



Physicians *for a* Smoke-Free Canada

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September 10, 2008

Ms. Sheila Fraser
Auditor General of Canada
240 Sparks Street
Ottawa, Ontario
CANADA K1A 0G8

Dear Ms. Fraser,

We are writing to you today to ask your Office to investigate the process by which the federal and provincial governments of Canada concluded in secret an agreement with the two largest tobacco companies of Canada that involves the tobacco companies paying \$1.1 billion dollars to governments in recognition of contraband activities that they undertook in the 1990s, but absolves them of being required to pay any further fines or penalties. No charges have been laid under the Criminal Code, despite clear evidence of serious crimes having been committed. (For example, see this 2004 RCMP application for a search warrant and accompanying documentation: http://www.smoke-free.ca/eng_home/news_special RCMP Search Warrant Jan 05.htm).

Compared to the actual taxes owed, this payment is risible. Based on a document of British-American Tobacco (<http://legacy.library.ucsf.edu/tid/beh61a99>), we estimate that the actual taxes not paid by these two companies in the 1990s would have totalled about four billion dollars. To that amount should be added interest and penalties that would have accumulated over the 15 years since these crimes took place, and the taxes foregone because governments unwisely lowered tobacco taxes in response to the criminal behaviour of the tobacco companies. It is small wonder that former Imperial Tobacco executive, Paul Finlayson, who was involved in these contraband activities, described the recent payments to governments as little more than “chump change.”

We are also concerned that the rate of decline in smoking prevalence was slowed compared to what it otherwise would have been in the 1990s because of the criminal defrauding of governments and the subsequent decision by governments to lower tobacco taxes. This translates into thousands of new smokers. If they continue to smoke throughout their lives, half of them will be killed by tobacco. Criminal behaviour by tobacco companies and governments' inability to rein them in will result in thousands of needless premature deaths well into the future.

We are further concerned that this agreement was negotiated entirely in secret with no input from health officials. Predictably, it is bad for public health because it ties payments of future instalments of the agreed-upon sum to continued sales of tobacco products.

No charges have been laid under the Criminal Code, despite clear evidence of serious crimes having been committed. Billions and billions of dollars owed to governments will remain forever unpaid. Furthermore, the long-term health consequence of this unchecked criminal behaviour will be the needless premature death of thousands of Canadians.

These are serious matters and merit your full attention in a thorough investigation of all aspects of this problem from the origins of tobacco company-orchestrated contraband 20 years ago to the conclusion of the recent agreements between governments and tobacco companies, agreements that are bad for the public purse and bad for public health.

I urge you to use all the investigative powers at your command to get to the bottom of this sordid affair and issue a full report to Parliament and the public on your findings.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Atul Kapur', with a long, sweeping underline that extends to the right.

Atul Kapur
President