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**Anti-Smoking Policy in Hong Kong
Implementation Capacity, Action and Challenges**

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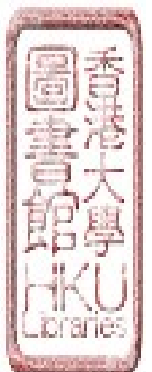
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**Capstone Project Report submitted in partial fulfillment of the
requirements of the Master of Public Administration**

Department of Politics and Public Administration

The University of Hong Kong

2016



DECLARATION

Our group declares that the project “Anti-Smoking Policy in Hong Kong: Implementation Capacity, Action and Challenges” represents our own work. This project shall not be formerly covered in any report, thesis and dissertation of any Universities or educational institutions for whatever qualifications besides where due acknowledgement is made.

{Original Signed}

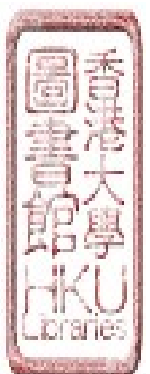
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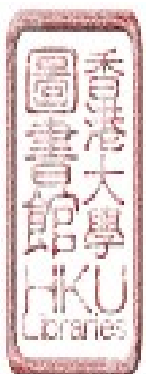
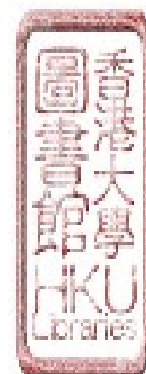
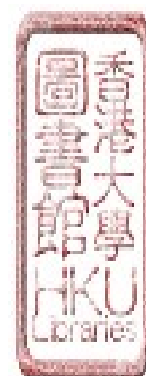


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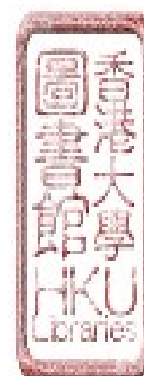


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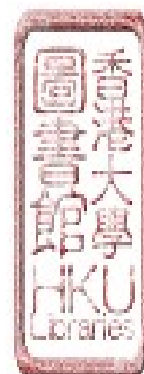
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ABBREVIATION

COSH	Hong Kong Council on Smoking and Health
DH	Department of Health
FEHD	Food and Environmental Hygiene Department
FCTC	Framework Convention on Tobacco Control
NGO	Non Profit Organization
SWD	Social Welfare Department
TCO	Tobacco Control Office
WHO	World Health Organization



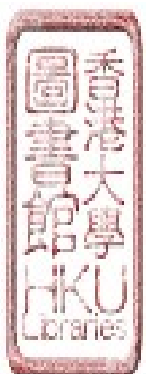
CHAPTER ONE: INTRODUCTION

Force, Objectives and Background of the Project

This project addresses the anti-smoking policy in Hong Kong. It focuses on the implementation capacity and action that have evolved in the history of Hong Kong. It examines the arrangements in respect of several dominant aspects and considers the challenges that the policy is facing.

The objective of this project is to understand the actions, challenges and implementation capacities of the anti-smoking policy in Hong Kong. The project also examined the regulatory tools and strategies that the Hong Kong Government has adopted to deal with the smoking issues over the time. The project evaluates the appropriateness and effectiveness of the identified tools and strategies and draw insights from other regions and countries. Recommendations are made concerning the reinforcement or transformation of the tools and strategies.

The World Health Organization (WHO, 2006) reported that smoking is the leading preventable cause of death. Such behavior has killed up to half of the smokers, representing an annual death of six million of people. What's more, as a result of tobacco consumption, the economic burden taking into account the



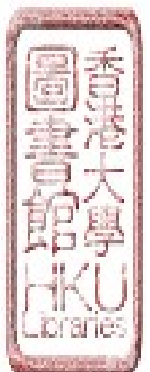
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health care costs and lost in productivity amounts to US\$688 million per year (approximately HK\$5.3 billion). Therefore every government has the prime duty in tackling with the tobacco issue in their territory.

In early 1970 in Hong Kong, the colonial Government had adopted a policy of laissez-faire on smoking. No legislative measures were imposed on tobacco control. Until 1982, the government realized the importance on anti-smoking and the first smoking related-ordinance was enacted.

In 1987, the Government has established Hong Kong Council on Smoking and Health (“COSH”) to gather information and formulate strategies on tobacco control. From time to time, the anti-smoking policies have relied on legislations and policies. That includes but not limits to prohibition of smoking in public places, restriction on selling tobacco products and tobacco promotion. In addition to the Smoking (Public Health) Ordinance Cap.371, the Fixed Penalty (Smoking Offences) Ordinance Cap.600 was also enacted in 2008 to ensure the smokers are adhering to the anti-smoking policies.

Besides, intensive enforcement actions have been taken to reinforce the legislations. In 2001, the Government has particularly established Tobacco Control Officer (“TCO”) to strengthen the enforcement actions on illegal smoking. Since then, various regulatory tools and strategies including tobacco taxation, health promotion and smoking cassations have been adopted over the



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years to support the general smoking free policies.

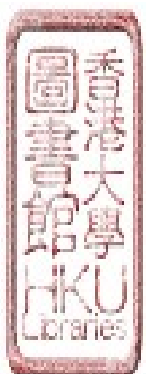
The Hong Kong Census & Statistics Department and TCO (Thematic Household Survey, 1982~2015) have kept the data in recording smoking prevalence. The prevalence of daily smokers in the territory has dropped materially over the past few decades since 1982. The smoking prevalence has hit a record low in 2015.

Research Questions and Related Propositions

In order to attain the objective of this project, the following three research questions are addressed:

1. What strategies and action has the government adopted, and what capacities has it needed, to oversee and control the smoking issue?
2. How appropriate and effective have the strategies, action and capacities been – in accordance with relevant evaluative criteria and related considerations?
3. How might the strategies, action and capacities be strengthened or complemented by the adoption of other potentially more effective arrangements?

In the context of the anti-smoking policies in Hong Kong, the project has

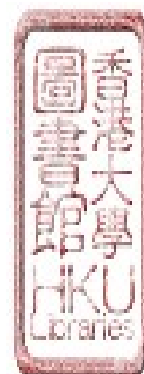


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identified a number of regulatory tools and strategies adopted by the Governments in dealing with tobacco control. Anti-smoking policy has been implemented in Hong Kong for decades. Although the number of active daily smokers has been on a down trend, it remains as a huge social concern, as people have become more health-cautious. The tools and strategies are interdependent and have mutually addressed different social issues in relation to the execution of the policies. The prevalence of the smokers, whatever age and gender, has decreased significantly, from 23.3% in 1982 to 10.5% in 2015, over the past three decades (Thematic Household Survey, 1982~2015). This is a strong indicator that the smoking situation in Hong Kong is improving. Having said that, this project will evaluate the appropriateness and effectiveness of these strategies by some identified key capacities and various empirical findings. Finally, corresponding recommendations would be made to strengthen the anti-smoking policy implementation with reference to overseas experience.

Overview of the Analytical Framework

The analytical framework of this project developed in Chapter Two provides an integrated way to analyze the implementation capacities and actions that are necessary for ensuring policies are successfully implemented. These identified capacities would be applied to Hong Kong context in the subsequent chapters to evaluate the strategies adopted by the Hong Kong government and recommendations would be made based on the evaluation.



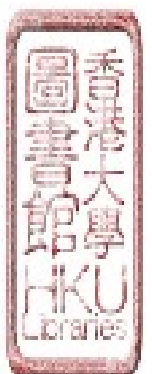
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The analytical framework is established on two classic regulatory and related theories: "responsive regulation" (Ayres & Braithwaite, 1992; Braithwaite, 2011) and "street-level bureaucracy" (Lipsky, 1980).

In respect of "responsive regulation", Braithwaite (2011, p. 480~487) illustrates the pyramid of support and pyramid of sanction for regulators to adopt dynamically according to the response of the regulatees. On the other hand, this project also based on the theory of "street-level bureaucracy" (Lipsky, 1980) to discuss the role of frontline officers in delivering different levels of supports and sanctions to the regulatees, which would have direct influence on whether the policies can be effectively implemented.

These two theories provide an insight for the government / regulators about the necessary capacities and actions for formulation and effective implementation of policies, and highlight the importance of the frontline officers in the process of administration of the anti-smoking policy in Hong Kong. This analytical framework is applied in subsequent chapters to address the experience of the anti-smoking policy and evaluate the work of Tobacco Control Office in anti-smoking, and to achieve the ultimate goal of this project, namely to recommend solutions to address the smoking problem in Hong Kong.

With reference to the theories of 'Responsive Regulation' (Braithwaite, 2011)



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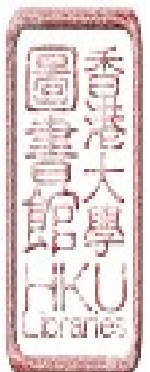
and ‘Street-level Bureaucracy’ (Lipsky, 1980), this study identified five essential capacities and actions that regulators have to develop in order to carry out its policies effectively. The capacities are identified as follows:

- a) Convey messages to the public effectively;
- b) Ensure the proper use of discretion by frontline officers;
- c) Adopt a dynamic mix of regulatory tools;
- d) Develop the ability to elicit responsibility from citizens; and
- e) Constantly review and revise goals and strategies.

Overall, this framework provides a clear structure to illustrate and examine the capacities in implementation of the policies on combating smoking based on two classic regulatory and related theories. Chapter Two will provide details of the integrated analytical framework.

Research Methodology

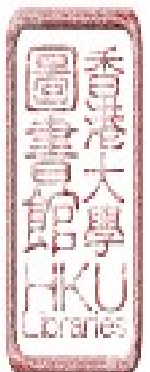
The project comprises a literature review on the public administration theories on regulatory and governance tools. This project has also made reference to relevant scholarly articles, research reports, academic journals relating to the anti-smoking policies in Hong Kong. Those papers have given valuable insights for all of us in forming our analytical approach in the study of this large social policy topic.



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The major research method of the project is desktop research. A comprehensive reading of the relevant readings and media reports are required to understand the whole picture on why and how the Hong Kong regulator has adopted various regulatory policies to tackle smoking issue. The research focused on gathering data from the public domain including the ordinances, websites of COSH and TCO, LegCo Papers, research reports, newspaper reports and other academic studies relating to tobacco control.

The desktop research is suitable research method since it enables our study to be based on a detailed empirical analysis and acquire personal and expert opinion without any cost implications that may otherwise incur through survey or interview. Meanwhile, this methodology allowed the study is done in an objective manner by taking extensive publications and data from different verified sources for comparison and contrast so that a more comprehensive analysis could be made before making conclusion. Hence, the analysis based on this research methodology would be more representative and convincing as it was made based on materials from various sources which represented opinions of members of public.



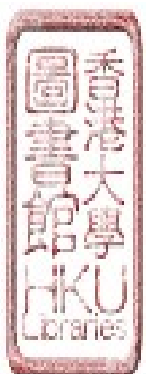
Chapter Outline

This project comprises five chapters. This Chapter outlines the focus, objective and background of the project. It illustrates the three research questions and its related propositions and shows the overview of the analytical framework and research methodology.

Chapter Two formulates the analytical framework, derived from various academic studies and literature reviews; it identifies five implementation capabilities of the regulatory tools and strategies in relation to anti-smoking and structures and guides the discussion on the appropriateness and effectiveness of these capabilities.

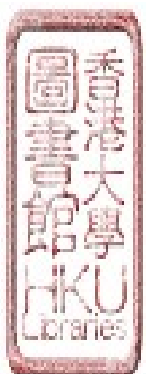
Chapter Three addresses the historical development of the anti-smoking policy, along with a focus on the current smoking situation and its associated problems, policies and legislation. It also covers the establishment of the two statutory bodies, namely COSH and TCO, and their respective roles in tackling antismoking issues.

Chapter Four elaborates the development and effectiveness of all the regulatory tools and strategies that include enforcement, duty on tobacco, health promotion and smoking cessation services.



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Chapter Five will make recommendation on how the government can strengthen or complement the existing regulatory tools and strategies by the adoption of other potentially more effective tools and strategies so as to intensifying its action and capacities upon implementation of the anti-smoking policy and tactfully addressing its challenges facing.

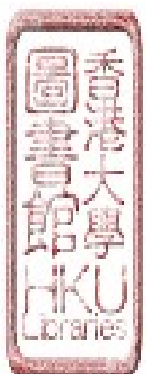


CHAPTER TWO: ANALYTICAL FRAMEWORK

Introduction

This chapter provides the analytical framework for the project, which is mainly based on two classic regulatory and related theories: "responsive regulation" (Ayres & Braithwaite, 1992; Braithwaite, 2011) and "street-level bureaucracy" (Lipsky, 1980). The former explains how regulators can utilize different levels of supports and sanctions as regulatory tools to get desired behaviour from citizens, while the latter elaborates on how street-level bureaucrats affect the level of supports and sanctions provided to or imposed on the public as a result of the immense discretion conferred on them when executing their duties. The two sets of theories provide insights for administrators on how to effectively formulate and implement policies and uncover the importance of frontline officers in the process, which are applicable to the context of Hong Kong in relation to the implementation of the anti-smoking policy and the capacities and challenges involved.

This integrated analytical framework is used in subsequent chapters to guide and inform an analysis of the experience of the anti-smoking policy and work of the Tobacco Control Office. With reference to the two theories, five key capacities and actions are identified as essential for regulators to develop to ensure policies



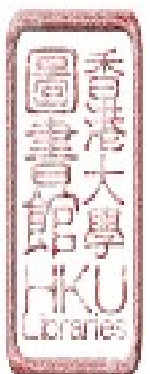
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are successfully implemented. They include: convey messages to the public effectively; ensure the proper use of discretion by frontline officers; adopt a dynamic mix of regulatory tools; develop the ability to elicit responsibility from citizens; and constantly review and revise goals and strategies (Braithwaite, 2011; Lipsky, 1980).

Convey messages to the public effectively

To effectively implement its regulatory strategies, the government should have the capacity to convey clear messages to the public about its policy intention, the policy itself, the supports it offers to citizens in the policy, and the sanctions they would receive if they fail to comply.

The two pyramids, “pyramid of support” and “pyramid of sanction” developed by Braithwaite (2011, p. 480~487) is that the demand of concerns and interventions increases while moving up the pyramid. Therefore, the approach is to start at the base of the pyramid and escalate to stronger measurement when more modest method fails. One of the principles of the pyramid of sanction is that the regulator wants regulatees to realise the existence of the pyramid. Sometimes, escalating up the pyramid to deterrent sanctions can make things worse, as punishment would simultaneously increase deterrence and defiance. Therefore, regulators, with their discretions, must communicate openly with the industries and if possible to design the pyramid of sanction with them

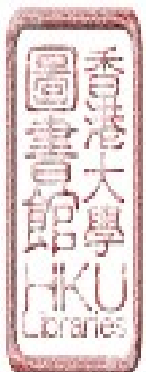


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collaboratively. In this case, signal would be made in the discussion process and dampened the defiance effect from the industries. According to the theory (Braithwaite, 2011) regulators should first provide supports to regulatees to build their capacity and strength to solve the problem by themselves, starting from the lower level of supports at the base of pyramid such as persuasion and education, and only move up the pyramid with more supports such as prizes and grants when required. However, if providing supports failed to change the behavior of the regulatees or cannot sufficiently solve the problem, the administrator should move to pyramid of sanction, using enforcement and penalty to prevent unwanted behaviour.

The optimal objective is that people can self-regulate with integrity without government intervention in the long run. To achieve such purpose, regulator should convey a clear message to the citizens that the government prefers to achieve outcomes by support and education to build capacity but there is also a range of sanctions that could be used and escalated when necessary. The regulator should let citizens know that the regulator is determined and have the ability to escalate the sanctions if they do not comply to the laws or regulations.

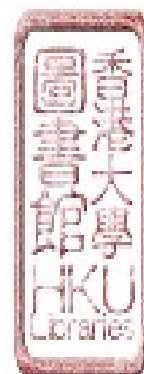
In this aspect, the Street-level bureaucracy theory developed by Lipsky (1980) suggested that the government highly relies on its frontline officers to convey messages to the general public through their direct interaction with the public. Although street-level bureaucrats are expected to act as agents to execute orders



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made by their superiors under the directive of policy makers, in reality they often exercise discretion to interpret the policy in a way which are easier for them to ensure smooth operation of their work. This situation is understandable because of the limited resources of the government and the heavy workload facing by the frontline officers. However, to ensure the policy effectiveness, the regulator has to ensure its frontline officers are conveying a correct message to citizens for the government. For instance, the government would not tolerate illegal activities and enforcement action will be taken by frontline officers to combat the same. To achieve such, the policy makers should try to engage frontline officers when formulating policy at early stage to ensure the organization goal is realistic and supported by frontline officers. The management should also provide appropriate training and supports to frontline officers to facilitate them to deliver a correct message to the public on behalf of the government which are essential for successful policy implementation.

Since the street bureaucrats have direct interaction with the public, they are the most effective communication hub between the Government, i.e. the policy maker, and the public. No matter the message is supportive or punitive, the street bureaucrats can also play this important role to convey it to the public. One of the characteristics of the street bureaucrats is that they have heavy workload and / or laundry list of job charters. They would use different ways to deliver the message. For example, within the pyramid of sanction, enforcement is one of the ways, while within the pyramid of support, education is one of the



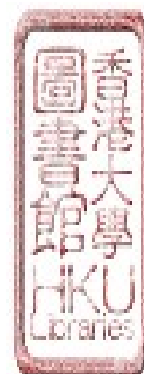
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ways. The nature of the message would determine the way of delivery by the street bureaucrats. To ensure the street bureaucrats can deliver the message effectively, the policy maker has to provide sufficient manpower and resources. In addition, the policy maker should clearly brief the street bureaucrats of the message, supportive or punitive, which they intend to deliver. So, the street bureaucrats can understand what their job is.

Ensure the proper use of discretion by frontline officers

In order to respond to a significant social issue, the government requires a large number of regulators (executors) to implement and execute the policy. In reality, social issues are usually complicated and sometimes subjective. Policies designed to tackle these matters might not be tailor-made for every single scenario. Therefore, these regulators always possess a considerable degree of discretion in decisions about the regulatees with who they interact, especially these regulators are empowered to execute certain powers under the regulations.

The two pyramids, “pyramid of support” and “pyramid of sanction” developed by Braithwaite (2011, p. 480~487) is that the demand of concerns and interventions increases while moving up the pyramid. Therefore, the approach is to start at the base of the pyramid and escalate to stronger measurement when more modest method fails. Braithwaite (2011, p.483) opined that strategic use of the pyramid requires the regulator to resist categorising problems into matters in

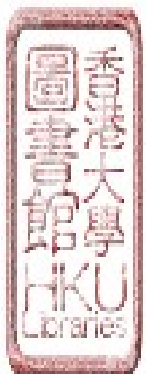


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different levels that should be different stages of the pyramid. Although it is presumed that the normal response is to start from the base of the pyramid no matter how serious the problem is, the regulator can have discretion to override the presumption.

One of the principles of the pyramid of sanction is that the regulator wants regulatees to realise the existence of the pyramid. Sometimes, escalating up the pyramid to deterrent sanctions can make things worse, as punishment would simultaneously increase deterrence and defiance. Therefore, regulators, with their discretions, must communicate openly with the industries and if possible to design the pyramid of sanction with them collaboratively. In this case, signal would be made in the discussion process and dampened the defiance effect from the industries.

Lipsky (1980, p.13-16) opined that street-level bureaucrats exercise wide discretion in determining the nature, amount, and quality of benefits and sanctions provided by the regulators. This does not mean that street-level bureaucrats are unrestrained by rules and regulations. However, as they always work in situations which are too complicated to reduce to programmatic formats and they are required to respond to human activities which are difficult to predict, these professional street-level bureaucrats are expected to exercise discretionary judgment in the field even they are free from supervision. It also promotes regulators' self-regard and delivers the message to the regulatees that



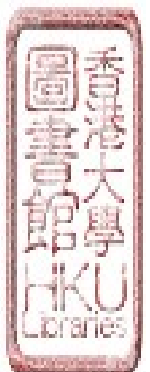
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the regulators hold the key to their well-being.

As discussed above, the policy maker has to provide sufficient manpower and resources and clear briefing to ensure the street bureaucrats can deliver the message accurately and effectively. Since street bureaucrats have heavy workload, it is inevitably that they use their discretion when carrying out their duties. In order to prevent the message they are delivering is not distorted from the original one, which is expected by the policy maker, the policy maker should provide them adequate support, in terms of resources. On some occasions, constant review and revision of the strategies would help to understand the updated situation of the street bureaucrats executing their duties, as well as using discretion during the execution. Certainly, such review is to involve the street bureaucrats.

Adopt a dynamic mix of regulatory tools

According to Braithwaite's (2011, p.480~487) responsive regulatory theory, regulatory strategies can be supportive or punitive. Different intensity of supportive and punitive strategies form the "pyramid of support" and "pyramid of sanction". To deal with a problem, the theory suggests that regulators should first consider strategies from the pyramid of support in order to expand the managerial capacities of the regulatees, so that the latter could try solving the problem by themselves before considering the use of punitive strategies from the

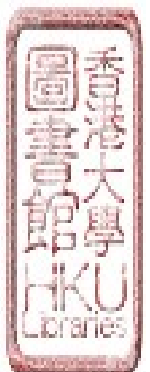


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pyramid of sanction, as supportive measures are usually less costly and this will make the subsequent punitive strategies appear to be more legitimate and necessary in the eyes of the regulatees, as well as, other citizens.

According to the theory, apart from considering the employment of the pyramid of support before sanction, strategies from lower level of the pyramid (support or sanction) should be considered first, and only move up the pyramid should the lower level (more modest) strategies do not work as anticipated. If providing support fails to an extent that the regulatees cannot satisfactorily solve the problem themselves, the regulator should then consider the pyramid of sanction, using enforcement and penalty to curb the problem. Yet, strategies in the pyramid of sanction are nonetheless less favourable to the regulatees, and would simultaneously increase deterrence and defiance at a different rate.

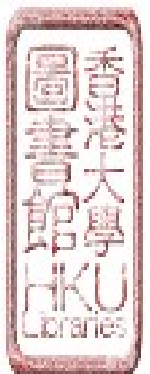
The idea of pyramid of support is relevant when regulator intends to formulate specific policies to address a significant social issue. Before any regulatory strategy is adopted or considered, the regulator should first understand why the regulatees are having the undesirable behaviour. Lack of incentive or ability could be the reasons. If that is the case, regulator could consider providing various forms of support to help, motivate and train up the ability of the regulatees such that they can self-regulate, solve the problem eventually, and do not need the intervention of the regulator in the long run or even the employment of any sanction strategy.



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For pyramid of sanction, it contains regulatory strategies that are punitive in nature. Like the pyramid of support, strategies at the base of the pyramid are the least intense and disruptive. However, should these strategies cannot rectify the problem, regulator should consider moving up the pyramid and look for more sanctioning strategies to deal with the problem. This approach is reasonable, as less punitive approach could not solve the problem, the use of more stringent approach would become more legitimate, fair and necessary in the eyes of the regulatees and outsiders. Nevertheless, the goal of both pyramids is the same such that the regulatees can self-regulate, solve the problem eventually, and do not need the intervention of the regulator in the long run.

In reality, although the theory suggests that supportive strategies shall be considered before punitive ones, and strategies at the lower level of the pyramids shall be considered with priority, a mixed bag of regulatory strategies of supportive and punitive nature are being adopted simultaneously in reality. According to the theory, the employment of punitive strategy would simultaneously increase deterrence and defiance. At low level sanctioning strategies, degree of defiance is likely to exceed deterrence. Only when punishment reaches a high level, where many give up on resistance, does the deterrence effect overpower the defiance effect and leads to a net compliance. In that case, a stressful and less favourable environment is created for the regulatees, where compliance is very much depended on coercion rather than voluntary act. Yet, with the employment of supportive strategies at the same

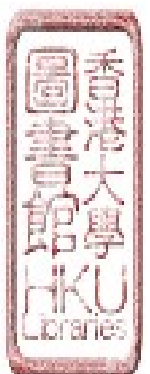


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time with punitive ones, a net compliance could be achieved with less intense punitive strategies adopted, which in turn a less stressful environment is created. Employing a dynamic mix of regulatory tools are considered efficient, fair and reasonable.

Lipsky (1980, p.13-16) opined that street-level bureaucrats possess tremendous discretion in determining the nature, amount, and quality of benefits and sanctions provided to the regulatees. They also have the discretion to employ a dynamic mix of regulatory tools on the spot depending on the different response of the regulatees. This situation is common because street-level bureaucrats always work in situations which are too complicated to reduce to programmatic formats and they are required to respond to human activities which are difficult to predict. Although street-level bureaucrats are expected to act as agents to execute orders made by their superiors under the directive of policy makers, in reality they often exercise discretion to interpret the policy in a way which are easier for them to ensure smooth operation of their work under the constraints of limited resources of the government and the heavy workload facing by them. To ensure more compliance by the regulatees, street-level bureaucrats would tend to modify the demand, work conception and client conception so as to become more 'efficient'.

The street bureaucrats work at frontline. Having the heavy workload, they tend to use their own way to carry out their duties. It is inevitable that they would use



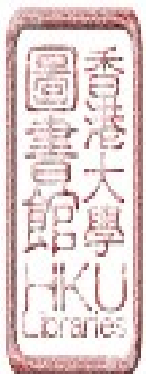
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discretion, such as limiting the client demand and creaming. They will not use only one way to do their job. And only they know how to do their job most effectively. Moreover, the street bureaucrats have heavy workload because not only the limited resources, but also their wide range of job charters. It is not surprising to find that the street bureaucrats have jobs within both the pyramid of support and pyramid of sanction. Quoting the same example as above, both enforcement and education are the jobs of the street bureaucrats. Judging from the job duties of the street bureaucrats and the various ways they carry out such duties, we can always see the mix of such regulatory tools. In addition, the world is always changing. To cope with the changes in the working environment, i.e. the society, the job of the street bureaucrats must not be single-pronged. To ensure the policy is delivered effectively, single regulatory tool is not adequate. As a result, a dynamic mix of such tools is therefore essential.

Develop the ability to elicit responsibility from citizens

To effectively address significant social issues, the government has to develop multiple regulatory strategies. Depending on the nature and magnitude of the social issue, different strategies should be implemented.

Eliciting Responsibility is another major principle under the theory of Responsive Regulation of Braithwaite (2011, p. 510~512). It covers the concepts of using the tools of ‘Active Responsibility’, ‘Inactive Responsibility’ and



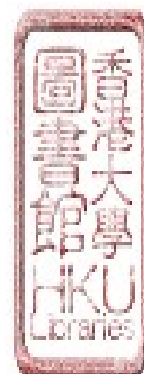
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'Restorative Justice' in achieving the aim.

‘Active Responsibility’ means to challenge the regulatees to take responsibility for making things right into the future. In other words, it is to require the government to adopt a proactive approach in initiating schemes to achieve a preventive purpose. Depends on the context and the issue involved, it would refer to actions taken by the government to arouse public awareness on the pros and cons of certain policy stands adopted by the government. Classic examples of actions considered as taking active responsibility are education and publicity. By way of these actions, the government could actively engage and focus the public into receiving information it wants to disseminate.

‘Passive Responsibility’ means to hold the regulatees responsible for the unwelcomed behaviour performed. This tool is punitive in nature as it targets on holding the regulatees liable for their own acts. The first step in applying this approach is to identify the unwelcomed act. While the act itself may not contravene any law or regulation, the government could impose a variety of restrictions and constraints on the regulatees or other stakeholders to discourage the unwelcomed or related behaviours. Measures in this regard could include imposition of a ban, quota and enforcement actions of stringent requirements.

'Restorative justice' is an approach with a different focus. It refers to a process where victims, so as to speak, suffering from injustice are given an opportunity to

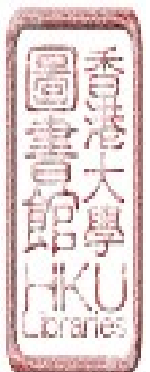


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air their grievance and to discuss practically what could or should be done to repair the harm done. Victims are the center of this approach as they are in the best position to explain how exactly justice could be restored. In short, restitution from responsible party is the key of this approach. Street-level bureaucrats could have a role to play in this regard as well by serving as the mediator or intervener between the victims and the wrongdoers.

The Street-level bureaucracy theory developed by Lipsky (1980) suggested that the government highly relies on its frontline officers to convey messages to the general public through their direct interaction with the public. On the other hand, street-level bureaucrats could also help to elicit responsibility from citizens through their direct interaction. They could proactively educate the regulates on what is right or wrong and raise their awareness of the government policy to elicit their cooperation and active responsibility to comply with the government policy.

Street-level bureaucrats (Lipsky, 1980) also play an important role in imposing passive responsibility from the regulatees by making them responsible for the unwelcomed behaviour performed. Enforcement is one of the major responsibilities of street-level bureaucrats where they would handle and interact directly with these wrongdoers to discourage the unwelcomed or related behaviours.



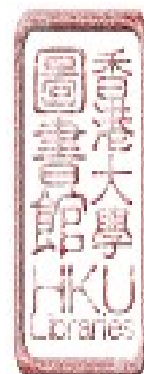
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Within the pyramid of support and sanction, the street bureaucrats also have an important role to play. Whether these tools should be used simultaneously or one after another as suggested by Braithwaite (Braithwaite, 2011), both enforcement and education are effective tools to elicit responsibility from citizens. Street bureaucrats have various duties. Depending on the nature of the message, they may use different ways to carry out their duties during the implementation of the policy. For example, for a policy designed for combating certain illegal activities, the street bureaucrats may use enforcement action to bring deterrent effect, or they may conduct educational activities to bring the message as a mild warning.

Constantly review and revise goals and strategies

The environment is changing. Almost every policy implementation plan was good, at least at its initial stage. Nevertheless, it still needs revision and review so as to cope with the dynamic of the society. Even for those with the best-laid plans, real life will intervene.

To face up the challenges brought by the change of the surrounding environment, some would think about contingency plan. It enhances the responsiveness of those plan and policy implementers. Yet, contingency plan is never ending. The more direct way to deal with both foreseeable and unpredictable challenges would be continuous review and revision of the policy. After all, policy can be

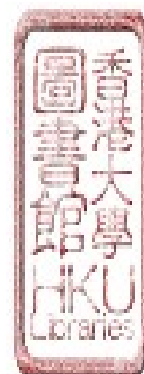


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adjusted anytime as long as it is conducted in the right direction.

Braithwaite (2011, p.512~518) suggests that policy maker should try to learn from what happens after a specific regulatory intervention rather than many regulation working together. For example, in the year after fencing is placed around something dangerous, we can easily monitor for a reduction in accidents associated with that danger at that place. It shows that contextual evaluation is often easy to do with costs that can involve no more than record keeping that is little systemic (Braithwaite, 2011). It is wise to undertake a fundamental review of the plan on a regular basis, and ensure the changes are picked up on and responded to. In this connection, changes are to be identified and factors causing such changes are the essence of the review. Such process includes evaluation, research and analysis. Research can be local and overseas as long as the statistics for comparison are worth it.

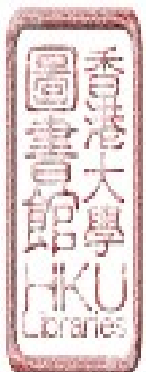
Braithwaite (2011, p.512~518) mentioned that evaluation and triple-loop learning was one of the most cost-effective ways for the regulators to make improvement. First, after the monitoring of effects and outcomes, the self-regulation program should evaluate & revise its policy to seek for improvement. Then, the same should be applied to the corporate level including its culture, practices and system. Finally, with effective communication, the result should be reported to the government and stakeholders for further revision on regulatory goals and strategies.



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In practice, policy review is undoubtedly conducted by the management. They do the strategic planning and it's their responsibility to conduct a review on their work and seek improvement. In this process, the policy implementer must involve. After review, one issue is extremely important before the revised version is implemented, which is support to the policy implementer. Strong support such as manpower resources, as well as continual opportunity for providing feedback and communication are essential to effective review and must be long term and periodic.

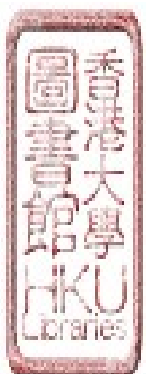
According to Lipksy (1980), although street-level bureaucrats are expected to act as agents to execute orders made by their superiors under the directive of policy makers, in reality they often exercise discretion to interpret the policy in a way which are easier for them to ensure smooth operation of their work under the constraints of limited resources and the heavy workload. As such, to ensure the policy effectiveness, the regulator should try to engage its frontline officers every time when reviewing and revising goals and strategies so as to solicit feedback from frontline officers, understand the difficulties they faces, provide them with necessary supports and adjust the strategies accordingly. Without the genuine support of street-bureaucrats, the implementation of government policy could hardly succeed.



Concluding Comments

This chapter sets out the analytical framework for the study on the Government's anti-smoking policies and strategies. As elaborated above, the foundation of this framework rests on two classic regulatory theories, the responsive regulation and street-level bureaucracy. Responsive regulation analyzes and provides a structured understanding on how different levels of supports and sanctions could be deployed by regulators in order to acquire or develop certain behavioural pattern and to elicit specific desired responses from the regulates. Many variables exist and interact in the process of developing such responsive regulation. One of utmost importance is the reliance on street-level bureaucrats. Not only being conferred with a wide range of discretion and decision making powers, being the front-line officers, their immediate interactions with the public during enforcement or performance of other duties, their performance, observable by the regulates and all others who are present, affect directly and greatly on policies formulation and implementation.

Subsequent chapters discuss the government's regulatory strategies and policies in the context of anti-smoking on the basis of this analytical framework. After exploring the background and current situation of the anti-smoking policy in Hong Kong, evaluations are made based on the five previously identified capacities with recommendations provided accordingly.



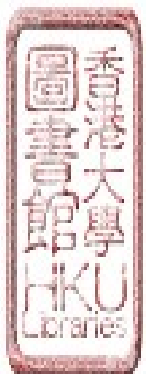
CHAPTER THREE: HISTORICAL DEVELOPMENT OF ANTI-SMOKING POLICY IN HONG KONG

Introduction

This chapter studies the historical development of the anti-smoking policy in Hong Kong throughout the years. It is found that the government adopted different strategies and actions in different periods of time. The strategies have been adjusted and amended accordingly to ensure these could be implemented appropriately. The effectiveness of these amendments could be observed via the trend of daily smokers in Hong Kong.

In the 1970s, the Hong Kong colonial government adopted a policy of laissez-faire on smoking and had no legislative measure on tobacco control. An Ad Hoc Committee on Smoking and Health was established in 1972 with limited agendas when the government realised the hazards of smoking. The tobacco industry therefore introduced a self-regulating code of practice in 1977 to stall the government from enacting legislation.

In the 1980s, the government started to realise the social cost of smoking. The figures of lung cancer related death increased almost 100% in 10 years time. About one-third of reported fire accidents were caused by careless smoking.



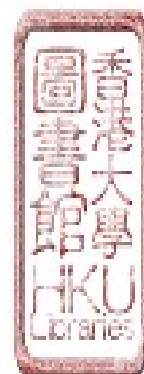
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Therefore, the government decided to placed firm actions on the legislative agenda. As the first statutory anti-smoking measure, the Smoking (Public Health) Ordinance, Cap. 371, was eventually enacted in 1982.

The Smoking (Public Health) Ordinance always is the main legal framework of Hong Kong's tobacco control policy. With constant review and revise on the strategies, the ordinance has been adjusted with seven amendment bills subsequently but its focus remains in the three major elements: (i) Prohibition of Smoking in Public Places; (ii) Restriction on Sales of Tobacco Products; and (iii) Restriction on Tobacco Promotion and Advertising.

Apart from Smoking (Public Health) Ordinance, there are several ordinances developed in relevant to the tobacco control, such as Fixed Penalty (Smoking Offences) Ordinance Cap.600, Smokeless Tobacco Products (Prohibition) Regulations Cap. 132BW and Dutiable Commodities Ordinance Cap. 109. mainly supporting the Smoking (Public Health) Ordinance and provide standard for the industry.

In 1987, the government decided that an independent statutory body should be set up as a focal point for action and information on smoking and health and therefore the Hong Kong Council on Smoking and Health (COSH) was then established. Since then, COSH provided lots of valuable advices on matters relating to smoking and health to the government which further implement them



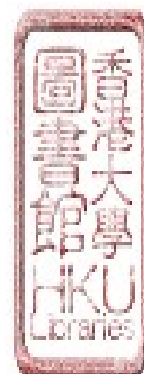
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in the public policies.

In February 2001, the Tobacco Control Office (TCO) of the Department of Health (DH) was established in order to centralize the resources and ensure better coordination and enforcement actions for the government's tobacco control policy. Apart from enforcement, TCO plays an important role in conveying government messages on anti-smoking to the public.

Smoking (Public Health) Ordinance: Legislation as the Initial Framework of Anti-Smoking Policy

The Smoking (Public Health) Ordinance was first enacted in 1982. The progress of tobacco control legislations in Hong Kong is detailed at Annex. According to the record from Hong Kong Census & Statistics Department, the Thematic Household Survey (Pattern of Smoking) proved that the prevalence of daily smokers among Hong Kong population dropped significantly from 23.3% in 1982 to 19.9% in 1983 (Figure 3.1) due to the enactment of the Smoking (Public Health) Ordinance together with other publicity measures. The Hong Kong Census & Statistics Department conducts the Thematic Household Survey on the pattern of smoking since then regularly.



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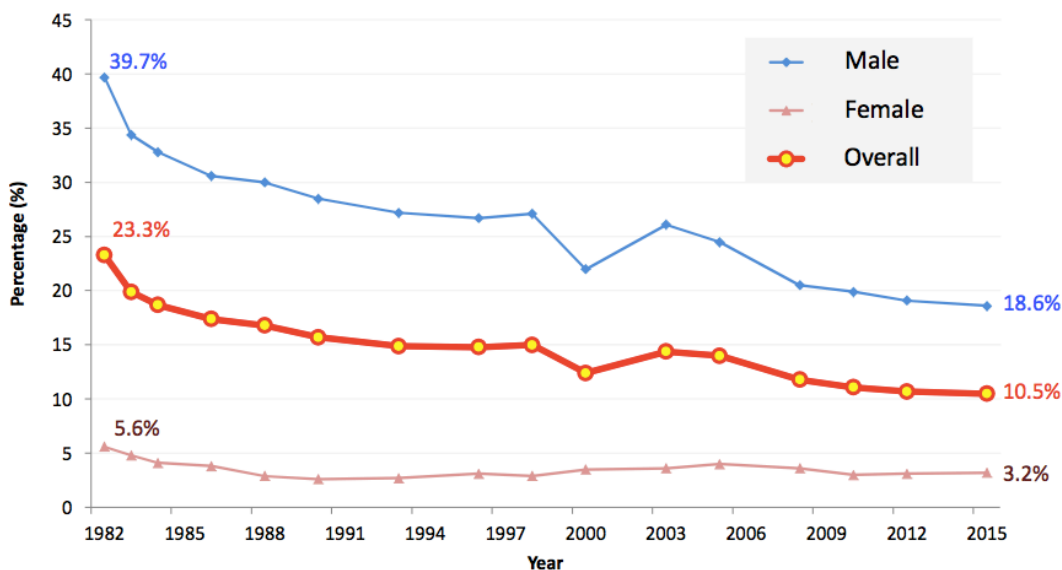


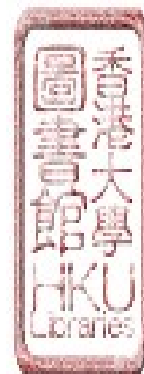
Figure 3.1 Prevalence of daily smokers among HK population aged 15 & above

Source: Thematic Household Survey (Pattern of Smoking), Hong Kong
Census & Statistics Department 1982 - 2015

The aim of this ordinance was to restrict the use, sale and promotion of tobacco products. Therefore, in the Smoking (Public Health) Ordinance, the government put the focus on the controls and monitors of tobacco use through (i) Prohibition of Smoking in Public Places; (ii) Restriction on Sales of Tobacco Products; and (iii) Restriction on Tobacco Advertising.

Protect People from Smoke by Prohibition of Smoking in Public Places

The No-Smoking Areas is described in Part 2 of Smoking (Public Health) Ordinance, Cap 371. Designated no-smoking areas policy was first implemented in February 1983. After several expansions of statutory no-smoking areas



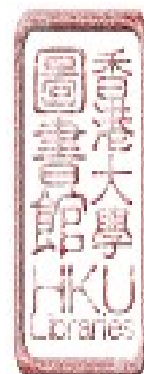
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between 1983 and 1998, all cinemas, theatres, concert halls, public lifts, amusement game centers, public transport carriers, and all indoor areas open to the public in a supermarket, bank, department store, or a shopping mall were designed as no-smoking area. As a result, there was another significant drop on the prevalence of daily smokers from 15.0% in 1998 to 12.4% in 2000 (Figure 3.1).

In January 2007, after the Smoking (Public Health) (Amendment) Bill 2006, the government strengthened the smoking ban in restaurants for all indoor areas and expanded the statutory no-smoking areas, including indoor workplaces, karaoke establishments, publicly or privately operated markets, bars, child care centers, schools and specified educational establishments, hospitals, maternity homes, residential care homes, treatment centers, and any communal quarters, public places grounds and escalators. At the end of the deferment, all indoor areas of bars, clubs, nightclubs, bathhouses, massage establishments and mahjong/tin kau premises has become statutory no smoking areas with effect from 1st July 2009. All public transport facilities are further designated as no smoking areas in December 2010.

Monitor the Use of Tobacco by Restriction on Sales of Tobacco Products

The Sales of Tobacco Products and Prohibition on Selling or Giving of Tobacco Products are described in Part 3 & 4A of Smoking (Public Health) Ordinance,



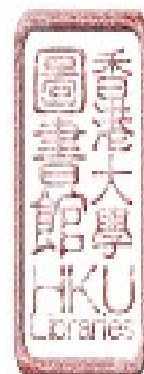
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Cap 371. The most remarkable change on regulation was that the tobacco product retailers were required to display a sign informing the public that selling or giving tobacco products to persons under 18 is prohibited since April 1995. At that time, the prevalence of daily smokers by age 15-19 dropped from 3.8% in 1996 to 2.8% in 1998. Teenage smoking is one of the major concerns of the government and it will be discussed later in this project.

Warn about the Dangers of Tobacco and Enforce bans on Promotion by Restriction on Tobacco Advertising

The Tobacco Advertising is described in Part 4 of Smoking (Public Health) Ordinance, Cap 371. In February 1983, health warnings were required to be displayed on all cigarette advertisements and to be printed on packets of cigarette in English and Chinese. In December 1990, there was a total ban on cigarette advertising and sponsorship on TV and radio, in which there was a drop on the prevalence of daily smokers by age 40-49, who were the major audience, from 20.8% in 1990 to 18.6% in 1993. In 1999, tobacco advertisements were banned on all display and printed media. In 2009, the exemption clause for hawkers was also withdrawn and no more tobacco advertisement could be seen in any retailer and hawker since then.

The Ordinance has successfully banned all tobacco advertising on different platforms. To further reduce the marketing effect of tobacco products, the



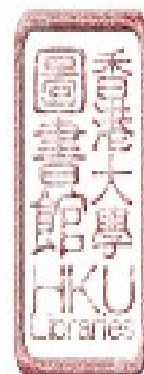
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government is currently considering to implement plain packaging and to ban the display of tobacco products in the retailers.

Legislation: Challenges in Legislative Council (LegCo)

The Smoking (Public Health) Amendment Bills 1991, 1994 & 1997 proposed designated no-smoking areas, extension of health warning requirement and restriction on advertisement. In the interest of public health, LegCo members supported these bills which were passed without causing much controversy in the LegCo meetings.

Unfortunately, the transformation of the ordinance was not completely smooth throughout the years. In 2001, total ban on smoking in restaurants was brought up in the LegCo meeting. Therefore, a new amendment bill with several proposals was moved first time after the handover of sovereignty. During the consultation period, the most of the general public and community (over 90%) supported banning smoking in all restaurants. However, the catering industry strongly opposed to the proposal as they opined that it would cause significant losses in revenue and employment on the economy of Hong Kong. The government therefore halted the proposal and decided to implement the smoke ban later. Subsequently the Smoking (Public Health) (Amendment) Bill 2005, in which the proposed measures were similar to those made in 2001, was passed in 2006.



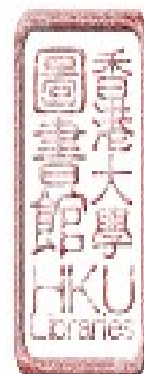
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In post-1997, the political parties become more and more vocal and dominant inside the Legislative Council Chamber. The members of LegCo are heavily involved in the policy making process rather than simply acting as a group of rubber stamps. In order to successfully implement a new policy, the government has to be well prepared with consultations, surveys and alternatives. The government has to be ready to listen to the ideas from the members of LegCo, combine them and form the comprehensive policy for Hong Kong.

Independent Statutory Body: Hong Kong Council on Smoking and Health

According to the Hong Kong Council on Smoking and Health Ordinance, Cap 389, Hong Kong Council on Smoking and Health (COSH) was established in 1987 as an independent statutory body with below purposes (Council established and incorporated, Cap 389 s3):-

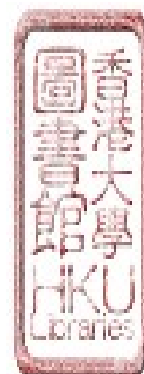
- (a) Protect and to improve the health of the community by acquiring and disseminating, and assisting others to acquire and to disseminate, information concerning the causes, prevention and cure of tobacco dependence in human beings and its adverse effects and related diseases;
- (b) Engage in research into the causes, prevention and cure of tobacco dependence in human beings and its adverse effects and related diseases and to promote and to assist such research by other individuals and organizations and to publish the results of such research;



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- (c) Advance the education of the public concerning the effects of the smoking of tobacco and other forms of usage of tobacco and its effects on the health of the community and the individual;
- (d) Take such action as it thinks justified by information in its possession including giving advice to the Government, to any public body, to any public officer, to community health organizations, or to the public on the causes, prevention and cure of tobacco dependence in human beings and its adverse effects and related diseases;
- (e) Engage in such other activities, and to perform such other functions, as the Chief Executive may, after consultation with the Council, permit or assign to it by order published in the Gazette.

The establishment of COSH proved the government's determination to tackle the smoking problems in Hong Kong. The first major work of COSH was a consultation paper containing 24 recommendations, which set the direction of future tobacco control for the government. The main ideas of these recommendations are (i) to extend no-smoking areas; (ii) to increase the size of health warnings on cigarette packets; (iii) to restrict the tar and nicotine content of cigarettes, (iv) to prohibit the sale of cigarettes to persons under the age of 18; (v) to ban all forms of tobacco advertising, and (vi) to increase tax on tobacco products.



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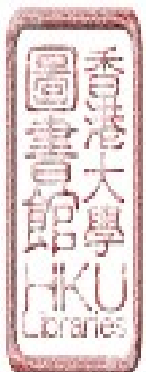
Another remarkable contribution by COSH was the publishing of opinion surveys regarding the strong public support in the increase on tobacco measures. The result of these surveys reassured the government to implement the policy with confidence.

After that, COSH continuously engaged in important research studies and promoted tobacco control. And the government also developed modifications on anti-smoking policy based on the recommendation made by COSH before consulting the public.

Till now, COSH still develops innovative programs targeting the smokers in Hong Kong, as well as conveying the smoke-free messages to every corner of the society through different channels and media.

Regulatory Body: Tobacco Control Office

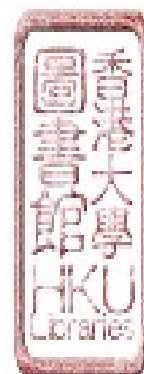
Since the enactment of the Smoking (Public Health) Ordinance in 1982, the regulations had been enforced by different government department. In order to centralize the resources and ensure better coordination and enforcement actions for the government's tobacco control policy, the Tobacco Control Office (TCO) of the Department of Health was established in February 2001. The Office was set out to “promote a smoke-free culture in Hong Kong so as to safeguard the health of the community”. Its priority functions are as follows:-



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- (a) To act as a principal enforcement agency under the Smoking (Public Health) Ordinance (Cap. 371);
- (b) To assist venue manager of statutory no smoking areas to ensure public compliance to the Smoking (Public Health) Ordinance (Cap. 371);
- (c) To promote smoke-free culture and enhance compliance to the Smoking (Public Health) Ordinance (Cap. 371) through publicity and health education;
- (d) To coordinate the smoking cessation service of the Department of Health; and
- (e) To assist the Food and Health Bureau in reviewing tobacco control legislation

As part of the requirement for the completion of POLI 8026 “Workshop in Managerial Skills” and as part of the research for this Capstone Project, a shadowing exercise to TCO was arranged on 18th February 2016, with the kind assistance of Dr. Rikkie Yeung. It attended the shadowing exercise, where a two-hour presentation was given on two topics, namely “Overview of Tobacco Control Enforcement Measures in Hong Kong” and “Smoking Cessation and Education on Smoking Prevention”, followed by a question and answer session.



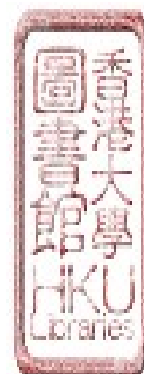
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The presentation was informative and greatly helped in gaining a better understanding into the tobacco control policies being implemented in Hong Kong and the strategic directions of the government.

TCO adopted a progressive and multi-pronged approach to achieve the above objectives. The approach is based on the MPOWER measures based on the Framework Convention on Tobacco Control (FCTC) launched by the World Health Organisation (WHO), in which the People's Republic of China have signed the FCTC in October 2005. MPOWER denotes:-

- **Monitor** tobacco use and prevention policies
- **Protect** people from tobacco smoke
- **Offer** help to quit tobacco use
- **Warn** about the dangers of tobacco
- **Enforce** bans on tobacco advertising, promotion and sponsorship
- **Raise** taxes on tobacco

TCO rephrased the MPOWER measures into five major categories of actions which are (i) Legislation & Policy, (ii) Local Enforcement, (iii) Tobacco Taxation, (iv) Health Promotion, and (v) Smoking Cessation Services. The Legislation & Policy has already been discussed in this chapter, the remaining categories of actions will be further discussed in Chapter Four.



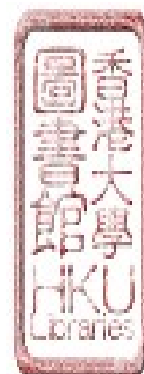
Concluding Comments

The government approach towards tobacco control changed from laissez-faire in 1970s to a systematic regulatory mechanism nowadays. It happened due to the changes in social climates and improvements in the quality of public livings.

From the historical development of anti-smoking policy in Hong Kong, the government constantly reviewed and revised its strategies and actions to oversee and control the smoking issue according to the changes in human behaviour. In 1980s, the tobacco control policy was solely relied on the Smoking (Public Health) Ordinance. The measures were limited to prohibition of smoking in public places, restriction on sales of tobacco products and restriction on tobacco advertising, which were all under the pyramid of sanction.

Since the establishment of COSH, more and more efforts were put into researches and studies to educate the public on the adverse effects on the health of community. It is observed that the aim of TCO is to promote a smoke-free culture in Hong Kong. With TCO's multi-pronged approaches, the government shifted its strategy from restriction to development of social ability to elicit responsibility from the citizens on the anti-smoking issue.

The government realised that the problem of tobacco use is complicated and cannot be tackled by only one measure. Therefore, TCO, as the leading agency, cooperates with COSH, other government departments and NGOs, to implement

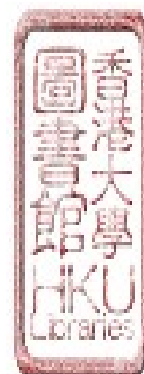


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its multi-pronged approach in order to control the tobacco use in Hong Kong. The government adopted such dynamic mix of regulatory measures, in line with MPOWER from WHO FCTC, on both pyramid of support and pyramid of sanction, to achieve the aim of TCO: “Promoting a smoke-free culture in Hong Kong so as to safeguard the health of the community”.

Between 1991 and 2006, the government had proposed seven amendment bills to modify the Smoking (Public Health) Ordinance. In every proposal of amendment bill, the government aimed to make a certain change on the tobacco control policy. Once the amendment bill passed and the new regulation began to be enforced, the message from government could then be conveyed to the public clearly and effectively.

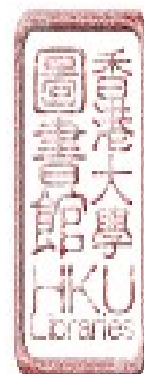
As mentioned above, the Legislation and Policy had been appropriately adjusted and effectively implemented by the government and TCO throughout the years. In the following chapter, the analysis will focus on the current measures on tobacco controls. Considering this together with the overseas experience, recommendations will then be made on the future direction of tobacco control in the Hong Kong.



CHAPTER FOUR: HONG KONG GOVERNMENT'S STRATEGIES CONCERNING ANTI-SMOKING

Introduction

The Hong Kong Government is adopting a multi-pronged approach towards its anti-smoking goal, namely legislation, law enforcement, taxation, promotion of smoking cessation, publicity and education. In line with Braithwaite's pyramid of support and pyramid of sanction mentioned in his responsive regulation theory, anti-smoking policies being adopted in Hong Kong could be distinguished into these two pyramids. In the following paragraphs, enforcement, duty on tobacco are policies within the the pyramid of sanction, while publicity and education are policies within the pyramid of support. Although Braithwaite suggested policies in the pyramid of support should be considered before policies in the pyramid of sanction, this project found that a mixed bag of both supportive and sanctioning policies are being adopted simultaneously in Hong Kong, whereas their overall effectiveness are found to be effective by evaluating the magnitude of drop in the number of daily smokers over the years with different anti-smoking policies being adopted progressively. Having said that, the effectiveness of publicity and education is harder to be measured quantitatively as there is no statistical support to suggest whether they are effective. Despite its unmeasurable nature, publicity and educational work



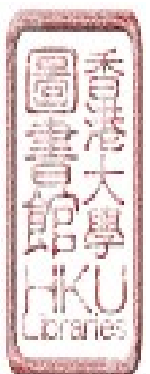
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have been being carried out with a view to covering all walks of life with sustainability. Both TCO and COSH also contribute greatly on the publicity and educational work. For TCO, while taking enforcement work as street bureaucrat, they also conduct publicity and educational work as a message conveyor, which is also one of the main characteristics of street bureaucrat.

Phenomenon of street bureaucrats (Lipsky, 1980) could also be applied as the policy executors are mostly frontline officers. In terms of enforcement, discretion could be used during the execution of duty by way of warning or advice. In terms of publicity and education, frontline stakeholders could convey anti-smoking messages to the public during workshop or conferences.

The Government adopts multi-pronged approach with enforcement as a tool of sanction and publicity and education as a tool of support. Although it is difficult to measure the effectiveness of the latter, both help to develop the public's ability and elicit their "active" and "passive" responsibility. Over the years, the publicity have been conducted with a wide range of themes. The messages contained can be a warning or encouragement. The publicity aims at not only reminding the public of the smoking hazard, but also the adverse effect on the people surrounding the smokers, such as family members.

An effective policy always require constant review and revision of goals of strategies. Although the Government has been adopting a wide range of

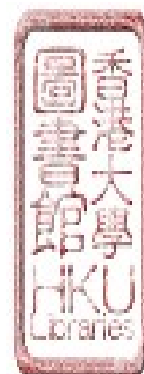


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supportive and sanctioning tools, it has never stopped constantly reviewing the smoking policy in Hong Kong. With the elaboration of the history of the anti-smoking legislation in Hong Kong, as well as the establishment of COSH and TCO in previous chapter, the changes in the strategies in the aspect of support or sanction over the years were identified. These were the results of constant review and revision of the strategies, including enforcement action, publicity and education, as well as the smoking cessation service. Furthermore, the effectiveness by these review and revision was supported by the drop of prevalence of daily smokers in Hong Kong. How the dynamic mix of tool of sanction and tool of support work will be elaborated more in this chapter.

Enforcement by Street Bureaucrats of the Fixed Penalty (Smoking Offences) Ordinance as a Tool of Sanction

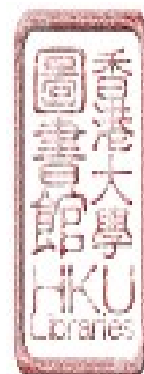
While the Smoking (Public Health) Ordinance Cap.371 defines locations where smoking is prohibited, there is another Ordinance, namely the Fixed Penalty (Smoking Offences) Ordinance Cap.600 (“the Ordinance”), ensuring people are adhering to the former by way of sanction (Braithwaite 2011). It is human nature to show reluctance to changes, in particular to changes in form of restraint and sanctions. The Ordinance was enacted in 2008 after rounds of debate at the Legislative Council. The Ordinance states that people who light up tobacco in the defined statutory no-smoking areas under Cap.371 would be penalised by given a fixed penalty ticket of HK\$1,500. That person would have 21 days to



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settle the penalty or a heavier penalty would be imposed after 21 days. The mechanism is similar to fixed penalty ticket issued to illegal littering under the Fixed Penalty (Public Cleanliness Offences) Ordinance Cap. 570. According to the Census and Statistics Department of Hong Kong, the median monthly domestic household income for 2014 was HK\$23,500. A penalty ticket of HK\$1,500 would already be 6.4% of the total household income, which is considered to be a significant amount. Further, the average price of a piece of cigarette is about HK\$3 (HK\$60/20 pieces = HK\$3/piece). The penalty for smoking in a prohibited area is costing 500 times of the cost of one piece of cigarette. Thus, the amount of penalty is considered effective in deterring unlawful smoking at prohibited areas, although the amount has been maintained since the enactment of the Ordinance.

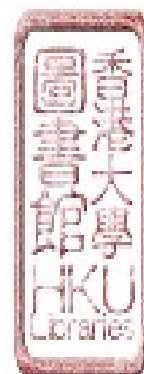
The Ordinance empowered few types of street bureaucrats to execute the authority of issuing fixed penalty tickets to offenders. Tobacco Control Inspectors and the Police are given general power to issue tickets at all kinds of no-smoking areas, while for Leisure and Cultural Services Department, Food and Environmental Hygiene Department and Housing Department, only specified officers are given the power to conduct the same at venues under their management, i.e. leisure and cultural venues, public markets and public housing estates, respectively (COSH, 2013). Nevertheless, the Ordinance has given allowance and opportunities for these street bureaucrats to execute flexibility and discretion during enforcement. Instead of issuing penalty tickets, verbal warning



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might be another option, which is also a way of sanction. (Limitation: As mentioned previously, this project was not given the opportunity to witness how enforcement actually takes place during the shadowing exercise, and there is no available statistics showing the number of verbal warning / advice given by these street bureaucrats).

Enactment of the Ordinance in 2008 has given a strong and significant boost to the enforcement efficiency. According to the enforcement figures at Figure 4.1, of which the figures were obtained from the Tobacco Control Office, the number of summonses issued in 2007 was only about half when comparing to the year the Ordinance was enacted (2008). A sharp increase (+93%) was observed in the year when the Ordinance was enacted. Following that, the figures were generally maintained over the years, but which are still way above the number in 2007. This is a result of streamlining the administrative procedures. Before the enactment of the Ordinance, without a fixed penalty ticket system, every offender would have to be summoned to a court for hearing to decide the amount of penalty to be imposed, of which the maximum penalty was HK\$5,000. According to the TCO, this process involved a lot of paperwork, which consumed many more man hours than the current fixed penalty ticket system. Without significant expansion of human resources, streamlining the administrative procedures had a huge boosting effect on the enforcement efficiency.



Enforcement Figures

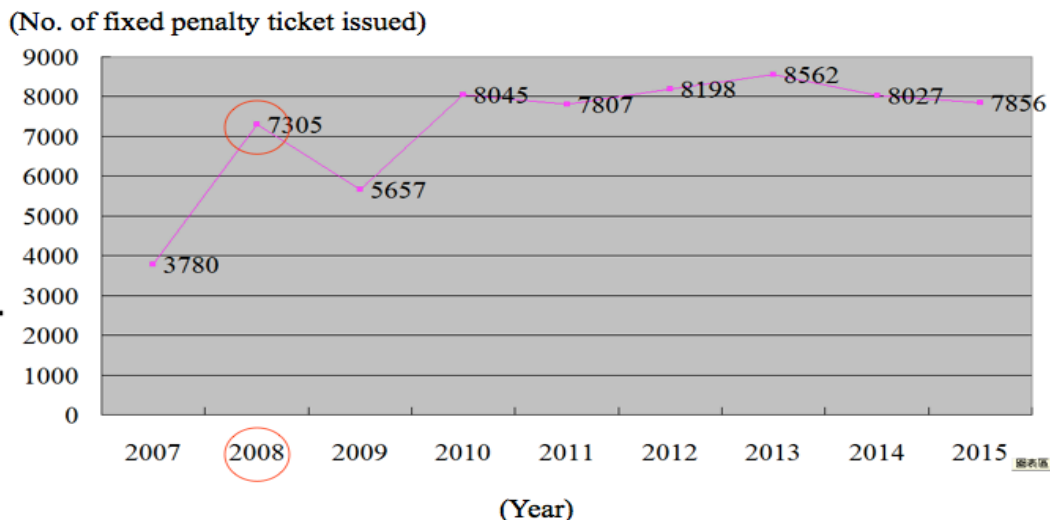
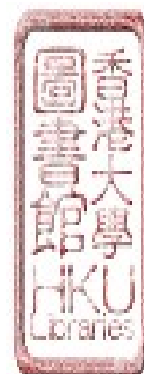


Figure 4.1 Number of Summonses Issued between 2007 and 2015

Source: Tobacco Control Office (2016)

Despite the fact that the enactment of the Ordinance in 2008 greatly assists the enforcement action to be carried out more smoothly, limited resources and wide spectrum of charters of the street bureaucrats are still the obstacles for implementing the policy. For example, TCO only have 99 officers carrying out the enforcement duties. Although the government review the TCO establishment from time to time with a view to coping with the needs, the resources are still limited. To show the workload of the 99 TCO officers, the enforcement figures are listed in Table 4.2:-



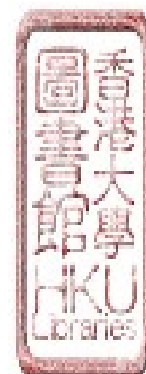
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	Number of fixed penalty notices/summonses issued				
	2008	2009	2010	2011	2012
TCO	7305	5657	8045	7807	8198
Hong Kong Police Force	2335	1778	921	1183	1301
Food and Environmental Hygiene Department	-	19	33	24	19
Leisure and Cultural Services Department	-	2	18	59	84
Housing Department	-	92	369	437	327
Total:	9640	7548	9386	9510	9929

Table 4.2 The number of fixed penalty notices and summonses issued by various law enforcement agencies in relation to smoking offence

Source: Legislative Council Question No. 13 on Tobacco Control dated 24th March 2013

Judging from the number of fixed penalty notices and summonses issued by various law enforcement agencies in relation to smoking offence, enforcement action has been mainly conducted by TCO officers (over 80% of the overall fixed penalty notices and summonses were issued by TCO officers). With tremendous number of restaurants, entertainment premises such as bars, karaokes, cinemas, etc., as well as no-smoking areas everywhere, it is indisputable that TCO has great workload in the enforcement work. Under such circumstances, in order to cope with the needs, such as handling the complaints, as well as taking enforcement action, which is one of their primary duties, street bureaucrats like



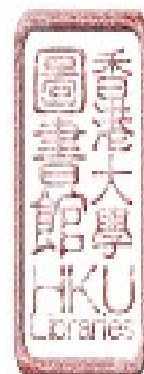
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TCO would use their autonomy, such as limiting the client demand and creaming, and discretion might be used. The media, as well as LegCo members, had criticised the TCO officers for neglecting the duty of taking enforcement action as they turned a blind eye to some black spots, such as MongKok Railway Station, which is a statutory no-smoking area. TCO stated that they had conducted corresponding enforcement action. Nevertheless, LegCo member was dissatisfied as the situation was not improved nor contained. Comparing with the number of complaints in 2012, which was over 18,000, the number of fixed penalty notices and summonses was only half of the complaints. Not only TCO, but also other law enforcement agencies, such as Food and Environmental Hygiene Department and Leisure and Cultural Services Department were criticised by the public that they failed to take sufficient enforcement action at the places under their purview. As a result, constantly review and revise goals and strategies is a necessary capacity.

Duty on Tobacco – Taxation on Tobacco and Duty-Free Concession

Taxation on tobacco as a tool of sanction

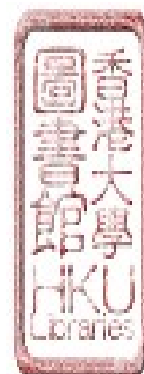
According to the Framework Convention on Tobacco Control (FCTC) of the World Health Organisation (WHO), price and tax measures are an effective and important means of reducing tobacco consumption and , which is one of the six effective tobacco control measures in the MPOWER directive, in which ‘R’



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refers to raise taxes on tobacco (FCTC, 2016). With reference to Braithwaite's responsive regulation, tax measure is also a high intensity sanctioning policy in the pyramid of sanction. The reason for it being an effective sanctioning measure can be explained by an economic theory, namely the 'price elasticity of demand'. To put it in simpler terms, it refers to the demand for a good is highly correlated to its price. If price elasticity of a good is high, an increase in its price would lead to a bigger magnitude of drop in its demand than the change in price difference. Similarly, if price elasticity of a good is low, an increase in its price would lead to a smaller magnitude of drop in its demand. According to COSH which referred to the World Bank and stated that every 10% increase in the retail price of cigarette would result in a 4% drop in tobacco consumption in high income countries and 8% in medium-low income countries. World Bank suggested that the tax rate on tobacco should account for 67-80% of its retail price, while the WHO suggested that tax rate over 75% of the retail price would be the most effective and cost-effective tobacco control, which cost little to implement and increase government revenue (COSH, 2013).

In Hong Kong, tobacco control policy is formulated in line with the international standard as set by the WHO. Taxes of tobacco have been raised twice in the past decade. In 2009 and 2011, taxes on tobacco were raised for 50% and 41.5%, respectively (COSH, 2009, 2011), which made up about 69% of the retail price, which is about \$55 per a pack of cigarette. Within the \$55, about \$38 accounted for the tax. It is within the suggested tax rate of the World Bank, but the WHO's.

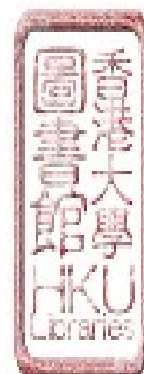


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According to COSH, tax rate of tobacco in Hong Kong is considered low when comparing with some other developed countries such as Australia (about HK\$124), New Zealand (about HK\$113), United Kingdom (about HK\$99) and Singapore (about HK\$81). For New Zealand, it is going to implement an even more stringent tobacco tax policy, where the tax on tobacco will be raised by 10% each year in the coming four years as an effective measure to reduce tobacco consumption (New Zealand Government, 2016). For Hong Kong, according to COSH, they have been recommending a tax raise of 100% to the Financial Secretary in the recent financial years as an effective policy to reduce tobacco consumption, but their suggestion has yet been taken after consideration. COSH also stated that by increasing tobacco tax in the past, the Integrated Smoking Cessation Hotline of the Department of Health had experienced a drastic increase in the number of calls seeking for assistance and guidance. However, there is no quantitative measures available to show the effectiveness of the hotline with the number of successful case of smoking cessation (COSH 2016). The reason for not raising tobacco tax was not disclosed, but it is anticipated that there would be a lot of heated discussion of the pros and cons owing to its controversial nature, such as health reasons, economic reasons, family reasons etc., in the eyes of the community.

Duty-free cessation as a tool of sanction

Apart from raising taxes on tobacco, another sanctioning policy that the



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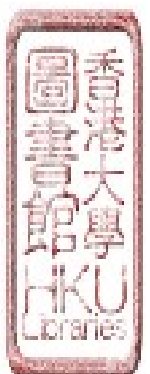
Government has been implementing to reduce tobacco consumption is to cease the duty-free concession on tobacco. Hong Kong used to have duty-free concession on tobacco goods when a traveler travels to Hong Kong. The concession was effective from 200 pieces / 10 packs of cigarettes and decreased to 60 pieces / 3 packs and further reduced to 19 pieces / less than one pack in 2010. When the concession was down to 19 pieces, it literally meant one should not buy a pack of cigarette from any duty-free shop at any control point because he / she would have to intentionally discard one piece of cigarette to the trash bin, as the control points are non-smoking areas. Without concession, cost of consuming tobacco will be raised, as people would not be able to purchase discounted tobacco. Applying the same economic theory of price elasticity of demand, with the cost being high, demand will then be lowered. As a result, this should bear a positive effect in reduction of tobacco consumption.

The current duty-free concession is as follow (C&ED, 2010):

- 19 cigarettes; or
- 1 cigar or 25 grams of cigars; or
- 25 grams of other manufactured tobacco.

Effects of sanctioning policies on tobacco consumption

Effective enforcement and duty on tobacco are said to be effective measures to reduce tobacco consumption. WHO and COSH have been constantly stating that raising taxes on tobacco is an effective measure to reduce tobacco consumption



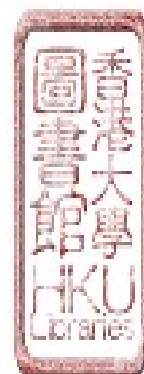
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and this project proposes that effective enforcement also contributes the same. For the purpose of simple verification, a direct comparison between the number of daily cigarette smokers to the year the policy was implemented has been made. To recap, the Fixed Penalty (Smoking Offences) Ordinance Cap.600 was enacted in 2008, tax on tobacco was raised for 50% in 2009, cessation of duty-free concession was introduced in 2010, and tax on tobacco was further raised for 41.5% in 2011. From figure 3.1, it is then observed that the number of daily cigarette smokers did drop for 1.1% from 2008 to 2012, whilst the drop slowed down from 2012 to 2015 (0.2%), which could largely be contributed to the fact that there had been no new sanctioning policy. From the above simple observation, it is reasonable to suggest that a further increase in tobacco tax or new policy of sanction be implemented could result in a bigger magnitude of drop in the number of daily cigarette smokers.

Publicity and education as tool of support

The Government takes a multi-pronged approach in implementing its tobacco control policies comprising publicity, education, legislation, law enforcement, taxation and promotion of smoking cessation, so as to contain the proliferation of tobacco use and safeguard public health.

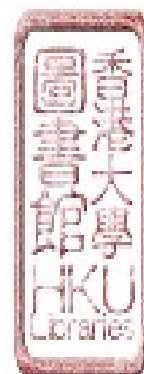
The Government has been seeking to strike a balance between the expectations of smokers and non-smokers. Different types of sanctions like law enforcement



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and taxation as mentioned in the above parts are usually not welcomed by the smokers. Certain deterrent effect may result, but it may not be an effective way to encourage the smokers to quit smoking. Under such circumstances, the Government pays much effort on publicity, education, as well as the smoking cessation service, which will be elaborated more in later part. The publicity and education aim at both encouraging smokers to quit smoking and discouraging non-smokers to start such habit. Both can reduce the overall smoking population. The messages are presented in various ways, from advertisements in multimedia and public transport, posters, education talk and seminars, promotional and advertising campaigns to competitions. TCO and COSH have been playing an important role in the publicity and education work. Different kinds of publicity have different targets. Both TCO and COSH have designed and initiated various kinds of campaigns with a range of themes. Despite the fact that there is no way, or too difficult to measure the effectiveness of the publicity and education work over the years, it is indisputable to say the work done by TCO and COSH has contributed much in the entire smoking ban policy.

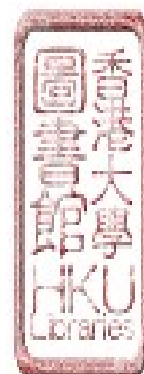
TCO spares no effort on raising public awareness of tobacco hazard and encouraging people to quit smoking through various campaigns and programs. TCO is an effective message conveyor which uses all possible channels, including Announcement of Public Interests (API) through TV, radio and outdoor multimedia platforms (including outdoor billboards and public transport carriers network) to maximize the message exposure. The theme of the publicity



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varies over the years. This would not only make the advertisement more attractive and innovative, but also positively affect people of different age range, different role in the society or family. Most importantly, the wide range of education and publicity bring a message to the public that smoking is a bad habit and promote “Smoke Free Hong Kong”. Over the years, smoking is no longer perceived as a stylish habit, but an undesirable habit, which is harmful to the human health.

To make the publicity effective or popular, its design is crucial. When drafting the design, the first thing to consider is who is the target message-receiver. While taking measures to encourage smokers to quit smoking, it is also a good idea to reduce the overall smoking population by preventing young people from picking up the smoking habit (LegCo Question, 2011). As such, TCO and COSH have held some anti-youth smoking campaigns with a view to strengthening preventive education and early intervention so as to enable youngsters to have an understanding of the harmful effects of smoking at an early age and to build up a positive and healthy lifestyle. For example, COSH held some school-based smoking prevention programs, health talks for primary and secondary schools, as well as kindergarten. Even children can access the educational message. This shows the determination of the Government in the anti-smoking policy. It constantly reviews the effectiveness of the publicity and education and formulates the list of promotion activities. Another example of publicity projects is the “Smoke-free Youth Ambassador Leadership Training



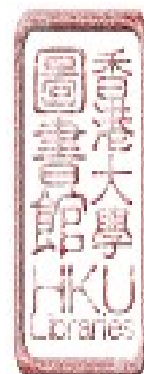
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Program”, which was first launched in 2012 by COSH. This program continues and the 2016/17 program is currently open for application. The education and publicity work done by the Government are not merely posters and mail outs, but some sustainable educational projects focusing on the continuous development of the youth, as well as the smoke control in Hong Kong as a whole.

In the API on smoking cessation launched in 2014, it highlighted the specific health risks related with tobacco use: “SMOKING = DISEASES”. This API alerted smokers that smoking affected not only their own health, but also that of people surrounding them due to secondhand smoke exposures. It helped to remind all that smoking kills gradually and the suffering it causes. The target message-receiver is not only smokers, but also non-smokers.

Apart from the general public, some of the publicity target at specific audience, such as female and elderly smokers in view of the changing smoking trend. For example, smokers aged 50 years or above accounts for over 40% of the overall smokers in Hong Kong. In view of such trend, COSH implemented “Elderly Smoking Cessation Promotion Project” since 2012, which aims to inform tobacco hazards, clarify the misconceptions of smoking cessation and encourage the elderly to kick the smoking habit.

The below table shows that it was most prevalent for female to smoke between 2000 and 2007 among the past 20 years.



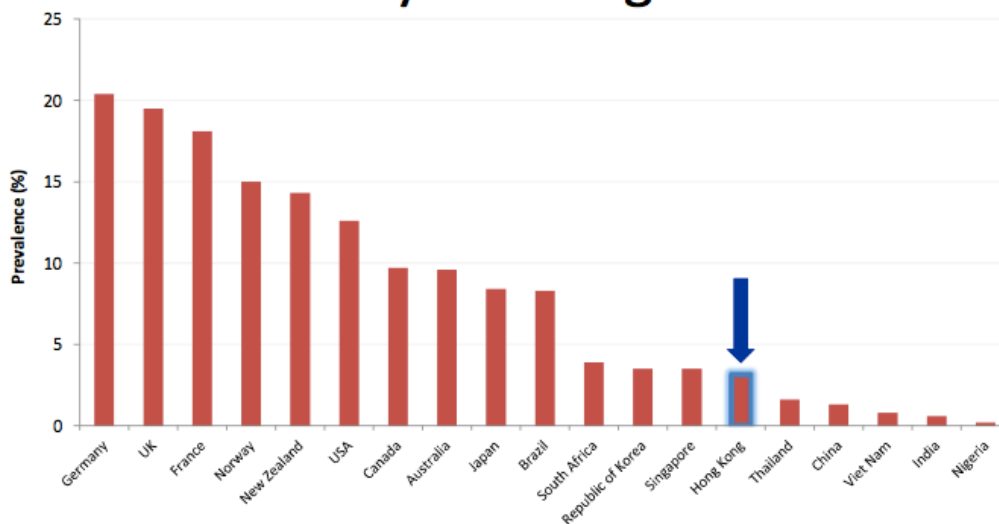
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Year	1993	1996	1998	2000	2002	2005	2007	2010	2012	2015
(%)	2.7	3.1	2.9	3.5	3.6	4	3.6	3	3.1	3.2

Table 4.3 Prevalence of female daily cigarette smokers by age (%)

Source: Thematic Household Survey (Pattern of Smoking), Hong Kong Census & Statistics Department 1982 - 2015

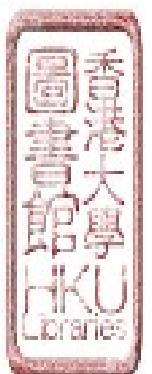
Comparison with other areas: **FEMALE** Daily Smoking Prevalence



Source : WHO Report on the Global Tobacco Epidemic, 2015
Thematic Household Survey Report No. 59, Census and Statistics Department, HKSAR

Figure 4.4 Comparison with other areas: Female Daily Smoking Prevalence

Then in 2015, the female daily smoking prevalence was far lower than that of many other countries. Nevertheless, the number of female daily smokers increased. Hence, the situation requires attention and policy review targeting female smokers is needed.. In this juncture, COSH launches the Women Smoking Cessation Promotion Program, with support of over 30 women

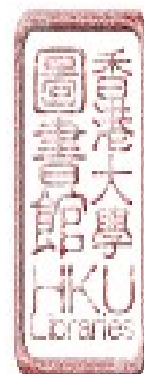


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associations, to promote smoking cessation among women and the hazards of smoking especially the women specific ones. The program also aims to spread the smoke-free message to the wider public to mobilize them to support their smoking female family members and friends to quit (COSH, 2015).

In addition to the publicity through TV, radio and outdoor multimedia platforms, TCO also produces a number of pamphlets and posters, to give public the information about the hazards of smoking and secondhand smoke, smoking cessation information, as well as tobacco control legislation. Furthermore, when the amended Smoking (Public Health) Ordinance came into effect in 2007, seminars and implementation guidelines were prepared for managers of various statutory no smoking areas to assist them in implementing the smoke-free policy.

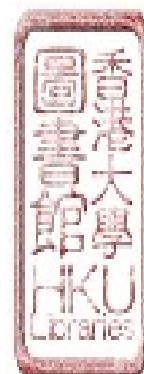
In order to maximize the coverage to all walks of life, TCO has also been launching large-scaled campaigns to promote smoke-free Hong Kong. The campaigns vary from promotional one, such as ‘I love smoke-free HK’ since 2005, to promote smoke free culture via TV advertisement, radio, exhibitions and seminars, to educational one, such as “the Most Innovative and The Most Touching Quitting SMS Competition” in 2010, which was a territory-wide school competition to encourage primary and secondary students to tap their talents in the creation of quitting messages and to promote smoke-free culture in schools.



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TCO is an innovative agent which follows closely with the world's trend. Based on the smoking trend, TCO designs different campaigns for different target groups. It also follows the global dynamic by launching a mobile App, “Quit Smoking App” to assist smokers to overcome tobacco dependence. In spite of its name, this App is for both quitters and non-smokers. The former can obtain information related to hazards of tobacco and tips to cope with withdrawal symptoms through video clips featuring local celebrities, while the latter can learn more about quitting smoking and recommend it to their family and friends. It is therefore another tool to effectively convey anti-smoking messages to the public.

Similar to TCO, COSH also endeavors to raise the public awareness on tobacco hazards and encourage smokers to quit smoking through a series of education and publicity programs (COSH, 2013). For cessation, DH, with the collaboration with other departments and organizations, provides a series of services. COSH plays an active role in promoting such services. In its website, the reasons for quitting smoking are listed out: “for your health”, “for your family”, “for your image”, and “for your money”. The message is simple and clear, which applies to its publicity and campaigns. For instance, the “Quit to Win” Smoke-free Community Campaign. COSH has been organizing this campaign since 2009, with the collaboration with the School of Nursing and School of Public Health of the University of Hong Kong. This community-based activity has been so successful to gain the support from the 18 District Councils and district



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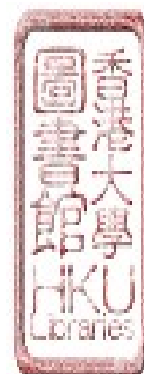
organizations to motivate smokers to quit the habit (COSH, 2016).

Smoking cessation service as tool of support

Smoking cessation is an integral and indispensable part of the Government's tobacco control policy to complement other tobacco control measures. Apart from education and publicity, TCO is also the key coordinator in providing smoking cessation service. It collaborates with other departments, as well as NGOs, academic institutes and some healthcare professionals. Despite the limited manpower of TCO, the resources from other departments and organizations allow the cessation service to be delivered well.

The DH has collaborated with various organizations, including the Tung Wah Group of Hospitals, Pok Oi Hospital, the University of Hong Kong, Lok Sin Tong and United Christian Nethersole Community Health Service, to provide free smoking cessation services, including the Integrated Smoking Cessation Hotline (1833 183), clinics, and an interactive online cessation centre, providing smokers with advice to quitting, psychological counselling and pharmaceutical treatment. Their joint-operation can be seen in the community-based smoking cessation programs conducted by DH with the Tung Wah Group of Hospitals since January 2009, and that with Pok Oi Hospital since April 2010.

DH has been not only conducting various cessation programs, but also paying

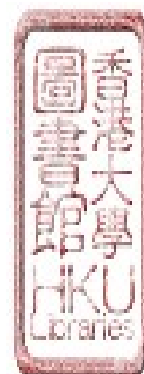


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continuous efforts on enhancing the cessation service. It operates the Smoking Cessation Hotline since 2001. The hotline was later upgraded as Integrated Smoking Cessation Hotline, which is now manned by trained registered nurses and counsellors during office hours, aided by a computerised Interactive Voice Response System for the rest of the day.

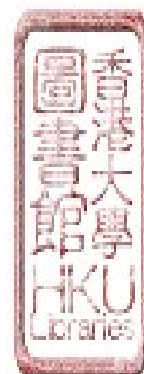
Callers can receive information and advice on smoking cessation methods and medications, counselling as well as take a nicotine dependence test. The hotline was enhanced in 2010 to become trilingual (Cantonese, Putonghua and English). (TCO, 2010)

Currently there are five smoking cessation clinics set up under DH. The clinics would first assess the smokers' level of nicotine dependence, and then develop a treatment program for them, which include counselling and drug therapy. After they have successfully quitted smoking, these clinics would also provide post-treatment follow-up services to them to prevent relapse and provide support when necessary. On the other hand, HA also operates 16 full-time and 42 part-time cessation clinics serving mainly its patients and those referred from the Hotline. The smoking cessation service then further extended to some free community-based cessation programs by NGOs. The government engaged these NGOs to provide the smoking cessation service with different approaches, such as Chinese medicine acupuncture. They even offer outreach service to workplaces. With effective from 1 January 2007, the statutory non-smoking



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area has been extended to indoor workplaces. People aged between 30-39, 40-49 and 50-59 have the highest daily smoking prevalence. These are the main working population in Hong Kong. As a result, helping smokers working indoor to quit smoking became another important strategy of the anti-smoking policy. Such strategy is also supported by the employers. Creating a non-smoking environment no doubt helps the employees including both smokers and non-smokers to become healthier, as well as increases their efficiency in view of the harms caused by smoking. No matter discouraging the smokers to smoke, or encouraging the smokers to quit smoking, it is also a good gesture and facilitator to promote smokes free Hong Kong. Having said that, in order to meet the needs of the smoking workers, apart from designating smoking area, smoking cessation service specifically for them has been also in place. TCO has collaborated the Lok Sin Tong Benevolent Society, Kowloon (Tok Sin Tong) to develop an outreaching smoking cessation program in workplace in 2012, namely “Smoking Cessation Program in Workplace”. This program is comprehensive to cover wide range of activities including outreach counseling services in workplace, free talks and even help to set up internal policies that help the smokers to quit smoking (TCO, 2014). The conselling service is provided by professional healthcare workers including registered nurse, social workers and health promoters. They provide ideas to the company and employer about the best strategies and ways to assist their employees to quit smoking (TCO, 2014). In addition to encouraging the smokers to quit smoking by way of counseling, the above-mentioned professionals also offer educational talks to elaborate the



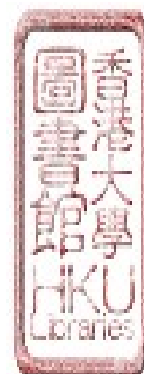
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smoking hazards. It can also raise the employees' awareness with a view to elicit their own responsibility of taking care of the health of themselves, as well as their colleagues.

In fact, TCO, in collaboration with NGOs, provided smoking cessation service not only to the working population, but also specifically for ethnic minorities and new immigrants. This can show that such service targets a wide range of people in Hong Kong. The scale escalated over the years, which was the result of continuous review of the strategies. Such review revealed more and more groups of people in Hong Kong require the service, and result in the upsurging coverage of service receivers.

The smoking cessation service has been developing in a considerable rate with encouraging smoking cessation rate one-year after treatment (over 50% for those in public clinics and around 30% for those receiving services by NGO) (LegCo, 2015). Despite the relative lower rate for those receiving services by NGO than those in public clinics, the number of people using NGO service increased significantly over the years (almost 10-fold from the year of 2009 to 2014).

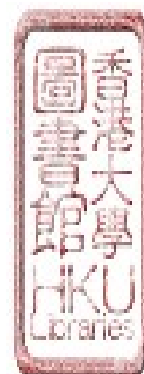
In addition to the Mobile App, TCO has also established an interactive online cessation centre in its official website, to provide information on smoking cessation, online quit plan, tips to quit smoking, and also a game zone to enhance youth's knowledge on the harmful effects of tobacco.



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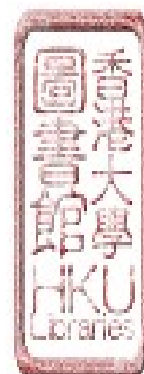
After all these publicity and education done over the years, the most remarkable benchmark would be the launch for the World Health Organization (WHO) Collaborating Centre for Smoking Cessation and Treatment of Tobacco Dependence (Centre) in Hong Kong. The WHO Collaborating Centre in Hong Kong is the first of its kind in the theme of smoking cessation. This Centre aims to provide evidence-based smoking cessation training for healthcare personnel; develop, test and evaluate models of smoking cessation; support WHO's initiatives on smoking cessation; and assist WHO in the dissemination of information on smoking cessation. The Centre could also serve as a regional hub to support smoking cessation training in particular helping the Western Pacific Region and Mainland China. In addition, the Centre could coordinate local training activities and engage a consortium of service providers as smoking cessation partners with the Centre. (TCO, 2012).

Similar to the publicity and education work done by the Government, the Government's determination and continuous effort in assisting the smokers to quit smoking is seen in the development of the smoking cessation service provided to the smokers. The enhancement of the Smoking Cessation Hotline, as well as the launch of the Mobile App, are valid proof that the government constantly reviews its strategies in the cessation service, and makes enhancement accordingly.



Concluding Comments

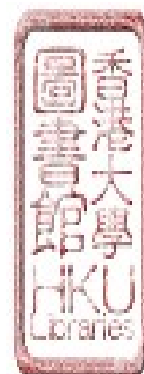
The Government adopts a multi-pronged approach in implementing its tobacco control policies with enforcement as tool of sanction and publicity and education, as well as smoking cessation service as tool of support. Viewing from the above, the Government, including TCO, COSH and NGOs have contributed significantly with these tools. These agents bear the capacities of conveying messages to the public effectively; proper use of discretion by street bureaucrats; adoption of a dynamic mix of regulatory tools; developing the ability to elicit responsibility from citizens; and constantly reviewing and revising goals and strategies. These tools are being employed simultaneously. Although Braithwaite's theory suggested support should be used prior to sanction, it was found that the Government's simultaneous and progressive approach also works well and the overall effectiveness is supported by statistics, including the overall downward trend of the prevalence of daily cigarette smokers. Within the pyramid of sanction, duty on tobacco and enforcement are strong and effective tools. Despite occasional criticism by the media and a part of the public, with TCO and other law enforcement agencies, such as Police, carrying out the enforcement action, the smoke-free Hong Kong message and the Government's determination on tobacco control have been being delivered well to the public. Nevertheless, it is noted that these street bureaucrats might have



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employed discretion. It could be attributed to the limited manpower and resources doing this job, especially TCO officers.

While enforcement action is measurable, publicity and educational work are relatively non-quantifiable. Having said that, they were perceived as convincing proof that the Government has been constantly reviewing the promotion strategies. The publicity and education work, as well as the smoking cessation service cover wide range of groups of people in Hong Kong. The themes of publicity keep changing in accordance with the trend of the smoker characteristics, for example, the sex and the age. The magnitude also increased over the years to enhance the effectiveness of the smoking control policy. Apart from encouraging the smokers to quit smoking by presenting the smoking hazards, the publicity, educational work, as well as the smoking cessation service also bring another important message, namely, smoking also affect the people surrounding them. It could help the smokers to elicit their own responsibility to take care of themselves and the others.



CHAPTER FIVE: EVALUATION & CONCLUSIONS WITH RECOMMENDATIONS

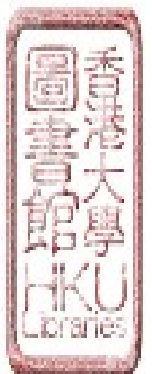
Introduction

In the last few chapters, this project has properly identified several major regulatory tools and strategies that have been adopted by the Government to combat the smoking issue over the decades. These policies are not only sanctioning in nature but are also supportive to the regulatees to cease consuming tobacco. Over time, the results are promising in terms of the declining number of smokers in the territory.

Evaluation of the Anti-Smoking Policy

The effect of the respective regulatory tools and strategies are blended, and the decline in the number of smokers could even be as a result of factors other than the implementation of the tools and strategies by the government.

In chapter two, this project has already identified five capabilities that the regulators have to develop in order to carry out its policies effectively. This project will evaluate how the government, including TCO, COSH and other organisations can work together and display such capabilities in order to enforce its policies smoothly and effectively.

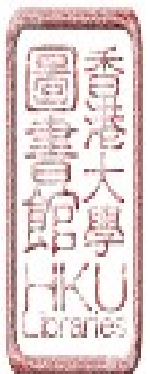


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Government convey the message of smoking-free culture to the public effectively via TCO, COSH and other agency

According to John Braithwaite's "Responsive Regulation" (Braithwaite 2011), regulators intend to provide supports to regulatees to build their capacity and strength to solve the problem by themselves, rather than by sanctions which is unwelcome. And it is true in Hong Kong that the Government has been engaging in education, promotional campaigns and collaboration with NGOs over the anti-smoking goal. Together with other enforcement agents like the Police and FEHD, TCO was established in 2001 and jointly educates the public and promote the messages of the Government.

Through interaction with the public, all frontline officers are street bureaucrats who probably are the most effective conveyors of the message between the administrator and the public. For example, changing the intensity of enforcement by frontline officers will undoubtedly give signals to the public about policy maker's intention about tightening or relaxing the relevant regulations. Furthermore, the frontline officers who face the instant reactions from the public could be served as the radars of the Government. Their first-hand knowledge and interactions with the public, if fed up the chain of command properly, would help policy makers to formulate or improve in the long run. For example, if the frontline officers observe that people are no longer in fear of or being ignorant towards the fixed penalty system, this might be a good indicator that the amount of penalty is not heavy enough, and it should be an appropriate time to review the



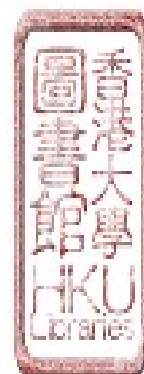
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relevant legislation. This is an example showing how street bureaucrats could contribute to policy making through their close interactions with the public, given that there is an effective communication channel within the administrator's hierarchy.

Tobacco Control Office and other enforcement agencies ensure the proper use of discretion by frontline officers

Frontline officers refer to TCO officers and other enforcement agents empowered under the Fixed Penalty (Smoking Offences) Ordinance. They are regarded as street bureaucrats and are often required to exercise discretionary judgment on occasions that they are free from supervision. Such discretion is scenario-specific which depends on the nature and circumstance of each case, the age and background of the regulatee, the attitude of the regulatee and the subjective feeling of the street bureaucrats. For example, it is very common for street bureaucrats to exercise higher degree of discretion towards the very young or elderly rather than to normal adults, as it is considered a social norm and more reasonable to offer more discretion to the former.

Such discretion on one hand provides flexibility and a more gentle way to convey anti-smoking messages, but on the other hand it also attracts allegation of unfairness or selective enforcement. In Hong Kong, the enforcement agents are given the power to exercise discretionary judgment within spectrum set by their respective bureaux. There are guidelines and trainings whilst the standards



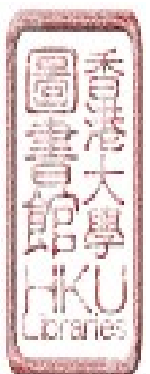
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among the bureau vary (i.e. TCO and Police are commented to be the strictest in enforcing the laws whilst FEHD and others are comparatively lenient). As a result, guidelines and training by each bureaux should be benchmarked, so that street bureaucrats can carry out their duties and exercise discretion in a fair and systematic fashion in the eyes of the public.

TCO's multi-pronged approach as a dynamic mix of regulatory tools

In Hong Kong, supportive and punitive strategies are being adopted at the same time, and it is observed that the scope of sanctioning strategies is considered even more comprehensive with the wide adoption of legislation, . According to statistics, the number of active smoker in Hong Kong has been dropping since the 80's, yet there is no evidence showing how each supportive and punitive strategy has been contributing to the continuous drop. Nevertheless, it can be served as a good indicator that a mix bag of supportive and sanctioning strategies can be adopted at the same time to achieve the greatest outcome.

As consumption of tobacco is an addictive behaviour, supportive strategies being adopted by TCO aim at building up the capability of the smokers to quit smoking. On the other hand, it also puts focus on preventive measures such as organizing smoking prevention programs at schools and publishing leaflets, notices and advertisement encouraging people to quit smoking. The TCO has adopted a multi-stakeholders approach by recruiting NGOs, academic institutes and healthcare professionals in implementing community-based smoking



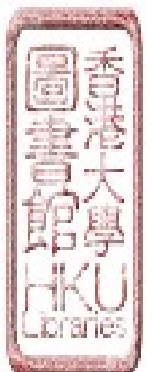
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cessation programs and smoking prevention programs.

Comparing with pyramid of support, Hong Kong tends to have a wider range of punitive strategies. These punitive strategies are empowered by the Smoking (Public Health) Ordinance which regulates the prohibition of smoking in public places and couple with the Fixed Penalty (Smoking Offences) Ordinance; restriction on sales of tobacco products; restriction on tobacco promotion and advertising; and heavy duty on tobacco. Although it is inconclusive to comment that sanctioning policies are more effective in reducing tobacco consumption, the adoption of both supportive and sanctioning policies at the same time have been shown to be effective.

The ultimate goal of the government is to develop the ability to elicit responsibility from citizens, to create a smoking-free society

‘Active Responsibility’ means to challenge the actors to take responsibility for making things right into the future. As for dealing with anti-smoking issue, it refers to those actions taken by the Government to encourage the general public in particular the smokers to quit smoking. Education is an ‘Active Responsibility’ tool adopted by the government to instill the concept of ‘Smoking is a bad habit’ to the public. Its education emphasizes that smoking not only causes health problem for oneself but also for friends and family members.



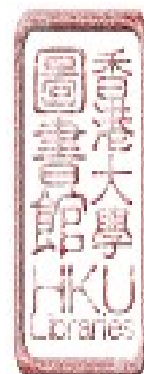
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‘Passive Responsibility’ means to hold the actors responsible for the unfavourable behavior (i.e. it refers to smoking in this project). Although smoking does not directly contravene the laws, legislations have been enacted to set restraints to the smokers or tobacco vendors. The enactment of Smoking (Public Health) Ordinance and its and subsequent amendment made the smokers legally liable for smoking in restricted area designated by the laws. The penalty has also been fixed at HK\$1,500 for all offenders. Apart from the smoking bans, the ordinance has also imposed more stringent restrictions on sale of tobacco products. It is a kind of ‘Passive Responsibility’ requiring the sellers and packets to bear health warnings that contain images portraying consequences of smoking.

Review on historical development proves the constantly review and revise on goals and strategies of anti-smoking policy

Policy review is undoubtedly conducted by the policyholder (regulators). They do the strategic planning and it is their responsibility to review their work and seek for rooms of improvement. The anti-smoking policy as well as the relevant legislation are kept improving together with the social climate.

In the process of review and revise, the policy implementer (i.e. TCO) must involve. TCO acts like the communication hub between the policy holder and the public. How the public responds to the policy, what difficulties the frontline TCO officers encounter during enforcement action, and what is the actual situation in the society are all things that can be ascertained directly from the



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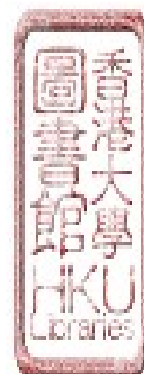
TCO.

Since the establishment of TCO, the government could better understand the situation of tobacco control from these street level bureaucrats. Subject to the response of the public and overall circumstance, the government could regularly review and revise its policies to achieve its goals.

Conclusion with Recommendations

In the previous chapters, it proves that the Government has already developed certain capacities in enforcing the anti-smoking policies effectively. The establishment of TCO in 2011 has played a significant role as a conveyor of the messages to the public and it assists the Government in performing review and revision of its goals and strategies. The government itself has also adopted a dynamic mix of regulatory tools and developed the ability to elicit responsibility from the public. What remains is that the government has to ensure the discretion of the frontline officers is properly used. Regular trainings and coordination among bureaux are essential for this purpose.

Having reviewed the historical development of the anti-smoking policies, the current smoking situation and the five capabilities, this project revealed that the regulatory tools and strategies adopted by the Hong Kong Government are appropriate and effective in a large extent in contribution to the reduction of the prevalence of smokers and the sales of tobacco in the territory.



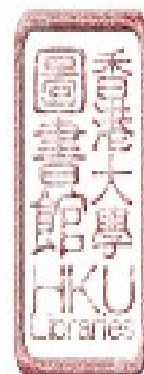
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In order to sustain and further improve the current situation, there are three recommendations for the further development on anti-smoking policy.

First of first, this project has earlier highlighted taxation is one of the most effective way to discourage smoking because taxation adds burden on the smokers. Whenever the tobacco taxation is imposed, the drop in the number of smokers in that particular period would be obvious and such effect is sustainable. Indeed, COSH and the World Bank supported that every 10% increase in the retail price of cigarette would result in 4%-8% consumption in tobacco. WHO also suggests that the tax rate over 75% of the retail price is most cost-effective tobacco control. Nowadays, tax rate in Hong Kong is just 69% of the retail price of the cigarette. Taxation is definitely one of the most useful regulatory tools to control smoking.

In addition to taxation, the Government may rely on another regulatory tools, namely legislation, to combat smoking. Consideration can be made to further expand the current smoking prohibited areas in Hong Kong. Under the current legislation, a number of places / premises are designated to be non-smoking area. The else places, including most outdoor area, are still allowed for smoking.

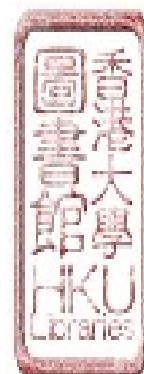
The project suggests that instead of designating every non-smoking area, the legislation shall only indicates the area and places where smoking is permitted, and smoking at any non-indicated locations are deemed illegal and shall be penalized. Such action could well exert influence on anti-smoking. Besides,



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learning from overseas experience, the liability of unlawful smoking shall not only be put on the smokers but also the entertainment premises / restaurant owners and stakeholders. Taking Singapore as an example, smoking is currently prohibited in more than 32,000 entertainment premises and other locations. In order to ensure a smoke-free environment, Singapore Government administrates the Smoking (Prohibition in Certain Places) Act and requested the premises owners and stakeholders to install ‘No Smoking’ signage within the affected premises, and that bins with ashtrays will be shifted or replaced with bins without ashtrays. The operators and managers of the premises are also required to stop patrons from smoking in such smoking-prohibited areas or request patrons who smoke to leave the premises. Any breach of the Acts will result in fine and suspension or revocation of licences. The practice in Shanghai, China is similar to that in Singapore. The Central Government has imposed smoking ban in most indoor area and premises. Other than the individual who is found smoking will be fined, the operators and management of the premises will be fined with RMB10,000 to RMB30,000 if repeated smoking offences are found at the no-smoking places.

In Hong Kong, according to the enforcement figures from TCO, the majority of complaints on unlawful smoking took place in restaurants and entertainment premises. To strengthen the deterrent effect, the Government may learn from other city / country like Shanghai and Singapore by penalizing the premises owners and stakeholders for unlawful smoking offences in the premises. It is

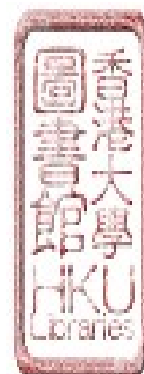


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indeed a way demonstrating the capability of eliciting passive responsibility to the premises owner and to hold the latter responsible for allowing / neglecting the unlawful smoking offences from taking place. Also, the Government (Liquor Licensing Board) plays an important role here. Repeated smoking offences at the premises owners shall be properly recorded by the enforcement officers. These records shall be taken as valid ground for suspension or revocation of the licences of these premises subject to discretion by Liquor Licensing Board. Such measure could definitely encourage the premises owners to take measures in the prevention of unlawful smoking by their customers.

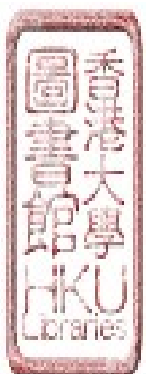
Last but not least, the young smokers remain as the focus of the Government. When the anti-smoking policy was still immature in 1980s, one of the core groups of smokers was the youngsters. Over the past 30 years, the policy has been modified and strengthened, and the number of smokers has been decreasing.

The core group of the smokers now aged 40-49, who were 10-19 three decades ago. Such figure indicates that the core smoking group is aging. To sustain the smoke-free lifestyle in the territory, the Government should adopt a proactive approach to prevent the youngsters to start smoking. The actions could be of various types including education, counseling and health services in respect of the anti-smoking issue. Their parents, school and social workers of NGOs or SWD shall also be engaged to secure a comprehensive support to the youth indeed.



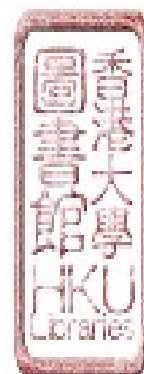
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To conclude, this project has formulated an analytical framework and analyzed the regulatory tools and strategies in respect of its capabilities, appropriateness and effectiveness in tackling the tobacco control matter. The historical development of the anti-smoking policy is outlined with each regulatory tool and strategy examined. The capabilities of the government upon implementation of policies were studied and evaluated. At last, conclusion is drawn that the appropriateness and effectiveness of the existing policies are confirmed and recommendation was made for further improvement. It has proven that Hong Kong is putting huge effect in anti-smoking aspect all over the years. With more resources from the government and the supports from the community, Hong Kong will be on a right track to become a smoking-free society, the ultimate goal of TCO.



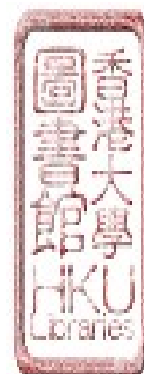
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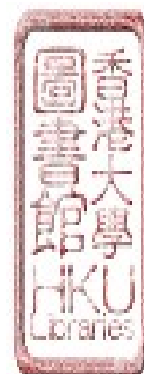
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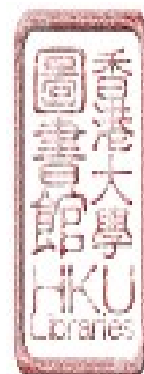
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ANNEX: PROGRESS OF TOBACCO CONTROL LEGISLATIONS IN HONG KONG

Restrictions of Smoking in Public Places

1983-02-15

Designated the following places as no-smoking areas:

- Public lifts
- Lower deck of public transport land vehicles

No-smoking areas should be designated in cinemas, theatres, concert halls and public transport carriers. The manager should place in a prominent position in each no-smoking area a sufficient number of signs in English and Chinese to indicate that smoking is prohibited in the area.

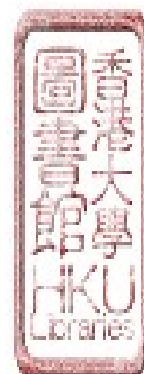
1992-08-01

Expansion of Statutory No-smoking Areas

Designated no-smoking areas in the following places:

- Cinemas, theatres, concert halls, public lifts, amusement game centres and all public transport carriers.

1998-04-01



**ANTI-SMOKING POLICY IN HONG KONG:
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The management of all restaurants, schools, post secondary colleges, technical colleges or technical institutes, industrial training centres or skills centres, universities and the Hong Kong Academy for Performing Arts can designate the whole or part of the premises concerned as no-smoking areas.

1998-07-01

Expansion of Statutory No-smoking Areas

All indoor areas open to the public in a supermarket, bank, department store or shopping mall, except the restaurant within a department store or a shopping mall, are designated no-smoking areas.

The principle officer of the Airport Authority may designate any area of the passenger terminal complex of the Airport as no-smoking area.

1999-07-16

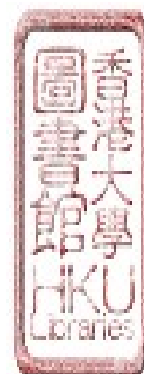
Partial Restrictions on Smoking in Restaurants

Restaurants providing indoor seating accommodation for more than 200 persons should designate not less than one-third of the area of such as a no-smoking area.

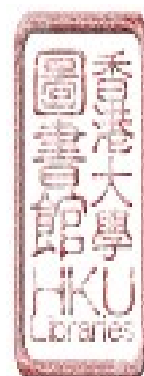
2007-01-01

Comprehensive Smoking Ban in Restaurants

Indoor areas of all restaurant premises are designated as no-smoking areas, regardless of the number of indoor seating provided.



**ANTI-SMOKING POLICY IN HONG KONG:
IMPLEMENTATION CAPACITY, ACTION AND CHALLENGES**



Expansion of Statutory No-smoking Areas

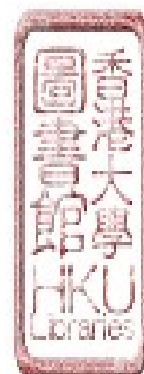
Designated the following places as no-smoking areas:

- Indoor workplaces
- Karaoke establishments
- Publicly or privately operated markets
- Bars
- Child care centres, schools and specified educational establishments including post secondary colleges and universities (both outdoor and indoor perimeters)
- Hospitals, maternity homes, residential care homes, treatment centres, and any communal quarters
- Public pleasure grounds, bathing beaches and the vicinities including adjacent barbeque areas as well as public swimming pools and the vicinities including sidewalks, diving boards, and spectator stands
- Escalators

2009-07-01

Deferment of Smoking Ban in Listed Establishments

Transitional provisions permit listed qualified establishments to defer the implementation of smoking ban until 1 July 2009. Qualified establishments are required to apply to the Director of Health to be included in the list of qualified establishments in order to defer the smoking ban. The transitional provisions will be withdrawn on 1 July 2009. In other words, the complete smoking ban will apply to all establishments with effect from 1 July 2009.



**ANTI-SMOKING POLICY IN HONG KONG:
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- Mahjong rooms
- Bars
- Nightclubs
- Bathhouses
- Massage establishments
- Mohjong – tin kau premises

[The person in charge of an establishment permitted to defer smoking ban shall ensure no person under the age of 18 years is permitted to enter the establishment.]

2009-09-01

Expansion of Statutory No-smoking Areas

Designated the following places as no-smoking areas:

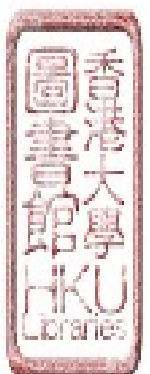
- Public transport facilities with superstructures

2010-12-01

Expansion of Statutory No-smoking Areas

Designated the following places as no-smoking areas:

- Open-air public transport facilities



**ANTI-SMOKING POLICY IN HONG KONG:
IMPLEMENTATION CAPACITY, ACTION AND CHALLENGES**

Restrictions on Tobacco Advertisement

1982-11-15

No persons shall print or publish a cigarette advertisement in a printed publication unless the advertisement bears (i) a health warning and (ii) the tar group designation of the cigarettes advertised.

1987-11-13

Written health warning is required throughout, not just at the end of cigarette advertisements for television and cinema but also standardized voice-over of health warning at the end of such advertisements lasting no less than 3 seconds.

1988-12-01

Ban on cigarette advertising and sponsorship from 4:00 pm to 10:30 pm on TV.

1989-08-26

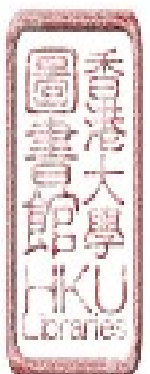
Ban on cigarette advertising and sponsorship from 4:00 pm to 10:30 pm on radio.

1990-12-01

Total ban on cigarette advertising and sponsorship on TV and radio.

1992-08-01

Prohibition of cigarette advertising in cinemas.



**ANTI-SMOKING POLICY IN HONG KONG:
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1994-01-01

Cigarette advertisements for display on print media, signs and billboards, when first put up or changed by more than 20%, must bear the health warning which must take up at least 20% of the space of the advertisement.

1998-04-01

Prohibition of tobacco advertisement on the internet.

1998-07-01

Prohibition of promoting the sale of tobacco products by means of offering prizes, gifts, tokens or raffles in exchange for any valuable items.

1999-06-26

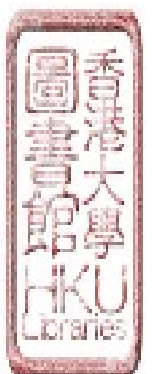
Ban on tobacco display advertisements.

1999-12-31

Prohibition of tobacco advertisements in the printed media.

2007-11-01

Withdrawal of the exemption clause for a retailer with a number of persons employed by which does not exceed two can display tobacco advertisement.



**ANTI-SMOKING POLICY IN HONG KONG:
IMPLEMENTATION CAPACITY, ACTION AND CHALLENGES**

2009-11-01

Withdrawal of the exemption clause for a hawker can display tobacco advertisement.

No retailer and hawker stall shall display tobacco advertisement

Regulation on Sale of Tobacco Products

Feb 1993

To prohibit the sale of cigarette with a tar content exceeding 20mg.

Apr 1995

To require tobacco product retailer to display a sign informing the public that selling or giving tobacco products to persons under 18 is prohibited.

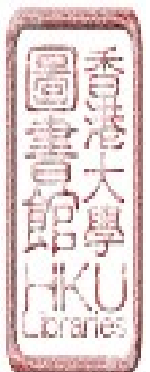
Apr 1998

Prohibition of selling tobacco products through vending machines.

Jul 1999

Prohibition of selling the packets of cigarettes containing not enough 20 cigarettes

Restriction of maximum tar yields in cigarettes was lowered from 20mg to 17mg



**ANTI-SMOKING POLICY IN HONG KONG:
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Regulation on Health Warnings

1983-02-15

Health warnings required for displayed cigarette advertisements.

Health warning to be printed on packets of cigarette/retail containers in English and Chinese.

1994-01-01

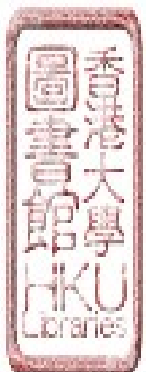
Stronger and More Precise Health Warnings

The existing single Government health warning was replaced by stronger and more precise messages to be used in rotation.

- SMOKING CAN KILL
- SMOKING CAN CAUSE CANCER
- SMOKING HARMS YOURSELF AND OTHERS
- SMOKING CAN CAUSE HEART DISEASE

Health Warning to be More Conspicuously Displayed in Cigarette Advertisement

Cigarette advertisements for display on print media, signs and billboards, when first put up or changed by more than 25%, must bear the health warning which must take up at least 20% of the space of the advertisement. The health warning message and the tar group designation must fill up no less than 75% of the panel and must appear in bold typeface.



**ANTI-SMOKING POLICY IN HONG KONG:
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Health Warning on Outdoor Cigarette Advertising

Health warning on outdoor cigarette advertising signs have to be free from visual obstruction, properly lit up and clearly visible.

1995-10-28

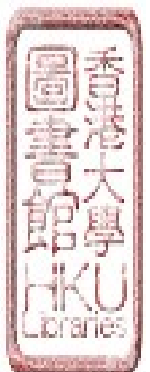
All containers and packaging of tobacco products (include cigarettes, cigars or pipe tobacco) shall display prescribed health warnings and shall be rotated in a prescribed manner.

Any tobacco product without a prescribed health warning will be confiscated.

2000-07-16

Cigarette packs must carry, in rotation, 6 new health warnings, with the indication of tar and nicotine yields. Health warning must be on the top of pack, black lettering on white background.

- SMOKING KILLS
- SMOKING CAUSES CANCER
- SMOKING CAUSES HEART DISEASE
- SMOKING CAUSES LUNG CANCER
- SMOKING CAUSES RESPIRATORY DISEASES
- SMOKING HARMS YOUR CHILDREN



**ANTI-SMOKING POLICY IN HONG KONG:
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2007-10-27

Pictorial Health Warning

Cigarette packets and retail containers shall bear a health warning and tar and nicotine yields in the prescribed form and manner.

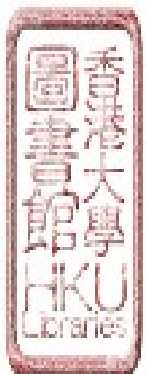
Brief description of the specifications of pictorial and graphic contents of the health warning on cigarette packet and retail container is as follows:

“The health warning and the tar and nicotine yields shall appear on the two largest surfaces of the packet and retail container. One of these surfaces shall bear the Chinese version of the health warning and tar and nicotine yields while the other surface shall bear the English version of the same health warning and tar and nicotine yields.”

The area on the packet or retail container containing the health warning shall be rectangular in shape and surrounded by a black line as demarcation and its size shall be at least 50% of the surface area on which the version is displayed.

The 6 versions of health warning messages are: “HKSAR GOVERNMENT WARNING” and one of the followings:

- “SMOKING KILLS”
- “SMOKING HARMS YOUR FAMILY”
- “SMOKING CAUSES LUNG CANCER”
- “SMOKING CAUSES PERIPHERAL VASCULAR DISEASES”



**ANTI-SMOKING POLICY IN HONG KONG:
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- “SMOKING MAY CAUSE IMPOTENCE”
- “SMOKING CAN ACCELERATE AGEING OF SKIN”

Any packaging of the tobacco products including any packet, retail container, wrapping, and any label attached to or printed on the packaging or the product should not

- Bear any term, descriptor, trademark, figurative or any other sign that is likely to create an erroneous impression that the product is less harmful to health than other tobacco products the packaging of which does not bear such term, descriptor, trademark, figurative or sign;
- Promote the product by any means that is false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions.

Source: Hong Kong Council on Smoking and Health

