, Guatemala, Nicaragua and the Ukraine, are all decided in the industry’s favour, though some are under appeal.

In November 2001, Philip Morris joined the other US tobacco companies in filing an appeal against the June 2000 Engle class action case verdict in Florida, where the industry was ordered to pay US\$145 billion in punitive damages.^{103,104}

In November 2001, it was revealed that the tobacco industry had successfully watered down the Patriot Act, adopted by the US Congress in the wake of the September 11th attacks.¹⁰⁵ The original version of the bill would have overcome the limitations of the Revenue Rule, an 18th century statute that forbids a country outside of the US from seeking damages in a US court for lost taxes in a foreign country. As originally written, the Act would have had a direct, positive impact on Canadian and international lawsuits.

In March 2002, Judge Geoffrey Eames of the Victorian Supreme Court in Australia threw out the defense of British American Tobacco Australia (BATA) in a case involving a 51-year old Melbourne woman dying of lung cancer after determining that the firm had engaged in the widespread destruction of documents that should have been turned over to plaintiff Rolah Ann McCabe’s attorneys.¹⁰⁶ The full extent of BATA’s systematic deception was revealed in April, when the jury awarded damages of AU\$700,000 to

British American Tobacco Australia engages in the widespread destruction of documents related to a case in which they were defendants.

McCabe.¹⁰⁷ This case, the first in which an Australian smoker successfully sued an international tobacco company, could have dramatic implications for subsequent Australian cases. Cases in other countries, including Canada, where British American Tobacco (BAT) used the same deceptively named and executed Document Retention Policy could also be affected. In 1998 it was revealed that Simon Potter of the law firm Ogilvy Renault had destroyed some 60 documents “on behalf of Imperial Tobacco’s parent company British American Tobacco—dated just days before the Ontario government passed a law to facilitate class-action suits”.^{108,109} Potter currently represents Imperial Tobacco in its lawsuit challenging Canada’s Tobacco Act.

As the reporting year ended, testimony continued in Quebec Superior Court where Imperial Tobacco, joined in its suit by JTI-Macdonald and Rothmans, Benson and Hedges, is challenging the constitutionality of Bill C-71, Canada’s 1997 Tobacco Act.¹¹⁰ Imperial has asked that the latest federal labelling and reporting requirements be declared invalid on constitutional free speech grounds. It also seeks to strike down the government’s right to impose the warning labels that now cover 50% of the front and back surfaces of cigarette packs in this country. A judgment may be rendered by the time this monitoring report appears and will be reviewed in depth next year.

New Products

Imperial Tobacco launched a new product, Player’s Silver, in October 2001 explaining that the brand originally was to be launched as Player’s Ultra Light.¹¹¹ The change in name was in response to the federal government’s plans to ban deceptive labels.

Different firms introduce novel products over the reporting period including: Ariva tobacco lozenges (cigaletts) from Star Scientific; two “low carcinogen” cigarettes—Omni by Vector Tobacco and Advance from Star and Brown & Williamson; the Eclipse device from R.J. Reynolds; and Nicotine Water from S.F. Garret. The introduction of these novelties leads to increased calls for FDA regulation of all tobacco products.

Corporate Activity

In June 2001, journalist Kate Swoger of the Prague Post broke the story of a report commissioned by Philip Morris, *Public Finance Balance of Smoking in the Czech Republic*, in which the Arthur D. Little consulting firm determined that, by dying early, smokers provided economic benefits to the Czech Republic.¹¹² The story crossed the Atlantic with a major Wall Street Journal review in July and then became the source for heavy editorial condemnation of the industry. Philip Morris eventually apologized for commissioning the study, declaring that the funding and public release of the study “exhibited terrible judgment as well as a complete and unacceptable disregard of basic human values.”¹¹³ However, Philip Morris did not express regret for the harm done by tobacco use, beyond the economic sphere.

Philip Morris announced in November 2001 that it would be changing its corporate name to Altria,¹¹⁴ attempting to distance its non-tobacco divisions, including Kraft Foods and Miller Brewing, from the taint of tobacco-related

Philip Morris makes decision to change corporate name to Altria.

litigation. Just after the reporting year ended, the name change was approved by more than 95% of shareholders at the firm's Annual General Meeting.¹¹⁵ Three shareholder resolutions, one calling for package inserts detailing tobacco harms, another related to disclosure of second-hand smoke risks and a third demanding that Philip Morris meet global human rights standards, were all defeated by similar, overwhelming margins.

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