

Thinking about the unthinkable: a *de facto* prohibition on smoked tobacco products

The fact that the sale of smoked tobacco products is permitted in developed countries is an anomaly borne out of historical precedent and perpetuated by powerful commercial and political self-interest. If tobacco cigarettes had been invented today they would be banned, like all new recreational drugs.

So why do we not simply legislate to ban the sale of smoked tobacco? First of all, the substantial minority of the population (20–40%) in most democratic countries who still smoke cigarettes could be expected to oppose such a policy. They would be supported by civil libertarians and conservative opponents of government interference in 'adult choices' (at least when applied to alcohol and tobacco; cannabis and other illicit drugs are somehow 'different'). Secondly, many governments would be reluctant to forgo the substantial tax revenue from smoked tobacco products. Thirdly, the tobacco industry and its lawyers could be expected to run a well-organized, well-financed and effective campaign opposing the policy [1]. Fourthly, a legislative ban on smoked tobacco products would generate a large black market.

For these reasons, *de jure* prohibition is not currently on the agenda, but people are now beginning to talk about *de facto* prohibition resulting from a combination of policies that would make the sale and use of smoked tobacco untenable.

To many, *de facto* prohibition on smoked tobacco products also seems unimaginable, but this may reflect a failure of imagination. As James Gleick [2] has reminded us, science fiction writers in the early 1960s did not foresee the radical changes that would occur over the next 30 years in public attitudes towards tobacco smoking. Thus, their imagined mission control centre for the first launch of an interplanetary spacecraft in 1997 was full of tobacco smoke and had ashtrays on all the desks.

Let us engage in a thought experiment by imagining what a *de facto* prohibition on smoked tobacco might look like. A *de facto* prohibition on *smoked* tobacco could evolve from a continuation of successful tobacco control policies that have reduced the prevalence of smoking in countries such as Australia, Canada and Sweden to under 20%. These have included a combination of: strong and persistent media advocacy for tobacco control policies; bans on cigarette advertising; high rates of taxation on smoked tobacco products; substantial reductions in the opportunity to smoke tobacco in public spaces, bars and workplaces; graphic health warnings on cigarette packets; and

concerted efforts to reduce the availability of smoked tobacco products to minors. The continuation of these policies over coming decades could reduce the prevalence of smoking further, at least in part through a process of 'denormalization' [3].

These tobacco control policies could be supplemented by measures that effectively force people to switch to less harmful ways of obtaining nicotine but still allow a profitable business selling nicotine products. The tobacco industry could be forced to withdraw progressively from manufacturing smoked tobacco products by introducing a tobacco trading scheme (modelled on a carbon trading scheme) that would cap the production of smoked tobacco and reduce progressively the amount of smoked tobacco that could be produced legally and sold over a 20-year period [4]. The typical nicotine delivery of smoked tobacco products under naturalistic smoking conditions could also be reduced progressively to zero [5]. Thus, by the time smoked tobacco was eventually phased out it would in any event not be attractive. There would be no restrictions on the amount of low-carcinogen smokeless tobacco products and medicinal nicotine products that could be produced. At the same time, regulators could relax restrictions on the nature of medicinal nicotine products, allowing them to become more attractive and opening up the market to small innovative companies offering nicotine delivery systems as a leisure product.

The pursuit of *de facto* prohibition by phasing out smoked tobacco products and encouraging the use of low-carcinogen tobacco and pure nicotine delivery products has four major advantages over *de jure* tobacco prohibition. First, governments would be able to wean themselves from their dependence on taxes on smoked tobacco while continuing to derive tax revenue from the sale of other tobacco and nicotine products. Secondly, there would be less incentive for opposition from the tobacco industry because it would still be allowed to produce tobacco products [6] and more attractive 'cleaner' pharmaceutical nicotine products for recreational use (i.e. 'for pleasure') [7]. Thirdly, a *de facto* prohibition on smoked tobacco would be less likely to generate a large-scale tobacco black market such as that which followed *de jure* alcohol prohibition in the United States.

Our thought experiment suggests that we are more likely to all but eliminate tobacco smoking in the population if strong tobacco control policies are combined with

policies that incentivize smokers to switch to pharmaceutical nicotine and low-carcinogen smokeless tobacco, and force the tobacco industry to stop production of smoked tobacco products. Perhaps a *de facto* prohibition on smoked tobacco can now be considered seriously as a way of reducing the substantial burden of disease that tobacco smoking continues to impose on public health.

Keywords *De facto* prohibition, tobacco control policies.

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Declarations of interest

Wayne Hall has never accepted research, travel or any funds from any tobacco company, or any pharmaceutical company involved in the manufacture of nicotine replacement or other smoking cessation products. Robert West undertakes research and consultancy for, and receives hospitality and travel funds from, companies

developing and manufacturing smoking cessation medications. He also has a share in a patent for a novel nicotine delivery device.

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