

Minutes

National Retail Group meeting

Date:	25 September 2023
Time:	2.30pm-3.30pm
Location:	Manatū Hauora (Ministry of Health) 133 Molesworth Street Wellington
Chair:	Matt Burgess, Programme Manager, Tobacco Regulatory Authority
Attendees:	Gill Hall, Regulated Products Manager, Public Health Agency Odette Shaw, Principal Advisor, Tobacco Regulatory Authority Jane Chambers, Group Manager Policy & Regulation
	<p>Sandeep Aggarwal: Managing Director, National Retail Group, a wholesale distribution company for grocery products into convenience stores. National Retail Group was established following the Commerce Commission directive to Foodstuffs/Progressive to allow wholesale trade supply agreements and have a distribution agreement with Woolworths (Progressive) for wholesale supply of grocery into convenience stores branded as Kwikmart. National Retail Group is Looking to bring very low nicotine tobacco products (VLNT) sourced from 22nd Century Group into NZ.</p> <p>Sunny Kaushal: Chair, Dairy and Business Owners group, who was invited to become a member of the National Retail Group board and has accepted.</p>
Purpose:	This meeting was requested by the National Retail Group, through correspondence addressed to Director-General of Health, Dr Diana Sarfati, and the Group Manager, Public Health Policy and Regulation, Jane Chambers, to discuss National Retail Group's plans to introduce very low nicotine smoked tobacco products to the New Zealand market.

Item	Notes
1	<p>Article 5.3 considerations: A signed Article 5.3 declaration was provided by each of the meeting attendees prior to the start of the meeting.</p> <p>Detailed notes were taken during the meeting and a summary has been published on the Ministry of Health website. All attendees were made aware of this prior to the meeting commencing.</p>
2	<p>Opening statement by the MoH: The New Zealand Government are a signatory to the Framework Convention on Tobacco Control, in which we are must uphold our obligations under Article 5.3 of the convention which states that any dealings we have with the tobacco industry or those working to further its interests, need to be accountable and transparent. As per our obligations we will be publishing details of this meeting on the Ministry website.</p>

3a	<p>Policy issues raised by the National Retail Group: National Retail Group want to introduce very low nicotine tobacco products (VLNT) sourced from 22nd Century Group into the New Zealand market in the first quarter 2024, well in advance of the 1 April 2025 deadline for all tobacco products for sale in Aotearoa, New Zealand to contain no more than 0.8mg/g nicotine.</p> <p>National Retail Group have signed an exclusive supply agreement with 22nd Century Group to distribute VLNT, in the form of “red” standard type/style tailor made cigarettes throughout the whole of Aotearoa, New Zealand. 22nd Century Group are the only suppliers of VLNT products that the National Retail Group are aware of. The rationale for beginning to retail this product before the law change comes into effect is to provide a long lead-in time for the market to adapt and become familiar with VLNT.</p> <p>Key concerns for National Retail Group are that these VLNT products would currently retail at NZD\$35 due to excise tax and GST, National Retail Group believe that the challenge for uptake of VLNT will be the price point -as the cost would be the same cost as conventional tobacco product and smokers are more likely to buy the product that they know. Further, the laws governing what can be on the packaging for VLNT are the same as for conventional tobacco products and the current restrictions around tobacco advertising apply no matter the nicotine concentration.</p> <p>National Retail Group suggested that to improve uptake of VLNT in Aotearoa, New Zealand that the government could lower price, through a lower excise tax or rate on VLNT at least until June 2025. The stated suggestion was to facilitate having VLNT products priced at NZD\$20 for 20/pack including excise tax and GST to encourage smokers to purchase VLNT over conventional tobacco product. Additionally, to change the smokefree act to allow different or refined health warnings on the VLNT packaging from conventional products.</p>
3b	<p>Ministry response: These are all policy issues which we are not in a position to discuss. We are the regulator and only concerned with operational matters. If you have comments or feedback you could put this and any questions in writing and send to the Group Manager, Policy & Regulation, Public Health Agency. We can consider your comments in advice provided to Ministers.</p>
4a	<p>Operational questions raised by National Retail Group: What are the key dates for the new tobacco product regulations and what will National Retail Group have to do to be compliant with the new regulations? Would the MoH support National Retail Group supplying the product at cost (with no import cost) as a trial into the NZ market? Can National Retail Group apply for internet sales for the low nicotine products as part of the 599 authorised sellers?</p> <p>Has a testing methodology been approved for low nicotine tobacco products, 22nd Century Group use an ISO method which is gas chromatographic and an IEC273 lab to confirm the nicotine concentration, will this be acceptable? 22nd Century Group products are considered non-genetically modified organism (GMO) in the USA, what advice does the MoH give in regard to these being non-GMO in NZ?</p>
4b	<p>Ministry response: These low nicotine products can be sold now as there is no restriction on selling low nicotine products, and National Retail Group can register now as a distributor (notification process). Applications for low nicotine products will open by July 2024. The best time to apply will be before November 2024 in order to make sure approval is granted by 1 April 2025. Applications later than the end of November</p>

	<p>may not be approved in time for the 1 April 2025 deadline and products will not be able to be sold until they are approved.</p> <p>The Customs permit and Customs Controlled Area (CCA) license process will open in July 2024, this resides with Customs so National Retail Group will continue to apply to customs for permits/CCA license, they will provide the Ministry of Health with your information and we will provide them with the Director General issued number that applies to those products. National Retail Group could apply for temporary license to import if they are not sure the product will meet all the criteria as laid out in the regulations. Excise tax and GST matters are not part of the Ministry of Health's operational remit.</p> <p>There is no provision in the regulations that create an exception for low nicotine products to be sold online. Online sales will only be allowed if the requirements to allow online sales which are spelt out in the regulations are met; namely that there is a geographic or location or specific sub-population who are not being served by the distribution of physical retail outlets and the Director General of Health will assess this need after all the retail store applications have been assessed. This will not be determined until March 2024.</p> <p>The test method has not been prescribed in the legislation, the Ministry is aware that there a number of testing methods for nicotine that meet ISO/international standards so the test method used to quality control the product will be verified as appropriate as the as part of the product application.</p> <p>GMO products are not part of the remit of the Ministry, National Retail Group would need to speak to the relevant government department, and comply with their conditions and processes for assessment to determine the GMO status of the 22nd Century Group products under NZ law.</p>
5a	<p>Final words from National Retail Group: We are trying to be proactive about tobacco supply and work with the Ministry on this. National Retail Group wants to work for the cause to reach the smokefree goal together at the same time.</p> <p>Do you have any frank advice for us?</p>
5b	<p>Ministry response: Put the application for the VLNT products National Retail Group wants to sell in as soon as possible so that you are certain that your products are compliant well before the deadline. At the moment, the MoH are focussed on processing the retailers' applications but the products will be the focus in the second quarter next year.</p>

Article 5.3 declarations

Provided signed, to the Ministry of Health via email:

Sandeep Aggarwal
Managing Director, National Retail Group Limited
Signed on: 25.09.23

FCTC Declarations (please tick Yes or No as applicable):

All four declarations must be completed

I declare that I and/or the organisation(s) I represent do not receive any financial assistance, funding (other than taxes, other fiscal duties, or court mandated payments), or settlement from the tobacco industry, or any entity working to further its interests, nor have I/we within the past five years. Yes No

I declare that I am not and have not been employed in the last five years by the tobacco industry or any entity working to further the interests of the tobacco industry. Yes No

I declare that I am not affiliated with, or have a professional relationship with the tobacco industry, or any entity working to further its interests. Yes No

NOTE: the notion of "professional relationship" used in this declaration does not including a public office holder's interactions with the tobacco industry required for setting and implementing public health policies with respect to tobacco control

I declare that the above information is true to the best of my knowledge and understand that meetings may be cancelled if the information provided is inaccurate. Yes No

Sunny Kaushal
Chair, Dairy & Business Owners Group
Signed on: 25.09.23

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