

TOBACCO INDUSTRY SOUND BITES AND RESPONSES

August 2004

This tip sheet is designed to help advocates respond to the tobacco industry's arguments against smokefree indoor air laws in the media and clearly communicate our side of the issue. For a comprehensive overview of the tobacco industry's strategies during a smokefree campaign, please refer to the Americans for Nonsmokers' Rights fact sheet *What to Expect from the Tobacco Industry*.

WHILE THE ORDINANCE IS BEING DEBATED

1. TI Tactic: Create a front group to secretly organize and misinform business owners--plus aggressively lobby elected officials.

TI Sound Bite: "We represent a group of concerned local restaurant and bar owners and a smoking ban would be bad for local business."

Advocate's Sound Bite: "It has long been common practice of Big Tobacco to use or create front groups to act as its mouthpiece in an attempt to remain 'behind the scenes'. People throughout our community, from business owners to families to workers, are demanding the right to breathe smokefree air. While the tobacco industry can inundate our community with millions of dollars worth of advertising forecasting gloom and doom, the simple truth is that the public wants smokefree air, and no amount of money can change that."

Facts:

- The tobacco industry denigrates the democratic process by stirring up opposition to legitimate smokefree indoor air campaigns by spreading misinformation about the science of secondhand smoke and the economic impact of smokefree air laws.
- "[The bottom line is, once you put a coalition together...we can help you maximize its impact and visibility...through letters to the editor, op-eds, testimony, position papers and advertising." *Philip Morris, CAC Presentation Number 4—Tina Walls; Bates Number: 2041183751/3790*
- "The United Restaurant and Tavern Association of New York State was a tremendous ally during the legislative battle [to prevent passage of the New York City law]. They have agreed to spearhead continuing efforts..." *The Tobacco Institute; Bates Number: 93766255/6261.*
- The Empire State Restaurant and Tavern Association (ESRTA) was previously called the United Restaurant and Tavern Association of New York State. ESRTA led the opposition to proposed smokefree air laws in New York City and throughout the state. In every case, they claimed that the laws would result in economic ruin, which has since proven to be a fallacy. ESRTA illegally funneled more than \$400,000 from the Tobacco Institute to oppose the 1995 New York City smokefree air law.

2. TI Tactic: Downplay the health issue by reframing the debate around "personal rights." Make tobacco control advocates look unreasonable.

TI Sound Bite: This is a civil rights and personal liberty issue, not a health issue. What's next--red meat, fast food, and caffeine?

Advocate's Sound Bite: "Secondhand smoke is a public health issue. Exposure to secondhand smoke is a leading cause of cancer and heart disease in the U.S. and people have the right to work in a workplace free from this health hazard. People have the right to smoke, but not in ways that harm other people. When people smoke in public places they affect the health of everyone around them. It's not only appropriate for local governments to protect the community's health, it's also their duty."

Facts:

- Focus on HEALTH. Always bring the argument back around to the reason for enacting the law—secondhand smoke is a serious and preventable health hazard.
- Smokefree air campaigns do not seek prohibition, nor are they meant to pit smokers against nonsmokers.
- Smokefree air policies are not against smokers. They are against smoking in ways that harm other people.
- Personal liberty has never been understood to allow one person's behavior to damage or risk damage to another.

3. TI Tactic: Attack government action on a public health problem. Frame the argument around "business rights."

TI Sound Bite: Business should have the right to choose whether to allow smoking.

Advocate's Sound Bite: "Protecting the health and safety of the community is one of the main purposes of government. Businesses have the right to operate as they see fit but they don't have the right to endanger their employees and the public. Businesses are used to a variety of local health and safety regulations—for sanitation, food handling and storage, etc—and few business owners would argue against their rationale."

Facts:

- Local governments have a responsibility to enact laws to protect public health and safety.
- Small businesses are regulated by many types of local laws to protect the health and safety of their employees and the public, including food storage regulations, hand washing guidelines, and sanitation requirements.
- Smokefree policies save businesses money.
- Public health policy should be determined by policymakers, not by tobacco industry strategists.

4. TI Tactic: Attack the science of secondhand smoke and create a controversy.

TI Sound Bite: "The EPA's methodology is flawed, so flawed that their conclusion simply cannot be supported."

Advocate's Sound Bite: "Every credible, peer-reviewed legitimate scientific study has found that secondhand smoke kills. The tobacco industry pays for and promotes studies that claim to find no link between secondhand smoke and disease. They also have carefully planned campaigns to attack and refute

reputable science, including studies by the Environmental Protection Agency and World Health Organization.”

Facts:

- Both the Environmental Protection Agency and World Health Organization studies are in full standing despite attacks from the tobacco companies. In addition, there are many other major studies by cognizant health authorities, which further conclude that secondhand smoke kills.
- There is no debate with legitimate scientists and reputable health agencies that secondhand smoke kills. If opponents don't believe the CDC or the Office of the Surgeon General, maybe they will believe the industry's own internal documents.
- Internal tobacco industry documents acknowledge that secondhand smoke is dangerous.
- Secondhand smoke has been found by more than 100 major peer-reviewed studies to be a health hazard, causing heart disease, lung cancer, heart attacks and respiratory illnesses, including asthma. These studies include:
 - Surgeon General's Report, 1986
 - National Research Council review, 1986
 - Environmental Protection Agency report 1992
 - California Environmental Protection Agency review, 1997
 - National Cancer Institute, Monograph #10, 1999
 - Surgeon General's Report, 2004

5. *TI Tactic:* Advocate for accommodation of smokers and promote ventilation as a solution.

TI Sound Bite: “Smokers and nonsmokers can both be accommodated in workplaces and public places through the use of ventilation.”

Advocate's Sound Bites: “There is no known safe level of exposure to secondhand smoke. Ventilation and other accommodation policies cannot eliminate secondhand smoke in buildings. The only solution for protecting people in a building from the health hazards caused by secondhand smoke exposure is to make the entire indoor area 100% smokefree.”

“Ventilation and ‘accommodation’ policies are tobacco industry tactics designed to make it seem like something is being done to address the problem of secondhand smoke exposure without actually doing anything to protect people’s health. Ventilation can only reduce the odor and visible secondhand smoke; even the best ventilation system still leaves employees and patrons exposed to the many carcinogens in secondhand smoke.”

Facts:

- Secondhand smoke has a non-linear dose response, meaning a reduction in smoke does not equal a reduction in risk.
- Ventilation systems cannot completely eliminate the harmful gases and particulates in secondhand smoke.
- The only way to protect people from the documented dangers of secondhand smoke is to completely eliminate smoking indoors.

- Accommodation tactics such as age specific or hours specific provisions, Red Light/Green Light provisions, and size exemptions make it appear that the community's smokefree air law will be protecting people but actually continues to expose them to secondhand smoke.

6. TI Tactic: Discredit legitimate economic impact studies (and their authors) and promote tobacco industry-backed junk science.

TI Sound Bite: Smokefree ordinances will lead to economic devastation of the community.

Advocate's Sound Bite: "Every independent economic impact study examining sales tax data has found no negative economic impact from secondhand smoke laws in communities across the country, and some have found an increase in business. The only studies showing economic losses have been conducted or paid for by the tobacco industry. Their studies are based on business owners' perceptions rather than sales tax data, and are designed to scare communities from passing smokefree air laws."

Facts:

- The only unbiased, accurate means to measure economic impact is to compare sales tax receipts, provided by the state or local taxing agency, for several years before a smokefree law was enacted as well as all quarters after the law is enacted.
- Study after study conducted in this fashion find that smokefree laws have no negative impact on local businesses.
- The tobacco industry funds and promotes flawed studies that are based upon anecdotal information and perceptions, and ask leading questions. Even the tobacco industry's own documents reaffirm that these economic claims are not true.

AFTER THE LAW IS PASSED

7. TI Tactic: Focus media attention on isolated violations or organized noncompliance—don't acknowledge high rates of compliance.

TI Sound Bite: This will be an enforcement nightmare.

Advocate's Sound Bite: "Local smokefree air laws have very high rates of compliance. Most people understand the purpose of the laws and abide by their provisions. It's insulting, particularly to smokers and business owners, to claim that an isolated violation is indicative of everyone's behavior."

Facts:

- It is insulting for the tobacco industry to imply that the majority of business owners and smokers have no respect for the democratic process or are not law-abiding citizens.
- Smokefree ordinances are generally self-enforcing, especially if there has been an effective public education campaign conducted, the law is well written, and the enforcement agency is committed to both the goals of the ordinance and working with affected businesses.

8. TI Tactic: Threaten and file legal challenges.

TI Sound Bite: These laws are unconstitutional because they infringe on people's rights.

Advocate's Sound Bite: "Smokefree air laws are public health measures which courts routinely have upheld. Courts rule that it's within the scope of local government to enact laws that protect public health and promote worker safety. The tobacco industry is threatening a legal challenge in hopes it will convince our local government to overturn the law and scare our neighboring communities from enacting smokefree air laws."

Facts:

- There are more than 1,700 local smokefree air laws on the books and successful legal challenges to them are extremely rare.
- The courts uphold smokefree laws as constitutional and well within the government's power to protect public health and safety.
- The tobacco industry uses lawsuits to intimidate elected officials into repealing smokefree ordinances and to scare other communities from taking similar action.
- Legal challenges are used by the tobacco industry to delay implementation of smokefree policies.

9. TI Tactic: Attempt to repeal a smokefree ordinance by means of a voter referendum.

TI Sound Bite: Voters should have an opportunity to decide whether they want regulations on smoking.

Advocate's Sound Bite: "It is the responsibility of our elected officials to protect the public. The public elects our local officials to represent our interests and make difficult decisions. They have carefully considered this issue and voted in favor of smokefree indoor air. Let's give the law time to work."

Facts:

- Like legal challenges, voter referendums to repeal smokefree laws generally fail because the measures are widely popular.
- A referendum to repeal a smokefree law is extremely costly and is a wasteful use of community resources when the local government has already voted on the issue.
- Tobacco companies seek ballot measures because their deep pockets of unrestricted money allow them to exercise their political savvy and run extensive campaigns to misinform voters about the effects of smokefree policies.

10. TI Tactic: Pass a state law that takes away the authority of city and county governments to enact local smokefree indoor air laws.

TI Sound Bite: "We need statewide uniformity, not a patchwork of local laws."

Advocate's Sound Bite: "Every community deserves the right to debate what's best for it. Our local government knows what is best for our community. Local smokefree air laws are important because the public is educated about the health dangers of secondhand smoke and is engaged in the debate about an appropriate law. Compliance is much higher and enforcement easier with local laws because the public understands the need for the law. Preemptive state laws, while preventing local governments from exercising their authority to enact appropriate laws for their communities, do little, if anything, to protect people from secondhand smoke."

Facts:

- Preemption is a tobacco industry tactic. It is easier for them to undermine one big fight in the state legislature than 100 local campaigns throughout a state.
- “When you have 95,000 local units of government in this country, and you have a finite amount of resources, then the smart thing to do is to try to limit the potential for mischief.” -- Walker Merryman, The Tobacco Institute
- Once preemption is passed, it’s almost impossible to repeal it.
- There are currently 22 states with some degree of preemption of local smokefree indoor air laws.
- Not every community in a state is at the same level of support for smokefree air.
- Tobacco companies are politically stronger in the state legislature, where their lobbyists and vast campaign contributions go to work in protecting their bottom line. They hate local policy action because it is where they are least effective.