

21 April 2003

Productivity Commission
P O Box 80
BELCONNEN ACT 2616

National Workers' Compensation and Occupational Health & Safety Frameworks

The following is in addition to my letter acknowledged 2 April 2003 and processed as Public Submission No. 03, and like the previous letter concerns *Environmental Tobacco Smoke* and other aspects of tobacco and its residue. I may wish to make further comments after viewing other submissions to the inquiry.

It Is Iniquitous that despite the ever increasing knowledge of the health hazards of environmental smoke, and of active smoking and of the costs that these impose on the economy and on those who *suffer*, that smoking should still be allowed in any workplace, or in any public place.

Bars, clubs, casinos and restaurants where smoking is allowed are amongst the worst; the risks extend to their outdoor courtyards and patios. Tobacco smoke does not rise, it hovers.

In addition to the ill health suffered by staff exposed to environmental smoke, cigarette butts and other smoking residue and the costs of inquiries and compensation and the loss of employees - through sickness or who choose to go elsewhere, other injuries can result. Smokers drink and gamble more heavily and this can cause difficulties for staff, and for other customers, and perhaps injury when dealing with fractious customers. It can also be bad for business as increasingly non-smokers stay away.

Management has a duty of care towards its staff, customers, inspectors and others, whether smokers or non-smokers, and should ensure smoke free access to smoke free premises.

The Risks They Run

"Being a bartender is not a crime... It shouldn't carry the death penalty.

Non-smoking bartenders smoke the equivalent of about 36 cigarettes over the course of an 8 hour shift. They also have higher rates of lung cancer than fire fighters or miners.

The smoke from the burning end of each cigarette has a higher level of toxins than the smoke inhaled by the smoker.

Restaurants, bars, pool and bingo halls: They are workplaces. Why aren't they completely smoke free?

Everybody deserves a smoke-free space."

[extract from *City of Kingston, Canada: Smoke free B-law Campaign 2002*, quoted in *Tobacco Control* March 2003. Vol 12 No.1, page 20]

In Australia the 20% of adults who smoke daily smoke on average 20 cigarettes a day. Except in barrooms, this is likely to be in less tobacco polluted air, perhaps out of doors, perhaps alone, perhaps with friends. Thus bartenders - on the job environmental smokers - may experience double the risk of those who choose to smoke.

Cigarette butts, in ashtrays, on saucers, on the floor, in pot plants are a transmitter of disease and a health hazard to those required to dispose of them - bar tenders and cleaners - and sometimes to customers.

Permitting The Risks. Employers and Governments that allow continuance of this known, unnecessary and avoidable harm, could be deemed to be in breach of the law.

In the ACT, under its acclaimed *Smoke-Free Areas (Enclosed Public Places) Act 1994*, exemptions are granted on payment of a fee, and continue to be granted, to permit smoking in bars, hotels, casinos, clubs and restaurants that are in possession of a liquor licence. At 25/05/01, the latest date for which an extract was obtained, there were 101 licensed premises with permits to allow smoking listed in the *Exemption Register*. Exemptions had increased from 9 at 16/2/96; 15 at 11/1/98; to 99 at 17/12/99; but were slightly fewer than the 122 on the register at 23/10/00. An update has been requested. The exemptions will be phased out, eventually.

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With other workplace hazards, routine monitoring, on site inspections by health and other officers, guards, protective clothing and face masks – increasingly seen on cleaners – and regular health checks may be required. And there is an obligation to control the hazard.

With environmental tobacco smoke, the hazard can be eliminated, at no cost and with great benefit to management, staff and customers. Smoking in the workplace should be prohibited.

Accepting The Risks. Employees may not have a choice – they may need that job. Marlene Sharp who successfully sued the Port Kembla Hotel and the Port Kembla RSL Club had children to support. Her cancer is now in remission, she received a financial award, but is unable to work, certainly not where there is environmental tobacco smoke.

Croupiers, a specialised occupation, may find it difficult to obtain employment of similar status and pay. At the Canberra Casino, smoking is no longer allowed at the gaming tables but is, supposedly, restricted to nearby locations. The smoke drifts. The required distance to the bar and to the cash counter is not maintained.

It seems, from a telephone inquiry, that the unemployed have scant choice. If they fail to attend an interview and to accept a job, if offered, unemployed benefits will cease. This can be challenged, with uncertain outcome. A written request for information was not answered.

Staff may not be sufficiently aware of the risks, and may be lulled into complacency by claims of effective air conditioning, especially when special exemptions have been granted – with presumed inspection, as in the ACT.

Counting the costs. In addition to personal costs, costs to the health system, and to the environmental damage, smoking in the place of work, whether by staff or customers, if allowed to continue, will place an ever increasing burden on Workers' Compensation. Claims for damages will become more frequent and the amounts awarded are likely to rise. The community is becoming increasingly aware of the harms of environmental tobacco smoke and increasingly intolerant of those who allow it.

Smoking is bad for business. Customers and staff, even those who still smoke, prefer to go elsewhere.

Personal hazards. Smoking on the job, whether indoors or outside, is a health and an injury hazard. It should not be allowed whilst driving, climbing a ladder, using tools or machinery, or in any situation. It is a question that should be asked following any mishap.

Environmental tobacco smoke and active smoking. Place an intolerable and unnecessary burden on *Workers' Compensation and Occupational Health & Safety*, and on society generally.

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