Submission from ASH Australia and the SmokeFree Australia coalition to Productivity Commission inquiry into Gambling
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The case for 100% smokefree gambling areas

ASH Australia

Action on Smoking and Health Australia is a national health promotion charity committed to reducing deaths, disease and disabilities caused by tobacco products and the misleading and deceptive conduct of the tobacco industry. Founded in 1994, ASH is funded by the Cancer Council Australia and the Heart Foundation.

The ASH Board is chaired by Associate Professor Matthew Peters, a Thoracic Physician at Concord Hospital, and includes experts from the Cancer Council NSW, Heart Foundation, Sydney University and the Royal Australasian College of Physicians. Anne Jones, Chief Executive Officer since 1994, is a policy adviser on tobacco control in Australia, and in the Asia-Pacific region for the International Union on Tuberculosis and Lung Disease on behalf of the Bloomberg Initiative to reduce the tobacco epidemic worldwide.

ASH is a member of several national coalitions aiming to reduce tobacco diseases, including the Protecting Children from Tobacco coalition of 40 organisations and the SmokeFree Australia workplace coalition (below).

SmokeFree Australia workplace coalition

The SmokeFree Australia coalition was initiated in 2001 by ASH Australia, and is co-ordinated by ASH. It consists of eleven non-government health and employee organisations:

Action on Smoking and Health Australia
Asthma and Allergy Research Institute
Australian Council of Trade Unions
Australian Council on Smoking and Health
Australian Medical Association
Cancer Council Australia
Heart Foundation
Liquor, Hospitality and Miscellaneous Workers' Union
Media, Entertainment and Arts Alliance
Musicians' Union of Australia
Non-Smokers' Movement of Australia

The sole aim of SmokeFree Australia is to achieve 100% smokefree workplaces in Australia, in which no-one works in any area – enclosed or otherwise, and including vehicles – contaminated by tobacco smoke. Some member organisations represent people currently working in smoke-contaminated workplaces: barworkers, gaming employees and entertainers.

Aim of Submission

Our submission relates to several of this inquiry's Terms of Reference – including (2) participation profile of gamblers, (3) economic impacts of gambling, (4) social impacts, (6) effects of regulatory structures, (8) impact on budgets, (9) impacts of harm minimisation measures, and (10) effectiveness of these measures.

ASH and SmokeFree Australia are concerned that the October 2009 draft report released by the Commission does not deal adequately with the problem of Second-Hand (Tobacco) Smoke (SHS) as a poisonous workplace contaminant, with the ongoing exposure of employees and patrons to it in Australian gambling venues, with its association with problem gambling, or with how to deal with it. The draft report includes no recommendations on smoking, and mentions it primarily in terms of its impact on gaming revenue - making no mention of health hazards and only passing mention of harm reduction. We believe there are compelling reasons for the Commission to address this issue specifically in its final report and to make appropriate recommendations relating to it.

OUR RECOMMENDATIONS

We ask the Commission to recommend that in all jurisdictions:

1. All smokefree public places exemptions for casino gaming areas such as "high roller", "premium" and "private" gaming rooms should end quickly, if necessary by jurisdictions with such exemptions agreeing on an early end-date.
2. All working areas of licensed venues, including gambling areas, should be 100% smokefree, consistent with OHS law and international treaty obligations. No-one should be permitted to work in any area, however enclosed or otherwise, contaminated by tobacco smoke.
3. Any remaining smoking-permitted areas should be effectively separated from any working or other non-smoking area – by non-permeable walls and/or buffer zones, so that no smoking area immediately adjoins a non-smoking area via windows, doorways or vents.

Background

There are two compelling reasons for 100% smokefree policies covering all gambling areas:

- For the general health of employees and patrons in such settings; and
- As a significant harm reduction measure to reduce problem gambling.

Reform is urgently needed to end exemptions that allow smoking and secondhand exposure to harm the health of patrons and staff working in gambling areas in casinos, pubs and clubs.

Continued exemptions to smokefree public places laws for casinos, hotels and clubs conflict with OHS laws, the NOHSC Guidance Note[1] and Australia's commitment to the Framework Convention on Tobacco Control to protect all people and all workplaces from SHS.

Managers of gaming venues are, we suggest, fully aware of the health risks for staff and patrons from tobacco smoke – but may fear that separating smoking from gambling might have an adverse impact on gambling profits, at least in the short term. This impact has been much exaggerated by opponents of smokefree policies[2]; but in any case revenue is not an acceptable defence to failing to maintain a safe workplace. Revenue exploiting the nicotine addiction of gamblers - what one gaming industry report called "the trance-inducing ritual" of smoking and gambling - is not ethically defensible; even less so when it depends on wilful and repeated exposure of staff and patrons to more than 250 toxic compounds in tobacco smoke, including more than 40 known human carcinogens.

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[1] www.ascc.gov.au/ascc/NewsEvents/MediaReleases/2003/NOHSCreleasesguidancenotetohelpcombatpassivesmokinginAustralianworkplaces.htm

[2] See evidence at www.ashaust.org.au/SF'03/economic.htm

Nor is it acceptable for venues to provide "voluntary" provisions allowing employees to "opt out" of working in smoke-contaminated areas. This merely exploits the vulnerability of those in greatest financial need or with least job security. We would not permit this for areas contaminated by airborne asbestos; neither should we contemplate it for tobacco smoke.

Several years ago, the NSW government promised to broker an all-jurisdiction end-date for gaming exemptions; there has been talk but no action.

Problem Gambling groups support smokefree gambling venues as a measure to reduce problem gambling and to provide a healthier environment for both patrons and staff.[3]

Exemptions

The two categories of smokefree exemptions are:

1. **"High Roller", "Premium" and "Private" gaming rooms**
   - Three jurisdictions (ACT, SA, Tas) have ended these exemptions; but four retain them (NSW, Qld, Vic, WA). NT still permits smoking in totally enclosed areas (under review).
   - The Queensland government has indicated its willingness to seek via the Australian Health Ministers' Advisory Council (AHMAC) an agreed end-date from all remaining jurisdictions, but to date there has been no agreement.

2. **Gambling and smoking in "outdoor" areas of casino, pubs and clubs**

   In NSW, smoking is still permitted in many "outdoor" / "unenclosed" gaming areas, which can be as much as 75% enclosed. This lags well behind best-practice legislation in Queensland, Victoria, Tasmania, ACT and SA which have banned gaming machines from all such areas.

   The NSW government promised in October 2004 that gaming machines would not be permitted in smoking areas, but this was then reversed without notice or consultation with affected employees. Some photographs of venue spaces shown in the NSW Health Department 2008 licensed venue air quality survey (see below) illustrate how machines have been moved into smoking areas that are predominantly enclosed.

Rationale for ending exemptions

1. **Medical evidence on health harm from passive smoking** [4]
   - Overwhelming independent research evidence shows that SHS is harmful to health. At least 19 major reviews of the medical and scientific literature support this conclusion - in Australia, the National Health and Medical Research publishing its report only after extensive tobacco industry challenge (NHMRC, 1997). Other key reports by expert bodies include the WHO's International Agency for Research on Cancer (IARC, 2002) and the US Environmental Protection Agency (1992).
   - SHS contains over 250 known toxics including 43 known human carcinogens. It is listed as a proven human carcinogen in the many reports – some components listed as "Class A" (i.e. among the most carcinogenic substances known). There is no safe level of exposure to it (US Surgeon-General's Report; WHO),
   - Much research shows increasing risk of heart/vascular disease, cancers, strokes, chronic respiratory disease and other harm is associated with even typical low-level exposure, especially when repeated – as is the case with many employees and regular patrons; and not just in totally enclosed areas but in partly enclosed and unenclosed areas.
   - Specific information on occupational exposure of members of the Liquor, Hospitality, and Miscellaneous Workers Union in Victorian hospitality settings is reported by Cameron *et*

[3] See SmokeFree'03 (former name of SmokeFree Australia) release at www.ashaust.org.au/SF'03/releases/030701.htm
[4] Summary of evidence with references at www.ashaust.org.au/SF'03/health.htm and www.ashaust.org.au/SF'03/partly.htm

al (2003). The 2001 study immediately preceded Victoria's smokefree gambling reforms. 57% of hospitality workers reported exposure, compared to 6-18% of workers in other divisions; and 25% of hospitality workers reported exposure for more than 7.5 hours on a typical working day, compared to 0-4% of other workers.

- A NSW Health Air Quality survey[5] of 40 random NSW licensed venues in 2008 showed not just some but *most* smoking-permitted areas have "poor" air quality constituting public and workplace health hazard. Thousands of workers in such areas are still denied proper protection under OHS laws - including bar and food service workers, cleaners, machine maintenance technicians, musicians and other entertainers, employees and contractors. SHS also threatens the health of regular patrons, especially problem gamblers.
- A recent study says hospitality workers are at increased risk of cardiovascular harm from SHS in outdoor smoking areas of licensed venues. The study of air quality in 25 Toronto bars shows exposure constituting "a health hazard for non-smoking bar workers, especially if they work full shifts on a patio". The study points to increased risk of cardiovascular mortality. The authors conclude: "Complete smoking bans including outdoor workspaces are needed to adequately protect hospitality workers from [SHS]." [6]
- To summarise, there is strong evidence that workers and customers are being exposed to SHS in many gambling areas, and that workers in these settings have much higher rates of exposure than any other sector of the workforce.
- Evidence has consistently demonstrated that smokefree policies decrease number of short-term respiratory symptoms as well as reducing risk of more serious disease. For example, Eisner *et al* (1998) found introduction of smokefree laws in Californian bars reduced prevalence of respiratory and sensory irritation symptoms and increased pulmonary function in bartenders. In Australia, a Victorian study by Wakefield *et al* (2003) showed low-to-zero workplace exposure associated with decreased frequency of wheeze in chest, frequent cough, phlegm, sore eyes, and sore throat in hospitality and other workers; and a study of casino workers at Burswood WA found workers in non-smoking areas had better lung function and fewer respiratory symptoms than those in smoking areas (Musk *et al,* 1999).
- Longitudinal studies over several decades would be needed to establish conclusively the impact of smoke free workplace policies on mortality from cancer and cardiovascular disease, but there are strong grounds for expecting that this too would be the case.

2. **Financial impact of combined smoking and gambling**
   The combined impact of smoking and gambling can cause a heavy health and financial burden, particularly on lower SES families. [7]

3. **Smoking associated with problem gambling**
   People who gamble are more often smokers, and if classified as "problem gamblers" even more so, say Australian and overseas studies. Shaffer *et al* (1999) linked problem gambling in US casino workers with a wide range of health problem behaviours, including smoking. Petry and Oncken (2002) studied 383 consecutive admissions to a US gambling treatment program, two thirds of whom were daily smokers. Though all were referred for treatment of a gambling problem, daily smokers had higher scores on a measure of gambling addiction, gambled more, had higher craving for gambling and lower perceived ability to control it.

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[5] See media release at www.ashaust.org.au/SF'03/releases/080815.htm and the preliminary survey presentation with pictures of current smoking/gambling areas at www.ashaust.org.au/ppts/AirQualNSW0805.ppt

[6] Zhang B et al in Preventive Medicine (2009) doi:10.1016/j.ypmed.2009.06.024
… and see more health evidence at www.ashaust.org.au/SF'03/health.htm

[7] Refer www.ashaust.org.au/SF'03/economic.htm

A large study in South Australia confirms the relationship between gambling and smoking. Taylor *et al* (2001) surveyed 6,045 people on their frequency of gambling. Problem gambling was assessed by the 21-item South Oaks Gambling Screen. Problem gamblers were identified by their scores on this measure and/or self-description of their gambling on a 10-point scale of 1(not a problem) to 10(a serious problem). Table 1 sets out the results.

Table 1

Smoking prevalence among different groups classified by gambling status

	N	% smokers
Whole sample	6,045	20.0%
Frequent gamblers	1,097	29.4%
Problem gamblers	123	60.2%

4. **Australian obligations under international law**
   Australia has international treaty obligations from our ratification in 2005 of the WHO's Framework Convention on Tobacco Control (FCTC).[8] Article 8 commits all levels of government to protect all people from SHS with 100% smokefree workplace laws with no exemptions. Definitions specify that no working or public area of any enclosure should permit smoking, and that no section of the workforce or public should be exempted for any reason.
5. **Consistency between Australian jurisdictions**
   Relevant laws and regulations differing between states and territories contribute to health inequities across the country. National leadership and direction is required to end delays and ensure that all jurisdictions reach best-practice legislative standards. [9]
6. **Strong public support for smokefree environments**
   The 2007 *National Drug Strategy Household Survey* of almost 25,000 Australians aged 12 and over showed very strong and increasing public support: 82% now support banning smoking in the workplace, and 77% support banning smoking in pubs and clubs.[10]
7. **Occupational Health and Safety**
   OHS laws should protect workers in workplaces, overriding other laws. But some jurisdictions' work safety authorities have adopted a practice of "managing" SHS by permitting smoking in some working areas. This has led to inconsistent enforcement, and the anomaly of highly toxic SHS permitted while less hazardous substances banished. These authorities are seen by many workers as selectively failing to protect them from this workplace hazard.
8. **Disability discrimination**
   People suffering from heart, respiratory or other relevant underlying health conditions (estimated to total 10% of the population) are discriminated against in both access and employment in smoky working areas because of SHS health hazards.
9. **Contribution to social inequity**
   Employees most affected by SHS likely to be from lower SES groups, with higher smoking prevalence contributing to further health inequalities.
10. **Health and productivity costs**
    To government/taxpayers (health), businesses (early retirement, illness, productivity loss, insurance, fires, cleaning); and to individuals. Tobacco burden to Australia's economy is conservatively estimated at $31.1b pa.[11] Business bears huge costs.

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[8] FCTC at www.who.int/tobacco/framework/WHO_FCTC_english.pdf - Article 8; guidelines at www.who.int/fctc/cop/art%208%20guidelines_english.pdf

[9] Refer jurisdictions chart with links to legislation at www.ashaust.org.au/SF'03/law.htm

[10] NDS survey at www.aihw.gov.au/publications/index.cfm/title/10579 - Table 4.1, p.41

[11] Collins & Lapsley, National Drug Strategy report at www.nationaldrugstrategy.gov.au/internet/drugstrategy/publishing.nsf/Content/mono64

11. **Reducing risk of expensive legal actions**
    Long-term SHS exposure has been accepted by courts as having caused cancers: in NSW, the laryngeal cancer of Marlene Sharp, non-smoking bar worker who successfully sued her employer in 2001 for compensation after years of SHS exposure – and was awarded $466,000 compensation. In SA 1995-2003, at least 13 Workcover claims for SHS-related workplace injury (Hospitality Smoke Free Taskforce, 2003); then the noted 2005 case of barworker Phil Edge who received an undisclosed payout after suffering tongue cancer from his smoky workplace.[12] An increase in litigation can be expected in future years as awareness of the health effects of SHS spreads amongst workers and the public.
12. **Proactivity preferable to individual complaint-based system**
    The latter fails to protect many workers – often low-skilled, low-security employees who are fearful of being sacked, losing shifts or options.
13. **Supporting public/preventive health strategies**
    Current workplace loopholes undermine smoking reduction measures. Workplace/social smoking is more likely to result in higher smoking rates and higher relapse rates. Latest research from Cancer Institute NSW suggests that "binge smoking" by young women is strongly associated with alcohol consumption and social settings.
14. **Benefit to smokers**
    Even smokers benefit from smoke free policies. Following extension of smokefree workplace areas, research shows the overall amount smoked during working days has declined, and that moves towards smokefree workplaces has been the trigger for many people to stop smoking altogether. The combined effect of these two factors produces a 29% decrease in overall tobacco consumption (Fichtenberg & Glantz, 2002).
15. **Resisting undue influence of vested interests**
    Delays and weakness in laws to separate gambling and smoking have been influenced by pressure from tobacco interest groups. The tobacco industry has been reported as providing resources to create smoking areas and financial incentives to install tobacco vending machines in licensed venues. The tobacco and gambling industries work together to increase profits from smoking gamblers – as confirmed by Tattersalls-commissioned psychology report describing the "trance-inducing ritual" of simultaneous gambling and smoking. Problem gamblers are being exploited as more likely to gamble if they can smoke at the same time.

Conclusions

Ending smoking exemptions in workplaces can save lives, health and costs associated with smoking; protect workers from preventable harm; reduce problem gambling and both health and financial harm to gamblers; support OHS rights and duties and allow work safety authorities to consistently enforce OHS laws; support public health initiatives; decrease discrimination against people with disabilities; and ensure fulfilment of international legal obligations.

We believe this issue is too important and too urgent for this inquiry not to grasp the opportunity to make relevant recommendations to government.

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ASH Australia *www.ashaust.org.au*

SmokeFree Australia coalition for safe workplaces *www.ashaust.org.au/SF'03*

Liquor, Hospitality and Miscellaneous Workers' Union; Musicians' Union of Australia; Media, Entertainment and Arts Alliance; Australian Council of Trade Unions; Action on Smoking and Health Australia; Cancer Council Australia; Heart Foundation; Australian Council on Smoking and Health; Non-Smokers' Movement of Australia; Australian Medical Association; Asthma and Allergy Research Institute

Acknowledgments to Quit SA for material drawn from earlier submission to Independent Gambling Authority

[12] *See SmokeFree Australia media release 21/11/05 at www.ashaust.org.au/SF%2703/releases/051121.htm*