

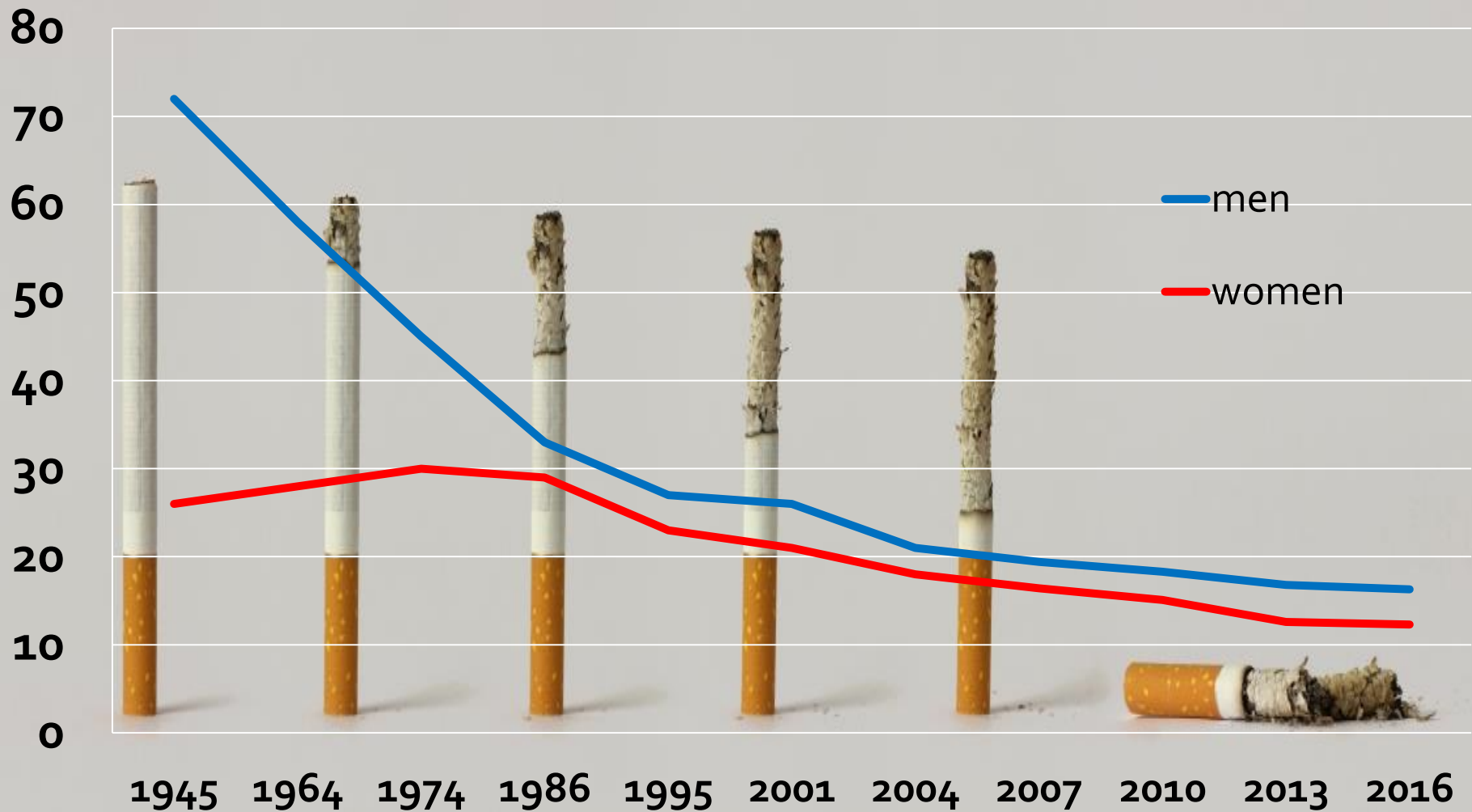
The ethics of the Australian ban on sales of e-cigarettes

Wayne Hall and Coral Gartner
University of Queensland

Outline

- Current policy situation in Australia
- What is its rationale and how is it defended?
- An ethical analysis of
 - Current Australian policy
 - A graduated approach to allowing THR using ENDS

Smoking prevalence in Australia 1945-2016



Evolving Australian responses to ENDS

- Initially a mass distraction from tobacco control
 - Australia doing very well in reducing smoking
 - Plain packaging, increased taxation & sales restrictions
- Increasingly a fear Big Tobacco will use ENDS to:
 - Discourage quitting via encouraging dual use
 - Renormalise cigarette smoking and
 - As a gateway to recruit youth to smoke cigarettes

Disagreements about ends and means

- What should the goal of tobacco policy be:
 - To eliminate tobacco *and* nicotine use?OR
 - eliminate smoking and allow safer forms of nicotine use?
- What are the best ways to eliminate smoking:
 - prohibiting tobacco and recreational nicotine?OR
 - allowing ENDS to replace cigarettes?

ENDS Policies in Australia

- **Australian Policy (Federal and State) is to:**
 - Prohibit sale of ENDS with nicotine (using poisons regulations)
 - Unless they have been approved as cessation aids by the TGA
- **Enjoys majority support in Australia TC community**
 - Cancer Councils, AMA, Heart Foundation; Colleges of Physicians and GPs
 - Major TC media advocates: Simon Chapman, Mike Daube
 - Public health spokespersons: ANZA Public Health; NHMRC
 - Dissenters: ANZ College of Psychiatrists, DA Nurses Association
 - 70 individuals in public health and addiction fields
- **Defended as precautionary until better evidence**
 - Denial that this amounts to de facto prohibition
 - Described as “public health regulation”
 - Makes it very difficult to conduct clinical trials of ENDS for cessation

Justifying an ENDS sales ban

- Tobacco smoking is disappearing
 - why ease up on tough policies now?
- Harm reduction using ENDS will not work
 - Light and low tar cigarettes experiences
 - ENDS will be used by Big Tobacco to subvert TC policies
 - ENDS will discourage smoking cessation
 - ENDS will increase smoking among youth
 - ENDS contain harmful chemicals e.g. formaldehyde
- ENDS perpetuate nicotine addiction
 - continued addiction is an unacceptable outcome
 - even if it reduces smoking-related harms
 - nicotine is harmful in itself e.g. cancer promoting

The Role of Big Tobacco

- Some ENDS now owned by Big Tobacco
 - Alarms many in TC community
 - Want to put Big Tobacco out of business
 - Some ENDS advocates have been funded by ENDS companies
- Big Tobacco will use ENDS :
 - To encourage dual use among smokers
 - Undermine tobacco smoking bans
 - Renormalise and promote smoking

Consequences of the Ban

- According to supporters it prevents:
 - A harm reduction hoax e.g. lights, low tar
 - Dual use and discouragement of quitting
 - Recruiting new smokers by renormalisation & gateway
- According to opponents it:
 - Fails to reduce harm for current smokers
 - Fails to eliminate cigarette smoking (protects cigarettes)
 - Produces disrespect for the law
 - Generates a large black market for ENDS
 - Fails to regulate ENDS in consumers' interests

Evidential Double Standards

- Observational evidence is sufficient to
 - Establish that ENDS are a gateway to smoking
 - Cold turkey as the best way to quit
- But not good enough to show that ENDS
 - have increased cessation among smokers UK
 - Have not increased youth uptake in the US or UK
- Case series and anecdotes good enough for
 - Adverse events: fires; explosions
 - But not for self-reported quitting

The Power of Framing

- Only two policy options are presented
 - A ban on sales vs anything goes
 - Protect public health vs free rein to Big Tobacco
- No middle ground allowed
 - Regulation as a consumer good
 - Basic consumer protection
 - Restrictions on:
 - sales and promotion and
 - Where they can be used

The Ethics of an ENDS Ban

- Autonomy of adults overridden: strong paternalism
 - Violates autonomy of adult smokers
 - In their own interests or interests of public health
- Unjustly disadvantages
 - current smokers in order to prevent new recruits
 - addicted and socially disadvantaged smokers
 - smokers who want to reduce their health risks
- Incoherent approach to risk management :
 - prohibits a less harmful nicotine product
 - while allowing sale of the most harmful (cigarettes)

Allowing the sale of ENDS

- Less paternalistic than status quo
 - Respects smokers' autonomy
- Fairer to addicted smokers
 - Allowing them access to less harmful products
- A more consistent public health policy
 - Not prohibiting a less harmful product while
 - Failing to regulate the most harmful: cigarettes

Graduated Access to ENDS

- Allow sale of approved ENDS for recreational use
 - in restricted outlets e.g. tobacconists, adult stores
 - No health claims allowed in promotion
 - Use lower taxes to encourage switching
 - No use allowed in public places as per smoke free laws
- Allow ENDS to fully compete with cigarettes
 - Levelling up: ENDS sold anywhere cigarettes can be
 - Levelling down: cigarettes and ENDS sales both restricted

The need for openness to evidence

Advocates of a ENDS bans need to ask themselves:

- What (if any) evidence will change your mind on:
 - Value of ENDS for cessation (RCTs vs observational)
 - Effects of ENDS on smokers' health
 - Uptake of ENDS among young nonsmokers
 - Impact of ENDS on smoking prevalence among the young
 - Public health impacts of ENDS use?