

Thank you for inviting me here to speak with you – it's great to see so many leading lights in non-communicable disease prevention both in Australia and the world.

I wanted to spend my time with you today to speak about a health issue that I know that you are passionate about and that the Government is absolutely committed to reducing death and disease from, and that is tobacco.

We want to help protect Australians. That is why we are prepared to lead the world on tackling smoking.

Tobacco is not like any other legal product. When used as intended, it is lethal.

Despite Australia's success in reducing smoking rates over recent decades, tobacco remains one of the leading causes of preventable death and disease among Australians, killing over 5,000 Australians each and every year.

It is therefore incumbent on us to do all we can to stamp it out.

Take the story of Luke Elliot from Western Australia, who features in one of our most recent antismoking TV campaigns. Luke's story is about his father Neil. Neil was a pack-a-day smoker who developed lung cancer as a result. Neil was very sick from his cancer, but determined to live to see the birth of his first grandson, James. But sadly, Neil passed away one month before James was born.

Luke's story is heartbreaking. But sadder still is that Luke's story is only one of 15,000 such stories that play out in families and communities around Australia every year, because that is how many people still die each and every year in Australia from smoking related diseases. That is 15,000 people who do not get to see their son or daughter married, or their first grandchild born. That is 15,000 reasons to act, because by not acting, we are killing people. If we did not do all we could to tackle a known killer, we would be ashamed of ourselves.

Globally, the World Health Organization estimates that nearly six million people die from tobacco related illness each year, most of them in low- and middle-income countries. About three million Australians continue to smoke every day.

Australia has had success over the years. Australia recognised the malign influence of cigarettes early and has made significant progress in reducing the smoking rate. Over the years the Commonwealth, State and Territory Governments together have prohibited advertising, removed sponsorships, restricted point of sale displays, and outlawed smoking in restaurants and many public places.

Thanks to increasing efforts by governments, the proportion of Australians aged 14 years and over who smoke each day has fallen from 30.5 per cent in 1988 to 15.1 per cent today – one of the lowest in the world.

However about 3 million Australians continue to smoke every day – so there is more that can and will be done.

Smoking is also more concentrated among people in disadvantaged groups, and entrenches disadvantage by entrenching ill health. Naturally a Labor government is concerned by the harm caused in these groups.

For example, the adult daily smoking rate among Australia's Aboriginal and Torres Strait Islander people – at 47 per cent – is more than double the whole of population smoking rate and is estimated to contribute 17 per cent of the large life expectancy gap between Indigenous and other Australians.

When we first came to office our Government committed to closing the gap in life expectancy between Indigenous and non-Indigenous, but we cannot do that without reducing their smoking rates.

That's why the government is making a record investment in helping Aboriginal and Torres Strait Islander communities to tackle smoking – through indigenous tobacco workers and the first ever advertising campaign for the indigenous community. The daily smoking rate among other disadvantaged groups also

remains unacceptably high. It is around 28 per cent among unemployed people and 35 per cent for people with mental illness. And tragically, over 40 per cent of pregnant teenagers.

These statistics and the tragic stories that lie behind them, are the reasons that the Labor Government has always considered tobacco control a key component of our preventative health agenda.

I specifically asked the Preventative Health Taskforce to consider tobacco control a priority and when it delivered its report to Government many asked how we would consider the bold, some said courageous, recommendations to act decisively to reduce tobacco use. In developing the Government's response to the report and marshalling that through cabinet, there was a collective sense of desire to do the right thing and make a significant public health step for this country.

It was not a naïve decision by Government, we knew that our decision would attract a hostile campaign from the industry and be unpopular in some quarters. However the statistics, the victims and the survivors all tell a compelling story.

That is why in April 2010 the government announced a comprehensive Anti Smoking Action package aimed at delivering on our commitments to reduce the smoking rate to 10 per cent by 2018 and to halve the rate of smoking among Indigenous Australians over time.

The Government's action has been comprehensive. Elements of the package include:

- the 25 per cent tobacco excise increase introduced on 29 April 2010—this has seen tobacco clearances fall by 8.8 per cent over the last 11 months;
- additional funding for Quitline;
- record investments in antismoking social marketing campaigns—more than \$87 million, including tough new advertisements linking smokers' cough with lung cancer and the first ever national Indigenous antismoking advertisement.

These advertisements have: linked the smokers' cough to cancer, included a Break the Chain indigenous campaign as well as promoting the benefits of giving up smoking.

- legislation to prohibit the advertising of tobacco products on the internet; and
- since February this year, we have provided subsidies for nicotine replacement therapies on the Pharmaceutical Benefits Scheme, to provide that all-important support for people trying to quit—with nearly 100,000 scripts issued so far.

The last but most contentious element of the package has been the Government's determination to introduce plain packaging for tobacco products.

Plain packaging will remove one of the last remaining forms of tobacco advertising in Australia.

It will restrict tobacco industry logos, brand imagery, colours and promotional text. The packaging will be mandated to appear in a standard, drab dark-brown colour, which has been chosen based on research for the lowest appeal to smokers.

The only thing to distinguish one brand from another will be the brand and variant name in a standard colour, standard position and standard font size and style.

There will be an update to the current graphic health warnings to increase the coverage on the front of the pack from the current 30 per cent to 75 per cent for cigarettes and a comparable change will apply to other tobacco products. This, along with updated imagery and warnings, will accompany the introduction of plain packaging so that, rather than being a marketing

tool, the pack will only serve as a stark reminder of the devastating health effects of smoking. We know packaging is a very powerful marketing tool for tobacco companies—particularly for recruiting new smokers to their deadly products.

Tobacco is not like other products, the pack is not opened then thrown away, it is carried around by the smoker and continually brought out, reinforcing brand and personal identity and exposing the marketing to social groups and children.

here is ample research to support this approach. But the evidence in support of it is not only in the 24—and counting—peer-reviewed journal articles; compelling evidence that packaging is a powerful marketing tool for promoting tobacco smoking can also be found in big tobacco’s reaction to this very initiative itself. Big tobacco are fighting so vigorously against this legislation for one very simple reason—because they know, as we do, that it will work.

There is strong evidence to support this tough approach.

The National Preventative Health Taskforce, commissioned by the Australian Government in 2008 as a key part of our reform plans examined the growing body of evidence on plain packaging and concluded: “there can be no justification for allowing any form of promotion for this uniquely dangerous and addictive product which it is illegal to sell to children” – including on the packaging.

The taskforce said plain packaging would:

- increase the impact of health warning messages
- reduce the ability of tobacco companies to mislead consumers into believing that some cigarettes are less harmful than others
- make cigarettes look less attractive – for adults and children
- and reduce the appeal and desirability of smoking generally.

But it’s not just our national taskforce which believes this. Plain packaging has been discussed in various countries and forums over the past 25 years, and is backed by the World Health Organisation.

Our legislation will give effect to commitments under the WHO Framework Convention on Tobacco Control, which was adopted by the World Health Assembly on 21 May 2003 and entered into force on 27 February 2005.

The Framework Convention has since become one of the most rapidly and widely embraced treaties in UN history. To date, more than 170 countries have ratified it. The Conference of the Parties to the Framework Convention agreed in 2009 that plain packaging should be considered as part of comprehensive bans on tobacco advertising and as a way of ensuring that consumers are not misled about the dangers of smoking. Australia is the first signatory and the first country in the world to commit to implementing these recommendations on plain packaging.

Tobacco companies are fighting to protect their profits; but we are fighting to protect lives.

And let’s consider for a few moments Big Tobacco’s track record over the years to hide behind misleading science, promotions and litigation to protect those profits. This has been well documented by Scollo and Winstanley in their excellent work Tobacco in Australia: facts and issues.

- For example, in 1970 the three major tobacco companies operating in Australia at that time (WD and HO Wills, Rothmans and Philip Morris) established the Australian Tobacco Research Foundation. This pseudo-scientific research foundation was charged with forestalling tobacco regulation in Australia. It was also calculated to give substance to the idea that there remained controversy about the medical evidence on smoking on health.

In the two decades until it closed in 1994, the Foundation fulfilled a public relations function for Australian tobacco companies by providing evidence that the industry supported independent medical research. The Foundation was eventually closed in response to ongoing and overwhelming criticism regarding its ties to tobacco companies.

- In 1987 the Tobacco Industry of Australia (TIA)(a lobby group jointly funded by WD and HO Wills, Rothmans and Philip Morris) established a company that came to be known as Healthy Buildings International (HBI).

HBI was charged with promoting the view that: the evidence about second-hand smoke was inconclusive; second-hand smoke was a relatively minor issue; and, concerns about smoking indoors could be adequately dealt with through the provision of adequate ventilation and smoking areas. HBI exerted some influence on revisions to Australian Standards for indoor air through its membership of the relevant advisory committee, and kept Philip Morris apprised of developments, before its ties to the TIA were exposed and its position on the committee terminated in 2002.

- The TIA ran a number of high-profile media campaigns denying the mainstream medical and scientific evidence with regard to second-hand smoke.

These advertisements selectively quoted various sources, including the World Health Organisation and the American Cancer Society to give the impression that these bodies did not support the view that second-hand smoke is harmful to health. Following complaints made to the ASC and the Trade Practices Commission, the TIA was reprimanded. The Australian Federation of Consumer Organisations (AFCO) subsequently brought a case against the TIA in the Federal Court on the grounds that the advertising was misleading or deceptive and in contravention of Section 52 of the Trade Practices Act

1974. The AFCO won the case and the TIA lost an appeal against the decision. This was a landmark decision of international significance and it lent weight to the push for smoke-free workplaces.

- In response to strict smoking restrictions introduced in Victoria in 2007, Philip Morris (Australia), British American Tobacco and Imperial Tobacco Australia all struck financial deals with a number of individual Melbourne hoteliers to help them develop open-air facilities in which smoking could be permitted, in exchange for the exclusive right to sell their own brands. These companies have also paid secret commissions to hundreds of Melbourne bars and clubs in return for exclusive agreements to stock and promote their cigarettes. The licensed venues are being paid commissions of \$1 to \$3 per packet of cigarette sold through vending machines or up-front payments of up to \$100,000 for long-term contracts.
- In 1989, the Commonwealth introduced the Smoking and Tobacco Products Advertisements (Prohibition) Act 1989 and in 1992 it introduced the Tobacco Advertising Prohibition Act 1992. These Acts banned all forms of tobacco advertising in broadcasting and print media. In addition, some state and territory legislation contains other provisions that regulate the promotion and sale of tobacco products.
- In 1994 Philip Morris launched a challenge to the Tobacco Advertising Prohibition Act 1992 in the High Court. The then government amended the legislation in 1995 to provide for exemptions to the Act, including for political discourse and for business to business communications. The case was later discontinued.

Subsequently, the tobacco industry has focused on 'below the line' activities such as event promotions at music festivals, fashion parades, private parties, bars and nightclubs.

- In 2002, Philip Morris and its associated company Wavesnet were fined in a Sydney Court for breaching tobacco advertising shows to promote Alpine cigarettes at a national student fashion concert in December 2000. The fashion event was deliberately staged as a means to advertise among young women and increase cigarette consumption in this demographic group. In an attempt to block the introduction of legislation banning the display of tobacco products within retail outlets in NSW in 2008, Philip Morris and NSW tobacco dealers sent a letter to NSW Ministers and retailers that contained several pieces of misinformation.

So, it is no surprise to find that tobacco companies are playing hard ball – using a variety of tried and true methods to oppose our Government's plans to introduce plain packaging, and resorting to a few new tricks as well.

The legislation has just passed our finely balanced House of Representatives last week but already we've seen unprecedented expenditure on advertising both during the last federal election campaign and continuing

today. We've seen a front organisation set up, the research being challenged, legal threats and legal action commenced and threatened aggressively and rehashed the tried and true nanny state arguments.

As many of you know, its not new to challenge the research, sow the seed of doubt, appeal to people's right to hurt themselves and use front groups to lobby for them. It's not even new to threaten legal action. I'll come to each of these in more detail shortly. But what is new is the very expensive, very overt advertising campaigns – estimated now to run at a total of \$10 million.

The advertising commenced during the 2010 federal election campaign – where they used the front of a Retailers Alliance, of which tobacco companies were the only members and funders – to launch ads opposing plain packaging. The ads were shown on TV, radio and in print.

The expenditure during the campaign has been estimated to be \$3.5 million – incredibly high expenditure form an industry association. During the campaign, the Liberal Opposition steadfastly refused to indicate if it would support or oppose the measures. No published polls showed any evidence of public awareness of the issue or of this being a vote changer.

Following our re-election, tobacco companies intensified their campaign – this time publically launching their own direct ads. They tried to scare consumers into thinking that this was the thin end of the wedge and that the Government would be coming for soft drinks, alcohol and other products. I say again what I have said repeatedly, tobacco is not like other products – it cannot be used safely in moderation, it is a killer.

I also note how other industries distanced themselves from this tactic.

This public and extraordinary approach – lead to a whirlwind of media, debate and cartoons –intensifying discussion in the community about the measure.

Revelations of the massive donations to the Australian Liberal and national party only focused the debate further. We know 97% of British American Tobacco's worldwide donations go to the Australian Coalition. In total up to \$3 million has gone to the Coalition over the past 12 years. In contrast, Labor has not taken tobacco donations since 2004.

With strong community support and very strong backing from NGOs such as the Cancer Council, the Heart Foundation, Quit Victoria and the Public Health Association, the Liberal Opposition was shamed into indicating it would support our legislation.

History will surely write this episode up as the biggest own goal the tobacco companies have ever kicked. Elevating the issue so high up the political agenda that it was not tenable for a major political party – in receipt of such hefty donations – to continue to oppose it.

But the political process has another step to go, through our Senate in the coming fortnight, where I have every hope and expectation of strong support.

The other tactics will, of course, continue. The legal stick is being waved and used. The tobacco industry from day one threatened to use any legal avenue that they could to obstruct the measures.

Publically they have raised fear of the costs to taxpayer if litigation is “forced” upon them – never blinking about the costs to taxpayers caused by tobacco related illness! They allege that Australia will be in breach of its trade agreements and the Government has received a statement of claim from Philip Morris Asia under the Australian Hong Kong Bilateral Investment Treaty. They are foreshadowing litigation to challenge our legislation under the constitution with the threat that it will cost taxpayers billions of dollars in compensation. So far, no legal commentator who is not on the payroll of a tobacco company has suggested a likely success for the tobacco companies in this course of action.

But the Government takes seriously each and every threat – and will carefully and thoroughly prepare and fight each and every case that is brought against it.

In the meantime, other methods to sap Government resources are being pursued. Government departments have been inundated with Freedom of Information requests, including 52 to the Department of Health and

Ageing from tobacco industry and interested parties since April 2010. The Department estimated to process one of these requests ran into the hundreds of thousands of dollars. These requests are being processed and some of the decisions are under appeal. A separate room in the Department has been dedicated to responding to these requests.

BATA has recently lost in the Federal Court its attempt to get the Government to disclose its legal advice from 1995 and has flagged appealing this decision to the High Court. Governments of all persuasions, like all litigants, never disclose their legal advice to any litigant. Yet the chase for legal advice from 16 years ago is surely more than unusually desperate? We all know that the tobacco control and the world have moved on since 1995 for example with the new of WHO framework.

As well as legal fights – community campaigning continues.

As mentioned earlier, the nanny state advertising has intensified. Postcards, retailer campaigns and lobbying have been incessant. Even more extraordinary are some social media techniques – one 7 minute film on you tube, with high quality production suggesting plain packaging will lead to increased illicit tobacco and therefore will support the mafia, prostitution, heroin and murder!

Throughout – despite significant coverage of each tobacco company claim – public support had been strong with 260 leading doctors, professors, Australians of the year calling for parliamentary support for the measure. And political commentary has by and large seen it as a plus.

I hope that I have painted a picture for you of the landscape in which the most recent battle for tobacco control is being fought. It has many echoes of the past – and both some alarming and positive signs for the future.

Multi-million dollar advertising campaigns, political donations, lobbying, front organisations – the parallels between their behaviour now and in the past are inescapable. Big Tobacco is continuing the war that it has been waging for decades.

They have fought against every public health measure that government has introduced to protect the health of our population. And we are not alone. Last week, we saw in the US a “free speech” challenge has been lodged against new planned health warnings similar to those we’ve had in Australia for decades.

As governments incrementally and persistently close down each avenue for marketing and promotion, so the tobacco industry becomes more sophisticated and aggressive in their tactics. At the same time – they raise the stakes so high that the free media is almost daily providing a platform to remind people of the harms caused by tobacco. While they reinvent nanny state campaigns receive hundreds of letters from school kids asking for tobacco to be banned outright. As an aside, anyone with a sense of irony would enjoy re-watching Yes Prime Minister and seeing Sir Humphrey plot the nanny state strategy 25 years ago – the line of criticism is that old.

The government has no such plans to ban tobacco– but I’m heartened that the next generation of leaders is already thinking about such things. We create the climate for this to be seriously debated by generations to come. And these kids certainly won’t smoke, plain packs or not! Tobacco companies stridently claim plain packaging “won’t work” – but if it won’t work, why would they pour millions of dollars into opposing it?

It’s simple – a reduction in smoking rates is a reduction in profits, a reduction in bonuses.

But this isn’t a fight for market share between one brand of cola against another, as they would have us think. This has a sinister side, a human toll.

I began by outlining the death and disease caused by tobacco – 15,000 lives a year in Australia and approximately 5.4 million globally, a figure that is expected to increase to more than 8 million by 2030..It’s those lives and those families that make this a fight worth having – and one we are determined to win.

Money is no object to Big Tobacco because they are fighting to keep a lucrative global market growing. They know that if Australia is the first to introduce plain packaging, we will not be the last, others will follow.

People may ask if there are not other important health issues, all of which require attention. Of course, there are many. But reducing smoking rates is still the most direct way to get the best health return for our nation.

It's relatively simple and incredibly cost effective. It doesn't require a new workforce, huge investment of dollars or new health technology. It does require a great deal of political will and determination to withstand the tobacco lobby.

I consider myself very fortunate to be part of a Government that has that determination -because the devastating harm caused from tobacco, is one harm we know how to protect against.

Tobacco products, when used as intended, will kill you. We don't need more research. We're 100% clear about causation.

This is one health tragedy we can stub out, if we have the will.