

**Ontario Campaign for Action on Tobacco
Campagne Ontarienne D'Action Contre le Tabac**

Founding Agencies:

Canadian Cancer Society–Ontario Division
Heart and Stroke Foundation of Ontario
Non-Smokers' Rights Association
Ontario Lung Association
Ontario Medical Association

Supporting Agencies:

Alcohol and Drug Concerns Inc.
Association of Local Public Health Agencies
Cancer Care Ontario
Ontario Association of Children's Aid Societies
Ontario Association of Naturopathic Doctors
Ontario Federation of Home and School Associations
Ontario Physical and Health Education Association
Physicians for a Smoke-Free Canada
Registered Nurses Association of Ontario
The Ontario College of Family Physicians

Give Kids A Chance

*Donner Une Chance
Aux Enfants*

MEMORANDUM

Date: 13 November 2002
To: Interested Parties
From: Michael Perley
Subject: Further notes on PUBCO

PUBCO General Manager Barry McKay recently challenged a number of the points made in OCAT's 26 September memorandum on allegations made by his organization.

Mr. McKay and other PUBCO representatives continue to make statements and promote positions which challenge or contradict findings in published medical, technical and economic literature about the health effects of second-hand smoke exposure, the effectiveness of ventilation as a remedy for such exposure, and the economic impact of smoke-free policies. Research on these issues in Ontario carried out by the Ontario Medical Association, the Ontario Tobacco Research Unit at the University of Toronto, the Canadian Cancer Society, and hundreds of individual researchers and health/medical agencies in other jurisdictions, have reached conclusions about the second-hand smoke issue which are diametrically opposite to those reached by PUBCO.

Let me again briefly summarize the conclusions of these efforts in three main areas:

- The economic impact of smoke-free policies;
- The medical evidence of negative health effects from second-hand smoke exposure;
- Ventilation.

Economic Impacts

PUBCO has based its most recent position on the economic impacts of smoke-free by-laws on beer sales figures obtained from the Brewers of Ontario. PUBCO alleges that these figures prove that the Ottawa and Oakville by-laws have caused a decline in beer sales in these jurisdictions which is greater than declines in other Ontario municipalities. PUBCO also alleges this decline has in turn caused a number of additional negative economic impacts to licensed premises.

Through its many efforts to challenge smoke-free policies across Ontario in the media, at municipal councils and in the courts, it is important to note that these are the only data from a third party that PUBCO has ever produced to make its case.

PUBCO's argument about the significance of these numbers should not be accepted for the following reasons:

- PUBCO has produced no evidence, such as sales tax data, to indicate the impact on sales of wine, spirits or food in the relevant licensed premises, and a complete analysis of revenue in these premises is therefore impossible. One example of why this is important is helpful: following the Region of Waterloo's January 2000 implementation of a 100% smoke-free policy which affected the area's Oktoberfest, the General Manager of Oktoberfest noted that, while beer sales in the festival festhalls declined slightly in the fall of 2000, food and wine sales rose and offset the decline in beer sales. Without a similar analysis of licensed establishment revenues in Ottawa and other municipalities, it is impossible to state that a smoke-free by-law – or any other local policy – had either a positive or negative effect on the revenues of licensed establishments. Readers wishing to discuss this with the festival's General Manager, Larry Blundell, can reach him at (519) 570-4267 ext. 222;
- PUBCO has stated that other events such as September 11th, seasonal changes and other factors which can affect sales in licensed establishments were taken into account in the PUBCO analysis. Yet, the only numbers provided in the PUBCO analysis were raw beer sales figures per month. Without a methodology showing how these other events and circumstances were taken into account, PUBCO's statement in this regard cannot be credible.

PUBCO has also challenged OCAT's characterization of KPMG's unsuccessful effort to survey its members about alleged economic losses in Ottawa. To assist readers in reaching their own conclusion about this matter, I am attaching the letter from KPMG to Ottawa MOH Dr. Robert Cushman, in which the company's reasons for failing to complete the survey are outlined. KPMG will be making a further report on Ottawa public later this month.

Additional reasons for scepticism about PUBCO's claims can be found in other Ontario municipalities. Some time ago, PUBCO sent a list of 29 establishments in Kitchener-Waterloo which it alleged closed since the 2000 implementation of the Region of Waterloo's smoking ban, to the Cornwall Smoke-Free By-Law Committee. Research by Region of Waterloo staff subsequently showed that other circumstances led to the closures in all cases. For example, two premises were purchased by the City of Kitchener to be torn down for a Farmer's Market, and in another case, an insurance company bought a premises and closed it because the space was needed for offices. In a third case, a premises which closed before the by-law came into effect was included in PUBCO's list.

Readers wishing to obtain further information directly from the Region of Waterloo in this regard are advised to call Regional Chair Ken Seiling at (519) 575-4585.

The above points highlight the fundamental problem with all of PUBCO's economic impact claims, namely that assessing the impact of a smoke-free by-law requires an analysis of all factors affecting economic performance which is based on independently-verifiable data. In Ottawa's case, this would involve comparisons of sales tax data for all types of food and beverage sales, and would incorporate analysis of independent variables such as seasonal sales variations, changes in employment in the high-tech sector, changes in tourism patterns following the events of September 11th, 2001, and assessment of hospitality industry bankruptcy, opening/closure and employment figures.

In instances where hospitality proprietors who have claimed economic losses have been given opportunities to bring forward such data – as in a 2000 damages lawsuit launched by proprietors in Waterloo Region, or in the KPMG survey initiative in Ottawa – proprietors have either failed to bring forward the required information, or have refused to cooperate to a point which made the initiative itself invalid. The question arises as to why proprietors, when given opportunities either by the courts or by third parties like KPMG, have not produced data proving their case. When such analyses have been carried out in other jurisdictions, such as the State of California, sales tax data analyses have shown improvement in hospitality and accommodation sector revenues, contrary to claims by local hospitality associations.

MEDICAL AND SCIENTIFIC EVIDENCE:

As noted in our earlier memorandum, PUBCO's position on the validity of medical evidence of the health effects of second-hand smoke is very similar to statements made by representatives of Canadian tobacco companies. Whether or not there is any direct or indirect financial or in-kind relationship between PUBCO and these companies is irrelevant. The fact remains they share and promote the same criticism of the scientific evidence of second-hand smoke's health impacts. We know of no credible medical authorities who seriously challenge this evidence today.

Since the 1986 Report of the U.S. Surgeon General, one of the first comprehensive reports on this evidence, there have been at least six international analyses of the available research on second-hand smoke's health effects, and hundreds of published individual studies demonstrating that second-hand smoke causes lung cancer, heart disease and a variety of respiratory conditions, particularly in children. The WHO's study to which Mr. McKay's memorandum refers was, as described in my original memorandum, mischaracterized by the tobacco industry, and in fact found an increased risk of lung cancer, as the WHO subsequently stated.

Rather than further reviewing this large body of evidence, I would like to direct those interested to two easily-accessible sources:

- The May 2001 report of the Ontario Tobacco Research Unit which reviews the current consensus of scientific knowledge about second-hand smoke's health effects (http://www.camh.net/otru/pdf/special_ets_eng.PDF) and;
- The most recent report by a national medical group, the British Medical Association, titled "Towards Smoke-free Public Places" was published on November 6, 2002. The report notes among many other conclusions, that there is no safe level of exposure to second-hand smoke. In releasing the report, the BMA's Head of Science and Ethics noted that "by not banning smoking in public places, the Government is putting the health of vast numbers of the population at risk." The report is available at www.bma.org.uk.

VENTILATION:

In PUBCO's statements supporting ventilation as an alternative to smoke-free policies, the organization frequently references experience in British Columbia as a justification for advocating ventilation. What PUBCO does not always make clear is whether it is advocating unenclosed ventilation in indoor premises, or ventilation installed in separately-enclosed, separately-ventilated smoking rooms. We presume that they are usually referring to the latter, since British Columbia's Occupational Health and Safety regulation requires that as of May 1, 2002, workers' exposure to second-hand tobacco smoke must be controlled either through:

- "Prohibiting smoking at the worksite" or through
- "Restricting smoking to a designated smoking area such as a safe outdoor location, or a designated smoking room (DSR) that is structurally separate from other areas". B.C. DSRs must be equipped with non-recirculating (i.e. separate) ventilation systems.

The British Columbia's Workman's Compensation Board had originally decided to make all workplaces, including hospitality premises, 100% smoke-free with no allowance for DSRs. This decision was overturned by the incoming Liberal government earlier this year over objections from the WCB's Panel of Administrators, which noted that there was no technical or scientific rationale for allowing DSRs.

PUBCO representatives have periodically made statements to the effect that a ventilation system which would eliminate the hazards of second-hand smoke exposure is available for a cost of approximately \$5,000. They also make frequent references to health-protective "standards" of second-hand smoke exposure which can be achieved by such a system.

There are several problems with PUBCO's position on ventilation, as follows:

- Experience to date with DSRs in Peterborough and York Region has shown that they are subject to abuse, including proprietors leaving DSR doors open, children being allowed into DSRs, work stations being enclosed in DSRs, and smokers' dislike of using DSRs. Readers wishing further information on any of these issues are urged to contact Soo Wong, Project Manager, No-smoking By-Law Enforcement Division, York Region Health Services, at (905) 762-1282 x 4826 or via email at soo.wong@region.york.on.ca, or Ingrid Cathcart, Provincial Offences Officer-Tobacco Control Act, Peterborough County-City Health Unit, at (705) 743-1000 or via email at icathcar@pcchu.peterborough.on.ca.
- Beyond problems with proprietors' use of DSRs, experience from York Region, Peterborough and analyses from other jurisdictions show that the cost of a properly-constructed and ventilated DSR can range from a minimum of \$25,000 to \$110,000, with some facilities reaching \$250,000 in total costs. These costs include the construction of the DSR and the installation of the ventilation system, and do not include annual operating and maintenance fees, which can range from \$3,000 to \$5,000. Again, information is available from Ms. Wong, Ms. Cathcart, or by contacting the City of Ottawa Medical Officer of Health, Dr. Robert Cushman, who would be pleased to provide readers with an engineering analysis of the cost of DSRs completed for the City of Ottawa.
- The potential costs and space requirements for DSRs create yet another problem with their use, which is that only certain facilities will be able to build and/or afford them. It is curious that an organization like PUBCO, which states as its major concern the protection of small businesses, would advocate a solution to this problem which would clearly be to the advantage of some pub and bar owners, but would significantly disadvantage others.
- Over and above these practical considerations is the fact that, as noted in our previous memorandum, there is as yet no recognized scientific or medical authority which has set a safe level of exposure to second-hand smoke. Without a standard, there is no way to determine whether a given technology is or is not achieving any specific level of protection. Ventilation rates set by the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) specify air exchange levels for various types of indoor premises which should be maintained to allow for users' comfort. They are not health-based. We would be pleased to supply documentation concerning ASHRAE standards, or the Association's position on second-hand smoke, upon request.
- Finally, PUBCO frequently references a demonstration project at the Black Dog Pub in Scarborough, Ontario as proof that ventilation can work as a "solution" to the second-hand smoke problem. There have been several analyses of the technical and scientific merit of this demonstration from experts in Ottawa, York Region and the United States, which we would be pleased to supply on request. All conclude that the demonstration project results do not support the conclusion that unenclosed ventilation can address the health risks of second-hand smoke exposure. Indeed, Health Canada refused to test the Black Dog Pub technology precisely because ventilation can never address an air quality problem for which there is no standard of exposure set. Again, we would be pleased to supply a memorandum from Health Canada outlining the department's reasons for not testing the Black Dog Pub technology, upon request.

The preceding is intended to assist readers in assessing the credibility of PUBCO's repeated statements and allegations about various aspects of the second-hand smoke problem. The Ontario Campaign and its member agencies are in regular contact with leading researchers, analysts and agencies in both Canada and the United States who are continuously refining and assessing our knowledge base about all aspects of the health effects and control of second-hand smoke. We would be pleased to respond to any additional requests for information, or to provide contacts with experts in any aspect of the control of second-hand smoke exposure.