

# The tobacco ban in Spain: how it happened, a vision from inside the government

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In January 2011 new legislation on tobacco control, a smoke-free policy, was enacted in Spain that amended the former law in force since January 2006. The new regulation removed all exceptions for hospitality venues, which had been used to continue to allow smoking in most bars and restaurants. The new law also added some restrictions on smoking in open places. The former law was a step forward in smoking prevention and implemented many of the measures for tobacco control covered by WHO Framework Convention on Tobacco Control (restrictions on tobacco sales, comprehensive advertising bans, smoking bans at workplaces, etc).<sup>1-3</sup> It had however created the so-called 'Spanish model',<sup>4</sup> which had similarities with the Philip Morris 'accommodation' programmes, and was used by the tobacco industry to challenge smoking bans in other countries. As described by Schneider *et al*,<sup>4</sup> in the 1990s Philip Morris PM introduced an international accommodation campaign as a tool to create goodwill among legislators and to prevent smoking bans. The strategy sought to promote the implementation of worldwide programmes that preserved the social acceptability of smoking. As a pivotal argument, tobacco companies launched the idea that the Spanish model respected 'freedom of choice' and contributed, in their opinion, to a more democratic and tolerant society.

Lobbying by the tobacco industry and their allies continues to threaten implementation of effective measures to prevent smoking in many geographical areas.<sup>5-7</sup> While much is known about lobbying and the responses from medicine and public health,<sup>8,9</sup> the process of crafting laws against smoking inside governments has seldom been described.<sup>10</sup> As the former Director of Public Health

of the Government of Spain, I was responsible for promoting and drafting the new legislation. However, while in office, I had a limited perspective on the process inside the government that ended in the decision to introduce the law; now with the benefits of hindsight and the insights offered by former colleagues, I have gained a better vision, which I think could prove useful for health professionals and authorities in other countries.

To clarify the process inside the government and to seek recommendations, I recently (June 2012) interviewed the former President of the Spanish Government, Mr José Luis Rodríguez Zapatero, and the former Minister of Health, Ms Trinidad Jiménez, specifically in order to write the present commentary. Both agreed and gave their consent for their names and opinions to be disclosed in this paper. Back in April 2009, after having been the General Director for 11 months, I first met the newly appointed Health Minister; we soon talked of the relevance and possibilities of a new and more effective tobacco law. In our recent interview, she remembered that the two main reasons why she opted for a total smoke-free legislation were: (1) the evidence on the health effects of secondhand smoke and (2) the lack of freedom of hospitality workers to choose whether or not to work in smoke-free environments. She thus presented her case to the President, and in July 2009 Mr Zapatero agreed to begin the process to change the existing law. At that time—the President recently told me—he agreed to the changes proposed by Ms Jiménez and myself essentially because he thought the law could contribute to population health gains and, therefore, to the sustainability of the National Health System. Moreover, he understood that comprehensive laws were a sign of progress and had already been adopted by some of the most advanced countries in the world. But when the President sought to convince his ministers at three cabinet meetings, the task proved tougher than expected:

several ministers were reluctant about most changes to the law, mainly on the grounds that the new law could appear as a threat to freedom and put Spain in a position to be labelled as a prohibitionist country (an argument which mirrored the first sponsoring objective of the tobacco industry). Some sectors of the ruling Socialist Party were also reluctant to support the law for the reasons given and for electoral concerns. At our recent meeting, the President told me he did not come under pressure from the lobby. He eventually decided to use his authority to approve in cabinet the proposal to send the new legislation to the Parliament.

Today, Mr Zapatero's broad recommendations for governments are: distinguish priorities on what is feasible and beneficial for the population; establish a long term vision on policy effects; sustain confidence in progress; consider the overall effects of a policy; and rely on evaluation and scientific evidence. The President was not happy with the role of the media, which gave a loud voice to opinions against the law; he felt that the support of the health sector was decisive. Three years ago he gave the Minister of Health a clear instruction: seek maximum consensus in Parliament. Minister Jiménez thus applied the following strategy. First of all she talked personally to many members of Congress, of all political groups, particularly those holding influential positions in their parties and who were more in favour of the new law. Second, she promoted a process by which the Ministry of Health's bill was presented to Parliament by parliamentary groups. Third, she put the focus on the scientific bases of the policy, and sought to make it as much as possible a non-partisan issue. Fourth, she requested the media to include in their opinion polls questions regarding the law, as she was already aware that the new proposals enjoyed wide support. Some of the relevant newspapers did so and the polls were in fact favourable to the new regulation. Fifth, she gave voice to the scientific health societies by inviting them to share media conferences which were exceptional opportunities to personalise the issue. For example, a group of women oncologists from the Spanish Society of Oncology described to the media the now frequent cases of mothers in their 40s dying of lung cancer. Finally, she reached agreements with hospitality business leaders on the timing for enactment and implementation. She received direct pressure from the hospitality sector and the tobacco industry. The Minister's

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strategies promoted an open debate lasting 1 year. Over this time, the foundations of the new legislation were set and, finally, Parliament passed the new act with the consensus of all political groups.

The new law was enacted in January 2011 and Spain is now a reference for countries that had adopted the old 'Spanish model' with a partial ban. Spanish policy makers have shown how a partial ban can be upgraded to a total ban in order to protect the health of citizens, in spite of pressure from the tobacco industry and its allies. I should highlight the fact that the 'window of opportunity' for total smoke-free policy adoption was opened thanks to the grass-roots work of many public health civil servants. Together with members of the health community, they organised themselves around a National Committee for Tobacco Prevention which gathered many scientific societies and influenced many society sectors. A crucial issue was their influence on trade unions that had opposed the 2006 law but now moved over to the side of prevention. Perseverance

should remain at the heart of public health work and victories such as the recent one in Australia where the highest court has endorsed cigarette plain-packaging laws should encourage us to persevere in our commitment to the population's health.

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