



COMPLIANCE WITH THE TOBACCO ADVERTISING PROHIBITION ACT 1991 IN WESTERN SYDNEY

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Cigarette smoking is a major preventable risk factor for many diseases including cardiovascular disease, and respiratory and non-respiratory cancers, especially lung cancer, oral cancer and cancer of the cervix, bladder and pancreas¹. In Australia about 50 per cent of all premature deaths are due to cardiovascular disease and cancer². In the 1980s, in western Sydney alone, eliminating cigarette smoking would have resulted in about 2,400 potential years of life saved a year³.

There is evidence that advertising plays a key role in inducing young people to take up smoking^{4,5}. This has resulted in increased legislative powers to control cigarette advertising.

The Tobacco Advertising Prohibition Act 1991 and Regulation is another legislative tool to limit tobacco advertising. It came into force on July 30, 1993 and prohibits the advertising of tobacco products where the advertising is visible from a public place. A three-month moratorium declared by the NSW Health Department expired on September 30, 1993. An exemption under the Act permits certain types and sizes of advertising adjacent to the point of sale in tobacco retail outlets. Billboards are not controlled under this legislation.

In October 1993 the Western Sector Public Health Unit initiated a study to assess the level of compliance of tobacco retailers in western Sydney with the Tobacco Advertising Prohibition Act 1991, and to describe the ways in which the Act was being breached. Only advertisements visible from a public place outside the premises were assessed in the study. We did not assess compliance with permitted advertising requirements adjacent to the point of sale.

METHODS

We surveyed nine major shopping centres and 53 service stations within the boundaries of the Western Sydney and Wentworth Health Areas. The survey began on October 12, 1993 and was completed on October 22, 1993.

The shopping centres were in Auburn, Parramatta, Merrylands, Blacktown, Mt Druitt, Castle Hill, Windsor, Penrith and Katoomba, and service stations were in Auburn, Parramatta, Merrylands, Blacktown and Castle Hill. We selected service stations from the electronic yellow pages. For each suburb we included all service stations that were listed.

We conducted the survey in three stages. In the first stage, a research assistant was briefed on assessment of compliance with the Tobacco Advertising Prohibition Act 1991 and Regulation. The research assistant visited each of the shopping centres and systematically searched for tobacco retailers. If any tobacco

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advertisements were visible outside a retail outlet from a public place, the research assistant photographed the advertisements and recorded the following details:

- date and time photograph was taken;
- name of shop and street address;
- type of shop (e.g. takeaway food shop, tobacconist, supermarket);
- type of advertisement (e.g. brand name, poster); and
- position of advertisement (window, sandwich board, wall).

We instructed the research assistant not to enter premises to determine point of sale compliance, nor to alert the retailer when photographing any advertisements. The research assistant followed a similar protocol for the service stations.

In the second stage of the study two of the investigators examined all photographs and notebook annotations. Where a breach was detected or suspected, we sent a warning letter by certified mail to the proprietor of the retail outlet. A "suspected" breach was where we could not determine from the photograph if live stock (i.e. packets containing cigarettes) had been used in a display. The use of live stock for display purposes does not constitute a breach. In some instances the legislation was ambiguous and we obtained an interpretation from the Legal Branch of the NSW Health Department.

In the third stage of the study an Environmental Health Officer (EHO) inspected all tobacco retail outlets that had been sent a warning letter. The first inspection occurred about six weeks after the letters were sent. We wanted to assess compliance after receipt of the warning letter. If the breach had not been rectified following receipt of the warning letter, the EHO discussed the matter with the proprietor. A further two-week grace period was given before a second EHO inspection. The purpose of this inspection was to obtain formal evidence to enable institution of legal proceedings.

RESULTS

Retail outlets in shopping centres

The overall compliance rate at the initial survey by the research assistant was 90.5 per cent (n=189) (Table 1). Only 18 outlets (9.5 per cent) did not comply with the Act. When the offending retail outlets were inspected by an EHO (after receipt of the warning letter), only eight were in breach. On reinspection, only one retail outlet remained in breach. Thus, after two EHO inspections, the compliance rate was 99.5 per cent.

Service stations

When the research assistant surveyed service stations, only two breaches were detected (compliance rate 96.2 per cent). When the two offending service stations were inspected by an EHO after sending a warning letter, only one was in breach. At the second EHO inspection the breach had been rectified.

Breaches by type of retail outlet

The type and number of tobacco retail outlets which were initially in breach is presented in Table 2. These figures

TABLE 1

NUMBER OF TOBACCO RETAIL OUTLETS IN BREACH DURING INITIAL SURVEY, FIRST EHO INSPECTION AND SECOND EHO INSPECTION, OCTOBER 1993

Shopping Centre	Initial Breaches	First Inspection	Second Inspection
Auburn (n=24)	1	1	0
Blacktown (n=26)	3	0	0
Castle Hill (n=12)	1	1	0
Katoomba (n=12)	0	0	0
Merrylands (n=27)	4	1	0
Mt Druiitt (n=16)	0	0	0
Parramatta (n=41)	5	2	1
Penrith (n=24)	3	2	0
Windsor (n=7)	1	1	0
TOTAL (n=189)	18	8	1

TABLE 2

NUMBER OF TOBACCO RETAIL OUTLETS IN BREACH BY TYPE OF RETAIL OUTLET, OCTOBER 1993

Retail Outlet	Initial Breaches	Failure Rate %
Tobacconist (n=29)	12	41
Gift shop (n=12)	2	17
Take-away food shop (n=46)	2	4
Service station (n=53)	2	4
Supermarket (n=25)	1	4
Cafe (n=11)	1	9
Others (n=66)	0	0
TOTAL (n=242)	20	8

include the shopping centre retail outlets and the service stations. The largest group of tobacco outlets that breached the Act were specialist tobacconists.

Type of advertising

Only shopping centre tobacco retail outlets are included in this analysis. We classified the 48 breaches into four categories:

- advertising that a tobacco product was available on the premises, e.g. "Cigarettes Sold Here" (40 breaches);
- display of material other than live product (three breaches);
- display of a slogan, e.g. "Anyhow have a Winfield 25s" (three breaches); and
- non-complying priceboard visible from outside the retail outlet (two breaches).

Most breaches were in the category that advertised the availability of tobacco products. Some retail outlets

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displayed more than one advertising sign that breached the Act.

DISCUSSION

Overall, 90.5 per cent of tobacco retailers in suburban shopping centres and 96.2 per cent of service stations complied with the Act at the initial survey. This may have been due to a number of factors. In mid-1993, the NSW Health Department wrote to all tobacco retailers explaining the legislation. In addition, before the September 30 deadline, tobacco companies began supplying legal advertising material to retailers. Some advice and advertising material from the tobacco companies, however, does not comply with the Act.

The most common advertising breaches were those that advertised the availability of tobacco products, e.g. "Cigarettes sold here". In many instances these signs were provided by the tobacco companies and were in the colours of major tobacco companies. Tobacco retailers were happy to remove these illegal advertising signs, especially when they were told they were liable to prosecution rather than the tobacco companies.

All but one tobacco retailer had complied by the final inspection. This retailer is a member of a major supermarket chain. We were told by the management that its advertising policy was determined at the corporate level and that it would eventually comply. We did not prosecute the retailer as the NSW Health Department is negotiating with the supermarket chain.

Warning letters seemed to alter advertising behaviour in some of the retailers. We did not have sufficient statistical power to evaluate the effectiveness of warning letters in changing advertising behaviour. In view of limited resources, it is important, in a future study, to compare the relative effectiveness of warning letters and visits by an EHO in changing advertising behaviour. It should be noted

that very high compliance rates were achieved in the survey population without recourse to prosecutions.

Specialist tobacconists had the highest failure rate. It may be that as the retailing of tobacco products is their sole source of livelihood they are willing to risk illegal advertising. In any education campaign, they should be given a high priority.

We did not record any breaches in business names. At the time of the study, there was debate about whether it was legal to use the word "tobacconist" in registered business names. If business names such as "discount tobacconist" were not permissible, there would have been 25 additional breaches and 16 additional offending retail outlets. It is now NSW Health Department policy, however, that business signs with the word "tobacconist" are acceptable provided they are part of a registered business name and comply with the spirit of the Act.

The survey method was labour-intensive. A list of licensed tobacco retail outlets was unavailable. Such a list would have ensured a complete sampling frame.

In summary, it was gratifying that most tobacco retailers in shopping centres and service stations in western Sydney were complying with the Tobacco Advertising Prohibition Act 1991. Specialist tobacconists, however, have a high non-compliance rate. This group of retailers will need to be targeted in any follow-up publicity or education campaigns.

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1. US Department of Health and Services. The Health Benefits of Smoking Cessation. A Report of the Surgeon General 1990.
2. d'Espaignet ET, van Ommen M, Taylor F, Briscoe N, Pentony P. Trends in Australian Mortality 1921-1988. Australian Institute of Health. Australian Government Publishing Service, Canberra 1990.
3. Jalaludin B, Smith W, Salkeld G, Chey T, Capon A. Population Attributable Risks in Setting Priorities for Interventions in Cancer Prevention. Western Sector Public Health Unit 1993.
4. Dobson E, Woodward S, Leeder S. Tobacco smoking in response to cigarette advertising. (Letter) *Med J Aust* 1992; 156(11):815-16.
5. Pierce JP, Gilpin E, Burns DM et al. Does tobacco advertising target young people to start smoking? Evidence from California. *JAMA* 1991; 266(22):3185-86.

Sentinel surveillance network

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3. McLeer VA, Anwar R. A study of battered women presenting in an emergency department. *Am J Public Health* 1989; 79(1):65-66.
4. Goldberg WG, Tomlanovich MC. Domestic violence victims in an emergency department. *JAMA* 1984; 251:3259-3264.
5. NSW Domestic Violence Committee. Report of the NSW Domestic Violence Committee. NSW Domestic Violence Strategic Plan. NSW Women's Coordination Unit, July 1991.
6. NSW Health Department. Domestic Violence Policy. March 1993.
7. Eastern Sydney Area Health Service. Draft Domestic Violence Policy and Protocol. January 1994.
8. Brown JA, Towler BP, Stokes ML. Injury Profile. An overview of injury in Eastern Sydney. 1993. Public Health Unit, Eastern Sydney Area Health Service.
9. Jeffs D, McMahon R. Sentinel General Practices. *NSW Public Health Bulletin* 1990; 12(1):51-52.
10. Mira M, Cooper C, Britt H. Benefits of general practice sentinel surveillance networks. *NSW Public Health Bulletin* 1992; 3(11):121-122.

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