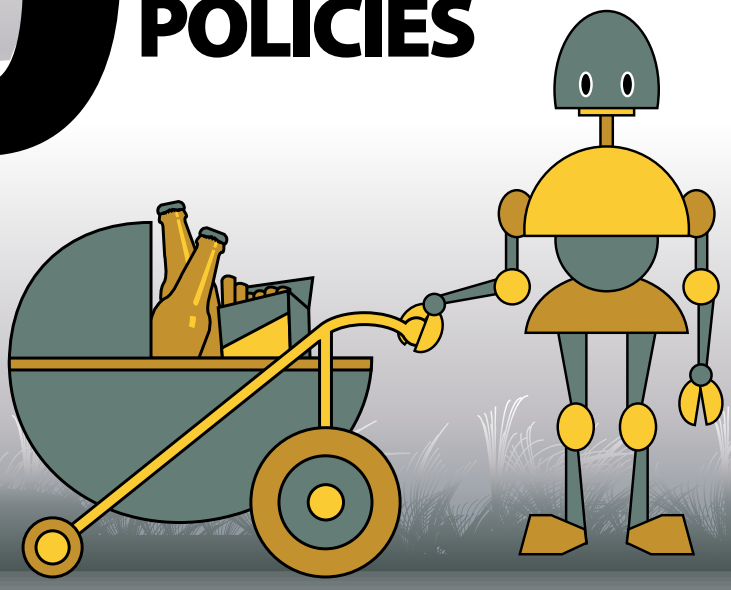
10 WORST NANNY STATE POLICIES

Chris Berg tallies up Australia's most paternalistic ideas.



10: Plain packet cigarettes

The argument for plain cigarette packaging is one of the most stark examples of how Nanny State regulations treat individuals as childish automatons. Plain packaging involves the complete removal of any brand logos, special colours or fonts, pictures or any other unique packaging design, to be replaced by only the brand name in a mandatory font, complemented by health warnings.

But would it work? Supporters of plain packaging cite studies which suggest that consumers would find plain packaging boring and dull, and marginally reduce the positive connotations of smoking. This certainly makes sense. But cigarette packages are already plastered with images of rotten lungs and cancer-ridden body parts. How removing brand logos could significantly make these already extraordinarily distasteful packages less appealing is hard to imagine.

Mandatory plain packaging seems to be predicated on the belief that attractive packaging is enough to convince non-smokers to become smokers, or that for smokers trying to quit, a good-looking logo is just too much to bear. Undermining brand identity would no doubt change the attitude that smokers have towards cigarette brands—the public health research has convincingly demonstrated that—but, as to how this would effect the desirability of smoking itself, the evidence just isn't there.

The National Preventative Health Taskforce's discussion paper on tobacco was titled 'Making Smoking History'. This is surely a new stage in the public health movement's war against smoking—an open affirmation that the goal of the government should not be to reduce risk, or to inform consumers of risks they should be aware of, but to eliminate an otherwise totally legal product.

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9: 'Clarity in Pricing'

Believing that consumers are being duped into paying too much for goods and services because the market doesn't provide them enough information, the Rudd government altered the *Trade Practices Act* in 2008 to compel retailers to display the total price of goods. That is, the law forces firms to add up those pesky 'fees and charges' and show a single, total price of products.

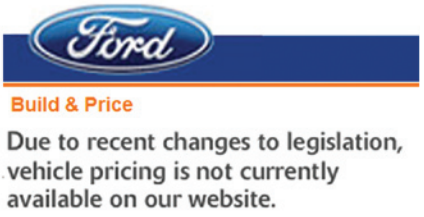
In the words of Consumer Affairs Minister Chris Bowen, the amendment was intended to 'empower consumers to make the best decisions about what they buy.'

But this was easier imagined than implemented. In fact, in the case of car companies, it was nearly impossible to implement. The fees and charges added on the price of a new car include things like stamp duty, registration, luxury car taxes, and dealer delivery fees, all of which can vary depended on jurisdiction, dealer or purchaser.

As a consequence, many major car companies—Ford and Holden, for example—have concluded that they can-

not display any prices on their national websites at all.

Increasing the amount of information consumers can access seems like a no-brainer for many economists and policy-makers seeking to improve the market. But it is policies with these sorts of justifications that have led to financial product disclaimers which are so long and complex that almost no consumers read them—again, the totally counter-productive result of mandatory information disclosure is that consumers are less informed, rather than more informed.



8: The internet filter

Few Nanny State initiatives have had such bipartisan opposition as internet filtering. Both the Coalition and the Greens Party oppose the Federal Government's scheme, and the Institute of Public Affairs is joined by organisations such as Electronic Frontiers Australia and Get Up! in arguing that the filter will be costly, ineffective, and a breach of basic principles of free speech.

The primary justification for the internet filter, like so many Nanny State measures, is the protection of children—protecting children from 'inappropriate' internet content, like legal pornography or violent websites, as well as the policing of child pornography. But these are two totally separate issues, demanding two separate approaches. Protecting children against inappropriate content is the sort of task parents can easily perform—apart from basic supervision of what children look at online, there is an extremely wide variety of filtering software that can be installed on computers which children may access. Child pornography is however an issue for police. Because child pornography is not generally trafficked on openly accessible websites, a filter will do nothing to disrupt child pornography networks.

Nevertheless, the government has deliberately fudged the distinction between the two issues. Indeed, Communications Minister Stephen Conroy argues that 'if people equate freedom of speech with watching child pornography, then the Rudd Labor Government is going to disagree.'

The dangers of the internet have long been an electorally potent issue—the 2007 election saw the Coalition rest a lot of their electoral hopes on a campaign for internet safety. But while many parents may be concerned about what their children come across online, the capacity for those parents to monitor and control internet access has never been greater.

7: Banning junk food ads

There are literally dozens of proposals to deal with Australia's love of junk food. The National Preventative Health Taskforce has recommended everything from subsidies for gym memberships to subsidising fresh fruit. But the most prominent proposal—and one which has had the longest running support from the public health community—is a ban on junk food ads targeting children, or a ban on junk food ads broadcast during childrens' programming.

Would this materially shrink our children? The lead editorial of a 2004 edition of the *Journal of the Royal Society of Medicine* argued 'there is no good evidence that advertising has a substantial influence on children's food consumption and, consequently, no reason to believe that a complete ban on advertising would have any useful impact on childhood obesity rates.' It continued: 'the claim that food advertising is a major contributor to children's food choices and the rising tide of childhood obesity has obvious appeal, but as an argument it does not stand up to scrutiny.'

But inevitably, public health criticisms of junk food ads eventually reduce to vague claims about 'pester-power', which perhaps says more about parenting than it does about advertising.

GroceryChoice was a dismal failure.

Basket	Coles / BI-LO	Woolworths / Safeway	Franklins	Independents	ALDI
Meat & Seafood Basket	$25.21	$27.30	$28.07	$30.89	n/a
Fruit & Vegetable Basket	$24.56	$22.77	$25.55	$27.08	n/a
Dairy Basket	$16.67	$16.07	$16.75	$18.33	n/a
Bread & Cereals Basket	$20.91	$21.40	$23.17	$23.09	n/a
Drinks & Snacks Basket	$20.38	$20.82	$21.30	$24.41	n/a

6: GroceryChoice

When the plug was finally pulled on GroceryChoice in June, it was the end of one of the biggest Nanny State failures in recent years. GroceryChoice purported to better inform shoppers about the relative price of their supermarket shops.

That was, at least, the theory. In practice, the website was grossly deficient. Totally unable to effectively monitor the price of individual goods, or even individual outlets, the GroceyChoice instead offered up 'typical' baskets of goods in a region.

Furthermore, it was never clear that there was a demand for the service. GroceryChoice revealed a supermarket industry that was actually highly competitive. And the information the website was able to provide was totally dwarfed by the information supermarkets provided as part of their advertising campaigns, and their individual websites.

While the concerns that led to the GroceryChoice project involved the apparent 'duopoly' of Coles and Woolworths over the supermarket industry, the results of GroceryChoice actually further encouraged shoppers to favour the big two. In any given region, either Coles or Woolworths may be cheapest option, but the nationally consistent result of GroceryChoice was that independent supermarkets such as Franklins or IGA were always significantly more expensive.

GroceryChoice may have been well-intentioned—who doesn't want a market with better-informed customers?—but like so many Nanny State proposals, completely fell apart in its implementation.

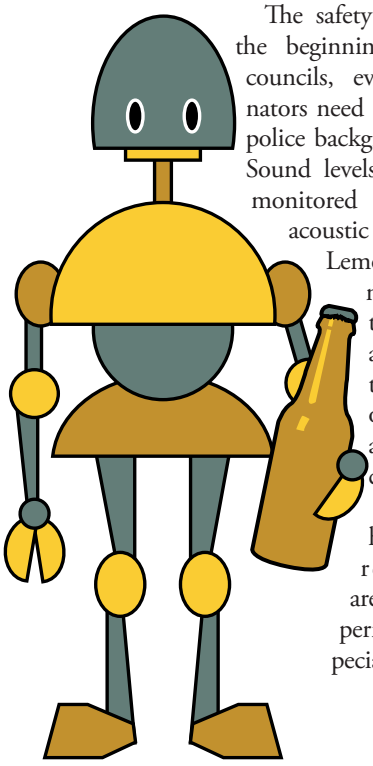
5: Street parties

Nanny State regulations don't just have negative economic consequences or erode personal liberty. The stock of regulations from federal, state and local governments that affect all aspects of public gatherings are critically eroding our capacity to form communities.

Take local street parties. Local government regulations are making it near impossible to hold a community gathering, and making it certainly impossible to hold an impromptu one. As the *IPA Review* pointed out last year, navigating the complex bureaucratic hurdles to hold a party takes a lot of work. Party organisers have to fill out safety plans—a typical one, from Stonnington Council in Victoria, is 25 pages long.

The safety plan makes event co-ordinators safety wardens, responsible for abiding by the safety plan and controlling the safety organisation, which comprises the safety warden and any additional wardens.

As a safety warden in Stonnington, you will have to complete a complicated seven-step risk-assessment process in accordance with joint Australian/New Zealand risk management standards. Fortunately, you will have five response guides to follow, ranging from vehicle accidents to electrical failures, and several prewritten emergency announcements to memorise.



The safety plan is just the beginning. In some councils, event co-ordinators need to undergo a police background check. Sound levels need to be monitored by qualified acoustic engineers. Lemonade stands need regulatory approval, as well as the payment of appropriate fees to the council.

Food handling regulations are particularly pernicious, especially for rural communities, which rely on volunteers to support the also-voluntary Country Fire Authority. The IPA's Louise Staley found this out for herself when she tried to help the Red Cross feed firefighters during the 2006 bushfires. She wrote in *The Age*:

> When I was helping the local Red Cross make lunches for the firefighters, it all had to be done in a registered kitchen and a person who had done the food-handling supervisor's course had to be there at all times. What that means in practice is nobody is allowed to make a slice or biscuits at home.

Governments are increasingly talking about the importance of social capital to alleviate the causes of poverty and isolation and strengthen civil society. Unfortunately, it is too often government regulations that act to undermine social capital—making it increasingly hard to connect with neighbours and build communities.

4: Kogarah's fat planning

State and federal governments are not the only levels of government imposing the Nanny State. Local governments are using what little powers they have over urban planning to impose a disparate array of regulations. The most absurd example of local government Nanny Statism is the manner by which a number of councils in NSW are trying to manipulate individual food choice.

Three councils, Waverley, Gosford and Kogorah, are using their control over planning applications and development controls to introduce a ban on trans fats—fats artificially made by introducing hydrogen to vegetable oils. Trans fats are used in some foods to lengthen shelf life, enhance consistency and add flavour. The three councils have placed conditions on new commercial developments that they avoid using these sorts of fats.

Food regulation is hardly core business for councils, who are usually limited to hard rubbish collection and approving property developments. The trans fats ban is only the most extreme version of an tendancy for local governments to expand their purview into social issues. Local governments seem eager to become regional Nanny State fiefdoms.

Many councils have also weighed heavily into the debate over alcohol and public health, trying to use their surprisingly adaptable planning powers to enact social change. This, of course, has been encouraged by the historically ambitious nature of the urban planning community to cast their role as less about nominating places to put shopping centres, and more about manipulating society. When the bizarrely political urban planning activists and the strange collection of political trainees and community do-gooders that comprise local councils get together, the result is Australia's lowest level of the Nanny State.

3: Moreland's gaming rates

More than any other Nanny State issue, the attack on gambling exposes the long history of class antagonism that supports much paternalistic policy. As Richard Allsop writes in this issue of the *IPA Review*, the forms of gambling that attract the most adverse attention from the Nanny State's great and good are those which appeal to lower socio-economic groups—the pokies and the races.

Pokies in particular have been targeted by every level of government with discriminator taxes and regulations—from the vitriol of South Australian Independent Senator Nick Xenaphon who told a gambling industry conference that he looks forward to a future were 'common sense prevails and you are shut down for good', to the discriminatory rate rises which many local governments are trying to place on gaming venues. Victoria's Moreland Council is trying to double the rates of local pokies clubs, while leaving all other businesses in the area alone.

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And Xenaphon has expressed hope that the government's proposed internet filter would target online gambling as well.

This is a lot of hate for a leisure activity which only creates a problem for 2 per cent of those who participate. And there are an extraordinary number of well-endowed and accessible resources to support those who have problems with their gambling. In Victoria alone, the Community Support Fund—which draws its revenue from a portion of the state tax on gaming machines alone—has an annual fund of more than $110 million. Every state has a wide variety of 24-hour hotlines, counselling services and support networks. But for those 98 per cent of individuals who have no problem with their gaming continue to be targeted by anti-gaming politicians and lobbyists who cannot bring themselves to admit that gaming can be enjoyable—and manageable—just like any other leisure activity.

See? Gambling *can* be fun.

2: Drinking in Sydney

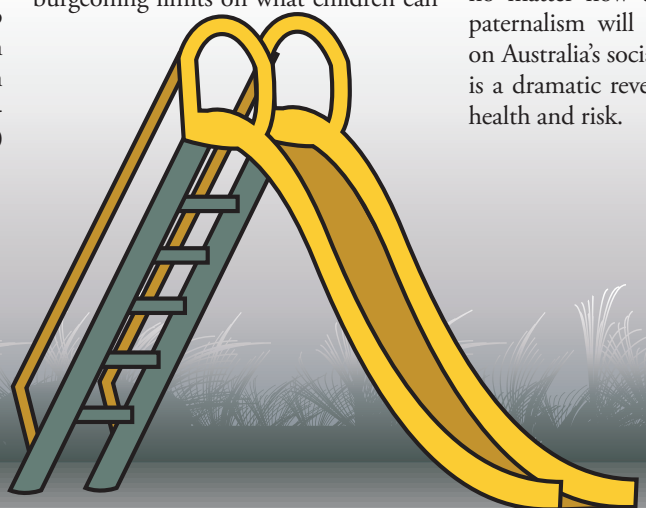
Policymakers often have contradictory goals. Nowhere is this clearer than the regulatory back-and-forth surrounding Sydney's liquor licences. In 2007, the NSW government announced changes to the existing licensing laws that favoured large licenced venues over smaller ones. This was explicitly an attempt to develop a 'small bar' and laneway culture which many Sydneysiders felt the city lacked in comparison to Melbourne. These changes lowered the price of licences to $500 for small venues, and allowed restaurants to serve alcohol without meals.

But the intention to develop the small bar culture was dramatically curtailed by a competing Nanny State philosophy—to reduce the amount of liquor consumed and alcohol related violence. In common with many other cities, Sydney has seen an array of early morning liquor lockouts (policies which restrict the entry of patrons into a licenced venue after a certain hour) and freezes on licence applications. These anti-alcohol policies are stopping the much-heralded 2007 changes from having any significant effect on Sydney's drinking culture.

But these aren't the only regulations holding back Sydney's prospective laneway culture. One new bar in Darlinghurst was shut down after just two weeks because the local council decided it shouldn't open onto a laneway at all, serving the owners with a $3000 fine and an instruction to open onto a main road.

1: Stay out of the playground

Many 'public health' problems which lead to Nanny State policies could actually be mitigated, at least in part, by the elimination of other Nanny State policies. One clear illustration of this is the burgeoning limits on what children can do at schools during their lunchbreak. As Christopher Murn pointed out in the November 2008 *IPA Review*, risk-averse education department bureaucrats are slowly but surely banning all the forms of physical exercise that previous generations enjoyed during their lunchbreaks. In NSW and Victoria, swings, see-saws, flying foxes and roundabouts have been banned. Monkey bars have been removed from many schools—when they were removed from a Townsville school recently, it made national headlines. Various schools across the country have banned competitive sport, games that are 'too rough' and cartwheels.

Those activities that haven't been banned are being regulated out of existence. The NSW Department of Education and Training's 'Guidelines for Safe Conduct of Sport and Physical Activity in Schools' reaches 284 pages, and describes elaborate restrictions for all physical activity. Finishing tape is banned from running races. Curve balls are banned in baseball until the children reach Year 9.

Like so many other Nanny State restrictions, the cost of these sort of restrictions is impossible to quantify. But the social costs are significant—what will happen to a generation of children who cannot compete in sport, or who have been taught to be so risk-averse to totally eliminate any possiblity of injury, no matter how unlikely? Nanny State paternalism will have profound effects on Australia's social makeup unless there is a dramatic reversal in our attitude to health and risk. R