

RESPONSE BY THE ATTORNEY-GENERAL TO THE REPORT BY THE
PARLIAMENTARY JOINT COMMITTEE ON THE NATIONAL CRIME AUTHORITY
ENTITLED "DRUGS, CRIME AND SOCIETY", TABLED ON 6 JUNE 1989

In tabling the response, I should state that the delay in responding to the report has been occasioned by the pressure of other Government business and the recent federal election. This is not to say that the Government is not concerned about the problem of illegal drug use in our society. On the contrary, the Government's commitment to combating this important social and public health problem is well demonstrated by the National Campaign Against Drug Abuse, initiated in 1985 by the Prime Minister and to which all Governments in the country are firmly committed.

The Government notes that the Committee's terms of reference were:

- (a) the scope and nature of the trade in illegal drugs in Australia;
- (b) the efficacy of present law enforcement strategies in suppressing the trade in illegal drugs in Australia;
- (c) the social cost of the present policy of prohibition of the production, possession, use, supply, importation and exportation of illegal drugs; and
- (d) whether the present policy of prohibition is the most effective means to deal with the problem of drug abuse in our society.

The Committee's recommendations fall into three groups:

- (a) the principal recommendation, that governments (State and Federal) and the community should give earnest consideration to the options by which more controls on the sale and marketing of the presently illegal drugs might be imposed. These options include:
 - (i) harsher penalties for drug traffickers;
 - (ii) decriminalisation (particularly of cannabis) - including de facto decriminalisation (selective non-enforcement - Netherlands model), decriminalisation through an on the spot fine system, and partial legalisation for personal use;
 - (iii) prescription of "hard" drugs after the UK model;
 - (iv) licensing of users to allow monitoring of use and prevention of under age use; and
 - (v) regulation under strict government controls with a ban on commercial sale and advertising;
- (b) recommendations for more:
 - (i) data (on the use, availability, price and purity of illegal drugs);
 - (ii) research (to develop better strategies against drug trafficking as opposed to drug possession); and
 - (iii) evaluation (of the efficiency of different law enforcement techniques); and
- (c) those recommending a ban on advertising of tobacco products and alcoholic beverages.

The Committee's rationale for its principal recommendation essentially is that "prohibition" - the use of the criminal law to prohibit the non-medical (ie. recreational) use of drugs of dependence - has not worked and, in any case, the costs are considerable. The Committee held that, contrary to popular belief, the majority of users of drugs of dependence do not become addicted to them, and addicts generally give up their drug use sooner or later. Consequently, it concluded that changes are required to current prohibition laws but there is no present consensus as to what those changes should be.

It is important to stress that the Committee has stopped short of recommending any changes to current drug laws. The Committee itself said that its report:

"... is going to prove a disappointment to anyone who expected the Committee to recommend sweeping changes to the present law ... there is no consensus ... on whether prohibition should be replaced and, if so, on what policy should replace it. Nor is the community ready for any sudden change to the law. The present policy has costs, but so do the alternatives."

It is also important to note that drug policy in Australia is a matter which involves, indeed necessitates, the close cooperation of all Governments in this country. The Committee has, in fact, recognised this in its recommendation that the Federal and State Governments give earnest consideration to options for imposing more controls on the sale and marketing of the presently illegal drugs.

Responsibility for laws regulating the distribution and use of drugs is shared between the Commonwealth, the States and the Territories. But drug abuse and drug trafficking are problems which cross State and indeed national boundaries. That is why the Prime Minister in 1985 called for a truly national effort to combat drug abuse. The call was accepted by all State and Territory Governments and in a unique spirit of cooperation

the National Campaign Against Drug Abuse was created.

Internationally, Australia is a party to the Single Convention on Narcotic Drugs 1961 and the Convention on Psychotropic Substances 1971 whose aims are to limit the use of narcotic and psychotropic drugs to medical and scientific purposes. A third Convention, which Australia has signed but is yet to ratify, provides for improved measures by which parties may act in cooperation with each other to deal with illegal drug trafficking.

All governments recognise that drug abuse is one of the major social and public health problems confronting not only Australia but also the international community. Australia's national campaign aims to minimise the harm to society from drug abuse. Governments are under no illusion that the use of drugs in society can be entirely eliminated. The more modest goal of harm minimisation then, is a hard-headed, realistic one.

Along with the genesis of the national campaign came the recognition that laws to prohibit drug use and the enforcement of those laws could not be sufficient to solve the problem. The realisation that a major effort would be required to reduce the demand for drugs (primarily through preventive education projects as well as treatment and rehabilitation) became a cornerstone of Australia's national campaign.

In this regard, I consider that we Australians can be proud of the contributions we have made at recent international conferences held under the auspices of the United Nations. These contributions, along with the efforts of like-minded nations, have led to the acceptance internationally that supply control measures must be supplemented by demand reduction efforts if the international drug problem is to be effectively tackled.

So, nobody is saying anymore that prohibitory drug laws alone will solve the problem. On the other hand, no other nation in the world is suggesting that prohibition should be abandoned; and the Committee's caution quite rightly reflects not only community opinion in this country but also the considered views of the international community.

As mentioned earlier, responsibility for drug policy in Australia is shared between Federal, State and Territory Governments and the need for intergovernmental cooperation is reflected in the National Campaign Against Drug Abuse. The National Campaign is oversighted by a Ministerial Council on Drug Strategy. The Ministerial Council comprises the Health and Law Enforcement Ministers from all governments and reports annually to the Premiers' Conference.

In the light of this shared responsibility and given the Council's role in coordinating the National Drugs Campaign, the Government has decided that the Committee's principal recommendation should be scrutinised by the Ministerial Council in the first instance. Accordingly, the Minister for Aged, Family and Health Services who has responsibility for the National Campaign Against Drug Abuse, will arrange for the matter to be examined by the Ministerial Council. In particular, the Council will:

- . critically analyse the Committee's findings and conclusions and the facts and assumptions on which these findings and conclusions are based;
- . in the light of these considerations, report on these matters to the Premiers' Conference, and include recommendations for any changes to current drug policies which the Ministerial Council considers will better contribute to the aim of minimising the harm caused by drug abuse to the Australian community.

That report will then be considered by the Government.

I note at this point that MCDS is already developing a critical analysis of the philosophies underlying the drug policies adopted by different countries, including Australia, the USA, the UK and The Netherlands. This analysis will compare and contrast the strengths and weaknesses of the drug policies in overseas countries (including the Bush Strategy) with the NCADA, and with the approaches suggested in "Drugs, Crime and Society".

I should make it clear that the Government, in referring these matters to the Ministerial Council, and in recognising the seriousness of the current drugs debate, in no way necessarily accepts the Committee's conclusion that Australia has a drug policy of prohibition that has failed. Nor does the Government necessarily accept the need for any changes to current drug laws. It is the case, simply put, that the Government does not wish to pre-empt the outcome of the proposed Ministerial Council consideration of this matter.

The Government takes this opportunity to reaffirm its ongoing commitment to the policy underlying the National Campaign Against Drug Abuse, which is that Australia requires a balanced mix of strategies which will both reduce the demand for drugs - primarily by preventing drug use before it starts - as well as reduce their supply.

In relation to the Committee's recommendations concerning data, research and evaluation, the Government notes that these involve issues already under examination by the Ministerial Council. The Government has decided that these recommendations should also be referred to the Ministerial Council. Reference of these matters to MCDS will provide a national perspective on drug indicators and the effectiveness of current law enforcement strategies. For our part my Department is already sponsoring a major study of illicit drug trafficking, with emphasis on the Commonwealth's perspective, part of whose function will be to examine the effectiveness of

different strategies and provide a broad strategic view of the drug trafficking problem.

I turn now to the PJC recommendation that the Commonwealth prohibit tobacco advertising to the full extent that it has the power to do so. The Government's position on this matter is that there is no safe level of tobacco consumption. Cigarette smoking kills an estimated 18 000 Australians every year. The Commonwealth prohibited tobacco advertising in the electronic media as long ago as 1976.

Since the PJC report was tabled the Commonwealth Parliament has passed legislation to prohibit tobacco advertising in all print media. This ban will come into effect on 28 December 1990.

Tobacco advertising on billboards, hoardings and in cinemas is a matter for State and Territories and some governments have acted in this area.

The remaining area of Commonwealth responsibility regarding tobacco advertising involves the exemption which allows the broadcast or publication of material that might be regarded as advertising tobacco products provided that the material is an accidental or incidental accompaniment of the broadcast or publication of other material.

This exemption has allowed the broadcast of such events as the Benson and Hedges World Series Cricket and Winfield Cup Rugby League; it is intimately connected with the issue of tobacco sponsorship of sport and the arts. Any proposal to remove this exemption would need to evaluate the likely impact on such sponsorships and seek to identify possible alternative sources of funding for these activities. The Government intends to examine this matter and a further statement will be made at a later time.

Finally, I deal with the recommendation that the Commonwealth ban the advertising of alcoholic beverages.

First, I note that the Committee was not unanimous on this issue; the Opposition members on the Committee considered that there is a need for continued monitoring of alcohol advertising.

On the other hand, I am aware of calls from some individuals and organisations for a ban on such advertising.

The National Health Policy on alcohol, which as part of the NCADA enjoys the support of all governments:

- . recognises that, unlike cigarette smoking, responsible alcohol consumption is not necessarily injurious to health;
- . accepts for the present that alcohol advertising is regulated by a voluntary code under the supervision of the Media Council of Australia;
- . but calls for the implementation of the voluntary code to be carefully monitored. The Policy also notes that while it is preferable that a voluntary code be maintained, should this prove unsatisfactory, consideration may need to be given to some mandatory form of regulatory control.

The MCDS at its June 1990 meeting, agreed on a package of measures which include a survey of community perceptions of the operation of the voluntary code and an examination of the possible links between advertising and harmful consumption. This will lead to the development of options for any necessary further action.

It would therefore not be appropriate at this stage for the Commonwealth to consider implementing the PJC recommendation. The Government has decided that this recommendation should also be referred to MCDS for consideration in conjunction with the other actions already in place.