



AUSTRALIAN HOTELS ASSOCIATION

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Intergovernmental Committee on Drugs
Draft National Tobacco Strategy 2012
Healthcare Management Advisers
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SUBMISSION IN RESPONSE TO THE DRAFT NATIONAL TOBACCO STRATEGY 2012-2018

The Australian Hotels Association (AHA) is pleased to provide the below comments for consideration by the Committee for the development of the National Tobacco Strategy 2012-2018.

General Comments on the Draft Strategy

The AHA has some concerns with adverse impacts arising from Priority Area 7 – *Reduce exceptions to smoke free workplaces, public places and other settings* – as it relates to hospitality venues.

Specifically, the AHA submits that Action 6.7.5 be amended to remove references to specific actions and read: *Enforce existing smoke free legislation*.

The AHA also submits that future consideration of public smoking bans should not encroach onto private property, for example in the enforcement of non-smoking buffer zones.

The AHA has demonstrated its ability to work in cooperation with state and territory governments on the implementation of indoor smoking bans over the past decade. It appears, however, that the push to extend current smoking bans to cover outdoor areas is based more on ideology and the 'convenience' of the non-smoking majority rather than any identifiable health benefits that could be achieved by imposing more regulation on venue operators.

Current and ongoing regulation has been successful

Strategies already implemented by governments at all levels have helped in reducing the proportion of Australians smoking. As the Draft Strategy notes, smoking rates in Australia continue to fall. The most recent figures indicate that 15.1% of Australians are daily smokers, compared with rates of over 30% in the late 1980s. The stated goal of Australian governments to reduce this rate to 10% by 2018 is likely to occur without the need for further regulation of hospitality venues on top of current initiatives, provided current educational and awareness activities continue to drive behavioural change.

Over the past decade, as state and territory governments have each introduced legislation controlling and restricting the ability of people to smoke in public areas, the AHA's branches have demonstrated a preparedness to work cooperatively with state and territory governments on the implementation of practical policies that protect the health of patrons and workers while protecting as much as possible the ability of businesses to operate without undue restrictions.

The AHA has worked with state and territory governments to ensure:

- Practical and realistic solutions that can be implemented effectively are recommended;
- Information on changes in obligations is communicated to businesses in the industry;
- Affected businesses are provided with support and tools to assist in planning for change;
- Public endorsement and support for strategies and implementations to secure community acceptance.

It is the support of organised industry bodies such as the AHA which help generate acceptance of new laws and ensure they are observed by patrons and businesses alike. Similarly, the availability of an outdoor smoking facility on the licensed premises has been instrumental in securing public acceptance of indoor smoking bans, in contrast to many European countries where non-smoking laws are mainly ignored by the public and many hospitality operators alike.

The AHA urges governments to consider that the effective policing of indoor smoking bans is achieved through peer pressure and reinforcement by patrons themselves, rather than as a result of any enforcement initiatives by regulators. The same spirit of endorsement could not be expected if smoking were also banned in outdoor areas, and excessive intervention puts this community acceptance at risk.

Impact of smoking restrictions on hotels

The Strategy should seek ways to achieve its goals without imposing unnecessary or excessive restrictions on businesses, especially restrictions that are founded more in anti-smoking ideology rather than an evidence base demonstrating effective policy. If businesses have the opportunity to decide their outdoor smoking policies for themselves based on their perceptions of customer demand, changes in these policies over time are more likely to be reflective of community attitudes towards smoking.

Although smoking restrictions vary between the states and territories, it is important for the Committee to consider that:

- Hotels and their patrons are still adjusting to the major social and practical changes represented by indoor smoking bans effected by state and territory governments between 2004 and 2010;
- The industry has acted in good faith to support the transition process to smoke-free indoor areas despite the additional obligations imposed by new legislation;
- The industry's patronage contains a much higher proportion of smokers than occurs in non-licensed premises;
- Accommodating outdoor smoking remains a fundamental patron care requirement for licensed businesses during any period of transition to a smoke-free community;
- Hotels have invested large amounts of money in providing customers with comfortable outdoor smoking facilities and signage to comply with indoor smoking bans;
- Smoking remains a legal activity and smoking patrons in hotels justifiably demand to be treated with respect by staff and management;
- Experience shows that transition is better managed through designated smoking areas, as opposed to blanket area bans which simply force smokers into unregulated areas, for example – at home in the presence of children; and

- Peer pressure between patrons is more effective in maintaining the integrity of smokefree indoor areas than any action by government regulators, although this will not be the case for any outdoor smoking bans imposed.

All AHA members across Australia have put significant investment into the renovation, refurbishment or extension of premises in line with various changes in smoking legislation and regulations. The AHA's Tasmanian Branch (Tasmanian Hospitality Association) commissioned Deloitte to consider and advise on the likely impact of a state-wide ban on smoking in outdoor licensed areas of hotels. The report found that in the past five years (following the indoor smoking ban implementation), 65% of Tasmanian AHA members have renovated, refurbished or extended their venue to accommodate smokers, with an average investment of \$125,000 per venue.

Comment on proposed Action 6.7.5

In relation to proposed Action 6.7.5 – *Enforce existing smoke free legislation and work towards all workplaces being smoke free (including outdoor areas in restaurants and hotels, near the entrances to building and air conditioning intake points, and in workplace vehicles)*, the AHA urges the Committee to consider a more concise, less prescriptive statement of intent. The success of the current regulatory framework for hotels from a public acceptance standpoint has been achieved by governments working cooperatively with the industry at a local level to identify possible solutions and, occasionally rule out options which impose an unnecessary or excessive burden on businesses.

Some of the operational and technical difficulties that arise for hotels from efforts to ban smoking in beer gardens or similar areas include:

- The main outcome is that patrons simply move to smoke away from the licensed area where the hotel staff cannot control or be responsible for their behaviour. Examples include smoking in front of other buildings including residential properties, in car parks, on roads or on footpaths;
- Issues around noise (particularly late at night) and butt litter caused by the dispersal of smoking patrons away from the licensed area;
- Safety concerns for patrons who are forced onto roads or into unsafe areas such as alleyways or car parks.

In relation to the health risks of Environmental Tobacco Smoke (ETS) in indoor areas, there is no evidence base to support the complete banning of smoking in outdoor areas. While the AHA acknowledges that governments will endeavour to reduce overall smoking rates, any proposed intervention strategies that impose additional obligations on businesses should undergo extensive industry consultation and be supported by substantial evidence and result based strategies.

Recommendation

The AHA submits that Action 6.7.5 be amended to remove references to specific actions and read: *Enforce existing smoke free legislation.*

The AHA also submits that future consideration of public smoking bans should not encroach onto private property, for example in the enforcement of non-smoking buffer zones.

About the Australian Hotels Association

The Australian Hotels Association is an organisation of employers in the liquor and hospitality industry registered under the *Fair Work (Registered Organisations) Act 2009*. The AHA comprises more than 5,000 members across Australia serviced by branches in every state and territory plus a Canberra-based national office. Members of the AHA include pub-style hotels offering a variety of food, beverage and entertainment options and accommodation hotels focusing mainly on providing overnight accommodation and meeting facilities.

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