Opinion on the Green Paper of the Commission

Ágnes Bruszt

Generáció 2020 Egyesület

www.generacio2020.hu

generacio2020@generacio2020.hu

Tel/Fax: (+36) 1 555-5432

Károly krt 5/A

1075 Budapest

Hungary

(Anti-smoking ad in California)

Opinion on the Green Paper of the Commission

I. *Which of the two approaches would be more desirable: a total ban on smoking in all enclosed public spaces and workplaces, or a ban with exemptions?*

It is evident that a **comprehensive smoking ban** would be the most desirable: it would provide the largest protection from ETS exposure, it would demoralize smoking, reduce active smoking, implementation would costs less and would be easier to enforce. Other reasons not mentioned in the Green Paper are:

1. Studies show that the **highest concentration of ETS**[1] was found in bars, discotheques, and other hospitality venues.[2] If our goal is to tackle exposure to tobacco smoke in indoor public spaces, the first place to start is where the smoke concentration is the highest. In addition, those visiting these venues the most often are also the most vulnerable group exposed to tobacco smoke: **young people**.
2. If a smoke-free regulation with exemptions would be adopted, the only way to protect people from passive smoking would be to create special enclosed smoking rooms where food and drink would not be served.[3] The problem is that it is **expensive to create** and thus might create competitive edge among wealthier hospitality venues who have the capacity to make such smoking rooms.
3. Creating enclosed smoking rooms would **not solve the problem of workers** who must enter these places. Everyone has the **right to smoke-free air**, because people have the **right to health**. Studies show that exposure to tobacco-smoke causes death and that there is no safe level of ETS exposure, therefore people should have the right not to be exposed to smoke. If workers of a certain sector have the **right to healthy working environment**, **how can we exempt others from this basic right**? This would lead to **discrimination** among workers.

[1] ETS= Environmental Tobacco Smoke, also called second-hand smoke or passive smoking
[2] See for example: http://www.ncbi.nlm.nih.gov/entrez/query.fcgi?CMD=search&DB=pubmed
[3] Studies show that other forms of ventilation do **not protect non-smokers and staff** from tobacco smoke. For example: http://jpubhealth.oxfordjournals.org/cgi/content/abstract/28/1/17 or http://tc.bmj.com/cgi/content/full/13/1/17

4. Despite the manipulative arguments made by the tobacco-industry, studies make it clear that total ban on smoking in the hospitality industry does **not damage profits**[4]. All research that draws the opposite conclusion was found out to have been supported by the tobacco industry.
5. Studies point out that ETS contains over 50 known carcinogens and many toxic agents, there is no safe level of ETS exposure and it causes lung cancer, cardiovascular disease, heart disease, respiratory disease, stroke, etc. It should be emphasized that **passive smoking is not just a nuisance**. So the question is not: why take action, the question should be: **how can smoking be still authorized in enclosed public places**?

Meanwhile, as mentioned in the Green Paper of the Commission, **difficulties** can also be found in relation with the adoption of a comprehensive smoke-free regulation.

A. Opposition in some Member States

If we look at the scope of national regulations in the European Union, we see that only Ireland and United Kingdom has made complete smoke-free legislation. More countries **allowed exemptions** from the total ban by permitting employers to create special sealed-off smoking rooms (Italy, Malta, Sweden, and in the near future France, Belgium and Lithuania). Less stringent regulations can be found in other EU member states. Thus **adopting a completely smoke-free policy** at EU level **would be difficult**.

The best solution for this problem would be to adopt a smoke-free legislation with the **possibility to create special sealed-off smoking rooms** in hospitality venues (pubs, bars, discotheques), where eating and drinking is not allowed **for a transitional period** (several years).

Advantages are:

[4] http://tc.bmj.com/cgi/content/full/14/4/220, http://tc.bmj.com/cgi/content/full/13/4/454

- Easier to adopt, since already 8 member states have regulations that are the same or more stringent.
- It would be great improvement for the majority of member states (for example: Slovakia, Hungary, Romania, and Germany).
- Hospitality venues have the possibility to choose what kind of smoking policy to adopt. Examples set in Malta, Italy and Sweden show that most operators have chosen not to make smoking rooms.
- Public opinion is more likely to accept a compromise than a total ban. People would get accustomed to the idea of a total smoking ban- and thus compliance with the law would be more possible.
- Individual Member States would be nevertheless free to adopt more stringent national legislation.

In summary, the **best policy** would be a **smoke-free regulation, but with the possibility for the hospitality sector to create special sealed-off smoking rooms for a transitional period.**

B. Opposition of the hospitality industry

The opposition of the hospitality industry is another problem to be solved before beginning the legislative procedure. This sector is known to have the biggest ETS concentration because people have the habit to smoke while drinking a coffee or a beer. These places are **misled by the tobacco industry** so as to have supporters in the fight against smoke-free legislation. Studies independent from the tobacco-industry clearly show that a total ban in the hospitality industry does **not have negative impact**, moreover these places benefit from the ban in the long term. It is therefore essential to **provide proper data** on the economical impact of a total ban in the hospitality sector.

C. Opposition of the tobacco industry

Solving this problem is a great challenge because the tobacco industry has a massive lobbying force. This could be **counteracted** by the support of the public opinion and by creating an **international anti-tobacco lobby network** made of politicians, researchers, stakeholders from the health-care and non-governmental organizations who could represent more powerful pressure on the legislators.

II. *Which of the policy options would be the most desirable and appropriate? What form of EU intervention do you consider necessary?*

Answer: **Binding legislation** would be the best option, for all other measures are not effective in defending non-smokers from ETS exposure.

No change from the status quo is not an alternative: a **dramatical change has to be made** in order to reduce smoke-related deseases. It is true that there is a trend towards smoke-free environments, but this would take long time and until then, people would continue to be exposed to tobacco smoke.
Voluntary measures are not effective enough. There is evidence mentioned in the Green Paper why these voluntary agreements and other forms of voluntary measures are not likely to solve the problem of ETS exposure.
Commission or Council recommendation has one great problem: it is **not enforceable**, and therefore the Member States might not act at all to protect non-smokers, while tobacco-related death statistics and new scientific evidence of the harm of ETS exposure show that **immediate action should be taken**. The tobacco-industry poses another problem, because if there is a level playing field in the legislation process, the tobacco industry will try everything to slow down the pace of anti-tobacco regulation.

The majority of EU citizens **are non-smokers** or people who want to quit smoking. **Their interest should be represented** against the minority of the non-smokers. Binding legislation is the only way to achieve effective protection against tobacco-exposure by minimizing the level playing field of the Member States.

In 2005 the European Network for Smoking Prevention (ENSP) made a recommendation how to obtain a comprehensive smoke-free legislation. It emphasizes the importance of a proper preparation and consultation process, a pro-active and reactive media strategy, a united public health community and an effective enforcement system.[5]

In order to have an effective smoke-free policy, **sufficient time** should be given to Member States **before the enactment of the directive**.

- **Information and awareness campaigns** are the most important means in influencing the public opinion and thus gaining further compliance with the law. Television and radio advertisements are effective ways of informing the public about the causes, means and objectives of future regulation.
- Actors of the hospitality sector need enough time to make **study of the expected monetary value** of creating sealed-off smoking rooms for the transition period, and if needed, enough time to create them.
- **Minimum requirements** for smoking rooms should be precisely defined in order to ensure the efficiency of protection of non-smokers (no food or drink could be served in order to protect employees, should be located in an area where non-smokers need not pass through, should take up only a small portion of the establishment's total area, and should be properly ventilated).

Thus the best policy option would be binding legislation, complemented by cooperation with Member States that have already adopted a total ban on smoking. Experiences and best practices of establishing a smoke-free policy (compliance with the regulation, difficulties posed by the new law, economic effect, etc) could be shared.

III. *Further quantitative or qualitative data on the impact of smoke-free policies*

[5] http://www.ensp.org/files/limassol_recommendations-en.pdf

Italy, Ireland, Malta, Norway, Sweden, several states in the United States are good examples why a comprehensive ban on smoking should be adopted. Different studies were made about the economic/health/social impact of the smoking ban. A few of them not mentioned in the Green Paper are:

- The *American Nonsmokers' Rights Foundation* made a summary of the effects of smoke-free regulation on the health of hospitality workers. It contains useful links to studies on comprehensive smoking ban.[6]
- A report one year after the smoking ban went into effect in **Sweden**, which is said to be **one of the most popular reforms**. [7]
- A research carried out by the *Roswell Park Cancer Institute* in Boston, USA assessed the impact of smoke-free workplace policies on smoking cessation behaviors.[8]
- A useful evaluation of the smoking ban carried out in **Norway**. Enforcement, ETS exposure, compliance, attitudes towards the law, economic impact on hospitality industry, effect on tobacco habits, tobacco sales statistics, etc.[9]
- **Ireland**'s Annual Report, made by the *Office of Tobacco Control*, 2005.[10]
- The economic impact of smoke-free legislation on sales turnover in restaurants and pubs in Tasmania- study by the *Cancer Council Victoria*, Australia[11]
- Impact of smoking ban on restaurant and bar revenues, El Paso, Texas, USA, 2002[12]
- Impact of smoke-free legislation in Ireland: compliance, support, public opinion, smoking trends pre and post ban[13]
- Study by the *Liberty Safe Work Research Centre*, Scotland, on bar workers' health and ETS exposure before and after the ban introduced in April 2006.[14]

[6] http://no-smoke.org/document.php?id=228
[7] http://www.tobaksfakta.org/WebControls/Upload/Dialogs/Download.aspx?ID=4913
[8] http://www.ajph.org/cgi/content/abstract/95/6/1024
[9] http://www.sirus.no/cwobjekter/smokefreebarsandrestaurantsinNorway.pdf
[10] http://www.otc.ie/uploads/Publications%20-%20AR%202005%20English%20Web.pdf
[11] http://tc.bmj.com/cgi/content/full/13/4/454
[12] http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5307a2.htm
[13] http://www.ash.org.uk/html/publicplaces/html/irelandimpact.html
[14] http://www.abdn.ac.uk/deom/resbhetse.shtml

Some **conclusions** may be drawn from these studies:

1. *Social impact*: there is a **higher approval** among the public after the entry into force then before (also among smokers), and **compliance with the law is very high** (average 93%), both among employees and customers.
2. *Health impact*: **smoking prevalence declines** after a comprehensive ban (for example in Ireland it declined from 31% to 24%), there is an increase in quit attempts and hospitality **workers' health improves dramatically** (eye, nose and throat irritation declines and there is significant decrease in respiratory problems).
3. *Economic impact*: due to the reduction in cigarette consumption, **sales of the tobacco industry fall**. The ban has no significant effect on restaurant and bar revenues, and customers' self-reported visiting frequency is unchanged after a ban. Only a few among the hospitality sector set up smoking rooms.