Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 61

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

*(Tick one box only in this section)*

Are you submitting this:

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

[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

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

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

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

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### Declaration of tobacco industry links or vested interest

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 |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes [x]  No [ ]

Reasons/additional comments:

|  |
| --- |
|      [Redacted] We sell non nicotine ecigs in pharmacies, perfectly legal. Add nicotine to the same device and it becomes unlawful. There is no logical reason for this. |

#### 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:

|  |
| --- |
|      there may be some as technology develops. |

#### 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:

|  |
| --- |
|      we already restrict supply of all of our products [redacted] to over 18 |

#### 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:

|  |
| --- |
|      smoked tobacco is an incredibly dangerous product. People want to use ecigs it to get rid of tobacco. [Redacted] |

#### 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:

|  |
| --- |
|      one is tobacco smoke the other is vapour; two totally different things should be treated differently. |

#### 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]  |      tobacco smoke and ecigs are two totally different things and should be treated as such.  |
| Prohibition on displaying products in sales outlets | [ ]  | [x]  |      we should encourage display to get people to switch to ecigs from tobacco |
| Restriction on use of vending machines | [x]  | [ ]  |      restrict use to over 18 |
| Requirement to provide annual returns on sales data | [ ]  | [x]  |      would be good to know but should not be compulsory |
| Requirement to disclose product content and composition | [x]  | [ ]  |      good idea |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | [x]  | [ ]  |      you cant assume people are only using safe ingredients. |
| Requirement for annual testing of product composition | [ ]  | [x]  |      our suppliers are audited to ensure best practice. |
| Prohibition on free distribution and awards associated with sales | [ ]  | [x]  |      pretty standard business practice |
| Prohibition on discounting | [ ]  | [x]  |       pretty standard business practice |
| Prohibition on advertising and sponsorship | [ ]  | [x]  |      we should be encouraging people to swtich from tobacco  |
| Requirement for standardised packaging | [ ]  | [x]  |       |
| Other | [ ]  | [ ]  |       |

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

Yes [ ]  No [x]

Reasons/additional comments:

|  |
| --- |
|      the tobacco excise is supposed to cover health costs from tobacco harm. Ecigs do not have the same costs. The current difference in price between tobacco and ecigs creates an incentive for people to switch. If you remove that incentive people will stay on tobacco. |

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

Yes [x]  No [ ]

Additional comments:

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers | [x]  | [ ]  |      our containers are sealed and a child cant squeeze the bottle hard enough to get the liquid out. |
| Safe disposal of e‑cigarette devices and liquids | [x]  | [ ]  |      particularly batteries |
| Ability of device to prevent accidents | [x]  | [ ]  |      some devices and modifications are unsafe |
| Good manufacturing practice | [x]  | [ ]  |      our suppliers are audited |
| Purity and grade of nicotine | [x]  | [ ]  |       our suppliers are audited |
| Registration of products | [ ]  | [x]  |      our brand is already on our products, you know where to go if you have a problem |
| A testing regime to confirm product safety and contents purity | [x]  | [ ]  |       our suppliers are audited |
| Maximum allowable volume of e-liquid in retail sales | [x]  | [ ]  |      100ml |
| Maximum concentration of nicotine e-liquid | [x]  | [ ]  |      24mg max our current highest is 16mg |
| Mixing of e-liquids at (or before) point of sale | [x]  | [ ]  |      can be dangerous if you get it wrong. |
| Other | [ ]  | [ ]  |       |

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

|  |
| --- |
|       |

### Additional information on sales and use

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

|  |
| --- |
|      we have egos and eliquids various strengths and flavours some people have a much larger range. We have around 500 chemists selling non nicotine [Redacted] |

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

|  |
| --- |
|       compliance costs would go up depending on what regulations were put in place. Sales would increase also. |

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

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

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 62

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| Position *(if applicable)*: | [Redacted] |

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

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Please indicate which sector(s) your submission represents:

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

[x]  Tobacco control non-government organisation

[x]  Academic/research Respiratory Health

[ ]  Cessation support service provider

[x]  Health professional

[ ]  Māori provider

[ ]  Pacific provider

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

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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.

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|  |
| --- |
|      I have no tobacco company involvement or interests |

Please return this form by email to:

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

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

## Consultation questions

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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:

|  |
| --- |
| 1. e-cigarettes are already widely available in New Zealand via legal Internet purchases and also widely available in a limited number of retail outlets in most cities as are the nicotine containing liquids. Many smokers have given up on traditional cessation services have taken matters into their own hands.
2. I have recently completed and published an HRC funded RCT of a metered dose inhaler containing nicotine amongst 500 smokers. The addition of nicotine via a metered dose inhaler doubled quit rates when compared to a placebo inhaler and a nicotine patch (1). The vast majority of participants in this trial had tried e-cigarettes. This study has helped to convince me that despite the paucity of current evidence e-cigarettes will offer a game changing way forward for smoking cessation if they are only given the opportunity to do so by sensible, careful and well monitored legislative change as has occurred in the UK.

1. Caldwell B, Crane J. Combination Nicotine Metered Dose Inhaler and Nicotine Patch for Smoking Cessation: a randomised controlled trial. Nic Tob Research. 2016 10.1093/ntr/ntw093. |

#### 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 main goals of any legislative change should be to try and encourage existing regular smokers to switch from smoking tobacco to using e-cigarettes while trying to minimise new uptake from non-smokers and particularly children and adolescents. Clearly this will be difficult and will need to be thought through carefully. If my view it is extremely unlikely that large numbers of children and adolescents will take up the use of e-cigarettes to any great extent on a regular basis, although a number will undoubtedly experiment with them. There is considerable concern amongst tobacco control advocates of a gateway effect to tobacco smoking from the cigarettes and at present very little evidence to support this. Nor is this likely given that inhaled nicotine is less addictive and reasonably unpleasant for those that have not smoked previously. At the end of the day it needs to be recognised that this is a potential downside to legalising e-cigarettes but experimentation with them is far less harmful than experimenting with tobacco which is far more harmful and more rapidly addictive. |

#### 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:

|  |
| --- |
| yes and no. If no advertising is permitted and e-cigarette purchase highly restricted they will not achieve sufficient market penetration to reduce smoking prevalence. This could lead to a situation where e-cigarettes are legally available with no market penetration and lead to the false impression that they are not useful as an alternative to tobacco. Thus advertising should be allowed but carefully controlled if legislatively possible to continually press home the potential value of using the e-cigarettes rather than tobacco and to slant advertising towards smokers rather than youth or the public in general. Providing careful advertising standards with additional controls would help here. It would also be important to use any advertising campaign to emphasise the 2025 goals for a tobacco free New Zealand. I have no doubt (though admittedly I also have very little evidence) that the judicious careful introduction of e-cigarettes targeted to current smokers will be more effective than anything else in finally getting rid of tobacco by 2025. |

#### 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:

|  |
| --- |
| Most definitely not. It will be really important in this legislative change to make sure that every incentive is given to smokers to switch to e-cigarettes including being able to use them in places where people cannot smoke. The exception would be bars and restaurants bvut they should be allowed in public places. This could have an enormous impact on people switching and not becoming dual tobacco/e-cigarette users. In my view they should be positively promoted in places where smoking is specifically prohibited and such smoking prohibitions should be increased as much as possible both by local and central government. The perceived and often discussed health issues relating to second-hand e-cigarette use are complete nonsense other than as a nuisance. |

#### 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]  | Health effects much less than for tobacco |
| Prohibition on displaying products in sales outlets | [ ]  | [x]  |       |
| Restriction on use of vending machines | [x]  | [ ]  | New e cig users will need some instructions re their use so vending machines will not be helfpful |
| Requirement to provide annual returns on sales data | [ ]  | [x]  | Would be useful to track sales but not vital |
| Requirement to disclose product content and composition | [x]  | [ ]  | Important to warn users that the effects of the additional flavours by inhalatiuon are unknown and do pose a small but real risk. E-cigs should be labelled accordingly |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | [x]  | [ ]  | It would be important to have a good handle on what is exactly in them particularly the nicotine concentration and the additional flavourings etc. Users should be encouraged to use minimal flavourings as their effects on the lung are unknown |
| Requirement for annual testing of product composition | [ ]  | [x]  | This will be beyond NZ capabilities but a watching brief should be maintained on the international situation and literature |
| Prohibition on free distribution and awards associated with sales | [x]  | [ ]  |       |
| Prohibition on discounting | [x]  | [ ]  |       |
| Prohibition on advertising and sponsorship | [ ]  | [x]  | Should be well managed and controlled ie aimed firmly at smokers wanting to give up tobacco. It should definitely not be prohibited altogether as this will seriously reduce the chances of as smokers as possible switching |
| Requirement for standardised packaging | [ ]  | [x]  |       |
| Other | [x]  | [ ]  | Important to try and reduce the additional flavourings etc. Smokers should be encourages to use the least flavoured with a preference for menthol only as this has been used for many decades in cigarettes with no obvious ill effect. In my view the additional excipients pose the greatest risk to health with use of e-cigarettes |

#### 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:

|  |
| --- |
| This would be self-defeating. We should be offering all sensible incentives for people to 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]  | Won’t be possible. Improtnat to have warning to keep away from children |
| Safe disposal of e‑cigarette devices and liquids | [x]  | [ ]  | As per other battery operated devices and electronic equipment |
| Ability of device to prevent accidents | [x]  | [ ]  | Each product should be assessed for this potential but will be difficult in practice |
| Good manufacturing practice | [x]  | [ ]  | Full pharmaceutical GMP will be impossible to achieve. Each device imported should have some sort of detail re manufacture and QC control perhaps with a spot random audit of a few that look less than ideal. |
| Purity and grade of nicotine | [x]  | [ ]  | Yes but the nicotine should and invariably will be USP or European equivalent. They must use human grade material and offer at least a certificate of purity |
| Registration of products | [x]  | [ ]  | Probably worthwhile if only to keep a careful track of exactly what has been approved so that in the event of problems they can be removed. |
| A testing regime to confirm product safety and contents purity | [x]  | [ ]  | Ideally yes but this will prove very difficult. The latest generations of e-cigs are sophisticated ultrasonic nebulisers. Cross reference with other jurisdictions. For example none should be permitted that have not also been permitted in EU or USA |
| Maximum allowable volume of e-liquid in retail sales | [x]  | [ ]  | Probably but difficult to police in practice. Nicotine concentration though should be limited, again to those permitted in EU or USA |
| Maximum concentration of nicotine e-liquid | [x]  | [ ]  | Yes as per EU or USA |
| Mixing of e-liquids at (or before) point of sale | [ ]  | [x]  | NO. These liquids should not be tampered with prior to sale and should have some sort of cap that means that a purchaser can see immediately if the vials have been opened prior |
| Other | [ ]  | [ ]  |       |

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

|  |
| --- |
| I would restrict the range of flavourings and excipients as these have nothing to do with the nicotine and are a potential lung health threat. There is also a concern that these devices can be used to administer any drug by inhalation and their use for cannabis and other narcotics should be born in mind. Ideally closed systems would be preferable but again will probably be very difficult to ensure |

### 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)?

|  |
| --- |
| If introduced appropriately I would see the majority of current smokers who are unable to quit changing to e –cigs over a period of years especially if the right incentives are put in place. They will do more to get us to 2025 smokefree than anything else. |

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

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

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

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

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 63

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| --- | --- |
| Your detailsThis submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
|  *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: | Federation of Women’s Health Councils Aotearoa (FWHC) |
| 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)*: NGO – general public advocacy

*(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.

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|  |
| --- |
| FWHC has no links to any retailer of tobacco products or associated marketing agency or with the tobacco industry in general. |

Please return this form by email to:

**ecigarettes****@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:

|  |
| --- |
| FWHC looks forward to the day when use of tobacco products is banned completely in NZ. We note nicotine is an addictive substance, it has psychoactive properties, and contributes to the development of cancer. See: http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4553893/ Accordingly it is classed as a hazardous compound under HSNO.We accept that: smoking tobacco has been legal in NZ for a long time despite it being a known carcinogen; smoking in public is becoming less tolerated as a cultural norm; many people still have an entrenched social and physical addiction to continuing to smoke; and many young persons are still taking up the smoking habit anew.If this cultural pattern is to change in order to achieve Smokefree Aotearoa status by 2025 then FWHC agrees that use of products which aim to reduce smoking related harm have a useful role in achieving this outcome. We do note the current evidence is not yet conclusive about the efficacy of e-cigarettes as a smoking cessation tool, nor of the potential harms associated with longer term use. We concur that in the short term the evidence suggests use of non-tobacco nicotine in e-cigarettes poses less of a risk than smoked tobacco. We have little information about any potential harms from other products incorporated within the e—liquid base. Neither do we know whether there are any adverse effects on non-users from second-hand vapour. FWHC contends that e-cigarettes are devices that are commonly used to deliver nicotine which is a scheduled medicine. We seem to have missed the opportunity for using this means of regulatory control and limiting their use to a smoking cessation tool only.We note the tobacco companies are already actively involved in the e-cigarette market. Given their past history we have little confidence that information they supply to the public will be unbiased, truthful, or factual. In the NZ context of moving toward the Smokefree Aotearoa 2025 goal we must ensure that we do not place the public at any further risk of harm by introducing substances/devices which may cause further/unanticipated harm.FWHC supports a harm reduction approach to smoking tobacco and agrees with use of products which provide an alternative to tobacco use.* Significantly, we note the sale and supply of nicotine e-cigarettes and liquids is already occurring in the marketplace. People are using these products in NZ so clarity around regulation and controls is needed for retailers, buyers, and from an enforcement point of view. Therefore we support moves to regulation of nicotine e-cigarettes and nicotine liquids.
* FWHC also seeks a parallel commitment to supporting ongoing independent research into whether there may be any long term adverse effects of e-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?

Yes [x]  No [ ]

Reasons/additional comments:

|  |
| --- |
| e-shishachewing tobacco (Snus) |

#### 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:

|  |
| --- |
| An e-cigarette containing nicotine is still an addictive product mechanism and so it is desirable to prevent early uptake. We also do not want use of e-cigarettes to be seen as the new replacement norm for tobacco smoking. Neither do we want them to become a gateway to smoking (tobacco) cigarettes.Prohibiting sale and supply of all e-cigarettes (whether containing nicotine or not) to under 18’s will provide a clear and consistent rule.There may be a case for current persistent/heavy smokers under 18 to continue to obtain e-cigarettes by prescription if their cessation attempt is routinely monitored by an accredited quit provider.  |

#### 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:

|  |
| --- |
| FWHC supports controlling advertising of e-cigarettes in the same way as advertising of tobacco products. We don’t want to risk current non-smokers taking up vaping as a cool ‘safe’ social-inclusion practice either.E-cigarettes may not kill people but they are used to supply nicotine which is highly addictive. We therefore consider this to still be an avoidable public health risk of significance. There needs to be scope to inform people where they can access/obtain e-cigarettes. Regulations should also allow cessation service providers to provide information about e-cigarettes. |

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

Yes [x]  No [ ]

Reasons/additional comments:

|  |
| --- |
| Certainly. There must be clarity around where e-cigarette use is acceptable/contained. Council controlled areas that are currently Smokefree (e.g. parks, outdoor dining areas) should also be vaping-free to maintain consistency.Children may not distinguish between smoking and vaping so the same rules must be applied.We note the risks from second hand vaping are at present undefined/unknown.  |

#### 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]  | Graphic warnings are not required.Degree of long term health risk with e-cigarette use is unknown. However, a statement about unknown health risk should be required, and that nicotine can cause acute poisoning with excessive use. |
| Prohibition on displaying products in sales outlets | [x]  | [ ]  | We especially don’t want e-cigarettes on the counter at dairies.Consistency with/alongside the regulation of tobacco products would make it easier for retailers to understand their responsibilities.It would be good to change the name from e-cigarettes to something not readily identified with smoking to limit any appeal to young people that these are an acceptable alternative. |
| Restriction on use of vending machines | [x]  | [ ]  | We do not want to see e-cigarettes or e-liquids available from this source. |
| Requirement to provide annual returns on sales data | [x]  | [ ]  | Reporting on sales of hardware and substance volumes will inform future policy reviews. |
| Requirement to disclose product content and composition | [x]  | [ ]  | Necessary for informed choice about consumption of an addictive and harmful product. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | [x]  | [ ]  | Regulation of nicotine content is critical to reduce poisoning risk.Naming of flavours is important for consumer choice. However, there should be limits on what is allowable as the health risks of added flavours may be unknown. |
| Requirement for annual testing of product composition | [x]  | [ ]  | Manufacturers should pay for independent annual testing to ensure they do not start fortifying/changing an earlier approved product. |
| Prohibition on free distribution and awards associated with sales | [x]  | [ ]  | Must be consistent with tobacco regulations. |
| Prohibition on discounting | [x]  | [ ]  | Must be consistent with tobacco regulations. |
| Prohibition on advertising and sponsorship | [x]  | [ ]  | Must be consistent with tobacco regulations. |
| Requirement for standardised packaging | [x]  | [ ]  | Various sizes/shapes are already available. It is more important that standardised nicotine content and flavouring is established and the information is consistent. |
| Other | [x]  | [ ]  | Restrictions on the wording used in product and flavour names should be included in the regulations to avoid manufacturers using names as marketing appeal tools. |

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

Yes [x]  No [ ]

Reasons/additional comments:

|  |
| --- |
| E-cigarettes should be a cheaper option than smoking tobacco. Imposing excise duty would assist government to have some control on product price. |

#### 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]  | [ ]  | Necessary to reduce risk of poisoning. |
| Safe disposal of e‑cigarette devices and liquids | [x]  | [ ]  | Manufacturers should supply instructions on how to safely dispose of e-nicotine liquid, containers as well as e-cigarette batteries. This requirement must still be included in any regulations. |
| Ability of device to prevent accidents | [x]  | [ ]  | Manufacturers must be held responsible to meet good manufacturing standards for safety and reliability. |
| Good manufacturing practice | [x]  | [ ]  | As above. |
| Purity and grade of nicotine | [x]  | [ ]  | Quality control and safety as with any other product for human consumption. |
| Registration of products | [x]  | [ ]  | Necessary for quality control & safety & redress if there is a failure to meet agreed standards. |
| A testing regime to confirm product safety and contents purity | [x]  | [ ]  | Necessary for quality control & safety. |
| Maximum allowable volume of e-liquid in retail sales | [x]  | [ ]  | Limits on volume for each e-liquid container are needed but don’t limit the number of containers that can be bought. |
| Maximum concentration of nicotine e-liquid | [x]  | [ ]  | Needs evidence-based toxicology advice to establish limits on this. Nicotine is an addictive substance so of course there must be maximum limits on how much can be accessed at any one time through an e-cigarette. |
| Mixing of e-liquids at (or before) point of sale | [ ]  | [x]  | Must not allow for any possibility of additives or top-ups to be included once the e-liquid has left the manufacturer. |
| Other | [ ]  | [ ]  |       |

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

|  |
| --- |
| The body of evidence is growing rapidly. Regulations may need to be readily revised as evidence comes to hand. Perhaps a 2 year review period needs to be established.However, don’t delay the introduction of regulations as soon as possible around e-cigarettes. A register of retailers would also help track product management/annual returns/enforcement. |

### 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 informed comment |

#### 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 |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 64

|  |  |
| --- | --- |
| Your detailsThis 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.

### 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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|  |
| --- |
| None |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes ✔ No [ ]

Reasons/additional comments:

|  |
| --- |
|       |

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

Yes [ ]  No [ ]

Reasons/additional comments:

|  |
| --- |
| No opinion |

#### 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:

|  |
| --- |
| In general yes. Perhaps they should be less onerous, as the potential for harm in outdoor areas currently considered smokefree areas is probably a lot smaller. |

#### 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 | [ ]  | ✔ | Lack of evidence for serious health effects |
| Prohibition on displaying products in sales outlets | [ ]  | [ ]  | No opinion |
| Restriction on use of vending machines | [ ]  | [ ]  | No opinion |
| Requirement to provide annual returns on sales data | [ ]  | [ ]  | No opinion |
| Requirement to disclose product content and composition | ✔ | [ ]  |       |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | ✔ | [ ]  | Restrictions on flavouring should be based on potential health issues and not on hand-waving fears about appeal to children |
| Requirement for annual testing of product composition | ✔ | [ ]  |       |
| Prohibition on free distribution and awards associated with sales | ✔ | [ ]  |       |
| Prohibition on discounting | [ ]  | ✔ | Smokers should be incentivised to switch |
| Prohibition on advertising and sponsorship | ✔ | [ ]  |       |
| Requirement for standardised packaging | [ ]  | ✔ | Counterfeiting in industry is rife, would make it harder to determine |
| 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 Ministry has already stated that they believe e-cigarettes are an effective form of harm reduction. Therefore their usage should be incentivised, and economics tells us that economic incentives are among the most effective. By applying an excise users have less incentive to switch from smoking tobacco to using e-cigarettes, which are currently substantially cheaper. Electronic cigarettes are predominantly used by former and current tobacco smokers, there is as of yet little evidence that uptake by non-smokers is a concern. Fear of things that “may happen” is irrational hand-waving when unaccompanied by evidence. |

#### 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 | [ ]  | [ ]  | No opinion |
| Ability of device to prevent accidents | ✔ | [ ]  | Should be same standards as all consumer goods containing batteries, laptops, mobile phones etc. |
| Good manufacturing practice | ✔ | [ ]  |       |
| Purity and grade of nicotine | ✔ | [ ]  |       |
| Registration of products | ✔ | [ ]  |       |
| A testing regime to confirm product safety and contents purity | ✔ | [ ]  | But only if not onerous, eg excessively large fees that would only allow very large companies to participate in market |
| Maximum allowable volume of e-liquid in retail sales | ✔ | [ ]  | Provided it is a high enough amount, eg, 6 months, a year |
| Maximum concentration of nicotine e-liquid | ✔ | [ ]  | Yes, if sold as pre-mixed, but no if provided as an ingredient for users to mix, see below |
| Mixing of e-liquids at (or before) point of sale | [ ]  | ✔ | Users should be legally allowed to purchase the raw ingredients and mix their own, as it allows one to control the quality, composition and sources of said materials. I currently import high quality ingredients to mix for my own use (high grade food standard glycerol, nicotine produced from organically grown tobacco by a company that does extensive lab testing to ensure quality etc.) as I don’t necessarily trust liquid manufacturers to do so. |
| Other | [ ]  | [ ]  |       |

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

|  |
| --- |
| In general I feel that the proposal in its entirety is well thought out and backed with evidence. I do have some concern about some statements meant to appease opponents that are simply fear of things that “may happen”, which is irrational hand-waving when unaccompanied by evidence. You can make an infinite number of arguments against something based on fear, society would ground to a halt if we were to try to accommodate every potential one. |

### 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 large centres generally as good as that available via overseas Internet retailers. |

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

|  |
| --- |
| No |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **How long have you been using them?** | **How often do you use them?** | **How much do you spend on them per week?** | **Where do you buy them?** |
| 3 years | daily | $5-10 | internet |

**Policy Options for the**

**Regulation of Electronic**

**Cigarettes**

Consultation submission 65

*(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 ecigarette 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 ecigarette use status:

√I am using nicotine ecigarettes.

√I am using nicotine-free ecigarettes.

I currently smoke as well as use ecigarettes.

I am not an ecigarette user.

**Your details**

This submission was completed by:

*(name)* [Redacted]

Organisation *(if applicable)*:

Position *(if applicable)*:

Policy Options for the Regulation of Electronic Cigarettes – Consultation submission form **!1**

√I have tried ecigarettes.

**Privacy**

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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.

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This submission contains commercially sensitive information.

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company links or vested interests below.

Please return this form by email to:

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

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

None.

**!** Policy Options for the Regulation of Electronic Cigarettes – Consultation **2** submission form

**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 ecigarettes and nicotine**

**liquids should be allowed on the local market, with appropriate controls?**

√Yes No

Reasons/additional comments:

**Q2 Are there other (existing or potential) nicotine-delivery products that should**

**be included in these controls at the same time? If so, what are they?**

Yes No

Reasons/additional comments:

**Q3 Do you think it is important for legislation to prohibit the sale and supply of**

**ecigarettes 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:

YES because they are better for your health (according to research both here and overseas) than

cigarettes; some studies say ecigs are less harmful than nicotine patches and nicotine gum.

No

YES , We should be consisten- alcohol, vaping, etc,

Policy Options for the Regulation of Electronic Cigarettes – Consultation submission form **!3**

**Q4 Do you think it is important for legislation to control advertising of**

**ecigarettes in the same way as it controls advertising of smoked tobacco**

**products?**

Yes No

Reasons/additional comments:

**Q5 Do you think it is important for the SFEA to prohibit vaping in designated**

**smokefree areas in the same way as it prohibits smoking in such areas?**

Yes No

Reasons/additional comments:

**Q6 Do you agree that other controls in the SFEA for smoked tobacco products**

**should apply to ecigarettes? For example:**

Yes, And alcohol advertising should be tightened too.

No. But I agree some distinction should be made to allow ecigs to be vaped indoors, as

they are not putting out second-hand smoke from tobacco cigarettes. But ecig juices can make a

distinct “scent” in the air, so smaller companies (cafés for example) should be allowed to choose

whether or not they allow vaping. Also, separate INDOOR rooms could be allowed for vapers

and non-vapers, if they wish..

**Control Yes No Reasons/ additional comments**

Requirement for graphic health warnings √ Doesn’t work with cigarettes…

Prohibition on displaying products in sales

outlets

√

Restriction on use of vending machines √

Requirement to provide annual returns on

sales data

√

Requirement to disclose product content and

composition

√ VERY important.

Regulations concerning ingredients (eg,

nicotine content and/or flavours)

√ VERY important. I think we

should ban the lolly-type flavours.

Requirement for annual testing of product

composition

√

Prohibition on free distribution and awards

associated with sales

√

Prohibition on discounting √ No good reason not to.

Prohibition on advertising and sponsorship √

Requirement for standardised packaging

√ Packaging is irrelevant, apart from

the info on it re ingredients.

Other

**!** Policy Options for the Regulation of Electronic Cigarettes – Consultation **4** submission form

**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 ecigarettes are**

**needed?**

Yes No

Additional comments:

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

DEFINITELY NOT! It is NOT tobacco, therefore it should not come under the same

regulations.

**Area of concern Yes No Reasons/additional comments**

Childproof containers √

Safe disposal of ecigarette 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

1. Using ecigs has helped me to STOP SMOKING entirely. My health is much better - no

coughing, no shortness of breath… plus no filthy cigarette butts or ash lying around or smelling

on your clothes.

2. Research has shown that ecigs are actually LESS harmful than nicotine patches and nicotine

gum, as well as tobacco cigarettes of course.

3. Keeping the cost of vaping low is all helpful in encouraging smokers to change to vaping.

4. I’ve lowered the nicotine content in my ecigs over the past 7 years, and now happily vape at a

low level of nicotine. Another good reason for encouraging their use.

Policy Options for the Regulation of Electronic Cigarettes – Consultation submission form **!5**

**Additional information on sales and use**

**Q10 Can you assist us by providing information on the sale of ecigarettes 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 ecigarettes: 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?**

Many ecigs and liquids are available in nz, but better quality ones are available from

overseas.

No.

**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?**

7 years 4-6 times a day $4 USA

**!** Policy Options for the Regulation of Electronic Cigarettes – Consultation

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 66

|  |  |
| --- | --- |
| Your detailsThis 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 ecigarette 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 ecigarette use status:

✔ I am using nicotine ecigarettes.

 I am using nicotine-free ecigarettes.

 I currently smoke as well as use ecigarettes.

 I am not an ecigarette user.

 I have tried ecigarettes.

### Privacy

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|  |
| --- |
| None |

Please return this form by email to:

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

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

## Consultation questions

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

Q1 Do you agree that the sale and supply of nicotine ecigarettes 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:

|  |
| --- |
| No opinion |

Q3 Do you think it is important for legislation to prohibit the sale and supply of ecigarettes 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 ecigarettes 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:

|  |
| --- |
| In indoors smokefree areas yes. Perhaps they should be less onerous, as the potential for harm in outdoor areas currently considered smokefree areas is probably a lot smaller. |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Control** | **Yes** | **No** | **Reasons/ additional comments** |
| Requirement for graphic health warnings |  | ✔ | Lack of evidence for serious health effects |
| Prohibition on displaying products in sales outlets |  | ✔ | It would probably make it significantly difficult to buy products, particularly if it was instituted in the way it is for tobacco; i.e., not allowed to show customers your stock. |
| Restriction on use of vending machines |  |  | No opinion |
| Requirement to provide annual returns on sales data |  |  | No opinion |
| Requirement to disclose product content and composition | ✔ |  |       |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | ✔ |  | Restrictions on flavouring should be based on potential health issues and not on hand-waving fears about appeal to children |
| Requirement for annual testing of product composition | ✔ |  |       |
| Prohibition on free distribution and awards associated with sales | ✔ |  |       |
| Prohibition on discounting |  | ✔ | Smokers should be incentivised to switch |
| Prohibition on advertising and sponsorship | ✔ |  |       |
| Requirement for standardised packaging |  | ✔ | Counterfeiting in industry is rife, would make it harder to determine |
| 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 Ministry has already stated that they believe e-cigarettes are an effective form of harm reduction. Therefore their usage should be incentivised, and economics tells us that economic incentives are among the most effective. By applying an excise users have less incentive to switch from smoking tobacco to using e-cigarettes, which are currently substantially cheaper. Electronic cigarettes are predominantly used by former and current tobacco smokers, there is as of yet little evidence that uptake by non-smokers is a concern. Fear of things that “may happen” is irrational hand-waving when unaccompanied by evidence. |

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

Yes ✔ No

Additional comments:

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers | ✔ |  |       |
| Safe disposal of ecigarette devices and liquids |  |  | No opinion - though if instituted it would be great if there were clear places to dispose of these, either at same place you bought them, or by government. |
| Ability of device to prevent accidents | ✔ |  | Should be same standards as all consumer goods containing batteries, laptops, mobile phones etc. |
| Good manufacturing practice | ✔ |  |       |
| Purity and grade of nicotine | ✔ |  |       |
| Registration of products | ✔ |  |       |
| A testing regime to confirm product safety and contents purity | ✔ |  | But only if not onerous, eg excessively large fees that would only allow very large companies to participate in market |
| Maximum allowable volume of e-liquid in retail sales | ✔ |  | Provided it is a high enough amount, eg, 6 months, a year |
| Maximum concentration of nicotine e-liquid | ✔ |  | Yes, if sold as pre-mixed, but no if provided as an ingredient for users to mix, see below |
| Mixing of e-liquids at (or before) point of sale |  | ✔ | Users should be legally allowed to purchase the raw ingredients and mix their own, as it allows one to control the quality, composition and sources of said materials. I currently consume imported high quality ingredients mixed (high grade food standard glycerol, nicotine produced from organically grown tobacco by a company that does extensive lab testing to ensure quality etc.) as I don’t necessarily trust liquid manufacturers to do so. |
| Other |  |  |       |

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

|  |
| --- |
| In general I feel that the proposal in its entirety is well thought out and backed with evidence. I do have some concern about some statements meant to appease opponents that are simply fear of things that “may happen”, which is irrational hand-waving when unaccompanied by evidence. You can make an infinite number of arguments against something based on fear, society would ground to a halt if we were to try to accommodate every potential one. |

### Additional information on sales and use

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

|  |
| --- |
| In large centres generally as good as that available via overseas Internet retailers. |

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

|  |
| --- |
| No |

Q12 If you are using nicotine ecigarettes: 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 years | daily | $5-10 | internet |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 67

|  |  |
| --- | --- |
| Your detailsThis 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)*: Ex smoker & current e-cig user & advocate. I’m not a paid CSS provider, but do it free for unemployed people & pensioners.

*(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.

|  |
| --- |
| My only ‘vested interests’ are that I detest both Big Tobacco (who took a lot of money from me, and in return gave me a huge hole in my lung) and the Anti Nicotine and Tobacco Zealots - who took ***even more*** money from me than BT, and decided that ‘all stick, no carrot’ was the best approach to ‘encourage’ me to quit smoking. |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes ☑ No [ ]

Reasons/additional comments:

|  |
| --- |
| I feel a ‘light touch’ approach that favours specialist vape shops in combination with behavioural support from smoking cessation services would provide the best result for dropping smoking rates in NZ (or anywhere, for that matter). |

#### 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:

|  |
| --- |
| Snus has proven a boon to the Swedes in providing a much more healthy alternatives to burnt tobacco. It should be offered for sale in tobacconists and prominently displayed. I know some current e-cig users who maintain they could not have given up without the extra help of snus.I have some experience with Dry Herb Vapourizers (similar to Heat Not Burn devices) and although I think they are less effective than e-cigarettes, they perhaps also should be considered as another harm reduction product for sale by tobacconists. |

#### 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’ll qualify that by saying that e-cigarettes should be available to ***all*** smokers, irrespective of age. I feel the best balance could be reached by specifying that there should be no ‘under 18s’ in a vape shop, **unless they are accompanied by their parent or guardian.** |

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

Yes [ ]  No ☑

Reasons/additional comments:

|  |
| --- |
| Advertising should be more liberal for e-cigarettes. I have no firm views on how advertising should be handled in newspaers, TV & radio, but:In-store advertising should be unrestricted.**Positive** messages on cigarette packs should help smokers to promote the e-cig alternative is available, and where they can get further information (e.g. a Health Department controlled site with basic information on e-cigarettes, e-cigarette trained smoking cessation services, and a ‘nearest vape shops from my postcode’ facility). |

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

Yes [ ]  No ☑

Reasons/additional comments:

|  |
| --- |
| I strongly feel that legislation to prevent vape indoors is too heavy handed, and that individual businesses should get to decide what is best for their customers, and in what parts of the building (e.g. a pub might ban e-cigs in the main bar, while allowing them in another room or the beer garden). Further make it so that the business needs to signal their ‘pro e-cig’ intent explicitly by putting up ‘e-cig OK’ signs. Outside, I can see the sense of banning e-cig use in places that are **predominantly** for children, but something like open air stadiums should be left to the people controlling them, with the same ‘e-cig OK’ sign requirement. I’ve never felt that outdoor **smoking** bans are justifiable on health grounds alone, and to extend that to vape would make even less sense. |

#### 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 | [ ]  | ☑ | If by ‘graphic’ you mean the scare campaigns as featured in Australia, I have lots of reasons to believe these are *counter-productive*. **Helpful** messages in pictorial form that warn of potential harms (e.g. about children drinking e-liquid) could be useful. |
| Prohibition on displaying products in sales outlets | [ ]  | ☑ | This makes absolutely no sense to me. Given the variety of products available, and the need to get a device that is ‘just right’ for the user, the ability to both display and give the customer the chance to hold, check the draw on, or otherwise examine the e-cig hardware is vital. |
| Restriction on use of vending machines | ☑ | [ ]  | This could really only be of use to Big Tobacco companies pushing their very limited (in flavours & nicotine strengths) cig-alikes (& those devices are rubbish & just serve to mislead smokers into thinking that e-cigs “don’t work”). |
| Requirement to provide annual returns on sales data | ☑ | [ ]  | I think it’s important to check that e-cigs are doing the job the health department needs of them. This is at least part of the data they will require. |
| Requirement to disclose product content and composition | ☑ | [ ]  | User knowledge of nicotine content is vital.  |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | ☑ | [ ]  | Yes & yes, if you mean like ’18 mg/mL nicotine, lemon and lime flavouring, 80/20 PG/VG’ |
| Requirement for annual testing of product composition | [ ]  | ☑ | If products are tested once and are not changed, I don’t see the benefit of annual testing. |
| Prohibition on free distribution and awards associated with sales | [ ]  | ☑ | It vastly helps users to be able to try flavours, so free samples should be encouraged. Loyalty points helps keep ex-smokers focused on **not smoking** (e.g. ‘ooh, just one more e-liquid bottle and I can get some free coils!’) |
| Prohibition on discounting | [ ]  | ☑ | Oh come on, don’t take all the fun out of e-cigs! It is part of their strength as an alternative to smoking. |
| Prohibition on advertising and sponsorship | [ ]  | ☑ | Advertising should be strictly controlled, but not prohibited. I am not in favour of allowing sponsorship. |
| Requirement for standardised packaging | [ ]  | ☑ | I think compulsory leaflets to go with hardware & e-liquids should be sufficient. |
| Other | [ ]  | [ ]  | I’m not aware of the details of the SFEA so simply don’t know. |

#### 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:

|  |
| --- |
| This sends entirely the wrong message about e-cigarettes, and erodes the price advantage they offer. Note that for my case, although smoking ruined my health, it was really the cost that made me look for alternatives.Perhaps a ‘research levy’ of up to 10% on e-liquids only, could help fund testing of the constituent parts of the most popular flavours, but the proceeds should all be earmarked explicitly for e-cig / flavour testing, without being put into general government revenue. |

#### 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 | ☑ | [ ]  | Note that this is the de-facto standard for every e-liquid maker I’ve ever dealt with. |
| Safe disposal of e‑cigarette devices and liquids | ☑  | [ ]  | Vape vendors should offer a service to safely dispose of, or recycle, old batteries & safely dispose of unused e-liquids. |
| Ability of device to prevent accidents | ☑ | [ ]  | Isn’t this covered by existing ‘consumer electrical safety’ requirements? |
| Good manufacturing practice | ☑ | [ ]  | Vendors that mix e-liquid should have staff go through a 1 day training course on how to mix the components (nicotine, flavour, PG, VG) together (note that there are existing on-line calculators for doing just that). |
| Purity and grade of nicotine | ☑ | [ ]  | I’ve never known a supplier to supply anything less than ‘pharmaceutical grade’ nicotine and ‘food grade’ everything else. |
| Registration of products | ☑ | [ ]  | I see no basic problem for vendors to register new models of e-cig battery packs & tanks with a central repository of such information. It could be handy if a particular device is found to be e.g. electrically unsafe. |
| A testing regime to confirm product safety and contents purity | [ ]  | ☑ | Product safety for hardware should already be covered by existing consumer regulations. E-liquid is too variable (especially in regards flavour & diluent) to require testing of every possible variant. But certainly some basic standards should be specified (e.g. ‘food grade’ is pretty much a de-facto standard within the industry). |
| Maximum allowable volume of e-liquid in retail sales | ☑ | [ ]  | 30 mL. Larger orders can be spread across a number of bottles. This helps reduce risk of accidental poisoning. |
| Maximum concentration of nicotine e-liquid | ☑ | [ ]  | 36 mg/mL. I previously proposed 30 mg/mL (3%) to a government (Australia) committee looking into the matter, but subsequently found that many current e-cig users require stronger nicotine in order to get a satisfying effect. 36 mg/mL should satisfy at least 19 out of 20 people. I suspect if they need more than that, snus might be a better option. |
| Mixing of e-liquids at (or before) point of sale | ☑ | [ ]  | I feel the option should be there for the consumer to walk into a shop, request a custom nicotine strength, wait 15 minutes while it’s mixed, and leave with it. |
| Other | [ ]  | ☑ |       |

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

|  |
| --- |
| Part of the success of vape products lies in the way the hardware and liquids can be customized to being an ‘exact fit’ for the consumer. That involves choice of battery pack and tank, settings on the battery packs (e.g. the volts, watts or temperature setting), airflow through the tank, resistance of coils, flavours (or combinations of flavours), mix of PG/VG diluents, and nicotine strengths. In Australia we do that by buying high strength nicotine (up to 10%) then mixing the rest as needed ourselves. This is not ideal because of potential ‘user error’ combined with keeping higher concentrations of nicotine in the home. If trained staff in vape shops can mix up to 3.6% nicotine concentrations for consumers, it almost wipes out the need for a user to ‘DIY’.Anything that places arbitrary or burdensome restrictions on hardware or liquids would limit the ability of e-cigs to satisfy smokers enough to keep them off 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)?

|  |
| --- |
| No. I live in Australia. |

#### 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?** |
| 2 years 4 months | Daily | $10 (to need) -$60 (when indulging myself on new hardware) | Mostly from a vape shop, especially the first time I’m buying that product, some simple things (batteries etc.) on-line. |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 68

|  |  |
| --- | --- |
| Your detailsThis submission was completed by: *(name)* |      [Redacted] |
| Address: *(street/box number)* |           [Redacted] |
|  *(town/city)* |           [Redacted] |
| Email: |           [Redacted] |
| Organisation *(if applicable)*: |      Elusion Australia |
| Position *(if applicable)*: |           [Redacted] |

*(Tick one box only in this section)*

Are you submitting this:

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

[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:

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

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

[x]  This submission contains commercially sensitive information.

### Declaration of tobacco industry links or vested interest

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|  |
| --- |
|      no |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes [x]  No [ ]

Reasons/additional comments:

|  |
| --- |
|      [redacted] |

#### 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:

|  |
| --- |
|       |

#### 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:

|  |
| --- |
|      People want to use e-cigarettes to help them give up smoking tobacco. We should let people know that this product might be able to give up 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:

|  |
| --- |
|      Vapour is not smoke |

#### 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]  |      vape vs smoke  |
| Prohibition on displaying products in sales outlets | [ ]  | [x]  |      We should let people know of the availability of a product that might help them give up smoking |
| Restriction on use of vending machines | [x]  | [ ]  |      can’t control age if its sold by vending machiens |
| 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]  |      our suppliers are audited to ensure best practice |
| Prohibition on free distribution and awards associated with sales | [ ]  | [x]  |      standard business practice |
| Prohibition on discounting | [ ]  | [x]  |      standard business practice |
| Prohibition on advertising and sponsorship | [ ]  | [x]  |      we should encourage people to switch from smoking tobacco  |
| Requirement for standardised packaging | [ ]  | [x]  |       |
| Other | [ ]  | [ ]  |       |

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

Yes [ ]  No [x]

Reasons/additional comments:

|  |
| --- |
|      The current difference in price between tobacco and e-cigarettes creates an incentive for people to switch. If you remove that incentive people will stay on tobacco. |

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

Yes [x]  No [ ]

Additional comments:

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers | [x]  | [ ]  |      . |
| Safe disposal of e‑cigarette devices and liquids | [x]  | [ ]  |       |
| Ability of device to prevent accidents | [x]  | [ ]  |       |
| Good manufacturing practice | [x]  | [ ]  |      our suppliers are audited |
| Purity and grade of nicotine | [x]  | [ ]  |      our suppliers are audited |
| Registration of products | [ ]  | [x]  |       |
| A testing regime to confirm product safety and contents purity | [x]  | [ ]  |      our suppliers are audited |
| Maximum allowable volume of e-liquid in retail sales | [x]  | [ ]  |      100ml |
| Maximum concentration of nicotine e-liquid | [x]  | [ ]  |      16mg |
| Mixing of e-liquids at (or before) point of sale | [x]  | [ ]  |       |
| Other | [ ]  | [ ]  |       |

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

|  |
| --- |
|       |

### Additional information on sales and use

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

|  |
| --- |
|      [redacted]  |

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

|  |
| --- |
|       [redacted] |

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

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

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 69

|  |  |
| --- | --- |
| Your detailsThis submission was completed by: *(name)* | [Redacted] |
| Address: *(street/box number)* | [Redacted] |
|  *(town/city)* | [Redacted] |
| Email: | [Redacted] |
| Organisation *(if applicable)*: | Aotearoa Vapers Community Advocacy (AVCA) |
| 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? **Please see Addendum, item #5 for community signatures in agreement and support to this submission**

 *(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)*: Vapers Community Advocacy (community organisation)

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

Please indicate your e‑cigarette use status:

X I am using nicotine e‑cigarettes.

X I am using nicotine-free e‑cigarettes.

[ ]  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:

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.

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|  |
| --- |
| **AVCA as a community organisation has no vested interests in either the tobacco industry or the electronic cigarette/e liquid manufacturing/importing/distribution sectors. We are a consumer organisation, non profit, awaiting our charitable status application to be processed by government as a community charitable trust board.**  |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes X No [ ]

Reasons/additional comments:

|  |
| --- |
| **“Appropriate Control” should follow the evaluation criteria of Harm Prevention (age restriction, child proof bottles for e-liquid; harm prevention – items should conform to current consumer protections as outlined in legislation; harm reduction – even though electronic cigarettes are not an approved cessation device, they have been scientifically proven to be 95% safer than combustible tobacco and therefore, should not be treated as a tobacco product with the inherent excises and taxes that are included in tobacco products that are utilised to offset the costs of harm from said tobacco products; proportionality – utilising the criteria of harm vs. risk; ease of implementation; and cost effectiveness of enforcement.****In our view, only appropriate control should be:****Consumer Product - Restricted 18+****E-liquid should have child proof caps, appropriate labelling (ingredients being USP/BP for diluent (glycerol, propylene glycol and liquid nicotine diluent) and flavourings food grade (as proved by SDS and MSDS from manufacturer of said flavourings)**  |

#### 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 should also be made legal under the same consumer product 18+ guideline as nicotine e liquid as it is also a product that does not fit the “harms” of combustible tobacco and is an alternative to combustible tobacco that can reduce harm.** |

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

Yes [ ]  No X

Reasons/additional comments:

|  |
| --- |
| **We believe it is important to prohibit the sale and supply of nicotine containing eliquid to young people under 18.** **We do not believe it should be classified or taxed as a tobacco product as it does not produce the same form of health harm as combustible tobacco, which is taxed according to those same harms and the revenue generated from those taxes and excises is in place to cover the costs of those harms in the National Health System.** |

#### 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 available to educate and inform current smokers of combustible tobacco of the alternative of ENDS. Advertising should NOT be aimed at youth under 18 years of age.** |

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

Yes [ ]  No X

Reasons/additional comments:

|  |
| --- |
| **The use of ENDS and nicotine e liquid is not a public health issue in the way that combustible tobacco products are, and therefore should not be treated as the same, either via public restriction beyond being an 18+ product. Nor should there be excessive taxation (as there are no additional costs to the National Health System from their use, as is with combustible tobacco)****Also, there is no evidence that there is any harm anyone in contact or exposed to the exhalation from an electronic cigarette with nicotine e-liquid. (“second hand vapour”)****The references included in the document itself provide this evidence as proved by scientific method. (Public Health UK, Royal College of Physicians reports).** **Additional references to peer reviewed science are included in the Addendum to this submission.** |

#### 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 |       |
| Prohibition on displaying products in sales outlets | [ ]  | X |       |
| Restriction on use of vending machines | [ ]  | X |       |
| Requirement to provide annual returns on sales data | [ ]  | X |       |
| Requirement to disclose product content and composition | [ ]  | X |       |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | [ ]  | X |       |
| Requirement for annual testing of product composition | [ ]  | X |       |
| Prohibition on free distribution and awards associated with sales | [ ]  | X |       |
| Prohibition on discounting | [ ]  | X |       |
| Prohibition on advertising and sponsorship | [ ]  | X |       |
| Requirement for standardised packaging | [ ]  | X |       |
| Other | [ ]  | X |       |

#### 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:

|  |
| --- |
| **Nicotine e-liquid is not a tobacco product.** **Also, not all liquid nicotine diluent used in e-liquid is created through the process of tobacco extraction - some nicotine e-liquid is produced synthetically, in the same process as is the nicotine contained within the currently funded Nicotine Patches, Gum and Lozenges.** **As well, the excise taxes and duties that are currently imposed on combustible tobacco products is there to help fund the National Health System to offset the harms from that product. Those harms are limited to combustible tobacco products.**  |

#### 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 | [ ]  | [ ]  |       |
| Ability of device to prevent accidents | [ ]  | [ ]  |       |
| Good manufacturing practice | X | [ ]  | Please see Addendum - AVCA Vendor Certification |
| Purity and grade of nicotine | X | [ ]  | Please see Addendum - AVCA Vendor Certification |
| Registration of products | [ ]  | [ ]  |       |
| A testing regime to confirm product safety and contents purity | [ ]  | X |       |
| Maximum allowable volume of e-liquid in retail sales | [ ]  | X |       |
| Maximum concentration of nicotine e-liquid | [ ]  | X |       |
| Mixing of e-liquids at (or before) point of sale | [ ]  | X |       |
| Other | [ ]  | X |  |

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

|  |
| --- |
| **We have enclosed an Addendum to this submission that includes the full AVCA response to concerns and objectives presented in policy document from the Ministry of Health****Item #1 – AVCA Nicotine Policy Statement – we believe that premade liquid at a max amount of 48mg nicotine should be available retail as a consumer product.****Item #3 - AVCA Certification (of NZ Vendors/Manufacturers) – this document outlines the best manufacturing processes that conform to a standard that currently does not exist here in NZ. It was based on information from the British PAS, AFNOR in France and AEMSA in the United States.****Item #4 – AVCA Consumer Bill of Rights (for Vapers)****Item #5 – Consumer Signatures in support of this submission on the legalisation of nicotine e-liquid for retail sale.****Item #6 – Vape Vendor Survey of Vapers in New Zealand, May 2016** |

### 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)?

|  |
| --- |
| **Please See Addendum for Item #6** |

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

Submission is continued in PDF submissions.

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 70

|  |  |
| --- | --- |
| Your detailsThis 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:

[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

[x]  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:

[ ]  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.

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|  |
| --- |
| Nil |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes [x]  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 [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:

|  |
| --- |
| Essential that youth are not able to access this product, nor should it ‘culturalised’ or ‘normalised’. |

#### 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:

|  |
| --- |
| It should not be allowed to be advertised (in the same way as tobacco products). However, it would be impracticable and overly bureaucratic to prevent retailers from displaying, or representing their product in store and online.  |

#### 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:

|  |
| --- |
| Vaping does perpetuate and represent a culture of ‘smoking’ and should therefore be associated with the same smoke-free ‘zone’ restrictions as tobacco products. |

#### 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]  | However, warnings regarding use of nicotine should be compulsory. |
| Prohibition on displaying products in sales outlets | [ ]  | [x]  | E-cigarettes are an effective and much safer solution to tobacco products and should be in the public consciousness when making decisions about tobacco smoking cessation.  |
| Restriction on use of vending machines | [x]  | [ ]  | Retailers should act as an important ‘advisory’ when selling product and vending machines will likely circumvent this role. |
| Requirement to provide annual returns on sales data | [ ]  | [x]  | Existing census and survey methods should be used. |
| Requirement to disclose product content and composition | [x]  | [ ]  | As with all ‘consumable’ products. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | [x]  | [ ]  | There needs to be clear requirements and information about acceptable levels of nicotine consumption, including.  |
| Requirement for annual testing of product composition | [x]  | [ ]  |       |
| Prohibition on free distribution and awards associated with sales | [x]  | [ ]  |       |
| Prohibition on discounting | [ ]  | [x]  |       |
| Prohibition on advertising and sponsorship | [x]  | [ ]  | It should not be allowed to be advertised (in the same way as tobacco products). However, it would be impracticable and overly bureaucratic to prevent retailers from displaying, or representing their product in store and online.  |
| Requirement for standardised packaging | [x]  | [ ]  | There needs to be a standardised label that describes nicotine levels in the e-liquid. However any other standardisation should not be required. ‘Branding’ should be allowed. |
| 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:

|  |
| --- |
| Whilst providing an excellent nicotine replacement and reduction regime, e-liquid and e-cigarettes represent an incredibly economical option for users in wanting to give up tobacco products and are part of an important pathway ongoing for those in smoking cessation.By imposing excise (aside from standard GST) would likely make e-smoking a less attractive solution (cost-wise) and may well result in tobacco smokers deciding not to ‘switch’. A critical incentive (for me, as a heavy tobacco smoker of 30 years) was the cost benefits…over time I was able to sensibly reduce nicotine levels using e-cigarette regime from 2.4 to 1.8 to 1.2 to 0.6 and within a year had titrated to negligible nicotine consumption. Savings of over $100 per week were a critical incentive.I would caution around the highly negative impacts of turning this into a ‘tax-take’ (as would be seen by consumers at least). |

#### 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]  | [ ]  |       |
| Good manufacturing practice | [x]  | [ ]  |       |
| Purity and grade of nicotine | [x]  | [ ]  |       |
| Registration of products | [x]  | [ ]  |       |
| A testing regime to confirm product safety and contents purity | [x]  | [ ]  |       |
| Maximum allowable volume of e-liquid in retail sales | [ ]  | [x]  | A waste of time, people will just order / buy multiple amounts from multiple suppliers. |
| Maximum concentration of nicotine e-liquid | [x]  | [ ]  | Max of 2.4, however the ability of generation 3 devices to efficiently deliver nicotine needs to be understood and made clear to the consumer. Most quality generation 3 devices require only 1.2 (and even less) strengths to deliver similar nicotine product that a generation 1 device. This to needs to be made clear in all information and packaging. |
| Mixing of e-liquids at (or before) point of sale | [ ]  | [x]  |       |
| Other | [ ]  | [ ]  |       |

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

|  |
| --- |
| Vaping is an effective option for long-term tobacco smokers in their ‘toolkit’ with the goal of smoking cessation; and should be readily available, highly cost-effective, and well-informed and described. |

### 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)?

|  |
| --- |
| There is an immeasurable array of products on the market. |

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

|  |
| --- |
| No. |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **How long have you been using them?** | **How often do you use them?** | **How much do you spend on them per week?** | **Where do you buy them?** |
| Previously, 1 year | Previously, Daily | Previously, $20 per week (including e-liquid and devices – up-keep of parts and ‘coils’). | Devices – on-line locally.E-liquid – on-line overseas  |

Note: previously used

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 71

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

*(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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|  |
| --- |
|      No direct links or vested interest or receive any funding. I am a customer of some tobacco companies as we retail tobacco products in our store. |

Please return this form by email to:

**ecigarettes****@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:

|  |
| --- |
|      I am a Retailer who sells tobacco products in our store. I have seen a good portion of smokers who come into our shop transition to vaping. Many report this is easy and they prefer it to being made to feel like they’re “sick or there is something wrong with them” for being a smoker by having to go to a pharmacy. They like that they can make the choice. We sell e-cig devices right alongside tobacco products. Smokers buy them but then buy the nicotine e-liquids on-line. I would like for us to be able to sell these items right alongside tobacco and see all our smoker customers make the transition over time. |

#### 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:

|  |
| --- |
|      None that I’m aware of. |

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

Yes [ ]  No [ ]

Reasons/additional comments:

|  |
| --- |
|      Nicotine is an addictive substance, as such the sale of it should be restricted to over 18’s, and also these products appeal exclusively to smokers in my observation so it makes sense that they be R18. |

#### 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 E-cigs are scientifically proven to be less harmful that tobacco, by restricting access or knowledge of these products would play into the hands of tobacco companies by tarring them with the same brush as smoking. Smokers would them remain unformed or unsure about these products and use this as an excuse to keep smoking. I think they should be placed alongside tobacco products without having to be hidden or plain packaged so that smokers can gain awareness of the products. I also think that in-store demos are a good idea in stores that already sell tobacco. |

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

Yes [ ]  No [ ]

Reasons/additional comments:

|  |
| --- |
|       Again this is just tarring with the same brush as tobacco and reinforces the misconception with smokers that this is “just as bad as smoking” so I may as well just keep smoking. |

#### 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 | [ ]  | [ ]  |       Tars with the same brush as tobacco. Smokers will use it as an excuse to keep smoking because it will be seen as “just as bad” for you. |
| Prohibition on displaying products in sales outlets | [ ]  | [ ]  |      Should be displayed alongside tobacco so that smokers can enquire about them – this is the first step in getting them to transition. |
| Restriction on use of vending machines | [ ]  | [ ]  |      Unable to verify that they are over 18. |
| Requirement to provide annual returns on sales data | [ ]  | [ ]  |      Importer/Manufacturer only |
| Requirement to disclose product content and composition | [ ]  | [ ]  |      Smokers are asking for assurances about testing of flavourings when heated for toxins and carcinogens. Also for batteries that meet safety standards. So they rightly want quality assurances. |
| Regulations concerning ingredients (e.g., nicotine content and/or flavours) | [ ]  | [ ]  |      As above these are questions that smokers are asking. |
| Requirement for annual testing of product composition | [ ]  | [ ]  |      Regulatory assurance is what we are being asked about by smokers wanting to transition. |
| Prohibition on free distribution and awards associated with sales | [ ]  | [ ]  |      Why restrict access to Smokers wanting to transition to these products? |
| Prohibition on discounting | [ ]  | [ ]  |      Why? Price fixing is illegal anyway. |
| Prohibition on advertising and sponsorship | [ ]  | [ ]  |      Focus should be on in store promotion and education as the most effective way to get e-cigs into the hands of smokers and filter out under 18s. |
| Requirement for standardised packaging | [ ]  | [ ]  |       Tars with the same brush as tobacco. Smokers will use it as an excuse to keep smoking because it will be seen as “just as bad” for you. |
| 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:

|  |
| --- |
|      Adds cost. If it becomes expensive through excise it treats it like tobacco and won’t encourage smokers to use the products to transition away from smoking. |

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

Yes [ ]  No [ ]

Additional comments:

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers | [ ]  | [ ]  |      Nicotine – controlled substance. |
| Safe disposal of e‑cigarette devices and liquids | [ ]  | [ ]  |      Lithium ion batteries require safe disposal as with cell phone batteries etc. |
| Ability of device to prevent accidents | [ ]  | [ ]  |      Safety circuits to prevent battery overheating. |
| Good manufacturing practice | [ ]  | [ ]  |      Smokers are asking for quality assurances. This would be a good international standard to use. |
| Purity and grade of nicotine | [ ]  | [ ]  |       Again smokers are asking so this would add to product confidence for smokers looking to transition. |
| Registration of products | [ ]  | [ ]  |       |
| A testing regime to confirm product safety and contents purity | [ ]  | [ ]  |       |
| Maximum allowable volume of e-liquid in retail sales | [ ]  | [ ]  |      A bigger volume container makes the product more vulnerable to tamper that would compromise product safety assurances. |
| Maximum concentration of nicotine e-liquid | [ ]  | [ ]  |       |
| Mixing of e-liquids at (or before) point of sale | [ ]  | [ ]  |      Allows for tamper that would compromise product safety assurances. |
| Other | [ ]  | [ ]  |       |

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

|  |
| --- |
|      It has been rewarding to see some of our customers who are smokers readily make the transition to vaping. This works in our shop because it is positioned alongside tobacco and smokers can demo non-nicotine in store and ask about the products in order to receive education. They tell me they like that they can make the choice of their own free will instead of having to be made to feel like they are asking for help (quit-line) or are some sort of patient (pharmacy). |

### 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 enough data as people will buy devices from us the go on-line to get nicotine liquids so it’s hard for us to gauge retention rates. |

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

|  |
| --- |
|      Assist with confidence of smokers wanting to transition but are uncertain of the safety, quality and constancy of these products. It would help assure the quality of the devices as smokers will be much more likely to transition to vaping if they have a “good experience” . If the device is poor quality and they experience issues they are more likely to return to smoking. It will allow us to market these products to smokers. |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **How long have you been using them?** | **How often do you use them?** | **How much do you spend on them per week?** | **Where do you buy them?** |
| 2 years | Daily | $10 | Online |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 72

|  |  |
| --- | --- |
| Your detailsThis 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)*: Individual

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

Please indicate your e‑cigarette use status:

[ ]  I am using nicotine e‑cigarettes.

[ ]  I am using nicotine-free e‑cigarettes.

[ ]  I currently smoke as well as use e‑cigarettes.

 I am not an e‑cigarette user.

[ ]  I have tried e‑cigarettes.

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

[ ]  Do not publish this submission.

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

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

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

[ ]  This submission contains commercially sensitive information.

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|  |
| --- |
|       |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes No [ ]

Reasons/additional comments:

|  |
| --- |
| Has been proven to be less harmful than tobacco  |

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

Yes [ ]  No [ ]

Reasons/additional comments:

|  |
| --- |
| Not sure |

#### 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:

|  |
| --- |
| Should be promoted as a stop smoking device and not a alternative to smoking. Also do not want to encourage the normalisation of vaping |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Control** | **Yes** | **No** | **Reasons/ additional comments** |
| Requirement for graphic health warnings |  | [ ]  |       |
| Prohibition on displaying products in sales outlets |  | [ ]  |       |
| Restriction on use of vending machines |  | [ ]  |       |
| Requirement to provide annual returns on sales data |  | [ ]  |       |
| Requirement to disclose product content and composition |  | [ ]  |       |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  | [ ]  |       |
| Requirement for annual testing of product composition |  | [ ]  |       |
| Prohibition on free distribution and awards associated with sales |  | [ ]  |       |
| Prohibition on discounting |  | [ ]  |       |
| Prohibition on advertising and sponsorship |  | [ ]  |       |
| Requirement for standardised packaging |  | [ ]  |       |
| Other | [ ]  | [ ]  |       |

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

Yes  No [ ]

Reasons/additional comments:

|  |
| --- |
|       |

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

Yes [ ]  No [ ]

Additional comments:

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

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

|  |
| --- |
|       |

### Additional information on sales and use

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

|  |
| --- |
|       |

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

|  |
| --- |
|       |

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

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

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 73

|  |  |
| --- | --- |
| Your detailsThis 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)*: Public

*(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.

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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.

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|  |
| --- |
|       |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes [ ]  No [ ]

Reasons/additional comments:

|  |
| --- |
| Nicotine e-cigarettes and nicotine liquids can be easily purchased on-line. Restricting the sales of these products in the country does not make a big difference in access to them. Also, there is evidence that these products can be helpful in tobacco cessation in some people. |

#### 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:

|  |
| --- |
| Combustible tobacco products and e-cigarettes have the same active ingredient – nicotine. Therefore these products should be treated the same way. However, the age for all tobacco products should be raised to 21 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:

|  |
| --- |
| It is ultimately the same product so should be regulated similarly.  |

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

Yes [ ]  No [ ]

Reasons/additional comments:

|  |
| --- |
| One of the reasons why smoking is prohibited in public places is normalisation. Normalisation is where behaviour becomes seen as ‘normal’ because it happens a lot. Children do not understand difference between e-cigarettes and normal cigarettes. Seeing people smoking e-cigs can normalise smoking in general and make more young people to take on smoking. Also, I was absolutely not impressed when I was shopping in my local supermarket with my children and a man was doing his food shopping with an e-cigarette. He created huge clouds of ‘smoke’ and we had to walk through it. My children were very confused but at the same time got worryingly curious. Curiosity is one of the reasons young people try smoking. That is why we need to protect our children from this type of experiences. Kids should use curiosity in exploring the world, not addictive behaviours.  |

#### 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 | [ ]  | [ ]  | Smoking in public places |

#### 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:

|  |
| --- |
| It’s similar products so should be taxed similar.Also, price will be a preventative measure for non-smokers not to start. |

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

Yes [ ]  No [ ]

Additional comments:

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

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

|  |
| --- |
|       |

### Additional information on sales and use

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

|  |
| --- |
|       |

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

|  |
| --- |
|       |

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

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

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 74

|  |  |
| --- | --- |
| Your detailsThis 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.

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[ ]  This submission contains commercially sensitive information.

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|  |
| --- |
| I don’t have any company links or vested interests with the tobacco industry.  |

Please return this form by email to:

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

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

## Consultation questions

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

Yes ✔ No [ ]

Reasons/additional comments:

|  |
| --- |
| I find that nicotine e-ciggarettes are far more successful to actually help people quit or cut down on smoking, above things like Champex, patches and gum. The amount of friends and people I meet in retail who use e-ciggarettes is huge! These people are so happy, and feeling healthier after going on to e-ciggarettes and eventually they ween themselves onto the non-nicotine liquids. Nicotine e-cigs definitely cut out ALL the toxins which cigarettes give you, except obviously nicotine, but that is purely the addictive chemical, it isn’t necessarily bad for you. |

#### 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:

|  |
| --- |
| No, not that I am aware of. I haven’t met anyone who has successfully quit with patches or gum and I believe this is because they are lacking the action of smoking, they are still getting the nicotine fix but losing the “habit” of having e.g a cigarette with a coffee, or when stressed, or when out with friends. Being able to still have that habit, that action of smoking, along with the nicotine makes it more of a natural way to quit smoking, you aren’t cutting out anything except for all the toxins that cigarettes give you.  |

#### 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:

|  |
| --- |
| Yes of course, as tobacco and cigarettes are R18, anything used to support the quitting of smoking should also be R18.  |

#### 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:

|  |
| --- |
| Unsure. I don’t think it would do any harm to advertise it – it would show people that there is a helpful way to quite soking and possibly where it is sold. However if it was not allowed to be advertised, I think word of mouth would get around anyway.  |

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

Yes [ ]  No [ ]

Reasons/additional comments:

|  |
| --- |
| Yes and no. Vaping is not as harmful as smoke so its not really dangerous in terms of “second-hand-smoke”. But I guess it would be fair to put it under the same category as smoking and have designated areas for it.  |

#### 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 the e-liquids really need to say is “contains nicotine” |
| Prohibition on displaying products in sales outlets | ✔ | [ ]  | As a nicotine product, it should not be displayed |
| Restriction on use of vending machines | ✔ | [ ]  | As an R18 product, it shouldn’t be in vending machines |
| Requirement to provide annual returns on sales data | ✔ | [ ]  | For statistics |
| Requirement to disclose product content and composition | ✔ | [ ]  | Yes, of course it should say what’s in it |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | ✔ | [ ]  |  |
| Requirement for annual testing of product composition | [ ]  | [ ]  | unsure |
| Prohibition on free distribution and awards associated with sales | [ ]  | [ ]  | unsure |
| Prohibition on discounting | [ ]  | [ ]  | unsure |
| Prohibition on advertising and sponsorship | [ ]  | [ ]  | Answered above |
| Requirement for standardised packaging | [ ]  | [ ]  | Answered 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:

|  |
| --- |
| Yes, everything needs tax |

#### 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?

|  |
| --- |
| 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)?

|  |
| --- |
|       |

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

|  |
| --- |
|       |

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

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

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 75

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

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

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

[ ]  Tobacco control non-government organisation

[ ]  Academic/research

[ ]  Cessation support service provider

[ ]  Health professional

[ ]  Māori provider

[ ]  Pacific provider

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

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

Please indicate your e‑cigarette use status:

[ ]  I am using nicotine e‑cigarettes.

[ ]  I am using nicotine-free e‑cigarettes.

[ ]  I currently smoke as well as use e‑cigarettes.

[ ]  I am not an e‑cigarette user.

[ ]  I have tried e‑cigarettes.

### Privacy

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

[ ]  Do not publish this submission.

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

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

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

[ ]  This submission contains commercially sensitive information.

### Declaration of tobacco industry links or vested interest

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|  |
| --- |
|       |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes [ ]  No [ ]

Reasons/additional comments:

|  |
| --- |
| Working on the front line, these have helped a lot of my clients to become Carbon Monoxide free & Nicotine free. Giving clients an extra tool to be smokefree, apart from whats available, has provided more motivation to Quit, otherwise would’ve never considered a Quit attempt. |

#### 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:

|  |
| --- |
| Nicotine Inhulator |

#### 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:

|  |
| --- |
| 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?

Yes [ ]  No [ ]

Reasons/additional comments:

|  |
| --- |
| Yes |

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

Yes [ ]  No [ ]

Reasons/additional comments:

|  |
| --- |
| Yes |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Control** | **Yes** | **No** | **Reasons/ additional comments** |
| Requirement for graphic health warnings | [ ]  | [ ]  |       |
| Prohibition on displaying products in sales outlets | [ ]  | [ ]  |       |
| Restriction on use of vending machines | [ ]  | [ ]  |       |
| Requirement to provide annual returns on sales data | [ ]  | [ ]  |       |
| Requirement to disclose product content and composition | [ ]  | [ ]  |       |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | [ ]  | [ ]  |       |
| Requirement for annual testing of product composition | [ ]  | [ ]  |       |
| Prohibition on free distribution and awards associated with sales | [ ]  | [ ]  |       |
| Prohibition on discounting | [ ]  | [ ]  |       |
| Prohibition on advertising and sponsorship | [ ]  | [ ]  |       |
| Requirement for standardised packaging | [ ]  | [ ]  |       |
| Other | [ ]  | [ ]  |       |

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

Yes [ ]  No [ ]

Reasons/additional comments:

|  |
| --- |
|       |

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

Yes [ ]  No [ ]

Additional comments:

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

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

|  |
| --- |
|       |

### Additional information on sales and use

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

|  |
| --- |
| No |

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

|  |
| --- |
| Yes, it would decrease/ delete the chance of smokers of another tool/ replacement, that would increase their chances of becoming smokefree. |

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

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

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 76

|  |  |
| --- | --- |
| This submission was completed by: *(name)* | [Redacted] |
| Position *(if applicable)*: | [Redacted] |
| Address: *(street/box number)* | [Redacted] |
|  *(town/city)* | [Redacted] |
| Email: | [Redacted] |
| Organisation *(if applicable)*: | Canterbury District Health Board (CDHB) |

*(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

[x]  Cessation support service provider

[x]  Health professional

[ ]  Māori provider

[ ]  Pacific provider

[ ]  Other sector(s) *(please specify)*: District Health Board, Smokefree Enforcement Officers

*(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.

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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.

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|  |
| --- |
| Nothing to declare. |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes [x]  No [ ]

Reasons/additional comments:

|  |
| --- |
| CDHB Smokefree Enforcement Officers (SFEOs) and cessation support workers are aware that the sale and supply of nicotine e-cigarettes and liquids is already taking place on the local market. Clarity is needed for retailers, consumers and SFEOs on the legal status of these products. As noted on page 4 of the consultation document, emerging evidence suggests that e-cigarettes pose less of a health risk than smoked tobacco, if smokers switch completely to e-cigarettes. On that basis, the CDHB recommends that the sale and supply of nicotine e-cigarettes and liquids should be allowed within set regulations that can be amended quickly as more evidence becomes available. Proper regulation and control of e-cigarettes and liquids has the potential to improve quality control and safety, while also making an alternative product available that evidence suggests is a safer alternative when compared to smoking. |

#### 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:

|  |
| --- |
| CDHB SFEOs have noted an increase in the use of e-shisha. In the interest of consistency, these products should be subject to the same control as e-cigarettes. |

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

Yes [x]  No [ ]

Reasons/additional comments:

|  |
| --- |
| The current law relating to e-cigarettes set out in the SFEA has caused confusion. Prohibiting the sale and supply of all e-cigarettes (nicotine or not) to under 18s will provide a clear and consistent rule for retailers and consumers to understand. Allowing sales to under 18s would give the impression that these are safe products for children to use when in fact the health risks are still unknown and nicotine e-liquids present a poisoning risk. Allowing sales to under 18s may also encourage vaping among young people who have never smoked tobacco, which should be avoided. |

#### 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:

|  |
| --- |
| The CDHB supports controlling advertising of e-cigarettes in the same way as advertising of tobacco products. Consistency will make regulations easier to understand. Minimising exposure to these products may help to prevent uptake of vaping among non-smokers, particularly young people, which could renormalise smoking behaviour. While advertising controls are supported, the CDHB recommends that regulations still allow the provision of information about e-cigarettes by cessation service providers. This will ensure people can seek impartial, accurate, evidence based information about e-cigarettes from professionals who do not stand to gain anything from their use.  |

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

Yes [x]  No [ ]

Reasons/additional comments:

|  |
| --- |
| The health risks of second hand vapour are still unknown and therefore exposure should be minimised. If vaping is not prohibited in Smokefree areas under the SFE Act then the use of e-cigarettes will be difficult to regulate. The CDHB is already receiving enquiries about the ability of organisations to extend voluntary Smokefree policies, e.g. Smokefree parks and playgrounds policies implemented by territorial authorities, to include vaping. Clear regulation in the SFEA would provide much needed clarity and guidance. Allowing vaping in Smokefree areas also risks renormalising smoking behaviour and causing a nuisance in areas that have been Smokefree for years. This would be a significant step backwards on the journey to Smokefree 2025.  |

#### 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]  | [ ]  | As the health risks of e-cigarettes are not known with certainty, a graphic health warning would not be appropriate at this time. As an alternative, the CDHB recommends that a statement of unknown health risk should be required. A poisoning warning should also be required. |
| Prohibition on displaying products in sales outlets | [x]  | [ ]  | This would ensure consistency with the regulation of tobacco products and would make it easier for retailers to understand their responsibilities. |
| Restriction on use of vending machines | [x]  | [ ]  | Regulations should be the same as those that are in place for tobacco products to ensure that e-cigarettes and e-liquids do not become available in confectionary vending machines. |
| Requirement to provide annual returns on sales data | [x]  | [ ]  | Information from annual returns would be useful to inform research and future policy reviews. |
| Requirement to disclose product content and composition | [x]  | [ ]  | This information will enable consumers to make an informed choice about the products they buy. It should also be included in annual returns so it can inform research and future policy reviews. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | [x]  | [ ]  | Regulation of nicotine content is important for the reduction of poisoning risk. Regulation of nicotine content and disclosure on packaging would offer consumers choice and also limit the potential for suppliers to increase levels to manipulate sales. There may also be a time in the future where reducing the nicotine content of e-cigarettes could be used as a public health tool, so having a mechanism for control in place from the outset would be beneficial.The health risks of added flavours are unknown and so there should be a mechanism in place for their regulation.  |
| Requirement for annual testing of product composition | [x]  | [ ]  | Manufacturers of e-cigarettes and e-liquids should be required to pay for independent annual testing of their products. |
| Prohibition on free distribution and awards associated with sales | [x]  | [ ]  | To ensure consistency with tobacco regulations. |
| Prohibition on discounting | [x]  | [ ]  | To ensure consistency with tobacco regulations. |
| Prohibition on advertising and sponsorship | [x]  | [ ]  | To ensure consistency with tobacco regulations. |
| Requirement for standardised packaging | [x]  | [ ]  | As there is such a wide variety of e-cigarettes, standard size and shape of packaging may not be possible. However, standardisation of information about nicotine content and flavouring is needed.  |
| Other | [x]  | [ ]  | Restrictions on the wording used in product and flavour names should be included in the regulations. Manufacturers should not be able to use names as marketing tools to make their products seem safer or more appealing than others.  |

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

Yes [x]  No [ ]

Reasons/additional comments:

|  |
| --- |
| It is important that e-cigarettes remain a cheaper option than tobacco smoking. A mechanism to impose some form of excise duty on nicotine e-liquid would enable some sort of government control on the price of these products. Even if the excise duty is $0, it still provides the option to change this at a later date.  |

#### 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]  | [ ]  | To reduce the risk of poisoning. |
| Safe disposal of e‑cigarette devices and liquids | [x]  | [ ]  | Instructions on how to safely dispose of e-nicotine liquid, containers and e-cigarette batteries should be provided by manufacturers. This will reduce the risk of poisoning and contamination. |
| Ability of device to prevent accidents | [x]  | [ ]  | There has been anecdotal evidence of e-cigarettes exploding, causing injury. Quality controls to prevent these types of accidents should make e-cigarettes as safe as possible. |
| Good manufacturing practice | [x]  | [ ]  | It is necessary to have these standards for quality control and safety. |
| Purity and grade of nicotine | [x]  | [ ]  | It is necessary to have these standards for quality control and safety. |
| Registration of products | [x]  | [ ]  | It is necessary to have these standards for quality control and safety. |
| A testing regime to confirm product safety and contents purity | [x]  | [ ]  | Testing will be required to show proof of compliance with the quality and safety controls that are implemented. |
| Maximum allowable volume of e-liquid in retail sales | [ ]  | [x]  | The CDHB recommends that there be a maximum allowable volume for each e-liquid container, not for retail sales. This is to reduce the risk of poisoning while also not restricting people’s ability to ‘stock up’. |
| Maximum concentration of nicotine e-liquid | [x]  | [ ]  | Advice should be sought form a toxicologist to set this maximum concentration at a level that reduces the risk of poisoning. |
| Mixing of e-liquids at (or before) point of sale | [x]  | [ ]  | Mixing of e-liquids at the point of sale should be prohibited. Mixing would make the content information stated on the package incorrect and useless.  |
| Other | [ ]  | [ ]  |       |

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

|  |
| --- |
| The CDHB recommends that there be a requirement for the new regulations to be reviewed after 3 years. As research around the use of e-cigarettes continues, the regulations must be able to keep pace with emerging evidence. The introduction of new regulations presents an opportunity to require registration or licensing of e-cigarette retailers. However, this has not been raised as a possibility in the consultation document. A register of retailers would enable SFEOs to better enforce the regulations, and enable the Ministry to track annual returns. The CDHB recommends that mandatory registration or licencing of retailers be required for both e-cigarettes and tobacco. The process to register as a licenced e-cigarette and e-liquid retailer should be easier and cheaper than that required for tobacco retailers.Regulations should include restrictions on the number and location of e-cigarette and e-liquid retailers. The density of retailers and proximity to sensitive sites such as schools should be carefully limited to avoid prolific availability and targeting of young people. Consideration should also be given to the types of stores that are permitted to sell e-cigarettes and e-liquids. For example, supermarkets already have comprehensive procedures in place to prevent the sale of R18s products to young people and may therefore be a more appropriate retail setting than others such as small corner dairies. Specialist vaping shops and pharmacies could also be considered. |

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

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 77

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

√ 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.

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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.

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|  |
| --- |
| Our company has no direct involvement or vested interests and receive no funding from the tobacco industry. Our nicotine manufacturer engages with tobacco growers to obtain raw leaf material for the purpose of pharmaceutical grade liquid nicotine extraction.We supply retailers and wholesalers who may or may not retail/ sell tobacco products.Our manufacturing partners (as to our knowledge) have no vested tobacco industry interests.  |

Please return this form by email to:

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

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

## Consultation questions

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

Yes √ No [ ]

Reasons/additional comments:

|  |
| --- |
| Yes, we agree that the sale and supply of nicotine e-cigarettes and nicotine e-liquids should be allowed. E-cigarettes and liquids have potential to improve the overall public health when traditional tobacco consumption is reduced by smokers transitioning to electronic cigarettes. Vaping and the use of e-cigarettes act as an effective competitor to the smoked tobacco industry.This category of products is targeted at smokers and has been shown to be of far less risk and a more appealing way for smokers to transition from smoking traditional tobacco and thus migrate from the known dangers and health impacts of smoking combustible tobacco products. Each smoker is an individual, therefore a single approach is unlikely to be suitable for all; a wide array of options to enable smokers to transition away from cigarettes must be available to attain the largest potential reduction in smoked tobacco consumption. Appropriate control is essential for ensuring product quality, consistency and safety to the consumer.The global trend of smokers transitioning to vaping has been driven by consumer choice. Anecdotal evidence suggests that many smokers are attracted to vaping because they are not licensed medicines, and smokers do not want to be medicalised6. A misconceived approach where e-cigarette products are sold in limited outlets (i.e. pharmacies only) would make consumers feel medicalised, and undermine the significant impact that vaping products will have on tobacco consumption. Limitations on availability will have the potential to create a black market and continue a trend of online sourcing and back-yard manufacturing of non-regulated products. Limited availability also means limited impact on smoked tobacco consumption. The greatest success of smokers transitioning to vaping and a reduction in harm from tobacco will occur if the sale and supply of nicotine e-cigarettes and nicotine liquids is readily available for the 500,000+ New Zealanders who still smoke, wherever tobacco products are sold.Smokers choose to shift to vaping of their own free will. Smokers self-fund the process of transition themselves, without the need for government subsidised products and quit smoking services. Not having to fund this will be a significant saving to public health, the tax payer & the New Zealand Government.  |

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

Yes √ No [ ]

Reasons/additional comments:

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| --- |
| Electronic cigarettes can include a variety of product types. From systems where a liquid is heated via a metal heating element (typical temperatures between 150 – 300 °C) to devices where a tobacco based substrate is heated to approx. 350 °C. Both of these types of device involve temperature far lower than those typical of a combustible cigarette (600 to 900 °C). This is a fast moving product category and innovation is driven in part by the desire to create less harmful products. It is foreseeable that lower temperature devices, differing nicotine delivery formulations and therefore perhaps even safer products will emerge in the future. |

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

Yes √ No [ ]

Reasons/additional comments:

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| --- |
| Yes. E-cigarettes/e-liquids are targeted at smokers, so by definition of target market need to be made unavailable to under 18s. This should also include prohibition on Adults purchasing on behalf of under 18’s.  |

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

Yes [ ]  No √

Reasons/additional comments:

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| --- |
| No. E-cigarette products are different to smoked tobacco products. E-cigarettes do not meet the legal or clinical definitions of smoking5, therefore they should be treated differently. Their widespread adoption and thus effectiveness in reducing harm needs to be a success in New Zealand and so there needs to be appropriate ways to educate smokers and to communicate the products, the brands and benefits including costs to consumers and the trade. We strongly feel that in-store communication, education and advertising at point of sale is the best way to do this. This allows responsible retailers to specifically and effectively market to adult smokers and screen out under 18s.Our opinion is that TV, radio, outdoor advertising and sponsorships are not the appropriate means to communicate due to the inability of these media channels to effectively screen out those less than 18yrs of age.  |

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

Yes [ ]  No √

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| No. Combustible cigarettes can affect non-users by passive smoking. The smoke is exhaled from the user but also released as side stream smoke from burning cigarettes. E-cigarettes do not release side stream aerosol which leaves the exhaled portion as the only contributor to passive vaping. Studies have shown passive vaping to be less harmful than passive smoking1. When this is considered alongside the Public Health England report, stating that e-cigarette use is likely to be 95% less harmful than smoking, it is clear that these differences need to be considered when legislating for their use. There are areas where the use of e-cigarettes could be considered inappropriate (e.g. schools, playgrounds, indoors at hospitals, indoor restaurants etc.). In these cases, business owners and department managers can determine their requirements in line with the nature of their line of work. Given that the issue is more of work place courtesy and not health risk, it should be dealt with at a workplace level by the people responsible for the environment in the workplace, be that business owners or government departments. There are many workplace and outdoor areas where it should be considered appropriate to vape but which are currently prohibited under the SFEA. If the use of e-cigarettes/e-liquids is to be regulated for the good of public health, then consumers deciding to take this path to reduce the harm to themselves and others should not be marginalised, de-normalised and even tempted back to relapse into smoking by forcing them into smoking areas with tobacco smokers. This would defeat the purpose of regulating the use of a harm reduction device. |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Control** | **Yes** | **No** | **Reasons/ additional comments** |
| Requirement for graphic health warnings |  | √ | Not required – no evidence exists to link e-cigarettes to the types of diseases that would give rise to graphic images. |
| Prohibition on displaying products in sales outlets |  | √ | No. E-cigarette products must be visible to enable them to be known to smokers. The greatest decline in smoked tobacco rates will be achieved only if smokers are aware of alternative products. |
| Restriction on use of vending machines | √ |  | Yes. Vending machine sales not allowed, as age verification of 18 years + should be a requirement. |
| Requirement to provide annual returns on sales data | √ |  | Yes, we agree that annual sales data is useful to understand the direct extent/effectiveness in reduction of traditional tobacco product sales. |
| Requirement to disclose product content and composition | √ |  | Yes, we agree. Disclosure is essential in enabling users to make choices as to what they are consuming. |
| Regulations concerning ingredients (e.g., nicotine content and/or flavours) | √ |  | Yes, regulation of ingredients is needed as compounds which are harmful exist. Harmful substances (excluding nicotine which can be controlled adequately) could be prohibited from formulations. Other countries, particularly in Europe with the tobacco products directive (TPD), have regulated ingredients. |
| Requirement for annual testing of product composition | √ |  | We agree that testing should be a requirement for a product, however testing annually could place a burden on smaller manufacturing operations, thereby stifling competition in the market. Testing of the products composition once when it is registered should be sufficient. Additional testing can then take place if the formula is modified. Random testing of in- market products on request of the regulatory authority should be part of any legislation to ensure manufacturers are maintaining product standards. |
| Prohibition on free distribution and awards associated with sales |  | √ | No, this should not apply to e-cigarettes as it has the potential to act as an incentive to encourage smokers to switch to vaping. Smokers who transition from combustible tobacco will have an improved public and individual health impact. |
| Prohibition on discounting |  | √ | No, the same justification as in the above point applies |
| Prohibition on advertising and sponsorship |  | √ | TV, radio, outdoor advertising and sponsorships are not the most effective way to promote these products and it is extremely difficult to age restrict these media. In-store advertising, education and communication at Point of Sale should be allowed as should the ability of tobacco consumers to try the products. |
| Requirement for standardised packaging |  | √ | E-cigarettes and e-liquids must not be categorised to look like traditional tobacco products, so as to encourage smokers to switch to e-cigarettes from combustible tobacco. Standardised packaging could give the false impression that e-cigarettes are as bad for a tobacco consumers health as combustible tobacco. As e-cigarette technologies improve, it will also allow products that develop even safer standards to market this with their packaging. |
| Other | √ |  | Other controls stated in the SFEA may be relevant to the electronic cigarette product category. For example, the European Union Tobacco Products Directive restricts certain compounds known to cause harm, additives that have carcinogenic, mutagenic, or reproductive toxicity properties in unburnt form are prohibited.Health information and warnings need to be considered, particularly around nicotine and its addictive properties. Although these are likely to be considerably different to those required by combustible tobacco products due to the reduced risk of harm. |

#### 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. One of the reasons for excise or duty to be imposed on tobacco products is to raise the price thereby discouraging use of an extremely harmful product. E-cigarette and e-liquid products need to be priced competitively to persuade as many smokers as possible to switch to vaping. A transition from smoking to a Nicotine delivery alternative will be of benefit to their health and the financial incentive of a less expensive product will help. |

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

Yes √ No

Additional comments

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| Yes. Quality control and safety standards are essential for these products. Lithium ion batteries have the potential to cause harm by overheating, leading to burns to people or fire damage to property (although this risk has been found to be comparable to similar electrical goods2). Standards need to be in place for these items and the way in which they are manufactured and charged.As is the case with most drug substances, nicotine is toxic. Ensuring that an e-liquid has the stated concentration of nicotine and that this is accurate from batch to batch is essential for customers to choose the right strength liquid for their needs.The European Union Tobacco Products Directive sets limits for maximum concentration of nicotine in e-liquid (20 mg/ml), maximum refill size (10 ml) and maximum tank size (2 ml). These limits reduce the risk of accidental poisoning from ingestion of the liquid by children or pets.It is important for e-liquid manufacturers to know what is in their product, they should understand the composition and the processes used to make the final product, therefore manufacturing standards for these products is appropriate. Manufacture to cGMP (current good manufacturing practice) standards can ensure reproducible manufacture with full traceability throughout the process of: * + - raw materials,
		- how, when, and by whom the product was made,
		- quality control release testing of each batch of product

The approach that the European Union has taken could be considered. The European Union Tobacco Products Directive requires testing of the emissions from e-cigarette devices as this can provide an indication of the levels of harmful and potentially harmful constituents of the aerosol. For example, the United Kingdom’s Medicines and Healthcare Products Regulatory Agency (MHRA) discusses what they consider to be the key emissions, formaldehyde, acetaldehyde and acrolein, also metal emissions from devices: aluminium, chromium, iron, nickel, and tin3. |

References:

1. Amos et al. Royal College of Physicians: Nicotine without smoke. Tobacco harm reduction April 2016
2. McNeill et al. E-cigarettes: an evidence update. Public Health England, 2015
3. MHRA e-cigarette working group discussion paper on submission of notifications under article 20 of directive 2014/40/EU. Chapter 3 – Emissions from electronic cigarettes
4. United Kingdom legislation: The tobacco and Related Products Regulations 2016. Legislation.gov.uk
5. [www.gov.uk/government/publications/use-of-e-cigarettes-in-public-places-and-workplaces](http://www.gov.uk/government/publications/use-of-e-cigarettes-in-public-places-and-workplaces)
6. Jakes. The pleasure principle. 18 February 2016

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| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers | √ |  | Yes, we agree that childproof containers are necessary to reduce the risk of accidental ingestion and poisoning |
| Safe disposal of e‑cigarette devices and liquids | √ |  | Yes, safe disposal is an essential requirement with the nature of the components (lithium ion batteries and nicotine contaminated coils/bottles). |
| Ability of device to prevent accidents | √ |  | E-cigarettes can be manufactured in such a way that incorporates protection against burns, spillage and explosions. These should be considered as inclusion for legislation. |
| Good manufacturing practice | √ |  | GMP ensures traceability and quality of manufacture. Manufacturing standards should be required for these products and GMP is the ideal standard of manufacture to work to. |
| Purity and grade of nicotine | √ |  | It is appropriate to use pharmaceutical grade nicotine. This ensures that the nicotine is of the required quality by meeting a specification on a number of criteria (below). * Infra-red spectrum
* Clarity of solution
* Colour
* Colour of solution
* Specific rotation
* Arsenic content
* Cadmium content
* Lead content
* Water content
* UV spectrum
* UV absorbance
* Assay
* Limits on related substances/impurities
* Consideration should also be given to other ingredients of e-liquid that can be produced to pharmaceutical grade standards (i.e. Propylene Glycol, Vegetable Glycerine & Water) to ensure consumer safety of product components.
 |
| Registration of products | √ |  | Yes, registration of products is required. Registration can be a means of ensuring the products sold are in compliance with any other legal requirement of the product. |
| A testing regime to confirm product safety and contents purity | √ |  | Yes, we agree that some sort of testing is required. This is discussed further in the below questions. |
| Maximum allowable volume of e-liquid in retail sales | √ |  | Limiting the maximum volume of a refill is acceptable as it reduces the risk of accidental ingestion of large amounts of e-liquid. A 2ml limit on tanks/ atomisers and a 10ml limit on e-liquid refill bottles are in use in the EU under the TPD. |
| Maximum concentration of nicotine e-liquid | √ |  | Limiting the maximum concentration of nicotine e-liquid reduces the risk of accidental ingestion of large amounts of non-vaporised nicotine. This could reduce the possibility of poisoning due to ingestion. A 20mg/ml (2%) maximum nicotine limit for is a sensible accidental use and risk reduction precaution and is in use in the EU under the TPD. Consideration needs to be given to future products as this category is being developing rapidly. Limitations may need to be reviewed as nicotine freebase solution technologies are surpassed with potentially more effective and even safer nicotine delivery solutions. |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Mixing of e-liquids at (or before) point of sale |  | √ | No. The mixing of liquids at or before point of sale should be prohibited as it introduces the possibility of contamination of product. Lack of good manufacturing practice at point of sale could mean that the end user buys a poorly mixed product and lack of control of nicotine dose within the liquid.  |
| Other | √ |  | With the ease of global accessibility to untested and poor quality e-liquid and e-cigarettes, product counterfeiting and black market supply represents a real threat to the intent of a regulated environment to supply compliant category products. Severe penalties should be specified in any regulation and apply to any individual or organisation to deter this from occurring. It will also encourage industry self-policing. See more below.  |

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

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| Enforcement of the regulations is required to ensure that only compliant products are sold. Consideration should be given to penalties when retailers, manufacturers and distributors fail to comply. The United Kingdom has legislated that offences include:* + - Failure to submit information
		- Breaches of electronic cigarette regulations
		- Advertising and sponsorship
		- Providing false or misleading information

Persons found guilty are liable to imprisonment for 2 years or a fine, or both of these4.Consideration should be made to who is responsible for enforcement of the regulations. The department responsible should be sufficiently trained to avoid compliant product being removed from sale in error. To this end, the regulations must be easily understood with transparency as to which products are registered and compliant.Consideration of a regular review process of any e-cigarette regulations should also be conducted with direct involvement from key industry stakeholders including community health representatives, manufacturers and retailers to address any areas of concern with the established regulations. As this is a relatively new industry, and technology has evolved rapidly, it will also allow presentation and education for potentially even safer technology that could possibly be prohibited under any unintended consequences of existing regulation.Finally, we believe that the regulation of e-cigs and e-liquids can be done to ensure that significant public health benefits are achieved by regulation that ensures;* That vaping and the use of e-cigarettes and e-liquids is seen as a viable, safer, reliable and effective alternative to smoking. That means a range of tested products and devices are made at competitive prices, that consumers have information about the ingredients, the purity, certification and that the products are as safe as can be assured as of today and into the future. This means opening up in-store advertising and communication at Point of Sale, but does not necessitate allowing TV/radio/outdoor advertising and sponsorships. We advocate a relatively free in-store environment to get safe and appealing products into smokers’ hands through freedom of choice, that will make a difference nationally to public health as quickly as possible.
* That the vaping industry and its supply chain is held to high account; this means that the NZ commercial e-cigarette/ e-liquid environment is regulated such that only responsible and accountable manufacturers, importers, brand owners, distributors and retailers are allowed to operate. In effect this means product registrations, high product safety standards, high ingredient standards (in some cases ingredient bans), annual returns and visibility of what is occurring from manufacturer to consumer for the regulator.
* It should not mean that only Multi-National Companies and/or Tobacco companies can afford to operate in this market due an overly costly compliance regime, but neither should it allow a ‘cowboy’ environment where unsafe, un-tested products can be dumped on unsuspecting consumers by opportunistic, unaccountable and unknown suppliers.

*By allowing smokers the chance to use high quality tested and approved vaping products, without marginalisation and inappropriate restrictions from regulation designed for combustible tobacco products and by holding the supply chain operators to account through appropriate regulatory measures, there is a real opportunity to achieve significant smoking related harm reduction in New Zealand and inroads towards the goal of smoke-free 2025. We have 5000+ people a year in New Zealand dying from smoking related illness, the sooner nicotine e-cigarette products become readily available wherever tobacco is sold, the sooner we will see a reduction in the unnecessary deaths caused by smoking.* *If e-cigarettes are to do their job of making smoking less of a social norm, they must be clearly positioned as products that help adult smokers, without the stigma associated of medicalisation. In this way, vaping becomes synonymous with the rejection of smoking.* |

### Additional information on sales and use

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

|  |
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| Current ranges of products are disposable, Cig-a-like, closed system rechargeable & open system rechargeable/ rebuild-able (MOD) devices are available in the New Zealand market. The size of sales and range of e-liquids is unknown, due to the ease of availability in the global market and no known amount of local (home based) manufacture of e-liquids. |

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

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| --- |
| Current public opinion in an unregulated environment is demonstrated to show the uncertainty of e-cigarettes and vaping products. Public perception varies as to if e-cigarettes are safer than traditional tobacco. With regulation and the ability to make supported claims that devices and e-liquids significantly reduce harm from traditional smoked tobacco, it will allow the vaping industry to market to smokers an alternative they can try by choice, knowing it is less harmful. We also currently compete in an environment that has no product standards for devices, and poorly manufactured, untested, unreliable devices and liquids are often presented and purchased by smoking consumers that result in an unpleasant vaping experience, thus deterring smoking consumers from transitioning away from traditional combustible tobacco products. The vaping industry and public health as a whole will benefit in New Zealand by applying appropriate product standards.  |

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

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

**Consultation Submission**

[Redacted]

Kia ora.

This submission is completed as an individual.

I do not have any ties with the tobacco or the e-cigarette industry, or academic interest.

My submission is based on my own observations and experience as an ex-smoker. I also work in an industry amongst others with a high smoking dependency. These people have fallen through the cracks, so to speak, and will continue to do so within the current national smoking cessation methodology and provisions. These people, I guess, are typical of the demographics used by academics and policy regulators to illustrate ongoing smoking dependency. I do not blame these people for their choices at all. They have hard work, long hours and low pay in which they support their families. This is the life many people live in. It is reality. I cannot take moral high ground over these people and choices they make.

My own experience moving from smoking to a less harmful non-smoking alternative- or nicotine delivery product- snus- is my own personal choice. This choice was unconventional. I recognise that. I am setting out here to explain how less harmful smoking alternatives: e-cigarettes and snus- have very real potential as game changers in the move towards NZ becoming smoke free by 2025.

It is very hard to open my own personal experience up within this debate around smoking. Which I have observed is dogged by suspicion, misconceptions, commercial and academic interests, as well as personal views of choice and approbation.

With that in mind, it is pleasing to see the Government is now considering innovative ways to achieve the 2025 Smoke-Free target. The Government has already recognised that current smoking cessation methods will not achieve this Smoke-Free target by 2025. Taking an innovative, world leading approach, is the only way this Smoke-Free target will be achieved by 2025.

All positive, healthier options to smoking tobacco, through a wide variety of nicotine delivery products, need to be considered as part of this review. Enabling people to make positive, more healthy choices that suit them personally, ought to be an overriding consideration in this review.

The regulation of electronic cigarettes (e-cigarettes, or vaping) and liberalising aspects of their use, is just one of these options.

Question 2 in this consultation asks:

***“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?***

The main part of my submission will address this question. Specifically the inclusion of *low nitrosamine smokeless tobacco products (LN-SLT), or Snus,* as part of this review.

Please note that I request all my personal details removed from any publication of these submissions. Although I am more than happy to speak in person to my submission if requested.

I am happy to respond to any points I raise here.

[Redacted]

1. **Smokeless Tobacco Products and Snus**

Snus is a good example of a nicotine delivery product that demands serious consideration as part of this review.

Snus is a smokeless tobacco product. Snus has a long history of use in Sweden and other Scandinavian countries.

Compared to e-cigarettes there is a much wider amount of study into the use and effects of Snus. There is wide agreement from health professionals that LN-SLT *Snus use has much lower health impacts on Snus users, than comparable tobacco smokers.* In comparison to Snus, e cigarette health impacts are not widely understood yet, though there is general consensus forming that they pose a lower health risk than smoking.

As one example, the American Association of Cancer Research, researched LN-SLT products and determined: *“The risks of using LN-SLT products therefore should not be portrayed as comparable with those of smoking cigarettes as has been the practice of some governmental and public health authorities in the past.”*

<http://cebp.aacrjournals.org/content/13/12/2035.full>

Any liberalisation of e-cigarette availability, while ignoring Snus (as another nicotine delivery product) is an anomaly within the drive towards a Smoke-Free NZ.

In New Zealand, study of international epidemiological papers surrounding Snus use, support the assertion that Snus use is considerably less harmful than smoking tobacco:

*[Broadstock, M. Systematic review of the health effects of modified smokeless tobacco) products. NZHTA Report 2007; 10(1).]*

**2. Promoting less harmful nicotine delivery products via tax and price differentials**

There is now a growing recognition, that regulation of nicotine delivery products, by differentiating tax in order to incentivise less harmful non-smoking alternatives, is one of the main tools Governments are able to use to reduce smoking and associated health impacts.

The Director of the World Health Organisation (WHO) Collaborating Centre on the Economics of Tobacco Control supports this approach. Dr Frank Chaloupka co-authored a paper in the New England Journal of Medicine on the opportunities to reduce smoking rates by setting tax proportionally according the the level of harm caused.

*Differential Taxes for Differential Risks — Toward Reduced Harm from Nicotine-Yielding Products*

*Frank J. Chaloupka, Ph.D., David Sweanor, J.D., and Kenneth E. Warner, Ph.D.*

*N Engl J Med 2015; 373:594-597*[*August 13, 2015*](http://www.nejm.org/toc/nejm/373/7/)*DOI: 10.1056/NEJMp1505710*

<http://www.nejm.org/doi/full/10.1056/NEJMp1505710>

<http://tobacconomics.org/research/differential-taxes-for-differential-risks-toward-reduced-harm-from-nicotine-yielding-products/>

Dr Chaloupka also talked on RNZ National about the same topic in 2015:

<http://www.radionz.co.nz/national/programmes/ninetonoon/audio/201773939/do-taxes-make-you-healthier>

Dr Chaloupka refers specifically in this interview to Swedish Snus, the so called “Swedish Experience” and the positive opportunities surrounding this smokeless tobacco product.

**3. Alternative nicotine delivery products in NZ**

E-cigarettes and Snus are both available for purchase to consumers but differ markedly in their availability. Legally Snus can be imported for personal use. But it cannot be retailed in NZ.

Therefore Snus can only be imported via internet sales. Snus is categorised as a tobacco product. It is thus subject to associated import charges, a biosecurity levy, GST and tobacco product excise duty charges.

Ironically, import costs make this healthier non-smoking choice more expensive, than the purchase of smoking tobacco at a retail level. *As such there is a disincentive for smokers to switch to a much less harmful product (LN-SLT Snus) than smoking tobacco here.*

Being categorised as a tobacco product has meant Snus is largely stigmatised and treated with distrust. Possibly also due to its benefits not being well understood here. There is no distinction drawn at the border between low harm nicotine delivery systems- such as Snus- and harmful smoking tobacco, such as cigarettes.

In contrast, e-cigarette delivery systems (i.e. the smoking devices) are legally able to be retailed here.

Consumers are supposedly only able to import the nicotine “juice” for personal use via internet sales. There already appear ways for e-cigarette users to circumvent these legalities. There is already a subtle liberalisation, towards e-cigarettes use and their availability by authorities.

But on the other hand, well researched alternatives such as Snus, remain ignored as another innovative means towards reducing smoking rates in NZ. The anomaly here is that discretion is already being applied to e-cigarettes, while other (well researched) low harm nicotine delivery systems such as Snus, do not have that incentive as another less harmful option for consumers to smoking.

While I support e-cigarettes or vaping as a positive alternative to smoking, there are aspects of the possible deregulation of e-cigarette availability that concern me.

Firstly, that discussion is narrowed only to e-cigarette acceptability and availability. When any review should be wider, to include other low harm nicotine delivery products, such as Snus.

Secondly, that liberalising e cigarette use, in effect approves a smoking mimic. The social aspects of e-cigarette use are not much different from smoking tobacco.

Acknowledging the benefits of e-cigarettes, making this alternative to smoking more easily available for smokers, is one step towards a Smoke-free NZ. But ignoring other possible nicotine delivery systems- specifically recognised low harm LN-SLT Snus- is missing an opportunity within this policy option discussion.

**4. Summary**

*Low harm nicotine delivery systems, across the board, including e-cigarettes and options, such as Snus, need to be incentivised* as real alternatives for smokers. Recognising the distinction of low harm nicotine delivery systems, plus a price differential for healthier non-smoking options wherever possible, is an incentive to reducing smoking.

Promoting more healthy choices through creating *tax and price differentials for low harm nicotine delivery products* is a tool that is relatively simple for Governments to implement.

*Import disincentives for low harm nicotine delivery systems such as Snus need to be reviewed* in light of this policy discussion. Otherwise, discretion is easily able to be applied at the border in regard to low harm nicotine delivery systems- Snus included.

*Enable individuals to make their own choices, through providing a wide suite of low harm nicotine delivery systems.* This is key. Current cessation programmes are not working to achieve the goal of a Smoke-free NZ by 2025. Innovative thinking is required in order to reach this goal. Recognise that different responses fit different needs, in order for smokers to reduce or quit smoking.

There needs to be a clear distinction made in this discussion. *Smoking harm* is the social and health issue here. Discouraging and ending *smoking* needs to be kept in mind as the overall aim here. There are many ways of meeting this aim. Achieving a Smoke-free NZ requires being non-judgemental around nicotine addiction in this policy discussion. Personal approbation and moral disproval around nicotine addiction and smoking needs to be set aside in this discussion. This requires new ways of thinking from those traditionally involved in the anti-smoking debate, including academics and policy regulators. Opening up to new less harmful options is a good step to working toward a Smoke-free NZ by 2025. It is a challenge to listen to and understand smokers plus those using alternative nicotine delivery systems. It is a key part of this policy discussion.

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 79

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| --- | --- |
| Your detailsThis 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?

Submission is on behalf of Professors Robert Beaglehole, Chris Bullen, Natalie Walker and Janet Hoek authors of the document*” “ E-cigarettes and their potential contribution to achieving the Smokefree 2025 goal”* which has been submitted together with this submission. See https://aspire2025.files.wordpress.com/2016/08/nsfwg-e-cig-and-their-potential-contribution-to-acheiving-smokefree-2025.pdf

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

Please indicate which sector(s) your submission represents:

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

✔ Tobacco control non-government organisation

✔ Academic/research

[ ]  Cessation support service provider

[ ]  Health professional

[ ]  Māori provider

[ ]  Pacific provider

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

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

Please indicate your e‑cigarette use status:

[ ]  I am using nicotine e‑cigarettes.

[ ]  I am using nicotine-free e‑cigarettes.

[ ]  I currently smoke as well as use e‑cigarettes.

✔ I am not an e‑cigarette user.

[ ]  I have tried e‑cigarettes.

### Privacy

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

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### Declaration of tobacco industry links or vested interest

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

|  |
| --- |
| None of the authors have any tobacco company links or other vested interests to declare.[redacted] |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes ✔ (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:

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| We have focused on ECs, but when other products exist/emerge with a similar risk profile and potential for aiding cessation or acting as substitute nicotone delivery devices to tobacco smoking they should be evaluated in a similar way to assess if they should be made more widely available. For example, a number of new forms of nicotine inhalers are in development, and ‘heat not burn’ products are currently been marketed by Phillip Morris in some jurisdictions (https://www.pmiscience.com/platform-development/platform-portfolio/heat-not-burn |

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

Yes ✔ No [ ]

Reasons/additional comments:

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| Although the gateway effect from ECs to tobacco smoking is unproven, it is a theoretical possibility and there is some supporting evidence (see accompanying document for a review of this evidence). In addition, although the long term health impacts of nicotine use are probably modest (and far less than those from long term smoked tobacco use), there are some concerns about the impact of nicotine on the developing brain. 1 Furthermore the economic costs of lifelong use of ECs or other nicotine delivery devices will have adverse impacts on users.There are therefore good reasons to aim to minimise the use of ECs by minors, and prohibition of sale and supply to young people is justified as a measure to help achieve that outcome. A possible exception is where ECs are used as a smoking cessation aid by youth <18 years. However, exceptions would complicate implementation, monitoring and enforcement; the numbers of minors affected could be quite small; and these individuals could use ECs in the usual way once they are 18 years. Therefore, for simplicity, allowing sales and supply to minors is probably best left as a future option, pending evidence that suggests relaxing this approach would help reduce smoking among minors < 18 years.**Reference**1. Kandel ER, Kandel DB. Shattuck Lecture. A molecular basis for nicotine as a gateway drug. N Engl J Med. 2014; 371:932-43. |

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

Yes ✔ No [ ]

Reasons/additional comments:

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| --- |
| 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:

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| --- |
| 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. |

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

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| --- | --- | --- | --- |
| **Control** | **Yes** | **No** | **Reasons/ additional comments** |
| Requirement for graphic health warnings | [ ]  | ✔ | No. Given the lack of evidence for long-term health effects of ECs, we do not think GHWs would be a proportionate measure. However, we support packaging of EC products being required to carry safety warnings (e.g. dangerous to ingest, keep away from children and pets), health information (text warnings that nicotine is addictive and that the long term health effects of EC use are not known), Quitline information, and a list of constituents (see below). Some of this information may be pictorial to align with evidence that pictorial safety warnings have greater impact than text only warnings, but not graphic warnings that are intended to deter use. Inclusion of Quitline information is in line with the principle of maximising the use of ECs for cessation and to support the achievement of Smokefree 2025.  |
| Prohibition on displaying products in sales outlets | [ ]  | ✔ | No Provided the sales of products are restricted to pharmacies and specialist vape shops (with children excluded from the latter), then POS displays would not need to be banned. There may need to be some restrictions on prominence in pharmacies to ensure the POS displays do not appeal to non-smokers, particularly children |
| Restriction on use of vending machines | ✔ | [ ]  | Yes. We can see no justification for sales through vending machines, as these may be accessible to children, and advice on correct use of ECs and use in smoking cessation would not be available. In line with the principle of equal or more rigorous regulation for smoked tobacco products, all vending machine sales of smoked tobacco products should also be prohibited at the same time. An example of restrictions on EC sales through vending machines is the recent legislation in Hawaii. 1**Reference**1. Johnson K. E-cigs now included in federal tobacco regulations. Hawaii Tribune-Herald, August 9 2016. |
| Requirement to provide annual returns on sales data | ✔ | [ ]  | Yes. This is useful for monitoring of trends in use of different product types and the balance between independent and tobacco industry owned EC producers in the NZ market. This should include data on importation and sales (and again this requirement should be extended to smoked tobacco products). |
| Requirement to disclose product content and composition | ✔ | [ ]  | Yes, disclosure of ingredients/content is important consumer information (see comment above on graphic health warnings). We note that the Government stated that they would consider a similar requirement for smoked tobacco products in their response to the Māori Affairs Select Committee. In line with the principle of applying equal or more rigorous regulation for smoked tobacco products, disclosure rules for smoked tobacco products should be introduced at the same time as regulations for ECs. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | ✔ | [ ]  | **Ingredients and flavourings** – Yes. We recommend excluding selected additives/flavours (e.g. those shown to be toxic or that make products appealing or palatable for children and young adults) to nicotine containing ECs and e-liquids products sold within NZ (if permitted). To be identified from review of international standards and best practice – we doubt a NZ based testing regime is a viable proposition.In line with the principle of equal or more rigorous regulation for smoked tobacco products, additives/flavours that enhance palatability and appeal of smoked tobacco products (e.g. menthol) should be introduced at the same time as regulations for ECs.**Nicotine content.** Yes. We recommend aligning with internationally credible standards on the maximum concentration of nicotine e-liquid and degree of accuracy of nivotine content labelling. We doubt a NZ based testing regime is a viable proposition..We note no controls on nicotine content are applied to smoked tobacco products, though we believe there is a strong case for such an approach to reduce the addictiveness of these products. We recommend that the Government follows through on its undertaking to investigate this option in its response to the Māori Affairs Select Committee report.  |
| Requirement for annual testing of product composition | ✔ | [ ]  | Yes. We recommend aligning with credible international guidance for product composition testing. |
| Prohibition on free distribution and awards associated with sales | ✔ | [ ]  | Yes. We view such incentives to retailers to maximise sales as unnecessary and having potential unintended adverse consequences and recommend that they are prohibited. |
| Prohibition on discounting | ✔ | [ ]  | Yes. We believe such price incentives are likely to promote increased volume of sales and that they are likely to encourage more intensive and longer term use of ECs (beyond use as a cessation aid), rather than trial of ECs for quitting. We recommend that they are prohibited. However, this could be an area for research and if targeted price incentives could be shown to enhance the impact of ECs on quitting or substitution among smokers who are unable to quit, this prohibition could be revised. |
| Prohibition on advertising and sponsorship | ✔ | [ ]  | See response to Q4.  |
| Requirement for standardised packaging | [ ]  | ✔ | No. Given the lack of evidence for long-term health effects of ECs, most of the authors do not think this would be a proportionate measure. However, we support regulation to ensure that packaging or product names that are appealing to children and young people are prohibited in order to minimise the use of ECs by minors. A minority view within the group is that plain packaging would be justified, 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 ECs. |
| Other | [ ]  | [ ]  |       |

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

Yes [ ]  No ✔

Reasons/additional comments:

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| We recommend that the *status quo* on excise/taxation of ECs should apply i.e. no additional tax or excise should be applied to nicotine-containing ECs and e-liquids. Maintaining a price differential between smoked tobacco products and ECs is an important strategy to maximise the positive impact of ECs on reducing smoking prevalence and encourage the use of ECs to support quitting and as a long term substitute nicotine delivery mechanism (for smokers who cannot or do not want to quit). However, this stance should be reviewed if there is evidence of substantial uptake of nicotine-containing ECs by children and young people, and proportionate tax/excise increases considered (whilst maintaining price incentives for switching from smoked tobacco products to ECs) as part of a strategy to minimise EC use by minors. |

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

Yes [ ]  No [ ]

**Additional comments**: Our view on quality control and safety standards is that it would usually be impractical and should be unnecessary to develop specific NZ standards. We should seek instead to align with international best practice standards and mandate that products available in New Zealand should comply with these standards in order for their distribution and sale to be permitted. This is because other jurisdictions are likely to have more resources available to develop robust standards, and resources to implement a comprehensive high quality testing regime in New Zealand are unlikely to be available. There should also be consultation with the specialist vape vendor community on these standards, as they may be able to identify existing standards and codes of conduct that may be applicable. However, the Ministry should reserve the right to introduce any additional standards deemed appropriate and necessary regardless of the information received in such consultation.

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| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers | ✔ | [ ]  | Yes. We recommend that packaging requirements for ECs and e-liquids sold within NZ (if permitted) include 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 | ✔ | [ ]  | Yes. We recommend that requirements for safe disposal of EC devices and liquids are introduced aligned with best international practice. |
| Ability of device to prevent accidents | ✔ | [ ]  | Yes. We recommend that requirements for safety of EC devices 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. |
| Good manufacturing practice | [ ]  | ✔ | No. We do not recommend that full pharmaceutical industry GMP standards should be required, as this is unlikely to be feasible for EC manufacturers (particularly independent manufacturers) in NZ or elsewhere. An alternative that has been proposed is that EC specific standards are developed that are practicable whilst still ensuring a reasonable standard of specific EC manufacturing practices such as handling of chemicals, levels of nicotine purity etc. This would again require an 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 | ✔ |  [ ]  | Yes. We recommend that requirements for purity and grade of nicotine are introduced aligned with best international practice, and that compliance with these standards is a condition for products to be approved for sale in New Zealand. |
| Registration of products | ✔ | [ ]  | Yes 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 | [ ]  | ✔ | No. Resources to implement a comprehensive high quality testing regime in New Zealand are unlikely to be available. |
| Maximum allowable volume of e-liquid in retail sales | ✔ | [ ]  | Yes. We recommend a maximum purchase/sale regulation is introduced in line with what is reasonable for personal use. The rationale for this is that bulk purchase is likely to be 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 | ✔ | [ ]  | Yes 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. We recommend that the Government follows through on its undertaking to investigate this option in its response to the Māori Affairs Select Committee report. |
| Mixing of e-liquids at (or before) point of sale | [ ]  | ✔ | No. This could be investigated, but we believe this is probably mostly unnecessary as-liquids are generally mixed prior to distribution to the point of sale. However, if mixing of e-liquids at point of sale does occur, then best practice standards could be identified (possibly in consultation with the specialist vaping retail community) and implemented. |
| Other | [ ]  | [ ]  |       |

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

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| We believe that there are some principles that should apply to any regulatory regime for ECs in New Zealand:* The primary aim of the EC policy should be to support the achievement of the Smokefree 2025 goal for all population groups in NZ;
* New Zealand’s tobacco control efforts should be maintained and intensified;
* E-cigarette policy should minimise the risks initiation of nicotine use by non-smokers (particularly children and young adults) either through long term EC use and/or via EC use to smoking;
* Regulation of ECs should not be more stringent than regulatory measures in place for smoked tobacco products; and
* The Ministry of Health should continue to monitor emerging evidence on EC and the potential impacts of these products on smoking prevalence in New Zealand. Policy and practice should be updated in light of new evidence.

We are concerned that such principles are not clearly articulated in the current consultation document. For example, the first policy objective of EC regulation is stated as “reduction of harm from tobacco smoking”. We believe there should be a clear statement that the goal of EC regulation is to support achievement of the Government’s Smokefree 2025 goal for all population groups. We also believe it should be a clear principle that regulation of ECs should not be more stringent than regulatory measures in place for smoked tobacco products. Not to do so would introduce anomalies where a far less harmful and addictive product group that is a potential substitute nicotine delivery device and smoking quitting aid is more rigorously controlled than smoked tobacco products. We think that is an impossible situation to justify and defend.One issue that is not mentioned in the consultation document is the position of ECs in smoking cessation and the degree to which ECs are supported as quitting aids. There is a strong consensus among smokefree practitioners that smokers quitting using ECs should have access to advice and support. We recommend that cessation service providers receive resources and training in use of EC to support quitting, based, for example, on recent Public Health England advice. Healthcare providers should not recommend or support specific EC products unless these have been licensed for cessation through MedSafe.Finally, given the current state of uncertainty about many issues in relation to ECs – e.g. efficacy as quitting aids, long term health effects, ‘gateway’ effects on minors, and overall impact on smoking prevalence at population level – introducing a systematic approach to monitoring current and emerging evidence should be a high priority. We recommend that the Ministry of Health develops a framework for monitoring and evaluating emerging evidence on ECs, including their efficacy and safety, technological evolution and use (internationally and in NZ), and impact of ECs, especially on smoking prevalence in all population groups and progress towards the Smokefree 2025 goal. The regulatory framework and standards should be adapted as necessary to respond to emerging evidence and monitoring data.More detail on these and other points is available in the document: *“ E-cigarettes and their potential contribution to achieving the Smokefree 2025 goal”.* |

### Additional information on sales and use

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

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| In the accompanying document (p9) we refer to some unpublished data suggesting that the New Zealand EC market is dominated by 2nd and 3rd generation devices. We assume that national surveys such as the NZ Health Survey tobacco use module and HPA Health and Lifestyle Survey and Smoker Toolkit survey will gather detailed data on EC use in New Zealand. In addition an extensive series of questions on EC use in the forthcoming HRC funded NZ ITC survey (data collection September to November 2016), so will have detailed information on use among NZ smokers and recent quitters who are using ECs in early to mid 2017. ASPIRE 2025 has other HRC funded studies examining the efficacy of ECs relative to existing cessation treatments, consumers’ information requirements, and transition from smoked tobacco to ECs. The NIHI team will have data from a survey of vapers that is currently underway.  |

#### 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?

Not applicable

|  |  |  |  |
| --- | --- | --- | --- |
| **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?** |
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| **Public Health South** |
| **Dunedin:** Private Bag 1921, Dunedin 9054Ph: 03 476 9800 Fax: 03 476 9858**Invercargill:** PO Box 1601, Invercargill 9840Ph: 03 211 8500 Fax: 03 214 9070**Queenstown:** PO Box 2180, Wakatipu, Queenstown 9349Ph: 03 450 9156 Fax: 03 450 9169 |

**SUBMISSION ON**

**To: Ministry of Health**

 ecigarettes@moh.govt.nz

**Details of Submitter: The Southern District Health Board**

**Address for Service: Public Health South**

 **Southern District Health Board**

 **Private Bag 1921**

 **DUNEDIN 9054**

**Contact Person: [redacted]**

**Our Reference: 16Aug03**

**Date: 05/09/16**

**Introduction**

Southern District Health Board (Southern DHB) presents this submission through its public health service, Public Health South. This Service is the principal source of expert advice within Southern DHB regarding matters concerning Public Health. Southern DHB has responsibility under the New Zealand Public Health and Disability Act 2000 to improve, promote and protect the health of people and communities. Additionally there is a responsibility to promote the reduction of adverse social and environmental effects on the health of people and communities. With 4,250 staff, we are located in the lower South Island (South of the Waitaki River) and deliver health services to a population of 306,500.

Public health services are offered to populations rather than individuals and are considered a “public good”. They fall into two broad categories – health protection and health promotion. They aim to create or advocate for healthy social, physical and cultural environments.

This submission is intended to provide a response to the consultation document: Policy Options for the Regulation of Electronic Cigarettes.

**General Comments**

There is a known and great divide in the Tobacco Control community with regards to the regulation of e-cigarettes. The concern is that free access to this product might derail efforts to achieve 2025 by normalising smoking again.

Anecdotally Smokefree Enforcement Officers report people using e-cigarettes to stop or reduce smoking tobacco. This position is supported by some researchers in New Zealand. Other researchers remain cautious because the long term impact of e-cigarettes is unknown.

E-cigarettes may well have an important role to play in smoking cessation where any risks would far outweigh any risks of *short term* exposure that would accompany such use. As such, they have the potential to contribute greatly to public health.

We note that nicotine is addictive. Therefore users could become addicted to these products with all the health, social and financial ramifications that addiction to *any* substance can bring at the personal, family and societal level.

In terms of long term safety as a recreational or lifestyle product, full epidemiological data can only become available with time.

We note that Public Health England estimated that on current evidence, e-cigarettes are probably 95% safer than smoking.[[1]](#footnote-1) Translated to a New Zealand context, this would mean that if all smokers switched to e-cigarettes now, or if similar numbers of people took up vaping as a lifestyle addiction, then approximately 200 – 250 new Zealanders a year would die of illnesses related to e-cigarette use.

**Summary**

In exercising a precautionary approach, we would therefore advocate that these products are made available, but with an emphasis on use as smoking cessation aids and not marketed as a new lifestyle choice.

Nicotine is not a benign drug.[[2]](#footnote-2) Regulating e-cigarettes as a medicine would align with individual cessation efforts and at the same time control access to a product that is not intended for *recreational use*. [[3]](#footnote-3)

We do not wish to be heard in regards to this submission.

Yours sincerely,

 [redacted]

[redacted]

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission

|  |  |
| --- | --- |
| Your detailsThis submission was completed by: *(name)* | [Redacted] |
| Address: *(street/box number)* | [Redacted] |
|  *(town/city)* | [Redacted] |
| Email: | [Redacted] |
| Organisation *(if applicable)*: |       Southern DHB |
| Position *(if applicable)*: |       [Redacted] |

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

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

[ ]  Tobacco control non-government organisation

[ ]  Academic/research

[ ]  Cessation support service provider

[x]  Health professional

[ ]  Māori provider

[ ]  Pacific provider

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

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

Please indicate your e‑cigarette use status:

[ ]  I am using nicotine e‑cigarettes.

[ ]  I am using nicotine-free e‑cigarettes.

[ ]  I currently smoke as well as use e‑cigarettes.

[x]  I am not an e‑cigarette user.

[ ]  I have tried e‑cigarettes.

### Privacy

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

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

[ ]  Do not publish this submission.

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.

|  |
| --- |
| Southern District Health Board has no direct or indirect links, nor does it receive funding from the tobacco industry.  |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes [x]  No [ ]

Reasons/additional comments:

|  |
| --- |
| Nicotine e-cigarettes should be regulated as a medicine and cessation aid.[[4]](#footnote-4) This would require that all products comply with the parameters of the Medicines Act 1981 and that products be regulated through Medsafe (the New Zealand Medicines and Medical Devices Safety Authority). Controls through Medsafe would include: * Audit and licensing of medicine manufacturers;
* Approval of clinical trials of new medicines;
* Classification of medicines;
* Pharmacovigilance;
* Surveillance and monitoring;
* Border control and enforcement;
* Administration of a database of medical devices in New Zealand and,
* Oversight of medicine and medical device recalls.[[5]](#footnote-5)
 |

#### 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:

|  |
| --- |
| No. The Convention on Tobacco Control [Article 5.2 (b)] requires that signatories also work to prevent and reduce nicotine addiction independent of tobacco. In short, “*while medicinal use of nicotine is a public health option under the treaty, recreational use is not’’*.[[6]](#footnote-6)  |

#### 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:

|  |
| --- |
| Regulating e-cigarettes as a medicine would generate controls to protect children and young people from freely accessing the drug. To date *“evidence is sufficient to caution children and adolescents, pregnant women, and women of reproductive age about … [e- cigarette use]… because of the potential for foetal and adolescent nicotine exposure to have long-term consequences for brain development.*’’[[7]](#footnote-7) . |

#### 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:

|  |
| --- |
| The advertising of e-cigarettes should be legislated to restrict the exposure of children and young people to these products. Internationally the marketing of e-cigarettes imitates that of tobacco marketing a generation ago. Themes and images popular then are repeated now with a particular voracity; the trendy graphics and candy like flavours are geared to appeal to young people. Unfettered advertising of these products as a lifestyle choice product (particularly one which may have unknown health consequences) can only lead to wider uptake of these products by non- smokers and youth.[[8]](#footnote-8) It should be considered whether society benefits from the marketing of a new, *addictive* product which confers little if any benefit to individual users or society in general. Regulating these products as a medicine would require campaigns to provide information about the potential benefits and harms of use. This kind of information would also be available at the point of sale.  |

#### 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:

|  |
| --- |
| At this stage it is not clear that unnecessary secondary/environmental exposure to nicotine is entirely risk free. For example, nicotine is known to increase heart rate, blood pressure and risk of tachyarrhythmia.We already understand that inhalation of nicotine is the most effective and rapid route for absorption of nicotine, therefore airborne nicotine from vaping is extremely likely to be inhaled by others in a bioavailable form.Furthermore, there are legitimate questions over the safety of long term exposure (by inhalation) of unwanted aerosol of secondary/environmental excipients, carriers and flavourings such as Propanol and Ethylene Glycol even where these are currently deemed safe for ingestion as foods.In a society where the vast majority do not smoke or vape, it is wholly legitimate to take the right to clean air, free of contaminants as the starting point when judging whether these new products pose an acceptable or desirable risk to the population at large. The Smokefree Environments Act 1990 should provide a clear benchmark for the development of any regulations pertaining to e-cigarettes. These products should be subjected to the same regulatory environment as tobacco and use should be prohibited in all internal environments (workplaces, schools, licensed premises, casinos, aircraft, passenger service vehicles, etc.). Additionally regulations should also include cars and child friendly outdoor spaces such as playgrounds and sports fields.  |

#### 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]  | [ ]  | Potential harms stipulated.  |
| Prohibition on displaying products in sales outlets | [x]  | [ ]  | No displays at point of sale.  |
| Restriction on use of vending machines | [x]  | [ ]  | No access via vending machines.  |
| Requirement to provide annual returns on sales data | [x]  | [ ]  | Requirements as stipulated by Medsafe.  |
| Requirement to disclose product content and composition | [x]  | [ ]  | Requirements as stipulated by Medsafe.  |
| Regulations concerning ingredients (e.g., nicotine content and/or flavours) | [x]  | [ ]  | Exclude additives and flavours to decrease the appeal for recreational use.  |
| Requirement for annual testing of product composition | [x]  | [ ]  | Requirements as stipulated by Medsafe.  |
| Prohibition on free distribution and awards associated with sales | [x]  | [ ]  | Requirements as stipulated by Medsafe.  |
| Prohibition on discounting | [x]  | [ ]  | Requirements as stipulated by Medsafe. |
| Prohibition on advertising and sponsorship | [x]  | [ ]  | Requirements as stipulated by Medsafe. |
| Requirement for standardised packaging | [x]  | [ ]  | Packaging to reduce appeal to children and young people. |
| Other | [ ]  | [ ]  | n/a |

#### 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:

|  |
| --- |
| As with existing and subsidized nicotine replacement therapy, e-cigarettes should be available for purchase over the counter at local pharmacies. E-cigarettes should be affordable so that adults who currently smoke are able to access them. |

#### 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]  | [ ]  | To prevent harm to children. |
| Safe disposal of e‑cigarette devices and liquids | [x]  | [ ]  | To prevent harm to users and non-users and our environment. |
| Ability of device to prevent accidents | [x]  | [ ]  | To prevent harm to users and non-users.  |
| Good manufacturing practice | [x]  | [ ]  | Requirements as stipulated by Medsafe. |
| Purity and grade of nicotine | [x]  | [ ]  | Requirements as stipulated by Medsafe. |
| Registration of products | [x]  | [ ]  | Requirements as stipulated by Medsafe. |
| A testing regime to confirm product safety and contents purity | [x]  | [ ]  | Requirements as stipulated by Medsafe. |
| Maximum allowable volume of e-liquid in retail sales | [x]  | [ ]  | Requirements as stipulated by Medsafe. |
| Maximum concentration of nicotine e-liquid | [x]  | [ ]  | Requirements as stipulated by Medsafe. |
| Mixing of e-liquids at (or before) point of sale | [x]  | [ ]  | Requirements as stipulated by Medsafe. |
| Other | [ ]  | [ ]  | n/a |

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

|  |
| --- |
| There is a known and great divide in the Tobacco Control community with regards to the regulation of e-cigarettes. The concern is that free access to this product might derail efforts to achieve 2025 by normalising smoking again. Anecdotally Smokefree Enforcement Officers report people using e-cigarettes to stop or reduce smoking tobacco. This position is supported by some researchers in New Zealand. Other researchers remain cautious because the long term impact of e-cigarettes is unknown. E-cigarettes may well have an important role to play in smoking cessation where any risks would far outweigh any risks of *short term* exposure that would accompany such use. As such, they have the potential to contribute greatly to public health.We note that nicotine is addictive. Therefore users could become addicted to these products with all the health, social and financial ramifications that addiction to *any* substance can bring at the personal, family and societal level.In terms of long term safety as a recreational or lifestyle product, full epidemiological data can only become available with time. We note that Public Health England estimated that on current evidence, e-cigarettes are probably 95% safer than smoking.[[9]](#footnote-9) Translated to a New Zealand context, this would mean that if all smokers switched to e-cigarettes now, or if similar numbers of people took up vaping as a lifestyle addiction, then approximately 200 – 250 new Zealanders a year would die of illnesses related to e-cigarette use.In exercising a precautionary approach, we would therefore advocate that these products are made available, but with an emphasis on use as smoking cessation aids and not marketed as a new lifestyle choice.Nicotine is not a benign drug.[[10]](#footnote-10) Regulating e-cigarettes as a medicine would align with individual cessation efforts and at the same time control access to a product that is not intended for *recreational use*. [[11]](#footnote-11)  |

### 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)?

|  |
| --- |
| There is a wide range of e-cigarettes available in the southern district, including our rural towns. Most retailers sell nicotine containing e-cartridges or e-liquids alongside the actual device. Some products allow for the consumer to mix their own liquids; anecdotally Southern DHB staff have heard this can cause nausea and discomfort if done incorrectly. Disposable e-cigarette devices containing nicotine (i.e. e-shisha) are also available. These are attractively packaged and cheap in comparison to devices designed for long term use.  |

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

|  |
| --- |
| Regulatory efforts pertaining to e-cigarettes may increase the workloads of Smokefree Enforcement Officers if they were required to assist in this capacity. Legislation might also mean a change of local policy with regards to e-cigarettes.  |

#### 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?** |
| 0 | 0 | 0 | 0 |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 81

|  |  |
| --- | --- |
| Your detailsThis 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)?

[Grab your reader’s attention with a great quote from the document or use this space to emphasize a key point. To place this text box anywhere on the page, just drag it.]

[ ]  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.

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

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[ ]  This submission contains commercially sensitive information.

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|  |
| --- |
| None |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes [ ]  No [ ]

Reasons/additional comments:

|  |
| --- |
|       |

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

Yes [ ]  No [ ]

Reasons/additional comments:

|  |
| --- |
| Snus should also be included. In Sweden, the availability of this form of nicotine delivery has been associated with a reduction in smoking prevalence. |

#### 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 think it is very important that young smokers (under the age of 18) are also given the option of being able to switch to e-cigarettes to help them quit. While smoking rates in young people in New Zealand have declined in recent decades, a not insignificant proportion of young people continue to gain access to tobacco. The reasons behind why young people decide to smoke are wide ranging and complex. If a young person chooses vaping over smoking then that is far better.  |

#### 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 should no controls on advertising of e-cigarettes. Advertising these products will have a positive effect on health outcomes and expenditure in New Zealand. It will raise awareness that there is a less harmful method of consuming nicotine available on the market and consequently help speed up the declines in smoking rates that we are seeking.  |

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

Yes [ ]  No [ ]

Reasons/additional comments:

|  |
| --- |
| I don’t believe this would be helpful as we need to make a distinction between smoking and vaping and not expose vapers to second-hand smoke. Second-hand smoke is associated with health problems. This is the major rationale for restricting smokers to smokefree areas – to protect nonsmokers. However, there is little if any evidence to show that inhaling second-hand nicotine vapor is linked to any adverse health outcomes in non-vapers. Until such evidence is forthcoming, such restrictions on vapers would not be for health related reasons. They would merely exist to appease members of our society who are ill-informed or prejudiced against a behaviour which, if more smokers switch to it, could save many lives and reduce health costs.  |

#### 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:

|  |
| --- |
| No. The current goal is smokefree by 2025. Taxing e-cigarettes will reduce the uptake of these products and won’t help us to reduce smoking rates to the desired level. |

#### 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?

|  |
| --- |
| 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)?

|  |
| --- |
| No |

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

|  |
| --- |
| Yes. As a public health professional, I believe legalising the availability of nicotine-containing electronic cigarettes on the New Zealand market would help to speed up a reduction in smoking rates in the country. It would therefore have a positive impact on my area of work in terms of boosting the sector’s reputation. |

#### 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 82

|  |  |  |
| --- | --- | --- |
|  | [Redacted]04/09/2016 11:04 a.m. |   To: <ecigarettes@moh.govt.nz>,  cc:  bcc:  Subject: ecigarette submission |

These things are great. I haven’t had a cigarette for 8 months and it’s all due to my e-cigarette. I’ve tried every single give up cigarettes strategy – patches, gum, Champix, cognitive therapy – and none have worked anywhere near as easily as the e-cigarette.

A mate of mine had been a hard core 20/day smoker and stopped overnight with the help of his e-cigarette – amazing!

The only thing that concerns me is that there should be a standard for the fluids and the producers should have to maintain certification that their fluids meet the standard.

A good longitudinal study should also be undertaken to determine any currently unknown side-effects but everything I’ve read on the net leads me to think that, while there may be some minor issues with vaping (minimal when compared to cigarettes!) it is comparatively harmless.

Regards

[Redacted]

Consultation submission 83

Submitter asked that the submission should not be published

Consultation submission 84

|  |  |  |
| --- | --- | --- |
|  | Sent by:[Redacted]05/09/2016 09:42 p.m. |   To: ecigarettes@moh.govt.nz,  cc:  bcc:  Subject: Submission re E Cigarettes. |

Dear Sir/Madam,

I just wanted to let you know my story. I am a 51 year old NZ european. I had smoked tailor made cigarettes since the age of about 12 years old. I did stop for about 2 years about 20 years ago with the help of GP prescribed nrt patches. About 5 years ago I begged my GP to try anything to help stop. I tried 3 types of prescribed tablets that all just made me sick and 1 in particular gave me nightmares so I stopped taking them. I then tried patches again then gum and lastly lozenges from quitline. These NRTs just didn't work.

I was put on to vaping by a person who had used it to quit. I brought some equipment from a local shop and brought some nicotine liquid from USA plus PG & VG liquid with flavours and mixed my own ejuice. I decided to wean off nicotine so slowly over about 6 weeks went from 18mg of nicotine down to Zero. I did vape and smoke cigarettes for the first 2 weeks then I was free of tobacco and continued vaping.

I still enjoy vaping with zero nicotine ejuice. I honestly know had I not started vaping I would be still smoking cigarettes. At the moment I have been smokefree for 18 months and have got no intention in smoking tobacco again.

Should I ever feel like smoking again I would just go back to ejuice with nicotine but I really don't think it will happen. Please don't take this alternate way of stopping smoking from NZers and make it part of the cessation program as it works and there are plenty of others that will say the same.

Yours sincerely,

[Redacted]

Sent from Samsung tablet

Consultation submission 85

Submitter asked that the submission should not be published

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 86

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

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

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

[ ]  Tobacco control non-government organisation

[ ]  Academic/research

[ ]  Cessation support service provider

[ ]  Health professional

[ ]  Māori provider

[ ]  Pacific provider

[x]  Other sector(s) *(please specify)*: Tobacco Harm Reduction Advocates

*(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]  We are not e‑cigarette users.

[ ]  I have tried e‑cigarettes.

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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.

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|  |
| --- |
|  Neither author has competing interests with respect to any of the relevant industries.     |

Please return this form by email to:

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

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

**The authors**

[redacted]

[redacted]

## 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:

|  |
| --- |
|   Policymakers must base decisions with real-world life-or-death consequences on a dispassionate view of the evidence, and the scientific evidence now suggests that nicotine e-cigarettes and liquids, generically referred to as electronic nicotine delivery systems (ENDS), could be a benefit to millions of smokers. * Smokers who switch to ENDS are likely to avoid at least 95% of the major smoking-related risks for cancer, heart disease and respiratory illness, and probably substantially more than that [1]. They will also experience significant short-term gains in health and wellbeing and, in high tobacco tax jurisdictions like New Zealand they are likely to be financially better off. No government should deliberately try to deny smokers this option – now adopted by millions of smokers world-wide.
* It is unethical to deny a smoker access to products that are much safer than the dominant product on the market, cigarettes [2]. Outside the field of tobacco and illicit drugs, there are no precedents for banning safer alternatives to widely used products.
* The availability of ENDS is not an alternative to conventional anti-smoking policy but complementary. By providing smokers with an easier way of responding to the pressures of high taxes and other measures, the overall tobacco control policy will become both more responsive and more humane. This is particularly important where smoking is concentrated at high levels in poorer communities, such as the Maoris.
* There is no credible evidence to suggest that ENDS undermine tobacco control, induce young people to smoke, or reduce the rate that adults quit smoking. The evidence, when examined dispassionately, shows what a neutral observer would expect unless presented with evidence to the contrary: people use much safer products to reduce their health risks or to quit smoking.
* ENDS are an effective tool for switching from smoking at no cost to the public purse – the individual smokers bear the costs.
* A widespread switch to ENDS would reduce exposure to second-hand tobacco smoke. E-cigarettes pose no material risk to bystanders [3].
* The quality of products available from reputable manufacturers is now very high and they are on widespread sale in the European Union, North America and throughout Asia without any major problems.
* There is a growing international experience with the regulation of ENDS as consumer products, and, by changing its approach, New Zealand has the opportunity to take a leadership role in these developments.
* It would be better for New Zealand to have its own legitimate and properly regulated supply chain and to have responsible producers contributing corporate and sales taxes as appropriate, and less international internet trade in high strength liquids.
* There is no reason to protect the cigarette trade in New Zealand from competition from superior low-risk products or erect regulatory barriers to entry that are so severe that only tobacco companies have the resources to enter the market, if any company does.

Misrepresentation of scientific findings by some academics and the media have combined to exaggerate risks but understate the benefits of e-cigarettes. There are no precedents for banning safer products while leaving the most dangerous products widely available. On the contrary, ENDS will *support* a tobacco control agenda by giving smokers options to respond to increasing taxes and other controls on smoking. ENDS offer far safer options to smokers than coping with high taxes by switching to buying cigarettes on the black market.[1] Royal College of Physicians, *Nicotine without smoke: tobacco harm reduction*, London 28 April 2016 [[link](https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction)] section 5.5 page 87.[2] Hall W, Gartner C, Forlini C. Ethical issues raised by a ban on the sale of electronic nicotine devices. *Addiction* 2015; **110**:1061–7 [[link](http://onlinelibrary.wiley.com/doi/10.1111/add.12898/abstract)][3] Burstyn I. Peering through the mist: systematic review of what the chemistry of contaminants in electronic cigarettes tells us about health risks. *BMC Public Health*, 2014 [[link](http://www.biomedcentral.com/1471-2458/14/18)] |

#### 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:

|  |
| --- |
|  In a revised approach, New Zealand should take the opporunity to develop a coherent regulatory framework that accommodates *all* recreational nicotine products (i.e. competitors to cigarettes) that do not involve combustion of tobacco. This includes all forms of smokeless tobacco, heated tobacco products, lozenges, inhalers, disolvable films etc. Such a framework should allow for and encourage innovation in nicotine products that are much less dangerous than smoking.      |

#### 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:

|  |
| --- |
| This measure is probably necessary, but only as a compromise to secure public and political consent for a changed approach. Domestic politics is outside our competence, so we have focussed on the public health and consumer protection rationale and suggest the measure is unlikely to be beneficial. It cannot simply be assumed that imposing age restrictions on ENDS is a good public health measure. It is an intervention in a complex 'ecosystem' of youth risk behaviours in which there is extensive teenage non-compliance with various adult-imposed prohibitions related to illicit drugs, tobacco, alcohol and other risk behaviours. It is quite possible or even likely that raising costs and barriers to access of ENDS for adolescents will mean that more young people continue to smoke when they might otherwise be diverted from harmful smoking to much less harmful ENDS use. This is likely because evidence from other jurisdictions suggests adolescent e-cigarette use is heavily concentrated in young smokers or those who have the 'risk factors' for smoking and that teenage smoking is declining in a way that is consistent with ENDS displacing cigarettes [1][2]. If these young people use e-cigarettes instead of smoking, then there is net public health benefit. Ideally, ENDS policy would be designed in a way that can distinguish between three categories young people who may use ENDS: * those who would otherwise smoke (incurring a large benefit if they switch to ENDS)
* those would never use any form of nicotine but could be attracted to ENDS use (incurring a small detriment if they start). In most jurisdictions, this group is very small.
* those using zero-nicotine liquids. United States data suggests this is the overwhelming majority, with only 20% of 12th graders having used nicotine the last time they used an e-cigarette [3].

There is a danger of making well-meaning but crude interventions that add to overall harm once the response has worked through to the totality of youth risk behaviours. Most young people will not become ENDS users whatever the policy, but for those who are 'at risk' of becoming nicotine users, the pattern of use of ENDS and cigarettes may have critical long-term implications. In designing policy, the priority is to reduce the number of young people who emerge into adulthood from a period of adolescent experimentation with a consolidated dependent smoking habit - this being the basis on which teenage smoking causes long-lasting harm. To the extent that ENDS use can intervene to displace such smoking, they have high and long-lasting health benefits. There is no evidence that ENDS act as gateway to smoking. On the contrary, it is far more likely that they are functioning as an 'exit' rather that entry to smoking [4]. The first evaluation studies from the United States of age restriction measures have highlighted the possible unintended consequences. For example, two recent papers [5][6] suggest negative effects from e-cigarette age restrictions - increases in smoking. Given the government wishes to introduce this measure, the burden of proof should rest with the government to show that it will not cause harm. If it does proceed with the measure, the government should carefully evaluate the impact, subject the measure to periodic review and make sure enforcement action is proportionate to harm.[1] ASH (UK) Fact sheet: Use of electronic cigarettes among children in Great Britain, May 2015 [[link](http://www.ash.org.uk/files/documents/ASH_959.pdf)][2] Singh T, Arrazola RA, Corey CG, et al. *Tobacco Use Among Middle and High School Students — United States, 2011–2015*. MMWR Morb Mortal Wkly Rep 2016;65:361–367. [[link](http://www.cdc.gov/mmwr/volumes/65/wr/mm6514a1.htm?s_cid=mm6514a1_w)] [3] Miech R, Patrick ME, O’Malley PM, Johnston LD (2016) What are kids vaping? Results from a national survey of US adolescents. Tob Control tobaccocontrol-2016-053014. [[link](http://tobaccocontrol.bmj.com/content/early/2016/07/21/tobaccocontrol-2016-053014)][4] Royal College of Physicians, *Nicotine without smoke: tobacco harm reduction*, London 28 April 2016 [[link](https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction)] Key recommendations [5] Friedman AS. How does Electronic Cigarette Access affect Adolescent Smoking? *J Health Econ* Published Online First: October 2015. [[pubmed](http://www.ncbi.nlm.nih.gov/pubmed/?term=26583343)][6] Pesko MF, Hughes JM, Faisal FS. The influence of electronic cigarette age purchasing restrictions on adolescent tobacco and marijuana use. *Prev Med (Baltim)*, February 2016 [[pubmed](http://www.ncbi.nlm.nih.gov/pubmed/26971853)]  |

#### 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:

|  |
| --- |
| This question is really two questions: (1) should legislation control e-cigarette advertising? (2) should such controls be applied in the same way as advertising of smoked tobacco products? It would have been helpful to have the option to answer 'yes' to the first and 'no' to the second. The government should resist the easy temptation to apply equivalent controls to tobacco cigarettes and to e-cigarettes. They are *not equivelent* - cigarettes kill one in two long term users prematurely and around 5,000 people die annually in New Zealand from smoking-related disease. Cigarette smoking is a habit usually started in adolescence that consolidates into dependence. In contrast, e-cigarettes are likely to be at least 95% lower risk than smoking (and probably substantially lower than that figure) and there is currently no evidence that they will be a cause of material loss of life at all, though most experts allow for that possibility. E-cigarettes are a substitute for smoking used predominantly by people who smoke or who, in the absence of e-cigarettes, would be likely to smoke. E-cigarettes are thus part of the *solution* to the problem of cigarette smoking. It does not follow, therefore, that a policy designed to address the problem of smoking related disease should be applied symmetrically to a much safer alternative that forms part of the solution. The problem with an advertising ban or heavy advertising restrictions is again one of unintended consequences. Viewed in terms of market dynamics, banning the advertising of a disruptive low-risk entrant (e-cigarettes) amounts to a regulatory protection of the dominant and highly harmful incumbent product (cigarettes). There is no reason for the government of New Zealand to protect the cigarette trade or to prolong the dominance of cigarettes in this way.Advertising allows e-cigarette makers to communicate with smokers and to attract them away from smoking. Such advertising should be recognised by the government as free public health advertising that promotes an effective and novel smoking cessation strategy to a group of smokers who may not be responsive to the traditional public health messages. Advertising also provides a return on and stimulus to innovation - there is little point in investment in innovation if it is difficult to communicate benefits with consumers about it. Such innovations may be pro-health, for example, temperature control, user feedback, filling safety and changes in chemical formulation. By its nature, innovation is hard to anticipate, but the means to communicate beneficial innovation to its intended beneficiaries should not be prevented unless there is a good reason, and there is no good reason in the case of ENDS. It is best to think of e-cigarette advertising as ‘anti-smoking’ but to provide some protections that limit the appeal to children. The following principles should apply: * **Advertising should be true and fair**. Normal rules that apply to advertising all products should be applied to e-cigarettes and they would be by default. This should address nearly all the concerns about the advertising of these products.
* **Restrictions on themes and media attractive to under-25s**. The UK Committee on Advertising Practice has set guidelines for UK advertising of e-cigarettes that were widely welcomed [1]. These are similar to the restrictions placed on alcohol advertising in the UK. They reflect a balance between protection of young people and the desirability of the commercial freedom to advertise low risk alternatives to smoking.

[1] Committee on Advertising Practice (UK), UK Code of Broadcast Advertising: 33. E-cigarettes Broadcast [[link](https://www.cap.org.uk/Advertising-Codes/Broadcast/CodeItem.aspx?cscid=%7Bb8ec097d-cfaf-4dfa-96e8-7a231f7339a0%7D#.VodZNRp96bU)]; UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing (CAP Code): 22. E-cigarettes [[link](https://www.cap.org.uk/Advertising-Codes/Non-Broadcast/CodeItem.aspx?cscid=%7B49028fdc-fc22-4d8a-ba5b-ba7ccc3df99a%7D#.VodYYxp96bU)]  |

#### 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:

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| --- |
|  Unless and until some material involuntary risk to bystanders is identified, the decision on whether to permit or prohibit vaping in a property or any part of a property should remain a matter for the owner or manager, not the law. Though many owners/managers may choose to prohibit vaping, the government needs a credible basis to overrule the preferences of owners/managers who would otherwise wish to allow vaping. The case for legally-binding restrictions on smoking rests on the argument that second hand smoke is a cause of material harm. No such case has been made for exposure to e-cigarette aerosol. Even for active ENDS users, the levels of exposure to any hazardous agents are far below occuptational exposure limits, and "*exposures of bystanders are likely to be orders of magnitude less, and thus pose no apparent concern*" [1]. It is easy to envisage many cases where allowing vaping is a reasonable option for the owner/manager to adopt, for example:1. A bar wants to have a vape night every Thursday
2. A bar wants to dedicate one room where vaping is permitted
3. In a town with three bars, one decides it will cater for vapers, two decide they will not allow vaping
4. A bar manager decides on balance that his vaping customers prefer it and his other clientele are not that bothered – he’d do better allowing it
5. A hotel wants to allow vaping in its rooms and in its bar, but not in its restaurant, spa, and lobby
6. An office workplace decides to allow vaping breaks near the coffee machine to save on wasted smoking break time and encourage smokers to quit by switching
7. A care home wants to allow an indoor vaping area to encourage its smoking elderly residents to switch during the coming winter instead of going out in the cold
8. A vape shop is trying to help people switch from smoking and wants to demo products in the shop…
9. A shelter for homeless people allows it to make its clients welcome
10. A day centre for refugees allows it instead of smoking

There is no reason to believe that the state, acting through legislation, is better placed to make thousands of 'micro-decisions' of this nature than the owners or managers. To justify overriding the preferences of owners/managers, the government needs a credible justification. No such justification exists in the scientific literature concerning 'second-hand vapour' exposure, nor has the New Zealand government made an evidence-based case for such an intervention. It is quite possible that banning vaping in public places or severely restricting it would have adverse effects on health via three mechanisms. First, by making ENDS use relatively less attractive to smokers and so reducing switching. Second, by forcing those who have successfully switched to join smokers while they vape - potentially promoting relapse from vaping back to smoking. Third, by sending an inappropriate and not evidence-based signal that vaping is as harmful as smoking, which it is not. It would be like extending drink-driving laws to coffee - the public would inevitably draw false conclsuions about coffee. Rather than overriding the preferences of owners and managers with blunt policy prescriptions, a better role for the government is to provide advice on how to make a vaping policy. This is the approach adopted in England, where the lead public health agency, Public Health England, has produced guidance after an extensive stakeholder consultative exercise [2].[1] Burstyn I. Peering through the mist: systematic review of what the chemistry of contaminants in electronic cigarettes tells us about health risks. *BMC Public Health*, 2014 [[link](http://www.biomedcentral.com/1471-2458/14/18)][2] Public Health England, Use of e-cigarettes in public places and workplaces, July 2016 [[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** | **Yes** | **No** | **Reasons/ additional comments** |
| Requirement for graphic health warnings | [ ]  | [x]  |  There are no established health risks that could be legitimately portrayed in such warnings. The purpose of warnings should be be to inform about legitimate risks and to help consumers make informed decisions about risk behaviours. It should never be to create unwarranted fear in the hope of achieving a particular behavioural response. The danger of such a measure is that it would deter smokers from switching and thereby increase harm.  |
| Prohibition on displaying products in sales outlets | [ ]  | [x]  |  It is important to make it as easy as possible for smokers to switch to vaping. This is a more important public health goal than preventing non-smokers trying vaping, which carries minimal risk. Even if young people use these these products, they are likely to be doing this instead of smoking - so it is not even possible to justify such restrictions on the basis of protecting adolescents.   |
| Restriction on use of vending machines | [x]  | [ ]  |  A vending machine is an unsupervised retail outlet and it would be inconsistent to have age restrictions for sales while allowing sales from vening machines. The exception should be vending machines inside venues with comparable age restrictions. However, it is important to reiterate that it cannot be assumed that restricting access to ENDS, even to young people, is a good policy for public health.  |
| Requirement to provide annual returns on sales data | [ ]  | [x]  |  There is no basis for imposing this requirement and no indication about what would be done with the data and who would have access to it. It is not a suitable alternative to conducting periodic independent systematic surveys of the market for tobacco and nicotine products. For many of the small businesses involved it could easily be an excessive burden.  |
| Requirement to disclose product content and composition | [ ]  | [x]  |  The manufacturers should list ingredients on the pack as part of their disclosure to customers. No further disclosure is justified and no case has been made that the data disclosed will be used for any constructive purpose. The government should avoid placing pointless burdens on any business without a reasoned justification.  |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | [x]  | [ ]  |  It is dificult to answer this with a yes/no response because it depends on what the regulation is designed to achieve. There is no basis for limiting strength of e-liquids in the range of concentrations used by consumers. In New Zealand this may involve adjusting the classification of nicotine under the Hazardous Substances and New Organisms (HSNO) Act to set a concentration below which the Act does not apply - typically 7-10 percent in other jurisdictions (7.5 percent in the UK [1]). Higher strength liquids may be valuable in at least three circumstances:1. To help the most heavily dependent smokers find a satisfactory nicotine dose;2. To help smokers overcome barrier of achieving adequate nicotine dose as they learn the technique of vaping;3. To support innovation - for example in minaturising products so that they are more acceptable to consumers. There is no reason to limit flavours or flavour descriptors, unless there is a material health concern with an ingredient - for example it is known to be carcinogenic, mutagenic, reprotoxic or a respiratory sensitiser. There is no problem with ingredients that requires an immediate response, but over time the government can develop a regulatory regime for ingredients, for example using a similar approach to that developed in France [2] or Britain [3] or by adopting international standards should they emerge. [1] The Control of Poisons and Explosives Precursors Regulations 2015 [[link](http://www.legislation.gov.uk/uksi/2015/966/schedule/made)][2] AFNOR (France) Electronic cigarettes and e-liquids Part 1: Requirements and test methods for e-cigarettes XP D90-300- [[link](file:///C%3A%5CUsers%5CGerry%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CTemporary%20Internet%20Files%5CContent.Outlook%5C3618JO9R%5CXP%20D90-300-1%20March%202015%20Electronic%20cigarettes%20and%20e-liquids%20-%20Part%201)] and Part 2: Requirements and test methods for e-cigarette liquid XP D90-300-2 [[link](http://www.boutique.afnor.org/norme/xp-d90-300-2/cigarettes-electroniques-et-e-liquides-partie-2-exigences-et-methodes-d-essai-relatives-aux-cigarettes-e-liquides-/article/823265/fa059566)] March 2015[3] BSI PAS 54115:2015 Vaping products, including electronic cigarettes, e-liquids, e-shisha and directly-related products - Manufacture, importation, testing and labelling - Guide [[link](http://shop.bsigroup.com/ProductDetail/?pid=000000000030303130)] July 2015  |
| Requirement for annual testing of product composition | [ ]  | [x]  |  No special requirements for annual testing are justified and no justification has been provided.  |
| Prohibition on free distribution and awards associated with sales | [ ]  | [x]  |  There is no justification for restricting marketing designed to encourage smokers to switch from smoking to vaping.  |
| Prohibition on discounting | [ ]  | [x]  |  There is no justification for managing pricing of products that are alternatives to smoking or denying vendors the option of using promotions to recruit smokers.      |
| Prohibition on advertising and sponsorship | [ ]  | [x]  |  The SFEA (1990) almost completely prohibits advertising and sponsorship of tobacco products, but this should not be extended to e-cigarettes (see response to Q4) and the governmen should reconsider its application to non-combustible tobacco products, which can be used for harm reduction purposes.  |
| Requirement for standardised packaging | [ ]  | [x]  |  There is no justification for inhibiting the marketing of much safer alternatives to cigarettes - this would be a *de facto* regulatory protection of the cigarette trade from competition. As with advertising bans, there is no case for symmetrically applying policies aimed at reducing the harms of smoking to products that, in themsleves, reduce the harms of smoking.   |
| Other | [ ]  | [x]  |  By far the best option is to leave these products to thrive in the market place, as consumers make decisions about reducing their smoking-related risks unhindered by ill-judged government intervention for which unintended harmful consequences are likely to far outweigh any hoped-for benefit. "Do nothing" is usually the most credible option in this environment.  |

#### 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:

|  |
| --- |
|  There is no reason to tax nicotine e-liquids beyond the standard 15 percent Goods and Services Tax (GST). Experts argue that the excise regime for recreational nicotine products should create a fiscal incentive to move from high risk to low-risk nicotine products [1]. However, there are three objectives associated with an excise regime for tobacco or rerlated products: public health, low cost of tax administration and revenue raising. Any regime that successfully and proportionately promotes the public health objective would have to adopt a rate so low that the costs of administration would be likely to be significant in relation to the revenue raised. So a first approximation for a suitable rate would be zero, thereby avoiding all the tax administration costs and giving the greatest public health incentive [2]. It is also possible to make a case for a tax *exemption* on the same basis that NRT sold over the counter attracts a reduced rate of sales tax or value added tax in some jurisdictions. For example, in the UK, NRT attracts a VAT rate of 5 percent compared to the standard rate of 20 percent. [1] Chaloupka FJ, Sweanor D, Warner KE. Differential Taxes for Differential Risks--Toward Reduced Harm from Nicotine-Yielding Products. *New England Journal of Medicine* 2015;**373**:594–7. [[link](http://www.nejm.org/doi/full/10.1056/NEJMp1505710)] [2] Sweanor D, Now is not the time to tax e-cigarette liquids, Irish Times, 26 August 2016 [[link](http://www.irishtimes.com/opinion/now-is-not-the-time-to-tax-e-cigarette-liquid-1.2768585)]  |

#### 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]  | [ ]  |  The ISO 8317:2003 standard for child resistent containers should be specified. This could be a requirement under consumer protection legislation, though it is almost universally adopted as standard practice in the industry.  |
| Safe disposal of e‑cigarette devices and liquids | [ ]  | [x]  |  The same requirements that apply to batteries or elecrical waste should apply and no further initiative is required.     |
| Ability of device to prevent accidents | [x]  | [ ]  |  It is reasonable to develop standards over time that address aspects of safety: mechanical, thermal, electrical. For example, see French AFNOR standered [1][1] AFNOR (France) Electronic cigarettes and e-liquids Part 1: Requirements and test methods for e-cigarettes XP D90-300-1 March 2015 [[link](file:///C%3A%5CUsers%5CGerry%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CTemporary%20Internet%20Files%5CContent.Outlook%5C3618JO9R%5CXP%20D90-300-1%20March%202015%20Electronic%20cigarettes%20and%20e-liquids%20-%20Part%201)]      |
| Good manufacturing practice | [ ]  | [x]  |  A better regime would be ISO9001:2008 Quality Management System [[link](http://www.iso.org/iso/catalogue_detail?csnumber=46486)]     |
| Purity and grade of nicotine | [x]  | [ ]  |  The nicotine used should be of pharmaceutical grade. This is near universal practice in the legitimate ENDS industry.      |
| Registration of products | [ ]  | [x]  |  It is unclear what such a registration system would be used for. In the absence of a more robust justification this would be an unnecessary bureaucratic burden to both the manufacturers and the government.      |
| A testing regime to confirm product safety and contents purity | [x]  | [ ]  |  A standard-setting regime is the best way of regulating these products - that includes a standardised testing regime - this would reduce costs, give clear guidance to analytical services companies and increase confidence. It is therefore worthwhile.  |
| Maximum allowable volume of e-liquid in retail sales | [ ]  | [x]  |  There is no basis for imposing a limitation on container volume in retail sales. Hazardous liquids are sold in large quantities (e.g. bleach) and the appropriate safeguards are to specify container standards; warn of dangers; and provide information on what to do in the event of an accident.   |
| Maximum concentration of nicotine e-liquid | [ ]  | [x]  |  It is counterproductive to limit concentrations at any level below that set for the classification of nicotine as a poison (typically 7-10 percent). Stronger nicotine liquids are valuable to the more highly dependent smokers (and hence those at greater risk), smokers in the early stages of switching to ENDS, and to allow for potential innovations.   |
| Mixing of e-liquids at (or before) point of sale | [ ]  | [x]  |  The personalisation and diversity of the range of liquids available is an important feature of ENDS products - and a feature of their attractiveness relative to cigarettes. The option to mix products at the point of sale is important for a certain type of retail outlet and preferable to consumers buying the same ingredients separately and mixing them at home.     |
| Other | [ ]  | [ ]  |  The government should avoid restrictions on internet sales of ENDS products. Internet retailing is particularly important in this business because: * the user population is sparse
* the product is highly diverse
* the rate of innovation is very high
* in the event of excessive domestic restrictions, users will buy internationally from internet retailers, for example, in China
 |

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

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| When regulating ENDS, the regulator should be preoccupied by the risks of 'unintended consequences'. Because ENDS are substitutes for smoking and uptake driven by consumer appeal, there is a risk that e-cigarette policy will have harmful consequences. The Royal College of Physicians explains [1]:*A risk-averse, precautionary approach to e-cigarette regulation can be proposed as a means of minimising the risk of avoidable harm, eg exposure to toxins in e-cigarette vapour, renormalisation, gateway progression to smoking, or other real or potential risks. However, if this approach also makes e-cigarettes less easily accessible, less palatable or acceptable, more expensive, less consumer friendly or pharmacologically less effective, or inhibits innovation and development of new and improved products, then it causes harm by perpetuating smoking. Getting this balance right is difficult.* Governments need to take this insight seriously when considering intervention in markets for tobacco and nicotine. It is very easy to make matters worse, protect the cigarette trade and add to the toll of death and disease. In its impact assessment [2] for the implementation of the European Union Tobacco Products Directive, the UK government noted the potential for unintended harmful consequences, and several specific concerns are drawn out, though not quantified, in the assessment. For example:* 117. [...] There may also be potential negative health implications if the restrictions on advertising reduce the number of consumers switching from tobacco products to e-cigarettes. [...]
* 207. There is a risk that due to the potential price increase and reduction of choice of e-cigarettes, people will choose to switch back to smoking, thus harming their health. This possibility is considered in the sensitivity analysis.
* 208. There is a risk that a black market will develop with potentially harmful e-cigarette products, due to consumers no longer having the same degree of choice in the legal market.

It is possible to extend this analysis and make a more comprehensive assessment of the possible unintended consequences arising from poorly designed regulation.

|  |  |
| --- | --- |
| Policy | Likely unintended consequence |
| Loss of product diversity | Consumers are unable to personalise the vaping experience or find products that they enjoy and find it less satisfactory, so continue to smoke or relapse  |
| Restrictions on liquid strength | Smokers are unable to sustain a satisfactory nicotine experience during the first stages of switching or while they are learning to vape, so relapse to smoking or give up on vaping |
| Limits on container and tank size | The experience of vaping becomes more inconvenient and so less attractive. More filling operations are required and the likelihood of running out of liquid is increased.  |
| Ban e-cigarette use in public places | Diminishes value proposition of e-cigarettes to users and ‘denormalises’ vaping, a much less risky option, and so diminishes the appeal of vaping relative to smoking, May promote relapse in existing vapers if they cannot maintain adequate nicotine levels or if they join smokers outside.  |
| Restrictions on advertising, promotion and sponsorship | Reduces the ability of e-cigarette brands to compete with cigarettes (the market incumbent) and diminishes means to communicate the value proposition to smokers. May reduce means to communicate innovation or build trusted brands. If subjected to excessive control may become dull and sterile, diminishing appeal. |
| Bans on online sales | Because vaping options are highly diverse, user density still quite low, and technological evolution rapid, the internet-based business model is important to provide the greatest choice and convenience to users. If users are forced to purchase from ‘bricks and mortar’ outlets but do not have a specialist shop nearby they are likely to see their options limited and vaping relatively less attractive |
| Policy compliance burdens and other costs - leading to black markets | Black markets develop in response to restrictive or costly regulation or taxation. Black markets can to some extent compensate for poorly designed policy and they are likely to emerge if regulation is unduly restrictive. However, they also cause harms through trade, transit and handling of high strength liquids, product quality, poor labelling, inferior packaging. They may exacerbate risks the policy is meant to mitigate.  |
| Product design restrictions and requirements – testing and paperwork | There are numerous subtle trade-offs in product design between safety and appeal and cost. For example, the perfectly safe product that no-one wants to buy may be worse for health if it means more people smoke. Excessive design regulation can impose high costs, burdens and restrictions, slow innovation and drive good products and firms out of the market through ‘regulatory barriers’ to entry. Very high spec regulations will tend to favour high volume, low diversity commoditised products made by tobacco or pharmaceutical companies. Regulation can adversely reshape the market and reduce the pace of innovation. |
| Bans on flavours | All e-cigarettes and liquids are flavoured with something – and this forms a key part of the appeal. Many former smokers report switching to non-tobacco flavours as a way of moving permanently away from smoking. There is a risk that loss of broad flavour categories will cause relapse among e-cigarette users, fewer smokers switching, and emergence of DIY and black market flavours. |
| Ban refillable systems  | This idea has been proposed by tobacco companies for commercial and anti-competitive reasons. It means removing the ‘open system’ 2nd and 3rd generation products that increasingly dominate the market. Many vapers report these are more effective alternatives to smoking. Any (minor) risks of poisoning, dermal contact, DIY mixing etc have to be set against the likely black market response, and the substantial benefits arising from personalisation and huge extension to the diversity of products available. |
| Health warnings | Alarmist health warnings, even if technically correct, can be misleading and misunderstood by the public. This has always been the case with smokeless tobacco – warnings do not adequately communicate relative risk and, therefore, understate smoking risks or the advantage of switching. They may obscure more important messages about relative risk compared to smoking that is not provided in official warnings. |
| Ban sales to under-18s | There is near universal support for this policy. A US study [[link](http://www.sciencedirect.com/science/article/pii/S0167629615001150)] found that in areas where e-cigarette sales to under-18s had been banned the decline in smoking was slower than in areas where it was not banned. However, it is worth noting that NRT is made available to people over 12 years in some jurisdictions – because young smokers also need to quit. It should not be assumed that ‘harm reduction’ should start at 18. |
| Prohibit health or relative risks claims  | This denies smokers real world truthful information about relative risk and may cause more smoking. It is uncontroversial that e-cigarettes are safer than smoking – the debate is over where in the range 95-100% less risky. This erects high and unnecessary regulatory barrier to truthful communication - and therefore obscures the most important consumer benefit from consumers. The authorities could address this by providing authoritative advice on relative risk - for example of the type provided by Public Health England or the Royal College of Physicians, which could be used in communication with consumers. |
| Raise taxes on e-cigarettes | This reduces the financial incentive to switch from smoking to vaping unless the tax on smoking is also increased. But these taxes if raised too far will tip users into other forms of unintended behaviour – accessing the black market, switching to rolling tobacco, or create cottage industries producing e-liquids in garages. It may also favour smoking cessation medications that are less effective on average, such as NRT [2] (which in the UK actually receives a VAT *discount*) |

[1] Royal College of Physicians, *Nicotine without smoke: tobacco harm reduction*, London 28 April 2016 [[link](https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction)] Section 12.10, page 187[2] Department of Health, MHRA, Tobacco Products Directive, Impact Assessment,18 April 2016. [[link](http://www.legislation.gov.uk/ukia/2016/109/pdfs/ukia_20160109_en.pdf)] [3] Brown J, Beard E, Kotz D, *et al.* Real-world effectiveness of e-cigarettes when used to aid smoking cessation: a cross-sectional population study. *Addiction* 2014;109:1531–40 [[link](http://onlinelibrary.wiley.com/doi/10.1111/add.12623/abstract;jsessionid=936DFBDEE2D39405FA86B33BB5AFB5E8.f01t03)] |

### 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 information     |

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

|  |
| --- |
|  Not appliacable     |

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

Consultation submission 87

Submitter asked that the submission should not be published

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 88

|  |  |
| --- | --- |
| Your detailsThis 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

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

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

[ ]  Do not publish this submission.

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

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

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

[ ]  This submission contains commercially sensitive information.

### Declaration of tobacco industry links or vested interest

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

|  |
| --- |
| No links to the tobacco industry. |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes [x]  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 [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:

|  |
| --- |
|   |

#### 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:

|  |
| --- |
|   |

#### 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:

|  |
| --- |
|   |

#### 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]  |   |
| Prohibition on displaying products in sales outlets | [ ]  | [x]  |   |
| Restriction on use of vending machines | [ ]  | [x]  |   |
| Requirement to provide annual returns on sales data | [ ]  | [x]  |   |
| Requirement to disclose product content and composition | [x]  | [ ]  |   |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | [x]  | [ ]  |   |
| Requirement for annual testing of product composition | [x]  | [ ]  |   |
| Prohibition on free distribution and awards associated with sales | [ ]  | [x]  |   |
| Prohibition on discounting | [ ]  | [x]  |   |
| Prohibition on advertising and sponsorship | [x]  | [ ]  |   |
| Requirement for standardised packaging | [ ]  | [x]  |   |
| Other | [ ]  | [ ]  |   |

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

Yes [ ]  No [x]

Reasons/additional comments:

|  |
| --- |
|       |

#### 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]  | [ ]  |   |
| Good manufacturing practice | [x]  | [ ]  |   |
| Purity and grade of nicotine | [x]  | [ ]  |   |
| Registration of products | [x]  | [ ]  |   |
| A testing regime to confirm product safety and contents purity | [x]  | [ ]  |   |
| Maximum allowable volume of e-liquid in retail sales | [ ]  | [x]  |   |
| Maximum concentration of nicotine e-liquid | [ ]  | [x]  |   |
| Mixing of e-liquids at (or before) point of sale | [ ]  | [x]  |   |
| Other | [ ]  | [ ]  |   |

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

|  |
| --- |
|   |

### 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?** |
| 9 months | daily | $40 |  online |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 89

|  |  |
| --- | --- |
| Your detailsThis 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

[x]  Health professional

[ ]  Māori provider

[ ]  Pacific provider

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

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

Please indicate your e‑cigarette use status:

[ ]  I am using nicotine e‑cigarettes.

[ ]  I am using nicotine-free e‑cigarettes.

[ ]  I currently smoke as well as use e‑cigarettes.

[x]  I am not an e‑cigarette user.

[ ]  I have tried e‑cigarettes.

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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.

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|  |
| --- |
| I have no direct link to any of the relevant industries – cigarette, e-cigarette or pharmaceutical. I have an indirect link by virtue of the role I play as Senior Fellow for Tobacco Policy [redacted] a moderate, right-of- center libertarian think tank in Washington DC that respects the role of government to protect health and the environment, but objects to what they perceive to be governmental over-reach not justified by protection of the community. They do not accept governmental funds, but do accept support from anyone in the private sector. My role at [redacted] is to advise them on tobacco policy, not to serve as a spokesman for policy recommended by others. |

Please return this form by email to:

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

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

**The Author:** [redacted]

## 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 combustible tobacco cigarette is the most addictive and most hazardous of tobacco products, yet is the dominant vehicle for nicotine in Western Society. In the USA, cigarettes kill an estimated 480,000 Americans per year, with numbers of deaths from all other tobacco products combined so few in numbers that none are tracked by federal authorities. A range of smokeless tobacco products, e-cigarettes and related vapor products present a risk of potentially fatal tobacco-related illness less than 5% the risk posed by cigarettes, and, currently available evidence shows that e-cigarettes may be reducing teen addiction by diverting teens who would otherwise start smoking to the less addictive e-cigarettes, and even zero nicotine e-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?

Yes [x]  No [ ]

Reasons/additional comments:

|  |
| --- |
| Snus, moist snuff, chewing tobacco, and likely heat-not-burn tobacco products, and other smokeless options. While we have no information on how teens would react to them, everything we know about how tobacco causes addiction and potentially fatal illness tells us that they likely present less than 5% the risk posed by cigarettes. |

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

Yes [x]  No [ ]

Reasons/additional comments:

|  |
| --- |
| Three reasons: 1. Teens are more prone to become addicted to cigarettes and other addictive products than adults. 2. There is some animal evidence that nicotine might inhibit normal brain development in adolescents. 3. The nicotine, per se, may be hazardous to pregnant women, in terms of prematurity and stillbirth. |

#### 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:

|  |
| --- |
| Controls on advertising are certainly in order to minimize use by teens. Such controls, however should be far less stringent that for cigarettes. Health warnings other than the potential for addiction would be inappropriate, and “plain packaging” would be inappropriate. Rather than model regulation of e-cigarette advertising on cigarette advertising, it should be modelled on the marketing of the over-the-counter nicotine replacement therapy pharmaceuticals (gums, patches, lozenges, etc). |

#### 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:

|  |
| --- |
| Smoking is prohibited in non-smoking areas to prevent bystanders from being exposed to toxic smoke so concentrated that it can increase the risk of heart attack, and possibly some forms of cancer. The vapour exhaled by e-cigarette users poses no such hazard. While it does contain traces of some toxic chemicals, the concentrations are so low that it is not measurable over background levels in most indoor environments. |

#### 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]  | Theoretical risk is trivial |
| Prohibition on displaying products in sales outlets | [ ]  | [x]  | It should be more readily available and more readily marketed than cigarettes |
| Restriction on use of vending machines | [x]  | [ ]  | Access by teens |
| Requirement to provide annual returns on sales data | [x]  | [ ]  | Progress and use should be tracked in a manner similar to the tracking of cigarette sales to document public health benefit or lack thereof. |
| Requirement to disclose product content and composition | [x]  | [ ]  | As with any consumable consumer product |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | [x]  | [ ]  | Since e-cigarette vapour is inhaled, the purity of the ingredients deserves attention. Nicotine content should be kept well below toxic levels, but not limited because of an unjustified concern of recruiting non-smoking teens. |
| Requirement for annual testing of product composition | [ ]  | [x]  |  |
| Prohibition on free distribution and awards associated with sales | [ ]  | [x]  | Sampling should be allowed in vape shops to adult customers. |
| Prohibition on discounting | [ ]  | [x]  |       |
| Prohibition on advertising and sponsorship | [ ]  | [x]  |       |
| Requirement for standardised packaging | [x]  | [ ]  | e-cigarette liquids for consumer use should be in child-resistant containers |
| Other | [x]  | [ ]  | The laws should permit vape shops to custom-mix liquids to meet customer needs and preferences, but with regulations similar to restaurant regulations to assure attention to sanitation, hygiene and quality of ingredients used |

#### 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 should be seen as potentially beneficial to current smokers and as products that are very unlikely to lead to long term harm for non-users. This being the case, taxation of e-cigarettes should be based on how taxes are levied on over-the-counter nicotine replacement therapy pharmaceutical products (gums, patches, lozenges, etc). |

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

Yes [x]  No [ ]

*Quality standards for the manufacture of e-liquids have been proposed and are being periodically updated by the American E-Liquid Manufacturing Standards Association (*[*www.aemsa.org*](http://www.aemsa.org) *). Many manufacturers already adhere to these standards, but, because this is a voluntary rather than governmental organization, they have no way of mandating compliance.*

Additional comments:

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers | [x]  | [ ]  | For the protection of infants and small children in the home. Hazard to children is minimal and likely limited to vomiting. The childproof containers should minimize parent anxiety, calls to poison control centres and emergency room visits because of the anxiety. |
| Safe disposal of e‑cigarette devices and liquids | [x]  | [ ]  | The main issue is the lithium battery. This should be reflected in the disposal guidelines. Other than that, there should be no disposal concerns. |
| Ability of device to prevent accidents | [x]  | [ ]  | Governmental authorities should consult with industry experts on how best to minimize, if not eliminate the risk of explosions and fires. |
| Good manufacturing practice | [x]  | [ ]  |       |
| Purity and grade of nicotine | [x]  | [ ]  | Should be pharmaceutical grade |
| Registration of products | [x]  | [ ]  |       |
| A testing regime to confirm product safety and contents purity | [ ]  | [x]  |       |
| Maximum allowable volume of e-liquid in retail sales | [ ]  | [x]  |       |
| Maximum concentration of nicotine e-liquid | [x]  | [ ]  | For e-liquids for consumers, limited only that they are well below toxic levels (not limited to prevent teen recruitment) |
| Mixing of e-liquids at (or before) point of sale | [x]  | [ ]  | Should be permitted, but regulated as noted above. |
| Other | [x]  | [ ]  | Given the continuing rapid evolution of vapour products, an advisory committee should be formed by which e-cigarette industry experts can meet with public health authorities on a regular basis to discuss new products, surveillance data and changes that might be appropriate for both regulations and public communications. |

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

|  |
| --- |
| Two sets of issues have been largely neglected to date. The first is the potential public health benefits of adding a tobacco harm reduction component to current public health programming, with e-cigarettes as a major, but not the only harm reduction modality. To facilitate this, and as documentation to support statements made above, I urge reading of one or both of two papers I generated two years ago, that continue to be supported by more recent research. The first was written for legislators and attorneys in Washington, DC, with a more detailed explanation of how I, as a public health physician, came to advocate on behalf of e-cigarettes. This paper can be downloaded from <http://www.rstreet.org/wp-content/uploads/2014/07/20140630FDLI-EcigForum.pdf> . The second, written for a medical and scientific audience can be downloaded from <http://www.mdpi.com/1660-4601/11/6/6459>.The second set of issues has to do with the tendency within the public health community to condemn the use of all non-pharmaceutical tobacco-related products on the basis of tradition and bias within the public health community, without regard to the scientific evidence and real-life experience in favor of major personal and public health benefits. A discussion of this issue can be found at <http://ntr.oxfordjournals.org/cgi/reprint/ntw104?ijkey=iflKpog6Q2x9V5z&keytype=ref>The thinking of American and most, if not all, international public health authorities is that there can be no personal or public health benefit to any nicotine delivery product not licensed as a drug. While readily admitting that e-cigarettes are far less hazardous to the user than cigarettes, there is no consideration of the possibility that this difference in risk could possibly offer public health benefits. For this reason, American authorities do not attribute any of the remarkable recent reductions in adult and teen smoking to e-cigarettes. The voluminous research now being funded by the American Food and Drug Administration (FDA), working through the National Institutes of Health (NIH) is almost entirely intended to document potential personal and public health harms and risks of e-cigarettes and to gather baseline data against which progress in reducing e-cigarette use might be measured. The only significant exception to this rule seems to be limited to research into e-cigarette efficacy for short-term smoking cessation, if one uses e-cigarettes according to pharmaceutical protocols.This mindset by public health authorities makes balancing risks and benefits by regulators problematic, if one starts with the premise that potential benefits are not to be considered. |

### 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)?

|  |
| --- |
| Sorry, can’t help you on this question. |

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

|  |
| --- |
| no |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **How long have you been using them?** | **How often do you use them?** | **How much do you spend on them per week?** | **Where do you buy them?** |
| never tried one |       |       |       |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 90

|  |  |
| --- | --- |
| Your detailsThis submission was completed by: *(name)* | [Redacted] |
|  | [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:

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

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

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

Please indicate which sector(s) your submission represents:

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

[ ]  Tobacco control non-government organisation

x[ ]  Academic/research

[ ]  Cessation support service provider

[ ]  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.

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

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

[ ]  This submission contains commercially sensitive information.

### Declaration of tobacco industry links or vested interest

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

|  |
| --- |
| None |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes x[ ]  No [ ]

Reasons/additional comments:

|  |
| --- |
| Helping smokers quit smoking should be the overriding national priority and e-cigarettes are a less harmful way of obtaining nicotine and there is substantial public interest in their use as a smoking cessation device. While the evidence is still equivocal, there is the potential that e-cigarettes could be a useful tool to have available in the context of a comprehensive smoking cessation program. In this regard, I support the availability of e-cigarettes and that they be treated in a fashion similar to other products used for smoking cessation. Accordingly, I believe that e-cigarettes should be regulated more like NRT than like traditional cigarettes and the level of regulation should be commensurate with the harm caused by the product. Having said this, I do not feel that e-cigarettes should be an unregulated product, but rather one that should be regulated for the purposes of advancing smoking cessation, and that these same policies should discourage use of e-cigs among never and former smokers, and that lifetime use of e-cigarettes, following smoking cessation should be discouraged. Nicotine is not a benign substance and shouldn’t be equated with caffeine, or other non-regulated consumer products. |

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

Yes x [ ]  No [ ]

Reasons/additional comments:

|  |
| --- |
| I believe there are a number of novel tobacco products that need to be regulated in a coherent fashion, based on the premise of harm reduction. I’m not familiar enough with existing New Zealand regulations and statutes, but regulatory policy reform should be robust enough to include all Electronic Nicotine Delivery Systems (ENDS) as well as other novel nicotine delivery products, such as snus and other oral products that may facilitate smoking cessation |

#### 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:

|  |
| --- |
| Yes, I find the scientific literature on the effect of nicotine on the adolescent brain sufficiently convincing to recommend promulgating strong policies to prevent access to and use of nicotine, in whatever form, from adolescents under the age of 18 (if not under the age of 21). |

#### 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:

|  |
| --- |
| As part of a comprehensive smoking cessation program, I believe that advertising and promotion of e-cigarettes should be done in a manner similar to the advertising and promotion of other drugs approved to assist with smoking cessation, such as NRT, Chantix and buproprion. At a minimum, companies should be allowed to state that e-cigarettes are less harmful than smoking traditional cigarettes. Statements on their relative effectiveness on helping a smoker quit smoking should be based on the empirical evidence, similarly to what is currently done for other drugs.In summary, advertising and promotion should be allowed, but it should be regulated in such a way that it is directed towards smokers who are seeking to quit, and designed to assiduously avoid appealing to adolescents, or non-smokers (which is in fact the stated intent of most e-cigarette companies). |

#### 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:

|  |
| --- |
| I do. While this is a more difficult question, because it is unlikely that secondhand vaping is anywhere as near as harmful as secondhand smoking, vaping still emits substances into an enclosed space to which non-vapers could be exposed. People who choose not to vape should never be subject to other people’s secondhand vaping cloud, regardless of the lower level of harm associated with it. No one should have to inhale nicotine particles or other substances or have to ascertain where to dine, work or shop based on the risk of potential exposure. The externalities associated with vaping are real even though they may be less than those from smoking. |

#### 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  |       |
| Prohibition on displaying products in sales outlets | [ ]  |  x |       |
| Restriction on use of vending machines | [ ]  | x |       |
| Requirement to provide annual returns on sales data |  x | [ ]  |       |
| Requirement to disclose product content and composition | x | [ ]  |       |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | x | [ ]  |       |
| Requirement for annual testing of product composition |  X  | [ ]  |       |
| Prohibition on free distribution and awards associated with sales | x | [ ]  |       |
| Prohibition on discounting | [ ]  | x |       |
| Prohibition on advertising and sponsorship | [ ]  | x |       |
| Requirement for standardised packaging | [ ]  | x |       |
| Other | [ ]  | [ ]  |       |

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

Yes X No [ ]

Reasons/additional comments:

|  |
| --- |
| I think there should be a tax differential consistent with the harm of the product, with e-cigarettes at the low end and traditional cigarettes at the high end. Revenue from this excise tax could be used to advance the larger smoking cessation campaign and possibly subsidize smoking cessation services more poor and marginalized communities. |

#### 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 | [ ]  |       |
| Good manufacturing practice |  X | [ ]  |       |
| Purity and grade of nicotine | X | [ ]  |       |
| Registration of products | X | [ ]  |       |
| A testing regime to confirm product safety and contents purity | X | [ ]  |       |
| Maximum allowable volume of e-liquid in retail sales |  X | [ ]  |       |
| Maximum concentration of nicotine e-liquid | X | [ ]  |       |
| Mixing of e-liquids at (or before) point of sale | X | [ ]  |       |
| Other |  X | [ ]  | Maximum temperature regulation |

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

|  |
| --- |
| Let’s see New Zealand lead the world in establishing a comprehensive nicotine regulatory framework and be the first country in the world that extinguishes combustible tobacco use AND discourages widespread nicotine addiction.  |

### Additional information on sales and use

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

|  |
| --- |
| No |

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

|  |
| --- |
| No |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **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. McEwan, A. and McRobbie, H., Electronic cigarettes: A briefing for stop smoking services, Public Health England: National Centre for Smoking Cessation and Training (NCSCT) Version 2: 2016, p. 38. [↑](#footnote-ref-1)
2. <https://theconversation.com/is-nicotine-really-as-safe-as-e-cigarette-supporters-make-out-61007>, p. 2. [↑](#footnote-ref-2)
3. Conference of the Parties to the WHO Framework Convention on Tobacco Control, Sixth Session, Moscow, Russian Federation, 13-18 October 2014, Provisional Agenda item 4.4.2, p. 10. [↑](#footnote-ref-3)
4. Conference of the Parties to the WHO Framework Convention on Tobacco Control, Sixth Session, Moscow, Russian Federation, 13-18 October 2014, Provisional Agenda item 4.4.2, p. 6. [↑](#footnote-ref-4)
5. <http://www.health.govt.nz/our-work/regulation-health-and-disability-system/medicines-act-1981> [↑](#footnote-ref-5)
6. Conference of the Parties to the WHO Framework Convention on Tobacco Control, Sixth Session, Moscow, Russian Federation, 13-18 October 2014, Provisional Agenda item 4.4.2, p. 10. [↑](#footnote-ref-6)
7. The health consequences of smoking – 50 years of progress. A report of the Surgeon General. Rockville (MD); US Department of Health and Human Services: 2014 (p.126). [↑](#footnote-ref-7)
8. <http://www.nursingreview.co.nz/issue/june-2015-vol-15-3/e-cigarettes/#.V7PGmxGJGUk> [↑](#footnote-ref-8)
9. McEwan, A. and McRobbie, H., Electronic cigarettes: A briefing for stop smoking services, Public Health England: National Centre for Smoking Cessation and Training (NCSCT) Version 2: 2016, p. 38. [↑](#footnote-ref-9)
10. <https://theconversation.com/is-nicotine-really-as-safe-as-e-cigarette-supporters-make-out-61007>, p. 2. [↑](#footnote-ref-10)
11. Conference of the Parties to the WHO Framework Convention on Tobacco Control, Sixth Session, Moscow, Russian Federation, 13-18 October 2014, Provisional Agenda item 4.4.2, p. 10. [↑](#footnote-ref-11)