



Green Paper Consultation Towards a Europe free from tobacco smoke: policy options at EU level

**Submitted by the
Freedom Organisation for the
Right to Enjoy Smoking Tobacco
(FOREST)**

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Introduction

This submission is made on behalf of the Freedom Organisation for the Right to Enjoy Smoking Tobacco (FOREST), a UK-based, Europe-wide media and political lobbying group that defends the interests of smokers, and voices the opinions of many smokers and tolerant non-smokers on issues concerning smoking and individual liberty. Although we receive donations from tobacco companies, we do NOT represent the tobacco industry which can speak for itself.

FOREST does not believe that smokers have the right to light up wherever they want. We accept the need for restrictions on smoking in public places and we urge smokers to be considerate to those around them, especially children.

We do, however, believe that smokers, who represent 25% of the population in the UK, and considerably more in some EU countries - should be accommodated where it is possible to do so without unduly inconveniencing non-smokers.

We support smoke-free areas in bars, clubs and restaurants, designated smoking rooms, and the provision of smoking and non-smoking establishments so that smokers and non-smokers have a choice of venue in which to work and socialise.

We strongly oppose calls for a complete ban on smoking in all enclosed public places, including restaurants, bars and clubs, because we believe that, with the help of technology (better ventilation, for example), prohibition is unnecessary, illiberal and intolerant of market forces and the lifestyle of millions of citizens through the EU.

This submission is in response to the European Commission's request for views on the "scope of measures to tackle passive smoking" and on "which policy option would be most appropriate to achieve smoke-free environments."

We are concerned that EU health chief Markos Kyprianou was quoted saying, "I haven't even started yet", when talking about EU plans to extend bans on smoking in public places¹. Such comments suggest that conclusions have already been reached and that this consultation may be a wasted exercise.

We therefore appreciate that in the press release to the consultation it states that: "The Commission will analyse the responses and produce a report with the main findings of the consultation, before considering further steps."

As views are being sought based on the Green Paper, we will address some of the assumptions made in the paper. In particular we will cover the following subjects as well as address some issues not covered in the paper:

1. Health considerations
2. Economic considerations
3. Social considerations
4. Other
5. Options
6. Conclusion

We also take issue with many of the statements made in the Green Paper and will address them separately in Appendix I.

¹ "EU health boss says just starting on smoking ban," Reuters, 12 April 2007, <http://www.alertnet.org/thenews/newsdesk/L12678662.htm>

1. Health considerations

The introduction to the Green Paper starts by stating: "Exposure to environmental tobacco smoke (ETS) – also called 'secondhand smoke' and 'passive smoking' - remains a widespread source of excess morbidity and mortality in the European Union, imposing significant costs on society as a whole."

We dispute the above premise and therefore the arguments that follow for a "coordinated effort towards a smoke-free Europe". The only plausible rationale for banning smoking in enclosed public places is the threat allegedly posed by secondhand smoke, and this can be challenged as outlined below.

1.1 History of ETS studies

Thirty years ago, members of the anti-smoking movement realised they were not going to make more progress unless they could, somehow, show that smokers were potentially harming not just themselves but others around them. They had to deal with the classic liberal argument articulated by John Stuart Mill: "The only freedom which deserves the name is that of pursuing our own good in our own way, so long as do not attempt to deprive other of theirs, or impede their efforts to obtain it."

If ETS could be proven - or even just perceived - to be harmful, arguments such as "smoking is a personal choice" and "people are only harming themselves" could be countered.

The anti-smoking movement then started actively looking for 'proof' of this proposition. Since the 1970s there have been numerous studies on the subject of "passive smoking".

The vast majority have found NO significant link at all between ETS and ill health. Instead data has been cherry-picked from the few studies anti-smoking groups like, and studies that don't prove their case are often suppressed or denigrated.

1.2 UK House of Lords Select Committee on Economic Affairs

In 2006 a prestigious House of Lords committee in the UK published an important report on the management of risk. After examining the Government's legislation to ban smoking in public places, the report concluded: "The case of passive smoking is an example in which [public] policy demonstrates a disproportionate response to a relatively minor health problem, with insufficient regard to statistical evidence."²

Among witnesses who gave evidence to the House of Lords was Professor Sir Richard Peto of Oxford University. Responding to questions about the health risks of passive smoking, Sir Richard replied: "These risks are small and difficult to measure directly." Sir Richard did suggest that ex-smokers might be more at risk from ETS than those who had never smoked at all, but the general tenor of his evidence indicated that the risks are uncertain and unlikely to be large.³

² Government Policy on the Management of Risk, House of Lords Select Committee on Economic Affairs, 7 June 2006, <http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeconaf/183/183i.pdf> p4.

³ Ibid, p26, para 77.

<http://www.publications.parliament.uk/pa/ld200506/ldselect/ldeconaf/183/183i.pdf>

Sir Richard's testimony clearly reflects the substantial doubt that surrounds the health risks of passive smoking. No-one should be surprised because, in February 2001, his colleague, Professor Sir Richard Doll, the first scientist to establish a statistical link between lung cancer and primary smoking, said on BBC Radio 4's *Desert Island Discs*, "The effects of other people smoking in my presence is so small it doesn't worry me."

1.3 ETS studies

The biggest and most scientifically credible ETS studies to date are the European study by the World Health Organisation (published in 1998) and the Californian study by Profs. Enstrom and Kabat (published by the British Medical Journal in 2003).

Both failed to find any real danger from ETS. To be more precise, the World Health Organisation was forced to admit that the results of its seven-year study into the link between passive smoking and lung cancer were not "statistically significant". According to the WHO, non-smokers are subjecting themselves to an increased risk of 16-17% of contracting lung cancer if they consistently breathe other people's tobacco smoke. This may sound alarming, but an increase of 16-17% on what is a very small risk in the first place (very few non-smokers are afflicted by lung cancer) is not a major cause for alarm and certainly does not justify a sweeping ban on smoking in all enclosed public places.

In May 2003 the *British Medical Journal* published a study⁴ that seriously questioned the impact of ETS on health. According to the study, the link between environmental tobacco smoke and coronary heart disease and lung cancer may be considerably weaker than is generally believed.

The analysis, by James Enstrom of the University of California, Los Angeles and Geoffrey Kabat of New Rochelle, New York, involved 118,094 California adults enrolled in the American Cancer Society cancer prevention study in 1959, who were followed until 1998.

The authors found that exposure to environmental tobacco smoke, as estimated by smoking in spouses, was not significantly associated with death from coronary heart disease or lung cancer at any time or at any level of exposure. These findings, say the authors, suggest that environmental tobacco smoke could not plausibly cause a 30% increased risk of coronary heart disease, as is generally believed, although a small effect cannot be ruled out.

To demonstrate how any study that does not fit with the current political orthodoxy is ignored and its scientists denigrated, the American Cancer Institute subsequently accused Dr James Enstrom of "scientific misconduct".⁵ His university, the University of Southern California, investigated the charges and concluded that there was no basis to the charges.⁶

This is not untypical of the sort of persecution that any scientist, who dares to question the harm done by ETS, is subjected to by anti-smoking organisations.

The simple fact is that in terms of establishing a clear causal connection between exposure to ETS and illness in non-smokers, the anti-smoking industry has continually failed to prove its case.

⁴ James E Enstrom and Geoffrey C Kabat, "Environmental tobacco smoke and tobacco related mortality in a prospective study of Californians, 1960-98", *British Medical Journal*, 17 May 2003.

⁵ <http://scientificintegrityinstitute.org/SeffrinACS101206.pdf>

⁶ <http://scientificintegrityinstitute.org/HumeUCOP032207.pdf>

One of the few scientists who managed to publicise attempts to measure significant exposure to environmental tobacco smoke - in Swedish homes - was a toxicologist, Professor Robert Nilsson. Nilsson quoted findings that showed that non-smokers who consistently breathe other people's tobacco smoke are smoking the equivalent of one cigarette a week to two cigarettes a year.⁷

Yet only the most diligent or scrupulous students will have heard of such findings because, as Professor Nilsson explained, studies that produce the "wrong" results (that is, unwelcome to the extensive anti-smoking network) do not get published. So the campaign of intimidation and suppression goes unchallenged.

1.4 Prejudice and Propaganda

A report published by FOREST, entitled *Prejudice and Propaganda: The Truth About Passive Smoking*⁸ (2005), sets out in detail the reasons for rejecting the widely propagated view that ETS can seriously damage the health of tens of thousands of non-smokers.

The report demonstrates that the case for the prosecution is founded on nothing more tangible than the crude non sequitur that, because heavy cigarette smoking may be a risk factor for lung cancer, it can be inferred that ETS also causes lung cancer and other illnesses in non-smokers.

A little reflection should confirm that the infinitely varied circumstances in which smoking occurs render it impossible to estimate, tabulate, calibrate or aggregate with any precision, the extent, duration and intensity of exposure to ETS. All research claiming to estimate the 'relative risk' of such exposure, often projected by statisticians (with bogus precision) to two decimal places, fails to satisfy generally accepted canons of statistical or epidemiological significance.

Close examination of 80 reports purporting to measure exposure confirms that most studies rely wholly on nothing more tangible than a mixture of subjective guesswork and more or less vague recollections.

Despite ingenious presentation, the results bear only a superficial relationship to scientific enquiry or methodology. The over-simplified, distorted and massively publicised conclusions, offered as 'evidence', exhibit such wide variations, discrepancies and inconsistencies that they risk bringing objective scientific enquiry into disrepute.

2. Economic considerations

The Green Paper attempts to show that exposure to ETS imposes huge costs while totally minimising the cost to business, in particular social venues like restaurants, bars, pubs and clubs.

It states that, "evidence from smoke-free jurisdictions demonstrates no overall negative impact on employment or revenue in the sector." (p 13)

But the people proclaiming the 'success' of smoking bans are usually the same people who advocated them in the first place (ie governments and anti-smoking organisations).

⁷ Professor Robert Nilsson, "Is environmental tobacco smoke a risk factor for lung cancer?" in R Bate, *What Risk?: Science, Politics and Public Health*, 1998.

⁸ *Prejudice and Propaganda: The Truth About Passive Smoking*, FOREST, 2005, <http://www.forestonline.org.uk/files/pdf/Pat%20A4%20pdf%20update.pdf>

2.1 New York

For example, many who support smoking bans point to the so-called upturn in trade in New York following the ban, citing figures issued by organisations aligned to the vehemently anti-smoking mayor Michael Bloomberg.

Industry figures tell a different story. The United Restaurant and Tavern Owners of New York (UR&TO) reported: "A dramatic loss in business; bar and tavern closures; a 30-50% reduction in employees gratuities; layoffs; an increase in litter and noise complaints; and a rise in security issues and security-related costs."⁹

An independent survey of the impact of the first year of the New York ban specifically on bars and clubs found losses of 2,650 jobs, \$50 million in earnings and \$71.5 million in gross state product (including knock-on effects on everything from beer distribution to jukeboxes).

Mayor Bloomberg claimed the hospitality industry was doing *better* since the ban. But he included in the 'hospitality industry' everything from hotels and fast-food joints to liquor stores, and failed to mention that the ban was introduced just as the whole city economy started to recover from the disaster of 9/11.

Similarly, accountancy firm BDO Stoy Hayward states that there has been an average drop in sales of 30% since March 2003 and that there is more noise and disruption on the streets as people go outside to smoke.¹⁰

2.2 Ireland

The Scottish Health Minister Andy Kerr told BBC News in March 2005 that, "Economic statistics show that the [Irish] ban has not had the disastrous impact on sales feared by the licensed trade and other scaremongers."¹¹

Yet that same month, the Vintners' Federation of Ireland (VFI), which represents over 6,000 rural publicans, said, "The reality of the much heralded so called successful smoking ban twelve months on is that drinks sales are down, jobs have been lost and pubs have closed."¹² Its president, Seamus O'Donoghue, said:

"In County Clare alone, 26 pubs have closed in the last 12 months. An estimated 170 licences have been lost in Cork City and County. Many rural publicans now choose not to open until the evening time, cutting off a vital social link for many customers living in isolated areas. According to recent CSO [the Irish Government's Office of Central Statistics] figures, 7,600 jobs were lost in the hospitality sector in 2004 - while increases were experienced in every other sector."¹³

According to a study by the Centre for Economics and Business Research (CEBR), the smoking ban in Ireland, "resulted in a decline in the sales value of licensed premises of 7.3 per cent. In volume terms, the smoking ban reduced sales by 10.7 per cent. We also find that the smoking ban resulted in a 5.9 per cent decline in employment in the hospitality sector as a whole."¹⁴

⁹ [Petition to New York Governor Pataki](#), UR&TO, December 2003

¹⁰ [Industry Watch](#), BDO Stoy Hayward, Winter 2004

¹¹ "Irish findings back no smoke move," BBC News, March 2005

¹² "Job Losses and Pub Closures the Reality of the Smoking Ban," VFI, March 2005

¹³ [Ibid](#)

¹⁴ "The economic impact of a smoking ban in public places on the licensed trade and beer industry in Scotland," CEBR, January 2005

Jonathan Said, an economist and one of the report's authors, said: "What the analysis shows, is a clear decline in Irish bar sales, which is directly attributable to the smoking ban introduced last March."¹⁵

According to the Irish Government's own official figures from the Office of Central Statistics (CSO), 7,600 jobs were lost in the hospitality sector in 2004 - while increases were experienced in every other sector.

CSO figures also show that employment in the hospitality industry increased steadily for the nine quarters preceding the ban and then declined for the four quarters following the ban. This was at a time when employment in the commercial sector of the economy continued to grow steadily. The only significant difference was the imposition of the smoking ban.

2.3 Scotland

Research from BDO Stoy Hayward, estimated that "The licensed trade industry in Scotland could see 1,800 jobs lost, customers fall by 6.3 per cent and profits drop by over £13 million as a result of legislation to ban smoking in public places."¹⁶

A CEBR study estimated that, in Scotland:

"The value of annual turnover in the licensed trade will decline by £105.2 million from £1432 million as a result of the smoking ban...Employment in the licensed trade can be expected to decline by 2,300 jobs if licensed premises owners cut back on staff to the extent seen in Ireland. If owners follow the historical Scottish relationship between sales and employment, 1,250 jobs may be lost due to the ban. Some 142 average-sized licensed premises may close down as a result of decreased trade."¹⁷

One year after the ban on smoking in enclosed places began, the Scottish Licensed Trade Association reported that a third of Scottish pubs have reported laying off staff due to the smoking ban, drink sales remained 11% below pre-ban levels and food sales were down 3%.¹⁸

A report in April 2007 by market analysts AC Nielsen said that the ban is seen as one of the reasons why Scottish pubs have seen beer sales slump by an average of 6%, that is 2% more than the decline across the rest of Britain.¹⁹

2.4 United Kingdom

A report from consultancy firm PricewaterhouseCoopers (PwC), said that as many as 5,000 pubs and bars in the UK could cease trading by 2011 through a combination of the smoking ban, a clampdown on drinks promotions and declining beer sales. "The experience of existing smoking bans in other countries shows that some industries have seen revenues drop dramatically and have taken several years to recover to pre-ban levels. In fact, some individual businesses may never recover and may face closure."²⁰

¹⁵ "[Smoking ban costs Irish pubs €117 million in 7 months](#)," CEBR, February 2005

¹⁶ "[1800 Scottish pub and bar jobs could be lost under smoking ban](#)," BDO Soy Hayward, November 2004

¹⁷ "[The economic impact of a smoking ban in public places on the licensed trade and beer industry in Scotland](#)," CEBR, January 2005

¹⁸ "Pubs 'lost staff' after smoke ban", BBC News, 22 March 2007, <http://news.bbc.co.uk/1/hi/scotland/6478369.stm?ls>

¹⁹ "Pub beer sales go flat with 6% drop", Glasgow Evening Times, 11 April 2007, http://www.eveningtimes.co.uk/news/display.var.1319951.0.pub_beer_sales_go_flat_with_6_drop.php

²⁰ "No butts about it: tough times ahead", PricewaterhouseCoopers LLP, 20 April 2007, <http://www.ukmediacentre.pwc.com/Content/Detail.asp?ReleaseID=2228&NewsAreaID=2>

3. Social considerations

3.1 Public opinion polls

The Green Paper says the Eurobarometer survey results demonstrate that "smoke-free policies are popular among EU citizens". It states: "A majority of Europeans are also in favour of banning smoking in bars (61%) and restaurants (77%)". (p 8)

In fact, only 40% were in favour of banning smoking in bars. The Green Paper gets the "majority" figure by adding the "totally in favour = 40%" with the "somewhat in favour = 21%" to get 61%.

According to Eurobarometer: "Support for a ban seems to be less clear-cut in the case of restaurants, bars and pubs. Although, in the case of restaurants, a majority of respondents (56%) are once again fully in favour of such a ban, the corresponding percentage is only 40% in the case of bars and pubs. For the latter, just over a third of the people interviewed seem to be against such a ban."²¹

It seems that the Green Paper purposely has obfuscated the Eurobarometer findings to create the impression that a majority of Europeans are in favour of total smoking bans in bars and restaurants.

And, it should be pointed out, the Eurobarometer survey asked only about TOTAL bans, not whether people are in favour of a choice of smoking and non-smoking bars.

In the UK, according to the Government's own figures, only 33 per cent of people favour a ban on smoking in pubs, while 48 per cent wanted pubs to be mainly non-smoking with smoking areas.²²

Polls that offer people a stark choice between smoking and non-smoking bars inevitably produce a majority in favour of a ban on smoking (no doubt because the majority are non-smokers). However, polls that offer people a choice (including designated smoking rooms or smoking/non-smoking areas) get a completely different response: a clear majority favour a choice of smoking and non-smoking facilities.

A recent poll, carried out by Populus for FOREST, a year after the smoking ban was introduced in Scotland, found that three quarters (74%) of adults in Scotland believe that private clubs, including working men's clubs, should be allowed to provide a well-ventilated designated smoking room to accommodate those who wish to smoke. In the case of bingo halls, two thirds (66%) of the adults polled took the same view. There was also strong (74%) support for allowing people to set up specialist 'smokers clubs' run by smokers for smokers.²³

On the question of the bother caused by exposure to tobacco smoke, a majority of European Union Citizens (57%) declare that they are rarely (30%) or never (27%) bothered by it. (p 35)

²¹ "Attitudes of Europeans towards tobacco", European Commission, January 2006, p 26.

²² "Support for smoking restrictions remains stable", Office of National Statistics, 6 July 2006, <http://www.forestonline.org.uk/files/pdf/ONSsmoking0706.pdf>

²³ "New poll: majority support designated smoking rooms in private clubs and bingo halls", Populus, March 2007, <http://www.forestonline.org.uk/output/page320.asp>

A majority of EU citizens bothered by tobacco smoke mentioned the unpleasant aspects of tobacco smoke, such as its smell, as the reason why it bothers them. On the other hand, they mentioned less frequently the possibility that tobacco smoke can cause certain physical symptoms (27%) or that exposure to tobacco smoke could make certain health problems worse (9%). (p 38)

Therefore, according to public opinion in the EU, only a minority of people favour total bans. And even for those who say they prefer a non-smoking environment, it is because they object to the smell. If the EU were to ban everything that a minority of people object to on the basis of smell, then the EU would need legislation to outlaw perfumes and even body odour!

3.2 Unintended consequences - Litter

The UK's environmental charity EnCams reports that the full smoking ban in pubs and clubs could prompt a major hike in the amount of cigarette litter dumped on the streets as smokers venture outside.

They say that in Ireland 61% of people think that cigarette litter has risen since the Republic introduced a similar ban back in March 2004. And that in England, the signs are that prohibition in offices is forcing employees on to the streets where they leaving cigarette litter.²⁴

In Australia, the Keep Australia Beautiful campaign recently said that the smoking bans in enclosed areas will cause a huge growth in the problem of cigarette butt litter and would shift the problem of butt litter on to the streets and other public places.²⁵

3.3 Unintended consequences - Noise

Reports suggest complaints about noise have rocketed by 1000% in Scotland since a smoking ban was introduced there last year. The noise nuisance stems from increased use of beer gardens and larger numbers of people congregating outside venues to enjoy a cigarette.

As a result, the Scottish Executive has asked academics at Napier University to investigate the increase in noise complaints experienced since the advent of their smoking ban a year ago.²⁶

In New York it was reported: "With smokers now relegated to the city's sidewalks in the wake of the mayor's 2003 smoking ban, their voices have drifted into neighbouring apartments, causing many a sleepless night."²⁷

3.4 Unintended consequences - Social disharmony and intolerance

Despite what the Green Paper says, many venues HAVE closed as a result of smoking bans, leading to the destruction of social opportunities for the less affluent.

²⁴ "How we'll stub out the coming litter crisis," EnCams, <http://www.encams.org/home/newsdetail.asp?nw=55>

²⁵ "Smoke bans lead to butts in the streets", Sydney Morning Herald, 18 March 2007, <http://www.smh.com.au/news/national/smoke-bans-lead-to-butts-in-the-streets/2007/03/17/1174080222851.html>

²⁶ "Complaints about noise in the streets 'likely to increase'", Western Mail, 31 March 2007, http://icwales.icnetwork.co.uk/0100news/0200wales/tm_headline=complaints-about-noise-in-the-streets--likely-to-increase-&method=full&objectid=18838071&siteid=50082-name_page.html

²⁷ "New noise plan silent on smoking law's impact," *The Villager*, Sept/Oct 2004

In the UK venues such as traditional pubs, bingo halls and social clubs provide important meeting places for the community, especially for those who have limited resources and limited space at home due to poor living conditions.

Smoking bans create social barriers by branding ETS – falsely – as a major health hazard when it is little more than a nuisance to some people. It also removes a large element of choice from the public interactions between smokers and non-smokers. Instead, more people are smoking at home, on their own, instead of in well-ventilated venues where they can enjoy the **positive health benefits** of social interaction.

Smoking bans promote intolerance and social tension. They ostracise a large and law-abiding segment of the population. They set a worrying precedent for all kinds of other social engineering.

The discussion in the Green Paper about “denormalising” smoking indicates that the intention is not to protect the public from a perceived threat, but to stigmatise smokers and make smoking “socially unacceptable”. (See Appendix I – [Denormalisation](#))

3.5 Unintended consequences – Displacement

The Green Paper states: “Despite concerns to the contrary, the bans on smoking in all public venues appear to have reduced the levels of smoking in the home, especially around young children.”

Yet a study by University College London and the Institute of Fiscal Studies found that total bans on smoking in public places increase children’s exposure by encouraging smokers to light up at home:

“UCL (University College London) researchers analysed exposure levels of almost 30,000 non-smokers over the last decade across the United States in states with different anti-tobacco policies to assess the effect of government intervention.

“While bans in public transportation or in schools were found to decrease the exposure of non-smokers, those in recreational public places, such as bars, restaurants or recreational facilities, increased their exposure by displacing smokers to private places where they contaminate non-smokers, and in particular young children.”²⁸

Dr Jerome Adda, lead author of the study, said:

“Outright bans may not be the optimal policy in tackling passive smoking. Policies aimed at reducing exposure to tobacco instead induce changes in behaviour that can offset these policies.

“Regular smokers may not reduce their habit in a uniform way: during the day, some cigarettes may be easier to cut down. If smoking is a social activity, a smoker may reduce the number of cigarettes consumed when alone, and not those consumed in company. Bans in bars may induce smokers to spend more time at home, and therefore expose other members of the household, especially children.

“Much of the current debate has focused on exposure of hospitality workers in the workplace but the voice of children, one of the most vulnerable groups to the effects of smoking, hasn’t been fully considered. Our results suggest a better solution would be to provide alternative places for smoking in public, such as smoking rooms in bars.”²⁹

²⁸ “Smoking bans increase kids’ exposure,” UCL, 18 December 2005, <http://www.ucl.ac.uk/media/library/smokingban>

²⁹ [Ibid](#)

4. Other

The Green Paper says that smoke-free policies “make it easier for smokers to decide to give up or reduce smoking and support them in the cessation process”.

It is true that countries that have introduced public smoking bans have shown a surge in people seeking smoking cessation products, which is excellent news for the pharmaceutical giants who support smoking bans. According to a news story by *Associated Press* on 21 January 2007: “It is estimated that smoking cessation ventures overall had annual retail sales of nearly US\$1 billion and spending on advertising of more than \$100 million.” They reported a spokeswoman for pharmaceutical giant GlaxoSmithKline, saying that the sales of products such as nicotine reduction therapies have gone up where smoking bans are in place.

So, while there is an increase in the number of people buying smoking cessation products when a smoking ban is introduced – helping to increase profits for pharmaceutical companies who in turn provide funds for anti-smoking organisations – do people actually succeed in stopping smoking when a ban is introduced?

4.1 Do bans work?

The Green Paper says: “In Ireland, 80% of ex-smokers cited new legislation as the motivation to quit smoking while 88% declared that the law had helped them not to start again.”

What the Green Paper fails to say (as it does not fit the pro-ban agenda) is that two years after the Irish introduced a ban, after an initial dip in smoking rates, smoking rates have now gone back up to almost pre-ban levels.

And many of these Irish smokers are young people. It could be argued that bans and strident anti-smoking messages – instead of making people want to quit or make young people decide not to start – has the opposite affect.

The same situation has happened in Italy and initial figures from Scotland show similar results.

The late Allan Carr, dubbed the world’s most successful quit-smoking guru, was quoted as saying that smoking bans don’t work: “People don’t realise that cutting down or trying to control smoking makes cigarettes seem more precious rather than less precious. Some might cut down for a while and then revert to smoking at a normal level.”³⁰

As for the argument that smoking bans will reduce the incidence of, for example, lung cancer and heart disease, statistics from individual European countries consistently show that some countries that have high rates of smoking have relatively low rates of lung cancer and/or heart disease.

What does seem clear is the correlation between poorer countries and high rates of disease. Thus the introduction of smoking bans may be a ‘smokescreen’ that obscures more complicated reasons for health inequalities between individual EU countries.

³⁰ [“Top addictions guru says Scots ban won't make smokers stop”](#), *Sunday Mail*, March 2006.

4.2 Ventilation

The Green Paper claims that “while displacement ventilation has been reported to be more effective in some recent case-studies funded by the tobacco industry, complete elimination of tobacco smoke using ventilation is not possible”.

In fact, modern air-cleaning systems can continually suck out smoke (along with less visible pollutants, allergens etc) and re-circulate fresh air, making the air perfectly comfortable – providing an environment that is often much better than the air outside a bar.

Non-smokers in well designed and ventilated bars and restaurants would normally inhale no more than a few micrograms of active Class A carcinogenic material from cigarettes. In exceptionally well-designed and ventilated venues the total amount would probably be measurable only in nano- and picograms.

Tests have shown that the air in a smoking venue with a good air-cleaning system is cleaner than the air in a nonsmoking venue without one. The smell - to the average customer - is rendered barely noticeable, or at any rate probably less noticeable than the smell of the food, the beer or even other customers.

Anti-smoking activists like to present a stark choice: a noxious, choking fug, or nice clean air. But good air-cleaning systems are widely available, and the best can make the air in a smoking venue noticeably cleaner than city air outside.

Ironically, the smokier the atmosphere, the happier anti-smoking activists are, since it helps them to whip up intolerance and get smoking bans passed. They have therefore worked hard to dismiss the subject of air cleaning. When pressed, they claim that no air-cleaning system is ‘good enough’. For example, James Repace, a professional anti-smoking activist in the United States, has stated that it would take ‘hurricane force winds’ to rid a bar of smoke. This should surprise anyone who has ever managed to clear most of it just by opening a window, but it is typical of the hyperbole that drives the war on tobacco.

Fairly standard air-cleaning systems are considered ‘good enough’ for laboratories working with toxic chemicals, and for hospital infectious disease wards. Therefore, they should be good enough for bars and restaurants.

4.3 Role of anti-smoking activists

The American anti-smoking activist Stanton Glantz (whose writings are cited numerous times in the Green Paper, thus illustrating its reliance on anti-smoking sources), delivering the keynote address at the World Conference on Tobacco and Health in Australia back in 1990 said:

“The main thing the science has done on the issue of ETS, in addition to help(ing) people like me pay mortgages, is it has legitimised the concerns that people have that they don’t like cigarette smoke. And that needs to be harnessed and used. We are all on a roll and the bastards are on the run and I urge you to keep chasing them.”

In the UK, Action on Smoking and Health (ASH) boasted in an article in the *Guardian*³¹ how they shifted the smoking debate from issues of freedom and rights, to concerns about health and safety, allowing them to use contentious

³¹ “Smoke and Mirrors, *Guardian*, 19 July 2006, <http://society.guardian.co.uk/health/story/0,,1823348,00.html>

claims about the harm of ETS to counter any mention of the importance of freedom and liberty in a democratic society.

It's worth noting that at no point in their article do they say that ETS *is* dangerous, just that they had to get the "message" across that it is. They also admit that: "It is essential that campaigners create the impression of inevitable success. Campaigning of this kind is literally a confidence trick: the appearance of confidence both creates confidence and demoralises the opposition."³²

Martin Jarvis, professor of health psychology at University College London and a prominent anti-smoking activist, was quoted by the BBC saying: "But the main effect [of a smoking ban] will be as smoking is increasingly denormalised, smokers as a whole are going to get this message that smoking is unacceptable socially."³³

In other words, smoking bans are not introduced to reduce exposure to ETS. Instead – anti-smoking activists argue - governments must engage in social engineering to change behaviour. This is unacceptable in societies (ie EU nation states) that claim to be tolerant, liberal and democratic.

³² Ibid.

³³ "The death of the smoking room", BBC News, 1 May 2007, <http://news.bbc.co.uk/1/hi/magazine/6609225.stm>

5. Options

The five options presented for discussion in the Green Paper are:

1. **No change from the status quo:** while the current trend towards smoke-free environments in the Member States would probably continue, progress would be patchy and this could be expected to be the least effective policy option.
2. **Voluntary measures:** while self-regulation at European level might be quicker and more flexible, the evidence from Member States suggests that voluntary agreements in this area have not been effective.
3. **Open method of coordination:** seeking convergence in national smoke-free legislation through guidelines, targets and exchanges of best practice is another possibility, but its effectiveness would depend on peer pressure
4. **Commission or Council Recommendation:** such a recommendation would not have binding force but would place the issue on the political agenda. Its effectiveness would depend on monitoring requirements and some Member States might choose not to act at all.
5. **Binding legislation:** this could be achieved in different ways and would impose a comparable, transparent and enforceable level of protection against environmental tobacco smoke across the EU. However, this route is likely to be relatively lengthy with an end result which is difficult to predict.

FOREST believes that there should either be no change from the status quo (1) which relies largely on market forces (ie public demand) to govern the rate of change, or voluntary measures (2) with the hospitality industries in the various EU countries setting targets for more smokefree bars and restaurants without resorting to a total ban on smoking in all enclosed public places.

We believe the draconian bans introduced in countries such as Ireland and the UK are out of all proportion to the threat of ETS, which – if it exists at all - is very small. A total ban on smoking in all enclosed public places, with no exemptions for any bar, restaurant, or private members' club, represents a disturbingly illiberal trend that other EU countries should and must reject.

We commend EU countries such as Spain that have introduced partial restrictions on smoking in enclosed public places, allowing bar owners and restaurateurs to choose whether to be smoking or smokefree. This in turn offers choice to both customers and bar workers.

As we stated at the outset, FOREST does not believe that smokers have the right to light up whenever or wherever they want. We want smokers to be considerate to those around them, especially children.

We do, however, believe that adults who choose to smoke a legal consumer product should be accommodated where it is possible to do so without inconveniencing non-smokers.

We believe in choice - for smokers and non-smokers. We support more smoke-free areas in pubs, clubs and restaurants, and a choice of smoking and non-smoking establishments. With the help of technology (improved ventilation, for example), we believe that prohibition is unnecessary and contrary to the principles of a free society.

6. Conclusions

6.1 ETS

FOREST fundamentally disagrees with the premise of the Green Paper (the harm caused by ETS) and therefore the majority of its arguments and conclusion.

The notion that tobacco smoke, heavily diluted in the atmosphere, can kill thousands of non-smokers is so implausible that the anti-smoking lobby has gone to exceptional lengths to foster a fear of "secondhand smoke" (or "passive smoking").

The anti-smoking lobby has been deliberately trying to confuse and scare people who find smoking unpleasant into believing that exposure to secondhand smoke is seriously harmful, even in small doses. As they themselves have stated, it's a "confidence trick".

It is understandable that the anti-smoking movement wants to counter the liberal argument that "each is the proper guardian of his own health". They have conducted, sponsored or quoted dozens of research projects to nail down this illusive myth (that passive smoking kills), but most fail the acid tests of objectivity and statistical significance.

Common sense alone should cause us to question the assertion that "passive smoking kills". Why, with fewer people smoking and people living longer, have estimates of the number of people affected by ETS gone steadily up? And if it were anywhere near true, wouldn't we all know dozens of "passive smoking" fatalities?

The 'secondhand smoke as lethal weapon' argument has been dramatically overused given the declining rates of smoking and the concurrent rise in cancers and respiratory ailments, which are possibly due to diet and more toxic environments. More research is clearly needed in this area because it cannot be right to blame increasing rates of asthma on smoking or ETS in a period when (in the UK, for example) smoking rates have halved and smoking in public places has been increasingly restricted.

Even a cursory read of the Green Paper makes it clear that it has a pro-ban agenda. This is shown mostly clearly by the selective use of data – mostly from known anti-smoking activists - and it is therefore neither independent nor unbiased.

6.2 Economic considerations

The Green Paper's examination of the economic consequences of smoking bans completely distorts the true picture. All of its statements come from either anti-smoking activists or the same people who advocated bans in the first place (ie politicians). Industry figures are ignored while the amount of revenue that governments collect through taxation is downplayed.

6.3 Social considerations

FOREST is convinced that the anti-smoking culture that is gathering pace within the EU is profoundly **unhealthy** because it encourages some people - employers and politicians, for example - to openly discriminate against a significant minority of the population.

Since we cannot 'un-invent' tobacco - there will always be millions of people who choose to smoke and genuinely enjoy smoking - the issue is one of how we can live and work together in a way that's mutually acceptable.

Of course our physical health is important, but it is not the only factor in living a good, pleasurable and truly healthy life. (Some smokers such as British artist David Hockney say they smoke for their "mental health". Why should they be victimised, abused and socially isolated for choosing a different way of life?)

We accept that governments have a role to play educating people about real health risks. But in a free society, market forces, freedom of choice, social life, cultural values, pleasure and tolerance are equally important.

6.4 Public opinion

The Green Paper has distorted public opinion polls by, for example, saying that the majority of the public are in favour of a total ban on smoking in public places whereas the survey used to justify this statement (Eurobarometer) does not support this.

To quote the former UK Health Secretary John Reid, "People seem overwhelmingly, in every submission and opinion poll, to want restrictions on smoking. What is not true is that the overwhelming bulk of people - as is sometimes said by some of the lobby groups - want a complete ban."

While it is perfectly legitimate for people to express a dislike of the smell of tobacco smoke or say it causes them some discomfort, the distortion of scientific, statistical, methodological, and research procedure to provide a medical justification for banning smoking in public places is not acceptable, least of all as a pretext for removing the rights of millions of European adults.

6.5 The way forward

Better ventilation, more no smoking areas, more no smoking bars, or separate smoking rooms in bars and clubs, would give both smokers and non-smokers (staff as well as customers) a choice about where to socialise in public places.

Politicians and administrators should also question the scientific, statistical, methodological, and research procedures involved in the anti-smoking lobby's exaggerated claims about the dangers of ETS. Unsubstantiated claims are being used to stir up public outrage and fear, and distort understanding of the facts, which leads to poor policy decisions.

The discussion in the Green Paper about "denormalising" smoking makes it clear that the intention is not to protect the public from a perceived threat, but to stigmatise smokers and make smoking "socially unacceptable". As long as tobacco remains a legal consumer product, this is unacceptable and hypocritical.

In the UK, employers can refuse to hire people who consume tobacco (even if they are only an occasional 'social smoker'), operations are being denied to smokers (in cash-strapped areas where administrators are trying to reduce costs), and smokers are increasingly vilified, in government (ie public-funded) campaigns as being filthy, disgusting 'killers'.

Fostering intolerance between different groups in society is not very difficult, as history has sadly - and all too often - shown. For governments to actively pass laws that encourage intolerance of a legal consumer product, and whip up hysteria about the behaviour a large minority of law-abiding people, is shameful.

Appendix I – Contentious statements

Many of the statements made in the Green Paper are presented as 'fact' when they are open to interpretation, contentious, misleading or factually incorrect. The following are just some of the statements with which FOREST takes issue:

ETS

- Exposure to environmental tobacco smoke (ETS) – also called "second-hand smoke" and "passive smoking" - remains a widespread source of excess morbidity and mortality in the European Union, imposing significant costs on society as a whole. (p 3)

This statement is misleading because the vast majority of studies, including those using the largest database, have not found a clear causal connection between exposure to ETS and morbidity and mortality in non-smokers.

- ETS contains over 4,000 chemicals, including over 50 known carcinogens and many toxic agents. No safe level of ETS exposure has been established nor is there any expectation that further research will identify such a level. (p 4)

This statement is misleading because there are chemicals and carcinogens in many everyday products we use, and in the environment. They are not exclusive to ETS. Also, it does not take into account the levels of concentration of these chemicals, or that the quantities are too small to pose a risk to public health.

- ETS has been classified as a **known human carcinogen** by the US Environmental Protection Agency in 1993, by the US Department of Health and Human Services in 2000 and by WHO International Agency for Research on Cancer in 2002. In addition, it has been classified as a **workplace carcinogen** by the Finish (2000) and German (2001) governments. Recently, the California Environment Protection Agency has classified tobacco smoke as a "**toxic air contaminant**". (p 4)

This is an example of cherry-picking data to support a predetermined conclusion (ie that ETS is harmful). For example, the American Environmental Protection Agency report that was said to prove the link between passive smoking and ill health in non-smokers was quickly discredited, and in 1996 a federal court ruled that the EPA had completely failed to prove its case. Though the EPA was able to get the judge's decision overturned by arguing that he did not have jurisdiction over them, his conclusions about the science have never been challenged.

- A review by the WHO-IARC found that non-smokers living with a smoker have a 20-30% greater risk of developing lung cancer. The extra risk of workplace exposure has been estimated at 12-19%. (p 4)

This is misleading. Epidemiologists have an established rule that anything under a consistent doubling or tripling of risk (ie 200-300%) is meaningless. This means that the often-cited '20-30% greater risk' of disease for non-smokers exposed to ETS is actually an insignificant increase on an already insignificant risk.

- Secondhand smoking carries a risk of heart disease which is almost half that of smoking 20 cigarettes per day. Even very small amounts of tobacco smoke can have an immediate impact on clotting and thrombus formation, as well as long-term effects on the development of arteriosclerosis - all important factors in heart disease. This is a source of major impact: heart disease is the most common cause of death in the EU, among both smokers and non-smokers. (p. 5)

This is patently false. There is no evidence that brief exposure to secondhand smoke can cause heart disease in a non-smoker. For example, hardening of the arteries takes many years; it cannot have an immediate affect. There is a slight possibility that in people with existing severe coronary artery disease, the endothelial dysfunction triggered by acute exposure to ETS might be enough to trigger a heart attack. But there is very little evidence that this is the case. In short, it is preposterous to suggest that small amounts of tobacco smoke can cause as much damage as lifelong exposure to tobacco smoke via active smoking.

- According to the most recent – conservative - estimates by the partnership between the European Respiratory Society, Cancer Research UK and the Institut National du Cancer in France, **more than 79,000 adults** die each year as a result of passive smoking in the 25 countries of the EU. There is evidence that passive smoking **at work** accounted for over **7,000 deaths** in the EU in 2002, while exposure **at home** was responsible for a further **72,000 deaths**. (p. 5)

This is false. Estimates of thousands of deaths from ETS are based on statistical computer projections. We are not aware of a single death certificate, anywhere in the world, citing ETS as the cause of, or contributing to, the death of a non-smoker.

- Owing to heavy ETS exposure, hospitality employees are at particular risk from passive smoking, with a 50% greater risk of lung cancer. (p. 5)

This is misleading and a misuse of epidemiology. A hospitality worker has a much higher statistical chance of dying in a bicycle accident, or from being left-handed and using right-handed things, than he or she has from exposure to tobacco smoke.

Economic issues

- The burden to the **economy as a whole** includes the direct costs relating to increased healthcare expenditure on tobacco-related diseases, and the indirect costs linked to productivity losses and lost income tax and social security contributions among smokers and second-hand smoke victims who would otherwise be in paid employment. The regulatory impact assessments carried out by the UK government estimated the long-term net benefits of comprehensive smoke-free legislation at £1714-2116 billion annually. (pp 5-6)

This is false and misleading. The figures are merely 'guesstimates' and cannot be taken seriously. The history of these assessments is that they were created in order to try to find an economic justification for bans on smoking. They do not take into account the actual loss in revenue to the hospitality industry, business and the loss in revenue in tobacco taxation (currently about £9 billion in the UK annually).

- The economic burden is particularly high for **employers** and includes lower workers' productivity due to smoking breaks and increased sickness absence. (p. 6)

Workers are allowed breaks. What they choose to do on their breaks is up to them. Whether they smoke or not during that break should not affect productivity (in fact, many smokers believe they are more productive if they relax with a cigarette during a break).

As for increased sickness absence, following this logic means that governments should enact legislation to prevent workers from ever becoming ill. They would have to start by enacting legislation banning people from working, since work stress has been cited as the most common reason for people to start claiming long-term sickness benefits.³⁴

- There have been concerns about **possible harm to the hospitality industry** from bans on smoking in pubs and restaurants. However, evidence from smoke-free jurisdictions demonstrates no overall negative impact on employment or revenue in the sector. (p13)

As we have shown above (see "**2. Economic considerations**"), industry – and government figures – show that there **have** been negative economic impacts. The fact that the Green Paper does not acknowledge this points, yet again, to its blatantly unbalanced perspective.

³⁴ "Unhappy workers face emotional burn-out", Daily Mail, 18 November 2005, http://www.dailymail.co.uk/pages/live/articles/health/healthmain.html?in_article_id=368983&in_page_id=1774

Public opinion

- The survey results demonstrate that **smoke-free policies are popular among EU citizens** (see Annex III). More than four out of five respondents are in favour of a ban on smoking in the workplace (86%) and any other indoor public place (84%). A majority of Europeans are also in favour of banning smoking in bars (61%) and restaurants (77%). (p. 8)

As has been shown above (see "**3.1 Public opinion polls**"), public opinion polls support smoke-free policies in workplaces but in bars, for example, they support choice. But, again, the Green Paper manipulates the figures to order to support its pro-ban agenda.

Denormalisation

- An important indirect benefit of smoke-free policies is that they increase people's awareness of the dangers of active and passive smoking, contributing to the "**denormalisation**" of **smoking** within the society. Comprehensive regulation would also have the biggest potential to **denormalize smoking** in society, creating an environment that encourages smokers to quit. (p. 12)

"Denormalisation" campaigns are extremely important for anti-tobacco groups, as they greatly assist them in "normalising" their own strategies, tactics and behaviour within the public arena, allowing them to advance their business agendas before governments.

But denormalisation represents a vast and unacceptable instance of social engineering. It does not involve the provision of information or rational debate. Instead it is designed to manipulate the social and intellectual environment so that the central aspects of democratic life - individual autonomy, the right to shape one's own mind, behaviour and personal life - are effectively suppressed.

Denormalisation campaigns represent a new and dangerous assault on our core democratic traditions. Like so much in the anti-smoking debate, they are a very bad prescription for supposedly good health.

Health inequalities

- Smoke-free policies could also help to reduce socio-economic inequalities in health. Given that the likelihood of being a smoker and being exposed to second-hand smoke is significantly increased for those who have a lower level of education, lower income and lower occupational class, an action on smoke-free environments might be expected to bring the biggest benefits to the most deprived groups in society. (p. 8)

Statistically, poorer and less-educated people are more likely to have bad diets, drink too much, work too hard, exercise too little, be more affected by stress, pollution and a poor living environment. By focusing on reducing smoking rates as a way of bringing “the biggest benefits to the most deprived groups in society”, the EU would be shifting the onus away from governments trying to raise living standards, provide good schools and decent housing, which would make a REAL difference in health inequalities.

Next logical step

- The most comprehensive approach would consist in proposing a total ban on smoking in **all enclosed or substantially enclosed workplaces and public places**, including means of public transport. Restrictions could also be extended to outdoor areas around entrances to buildings and possibly to other outdoor public places where people sit or stand in immediate proximity to each other, such as open air stadiums and entertainment venues, bus shelters, train platforms etc. (p. 11)

It is clear that a ban on smoking in enclosed public places is just a “logical step” in the strategy of the anti-smoking movement. This is a tacit admission that the purpose of bans on smoking in public places has nothing to do with the alleged dangers of ETS and everything to do with social engineering (ie forcing people to give up smoking).

Smoking rates

- A review of 35 studies on the effectiveness of smoke-free policies concluded that comprehensive public clean air laws have the potential to reduce smoking prevalence of the whole population by about 10%. (p. 12)

These figures are disputable (see **4. 1 “Do bans work?”**). They are from papers written by well-known anti-smoking activists such as Stanton Glantz. Once again, this illustrates that the Green Paper is unbalanced and was produced to support a pro-ban agenda.

- Comprehensive smoking bans are associated with **reductions in active smoking** has been confirmed by the evidence from smoke-free countries, where the fall in tobacco sales (eg by 8% in Italy and 14% in Norway) has been coupled with a significant increase in attempts to give up smoking shortly after the introduction of the new regulations. In Ireland, 80% of ex-smokers cited new legislation as the motivation to quit smoking while 88% declared that the law had helped them not to start again. (p. 12)

These figures are disputable (see **4. 1 “Do bans work?”**).

Displacement

- Despite concerns to the contrary, the bans on smoking in all public venues appear to have reduced the levels of smoking in the home, especially around young children. (p. 12)

As has been shown above (see "**3.5 Unintended consequences – Displacement**") there are studies that dispute this statement, which the Green Paper fails to mention as it does not fit with the pro-ban agenda.

Ventilation

- Studies conducted in controlled environments, such as the EU INDOORTRON 'environmental chamber', found that increasing the air exchange rate would not lead to a meaningful improvement of indoor air quality. While displacement ventilation has been reported to be more effective in some recent case-studies funded by the tobacco industry, **complete elimination of tobacco smoke using ventilation is not possible.** (p. 14)

While it may be true that ventilation cannot make air 100% 'clean', tests in the UK have demonstrated that a good ventilation system can remove up to 90% of the gases and particles from environmental tobacco smoke in a city centre public bar. It is clear that separating smokers from non-smokers (ie smoking and nonsmoking areas/rooms) combined with decent ventilation offers a perfectly acceptable solution to the 'problem' of ETS. All it needs is for regulatory authorities to set standards for indoor air quality and let technology, with the support of proprietors, do the rest.