

TOBACCO CONTROL IN CANADA: CURRENT AND FUTURE CHALLENGES

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LET'S TALK TOBACCO

- It is ok to talk about tobacco issues.
- Legal product.
- Governments make more on tobacco than anyone else.
 - Taxed up to 75% or more.
- Health effects are well-known and not disputed.
 - Does anyone think there are smokers unaware of the health risk?
- Canada is a leader in tobacco control.
- Not surprisingly, smoking rates have been on a long-term decline.

WHY SO GLUM?

- Tobacco control community (TCC) would have you believe there is a smoking crisis in Canada.
- In reality, smoking rates for youth and adults are at an all-time low.
 - Adult smoking rate in 1999: 25.2%
 - Adult smoking rate in 2012: 16.1%
 - % of youth who have ever tried a cigarette, 1994: 45%
 - % of youth who have ever tried a cigarette, 2012: 13%
- Overall youth smoking rate is 4% (2% daily smokers, 2% occasional).
- Great progress has been made in reducing tobacco use, which no one disputes as a positive.

(data from the Canadian Tobacco Use Monitoring Survey and Youth Smoking Survey)

- The TCC can never admit success because they would lose their raison d'être.
- Nor can TCC concede the negative outcomes of their endless campaign for higher taxes and more regulation.
 - E.g. 20-30% contraband market share.
- Constant need to invent new hobgoblins to justify their existence.
 - Flavoured tobacco, e-cigarettes, waterpipes/hookah.
- Nothing is ever enough.
 - Taxes get increased? Should have increased them more.
 - Banned most flavoured tobacco products? Should have banned them all.
 - Introduce 75% warning labels? Should have implemented plain packaging.

THE IMPOSSIBLE PROJECT

- 2003 document from Health Canada with 14 “impossible” scenarios for future tobacco control measures.
 - Includes everything up to expropriating tobacco manufacturers and banning tobacco.
- Three items on the list are already done.
 - Ban on candy cigarettes, complete advertising ban and raising taxes to a degree at which consumption declines.
- Others do not seem far off.
 - E.g. plain packaging.
- Provides some insight into the thinking of the tobacco control community and governments.

PROVINCIAL PRIORITIES

- December 2011 letter from all provincial health departments to Health Canada outlining priorities for renewed Federal Tobacco Control Strategy.
 - Plain packaging.
 - New health warnings.
 - Ban all flavours, including menthol.
 - Ban on new tobacco products.
 - Minimum pricing.
 - Change ratings of any movies that depict smoking.
 - Eliminate remaining marketing opportunities.
 - Prohibit industry promotion payments to retailers.
 - Requirements on manufacturers to reduce smoking rates.

- Constant TCC lobbying for further tax increases.
- Recommendation in the 2014 pre-budget submission of the Canadian Coalition for Action on Tobacco:
 - “Reduce the duty-free import allowance per eligible traveller entering Canada to 25 cigarettes, or equivalent for other tobacco products. An interim change could be to reduce the limit to 100 cigarettes or equivalent.”
- Recommendation in the 2013 pre-budget submission of the Canadian Cancer Society:
 - “Reducing the travellers’ duty-free import limit to 25 cigarettes, OR 25g of roll-your-own, OR 25 tobacco sticks, OR 10-15 cigars (estimated incremental revenue: \$15 million annually federally, more for provinces).”

A WORD ON CONTRABAND

- Surprise! Contraband doesn't exist.
 - (Ignore the KPMG report that just came out showing Ontario has the second largest contraband market in the Americas at 31%.)
- It is an elaborate scheme concocted by the tobacco industry and retailers to block further regulation.
 - That is the view of some TCC groups.
- Health Canada's position is that it regulates the legal market.
 - Contraband is someone's problem.
- No TCC groups or health departments willing to accept the straight line relationship between further taxation/regulation and contraband.
 - Fortunately, some other departments (Finance, Public Safety) recognize the problem and are acting.

MULTI-JURISDICTIONAL BATTLE

- TCC lobbying at every level of government.
- If they do not achieve success at one level, they turn to another.
 - E.g. Flavour bans.
- Provincial lobbying is growing more ambitious.
 - E.g. TCC lobbied hard for plain packaging in Quebec.
- TCC even lobbying at the municipal level for proposals with far-reaching implications.
 - E.g. butt deposit/refund system on cigarettes.

EASIEST JOB IN CANADA? TOBACCO CONTROL LOBBYIST!

- Say whatever you want without being challenged.
- Fawning, unquestioning media coverage.
- Most of your funding comes from the taxpayer.
- Can release “scientific” reports that do not even meet the most basic tests of empirical or logical scrutiny.
- Every single regulatory proposal is deemed the “single most important thing you can do” to reduce smoking.
- If you don’t get your way, go nuclear on the government until they give in – and suffer no repercussions.
- The sad reality is that this is what you’re up against.

Federal

- Further flavour restrictions.
- Reduction of duty free limits.
- Plain packaging.
- E-cigarette restrictions
- Ban on new tobacco products.
- Contraband fatigue.
- Minimum pricing.

Provincial

- Flavour bans.
 - Most provinces have already acted.
- E-cigarette legislation.
 - Dominoes starting to fall.
- Further tax increases.
 - 2016 could be very challenging.
- Ban on new tobacco products.

Municipal

- Taxation and/or deposit-refund scheme for cigarettes.
- In Quebec, TCCs used Municipal Governments to lobby for provincial changes.
- Any crazy idea you can think of.

International

- Plain packaging is spreading (Australia, UK, Ireland, etc.).
- Australia and New Zealand considering radical measures around age restrictions (e.g. banning sales for anyone born after a certain date).
- Constant threat from World Health Organization, even though Canada is largely compliant with the Framework Convention on Tobacco Control.

Biggest Threat

- As the TCC is close to achieving victory on flavours and e-cigarettes, where do they turn their focus next?
 - Plain packaging?
 - Duty free?
 - Minimum pricing?
 - What's left?

FLAVOURED TOBACCO: A USEFUL CASE STUDY

- 2009: Federal Government enacts restrictions on flavoured little cigars and cigarillos, but exempts traditional products like menthol.
- Since then, TCC has lobbied provinces for complete flavour bans.
- First to move – like Manitoba and Alberta – imposed further restrictions, but still exempted products like menthol.
- Mid-2014: TCC releases a study suggesting 30% of youth smokers smoke menthol.
- Mid-2014 to today: flavoured tobacco debate is exclusively around menthol.
- Q1 2015: TCC gets its precedent when Nova Scotia bans menthol.
- TCC now going to every province to cite Nova Scotia precedent.

Usual TCC Factors at Work

- Failed to get everything they wanted at the federal level, so turned attention to the provinces.
- Got 90% of what they wanted in most flavour restrictions at the provincial level, but went scorched earth for the remaining 10%.
- Used junk science – one study – to convince governments menthol is suddenly a preferred youth product.
- Looked for a province to set a precedent – and found a willing participant in Nova Scotia.
- Used youth to lobby on their behalf.
- Key consideration: campaign was less about tobacco control and more about harming the tobacco industry.

THE REAL IMPOSSIBLE PROJECT?

- There are hundreds of tobacco control lobbyists in Canada, and hundreds more bureaucrats focused on it.
- Fighting the tobacco control lobby is extremely difficult, but not impossible.
- Often a case of tobacco stakeholders not willing to speak up, or fearing criticism if they do.
- TCC counts on passivity and not being challenged.

Step #1

- Assess the biggest threats to your business from a tobacco control perspective and where those could come from.
 - What are the measures the TCC could pursue that would have the most severe negative impact on your business?
 - Are the threats only at the federal level or could the provinces or even municipalities take action that could harm your business?
 - What is the mechanism (e.g. legislation, regulation, budget measure, etc.) to implement tobacco control measures and the timeline for the same?

Step #2

- Establish a rigorous monitoring system.
 - TCC activities are the canary in the coal mine for future legislation.
 - If TCCs aren't talking about it, chances are you won't see legislation.
 - Therefore, it is critical to stay on top of TCC chatter and lobbying.

Step #3

- Talk about tobacco.
 - Do not hide from the fact that tobacco is critical to your business.
 - Yours is a positive story: tight controls, recognition of the long-term decline in tobacco use, etc.
 - While governments may be hostile to tobacco writ large, they generally have no issue speaking with retailers.
 - Make tobacco part of the broader discussion with governments about the role of duty free stores.
 - Conversations need to happen at the federal and provincial levels.

Step #4

- Develop clear positions.
 - Consider developing a position paper to frame the tobacco discussion and highlight the category's importance to duty free, but also the recognition of the long-term decline in tobacco use.
 - Use the paper to make clear recommendations.
 - Use the paper to begin your outreach.
 - Stress the need to avoid shocks.

Step #5

- Be prepared to counter the TCC.
 - The TCC will use any international precedent to its advantage, positioning Canada as falling behind on tobacco control.
 - Develop a database of international precedents on your key issues to accurately show how Canada stacks up against the rest of the world.
 - The ultimate goal is to demonstrate that Canada is doing well on tobacco control.
 - Also, need to juxtapose hard working, law abiding business owners with TCCs that live off the public dime.

Step #6

- Go on the offensive.
 - For too long, tobacco stakeholders have been playing by the rules of the TCC – and it is a losing battle.
 - Need to assess what would be an ideal positive outcome for the duty free industry on tobacco.
 - In other words, look at opportunities, not just threats.
 - You may get a positive outcome.
 - Also, you may distract the TCC away from issues that could have a more damaging impact on your business.
 - However, not without risk, as you could raise the ire of the TCC and make duty free a greater focus.
 - What is your impossible project?

Step #7

- Engage stakeholders.
 - Road TRIP campaign showed the potential of aggressive stakeholder outreach.
 - Worth considering the same for tobacco discussions.
 - Also, consumers are never heard from in debates about tobacco.
 - More generally, consumers should be an advocate for positive duty free changes.

WHAT NEXT?

- Engage now at the federal and provincial levels.
 - TCC is deciding on its next battle.
 - Don't get caught flat-footed.
- Start with your allies and local connections.
 - E.g. Duty Free Caucus, Members of Parliament and provincial politicians in your ridings.
 - Pre-election period is useful for local issues.
- Expand the discussion to include key departments – like Finance and Health.
- Draw other voices into the debate, as with Road TRIP.
 - Make sure other stakeholders understand your perspective on tobacco.

WHAT NEXT?

- Put issues into simple context.
 - Would a government at any level be able to cope with losing 30% of its revenue overnight?
- A loss can be a win.
 - If governments see the harm of their tobacco policies on your business, they may be more inclined to support other positive changes that would help the industry.