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Legislating tolerance: Spain's national public smoking law

Monique E. Muggli, J.D., M.P.H.¹; Nikki J. Lockhart, J.D.¹; Jon O. Ebbert, M.D., M.Sc.²; Carlos A. Jiménez-Ruiz, M.D., Ph.D.³; Juan Antonio Riesco Miranda, M.D.³; Richard D. Hurt, M.D.²

1 Mayo Clinic Nicotine Research Program

2 Mayo Clinic Nicotine Dependence Center

3 Member of the Smoking Prevention Section of the Spanish Respiratory Society

Corresponding author: Monique E. Muggli. Mayo Clinic Nicotine Research Program. Rochester, MN, USA. Email: mmuggli@comcast.net. Phone: 612 378 9147.

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What this paper adds box

- Tobacco industry tactics undermining smoke-free initiatives have been documented, but a comprehensive review of the tobacco industry's strategies used to undermine smoke-free initiatives in Spain has not been published.
- This paper describes the tobacco industry's previous efforts to influence smoke-free policies in Spain and highlights the tobacco industry's current strategy to interfere with smoke-free policies in other countries by promoting Spain's weak legislation as a model law.
- In light of these findings and its obligation as a Party to the FCTC, Spain should pass smoke-free legislation that meets FCTC Article 8 Guidelines. Countries currently considering smoke-free legislation should be aware of the tobacco industry's attempts to use Spain's weak law as a legislative model.

Abstract

While Spain's national tobacco control legislation prohibits smoking in many indoor public places, the law provides for an exception to the prohibition of smoking by allowing separate seating sections and ventilation options in certain public places such as bars and restaurants, hotels, and airports. Accordingly, Spain's law is not aligned with Article 8 Guidelines of the WHO's Framework Convention on Tobacco Control (FCTC), which requires Parties to ensure universal protection against secondhand smoke exposure in all enclosed public places, workplaces, and on all means of public transport. Spain's law is currently being promoted by the tobacco companies in other countries as model smoke-free legislation. In order to prevent weakening of smoke-free laws in other countries through industry-supported exceptions, we investigated the tactics used by the tobacco companies prior to the implementation of the new law and assessed the consequences of these actions in the hospitality sector. Internal tobacco industry documents made public through U.S. litigation settlements dating back to the 1980s were searched in 2008-2009. Documents show that tobacco companies sought to protect hospitality venues from smoking restrictions by promoting separate seating for smokers and ineffective ventilation technologies, supporting an unenforceable voluntary agreement between the Madrid local government and the hospitality industry, influencing ventilation standard setting, and manipulating Spanish media. The Spanish National Assembly should adopt comprehensive smoke-free legislation that does not accommodate the interests of the tobacco industry. In doing so, Spain's smoke-free public places law would be better aligned with the FCTC and Article 8 Guidelines.

Introduction

In Spain, the prevalence of daily smoking among adults (≥ 18 years) is 23.4% (27.0% of men and 20.1% of women).[1] Although the smoking prevalence has declined each year for the past ten years,[2] an estimated 54,233 deaths (49,366 men and 4,867 women) attributable to tobacco use occur in Spain each year.[3] According to the Barcelona Health Interview Survey, 74.3% of non smoking men and 70.1% of non smoking women are exposed to secondhand smoke (SHS) at home, at a place of work or study, during leisure activities, or in transportation.[4]

The implementation of comprehensive smoke-free public places laws has been shown to reduce the number of cigarettes smoked per day among continuing smokers, increase the likelihood that smokers will stop smoking, reduce the chances of a young person initiating smoking, and decrease health risks posed to non-smokers.[5-9] On January 11, 2005, Spain became a Party to the World Health Organization's (WHO) Framework Convention on Tobacco Control (FCTC),[10] the world's first public health treaty providing for the global reduction of the supply and demand of tobacco products.[10] Article 8 of the FCTC obligates Parties to protect citizens from exposure to tobacco smoke or SHS.[11] Article 8 Guidelines on Protection from Exposure to Tobacco Smoke, unanimously adopted by the Conference of Parties, provide that the only effective measure to protect people from tobacco smoke is 100% smoke-free air. [12] Evidence continues to show that smoking rooms, which are currently promoted by the tobacco industry, [13, 14] do not protect non-smokers from exposure to SHS. [15]

The same year it became a Party to the FCTC, Spain passed national tobacco control legislation (Law 28/2005),[16] replacing previous legislation. Law 28/2005 prohibits smoking in many indoor public places including government centers, educational facilities, health centers, recreational centers that allow persons under 18 years old to enter, elevators and escalators, areas for public use that comprise no greater than 5 m² (i.e. telephone booths), and taxis. However, the law includes a tobacco industry-supported exception permitting smoking in rooms or areas that are physically separated and independently ventilated from the rest of the premises in certain public places. Further, Spain's smoke-free legislation allows for separate seating sections and ventilation options based on the amount of "useful surface for clients" (i.e., service area) or premise location. As applied to the hospitality sector, bars and restaurants with a service area of ≤ 100 m² can choose either to become smoke-free or allow smoking, where larger bars and restaurants (> 100 m²) may chose to ventilate smoking areas comprising less than 30% of the total service area. Hotels may permit smoking in up to 30% of rooms.

Spain's legislation has been heavily criticized for being ineffective and confusing, in part, because there is no meaningful definition of the term "useful surface." [17] Concern exists that hospitality owners will report the greatest amount of "useless surface" in order to be considered a small venue and remain a smoking establishment. Spain's legislation has also been criticized for its inconsistent and confusing treatment of public places based on where "different activities" take place, such as in "bar-restaurant" venues. Hospitality owners with combined bar-restaurant venues greater than 100 m², but where the bar portion and the restaurant portion are individually smaller than 100 m², can argue that they can choose whether the venue will permit smoking or be smoke-free.[17] Further, Spain's law has been difficult to implement and has been largely ignored. Two years after the law was passed, the European Environment and Health Committee heard evidence from Ministry of Health and Consumer Affairs that "the restaurant and bars sector is the weakest point of the law" and that "only about 40.000 of the 350.000 restauration (sic) establishments are completely smoke free or are well compartmentalized." [18]

In order to prevent weakening of smoke-free laws in other countries through industry-supported exceptions, a more complete understanding of industry tactics used in Spain leading to the passage of Law 28/2005 should be developed. This paper examines the tobacco companies' decades-long efforts to undermine effective tobacco control policies related to SHS in Spain.

Methods

This paper analyzes internal tobacco industry documents produced in response to U.S. litigation involving the major tobacco companies and their scientific and trade representatives. The history and public accessibility of these documents have been described previously.[19-24] Online searches of documents produced by British American Tobacco and Philip Morris were conducted on the Legacy Tobacco Documents Digital Library at the University of California, San Francisco website (<http://legacy.library.ucsf.edu/>). Searches of documents dating back to the 1980s were conducted between December 2008 and July 2009. Approximately 1300 documents were

reviewed. Search terms included *Spain, España, Spanish, Madrid, tabacalera, estancos, HORECA* (i.e. hospitality venues), *Colt* (ventilation manufacturer), *FCTC*, “*framework convention*”, “*indoor air quality*”, “*air filtration*”, and *ventilation* in combination with Boolean operators such as “and”, “and not”, and “or.” Also, more specific searches using names of company projects, personnel, and individuals identified in the documents were conducted.

The initial searches identified documents from all of the companies and additional searching proceeded using a snowball sampling technique where searches are built on previous searches and searching is completed upon saturation when the same documents are retrieved.[25] The snowball sampling technique has been widely used by researchers analyzing and reporting on the internal tobacco industry documents. [26]

All relevant documents were analyzed to create a historical framework. Industry publications from the hospitality sector, web-based news reports from major Spanish newspapers, peer-review academic articles, policy documents, and legislation were used to triangulate findings.

The limitations of using internal tobacco industry documents as research data have been previously described.[27, 28] Limitations most relevant to this research include the following: (1) none of the litigation from which the documents have been made public involved legal claims related to SHS, therefore, we cannot say that the documents analyzed here represent a comprehensive topical collection on SHS issues; (2) only the parent companies were parties to the litigation, therefore publicly-available documents primarily involve communications between the parent companies and their subsidiaries and not those emanating from the Spanish subsidiaries to third parties; and (3) while other transnational tobacco companies (Imperial Tobacco and Japan Tobacco International) own Spanish tobacco companies and have substantial market share in the country, internal documents from the entities they purchased (i.e., Altadis SA and Gallaher Spain SA) are not publicly available through U.S.-based tobacco litigation.

Findings

Corporate documents of British American Tobacco (BAT) and Philip Morris (PM) dating from the 1980s through 2001 demonstrate that transnational tobacco companies (TTCs) successfully promoted ineffective measures to protect people from deadly exposure to SHS. TTCs saw the Spanish hospitality sector (HORECA) as essential for their market growth because of the cultural uniqueness that bars and restaurants have in Spain. Accordingly, TTCs sought to protect hospitality venues from smoking restrictions by: (1) implementing “resocialization of smoking”[29] and “Societal Alignment”[30] efforts through promoting separate seating for smokers and non smokers and ineffective ventilation technologies (i.e., public relations accommodation programs); (2) supporting an unenforceable voluntary agreement between the local government in Madrid and the hospitality industry in order to preempt an enforceable ordinance that “would have banned smoking”[31]; (3) promoting ineffective ventilation and influencing ventilation standard setting; and (4) manipulating the media to reflect the tobacco industry’s corporate messages on SHS.

Maintaining smoking in public places such as HORECA (HOTel, REstaurant, and CAtering sector of the food service industry) outlets is extraordinarily important to the

tobacco industry because it allows for both the normalizing of smoking and affords the companies opportunities to effectively reach consumers. [32, 33] The Spanish market has been particularly important to the global tobacco industry. BAT recognized ten years ago that “Spain [was] still a very tolerant market with regards to smoking in HORECAs and other public places.”[34] Unique to Spain, BAT consultants described social needs and cultural norms in Madrid as particularly important to their HORECA strategy:

Madrid...exhibits all elements of the “Horeca Spectrum.”
Traditional: La Lolea or even the corner tapas bar. *Trendy;* O’Donnell’s or any other of the eight Irish bars springing up. *Tourist:* Hard Rock through Joy are [where] domestic meets import. *Alternative:* El Sol & Siroco. [O]r even downright *Underground:* Soma & Soul Kitchen. Needless to say Madrid has it all for those who can keep up and even a chemical and/or siesta plan for those who normally couldn’t.

The overwhelming thing that makes Madrid’s horeca stand out is its intensive domestic use. The Spanish people seem to use their horeca more than they use their homes as it seems to fill a social need in the culture. They know how to live.[35]

Additionally, with respect to Madrid’s HORECA, BAT’s consultants noted that Western Europe has a “strong trickle down effect for the rest of the globe” and was a “market for BAT to ‘Attack’ . . . [I]f BAT wants to conquer the young people it must first join them.”[35] HORECA outlets were integrated into BAT’s business strategy as a way to routinely reach consumers in a “relaxed social environment” that it might otherwise not:

BAT does not sell cigarettes and it does not gather its target audience into a relaxed social environment in which it can market to them on a regular basis, which means that the pressure is on BAT to serve the needs of the people and places which do, i.e. Horeca.[35]

Further, BAT’s described worldwide-HORECA strategy recognized that exposure of young people to cigarette branding within HORECA outlets resulted in increased retail cigarette purchases, noting, in particular, the importance of:

1. Getting a subtle message of association between your brand and the best places in town.
2. Getting those young people to try your product while in this impression making environment.

3. Relying on the cumulative effects of 1 & 2 (memory association) to result in increased grocery and convenience sales. [35]

“Accommodation” Public Relations Campaigns in Spain: Courtesy of Choice

The tobacco industry made great efforts during the 1990s to push so-called “accommodation” policies in Spain. The now well-documented public relations “Courtesy of Choice” campaign, carried out for decades by the tobacco industry, was implemented in Spain by the International Hotel Association (later renamed the International Hotel and Restaurant Association).[36] A 1999 PM document explained that the “Courtesy of Choice” campaign was very successful at “stopping bans”. [30] “Issues management” organizations, of which Philip Morris International (PMI) and BAT were members, disseminated materials regarding social acceptability of public smoking as early as 1978.[37] Additionally, the “Club de fumadores por la tolerancia” (“Club of smokers in favor of tolerance”), was created in the 1990s to support tobacco industry activities.[38] This club also played an important role in the tobacco companies’ campaign encouraging lawmakers to enact “reasonable legislation” for accommodation between smokers and non-smokers. [39]

PMI’s “social acceptability program” in Spain had the overall objective of “increas[ing] the social acceptability of smoking, or perhaps more accurately, to block unwarranted attacks in these areas by the antis.”[40] Spain was chosen as a pilot project for a European launch of the program, in part, because PMI had already established inroads with journalists and scientists, Spain had a favorable regional government structure, results could be quickly achieved, and the Spanish model developed could be exported and adapted to other countries:

“Spain is an ideal place to begin because there are key elements already in place. We have a substantial body of opinion on our side, good working relations with the press and access to members of the scientific community who do not agree with the excesses of the anti-smoking campaign. Spain offers an additional advantage: regional government is already functioning in that country. Since the trend towards regional government is bound to increase all over Europe, Spain offers good testing grounds for a combined national-regional approach. We could move quite fast in Spain. If we were to implement the Social Acceptability Program here proposed, in no more than six months we would have concrete results which could then be used in other countries and regions to develop programs adapted to their special circumstances.” [40]

In 1992, PMI also sought the services of public relations firm Leo Burnett in Spain to develop a “long-term program designed to reduce the impact of unnecessary legislation in the tobacco area.” [41]

Likewise, BAT's "resocialization of smoking" program was implemented in Spain by 1995. [42] As an "accommodation" program, BAT's efforts sought to implement the message that "smoking is about people not politics; we need practical solutions not arbitrary bans." [43]

Voluntary Agreement with Local Government

In an effort to undermine effective regulation of smoking in public places, PM sought to make a voluntary, non-binding, non-enforceable agreement between the Madrid local government and HORECA associations in the mid 1990s. [44, 45] An August 1994 PMI memorandum explained that the voluntary agreement "replaces a draft law that would have banned smoking." [31] An August 1994 internal PM memorandum explained that the agreement should be shared with hospitality associations in other markets because it could serve as a model "to demonstrate that the preferences of smokers and non-smokers can be accommodated." [46]

Ineffective Ventilation Promotion and Influencing Standard Setting

Acknowledging the "tolerant market" in Spain regarding smoking in public places, BAT ESPAÑA noted that:

The idea of contemplating smoking bans in HORECAS is not a major issue, but we strongly encourage good indoor air quality to avoid implementing smoking bans in the future and as part of a global strategy on the resocialization of smoking. In this sense, we will take advantage of any opportunities that arise in our market with regards to filtration initiatives that could be implemented in 1997. [47]

The Spanish hospitality industry employed a unique strategy to promote its interests by creating a contest among ventilation manufacturers. The contest was developed in 1996 by Asociacion Tecnica de Calefaccion y Refrigeracion (ATECYR; Spanish Technical Association of Air Conditioning and Refrigeration), [48] a member of the European Association REHVA (the Federation of European Heating, Ventilating & Air Conditioning Associations) [49] and the Spanish Federation of Hospitality, la "Federacion Española de Hostelería" (FER), [50] the Spanish member of HOTREC, which is the European Union (EU) trade association for hotels, restaurants, and cafes. [50, 51] The contest was designed, in part, to:

[H]elp strengthen the relations between these associations in order to install adequate air-conditioning/ventilation systems. . . [and was] also important because it will become the basis of legislative measures in the near future. [48]

As of 1995, PM was a member of the FER. [50] At that time, "[a] better integration of FER into Hotrec [was] being encouraged by PM Spain." [50] HOTREC is

a lobbying office for “40 national hospitality associations in 25 countries across Europe.” [52, 53] A BAT document stated that “[t]he objective of [the ventilation/accommodation program] is to offer the best guidelines to restaurant owners on how to solve IAQ [indoor air quality] problems.”[50] A February 1996 memorandum from BAT ESPAÑA, Assistant Corporate Affairs officer, [54, 55] Cristina Munuera, noted that the ventilation contest was “pre-empting the intentions we [BAT ESPAÑA] have for [BAT’s cigarette brand] and innovative ventilation systems. I personally believe that BAT ESPAÑA should let this association know that we are aware of their activity and our intentions to support their activity.”[48] Munuera further explained that BAT had developed a “smoking table” and that “[t]his contest could be an excellent opportunity to present this device or any other which is currently being developed at Southampton [BAT’s research and design center].”[48] A February 1996 memorandum from BAT scientist Nigel Warren summarized the company’s approach to communicating with hospitality managers about their smoking tables:

When entering into deals with restaurant/club owners we try to first convince them of the filters capability by demonstrating a ‘mini’ unit which we fill with smoke, switch on, and watch the smoke disappear in a few seconds – an attention grabber. We point out that by imposing a smoking ban in their outlet they may suffer a loss of (smoking) customers and maybe their non-smoking friends too. By introducing filtration systems (at their or our own expense) smoking and non-smoking customers can more easily socialize in the better quality air – indeed such systems may help to increase the number of customers overall. The ‘penalty’ that the restaurant owner may have to bear could be exclusive trade marketing for our brands. Essentially everyone benefits!![56]

The winners of the ventilation contest were engineers from Bilbao, Spain.[57] Although initially deciding to take part, BAT ESPAÑA apparently withdrew its participation from the FER/ATECYR sponsored ventilation contest.[57, 58] But after the winners of the contest were announced in 1996, BAT ESPAÑA acknowledged the “significant opportunity” in the area of ventilation in which it “should be more proactive.”[57] A January 1997 memorandum indicated that “BAT ESPAÑA was going to participate in the contest presenting the innovative ‘smoking tables’, but at the last minute we had to withdraw our participation following indications from the [BAT Headquarters].”[59] Another memorandum indicated one reason for withdrawal of participation was that “[w]e were naturally very interested in putting in an entry based on Colt [a ventilation equipment company] filtration but withdrew when we saw that, as condition of entry, copyright for the winning technology would pass automatically to the contest organisers!”[60]

Long-time tobacco industry indoor air quality (IAQ) consultants, Healthy Buildings International (HBI)[61-64] were used in Spain to conduct IAQ measurements in

buildings and maintain the link between the tobacco industry and ventilation standard-setting agencies. In Spain, HBI employee Juan Carlos Bermudez [65], who was extraordinarily well-connected within the international ventilation standards community, met with PM on several occasions and kept PM informed of developing issues on ventilation. Bermudez was a member of the “Comite Rector” and the “Comite Cientifico” of ATECYR and a representative of The European Committee for Standardization (CEN Committee), which was responsible for generating building ventilation standards called CEN/TC 156 [50, 66] Bermudez was also a member of the Asociacion Espanola de Normalizacion y Certificacion (AENOR) (the Spanish Association for Standardisation and Certification), and was the IAQ advisor to Sociedad para el desarrollo energético de Andalucía (SODEAN) (the “Spanish OPET”).[66] Finally, Bermudez was also a member of REHVA.[66, 67] In reference to REHVA, one internal document noted that “JCB checks out if observer status for ‘interested parties’ is possible.”[66]

Although PM submitted public comments on the CEN/TC 156 standard,[68] the company also used its relationship with Bermudez to obtain inside information from the internal committee meetings,[69] including “updating [Philip Morris on] CEN standards” over lunch. [70] In a PM memorandum labeled as “Strictly Confidential,” Bermudez is listed as a national delegate to the 1995 CEN/TC 156 standard meetings and his affiliation listed as “AENOR.” [71, 72] Bermudez’s affiliation did not disclose his financial relationship with PM.

Bermudez undertook several paid and possible unpaid activities on behalf of PM.[73] Bermudez was involved in implementing PM’s “Courtesy of Choice” public relations campaign in European markets through his association with REHVA.[49] In 1991, through the law firm of Covington and Burling LLP, HBI invoiced PM for the services of Bermudez in “presenting HBI experiences to a group of journalists at the Holiday Inn Madrid on June 12, 1991.”[74] A 1993 memorandum from Mary Pottorff, Manager, Worldwide Tobacco Regulatory Issues, [75] to Ted Lattanizo, Director, Worldwide Regulatory Issues at PM, [76] both of whom were members of PM’s Ventilation Task Force, indicated that PM “met with HBI Spain to discuss various IAQ issues, including airport smoking accommodation” and that “[t]hey are working with a number of airports in Spain re IAQ and there has been some interest expressed for smoking lounges which could be used as examples in Europe.”[77] HBI was also involved in public-relations activities for PM. [78]

In July 1995, Mattais Schorp (also a member of PM’s Ventilation Task Force [79]) drafted a memorandum detailing another meeting with Bermudez which was necessary “to gain insights into the European IAQ community and issues.”[66] Schorp noted that Bermudez confirmed that “it is so easy to add something, so that the air smells nice” and further described possible future studies proposed by Bermudez:

He said that devices exist, which spray periodically (e.g., every 5 min.) a flavoured aerosol into the ductwork. They are used in Spain. A number of companies sell air flavouring mixtures for HVAC [heating, ventilating and air-conditioning]-systems. JCB expressed interest for a study, which would measure the change in percentage of

dissatisfied people solely through the influence of HVAC-flavoring, without any change in the ventilation rate. The hypothesis to be tested is: For the same amount of (low) outdoor rate, the percentage of dissatisfied people decrease, just by adding some flavours into the HVAC-system.[66]

Schorp's memorandum also described Bermudez's hypothesis that "new standards with new specification may not improve the IAQ" because the problem lies with "the low compliance with existing standards" in that "there is [sic] only a small number of well ventilated buildings." [66]

Media Manipulation

In the mid 1990s, PM entertained two Spanish journalists who were also scientists, Antonio Salgado (La Vanguardia) and Jose Luis de la Serna (El Mundo), for eight days [80] with the aim of delivering its messages on SHS.[81, 82] A June 14, 1995, memorandum to Matthew Winokur, Manager of Worldwide Corporate Affairs at PM Europe, from PM Spain reported that one of objectives of the training was "to take advantage of the 'dialogue-door' that we have opened with these two key journalists (who agree to listen to PM points of view) and deliver our messages on the issues on which they write every week in their respective media, and those of our interest." [83] The memorandum listed the goals of the meeting as: (1) "[t]o get a balanced view when tobacco issues are covered, giving us the opportunity to be heard;" (2) "[t]o open information channels;" and (3) "[t]o gain credibility." [83] The memorandum states: "Yes, they will be skeptical of what we have to say but also very interested to hear PM positions." [83] The journalists traveled to New York to meet with PM personnel from corporate affairs and scientific affairs, PM employees of PM Spain, and PM's external lawyers.[80] With regard to SHS issues, the journalist training program included:

The context of epidemiology (low-risk epi, risk assessment, GEPs)
Significance of the ETS science
New research on exposure/confounders
EPA (ETS activity, risk assessment, reform efforts)[80]

A PM document discloses that the outcome of training these two health scientist journalists was extremely successful for the company in that both agreed to publicly support PM's messages on SHS and nicotine addiction:

Both scientists agreed to conclude:

a) ETS has not been proved to cause diseases to non smokers. Although they positively believe we should beat EPA because the scientific evidence is on our favour, they also believe that we could lose it because it has become a political and social issue.

b) Although it all depends on definitions, they believe that nicotine is addictive but not a drug. They also acknowledged that the word addiction is much stronger in the US than in Europe. They understand why PM objects strongly to this classifying mainly because of its impact on public opinion and its political and social implications.[84]

Discussion

While previous work has identified tactics used in Spain to undermine public health goals,[81] ours is the first in-depth report of how the TTCs manipulated information regarding the harmful consequences of SHS exposure within the Spanish political and scientific communities. The overarching goal of the TTCs was to prevent comprehensive smoke-free legislation.

Today, PMI seeks to use the weak Spanish law as a model for other countries to adopt. After Spain's law came into force, many countries introduced or implemented similar exceptions based on "service area" including Chile, Denmark, Portugal, and Romania. [85] In at least one instance, PMI's subsidiary submitted comments to a government pushing Spain's ineffective and confusing law. In August 2008, PMI proposed amendments to Guatemala's smoke-free bill to provide for exceptions included in Spain's law in order to "allow business property owners to provide smokers with comfortable areas in which they can smoke." [86] Additionally, one of the authors (CJ-R) was invited to participate in efforts to dispel the tobacco industry's lobbying for Spain's smoke-free law to be replicated in the Czech Republic.[87]

While the tobacco industry and its allies carried out similar activities in Spain as they have done in the rest of the world, the TTCs capitalized on Spain's unique culture,[34] which has been characterized as a generally tolerant society compared to its European counterparts.[88] The TTCs focused their efforts on the hospitality sector (HORECA), which it recognized as not only key to thwarting comprehensive smoke-free legislation, but also key to growing the cigarette market. During the time leading up to the approval of the Spanish 28/2005 law, la "Federacion Española de Hostelería" (the Spanish Federation of Hospitality, FER) launched public relations activities through the use of journals, TV, and radio media to send the message that "courtesy of choice" and "accommodation" for the hospitality venues are better than comprehensive smoke-free legislation.[89] Speaking before the Health Commission of Spanish National Congress in 2005, the president of FER claimed that the anti-smoking law caused the loss of 20,000 jobs;[90] however, other evidence from the end 2006 suggests that the number of jobs in the Spanish Hospitality Sector had increased 5.4%. [91]

According to different studies conducted in Spain after implementation of the Spanish smoke-free law, there has not been an increase in smoke-free facilities of the Spanish hospitality sector, no clear health information about the dangers of exposure to SHS exists, the Spanish smoking rate has not decreased, and about 35% of Spanish children are exposed to SHS at their home.[92, 93] Among hospitality workers who were smokers, the mean cigarettes smoked per day decreased from 17.9 to 16.3, but no significant changes were observed in other variables such as respiratory symptoms or number of smokers who stopped smoking.[94] While the knowledge and attitudes of Spanish healthcare professionals about the prevention, diagnosis, and treatment of

smokers has clearly improved in the past decade, much work remains to be done to better inform and protect the public.[95]

Tobacco industry tactics used to undermine smoke-free initiatives globally have been previously identified. TTCs have undertaken a decades-long endeavor to create controversy where none existed by recruiting and training scientists and journalists from around the world to create the false public perception that SHS exposure did not pose a health risk.[96-100] PMI's and BAT's membership of globally-coordinated "issues management" organizations such as ICOSI, INFOTAB and its predecessors, which pushed the tobacco industry's messages on the public acceptability of smoking, can be traced back to the 1970s.[37] Across the globe, the TTCs have funded, created, and manipulated hospitality associations, such as restaurant, bar and hotel associations to promote their agenda against smoke-free public places[101-103] using so-called "accommodation" programs within the hospitality sector to push ineffective measures to control SHS.[101, 103] Attempts to influence ventilation standards have also been previously described.[104] For over four decades, the tobacco industry's tactics aimed at consistently denying the full extent to which SHS exposure causes disease, death, and disability have been reported.[105] The tobacco industry's denial continues today.[106-108] On Japan Tobacco International's corporate website, the third-largest TTC operating in Spain, the TTC denies that SHS exposure causes serious disease and instead characterizes SHS as simply "annoying" and maintains that the scientific literature on SHS is inconsistent. [109]

In conclusion, the dividends paid by TTCs' decades-long and multi-faceted efforts to undermine protections against SHS for all people in Spain are apparent today in Law 28/2005. Further evidence of the industry's successful lobbying is suggested by the 2006 opening of Madrid's multibillion-dollar ultra-modern airport with unventilated smoking lounges in many corridors. Similar to BAT's and PM's extensive history of pushing accommodation programs calling for separate seating and ineffective ventilation systems and its integration into the hospitality industry, Spain's national tobacco law today reflects positions long-supported by the tobacco industry and its allies.

Recommendations

Spain's ineffective law is being used as a legislative model by the tobacco industry. For countries in which the Spanish law is being promoted, an understanding of TTC tactics to undermine comprehensive smoke-free legislation should inform the development of effective industry countermeasures. Further, Parties to the FCTC are obligated to protect tobacco control policies from commercial and other vested interests of the tobacco industry. [110]

We agree with Spain's Minister of Health that it is time for Spain's citizens to be protected against SHS exposure.[111] To accomplish this goal, the Spanish National Assembly should adopt new comprehensive smoke-free legislation more closely aligned with the FCTC Article 8 Guidelines [12] and, in doing so, protect Spain's citizens from the tobacco industry's commercial interests.

There are no competing interests.

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