



Submission to the Board of Taxation on the draft *Charities Bill* 2003

September 2003

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Executive summary

General

- 1 The Cancer Council Victoria ('CCV') welcomes those aspects of the *Charities Bill* 2003 ('the Bill') which broaden the legislative definition of a charity to include several important classes of organisations such as welfare, self-help, environmental and child care organisations.
- 2 Further, CCV supports the inclusion of the concept of 'advancement of social and community welfare' as a charitable purpose in clause 10(1)(c) of the Bill. CCV considers that this is a major step forward in defining the work of contemporary charities and ensures that the definition of a charitable purpose is sufficiently flexible to adapt to the changing needs of society.

Proposed clause 8(2)(c) of the Bill

- 3 CCV is concerned, however, that clause 8(2)(c) of the Bill, if enacted, may jeopardise CCV's status as a charitable institution. It is arguable that one of the dominant purposes of CCV, within the scope of the proposed clause, is 'attempting to change the law or government policy' in relation to cancer control. It is arguable that this purpose is more than 'ancillary or incidental' to the other purposes of CCV.
- 4 CCV's exemption from certain taxes by virtue of its status as a charitable institution is crucial to its continuing operations. CCV's activities are, to a great extent, funded by donations and fundraising activities. If clause 8(2)(c) of the Bill is enacted, it is possible that CCV would have to curtail its activities in advocating for cancer control and on behalf of those affected by cancer. This has the potential to severely compromise one of CCV's main objectives.
- 5 As such, rather than improving workability by providing greater clarity and transparency to charitable organisations, CCV considers that clause 8(2)(c) of the Bill unnecessarily impedes the capacity of CCV and other charities to make representations to government aimed at changing or improving legislation, government policy and programs.
- 6 CCV submits that clause 8(2)(c) of the Bill should be deleted and/or amended in order to accurately reflect the recommendations of the *Report of the Inquiry into the Definition of Charities and Related Organisations* (June 2001).

Altruism

- 7 CCV submits that the public benefit test should not be further strengthened by requiring the dominant purpose of a charitable entity also to be altruistic, unless the Board changes its characterisation of altruism to remove the ‘voluntary’ element. Bodies established by statute may not satisfy this definition as those bodies do not necessarily perform their functions voluntarily, but pursuant to statutory obligations.

Definition of government body

- 8 CCV submits that the Bill should include a definition of control to ensure that a charity is not found to be controlled by government (and thus a government body for the purposes of the Bill) merely because:
- it is established under an act of a parliament;
 - it receives government funding, whether from consolidated revenue or otherwise;
 - it discharges or executes government policy;
 - it is under an obligation to report to a parliament;
 - its board or members are appointed (and can be removed) by the Minister, or by the Governor in Council, following a recommendation or nomination by the Minister.

Public benevolent institutions

- 9 CCV submits that the Bill should replace the common law concept of a PBI with a new concept of ‘benevolent charity’, as suggested in the *Report of the Inquiry into the Definition of Charities and Related Organisations*.
- 10 CCV considers that the definition of such a benevolent charity should be ‘a body whose dominant purposes is to benefit, directly or indirectly, disadvantaged or disabled persons, whether their disadvantage or disability occurs by social circumstance, illness or otherwise’.

Dominant purpose or dominant activity?

- 11 CCV submits that the a body’s charitable status under clause 6 of the Bill should be determined not only by its dominant purpose, but also by reference to the dominant activities in which it engages from day-to-day.

The objects, goals, purposes and activities of The Cancer Council Victoria

CCV was established by the *Cancer Act 1936 (Vic)* as the Anti-Cancer Council of Victoria. It operates under the name 'The Cancer Council Victoria'. Its enabling statute is now the *Cancer Act 1958 (Vic)* ('the Act').

Statutory objects and powers of CCV

Under section 5(1) of the Act, the objects of CCV are:

- (a) to coordinate in Victoria all activities relating to research with respect to cancer and allied conditions and in particular research into the causation, prevention and treatment of cancer and allied conditions; and
- (b) to undertake, promote and subsidise such research; and
- (c) to
 - (i) provide information and advice; and
 - (ii) develop, co-ordinate and participate in educational programs relating to the prevention, detection, treatment and management of cancer and allied conditions; and
- (d) to promote, provide and coordinate services for the support and welfare of persons suffering from cancer and allied conditions; and
- (e) to investigate whether it is advisable to establish special cancer clinics within existing hospitals or similar institutions and, where it is advisable to do so, to establish such clinics; and
- (f) to act in association with any organisation having objects similar to the objects of the council.

The powers of CCV under section 5(2) of the Act include:

- (a) application of capital and income of the funds and property of CCV towards its goals;
- (b) acquisition of money by means of grants, subscriptions, gifts, bequests or otherwise, and investment of those funds;
- (c) ownership of land, securities and other property;
- (d) borrowing of money (with the consent of the State Treasurer);
- (e) application for and possession of property rights such as patents, copyrights, trademarks and registered designs;

- (f) assignment or granting of licences in respect of those industrial property rights and entering into agreements and arrangements for their commercial exploitation;
- (g) execution of any special trusts in connection with the money and properties obtained and held; and
- (h) affiliation or association with any other body that has similar objects.

Corporate goals of CCV

Pursuant to the objects stipulated in section 5(1) of the Act, CCV has implemented the following corporate goals:

- 1 to extend the knowledge base on cancer through basic and applied research;
- 2 to prevent cancer through programs which promote individual behaviour change, create more healthy environments or promote knowledge of risk factors;
- 3 to detect cancer early through public education and screening;
- 4 to promote the best use of available cancer treatments by health professionals;
- 5 to enhance quality of life and minimise suffering through programs of education, support and palliative care for patients and carers;
- 6 **to be vigorous advocates for cancer control** and to develop strategic alliances with governments, hospitals, non-government health promotion organisations, health professionals, the community and the media (emphasis added);
- 7 to maintain a relevant, effective, efficient and high-profile organisation of the highest integrity;
- 8 to monitor and analyse trends related to the above objectives.

General information regarding CCV

The members of CCV are the relevant Minister of State, Vice-Chancellors of a number of Victorian universities, chairpersons of the various committees established by the Act to govern CCV, contributors of funds to CCV and other members appointed by the Governor in Council on nomination by the Minister.

CCV formulates policies and plans strategic action in major areas of research, education, and patient information and support services. To administer its programs, CCV relies on funds donated by Victorians, supplemented by external funding secured through a competitive process. CCV is a member of The Cancer Council Australia (formerly the Australian Cancer Society), which acts as a federation of state interests in relation to the control of cancer.

CCV is accountable to the Victorian Parliament, regulators, stakeholders and the community. There are a number of accountability mechanisms in place, including annual reporting to Parliament, program and grant reporting to funding agencies, surveys and

evaluations with stakeholder groups, a policy framework, and adherence to legislation, best practice and industry guidelines. The organisation regularly receives and welcomes feedback from stakeholders and the community about aspects of its performance.

CCV is recognised as a charitable and public benevolent institution by the Australian Taxation Office ('ATO') on the basis of the objects specified in section 5(1) of the Act and on the basis of its corporate goals. CCV also holds deductible gift recipient status with the ATO.

Given its objects and goals, CCV's role can be summarised as a volunteer-based charitable body whose mission is to lead, coordinate, implement and evaluate action to minimise the human cost of cancer for all Victorians.

Is advocacy 'ancillary or incidental' to CCV's purposes?

The eight goals listed above represent the dominant purposes of CCV. They are of equal status. Goal 6, 'to be vigorous advocates for cancer control', cannot be said to be 'ancillary' or 'incidental' to the others. In fact, a strategic approach to public health involving vigorous advocacy has proven to be very effective over the last two decades or more. It has become a major means of achieving objectives in relation to cancer control. Advocacy is now a widely practised strategy in public health. University departments of public health and health promotion teach techniques of influencing public policy for health improvement. Changes in public policy influence legislation, structural environments, and economic policy.

CCV adopts three broad strategies in its advocacy work:

- lobbying members of parliament and other decision makers;
- developing partnerships with other health agencies and consumers;
- communications targeting the media to influence debate and garner wider support.

Influencing the media and co-ordinating national advocacy are also priorities of CCV.

CCV advocates for improved treatment and access to services on behalf of cancer patients, including supportive care. It also advocates on behalf of all Victorians to reduce cancer risks and to secure government support for research, effective cancer prevention and early detection programs. CCV's goal is to ensure that issues related to cancer care and control receive the attention, legislative action and funding they deserve. Many of the activities which CCV undertakes in order to achieve these goals have the specific objective of changing the law or government policy.

The nature of CCV's mission, and its ability to provide expert advice on all matters of cancer control, means governments traditionally have been open to representations from CCV (and in fact seek CCV's contribution to the development of many cancer control programs and reports).

However, from time to time there are contentious policy or legislative matters on which CCV's views differ from those of government. The right of CCV to represent the interests of people affected by cancer or to lobby for change CCV considers will help reduce cancer incidence or impact must be protected.

Some examples of CCV's successful public health advocacy work

1. CCV is best known for its sustained and successful advocacy efforts in relation to tobacco control

The work of CCV director Dr Nigel Gray in the 1970s resulted in the removal of tobacco advertising from radio and television with a phase-out in 1972-6. This intensely political work involved Dr Gray and colleagues in frequent trips to Canberra and many hours of discussions with parliamentarians on both sides of the house. CCV's work to reduce tobacco consumption and the resultant burden of disease and death has always been a fierce and political battle with the tobacco industry, which applies its substantially greater wealth and power to oppose CCV's efforts.

Tobacco advertising, promotion and sale are controlled by legislation and regulation at various levels of government. A summary of achievements in tobacco control in Australia is included at Attachment 1. These achievements are the result of a large and committed coalition of public health activists, including CCV, working with governments at all levels to influence policy, regulation and legislation.

This advocacy work sustained over decades has resulted in reductions in smoking rates and tobacco consumption, a decline in lung cancer mortality in men, and the introduction of smoke-free public places. This work has also resulted in the prohibition of tobacco advertising on television, in newspapers and in magazines and cinemas.

CCV has worked over a number of decades to ensure cigarette packets carried warnings about the health effects of smoking. Most recently, CCV has called for new health warnings, including graphic pictures, and a system that provides for health warnings to be rotated more frequently.

CCV's advocacy is widely recognised as one of the major contributions to public health in Australia in the last three decades.

2. Advocacy activities in support of cancer screening programs

2.1 Cervical cancer

From 1987- 89, CCV joined forces with a coalition to lobby for legislation to set up the Victorian Cervical Cytology Registry after international research demonstrated that the existing approach to cervical cancer screening had failed to deliver expected outcomes. Public consultations with women's groups, negotiations with the AMA, and privacy groups were conducted to ensure bi-partisan support for the legislation in parliament.

The successful introduction of an evidence based organised approach to cervical cancer screening in Victoria has resulted in screening rates increasing from 40.4% of women screened (1984 – 6) to 79.4% of women screened (1988 –2000). Deaths from cervical cancer in Victoria continue to decline at a rate of 1% per annum.

In 1992, this model was adopted nationally and funded by the Commonwealth government.

2.2 Breast cancer

In 1987, CCV lobbied the Victorian Health Minister to pilot mammographic screening after international evidence demonstrated a mortality benefit from a population based approach.

2.3 Bowel cancer

CCV has lobbied at state and federal level for local feasibility studies of population based screening following reports of international randomised controlled trials showing mortality benefits.

3. Advocacy to further skin cancer prevention

A successful advocacy campaign by CCV has resulted in the National Childcare Accreditation Council setting up SunSmart guidelines for long day care and family day care in 2001.

Successful campaigns to make sunscreens affordable have included lobbying to achieve a sales tax exemption for sunscreen (around 1991), GST exemption for sunscreen (2001) and tax rebates for sunscreens for outdoor workers (2000 - 2).

CCV's current advocacy efforts are focusing on legislation governing solariums at a state level, and solarium standards through Standards Australia and through the ACCC (2001-3).

4. Advocacy to improve patients' access to cancer drugs

The issue of equity of access to cancer drugs has occupied our network of cancer clinicians, the Victorian Co-operative Oncology Group ('VCOG') for many years.

1987 - Chemotherapeutic Drugs - a submission was made to the Commonwealth Pharmaceutical Benefits Advisory Committee on the availability of certain anti-cancer drugs for clinical use and on the limitations on the maximum quantity prescribed.

1988 - Government Restrictions on Anti-Cancer Drugs - VCOG expressed concern at the government's introduction of 'authority required' prescriptions, and providing a list of anti-cancer drugs 'that should be exempted because there is no conceivable cheaper alternative for at least some indications'.

1995 - Payment of Anti-Cancer Drugs - Dr Gray and members of VCOG expressed their concerns to the State and Commonwealth Departments of Health on the issue of cost-shifting and inequity of payment for anti-cancer drugs. A representation was made to the working party of the Australian Health Ministers Advisory Committee reviewing the issue of cost-shifting between State and Commonwealth.

1997 - Variable impact of Australian Government funding regulation on prescription of drugs used in cancer treatment - in response to ongoing concerns relating to access to anti-cancer drugs and cost shifting between state and federal funding systems, VCOG contracted CCV's Centre for Behavioural Research in Cancer to conduct this survey. The

report verified the wide extent of cost shifting and inequity of access to anti-cancer drugs. The then Minister for Health, Mr Rob Knowles, acknowledged the report and advised that the 'Victorian Department was working with the Commonwealth Government in an attempt to engender changes to the present system.' The issue was raised at the Australian Health Ministers Advisory Council in November 1997.

1998 - Variable impact of Australian Government funding regulation on prescription of drugs used in cancer treatment - the survey of private and public hospital pharmacy practices on provision of anti-cancer drugs reported in 1997 had verified the wide extent of cost shifting and inequity of access to anti-cancer drugs. Whilst not completely resolving the issue, the Victorian and Federal Governments signed the Medicare Agreement for Victoria and agreed to obtain costings from hospitals for access to the PBS for patients at the point of discharge, admitted day patients and outpatients that were not included in the Medicare Agreement.

1999 - Anti-Cancer Drugs Access - negotiations between the Victorian and Federal governments for access to Section 100 anti-cancer drugs for both private and public patients were delayed by the Victorian State elections. However, the new Minister had agreed in principle to proceed with the agreement and it was expected to be in place sometime in 2000.

2003 - Cancer Drugs Access - changes to the PBAC regarding prescription of cancer drugs were implemented.

Workability issues in measuring 'ancillary or incidental'

CCV obtains its core funding from donations. Every new legislative requirement or rule results in more and more of each individual donation being consumed in regulatory compliance costs. In many cases there is a clear public benefit in the implementation of further regulation. Greater transparency and accountability results in reassurance for donors that contributions are well spent.

Nevertheless, it remains true that all charities have experienced an increase in overhead or administrative costs in recent years, thus eroding the power of money donated by members of the public to effect the change they desire.

The Bill proposes the introduction of a new measure in relation to advocacy which is incidental or ancillary without any indication of how this new measure will be implemented in practice by the ATO. If charities are required to keep detailed records of their advocacy work and allocate costs and expenses devoted to this work for the purposes of auditing by the ATO, an audit system would need to be developed so that new measure is applied uniformly across the sector. There is no doubt that CCV would incur substantial costs and expenses in preparing, auditing, analysing and retaining records of categories of advocacy work carried out by staff. Such activities are seldom able to be categorised as a single type of activity. Most public health advocacy will also have a significant impact on public awareness and understanding, thus qualifying it to be categorised, amongst other things, as public education.

There is also the issue of enforcibility. With so much at stake it will be tempting for organizations to strive to present their accounts and activities in such ways as to minimize the appearance of advocacy activities. Such subterfuge would be very hard to detect and

quantification extremely difficult. For instance, would the quantification to determine whether some threshold had been exceeded be based on dollar cost, hours of work or some other measurable indicator?

Recommendations for amendment of clause 8(2)(c) of the Bill

CCV appreciates that the intent of clause 8(2)(c) is to disqualify only organisations that have as their principal purpose political lobbying without having a genuine charitable activity. However, the Bill remains open to interpretation. Any charity which engages in activities intended to attempt to change the law or government policy might be disqualified if an unspecified authority makes a judgment that the quantum of activity is more than some as yet undefined ‘ancillary or incidental’ amount. The phrase ‘more than ancillary or incidental to the other purpose of the entity concerned’ is not sufficiently well-defined to protect the legitimate advocacy activities of genuine charitable organisations.

CCV submits that this clause should be deleted or re-drafted in order to ensure that attempts to change the law or government policy are not a disqualifying purpose when carried out to further the charitable objectives of a legitimate charitable organisation which is seeking to benefit the public at large.

The intention of the Bill is to legislate a definition of charities as part of the Government's response to the *Report of the Inquiry into the Definition of Charities and Related Organisations*.

According to that Report (chapter 26):

‘The Committee recommends that a distinction be drawn between purposes that advance a political party or a candidate for political office, which will deny charitable status, and non party-political purposes, that will not affect charitable status provided they further, or are in aid of, the charity's dominant charitable purpose’.

The Report also concluded that:

‘Any non-party political activities of a charity should not affect its charitable status provided it acts in good faith and its activities are not illegal or against public policy’,

and that:

‘...charities should be permitted to engage in advocacy on behalf of those they benefit. Conduct of this kind should not deny them charitable status even if it involves advocating for a change in law or policy’.

CCV submits that clause 8(2)(c) and the Bill in general should clearly reflect these recommendations.

Altruism

For the purposes of the Board's inquiry, altruism has been characterised as a 'voluntarily assumed obligation towards the wellbeing of others or the community generally'.

CCV is concerned that there may be a question as to whether statutory corporations such as CCV in fact assume their obligations voluntarily. Such entities are created pursuant to a statute. As such, it is arguable that performance of their obligations may be mandatory, rather than voluntary. If this be the case, bodies such as CCV whose objects are to ensure the wellbeing of individuals and the community, may be not be defined as charitable as they are not 'voluntary' (and therefore not altruistic within the Board's definition).

As such, CCV submits that the public benefit test should not be further strengthened by requiring the dominant purpose of a charitable entity also to be altruistic, unless the Board changes its characterisation of altruism to remove the 'voluntary' element.

Definition of government body in the Bill

Clause 3 of the Bill defines a government body as a body which is 'controlled by the Commonwealth, a State or a Territory. Clause 4(1)(f) provides that a charity cannot be a government body.

Court decisions over time in relation to the attributes of charitable institutions and public benevolent institutions have generally provided that a body cannot be a charitable institution or a public benevolent institution if it is organised or controlled by government. The case law establishes the inquiry as to whether a body is controlled by government or not should be undertaken with reference to the following questions:

- whether the body is a government body or a purely government body;
- whether it is an emanation of government;
- whether the functions which it performs are regarded as governmental responsibilities; and
- whether the functions its performs are functions undertaken on behalf of government.

(see *Ambulance Service of New South Wales v Deputy Commissioner of Taxation* (2003) 200 ALR 218 at para. [13])

Unfortunately, however, there is always uncertainty as to the extent of control which government must exert over a body before it loses its status as a charity or a public benevolent institution. CCV is concerned that recent court decisions have tended towards finding that bodies established by statute are not charitable or public benevolent institutions on the basis of a small degree of government control inherent in their enabling legislation.

The definition of government body in clause 3(1) of the Bill does nothing to clarify this uncertainty as it merely defines a government body as being one which is 'controlled' by

the Commonwealth, a State or a Territory. By virtue of this definition, the uncertainty in the recent case law is imported into the definition.

CCV submits that the Bill should include a definition of control to ensure that a charity is not found to be controlled by government (and thus a government body for the purposes of the Bill) merely because:

- it is established under an act of a parliament;
- it receives government funding, whether from consolidated revenue or otherwise;
- it discharges or executes government policy;
- it is under an obligation to report to a parliament;
- its board or members are appointed (and can be removed) by the Minister, or by the Governor in Council following a recommendation or nomination by the Minister.

These above factors can be distinguished from circumstances where a statutory corporation represents the Crown and the Minister exercises direct control over its functions, decisions and ongoing operations.

Public benevolent institutions

The Bill does not seek to alter or re-define the common law definition of a public benevolent institution ('PBI'), despite the recommendation in the *Report of the Inquiry into the Definition of Charities and Related Organisations* that the common law definition be replaced with a new concept of 'benevolent charity'. The Report recommended that a benevolent charity be defined as a charity whose dominant purpose is to 'benefit, directly or indirectly, those whose disadvantage prevents them from meeting their needs'.

CCV submits that the Bill should replace the common law concept of a PBI with a new concept of benevolent charity, as suggested in the report. CCV agrees with the conclusion in the Report that the concept of charity and PBI have become blurred. Amendment of the Bill under consideration presents the perfect opportunity to address this issue.

CCV agrees with the recommendation in the Report that the concept of benevolent charity not be limited to those bodies providing 'direct aid' (as is currently the case with PBIs), but that it be extended to cover those bodies that provide indirect aid. Often, defining what constitutes direct aid, as distinct from indirect aid, is difficult and has created uncertainty.

CCV submits, however, that the definition of a benevolent charity should not be defined by reference to 'those whose disadvantage prevents them from meeting their needs'.

CCV considers that a better, and slightly broader, formulation of the concept of benevolent charity should be included in the Bill. The definition of such a charity should be 'a body whose dominant purposes is to benefit, directly or indirectly, disadvantaged or disabled persons, whether their disadvantage or disability occurs by social circumstance, illness or otherwise'. By this definition medical research, with its aim to prevent or cure disease, could be included. CCV submits that the concept of benevolent charity should also adopt

the suggestions above in relation to defining what constitutes government control of such an entity.

Dominant purpose or dominant activity?

CCV considers that the Bill blurs the distinction between activities of charitable bodies and their purposes.

The words ‘purpose’ or ‘purposes’ read narrowly, refers to the particular purpose of purposes of the body in question under its constituent document or enabling legislation. However, in practice, such constituent documents do not always reflect the actual activities of the body in question.

CCV submits that a body’s charitable status should be determined not only by its dominant purpose (under clause 6 of the Bill), but also by the dominant activities in which it engages from day-to-day. For example, clause 6(1)(a) of the Bill could provide that a body has a dominant purposes which is charitable, if and only if, ‘it has one or more purposes that are charitable or engages in one or more activities that are charitable’. CCV recognises that such a definition has the potential to create difficulty in ascertaining day-to-day activities, as distinct from purposes. Further, CCV recognises that defining dominant purpose in this fashion may result in additional organisations being classified as charitable. However, it is submitted that this result is fair and equitable.

Consequential amendments may be required to clause 8 to ensure that activities, and not just purposes, are also covered by this clause.

An alternative is to define in the Bill ‘purpose’ and ‘purposes’ by reference to activities also.

Attachment 1

MILESTONES IN TOBACCO CONTROL IN AUSTRALIA

- 1901** Introduction of federal excise duty on tobacco
- 1906** Victoria's Juvenile Smoking Prevention Act prohibits the sale of tobacco to those under the age of 16.
- 1935** Smoking is banned in cinemas and auditoriums.
- 1950** Relationship between smoking and lung cancer is established by Sir Richard Doll and Sir Austin Bradford Hill, in an article in the British Medical Journal, Smoking and carcinoma of the lung.
- 1957** US Surgeon General identifies smoking as a cause of lung cancer.
- 1962** Britain's Royal College of Surgeons publishes Smoking and Health. This is the first consolidated report by an authoritative British body on the dangers of smoking.
- 1964** The US Surgeon-General's Report confirms that cigarette smoking can cause lung cancer.
UK and NZ ban cigarette advertising on radio and television.
- 1972** The phase-out of cigarette advertising on radio and television begins in Australia.
US Government bans cigarette advertising on radio and television.
License fee of 2.5% introduced on tobacco sales in Victoria, subsequently increased in 1975 (10%) 1983 (25%), 1987 (30%) and 1990 (50%).
- 1973** The first health warning on cigarette packets is introduced in Australia - 'Smoking is a health hazard'.
- 1975** Smoking banned on Victorian metropolitan buses.
- 1976** Advertising of tobacco is banned on radio and television in Australia.
- 1983** Introduction of automatic indexation of excise and customs duty on tobacco, and harmonisation (over next five years) of rates for cigarettes and tobacco.
- 1984** Ministerial review of Health Promotion in Victoria calls for introduction of a Victorian smoking and Health Program
- 1985** Quit Campaign up and running in Victoria.
- 1985** Cigarette packet warning is replaced by four rotating warnings.
- 1986** Phasing out of smoking in Federal workplaces begins.
- 1987** Victorian Tobacco Act is passed phasing out cinema and outdoor advertising; outlawing the sale of "kiddie packs" of 15 cigarettes; increasing penalties on sales to minors; hypothecating tobacco taxes leading to the establishment of the Victorian Health Promotion Foundation (VicHealth).
- 1989** Federal government bans smoking on domestic airlines.
- 1990** Federal government bans all tobacco advertising in the print media in Australia.
- 1991** The Federal Court of Australia rules that passive smoking causes lung cancer, asthma attacks and respiratory disease in young children.
- 1992** New cigarette pack labelling regulations are announced.
Vic state tobacco licence fee is increased to 75% of the wholesale value of tobacco sold.
Real increase in federal excise duty (from \$51.72 to \$67.47 per kilo over next four years)
Federal government bans tobacco sponsorships of sports and arts except for exempted events in cricket and rugby and events of international significance, and most remaining forms of advertising (except point of sale) from 1995.
Liesel Scholem awarded \$85,000 in damages for exposure to tobacco smoke in the course of her work with the NSW Department of Health
- 1993** Implementation of legislation to increase Victorian age to purchase tobacco from 16 to 18 years.
- 1994** ACT introduces first smokefree public places legislation in Australia

- 1995** New health warnings appear on tobacco packages, black on white warnings with a description on the back of the pack
Remaining tobacco sponsorship removed, except for events of international significance.
- 1995** Victorian state licence fees increased to 100%
10% increase in federal excise and customs duty from \$67.47 to \$71.48 per kilo.
- 1997** National Tobacco Campaign launched, and 'Artery', the first of the suite of 'Every Cigarette is Doing You Damage' television advertisements begins airing.
Tobacco franchise fees declared invalid by High Court
- 1998** Victoria's Melbourne Cricket Ground goes completely smokefree.
- 1999** British American Tobacco Australasia formed by the merger of Rothmans and WD & HO Wills, Imperial Tobacco enters the Australian market
Tax implemented per stick rather than by weight increasing the price of large packs in particular
Tasmania Government legislates to ban tobacco advertising at the point of sale
- 2000** VicHealth Centre for Tobacco Control established.
Smokefree dining introduced in New South Wales.
GST implemented increasing price of (50%).
Severe asthma attack caused by exposure to cigarette smoke while she was seated in the non-smoking section of a Melbourne restaurant.
- 2001** Federal Government announces the phase out of tobacco sponsorship of internationally significant events by 2006
Quit Victoria, together with the Victorian government, launches a campaign to encourage parents to stop smoking.
Smokefree dining introduced in Victoria and Tasmania. Smokefree shopping centres introduced in Victoria
Victorian legislation introduced to ban advertising at point of sale and reduce the number and amount of display space for tobacco packs. Mobile retailing banned along with gifts together with tobacco packs.
- 2002** Former New South Wales barmaid Marlene Sharp awarded \$466,000 in damages by a New South Wales Supreme Court jury for the development of throat cancer from exposure to environmental tobacco smoke whilst working in the Port Kembla RSL and Port Kembla Hotel.
- 2003** Rolah McCabe becomes the first Australian to successfully sue a tobacco company, British American Tobacco Australasia, for lung cancer caused by smoking. The defence was struck out as key documents required for the case to proceed had been shredded and she was awarded \$700,000 in damages. This was overturned on appeal and is being appealed by Ms McCabe's lawyers.
Smokefree gambling introduced in Victorian hotels and clubs, licensed venues with more than one room must provide a smokefree alternative.
Federal government announces review of the Tobacco Advertising and Prohibition Act.
Federal government undertakes a review of health warnings and considers graphic pictorial warnings.

Martin, J *Tobacco Control in Australia*, **Can Stat**; **36**; Jan 2002, p14-15