Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 151

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| **Your details**  This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: | Z Energy |
| 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Do not publish this submission.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.

|  |
| --- |
| Z Energy is a retailer of tobacco-related products. |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@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:

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| --- |
| Z is not an expert in the risks associated with various nicotine products, but we are supportive of evidence-based measures that will aid or further smoking cessation and a reduction in smoking related mortality, so long as appropriate controls are in place that:   * Do not have unintended adverse consequences * Do not compromise staff safety and wellbeing * Are applied fairly, in a realistic timeframe and do not advantage or disadvantage one retailer over another * Do not compromise the ability to deliver the level of service our customers expect and deserve * Do not impose significant additional costs on doing business.   This position is consistent with our commitment to take steps that advance New Zealand towards a Smokefree 2025, including Z’s support for a range of tobacco control measures, and the recent addition of a nicotine replacement product to our national product range.  We acknowledge the harm that tobacco does to families and communities and will support constructive measures that will lead to reduction of this harm. While Z is again not an expert in the efficacy of certain interventions, Z has not opposed concealing tobacco in store, tax increases, health warnings or plain packaging.  It is very important that whatever outcome of this review is applied fairly across the market and that certain subjective judgements are not made around one retailer or another. To this end, Z supports these products being treated consistently with tobacco-related products.  While scientific uncertainty remains around the risks and benefits of e-cigarettes, Z acknowledges the scientific consensus that the exclusive use of e-cigarettes is significantly less harmful than smoking. On that basis we support e-cigarettes being legally sold in New Zealand as a safer alternative to smoking, with appropriate controls. |

**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:

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| Not that we are aware of at this time. |

**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:

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| We believe that allowing sales to minors would be inconsistent with the goal of a Smokefree 2025. Z’s position recognises that while allowing the controlled use of e-cigarettes could be a step towards this goal overall, there remains scientific uncertainty about long term-health risks of e-cigarettes to users, and claims that young people’s experimentation with and more regular use of e-cigarettes may lead to nicotine addiction or have a gateway effect to smoking.  As a retailer, we support one class of nicotine products to make it as simple as possible for consumers and for our staff. Unless and until there is enough evidence for the Ministry of Health to recommend e-cigarettes as an aid to stop smoking, Z advocates for prohibitions on the sale to minors consistent with tobacco products. |

**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:

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| Z’s tentative support for e-cigarettes is as a safer alternative to tobacco-based nicotine products. We do not have a position on whether full prohibition of advertising is warranted, however unless and until there is enough evidence for the Ministry of Health to recommend e-cigarettes as an aid to stop smoking, Z advocates for a precautionary approach to advertising and promotion that does not have the unintended consequence of promoting e-cigarettes as a new gateway to nicotine-containing products. |

**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:

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| --- |
| Z would seek to prohibit the use of e-cigarettes on forecourts and operational sites, especially given the ongoing scientific concern about the potential adverse effects on non-users exposed to e-cigarette vapour and also to ensure there is no confusion between the treatment of different products. Our position on this respects the rights of our customers and staff not to inhale any form of secondhand smoke, regardless of how it is generated.  Our position also recognises the safety risk of distraction on high-risk sites.  National controls would assist in this. |

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

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| --- | --- | --- | --- |
| **Control** | **Yes** | **No** | **Reasons/ additional comments** |
| Requirement for graphic health warnings |  |  | We are not sufficiently qualified to express a view on this but would not oppose this. |
| Prohibition on displaying products in sales outlets |  |  | Our support for e-cigarettes is as a safer alternative to tobacco-based nicotine products. We do not have a position on whether full prohibition on displaying e-cigarettes is warranted, however, unless and until there is enough evidence for the Ministry of Health to recommend e-cigarettes as an aid to stop smoking, Z advocates for a precautionary approach that does not have the unintended consequence of promoting e-cigarettes as a new gateway to nicotine products. |
| Restriction on use of vending machines |  |  | We are not sufficiently qualified to express a view on this but would likely support in the context of preventing access of the product to children. |
| Requirement to provide annual returns on sales data |  |  | Returns should be collected in a way that is consistent with tobacco sales data, to be able to measure impact on overall rates of nicotine use. |
| Requirement to disclose product content and composition |  |  | Generally and as a principle, people have a right to know what they are consuming. We want to know that we are selling a product that is what it says it is. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | Again, people have a right to know what they are consuming. We want to know that we are selling a product that is what it says it is. |
| Requirement for annual testing of product composition |  |  | We will leave this to the experts to determine what is appropriate / required. |
| Prohibition on free distribution and awards associated with sales |  |  | Our qualified support for e-cigarettes is as a safer alternative to tobacco-based nicotine products. Free distribution and awards should not have the unintended consequence of promoting e-cigarettes as a new gateway to nicotine-containing products. |
| Prohibition on discounting |  |  | Our support for e-cigarettes is as a safer alternative to tobacco-based nicotine products. Discounting should not have the unintended consequence of promoting e-cigarettes as a new gateway to nicotine-containing products. |
| Prohibition on advertising and sponsorship |  |  | Our support for e-cigarettes is as a safer alternative to tobacco-based nicotine products. Advertising and promotion should not have the unintended consequence of promoting e-cigarettes as a new gateway to nicotine-containing products. |
| Requirement for standardised packaging |  |  | Z would support packaging considerations that mitigate the potential unintended consequence of promoting e-cigarettes as a new gateway to nicotine-containing products. |
| Other |  |  |  |

**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:

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| We don’t have a strong view on this. However our support for e-cigarettes is as a safer alternative to tobacco-based nicotine products. Based on what we know – which we freely acknowledge is note exhaustive – e-cigarettes are highly likely to be a safer product which can potentially help transition people to smoke-free. In this context we believe e-cigarettes should remain cheaper to help encourage smokers to switch.  The lower value of e-cigarettes would also have the knock-on benefit of reducing the threat of robberies. The current robbery rate across convenience stores in New Zealand is driven in large part by the high cost of cigarettes. |

**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 |  |  | As a retailer we do not want to sell a product that may have unintended consequences, particularly on children.  In a concentrated liquid form the risks of accidental poisoning through consumption are likely to be higher than that for, say, ‘accidentally’ smoking a packet of cigarettes. |
| Safe disposal of e‑cigarette devices and liquids |  |  | This sounds sensible but we do not have an expert or informed view. |
| Ability of device to prevent accidents |  |  | This sounds sensible but we do not have an expert or informed view. |
| Good manufacturing practice |  |  | This sounds sensible but we do not have an expert or informed view. |
| Purity and grade of nicotine |  |  | We are not qualified to comment |
| Registration of products |  |  | We are not qualified to comment |
| A testing regime to confirm product safety and contents purity |  |  | This sounds sensible but we are not sufficiently expert to comment in this space.  As a principle, our customers have a right to know what they are buying and we have a right to know what we are selling. |
| Maximum allowable volume of e-liquid in retail sales |  |  | We are not qualified to comment |
| Maximum concentration of nicotine e-liquid |  |  | We are not qualified to comment |
| Mixing of e-liquids at (or before) point of sale |  |  | We are not qualified to comment |
| Other |  |  | We are not qualified to comment |

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

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| Z acknowledges the harm that tobacco does to Kiwi communities. While Z is a retailer of tobacco-related products we are committed to taking the steps that we can to move New Zealand towards a Smokefree 2025. While there is probably more work to be done to fully understand the phenomenon of e-cigarettes, Z accepts the prevailing view that they are likely to be significantly less harmful than nicotine delivered through tobacco products.  We believe a shift away from tobacco-related products towards e-cigarettes can serve as a helpful step away from a more harmful addiction and may support consumers to break the nicotine addiction altogether.  To this point, we have seen some public comment around which retail outlets might and might not be permitted to sell these products. Any controls in this respect outside of current regulations would be confusing, unfair and could potentially undo some of the good associated with these proposals – e.g. service stations are a common and convenient purchase point for tobacco, which is why Z has started providing nicotine replacement products in retails stores. Denying a safer and less harmful product to consumers from outlets that currently sell tobacco is not sensible or consistent with the goals of the review.  Additionally, Z believes that enabling the sale of e-cigarettes more broadly throughout new Zealand has the very real ability to minimise the financial harm currently being caused through addiction to tobacco-related products across New Zealand, the impacts of that on families and communities and the incidence of robbery and theft of tobacco products. |

**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)?**

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| We have nothing to offer here. |

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

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| The more we can shift people away from tobacco to cheaper and less harmful alternatives, the more likely we are to reduce the real and rapidly-increasing security risk around the sale of tobacco-related nicotine products.  The current robbery rate across convenience stores in New Zealand poses a very real risk to the safety of people and the community.  Anything to reduce the addiction to tobacco is likely to enhance the safety of our staff, our businesses and our families and communities. |

**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?**

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| --- | --- | --- | --- |
| **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?** |
|  |  |  |  |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 152

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| **Your details**  This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* |  |
| *(town/city)* |  |
| Email: | [redacted] |
| Organisation *(if applicable)*: | Public Health Service, MidCentral District Health Board |
| 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)*: Public Health Service

*(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.

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**

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|  |
| --- |
| MDHB has no vested interests in, and does not receive any funding or support from the tobacco industry. |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@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:

We support the sale and supply, but only as a short to medium term measure as part of a smoking cessation process. We do not support their ongoing use as a substitute for smoking.

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| While we acknowledge the harm minimization approach as a way of reducing the burden of disease from tobacco smoking, and can see some potential merit in their availability as a quitting aid, we have significant reservations around the concept of nicotine containing e-cigarettes (or other nicotine products) being freely available for long term use as an alternative to smoking. These concerns are around:   * the ethics of marketing an addictive product, * the potential health effects of e-cigarettes * the potential for use of e-cigarettes to normalize smoking (or other drug-taking) behaviour, particularly for young people   The cost of e-cigarettes is not inconsiderable, particularly if they are to be used long-term. With those who are socioeconomically disadvantaged having high smoking rates, there is potential for use of both e-cigarettes and regular tobacco products to have a significant impact on families who are struggling to provide food or housing. Transferring an addiction from tobacco to an e-cigarette, while arguably “safer” is seen as a cynical step, unless their use is designed and marketed as a short-term alternative on the pathway to cessation.  The volume of research into the safety of e-cigarettes, both to the person vaping, and to those around them is relatively small. E-cigarettes have not been in existence long enough for a body of evidence to be established.  We need to be sure that e-cigarettes are not a gateway for non-smokers starting to smoke tobacco products, or to other drugs which are smoked.  They should be regulated to limit any potential harm they may cause through normalizing smoking behavior, extending smoking usage by existing smokers instead of quitting, or being a gateway into smoking cigarettes for non-smokers.  All smoking products including e-cigarettes should be regulated and licensed.  *Specific controls could be*:   * Retailers that sell e-cigs should be licensed. Then the license can be suspended for non-compliance. * License subject to cost an annual fee that could be directed to help fund monitoring and enforcement. * Have restrictions on the type and location of outlets who can sell, including stipulations about proximity to schools and areas of low deprivation. Approved outlets might include Pharmacies, and other premises that are able to provide cessation support, rather than just marketing of the product. |

**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:

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| --- |
| Anything else that mimics smoking behavior either currently on the market or future proofed regulations for new products that may be produced in the future. |

**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:

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| --- |
| We submit that e-cigarettes should be made available as a short-term quitting aid only, alongside other NRT products, and that their long-term use should be actively discouraged.  Given that sale of tobacco products to people under 18 years of age is illegal, it makes absolutely no sense of have a device designed to help people quit smoking being made available to young people.  E-cigarette sale and supply to minors should be linked to the age requirements for smoked tobacco products (currently 18). If that age is raised in the future then e-cigarette age for supply and sale should be raised as well.  Reasons for an age limit:   * Potential adverse health effects of e-cigarettes, especially concerns for youth from e-cigarettes containing nicotine. * Addictive properties of nicotine. * The unknown association between e-cigarette use and starting smoking.   Propylene glycol, a main base ingredient of e-cigarettes can cause eye and respiratory irritation and when heated and vaporised can form propylene oxide, a class 2b carcinogen as defined by the International Agency for Research on Cancer, class 2b being exposures possibly carcinogenic to humans. The long-term adverse health effects of e-cigarettes are unknown at this time because they have not been in widespread use long enough for assessment. Few studies have directly investigated the health effects of exposure to e-cigarette vapors. (WHO, 2014 & Grana, Benowitz and Glantz, 2014). Evidence is sufficient to caution adolescent nicotine exposure to have long-term consequences for neurological development. E-cigarettes vary in their ability to deliver nicotine from very low levels to levels equivalent to cigarettes. (WHO, 2014). Given potential health risks of e-cigarettes linking purchase age to smoked tobacco product purchase age is a reasonable regulatory measure.  It is unclear if unregulated e-cigarettes use is a gateway for the uptake of smoked tobacco products by adolescents. Until a definitive body of research exists on this issue, it remains unclear if the absence of prohibition to young people would conflict with the goals of Smoke Free Aotearoa 2025. There also appears to be no research on any the link between e-cigarette usage for Maori or Pacifika youth and smoked tobacco product uptake. Any variation of the effects of e-cigarette usage and smoked tobacco product use in New Zealand is thus unknown for ethnicities with the highest incidence of smoking. |

**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:

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| --- |
| Any regulations on advertising e-cigarettes should be in line with controls on smoked tobacco products. Where e-cigarettes have been advertised, marketing strategies similar to historical smoked tobacco products have been used and health and product safety claims made are not substantiated by research.  Consumer perceptions of risks and benefits of e-cigarettes are heavily influenced by how they are marketed. A 2014 review by Grana and Ling of 59 single brand e-cigarette websites found health claims made through pictorial and video representations of doctors in 22% of websites as well as cessation related claims (64%), and that they can be used to circumvent smoke free legislation (71) %. Marketing often stated that they produced harmless vapour.  Marketing in the UK has included anecdotes of e-cigarettes being more effective quitting devices than NRT and general marketing has followed themes of a healthier choice and ways to circumventing smoke free restrictions. E-cigarette usage is more prevalent and appealing amongst youth who are also using or experimenting with cigarettes (data from European, US and Korean research), (Grana et al, 2014).  The link between e-cigarette experimentation and conventional cigarette usage is an area where limited research has occurred. As there may be a casual relationship between the two, it would be reasonable to regulate to the marketing and advertising of e-cigarettes as well as point of sale display controls. |

**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:

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| Research into e-cigarette marketing show it is marketed extensively in the USA and UK as a way to circumvent smoke free legislation. US research has found e-cigarette users also use e-cigarettes as a way to circumvent smoke free areas (Grana et al, 2014). Allowing the use of e-cigarettes in smoke free areas could normalise vaping behavior, exposing minors to vaping behavior, and potentially renormalize smoking given similarities between vaping and smoking when observed by a bystander, especially children who may not differentiate between smoking and vaping. Although of apparently lesser toxicity than secondhand smoke, there is also concern over the potential health effects of secondhand vapor (Grana et al, 2014). |

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

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| --- | --- | --- | --- |
| **Control** | **Yes** | **No** | **Reasons/ additional comments** |
| Requirement for graphic health warnings |  | **√** | Currently there is insufficient evidence of adverse effects at levels to warrant graphic warnings, however a mechanism should be put in place so if further down the track evidence links to disease health warnings can easily be put in place. |
| Prohibition on displaying products in sales outlets |  | **√** | Provided that only outlets such as pharmacies can supply e-cigarettes, and also the requisite support, they should be able to display them as another quitting aid. |
| Restriction on use of vending machines | **√** |  | We oppose the sale of e-cigarettes via vending machines. |
| Requirement to provide annual returns on sales data | **√** |  | To monitor national and regional sales data. |
| Requirement to disclose product content and composition | **√** |  | Consumer rights issue, consumers have a right to know what they are consuming as per labeling requirements of the Food Act 2014 and Medicines Act 1981.  Have label/list of ingredients and amounts or concentration of ingredients on both cartridge or other device and packet. Include common name of ingredient not chemical so it’s easy for the lay person to understand.  There is also a clear need to advise people that nicotine is addictive – this is an ethical imperative. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | **√** |  | Have maximum allowable levels for nicotine based on levels suitable for a quitting aid. Levels that limit the risk of non-smokers using e-cigarettes becoming addicted to their use.  Ban the use of flavorings such as apple or chocolate as they appeal to children and young persons. |
| Requirement for annual testing of product composition | **√** |  | Evidence of variability in manufacture and quality assurance with some products currently on the market. Annual testing would monitor ingredient levels and provide auditing of product |
| Prohibition on free distribution and awards associated with sales | **√** |  | In line with smoked tobacco products, to mitigate risk of uptake by young persons or non smokers. |
| Prohibition on discounting | **√** |  | In line with smoked tobacco products, to mitigate risk of uptake by young persons or non smokers. NZ website [www.vapo.co.nz](http://www.vapo.co.nz) offered a $5.00 discount off any purchase when that website was viewed on 24/8/16. Unless prohibited such practices would likely occur for e-cigarettes containing nicotine.  Any prohibition on discounting should exclude e-cigarettes being prescribed by medical professionals or quit coaches if they are found to have merit as a quitting aid. |
| Prohibition on advertising and sponsorship | **√** |  | In line with smoked tobacco products, to mitigate risk of uptake by young persons or non smokers. |
| Requirement for standardised packaging |  | **√** | If they are marketed as a quitting aid only, and through approved outlets such as pharmacies, there would be no need for standardised packaging.  Should include nicotine health warnings for young people in line with WHO recommendations. |
| Other |  |  |  |

**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:

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| Provided that e-cigarettes are marketed as a quitting aid, it would be counter-productive to impose excise duty.  If e-cigarettes are to be provided by approved outlets such as quitline, quit coaches, doctors or pharmacists consideration might be given to subsidization as with other forms of NRT. |

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

**Yes √** No

Additional comments:

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| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers | √ |  | To mitigate risk of accidental ingestion by children to prevent acute intoxication.  Need to include minimum standards of child safety, aligned with best international practice. |
| Safe disposal of e‑cigarette devices and liquids | √ |  | To reduce harm to children. |
| Ability of device to prevent accidents | √ |  | There have been examples internationally of device malfunction causing injury. They should be designed and regulated to mitigate the risk of device caused injury. |
| Good manufacturing practice | √ |  | Product quality assurance, control of levels of ingredients, especially relevant if maximum allowable levels of ingredients such as nicotine are introduced. |
| Purity and grade of nicotine | √ |  | Pharmaceutical grade nicotine. |
| Registration of products | √ |  | Yes on a national register |
| A testing regime to confirm product safety and contents purity | √ |  | For content purity. Without longitudinal research it would be difficult to test for product safety as the safety of e-cigarettes is unknown for long term usage.  Any cost here should be borne by the manufacturer. Similar to requirements within the Psychoactive Substances Act testing regime. |
| Maximum allowable volume of e-liquid in retail sales | √ |  |  |
| Maximum concentration of nicotine e-liquid | √ |  | Nicotine is a highly addictive substance and can produce adverse health effects, as the health risks of e-cigarette use are not well understood, nicotine levels should be regulated. Minimise nicotine acute toxicity if ingested by children. |
| Mixing of e-liquids at (or before) point of sale |  | **√** | To control concentration of ingredients at a manufacturing level rather than a supply level. Would make nonsense of quality control regulation and any ingredient labelling. |
| Other | √ |  | To limit sale for retailers to either e-cigarettes or tobacco products not both. Otherwise smokers using e-cigarettes as a quitting aid are faced with making purchases from a shop where tobacco products are available which promotes continued use of tobacco. It would be like an alcoholic going to a liquor store to purchase fizzy drink. |

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

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|  |

Reference material

Grana, R. Benowitz, N and Glantz S. (2014). E-Cigarettes, A Scientific Review.

<http://circ.ahajournals.org/content/129/19/1972.full>

Grana, R & Ling, P. (2014). Smoking Revolution? A content analysis of electronic cigarette retail websites. AM J, Prev Med, 46:395-403.

WHO Framework Convention of Tobacco Control. (2014). Electronic nicotine delivery systems.

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| Sixth session Moscow, Russian Federation,13–18 October 2014. |

**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)?**

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|  |

**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?** |
|  |  |  |  |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 153

|  |  |
| --- | --- |
| 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)*: | [redacted] |

*(Tick one box only in this section)*

Are you submitting this:

x 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

x Academic/research

Cessation support service provider

x 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.

x 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.

|  |
| --- |
| My research organisation [redacted] has conducted pharmacokinetic studies of nicotine in e-cigarettes for academic, biotech, pharmaceutical and tobacco companies |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@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 x No

Reasons/additional comments:

|  |
| --- |
| This question should be enlarged to include all tobacco harm reduction products |

#### 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 x No

Reasons/additional comments:

|  |
| --- |
| All nicotine delivery products that have the potential for harm reduction must be evaluated and introduced to the local market with appropriate controls |

#### 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 x No

Reasons/additional comments:

|  |
| --- |
| Where possible the initiation of nicotine addiction should be avoided. Although the evidence is weak, e-cigarettes may be a gateway to tobacco use |

#### 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 x

Reasons/additional comments:

|  |
| --- |
| Control of advertising may be beneficial but for different reasons. I would initially advocate for no advertising controls apart from current legislation that applies to all consumer products with special conditions applied to prevent targeted advertising to persons < 18 years of age |

#### 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 x

Reasons/additional comments:

|  |
| --- |
| If there are controls on the standards of e-cigarettes then the discharge of harmful particles into the environment is minimal |

#### 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 | x |  | Show a healthy lung and state “This product is much better for you than a tobacco cigarette |
| Prohibition on displaying products in sales outlets |  | x |  |
| Restriction on use of vending machines |  | x |  |
| Requirement to provide annual returns on sales data | x |  |  |
| Requirement to disclose product content and composition | x |  |  |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | x |  |  |
| Requirement for annual testing of product composition | x |  |  |
| Prohibition on free distribution and awards associated with sales |  | x | No promotion to under 18 yrs |
| Prohibition on discounting |  | x |  |
| Prohibition on advertising and sponsorship |  | x | Reasonable controls, see Q4 |
| Requirement for standardised packaging |  | x |  |
| Other | x |  | Ongoing research should evaluate the number of persons <18 who are regularly vaping, sales volume must be monitored |

#### 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 x No

Reasons/additional comments:

|  |
| --- |
| Only to fund the appropriate research to ensure that uptake is not occurring in under 18 year olds and ongoing harm evaluation |

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

Yes x No

Additional comments:

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

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

|  |
| --- |
| I work both as a [redacted] and a [redacted]. In my role as [redacted] I see the harm caused by smoking cigarettes and firmly believe that this harm can be reduced. The switching of nicotine addicted persons from combustible cigarettes to nicotine containing reduced harm products has major health gains. It will require a brave and committed approach from politicians but it has the potential to become one of New Zealand’s major health improvement initiatives  In my role as [redacted] undertaking pharmacokinetic studies on a number of e-cigarettes and other reduced harm devices/products, it is apparent that not all devices and products are equal. Standards should be set for the content (purity, other compounds apart from nicotine in the e-liquid, strength of nicotine), and device safety |

### 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)?

|  |
| --- |
| No |

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

|  |
| --- |
| No |

#### 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? N/A

|  |  |  |  |
| --- | --- | --- | --- |
| **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 154

**SUBMISSION ON**

**POLICY OPTIONS FOR THE REGULATION OF ELECTRONIC CIGARETTES:**

**A CONSULTATION DOCUMENT**

**BY**

**THE NEW ZEALAND VAPING ALLIANCE**

12 September 2016

To: The Ministry of Health - [ecigarettes@moh.govt.nz](mailto:ecigarettes@moh.govt.nz)

From: [redacted]

The New Zealand Vaping Alliance,

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

**DISCLOSURE:**

This submission represents the views of a number of New Zealand’s leading e-cigarette and vaping equipment suppliers including e-cigarette importers, distributors and retailers. We also use nicotine e-cigarettes and vape.

We do not object to the publication of this submission on the Ministry of Health’s website.

While we are suppliers, distributors and retailers of e-cigarette and vaping equipment we do not consider ourselves to be part of the tobacco industry, nor have any affiliations with the tobacco industry.

**EXECUTIVE SUMMARY**

The New Zealand Vaping Alliance (NZVA) would like to congratulate the Ministry and the New Zealand Government in holding a consultation into policy ideas for the regulation of electronic cigarettes.

NZVA fully supports the position of the Government agreeing in principle to nicotine e-cigarettes being legally available for sale and supply in New Zealand[[1]](#footnote-1).

We also recognise that the scope of the consultation paper covers nicotine and nicotine-free e-cigarettes and e-liquids which are electrical devices that produce a vapour by heating a solution that may contain nicotine which may be derived from tobacco (e-liquid) but has no tobacco inclusion.

The Ministry may be aware that there are other devices emerging onto the marketplace that claim similar reduced-risk profiles to those of e-cigarettes, but in the interests of keeping to the scope of the consultation process, our submission only applies to e-cigarettes and e-liquids.

NZVA appreciates the challenge for the Ministry and Government in this area. Efforts to future-proof legislation for a market that has rapidly-changing product innovations is inherently challenging.

NZVA believes the priority and immediate focus should be on allowing nicotine e-cigarettes and nicotine e-liquids to be legally available for sale and supply by manufacturers, suppliers, wholesalers and retailers in New Zealand.

We believe this focus will achieve the Ministry’s policy objectives of reducing harm from tobacco smoking by providing a much safer alternative product for smokers; prevent harm from e-cigarettes through the introduction of appropriate product standards and purchase age of 18 plus; and similarly the introduction of product and manufacturing standards will address issues associated with product safety.

We believe this approach will support the Ministry efforts to maximize the potential benefits of e-cigarettes, minimise delay in legislating and minimise potential risks to smokers and to the wider population.

**CONSULTATION QUESTIONS**

**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.

NZVA believes nicotine e-cigarette and nicotine e-liquids should be legally available for sale in New Zealand as soon as possible.

NZVA fully supports allowing nicotine e-cigarette and nicotine e-liquids to be legally available for sale in New Zealand to those 18 years and over. The current situation is untenable with some suppliers openly selling nicotine e-cigarettes and nicotine e-liquids, while responsible product suppliers are placed at a competitive disadvantage as they abide by the current legislative restrictions.

NZVA is aware of a number of complaints being made to the Ministry about retailers selling nicotine e-cigarettes and e-liquids, with enforcement action seemingly non-existent. The status quo simply cannot be allowed to continue. It is therefore not surprising that there is a growing number of suppliers importing, supplying, selling and promoting nicotine e- products.

Vaping consumers are also very frustrated at the current difficulty in sourcing their preferred nicotine e-products, and, in turn place responsible retailers in an insidious position of turning away sales of a product where there is wide-spread understanding that it is 95% safer than smoking combustible tobacco products which are readily available.

Restricting the sales and availability of nicotine e-cigarettes and e-liquids to pharmacies or licensed vape shops could result in the insidious position of people seeking to quit smoking via these products being unable to access supplies and as a result move back to smoking.

NZVA believes that appropriate controls are required, but cautions the Ministry that an overly restrictive regulatory regime aligning e-cigarette products with combustible tobacco products when the products are entirely different, risks undermining the positive public health gains that are available with these products. We acknowledge that the Ministry and Government recognise this quandary.

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

YES.

As stated above, NZVA believes the priority and focus should be on allowing nicotine e- cigarettes and nicotine e-liquids to be legally available for sale and supply by manufacturers, suppliers, wholesalers and retailers in New Zealand.

All of the reputable and widely-accepted scientific evidence cited in the Ministry’s Consultation paper, alongside commentary about the development of appropriate policy options is on nicotine only vaping products.

NZVA is concerned that delays or confusion could be created if the scope of the consultation is broadened beyond vaping e-cigarette products. Any delay would continue the harm caused by combustible smoked tobacco products if smokers were continued to be denied access to a proven and much safer alternative.

**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.

NZVA supports the introduction of a purchase age of 18 years plus. We also support appropriate public health messages to help underage smokers who have registered with stop-smoking services.

**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?**

To a degree.

NZVA is concerned that the traditional tobacco-control mind-set of restricting all advertising and marketing of tobacco products is potentially being applied to what is a new and demonstrably safer product category. E-cigarettes are not tobacco products, they are not smoked and they are 95% safer. Every effort should be made to encourage smokers to switch by ensuring the legislation supports smokers to do so. Applying traditional smokefree legislation restrictions are likely to have the opposite effect.

NZVA believes that consumers should be made aware of nicotine e-cigarettes and e-liquids as much as possible in order to show smokers that there is a safer alternative available to them than tobacco products.

Attempts to control advertising of e-cigarettes in an age where consumers have unrestricted access to search for e-cigarettes and e-liquid products, many from overseas where advertising restrictions are limited, would effectively make any New Zealand controls on digital advertising redundant.

NZVA believes there is value and merit in the Ministry and Government considering the Advertising Standards Authority’s Advertising Code of Ethics[[2]](#footnote-2). The basic principles are;

1. All advertisements must comply with the laws of New Zealand.
2. No advertisement should impair public confidence in advertising.
3. No advertisement should be misleading or deceptive or likely to mislead or deceive the consumer.
4. All advertisements should be prepared with a due sense of social responsibility to consumers and to society.
5. All advertisements should respect the principles of free and fair competition generally accepted in business.

The development of an Advertising Code for E-cigarettes would be designed to ensure that nicotine e-cigarette and e-liquid products’ advertising and promotion is consistent with the need for responsibility and does not encourage use by minors.

We believe that there are significant public health benefits available from taking a positive and considered approach to the introduction of advertising self-regulation for these products.

Self-regulation encourages the industry to take responsibility to ensure legal, decent and honest advertising communications to consumers. There are a number of incentives. Most advertisers do not want to deliberately mislead or offend current or potential customers. They understand the importance of responsible advertising of restricted products and engage with pre-vetting processes and code-compliance prior to the release / publication of advertising. If consumers trust advertising, it is more effective. Advertising self-regulation also works best alongside a legislative framework and in New Zealand there are about 50 different pieces of legislation that restrict advertising in some way.[[3]](#footnote-3)

NZVA recommends the Ministry encourage manufacturers, suppliers, wholesalers and vaping organisations on developing and introducing a self-regulation Advertising Code for E-cigarettes.

NZAV members believe they should be able to advertise that these products are 95% safer than smoking.

This would meet public health goals of ensuring appropriate communications about these products to consumers, while also ensuring manufacturers, suppliers, wholesalers and vaping organisations to equally compete on the New Zealand market.

**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?**

NZVA believes that policy development in this area should take lessons from Public Health England’s ‘Use Of E-Cigarettes In Public Places And Workplaces – Advice To Inform Evidence-Based Policy Making[[4]](#footnote-4).

E-cigarettes do not contain any tobacco and do not create smoke. We do not support a blanket-ban on vaping in public places and believe that in workplaces and hospitality settings, the managers of these places should be able to make decisions on vaping areas that work for their respective settings.

As with Public Health England’s advice, it is important to ‘foster an environment in which e-cigarettes can provide a route out of smoking’. Their key principles to guide policy making are:

1. Make clear the distinction between vaping and smoking
2. Ensure policies are informed by the evidence on health risks to bystanders
3. Identify and manage risks of uptake by children and young people
4. Support smokers to stop smoking and stay smokefree
5. Support compliance with smokefree law and policies.

A key lesson is that many vapers are ex-smokers who have used e-cigarettes to quit smoking. By preventing them from vaping, or making it difficult for them to vape in public places could have the unfortunate consequence of making it ‘all too hard’.

The novel approach suggested by the National Smokefree Working Group (see comments below) that ‘clear signage should indicate where vaping is permitted, and these areas should be separate to “smoking permitted” areas’ is unworkable in real-world hospitality settings, and creates further barriers for vapers.

It would be both prohibitive and unreasonable to expect business owners and the hospitality sector to have separate smoking and vaping areas. We would also suggest that having smokers learn from vapers about e-cigarettes and their reduced-risk when compared to smoked tobacco products is a positive situation and one to be supported.

**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 |  | N | E-cigarettes are not tobacco products |
| Prohibition on displaying products in sales outlets |  | N | Any prohibition of display puts at risk achieving the public health gains available from these products |
| Restriction on use of vending machines |  | N | N/A – Use of vending machines limited |
| Requirement to provide annual returns on sales data |  | N | Adds business costs and unmanageable compliance issues. |
| Requirement to disclose product content and composition | Y |  | Businesses should supply this consumer information on their websites. |
| Regulations concerning ingredients (e.g., nicotine content and/or flavours) |  | N | Self-regulating environment exists with ingredients all Food-Grade |
| Requirement for annual testing of product composition |  | N | Adds business costs and compliance issues. |
| Prohibition on free distribution and awards associated with sales |  | N | E-cigarettes are not tobacco products and should not be treated as such. |
| Prohibition on discounting |  | N | E-cigarettes are not tobacco products and should not be treated as such. |
| Prohibition on advertising and sponsorship |  | N | See answer to Q4 above. |
| Requirement for standardised packaging |  | N | E-cigarettes are not tobacco products and should not be treated as such. |
| Other |  |  |  |

**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.

NZVA is supportive of the National Smokefree Working Group’s position that ‘maintaining the status quo i.e. no additional tax or excise applied to nicotine-containing ECs and e-liquids.

**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** |
| Childproof containers | Y |  |  |
| Safe disposal of e‑cigarette devices and liquids | Y |  |  |
| Ability of device to prevent accidents | Y |  | The safety of batteries and charges. |
| Good manufacturing practice |  | N | NZVA believes only Food Grade ingredients and flavourings should be used in the manufacture of e-liquids. Propylene Glycol should be USP Grade as a minimum. |
| Purity and grade of nicotine | Y |  | Nicotine should be USP Grade, Kosher Certified. |
| Registration of products |  | N | Any registration proposal would be opposed on basis that this would incur costs onto small business owners involved in the supply of e-cigarettes and e-liquids with little actual public health benefit. |
| A testing regime to confirm product safety and contents purity |  | N |  |
| Maximum allowable volume of e-liquid in retail sales |  | N |  |
| Maximum concentration of nicotine e-liquid |  | N |  |
| Mixing of e-liquids at (or before) point of sale |  | N |  |
| Other | Y |  | NZVA supports NZ adopting a Standards Based approach to e-cigarettes and the adoption of the British Standards Institution (BSI)’s PAS 54115 Vaping products, including electronic cigarettes, e-liquids, e-shisha and directly related products – Manufacture, importation, testing and labelling – Guide. |

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

It is worth noting that this standard is not intended to cover: products licensed as medicinal products or medical devices; “heat not burn” or other tobacco products; wireless communication features built into vaping devices; products which can be used in or as vaping products but which are sold for other purposes, such as food flavourings sold in supermarkets.

**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)?**

NZVA is aware of numerous e-cigarette and e-liquid manufacturers, suppliers, wholesalers and retailers selling e-products in New Zealand. It is a market that has been consumer driven and continues to see evolving and innovative products become available for sale.

While this situation is not particularly helpful for the Ministry, it demonstrates that attempts to regulate a market where consumers are able to source these products from overseas presents New Zealand regulators with a challenge.

NZVA advises that information from e-cigarette and e-liquid vendors has found that nicotine products represent approximately 95 – 99% of all e-liquid sales in New Zealand.

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

The Ministry’s proposed amendments are likely to have a commercial impact on e-cigarette and e-liquid manufacturers, suppliers, wholesalers and retailers selling e-products in New Zealand.

Specifically, while there is a natural cost of doing business in New Zealand, an overly restrictive regulatory regime risks placing undue burdens on what is, on the whole, a business sector that comprises of start-ups and small business owners.

NZVA is aware that international tobacco companies have e-cigarette products and are likely to enter the New Zealand market in the not-too-distant future. While reflective of market forces, placing requirements as outlined in Question 6 above, i.e. requirements for annual testing of product composition would, in NZVA’s view, favour the tobacco companies over New Zealand owned and operated e-cigarette and e-liquid suppliers.

While a level-playing field is in the best interests of all consumers, NZVA would be concerned if the proposed amendments are so prescriptive in nature that the costs to comply with them are prohibitive therefore creating an environment in which only large tobacco companies are able meet these requirements.

Furthermore, placing the control of sales in the hands of a limited number of licensed outlets further risks placing a thriving ‘cottage industry’ at a significant competitive disadvantage.

**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?** |
|  |  |  |  |

**OTHER: NZVA COMMENT ON NSFWG E-CIGARETTE BACKGROUND PAPER**

NZVA is aware of the work prepared for the National Smokefree Working Group (NSFWG) ‘Background Paper: E-cigarettes and their potential contribution to achieving the Smokefree 2025 goal’[[5]](#footnote-5). While there is some alignment with a number of their positions, NZVA does not support their preferred position of maintaining the current ‘status quo’ or restricting sales of nicotine e-cigarettes and e-liquids to ‘pharmacies and a limited number of ‘licensed specialist shops’.

We make the following comments.

NZVA notes that the ‘National Smokefree Working Group (NSFWG) members’ views on e-cigarettes are varied’ and ‘the recommendations and views expressed do not necessarily represent the official views of the member organisations of the NSFWG or of the wider smokefree practitioner community outside of those consulted in the preparation of this document’.

On this basis, whilst not wishing to diminish the standing of the smokefree researchers named in this paper, we believe that the Ministry should equally reflect on the views of vapers who have quit smoking as a result of using e-cigarettes and vaping.

NZVA agrees that the e-cigarette environment is rapidly evolving and believes there is a risk that an overly restrictive environment will be undermined by product innovations that are rapidly occurring in the market place.

We agree with the NSFWG that regulation of e-cigarettes **should not** be more stringent than regulatory measures in place for smoked tobacco products.

We are concerned that the NSFWG comment ‘EC’s also have the potential to reduce the effectiveness of current smokefree activities by acting as a distraction or creating disunity among smokefree practitioners, and by enhancing the credibility of the tobacco industry through their involvement with EC development and distribution resulting in increased influence on decisions about tobacco control policy’[[6]](#footnote-6) is a red-herring argument and distracts from the significant positive public health impact e-cigarettes are having on New Zealand smokers who have moved to using e-cigarettes.

Specific comment on the NSFWG Recommendations.

1. **Supply and availability of e-cigarettes.**

NZVA believes that Preferred Option 1 – Maintain status quo of requiring sale of nicotine- containing e-cigarettes or e-liquids within New Zealand is prohibited’ is both unworkable in the real-world and is demonstrably at odds with the public health gains being achieved as a result of e-cigarette use and vaping, particularly when considering the Public Health England E-cigarette Report suggesting e-cigarettes are 95% safer than smoked tobacco products.

The status quo has result in less reputable retailers flouting the current restrictions by illegally selling nicotine e-liquid in the knowledge that the Ministry is not taking enforcement action. The result is that consumers are potentially exposed to poor quality standards and law-abiding retailers and vendors are deprived of revenue. NZVA finds it hard to understand how the status quo could possibly be a credible option for the Government.

NZVA disagrees with Preferred Option 2 – Allowing restricted sale of nicotine-containing e- cigarettes or e-liquids as it presents significant barriers to further adoption by smokers of e- cigarettes. We reject the notion that sales of nicotine e-cigarettes or e-liquids should be ‘allowed through pharmacies and a limited number of licensed specialist shops’ as both counter-productive to achieving public health objectives from the use of these products, as well as presenting significant anti-competitive barriers to a market that currently is successfully working.

Furthermore, restricting nicotine containing e-cigarettes and e-liquids to pharmacies only is inconsistent with achieving the maximum public health gains of e-cigarette use over that of smoked tobacco products.

As with option 1 above, NZVA finds it hard to see how this could be a credible regulatory option for the Government if the goal is to maximise opportunities for smokers to switch to vaping products.

NZVA supports a minimum age of purchase being 18 years and over.

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

NZVA believes that the Ministry should be supportive of cessation service providers receiving resources and training in the use of e-cigarettes, and is supportive of Public Health England advice, particularly its ‘Use of e-cigarettes in public places and workplaces: Advice to inform evidence-based policy making’[[7]](#footnote-7).

NZVA believes the Ministry should stand by its ‘draft’ advice to healthcare workers about e- cigarettes and publicly release it in the interests of public health. The paper ‘How healthcare workers may want to respond to questions from patients about electronic cigarettes’.

Further to this, we are supportive of End Smoking.org.nz ‘Supporting smokers to switch to vaping’[[8]](#footnote-8) position paper and believe this to be very useful to healthcare workers and others.

However, we disagree with NSFWG’s view that ‘healthcare providers should not recommend or support specific EC products unless these were licensed for cessation through Medsafe’.

We note and hope that the Ministry will adopt a similar position to that of the UK’s Royal College of Physicians’ ‘Nicotine without smoke: Tobacco harm reduction’[[9]](#footnote-9) report which states:

‘…**in the interest of public health it is important to promote the use of e-cigarettes, NRT and other non-tobacco nicotine products** as widely as possible as a substitute for smoking in the UK’.

1. **Marketing, packaging and consumer information**

Due to the evidence-based findings contained in the UK’s Public Health England E-cigarette Report and the Royal College of Physicians’ ‘Nicotine without smoke: Tobacco harm reduction report’, NZVA believes the NSFWG’s Preferred option – marketing and public information recommendations are problematic.

**NZVA strongly believes that manufacturers, suppliers, wholesalers and retailers of nicotine-containing e-cigarettes and e-liquids should not be solely ‘limited to point-of-sale displays regulated to avoid exposure to children and young people’[[10]](#footnote-10).**

E-cigarettes (whether nicotine-containing or not) and vaping products are not tobacco products, and are being captured under the Smokefree Environments Act in the absence of another, and more suitable regulatory platform.

NZVA believes the retail display ban that applies to tobacco products should not apply to e- cigarettes or vaping products.

We believe the existing regulations under the Smokefree Environment’s Act are inappropriate for a product that has a 95% reduced risk profile to smoked tobacco products. Hiding these innovative and constantly evolving products away from smokers who are seeking alternative and safer products is an anathema to the objectives of public health and to the achievement of an essentially Smokefree Aotearoa by 2025.

The NSFWG proposal to have ‘information (e.g. leaflets) giving advice to EC users trying to quit should be provided by cessation services and at point of sale, again is problematic. There is no comment provided in terms of who authors this ‘information’; the mechanism for approval or legal sign-off of this ‘information’ or what this ‘information’ should actually contain. There is also no comment on who would pay for this ‘information’.

Unfortunately, these suggestions point to a regulatory approach and way of thinking that is more reflective of the thinking applied to tobacco control of smoked tobacco products vs one this is appropriate to achieving the health benefits that can be gained from smokers switching to e-cigarettes.

While well-intentioned, the reality is that these products and this market category is rapidly evolving as new technology is introduced there is a very real possibility that any ‘information’ or ‘leaflets’ are fundamentally out-of-date as soon as they are printed.

NZVA would likewise have concerns about proposals for a ‘targeted’ or ‘mass media information campaigns to provide information about the availability of EC and potential benefits and harms’.

Again, the comment needs to be made that this product category is rapidly and constantly evolving and changing. The logistical issues associated with any ‘mass media information campaigns’ increases the risk that any ‘campaign’ would be out-of-date.

Preferred option - packaging

NZVA believes that the NSFWG comments as they relate to packaging again are not only problematic, but demonstrate a philosophically entrenched tobacco-control mind-set that e-cigarettes are tobacco products and should be treated as such. This mind-set is fundamentally inaccurate and risks creating an environment in which e-cigarettes are viewed as tobacco products and may dissuade smokers from trying or moving to a product that has been demonstrated to be significantly less-harmful than smoked tobacco products.

While NZVA agrees that there should be a minimum standard for nicotine-containing e-cigarettes and e-liquids to ensure product standards and prevent children from accessing these products, the suggestion that these products should have ‘safety warnings’, ‘health warnings’ and ‘Quitline information’ and ‘list of constituents’ is problematic.

There would be significant concern among the vaping community, not only from manufacturers, suppliers, wholesalers and retailers of these products about what would constitute these ‘warnings’, but suggesting these products’ packaging should contain a ‘list on constituents’ is, on the whole, impractical due to the actual physical size of, for example, e-liquid bottles.

Further to this, the suggestion that ‘no packaging or product names would be permitted that are appealing to children and young people’ raises significant commercial and intellectual property issues. A key question is who would ‘judge’ that a product name is ‘appealing to children or young people’?

The suggestions raised in the NSFWG marketing, packaging and consumer information are, in the view of NZVA, not only impracticable in some cases, but more significantly demonstrate an attempt to position e-cigarettes and vaping products as essentially tobacco products – something that they clearly are not.

NZVA would be supportive of the following packaging labelling on e-liquids

* Nicotine: (xx MG / ML)
* Warning: This product contains nicotine. Keep out of reach of children and pets. Not for drinking
* Ingredients: Propylene Glycol (USP), Glycerin (US), L-Nicotine, (Fema/Gras Approved Natural, Artificial Flavourings.

1. **Product design/standards/additives/flavours**

NZVA believes that the existing consumer protection legislation is currently working in respect of these products. Our understanding is that manufacturers, suppliers, wholesalers, and retailers involved in the supply of e-cigarettes and vaping products are complying well with the Consumer Guarantees Act 1993[[11]](#footnote-11).

This Act provides sufficient protection to consumers in New Zealand and ‘contributes to an effective trading environment in which the interests of consumers are protected; businesses compete effectively and consumers and businesses participate confidently’[[12]](#footnote-12).

NZVA believes that this Consultation process should explore the introduction of minimum quality and safety standards and that the UK is leading the way in terms of establishing a Standards Based approach for e-cigarettes and believes regulators in New Zealand should look to adopt as part of any legislative move in this country.

**NZVA recommends the UK E-Cigarette Product Standards and Guidelines**, as introduced by the British Standards Institute and the Electronic Cigarette Industry Trade Association (ECITA), as a purpose-fit standard for New Zealand.

This is the PAS 54115 Vaping products, including electronic cigarettes, e-liquids, e-shisha and directly-related products – Manufacture, importation, testing and labelling – Guide.[[13]](#footnote-13)

NZVA rejects NSFWG’s suggestion that any standards ‘exclude additives/flavours for nicotine-containing EC and e-liquids products sold within New Zealand’[[14]](#footnote-14).

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

NSFWG’s preferred option of banning ‘EC use in all indoor workplace and public places (consistent with the 1990 SFE Act), all schools, in cars, and in selected outdoor locations (areas where children predominate, e.g. playgroups, 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’ requires commentary.

NZVA believes that on the whole vapers are well aware of, and respect, non-smoking areas. Vapers are also very aware of the reduced risk profile of e-cigarettes and as such believe that vaping has the potential to make smoking less normal in society. NZVA believes the Ministry has an opportunity to take guidance from Public Health England’s ‘Use of e- cigarettes in public places and workplaces: Advice to inform evidence-based policy making’[[15]](#footnote-15).

The fundamental point is that e-cigarettes do not contain any tobacco and do not create smoke.

There is no scientific evidence of harm to bystanders from exposure to e-cigarette vapour and the available evidence indicates that any risk of harm is extremely low, especially when compared with tobacco smoke[[16]](#footnote-16).

NZVA supports the Public Health England comment that ‘when developing its policy on e- cigarette use, it would be rational for a school to prioritise the risk of youth updake and decide to treat e-cigarettes in the same way as other age-restricted products and prohibit them onsite.’[[17]](#footnote-17)

Further we support the Public Health England’s key principles to guide policy making in this area:

1. Make clear the distinction between vaping and smoking
2. Ensure policies are informed by the evidence on health risks to bystanders
3. Identify and manage risks of uptake by children and young people
4. Support smokers to stop smoking and stay smokefree
5. Support compliance with smokefree law and policies
6. **Tax and excise for cigarettes**

We support the NSFWG’s position of maintaining the status quo, i.e. no additional tax or excise to be applied to nicotine-containing ECs and e-liquids.

1. **Monitoring and research**

NZVA believes the Ministry is already well aware, and capable of keeping updated on the emerging evidence on e-cigarettes. We would however welcome more awareness on the prevalence of e-cigarette use in New Zealand in all population groups and believe the Health Promotion Agency would be an appropriate agency to undertake this task.

Other Comments in response to NZFWG Paper.

NZVA believes the introduction of a retailer licensing scheme is problematic and increases the cost of doing business in New Zealand and introduces unnecessary red-tape for small business owners with little if any demonstrable public health benefits.

While well-meaning, any proximity restrictions on retailers’ ability to sell nicotine containing e-cigarettes or e-liquids would be again problematic due to the relative smallness of New Zealand’s towns and cities. Having a ‘1 kilometre from schools’ restriction on retail sales of these products in small and medium size townships would essentially prevent any retail outlets in these areas from selling a product that is 95% safer than tobacco products that are sold in every dairy and service station around the country.

Furthermore, these types of restrictions would bring with them limited hours of operation, limit access to these products by rural based vapers; place unfair and unnecessary burdens on low income earners and sickness beneficiaries with limited transport option by forcing them to travel to ‘licenced outlets’.

As the objective is to significantly reduce the prevalence of smoking, ensuring the availability of nicotine containing e-cigarettes or e-liquids where all tobacco products are sold is, in NZVA’s view, an essential requirement.

[ ENDS ]

# Consultation submission 155

**Your details**

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

Address: *[redacted]*

*(town/city): [redacted]*

Email: *[redacted]*

Organisation *(if applicable)*: *E-liquids Australia*

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.

Please return this form by email to:

**ecigarette**[**s@moh.govt.nz** b](mailto:tobacco@moh.govt.nz)y **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 X No

Reasons/additional comments:

* According to different studies, Electronic cigarettes represent a right alternative to quitting smoking and to help people with this problem. There is now a sufficient body of evidence available on several aspects and effects of EC for recent reviews to conclude that health care professionals and public health bodies should encourage smokers who cannot stop smoking using available treatments, or do not want to do so, to switch to EC.

Some researchers describe them as the greatest opportunity to improve public health, for example, Public Health England (PHE), concluded that e-cigarettes are around 95 percent less harmful than smoking. And also they say that any risk from e-cigarettes must be compared to the risk from combustible tobacco, which is still the largest preventable cause of death and illness in the world. In some countries as the UK, e-cigarettes are now the most popular quitting method and are used in 40 per cent of quit attempts. In the UK alone, there are currently more than one million smokers who have quit smoking and are using e-cigarettes instead, with considerable health benefits.

* The only problem is the lack of appropriate controls because in the market could be e-cigarettes which do not comply with the correct manufacture process so it is necessary that they start to be controlled to offer to the public an excellent quality product and safer for their health.

**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 X

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 X No

Reasons/additional comments:

* Because the idea of the e-cigarettes is help people to quit smoking, and offer them a different alternative to switch from tobacco to a safer way which is e-cigarette. To avoid this kind of problems is necessary ask for the identification at any time.

**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 X

Reasons/additional comments:

* Definitely the e- cigarettes are totally different than cigarettes and because of that the control cannot be in the same way. According to the studies the E-cigarettes are 95% less harmful than normal cigarettes, so the e- cigarettes advertising should be handled according to the actual and real characteristics of the product.

**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 X

Reasons/additional comments:

* Because the dangers of tobacco are serious and as we mention before, e- cigarettes cannot be treated in the same way as a tobacco product, tobacco smoke has a worse impact in human health than vape come from e-cigarettes.

**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 |  |  |  |
| 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 |  |  |  |
| Prohibition on discounting |  |  |  |
| Prohibition on advertising and sponsorship |  |  |  |
| Requirement for standardised packaging |  |  |  |
| Other |  |  |  |

**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 X

Reasons/additional comments:

* Because the nicotine e-liquids are a right alternative to quick smoking, that is to say, it prevents further deterioration of the health of smokers, so, everyone should have access to this healthier options without many restrictions as excises.

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

Yes X No

Additional comments:

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

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

* The nicotine can be extracted from food (tomatoes, capsicum, etc.), tobacco or synthetic process. In the case of e-liquids, nicotine is obtained by food and/or synthetic process, so, they can be classified as a tobacco product inasmuch as nicotine source is totally different to tobacco.

**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)?**

  New Zealand market have contributed to the sales of different ranges of soulblu products including:  
  
1. Soulblu e-cigarettes including: Soulblu Caballero Lite, Soulblu  
Caballero II, Soulblu Resolution (no longer available).  
  
2. Australia Made e-liquids in different ranges of flavours including:  
Tobacco, Rollie tobacco, Fruit, Drinks, Sweets/delights, and  
unflavoured bases.  
  
3. Prefilled cartomisers in different flavours: Menthol, Tobacco, WIN, and MLB  
  
4. E cigarettes accessories including: batteries, chargers, cases, mixing tools  
  
5. Cartomiser and tanks  
  
All this products have been offered by Soulblu throughout the website  
(online) and phone orders. We estimated total sales from 2012 to 2016  
account for 30% of our total revenue, which in dollar value  
corresponds approximately to $770,000. The remaining 70% of our sales  
are done to overseas market.

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

The proposed amendments could impact in both ways, positive and  
negative Soulblu Revenue, as well as, business structure, marketing  
strategy, logistics and supply chain.  
  
Soulblu will be able to implement a different marketing strategy to  
reach specific target markets by stablishing physical stores in key  
location. However we will have to face a lot more competitors which  
might enter the market looking for a new business opportunity.  
  
We count on Soulblu main “competitive advantages”:  
  
1.       Relevant Knowledge about the New Zealand market. Being for  
over four years, provided Soulblu valuable information about market  
trends and customer preferences.  
  
2.      Soulblu has gain good reputation, as we are known to supply  
Australian Made eliquids. Manufactured by an Australian Company ISO  
9001:2008 certified for its Quality Management System. Such company is  
in the application process for other certifications for Good  
Manufacturing Practices, NATA certification for its Laboratory, as  
well as, acquisition of specialized Laboratory equipment and  
machinery.  
  
  
  
Soulblu Supply Chain and logistics will be affected positively, as we  
will be willing to position different location along both Island to  
reach our customer quicker and more effective. This will also be  
beneficial to our customers, who can sample and test our product range  
of nicotine easier to make a better informed buying decision. We have  
found this to be essential for first time Vapers, who have just  
started the Vaping journey, as choosing the correct flavours and  
nicotine strength in combination with the right Ecigarette device is  
vital to make their transition from smoking to vaping more successful  
and safer.

**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?** |
|  |  |  |  |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 156

|  |  |
| --- | --- |
| 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

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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

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|  |
| --- |
| N/A |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@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:

|  |
| --- |
| Our organisation supports the sale and supply of nicotine e-cigarettes and nicotine liquids on the local market, with appropriate controls. They provide an opportunity for harm reduction, whereby smokers who have difficulty quitting with conventional NRT may substitute smoking for vaping. This is likely to confer health benefits for people who smoke currently. This is important to achieve the smokefree 2025 goal.  Appropriate controls and safeguards should be in place to reduce the chance of nicotine initiation by young adults, and possible transition from vaping to smoking tobacco. We believe that the effects of sale and supply of e-cigarettes should be monitored by the Ministry of Health. Our belief is that the sale of these products would be most appropriate only through pharmacies and specialist ‘vape’ shops. This would allow for licensing and control of access to e-cigarettes, and allow for training of pharmacists and staff at ‘vape’ shops to tailor nicotine dose and ensure that staff have a basic understanding of and skills to assist with tobacco smoking cessation. This would also make age restrictions easier to impose (e.g. < 18 year olds). |

#### 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:

|  |
| --- |
| Yes, we believe that tobacco cigarettes should be simultaneously regulated so that they are more difficult to access than e-cigarettes. Such a policy for e-cigarettes outlined in Q1 would create a situation in which more harmful products, tobacco cigarettes, would be more readily available than e-cigarettes, if no changes were made to the regulation of the sale of tobacco.  In parallel with the introduction of controls to control the availability of e-cigarettes, we suggest that more restrictions be made even stronger for tobacco, over e-cigarettes. This means enacting legislation to license the sale of cigarettes, and restricting such outlets to pharmacies.  This may include raising the age for purchase of tobacco cigarettes to 21 years, as has happened in a number of regions in the United States. |

#### 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:

|  |
| --- |
| Denormalisation of tobacco use and smoking is an important facet of tobacco control. Since there is some evidence that e-cigarettes may be a gateway drug, use among young people should be minimised. |

#### 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, for the same reasons as for question 3. Since there is the possibility of e-cigarettes being a gateway to smoking, their promotion should be limited to point of sale only. We believe that television, newspaper, magazine, bill boards, sponsorship, internet based advertising should be restricted, with the exception of messages that promote switching from tobacco to e-cigarettes. |

#### 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:

|  |
| --- |
| Since indoor air quality is important, we believe that vaping should be prohibited in indoor areas where tobacco is currently banned. Since e-cigarettes are much less harmful than tobacco cigarettes, we believe that it would be useful not to prohibit vaping in outdoor smokefree areas, but we believe that vaping not be permitted in areas where children are likely to be present, such as playgrounds. Having a lesser level of control for vaping, compared to smoking, would encourage people who smoke tobacco switching to e-cigarettes. |

#### 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 |  |  | Likely to be much less harmful compared to tobacco smoking. We believe warnings related to addiction and uncertainty about long term health effects should be conveyed. |
| Prohibition on displaying products in sales outlets |  |  | Promotion in outlets ok to promote over cigarette use. |
| Restriction on use of vending machines |  |  | Discourage widespread and impulse use |
| Requirement to provide annual returns on sales data |  |  | So that use may be monitored and controls adapted, if evidence of harm emerges. |
| Requirement to disclose product content and composition |  |  | Consistent with medicines and food legislation. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | Potential for harm if unregulated, like cigarettes. |
| Requirement for annual testing of product composition |  |  | Quality and consistency of dose of nicotine is important and to monitor possible carcinogens associated with tobacco products. |
| Prohibition on free distribution and awards associated with sales |  |  | Restriction of widespread adoption important for denormalisation of smoking |
| Prohibition on discounting |  |  | See above |
| Prohibition on advertising and sponsorship |  |  | Advertising to promote quitting or switching from cigarettes to e-cigarettes is ok. |
| Requirement for standardised packaging |  |  | Reduces potential for promotion to youth |
| Other |  |  | Warnings on labels, particularly with regard to addiction potential and risks of ingestion. |

#### 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:

|  |
| --- |
| We believe that the price of e-cigarettes should be at a level that would encourage use over cigarettes, since the harm associated with their use is likely to be much less than for smoked tobacco. |

#### 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 |  |  | Minimise potential harm |
| Safe disposal of e‑cigarette devices and liquids |  |  | Minimise potential harm |
| Ability of device to prevent accidents |  |  | See above |
| Good manufacturing practice |  |  | Lack of quality control currently a draw back of these devices. |
| Purity and grade of nicotine |  |  | Important to avoid carcinogens |
| Registration of products |  |  | Yes, so potential manufacturing defects or faulty use may be tracked. |
| A testing regime to confirm product safety and contents purity |  |  | Lack of quality control currently a draw back of these devices. |
| Maximum allowable volume of e-liquid in retail sales |  |  | Minimise potential harm |
| Maximum concentration of nicotine e-liquid |  |  | Minimise potential harm |
| Mixing of e-liquids at (or before) point of sale |  |  | Means lack of standardisation. |
| Other |  |  |  |

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

|  |
| --- |
| Clear messages are important to reduce the potential harm related to e-cigarette use, and prevent uptake in non-smokers. E-cigarette use should not be prioritised over the use of proven nicotine replacement therapies.  Internet sales of e-cigarette should be regulated to this end. |

### 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.

|  |
| --- |
| As a District Health Board, it opens up the possibility of using these devices as a harm reduction strategy for people who have failed to quit with standard pharmacotherapy. However, carefully designed controls must be in place to limit the uptake of e-cigarette among non-smokers and youg people. The availability of e-cigarettes is likely to be an important means of achieving the smokefree Aotearoa 2025 goal. |

#### 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?** |
|  |  |  |  |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 157

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| --- | --- |
| Your details This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: | On behalf of the Hawke’s Bay Smokefree Coalition, a group consisting of representatives from 16 member organisations, including representatives from government agencies, non-government organisations, community groups, and individuals that have an interest in working together to minimise tobacco related harm. |

*(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

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|  |
| --- |
| The Hawke’s Bay Smokefree Coalition and its members have no links to the tobacco industry. |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@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

|  |
| --- |
| The Hawke’s Bay Smokefree Coalition (HBSFC) agrees that the sale and supply of nicotine e-cigarettes and nicotine liquids should be allowed on the local market, with appropriate controls to build on and support the government’s goal of Smokefree 2025. There is emerging evidence that nicotine e-cigarettes and nicotine liquids may reduce the affliction of disease caused by smoking.  We support the view that electronic cigarettes, vaporizers, vape pens, hookah pens and other electronic nicotine delivery systems (ENDS) align with the Smoke-free Environments Act 1990 (SFEA) and not the Medicines Act[[18]](#endnote-1). ENDS should be treated as a consumer product unless a health claim is made i.e. that the product can be used for treating or preventing disease.  We support the view that ENDS could be used as a smoking cessation tool. |

#### 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:

|  |
| --- |
| The Hawke’s Bay Smokefree Coalition is not aware of any other nicotine-delivery products that should be included in these controls. We are mindful however that the tobacco industry may develop new products in the future, and that the regulations for Electronic Cigarettes need to take account of this. As such, we recommend the renaming of the proposed regulations so they focus on electronic nicotine delivery systems (ENDS) in their broadest sense, rather than the more limited term ‘electronic cigarettes’. |

#### 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:

|  |
| --- |
| The Hawke’s Bay Smokefree Coalition supports prohibiting the sale and supply of ENDS products to young people under 18 years of age. The Youth Insights Survey of Year 10 students (aged between 14 – 15 years) 2014[[19]](#endnote-2) with a sample size of 2,919, identified one in five had used e-cigarettes. The results signal a need to continue monitoring the uptake of ENDS among adolescents, including both experimental and long-term use. Legislation to prohibit sale and supply to young people under 18 will control access and exposure to ENDS among this age group. |

#### 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:

|  |
| --- |
| The Hawke’s Bay Smokefree Coalition supports the alignment of the SFEA with provisions regarding advertising, marketing and promotion. Marketing of ENDS products potentially increases the vulnerability of young people and non-tobacco smokers to become vapers.  We suggest advertising of ENDS products (limited to the list of the products available) be at point of sale only. We also suggest public information about ENDS be disseminated by the Ministry of Health, Health Promotion Agency, and Quitline[[20]](#endnote-3). |

#### 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:

|  |
| --- |
| The Hawke’s Bay Smokefree Coalition supports prohibition that aligns with the SFEA legislation. Many ENDS products look like cigarettes, the cloud of smoke given off can easily be mistaken for a cigarette. Positive role modelling to children, adolescents and adult non-smokers in outdoor environments e.g. parks, playgrounds, bus stops will enhance the benefits of being smoke free and of breathing clean air. |

#### 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 |  |  | Disagree. There is evidence to suggest ENDS are less harmful than tobacco and can help smokers quit tobacco[[21]](#endnote-4). This requirement should be reviewed however as new evidence comes to light. |
| Prohibition on displaying products in sales outlets |  |  | Agree. Displays could be appealing to children and young people. As in Q4 above, we suggest advertising (which is minimal) be at point of sale only. |
| Restriction on use of vending machines |  |  | Disagree. Recommend prohibition of sales from vending machines. |
| Requirement to provide annual returns on sales data |  |  | Agree. Information can be used as part of a monitoring tool. |
| Requirement to disclose product content and composition |  |  | Agree. Full disclosure of product content and composition of each product |
| Regulations concerning ingredients (e.g. nicotine content and/or flavours) |  |  | Agree. Recommend SFEA 1990 s31 (limits on harmful constituents) should apply. |
| Requirement for annual testing of product composition |  |  | Agree. Conduct annual and random testing. |
| Prohibition on free distribution and awards associated with sales |  |  | Agree. The Hawke’s Bay Smokefree Coalition requests no free distribution or awards associated with sales. |
| Prohibition on discounting |  |  | Agree. We do not want any discounting on ENDS products. |
| Prohibition on advertising and sponsorship |  |  | Agree. We recommend no advertising or sponsorship to avoid exposure to our children and young people. |
| Requirement for standardised packaging |  |  | Regulatory measures applied to ENDS as for tobacco products to avoid exposure and appeal to children and young people. |
| Other |  |  | See other comments section. |

#### 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:

|  |
| --- |
| Agree. The Hawke’s Bay Smokefree Coalition recommends that excise tax be added to nicotine e-liquid products only and at a lower rate to tobacco products to encourage whānau to stop smoking tobacco. |

#### 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 |  |  | Agree. To minimise the risk of our tamariki opening the product and accidental poisoning. |
| Safe disposal of e‑cigarette devices and liquids |  |  | We are concerned this may result in nicotine exposure to children, adults and animals, the contamination of soil and water and other adverse impacts on the environment.[[22]](#endnote-5) |
| Ability of device to prevent accidents |  |  | Agree. We believe quality standards of production should be used in order to avoid accidents. |
| Good manufacturing practice |  |  | Agree. |
| Purity and grade of nicotine |  |  | Agree. We hope our whānau will receive the best grade of liquid nicotine possible. |
| Registration of products |  |  | Agree. As per a similar licensing system to PSA 2013 Part 2. |
| A testing regime to confirm product safety and contents purity |  |  | Agree. Conduct annual and random testing to confirm product safety and contents purity. |
| Maximum allowable volume of e-liquid in retail sales |  |  | Agree. According to the Tobacco Products Directive UK requirements on nicotine concentration (20mg/ml maximum) and size of presentation (10ml maximum for refill container and 2ml maximum for e-cigarettes) apply to products sold to end consumers (irrespective of whether the end consumer intends to modify the product). The requirements do not apply to ‘trade sales’ i.e. where you are not selling direct to a consumer. But for all sales (trade and to consumers) the tank capacity of a refillable e-cigarette must not exceed 2ml[[23]](#endnote-6). |
| Maximum concentration of nicotine e-liquid |  |  | Agreed. To minimize the risk of accidental poisoning.  The UK policy framework, EC regulations in England, current and proposed   * restricts EC to no more than 20mg/ml of nicotine * nicotine-containing liquid must be in dedicated refill containers not exceeding 10ml volume, and cartridges or tanks do not exceed a volume of 2ml.[[24]](#endnote-7) |
| Mixing of e-liquids at (or before) point of sale |  |  | E-liquids are dispensed at highly restricted outlets (pharmacies and licensed specialist vape shops) with all staff trained to mix e-liquids at (or before) point of sale. |
| Other |  |  | Nicotine overdose or intoxication is unlikely to occur with vaping, since the amount consumed and absorbed is quite low[[25]](#endnote-8) |

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

|  |
| --- |
| 1. We recommend an amendment to the SFEA to include licensing of tobacco retailers. Approximately 5,000 people die each year from tobacco related illnesses. Tobacco is the only legal consumer product that kills over half its users and yet we do not have controls over who can/cannot sell tobacco. We believe tighter controls are necessary to help people stop smoking. 2. We recommend all cessation support service providers, pharmacy staff and licensed specialist shop staff should be required to be competent in providing ENDS advice and information to support someone’s smokefree journey. This could be achieved through use of a national training resource, for example an e-learning programme developed and implemented by the Ministry of Health to ensure consistency of skills and information provided to the public. We suggest generic resources with information on ENDS be made available to the above group as part of the cessation provider’s toolbox to assist people to become smokefree. 3. Training in ENDS, monitoring and research to be undertaken by the Ministry of Health, in particular evaluating the impact of ENDS on the progress towards Smokefree 2025. If ENDS are going to be used by cessation practitioners, data needs to be collected in line with the current regime for the Stop Smoking Services. 4. We recommend sales of ENDS through pharmacies and licensed specialist shops (with stipulations about proximity to schools, exclusion of minors from shops). We may need to consider selling e-juice (nicotine) from another source e.g. supermarkets, as pharmacies and specialist shops close earlier than supermarkets and vapers using ENDS may require supplies outside the times of shop hours. We do not want them to revert back to cigarettes. 5. ENDS used for cessation support containing nicotine should be licensed as a consumer product. 6. We recommend packaging requirements for ENDS products sold within New Zealand include minimum standards of child safety, list of ingredients and Quitline information. 7. We recommend applying existing consumer protection legislation and consider introducing minimum quality and safety standards and excluded additives / flavours for ENDS sold in New Zealand. 8. As the long term health effects for ENDS are currently unknown, consideration for prohibiting or further restricting these devices should be implemented as evidence of adverse health becomes apparent. 9. We recommend the Ministry of Health develops a framework for monitoring and evaluating emerging evidence on ENDS and evaluating the impact of ENDS, especially on smoking prevalence in all population groups and progress towards the Smokefree 2025 goal. 10. Enforcement: if these products are to be regulated under the SFEA, we recommend that Enforcement Officer powers and enforcement penalties be changed to reflect this. |

### 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)?

|  |
| --- |
| Not applicable. |

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

|  |
| --- |
| Not applicable. |

#### 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?** |
| Not applicable | Not applicable | Not applicable | Not applicable |

**References**

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 158

|  |  |
| --- | --- |
| 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.

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|  |
| --- |
| Nil |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@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:

|  |
| --- |
| E-cigarettes containing nicotine were the only Nicotine Replacement Therapy that worked for me and assisted me to quit cigarettes. Learning how to use them and where to obtain nicotine liquid posed a serious barrier initially and I believe that many would be discouraged from following this route due to the complexity of importing these liquids. I believe that e-cigarettes can be immeasurably valuable in the fight against smoking but to be effective prospective users will need access to good quality e-liquid containing nicotine. |

#### 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:

|  |
| --- |
| While people under the age of 18 are strictly prohibited from purchasing cigarettes many of them have found ways to obtain them. I believe that intervention early in the game could prevent youngsters from becoming long term smokers and that young smokers can benefit just as much from e-cigarettes as can older smokers. I don’t mean that youngsters should in any way be encouraged to take up vaping but the option should be there for them to use e-cigarettes as opposed to tobacco 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 think that the message needs to get through to smokers and it is doubtful if we would be able to reach a meaningful number of smokers without advertising in some way. |

#### 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:

|  |
| --- |
| Prevailing literature indicates that there is virtually no health consequence to 2nd hand vapour so there is no medical reason to restrict vaping to smokers areas any more than we would restrict using or NRT patches to smoking zones.  Allowing vaping in general areas may in fact hasten acceptance and encourage smokers to make the switch. |

#### 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 |  |  | There are virtually no health consequences so what would you warn against? If the concern is the addictive nature of nicotine then warnings would need to be considered for products containing caffeine or sugar. |
| 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 |  |  |  |
| Prohibition on discounting |  |  |  |
| Prohibition on advertising and sponsorship |  |  |  |
| Requirement for standardised packaging |  |  |  |
| Other |  |  |  |

#### 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:

|  |
| --- |
| Unless it is the government’s intention to recover lost tobacco tax revenue from vapers I can see no reason why anyone would want to discourage smokers from switching to vaping through artificially high prices. |

#### 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 |  |  | I think this is covered by existing legislation. Batteries used in e-cigarettes are no different from those used in 100s of other devices. |
| Ability of device to prevent accidents |  |  | Once again I am sure that this is covered under existing legislation. How are mobile phone batteries covered? |
| 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?

|  |
| --- |
| I really believe that use of these products can positively affect many smokers and bring the goal of a smoke free NZ closer to reality. I would be very sad to see NZ miss this opportunity. |

### 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?** |
| Approximately 3 years | daily | Approx $15 | online |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 159

|  |  |
| --- | --- |
| **Your details**  This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: | Cancer Society Social and Behavioural Research Unit, University of Otago |
| Position *(if applicable)*: | [redacted] |

Are you submitting this:

as an individual or individuals (not on behalf of an organisation)?

on behalf of a group, organisation(s) or business?

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)*:

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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|  |
| --- |
| The Cancer Society Social and Behavioural Research Unit does not have any direct or indirect links to, does not receive funding from, nor has any vested interests in, the tobacco industry. |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@moh.govt.nz) by **5 pm, Monday 12 September 2016**.

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## Consultation questions

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**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:

|  |
| --- |
| The Cancer Society Social and Behavioural Research Unit (SBRU) agrees that e-cigarettes are less harmful than smoked tobacco, however, they are not harmless,1 and long–term health impacts are unknown at this point in time. Given the lack of evidence for the effectiveness of e-cigarettes as a smoking cessation tool,2 we do not fully support the introduction of e-cigarettes into New Zealand.  However, if the Government is going to allow the sale of nicotine containing e-cigarettes, then the Cancer Society SBRU is in agreement with the wider New Zealand Smokefree Sector consensus view that any changes in policy or regulation related to e-cigarettes should be guided by the following principles:3  The primary aim of any e-cigarette policy should be to support the achievement of the Smokefree 2025 goal for all population groups in NZ:   * New Zealand’s tobacco control efforts should be maintained and intensified; * E-cigarette policy should minimise the risks of initiation of nicotine use by non-smokers’ (particularly children and young adults) either through long term e-cigarette use and/or via e-cigarette use to smoking; * Regulation of e-cigarettes should not be more stringent than regulatory measures in place for smoked tobacco products; * The Ministry of Health should continue to monitor emerging evidence on e-cigarettes and the potential impacts of these products on smoking prevalence in New Zealand. Policy and practice should be updated in light of new evidence.   With these principals in mind, we recommend allowing the restricted sale of nicotine-containing e-cigarettes or e-liquids for smokers who want to quit, while continuing to allow the importation of nicotine-containing e-cigarettes or e-liquids for personal use (up to 3 months supply). However, we recommend a number of controls on these sales, which have not been asked about in the remainder of the submission document, these include:   * Restrict the sale of nicotine-containing e-cigarettes or e-liquids through a limited number of licensed specialist retailers. The aim of selling nicotine containing e-cigarettes in New Zealand, for the SBRU, would be to achieve the 2025 goal. * Restricting the availability to specific retail vendors, such as pharmacies and vape shops, would allow for the availability of expert advice for cessation purposes through existing knowledge and additional training. We also recommend that providers of smoking cessation support are provided with resources and training to support smokers wanting to quit using e-cigarettes.3 * Retailers would be registered or licensed to sell e-cigarettes – a negative or positive licensing system.4 Evaluations of tobacco licensing have shown an increase in compliance with youth access restrictions and reduction in the retail availability of tobacco.4 This would ensure the Government had a record of licensed retailers so that enforcement of any regulations would be easier to undertake. * Restrictions on the locations of these retailers e.g. proximity to schools and child oriented areas. * Minimum age of purchase 18 years. This could be achieved by restricting sales to stores that exclude minors.   Our responses to the submission questions in this document detail the policy and regulation parameters we believe are needed to allow support for smoking cessation for current smokers, to protect users from the potential and unknown harm from e-cigarettes use, and to reduce the uptake of use among current non-smokers. |

**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:

|  |
| --- |
| Any nicotine delivery devices should be included in these controls, as they are not risk free for the user.  Cigarettes and tobacco are also nicotine-delivery products, and therefore should also be included in these controls. We suggest that any regulations for new nicotine products, that regulations for cigarettes and tobacco are at least, if not more, regulated.  The exception would be any products that have been through the Medsafe (or equivalent) process for use as a cessation support device.  These controls should also be future proofed to include future innovative products introduced onto the market. |

**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:

|  |
| --- |
| There is a concern that e-cigarettes have the potential to promote smoking among young people. Some e-cigarettes look like traditional cigarettes, and are marketed in a similar way internationally. They come in candy-like flavours, such as chocolate and fruit, which may appeal to and encourage young people to try these products.  There is already evidence of use of e-cigarettes among our young people. The 2012 the Youth In-depth Survey found 7% of young people (14-15 years) had ever tried e-cigarettes.5 This had tripled to 20% by 2014, and was associated with being male, smoking status (highest use among current smokers (65%), infrequent smokers (54%), ex-smokers (41%) and lowest use among susceptible never-smokers (17%) and non-susceptible never-smokers (6%)), having close friends’ who smoked cigarettes, and risky substance use such as marijuana use and binge drinking. Similar to adults, most adolescents tried e-cigarettes out of curiosity, rather than for cessation.6  Nicotine is an addictive substance and should only available for purchase to those over 18 years of age, in line with current Smokefree legislation. Without age restrictions on purchase, there is the potential that these young people could become addicted.  As well as the purchasing age being 18 years or older, we also recommend that there should be a restriction on the age of the retailer selling e-cigarettes to 18 years of age or older. Further, in our submission we recommend that the seller be trained in providing smoking cessation advice, therefore they would need to be 18 years to be able to undertake this. |

**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:

|  |
| --- |
| E-cigarettes have been shown to be advertised overseas in a manner similar to that previously used for smoked tobacco products. They are portrayed as sophisticated, exciting, adult, and portraying an image that smokers identify with. As can be seen in the images below, it is difficult to differentiate between e-cigarettes and traditional smoked tobacco. This clearly has the potential to undermine the current regulations around tobacco advertising.    http://www.cigbuyer.com/wp-content/uploads/2013/11/sexy-e-cig-advertising.jpghttp://www.cigbuyer.com/wp-content/uploads/2013/11/trendy-e-cig-marketing.jpghttp://media01.bigblackbag.net/45189/portfolio_media/lwsm_classic-4_4800.jpg  We recommend that no advertising should be permitted outside of the point of sale at restricted retail outlets. Point of sale advertising should be restricted to promoting cessation of smoking. This could be achieved through the use of a standard Ministry of Health notice.  Any advertising allowed should not provide a gateway to also advertise tobacco products e.g. e-cigarettes packaging designed to mimic current cigarette packaging.  Advertising should also be regulated to avoid exposure to children and young people.  If advertising as a cessation product manufacturers should have research to support their claims of cessation support and be subject to scrutiny by the new modern therapeutic products regulatory regime and/or Medsafe. |

**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:

|  |
| --- |
| One of the main concerns with e-cigarettes is that they will undermine existing smokefree laws and regulations, as well as efforts to de-normalise smoking by re-normalising the behaviour through the use of a different product. This issue also has implications for those quitting smoking, in that viewing others using e-cigarettes in public places may cue relapse.  This could occur through the use of e-cigarettes in smokefree areas as the look, use and smoke cloud created by e-cigarettes can be very similar to traditional tobacco products, and it can be very difficult to discern the difference between the two types of products.  We recommend that regulations around the use of e-cigarettes be regulated in accordance with the 1990 Smokefree Environments Act. That is, their use should be banned in all indoor workplaces and public places, as well as all schools. We also recommend that their use is banned in cars, and in selected outdoor locations where children predominate, e.g. playgrounds, 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.3  We would also add that that e-cigarette regulations should also be accompanied by the introduction of legislation to ban tobacco smoking in cars with children present, and national legislation to ban smoking in children-focussed outdoor areas such as parks, playgrounds, sports fields, cafes and restaurants. |

**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 |  |  | At this stage it is still unclear what the long term health effects of e-cigarettes are, therefore we would recommend that the evidence is regularly monitored to assess if there is any evidence of harm, and regulate accordingly.  Provision in any regulation for e-cigarettes for health warnings should be made. |
| Prohibition on displaying products in sales outlets |  |  | If the sale of e-cigarettes is going to be limited to a few types of stores, such as pharmacies and vape shops, then we do not support the banning of POS displays of these products.  However, restrictions around the marketing of e-cigarettes at the POS does need restrictions as stated in Q4. |
| Restriction on use of vending machines |  |  | There should be no sales allowed through vending machines; the same for tobacco. |
| Requirement to provide annual returns on sales data |  |  | Robust data and information is required to monitor the impact of these changes, and enable the monitoring of consumer behaviour.  The data would then compliment the tobacco sales/use data and provide evidence to analyse impacts on cessation and reduced consumption of smoked tobacco. |
| Requirement to disclose product content and composition |  |  | Yes, we think disclosure of ingredients is important for consumers.  We believe that this should also be applied to smoked tobacco products. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | Product content and composition should be monitored and regulated to prevent increased risk of harm from any potential changes to the initial ingredients and mix.  The main ingredient to be monitored is nicotine.  Flavours should not be required for e-cigarettes to be used as a cessation product, as there is no bad taste associated with e-cigarette use, as is found with smoked tobacco.  Any flavours should not be of appeal to children or youth e.g. such as fruit, chocolate, sweets, lollies, menthol. |
| Requirement for annual testing of product composition |  |  | This would prevent any deviation of composition and prevent inclusion of ingredients that would increase the risk of harm, make use more attractive to youth and children, or increase the addictiveness of nicotine. |
| Prohibition on free distribution and awards associated with sales |  |  | This should be in line with current Smokefree regulation. |
| Prohibition on discounting |  |  | This should be in line with current Smokefree regulation. |
| Prohibition on advertising and sponsorship |  |  | This should be in line with current Smokefree regulation. |
| Requirement for standardised packaging |  |  | No, we do not support standardised packaging for e-cigarettes. Part of the reason for this is 1) the health effects of e-cigarettes have not been demonstrated, and 2) the practicalities of doing this with a product diverse in shape and size would be very difficult. However, the design of the vaping tool itself is part of the appeal of these products, and is something we should monitor in the future.  We do support regulation to ensure that packaging is not attractive to youth and children to prevent uptake. |
| Other |  |  |  |

**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:

|  |
| --- |
| In general, we believe prices for e-cigarettes should be cheaper than current cigarette and tobacco prices to encourage uptake from current smokers wishing to quit. However, pricing should also be such that it is out of range for children and young people to prevent uptake among this group.  Therefore, our recommendation at this point in time would be that e-cigarettes should not attract an additional tax or have excise applied to nicotine containing e-cigarettes and e-liquids. We would support the option of a tax in the future, should it be required if there is evidence of substantial uptake of nicotine-containing e-cigarettes by non-smoking children and young people.  Above inflation excise increases should continue on tobacco products. |

**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 |  |  | There are child safety issues in terms of children opening and swallowing the contents of nicotine cartridges, which are not generally sold in child resistant containers, with the possible risk of choking or nicotine poisoning.7  Research shows nicotine poisoning of children from e-cigarettes has increased significantly, with severe outcomes for some children.7  Containers should be childproof, should not look appealing, or contain flavourings/smells that appeal to children. This should be aligned with international best practices. |
| Safe disposal of e‑cigarette devices and liquids |  |  | The disposal of devices, batteries and liquids should not impact negatively on the environment, whether through increased waste/litter, or residue entering the waterway.  They also need to be disposed of in such a way as to not cause harm to children.  This should be aligned with international best practices. |
| Ability of device to prevent accidents |  |  | The products need to be safe for storage and use. US research has shown at least 25 fires and explosions have occurred due to e-cigarettes, therefore the physical safety of users need to be ensured.8  This should be aligned with international best practices. |
| Good manufacturing practice |  |  | We believe this would ensure that products are consistently produced and controlled according to quality standards to minimise the risks involved with e-cigarette use. However, we also do not believe that this would be feasible for e-cigarette manufacturers and would place an onerous burden on them.  We would support standards being put in place which are specific to e-cigarette manufacturing, such as levels of nicotine purity, quality control etc. |
| Purity and grade of nicotine |  |  | This will ensure purity and grade of nicotine used is at the agreed level according to new standards put in place by the regulatory regime. This will prevent low grade or mixed products being used to cut costs, which may also increase risk of harm.  This should be aligned with international best practices. |
| Registration of products |  |  | We support all products being registered. |
| A testing regime to confirm product safety and contents purity |  |  | Currently, e-cigarettes are not manufactured to the same rigorous standards as pharmaceutical products, and research has found a number of quality control concerns and health issues.9  Because e-cigarettes are not regulated, each brand and batches within a brand may vary, which could impact on effectiveness and safety research.  A testing regime would reduce this risk of increased harm to consumers. However, the resources required to implement a comprehensive testing regime in New Zealand may be too high. Adherence to international standards for testing could also be used. |
| Maximum allowable volume of e-liquid in retail sales |  |  | To ensure that sales from retail outlets are only for personal use, and not on-selling, it is important to have a maximum allowable volume of e-liquid for retail sales. |
| Maximum concentration of nicotine e-liquid |  |  | Yes, we believe maximum allowable volume of e-liquid is required. As with our previous comments, this should be aligned with international best practices, and also applied to the nicotine content of smoked tobacco products. |
| Mixing of e-liquids at (or before) point of sale |  |  | E-liquids are not generally mixed at the point-of-sale so this regulation is not necessary.  Mixing of liquids at point-of-sale may be used to personalise the product for consumers. If this is the case, then international best practice policy should be followed. |
| Other |  |  |  |

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

|  |
| --- |
| Given the disproportionately high rates of smoking among Maori and Pacific people,10 we believe there should be a focus in any e-cigarette regulations which will help reduce the smoking rate among these population groups.  We recommend that the Ministry of Health develops a framework for monitoring and evaluating emerging evidence on e-cigarettes. This would include research on the evolution of e-cigarette products, their use as a smoking cessation aid, their uptake and use both internationally and in New Zealand, and evaluating if e-cigarettes are able help achieve New Zealand’s Smokefree 2025 goal in all 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)?**

|  |
| --- |
| No, we do not have information on sales of e-cigarettes. |

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

|  |
| --- |
| No, the proposed amendments would have no impact on our business. |

**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?** |
|  |  |  |  |

**References**

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2. McRobbie H, Bullen C, Hartmann-Boyce J, et al., *Electronic cigarettes for smoking cessation and reduction.* Cochrane Database of Systematic Reviews, 2014. **12**(CD010216).DOI: 10.1002/14651858.CD010216.pub2.

3. Edwards, R., C. Bullen, N. Walker, et al. (2016) *Background paper: E-cigarettes and their potential contribution to achieving the Smokefree 2025 goal*. Wellington: New Zealand National Smokefree Working Group.

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8. U.S. Fire Administration (2014) *Electronic Cigarette Fires and Explosions*. Maryland, U.S: U.S. Fire Administration.

9. Trtchounian, A. and P. Talbot, *Electronic nicotine delivery systems: is there a need for regulation?* Tobacco control, 2011. **20**(1): p. 47-52.

10. Ministry of Health (2014) *Tobacco Use 2012/13: New Zealand Health Survey*. Wellington: Ministry of Health.

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 160

|  |  |
| --- | --- |
| 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**](mailto:tobacco@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:

|  |
| --- |
| There is no sensible reason against this. They provide an alternative to smoking, which is significantly lower in health risks. They are less offensive to people around the user. |

#### 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:

|  |
| --- |
| Not that I’m aware of, maybe. |

#### 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:

|  |
| --- |
| Nicotine is still addictive. In vapour form it is essentially harmless, though addiction isn’t a good thing for youths. |

#### 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:

|  |
| --- |
| Second hand smoke is not an issue as it is with smoking. Parks and similar open areas shouldn’t be restricted. |

#### 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 |  |  | Only for confirmed health risks, though. |
| Prohibition on displaying products in sales outlets |  |  | Pointless in this day and age with internet access. |
| Restriction on use of vending machines |  |  | Vending machines aren’t suitable anyway. |
| Requirement to provide annual returns on sales data |  |  |  |
| Requirement to disclose product content and composition |  |  |  |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | That was very vague. |
| Requirement for annual testing of product composition |  |  |  |
| Prohibition on free distribution and awards associated with sales |  |  |  |
| Prohibition on discounting |  |  |  |
| Prohibition on advertising and sponsorship |  |  |  |
| Requirement for standardised packaging |  |  |  |
| Other |  |  |  |

#### 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 health risks aren’t there. Any duty would be for profit. If taxed for profit, no deception about health risks is necessary. |

#### 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 |  |  | E-liquid bottles mostly already have this. |
| Safe disposal of e‑cigarette devices and liquids |  |  | Electronics disposal already exists, E-liquid is easily disposed of. |
| Ability of device to prevent accidents |  |  | Vague. Prevent what exactly? |
| Good manufacturing practice |  |  | Like everything else. |
| Purity and grade of nicotine |  |  | Fine how it is at the moment. Optional. |
| Registration of products |  |  |  |
| A testing regime to confirm product safety and contents purity |  |  | Companies can do this if they want to attract extra business. |
| Maximum allowable volume of e-liquid in retail sales |  |  | No reason for this. |
| Maximum concentration of nicotine e-liquid |  |  | No reason for this. |
| Mixing of e-liquids at (or before) point of sale |  |  | Vague. |
| Other |  |  |  |

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

|  |
| --- |
|  |

### 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?** |
| 6 Months | Multiple times/day | $5 | International retailers. |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 161

|  |  |
| --- | --- |
| Your details This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted |
| Organisation *(if applicable)*: | The Hempstore Aotearoa |
| 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 *[redacted] is a qualified drug counsellor)*

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

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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.

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|  |
| --- |
| Retailer of some tobacco products. |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@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:

|  |
| --- |
| As the MoH Consultation document states, “The scientific consensus is that using e-cigarettes poses less health risk to smokers than continuing to smoke.” This alone makes a good case for legalised regulation of nicotine e-cigarettes as an alternative to smoking.  The question of e-cigarettes being sold as medical (cessation) devices should be considered separately. It is presumed that particular models of e-cigarettes (both devices and liquids) may in future be approved for this purpose, and higher standards would apply to these.  Regulations for the use of nicotine e-cigarettes as an alternative to smoking could be introduced immediately, with an immediate likely benefit to public health. This would allow both the MoH and the industry some statutory support while more evidence is gathered with a view to allowing particular products to be sold with the strict status of medical devices.  We presume that retailers will only be allowed to make smoking cessation claims about e-cigarette models that are approved medical devices.  **The level of restrictions should be relative to the harm presented:**   * E-liquids containing nicotine should be subject to similar age-restriction, packaging, display and advertising rules as tobacco. Although we note that, given that vaporised nicotine is less harmful than smoked nicotine, rules for sale of nicotine e-liquids could reasonably be less restrictive than those for whole tobacco. * E-cigarette machines (atomisers, tanks, batteries etc) sold separately from e-liquids should be regulated the same way as cigarette papers, pipes, water pipes, and other ancillary smoking paraphernalia. E-cig machines are frequently used to vaporise herbs and non-nicotine-liquids that only contain entertaining flavours. Machines and their parts should therefore **not** be subject to the same restrictions as nicotine-containing e-liquids. * E-cigarette machines that are sold with nicotine included (such as 1st generation disposable e-cigarettes) should be subject to the same regulations as nicotine e-liquids. * E-liquids that do not contain nicotine and are not flavoured as tobacco should be subject only to food health regulations. E-liquids containing herbal extracts should be subject to dietary supplement or natural health product regulations. * E-liquids containing psychoactive substances would be regulated by the Psychoactive Substances Act (PSA). |

#### 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:

|  |
| --- |
| We can’t think of any that are not covered, and are wary about the impact of drafting regulations for imagined things that do not exist yet. |

#### 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:

|  |
| --- |
| The Hempstore is entirely in agreement with the principle and current practice preventing the sale and supply of legal drugs like tobacco and alcohol to people under 18. It is consistent with this policy to prohibit the sale of nicotine e-cigarettes to under-18s.  Accordingly:   * Nicotine e-liquids should be R18 in a manner similar to (but not more restrictive than) tobacco. * Non-nicotine e-liquids and e-cig machinery should also be R18 in accordance with SFEA regulations that relate to “toy tobacco products”. |

#### 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:

|  |
| --- |
| E-cigarettes are **not** substantially similar to smoked tobacco because:   1. E-cig machines are vaporisers, and it has already been noted that vaporising nicotine is less harmful than smoking whole tobacco. Part of the purpose of any regulations should be to encourage – not discourage – consumers to switch to this healthier alternative to smoking. Prohibitive advertising regulations would not be consistent with this purpose. 2. The machines can be used to vaporise flavoured non-nicotine liquids that have no psychoactive or physical-dependence forming properties. Used this way, e-cigarettes are even less open to abuse than caffeinated beverages, which are regulated as food.   However as previously noted, appropriate restrictions should apply to nicotine-containing e-liquids, and non-nicotine e-liquids and e-cig machinery are already covered by the SFEA regulations that relate to “toy tobacco products”. |

#### 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:

|  |
| --- |
| E-cigarettes produce vapour, not smoke. Vapour contains very few of the carcinogenic compounds associated with smoke, and present a much lower public health risk with regard to passive smoking.  It would be illogical and unnecessarily restrictive to treat all e-cig vapour as though it were smoke, with regard to smokefree areas.  We do however support treating the use of e-cigarettes that contain nicotine the same as smoking tobacco, ie covered by the SFEA.  Regarding non-nicotine machines including herbal vaporisers, we believe it is appropriate for the proprietors of enclosed venues which are open to the public to set their own rules with regard to vaporising, as according to the environment they wish to encourage, and the feedback of their customers.  There could be some guidelines established for what type of venue may be appropriate for allowing vaporisation with e-cigs: such as not where children frequent, and precautionary requirements for proper ventilation in venues that allow vaporisation. |

#### 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 |  |  | The graphic health warnings on tobacco products only pertain to medical evidence gathered with regard to smoking tobacco, and are largely irrelevant to vaporised nicotine.  However, warnings about the potential addictiveness of nicotine could be appropriate for nicotine e-liquids. |
| Prohibition on displaying products in sales outlets |  |  | This runs counter to the objective of encouraging people to switch to a healthier alternative to smoking. |
| Restriction on use of vending machines |  |  | Availability through vending machines is too permissive for inhalation products. |
| Requirement to provide annual returns on sales data |  |  | This is irrelevant to e-cig machines and devices, which do not in themselves contain any nicotine.  With regard to nicotine e-liquids, it may be appropriate to adopt these processes for importers / wholesalers (as with tobacco), but would amount to an unnecessarily onerous burden on retailers.  Requirements of this nature may only be appropriate to products that have gained statutory approval as medical (cessation) devices. |
| Requirement to disclose product content and composition |  |  | This is very important for consumer education and informed choice, and would, in itself, raise the standards of what is available on the market.  We recommend such requirements also be introduced for smoked tobacco products. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | We note that the international industry has already developed standard nicotine levels, eg. “low” = 6mg nicotine, “medium” = 12mg, “high” = 18 mg; as well as standardised ratios of vegetable and synthetic glycerine in the liquid bases.  We suggest that, given no health-based evidence to the contrary, the MoH follow the pre-existing industry standards that are already adhered to by reputable brands.  The e-liquids themselves should be covered by the Food Act, so that all ingredients are (at least) food grade. |
| Requirement for annual testing of product composition |  |  | This amounts to an unnecessarily onerous restriction that does not apply to similar products.  We assume this is intended to apply only to e-liquids and e-cigarettes that are pre-filled with e-liquids. It would make no sense to insist on annual testing of the composition of batteries, for example.  We agree such requirements could be appropriate for particular products that have an approved medical (cessation) device status. |
| Prohibition on free distribution and awards associated with sales |  |  | Given that the uptake of these products by smokers would likely present a net public health gain, this amounts to an unnecessarily onerous restriction. Smokers should be encouraged to make the switch, especially for approved cessation devices. |
| Prohibition on discounting |  |  | Given that the uptake of these products by smokers would likely present a net public health gain, this would amount to an unnecessarily onerous restriction. Smokers should be encouraged to make the switch. |
| Prohibition on advertising and sponsorship |  |  | Given that the uptake of these products by smokers would likely present a net public health gain, this would amount to an unnecessarily onerous restriction. Smokers should be encouraged to make the switch.  We would support limitations similar to that with alcohol – not sponsoring sports or youth, and certain activities such as driving and swimming. |
| Requirement for standardised packaging |  |  | Given that the uptake of these products by smokers would likely present a net public health gain, this would amount to an unnecessarily onerous restriction. Smokers should be encouraged to make the switch.  Packaging is an important part of informing consumers about the attributes of each product, which vary widely.  Plain or standardised packaging would reduce consumer choice, as only the larger companies would have the resources to manufacture products especially for our market. This could result in the e-cigarette market being dominated by big tobacco firms. |
| Other |  |  |  |

#### 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:

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| --- |
| Any duty or excise tax should be related to harm.  Nicotine-containing e-liquids could be dependence-forming. Ideally, revenue derived from an excise tax would go toward further research and development in the relevant areas of the public health sector.  However, nicotine e-liquid duty should be lower than of tobacco. This is because vaporising e-liquids is less harmful than smoking, and the uptake of e-cigarettes by smokers likely presents a public health benefit.  In our experience as a retailer, the cheaper price of nicotine e-liquids compared to the equivalent amount of smoked tobacco is often an important factor in consumers’ decision to switch to vaporisation. This is particularly likely to be true in the case of consumers from lower socio-economic groups, who are often those who suffer the worst health effects from smoking.  It would be a pity if the price advantage incentive to switch to e-cigarettes were lost for consumers due to over-zealous taxation. |

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

Yes  No

Additional comments:

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| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers |  |  | Nicotine containing e-liquids could be very hazardous if accicdently ingested. Child-proof containers is a low burden for manufacturers. |
| Safe disposal of e‑cigarette devices and liquids |  |  | Used batteries and nicotine e-liquids can be harmful to aquatic life and should be disposed of as hazardous waste.  This is already printed on the packs of the brands we stock. As with all products, consumers need to follow the instructions and dispose of their used items responsibly.  There could be education materials provided to retailers and/or consumers along the lines of host responsibility. |
| Ability of device to prevent accidents |  |  | The MoH may wish to research reputable brands, which already maintain good safety standards.  For example our Kanger products have safety overloads including for short circuits, overcharging and overheating.  E-cig machines and devices are already covered by existing consumer laws and regulations around electronic devices, however better enforcement of this is required. |
| Good manufacturing practice |  |  | The MoH may wish to research reputable brands, which already maintain good safety standards.  For example, our FeelLife brand e-liquids are already made to GMP.  GMP is appropriate for medical (cessation) devices and e-liquids.  The Food Act and its regulations are more appropriate for non-cessation e-liquids. |
| Purity and grade of nicotine |  |  | This should be regulated by the Food Act or equivalent standards.  The MoH may wish to research reputable e-liquid brands, which already maintain good safety standards. |
| Registration of products |  |  | This should apply only to approved medical (cessation) devices. |
| A testing regime to confirm product safety and contents purity |  |  | This should apply only to approved medical (cessation) devices.  Any regulatory regime that greatly increases the costs of manufacturing or providing e-cigarette technology is likely to block smaller operators and pave the way for a monopoly be “Big Tobacco”. This seems contrary to the spirit of regulating toward a smoke free New Zealand. |
| Maximum allowable volume of e-liquid in retail sales |  |  | There is no equivalent restriction on retail tobacco sales, nor on alcohol, coffee or unhealthy food. There was also no maximum allowable quantity of approved psychoactive products that adults could buy.  It would seem unfair and too restrictive to apply a maximum purchase amount for e-liquids but not to other products. |
| Maximum concentration of nicotine e-liquid |  |  | An “extra high” nicotine option of 36mgs is probably a reasonable maximum, however we note that some brands go higher than this.  Some consumers report that they vape less with higher nicotine concentrations.  If there was an upper limit, consumers would need to vape larger volumes in order to achieve their desired effect. |
| Mixing of e-liquids at (or before) point of sale |  |  | Nicotine e-liquids and devices approved under the Medicines Act as cessation devices would be made to GMP standards. Mixing at point of sale would not meet these standards.  Nicotine e-liquids and non-nicotine e-liquids that are not for cessation purposes should be covered by the Food Act or equivalent standards, meaning mixing would only be permitted in a registered kitchen by staff trained in food hygiene. |
| Other |  |  |  |

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

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| --- |
| In this submission, we have referred to nicotine delivery systems (vaporisers, batteries, tanks, coils etc) as *machines*, and *devices* if they are used for nicotine cessation. |

### 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)?

|  |
| --- |
| It is important to note that many machines may be used for other purposes including legal herbal extracts and cannabis. We note the Misuse of Drugs Notice regulating cannabis utensils is also under review, with an option to regulate and license the availability of cannabis harm reduction equipment. Regulators should take care to avoid the two reviews working at cross purposes. |

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

|  |
| --- |
| We would expect increased demand if consumers had clarity about the legal status of the products, however we would also expect increased supply with new entrants to the market, so the end effect is not certain to us. However regardless of impact on our business, we support a harm reduction-led approach that allows the lawful sale of e-cigarettes and e-liquids. |

#### 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 162

UNICEF NZ

Submission

Policy Options for the Regulation of Electronic Cigarettes

September 2016

Contact:

[redacted]

[redacted]

UNICEF New Zealand

[redacted]

***Background***

UNICEF NZ takes this opportunity to write on the potential of electronic cigarettes for Aotearoa New Zealand’s smokefree aspirations, in an effort to ensure the government’s particular consideration for the nation’s children.

We congratulate government’s commitment to making Aotearoa New Zealand a smokefree nation by 2025, but we question this process that foregrounds electronic cigarette regulation when there are other evidence-based measures prioritized by the World Health Organisation not yet adopted. New Zealand is a signatory to the Framework Convention on Tobacco Control, which has guidelines for states on measures to embed into national legislation and public health policy. Electronic Cigarettes must not be treated like a silver bullet surpassing these and conversely, New Zealand must not be seen to prioritize new measures based on their current popularity, rather than their evidence base.

UNICEF was established by the United Nations (UN) to advance the rights, protection and healthy development of all children. UNICEF NZ is mandated by the United Nations General Assembly to advocate for the protection of children's human rights, to help meet their basic needs and to expand their opportunities to reach their full potential. UNICEF NZ is affiliated to the global organization, working in long term development, emergency relief and advocacy to this purpose.

Our work is guided by the UN Convention on the Rights of the Child (UNCROC), which is the most widely ratified human rights treaty ever. This speaks decisively to the importance the world places on the development, care and protection of children.

UNICEF NZ has no links to or vested interests in the tobacco industry.

## *Consultation Questions*

1. *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?*

No, but due to importation by users and illegal sales by retailers, compounded by the lack of current capacity in New Zealand to enforce the status quo laws, e-cigarettes and nicotine liquids ARE ALREADY on the local market, with no appropriate control. Given this current situation, the question makes a simple yes/no answer difficult.

We recommend government’s increase in enforcement capacity of the current laws in place prohibiting sale of nicotine-containing electronic cigarettes and e-liquids, via the following conditions:

* Allow their sale through pharmacies and **a limited number of registered and licensed specialist shops** only (with registration based on stipulated minimum proximity to schools, exclusion of minors from shops, and adequate training/competence for staff in cessation advice, **minimum age of purchase 18 years**)
* Introduce **the registration and licensing of tobacco retailers** at the same time with similar stipulations regarding proximity to schools and adequate training/competence in cessation advice, so that there can be **no dual registration of retailers for both products**
* Immediate and permanent loss of license for sale of both products for all retailers found selling either product to minors
* **Raise the legal age of purchase of tobacco products to 21**. This will deter the on-supply of tobacco to children from this young adult population while promoting harm reduction in their consumer behavior, should they choose to purchase nicotine

1. Are there other nicotine-delivery products that should be included in these controls at the same time?

Yes: We believe Quit Mist and the Inhalator are innovative products that have shown encouraging results within piloted cessation programmes, that should be included within these market regulations alongside electronic cigarettes.

1. 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: Nicotine is highly addictive, and we have concerns that certain e-cigarette flavours may particularly appeal to young people, thus gatewaying addiction to nicotine for children regardless of their access to tobacco.

1. 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: If our recommendation for sale conditions are adopted (see answer to Q1), promotion of e-cigarette products should still be restricted to **in-store point of sale displays** to avoid exposure to children and young people. However if our recommendations are disregarded and sale of e-cigarettes is more widely permitted, we recommend a **retail display ban** similar to the retail display ban for tobacco products, then information such as **leaflets promoting e-cigarettes permitted for distribution by cessation services and/or pharmacists only**.

1. 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: However going forward with smokefree policy development, best-practice should be defined whereby vaping is a priviledged activity designated its own space, while no space is designated for smoking. If smoking spaces are designated within smokefree policy, best-practice should be defined whereby vaping spaces are made available that are **separate from and more conveniently located** than designated smoking spaces.

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

|  |  |  |  |
| --- | --- | --- | --- |
| Control | Yes | No | Reasons/comment |
| Graphic Health Warnings | X |  | E-Liquids must warn in accordance with all poisons, that oral consumption is poisonous and to keep out of reach of children. |
| Retail Display Ban | X |  | Wherever children are, there must be no display of addictive products |
| Restriction on use of vending machines | X |  | E-liquids could be dispensed via vending machines for retailer use only, not for use by the consumer |
| Provide annual returns on sales data | X |  | All sales data of nicotine products must be made mandatory and public to monitor long term trends in consumption |
| Disclose product content and composition | X |  | Government has an obligation to the consumer to force disclosure of contents and their composition, particularly while evidence is inconclusive around the constituents and whether they contribute to adverse health outcomes |
| Regulations concerning ingredients | X |  | All flavours proven to appeal to children should be immediately banned from e-cigarettes AND tobacco products |
| Annual testing of product composition | X |  | Adequate expenditure should be allocated to testing all nicotine products, both smoked and smokeless, independently from product manufacturers |
| Prohibition of free distribution and awards associated with sales | X |  | Free distribution and awards should be restricted to trained and government contracted cessation service providers only |
| Prohibition on discounting | X |  | Manufacturers must be stopped from coercing retailers into promoting sales for the purpose of reducing wholesale costs for products |
| Prohibition on advertising and sponsorship | X |  | See our answer to Question 4. E-cigarette companies should be banned from sponsoring public events for branding purposes, in the same way Tobacco companies are |
| Standardised Packaging | X |  | E-cigarettes and E-liquids should fall under the Smokefree Environments (standardized packaging) Amendment Bill |

1. 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: Or not unless evidence arises of substantial uptake of nicotine-containing e-cigarettes by non-smoking children and young people. The Ministry of Health must develop a framework for monitoring the use and impact of use of e-cigarettes among population groups in New Zealand**, including children**, as part of an overall evaluation of prevalence data in all population groups for equitable progress towards the Smokefree 2025 Goal.

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

|  |  |  |  |
| --- | --- | --- | --- |
| Area of Concern | Yes | No | Reasons/comments |
| Childproof containers | X |  | We are alarmed by news reports and emerging evidence of an increasing rate of faults in e-cigarettes causing explosions, and of poisoning incidents involving children gaining access to e-fluids. Every effort to protect children must be taken if e-cigarettes are to be allowed on New Zealand’s market. |
| Safe disposal of e-cigarette devices and liquids | X |  | We are concerned by the increased chemical and electronic waste created by use of e-cigarettes and urge for government’s commitment to the Sustainable Development Goals be considered when developing e-cigarette regulations. E-cigarettes cannot be regarded a “harm reduction” measure if their consumption creates adverse environmental impacts not currently seen by tobacco products. |
| Ability of device to prevent accidents | X |  | Regulations must be put in place to ensure adequate device testing before going to market. |
| Good manufacturing practice | X |  | In accordance with Guidelines to the Framework Convention on Tobacco Control, New Zealand must discriminate against tobacco companies if in future they are involved in applications to MedSafe for subsidization of an e-cigarette for cessation. Similarly in the open marketplace, efforts must be taken to inform the public when e-cigarettes are a product owned by a tobacco company of tobacco company owned subsidiary. |
| Purity and grade of nicotine | X |  | Health promotion capacity must be directed toward encouraging self-directed nicotine reduction strategies when using e-cigarettes, to promote sovereignty and prevent long term addiction to e-cigarettes. Manufacturers must be incentivized to promote nicotine-reduction strategies among consumers via their nicotine content information. |
| Registration of products | X |  | See Question 1 |
| Testing regime to confirm product safety and contents purity | X |  | Regulations must be put in place to ensure adequate device testing by manufacturers before going to market.  Conversely, adequate expenditure should be allocated by government to the independent testing of all nicotine products, both smoked and smokeless, independently from product manufacturers |
| Maximum allowable volume of e-liquid in retail sales | X |  | The permission to purchase and use e-cigarettes in New Zealand must be strictly framed within the context of sovereignty from addiction, and not for long term use |

1. *Are there any other comments you would like to make?*

Language is critical in framing public understanding. We recommend that in future policy documents the term “e-cigarettes” is not used, and the products referred to in this submission be more accurately named: electronic nicotine delivery devices or ENDs. Given the evolution of products over three generations of development, the term e-cigarette is out of date, and keeps cigarettes foregrounded in the minds of its consumer, despite their need for dissociation from smoking products. Policy documents, public information and government regulations should make it easier to shift culture by naming the devices appropriately and consistently as ENDS.

The impact of e-cigarettes in helping achieve the Smokefree 2025 goal will be enhanced by implementing a comprehensive tobacco control strategy that adheres to the principle that: where regulatory measures are applied to e-cigarettes, equivalent or more stringent measures are in place for smoked tobacco products.

* UNICEF NZ is disappointed that the political will inside government to consider e-cigarettes for sale has grown while it stagnates regarding the protection of children from secondhand smoke inside cars. Public support has remained high for legislation to ban smoking in cars where children are present, while the rate of child-reported exposure to smoking inside vehicles is known and inequitable for Maori and Pacific children. We strongly urge government to legislate this measure prior to the consideration of regulated e-cigarette sales in New Zealand.
* UNICEF NZ is also disappointed that the Smokefree Environments (standardized packaging) Amendment Bill took so long for its ascension into law: three years of demonstrated public support inside a democratic process. Other nations have introduced and passed this measure while New Zealand stalled. Despite article 5.3 of the Framework Convention on Tobacco Control prohibiting government from being influenced by tobacco industry pressures, our government put risks of litigation by the tobacco industry, as well as their fiscal costs, over and above the consideration of public health gains, and of course their fiscal benefits to our nation’s economy.
* Government needs to allocate adequate funding for targeted mass media smokefree campaigns and awareness raising programs that denormalize the tobacco industry and its interference in government policy making.
* Additives to smoked tobacco products that enhance their addiction or flavor them to appeal more to young people, must be banned. Similarly, nicotine content inside cigarettes must be regulated to lower levels. UNICEF NZ is alarmed by the fact that nicotine content levels in tobacco products sold in New Zealand are some of the highest levels in the world.

New Zealand ratified UNCROC in 1993 and in so doing committed itself to upholding children's rights in policy, practice and in law. Five key principles underpin children's rights: universality; children's best interests; non-discrimination; the right to life, survival and development; participation. UNICEF NZ submits to this consultation because it is useful to assess the impact of tobacco control law, policy and practice with these principles in mind.

Questions 10-12 are not applicable to UNICEF NZ.

#### 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:

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| --- |
| 1. As the long term effects of e-cigarettes are uncertain, all new nicotine delivery products should be evaluated prior to being available to the New Zealand public. 2. Examples of newly developed nicotine inhalers being marketed by Phillip Morris are ‘heat not burn’ (https://www.pmiscience.com/platform-development/platform-portfolio/heat-not-burn products) require evaluating prior to being available to the New Zealand public. |

#### 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:

|  |
| --- |
| 1. Currently the gateway effect from e-cigarettes to tobacco smoking is unproven, it is a theoretical possibility and there is some supporting evidence (see accompanying document for a review of this evidence). 2. We agree that age restrictions are entirely appropriate to point of sale. There are good reasons to aim to minimise the use of ECs by minors, and prohibition of sale and supply to young people is justified as a measure to help achieve that outcome. A possible exception however is where e-cigarettes are used as a supported smoking cessation aid by youth < 18 years, smoking cessation advice and parent involvement would be essential. |

#### 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:

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| --- |
| 1. We believe that commercial marketing of nicotine containing e-cigarettes and e-liquids products sold within NZ (if permitted) should be limited to point of sale displays regulated to avoid exposure to children and young people. Currently e-cigarettes use is already widespread in Aotearoa New Zealand. If nicotine containing e-cigarettes were available for sale in Aotearoa marketing would need to be controlled to stop tobacco industry manipulating and glamorising e-cigarettes or use cartoon characters which appeal to minors. 2. Smokefree cessation training will be essential for point of sale staff in pharmacies and specialist vape shops to give advice to e-cigarette users trying to quit and provide advice on cessation services. 3. Improving communication and working with the vaping community (users and sellers) would be an important means to communicate about e-cigarettes and maximising their use to help individuals to quit smoking or substitute completely for smoked tobacco. |

#### 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:

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| --- |
| 1. The long term effects of the chemicals in vapes is still unknown and the health impacts of second-hand vapour are uncertain. Therefore, as health professionals, we strongly advocate that e-cigarettes be banned in all indoor workplaces and public places (which is 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 the other Smokefree areas at local discretion and where public consultation suggests that is acceptable. Clear signage should indicate where vaping is permitted, and these areas should be separate to “smoking permitted” areas. 2. The principle should again apply that restrictions on smoked tobacco products should be at least as stringent as for e-cigarettes. To do otherwise might make e-cigarettes use a less attractive option than smoked tobacco use, which would be perverse. For example, it would be impossible to justify restrictions on vaping in cars where children are present if smoking in cars is not similarly prohibited. |

#### 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 |  |  | Currently there is a lack of evidence for long term health effects of e-cigarettes, we therefore do not think graphic health warnings are an accurate measure.  We do however support safety warnings on e-cigarette packaging (e.g. dangerous to ingest, keep away from children and pets), with health information (text warnings that nicotine is addictive and that the long term health effects of e-cigarettes use are not known).  Additional information such as Quitline and cessation providers numbers would be helpful and Smokefree Aotearoa 2025 goals.  Consumers have also indicated that pictorial safety warnings (rather than text) have a greater impact. |
| Prohibition on displaying products in sales outlets |  |  | We recommend that e-cigarettes products are restricted to pharmacies and specialist vape shops (with children excluded from the latter), then POS displays would not need to be banned. There may need to be some restrictions on prominence in pharmacies to ensure the POS displays do not appeal to non-smokers, particularly children. |
| Restriction on use of vending machines |  |  | Yes. We can see no justification for sales through vending machines, as these may be accessible to children, and advice on correct use of e-cigarettes and use in smoking cessation would not be available. In line with the principle of equal or more rigorous regulation for smoked tobacco products, all vending machine sales of smoked tobacco products should also be prohibited at the same time. |
| Requirement to provide annual returns on sales data |  |  | Yes. This is useful for monitoring of trends in use of different product types and the balance between independent and tobacco industry owned e-cigarettes producers in the NZ market. This should include data on importation and sales (and again this requirement should be extended to smoked tobacco products). |
| Requirement to disclose product content and composition |  |  | Yes, disclosure of ingredients/content is important consumer information (see comment above on graphic health warnings). We note that the Government stated that they would consider a similar requirement for smoked tobacco products in their response to the Māori Affairs Select Committee. In line with the principle of applying equal or more rigorous regulation for smoked tobacco products, disclosure rules for smoked tobacco products should be introduced at the same time as regulations for e-cigarettes. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | Yes. We agree that all ingredients and flavourings are identified and reviewed in line with international best practice standards.  We recommend excluding selected 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). |
| Requirement for annual testing of product composition |  |  | Yes. We recommend aligning with credible international guidance for product composition testing. |
| Prohibition on free distribution and awards associated with sales |  |  | Yes. We view such incentives to retailers to maximise sales as unnecessary and having potential unintended adverse consequences and recommend that they are prohibited. |
| Prohibition on discounting |  |  | Yes. We believe such price incentives are likely to promote increased volume of sales and that they are likely to encourage more intensive and longer term use of ECs (beyond use as a cessation aid), rather than trial of ECs for quitting. We recommend that they are prohibited. However, this could be an area for research and if targeted price incentives could be shown to enhance the impact of ECs on quitting or substitution among smokers who are unable to quit, this prohibition could be revised. |
| Prohibition on advertising and sponsorship |  |  | Yes. Unless focused on Smokefree Aotearoa 2025 goals to quit. |
| Requirement for standardised packaging |  |  | No. Given the lack of evidence for long term health effects of e-cigarettes, we do not think this would be a proportionate measure. However, we support regulation to ensure that packaging or product names that are appealing to children and young people are prohibited in order to minimise the use of e-cigarettes by minors. |
| Other |  |  |  |

#### 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:

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| --- |
| 1. We recommend that the status quo on excise/taxation of e-cigarettes should apply i.e. no additional tax or excise should be applied to nicotine-containing e-cigarettes and e-liquids. 2. We agree that maintaining a price differential between smoked tobacco products and e-cigarettes is an important strategy to maximise the positive impact of e-cigarettes on reducing smoking prevalence and encourage the use of e-cigarettes to support quitting and as a long term substitute nicotine delivery mechanism (for smokers who cannot or do not want to quit). 3. However, a review would be essential if evidence indicated that e-cigarettes were being used by children and young people, then stricter enforcement rather than tax. |

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

Yes  No

Yes. We recommend a focus on best practice standards for child safety, with all e-cigarette packaging and e-liquids sold within Aotearoa and environmentally safe standards of disposal of all e-cigarette devices and liquids.

In regard to purity and grade of nicotine, we recommend that best international practice standards are adhered too and that compliance with these standards is a condition for products to be approved for sale in New Zealand.

|  |  |  |  |
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| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers |  |  | Yes. For the protection of infants and small children in the home it is essential that childproof containers are used and that compliance with these standards is a condition for products to be approved for sale in New Zealand. This would minimise any accidental incidents or trips to emergency room. |
| Safe disposal of e‑cigarette devices and liquids |  |  | Similar safe disposal guide for lithium batteries, (similar to mobile phones) should be required and reflect any disposal guidelines that are supportive of the environment and wider community. |
| Ability of device to prevent accidents |  |  | Yes, the Government should consult with industry experts on the best way to minimise the risk of explosions or fires from the e-cigarettes. |
| Good manufacturing practice |  |  | Yes – It would be good to have discussion with vape venders on what is self regulating their market. Good practice standards. |
| Purity and grade of nicotine |  |  | Yes. We recommend that requirements for purity and grade of nicotine are introduced aligned with best international practice, and that compliance with these standards is a condition for products to be approved for sale in New Zealand. |
| Registration of products |  |  | Unnecessary |
| A testing regime to confirm product safety and contents purity |  |  | This should be left up to the manufacturer to decide how to provide a good quality product. |
| Maximum allowable volume of e-liquid in retail sales |  |  | This should be based on customer demand. |
| Maximum concentration of nicotine e-liquid |  |  | This should be left to manufacturers and retailers to decide, and to customer demand. It will self regulate, and the market should decide. |
| Mixing of e-liquids at (or before) point of sale |  |  | The personalisation and diversity of the range of liquids available is an important feature of ENDS products. |
| Other |  |  | Given the rapid evolution of vapour products, an advisory committee should be formed by which e-cigarette industry experts can meet with public health authorities and discuss new products. |

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

|  |
| --- |
|  |

### 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)?

|  |
| --- |
| Not applicable |

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

|  |
| --- |
| Not applicable |

#### 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?** |
|  |  |  |  |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 163

|  |  |
| --- | --- |
| **Your details**  This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted |
| Email: | [redacted] |
| Organisation *(if applicable)*: | New Zealand Nurses Organisation, Tōpūtanga Tapuhi Kaitiaki o Aotearoa |
| 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)*: Non Governmental Organisation - Professional Nursing Association and Union.

*(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.

|  |
| --- |
| NZNO has no competing interests with respect to any of the relevant industries. |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@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.

**About the New Zealand Nurses Organisation**

NZNO is the leading professional nursing association and union for nurses in Aotearoa New Zealand. NZNO represents over 47,000 nurses, midwives, students, kaimahi hauora and health workers on professional and employment related matters. NZNO is affiliated to the International Council of Nurses and the New Zealand Council of Trade Unions.

NZNO promotes and advocates for professional excellence in nursing by providing leadership, research and education to inspire and progress the profession of nursing. NZNO represents members on employment and industrial matters and negotiates collective employment agreements.

NZNO embraces te Tiriti o Waitangi and contributes to the improvement of the health status and outcomes of all peoples of Aotearoa New Zealand through influencing health, employment and social policy development enabling quality nursing care provision. NZNO’s vision is *Freed to care, Proud to nurse*.

**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:

|  |
| --- |
| 1. NZNO welcomes the opportunity to comment on the Ministry draft policy options for the regulation of e-cigarettes in Aotearoa New Zealand. NZNO commend the leadership that the Ministry has shown with regard to its cautious approach to the regulation of e-cigarettes given the risks and the benefits are uncertain. All policies, should take a conservative approach to e-cigarettes and proceed with caution as there is limited evidence based research to indicate that the chemicals in vapes are safe for consumption. 2. We agree with Aspire 2025 principles that should apply to any regulatory regime for ECs in Aotearoa New Zealand:   • the primary aim of the EC policy should be to support the achievement of the Smokefree 2025 goal for all population groups in NZ;  • New Zealand’s tobacco control efforts should be maintained and intensified;  • E-cigarette policy should minimise the risks of initiation of nicotine use by non-smokers (particularly children and young adults) either through long term EC use and/or via EC use to smoking;  • Regulation of ECs should not be more stringent than regulatory measures in place for smoked tobacco products; and  • the Ministry of Health should continue to monitor emerging evidence on EC and the potential impacts of these products on smoking prevalence in New Zealand. Policy and practice should be updated in light of new evidence.   1. NZNO supports the Smokefree Aotearoa 2025 principles. We agree that the primary aim of e-cigarette policy should be to support the achievements of the Smokefree 2025 goal for all population groups in New Zealand. We are aware that progress towards this goal is inadequate, especially for Māori and Pacific peoples who suffer the greater burden of tobacco related diseases in Aotearoa New Zealand[[26]](#footnote-18). 2. We agree that any government plans to reduce the high rates of smoking for Māori (39%) and Pacific people (25%) should be a priority, and nicotine e-cigarettes have the potential to contribute significantly to reducing these rates[[27]](#footnote-19). The products however need to be available to those people who are vulnerable to the addictiveness of tobacco related products wherever they live in Aotearoa New Zealand. 3. We strongly recommend that e-cigarettes be banned in all indoor workplaces and public places (which is 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 the other Smokefree areas at local discretion and where public consultation suggests that is acceptable. Clear signage should indicate where vaping is permitted, and these areas should be separate to “smoking permitted” areas. 4. Currently, e-cigarettes are a more preferable option to cigarettes. We do however urge caution, and restrict control and availability of e-cigarettes to pharmacies and specialist vape shops. We also believe that strictly enforced restrictions be in place for any shops in any location that are close to schools or in the vicinity of vulnerable adults. We do not agree that e-cigarettes be sold in corner dairies. 5. We urge the government to ensure that staff working in pharmacies or vape shops have training in providing Smokefree advice and support to quit. 6. We ask that all restrictions to be placed on e-cigarettes require the same if not more restrictions placed on tobacco related products, so that e-cigarettes are more widely available than tobacco related products. 7. We agree that internet sales be available for those consumers who live in rural areas and who may have limited access to e-cigarettes and available training or support through alternative agencies like Quit line. |

**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:

|  |
| --- |
| 1. As the long term effects of e-cigarettes are uncertain, all new nicotine delivery products should be evaluated prior to being available to the New Zealand public. 2. Examples of newly developed nicotine inhalers being marketed by Phillip Morris are ‘heat not burn’ (https://www.pmiscience.com/platform-development/platform-portfolio/heat-not-burn products) require evaluating prior to being available to the New Zealand public. |

**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:

|  |
| --- |
| 1. Currently the gateway effect from e-cigarettes to tobacco smoking is unproven, it is a theoretical possibility and there is some supporting evidence (see accompanying document for a review of this evidence). 2. We agree that age restrictions are entirely appropriate to point of sale. There are good reasons to aim to minimise the use of ECs by minors, and prohibition of sale and supply to young people is justified as a measure to help achieve that outcome. A possible exception however is where e-cigarettes are used as a supported smoking cessation aid by youth < 18 years, smoking cessation advice and parent involvement would be essential. |

**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:

|  |
| --- |
| 1. We believe that commercial marketing of nicotine containing e-cigarettes and e-liquids products sold within NZ (if permitted) should be limited to point of sale displays regulated to avoid exposure to children and young people. Currently e-cigarettes use is already widespread in Aotearoa New Zealand. If nicotine containing e-cigarettes were available for sale in Aotearoa marketing would need to be controlled to stop tobacco industry manipulating and glamorising e-cigarettes or use cartoon characters which appeal to minors. 2. Smokefree cessation training will be essential for point of sale staff in pharmacies and specialist vape shops to give advice to e-cigarette users trying to quit and provide advice on cessation services. 3. Improving communication and working with the vaping community (users and sellers) would be an important means to communicate about e-cigarettes and maximising their use to help individuals to quit smoking or substitute completely for smoked tobacco. |

**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:

|  |
| --- |
| 1. The long term effects of the chemicals in vapes is still unknown and the health impacts of second-hand vapour are uncertain. Therefore, as health professionals, we strongly advocate that e-cigarettes be banned in all indoor workplaces and public places (which is 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 the other Smokefree areas at local discretion and where public consultation suggests that is acceptable. Clear signage should indicate where vaping is permitted, and these areas should be separate to “smoking permitted” areas. 2. The principle should again apply that restrictions on smoked tobacco products should be at least as stringent as for e-cigarettes. To do otherwise might make e-cigarettes use a less attractive option than smoked tobacco use, which would be perverse. For example, it would be impossible to justify restrictions on vaping in cars where children are present if smoking in cars is not similarly prohibited. |

**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 |  |  | Currently there is a lack of evidence for long term health effects of e-cigarettes, we therefore do not think graphic health warnings are an accurate measure.  We do however support safety warnings on e-cigarette packaging (e.g. dangerous to ingest, keep away from children and pets), with health information (text warnings that nicotine is addictive and that the long term health effects of e-cigarettes use are not known).  Additional information such as Quitline and cessation providers numbers would be helpful and Smokefree Aotearoa 2025 goals.  Consumers have also indicated that pictorial safety warnings (rather than text) have a greater impact. |
| Prohibition on displaying products in sales outlets |  |  | We recommend that e-cigarettes products are restricted to pharmacies and specialist vape shops (with children excluded from the latter), then POS displays would not need to be banned. There may need to be some restrictions on prominence in pharmacies to ensure the POS displays do not appeal to non-smokers, particularly children. |
| Restriction on use of vending machines |  |  | Yes. We can see no justification for sales through vending machines, as these may be accessible to children, and advice on correct use of e-cigarettes and use in smoking cessation would not be available. In line with the principle of equal or more rigorous regulation for smoked tobacco products, all vending machine sales of smoked tobacco products should also be prohibited at the same time. |
| Requirement to provide annual returns on sales data |  |  | Yes. This is useful for monitoring of trends in use of different product types and the balance between independent and tobacco industry owned e-cigarettes producers in the NZ market. This should include data on importation and sales (and again this requirement should be extended to smoked tobacco products). |
| Requirement to disclose product content and composition |  |  | Yes, disclosure of ingredients/content is important consumer information (see comment above on graphic health warnings). We note that the Government stated that they would consider a similar requirement for smoked tobacco products in their response to the Māori Affairs Select Committee. In line with the principle of applying equal or more rigorous regulation for smoked tobacco products, disclosure rules for smoked tobacco products should be introduced at the same time as regulations for e-cigarettes. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | Yes. We agree that all ingredients and flavourings are identified and reviewed in line with international best practice standards.  We recommend excluding selected 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). |
| Requirement for annual testing of product composition |  |  | Yes. We recommend aligning with credible international guidance for product composition testing. |
| Prohibition on free distribution and awards associated with sales |  |  | Yes. We view such incentives to retailers to maximise sales as unnecessary and having potential unintended adverse consequences and recommend that they are prohibited. |
| Prohibition on discounting |  |  | Yes. We believe such price incentives are likely to promote increased volume of sales and that they are likely to encourage more intensive and longer term use of ECs (beyond use as a cessation aid), rather than trial of ECs for quitting. We recommend that they are prohibited. However, this could be an area for research and if targeted price incentives could be shown to enhance the impact of ECs on quitting or substitution among smokers who are unable to quit, this prohibition could be revised. |
| Prohibition on advertising and sponsorship |  |  | Yes. Unless focused on Smokefree Aotearoa 2025 goals to quit. |
| Requirement for standardised packaging |  |  | No. Given the lack of evidence for long term health effects of e-cigarettes, we do not think this would be a proportionate measure. However, we support regulation to ensure that packaging or product names that are appealing to children and young people are prohibited in order to minimise the use of e-cigarettes by minors. |
| Other |  |  |  |

**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:

|  |
| --- |
| 1. We recommend that the status quo on excise/taxation of e-cigarettes should apply i.e. no additional tax or excise should be applied to nicotine-containing e-cigarettes and e-liquids. 2. We agree that maintaining a price differential between smoked tobacco products and e-cigarettes is an important strategy to maximise the positive impact of e-cigarettes on reducing smoking prevalence and encourage the use of e-cigarettes to support quitting and as a long term substitute nicotine delivery mechanism (for smokers who cannot or do not want to quit). 3. However, a review would be essential if evidence indicated that e-cigarettes were being used by children and young people, then stricter enforcement rather than tax. |

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

Yes  No

Yes. We recommend a focus on best practice standards for child safety, with all e-cigarette packaging and e-liquids sold within Aotearoa and environmentally safe standards of disposal of all e-cigarette devices and liquids.

In regard to purity and grade of nicotine, we recommend that best international practice standards are adhered too and that compliance with these standards is a condition for products to be approved for sale in New Zealand.

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers |  |  | Yes. For the protection of infants and small children in the home it is essential that childproof containers are used and that compliance with these standards is a condition for products to be approved for sale in New Zealand. This would minimise any accidental incidents or trips to emergency room. |
| Safe disposal of e‑cigarette devices and liquids |  |  | Similar safe disposal guide for lithium batteries, (similar to mobile phones) should be required and reflect any disposal guidelines that are supportive of the environment and wider community. |
| Ability of device to prevent accidents |  |  | Yes, the Government should consult with industry experts on the best way to minimise the risk of explosions or fires from the e-cigarettes. |
| Good manufacturing practice |  |  | Yes – It would be good to have discussion with vape venders on what is self regulating their market. Good practice standards. |
| Purity and grade of nicotine |  |  | Yes. We recommend that requirements for purity and grade of nicotine are introduced aligned with best international practice, and that compliance with these standards is a condition for products to be approved for sale in New Zealand. |
| Registration of products |  |  | Unnecessary |
| A testing regime to confirm product safety and contents purity |  |  | This should be left up to the manufacturer to decide how to provide a good quality product. |
| Maximum allowable volume of e-liquid in retail sales |  |  | This should be based on customer demand. |
| Maximum concentration of nicotine e-liquid |  |  | This should be left to manufacturers and retailers to decide, and to customer demand. It will self regulate, and the market should decide. |
| Mixing of e-liquids at (or before) point of sale |  |  | The personalisation and diversity of the range of liquids available is an important feature of ENDS products. |
| Other |  |  | Given the rapid evolution of vapour products, an advisory committee should be formed by which e-cigarette industry experts can meet with public health authorities and discuss new products. |

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

|  |
| --- |
|  |

**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)?**

|  |
| --- |
| Not applicable |

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

|  |
| --- |
| Not applicable |

**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 164

See PDF submissions.

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 165

|  |  |
| --- | --- |
| **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:

x 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)*: Individual

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

Please indicate your e‑cigarette use status:

x 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 links or vested interests. |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@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.

I was pipe smoker for some 40 years until 12th October 2015, my son introduced me to e-cigarettes, he had tried “patches” and failed and a friend had introduced him to e-cigarettes.

I have not had a desire to revert again to the pipe since the above date.

I had been encouraged by my doctor(s), wife and daughters over many years to give up the pipe, but resisted. Then during 2014 I was scheduled for Vascular surgery in my right leg, even after this treatment I continued the pipe, knowing I had give it up.

What I have discovered is that you can chose the strength of nicotine 0%,6%,12%,18% or 24%, or alternative % by mixing bottles of liquid, whereas with tobacco the manufacturer sets the % and this not indicted on the packet.

Since 12 October 2015 I have introduced five other smokers to e-cigarettes and three more in the wings.

I now know I will eventually wean myself off the e-cigarette (down to 0%) and stop, back in 2014 this was only a dream.

## 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:

|  |
| --- |
|  |

**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:

|  |
| --- |
|  |

**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:

|  |
| --- |
|  |

**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 |  |  |  |
| 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 |  |  |  |
| Prohibition on discounting |  |  |  |
| Prohibition on advertising and sponsorship |  |  |  |
| Requirement for standardised packaging |  |  |  |
| Other |  |  |  |

**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:

|  |
| --- |
|  |

**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?**

|  |
| --- |
|  |

**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)?**

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

|  |
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|  |

**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?** |
|  |  |  |  |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 166

|  |  |
| --- | --- |
| **Your details**  This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: | Te Hā Mātea = A collective of Smoking Cessation Providers:  Te Kupenga Hauora – Ahuriri  Choices Hawkes Bay  Hawkes Bay District Health  Te Taiwhenua o Heretaunga |
| 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.

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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 tobacco company links or vested interests. |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@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

|  |
| --- |
| Te Ha Matea believes Electronic cigarettes (EC) could be used as a tool for helping whanau stop smoking. With the appropriate controls in place, EC could be used by anyone over the age of 18 years to either switch from smoking tobacco to EC or as a stop smoking tool. |

**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:

|  |
| --- |
| Not that we are aware of. |

**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:

|  |
| --- |
| Te Ha Matea believes Electronic Cigarettes (EC) should come under the provisions of the Smokefree Environments Act 1990 and its amendments. “No person may sell a tobacco product or herbal smoking product, or having sold it to a person of any age deliver it or arrange for it to be delivered, to a person younger than 18 years.” (Section 30)[[28]](#footnote-20).  Ultimately we want to discourage our rangatahi from initiation to smoking cigarettes. We do not want to encourage them to use EC if they are non-smokers as there is the risk for them to become vapers. |

**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:

|  |
| --- |
| Te Ha Matea agrees it is important for legislation to control advertising of EC in the same way as it controls advertising of smoked tobacco products. Nicotine containing EC’s have been widely available in Aotearoa for some time due to importation by users and illegal sales and/or promoting overseas websites by retailers.  Exposure to EC advertisements increases exposure to EC use among rangatahi. EC advertising regulations and educational campaigns are critically needed[[29]](#footnote-21).  Consider minimal commercial marketing of nicotine containing EC or e-liquids e.g. product display and/or advertising allowed at point of sale only. |

**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:

|  |
| --- |
| Te Ha Matea understands that vapour from EC is not harmful and therefore vaping be treated differently to smoking. Although EC look like regular cigarettes and their use in public would give the appearance that cigarette smoking behaviour is acceptable to tamariki and rangatahi, they should not be prohibited in designated smokefree 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 |  | ☑ | Disagree. There is growing evidence to suggest EC are much less harmful than tobacco and can help smokers quit tobacco[[30]](#footnote-22). |
| Prohibition on displaying products in sales outlets | ☑ |  | Potentially could be appealing to tamariki and rangatahi. |
| Restriction on use of vending machines |  | ☑ | Disagree. Recommend prohibition of sales from vending machines. |
| Requirement to provide annual returns on sales data | ☑ |  | Agreed. Information can be used as part of a monitoring tool. |
| Requirement to disclose product content and composition | ☑ |  | Agreed. Full disclosure of product content and composition of each product |
| Regulations concerning ingredients (e.g. nicotine content and/or flavours) | ☑ |  | Agreed. Te Ha Matea recommend regulations for nicotine content (mg) and flavours. Recommend SFEA 1990 s31 (limits on harmful constituents) should apply. |
| Requirement for annual testing of product composition | ☑ |  | Agreed. Conduct annual and random testing. |
| Prohibition on free distribution and awards associated with sales | ☑ |  | Agreed. Te Ha Matea believes no free distribution or awards associated with sales to keep EC products on a level playing field. |
| Prohibition on discounting | ☑ |  | Agreed. Te Ha Matea does not want any discounting on EC products. |
| Prohibition on advertising and sponsorship | ☑ |  | Agreed. Te Ha Matea recommend no advertising or sponsorship to avoid exposure to our tamariki and rangatahi. |
| Requirement for standardised packaging | ☑ |  | Regulatory measures applied to EC as for tobacco products to avoid exposure and appeal to children and young people. |
| Other | ☑ |  | Read other comments section. |

**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:

|  |
| --- |
| Disagree. EC’s are not harmful. We want our whānau to stop smoking. Make EC’s affordable and cheaper to use than tobacco. |

**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 | ☑ |  | Agree. To minimise the risk of our tamariki opening this product and accidental poisoning. |
| Safe disposal of e‑cigarette devices and liquids |  | ☑ | Disagree, although Te Ma Hatea are concerned that they may result in nicotine exposure to children, adults and animals, the contamination of soil and water and other adverse impacts on the environment.[[31]](#footnote-23) |
| Ability of device to prevent accidents | ☑ |  | Agree. Te Ma Hatea believes quality standards of production should be used in order to avoid accidents. |
| Good manufacturing practice |  | ☑ | Disagree. EC is a consumer product, under the Consumers Guarantee Act 1993[[32]](#footnote-24) and therefore should not to be treated under Med safe and medicines. |
| Purity and grade of nicotine | ☑ |  | Agree. We hope our whānau will receive the best grade of liquid nicotine possible. |
| Registration of products | ☑ |  | Agree. As per a similar licensing system to PSA 2013 Part 2. |
| A testing regime to confirm product safety and contents purity | ☑ |  | Conduct annual and random testing to confirm product safety and contents purity. |
| Maximum allowable volume of e-liquid in retail sales | ☑ |  | Agree. According to the Tobacco Products Directive UK requirements on nicotine concentration (20mg/ml maximum) and size of presentation (10ml maximum for refill container and 2ml maximum for e-cigarettes) apply to products sold to end consumers (irrespective of whether the end consumer intends to modify the product). The requirements do not apply to ‘trade sales’ i.e. where you are not selling direct to a consumer. But for all sales (trade and to consumers) the tank capacity of a refillable e-cigarette must not exceed 2ml[[33]](#footnote-25). |
| Maximum concentration of nicotine e-liquid | ☑ |  | Agreed. To minimize the risk of accidental poisoning.  The UK policy framework, EC regulations in England, current and proposed   * restricts EC to no more than 20mg/ml of nicotine * nicotine-containing liquid must be in dedicated refill containers not exceeding 10ml volume, and cartridges or tanks do not exceed a volume of 2ml.[[34]](#footnote-26) |
| Mixing of e-liquids at (or before) point of sale | ☑ |  | E-liquids are dispensed at highly restricted outlets (pharmacies and licensed specialist vape shops) with all staff training to mix e-liquids at (or before) point of sale. |
| Other |  |  | Nicotine overdose or intoxication is unlikely to occur with vaping, since the amount consumed and absorbed is quite low[[35]](#footnote-27) |

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

|  |
| --- |
| 1. Retailers/Manufacturers (importers of goods) of EC, nicotine-containing EC or e-liquids shall come under the Consumer Guarantees Act 1993[[36]](#footnote-28).      1. All cessation support service providers, pharmacy staff and licensed specialist shop staff are required to be competent in providing EC advice and information to support someone’s smokefree journey. This could be achieved through use of a national training resource, for example an e-learning programme developed and implemented by the Ministry of Health to ensure consistency of skills and information provided to the public. Generic resources with information on EC and e-liquids are to be made available to the above group as part of the cessation provider’s toolbox to assist people to become smokefree. 2. Training in EC, monitoring and research to be undertaken by the Ministry of Health, in particular evaluating the impact of EC on the progress towards Smokefree 2025. If EC or e-liquids are going to be used by cessation practitioners, data needs to be collected in line with the current regime for the Stop smoking Services. 3. Allow sales of nicotine-containing EC or e-liquids through pharmacies and licensed specialist shops (with stipulations about proximity to Kura, exclusion of minors from shops, and training/competence for staff in EC use and ABC cessation support). We may need to consider selling e-juice (nicotine) from another source e.g. supermarkets because pharmacies and specialist shops usually close earlier than supermarkets and whanau often need their supplies outside the times of shop hours. We do not want them to revert back to cigarettes. 4. EC used for cessation support containing nicotine should be licensed as a consumer product.      1. We recommend packaging requirements for EC and e-liquids products sold within New Zealand to include minimum standards of child safety, list of ingredients and Quitline information. 2. We recommend applying existing consumer protection legislation and consider introducing minimum quality and safety standards and excluded additives / flavours for nicotine containing EC and e-liquids sold within New Zealand. 3. We ask that the Ministry of Health develops a framework for monitoring and evaluating emerging evidence on EC and evaluating the impact of EC, especially on smoking prevalence in all population groups and progress towards the Smokefree 2025 goal. 4. Enforcement: if these products are to be regulated under the SFEA, we ask that the Enforcement Officers powers and enforcement penalties be changed to reflect this. |

**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)?**

|  |
| --- |
| Not applicable. |

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

|  |
| --- |
| Not applicable. |

**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?** |
| Not applicable | Not applicable | Not applicable | Not applicable |

# Consultation submission 167

See PDF submissions.

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 168

|  |  |
| --- | --- |
| **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**

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

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

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

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**Declaration of tobacco industry links or vested interest**

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|  |
| --- |
| None |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@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:

|  |
| --- |
| Much less stressful way to give up smoking tobacco, cleaner too |

**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:

|  |
| --- |
| Children shouldn’t be encouraged to smoke at all. |

**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:

|  |
| --- |
|  |

**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:

|  |
| --- |
|  |

**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 |  |  |  |
| 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 |  |  |  |
| Prohibition on discounting |  |  |  |
| Prohibition on advertising and sponsorship |  |  |  |
| Requirement for standardised packaging |  |  |  |
| Other |  |  |  |

**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:

|  |
| --- |
|  |

**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?**

|  |
| --- |
|  |

**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.**

|  |
| --- |
| No |

**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 yrs | daily | $10 | online |

# Consultation submission 169

**Policy Options for the Regulation of Electronic Cigarettes**

A consultation document

Citation: Ministry of Health. 2016. *Policy Options for the Regulation of Electronic Cigarettes: A consultation document*. Wellington: Ministry of Health.

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## Overview

Electronic cigarettes (e‑cigarettes) are a relatively new and evolving product.

This paper makes several references (some of them mischievous) to not knowing the extent of the problem. Here, the description of “evolving” is understating the case to the extent that in light of rapid evolution, some areas of proposed regulation will likely be rendered inadequate or obsolete by product innovation.

Currently, the sale and supply of nicotine e‑cigarettes are prohibited, while smoked tobacco, which is more harmful for users, can be sold legally. Users obtain nicotine e‑cigarettes through importation and illegal local sales. The existing provisions for the regulation of e‑cigarettes,

This is very misleading, and appears to form a skewed basis for this whole paper. There are no existing provisions. The SFEA and the Medicines Act (and the Regulations) all predate vaping and were never intended to provide for it. This is a fundamental concept that you abuse repeatedly in this paper – vaping is not smoking, and nicotine is not medicine.

The remainder of this sentence, below, reinforces the misconception that the legislation is inadequate and then conflates this with a (puritanical?) need regulate further.

found primarily in the Smoke-free Environments Act 1990 (SFEA) and the Medicines Act 1981, are not adequate. The legal status of e‑cigarettes is currently confusing and, as a consequence, the laws are not routinely enforced.

The risks and benefits of e‑cigarettes are uncertain. There is a lack of clarity about long‑term health risks to users and the potential adverse effects on non-users exposed to e‑cigarette vapour.

While it’s true that the long term risks are unknown (as it is bound to be with any new activity); it is very clear that there is no current indication of significant harm to the vaper, and none to third parties. Vaping can replace smoking – that is very certain.

As an aside, it would be reasonable to suggest that since almost all vapers are or were smokers, then it will be very difficult in the coming decades to discern between smoking related deaths and, if there is any, vaping harm.

It has been suggested that the availability of these products could undermine current tobacco control initiatives.

This statement is not mentioned anywhere else in this paper – could it be referring to re-normalising smoking? If so, that would clearly be a failure to communicate the character of vaping.

There is ongoing scientific debate about whether e‑cigarettes are an effective tool for smokers who want to quit.

It would appear that scientific debate about vaping being a tool for cessation is redundant when it is evident now. Smokers are already switching from cigarettes to vaping, seemingly without regard to ongoing scientific debate.

At the same time, there is general scientific consensus that the exclusive use of e‑cigarettes is significantly less harmful than smoking. There is emerging evidence that e‑cigarette use may substantially reduce the burden of disease caused by smoking.

The Ministry of Health is now consulting on policy options for the regulation of e‑cigarettes, including possible amendments to the SFEA. This consultation aims to clarify the legal position. Proposed amendments would mean that all e‑cigarettes (with and without nicotine) would be available for sale and supply lawfully in New Zealand, but sale of e‑cigarettes 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 the SFEA.

The Ministry also seeks your 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.

After the public consultation on the proposals presented in this paper, the Ministry will develop precise regulatory proposals and report back to Cabinet by the end of this year.

This paper contains a consultation submission form to guide your submission; it includes specific questions.

This indicates that you are hell bent on regulating when you clearly don’t have a handle on the status quo – this is a cardinal mistake when embarking on amendments to the highest level of intervention.

<http://www.northumberlandtoday.com/2016/08/11/e-cigarettes-a-public-health-breakthrough>

Paracelcus (founder of toxicology)

## Introduction

### Purpose

This paper seeks public input on proposals to change the way electronic cigarettes (e‑cigarettes)[[37]](#footnote-29)are regulated.

Part of the problem becomes immediately apparent with the language that gets used; i.e. “e-cigarette”. I believe they were first called e-cigarettes so that smokers could identify with them, and at that time they even looked like cigarettes (they were dubbed “cig-a-likes” – 1st generation as you have pictured below.) However, it just reinforces a misconception that vaping = smoking.

After considering evidence and concerns about e‑cigarettes, the Government has agreed in principle to nicotine e‑cigarettes being legally available for sale and supply in New Zealand, with appropriate controls and for the Ministry of Health to consult on possible legislative amendments.

This paper uses the term e‑cigarettes to capture both vapouriser devices and their liquids and refill cartridges, which may or may not contain nicotine. People use e‑cigarettes to inhale the vapour (that is, to ‘vape’).

### Context

Tobacco use is a leading modifiable health risk factor (that is, a factor causing preventable death and disease) in New Zealand, accounting for around 4500–5000 deaths per year. Tobacco is the only legal consumer product that, when consumers use it as manufacturers intend, kills over half its users.

The 2013 Census and the New Zealand Health Survey of 2012/13 reported rates of daily smoking in the adult population over 15 years of age to be 15.1 percent and 15.5 percent respectively.

Overall, the rate of daily smoking among men is generally higher than the rate of daily smoking among women (according to the New Zealand Health Survey 2012/13, rates at that time were 16.1 percent and 13.9 percent respectively). 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).

Recently, the rate of tobacco consumption nationally has fallen. After falling gradually between 2000 and 2008 (generally hovering around 1000 cigarette equivalents per person over 15 years age per year), it dropped from 861 cigarette equivalents in 2010 to 667 in 2014: a decrease of approximately 23 percent. The sale of all types of tobacco products – manufactured cigarettes, roll-your-own cigarettes, cigars and pipe tobacco – is in decline.

Smoking prevalence and tobacco consumption are in decline, but rates remain higher among Māori, Pacific people, young adults and socioeconomically disadvantaged populations. Those communities bear a disproportionate burden of smoking-related illness and death.

### Scope of this paper

This paper discusses nicotine and nicotine-free e‑cigarette products, evidence on these products, concerns about their use and current regulation (primarily through the Medicines Act 1981 (Medicines Act) and Smoke-Free Environments Act 1990 (SFEA)) and possible amendments to the SFEA. It does not propose amendments to the Medicines Act, meaning that e‑cigarette manufacturers would still be able to apply to register their products as medicines for smoking cessation.

### How to have your say

Your views are important. Please take the time to make a submission on this paper. You can make a submission by filling out the questions in the submission form at the back of this document (under the heading ‘Consultation submission’) and emailing the form to:**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@moh.govt.nz)

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

In making your submission, please include or cite relevant supporting evidence if you are able to do so.

All submissions are due with the Ministry by **5 pm, Monday 12September 2016**. The Ministry will not include any submissions received after this time in its analysis of submissions.

## Background

### What are e‑cigarettes?

E‑cigarettes are electrical devices that mimic smoked tobacco products but produce a vapour (rather than smoke) by heating a solution (e-liquid) that the user inhales. The term ‘vaping’ describes the use of e‑cigarettes.

E-liquids are available with or without nicotine. They usually contain flavouring agents. There are many different flavourings available; the most popular among adults in the United Kingdom are tobacco, fruit and mint/menthol.[[38]](#footnote-30)

E‑cigarettes have been available on the international market since 2005. At first, most e‑cigarettes looked like smoked cigarettes; later, they evolved into a range of products. In general, first-generation products look similar to cigarettes; second-generation products are refillable tank systems; and third-generation products are devices with large batteries and adjustable power.

|  |  |  |
| --- | --- | --- |
| **First generation** | **Second generation** | **Third generation** |
|  |  |  |

### Evidence on the effects of using e‑cigarettes

Nicotine is a widely used addictive substance, which has a psychoactive effect and can be lethal in large quantities.[[39]](#footnote-31)

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.

This is a little mischievous – it implies, together with the paragraph above, that cigarettes have a potentially lethal psychoactive addictive substance, while patches etc. are safe (by your pronouncement no less!). What you are not saying is that nicotine is not the problem; nicotine is not a carcinogen and not particularly addictive (on a par with caffeine). The use of nicotine in the quantities contained in cigarettes and e-liquid is benign, just as it is in patches and gum. This is a glaring policy failure because it perpetuates the demonization of nicotine and does not recognise the person who has deeply imbedded automatic behaviours that are independent of nicotine. And this is precisely why vaping has such great potential, if you care to understand and cultivate it.

The scientific consensus is that using e‑cigarettes poses less health risks to smokers than continuing to smoke and that short-term use is associated with few adverse effects.

This phrasing implies that one could expect more or worse adverse effects with long term use, which was not a conclusion of any research. I expect that what you really meant was that “thus far, vaping is associated with few adverse effects.”

People often report that they vape because they want to reduce the harm from smoking tobacco.

This is an overseas finding – I would venture that a primary driver in New Zealand would be price. A 20-per-day smoker can save more than $120 per week by switching to vaping. This outcome is presumably exactly what the excise increases were put in place for. I would have to assume that the policy work that went into excise hikes accounted for the increased attractiveness of vaping, although the RIS made no mention of how smokers were expected to quit or the economic impact of accelerating vaping uptake.

A 2014 Cochrane Review on the use of e‑cigarettes as a tool for smoking cessation and reduction found that the quality of the evidence overall is low and only based on two randomised control trials.[[40]](#footnote-32) The Review concluded that e‑cigarettes containing nicotine appear to help smokers quit smoking but that further studies are required to reach conclusive results about their effectiveness.

Again mischievous. You give no analysis of what the MoH would do with conclusive results. The fact is that vaping has already led to smoking cessation. It would make more sense to indicate what the MoH would do to maximise this, because the missing data is how many tried and failed, and why.

In 2015, Public Health England commissioned and published an expert review report called *E‑cigarettes: an evidence update*.[[41]](#footnote-33) This concluded that e‑cigarettes are significantly less harmful to health than smoked tobacco and have the potential to help smokers quit smoking.

The Royal College of Physicians published their report *Nicotine without Smoke: Tobacco harm reduction*[[42]](#footnote-34) earlier this year. This report provides a fresh update on the use of all nicotine products that are not smoked, and in particular e‑cigarettes, as a tool to reduce harm from tobacco smoking. It concludes that, for all the potential risks involved, a complete switch to e‑cigarettes has significant potential to prevent death and disability from tobacco use and to hasten progress towards a tobacco-free society.

Mild adverse effects such as headaches, dry mouth or throat, throat or mouth irritation, dry cough or nausea have been reported by some users. The Cochrane Review found no serious [adverse effects](https://en.wikipedia.org/wiki/Adverse_effect) in trials as a result of short- to mid-term electronic cigarette use. However, smoking, even at a reduced level, remains harmful for smokers.[[43]](#footnote-35)

In summary, there is emerging evidence that, if smokers switch completely to e‑cigarettes, these products pose less health risks to them than smoked tobacco but there is not yet enough data to confidently recommend these as a smoking cessation tool.

Please! This is just not true. The UK Office of National Statistics reports hundreds of thousands have stopped smoking via vaping (and that was in 2014!); the Royal College of Physicians are convinced that the efficacy is proven and the risks are low; what is the MoH not confident about?

Let’s stop and think about what you have under the heading “Evidence on the effects of using e-cigarettes”—

* Nicotine is addictive and psychoactive, but safe at the concentrations it is used at.
* Thus far, the use of e-cigarettes has few adverse effects.
* Public Health England estimated that vaping carries only 5% of the health risk that smoking does, and that at that level the hazards contained in vapour fall below air quality thresholds.

and not related to the heading—

* Both Public Health England and the Royal College of Physicians conclude that switching from smoking to vaping is a public health benefit and should be encouraged.

The public health issue is about the harms caused by smoking and by second hand smoke to third parties, and the subsequent health care costs to society.

There is no significant harm associated with nicotine use

This section states that the evidence so far indicates that vaping is not a significant public health risk (and the Royal College of Physicians does not expect that it ever will be; but it should be monitored.)

Vaping does not have to be sanctioned by the MoH as a smoking cessation tool.

At this point it becomes simple logic to conclude that smoking and vaping are different, both to the user and to the public. The legislation that is in place for smoking is for the benefit of the health of the public and to reduce the burden on the health system. Therefore, vaping does not actually require legislation – particularly in the context of tobacco control – since it presents no significant risk to the health of the public, nor burdens the health system.

Whether the MoH wants to adjust the settings of the smoking-related legislation so that it can exercise a duty of care (facilitate another avenue for smoking cessation) is up to the Minister. It would require remarkably little effort—

* Provide for sale of nicotine-containing liquids
* Don’t sell to kids
* Develop/coordinate/promote a code of practice for suppliers of devices and liquid that addresses childproof packaging, appropriate label warnings/contents list, and standards for equipment/materials.
* Foster education of the medical/pharmaceutical professions (benefits and risks), vapers and retailers (expectations of product quality/provenance and behaviours), and the public (awareness, expectations, and behaviours)

## The current situation

### The Ministry of Health’s position

The Ministry of Health has to date taken a precautionary approach and advised that there is not yet enough evidence to be able to recommend e‑cigarettes as an aid to stop smoking. The Ministry advises smokers to use approved smoking cessation medicines, such as NRT, to stop smoking and to seek behavioural support from stop-smoking services, such as Quitline.

The Ministry monitors emerging research and is developing guidance for health professionals and stop-smoking support workers on how to support smokers who want to use e‑cigarettes to quit smoking.

Under the Medicines Act, only medicines approved by Medsafecan be sold for smoking cessation support in New Zealand. At this time, no company has met the requirements under that Act to have an e‑cigarette approved to support smokers to quit.

### The regulatory framework

The regulatory regime in New Zealand covering e‑cigarettes and e-liquids, primarily comprising the SFEA and the Medicines Act, was developed before the emergence of these products and regulates their sale, advertising and use.

The sale and supply of e‑cigarettes (this should be e-liquid) in New Zealand is currently unlawful if:

the product contains nicotine derived from tobacco (this is a breach of the SFEA, which regulates the sale, supply and advertising of tobacco products and prohibits the sale or distribution of ‘oral tobacco products’ that are not smoked)

This too is mischievous. As noted earlier, the regulatory regime covers tobacco smoking. Vaping was never intended to be covered; and the origin of the nicotine is incidental – clearly, synthetic nicotine would be ok, and so would nicotine derived from eggplant. This link to the SFEA is inappropriate.

the product contains nicotine and has not been approved for supply by Medsafe (this is a breach of the Medicines Act, which controls nicotine as a scheduled medicine; note that the Medicines Act does allow medical practitioners to prescribe unapproved products, including e‑cigarettes)

the producer or supplier makes therapeutic claims about their products (whether or not they contain nicotine) (for example, that they assist with smoking cessation)if they do not have a Medsafe approval for therapeutic use (this is a breach of the Medicines Act).

The SFEA provides that products that look like smoked tobacco products (that is, toy tobacco products) and that can be used to simulate smoking, must not be sold to persons under 18years of age. Apart from this restriction, nicotine-free e‑cigarettes can be sold freely in New Zealand.

The SFEA does not prohibit the use of e‑cigarettes in smoke free areas. However, organisations and/or workplaces can prohibit the use of e‑cigarettes as part of their own smoke free policies. For example, the use of e‑cigarettes is currently prohibited by Air New Zealand and in Wellington City Council’s smoke free areas.

I have two problems with the above paragraph, in addition to being surprised you even brought it up. Firstly, the purpose of the SFEA is to address the public health hazards from tobacco smoking – vaping is not smoking, nor is it hazardous to the extent that it is a public health risk. No one has any business trying to apply the SFEA to vaping. Secondly, the WCC paid dearly for poor advice from a narrow-minded academic who did not do his homework, and looked in vain for guidance from you (or at least they claimed they did). In any case, the Council spent way too long on their self-righteous hobby horse in creating that policy. It is absolutely absurd to push vapers to hang with the smokers when they are trying to quit – would you tell an alcoholic that if he or she wanted a coke they would have to have it in a bar? I believe the MoH should be rapping them over the knuckles for compromising tobacco control initiatives.

Under the Medicines Act and the SFEA, people can import nicotine-containing e‑cigarette products to use personally as a smoking cessation tool but cannot supply them, sell them or give them away to anyone else.

The Government has agreed to repeal and replace the Medicines Act with a comprehensive and modern therapeutic products regulatory regime. This regime will regulate medical devices for therapeutic use. Under the new regime, e‑cigarettes for therapeutic use would need to meet standards for safety, quality and efficacy under this regime, just as they do now.

I think you over estimate a need for them to be regulated for therapeutic use. Smokers who want to switch to vaping will just do it – as they have been doing for years. The MoH should be endorsing the activity, not approving the device/liquid. I find it difficult to reconcile the economic hardship you put on our most disadvantaged citizens (and don’t get me started on the “tobacco commerce doesn’t count in pension/benefit CPI calculations” policy bs!!!) and then agonise over “therapeutic device” minutiae, presumably because MoH risk aversion overwhelms these citizens’ wellbeing.

Legislation other than the SFEA and the Medicines Act applying to the advertising, selling and distribution of e‑cigarettes includes the Consumer Guarantees Act 1993, the Hazardous Substances and New Organisms Act 1996 (HSNO) and the Customs and Excise Act 1996. For example, nicotine is classed as a hazardous compound under the HSNO, and this Act specifies recording and handling requirements for it, particularly in bulk. Certain provisions in the Fair Trading Act 1986 relevantly regulate consumer products through consumer information standards, product safety standards and unsafe goods notices (which can be issued to ban dangerous products).

I searched the Customs and Excise Act and could not find reference to either nicotine or e-cigarettes. In fact “cigarette” only appeared twice and that was in reference to being included under the meaning of tobacco; and the process of manufacturing cigarettes from tobacco. Nor does nicotine appear in the excise tables.

## What is the problem with the status quo?

Currently, the sale and supply of nicotine e‑cigarettes is prohibited, while the sale and supply of tobacco for smoking is legal, even though evidence shows that smoking tobacco is more harmful for users than using e‑cigarettes.

However, some have expressed wider concerns about e‑cigarettes, including the difficulty of enforcing the law, the promotion of products to young people and non-smokers, product safety and quality control, the impact of vaping on others, the need for future-proofing legislation of e‑cigarettes, the association of e‑cigarette products with illicit drug use, the potential environmental impacts of e‑cigarettes and the increasing role of the tobacco industry in the manufacture of e‑cigarettes. The remainder of this section discusses these issues in more detail.

### Enforcement

There is anecdotal evidence that illegal sales of nicotine e‑cigarettes and nicotine e-liquid on the local market are increasing and that the number of retailers and suppliers importing, supplying, selling and promoting nicotine e-products is rising.

Widespread apparent civil disobedience could be interpreted as a reflection of the inappropriateness of a regulation that was not intended to be applied to vaping – that is to say the public has interpreted the spirit of the law to exclude vaping. It is not actually an “enforcement” problem.

Due to the lack of clarity on the legal position of e‑cigarettes (including the lack of clarity of legal definitions and what constitutes adequate evidence of a breach of the law), the Ministry has been unable to carry out enforcement actions against retailers.

### Promotion to young people

There is some overseas evidence of promotion of e‑cigarettes targeting young people. Some have raised concerns that certain e‑cigarette flavours (such as chocolate, strawberry and mint) may particularly appeal to young people.

What evidence would that be – there is no citation. I have seen opinion that is based upon packaging having bright and attractive colours; however, that does not constitute targeting youth any more than the colour of cars, or toasters, or even weed killer. And the flavour argument does not deserve attention.

Anecdotal evidence and survey data show that nicotine and nicotine-free e‑cigarettes are being sold to minors overseas and in New Zealand.

There is also evidence of an increase in New Zealand of young people trying e‑cigarettes, as follows.[[44]](#footnote-36)

A 2014 survey found an increase in the percentage of Year 10 students who had tried e‑cigarettes, from 7 percent in 2012 to 20 percent in 2014.[[45]](#footnote-37)

In another 2014 survey, 21 percent of students reported having tried an e‑cigarette (most of them were non-smokers).

The lesson from these surveys is that the prevalence of vaping is increasing. It needs no explanation that kids try anything and everything – that’s their job.

There have been claims that young people’s experimentation with and more regular use of e‑cigarettes is likely to lead to nicotine addiction or have a gateway effect (that is, lead to them taking up smoking). So far this has not been borne out by evidence, but there is a need to monitor survey data.

### Product safety and quality control

There are no health and safety or quality controls for e‑cigarettes available on the local market or from internet sales, which may put users and children who might access these products at risk. Specifically:

there are no restrictions on the level of nicotine content or other potentially harmful ingredients e‑cigarettes may contain

There do not need to be nicotine level restrictions. Nicotine level is a personal preference, like sweetener in tea or coffee. E-liquid is not like cigarettes with pages of chemicals to track.

labelling of product content is inconsistent; it is sometimes lacking or inaccurate

there is no requirement for health warnings on products about the potential risks of vaping during pregnancy, the risk of accidental nicotine poisoning and the need to keep products out of reach of children

there is no requirement for products to come in child-proof containers to prevent accidental poisoning.

Labelling, warnings and safety devices can be addressed with a code of practice. Most imported liquids would be compliant from respective State of manufacture requirements.

### The impact of vaping on others

There is agreement that the impact on others from second-hand vapour poses significantly less health risks than from smoking. However, there is insufficient evidence to assess the impact of this type of second-hand exposure; ongoing concern remains.

This is understating the reality. While we may not know all there is to know; there is enough data to have confidence that there is no significant hazard to others to even consider a legislative intervention. This issue is a carry-over from the demonization of tobacco smoke and the destructive division in our society promoted by lobbyists.

There are concerns that the increasingly visible use of e‑cigarettes may increase the risk of making smoking behaviour seem normal again and initiation to smoking, especially among young people. These concerns are an area of debate; ongoing monitoring is necessary.

There is no evidence of this. No debate should be undertaken – we are not good enough at at! Ref: SFEA and put smokers outside – they are now very visible (plenty of examples for our kids), and fouling the footpaths and gutters with butts – smart move?

E‑cigarette vapour can produce vaping clouds and aromas that may be a nuisance to others, especially in enclosed spaces.

Please! You cannot regulate manners and integrity. This can only be addressed by education and guidance. Or can we expect legislation to crush vape gear Collins-style?

### The need for future-proofing legislation

There has been considerable innovation in the production of e‑cigarettes since they first appeared on the market; this is expected to continue. E‑cigarettes themselves are an example of innovation in the area of alternative nicotine products. Other consumer nicotine products are currently available on the global market,[[46]](#footnote-38)and there are likely to be future innovations. New Zealand regulators need to consider developing and implementing regulatory controls that, as far as possible, are fit for purpose in this changing environment.

How about implementing controls only when they are necessary? I repeat – vaping is not smoking; vaping is not a health hazard; vaping is not a social problem. Let the public get on with switching from smoking.

### Illicit drug use

Overseas media have occasionally reported on e‑cigarettes being used for illicit drugs such as cannabis and methamphetamine. This has been raised as a concern in New Zealand.

Currently, any device or utensil re-purposed or modified as a tool with which to take drugs could become regulated as a drug utensil under the Misuse of Drugs Act. The Misuse of Drugs (Prohibition of Cannabis Utensils and Methamphetamine Utensils) Notice 2014, issued under the Misuse of Drugs Act, identifies such products and prohibits them for sale, supply or import.

The Government is currently reviewing the regulation of drug utensils to ensure they further the goals of the National Drug Policy 2015–2020 in a separate process. The Ministry of Health will publish a discussion document –*Review of Drug Utensils Regulation* –on its website, seeking views on the use of drug utensils to consume illicit drugs.

I don’t understand how this gets aired in this context. An atomiser is just that; like a cigarette lighter is just a lighter. How a person uses an everyday item is an issue with the person, not the item. The same applies to herbal vaporisers, the vapouriser is no more a problem than a cigarette paper is for rolling-tobacco.

### Potential environmental impacts

There is limited information on the environmental impacts associated with the production, use and disposal of e‑cigarette devices and their liquid. As the use of e‑cigarettes increases, the potential chemical waste (comprising lead and nicotine, among other substances) and electronic waste (comprising batteries and devices) may become problematic. There are currently no legislative disposal requirements for these products.

There are few requirements for disposal of anything. If there is to be legislation, then singling out vaping gear is hugely unfair. Lithium batteries are everywhere (and catching fire everywhere as well!) – in your watch, phone, tablet, camera, and if you are as old as I am, your pacemaker. They should be disposed of with care. The same for the circuitry. The rest is land fill I would imagine. However, all of this pales into insignificance when considering disposal of laptops and, even worse, printers that get thrown in the bin just because they’re out of ink.

### Tobacco industry involvement

There are indications that tobacco industry involvement in the production and marketing of e‑cigarettes has been increasing over the last few years.[[47]](#footnote-39)There is no information currently available to quantify the current market share.

New Zealand is a party to the World Health Organization Framework Convention on Tobacco Control (WHO FCTC). A report on e‑cigarettes to the sixth WHO FCTC Convention of Parties in 2014 included observations and considerations of the role of the tobacco industry and expressed concern about their growing involvement.[[48]](#footnote-40)

This “concern” does not seem without an agenda. I may be cynical, but if the tobacco industry shifted focus, wouldn’t that be a good thing! Or does the WHO hold ‘lobby group’ attitudes that put crushing Big Tobacco above tobacco harm reduction and sacrificing the smokers on the way?

## What are other countries doing?

Generally, overseas jurisdictions have applied their existing legislation to regulate e‑cigarettes, resulting in differing positions on e‑cigarettes. Some ban them from sale. Some regulate them as medicines, some as tobacco products and some as consumer products. Others have very little regulation at all.

## Policy objectives

The Ministry of Health is considering the regulatory framework for e‑cigarettes against the following policy objectives:

reduction of harm from tobacco smoking

prevention of harm from e‑cigarettes

product safety.

The rest of this section discusses these objectives in more detail.

### Reduction of harm from tobacco smoking

Because of the lack of data, it has been difficult to assess the potential contribution of e‑cigarettes to reducing harm from tobacco smoking and the potential contribution these products could make towards the Government’s goal of Smokefree 2025. Emerging data from the United Kingdom and Europe could inform policy decisions in New Zealand. For example, a recent English report estimated that 2.5 percent of smokers who used an e‑cigarette in their quit attempt (22,000 people) succeeded where they would have failed if they had used nothing or a licensed nicotine product bought (similar to NRT in New Zealand) from a shop.[[49]](#footnote-41)

The current evidence on the potential of e‑cigarettes to reduce harm from tobacco smoking is discussed under the heading ‘Evidence on the effects of using e‑cigarettes’.

The health effects (positive or negative) of the dual use of e‑cigarettes and smoked tobacco products are less clear. There is no long-term population data available to help us understand whether e‑cigaretteproducts help, delay or hinder dual users to quit smoking, although emerging evidence shows that they may be useful in helping smokers to quit.

A recent blog on the University of Otago’s Public Health Expert advises that ‘the safest option for smokers using vaping to reduce their health risk would be to limit the duration of dual use with cigarette smoking (ie, switching completely to vaping as soon as possible’. The blog recommendsthatvapers‘limit the total duration of vaping with a goal of reaching abstinence from both smoking and vaping, wherever possible without relapsing to smoking, which represents the greater risk to health’.[[50]](#footnote-42)

### Prevention of harm from e‑cigarettes

The evidence about the potential health harms of e‑cigarettes to the wider public is inconclusive because of a lack of data. Such potential harms are discussed above under the heading ‘What is the problem with the status quo?’

The data indicates, thus far, that there is no significant harm to the wider public – probably less than breathing city air. Public Health England does not expect any real change in the long term.

Concerns have been expressed about promoting e‑cigarettes to young people and the potential risks that vaping in public places poses to both the objectives and enforcement of the SFEA.

These concerns are narrow-minded and contrary to the problem at hand – tobacco harm reduction. The SFEA was amended to remove tobacco products (and remember that e-cigarettes and e-liquid are not tobacco products as envisioned by the Act) from sight because “*the everyday presence of tobacco products:*

* *sanctions or normalises their availability and use; and*
* *increases the risks of young people and others experimenting with smoking; and*
* *can trigger relapses in addicted smokers trying to quit.*”

Consequently, the everyday presence of vaping:

* sanctions or normalises its availability and use; and
* diverts the risk of young people and others experimenting with smoking; and
* can reinvigorate smokers switching to vaping.

Common sense tells us that switching to vaping will reduce tobacco consumption, therefore removing them from sight is counterproductive. To swing the pendulum the other way, I would suggest that e-cigarettes and e-liquid should be subsidised to encourage uptake away from cigarettes in much the same way as NRT.

There is some overseas evidence to suggest that advertising of e‑cigarettes may be targeting young people. Data shows that the number of young people experimenting with e‑cigarettes is growing, and some researchers have suggested that e‑cigarettes may act as a gateway to smoking for young people or create a generation addicted to a different type of nicotine-containing product.

“evidence to suggest...maybe”? The data does not reflect targeting – it does reflect the growing presence of vaping. And as noted above, nicotine is not a health (or social) problem. I saw an interview where a researcher was recounting the amount of effort it takes to get lab animals to self administer nicotine. As a drug it is not that attractive or addictive. Your background research would no doubt verify that the problem quitting smokers face is additives in tobacco enhancing addiction, and, to a greater extent, the psychological conditioning that accompanies smoking.

Despite the lack of scientific certainty, it may be warranted to apply a precautionary approach to regulating e‑cigarettes. This could be achieved by applying the provisions of the SFEA for smoked tobacco products – prohibiting sales to minors, restricting advertising and preventing use in areas designated smokefree under the SFEA – to e‑cigarettes.

Because of the lack of certainty, DO NOT ENACT PRECAUTIONARY LEGISLATION. The making of laws should only be done having presented a clear and convincing case that legislation is the only intervention left. All of the reliable data so far – and there’s heaps of it – is saying that smokers should be encouraged to switch to vaping because there is no significant health risk. The risk is so low that it probably doesn’t matter if young people do it, and it probably doesn’t matter if pregnant women do it (not that I would advocate either of those), but I am just trying to make a point.

It is, in the real world, almost certain that vaping will prove to be the single biggest improvement in public health in living memory – how would that make the Minister’s precautionary approach look?

### Product safety

Concerns relating to the long-term risks of using e‑cigarettes and the health effects of second-hand exposure to e‑cigarette vapour relate to:

the long-term effects of e-liquids – especially vapourised nicotine, propylene glycol and vegetable glycerine – on users

Monitoring is the only answer here; but it is already very clear that there are unlikely to be any surprises.

the safety of some e-liquid flavours for inhalation

E-liquids have come a long way in the last couple of years – influenced by early bad-science and scaremongering – and the flavour producers are very proactive in monitoring the content of vapour produced by their flavours. Perhaps the tobacco companies are the only ones to knowingly kill off their customers. Using pharmaceutical grade ingredients would give confidence and could be covered by a code of practice.

the effects of e‑cigarettes on pregnant women and their foetuses, infants and children, young people, and people with respiratory and chronic illness.

It would appear to be irresponsible to suggest that pregnant women should vape; and there are currently studies being done regarding nicotine’s effect on a foetus (perhaps vaping without nicotine is OK?). There is no significant hazard from second hand vapour; however you are getting close to a behavioural/parenting issue here that is not fixable with regulation. As for the respiratory illness issue, in my own case vaping eliminated my smoker’s cough (same for my mother) and my breathing became easier.

A lack of standards and regulations for the manufacture and labelling of e‑cigarettes means that there are risks of:

users unknowingly ingesting nicotine from products that are incorrectly labelled as nicotine-free or that do not list nicotine as an ingredient

This is an unrealistic assertion these days. The industry is quickly maturing, and the standards are high – this is competition and customer driven. The market is behaving in a logical manner. Admittedly, NZ is probably different, because, as you have stated earlier, there is a “black market” or “underground” element that distorts efficient market behaviour that we see in the US or UK. However, this will correct itself with nicotine-containing e-liquids becoming available over the counter. In this respect, the sooner the better.

users ingesting more nicotine than they think they are ingesting because of unreliable descriptions of nicotine content[[51]](#footnote-43)

This is an unrealistic assertion. The data indicates that if there is disparity between the nicotine content and the labelling, it’s often that there is too little nicotine. (Actually, this is a problem, because it could lead the user to over-vape and detract from the experience; thus threatening the quit attempt.) In any case, overdosing presents a natural barrier of nausea etc that turns one off further consumption – same as for smoking.

children being poisoned by e‑cigarette products due to a lack of warning about the dangers to children on packaging or a lack of child-proof packaging.

This can be easily addressed by a code of practice – is there a need to regulate for what people are prepared to do to keep their customers? And it is easy to hold people to a code of practice. In reality, child proof packaging is already here, both in e-liquid bottles, and in third generation tanks/atomisers. This was driven by the EU’s TPD, and the Chinese have been quick to incorporate such design features on tanks even in advance of the regulations.

### Considering change – proposals for consultation

Given the lack of available evidence on the topic, the Ministry of Health proposes to make legislative changes that will maximise the potential benefits of e‑cigarettes and minimise potential risks to smokers and to the wider population. The remainder of this section outlines the Ministry’s proposals.

The Ministry notes that suppliers of e‑cigarettes who wish to market them for smoking cessation purposes can, under the existing legislation, seek an approval from Medsafe. Medsafe bases approval on an assessment of the evidence on the safety and efficacy of particular products. The control under the Medicines Act on the use of e‑cigarettes as a therapeutic product (that is, for smoking cessation) will remain in place.

The Ministry proposes to amend the SFEA to make nicotine e‑cigarettes lawful as a consumer product and to regulate all e‑cigarettes in a way similar to that by which smoked tobacco products are regulated. That is, the proposed amendments would prohibit:

the sale and supply of e‑cigarettes to children and young people under 18 years of age OK-ish

advertising of e‑cigarettes NOT OK

the use of e‑cigarettes in areas designated smoke-free under the SFEA. NOT OK – vaping is not smoking

The Ministry is seeking feedback on whether other controls in the SFEA in regard to smoked tobacco should also apply to e‑cigarettes; that is:

the requirement for graphic health warnings NOT OK

the prohibition on displaying products in sales outlets NOT OK

the restriction on use of vending machines for sales NOT OK

the requirement to provide annual returns on sales data OK but unnecessary

the requirement to disclose product content and composition only to the extent of food flavouring or are you talking about the tables that tobacco producers are required to return?

regulations concerning ingredients (eg, nicotine content and/or flavours) NOT OK

the requirement for annual testing of product composition pointless

the prohibition on free distribution and awards associated with sales NOT OK

the prohibition on discounting NOT OK

the prohibition on advertising and sponsorship I would rather see this allowed

the requirement for standardised packaging. NOT OK

The Ministry seeks your comments on whether e‑cigarette liquid containing nicotine should be subject to some form of excise or excise-equivalent duty to financially deter uptake in a similar manner to the way excise duties apply to tobacco products.

The Ministry also seeks your comments on whether regulation of the quality and safety of e‑cigarettes as consumer products needs enhancing. For example, regulations could set requirements and standards for:

the extent to which product containers are childproof

the safe disposal of e‑cigarette devices and liquids

the safety of devices (eg, in terms of their ability to prevent accidental burns, explosions and spillage)

good manufacturing practice

registration of products

the purity and grade of nicotine in the products

a testing regime to confirm product safety and quality

a maximum allowable volume of e-liquid in retail sales

a maximum concentration of nicotine in e-liquid

the mixing of e-liquids at (or before) the point of sale.

## Next steps

The Ministry of Health will consider advice from submitters before it develops policy and provides advice to the Government.

The Ministry will provide a report to Cabinet towards the end of this year on consultation findings and proposals for specific regulatory changes. Subject to decisions Cabinet takes at that stage, the Government will then amend the legislation.

## 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:

4 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:

4 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.

|  |
| --- |
| 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**](mailto:tobacco@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 4 No

Reasons/additional comments:

|  |
| --- |
| It would facilitate the uptake of vaping. It is absurd that cigarettes are freely available and are a public health disaster, while e-liquids containing nicotine which are more than 95% safer, are not. |

**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 4

Reasons/additional comments:

|  |
| --- |
| I say no because there should be no controls on nicotine delivery products – for example patches should be available in supermarkets etc. as they are in other countries. |

**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 4

Reasons/additional comments:

|  |
| --- |
| A difficult area. If a 16 year old fronts up to buy an e-cigarette and some juice, and gets turned away; how do we feel if he or she then turns to a mate and accepts a cigarette? This should be addressed as a behavioural (ie parenting, role modelling) issue rather than a regulatory one. Although having said that, NZ doesn’t have a good history with behaviours around booze... |

**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 4

Reasons/additional comments:

|  |
| --- |
| It would be consistent with MoH policy objectives of tobacco harm reduction/elimination if vaping was actively encouraged. Therefore prohibiting advertising would be counterproductive.  On re-reading this, I am not sure MoH has a handle on harm reduction, or even wants it. Either way, vaping should have no advertising restrictions. |

**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 4

Reasons/additional comments:

|  |
| --- |
| **The SFEA needs amendment to completely disconnect it from vaping**. They are not the same thing. The SFEA definition of smoking excludes vaping; and the definition of tobacco product is over-reaching in terms of the purpose of the Act by including chewed tobacco, inhalers, and snuff – where do they fit in the scheme of smoking? This is a clear example of poor legislation – the SFEA demonises nicotine when nicotine is not the hazard. |

**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 |  | 4 | There is no health hazard to warn against |
| Prohibition on displaying products in sales outlets |  | 4 | It would be absurd to keep products out of sight if you want people to use them |
| Restriction on use of vending machines |  | 4 | There is no reason to keep products out of sight if you want people to use them |
| Requirement to provide annual returns on sales data |  | 4 | There is no reason to apply this level of bureaucracy to a substantially hazard-free product |
| Requirement to disclose product content and composition |  | 4 | E-liquid does not contain pages and pages of additives to modify their performance like tobacco does. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  | 4 | There is no data to indicate that ingredients are a problem that requires regulatory attention beyond Commerce Commission/Fair Trading |
| Requirement for annual testing of product composition |  | 4 | There is no data to indicate that ingredients are a problem requiring annual testing |
| Prohibition on free distribution and awards associated with sales |  | 4 | There is no reason to shackle the free market of a product that should be readily available and visible |
| Prohibition on discounting |  | 4 | There is no reason to discourage competitive marketing |
| Prohibition on advertising and sponsorship |  | 4 | There is no reason to keep products off the radar if you want people to use them |
| Requirement for standardised packaging |  | 4 | There is no reason to make products indistinguishable if you want people to use them. Surely retaining the manufacturer’s packaging will serve to increase the unattractiveness of tobacco products |
| Other |  |  |  |

**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 4

Reasons/additional comments:

|  |
| --- |
| Inconsistent with the policy objective of reducing harm. There’s no excise on NRT. It would make more sense to use the tobacco excise to subsidise vaping (since the Government finds it so difficult to give it to health care). |

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

Yes 4 No

Additional comments:

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers | 4 |  | As a parent, every container of everything should be child proof. Code of practice. |
| Safe disposal of e‑cigarette devices and liquids |  | 4 | There is no difference to any other consumer electronic device, and the liquid is not a threat to water treatment. |
| Ability of device to prevent accidents |  | 4 | Current manufacturing practices are adequate |
| Good manufacturing practice | 4 |  | NZ e-liquid manufacturing practices should be documented – code of practice. 99.9% of devices are imported and conform to EU or US standards. |
| Purity and grade of nicotine | 4 |  | Pharmaceutical grade. Code of practice. |
| Registration of products |  | 4 | Way over the top |
| A testing regime to confirm product safety and contents purity |  | 4 | The market would take care of that. It is very competitive, and such standards are voluntarily met or exceeded. |
| Maximum allowable volume of e-liquid in retail sales |  | 4 | Over regulation. Child proof caps and education. (I can by Round-up by the litre, and bleach by the 2 litre!) |
| Maximum concentration of nicotine e-liquid |  | 4 | Not required. The majority of vapers will be using less than a reasonable maximum (36mg/ml). E.g. I started on 18 and now use 5mg/ml. Overdosing with vaping is no different than smoking – you feel nauseous way before it does harm. Same with ingestion. |
| Mixing of e-liquids at (or before) point of sale | 4 |  | Code of Practice would be a good idea. |
| Other |  |  |  |

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

|  |
| --- |
| **Vaping is not smoking**. It might look like it to others, and it feels like it to a vaper (hence its attraction in quitting smokes), but it is not smoking.  **Vaping is not hazardous**. The health risks to a vaper are very low. The health risks to a bystander are insignificant.  **Nicotine in the context of vaping (or smoking) is not hazardous, nor particularly addictive**.  **Correct the absurdity of nicotine availability**. This is the only real barrier that currently exists.  **Vaping does not require regulation**  **There is nothing to protect the public from, either as a vaper or a bystander.**  **Vaping is just vaping**. Vaping as a cessation tool does not warrant regulation of vaping. Similarly, a car is just a car, and driving is just driving. It doesn’t matter to the car if it is being driven to a business appointment or to a cafe for a coffee. And the driving is the same. Don’t regulate vaping in the name of cessation. Vaping is just vaping, and it’s essentially harmless.  **The government has caused too much harm to smokers already**; do not widen that harm to include vapers as well. A code of practice would be a logical pathway if the MoH feel they need to do something.  **Vape shops do not need to be licensed** – this would be blatant, useless, bureaucracy.  **Vape shop operators do not need to be “trained”**. Who would conduct that training? To what standard? What eligibility requirements? Actually, vapers do not need to be “trained” either; as much as a friendly knowledgeable face would be an advantage at times, it is not essential.  **E-liquid does not need to be confined to pharmacies or vape shops**. This concept defies reason. |

**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)?**

|  |
| --- |
| I believe that there are probably less than 5,000 vapers currently.  In my estimation, having looked at some stats and overseas reports/studies:  Current NZ smokers 536,000 approximately  Potential vapers 53,600 (although as many as 30% of smokers might try) and with encouragement/support this number should grow significantly.  Device sales In the order of 8 to 10 million dollars per year  E-liquid consumption 40,000-60,000 litres per year (perhaps $30m dollars per year at about 60 cents per ml)  Most of this is coming in via internet sales. Locally, there are some small internet retailers (less than 20, and only 3-4 have a substantial stockholding) and similar numbers for shops – so it is obvious that brick-and-mortar outlets need to be encouraged. It would be economically beneficial for retail sales of devices/accessories to be brought on-shore, and very beneficial to encourage local manufacture of liquid. |

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

|  |
| --- |
| Not at the moment. However, I am considering starting a vaping retail business. The vaping community operates largely over social media, and with vaping in its infancy, finding help to get started is not always easy – a parallel would be getting advice from Mitre 10 when you have some landscaping to do. You can trawl the web, and talk to mates and neighbours; but going to the supplier and seeing the gear helps.  The MoH’s amendments will have impacts. On a spectrum (since you haven’t provided actual proposed changes):  Do nothing Face the hassle of dealing with customers who want nicotine. As far as I’m aware NZ and Australia are the only countries whose regulations make this difficult. Absurd. This would do nothing to improve public perception/acceptance.  “Legalise” nicotine in e-liquid only This would free up the market. Currently NZ e-liquid makers generally agree on manufacturing standards (environment, contamination prevention, labelling, child-proof caps, etc). And equipment manufacturers are making devices acceptable to the EU (CE mark), so they are not a risk. A small improvement in public perception?  As above with Code of Practice As above, but would put all of the e-liquid makers on an equal footing. It would level the playing field and provide a basis to address “cowboys”, should they appear. Enforceable in that if you are not following the code of practice, then what are you doing that is just as safe/clean/traceable/well labelled/well packaged/etc.  Still covered by SFEA At the mercy of puritans who want to treat vaping like tobacco (ref. Q8). This is totally unnecessary. |

**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?**

Here you use the term “e-cigarettes” and ask questions as if you are only interested in 1st generation “cig-a-likes”. I have only seen one person use them and she didn’t particularly like them; and has since resumed smoking having heard that they “were dangerous”.

I will answer the questions from the point of view of a user of 3rd generation devices.

|  |  |  |  |
| --- | --- | --- | --- |
| **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?** |
| Since Apr 15 | As often as I would have smoked – say 20 times per day. | $11.00 - $15.00 | A combination of the internet and a store in Napier |

# Consultation submission 170

San’s For Less

Submitter asked that submission not be published

# Consultation submission 171

Submitter asked that submission not be published

# Consultation submission 172

|  |  |
| --- | --- |
| Your details This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: | The University of Queensland, School of Public Health |
| 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.

|  |
| --- |
| Nil. I have no links or interests associated with any tobacco companies or e-cigarette/vaping product companies. |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@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:

|  |
| --- |
| The New Zealand government should be congratulated for making a pragmatic and sensible step towards regulating nicotine for vaping rather than maintaining the current ban.  A legal market for a less harmful cigarette substitute provides a substantial opportunity to phase out cigarette smoking as a major public health issue in New Zealand. Having an acceptable alternative, lower risk product could be very complementary to existing tobacco control strategies and could increase their effectiveness. For example, my research on smokers intentions when presented with proposed tobacco tax increases with and without a lower priced less harmful alternative available, suggested that more smokers would stop smoking (either quit altogether or switch to a lower harm product) when there was a less harmful, lower priced alternative available than when the price increase was made without the alternative (see Gartner C.E., Jimenez-Soto E.V., Borland R., O'Connor R.J., Hall W.D. Are Australian smokers interested in using low nitrosamine smokeless tobacco for harm reduction? Tobacco Control (2010): 19(6):451-6.).  This is also an ethical policy approach (see Hall W, Gartner C, Forlini C. (2015) Ethical issues raised by a ban on the sale of electronic nicotine devices. Addiction 110: 1061–1067). Banning less harmful alternatives while allowing widespread sale of the most harmful nicotine product (the combustible cigarette) makes no sense. The ultimate impact on public health from these products will depend upon how they and combustible tobacco products are regulated. Close monitoring of both the tobacco and vaping product markets will allow the government to check the regulations are achieving their ultimate goal of moving consumers in the direction of less harmful nicotine products and also becoming nicotine free. |

#### 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:

|  |
| --- |
| Consideration should be given to allowing sales of low nitrosamine smokeless tobacco, such as Swedish snus. There is extensive literature supporting snus as a harm reduction option for smokers. Limits on the amount of carcinogens in smokeless tobacco that was allowed to be sold could be imposed. Please see the Royal College of Physicians Reports on Harm reduction for a detailed discussion of the role products, such as snus could play in a comprehensive tobacco control strategy and Gartner C., Hall W., Vos T., Bertram M., Wallace A., Lim S. Assessment of Swedish snus for tobacco harm reduction: an epidemiological modelling study. The Lancet (2007) 369(9578):2010-4. |

#### 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:

|  |
| --- |
| Sales of nicotine for vaping should be targeting at adult smokers and not allowed for adolescents/children. |

#### 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 answered 'yes' to this question because strict controls are needed on advertising to prevent young non-smokers from seeing it as glamorous and taking it up. However, there is a good argument for allowing some form of communication with adult smokers to encourage them to switch to vaping. So consideration should be given to allowing some limited advertising via targeted channels. Some examples are point of sale advertising in a specialist tobacconist or an adult store, where exposure to people under 18 shouldn't occur. |

#### 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 answered 'no' to this question because I don't think public vaping should be restricted in exactly the same way as public smoking, although I do support some restrictions.  The potential risks posed by secondhand exposure to vapour is much lower than that posed by secondhand smoke. However, there should be some controls on where people may vape in indoor public spaces. Particularly those which include confined spaces, such as public transport, should be kept vape-free because this would be consistent with current public expectations from non-vapers/non-smokers, who make up the majority of the population in New Zealand. Indoor public smoking restrictions are well-accepted and supported by the public, including many smokers, who are now accustomed to smoking outdoors. Extending these restrictions to vaping in most situations shouldn't cause too many problems for vapers who were previously smokers. The exception would be where there are limited suitable outdoor locations for vapers to access where they do not have to stand with smokers who are smoking. Consideration could be given for exempting some specific indoor locations such as dedicated vape shops, to allow customers to sample products, where the possibility of creating a nuisance for non-vapers is likely to be very low/non-existent.  There is far less justification for any restrictions on outdoor vaping. The risks to bystanders in an outdoor environment is likely to be so miniscule as to be completely unquantifiable and dwarfed by other common exposures such as those from passing traffic. Vaping should be explicitly excluded from outdoor smoking bans. Inclusion of vaping in widespread outdoor smoking bans can have unintended consequences. For example a mental health setting may want to go completely smokefree, but are concerned about impact on patients. Allowing outdoor vaping could provide a viable option that will be more accepted by some patients than other forms of nicotine replacement such as patches. |

#### 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 |  |  | There is insufficient evidence to produce such graphic health warnings relevant to vaping. More appropriate would be a simple statement advising customers that vaping has not been confirmed as being harmless, but it is less harmful than smoking. Rather than graphic health warnings, there is a need for standardised safe storage and handling instructions (e.g. keep out of the reach of children). |
| Prohibition on displaying products in sales outlets |  |  | Dedicated vape shops and specialist tobacconists should be able to display vaping products within their stores to assist customers to choose an appropriate product. However, products should not be allowed to be displayed in general retailer outlets such as corner stores, petrol service stations etc, alongside confectionary. |
| Restriction on use of vending machines |  |  | There is no good justification for vending machine sales for tobacco cigarettes or vaping products. These products should be sold with opportunity for the customer to ask questions and obtain advice and for appropriate check of age of purchaser. |
| Requirement to provide annual returns on sales data |  |  | Requiring reporting on sales data is a good policy and should be included (See Gartner C.E., Chapman S.F., Hall W.D., Wakefield M.A. Why we need tobacco sales data for good tobacco control [Editorial]. Medical Journal of Australia (2010) 192(1):3-4.). This will allow monitoring that is needed to understand the risks and benefits of access to these products. Similar reporting should be required for tobacco products. This is likely to be more manageable when required at the wholesaler/importer level than the individual retailer level. |
| Requirement to disclose product content and composition |  |  | Consumers require accurate information on the ingredients in vaping products in order to make informed choices. For example, some vapers will want to avoid certain flavouring compounds and so this type of information should be considered mandatory for labelling. Accurate labelling of products with nicotine content is also necessary. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | The evidence base on the level of risk associated with inhaling flavour compounds is growing. It would be prudent to include a mechanism for banning those compounds that are found to pose an unacceptable level of risk via inhalation. |
| Requirement for annual testing of product composition |  |  | A modest license fee on manufacturers, wholesalers and retailers should be imposed which includes an allowance for compliance checking with a set percentage of products on the market randomly selected for a compliance test. Annual testing of products could be overly burdensome. It would seem reasonable to require some basic independent analyses such as nicotine content to be submitted for a sample of products or where there is a change in manufacturing practice to demonstrate the manufacturer has adequate quality control. |
| Prohibition on free distribution and awards associated with sales |  |  | These promotional activities are not appropriate for an addictive substance. |
| Prohibition on discounting |  |  | I support policies that would maintain a lower price on vaping products relative to tobacco cigarettes to provide an incentive to smokers to move to lower risk products. Some allowable level of discounting could provide encouragement for smokers to try vaping. Rather than prohibiting discounting initially, consideration could be given to monitoring the market to determine if policies such as a floor price is needed to deter uptake by non-smoking youth. |
| Prohibition on advertising and sponsorship |  |  | Possibly. There should be a complete ban on any advertising that glamourises vaping or smoking (such as through images that are similar to smoking), which could encourage non-smoking youth to take it up. However, some level of communication with smokers about the risks and benefits of switching to vaping could be beneficial. Text only advertising in print format could be an option to allow some communication with smokers without risk of glamourisation. |
| Requirement for standardised packaging |  |  | Rather than standardised packaging, as on tobacco cigarettes, it would be more appropriate to have some general restrictions on packaging – what can and cannot be included on packaging and some guiding principles such as packaging should not glamourise vaping/smoking. As stated above, standardised safe storage and handling instructions should be mandated. |
| Other |  |  | Manufacturers, wholesalers and retailers should be licensed. This should also be applied to tobacco products. Tobacco retailer licenses should be more expensive than licences for retailers that sell only vaping products. |

#### 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:

|  |
| --- |
| Taxing vaping products at a similar rate as tobacco products would be counter-productive to public health. These products should be lower price to encourage consumers to move to the lower risk product. Indeed having a lower priced acceptable alternative in the market place provides opportunity to raise taxes on tobacco products while providing an option for smokers who find it difficult to stop using nicotine. This could offset some of the equity impacts that very high tobacco taxes have on populations with high smoking prevalence.  Maintaining some differences in how vaping products are sold and taxed will allow them to be used as part of a tobacco control strategy to move smokers to lower risk products.  See:  Chaloupka F, Sweanor D, Warner K. (2015) Differential Taxes for Differential Risks —Toward Reduced Harm from Nicotine-Yielding Products. N Engl J Med 373: 594-597  Gartner C.E., Jimenez-Soto E.V., Borland R., O'Connor R.J., Hall W.D. Are Australian smokers interested in using low nitrosamine smokeless tobacco for harm reduction? Tobacco Control (2010): 19(6):451-6. |

#### 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 |  |  | Refill bottles should be required to have child-resistant closures. |
| Safe disposal of e‑cigarette devices and liquids |  |  | I support policies that reduce the amount of hazardous substances entering landfill, such as Lithium ion batteries. Providing an easy mechanism for the public to recycle these batteries would be good public policy. This should not be restricted to e-cigarette devices, but apply to all electronic products.  Similar policies that apply to disposal of other household chemicals should be applied to these liquids. Consumers should be required to dispose of any unwanted nicotine solution in a responsible manner that does not pose a risk for children or animals. |
| Ability of device to prevent accidents |  |  | Some vaporisers already have a mechanism to provide a barrier to a young child activating the heating mechanism – eg automatic shutoff when not used for a short while and then turning on requiring a sequence of button pushes or a small button that would be difficult for small child to activate. Also some manufacturers have incorporated safety features such as over-heating protection for the battery. These both appear to be reasonable safety features that could be required of manufacturers. |
| Good manufacturing practice |  |  | Quality assurance certification should be required for manufacture, however the level of certification should be less than required for medical devices and medicines, unless they are marketed as medicines or medical devices. |
| Purity and grade of nicotine |  |  | Consumers need to have confidence in what they are purchasing and specifying purity of the nicotine would assist this. |
| Registration of products |  |  | The market for vaping devices is rapidly developing and registering all new products could become burdensome for both the regulator and the marketplace. Requiring wholesalers/importers to provide an annual report on their range of products would assist with monitoring changes in the marketplace. |
| A testing regime to confirm product safety and contents purity |  |  | This should be part of quality assurance processes. |
| Maximum allowable volume of e-liquid in retail sales |  |  | This question is not clear. If it relates to limits on the size of the package (e.g. individual bottle of e-liquid) then some restriction is justifiable as this will limit the risk of a large spill if the package is broken. A 50mL limit is reasonable.  The other way to interpret this question relates to limiting the quantity that can be purchased in one transaction. Where there is a retailer licensing scheme in place, large quantities purchased in one transaction may indicate an attempt to sell outside licensing requirements and so may require a limit to deter such diversion.  The other potential issue could relate to intentional misuse. While extremely rare, there have been some intentional overdoses (suicides) with nicotine e-liquid. However, I am not familiar enough with the literature on limiting sales quantities of other substances (e.g. paracetamol) to comment on whether this is a measure that reduces such misuse. |
| Maximum concentration of nicotine e-liquid |  |  | Limiting the concentration of nicotine to 36mg/mL should be sufficient for most vapers. It is reasonable to include an upper limit to reduce risks of accidental poisoning. |
| Mixing of e-liquids at (or before) point of sale |  |  | If the manufacturer can demonstrate their quality control systems are sufficient to enable this to be done safely and without adversely affecting packaging and labelling of nicotine content accurately, then it may be unnecessary. |
| Other |  |  |  |

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

|  |
| --- |
| Providing retailers with an incentive to move from tobacco sales to vaping product sales could help reduce the retail availability of tobacco. Ideally, these nicotine products should only be sold in situations where the purchaser can get good advice – such as a dedicated vape shop or a specialist tobacconist with an interest in vaping products. This would result in better quality products on the market that would be sold with advice. These products aren't really appropriate to be sold by non-specialist retailers (e.g. petrol service stations) by staff who do not understand the products and can't offer advice on their use. Similarly, tobacco products are also not appropriate products to be sold by general retailers and serious consideration should be given to phasing out tobacco sales from general retail outlets as they also should not be treated like an everyday commodity.  Please let me know if you require a copy of any of the publications I have cited in this submission. I would be very happy to provide copies of these publications.  Furthermore, I am currently collaborating with colleagues at University of Otago on modelling the potential impact of widening access to nicotine e-cigarettes in New Zealand that we would be happy to share with the New Zealand Ministry of Health once completed. |

### 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)?

|  |
| --- |
| Others in New Zealand are more qualified to comment on this. However, I am aware that as in Australia, nicotine-containing e-cigarettes and vaping solutions are available despite current restrictions. |

#### 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?** |
|  |  |  |  |

# Consultation submission 173

|  |  |
| --- | --- |
| Your details This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: | Manaia PHO |
| 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)?

x 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

x 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.

x 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.

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x 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.

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| --- |
|  |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@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 x No

Reasons/additional comments:

|  |
| --- |
| E-cigarettes are already being accessed, controls would allow for product regulation and safety for consumers |

#### 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 x

Reasons/additional comments:

|  |
| --- |
| Unsure |

#### 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 x

Reasons/additional comments:

|  |
| --- |
| We know that people under the age of 18 years smoke tobacco, and start from a very young age. If e cigarettes are able to be provided as part of a smoking cessation package monitored by a registered health professional/trained person it could be a useful aid for quitting (I know the evidence of e cigarettes as a smoking cessation tool is limited and inconclusive). |

#### 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 x No

Reasons/additional comments:

|  |
| --- |
| Without controls in place there is the risk of advertising glamorizing e-cigarettes. The ultimate aim should always be focused on NZ being smoke free. |

#### 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 x No

Reasons/additional comments:

|  |
| --- |
| The ultimate aim is for NZers to be smoke free regardless of device or method of inhalation. The message needs to continue to be ”smoke free is best” and prohibiting smoking in designated areas reinforces this. |

#### 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 |  |  |  |
| Prohibition on displaying products in sales outlets | x |  |  |
| Restriction on use of vending machines | x |  | Restricting accessibility means availability is reduced and potentially lessens usage of nicotine based product |
| Requirement to provide annual returns on sales data |  |  |  |
| Requirement to disclose product content and composition | x |  | To ensure transparency of product ingredients |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | x |  |  |
| Requirement for annual testing of product composition |  |  | Not sure that annual testing is required. On initiation and random sampling could be an option |
| Prohibition on free distribution and awards associated with sales | x |  |  |
| Prohibition on discounting | x |  |  |
| Prohibition on advertising and sponsorship | x |  |  |
| Requirement for standardised packaging | x |  |  |
| Other |  |  |  |

#### 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:

|  |
| --- |
| Unsure. If e-cigarettes will be used by smokers as a form of smoking cessation product it would seem logical to make them more desirable at a lower price point than tobacco. However it is a fine line to ensure they are not so cheap to be seen as an entry into smoking tobacco. |

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

Yes x No

Additional comments:

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers | x |  | For safety |
| Safe disposal of e‑cigarette devices and liquids | x |  |  |
| Ability of device to prevent accidents |  |  | Unsure what this means |
| Good manufacturing practice | x |  | To ensure product safety |
| Purity and grade of nicotine | x |  | As above |
| Registration of products | x |  | As above |
| A testing regime to confirm product safety and contents purity | x |  | As above |
| Maximum allowable volume of e-liquid in retail sales |  |  |  |
| Maximum concentration of nicotine e-liquid | x |  | A variety of concentration strengths should be available |
| Mixing of e-liquids at (or before) point of sale | x |  |  |
| Other |  |  |  |

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

|  |
| --- |
| We are trying to discourage smoking of any kind to improve health outcomes for people and reduce addiction. To have e-cigarettes as one of the smoking cessation tools available could/would be useful however it should not to be promoted as an alternate form of smoking or entry into smoking.  While we are discouraging smoking of any kind we do need to ensure that products available are manufactured to acceptable standards and the active ingredients are accurate and as stated.  “Mystery” tobacco purchase already takes place around the country to gauge adherence to current legislation, random sample testing of content and composition could be part of this process.  Clients have spoken to me about the need for the oral/hand habit of smoking, e-cigarettes have provided this for them in quit smoke attempts. Several have spoken of the positive effect this has had alongside the nicotine intake in making them successful.  Nicotine is highly addictive but we know that the additives in tobacco are harmful and toxic. E-cigarettes could provide an alternative in reducing addiction when part of a quit smoke package. We know that e-cigarettes are being used currently with no body governing their manufacture and contents. |

### 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)?

|  |
| --- |
| From talking to clients they are accessing e-cigarette products over the www. None have been able to verify contents of the product and /or surety that the concentration strengths they are purchasing are accurate/safe. |

#### 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?** |
|  |  |  |  |

|  |
| --- |
| 12 September 2016 |

|  |
| --- |
| Philip Morris International Inc. and Philip Morris (New Zealand) Limited’s  Submission to the Consultation: |
| Policy Options for the Regulation of Electronic Cigarettes |
|  |

# Consultation submission 174

Consultation submission

|  |  |
| --- | --- |
| **Your details**  This submission was completed by: *(name)* | Philip Morris International Inc. (PMI) and Philip Morris (New Zealand) Limited (PMNZ) |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: |  |
| 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:

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I am using nicotine-free e‑cigarettes.

I currently smoke as well as use e‑cigarettes.

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I have tried e‑cigarettes.

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|  |
| --- |
| Philip Morris International Inc. and Philip Morris (New Zealand) Limited are tobacco companies. |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@moh.govt.nz) by **5 pm, Monday 12 September 2016**.

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Introduction

Philip Morris (New Zealand) Limited and Philip Morris International Inc. (“PMI”) recognize that combustible cigarettes are a dangerous, harmful product and smoking is one of the leading preventable causes of death and disease in New Zealand.[[52]](#footnote-44) The best way to avoid the harms of smoking is never to start or to quit. While regulations and public policy programmes have contributed to a steady decrease in smoking prevalence, more than 600,000 New Zealanders[[53]](#footnote-45) continue to smoke. Although many smokers are interested in and attempt to quit, the rates of long-term smoking cessation remain very low.

Accordingly, many policy experts advocate that governments adopt the policy of tobacco harm reduction, which “*focuses on encouraging the use of less dangerous forms of tobacco/nicotine by those who prefer not to abstain from all tobacco/nicotine products,*”[[54]](#footnote-46) to complement the other major strategies for reducing smoking-related harm (i.e., prevention and cessation).

Tobacco harm reduction is not a theoretical concept: Millions of adult smokers around the world, and thousands of smokers in New Zealand, have switched from cigarettes to electronic cigarettes and other non-combustible alternatives to cigarettes. Many experts in the public health community view these products as significant public health developments. For example, in 2014 over 50 experts characterized reduced risk alternatives to cigarettes as “*among the most significant health innovations of the 21st Century – perhaps saving hundreds of millions of lives*…”[[55]](#footnote-47) In their view, such products can be an important – perhaps even essential – means to reduce the harm caused by smoking:

*Taken together, these tobacco harm reduction products could play a significant role in meeting the 2025 UN non-communicable disease (NCD) objectives by driving down smoking prevalence and cigarette consumption. Indeed, it is hard to imagine major reductions in tobacco-related NCDs without the contribution of tobacco harm reduction. Even though most of us would prefer people to quit smoking and using nicotine altogether, experience suggests that many smokers cannot or choose not to give up nicotine and will continue to smoke if there is no safer alternative available that is acceptable to them.[[56]](#footnote-48)*

Similarly, the U.K. Royal College of Physicians (RCP) concluded in 2007 and reiterated in 2016 that “*as most of the harm caused by smoking arises not from nicotine but from other components of tobacco smoke, the health and life expectancy of today’s smokers could be radically improved by encouraging as many as possible to switch to a smoke-free source of nicotine.”[[57]](#footnote-49)* Indeed, the RCP stated “*Harm reduction, as a complement to conventional tobacco control policies, could … offer a means to prevent millions of deaths among tobacco smokers in the UK alone.*”[[58]](#footnote-50)

Electronic Cigarettes Can Play an Important Role in Reducing the Harm Caused by Cigarette Smoking

Burning tobacco creates smoke which contains high levels of harmful and potentially harmful constituents (“HPHCs”) that are widely recognized to be the most likely causes of smoking-related diseases.[[59]](#footnote-51) Smoke also contains nicotine but experts such as the RCP agree that nicotine, while addictive and not risk free, is not the primary cause of smoking related disease:

*"[S]mokers smoke predominantly for nicotine, that nicotine itself is not especially hazardous, and that if nicotine could be provided in a form that is acceptable and effective as a cigarette substitute, millions of lives could be saved.”*[[60]](#footnote-52)

Electronic cigarettes do not burn tobacco and do not generate smoke. They use battery-powered electronics to heat a nicotine-containing solution to create an aerosol, commonly referred to as vapour, with far fewer harmful chemicals than cigarette smoke.[[61]](#footnote-53) As a result, as the Consultation Document notes, “*[t]he scientific consensus is that using e-cigarettes poses less health risks to smokers than continuing to smoke and that short-term use is associated with few adverse effects*.”[[62]](#footnote-54) Indeed, a 2014 systematic review of all the available evidence on electronic cigarettes concluded that “*[c]urrently available evidence indicates that electronic cigarettes are by far a less harmful alternative to smoking and significant health benefits are expected in smokers who switch from tobacco to electronic cigarettes*.”[[63]](#footnote-55) Those and more recent studies led the RCP to conclude that nicotine-containing products that do not involve combustion are likely to be at least 95 percent less hazardous than smoking cigarettes, and to urge governments to “*[p]romote e-cigarettes widely as a substitute for smoking*.”[[64]](#footnote-56)

In countries where they are not prohibited or regulated as medicines, e-cigarettes have already helped millions of people switch from smoking to non-combustible products. A briefing paper by ASH-UK found that there are “*an estimated 2.8 million adults in Great Britain [who] currently use electronic cigarettes,”*[[65]](#footnote-57)of which approximately 1.3 million are now ex-smokers. Similarly, a recent study found that 6.1 million people in Europe have quit smoking using electronic cigarettes.[[66]](#footnote-58)

Moreover, while “*there have been claims that EC [electronic cigarettes] are acting as a ‘gateway’ to smoking in young people*,” [[67]](#footnote-59) a systematic review by Professor Peter Hajek and others examined that claim concluded, “*[T]he evidence does not support this assertion. Regular use of EC by non-smokers is rare and no migration from EC to smoking has been documented (let alone whether this occurred in individuals not predisposed to smoking in the first place)*.”[[68]](#footnote-60)

Taking into account both the risk profile of e-cigarettes and other “vaporized nicotine products” and their current use patterns, a recent study by prominent tobacco policy experts from Australia, the US and Canada concluded that “*we project a reduction of 21% in smoking-attributable deaths and of 20% in life years lost as a result of [vaporized nicotine product] use by the 1997 US birth cohort compared to a scenario without VNPs*.”[[69]](#footnote-61) If such products were adopted by more smokers, the benefits would be greater. Thus, electronic cigarettes and other non-combustible alternatives to cigarettes have the acknowledged potential to reduce the premature mortality and morbidity caused by cigarette smoking in New Zealand.

Regulatory Measures Should Encourage Smokers Who Do Not Quit to Switch to Less Harmful Products

The Consultation Document proposes “*to amend the SFEA to make nicotine e-cigarettes lawful as a consumer product* ***and to regulate all e-cigarettes in a way similar to that by which smoked tobacco products are regulated****..*.”[[70]](#footnote-62)

We agree that e-cigarettes should be at least as available to adult smokers as cigarettes are, but we suggest that they should be regulated ***differently***from cigarettes in order to encourage smokers to switch to them. As a leading tobacco harm reduction expert explained, “*In a situation where the new products are competing with a dangerous established incumbent, cigarettes, too much regulation of the wrong type can amount to a regulatory protection of the product that all agree to be the most harmful*.”[[71]](#footnote-63)

Applying restrictive cigarette-based regulatory rules that were designed to discourage use would be counterintuitive and run contrary to the science and public health purpose of tobacco harm reduction. We therefore respectfully suggest that the New Zealand Government consider a new framework for e-cigarettes which establishes appropriate product controls and oversight but which fundamentally *encourages smokers who do not quit to switch to less harmful products*. We offer several specific suggestions on what such a framework might include.

***Sales and promotion to minors should be prohibited.*** E-cigarettes are addictive and are not risk-free. Their sale to minors should be prohibited, and adults who are responsible, including parents and retailers, should be aware of the risks presented by e-cigarettes.

***Adult smokers should have access to information about the availability, attributes benefits and risks of e-cigarettes***. The Consultation Document proposes regulating e-cigarette advertising and marketing practices in line with existing restrictions on cigarette advertising. While restrictions are warranted to protect never and former smokers, fairly broad communication with adult smokers should be permitted. As explained by a leading harm reduction advocate:

“*From a public health perspective, it is a huge success when smokers switch … To that end…advertising for [inhalable nicotine products] should be understood as* ***a good thing for health****…Too much control or prohibition of advertising protects the incumbent products and vendors…namely, the existing cigarette vendors.*”[[72]](#footnote-64)

Similarly, analyses have shown that restrictions on e-cigarette advertising could have the unintended result of increasing smoking. For example, a US expert recently modelled the impact of e-cigarette advertising bans and cautioned that:

“*in the absence of e-cigarette advertising, demand for traditional cigarettes would increase, suggesting that a ban on e-cigarette advertising may have unintended consequences*.”[[73]](#footnote-65)

At a minimum, the SFEA should allow e-cigarettes to be displayed at retail shops, permit proactive direct communication with adult smokers and allow trial by adult smokers.

***Packaging and labelling requirements should allow smokers to recognize the distinct nature of the products.*** Labelling requirements (e.g., warnings) should be consistent with the relative risks of the product and the product information that has to be conveyed. E-cigarette packaging must have warnings that address the particular risks of the product but in a way that leaves smokers with a clear understanding of their risk relative to cigarette smoking. This is the approach taken by the European Union and other countries, which require product-specific messages (size, placement and content) for e-cigarettes and non-combustible tobacco products.

Given the importance of encouraging smokers of fully switching to e-cigarettes, applying restrictive packaging regulations such as standardised packaging or excessively large or graphic health warnings would be inappropriate and relegate these less harmful products to packaging that is effectively equivalent to cigarettes, making it very difficult to differentiate them at retail to adult smokers.

***Product disclosures and standards should ensure product quality and fitness for purpose***. Product standards must be sufficiently rigorous to protect public health including mandated reporting requirements on e-liquid ingredients and e-cigarette operating processes, child-resistant packaging, while reasonably flexible to permit manufacturers to comply using current technologies.

***Taxation should encourage the development and adoption of e-cigarettes.*** Fiscal policies should enable and promote switching. Accordingly, we would support a policy of *not* taxing e-cigarettes. However, if the Government believes that e-cigarette taxation is necessary, rates should be kept low, and the impact of a tax should be monitored to ensure that tax does not have the adverse effect of discouraging switching by making e-cigarettes relatively unaffordable compared to cigarettes or discouraging manufacturers from developing and commercializing innovative reduced risk alternatives to cigarettes.

***E-cigarette use should be permitted in some areas where smoking is prohibited.*** In July 2016, Public Health England released evidence-based recommendations to policymakers on vaping in public places and workplaces.[[74]](#footnote-66) Based on its conclusion that “*the evidence is clear that vaping is much less harmful than smoking and that e-cigarettes are helping many smokers to quit*,”[[75]](#footnote-67) and its conclusion from an independent review the available evidence that “*E-cigarettes do not burn tobacco and do not create smoke…[and] there is no evidence of harm to bystanders from exposure to e-cigarette vapour and the risks to their health are likely to be extremely low,*”[[76]](#footnote-68) Public Health England recommended that “*[d]ifferent approaches [on public place vaping] will be appropriate in different places, but policies should take account of the evidence and clearly distinguish vaping from smoking*.”[[77]](#footnote-69) For example, Public Health England recommended that vaping “*should not routinely be included in the requirements of an organisation’s smokefree policy.”*[[78]](#footnote-70) It also recommended restricting or prohibiting vaping in places where it could be a nuisance or distraction or would otherwise be inappropriate under the circumstances.[[79]](#footnote-71)

Based on that evidence, we recommend that reasonable policies should be implemented to limit the use of e-cigarettes based on (1) pre-established air quality standards against which manufacturers would have to submit product testing data, (2) designated approved use areas, such as sections of restaurants and bars, hotels, and offices and workplaces, and (3) designated prohibited areas such as places frequented by youth such as schools, as well as outside of designated areas in health care facilities.

Future-proofing Regulation: A Wide Range of Non-combustible Products Can Contribute to a Smokefree New Zealand

As the Consultation Document notes, e-cigarettes have evolved rapidly and “*there are likely to be future innovations. New Zealand regulators need to consider developing and implementing regulatory controls that, as far as possible, are fit for purpose in this changing environment*.”[[80]](#footnote-72) We agree. “Future-proof” regulation should recognize and foster the continued development and improvement of a range of non-combustible products that smokers readily accept and use instead of cigarettes.

As noted above, in May 2014, more than 50 of the world’s leading tobacco policy experts described the wide range of non-combustible, potentially less harmful alternatives to cigarettes that have become available:

*There are now rapid developments in nicotine-based products that can effectively substitute for cigarettes but with very low risks. These include for example, e-cigarettes and other vapour products, low-nitrosamine smokeless tobacco such as snus, and other low-risk non-combustible nicotine or tobacco products that may become viable alternatives to smoking in the future.[[81]](#footnote-73)*

Innovative products backed by solid science can play an important role in reducing the harms of smoking. PMI is making significant efforts to develop and scientifically assess a range of innovative products that eliminate combustion, generate a vapour in which most of the HPHCs found in cigarette smoke are significantly reduced or eliminated, and which smokers will accept as alternatives to cigarettes.

For example, PMI’s affiliates in Japan, Italy, Switzerland and a number of other countries are currently selling a product that heats tobacco instead of burning it, the *iQOS Tobacco Heating System*. Although our scientific assessment programme is still underway and conclusions on the risk reduction profile of the product will be based on the totality of the evidence collected in our assessment programme, our results to date show that *iQOS*:

* Does not combust and does not generate smoke;
* Reduces the formation of HPHCs, excluding nicotine, by 90% on average compared to the smoke of the 3R4F reference cigarette;
* Produces an aerosol which is 90-95% less toxic in laboratory based tests than 3R4F cigarette smoke;
* Has similar biological effects to smoking cessation in laboratory models;
* In randomized clinical trials, reduces exposure of smokers to all measured HPHCs compared to smokers who continued smoking – and reduces those exposures to levels approaching those of smokers who quit for the duration of the study; and
* Does not generate second hand smoke and using *iQOS* does not negatively impact indoor air quality.

A detailed description of our scientific research may be found at PMIScience.com.

Significantly, *iQOS* has led more than 600,000 smokers to fully switch from cigarettes to a non-combustible alternative – an unprecedented achievement in such a short period of time.[[82]](#footnote-74) Moreover, our post-market observations indicate that use of *iQOS* by never-smokers or former smokers is negligible.

We are not alone in this category. Technological innovation is transforming the tobacco industry: A wide range of non-combustible nicotine products has the potential to significantly reduce health risks when compared to smoking. We have communicated an ambitious goal to our shareholders: ensuring that non-combustible alternatives to cigarettes ultimately replace cigarettes. Indeed, we envision a smokefree world where a broad range of safer alternatives to cigarettes fully satisfies the continuing consumer demand for tobacco and nicotine products.

Non-combustible alternatives to cigarettes for smokers who do not quit, marketed within an appropriate regulatory framework, can help New Zealand achieve its Smokefree 2025 objective. We therefore recommend that amendments to the SFEA recognize e-cigarettes as well as other non-combustible alternatives to cigarettes and anticipate – and encourage – the development, scientific assessment, continued improvement and commercialization of additional combustion-free alternatives to cigarettes in order to reduce the harm caused by smoking.

Philip Morris International Inc.

Philip Morris (New Zealand) Limited

12 September 2016

# Consultation submission 175

|  |  |
| --- | --- |
| **Your details**  This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: | **End Smoking NZ** |
| 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.

Some members of End Smoking NZ are ex-smokers, and some have tried nicotine-free e-cigarettes to see what they are like. None are committed personal e-cigarette users . However we all believe that e-cigarettes are an important tool that can help people stop smoking.

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|  |
| --- |
| End Smoking New Zealand has no tobacco industry links, nor any commercial interest in e-cigarettes, or in nicotine replacement therapy. End Smoking NZ does not receive any Government funding. Some of our members have received research funding to study e-cigarettes and vaping. The funding has mainly come from the Health Research Council and Ministry of Health. |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@moh.govt.nz) by **5 pm, Monday 12 September 2016**.

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## Consultation questions

**End Smoking NZ**

End Smoking NZ was set up to look for and lobby for more effective strategies to more rapidly reduce smoking-related disease and deaths in New Zealand (NZ). Particularly we believed a harm reduction approach would be needed because not every smoker would be able to, or would want to, quit.

First we lobbied for NZ smokers to have access to Swedish Snus. The evidence from Sweden and Norway, 10 years later, proves that Swedish Snus is an effective harm reduction tool that potentially could have reduced smoking prevalence and subsequent harm from smoking in NZ. The tobacco control sector and public health academics didn’t like Swedish Snus, partly because it was a tobacco company product. The cost has been significant suffering and premature deaths from smoking tobacco – suffering that could have been reduced or avoided here in NZ.

Almost 10 years ago we began to investigate the potential of e-cigarettes. Over the intervening years we have become more convinced that e-cigarettes presented the first real threat to smoked tobacco. E-cigarettes did not just have potential as a smoking cessation tool, but could deliver the Endgame.

We also looked at denicotinised cigarettes and we have done considerable work looking at tobacco tax.

We are very happy to see the Government respond to the calls for a review of e-cigarettes. We are confident that this time, the chance to dramatically and rapidly reduce smoking prevalence and harms from smoking, will be seized upon. Thousands of NZ smokers have already completely switched to vaping, with and without nicotine. They have formed their own lobby groups and present a strong case for nicotine vaping to be allowed in NZ.

We call on you to put current and ex-smokers at the forefront of this debate.

Our members who are party to this submission includes:

[redacted]

**Preamble**

* Electronic vaporisers (e-cigarettes) are not tobacco products.
* Whilst nicotine is extracted from tobacco, or can be synthesised, we do not consider nicotine liquid produced for the purpose of vaping to fit the intended spirit of the definition of a tobacco product in the Smoke-free Environments Act.
* Electronic vaporisers are not solely, nor necessarily, a smoking cessation device.
* Electronic vaporisers were created to be a safer alternative nicotine delivery device compared to smoking tobacco products.
* The use of nicotine replacement products is well established as a safe practice.
* Vaping nicotine is estimated to be at least 95% safer than smoking tobacco. The estimated risk is as low as many of the established nicotine replacement products.
* Millions of smokers worldwide have found that vaping, with and without nicotine, has enabled them to achieve sustained abstinence from smoking tobacco. E-cigarettes are very clearly showing their potential to significantly reduce smoking rates. (1) A significant proportion of these people go on to stop vaping as well. Many others enjoy vaping and have no intention to quit in the near future.
* Vaping nicotine hasn’t resulted in sustained abstinence from smoking for all smokers who have tried it. The devices have and continue to vary greatly.
* Other alternative nicotine delivery products are in development, or are on the market overseas. No one cessation product or alternative nicotine delivery product will help every smoker either switch off or abstain from smoking tobacco. A range of products are required. We should not limit New Zealand smokers to just one type of e-cigarette or just one type of greatly harm-reduced alternative to smoking product.

Tobacco control policies have contributed to reducing smoking rates in New Zealand (NZ). But, unacceptable disparities in smoking prevalence by ethnicity remain. Māori and Pacific have much higher rates of smoking than non-Māori. In particular Māori women with 42% smoking compared to NZ Europeans’ rate of 13%. Māori women’s smoking prevalence has declined very slowly, but the gap between Māori and European is not narrowing. If anything the inequity is widening. It does not look good for our Smokefree 2025 aims, nor for our health equity aims.

* The approach to reducing smoking in NZ needs to be reframed and re-thought.

Tobacco control has irrevocably changed with the introduction of greatly harm-reduced alternatives to smoking tobacco, particularly the electronic cigarette. Smokers now have more alternatives to smoking. The huge difference is that vaping nicotine offers an equal or better experience than smoking tobacco. As a result millions of smokers have switched to vaping. Research shows clearly that the huge majority of that use is for smoking replacement or for cessation. Very few never-smokers use e-cigarettes. (1)

* Vaping, even with nicotine, is likely to be less addictive than smoking tobacco.

There are sound scientific reasons from animal studies to suspect that e-cigarettes should be less addictive than smoking is (e.g. 2-4), and some strong indications from cessation trials (e.g. 5) and observational studies that e-cigarettes will prove less addictive than smoking.

Smokers now have an option. They can receive all of the benefits that they enjoyed from smoking tobacco from a significantly less harmful (6) and probably less addictive behaviour.

* We believe that nicotine liquid for vaping and vaporisers should be legal to import for sale and distribution in NZ.

Further, it would be unethical to delay access to legal nicotine for vaping and instead wait until the market provides pharmaceutically approved nicotine containing e-cigarette or other alternative product. Vaporisers are already here as a consumer product and they are here directly because of the desire of many smokers to improve and protect their health. We (NZ society) should help, not hinder, this trend.

This submission is based on the following set of principles:

1. E-cigarettes are accepted to be significantly less harmful than tobacco.(6)
2. **It must be easier, or at least as easy, to find and buy vaping products as it is to buy tobacco for smoking**.
3. **Vaping products should have no more or specific tax over and above GST imposed upon them.** The initial setup cost for vaping has to be able to be recouped within a short time frame, or people will not switch. (8)
4. **The opportunity for NZ and foreign vaping product manufacturers and suppliers who are independent of tobacco companies to operate in NZ should not undermined** by policies that would favour established tobacco industry giants. E-cigarettes represent a major threat to the tobacco and pharmaceutical quit aid business.
5. **The primary aim should be to enable current smokers to switch to vaping** and to have vaping products widely and readily accessible for ex-smokers facing relapse to smoking.
6. Tobacco Advisory Group of the Royal College of Physicians. *Nicotine without smoke: tobacco harm reduction.* Royal College of Physicians, 2016
7. Brennan KA, Putt F, Roper V, Waterhouse U, Truman P. Nicotine and Tobacco Particulate Self-Administration: Effects of Mecamylamine, SCH23390 and Ketanserin Pretreatment. Current Psychopharmacology. 2013;2(3):229-240.
8. Brennan KA, Crowther A, Putt F, Roper V, et al. Tobacco particulate matter self-administration in rats: differential effects of tobacco type. *Addiction Biology.* 2015;20(2):227-235
9. Costello MR, Reynaga DD, Mojica CY, Zaveri NT, et al. Comparison of the reinforcing properties of nicotine and cigarette smoke extract in rats. *Neuropsychopharmacology*. 2014;39(8):1843-1851
10. Bullen C, Howe C, Laugesen M, McRobbie H et al. Electronic cigarettes for smoking cessation: a randomised controlled trial. *The Lancet*. 2013 Nov 16;382(9905):1629-1637
11. Hajek P, Etter JF, Benowitz N, Eissenberg T, McRobbie H. Electronic cigarettes: review of use, content, safety effects on smokers and potential for harm and benefit*. Addiction*. 2014;109(11):1801-1810
12. McRobbie H, Bullen C, Hartmann-Boyce J, Hajek P. Electronic cigarettes for smoking cessation and reduction. *Cochrane Database Syst Rev.* 2014;(12) CD010216 doi: 101002.14651858.CD010216.pub2
13. Stoklosa M, Drope J, Chaloupka FJ. Prices and E-Cigarette Demand: Evidence From the European Union. *Nicotine Tob Res* (2016) 18 (10): 1973-1980.

**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:

|  |  |
| --- | --- |
| 1. Yes, we agree that the sale and supply of nicotine cartridges or liquid for vaping and e-cigarettes should be allowed in NZ. 2. Vaping products should be able to be sold wherever tobacco products are sold and in additional retail outlets that currently do not sell and have no desire to sell tobacco products, such as dedicated vaping product retailers (vape shops). 3. As Professor Richard Edwards, University of Otago, said on National Radio on Saturday, 27 August 2016, it would be illogical to restrict e-cigarettes more than smoked tobacco is restricted. Smoked tobacco products are readily accessible at convenience stores throughout the country at a lower entry level price than even the cheapest e-cigarette. 4. Controls should be minimal to ensure that vaping products are accessible to smokers and ex-smokers. The benchmark for accessibility should be: how easy is it for a lower socio-economic woman who lives in a rural country area to purchase replacement nicotine e-liquid? 5. Controls should be minimal because the estimated harm from vaping, even with nicotine, is minor compared with many other behaviours, substances, foods and drinks enjoyed by people.   There is considerable interest in vaping e-cigarettes among low socio-economic smokers (mainly Māori and Pacific smokers) in NZ. (1) Nicotine e-cigarettes have the potential to contribute significantly to reducing the high rates of smoking among Māori (39%) and Pacific people (25%), a priority for Government. (2)   1. Glover M, Fraser T, Nosa V. Views of low socio-economic smokers: what will help them quit? *Journal of Smoking Cessation*, 2012;7(1):1-6) 2. Ministry of Health 2014. Tobacco Use 2012/13: New Zealand Health Survey. Wellington: Ministry of Health. |  |

**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:

|  |
| --- |
| The opportunity to legalise nicotine for vaping should not be delayed by the spectre of newer technologies and potentially harm-reduced alternatives to smoking products that are yet to be introduced to NZ. Any proposed Amendment to the Smoke-Free Environments Act at this time should focus on legalising nicotine for use in vaporisers. Provision should be made for an administrative review process that can rule on future harm-reduced alternatives to tobacco smoking products that deliver nicotine outside of tobacco.   1. Other greatly harm –reduced alternative products to smoked tobacco have been developed and are available overseas and several more are under development. 2. Local tobacco control and public health academics have voiced concerns about tobacco companies buying up vaping product companies, developing their own e-cigarettes and other harm-reduced products, such as, heat-not-burn products. Similar alarm has led to the FDA in the States imposing such heavy regulations on e-cigarettes that it is likely that only the tobacco companies will survive. NZ needs to be careful that we don’t repeat grave mistakes being made overseas by jurisdictions that have reacted primarily from an ideological positioning rather than on the strength of the evidence. 3. The primary interest in new and emerging alternatives to smoked tobacco should be whether they are indeed greatly harm-reduced compared to smoking tobacco and how they compare to nicotine vaping; and whether they are highly attractive to smokers and smokers are able to switch completely and sustain abstinence from smoking. A more economical product could be more accessible to lower SES smokers. Further, questions for NZ would be whether innovative products are: attractive to Māori and Pacific smokers who have not transitioned to vaping (a good thing); attractive to never-smokers who are susceptible to smoking uptake; have any potential for attracting ex-smokers/ex-nicotine users who don’t vape. 4. Not every remaining smoker in NZ will transition to vaping. Significant damage has been done to the product in terms of the misinformation and scare-mongering to scare people off switching to vaping. New and different greatly harm-reduced nicotine delivery products options will be needed. Lower priced options will be needed to facilitate access among smokers of lower socio-economic status. 5. Unfounded controls will create barriers and risk maintaining inequitable Maori and Pacific smoking prevalence rates compared to Pākehā. 6. No specific excise tax should be applied to new greatly harm-reduced nicotine delivery products. The excise tax currently applied to greatly harm-reduced smokeless tobacco products that people import for their own use should be removed. |

**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 √ (majority view)

Reasons/

**Q3 Sale and supply of vaping to people under 18 years of age**

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| --- |
| It is clear from the other submissions that have already been publicly shared that a majority are going to argue for restricting vaping product purchase age to 18 and above.  It is obvious that it would be politically uncomfortable for the Government to go against this. There are however some unintended negatives that need to be considered.   1. Many teenagers under the age of 18 smoke. Particularly young Māori who are three times more likely to smoke than non-Māori with a prevalence rate of 11.26%.(2) 2. Nicotine replacement therapy products are allowed to be used by young people aged from 12 - 17 years of age. Vaping, even with nicotine, is estimated to be in the same relative range as these products. 3. Under 18 year olds who have been unable to quit using other permitted nicotine replacement products may show an interest in quitting via vaping. 4. Some under 18 year old girls and young women who smoke get pregnant. Every effort should be made to assist abstinence from smoking while pregnant, including switching them to greatly harm-reduced products if they are unable to quit with permitted products.   Restricting sales of e-cigarettes to people under 18 will inhibit switching and leave many young people unnecessarily smoking. Supporting adults to vape so that their health is improved while denying this to younger smokers is contradictory.  The final amendments should not create an environment whereby young under 18-year-old smokers have to break the law to quit smoking.  There is no evidence nicotine e-cigarettes are a gateway product. (1) Vaping even with nicotine is likely to be proven to be less addictive than smoking tobacco. The evidence suggesting rapid loss of autonomy upon smoking a cigarette for the first time cannot be extrapolated to first vape. Neither can the Hooked On Nicotine Checklist or other measures designed for measuring addiction to smoking be extrapolated and used to measure potential addiction to vaping. Overseas evidence suggests that jurisdictions where young people have access to vaping products enjoy lower smoking prevalence among youth compared to jurisdictions that ban youth access.  Banning sales of vaping products to under 18 years olds sends a contradictory message that vaping is as dangerous as smoking. It is not.  Please consider ways in which people under 18 years of age who smoke, can be supported to switch to vaping if all other quit strategies have failed for them.  Under the current Act we note that parents can distribute tobacco products to their own children. Vaping products should not be disproportionately over-regulated compared to tobacco products. So if you do ban sales of vaping products to under 18 year olds, at least apply the same allowance for parents to supply their child.   1. Tobacco Advisory Group of the Royal College of Physicians. Nicotine without smoke: tobacco harm reduction. Royal College of Physicians, 2016   ASH (Action on Smoking and Health). 2015 Factsheet 1. ASH year 10 snapshot survey. Topline results. <http://www.ash.org.nz/wp-content/uploads/2016/08/ASH-Y10-Snapshot-2015-Factsheet-1-General-Topline-FINAL.pdf> Accessed 26 August 2016 |

**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:

|  |
| --- |
| 1. Smoked tobacco products are dangerous products, which kill between 4,500 and 5,000 people in NZ every year (1) which is the reason advertising is of them is banned. 2. There is no evidence that anyone has ever died from vaping an e-cigarette. Nicotine e-cigarettes are estimated to be 95% safer than cigarettes. (2) They are addictive although it is likely they are not as addictive as smoked tobacco. (3,4) Unfounded restrictions such as banning advertising sends the misleading message that vaping is as dangerous as smoking tobacco and this will put some people off vaping ever. 3. All of the rationale given for banning advertising of smoked tobacco e.g. to reduce initiation, will work to inhibit initiation of reduced harm nicotine delivery alternatives to smoke tobacco. It is illogical to institute known inhibitors that will discourage smokers/relapsers from switching to alternative greatly harm-reduced products, products that smokers in supportive countries and states are switching to at a rate that can be described as faster than a mass exodus.   The only advertising of vaping products that should not be allowed is that which is currently banned in the existing Smoke-free Environments Act, such as the cross promotion of tobacco products.  It is important that the independent vape shops be allowed to have a shop-front and on-line presence, so people know where to get which products and at what price. Vendors also need to provide information to assist smokers to distinguish between different types of products to ensure that they purchase a vaping kit most likely to speed and assure their complete transition from smoking to vaping.  Making unfounded therapeutic claims is already prohibited. Other laws provide further protections against false and misleading or offensive advertising. The Ministry of Health will need to consider if the existing laws are sufficient to deal with advertising that some people might find offensive, such as, advertising that could be targeted at never-smokers or children.   1. Peto R, et. al. 2006. Mortality from smoking in developed countries 1950-2000 (2nd edition, 2nd edition, revised June 2006: www.deathsfromsmoking.net). Geneva: Switzerland: International Union Against Cancer (UICC). 2. Public Health England. E-cigarettes: an evidence update. A report commissioned by Public Health England. [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 Accessed 26 August 2016](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%20Accessed%2026%20August%202016) 3. Dawkins L, Turner J, Roberts A, Soar K. ‘Vaping’ profiles and preferences: an online survey of electronic cigarette users. Addiction, 2013 Jun;108(6):1115-1125 4. Foulds J, Veldheer S, Yingst J, Hrabovsky S et al. Development of a questionnaire in a large sample of ex-smoking e-cig users. Nicotine Tob Res. 2015 Feb;17(2):186-92 |

**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

|  |
| --- |
| E-cigarettes do not burn tobacco and do not create smoke.  There is no evidence of harm to bystanders from exposure to e-cigarette vapour and any risks to their health, if identified, are likely to be extremely low. (5)  Banning ecig vapour because “I don’t like it” is an unacceptable reason to impose a regulatory ban on vaping. We do not currently pass laws and regulations to protect some people from smells emanating from other individuals, be that body odour, perfume or after shave. Some vapour has no odour, and some vaping produces no visible vapour.  Banning vaping wherever smoking is currently banned contains several risks for vapers. Tobacco control is intent on extending bans on smoking to include extensive outdoors areas, including whole streets, paved areas, footpaths and all outside dining and drinking areas. They are also intending to push for bans on smoking inside people’s personal vehicles, and inside and outside any State owned rental housing. Workplaces and higher educational facilities are being encouraged to extend smoking bans to encompass their whole grounds. Even the current bans are having a detrimental effect on smokers who have been unable to stop smoking. They are experiencing sometimes extreme social exclusion, marginalisation and discrimination (landlords won’t rent to them, some employers won’t employ smokers). Wellington City Council recently included vaping in their new outside smoking bans. This sends a message that vaping is as dangerous as smoking and that vapers are no different from smokers (e.g. they’re still recalcitrant addicts).  In this scenario, vapers are also forced to retire to the same limited and increasingly close number of areas that smokers have to go to. As ex-smokers, this puts vapers at risk of relapse.  Anything that inhibits switching to vaping is counterproductive. The ability to vape inside some places, where it is allowed by the organisation or venue offers a valuable advantage of vaping over smoking tobacco.  The main argument for banning vaping anywhere that has any claim to a scientifically based theory, though not proven, is that viewing adults vaping might influence a child to initiate smoking. Firstly, vaping is not smoking. Research with NZ children has shown that they can distinguish between smoking and vaping. They also really want their loved ones to stop smoking and they, despite their young age, could see the sense in vaping over smoking. (6)  Organisations should be able to set their own policies about vaping. This will enable compassionate employers to allow vapers to vape inside. This is happening now, it is enabling smokers to quit and they feel supported to do so. Hospitals should be allowed to develop policies that provide for vaping as an alternative to tobacco smoking for patients who are unable to, or who are prohibited to, go outside and off the grounds to smoke; and potentially for those patients who are not allowed to smoke prior to surgery. Banning vaping in these institutions may disproportionately affect more disadvantaged smokers, such as those with mental health or drug and alcohol conditions. (7)  To maximise the number of smokers switching to e-cigarettes, vaping should be a more convenient option. (5) |

|  |
| --- |
| Offering a safe and effective alternative to smoking may help support compliance with smokefree legal requirements and make smokefree policies easier to implement. (8)   1. Public Health England. Use of e-cigarettes in public places and workplaces. Advice to inform evidence-based policy making. July 2016 <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534586/PHE-advice-on-use-of-e-cigarettes-in-public-places-and-workplaces.PDF> 2. Faletau, J., Glover, M., Nosa, V. ‘Looks like smoking, is it smoking? Children’s perceptions of cigarette-like nicotine delivery systems.’ *Journal of Harm Reduction*, 2013; 10(30). <http://www.harmreductionjournal.com/content/10/1/30> 3. Public Health England. E-cigarettes: an evidence update. A report commissioned by Public Health England. [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 Accessed 26 August 2016](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%20Accessed%2026%20August%202016) 4. ASH UK. Will you permit or prohibit vaping on your premises? January 2014. <http://ash.org/wp-content/uploads/2014/02/ASH-Ecig-briefing.pdf> Accessed 29 August 2016 |

**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 |  |  | Vapour is not smoke.  There are no known serious health effects to warn people about.  The established dangers of tobacco smoking cannot just be extrapolated over to vaping.  It has not been established that vaping, even with nicotine is addictive. |
| Prohibition on displaying products in sales outlets |  |  | We want smokers to switch to vaping. It is important that products can be displayed to entice smokers to try or retry vaping. |
| Requirement to provide annual returns on sales data |  |  | This would be too onerous for small companies.  Collection of the data also implies that it will be analysed, thus increasing administrative costs to the Ministry of Health. |
| Requirement to disclose product content and composition |  |  | This could be similar to food and beauty products.  The local vaping products industry and vapers are already requiring this.  This is something that can be covered by a set of Standards vaping manufacturers could sign up to and agree to abide by. An industry self-regulation model could be implemented as a first step. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | Regulations concerning ingredients need to be different from tobacco products because vaporisers do not contain tobacco.  This is something that can be covered by a set of Standards vaping manufacturers could sign up to and agree to abide by. An industry self-regulation model could be implemented as a first step.  For example, see their Vaping Alliance Voluntary Code of Practice as just one example.   * Nicotine should be of a pharmaceutical grade * Carrier liquids should be of high purity (certificate from manufacturer). * Flavourings - Food grade ingredients required for all flavourings. Those with known health risks should be banned.   Do not ban sales on the basis of nicotine content or volume. It would be good to support people to buy within New Zealand. Current vapers have concerns about running out and reverting to smoking if they cannot get what they want in good time. |
| Requirement for annual testing of product composition |  |  | It should be up to the e-liquid manufacturers how they ensure they comply with any standards and regulations set. They may themselves decide it is worth checking on their compliance, or they may decide to rely on the certificates of purity provided with the base ingredients. |
| Prohibition on free distribution and awards associated with sales |  |  | There is little harm associated with this. Samples of different flavoured e-liquids can assist people to identify an optimum vaping experience that enables them to quickly and completely transition from smoking to vaping. We also want smokers to be encouraged to try, and retry, vaping. |
| Prohibition on discounting |  |  | Such a prohibition could prevent supportive programmes that are designed to encourage smokers to switch to vaping. |
| Prohibition on advertising and sponsorship |  |  | As above, there should be no prohibition on advertising and sponsorship because how otherwise can the independent vape shops tell people they exist.  There is a sizeable vaping community in NZ. There are many psychological social positives for the once-stigmatised smokers who have quit and are part of this community. Restrictions on advertising, promotion and sponsorship in, for example, Canada has been used to try and limit vaping community social activities and events including their supportive Facebook forums. This type of regulation of the social activities of subcultures would be abhorrent in NZ. |
| Requirement for standardised packaging |  |  | Vaping products are not tobacco products.  Such a severe action against the vaping product industry is not justified on public health grounds. |
| Other |  |  |  |

**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:

|  |
| --- |
| Vaping products are not tobacco products and the reason they are being allowed in the first place is that legalisation is expected to reduce disease and SAVE lives of current smokers.  There is currently a strong financial incentive for smokers to switch to vaping. The addition of extra taxation, over and above the expected increase in prices due to the addition of GST, risks discouraging smokers switching from a harmful product to a relatively safe product. |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers |  |  | This is already implemented and is already in manufacturers proposed voluntary Code of Practice. Industry self-regulation can cover this. |
| Safe disposal of e‑cigarette devices and liquids |  |  | This should be similar to the requirements currently imposed on other devices that contain batteries, and on other products that contain liquids that can attain some level of toxicity at high volumes (e.g. could be similar to warnings on any insecticide, or medicine). The vaping products industry can cover this within agreed self-regulation standards.  We would support a requirement on manufacturers to urge for safe storage and disposal of nicotine liquids and batteries (similar to any cellphone). |
| Ability of device to prevent accidents |  |  | See other comments. The Consumer Guarantees Act applies. |
| Good manufacturing practice |  |  | Allow industry self-regulation, to the maximum extent possible to protect consumers. |
| Purity and grade of nicotine |  |  | Allow industry self-regulation to ensure reputable supplier, certificate of purity, use of pharmaceutical grade nicotine. |
| Registration of products |  |  | This would be onerous on smaller manufacturers and suppliers. It also implies the need for increased funding to administer, monitor and report on such a register – it would be better to spend the money on urgent public health concerns. |
| A testing regime to confirm product safety and contents purity |  |  | As above. Plus, if regulations as to purity are imposed, it is up to MoH (or MPI) to test to see whether a given supplier is complying with the standards or regulations, just as is done with food, medicines, health supplements, or even tobacco. |
| Maximum allowable volume of e-liquid in retail sales |  |  | See comments above.  Arbitrary restrictions should not be created and imposed. There is no health harm associated with the volumes vapers are currently buying. |
| Maximum concentration of nicotine e-liquid |  |  | Arbitrary restrictions should not be created and imposed. There is no health harm associated with the volumes vapers are currently buying or putting into their e-liquids. Nicotine users naturally titrate. Whilst, most vapers are using low levels, which varies widely depending on the vaping kit they use, some vapers especially to begin with need a high (e.g. 24-36mg) level to completely substitute their smoking experience. |
| Mixing of e-liquids at (or before) point of sale |  |  | Because of the current restrictions on nicotine, many vapers have had to resort to mixing their own e-liquids. Some hobbyists prefer to mix their own. There is no harm attached to this currently. The DIY aspect is likely to reduce once nicotine e-liquids can be more conveniently obtained in NZ. There is no need to regulate this aspect. |
| Other |  |  |  |

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

|  |
| --- |
| The regulatory environment (whatever it may end up looking like) should encourage continued innovation in a range of harm reduced products to the extent that switching to them becomes a no brainer for both smokers and tobacco companies.  The approach to poisoning risks with nicotine liquids should be as with other moderate household hazards: child-resistant containers, labelling, and advice on what to do in the event of contact. This and any other hazards can be specified through ordinary consumer regulation, as is done for a large number of consumer products.  The Consumer Guarantees Act already provides a degree of protection against shoddy and unsatisfactory products. |

**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)?**

|  |
| --- |
| No, sorry |

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

|  |
| --- |
| Not applicable (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?** |
| N/A | N/A | N/A | N/A |

## Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 176

|  |  |
| --- | --- |
| Your details This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: | Te Waipuna Puawai |
| 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)?

x 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

x Other sector(s) *(please specify)*: Te Waipuna Puawai Mercy Oasis Limited supporting Vape2Save (Group Based Treatment with E-cigarettes)

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

Please indicate your e‑cigarette use status:

x I am using nicotine e‑cigarettes.

x I am using nicotine-free e‑cigarettes.

x 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 links or vested interest to the Tobacco Industry |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@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:

|  |
| --- |
| We should be supporting specialist vape shops to supply e-cigarettes and e-juice. The Vape vendors are the best to support the smokers in regards to getting started vaping with both quipment and e-juice. Vape Vendors should be combined with behavioural support from Stop Smoking Services to ensure smokers have the best possible start to achieve the switch and quit tobacco for good.  We should also be looking at how people access e-juice (Nicotine) outside the hours of vaping shops. We don’t want people relapsing to tobacco because they couldn’t get their nicotine e-jucie in time. We need to allow sale of nicotine e-juice from gas stations or supermarkets. |

#### 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:

|  |
| --- |
| NZ should have an open review process of all new innovative options as they present. Currently NZ should focus on e-cigarettes as the current harm reduction option that has huge potential to reduce smoking prevalance. |

#### 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:

|  |
| --- |
| E-cigarettes should be available for sale with the age restriction of 18+.  Under 18 years should be allowed to access e-cigarettes and nicotine e-juice but have to be supported through stop smoking service with parent or guardians involvement. |

#### 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:

|  |
| --- |
| Positive Marketing : Advertising of e-cigarettes should have a health and wealth marketing angle. E-cigarettes are reducing cost for families and creating healthier whanau.  There should be:   * An acceptable level of POS advertising. * Online advertising through specialist vape vendors. * Events advertised (mass quitting opportunities) Vape Day, Vape Meets * National stop smoking campaigns should include e-cigarettes as an option to quit tobacco.   I think the status quo for **no** advertising sports events and TV ads unless national campaign (see above)  **Positive** messages on cigarette packs should help smokers to promote the e-cig alternative is available, and where they can get further information (e.g. a MOH controlled site with basic information on e-cigarettes, e-cigarette trained stop smoking services, and a ‘nearest vape shops from my postcode’ facility). |

#### 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:

|  |
| --- |
| Vaping needs to be seen as a positive alternative to smoking tobacco. We need to encourage smokers to be motivated to want to vape and switch as well. If vaping was given it own areas where they are not lumped in with smokers, but empowering them feel that they have made the best choice possible for themselves and others.  Individual businesses should get to decide what is best for their customers, and in what parts of the building (e.g. a pub might ban e-cigs in the main bar, while allowing them in another room or the beer garden). Further make it so that the business needs to signal their ‘pro e-cig’ intent explicitly by putting up ‘e-cig OK’ signs.  Outside, I can see the sense of banning e-cig use in places that are **predominantly** for children, but something like open air stadiums should be left to the people controlling them, with the same ‘e-cig OK’ sign requirement. |

#### 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 |  |  | No need for graphic warning for e-cigs. E-cigs are not tobacco we need to create positive messages rather than warnings. |
| Prohibition on displaying products in sales outlets |  |  | Vaping Shops will need to display products to discuss all options of different types of equipment and e-juice.  For out of hours access where nicotice e-juice can be sold this can have some type of reduction of display. |
| Restriction on use of vending machines |  |  | No needed as vaping needs personal interaction for better outcomes. |
| Requirement to provide annual returns on sales data |  |  | Important to check that e-cigs are doing the job the health department needs of them. This is at least part of the data they will require |
| Requirement to disclose product content and composition |  |  | User knowledge of nicotine content is vital. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | Yes, all e-juice should have nicotine mg , what is the flavouring and what is the PG and VG percentage and food grade. Sample supplied: 18 mg/mL nicotine, lemon and lime flavouring, 80/20 PG/VG’ |
| Requirement for annual testing of product composition |  |  | If products are tested once and are not changed, I don’t see the benefit of annual testing.  Testing should be implemented if concerns of quality have been reported from the community. |
| Prohibition on free distribution and awards associated with sales |  |  | No need to restrict this, these are going to create more people wanting to switch to vaping and also maintain their quit status - No smoking tobacco |
| Prohibition on discounting |  |  | No need to restrict this, discounts are going to create more people wanting to switch to vaping and also maintain their quit status - No smoking tobacco |
| Prohibition on advertising and sponsorship |  |  | Advertising should be strictly controlled, but not prohibited. I am not in favour of allowing sponsorship. |
| Requirement for standardised packaging |  |  | Compulsory leaflets to go with hardware & e-liquids should be sufficient. |
| Other |  |  |  |

#### 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:

|  |
| --- |
| Let’s try not to create further barriers for smokers to achieve swithcing to vaping. E-cigarettes should be seen as a positive option and not a tobacco product.  Currently all my Vape2Save members are experiencing the cost reduction from vaping and this is helping them to enjoy life and focus on reducing debt, more food and clothing for whanau etc.  Perhaps Tobacco tax revenue can be allocated to paid for testing of e-juice, data collection and supporting the specialist vape vendors self regulation process. |

#### 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 |  |  | Yes and currently this is a standard with Vape Vendors. |
| Safe disposal of e‑cigarette devices and liquids |  |  | Vape vendors should offer a service to safely dispose of, or recycle, old batteries & safely dispose of unused e-liquids |
| Ability of device to prevent accidents |  |  | Vape Vendors are always sourcing the best quality vaping devices to prevent accidents this should also be covered by existing ‘consumer electrical safety’ requirements? |
| Good manufacturing practice |  |  | Vape Vendors that mix e-liquid should have staff go through a 1 day training course on how to mix the components (nicotine, flavour, PG, VG) together (note that there are existing on-line calculators for doing just that). This may need to be monitored for quality assurance. |
| Purity and grade of nicotine |  |  | pharmaceutical grade’ nicotine and ‘food grade’ everything else. |
| Registration of products |  |  | Vape Vendors to register new models of e-cig battery packs & tanks with a central repository of such information. It could be handy if a particular device is found to be e.g. electrically unsafe. |
| A testing regime to confirm product safety and contents purity |  |  | Product safety for hardware should already be covered by existing consumer regulations. E-liquid is too variable (especially in regards flavour & diluent) to require testing of every possible variant. But certainly some basic standards should be specified (e.g. ‘food grade’ is pretty much a de-facto standard within the industry). |
| Maximum allowable volume of e-liquid in retail sales |  |  | 30ml if nicotine is 12mg,18mg,24,mg  Up to 100ml if nicotine is 3mg with higher VG mix. |
| Maximum concentration of nicotine e-liquid |  |  | Currently 24mg with juice mix PG 60/ VG 40 is rarely taken up with those smokers that present high tobacco addiction and would normally be recommended 21mg nicotine patch and oral nicotine as well.  I would say keep the maximum at 24mg with the PG/VG 60/40 if people require more nicotine a patch can be offered. |
| Mixing of e-liquids at (or before) point of sale |  |  | Only in Vape Shops - I feel the option should be there for the consumer to walk into a shop, request a custom nicotine strength, wait 15 minutes while it’s mixed, and leave with it. |
| Other |  |  |  |

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

|  |
| --- |
| The NZ govt need to work with the Vape Vendors to ensure the best quality of equipment and e-juice is available and that the stop smoking services are integrated into this new harm reduction option. |

### 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)?

|  |
| --- |
| Currently Vape2Save members purchase their e-cigs and e-juice from [www.NZVAPOR.com](http://www.NZVAPOR.com).  30ml bottles of e-juice nicotine 12mg. 18mg and 24mg PG/VG 60/40  100ml bottles of e-juice nicotine 3mg PG/VG 30/70 - all higher VG juice are used in e-cigs that burn more efficiently. Bigger Pen styles and 3rd Gen Mod Boxes.. Because of the effective burn they only need 3mg nicotine, anything higher is too harsh. |

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

|  |
| --- |
| N/A not a vendor |

#### 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 did you spend on tobacco?** | **How much do you spend on them per week?** | **Where do you buy them?** |
| Vape2Save Member 1  10 months | All the time | $60 per week | $40 per month | NZVAPOR |
| Vape2Save Member 2  10 months | All the time | $100 per week | $25 per month | NZVAPOR |
| Vape2Save Member 3  3 months | All the time | $100 per week | $25 per month | NZVAPOR |
| Vape2Save Member 4  10 months | Not all the time – now and then | $100 per week | $25 per month | NZVAPOR |
| Vape2Save Member 5 and husband  3 months | All the time | $120 per week | $90 per month | NZVAPOR |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 177

|  |  |
| --- | --- |
| **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)*: concerned 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.

**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.

|  |
| --- |
| none |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@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:

|  |
| --- |
| If “appropriate controls” means taxing them then my answer changes to “no”. But if it means restricting the same of nicotine e-cigarettes and nicotine liquids to minors then yes I agree. |

**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:

|  |
| --- |
| Not aware 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:

|  |
| --- |
| Smoking any substance should be the result of an informed decision by a mature individual. At 18 one can decide who to vote for in New Zealand so one should be able to make a decision on whether to smoke e-cigarettes or tobacco. |

**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:

|  |
| --- |
| Smoking anything is a decision for an adult and not to be influenced by media. |

**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:

|  |
| --- |
| Yes AND no on this one. There are no known secondhand effects known from vaping, and being able to smoke an e-cigarette in prohibited smoking areas might be enough to encourage tobacco smokers to quit, so for those reasons I don’t think it is important.  On the other hand, vapers should be considerate to those around them, especially children and families who may not understand that the vapour is not harmful or cancer-causing. |

**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 |  |  | Not proven to have graphic health effects |
| Prohibition on displaying products in sales outlets |  |  | Not within approved outlets |
| Restriction on use of vending machines |  |  | No R18 products should be available from a vending machine! |
| Requirement to provide annual returns on sales data |  |  | Can’t think why not |
| Requirement to disclose product content and composition |  |  | Absolutely. Some inferior products from China substitute cheap ingredients for quality ones |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | There should be limits on maximum nicotine content |
| Requirement for annual testing of product composition |  |  | No opinion on this |
| Prohibition on free distribution and awards associated with sales |  |  | Still an R18 restricted product so inappropriate |
| Prohibition on discounting |  |  | Smokers who might want to stop tobacco use may be encouraged by sales |
| Prohibition on advertising and sponsorship |  |  | Should be treated much the same as tobacco but less demonised to encourage more tobacco smokers to make the switch |
| Requirement for standardised packaging |  |  | Totally out of sync with the rest of the world |
| Other |  |  |  |

**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:

|  |
| --- |
| Tobacco products cause a strain on the health system and budget that needs balancing. Nicotine e-liquid does not, therefore if tax is imposed it should be on a completely different scale.  Any tax should be directed towards quality control and safety standards for e-cigarettes and nicotine e-liquid. |

**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 |  |  | Most already are; but just logical |
| Safe disposal of e‑cigarette devices and liquids |  |  | Logical |
| Ability of device to prevent accidents |  |  | ? |
| Good manufacturing practice |  |  | Is this something that is required with tobacco products? |
| Purity and grade of nicotine |  |  | Stop inferior products hitting market |
| 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 |  |  | Regulation of ingredients should be all that is needed |
| Other |  |  |  |

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

|  |
| --- |
| I gave up tobacco smoking by making a switch to vaping – with no withdrawals, no cravings, no weight gain, and no mood swings. It is easier to control and reduced consumption of nicotine when you are able to control the amount of nicotine in the e-juice.  I no longer have a cough, I smell better, my hair and skin look better, I can go for a run without my chest and lungs aching.  I know it’s not advocated as a cessation device but they really are a great alternative.  The biggest challenge will be regulating the quality of these products without pricing them out of the market for those people who might otherwise make the switch. |

**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)?**

|  |
| --- |
| I have bought my equipment in NZ but imported nicotine e-juices from overseas.  Nicotine e-juices seem to be widely available in NZ shops despite being illegal, but can often be inferior products containing diacetyl – which has been linked with respiratory disease when inhaled.  The current limit of being able to import “3 months’ worth” is so vague I wonder how that came about. I have found it difficult to estimate what 3 months’ worth looks like when I’m new to vaping. |

**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?** |
| 4 months | daily | Approx. $10 | Import from US |

# Consultation submission 178

|  |  |
| --- | --- |
| Your details This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: | Public Health Association of New Zealand (PHA) |
| 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

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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

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|  |
| --- |
| The PHA has no links to the tobacco industry nor do we receive any funding from it. |

Please return this form by email to:

**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@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:

|  |
| --- |
| E-cigarettes are already widely available in the country. We would like to see them available under regulation so that the products available are safe, dispensed accompanied by appropriate advice, and so that regulations (e.g. bans on young people accessing them) can be enforced.  The alternatives are the status quo - where uncontrolled products with potential harms are available to the public; or banning e-cigarettes, which would criminalise people importing or using e-cigarette products.  We agree that e-cigarettes might be a contributor to helping people quit or reduce their tobacco use.  We are uncertain as to whether vaping stores should be allowed; while we recognise the value of expert advice on vaping, and advice on appropriate products, vaping retailers do not have any incentive to encourage or support their customers to quit e-cigarette use – their interest is in keeping and growing a customer base.  The controls we recommend include:   * Making e-cigarettes and liquids available only through pharmacies or licensed vaping outlets * Requiring people selling e-cigarettes to receive training in cessation advice * Requiring all outlets to have cessation advice and other health advice available. |

#### 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:

|  |
| --- |
| We understand that new products such as ‘implantables’ are being considered. The regulatory framework needs to be able to add new products to the list of those regulated, as they become available. |

#### 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:

|  |
| --- |
| It is essential to make it clear that e-cigarettes are not harmless, nor are they toys.  However, we recognise the argument that some young people under 18 are already addicted to tobacco, and that e-cigarettes may be a cessation support. We suggest that the Ministry consider making e-cigarettes available through cessation providers in the same way that nicotine patches or other supports are – treating them as a prescription drug. |

#### 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:

|  |
| --- |
| Much current advertising makes unsubstantiated health claims, and some of it appears to be targeted at young people. While retailers of e-cigarettes (eg vaping shops) need to be able to give customers/potential customers basic information, it is important that the products are not glamourised.  We support the principle that advertising restrictions should be the same but not stronger than for tobacco. |

#### 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:

|  |
| --- |
| While vaping does not carry the same health risks for other people as tobacco use does, it can be very unpleasant to others, especially in closed spaces. |

#### 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 |  |  | No evidence of major health harms yet. Basic health and safety information should be required. |
| Prohibition on displaying products in sales outlets |  |  | Products should be visible, but with restrictions on graphics and text so that they are not being ‘advertised’ |
| Restriction on use of vending machines |  |  | This is needed so that people under 18 cannot access e-cigarettes |
| Requirement to provide annual returns on sales data |  |  | We think this would be helpful in establishing the impact of e-cigarettes both in the short and long-term. |
| Requirement to disclose product content and composition |  |  | It is unclear what is in most of the e-cigarette liquids, and there also are indications that some of the mixtures may have potentially toxic effects. Experience with the tobacco industry shows that New Zealand cannot rely on makers or retailers to accurately declare content.  We recognise the difficulty of doing this, given that few (if any) laboratories in New Zealand currently have the equipment or skills to do sound testing. However, New Zealand needs to start working with other countries (particularly the US, since e-cigarettes are now regulated there by the FDA) to establish international standards so that at some stage New Zealand could agree that contents certified elsewhere be accepted here as valid. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | As noted above, there is not yet good evidence which contents/compositions are safe.  We are also concerned about the use of sweeteners which appeal to young people, which as vanilla and chocolate. |
| Requirement for annual testing of product composition |  |  | We suggest a strong consistent international content certification process. |
| Prohibition on free distribution and awards associated with sales |  |  |  |
| Prohibition on discounting |  |  |  |
| Prohibition on advertising and sponsorship |  |  | See our comment under Q4. |
| Requirement for standardised packaging |  |  | We have been very concerned about vaporisers designed to appeal to young people. However, standardised packaging for e-cigarettes and associated products would have to be of a different kind than for tobacco products, and we would accept fewer restrictions. |
| Other |  |  |  |

#### 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:

|  |
| --- |
| At present, it is essential to keep a significant price different between tobacco and e-cigarettes – both to recognise the much greater health harms of tobacco products, and also encourage people to move from tobacco to e-cigarette use.  However, this might need to change if there is evidence that young people are taking up e-cigarette use, or if it becomes clear there are significant harms from e-cigarettes. |

#### 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 |  |  | Nicotine is a highly toxic product, and there have already been a number of cases of poisonings of the US (see the CDC report http://www.cdc.gov/media/releases/2014/p0403-e-cigarette-poison.html) |
| Safe disposal of e‑cigarette devices and liquids |  |  | Same as above |
| Ability of device to prevent accidents |  |  | Same as above |
| Good manufacturing practice |  |  | There would need to be clear standards of good manufacturing practice – again, this is something that New Zealand could join with other jurisdictions to develop and enforce |
| Purity and grade of nicotine |  |  | Same as for childproof containers |
| Registration of products |  |  | Same as for childproof containers |
| A testing regime to confirm product safety and contents purity |  |  | Same as for childproof containers |
| Maximum allowable volume of e-liquid in retail sales |  |  | Same as for childproof containers |
| Maximum concentration of nicotine e-liquid |  |  | Same as for childproof containers |
| Mixing of e-liquids at (or before) point of sale |  |  |  |
| Other |  |  |  |

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

|  |
| --- |
| Monitoring and research on the uptake of e-cigarettes, who is using them and why, their value in cessation and their health effects must be supported urgently. The Ministry of Health should produce regular reports on these indicators.  E-cigarettes may turn out to be a game changer in helping tobacco use cessation, but they may also have health effects that have not been anticipated. It is also possible that, as some experts are predicting, e-cigarettes become a ‘gateway drug’ to tobacco for some new users.  E-cigarettes are a natural experiment, and the Ministry of Health needs to be able to show New Zealanders sound evidence of the effects of this experiment. |

# Consultation submission 179

The Pharmacy Guild of New Zealand (Inc.)

12 September 2016

Ministry of Health

P O Box 5013

Wellington 6140

Sent via e-mail to: ecigarettes[@moh.govt.nz](mailto:tobacco@moh.govt.nz)

**RE: Policy Options for the Regulation of Electronic Cigarettes**

Thank you for the opportunity to provide feedback on the above consultation.

The Pharmacy Guild of New Zealand (Inc.) (the Guild) is a national membership organisation representing the majority of community pharmacy owners. We provide leadership on all issues affecting the sector and advocate for the business and professional interests of community pharmacy.

**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. Nicotine e-cigarettes should be a regulated in the same manner as tobacco and other nicotine delivery systems. The regulation of all these products should be consist, and consistently applied. We are concerned that if less stringent requirements are put in place for e-cigarettes this may lead to the perception that they are safer and less injurious to health before comprehensive clinical research validates this claim. For the same reason, we would oppose the sale and distribution of e-ciagerttes unless they are included as part of a nicotine replacement therapy or other smoking cessation therapy.

**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. All nicotine based therapeutic products for the reasons set out above.

**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. The use of electronic cigarettes is popular amongst young people and this is likely to increase once the supply and distribution of these products is properly regulated. Regulation must be consistent across all product types to insure that consumers are not led to believe that e-cigarettes are a less harmful or safer option until this claim has been validated through research.

**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. The regulation surrounding the advertising of e-cigarettes should be consistent with the advertising of smoked tobacco products for the reasons stated above.

**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. Our message throughout this submission is that the regulation of all aspects of the supply, sale and consumption of any tobacco or other nicotine based product should be consistent to reflect the harmful impact on society these products cause. Until there is robust clinical evidence available to demonstrate that e-cigarettes are less harmful, they should not be exempted or held to a lesser standard.

**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 | X |  | Nicotine is an addictive product and e-cigarettes increase the risk of diseases such as chronic obstructive pulmonary disease, lung cancer, and possibly cardiovascular disease as well as some other diseases also associated with smoking |
| Prohibition on displaying products in sales outlets | X |  | The same prohibitions as tobacco products should be applied. |
| Restriction on use of vending machines | X |  | This would help prevent use among the youth. |
| Requirement to provide annual returns on sales data | X |  | Yes as it would be useful to track the use of e-cigarettes. |
| Requirement to disclose product content and composition | X |  | Yes as the content in some e-cigarettes is more harmful than others. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | X |  | Yes as the content in some e-cigarettes is more harmful than others. |
| Requirement for annual testing of product composition | X |  | The same testing regime that is in place for tobacco products should be applied |
| Prohibition on free distribution and awards associated with sales | X |  | Any thing that incentives excess purchasing should be discouraged. |
| Prohibition on discounting | X |  | The same regulations that applied to the sale of tobacco products should be applied |
| Prohibition on advertising and sponsorship | X |  | The same regulations that applied to the sale of tobacco products should be applied |
| Requirement for standardised packaging | X |  | The same regulations that applied to the sale of tobacco products should be applied |
| Other | X |  | The relation on sale and distribution of e-cigarettes should be the same as that for tobacco products. |

**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 if there is a negative externality on the use of electronic cigarettes. Taxation of these products should be consistent with the principles applied to the taxation of tobacco products until such time as the therapeutic benefits of these products has been proven.

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

Yes

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers | X |  | These products represent a potential health hazard and should be treated accordingly. |
| Safe disposal of e‑cigarette devices and liquids | X |  | As above |
| Ability of device to prevent accidents | X |  | As above |
| Good manufacturing practice | X |  | To help ensure all e-cigarettes are of an acceptable standard. |
| Purity and grade of nicotine | X |  | As above |
| Registration of products | X |  | As above |
| A testing regime to confirm product safety and contents purity | X |  | As above |
| Maximum allowable volume of e-liquid in retail sales | X |  |  |
| Maximum concentration of nicotine e-liquid | X |  |  |
| Mixing of e-liquids at (or before) point of sale | X |  | Safeguards should be put in place to ensure that manufacturers and distributors do not fortify their products with other addictive or potentially harmful substances prior to, or at the point of sale. |
| Other |  | X |  |

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

Many pharmacists give smoking cessation advice on a regular basis and sell products such as nicotine replacement therapy. They are also experienced in other harm reduction programmes such as methadone maintenance and providing clean needles and syringes for injecting drug users. While our members can see the potential for including e-cigarettes and related products as part of the smoking cessation toolkit, the limited available evidence on their efficacy means that a cautionary approach should be taken to their sale and distribution. Until their value as a therapeutic aid is proven they should subject to the same stringent regulatory framework that applies to tobacco and related products. We do not want to run the risk of replacing one harmful product with another harmful product.

Stringent regulation will also ensure that consumers can make informed purchasing choices based on the relative toxicity of e-cigarettes vs. traditional smoked and other tobacco products.

As part of this regulation setting process, the Ministry should bear in mind that while e-cigarettes may in time form part of the smoking cessation toolkit, they can still cause diseases such as chronic obstructive pulmonary disease, lung cancer, and possibly cardiovascular disease as well as some other diseases also associated with smoking. While the magnitude of these risks is likely to be smaller than from smoked tobacco products, the potential for harm is still significant

**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?**

N/A

Thank you for your consideration of our response. If you have any questions about our feedback, please contact [redacted], at [redacted] or [redacted].

Yours sincerely,

# Consultation submission 180

**Your details**

This submission was completed by: *(name)*

[redacted]

[redacted]

[redacted]

Address: *(street/box number)*

*(town/city)*

Email:

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.

Not a tobacco party, but I am a vape industry worker in the US with aBachelors in Biology with experience in bacterial host interaction research. I've read much of the scientific literature available and want to stay involved in legislature to positively impact human health concerns.

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:

|  |
| --- |
|  |

**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:

Advertising is more likely to convert smokers, even without health claims, which would undoubtedly be a net positive to the health of the country. Restricting vape industry ads would only stifle the impact vaping can have in helping bring about a smokefree population.

**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

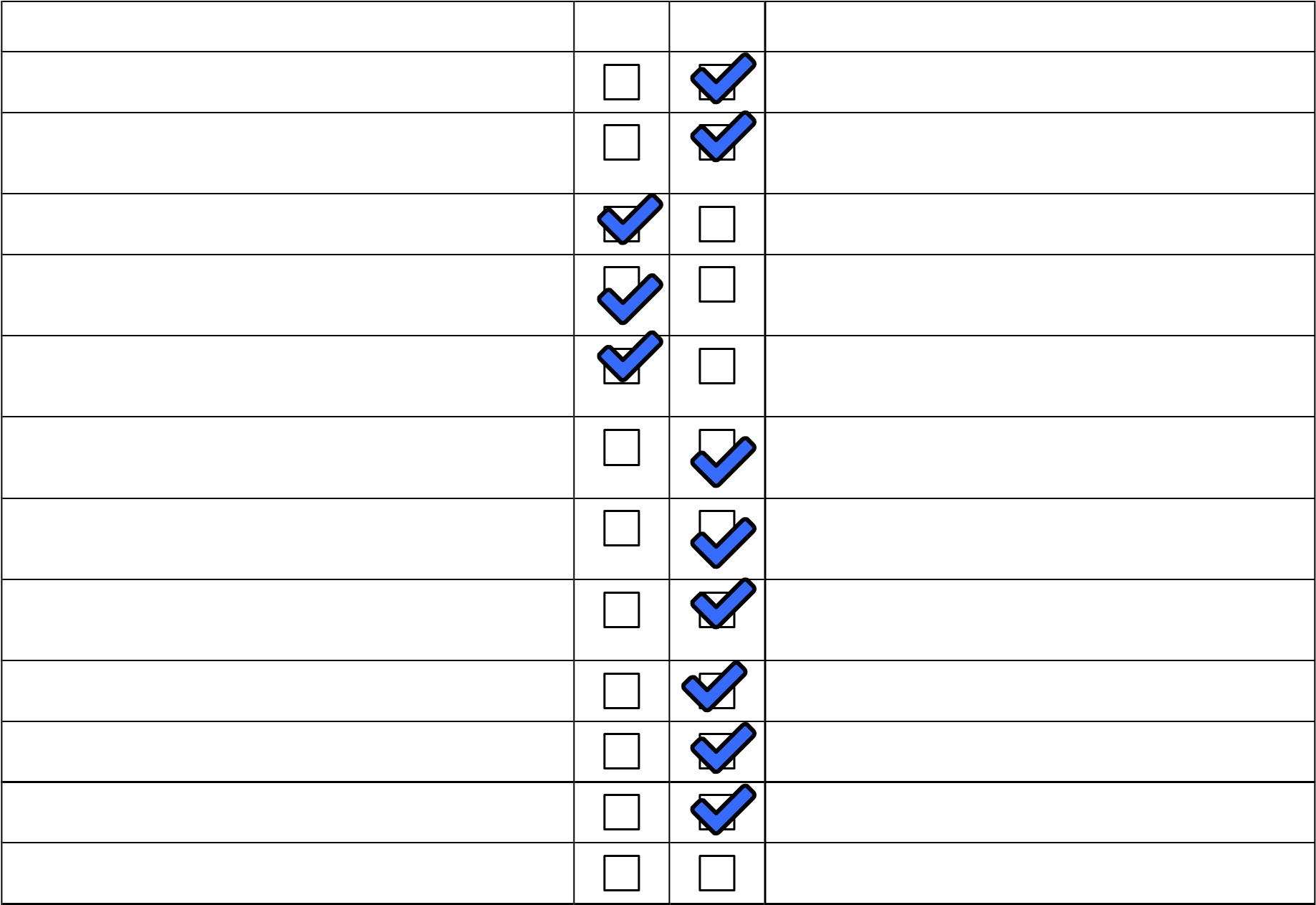
Reasons/additional comments:

Prohibiting vape the same as smoking relegates converts to vape to exposure of tobacco smoke/harm. This would retard speed of conversion for the individual. The benefit is to hamper normalization, but the net benefit of different space regulations would be profound.

**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 No graphic impact from use

Prohibition on displaying products in sales This stands to save lives and outlets should be in view as a reminder.

Vending machine restriction limits

Restriction on use of vending machines underage posession

Requirement to provide annual returns on sales data

Requirement to disclose product content and Keeps trust of public and allows composition better consumer choice.

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

Prohibition on discounting

As above, this product needs

Prohibition on advertising and sponsorship visibility to save more lives.

Requirement for standardised packaging Product brand variety will be

integral in getting a wider variety

Other of smokers to transition and allow

a more robust market.

**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:

Excise would hamper conversion rates and thus slow the positive healthimpact of the products. There is no justification to recoup losses from harm. In fact, maybe a subsidy is in order due to the savings the industry can amass for the government.

**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**

Essential to protect children and Childproof containers industry.

Safe disposal of e-cigarette devices and liquids

Devices should be handled

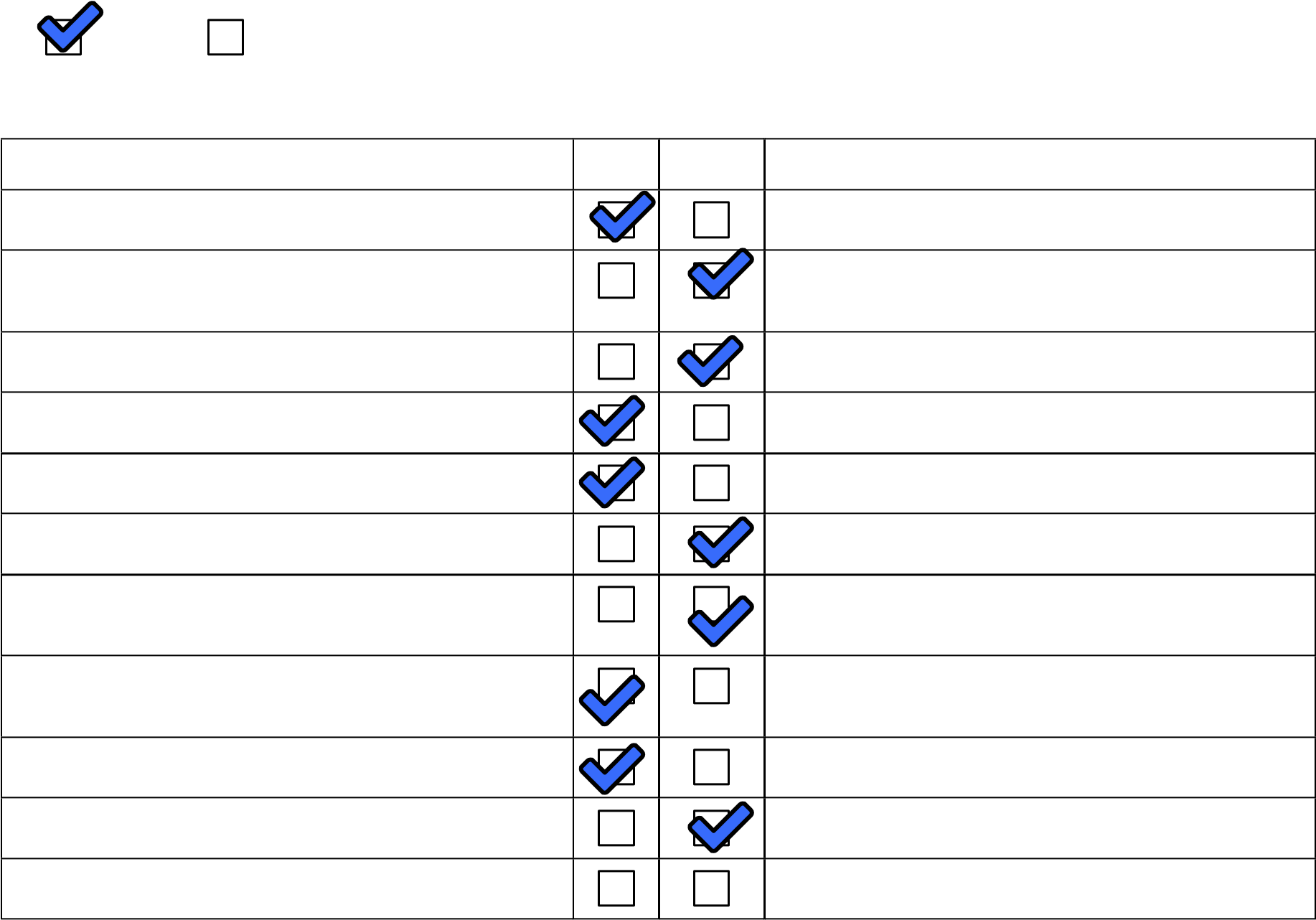
Ability of device to prevent accidents separately from liquid in law.

Good manufacturing practice Standards keep product safer

Purity and grade of nicotine Purity=removal of carcinogens

Registration of products

A testing regime to confirm product safety and contents purity

Maximum allowable volume of e-liquid in 30 ml keeps potential hazard of retail sales spill low.

36mg/ml allows transition success

Maximum concentration of nicotine e-liquid but limits accident potential for harm

Mixing of e-liquids at (or before) point of sale Premixed in controlled setting

prevents on-demand mixing errors

Other and provides quality control

measures to be more strenuous.

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

You have a chance to build a model that will support a life saving industry while taking a real powerful shot at tobacco companies grip and bane on our existence. Thank you.

1. http://www.health.govt.nz/system/files/documents/publications/policy-options-e-cigarette-regulation-consultation-aug16.pdf [↑](#footnote-ref-1)
2. http://www.asa.co.nz/codes/codes/advertising-code-of-ethics/ [↑](#footnote-ref-2)
3. http://www.asa.co.nz/about-us/ [↑](#footnote-ref-3)
4. https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/534586/PHE-advice-on-use-of-e-cigarettes-in-public-places-and-workplaces.PDF [↑](#footnote-ref-4)
5. http://www.hapai.co.nz/sites/default/files/NSFWG%20E-cig%20and%20their%20potential%20contribution%20to%20acheiving%20Smokefree%202025%20Aug%2016%20FINAL%20%281%29.pdf [↑](#footnote-ref-5)
6. NSFWG E-cig and their potential contribution to achieving Smokefree 2025 Aug 16 FINAL.pdf, p5 [↑](#footnote-ref-6)
7. https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/534586/PHE-advice-on-use-of-e-cigarettes-in-public-places-and-workplaces.PDF [↑](#footnote-ref-7)
8. http://files7.webydo.com/91/9171592/UploadedFiles/DA83841A-1323-B259-0017-F2074F4A6A51.pdf [↑](#footnote-ref-8)
9. https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0 [↑](#footnote-ref-9)
10. NSFWG E-cig and their potential contribution to achieving Smokefree 2025 Aug 16 FINAL.pdf, p5 [↑](#footnote-ref-10)
11. http://www.legislation.govt.nz/act/public/1993/0091/latest/DLM311053.html [↑](#footnote-ref-11)
12. http://www.legislation.govt.nz/act/public/1993/0091/latest/DLM5840602.html [↑](#footnote-ref-12)
13. http://shop.bsigroup.com/ProductDetail/?pid=000000000030303130 [↑](#footnote-ref-13)
14. NSFWG E-cig and their potential contribution to achieving Smokefree 2025 Aug 16 FINAL.pdf, p6 [↑](#footnote-ref-14)
15. https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/534586/PHE-advice-on-use-of-e-cigarettes-in-public-places-and-workplaces.PDF [↑](#footnote-ref-15)
16. ibid, p12 [↑](#footnote-ref-16)
17. ibid, p 5 [↑](#footnote-ref-17)
18. Medicines Act 1981. Meaning of medicine, new medicine, prescription medicine and restricted medicine. Retrieved from: <http://www.legislation.govt.nz/act/public/1981/0118/latest/DLM54687.html>. [↑](#endnote-ref-1)
19. White J, et al. Tripling use of electronic cigarettes among New Zealand adolescents between 2012 and 2014. Retrieved from: <http://www.ncbi.nlm.nih.gov/pubmed/25907651> [↑](#endnote-ref-2)
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22. Tobacco Control Legal Consortium. 2015. Regulating Electronic Cigarettes and Similar Devices – Tips & Tools. [↑](#endnote-ref-5)
23. Electronic Cigarettes in 2016: How E-cig UK regulation is set to change the way you vape. Retrieved from: <https://cigelectric.co.uk/e-cig-uk-regulation-2016/> [↑](#endnote-ref-6)
24. McNeil A, et al. E-cigarettes: an evidence update. A report commissioned by Public Health England. London. 2015. Page 21 [↑](#endnote-ref-7)
25. Farsalinos K E and Polosa R. 2014. Safety evaluation and risk assessment of electronic cigarettes as tobacco cigarette substitutes: a systematic review. Therapeutic Advances in Drug Safety. 2014; 5(2): 67-86 [↑](#endnote-ref-8)
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30. Houses of Parliament. The Parliamentary Office of Science and Technology. Retrieved from: <http://researchbriefings.files.parliament.uk/documents/POST-PN-0533/POST-PN-0533.pdf> [↑](#footnote-ref-22)
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34. McNeil A, et al. E-cigarettes: an evidence update. A report commissioned by Public Health England. London. 2015. Page 21 [↑](#footnote-ref-26)
35. Farsalinos K E and Polosa R. 2014. Safety evaluation and risk assessment of electronic cigarettes as tobacco cigarette substitutes: a systematic review. Therapeutic Advances in Drug Safety. 2014; 5(2): 67-86 [↑](#footnote-ref-27)
36. [↑](#footnote-ref-28)
37. Research and policy documents variously refer to e‑cigarette products as electronic nicotine delivery systems (ENDS), alternative nicotine delivery systems (ANDS) and personal vapourisers. Such products may be marketed as e-shisha, e-hookahs, pens or vapes, among other labels. [↑](#footnote-ref-29)
38. Action on Smoking and Health. 2016. Use of electronic cigarettes (vapourisers) among adults in Great Britain. URL: www.ash.org.uk/files/documents/ASH\_891.pdf (accessed 8 July 2016). [↑](#footnote-ref-30)
39. The medium lethal dose is estimated to range between 6.5 and 13 mg/kg.

    Ref: Mayer B. How much nicotine kills a human? Tracing back the generally accepted lethal dose to dubious self-experiments in the nineteenth century. [*Arch Toxicol.*](http://www.ncbi.nlm.nih.gov/pubmed/?term=mayer+nicotine+lethal) 2014 Jan;88(1):5–7. DOI: 10.1007/s00204-013-1127-0(Epub4 October 2013). [↑](#footnote-ref-31)
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43. Tverdal A, Bjartveit K. 2006. [Health Consequences of Reduced Daily Cigarette Consumption](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2563668/). *Tobacco Control* 15(6): 472–80. [↑](#footnote-ref-35)
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45. White J, Li J, Newcombe R, et al. 2015. Tripling use of electronic cigarettes among New Zealand adolescents between 2012 and 2014. *Journal of Adolescent Health* 56(5): 522–8. [↑](#footnote-ref-37)
46. See, for example: [www.purenicoccino.com](http://www.purenicoccino.com) [↑](#footnote-ref-38)
47. See, forexample: Tobacco Control Research Group. 2014. [*Tobacco Industry’s Investment in Non-cigarette Nicotine Products*](http://www.google.co.nz/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&cad=rja&uact=8&ved=0ahUKEwic4PfE_ajNAhWjIqYKHTjLAlEQFggtMAM&url=http%3A%2F%2Fwww.tobaccotactics.org%2Fimages%2F3%2F3b%2FEcig_investment_timeline_Sept_2014.pdf&usg=AFQjCNHPFd5wnos-5wJDSYhUORLprbs91g). Bath: University of Bath.URL: www.tobaccotactics.org/images/3/3b/Ecig\_investment\_timeline\_Sept\_2014.pdf (accessed 8 July 2016). [↑](#footnote-ref-39)
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52. Consultation Document, p. 1. [↑](#footnote-ref-44)
53. Ministry of Health. 2015. Annual Update of Key Results 2014/15: New Zealand Health Survey. Wellington: Ministry of Health, available at: <http://www.health.govt.nz/system/files/documents/publications/annual-update-key-results-2014-15-nzhs-dec15-1.pdf> [↑](#footnote-ref-45)
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55. Letter from Specialists in Nicotine Science and Public Health Policy, to Dr Margaret Chan, WHO Director General (May 26, 2014), p. 1, available at: <http://nicotinepolicy.net/documents/letters/MargaretChan.pdf>. Amongst the signatories to the WHO letter were three of New Zealand’s most prominent harm reduction experts: Dr Chris Bullen, then Associate Professor, now Professor, Director, National Institute for Health Innovation, School of Population Health, University of Auckland; Dr Murray Laugesen, Director, Health New Zealand; and Dr Hayden McRobbie, then Reader, now Professor in Public Health Interventions, Wolfson Institute of Preventive Medicine, Queen Mary University of London, United Kingdom. [↑](#footnote-ref-47)
56. Id. [↑](#footnote-ref-48)
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