

Smoke-free Air in France: A campaign case study

Introduction

France is one of a growing number of countries¹ that has instituted comprehensive national smoke-free regulations that cover virtually all indoor work and public places. While the law does allow for designated smoking rooms (DSRs), the rules for creating them are so onerous² that very few have been built (the tobacco industry has paid for a few rooms at large venues frequented by young people, such as discotheques). Both compliance (97%) and public support (88% among smokers) for the law is very high, and there has been a parallel increase in the number of smoke-free homes (from 23.2% to 37.2%).³

Strangely, prevalence has actually increased by about 3%⁴ since the law came into effect, to about 31% of adults. This is perhaps due to the failure to fully implement other aspects of the WHO Framework Convention on Tobacco Control (FCTC), such as high taxation, countermarketing, and advertising restrictions. In early 2014, President Hollande announced a 10-year plan to reverse this trend, including higher taxes, public education, and cessation aid. The government is also studying the possibility of instituting plain packaging.

National context

France has its own unique cultural attachment to tobacco use, strongly connected to its “café culture.” Some of the most popular brands of cigarettes are targeted specifically at French smokers. As in many societies, smoking was glamourized, especially in the first half of the 20th century, using popular cultural icons, and was equated with freedom and youth. Cigarette brands also appealed to nationalism and portrayed chain smoking harsh, filterless cigarettes as something uniquely French. Among the most popular brands is Gauloises, a reference to the Celtic people who once occupied what is now France.

¹ As of the end of 2013, the Global Smokefree Partnership lists 25 countries with comprehensive smoking prohibitions in all indoor work and public places (or subnational laws that cover at least 90% of their respective populations). France is one of 13 additional countries with strong smoke-free laws with limited hospitality exemptions. See www.globalsmokefreepartnership.org.

² DSRs can be no more than 35 square meters, must be negatively pressured with automatically shutting doors, and no work staff may enter until an hour after any smoking has taken place. Circular of November 29, 2006, Concerning the Prohibition of Smoking in Places of Common Use, Part 2, Section III.

³ Fong GT, Craig LV, Guignard R, Nagelhout GE, Tait MK, et al. (2013) Evaluating the Effectiveness of France's Indoor Smoke-Free Law 1 Year and 5 Years after Implementation: Findings from the ITC France Survey. *PLoS ONE* 8(6): e66692. doi:10.1371/journal.pone.0066692.

⁴ *European Tobacco Control Status Report 2014*, World Health Organization Regional Office for Europe, available at <http://www.euro.who.int/en/health-topics/disease-prevention/tobacco/publications/2014/european-tobacco-control-status-report-2014>.

Local governments do not have the constitutional right to implement smoke-free laws in France, leaving a national “top-down” approach as the only option. France has a strong history of civil protest, making it very difficult for the national government to move forward with legislation that is unpopular. Public education is therefore a vital precursor to enacting sweeping tobacco control laws.

Until fairly recently, France had a state-owned national tobacco monopoly, SEITA. In 1993, the government negotiated the sale of SEITA to Altadis. While most French brands remained on the market, production largely moved out of the country. Today, the tobacco industry still enjoys strong ties to the French ministries of finance and budget. As in many countries, there is a “revolving door” culture of tobacco industry executives moving in and out of the government.⁵

Background

France’s first attempt to enact smoke-free spaces occurred in 1991, even before California’s trend-setting move. Called the Évin law, it was visionary for its time. The most successful aspect was a ban on tobacco industry marketing, among the first such laws in the world, and comprehensive enough to be considered in compliance with Article 13 of the World Health Organization Framework Convention on Tobacco Control when it came into force in 2005.

Unfortunately, the smoke-free aspect of the Évin law was poorly thought out and drafted, and was largely considered a failure. The rules were vague, called for little more than smoke-free sections, and were poorly enforced.. The law aimed at accommodation of both smokers and nonsmokers, but failed to adequately separate the latter from the former. The result was a widespread failure to even attempt to follow the law, and citizens continued to smoke even when tables were marked “non-smoking.” For more than a decade, the public health community did not consider France to have a valid smoke-free law.

Another important facet of the Évin law that would eventually come into play was an enforcement mechanism that gave recognized civil society organizations (CSOs) the right to bring legal action against corporations that failed to implement the law. This right lay largely dormant until France’s 2004 ratification of the World Health Organization Framework Convention on Tobacco Control (FCTC). The FCTC, as well as the implementation of national smoke-free laws in neighboring countries, renewed the national discussion on smoke-free air.

Civil society strategy

⁵ Interview with Pascal Diethelm, July 2, 2014, Vice President, Comité National Contre le Tabagisme (CNCT).

France was among the original 40 countries to ratify the FCTC in 2004 and bring it into force in early 2005. At that time, there was a large number of CSOs concerned with the tobacco epidemic, but they were splintered and they did not always speak with the same voice. One organization, the Comité National Contre le Tabagisme (CNCT), successfully pushed for the formation of a national alliance around the smoke-free question in 2004.

The national tobacco control alliance was fortunate to be headed by Yves Bur, a high-ranking member of the ruling political party, a member of parliament, and a personal friend of then-President Nicolas Sarkozy. Mr. Bur understood tobacco control very well, and indeed often attended FCTC meetings on behalf of France. He was also a veteran politician and understood the mechanics of government from the inside. His first priority, and success, was to convince the tobacco control CSOs to put aside pet projects and focus with one voice on the smoke-free air issue.

In addition to the FCTC, the catalyst for seeking stronger smoke-free air provisions came from European neighbors. In 2004, Ireland became the first country in the world to ban smoking in all indoor work and public places. At the time, critics felt that Ireland's "pub culture" would never accept the ban, but it was quickly shown to be successful, with a high compliance rate and overwhelming public support. In 2005, Italy followed suit with a somewhat less comprehensive law. Again, critics said that Italians would never comply with the law. CNCT joined a group of members of the French parliament on a fact-finding tour of Italy, and were surprised to learn that not only was the law largely obeyed, but the Italian public was highly supportive. Many members of parliament felt this boded well for the success of French smoke-free air.

During the same period when Ireland's 2004 law was receiving global media attention, a young bartender in France, with no connection to public health groups, complained publicly about his involuntary exposure to secondhand smoke. French media represented him as the voice of millions of workers who had to choose between their jobs and a known health hazard. A few months later, a café worker went further – she brought a lawsuit against her employer, arguing that he had a duty to assure the intended result of the smoke-free aspects of the Évin law, i.e., protection for nonsmokers. The employer argued that he had put up no-smoking signs, but that his clientele ignored them. The case made its way to France's highest court (the Court of Cassation), which in June 2005 ruled for the employee. The verdict had a profound effect on the hospitality industry and among politicians. Many venues began enforcing the Évin law, although with some difficulty due to its vagueness. The litigation convinced nearly everyone that the status quo was unworkable.

Another key result of the litigation was the recruitment of many members of the hospitality industry to the side of the national smoke-free alliance. By the end of 2005, the head

of the trade association representing cafés, restaurants and hotels publicly supported stronger smoke-free rules, seeing it as a matter of improving the quality of service to customers. Some of CNCT's meetings were even held at the trade association's headquarters.

Passage of new smoke-free rules

In June 2005, the same month as the legal decision, CNCT and its allies – including the French Academy of Medicine - publicly called for a complete smoking ban in all indoor work and public places. A national public opinion poll showed strong support, and most members of Parliament began to see it as not only inevitable but as an easy political win, especially since the cigarette market was dominated by foreign multinational organizations.

Soon after CNCT's move was timed just before the ministry of health released the results of a long-term study of the impact of secondhand smoke, concluding that only a comprehensive ban could properly address the dangers. Parliament set up a review committee to address the issue, which included both civil society and the tobacco industry. The committee recommended an indoor smoking ban, but was faced with two paths to achieving it:

- a) Pass a new law to replace the smoke-free aspects of the 1991 law, which would take time and allow the tobacco industry to use its influence to derail the effort; or
- b) Ask the government to issue a decree to fully implement the 1991 law, which would mean some accommodation for smokers.

The government chose the latter path, and in 2006 issued its decree, including the allowance of dedicated smoking rooms. However, the definition of an acceptable smoking room was made so strict that it was dissuasive for individual owners to implement. The requirements include:

- Maximum area of 35 square meters;
- No service, i.e., no workers required to enter;
- A negative pressure air ventilation system;
- Doors that automatically shut;
- No cleaning by work staff until at least an hour after the last smoking takes place.

As a result, very few hospitality venues in France today have dedicated smoking rooms.

The law came into effect for most workplaces in 2007. Hospitality venues were given until 2008 to come into compliance.

Public education

In spite of the popularity of the smoke-free decree, the French public in 2004 was relatively ignorant of the health dangers of secondhand smoke, seeing it as merely an annoyance or inconvenience. The French government had never attempted much public education on the topic, even in the period between the 2006 decree and its entry into force. New laws in Ireland and Italy, as well as litigation, prompted extensive media coverage, but little of it was focused on the health effects of secondhand smoke.

In 2006 CNCT published and printed 100,000 brochures to send to hospitality venues to educate them on the new decree, but this did not reach the general public. What was needed was a national television campaign to sensitize the public to the harms of secondhand smoke. In spite of some funding from the ministry of health, the national alliance did not have the funds for such a campaign. They solved the problem by utilizing the litigation rights given to civil society under the original 1991 Évin law, suing television broadcasters for violating the ban on tobacco marketing by televising events sponsored by the tobacco industry. The broadcasters settled – they agreed to no longer run any tobacco industry advertising, promotion or sponsorship, and to give free air time to CNCT as well as funds to produce public health ads.

Conclusion and lessons learned

Every jurisdiction is unique, and the most successful smoke-free air campaigns are run by organizations who fully understand local culture and politics. Smoking was deeply rooted in French culture, and the level of public understanding of the health hazards of smoking and exposure to secondhand smoke was low, even just a decade ago. To many critics, the failure of the 1991 Évin law to curtail public indoor smoking was proof that French culture was simply not ready for smoke-free air. The completion of the FCTC and the passage of national smoke-free laws in Ireland and Italy forced the issue to resurface, and civil society grabbed the opportunity.

While there can be no “script” for a successful smoke-free air campaign, the French experience included a number of tactics that may be universally employed:

Ensure that campaigners speak with one voice

By providing leadership and reaching out early in the campaign, CNCT was able to bring virtually the entire French public health community, including organizations with broader portfolios than tobacco, on board and pushing toward the same goal. For policy makers as well as the media, this made the choice much clearer. It also removed one of the tobacco industry’s favorite tactics – to find and support a weak proposal in order to prevent a strong measure. This alignment is particularly important in a country like France, in which the secondhand smoke issue could only be addressed at the national level, where the tobacco industry is strongest.

Recruit high profile champions

The national smoke-free alliance included on its board several individuals of national prestige, including members of Parliament with ties to the ruling party. In addition to the obvious advantage of direct access to decision makers, such “grass tops” champions are more likely to garner media attention, and can act as a counterforce to tobacco industry infiltration of government ministries.

Recruit allies from outside the public health community

Early on in their campaign, civil society was able to bring segments of the hospitality industry to their side. The 1991 Évin law gave public health organizations the right to litigate over failure to enforce smoke-free rules, but CNCT and others were careful not to use this weapon against hotels, restaurants and cafés, in order to recruit their owners as potential political allies. Private litigation convinced many owners and the national hospitality trade organization that change was needed. This private litigation not only added a powerful voice to the national smoke-free alliance, it removed a traditional ally of the tobacco industry. In most jurisdictions in the United States, the hospitality industry has been a major barrier to smoke-free air campaigns.

Work closely with public health officials as well as the medical community

The tobacco industry enjoyed a “revolving door” relationship with the French ministries of finance and budget, rendering those ministries less open to stronger tobacco control regulations and giving a “voice” to the tobacco industry in the cabinet. To counter this advantage, CNCT worked closely with the ministry of health and with national medical organizations, who supplied scientific weight to civil society’s advocacy as well as public credibility. In addition to medical studies, CNCT provided economic rationales to counter industry claims of the potential negative consequences of smoking restrictions.

Demonstrate public support

In spite of its relative ignorance of the health threats posed by secondhand smoke, much of the French public did view exposure in public places as a nuisance. One of CNCT’s earliest actions was to pay for a national poll demonstrating support for a stronger national smoke-free law.

Utilize litigation as a tool for public health

French civil society enjoyed a legal right to use litigation to enforce France's original smoke-free law, which they used strategically to raise public awareness and to press for stronger enforcement. Private litigation also played a key role in educating the public and convincing the hospitality industry that the status quo was untenable.

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