



April 1, 2010

Hon. John Wilkinson
Minister of Revenue
Frost Building South, 6th Floor
7 Queen's Park
Toronto ON M7A 1Y7

Dear Minister Wilkinson:

Re: Control of contraband tobacco

As you know, the founding partners of the Ontario Campaign for Action on Tobacco have been strong partners and supporters of the government's Smoke-Free Ontario Strategy (SFOS) since its inception in 2004. We have always appreciated your strong personal support of the Strategy.

The increasing spread of easily-available contraband tobacco in Ontario is the most serious tobacco control issue we face today. While we have been informed that the government intends to address the issue, we were disappointed that no specific steps to control contraband were announced as part of last week's provincial Budget. We are also unaware of any plans to announce specific action in the foreseeable future.

Contraband tobacco has several critical impacts on the province's fiscal and economic health and that of its citizens:

- Untaxed cigarettes, which are manufactured on 4 to 5 First Nations reserves in Ontario, Quebec and New York State, can be purchased for as little as \$10-\$15/200 cigarettes across Ontario. Higher cigarette taxes are recognized as the most effective deterrent to smoking initiation and tobacco use. Ontario has the second lowest provincial tobacco tax rate in Canada after Quebec. Ontario has not increased tobacco taxes to match much higher rates in Western Canada, largely because of fear of escalating contraband.

- The 2008 provincial Auditor's report estimated the province lost \$500 million in tobacco tax revenue in FY 2006-07, primarily as a result of contraband. It is reasonable to assume that similar annual amounts have been lost since then;

We have thus lost a) unpaid taxes, b) the deterrent effect of higher taxes and c) the revenue which could have been raised from tax increases;

- The government has yet to implement the smoking cessation system it promised in its 2003 election campaign platform, and again in its 2007 platform. Progress on cessation is undermined by the presence of cheap, untaxed product, which encourages smokers who would otherwise been motivated to quit by higher prices, to continue smoking;
- The presence of contraband tobacco is also associated with increased lawlessness, including trafficking in drugs, guns and illegal immigration.

Founding Agencies

Canadian Cancer Society
Ontario Division

Heart and Stroke
Foundation of Ontario

Non-Smokers'
Rights Association

Ontario Lung Association

Ontario Medical Association

Supporting Agencies

Association of Local
Public Health Agencies

Cancer Care Ontario

Ontario Association of
Children's Aid Societies

Ontario Association of
Naturopathic Doctors

Ontario Federation of Home
and School Associations

Ontario Physical and Health
Education Association

Ontario Public Health
Association

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Registered Nurses
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Beyond the above fiscal and enforcement impacts, Minister, the impact of contraband has become increasingly serious for our young people. For the first time in 2009, the Centre for Addiction and Mental Health's Ontario Student Drug Use and Health Survey asked students about their use of contraband cigarettes. About 6% of all students reported smoking contraband cigarettes in the past year. This percentage represents about 60,000 students in Ontario. Among the group of students who reported smoking during the past year, 53% reported smoking contraband cigarettes.

The OCAT partners and colleagues from national health agencies have been advocating contraband control with the federal and provincial governments for more than four years now, so far with few results. We presented a number of possible remedies to contraband to a joint Ontario Ministry of Revenue/Finance/Aboriginal Affairs staff group in November 2008, and have repeatedly urged the province to enact these measures since then. The Canadian Cancer Society, Ontario Division, a member agency of OCAT, has for many years presented recommended remedies to the Standing Committee on Finance and Economic Affairs during pre-budget consultations.

The longer governments take to implement substantive action to control this problem, the more likely it will be that contraband manufacturing and supply lines become so widespread, and so entrenched in many Ontario communities, that they will be even more difficult to eliminate.

There are a number of measures which have been repeatedly recommended to your government, which could be enacted in the near term to significantly reduce contraband tobacco. I would like to again reiterate the measures we believe can have a quantifiable impact on the spread of contraband, as follows:

- There are numerous unlicensed manufacturers of contraband on both the Tyendinaga and Six Nations reserves. These manufacturers depend on supplies of raw materials to make their products, specifically raw leaf tobacco and other materials such as cigarette papers, filters and packaging materials. Prohibiting the supply of these raw materials to these manufacturers (as Quebec has done in the case of raw leaf) is critically important if we are to reduce the flow of contraband from local sources;
- While the OPP, the RCMP and your Ministry's staff have made a number of seizures in recent years and continue to work in this direction, there is no clear and comprehensive direction to municipal police to participate in contraband enforcement. Empowering the thousands of municipal police officers across Ontario to assist in this effort should include the following measures:

- Establish enforcement programs similar to the RIDE program in areas off-reserve but near reserves where illegal sales of contraband occur. These programs could be accompanied by advertisements about the program, and media releases advising of vehicle seizures and convictions. Allowing the issuance of tickets for infractions would make such programs less cumbersome.

While there are obvious limitations with respect to searching vehicles, the success of RIDE-type programs would reside in large part from their varying timing and locations, as well as attendant publicity value: there has to date not been any broad communication of the fact that it is illegal for non-First Nations Ontarians to purchase cigarettes without paying tax;

- Establish joint operational groups consisting of all levels of police in high contraband traffic areas. The Eastern Ontario Joint Agency Group chaired by the KFL&A Health Unit is a model for this type of operation, but needs additional resources;
- Non-police officials with legislated enforcement responsibilities beyond tobacco control must be educated and, where appropriate, specifically empowered to understand the contraband issue and where possible to conduct seizures and apply penalties. These

officials must be able to better understand their potential roles in controlling contraband, and be educated about how to enforce existing statutes, or to refer to other appropriate law enforcement bodies when they see contraband in the community;

- Cross-appoint the following to also be able to enforce the provincial *Tobacco Tax Act*:
 - a) Provincial tobacco enforcement officers;
 - b) Other inspectors responsible for provincial and federal sales tax, *Excise Act* and federal *Tobacco Act* enforcement .
- Reform the provincial allocation system. One way would be to simply reduce the allocation: Saskatchewan has just reduced its allocation to one carton/FN individual reserve resident/week.

Another is to establish a provincial refund/rebate system for tax-exempt, legally manufactured tobacco products supplied to a reserve, as five provinces have already done. Under this system, legal products shipped to a reserve and supplied to on-reserve retailers would have an amount equal to provincial tobacco tax included in their price. Sales to Status natives would be made exempt of provincial tobacco taxes. After such eligible tax-exempt sales to Status natives, the on-reserve retailers would then apply to the provincial government for a refund.

Given that five other provinces have already implemented a rebate/refund system, there is no reason why Ontario cannot do the same. Moreover, Ontario has already implemented a refund/rebate system for on-reserve sales of gasoline: the same approach should also be used for tobacco products;

- Require a provincial marking directly on individual cigarettes, as Singapore has done. Singapore requires “SCPC”, which stands for Singapore Duty-Paid Cigarettes, to be printed on each cigarette. In Ontario’s case, the government should consider having the required marking to be health-based in nature, e.g. the toll-free number of the Smokers Helpline (1-877-513-5333). As an initial step, the *Tobacco Tax Act* should be amended to create regulatory authority for required messages to appear directly on cigarettes.

Beyond the above, we have a number of other recommendations we would be pleased to discuss at your convenience.

As lead on this file, Minister, you have a critical role to play in encouraging your colleagues to take aggressive and immediate action to curtail this problem. We urge your government to act before contraband becomes an intractable and virtually uncontrollable problem, and would be pleased to join with you in addressing this problem as soon as possible.

Yours very truly,



Michael Perley
Director

cc: Rowena Pinto, Senior Director, Public Affairs, Canadian Cancer Society – Ontario Division
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