

Attachment to consultation
submission 69

Submission 69 - Aotearoa Vapers Community Advocacy
attachments



Policy Options for the Regulation of Electronic Cigarettes Consultation submission

Addendum and Appendix

This Addendum includes appendices to the items referenced on our official submission form, an outline that addresses the specific concerns and objectives in the policy document from the Ministry of Health and the literature references that are noted within.

Addendum to Submission on “Consultation of Policy Options for the Regulation of Electronic Cigarettes”

DECLARATION: Aotearoa Vapers Community Advocacy aka AVCA has NO financial interest or vested commercial interest in the tobacco industry nor in the electronic cigarette manufacturing/import/distribution industry. We are solely a grassroots community organisation that is an umbrella charitable trust board to represent the interests and concerns of users of electronic cigarettes and personal vaporisers that utilise legally produced and imported e-liquid.

INTRODUCTION: AVCA are solely a grassroots community organisation that is an umbrella organisation to represent the interests and concerns of users of electronic cigarettes and personal vaporisers that utilise legally produced and imported e-liquid. Our mission statement is: Educate, Advocate, Inform, Community.

OBJECTIVE: This Addendum to our submission under the above noted consultation is written to specifically address the issues, objectives and concerns held by the Ministry of Health regarding electronic cigarettes and nicotine e-liquid. Also, this addendum will clarify our viewpoint on the noted issues, objectives and concerns as were outlined in the original policy document that was presented for consultation by the Ministry of Health.

It is interesting to note that the concerns presented in the policy document around nicotine e-liquid & nicotine containing e-cigarettes (ENDS) are the same concerns that the Ministry holds around the Drug Utensils Policy.

As such, we believe it would be **best practice to address this issue with the five criteria** that were outlined in that document: **Harm Reduction, Harm Prevention, Proportionality, Cost of Implementation and Ease of Implementation.**

It is with this perspective, we will also address the following objectives and concerns that the Ministry has surrounding e-liquid and e-cigarettes (ENDS), as well as some of the options presented within the National SmokeFree Working Group Background document that was released on 25 August 2016. These comments will follow on from the original MoH document we are addressing and are relevant as this background document is also part of what MoH will be considering in its final decision.

Ministry of Health Policy Objectives and Concerns:

A. Policy Options for E-Cigarette Regulation

BACKGROUND:

The Ministry of Health specifically stated that “This consultation aims to clarify the legal position, proposed amendments mean that all e-cigarettes - with and without nicotine - would be available for sale and supply lawfully in New Zealand...but would be restricted to people 18 years of age and over, advertising of e cigarettes would be restricted and the use of e-cigarettes would be prohibited in areas defined as SmokeFree in SFEA.”

The policy document states the following as the objectives that the Ministry of Health hopes that the submission phase of the process towards legalising nicotine containing e-liquid will help to clarify:

- Reduction of harm from tobacco smoking
- Prevention of harm from e-cigarettes
- Product safety

The policy document also states the following as the areas of concern that the Ministry of Health has with regard to the legalisation of nicotine e-liquid and electronic cigarettes.

** Convention is that the *AVCA responses will be in bold italic* after each area of concern. E cigarettes that contain nicotine will be referred to in the foregoing as **ENDS**.

DISCUSSION:

Nicotine – carcinogenicity, toxicity and harms: *Nicotine is a widely used addictive substance, which has a psychoactive effect and can be lethal in large quantities. On the other hand, the long-term use of small quantities of nicotine in approved nicotine replacement therapy (NRT) products (such as gum, patches or lozenges) is considered to be safe.*

The reference utilised by MoH to the justify above statement comes from a journal article that was a review of previous scientific articles with an emphasis on, as is in the title “dubious self-experiments in the nineteenth century.” Accordingly, in the policy document, MoH references that “The medium lethal dose is estimated to range between 6.5 and 13 mg/kg.”⁽⁶⁾ Current science disproves these figures and results, as discussed below.

Nicotine is no more addictive than that of the caffeine contained in coffee and tea.⁽¹⁾ Although nicotine is the main psychoactive agent in tobacco, it has relatively minor health effects - It is not a carcinogen, does not cause respiratory disease and has only minor cardiovascular effects.⁽³⁾ Also, the nicotine used in ENDS, while it may contain small amounts of other chemicals including volatile organic compounds, carbonyls, aldehydes, tobacco-specific nitrosamines (TSNAs) and metal particles, research indicates that they are present at much lower levels than in cigarette smoke.⁽⁴⁾ In normal conditions of use, toxin levels in inhaled ENDS aerosol are below prescribed threshold limit values for occupational exposure, in which case significant long-term harm is unlikely.⁽⁵⁾

Lethal overdose of nicotine is rare as nicotine itself is an emetic and any ingestion of liquid nicotine diluent, such as that used for ENDS would result in vomiting. ^(7,8,9) This also coincides with the issues the ministry holds regarding "dual use" of ENDS with combustible tobacco, that it may cause harm does not take into account the concept of "reduced harm" There is no evidence of increased nicotine intake from dual use. Smokers regulate their smoking behaviour in order to maintain the blood concentrations of nicotine within a comfortable range. If those levels get too high, symptoms of nicotine toxicity – such as nausea, headache and dizziness can occur and smoking is then reduced. A recent study found that smokers using ENDS maintain their intake of nicotine, but reduce their smoke and toxin intake, which results in an overall health benefit, therefore reducing harm through reducing exposure to the toxicants in combustible tobacco ⁽¹⁰⁾. It is extremely difficult for someone to have a fatal overdose of nicotine through either ENDS use or through ingesting nicotine containing e-liquid due to nicotine's inherent emetic qualities.

Enforcement: The ministry states that they have been unable to carry out enforcement actions against retailers who are illegally selling/supplying nicotine containing e liquid because of the lack of clarity in the legislation.

When discussing enforcement within the context of currently having a law that is not easily enforced, it would be best to take the approach of harm reduction through proportionality, ease of implementation, cost effectiveness and harm prevention to create enforceable legislation.¹

Proportionality, ease of implementation and cost effectiveness: in this context leads to enforcing the currently in place consumer protection acts for all electrical/electronic equipment (including batteries) that are utilised for vaping; including the manufacture of e-liquids in New Zealand under the current food safety standards – (See AVCA Certification and Consumer Bill of Rights in Addendum) – thereby removing the need for additional legislation.

The legislation that would be required would be to remove the restriction on nicotine e-liquid for retail sale to registered businesses - who can apply for a licence to sell nicotine e-liquid (up to 48mg/4.8%) and said licence will give them the authority to be legally able to retail nicotine e liquid on the open market as a consumer product with an age restriction of 18+.

Promotion to young people: Overseas evidence that promotion of e-cigarettes targeting young people through flavours, packaging may appeal to young people. Local evidence that there is an increase in New Zealand youth trying e-cigarettes from studies in 2014 that **DID NOT NOTE** whether said use was with nicotine containing e-liquid or non-nicotine e-liquid.

The main issue with youth is harm reduction. One cannot, in an unequivocal manner state that they can prevent youth from uptake or experimentation with any harmful substance of behaviour with 100% guarantee. "Common Liability", as discussed by Bell and Keane, as it relates to the "gateway theory" defines this as the association between youth who are more risk takers and attracted to experimentation and more likely to try anything that seems to be "taboo" be it ENDS, alcohol, drugs, etc.⁴.

With regards to the uptake of "vaping" in previously non-smoking youth, the available evidence does not support the "gateway hypothesis" that ENDS encourages nicotine addiction or uptake by youth. In the UK, daily ENDS use in youth is almost

exclusively confined to those who already use combustible tobacco daily and regularly. Less than .2% of youth who have never smoked combustible tobacco have taken up vaping and there is no evidence of progression to smoking in this cohort.^{5,6}

*Keeping this in mind, as far as harm reduction and youth: nicotine dependence in youth develops rapidly and over 50% of those youth who smoke daily are already nicotine dependent. Young people who are already smoking can reduce their harm by switching to ENDS by 95%, as was shown in the Public Health UK Report.*¹¹

Product Safety and Controls: There are no health & safety or quality controls for e-cigarettes available on the local market or from Internet sales which may put users and children at risk. These are listed as: no restriction on nicotine levels, harmful ingredients, labelling, no health warnings, risk of accidental poisoning, child proof containers.

In summary, we request that e juice manufacturers conform to the following: USP/BP Pharma grade diluents (Glycerol and Propylene Glycol), pharma grade nicotine diluent, food grade flavouring agents – all of which must have SDS/MSDS for each ingredient kept on record at each manufacturers facility; food safety certification of both the mixer and the facility where the e liquid is manufactured; batch/lot number tracking for each e-liquid and labelling that outlines ingredients, warnings as well as childproof/tamper resistant bottles and caps.

Please review, in the appendices, the AVCA Consumer Bill of Rights and the AVCA Vendor Certification documents contained therein. Both of these were created in consultation with both the vaping community and the vendors who are associated with the Vape Trading Association of New Zealand, and also reviewed by local consultants with expert knowledge of the NZ legislative framework as it relates to consumer products, pharmacy and medsafe policies and standards.

Impact of vaping on others: The main issue they have here is "renormalisation of smoking" and that "vaping clouds may be a nuisance to others, especially in enclosed spaces"

With regards to the "normalisation" argument see above under Promotion to Young People.

*With regards to second hand exposure concerns, the ministry needs to look again at the Public Health UK report that they referenced in their policy document. Contained therein is a review that passive exposure to vapour have generally concluded that the risk to bystanders is very small and that Public Health England found that "ENDS release negligible levels of nicotine into ambient air with no health risks to bystanders."*⁷

As far as the argument that "vaping clouds could be a nuisance to others especially in enclosed spaces", unless the government also wishes to regulate the use of body sprays, perfumes, and deodorants which are also a nuisance – and can be a health hazard to those who have respiratory difficulties and disease (unlike second hand vapour which has NO health harms associated with it^{5,6} therefore this argument is not valid.

The need for future-proofing legislation: "There has been considerable innovation in the production of e-cigarettes since they first appeared on the market and this is expected to continue...New Zealand regulators need to consider developing and implementing regulatory controls that, as far as possible, are fit for purpose..."

If the ministry wants to approach nicotine containing e-liquid and ENDS as a tobacco product, that is not going to making any future submission towards having e-cigarettes certified as a smoking cessation product be feasible within the local manufacturing or market. It will create a bias towards any company with big enough coffers and influence to make any such submission. In this particular instance, the only industry capable of submitting an application due to costs and time constraints would be from a tobacco company and therefore create an imbalance in the open marketplace that is geared towards the tobacco companies and their affiliates.

Illicit drug use: *We have addressed this in our submission to the Ministry of Health through the Drug Utensils Policy consultation process. In summary, we have stated that the vaporisers that are utilised for illicit use are mainly those that utilise a system of vaporisation through utilising "dry herb or wax" vaporisation and NOT liquid diluent vaporisation. The argument that cannabis oil can be utilised in standard open tank vaporising systems is false, as the viscosity of said products would not "wick" through the material that is utilised in standard coil/wick setups – both premade and rebuildable, that are utilised for "vaping."*

Potential environmental impacts: "there is limited information on the environmental impacts associated with the production, manufacture, use and disposal of e-cigarette devices and their liquid."

The environmental impacts of ENDS use from a consumer's point of reference is almost nil. Consumers are well aware of safe battery disposal per their own local council's requirements and bylaws and the vendors who sell the equipment readily accept any equipment that is no longer working for safe disposal through their local councils.

Nicotine e-liquid and nicotine diluent that is available for consumer use vaping is not of a high enough mg amount to cause any negative environmental impacts.⁸ One would need to have access to commercial grade and strength powdered undiluted nicotine powder to have any effect on the environment, and that form of nicotine is not utilised in the creation of nicotine containing e-liquid (it is utilised for other commercial applications, specifically in agriculture).

Tobacco industry involvement: "there are indications that tobacco industry involvement in the production and marketing of e-cigarettes has been increasing in the last few years. There is no information currently available to quantify the current market share."

These particular devices are not sold currently in New Zealand through the vendors who sell electronic cigarettes as their core business. In consultation with the vendors, they have adamantly refused to even consider selling any product that may be manufactured or distributed by any tobacco company, conglomerate or affiliate. Their main supply chain is through non-tobacco vested manufacturers overseas. You

may contact them directly with regards to their supply chain and we are confident that they too will address this particular concern in their own submission.

The devices that are being produced and marketed overseas by "Big Tobacco" do contain actual tobacco leaf. The process by which they consider them "vaporisers" is because they do not directly combust the tobacco leaves, but instead create heat to vaporise the tobacco, and are, in fact, dry herb vaporisers, same as is used for eliciting partaking in cannabis and synthetic cannabis product. These products from tobacco companies are NOT liquid vaporisers that utilise the same technology as those utilised in e-cigarettes.

In conclusion, these devices do, in fact, utilise actual tobacco, are in fact "Dry herb vaporisers" and not liquid vaporisers. The personal vaporisers that are utilized in "vaping" do not contain actual tobacco and the nicotine e liquid utilised may or may not be from the process of tobacco extraction as there are many companies that offer synthetic nicotine for dilution and many e-liquid companies that utilise this synthetic nicotine in their e-liquid.

Controls under SFEA: The Ministry also seeks feedback on whether other controls currently in place under the SFEA for smoked tobacco products should be applied to e-cigarettes and whether there is a need for quality control and product safety. The controls currently in place under the SmokeFree Environment Act (SFEA) were originally devised and implemented with the rationale to prevent harm from exposure to combustible tobacco products, second hand smoke and public health issues that arise from carcinogens and toxicity of second hand smoke and the associated costs in the National Health System.

AVCA's position regarding the inclusion of nicotine e-liquid and ENDS under the SmokeFree Environments Act is that the criteria for inclusion is weak from a public health perspective, as ENDS do not carry the same risks and harms as do combustible tobacco products, and inclusion in the SFEA is unwarranted, as are the increased taxes and excises that are placed on combustible tobacco products to cover the social cost of those harms within the public health system.

This flies in the face of the Ministry's concerns about harm prevention and harm reduction.

Effect of SFEA inclusion on Maori Smoking Rates: According to the policy document we are responding to, the Ministry states that the daily smoking rate among Māori is higher than that among the total population (New Zealand Health Survey 2012/13 rates were 35.5 percent and 15 percent respectively), and more Māori women smoke daily than Māori men (New Zealand Health Survey 2012/13 rates were 40 percent and 30.5 percent respectively).

There is currently a very good uptake that is increasing by the day, of Maori towards using ENDS. Inclusion in the SFEA will derail the efforts of those involved in Maori Health, outside the scope of MoH, in assisting more of our people to get off combustible tobacco. Keeping in mind that the Maori cohort has seen the slowest decline in smoking prevalence in the previous five years.

PART 2

B. NSFVG Background Document

The following recommendations were made in the NSFVG background document that was released in support of and to provide background to, the Ministry of Health. Below, we have addressed each preferred option with commentary.

1. Supply and availability of e-cigarettes

Two preferred options are proposed drawing on consultations with members of the NZ smokefree practitioner community from the National SmokeFree Working Group.

Preferred option 1 - Maintain status quo. Sale of nicotine-containing ECs or e-liquids within NZ prohibited, but legal to import for personal use (up to 3 months supply). However, it should be noted that the real status quo is that nicotine-containing EC or e-liquids have been widely available for some time in New Zealand (due to importation by users and illegal sales by retailers).

Preferred option 2 - Allow restricted sale of nicotine-containing e-cigarettes or e-liquids. Continue to allow the importation of nicotine-containing EC or e-liquids for personal use (up to 3 months supply) but also allow sales of nicotine-containing ECs or e-liquids e.g. through pharmacies and/or limited numbers of licensed specialist 'vape' shops (with stipulations about proximity to schools, exclusion of minors from shop, and training/competence for staff in EC technical and ABC cessation support); minimum age of purchase to be same as for smoked tobacco products.

We believe Option 2 is the best practice in accordance with the policy of harm reduction. However, it does come with a caveat – there is no need to make the process more complex than needs be. If the current specialised vape shops register with MPI or MoH (whichever process government decides to follow) there will be no need to create an entirely new subset of “experts”.

The simple solution is to engage with the vape vendors in country already, and the vapers themselves who help each other within the community for no other reason than to share their knowledge and experiences with others. We are concerned that by over-regulation through the use of external “experts”, that the human and grassroots aspect of the community will be lost and then replaced by those whose interests are merely revenue gathering – be it through commercial transactions or taxation.

2. Smoking cessation advice and support for e-cigarettes as quitting aids

Preferred option. There is a strong consensus that smokers quitting using ECs should have access to advice and support. Cessation service providers receive resources and training in use of EC to support quitting, based, for example, on recent PHE advice. Healthcare providers should not recommend or support specific EC products unless these were licensed for cessation through MedSafe.

There are already processes in place, within the community, of which AVCA Vape It Forward participates, that provide resources and training to mentors who support those who wish to switch to ENDS from combustible tobacco. This network is already in place and has been successful in getting 95% of the participants in the program off of combustible tobacco products switched onto ENDS.

Had the individuals who wrote the background document contacted those in the wider New Zealand Vape community, such as AVCA, they would have found that this process has been quite effective.

Of the 95% in the successful group, 40% have already gone off of using nicotine containing e-liquid. Of that 40%, 20% have gone off of using any kind of ENDS in total. It has been so successful that we have been contacted by external cessation providers that cannot advise on ENDS due to MoH restrictions to assist their "hardcore" smokers in switching.

Of the 15 people that have been referred to us from this particular stream, 13 of these people have remained smokefree and are now in the process of cutting down their nicotine levels to reach 0mg. Of the 13, 5 of them started on 18mg and are now down to 6mg; 4 of them started on 12mg and are down to 3mg and the remaining 4 individuals started on 3mg and have remained at that level and have no immediate plans to reduce their nicotine level. (These numbers have been collected and collated by AVCA since the inception of the VIF program in April 2016.)

As well, there is the Vape2Save program run by the Sisters of Mercy in Auckland that also assists individuals with switching from tobacco to ENDS – for budgetary/fiscal reasons (people save money) as well as for health reasons. The particular statistics for this program can be had from Rebecca Ruwhiu-Collins, who is a paid consultant and runs the program for the Sisters of Mercy.

3. Marketing, packaging and consumer information

Preferred option marketing and public information. Commercial marketing of nicotine containing ECs and e-liquids products sold within NZ (if permitted) to be limited to point of sale displays regulated to avoid exposure to children and young people. Information (e.g. leaflets) giving advice to EC users trying to quit should be provided by cessation services and at point of sale. Consider mass media or targeted information campaigns to inform about availability of ECs and potential benefits and harms.

Commercial Marketing should be restricted to adults only. And only in the case of giving them information that they have the option of ENDS for cessation or recreational use in place of combustible tobacco. The information and advice on ENDS devices sold by vape vendors in New Zealand already comes with information and advice – some vendors have leaflets, some vendors have information online and some vendors hold seminars and one day sessions. Also, the vendors of VTANZ refer individuals to AVCA either to the VIF mentoring program or to the facebook groups where they can get support and guidance from the privacy of their own homes. So, in summary, this is already in place.

Preferred option packaging. Packaging requirements for ECs and e-liquids sold within NZ (if permitted) to include minimum standards of child safety, safety warnings (e.g. dangerous to ingest, keep away from children and pets), health warnings and Quitline information, and list of constituents. No packaging or product names would be permitted that are appealing to children and young people.

As noted above and in the appendices, the AVCA Consumer Bill of Rights and the AVCA Vendor certification documents already provide a framework to address packaging and manufacturing guidelines – that were collated from information from experts in the UK, France, the EU and the US for “best practice”

4. Product design/ standards/flavours

Preferred option – Apply existing consumer protection legislation and explore introducing minimum quality and safety standards and excluding additives/flavours (e.g. those shown to be toxic or that make products appealing or palatable for children and young adults) to nicotine containing ECs and e-liquids products sold within NZ (if permitted). To be identified from review of international standards and best practice.

As above please see the AVCA Consumer Bill of Rights and AVCA Vendor Certification documents in the appendices.

5. Use of e-cigarettes in indoor and outdoor workplaces and public places

Preferred option – Use of ECs to be banned in all indoor workplaces and public places (consistent with the 1990 SFE Act), all schools, in cars, and in selected outdoor locations (areas where children predominate e.g. playgrounds, parks) but allowed in other smokefree areas at local discretion and where public consultation suggests this is acceptable. Clear signage should indicate where vaping is permitted, and these areas should be separate to "smoking permitted" areas.

It is our preference that ENDS do not be included in SFEA as they do not cause the same harms as combustible tobacco as outlined previously in this document. Those same harms were the reason behind the creation of the SFEA, and simply, do not apply to ENDS.

6. Tax and excise for cigarettes

Preferred option – *Maintain status quo i.e. no additional tax or excise applied to nicotine-containing ECs and e-liquids.* To be reviewed if there is evidence of substantial uptake of nicotine-containing ECs by children and young people.

We agree that no additional taxation or excise is necessary. We addressed youth using ENDS and "the gateway effect" earlier in this document.

7. Monitoring and research

Preferred option – Ministry of Health develops a framework for monitoring and evaluating emerging evidence on ECs, including their technological evolution and use (internationally and in NZ), and for evaluating the impact of ECs, especially on smoking prevalence in all population groups and progress towards the Smokefree 2025 goal. Use consistent, international best practice methods for measuring and monitoring EC use.

Please see AVCA Consumer Bill of Rights and Vendor Certification document in the appendix.

CONCLUSION:

At the beginning of this Addendum to our submission we stated that we believe it would be best practice to address this issue with the five criteria that were outlined in a previous MoH document that also touched upon Personal Vaporisers and ENDS with regards to Harm Reduction (through utilising ENDS in place of combustible tobacco); Harm Prevention (through quality control of manufacturing, registration of vape vendors, advertising restrictions or packing that do not appeal to children; Proportionality & Cost of Implementation – by utilising existing consumer legislation and provided structures and frameworks contained in the appendices attached herein and the streamlining of advice and expertise through utilising existing resources and not “recreating the wheel”; and Ease of Implementation through utilising the same existing pathways, resources, expertise and knowledge in the vaping community and within consumer protection regulations already in place in New Zealand.

We also believe that this process needs to be inclusive, and by inclusive we mean that those who are tasked with coordinating the efforts to come to some form of agreement/framework/legislation regarding ENDS, need to step outside of their “bubble” and include the wider vaping community in New Zealand, not just academics, government officials and external “experts” who have no interaction with the wider community.

In order to understand what is going on, these people above have to actually participate and engage with the people doing it in order to get a well rounded and objective view of what is going on and the processes by which it has been successful (or not). Those offers to engage and collaborate have been made for well over the past six months, and with the exception of one MP, have not been acted upon.

If there are any further questions regarding our position, or should the Ministry wish to consult with us on this and any future issues as they relate to “vaping” and/or ENDS, please feel free to contact us via email at either:

[redacted] or [redacted]

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APPENDIX:

Official Statement on Nicotine E-Liquid

AVCA Vendor Certification

Consumer Bill of Rights

AVCA Vendor Survey – May 2016

Signatures of Support from Community



OFFICIAL STATEMENT REGARDING THE SALE OF NICOTINE E-LIQUID IN THE RETAIL MARKET – CONSUMERS

Retail Purchase of E-Liquid containing Nicotine:

We believe that consumers, 18+ should be able to purchase nicotine containing e-liquid on the retail market as a consumer product with only standard GST applied and collected and not as a tobacco product.

Rationale/Objectives:

- Nicotine based e-liquid should be exempt from all tobacco excises and taxes as those means of revenue are there to support the additional costs to the public health system that are directly associated with combustible tobacco use, and those same known, long term harms are not present with the use of nicotine e-liquid.
- We believe that the management and regulatory strategy to be applied should be done in a manner to ensure readily available access to nicotine e-liquid for all New Zealanders, maintaining multiple affordable avenues for purchase by adults 18+ for their personal use as with all other consumer product for adults that are sold in the retail market in New Zealand.

Importation For Personal Use:

We believe that the amount of liquid nicotine for dilution to be imported should be **no less** than 500mls for a 3-month period for personal use (2 litres of dilute liquid nicotine per annum).

Conclusion:

All of the foregoing should be managed in such a way that there will be no punitive additional taxation or handling fees applied to the consumer for the import, or purchase of either liquid nicotine and/or nicotine containing e-liquids.

Amended Jul 2016

AVCA DOCUMENT FOR VENDOR CERTIFICATION (1/5)

1. **Purpose:** This document contains those requirements for any New Zealand Vendor who wishes to carry the AVCA Certified designation on their products that they need to comply with.
2. **Scope:** The purpose of this PAS is to specify guidance for manufacture, importation and sale of electronic cigarettes and directly related products ("Vaping Products", "VP"), and testing methodologies. It gives guidance on the manufacture and testing of these products.
3. **Terms, Definitions & Abbreviations:** There is an extensive list of terms, definitions and abbreviations included in the PAS. Most of these will be obvious to anyone connected with this sector, but for clarity, the following terms have been defined as follows:

diluent

base liquid used to dilute concentrations of nicotine

electronic vapouriser aka electronic cigarette (e-cig)

device which utilises battery power to heat an atomiser to transform e-liquid into an aerosol vapour for inhalation

excipient

base liquid used to create e-liquid to which nicotine may or may not be added

free e-liquid

e-liquid supplied in packaging separate from hardware

hardware

devices for use with e-liquid but which may be supplied without e-liquid

MSDS/SDS

Material Specifications Data Sheet/Safety Data Sheet - used to provide compounds and active ingredients on a % basis of product composition.

pre-filled e-cig

device for inhalation of e-liquid aerosol where battery, atomiser and e-liquid cartridge form a composite whole, or where pre-filled replacement cartridges are designed only for use with the original device (commonly referred to as '1st generation' products)

refillable e-cig

device for inhalation of e-liquid aerosol which utilises an open tank system for holding e-liquid, and which tank can be refilled from provided and/or separately purchased e-liquid (commonly referred to as '2nd and 3rd generation' products)

small vendors

small manufacturing business with fewer than 3 employees, producing niche and/or artisanal vaping products for sale to the public and/or to resellers

substantial modification

changes to products which materially alter the consumer risk profile (CRP)

vaping products (VP)

term used to describe the wide range of products in the sector as a whole, and which includes both nicotine and non-nicotine containing products

(Please note that there are many more terms defined, but the ones not listed here would be relatively obvious to anyone involved in the sector. The same applies to the abbreviations.)

Abbreviations

TRA Toxicological Risk Assessment

UBR Unique Batch Reference

VP Vaping Products

AVCA DOCUMENT FOR VENDOR CERTIFICATION (2/5)

4. Vaping product safety and quality:

E-liquid manufacturing facilities

- Clean rooms need to conform to NZ Food standards.
- Each manufacturer must hold at least an NZQA Food Safety Certificate.
- Personal Protective Equipment
- Traceability of all ingredients throughout the supply chain
- Proper batch control, to reduce the negative impact of product recall procedures, should these become necessary.
- EP/USP (pharmaceutical) grade diluents (PG/VG) and nicotine, with supporting documentation including Certificate(s) of Analysis and Certificate(s) of Conformity
- Base liquid nicotine concentration verification before manufacturing finished e-liquids, by titration, isotope dilution analysis, or other suitable method. This can be provided by the commercial source of the product, and should be indicated on the SDS/MSDS that each manufacturer will keep as part of the batch/lot inventory process.
- Food grade flavourings, sourced from Certified commercial manufacturers, whether natural or artificial, except naturally-extracted tobacco flavourings (including Tobacco Absolute). – all flavourings should have an SDS, MSDS and each manufacturer is required to keep same on manufacturing site, for each flavouring utilised as part of the batch/lot inventory process.
- Natural extracts should be additionally subject to a TRA (see below), and removed from the manufacturing process if a problem is identified by the TRA.
- Product recall procedures to ensure that resellers all the way through the supply chain are informed immediately if a product recall is instigated
- Lists the documentation manufacturers should have for each product (including hardware as separate from e-liquids), such as information on ingredients, test reports, MSDS/SDS, TRAs, etc., and outlines the requirements for Technical Dossiers (for each product)
- Recommends a Toxicological Risk Assessment (TRA) for each chemical component of the ingredients and emissions (including from atomising hardware). (NB: It is not necessary to repeat TRAs for the same flavouring compound or other ingredient, so TRAs can be reused across a wide range of e-liquid products which all use the same ingredients and/or flavouring compounds.)
- Includes recommendations for substantial modifications to products (e-liquids and/or hardware), to trigger a new Technical Dossier if the Consumer Risk Profile (CRP) is altered by the modification (unless for exempted mods)

AVCA DOCUMENT FOR VENDOR CERTIFICATION (3/5)

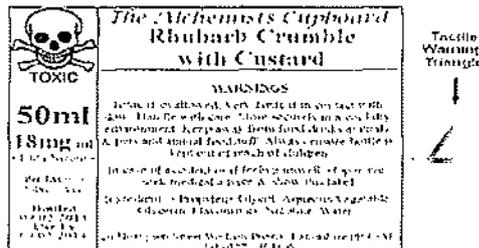
5. Vaping product packaging and instructions

A. Full List of ingredients:

- Diluent(s): PG/VG and % of each
- Flavouring(s)
- Liquid Nicotine (if applicable with warning):
- Batch:
- Expiry: (12 months from DOM),
- Additional Labelling guidelines:

Labels should not contain adolescent attention grabbing images or designs in no instance should the mirror or resemble common food items (ie. cocoa pops, strawberry milk, donuts etc)

B. Example of Compatible Label:



CAUTION:

Store locked up and out of the reach
of children & pets
Only for use in electronic cigarettes*
Seek medical advice if you feel unwell

C. Packaging:

- Child-resistant and tamper-evident packaging
- Marking/statement that sale is for over 18s only
- Allergy warnings for nuts and PG (where appropriate)
- Shelf-life should be indicated, and the product should remain within specification throughout the stated shelf-life
- Bottles should be fitted with a delivery spout capable of accurately delivering refill liquid into the appropriate part of the atomising device without spillage
- Recommendations about giving advice and/or warnings to consumers.
- If manufacturers wish to include these, this should be simply stated as: "If you have any concerns about your health when using this product, please consult your doctor or other healthcare professional."

AVCA DOCUMENT FOR VENDOR CERTIFICATION (4/5)

6. Hardware

All hardware that contains any electrical wiring or switches (as defined by electronic cigarette components that do not include e liquid) shall be authentic and not knock offs or clones. Original OEM equipment sold in the original OEM packaging.

All electrical equipment sold in New Zealand needs to conform to Standards listed under Schedule 4 of the Electricity (Safety) Regulations 2010; AS/NZS 3820:2009 and/or be certified CE (EU Certified for sale)

A. Hardware manufacturing :

Recommendations to ensure traceability for all components used in the manufacturing process, thus considerably reducing the negative impact of product recalls should these become necessary; also recommendations for cleaning of hardware prior to shipping/packaging to ensure that microbial contamination is minimised. (Exclusively hardware manufacturing facilities do not need to be to the same high standard as those for manufacturing e-liquids.)

B. Batteries and Battery Safety:

Batteries to be sold in New Zealand are only to be authentic brand name batteries. It is the vendor's responsibility to ensure that all batteries sold under their auspices are authentic brand name batteries and not rewraps.

Batteries will be sold that are appropriate to the device for which they will be utilised. Customers to be given an explanation of the importance of battery safety including but not limited to the appropriate transportation of batteries in cases or condoms for safety reasons; how to recognise and rectify a damaged battery wrap through rewrapping of battery and/or safe disposal of battery.

In the occasion where a vendor rewraps a battery, the identity of the wrapped cell must be clearly printed on the wrap itself with all the identifying information that was contained on the original cell.

C. Mods - Regulated & Unregulated (Mechanical)

Hardware manufacturing recommendations to ensure traceability for all components used in the manufacturing process, thus considerably reducing the negative impact of product recalls should these become necessary; also recommendations for cleaning of hardware prior to shipping/packaging to ensure that microbial contamination is minimised.

Mod hardware, where electronic circuitry is employed will always be genuine. Vendors will endeavour to advise people to follow the manufacturer's guidelines with regards to Safely charging regulated mods whether they contain an internal battery, a USB port for internal charging of a removable battery or a removable battery that needs to be charged in a separate charging station.

Mechanical mods can pose a significant safety threat in the hands of an ill informed and ill equipped user. Vendors will not supply these devices to new users without making them aware that these are advanced devices and users must have appropriate knowledge of both battery safety and Ohm's Law.

AVCA DOCUMENT FOR VENDOR CERTIFICATION (5/5)

D. Atomisers/RBA's:

Atomisers that come with premade coils or RBA's which are rebuildable atomisers (with or without a separate tank part for holding e-liquid). Whether they be authentic or clones, as well as any accessories, be they authentic or compatible (as some accessories are compatible across brands and models), for said atomisers: premade coils, tank glass/plastic components, air intake regulators, building decks, screws and peek insulators, wick material, wires and gaskets/grommets utilised by these systems. It will be the sole responsibility and discretion of the vendor if they choose to sell cloned, 1:1 RBA systems with the proviso that the customer will be advised that the item is either authentic or cloned and that said item is covered for warranty the same as any other item sold.

E. Procedures for Hardware Failure/Product Defect:

In the event that a product sold by a vendor should be DOA or shown to have defect in manufacturing that is not easily remedied through a simple means (coil change for example), the vendor will offer the consumer an in kind swap of the equipment to replace the defective item. All equipment sold by Vape Vendors in New Zealand is held to be guaranteed by the Consumer Guarantees Act unless otherwise noted at time of sale.

F. Procedures for Product Recall:

In the event that a particular vaping product is recalled, whether it be e liquid, hardware or batteries, the vendor will make every effort to contact the relevant parties, of said recall and make every effort to reclaim the recalled items as soon as possible and offer replacement in kind.

Amended Aug 2016



VAPER CONSUMER BILL OF RIGHTS (1/2)

Purpose: This document outlines those guarantees that the vaping consumers of New Zealand want from New Zealand Government and New Zealand Vendors of electronic cigarettes/hardware, e liquids and accessories.

1. **Availability of E liquids containing Nicotine within New Zealand:** We, the consumers believe that is our right that nicotine containing e liquid should be made available, legally, on the retail market as an 18+ consumer item and not be punitively regulated or taxed as a tobacco product as it is NOT a tobacco product.
2. **Vaping product safety and quality - E Liquids:**
 - **E Liquid Manufacturing:**
 - Consumers need guarantees that all manufacturers of e liquid in New Zealand conform to the following:
 - All ingredients must be of USP/BP and Food Safe quality/certification with supporting documentation including Certificate(s) of Analysis, Certificate(s) of Conformity and/or Safety Data Sheets (SDS)/Material Safety Data Sheets (MSDS)..
 - Proper batch control, to reduce the negative impact of product recall procedures, should these become necessary.
 - Product recall procedures to ensure that resellers all the way through the supply chain are informed immediately if a product recall is instigated.
 - **Requirements for Packaging:**
 - Child-resistant and tamper-evident packaging
 - Marking/statement that sale is for over 18s only
 - Allergy warnings for nuts and PG (where appropriate)
 - Shelf-life should be indicated, and the product should remain within specification throughout the stated shelf-life
 - Bottles should be fitted with a delivery spout capable of accurately delivering refill liquid into the appropriate part of the atomising device without spillage
 - Recommendations about giving advice and/or warnings to consumers.



VAPER CONSUMER BILL OF RIGHTS (2/2)

3. Vaping product safety and quality - Hardware

All Equipment:

All hardware that contains any electrical wiring or switches (as defined by electronic cigarette components that do not include e liquid) shall be authentic and not knock offs or clones. Original OEM equipment sold in the original OEM packaging.

All electrical equipment sold in New Zealand needs to conform to Standards listed under Schedule 4 of the Electricity (Safety) Regulations 2010; AS/NZS 3820:2009 and/or be certified CE (EU Certified for sale)

Batteries and Battery Safety:

- Batteries to be sold in New Zealand are only to be authentic brand name batteries. It is the vendor's responsibility to ensure that all batteries sold under their auspices are authentic brand name batteries and not rewraps.
- In the occasion where a vendor rewraps a battery, the identity of the wrapped cell must be clearly printed on the wrap itself with all the identifying information that was contained on the original cell.

Mods - Regulated & Unregulated (Mechanical)

Mod hardware, where electronic circuitry is employed will always be genuine. Vendors will endeavour to advise people to follow the manufacturer's guidelines with regards to Safely charging regulated mods whether they contain an internal battery, a USB port for internal charging of a removable battery or a removable battery that needs to be charged in a separate charging station.

Atomisers/RBA's

It will be the sole responsibility and discretion of the vendor if they choose to sell cloned, 1:1 RBA systems with the proviso that the customer will be advised that the item is either authentic or cloned and that said item is covered for warranty the same as any other item sold.

4. Procedures for Hardware Failure/Product Defect/Recall:

In the event that a product sold by a vendor should be DOA or shown to have defect in manufacturing that is not easily remedied through a simple means (coil change for example), the vendor will offer the consumer an in kind swap of the equipment to replace the defective item. All equipment sold by Vape Vendors in New Zealand is held to be guaranteed by the Consumer Guarantees Act unless otherwise noted at time of sale.



NZ Vape Vendor Survey

May 2016

1. How did you find out about E-Cigarettes and Vaping?

Answer Choices	Responses
A friend or family member	67.00% 67
The internet	22.00% 22
A healthcare provider	1.00% 1
Saw someone vaping in public and enquired about it	4.00% 4
Other	6.00% 6
Total	100

2. How well do New Zealand Vape Vendors meet your needs?

Answer Choices	Responses
Extremely well	50.00% 50

AVCA Addendum: Ministry of Health Policy Document(s): E-Cigarettes

	37.00%	
Very well		37
	9.00%	
Somewhat well		9
	4.00%	
Not so well		4
	0.00%	
Not at all well		0
Total		100

3. How would you rate the quality of customer service at NZ Vendors?

Answer Choices		Responses
	60.00%	
Very high quality		60
	34.00%	
High quality		34
	6.00%	
Neither high nor low quality		6
	0.00%	
Low quality		0
	0.00%	
Very low quality		0
Total		100

4. Which of these vendors have you utilised in the previous 60 days:

Vaping Kiwi - Auckland	37.11%	36
--		
Hawkes Bay Vapour - Napier	35.05%	34
Vapo - Auckland	26.80%	26
Vaporized - Auckland	23.71%	23
The Mushroom Cloud - New Plymouth	34.02%	33
E-Juice Bar - Tauranga	32.99%	32
Vapourium - Dunedin	34.02%	33
Hoopers Vapour - Christchurch	16.49%	16
Steam Age - Christchurch	2.06%	2
NZ Vapor - Auckland	9.28%	9
Long White Cloud - Nelson	2.06%	2
Long White Vapour - Auckland	16.49%	16
The Vape Shop - Wellington	7.22%	7
561 Juices - Auckland	28.87%	28

Continued next page

4. Which of these vendors have you utilised in the previous 60 days(continued):

Naked Vapour - Papamoa/Tauranga	8.25%	8
Innovape New Zealand - Auckland	1.03%	1
E Liquid Buyers Club - Dunedin	19.59%	19
Lost Cities Liquids - Wellington	19.59%	19
E-light Vapour - Wellington	4.12%	4
Shelley's Juice Bar - Christchurch	19.59%	19

Total Respondents: 97

5. Which of these is most important to you when purchasing from a NZ Vape Vendor?

Prices & Availability	54.55%	53
	17.17%	
Advice & Guidance		17
	11.11%	
Reputation (Word of Mouth - referral)		11
	7.07%	
Location (close to home)		7
	10.10%	
Other (please specify)		10

AVCA Addendum: Ministry of Health Policy Document(s): E-Cigarettes

Total 99

Other Responses:

The first three all equally not fused on distance to vendor

Availability of assistance with nicotine

Mix of reputation, advice and guidance

Reputation and willingness to go the extra mile to help

All of the above

Good product

Fast delivery

6. Overall, how satisfied or dissatisfied are you with vape vendors in New Zealand?

	73.00%	
Very satisfied		73
	21.00%	
Somewhat satisfied		21
	4.00%	
Neither satisfied nor dissatisfied		4
	2.00%	
Somewhat dissatisfied		2
	0.00%	
Very dissatisfied		0
Total		100

7. With regards to e-liquid made in New Zealand, which is the most important for you:

	24.24%	
Price		24
	56.57%	
Flavour Profiles		56
	7.07%	
Availability		7
	12.12%	
Manufacturing Environment		12
Total		99

8. Regarding nicotine for personal use:

	51.04%	
I purchase my own nicotine overseas and then add it myself		49
	16.67%	
I purchase my own nicotine overseas and then have a vendor assist me with adding nicotine		16
	27.08%	
I purchase premixed nicotine e-liquid from overseas		26
	5.21%	
I do not use/need nicotine in my e-liquid		5
Total		96

9. Regarding E-Liquid in General:

I purchase my own supplies and "DIY" my own e-liquid (either with or without nicotine)

14.29%

14

I purchase "doublers" locally (within NZ) and add my own nicotine or VG/PG

20.41%

20

I purchase pre-made e liquid, just open and vape

65.31%

64

Total: 98

Aotearoa Vapers Community Advocacy (AVCA)

Recipient: Dr. Jonathan Coleman, Minister of Health, New Zealand Government

RE: Legalisation of Nicotine E-Liquid for Retail Sale in New Zealand

The signatories below respectfully request that the minister accept our signatures, as provided for below, from an online petition at change.org as our submission of opinion, belief and support that nicotine e-liquid should be made legal for retail sale in New Zealand as an 18+ consumer product not subject to undue taxation, excise fees or punitive licencing fees or restrictions.

Signatures

<u>Name</u>	<u>Location</u>	<u>Date</u>
-------------	-----------------	-------------

[Signatures on pages 30-36 have been redacted]

Consultation submission 93

93

Submission 93 - Individual

E-cig submission · [redacted] :
Kevin McCarthy to: Jane Chambers, Brendon Baker, Leigh Sturgiss, John Stribling

07/09/2016 03:15 p.m.

History: This message has been replied to.

Hey can someone give [redacted] a ring. She's an [redacted] and has been trying to send us her submission - but her .dat document can't be opened at this end.

So she's sent this. Is this adequate?

I'll say thanks to her and say the team will get back to her if there are any issues with how she's sent it.

----- Forwarded by Kevin McCarthy/MOH on 07/09/2016 03:12 p.m. -----

From: [redacted]
To: "Kevin McCarthy@moh.govt.nz" <kevin_McCarthy@moh.govt.nz>,
Date: 07/09/2016 03:08 p.m.
Subject: best I can do then..

Policy Options for the Regulation of Electronic Cigarettes

Consultation submission

Your details

This submission was completed by: (name) [redacted]

Address: (street/box number) [redacted]

(town/city) [redacted]

Email: [redacted]

Organisation (if applicable) : [redacted]

Position (if applicable) : [redacted]

(Tick one box only in this section)

Are you submitting this:
as an individual or individuals (not on behalf of an organisation)?
on behalf of a group, organisation(s) or business?

(You may tick more than one box in this section)

Please indicate which sector(s) your submission represents:

- Commercial interests, including e cigarette manufacturer, importer, distributor and/or retailer
- Tobacco control non-government organisation
- Academic/research
- Cessation support service provider
- Health professional
- Māori provider
- Pacific provider
- Other sector(s) (please specify) :

(You may tick more than one box in this section)

Please indicate your e cigarette use status:

- I am using nicotine e cigarettes.
- I am using nicotine-free e cigarettes.
- I currently smoke as well as use e cigarettes.
- I am not an e cigarette user.
- I have tried e cigarettes.

Privacy

We intend to publish all submissions on the Ministry's website. If you are submitting as an individual, we will automatically remove your personal details and any identifiable information.

If you do not want your submission published on the Ministry's website, please tick this box:

Do not publish this submission.

Your submission will be subject to requests made under the Official Information Act. If you want your personal details removed from your submission, please tick this box:

Remove my personal details from responses to Official Information Act requests.

If your submission contains commercially sensitive information, please tick this box:

This submission contains commercially sensitive information.

Declaration of tobacco industry links or vested interest

As a party to the global tobacco control treaty, the World Health Organization Framework Convention on Tobacco Control, New Zealand has an obligation to protect the development of public health policy from the vested interests of the tobacco industry. To help meet this obligation, the Ministry of Health asks all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry. The Ministry will still carefully consider responses from the tobacco industry, and from respondents with links to the tobacco industry, alongside all other submissions. Please provide details of any tobacco company links or vested interests below.

No interests to declare

Please return this form by email to:

ecigarettes@moh.govt.nz by 5 pm, Monday 12 September 2016.

If you are sending your submission in PDF format, please also send us the Word document.

Consultation questions

Although this form provides blank spaces for your answers to questions, there is no limit to the length of your responses; you should take as much space as you need to answer or comment. Feel

free to enlarge the boxes or attach additional pages.

Q1 Do you agree that the sale and supply of nicotine e cigarettes and nicotine liquids should be allowed on the local market, with appropriate controls?

Yes No

Reasons/additional comments:

Yes but in the context of responses below.

Q2 Are there other (existing or potential) nicotine-delivery products that should be included in these controls at the same time? If so, what are they?

Yes No

Reasons/additional comments:

Q3 Do you think it is important for legislation to prohibit the sale and supply of e cigarettes to young people under 18 years of age in the same way as it prohibits the sale and supply of smoked tobacco products to young people?

Yes No

Reasons/additional comments:

Q4 Do you think it is important for legislation to control advertising of e cigarettes in the same way as it controls advertising of smoked tobacco products?

Yes No

Reasons/additional comments:

Yes but as per comments below

This question sets up a certain type of response but I think there is another way to consider this.

If it is accepted that e-cigarettes are distinguishable/different from cigarettes (in content and use and risk), then the advertising must not be allowed to confound these differences. So legislative control is needed but this might not be 'in the same way as it controls that advertising of smoked products'. Eg information giving such as where to buy e-cigs and how to use them.

Q5 Do you think it is important for the SFEA to prohibit vaping in designated smokefree areas in the same way as it prohibits smoking in such areas?

Yes No

Reasons/additional comments:

This is not a black and white matter
 An answer to this question depends on the rationale for legalising e-cigarettes. If the reason is to allow recreational social use and as the 'no or little risk at this point in time' device, then it warrants looking at where that can happen from a greenfield perspective and then policy is made accordingly. At present policy is in place.

This would involve identifying places considered to be unacceptable (socially/children/ health and wellbeing/health and safety (eg. driving heavy machinery) so we might have a list of sites deemed acceptable/unacceptable.

There is the risk of a backlash as it is likely that many people value what they see as a smokefree environment and might not be happy about being around and exposed to e-cigarette vaping and vapers.

Q6 Do you agree that other controls in the SFEA for smoked tobacco products should apply to e cigarettes? For example:

Control	Yes	No	Reasons/ additional comments
Requirement for graphic			Yes but... It is accepted that nicotine is addictive so that message needs to be included. That goes to informing the user. This may or may not

health warnings			be a graphic warning. Content on devices/packets must not infer that that e-cigarettes are like cigarettes
Prohibition on displaying products in sales outlets			
Restriction on use of vending machines			
Requirement to provide annual returns on sales data			
Requirement to disclose product content and composition			
Regulations concerning ingredients (eg. nicotine content and/or flavours)			
Requirement for annual testing of product composition			
Prohibition on free distribution and awards associated with sales			This might be the way to increase access but subject to age restrictions
Prohibition on discounting			
Prohibition on advertising and sponsorship			Advertising about where to buy and how to use will be important
Requirement for standardised			

packaging			
<p>Other</p> <p>Health professional collection of data about vaping.</p>			<p>All health professionals who currently ask if we smoke cigarettes, also need to ask if we vape. Given the absence of a large number studies (Hayden McRobbie, Radio NZ This Way Up: September 2016) we have an opportunity to be pro-active about some kind of data collection before a problem eventuates, if it does. We can learn from the pre 1950's where lung cancer was on the increase and possible causation was attributed to various things. The MoH has the mechanisms to drive this via DHB's and into primary health care and with the tobacco control contracts.</p>

Q7 Do you think it is important for legislation to impose some form of excise or excise-equivalent duty on nicotine e-liquid, as it does on tobacco products?

Yes No

Reasons/additional comments:

The rationale for this is key: if e-liquid is considered to non/less harmful than tobacco products and we want to enable access, that excise duty of any sort will send a different signal and reduce access.

Q8 Do you think quality control of and safety standards for e cigarettes are needed?

Yes No

Additional comments:

Area of concern	Yes	No	Reasons/additional comments
Childproof containers			
Safe disposal of e cigarette devices and liquids			
Ability of device to prevent accidents			
Good manufacturing practice			
Purity and grade of nicotine			
Registration of products			
A testing regime to confirm product safety and contents purity			
Maximum allowable volume of e-liquid in retail sales			
Maximum concentration of nicotine e-liquid			
Mixing of e-liquids at (or before) point of sale			
Other			

Q9 Are there any other comments you would like to make?

Consistent with the following purposes of the NZ Public Health and Disability Act 2000, a responsible and responsive public health system, in an effort to provide services to support people with smoking cessation while noting that there is an absence of a large number of studies about the health consequences of e-cigarettes (nicotine fluid), needs to be pro-active and implement a system to collect data about e-cigarette use. This is the prudent thing to do given the tension between the above two points.

Purpose (1) The purpose of this Act...pursue the following objectives:

(a) to achieve for New Zealanders—

(i) the improvement, promotion, and protection of their health:

(iii) the best care or support for those in need of services:

(b) to reduce health disparities by improving the health outcomes of Maori and other population groups:

Additional information on sales and use

Q10 Can you assist us by providing information on the sale of e cigarettes in New Zealand (for example, size of sales or range of products for sale on the local market)?

Q11 Would the Ministry of Health's proposed amendments have any impact on your business? If so, please quantify/explain that impact.

Q12 If you are using nicotine e cigarettes: how long have you been using them, how often do you use them, how much do you spend on them per week and where do you buy them?

How long have you been using them?	How often do you use them?	How much do you spend on them per week?	Where do you buy them?

Consultation submission 140

Policy Options for the Regulation of Electronic Cigarettes

Consultation submission

Your details

This submission was completed by: (name) [redacted]

Address: (street/box number) [redacted]
 (town/city) [redacted]

Email: [redacted]

Organisation (if applicable): N/A

Position (if applicable): N/A

(Tick one box only in this section)

Are you submitting this:

As an Individual

(You may tick more than one box in this section)

Please indicate which sector(s) your submission represents:

All parties

(You may tick more than one box in this section)

Please indicate your e-cigarette use status:

I am using nicotine e-cigs

Privacy

We intend to publish all submissions on the Ministry's website. If you are submitting as an individual, we will automatically remove your personal details and any identifiable information.

Publish any and all.

Declaration of tobacco industry links or vested interest

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No.

Please return this form by email to:

ecigarettes@moh.govt.nz by 5 pm, Monday 12 September 2016.

If you are sending your submission in PDF format, please also send us the Word document.

Consultation questions

Although this form provides blank spaces for your answers to questions, there is no limit to the length of your responses; you should take as much space as you need to answer or comment. Feel free to enlarge the boxes or attach additional pages.

Q1 Do you agree that the sale and supply of nicotine e-cigarettes and nicotine liquids should be allowed on the local market, with appropriate controls?

Yes

Reasons/additional comments:

First comment would be that these questions are very limiting, so I will be going a lot broader. Harm reduced tobacco derivatives in general should be allowed and regulated on the local market with controls that specifically address the risks particular to e-cigs, which are vastly different from those kinds of regulations used for tobacco – because of entirely different risks, and further, broader applications including in medicines.

Q2 Are there other (existing or potential) nicotine-delivery products that should be included in these controls at the same time? If so, what are they?

Yes

Reasons/additional comments:

My first observation would be there seems to be a fixation with nicotine, which is a popular misconception as to how tobacco “works”. In the tobacco plant it is a combination of nicotine, and the also present (and likely with medicinal uses) mao inhibitors. Nicotine on its own is stimulating, non-pleasureable and generally not as addictive. But as relates to your question – yes, Swedish snus has been long established by science to be at least 1/100th of the harm of tobacco, and should also be available to reduced deaths from smoking addiction (fyi nrt over 2 years has a 95% relapse rate> with people dropping off like flies there is no moral room for puritanical attitudes to cessation, that have no relation to evidence). And other harm reduced tobacco extracts such as specific mao inhibitors, and nicotine should also be available as potential treatment for alzheimers, depression, anxiety and more.

Q3 Do you think it is important for legislation to prohibit the sale and supply of e-cigarettes to young people under 18 years of age in the same way as it prohibits the sale and supply of smoked tobacco products to young people?

No

Reasons/additional comments:

I think the age and availability has to be broader to “stand in the way” of smoking. Less available or more restricted regulation prevents e-cigs from being effective harm minisation, ie popular, and thus could prevent smokefree 2025. My thought is 16.

Q4 Do you think it is important for legislation to control advertising of e-cigarettes in the same way as it controls advertising of smoked tobacco products?

No

Reasons/additional comments:

I think that companies always need an eye kept on them in many ways, but see above as to why that's actually a wrong minded idea. I would say that it should be treated like alcohol instead – no sex, no glamorization, but allowed to sponser and advertise.

Q5 Do you think it is important for the SFEA to prohibit vaping in designated smokefree areas in the same way as it prohibits smoking in such areas?

No

Reasons/additional comments:

Absolutely not, and I can see no empirical reason for this – its been shown all particulate material and active ingredients are gone within less than a second on the exhale. It does however create a smell in the air. So instead I would ban only in bars and resteraunts, as well as in aeroplanes, but nowhere else (for the smell alone).

Q6 Do you agree that other controls in the SFEA for smoked tobacco products should apply to e-cigarettes? For example:

Control	Yes	No	Reasons/ additional comments
Requirement for graphic health warnings	<input type="checkbox"/>	No	There are no significant health risks.
Prohibition on displaying products in sales outlets	<input type="checkbox"/>	<input type="checkbox"/> No	It would encourage people to smoke instead if they have the same availability and regulation. So far these are very wrong minded questions!
Restriction on use of vending machines	<input type="checkbox"/>	<input type="checkbox"/> No	Pre-made, all in one products should be more available than smoking productsw, so vending machines for those would be ideal in promoting healthier alternatives.
Requirement to provide annual returns on sales data	<input type="checkbox"/> Yes	<input type="checkbox"/>	One of the great benefits of regulation, you can measure if its working.
Requirement to disclose product content and composition	<input type="checkbox"/> Yes	<input type="checkbox"/>	Very important, Commerce is naturally amoral.
Regulations concerning ingredients (eg, nicotine content and/or flavours)	<input type="checkbox"/> Yes	<input type="checkbox"/>	Flavours have shown to increase effectiveness in quitting. They should be open. But tobacco derived products should be restricted to trade tobacco extracts for example no rustica or tree tobacco, and flavours should be food safe – also no solvent residue.

Requirement for annual testing of product composition	<input type="checkbox"/>	<input type="checkbox"/> No	I think once will be enough, if the disincentive is high enough.
Prohibition on free distribution and awards associated with sales	<input type="checkbox"/>	<input type="checkbox"/> No	
Prohibition on discounting	<input type="checkbox"/>	<input type="checkbox"/> No	
Prohibition on advertising and sponsorship	<input type="checkbox"/>	<input type="checkbox"/> No	
Requirement for standardised packaging	<input type="checkbox"/>	<input type="checkbox"/> No	These ideas are wildly wrong minded. There are a host of risks associated with e-cigs mainly around quality control and diy, but these are completely different issues to mitigate versus say cancer. To be effective harm min, it has to be easier to buy an e-cig than a pack of smokes, cheaper to maintain, and less stigmatized. If the concern is saving lives, these sorts of measures are a) moving in the wrong direction to save lives based on evidence and b) not at all addressing the risks particular to e-cigs.
Other	<input type="checkbox"/>	<input type="checkbox"/>	Terrible, terrible thinking here. Do some research if you are even vaguely considering treating reduced harm, tobacco derived products the same as smokes.

Q7 Do you think it is important for legislation to impose some form of excise or excise-equivalent duty on nicotine e-liquid, as it does on tobacco products?

No

Reasons/additional comments:

Penalizing the most viable, healthier alternative is wrong minded. Unless you want people dying of cancer.

Q8 Do you think quality control of and safety standards for e-cigarettes are needed?

Yes

Additional comments:

Area of concern	Yes	No	Reasons/additional comments
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Childproof containers	<input type="checkbox"/> Ye s	<input type="checkbox"/>	Finally some intelligent questions! Now whilst "ready to go" e-cigs don't have these issues and should be less restricted than smoking products (as should snus), DIY does have some risks. DIY products unlike "ready to go" should require licensing, have very important labelling, be kept away from children and animals, and safely disposed.
Safe disposal of e-cigarette devices and liquids	<input type="checkbox"/> Ye s	<input type="checkbox"/>	
Ability of device to prevent accidents	<input type="checkbox"/> Ye s	<input type="checkbox"/>	And I would go further. While most people will focus on the "less probable than a lightning strike" risk of battery failure, the real problem is cracks and leakage. I would put a very stringent quality requirement for the e-cig gear (that allows some to get through!), around the robustness of the tank, lack of liquid leakage etc. Here is one of the <u>real</u> risks unique to ecigs. BTW before you think about banning DIY, most long term vapours DIY to get the right nic level and flavours. Removing this option will increase death via smoking.
Good manufacturing practice	<input type="checkbox"/> Ye s	<input type="checkbox"/>	See above.
Purity and grade of nicotine	<input type="checkbox"/> Ye s	<input type="checkbox"/>	Specifically less than 1/10 th of the tobacco specific carcinogens would be a great standard. I think existing nrt products are about 1/20 th .
Registration of products	<input type="checkbox"/>	<input type="checkbox"/> No	Not sure what this means, so no.
A testing regime to confirm product safety and contents purity	<input type="checkbox"/> Ye s	<input type="checkbox"/>	Each tank, battery, eliquid should have to pass a single test/standard unless its changed.
Maximum allowable volume of e-liquid in retail sales	<input type="checkbox"/>	<input type="checkbox"/> No	I cant see any reason for this.
Maximum concentration of nicotine e-liquid	<input type="checkbox"/> Ye s	<input type="checkbox"/>	I think around 24mg/ml of whichever tobacco alkaloids (not just nicotine) is about the most even the most hardened smoker will need, in a "ready to vape". DIY however is usually diluted to preference, so DIY licensed retail products should be allowed to be up to 36mg/ml.

Mixing of e-liquids at (or before) point of sale	<input type="checkbox"/>	<input type="checkbox"/>	No sure what this means, but in my mind, ready to vape is the product that should "stand in front" of smoking, and be available more than smoking products. DIY would then have more safety labelling, premises that provide safety gear and advice.
Other	<input type="checkbox"/>	<input type="checkbox"/>	

Q9 Are there any other comments you would like to make?

Actually a tonne. I feel like you haven't asked the right questions yet at all.

So first up this law needs a broader potential application than merely "recreational" or harm reduction products. Mao inhibitors can be profoundly powerful for anxiety and depression, and can enhance other drugs such as pain relievers. Nicotine enhances cognition, and has been proven useful for alzheimers. So this law should also open up tobacco extracts to the pharmaceutical industry, to help and save even more lives. There needs to be labelling not just about safe handling of eliquids. But also interactions – tobacco actives interact with numerous drugs. While smokers may be aware that, they do for example potentiate alcohol, things like anti-depressants, general anaesthetic, other stimulants also interact and the public should have this in mind. And warnings about leaving diy around children and animals, storing with food, washing with skin contact, poisons line. There should be a max voltage of about 4.2 volts on the device as science has shown we start to get smoking like chemical breakdowns (not as bad as smoking) over this level. Chemical composition or ration should also (in active ingredients) not differ more than 25-50% from an average mao inhibitor/nicotine level in harm min products (so that drug interactions or more addictive products do not emerge) – for medicines it should be open to tinkering as they have their own safety rules. I would get a standardized level of nicotine and the other alkaloids, an average and create an acceptable range around a measured evidenced based average. Now the reason I mention the other alkaloids goes beyond medicine. Products (available currently online), contain a full spectrum, so called "WTA". These are the most effective, along with snus for quitting. Ask vapers, they'll tell you nicotine alone often doesn't get you quit. And nicotine often leads to "chain vaping" which could stress the heart via overstimulation (a heart disease warning wouldn't hurt, pregnancy etc, like energy drinks). The wta makes it most like smoking without the cancer, which is ideal in an imperfect world. If they are available smokefree 2025, becomes actually doable, and thousands of lives will be saved. But commerce is amoral, theres nothing to stop liquid makers using tree tobacco, changing the ratio and in doing so create products which are more addictive and produce stringer even dangerous drug interactions = so wta needs the highest regulation, that it closely resembles smoking products in active ingredients. Must be promoted above tobacco, not as glamorous, but as a safer alternative – so advertising must be allowed, unlicensed vending for ready to vapes and so on. Harm min products must "stand in the way", like having fruit more available than confectionaries would increase healthy choices, so will this – only if the restrictions are lower than smoking products. Otherwise more people will continue to die from smoking. As

Additional information on sales and use

Q10 Can you assist us by providing information on the sale of e-cigarettes in New Zealand (for example, size of sales or range of products for sale on the local market)?

n/a (I'm a (redacted) not a retailer)

Q11 Would the Ministry of Health's proposed amendments have any impact on your business? If so, please quantify/explain that impact.

--

Q12 If you are using nicotine e-cigarettes: how long have you been using them, how often do you use them, how much do you spend on them per week and where do you buy them?

How long have you been using them?	How often do you use them?	How much do you spend on them per week?	Where do you buy them?
2 years	About as much as I smoked	5 nzd	Overseas

Consultation submission 164

Policy Options for the Regulation of Electronic Cigarettes

164

Consultation submission

Your details

This submission was completed by: (name) [redacted]

Address: (street/box number) [redacted]

(town/city) [redacted]

Email: [redacted]

Organisation (if applicable):

Position (if applicable):

(Tick one box only in this section)

Are you submitting this:

- as an individual or individuals (not on behalf of an organisation)?
- on behalf of a group, organisation(s) or business?

(You may tick more than one box in this section)

Please indicate which sector(s) your submission represents:

- Commercial interests, including e-cigarette manufacturer, importer, distributor and/or retailer
- Tobacco control non-government organisation
- Academic/research
- Cessation support service provider
- Health professional
- Māori provider
- Pacific provider
- Other sector(s) (please specify):

(You may tick more than one box in this section)

Please indicate your e-cigarette use status:

- I am using nicotine e-cigarettes.
- I am using nicotine-free e-cigarettes.
- I currently smoke as well as use e-cigarettes.
- I am not an e-cigarette user.
- I have tried e-cigarettes.

Privacy

We intend to publish all submissions on the Ministry's website. If you are submitting as an individual, we will automatically remove your personal details and any identifiable information.

If you do not want your submission published on the Ministry's website, please tick this box:

Do not publish this submission.

Your submission will be subject to requests made under the Official Information Act. If you want your personal details removed from your submission, please tick this box:

Remove my personal details from responses to Official Information Act requests.

If your submission contains commercially sensitive information, please tick this box:

This submission contains commercially sensitive information.

Declaration of tobacco industry links or vested interest

As a party to the global tobacco control treaty, the World Health Organization Framework Convention on Tobacco Control, New Zealand has an obligation to protect the development of public health policy from the vested interests of the tobacco industry. To help meet this obligation, the Ministry of Health asks all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry. The Ministry will still carefully consider responses from the tobacco industry, and from respondents with links to the tobacco industry, alongside all other submissions. Please provide details of any tobacco company links or vested interests below.

Please return this form by email to:

ecigarettes@moh.govt.nz by 5 pm, Monday 12 September 2016.

If you are sending your submission in PDF format, please also send us the Word document.

Consultation questions

Although this form provides blank spaces for your answers to questions, there is no limit to the length of your responses; you should take as much space as you need to answer or comment. Feel free to enlarge the boxes or attach additional pages.

Q1 Do you agree that the sale and supply of nicotine e-cigarettes and nicotine liquids should be allowed on the local market, with appropriate controls?

Yes No

Reasons/additional comments:

Common sense dictates that inhalation of anything other than clean air is potentially harmful. While I understand that one of the Ministry's roles is to protect that nation's health; sacrifices of liberty for potential, rather than effectively realised, health concerns encroaches on personal freedoms.

Q2 Are there other (existing or potential) nicotine-delivery products that should be included in these controls at the same time? If so, what are they?

Yes No

Reasons/additional comments:

Unaware of any.

Q3 Do you think it is important for legislation to prohibit the sale and supply of e-cigarettes to young people under 18 years of age in the same way as it prohibits the sale and supply of smoked tobacco products to young people?

Yes No

Reasons/additional comments:

Only through inertia and to satisfy the general public. Removal or lowering of age restrictions would probably be a different debate.

Q4 Do you think it is important for legislation to control advertising of e-cigarettes in the same way as it controls advertising of smoked tobacco products?

Yes No

Reasons/additional comments:

No, it's not smoking.

Q5 Do you think it is important for the SFEA to prohibit vaping in designated smokefree areas in the same way as it prohibits smoking in such areas?

Yes No

Reasons/additional comments:

No, it is not smoke.
 The best comparison to vaping is spraying an aerosol deodorant near you. It is bothersome, but unlikely to be a health issue.
 Society, which includes establishments, should be free to dictate their own approach towards vaping.

Q6 Do you agree that other controls in the SFEA for smoked tobacco products should apply to e-cigarettes? For example:

Control	Yes	No	Reasons/ additional comments
Requirement for graphic health warnings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Given the lack of any likely link to long-term health issues, that would be very premature. Secondarily, it may have the unsettling effect of devaluing the same message for smoking.
Prohibition on displaying products in sales outlets	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No, as there isn't the need to protect the public from a product which is likely to be lethal or debilitating.
Restriction on use of vending machines	<input type="checkbox"/>	<input checked="" type="checkbox"/>	As above.
Requirement to provide annual returns on sales data	<input type="checkbox"/>	<input checked="" type="checkbox"/>	As above.
Requirement to disclose product content and composition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	In my opinion, the most proactive and beneficial stance the Ministry of Health could provide is development of an approach to ensure eliquid sold within New Zealand meets sane product standards through testing.
Regulations concerning ingredients (eg, nicotine content and/or flavours)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As above.
Requirement for annual testing of product composition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As above

Prohibition on free distribution and awards associated with sales	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No, as there isn't the need to protect the public from a product which is likely to be lethal or debilitating.
Prohibition on discounting	<input type="checkbox"/>	<input checked="" type="checkbox"/>	As above.
Prohibition on advertising and sponsorship	<input type="checkbox"/>	<input checked="" type="checkbox"/>	As above.
Requirement for standardised packaging	<input type="checkbox"/>	<input checked="" type="checkbox"/>	As above.
Other	<input type="checkbox"/>	<input type="checkbox"/>	<p>These questions infer parallels to smoking. Vaping is not smoking, however it may be a better alternative to it.</p> <p>With that in mind, and with early data not linking vaping to any serious illness, I believe it would be pragmatic to embrace this type of product and to reevaluate if later studies paint a different picture.</p>

Q7 Do you think it is important for legislation to impose some form of excise or excise-equivalent duty on nicotine e-liquid, as it does on tobacco products?

Yes No

Reasons/additional comments:

Not directly in that manner. I previously call for government mandated product testing, which the cost should be passed on; perhaps in the form of gaining certification.

However, again, vaping is not smoking. Excise should be reevaluated if these products fit the general belief that they are dangerous. I would argue that they do not belong in such a category.

Q8 Do you think quality control of and safety standards for e-cigarettes are needed?

Yes No

Additional comments:

Area of concern	Yes	No	Reasons/additional comments
Childproof containers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Nicotine is a poison. Household poisonous goods are in childproof containers.
Safe disposal of e-cigarette devices and liquids	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Should be treated the same as other e-waste due to containing batteries. Trace amounts of nicotine in such devices aren't hazardous, similar to other household poisons.
Ability of device to prevent accidents	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Lithium ion batteries are found in many consumer electronics, and carry a risk. Debates whether lithium ion technology is safe for personal use is a different debate.

Good manufacturing practice	<input type="checkbox"/>	<input checked="" type="checkbox"/>	For the liquid, I believe that testing the resulting product would be suitable. For the devices, I am unsure what practices would be involved beyond what applies to consumer electronics, if any.
Purity and grade of nicotine	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Through independent product testing, yes.
Registration of products	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Through independent product testing, yes.
A testing regime to confirm product safety and contents purity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Maximum allowable volume of e-liquid in retail sales	<input type="checkbox"/>	<input checked="" type="checkbox"/>	I'm unsure of what this meant to achieve.
Maximum concentration of nicotine e-liquid	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Perhaps, but ultra-high nicotine content not exactly pleasurable.
Mixing of e-liquids at (or before) point of sale	<input type="checkbox"/>	<input checked="" type="checkbox"/>	People should be free to mix their own liquids at their own discretion and risk. However, I believe that good product consistency and testing is what is needed.
Other	<input type="checkbox"/>	<input type="checkbox"/>	

Q9 Are there any other comments you would like to make?

At first I used ecigarettes to cut my smoking by 50% for years. I have been using them solely for a year and a half. I feel great, regularly exercise now and am overall much healthier to my knowledge. A recent lung volume test shows I have above-average lung capacity for someone my age. That's is over 15 years of smoking fairly heavily.

Please don't villainise a product that has the potential to reduce so much harm.

Additional information on sales and use

Q10 Can you assist us by providing information on the sale of e-cigarettes in New Zealand (for example, size of sales or range of products for sale on the local market)?

N/A

Q11 Would the Ministry of Health's proposed amendments have any impact on your business? If so, please quantify/explain that impact.

N/A

Q12 If you are using nicotine e-cigarettes: how long have you been using them, how often do you use them, how much do you spend on them per week and where do you buy them?

How long have you been using them?	How often do you use them?	How much do you spend on them per week?	Where do you buy them?
6 years	Every day. Replaced a "pack a day" habit.	\$30	Imported from USA

Consultation submission 167

Policy Options for the Regulation of Electronic Cigarettes

167

Consultation submission

Your details

This submission was completed by: (name) [redacted]

Address: (street/box number) [redacted]
(town/city) [redacted]

Email: [redacted]

Organisation (if applicable): n/a

Position (if applicable): n/a

(Tick one box only in this section)

Are you submitting this:

- as an individual or individuals (not on behalf of an organisation)?
- on behalf of a group, organisation(s) or business?

(You may tick more than one box in this section)

Please indicate which sector(s) your submission represents:

- Commercial interests, including e-cigarette manufacturer, importer, distributor and/or retailer
- Tobacco control non-government organisation
- Academic/research
- Cessation support service provider
- Health professional
- Māori provider
- Pacific provider
- Other sector(s) (please specify): Private individual

(You may tick more than one box in this section)

Please indicate your e-cigarette use status:

- I am using nicotine e-cigarettes.
- I am using nicotine-free e-cigarettes.
- I currently smoke as well as use e-cigarettes.
- I am not an e-cigarette user.
- I have tried e-cigarettes.

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Remove my personal details from responses to Official Information Act requests.

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I have no direct, or indirect, links to, or receive funding from, the tobacco industry.

Please return this form by email to:

ecigarettes@moh.govt.nz by 5 pm, Monday 12 September 2016.

If you are sending your submission in PDF format, please also send us the Word document.

Consultation questions

Although this form provides blank spaces for your answers to questions, there is no limit to the length of your responses; you should take as much space as you need to answer or comment. Feel free to enlarge the boxes or attach additional pages.

Q1 Do you agree that the sale and supply of nicotine e-cigarettes and nicotine liquids should be allowed on the local market, with appropriate controls?

Yes No

Reasons/additional comments:

Such e-cigarettes, and nicotine liquids, are widely available on the internet at the moment, and appropriate controls would allow more control and regulation of the industry, which would be good for both suppliers and end users,

Q2 Are there other (existing or potential) nicotine-delivery products that should be included in these controls at the same time? If so, what are they?

Yes No

Reasons/additional comments:

I don't believe so, as the other nicotine delivery systems are entirely 'passive', as opposed to using an e-cigarette.

Q3 Do you think it is important for legislation to prohibit the sale and supply of e-cigarettes to young people under 18 years of age in the same way as it prohibits the sale and supply of smoked tobacco products to young people?

Yes No

Reasons/additional comments:

Certainly. If cigarettes are banned from sale to under 18's, then so should e-cigarettes.

Q4 Do you think it is important for legislation to control advertising of e-cigarettes in the same way as it controls advertising of smoked tobacco products?

Yes No

Reasons/additional comments:

I have no problem with banning e-cigarette product advertising because we shouldn't be encouraging people to take such products up, if they're unaware of them. 'Word of mouth' has always been more successful when it comes to people taking up e-cigarettes. I myself have 'weaned' two off of tobacco cigarettes in the last six weeks at work.

Q5 Do you think it is important for the SFEA to prohibit vaping in designated smokefree areas in the same way as it prohibits smoking in such areas?

Yes No

Reasons/additional comments:

I have no problem with treating e-cigarettes as we currently do tobacco smoking. Or, better yet, designating certain areas as 'Vaping Only' areas.

Q6 Do you agree that other controls in the SFEA for smoked tobacco products should apply to e-cigarettes? For example:

Control	Yes	No	Reasons/ additional comments
Requirement for graphic health warnings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Health warnings require more study
Prohibition on displaying products in sales outlets	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Difficult, given retail outlets may specialise in selling only vaping products.
Restriction on use of vending machines	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See no problem with this.
Requirement to provide annual returns on sales data	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Would be useful for legislators.
Requirement to disclose product content and composition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See no problem with this.
Regulations concerning ingredients (eg, nicotine content and/or flavours)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	A 'must have', given what it is.
Requirement for annual testing of product composition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See no problem with this.
Prohibition on free distribution and awards associated with sales	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See no problem with awards based on purchases – but wouldn't condone free distribution of product.
Prohibition on discounting	<input type="checkbox"/>	<input checked="" type="checkbox"/>	See no problem with this.
Prohibition on advertising and sponsorship	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See no problem with this.
Requirement for standardised packaging	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Difficult, given the diverse nature of the products
Other	<input type="checkbox"/>	<input type="checkbox"/>	

Q7 Do you think it is important for legislation to impose some form of excise or excise-equivalent duty on nicotine e-liquid, as it does on tobacco products?

Yes No

Reasons/additional comments:

I see no problem with this, as long as it's not at the tobacco products level, as this is a nicotine- and not a tobacco-based product.

Q8 Do you think quality control of and safety standards for e-cigarettes are needed?

Yes No

Additional comments:

Area of concern	Yes	No	Reasons/additional comments
Childproof containers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See no problem with this.
Safe disposal of e-cigarette devices and liquids	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See no problem with this.
Ability of device to prevent accidents	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See no problem with this.
Good manufacturing practice	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See no problem with this.
Purity and grade of nicotine	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See no problem with this.
Registration of products	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See no problem with this.
A testing regime to confirm product safety and contents purity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See no problem with this.
Maximum allowable volume of e-liquid in retail sales	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Non-sensible, given there's no retail limit on tobacco products currently.
Maximum concentration of nicotine e-liquid	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See no problem with this, would suggest 18mg of nicotine be the maximum.
Mixing of e-liquids at (or before) point of sale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See no problem with this.
Other	<input type="checkbox"/>	<input type="checkbox"/>	See no problem with this.

Q9 Are there any other comments you would like to make?

As a smoker of 39 years (I began in December 1975!), I simply stopped my daily habit of 20-25 cigarettes once I was introduced (through a friend) to an e-cigarette. That was back in November 2014, and I haven't had any tobacco product since! ☺

Additional information on sales and use

Q10 Can you assist us by providing information on the sale of e-cigarettes in New Zealand (for example, size of sales or range of products for sale on the local market)?

n/a

Q11 Would the Ministry of Health's proposed amendments have any impact on your business? If so, please quantify/explain that impact.

n/a

Q12 If you are using nicotine e-cigarettes: how long have you been using them, how often do you use them, how much do you spend on them per week and where do you buy them?

How long have you been using them?	How often do you use them?	How much do you spend on them per week?	Where do you buy them?
22 months	Daily	\$28 (average over a year)	Online, I don't use retail outlets

Consultation submission 250



New Zealand Taxpayers' Union Incorporated

Postal: PO Box 10518, The Terrace 6143, Wellington
Physical: Level 1, 50 Manners Street 6011, Wellington
Telephone: 04 282 0300
Email: enquiries@taxpayers.org.nz
Web: www.taxpayers.org.nz

12 September 2016

Ministry of Health
PO Box 5013
Wellington 6140

By email: ecigarettes@moh.govt.nz

SUBMISSION ON REGULATION OF ELECTRONIC CIGARETTES

Introduction

1. The New Zealand Taxpayers' Union supports the Government's initiative to review policy options for the regulation of electronic cigarettes.
2. One of our recommendations outlined in the Taxpayers' Union '*Passive Income*' report¹ was for a review to be undertaken on *inter alia* the potential harm reduction in lifting New Zealand's blanket ban on e-cigarettes and other new generation tobacco products.
3. The Taxpayers' Union represents the taxpayers of New Zealand. Founded in 2013, we advocate for transparency and accountability in government spending and in doing so aim to lower the tax burden on New Zealanders and to promote evidence based public policy. The Taxpayers' Union view this consultation as an opportunity to advocate for both of those aims on behalf of New Zealand taxpayers. Smokers are clearly amongst the most overburdened taxpayers in New Zealand and they deserve the opportunity to choose an alternative source of nicotine.
4. As pointed out in the *Passive Income* report, this new generation of nicotine products and tobacco substitutes offer the greatest opportunity in harm reduction ever seen in this product category. In the same report, we pointed out that Public Health England (PHE), the UK's preeminent public health body, had concluded that e-cigarettes have become the most popular aid to quit smoking in the United Kingdom and reduce the harm to consumers by around 95 percent when compared to traditional cigarettes².
5. We were heartened to note the Ministry of Health has referenced the PHE report in its consultation document³ and are hopeful that this signals an intent to model New Zealand's approach on the liberal, and very successful, approach taken by regulators in the United Kingdom. We would also like to note that, subsequent to our *Passive*

¹ https://issuu.com/taxpayersunion/docs/passive_income_v5?e=13867460/32292233

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457102/Ecigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf

³ <http://www.health.govt.nz/publication/policy-options-regulation-electronic-cigarettes-consultation-document>

YOUR MONEY, YOUR VOICE

Championing value for money from every tax dollar

Income report, a comprehensive review of e-cigarettes was conducted by the UK's Royal College of Physicians (RCP) and the results published in their report '*Nicotine without smoke*'.⁴ It is our view that the PHE and RCP reports should be considered as authoritative for the basis of any regulation of electronic nicotine delivery devices.

6. From Clive Bates:

"The active drug in tobacco is not the primary cause of harm in smoking and would not be in vaping. It has been understood for four decades that: "people smoke for the nicotine but die from the tar"⁵. Nicotine is not a cause of cancer, cardiovascular disease or the respiratory conditions that dominate the ill health from smoking⁶. Pure nicotine is not completely benign, but it is widely sold in medicinal form and does not cause any serious illness⁷. The US Surgeon General has made a detailed assessment of nicotine risks⁸, and though it is possible to measure many effects on the body, these are trivial compared to smoking: for health, it is always better to vape than to smoke."⁹

7. In a peer-reviewed paper published in *BMC Medicine*, Jean-François Etter, an internationally recognized expert in the study of tobacco dependence, states,

"Cigarette combustion, rather than either tobacco or nicotine, is the cause of a public health disaster. Fortunately, several new technologies that vaporize nicotine or tobacco, and may make cigarettes obsolete, have recently appeared."¹⁰

8. For electronic nicotine products to be successful in reducing the harm caused by smoking, and to relieve New Zealand's taxpaying smokers of the regressive burden of tobacco taxes, these products will need to be as readily available as cigarettes.

9. The cost of cigarettes, versus a non-combustible alternative, will also be a significant factor in encouraging smokers to try and subsequently switch to these reduced harm products. As such, the Taxpayers' Union will be advocating for a significantly lower tax rate, perhaps zero tax, on non-combustible products. If the high rate of taxes applied to cigarettes is genuinely based upon their level of risk, or harm, caused by them, it makes perfect sense to tax these new generation products at a level commensurate with the harm, or risk, they present. These products should not present yet another opportunity to continue to use nicotine users as 'cash cows' for the government coffers.

⁴ <https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0>

⁵ Russell MJ. Low-tar medium nicotine cigarettes: a new approach to safer smoking. *BMJ* 1976;1:1430–3.

⁶ In England in 2013, smoking caused 79,700 deaths of which 37,200 were from cancer, 24,300 respiratory diseases, 17,300 circulatory diseases, 900 digestive diseases. Health and Social Care Information Centre, Statistics on Smoking in England, October 2014. No deaths have been attributed to pure nicotine use.

⁷ Farsalinos KE, Polosa R. Safety evaluation and risk assessment of electronic cigarettes as tobacco cigarette substitutes: a systematic review. *Ther Adv Drug Saf* 2014;5:67–86.

⁸ US. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress*. A Report of the Surgeon General. 2014. P.116

⁹ [5, 6, 7, 8 excerpted from] E-cigarettes, vaping and public health - A summary for policy-makers, Clive Bates

¹⁰ <http://bmcmmedicine.biomedcentral.com/articles/10.1186/s12916-014-0264-5>

10. We see these non-combustible products as having the potential to achieve a number of aims for New Zealand and the New Zealand taxpayer. The evidence demonstrates unequivocally that these products are substantially less harmful than the competition, the combustible cigarette. They therefore harbour the potential for a much better health outcome for New Zealanders. Though we know from *'Passive Income'* the government makes considerably more from smokers than it spends on their health care, in absolute terms, these products could result in less taxpayer money being expended.
11. These products also have the potential, by their very smoke-free nature, to help New Zealand achieve *Smokefree 2025*. If every New Zealand smoker switched to these products tomorrow, we would be smoke-free. No further discussion required. In this instance, the taxpayer would be relieved from the thankless burden of continuing to fund the myriad of sock-puppet charities and public health academics that have made a far too good livelihood from lobbying the government to support their crusade against tobacco. A very laudable outcome indeed.

Consultation questions

12. The Taxpayers' Union will provide responses to the questions posed in the consultation paper insofar as we see those questions being relevant to addressing the current burden upon New Zealand taxpayers, and ensuring public policy is based upon sound evidence.

Sale and supply of nicotine products – Appropriate controls

13. Yes, the Taxpayers' Union position is that nicotine e-cigarettes (indeed, all non-combustible alternatives to cigarettes) should be allowed in the local market. As noted in our introduction, the Taxpayers' Union recommends that these new generation nicotine products should be, at a minimum, as accessible as cigarettes. The current regulations applicable to cigarettes have been developed on the basis of the harm caused by them. Any regulation of non-combustible alternatives should therefore, be proportionate to the risk presented by them.
14. At least insofar as nicotine e-cigarettes are concerned, the widely accepted evidence from the PHE report is that *"While vaping [the use of an e-cigarette] may not be 100% safe, most of the chemicals causing smoking-related disease are absent and the chemicals which are present pose limited danger. It has been previously estimated that EC are around 95% safer than smoking. This appears to remain a reasonable estimate."*¹¹
15. In May 2015, a number of academics from the University of Otago wrote a blog piece titled *'Potential new regulatory options for e-cigarettes in NZ'*¹². In suggesting seven potential options for regulation, five of the seven options from the group entailed either highly restricted sales via pharmacy or prescription, one option was to maintain the status quo (something which has thankfully been discounted by the government), with a seventh option seemingly not addressing e-cigarettes at all. It would be

¹¹ [https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457102/E-cigarettes_an_evidence_update_A_report commissioned by Public Health England FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457102/E-cigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf)

¹² <https://blogs.otago.ac.nz/pubhealthexpert/2015/05/25/potential-new-regulatory-options-for-e-cigarettesands-in-nz/>

nonsensical to apply such a restrictive regime to products considered by the UK's leading public health body to be around 95% safer than cigarettes. Particularly when the legal, albeit heavily taxed, combustible version of nicotine is available at every dairy and service station.

16. If the intention of the Government is to take action that would benefit the health of New Zealanders, adult smokers should be encouraged to switch to these less harmful products. To achieve this, non-combustible alternatives must be easily accessible to adult smokers, and available at any place where they might otherwise purchase cigarettes.

Other nicotine-delivery products

17. As outlined in the consultation paper, e-cigarettes are available in a number of different formats. From our research in preparing this submission, the Taxpayers' Union notes there are other non-combustible alternatives available on the global market. We are aware of a Swedish product known as 'snus', which we understand has been used in Sweden, in various forms, for approximately two hundred years. There are also more nascent products that have entered the market in recent years, in particular, heated tobacco products, which are designed to heat portions of tobacco to release a tobacco smoke/vapour and to avoid combustion. These products are styled as 'heat-not-burn' products.
18. The Taxpayers' Union would encourage the New Zealand government to regulate for all non-combustible products as alternatives to cigarettes, with the level of regulation to be proportionate to the relative risks associated with each category.

Sales to youth

19. The Taxpayers' Union believes the sale and supply of any nicotine containing product should be limited to those above 18 years of age.

Advertising

20. If the intention of the Government is to reduce the harm caused by smoking by allowing non-combustible alternatives onto the market, it will be necessary to encourage adult smokers to switch to these products. To achieve this, it will be necessary to communicate the potential benefits of non-combustible alternatives to adult smokers. Adult smokers will need to be aware that new products, with potential health benefits, are available, and they will also need to be able to trial these products in order to switch to them.
21. A clear distinction must be made here between 'advertising' and 'communication'. The Taxpayers' Union is not advocating the return of wholesale advertising of nicotine products, the return of TV advertisements, billboards, etc. However, as the Smokefree Environments Act (the SFEA) is currently constructed, it is not permissible to proactively engage with adult smokers¹³, nor is it permissible to provide adult smokers with a product sample¹⁴.

¹³ Section 23 (1) (a) *Smoke-free Environments Act 1990*

¹⁴ Section 28 *Smoke-free Environments Act 1990*

22. In order to achieve the stated public health objective, and to encourage adult consumers to switch to a less harmful alternative, it is essential to permit unrestricted communication with adult consumers, certainly in relation to electronic nicotine products. The Taxpayers' Union recommends the following:
- (a) It be permissible to communicate proactively with adult smokers about non-combustible alternatives to smoking. Such communication would be on the basis that:
 - (i) the person age has been verified as 18 or above, and
 - (ii) the person has confirmed their status as a current or ex-smoker.
 - (b) Such communication may be in-person or via an internet based platform, on the basis of (a) and (b) above.
 - (c) It be permissible for retailers to provide demonstrations on the correct use of electronic nicotine products and to provide product samples for the purposes of such demonstrations.
 - (d) Within any age-verified venue (vape shops, tobacconists, bars, clubs, etc.), it would be permissible to display products, engage in proactive communication about the products, and provide support to consumers regarding the products.

Smokefree areas

23. It is currently permissible to use e-cigarettes in designated smoke-free areas. If the intention is to encourage adult consumer to switch to these less harmful products, the Taxpayers' Union see no value in extending the current restrictions on combustible cigarettes to electronic nicotine alternatives. We should be encouraging their use, not placing more barriers in the way.

Applying controls intended for cigarettes to a non-combustible alternative

24. Any regulation of non-combustible alternatives to cigarettes should be proportionate to the risk presented by them. With this in mind, the Taxpayers' Union holds the following positions:
- (a) There is no requirement for graphic health warnings on products that do not rely upon combustion to deliver nicotine. Any health warning on these products must take into account the level of risk inherent in their use. For example, it would be prudent to advise adult consumers that these products are addictive, or that, these products are not suitable for use when pregnant. This may be achieved with a simple text health warning.
 - (b) There is no justification for prohibiting the display of these products at sales outlets. If the intention is to encourage adult smokers to switch to a less harmful product, the less harmful alternative must be visible to them. Hiding these products in cupboards or beneath the counter will not help achieve the desired objective.

- (c) There is no basis to require standardised packaging for products which are substantially less harmful than cigarettes. Again, any regulatory measure must be based upon sound evidence and be proportionate to the inherent risk.
25. In terms of reporting and disclosure requirements, it is the Taxpayers' Union's view that, should any reporting or disclosure be required by the regulations, these should be as simple and bureaucracy-free as possible. Overly prescriptive regulations will require more infrastructure and more government personnel to help administer. We would encourage a 'light touch' approach in order to avoid unnecessary use of taxpayer's money.

Taxation of non-combustible alternatives

26. If it is the genuine intention of the New Zealand government to reduce the harm caused by smoking by legalising non-combustible alternatives to cigarettes, there should be no excise applied to these products. It is the contention of the government, and those whom taxpayers have funded to lobby the government, that increasing the tax applied to cigarettes reduces the number of those that smoke. It would therefore hold true that pricing the non-combustible alternatives considerably lower than competing combustible products will encourage adult smokers to try and eventually switch to the less-harmful products.

Quality control and safety standards

27. Through our research for this submission, we understand the UK has developed a standard for e-cigarettes and e-liquids.¹⁵ This standard contemplates the areas of concern outlined in question 8 of the consultation paper.
28. Beyond this, we are of the view that the New Zealand Consumer Guarantees Act and Fair Trading Act would also offer protection to New Zealand consumers.

Yours faithfully,

New Zealand Taxpayers' Union Inc.

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¹⁵ <http://ecita.org.uk/ecita-blog/summary-british-standards-institute-pas-54115>