

Evaluation of the Enforcement Program for Federal Tobacco Legislation

Prepared For:

Office of Tobacco Control
Health Canada

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Acronyms

B.C.	British Columbia
FTE	Full-Time Equivalent
GMU	Good Management Unit
GSC	Government Services Centre
HC	Health Canada
HD	Health Department
HPB	Health Protection Branch
HPPB	Health Promotion and Programs Branch
HQ	Headquarters
HU	Health Unit
MoH	Ministry of Health
MOU	Memorandum of Understanding
NWT	Northwest Territories
OTC	Office of Tobacco Control
PEI	Prince Edward Island
PHU	Public Health Unit
TB	Treasury Board
TCA	Tobacco Control Act
TCU	Tobacco Control Unit
TDRS	Tobacco Demand Reduction Strategy
TEO	Tobacco Enforcement Officer
TPCA	Tobacco Products Control Act
TSA	Tobacco Sales Act
TSYPA	Tobacco Sales to Young Persons Act

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Executive Summary

The “Government Action Plan on Smuggling” was announced on February 8, 1994. An important component of this action plan was to reduce taxes on cigarettes. In order to minimize the health impact of the price cuts, a three-year sunsetted initiative, the \$185 million Tobacco Demand Reduction Strategy (TDRS), was also announced. The TDRS encompasses three types of activities: legislation and enforcement; research; and, community initiatives and public information.

Under the legislation and enforcement component of the TDRS, the *Tobacco Sales to Young Persons Act (TSYPA)*, which forbids tobacco sales to young people under the age of 18 years and restricts the location of cigarette vending machines to bars and taverns, came into effect on February 8, 1994. Federal government resources were made available for hiring inspection staff and implementing a national enforcement policy. Given the well documented risks related to smoking, the Act’s intent was to protect the health of young people by restricting their access to tobacco products.

Health Canada also has responsibilities for enforcement of the *Tobacco Products Control Act (TPCA)*, which was proclaimed in 1989. Initially, the TPCA prohibited tobacco advertising and regulated product labeling. However, in a September 1995 Supreme Court decision, the prohibitive measures against advertising of tobacco products were struck down. Consequently, enforcement of this Act was significantly reduced, pending the passing of new legislation to replace the TPCA.

A number of provinces have also enacted their own legislation restricting access to tobacco by youth. In order to avoid overlap and duplication and to increase the efficient use of resources, the federal government committed to work with the provinces and territories on the enforcement of tobacco legislation. Cooperative Enforcement Agreements were signed with six provinces: British Columbia, Ontario, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador. Where provincial legislation exists and where the provincial legislation is more stringent, the provincial legislation is generally enforced, thus subsuming the federal TSYPA.

The purpose of this study was to conduct an evaluation and audit of the Enforcement Program for Federal Tobacco Legislation. The evaluation component of this study focused on the following issues:

- continued relevance and need for the program;
- effectiveness of the program delivery process;
- program success and preliminary assessment of impacts; and,
- cost effectiveness of the different enforcement tools.

This study was undertaken by Goss Gilroy Inc. (GGI)

The various data gathering methodologies employed during the study were as follows:

- interviews with Federal and Provincial government officials;
- interviews with retailer associations;



- interviews with local health units/government services offices;
- a review of documents, reports and information systems;
- a review of information dissemination activities; and,
- interviews with tobacco legislation enforcement inspectors.

Below is a summary of the main findings.

Summary of Findings

Continued Relevance and Need for the Program

Currently, seven provinces have implemented legislation restricting tobacco sales to young persons: British Columbia, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador. Although there are some aspects of provincial tobacco legislation which mirror and, in some cases, overlap those of the federal TSYPA, the Contribution Agreements facilitate a partnership by which enforcement of tobacco legislation is not duplicated. The exception is Manitoba where there is currently no Contribution Agreement in place.

There are fines and/or suspensions included in all provincial legislation targeting the sale of tobacco products to minors. Lack of political and/or community support can negatively impact on the effectiveness of tobacco legislation enforcement.

There is a continued need for the Federal Enforcement Program. The reasons for this include:

- assurance of some measure of commitment on the part of all provinces/territories to enforcement of tobacco legislation;
- a major cut in federal funding to enforcement could be seen as a lack of federal commitment to reduce tobacco consumption;
- as there is a liability issue related to enforcing an Act, there must be some means in place of enforcing the federal (or the provincial) tobacco legislation; and,
- where there are no Contribution Agreements and/or provincial legislation in place, it appears doubtful whether many of the provinces will "pick up the slack".

Without federal funding:

- tobacco enforcement would no longer be a priority activity and may drop back to inspection or investigation of complaints only;
- dedicated tobacco enforcement staff hired to enforce the provincial legislation would be let go; and,
- if compliance activities cease, there is some concern that the compliance rate will revert back to what it was before the program.

The TSYPA and provincial legislation limiting sales of tobacco to young persons fit well together. To date, there has been no problem encountered in enforcing provincial sales to minors legislation and the TSYPA because, where provincial legislation is more stringent, enforcement of the provincial legislation has subsumed the federal legislation.

Effectiveness of Program Delivery

In terms of overall program delivery:

- the Office of Tobacco Control has provided good coordination, technical and operational support ; and,
- the roles and structure of Health Canada regional offices appear to be appropriate. However, a number of problems were identified which included:
 - the turnover of Health Canada staff in the Atlantic and Quebec regions which created continuity problems in getting the program started in those regions;
 - in Quebec, the lack of continuity also made it difficult to identify what was being done in terms of enforcement; and,
 - in Ontario and Manitoba, the role of the Health Canada regional office is in transition in enforcement operations as both provinces have their own enforcement organizations. This has created a situation where the federal and provincial enforcement organization parallel each other. To date, they have managed to work cooperatively together.

There are three basic models for program delivery: federal delivery, centralized provincial delivery, and decentralized provincial delivery. The enforcement program is federally delivered in Alberta, the NWT, the Yukon, Saskatchewan, Manitoba and Quebec. In a centralized provincial delivery system, the enforcement program is delivered from a centralized coordinating unit (Prince Edward Island, Nova Scotia, and New Brunswick), while in a decentralized provincial delivery model, the program is delivered through autonomous local/regional delivery units (Newfoundland, Ontario and British Columbia).

Each model has its own strengths and weaknesses:

- The federal delivery model is the most responsive of the three models to changes in policy direction. As the reporting structure is centralized in the regional office, reporting is easier to track and there is good accountability. The disadvantage is that there may be a lack of partnership with the province and insufficient linkage to community health services.
- Centralization of enforcement activities in a single coordinating provincial unit provides good accountability in comparison to the decentralized provincial delivery model. This makes it easier to track program expenditures as they relate to enforcement activity. In addition, this model has led to better: cooperation with enforcement authorities (police, prosecutors and judges); coordination with provincial preventive health programs targeting young people (e.g., school education programs); ability to suspend and terminate tobacco sales licences (issued under provincial jurisdiction); and, use of the media to generate negative publicity for non-compliant retailers. However, this delivery model is seen by Health Canada to be less responsive to changes in policy direction than the federal delivery model.
- As enforcement is usually done by community-based delivery units (health units, health departments or government services centres), a decentralized enforcement

model is viewed as closer to the community. This means that enforcement activities can be more easily coordinated with other complementary activities such as health education in the schools, etc. However, there are a number of problems associated with this delivery model including:

- it is viewed as the least responsive to changes in policy direction emanating from Health Canada, as health units/health departments operate autonomously and there is little leverage by the province to ensure that the program is carried out;
- it can be harder to get support from other provincial agencies; e.g., the police, the justice system, etc.;
- if an inspector is a resident in the community, there is often a reluctance to do more stringent enforcement activity such as compliance checks, decoy purchases, or surveillance; and,
- accountability is not as good as that for the centralized provincial delivery model as consistency of reporting is harder to maintain among the different delivery units.

Commitment to the program by the six contribution provinces has been mixed.

Training of inspection staff has been appropriate and adequate. However, a need for additional training related to awareness of the legislation, evidence gathering, prosecutions and court appearances was identified. The nature of the background (law enforcement versus health enforcement) of the tobacco enforcement officer does not appear to affect the delivery of the program.

In terms of which model works best:

- No one delivery model appears to work better than another. If the objective is responsive and well coordinated policy, then a centralized federal or provincial model is best. If a community-based approach is desired, then a decentralized model should be used.
- If the delivery unit has a well organized program and there is strong commitment to enforcement of tobacco legislation, it does not appear to matter whether a dedicated Tobacco Enforcement Officer or generalist is used.
- Enforcement models (three-round versus two-round versus one-round) differ from province to province and do not depend on the model of program delivery in use. As some provinces have just started their first round of compliance checks, it is difficult to determine which enforcement model works best.
- There are several practices which are used to cost effectively strengthen the enforcement program. These include: use of the media to generate negative publicity against non-compliant retailers; linking education and enforcement; and, working in partnership with the police.

Program Success

As a result of the Federal Enforcement Program:

- There has been good dissemination nationally of information to retailers about their responsibilities under legislation (federal and provincial) pertaining to sales of tobacco to minors. As a result, there is a high degree of awareness among retailers. Evidence from the 1996 *Optima Tobacco Retailers Survey on Tobacco Sales to Minors Legislation* show that:
 - the average level of awareness of the requirement to ask proof of age when in doubt was 96%;
 - the average level of awareness of the requirement to post legal age limit signs in tobacco retail outlets was 92%; and,
 - the retailer awareness across the country of monetary fines for violating legislation was 91%.
- There has been an observed increase in retailer compliance. Evidence from the 1995 and 1996 national surveys conducted by AC Nielsen on levels of compliance with the TSYPA indicates that, in 1996, the national estimate of retailer compliance with respect to sales to minors was 60.5% - a 12.6% increase over the 1995 rate of 47.9%.
- Higher compliance rates do not seem to have been accompanied by lower smoking rates among youth.

However, as many other factors have an impact on youth smoking rates, there are other issues to consider if higher compliance rates are to be achieved, and if any alternatives to reduce access to cigarettes by youth are to be explored.

These issues include:

- indications of increased acquisition of cigarettes from other third parties (adults, other youths);
- retailers are becoming cognizant of the protocol, and are finding ways around it;
- in decentralized regions (British Columbia and Ontario), there is no guarantee that compliance activity will be done in some Health Units;
- the enforcement procedures are not standard across the country; and,
- there is a need to develop other tools as concerns have been raised about the potential for violence against "decoys" and/or inspectors, due to retailer and consumer anger with the legislation and enforcement procedures.

Cost Effectiveness of Different Enforcement Tools

Regarding work units, the following conclusion can be made:

- among the Contribution Agreement provinces, there is no standardized approach being taken with respect to the use of work units. In particular:
 - the monetary value of work units varies by province; and,
 - there is no consistent allocation of work units by type of enforcement activity.

In addition, the work units do not line-up exactly with enforcement activities, as specified in the Contribution Agreements. However, the units are considered to provide



reasonable planning guidelines regarding expected activity levels, and have not detracted from enforcement activities.

Nominally, the federal cost per hour for enforcement is estimated at \$42.18 (average of Ontario, Quebec and Central Regions) in comparison to \$30-\$33.33 for the Contribution Agreements.

If new federal legislation is passed, and additional tasks are required of provincial inspectors, the composition of the work units may need to be re-visited.

Concerning the **cost-effectiveness of the various tobacco enforcement activities**, the following conclusions can be made:

- An approach that uses a combination of enforcement techniques appears to be cost-effective, as it provides the enforcement authorities with flexibility in terms of their approach, and they can accrue the benefits associated with each individual enforcement tool.
- There was agreement (among those jurisdictions that have implemented compliance checks) that compliance checks are a cost-effective method of enforcing compliance. These checks are valuable for making retailers aware of their responsibilities regarding the tobacco legislation (e.g., through follow-up letters and/or warnings in the case of non-compliance), and they are useful for identifying non-compliant retailers and allowing future targeting.
- There is a clear pattern or linkage between enforcement activities and compliance in relation to compliance checks and compliance. In particular, jurisdictions which utilized, or implemented, compliance checks (including decoy purchases) between the first quarter of 1995/96 and the second quarter of 1996/97 experienced an increase in compliance regarding sales to minors between the 1995 and 1996 AC Nielsen surveys. The two provinces which did not implement compliance checks during this time period both experienced a decrease in compliance in terms of sales to minors.
- Concerns have been raised regarding the ethics of involving minors in compliance checks, particularly when decoy purchases and prosecutions are involved. This has included parent not giving consent to provincial authorities (i.e., in rural Newfoundland). This has been a barrier to the implementation of compliance checks in Ontario, New Brunswick, and Newfoundland.
- The effectiveness of compliance checks may be reduced if retailers are suspicious of minors they do not recognize, who are purchasing cigarettes. This is particularly an issue in smaller communities, and can lead to “selective compliance” on behalf of retailers by selling tobacco to only minors they recognize, or at times when they would least expect enforcement activities to take place (e.g., during the evening or on weekends).
- If an AC Nielsen survey is conducted this year, the results for PEI may provide a useful comparison as to the impact compliance checks have had, versus the sole use of inspections.
- Inspections can provide a presence in the retailer community and are useful for educating retailers, and persuading them to voluntarily comply with the tobacco

legislation. However, there is the risk that if only inspections are used, compliance rates may decline (this occurred in PEI between the 1995 and 1996 AC Nielsen surveys, when only inspections were being used to enforce the tobacco legislation).

- If an AC Nielsen survey is conducted this year, the results for Newfoundland may provide a useful comparison as to the effectiveness of enforcement activities in the absence of penalties.
- The time requirements related to prosecutions may impact on the ability of enforcement units to conduct field-level enforcement activities (e.g., compliance checks, inspections). The effectiveness of prosecutions can be reduced if:
 - inspectors do not sufficiently address the issue of burden of proof;
 - retailers are aggressive in their defence;
 - minors are not willing to cooperate in terms of providing evidence; and/or,
 - if the crown is not supportive, or requires educating in terms of the tobacco legislation.
- Surveillance can be an effective tool in terms of monitoring where minors acquire tobacco products, and targeting non-compliance retailers and individuals (e.g, those involved in re-selling cigarettes to minors). Views regarding the cost-effectiveness of this tool is varied as it can be time-consuming with no results. As one individual noted, surveillance can be limited to a 10-15 minute time period and you only get one chance to make the decision that youth is under 19, they have in fact purchased cigarettes, and they would be willing to cooperate after being approached by the enforcement officer (as it is not illegal for a minor to be in the possession of tobacco). Surveillance in small communities does not however appear cost-effective, as inspectors can be easily seen.
- Media coverage can help increase awareness amongst both the public and retailers, which can help increase voluntary compliance on behalf of retailers.
- Improved links with provincial retailer associations and local community groups may also lead to increased voluntary compliance amongst retailers. A non-confrontational approach with retailers would appear to be more effective. As the Nova Scotia TCU noted, it would be political suicide to close the door on relations with retailers and take a more aggressive/confrontational approach.

Concerning the approaches used for targeting retailers, the following conclusion can be made:

- Generally all retailers are targeted for enforcement activity; however, if resources are scarce, those retailers identified as being “high risk “(i.e., located near schools and other areas frequented by youth, have complaints lodged against them, or have shown a prior willingness to sell), are more likely to be the target of enforcement activity.

1.0 Introduction

1.1 Introduction

The “Government Action Plan on Smuggling” was announced on February 8, 1994. An important component of this action plan was to reduce taxes on cigarettes. In order to minimize the health impact of the price cuts, a three-year sunsetted initiative, the \$185 million Tobacco Demand Reduction Strategy (TDRS), was also announced. The TDRS encompasses three types of activities: legislation and enforcement; research; and, community initiatives and public information.

Under the legislation and enforcement component of the TDRS, the *Tobacco Sales to Young Persons Act (TSYPA)*, which forbids tobacco sales to young people under the age of 18 years and restricts the location of cigarette vending machines to bars and taverns, came into effect on February 8, 1994. Federal government resources were made available for hiring inspection staff and implementing a national enforcement policy. Given the well documented risks related to smoking, the Act’s intent was to protect the health of young people by restricting their access to tobacco products.

Health Canada also has responsibilities for enforcement of the *Tobacco Products Control Act (TPCA)*, which was proclaimed in 1989. Initially, the TPCA prohibited tobacco advertising and regulated product labeling. However, in a September 1995 Supreme Court decision, the prohibitive measures against advertising of tobacco products were struck down. Consequently, enforcement of this Act was significantly reduced, pending the passing of new legislation to replace the TPCA.

A number of provinces have also enacted their own legislation restricting access to tobacco by youth. In order to avoid overlap and duplication and to increase the efficient use of resources, the federal government committed to work with the provinces and territories on the enforcement of tobacco legislation. Cooperative Enforcement Agreements were signed with six provinces: British Columbia, Ontario, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador. Where provincial legislation exists and where the provincial legislation is more stringent, the provincial legislation is generally enforced, thus subsuming the federal TSYPA.

The purpose of this study was to conduct an evaluation of the Enforcement Program for Federal Tobacco Legislation and an audit of the contribution agreements. The **evaluation** component of this study focused on the following issues:

- continued relevance and need for the program;

- effectiveness of the program delivery process;
- program success and preliminary assessment of impacts; and,
- cost effectiveness of the different enforcement tools.

This study was undertaken by Goss Gilroy Inc. (GGI)

The report is in two parts: an evaluation report and an addendum containing the results of the audit. Our report is structured as follows:

Section 1.0 introduces the report and presents our methodology and approach.

Section 2.0 describes the program and contains our findings pertaining to the continued relevance and need for the program;

Section 3.0 includes our findings pertaining to the effectiveness of program delivery;

Section 4.0 contains our findings pertaining to the program's success;

In **Section 5.0**, our findings pertaining to the cost effectiveness of the different assessment tools are presented; and,

Appendix A lists the interviewees.

This study is based on information gathered and reviewed as of March 3rd, 1997.

1.2 Approach and Methodology

The study drew on the following lines of evidence: document/file reviews, a review of results of the Optima and Nielsen surveys, and interviews. The various data gathering methodologies employed during the study were as follows:

- interviews with Federal and Provincial government officials;
- interviews with retailer associations;
- interviews with local health units/government services offices;
- a review of documents, reports and information systems;
- a review of information dissemination activities; and,
- interviews with tobacco legislation enforcement inspectors.

Interviews with Federal and Provincial Government Officials:

Interviews were conducted with federal officials within the Office of Tobacco Control (OTC) in Ottawa, the key personnel involved in Tobacco Legislation enforcement in the five Regional Health Canada offices (St. John's, Montreal, Toronto, Winnipeg and Burnaby) and the managers involved at the provincial level in the six provinces with signed Enforcement Agreements. The majority of these interviews were conducted in person.

A total of 24 persons were interviewed: 3 at OTC; 10 at the five regional Health Canada offices; and, 11 at the provincial ministries responsible for tobacco enforcement in the six provinces with Contribution Agreements.

Interviews with Retailer Associations:

Interviews were conducted with representatives of **three** retail associations to determine their views on:

- the adequacy of communications on the TSYPA and any other relevant regulations and legislation; and,
- perceptions on the effectiveness of enforcement of TSYPA.

Interviews with Local Health Units/Government Services Offices:

Interviews were conducted with program managers and inspection staff responsible for Tobacco Legislation enforcement activities at health units in the provinces of Ontario and British Columbia and at regional Government Services Offices in Newfoundland and Labrador. In each of the provinces, interviews were carried out in 3 health units/government services offices as part of the audit/evaluation field work.

To augment the sample size in Ontario and British Columbia, telephone interviews were conducted with program managers in an additional 12 health units; 6 in British Columbia and 6 in Ontario.

A total of 26 individuals were interviewed: 10 in Ontario; 11 in British Columbia; and, 5 in Newfoundland.

Review Documents, Reports and Information Systems:

A review was conducted of:

- documents and reports that were produced either at the provincial level, Health Canada Regional level, and/or the Federal level, that describe program trends and outcomes;

- provincial financial expenditure data on Tobacco Legislation Enforcement to the extent that this was available. This information was collected from the Office of Tobacco Control, the Health Canada Regional Offices, and the provincial ministries responsible for delivery of the program in those provinces where there are Contribution Agreements in place;
- available information from the Nielsen and Optima surveys; and,
- available information from other surveys.

Review of Information Dissemination Activities

In each of the provinces visited, a review was conducted of the dissemination of information to retailers and to the public on the Tobacco Legislation.

Interviews with Tobacco Legislation Enforcement Inspectors

Interviews were carried out in-person where visits were being made, supplemented by telephone elsewhere. A total of 55 inspectors were interviewed.

A list of interviewees is contained in Appendix A of this report.

2.0 Continued Relevance and Need for the Program

The discussion below summarizes our findings pertaining to the continued relevance and need for the Enforcement Program. Our findings are based on a review of relevant documentation and interviews. The following questions are addressed:

1. *Is there still a need for the federal enforcement program?*
 1. *What would be the impact of discontinuing the agreement funding?*
2. *How does this program fit with other federal and provincial programs targeting reduced tobacco consumption among youth?*
3. *What are the differences between the federal and provincial legislation limiting sales of tobacco products? (Requirements, stringency in enforcement, penalties, etc.)*
 1. *Where there is provincial legislation, does it duplicate or supplement the federal legislation?*

2.1 Description of Program

2.1.1 Mandate

The legal mandate for the enforcement program derives from the *Tobacco Sales to Young Persons Act* and the *Tobacco Products Control Act*. Administered by Health Canada, these two pieces of legislation regulate retailers, manufacturers and importers. Retailers, manufacturers, and importers are the focus of the TPCA, while the focus of the TSYPA is the retailer.

Estimates of the number of retailers licensed to sell tobacco products range between 50-150,000. These include bars, restaurants, convenience stores and supermarket or pharmacy chains. Retailers are highly diversified. In terms of dissemination of information, some retail sectors are easier to access than others because they are well organized and there is an Association in place.

In Canada, three manufacturers produce 95% of the domestic product and the number of importers is limited.

2.1.2 Objectives

The overall national objectives of the enforcement program are to:



- restrict the advertising and promotion of tobacco products (*TPCA*) ¹; and,
- reduce access to tobacco by youth (*TSYPA*).

Enforcing compliance is through a gradual step-wise approach. First, regulatees are informed of their obligations, then compliance is monitored. If there are violations, these are documented and regulatees are informed and warned. Consistent violations can lead to prosecution. The severity of the measures taken depends on the seriousness of the offence. Where federal-provincial agreements are in place and where provincial legislation exists that is more stringent, the provincial legislation is enforced, thus, subsuming the federal *TSYPA*.

At the initiation of the program, the compliance objectives for retailers under the *TPCA* and *TSYPA* were set as follows ²:

- 50% conformity for 1994-95;
- 60% for 1995-96; and,
- 70% for 1996-97.

2.1.3 Program Resources

Prior to February 1994, limited A-base resources were available to fund tobacco program activities. With the announcement of the TDRS, new sunset resources were allocated to fund strengthened legislative and regulatory measures, stepped-up enforcement and expanded research. Table 1 below summarizes the FTE allocation for the Enforcement Program for the last two fiscal years.

Table 1: FTE Resources for Enforcement

Fiscal Year	Headquarters	Regions
1995-96	6 FTEs	48.6 FTEs
1996-97	5 FTEs	36 FTEs

Source: Annual Business Plan 1995-96, Environmental Health Program

¹ It is important to note that the Sections struck down by the Supreme Court have not been part of the enforcement program since September 1995.

² Enforcement Strategy for Federal Legislation Administered by Health Canada, Office of Tobacco Control, Health Protection Branch, Health Canada, November 20, 1994.

Treasury Board allocated \$16.5 million of the \$185 million TDRS to the Enforcement Program. The following tables (Tables 2, 3, 4) summarize the enforcement funding distribution by year.

Table 2: TDRS Enforcement Funding (1994-95)

Region	TB Submissions	Salary with Benefits	Operating	Capital	Grants & Contributions	Total
Headquarters		\$311,423	\$496,079	\$ 81,074		\$888,576
Atlantic		\$122,242	\$ 24,931		\$ 57,789	\$204,962
Quebec		\$485,398	\$ 49,603	\$101,647		\$636,648
Ontario		\$471,196	\$ 86,737	\$139,031		\$696,964
Central		\$251,402	\$53,828	\$ 28,711		\$333,941
Western		\$170,042	\$ 21,745		\$160,000	\$351,787
Total	\$4,097,000	\$1,811,703	\$732,923	\$350,463	\$217,789	\$3,112,878

Table 3: TDRS Enforcement Funding (1995-96)

Region	TB Submissions	Salary with Benefits	Operating	Capital	Grants & Contributions	Total
Headquarters		\$410,400	\$269,150	\$39,833		\$ 719,383
Atlantic		\$102,000	\$ 11,000		\$ 350,000	\$ 463,000
Quebec		\$626,376	\$127,094	\$21,000		\$ 774,470
Ontario		\$294,000	\$ 89,000		\$ 500,000	\$ 883,000
Central		\$326,834	\$33,756			\$ 360,590
Western		\$238,800	\$ 68,000		\$ 550,000	\$ 856,800
Total	\$6,277,000	\$1,998,410	\$598,000	\$60,833	\$1,400,000	\$4,057,243

Table 4: TDRS Enforcement Funding (1996-97)

Region	TB Submissions	Salary with Benefits	Operating	Capital	Grants & Contributions	Total
Headquarters		\$ 337,000	\$232,000			\$ 569,000
Atlantic		\$ 90,000	\$ 23,000		\$ 350,000	\$ 463,000
Quebec		\$ 595,829	\$132,000			\$ 727,829
Ontario		\$ 444,110	\$127,158		\$ 600,000	\$1,171,268
Central		\$ 275,000	\$ 61,000		\$ 25,000	\$ 361,000
Western		\$ 333,600	\$ 86,303		\$ 200,000	\$ 619,903
Total	\$6,072,000	\$2,075,539	\$661,461		\$1,175,000	\$3,912,000

Source: Office of Tobacco Control

2.1.4 Means of Enforcing Legislation

For inspections under the TSYPA, the enforcement procedures consist of a series of activities, consistent with Health Canada's enforcement strategy. Enforcement is implemented in a progressive manner with individual retailers. Initially, the inspector checks the retailer for compliance. If potential violations are detected, the retailer's obligations under the legislation are explained by the inspector who then follows-up in writing. Ideally, a follow-up check is made three weeks later. If there is still non-compliance, a warning letter is sent. A third inspection is made and, if violations are still observed, prosecution is sought.

There are a number of enforcement tools that can be used to ensure compliance. They include:

Compliance Check

A member of the inspection staff visits a retail facility with someone under the age of 18 (or 19 where appropriate) to observe whether the retailer offers to sell tobacco products to the minor. Tobacco is considered "offered for sale" if the minor is quoted the price of the tobacco product and the tobacco is placed on the counter or the price is entered into the cash register.

Decoy Purchase

The decoy purchase involves the same procedure as for a compliance check except the minor must attempt to complete a purchase of the tobacco product. Upon completion of the sale,

the minor turns over the tobacco product and the change to the inspector. The tobacco product is retained as evidence in the event the retailer faces prosecution.

Surveillance

Surveillance is used as an alternative to compliance checks in Ontario. It requires an inspector to observe the retailer over a period of time to determine if he/she is selling tobacco to underage youth. If a transaction is observed, the youth is questioned by the inspector. If possible, the evidence supplied by the youth is documented. If charges are laid, the inspector acts as a witness and the youth is subpoenaed. Surveillance consumes considerably more inspection time than compliance checks.

Ticketing

Ticketing is less costly than legal proceedings in terms of time and resources. However, ticketing is currently only permitted under provincial legislation.

Prosecution

Prosecutions are undertaken as a last resort when information and persuasion have failed to have the desired effect. If a retailer is convicted of a tobacco sales offence, punishment can range from a fine to the suspension of the right to sell tobacco products. Prosecution is permitted under both federal and provincial legislation.

2.1.5 Contribution Agreements

As noted above, cooperative enforcement agreements were signed with six provinces: British Columbia, Ontario, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador. Although, these agreements were customized for each province, the objectives and activities to carry out the objectives are essentially the same for all six; i.e.:

- “to establish a mutually acceptable administrative and financial arrangement that minimizes duplication and overlap and maximizes cooperation and coordination in the enforcement of federal and provincial tobacco related legislation; and,
- to establish a single point of contact with government on the enforcement of federal and provincial tobacco related legislation”.

To carry out the objectives of the contribution agreements, the provincial Minister responsible is to:

- “.....undertake a program of monitoring, surveillance and inspection actions intended to enforce the Federal Tobacco Sales to Young Persons Act and the Federal Tobacco Products Control Act³;
- pay particular attention to:
 - a) non-compliant behaviour among retailers and advertisers⁴;
 - b) complaints from the general public;
 - c) provision of information on the enforcement program to retailers, advertisers, and the general public; and,
 - d) balanced enforcement activity across all health regions in the province.
- identify areas where information critical to decision-making with respect to the enforcement program is lacking; and,
- refer serious deficiencies of federal tobacco legislation to the Minister in a timely manner for the Minister’s consideration”.

The six federal-provincial contribution agreements are summarized in Table 5 below.

³ Enforcement of the TPCA is not included in the contribution agreement with Ontario as it was signed after the September 1995 Supreme Court decision which left little of the Act to be enforced. For the other contribution agreements, only Section 7 of the TPCA is currently being enforced.

⁴ Again, for the reason cited in footnote 3, advertisers are not included in the Ontario contribution agreement.

**Table 5: Summary of Federal-Provincial Contribution Agreements
for Enforcement of Tobacco Legislation**

Province	1994-95	1995-96	1996-97	Total
British Columbia	\$160,000.00	\$550,000.00	\$200,000.00	\$910,000.00
Ontario		\$500,000.00	\$600,000.00	\$1,100,000.00
New Brunswick	\$33,333.33	\$100,000.00	\$100,000.00	\$233,333.33
Nova Scotia	\$33,333.33	\$100,000.00	\$100,000.00	\$233,333.33
Prince Edward Island	\$16,667.00	\$ 50,000.00	\$ 50,000.00	\$116,667.00
Newfoundland and Labrador	\$33,333.33	\$100,000.00	\$100,000.00	\$233,333.33

Source: Federal-Provincial Contribution Agreements

Under these agreements, funds are transferred to the provinces and provincial inspectors enforce both the provincial and federal legislation. The exception is Ontario where, at the province's request, a small number of federal inspectors are working closely with their provincial counterparts. In the provinces where there are no contribution agreements, Health Canada has hired federal inspectors. This includes the Central Region (Manitoba⁵ and Saskatchewan) Alberta, NWT, and Quebec.

In each of the six Contribution Agreements, the enforcement activities required are clearly defined in the attached Work Plan. The work plans⁶ for these Contribution Agreements generally include activities such as: surveillance; inspection; investigation of complaints or concerns; intelligence gathering; referral of non-compliant retailers and advertisers⁷ to the federal government; and, special projects. The basis for calculating costs is a "basic work unit", which represents a period of one hour at a predetermined cost. The cost of a basic work unit varies slightly from agreement to agreement. The allowance for a completed compliance check or decoy purchase is one basic work unit while that of a completed minor investigation is 3.5 basic work units.

⁵ Manitoba has recently hired two provincial inspectors to enforce province legislation. As of a month ago, provincial inspectors have been issuing appearance notices only (to appear before a judge in general court), while federal inspectors lay charges on follow-up visits.

⁶ Work plans differ slightly from agreement to agreement.

⁷ Advertisers not included in Ontario contribution agreement.

The volume of enforcement activity is defined in terms of basic work units rather than in numbers of inspections, compliance checks, referrals, etc. Each Agreement defines the number of basic work units to be carried out in each fiscal year covered by the Agreement. In addition, a general expectation (agreed to by both parties) as to the coverage, in terms of the type of enforcement activity, is specified. The nature of enforcement activity and the number of basic work units to be completed differs from agreement to agreement. Table 6 below summarizes the details of the work plans attached to each of the six contribution agreements.

Table 6: Summary of Contribution Agreement Requirements

Province	Cost/Basic Work Unit	Agreed to Work Plan
British Columbia	\$31	1994-95: 6,450 basic units of work* 1995-96: 16,129 basic units of work* 1996-97: 6,450 basic units of work* No less than 90% of the activities will be directed towards gaining compliance at the retailer level through, in order of priority, compliance checks, minor investigations, routine and follow-up investigations of tobacco retailers.
Ontario	\$30.00	Activity level not specified
New Brunswick, Nova Scotia and Newfoundland and Labrador	\$33.33	1994-95: 1,000 basic units of work 1995-96: 3,000 basic units of work 1996-97: 3,000 basic units of work This level of activity may reflect approximately 5,775 routine inspections and 350 investigations.
Prince Edward Island	\$33.33	1994-95: 500 basic units of work 1995-96: 1,500 basic units of work 1996-97: 1,500 basic units of work This level of activity may reflect approximately 2,888 routine inspections and 175 investigations.

Source: Contribution Agreements

* The work plan attached to the British Columbia-Canada Contribution Agreement was not amended to reflect the changes in the Agreement funding allocation for the province as shown in Table 5 above.

Under the contribution agreements, the provinces are required to submit to the Minister of Health Canada, detailed quarterly progress reports on:

- transactions undertaken (inspections, compliance checks, etc.);
- an assessment of trends or other indications of changes in the mix of transactions and their significance for the enforcement program;
- the identification of areas where information critical to decision-making is lacking;
- other commentary as appropriate on successes or difficulties experienced; and,
- a financial statement/invoice for expenditures and a comparison of costs with the cashflow forecast.

2.2 Provincial and Federal Legislation Targeting Sales of Tobacco to Youth

2.2.1 Provincial Legislation Versus Federal Legislation

As noted above, a number of provinces have developed and implemented their own legislation on tobacco sales to young persons. There appear to be two main reasons why the provinces felt the need to do so:

- i) concern by some provinces (prior to the announcement of the federal TSYPA) that the lowering of tobacco taxes would lead to a rise in youth smoking rates; and,
- ii) concerns that the federal legislation might be rescinded over time.

At the time of this study, seven provinces had enacted legislation restricting tobacco sales to young persons: British Columbia, Manitoba⁸, Ontario, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador. The provisions of each province's legislation are briefly summarized in Table 7 below, based on information available at the time of this study.

The fines and length of suspension of licence to sell tobacco products differs among the various pieces of legislation. In addition, the focus of enforcement activity varies from inspection only (Newfoundland and Labrador and New Brunswick) to compliance checking only (Manitoba) to compliance checking/decoy purchase (British Columbia and Nova Scotia) to surveillance (Ontario). Table 8 below summarizes the enforcement activity for each of the provinces.

⁸ Manitoba is unique in that it is the only province enforcing its provincial legislation without a federal-provincial contribution agreement in place.



Table 7: Summary of Tobacco Legislation

Legislation	Legal Age	Proof of Age	Signage	Vending Machines
Federal (TSYPA) ⁹	18	required	legal age	bar/beverage places
British Columbia Tobacco Sales Act	19	photo ID	health warning and decals as well as health warnings on vending machines	federal
Manitoba Non-Smokers Health Protection Act	18	required	federal	federal
Ontario Tobacco Control Act	19	photo ID	- 2 ID signs - health warning on signs	prohibited
New Brunswick Tobacco Sales Act	19	photo ID or 2 IDs*	health warning	federal
Nova Scotia Nova Scotia Tobacco Access Act & Regulations	19	photo ID	health warning and legal age (4 signs)	prohibited
Prince Edward Island Sales to Minors Act	19	required	legal age	federal
Newfoundland and Labrador Tobacco Control Act	19	required	health message**	federal

* IDs must be government issued, with date of birth.

** The prescriptives/regulations covering the signage requirements have since been repealed. In this case, federal signage takes precedence but with an age limit of 18 years of age (rather than the provincial limit of 19 years of age), federal signage is inappropriate.

⁹ All remaining provinces would comply to the federal TSYPA legislation.

Table 8: Summary of Tobacco Legislation

Legislation	*Fines/ Suspension	Details	Enforcement Activities
Federal (TSYPA) ¹⁰	monetary	finest range from a maximum of \$1,000 for a first offence up to a maximum of \$50,000 for repeated offenses	compliance checks and surveillance (Ontario)
British Columbia Tobacco Sales Act (TSA)	monetary and suspension	1st offence: \$200 (\$500 if go to court) 2nd offence: \$200 + suspension for 3 months 3rd offence: \$200 + suspension for 6 months 4th offence: \$200 + suspension for 12 months - after the 1st offence, \$1,000 if go to court - a jail term can also be imposed	generally compliance checks followed by decoy purchases on those who failed compliance checks; in some areas inspection only
Manitoba Non-Smokers Health Protection Act	monetary (to clerk who sold) suspension under the Tobacco Tax Act	1st offence: maximum of \$1000 Subsequent offences: maximum of \$5,000 - can lead to suspension or cancellation	compliance checks
Ontario Tobacco Control Act (TCA)	monetary and suspension	1st offence: \$2,000 (clerk), \$5,000 (corp) 2nd offence: \$5,000 (clerk), \$10,000 (corp) + suspension for 6 mos 3rd offence: \$10,000 (clerk), \$25,000 (corp) + suspension for 9 mos 4th offence: \$50,000 (clerk), \$75,000 (corp) + suspension for 12 mos	surveillance
New Brunswick Tobacco Sales Act (TSA)	monetary and suspension	1st offence: \$120 2nd offence: \$240 3rd offence: \$5,000 can lead to suspension or cancellation	inspections only to date
Nova Scotia Tobacco Access Act and Regulations	monetary and suspension	1st offence: up to \$2,000 and suspension for 7 days 2nd offence: up to \$5,000 and suspension for 3-6 months 3rd offence: up to \$10,000 and suspension for 12-24 months	compliance checks since July 1996
Prince Edward Island Tobacco Sales to Minors Act	monetary and suspension	1st offence: \$2,000 2nd offence: \$5,000 + suspension 3rd offence: \$10,000 + revocation	compliance checks since the fall of 1996
Newfoundland Tobacco Control Act (TCA)	monetary and suspension	1st offence retailer (clerk): \$500 (\$50) and suspension for 3 months 2nd offence retailer (clerk): \$2,500 (\$250) and suspension for 6 months 3rd offence retailer (clerk): \$5,000 (\$500) and suspension for 9 months	inspections and administrative compliance checks

* All of the provincial Acts impose fines but not all infractions incur suspension and the suspension is not always obligatory.

¹⁰ All remaining provinces would comply to the federal TSYPA legislation.

Although there are some aspects of provincial tobacco legislation which mirror and, in some cases, overlap those of the federal TSYPA, the Contribution Agreements facilitate a partnership by which enforcement of tobacco legislation is not duplicated. The exception is Manitoba where there is currently no Contribution Agreement in place.

In general, there has been no problem encountered in enforcing provincial sales to minors legislation and the TSYPA because, where provincial legislation is more stringent, enforcement of the provincial legislation has subsumed the federal legislation; i.e., when inspection staff enforce their respective provincial legislation, they are automatically enforcing the TSYPA. As noted in Tables 7 and 8 above, there are a number of ways in which provincial legislation is more stringent than the TSYPA. In particular, the legal age limit is generally higher under provincial legislation; i.e., with a minimum age requirement of 19 in six of the seven provinces, while under the federal TSYPA, the legal age is 18. Vending machines are prohibited altogether in Ontario and Nova Scotia. Furthermore, the right to sell tobacco products cannot be suspended under federal law, while most provincial legislation provides for suspension.

In Manitoba, where provincial inspection staff have recently started enforcing their own legislation, there is potential for duplication. The province has started doing compliance checks with two recently hired inspectors. As the provincial legislation only permits charging or ticketing the person who actually sells the tobacco product and not the proprietor, as is the case with the federal TSYPA, HC inspectors are helping the provincial inspectors to charge premises in violation of both the TSYPA and the Manitoba Non-Smokers Health Act. Interviews with Central Region staff indicated that a Contribution Agreement would facilitate a partnership which would permit provincial inspectors to lay charges under the TSYPA, thus avoiding duplication.

Representatives of retail associations and some provincial delivery staff interviewees questioned why there was no agreement between the federal government and the provincial governments on the legal age limit. There is potential for confusion on the part of retailers and the public as to which age limit is being enforced. This has happened to some extent in Newfoundland where legislative reform has currently left the provincial signage requirements unenforceable and the federal signage inappropriate¹¹.

¹¹ The prescriptives/regulations covering the signage requirements have since been repealed. In this case, federal signage takes precedence but with an age limit of 18 years of age (rather than the provincial limit of 19 years of age), federal signage is inappropriate.

2.2.2 Factors Affecting Effectiveness of Provincial Tobacco Legislation

Although there are fines and/or suspensions included in all provincial legislation targeting the sale of tobacco products to minors, the effectiveness of provincial tobacco legislation enforcement varies, not only from province to province, but from region to region within each province. As a result of interviews with provincial program staff, there were two main reasons identified for this:

i) Lack of Political Support

The lack of political support for compliance checking and decoy purchases leading to prosecution is affecting (or has affected) the enforcement of tobacco legislation in a number of provinces:

- In Newfoundland and Labrador, prosecution of offenders has not taken place due to the reluctance of both the Department of Health and the Department of Government Services to use minors in court proceedings. This is exacerbated by two additional problems: 1) the regulations involving issuance of tickets are not yet in place and 2) tobacco inspection staff do not have peace officer status and, therefore, cannot demand identification). Consequently, only warnings have been issued to date. The lack of penalties levied was considered by several interviewees as a significant barrier to achieving greater effectiveness of the enforcement program in Newfoundland and Labrador. Currently, the enforcement program in the province is dependent primarily on voluntary compliance.
- New Brunswick has not yet started compliance checks due to political resistance.
- Until recently, the province of Ontario had been focusing on surveillance as an enforcement tool. Now individual health units are starting to use compliance surveys for checking retailer compliance.

However, as health and social service responsibilities devolve to the municipalities, there is concern in Ontario that, with the added responsibilities, municipalities may not be able to support tobacco enforcement. In some areas, retailers have complained to local politicians about “entrapment” by government. If retailers complain loudly enough, municipal politicians may not be willing to support the enforcement program.

- In British Columbia, although there is political support for compliance checking/decoy purchases at the provincial level, actual support for these methods varies from health unit to health unit. A survey of health units indicated that, where there is a lack of support, only routine inspections are done and, in some areas, tobacco enforcement is carried out on a complaint only basis.

ii) Lack of Community Support

Community support is also an important element in assuring effective enforcement. Lack of support can impact on the ability of inspectors to do their job.

Retailers in some areas are not happy with the enforcement program, and believe that they should not be the primary focus of enforcement of tobacco legislation. Concerns were indicated that underaged purchasers were not being ticketed. In some areas (e.g., British Columbia and Ontario), some retailers are now alerted to the compliance program approach and are, hence, careful to avoid being caught by selling on weekends or after normal working hours, by selling only to youth they know, or by selling only when there are no adults around.

Lack of parental support for the employment of minors has hampered the introduction of compliance checks in at least one of the regions in Newfoundland and slowed its introduction in another.

In addition, there have been reports of stores being vandalized for not selling cigarettes in Prince Edward Island.

2.3 Continuing Need for the Federal Enforcement Program

An important component of the tobacco legislation enforcement program has been to ensure consistent national application of the federal legislation, while maintaining sufficient flexibility to adapt to regional and provincial realities. Most importantly, in those provinces without provincial legislation and without a Contribution Agreement (Quebec, Alberta, and Saskatchewan), Health Canada's enforcement program is the only program aimed at reducing tobacco consumption by youth operating in the province.

Interviews with provincial program delivery staff indicated that, in those provinces with Contribution Agreements, federal enforcement program funding has:

- assisted some provinces to set up a centralized enforcement unit (Nova Scotia's Tobacco Control Unit) or coordination unit (within the ministries of health of British Columbia and Ontario) to meet the demands of the federal funding;
- assisted some provinces to hire dedicated tobacco enforcement officers; and,
- helped promote tobacco enforcement as a priority activity.

There is evidence to suggest that there is a continued relevance and need for the program.

In the opinion of Health Canada interviewees:

- there is still a problem with youth smoking and the program has not yet met the target compliance rate for retailers under the TSYPA;
- the federal program has, to varying degrees, ensured some measure of commitment on the part of all provinces/territories to enforcement of tobacco legislation. The ability or commitment to carry on the enforcement program without federal dollars would vary from province to province. To date, the efforts provided by the provinces have varied greatly - Ontario has applied a lot of effort to enforcement of legislation, while others such as Quebec, Alberta and Saskatchewan have done little;
- although enforcement is not uniform across the country, there is some evidence that, as a result of the federal enforcement program, performance of enforcement programs has improved;
- there is a danger that a major cut in federal funding to enforcement could be seen as a lack of federal commitment to reduce tobacco consumption;
- as there is a liability issue related to enforcing an Act, there must be some means in place of enforcing the federal (or the provincial) tobacco legislation; and,
- where there are no Contribution Agreements and/or provincial legislation in place, it appears doubtful whether provinces will “pick up the slack”. The exception may be Ontario where there is a strong dollar commitment to enforce their own TCA regardless of federal funding.

Results of interviews with provincial delivery staff indicated that, without federal funding:

- tobacco enforcement would no longer be a priority activity and may drop back to inspection or investigation of complaints only. Indeed, the enforcement program may stop altogether; e.g., in British Columbia there is initial evidence that some health units have dropped the enforcement program once the federal funding dried up;
- dedicated tobacco enforcement staff hired to enforce the provincial legislation would be let go (in Nova Scotia, a replacement inspector has not been hired due to the uncertainty of future federal funding); and,
- if compliance activities cease, there is some concern that the compliance rate will revert back to what it was before the program.

2.4 Conclusions

Currently, seven provinces have implemented legislation restricting tobacco sales to young persons: British Columbia, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador. Although there are some aspects of provincial tobacco legislation which mirror and, in some cases, overlap those of the federal TSYPA, the Contribution Agreements facilitate a partnership by which enforcement of tobacco legislation is not duplicated. The exception is Manitoba where there is currently no Contribution Agreement in place.

There are fines and/or suspensions included in all provincial legislation targeting the sale of tobacco products to minors; however, lack of political and/or community support can negatively impact on the effectiveness of tobacco legislation enforcement.

There is a continued need for the Federal Enforcement Program. The reasons for this include:

- assurance of some measure of commitment on the part of all provinces/territories to enforcement of tobacco legislation;
- a major cut in federal funding to enforcement could be seen as a lack of federal commitment to reduce tobacco consumption;
- as there is a liability issue related to enforcing an Act, there must be some means in place of enforcing the federal (or the provincial) tobacco legislation; and,
- where there are no Contribution Agreements and/or provincial legislation in place, it appears doubtful whether many of the provinces will “pick up the slack”.

Without federal funding:

- tobacco enforcement would no longer be a priority activity and may drop back to inspection or investigation of complaints only;
- dedicated tobacco enforcement staff hired to enforce the provincial legislation would be let go; and,
- if compliance activities cease, there is some concern that the compliance rate will revert back to what it was before the program.

The TSYPA and provincial legislation limiting sales of tobacco to young persons fit well together. To date, there has been no problem encountered in enforcing provincial sales to

minors legislation and the TSYPA because, where provincial legislation is more stringent, enforcement of the provincial legislation has subsumed the federal legislation.

3.0 Effectiveness of the Program Delivery Process

The discussion below summarizes our findings pertaining to the effectiveness of the program delivery process. Our findings are based on a review of relevant documentation and interviews. The following questions are addressed:

4. *Is the Health Canada organizational structure for managing the program appropriate?*
 - a. *At HQ?*
 - b. *In the regions?*
5. *How is the program being delivered at the federal HQ, federal regional and provincial levels?*
 - a. *What are the differences in program delivery between the different provinces?*
 - b. *Are the provinces funding enforcement of their own tobacco legislation? What resources are being devoted to this?*
 - c. *Have the provinces bought into the program or are they just participating for the contribution resources?*
 - d. *Is it clear that the provinces are accountable too?*
 - e. *What are the differences in approach and cost for provinces where enforcement is done federally in comparison to enforcement done by the province under a contribution agreement? (See Section 5.0.)*
 - i. *What are the weaknesses and areas needing improvement in each region and what is their output level given their funding level, geography and population density? (See Section 5.0.)*
6. *To what extent have training programs been appropriate and comprehensive?*
 - a. *Do all enforcement officers believe that they have been adequately trained?*
7. *Is the OTC in Ottawa providing adequate co-ordination and technical support for the provincial and federal delivery organizations and are the regional offices fulfilling the same responsibilities in their role as coordinators with the provinces?*
8. *What are the lessons learned from the different delivery models?*
 - a. *Is there a particular model that works best?*
 - b. *What are the advantages and disadvantages of different delivery models?*
 - c. *To what extent does the background (e.g., ex-policemen, ex-customs officers, etc.) of enforcement officers contribute to the effectiveness of delivering the program?*



3.1 Health Canada Organizational Structure and its Appropriateness

3.1.1 Role of the Office of Tobacco Control (OTC)

The Office of Tobacco Control (OTC) within the Health Protection Branch (HPB) of Health Canada is accountable for enforcement of the legislation either through direct delivery by federal inspectors or delivery through provincially-appointed inspectors pursuant to the above mentioned federal-provincial contribution agreements.

The OTC is seen to be in a support role to the regions for program delivery. The support provided includes training, development of policies and interpretation bulletins. In particular, the OTC is responsible for:

- creating policies for implementation of the legislation, developing the tools necessary for the work of the inspection staff (i.e., training);
- planning on the national level (i.e., ensuring awareness of the tobacco issue and responding to “what if” scenarios related to impacts of budget cuts on the tobacco program);
- responding to all inquiries from regional HPB staff, including those on interpretation of the legislation and regulations;
- providing a liaison with business associations and national health groups; and,
- ensuring, in collaboration with the regions, follow-up and assessment of cooperative agreements with the provinces.

As OTC has no line authority over the regional offices, there is no duplication or overlap with the regional offices with regards to program delivery.

In the view of interviewees, the OTC has provided good coordination, technical and operational support. Regular conference calls or face to face meetings are held with program staff in all five regional HC offices to discuss a broad range of topics. Interviewees indicated that these regular meetings were invaluable in terms of bringing enforcement issues forward. For example, the roles of compliance checks and prosecutions were recently reviewed and it was made clear during the conference calls that, at this point in time, retail checks have become less important than compliance checks. This sharing of information has helped encourage the provinces to move toward a stronger program of compliance checks.

In addition, interviewees recognized that the OTC has shown flexibility in permitting the program to take into account regional and provincial differences.

3.1.2 Role of Health Canada Regional Offices

Overall, field staff in Health Canada regional offices are responsible for:

- implementing information, enforcement and compliance programs in those provinces where there are no contribution agreements (Quebec, Manitoba, Saskatchewan, Alberta, the Yukon and the Northwest Territories);
- management of provincial agreements where relevant (Newfoundland and Labrador, Prince Edward Island, Nova Scotia, New Brunswick, Ontario and British Columbia):
 - negotiation, administration and renewal of the Contribution Agreements;
 - monitoring to ensure compliance with the agreements;
 - reviewing and verifying the quarterly reports submitted by the provincial partner; and,
 - processing the invoices from provincial partners.
- providing OTC with quarterly enforcement activity reports;
- handling regional enquiries and complaints (e.g., interpretation of legislation); and,
- liaising with provincial/regional interested parties; i.e., acting as the funnel for information and functional support from OTC in Ottawa. This activity is done mainly through regular meetings between regional office staff and provincial/regional interested parties and/or conference calls. For example:
 - in the Western Region, meetings are held every six weeks (more frequently, if necessary) between the federal Chief of the Drug and Environmental Health Inspection Division, the federal Tobacco Products Specialist, and B.C. Ministry of Health officials to review inspection reports and discuss problems and possible solutions. In addition, there are quarterly regional meetings with the two District Supervisors in Alberta where only Alberta issues are discussed; and,
 - in the Atlantic Region, there are monthly Tobacco Program conference calls involving the regional manager of the Tobacco Program and the individuals responsible for tobacco legislation enforcement for the four Atlantic provinces to discuss tobacco enforcement issues.

Overall, the roles and structure of Health Canada regional offices in program delivery appear to be appropriate. However, interviews with regional office program staff identified a number of issues:

- Health Canada staff turnover in the Atlantic and Quebec regions created continuity problems in getting the program started in those regions. In both regions, the Tobacco Program managers have changed several times and in the Atlantic Region and the Enforcement Program was slow in getting started. However, it is important to note that, with the appointment of a dedicated regional manager in July of 1996, the situation in the Atlantic Region has significantly improved in terms of regional strategic coordination of the program.
- In Quebec, the lack of continuity has made it difficult to identify what was being done in terms of enforcement; i.e., the level of effort did not appear consistent with the amount of money allocated to the program.
- In Ontario and Manitoba, the role of the Health Canada regional office is in transition in enforcement operations as both provinces have their own enforcement organizations. This has created a situation where the federal and provincial enforcement organization parallel each other. To date, they have managed to work cooperatively together.

3.2 Delivery of the Program

The actual delivery of the Enforcement Program is through the five Health Canada regional offices: Vancouver (Western Region), Winnipeg (Central Region), Toronto (Ontario), Montreal (Quebec Region), and St. John's (Atlantic Region), and through the provincial partners.

3.2.1 Delivery Models

As Figure 1 illustrates below, there are a number of program delivery structures in place. However, despite the variations that exist, the study team identified three basic models for program delivery: federal delivery, centralized provincial delivery, and decentralized provincial delivery. They are briefly described below:

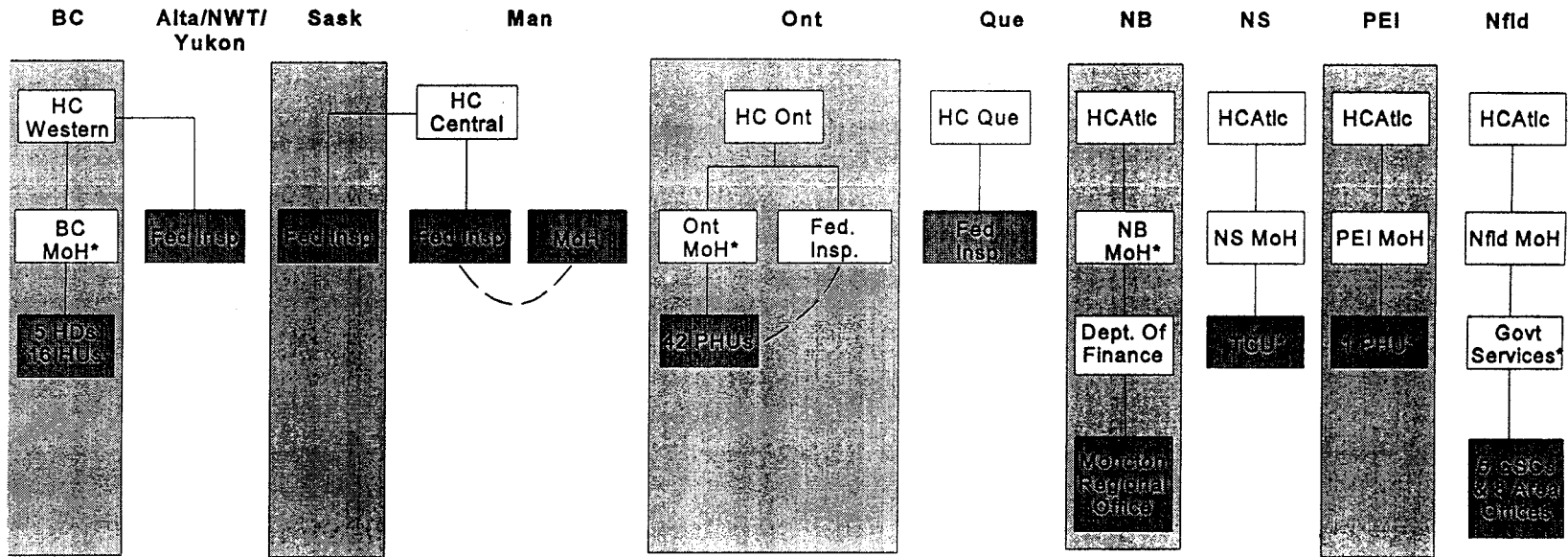
1) Federal Delivery:

The enforcement program is federally delivered in Alberta, the Northwest Territories (NWT), the Yukon, Saskatchewan, Quebec, and Manitoba.

In these provinces/territories, the appropriate Health Canada regional office is responsible for delivering the enforcement program; i.e., the Western Region is



Figure 1: Federal Tobacco Enforcement Program - Program Delivery Structures, By Province



Legend:

- = Program Delivery Agent(s)
- = Indicates Advisory/Advice Relationship
- *

- HC = Health Canada Regional Office
- MoH = Ministry of Health (Provincial)
- HDs = Health Departments

- HUs = Health Units
- TCU = Tobacco Control Unit
- GSCs = Government Service Centres

- Fed Insp = Federal Inspectors

responsible for Alberta, NWT and the Yukon, the Central Region is responsible for Saskatchewan and Manitoba, and the Quebec Region for Quebec. Inspectors are hired through the regional offices. Currently, there is one federal inspector for the Yukon, five for Alberta and the NWT and four for the Central Region (two in Saskatchewan and two in Manitoba).

In Alberta, the NWT and the Yukon, federal inspectors use a two-round approach; i.e., one round of compliance checks followed by a decoy purchase leading to prosecution and suspension. In Quebec and Saskatchewan, the three-round approach is used, with prosecution on the third round.

Manitoba has just begun to enforce its own legislation¹². Enforcement is delivered by the Ministry of Health. Two dedicated inspectors have been hired recently and they are currently working with two federal inspectors who are assisting them to lay charges. Manitoba focuses on a one-round approach in which appearance notices are issued and decided before a Provincial Court Judge. Tickets are another option but have not yet been used.

2) Centralized Provincial Delivery:

The enforcement program is delivered from a centralized coordinating unit in Prince Edward Island, Nova Scotia, and New Brunswick.

In Prince Edward Island, the Environmental Health Branch of the Queen's Region of the Health and Community Services Department has responsibility for the enforcement of tobacco legislation throughout the province. The Queen's Region has signed MOUs with the three other regions for the enforcement of this legislation. This unit has responsibilities for a range of acts and regulations, such as liquor licences, septic systems and food establishment inspections. There are four inspectors, each with responsibility for one region.

In Nova Scotia, the enforcement program is delivered by the Nova Scotia Tobacco Control Unit (TCU) located within the Department of Health. Until a recent retirement, there were two dedicated tobacco enforcement inspectors operating out of the TCU. The TCU deals directly with the Health Canada Regional Office - Atlantic Region and the Director of the TCU participates in the monthly regional Tobacco Program conference calls.

¹² There is yet no enforcement contribution agreement in place.

In New Brunswick, provincial responsibilities are divided between the Departments of Health and Finance. Health is responsible for setting overall tobacco-related policies and are involved in education and prevention activities. The Department of Finance is responsible for delivering the enforcement program. There are two dedicated inspectors. They work closely with the department's 21 other inspection staff who enforce twelve other statutes. All inspectors provide intelligence to the two dedicated inspectors as part of their monitoring/enforcement activities. Reporting is from Finance to the Health Canada Regional Office - Atlantic Region. Enforcement focuses on retail inspections, surveillance and investigations leading to ticketing and prosecution. Interviewees indicated that they have a "tentative green light" to proceed with administrative compliance checks and anticipate doing so in the near future. They felt that communicating the benefits of compliance checks in other jurisdictions may facilitate implementation.

3) Decentralized Provincial Delivery:

In the provinces of British Columbia, Ontario, and Newfoundland and Labrador, the enforcement program is delivered through autonomous local/regional program delivery units. These may be public health units (Ontario), health units/health departments (British Columbia) or Department of Government Services Centres (Newfoundland and Labrador).

In British Columbia, the enforcement program is delivered through five municipal health departments (HDs) and 16 provincial health units (HUs). Inspection staff are either dedicated full-time/part-time Tobacco Enforcement Officers (TEOs) or generalists (i.e., conduct other inspection programs such as food inspections, etc.). Overall coordination of program delivery is done out of the B.C. Ministry of Health's (MoH) Tobacco Enforcement Office. British Columbia focuses on a two-round approach: one round of compliance checks followed by one round of decoy purchases leading to tickets and eventual suspension.

In Ontario, the program is delivered through 42 public health units (PHUs) by provincial inspection staff. There is at least 1 FTE per unit responsible (but not necessarily dedicated) for tobacco enforcement. In addition, federal inspectors operate in an advisory/assistance capacity. Ontario is unique in having federal inspectors assist provincial inspectors at the request of the province. Federal inspection staff report to the Health Canada Ontario Regional Office, while provincial inspection staff report to their respective HU. The health units operate autonomously and, as tobacco enforcement is not mandatory, delivery varies. Overall coordination of the program is through the Public Health Branch of the Ministry of Health.



In Newfoundland and Labrador, tobacco enforcement activities are delivered by 31 Environmental Health Officers operating from the Department of Government Services regional and area offices located throughout the province. These offices are known as Government Service Centres (GSCs) and there are 5 regional and 8 area offices. Including tobacco enforcement, inspection staff are responsible for: 27 different routine inspection categories (e.g., food premise inspections, tobacco legislation, water supply sampling); 14 demand-based inspection activities involving land-use development requirements and complaints/requests; and, 3 education-related activities related to training, health promotion activities, and public health laboratory visits. One individual per region is dedicated as a regional tobacco enforcement coordinator who collects activity data from regional inspectors, aggregates the data and provides quarterly reports to a provincial tobacco coordinator located in the St. John's Regional Office. There is no direct contact between Health Canada and Government Services. Rather, liaison with Health Canada, including participation in conference calls, is done through the Department of Health. Enforcement focuses on inspections and administrative compliance checks. Currently, other enforcement techniques are being reviewed.

3.2.2 Use of Dedicated versus Generalist Inspection Staff

Interviews with delivery staff and inspection staff indicated that, in a well organized enforcement program, the effectiveness of program delivery is not affected by the use of dedicated versus the use of non-dedicated inspectors. On the other hand, in British Columbia where limited resources governed a Health Unit's ability to hire dedicated TEOs, Ministry of Health interviewees indicated that enforcement activity was found to be more effective in those Health Units (e.g., Vancouver, Victoria, Nanaimo, Courtney, North Shore, Cranbrook, Kamloops and Richmond) which used dedicated TEOs compared to those which used generalist inspection staff. However, there are problems associated with each model:

- dedicated inspectors sometimes become known by the retailer community and their effectiveness, and in some cases their safety, is at risk; and,
- on the other hand, if a generalist is used, internal support for the enforcement program is essential. Otherwise, tobacco inspection activity may be reduced to investigating complaints only.

3.2.3 Effectiveness of Different Enforcement Models

Enforcement models (three-round versus two-round versus one-round) differ from province to province and do not depend on the model of program delivery in use. As some provinces have just started their first round of compliance checks, it is difficult to determine which enforcement model works best. However, for those provinces which are more advanced in

their enforcement program, the use of a two-round approach is deemed by some program delivery interviewees to be more effective than a three-round approach - "if there are too many warnings, the retailer is prepared". Some areas have gone even further; i.e., a 1-round approach leading to an immediate appearance notice to be decided before a Provincial Court Judge (Manitoba) or suspension (Ontario). However, this is considered susceptible to challenge as entrapment by Health Canada officials.

3.2.4 Extent to Which Contribution Provinces are Committed to the Program

There is evidence that commitment to the program by the six contribution provinces has been mixed.

Interviews with provincial delivery staff in Prince Edward Island, Nova Scotia and New Brunswick indicate that the provincial departments responsible for delivery are strongly committed to enforcing both the federal and provincial tobacco legislation. All three provinces have contributed some measure of financial and personnel resources to the enforcement program. In Newfoundland and Labrador, contribution funding has not been distributed to all regional offices (4 of the 5 regional offices receive direct compensation for enforcement activities) of Government Services and Lands. This indicates that there may not be a universal commitment to the enforcement program across the province. Further, there is no evidence to suggest that the province has contributed financial or personnel resources to the program.

In Ontario, the province's commitment to enforcing their own, more stringent, tobacco legislation is also strong. The province has contributed \$2.5 million to the enforcement program in comparison to the \$600K contributed by the federal government. In the opinion of interviewees, the provincial Tobacco Control Act is more effective than the TSYPA and the province would probably have gone ahead without federal money.

In British Columbia, approximately \$1.26 million has been provided for enforcement over the last 30 months: \$345K to Health Departments; \$77.5K to Union Boards of Health; \$320K to the Tobacco Enforcement Office; \$300K for field office administration; \$32K for systems development; \$84K for consultant fees and training; and, \$100K for retailer information packages and signage.

In each of three provinces (Newfoundland, Ontario and British Columbia) with decentralized provincial delivery, there was uneven commitment to the program among the individual delivery units.

3.3 Appropriateness of Training Programs

3.3.1 Adequacy and Appropriateness of Training Programs

A standard job description for Tobacco Enforcement Officers was developed by Health Canada. Training for enforcement of tobacco legislation, including development of the training manual, was coordinated through the OTC in Ottawa. Formal training sessions to date include:

- a two-week Tobacco Officers Investigators Course in Cornwall in the fall of 1994 which was attended by all federal inspectors and some provincial inspectors (two from New Brunswick and five from Newfoundland);
- a two-day orientation session in Halifax in early 1995 attended by provincial inspectors from Nova Scotia, Newfoundland and Prince Edward Island;
- a one-day training session in Kelowna, B.C. for B.C. inspectors;
- Western regional staff participated in delivering 2 one-day training sessions to B.C. provincial inspectors in Richmond and Victoria. As in Kelowna, attendees and Federal staff paid their own way;
- in Prince Edward Island, provincial inspection staff recently attended a 1-week refresher course on law enforcement and evidence taking; and,
- a federally-funded workshop held in Victoria, B.C. on best practices in March of 1996. Participants included 22 B.C. field staff (representing 5 health departments and 7 health units); 4 from Central Region and 3 representatives of enforcement programs in Ontario, Nova Scotia and New Brunswick.

Since then, training has been provided as “on the job” training.

There is evidence that training has been appropriate and adequate. However, there is a need for additional training related to awareness of the legislation, evidence gathering, prosecutions and court appearances.

A survey of inspectors indicated that a majority felt that the training was appropriate and adequate. A number of interviewees suggested that there should be more sharing of information among inspectors to identify what works and what does not. For a majority of the inspectors interviewed, it was their background (public/environmental health, ex-RCMP, etc.) and experience rather than the training itself which helped them to carry out their enforcement activities. However, inspection staff in Newfoundland, Quebec, Ontario and British Columbia indicated that training in the area of prosecutions and protecting evidence

for court proceedings would be beneficial as the extent of court-based experience varies by inspector. For example, in British Columbia and Ontario tickets are currently being successfully challenged due to a frequent lack of properly documented evidence.

In Newfoundland, inspection staff indicated that there was also a significant need for training related to a general awareness of tobacco legislation. Inspectors noted that they have had to rely on the media, contacts on community health boards, and personal research to collect information on the context surrounding tobacco legislation. In addition, they felt that there was a lack of materials focussing on the legislation (both provincial and federal) developed specifically to meet the needs of youth, as well as guidance on delivering public awareness campaigns.

The stability of the workforce was identified as an issue for some regions. After the first round of training, there have been no follow-on training courses for federal inspectors. Given the potential turnover of term employees, allowance may have to be made for additional training courses. For example:

- In Alberta the five federal inspectors are term employees on secondment from Revenue Canada. Recently all three federal inspectors in Calgary went back to Revenue Canada, leaving only two inspectors (in Edmonton) with formal tobacco enforcement training. The replacements received some training from the departing TEOs and District Manager; however, this was deemed insufficient (a gap was identified in reporting procedures) and a TEO was sent from Edmonton to work with the replacement inspectors for a week.
- In Newfoundland, only five of the 31 original inspectors attended the Cornwall training session, and three of these five are no longer involved in the tobacco enforcement program. It was noted, however, that current budget considerations restrict travel outside of the province. Therefore, it was recommended that consideration be given to holding a training session, which should include all field staff, in Newfoundland.

3.3.2 Extent to Which the Background of Enforcement Officers Contributes to the Effectiveness of Program Delivery

There is evidence to indicate that the background of enforcement officers contributes to the effectiveness of program delivery. The nature of the enforcement officers' background differs from region to region.

The background of enforcement officers varies from province to province. All federal and some provincial (Nova Scotia and New Brunswick) are ex-enforcement (RCMP, police,



customs, revenue, etc.). Provincial inspection staff in Prince Edward Island, Newfoundland, Ontario and British Columbia are Certified Public/Environmental Health Inspectors.

The survey of inspectors indicated that both groups (with both enforcement and health backgrounds) felt that their backgrounds contributed to their effectiveness in delivering the enforcement program. The reasons given were as follows:

- in British Columbia, all inspectors have a Diploma in Environmental Health. As part of their training they took courses in ticketing from the Justice Institute and as inspectors they received training in legal procedures;
- In Alberta, four of the five federal inspectors are from Revenue Canada (Taxation Collections) and have extensive experience in gathering evidence and in enforcement of legislation/ legal procedures. The fifth inspector comes from Health Promotion and Programs Branch (HPPB), Health Canada. The individual's experience with programs has been an important asset in establishing partnerships (in Alberta, the police use HC test shoppers to gather evidence to lay charges under the TSYPA) and networking. The combination of the two background types is considered by program delivery staff in the province to be very helpful.
- in Ontario, provincial inspectors felt that their experience in other health-related enforcement activities, along with their training in surveillance techniques, was important in helping them carry out their enforcement duties; and,
- In Prince Edward Island, provincial inspectors felt that their extensive training in becoming Certified Public Health Inspectors, along with on-the-job experience, was sufficient to enable them to carry out enforcement of tobacco legislation.

3.4 Lessons Learned From Different Delivery Models

3.4.1 Advantages and Disadvantages of the Different Delivery Models

As described above (Section 3.2), there are three basic models for program delivery. The advantages and disadvantages of each model, as identified during site visits to delivery units and interviews with program delivery and inspection staff, are briefly discussed below.

- Federal Delivery Model:

In general, Health Canada interviewees indicated that the federal delivery model was the most responsive of the three models to changes in policy direction. In addition, as the reporting structure is centralized in the regional office, reporting is easier to track and accountability is good.

However, there may be a lack of partnership with the province and insufficient linkage to community health services.

- Centralized Provincial Delivery Model:

Centralization of enforcement activities in a single coordinating provincial unit provides good accountability in comparison to the decentralized provincial delivery model. This makes it easier to track program expenditures as they relate to enforcement activity. In addition, a small number of interviewees felt that this model, in comparison to the federal delivery model, led to better: cooperation with enforcement authorities (police, prosecutors and judges); coordination with provincial preventive health programs targeting young people (e.g., school education programs); ability to suspend and terminate tobacco sales licences (issued under provincial jurisdiction); and, use of the media to generate negative publicity for non-compliant retailers. Negative publicity has had some success in Nova Scotia where the TCU has been quite active in making public the names of retailers found to be selling tobacco products to underage youth.

However, this delivery model is seen by Health Canada to be less responsive to changes in policy direction than the federal delivery model.

Although some provincial interviewees believed that a centralized provincial delivery model may be better than the decentralized provincial model, given that provinces are moving to a decentralization of health and community services, tobacco enforcement will most likely remain at the health/delivery unit level.

- Decentralized Provincial Delivery Model:

As enforcement is usually done by community-based delivery units (health units, health departments or government services centres), a decentralized enforcement model is viewed as closer to the community. This means that enforcement activities can be more easily coordinated with other complementary activities such as health education in the schools, etc.

However, there are a number of problems associated with this delivery model including:

- The decentralized provincial model is the least responsive to changes in policy direction emanating from Health Canada.
- Enforcement is harder to control from a policy point of view as health units/health departments operate autonomously and there is little leverage by the province to ensure that the program is carried out. Political support for enforcement activity (in Ontario the enforcement program is not mandatory) differs from unit to unit as evidenced in our survey of health units in British Columbia and Ontario. In both



provinces, some health units are proactive and enforcement includes compliance checks, decoy purchases, or surveillance leading to prosecution or suspension. In others only routine inspections and investigations of complaints are carried out.

- The extent to which other provincial agencies; e.g., the police, the justice system, etc., support the enforcement program differs from health department/health unit. For example, in one of the health units surveyed in British Columbia, tobacco enforcement evidence was often not considered substantive enough by crown prosecutors and concern was expressed by interviewees that the evidence would not stand up in court.
- Being resident in the community also poses a problem for inspectors. There is often a reluctance to do more stringent enforcement activity such as compliance checks, decoy purchases, or surveillance. In the opinion of inspection staff, anonymity is an important feature of effective enforcement and this is difficult to maintain in the smaller communities. In fact, in some areas of the country, concern was expressed over the safety of inspectors.
- Accountability is not as good as that for the centralized provincial delivery model as consistency of reporting is harder to maintain among the different delivery units.

3.4.2 Best Practices

Sharing of best practices and lessons learned with other jurisdictions can be an important training tool for the program. During the study, a small number of interviewees identified a number of “best practices” that positively affected their province’s ability to effectively deliver the program. These included:

- i) **the use of negative publicity to reinforce the program:** In Alberta, Ontario, and Nova Scotia, the use of media coverage of tobacco enforcement activities plays an important role in improving compliance rates.

In Alberta, the police publish press releases on results of compliance checks, including the names of retailers found to be non-compliant. This has proven to be an effective tool and, in some cases, 100% compliance has been observed on a follow-up visit after a press release.

In Nova Scotia, the TCU has been very active in using the media (the Director has been in the press almost 12 times in the last year alone) to promote compliance. Unlike Alberta, they have not yet published the names of non-compliant retailers.

In Ontario, some HUs (e.g., Ottawa-Carleton) are publishing the names of suspended retailers.

In British Columbia, the recently revised provincial *Policy for Enforcement of the Tobacco Legislation (draft)*, encourages delivery units to issue press releases announcing the results of compliance checks. However, the release of the names of retailers, who have been suspended from selling tobacco products by the Ministry of Finance, is prohibited.

- ii) **a comprehensive approach:** In Nova Scotia, the enforcement program is part of a comprehensive approach to reducing the use of tobacco. According to interviewees in the province, this approach results in a better understanding on the part of management of where enforcement fits with other approaches aimed at tobacco reduction; e.g., education and cessation programs.

The link between education and enforcement was also identified as being important during the Best Practices Workshop held in Victoria; i.e., *“enforcement and education activities need to be more clearly linked in the delivery of the program by enforcement officers”*.

- iii) **partnership with the police:** Alberta has established a fairly successful partnership with police in enforcing tobacco legislation. As there is no provincial legislation to enforce, five municipalities (Edmonton, Calgary, St. Albert, Cochrane and Strathmore), have enacted their own municipal by-laws which permit the suspension of a retailer’s licence to sell tobacco if convicted under federal law. In these municipalities, the police lay charges under the TSYPA using HC-funded student decoys. In addition, as noted above, the police have contributed to the effectiveness of the program by making use of negative publicity generated through press releases on results of compliance checks.

The partnership with local police has also proven to be cost effective in delivering the enforcement program in that the police do all the court preparatory work. This saves Health Canada the hours required to prepare evidence for prosecution.

3.5 Conclusions

In terms of overall program delivery:

- the Office of Tobacco Control has provided good coordination, technical and operational support ; and,
- the roles and structure of Health Canada regional offices appear to be appropriate. However, a number of problems were identified which included:
 - the turnover of Health Canada staff in the Atlantic and Quebec regions which created continuity problems in getting the program started in those regions;

- in Quebec, the lack of continuity also made it difficult to identify what was being done in terms of enforcement; and,
- in Ontario and Manitoba, the role of the Health Canada regional office is in transition in enforcement operations as both provinces have their own enforcement organizations. This has created a situation where the federal and provincial enforcement organization parallel each other. To date, they have managed to work cooperatively together.

There are three basic models for program delivery: federal delivery, centralized provincial delivery, and decentralized provincial delivery. The enforcement program is federally delivered in Alberta, the NWT, the Yukon, Saskatchewan, Manitoba and Quebec. In a centralized provincial delivery system, the enforcement program is delivered from a centralized coordinating unit (Prince Edward Island, Nova Scotia, and New Brunswick), while in a decentralized provincial delivery model, the program is delivered through autonomous local/regional delivery units (Newfoundland, Ontario and British Columbia).

Each delivery model has its own strengths and weaknesses:

- The federal delivery model is the most responsive of the three models to changes in policy direction. As the reporting structure is centralized in the regional office, reporting is easier to track and there is good accountability. The disadvantage is that there may be a lack of partnership with the province and insufficient linkage to community health services.
- Centralization of enforcement activities in a single coordinating provincial unit provides good accountability in comparison to the decentralized provincial delivery model. This makes it easier to track program expenditures as they relate to enforcement activity. In addition, this model has led to better: cooperation with enforcement authorities (police, prosecutors and judges); coordination with provincial preventive health programs targeting young people (e.g., school education programs); ability to suspend and terminate tobacco sales licences (issued under provincial jurisdiction); and, use of the media to generate negative publicity for non-compliant retailers. However, this delivery model is seen by Health Canada to be less responsive to changes in policy direction than the federal delivery model.
- As enforcement is usually done by community-based delivery units (health units, health departments or government services centres), a decentralized enforcement model is viewed as closer to the community. This means that enforcement activities can be more easily coordinated with other complementary activities such as health education

in the schools, etc. However, there are a number of problems associated with this delivery model including:

- it is viewed as the least responsive to changes in policy direction emanating from Health Canada. As health units/health departments operate autonomously and there is little leverage by the province to ensure that the program is carried out;
- it can be harder to get support from other provincial agencies; e.g., the police, the justice system, etc.;
- if an inspector is a resident in the community, there is often a reluctance to do more stringent enforcement activity such as compliance checks, decoy purchases, or surveillance; and,
- accountability is not as good as that for the centralized provincial delivery model as consistency of reporting is harder to maintain among the different delivery units.

Commitment to the program by the six contribution provinces has been mixed.

Training of inspection staff has been appropriate and adequate. However, a need for additional training related to awareness of the legislation, evidence gathering, prosecutions and court appearances was identified. The nature of the background (law enforcement versus health enforcement) of the tobacco enforcement officer does not appear to affect the delivery of the program.

If the delivery unit has a well organized program and there is strong commitment to enforcement of tobacco legislation, it does not appear to matter whether a dedicated TEO or generalist is used.

In terms of which model works best:

- No one delivery model appears to work better than another. If the objective is responsive and well coordinated policy, then a centralized federal or provincial model is best. If a community-based approach is desired, then a decentralized model should be used.
- If the delivery unit has a well organized program and there is strong commitment to enforcement of tobacco legislation, it does not appear to matter whether a dedicated Tobacco Enforcement Officer or generalist is used.
- Enforcement models (three-round versus two-round versus one-round) differ from province to province and do not depend on the model of program delivery in use. As



some provinces have just started their first round of compliance checks, it is difficult to determine which enforcement model works best.

- There are several practices which are used to cost effectively strengthen the enforcement program. These include: use of the media to generate negative publicity against non-compliant retailers; linking education and enforcement; and, working in partnership with the police.

4.0 Program Success

The discussion below summarizes our findings pertaining to the success of the Enforcement Program. The discussion is based on an analysis of the findings of various research studies and surveys on levels of retailer compliance with tobacco legislation, and levels of awareness of tobacco legislation among retailers and youth. The findings from research done in Canada on enforcement, compliance and awareness since the enactment of the Tobacco Sales to Young Persons Act (TSYPA) are compared with some findings from research on enforcement of tobacco legislation in the United States. Also included throughout this section is empirical and anecdotal evidence regarding the success of this program obtained through interviews conducted during this evaluation. The following questions are addressed:

9. *What have been the accomplishments in terms of increased retailer awareness and compliance under the program?*
10. *To what extent have information and education materials been developed as intended?*
 - a. *Have they been disseminated to tobacco retailers?*
 - b. *To what extent have the various information channels made retailers more aware of the legislation and their obligations under the legislation?*
 - (1) *Mail-out*
 - (2) *newspaper ads*
 - (3) *1-800 number*
 - (4) *routine inspections*
 - (5) *provincial retailer education activity*
 - (6) *the Retail Council of Canada's retailer information campaign*
11. *To what extent has the federal enforcement program contributed to increased compliance with the legislation?*

4.1 Program Accomplishments

Results of a review of activity reports and interviews with program officials, including inspection staff, indicate that the Enforcement Program has accomplished a great deal since 1994. Table 9 below summarizes the activities completed during this period.

In brief:

- Almost 90,000 enforcement activities were completed during FY1995-96 and the first two quarters of 1996/97. The majority (60%) of these were inspections, followed by compliance checks (26%).

As can be observed from the table:

- if the number of compliance checks as a percentage of total activities is used as a criterion, the Central Region (compliance checks are 71.8 per cent of total activities) is further ahead than the rest of Canada. In fact, according to interviewees, the Atlantic Region has only begun using compliance checks as an enforcement tool; and,
- Ontario is the only province which uses surveillance and complaint investigation as the primary enforcement tools.

Table 9: Summary of Enforcement Activities Completed by Province

Prov/Region	# of Insp.	# of Surv.	# of Invest.	# of Prosc.	# of Liaison	# of Compl. Checks	Total Activities
Newfoundland	2,845	0	6	0	22	94	2,967
Prince Edward Island	2,416	0	11	0	0	0*	2,427
Nova Scotia	1,599	0	540	28	23	539	2,729
New Brunswick	3,138	11	62	19	91	0	3,321
Quebec	8,858	5	536	7	155	5,252	14,813
Ontario (fed or prov)	16,464	7,699	585	264	854	950	26,816
Central	1,986	19	20	18	93	5,427	7,563
Western (Fed)	3,497	8	105	75	398	4,697	8,780
Western (B.C.)	11,276	0	452	146	189	5,608	17,671
TOTAL	52,079	7,742	2317	557	1,825	22,567	87,087

Sources: HC National Reports and provincial reports for the Atlantic Provinces. NB. Compliance checks include rounds one to three. NB. PEI just started doing compliance checks in the third quarter of 1996.

- Retailer awareness of their obligations vis-a-vis the selling of tobacco products to minors has increased over the period of the enforcement program and retailer awareness is considered by interviewees to be high. A small number of interviewees indicated that awareness was highest in urban areas. Increased awareness has mainly been attributed to the awareness raising activities conducted by both levels of government (discussed

in detail in Section 4.3.1 below), the ongoing education of retailers by inspection staff as part of their routine inspection duties, and to some extent, the information packages provided to retailers by their respective associations. This trend is supported by results of the 1995 and 1996 Optima Surveys (see Section 4.3.2 below for details).

- There has been an overall observed improvement in the compliance rate of retailers as a result of the enforcement program. The extent of program accomplishments in terms of increased retailer compliance varies from province to province (and in British Columbia, Ontario, and Newfoundland, from delivery unit to delivery unit) depending on the extent to which the program has been implemented, as well as political and community support. This trend is supported by the results of the AC Nielsen Surveys which are discussed in detail in Section 4.4.1 below.

However, in terms of continued program success, a number of problems were identified by interviewees. These included:

- According to NHQ officials, there is a concern that current program resources can only support one compliance check/retailer every 2.5 years (This is based on program support for 40,000 compliance checks/year and an estimate of 100,000¹³ retailers across Canada.). In their opinion, compliance checks must be done more frequently in order that the program achieves maximum effectiveness.
- The variability of commitment to enforcement across the country is affecting the overall consistency of the program. Although compliance checks are considered by many to be the most effective tool, they are not yet in use in all jurisdictions.
- The lack of a tie-in with education programs in the schools is having a negative impact on the success of the Enforcement Program. Youth smoking rates are still rising (see Section 4.4.6 below) and there needs to be a balance between education programs and enforcement programs to ensure some measure of its success. Some regions, particularly Nova Scotia, are achieving some success with a comprehensive approach.
- Uncertainty surrounding the continued funding from Health Canada is impacting on the hiring of replacement inspection staff in provinces where there is a Contribution Agreement. This, in turn, is impacting on the number of enforcement activities being carried out.

¹³ No one knows with any degree of certainty the number of retail tobacco outlets in Canada. With the lowest estimate being 50,000 and the highest being 150,000, the figure of 100,000 is assumed to be reasonable enough for HC planning purposes.

- There may be a need to develop other enforcement tools. There are concerns that retailers are aware of the methods used in the enforcement process and do not sell tobacco products to youths when they suspect that inspection staff are in the area. In addition, concerns over the safety of inspectors and student decoys are adversely affecting their ability to carry out enforcement in some areas.

4.2 Research Evidence on Enforcement Programs

One of the objectives of the federal enforcement program is to reduce access to tobacco by youth through high compliance rates among tobacco retailers with the TSYPA or provincial legislation. This approach is believed to be more effective than the exclusive use of education and information campaigns for the public on smoking issues and on federal and provincial tobacco legislation.

Research in the United States has demonstrated that a combination of educational interventions for youth concerning the dangers of smoking, and educational programs for tobacco retailers outlining the legislation prohibiting tobacco sales to minors have produced short-term decreases in sales to minors but have not contributed to long-term sustained results. For example, an evaluation of a large-scale merchant and community education program in Santa Clara County, California demonstrated how any initial gains made through educational interventions tend to erode over time.¹⁴

Additional research on the use of enforcement programs to reduce the sale of tobacco to minors and smoking rates among youth have shown that enforcement of tobacco legislation can be both efficient and effective, particularly when combined with educational awareness programs.

Enforcement programs have gained popularity in recent years in the United States due to confirmed reports from various studies that minors are able to purchase cigarettes from stores 70-100% of the time, despite the fact that all 50 states have some type of legislation restricting the sale of tobacco products to youth. Further research in the United States over the last seven years, has made direct links between the enforcement of tobacco legislation, reductions in sales of tobacco to minors, and decreases in smoking rates among youth. Three research projects, all conducted in the early 1990's, have demonstrated that low-cost

¹⁴ Jason, Leonard A. et al. (1996) "Long-Term Findings from Woodridge in Reducing Illegal Cigarette Sales to Older Minors." in *Evaluation and the Health Professions*, Vol. 19 No. 1, March 1996, pp. 3-13. Sage Publications Inc.

enforcement measures undertaken by police or local health officials have led to reductions in the rates of underage smoking.¹⁵

A study conducted in Woodridge, Illinois found that after two years of conducting quarterly compliance checks with minors aged 12 to 13, the smoking rates of 13 and 14-year olds at a local junior high school had reduced by 50%, and the rate of sales to minors had decreased from 70% to 5%. In Leominster, Massachusetts a study was undertaken which involved compliance checks three times a year using 16 and 17-year olds. At the completion of this study smoking rates among 13 to 17-year olds were found to have decreased by 38%. The third study in Everett, Washington found that after low-level enforcement efforts for under one year, there was a 22% decrease in underage smoking. These three studies represent the highest decreases in smoking rates among young people due to low-cost enforcement efforts than any other studies in the United States.¹⁶

The study conducted in Woodridge, Illinois¹⁷ reveals that the city's tobacco legislation was successful because it was enacted in conjunction with a community awareness program; an enforcement program which involved regular and uniform compliance checking procedures; and the use of penalties for violations including administrative and civil prosecutions of all violations (which included fines or suspensions); and a possession fine of \$25 for minors caught with tobacco.

The awareness and enforcement programs contributed to decreases in the rates of tobacco sales to minors and the smoking rates among youth. Prior to enacting the legislation 46% of 7th and 8th grade students surveyed identified themselves as 'experimenters', and 16% 'regular smokers'. These rates fell to 16% and 5% respectively after two years of the enforcement program. Eighty-nine percent of the students surveyed knew about the new legislation and 69% stated that it would either prevent the distribution of cigarettes or make it harder to obtain them.

Following the two year enforcement period; however, 77% of students cited that their source of cigarettes were friends, parents, siblings or others; 17% cited stores or vending machines outside of Woodridge; and 6% cited stores in Woodridge. This indicates that with reduced

¹⁵ Ibid.

¹⁶ Radecki, Thomas E., and C. Dianne Zdunich (1993) "Tobacco sales to minors in 97 U.S. and Canadian communities." in *Tobacco Control*, 1993, 2: 300-305.

¹⁷ Jason, Leonard A. et al. (1996) "Long-Term Findings from Woodridge in Reducing Illegal Cigarette Sales to Older Minors." in *Evaluation and the Health Professions*, Vol. 19 No. 1, March 1996, pp. 3-13. Sage Publications Inc.

access to cigarettes from stores, students will find other means of acquiring them. Evidence of this occurring in Canada will be discussed in Section 4.4.3 below.

The study by Radecki in 1993, cited below (see section 4.4.5), conducted compliance checks in the same city with 16 year olds and found a non-compliance rate of 60%, only 10% lower than the pre-enforcement program rate of 70% in 1989. The researchers of the original Woodridge study conducted a re-test with minors between 13 and 17 years of age over a three year period, during which the age of minors used was increased. The results from this re-test found sales rates to 13 and 14-year olds to be 13% or lower, and sales rates to older youths below 20%, with the exception of one sample. These findings demonstrate that the age of minors used in compliance checks can significantly affect the rates of retailer compliance.

The evidence from each of these studies indicates that consistent and sustained enforcement of legislation is crucial to achieving reductions in sales of tobacco to minors and reduced smoking rates among minors. The Woodridge study has also demonstrated that increasing the age of minors used in compliance checks provides greater assurance of reduced rates. The inclusion of a possession charge for minors has produced results in reduced smoking rates among minors.

4.3 Accomplishments in Retailer Awareness

4.3.1 Federal and Provincial Awareness Activities

There is evidence that there has been good dissemination nationally of information to retailers about their responsibilities under legislation (federal and provincial) pertaining to sales of tobacco to minors.

Federal Awareness Activities

As the TSYPA was a new piece of legislation, information activities during 1994-95 and 1995-96 focused on informing retailers and the public about the requirements under the Act. Around the time the TSYPA came into effect, three information initiatives were undertaken by headquarters. These included:

- **Information Kit**: In March of 1994, an information package was mailed out to more than 150,000 retail establishments in order to inform all those who might be affected by the TSYPA. The information package was either mailed directly to the retailer or indirectly through their respective industrial or retailer's association.
- **Newspaper Ads**: In February and March of 1994, announcements were placed in the major dailies throughout the country, informing retailers and the general public of the

main thrust of the TSYPA as well as identifying the existence of a toll-free 1-800 information number.

- **1-800 Number:** A toll-free line was established to answer questions from the general public and retailers on the TSYPA. In addition, information was provided on provincial legislation as required and the information kit was mailed out to those who requested it.

Provincial Awareness Activities

In addition to the above, each province/region was given the responsibility to develop retailer education and public information initiatives tailored to their specific requirements (e.g., tailored to fit specific provincial legislative requirements).

Specific provincial/regional awareness activities, as determined through interviews with provincial/regional delivery staff, include the following:

- In **British Columbia**, the province created its own package of materials (includes required signage) to make retailers aware of the provisions of the British Columbia TSA. According to interviewees, all retailers have been provided with the provincial information package and in some areas, retailers have received an information package from the provincial Retail Council. Inspectors routinely hand out new packages to new retailers or if the signage has worn off to ensure retailer awareness and compliance with the provincial tobacco legislation are maintained. Ongoing “one-on-one” education of retailers is considered to be very important and effective in ensuring retailer awareness.

In addition, some HUs are publishing results of compliance checks to maintain general awareness of the legislation and that there is a program in place to enforce it.

- In **Alberta, NWT and the Yukon**, all retailers have received the federal information package. To supplement the federal package, an information sheet was prepared and distributed to wholesalers to help Head Offices make their individual outlet operators aware of the TSYPA. In addition, press releases by the police of results of compliance checks are an effective tool to heighten awareness of the legislation and enforcement program.
- All retailers in the **Central Region** have received the federal information package. No additional awareness activities were reported.
- In **Ontario**, a provincial package (including signage) was prepared to inform retailers of their requirements under the TCA. All retailers have received this package. In

addition, the HUs conduct regular awareness checks as part of routine inspections. Additional information is provided when required.

As HUs operate more or less independently, some HUs have developed additional information packages. This has become increasingly important in ethnically diverse neighbourhoods. For example, one HU has developed a series of "tear-off" sheets explaining the TSA in a number of languages to distribute to customers who were denied cigarettes. This has proved very popular among retailers as it saves them a long heated discussion with a customer.

- In Quebec, all retailers have been mailed information about the TSYPA and appropriate signage. Additional information material has been produced and distributed including: an information sheet on laws for retailers; stickers; and, an information sheet for retailers to distribute to customers.
- In New Brunswick, all tobacco retailers have received the province's information/education package, including signage, on the provincial TSA. New packages are routinely distributed to new retailers as required.
- In Nova Scotia, all retailers have received a package containing information on the provincial Tobacco Access Act and the regulations and the required signage. Awareness activities also includes: a series of public service announcements of the Act and student test purchasing; newspaper articles (not advertisements); and, a television spot on an episode of the Premier's television show, "House Calls", which examined the strategies adopted by the province to address smoking as a serious health issue.

There are plans to send the retailer associations a letter encouraging their support with respect to the legislation and communicating results of prosecutions to their members with the aim of increasing voluntary compliance.

A TCU Internet site is under development which will also provide information on enforcement, education, taxation, legislation, research and evaluation.

- In Prince Edward Island, the province has distributed an information package to retailers informing them of: the requirements under the provincial Tobacco Sales to Minors Act; the existence of the enforcement program; and, the consequences of non-compliance. In addition, the province has provided retailers with a variety of signage with the message, "It is illegal to sell tobacco to, or purchase for, any person under the age of 19". A 1-800 number is available to register complaints. After a round of compliance checks, follow-up letters are sent to retailers notifying them of compliance or non-compliance.

- In **Newfoundland and Labrador**, a provincial package containing details on the provincial legislation and signage requirements, as well as the signs themselves, was distributed to all retailers. Other awareness activities include:
 - preparation of a letter advising retailers of their responsibility under the Act; and,
 - newspaper advertisements which included contact numbers for each of the regional GSCs.

Currently, the province is designing a communications campaign to illustrate all of its services, including all tobacco-related activities.

Retail Association Activities

In addition to the above provincial/regional awareness activities, retailing associations are conducting their own awareness raising activities on tobacco legislation enforcement. These include:

- The National Association of Tobacco and Confectionary Distributors provided training materials to retailers for distribution to their staff. The material included information with respect to the proper I.D. and the penalties for not complying with the law. Some 50,000 kits containing the material were sent out to retailers across the country at a cost of \$1 million. Due to demand, the Association ordered the printing of another 19,000.
- A major new initiative to stop illegal tobacco sales to minors was launched in the fall of 1996 by the *Canadian Coalition for Responsible Tobacco Retailing*. Called *Operation I.D.*, the initiative is targeting all retailers to implement a “zero tolerance” policy and to require proper identification before selling tobacco products wherever age is in question. Retailers are being sent information and training kits that provide a wide range of point-of purchase communication materials, such as posters, cash register signs and counter displays. The in-store signs inform minors that they shall be asked for proof of age. The kit also includes materials that assist store operators in training their employees on how to implement a firm policy on illegal tobacco sales. To date more than 70,000¹⁸ convenience stores, pharmacies, supermarkets, gas stations, wholesalers and trade associations have joined the initiative.

Health Canada and provincial delivery interviewees in all regions and provinces indicated that federal and provincial government awareness activities, along with ongoing inspector retailer education, have resulted in a high degree of awareness among retailers of their

¹⁸ Quote from Coalition spokesperson.

obligations under the tobacco legislation in force in their area. This viewpoint is supported by the results of the survey of inspection staff. Increased retailer awareness since 1994 is also demonstrated by the results of the 1995 and 1996 Optima Surveys discussed below.

4.3.2 Evidence From the 1995 and 1996 Optima Surveys

As part of the strategy to achieve increased compliance among Canadian tobacco retailers with the TSYPA, the federal government has conducted awareness-raising activities within each province. To measure the effectiveness of these activities Health Canada commissioned Optima Consultants to undertake a three-year tracking survey of tobacco retailers between 1995 and 1997 called the *Tobacco Retailers Survey on Tobacco Sales to Minors Legislation*. This survey was designed to determine changes in levels of awareness and understanding of federal and provincial legislation of tobacco sales to minors.

A mailing survey was used based on a regional stratification of retailers and stratification by retail outlet. The retailer groupings established were: variety store; supermarket; general store; gas station; pharmacy; magazine and tobacco; bar/restaurant; hotel; bowling; and, billiards. In 1995 the total sample was 4,461 retailers and in 1996 the total was 4,550.

Recent survey results produced in May 1996 demonstrate that retailer awareness of the legislation in general has increased from 1995 levels. Changes in levels of awareness across each of the provinces/territories are examined below. The following categories represent information on awareness that can be compared across regions:

- Legal Age Limits
- Proof of Age
- Legal Age Signage
- Number of Signs
- Compliance with Signage Laws
- Monetary Fines
- Enforcement Visits

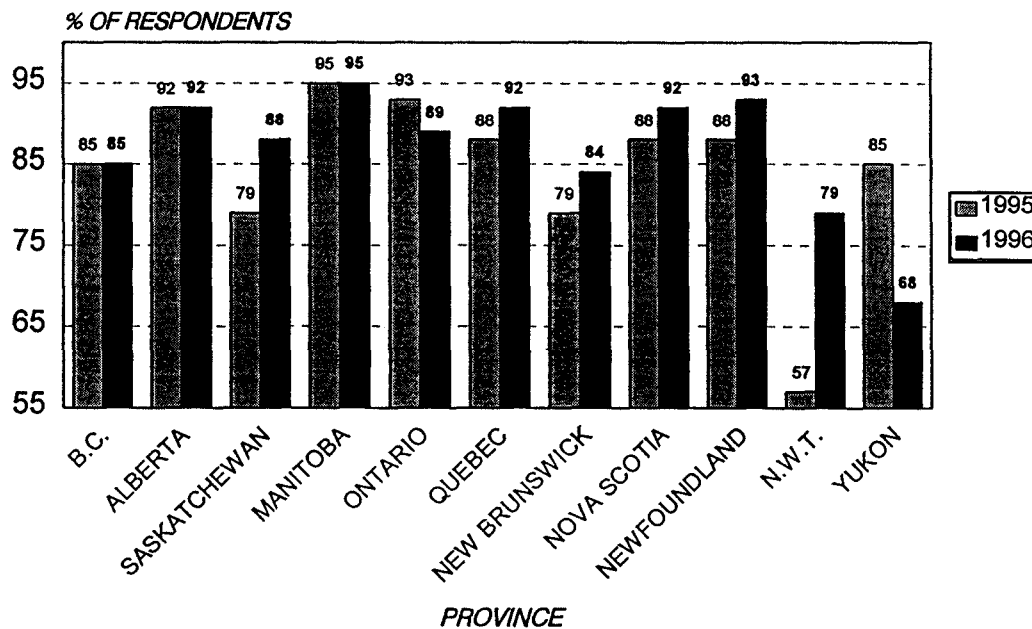
The Northwest Territories and the Yukon have been included in the survey. However, due to the small base size of the retailers surveyed in these regions, the data should be interpreted with caution. The sample size for NWT was 28 retailers in 1995 and 35 in 1996, while for the Yukon the sample size for both years was 18 retailers.

Legal Age Limits

Figure 2 below illustrates the awareness of correct legal age limits across Canada. In the six provinces where the legal age for minors to buy tobacco is 19 years, awareness is

Figure 2:

AWARENESS OF CORRECT LEGAL AGE LIMITS



approximately 90%. The Atlantic provinces show a slight increase in awareness of this legislation (except PEI where it was only introduced in 1995), while Ontario shows a 4% decrease in awareness from 93% in 1995 to 89% in 1996.

Awareness has also improved in the provinces where the legal age is 18, with the exception of the Yukon where awareness has decreased 17% from 85% in 1995 to 68% in 1996.

Proof of Age

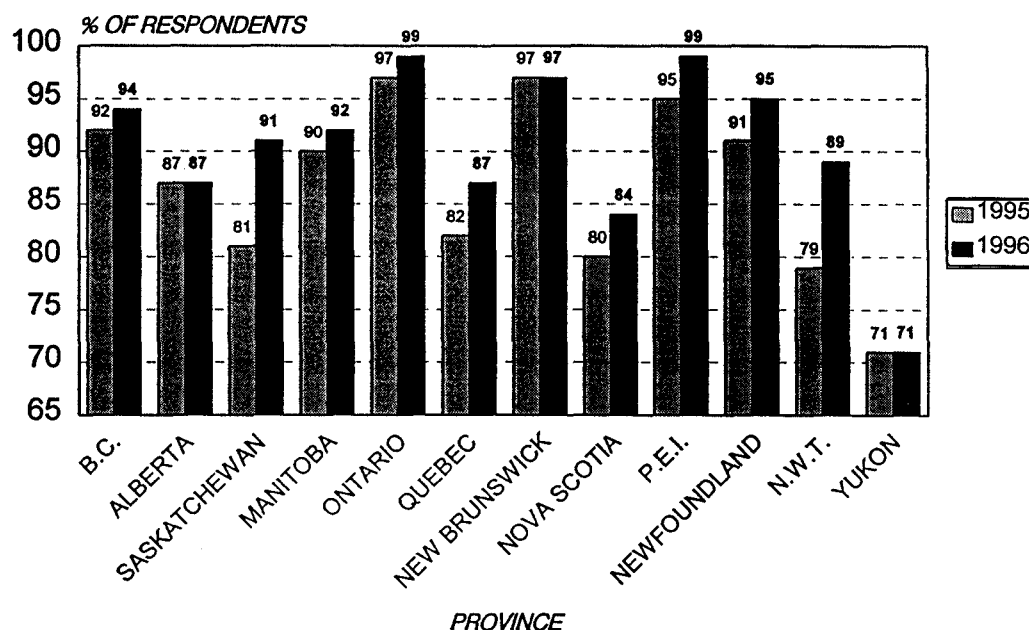
Awareness of the requirement to ask for proof of age when in doubt is at 96% on average for the country. Retailers in Québec (91%) and NWT (92%) are slightly lower than the average.

Legal Age Signage

The average level of awareness of the requirement to post legal age limit signs in tobacco retail outlets is 92% (see Figure 3 below). Awareness levels in all of the provinces and

Figure 3:

AWARENESS OF LEGAL AGE SIGNAGE REQUIREMENT



territories either increased or remained the same in 1996.

Number of Signs

It is still unclear to many tobacco retailers across the country as to the number of signs they are required to post. However, awareness of the requirement to post at least one sign has increased by 21% from 39% in 1995.

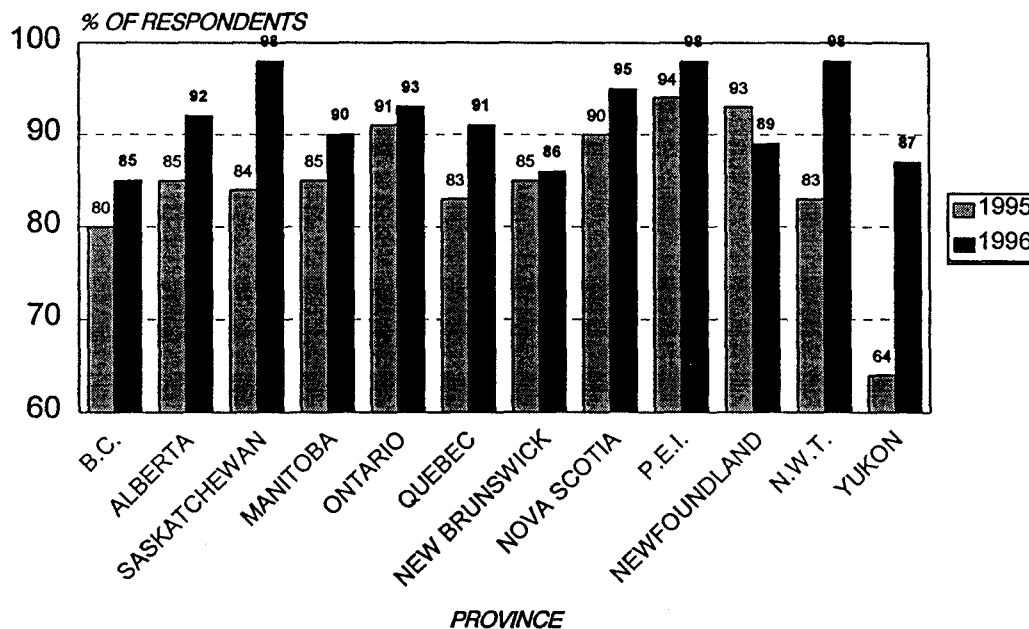
Monetary Fines

Figure 4 below illustrates that retailer awareness across the country of monetary fines for violating legislation is 91%, and has increased across all regions with the exception of Newfoundland which experienced a decrease of 4%.

Enforcement Visits

In 1996 the percentage of tobacco retailers visited by an enforcement officer in the six months before the survey increased by 10%, from 32% in 1995 to 42% in 1996. Tobacco retailers in 1995 and 1996 are far more likely to have been visited by an enforcement officer than non-

Figure 4:
AWARENESS OF
MONETARY FINES



tobacco retailers (32% to 7% and 42% to 5% respectively) indicating that the enforcement programs are targeting the right stores.

Enforcement visits have increased in British Columbia (39% in 1995 to 62% in 1996), Alberta (37% to 52%), New Brunswick (12% to 34%), Ontario (42% to 45%) and PEI (21% to 77%). A decrease of 14% was found in Manitoba (59% to 45%). These increases and decreases may be partly explained by changes in the number of "do not know" responses in each year.

4.4 Trends in Retailer Compliance

This section examines findings from national surveys on compliance and compares regional findings, as well as local surveys to determine the effectiveness of the enforcement program in achieving increased compliance. In addition, local survey findings are examined to

determine where youth are obtaining cigarettes and what the effects are on smoking rates across the regions where this information is available. Finally, this section ends with a summary of the requirements necessary to achieve compliance based on the survey and other research findings.

4.4.1 Evidence From 1995 and 1996 AC Nielsen Surveys

Two surveys, commissioned by Health Canada, were conducted in 1995 and 1996 to measure retailer compliance with the TSYPA. The 1995 survey was designed to establish baseline data on retailer compliance with the TSYPA; the 1996 survey examined trends in retailer compliance with the federal legislation, as outlined above. In both years, approximately 5000 retail outlets were selected for site visits in twenty-five communities across ten provinces. The Northwest Territories and the Yukon were not included. The selected sites equally represented five classes of trade where tobacco products were sold. These included: grocery supermarkets, chain convenience stores, small independent “Mom and Pop” stores (including corner stores, non-chain convenience stores, and variety stores), gas convenience stores and service station kiosks, and drug stores.

In 1996, 4950 retailers were visited in total. The regional breakdown of sites in the provinces were as follows: 3 sites in British Columbia, 3 in Alberta, 2 in Saskatchewan, 2 in Manitoba, 4 in Ontario, 4 in Quebec, 2 in Nova Scotia, 3 in New Brunswick, and 1 in Newfoundland and Prince Edward Island respectively.

For the purposes of these surveys, the definition of compliance that was used had two dimensions: i) refusal to sell tobacco to minors, in accordance with the TSYPA, and ii) the posting of the proper signs as required by the TSYPA. Compliance with corresponding provincial legislation was also measured where applicable. Compliance with the provincial legislation, in British Columbia, Ontario, Newfoundland, Nova Scotia, New Brunswick, and Prince Edward Island ensures compliance with the TSYPA, given that the federal legislation is less stringent than that of the provinces.

The research teams consisted of one underage minor, 15-17 years of age, and one adult observer who visited tobacco-selling establishments across twenty-five cities in each of the ten provinces. The role of the minors was to attempt to purchase a package of cigarettes while the adult supervised and collected data regarding the posting of mandatory signs under tobacco sale-to-minors legislation. The minor carried no identification and made no attempt to disguise his/her appearance.

Findings from the 1995 and 1996 surveys on following issues are compared across regions:

- Compliance Rates

- Requests for ID (Proof of Age)
- Age of Minors
- Age of Clerks
- Sex of Minor
- Class of Trade
- Retailer Sign Compliance

In general, the findings can be summarized as follows:

- compliance rates across the country have increased but there are regional variations;
- increased numbers of retailers are requesting ID and refusing to sell to minors;
- decreased numbers of retailers willing to sell tobacco products to minors of all ages;
- the age of the clerk is related to the propensity to sell cigarettes to minors; young clerks (about the same age as the minor) as well as the oldest age group of clerks, considered 'seniors', are most likely to sell to minors;
- the sex of the minor was less likely to affect compliance rates in 1996 than in 1995;
- there are significant variations in retailer compliance rates among the different classes of trade (i.e., the different types of retail outlets that sell tobacco), although the national average indicates increased compliance across all types of retailers; and,
- retail sign compliance has decreased nationally by 2%, but has only actually declined in two provinces.

More detailed results are described in brief below:

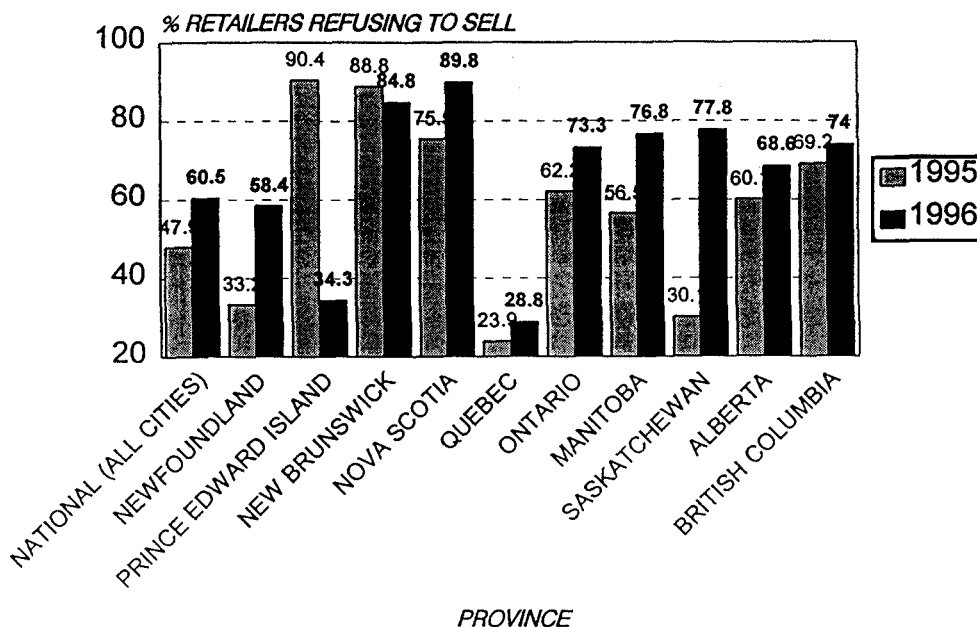
Compliance Rates

In 1996 the national estimate of retailer compliance with respect to sales to minors was 60.5%. This represents a 12.6% increase over the 1995 rate of 47.9%.

Increased rates were found in all provinces with the exception of PEI and New Brunswick, where compliance dropped from 90.4% to 34.3%, and New Brunswick from 88.8% to 84.8% respectively (see Figure 5 below). The AC Nielsen report suggested that the significant drop in compliance in PEI could be due to the use of a 16-year old minor to conduct compliance

checks in 1996 and a 15-year old in 1995. The 16-year old may have appeared older looking and, therefore, was sold to more often.

Figure 5:
RETAILER COMPLIANCE BY REGION



The average retailer compliance rate of 28.8% in Quebec for 1996 is significantly lower than all the other provinces. Low compliance rates were found across all four sites visited in Quebec.

Requests for ID (Proof of Age)

The correlation between the willingness of retailers to ask for identification and their propensity to refuse to sell to a minor when ID is not shown increased across all regions in 1996. In 1996, over 90% of retailers who asked for ID refused to sell tobacco when none was shown. Higher compliance rates can be attributed, in part, to a higher percentage of retailers asking for ID. In 1996, the percentage of retailers who asked for ID increased by approximately 14%.

Regionally, higher percentages of retailers requesting ID were found in all provinces. The sharpest increases were in Newfoundland, Quebec and Saskatchewan.

Conversely, the percentage of retailers who did not ask for ID were more likely to sell to minors. This rate increased from 1995 to 1996 by approximately 41%. Regional increases were highest in PEI, New Brunswick, Alberta and B.C.. (See Table 10 below)

Age of Minors

Minors who appeared older were still more likely to obtain tobacco. However, compliance rates for selling to fifteen year olds increased 2% from 1995. Increases in compliance by age group were also found for 16-year olds (16.7%) and 17-year olds (6%).

Regionally, decreases in the percentages of retailers willing to sell to minors was greatest for the 17-year old age category. Quebec and Ontario show decreases of 21.6% and 34.7% respectively. (See Table 11 below)

Age of Clerks

Seniors report the lowest levels of compliance of all age categories. The non-compliance rate for this age group was up 17% from 1995. The rate at which the youngest clerks were willing to sell to minors was up by 8.6%. The figures for seniors do not indicate a national problem, but are an issue in certain communities.

In 1996, retailers of all ages were more likely to ask for ID than they were in 1995. Youngest and oldest clerks are still the least likely to ask, with youngest clerks having the lowest propensity to request identification.

Regionally, PEI and New Brunswick experienced decreases in compliance across all ages of clerks. Ontario experienced a decrease in compliance of 18.4% among the youngest age group of clerks. Quebec has the lowest rates of compliance across all age groups of clerks, and levels of compliance for 1996 that are on average significantly lower than the other provinces. (See Table 12 below)

Table 10: Compliance Rates for Sales to Minors - Retailer Requests for ID

Region	% Not Willing To Sell		% Willing to Sell		% of Those Who Asked For ID And Did Not Sell		% Who Asked For ID and Would Sell		% Who Did Not Ask For ID and Would Sell	
	1995	1996	1995	1996	1995	1996	1995	1996	1995	1996
National (All Cities)	47.5	60.5	52.1	39.5	42.1	95.8	2.6	4.2	49.6	90.5
St. John's, Nfld	33.2	58.4	66.8	41.6	28.6	96.8	4.4	3.2	62.5	91.5
Charlottetown, PEI	90.4	34.3	9.6	65.7	82.6	92.4	0.0	7.6	9.6	100.0
New Brunswick	88.8	84.8	11.2	15.2	88.8	97.8	0.0	2.2	11.2	76.5
Nova Scotia	75.5	89.8	24.5	10.2	70.6	97.4	3.4	2.6	21.0	60.3
Quebec	23.9	28.8	76.1	71.2	21.9	97.1	1.9	2.9	74.2	95.7
Ontario	62.2	73.3	37.8	26.7	51.8	97.3	2.2	2.7	35.6	86.1
Manitoba	56.5	76.8	43.5	23.2	45.9	95.3	5.6	4.7	37.9	86.7
Saskatchewan	30.1	77.8	69.9	22.2	29.7	95.4	3.1	4.6	66.7	76.9
Alberta	60.1	68.6	39.9	31.4	58.0	90.7	1.8	9.3	38.1	95.3
British Columbia	69.2	74.0	30.8	26.0	60.5	93.5	4.9	6.5	25.9	75.6

Table 11: Compliance Rates Related to a Retailers' Willingness to Sell by Age Group of Minor

Region	All Ages		15-Year Olds		16-Year Olds		17-Year Olds	
	1995	1996	1995	1996	1995	1996	1995	1996
National (All Cities)	47.9	60.5	68.1	70.2	38.9	55.6	36.4	42.4
St. John's, Nfld	33.2	58.4	NA	NA	33.2	58.4	NA	NA
Charlottetown, PEI	90.4	34.3	90.4	NA	NA	34.3	NA	NA
New Brunswick	88.8	84.8	88.7	38.7	NA	88.1	NA	NA
Nova Scotia	75.5	89.8	75.5	NA	NA	89.8	NA	NA
Quebec	23.9	28.8	22.3	34.8	21.8	24.7	28.6	7.0
Ontario	62.2	73.3	85.8	93.0	42.2	44.1	53.6	18.9
Manitoba	56.5	76.8	72.6	77.1	13.1	76.4	NA	NA
Saskatchewan	30.1	77.8	NA	NA	63.7	77.8	18.8	NA
Alberta	60.1	68.6	88.1	84.9	71.4	79.5	33.5	50.7
British Columbia	69.2	74.0	68.8	99.0	72.3	81.5	62.4	64.9



Table 12: Compliance Rates Related to a Willingness to Sell to Minors by Age of Retail Clerk

Region	All Ages		About Same Age as Minor		Older than Minor but <25		25+ but not Senior		Senior	
	1995	1996	1995	1996	1995	1996	1995	1996	1995	1996
National (All Cities)	47.9	60.5	37.2	45.8	45.9	56.7	51.3	63.6	31.8	48.9
St. John's, Nfld	33.2	58.4	0.0	100.0	34.2	63.0	33.6	56.9	31.9	44.3
Charlottetown, PEI	90.4	34.3	NA	14.6	87.7	54.6	92.1	27.2	100.0	100.0
New Brunswick	88.8	84.8	24.4	97.0	74.4	84.7	93.0	84.6	85.0	67.2
Nova Scotia	75.5	89.8	22.1	57.9	74.7	93.7	76.6	90.1	NA	100.0
Quebec	23.9	28.8	19.7	27.8	26.6	29.9	25.2	29.9	8.3	17.2
Ontario	62.2	73.3	67.8	49.5	55.2	70.1	64.1	74.3	67.2	87.0
Manitoba	56.5	76.8	99.2	84.6	58.1	77.6	53.3	75.4	70.4	85.8
Saskatchewan	30.1	77.8	0.0	100.0	31.4	59.6	38.7	81.9	0.0	100.0
Alberta	60.1	68.6	39.5	49.7	63.1	59.9	60.2	74.0	75.6	92.8
British Columbia	69.2	74.0	63.6	58.2	77.8	83.6	69.7	72.9	31.8	57.3

Sex of Minor

In the 1996 statistics, whether a minor was male or female played a smaller role in the illegal sale of tobacco than in 1995. In 1995, compliance rates in selling to boys was 56.5%, whereas for girls it stood at 34.8%, representing a gap in compliance of 21.8%. This gap has narrowed as of 1996 to 12.4%, with compliance rates for boys at 65.8% and for girls, 53.4%.

The researchers caution that this data is not consistent across communities. The improved compliance rates for selling to girls may simply be representative of improved compliance overall. What this data does illustrate, however, is that retailers are less likely to sell to teens of either sex than they were one year ago.

Class of Trade

Compliance falls below the national average in convenience stores and gas kiosk/service stations, and the compliance rates were lower this year for convenience stores than they were in 1995. This was also the case, although to a lesser extent, for gas kiosk/service stations. The remaining types of retail outlets all had higher compliance rates. (See Table 13 below)

Retail Sign Compliance

The percentage of retailers found complying with signage requirements decreased marginally overall from 42.1% in 1995 to 40.7% in 1996¹⁹. The rate of decrease in compliance with signage requirements was largest in Ontario, where compliance dropped from 22.9% to 14.6% and in Manitoba, where compliance dropped from 70.5% to 59.2%. In Ontario, the decrease in compliance was mainly due to the decrease in the number of retailers posting “no smoking” signs. (See Table 14 below)

¹⁹ Please note the definition of compliance used in this case by AC Nielsen: “The number and type of signs that must be posted... varies by province, depending on the legislation in effect... Compliance was assumed to exist provided that retailers appeared to respect the minimum fundamental requirements of the law... We did not concern ourselves that signs be posted exactly where the law stipulated, provided that they were in close proximity to the suggested location and visible to the customer (AC Nielsen, 1996).”

Table 13: Compliance Rate Related to a Willingness to Sell to Minors by Class of Trade

Region	All Stores		Grocery - Supermarket		Convenience Grocery Chains		Remaining Grocery - "Mom and Pop"		Drug Stores		Gas Chains/ Stations	
	1995	1996	1995	1996	1995	1996	1995	1996	1995	1996	1995	1996
National (All Cities)	47.9	60.5	54.0	60.7	60.7	54.7	43.2	61.4	54.2	65.2	56.6	55.1
St. John's, Nfld	33.2	58.4	47.4	72.2	NA	79.4	32.9	55.8	48.8	71.4	24.1	60.0
Charlottetown, PEI	90.4	34.3	54.5	40.0	91.7	36.8	93.1	38.1	100.0	50.0	82.6	22.6
New Brunswick	88.8	84.8	87.3	90.5	85.0	98.8	88.9	84.3	94.5	99.1	88.5	81.0
Nova Scotia	75.5	89.8	89.4	100.0	66.8	81.0	74.9	91.0	94.6	90.7	74.1	87.1
Quebec	23.9	28.8	30.5	42.5	36.6	29.0	15.1	22.1	39.7	50.1	40.3	29.4
Ontario	62.2	73.3	71.6	68.6	83.4	79.6	58.1	73.5	NA	NA	67.4	67.6
Manitoba	56.5	76.8	83.1	92.1	77.9	82.5	46.4	72.6	67.3	80.7	72.4	81.2
Saskatchewan	30.1	77.8	76.9	84.0	76.9	100.0	0.0	76.3	67.7	100.0	30.1	74.2
Alberta	60.1	68.6	67.9	74.5	65.5	67.8	56.5	70.5	64.1	69.5	58.4	62.6
British Columbia	69.2	74.0	81.2	91.3	75.2	83.3	64.8	70.2	83.0	88.9	76.6	79.9

Table 14: Retailer Sign Compliance with Federal or Provincial Legislation

Region	1995 (%)	1996 (%)	Net Change
National (All Cities)	42.1	40.7	-1.4
St. John's, Nfld	43.9	61.4	17.5
Charlottetown, PEI	90.7	87.9	-2.8
New Brunswick	37.3	48.4	11.1
Nova Scotia	6.0	48.4	42.4
Quebec	50.6	63.8	13.2
Ontario	22.9	14.6	-8.3
Manitoba	70.5	59.2	-11.3
Saskatchewan	73.0	79.4	6.4
Alberta	37.1	46.7	9.6
British Columbia	56.5	56.6	0.1

4.4.2 Additional Information From Local Surveys

Local surveys on compliance demonstrate the fluctuations in compliance rates within provinces. In Ontario, for example, regional variations were found across three areas where public health units have been conducting compliance checks. The *Ottawa-Carleton Public Health Unit* recorded an increase in compliance of 30% between 1994 and 1996 and currently compliance is at 78%. The *Leeds, Grenville and Lanark District Health Unit* of Ontario conducted a survey in late 1996 and found a compliance rate of 52%. The *Middlesex-London Health Unit* found that compliance rates have increased by 17% between 1995 and 1996 from 49% to 66%.

In British Columbia, the provincial retailer compliance rate for 1996 was 69.2%. However, in Kamloops compliance rates have on average been at least 10% higher between 1995 and 1996.

These fluctuations could be attributed to a number of factors including: variations in the number of compliance checks undertaken across regions; different ages and appearance of minors used to conduct compliance checks; and, differences in levels of awareness of federal or provincial tobacco legislation.

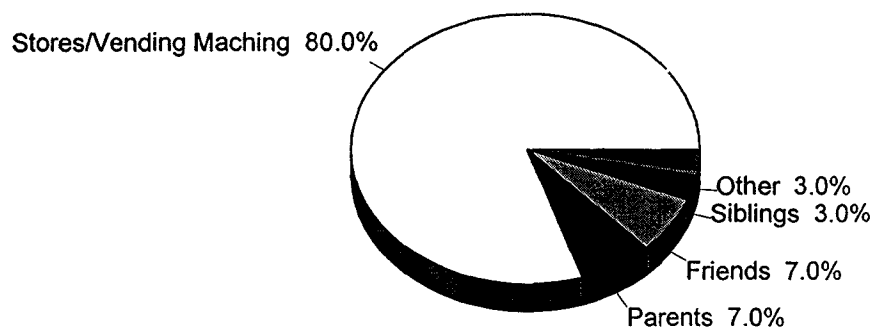
4.4.3 Studies on Where Youth Obtain Cigarettes

Where the enforcement program has been successful in reducing the level of tobacco sales to minors, there is evidence from regional surveys (and echoed by some interviewees) suggesting that youth are finding other means of acquiring cigarettes. Evidence also suggests that, in some regions, youth still find it relatively easy to purchase cigarettes in retail outlets.

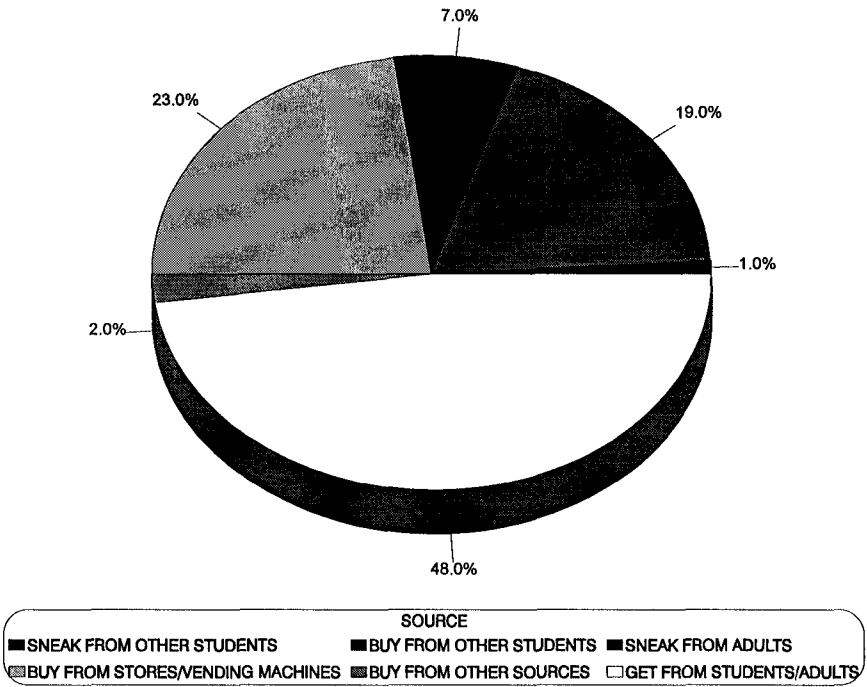
Kamloops, B.C. Survey 1996

Despite the fact that compliance rates have increased in the Kamloops region since 1995, youth were still seen smoking outside of school grounds. A survey was conducted in Kamloops to examine the methods used by youth in Grades 4 through 12 to obtain cigarettes, and was compared with the findings of a survey done in 1987 (see Figure 6 below). In 1987, 80% of youth surveyed purchased their cigarettes from stores or vending machines. In 1996, 23% of students in Grades 8-10 (see Figure 7 below) obtained cigarettes from stores or vending machines, and 48% were given them by students or adults. In the same survey, 31% of students in Grades 11-12 (see Figure 8 below) purchased cigarettes from stores or vending machines, 32% bought them from friends of students at school, and 29% received them from students or adults.

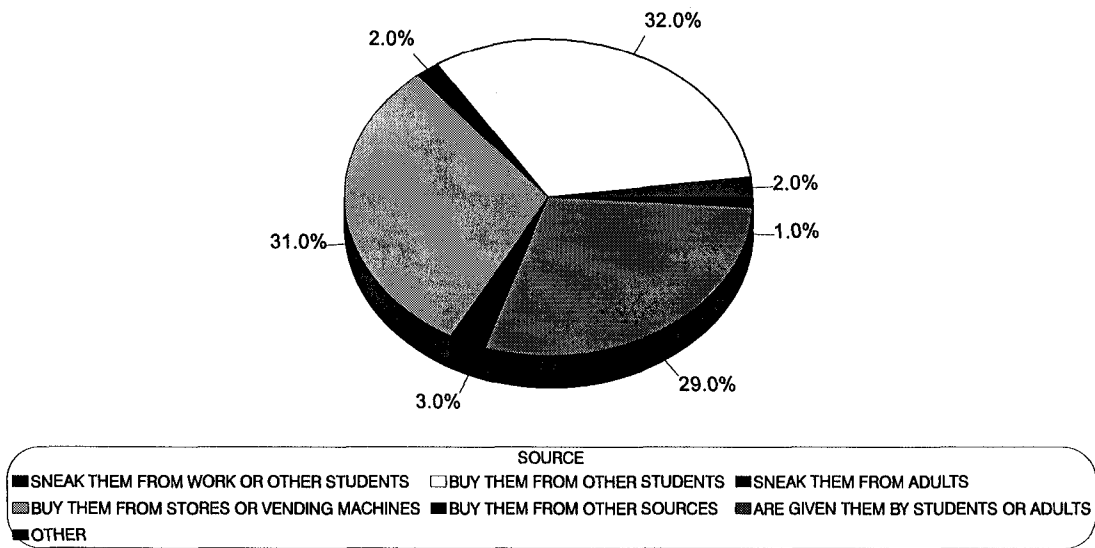
**Figure 6:
WHERE MINORS
OBTAIN CIGARETTES (1987)**



**Figure 7:
WHERE STUDENTS IN GRADES 8-10
OBTAIN CIGARETTES (1996)**



**Figure 8:
WHERE STUDENTS IN GRADES 11-12
OBTAIN CIGARETTES (1996)**



When asked how more teenagers could be prevented from smoking, 28% of students responded "Tougher Laws on Selling to Minors" and 25% stated "Tougher Laws on Possession".

Waterloo, Ontario - Smoking Prevention Project 1990-1996

Between 1994 and 1996, data was collected each year from a group of students as they moved from Grade 10 through to Grade 12, to determine where students who were smokers were purchasing their cigarettes. In Grade 12 (1996), 76% of the students who smoked purchased cigarettes one or more times per week, and 11% purchased cigarettes less than once a month. The figures for 1995 when the students were in Grade 11 were 64% and 14% respectively; and in 1994 (Grade 10) 62% and 18%. This increase between 1994 and 1996 of students purchasing cigarettes one or more times per week reflects the increase in rates of non-compliance of retailers with older minors.

Further evidence of this can be found in the data that shows where these students purchased their cigarettes. In 1996, 79% of the students in Grade 12 purchased cigarettes at convenience stores; 51% at gas stations; 15% at grocery stores and 13% from friends or other people. By comparison, 47% of the students surveyed who were in Grade 9 (this was a separate sample of students) in 1996 purchased their cigarettes from convenience stores and 42.5% of surveyed students purchased cigarettes from a friend and/or other person.

Woodridge, Illinois Survey

The Woodridge study demonstrates how youth who want to smoke will find other places to acquire cigarettes if they are legally prevented from doing so in retail stores in the area. Seventy-seven percent of students surveyed at the local junior high school, following the intensive two-year enforcement program cited that their source of cigarettes were friends, parents, siblings or others; 17% cited stores or vending machines outside of Woodridge; and, 6% cited stores in Woodridge.

4.4.4 Conclusions on Compliance Trends

There is evidence to show that compliance rates can vary significantly from one region in a province to another for different reasons.

As discussed above, compliance rates that are determined based on the use of minors who attempt to purchase cigarettes from a retailer can be greatly affected by the 'appearance' of the youth conducting the attempted purchase. Thus, compliance rates can be skewed to higher levels if younger minors are used, and lower levels if older looking minors are used.

One example of this was found in a survey conducted in 1996 by AC Nielsen for the province of Ontario. Compliance checks on sales to minors and requests for ID in the region of Ottawa-Carleton were undertaken using two minors - one female age 16 and one male age 17. The results found three out of four retailers (76.8%) refused to sell to the female and an even greater percentage 81.3% asked her for ID. For the male, only 17% of retailers refused to sell him cigarettes and 18% asked him for ID.

If, however, retailers are disciplined in asking for proof of age, the survey results show that levels of sales to minors decrease significantly. According to the AC Nielsen survey for the province of Ontario, of the 64.7% of retailers who asked for ID 97.1% did not sell to minors. Of the 35.3% of retailers who did not ask for ID 68.3% would sell to minors.

4.4.5 Requirements to Ensure Compliance

The research shows that compliance must be done regularly (e.g., U.S. research indicated that ideally, compliance checks should be done 3 to 4 times per year); compliance checks must be carried out in a uniform way across a region; and the regular use of older minors - ages 16 and 17 - is more effective for achieving higher compliance rates for selling to minors of all ages, as opposed to using minors who appear to be very young - ages 12-14.

A 1993 study²⁰ conducted in 93 U.S. and 4 Canadian cities found that cities with tobacco ordinances (i.e. tobacco licensing requirements) and higher age limits restricting tobacco sales to minors tended to have lower purchasing rates. Refusal rates to minors ages 15 to 17 in cities with ordinances were 51% compared with 24% for cities with no ordinance. In cities with age limits of 16-17 years old, refusal rates were 3% compared to cities with 18 year old age limits where refusal rates were 23%. In the two U.S. cities surveyed where age limits were 19, refusal rates were found to be much higher. As age limits increased from 16 to 19 years refusal rates were also found to increase from 3.2% to 65.7%.

This study confirmed the trend of increased compliance with higher age limits. Following retesting of many cities, the rates of sales to minors were also found to decrease when serial compliance checks were undertaken²¹.

4.4.6 Evidence of Youth Smoking Rates

Despite noticeable trends in increased compliance across the country, there do not yet appear to have been reductions in youth access to cigarettes, and therefore reduced rates of

²⁰ Radecki, Thomas E., and C. Dianne Zdunich (1993) "Tobacco sales to minors in 97 U.S. and Canadian communities." in *Tobacco Control*, 1993, 2: 300-305.

²¹ Ibid.

smoking among youth. Since Health Canada conducted the *Youth Smoking Survey* in 1994 (which found the national average rate of smoking among youth age 15-19 to be 24% - 18% were daily smokers and 6% were non-daily smokers - and the national average rates for males and females to be 23% and 24% respectively), there has not been a comprehensive survey of youth smoking rates across Canada. However, there have been a number of smaller scale surveys undertaken at local or regional levels throughout the country which indicate that youth smoking rates are increasing. The discussion below presents the results of these studies. (*Note: We are quoting them because they provide useful contextual information for this report. As these studies all employed different methodologies, we do not attempt to draw any inferences from them.*)

The findings of these surveys raise two concerns: first, in spite of the federal enforcement program, smoking among youth on average is not declining; and second, that youth are still able to purchase cigarettes with relative ease and frequency, or have successfully resorted to other means of acquiring cigarettes through friends, adults or family members.

The evidence suggests that higher compliance rates are necessary to successfully curtail youth smoking, thus making it more inconvenient for young people to acquire cigarettes, as well as mechanisms to avert resales, and the ability to obtain cigarettes from older youths, parents, etc. The survey findings also demonstrate the need for continued awareness programs in conjunction with enforcement measures, given that there is a tendency for youth to access cigarettes by other means, regardless of the health effects of smoking.

Ontario

The *Ontario Student Drug Use Survey, 1977-1995* was undertaken for the Province of Ontario by the Addiction Research Foundation. The survey has monitored the use of alcohol and other drugs among students in Grades 7, 9, 11, and 13. For 1995 3,870 students participated in the survey from 20 school boards, 137 schools and 223 classes, across the province. The participation rate was 75%.

Although the rates of smoking among youth are far lower than those of the 1970s, between 1993 and 1995 this survey shows that the rates have increased 4% from 23.8% to 27.9%. The rates of smoking for males and females do not differ significantly - 28.2% for males and 27.5% for females. However, smoking rates among males did increase between 1993 and 1995 by 6% from 22.5% to 28.2%.

This survey also confirms that rates of smoking increase with age, and therefore, grade level but declined slightly for grade 12. This survey found that 10.3% of 7th grade students smoke compared to 27.5% of 9th graders, 41.7% of 11th graders and 31.4% of 13th graders. Rates of smoking among Grade 11 students increased by 7% between 1993 and 1995. Rates of

smoking also vary by geographical region: rates of youth smoking in the Western and Eastern regions of the province respectively are approximately 30% compared with 20% for students from Metro Toronto.

Findings from this Ontario survey also show that the purchase of cigarettes among youth still takes place in corner stores at a rate of 56.7%, restaurants, gas stations and bars 39% and supermarkets 15.7%. Approximately 60% of students surveyed had purchased cigarettes at one of these three groups of outlets in the four weeks prior to the survey. This percentage was 46.5% for students aged 15 and under and 71.7% for students aged 16 and 17.

The survey also asked the students if they had been asked for identification when attempting to purchase cigarettes. The results were that 59.6% said that they were not asked for ID. This figure did not vary significantly according to age: 62.5% for students aged 15 and under were asked for ID and 58.1% of students aged 16 to 18 years were asked.

The *Waterloo Smoking Prevention Project, 1990-1996* followed a cohort of students in South-Western Ontario from Grades 7 or 8 through to Grade 12. Each year data was collected from the students through a questionnaire. Students who left school, did not attend school on the day of the survey, or had moved away from the school were 'tracked' to ensure the rates of smoking did not decrease due to reductions in the size of the cohort.

The findings of this study indicate that this region of Ontario has higher smoking rates on average than the province. Over 50% of Grade 11 and 12 students have smoked in the last twelve months. These survey findings also confirm the trend found in the Ontario Student Drug Use Survey, that the rates of daily smoking or daily and occasional smoking for younger males have not decreased, but have in fact increased since 1993 (Grade 9). The findings for females indicate higher rates of smoking than for males, recording rates of over 50% from Grade 10 to 12. The smoking rates for females have not decreased over this period for either daily smoking or occasional smoking, and have in fact increased since 1993 (Grade 9).

Atlantic Provinces

The *1995 Saint John Youth Smoking Survey - Knowledge, Attitudes and Behaviours of 15 to 19 Year Olds*, undertaken by the New Brunswick Lung Association obtained responses from 2,624 students in seven locations. This survey found that 36.4% of the students were current smokers - 28.6% identified themselves as daily smokers, while 7.7% were non-daily smokers. The rate of smoking among males was 37% and among females 35.5%.

Despite awareness of the legal age requirement for purchasing cigarettes (87% of students surveyed knew the legal age limit), 94.9% of current smokers were easily able to purchase

cigarettes. Fifty percent of the youth who had ever tried smoking had been asked their age when they tried to buy cigarettes, and 47% were not successful at least once in trying to make a purchase. The national average rate of refusals for youth age 15-19 is 37%. Sources of cigarettes for current smokers were small grocery/corner stores (75.1%), gas stations (36.4%), a friend or someone else who gives them out (33.2%), drug stores (33.1%), other retail outlets (31.2%), supermarkets (27.5%), parent or guardian (25%), purchases from a friend (18.3%), given out by a sibling (11%), and vending machines (5%).

A series of provincial drug use surveys conducted in Nova Scotia, PEI and Newfoundland and Labrador in 1995/96 also reveal trends toward increased rates of smoking among youth. Each of these surveys sampled approximately 3500 students in Grades 7 to 12 from a range of schools across various provincial school boards. The findings are summarized below.

The *1996 New Brunswick Student Drug Use Survey* was compared with a similar survey done in 1992. Between 1992 and 1996, the percentage of students smoking tobacco in New Brunswick has increased from 26.3% to 32.9%. The percentage of students who frequently used tobacco in 1996 was 7.6% and reporting any usage was 32.9%. Between 1992 and 1996, the percentage of students who stated they had not used tobacco decreased from 60.5% to 57%. The percentage of students smoking more than one cigarette per day increased between 1992 to 1996 from 27.1% to 32.9%.

The *1996 Nova Scotia Student Drug Use Survey* found 34.9% of the students surveyed reported smoking. The rate of smoking increases as the students get older with the highest rate being 52.5% for 19 year olds. The rate of smoking among males and females respectively is 33.4% and 36.1%.

The *1996 Student Drug Use Survey for Newfoundland and Labrador* found that 36.7% of the students identified themselves as smokers. More females smoke than males according to the survey findings of 37.6% and 35.7%. These rates are lower than those collected by the B.C. Ministry of Health in 1995 which indicated that 58% of females and 50% of males were smokers. The percentage of smokers rises with the grade level of the student. Of the Grade 12 students surveyed, 48.1% were smokers, while 44.8% of the Grade 10 students smoked.

British Columbia

The findings from a survey conducted in Kamloops in 1996 were compared with results from a South Central Regional survey of B.C. conducted in 1992. In 1996 smoking rates for students in Grades 7 to 12 ranged from 2.5% to 34.2%.

Smoking rates among students in Grades 7-9 decreased by 13% but among students in Grades 10-12 rates only decreased by 3%. The findings also indicated that girls in all Grades

are more likely to smoke than boys. In Grade 9 girls are 13% more likely to smoke than boys. Smoking rates among students in Grades 7 and 8 have decreased significantly. For females in Grade 8 the rates are down by 11% and males 5%. The rates for Grade 9 students are at the same level as those in 1992.

Overall, despite evidence that retailer compliance rates have increased since 1995, it appears that there has been a significant increase in the rate of current youth smokers from 1994 to 1996.

4.4.7 Emerging Issues on Compliance

A number of issues concerning compliance rates among retailers have emerged throughout this section which may require some consideration.

There are indications of increased acquisition of cigarettes by youth from other third parties (adults, other youths) when it becomes difficult to obtain them from retail outlets. The Woodridge study demonstrates how youth who want to smoke will find other places to acquire cigarettes if they are legally prevented from doing so in retail stores in the area. Seventy-seven (77%) per cent of students surveyed at the local junior high school following the intensive two-year enforcement program, cited that their source of cigarettes were friends, parents, siblings or others; 17% cited stores or vending machines outside of Woodridge; and, 6% cited stores in Woodridge. As noted above, the Kamloops, B.C. survey also demonstrated that youth are still obtaining cigarettes despite increasing levels of retailer compliance.

There is also sufficient regional evidence to indicate that it remains relatively easy for underage youth to obtain cigarettes through retailers. This fact combined with evidence of youth access to cigarettes by alternative means demonstrates the difficulties associated with linking the reduction of smoking among youth to the achievement of retailer compliance with the TSYPA.

The evidence found in this evaluation and confirmed by other studies concerning enforcement of tobacco legislation demonstrates that the enforcement method used should be standard across the country in order to reach a consistently high and sustained level of compliance. Enforcement programs do not have to be costly if existing resources are used to undertake compliance checks - police officers, public health inspectors - and if the methods used are standardized.

Finally, this evaluation and other research confirms that in order to reduce the sale of tobacco to minors, compliance efforts must be undertaken in conjunction with educational programs for youth, the community at large, and retailers.

4.5 Conclusions

As a result of the Federal Enforcement Program:

- There has been good dissemination nationally of information to retailers about their responsibilities under legislation (federal and provincial) pertaining to sales of tobacco to minors. As a result, there is a high degree of awareness among retailers. Evidence from the 1996 *Optima Tobacco Retailers Survey on Tobacco Sales to Minors Legislation* show that:
 - the average level of awareness of the requirement to ask proof of age when in doubt was 96%;
 - the average level of awareness of the requirement to post legal age limit signs in tobacco retail outlets was 92%; and,
 - the retailer awareness across the country of monetary fines for violating legislation was 91%.
- There has been an observed increase in retailer compliance. Evidence from the 1995 and 1996 national surveys conducted by AC Nielsen on levels of compliance with the TSYPA indicates that, in 1996, the national estimate of retailer compliance with respect to sales to minors was 60.5% - a 12.6% increase over the 1995 rate of 47.9%.
- Higher compliance rates do not seem to have been accompanied by lower smoking rates among youth.

However, as many other factors have an impact on youth smoking rates, there are other issues to consider if higher compliance rates are to be achieved, and if any alternatives to reduce access to cigarettes by youth are to be explored.

These issues include:

- indications of increased acquisition of cigarettes from other third parties (adults, other youths);
- retailers are becoming cognizant of the protocol, and are finding ways around it;
- in decentralized regions (British Columbia and Ontario), there is no guarantee that compliance activity will be done in some Health Units;
- the enforcement procedures are not standard across the country; and,

- there is a need to develop other tools as concerns have been raised about the potential for violence against “decoys” and/or inspectors, due to retailer and consumer anger with the legislation and enforcement procedures.

5.0 Cost Effectiveness of Different Enforcement Tools

This section discusses our findings in relation to work units and estimated time/input costs for various enforcement activities, the effectiveness of approaches to enforcing the tobacco legislation, and general conclusions. The following questions are addressed:

12. *What are the comparative input costs of the different enforcement tools?*
13. *To what extent do the basic work units allowed for each activity reflect the actual input time/cost to undertake the activity?*
14. *To what extent are the overall approaches for promoting compliance considered to be cost effective? (This would include the selection of targets for enforcement action, the mix of different enforcement tools, the use of tickets and prosecutions, and the use of publicity to induce compliance.)*

5.1 Work Units and Estimated Time/Input Costs

As noted in Section 2.5.1 of this report, the basis for calculating costs is a “basic work unit” which represents a period of one hour at a predetermined cost. The volume of enforcement activity is defined in terms of these basic work units rather than the number of inspections, compliance checks, referrals, etc. A discussion of the appropriateness of the allocation of basic work units for various enforcement activities in terms of their estimated actual input costs follows.

5.1.1 Allocation of Work Units

The allocation of work units (for Contribution Agreement provinces and for federal inspectors), by activity and province/region, is profiled in Table 15 below. As illustrated in this table, there are minor differences with respect to the allocation of work units by type of activity across the six Contribution Agreement provinces, and between the Contribution Agreement provinces and federal inspectors. In particular, with respect to:

- **inspection** - 1.0 work units are allocated for this activity in all provinces and regions except Ontario (provincial), where there are no work units allocated for this task.
- **surveillance** - 1.0 work units are allocated to this activity in the Maritime provinces, 3.0 work units are allocated to this activity in Ontario, and there are no work units allocated for this task in British Columbia. For federal inspectors, 3.0 work units are allocated for this activity.

Table 15: Allocation of Work Units by Type of Activity and Province/Region

Province/Region	Value of Work Unit	Inspection	Surveillance	Minor Investigations	Major Investigations	Compliance Checks	Liaison	Referrals	Sampling, Data Gathering
Newfoundland (Prov.)	\$33.33	1.0	1.0	3.5	--	--	--	--	--
Nova Scotia (Prov.)	\$33.33	1.0	1.0	3.5	--	--	--	--	--
PEI (Prov.)	\$33.33	1.0	1.0	3.5	--	--	--	--	--
New Brunswick (Prov.)	\$33.33	1.0	1.0	3.5	--	--	--	--	--
Ontario (Prov.)	\$30.00	--	3.0	3.5	20 (prosecutions)	2.0	--	--	--
B.C. (Prov.)	\$31.00	1.0	--	3.5	20	1.0	10.0	--	--
Federal Regions*	\$42.18**	1.0	3.0	3.5	20 (major prosecutions), 10.0 (minor prosecutions)	1.5	10.0	2.5	2.0

Sources: Provincial figures - Contribution Agreements for the period 1994-95 to 1996-97; Federal figures - "Definitions for Work Related Activities Tobacco Enforcement for Fiscal Year 1996-97", Health Canada.

*Refers to Quebec, Ontario (federal), Central Region, and Western Region.

** Based on Ontario, Quebec and Central Region costs (salaries and operating) for 1996-97.

- **minor investigations** - 3.5 work units are allocated for this task in all provinces and regions.
- **major investigations** - work units are allocated for this activity only in Ontario (provincial), B.C., and for federal inspectors. In Ontario (provincial), this activity is categorized as prosecutions.
- **minor prosecutions** - this activity is only recorded by federal inspectors.
- **compliance checks** - there are no work units allocated for this task in the Maritime provinces. In Ontario, 2.0 work units are allocated to this task, 1.0 work units are allocated in B.C., and 1.5 work units are allocated for federal inspectors.
- **liaison** - only B.C., and the federal inspectors have work units allocated for this activity. However, both Newfoundland and New Brunswick have undertaken (and invoiced) for these activities.
- **referral, and sampling/data gathering** - only federal inspectors have time allocated for these activities. These activities are listed in the Contribution Agreements.

In addition, the value of the work units for Contribution Agreement provinces, varies from \$30.00 (Ontario) to \$33.33 (Maritime provinces). In B.C., the value of a work unit is \$31.00.

Our estimated cost of a federal work unit for 1996/97 was an average of \$42.18 for Ontario, Quebec and Central Regions. This was based on TDRS expenditure information provided by Health Canada for the regional offices.

5.1.2 Work Units versus Estimated Time Costs for Activities

Contribution Agreement Provinces

As profiled in Table 16 below, with regards to Contribution Agreement provinces, the allocation of work units by type of activity varies greatly from that of estimated actual input costs. For example, depending on location:

- inspections, which are allocated 1 work unit, are estimated to take between 15 minutes and 1.5 hours (excluding travel time).
- compliance checks, which are allocated between 1 and 2 work units (i.e., one per hour or two hours), are estimated to take between 1/hour to 6/hour (excluding travel costs and reporting requirements). Round three compliance checks may require more time if they lead to the levying of a penalty. It should be noted that the Contribution Agreements for the Maritime provinces do not include work units for compliance checks.

**Table 16: Comparison of Work unit Allocation and Actual Time/Input Costs, by Type of Enforcement Activity
(Contribution Agreement Provinces Only)***

Province	Inspections		Compliance Checks		Surveillance		Minor Investigations		Major Investigations		Liaison	
	WU	Actual**	WU	Actual***	WU	Actual	WU	Actual	WU	Actual	WU	Actual
Newfoundland	1	0.25 hours	na	1.5-6 per hour	1	na	3.5	np	na	na	--	10
Prince Edward Island	1	0.25 hours	na	2 per hour	1	na	3.5	np	na	na	--	na
Nova Scotia	1	<1 hour	na	1-2.5 per hour	1	na	3.5	np	na	40-45 hours	--	na
New Brunswick	1	0.5-1.5 hours	na	na	1	40mins -1 hour	3.5	1-10 hours	na	na	--	1-12 hours
Ontario (Provincial)	na	na	2.0	np	3.0	15mins - 3.5hrs****	3.5	--	20.0	20+ hours	--	--
Western (B.C.)	1	np	1.0	<1-6 per hour	na	na	3.5	np	20.0	np	10	np

Notes:

WU = work units allocated in the Contribution Agreements. Each work unit represents one hour.

*As federal inspectors do not invoice for their time spent on various activities (unlike inspectors operating under the Contribution Agreement), not all federal representatives were able to provide comments on this issue. The comments that were provided are documented on pages 78-79 under "Federal Activities".

Time estimates do not include preparation, travel, and reporting costs. *Due to reporting requirements, round three compliance checks may require more time. ****May require a team of two to three inspectors.

na = not applicable; np = not provided

- surveillance which is allocated between 1 and 3.0 work units, is estimated to take between 40 minutes and 3.5 hours.
- minor investigations which are allocated between 3.0 and 3.5 work units, are estimated to take between one and ten hours.

In British Columbia, studies have been undertaken on the cost of decoy purchases and compliance checks, and have shown a great variation. A study in Vancouver showed a \$50 cost per compliance check, but a similar study in New Westminister showed a \$6²² cost per compliance check.

A study conducted in Kamloops, B.C. concluded that decoy purchases (resulting in a ticket being issued) cost between \$138.30 (4.5 work units @ \$31.00) and \$323.90 (10.5 work units @ \$31.00) per retailer. These costs are in addition to the cost of initial compliance checks, routine inspections, training of minors, warning letters, and the ongoing maintenance of an accurate retailer database. For inspections and compliance checks, the location of retailer (e.g., urban versus rural) was considered to be a factor which contributes to the variance in estimated input costs.

Other factors related to the variance in estimated input costs for inspections include:

- whether a violation(s) is noted (e.g., signage violations may be identified during inspections and require immediate action);
- the size of the establishment (e.g., corner store versus large retail chain); and,
- nature of establishment (e.g., restaurant versus retail outlet).

In situations where a prosecution is involved, the aggressiveness of the defence and the knowledge of the crown (and the need to educate the crown on tobacco regulations) were considered to be factors contributing to variances in time estimates.

Appropriateness of Allocation of Work Units

Comments from provincial authorities concerning the allocation of work units for various enforcement activities varied. For example, in three Maritime provinces, the work unit allocations were considered appropriate:

- In Newfoundland, it was generally felt that the good management units (GMUs) allocated for each activity were appropriate. While time may be over-allocated to

²² *New Westminister Compliance Survey: Youth Access to Cigarettes*, S. Bodani, Public Health Inspector.

inspections, the differences in travel time required between urban and rural settings, and the greater time requirements for compliance checks than allocated, work to balance out the time allocations.

- In Nova Scotia, it was felt by provincial officials that although work units may not line-up exactly with the units activities as specified in the Contribution Agreement, the units are considered to provide reasonable planning guidelines regarding expected activity levels, and have not detracted from enforcement activities. The Nova Scotia Tobacco Control Unit considers it to be more important to have established, weighted guidelines in place than nothing at all. No changes or improvements were suggested.
- In New Brunswick, there was initial concern that the work units did not reflect actual activity levels. The hours allocated to inspections seemed to be too generous. However, once activities began in rural locations, and the time related to inspections increased, it was felt that the work units balanced out. It was noted, however, that the work units did not appear to take into consideration costs related to the management of the enforcement activities.

It was also noted by officials in New Brunswick that if federal legislation changes, and the Contribution Agreement calls for new activities, the work units may need to be re-visited.

- In Ontario, a review of health unit reports submitted to the provincial Ministry of Health indicated that the basic work units appear to be arbitrary and inconsistent and the provincial office has no information to validate or dispute the accuracy of the time requirements. In addition, discussions regarding the work units with health units revealed a range of opinions. For example, one health unit was generally unaware of the work units and their meaning and there was no linkage to the work units and the enforcement activities undertaken, while another unit felt that the basic work units allowed for each activity were reflective of time/cost to undertake activity.

Federal Activities

With respect to the comparison of work units and actual time for federal inspectors, a variety of comments were provided. It should be noted, however, that because the federal inspectors do not invoice for their time spent on various activities (unlike inspectors operating under the Contribution Agreement), not all federal representatives provided comments on this issue. In particular, Quebec and the Western Region do not track work units in detail. In addition, there has been no time benchmarking to accurately assess allocated work units versus actual costs.

In Ontario, it was felt that the work units associated with surveillance, compliance checks, and minor and major investigations approximate the time required to complete the tasks. In addition, the \$30 allowance is close to the direct salary cost of an inspector.

With regards to the Central Region, it was felt that inspections can take approximately one to two hours, plus travel time (this compares to 1.0 allocated work units, and a range of actual work time of 0.25 to 1.5 hours for Contribution Agreement provinces). Compliance checks can range from 0.25 hours each to 1.5 hours (this compares to 1.5 allocated work units and actual work time of 1.5 to 6 per hour for Contribution Agreement provinces). Round two and three compliance checks may require more time and resources as they are typically more spread-out geographically and are often conducted during the evenings, at night and on the weekends. In addition, if the round two check finds the retailer in non-compliance, prosecutions are commenced.

5.2 Effectiveness of Approaches

We found that each province/region uses a different approach to enforcement. As well, the organizational structures are quite different. There are a number of factors that will determine the cost-effectiveness of enforcement procedures:

- whether the enforcement program is centralized or decentralized;
- whether enforcement is currently focused on inspections, compliance checks or on surveillance; and,
- whether enforcement sanctions include fines or require prosecutions.

It is generally recognized that inspections of retailers can be done in less than an hour, therefore, provinces that have focused on inspections only, would be running a lower cost program. There is some indication, however, that use of inspections alone is not effective. While inspections create a presence in the community, once the retailers realize that inspections will only turn up non-compliance with sign laws, and displays, etc., compliance regarding sales to minors may drop.

Compliance checks can also take only minutes to complete. Some provinces estimate that compliance checks can be performed at a rate of up to 6 per hour, with additional time for preparation/planning, and follow-up requirements for reporting and the issuance of warning letters.

Decoy purchases take longer because of the dispersion of retailers that have to be subjected to decoy purchases. These can be done at a rate of 5-6 a day. These also require more time to document evidence for possible court action.



Finally, prosecutions are the most time consuming of the procedures. There are estimates that prosecutions can take up to 20 to 40 plus hours to complete.

A brief analysis of the effectiveness of approaches to tobacco enforcement, by jurisdiction, are provided below.

Newfoundland

Originally, the tobacco enforcement program in Newfoundland focused solely on routine (seasonal) inspections. The value of retailer inspections was questioned by Health Canada, and through the Department of Health, reduced the applicable Good Management Units (GMUs) from 1.5 to 1.0, and emphasized the use of a more diverse set of enforcement activities, particularly administrative compliance checks and liaison with educational institutions. As a result, compliance checks for administrative purposes and educational liaison have increased and/or have been put in place.

Province-wide coverage is now in place for inspections. Inspection activities are the responsibility of Environmental Health Officers (level III) in all five regional offices. The current arrangement appears cost-effective in terms of obtaining province-wide coverage for the resources available from the program.

In Newfoundland, inspectors are performing enforcement activities without the ability to levy penalties when violations of the regulations occur. Therefore, compliance is being achieved through persuasion and voluntary compliance on behalf of retailers. As illustrated in Table 17 below, results of local compliance checks indicate that compliance levels are increasing.

Comparison of the 1995 and 1996 AC Nielsen survey results also indicates an improvement in compliance levels (25.2% increase between the two years).

Table 17: Local Compliance Check Results - Newfoundland

Date of Checks	Total Checked	Sales to Minors Compliance Rate
March, 1996	89	53%
Oct. 1996 to January 1997	203	64%

Source: Newfoundland Department of Government Services and Lands

While these enforcement activities create a tobacco enforcement presence in the community, and contribute to voluntary compliance, it is the opinion of the Newfoundland Department of Government Services and Lands that there is a risk that the effectiveness of the current

approach (persuasion and voluntary compliance) may decline, along with compliance rates. As the Department states, “in time the effectiveness will diminish unless those who are identified as repeat violators are punished by action more severe than a letter of reprimand”.

This is supported by several respondents who suggested that the most effective approach to tobacco enforcement is one that involves the application of penalties:

- the successful application of penalties will get the message out;
- retailers are getting lackadaisical about compliance given that no penalties are being applied; and,
- “All inspectors in our region feel that compliance checks without prosecutions are a joke.”

If an AC Nielsen survey is conducted this year, the results for Newfoundland may provide a useful comparison as to the effectiveness of enforcement activities in the absence of penalties.

No surveillance activities are undertaken as they are not seen as being cost effective, given that they cannot be linked to existing activities. Small communities inhibit the use of surveillance (inspectors would be easily seen) and in both large and small communities, inspectors are recognizable to most retailers.

PEI

In PEI, the primary enforcement tool had been inspections which allowed complete coverage of the island. However, the AC Nielsen results indicated that the compliance rate in PEI has declined dramatically. It should be noted, however, that the significant drop in compliance in PEI could be due to the use of a 16-year old minor to conduct compliance checks in 1996 and 15-year old in 1995. The 16-year old may have appeared older looking and, therefore, was sold to more often.

Compliance checks have been initiated since the completion of the last AC Nielsen survey, and an apparent increase in compliance is being achieved. After two warnings, virtually no retailer is prepared to continue to sell cigarettes to young persons. At the same time, first round compliance levels are increasing. Table 18 below profiles results of PEI’s local compliance checks.

**Table 18: Changes in Compliance for First Round
Compliance Checks (PEI)**

Date	Number of Establishments Checked for Compliance	Percentage Compliance First Round	Percentage Compliance Second Round
November 1996	101	26	N/A
January 1997	92	68	95
February 1997	81	69	70

Source: Queens Region Health and Community Services, PEI.

If an AC Nielsen survey is conducted this year, the results for PEI may provide a useful comparison as to the impact compliance checks have had, versus the sole use of inspections.

Overall, PEI's shift to compliance checks are generally felt to be more effective than the previous approach of inspections only.

Nova Scotia

It is the view of the Nova Scotia Tobacco Control Unit (TCU) that a good cost-effective mix of approaches is now in place in the province (i.e., inspections, compliance checks) enhanced by media coverage. The results of the AC Nielsen surveys validate this perception. However, the province appears to have had a high compliance rate prior to the implementation of the enforcement program. While the TCU's activities could be attributed to the 14.3% increase in compliance between 1995 and 1996, it also appears that the Unit's activities are maintaining an already high compliance rate.

The TCU feels that it needs greater links with provincial retailer associations. The TCU would like to use the association to educate its members, not just react to its members' concerns. Overall, a non-confrontational approach is desired. The TCU considers it to be political suicide to close the door on relations with retailers and take a more aggressive/confrontational approach.

New Brunswick

To date, the only activities undertaken have been inspections, surveillance, minor investigations, major investigations, and liaison. Program costs are low because of the centralized, dedicated organization. No compliance checks or decoy purchases have taken place due to resistance from the political level. As such, focus has been on administrative actions such as warnings, fines, restriction/suspension of sales and not on prosecutions. Lack of local compliance surveys does not allow assessment of the impacts resulting from activities

to date, however, the AC Nielsen survey results indicate a high level of compliance (although a minor drop of 4% was experienced between 1995 and 1996).

It is perceived by the Department of Health that when (if) implemented, compliance checks will be more cost-effective in terms of increasing compliance, as this approach will demonstrate to retailers that there is a penalty for not complying. The mix of approaches (inspections, liaison, compliance checks, etc.) is, however, considered to be valuable.

It was also suggested that community groups (e.g., local chapters of the lung and cancer associations) be involved to a greater extent with enforcing tobacco regulations, by increasing education and awareness within local communities. Efforts to enforce drinking and driving regulations were considered as an example of this balance between local grass roots community involvement and a formal enforcement system.

It was also suggested that greater onus be placed on the manufacturer and distributor for ensuring compliance and awareness with respect to regulations, as opposed to the retailer. As an example, it was suggested that the provision and display of appropriate signage should be made the responsibility of the manufacturers and distributors and not the retailers, and that manufacturers and distributors also be involved in educating retailers. In New Brunswick, it was estimated that there were 40 distributors, with eight representing the larger tobacco companies (the remainder being involved with niche markets, such as cigars and loose tobacco).

Quebec

In discussing the effectiveness of the enforcement approach taken in Quebec, it is important to first understand the surrounding context. Quebec is a major grower, manufacturer and consumer of tobacco products. Aboriginal groups living in Quebec have been using tobacco for centuries. In addition, as Bill C-71 is considered, tobacco issues have become a factor in the economy and stature of Montreal.

It is not surprising that all compliance rates are relatively low (28.8 per cent for tobacco vendors, according to Neilson), that tobacco issues receive relatively high media profile, and that Health Canada's Regional Office faces significant challenges.

A basic challenge is the geographic expanse of Quebec and the size of the retailer community. There are 50,000 tobacco vendors in Quebec. Many of the owners are immigrants and there is a degree of turnover of vendors. By February, 1997, the unit had visited almost 8,000 establishments.

Another challenge is prosecutions. As compliance checks have gone ahead, the opportunity for prosecution has increased. Health Canada's Quebec Regional Office has 12 prosecutions



under way in Federal Court and about 40 are being prepared. Some are against the establishment, while some are against the employee. So far, all are first offences, “poursuite par voie sommaire”, meaning that no criminal record will be recognized for parties found guilty. Presently only one Justice Canada lawyer, located in Montreal, is involved in these prosecutions. The first court appearance of anyone in the Tobacco Products Unit took place in January.

Another challenge is cooperation. To address this issue, the Regional Office has had meetings with provincial stakeholders to explain and promote its role. The Office is seeking to overcome some reluctance by police, prosecutors and provincial court judges to enforce this legislation. Few, if any, police integrate tobacco into their school awareness campaigns. Provincial prosecutors rarely, if ever, get involved in the law.

However, interviewees point out that application of the law is not sufficient. Another challenge is “sensibilisation”-- awareness campaigns, such as the “Journée mondiale sans tabac”. For example, in January 1996, the Tobacco Products Unit was involved in the mailing of letters to over 3,300 French and English schools in Quebec.

It is assumed that given the range of sources of revenues available to retailers in Quebec, that sales to young persons do not constitute a large portion of their sales. So far, the managers of the program in Quebec believe that inspections and compliance checks have been cost-effective. However, the significant time that is absorbed in prosecutions (mainly in the form of inspector time) along with the relatively high costs associated with this approach, may adversely affect cost-effectiveness.

Within this context, the following comments can be made about the effectiveness of the approach being taken in that province:

- the fact that Health Canada’s program in Quebec is both centralized and dedicated has significant benefits in terms of: the experience, learning curve, and competence of the inspectors; the consistency of approach; the accountability for enforcement performance; and, workplanning and budgetary control. There is a lesser likelihood that other priorities would take precedence over tasks related to tobacco legislation.
- the primary disadvantage of the federal involvement in Quebec is the apparent lack of continuity. As a recently renewed four-year program, there was considerable uncertainty in the unit about future job security of tobacco enforcement inspectors. This may have contributed to a degree of turnover of personnel in the unit. Now that a five-year timeframe has been confirmed, it will be easier for the unit to undertake the recruitment and training of inspectors.

- another disadvantage is the existence of a centralized dedicated unit covering a vast geographic area. This means that, in practice, some areas are visited only from time to time. There is no continuous involvement of inspectors outside of the large urban centres.
- another disadvantage is the placement of the Tobacco Unit within the Environmental Health Directorate of Health Canada. It is not clear that the related programs and activities offer mutual benefits and synergies.

So far, the managers of the program believe that inspections and compliance checks have been cost-effective. However, the significant time that is absorbed in prosecutions (mainly in the form of inspector time), and the relatively high costs associated with this approach may adversely affect cost-effectiveness.

Ontario

Ontario is very decentralized and, therefore, the cost-effectiveness of the program may vary by health unit. There is no overall strategy for enforcing compliance. It is up to each health unit to devise its own strategy. For checking compliance, all health units follow a basic approach developed by the Cancer Society. Individual health units are starting to use compliance surveys (or “sting” operations) as they are the most effective method. In small communities, the existence of one enforcement officer makes it impossible for him/her to do compliance or surveillance sweeps once he/she is known and recognized. The decentralized model in which each health unit has to develop its own procedures, train personnel, and develop its own systems, would appear to be less cost-effective than the centralized model used in other jurisdictions. Furthermore, the heavy utilization of surveillance techniques (which are time intensive), is not considered cost effective.

A wide variety of comments regarding the effectiveness of enforcement activities and factors contributing to their effectiveness were received from individuals in health units involved in tobacco enforcement. For example:

- compliance surveys undertaken by one health unit were considered to be effective in terms of educating retailers, identifying those who are non-compliant, and for targeting further enforcement activity.
- the approach with the best results is often based on luck. Surveillance can be limited to a 10-15 minute time period and you only get one chance to make the decision that youth under 19 has, in fact, purchased cigarettes, and would be willing to cooperate after being approached by the enforcement officer (as it is not illegal for a minor to be in the possession of tobacco).

- surveillance is considered to be the most effective tool in terms of monitoring where minors acquire tobacco products and targeting non-compliance retailers and individuals (e.g, those involved in re-selling cigarettes to minors).
- sting operations are not considered appropriate in a smaller community (vendors already oppose the fact that surveillance is taking place) and may lead to greater opposition by retailers. Stings would be deemed appropriate if all other efforts failed to stop a vendor from supplying tobacco to minors.
- one health unit commented that the current enforcement activities in use in their unit (surveillance, inspections, prosecutions) are the least effective method of reducing sales to minors and reducing smoking rates amongst minors. Although a large amount of effort has been expended, only two convictions have occurred.
- the current approach (surveillance, inspections) were considered to be resource intensive and were having little impact, especially given potential leakages (e.g., retailers selling only to minors they know, selling to minors only when no-one else is in the establishment). Decisions against enforcement officers during prosecutions were also considered to be a barrier -- a factor limiting the effectiveness of the enforcement program. Prosecution problems tended to focus on the burden of proof and lack of cooperation by minors - both of which make prosecutions difficult.
- it was suggested that, to improve the effectiveness of enforcement activities, the process of prosecutions be made easier, and the role of the minor be reduced (e.g., have them sign an affidavit). It was strongly suggested that minors should either not be used for evidence purposes, or as a minimum, they should not have to be identified.
- lack of support and cooperation amongst police officers and school officials were noted as factors which inhibited the effectiveness of enforcement activities.
- the \$200 fine was considered to be too low, especially given the time required to issue a ticket. A higher fine may encourage compliance.
- the legislation (and enforcement) was not old enough to justify increased use of sting operations - retailers are just now becoming aware of the potential consequences of selling to minors.
- enforcement alone will not reduce smoking among minors. Health promotion and education were also considered important elements of an overall strategy.
- as charges and court proceedings increase, the time available for surveillance and compliance checking decreases.

With regards to the federal inspectors in Ontario, they are generally viewed in a positive light from their provincial counterparts. The federal inspectors provide advice to the Public Health Units when required and may also provide assistance during surveillance activities and during inspections. From an activity reporting perspective, the Health Canada (Ontario) quarterly reports represent a duplication between provincial and federal statistics. This is because most activity in surveillance and compliance is done with the Health Units and both federal and provincial inspectors have been registering the statistics. In future only provincial statistics will be used.

Central Region

In Manitoba, the provincial government recently began doing compliance checks with two provincial inspectors to enforce the newly enacted Non-Smokers Health Protection Act. This Act is targeted at prohibiting smoking in public places and limiting sales of tobacco to persons under 18. The provincial inspectors are working with the federal inspectors as the Provincial legislation only permits them to ticket the actual person selling tobacco, rather than the proprietor as is the case with the federal legislation.

As a result, Manitoba is an unusual case. The province is enforcing its own legislation without a federal provincial Contribution Agreement and without formal agreement with the federal government. As a result, HC in Manitoba is not doing compliance checks, but is helping the provincial inspectors to charge premises in violation of both TSYPA and their own act. Since Manitoba is currently enforcing its own legislation without a federal contribution agreement, the need for the federal program is difficult to justify. Health Canada is talking to the Manitoba government, but will only contribute if an equal contribution is provided by the province. A Contribution Agreement would avoid duplication and the Manitoba inspectors could be gazetted under the federal legislation, which would permit them to lay charges under the federal legislation.

There is no specific legislation in Saskatchewan and the enforcement is all federal. The same is true in Alberta. The Government of Saskatchewan has, however, worked with Health Canada on an information program, and has sent out brochures to 4,000 retailers.

From an operational perspective, enforcement initially focused on inspection activity. This was followed by surveillance, which involved monitoring stores for suspected violations. Minors suspected of purchasing tobacco would be interviewed as they left the store. However, this system was not considered effective and a system of compliance checks was initiated. Since September 1995, the focus has been on compliance checks, which are viewed as being the most effective method of enforcement. However, as per other jurisdictions, there is the impression that retailers are becoming aware of the compliance check approach,

which may impact its effectiveness in the future. Surveillance is considered to be ineffective, inefficient, and resource consuming system.

Western Region - Alberta, NWT and the Yukon

There is no specific provincial legislation in Alberta, the NWT or the Yukon, and the enforcement is all federal. One interviewee commented that, although the current enforcement activities (e.g., inspections, surveillance and compliance checks) are effective, there is a danger that retailers are getting wise to the process of compliance checks. As an enforcement activity, surveillance was considered to be an inefficient and time-consuming system.

Western Region - British Columbia

In British Columbia, a variety of enforcement methods are being used. Inspections are conducted in all locations (used both for identifying non-compliance and for educating retailers of their responsibilities vis-a-vis sales to minors), while compliance checks have been implemented in only selected jurisdictions. Those health units which have implemented compliance checks consider them to be the most effective form of enforcement (this is reflected in changes to the Contribution Agreement which emphasize compliance checks). Problems with compliance checks in small communities were noted (e.g., in small communities it is difficult to find someone who can attempt to purchase tobacco without the store owner either recognizing them or finding out afterwards who they are - this can create hardship for the individual(s) if they continue to live in the community).

A variety of arrangements with staff also exist, with some inspectors addressing tobacco on a full-time basis, others incorporating tobacco enforcement into their other health inspection activities, while still others conducting tobacco activities on a full-time basis for short time periods (e.g., one to two days at a time). The flexibility apparent in B.C. allows each health unit to use the mix of methods and staffing arrangements, which they find best for their local environment. One health unit found that combining tobacco with other duties can jeopardize good relations between their inspectors and retailers if ticketing occurs. Because of this risk, a dedicated tobacco enforcement officer was established.

5.2.1 Cost Comparisons

Table 19 below provides a summary of tobacco retailers per province/region and total TDRS funding for the period of April 1995 to September 1996. Funding for Contribution Agreement provinces are actual costs for this 18-month period, based on invoices submitted by the provincial governments. Non-Contribution Agreement-related costs are based on Tables 2 and 3 of Section 2.0, and have been prorated for this 18-month period.

Table 19: Total Retailers and Funding, by Province/Region

Province	Total Retailers	Total TDRS Funding (04/95 to 09/96)*
Nfld.	2,500	\$191,975
Nova Scotia	2,700	\$264,561
PEI	430	\$107,750
New Bruns.	2,500	\$199,868
Quebec	50,000	\$1,138,385
Ontario - Prov.	--	\$939,205
Ontario - Fed.	--	\$668,634
Ontario - Total	35,000	\$1,607,839
Central Region	5,033	\$541,090
Western Region (Alberta, NWT, Yukon)	6,422	\$516,752
Western Region (B.C.)	8,000	\$711,291
National	112,585	\$6,887,350

*Figures based on Section 2.0 of this report (Tables 3 and 4). For Contribution Agreement provinces, funding is based on invoices submitted by provincial governments.

5.2.2 Analysis of Ratios

The following ratios are based on an 18-month period between the first quarter of 1995/96 and the second quarter of 1996/97. This time period was chosen as the activities reported overlap with the two AC Nielsen surveys conducted in 1995 and 1996. The data used in the analysis is based on Health Canada's National Activity Reports and provincial reports for the Maritime provinces.

An assessment of these ratios indicated that the only clear pattern or linkage between enforcement activities and compliance is in relation to compliance checks and compliance (see Table 24). In particular, jurisdictions which utilized, or implemented, compliance checks (including decoy purchases) between the first quarter of 1995/96 and the second quarter of 1996/97 experienced an increase in compliance regarding sales to minors between the 1995 and 1996 AC Nielsen surveys. The two provinces which did not implement compliance checks during this time period both experienced a decrease in compliance in terms of sales to minors. PEI experienced a 56.1% decrease in compliance while New Brunswick experienced a 4% decrease. It should be noted, however, that the differences in the ages of the youth test purchaser may have influenced compliance results between 1995 and 1996 for PEI.

The jurisdiction with the most intensive compliance check activity and the highest coverage (the Central Region) experienced two of the three highest increases in compliance rates between 1995 and 1996.

In Newfoundland, the linkage between compliance checks and compliance rates is not as clear. In Newfoundland, the compliance check coverage is approximately 5%, reflecting the fact that the primary activity during the six quarter period was inspections. However, compliance rates in terms of sales to minors increased 23.4%.

Total TDRS Funding per Retailer

As measured by Nielsen compliance rates related to sales to minors, there is no clear relation between program success and enforcement funding per retailer.²³

For example, as illustrated in Table 20 below, PEI, with the highest funding per retailer (\$251) dropped from the highest compliance rate in 1995 (90.4%) to the second lowest in 1996 (34.3%). It should be noted, however, that the differences in the ages of the youth test purchaser may have influenced compliance results between 1995 and 1996 for PEI. Meanwhile, the Central Region (with the second highest funding level of \$108 per retailer) had two of the highest improvements in compliance rates between 1995 and 1996 (for Manitoba and Saskatchewan).

The two provinces with the highest compliance rates (Nova Scotia and New Brunswick) are funded \$98 and \$80 per retailer respectively. These are slightly above the national average of \$61 per retailer.

²³ Funding for the six quarters between April, 1995 and September 1996, includes Contribution Agreement funding based on invoices submitted by Agreement provinces, and TDRS program funding. Funding does not include additional funds provided by provincial governments.

Table 20: Total TDRS Funding per Retailer

Province	Funding per Retailer	Compliance Rate (1995)	Compliance Rate (1996)	% Change
Nfld.	\$77	33.2%	58.4%	25.2%
Nova Scotia	\$98	75.5%	89.8%	14.3%
PEI	\$251	90.4%	34.3%*	-56.1%
New Bruns.	\$80	88.8%	84.8%	-4.0%
Quebec	\$23	23.9%	28.8%	4.9%
Ontario	\$46	62.2%	73.3%	11.1%
Central Region	\$108	56.5% (Man) 30.1% (Sask)	76.8% (Man) 77.8% (Sask)	20.3% (Man) 47.7% (Sask)
Western	\$80	60.1%	68.6%	8.5%
B.C.	\$89	69.2%	74.0%	4.8%
National	\$61	47.9%	60.5%	12.6%

Sources: Audit and Evaluation framework, individual provincial and regional activity reports, including invoices for the period of first quarter 1995/96 to second quarter 1996/97; AC Nielsen Compliance Surveys, 1995, 1996.

*Differences in the ages of the youth test purchaser may have influenced compliance results between 1995 and 1996.

Retailers per Funded Full-Time Equivalent (FTE)

Table 21 below illustrates the number of retailers per funded full-time equivalent (assuming \$50,000 per year) across all regions and observations regarding compliance rates. Quebec, with the highest retailer to full-time equivalent ratio (2.928:1) had the lowest compliance rates (sales to minors) in both 1995 and 1996.

This pattern is not as clear in other jurisdictions. For example, PEI, which has the second lowest retailer to full-time equivalent ratio (266 retailers per full-time equivalent) had the second lowest compliance rate in 1996 (although it had the highest compliance rate in 1995). It should be noted, however, that the differences in the ages of the youth test purchaser may have influenced compliance results between 1995 and 1996 for PEI. The Central Region, which also has a relatively low ratio of 620:1, has demonstrated two of the largest improvements in compliance rates between 1995 and 1996, while Nova Scotia, with a relatively low retailer to FTE ratio of 680:1 has the highest compliance rate amongst the provinces/regions.

Table 21: Retailers per Funded FTE*

Province	Retailers per Funded FTE	Compliance Rate - 1995	Compliance Rate - 1996	% Change
Nfld.	868	33.2%	58.4%	25.2%
Nova Scotia	680	75.5%	89.8%	14.3%
PEI	266	90.4%	34.3% **	-56.1%
New Bruns.	834	88.8%	84.8%	-4.0%
Quebec	2,928	23.9%	28.8%	4.9%
Ontario	1,451	62.2%	73.3%	11.1%
Central Region	620	56.5% (Man) 30.1% (Sask)	76.8% (Man) 77.8% (Sask)	20.3% (Man) 47.7% (Sask)
Western	829	60.1%	68.6%	8.5%
B.C.	750	69.2%	74.0%	4.8%
National	1,422	47.9%	60.5%	12.6%

Sources: Audit and Evaluation framework, individual provincial and regional activity reports, including invoices for the period of first quarter 1995/96 to second quarter 1996/97; AC Nielsen Compliance Surveys, 1995, 1996. *FTE assumes \$50,000 per year. **Differences in the ages of the youth test purchaser may have influenced compliance results between 1995 and 1996.

Total Enforcement Activities²⁴ per Retailer

The relationship between enforcement activities per retailer is mixed (see Table 22 below). Quebec with the lowest number of enforcement activities per retailer (0.3:1) also had the lowest compliance rates for the 1995 and 1996 surveys. However, PEI, with the highest ratio of activities per retailer (5.6:1) over the six quarter period, dropped from the highest compliance rate in 1995 (90.4%) to the second lowest in 1996 (34.3%). Again, it should be noted that the differences in the ages of the youth test purchaser may have influenced compliance results between 1995 and 1996 for PEI.

²⁴ Activities include inspections, surveillance, investigations, liaison, and compliance checks (including decoy purchases). In Ontario, activities include prosecutions (a billable activity under the Contribution Agreement).

Table 22: Enforcement Activities per Retailer

Province	Activities per Retailer	Compliance Rate - 1995	Compliance Rate - 1996	% Change
Nfld.	1.2	33.2%	58.4%	25.2%
Nova Scotia	1.0	75.5%	89.8%	14.3%
PEI	5.6	90.4%	34.3%*	-56.1%
New Bruns.	1.3	88.8%	84.8%	-4.0%
Quebec	0.3	23.9%	28.8%	4.9%
Ontario	0.8	62.2%	73.3%	11.1%
Central Region	1.5	56.5% (Man) 30.1% (Sask)	76.8% (Man) 77.8% (Sask)	20.3% (Man) 47.7% (Sask)
Western	1.4	60.1%	68.6%	8.5%
B.C.	2.2	69.2%	74.0%	4.8%
National	0.8	47.9%	60.5%	12.6%

Sources: Audit and Evaluation framework, individual provincial and regional activity reports, including invoices for the period of first quarter 1995/96 to second quarter 1996/97; AC Nielsen Compliance Surveys, 1995, 1996.

*Differences in the ages of the youth test purchaser may have influenced compliance results between 1995 and 1996.

Inspections per Retailer

As per enforcement activities per retailer, the relationship between inspections per retailer is mixed (see Table 23 below). PEI, with the highest ratio of inspections per retailer (5.6:1) over the six quarter period, dropped from the highest compliance rate in 1995 (90.4%) to the second lowest in 1996 (34.3%). However, as noted above, the differences in the ages of the youth test purchaser may have influenced compliance results between 1995 and 1996 for PEI.

In New Brunswick, Ontario and B.C., where the ratio of inspections per retailer is the same as, or greater than, the national average, compliance rates are relatively high. In Newfoundland, where the primary activity is inspections, the sales to minors compliance rate increased 25.2% between 1995 and 1996.

In terms of coverage of retailers, the relationship is also mixed. For example, the Central Region, with the second lowest inspection coverage rate (40%) experienced two of the three highest improvements in terms of sales to minors compliance rates between 1995 and 1996. However, Quebec, with the lowest coverage rate (18%) had the lowest sales to minors compliance rates in both 1995 and 1996.

Table 23: Inspections per Retailer

Province	Inspections per Retailer (% of Retailers Covered)	1995 Compliance Rate	1996 Compliance Rate	% Change
Nfld.	1.1 (100%)	33.2%	58.4%	25.2%
Nova Scotia	0.6 (59%)	75.5%	89.8%	14.3%
PEI	5.6 (100%)	90.4%	34.3%*	-56.1%
New Bruns.	1.3 (100%)	88.8%	84.8%	-4.0%
Quebec	0.2 (18%)	23.9%	28.8%	4.9%
Ontario	0.5 (47%)	62.2%	73.3%	11.1%
Central Region	0.4 (40%)	56.5% (Man) 30.1% (Sask)	76.8% (Man) 77.8% (Sask)	20.3% (Man) 47.7% (Sask)
Western	0.5 (55%)	60.1%	68.6%	8.5%
B.C.	1.4 (100%)	69.2%	74.0%	4.8%
National	0.5 (46%)	47.9%	60.5%	12.6%

Sources: Audit and Evaluation framework, individual provincial and regional activity reports, including invoices for the period of first quarter 1995/96 to second quarter 1996/97; AC Nielsen Compliance Surveys, 1995, 1996. *Differences in the ages of the youth test purchaser may have influenced compliance results between 1995 and 1996.

First Round Compliance Checks per Retailer

Jurisdictions which utilized or implemented compliance checks (including decoy purchases) between the first quarter of 1995/96 and the second quarter of 1996/97 experienced an increase in sales to minors compliance between the 1995 and 1996 AC Nielsen surveys (see Table 24 below). The two provinces which did not implement compliance checks during this time period both experienced a decrease in compliance in terms of sales to minors. PEI experienced a 56.1% decrease in compliance while New Brunswick experienced a 4% decrease (NB. The differences in the ages of the youth test purchaser may have influenced compliance results between 1995 and 1996 for PEI).

The jurisdiction with the most intensive compliance check activity and the highest coverage in terms of first round compliance checks (the Central Region) experienced two of the three highest increases in compliance rates between 1995 and 1996).

In Newfoundland, the linkage between first round compliance checks and compliance rates is not as clear. In Newfoundland, the compliance check coverage is 4%, reflecting the fact

that the primary activity during the six quarter period was inspections. However, compliance rates in terms of sales to minors increased 23.4%.

Table 24: First Round Compliance Checks per Retailer

Province	% Retailers Covered by a 1st Round Compliance Check	1995 Compliance Rate	1996 Compliance Rate	% Change
Nfld.	4%	33.2%	58.4%	25.2%
Nova Scotia	20%	75.5%	89.8%	14.3%
PEI	0%	90.4%	34.3%*	-56.1%
New Bruns.	0%	88.8%	84.8%	-4.0%
Quebec	9%	23.9%	28.8%	4.9%
Ontario	3%	62.2%	73.3%	11.1%
Central Region	94%	56.5% (Man) 30.1% (Sask)	76.8% (Man) 77.8% (Sask)	20.3% (Man) 47.7% (Sask)
Western	62%	60.1%	68.6%	8.5%
B.C.	23%	69.2%	74.0%	4.8%
National	23%	47.9%	60.5%	12.6%

Sources: Audit and Evaluation framework, individual provincial and regional activity reports, including invoices for the period of first quarter 1995/96 to second quarter 1996/97; AC Nielsen Compliance Surveys, 1995, 1996.
*Differences in the ages of the youth test purchaser may have influenced compliance results between 1995 and 1996.

5.4 Approaches Used for Targetting Retailers

The approaches used for targetting retailers for enforcement activity vary from province to province and from health unit to health unit. In some provinces, those retailers located near schools and/or frequented by youth are targetted for enforcement activity, while in others, targetting is not even an issue; i.e., all tobacco retailers are targetted for enforcement activity. The approaches used by the provinces are summarized in Table 25 below.

Table 25: Approaches Used for Targetting Retailers

Province	Approach Used to Target Retailers for Enforcement Activity
Newfoundland	All enforcement activities are combined with license renewals for establishments. Higher risk retailers (near schools, those who have had complaints lodged against them, previous history of willingness to sell) are targetted for compliance checks.
Prince Edward Island	All retailers are targetted for enforcement activity.
Nova Scotia	Retailers who demonstrate a willingness to sell to minors (through compliance checks) or who have a complaint lodged against them are targetted.
New Brunswick	There are no formal procedures for targetting retailers. TEOs tend to target high risk areas (e.g., near high schools). In addition, TEOs may use information obtained from the Nielsen Surveys to target retailers.
Quebec	The intent is to target all retailers, however, retailers near schools and other areas frequented by young people are more likely to be targetted for enforcement activity.
Ontario	In general, enforcement activities carried out by the individual health units targets those retailers identified as being high risk due to: location (near schools, other areas frequented by youth); complaints; and, willingness to sell to youth (as identified by surveillance).
Manitoba	All retailers are targetted for compliance checking.
Saskatchewan	All retailers are targetted for compliance checking.
Alberta	Although every retailer is a potential target for enforcement activity, time constraints dictate whether a targetting approach is used. In smaller communities all retailers are targetted for enforcement activity, however, in the larger urban centres, enforcement activities are focussed on retailers near schools and those who have complaints lodged against them.
British Columbia	Depends on the health unit. Generally speaking, the rural health units tend to target the high risk retailers (those retailers against whom they have received complaints, those located near schools, or those lacked appropriate signage at time of inspection) for compliance checks, while the larger urban health units carry out compliance "sweeps" of all retailers. Those that fail the compliance "sweep" are targetted for a decoy purchase.

5.5 General Conclusions

Regarding work units, the following conclusion can be made:

- among the Contribution Agreement provinces, there is no standardized approach being taken with respect to the use of work units. In particular:
 - the monetary value of work units varies by province; and,

- there is no consistent allocation of work units by type of enforcement activity.

Nominally, the federal cost per hour for enforcement is estimated at \$42.18 (average of Ontario, Quebec and Central Regions) in comparison to \$30-\$33.33 for the Contribution Agreements.

In addition, the work units do not line-up exactly with enforcement activities, as specified in the Contribution Agreements. However, the units are considered to provide reasonable planning guidelines regarding expected activity levels, and have not detracted from enforcement activities.

If new federal legislation is passed, and additional tasks are required of provincial inspectors, the composition of the work units may need to be re-visited.

Concerning the cost-effectiveness of the various tobacco enforcement activities, the following conclusions can be made:

- an approach that uses a combination of enforcement techniques appears to be cost-effective, as it provides the enforcement authorities with flexibility in terms of their approach, and they can accrue the benefits associated with each individual enforcement tool.
- there was agreement (among those jurisdictions that have implemented compliance checks) that compliance checks are a cost-effective method of enforcing compliance. These checks are valuable for making retailers aware of their responsibilities regarding the tobacco legislation (e.g., through follow-up letters and/or warnings in the case of non-compliance), and they are useful for identifying non-compliant retailers and allowing future targeting.
- there is a clear pattern or linkage between enforcement activities and compliance in relation to compliance checks and compliance. In particular, jurisdictions which utilized, or implemented, compliance checks (including decoy purchases) between the first quarter of 1995/96 and the second quarter of 1996/97 experienced an increase in compliance regarding sales to minors between the 1995 and 1996 AC Nielsen surveys. The two provinces which did not implement compliance checks during this time period both experienced a decrease in compliance in terms of sales to minors.
- concerns have been raised regarding the ethics of involving minors in compliance checks, particularly when decoy purchases and prosecutions are involved. This has included parent not giving consent to provincial authorities (i.e., in rural Newfoundland). This has been a barrier to the implementation of compliance checks in Ontario, New Brunswick, and Newfoundland.



- the effectiveness of compliance checks may be reduced if retailers are suspicious of minors they do not recognize, who are purchasing cigarettes. This is particularly an issue in smaller communities, and can lead to “selective compliance” on behalf of retailers by selling tobacco to only minors they recognize, or at times when they would least expect enforcement activities to take place (e.g., during the evening or on weekends).
- if an AC Nielsen survey is conducted this year, the results for PEI may provide a useful comparison as to the impact compliance checks have had, versus the sole use of inspections.
- inspections can provide a presence in the retailer community and are useful for educating retailers, and persuading them to voluntarily comply with the tobacco legislation. There is the risk however that if only inspections are used, compliance rates may decline (this occurred in PEI between the 1995 and 1996 AC Nielsen surveys, when only inspections were being used to enforce the tobacco legislation).
- if an AC Nielsen survey is conducted this year, the results for Newfoundland may provide a useful comparison as to the effectiveness of enforcement activities in the absence of penalties.
- the time requirements related to prosecutions may impact on the ability of enforcement units to conduct field-level enforcement activities (e.g., compliance checks, inspections). The effectiveness of prosecutions can be reduced if:
 - inspectors do not sufficiently address the issue of burden of proof;
 - retailers are aggressive in their defence;
 - minors are not willing to cooperate in terms of providing evidence; and/or,
 - if the crown is not supportive, or requires educating in terms of the tobacco legislation.
- surveillance can be an effective tool in terms of monitoring where minors acquire tobacco products, and targeting non-compliance retailers and individuals (e.g, those involved in re-selling cigarettes to minors). Views regarding the cost-effectiveness of this tool is varied as it can be time-consuming with no results. As one individual noted, surveillance can be limited to a 10-15 minute time period and you only get one chance to make the decision that youth is under 19, they have in fact purchased cigarettes, and they would be willing to cooperate after being approached by the enforcement officer

(as it is not illegal for a minor to be in the possession of tobacco). Surveillance in small communities does not however appear cost-effective, as inspectors can be easily seen.

- media coverage can help increase awareness amongst both the public and retailers, which can help increase voluntary compliance on behalf of retailers.
- improved links with provincial retailer associations and local community groups may also lead to increased voluntary compliance amongst retailers. A non-confrontational approach with retailers would appear to be more effective. As the Nova Scotia TCU noted, it would be political suicide to close the door on relations with retailers and take a more aggressive/confrontational approach.

Concerning the approaches used for targetting retailers, the following conclusion can be made:

- generally all retailers are targetted for enforcement activity; however, if resources are scarce, those retailers identified as being “high risk “(i.e., located near schools and other areas frequented by youth, have complaints lodged against them, or have shown a prior willingness to sell), are more likely to be the target of enforcement activity.



Appendix A:
List of Interviewees

List of Interviewees

Health Canada - Office of Tobacco Control

1. L. Rondeau
2. S. Hall
3. F. Pégeot (now with Federal-Provincial Affairs)

Health Canada - Regional HPB Offices

4. L. Kane
Atlantic Region (St. John's, Newfoundland)
5. M. Lapointe
Atlantic Region (Halifax, Nova Scotia)
6. E. Nickerson
Atlantic Region (Halifax, Nova Scotia)
7. P. Darling
Atlantic Region (Halifax, Nova Scotia)
8. D. Dionne
Quebec Region
9. D. Wilkes
Ontario Region
10. D. Stitt
Central Region
11. G. Evoy
District Manager, Alberta & NWT
12. D. Shelley
Western Region
13. I. Chan
Western Region

Provincial

14. R. Coates
Environmental Health Services, Newfoundland Dept. of Health

15. W. Moores
Newfoundland Department of Government Services and Lands
16. B. Savory
Provincial Tobacco Coordinator
17. L. Gallant
Prince Edward Island Department of Health
18. M. Ungurain
Tobacco Control Unit, Nova Scotia Department of Health
19. L. Bennett
New Brunswick Department of Finance, Account Management, Revenue Division
20. C. O'Connell
New Brunswick Department of Finance, Account Management, Revenue Division
21. Dr. M. Scott
New Brunswick Department of Health
22. G. Conway
Ontario Ministry of Health
23. B. Phillips
British Columbia Ministry of Health
24. S. Little
British Columbia Ministry of Health

Health Units

Ontario

25. P. Jarman
Windsor-Essex County Health Unit
26. M. Mitchell
Scarborough Health Unit
27. J. Chan
Etobicoke Health Unit
28. T. Allan-Koester
Perth District Health Unit

29. D. McMillan
Middlesex-London Health Unit
30. P. Scharfe
Toronto Health Unit
31. C. Orr
Leeds, Grenville, Lanark District Health Unit
32. A. Raven
J.-G. Albert
Ottawa-Carleton Health Unit
33. S. Monaghan
B. Mindell
City of York Health Unit

British Columbia

34. H. Langemann
City of Vancouver Health Department
35. T. Shun
G. Embree
City of Burnaby Health Department
36. G. Rice
Larry Percival
Upper Fraser Valley Health Unit
37. K. Higo
City of Richmond Health Department
38. B. Vath
Cariboo Health Unit
39. A. Thomas
Peace River Health Unit
40. K. Coueffin
New Westminister Health Department

- 41. K. Christian
South Central Health Unit
- 42. R. Seltenrich
Skeena Health Unit

Government Services Offices - Newfoundland

- 43. S. Williams
St. John's
- 44. G. Perry
Clarenville
- 45. G. Budgell
Gander
- 46. R. Ledrew
Gander
- 47. D. Johnson
Happy Valley/Goose Bay

Tobacco Enforcement Staff

Newfoundland

- 48. T. Budgell
- 49. C. Hann
- 50. D. White

Prince Edward Island

- 51. D. MacIntosh
- 52. R. T. McCullough

New Brunswick

- 53. R. Fortin
- 54. J. Landry

Nova Scotia

55. E. McColloch

Quebec

56. M-A. Marcoux
57. M. Thibault

Ontario- Provincial

58. J. Welch
59. Nana
60. E. Webb
61. B. Ryan
62. N. Lassard
63. C. Woznik-Mucci
64. M. Vas Concelos
65. M. Patel
66. L. Gini
67. G. Blair
68. E. Reddick
69. B. Foster
70. D. McWilliam
71. J. Burnett
72. V. Yershenko
73. R. Patten
74. K. Greenwood
75. K. Flannigan
76. B. Frattini
77. S. Deegan
78. L. Korte
79. V. Chiefari
80. T. Pacifico

Ontario-Federal

- 81. A. DeBoer
- 82. B. Gilchrist
- 83. J. Zeggil
- 84. M. Benaissa

Manitoba

- 85. R. Dunbar
- 86. J. Shannon

Saskatchewan

- 87. L. Koehler
- 88. E. Thorne

Alberta

- 89. N. Tunke
- 90. P. Thirnbeck
- 91. R. Neilsen
- 92. R. Reid
- 93. C. Ellams

British Columbia

- 94. D. Luka
- 95. D. Quibelle
- 96. J. Manning
- 97. J. Yee
- 98. S. Bodani
- 99. K. Klepachuk
- 100. C. Tung
- 101. B. Wojciechowski
- 102. K. Herle

Retail Associations

103. L. Dumulong

National Association of Tobacco and Confectionary Distributors

104. J. Geci

Canadian Council of Grocery Distributors

105. P. Flach

Canadian Coalition for Responsible Tobacco Retailing