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## RESPONSE TO FISCHER & REHM COMMENTARY

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# Tobacco Industry Litigation and the Role of Government: A Public Health Perspective

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We welcome this opportunity to comment on issues raised by our colleagues on the role of government in tobacco industry litigation. Fischer and Rehm (pp. 7-8, January/February 2001 issue) argue that it is hypocritical and may be inappropriate for the state to initiate litigation against the tobacco industry. We propose a different 'tobacco logic': starting to smoke is rarely the rational act of informed adults, tobacco is not comparable to other consumer products, the government does not profit from tobacco, and litigation is a key component of a comprehensive tobacco control strategy.

Tobacco is a highly addictive drug, which most smokers begin to use as children or adolescents.<sup>1</sup> Most beginners believe they will not become addicted, yet many quickly do,<sup>2,3</sup> and most who continue to smoke as adults are addicted. While we agree that the public is much better informed than it used to be about the dan-

gers of smoking, we do not believe that most beginners are well informed about their own susceptibility to addiction.

No other consumer product (including vehicles, and certainly skis) kills half its long-term users, when used exactly as intended by the manufacturer. Just as industrial polluters are held responsible for the environmental damage they cause, tobacco manufacturers should be held responsible for the societal damage they knowingly cause, as manifested by at least 34,000 deaths, 194,000 hospital admissions, and \$2.68 billion in health care costs annually in Canada.<sup>4,5</sup>

The misperception persists that governments profit from tobacco. In fact, conservative estimates of health costs are at least double provincial government tax revenues for tobacco.<sup>6</sup>

Litigation can be viewed as one reinforcing component of a comprehensive strate-

gy to control tobacco use that could provide a number of benefits to public health.<sup>6</sup> Successful litigation would likely lead to price increases by the industry to cover costs, ultimately resulting in reduced smoking and health care costs. Litigation is a public health measure that, like water treatment, is not generally practicable at the individual level.

Tobacco litigation also helps to denormalize the tobacco industry and its products, a key element (along with prevention, protection, and cessation) in Canada's National Tobacco Strategy. One of the major benefits of litigation in the United States has been the release of industry documents. Through the discovery process, we have learned about industry efforts to mislead the public, suppress research, and target youth and potential quitters.

Although the federal government and several provincial health ministries have made significant advances in tobacco control – including bans on advertising and promotion, protection from second-hand smoke, and graphic health warnings – we agree with Fischer and Rehm that other actions by government are not only warranted, but are urgently needed. The most critical of these, tax increases, can only be undertaken by government. The tax increases that were implemented in the 1980s resulted in a substantial decrease in the prevalence and level of smoking, particularly among youth. The illegal activities

...see *Tobacco*, page 112

collected cohort, and at the time of the initial interview, women had significant incentives to be very open about their smoking habits. Also, assessment of changes in the number of reported cigarettes was possible.

A potential limitation of this study is generalizability. This research examined differences in reports relative to an initial reported value. Reliability of the initial report, and the extent of subsequent underreporting may differ between populations. Patients attending the MotheRisk program are highly motivated. It is assumed that the majority of these women provide complete and accurate information, in order to receive a more accurate risk assessment. In a population with no incentive for accurate reporting, the initial report could be less reliable. The extent of underreporting occurring after fetal distress may depend on a number of variables. Maternal guilt may result in an attempt to conceal behaviour, or may encourage complete divulgence. With our data, some of the incentives for maternal truthfulness may be lost postpartum, and it is unknown whether the postpartum report in our study population would be more or less reliable than a report in another population.

The results of this study reinforce the need to obtain biological markers of expo-

sure during pregnancy. However, while biological markers can help distinguish smokers from nonsmokers, they may not be adequate for the detection of changes in consumption, as nicotine undergoes pharmacokinetic changes during pregnancy.<sup>15</sup>

Further studies in the area of underreporting should be undertaken to determine if there is some predictive value that can be gained from these results. Many studies categorize smoking behaviour as "light" versus "heavy", based on a value of 10 or more cigarettes per day. Four cigarettes per day could indeed affect that categorization and bias study results. If there is a consistent pattern of underreporting or determinants of underreporting, this would be important information in an attempt to improve the understanding of the maternal fetal toxicology of tobacco smoke.

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## Tobacco, from page 89

of the tobacco industry in orchestrating the smuggling that ensued have now been brought to light. Lack of progress on cigarette taxes and other key tobacco control measures, such as increased restrictions on smoking in public places and workplaces, is due to industry lobbying, lack of public concern, political ideology, and other political factors.

While the role of the state in public health and some of the concerns raised by Fischer and Rehm are worthy of further debate, we hope that such debate will not delay the implementation of measures that are known to be effective. Litigation can

play an important role in holding the tobacco industry accountable for its contribution to the continuing epidemic of tobacco-related disease and death.

*The opinions expressed in this article are those of the authors and not of their respective institutions.*

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