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UNITÉ DE RECHERCHE SUR LE TABAC DE L'ONTARIO

Tobacco Control Highlights: Ontario and Beyond

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Tobacco Control Highlights:
Ontario and Beyond

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PREFACE

Tobacco Control Highlights: Ontario and Beyond is the first of four reports in this year's *Monitoring and Evaluation Series*. The full series consists of:

Number 1: *Tobacco Control Highlights: Ontario and Beyond* – an overview of recent developments, providing context for what is happening in Ontario;

Number 2: *OTS Project Evaluations: A Coordinated Review* – a largely qualitative summary of accomplishments by OTS projects funded in 2002/2003;

Number 3: *Indicators of OTS Progress* – presentation of quantitative data from a variety of surveys and other sources measuring recent progress in tobacco control in Ontario; and

Number 4: *OTS Progress and Implications* – a discussion of the results and implications of the findings in the previous three reports.

This first report provides contextual information for the monitoring and evaluation of the Ontario Tobacco Strategy (OTS) for the 2002 calendar year. As last year's report covered the fiscal year (April 1, 2001 to March 31, 2002), there is some overlap in content coverage. Additionally, major events falling just after the monitoring period are briefly noted and will be discussed more thoroughly in the report on 2003 events. 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.

This report is divided into six sections. The first section outlines the most significant developments in tobacco control in Ontario. Section two provides an overview of national tobacco control developments and section three looks at individual provincial and territorial highlights. The fourth section examines international developments including key news items that have involved the World Health Organization, the Pan-American Health Organization, the European Union, and the United States. Tobacco industry-related news is discussed in the fifth section. The sixth section concludes the report with a summary and brief discussion of the actions necessary to further reduce the burden of tobacco in Ontario.

Acknowledgements

This report was written by Sandro Di Cori, Di Cori Consulting, with input from Cancer Care Ontario staff including Kyle McKeown, Steven Savvaidis, and Patricia Christmas. Lori Diemert and Shawn O'Connor of the Ontario Tobacco Research Unit (OTRU) acted as co-editors of this report; Sonja Johnston was responsible for the layout and formatting.

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

The interpretation and opinions expressed in this report are the responsibility of the Principal Investigators of OTRU:

Mary Jane Ashley	University of Toronto
K. Stephen Brown	University of Waterloo
Roberta Ferrence	Centre for Addiction and Mental Health/University of Toronto
Paul McDonald	University of Waterloo
Thomas Stephens	Thomas Stephens & Associates/Universities of Ottawa & Toronto

Table of Contents

List of Figures

List of Tables

ONTARIO TOBACCO CONTROL HIGHLIGHTS

With close to 40% of Canada's population living in Ontario, the province is a driving force behind many economic, political and social issues in the country. At its beginning in 1992, the Ontario To bacco Strategy (OTS) was considered to be the forefront of tobacco control in Canada. In its current form, the OTS contains a mix of policies and funded programs, a benefit of the OTS renewal in 1999. In recent years, Ontario has performed well in a number of tobacco control areas; however, on several fronts other provinces have equaled or, in some cases, surpassed Ontario. For example, Québec fully reimburses nicotine replacement therapy under the province's drug insurance plan, and Newfoundland has a province-wide smoke-free bylaw. Notwithstanding, exciting developments have occurred in Ontario during 2002. For instance, smoke-free bylaw development was a significant activity in numerous Ontario communities. In fact, this development monopolized the media coverage of tobacco control issues in the province.

On the political scene, Honourable Ernie Eves was sworn in as the 23rd Premier of Ontario on April 15, 2002.[1] However, a new Premier and several key appointments to the cabinet, including the re-appointment of Tony Clement as Ontario's Minister of Health and Long-Term Care,[2] did not translate into major changes for the OTS in terms of dedicated funding, tobacco tax policy in line with other leading jurisdictions, or provincial legislation.

Taxation and Funding in Ontario

In May 2002, the government announced that it was considering a tobacco tax hike. Health Minister Tony Clement noted that tobacco use costs the health care system about $2 billion a year and the economy up to another $2 billion in lost income and productivity.[3] That spring, the Ontario Campaign for Action on Tobacco launched an advertising campaign, urging that cigarette taxes be raised $15 for a carton of 200 cigarettes.[4]

On June 16, 2002, a coordinated federal-provincial tax increase amounting to $9 per carton was announced ($5 provincial, $4 federal).[5] This was expected to generate an additional $460 million over the next year for the Ontario government, bringing the total revenue from tobacco taxes to approximately $920 million.[6,7] Although Finance Minister Janet Ecker echoed the health community's view that that the tax increase would discourage young people from smoking, no additional money was announced for tobacco control.[8]

Despite the June increase, taxes in the province have not kept pace with other jurisdictions (see Figure 1). Specifically, Ontario cigarette prices remain the lowest in Canada and are among the lowest in all of North America. This undoubtedly has encouraged some smokers to continue their addiction where otherwise they might have quit. As well, the uptake and establishment of smoking among youth is not delayed as much as it might be.

Tobacco use costs the health care system about $2 billion a year and the economy up to another $2 billion in lost income and productivity. - Health Minister Tony Clement.

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In June 2002, a coordinated federal-provincial tax increase amounting to $9 per carton was announced ($5 provincial, $4 federal), yet taxes in the province have not kept pace with other jurisdictions.

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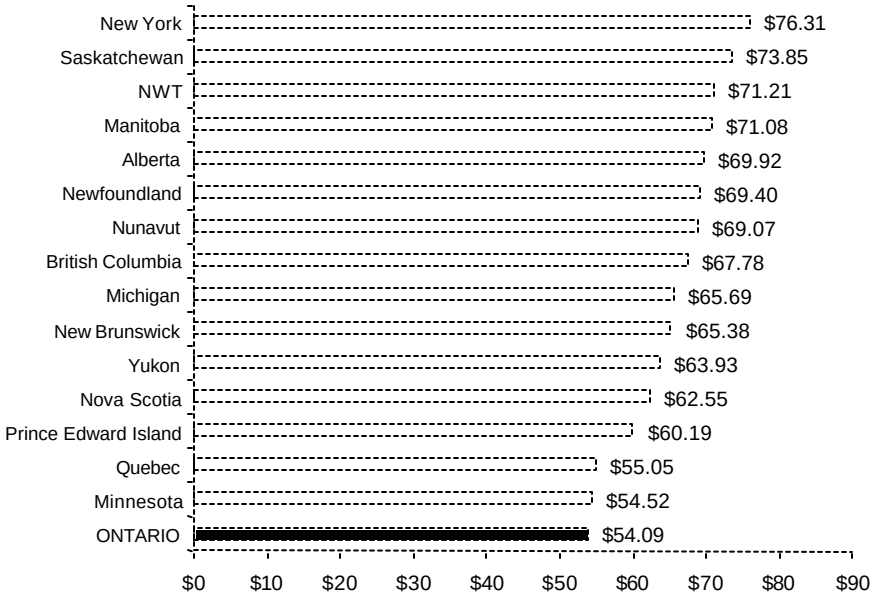
Ontario has the unenviable distinction of having the lowest cigarette prices in Canada

Figure 1: Price per Carton of Cigarettes, by Province and US Border States (in CDN dollars), December 2002



Note: Exchange rate US$1 = CDN$1.5504, December 23, 2002.

Source: Smoking and Health Action Foundation, December 2002.

Tobacco control expenditures for the 2002-2003 fiscal year were back to $19 million, or $1.59 per capita, compared to $18.2 million or $1.53 per capita in 2001-2002. Funding levels in Ontario fall slightly below expenditures in Nova Scotia. However, Ontario now trails Québec and Alberta by more than one and two dollars per capita, respectively, and is far below expenditures by the emerging tobacco control leaders in the United States: Maine, Minnesota, Mississippi, and Maryland (see Table 1). In general, funding continues to fall well short of the $5.00 – $16.00 per capita range (US currency) recommended by the US Centers for Disease Control and Prevention (CDC) for large jurisdictions (population over 7 million).[9]

Table 1: Tobacco Control Funding in Select Canadian Provinces and US Jurisdictions, 2002-2003[a]

Select Jurisdiction	2002-2003 (million CDN$)	Population	Per capita in CDN$
Canada			
Nova Scotia	1.6	908,007	1.76
Ontario	19.00	11,964,104	1.59
Québec	20.00	7,435,504	2.69
Alberta	11.70	3,086,034	3.79
United States			
Maryland	31.09[b]	5,375,156	5.78
California	208.59[b]	34,501,130	6.05
Minnesota	44.81[b]	4,972,294	9.01
Mississippi	31.01[b]	2,858,029	10.85
Maine	21.33[b]	1,286,670	16.58

[a] Work is underway to extend the table in Report No. 3, with data from other provinces to provide a broader context for interpreting Ontario's tobacco control efforts.
[b] December 23, 2002 exchange rate US$1 = CDN$1.5504.

Source: Cancer Care Ontario, Media Network, March 2003[10]; Campaign for Tobacco-Free Kids, January 2003[11]; Statistics Canada, updated postcensal estimates, January 1, 2002[12]; US Census Bureau, population, 2001 estimate.[13]

Controlling Second-Hand Smoke

Enactment of Municipal Bylaws

Dramatic progress has been made regarding bylaw implementation across Ontario. According to data provided by the Ontario Tobacco-free Network (OTN),[14] approximately 75% of Ontario's population is covered by 100% smoke-free restaurant bylaws (OTN Gold and Silver Standards).[i, ii, iii] Over the next three years, 83% of Ontario's population will be protected, as jurisdictions implement bylaws they have already passed (see Table 2). Additionally, by June 2006 almost 15% of the population in municipalities currently covered by 100% smoke-free restaurant bylaws (OTN Silver Standard) will no longer be exposed to smoke in bars (OTN Gold Standard).

75% of Ontarians are covered by 100% smoke-free restaurant bylaws, with protection increasing to 83% in the coming three years, as bylaws already passed are implemented.

[i] Eating establishments in several jurisdictions, such as Toronto, successfully applied to reclassify their businesses as bars prior to enactment of restaurant bylaws (thereby circumventing the bylaw). Although the coverage estimates are accurate, one needs to consider the meaning of "restaurant" in the interpretation of these data (e.g. there may be a small number of restaurants in some jurisdictions that have been reclassified as bars).
[ii] The level of bylaw enforcement may vary by jurisdiction, which may have implications for the actual percentage of the population protected.
[iii] For complete details of municipalities with Gold and Silver smoke-free bylaws, as well as those passed but not yet implemented, go to the OTN Go For Gold website: http://www.theotn.org/GFG/GFGMaplow.pdf

Table 2: Bylaw Coverage of Ontario's Population: 2002, 2003, and those Passed but not Enacted

OTN Standard	% Population Covered as of December 2002	% Population Covered as of June 2003	% Population Covered by Bylaws Passed but not yet Enacted[a]
Gold[b]	14.64	20.20	8.24
Silver[c]	44.99	52.50[d]	0
Total	59.58	74.71	8.24

[a] Dates of implementation range from September 2003 to January 2006.
[b] 100% smoke-free bars and restaurants; designated smoking rooms (separately ventilated) not allowed; exemption of ONE category is allowed (bowling alleys, billiard halls, or bingo halls).
[c] 100% smoke-free restaurants; designated smoking rooms (separately ventilated) allowed; may exempt bars, bowling alleys, billiard halls or bingo halls.
[d] By 2006, 28 municipalities in this category, representing approximately 15% of this population, will upgrade their Silver smoke-free bylaw to Gold.

Source: Ontario Tobacco-free Network, June 2003; Statistics Canada 2001 Census.[15]

At the end of May 2002, Dr. Peter Sarsfield, Medical Officer of Health for the Northwestern Public Health Unit, announced that he would utilize the provisions of Ontario's *Health Promotion and Protection Act* to order businesses in the region[iv] to eliminate second-hand smoke from their premises.[16] In January 2003, all public indoor places, including workplaces, bingo halls, bowling alleys, bars and restaurants in the health unit's jurisdiction, including more than 2,500 businesses west of Thunder Bay, were ordered to become smoke-free under this health hazard notice. A six-member public health team was prepared to enforce the ban using local police if it became necessary. Fines could rise as high as $5,000 for each day a patron was allowed to smoke. This marked the first occasion that a Medical Officer of Health had attempted to issue such an order.[17] By mid-January 2003, four Kenora-area bar and restaurant owners had been charged and up to a dozen other businesses across the health unit's territory would later be charged for disobeying a health hazard notice. Shortly thereafter, the Health Services Appeal and Review Board (created from the Ministry of Health *Appeal and Review Boards Act*) suspended the ban while Dr. Sarsfield's authority to lay charges for infractions was being re-examined.[18]

The need to protect Ontarians from exposure to second-hand smoke was addressed at the *2002 Association of Municipalities of Ontario (AMO) Conference*. The delegates asked Health Minister Tony Clement to take the steps necessary to implement a province-wide ban on smoking in public places. Minister Clement said he would consider the request.[19]

Councillor Syd Gardiner of Cornwall was a supporter of a province-wide ban and subsequently urged the Minister to act on the AMO's request. Cornwall had been forced to implement its bylaw in stages, and the final 100% smoke-free bylaw came into effect in May 2003.[20]

[iv] The region includes the city of Kenora and 18 other cities.

In August 2002, Heather Crowe, a non-smoking waitress from Ottawa, began her precedent-setting case against the Workplace Safety and Insurance Board. Ms. Crowe developed lung cancer from second-hand smoke exposure at work and was seeking compensation for her cancer as a workplace injury. Crowe won her case in October, and began campaigning for smoke-free initiatives across the country, appearing in advertisements sponsored by Health Canada.

Heather Crowe, a non-smoking waitress from Ottawa, won her case against the Workplace Safety and Insurance Board, compensating for her lung cancer which developed from exposure to second-hand smoke at work.

In October 2002, the Ontario Tobacco-free Network, the Ontario Campaign for Action on Tobacco, and the OTS Media Network agreed to coordinate their efforts in providing funds for local bylaw activities. A committee consisting of members from all three organizations reviewed requests for funding that came from across the province.

Challenges to Municipal Bylaws

In May of 2002, injunctions were sought against a handful of restaurants not complying to the City of Ottawa's 100% non-smoking bylaw, which was implemented in August 2001.[21] In some cases, fines for non-compliant bars and restaurants were as high as $37,000 for repeated violations.[22] The Pub and Bar Coalition of Canada (PUBCO) campaigned by downplaying the hazards of environmental tobacco smoke, dismissing them as insignificant, while simultaneously emphasizing potential economic hardships for the hospitality industry. PUBCO also began to attract attention outside the Ottawa area by recruiting bar and restaurant owners across Ontario through aggressive media campaigns using professional spokespeople, in some cases lawyers, to make their case.[23] Despite efforts to encourage non-compliance, the bylaw was upheld on appeal.[24] However, it was necessary to publicly counter PUBCO's misinformation campaign with updated scientific information regarding the seriousness of the health consequences of exposure to second-hand smoke. A recent release of study findings by the Ontario Tobacco Research Unit found no negative economic impact from Ottawa's bylaw on the hospitality sector, either in licensed or unlicensed establishments.[25]

Despite efforts by PUBCO to encourage defiance, the City of Ottawa's 100% non-smoking bylaw was upheld on appeal.

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Ottawa's hospitality sector was found to have no negative economic impact associated with the implementation of their 100% smoke-free bylaw.

Brantford announced similar anecdotal findings regarding the lack of economic impact with respect to their non-smoking bylaw. It was reported in October 2002 that the city's no-smoking bylaw had no detrimental effects on the Brantford Charity Casino. In fact, they had received positive feedback from their non-smoking patrons.[26]

In September 2002, London had its bylaw struck down over the definition of the word "restaurant." This bylaw had allowed smoking in bars but not in restaurants. A loophole was exploited by restaurants who claimed that there was no clear definition of "bar" and "restaurant" in the bylaw. Two London restaurants appealed and won their case. This ruling only strengthened the push for a province-wide ban, along with the resolve of municipalities across Ontario to advocate for 100% local smoke-free bylaws with no exemptions.[27] On July 1, 2003, London successfully implemented its 100% smoke-free bylaw in all work and public places (OTN Gold Standard).[28]

Youth Issues and Activities

The Ontario Medical Association published a position statement in February 2002, entitled: *More Smoke and Mirrors: Tobacco Industry-Sponsored Youth Prevention Programs in the Context of Comprehensive Tobacco Control Programs in Canada*.[29] This paper critically analyzed tobacco industry programs aimed at youth and revealed that they are ineffective and detrimental. In letters sent to the three largest tobacco companies, the Ontario Medical Association and the Canadian Medical Association asked for termination of tobacco industry-sponsored programs aimed at youth currently running, or being pilot tested, across the country.[30,31]

In August 2002, the Lung Association's Youth Tobacco Team presented its first annual report to the Ontario Ministry of Health and Long-Term Care offering strong recommendations to curb tobacco use among youth. Specific recommendations were made in the following key areas: youth access, taxation, marketing, smoking restrictions, education, mass media, quitting, and youth involvement.[32]

Other Provincial Activities

In March, the *Ontario Tobacco Control Conference 2002 – Programs, Progress & Promise* was held in Toronto. Tobacco control researchers, practitioners, and policy makers from across the province participated in the conference and reported it to be a success in meeting its objectives,[33] which were:

- to review 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 tobacco profile on the agenda of health intermediaries, government, and the media;
- to establish a link between research, program, and policy; and
- to strengthen the tobacco control network in Ontario.[34]

At the end of May 2002, Cancer Care Ontario released a report entitled *Tobacco or Health in Ontario* highlighting the current tobacco epidemic facing Ontarians.[35] Focusing on tobacco-attributed disease and deaths over the past 50 years and the next 50, the report provided a quantitative look at the trends, mortality rates, survival rates, geographic patterns, costs and forecasts of tobacco-related deaths.[36] The report also examined the link between cigarette prices and smoking and detailed the effects of three different price increase scenarios upon premature mortality (10%, 25%, and 50% per pack). All three scenarios showed clear benefits in terms of the number of lives saved.[37]

The *Northeastern Ontario Tobacco Summit* took place in June 2002, at Nipissing University and Canadore College in North Bay. This innovative event addressed the tobacco control concerns of communities in northeastern Ontario. It included representation from the anglophone, francophone, and

aboriginal communities, as well as different sectors including business owners and municipal leaders, health professionals, researchers, teachers, lawyers and students. It was a successful initiative encouraging dialogue between these groups on the subject of tobacco.[38]

Responding to the lack of progress by the province of Ontario in several areas of tobacco control, the Ontario Campaign for Action on Tobacco (OCAT) publicly released a report card in October 2002, giving the province borderline or failing grades in almost every area.[39] The report card indicated that the Ontario government had:

- failed to raise taxes high enough, even with Federal cooperation, and had not dedicated appropriate tax revenues for stop-smoking programs;
- failed to ensure 100% smoke-free workplaces and public places by implementing a province-wide ban and providing funds for municipalities to enforce these bans;
- failed to engage in cost recovery litigation to hold the tobacco industry accountable for health care costs incurred from the industry's effort to deny the health effects of smoking; and
- failed to ban retail tobacco displays in Ontario as the provincial Governments of Saskatchewan and Manitoba had already done.

Over the 2002-2003 fiscal year, $1.2 million of OTS funding was allocated to local tobacco control activities as part of the strategy's community grant program. Further, $9 million was dedicated to fund a number of province-wide initiatives (see Table 3) that aim to meet a variety of objectives in tobacco control: protection, prevention, cessation, industry denormalization, and changing social norms (see Table 4). An in-depth discussion and evaluation of these projects will follow in this year's *Monitoring and Evaluation Series, OTS Project Evaluations: A Coordinated Review.*

Table 3: OTS Province-Wide Projects in 2002-2003

Main Strategy Project	Description/Objectives	Target Population
Public Education		
Aboriginal Tobacco Strategy	Engages Aboriginal communities and their leaders in the development and delivery of community education and cessation support.	Aboriginal people, particularly those living on reserves
Mass Media Campaign	Provides media coverage to produce positive changes in attitudes and smoking behaviour; supports other community-based and province-wide tobacco control initiatives.	Ontarians who view tobacco products as socially acceptable to some degree
TeenNet	Creates, promotes and refines web-based approaches to deliver smoking cessation and prevention programming to youth.	Youth between 12-19 years old
Assistance to Smokers		
Leave the Pack Behind	Engages post-secondary students in a range of initiatives focussing on cessation services and information about the health risks associated with smoking and exposure to ETS.	Post-secondary students who smoke or are at risk of smoking
Quit Smoking Contest	Provides adult smokers with an incentive to quit smoking, engaging local councils and health units in contest promotion and registration.	Adult smokers
Telephone Helpline for Smokers	Offers and promotes a toll-free helpline to provide smoking cessation materials and assistance to adult smokers and influential members in their social networks.	Adult smokers
Infrastructure Development		
Clinical Tobacco Intervention	Trains physicians, dentists and pharmacists to promote the incorporation of cessation counselling into daily practice.	Physicians, pharmacists and dentists
Lungs are for Life	Encourages educators to use, and provides them with, classroom curriculum to prevent tobacco use among youth.	Public health professionals and teachers (K-10)
Media Network	Works to enhance local and province-wide media coverage on tobacco control issues in Ontario, supports local media campaigns, and provides information to the news media.	Tobacco-free coalitions, public health units, Canadian Cancer Society, Ontario Lung Association, Heart and Stroke Foundation Ontario community offices, volunteers
Ontario Lung Association – Youth Initiatives	Encourages youth to engage in tobacco control initiatives and advocacy, increasing their awareness regarding the health effects of smoking and tobacco industry practices.	Youth between 10-19 years old and youth workers
Ontario Tobacco-free Network	Supports Ontario communities to implement local smoke-free bylaw initiatives and other tobacco control activities, including participation in National Non-Smoking Week.	Tobacco-free coalitions, public health units, CCS, OLA, HSFO community offices, volunteers
Youth Vortal	A website housing tobacco information targeting youth. Focused on promoting additional organizations and users to link to the Vortal.	Youth between 10-19 years old and youth workers
Evaluation and Other Research		
Best Practices	A research initiative examining OTS renewal projects to identify and recommend effective programs, as well as guide future efforts, and adapt resources for special populations.	MOHLTC, other agencies funding and implementing tobacco control
Ontario Tobacco Research Unit (OTRU)	Performs and disseminates tobacco control research, and monitoring and evaluation of the OTS.	MOHLTC, other agencies funding and implementing tobacco control

Table 4: Goals Addressed by OTS Province-Wide Projects in 2002-2003

	Tobacco Control Goals[a]				
Main Strategy[b] Project	Protection	Prevention	Cessation	Industry Denormal-ization	Social Norm Change
Public Education					
Aboriginal Tobacco Strategy		●	●		●
Mass Media Campaign					■
TeenNet		●	●	●	
Assistance to Smokers					
Leave the Pack Behind	◆	◆	■	◆	
Quit Smoking Contest			■		
Telephone Helpline for Smokers			■		
Infrastructure Development					
Clinical Tobacco Intervention			■		
Lungs are for Life		■			
Media Network	●	●	◆	●	
Ontario Lung Association – Youth Initiatives		●		●	
Ontario Tobacco-free Network	■	◆	◆	◆	
Youth Vortal		■	◆	◆	

◆ = minor focus (0-24% of effort)
● = moderate focus (25-59% of effort)
■ = major focus (60-100% of effort)

[a] In addition to the familiar OTS goals of Prevention, Protection and Cessation, we have followed the lead of the OTS Steering Committee to list denormalization as a goal, and have distinguished between Industry Denormalization and Social Norm Change.
[b] Due to the cross-cutting nature of Evaluation and Other Research projects, Best Practices and OTRU have been omitted from this table.

FEDERAL TOBACCO CONTROL HIGHLIGHTS

Policy

Federal funding for tobacco control, which was to be $71 million in 2002, was cut by more than $13 million or 18%. In contrast, Canadian tobacco companies surpassed $300 million on their promotional activities in 2002.

In March 2002, a number of fiscal and legislative challenges emerged, concurrent with the change in federal health ministers. Less than two years after Minister Allan Rock had announced a "sustained" multi-million dollar strategy for tobacco control, Health Canada, now under Minister Anne McLellan, began to cut funding for the program. In January 2003, the program, which was to receive $71 million in the current fiscal year, saw its funding cut by more than 18% or $13 million. The money was reallocated to other programs within the department that focus on environmental safety, and air and water quality.[40] In contrast, the Canadian tobacco companies increased their promotional expenditures. In June 2003, Minister McLellan released information revealing that the tobacco industry spent more than $300 million on their promotional activities in both the 2001 and 2002 calendar years.[41]

In addition, the federal government's plan to ban "light" and "mild" labels from cigarette packages was delayed because the new Health Minister had not yet decided whether to proceed with the action.[42] On the occasion of *National Non-Smoking Week*, January 20-26, 2003, Canadian health groups called on the federal government to make the necessary legislative and policy changes needed to reduce the death and disease caused by tobacco industry products. Physicians for a Smoke-Free Canada and the Non-Smokers' Rights Association made a particular plea to Health Minister McLellan to follow through with critical initiatives started by her predecessor, including a ban on deceptive tobacco packaging and regulations that would curb the hidden promotion of cigarettes in thousands of retail outlets across Canada.[43]

The Ministerial Council met only once in 2002. In August, it approved a report *Challenging Conventional Wisdom on Youth Access to Tobacco: Redefining Youth Access Interventions*, which was then submitted to Canada's Minister of Health. The report recommended that the prohibition of sales to minors be maintained, and the law enforced, but Health Canada's efforts should focus on two new goals: 1) to communicate to young people and adults that tobacco products are exceptionally hazardous and highly addictive, and 2) to build public perceptions that it is unacceptable to contribute in any way to addicting people to tobacco.[44] The report contained six specific recommendations in support of these goals. As of June 2003, there is no evidence that Health Canada is implementing these recommendations. The council also reinforced its previous recommendation to the Minister that tobacco industry denormalization should be a key underpinning of Health Canada's tobacco control programs, in particular, the mass media program.[45]

In November, Canada lost a US Supreme Court case against R.J. Reynolds Tobacco Co. and its affiliates. The suit, filed in 1999, contended that tobacco manufacturers and related companies set up an elaborate network of smugglers to flood Canada with black market cigarettes after the government doubled taxes on tobacco in 1991. Canada filed the lawsuit under the *Racketeer*

Influenced and Corrupt Organizations (RICO) Act, which offers successful plaintiffs triple damages, and is aimed primarily at fighting organized crime. In October 2001, a panel of the 2nd US Circuit Court of Appeals in New York ruled 2-1 that the law could not be used by a foreign country to recover taxes. The US Supreme Court upheld that decision by refusing to reinstate the case.[46]

In 2002, the Canadian tobacco companies failed in their attempt to overturn the federal *Tobacco Act*.[v, 47] During a hearing in January 2002, the industry argued that sections of the federal *Tobacco Act* violate the *Canadian Charter of Rights'* guarantee of freedom of expression by effectively banning all advertising and promotional activities. The manufacturers suggested that the restrictions went beyond what was necessary to protect public health. However, on December 13, 2002, Québec Superior Court Judge André Denis upheld the *Tobacco Act*, as well as regulations under the act that mandate picture-based health warnings on cigarette packs and require manufacturers to provide extensive reports on product ingredients, emissions, marketing activities, and research.[48] In his ruling Justice André Denis noted that cigarettes kill 45,000 Canadians a year.[49]

The Canadian tobacco companies failed in their attempt to overturn the federal Tobacco Act.

Less than one month after the judgment, Canada's three largest tobacco manufacturers filed an appeal with the Court. Rothmans, Benson & Hedges Inc., Imperial Tobacco Canada Limited, and JTI-Macdonald Corporation argued that the December 13th decision failed to address several essential constitutional issues and contained numerous factual errors.[50]

Programs

In October 2002, Health Canada launched a new campaign designed to raise awareness of second-hand smoke. The campaign featured a combination of television, transit, and cinema advertisements that focused on second-hand smoke in the workplace. The ads told the story of Heather Crowe, the 57 year-old Ottawa waitress who never smoked, and is now dying from lung cancer as a result of her exposure to second-hand smoke.[51]

In October 2002, Health Canada launched a new campaign designed to raise awareness around the issue of second-hand smoke. The campaign featured a combination of television, transit, and cinema advertisements that focused on second-hand smoke in the workplace.

In December, the Federal Tobacco Control Program hosted the *Third National Conference on Tobacco or Health: Science and Policy in Action*. Conference attendees included advocates, practitioners, and researchers from across the country.[52] At the conference, Health Canada showcased, among other things, *Smoke-Free Public Places: You Can Get There*, a new manual designed to help people in communities, including municipal officials, make their communities healthier. Health Canada and the Federation of Canadian Municipalities are investigating how this manual is used, and what can be done to make it even more responsive to community partners' needs as they develop and implement non-smoking bylaws. Participating municipalities were provided with $8,000 – $14,000 and several copies of the resource.[53]

[v] Historically, the 1988 *Tobacco Products Control Act*, containing a complete advertising ban, was overturned in September 1995 following a 5-4 Supreme Court judgment. Following this, the federal *Tobacco Act (Bill C-71)*, which severely restricts advertising media and types of advertisements that can be used to promote tobacco brands, was passed by Parliament in 1997. The tobacco industry immediately went to court to challenge the new Act, leading to a marathon five-year legal battle, which continues.

OTHER PROVINCIAL AND TERRITORIAL TOBACCO CONTROL HIGHLIGHTS

British Columbia

Workers' Compensation Board ban on smoking in all pubs and restaurants was delayed while the province reviewed the issue. In its place, the provincial Liberal government introduced a "compromise" policy.

The Workers' Compensation Board ban on smoking in all pubs and restaurants in British Columbia was originally scheduled for implementation in September 2001, but it was delayed while the province reviewed the issue. In its place, the provincial Liberal government introduced a "compromise" policy, allowing restaurant and pub owners to set up smoking areas in their establishments as long as the area was fitted with a ventilation system.[54] The compromise position states that ventilation must be designed to protect pub and restaurant workers from second-hand smoke (despite the recognition within the health community that no system can do this). In order to address concerns about worker safety and the effectiveness of ventilation, the government is expected to bring in a new rule that will give workers the right to refuse to enter smoking areas. Municipalities will still have the right to establish their own smoking bans within their boundaries.[55]

Following the decision on the provincial smoking ban, the Government of British Columbia announced an $8 per carton increase in tobacco taxes on February 19, 2002. This brought the total average cost of a carton of cigarettes to $62 ($67.78 as of December 2002, Figure 1), the highest price in Canada at the time. British Columbia also has the lowest smoking prevalence rate in Canada.[56]

Alberta

Alberta implements the largest tobacco tax hike in Canadian history, increasing tobacco prices by $18 per carton and by $24 per can of loose tobacco. Subsequently, overall consumption fell by 14%.

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Alberta ranks first in per capita funding among the provinces at $3.79.

In late March 2002, Alberta implemented the largest tobacco tax hike in Canadian history, increasing tobacco prices by $18 per carton of 200 cigarettes and by $24 per can of 200 grams of loose tobacco.[57] This new tax generated an estimated $281 million per year for the provincial government. Of that amount, $9 million went to smoking cessation efforts, whereas $2 million was earmarked to combat smuggling.[58]

Based on published economic formulas, Action on Smoking and Health projected that about 40,000 Alberta smokers would quit smoking as the result of the tax increase, estimated as the equivalent of 20,000 premature deaths avoided.[59] The increase was expected to reduce adult per capita consumption by at least 10% and youth consumption by 20% to 40%.[60] Figures released in 2003 supported these estimates, with overall consumption in Alberta falling by 14%.[61]

Also in March, Alberta Health and Wellness Minister Gary Mar announced the *Alberta Tobacco Reduction Strategy* – giving the Alberta Alcohol and Drug Abuse Commission the mandate to lead and coordinate tobacco reduction efforts on behalf of the Government of Alberta.[62] The purpose of the strategy, to improve the wellness of Albertans and to decrease health care costs, will be accomplished by a variety programs that encourage people not to smoke.

Although this was good news for Albertans, Premier Ralph Klein diminished hope for a provincial ban on smoking in public places, arguing that such a policy would be unfair to businesses and people addicted to cigarettes. The Premier said businesses should be encouraged to have smoking and non-smoking sections.[63]

Saskatchewan

Tobacco taxes were increased in Saskatchewan's March 2002 annual budget, bringing cigarette prices in line with Alberta's. Saskatchewan's average price of $67.63 per carton of cigarettes ($73.85 as of December 2002, Figure 1) positioned it as the highest in Canada.[64]

Saskatchewan's groundbreaking *Tobacco Control Act* came into effect in March 2002. Upon its implementation, retail outlets could post only provincial or federal signage warning that it is illegal to sell tobacco to youth less than 18 years of age, thereby effectively outlawing tobacco industry signage such as Operation ID. The law also banned the display of tobacco products in retail establishments accessible to youth across the province.[65]

Rothmans, Benson & Hedges attempted to overturn Saskatchewan's new tobacco act. The lawsuit was filed in May 2002 and was heard in Saskatoon in June, wherein Rothmans, Benson & Hedges asked the judge to throw out the legislation without a trial. However, in his September 25th decision, Judge Barclay dismissed their legal challenge and upheld Saskatchewan's *Tobacco Control Act*.[66] As expected, Rothmans, Benson & Hedges is continuing its fight by appealing this court decision.[67,68]

Saskatchewan's average price of $67.63 per carton of cigarettes positioned it as the highest in Canada.

✧

Retail outlets in Saskatchewan and Manitoba can post only provincial or federal signage warning that it is illegal to sell tobacco to youth, effectively outlawing tobacco industry signage such as Operation ID.

✧

Saskatchewan and Manitoba banned the display of tobacco products in retail establishments accessible to youth.

Manitoba

As an incentive for smokers to quit, and to prevent young people from starting to smoke, Manitoba raised tobacco taxes in its province in April 2002, from 9.6¢ to 14.5¢ per cigarette. This translated to an increase of $9.80 per carton, bringing the total cost per carton to $64.81 ($71.08 as of December 2002, Figure 1). This increase was in line with increases in British Columbia, Alberta and Saskatchewan.[69]

In August of 2002, the *Non-Smokers Health Protection Amendment Act*, which banned the display of tobacco product displays, similar to Saskatchewan's ban, was passed. The tough legislation prohibits the display of advertising and the promotion of tobacco control products in places where children are allowed.[70]

Manitoba tobacco tax hike translated to an increase of $9.80 per carton, bringing the total cost per carton to $64.81. This increase was in line with increases in British Columbia, Alberta and Saskatchewan.

Québec

In May 2002, the Government of Québec received one of the Pan-American Health Organization's World No-Tobacco Day Awards. Québec was honoured for becoming, in 1998, the first jurisdiction in the Americas to eliminate the promotion of tobacco products and brand names through sponsorships, including sponsorships of sports facilities or events.[71]

Then, in June 2002, Québec increased tobacco taxes by $5.00 per carton of 200 cigarettes, $5.00 per 200 tobacco sticks and $5.00 per 200 grams of fine cut tobacco. This is expected to raise approximately $185 million in 2002-2003 and $235 million over the course of a full year. In addition, tobacco control efforts will be reinforced with the investment of $5 million this year and $10 million in the next fiscal year. With this additional support, Québec now has among the highest per capita tobacco control funding rates in Canada. Prior to this June tax hike, funding for tobacco control in Québec stood at $15 million or $2.02 per capita, however, funding now reaches the $20 million mark or $2.69 per capita (this does not include nicotine replacement therapy reimbursed under the *Québec Drug Insurance Plan*).[72]

Québec now has among the highest per capita tobacco control funding rates in Canada at $2.69 per capita ($20 million).

✧

Bupropion and nicotine replacement therapies are eligible for reimbursement under Québec's Drug Insurance Plan.

✧

Loto-Québec casinos are smoke-free as of July 2003.

The province of Québec also hosted the *First International Francophone Conference on Tobacco Control* (*Première Conférence internationale francophone sur le contrôle du tabac*) in September of 2002.[73] On the last day of the conference, a declaration was released, calling for:

- ending every form of promotion, direct and indirect including sponsorship;
- making tobacco less accessible by increasing taxes and getting a grip on smuggling;
- protecting non-smokers from any exposure to tobacco smoke;
- supporting quitting attempts and making nicotine replacement therapy and other forms of cessation support readily available; and
- informing the public of the content of tobacco products and its effects.[74]

Loto-Québec, the government agency in charge of operating the province's gaming industry, has decided that its casinos will be smoke-free as of July 1, 2003. The ban is now in effect at the Casino de Charlevoix, Casino du Lac-Leamy, and the Casino de Montréal.[75, 76]

New Brunswick

In May 2002, there were reports that New Brunswick was considering a lawsuit against tobacco companies to offset the health-care costs caused by smoking. The story indicated that New Brunswick pays $300 million every year in health costs related directly and indirectly to tobacco use.[77]

In November, the province made it clear that it did not intend to follow the lead of its capital city by banning smoking in all eating and drinking spots, bingo halls and pool parlours. Using the same argument as his Ontario counterpart, Health Minister Elvy Robichaud said it was up to individual municipalities to set their own policies on smoking prohibitions.[78]

In December 2002, New Brunswick raised tobacco taxes by $5.00 per carton of 200 cigarettes. The tax hike also included sticks and fine-cut tobacco. This was in keeping with earlier tobacco tax increases in other provinces, including Prince Edward Island, Newfoundland, and Nova Scotia.[79]

Nova Scotia

Nova Scotia now has province-wide anti-smoking legislation, after its legislature introduced a new law that focuses directly on children. The law, *An Act to Protect Young Persons and Other Persons from Tobacco Smoke*, bans smoking in most public places and workplaces, including schools, malls, taxis, theatres, and recreational facilities. The law, which received Royal Assent on May 30, 2002, also bans smoking in restaurants, bars and bingo halls where youth are present, except in designated smoking rooms that are enclosed and separately ventilated. Anyone caught smoking in a banned area faces a fine of up to $2000. One of the key and controversial aspects of the law is the ban on possession of cigarettes by minors. The new law came into effect January 1, 2003.[80, 81]

Nova Scotia's Act to Protect Young Persons and Other Persons from Tobacco Smoke, bans smoking in most public places and workplaces, including schools, malls, taxis, theatres and recreational facilities.

On April 4, 2002, the Nova Scotia government increased tobacco taxes by $5.00 per carton of 200 cigarettes, bringing the provincial tax on a carton of cigarettes to $21.04. The tax for cigarette sticks was raised by $7.86 for 200, and fine-cut tobacco by $7.06 per 200 grams. Nova Scotia expects an additional $23.6 million in tobacco tax revenue, for a total of $138.5 million in the 2002-03 fiscal year.[82]

By January 8, 2003, the Nova Scotia government had raised its tobacco taxes on a carton of cigarettes by another $5. This brought the average price of a carton to $67.55 (December 2002 price was $62.55, Figure 1), the second highest in the Maritime Provinces and $13 above the average in Ontario.[83]

Prince Edward Island

In May 2002, Prince Edward Island was considering a smoking ban that would prohibit smokers from lighting up anywhere the public gathers on the island. Bill 11, the *Smoke-free Places Act*, received Royal Assent on December 18, 2002, and was implemented June 1, 2003.[84, 85] The policy outlaws smoking not only in the malls, restaurants, and office buildings that are the usual focus of smoking bans, but also in public parks, the waterfront and even busy streets.[86] The ban makes some exceptions for businesses such as bars and restaurants. Under the legislation, they have the option to set aside smoking areas that would have to be walled away from the general premises and equipped with negative pressure ventilation. Customers can carry their food and drinks into these designated smoking rooms; however, in order to protect food service staff from exposure to second-hand smoke, customers will not receive any staff service there.

Newfoundland and Labrador

Newfoundland became the first province to impose a ban on smoking in restaurants that sell food and alcohol while youth are in the building, as well as other public places frequented by children.

On New Year's Day 2002, Newfoundland and Labrador became the first province to impose a ban on smoking in restaurants and other public places frequented by children. The ban includes common areas of hotels, motels, and convention centres, passenger terminals, malls, and restaurants that don't sell alcohol. Smoking is banned in any establishment that sells food and alcohol while youth under 19 years of age are in the building.[87]

In order to reduce smoking, particularly by young people, the government announced a tobacco tax hike and a renewed commitment to the provincial tobacco reduction strategy on March 21, 2002. The tobacco tax increased by 3.7¢ per gram on fine cut tobacco and by 2.5¢ per manufactured cigarette. This change will mean an increase in tobacco tax of $7.34 on a 200 gram tin of fine cut tobacco and $5.00 on a carton of manufactured cigarettes. This brought the cost of a carton of 200 cigarettes to $62.33 ($69.40 as of December 2002, Figure 1) in the province, except in areas of Labrador bordering Québec, where prices are lower to combat cross-border shopping into Québec where a carton costs $43.82 ($55.05 as of December 2002, Figure 1).[88]

In October 2002, the Government of Newfoundland and Labrador hired a United States law firm in anticipation of a court fight with the tobacco industry over who should pay for health costs related to smoking. The law firm Humphrey, Farrington, McClain and Edgar of Independence, Missouri, has confirmed it would take on the province's case through a contingency fee arrangement. The firm will be paid a 30% share of any settlement or court award. In November 1998, the firm was involved in a landmark case that resulted in tobacco companies agreeing to pay US$206 billion in tobacco-related claims to eight States.[89]

Northwest Territories

In April 2002, tobacco taxes also increased in the Northwest Territories where the new tax rate represents an increase of 75¢ for a pack of 25 cigarettes, resulting in a price per carton of cigarettes of $65.32 ($71.21 as of December 2002, Figure 1). Smoking was, and still is, a major public health problem in the Northwest Territories. At 34%, the smoking rate among adolescents in the Northwest Territories is twice the national rate.[90]

Yukon

A boost to tobacco control in the Yukon came when Larry Bagnell, Member of Parliament for the Yukon Territory announced that the Government of Canada was going to contribute in excess of $686,000 over three years to the Yukon's Department of Health and Social Services for a mass media campaign to increase smoking cessation rates in the Yukon. The mass media campaign is to include radio, print, cinema slides, local cable rolling ads, and direct mail-out.[91]

Nunavut

With the release of the 2002 budget, the Government of Nunavut also introduced a 75¢ increase per pack of cigarettes (or $6 per carton). This followed an identical increase in neighbouring Northwest Territories as both a fiscal and health measure.[92]

INTERNATIONAL TOBACCO CONTROL HIGHLIGHTS

WHO - Framework Convention on Tobacco Control

On July 16, 2002, after several rounds of negotiations, the World Health Organization (WHO) released the draft of a treaty text that provided the basis for the final stage of negotiations for a Framework Convention on Tobacco Control.[93]

The release of this document led to the final round of treaty negotiations taking place in Geneva under the auspices of the WHO. In response to actions taken by the United States delegation to weaken nearly every provision of the international treaty, the American Non-Governmental Organizations called on the United States government to withdraw from the negotiations rather than continue to undermine the efforts of the rest of the world to adopt a strong treaty.[94]

Shortly thereafter, the WHO finalized the text of the Framework Convention on Tobacco Control, but some nations, including the United States and Germany, said they would not adopt the treaty in its current form.[95] Despite this, in May 2003, the United States announced that it would support the treaty and not call for alterations to the text; however, no commitment has yet been given to sign the treaty.[96] The Framework Convention on Tobacco Control was approved in May 2003 by the 192 members of the WHO and opened for signatures in June 2003.[97] If 40 nations vote in favour, then it will officially go into effect in the countries where it has been approved. If adopted in its current form, the treaty would require:

The WHO released the final stage of negotiations for a Framework Convention on Tobacco Control. This treaty was accepted in May 2003, and if 40 nations vote in favour, will officially go into effect in the countries where it has been approved.

- a ban on advertising and promotion of tobacco products, where constitutional;
- high taxes on tobacco products;
- a listing of all ingredients in cigarettes;
- warning labels that cover at least 30% of the package;
- a ban on terms like “light” and “mild”;
- anti-smuggling efforts; and
- enactment of strict indoor air laws.[98]

WHO and PAHO Surveys and Reports

During the summer of 2002 the results of the Global Youth Tobacco Survey (GYTS) for the Americas were published. The survey was developed by the Tobacco Free Initiative of the World Health Organization (WHO), in collaboration with the Office on Smoking and Health of the United States’ Centers for Disease Control and Prevention. The Pan American Health Organization (PAHO) assisted in the survey’s application in Latin America and the English-speaking Caribbean. The objective of the survey was to measure: prevalence of tobacco use, exposure to environmental tobacco smoke, knowledge and attitudes, and factors that make youth susceptible to

tobacco use. Since 1999-2001, information has been gathered from 23 countries (Canada has not participated in the GTYS).[99]

In the Region of the Americas, the GTYS found that:

- in some countries, 40% of adolescents smoke;
- more than half have attempted to quit smoking without success;
- adolescents are massively subjected to tobacco advertising;
- all countries lack compliance with legislation on minors' access to tobacco; and
- the majority of young people involuntarily breathe second hand smoke. [100]

The WHO released its 2002 annual *World Health Report* in October. For the first time, the report tried to rank the major threats to health worldwide.[101] Tobacco ranked fourth worldwide behind malnutrition, unsafe sex, and high blood pressure. In more affluent countries, tobacco was ranked the number one killer, while in developing countries with low mortality tobacco was ranked 3rd behind alcohol and blood pressure, and 9th in developing countries with high mortality.[102] Further, the report suggests that a large proportion of the tobacco burden is beginning to shift to the developing world.[103]

On December 17, 2002, PAHO released the report entitled *Profits Over People: Tobacco Industry Activities to Market Cigarettes and Undermine Public Health in Latin America and the Caribbean*. This report argued that transnational tobacco companies have for years engaged in comprehensive campaigns to deceive the public about their marketing activities in Latin America and also sought to deny the harmful effects of second-hand smoke; that the companies also demonstrated active involvement in the smuggling of their products; and that these campaigns were designed to delay or avoid tobacco marketing restrictions and limits on public smoking, a common tobacco industry practice. The report was the result of over a year of investigation by a team of researchers who delved into more than 10,000 pages of internal tobacco company documents.[104]

European Union

Legislation

A directive to ban tobacco advertising has been agreed upon by the European Council of Health Ministers and the European Parliament. This new directive replaced an earlier law that was annulled following a legal challenge by Imperial Tobacco, British American Tobacco, and the German government. The European Commission had introduced the original legislation under single-market rules intended to facilitate the free movement of goods within the European Union.[vi] The European Court of Justice subsequently upheld the challenge on the grounds that the ban did not facilitate trade in the single

[vi] Directive 2001/37/EC was to require new larger warnings on packs - 30% on one side and 40% on the other for countries with one language, but 35% and 50% for countries with three languages.

market. In its decision, however, the Court acknowledged that advertising does cross national boundaries, and that legislation prohibiting this type of advertising would be within the jurisdiction of the European Union.[105]

Taking into account the European Court ruling, the new directive covers advertising that crosses national borders (such as radio or internet advertising) and sponsorship of sport, but does not apply to indirect advertising (brand-sharing) or advertising within member states (e.g. billboards). However, member states are at liberty to implement legislation that places even tighter restrictions on advertising than the directive requires. Member states will be required to bring in regulations to fully implement the directive by July 2005.[106] Tobacco advertising on television is banned in the European Union by a separate law, the *Television without Frontiers Directive*, which also prohibits the sponsorship of television programs by tobacco companies.[107]

Court Cases and Lawsuits

On February 19, 2002, the New York District Court refused to admit a suit brought against United States tobacco companies by the European Commission. The Commission alleges that American tobacco companies are involved in smuggling cigarettes, causing a loss of customs and tax revenue in Europe, estimated to be several hundred million euros every year.[108] Similar to the Canadian lawsuit filed under the *Racketeer Influenced and Corrupt Organizations (RICO) Act*, it was ruled that public revenue lost in other countries could not be recovered through a US court under the RICO legislation.[109]

Similar to a Canadian lawsuit filed under the RICO Act, a New York District Court refused to admit a suit brought against US tobacco companies by the European Commission, ruling that public revenue lost in other Countries could not be recovered through a US court under this legislation.

On March 20, 2002, the European Commission decided to appeal the district court ruling. The Commission's appeal has been supported by a number of organizations including the World Health Organization and two US organizations, the Campaign for Tobacco-Free Kids and the Federal Law Enforcement Officers Association.[110]

Seven months later, in October 2002, the European Union also filed a civil money-laundering action against R.J. Reynolds in New York Federal Court. The main purpose of this complaint is to obtain injunctive relief, to stop R.J. Reynolds from the alleged laundering of proceeds from illegal activities. In addition, the complaint should provide the European Union the opportunity to seek compensation for economic and other losses they, or its ten Member States, have sustained in the past resulting from the defendants' alleged money-laundering activities.[111]

Tobacco Control in the United States

Since the 1998 *Master Settlement Agreement* between 46 states and US tobacco manufacturers, the Campaign for Tobacco-Free Kids has issued regular reports assessing whether states are keeping their promise to use a significant portion of the settlement funds (expected to total $246 billion over 25 years) to tackle the public health problems caused by tobacco products.[112] The latest report indicates that in addition to their tobacco settlement payments, US

states are collecting more in tobacco taxes than ever before. Indeed, 21 states and the District of Columbia increased their cigarette taxes in 2002. Despite collecting more tobacco money, the states cut funding for tobacco prevention and cessation programs by $86.2 million, or 11.2%.[113] The deepest cuts to tobacco control programs occurred in states with some of the oldest and most successful tobacco prevention programs, including California, where tobacco prevention funding was cut by 34.3%. The most dramatic decline in tobacco control expenditure took place in the state of Massachusetts. Then State Governor Jane Swift vetoed, on multiple occasions, a large portion of the Massachusetts Tobacco Control Program's funding. For the fiscal year 2003, the program is funded at only $4.8 million, a 90 percent cut from the $48 million initially allocated in the 2002 fiscal year.

However, many states made the decision to maintain or even increase tobacco program funding despite facing large budget deficits. Altogether 20 states increased funding for tobacco prevention, while 13 states cut funding. States that have emerged as new leaders in tobacco prevention in the United States include Indiana, Maine, Maryland, Minnesota, Mississippi, and New Jersey.[114]

Tobacco Industry Activities

Ontario Activities

As previously mentioned, the tobacco industry spent more than $300 million on promotional activities during 2002, compared to the $19 million in Ontario tobacco control efforts and the $58 million allocated by the federal government in the current fiscal year.[115] Further, the tobacco industry continues to sponsor anti-smoking programs aimed at youth. These programs are ineffective for prevention and are actually designed to market cigarettes to youth.[116,117] Researchers from the American Public Health Association reported similar findings. Specifically, the analysis of industry documentation revealed that their youth prevention programs promote the tobacco industry rather than reduce youth smoking.[118]

Simon Potter, the prominent Montreal lawyer and lobbyist, whose clients include Imperial Tobacco, became president of the Canadian Bar Association in August 2002.[119] Until recently, Potter represented Imperial Tobacco in its legal challenge of federal tobacco advertising rules. Potter is listed in Ottawa's lobbyist database as a lobbyist for Imperial Tobacco and the Canadian Tobacco Manufacturers' Council.[120]

In November 2002, the Ontario Flue-Cured Tobacco Growers Marketing Board had released a report by KPMG warning of the possible collapse of tobacco farming in Ontario, arguing that increasing tobacco taxes were destroying the industry and their profits. They emphasized that the industry pumped $500 million a year into Norfolk, Brant, Elgin and Oxford counties and employed 14,000 people. [121] Tobacco control experts pointed out that the

health care costs and lost time due to illness had been estimated at $3.7 billion a year and that almost 1/2 million Ontarians had died because of tobacco since 1950.[122]

International Activities

Aside from the expected appeals to the many cases it faces, the most notable move on the part of Philip Morris Companies Inc., was its name change to Altria Group Inc. (Philip Morris' brands include Marlboro cigarettes, Kraft Macaroni & Cheese and Maxwell House coffee). The New York-based company, which proposed the new name in November 2001, said it wanted the parent company's name to better reflect the difference between the parent company and the operating units. The operating companies' names (Philip Morris USA and Philip Morris International, as well as Kraft Foods Inc.) did not change. This was viewed by many as a conscious attempt by the tobacco giant to improve its public image.[123]

In a damages case by a victim of lung cancer, the Australian Supreme Court Justice struck down British American Tobacco's defense after it was revealed that they deliberately destroyed thousands of internal documents on the advice of its Australian solicitors.[124] This ruling awarded over $700,000 (Australian currency) in damages to the dying smoker.[125] This was expected to have a far-reaching impact on tobacco companies in Australia and overseas. However, the Victorian Court of Appeal in Australia overturned the earlier ruling in December on the grounds of an unfair trial.

The Campaign for Tobacco-Free Kids *Action Fund* revealed that the tobacco industry had contributed more than US$8.4 million in contributions to federal candidates, political parties and political committees in the United States for the 2001-2002 election cycle (January 1, 2001 to December 31, 2002). The report also detailed how political contributions correlated with lawmakers' support for legislation, favoured by the tobacco industry and opposed by the health community, to weaken the US Food and Drug Administration's regulation of tobacco products.[126]

CONCLUSION

Significant developments took place in Ontario during 2002. Salient among these was the continued progress by local communities in passing and implementing smoke-free bylaws. An increasing number of Ontarians are now protected from the harmful effects of environmental tobacco smoke in public places, as suggested by Table 2.[127] These developments were also accompanied by renewed demands that the province enact and implement a province-wide ban on smoking in workplaces and public places.

A number of challenges for tobacco control were experienced in Ontario over the reporting period. These included a lack of hoped-for provincial action in a number of key areas such as significantly higher tobacco prices, increased investments in comprehensive tobacco control programming, and effective province-wide tobacco control legislation. Tobacco industry supporters also continued their attempt to discredit effective tobacco control programs and policies through campaigns of misinformation.

In addition, per capita funding in Ontario continues to fall well short of the minimum levels recommended by the US Centers for Disease Control and Prevention, and trails levels in Alberta and Québec. At current price levels, the province is encouraging cigarette consumption by having the lowest cigarette prices in Canada and among the lowest in North America. During 2002, a number of other Canadian provinces instituted significant tax increases on tobacco products and made important legislative gains. The latter included province-wide workplace and public place smoking restrictions, bans on retail tobacco product displays, and a provincial drug plan that provides reimbursement for bupropion and nicotine replacement therapies. These policy developments have set an example for the province of Ontario.

With political will, Ontario has the opportunity to reclaim its leadership role in tobacco control. However, concerted actions are necessary in a number of areas as expressed in the report card released by the Ontario Campaign for Action on Tobacco,[128] OTRU's evaluation report *OTS Progress and Implications 2001/2002*,[129] as well as the recommendations put forth by the Lung Association's Youth Tobacco Team.[130] Specifically, the province of Ontario must provide enhancements to existing province-wide tobacco control legislation, significant increases in tobacco taxes, and continued investments in a truly comprehensive tobacco control strategy. These steps will considerably lessen the burden of tobacco on our health care system as well as improve the health of Ontarians.

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