

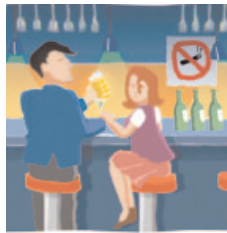


Economic Note

Should cigarettes be banned in public places?

Many governments in North America and Europe, such as France have moved toward a ban on cigarette smoking in public places, or are planning to do so. Defenders of this approach¹ argue that second-hand tobacco smoke causes health risks for non-smokers, who should be protected through a ban on smoking in public places. This leads to major economic considerations. An economic approach is needed for a full assessment of the relevance of such measures.

We will assume here that second-hand smoke is as dangerous as Mr. Yves Bur's bill asserts and that it causes about 3000 deaths per year in France². We will examine the issue strictly from the economic standpoint of individual choice, leaving the biological and epidemiological aspects to medical experts.



all sorts of social interactions that involve risks, often greater than the risks from second-hand smoke, because the advantages they expect to gain from the activity in question are greater than the costs and risks involved. Thus, from an economic standpoint, it would be absurd to conclude there is a need to prohibit an activity just because it may present certain risks.

The economic approach

The economic approach is concerned mainly with analyzing the social consequences of individual choice and with asking to what extent consumers receive the goods and services they want and are willing to pay for. Individuals make choices each day based on their preferences. These choices involve uncertainty and risk³. It is important to note that individuals are involved in

As Figure 1 shows, the risks from second-hand smoke are relatively small. Traffic accidents caused 8,000 deaths in France in 1999, twice and a half as many as second-hand smoke. Leaving one's bed, walking, running or climbing is three times more dangerous than the risk from second-hand smoke, because more than 10,500 people die every year from accidental injuries. Flu and pneumonia, which are often spread and caught in public places, account for 18,200 deaths per year, or six times as many as second-hand smoke.

Another characteristic of the economic approach is that it looks into the means of reconciling choices based on differing individual preferences, for example between people who like to smoke and those who prefer to avoid second-hand smoke. Economic analysis shows that, in most cases, basic institutions such as property rights and contractual freedom provide more effective solutions than bureaucratic rules in

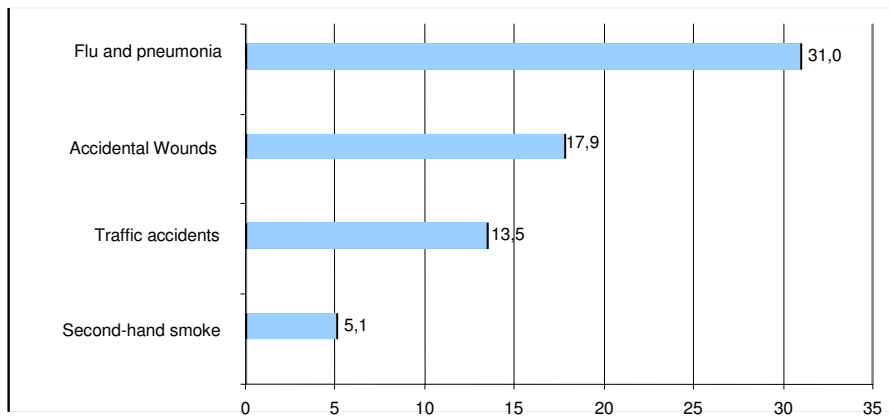
¹ This is Yves Bur's approach in his bill concerning the dangers of second-hand tobacco and introduced to the French Parliament on 13 October 2005 (n° 2591). The text is available at http://www.institut-molinari.org/pubs/proposition_de_loi3511-7.pdf.

² This number - very often used in the media - is an extrapolation and approximation for France of data concerning the US. It comes from a 1997 report of the Académie nationale de médecine : see Maurice Tubiana, "Tabagisme passif : Rapport et vœux de l'Académie nationale de médecine", *Bulletin de l'Académie nationale de médecine*, 181, April-May 1997, available at <http://tabac-net.aphp.fr/tab-connaître/tc-article/tc-art-passiftub.html#Rapport>.

³ An entire economic literature on risky choices has developed since the classic article by Milton Friedman and L. J. Savage, "The Utility Analysis of Choices Involving Risk", *Journal of Political Economy*, vol. 56, 1948, pp. 279-304. On uncertainty, see Ludwig von Mises, *Human Action*, Ludwig von Mises Institute, 1998, pp. 105-117. On the subject of tobacco in particular, see W. Viscusi, *Smoking: Making the Risky Decision*, Oxford, Oxford University Press, 1992.

satisfying preferences and making individual choices more compatible⁴.

Figure 1 : Mortality rates for 100,000 habitants in France (1999)



Sources: Maurice Tubiana, *op. cit.* ; INSERM (Institut national de la santé et de la recherche médicale), Service d'Information sur les causes médicales de décès, available at <http://sc8.vesinet.inserm.fr:1080/>.

It should be understood that most of the places regarded as "public" are in fact private places opened to the public by their owners for commercial purposes. At this point it clearly becomes relevant to consider the role of property rights. To illustrate this, we will apply economic analysis to the case of restaurants and other private businesses, on the one hand, and to workplaces, on the other hand.

The inefficiency of smoking bans

Let us suppose that a person or group of persons decide to open a restaurant or some other type of establishment intended for adult customers who are smokers and that this restriction is clearly marked outside the establishment. The sign could indicate an implicit contractual agreement: customers who choose to enter this spot recognize that they face the risks connected with the presence of second-hand smoke and agree that the establishment will not be held responsible in this regard.

Not only would customers of the establishment each be informed of the risks they face but, as smokers, they may prefer precisely this type of establishment. An arrangement of this nature is also an economically efficient solution because all the parties concerned find what they are looking for, based on their preferences.

We should note that non-smokers would not be forced to enter a restaurant "for smokers only": they could bring their business to smoke-free restaurants. This option would not be available only if there were not enough non-smokers able or willing to support smoke-free restaurants. Non-smokers form two-thirds of the population. In addition to being a minority, smokers are statistically less wealthy and less educated than non-smokers⁵, leaving no doubt that non-smokers can get their preferred conditions on the market. There are thousands of entrepreneurs who seek to make money by responding to unmet needs. If smokers are willing to support restaurants for smokers, why should non-smokers not do the same for their own restaurants?

Now let us suppose a non-smoker chooses to dine in a restaurant for smokers only because he considers that the advantages of this restaurant outweigh the risks he faces. Individuals often make choices of this sort when, for instance, they go out and meet people during a flu epidemic. Prohibiting a restaurant owner from welcoming this non-smoker would violate their contractual freedom and the principles of economic efficiency.

We can conclude that there is no reason to forbid restaurants "for smokers," nor is there reason to prohibit them from welcoming non-smokers who choose to enter. To meet the needs of different customer groups, we would expect to find a variety of establishments: for non-smokers, for smokers (if the law allows it) and for both. This type of system reconciles different and sometimes conflicting individual preferences, in a spirit of diversity and without coercion.

Given the number of non-smokers who, it may be assumed, prefer nowadays to frequent smoke-free businesses, one would expect such establishments to proliferate in the future. If

⁴ See Pierre Lemieux, "The Economics of Smoking", *The Library of Economics and Liberty*, 28 June 2000, <http://www.econlib.org/library/Features/feature5.html>.

⁵ This fact is recognized in developed countries: see for instance World Bank, *Curbing the Epidemic. Governments and the Economics of Tobacco Control*, Washington, 1999, pp. 15-16;. See also Peter L. Berger, "A Sociological View of the Antismoking Phenomenon", in Robert D. Tollison (directed by), *Smoking and Society: Toward a More Balance Assessment*, Lexington, Lexington Books, 1986, pp. 235-240.

there are no regulatory obstacles, the market adapts fairly rapidly to consumer demand.

This explains the existence of smoke-free restaurants even though restaurants for smokers are not prohibited. A consultants' study conducted in 1997 for the Quebec government indicated 300 restaurants in Wisconsin that had adopted a voluntary policy banning cigarettes⁶, evidently in response to market demand.

Lists of smoke-free restaurants in areas such as France where they are not required by law can be found on the Internet⁷. On the other hand, a total smoking ban may affect establishments known to be frequented by smokers. Even if so far one does not register any important loss in revenues for the catering industry in Ireland - where cigarettes were banned in public places in 2004 - in other countries there have been losses of revenue, especially in bars. For instance, according to a study that examined several Ontario cities (Ottawa, London, Kingston and Kitchener) after smoking bans were imposed, sales at bars and pubs were 22.5% lower than they would have been without the new rules⁸.

The situation in France

The Evin law enacted in 1991 has already imposed some constraints on the use of cigarettes in public places such as schools, workplaces and public transport. However, in places such as bars or restaurants smokers could still light a cigarette in some limited areas in conformity with the regulations concerning ventilation.

Because any restaurant owner was free to ban smoking, and because anyone had the right to open a smoke-free restaurant, it may be

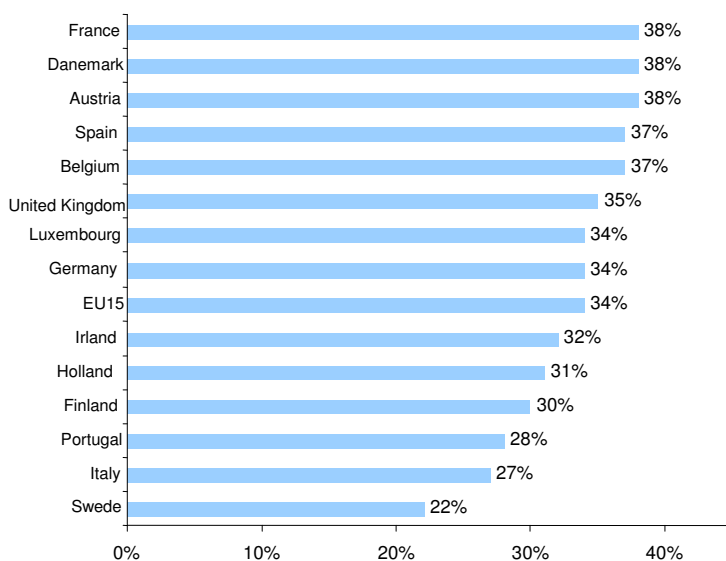
“Property rights and contractual freedom provide more effective solutions than bureaucratic rules in satisfying preferences and making individual choices more compatible.”

deduced that a majority of non-smokers could accommodate themselves to the presence of smokers, often seated in separate sections.

Figure 2 indicates, however, that traditional differences in tobacco consumption between France (where it is common to smoke in cafes for instance) and other countries (such as Ireland, Italy or Sweden that have already banned cigarettes⁹) have not vanished. France also has a higher proportion of smokers, almost 12% more overall, than the European average.

The market could adapt to these differences with little difficulty, certainly better than regulations that run roughshod over the preferences of part of the French public. In a *Ifop-Le journal du dimanche* poll, for instance, more than 4 French respondents out of 10 said they are against the idea of a public ban in cafes, bars and discotheques¹⁰.

Figure 2 : Proportion of smokers, aged 15 or more, 1999 (in %)



Source : Eurostat, "La santé dans l'UE au microscope", 8 March 2004, available at http://epp.eurostat.cec.eu.int/cache/ITY_PUBLIC/3-08032004-AP/FR/3-08032004-AP-FR.HTML.

⁶ Pierre-Yves Crémieux et al., *Projet de loi sur le tabac proposé par le ministre de la Santé et des Services sociaux du Québec*, Etude d'impact, Montréal, July 1997.

⁷ For a list of places for non-smokers (bars, restaurants, clubs, theaters, etc.) in different countries, see for instance <http://smokefree-world.com/index-fr.html>.

⁸ Michael K. Evans, *The Economic Impact of Smoking Bans in Ottawa, London, Kingston and Kitchener, Ontario*, Evans, Carroll & Associates, February 2005, pp. 13-14, available at <http://www.faac.ca/content/mediaroom/Evans%20Report.pdf>.

⁹ With relatively fewer smokers, Italy and Sweden leave people free to smoke in restaurants - in rooms dedicated to this activity however. See the note from the Service des Etudes juridiques du Sénat français, entitled "L'interdiction de fumer dans les restaurants", Etude de législation comparée n°142, January 2005, available at http://www.senat.fr/lc/lc142/lc142_mono.html.

¹⁰ Public opinion poll *Ifop-Le Journal du dimanche*, "Les Français et l'interdiction de fumer dans les lieux publics", 9 October 2005, available at <http://www.ifop.com/europe/sondages/opinionf/fumer.asp>.

Smoking in the workplace

The same arguments apply to workers (owners or wage-earners) at establishments that choose to accept smokers. We can take the example of a person who opens a restaurant for smoking customers or customers willing to accept second-hand smoke. The owner ensures that all job applicants are warned and aware they will be working in an environment with smoke and that they are willing to accept this risk (in addition to the other risks related to their trade). If this risk is real, significant and recognized as such, it will lead to a wage premium for those working in restaurants for smokers, with this premium compensating them for the risk they are incurring.

The existence of risk premiums in job remuneration is a well documented phenomenon in economics¹¹. For example, it has been estimated that, between 1992 and 1997, male workers in the United States obtained US\$60 more per year for each increase of 1:100,000 in the risk of death at work during the year¹².

There exists no economic principle justifying a prohibition on adult workers making this type of choice. Moreover, some workers who smoke would be likely to prefer a work environment where they can smoke, and they would naturally gravitate toward restaurants (or other businesses) for smokers. Workers who do not like tobacco smoke would obviously be free to work in smoke-free establishments.

It is true that non-smokers would continue to work in smoking workplaces, not because they would be forced to do so but because they would estimate that the advantages of their position in worth the eventual risk of second-hand smoke.

Conclusion

From an economic standpoint, all preferences are respectable. Even an anti-tobacco economist such as Kenneth Warner admits that "tobacco consumption produces utility for some members of society, and that this utility warrants recognition (and perhaps some respect) in planning optimal tobacco control policy"¹³.

We should note that, in this perspective, it is not a matter of promoting the right to smoke anywhere, or to be "exposed against one's will to the smoke of others" as a recent anti-tobacco document suggests¹⁴. The economic approach simply suggests that it is not up to the government to impose on some individuals the life choices that other individuals may prefer while attacking market institutions (property rights and contractual freedom) that are more likely than regulation to reconcile individual preferences.

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¹¹ In the most recent literature, see W. Kip Viscusi. "The Value of Life: Estimates with Risks by Occupation and Industry", *Economic Inquiry*, vol. 42, no 1 (January 2004), pp. 29-48; and W. Kip Viscusi and J. E. Aldy, "The Value of a Statistical Life: A Critical Review of Market Estimates Throughout the World", *Journal of Risk and Uncertainty*, vol. 27, no 1 (August 2003), pp. 5-76. This latter article examines a large number of econometric studies related to risk premiums. See also J.R. Lott and R. L. Manning, "Have Changing Liability Rules Compensated Workers Twice for Occupational Hazards? Earning Premiums and Cancer Risks", *Journal of Legal Studies*, vol. 29 (2000), pp. 99-128.

¹² W. Kip Viscusi, "The Value of Life: Estimates with Risks by Occupation and Industry", *op. cit.*, pp. 40 and after.

¹³ Kenneth Warner, "The Economics of Tobacco and Health: An Overview", in Iraj Abedian et al. (directed by), *The Economics of Tobacco Control: Towards an Optimal Policy Mix*, Cape Town, University of Cape Town, 1998, p. 71.

¹⁴ Report from *Alliance contre le tabac*, "Fumée du tabac : vers une protection de tous en France", 10 May 2005, available at http://dnf.asso.fr/doc_nouvelle_169.html.

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