

WHY THE GOVERNMENT SHOULD STOP HARASSING THE TOBACCO TRADE

BRIAN MICKLETHWAIT



A Report Submitted to the Home Secretary, the Minister of Health
and the British Medical Association



INTRODUCTION

On Monday October 16th 1984, the British Medical Association announced that it wanted cigarette advertising banned.

It was in response to this announcement, and the growing cacophony of demands for restrictions on, even the outright banning of, smoking that the Libertarian Alliance submitted a report, written by Brian Micklethwait, to the Home Secretary, the Minister of Health and the British Medical Association.

WHY DEFEND SMOKERS AND THE TOBACCO INDUSTRY?

Why are we going to the effort of defending the rights of tobacco smokers and manufacturers? Even those who accept the view that individuals have a right to smoke, and businessmen to supply them with the means of so doing, frequently see the issue as a relatively minor one. In my view it is not. The growing campaign against the right to smoke is part and parcel of two much broader, and undoubtedly significant, movements.

The first is the hysterical campaign against drug addiction in general. Tobacco is indeed a drug, and in some respects a more harmful one than many of those at present legally prohibited. It is not surprising that paternalists and authoritarians of all political stripes should extend their campaign against currently illegal substances to those traditionally socially accepted in the West.

The second is the hubristic "imperialism" of the medical profession. Nineteenth century libertarians were never more prescient than when they predicted the overbearing arrogance of the "professionalised" expert, ever ready to set him/herself up as the coercive guardian over the lives of ordinary people.¹ It is thus the British Medical Association, the ne plus ultra of closed shop monopoly privilege and arrogance, that almost weekly issues demands for curbs on individual free choice.

PROFIT AND PRINCIPLE

The Libertarian Alliance will undoubtedly be accused of being in the pay of the tobacco industry. Would that it were so. We would certainly be happy to accept any financial assistance they would care to offer. But in fact they ran a mile when confronted with the sort of analysis contained in this report. Like most businessmen they will not think in terms of principles. And this is why, if left to

themselves, they will lose. They will not accept a defence of their industry which is argued in terms of principles because such principles would obviously apply to the "taboo" drugs as well. But no amount of embarrassed evasion on their part can conceal the fact that tobacco is a drug and that the only coherent defense of the individuals right to consume it, and of others to manufacture it, applies to all consciousness altering substances, whatever their degree of harmfulness.

The exponents of restrictions on and/or banning of tobacco realise this well. "In terms of addiction and sheer physical agony", writes the Socialist Paul Foot, "tobacco is far more harmful" than other drugs.² Freedom is always menaced most when it is faced by a combination of the "right" (the BMA and assorted paternalist health experts) and the "left". The left, as well as joining in the current social panic over heroin and cocaine has seen another opportunity to target the "big boys" (Foot's phrase) of capitalism and to establish the principle of state dictation. In the words of Paul Foot: "Socialism is founded on the notion of social responsibility. Drugs which are obviously a menace to physical and mental health must be discouraged and, in extreme cases, outlawed."³ Social responsibility is, of course, simply another nice sounding phrase, so beloved of socialists, for the state bossing people around - for their own good, of course.⁴

Libertarians should view the growing campaign against the rights of smokers for what it is — a matter of principle. A common way to establish the hegemony of particular principles is to fight on apparently minor issues. A victory therein renders the extension of ones principles to major issues more likely. The advocates of paternalism and statism certainly realise this. The growing success of their campaign against smoking bodes ill for individual liberty in general. But likewise, should a counter attack prove successful it could well popularise the libertarian concepts of moral freedom and self-ownership.

We hope that this report will provide a source of rigorous arguments to those who oppose this latest manifestation of the "nanny" state — and a realisation that if they wish to oppose such "nannyism" on smoking, they can do so only by a principled support of freedom for all.

We have also added here the replies we received from the Departments of Health and of Trade. Typically, the British Medical Association did not see fit to reply or even acknowledge the report.

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FOR LIFE, LIBERTY AND PROPERTY

1. See Chris R. Tame, *Prostitution, The Free Market and Libertarianism*, Libertarian Alliance, London, 1985, p. 1 and footnote 4, p. 3.

2. Paul Foot, "No Smoke Without Profit", *Socialist Worker*, 1 June, 1985, p. 4.

3. *Ibid*, p. 4.

4. Which is bad when done in "capitalist" society, but alright when done in a future socialist society - for the good of the community. The approach of the Socialist Workers Party to the whole subject of drugs is representative of their political approach in general, and of its honesty. See their feature on drug addiction in the 24 August, 1985 issue of *Socialist Worker*. A detailed critique of the socialist position will be found in a future LA pamphlet, *The Case For Moral Freedom*.

WHY THE GOVERNMENT SHOULD STOP HARASSING THE TOBACCO TRADE

BRIAN MICKLETHWAIT

Smoking makes me sick. This is not a metaphor. It literally makes me ill, both when others do it near me and on those very rare occasions when I am persuaded to do it myself. When I go by train, which is often, I always use a non-smoking compartment. Because of all this, and because I am the kind of person who wants to feel proud of what he does rather than just pile up money, I do not work for the tobacco trade.

Nevertheless, it seems to me that the attack on smoking has got out of hand. Principles and practices which I greatly value are, via the campaign against smoking, being attacked in dangerous ways by thoroughly dangerous people. Some of the attackers do not care one way or another about principles. They just want to curb smoking. But others are quite consciously opposed to the principles that I will shortly be defending, and are using the smoking debate to attack these principles. Then, when the vital points of principle have all been conceded, the attack switches to other less disreputable trades. The cure for this is that all who have the nerve for it must insist that the makers, sellers and smokers of tobacco should be the subjects and beneficiaries of exactly the same legal principles and civil liberties as the rest of us. It's far more socially acceptable to go in to bat for the Roman Catholic Church of Poland, for the black victims of Apartheid, or for a journalist who is refusing to reveal his sources, than it is to put in a good word for the tobacco trade, but for now I'm going to forget about that.

HARMFULNESS DOES NOT JUSTIFY GOVERNMENT INTERFERENCE

Let me start where I started first, with the fact that smoking makes me sick. According to the anti-smoking propagandists it makes those who do it regularly even sicker, often fatally so. Whenever a moral atmosphere becomes established, certain truths become unmentionable, and I have no doubt that there are scientific researchers who have discovered that smoking is actually, in some ways, less harmful than it is made out to be, but who, valuing their lives and front gardens, have kept quiet. I once attended a CND meeting where a woman in the audience queried the statistics that one of the speakers had used, and thus argued that nuclear explosions are not as terrible as the speaker had claimed. She was almost lynched. Nevertheless, I do believe that smoking, like nuclear explosions, can be harmful to health, and in some ways and for some people very harmful indeed. This is one reason why I have made no effort to overcome my physical revulsion to smoking. Another reason is that smoking is addictive, or so I have been told and persuaded.

But the above facts, if facts they are, do not justify the government interfering in the tobacco trade. If people kill themselves by smoking that is their look out. People should, I insist, be allowed to do things that are physically harmful, provided that they harm only themselves. If they become addicted to smoking and are subsequently unable or unwilling to kick the habit, bad luck. If tobacco salesmen were in the habit of kidnapping people, strapping them into chairs and forcing them to smoke cigarettes

Brian Micklethwait is a regular writer and editor for the Libertarian Alliance, and articles by him have also appeared in a number of other publications, including *Economic Affairs*, *The International Journal of Advertising*, *Gay News*, *Freedom*, and the Norwegian libertarian magazine *Ideer Om Frihet*.

like so many rabbits in a cancer lab' then indeed the forces of law and order should be summoned, just as they should if I were to kidnap you and then beat you up (or for that matter kidnap you and force you to listen to Mozart piano concertos). But this isn't what is happening. The people who buy cigarettes choose to buy them. They are not forced to.

So am I, says the anti-smoking lobbyist, in favour of legalising cannabis trading, regardless of whether or not it is harmful? (He often is!) And what of heroin, which definitely is very addictive and very harmful, unless we have all been grievously deceived? Does my "bad luck" principle let them off the hook and into the market place as well? Indeed, yes. On the other hand I am very unradical about another very dangerous and addictive drug, alcohol, in which I quite often indulge and which I definitely think should remain legal. I am even more partial to coffee, which is also mildly addictive, and believe that this too should remain legal, as should other potentially addictive and hence socially disruptive activities like sex, golf, microcomputing and listening to the music of Richard Wagner. In fact rather than allow myself to be backed gradually into the corner labelled "liberty" let me proudly plant myself there. I think people should have the right to cut their own wrists.

THE ALLEGED NEED TO BE PROTECTED FROM OURSELVES

But don't people need to be protected from themselves?

This word "need" invariably rears its ugly head whenever anyone is suggesting reductions in individual liberty. People may "need" all sorts of things, but this in no way entitles the government to give them what they "need" and then land the rest of us with the bill.

But what of the bill if these needs are not met, if people are simply allowed to carry on smoking regardless? People who damage themselves, whether by cutting their wrists (clumsily) or by smoking, have to be looked after. Those who don't smoke are forced to pay for gigantic research efforts into bronchitis, lung cancer and so on, merely for the benefit of those who do. Answer: such coercive funding should cease. People should be free to smoke, and they should then have to live (or die) with the consequences; consequences in pain, medical insurance costs, and in the form of people who say that kissing them is like kissing an ash tray.

My God! (The anti-smoking man is now very excited.) You don't care about needs. You think old age pensioners racked with cancer should be left by the government to die. Where does all this leave the Welfare State? Answer: in the dustbin of history where it belongs. The absolute best way to provide anything is for fat, rich, vulgar, Rolls-Royce flaunting (cigar smoking) capitalists all competing with each other like dancing dervishes to be in charge of the entire business, and for the government to get clean out of it. This is as true for health care as it is for food, cars or surf boards, and it is a tragedy that the law in all countries now prevents this from being obvious. What! Is capitalism best even for the very poor? Especially for the very poor.

HOSTILITY TO CAPITALISM

In an earlier draft of this the above sentences in praise of capitalism were in brackets, signalling that they were a digression. Yet hostility to capitalism as such is central to the whole smoking

debate. Many of the anti-smoking lobbyists are hostile to the tobacco trade not just because they are hostile to tobacco, but because they are even more hostile towards trade. Trade is even more wicked, they hint, when it is international.

The truth is that trade is an excellent thing, even when international, and that it is even excellent when — sin upon sin — it is conducted by a multinational corporation. Multinational corporations, however large and however smoothly run and cleverly advertised, are also excellent things, for they are built on the voluntary acts of free people. This is true even of multinational tobacco corporations which sell their products in the Third World, a place notorious for the number of “needs” it contains and hence excuses for trampling on individual liberty. Should tobacco corporations be allowed to peddle their products, as they are now doing with such success, to educationally disadvantaged Africans? Answer: yes.

To explain with any eloquence why, I must speculate about the benefits people get from smoking. Smoking provides, I suggest, a soothing, easing, calming effect. It bestows poise, social ease, a feeling of being on top of things rather than at the mercy of events. It may only have effects like this because the smoker thinks it does, or because it gives him something to do with one of his hands, but such poise is real enough, for if you feel poised you probably are. When smoking was at the height of its popularity in the rich countries, this was why people like The Saint and Sherlock Holmes used to smoke, and I’m sure it’s just the same in poorer countries now. Equally, in poor countries now as here in the past, the question of what smoking would do to you when you got to be eighty was very academic, because if smoking didn’t get you by then something else almost certainly would.

THE INDIRECT ATTACKS ON SMOKING

Although the tobacco trade in the rich countries is now in decline, it is not yet illegal, and if people can be persuaded to proclaim and agree with arguments like mine it will stay legal. But there are other ways of getting at smoking. One of the most serious diseases now caused by smoking is cancer of the wallet. Taxes on smoking (somewhat over 5 billion a year) are of the same order of magnitude as the total bill for the National Health Service (over £16 billion — much of it wasted), so no government is likely to kill this particular golden goose. But no group of traders and customers should have to pay protection money on this extortionate scale, and in my opinion taxation should be done away with altogether, on all products. If people want any of the services now provided by governments let them buy those services, just as they now buy cigarettes. Meanwhile I note that the taxes paid by smokers make nonsense of the claim that the rest of us have to pay for them to be looked after.

Even more insidious have been the attacks on the tobacco trade’s freedom of expression. There is a huge battery of government controls on what cigarette advertisers may say and where they may say it, all of which should be scrapped. Worse, every cigarette poster and packet must contain a strip of anti-smoking propaganda in the form of a government health warning. This really is outrageous. People who think smoking is harmful to health and want to say so should pay their own advertising bills. They always claim that this would be too expensive, and that the big, bad, rich tobacco barons would have the argument all to themselves. But one effect of advertising is to create a strong interest in the other side of the story, which the media people are then glad to proclaim at no cost to those telling it. Much the most forceful anti-smoking propaganda has been printed free of charge in the editorial columns of newspapers.

Anyway, the belief that no money is to be made criticising smoking is false. Insurance companies, speaking with all the eloquence of anyone who is talking to you via your bank account and entirely for their own money-making reasons, circulate very hard-hitting anti-smoking messages, in the form of varying insurance premiums for smokers and non-smokers. Insofar as doctors are paid to keep people healthy, rather than just for treating people when they get sick, then they too spread the same message, assuming they agree with it. Insofar as government enforced professional codes of practice, libel laws, and so on, inhibit such muck spreading,

then these curbs should also be scrapped. In this matter as in so many, restrictions breed more restrictions, while a determined effort to keep certain freedoms even if they appear dangerous soon reveals other freedoms which don’t exist but should, and which might solve the problems seemingly caused by the original freedoms.

A standard argument against any kind of advertising is that it is liable to influence children. It certainly is. Yet even supposing that it were desirable to prevent this, could it be done except by hiding most advertising from adults as well? Actually, the more children are exposed to the big, bad outside world the better they learn to cope with it; the more they take its crazier claims with a pinch of salt. Conversely, to treat children all the time “like children” is to make them permanently infantile. Whereupon, naturally, further demands are heard to the effect that adults should also be treated like children. There is far too much of this already.

THE BENEFITS OF ADVERTISING, AND OF PROPERTY

Much cigarette advertising consists only of reminding smokers of the continuing existence of certain brands. Much to the annoyance of their critics, the cigarette traders now do this not only with posters but also by sponsoring symphony orchestras, snooker competitions and the like. Even this castrated form of advertising serves a useful purpose. Smoking any cigarette may eventually kill you, but the smoker is right to assume that with all this money being spent boosting them he is unlikely to be killed straight away by any of the big name brands. Speaking generally, brand names do far more for consumer safety than government regulations ever have. Traders want you to buy their goods again and again, which won’t happen if your first bite (or puff) kills you, or even if you are merely one of millions who read about such an event in the newspapers. When those poor old folk died of botulism from eating a tin of a famous brand of salmon the impact on the sales of this brand was catastrophic, which is why the makers of branded goods always try like hell to prevent this kind of thing. If all cigarette advertising were banned, even of brand names, then brand loyalty would be impossible and money spent making any particular brand of cigarette safer would be money wasted. The next step would be to make it illegal to profit from these now genuinely lethal products, and it would only be possible to get them from doctors. Even if smoking itself remained legal these measures alone would be enough to hand the entire business over to gangsters. Prostitution is “legal” now, but you can’t advertise it without ludicrous euphemisms or profit from it on any scale so the gangsters (who specialise in ignoring legal rules — this is their trade) run that too.

Another tactic for getting at smoking is to increase inexorably the number of places where smoking is banned. Insofar as such bans are imposed by property owners of their own free will, or in response to demand from non-smoking customers like me then I welcome such changes. But banning smoking in all “public” (that is, publicly owned) places would, I think, be wrong. Smokers are members of the public too, who pay their taxes (through the nose). The proper answer to this dilemma about publicly owned places is that there are far too many of them. When anything is “publicly” owned it isn’t really owned at all. All the arguments about exactly who may do exactly what in them become in essence insoluble and in practice solved by the people with the most political pull winning out against the rest. Traditionally politicians have favoured smoke-filled rooms, but this could well change. The institution of property is a better way than politics of settling such disputes, because although the numerous, the high and the mighty get most of it others get their smaller bits too, and also because there is much less futile wrangling. There should be different smoking regulations (and different prostitution, picketing, music-making, horse-riding and hitch-hiking regulations) in different “public” places, according to the varying preferences of the owners and differing tastes of their customers.

THE TACTICS OF DEFENDING SMOKERS’ RIGHTS

I do not know what tactics the tobacco traders should use to defend their business. If they want to print a billion copies of this pamphlet and give them away with the next twenty billion

cigarettes they sell, they are more than welcome. If they want to pay me, fine. The more the merrier. On the other hand, is it wise for them to get into arguments about legalising heroin, abolishing taxation, selling off Hyde Park, and about the immense ethical superiority of capitalism when compared to tyranny? And would they want to pay someone who even hints that smoking could make anyone feel less than ecstatically healthy? Probably not.

Also, would tobacco traders really want all the government created obstacles now strewn in their path to disappear overnight? This I also doubt. Since their expertise consists partly of knowing all about such things, better than potential competitors who know only about how to make cigarettes, not even this is probable.

On the other hand, to concede that the Welfare State is marvellous and that they are just proud as Punch to be paying for it all, and to admit that, yes, people do have to be protected somewhat and that of course some regulation is necessary, and

that "no one is arguing for complete freedom", etcetera etcetera, is also very dangerous, it seems to me. Too often the argument is allowed to consist entirely of claims and counter-claims about whether smoking is or is not dangerous, and then once it is agreed that like everything else that is any fun it does have its risks the rest of the territory is overrun, when in fact it can and should be stoutly defended. On the other hand, the tobacco barons may calculate that for all its political pitfalls, to have people arguing for freedom with all guns blazing may at least somewhat slow the steady drift away from it, and thus that pieces like this one are on balance helpful to them. I don't know.

What I do know is that we who value freedom first, and tobacco second or less or not at all, must be ready to argue for freedom for smokers and for tobacco traders as for everyone else. Freedom never vanishes all at once. To defend it you have to draw the line in the right place from the start and then hold that line, no matter what company you find yourself keeping.

REPLY FROM THE DEPARTMENT OF HEALTH AND SOCIAL SECURITY

From: Department of Health and Social Security
Alexander Fleming House
Elephant and Castle
London SE1 6BY

To: The Secretary
Libertarian Alliance

17 December 1984

Dear Sir

I have been asked to thank you for and reply to your letter and enclosures of 31 October to the Minister for Health and the Parliamentary Under Secretary of State (Health) about Smoking. While a number of points were raised the main burden of your letter was in support of the freedom of the individual and that of the tobacco industry.

I am sorry that your organisation considers that action by the Government aimed at reducing smoking is unjustifiable interference with both the commercial activities of the tobacco industry and the liberty of those who wish to smoke. It is of course the case that except on radio and television, tobacco companies in this country are free to advertise cigarettes but in view of the established facts about smoking and health, both the government and the medical profession would be failing in their duty if they did not make every effort to inform people of the danger and discourage them from smoking.

Thus, while acknowledging that people have the right to choose whether or not to smoke, the government has a responsibility, through its health education policies, to ensure that nobody does so without being aware of the health hazards involved. These policies are of course backed up by voluntary agreements between the government and the tobacco industry.

The government's policy is not to dictate what people and industry should, or should not do but rather, through persuasion and education, to alert the public to the dangers of smoking and thereby seek to prevent children and young people, the most vulnerable in our society, from taking up the habit and to encourage existing smokers to give up.

Yours sincerely,

F. A. Lindsay

REPLY FROM THE DEPARTMENT OF TRADE AND INDUSTRY

From: Department of Trade and Industry
Chemicals Textiles & Paper Division 2B
Room 615
Ashdown House
123 Victoria Street
London SW1E 6RB

To: The Secretary
Libertarian Alliance

27 November 1984

Dear Sir

Thank you for your letter of 31 October addressed to the Home Secretary — to which I have been asked to reply — and for enclosing a copy of your report *Why the Government Should Stop Harassing the Tobacco Trade*.

You might like to know that the Department of Trade and Industry regards the manufacture of tobacco products as an industrial activity like any other, to be judged according to purely commercial criteria. However, the Government feel they have a responsibility to make the public aware of the potential dangers of smoking and to restrain the more obtrusive forms of cigarette advertising, and to this end the Department of Health and Social Security has negotiated a series of voluntary agreements with the industry.

Yours sincerely,

Rosemary Sim