

# MOVING FORWARD ~~Looking Forward~~

SUBMISSION TO HEALTH CANADA'S CONSULTATION DOCUMENT  
"LOOKING FORWARD: THE FUTURE OF FEDERAL TOBACCO CONTROL."

Ottawa, Canada  
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**Physicians *for a* Smoke-Free Canada**

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## INTRODUCTION

As an agency focused on reducing tobacco use, we are among those “looking forward” to the renewal of the Federal Tobacco Control Strategy (FTCS) and the strengthened renewal of the National Strategy to Reduce Tobacco Use (NSTRTU). We welcome the opportunity to provide feedback on the consultation document released in September 2011, and to provide our views on the future role of the federal government in tobacco control.

This is one of many occasions, in the lifetime of this agency,<sup>1</sup> that Health Canada has ‘re-booted’ its tobacco control efforts. In the mid 1980s, there was the re-energized inter-governmental effort, the National Strategy to Reduce Tobacco Use (NSTRTU). In 1994, there was the Tobacco Demand Reduction Strategy; in 2001, following the renewal of the NSTRTU, there was the establishment of the Federal Tobacco Control Strategy (FCTS).

Each of these renewals to date has provided an opportunity to add a qualitatively new dimension to federal efforts to reduce tobacco use. In the 1980s, protection from second hand smoke was added as a goal; in the 1990s denormalization and industry accountability were added to the national strategy; in the 2000s a global response through the Framework Convention on Tobacco Control (FCTC) was a new ingredient of the federal strategy.

We believe that the renewal of the federal strategy is an opportunity to further strengthen tobacco control in Canada. With public support for tobacco control stronger than ever, the federal government is now in a position to move forward with activities and regulations that would not have been considered politically feasible a decade ago. A revised approach that learns from the successes and failures of past decades will help the millions of Canadians who wish to quit smoking, and will protect them and others from tobacco industry attempts to undermine public health measures.

Our submission is divided into two parts. The first summarizes the options available to government at this time, as we see them, and recommends the guiding principles that should apply to this review. These options range from “coasting” on past success to “upgrading” the current strategy for new style of tobacco control.

The second part provides a more detailed reflection on the component elements of this important strategic review.

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<sup>1</sup> PSC was established in 1985.

## TABLE OF CONTENTS

Part I: Options to reduce tobacco use over the next decade

Part II: Discussion and recommendations

1	Measuring the problem:	1
2.	Designing and managing a new tobacco strategy	6
3	Funding a tobacco control strategy	11
4.	Making Canada (more) Smoke-free	20
5.	Controlling the disease vector	24
6.	New forms of tobacco promotion.	xx
7.	The public needs quality information	xx
8.	Canada in a globalized tobacco control world	xx

## APPENDICES

### SECTION 2:

Tobacco Strategy Advisory Group: Building On Our Gains, Taking Action Now: Ontario's Tobacco Control Strategy for 2011 – 2016,

Australia's National Preventative Health Taskforce.

Recommendations from Technical Report No. 2 of the Tobacco Working Group of the National Preventative Health Taskforce

PSC: "Tobacco is still being grown in Ontario", 2009

### SECTION 5:

PSC. Future Options for Tobacco Control: Performance-based regulation of tobacco. 2010.

### SECTION 6:

PSC: "Promotion of Tobacco Products and Accessories Regulations (Prohibited Terms) earlier this year

Plain Facts. Why Canada should move quickly to implement plain packaging of tobacco products, 2009.

PSC. Tobacco Vector: How American movies, Canadian film subsidies and provincial rating practices will kill 43,000 Canadian teens alive today — and what Canadian governments can do about it.

PSC: "Tobacco industry innovation: cool new ways to an early grave. Why we need a Moratorium on new tobacco products" September 2009.

PSC: Model Regulation

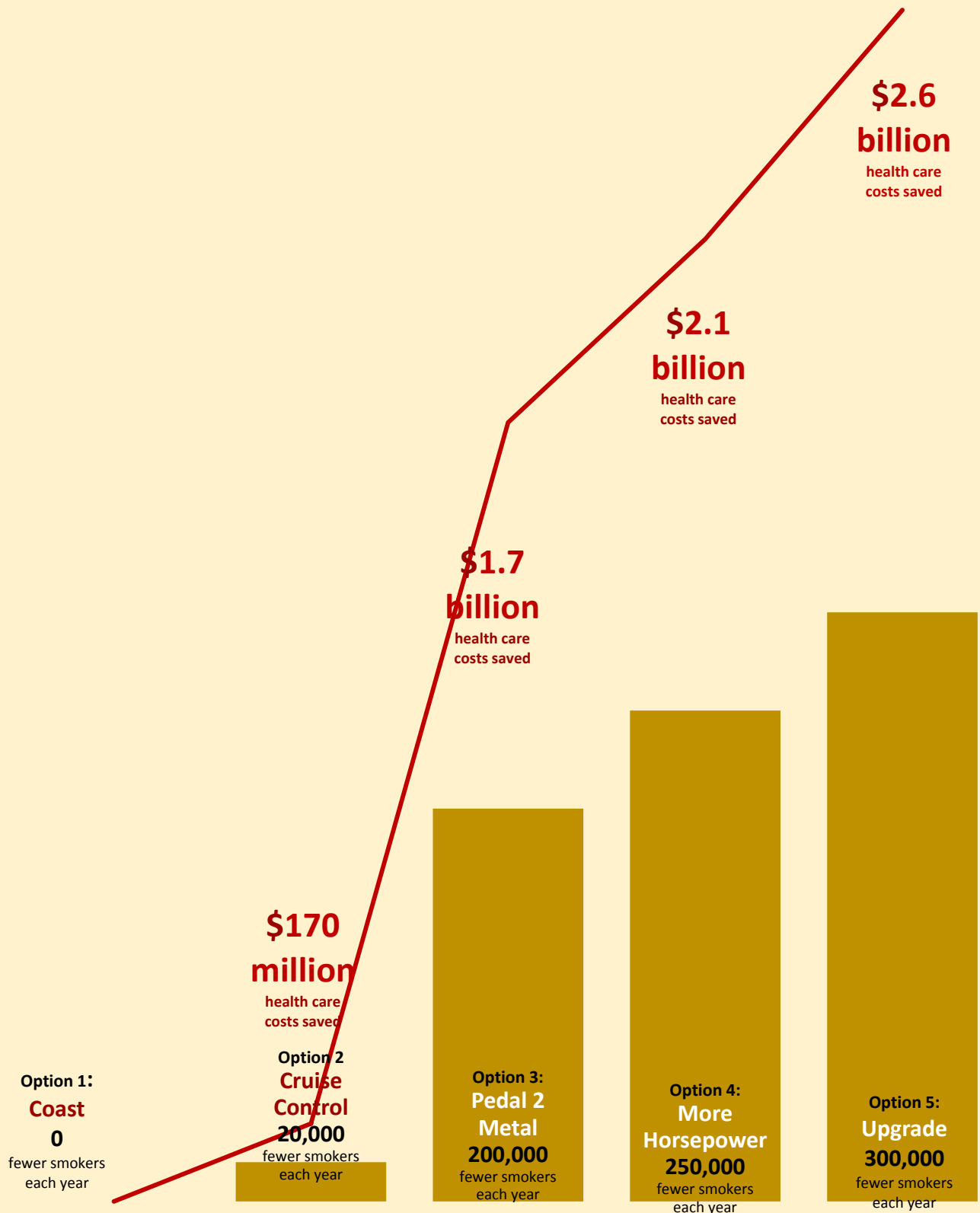
### SECTION 8:

Global ranking by the World Health Organization and Canada's implementation of (m)POWER measures.

2010 "Shadow Report"

## PART I:

### OPTIONS TO REDUCE TOBACCO USE OVER THE NEXT DECADE



# Guiding Principles

- **Urgency**  
The federal tobacco control strategy has played an enormously important role in improving the health of Canadians, but needs to be overhauled in order to continue the important work of addressing what remains the biggest preventable cause of disease for Canadians. The strengthening of the strategy through renewal should be treated with the utmost urgency and priority.
- **Focus**  
The federal tobacco control strategy should receive priority attention for renewal, and should not be integrated with other disease or product strategies.
- **Adequacy**  
The funding for the strategy, and the measures included in it should be commensurate with the problem. Tobacco remains the largest cause of preventable death, accountable for about 1 in 6 Canadian deaths.
- **Comprehensiveness**  
A comprehensive, integrated, whole-of-government approach to tobacco control should involve all relevant government departments, but should be led by Health Canada and give priority towards reducing tobacco use.
- **Engagement**  
The strategy should provide for strengthened partnerships with other levels of government, with communities, with health agencies, and should include funding mechanisms that are appropriate to this task.
- **Innovation**  
The strategy should reach beyond interventions and approaches currently in place, and should accelerate innovative approaches at the national, provincial, local and organizational level. Funding for research and development, pilot projects and other experimental approaches should be provided.
- **Industry responsibility**  
The tobacco industry should be made responsible for the achievement of reductions in tobacco use as set by the federal government and accountable to government. The government should apply to the tobacco market performance based regulations and similarly effective forms of control developed in other sectors.
- **Leadership**  
The federal government should continue to play a leadership role within this area of shared federal-provincial jurisdiction, without diminishing the contributions of other levels of government.
- **Internationalism**  
The renewed federal strategy should strengthen international cooperation against the challenges of a globalized tobacco industry. Canada should be open to regulatory advances made through the FCTC, and should encourage international innovation.

## Option 1:

# “Coast”

**Stop investing in tobacco control, and impose no new controls.**

### Underlying assumptions:

“Tobacco is done”. We have reached the point of diminishing returns with current measures. The industry has been sufficiently weakened that it no longer poses a threat requiring specific government oversight. The remaining smoking population can be supported through existing health care infrastructures.

### Policy implications:

No new controls; taxes maintained or eroded through time. Federal government continues to administer existing laws with reduced oversight.

### Programming implications:

The federal government transfers programmatic elements (like public education and cessation support) to provinces.

### Federal-provincial cooperation:

Federal efforts are limited to areas of federal jurisdiction.

### Likely industry response

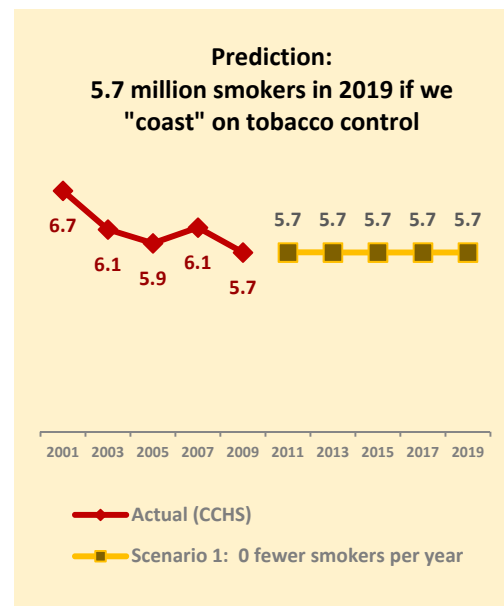
Exploit lack of oversight and increase efforts to reduce impact of existing measures (inventive marketing, creative pricing, etc).

### Our predictions:

Rate of declines in smoking will be slow or nonexistent.<sup>1</sup>

### Why we predict this outcome:

The tobacco industry will develop ways to weaken the measures currently in place (like health warnings, and bans on most advertising). Without encouragement and support for quitting, more smokers will relapse after quitting and fewer will try to quit.



### Cost Benefit Calculation: “Coast”

Cost	\$20 million
Health care savings per former smoker	\$8,533
Annual reduction in smokers	0
Total Savings	\$0

**Return on Investment** n/a

<sup>1</sup> See note on predictions on page 9.

## Option 2:

# "Cruise control."

**Continue with the volume and type of measures in place between 2001 and 2011.**

### Underlying assumptions:

The current approach is working, and the gains that can be achieved through continued efforts will satisfy a balance between available resources and health needs.

### Policy implications:

Incremental improvement in controls (i.e. standardized packaging, new health warnings in 5 years), but no acceleration in their rate of introduction; taxes keep pace with inflation.

### Programming implications:

Federal programmatic focus continues on cessation programming and 'special populations', but operations are modest and sporadic.

### Federal-provincial cooperation:

Federal and provincial governments share information, but do not collaborate in areas of shared jurisdiction.

### Likely industry response

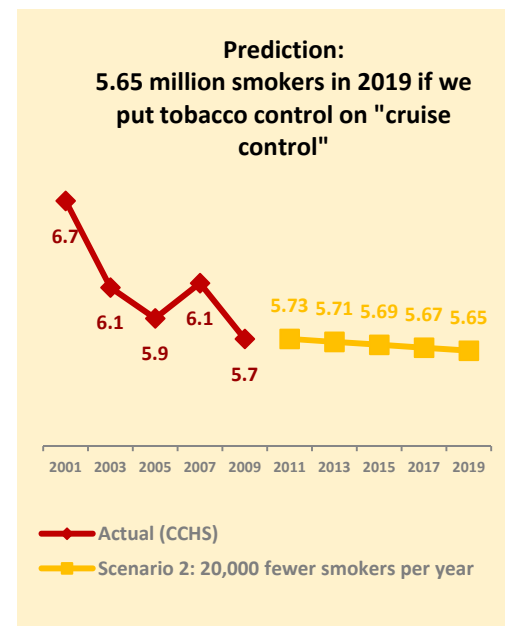
Continue to adapt to existing and new regulations by modifying marketing, packaging, public relations.

### Our predictions:

Rate of declines in smoking will continue at about 20,000 fewer smokers each year, about the same as the rates observed between 2005 and 2010.<sup>2</sup>

### Why we predict this outcome:

The measures in place are enough to stimulate and support quitting by smokers above the 'natural' levels, and to restrain the marketing and public relations activities of tobacco industry. These measures are not strong enough to improve on progress seen over the past decade.



### Cost Benefit Calculation: "Cruise Control"

Annual Cost	\$40 million
Health care savings per former smoker	\$8,533
Annual reduction in smokers	20,000
Total Benefit	\$ 170 million

**Return on Investment 425%**

<sup>2</sup> The number of smokers as measured by CCHS in 2005 was 5,874,689 and in 2010 was 5,967,259.



### Option 3:

## “Pedal to the metal”

**Intensify efforts using current tools and approaches.**

#### Underlying assumptions:

The current approach is working, but is not sufficient to achieve the reductions in smoking that are obtainable.

#### Policy implications:

Significant improvement in controls and the frequency with which they are introduced (i.e. plain packaging, price controls, reduced number of retail venues, ban on all flavoured products, moratorium on new products, an end to brand extensions).

#### Programming implications:

Mass media is restored. Federal programmatic focus continues on promoting quitting, but operations are larger and are implemented on multi-year programs.

#### Federal-provincial cooperation:

Federal government assists provinces in their efforts through a strengthened federal-provincial coordinating mechanism. The National Strategy to Reduce Tobacco Use is renewed.

#### Likely industry response

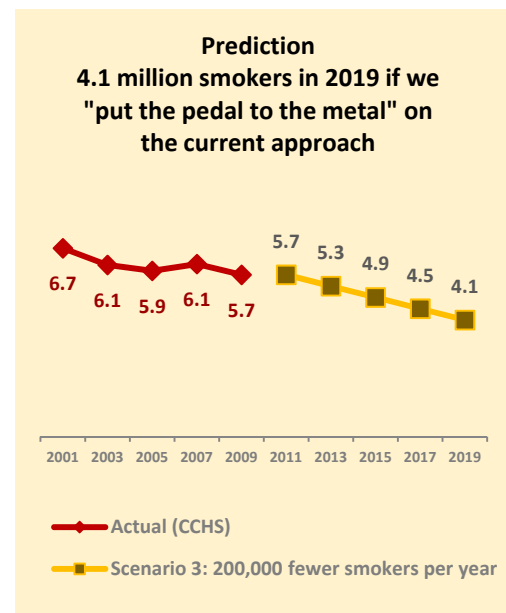
Continue to market in Canada, but with reduced incentive to adapt to regulatory environment. Fuel illegal market if it is profitable for them to do so.

#### Our predictions:

Declines in smoking will approximate those in 2000-2005, i.e. 200,000 fewer smokers per year.

#### Why we predict this outcome:

The period 2000-2005 saw many new initiatives launched simultaneously (increased taxes, new health warnings, reduced promotion). A strategy that continues to implement simultaneous change (i.e. plain packaging, tax increases, smoking bans in outdoor workplaces) will likely see similar levels of progress.



#### Cost Benefit Calculation: “Pedal to the Metal”

Annual Cost	\$70 million
Health care savings per former smoker	\$8,533
Annual reduction in smokers	200,000
Total Benefit	\$1.7 billion

**Return on Investment 2400%**

#### Option 4:

## “More horsepower”

### Intensify efforts using current tools and approaches and adopt new policy tools

#### Underlying assumptions:

The current approach has worked, but is structurally weaker than necessary. Greater health gains can be achieved if **alternative methods** are added.

#### Policy implications:

Existing measures are strengthened with different styles of controls (i.e. performance based regulations, obligations on industry and government to meet annual targets for reduction, reversed incentives on cigarette suppliers including retailers, new ‘anti-avoidance’ responsibilities imposed on manufacturers and suppliers). Enhanced federal efforts coordinated through Health Canada.

#### Programming implications:

Mass media is restored. Tobacco suppliers are mandated to support these efforts, and they engage in activities parallel to governments’.

#### Federal-provincial cooperation:

Federal government supports innovations and other advances by provincial governments. Legal requirements on tobacco industry result in improved behaviour in areas regulated by provincial law.

#### Likely industry response

Launch (ill-founded) legal and trade challenges but comply with laws as written. Fuel illegal market if it is profitable for them to do so.<sup>3</sup>

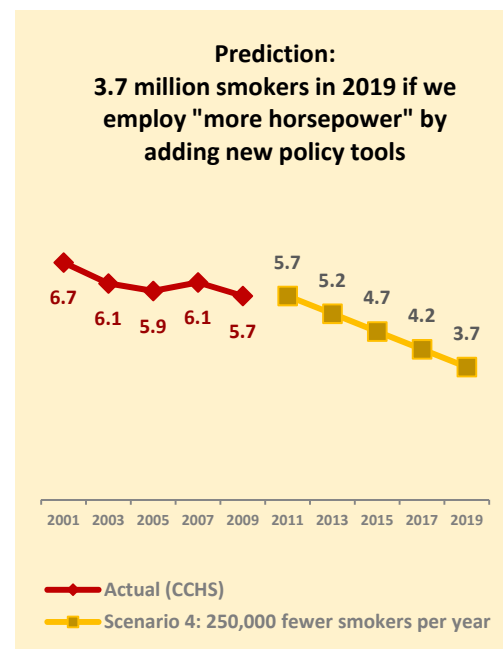
#### Our predictions:

Declines in smoking will exceed those in 2000-2005, as much as 250,000 per year. The federal goal of 12% will finally be reached.

#### Why we predict this outcome:

A strategy that continues to implement simultaneous and powerful policy change (i.e. plain packaging, tax increases, smoking bans in outdoor workplaces) will have a stronger impact if the tobacco industry is not able to overcome them by adapting its marketing strategies.

<sup>3</sup> Performance based regulations could be written so as to make the tobacco industry responsible for achieving reductions in consumption of all cigarettes, including contraband.



#### Cost Benefit Calculation:

##### “More Horsepower”

Annual Cost	\$70 million
Health care savings per former smoker	\$8,533
Annual reduction in smokers	250,000
Total Benefit	\$2.1 billion

**Return on Investment 3000%**

## Option 5:

# “Upgrade”

## Transform tobacco control by adopting a ‘whole system’ approach

### Underlying assumptions:

The limitations on tobacco control imposed by the political and social realities of the 1960s to 2000s have been removed. It is now possible to generate public acceptance of controls on tobacco use commensurate with the health risks, and to learn from other drug/alcohol strategies how to do so effectively.

### Policy implications:

Change in the status of tobacco to one where tobacco is supplied by organizations with a mandate to public health which is not in conflict with obligations to shareholder value.<sup>4</sup>

### Programming implications:

Establishment of collective purpose, coordination and collaboration between suppliers of cigarettes and public health.

### Federal-provincial cooperation:

Federal government supports innovations and other advances by provincial governments. Tobacco industry motivated to improve behaviour in areas regulated by provincial law.

### Likely industry response

Launch (ill-founded) legal and trade challenges to proposals to restructure industry. Multinationals may abandon Canadian market, but attempt to supply through illegal channels. Emergence of new style of suppliers with strong incentives to minimize contraband.

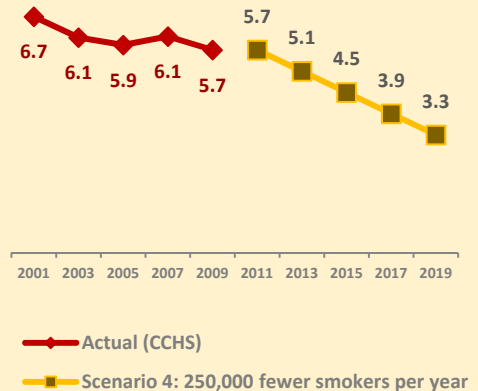
### Our predictions:

Declines in smoking will match the highest rate of decline in 2000-2011, i.e. 300,000 fewer smokers per year.

### Why we predict this outcome:

A strategy that continues to implement simultaneous and powerful policy change (i.e. plain packaging, tax increases, smoking bans in outdoor workplaces) will have a stronger impact if the tobacco industry is not economically motivated to try to overcome them.

Prediction: 3.3 million smokers in 2019 if we “upgrade” to a new style of tobacco control



### Cost Benefit Calculation: “Upgrade”

Annual Cost	\$70 million
Health care savings per former smoker	\$8,533
Annual reduction in smokers	300,000
Total Benefit	\$2.6 billion

**Return on Investment 3700%**

<sup>4</sup> Past liability remains the problem of past suppliers.

## ESTIMATING REDUCTIONS IN TOBACCO USE

In this scenario exercise, we have estimated the 'dose-response' reductions in tobacco use that might occur over the next decade.

At current population levels, a 1 percentage point reduction in smoking prevalence is equivalent to 285,000 smokers quitting. Canada has experienced several periods in which tobacco use has fallen by more than one-half percentage point per year.<sup>5</sup>

In our scenario planning, we make no adjustments for population growth, although Statistics Canada predicts that Canadian population will grow from 1% to 1.6% per year in the coming decade.

Our prediction for the number of smokers in 2011 is (optimistically) set at 5.73 million, the same as in 2009 and a reversal of the increase experienced in 2010.

	Smoking Prevalence			5 year decline		
	M + F	M	F	M+F	M	F
1965	49.5	61	38			
1970	46.5	55	38	-3	-6	0
1975	44.5	51	38	-2	-4	0
1981	39.5	44	35	-5	-7	-3
1985	34	36	32	-5.5	-8	-3
1990	31	31	28	-3	-5	-4
1995	26	28	25	-5	-3	-3
2000	26	28	24	0	0	-1
2005	22	24	20	-4	-4	-4
2010	21	24	17	-1.2	0.5	-2.5

## WHAT ABOUT CONTRABAND?

Currently, tobacco companies have an incentive to optimize illicit tobacco sales, balancing the costs of lost sales against the benefit of increased addiction and future sales.

Under a system where tobacco companies are directed, programmed and incentivized to reduce smoking, illicit tobacco would be an unambiguous threat, and managed accordingly.

<sup>5</sup> According to the Canadian Community Health Survey, the number of smokers during the FTCS declined from 6,677,856 in 2001 to 5,967,259 in 2010, or at a rate of 117,000 fewer per year.

Illegal manufacturers of tobacco products need a steady supply of leaf tobacco.

If legal tobacco companies had strong incentives to discourage tobacco consumption, they would be more strongly motivated to enlist the support of their (oligopolistic) parent companies and transnational tobacco leaf dealers to stop shipments of tobacco leaf to illegal manufacturers. Most of the North American tobacco market (from greenhouse to wholesale) is managed by 6 companies: four multinational tobacco manufacturers and two multinational leaf dealers.

## ESTIMATING THE ECONOMIC BENEFITS

Health Canada recently commissioned an analysis of the costs of tobacco control interventions with the benefits of reducing smoking. This report, "Economic Evaluation of Health Canada's Proposal to Amend the Tobacco Product Information Regulations" was prepared by Industrial Economics Incorporated and finalized in December 2009.<sup>6</sup>

This analysis established the value of avoiding health care costs and the value of avoiding premature death for a typical former smoker, and concluded that the savings to the economy resulting for the average quitter related to averted health care costs was \$8,533, and related to reducing the risk of premature death was \$413,000, giving a total of \$421,533. These figures are expressed in present value (i.e. the value today of future savings), and can therefore be directly compared to funding levels in a given year.

For the purposes of this scenario exercise, we have only included direct health care costs in our cost-benefit estimates. The much larger economic benefit of averted mortality are not included.

<sup>6</sup> Industrial Economics, Incorporated Economic Evaluation of Health Canada's Proposal to Amend the Tobacco Product Information Regulations Final Report. December 2009. Regulations Division Office of Regulations and Compliance Controlled Substances and Tobacco Directorate Healthy Environments and Consumer Safety Branch Health Canada

# Comparing the options

	Coast	Cruise Control	Pedal to the Metal	More Horse-power	Upgrade
<b>Structure and Funding</b>					
Federal funding (millions per year)	< \$20	\$40	\$70+	\$70+	\$70+
Federal Tobacco Control Strategy Renewed		●	●	●	●
Federal support for local actions (transfer payments)		●	●	●	●
National Strategy to Reduce Tobacco Use Renewed			●	●	●
Coordinated action by federal and provincial gov'ts			●	●	●
'Whole of federal government' serves health goals*NEW				●	●
<b>Price and tax</b>					
Federal cigarette taxes increased			●	●	●
Price regulation*NEW				●	●
<b>Second hand smoke</b>					
Promotion of smoke-free homes		●	●	●	●
Promotion of smoke-free outdoor workplaces*NEW			●	●	●
Promotion of smoke-free outdoor public places*NEW			●	●	●
Promotion of smoke-free multiple unit dwellings*NEW			●	●	●
<b>Packaging and labeling</b>					
Health warnings renewed		●	●	●	●
Health warnings renewed frequently			●	●	●
Strong warnings on all tobacco products (smokeless, shisha, etc) *NEW			●	●	●
Pack colours/misleading signifiers removed*NEW			●	●	●
Plain/standardized packaging of tobacco products*NEW			●	●	●
Industry responsible for packaging impact*NEW				●	●
<b>Public Education</b>					
Federal mass media campaigns			●	●	●
Engagement of community partners			●	●	●
Industry responsible for knowledge outcomes*NEW				●	●
<b>Advertising and Promotion</b>					
Federal tobacco laws and regulations maintained	●	●	●	●	●
New laws/regulations to ban remaining promotions			●	●	●
Cross border promotion addressed *NEW			●	●	●
End to promotion in cultural products (movies) *NEW				●	●
Industry promotion through retailers ended*NEW				●	●
Industry responsible for promotional impact*NEW					●

	Coast	Cruise Control	Pedal to the Metal	More Horse-power	Upgrade
<b>Product controls</b>					
All kid-friendly flavours (incl. menthol) banned *NEW			●	●	●
Moratorium on new products/brand *NEW			●	●	●
Tobacco products designed to reduce use *NEW				●	●
<b>Retail</b>					
Enforcement of sales to minors laws	●	●	●	●	●
End to promotions (including price) at retail			●	●	●
Reduction in number of outlets available *NEW			●	●	●
Retailers support cessation efforts *NEW				●	●
<b>Research and monitoring</b>					
Canadian Tobacco Use Monitor Survey Continues		●	●	●	●
CTCRI replaced			●	●	●
<b>Goals and targets</b>					
No targets for tobacco use reduction	●				
Soft targets (no accountability, penalty or reward)		●	●		
Hard targets (accountability, penalties & rewards) *NEW				●	●
<b>Agriculture</b>					
Supports to tobacco farming ends *NEW			●	●	●
<b>Contraband</b>					
Illicit trade offers some benefit to tobacco industry	●	●	●		
Illicit trade offers no benefit to tobacco industry *NEW				●	●
<b>FCTC Support</b>					
Support to international tobacco control (\$millions)	\$0.2	\$0.8	\$3+	\$3+	\$3+
Support for stronger FCTC standards			●	●	●
<b>Tobacco industry legal obligations</b>					
Legal responsibility to maximize profits	●	●	●		
Legal responsibility to health outcomes. *NEW				●	●

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## **PART II**

### **DISCUSSION AND RECOMMENDATIONS**

# 1

## MEASURING THE PROBLEM:

Core to the development of a strategic response to tobacco use is an understanding of smoking behaviour and an ability to monitor in a timely fashion changes to it. That's why the establishment of the Canadian Tobacco Use Monitoring Survey (CTUMS) as part of the FTCS was such an important development. CTUMS provides information on a semi-annual basis, and is made freely available to non-commercial researchers to facilitate independent research on public policy developments.

As important as CTUMS is, it is not the only survey tool available to inform federal actions on tobacco. The Canadian Community Health Survey also annually interviews Canadians about their tobacco use (reaching 3 times as many individuals, and interviewing younger Canadians). The National Population Health Survey, which provides a longitudinal measure of health behaviour and the Canadian Health Measures Survey helps overcome the problems of self-reported health behaviours. The Youth Smoking Survey, funded by Health Canada, addresses the challenges of home-based interviews of children by conducting the survey in the parent-free environment of a classroom.

## UNDERESTIMATING THE PROBLEM

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### UNDERCOUNTING SMOKERS:

A challenge for planning the next federal or national tobacco control strategies is the conflict between estimates of smoking provided by the two major survey tools, CTUMS and CCHS. By both measurement tools, the reduction in smokers since 2001 is about 700,000. But CTUMS provides a lower estimate of smoking behaviour than the CCHS, by almost 1.3 million smokers for 2010 (4.7 million vs. 5.97 million). The progress made over the past decade as shown by both CTUMS and CCHS is only ONE HALF of the difference between the two survey measures.

We believe that it is more likely that respondents **under-report** their smoking behaviour to CTUMS surveyors than that they **over-report** smoking behaviour to CCHS surveyors, and that the CCHS results should also be seen as an under-estimate of the actual problem.

### UNDERCOUNTING SMOKING BEHAVIOUR:

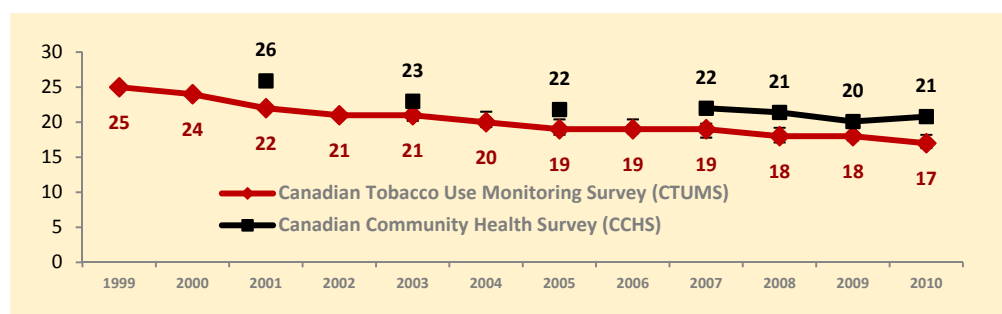
Some forms of tobacco use are not included in estimates of "smokers."

There are many forms of tobacco use that are not currently included in any government estimates of 'current smokers.' These include Shisha smoking, bidi smoking, kretek smoking, pipe smoking, cigar smoking (including 'little cigars'), chewing tobacco, smoking marijuana or hash joints made with tobacco. For example:



- the 2006 Youth Smoking Survey found that 1.5% of students in grade 7 to 12 were current users of shisha, even though they had never smoked cigarettes.<sup>2</sup>
- the first wave of the 2007 CTUMS survey found that in addition to the 15% of Canadian youth who smoke cigarettes, a further 5% have smoked a cigarillo in the past month, but are not counted as smokers by the surveyors. If these young people are also considered to be smokers, then the smoking rate among young Canadians would have increased to 20% in that period, and current smoking for Canadian males would have increased by 3% (from 17% to 20%).<sup>3</sup>

**FIGURE:**  
**PREVALENCE OF "CURRENT SMOKING": COMPARISON OF SURVEY ESTIMATES**



	Canadian Tobacco Use Monitoring Survey (CTUMS)			Canadian Community Health Survey (CCHS)			Difference	
	Smokers #	%	95% CI	Smokers	%	95% CI	Smokers	%
1999	6,121,992	25						
2000	6,007,562	24						
2001	5,411,822	22		6,677,856	26	25.5-26.4	1,266,034	3.9
2002	5,414,335	21						
2003	5,332,326	21	20.0-21.8	6,080,504	23	22.7-23.4	748,178	2
2004	5,116,200	20	18.5- 0.7					
2005	4,966,600	19	17.6-19.8	5,874,689	22	21.4-22.1	908,089	2.8
2006	4,934,022	19	17.6-19.6					
2007	5,176,302	19	18.2-20.2	6,112,442	22	21.6-22.5	936,140	3
2008	4,880,488	18	16.8-18.9	6,009,311	21	20.9-21.9	1,128,823	3.4
2009	4,851,274	18	16.5-18.6	5,730,321	20	19.6-20.7	879,047	2.1
2010	4,701,868	17	15.8-17.7	5,967,259	21	20.2-21.3	1,265,391	3.8

<sup>2</sup> Chan, WC et al. Bidi and Hookah Use Among Canadian Youth: An Examination of Data From the 2006 Canadian Youth Smoking Survey. *Journal of Adolescent Health*. 2011.

<sup>3</sup> PSC. Cigarillo Smoking in Canada. A review of results from CTUMS, Wave 1 - 2007

## UNDERCOUNTING PERSONAL CONSUMPTION

Health Canada reports on changes in **reported** consumption of tobacco products as though this were **actual** consumption of tobacco products.

*Canadian daily smokers aged 15 years and older consumed an average of 15.1 cigarettes per day in 2010, unchanged since 2007 (15.5). In 2010, male daily smokers consumed more cigarettes per day (an average of 16.4) than female daily smokers (an average of 13.2).<sup>4</sup>*

Self-reported consumption of cigarettes is not reliable. It has long been established that when responding to smoking surveys, smokers underreport their cigarette consumption, and by as much as 40%.<sup>5 6</sup>

The problem of underreporting can be illustrated by looking at the two sets of data made available by Health Canada for 1999 (a year when illicit tobacco sales were not believed to be a significant factor in estimating actual usage). In that year:

- The number of cigarettes and equivalents sold in Canada was 50.7 billion.<sup>7</sup>
- There were 5 million daily smokers, according to CTUMS and 1 million occasional smokers
- Daily smokers told CTUMS surveyors that they smoked 17 cigarettes per day on average.
- The number of cigarettes accounted for by CTUMS results was thus 31.5 billion (5 million smokers \* 365 days \* 17 cigarettes per day)
- There were thus 19 billion cigarettes not accounted for by CTUMS results.
- If those remaining cigarettes were smoked by occasional smokers, they would have been smoking 50 cigarettes per day each (19 billion / 1 million smokers / 365 days per year)

Using self-reported data as an indicator of progress against tobacco use risks confusing an increase in smokers unwillingness to tell the truth with an actual decrease in the amount smoked. In an environment, like Canada, where contraband markets make the use of sales data unreliable, it is inadvisable to rely solely on self-reported data.

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4 Health Canada. Canadian Tobacco Use Monitoring Survey (CTUMS). Summary of Annual Results for 2010

5 Collishaw N. Cigarette consumption in Canada, 1981-1986. Notes for a presentation to the sixth world conference on smoking and health. Tokyo, Japan, 1987.  
<http://legacy.library.ucsf.edu/tid/kbk70g00>

6 Jackson R, Beaglehole R Secular trends in underreporting of cigarette consumption. Am J Epidemiol. 1985 Aug;122(2):341-4.

7 Health Canada. Wholesale sales data. Cigarettes and equivalents. 1999

## UNDERACHIEVEMENT

**The FTCS has failed to meet its goal – even if the more optimistic CTUMS survey results are used.**

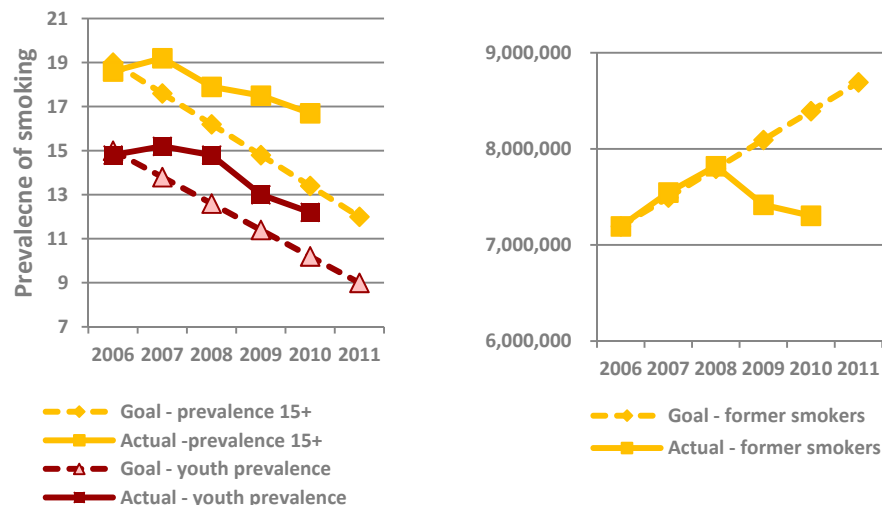
In 2007, Health Canada adopted new goals and objectives for its tobacco control strategy,<sup>8</sup> aiming to “reduce overall smoking prevalence from 19% (2006) to 12% (by 2011)” as well as to “reduce the prevalence of Canadian youth who smoke from 15% - 9%” and to “increase the number of adult Canadians who quit smoking by 1.5 million.

Health Canada is **not on track** to achieve its reduction goals to reduce smoking prevalence. According to CTUMS:

- In 2010, there were approximately 4.7 million smokers, or 1.3 million more than the goal of 3.37 million smokers for 2011 (12% prevalence)
- In 2010, there were approximately 7.3 million former smokers, or 1.3 million fewer than the goal of increasing the number of former smokers to 8.7 million by 2011.
- In 2010, there were approximately 267,700 young Canadians (12.2 % of those aged 15-19) who smoked. This is 70,000 more than the goal of 197,500 for 2011 (or 9% of the age group).<sup>9</sup>

Comparison of the goals to data from the (likely more accurate) CCHS would show an ever greater level of underachievement.

**FIGURE:**  
**PROGRESS MEASURED AGAINST GOALS: PREVALENCE OF SMOKING AND NUMBER OF FORMER SMOKERS, 2006-2010 (CTUMS).**



<sup>8</sup> <http://www.hc-sc.gc.ca/hc-ps/tobac-tabac/about-apropos/role/federal/strateg-eng.php>

<sup>9</sup> There is some ambiguity about the goal, as the formal statement of reducing smoking by young people aged 15-17 from 15% to 9% is not consistent with the fact that in 2006 the prevalence of cigarette smoking for those aged 15-19 was 15%, and for those aged 15-17 was 10.9%.

## RECOMMENDATIONS: MEASURING THE PROBLEM

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- The renewed federal strategy should continue to identify specific, measurable goals for reduction in smoking by the general population as well as specific populations.
- Health Canada should produce annual reports on progress against the strategic goals it sets in its strategy.
- The renewed federal tobacco strategy should assume that lower estimates of smoking produced by some surveys reflect under-reporting, and plan its actions around the largest statistically valid estimate of smoking rates.
- Health Canada should monitor and report on the number of Canadians who use any form of tobacco product, and should include in the definition of ‘smokers’ the use of any smoked tobacco product.
- Measures to monitor actual tobacco consumption more accurately should be put in place, including the use of biometric measurements, improved methodology for CTUMS and more questions about tobacco use in CCHS.
- Health Canada should provide support to external and independent researchers to monitor and evaluate population-wide tobacco control efforts implemented by federal and other levels of government.<sup>10</sup>

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<sup>10</sup> See, for example, CDC’s “Tobacco Control State Highlights” 2010  
[http://www.cdc.gov/tobacco/data\\_statistics/state\\_data/state\\_highlights/2010/pdfs/highlights2010.pdf](http://www.cdc.gov/tobacco/data_statistics/state_data/state_highlights/2010/pdfs/highlights2010.pdf)

# 2

## DESIGNING AND MANAGING A NEW TOBACCO STRATEGY

### COORDINATION AND COHERENCE

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In making the FTCS a horizontal initiative across government, significant progress was made towards establishing federal policy coherence on tobacco use. The renewed strategy should move further in this direction by ensuring that all federal portfolios are tasked with the responsibility of reducing tobacco use, and that their activities are led by Health Canada.

A number of recent incidents illustrate the remaining challenge of building a “whole of government” strategy to reduce tobacco use (and to implement the FCTC).

- Agriculture Canada, for example, has both programmatic and legislative authority over tobacco growing in Canada and has discharged these responsibilities in ways that conflict with the Framework Convention on Tobacco Control.<sup>11</sup>
- Justice Canada, in its representation of the federal government in civil litigation entered into a settlement with tobacco companies which was developed without any input from health authorities,<sup>12</sup> and which contains provisions which run counter to health goals.
- The Department of Indian and Northern Affairs and Revenue Canada reportedly approved the establishment of tobacco manufacturing plants on first nations’ territories, without input from health stakeholders on how this could increase tobacco related disease.
- Heritage Canada manages a program to encourage film production in Canada that effectively subsidizes commercial cultural products which are intended for a youth market but which promote smoking.<sup>13</sup>
- Finance Canada and its provincial equivalents oversee the Canada Pension Plan, which invests in tobacco companies despite the strong FCTC caution against doing so.<sup>14</sup>
- The Canadian International Development Agency ignores the undertakings made by Canada through the FCTC to provide international cooperation and assistance on tobacco control.
- The Canada Revenue Agency launched a media campaign on contraband tobacco by displaying posters of cigarettes in retail stores, even though this undermined the aim of making cigarettes invisible at retail.

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11 For more on this, see PSC “Tobacco is still being grown in Ontario”, 2009, which is appended and which forms part of our response to the consultation document.

12 PSC received confirmation through ATI that there was no documentation showing consultation with Health Ministries during negotiations for the 2008 settlement with Imperial Tobacco and Rothmans Benson and Hedges.

13 PSC. Tobacco Vector. 2010

14 PSC. Canadian institutional ownership of the “big four” tobacco companies. Share-holdings by government managed pension and private institutional investors. January 2011.

## **WORKING WITH GOVERNMENT PARTNERS: THE NEED FOR A RENEWED 'NATIONAL' STRATEGY**

Absent from mention in the consultation document is reference to the National Strategy to Reduce Tobacco Use. This was once the backbone of coordinated action amongst government and civil society, and across levels of government.

The renewal of the FTCS is an opportunity to restore collaboration across partners, and to re-invite civil society partners to the Steering Committee of the NSTRTU. One new objective of the FTCS could be the revamping of the NSTRTU, and the involvement of all Canadians in a multi-sectoral, pan-Canadian tobacco control strategy.

## **FEDERAL AND PROVINCIAL ROLES AND RESPONSIBILITIES**

We believe that in its tobacco control efforts the federal government, through Health Canada, should concentrate on those functions Parliament has directed to the department.<sup>15</sup>

*(a) the administration of such Acts of Parliament and of orders or regulations of the Government of Canada as are not by law assigned to any other department of the Government of Canada or any minister of that Government relating in any way to the health of the people of Canada;*

*(a.1) the promotion and preservation of the physical, mental and social well-being of the people of Canada;*

*(b) the protection of the people of Canada against risks to health and the spreading of diseases;*

*(c) investigation and research into public health, including the monitoring of diseases;*

*(d) the establishment and control of safety standards and safety information requirements for consumer products and of safety information requirements for products intended for use in the workplace;*

*(e) the protection of public health on railways, ships, aircraft and all other methods of transportation, and their ancillary services;*

*(f) the promotion and preservation of the health of the public servants and other employees of the Government of Canada;*

*(h) subject to the Statistics Act, the collection, analysis, interpretation, publication and distribution of information relating to public health; and*

*(i) cooperation with provincial authorities with a view to the coordination of efforts made or proposed for preserving and improving public health.*

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<sup>15</sup> Department of Health Act, SC 1996, c. 8

As applied to tobacco control, the Department of Health Act suggests that the core federal role is in administering existing tobacco laws (and developing regulations under them), promoting and preserving health and wellbeing, and protecting public health from tobacco industry activities. All of the elements of the current FTCS are covered by this statutory authority and obligation, and we do not know of any current activities that could be curtailed without leaving Health Canada vulnerable to failing to meet its statutory obligations.

The responsibility of government to maintain these core activities (enforcement, regulatory development, public education, research, health promotion, monitoring and health protection) is more clearly defined as a result of the FCTC and other policy developments which firmly establish which government actions are required to implement comprehensive tobacco control measures.

There are elements of tobacco control which we see as more clearly nested within provincial responsibility, and which should not be included as a core element of a renewed strategy. These include service delivery components such as the treatment of diseases caused by tobacco use, treatment of nicotine addiction, school-based education, etc. In these areas, however, the federal government has a collaborative role to play with respect to piloting innovation, researching effective programs, etc.

#### **BENEFITING FROM FEDERAL-PROVINCIAL-MUNICIPAL COLLABORATION TO RESEARCH INNOVATIVE APPROACHES**

Canadian provincial governments have demonstrated their interest in learning from each other's efforts, and collaborating in the development of pan-Canadian policies on tobacco control that are within their own or within shared federal-provincial-municipal jurisdiction. Such initiatives include smoke-free public spaces, display bans on cigarettes, protection of children from exposure to smoking in cars.

The renewed federal strategy for tobacco is an opportunity to strengthen these efforts, and to collaborate with other levels of government in running innovative or experimental projects. For example, Health Canada to develop and fund projects to compare different ways of motivating key influencers of tobacco use (health practitioners, tobacco retailers, movie ratings, conditions of license, etc) to accelerate the knowledge base and adoption of effective measures in non-federal settings.

#### **A “WHOLE POPULATION” PROBLEM NEEDS A “WHOLE POPULATION” APPROACH**

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For several decades and in almost every jurisdiction, there have been suggestions that the legitimate role of government is best exercised with respect to tobacco by focusing on preventing tobacco use among young people, or by focusing resources on populations where tobacco use is most severe, even if the number of people involved is

very small. At times, federal policy has fallen victim to this way of thinking,<sup>16</sup> although Health Canada has, to its credit, maintained a focus on the needs of **all** Canadian smokers.

The renewal of the federal strategy is an opportunity for Health Canada to further strengthen its evidenced based approach and rational assignment of resources to the disease burden of smoking where it lies – i.e. in every Canadian community and at every age level.

We believe that the evidence supports the current population-wide approach as the best way for the federal government to meet the needs of all Canadians, including vulnerable populations, such as youth,<sup>17 18</sup> while providing for targeted approaches where effective and appropriate.

Health Canada and its partners in government and civil society could do a better job at generating a public understanding that tobacco use is a population-wide ‘mainstream’ problem.

The familiar relationship of income and smoking rates illustrates the danger of communicating using prevalence rates, but failing to communicate absolute numbers. According to the CCHS, the prevalence of smoking among Canadians with family incomes under \$20,000 is almost twice the rate for Canadians with family incomes over \$80,000. Yet there are 2.5 times as many Canadians who smoke in the wealthier income category than there are in the poorer one. If only the prevalence rates are provided, Canadians can understandably be confused at thinking that smoking is a disease of “poverty”. If, however, the distribution of the number of smokers among income groups is concurrently displayed, Canadians can better understand that smoking is disproportionately experienced by those who are poor, but that measures which address the affluent are also required, because there are far more rich smokers than poor ones.

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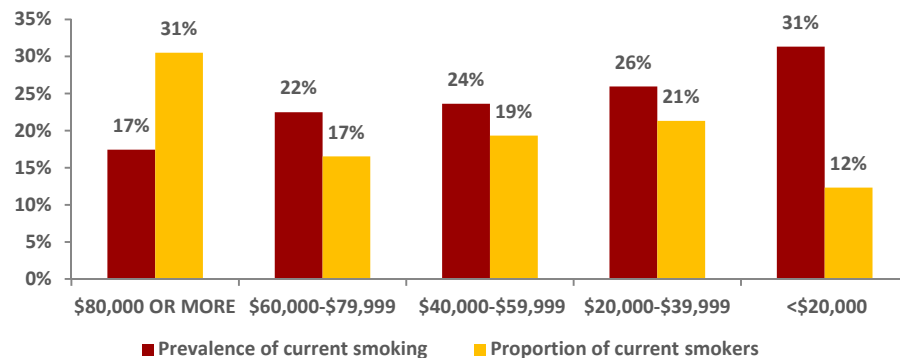
16 As discussed below, the measures in the federal Tobacco Act aimed at curbing tobacco promotion accept the legitimacy of promoting smoking to adult Canadians while imposing tight measures against promoting tobacco use to young Canadians.

17 White, VM et al. What impact have tobacco control policies, cigarette price and tobacco control programme funding had on Australian adolescents’ smoking? Findings over a 15 year period. *Addiction*, 2011.

18 Forster et al. Policy interventions and surveillance as strategies to prevent tobacco use in adolescents and young adults. *American Journal of Preventive Medicine*, 2007.



**FIGURE: SMOKING PREVALENCE AND BURDEN OF SMOKING BY FAMILY INCOME. CCHS 2007-2008.**



### “OFF THE SHELF” EVIDENCE-BASED WORKPLANS

Governments naturally look for scientific guidance and validation before adopting public health measures, and Health Canada might be encouraged to delay its renewal until a scientific consensus is established on what measures to adopt next.

Fortunately, this assessment can be made without further delay as several scientific reviews are available. Two recent scientific reviews which could provide the backbone of a renewal by Health Canada are:

#### **Tobacco Strategy Advisory Group: Building On Our Gains, Taking Action Now: Ontario’s Tobacco Control Strategy for 2011 – 2016,**<sup>19</sup>

This panel made a number of recommendations which are appropriate for federal action, and which are appended to this submission.

#### **Australia’s National Preventative Health Taskforce.**

#### **Technical Report No. 2 of the Tobacco Working Group of the National Preventative Health Taskforce**<sup>20</sup> **2008 Discussion paper.**<sup>21</sup>

Australia established a robust public and scientific consultation process to establish recommendations for public health action, including tobacco control. The output of this process provides a road map that could well serve Canadians as well, and is appended to this submission.

<sup>19</sup> Report from the Tobacco Strategy Advisory Group to the Minister of Health Promotion and Sport October 18, 2010. <http://www.mhp.gov.on.ca/en/smoke-free/TSAG%20Report.pdf>

<sup>20</sup> <http://www.preventativehealth.org.au/internet/preventativehealth/publishing.nsf/Content/tech-tobacco>

<sup>21</sup> [http://www.preventativehealth.org.au/internet/preventativehealth/publishing.nsf/Content/A06C2FCF439ECDA1CA2574DD0081E40C/\\$File/discussion-3.pdf](http://www.preventativehealth.org.au/internet/preventativehealth/publishing.nsf/Content/A06C2FCF439ECDA1CA2574DD0081E40C/$File/discussion-3.pdf)

## KNOWLEDGE DEVELOPMENT AND DISSEMINATION

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As part of the FTCS, Health Canada contributed to the Canadian Tobacco Control Research Initiative, the first focused tobacco use research independent of the tobacco industry. This partnership amongst government and health agencies was dissolved in 2009.

Under the FTCS, Health Canada has become arguably the largest research organization on tobacco use in Canada. Especially after the termination of the Canadian Tobacco Control Research Initiative (CTCRI), Health Canada's budget for commissioned research is likely the largest single pot of research funds available for tobacco control.

Another indicator of the importance of Health Canada to knowledge development is the employment within Health Canada of a large proportion of full-time tobacco control workers. In fact, Health Canada's human resources on tobacco control are likely the largest and most highly trained team of tobacco control workers in one institution in the world.

One challenge that the FTCS has not managed to successfully address is the sharing of this expertise with others in the community in both formal and informal settings.

The importance of knowledge dissemination is well accepted in public health, and key value of tobacco control is the importance of an evidence basis for action. As such, it is not reasonable for Health Canada to expect the production of evidence to support new initiatives if it does not also contribute to the body of knowledge by disseminating its own learnings in formats useful to other jurisdictions and communities.

The renewal of the FTCS is an opportunity to make sure that the research commissioned by Health Canada and the data collected by Health Canada is shared with independent researchers, and that the analysis prepared by Health Canada is also communicated to others who share the goal of reducing tobacco use. One way in which this could be accomplished would be the proactive release on its web-site of all research reports produced for Health Canada regarding tobacco use.

The new strategy is also an opportunity to establish more informal methods of knowledge exchange, such as participation at and presentations to conferences and external meetings, hosting of seminars by Health Canada, participation in seminars hosted by others or posting to list-serves and other community media. Although these activities take place under the current FTCS, the scale is very small compared to the size and scope of Health Canada's expertise and personnel.

## RECOMMENDATIONS:

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- The renewed federal tobacco strategy should provide a health-led whole-of-government response, with each department or agency contributing in its area of work to the reduction of tobacco use.

- The renewed FTCS should aim to revitalize the National Strategy to Reduce Tobacco Use and should re-engage a multi-sectoral pan-Canadian response to tobacco use.
- The renewed federal tobacco strategy should continue to reflect that tobacco use is a challenge faced by the whole population.
- The renewed federal tobacco strategy should support research into and development of policy innovations by other government and community partners
- Measures to be included in the renewed strategy should be drawn from available scientific consensus statements, such as Ontario's 2010 Tobacco Strategy Advisory Group, the Australian National Preventive Health Task Force, the Institute of Medicine, etc.
- The renewed FTCS should include a pro-active knowledge exchange component, with targets for research dissemination and participation in community development activities, like conferences.

# 3

## FISCAL MEASURES FOR TOBACCO CONTROL

The renewal of the federal strategy is an opportunity to align all aspects of federal fiscal policy on tobacco to ensure that the most effective and cost-effective taxation and expenditure policies are put in place.

Two important components of fiscal policy for tobacco control is the establishment of the appropriate level of investment, and the establishment of the appropriate level of taxation for tobacco products and tobacco companies.

### TOBACCO CONTROL: A GOOD ECONOMIC INVESTMENT

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Evaluations of expenditures on tobacco control programs have shown these to be among the most cost-effective public health intervention. Researchers reviewing expenditures on tobacco control have found

- A 50-fold return on investment in California.  
The California tobacco control program, in a state with roughly the same population as Canada, resulted in 72 billion fewer cigarettes being smoked over a 13 year period, with resulting health care savings of US\$86 billion (7% of total health care costs).<sup>22</sup>
- A 10-fold return on investment in Arizona  
Arizona's tobacco control expenditures are associated with reduced cigarette consumption and healthcare expenditures, amounting to about 10 times the cost of the program through 2004.<sup>23</sup>

Health Canada commissioned research on the economic value of smoking cessation suggests that tobacco control is one of the most valuable public investments.<sup>24</sup> This analysis concluded that the value of only one typical smoker quitting was \$8,533 in averted health care costs and \$413,000 in value of extended life, a total of \$421,533. These figures are expressed in present value (i.e. the value today of future savings), and can therefore be directly compared to funding levels in a given year.

Conversely, the opportunity cost of failing to invest in tobacco control has been estimated as a reason for failing to achieve potential reductions in tobacco use. An estimate of the cost of failing to invest in tobacco control at the CDC recommended level for a decade found that there were 2.2 million to 7.1 million more smokers in the United States than would otherwise have been the case. (See graph below). After reviewing evaluations of funding cuts, the Ontario Tobacco Research Unit concluded

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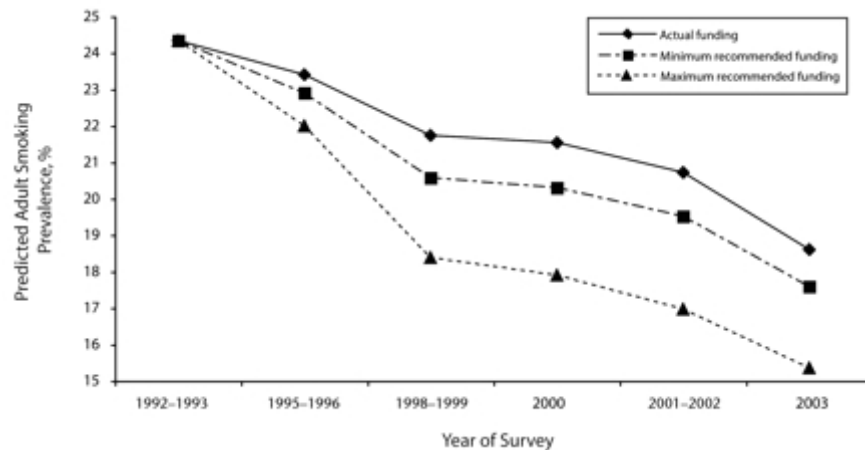
22 Lightwood J and Glantz S. Effect of the California Tobacco Control Program on Personal Health Care Expenditures. Plos Med. Aug 2008.

23 Lightwood J and Glantz S. Effect of the Arizona tobacco control program on cigarette consumption and healthcare expenditures. Social Science & Medicine. 2011.

24 Industrial Economics, Incorporated Economic Evaluation of Health Canada's Proposal to Amend the Tobacco Product Information Regulations Final Report.

“Reductions in funding lead to slowed reductions in smoking rates and often reversal of progress.”<sup>25</sup>

**FIGURE**  
**THE HUMAN COST OF UNDER-INVESTING IN TOBACCO CONTROL: US 1995-2003**<sup>26</sup>



## YES! CANADA’S SMOKING RATES MIGHT GO UP IF ACTIVITIES AND POLICIES ARE WEAKENED

One dangerous assumption that could lead to an under-resourced and inadequate renewal of the federal tobacco strategy is the view that the historic declines in smoking reflect some form of ‘natural history’ of tobacco use and that prevalence rates will continue to decline, even if governments reduce their tobacco control activities.

Underlying this assumption might be the view that “permanent quitting” is a one-time event and that smokers who quit for a year will remain quit forever. Yet results from Canada’s only longitudinal health survey shows that smokers frequently relapse and that the revolving door to becoming a non-smoker may involve frequent returns to smoking behaviour.<sup>27</sup> The NPHS found that there were 1.52 million smokers in 1994-95 and 1.48 million non-smokers in 1994-95 who, by 2008-2009 had changed their smoking status more than once.<sup>28</sup> While 8% of the population changed from smokers in 1984 to non-smokers in 2008-2009, the impact of this public health benefit was reduced because 4% of the population changed from non-smokers to smokers over the same 14 year period.

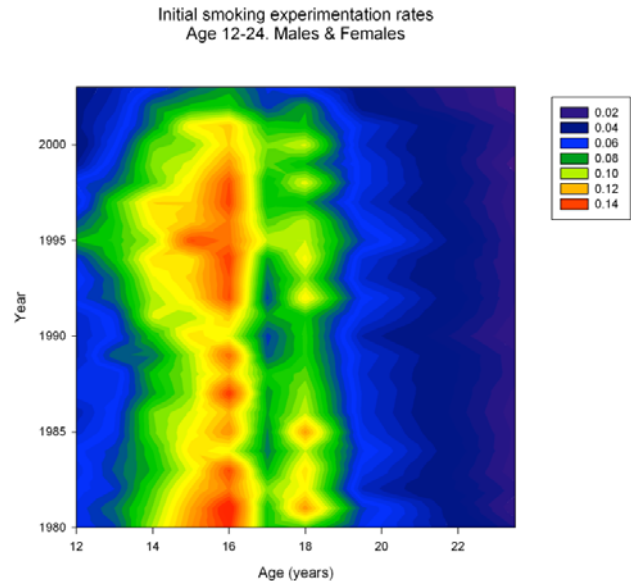
25 Ontario Tobacco Research Unit. Effects of funding cuts to tobacco control programs. 2008.

26 Farrelly, MC et al. The Impact of Tobacco Control Programs on Adult Smoking. American Journal of Public Health. 2008 February; 98(2): 304-309

27 Margot Shields. A step forward, a step back: smoking cessation and relapse. Statistics Canada.

28 Statistics Canada National Population Health Survey. Table 104-7006.

PSC commissioned epidemiologist Nicolas Birkett to review CCHS data, using a reconstructed cohort approach. The results showed that around 1994-1997, when tobacco taxes were lowest and tobacco promotions were unregulated, smoking experimentation happened more often and happened earlier. A similar result was found for the progress from experimentation to daily smoking. His study found that



the excess number of smokers in the cohort that reached the age of smoking onset in the 1990s was 200,000.<sup>29</sup> In other words, the result of a 5-year collapse of tobacco control has thus resulted in a cohort of Canadians (born around 1980) having a much higher burden of tobacco disease than otherwise would have been the case.

## HOW MUCH SHOULD BE SPENT?

Evidence suggests that an effective tobacco control strategy is big in both scope and scale – it goes big and it goes broad.

While the FTCS originally promised to be both big and broad, it was subject to multiple cuts resulting from cabinet and departmental levels. As a result it was medium sized and modest in scope. The FTCS budget was officially cut, and unofficially cut through mid-year reallocations and under-spending (see table below). Delays in approvals resulted in delays in funding, resulted in interrupted and destabilized program activities by Health Canada and its partners.

Mass media – once intended as the recipient of 40% of a \$100 million budget – has been cut to near invisibility. Even activities in which the federal government was not the lead (such as the Canadian Tobacco Control Research Initiative) have been lost since the launch of the strategy.

<sup>29</sup> Birkett N. Report of analysis of CCHS surveys for smoking uptake rates in teenagers using a reconstructed cohort approach, prepared for Physicians for a Smoke-Free Canada. June, 2011.

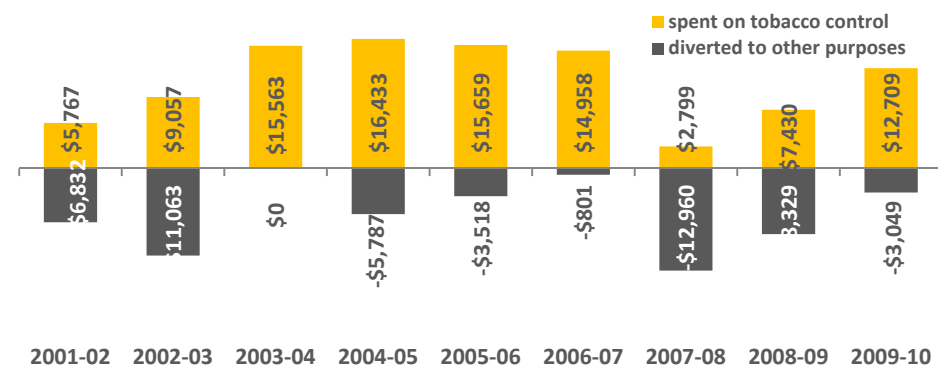
**TABLE: TOBACCO CONTROL BUDGETS REDIRECTED TO OTHER PURPOSES  
“TOBACCO CONTROL DIRECTORATE SURPLUS HISTORY, 2002-2008”<sup>30</sup>**

Fiscal Year	Budgeted by Parliament	Actual Spent on tobacco control	Diverted to other purposes
2002-03	\$65,513,803	\$61,152,974	\$4,360,829
2003-04	\$57,398,389	\$59,049,895	
2004-05	\$53,970,446	\$40,325,615	\$13,644,831
2005-06	\$49,576,335	\$40,442,200	\$9,134,135
2006-07	\$46,167,788	\$41,942,201	\$4,255,587
2007-08	\$48,318,796	\$35,147,517	\$13,171,279

Community programming was also significantly cut, as shown in the table and graph below. The budgetary provision for transfer payments was under-spent by 40% in the first half of the strategy and 30% in the second half. \$50 million dollars which had been intended for tobacco control activities outside of Health Canada was not spent on this purpose.

One consequence of these funding cuts is the reliability of program evaluation. Did the strategy fail to achieve its goals because it was not implemented as designed, or because the design was flawed?

**FIGURE: FEDERAL TRANSFER PAYMENTS FOR TOBACCO CONTROL.  
ACTUAL VS. BUDGETED 2001-2010 (\$000)**



(\$000)	5 year 2001-006	4 years 2006-010
Amount available (main estimates)	\$89,679	\$63,036
Amount spent (public accounts)	\$62,479	\$37,896
Amount diverted to other purposes	\$27,200	\$25,139
Percentage of allocation spent	70%	60%
Percentage reallocated to other priorities	30%	40%

In the absence of other ‘benchmarks’ for tobacco control investment, many look to the guidelines developed by the Center for Disease Control for investments in tobacco control. Public health administrators in the United States do not have access to many of

30 Final Audit Report - Tobacco Control Directorate: Audit of Management Systems and Practices.  
[http://www.hc-sc.gc.ca/ahc-asc/pubs/\\_audit-verif/2008-12/index-eng.php#e](http://www.hc-sc.gc.ca/ahc-asc/pubs/_audit-verif/2008-12/index-eng.php#e).

the most cost effective tools for tobacco control which are currently in place in Canada (i.e. retail display bans, large health warnings), and the focus of tobacco control efforts is different in the northern and southern halves of North America.

Despite these shortcomings, and because of an absence of any other benchmarks, the CDC guidelines are used as a metric for Canadian tobacco control investments. (Another benchmark is provided by the U.S. Institute of Medicine, which recommends higher expenditures).<sup>31</sup> California with a population similar to Canada's (37 million vs. 34 million) was advised by the CDC to spend \$12.12 per capita (24% of its tobacco revenues) on tobacco control for 2007.

Total expenditures on tobacco control in Canada by all levels of government fall short of the CDC guideline level. Although governments do not make their expenditure available in comparable forms, the investments have been estimated at about \$4.50 per capita for 2010-11.<sup>32</sup> This is one third of the CDC recommended level and one-quarter of the level recommended by the IOM. Federal government budgets for tobacco, shown in the table below, fell from \$95 million to \$58 between 2007-2008 and 2010-2011 (figures for the current fiscal year are not public at this time).

Evidence-based guidelines on public investment in tobacco control have also been provided for the European region.<sup>33</sup> While the costs may need adjustment for use in Canada (as they are established for a European context and on the basis of 2000 currencies), the general scale and relationship provides insight into where the most effective investments may lie. We note that the budget suggested by this approach, after discounting the cost of tax administration, is similar to the current funding levels for Health Canada's role in the FTCS. We believe that if Health Canada were to replicate the work of the WHO EURO, they would find the following measures would have comparable cost effectiveness.

- To Tob 5: Expanding clean air to outdoor workplaces and outdoor public places (like hospitality venues).
- To Tob 6: Implementing a comprehensive ban on tobacco advertising in keeping with FCTC Guidelines on Article 13.
- To Tob 3 or 4: Increasing taxes
- To Tob 7: Implementing public information in keeping with FCTC Guidelines on Article 12.

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31 Institute of Medicine. *Ending the Tobacco Problem: A Blueprint for the Nation*. National Academy Press, Washington DC, 2007.

32 Ontario Tobacco Research Unit. *Tobacco control funding commitments: monitoring update*. July 5, 2011

33 WHO CHOICE Interventions. Tobacco Use.  
[http://www.who.int/choice/interventions/rf\\_tobacco/en/index.html](http://www.who.int/choice/interventions/rf_tobacco/en/index.html)



**TABLE: WHO CHOICE INTERVENTIONS. TOBACCO USE**

<b>Interventions:</b>	<b>Per capita cost (USD)</b>	<b>Total cost in Canada (\$ millions)</b>	<b>DALYs Averted</b>	<b>Average Cost per DALY averted</b>
TOB-2: Excise tax on tobacco products: 80% of supply price	0.22	7.25	65,340	111
TOB-3: Excise tax on tobacco products: 300% of supply price	0.22	7.25	156,405	46
TOB-4: Excise tax on tobacco products: 600% of supply price	0.22	7.25	226,573	32
TOB-5: Clean indoor air law enforcement	0.67	22.69	25,001	908
TOB-6: Comprehensive ban on tobacco advertising	0.27	8.95	18,899	473
TOB-7: Information dissemination	0.55	18.41	22,571	816
TOB-8: Nicotine replacement therapy	2.35	79.25	22,571	3,511
Combination (TOB-4; TOB-5; TOB-6; TOB-7)	1.70	57.30	260,326	1,909
Combination (All)	4.05	136.55	268,970	9,168

**TABLE: PER CAPITA EXPENDITURE ON TOBACCO CONTROL BY CANADIAN PROVINCES AND TERRITORIES<sup>34 35</sup>**

	<b>2005-6</b>	<b>2006-7</b>	<b>2007-8</b>	<b>2008-9</b>	<b>2009-10</b>	<b>2010-11</b>
<b>Federal government</b>	<b>\$1.23</b>	<b>\$1.26</b>	<b>\$1.06</b>	<b>Not available</b>		<b>\$1.25</b>
<b>Provincial government</b>						
Alberta	\$3.22	\$2.75	\$2.62	\$2.54	n/a	n/a
British Columbia	\$1.35	\$1.26	\$1.28	\$1.24	\$0.88	\$0.86
Manitoba	\$0.50	\$0.50	\$0.50	\$0.48	\$0.69	\$0.88
New Brunswick	n/a	n/a	n/a	n/a	n/a	n/a
Newfoundland	\$1.15	\$1.53	\$1.46	\$1.46	\$1.49	\$1.65
Nova Scotia	\$2.45	\$2.49	\$2.57	\$2.56	\$2.56	\$2.44
Nunavut	\$2.69	\$5.62	\$2.17	\$2.15	\$1.86	\$8.43
NWT	\$4.77	\$8.31	\$7.65	\$7.83	\$7.82	\$7.40
Ontario	\$4.01	\$4.76	\$4.69	\$4.12	\$3.28	\$3.24
Prince Edward Island	n/a	\$0.87	n/a	n/a	n/a	n/a
Quebec	\$3.89	\$3.87	\$3.77	\$4.21	\$4.12	\$4.05
Saskatchewan	\$0.59	n/a	n/a	\$0.30	\$1.26	\$0.81
Yukon	\$6.70	\$8.73	\$5.35	\$7.70	\$11.16	\$6.23

<sup>34</sup> Provincial/territorial data from Ontario Tobacco Research Unit. Monitoring reports. [http://www.otru.org/monitoring\\_reports.html](http://www.otru.org/monitoring_reports.html).

<sup>35</sup> Federal estimates based on audited figures presented in section on Article 12.

**TABLE: BUDGET OF THE FEDERAL TOBACCO CONTROL STRATEGY , 2007-2011**  
(\$ MILLIONS)<sup>36</sup>

		2007-08	2008-09	2009-10	2010-11
Health Canada	P	56.8	78.9	52.9	42.7
	A	55.1	67.6	49.5	
Public Safety Canada	P	0.6	.6	0.61	0.61
	A	0.6	.6	0.61	
Royal Canadian Mounted Police	P	1.7	1.7	1.72	1.5
	A	.8	.834	1.04	
Office of the Director of Public Prosecutions	P	2.2	2.2	2.44	2.35
	A	2.1	2.3	2.35	
Canada Revenue Agency	P	.8	.8	0.89	0.9
	A	.8		0.89	
Canada Border Services Agency	P	10.8	10	10.56	10
	A	10		6.5	
<b>Total for federal partners</b>	P	<b>72.2</b>	<b>95.20</b>	<b>69.10</b>	<b>58.06</b>
	A	<b>64.9</b>	<b>73.08</b>	<b>60.55</b>	

P – planned; A-actual

## PUBLIC HEALTH IS OUT-GUNNED BY TOBACCO MARKETING DEPARTMENTS.

Another important reason to invest in efforts to reduce tobacco use is to counter-balance the activities of those who have invested in efforts to increase tobacco use.

At the current time, federal tobacco control efforts to reduce smoking are, on a person-for-person or dollar-for-dollar basis, much smaller than the efforts of tobacco companies to promote cigarettes.

Imperial Tobacco, for example, reported to investors in 2009 that it had 541 employees in “Brand and Trade Marketing.”<sup>37</sup> This compares to the 152 positions reported by Canada that were dedicated to tobacco control.<sup>38</sup>

## A COMPARISON OF TOBACCO TAX REVENUES AND TOBACCO CONTROL EXPENDITURES

There is no question in our view that smoking results in a net drain to the Canadian economy and also to the federal government balance sheet. Although the direct costs of providing health care services to Canadians made ill by tobacco products are mostly borne by provincial governments, the federal government underwrites many of these costs through federal transfer payments.

36 Information taken from Treasury Board’s Horizontal Initiatives Database at:  
<http://www.tbs-sct.gc.ca/rpp/2011-2012/inst/shc/st-ts04-eng.asp>  
<http://www.tbs-sct.gc.ca/rpp/2010-2011/inst/shc/st-ts04-eng.asp>  
<http://www.tbs-sct.gc.ca/rpp/2009-2010/inst/shc/st-ts05-eng.asp>  
<http://www.tbs-sct.gc.ca/hidb-bdih/plan-eng.aspx?Org=0&Hi=34&Pl=42>  
<http://www.tbs-sct.gc.ca/hidb-bdih/plan-eng.aspx?Org=0&Hi=34&Pl=158>

37 BAT Investor Presentation. Imperial Tobacco Canada. Ian Muir. September 2009.

38 Canada’s 5 year report to the FCTC, answer to question 3.1.1.5

One reason that the costs of tobacco use to the federal government are so much greater than the tax revenues from tobacco products is that the federal government spends very little of these tax revenues in preventing tobacco use, even though it spends much more in supporting the treatment of tobacco-caused disease.

In 2009-2010, the last year for which data was available, the federal government received \$2.63 billion in specific excise taxes on tobacco products (not including GST/HST). That is, for every dollar received by the federal government as a result of tobacco sales in 2009-2010, it spent 2 cents trying to prevent people from becoming smokers or trying to help them become former smokers.<sup>39 40</sup>

### THE FEDERAL GOVERNMENT RECEIVES MORE FROM YOUTH SMOKING THAN IT SPENDS TO PREVENT IT.

We estimate the federal government receives more than \$30 million in tobacco tax revenues resulting from smoking by school-aged children, about one-third of all government tax revenues from youth smoking.

According to data collected as part of the Health Canada-funded Youth Smoking survey, more than a million cigarettes are smoked each day by school-aged Canadians. Because 9 in 10 of these cigarettes are tax-paid brands, it can be estimated that provincial and federal governments collectively receive \$83 million a year in revenue from tobacco taxes on cigarettes smoked by young Canadians (see table below). This represents about \$380 for each of the 220,000 young Canadian smokers identified in the survey,<sup>41</sup> of which \$147 per child went to the federal government.

**TABLE: FEDERAL AND PROVINCIAL TOBACCO TAX REVENUES FROM TOBACCO SALES TO SCHOOL CHILDREN. (\$ MILLIONS), 2007-2010**

	Cartons per year smoked by youth *	Tax revenue per carton	Annual tax Revenue
Newfoundland & Labrador	36,535	\$38.00	\$1,388,318
Prince Edward Island	8,346	\$44.90	\$374,723
Nova Scotia	53,761	\$43.04	\$2,313,867
New Brunswick	48,724	\$25.50	\$1,242,458
Ontario	510,347	\$20.60	\$10,513,141
Quebec	566,015	\$24.70	\$13,980,561
Manitoba	51,739	\$41.00	\$2,121,289
Saskatchewan	93,007	\$42.00	\$3,906,314
Alberta	139,644	\$40.00	\$5,585,741
British Columbia	261,402	\$37.00	\$9,671,876
Canada-wide (excl. territories)	1,906,317	\$17.00	\$32,407,381
<b>Total government</b>	<b>1,906,317</b>		<b>\$83,505,668</b>

Not including 'native brands'

39 Expenditures on Tobacco Control. Treasury Board Secretariat, Horizontal Initiative Database and Health Canada: Final Audit Report - Tobacco Control Directorate: Audit of Management Systems and Practices

40 PSC. Tax revenues from tobacco sales, 2010. (from Public Accounts of Canada)

41 PSC. Profiting from starter smokers. Government revenues and industry profits from youth smoking. Findings from the Youth Smoking Survey, 2008-2009.

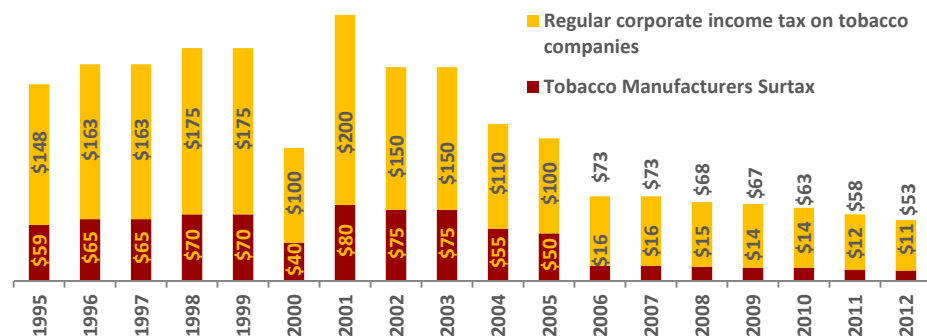
## THE TOBACCO MANUFACTURERS SURTAX: A PIONEERING TOOL NOW BLUNTED

The Tobacco Manufacturers Surtax (TMS) is a specific income tax levied on tobacco manufacturers. Originally imposed as a temporary surtax of 40% additional corporate income tax in 1994, the tax was made permanent and the rate was increased to 50% in 2001.<sup>42 43 44</sup> This surtax is unique in Canada: similar taxes are not applied to other categories of manufacturers, and we do not know of similar tobacco tax profits in other countries. The highest level of tax revenue from this measure was reported by Finance Canada in 2001 at \$80 million.<sup>45</sup>

In the ten years since the tax was made permanent, a number of events have occurred which have significantly reduced the tax burden on tobacco manufacturers:

At the time the tax was designed, virtually all cigarettes sold in Canada were manufactured in Canada. The “manufacturers’ tax” therefore captured most revenues from tobacco sales. In 2006, however, BAT relocated manufacturing to Mexico, which meant it was no longer a ‘manufacturer’ within the meaning of the surtax. BAT/Imperial Tobacco makes more than half the cigarettes smoked in Canada, and has historically been more profitable than the other companies.<sup>46</sup> The relocation of manufacturing to Mexico reduces the income on which the tobacco manufacturers surtax is levied by more than a half.

**FIGURE**  
**ESTIMATES OF INCOME TAXES ON TOBACCO COMPANIES IN CANADA, 1994-2012**  
**(\$MILLIONS)<sup>47</sup>**



42 See footnote 26 at Tax Expenditures and Evaluations 2005, Table 2.  
[http://www.fin.gc.ca/taxexp-depfisc/2005/taxexp05\\_3-eng.asp](http://www.fin.gc.ca/taxexp-depfisc/2005/taxexp05_3-eng.asp)

43 See explanation of Surtax at page 89 of Finance Canada. Tax Expenditures: Notes to the Estimates.  
[http://www.fin.gc.ca/taxexp-depfisc/2010/TEE10Notes\\_eng.pdf](http://www.fin.gc.ca/taxexp-depfisc/2010/TEE10Notes_eng.pdf)

44 Income Tax Act (1985, c. 1). Part II  
[http://laws.justice.gc.ca/eng/l-3.3/page-4.html#anchorbo-ga:l\\_II](http://laws.justice.gc.ca/eng/l-3.3/page-4.html#anchorbo-ga:l_II)

45 Finance Canada, Tax Expenditures and Evaluations, 2008

46 Physicians for a Smoke-Free Canada. Cigarette Industry Revenues in Canada. 1991-2003  
<http://www.smoke-free.ca/factsheets/pdf/earnings.pdf>

47 Detailed estimates are available at PSC: Backgrounder The Tobacco Manufacturers’ Surtax 1994-2012. Impact of corporate income tax reductions and industry relocation

In the 2006<sup>48</sup> and 2009<sup>49</sup> budgets, the government reduced the general corporate income tax rate from 21% in 2007 to 15% in 2012. The reduction in general corporate income tax rates reduces the federal tax rate for tobacco manufacturers by almost a third, from 31.5% in 2007 to 22.5% in 2012.

As a result of these two measures, we estimate the tax on the profits from tobacco sales in Canada will fall by about 60% from 2005 to 2012, costing the federal treasury \$86 million in 2012.

The annual benefit to tobacco companies of recent changes to taxation thus exceeds the annual amount federal expenditures on tobacco control.

#### **RECOMMENDATIONS: FUNDING TOBACCO CONTROL**

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- Health Canada should ensure a strong and direct relationship with Finance Canada to improve fiscal policy for tobacco control. This process should be made transparent and accountable.
- As part of its strategy renewal, Health Canada should prepare a cost-benefit analysis which allows for comparison of investments in tobacco control with other federal expenditures, such as the Economic Action Plan, transfer payments, etc.
- The renewed federal tobacco strategy should establish Canadian benchmarks for national, provincial and local government investment, equivalent to CDC's "Best Practices for Comprehensive Tobacco Control Programs". This can be done by the government of Canada or by an independent agency.
- The polluter pay principle should be implemented to fund federal tobacco control policies, including repairing the Tobacco Manufacturers Surtax, imposing license fees on tobacco suppliers, or other effective fiscal tools to ensure that tobacco companies (not smokers) pay for the costs of effective tobacco control.
- The Tobacco Manufacturers Surtax should be strengthened. The current tax should be modified into a levy and should apply to importers, manufacturers, wholesalers and retailers of all tobacco products.
- The revenue realized from a strengthened tobacco suppliers' levy should be allocated for tobacco control initiatives in Canada, as well as funding for the Framework Convention on Tobacco Control.
- Federal revenues from youth smoking should be entirely applied to efforts to prevent youth smoking.

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48 Finance Canada. Budget 2006. Tax Measures. Supplementary Information.

49 Finance Canada. Budget 2009. Chapter 3. Highlights.

# 4

## MAKING CANADA (MORE) SMOKE-FREE

### SMOKE-FREE SPACES HELP SMOKERS QUIT.

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Smoke-free environments protect non-smokers (and smokers) from exposure to air contaminated with toxins from second hand smoke. But they also influence smoking behaviour by reducing occasions to smoke, by reducing occasions for smoking to be modeled, to discourage progression from experimentation to regular smoking, and to discourage relapse among smokers trying to quit permanently.

A number of studies have explored the relationship between smoke-free work and home environments, and quitting smoking.<sup>50</sup> Smoke-free homes are associated with increased quit attempts by smokers, with sustaining those attempts for longer periods and for more successful quits.<sup>51</sup> In large California population studies, they were shown to make NRT effective<sup>52</sup> (which was shown to be ineffective at a population level in homes where smoking was allowed).

Our analysis of CCHS responses shows that restrictions at work are associated with more successful quitting (measured as the ratio of former to current smokers) and that this finding remains consistent across occupational categories (see figure below).

Even among smokers who do not quit, smoke-free environments have benefits for smokers. In addition to inhaling fewer toxins as a result of the cleaner air in such environments, and they are likely to smoke fewer cigarettes. Canadian smokers who were followed by the longitudinal National Population Health Survey smoked fewer cigarettes if they lived in a smoke-free home or worked in a smoke-free environment (more than 7 fewer cigarettes per day if they did both).<sup>53</sup> The same survey was used to determine that legal bans on smoking benefitted workers who had not previously been protected by voluntary bans and that “workplace smoking laws reduce smoking.”<sup>54</sup> Living or working in a smoke-free environment is associated with a greater likelihood of being ready to quit smoking.<sup>55</sup>

An evaluation of policy impact from 1990-2009 similarly found that: “A full workplace ban predicts a decline in the probability that a worker smokes of 14 percentage points and that a partial ban predicts a decline of 7 percentage points.”<sup>56</sup>

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50 Chapman S et al. “The impact of smoke-free workplaces on declining cigarette consumption in Australia and the United States.” *AJPH* 1999.

51 Pizacani BA et al. “A prospective study of household smoking bans and subsequent cessation related behaviour: the role of stage of change.” *Tobacco Control*. 2004.

52 Gilpin, EA et al. “Population effectiveness of pharmaceutical aids for smoking cessation: What is associated with increased success?” *Nicotine and Tobacco Research*. 2006.

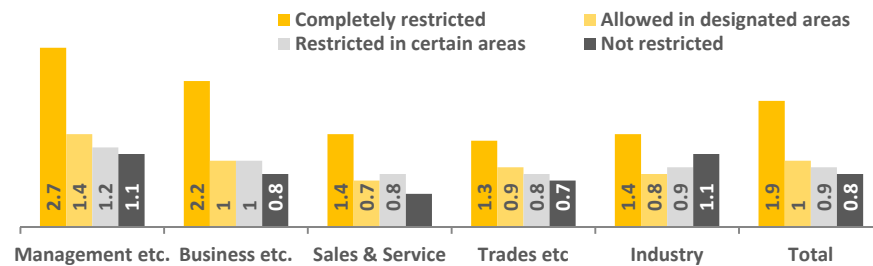
53 Margot Shields. A step forward, a step back: smoking cessation and relapse. Statistics Canada. 82-618.

54 Christopher Carpenter. “The Effects of Local Workplace Smoking Laws on Smoking Restrictions and Exposure to Smoke at work.” 2009

55 Margot Shields. Smoking bans: influence on smoking prevalence. Statistics Canada. 2007.

56 Gagne, L. Econometric Evaluation of Tobacco Control Initiatives in Canada, 1999-2009.

**FIGURE:**  
**QUIT RATIO (FORMER TO CURRENT SMOKERS) BY OCCUPATIONAL CATEGORY AND**  
**SMOKING RESTRICTIONS AT WORK, CANADA 2007-2008<sup>57</sup>**



## PROGRESS IN SMOKE-FREE PUBLIC SPACES

In the first part of the FTCS, Health Canada proactively supported the establishment of smoke-free workplaces, public places and home environments. They did this through supporting community grants, through mass media, and through the moral suasion of giving the issue priority in public communications.

These efforts, combined with those of health partners across Canada transformed the Canadian landscape. In 2004, only 1 in 5 Canadians lived in a community where they had “gold standard” protection from second hand smoke in indoor workplaces and public places.<sup>58</sup> In 2007, the number protected had grown to 4 in 5<sup>59</sup> and today all Canadians are protected from smoke in indoor places.<sup>60</sup>

The drop in the number of Canadians who report being regularly exposed to smoke in public places<sup>61</sup> shows the dramatic change that occurred over the course of the FTCS. According to the CCHS, the overall prevalence of exposure dropped from 19.7% in 2003 to 10% in 2009. In jurisdictions like Quebec, Saskatchewan, Alberta, Yukon, Northwest Territories, where exposure was over 20%, the drop has been particularly dramatic and is now below the national average. On the other hand, jurisdictions like British Columbia, have not seen a statistically significant decline.

Disturbingly, there is indication of a reversing trend. In 2010, there was a statistically significant increase in the number of Canadians who reported exposure to second hand smoke (from 10% to 11%). As this is self-reported information, it may reflect an increased awareness of exposure and not an actual increase in exposure.

<sup>57</sup> PSC. Smoking and Restrictions on Smoking at work, Canada 2007-2008

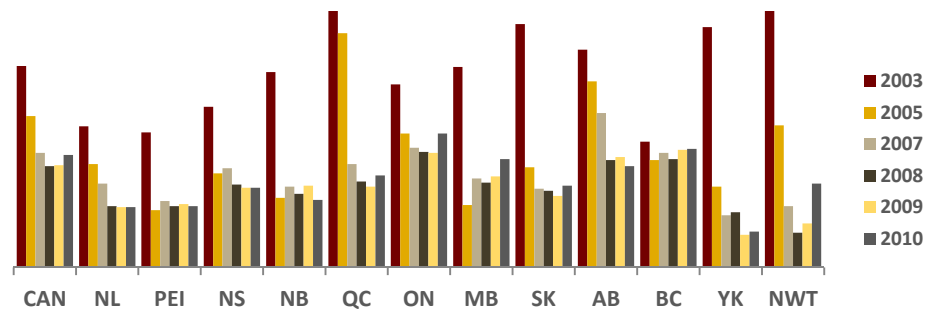
<sup>58</sup> PSC. “Protection from second-hand smoke in Canada. October 2004.

<sup>59</sup> PSC. “Protection from second-hand smoke in Canada. September 2007.

<sup>60</sup> The Global Tobacco Control Forum. Shadow Report. 2010.

<sup>61</sup> Canadian Community Health Survey, 2003 to 2010. The question does not distinguish between indoor and outdoor places. ““In the past month, were you exposed to second-hand smoke every day or almost every day in public places (such as bars,restaurants, shopping malls, arenas, bingo halls, bowling alleys)?” (Yes/No)

**FIGURE: PERCENTAGE OF NON-SMOKERS IN CANADA REPORTING EXPOSURE TO SECOND-HAND SMOKE IN PUBLIC PLACES IN PAST MONTH, BY PROVINCE 2003-2010**



### PROGRESS IN SMOKE-FREE *PRIVATE* SPACES

The decrease in reports of regular exposure to second hand smoke in the past month for home settings, including vehicles, has also fallen over the duration of the FTCS. Those who are most likely to report being exposed in both public and home settings are young Canadians (aged 12-19) or young adult (aged 20-34). Since 2003, 1.5 million fewer Canadians report being exposed in public places, 500,000 fewer report exposure in vehicles, and 750,000 fewer report exposure at home.<sup>62</sup>

### THE REMAINING CHALLENGE:

Many Canadians have not yet benefitted from the progress in smoke-free places that was experienced during the first two cycles of the FTCS (2001-2010). These Canadians include:

- 892,566 Canadians who work in environments where smoking is not restricted at all (including 388,834 smokers), and a further 471,939 who work where smoking is restricted only in certain areas (including 178,402 smokers).<sup>63</sup> There is no current measure of how many of those workers fall under federal labour laws.
- 1,331,928 Canadians who report they are exposed on a daily or near daily basis to smoke at home (including 450,695 children between the ages of 12-19, and an undetermined number of younger children).<sup>64</sup>
- 2,488,791 Canadians who report they are exposed on a daily or near daily basis to smoke in public places (including 581,116 Canadians aged 12 to 19).
- 182,000 children under 11 and 238,000 children aged 12-17 who are regularly exposed to second hand smoke at home.
- 4.4% of children under 11, 8.8% of children aged 12-17 who are exposed to smoke at home on a daily basis.<sup>65</sup>

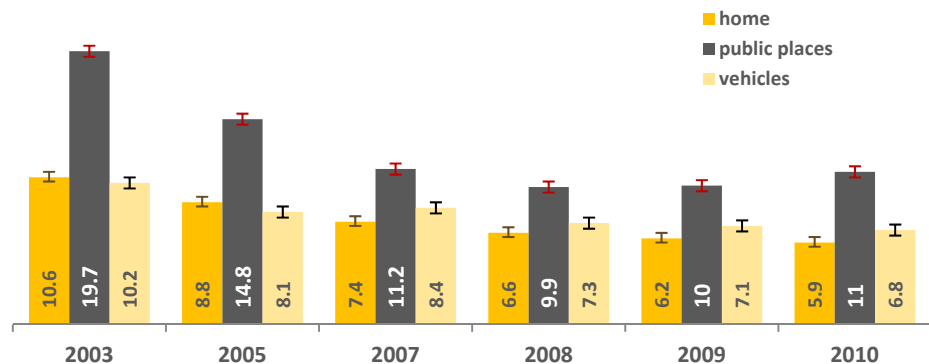
<sup>62</sup> PSC Exposure to second hand smoke in public places. Canada, 2010

<sup>63</sup> PSC. Smoking and Restrictions on Smoking at work, Canada 2007-2008

<sup>64</sup> PSC. Exposure to second-hand smoke at home. Canada, 2009



**FIGURE:**  
**SELF-REPORTED DAILY OR NEAR DAILY EXPOSURE OF NON-SMOKERS TO CIGARETTE SMOKE, ALL AGES 2003-2010<sup>66</sup>**



#### RECOMMENDATION: MAKING CANADA (MORE) SMOKE-FREE

- The renewed federal tobacco strategy should develop a strategy to promote smoke-free workplaces for outdoor workers.
- The renewed strategy should aim to protect all children from daily or frequent exposure to cigarette smoke in home environments.
- The renewed strategy should promote the protection of all Canadians from involuntary exposure in home environments, including appropriate measures for multiple unit dwellings.
- The federal government should collaborate with provincial governments in developing and implementing strategies to implement effective measures to reduce exposure to smoke in outdoor public and work environments. These would include construction sites, bars and restaurant patios, parks and beaches.

<sup>65</sup> Canadian Tobacco use Monitoring Survey (CTUMS), 2010. Supplementary Tables and Statistics Canada. Population estimates

<sup>66</sup> Canadian Community Health Survey, 2003-2010.

# 5

## CONTROLLING THE DISEASE VECTOR

### TOBACCO COMPANIES: NO ORDINARY MANUFACTURER.

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There is an epidemiological framework that describes tobacco companies as the disease vector for tobacco addiction and therefore of tobacco-caused disease. (In this framework, the cigarettes can be seen as the agent, and smokers as the host).<sup>67</sup>

While the FTCS has made significant advances in changing some tobacco company activities, it has not imposed requirements that change their fundamental way of thinking and behaving nor has it formally acknowledged tobacco companies as a disease vector.

Health Canada policies give tobacco companies a ‘free pass’ from other consumer laws administered by the department, such as the *Consumer Product Safety Act*. This law exempts tobacco companies from general obligations not to “manufacture, import, advertise or sell a consumer product that is a danger to human health or safety.”<sup>68</sup>

There are other federal laws which oblige tobacco companies to maximize the returns of their shareholders, even though selling cigarettes is the only option available to them to generate shareholder value. The FTCS does nothing to resolve this inconsistency.

In recent years, a number of proposals have been made to address the underlying motivation and behaviour of tobacco companies, and to offer workable new management structures for tobacco control. These proposals include: performance-based regulations,<sup>69</sup> ending the manufacturer’s obligation to increase or at least maintain shareholder value,<sup>70</sup> regulating tobacco industry profits,<sup>71</sup> banning some or all tobacco products or prohibiting use by some people,<sup>72 73</sup> imposing targeted reductions

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67 See, for example. Cohen JE, Chaiton MO, Planinac, LC. Taking Stock. A Bibliometric Analysis of the Focus of Tobacco Research from the 1980s to the 2000s. *Am J Prev Med* 2010;39(4):352–356

68 *Consumer Product Safety Act*. S. 7

69 Sugarman SD. Performance-based regulation: Enterprise responsibility for reducing death, injury and disease caused by consumer products. *Journal of Health politics, Policy and Law*. Vol. 34, No. 6, December 2009.

70 Callard C, Thompson D, Collishaw N. Transforming the tobacco market: why the supply of cigarettes should be transferred from for-profit corporations to non-profit enterprises with a public health mandate. *Tob Control*. 2005 Aug;14(4):278-83.

71 Gilmore AB, Branston JR, Sweanor D. The case for OFSMOKE: how tobacco price regulation is needed to promote the health of markets, government revenue and the public. *Tob Control*. 2010 Oct;19(5):423-30

72 Hall W, West R. Thinking about the unthinkable: a de facto prohibition on smoked tobacco products. *Addiction* 2008;103:873-4.

73 Tobacco Strategy Advisory Group. “Building on our gains, taking action now: Ontario’s Tobacco Control Strategy for 2011-2016. Ontario Ministry of Health Promotion and Sport. October 18, 2010

on supply,<sup>74</sup> penalizing manufacturers for youth smoking,<sup>75</sup> and modifying industry behaviour by requiring it to stop externalizing the costs of smoking.<sup>76</sup>

A number of countries are exploring more ambitious regulation of tobacco companies. New Zealand legislative committee recently proposed “annually reducing (by a set percentage) the amount of imported tobacco, the number and quantity of tobacco products for sale at each outlet, and the number of retail outlets,”<sup>77</sup> although the official government response leaves open whether or how this might be accomplished.<sup>78</sup> Finland has written its goal for phasing out tobacco use into law.<sup>79</sup>

## LEARNING FROM THE PAST

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We are not aware of any effective tobacco regulation that tobacco companies have not attempted to defeat or to undermine. In Canada, they have demonstrated their unwillingness to cooperate with public health and their willingness to thwart legislation by:

- undermining the federal *Tobacco Products Control Act* by diverting marketing expenditures to sponsorship or event marketing.
- undermining agreements with the Competition Bureau to end the deceptive marketing of ‘light’ cigarettes by replacing words like ‘light’ and ‘mild’ with colour-coded packages.
- undermining health warning messages regulated under the *Tobacco Act* by changing the shape and size of their packages
- undermining bans on youth-oriented flavoured products in Bill C-32 by redesigning their products to allow their continued marketing.
- Undermining price and tax measures aimed at increasing the price of cigarettes by launching discount brands.
- undermining provincial laws banning tobacco displays at retail by engaging in new forms of retail promotion, such as the Preferred Pricing program of Imperial Tobacco.

These industry actions reveal a number of structural or systemic problems with Canada’s current approach to regulating tobacco issues.

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74 Thomson G, Wilson N, Blakely T, et al. Ending appreciable tobacco use in a nation: using a sinking lid on supply. *Tob Control* 2010;19: 431-35.

75 Glantz, SA. Removing the incentive to sell kids tobacco. A proposal. *JAMA*. 1993 Feb 10;269(6):793-4.

76 Rand Europe. Accessing the Impacts of Revising the Tobacco Products Directive. Study to support a DG Sanco Impact Assessment. Final Report

77 New Zealand Parliament. Report of the Maori Affairs Committee: Inquiry into tobacco industry in Aotearoa. November 2010.

78 New Zealand government. Response to the report of the Maori Affairs Committee on its Inquiry into the tobacco industry in Aotearoa and the consequences of tobacco use for Maori. (Final Response) March 14, 2011

79 Finland ministry of Social Affairs and Health. The Aim of the Tobacco Act is to put an end to smoking in Finland. Press Release. October 18, 2010.

Under the current approach, tobacco companies are governed by conflicting laws. Health regulations tell the companies to, for example, end traditional tobacco advertising. Corporate laws require the companies to serve the best interests of their shareholders, even though doing so requires them to sell as many cigarettes as possible and as profitably as possible. The management is rewarded for promoting shareholder value, but is not rewarded for ending the promotion of cigarettes. As a result, the companies engage in an optimizing exercise: doing as much as they can to increase revenues from tobacco sales while doing as little as they must to comply with health laws.

Under the current approach, tobacco companies have the advantage of time, and the government remains at a regulatory disadvantage with respect to the industry. The rules that are applied to regulation making or enforcement require a level of research and a detailed process that makes the pace of regulation very slow. By contrast, tobacco companies have much more flexibility and can move quickly to introduce new products, new marketing techniques etc, knowing that it will be months or years before the government can introduce a regulatory response. Many proposed regulations are never implemented: there were 16 regulatory proposals published in Canada Gazette Part I, but only 5 have been published in Canada Gazette Part II (see table below).<sup>80</sup>

Under the current approach to developing regulations, tobacco companies have the advantage of uncertainty. Health Canada is increasingly expected to be able to quantify the beneficial effect of a regulation, through requirements of the regulatory impact assessment and of establishing justifiability for regulatory takings. The reticence of the federal government to move forward with plain packaging, for example, may reflect the fact that the benefits, while established, are “currently not quantifiable on a population level.”<sup>81</sup>

Under the current enforcement approach, tobacco companies have the advantage of uncertainty, as the evidentiary burden is on the regulator and the benefit of the doubt goes to the regulated. While the industry is unlikely to openly defy federal law, it is able to play in the ‘shades of grey,’ knowing that the government will hesitate to enforce a law unless the case is completely clear-cut. In court, the government would have to prove an infraction of the law “beyond a shadow of a doubt.” Such problems have been

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80 One example of this is the length of time taken to develop new health warnings to replace the pioneering set developed in 1999-2000. Replacement warnings were first planned to be in place for 2008: the most optimistic scenario at the time of writing is that they will be on packages four years later (in 2012).

Because new warnings will lead to fewer smokers, delays in replacing the warnings thus lead to more smokers than should be the case. Difficult as it is to quantify the value of increasing illness and early death, research commissioned by Health Canada helps us illustrate the significant cost of this delay in ways that can be compared to the cost of acting in a timely manner.

Health Canada estimated that the new warnings would result in at least 1,800 more Canadians quitting in the first year, with almost that many additional quitters in subsequent years. The value of a 4 year postponement in these additional quits is thus more than \$40 million in health care savings, with extended lifespans valued at more than \$2 billion. See: Health Canada Tobacco Product Labelling Regulations. RIAS. Canada Gazette, Part 1. February 1, 2011

81 RAND Europe. Assessing the impacts of revising the [EU] Tobacco Products Directive, p. 226.

addressed in other Canadian laws, for example the general anti-avoidance provisions of tax laws.

Moreover, the evidentiary burden for Health Canada in the development of regulations is inappropriately high. There is no formal acceptance that the precautionary principle should be applied to protect public health from industry activities. The expectation that results of regulatory measures should be quantifiable in advance of regulatory implementation is unrealistic, and inconsistent with the evidentiary burden required of other federal policy steps.

Under the current approach, tobacco companies have the advantage of secrecy, as the interpretation and enforcement of federal tobacco laws is not transparent. Citizens groups and the media are hindered in monitoring the application of the Tobacco Act as interpretive guidelines and enforcement reports are not made public. Reports on enforcement activity are not made public. Analyses or evaluations of enforcement are not made public, although other jurisdictions have shown that this can be helpful in strengthening public health authority.<sup>82</sup> Reports made to government by industry are not available to external or independent researchers, and only limited aggregate reports are made public.<sup>83</sup>

The combined effect of non-transparency and the regulatory advantage given to the industry is that laws are re-interpreted over time in ways which favour the industry and which harm public health. One example of this was the decision to allow the industry to establish sponsorship companies (like Players Inc.) to take advantage of the ‘loop-hole’ in the TPCA that allowed for corporate name sponsorship. Another example was the decision to allow the industry to establish promotional web-sites, and to include e-mail and internet as ‘publications’, even though they had not been originally included in the list of permitted media in the Tobacco Act. Because interpretations are not public, it is not possible for external researchers or civil society organizations to know the extent to which they vary over time.

Tobacco companies can be expected to continue to undermine measures introduced in the FTCS or by other governments. So predictable is this outcome that Euromonitor illustrated their likely counterstrategies in a recent report.<sup>84</sup>

Tobacco: Legislation		© Euromonitor International
11 Forecasts		
Legislation and Industry Counter-strategies		
Legislation	Counter-strategies	
Growing influence of Tobacco control	Work with regulatory authorities to reduce youth smoking	
Public smoking bans de-normalise smoking	Encourage development of external smoking environments	
Low tar legislation	Develop low tar offers stressing low-risk appeal where possible	
Pack warnings	Pack redesigns	
Media advertising restrictions	Work with indirect advertising	

82 See for example, Quebec Sante et services sociaux: Progressing toward a tobacco free Québec. Developing Québec Anti-Tobacco Legislation. 2005 <http://publications.msss.gouv.qc.ca/acrobat/f/documentation/2004/04-006-07A.pdf>

83 During the course of the FTCS, Health Canada suspended a long-standing practice of making available the brand-shares of tobacco products in Canada.

84 Euromonitor. Meting the new challenges – corporate strategy in tobacco. May 2011.

**TABLE:**  
**REGULATORY DEVELOPMENT UNDER THE TOBACCO ACT, 1997- 2011**

Topic	Regulatory proposals	Outcome
<b>1997</b>		
Tobacco (Access) Regulations	Gazette Part i: March 1997	Came into force: 1999
Tobacco (Seizure and Restoration) Regulations	Gazette Part i: March 1997	Came into force: 1999
<b>1998</b>		
	none	
<b>1999</b>		
The Tobacco Act: Options for Tobacco Promotion Regulations	Consultation: January 1999 Further consultations issued in 2004 and 2006	No regulations developed
Tobacco Products Information Regulations	Consultation: January 1999 Gazette Part I: January 22, 2000	Came into force: 2000
Tobacco Reporting Regulations	Consultation: January 1999 Gazette Part I: January 22, 2000	Came into force: 2000
<b>2000</b>		
	none	
<b>2001</b>		
Regulations Amending the Tobacco (Seizure and Restoration) Regulations	Consultation: February 2001 Gazette Part 1: April 7, 2001	Suspended
Regulations Amending the Tobacco Products Information Regulations	Consultation: February 2001 Gazette Part 1: April 7, 2001	Suspended until 2011
Regulations Amending the Tobacco Reporting Regulations	Consultation: February 2001 Gazette Part 1: April 7, 2001	Suspended
Tobacco Promotion Regulations prohibiting "light" and "mild" descriptors	Consultation: December 1, 2001 Notice of Intent: December 2001 Gazette Part I: August 4, 2007	Suspended until 2007 (and subsequently until 2011)
<b>2002</b>		
Cigarette Ignition Propensity Regulations	Consultation: December 2, 2002 Gazette part 1: May 2004	Came into force: 2005
<b>2003</b>		
	none	
<b>2004</b>		
A Regulatory Proposal To Include Warnings in Tobacco Advertisements	Consultation: November 17, 2004	No regulations developed
Proposal for New Health-Related Information on Tobacco Product Labels	Consultation: August 18, 2004 Gazette Part i: May 31, 2008	Suspended until 2008 (and then again until 2011)
Regulations Amending the Tobacco Reporting Regulations	Gazette Part 1: May 1, 2004 (related to cigarette ignition propensity)	Integrated into RIP regulations, 2005.
<b>2005</b>		
	none	
<b>2006</b>		
A Proposal to Regulate the Display and Promotion of Tobacco and Tobacco-Related Products at Retail	Consultation: December 2006	No regulations developed
<b>2007</b>		
Tobacco Promotion Regulations prohibiting "light" and "mild" descriptors	Gazette Part I: August 4, 2007	Suspended until 2011
<b>2008</b>		
A Proposal to Regulate Little Cigars under the Tobacco (Access) Regulations	Consultation: May 30, 2008	Integrated into C-32, which came into force in 2010.
Regulations Amending the Tobacco Products Information Regulations	Gazette Part I: May 31, 2008	Suspended until 2011
<b>2009</b>		

Topic	Regulatory proposals	Outcome
	none	
<b>2010</b>		
	none	
<b>2011</b>		
Proposed Tobacco Products Labelling Regulations (Cigarettes and Little Cigars)	Gazette, Part I: February 19, 2011	
Proposed Regulations Amending the Tobacco Products Information Regulations	Gazette, Part I: February 19, 2011	
Proposed Promotion of Tobacco Products and Accessories Regulations (Prohibited Terms)	Gazette, Part I: February 19, 2011	

## “CHANGING THE CHANNEL

### THE ABUSE OF THE CONTRABAND CRISIS TO DEFLECT AND WEAKEN OTHER TOBACCO CONTROL STRATEGIES.

Contraband tobacco sales harm communities in many important ways. They rob legal merchants of business opportunities. They rob the treasury of tax dollars. They undermine the rule of law and otherwise weaken social cohesion.

From a health point of view, however, the real threat from contraband cigarettes is the undermining of tobacco control measures, especially those related to price. The contraband market **directly** makes cheap cigarettes available to those who buy in this market. By encouraging ‘legitimate’ tobacco manufacturers to ‘compete’ with lower priced illicit cigarettes, it also **indirectly** makes make cheap cigarettes available to those who buy discount legal brands. To the extent that the illicit market has discouraged federal and some provincial governments from raising taxes, the illicit market has thus **indirectly** made all cigarettes across Canada cheaper than they otherwise would have been.<sup>85</sup> In a presentation to investors, BAT noted that their high-energy campaign to focus on contraband had forestalled tobacco tax increases.<sup>86</sup>



**Q. What's the real cost of contraband?**

**A. Government has been persuaded to postpone action on other tobacco control measures.**

<sup>85</sup> Inflation has reduced the real federal tax rate on cigarettes. Since the rate was set in 2002, inflation has eaten away 20% of the value of a dollar. If the tax rate of \$15.85 set in 2002 had kept pace with inflation, the tax per carton would now be over \$19.

<sup>86</sup> British American Tobacco: Managing the challenges in the Americas. Mark Cobben. Investor Day 2011.

## ■ Increased illicit trade awareness leads to less tax increases

- Tax increases in 2011 only in New Brunswick & Manitoba accounting for less than 10% of our business



But perhaps the greatest harm from contraband cigarettes during the FTCS is the way tobacco companies have been allowed to exploit legitimate public concern for the contraband market in order to divert attention from and delay the many other important advances needed to modernize tobacco control.

The industry's concerted campaign to make contraband the predominant topic of concern amongst business and political leaders<sup>87</sup> illustrates the vulnerability of public health to tobacco industry PR campaigns. To date, there has been little public research into the

industry's attempts to manipulate the policy agenda, and little policy development in ways to protect the public interest from

commercial advocacy campaigns.



## INDUSTRY MOVES TO BLAME THE KIDS

Tobacco industry PR campaigns have also focused on measures which effectively shift responsibility for preventing youth smoking uptake onto the shoulders of children,<sup>88</sup> such as bans on youth possession and use of tobacco.

The focus on youth access (whether sales to minor legislation or bans on youth possession) skews tobacco control strategies away from the necessary balanced set of comprehensive measures, deploys resources to less cost-effective measures, and frames tobacco use around legality, not health.

<sup>87</sup> BAT. Neil Withington. Anti illicit trade: scale and opportunities. Investor Presentation. Investor Day. May 2011.

<sup>88</sup> Canadian Convenience Store Association. Press release. Call for government ban on youth possession and use of tobacco; January 19, 2009.



## PLANNING FOR THE FUTURE

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Because the current approach does not remove the motivations for tobacco companies to increase sales, because it does not remove the barriers to speedy regulation, and because it does not remove the benefit of the doubt routinely applied to tobacco companies, tobacco regulation in Canada is not as effective as it could be. The consequence is that smoking rates are higher in Canada than they need be, and the implication is that smoking rates will continue to be higher than necessary as long as the industry is advantaged by the current regulatory approach.

### **MORE REGULATION, BETTER REGULATION, SMARTER REGULATION**

The renewed federal strategy is an opportunity for the federal government to develop better “counter-counter strategies” for public health. Such strategies could include measures identified above, such as performance-based regulations, a sinking-lid on tobacco supply, controlling or ending profit-making from tobacco use, imposing health outcomes as conditions of license, etc.

Although the government of Canada has an established policy of creating a “performance-based regulatory system,”<sup>89</sup> this has not yet translated into regulations which make tobacco companies responsible for regulatory outcomes. Ways of doing this have been proposed by Stephen Sugarman and others.<sup>90 91</sup>

What is PBR? Firms are given a harm reduction target



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Public authorities measure whether target has been achieved  
If so, firms are praised



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If not, firms must pay for the social costs beyond the target



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89 Treasury Board Secretariat. Regulatory Affairs. <http://www.tbs-sct.gc.ca/ri-qr/index-eng.asp>.

90 Slides from “Performance-Based Regulation: Enterprise Responsibility for Reducing Death, Injury, and Disease Caused by Consumer Products. Stephen Sugarman. Presentation to Health Law Institute. University of Alberta 2009. <http://www.law.ualberta.ca/centres/hli/events/seminarseries?id=97>

91 PSC. Future options for tobacco control: Performance-based regulation of tobacco. June 2010. Appended to this submission.

#### RECOMMENDATION: CONTROLLING THE VECTOR

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- the new federal tobacco strategy should establish a new framework for regulating tobacco that addresses current weaknesses
- tobacco companies should be required under law to contribute to the reduction of tobacco use (through performance based regulations or other legal instruments).
- the contribution expected of the industry toward the reduction of tobacco use should be proportional to its capacity to influence tobacco use, and the penalties for failing to make this contribution should be proportional to the damage caused by this failure.
- Parliamentary approval should be sought for the removal of privileges accorded tobacco companies under federal law or administrative practice, such as evidentiary advantage, protection of business information, exemptions from consumer protection laws, etc.
- Health Canada should monitor the participation in and funding of public relations strategies by tobacco companies and analyze their compatibility with the guidelines for implementation of Article 5.3 of the Framework Convention on Tobacco Control. If necessary, a policy response should be developed.

# 6

## NEW FORMS OF TOBACCO PROMOTION

### AN END TO TRADITIONAL ADVERTISING, PROMOTION AND SPONSORSHIP

During the course of the FTCS, actions by federal and provincial governments resulted in a tremendous diminution of tobacco marketing in Canada. Many styles of promotions that were prevalent at the beginning of the century have virtually disappeared. Billboards disappeared on October 1, 2000. Sponsored events disappeared in 2003. Print advertising disappeared in 2009. Displays of cigarettes became outlawed by provincial regulation between 2002 and 2010. Bans on These include: sponsored events at nightclubs, contests, cigarette girls, magazine ads, web-sites, e-mail campaigns, specialty magazines.

**FIGURE**  
**GONE, BUT NOT FORGOTTEN: TOBACCO**  
**MARKETING 2001-2009...**



## NEW CHALLENGES OF TOBACCO PROMOTION.

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Over the past decade, tobacco companies have adapted to restrictions on conventional advertising, sponsorship and promotion. They describe today's environment as a "dark market", and they have developed new techniques to promote within it.

By contrast, national and provincial governments have focused almost exclusively on traditional marketing, and have not developed the surveillance, research or regulatory tools to respond to the industry's marketing innovations.

### MAKING TOBACCO PRODUCTS MORE ATTRACTIVE TO CHILDREN

The consultation document refers to the *Cracking Down on Tobacco Marketing to Youth Act (Bill C-32)* as though it had achieved its intended effect, and makes no mention of the loop-holes in the law that have allowed certain tobacco companies in continuing to market the products the law was intended to ban. The picture on the right shows a product banned under Bill C-32 (top), and it is almost identical replacement product (below).



Although the Prime Minister said on July 5, 2010 that retailers and manufacturers were to "respect both their legal obligations and the spirit of the legislation", there has been no regulatory response to the continued marketing of child-friendly tobacco products.

Cigarillos are not the only candy-flavoured tobacco product on the market. Candy and fruit flavoured oral tobacco and shisha are both widely available in Canada. Cigarettes flavoured with mint are permitted, as are clove-flavoured kretek-cigarettes.

Nor did the consultation document refer to the vulnerabilities to the regulatory system exposed by the emergence of flavoured tobacco. Working as quickly as possible, it took more than 2.5 years to develop, pass and implement a regulatory response (and an effective regulatory response has not been implemented, 4 years later). The challenge of flavoured tobacco should be another wake-up call that the cat-and-mouse game will continue until better regulatory tools are put in place.

## MODERN MARKETING TO ADULT SMOKERS: “DEADLY, PREDATORY EXPLOITATION”

BAT, which is the largest tobacco company operating in Canada, describes “modern tobacco marketing” as “marketing for a new era, where product brand communication is primarily based on one-to-one permission marketing to adult smokers, in much more focused, narrower channels, with tight standards for age verification.”<sup>92</sup> Elements of their marketing approach are innovative product development, packaging innovations, and one-to-one promotion.

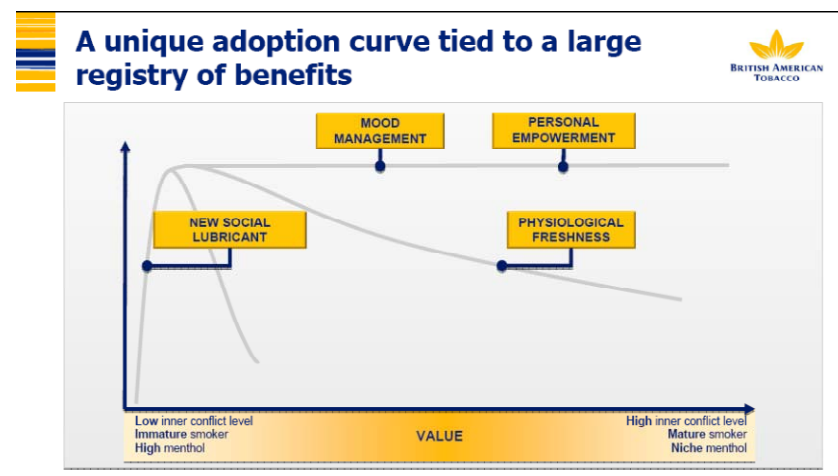
Tobacco Control has not yet caught up with these developments in marketing, and has not established measures to pre-empt their implementation. Canadians are particularly vulnerable, as the federal *Tobacco Act* is not designed to protect adults from tobacco promotions, but restricts its protective net to young persons.

As shown in the slide from an investor presentation by BAT, tobacco companies closely examine the vulnerability of adults to nicotine addiction, and the ways in which the ‘benefits’ of smoking can be sold to them.

The policy decision of previous Canadian governments to focus on youth marketing and to continue to allow marketing to adults is one that can be reversed in future federal tobacco strategies.

Although protecting young people from tobacco marketing is an easier “political sell”, there are also compelling reasons to protect adults from commercial messages intended to persuade them to harm themselves.

FIGURE<sup>93</sup>  
BAT SAYS ITS “CONSUMERS WILL IN THE END MAKE THE RIGHT CHOICE” [TO SMOKE].



92 British American Tobacco. Modern tobacco marketing.

[http://www.bat.com/group/sites/uk\\_\\_3mnfen.nsf/vwPagesWebLive/DO78BDW6?opendocument&SKN=1](http://www.bat.com/group/sites/uk__3mnfen.nsf/vwPagesWebLive/DO78BDW6?opendocument&SKN=1)

93 British American Tobacco. Innovations Overview. Presentation by Jean-Marc Levy BAT Investor Day 2010

As the British Columbia government presented to the Supreme Court of Canada:<sup>94</sup>

*British Columbia argues that the marketing and promotion of tobacco products to addicted smokers is not protected by section 2(b) of the Charter of Rights and Freedoms. Such activity is not “expression” as that term is understood and valued, but rather consists of “trigger words” designed to cause and exacerbate personal injury. British Columbia argues that the manufacturers’ intended audience, addicted smokers, is a peculiarly vulnerable group harmed by the “trigger words.” ...*

*The manufacturers are expressly determined to target those persons to their product to exploit that addiction, and thereby to cause their customers an injury from which they profit. This Court should not recognize any aspect of this deadly, predatory exploitation as a constitutional right.”*

### MARKETING THROUGH PRODUCT DESIGN

*Using colored tipping papers and special printing techniques, for example, tobacco companies can continue to set apart their products from those of the competition. Tobacco Reporter, August 2011*

Just as tobacco companies looked to the package as a promotional tool when traditional advertising opportunities were restricted, they are looking to the product as a promotional tool when traditional packaging opportunities are restricted.



Whether in response to plain packaging or to the impact on packaging promotions from large health warnings, tobacco companies can be expected to accelerate the development of ways to make their products convey positive smoking imagery - and this imagery can be expected to increase tobacco use beyond what it otherwise would be.

### MARKETING THROUGH PRODUCT INNOVATIONS

Increasingly tobacco companies are looking to product and packaging innovations to market their products.

As Euromonitor recently put it<sup>95</sup> :

*New product development is becoming increasingly regarded as a vital element in maintaining consumer perceptions of international brands and persuading cash strapped smokers not to trade down to cheaper brands, give up or switch to illicit trade*

<sup>94</sup> “Factum of the Intervener. The Attorney General of British Columbia” in *JTI-MacDonald vs. Attorney General*. Supreme Court hearing, 2006.

<sup>95</sup> Passport (Euromonitor): Global Tobacco Findings 2011: Battle Intensifies



BAT attributes 10% of its sales in 2010 (or 70 billion cigarettes) to product innovation.<sup>96</sup> Each of the other multinational companies has also increased its focus on product innovations and especially ‘capsule’ technology to flavour cigarettes.

We are not aware of any health research examining the impact of innovations on smoking rates, but there is no reason to believe that these innovations do not accomplish what they are intended to do – increase the sales of and use of tobacco products.

Some of these product innovations have not yet been launched in Canada. Of particular concern is the development of ‘capsule’ cigarettes, which would be legal in Canada as C-32 did not ban menthol or mint flavourings.

**FIGURE CAPSULE MENTHOLS ...  
MUST WE WAIT FOR THEM TO BE MARKETING BEFORE BANNING THEM?**



## MARKETING FALSE BELIEFS ABOUT TOBACCO PRODUCT HARMFULNESS

One of the important developments since the launch of the FCTS is a scientific consensus that there is no benefit, and there are significant harms to the marketing of ‘light’ cigarettes.

The most commonly used marketing tactic to suggest ‘strength’ of cigarettes is the use of colours. Recent studies have shown that the removal of the words ‘light’ and ‘mild’ from tobacco packages has been undermined by this marketing innovation.<sup>97</sup>

New York’s television campaign informs smokers of industry deceptive practices – and then encourages them to quit

Color Coding of Cigarette Packs



<sup>96</sup> British American Tobacco. Innovations Overview. Presentation by Jean-Marc Levy BAT Investor Day 2010

<sup>97</sup> Mutti S. et al. Beyond light and mild: cigarette brand descriptors and perceptions of risk in the International Tobacco Control (ITC) Four Country Survey. Addiction, June 2011.

Canada has taken faltering steps towards removing deceptive packaging and product design, as outlined in our submission to Health Canada “Promotion of Tobacco Products and Accessories Regulations (Prohibited Terms) earlier this year.<sup>98</sup> Other jurisdictions have imposed regulatory<sup>99</sup> or informational programs<sup>100</sup> to reduce package deception which could serve as a model for actions Canada might take in a renewed federal strategy.

## MARKETING THROUGH PACKAGE DESIGN

Since the FTCS was launched, tobacco companies have increasingly focused on tobacco packaging as a form of promotion. In Canada, as elsewhere, they have frequently changed the look, design and even the feel of their packages.

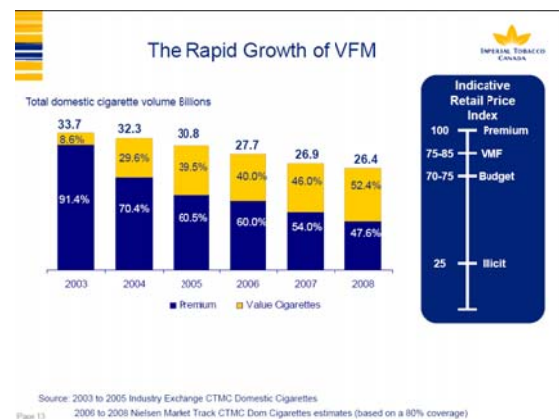
The FCTC guidelines on promotion reflect a growing global concern that multinational tobacco companies should be constrained in how they use the package to blunt the impact of health warnings, to encourage false beliefs about the harmfulness of their products, to encourage product trial, etc. These guidelines (printed below) call for plain packaging, or at least strong restrictions on packaging.<sup>101</sup>



## MARKETING THROUGH PRICE

Since the launch of the FTCS, Canada has seen a dramatic change in the price structure of tobacco products. At the beginning of this century, manufactured cigarettes were sold at a uniform price in each province (although there were significant inter-provincial price differences).

In 2010, fewer than half (41%) of manufactured cigarettes legally sold in Canada were at the single premium price tier in effect a decade ago. (These brands include du Maurier, Export A, Benson & Hedges). Mid-priced cigarettes, such as Player's, MacDonald and Belvedere, have slightly more than one-quarter market share



<sup>98</sup> This document is appended and forms part of our response to this consultation.

<sup>99</sup> Uruguay prohibits the sale of more than one type of each cigarette brand to protect smokers from the suggestion that one sub-brand is 'lighter' than the other.

<sup>100</sup> See, for example, New York City's campaign on colour coded cigarettes.  
<http://www.nyc.gov/html/doh/html/smoke/smoke.shtml>

<sup>101</sup> We append to this response the document "Why Canada should move quickly to implement plain packaging of tobacco products," which forms part of our response to the consultation.



(28%), and economy cigarettes (like Peter Jackson, Number 7, Canadian Classic and Mark 7) have slightly less than one-third market share (31%).<sup>102</sup> Although Health Canada does not make research available on price structure of the tobacco market, BAT recently informed its investors of this important development (see slide above).<sup>103</sup>

Although almost a decade has passed since these brands were introduced, we are not aware of any analysis commissioned by Health Canada or other partners of the FTCS to evaluate the impact of a price-segmented market or to evaluate ways to ensure that price-segmentation does not exacerbate tobacco use.

## MARKETING THROUGH RETAILERS

As measures introduced under the FTCS have reduced conventional retail marketing opportunities for tobacco companies, they have modified their practices to maximize the role of retailers in tobacco sales.

After replacing traditional wholesale distributors with its own DSS (“direct to store sales”)

distribution staff, BAT subsidiary Imperial Tobacco introduced a “Preferred Pricing Program” which provides price-discounted cigarettes to select retailers in return for an agreement to maintain lowest price status for Imperials products. This has the effect of triggering price competition among all stores (the smaller stores that are not part of the program have to reduce their margins in order to keep their prices at the same level as the partner stores). The result is cheaper cigarettes than otherwise would be the case, either because they are being wholesaled at a lower price or because the retailers are taking a lower mark-up.

Reviews of similar retail programs in the US suggest that they are harmful to retailers and to public health.<sup>104</sup>

We believe that the control of retail level promotions lies in the area of shared federal-provincial jurisdiction. We are not aware of any provincial government or federal government initiatives to monitor or respond to this new marketing strategy.



<sup>102</sup> Euromonitor. Canada, Cigarettes. July 2011.

<sup>103</sup> BAT Investor Presentation. Imperial Tobacco Canada. Ian Muir. September 2009.

<sup>104</sup> Feighery, EC et al. How tobacco companies ensure prime placement of their advertising and products in stores: interviews with retailers about tobacco company incentive programmes. Tobacco control. 2003.

## THE PROMOTIONAL IMPACT OF SMOKING IN MOVIES

The effect of viewing depictions of smoking in movies has been quantified in recent years, and there is increasing evidence that smoking in movies is a key driver of adolescent smoking.<sup>105</sup>

The call for measures to protect youth from movie depictions of smoking is echoed by leading health organizations, including the World Health Organization.<sup>106</sup>

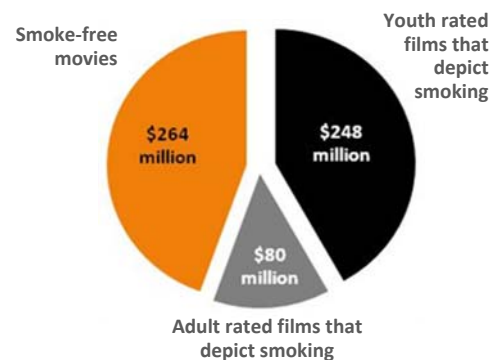


To the extent that rating systems on movies protect young people, Canadian adolescents are more exposed to smoking in movies than their US counterparts. (Canadian movies receive more 'permissive' ratings by provincial rating agencies than the studio system assigns in the US). Despite mounting evidence of the harms this causes, movies (like Rango, pictured above) designed for a youth audience continue to portray smoking

Nonetheless, no Canadian government has yet developed a strategy to protect youth from the depictions of smoking in movies, nor have they refuted the evidence that suggests that this should be a very high priority. If public health measures are to be 'evidence-based', then this is a case where the evidence is not being translated into action.

Just as Health Canada protects children by banning lead in toys that are marketed for children to play with, it could protect children by banning depictions of smoking in movies that are marketed to children for viewing.

**Figure**  
**More than half of Canadian subsidies for U.S. film production support films which depict smoking (2004-2009)**



<sup>105</sup> See, for example, Charlesworth A and Glantz SA. Smoking in the movies increases adolescent smoking: a review. *Pediatrics* 2005.

<sup>106</sup> World Health Organization (2009). Smoke-free movies: from evidence to action. Tobacco Free Initiative. Geneva, Switzerland (NLM Classification HV 5745). Available at [www.who.int/tobacco/smoke\\_free\\_movies/en/](http://www.who.int/tobacco/smoke_free_movies/en/).

Disturbingly, the Canadian government (and its provincial colleagues) fund films which recruit young people to smoking. There is no apparent effort across health and cultural ministries to ensure that subsidies to film production do not end up supporting the production of films which depict smoking and which are intended for youth audiences.<sup>107</sup>

#### RECOMMENDATIONS: THE PROMOTION OF SMOKING

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- The renewed federal tobacco strategy should establish more effective regulatory tools, including performance based regulations, that reduce the ability of tobacco companies to minimize their impact.
- The flavour ban should be extended to all tobacco products.
- Population-wide surveillance tools like CTUMS should be strengthened with research tools that provide more intense ‘early warning’ monitoring of tobacco use in ‘early-warning’ communities
- The renewed federal tobacco strategy should prevent the use of tobacco products as promotions for tobacco use by mandating product standards that prohibit the use of colours, paper, filters or other components to promote tobacco use.
- The renewed federal tobacco strategy should establish the authority to implement a comprehensive advertising ban to protect adult smokers from tobacco promotions.
- More effective regulatory tools, including performance based regulations, should be employed to hold tobacco companies responsible for the outcome of marketing restrictions.
- The renewed federal tobacco strategy should impose a moratorium on new tobacco products.<sup>108 109</sup>
- The renewed federal tobacco strategy should include measures to prevent the marketing of tobacco products through packaging by mandating standardized and plain packaging.
- If plain packaging is not immediately feasible in Canada, then severe restrictions on package design should be imposed by regulation as soon as possible.
- The renewed federal tobacco strategy should develop a comprehensive approach to removing package deception, including the prohibition of colours, numbers, brand names or other signifiers of strength, and prohibiting brand extensions.
- That the renewed strategy should implement performance based regulations to require tobacco products to be marketed in ways that are not misleading with respect to their relative harm.
- That the renewed strategy should explore standardizing the tobacco product to ensure that the smoking experience of some brands does not suggest they are less

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107 PSC. *Tobacco Vector: How American movies, Canadian film subsidies and provincial rating practices will kill 43,000 Canadian teens alive today — and what Canadian governments can do about it.*

108 Further information on how a moratorium might be structured can be found in PSC’s “Tobacco industry innovation: cool new ways to an early grave. Why we need a Moratorium on new tobacco products” September 2009.

109 A model regulation is provided in the Appendix, and is included as part of this submission.

harmful products. This could include controls or bans on the use of ventilated wrapping papers.

- The renewed federal tobacco strategy should include measures to protect young persons from the impact of viewing smoking in movies.

#### **FCTC Guidelines on tobacco promotion<sup>110</sup>**

*15. Packaging is an important element of advertising and promotion. Tobacco pack or product features are used in various ways to attract consumers, to promote products and to cultivate and promote brand identity, for example by using logos, colours, fonts, pictures, shapes and materials on or in packs or on individual cigarettes or other tobacco products.*

*16. The effect of advertising or promotion on packaging can be eliminated by requiring plain packaging: black and white or two other contrasting colours, as prescribed by national authorities; nothing other than a brand name, a product name and/or manufacturer's name, contact details and the quantity of product in the packaging, without any logos or other features apart from health warnings, tax stamps and other government-mandated information or markings; prescribed font style and size; and standardized shape, size and materials. There should be no advertising or promotion inside or attached to the package or on individual cigarettes or other tobacco products.*

*17. If plain packaging is not yet mandated, the restriction should cover as many as possible of the design features that make tobacco products more attractive to consumers such as animal or other figures, "fun" phrases, coloured cigarette papers, attractive smells, novelty or seasonal packs.*

#### **Recommendation**

*Packaging and product design are important elements of advertising and promotion. Parties should consider adopting plain packaging requirements to eliminate the effects of advertising or promotion on packaging. Packaging, individual cigarettes or other tobacco products should carry no advertising or promotion, including design features that make products attractive.*



110 FCTC Secretariat. Guidelines for implementation of the WHO FCTC. World Health Organization, Geneva: 2011

# 7

## QUALITY INFORMATION FOR THE PUBLIC

For over 5 decades, public education has been the backbone of public health efforts to support healthy behavioural change.

In announcing the federal strategy, Health Canada indicated that “National campaigns will be supported and reinforced by initiatives funded through contribution agreements at the community and regional levels.”<sup>111</sup> This strategy was well executed in the “Heather Crowe” campaign which integrated national media activities with support provided to local health units to promote smoke-free spaces through local communications activities. The result – an accelerated adoption of protective legislation across Canada – is a testament to the potential of federal leadership on tobacco control.

Despite the importance and wide acceptance of public education efforts, since the FTCS came into force, the Government of Canada’s actions to “promote and strengthen public awareness of tobacco control issues” through mass media have substantially declined. Instead of making progress in this area, Canada is going steadily backwards.

Mass media was a key component of the first five years of the federal tobacco control strategy launched in 2001. Beginning in 2001, Treasury Board authorized Health Canada to spend up to \$50 million a year on mass media in support of tobacco control (\$30 million in 2001-2002, \$40 million in each of 2002-2003 and 2003-2004, and \$50 million every year thereafter).

The goals of the media component were to:<sup>112</sup>

- Build public support for federal government activities in the area of tobacco control
- Hold the industry accountable for their actions in continuing to promote a lethal product
- Help establish non-smoking as the social norm for all ages, and
- Educate smokers and non-smokers of the dangers associated with smoking and exposure to secondhand smoke.

Perhaps no area of the FTCS has been so vulnerable to events as was the media strategy. It was caught up in the ‘sponsorship scandal’ and the resulting centralization of and reduction in federal government advertising expenditures. Although federal government advertising has returned, centralization of planning has resulted in overarching government campaigns (such as the Economic Action Plan or the budget) receiving the lion’s share of discretionary advertising budgets. By contrast, other governments focus considerable resources on the mass media component of a

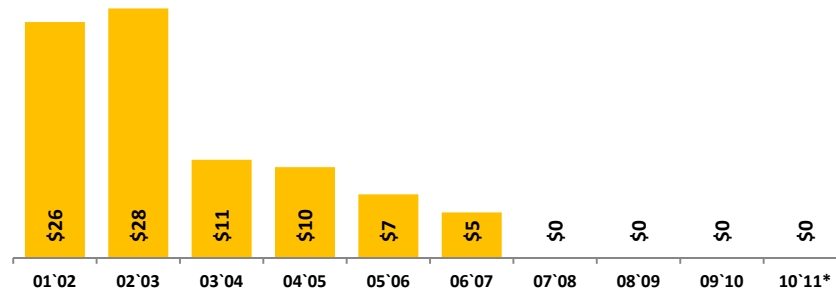
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111 Health Canada. The FTCS: A Framework for action.  
<http://www.hc-sc.gc.ca/hc-ps/pubs/tobac-tabac/ffa-ca/strateg-eng.php>

112 Federal Tobacco Control Strategy. Summative Evaluation of the First Five Years. Final report. March 2007., page 60.

comprehensive tobacco control strategy. The share of tobacco control budgets in Australia spent on mass media was recently estimated to be 22%.<sup>113</sup>

**FEDERAL SPENDING ON MASS MEDIA TO SUPPORT REDUCTIONS IN TOBACCO USE, 2002-2009 (\$ MILLIONS)**<sup>114, 115</sup>



## MASS MEDIA AND PUBLIC EDUCATION ABOUT TOBACCO PRODUCTS AND THEIR MANUFACTURERS: EFFECTIVE AND COST EFFECTIVE WAYS TO SAVE LIVES

Particularly effective in reducing smoking are public education campaigns that seek to change the “social climate” around smoking. Just as tobacco promotions change the social norms around smoking (in ways that increase the acceptability of and use of tobacco products), anti-smoking campaigns change the social norms around tobacco products and their use (in ways that decrease their acceptability and use).

Mass media and public education campaigns intended to change attitudes have been found to be powerful instruments for public health. Smokers are more willing to quit smoking when tobacco use is less acceptable.<sup>116</sup> U.S. states which had well-funded media campaigns which primed “perceptions about tobacco industry practices” were found to have larger declines in youth smoking rates than states without such campaigns.<sup>117</sup>

The Australian experience has shown that media campaigns with the more modest goal of increase quit attempts have also been shown to be extremely cost effective ways of

113 White, VM et al. What impact have tobacco control policies, cigarette price and tobacco control programme funding had on Australian adolescents’ smoking? Findings over a 15 year period. *Addiction*, 2011.

114 Treasury Board Secretariat: Government advertising. [http://www.tbs-sct.gc.ca/pubs\\_pol/sipubs/comm/adv-pub/index-eng.asp](http://www.tbs-sct.gc.ca/pubs_pol/sipubs/comm/adv-pub/index-eng.asp).

115 Years prior to 2004-5, Health Canada. Private Communication.

116 See-Hill Kim. Stigmatizing Smokers: Public Sentiment Toward Cigarette Smoking and its relationship to smoking behaviours. 2003.

117 JC Hersey et al. How state counter-industry campaigns help prime perceptions of tobacco industry practices to promote reductions in youth smoking. *Tobacco Control*. 2005.

reducing heart disease and other tobacco-caused illnesses or premature death.<sup>118</sup> Australian researchers found that regular exposure to televised anti-smoking ads (4 times per month, 390 GRPs) resulted in a 0.3 percentage point in smoking prevalence, equivalent to the reduction in smoking that would be seen with a price increase on a package of cigarettes of 25 cents.<sup>119 120</sup>

## **AN OPPORTUNITY TO RESTORE COMMUNICATIONS TO FEDERAL ACTIONS ON TOBACCO**

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Although the federal government has effectively moved away from mass media as a tobacco control strategy, it remains highly recommended component of a comprehensive tobacco control strategy. Guidelines unanimously adopted at the 4<sup>th</sup> Conference of the Parties to the Framework Convention on Tobacco Control recommend objectives similar to those that were originally set for the mass media component of the FTCS, listed above.

The renewal of the federal strategy is an opportunity to take up and implement these recommendations:<sup>121</sup>

*With respect to the implementation of Article 12 of the WHO Framework Convention on Tobacco Control, Parties should:*

- (a) establish an infrastructure and build capacity to support education, communication and training, thereby raising public awareness and promoting social change;*
- (b) use all available means to raise awareness, provide enabling environments and facilitate behavioural and social change;*
- (c) actively involve civil society in relevant phases of public awareness programmes;*
- (d) ensure that education, communication, and training programmes include a wide range of information on the tobacco industry, its strategies and its products;*
- (e) collaborate at the international level to raise global public awareness;*
- (f) monitor, evaluate and revise education, communication and training measures nationally and internationally to enable comparisons and observe any trends;*
- (g) provide information on education, communication, and training via the existing reporting instrument of the Convention to monitor its implementation; and*
- (h) make use of the WHO Framework Convention on Tobacco Control and its monitoring instruments to raise awareness on its implementation and consider carrying out activities to raise the profile of the Convention as an effective international tobacco control strategy.*

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118 Hurley, SF. Cost-effectiveness of the Australian National Tobacco Campaign. Tobacco Control. 2008.

119 Wakefield et al. Impact of Tobacco Control Policies and Mass Media campaigns on monthly adult smoking prevalence. American Journal of Public Health. August 2008.

120 The average weekly wage in Canada in 2010 was \$821, according to the web-site of Human Resources Canada. <http://www4.hrsdc.gc.ca/.3ndic.1t.4r@-eng.jsp?iid=18>

121 FCTC. Guidelines for implementation Article 12. 2011.

*In tobacco control, **communication** is essential to change attitudes about tobacco production, manufacture, marketing, consumption and exposure to tobacco smoke, discourage tobacco use, curb smoking initiation, and encourage cessation, as well as being necessary for effective community mobilization towards providing enabling environments and achieving sustainable social change.*

#### **RECOMMENDATION: PUBLIC EDUCATION AND MASS MEDIA**

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- The renewed federal tobacco strategy should implement effective public education, adopting the measures contained in the FCTC guidelines for Article 12.
- To maximize cost-effectiveness and facilitate decision making, the execution of the campaigns should be delegated to an outside agency (as the Ontario government and others have done).
- Where the government is not in a position to prevent tobacco companies from causing harm through public relations, promotions and other communications, they should ensure that poor-quality information offered by the industry is balanced with quality information from other sources.



# 8

## TOBACCO CONTROL IN A GLOBALIZED WORLD

One of the most dramatic developments over the course of the FTCS was the development of the Framework Convention on Tobacco Control, a global public health instrument to respond to the globalized epidemic of tobacco use.

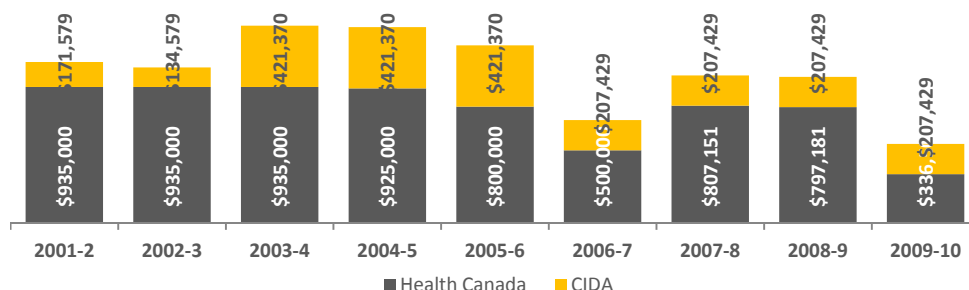
In our opinion, Canada can take significant credit for the development of the FCTC, which is a landmark in the development of globalized responses to the shifting burden of non-communicable diseases. Canada supported the treaty's development in many important ways, both before the FTCS was implemented and afterwards. For example:

- Financial assistance was provided by Health Canada for many of the key initial meetings (including meetings in Halifax and Vancouver).
- Financial assistance was provided by Health Canada to WHO for the human resources required for initial stages of treaty development.
- Financial assistance was provided by Health Canada and CIDA to civil society organizations to assist during negotiating sessions.

Policy leadership was provided by Health Canada directly during negotiations towards the FCTC and also indirectly through the example Canada provided in a program that was, at the time, well-funded and 'ahead of the game.' (Canada was the first country to adopt picture based health warnings, and implemented one of the most ambitious additive bans).

In recent years, to our great concern, Canada has taken less of a leadership role in FCTC developments. Health Canada funding for international tobacco control has fallen by almost one-third (see figure below). The government of Canada has made no voluntary donations to support the FCTC secretariat in its work, and has opposed proposals at FCTC negotiating sessions to increase Canada's assessed contributions by even a few thousand dollars.<sup>122</sup>

**FIGURE: CANADIAN GOVERNMENT SUPPORT FOR INTERNATIONAL TOBACCO CONTROL, 2001-2010<sup>123</sup>**



<sup>122</sup> Summary Records of Committees. Framework Convention on Tobacco Control. Third Session. 2008., p. 127

<sup>123</sup> Source of information is provided in 2010 Shadow Reported, cited above.

Unexpectedly, Canada has not yet implemented all of the mandatory measures detailed in the FCTC.<sup>124</sup> Canada's policy leadership has also diminished in recent years. The World Health Organization 2011 report on non-communicable diseases evaluated national efforts to implement tobacco control, and placed Canada's efforts behind those of Australia, Iran, Ireland, New Zealand, Panama, Thailand, Turkey, the United Kingdom, and Uruguay (see Appendix for complete listing of country rankings).<sup>125</sup>

Although Canada was once a major financial supporter of the FCTC process, it no longer plays that role. Extrabudgetary donations have been provided 3 times by Australia (\$200,000 for the 2006-2007 period,<sup>126</sup> \$100,000 for the 2008-2009 period,<sup>127</sup> and a recently announced contribution of \$100,000 (government donation of \$77,000 with \$23,000 provided by Australian health charities)<sup>128</sup> The European Commission also recently announced a 5.2 million euro extrabudgetary contribution to the FCTC.<sup>129</sup> Other countries which have provided extrabudgetary contributions include the Netherlands and South Africa.<sup>130</sup>

#### RECOMMENDATION: GLOBAL ACTIONS

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- The renewed strategy should include measurable goals for Canada's contribution to the advancement of global tobacco control, including the FCTC.
- Canada's contribution to global tobacco control should be commensurate with Canada's ability to contribute, based on Canada's national income and also its income from global tobacco sales.
- Health Canada should assist its federal overseas development assistance partners by commissioning or developing a comparison of the anticipated return on investment for tobacco control compared with existing recipients of ODA from Canada.

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124 A list of these is in the 2010 'Shadow report' of the Global Tobacco Control Forum, which is appended and is included as part of this submission.

125 Source: World Health Organization. Noncommunicable Diseases Country Profiles 2011 [http://www.who.int/nmh/publications/ncd\\_profiles\\_report.pdf](http://www.who.int/nmh/publications/ncd_profiles_report.pdf)

126 FCTC Secretariat: FCTC/COP/3/18 [http://apps.who.int/gb/fctc/PDF/cop3/FCTC\\_COP3\\_18-en.pdf](http://apps.who.int/gb/fctc/PDF/cop3/FCTC_COP3_18-en.pdf)

127 FCTC Secretariat: FCTC/COP/4/19

128 Union for International Cancer. Australia provides extrabudgetary contribution for WHO FCTC needs assessments in Pacific island countries.

129 European Commission. Press release. European Commission provides € 5.2 million to help lower income countries in tobacco control. September 26, 2011.

130 FCTC Secretariat: FCTC/COP/4/19