**Consultation submission 181 - Individual**

|  |  |
| --- | --- |
| **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Do not publish this submission.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**

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|  |
| --- |
| [redacted] |

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 should be allowed to be sold in NZ. They should be regulated and taxed for DEPENDENCE (regular usage) or regulated, not taxed and subsidised for WITHDRAWAL.  There are three broad stages in nicotine use. INITIATION, DEPENDENCE (regular usage) and WITHDRAWAL. This cycle ofter repeats after a period of abstinance.  Major health risks accumulate due to regular use of combustible tobacco products to satisfy nicotine dependence.  E-cigarettes appear to reduce these health risks by providing a less harmful supply of nicotine to satisfy dependence. Therefore there appears to be direct health benefits for smokers who INITIATE and use E-cigarettes for regularly (long term) and exclusively. This behaviour change should be encouraged and is aligned with the goal of a SmokeFree NZ – albeit not a nicotine free NZ.  Evidence suggests current generation e-cigarettes are less addictive than cigarettes. At least as measured by speed of nicotine delivery to the bloodstream. The trend is for speed of delivery to increase with each generation of e-cigarettes. Therefore in time e-cigarettes will reach parity and ultimately exceed the speed of nicotine delivery for tobacco cigarettes. Thus increasing propensity for addiction.  Simply put E-cigarettes could replace tobacco cigarettes as the most efficient nicotine delivery devices and exposing users to lowered health risks.  A market thus created would be lucrative with dependent ‘vapers’ a captive market for exploitation by commercial interests. These interests would have no incentive to encourage withdrawal by individuals as this would depress future sales. Tobacco companies are well placed to command the majority of this market as the dynamics closely resemble the existing tobacco consumer market place.  Therefore whether e-cigarettes are allowed or not, the issue of how to help nicotine dependent individuals withdraw successfully remains. In fact it may prove more difficult to persuade vapers to withdraw as the health risks, costs and social stigma reduce over time. In addition medicinal and behavioral support for withdrawal is likely to recede in the face of the commerical reality of ‘competing’ with the lucrative sales of e-cigarettes.  To ensure New Zealanders have proven, safe and effective means to withdraw from nicotine DEPENDENCE it is essential that regulation differentiates between non combustable nicotine products that are designed and promoted for WITHDRAWAL and those designed for DEPENDENCE.  I propose that nicotine products for WITHDRAWAL be licensed as medical devices or medicines.  Such a license would be granted for general sale after presentation of appropriate supporting data to Medsafe. Products thus licensed would automatically qualify for PHARMAC funding. These products would also be exempt from any excise duty or other taxes to differentiate from and make them less costly than DEPENDENCE e-cigarettes.  Conversly E-Cigarettes designed to perpetuate DEPENDENCE would only require registration with proof of quality, contents, appropriate electrical standards etc. These products should be taxed to cover the risk to the public purse of likely health risks of long term usage ( ie lower than cigarettes, but linked to the propensity for addiction) and ensure the retail price is significantly higher than products registered for WITHDRAWAL.  I believe by acknowledging and differentiating the end use of E-Cigarettes as described above will provide commercial incentives to market viable WITHDRAWAL systems to individuals while encouraging the population harm reduction potential of e-cigarettes as replacements for tobacco cigarettes. Little or no taxpayers money would be required over and above existing expenditures for such initiatives.  NZ SmokeFree would be more attainable with an ultimate aim of reducing Nicotine consumption as an achieveable secondary goal. |

**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:

|  |
| --- |
| Products such as NicoNovum synthetic snus and NicoVentures MHRA approved Nicotine vapor device are examples of other nicotine delivery devices or systems that currently exist and should be accounted for. Novel technologies as they present should be determined as belonging to one class or the other. |

**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:

|  |
| --- |
| Prohibiting sales to those under 18 is a sensible approach. Although evidence shows such bans have little effect on initiation of smoking by teens never the less it does no harm. However as E-cigarettes are ultimately to be marketed by Tobacco companies aligning age restrictions is appropriate. |

**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:

|  |
| --- |
| Again, differentiating between end use i.e. WITHDRAWAL or DEPENDENCE is important. E-Cigarettes marketed to perpetuate DEPENDENCE should have the same controls as tobacco. Those licensed for WITHDRAWAL should fall under Medicines regulations. |

**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 marketed to perpetuate DEPENDENCE should have the same controls as tobacco. |

**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 |  |  | E-Cigarettes marketed to perpetuate DEPENDENCE should warn of health consequences including addiction. |
| Prohibition on displaying products in sales outlets |  |  | E-Cigarettes marketed to perpetuate DEPENDENCE should have the same controls as tobacco. |
| Restriction on use of vending machines |  |  | E-Cigarettes marketed to perpetuate DEPENDENCE should have the same controls as tobacco. |
| Requirement to provide annual returns on sales data |  |  |  |
| Requirement to disclose product content and composition |  |  | In addition the speed of nicotine delivery needs to be stated as a ratio against tobacco cigarettes. |
| 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:

|  |
| --- |
| E-cigarettes are likely to cause less harm than tobacco. However it is likely that regular inhalation of super heated gylcol and nicotine vapor over many years will have some detrimental health risks to vapers.  These health related costs will be met from the public purse. Therefore Tax/duty should be gathered to cover this risk along with the reality that many vapers will continue to smoke tobacco concurrently thus mitigating much of the harm reduction potential.  Further as E-Cigarette technology increases speed of nicotine delivery tax/duty may be increased to reflect this higher addictive potential.  E-Cigarettes designed and proven to assist WITHDRAWAL should not be taxed. |

**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 |  |  | Common sense for a toxic compound |
| Safe disposal of e‑cigarette devices and liquids |  |  | Common sense for a toxic compound |
| Ability of device to prevent accidents |  |  | Electrical safety, secure reserviors prevetion of nicotine overdose through inhalation. Overheating of vapor. |
| Good manufacturing practice |  |  | Essential for reservior filling. |
| Purity and grade of nicotine |  |  | Essential consumer information |
| Registration of products |  |  | Needed for recall purposes. |
| A testing regime to confirm product safety and contents purity |  |  | Adherence to recognised international standards should suffice. |
| Maximum allowable volume of e-liquid in retail sales |  |  | Common sense for a toxic compound |
| Maximum concentration of nicotine e-liquid |  |  | Common sense for a toxic compound |
| Mixing of e-liquids at (or before) point of sale |  |  | Unless under good manufacturing process. |
| Other |  |  |  |

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

|  |
| --- |
| E-cigarettes offer benefits to help NZ towards SmokeFree 2025. However the overarching principle needed is providing NZers with the means to overcome addiction to Nicotine in the long run. Commerical interests in the E-Cigarette industry have no incentive to reduce nciotine DEPENDENCE, quite the reverse their business model claims to be promoting health while perpetuating and profiting from nicotine DEPENDENCE.  Government policy needs to continue to provide equitable access to proven methods of nicotine withdrawal while reducing harm by encouraging tobacco smokers to switch to E-Cigarettes. |

**Additional information on sales and use**

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

|  |
| --- |
|  |

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

|  |
| --- |
|  |

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

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

**Consultation submission 182 – Regional Public Health**

12 July 2017

Tobacco Control Team

Ministry of Health

PO Box 5013

**Wellington 6145**

Tēnā koe me koutou mā

**Re:** **Submission on Policy Options for Regulation of Electronic Cigarettes (ENDS)**

Thank you for the opportunity to provide a written submission on this consultation document.

Regional Public Health (RPH) serves the greater Wellington region, through its three district health boards: Capital & Coast, Hutt Valley and Wairarapa and as a service is part of the Hutt Valley District Health Board.

We work with our community to make it a healthier safer place to live. We promote good health, prevent disease, and improve the quality of life for our population, with a particular focus on children, Māori and working with primary care organisations. Our staff includes a range of occupations such as: medical officers of health, public health advisors, health protection officers, public health nurses, and public health analysts.

This submission recognises for this consultation that the Smoke-free Environments Act 1990 is the primary legislation but RPH’s preferred position is that e-cigarettes and nicotine liquids be regulated under the Medicines Act 1981; to achieve further optimal controls for ENDS the Psychoactive Substances Act 2013 should also be considered.

RPH does have concerns that the tobacco industry is involved in the research, development, distribution, marketing and sale of ENDS products. Drawing on decades of public health experience of this industry’s practices that have profited from tobacco addiction that have results in global mortality rates of 6 million people per year[[1]](#footnote-1) one needs no reminder that caution is advised. Therefore, RPH would like to see active application of the Framework Convention on Tobacco Control Article 5.3 provisions regarding tobacco industry interference wherever possible.

The team at RPH are happy to provide further advice or clarification on any of the points raised in our written submission. The contact point for this submission is:

[redacted]

Nā

[redacted]

**[redacted]**

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

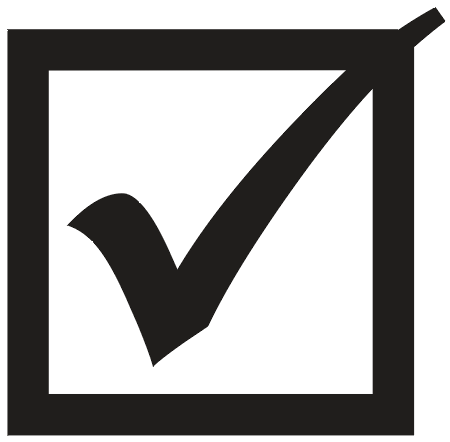
Consultation submission

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

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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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|  |
| --- |
| Nil |

Please return this form by email to:

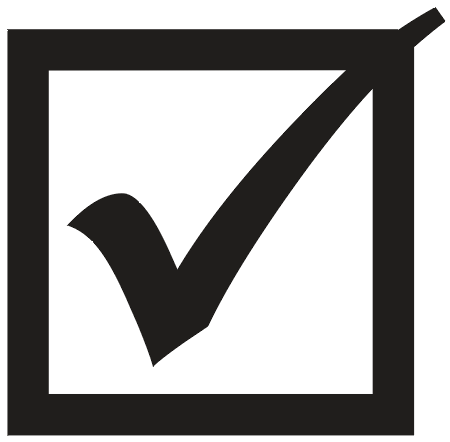
**ecigarettes**[**@moh.govt.nz**](mailto:tobacco@moh.govt.nz) by **5 pm, Monday 12 September 2016**.

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:

|  |
| --- |
| Regional Public Health’s (RPH) preferred position is that e-cigarettes and nicotine liquids be regulated under the *Medicines Act 1981*.  RPH’s understanding is that the Ministry of Health is not proposing amendments to the *Medicines Act* but is considering possible amendments to the *Smokefree Environments Act 1990*. The feedback in this submission is in response to these products being categorised under the *SFEA.*  RPH supports the view that Electronic Nicotine Delivery Systems (ENDS) could be used as a tool for smoking cessation. Where appropriate, and with controls in place, ENDS should be used by adult smokers to either switch from smoking tobacco, or used as a smoking cessation tool.  RPH strongly affirms that ENDS for recreational use is not supported in this submission. |

**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:

|  |
| --- |
| Regional Public Health is aware of tobacco derived products being developed by the tobacco industry that are promoted as ‘healthier alternatives’ e.g. The *I-Qos Marlboro* brand heat stick; these products are clearly not ENDS.  RPH recommends that:   * Such tobacco-related products remain categorised separately from ENDS. * RPH believe that there should be a separate section in the *SFEA* that covers heated not burned products, to cover products like those above which are heat sticks. There could be a number of new products that fit this category that do not fit the definition of ENDS e.g. Shisha sticks are an example that is not covered but could be in this category. * The legal definition for an ENDS device/product is thorough and robust. |

**Consultation submission 183 - Individual**

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

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)*: Vaper – Fighting for my Rights.

*(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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**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:

|  |
| --- |
|  |

**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:

|  |
| --- |
| E-Cigs are just one product. There are thousands of HOBBYIST Vaporizer products that \*\*could\*\* possibly be classed under NRT. |

**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:

|  |
| --- |
| We’re NOT smokers! Why insult us, for giving up the smoking addiction? |

**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 |  |  | It is beneficial to for our community to stay SELF-REGULATED. It is not going to help smokers to be under the cap of tobacco OR pharmaceutical.﻿ |

**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 |  |  | Most of our vendors already use childsafety caps on eliquid bottles in NZ.﻿ |
| Safe disposal of e‑cigarette devices and liquids |  |  | Disposal? |
| Ability of device to prevent accidents |  |  | Education on devices is key here. |
| 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 |  |  | Most of our NZ Vendors have SAFE practices when making e-juice. Our industry in NZ has been self-regulated for several yrs, KEEP IT THIS WAY. |

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

|  |
| --- |
| Several of our vendors, have r18/Health/Keep away from children warnings already on our labels. |

**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 beneficial to for our community to stay SELF-REGULATED. It is not going to help smokers to be under the cap of tobacco OR pharmaceutical.﻿ Taxes would DETER people from switching to vaping as a healthier alternative!﻿ We consider ourselves to be NON smokers. Its degrading & demeaning to make us stand in the smoking corner.﻿ MANY of us vapers HAVE completely switched. MANY of us, stopped tobacco straight away upon switching. There are several thousand of us in NZ already! Also the term e-cigarettes is more damaging than the term vapourisers -for education around this technology.﻿ |

**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?** |
| 28 months & counting | every day | maybe $20 on juice per week. | NZ Vendors or online from trusted sites. |

**Consultation submission 184 – T&T Consulting Limited**

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

**As a advisory member of the National Smokefree Working Group to the authors of the document*” “ E-cigarettes and their potential contribution to achieving the Smokefree 2025 goal”* i.e. Professors Richard Ewards, Robert Beaglehole, Chris Bullen, Natalie Walker and Janet Hoek , T&T in support, have used the response content of their submission with the exception of Q2, Q3, Q6 (*Requirement for standardised packaging***) **& Q8**

*(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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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:

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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.

|  |
| --- |
| T&T do not have any tobacco company or e-cigarette links or other vested interests to declare. |

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 √ (but see comments below) No

Reasons/additional comments:

NB Please read general comments in Q9 as context for this and the responses that follow.

|  |
| --- |
| The document “*E-cigarettes and their potential contribution to achieving the Smokefree 2025 goal* “ that accompanies this submission outlines two preferred options for the sale and supply of nicotine e-cigarettes (henceforth ECs).  **Preferred option 1 - Maintain status quo**. Sale of nicotine-containing EC or e-liquids within NZ is prohibited, but e-liquids are legal to import for personal use (up to three months supply). However, the real status quo is that nicotine-containing EC or e-liquids have been widely available for some time in NZ (due to importation by users and illegal sales by retailers).  **Preferred option 2** - **Allow restricted sale of nicotine-containing EC or e-liquids for smokers who want to quit.** Continue to allow the importation of nicotine-containing EC or e-liquids for personal use (up to 3 months supply) but also allow sales of nicotine-containing EC or e-liquids through pharmacies (including after hours e.g. for ‘emergency supplies of e-juice) and a limited number of licensed specialist shops (with stipulations about proximity to schools, exclusion of minors from shops, and training/ competence for staff in EC use and ABC cessation support); minimum age of purchase 18 years.  We think both are defensible options, though if adopted they should be kept under review (particularly the status quo option) as further evidence emerges of the impact of ECs on smoking cessation, long term health effects, uptake of smoking and population smoking prevalence.  Regarding option 2, we note that the Ministry’s proposal is to make nicotine-containing ECs freely legally available for sale except to minors aged <18 years. We do not support this proposal. We believe that ECs should be available for sale on a restricted basis (pharmacies and specialist vape shops). This has several advantages over the proposal to make ECs freely available:  1. It minimises the likelihood of minors having access to buy ECs as proximity restrictions (e.g. around schools) can be applied, specialist shops can be designated as > 18 years premises, and a licensing regime for specialist shops (and existing mechanisms for pharmacies) will facilitate enforcement.  2. It ensures the availability of expert advice and support in use of ECs and e-liquids – specialist vape shops already have this expertise and pharmacy stafff could be trined to ensure that they do.  3. There is good evidence that making behavioural support available enhances the impact of smoking cessation aids and hence the impact of ECs in supporting cessation among smokers can be maximised by requiring basic staff training in brief smoking cessation advice and referral in the licensing/approval process for specialist vape shops and pharmacies that sell ECs.  4. The experience with retail tobacco sales (which are almost wholly unregulated currently) demonstrates that tightening of retail sales restrictions is very difficult in practice. By contrast it would be relatively easy to relax retail restrictions for sale of ECs at a later date if new evidence suggested that this would help achieve the Smokefree 2025 goal.  There are precedents for restricted retail sales of products. E.g. many international jurisdictions require licenses to sell tobacco, and Hungary and San Francisco have introduced strict limits on number/density of tobacco retailers. 1 NZ’s 2013 Psychoactive Substances Act is a local precedent for retail controls on non-tobacco products. This required party pill retailers to have a license, introduced powers for Local Authorities to control the location of retailers, and restricted the type of retailers that could sell ‘party pills’. 2 Some US jurisdictions have introduced licensing requirements for tobacco and EC retailers, 3 and proximity restrictions (e.g. for schools, residential areas) for EC shops and hookah bars, 4 and for retailers selling flavoured tobacco products and ECs. 5  Unpublished work surveying 30 Wellington pharmacists provides preliminary evidence for the acceptability of selling ECs among pharmacists in NZ. This study found that if the sale of nicotine-containing ECs in NZ were restricted to pharmacies, around 90% of pharmacists would be likely to sell these products (just over 30% ‘somewhat likely’ and nearly 60% ‘very to extremely likely’) - personal communication Frederieke Sanne van der Deen.  Finally, we note that as a general principle, regulation of ECs should not be more stringent than for smoked tobacco products, as otherwise this creates an anomaly where the most addictive and dangerous product is less lightly regulated than a much safer alternative. Such a situation would be impossible to justify. Hence if option 2 is implemented, it is imperative that similar or stricter measures should be introduced to control retailing of smoked tobacco products. |

**References**

1 Robertson L et al. Regulating tobacco retail in NZ. *NZMJ* 2016; 129:74-9.

2. Edwards R. Smart party pill law makes tobacco & alcohol regulation look pathetic (Blog post). Public Health Expert. Wellington: University of Otago, Wellington, 2013.

3. Figueroa T. San Marcos to license tobacco, vape retailers. San Diego Union Tribune, Jul 13 2016.

4. Nikic J. Town of North Hempstead sets rules for vape shop locations. The Island Now, Aug 11 2016.

5.. Tobacco Control Legal Consortium. Chicago’s Regulation of Menthol Flavored Tobacco Products: a Case Study. Saint Paul, MN: Tobacco Control Legal Consortium, 2015.

**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. Shisha is the very moist and sticky tobacco that has been soaked in honey or molasses. There are a variety of shisha flavors including apple, plum and coconut. It is smoked in a Hookah which is a water pipe with a smoke chamber, a bowl, a pipe and a hose. The tobacco is heated, and the smoke passes through water and is then drawn through a rubber hose to a mouthpiece.   The tobacco is no less toxic in a hookah pipe than in a cigarette, and the water in the hookah does not filter out the toxic ingredients in the tobacco smoke. Hookah smokers may actually inhale more tobacco smoke than cigarette smokers do because of the large volume of smoke they inhale in one smoking session, which can last as long as 60 minutes. While research about hookah smoking is still emerging, evidence shows that it poses many dangers:   * Hookah smoke contains high levels of toxic compounds, including tar, carbon monoxide, heavy metals and cancer-causing chemicals (carcinogens). In fact, hookah smokers are exposed to more carbon monoxide and smoke than are cigarette smokers. * As with cigarette smoking, hookah smoking is linked to lung and oral cancers, heart disease, and other serious illnesses. * Hookah smoking delivers about the same amount of nicotine as cigarette smoking, possibly leading to tobacco dependence. * Hookah smoke poses dangers associated with secondhand smoke. * Hookah smoking by pregnant women can result in low birth weight babies.   *Reference;* [*http://www.mayoclinic.org/healthy-lifestyle/quit-smoking/expert-answers/hookah/faq-20057920*](http://www.mayoclinic.org/healthy-lifestyle/quit-smoking/expert-answers/hookah/faq-20057920)  [*http://www.health.umd.edu/sites/default/files/Hookah%20Brochure-%20Final\_0.pdf*](http://www.health.umd.edu/sites/default/files/Hookah%20Brochure-%20Final_0.pdf)  Hookah cafe ‘s are steadily on the increase in NZ and outlets for both vape and hookah paraphernalia are advertised on[***http://www.shosha.co.nz/stores***](http://www.shosha.co.nz/stores) Point to note that many of these outlets up until the law change, were selling legal highs and anecdotal evidence suggests that this practice continues amongst particular outlets. |

**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:

|  |
| --- |
| If electronic cigarettes are to play a beneficial role in strategies to end the tobacco epidemic without causing unintended harm, steps to protect the health of millions of pregnant women, infants, children, and adolescents are needed. Because nicotine exposure during vulnerable periods of brain and lung development can have lasting detrimental effects, regulatory and policy measures for electronic cigarettes or nicotine-containing products are imperative. Among these are (1) strong prohibitions on marketing that result in youth uptake; (2) enforceable youth access laws identical or similar to those in effect for other tobacco products; (3) appropriate health warnings for all vulnerable populations; (4) packaging to prevent accidental poisonings; and (5) protection from exposure to secondhand electronic cigarette aerosol. Measures should also include consideration of the impact of pricing on youth initiation and use, and product addiction potential and youth appeal, including youth-oriented flavorings, accessibility of products through placement in retail venues, and social networking potential. Product regulations should address nicotine concentration and total amount of nicotine per vial, as well as quality control. The age of legal sale of electronic cigarettes and other nicotine-containing products should reflect the developmental stages during which adolescents/young adults are most vulnerable to the adverse effects of nicotine.  ***Because the brain does not reach full maturity until the 20s, restricting sales of electronic cigarettes and all tobacco products to individuals aged at least 21 years and older could provide positive health benefits to both youth and young adults. These steps should be concurrent with the intensification of established comprehensive tobacco control programs and the introduction of the novel strategies previously discussed.***  It is most likely that impact of electronic cigarettes on the population’s health will be beneficial if accessibility, promotion, and use of combusted products are rapidly reduced. There is no evidence that unfettered access to electronic cigarettes or other non-combusted products and aggressive marketing that appeals to youth are necessary components of a strategy to reduce combusted product use. In the current, unregulated environment, electronic cigarette marketing practices could impede progress toward reducing combusted tobacco use if they glamorize and re-normalize cigarette smoking, lead to regular use of nicotine or use of cigarettes in youth or adult non-smokers, delay quitting or reduce quit rates among smokers, facilitate long-term dual use of combusted products and electronic cigarettes, discourage smokers from using proven cessation methods, or increase relapse in former smokers. In addition, in the absence of appropriate restrictions, millions of youth could become addicted to nicotine and many more pregnant women, children, and adolescents unnecessarily exposed. Regulatory and public health policies that maximize cessation of combusted products while protecting vulnerable populations from exposure to electronic cigarettes are urgently needed.  **Reference; Nicotine and the Developing Human**  http://www.ajpmonline.org/article/S0749-3797(15)00035-5/fulltext |

**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:

|  |
| --- |
| We believe that commercial marketing of nicotine containing EC 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.  Reasons:  EC use is already widespread in NZ, and it seems likely that uptake would increase rapidly if they were made available for sale in NZ and their availability was communicated through public information campaigns (e.g. run by the MoH or HPA). The current experience in other markets such as the US and UK where EC marketing is allowed is that such marketing is often dominated by and manipulated by the tobacco industry e.g. by seeking to glamorise the use of ECs using approaches that seem likely to appeal to minors, and often promotes the use of ECs as an adjunct to smoking (e.g. through exhortations to use ECs in places where smoking is not permitted) and for long term use, rather than as an aid to quit smoking. 1,2 We believe therefore that allowing such advertising will not increase the contribution ECs make towards achieving the Smokefree 2025 goal, and may even undermine their positive effects.  However, to make sure that the availability of ECs is communicated to smokers and advice about using them in quit attempts is provided we recommend the following:   * The Government should consider targeted communications with smokers (e.g. through health professionals and Quitline staff, trained specialist vape shop staff) or mass media public information campaigns to provide information about the availability of ECs and their potential benefits and harms. * Information (e.g. leaflets) giving advice to EC users trying to quit should be provided by cessation services and at point of sale in pharmacies and specialist vape shops. * Dissemination of information at events organised by the vaping community (e.g. Vape Meets). Working with the vaping community (users and sellers) could be an important means to communicate about ECs and maximising their use to help individuals to quit smoking or substitute completely for smoked tobacco.   **References**  1. de Andrade M, Hastings G, Angus K. Promotion of electronic cigarettes: tobacco marketing reinvented? BMJ. 2013; 347.  2. Mantey DS, Cooper MR, Clendennen SL, Pasch KE, Perry CL. E-Cigarette Marketing Exposure Is Associated With E-Cigarette Use Among US Youth. J Adolesc Health. 2016; 58:686-90. |

**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:

|  |
| --- |
| We have ticked both ‘yes’ and ‘no’ responses here because we believe the response varies with the type of designated smokefree area.  We believe that the use of ECs should be banned in all indoor workplaces and public places (including airplanes, trains, buses and other public transport) (consistent with the 1990 SFE Act), and in cars containing children. This is because although the health impacts of secondhand vapour are uncertain and likely to be modest, it is not yet known if it EC vapour is completely safe. There is therefore a rationale for protecting non-smokers, including children, from a potential adverse health effect due to exposure in enclosed spaces. There is also likely to be a considerable nuisance effect to non-smokers exposed to vaping emissions. Such an approach will be faciliated by the strong ‘common courtesy’ philosophy among most vapers not to expose non-vapers to vapers if they find it unpleasant or objectionable.  Use of ECs should also be prohibited in schools (buildings and grounds), in cars, and in selected outdoor locations (areas where children predominate e.g. playgrounds, parks). This approach may minimise the impact of vaping on normalising the use of ECs or smoked tobacco (although the latter may be less of a risk with 2nd and 3rd generation products that are visually dissimilar from cigarettes).  However, use of ECs might be 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. The latter recommendation is based on (unpublished) feedback from vapers who generally prefer to be allocated separate areas away from smoking. This should also help minimise the risk of vapers who have quit smoking from relapsing after being exposed to the trigger of others smoking around them.  The principle should again apply that restrictions on smoked tobacco products should be at least as stringent as for ECs. To do otherwise might make EC 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. |

**Consultation submission 185 – MindFuel NZ Limited**

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

X 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.

X 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.

|  |
| --- |
| As a health and wellness company, MindFuel NZ Limited is not part of the tobacco industry, however e-cigs and tobacco accessories such as rolling papers each make up a small portion of our selection and sales. |

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:

|  |
| --- |
| YES, anything that provides a safer alternative to people dying of lung cancer needs to be made available without excessive regulation. The Govt. has a policy of harm reduction in regards to drug use. E-Cigs are harm reduction. They save lives. I have heard many glowing testimonials from friends and customers who are enjoying better health thanks to switching to E-Cigs. |

**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:

|  |
| --- |
| Swedish snus is also a safer alternative to smoked tobacco. Keep in mind that the active substances in tobacco are not just nicotine, but also MAOI substances and many additives. |

**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:

|  |
| --- |
| All recreational drugs should be R18 including Nicotine, unless prescribed by a medical professional. In the event of a personover 16 but under 18 being addicted to smoking tobacco, their doctor could give them a prescription for nicotine based E-Liquid. |

**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:

|  |
| --- |
| We are talking about a product far less harmful than tobacco or alcohol, therefore far less control is needed. If we want to save lives e-Cigs should be more widely available, more visible and widely promoted as the safer alternative to smoking. |

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

Yes  No X

Reasons/additional comments:

|  |
| --- |
| Certainly not. As there is no passive smoke, it’s not an issue. Perhaps consider restricting from enclosed spaces like restaurants; however why not allow the business to decide if it is vape free or not. |

**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 | No point in putting graphic health warnings when there is no evidence of graphic health problems from E-Cigs. |
| Prohibition on displaying products in sales outlets |  | X | E-Cigs must be visible and promoted as a safer alternative to smoking. |
| Restriction on use of vending machines |  | X | As long as they are inside premises restricted to 18. |
| Requirement to provide annual returns on sales data | X |  | The beauty of regulation is that data can be collected. |
| Requirement to disclose product content and composition | X |  | Ingredients must be listed on packaging. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | X |  | Only an upper limit on Nicotine level. No restrictions on flavours or medi herb ingredients. Should be allowance for MAOIs and other ingredients found in Tobacco, as well as tobacco alternatives such as Lobeline (found in Lobelia sp.). |
| Requirement for annual testing of product composition |  | X | Once should be enough. MOH can random test after that. |
| Prohibition on free distribution and awards associated with sales |  | X | Free dist and awards should be available to people already smoking tobacco. |
| Prohibition on discounting |  | X | Discounting is needed to sell stock that may soon expire. |
| Prohibition on advertising and sponsorship |  | X | We allow alcohol advertising / sponsorship, why not ecigs too? Similar restrictions to alcohol would be enough. |
| Requirement for standardised packaging |  | X | No, the products should be appealing as safer, cooler alternatives to smoking. Different packaging appeals to different people. |
| Other | X |  | Online sales should also be available. |

**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:

|  |
| --- |
| Absolutely not. Products should be cheaper and more accessible than tobacco. No one is dying or clogging up the health system from using E-Cigs, so why the need to tax them any higher than things like sugar or junk food. |

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

Yes  No X

Additional comments: Only a list of banned ingredients and an upper limit for Nicotine.

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers | X |  | Only for nicotine based E-Liquid. |
| Safe disposal of e‑cigarette devices and liquids |  | X | No more so than any other household rubbish. |
| Ability of device to prevent accidents |  | X | Good products will rise to the top. |
| Good manufacturing practice |  | X | Far too excessive. |
| Purity and grade of nicotine | X |  |  |
| Registration of products | X |  | Nicotine products only |
| A testing regime to confirm product safety and contents purity |  | X | Random tests by MOH is enough. |
| Maximum allowable volume of e-liquid in retail sales |  | X | No limit, as long as sold in childproof container. |
| Maximum concentration of nicotine e-liquid | X |  |  |
| Mixing of e-liquids at (or before) point of sale | X |  | Allows vendor to customize product to customers needs. |
| Other |  |  |  |

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

|  |
| --- |
| E-Cigs are a positive thing, they save lives. No need to be too puritan in the regulation of E-Cigs, rather make them available and monitor everything, adjusting things as needed. |

**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.**

|  |
| --- |
| As a small online retailer, excessive regulations, testing costs and licencing would make e-Cigs non-viable for us. The psychoactive substances act failed and resulted in defacto prohibition because of excessive costs. The same must not be the case for life saving e-Cigs. |

**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 186 - Individual**

|  |  |
| --- | --- |
| Sent by: [redacted]  09/09/2016 04:39 p.m. | To: "ecigarettes@moh.govt.nz" <ecigarettes@moh.govt.nz>,  cc:  bcc:  Subject: E cigarette topic |

Hi my name is [redacted] i just want to let you know i am 20 was a cigarette smoker until i was introduced to vaping and it really has made a positive difference. All my friends have almost quit smoking and vape. It should be ok for the sales of ecigs but treat it like a method to quit smoking if youre happy to give people cigs but not an obviously healthier alternative then it looks bad! Im more scared to walk down the street and find drunk people than someone smoking/vaping. This is a waaaay bigger problem.

This is probably not the most engaging and professional letter but i hope someone reads it and makes a positive change from it

Thanks for listening

[redacted]

Sent from my Samsung Galaxy smartphone.

**Consultation submission 187 - Individual**

Submission to the New Zealand Government Consultation on Policy Options for the Regulation of Electronic Cigarettes

[redacted]

September 2016

Introduction

The New Zealand government recently announced a public consultation into the regulation of electronic cigarettes. The over-arching policy objectives are:

* The reduction of harm from tobacco smoking
* The prevention of harm from electronic cigarettes
* Product safety

To that end the New Zealand government is looking to introduce regulation that will meet those objectives while providing a regulatory framework that is currently lacking in the area.

This submission addresses the policy objectives and makes recommendations for a regulatory framework that targets nicotine consumption more generally where cigarettes, e-cigarettes, nicotine gum, nicotine patches, nicotine lozenges, and the like are all seen as delivery mechanisms or alternate technologies to facilitate nicotine consumption.

Implicit within the consultation document is the notion of “good nicotine” and “bad nicotine”. “Bad nicotine” apparently is sourced from the extant tobacco industry:[[2]](#footnote-2)

There are indications that tobacco industry involvement in the production and marketing of e-cigarettes has been increasing over the last few years. … 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.

By contrast, “good nicotine” comes from other sources:[[3]](#footnote-3)

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.

Policy should target harm and not industry. Nobody would ever express concern about the airline industry or automobile industry making its product safer – neither should the tobacco industry be criticised for making its product safer. Nowhere in the consultation document is there an explanation provided, or a logical argument advanced, as to why electronic cigarettes should be considered any different from any other nicotine delivery technology. It is simply assumed that electronic cigarettes are similar to combustible cigarettes and that they are dissimilar to as gum, patches, or lozenges. The consultation document asserts:[[4]](#footnote-4)

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

To the extent that almost anything is possible this statement is trivially true. Yet the existence of other nicotine delivery technologies has not undermined tobacco control. In fact, they are considered to be integral to tobacco control. What electronic cigarettes are likely to do, however, is undermine the tobacco control industry. Those individuals and institutions that earn their living from combatting “bad nicotine” or exist to combat “bad nicotine” while promoting “good nicotine” face technological disruption just as have the print media, the taxi industry, the accommodation industry, and so on. Incumbents resisting new innovation and technology is not rare nor unknown.[[5]](#footnote-5)

In the next section I provide an institutional theory of tobacco control – defined as cigarettes (combustible technology). I then apply that institutional theory to the case of electronic cigarettes and highlight the differences between the two technologies. That leads me to making several recommendations that address the public consultation questions.

An Institutional Theory of Tobacco Control

The tobacco control lobby views tobacco (combustible cigarettes) consumption from a disease perspective. The World Health Organization, for example, talks about the “Global Tobacco Epidemic”. From this perspective it may be entirely sensible to wish to totally eliminate or eradicate tobacco consumption. This is, however, a normative assessment. Economics strives to be a positive science that investigates human action and choice. It is only through a careful analysis of incentives, constraints, costs, and benefits that choices and decisions can be fully understood. Economics provides a coherent and consistent framework to investigate the totality of any policy choice or decision. It provides, in principle, for a full accounting of the costs and benefits under differing institutional frameworks of different choices and decisions.

From an economic perspective, tobacco consumption is much like consuming any other good or service. There may be an informational asymmetry that results in market failure associated with the consumption of tobacco, but once that information asymmetry is overcome there is no further basis, in *economic* theory, for government intervention. Any additional tobacco control policies are likely to impose unnecessary costs on the economy and distract attention from the primary policies that are likely to be successful.

While the tobacco control lobby may wish to reduce tobacco consumption to zero, from an economic perspective that may not be an appropriate policy objective. The point being that reducing tobacco consumption to zero may reduce the health costs associated with tobacco consumption, but may also impose higher social costs or economic costs.

In a series of papers Andrei Shleifer (and various co-authors) has developed an institutional theory that posits (efficient) regulation as emerging from societal trade-offs between the costs of private disorder, and the costs of government dictatorship.[[6]](#footnote-6) “Disorder” relates to the ability of private individuals to inflict harm on others, while “Dictatorship” relates to the ability of government and its bureaucrats to inflict harm on citizens. Behavioural responses to government intervention should also be classified as “Dictatorship” costs.

Depending on the relative costs of disorder and dictatorship, different regulatory approaches are more or less appropriate in different circumstances, for different industries, and for different goods and services. What is important to recognise is that government has a role to play in reducing private disorder when private solutions are unavailable, or too costly; subject, of course, to not imposing too high dictatorship costs itself.

This institutional model of regulation, following in the “new comparative economics” literature (see Djankov et al 2003), develops the notion of an “Institutional Possibility Frontier” that maps the various trade-offs in any set of institutions (which could be regulations or policies) aimed at social control in pursuit of some socially desirable end. These socially desirable ends could include, for example, Business Regulation to address negative externalities (Shleifer 2005), Productivity reform (Davidson 2013), Environmental Policy (Davidson 2014), Media Regulation (Berg and Davidson 2015), or Innovation Policy (Davidson and Potts 2015, 2016).[[7]](#footnote-7) In this submission I apply the same model to Tobacco Control.

The Djankov et al. model frames social losses due to state expropriation and private expropriation on the x and y axes of Figure 1 below, and with four institutional orderings for social control (private orderings, independent judges, regulatory state, and state ownership) mapped along the Institutional Possibilities Frontier (IPF). The position and shape of the IPF is given by the levels of “civic capital” in the relevant society and the relative transactions and governance costs of the various institutions. A 45-degree line represents points of total loss minimization and the equilibrium tangency with the IPF therefore represents an “efficient” institutional solution.

Social losses due to private expropriation (Disorder)

Social losses due to state expropriation (Dictatorship)

Institutional Possibility Frontier

Total loss minimization

Private Orderings

Independent judges

Regulatory state

State Ownership

Figure 1. Institutional Possibilities

Source: Djankov et al 2003

Recognising that there are no costless solutions to societal problems or social control is the main feature of this model. It forces analysts to think carefully about the various trade-offs and opportunity costs that any institution of social control imposes. This model makes it very clear that there is no such thing as a perfect or costless institutional form, and that any institution represents some set of compromises between the risks of private expropriation (net of private benefits) and the risks of state expropriation (also net of possible benefits).

In figure 2 I apply the model to Tobacco Control.

Figure 2: Institutional Possibilities of Tobacco Control

Social losses due to private expropriation (Disorder)

Social losses due to state expropriation (Dictatorship)

Institutional Possibility Frontier

No Unique Regulation

Taxation

Advertising Ban

Prohibition

Public Education



Sales Restriction



Branding Ban



Location dependent consumption bans

In the first instance we can imagine a situation where there is no unique tobacco control regulation. In this situation the manufacture and sale of tobacco products would be simply regulated as any other generic good or service in the economy. Given the externalities and internalities associated with tobacco consumption, the Disorder costs associated with this regulatory regime could be high.

Tobacco consumption is associated with several medical conditions, including various cancers, heart disease, and emphysema. Consumers may suffer from information asymmetry; either under-estimating the health risks of tobacco consumption generally, or under-estimating the probability of adverse health consequences for themselves. Furthermore, some tobacco consumers may have very high discount rates and undervalue the future costs of their tobacco consumption relative to their current consumption. These considerations can be described as being internalities.

Externalities occur when tobacco consumers impose costs of others through, for example, second-hand smoke. Given the potential for externalities and internalities associated with tobacco consumption a *prima facie* case can be made for government intervention. In the very first instance a government information campaign as to the dangers of tobacco consumption would very likely lower the disorder costs associated with tobacco consumption but would not increase the dictatorship costs associated with government intervention by very much.

Two forms of taxation need to be distinguished. In the first instance tobacco could (and should) be subject to Ramsey taxation. The so-called Ramsey Rule suggests that goods and services should be taxed in inverse proportion to their elasticity of demand. To the extent that tobacco products have a somewhat inelastic demand curve, they should be taxed at higher rates. This is a straight forward revenue raising exercise. Any use of taxation to discourage tobacco consumption would constitute a Pigouvian tax. This is the second form of taxation that we need to consider. While Pigouvian taxation may well raise substantial revenue, the objective of the tax involves social engineering. Here the government wishes to impose a different set of preferences on society than those the society has freely chosen. Here the costs of dictatorship start becoming large – not only in terms of foregone consumer utility but also in terms of behavioural responses to potentially excessive Pigouvian taxes. The most obvious example would be smuggling.

Up to this point, the Tobacco Control measures have been associated with low social costs of dictatorship. The provision of information is a public service and the use of the price mechanism to ration tobacco consumption does not necessarily involve the coercive powers of the state.

Sales restrictions would represent the first major use of coercive state power. Here the state would restrict the sale and consumption of tobacco products to, say, individuals over the age of 18, or restrict where tobacco products may be sold. To ensure compliance the state needs to engage in acts of surveillance and entrapment. While these measures may have the effect of reducing tobacco consumption amongst target groups (for example, underage smoking) it also may also reduce the profitability of tobacco products, divert law enforcement activity away from violent crime, and impose surveillance costs on law-abiding citizens.

Having first restricted who may consume tobacco products and where they might be sold, the state then restricts where tobacco products may be consumed. It is somewhat ironic that the state has chosen to ban the consumption of tobacco products in private locations before banning the consumption of tobacco products in public locations. Tobacco product consumption has been banned in workplaces, private restaurants, clubs, pubs and the like under the guise that these institutions are “public places” despite the fact that they are very often private property. Such abrogation of private property constitutes a massive incursion of state power into the economy. The state has also began to ban the consumption of tobacco products on public property (where it does have ownership – but long after banning the consumption of tobacco products in private property). Again the social costs of compliance, surveillance, entrapment, and re-allocation of law enforcement activities constitute major costs.

Having restricted the Who, and Where of tobacco consumption, the state then restricts How tobacco products are marketed through advertising bans. These bans range from bans on advertising in particular media, to bans on advertising of sporting events, to point of display bans, and so on. The costs here include restricting the universe of potential sponsors for major events. While major sporting events continue to receive sponsorship from the alcohol, fast food, and gambling industries, it is also the case that many smaller sporting events are unable to garner sponsorship from either these industries or the tobacco industry. This policy restricts the livelihoods of the advertising industry, restricts the quantum of sponsorship dollars in the economy and imposes compliance, surveillance and entrapment costs on the economy.

Having restricted advertising, bans on branding are an obvious next step. In the first instance naming rights could be limited. Words such as “Light” or “Extra Smooth” or “Low Tar” could be prohibited. In addition a standardised packaging policy could be adopted. In Australia this policy is known as “Plain Packaging”. Dictatorship costs here are very high – this is an abrogation of private property in the form of intellectual property. To the extent that private property rights are perceived to become insecure, the resultant loss of investment flows into the economy could be substantial.

Finally there is prohibition. Prohibition can take many forms. For example, the Australian government does not allow the cultivation of tobacco within Australia. Extant tobacco production licences were bought out and no new licences will be issued. The cost here is the loss of economic activity, the potential for permanent job losses in rural areas, the loss of manufacturing capacity and employment, and so on. Alternatively, specific types of tobacco product could be prohibited. Many countries, for example, ban snus or menthol flavoured tobacco products.

Prohibition is associated with a range of costs and adverse consequences. Meadowcroft (2008) has summarised those costs and consequences as follows:[[8]](#footnote-8)

* Prohibition places markets into the hands of criminal enterprises.
* Prohibition increases the risks of already risky activities.
* Prohibition criminalises people who would not otherwise be criminals.
* Prohibition diverts law enforcement resources away from conduct that harms third parties.
* Prohibition increases public ignorance.
* Organised interest groups are crucial to the introduction of prohibitions.
* Prohibition almost never works and is almost always counterproductive.

There are two additional points that need to be emphasised when considering the costs of prohibition. First many of those costs begin to be incurred well before prohibition occurs. Secondly, the social costs of prohibition are *very* high. Consider, for example, alcohol prohibition in the United States. It is popularly believed that this policy was a failure leading ultimately to its repeal. That is not entirely correct:[[9]](#footnote-9)

Drinking habits underwent a drastic change during the Prohibition Era, and Prohibition’s flattening effect on per capita consumption continued long after Repeal, as did a substantial hard core of popular support for Prohibition’s return.

Alcohol prohibition in the United States was ultimately repealed because the social costs of enforcing the policy relative the benefits were too high.

When it comes to tobacco products, every element of the marketing mix (product, price, place, promote) is very highly regulated by the state. All of these regulations impose varying degrees of dictatorship costs upon tobacco product consumers, tobacco product producers, tobacco product retailers, and the general community. The question of interest is whether these (dictatorship) costs are worth incurring to reduce or eliminate the (disorder) costs associated with tobacco consumption.

In a world of perfect compliance, actions taken by the state to reduce or even complete prohibit tobacco consumption would be entirely successful. In a world where there is somewhat less than perfect compliance there are behavioural responses to state action that undermine those actions. For example, tobacco consumers may substitute other products that may be associated with a different range of social costs, or consumers may continue to consume tobacco product but source these products on the illicit market. Yet other tobacco consumers may simply continue to consume tobacco.

Implications for Electronic Cigarettes

As the consultation document makes very clear, the externalities and internalities associated with electronic cigarettes are much lower than the externalities and internalities associated with combustible cigarettes. The disorder costs are lower. At the same time the dictatorship costs associated with tobacco control are high – including restricted access to nicotine. Electronic cigarettes allow dictatorship costs to be reduced without contributing to high disorder costs.

At a very minimum this is a compelling argument for the legalisation of electronic cigarettes *and* nicotine fluid. The advantages of legalising nicotine fluid include:

* Consumer safety – known quality, quantities and dosages of nicotine
* Regulatory compliance with standardisation which should include child – proof packaging
* Ongoing research into the long-term effects of electronic cigarettes would benefit from standardisation
* Tax revenue
* An additional tobacco cessation tool

The important question, however, is the appropriate regulation of electronic cigarettes. Given the decline in disorder costs associated with electronic cigarettes relative to combustible cigarettes the trade – off between disorder costs and dictatorships is very different for the two products. Under the assumption that tobacco control exists to target the harm caused by combustible tobacco consumption and not to impose harm on the tobacco industry, it seems that the lower level of externalities and internalities associated with electronic cigarettes implies a much lower level of regulation for electronic cigarettes. Product safety features should be regulated consistent with other electronic devices.

Nicotine is a stimulant that is safe for consumption in small quantities. Public education campaigns warning individuals of excessive consumption of stimulants is warranted. So too an argument can be made for the prohibition of sale to minors. Nicotine should be taxed. The irony is that “bad nicotine” is very highly taxed, whereas some forms of “good nicotine” are subsidised via the health system. Government should develop a coherent policy framework to tax all nicotine on a similar basis. It may well be the case that combustible cigarettes be subject to Pigouvian taxation – but that argument does not apply (as much) to electronic cigarettes.

It isn’t clear, however, why there should be a legislative ban on location dependent consumption. Of course, there is nothing stopping private individuals or organisations from banning the use of electronic cigarettes on their private property. There is no ban on the use of nicotine gum or lozenges in private or public spaces and a similar argument can be made for electronic cigarettes. There is no basis for a branding ban. To the extent that government would want to promote electronic cigarettes over combustible cigarettes (given the reduced levels of harm), branding and advertising should be encouraged just as nicotine gum and lozenges are branded and advertised.

There can be no argument for graphic health warnings on electronic cigarettes. This would, in the first instance, constitute false and misleading advertising; the long – term consequences of electronic cigarettes are not fully known and any photographs used in the graphic warnings would have to relate to a different product, viz. combustible cigarettes. In any event other nicotine products do not have graphic health warnings associated with them.

Recommendations and Conclusion

Combustible cigarettes are being subject to technological disruption – with the effect of making nicotine consumption a lot safer than has been historically the case. In turn this implies that tobacco control policy is being disrupted and, more importantly, the tobacco control industry is being disrupted too. As such we can expect to observe attempts to regulate electronic cigarettes much like combustible cigarettes and not like other nicotine delivery technologies such as gum and lozenges.

To the extent that it is now widely accepted that the health risks associated with electronic cigarettes are much lower than combustible cigarettes it is clear that regulating the two products (delivery technologies) in a like manner would be inappropriate. This regulatory approach would not benefit nicotine consumers, nor contribute to government revenue, nor would it target harm. The only beneficiaries of such a regulatory approach would be to benefit the tobacco control industry – it would in effect be a subsidy to those individuals and organisation that earn a living or justify their existence from tobacco control activities.

The primary role of regulation should be to target harm. The disorder costs associated with nicotine consumption relate to asymmetric information and the various externalities and internalities that result from combustible cigarettes. The disorder costs associated with electronic cigarettes are lower than those associated with combustible cigarettes implying a different approach to regulation and a much lower level of regulation.

It is true that the long term consequences of electronic cigarettes are unknown. This does not justify the so – called precautionary principle. The long term consequences of many new technologies is unknown or unclear. The important point, however, is that new technology could be either benign or malign. If government does feel the need to regulate electronic cigarettes in a similar fashion to combustible cigarettes then sunset clauses should be introduced to ensure that regulations are easily updated as new research becomes available.

At present minors cannot legally access nicotine products and there is no compelling case to modify that restriction. A ban on vending machines is consistent with that restriction. Nicotine delivery technologies should be regulated relative the harm they cause. Less harm should imply lower levels of regulation. More generally tobacco control should target harm and consumers, not provide industry subsidies to the control industry. Nicotine products should be taxed consistently and coherently according to the Ramsay principle with Pigouvian taxation applied in the event of externalities. Advertising and branding should be encouraged and there is no truthful case to be made for graphic health warnings.

About the Author

[redacted]

[redacted] blogs at [redacted] and tweets @[redacted].

**Consultation submission 188 - Individual**

|  |  |  |
| --- | --- | --- |
|  | Sent by: [redacted]  12/09/2016 09:36 a.m. | To: "ecigarettes@moh.govt.nz" <ecigarettes@moh.govt.nz>,  cc:  bcc:  Subject: Submission on Ecigarettes |

Dear Sir/Madam

I am writing in support of making ecigarettes available for the public as a legitimate, successful way to quit. Champix, patches, lozenges and gum work for some, but I have found in my circle that vaping has helped 15 people to quit or cut down radically.

My sister has asthma and has been a daily smoker of 50-60 cigarettes EVERY DAY for 40 years. She switched to ecigarettes, and is smoking five a day, if not less. For someone to go from 50 to less than 5 a day tells me that this technology provides something extra apart from the nicotine - it provides something to do with their hands, they simulate the act of smoking without the risk of cancer. It's brilliant, and if it's not made available, more people will die at the hands of the tobacco companies that have lied to us for years.

To tax and regulate ecigarettes like tobacco would be a shameful and wrong move, in my opinion - I am aware that there needs to be some restriction on the product as it is poisonous - we don't ban dishwashing liquid, even though it could kill a child, we tell people to put it out of reach. Please take the same approach with liquid nicotine that vapers will be using for smoking cessation - we aren't stupid and know that dangerous substances in the home need to be kept out of reach of children.

I agree with PHE UK and the Royal College of Surgeons report (April 2016) that vaping is 95% safer than smoking tobacco, and would like it to be available without crippling taxes and heavy-handed regulation - the people are running a business, yes, but they are providing a service that is lifesaving and vital. If you have not had the opportunity, please try to watch 'A Billion Lives', an insightful documentary that shows the links between the tobacco and pharmaceutical companies, and the government of the USA, as they try to restrict this life-saving technology in a shameless money-grab. People are dying of cancer for profits; please do not let NZ become like the USA (they pretend vape products are 'tobacco' for tax purposes - kills the industry through over-regulation and taxing them out of existence - Big Tobacco have lobbied incessantly to bring that about) or Australia (illegal to vape, you can phone a hotline to turn your neighbour in for saving their life - disgusting!).

I applaud the Minister for taking the bold step of opening the dialogue for NZers, and for giving us the chance to submit on this. I'm hoping Sam Lotu-Liga will be famous for saving 1/2 a million Kiwi lives by letting this industry thrive here, with the proper regulation (not too much, it'll kill it, and us along with it!). He has the chance to introduce ground-breaking technology to save our whanau, our aiga, our families, our lives.

Thank you.

[redacted]

**Consultation submission 189 – Ernst and Young LLP**

Withheld at submitter’s request

**Consultation submission 190 – Whanganui District Health Board**

Withheld at the submitter’s request

**Consultation submission 191 - Individual**

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

*(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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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 tobacco company links |

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:

|  |
| --- |
| Allowing for the sale and supply of nicotine e-cigarettes and nicotine liquids will make a real difference to smoking rates. Currently, it is costly, difficult and time consuming to get these products, and requires people to order them from overseas (in general – some shops do sell these products, but they tend to be very overpriced).  Given the relatively small size of the New Zealand market, it would be unfortunate if the controls imposed were out of step with global practice. For example, most of the nicotine liquid I have seen recently already has childproof caps, but if New Zealand was to require a different type of childproof cap or impose different standards, it may not be possible to order from the majority of producers overseas as they are unlikely to prepare products specifically for New Zealand. |

**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:

|  |
| --- |
| As New Zealand has a goal of becoming smokefree, anything that can encourage people to quit smoking and move to safer alternatives should be encouraged. If e-cigarette suppliers can advertise, it is more likely that they will be able to encourage people to switch from smoking. While the government could promote e-cigarettes as being a good option for people to quit smoking, it will be more effective if it is supplemented by businesses being able to advertise as well. |

**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:

|  |
| --- |
| Not necessarily – given the vapour disperses pretty quickly and doesn’t have the same lingering smell as smoking, it doesn’t necessarily need to be banned in every smokefree area. For example, I know that Auckland has a fairly extensive smokefree policy that includes things like “urban centres” – these sorts of broad bans should not capture vaping, given it is a healthier alternative that should be promoted. |

**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 |  |  | See above comments regarding not being inconsistent with global practice. |
| Prohibition on displaying products in sales outlets |  |  | Given the wide range of flavours of nicotine liquids, it would be challenging to promote effective consumer choice if these products were not able to be displayed in sales outlets. One compromise would be to prohibit display in dairies and supermarkets etc, but still allow for display in specialist shops that carry a wider range of products. |
| Restriction on use of vending machines |  |  |  |
| Requirement to provide annual returns on sales data |  |  |  |
| Requirement to disclose product content and composition |  |  | See above comments regarding not being inconsistent with global practice. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | See above comments regarding not being inconsistent with global practice. |
| Requirement for annual testing of product composition |  |  | See above comments regarding not being inconsistent with global practice. |
| Prohibition on free distribution and awards associated with sales |  |  |  |
| Prohibition on discounting |  |  |  |
| Prohibition on advertising and sponsorship |  |  |  |
| Requirement for standardised packaging |  |  | See above comments regarding not being inconsistent with global practice. |
| 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:

|  |
| --- |
| No – as noted above, given vaping provides a healthier alternative to smoking, it would be counterproductive to impose an excise tax or duty on nicotine e-liquid, as this would result in making these products less attractive and lead to a higher number of people continuing to smoke.  This is likely to have a particularly strong effect on those who are of lower socio economic status (who have higher rates of smoking in any event). By providing an economic incentive to switch to vaping (lower cost than smoking), it may be possible to improve both health and financial outcomes for those persons. |

**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, but only to the extent that these requirements are consistent with practices for other countries (i.e. consistent with the requirements in the United States of America) |
| Safe disposal of e‑cigarette devices and liquids |  |  |  |
| Ability of device to prevent accidents |  |  |  |
| Good manufacturing practice |  |  | Yes, but only to the extent that these requirements are consistent with practices for other countries (i.e. consistent with the requirements in the United States of America) |
| Purity and grade of nicotine |  |  | Yes, but only to the extent that these requirements are consistent with practices for other countries (i.e. consistent with the requirements in the United States of America) |
| Registration of products |  |  |  |
| A testing regime to confirm product safety and contents purity |  |  | Yes, but only to the extent that these requirements are consistent with practices for other countries (i.e. consistent with the requirements in the United States of America) |
| 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?**

|  |
| --- |
| As noted in the consultation paper, the tobacco industry’s involvement may have been increasing in the vaping industry over the past few years. The more regulatory controls that are placed on vaping, the more likely it is that the tobacco industry’s influence and involvement will continue to grow, as they have the funding and scale to be able to comply with these requirements more readily. Instead, the government should be taking a light touch approach and imposing the minimum requirements that are practicable, as this will encourage a range of independent retailers and producers to support the vaping industry.  If the tobacco industry takes over vaping, then it has much less incentive to promote vaping as an alternative to smoking, which will hinder the government’s goal of stamping out smoking. A flourishing independent vaping industry is much more likely to aggressively target smokers to encourage them to switch to vaping, which is consistent with the government’s smokefree policy. |

**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)?**

|  |
| --- |
| So far, the range of products I have seen in physical shops is very expensive. Online shops provide much cheaper alternatives for e-cigarettes, but are still more expensive than overseas (which probably reflects shipping and scale in part, although the current ambiguities around the sale of nicotine liquid and nicotine e-cigarattes probably does not help). |

**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?** |
| 1 year | Every day | ~$35 | Order nicotine liquid from overseas for personal use as a smoking cessation tool |

**Consultation submission 192 – Johnson & Johnson (NZ) Limited**

|  |  |
| --- | --- |
| **Your details**  This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: | Johnson & Johnson (New Zealand) Ltd |
| 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)*: Commercial Interest – Smoking Cessation

*(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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|  |
| --- |
| 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:

|  |
| --- |
| Johnson & Johnson Pacific does not call for a ban on the sale and supply of nicotine e-cigarettes and nicotine liquids to smokers who will benefit from using them as an aid to smoking cessation where appropriately regulated.  Johnson & Johnson Pacific would like to see e-cigarettes subject to a medicinal regulatory framework and calls for all such products to be regulated and licensed as medicinal by both function and presentation on a level playing field by competent medicinal regulatory authorities.  Johnson & Johnson Pacific believes that this is the best way to effectively protect consumers and public health by ensuring all non-tobacco nicotine products meet appropriate levels of safety, efficacy and quality and are marketed in a way that promotes and advances consumer and public health whilst mitigating the risk of inappropriate use by never/non-smokers, particularly young people.  Johnson & Johnson Pacific does not advocate the use of e-cigarettes as a pleasure or lifestyle products.  The Ministry of Health has stated three main aims with regard to the regulation of e-cigarettes:   * Reduction of harm from tobacco smoking * Prevention of harm from e cigarettes * Product safety   Johnson & Johnson Pacific believes that medicinal regulation is the best way to meet these three aims as it ensures that:   * E-cigarettes and their ingredients are of sufficient quality and are manufactured to an appropriate standard to support safety. * Only e-cigarettes that meet appropriate quality and safety standards are allowed on the market. * The marketing of e-cigarettes (e.g. advertising and product claims) will only be allowed in such a way as to support public health and targeted to smokers. * Manufacturers do not market e-cigarettes in such a way as to make the products attractive to never/non-smokers, particularly young people, or to market non-tobacco nicotine products as a purely lifestyle of pleasure product. * Ensure information on the appropriate use of e-cigarettes is provided to consumers, for example on pack and in packaging leaflets. * Post marketing surveillance will be required to support consumer and product safety. |

**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:

|  |
| --- |
| As there may be new non-tobacco nicotine products developed and marketed in the future it makes sense to future proof any present approach by consistently applying it to all non-tobacco nicotine containing products, including e-cigarettes.  Johnson & Johnson Pacific would like to see all non-tobacco nicotine products, including e-cigarettes, subject to a medicinal regulatory framework and calls for all such products to be regulated and licensed as medicinal by both function and presentation on a level playing field by competent medicinal regulatory authorities.  Johnson & Johnson Pacific believes that this is the best way to effectively protect consumers and public health by ensuring all non-tobacco nicotine products, including e-cigarettes, meet appropriate levels of safety, efficacy and quality and are marketed in a way that promotes and advances consumer and public health whilst mitigating the risk of inappropriate use by never/non-smokers, particularly young people.  Johnson & Johnson Pacific also believes that it is the responsibility of governments and competent medicinal regulatory authorities to ensure one standard of regulation is applied equally to all forms of non-tobacco nicotine and in so doing prevent the risk of a “two tiered” market developing to the detriment of consumers and public health.  Johnson & Johnson Pacific does not advocate the use of non-tobacco nicotine products, including e-cigarettes, as a pleasure or lifestyle products. |

**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:

|  |
| --- |
| Based on presently available evidence it is not possible at this time to develop a compelling public health argument either for or against the use of e-cigarettes in enclosed or substantially enclosed public places.  Policy makers and tobacco control experts should prioritize the development of an evidence base on the use of e-cigarettes in public places that will allow commonly held concerns to be addressed. This will allow the development of appropriate, evidence based public health policies regarding the use of e-cigarettes in enclosed or substantially enclosed public places.  Johnson & Johnson Pacific has consistently called for all non-tobacco nicotine products, including e-cigarettes, to be regulated evenly under a medicinal framework. This is the best way to protect consumers and public health by ensuring that all such products meet appropriate levels of safety, efficacy and quality and to ensure that they are marketed appropriately. Licensing e-cigarettes as medicines would require safety, efficacy and quality to be demonstrated and would give confidence that their use supports public health rather than being a safety concern for users or those around them. |

**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?**

|  |
| --- |
| As Johnson & Johnson Pacific believes all non-tobacco nicotine products, including e-cigarettes, should be subject to a medicinal regulatory framework it has not answered questions that relate to an alternative strategy for their regulation as consumer 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)?**

|  |
| --- |
| Jonson & Johnson Pacific does not have access to such information. |

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

|  |
| --- |
| E-cigarettes licensed for use as a smoking cessation aid will increase choice for smokers wishing to quit smoking and as such would compete on a level playing field with presently licensed nicotine replacement therapy (NRT). Johnson & Johnson Pacific manufactures and markets the Nicorette range of NRT products and as such licensed e-cigarettes would compete with our own Nicorette brand as a smoking cessation aid. |

**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 193 – Safekids Aotearoa**

**Submission from Safekids Aotearoa**

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

Ministry of Health

PO Box 5013  
Wellington 6140

12 September 2016

Dear Sir/Madam

Thank you for the opportunity to submit on ‘Policy Options for the Regulation of Electronic Cigarettes’. Safekids Aotearoa is the national child unintentional injury prevention service, a service of Starship Child Health and a member of Safekids Worldwide. Safekids raises public awareness of child injury issues nationally and works to facilitate the adoption of policies and programmes that will improve child safety.

Safekids recognises that the arena of e-cigarettes as a rapidly evolving field. Safekids has concerns about the potential increase in childhood poisonings from nicotine based e-cigarettes should they become freely available within the New Zealand marketplace: given the international increase in e-cigarette childhood poisonings in overseas markets where e-cigarettes are able to be purchased more readily, than in New Zealand at present.

Irrespective of if they become more freely available or not in the New Zealand market Safekids believes key international practices undertaken to decrease the risk of childhood poisonings and the potential uptake of vaping nicotine e-cigarettes in the current non-smoker youth market should be undertaken with e cigarettes imported into New Zealand.

In particular we recommend

* the provision of child resistant packaging
* restriction of sales to those over 18 years of age
* provision of appropriate warnings on safety issues pertaining to liquid refill cartridges and equipment
* public education on the risk of e-cigarette poisonings
* restriction on the advertising and promotion of e-cigarettes
* reducing the attractiveness of the product to children by prohibiting the use of flavours and images that resemble food
* a maximum concentration and volume level of nicotine e-liquid in a cartridge or refill.

Safekids believes a cautious approach to making them more freely available should be undertaken.

Yours faithfully

[redacted]

**Submission from Safekids Aotearoa - Policy Options for the Regulation of Electronic Cigarettes**

1. Nicotine is a toxic substance that can cause serious harm to a child if ingested orally or through the skin (Cameron et al, 2014, American Academy of Pediatrics, 2015). The American Academy of Pediatrics (2015) state “*Using the mid-range estimate (6mg/kg) of a lethal dose of nicotine, an ingestion of the contents of 2 mL (<0.5 teaspoon) of an ENDS concentrated nicotine solution could be fatal to the average 12-kg, 20 month of child*” (pg. 1021). They express concern that unregulated packaging and volume of nicotine concentration levels pose a significant risk to the morbidity and mortality in children (American Academy of Pediatrics, 2015).
2. Exponential increases in calls to National Poisons Centres in the United States due to children being exposed to e-cigarettes have been identified. From January 2012 to April 2015 a total of 29,141 calls occurred due to exposure to nicotine and tobacco products in children younger than six years of age. Exposures due to E-cigarettes accounted for 14.2 percent of these calls. The majority of exposures were due to ingestion of the e-liquid; however 8.6 percent resulted from noningestion routes which included dermal and inhalation/nasal routes. The median age of exposure for e-cigarettes was 2 years (IQR 1.4-2.0) and children under two years of age accounted for 44 percent of e-cigarette exposures. Of children exposed to e-cigarettes, 23.4% were referred for health care follow up (HCF), or were already on route to a HCF when they made contact with the Poisons Centre (21.2%). One child died due to exposure to liquid nicotine. The authors state “*Children exposed to e-cigarettes had 5.2 times higher odds of being admitted to an HCF and 2.6 times higher odds of having a severe outcome, compared with those exposed to cigarettes*” (pg.5). Of note the monthly number of exposures due to e-cigarettes increased by approximately 1500 percent during the study period (Kamboj et al, 2016).
3. In the New Zealand context two percent of nicotine related poisoning calls received at the National Poisons Centre resulted from a child being exposed to e-cigarette liquid between 2011-2015. In the case of reported exposures to nicotine gum and e-cigarette liquids a higher percentage of these children were referred on for medical assessment (88 percent respectively), in comparison to nicotine patches (67%) cigarettes/tobacco (42%), or nicotine lozenges (9%). Overall 53% of nicotine and nicotine related calls were referred for medical assessment (National Poisons Centre, 2016) See Table 1 below.

Table One: National Poisons Centre – Nicotine and Nicotine related calls 0-16 years (2011-2015)

 Source: National Poisons Centre, 2016.

1. Safekids Aotearoa contends that sales of e-cigarettes should be restricted to those over 18 years of age.
2. Safekids does not support the widespread sale of nicotine e-cigarettes and their refills in the New Zealand marketplace. Safekids believes if they were to be sold in the New Zealand market this should occur in pharmacies, or smoking cessation services where smoking cessation advice can also be provided.
3. Safekids is concerned with the proliferation of flavorings which would attract, or enhance the palpability of e-cigarettes to children and youth. Zhu et al (2014) study reviewed English language internet sites in two time periods between 2012-2014 and identified a total of 7764 unique flavours. They found brands newer to the market offered significantly more flavours (p<0.01). Safekids notes New Zealand based websites currently redirect customers to overseas companies selling nicotine e-liquid canisters commonly named as food products, with corresponding images on the packaging. Safekids notes that the Food Safety Regulations 2012 seek to restrict the misuse of products by the misrepresentation of the contents of a product due to a brand, picture, word, mark or statement that may mislead a person into thinking the substance within is a food, when infact it contains a toxic substance (New Zealand Government, 2012). Young children obviously are unable to discriminate that a substance is potentially toxic and such imaging may attract a child to the nicotine e-liquid canister. Safekids considers any nicotine e liquid imported into New Zealand should not contain images of food or use flavours that appeal to children such as ‘ice cream’, or ‘lolly/sweet’ flavours’.
4. Young children frequently imitate what they see. Children may copy their parents/caregivers attempts to use or refill an e-cigarette. Hence any e-cigarettes and their liquids sold in New Zealand must have child resistant packaging as guided by best practice international regulations and standards. Children also frequently access toxic substances around the home when they are in use or not stored in a safe manner, so e-cigarettes must be robust in nature to prevent easy access and leakage in general or when refilling. The ability to vape e-cigarettes should therefore also be prohibited in public places, especially around schools, public building, recreational facilities such as playgrounds and sport centres, and indoors in public settings.
5. Safekids contends that general advertising should be restricted if e-cigarettes are allowed to be sold in New Zealand. Such advertising should only be permitted at point of sale, with clear expectations of what is acceptable and unacceptable advertising, to avoid appealing to children and youth nonsmokers. Such advertising should not be pitched at those under 18 years of age.
6. E-cigarettes and associated equipment including liquid e-nicotine canisters should have warning labels to provide information to users on the poisoning risk to children, the need for safe storage in a locked location and disposal guidelines (Kamboj, 2016). It is important to note that safe storage practices are imperative, as child resistant packaging is not child proof and some children will still be able to access the contents. In child poisoning events parents have been found to believe that child resistant packaging is indeed ‘child proof’, rather than just ‘child resistant’, leading to unsafe storage practices. It is imperative that parents understand the poisoning risks that concentrated liquid nicotine poses to children (Kamboj et al, 2016; Safekids Worldwide, 2015).
7. Safekids supports defining maximum concentration and volume levels of nicotine e-liquid which can be imported into New Zealand. The severity of childhood poisonings is dose dependent. Safekids also supports the use of flow restrictors that slow down the amount of liquid able to be dispensed in a given time, to reduce the level of exposure if a child inadvertently gains access to a refill cartridge (American Academy of Pediatrics, 2015, American Academy of Pediatrics and supporting organisations, 2015).
8. Safekids supports and contends all nicotine based e-cigarette and associated products imported into New Zealand should
   1. Not be able to be sold in vending machines
   2. Open disclosure of contents and ingredients contained in e-cigarettes and associated products should be a mandatory requirement – this is of particular importance in child poisoning events to guide National Poisons Centre staff and Health Professionals assessment and treatment in poisoning events.
   3. The use of design features, graphics and brand names on packaging that would entice and attract children and youth to e-cigarettes and associated products, should be prohibited.
   4. The purity and grade of both nicotine e-liquid and non-nicotine e-liquid available in New Zealand should meet international best practice guidelines and standards.
   5. Safekids recommends setting a maximum volume and concentration level of e-liquid products that can be sold at any given time, to minimize the accessibility of large quantities of e-liquid stored in home environments.

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**Consultation submission 194 – Cancer Society of New Zealand**

|  |  |
| --- | --- |
| **Your details**  This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: | Cancer Society of New Zealand |
| 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)*: Health Promotion, Supportive Care, Advocacy, Research, Education

*(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.

|  |
| --- |
| The Cancer Society of New Zealand 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**.

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:

**Policy Intent**

The consultation document indicates that a decision to introduce E-cigarettes into New Zealand has been made, and this consultation is to inform the best mix of legislation and regulation to maximise benefit and minimise harm.

What is not so clear is the policy intention, or what is wanting to be achieved by the new policy direction? Is the intent to support cessation of smoked tobacco, to ultimately replace the use of traditional cigarettes with E-cigarettes, or a combination of both?

The wording in the consultation indicates replacing traditional smoked tobacco with E-cigarettes as the major policy driver.

*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. It has been suggested that the availability of these products could undermine current tobacco control initiatives.* ***There is ongoing scientific debate about whether E-cigarettes are an effective tool for smokers who want to quit. 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. (p.v)***

*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****. (p4) MoH Document.*

Though the Cancer Society agrees that E-cigarettes are less harmful than smoked tobacco, they are **not** harmless[[10]](#footnote-10), and long –term health impacts are simply not known.

As a policy driver to replace smoked tobacco with e- cigarettes we are unaware of any research or evidence that shows:

* wholesale uptake of exclusive use of E-cigarettes by current smokers, or likelihood of this happening,
* new smokers, who would have smoked tobacco products, choosing instead to use E-cigarettes exclusively, or
* Tobacco companies intending to totally switch from selling current tobacco products to E-cigarettes.

**Our Position**

The Cancer Society current position is that the evidence is still unclear on the overall risks and benefits associated with E-cigarettes, and that the status-quo is an appropriate policy option, until conclusive evidence emerges. We still hold this to be an acceptable position and urge that until stronger evidence and research in respect of the issues surrounding E-Cigarettes is undertaken no changes are made in New Zealand.

However, as noted above it would appear evident that regulation will be changed, therefore our submission is premised that though still maintain the status quo is appropriate we would (cautiously) consider changes to legislation and regulation *for the intention of increasing cessation, through the use of E-cigarettes, particularly among Māori, Pacific and other population groups who have high smoking rates.*  We would not be supportive of changes that make them readily available and easily accessible, particularly to youth.

**Purpose of submission:**

The Cancer Society of New Zealand is committed to reducing the incidence and impact of cancer.

Smoking is the pre-eminent cause of lung cancer, and lung cancer is the leading single cause of cancer death. In 2012 the NZ Cancer Registry recorded 891 deaths for males and 737 for females from lung cancer.

Smoking also increases the risk of many other cancers including; larynx (voice box) oesophagus (gullet), mouth and pharynx (upper throat), bladder, pancreas, kidney, liver, stomach, bowel, cervix, ovary, nose and sinuses.

Smoking rates have declined from 23.5% in 1997 to 15% in 2014, but for Māori and Pasifika peoples, smoking rates remain high. Māori women are a particular cause for concern with a smoking rate of 41.8% in 2014[[11]](#footnote-11),[[12]](#footnote-12).

We are supportive of evidence based policy that will further reduce smoking rates, reduce the incidence and impact of smoking related cancers, and reduce the health inequities experienced by Māori, Pacific and low socio-economic communities.

The Cancer Society 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[[13]](#footnote-13) :

* New Zealand’s tobacco control efforts should be maintained and intensified;
* The primary aim of the EC policy should be to support the achievement of the Smokefree 2025 goal for all population groups in New Zealand;
* It should minimise the risks 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 E-cigarettes 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.

Our responses to the submission questions below outline the policy and regulation parameters we believe are required to allow support for cessation and protect consumers from the potential harm from E-cigarettes use.

**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.  The exception would be any products that have been through, or will go 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[[14]](#footnote-14). Some E-cigarettes look like traditional cigarettes, and are marketed in a similar way overseas. They come in candy-like flavours, such as chocolate and fruit, which may appeal to and encourage young people to try these products. Where they are sold without legal age restrictions evidence indicates this may lead to young people to try other tobacco products, and they then may potentially become addicted to nicotine[[15]](#footnote-15).  Nicotine is an addictive substance and should be available only to over 18 year olds, in line with current Smokefree legislation. We recommend the requirement for sellers of both E-cigarette and tobacco products to be over 18 years old. |

**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 already being advertised abroad in a manner similar to that used previously for cigarettes. They are portrayed as sophisticated, exciting, adult, and cool. (Examples below)  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  As can be seen it is also difficult to differentiate between E-cigarettes and traditional smoked tobacco from the imagery. This clearly has the potential to undermine the current regulations around tobacco advertising which are a cornerstone of the measures to reduce tobacco consumption and uptake, particularly among children and young people.  No advertising should be permitted outside of the point of sale at pharmacies and specialist vaping shops only. Any advertising allowed should not provide a gateway to also advertise tobacco products e.g. E-cigarettes packaging designed to mimic current cigarette packaging.  Point of sale advertising should be restricted to promoting cessation of smoking, to communicate the availability of E-cigarettes to smokers and advice about using them in quit attempts. We recommend the following:   * Targeted communications with smokers through health professionals, Quitline staff, cessation services, and at point of sale in pharmacies and specialist vape shops to provide information about the availability of E-cigarettes and their potential benefits and harms. * Signage should be standardised nationally through the MoH/HPA, and regulated to avoid children and young people’s exposure to marketing.   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:

|  |
| --- |
| The, look use and smoke cloud created by E-cigarettes can be very similar to traditional tobacco products, and it can very difficult to discern the difference between the two.  Allowing E- Cigs to be used in Smokefree areas may therefore:   * undermine tobacco control laws and add to the impression that smoking is a normal behaviour - undermining the efforts to denormalise smoking. * provide a trigger for those smokers who are trying to quit which may lead to relapse.   We would also add that that E-cigarettes regulations should be accompanied by the introduction of legislation to ban smoking in cars with children present, and national legislation to ban smoking in outdoor areas such as parks, playgrounds, sports fields, cafes and restaurants. This regulation, to ensure tobacco is not more freely available than E-cigarettes, should also be extended to cover tobacco smoking. These regulations should be part of the amended Smokefree Outdoor Area legislation being altered to accommodate 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 |  |  | We recommend pictorial Health Warnings that are clearly evident, and convey much more information than text alone (e.g. dangerous to ingest, keep away from children and pets).  Warnings should include health information (that nicotine is addictive and that the long term health effects of EC use are not known), Quitline information, and a list of constituents.  Inclusion of Quitline information is in line with the principle of maximising the use of E-cigarettes for cessation and to support the achievement of Smokefree 2025.  Messages should be updated regularly as new evidence emerges as to known harms. |
| Prohibition on displaying products in sales outlets |  |  | E-cigarettes advertising “mimicking” traditional cigarette advertising (as noted above) is already evident overseas, and should not be allowed.  Proven cessation messaging at point of sale in pharmacies and vape shops should be allowed in a standardised form to support cessation attempts. |
| Restriction on use of vending machines |  |  | Yes, prohibited as per Tobacco to restrict access to those under 18 and limit supply. |
| 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, trends, and balance between independent and tobacco industry owned E-cigarettes on NZ market.  Data would complement the tobacco sales/use and provide evidence to analyse impacts on cessation and reduced consumption of smoked tobacco. |
| Requirement to disclose product content and composition |  |  | 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.  We recommend that requirements to disclose product content and composition are aligned with best international practice, and that compliance with these standards is a condition for products to be approved for sale in New Zealand.  We note no controls on nicotine content are applied to smoked tobacco products, though we believe there is a strong case for developing such controls, and that they be introduced at the same time as the E-cigarette regulations. |
| Regulations concerning ingredients (e.g., nicotine content and/or flavours)  Examples of E-cigarette flavourings: |  |  | Ingredients should be regulated to reduce risk of harm to users.  Ingredients can be added that change the way nicotine reacts and can increase addiction levels. These ingredients are already known from the tobacco industry use, and those should be banned from E-cigarettes, whilst also future proofing the regulation against innovative new ingredients[[16]](#footnote-16) (Europa DG Public Health and Consumer Protection, 2016).  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 approved flavours should have to go through a thorough testing to test for potential risks of harm.  Any flavours allowed should not be of appeal to children or youth e.g. such as fruit, chocolate, sweets, lollies, menthol, (Example of E-cigarette flavourings to the left).  We recommend that requirements for maximum concentration 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.  We note no controls on nicotine content are applied to smoked tobacco products, though we believe there is a strong case for developing such controls and that they be introduced at the same time as E-cigarette regulations. |
| 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. We recommend aligning with credible international guidance for product composition testing. |
| 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, and include social media outlets.  E-cigarettes are already being advertised abroad in a manner similar to that used for smoked tobacco previously. They are portrayed as sophisticated, exciting, adult, and cool, and “mimicking” traditional cigarette advertising.  Proven cessation messaging at point of sale in pharmacies and vape shops should be allowed. |
| Requirement for standardised packaging |  |  | This should be in line with current Smokefree regulation. This would prevent attractiveness to youth and children and prevent uptake, and given the influence packaging has on gaining attention at the point-of-sale and its potential to stimulate impulse purchases. The example of plain packaging of pharmaceutical products could be applied to E-cigarettes. |
| 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:

|  |
| --- |
| As first stated if E-Cigarettes are regulated to allow cessation support it would be important for E-cigarettes to be affordable, and not attract additional excise tax.  However, introduction of E-cigarettes to the marketplace needs to be monitored, and should the evidence indicate a substantial uptake of E-cigarette use by children or young people then additional excise needs to be an option.  In general prices should be cheaper than current cigarette and tobacco prices to encourage uptake from current smokers, however pricing should also be such that it is out of range for children and young people to prevent curiosity uptake.  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: The Cancer Society notes that the current market for E-Cigarettes is predominantly made up of small manufacturers, with a growing interest by the International Tobacco Companies.

We acknowledge that any regulations need to balance the ability of smaller manufacturers to meet the requirements, as we do not inadvertently wish to make Tobacco companies the only possible providers.

However we are equally clear that it is a fair expectation that manufacturers can assure customers of what is in their product, the quality of the product, the known harm associated with use as intended by them, and there is safety of packaging.

We provide more detailed responses below.

|  |  |  |  |
| --- | --- | --- | --- |
| **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 poisoning7,[[17]](#footnote-17).  Research shows nicotine poisoning of children from E-cigarettes has increased significantly, with severe outcomes for some children[[18]](#footnote-18).  Containers should be childproof, should not look appealing, or contain flavourings/smells that appeal to children. We recommend that minimum standards of child safety, aligned with best international practice, and that compliance with these standards is a condition for products to be approved for sale in New Zealand. |
| Safe disposal of E-cigarette devices and liquids |  |  | The disposal of devices and liquids should not impact negatively on the environment, whether through increased waste/litter, or residue entering the waterway. |
| Ability of device to prevent accidents |  |  | The products need to be safe for storage and use. US research show at least 25 Fires and explosions from E-cigarettes, so there is a need to ensure physical safety of users[[19]](#footnote-19) |
| Good manufacturing practice |  |  | This will ensure that products are consistently produced and controlled according to quality standards to minimise the risks involved with E-cigarette use.  We recommend analysis of best international practice, and requiring compliance with these standards as a condition for products to be approved for sale in New Zealand. |
| Purity and grade of nicotine |  |  | This will ensure purity and grade of nicotine used is at the agreed level according to the 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.  We recommend that requirements align 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 |  |  | All products should be registered and have to undergo thorough testing according to the standards set by the new regulatory regime.  We recommend that registration of products and demonstration of compliance with international standards is a condition for products to be approved for sale in New Zealand. |
| A testing regime to confirm product safety and contents purity |  |  | This reduces risk of increased harm to consumers.  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[[20]](#footnote-20).  The FDA found different amounts of nicotine in or emitted from E-cigarettes than were contained on the labels, and while some E-cigarettes were marketed as containing no nicotine, they did in fact contain nicotine[[21]](#footnote-21). Other researchers 1,7 have reported similar variable nicotine delivery.  Because E-cigarettes are not regulated, each brand and batches within a brand may vary, which could impact on effectiveness and safety research. |
| Maximum allowable volume of e-liquid in retail sales |  |  | We recommend a maximum purchase/sale regulation is introduced in line with what is reasonable for personal use. The rationale for this is to prevent bulk purchase for the purposes of supplying/selling to others, which would circumvent the restrictions on sales and supply (particularly to minors) and the requirement that sales staff can provide expert advice in use of ECs and brief smoking cessation advice and referral. |
| Maximum concentration of nicotine e-liquid |  |  | We recommend up to the equivalent concentration of 18mg nicotine per gram of tobacco, as present in the average cigarettes found in New Zealand[[22]](#footnote-22). .  However we would also consider that maximum concentration of nicotine are aligned with best international practice, and that compliance with these standards is a condition for products to be approved for sale in New Zealand.  We note no controls on nicotine content are applied to smoked tobacco products. We recommend that control and monitoring of nicotine concentrations in E-cigarettes and tobacco are aligned and legislation for both is introduced simultaneously. |
| Mixing of e-liquids at (or before) point of sale |  |  | We recommend that regulations state mixing of e-liquids should take place in pharmacies and specialist vape shops at point of sale and be performed by trained staff expert in the use of ECs and e-liquids, to ensure safety of the products. |
| Other |  |  |  |

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

|  |
| --- |
| Yes.  It is essential that the proposed new modern therapeutic products regulatory regime is fully in place prior to implementation of any E-cigarette regulations, or release onto the local market.  For the purposes of writing legislation any person that makes, modifies, mixes, manufactures, fabricates, assembles, processes, labels, repacks, relabel, or imports ENDS are all classed as manufacturers and must register with the new regulatory regime and comply with all requirements for a manufacturer. This would align New Zealand’s regulations with the US Drug Administration with regards to ENDS2 |

**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.**

|  |
| --- |
| 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?** |
| N/A |  |  |  |

**Submitter information**

*The Cancer Society of New Zealand is a Federation of six Divisions and a National Office. We are committed to helping reduce the incidence and impact of cancer on the community. Cancer affects many of us and is a major cause of disease, disability and death in New Zealand, with 21,050 new registrations and 8,891 deaths in 2011 (Ministry of Health 2015). To lessen this impact, we need an organised approach to reduce the number of people who die from cancer and improve the quality of life of those who are diagnosed.*

*As part of our approach, the Cancer Society has a set of objectives, including:*

*a) Providing supportive care and information to people affected by cancer, their families/whanau and carers.*

*b) Encouraging, organising, supporting and funding research within New Zealand into the prevention, treatment and cure of cancer.*

*c) Delivering health promotion programmes focusing on cancer prevention.*

*d) Leading advocacy across the cancer continuum.*

*e) Promoting education about cancer for health professionals and publicising progress made in research and treatment.*

*f) Working collaboratively with other organisations who share similar goals to the Cancer Society.*

*Cancer Society staff also participate in Regional Cancer Networks, which were set up by the Ministry of Health in 2008. These networks have District Health Boards (DHB’s), Primary Care, Non-Government Organisations (NGO’s) and Consumer representatives.*

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**Consultation submission 195 - Individual**

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

 YES            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:

Yes  I am using nicotine e‑cigarettes.

     I am using nicotine-free e‑cigarettes.

Yes  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 x

Reasons/additional comments:

|  |
| --- |
| Age restrictions should apply in a similar manner that applies to normal cigarettes |

**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?**

   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

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?**

No

Reasons/additional comments:

|  |
| --- |
| The Nicotine content in e cigarettes is widely considered as less harmful than the Caffeine in a cup of coffee. And it’spromotion as a much healthier alternative to tobacco products should be encouraged |

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

   No

Reasons/additional comments:

|  |
| --- |
| If I use a (for example) cola flavoured e cigarette my exhalations of the cola smell/effect are the equivalent of less than 1% of the cola smell/effect a person would exhale after drinking a can of cola. An increasing number of ecigarette users are switching flavours other than tobacco. There are some Ecigarette  juice blends that give off more than the usual amount of cloud or vapour and for this small minority of users discretion should be left to surrounding patrons or the management of the establishment. |

**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 |  | NO |  |
| Restriction on use of vending machines |  |  |  |
| Requirement to provide annual returns on sales data |  |  |  |
| Requirement to disclose product content and composition |  |  | Difficult to enforce as many Ejiuce flavours are proprietary owned information |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | Nicotine content should be noted. |
| Requirement for annual testing of product composition |  |  | Providing the regulations are not imposed as a revenue gathering exercise. |
| 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?**

            No

Reasons/additional comments:

|  |
| --- |
| We are told the tax on tobacco products is to help offset the associated high cost to the health sector. It is generally held that the harmful effects of ecigarettes are less than 5% of that of tobacco products. Less health costs than a cup of coffee, don’t tax ecigs unless you also tax coffee for its similarly rated health risk. |

**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 |  |  | because of potential nicotine content |
| Safe disposal of e‑cigarette devices and liquids |  |  | E juice is bio degradable but the batteries in Ecigs are often Lithium based |
| Ability of device to prevent accidents |  |  |  |
| Good manufacturing practice |  |  |  |
| Purity and grade of nicotine |  |  | Should be available for purchase for DIY E juice in NZ |
| Registration of products |  |  |  |
| A testing regime to confirm product safety and contents purity |  |  |  |
| Maximum allowable volume of e-liquid in retail sales |  |  | Personal tastes and consumption vary. Ejuice often has not nicotine content. Volume restriction is  major overkill |
| Maximum concentration of nicotine e-liquid |  |  | Worldwide recommendations deem Liquid nicotine sales to be safe for private users if limited to 100mg/L |
| Mixing of e-liquids at (or before) point of sale | Yes |  |  |
| Other |  |  |  |

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

|  |
| --- |
| I’d be hugely disappointed if this exercise only turned into a revenue gathering system. There is a need for some quality control. But it does not need to be a big brother mentality. The nett result of excessive regulation and cost to manufacture will see the industry revert back to being contolled by the big tobacco giants as has been evidenced in the USA |

**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)?**

|  |
| --- |
| IN NZ the range of products available would not exceed 5% of the products on the shelf in other countries. Ebay and similar sites can supply and You tube appears to be the main vehicle for discovering new trends and innovations. |

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

|  |
| --- |
| NO, not in 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?** |
| 2 months | daily. Currently they replace over half of my former gigarette intake | Around $20 | Locally and also from Auckland |

**Consultation submission 196 - Individual**

|  |  |
| --- | --- |
| **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)*: E-Cigarette user

*(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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|  |
| --- |
| 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

Reasons/additional comments:

|  |
| --- |
| The above mentioned products are; considerably less expensive, arguably less of a health risk, and sociably less offensive than traditional cigarettes.  These three points alone surely make for a strong argument.  I understand there are EU standards regarding the quality and manufacture of the liquids, devices and batteries. Should such/similar standards be met, I believe the products should be widely available to the restricted market (R18). |

**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:

|  |
| --- |
| “Potential” could be the issue.  One day Man invented the wheel, now he flies in rockets to the Moon. Both are forms of transport.  There is a significant difference between E-Cigarettes and Traditional Cigarettes, and should therefore be assessed seperately.  Alternative, nicotine–delivery products to those above, should be assessed on their own merits. |

**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:

|  |
| --- |
| I see vaping nicotine E-Cigarettes as an alternative for smokers, not so much as a “healthy” alternative to smoking.  However, I would listen to the argument that non-nicotine E-Cigarettes, could be less restricted. |

**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:

|  |
| --- |
| Assuming that one agrees with the positives of E-Cigarettes over Traditional Cigarettes outlined in Q1, any restriction on “letting the world know”, surely would be counterproductive.  If NZ is serious about reducing/eliminating “Smoking”, then better alternatives to the current and past efforts need to be made, and the public needs to know what they are. |

**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:

|  |
| --- |
| Smokefree areas are designated as such, to eliminate the unhealthy and unsavoury environment second-hand smoke creates. Such an environment is not created by vaping.  As with all human behaviour, there is a time and a place for everything, and perception plays a big role.  A Bar is a place where I think vaping could be allowed. The environment lends itself to it.  Should such an establishment allow vaping inside its premises, it may encourage tobacco smokers to more closely consider the switch to vaping, instead of hanging around outside in the cold.  In other enclosed environments ie. the cinema, perhaps prohibiting vaping could be applied. There are, and you expect, different sets of rules.  Although non-harmful to others, I imagine a great deal of the general public would misconceive that not to be the case.  I think this should be up to the individual establishment to decide. Kiwis are pretty quick voting with their feet. |

**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 |  | ✔ | All products must meet regulations |
| Prohibition on displaying products in sales outlets |  | ✔ | Defeats the purpose of encouraging smokers to vapers. Would give a negative impression. |
| Restriction on use of vending machines | ✔ |  | No control of age restriction |
| Requirement to provide annual returns on sales data | ✔ |  | Provides the necessary information to assess to what extend E-Cigarettes are helping in the “Stop Smoking” campaign. |
| Requirement to disclose product content and composition | ✔ |  | Absolutely. We don’t want to get “out of the frying pan, and into the fire”. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | ✔ |  | As per above |
| Requirement for annual testing of product composition |  | ✔ | As long as products meet regulations, there is no need. |
| Prohibition on free distribution and awards associated with sales |  | ✔ | All marketing tools should be at the industries disposal. |
| Prohibition on discounting |  | ✔ | As per above |
| Prohibition on advertising and sponsorship |  | ✔ | As per above |
| Requirement for standardised packaging |  | ✔ | As per above |
| 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 affordability by comparison to tobacco products, may be the most important drawcard to a smoker. The more significant the difference, the more likely for change. |

**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 | ✔ |  | Goes without saying |
| Safe disposal of e‑cigarette devices and liquids | ✔ |  | As the case with everything. (other than cigarette butts and chewing gum) |
| Ability of device to prevent accidents | ✔ |  | As we have come to expect |
| Good manufacturing practice | ✔ |  | Part of meeting the regulatory rquirements |
| Purity and grade of nicotine | ✔ |  | Pharmaceutical Grade only |
| Registration of products | ✔ |  | Consumer protection |
| A testing regime to confirm product safety and contents purity | ✔ |  | Perhaps adopt EU standards and test accordingly |
| 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 |  | ✔ | Allows for tampering. (Melamine/Fonterra) |
| Other |  |  |  |

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

|  |
| --- |
| Although this is one submission, please consider it as being two.  My partner and I had been tobacco smokers for decades, and are now proud of ourselves not to be.  We had never made any serious attempt to give up smoking, other than the unsuccessful “going cold turkey” approach, every now and again.  Last year we travelled to Asia twice, the US once, Mexico and to the Islands.  We knew smoking was costing us a fortune, but until we were away, the reality didn’t really sink in. At some places we visited they almost gave smokes away, however back home we knew they didn’t .  We knew smoking was bad for our health, but…we were smokers.  As is often the case when you’re on holiday, we decided to give something a go.  Just about everywhere we went there seemed to somebody vaping. It seemed to be acceptable, and was certainly non offensive to those around them, including ourselves.  Subsequently we purchased some disposable E-Cigarettes, and the rest (smoking) is history. I still can’t believe it.  Within two weeks of being home, I had even stopped vaping. Friends and family were shocked.  Justine continues to vape, but is now juggling her nicotine and non-nicotine devices. I , as a number of others are very proud of her.  I think the catalysts for us both giving vaping a go were; E-Cigarettes seemed to be acceptable, were readily available, and were non-offensive to those around them.  We had known that traditional cigarettes were expensive ($15 000 p.a), and bad for us, but that foolishly still wasn’t enough to quit. Unbelievable really. How so many others manage to afford to smoke is a mystery.  I was never going to chew the stop smoking gum, or put a patch on my arm, but when presented with an acceptable alternative, we gave it a try. After all, it was still sort of like smoking.  I could go on forever, like one of those guys that knock on your door.  So…In summary, I believe that E-Cigarettes need to meet strict quality criteria, and should have maximum exposure to the Tobacco Cigarette consumer.  You’d be doing them a favour. |

**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. I am no longer purchasing them. Justine buys hers somewhere off the Net. |

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

|  |
| --- |
|  |

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

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

**Consultation submission 197 - Individual**

|  |  |
| --- | --- |
| **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)*: Whanau

*(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.

|  |
| --- |
| 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:

|  |
| --- |
| Although I am not a user the change I have seen in whanau members who have been lucky enough to gain personal access to the product is overwhelmingly positive for them. They have not been able to quit by other methods and being able to control the reduction of nicotine themselves and that the hand to mouth addiction is still being accommodated to reduce the stress of trying to quit has made a huge difference in their health status both physically and mentally. |

**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:

|  |
| --- |
| Should be reduced to 16years |

**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:

|  |
| --- |
| If positive change is occurring and the promotion of health and wellbeing is the target then this mode for reducing if not eliminating the use of nicotine it is certainly worth supporting |

**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 |  | * X |  |
| Restriction on use of vending machines |  | * X |  |
| 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:

|  |
| --- |
| If we are trying to reduce consumption of nicotine you are directly affecting the population who need access to the product to help them quit. It is well known that particularly the Maori population are the worst affected in the smoking statistics and therefore you are placing another barrier to improve their health. |

**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?**

|  |
| --- |
| Support our individual Whanau choice. People will always rebel against being told ‘No’. |

**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.**

|  |
| --- |
| 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 198 – SoulBlu New Zealand Pty Limited**

**The submitter also provided attachments to the following items:**

Nicotine without smoke: Tobacco harm reduction. A report by the Advisory Group of the Royal College of Physicians (April 2016)

E-cigarettes: an evidence update. A report commissioned by Public Health England (August 2015)

Electronic cigarettes: what can we learn from the UK experience? Colin P. Mendelsohn (2016)

Electronic cigarettes have a potential for huge public health benefit. Peter Hajek (2014)

Effect of continuous smoking reduction and abstinence on blood pressure and heart rate in smokers switching to electronic cigarettes. Konstantinos Farsalinos *et al.* (2016)

Press release: New study: 6.1 million Europeans have quit smoking with the use of electronic cigarettes. Konstantinos Farsalinos (2016)

Cohort study of electronic cigarette use: effectiveness and safety at 24 months. Lamberto Manzoli *et al.* (2016)

Reductions in biomarkers of exposure (BoE) to harmful or potentially harmful constituents (HPHCs) following partial or complete substitution of cigarettes with electronic cigarettes in adult smokers. Grant O’Connell *et al.* (2016)

<http://colinmendelsohn.com.au/electronic-cigarettes/are-they-safe/>

**Your details**

This submission was completed

By: [redacted]

Address: [redacted]

Email: [redacted]

Organisation *(if applicable)*: SOULBLU NZ PTY LYD

*(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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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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company links or vested interests below. We have no Links to the tobacco companies.

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 harm reduction alternative to help people to quit smoking. There is now sufficient body of evidence available on several aspects and effects of ECigarettes for recent reviews to conclude that health care professionals and public health bodies should encourage smokers who cannot stop smoking using other available treatments, or do not want to do so, to switch to ECigarettes.

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. Example of this is shown on the study conducted by Michael Mosley (Miracle or Menace BBC documentary).

* The only problem is the lack of appropriate controls. Most of the eliquids found available in the market for sale comes from low quality Chinese suppliers or home kitchen/commercial kitchen manufacturing facility that may not adhere to any food control standards or any certified body compliance such as ISO 9001:2015 QMS.
* We believe manufacturing and ingredient of eliquids should be controlled prior to be offered to the public to ensure excellent quality product and public health. As a responsible supplier we only supply e-liquids which has a minimum hold of ISO 9001:2015 and set up laboratory in principle to GMP standards. Our eliquids supplier conduct testing through an independent laboratory specifically set up for the testing of eliquids, raw ingredients, mixed ingredients and toxicities within vapour itself. This is all linked to their ISO certification requirements.

**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:

* The whole idea of e-cigarettes is to assist people to quit smoking, having an alternative available for legitimate smokers so, they can switch from tobacco to a safer and more effective alternative. It is important to limit the sales of ecigarettes to smokers over 18. A solution to this problem is to request ID upon purchase, as it is the case when anybody purchase alcohol or cigarettes over the counter.

**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 from tobacco cigarettes, reason why the marketing of ecigarettes does not have to be the same as cigarettes. 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:

* Comparing the dangers caused by second hand smoking with the danger caused from vapour particles from ecigarettes is absurd. The dangers of tobacco are well known to cause serious illnesses, while e- cigarettes cannot be treated in the same way as they produce far less dangerous chemicals and in studies found to be magnitudes less, they are extremely low hazardous compound generated by non combustion
* tobacco smoke has detrimental impact in human health, while vapour coming from e-cigarettes does not have any. There is no second hand effect as there is in tobacco, as all studies show that the detrimental aerosol effects are far below human absorption standards. Even when compared to air pollution caused from cars emission, the vapour coming from e-cigarettes are less harmful than those emission of automobiles.

**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 |  |  | Independent laboratory testing ander QMS 9001:2015 |

**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:

* E-cigarettes are a true competitor and safer alternative to smoking tobacco with far less concerns and health effects.
* Imposing taxes or duties to increase the price to the consumer, will only discourage smokers from switching to the safer alternative limiting the access to this safer option.
* Why would you limit the product by putting high taxes and duties on them, when it could save tens of thousands lives, which is your end goal.

**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 | x |  | All electricals should be approved for sale within NZ electrical safety standards. |
| Good manufacturing practice | X |  | As a minimum laboratory and ISO 9001:2015 Quality Management System and standards. System and standards which offers traceability. |
| Purity and grade of nicotine | X |  | Nicotine and others raw materials |
| 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 | Every person who use electronic cigarette has different demand for eliquids, depending on how heavy/light smokers they were. |
| Maximum concentration of nicotine e-liquid | X |  | Should be limited to the highest strength of nicotine contained in the strongest cigarettes in the market. |
| Mixing of e-liquids at (or before) point of sale | X |  | Eliquids should be premixed at laboratory levels prior to purchase. With traceability within the manufacturer standards. |
| 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 in as much as nicotine source is totally different to tobacco.
* We believe e-cigarretes should be freely promoted and advertised to gain higher smokers conversion including all health effects comparing to tobacco smoking, so the consumer can make an informed decision.
* Please see attached some studies and researched done about e-cigarettes safety and effectiveness.

**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.  
  
5. Cartomiser and tanks.  
  
All this products have been offered by Soulblu throughout our 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  
9001:2008/2015 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 for various laboratory testing.

3. 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 potential customers, who can sample and test our product range  
of nicotine easier to make a better informed 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?** |
| More than five years | Everyday | $ 25 | From Soulblu. |

**Consultation submission 199 - Individual**

|  |  |  |
| --- | --- | --- |
|  | Sent by: [redacted]  12/09/2016 05:12 p.m. | To: ecigarettes@moh.govt.nz,  cc:  bcc:  Subject: [redacted] Submission - 199 |

Sorry- I have just found out about this submission and its closure is now!

I am probably too late! But ….must add that I am the wife of a 2 pack a day cigarette addict! He’s now 53 and has smoked since his teens.

He started using an electronic cigarette to get his nicotine fix over a year ago and I’m s so relieved and grateful; no smell on his person and in my home, no 2nd hand smoke fears for my own health and oh am so much happier in not spiralling into debt as a co-dependent to his costly habit, especially at a time when he is unemployed and my sole income is supporting our mortgage payments and household and living costs!   
  
I understand too from what I read that though not ideal- this is a safer nicotine delivery system than tailor-made cigarettes with so many additional toxins rolled into the tobacco leaf

With thanks

[redacted]

**Consultation submission 200 - Individual**

|  |  |  |
| --- | --- | --- |
|  | Sent by: [redacted]  13/09/2016 08:37 a.m. | To: ecigarettes@moh.govt.nz,  cc:  bcc:  Subject: Consultation submission |

Thanks for the opportunity to submit; and apologies for the late submission.

I am submitting as an individual who is concerned about public health, and can see the opportunity to use e-cigs to promote public health, and find a new way to deliver information and services to the population. I have no conflicts of interest, beyond my interest in public health.

As starting points, we can assume the following:

* e-cigs are a rational harm reduction strategy for smokers, even if they don’t quit
* e-cigs can help some smokers to quit
* there is a risk or re-normalising/ increasing uptake of smoking in form of e-cig
* Tobacco companies are positioning themselves to control this market, including the introduction of e-cigs that include tobacco as opposed to nicotine liquid.

Therefore, it would seem rational to (1) limit access of e-cigs to current smokers; and (2) limit the market to those products that cost-efficiently provide the nicotine dose; without tobacco. (and remove potential commercial influences that would inevitably promote e-cigs for non-smokers)

I am not sure about the process for (2), but presume some of this will be done through some licensure process that assesses harm of product. This process needs to be guarded from both commercial and Big Tobacco interests: challenging!. For the first, it has been suggested to make it a pharmacy-only medicine, perhaps a prescription one.

My idea to address both would be to set up Public Health Retail shops that would make an operating profit on the sale, but have a public health purpose. Thus, limiting sale to current smokers as well limiting the range of options available to those most useful to help smokers quit.

The advantage of this idea is that these shops could address current gaps in health advice and access, as well as provide a potential model for a controlled market in other drugs, including Cannabis and alcohol.

Thanks for your consideration.

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[redacted]

**Consultation submission 201 – Nelson Marlborough District Health Board**

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

**12 September 2016**

For more information please contact:

[redacted]

**Introduction**

1. Nelson Marlborough Health (NMH) (Nelson Marlborough District Health Board) is a key organisation involved in the health and wellbeing of the people within Te Tau Ihu. NMH appreciates the opportunity to comment from a public health perspective on the Ministry of Health’s consultation document on Policy Options for the Regulation of Electronic Cigarettes.
2. NMH makes this submission in recognition of its responsibilities to improve, promote and protect the health of people and communities under the New Zealand Public Health and Disability Act 2000 and the Health Act 1956. In particular, and of relevance to this submission, its responsibilities and activities involving smoking cessation advice and support, promotion and advocacy for the extension of smokefree environments, and regulation of smoked tobacco and tobacco products.
3. As set out in the Ministry’s consultation document, the risks and benefits of e-cigarettes are currently uncertain. As a result, it is apparent that there are several high level conflicting matters relating to public health in considering regulations and their place on the market:

* **Regulatory setting** – currently the sale and supply of nicotine e-cigarettes is prohibited in New Zealand (although nicotine e-cigarettes and e-liquids are allowed to be imported for personal use).  However, due to a lack of a clarity and certainty as to the legal effect of current legislation and therefore ability to enforce it, the reality is that they have been available for purchase within New Zealand for some time with no quality control, safety measures or marketing restrictions in place.
* **Smokefree environments** – currently nicotine e-cigarettes are not prohibited in areas defined as smokefree in the Smoke-free Environments Act 1990.  The potential adverse health effects on non-users exposed to e-cigarette vapour is uncertain.
* **Therapeutic use** – there is general scientific consensus that the use of e-cigarettes is significantly less harmful than smoking.  Although more robust evidence is required, current evidence suggests that e-cigarettes may be an effective tool for smokers who want to quit. NMH is aware that some tobacco smokers are already independently using e-cigarettes to support quitting.
* **Undermining of current tobacco control initiatives** **and potential for perverse outcomes** –there are fears that normalisation, access and experimentation of e-cigarettes may lead to nicotine addiction or a gateway effect to tobacco smoke, particularly for young New Zealanders. Although studies have indicated that there are no serious adverse effects from their short or medium term use, the long-term health effects from the use of e-cigarettes is uncertain.

1. This submission sets out matters of interest or concern to NMH in relation to the regulation of e-cigarettes and smoked tobacco products. NMH believes that its recommendations made in response to policy and regulatory options will address the conflicting public health matters set out above pertaining to e-cigarettes and result in better public health outcomes than the current situation.

**Comprehensive strategy needed**

1. NMH would like to take this opportunity to acknowledge the National Smokefree Working Group (NSFWG) for the relevance, comprehensiveness and timeliness of its recently released background paper ‘E-Cigarettes and their potential contribution to achieving the Smokefree 2025 goal’*[[23]](#footnote-23)*.
2. NMH strongly agrees with the general steer of the NSFWG background paper in that the primary aim of e-cigarette policy and regulations should be to support achievement of New Zealand’s Smokefree 2025 goal, and that in working towards the Smokefree 2025 goal, e-cigarettes need to be viewed as part of a comprehensive tobacco control strategy along with other measures such as tightening smoked tobacco regulations.
3. As noted in the background paper, existing evidence suggests that the increase in e-cigarette use may contribute to some (but not all) of the observed declines in smoking prevalence within developed countries and accordingly, may assist with achieving the Smokefree 2025 goal.
4. Importantly, the background paper also notes that “*the impact of e-cigarettes in helping achieve the Smokefree 2025 goal will be enhanced by implementing a comprehensive tobacco control strategy and by adhering to the principle that where regulatory control measures are applied to e-cigarettes, equivalent or more stringent regulatory measures should be in place or introduced for smoked tobacco products*.”
5. It is asserted that existing smoked tobacco supply arrangements undermine the Smokefree 2025 goal and accordingly, need to be urgently addressed.[[24]](#footnote-24) As an example, current regulations - which allow any retailer to sell tobacco resulting in over 6000 outlets across New Zealand - have experienced high levels of non-compliance such as illegal sales to young people (a 2006 survey found 64% of tobacco retailers had at least one breach of point of sale regulations).2
6. In agreeing with the overall direction and aims of the NSFWG background paper, the recommendations of NMH within this submission are largely consistent with those of that paper, with the exception of the supply and availability of e-cigarettes (discussed directly below) where more stringent measures are recommended. Recommendations are set out under each of the relevant section headings which ensure that:

* Policy and regulations for e-cigarettes focus on supporting the Smokefree 2025 goal and address the conflicting matters set out in the introduction of this submission
* The principle that equivalent or more stringent control measures are applied to smoked tobacco products is adhered to.

Recommendations

1. That the focus of e-cigarette-related policy and regulations is centred on the role of e-cigarettes in achieving the Smokefree 2025 goal.
2. That e-cigarettes are not viewed in isolation and instead, that a comprehensive tobacco control strategy which aims to achieve the Smokefree 2025 goal is developed (incorporating initiatives relating to the control of smoked tobacco and which support smoking cessation), and is regularly reviewed as new evidence emerges.

**Supply and availability of e-cigarettes**

1. NMH supports the Government’s position that upon considering evidence and concerns about e-cigarettes, it agrees in principle to nicotine e-cigarettes being legally available for sale and supply in New Zealand, with appropriate controls.
2. NMH considers that an appropriate regulatory framework would provide certainty as to the legal status of e-cigarettes while ensuring a balance between supporting their availability where existing evidence indicates potential positive effects (e.g. short-medium term use as a smoking cessation aid, contribution towards achieving the Smokefree 2025 goal) and limiting their availability where existing evidence indicates potential negative effects (e.g. nicotine addition/gateway for youth, uncertain health impacts of longer term use). NMH notes that this approach is consistent with Article 5.2(b) of the World Health Organisation Framework Convention of Tobacco Control whereby medicinal use of nicotine is a public health option under the treaty (in which New Zealand is a party to), while recreational use is not[[25]](#footnote-25).
3. To this effect, NMH considers that the supply and availability of nicotine e-cigarettes and e-liquids should be restricted to community pharmacies only for smokers who want to quit.

Benefits of this approach are varied and many, as assessed by a recent blog on the University of Otago’s Public Health Expert[[26]](#footnote-26):

* It would establish e-cigarettes as a smoking cessation aid or, at the very least, a harm-reduction strategy for long-term users
* It would support a change in perception of e-cigarettes as a recreational drug and therefore may help reduce youth experimentation
* Pharmacies are likely to have less incentive to sustain sales beyond cessation, than specialist vape shops for example who may have a major economic incentive to continue and expand the market including to non-smokers
* Most pharmacies already provide smoking cessation advice and sell nicotine replacement therapy products, therefore staff are likely to be trained in smoking cessation support
* Pharmacy staff are used to a strict regulatory environment for the supply of addictive or restricted substances and pharmacies would be highly motivated to sustain their reputations
* Community pharmacies are relatively well distributed within New Zealand (approximately 1000 exist) and would attract a more diverse customer base, effectively reaching more smokers than for instance a vape shop
* It would simplify any future action to phase-out e-cigarettes, should that become a consideration once smoked tobacco sales have fallen to minimal levels.

1. While a possible down-side of pharmacy-only sales might be that staff are less likely to have personal experience and specific product expertise than vape store staff, appropriate training would be able to fill this knowledge gap.

Recommendations

1. That nicotine e-cigarettes are made legally available for sale and supply in New Zealand, with appropriate controls.
2. That those appropriate controls:

* Allow restricted sale of nicotine-containing e-cigarettes or e-liquids for smokers who want to quit
* Allow sales of nicotine-containing e-cigarettes or e-liquids through pharmacies only with stipulations about the exclusion of minors from point of sale displays, and training/competence for staff in e-cigarette use and ABC cessation support
* Discontinue to allow the importation of nicotine-containing e-cigarettes or e-liquids for personal use (currently up to 3 months supply is permitted)
* Require a minimum age of purchase of 18 yearsunless prescribed or a suitable form of approval (similar to a quit card, for example, but without the need to identify a specific e-cigarette product in line with the recommendation at paragraph 24 of this submission) is obtained through a doctor, healthcare provider or quit coach e.g. for the instance where a 16 year old smoker would like to quit

1. That equivalent or more stringent regulatory controls are applied to the supply and availability of smoked tobacco products, including introduction of retailer licensing (which is shown to make businesses more likely to comply with regulations, and may reduce the number of outlets selling smoked tobacco4), restrictions on proximity to schools, and ideally raising the age of purchase to 21 years.

**Smoking cessation advice and support for e-cigarettes as quit aids**

1. NMH strongly supports the Ministry of Health developing guidance for health professionals and stop-smoking support workers on how to support smokers who want to use e-cigarettes to quit smoking, as outlined in the consultation document.
2. As noted above, NMH is aware that some smokers are already independently using e-cigarettes to support quitting. NMH believes that providing appropriate resources and training will enable health professionals and quit coaches to offer effective support and guidance specific to e-cigarettes. This could avoid or minimise ad-hoc or detrimental approaches such as sustained dual use of smoked tobacco and e-cigarettes[[27]](#footnote-27), and may in turn increase the success of quit attempts and maximise health benefits.
3. However, NMH considers that healthcare providers and quit coaches should not recommend or support specific e-cigarette products unless these have a Medsafe approval for therapeutic use.

Recommendations

1. That the Ministry of Health develops the proposed guidance for health professionals and stop-smoking support workers on how to support smokers who want to use e-cigarettes to quit smoking.
2. That this guidance stipulates that healthcare providers and quit coaches are not to recommend or support specific e-cigarette products unless these have Medsafe approval for therapeutic use.
3. That the Ministry of Health develops information (e.g. leaflets) giving advice to e-cigarette users trying to quit (to support the recommendation at paragraph 30 of this submission).

**Marketing, packaging and consumer information**

1. In relation to marketing, packaging and public information, NMH supports the preferred options of the NSFWG background paper which place restrictions around marketing, provide targeted information and advice to e-cigarette users and includes safety information on packaging (with some minor amendments as set out under recommendations below – namely in relation to mass media campaigns).
2. NMH considers that these approaches are most likely to help some smokers to quit whilst minimising increased e-cigarette uptake by minors and non-smokers who otherwise would not have used nicotine. It is also considered that the recommended marketing restrictions are unambiguous and easily enforceable.
3. Additionally, the Ministry’s consultation document notes that policy options may result in amendments to existing legislation which regulates the sale and supply of e-cigarettes. NMH considers there should be a continued prohibition on producers and suppliers making therapeutic claims about their e-cigarette products (e.g. that they are smoking cessation aids), unless they have Medsafe approval for therapeutic use.

Recommendations

1. That commercial marketing of nicotine containing e-cigarettes and e-liquids products sold within NZ is limited to point of sale displays that are regulated to avoid exposure to children and young people.
2. That information (e.g. leaflets) giving advice to e-cigarette users trying to quit is provided by cessation services and at point of sale.
3. That mass media campaigns informing the availability of e-cigarettes are not undertaken and instead, a more conservative approach is taken by the dissemination of information through health professionals or targeted campaigns.
4. That packaging requirements for e-cigarettes and e-liquids products sold within New Zealand include minimum standards of child safety, safety warnings, health warnings and Quitline information, and list of constituents. Additionally, that packaging or product names which are appealing to children and young people are prohibited.
5. That there is a continued prohibition on producers and suppliers making therapeutic claims about their e-cigarette products (e.g. that they are smoking cessation aids), unless they have Medsafe approval for therapeutic use.
6. That equivalent or more stringent regulatory controls are applied to smoked tobacco marketing, packaging and consumer information, including the implementation of intensified and targeted mass media smokefree campaigns, and that all smoked tobacco products provide a list of constituents on the packaging.

**Product additives and flavours**

1. NMH considers that quality control and safety standards should be introduced for additives and flavours in e-cigarettes and e-liquids sold in New Zealand including maximum nicotine concentrations and the banning of flavourings that have demonstrated health risks.
2. As an example, the flavouring chemical diacetyl has been shown to be associated with bronchiolitis obliterans and other severe respiratory diseases within workers at microwave popcorn facilities and as such, warrants further evaluation for potential health risks caused by its incorporation in e-cigarettes.[[28]](#footnote-28)

Recommendations

1. That quality control and safety standards are introduced for additives and flavours in e-cigarettes and e-liquids sold in New Zealand including maximum nicotine concentrations and the banning of flavourings that have demonstrated health risks.
2. That equivalent or more stringent regulatory controls are applied to smoked tobacco product additives and flavours, for example, regulating the nicotine content of cigarettes to very low levels so that they are no longer addictive (or less addictive), and making cigarettes unappealing to children and young people (e.g. changing the pH of tobacco, or banning particular additives such as menthol and sugar).

**Use of e-cigarettes in workplaces and public places**

1. In relation to the use of e-cigarettes in workplaces and public places, NMH supports the preferred option of the NSFWG background paper which places restrictions around where vaping is allowed (as set out under recommendations below).
2. As discussed by both the Ministry’s consultation document and the NSFWG background paper, there is a general consensus that the impact on others from second-hand vapour poses significantly less health risks than from smoked tobacco. However, given that there remains very little evidence on the impacts of second-hand exposure from e-cigarettes (particularly in relation to longer duration exposure and exposure in children), ongoing concern remains.
3. Additionally, NMH believes that placing restrictions around where vaping is allowed will reduce the risk of normalising e-cigarette use.

Recommendations

1. That the use of e-cigarettes is banned in all indoor workplaces and public places (consistent with the Smokefree Environments Act 1990), and all schools, in cars, and in selected outdoor locations (areas where children predominate, e.g. playgrounds, parks) but allowed in “vaping permitted” areas at local discretion and where public consultation suggests this is acceptable.
2. That clear signage indicates where vaping is permitted, and that these areas are separate to “smoking permitted” areas e.g. to minimise the risk of smokers who have quit from relapsing.
3. That equivalent or more stringent regulatory controls are applied to smoked tobacco use in cars and outdoor spaces, including legislation which bans smoking in cars and national legislation to ban smoking in children-focused outdoor areas such as playgrounds, sports fields and parks.

**Tax and excise for e-cigarettes**

1. As discussed within the NSFWG background paper’s evaluation of options for e-cigarette tax, balance needs to ensure that e-cigarettes are cheaper to use than smoked tobacco to promote substitution. However, consideration also needs to be given to ensuring the price is sufficient to deter use by youth and young adult never smokers.
2. Accordingly, NMH supports the preferred option of the NSFWG background paper (with some minor additions as set out under recommendations below – namely in relation to inequalities).

Recommendations

1. That the status quo is maintained i.e. no additional tax or excise is applied to nicotine-containing e-cigarettes or e-liquids.
2. That the above status is reviewed if there is evidence of substantial uptake of nicotine-containing e-cigarettes by children and young people, and/or where evidence demonstrates substantial inequalities in the uptake of nicotine e-cigarettes by never smokers e.g. a disproportionate proportion of Maori or people living in low socioeconomic areas.
3. That equivalent or more stringent regulatory controls are applied to smoked tobacco, such as the Government’s past and ongoing efforts to increase excise tax on smoked tobacco products.

**Monitoring, research and legislative reviews**

1. Given the current uncertainties about the risks and benefits of e-cigarettes and that it is a rapidly evolving area, NMH considers it imperative that a framework for monitoring and evaluating emerging evidence on e-cigarettes is established, and that those findings are incorporated into regular policy and legislative reviews.

Recommendations

1. That a framework for monitoring and evaluating emerging evidence on e-cigarette use is developed and implemented including on:

* the evolution and use of e-cigarettes (both internationally and in New Zealand) including within population groups (e.g. young people, never-smokers, dual smokers, ethnicity, socio-economic status)
* the impacts (positive and negative) of e-cigarette use on health, smoking prevalence and progress towards the Smokefree 2025 goal.

1. That the findings of monitoring and evaluating emerging evidence are used to inform regular reviews of any e-cigarette or smoked tobacco policy and regulations made by the Government.

**Conclusion**

1. The NMH thanks the Ministry of Health for the opportunity to comment on its consultation document on Policy Options for the Regulation of Electronic Cigarettes.
2. NMH supports the Government’s position that nicotine e-cigarettes should be made legally available for sale and supply in New Zealand, with appropriate controls.
3. With respect to appropriate controls, NMH believes that its recommendations set out in this submission will support the Smokefree 2025 goal, address the conflicting matters pertaining to public health as set out in the submission’s introduction, and result in better public health outcomes than the current situation.

Yours sincerely

[redacted]

**Consultation submission 202 – New Zealand Medical Association**

12 September 2016

Ministry of Health

PO Box 5013

Wellington 6145

By email: [ecigarettes@moh.govt.nz](mailto:ecigarettes@moh.govt.nz)

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

Dear Sir/Madam

The New Zealand Medical Association (NZMA) wishes to provide feedback on the consultation document ‘*Policy Options for the Regulation of Electronic Cigarettes’*.[[29]](#footnote-29) The NZMA is New Zealand’s largest medical organisation, with more than 5,500 members from all areas of medicine. The NZMA aims to provide leadership of the medical profession, and to promote professional unity and values, and the health of all New Zealanders. Our submission has been informed by feedback from our Advisory Councils and Board.

**General Comments**

1. We note that, 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 legislative and regulatory controls. As noted in the consultation document, the long-term risks and benefits of e-cigarettes are uncertain. There is ongoing scientific debate about whether e-cigarettes are an effective tool for smokers who want to quit. At the same time, there is general scientific consensus that the exclusive use of e-cigarettes is significantly less harmful than smoking. There are also some concerns that the availability of these products could undermine current tobacco control initiatives (though there are countervailing views that e-cigarettes could contribute to tobacco control initiatives).

2. Given the above considerations, we take the view that a cautious, yet pragmatic, approach to e-cigarettes is warranted. We are supportive, in principle, of making e-cigarettes legally available in New Zealand (though there are differing views on what form this availability would take). Our support for making e-cigarettes available is strictly contingent on an appropriate regulatory regime that ensures due care for unintended harms and risks. We elaborate on our views in our responses to the specific questions below. We also believe it vital for the Ministry to closely monitor the emerging evidence relating to e-cigarettes, both in New Zealand and overseas, and for the Government to be in a position to modify proposed legislative/regulatory/policy responses as necessary.

**Specific Comments**

***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?***3. We agree that nicotine e-cigarettes and nicotine liquids for such devices should be legally available in New Zealand, subject to the appropriate controls being in place. Key controls include prohibiting sale and supply to people under 18 years and the introduction of requirements for quality control. We elaborate on the most important aspects of a regulatory regime in our answers to questions 3 to 8.

4. There are mixed views on ***how*** e-cigarettes and nicotine liquids should be made legally available. At one end of the spectrum, some have argued that they should be available only as a harm reduction product to current smokers who want to quit, either by the requirement for a prescription or by restricting their sale to a limited number of licensed specialist shops (with stipulations about proximity to schools, and training for staff in cessation support). However, others do not believe that these products or their liquids should be prescribed, and support their general sale and supply, subject to a rigorous regulatory regime that prevents sale to young people.

5. Internationally, medical profession views diverge on the use of e-cigarettes as a quit or harm-reduction tool. In a 2015 position statement, the Australian Medical Association recommends that “E-cigarettes must not be marketed as cessation aids as such claims are not supported by evidence at this time”.[[30]](#footnote-30) By contrast, a recent report by the Royal College of Physicians, recommends that “in the interests 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”.[[31]](#footnote-31) If nicotine-containing e-cigarettes are to be promoted as a smoking cessation aid, then we suggest there is a need to ensure they receive the appropriate regulatory approval under the Medicines Act (or its replacement).

***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?***6. We are not aware of other nicotine-delivery products but in light of the rapid innovation in the area of alternative nicotine products, we agree that the regulatory regime be future-proofed to ensure it covers all existing and future nicotine-delivery products.

***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?***

7. Yes, we consider it of paramount importance that legislation prohibits the sale and supply of e-cigarettes to young people under 18 years. This precaution is necessary for the following reasons: i) the evidence about potential health harms of e-cigarettes, particularly over the longer term, is inconclusive; ii) nicotine is an addictive and psychoactive substance, although the degree of dependency on e-cigarettes is likely to be similar to that with other NRT products; iii) nicotine e-cigarettes are being promoted in ways that appeal to children (eg, the use of cartoons and highly sexualised imagery) and their use is being depicted as ‘cool’, although the effectiveness of such advertising may be less than supposed.[[32]](#footnote-32)

***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?***

8. We note some calls for limiting commercial marketing of e-cigarettes to point of sale (to avoid exposure to children and young people). There is uncertainty over whether or not e-cigarettes may be a so-called ‘gateway’ product to smoked tobacco products.[[33]](#footnote-33) However, there is emerging evidence that exposing children to e-cigarette advertising may not increase the appeal of smoking tobacco cigarettes.[[34]](#footnote-34) We are aware of some advertisements for e-cigarettes overseas that are offensive for various reasons, including sexualisation or deliberate criticism of smokefree environments.[[35]](#footnote-35) We strongly believe that there should be restrictions on these types of egregious advertisements.

***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?***9. There are mixed views on whether vaping should be prohibited in designated smokefree areas. While there is currently a lack of evidence to demonstrate immediate harms from second-hand vape, there are still grounds to support a ban in designated smokefree areas. These include uncertainty over whether or not e-cigarettes may be a so-called ‘gateway’ product (the evidence for this is very unclear), concerns over the addictive nature of nicotine, and concerns about e-cigarettes becoming ‘cool’ and used by industry to normalise smoking.

10. A compromise solution, as mooted by the National Smokefree Working Group (NSWG)[[36]](#footnote-36) (with whom we agree), could be to ban e-cigarettes in all indoor workplaces and public places (consistent with the 1990 SmokeFree Environments Act), all schools and in selected outdoor locations such as areas where children predominate (eg, playgrounds and parks) but to allow e-cigarettes in other smokefree areas at local discretion. Clear signage should indicate where vaping is permitted, and these areas should be separate from “smoking permitted” areas.

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

11. With the exception of the requirement for graphic health warnings, we consider that all of the other controls in the SFEA for smoked tobacco products might apply to e-cigarettes. These controls might include the following: 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.

12. In saying the above, however, we recognise the risks of people not accessing e-cigarettes to the extent they might, and hence the lost health opportunities from people remaining on, or starting, cigarette smoking itself. The evidence either way is highly unclear.[[37]](#footnote-37) In addition, vapour is not smoke (with different lung deposition patterns and uptake), and we are aware of some *in vitro* evidence suggesting heavy vapour use is no more harmful on lung epithelia than air.[[38]](#footnote-38)

***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?***13. No. The availability of a fiscal instrument such as an excise duty would be a useful lever to influence patterns of consumption if e-cigarettes are made available and as more evidence about their use emerges. However, we agree with the stance of the NSWG to maintain the status quo,[[39]](#footnote-39) ie, no additional tax or excise duty applied to nicotine-containing e-cigarettes and e-liquids, and for review if there is evidence of substantial uptake of nicotine-containing e-cigarettes by non-smoking children and young people and with commensurate increased uptake of cigarette smoking. Excise tax on nicotine-containing e-juice could reduce accessibility to those groups that may benefit the most from e-cigarettes as an alternative to smoking cigarettes (eg, Māori and Pacifika).

14. If any such regimens were to be introduced, then the excise structure would need to reflect the differences in harm between smoking cigarettes (most harmful), vaping nicotine-containing e-cigarettes (considerably less harmful than smoking), vaping non-nicotine products (possibly negligible harm),[[40]](#footnote-40) and not smoking / not vaping (the least harmful). Regimens would need to discriminate between e-juice that contains tobacco product and that which does not, or if nicotine has been derived from tobacco (which we understand is how laws are currently being circumvented in the USA).

***Q8 Do you think quality control of and safety standards for e-cigarettes are needed?***15. Yes, we believe that quality control of, and safety standards for, e-cigarettes are definitely needed. Currently, there are concerns about the long-term effects of e-liquids, the safety of some e-liquid flavours, and the effects of e-cigarettes on pregnant women and their foetuses. There are also concerns around the lack of standards and regulations for nicotine levels which can vary widely. As such, we are in favour of regulations setting the requirements and standards for the following: childproof containers; disposal of e-cigarette devices and liquids; safety of devices in terms of their ability to prevent accidental burns, explosions and spillage; good manufacturing practice; purity and grade of nicotine; registration of products; a testing regime to confirm product safety and contents; 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.

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

16. In addition to the controls identified in paragraph 11, we suggest that the following measures are necessary if e-cigarettes are to be made available: licensing of e-liquid suppliers/producers to facilitate monitoring; appropriate pharmacogivilance to detect unforeseen health consequences; controls around the components of e-liquids (eg, butyric acid has the potential for lung toxicity if vaped in large doses); further research with respect to the use of e-cigarettes as a form of nicotine replacement therapy; further research with respect to associations between the uptake of e-cigarettes and the incidence of cigarette smoking and of new cigarette smokers, alongside population risks of cumulative vaping.

17. Finally, given that evidence on the potential benefits and harms of e-cigarettes is still equivocal, but is emerging at a rapid rate, we recommend that any regulatory arrangements are subject to ongoing and comprehensive review of all evidence, including outcomes in terms of the impacts on tobacco smoking rates. It is vital to ensure that the government retains the flexibility to implement more stringent measures to control the availability of e-cigarettes should future evidence emerge of harm.

We hope that our feedback has been helpful and look forward to learning the outcome of this consultation.

Yours sincerely

[redacted]

**Consultation submission 203 – New Zealand Self Medication Industry Association**

|  |  |
| --- | --- |
| **Your details**  This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: | New Zealand Self Medication Industry Association |
| 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)*: Trade organisation representing the vast majority of developers, manufacturers, importers and distributors of non-prescription over-the-counter health products and medical devices, and complimentary medicine supplements

*(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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**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  No

Reasons/additional comments:

|  |
| --- |
| NZSMI believes that the appropriate control for e-cigarettes containing nicotine or making any therapeutic claim should be that registration is required. If no therapeutic claim is made then the sale and marketing of e-cigarettes should be handled in the same way and with the same restriction as tobacco containing 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  No

Reasons/additional comments:

|  |
| --- |
| All nicotine containing products including patches, gum, nasal sprays and inhalers should require registration. If future research indicates nicotine containing e-cigarettes can effectively reduce tobacco smoking and the health dangers associated with it, any product marketed as an aid to reducing nicotine addiction and tobacco smoking should be similarly regulated. |

**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:

|  |
| --- |
| NZSMI is concerned to see that all nicotine containing products are not made available to children and that current prevention legislation and enforcement is not effectively reducing access to nicotine by minors. To our knowledge there are no known therapeutic benefits to the use of nicotine but it is toxic and potentially fatal in relative low doses of concentrated form. |

**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:

|  |
| --- |
| NZSMI is concerned there is very little research into the value or harm of vaping; in particular the use of active ingredients like nicotine. NZSMI recommends a cautious regulated approach to ensure the protection of people’s health in the face of these unknowns and advertising should be regulated where therapeutic claims are made in a similar way to therapeutic products and all vaping products that make no therapeutic claim should be advertising regulated as currently exists for tobacco 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:

|  |
| --- |
| There appears to be no research into the harmful effects or otherwise of vaping on passive smokers. |

**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 |  |  | Where products contain active ingredients or make therapeutic claims appropriate warnings of effects and side effects and potential overdose should be clearly displayed. |
| Prohibition on displaying products in sales outlets |  |  | Given nicotine has no therapeutic benefit there is no merit in allowing products to be displayed unless they are specifically marketed as a tobacco smoking cessation aid |
| Restriction on use of vending machines |  |  | Given that nicotine is toxic, poisonous and addictive nicotine containing e-cigarettes should not be available from vending machines as education and control on age restriction will be impossible |
| Requirement to provide annual returns on sales data |  |  | All vendors of e-cigarettes containing nicotine or any substance making a therapeutic claim need to be required to provide sales data to help ascertain the benefit, risk and uptake of this new delivery system, given that very little research or risk/benefit analysis is currently available. |
| Requirement to disclose product content and composition |  |  | ALL e-cigarette vials should be required to state contents and composition regardless of whether they make therapeutic claims or not. |
| Regulations concerning ingredients (e.g., nicotine content and/or flavours) |  |  | NZSMI believes any e-cigarette containing nicotine or any other active ingredient around which therapeutic claims are made should be regulated and registered and e-cigarettes not making any therapeutic claim should be subject to the current restrictions applying to tobacco cigarettes. |
| Requirement for annual testing of product composition |  |  | NZSMI believes annual testing is desirable in any product making a therapeutic claim. |
| Prohibition on free distribution and awards associated with sales |  |  | Free sampling of nicotine containing products should not be allowed and sampling of e-cigarettes making any therapeutic claim should be subject to the same regulations that currently exist for registered therapeutic products. |
| Prohibition on discounting |  |  | Discounting of e-cigarettes not making any therapeutic claim should be allowed. |
| Prohibition on advertising and sponsorship |  |  | Advertising and promotion of products designed to reduce tobacco cigarette smoking should be allowed along the same regulations as other nicotine replacement therapies |
| Requirement for standardised packaging |  |  |  |
| Other |  |  | NZSMI is concerned about the poisoning risks associated with concentrated e-liquid vaping vials |

**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:

|  |
| --- |
| NZSMI is concerned the free availability of nicotine containing products will lead to a substantial overall increase in nicotine consumption. Given there is no recorded therapeutic benefit of nicotine , substantial disincentives need to be applied to nicotine e-liquid until research has concluded there are no side effects to its’ use. NZSMI welcomes the availability of nicotine e-liquid to those wishing to overcome tobacco addiction and variable tax structures may be useful to support the use of e-cigarettes in a quit-smoking or harm reduction campaign. |

**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 |  |  | Swallowing nicotine e-liquid in quantity could be fatal |
| Safe disposal of e‑cigarette devices and liquids |  |  |  |
| Ability of device to prevent accidents |  |  |  |
| Good manufacturing practice |  |  | Regulations for nicotine e-cigarettes should be the same as other registered products |
| Purity and grade of nicotine |  |  | Regulations for nicotine e-cigarettes should be the same as other registered products |
| Registration of products |  |  | Any e-cigarette containing nicotine or making a therapeutic claim should be required to be registered |
| 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 |  |  | Considerable research needs to be done to ascertain what are safe and unsafe dose levels of nicotine containing e-cigarettes and until such research is available patient safety should be uppermost, with caution and conservatism being displayed in the early days of regulation |
| Mixing of e-liquids at (or before) point of sale |  |  |  |
| Other |  |  |  |

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

|  |
| --- |
| NZSMI supports Government policy on reducing rates of smoking in New Zealand.  ·NZSMI supports the current status that it is illegal to sell an e-cigarette (with or without nicotine) that claims to help smokers quit, or an e-cigarette that looks like a tobacco product (or smoker’s pipe) to a person under 18 years of age.  · NZSMI supports the Ministry of Health’s position that at this time there is insufficient evidence to be able to recommend e-cigarettes as an aid to quit smoking. Smokers should continue to use approved smoking cessation aids such as patches, lozenges and gum.  · NZSMI believes any e-cigarette product that makes a therapeutic claim should be subject to approval as a therapeutic product whether it contains nicotine or any other ingredient.  · NZSMI believes it is essential that any future regulation of e-cigarettes containing nicotine covers at least these three areas: **(1)** the delivery device **(2)** the container/cartridge/reservoir, and **(3)** the route of administration.  ·  Devices, parts, and cartridges should be required to meet the same manufacturing standards as NRT products.It is worth considering e-cigarettes should be classed as medical devices and regulated accordingly.  ·  E-cigarettes containing nicotine, or any other active ingredient, should be subject to the same ingredient labelling requirements as therapeutic products. They should be regulated consistently with other therapeutic products, with specified active and inactive ingredients declared on the label.  · NZSMI believes, in addition to appropriate labelling, child-resistant packaging must be mandatory.  · The sale of bottled e-liquid containing nicotine to consumers should be highly restricted to avoid the risk of overdose and poisoning – at least until research can confirm if there is any benefit to e-cigarette use.  ·  Product naming and advertising should be strictly controlled to avoid promotion of e-cigarettes, and the (re)glamorisation of smoking, especially among children and adolescents.  NZSMI acknowledges the likely benefit of e-cigarettes to tobacco smokers wishing to beat their addiction or looking to reduce the harmful effects of tobacco smoking and believes wise legislation and education are required to allow this if e-cigarette research indicates this is indeed the case.  However, NZSMI is also concerned that a less than conservative approach **initially** to the availability of nicotine containing e-cigarettes could lead to the establishment of a new substantial addicted market before research has concluded if long term use of nicotine vaping is harmful. It has taken over fifty years to overcome the denial by the tobacco industry of the dangers of cigarette smoking. There is a risk that we reset the denial clock in the absence of research into the benefits, risks, effects, side effects and holistic costs of e-cigarette use and this risk will grow if the market and use expands explosively.  Accordingly NZSMI submits that quite high levels of regulation are sensible and desirable initially to protect the health of New Zealanders until research can ascertain whether relaxation is desirable and warranted |

**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.**

|  |
| --- |
| Vaping is a relatively new phenomena and very little research exists to show the value and/or dangers of its use. Vaporisers could become a more widely used drug delivery system for therapeutic products, not restricted to but especially those associated with the upper respiratory tract. Controlled scientific development and research will be necessary to ascertain efficacy and safety. NZSMI membership includes therapeutic product manufacturers, importers and distributors and a new market may exist when safety has been verified. |

**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 204 – Active West Coast**

|  |  |
| --- | --- |
| **Your details**  This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: | Active West Coast |
| 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)*: Regional Health Network

*(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.

|  |
| --- |
| Active West Coast has no links to, nor do we 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**.

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**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 for supply as a quitting tool.

No for sale on the market.

|  |
| --- |
| AWC is aware nicotine e-cigarettes are already available and used within New Zealand. However we consider that current availability is not sufficient reason to permit availability of a product that has potential to harm, more especially when the development and marketing of these products is moving increasingly into the hands of the tobacco industry; a proven irresponsible and self-interested global industry.  Currently there appears to be an issue of where e-cigarettes sit with respect to the current regulatory framework. On the one hand products that contain nicotine are highly regulated but on the other it appears enforcement with respect to e-cigarettes, and some other products, is challenging. AWC acknowledges that new regulation may be a case of closing the gate after the horse has bolted. However, as precedent has been set recently with respect to the availability and then regulation of other psychoactive substances under the Psychoactive Substances Act 2013, it is not impossible to establish an environment that would prevent uptake, use and marketing of new method/s of delivering an addictive product that also contributes to the development of cancer.  As stated in the consultation document there is some evidence that e-cigarettes are less harmful to health than smoked tobacco and they also have the potential to help smokers quit smoking. However the consultation document also states there is not enough data to confidently recommend these (e-cigarettes) as a smoking cessation tool. Furthermore while there is evidence of no serious adverse effects of short-to-mid-term e-cigarette use there has been insufficient time in which to assess the effects of long-term use.  Unfortunately as this information will only become available over time, there is potential to open a can of worms if nicotine e-cigarettes are available for sale, even in a regulated market. AWC therefore believes that an extremely cautious approach needs to be taken with respect to the sale and supply of nicotine e-cigarettes and other products.  The harm from tobacco has impacted disproportionately on specific sectors of our society. Indeed the industry has acknowledged they market their product to ‘the young, the poor, the black and the stupid’. While initial research indicates that switching to e-cigarettes is less harmful than smoking, AWC does not support New Zealand citizens becoming yet another research cohort for another product that is increasingly operated by Big Tobacco.  There is evidence that Big Tobacco already has designs on switching smokers to vaping to ensure their product continues to be profitable. “Our goal for Japan is to switch every consumer we have to this (vaping),” said Paul Riley, who joined Philip Morris in Sydney in 1988 and became its Japan unit’s president last September. “For me, it’s like a no-brainer. The biggest thing is we know that smoking kills. If we’ve got an alternative to that, that’s a pretty good reason to switch.”  Japan Tobacco playing catchup as nation takes to vaping in big way  <http://www.japantimes.co.jp/news/2016/08/31/national/japan-tobacco-playing-catchup-nation-takes-vaping-big-way/#.V85XYdJf2pt>  While his justification appears to be one of harm minimisation the increasing interest the tobacco industry has in electronic cigarettes should be a warning beacon to decision makers. It appears the industry is hoping for a cultural shift towards a new norm of e-cigarette use.  Conclusion:  We accept that there may be justification for their supply as a support mechanism for people who have decided to quit smoking, especially if the product is used for a limited amount of time within the quitter’s journey.  However we do not support the idea that these products should be available for sale on the market, even within a regulated environment, until, at the very least, their safety has been proven with respect to long-term use. |

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

Yes

Reasons/additional comments:

|  |
| --- |
| :E-shisha & Chewing Tobacco (snus)  Also it must be assumed that the industry will continue to support development of nicotine- delivery products to ensure their continued place in the market, for example the ‘heat not burn’ products currently marketed by Phillip Morris.  AWC believes any new regulation should make provision for regulation of other, yet-to-be developed nicotine-delivery products. This would send a message that New Zealand is determined to continue to decrease the harm from nicotine products. |

**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

Reasons/additional comments:

|  |
| --- |
| Should e-cigarettes become available on the local market AWC agrees they should be prohibited from supply to people under 18 years of age as a means to preventing e-cigarettes from becoming a gate-way to smoking uptake. |

**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

Reasons/additional comments:

|  |
| --- |
| Advertising and other marketing has been, and continues to be, a significant tool to promote uptake of tobacco. Controls on advertising, and other marketing, may help prevent uptake of e-cigarettes, especially among non-smokers of all ages.  However, information regarding the use of e-cigarettes as a tool to quitting should be available via cessation service providers. |

**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

Reasons/additional comments:

|  |
| --- |
| AWC believes it is important to regulate where e-cigarettes can be used, especially as the risks of second hand vaping are unknown. We agree that vaping should be prohibited from designated smokefree areas in line with the SFEA. |

**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 |  | It should be highlighted that the long-term health effects of e-cigarettes are unknown. |
| Prohibition on displaying products in sales outlets | X |  | For consistency with current regulation for tobacco products. |
| Restriction on use of vending machines | X |  | For consistency with current regulation for tobacco products. |
| Requirement to provide annual returns on sales data | X |  | To assist with research and future policy. |
| Requirement to disclose product content and composition | X |  | To inform consumers and potential consumers. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | X |  | Especially with respect to nicotine levels to prevent the risk of poisoning. |
| Requirement for annual testing of product composition | X |  | This should be done by independent testers but at the expense of the manufacturers and or distributors. |
| Prohibition on free distribution and awards associated with sales | X |  | For consistency with current regulation for tobacco products. |
| Prohibition on discounting | X |  | For consistency with current regulation for tobacco products. |
| Prohibition on advertising and sponsorship | X |  | For consistency with current regulation for tobacco products. |
| Requirement for standardised packaging | X |  | To be consistent with the intent of current regulation for tobacco products. To prevent packages being used as a marketing tool. |
| 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

Reasons/additional comments:

|  |
| --- |
| If available for sale on the market AWC endorses the need for some form of excise or excise-equivalent duty on nicotine e-liquid as price has been shown to be a tobacco control tool. However we would support the lifting of the ‘tax’ if the product was being used as a quitting tool available through cessation services. |

**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 | X |  | To protect children’s safety. |
| Safe disposal of e‑cigarette devices and liquids | X |  | To ensure safe disposal of these products, protect the environment and prevent the products from being strewn onto our streets and/or picked up by children. AWC would like to see regulation making safe disposal of e-cigarette devices and liquids the responsibility of the manufacturers and/or distributors. |
| Ability of device to prevent accidents | X |  | To ensure safety |
| Good manufacturing practice | X |  | As a quality control measure |
| Purity and grade of nicotine | X |  | As a quality control measure |
| Registration of products | X |  | As a quality control measure and a research tool. |
| A testing regime to confirm product safety and contents purity | X |  | To ensure safety and quality control. |
| 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?**

|  |
| --- |
| As research with respect to e-cigarettes is developing rapidly AWC suggests that any regulation is subject to ongoing review. We would also like to see the licensing of retail outlets for both tobacco products and e-cigarettes to enable accurate monitoring and data collection to inform future policy and interventions regarding nicotine 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)?**

|  |
| --- |
|  |

**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 205 – Individual**

From [redacted]

[redacted]

[redacted]

I am not associated with, nor do I represent, any group or organisation. I have no link to, nor am I paid by, the Tobacco industry – other than having been a former user of tobacco.

I currently use e-cigarettes as a means of my stopping smoking, having tried simple abstinence, nicotine gum & patches in unsuccessful attempts to quit smoking in the past.

In the 3 years I’ve been vaping I have noticed a gradual improvement in my health. This, I believe, is due entirely to my stopping smoking. I have also used e-cigarettes to reduce the nicotine content of the ‘juices’ I use. I started at 18mg/ml, and now use 1mg/ml.

**Privacy**

I am happy to have to my submission published. Please remove my personal details from responses to Official Information Act requests.

**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, I do. I strongly believe that these items should be sold legally in NZ. Appropriate controls are a must also.

**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. I am aware of other delivery devices, inhalers and suchlike. I know a lot about e-cigs – I have researched them extensively. I’ve found them extremely effective so haven’t looked at other options in detail.

**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

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

No. Vaping is a mystery to many smokers who could benefit from the technology. Restricting advertising, I believe, will keep vaping ‘in the dark’.

**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

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

**Requirement for graphic health warnings –** No. If vaping presents a significantly better option, healthwise, to smoking then surely smokers must be encouraged to make the change. Graphic health warnings will not help this.

**Prohibition on displaying products in sales outlets** - No

**Restriction on use of vending machines** - No

**Requirement to provide annual returns on sales data** - Unsure

**Requirement to disclose product content and composition** - Yes

**Regulations concerning ingredients (eg, nicotine content and/or flavours)** - Yes

**Requirement for annual testing of product composition** - Yes

**Prohibition on free distribution and awards associated with sales -** Yes, but only as far products that actually contain nicotine.

**Prohibition on discounting** – No

**Prohibition on advertising and sponsorship** – No

**Requirement for standardised packaging** – No

**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?**

I strongly believe that the only tax that should be applied to ANY tobacco product (aside from GST) is the amount required to meet the public health needs of nicotine users, full stop.

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

Yes

**Childproof containers** – Yes

**Safe disposal of e‑cigarette devices and liquids** – Yes

**Ability of device to prevent accidents –** No. This is a slippery slope. All e-cigs present some danger, and the user must inform themselves as to how to correctly use any given device. Also, I note that e-cig retailers go to significant lengths to point out devices that require caution.

**Good manufacturing practice –** No, this is self regulating (poor manufacturers won’t remain manufacturers for long), and we already have considerable consumer protection in any case.

**Purity and grade of nicotine –** No, strength and accurate product ingredient listings already deal with this issue.

**Registration of products –** No

**A testing regime to confirm product safety and contents purity** – Yes, but this should not be made an expensive impediment to new products & product development .

**Maximum allowable volume of e-liquid in retail sales** – No

**Maximum concentration of nicotine e-liquid –** No

**Mixing of e-liquids at (or before) point of sale –** Yes

**Q9 –** No additional commment

**Consultation submission 206 – Individual**

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

X Other sector(s) *(please specify)*: Consumer

*(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**

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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**

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|  |
| --- |
| I have no direct or indirect 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 X No

Reasons/additional comments:

|  |  |
| --- | --- |
| The Ministry of Health should follow the advice from Public Health England and The Royal College of Physicians and encourage smokers to switch to less harmful vaping products.  Some submissions about this subject may assert that people who use personal vaporisers are less likely to quit smoking than those who do not. This assertion was based on a flawed meta-analysis undertaken in the USA which was subsequently debunked by many subject matter experts therefore, no real conclusions can be ascertained from this analysis and its conclusions should be ignored (see link below for one example).    <http://www.clivebates.com/?p=3560>  Likewise, some submissions about this subject may assert that there is little evidence that people who use personal vaporisers quit smoking at any great rate due to most of the studies being conducted on convenience samples of vapers. However, evidence of people quitting smoking using these devices does continue to grow. Recently, scientists from the university of Patras-Greece, Onassis Cardiac Surgery Centre-Greece, and the French National Institute for Health and Medical Research analysed the data from the 2014 Eurobarometer on smoking and the use of personal vaporisers. They found that among the current 27460 vapers surveyed, that 35.1% had quit smoking and 32.2% had reduced their cigarette consumption. (<http://www.ncbi.nlm.nih.gov/pubmed/27338716>) They also found that use by non-smokers was minimal. The Eurobarometer is a survey performed by the European Commission which enrolled a large number of Europeans representative of the European Union so it can be generalised to the population. This means that 6.1 million Europeans have completely quit smoking by using personal vaporisers. |  |

**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:

|  |
| --- |
| Snus. The availability of Snus in Sweden has reduced the Swedish smoking rate to the lowest in the EU. Sweden also has the lowest mortality rate due to tobacco related diseases in the EU  http://tobaccoinduceddiseases.biomedcentral.com/articles/10.1186/1617-9625-12-14 |

**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:

|  |
| --- |
| Whilst prohibiting the sale to those under 18 may seem sensible in order to keep personal vaporises out of the hands of young people the fact is that some young people smoke cigarettes. Should these young smokers be denied harm reduction and an effective way to stop smoking? Maybe some sort of exemption can be made so that young smokers are able to access vaping 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 X

Reasons/additional comments:

|  |
| --- |
| Advertising should be allowed as per the regulations surrounding R18 products. Some submissions received by the Ministry may contain examples of tobacco company advertisements for vapour products which emphasise glamor or ‘you can smoke anywhere’ messages. These advertisements look much like the cigarette advertisements of old. Unfortunately, the tobacco industry has been given little other option for advertising these safer products due to restrictions made by other governments whereby they cannot by advertised for cessation or as a safer alternative to combustible cigarettes. I believe that this type of advertising would not be condoned by the New Zealand vaping community, but responsible, factual advertising would. |

**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:

|  |
| --- |
| The Ministry of Health should heed the advice of Public Health England and not force vapers outside into smoking areas. Making ex-smokers vape in smoking areas is much like holding an AA meeting in a pub. Furthermore, vaping needs to be a much more attractive option for smokers to encourage them to switch.  The decision to allow or disallow vaping should be left to individual companies and organisations however, they should be encouraged to allow vaping unless there are very good reasons not to, as per the recommendations from Public Health England.   * <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534586/PHE-advice-on-use-of-e-cigarettes-in-public-places-and-workplaces>.   Some submissions about this subject may assert that there is not enough evidence about what is in the vapour and that it may harm others. This has been extensively studied and no evidence has been found of any harmful chemicals in the vapour and ambient air at a level that would harm bystanders. Two such studies are linked below for your perusal.  <http://bmcpublichealth.biomedcentral.com/articles/10.1186/1471-2458-14-18>  <http://www.ncbi.nlm.nih.gov/pubmed/23033998> |

**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 | Given the relative safety of these products there is no need. Smokers and the general public should not be misled about unproven health effects |
| Prohibition on displaying products in sales outlets |  | X | It is helpful for new vapers to be able to see and handle products. These are not tobacco products that need to be hidden |
| Restriction on use of vending machines |  | X | Vending machine sale should be allowed in R18 establishments |
| 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 | These are not tobacco products and it is useful for vapers to be able to sample liquids freely. Flavour profiles of the e-liquid are an important feature for a lot of vapours and being able to taste before purchase is helpful |
| Prohibition on discounting |  | X | These are not tobacco products. They should be made as attractive as possible to encourage smokers to switch |
| Prohibition on advertising and sponsorship |  | X | Advertising and sponsorship may make smokers consider switching |
| Requirement for standardised packaging |  | X | These are not tobacco products and should be made as appealing as possible to encourage smokers to use them |
| 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:

|  |
| --- |
| Extra taxes on tobacco are in part justified by the cost of smoking to the health system, such costs are not expected to arise from vaping. A tax would imply to smokers and the public that there is some danger or health hazard from the use of vaporisers which does not exist. It would send the wrong message. |

**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 | Battery disposal is already covered by Council waste services, nothing else requires special disposal |
| Ability of device to prevent accidents |  |  |  |
| Good manufacturing practice |  |  |  |
| 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 | If this is about container size, small containers are less environmentally friendly. Small containers are also difficult to handle for many people with disabilities. If this question is about the total volume that can be bought at one time then a limit would be a disadvantage to rural dwellers. There is no restriction on how many packets of cigarettes someone can buy on any one occasion |
| 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?**

|  |
| --- |
| All vaping products should be made available in New Zealand for long term use by those who wish to continue vaping to remain abstinent from combustible cigarettes.  Some submissions made to the Ministry may assert that vaping products should be sold in pharmacies and (possibly) specialist vape shops only and that vape shop employees should be trained in smoking cessation. I have personally, over the course of many years, purchased NRT from numerous pharmacies and I have **never** received any smoking cessation advice, so training vape shop employees seems to be an unnecessary burden. An attempt to medicalise vaping products by making them pharmacy items is likely to make them less attractive to smokers and would imply a degree of dangerousness to smokers and the general public. Furthermore, the percentage mark-up on goods sold in pharmacies is high and would create an extra barrier for smokers who want to switch to vaping.  I would like to assert that vaping products should available anywhere one can purchase cigarettes, and be available to purchase in any small town in New Zealand. If the Ministry is unwilling to allow the sale of vaping products in any supermarket or convenience store that wishes to sell these items (which would be in-line with the current situation in the USA and UK), it should consider venues such as liquor stores and petrol stations which are predominantly frequented by adults.  Many people have asserted that children and young people will take up vaping in large numbers and then progress to smoking cigarettes. There is no evidence of large numbers of children and young people taking up vaping (the few who do are largely smokers).  <http://www.ncbi.nlm.nih.gov/pubmed/26250882>  There is also no evidence that a so called ‘gateway effect’ occurs whereby non-smokers start vaping and progress to smoking. Most electronic cigarette use by young people does not involve nicotine. Therefore, there is no potential for an addiction to be created.  <http://tobaccocontrol.bmj.com/content/early/2016/07/21/tobaccocontrol-2016-053014.full>  Whilst it is true that there have been no long term studies (50+ years) regarding the use of electronic cigarettes due to the newness of these devices, there is a growing body of evidence that suggests negative effects of use in the long term are unlikely. A recently published longitudinal study which analysed the biomarkers of smokers who switched to vaping found significant drops, similar to what occurs in smokers who stop smoking cold turkey.  <http://ntr.oxfordjournals.org/content/early/2016/08/16/ntr.ntw160>  Stable, long term improvements in asthma symptoms have been found in smokers who switch to electronic cigarettes which demonstrates a significant level of harm reversal.  <http://www.discoverymedicine.com/Riccardo-Polosa/2016/02/persisting-long-term-benefits-of-smoking-abstinence-and-reduction-in-asthmatic-smokers-who-have-switched-to-electronic-cigarettes/>  “If we could get all of those people [who smoke] to completely switch all of their cigarettes to non-combustible cigarettes, it would be good for public health.” – Mitch Zeller, Director, Center for Tobacco Products, FDA. |

**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?** |
| 28 months | daily | don’t know | import |

**Consultation submission 207 – Individual**

|  |  |
| --- | --- |
| * + 1. **Your details**  1. This submission was completed by: *(name)* | 1. [redacted] |
| 1. Address: *(street/box number)* | [redacted] |
| 1. *(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)*: I am an ex-smoker who was able to switch fully to vaping products. I work in a paid role as the administrator for an association of independently owned vaping product retailers.

However, my submission is made on a personal basis as a consumer and does not reflect the views or opinions of the association I work for or any of its directors or members, none of whom hold any business interests in the New Zealand market.

*(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.

|  |
| --- |
| I have no vested interests with any tobacco company. |

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**

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:

|  |
| --- |
| First and foremost, there are no ethical grounds on which to continue to prohibit access to safer products while a more harmful alternative product is freely available. It should not be in any government's remit to prohibit a citizen from choosing a safer product over a more harmful one.  In the case of vaping products such as e-cigarette devices and e-liquids, to not allow their sale directly protects the incumbent tobacco cigarette trade.  Public Health England, in its 2015 landmark evidence review, stated that ''While vaping may not be 100% safe, most of the chemicals causing smoking - related disease are absent and the chemicals which are present pose limited danger. It has been previously estimated that EC are around 95% safer than smoking. This appears to remain a reasonable estimate.''  The use of these safer products is displacing the smoking of lit tobacco, and as they present such an opportunity, should be treated with light touch and proportionate regulation. |

**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:

|  |
| --- |
| Vaping products are primarily used by current adult smokers. There is hardly any evidence that under 18s are using the products for any prolongued length of time, beyond what could be described as usual youth experimentation. There is to date no evidence that vaping acts as a gateway to tobacco smoking.  There is however evidence that most current smokers started before they were 18, and as such, while the government may have population level controls in its sights, individual's concerns should also be considered.  The majority of the legitimate industry retailers worlwide all support restrictions on the sale to those under 18. There is however one aspect of this that should be considered: If a parent or guardian of an under age smoker finds that they cannot quit by any other means, the decision to purchase a vaping device should remain with them and may not a matter for either industry or government to decide. |

**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:

|  |
| --- |
| There are two points to be made within one question here; whether advertising controls should be exactly the same for vaping products as it is for tobacco products, and whether there should be control of advertising of vaping products at all.  In order to maximize the number of smokers who switch to these less harmful products, advertising for vaping products must be allowed, and manufacturers and retailers must be allowed to communicate the relative risks of both product catagories. Otherwise, how would a smoker to be aware that choosing a vaping product is a better/safer option to consume nicotine, and how are they to know where they can buy one and what types, brands etc., are available?  New Zealand has a unique opportunity to avoid the mistakes which other juristictions have made in this regard. Controls on advertising should be limited to not advertising directly to children, no misleading claims made about the product, and that advertising must be socially responsible. |

**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:

|  |
| --- |
| There are no grounds on which to prohibit vaping in the same way as smoking is prohibited in such areas. This is an over reach of policy and negates the rights of businesses and property owners to decide for themselves if the wish to allow vaping.  It also risks sending out the wrong signals to smokers on the relative risk of smoking versus vaping, and misinforms the public and property owners that the risks of harm from both product catagories are the same.  Public Health England has recently written a guide to policy making in this regard and it should be considered: ''Use of e-cigarettes in public places and workplaces'' ([link](https://www.gov.uk/government/publications/use-of-e-cigarettes-in-public-places-and-workplaces)) |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Control** | 1. **Yes** | 1. **No** | **Reasons/ additional comments** |
| Requirement for graphic health warnings |  |  | There are no grounds on which to do this. Vaping does not represent the same health risks to the user as smoking. Because the public heath goals of advancing the use of safer products should be at the forefront of policy outcomes, it would be preferable to communicate an accurate relative risk message, such as ''These products have been found to be at least 95% safer than smoking tobacoo'' alongside informational safety statements such as ''keep out of the reach of children and pets''. |
| Prohibition on displaying products in sales outlets |  |  | There are no grounds on which to do this. In order for a consumer to be able to choose a product they might never have encountered before (especially if they are a current smoker purchasing for the first time, for instance) they need to be able to see, handle, and try the product. This is an over reach of policy and removes the rights of businesses to decide how they merchandise their own business. It also risks consumers not being able to choose the right device or product to satisfy their needs. |
| Restriction on use of vending machines |  |  | Vending machines may be restricted to adult orientated locations such as bars or clubs, or may be useful to adult consumers in rural retail locations. Age restrictions could be applied to vending machines, ie, a token system whereby the customer must provide age verification to the proprieter of the premesis before being issued with a token they then use in the machine. |
| Requirement to provide annual returns on sales data |  |  | This would only be a costly and beurocratic burden on suppliers. It is not clear why this would be required, or what use would be made of this information. |
| Requirement to disclose product content and composition |  |  | Yes and no; an ingredient list denoting the nicotine content, ratio of diluents and whether the product contains flavourings should be sufficient for consumer assurance. Exact 'recipes' of liquids may be over reaching into commercially sensitive information and there are no grounds on which manufacturers should be required to disclose this. See below for more on this question) |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | Flavours represent one of the more important aspects of this products' appeal to interest a smoker initially, and which subsequently keeps them using the product instead of returning to smoking.  Some compounds used in flavourings may need to be avoided or have threshold limits. There are recognised standards available which should be considered – AFNOR (France) and BSI (UK). |
| Requirement for annual testing of product composition |  |  | It has not been made clear why this would be required. There seems little ground on which to make manufacturers go through this cost burden annually, bar random batch testing which would be the norm as part of maufacturing good practice. |
| Prohibition on free distribution and awards associated with sales |  |  | This would be policy over reach into market interference and removes the right of individual businesses to do what any other consumer product business would do.  These are things that often attract a smoker into trying a vaping product for the first time, and as such the negative consequences should be fully considered. |
| Prohibition on discounting |  |  | See above. |
| Prohibition on advertising and sponsorship |  |  | here are no grounds on which to do this. Advertising and sponsorship is likely to have the effect of more smokers making the switch to these safer products. |
| Requirement for standardised packaging |  |  | There are no grounds on whch to do this. |
| 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:

|  |
| --- |
| There are no grounds on which to impose an excise-equivalent duty on e-liquid. First and foremost, the two catagories of products are not the same and do not present the same level of risk.  E-cigarettes present an opportunity to improve the health of smokers by displacing their habit for something which presents just a tiny fraction of the harm. However, there is a risk that a tobacco-like tax on these products creates the false view that there is equal harm, and so to smokers, it makes no difference if they continue to smoke or switch to vaping.  There is also the risk of current smokers, who would otherwise have switched (especially populations on lower incomes where smoking rates tend to be higher), deciding not to do so on cost grounds.  The cost of applying and collecting such a tax should be weighed against the public health gains that the displacement of smoking presents, especially as a tax such as this risks consumers purchasing from outside the local market.  Moreover, there may even be a case for reducing the current sales tax to make the product more cost attractive to current smokers. |

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

Yes  No

Additional comments:

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | 1. **Yes** | 1. **No** | **Reasons/additional comments** |
| Childproof containers |  |  | There has been an international standard adopted by the majority of the industry already, so that should be sufficient : ISO 8317:2003 |
| Safe disposal of e‑cigarette devices and liquids |  |  | Safe disposal/recycling of electrical and battery waste should be sufficient. |
| Ability of device to prevent accidents |  |  | Existing standards in this area should be considered, eg AFNOR (France) Standard on electronic cigarettes – XP D90-300-1 |
| Good manufacturing practice |  |  | Traceability of raw materials and an international standard such as ISO 9001:2008 would be appropriate. |
| Purity and grade of nicotine |  |  | Nicotine should be of pharmaceutical grade, a practice which has already been adopted by the industry. |
| Registration of products |  |  | A registration system would be costly not only for a regulatory body to set up and maintain, but also for smaller companies. There is no reason given for why this would be required, or what use would be made of this information. |
| A testing regime to confirm product safety and contents purity |  |  |  |
| Maximum allowable volume of e-liquid in retail sales |  |  | This would be policy over reach into market interference. Other consumer products are sold in much larger quantities (eg. Household cleaners etc) with adequate controls such as child resistant caps. |
| Maximum concentration of nicotine e-liquid |  |  | New Zealand has the opportunity to advoid the mistakes other jusristictions have made in this regard. Higher nicotine levels in e-liquids are needed to satisfy heavier smokers and allow them to sussesfully switch to a safer delivery system. Placing controls on nicotine content would be a policy over reach that may have negative consequences on future product innovation |
| Mixing of e-liquids at (or before) point of sale |  |  |  |
| Other |  |  |  |

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

|  |
| --- |
| Controls over the market of vaping products should be minimal and balanced to serve the needs of consumer safety, public health gains as smokers switch to safer products, and allowing independent companies to compete in an emerging market where the cost and burden regulatory compliance may favour the incumbent (eg the tobacco industry).  New Zealand has the unique opportunity to design such a policy framework from scratch, and as such, all consequences should be carefully considered in advance. |

**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?**

|  |  |  |  |
| --- | --- | --- | --- |
| 1. **How long have you been using them?** | 1. **How often do you use them?** | 1. **How much do you spend on them per week?** | 1. **Where do you buy them?** |
|  |  |  |  |

**Consultation submission 208 – Individual**

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

*(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**

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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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|  |
| --- |
| Nil |

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 x No

Reasons/additional comments:

|  |
| --- |
| Allowing nicotine e-cigarettes and nicotine liquids to be sold and therefore potentially manufactured in New Zealand will not only reduce costs to current users having to import from overseas but allow more control as to the composition of the liquids themselves. The growing number of overseas suppliers could lead to a lack of quality control from a health and safety point of view. |

**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:

|  |
| --- |
| Not familiar with other products. |

**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:

|  |
| --- |
| These liquids and devices are primarily designed to aid existing smokers to give up traditional cigarettes. They should not create a market that attracts younger people towards them and potential nicotine addiction. This area needs to be tightly enforced with offending vendors fined is as much the same way as for underage tobacco sales. |

**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:

|  |
| --- |
| For much the same reasons as above. However online advertising should be allowed. Following further studies that support the fact that these devices aid smokers giving up traditional cigarettes, this could be reviewed. |

**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:

|  |
| --- |
| Even though I believe that the effects of vaping and second hand vape to be far less significant than cigarette smoke, until in depth studies conclude that there is no risk, New Zealand should apply the same rules to vaping as smoking in public places. Smokers have long accepted this and with 99% of vapers being ex smokers, there is no burden. |

**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 | Lack of medical evidence proving harmful effects. If these should contain warnings, so should soft drink. |
| Prohibition on displaying products in sales outlets | x |  | Only if these products are allowed to be sold in supermarkets, petrol stations and dairies. Vape stores should be allowed to advertise their products. |
| Restriction on use of vending machines | x |  | Not required with the current availiability online and in specialised stores. |
| Requirement to provide annual returns on sales data | x |  | I believe that this can contribute when compared to the sales data from conventional cigarettes. Any trends can be analysed and acted upon in future. |
| Requirement to disclose product content and composition | x |  | As mentioned earlier, this would be achievable if NZ stores could legally sell and manufacture e-juice. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | x |  | A maximum permissable nicotine content and quality of propylene glycol and vegetable glycerin would help consumers. |
| Requirement for annual testing of product composition |  | x | Not necessarliy a requirement but certiainly random inspections or control tests could be implemented. For example, as a previous bar owner in europe, officials would come and randomly check that the percentage alcohol we were selling matched the labels. |
| Prohibition on free distribution and awards associated with sales |  | x | The quicker New Zealand adopts e-cigarettes and promotes them the faster we will be smoke free. This includes providing incentives for small business owners to make the switch from tobacco to nicotine juice etc. |
| Prohibition on discounting |  | x | As above. Also a massive reason for smokers to change over to vaping is the potential savings when compared to cigarette smoking. This could have huge benefits to current smokers from lower socio economic areas. |
| Prohibition on advertising and sponsorship |  | x | Only in so far as tobacco advertising is currently controlled. |
| Requirement for standardised packaging |  | x | Not standardised, but a minimum standard. |
| 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:

|  |
| --- |
| At the moment, the main goal for New Zealand has to be to stop people smoking traditional cigarettes. Having a safer alternative that is currently a lot cheaper, is part of the solution. I believe that if after a period of time i.e. 10 years, it can be seen that smoking as we now know it has practially ceased in New Zealand, then a tax may be imposed. Now is not the time to make this prohibitively expensive as there will be no added incentive to make the switch. |

**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 |  | I am yet to buy a container that has not been child proofed in the same way that cough medicine containers are. |
| Safe disposal of e‑cigarette devices and liquids |  | x | Unless there is evidence that these liquids are causing environmental hazards, no more than a recycling label should be imposed. |
| Ability of device to prevent accidents | x |  | Some form of added safety factor would be a good idea, however current devices tend to have in built safety. |
| Good manufacturing practice | x |  | As above. This is where allowing our own market would be beneficial. |
| Purity and grade of nicotine | x |  | Absolutely. As with any product, there is always the potential for misuse. If we can establish some control measures to reduce these risks we can prevent these from happening. |
| Registration of products | x |  | Once again, this will only be achievable if we allow the NZ market to sell nicotine legally. |
| A testing regime to confirm product safety and contents purity | x |  | As mentioned earlier, random testing as opposed to having to have every single product tested. We need to promote this to small business owners as an opportunity and not let the costs drive them away. |
| Maximum allowable volume of e-liquid in retail sales | x |  | I can see no harm in having bottle sizes limited to eg 30ml. However, the consumer should be able to purchase as many as they want. |
| Maximum concentration of nicotine e-liquid | x |  | There are devices on the market that can simulate the smoking experience with reduced nicotine now. |
| Mixing of e-liquids at (or before) point of sale |  | x | Part of the attraction is being able to find the right nicotine content by mixing to bring the levels down. This should be allowed initially at least. |
| Other |  |  |  |

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

|  |
| --- |
| I purchased my first vaping device from a barber shop which stocked nicotine e-juice over the counter. From that first day, I have not smoked a cigarette and have upgraded my vaping device and topped up juices with and without nicotine without trouble. I have smoked for 17 years around a pack a day and see this as without question the best way to give up smoking. NZ has been presented an opportunity to attain the 2025 smoke free goal in a unique way. As long as controls are put in place such as age limits etc, this could answer the smoking problem once and for all. I am certain that if these products and in particular the nicotine liquid remain illegal for sale in New Zealand, we will not achieve that smoke free target. E-cigarettes and associated devices for vaping should be actively encouraged as an alternative to smokers now. The sooner the better. |

**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 was quite amazed by the amount of products available from New Zealand vendors, including liquids containing nicotine. I initially was lead to believe that I could only purchase these from overseas, but in fact have found quite the opposite. They are readily available over the counter. Also the range of products appears to be growing on an almost daily basis. |

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

|  |
| --- |
| Nil |

**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?** |
| 3 weeks | Daily | $40 | Online |

**Consultation submission 209 – Individual**

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

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

Commercial interests, including e‑cigarette manufacturer, importer, distributor and/or retailer

Tobacco control non-government organisation

Academic/research

Cessation support service provider

Health professional

Māori provider

Pacific provider

Other sector(s) *(please specify)*:

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

Please indicate your e‑cigarette use status:

I am using nicotine e‑cigarettes.

I am using nicotine-free e‑cigarettes.

I currently smoke as well as use e‑cigarettes.

I am not an e‑cigarette user.

I have tried e‑cigarettes.

**Privacy**

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

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

Do not publish this submission.

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

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

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

This submission contains commercially sensitive information.

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

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

|  |
| --- |
| I have no links with nor have I received funding from tobacco companies. I have met a lot of vaping product manufacturers and retailers and vapers at events and in the course of my research on the topic. I have many years ago undertaken consultancy work for companies that make nicotine replacement therapies. I have also received research funds via Health Research Council, Ministry of Health and a travel grant from Cancer Society. I am fully employed by Massey University and am financially independent of any of the above.  My overall goal is to improve the health and wellbeing of Māori: reducing smoking prevalence and consumption among Māori is one objective. This is my only vested interest – helping as many Māori and non-Māori stop smoking tobacco as possible. |

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**

I am a co-author and party to the End Smoking submission. My submission contains similar content where my view aligns with End Smoking NZ’s advice. I support the submission made by Trish Fraser. I am an Associate member of the New Nicotine Alliance – UK and I support their submission.

Important principles underpinning my submission:

* **Opportunity cost**

The cost of healthcare will continue to rise and will continue to outstrip the available allocation of taxpayer funding available.

The cost of any proposed regulation or resulting administration and enforcement, and monitoring associated with extending restrictions on tobacco smoking, and associated with extending the Smoke-Free Environments Act to prohibit or restrict new greatly-harm reduced alternatives to smoking represents a lost opportunity to allocate funding to addressing far more urgent and health-damaging products, behaviours and environmental crises.

The cost of switching from tobacco smoking to vaping is being gladly carried by smokers and vapers. The Government does not need to invest in supporting this to occur. The Government just needs to remove the barriers it is currently supporting. One outcome of the exodus of smokers to vaping could be the lowered demand for smoking cessation support. In the UK, a number of stop smoking services were discontinued because they were effectively made redundant by the introduction of vaping products and smokers switching of their own accord. It is likely that the investment in tobacco control including smoking cessation will be able to be reduced in NZ.

The Government should prepare to monitor more closely and more regularly the performance and ongoing need for tobacco control services.

* **People are no longer smoking tobacco like Peto’s British doctors**

It is the **regularly** **repeated** act of smoking tobacco **over many years** that is causally linked to or associated with the increased risk of many diseases, and premature death; and, among people exposed to tobacco smoke, it is **regular, repeated** **close** **exposure** over a **sustained** period of months and years that is linked to increased risk of disease among those exposed. The exception are pregnant women who smoke, who immediately incur elevated ill-health risks to their pregnancy and to the foetus.

The estimates of harm from smoking tobacco that we cite, that is, that at least one in two **long-term** smokers will die from a smoking related illness, will not be able to be used in to the future. In NZ, we appear to have delayed youth initiation to smoking, so many of today’s younger smokers are starting to smoke later. We have instituted a quitting culture with high percentages of smokers quitting regularly and thus reducing their total years smoking. Many young people who smoke today will stop smoking before a smoking-related disease begins and having stopped smoking, their body will get an upper-hand on healing the damage smoking had wrecked on them. Many people who used to smoke, and who have quit, can expect to live as long as they would have if they hadn’t smoked at all.

Into this era of smoking tobacco in a harm-reducing way, a way that many younger smokers already practise, comes a whole new range of products that offer a greatly-harm reduced substitute for smoking tobacco. Any product that had the potential to reduce harm whilst allowing tobacco smokers to still enjoy the benefits of smoking would of course be highly attractive to current smokers, especially those already practising harm-reduction in their own way.

The smoking trajectory that once led to one in two smokers dying early of a smoking-related disease in some countries (including NZ) will no longer be the norm. Current long-term smokers also, no longer have to travel that trajectory. If we **create a supportive environment** they can be enabled to shortcut their tobacco smoking career by switching to a harm-reduced alternative. More current smokers will avoid eventual disease and even premature death. New estimates of harm based on these new patterns of tobacco use are needed in order to inform people, and policy makers, in a truthful way about their risk if they smoke.

* **Vaping nicotine is estimated to be at least 95% safer than smoking tobacco**

There are several types of products that claim to provide a harm-reduced alternative to smoking tobacco.

The longest established and proven harm-reduced product is Swedish Snus used in Sweden and Norway.

Personal vaporisers (electronic cigarettes) are the most popular and widely used newer non-tobacco product. There are people both in NZ and overseas who have been consistently vaping daily for almost 10 years. They report health improvements, and several studies of vaping over shorter periods have found health improvements in people with elevated blood pressure, respiratory illnesses and asthma.

Newer products using different technologies to deliver either nicotine on its own, or an ‘aerosol’ coming off of heated tobacco, are on the market overseas, under development or still at concept stage. Some of these products are being developed by tobacco companies and some are being created by vaping product companies.

At this point in time in NZ, we are politically poised to enable greater access to nicotine for vaping. The opportunity to do this should not be delayed by the spectre of newer technologies and potentially harm-reduced alternatives to smoking products that are yet to be introduced. 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.

* **Tobacco control is irrevocably changed**

Current tobacco control was largely focused on reducing tobacco smoking. Minor attention has ever been paid even to smokeless tobacco. Despite the FCTC including harm reduction in its intent, harm reduction has not been ideologically acceptable to the fraternity that dominates tobacco control worldwide. This same fraternity governs tobacco control in NZ.

The emergence of a successful harm-reduction product, the electronic cigarette, has thrown tobacco control worldwide into crisis. Harm reduction requires a paradigm shift. Embracing a harm reduction approach to tobacco use, as in switching people to a greatly harm-reduced alternative requires thinking about tobacco users/smokers, and the tobacco control system differently. Some people in tobacco control are unwilling, and will be unable to understand such a different approach to the one they were taught or prescribe to.

Tobacco control has polarised over this topic, just as it did over Swedish Snus. The difference this time, is that smokers saw the potential of e-cigarettes to deliver what they were getting from a tobacco cigarette. Smokers embraced the technology, formed companies and began to evolve the technology to realise the potential they could sense was there, even in those first generation cig-a-likes which were wholly unsatisfying. This is a consumer-led revolution, not a tobacco industry-led one.

We tobacco control academics, researchers and practitioners have helped many smokers to quit, and we’ve stopped many young people from taking up smoking, but a significant population of about 565,000 smokers remain. Now smokers have taken ownership of their own solution. In the true meaning of public health, we should be celebrating this and supporting them. Some of us are. Many tobacco control academics and researchers around the world, and many more global health leaders understand what is happening and are now lobbying alongside vapers for their right to exercise self-determination over their own healthcare. I am a member of this international community.

New Zealand tobacco control is dominated by one ideological approach to achieving the Endgame: hurt and destroy tobacco companies. Given the existing investment laws and trade agreements protecting foreign company trade in NZ, this is eventually a dead end strategy. The fall-back position is to reduce demand. The primary behaviour change ‘theory’ mistakenly applied to achieve this is the belief that in order to motivate smokers to stop, you need to point out or create and intensify their cognitive dissonance about smoking. This is a psychological concept, notably selected and promoted for use by no one who is a psychologist. Unfortunately, the strategies based on intensifying the discomfort smokers feel, is not working for a significant remaining number of smokers. Māori men and women, and Pacific seem particularly resilient to the efforts to make them feel so bad about smoking that they will quit. Regular, including daily but also non-daily smoking prevalence rates have not decreased for these groups over the last 9 years of punitive tobacco control measures. Research I have been involved with has determined that actually, there are quite high, if not higher rates of quitting occurring among Māori for instance. Thus, the rates of relapse are outweighing any gains made from quitting. A key driver of this relapse is stress – the unintended effect of the above ideological approach to reducing demand is increasing the stress smokers’ feel (due to the increased price, the discrimination, social exclusion and marginalisation tobacco control is deliberately inflicting). Edwards et al recently wrote a paper attempting to debunk the applicability of the ‘hardening hypothesis’ in NZ. What I have just described is not ‘hardening’ it is simply: we are exerting so much pressure to quit in ways that hurt people, that tobacco control has become a driver of smoking, particularly among groups already disadvantaged financially and socially.

The dominance of this ideology is maintained be excluding diverse views. For example, as a member of the National Smokefree Working Group, I believed that the background paper on e-cigarettes being prepared to inform the group would be circulated for comment and that I would get to have input. This was not the case. Only selected members or outsiders who held the same views expressed in the document were shown the report before it was released. The document was then circulated to the tobacco control sector, invoking the misperception that is was a National Smokefree Working Group mandated position on e-cigarettes.

Since the realignment of the smoking cessation services I have had one redundant cessation worker come to me wanting to learn about e-cigarettes. They said they couldn’t learn about them before because they would have had to take a side and be totally against or totally for e-cigs, and either choice risked their continued inclusion and acceptance in the sector. These and similar processes are how tobacco control discourse in NZ is controlled and limited to one ideological approach.

Many submissions will come from people who have had inadequate time, or permission, to freely learn about vaping. Up until very recently workers in the sector believed they were not allowed to learn about or talk about e-cigarettes. Now all of a sudden they are called to make submissions on something they have no knowledge or strong negative prejudices about. Many submissions will come from the tobacco control sector and they will mirror and support the National Smokefree Working Group document on ecigs. These submissions should be weighted as you would weight copies run off on a copier for people to put their name to.

* **Electronic vaporisers ARE NOT tobacco products and vaping IS NOT smoking**
* **Vaping nicotine is not as addictive as smoking**

My reading of the literature to date, my international and local involvement in the vaping community as a welcome expert observer, and my involvement in research on the topic, has led me to conclude that it will be proven that vaping is less addictive than smoking tobacco.

* **The priority should be reducing inequity between Māori and non-Māori non-Pacific smoking rates**

At the forefront of your deliberations, I implore you to prioritise the reduction of inequity between Māori and non-Māori non-Pacific smoking rates. What has worked to reduce Pākehā women’s smoking rates is not working for Māori or Pacific people. Vaping nicotine appears to be an acceptable and effective route out of smoking at least for Māori.

Remembering the opportunity cost, priority for expenditure needs to focus on those most at-risk of harm from tobacco smoke. We need interventions that help them to stop smoking (Māori, Pacific people, pregnant women, people already suffering from smoking-related illness and illnesses exacerbated by smoking tobacco, parents of young children). Funding a retailer licensing scheme, limiting accessibility by restricting vaping to specific types of outlets and disproportionately regulating retail sales compared to tobacco product retailers will assure inequitable outcomes continue. The measure of accessibility needs to be benchmarked against the ease of access to vaping products for a lower SES Māori woman living in a rural area. The nearest tobacco retail outlet to her is likely to be a dairy or petrol station – if she can buy tobacco there but not nicotine e-liquid, then she is more likely to continue to smoke tobacco.

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

Yes  No

|  |
| --- |
| I agree that greatly-harm reduced alternatives to smoking, including vaping products, should be allowed to be imported for sale and distribution in NZ.  Current vaping products include a wide range of electronic vaporisers, their parts and accessories; and nicotine liquid or nicotine-containing cartridges.  I do not think much is needed in the way of ‘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

|  |
| --- |
| Swedish Snus should be exempted from the tobacco excise tax, to ensure current users do not relapse to smoking tobacco. |

**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

|  |
| --- |
| There is no evidence nicotine e-cigarettes are a gateway product. (1) Nicotine e-cigarettes should be available to young people under 18:   1. Many teenagers 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 12 years and over. Young people aged 12-15 years who smoke should be able to vape with parental approval. Young people aged 16 and 17 should be able to buy vaping products themselves. 3. Young people aged 12-17 yrs may be interested in quitting and should be encouraged to switch to nicotine e-cigarettes, which is far safer than continued smoking. 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.   Restricting sales of e-cigarettes to teenagers aged under 18, and especially young people aged 16 and 17, will inhibit switching and leave many young people unnecessarily smoking.  The final amendments should not create an environment whereby young people, particularly 16 and 17 year olds have to break the law to quit smoking.   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

|  |
| --- |
| Nicotine e-cigarettes are estimated to be 95% safer than cigarettes. (2) Research will also establish that they are less addictive than smoking tobacco. (3,4)  Unfounded restrictions such as banning advertising sends the misleading message that vaping nicotine is somehow dangerous and deserving of restrictions. This will put some smokers off trying or switching to vaping.  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 from switching to alternative greatly harm-reduced products.  Some of the other submissions present advertisements they have found used in the USA which has specific laws protecting advertising. The products are not available in NZ and are unlikely to be available. The Industry in NZ is a largely responsible one and most of them can be relied to abide by Vaping Industry Standards which could be used to self-regulate. Guidelines for the vaping industry in NZ could be required to include responsible advertising guidelines.  I note the artificial infant and baby powder industry enjoys self-regulation. Arguably far more health harm results from their products than will ever result from vaping.   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   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

|  |
| --- |
| Nicotine 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 the risks to their health are likely to be extremely low. (5)  Banning vapour from nicotine e-cigarettes because the smell offends is not sufficient reason to ban vaping in public and work places.  Banning vaping in an environment supports the transfer onto vapers of the stigma, social exclusion and marginalisation that smokers currently are negatively affected by. It should not be prohibited anywhere.  Anything that inhibits switching to vaping is counterproductive. We want to encourage vaping as an alternative behaviour to smoking.  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. Banning vaping wherever smoking is banned will inhibit switching to vaping. Hospitals should be encouraged to develop policies that include nicotine e-cigarettes to support the management of smokefree policies and to assist patients to quit smoking. Banning nicotine e-cigarettes in these institutions may disproportionately affect more disadvantaged smokers. (6)  If vaping were prohibited only in designated smokefree areas in the same way as smoking is prohibited it would mean vapers would be required to vape in the same space as smokers and this could undermine their ability to stay smokefree. It also sends a message that vaping is somehow as dangerous as smoking tobacco. It is not and this message will see people continue to smoke or relapse to smoking. To maximise the number of smokers switching to e-cigarettes, vaping should be made a more convenient option. (5) Workplaces and organisations should not be required to establish separate designated vaping areas – this is financially onerous and most likely for many smaller businesses impossible for them to do due to lack of space.  Offering a safe and effective alternative to smoking to people who are addicted to nicotine may help support compliance with smokefree legal requirements and make smokefree policies easier to implement.(7)   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. 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. 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?**

NO. Controls in the SFEA should not be applied to electronic vaporisers or nicotine for vaping because, vaporisers are not tobacco products and vaping is not smoking. The harm, if any, associated with the use as intended (vaping nicotine) of vaporisers is unlikely to reach a level that warrants Government investment, especially when any investment draws funding away from seriously harmful and urgent public health priorities.

Where possible, existing laws and regulations, such as the Consumer Protection Act, or laws governing food manufacturing and Health & Safety etc should be relied on.

|  |  |  |  |
| --- | --- | --- | --- |
| **Control** | **Yes** | **No** | **Reasons/ additional comments** |
| Requirement for graphic health warnings |  |  | There are no known serious health deficits.  It is not even proven that nicotine when vaped is addictive. So not even a label claiming this should be required.  The belief that a small amount of nicotine if drunk could prove fatal has also been debunked.  Lies are hurting the credibility of public health. The consequence will be that the public will stop listening to public health advice. |
| Prohibition on displaying products in sales outlets |  |  | We want smokers to switch to nicotine e-cigarettes. It is important that products can be displayed to invite smokers to try and buy. |
| Restriction on use of vending machines |  |  | Not required. |
| Requirement to provide annual returns on sales data |  |  | Not necessary. This would be too onerous for small companies. It also implies a need for monitoring and reporting which would waste valuable health dollars. |
| Requirement to disclose product content and composition |  |  | Vaping product manufacturers are already doing this, or have developed their own standards that include this. Industry self-regulation would be sufficient. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | There should be no restrictions on the nicotine content.  Vaping product manufacturers already have standards that can be required to discontinue and remove from sale any e-liquids containing ingredients that have been identified by independent analysts (that is, not vaping industry, tobacco industry or tobacco control researchers) as hazardous for consumption via vaping. Industry self-regulation would be sufficient to start with. |
| Requirement for annual testing of product composition |  |  | Not necessary. |
| Prohibition on free distribution and awards associated with sales |  |  | There should be no prohibition on advertising and sponsorship.  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. |
| Prohibition on discounting |  |  | Discounting e-cigarettes could encourage more smokers to switch to them. Preventing this could harm some programmes that currently or in the future assist people to switch from smoking to vaping. |
| Prohibition on advertising and sponsorship |  |  | There should be no prohibition on advertising and sponsorship.  There is no evidence that this is needed.  This would send a misleading message that vaping is as dangerous as smoking tobacco and would inhibit people from switching. |
| Requirement for standardised packaging |  |  | Nicotine e-cigarettes are not tobacco products. There is no established rationale or evidence to support imposing plain or 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

|  |
| --- |
| Currently there is a strong financial incentive for smokers to switch to vaping.  GST will be collected on more of the vaping products as people begin to purchase locally. Adding any extra special tax on vaping products would discourage smokers from switching. It would also send a misleading message that vaping is as dangerous as smoking and would prohibit switching from smoking tobacco to vaping. |

**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 |  |  | Already in manufacturers proposed voluntary Code of Standards. [See vtanz.org.nz/regulations](http://vtanz.org.nz/regulations.php).  Nearly every e-liquid bottle already has a childproof cap now. The vaping products manufacturers could be encouraged to establish Standards that include this and self-regulate. |
| Safe disposal of e‑cigarette devices and liquids |  |  | Standards re disposal of e-liquids and batteries and other hardware should be proportionate to other electrical consumer goods that represent as similar a risk to the public. That is, toasters, laptops, cough syrup. |
| Ability of device to prevent accidents |  |  | Unsure what is meant by this. Ecigs are not a vehicle safety belt. They are a harm reduction behaviour though.  Accidents could include standing on broken ecig pieces.  Regarding accidental swallowing of e-liquid. The Poisons Centre has had an increase in calls about children (aged 6 months-5yrs) potentially swallowing e-liquid either directly from an e-cig or dripper bottle. There was 1 call in 2012, 3 in 2013, 6 in 2014, and 11 in 2015 (one of these calls was just asking about the risks of exposure to the vapour). These calls represent a tiny proportion against the calls related to child exposure/ ingestion of tobacco and nicotine replacement products.  When swallowed in amounts excessive for the recipient nicotine is an emetic, that is, it causes vomiting. This is a protective reaction. Some of the calls reported that the exposed child did vomit. No greater ‘harm’ was reported.  We in tobacco control deliberately over-exaggerated the dangers of nicotine to scare people off smoking. It is important that the Ministry of Health refers to scientific (as opposed to advocacy-driven) evidence on the toxicity of nicotine **in humans**. A lot of people are panicking unnecessarily. |
| Good manufacturing practice |  |  | Existing laws governing the manufacturing of consumer goods should be used where possible.  The vaping product industry has developed a voluntary Code of Standards. [See vtanz.org.nz/regulations](http://vtanz.org.nz/regulations.php).  The vaping products manufacturers could be encouraged to maintain up to date Standards and self-regulate. |
| Purity and grade of nicotine |  |  | The vaping product industry has developed a voluntary Code of Standards. [See vtanz.org.nz/regulations](http://vtanz.org.nz/regulations.php).  This could be covered in their Standards. |
| Registration of products |  |  | Unnecessary burden on manufacturers and suppliers; also costly administrative process for Ministry of Health to establish and monitor. Any tasks that require more Government expenditure on staff and IT set up should be avoided.  Personal vaporisers (e-cigs) and nicotine for vaping should not be disproportionately regulated compared to other products that incur greater harms and costs to the public health. |
| A testing regime to confirm product safety and contents purity |  |  | It should be left up to the manufacturer to decide how to provide a good quality product.  The vaping product industry has developed a voluntary Code of Standards. [See vtanz.org.nz/regulations](http://vtanz.org.nz/regulations.php).  The vaping products manufacturers could be encouraged to say how they are going to do this in their Standards. |
| Maximum allowable volume of e-liquid in retail sales |  |  | There is no basis for imposing a limitation on the allowable volume of e-liquid in retail sales.  Some DIY hobbyists buy base liquids. Being able to buy a ‘bulk’ amount enables them to reduce the cost of vaping both financially and convenience wise. This is an important advantage vaping has over smoking tobacco, except where people grow their own tobacco. The DIY hobbyists are a subgroup of the vaping community with deeper knowledge of the products. |
| Maximum concentration of nicotine e-liquid |  |  | It is important for successful and sustained switching from smoked tobacco to vaping for individual vapers to be able to experiment with, identify and use the optimum level of nicotine that works for them. This typically is higher to begin with. The required concentration of nicotine in e-liquid, for assuring complete switching to vaping, depends on the device and purpose of vaping at the time. This is one of the key advantages that vaping has over smoked tobacco products – vapers can vary their kit and e-liquids and titrate to meet their needs. This is extremely helpful for preventing relapse to smoking.  Disproportionate and unfounded restrictions will increase the risk that transitioning vapers will continue to smoke tobacco from time to time (dual use). Some researchers strongly opposed to vaping are using the claim that dual use proves that vaping inhibits quitting. In fact it is their suppression of innovation and severe restrictions on vaping, as in the EU TPD limits on nicotine concentration and tank sizes, that will ensure vapers have to dual use from time to time.  NZ is in a prime position to assess the latest evidence, hopefully taking into account the significant ideological biases undermining the scientific quality of much of the ‘evidence’ spewing forth as the battle over e-cigs continues. |
| Mixing of e-liquids at (or before) point of sale |  |  | The diversity of liquids for e-cigarettes is an important part of the appeal of e-cigarettes. It is important for successful and sustained switching from smoked tobacco to vaping for individual vapers to be able to experiment with, identify and even make their own e-liquids to ensure they have a flavour and nicotine concentration that works for them. |
| Other |  |  |  |

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

|  |
| --- |
| Making sure every smoker has access to greatly harm-reduced alternatives to smoked tobacco **at the point of sale (i.e. wherever tobacco is sold)** is most important and will contribute significantly to reducing smoking prevalence and consumption.  Rather than restrict sale of vaping products to pharmacies and ‘vape’ shops as proposed by some other submitters, perhaps tobacco retailers should be required to stock harm-reduced alternative products as a proportion of their total tobacco and alternatives stock?  Smokers need to see these alternatives on display when they go in to buy tobacco. This will also ensure that every smoker has some access to alternatives, even if they live rurally. Having the chance to try, even an entry-level e-cig, is the first step in switching from smoking to vaping.  Requiring tobacco retailers to stock some vaping products would provide current tobacco retailers with an option to go out of selling tobacco products, something some retailers have already chosen to do. In the past when some retailers have voluntary stopped selling tobacco products they have met with angry reactions from their customers and many subsequently recanted and began selling tobacco again. The added cost of carrying vaping products in addition to tobacco products could be off-putting for some retailers and this could encourage some to stop selling either tobacco or vaping products – an outcome the ASPIRE/Otago researchers desire. The risk of burglaries might increase which would also encourage retailers to withdraw from selling tobacco or vaping products. Hawkes Bay Vapour has been burgled three times over the last year!  We don’t need to worry about the type of product they stock, as they would go for cheaper entry-level devices. Customers would soon tell retailers what to stock and what not to stock. Some convenience and other types of conveniently located stores are already stocking product at the request of their local vapers.  Pharmacies should have a choice to stock vaping products or not, rather than being relied upon to do so. I would think that NZ Pharmacies would not want to stock products made by tobacco companies (there are none at the moment, but this could change). Vaping products are still rapidly evolving and it could be hard for Pharmacies to stay on top of the fast-moving innovations, carry the amount of stock necessary to be of use; and they are not an obvious outlet smokers would think to go. Requiring Pharmacies to stock e-cigs also could undermine sales of NRT that are currently sold out of Pharmacies. The Ministry of Health still advices that for cessation, the recommended cessation products are used first. We want to support smokers to choose vaping over smoking, but if they were willing to use NRT and other cessation devices and that is the MoH preference, then putting e-cigs in Pharmacies will draw sales from NRT.  The opportunity to as quickly as possible enable greater access to nicotine for vaping should not be delayed by demands to make other amendments, such as, introducing a retailer licensing scheme, or extending bans on smoking. Such proposals are no longer rational or evidence based given the changed environment that harm reduced products have created. Any new measures to further control tobacco need to be reviewed for the potential benefits and harms resulting from them in this new environment. Discussion of those would need to ensue and that would cause delays to the proposed amendment.  **Any proposed Amendment to the Smoke-Free Environments Act at this time should focus on legalising nicotine for use in vaporisers.**  The temptation to over-regulate and stifle safer alternatives to smoking must be avoided. It must be remembered that nicotine e-cigarettes are 95% safer than cigarettes, and smokers are much more interested in them than they are in NRT or other quit smoking options. |

**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.**

|  |
| --- |
| 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 |

**Consultation submission 210 – Individual**

Withheld at submitter’s request

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