



Honorable Members of the Heath Panel
Legislative Council
Hong Kong Special Administrative Region
People's Republic of China
7 January 2005

Dear Honorable Members,

Re: Submission on the Proposed Legislative Amendments to the Smoking Ordinance

The Hong Kong Council on Smoking and Health (COSH) is a statutory body which was established under the Hong Kong Council on Smoking and Health Ordinance in 1987 (Cap 389). It is vested with functions to improve the health of the community by educating the public on the harms of smoking and advise the Government on matters relating to smoking and health.

COSH supports the Government's policy of safeguarding public health from the harmful effects of tobacco use by tightening the loopholes in the Smoking (Public Health) Ordinance (Cap 371). Around 85% of aged 15 or above persons in Hong Kong are non-smokers, and yet they are exposed to the harmful effects of secondhand smoke at work and in public places. The legislative proposals that are put forward by the Government will offer further protection to public health and should be enacted as soon as possible.

The main recommendations for proposed amendments are summarized below:

Recommendations

1. Reap the benefits of smoke free workplace policies
2. Protect worker's health
3. Provide a level playing field for the business community.
4. Adopt a permissive approach of legislative framework
5. Enact the law without further delay
6. Strengthen smoking cessation services

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1. Reap the benefits of smoke free workplace policies

COSH and Radio Television Hong Kong (RTHK) jointly organizes the Hong Kong Smoke Free Workplace Leading Company Awards to commend companies that have successfully implemented smoke free workplaces and promote the positive benefits of smoke free culture to the wider business community. Employers who keep their workplaces smoke free and help employees quit enjoy net benefits. The participating companies welcome the Government's initiative of introducing a total smoking ban in indoor workplaces, which will provide a level playing field for the business community. But yet solely dependent on voluntary measures would at best offer partial protection, we need legislations to ensure compliance and comprehensive coverage for health protection. Please find enclosed a copy of the booklet about the Hong Kong Smoke Free Leading Company Awards for your information.

2. Protect worker's health

In order to prevent workers from being exposed to second hand smoke in the workplace and, by so doing, to protect their health and safety while at work, it is essential to ensure that the prohibition on smoking applies in all enclosed work premises. The Government should devise a mechanism and time-table to protect all workers from being exposed to second hand smoke. It is unfair to force a worker to choose between his health and his "rice bowl." A worker-centered approach leads to a more comprehensive smoke free legislations and takes the argument way from a patron-centered approach which draws distinction between different establishments.

3. Provide a level playing field

RTHK commissioned CUHK to conduct a telephone survey before launching the Hong Kong Smoke Free Leading Company Awards in May 2004. The survey interviewed 525 aged 15 or above persons by telephone. Although 85% of the interviewees showed their support for a total ban of smoking in workplaces, it was found that the interviewees reported only one in two workplaces banned smoking in workplaces. The remaining workplaces implemented a partial ban (17%) and allowed smoking at work (33%). Interestingly, the majority of smokers (59%) supported a total ban of smoking in workplaces.

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Without a level playing field provided by legislation, more than half of the workplaces in Hong Kong allowed smoking at work. There is a pressing need for the Government to legislate and implement a smoking ban in workplaces that will protect worker's health and apply uniformly in the same business sector i.e. local Chinese cafes, fast-food outlets and restaurants must be treated equally within the catering industry.

4. Adopt a permissive approach of legislative framework

Tobacco products are hazardous to health and must be heavily regulated by the Government. There is no room for self-regulation by the tobacco industry when its products are killing 5 million persons in the world per annum. The smoke free legislations would benefit from adopting a permissive approach that is by restricting tobacco industry on what it can do. The starting position should be everything is prohibited except what was specifically permitted. This is a different approach to the current restrictive approach where everything is allowed except when the legislation prohibits or restricts. It will save Government officials the resources and time to close loopholes that are created by amending the smoking legislations¹.

5. Enact the law without further delay

The majority of the public supports smoke free legislations in indoor workplaces. It is important that the general public experiences the positive health benefits of the smoking ban at the earliest opportunity. The smoking ban will receive further public support once Hong Kong people can experience clean air at work and in public places. Judging from experiences in other places such as Ireland² and New York³, the compliance levels to the smoking ban is likely to be high once it is implemented. For sectors which do not require preparation, the adaptation period should be minimal and the law should be enacted as soon as possible.

6. Strengthen smoking cessation services

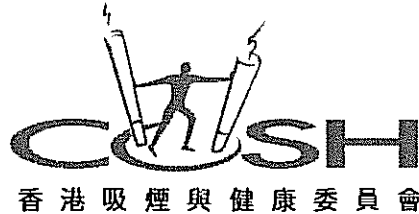
COSH urges the Government to address the current demand for smoking cessation services and plan for additional resources to fund the likely surge in the coming years once the smoking ban is enacted. It must be made clear to the smokers who want to quit that there is a solution by offering an accessible smoking cessation service. The smoking cessation service must be included as a

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mainstream public health service. To promote better health, the health authorities should be preventing the onset of smoking-related illnesses by helping smokers quit at an early stage. Currently, the Hospital Authority and the Department of Health provided 9 a.m. to 5 p.m. smoking cessation services in the public sector mainly to patients who have been hospitalized for smoking-related illnesses. The provision of smoking cessation service in the private sector is minimal. There is an urgent need for the Government to further strengthen smoking cessation service in the public sector. A coordinated QUIT line will be a starting point and will increase the accessibility of the service. There should be active promotion of the coordinated cessation service on cigarette packs and mass media. The implementation of smoking ban in indoor workplaces will increase the demand for smoking cessation services, which is a well-recognized phenomenon in other jurisdictions when a similar smoking ban is applied. Appropriate resources should be allocated to support academic researches to develop an appropriate smoking cessation model for Hong Kong, especially among the young.

Reference

1. Comments on the Proposed Legislative Amendments to the Smoking Ordinance – Report prepared by Eric LeGresley (Canadian tobacco control expert) and submitted via COSH to HWFB in January 2003.
2. Smoke Free Workplace Legislation Implementation Report – Published in Dec 2004; Office of Tobacco Control, Ireland
3. First Annual Independent Evaluation of New York's Tobacco Control Programme in New York released on 19 November 2004 by Department of Health, New York

http://www.health.state.ny.us/nysdoh/tobacco/reports/docs/nytcp_eval_report_final_11-19-04.pdf

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