Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 91

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

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

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### Declaration of tobacco industry links or vested interest

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|  |
| --- |
| I work in a retail store that sells tobacco products, but have no direct links to the tobacco industry. |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| I transitioned from smoking to vaping two years ago and buy nicotine products on-line. Since I have chosen to vape instead of smoke I have more money, feel better, don’t smell of cigarettes, can get my insurance altered to reflect non-smoker, and most importantly I have made the choice freely to do this because I like the products. I feel like I’m getting all the other benefits as a bonus. The only negative is the hassle of ordering on-line. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| 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:

|  |
| --- |
| These products appeal to smokers 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:

|  |
| --- |
| I have friends who think that e-cigarettes are as bad for you as smoking. By restricting the advertising of these products it will re-inforce this misconception so they won’t consider transitioning to vaping and instead just carry on smoking. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| Just makes it seem the same (as bad) as smoking so won’t serve to let people know that this is a better healthier option. |

#### 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 |  |  | Why make this product seem as bad as smoking? You are better off doing this than smoking. |
| Prohibition on displaying products in sales outlets |  |  | If people can’t see it, they are far less likely to consider trying it. |
| Restriction on use of vending machines |  |  | Unable to verify that they are over 18. |
| Requirement to provide annual returns on sales data |  |  | Importer/Manufacturer maybe. |
| Requirement to disclose product content and composition |  |  | Definitely will add confidence that these aren’t just knocked together in somebody’s garage or some sort of back yard operation. |
| Regulations concerning ingredients (e.g., nicotine content and/or flavours) |  |  | You’re putting it in your body so should be same requirement as food i.e. declared ingredients. |
| Requirement for annual testing of product composition |  |  | Adds to confidence for smokers switching to vaping. |
| Prohibition on free distribution and awards associated with sales |  |  | Can’t see why. Should be easily available and affordable. |
| Prohibition on discounting |  |  | Can’t see why. Should be easily available and affordable. |
| Prohibition on advertising and sponsorship |  |  | Can’t see why. Should be easily available and affordable. |
| Requirement for standardised packaging |  |  | Why make this product seem as bad as smoking? You are better off doing this than smoking. |
| 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:

|  |
| --- |
| It it’s too expensive my friends that still smoke will be less inclined to bother to even try it. |

#### 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 should be kept safe from children. |
| Safe disposal of e‑cigarette devices and liquids |  |  | Sounds like a good idea especially for batteries |
| Ability of device to prevent accidents |  |  | Safety circuits to prevent battery overheating are the way to go. Also comply with battery safety standards. |
| Good manufacturing practice |  |  | Good assurance for smokers looking to transition. |
| Purity and grade of nicotine |  |  | Good assurance for smokers looking to transition. |
| Registration of products |  |  | Good assurance for smokers looking to transition. |
| A testing regime to confirm product safety and contents purity |  |  | Good assurance for smokers looking to transition. |
| Maximum allowable volume of e-liquid in retail sales |  |  | While it is probably cheaper to buy in bulk I would worry about tampering/doctoring etc. |
| Maximum concentration of nicotine e-liquid |  |  | The EU and UK have this and seems like a good idea. |
| Mixing of e-liquids at (or before) point of sale |  |  | Seems too dodgy to me. I like to know that ingredients are true to label and in a tamper-proof container. |
| Other |  |  |  |

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

|  |
| --- |
| What has worked for me is that I made the choice of my own free will to transition to vaping instead of feeling like I was succumbing to societal pressure. I had previously tried patches and they didn’t work for me. I’m also thinking that if these products are readily available in New Zealand (of good quality and safety) that other smokers will have a good experience with them and make the switch as I have, as these products would be in the private sector I can’t help thinking that this has the potential to significantly reduce smoking rates without costing so much to tax payers like myself in government funded programmes and subsidies. |

### 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 personally. |

#### 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 | Daily | $10 | Online |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 92

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| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: | WellSouth Primary Health Network |
| Position *(if applicable)*: | [redacted] |

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Academic/research

Cessation support service provider

Health professional

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Pacific provider

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

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

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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:

|  |
| --- |
| E-cigarettes that contain nicotine should be classed as a medicine and a cessation aid. This would require the products to comply with the Medicines Act 1981 and be regulated through Medsafe. |

#### 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:

|  |
| --- |
| Internationally e-cigarette use has grown rapidly, including among young people and adults in New Zealand. The adverse health effects of e-cigarettes are likely to be much lower than for smoked tobacco, although adverse health impacts of long term e-cigarette use cannot be ruled out.[[1]](#footnote-1) Prohibiting the sales of e-cigarettes to young people under the age of 18 would create a system of control to protect children and young people from exposure to these products. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| Advertising for e-cigarettes should be controlled in the same way advertising of cigarettes is controlled. By controlling advertising of e-cigarettes exposure of children and young people to these products will be reduced. E-cigarettes with candy-like flavours may be particularly appealing to young people. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| E-cigarette use and vaping should be prohibited in designated smokefree areas by the Smokefree Environments Act. One of the primary aims of smokefree outdoor environments is to de-normalise smoking.  Potential harm from e-cigarette use is through the renormalisation of smoking. This is proposed to occur by highly visible e-cigarette use being mistaken as smoking, resulting in smoking becoming more acceptable as a normal behaviour, resulting in an increased uptake of smoking among children and young adults, and possible relapse back to smoking among ex-smokers.  The Smokefree Environments Act 1990 should provide a clear benchmark for the development of regulations relating to e-cigarettes. At this stage it is not clear that secondary exposure to nicotine is entirely risk free. These products should be subjected to the same regulatory environment as tobacco and prohibited in all internal environments (workplaces, schools, licensed premises etc.). |

#### 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:

|  |
| --- |
| However if nicotine e-liquid was to be taxed funds from this should be directed into further cessation services for those who smoke tobacco. |

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

Yes  No

Additional comments:

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers |  |  |  |
| 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?** |
|  |  |  |  |

# Consultation submission 93

See PDF submissions.

# Consultation submission 94

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

*(Tick one box only in this section)*

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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 interest from or in tobacco companies. |

Please return this form by email to:

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

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#### 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:

|  |
| --- |
| Harmful tobacco is widely available across New Zealand. While all of the the long-term effects of e-cigarettes are not yet known, there is little doubt that they are less harmful than traditional 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  No

Reasons/additional comments:

|  |
| --- |
| Technology in the nicotine delivery market will continue to improve, and alternative “cleaner” nicotine alternatives will appear. Nicotine inhalers/inhalators not employing heat should be considered. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| It is important for legislation to be shaped in a way that provides nicotine users with safer alternatives, while not encouraging new users to nicotine. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| Yes, for the same reasons given in answer to Q3. Nicotine users looking for safe alternatives will do their own research, but advertising can attract new users to nicotine. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| The vapour emitted by e-cigarettes can be irritating to others in the vicinity.  There should, however, be **exceptions** for products that do not emit a vapour.  The same exceptions should be applied to public transport/airlines. The reasons for restricting should be taken into account when applying the rules to different 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 |  |  | Don’t want to discourage existing smokers from switching, or distort the relative harm of nicotine alternatives. |
| Prohibition on displaying products in sales outlets |  |  |  |
| Restriction on use of vending machines |  |  | Age verification should be used. |
| Requirement to provide annual returns on sales data |  |  |  |
| Requirement to disclose product content and composition |  |  | But IP of company should be protected/stored securely. |
| 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 |  |  | With exceptions for commercial samples and for reviews. |
| Prohibition on discounting |  |  |  |
| Prohibition on advertising and sponsorship |  |  | Restrictions, yes. Prohibitions, no. |
| 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:

|  |
| --- |
| Need to be able to compete on price with traditional cigarettes. |

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

Yes  No

Additional comments:

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers |  |  |  |
| Safe disposal of e‑cigarette devices and liquids |  |  |  |
| Ability of device to prevent accidents |  |  |  |
| Good manufacturing practice |  |  | Perhaps not as comprehensive as medicine GMP, but some quality standards. |
| Purity and grade of nicotine |  |  |  |
| Registration of products |  |  | “Light touch”, low burden registration. |
| A testing regime to confirm product safety and contents purity |  |  | Basic and affordable testing by **independent** research groups. |
| Maximum allowable volume of e-liquid in retail sales |  |  | Yes, but making distinctions for products in different forms, e.g. **aerosol**. |
| Maximum concentration of nicotine e-liquid |  |  |  |
| Mixing of e-liquids at (or before) point of sale |  |  | More difficult to control quality |
| Other |  |  |  |

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

|  |
| --- |
| In the USA, the standards set have been accused of being burdensome to manufacturers and retailers. Quality is important, but a pragmatic approach is one that is within reach of small to medium sized businesses, not only large corporations (including Big Tobacco). |

### Additional information on sales and use

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

|  |
| --- |
|  |

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

|  |
| --- |
|  |

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

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

# Consultation submission 95

Charbella Imports Ltd

Submitter asked that submission not be published.

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 96

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| Your details This submission was completed by: *(name)* | [redacted] |
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| I am a retailer, and currently purchase tobacco products from tobacco companies. |

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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:

|  |
| --- |
| Will help to reduce harm from tobacco that is smoked, and there is more evidence appearing that vaping is helping to reduce smoking, it should be supplied and presented to smokers by tobacconists for most effective uptake. |

#### 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:

|  |
| --- |
| Am not aware of any. |

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

Yes√ No

Reasons/additional comments:

|  |
| --- |
| It is a product aimed at smokers and should only be available to those legally able to purchase tobacco products. |

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

Yes  No √

Reasons/additional comments:

|  |
| --- |
| No. This is a harm reduction product, retailers need to be able to educate smokers on its benefits over smoking and how to use it. People are often unsure how these devices work for a start. Instore marketing and smoker education is important in helping smokers switch. |

#### 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√ and No √

Reasons/additional comments:

|  |
| --- |
| This is not smoking tobacco, do not make it difficult for smokers to shift.  Obviously smoke-free areas should be also vape-free. Vapers should not be forced to hang out with smoker in smoking areas, again, the perception is then that is as bad as 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 |  | √ | No evidence shows that should require a graphic warning. |
| Prohibition on displaying products in sales outlets |  | √ | Do not want to create perception that it is just like smoking. Need to be able to educate smokers on how to best use the devise and which device is best suited for them. |
| Restriction on use of vending machines | √ |  | Age verification and product education. |
| Requirement to provide annual returns on sales data | √ |  | Apply to importers and manufacturers only. |
| Requirement to disclose product content and composition | √ |  | A lot of customers actually ask for these information. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | √ |  | Heating flavours and inhaling is a danger if the flavours when heating release diacetyls. |
| Requirement for annual testing of product composition | √ |  | Manufacturers should test annually. |
| Prohibition on free distribution and awards associated with sales |  | √ | Should encourage smokers to switch for health reasons. |
| Prohibition on discounting |  | √ | Should encourage smokers to switch for health reasons. |
| Prohibition on advertising and sponsorship | √ | √ | Instore promotion and education should be allowed. But no need to advertise outside of a store. No sponsorship. |
| Requirement for standardised packaging |  | √ | It is not a tobacco products. |
| Other | √ |  | Tobacco company control. Any regulation should state that any commercial contracts between retailers and tobacco companies or their subsidiaries that reference tobacco products should not reference vaping products. Tobacco companies will want to utilize their existing contracts to control e-cigarettes product ranging thus allowing them to limit the potential rapid uptake of e-cigarettes and repaid decrease in sales of tobacco products. Tobacco companies must state on products the name of their company which must be the name under which they supply tobacco. |

#### 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 is a harm reduction device and safer than smoked tobacco. Putting an excise duty on it would be government greed and send the wrong message to smokers. |

#### 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 | √ |  | Prevent from potential accident poisoning. |
| Safe disposal of e‑cigarette devices and liquids | √ |  | Good for our environment. |
| Ability of device to prevent accidents | √ |  |  |
| Good manufacturing practice | √ |  | Will allow all to know it made using good standards. |
| Purity and grade of nicotine | √ |  | Pharmaceutical grade. |
| Registration of products | √ |  | Yes, to show legitimate products, manufacturers and importers. |
| A testing regime to confirm product safety and contents purity | √ |  | Apply to manufacturers. |
| Maximum allowable volume of e-liquid in retail sales | √ |  | 2ml closed system tanks. 10ml open system refills. Eliminates the ability of accidental poisoning by selling larger volume units. |
| Maximum concentration of nicotine e-liquid | √ |  | 20mg per ml. Above 20mg should be classified as medicine and not for sale. |
| Mixing of e-liquids at (or before) point of sale |  | √ | Lack of product quality control or ability to accurately measure nicotine content. |
| Other | √ |  | Batch numbers on products for faulty products recall or any issues so that we can refer it to the suppliers or manufacturers. |

#### 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 sold 56 devices over the last 3 months. After purchase of devices, customers often go online to purchase unknown quantities and quality of e-liquid. |

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

|  |
| --- |
| It would greatly encourage us to promote a shift from tobacco to vaping as a safer alternative if we have confidence in tested and approved devices and e-liquids. It takes up to 15 minutes to explain how to use these devices, and would also encourage us to hire more staff to help with consumer educating and training. |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **How long have you been using them?** | **How often do you use them?** | **How much do you spend on them per week?** | **Where do you buy them?** |
| Not using |  |  |  |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 97

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

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

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

This submission contains commercially sensitive information.

### Declaration of tobacco industry links or vested interest

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|  |
| --- |
|  |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| The availability of resources to reduce tobacco smoking harm is important, however, the unclear research of whether or not nicotine electronic cigarettes may have adverse effects remains as such, unclear, therefore, nicotine e-cigarettes and nicotine liquids should be available over the counter within pharmacy. |

#### 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:

|  |
| --- |
| All smoking tobacco products need to be monitored to ensure safe use and purchase of a drug induced product. |

#### 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:

|  |
| --- |
| All smoking tobacco products need to be monitored to ensure safe use and purchase of a drug induced product. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| All smoking tobacco products need to be monitored to ensure safe use and reduce the adverse health effects of 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 |  |  |  |
| 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:

|  |
| --- |
| All smoking tobacco products need to be monitored to ensure safe use and purchase of a drug induced product, inclusive of current legislation requirements. |

#### 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?

|  |
| --- |
| Monitoring all smoking tobacco products is essential to minimise harm for the generations to come. To encourage a product that continues to use a drug to reduce tobacco smoking seems contradictory. As a Maori provider we see the need for an indigenous solution, the taonga puuoro is a wind instrument that provides the same stress free and accomplishment as weaving does for people who are prefer a natural remedy to healing from issues of harm. |

### Additional information on sales and use

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

|  |
| --- |
|  |

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

|  |
| --- |
|  |

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

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

# Consultation submission 98

Submitter asked the submission be withheld

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 99

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

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

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

Tobacco control non-government organisation

Academic/research

Cessation support service provider

Health professional

Māori provider

Pacific provider

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

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

Please indicate your e‑cigarette use status:

I am using nicotine e‑cigarettes.

I am using nicotine-free e‑cigarettes.

I currently smoke as well as use e‑cigarettes.

I am not an e‑cigarette user.

I have tried e‑cigarettes.

### Privacy

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

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| e-cigarettes are already on sale in unregulated environment |

#### 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:

|  |
| --- |
| Regulation will provide consistency across tobacco related products |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
|  |

#### 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:

|  |
| --- |
| Health risks of e cigarette vapour is not known, so we recommend the precautionary approach |

#### 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 |  |  | uncertain |
| 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.

|  |
| --- |
| No |

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

N/A

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

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 100

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

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

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

Tobacco control non-government organisation

Academic/research

Cessation support service provider

Health professional

Māori provider

Pacific provider

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

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

Please indicate your e‑cigarette use status:

I am using nicotine e‑cigarettes.

I am using nicotine-free e‑cigarettes.

I currently smoke as well as use e‑cigarettes.

I am not an e‑cigarette user.

I have tried e‑cigarettes.

### Privacy

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Do not publish this submission.

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|  |
| --- |
| Nil direct links to the tobacco industry |

Please return this form by email to:

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

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## Consultation questions

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| With ecigarettes I stopped smoking over night and never touched one again. I am slowly reducing my nicotine starting from 18mg and I am now down to 3 mg. I smoked for 25 years prior to this. I am much healthier, have not been sick including my bi-annual bronchitus, do not cough up phlegm and of course smell better to my husband. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| Not that I am aware of. All other nicotine cessation products I have tried failed. A friend tried Campix and that changed her moods considerably and she felt unwell. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| It should be a cessation devise not just something that is trendy to do. Young people are not responsible to enough to make informed decisions at 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

Reasons/additional comments:

|  |
| --- |
| I am converting people weekly to ecigarettes and most have never heard of them. With more advertising there would be more people giving up smoking and the benefits would be obvious to the individual as well as the public health system. |

#### 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:

|  |
| --- |
| Absolutely not. Vape clouds are not contaminants to the air and do not affect the enjoyment or health of others |

#### 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 |  |  | Research indicates that there are no known health issues |
| 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 |  |  | Consumers need to know what is in their product as at some time there will be suppliers of unhealthy product |
| 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:

|  |
| --- |
| I am sure the New Zealand Governement wants people to give up smoking and take pressure off the health industry. An excise duty would not encourage this. |

#### 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 |  |  | Not dangerous |
| 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 |  |  | The highest could be what an actual cigarette is |
| Mixing of e-liquids at (or before) point of sale |  |  |  |
| Other |  |  |  |

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

|  |
| --- |
| I would like the government to support ecigarettes as they are a proven form to give up smoking with no known side effects. The benefit to the government is that pressure would be taken off the the health sector. Also the government would collect GST on this product. Currently I buy from the USA and do not pay any GST. It has been hugely beneficial to my life in the way of health and relationships, not to mention the huge saving on my pocket. |

### Additional information on sales and use

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

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

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

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

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

|  |  |  |  |
| --- | --- | --- | --- |
| **How long have you been using them?** | **How often do you use them?** | **How much do you spend on them per week?** | **Where do you buy them?** |
| 18 months | daily | $10 max | USA |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 101

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

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

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

Tobacco control non-government organisation

Academic/research

Cessation support service provider

Health professional

Māori provider

Pacific provider

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

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

Please indicate your e‑cigarette use status:

I am using nicotine e‑cigarettes.

I am using nicotine-free e‑cigarettes.

I currently smoke as well as use e‑cigarettes.

I am not an e‑cigarette user.

I have tried e‑cigarettes.

### Privacy

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

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

Do not publish this submission.

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

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

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

This submission contains commercially sensitive information.

### Declaration of tobacco industry links or vested interest

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

|  |
| --- |
| No member of Smokefree Otago has any direct or indirect links to nor receives funding from the tobacco industry. |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| Nicotine-containing e-cigarettes and nicotine liquids/e-liquids should be classified as medicines and cessation aids. These products should comply with the Medicines Act 1981 and be regulated through Medsafe[[2]](#footnote-2). Nicotine is a highly addictive substance and research has suggested that nicotine adversely affects brain development in children, adolescents, and the developing foetus.[[3]](#footnote-3). Having appropriate controls will keep them out of reach of children and avoid potential harm to newborns, children, and adolescents.  Batch testing should be conducted on e-cigarettes and e-liquids by Medsafe before they are available for sale on the market. This is a necessary quality control measure to ensure product safety to prevent fire and battery explosions[[4]](#footnote-4). In addition, testing e-liquids should ensure the constituents and chemical compositions are consistent and deemed safe to eliminate any chance of harm[[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

Reasons/additional comments:

|  |
| --- |
| Whilst the consultation document has included all generations of e-cigarettes currently in the market, the policy outcome should explicitly state – “apply to all future generations of electronic nicotine delivery systems” because of its rapidly evolving nature, this would make sure that the policy is future-proofed. |

#### 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:

|  |
| --- |
| Firstly, children under-18, whose brains are still developing, if exposed to nicotine during this period would have lasting negative effects.2.  Secondly, vaping can potentially be a gateway for young non-smokers to take up smoking tobacco products through the nicotine addiction developed from using e-cigarettes[[6]](#footnote-6).  Thirdly, the flavouring agent found in e-liquids is an appealing characteristic to youth, hence encouraging young non-smokers to try and is proved to be a determining factor in the initiation of e-cigarette use among youth9.  More importantly, New Zealand signed up to the International Treaty - Framework Convention on Tobacco Control (FCTC), which requires the government to adopt and implement policies to prevent and reduce nicotine addiction as stated in World Health Organisation document on Article 5, 2(b)[[7]](#footnote-7). Substituting tobacco cigarettes with e-cigarettes could potentially mitigate some of the harm from smoking tobacco cigarettes but would not necessarily reduce nicotine addiction[[8]](#footnote-8).  Based on all the reasons above, Smokefree Otago advocates for the prohibition of sale and supply of e-cigarettes and e-liquids to young people under 18 years of age (to the same level as for smoked tobacco products) to protect them. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| Advertising is a powerful tool to influence personal choice and behaviour9. Thus far, the advertising of e-cigarettes reflects the themes adopted by the tobacco industry to market tobacco products in the 1960s. For instance, marketing strategies such as advertising through celebrities and advertising themes like healthier choice and risk and uncertainty[[9]](#footnote-9), should not be permitted. Evidence shows such strategies have promoted uptake of e-cigarettes among young non-smokers in the United States[[10]](#footnote-10). Putting legislation in place to control advertising of e-cigarettes will protect young people and block indirect promotion of tobacco products.  Additionally, health claims and advertising of e-cigarettes as a smoking cessation aid would require approval and licence from MedSafe to ensure that the e-cigarettes and e-liquids meet quality standards and safety for users and non-users. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| Vaping in smokefree areas should be prohibited because vaping resembles smoking tobacco products, and is likely to renormalise smoking in our society[[11]](#footnote-11), hampering the efforts and progress from smokefree working groups to denormalise smoking.  Plus, some e-cigarette users reportedly circumvent smokefree policies by vaping in indoor areas, which provides a trigger for smokers who are trying to quit smoking[[12]](#footnote-12). This would result in producing a non-supportive environment for smokers who are trying to quit and resulting in relapses, hence prolonging their period of smoking.  The right to clean air is a basic human right. Presently, as the health risks of aerosol released from vaping are not known4, a precautionary approach would be to limit people’s exposure to the aerosal by prohibiting vaping in areas encompassed in the Smokefree Environments Act 1990.  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 |  |  | Potential harm stipulated. |
| Prohibition on displaying products in sales outlets |  |  | No displays at point of sale. |
| Restriction on use of vending machines |  |  | No access via vending machines. |
| Requirement to provide annual returns on sales data |  |  | Requirements stipulated by Medsafe. |
| Requirement to disclose product content and composition |  |  | Requirements stipulated by Medsafe. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | Exclude additives and flavours to decrease the appeal for recreational use. |
| Requirement for annual testing of product composition |  |  | Ensure e-liquids do not contain harmful constituents and e-cigarettes product safety. |
| Prohibition on free distribution and awards associated with sales |  |  | Requirements stipulated by Medsafe. |
| Prohibition on discounting |  |  | Requirements stipulated by Medsafe. |
| Prohibition on advertising and sponsorship |  |  | Requirements stipulated by Medsafe. |
| Requirement for standardised packaging |  |  | 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

Reasons/additional comments:

|  |
| --- |
| Taxation such that on tobacco cigarettes serve as a deterrent to stop people from taking up smoking and stop people from continuing to smoke. In the case of e-cigarettes and e-liquids, exempting these products from the tax would make them cheaper than tobacco cigarettes and affordable for current smokers if they chose to use e-cigarettes to help them quit 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 |  |  | To prevent harm to children. |
| Safe disposal of e‑cigarette devices and liquids |  |  | To prevent harm to users and non-users and our environment. |
| Ability of device to prevent accidents |  |  | To prevent harm to users and non-users. |
| Good manufacturing practice |  |  | Requirements as stipulated by Medsafe. |
| Purity and grade of nicotine |  |  | Requirements as stipulated by Medsafe. |
| Registration of products |  |  | Requirements as stipulated by Medsafe. |
| A testing regime to confirm product safety and contents purity |  |  | Requirements as stipulated by Medsafe. |
| Maximum allowable volume of e-liquid in retail sales |  |  | Requirements as stipulated by Medsafe. |
| Maximum concentration of nicotine e-liquid |  |  | Requirements as stipulated by Medsafe. |
| Mixing of e-liquids at (or before) point of sale |  |  | Requirements as stipulated by Medsafe. |
| Other |  |  | n/a |

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

|  |
| --- |
| Smokefree Otago members acknowledged the potential benefits of e-cigarettes in smoking cessation and harm reduction but some of the unintended consequences and unanswered questions from e-cigarette use are concerning including:   1. Renormalisation of smoking10. 2. Long-term health risks of vaping4. 3. Vaping can be a trigger for smokers trying to quit11. 4. Undermine the progress in achieving Smokefree Aotearoa 2025.   Although the contentious issue of e-cigarette regulation dominates the discussion around tobacco control, we hope that this would not divert the attention from other focuses on tobacco control measures in the tobacco control community. We encourage policy makers to take swift actions in areas such as passing of the plain packaging bill, and adopting novel tobacco control measures such as controlling supply of tobacco products through licencing schemes in New Zealand. Having a multi-pronged and comprehensive approach to combat smoking would be our best bet in 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)?

|  |
| --- |
| No |

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

|  |
| --- |
| Yes. The legislation would provide a clear guideline for Smokefree enforcement officers to enforce smokefree policies.  It would continue to de-normalise smoking in Otago region and further reduce smoking prevalence in this region and nationally in general. |

#### 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 102

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

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

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

Tobacco control non-government organisation

Academic/research

Cessation support service provider

Health professional

Māori provider

Pacific provider

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

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

Please indicate your e‑cigarette use status:

I am using nicotine e‑cigarettes.

I am using nicotine-free e‑cigarettes.

I currently smoke as well as use e‑cigarettes.

I am not an e‑cigarette user.

I have tried e‑cigarettes.

### Privacy

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

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

Do not publish this submission.

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

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

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

This submission contains commercially sensitive information.

### Declaration of tobacco industry links or vested interest

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

|  |
| --- |
| Nil |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| The Bay of Plenty District Health Board (BOPDHB) supports either the ban or regulation of e-cigarettes so they do not undermine tobacco control measures. This is in accordance with recommendations from the World Health Organisations (WHO) for countries party to the Framework Convention on Tobacco Control (FCTC), which includes New Zealand (1).  To date there is limited research on both the risks and benefits of e-cigarettes. On an individual level, there may be a harm minimisation effect as e-cigarettes may be a method of helping individuals quit smoking or a safer alternative to cigarettes for those who already smoke (2) . One report noted that while e-cigarettes may not be completely safe, they have been estimated to be around 95% safer than tobacco (2). However, on a population level, there is likely to be a risk of enticing those who otherwise would not smoke to use e-cigarettes. So e-cigarettes are likely to glamorise and ‘renormalise’ smoking (1). Therefore steps must be in place to prevent uptake of e-cigarettes by non-smokers, particularly youth, and ensure that smokers eventually go completely nicotine free, as recommended by WHO (1).  The New Zealand Government has made significant gains toward the Smokefree Aotearoa 2025 goal through a variety of interventions which have aimed to denormalise smoking, prevent uptake, particularly by youth, and support quitting. A report by WHO raises concerns about e-cigarettes having a possible ‘renormalisation effect’ where ‘attractiveness’ of e-cigarettes will have a flow on effect to making tobacco smoking appear more attractive and therefore undermining tobacco control strategies (1).  Children’s attitudes and potential initiation into smoking are formed early by observing the behaviour of others, particularly of parents, siblings, peers, and what they see in the media (2).  The use of e-cigarettes, in many regards, resembles the behaviour of smoking a traditional cigarette. One New Zealand study looked at children’s initial reactions to seeing someone use an e-cigarette and found that children likened this behaviour to smoking in the absence of an explanation of what the device was (3). The study related this to Piaget’s theory of ‘classification’ where a child will group new objects with similar already known objects and therefore e-cigarettes may undermine de-normalisation strategies by exposing children to a smoking-like behaviour.  Similarly, e-cigarette use may influence success of quitting by eliciting a visual cue to smoke due to the resemblance to cigarettes. This was found in an American study that showed smokers’ passive exposure to e-cigarette use increased their desire and urge to smoke (6).  Additionally, children who may not quite have sufficient desire to experiment with smoking may use e-cigarettes due to their perceived safety and attractiveness. In turn e-cigarette use may act as a gateway to smoking cigarettes. This was identified by a Hawaiian longitudinal study, which found perception of e-cigarettes as being healthier was a factor that influenced uptake of e-cigarette use. This study also found that children who had never smoked a cigarette, but who had used e-cigarettes, were more likely to take up smoking (4).  E-cigarette marketing has the potential to glamorise smoking particularly for children. WHO states that e-cigarette advertising uses similar methods to those used to promote tobacco products (1). An American study of online e-cigarette advertising found that advertisements promoted unproven claims that could be misinterpreted by youth, and were found on websites with high rates of use by youth (5).  E-cigarettes also come in many flavours, including candy, which is likely to appeal to youth and entice them to experiment with e-cigarettes (1). This is similar to what used to be seen with confectionery cigarettes, where young children imitated smoking behaviour using cigarette-like candy (7). Children who had confectionery cigarettes were almost four times more likely to try cigarettes (7).  Unfortunately, there is very little research on e-cigarettes and how they might influence tobacco use, particularly in children. In the absence of adequate research, if e-cigarettes were to be allowed, appropriate regulations need to be in place to reduce their associated risks. WHO offers a range of recommendations to ensure e-cigarettes do not undermine tobacco control measures (1). These include: no use of e-cigarettes in places where smoking is already banned; banning all advertising and promotion of e-cigarettes; banning sponsorship by companies manufacturing or selling e-cigarettes; preventing e-cigarettes appealing to or targeting minors (such as flavourings); prohibiting health claims being made; ensuring e-cigarettes don’t promote the use of tobacco products (such as through appearance, brand names and design); including factual information about product ingredients and their health effects.   1. World Health Organisation (2014) Electronic nicotine delivery systems. 2. Public Health England (2015) E-cigarettes: an evidence update. 3. HSC (2005) Framework for reducing smoking initiation in Aotearoa-New Zealand. 4. Faletau *et al* (2013) Looks like smoking, is it smoking? Children’s perceptions of cigarette-like nicotine delivery systems, smoking and cessation. *Journal of Harm Reduction*. 5. Wills *et al* (2016) Longitudinal study of e-cigarettes use and onset of cigarette smoking among high schools students in Hawaii. *Tobacco Control*. 6. Richardson *et al* (2015) Tobacco on the web: Surveillance and characterisation of online tobacco and e-cigarette advertising. *Tobacco Control* (24) 341-347. 7. King *et al* (2015) Passive exposure to electronic cigarette (e-cigarette) use increases desire for combustible and e-cigarettes in young adult smokers. *Tobacco Control* (24) 501-504. 8. Tobacco in Australia (2016) Products and packaging created to appeal to new users 9. Health Promotion Agency (2013) young people’s use of electronic cigarettes and tobacco products other than 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  No

Reasons/additional comments:

|  |
| --- |
| BOPDHB recommends restrictions be placed around all e-cigarette related products, including non-nicotine e-juices, so their use does not undermine tobacco control measures.  As discussed above, children’s attitudes and potential initiation of smoking are formed early by observing the behaviour of others (2). The use of e-cigarettes resembles the behaviour of smoking a traditional cigarette, and the behaviour and device used is the same if the e-juice contains nicotine or not. Research shows that children’s initial reactions to seeing someone use an e-cigarette is to liken this behaviour to smoking and therefore e-cigarettes ‘re-normalise’ smoking (3).  Furthermore, e-cigarettes come in many flavours, including candy-like flavours, which may particularly appeal to youth and entice them to experiment with e-cigarettes (1). Even though these may not contain nicotine and therefore not have addictive properties, this may encourage a progression to nicotine containing e-cigarettes and finally tobacco use. As discussed above, this is similar to what was seen from confectionery cigarettes, where children from a young age were interacting with a cigarette-like candy and imitating smoking behaviour (7). It was found that children who had confectionery cigarettes were almost four times more likely to have tried cigarettes (7). |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| If e-cigarettes were to be made legal in New Zealand the BOPDHB recommends prohibiting their sale and supply to young people under the age of 18. Setting a legal purchasing age is in concert with the commitment in the Framework Convention on Tobacco Control to denormalise smoking, particularly for young people (1).  Little is known about the use of e-cigarettes in youth. However, one study in Australia found seven percent of year 10 students had tried e-cigarettes (8). Nicotine is addictive and there is concern that children who never would have taken up smoking may be inclined to use e-cigarettes and once young people are addicted to nicotine through e-cigarettes they will progress to smoking tobacco (1). A study showed that the perception of e-cigarettes as being healthier was a factor that influenced uptake of e-cigarette use and that children who had never smoked a cigarette but had used e-cigarettes were more likely to take up smoking (4).  Furthermore, the WHO report states there is sufficient evidence that nicotine exposure has potential long-term consequences for brain develop and should not be used by youth and pregnant women (1). |

#### 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:

|  |
| --- |
| BOPDHB recommends legislation to control advertising of e-cigarettes in the same way as it controls advertising of smoked tobacco products. This is consistent with WHO recommendations for countries party to the FCTC to ensure it does not undermine tobacco control measures (1). This includes regulating advertising, promotion and sponsorship, and ensuring use of e-cigarettes is not encouraged for non-smokers and youth.  Unfortunately, there are very few studies on e-cigarette advertising and how this might impact on both e-cigarette and tobacco uptake. However, e-cigarette marketing has the potential to glamorise smoking, particularly to children. WHO outlines e-cigarette advertising as similar to what is used to promote tobacco products (1). An American study of online e-cigarette advertising found that advertisements promoted unproven claims that could be misinterpreted, and were found on websites with high rates of use by youth (5). |

#### 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:

|  |
| --- |
| BOPDHB recommends prohibiting vaping in all designated smokefree areas. This is consistent with WHO recommendations for countries party to the FCTC to ensure it does not undermine tobacco control measures (1).  Smokefree environments reduce exposure to second hand smoke and denormalise smoking by reducing exposure, particularly of children, to smoking behaviour. Smokefree environments also have the additional benefit of supporting individuals trying to quit smoking to stay smokefree by reducing visual cues to smoke.  As outlined above children’s attitudes and potential initiation to smoking are formed early by observing the behaviour of others (2). E-cigarettes appear similar to cigarettes, even if the actual device has a different shape. The way e-cigarettes are used, and the exhaled vapour, is similar to the behaviour of smoking cigarettes (1). Children’s initial reactions to seeing someone use an e-cigarette is to liken this behaviour to smoking and therefore may ‘re-normalise’ smoking (3).  Being able to use e-cigarettes in smokefree areas may also elicit a visual cue to smoke for others (1). This was found in an American study where smokers’ passive exposure to e-cigarette use increased desire and urge to smoke (6).  Where users of e-cigarettes are expected to vape away from designated smokefree areas, they should also be separated from tobacco smokers so that they do not breathe in second hand smoke, and to prevent reversion to tobacco 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 |  |  | It is estimated that the harm from e-cigarette use is much less than that of tobacco (2). Therefore, it is unlikely that graphic health warnings are required. However, general warnings should be required outlining potential harm from use of nicotine liquids (such as nicotine addiction), and cessation support information should be included (i.e. Quitline information). |
| Prohibition on displaying products in sales outlets |  |  | If e-cigarettes are to be legalised in New Zealand the opportunity should be taken to introduce licensing of e-cigarette retailers. This would help ensure retailers have adequate knowledge of their products and can advise consumers appropriately on their use for quitting smoking. Such licensing would also allow the collection of sales data. To enter the premises of a licensed e-cigarette retailer an individual would be required to have proof of age ie be 18 years of age or older. This will ensure there is no risk of ‘re-normalisation’ or indirect advertising of e-cigarettes to young people. |
| Restriction on use of vending machines |  |  | The WHO recommends countries party to the FCTC implement a range of regulations around e-cigarettes to ensure it does not undermine tobacco control measures. These recommendations include not allowing e-cigarette products to be available in vending machines (1). |
| Requirement to provide annual returns on sales data |  |  | As there is limited data on the use of e-cigarettes, collecting this data will help monitor trends over time and contribute to future research. The WHO recommends countries party to the FCTC implement strategies to collect and monitor data on e-cigarette use (1). |
| Requirement to disclose product content and composition |  |  | It has been found that there are variations of ingredients in e-cigarettes and nicotine content (1). With no consistency of ingredients, and an inability to determine the content of all e-cigarette liquids, the safety of these products can’t be assured. WHO recommends countries party to the FCTC implement a regulation requiring a description of product contents. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | As discussed above, there are variations of ingredients in e-cigarettes and nicotine content which affects the ability to measure ongoing safety of products (1). Regulations around ingredients can ensure consistency and reduce the risk of hazardous ingredients being added.  Furthermore, currently there are many flavours available for e-cigarettes, including candy-like flavours which may particularly appeal to youth and entice them to experiment with e-cigarettes (1). With tobacco products flavouring is used to attract and retain young smokers (7).  WHO recommends countries party to the FCTC implement a range of regulations around e-cigarettes including not allowing e-cigarette products appeal to youth and non-smokers (such as through the addition of flavourings), and regulations be in place around ingredients (1) |
| Requirement for annual testing of product composition |  |  | A requirement for annual testing of product composition will help support both the enforcement of regulations recommended above, and ensuring the safety and ongoing research of e-cigarettes. |
| Prohibition on free distribution and awards associated with sales |  |  | Awards for sales and free distribution of e-cigarettes may undermine tobacco control strategies by encouraging long term use of the product or use by non-smokers. If individuals use e-cigarettes as a method of quitting smoking, the goal should be to eventually stop using e-cigarettes all together and being nicotine free. |
| Prohibition on discounting |  |  | Discounts on e-cigarettes may encourage use by non-smokers or long term use by individuals trying to quit. |
| Prohibition on advertising and sponsorship |  |  | As previously discussed, a concern with e-cigarettes is they renormalise smoking (1). WHO made recommendations for countries party to the FCTC, to regulate e-cigarettes by restricting advertising, promotion and sponsorship, so they do not undermine tobacco control measures.  E-cigarette marketing has the potential to glamorise smoking, particularly for children. The World Health Organisation outlines e-cigarette advertising as similar to that used to promote tobacco products (1). An American study of online advertising found that advertising promoted unproven claims that could be misinterpreted, and were found on websites with high rates of use by youth (5). |
| Requirement for standardised packaging |  |  | The DHB is unsure about the benefits and risks of this requirement. |
| 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:

|  |
| --- |
| Consideration needs to be given to the pricing of e-cigarette products. It should be high enough to discourage use or experimentation by non-smokers and youth. However, it shouldn’t be so high that it’s unlikely to be used by smokers as a method of quitting. |

#### 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 |  |  | The World Health Organisation report on Electronic nicotine delivery systems raised concerns over nicotine overdose and noted increases in these incidents in the United States and United Kingdom with the use of e-cigarettes (1). Ensuring childproof containers can help protect children from accidental ingestion and over dose of nicotine. |
| Safe disposal of e‑cigarette devices and liquids |  |  | Safe disposal options should be available to prevent accidental poisoning amongst young children, as discussed above. |
| Ability of device to prevent accidents |  |  | There have been occasional anecdotal stories of spontaneous combustion of the e-cigarette devices. Therefore mechanisms should be put in place to prevent this from occuring. |
| Good manufacturing practice |  |  | To ensure that manufacturing standards are met, noting that e-cigarettes are not to be treated as medicines. Where e-cigarettes are manufactured overseas, any certification for good manufacturing practice would be required from the regulators in the country of origin. |
| Purity and grade of nicotine |  |  | To ensure the safety of e-cigarette products, and to assist individuals monitor their levels of nicotine, there should be regulations in place to ensure the purity and grade of nicotine. |
| Registration of products |  |  | Requiring registration of products can help monitor products available, and ensure the smokefree sector are aware of new technologies becoming available. |
| A testing regime to confirm product safety and contents purity |  |  | As discussed above there is currently little research available on e-cigarette safety. Implementing a testing regime can help add to the body of research on e-cigarettes, and ensure ongoing safety. |
| 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 |  |  | As discussed above there are variations of ingredients in e-cigarettes and nicotine content which affects the ability to measure ongoing safety of products (1). Regulations around prohibiting e-liquids from being altered at or before point of sale can ensure consistency of ingredients.  WHO recommends countries party to the FCTC implement a range of regulations around e-cigarettes including not allowing e-liquids being altered at or before the 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.

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

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 103

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

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

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

Tobacco control non-government organisation

Academic/research

Cessation support service provider

Health professional

Māori provider

Pacific provider

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

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

Please indicate your e‑cigarette use status:

I am using nicotine e‑cigarettes.

I am using nicotine-free e‑cigarettes.

I currently smoke as well as use e‑cigarettes.

I am not an e‑cigarette user.

I have tried e‑cigarettes.

### Privacy

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

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

Do not publish this submission.

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

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

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

This submission contains commercially sensitive information.

### Declaration of tobacco industry links or vested interest

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

|  |
| --- |
|  |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| Restricting access to e-cigarettes when not applying equal or greater restrictions to cigarettes merely compels people to stick with the more dangerous of the products. As studies are now starting to show, e-cigarettes have the potential for tremendous public health benefit if used as an aid to displace cigarettes. Even if people continue to use e-cigs, they will be healthier than continuing to use 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  No

Reasons/additional comments:

|  |
| --- |
| Any of the non combusted tobacco products are much less of a health hazard than cigarettes. They should all be included as items less restricted than cigarettes. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| While the evidence is not without problems, there seems to be enough information at this time to restrict sales to youth and adolescent people, and to provide education to pregnant mothers about use of nicotine from any source. But, keep in mind, that all of the age groups and pregnant women, are still better off using e-cigs than cigarettes. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| More should be done to advance the positive effects of e-cigs over cigarettes. There should be public service messages directed at smokers to promote e-cig use over cigarettes. These same ads can also be used to discourage those who are nonsmokers, youth, and pregnant women. |

#### 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:

|  |
| --- |
| Most vapers are former smokers, and understand that non-smokers, non-vapers do not want to be exposed to the exhaled products from use. Even though most studies show minimal exposure and no potential for harm from e-cig aerosol, non-vapers should have a right to remain free from exposure. However vapers should not be limited to smoking areas, as they also have a right to be in a smoke free environment. They have made an effort to get cigarettes out of their lives. It is tremendously challenging for an ex-smoker to stay off of cigarettes. Putting them in an environment where they are required to be exposed to cigarette smoke is equal to putting a reformed alcoholic in a room full of people drinking with the social pressures to resume alcohol. |

#### 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 |  |  | What health problems have so far been tied to e-cigs? To date, none. Graphic warnings serve no purpose in this case. |
| Prohibition on displaying products in sales outlets |  |  | This should be encouraged to promote their use as a substitute to tobacco. |
| Restriction on use of vending machines |  |  | Restricting access to over 18. |
| Requirement to provide annual returns on sales data |  |  | While this might be interesting data, unless there is some use for the data, it is a useless chore for the vendor. |
| Requirement to disclose product content and composition |  |  | As long as trade secerts are able to be preserved. |
| 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 |  |  | In store testing and tasting should be encouraged. Flavours other than tobacco are what keep people from going back to cigarettes. |
| Prohibition on discounting |  |  | Once again, every effort should be made to make this as inexpensive to smokers as possible within the framework of a free market system. |
| Prohibition on advertising and sponsorship |  |  | How will the word get to the people without misleading information, if advertising (truthful) is not allowed. |
| 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:

|  |
| --- |
| Absolutely not. This is not a tobacco product. It is much less of a health hazard than cigarettes. The tactics used to decrease smoking, if used on e-cigarettes, will discourage people from switching. This should be a less expensive option than cigarettes. |

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

Yes  No

Additional comments:

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers |  |  |  |
| Safe disposal of e‑cigarette devices and liquids |  |  |  |
| Ability of device to prevent accidents |  |  | I don’t know what this means. But product safety standards should be applied equally to this product as with any other electronic device that has lithium ion batteries. |
| Good manufacturing practice |  |  |  |
| Purity and grade of nicotine |  |  |  |
| Registration of products |  |  | Creates a barrier to bringing new items to market. Probably also will create additional cost in production that would be passed to the consumer. |
| A testing regime to confirm product safety and contents purity |  |  |  |
| Maximum allowable volume of e-liquid in retail sales |  |  | This is not enforceable. If you set a 100 ml limit, someone might buy 2 bottles of 100 ml, or 3 or 4. If limited as a single sale, the consumer will simply go to other stores to get more. |
| Maximum concentration of nicotine e-liquid |  |  | Needs to be set high for new non-smokers with older devices. |
| Mixing of e-liquids at (or before) point of sale |  |  | All e-liquids are mixed before point of sale. |
| Other |  |  |  |

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

|  |
| --- |
| Instead of restricting or prohibiting sales of e-cigarettes, every government that has its citizen’s health in mind should be encouraging use of e-cigarettes as a smoking cessation/smoking substitute option. |

### Additional information on sales and use

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

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

# Consultation submission 104

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

### Declaration of tobacco industry links or vested interest

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|  |
| --- |
| I have no tobacco company links or vested interests |

Please return this form by email to:

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

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

**Introduction**

Thank you for the opportunity to make a submission on the Regulation of Electronic Cigarettes.

Smoking is one of the biggest risk factors for cardiovascular disease.

Cardiovascular disease (heart disease, stroke, vascular disease) is the leading cause of death in New Zealand, accounting for 33 % of all deaths. Reducing tobacco consumption is the most effective way of reducing this toll. Smokers are almost twice as likely to have a heart attack, compared to people who have never smoked. Nearly 35 % of the deaths caused by smoking are due to heart and blood vessel disease. Smoking is associated with increased risk of heart attack, stroke, peripheral vascular disease and aortic aneurysm.

In addition, evidence clearly shows the negative impact of smoking on maternal and child health. Smoking remains the most important modifiable risk behaviour for the long-term health of children.

The Heart Foundation supports the background paper ‘E-cigarettes and their potential contribution to achieving the Smokefree 2025 goal’ prepared for the National Smokefree Working Group.

Regardless of the decisions made about electronic cigarettes, increasing comprehensive smokefree measures are crucial to achieving the Smokefree 2025 goal in all population groups and will enhance the impact of electronic cigarettes in reducing smoking prevalence and disparities in smoking. These measures are detailed below:

**Tobacco supply and availability**: Introduction of retailer licensing and proximity to schools restrictions for smoked tobacco products and, ideally, raising the age of purchase to 21 years for smoked tobacco products.

**Tobacco marketing, packaging and consumer information**: Intensified and targeted mass media smokefree campaigns. The list of constituents for all smoked tobacco products to be provided on the packaging.

**Tobacco product regulation**: Regulating the nicotine content of cigarettes to very low levels so that they are no longer addictive (or less addictive) making cigarettes unappealing to children and young people (e.g. changing the pH of the tobacco, or banning particular additives, such as menthol and sugar, and banning capsules).

**Tobacco use in cars and outdoor spaces**: Legislation to ban smoking in cars when children are present and national legislation to ban smoking in children-focused outdoor areas such as playgrounds, sports fields, parks and also outdoor dining areas.

**Tax on tobacco products**: Continued and substantial ‘above inflation’ increases in excise tax on smoked tobacco products, starting with 40% in 2017.

## 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:

|  |
| --- |
| Currently nicotine e-cigarettes and nicotine liquids are available via internet sales, where there is no opportunity to regulate or ensure product safety. We recommend that nicotine containing electronic cigarettes or e-liquids would only be available through pharmacies and a limited number of licensed specialist shops. Staff would need to be trained in smoking cessation ‘ABC’ and electronic cigarette use. There should also be restrictions in relation to proximity to schools. |

#### 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:

|  |
| --- |
| When other products exist/emerge with a similar risk profile and potential for aiding cessation or acting as substitute nicotine 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,   * nicotine inhalers * ‘Heat not burn’ products currently being marketed by Phillip Morris (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:

|  |
| --- |
| Evidence shows that young people are trying e-cigarettes. If these contain nicotine then they can become addicted to the product. While e-cigarettes may be less harmful than regular tobacco, the long-term impact of using e-cigarettes is not yet known. An addiction to e-cigarettes would still have a huge financial impact for the user and their family.  If the age for sale and supply of tobacco products was ever increased then the age for sale and supply of e-cigarettes should be increased accordingly. |

#### 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 for e-cigarettes often portrays them as a sexy and sophisticated product. Marketing should be limited to point of sale displays that are regulated to avoid exposure to children and young people. |

#### 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:

|  |
| --- |
| It is important to ensure consistency across the country in smokefree designated areas and, therefore, e-cigarettes should be included. Also, we don’t know what the long-term effects of exposure to the vapour is. If e-cigarettes were able to be used in smokefree designated areas it might make them an appealing product to young people who are often influenced by role modelling and peer pressure.  We recommend that the use of e-cigarettes are banned in all indoor workplaces and public spaces identified in the SFEA. We also recommend that they are banned at schools, in cars, parks, playgrounds, sports fields, in outdoor dining and any other area which is designated smokefree. |

#### 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 | √ |  | Quitline number should be included on 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:

|  |
| --- |
| This should be reviewed if there is evidence of a substantial uptake of nicotine-containing e-cigarettes by young people and children. |

#### 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?

|  |
| --- |
| We recommend that the Ministry of Health develops a framework for monitoring and evaluating emerging evidence on e-cigarettes, including their evolution and use (internationally and in New Zealand) and for evaluating the impact of e-cigarettes, especially on smoking prevalence in all population groups and progress towards 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)?

|  |
| --- |
| No |

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

|  |
| --- |
| Not applicable |

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

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

# Consultation submission 105

NZ Drug Foundation

Submission on Policy Options for the Regulation of Electronic Cigarettes

Ministry of Health

PO Box 5013

Wellington

Regulation of e-cigarettes

The work of the New Zealand Drug Foundation (the Foundation) is focussed on advancing an evidence-based approach to shaping policy aimed at reducing drug-related harm. As such, we are pleased to make a submission on the Ministry of Health’s (the Ministry’s) consultation document *Policy Options for the Regulation of Electronic Cigarettes* (the consultation paper)*.* The Foundation welcomes the Ministry of Health’s proposal to make e-cigarettes legally available subject to controls and consultation. We support the creation of an agile regulatory regime which reflects the principles of harm reduction and prevention, and we do not consider the Smoke-free Environments Act 1990 (SFEA) to be an ideal vehicle for this regulation. As with all policy, regulation should be sensitive to risk profile and context. Accordingly, a stand-alone statute seems more appropriate. Certainly, the historical decision to include herbal cigarettes under the SFEA was, in the Foundation’s opinion, a very clumsy approach. However, in the absence of an opportunity to establish such a statute, we support the use of the SFEA as a vehicle for regulation.

Included in this submission is an overview of the key issues and evidence surrounding E-cigarettes, as well as our response to the key consultation questions proposed in the consultation paper.

E-cigarettes: Issues and evidence

The Foundation is aware that the international tobacco control NGO community is divided on the issue of e-cigarettes and that the debate is often ‘heated’. In developing our submission, we decided to present our thinking on some of the concerns that have been raised and undertook a focussed review of the available evidence to inform that thinking. This is presented below.

**Issue: Whilst there is scientific consensus that e-cigarettes are significantly less harmful than tobacco cigarettes, their potential harm is still not fully understood**

Evidence: The Public Health England-commissioned report *E-Cigarettes: an evidence update* found that e-cigarettes are less harmful than tobacco cigarettes.[[13]](#footnote-13) This has been supported by research internationally,[[14]](#footnote-14) and there is clear consensus that e-cigarettes offer a safer alternative to smoking. However, there are a number of known and unknown risks associated with e-cigarettes. FDA chemical analysis has detected the carcinogen tobacco-specific nitrosamines (TSNAs) in e-cigarettes of similar levels to other nicotine replacement products[[15]](#footnote-15) (1800 times less than tobacco cigarettes)[[16]](#footnote-16)[[17]](#footnote-17)[[18]](#footnote-18). Nicotine itself is an addictive, psychoactive drug with the potential to be lethal in large doses. These potential risks are shared with other nicotine-containing products, and can be mitigated through similar controls to nicotine content. Whilst e-cigarettes are free from the vast majority of the harmful chemicals found in tobacco smoke,[[19]](#footnote-19) they have their own chemical composition and relatively little is known about the effects of e-cigarette liquid through vaping. For example, the safety of flavonoids in food consumption has been established, although the long term impact of their inhalation is unknown.

E-cigarette liquid usually contains propylene glycol and glycerol. Thermal degradation of these compounds, such as that caused by the heating of e-cigarettes, can cause them to emit toxins. Testing of 12 brands of e-cigarettes in 2013 detected low levels of the carcinogens formaldehyde and acetaldehyde (otherwise known as ethanel). These toxins were present at levels of up to 450 times less than that in tobacco cigarettes, although higher than that detected in nicotine inhalers.[[20]](#footnote-20) Long-term exposure to formaldehyde at certain levels, such as through occupational exposure, has been linked to cancer.[[21]](#footnote-21) According to the Centres for Disease Control and Prevention, the inhalation of ethylene glycol is unlikely to cause systematic toxicity, although it may cause eye and respiratory tract irritation.[[22]](#footnote-22) The 2014 Cochrane Review *Electronic Cigarettes for smoking cessation and reduction* (The Cochrane Report)found no serious adverse effects which could be plausibly related to e-cigarette use, however it is important to note that this report included a small number of trials. (The Cochrane Report is explained more fully under the below heading “E-cigarettes offer a less harmful alternative to tobacco smoking for cigarette users.”).

A key limitation of this research is the rate of e-cigarette product evolution. The speed of e-cigarettes’ entry into the market, and of their product innovation, has exceeded the ability of research to provide comprehensive evidence on their health impact, particularly from their long-term use. The messaging and regulation surrounding e-cigarettes needs to be agile, sensitive to this uncertainty, and responsive to new findings and innovation.

**Issue: E-cigarettes offer a less harmful alterative to tobacco smoking for cigarette users. However, there is limited evidence on the effectiveness of e-cigarettes in reducing or replacing smoking habits**

Evidence: E-cigarettes offer a preferable alternative to smoking tobacco. In its report *Nicotine without smoke: Tobacco harm reduction,* the Royal College of Physicians concludes that a complete switch to e-cigarettes has the significant potential to prevent death and disability caused by smoking.[[23]](#footnote-23) However, there has been relatively little research into the effectiveness of e-cigarettes for smoking reduction and cessation. The 2015 Public Health England report *E-cigarettes: an evidence update* reviewed studies undertaken into the effectiveness of e-cigarettes for smoking cessation, and supports their role in aiding smoking cessation. One of the studies reviewed *(An eight week Flemish study with six month follow up on smoking reduction, craving and experience benefits and complaints)[[24]](#footnote-24)* involved 48 smokers who did not want to quit, randomised to e-cigarettes or no e-cigarettes. The first group received the e-cigarettes with training on how to use them but no encouragement to quit. After eight weeks 34% of those who received the e-cigarettes had quit smoking compared with 0% of the participants who had not. The first group also showed significantly higher signs of smoking reduction. At the eight week point in the trial the control group were given e-cigarettes, with no instructions. After a further eight weeks and at the conclusion of the study, 25% of that control group had quit smoking and 19% of the first group to receive e-cigarettes had quit.[[25]](#footnote-25)

These findings are supported by the Cochrane Report, whichfound that e-cigarettes containing nicotine appear to help smokers quit. This report was based on data from two completed Randomised Control Trials (RCTs), nine ongoing RCTs, and 11 cohort studies, with a follow-up of at least 6 months.[[26]](#footnote-26) In two RCTS, a combined sample size of 662 current smokers were randomised to nicotine containing e-cigarettes or a placebo (non-nicotine containing e-cigarettes). The studies measured smoking abstinence (defined as continuous cessation for at least 6 months subject to biochemical validation) and smoking reduction (defined as a reduction in consumption of at least 50%). These studies found that a higher number of people were able to reduce cigarette consumption with nicotine containing e-cigarettes than with the placebo (36% versus 27%). E-cigarettes were also more successful in aiding smoking reduction than nicotine patches (61% versus 44%).[[27]](#footnote-27)Participants using nicotine containing e-cigarettes were also more likely to have abstained from smoking for at least six months than those who used the placebo.[[28]](#footnote-28)

**Issue: There is a perceived risk that e-cigarettes may increase rates of tobacco smoking by providing a ‘gateway’ for non-users and by normalising or entrenching smoking behaviours**

Evidence: Whilst e-cigarettes are a safer alternative to tobacco smoking, there is a perceived potential risk that e-cigarettes may increase the uptake of smoking by acting as a ‘gateway’. There is little evidence on whether or not vaping leads to smoking, or normalises smoking behaviours.[[29]](#footnote-29) The appearance of e-cigarettes has evolved to look less and less like traditional cigarettes, and product design increasingly differentiates e-cigarettes from tobacco cigarettes. E-cigarettes appear to be marketed as an alternative to tobacco smoking, rather than seeking to ‘re-normalise’ traditional tobacco smoking practise.

However, many of the features which distinguish e-cigarettes have also been identified as having the potential to increase uptake of vaping from non-smokers who may perceive it as safe practice. In particular, flavours such as mint, chocolate and strawberry have been identified as targeting young people. There is not sufficient evidence to support or dismiss the risk of e-cigarette uptake from non-users, and in particular, young people.

There is one published nationally representative survey of children’s e-cigarette use in the United Kingdom. This was conducted in 2013 and included a sample size of 2,178 11-18 year olds from Great Britain. 99% of those who reported never having smoked also reported never having used e-cigarettes. None of these non-smokers reported using e-cigarettes more than once a month or week.[[30]](#footnote-30) This study is currently being replicated and is subject to the limitation of self-reporting, but its findings suggest there is a very limited effect of vaping uptake among young non-smokers. It is not known whether or not that 1% of young non-smokers who tried e-cigarettes once, went on to smoke cigarettes.

A US study uses a larger sample size of children from high schools and middle schools (aged 11-18 years) from all 50 states (18,866 children in 2011 and 24,658 in 2012). This study compared the behaviour of subjects between each year and found an increase in the number of subjects who had ever used e-cigarettes from 3% in 2011 to 7% in 2012. It also found an increase in those who used e-cigarettes more than once a month from 1% to 2%. The 2012 survey asked about the co-use of e-cigarettes with tobacco cigarettes and found that 76% of those who had ever tried e-cigarettes were current smokers. E-cigarette usage of more than once every 30 days was associated with having smoked tobacco cigarettes or current use of tobacco cigarettes.[[31]](#footnote-31) Reflective of more recent findings, the 2015 Public Health England report concluded around two thirds of e-cigarette users also smoke.[[32]](#footnote-32)

Whilst e-cigarette use in children and young people under the age of eighteen is increasing, their use tends to trend towards tobacco cigarette users, rather than those who have never, or do not, smoke tobacco cigarettes. Given the low uptake amongst non-smokers, the risk of e-cigarettes acting as a ‘gateway’ to tobacco cigarettes appears to be low, according to current research.

**Issue: There is a perceived risk that e-cigarettes may perpetuate the habit of tobacco cigarette use in existing smokers by continuing addiction to nicotine and the psychosocial behaviours associated with smoking**

Evidence: Nicotine replacement therapy (NRT) products are already widely accepted as an appropriate smoking cessation tool subjected to rigorous efficacy and safety assessment. These products do not discontinue a smoker’s addiction to nicotine, but reduce harm by offering a safe delivery method. Whilst all of the risks associated with e-cigarettes are still unknown, the Foundation would argue that there is no clear rationale for restricting or prohibiting their use on the basis that they contain nicotine and continue nicotine addiction.

It has also been argued that e-cigarettes may reduce the imperative some feel to quit smoking, leading to long-term use, or co-use, with tobacco. As discussed above, evidence to date has found that e-cigarette use is higher among people who already smoke tobacco, suggesting that there is a trend of co-use. However, it does not follow that co-use increases or entrenches harmful conventional smoking. Conversely, current evidence suggests that e-cigarettes help smokers cut down the number of cigarettes they smoke.[[33]](#footnote-33) Replicating the behavioural component of smoking, as well as the nicotine content, may make e-cigarettes more effective than other NRT products for aiding smoking cessation. Sensory stimulation and simulation of smoking behaviour are important determinants of a product’s effectiveness in reducing or ceasing smoking.[[34]](#footnote-34),[[35]](#footnote-35) This is supported by the Cochrane Report which found that e-cigarettes were more successful than nicotine patches at reducing smokers’ cigarette consumption.[[36]](#footnote-36)

The Foundation also notes that e-cigarettes without nicotine are already freely available in New Zealand. These products replicate smoking behaviour in the same way as nicotine containing e-cigarettes.

**Issue: There is currently a lack of product consistency**

Evidence: The limited testing that has been undertaken internationally has revealed wide variations in the toxicity of contents and emissions from the various products in the market.There is also a wide variance in the nicotine levels of different e-cigarettes, and between actual content and their disclosed ingredients. A United States study has found that nicotine levels of e-cigarettes were between 85-121% of what was labelled. [[37]](#footnote-37) These variant levels were not likely to cause measurable harm to users, although product labelling and consistency is important in enabling users to make informed decisions. Regulation should account for these product differentials and should require that product contents are clearly communicated to consumers.

**Issue: Limited research into e-cigarettes and competing perspectives of their use has the potential to confuse health messaging to the public**

Evidence: As discussed above there is consensus that e-cigarettes provide a safer alternative to tobacco smoking and that they may be a valuable tool in reducing harm caused by smoking. However, there is a risk of inconsistent messaging on the use of e-cigarettes, given the unknown risks as well as diverse perspectives on the issue. Whilst tobacco smoking is declining,rates remain higher among Maori and Pacific people, as well as young adults and socioeconomically disadvantaged populations[[38]](#footnote-38). The risk and recommendations associated with the use of e-cigarettes needs to be effectively communicated, particularly to groups which bear the disproportionate burden of smoking-related illness and death. As with the regulation itself, public health messaging needs to be sensitive to the uncertainty surrounding e-cigarettes.

Creating more consistent and coherent regulation around e-cigarettes, as supported by the Ministry of Health’s proposed changes, is a positive step towards constructive public health messaging.

Response to Ministry of Health’s Policy Options

**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?**

The Foundation supports the Ministry’s proposal to make all e-cigarettes (with and without nicotine) available for lawful sale and supply in New Zealand, subject to controls.

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

This submission is concerned with e-cigarettes and we will not be including comment on other nicotine delivery products.

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

We agree that the prohibition of the sale and supply of e-cigarettes to children and young people under the age of 18 is a proportionate response to the unknown risks associated with e-cigarettes. As the product contains nicotine, an addictive chemical, we similarly feel that decisions on use should be made by adults.

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

E-cigarettes are a potentially lifesaving product for many smokers, although there are some unknown and known risks associated with vaping. Advertising of e-cigarettes could be a valuable tool for reducing the harm caused by tobacco smoking if it is targeted appropriately, however, such targeting to avoid unintended promotional effects (e.g. with young people and never smokers) is problematic – as evidenced by decades of persuasive advertising of tobacco and alcohol. Uncertainty around the issue of advertising warrants further consideration and we recommend that at this time advertising remain prohibited. As further research is undertaken on e-cigarettes, there may be greater justification for advertising to be permitted. Further analysis could be done on options in this regard. Accordingly, we recommend that the SFEA (or preferably our recommended stand-alone Act) provide for a similar definition for promotion, advertising and sponsorship of e-cigarettes to that provided for tobacco products in the SFEA, prohibiting that advertising for now, except as provided by (future) regulations.

We support restriction on advertising health claims to only those products approved by Medsafe as smoking cessation aids.

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

The second-hand impact of vaping is still not clear, and the use of e-cigarettes in public places can be intrusive. However, as identified in the recent National Smokefree Working Group background paper *E-cigarettes and their potential contribution to achieving the Smokefree 2025 goal,* regulation of e-cigarettes should not be more stringent than that of smoked tobacco cigarettes[[39]](#footnote-39). In the interests of consistency with existing tobacco smoking legislation, ease of compliance and the unknown harm of second-hand vaping, we recommend that e-cigarette use be prohibited in the same areas designated as ‘smokefree’ under the SFEA.

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

The Foundation agrees that some controls referenced in the consultation document are appropriate for e-cigarette regulation. Nicotine has a psychoactive effect and can be lethal in very large quantities[[40]](#footnote-40). We therefore support the regulation of some e-cigarette ingredients, such as maximum nicotine dosage. While we can see the argument that the addition of certain flavourings may increase the appeal of vaping to children, we are not convinced that the case has yet been proven that there should be regulation in this area or what specific ingredients should be limited or banned. There is reference in the consultation document to a few flavours but there may be many other alternative flavours that would simply replace these if they were banned. We therefore support further research and policy work on this and would welcome more detailed proposals. Regulation-making powers should be provided in the primary legislation so that regulations could be made in the future once the policy work has been undertaken.

In support of safe dosage regulations, we support a testing regime to confirm product safety and content purity, including the requirement for annual testing and disclose of product content.

However, we do not support the requirement for graphic health warnings. Given the potentially significant role for e-cigarettes in reducing harm to smokers’ health, requiring graphic health warnings for e-cigarettes poses the significant risk of creating confusing messages to users and potential users. Not smoking at all is likely to be the best option for users’ health, but using e-cigarettes is strongly preferable to smoking. Graphic warnings can powerfully communicate a simple message, such as the unequivocally negative health effects of tobacco smoking. Such messaging is not appropriate for e-cigarettes which may play a lifesaving role for some smokers. The health risks associated with e-cigarettes are still unknown. Associating health conditions with e-cigarettes before such links have actually been established is misleading and may undermine the credibility of public health messaging around smoked tobacco products.

The Foundation does not have a position on the prohibition on displaying products in sales outlets, restricting the use of vending machines, the requirement to provide annual returns on sales data, free distribution and awards associated with sales/discounting, or requirements for standardised packaging.

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

The Foundation believes that e-cigarette regulation should support a move towards e-cigarettes as a safer alternative to tobacco cigarettes. Taxing e-cigarettes is inconsistent with this approach and we do not support it.

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

As with any new consumer product being brought to the market, we agree that some quality control and safety standardisation is needed. In particular, we support the need for childproof containers, good manufacturing practice and product consistency, including product labelling. We are ambivalent on registration/licensing of either manufacturers or sellers, or of products, and would like to see more detailed analysis of these options.

Further comments

We note the continuation of current limitations to the marketing of e-cigarettes as a smoking cessation tool, which requires Medsafe approval under the Medicines Act 1981. The existing evidence base indicates the effectiveness of e-cigarettes as a smoking cessation tool, and supports their potential to significantly reduce death and disability caused by smoking. Noting that this potential is the basis for the proposals in the consultation document to legalise nicotine containing e-cigarettes and the importance of consistent and clear messaging to users and potential users, we recommend that Medsafe develop a favourable approach towards the approval and marketing of e-cigarettes as a smoking cessation tool, subject to safe product requirements and the usual assessment around claims of efficacy.

# Consultation submission 106

The Royal Australian and New Zealand College of Psychiatrists

The Tobacco Control Team

Ministry of Health

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

To whom it may concern

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

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) welcomes the opportunity to respond to the Ministry of Health’s consultation document on the proposal to change the way electronic cigarettes are regulated. The RANZCP believes the Ministry of Health’s review of the regulations pertaining to e-cigarettes is timely given the recent legislative changes in Victoria, Australia (ABC, 2016) and in the European Union (EU, 2016).

The RANZCP welcomes discussion on developing robust policy relating to the use and supply of e-cigarettes as there is conflicting evidence regarding the harms associated with e-cigarettes and the role they play in smoking cessation.

The RANZCP understands that the Ministry of Health (the Ministry) intends to amend the Smoke-Free Environments Act 1991 (SFEA) to regulate nicotine e-cigarettes in the same way other smoked tobacco products are controlled. The proposal includes regulations to reduce harm including prohibiting selling and supplying e-cigarettes to individuals under 18 years of age, advertising of e-cigarettes and using e-cigarettes in areas designated smoke-free under the SFEA. We note that the Ministry has developed a comprehensive suite of public health initiatives that would control the marketing of e-cigarettes.

The Medicines Act (or in the future the Therapeutic Products Act) will also be amended allowing e-cigarettes to be sold as a therapeutic product to assist individuals to cease tobacco smoking. E-cigarettes would be required to meet particular standards relating to safety and quality.

The RANZCP supports a legislative framework where e-cigarettes are controlled like any other tobacco product.

**The Context of Tobacco Consumption in New Zealand**

Nicotine is a highly addictive substance. Tobacco consumption in New Zealand is reducing, but it is perturbing to note that every day three New Zealanders die due to their addiction to cigarettes (Ministry of Social Development, 2016; RANZCP and RACP, 2005). Tobacco smoking accounts for approximately 9% of all illness disability and premature mortality in New Zealand (Ministry of Social Development, 2016).

In New Zealand tobacco consumption remains a health inequity issue with disadvantaged groups continuing to smoke at higher rates than the general population and subsequently experiencing significant morbidity and mortality linked directly to their addiction to tobacco:

* There is significant health inequities between Māori and non-Māori with recent research demonstrating that ‘*smoking is a major cause of these existing health inequalities’* (Blakely, 2015). Māori have a high prevalence of smoking (Ministry of Social Development, 2016) and in particular, Māori women of child-bearing years are continuing to smoke tobacco (38% of Māori women between the age of 15 and 38 smoke daily, Ministry of Health, 2015). This behaviour has the potential to impact on the population’s health outcomes including children’s health.
* There is strong correlation between those living in the most deprived areas having a greater prevalence of cigarette smoking (Ministry of Social Development, 2016). Overseas data indicates that people living in lower socio-economic areas have poorer physical health and lower life expectancy with smoking playing a contributing role (Wilkinson, 2009).
* People with mental disorders are more likely to smoke and smoke more heavily than people without mental disorders (Ratschen, 2014). Data from the United Kingdom (UK) reports that people with mental illness consume over 40% of cigarettes smoked in the UK (Ibid). The comorbidity of mental disorders with smoking is well documented in the New Zealand literature (Haws, 2014). The RANZCP has published research demonstrating that people with mental illness experience significantly higher rates of premature mortality and morbidity due to reduced access to health care and poor management of their physical co-morbidities. (RANZCP, 2015).

The evidence is clear that tobacco smoking has an adverse impact on the health of New Zealand’s most vulnerable populations and without an effective intervention these individuals are likely to remain smoking. Internationally there is significant debate about the effectiveness of e-cigarettes as a cessation tool and the safety of devices and liquids used in e-cigarettes. Many recent studies have demonstrated that e-cigarettes may be effective in helping people quit smoking (Public Health England, 2015; RCP, 2016; Stimson, 2016; Bullen, 2013). We believe that e-cigarettes will provide a safer way to deliver nicotine to those who are unable to stop smoking and reduce the harm associated with tobacco smoking. We accept there is no safe level of nicotine exposure, and it would be preferable if people were able to entirely quit smoking, but switching to e-cigarettes will reduce the serious adverse effects of tobacco smoking and reduce the current health disparities experienced by the vulnerable populations.

The RANZCP strongly advocates that the review in legislation will support these individuals to have appropriate access to e-cigarettes at a reasonable cost. We also argue that the devices and the liquids used in e-cigarettes are subject to strict regulations to ensure users are adequately protected from possible malfunctioning devices and inhaling impure or poisonous substances. Nicotine in any form remains a toxic substance, therefore legislation should set maximum nicotine concentrations in e-cigarettes liquids. We note that the EU has implemented legislation regulating the safety and quality requirements, and the monitoring and reporting on the manufacturing requirements for e-cigarettes (EU, 2016). We contend similar legislation is necessary in New Zealand.

**RANZCP’s Response to Consultation Questions**

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

Yes. The appropriate controls would be similar to those currently in place for other tobacco products.

1. ***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?***

We have no further comment on this question.

#### 3. *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. In Victoria, Australia legislation will come into effect in 2017 whereby e-cigarettes will be treated like any other tobacco product meaning people will not be allowed to vape in public places such as restaurants and people under 18 years of age will be prohibited from purchasing e-cigarettes (ABC, 2016).

#### *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. We note that overseas jurisdictions have prohibited the advertising and promotion of e-cigarettes. The EU Tobacco Products Directive prohibits the advertising of e-cigarettes on TV, radio and in the press (EU, 2016). As noted elsewhere nicotine is an addictive substance and people should not be encouraged to start consuming it in any form.

1. **Do you think it is important for the SFEA to prohibit vaping in designated smoke-free areas in the same way as it prohibits smoking in such areas?**

There is some evidence that vaping in a public place can have *‘a negative impact on those individuals who are attempting to quit [smoking]’* therefore it is probably wise to prohibit the use of e-cigarettes in public places (Auf, 2015). It is not conclusive that second-hand exposure to vaping is a serious harm to the population (RCP, 2016) and the exhaled vapour is more of an annoyance to others. Further research is needed given the recent development of e-cigarettes and the possibility that once longitudinal data is collected there may be some risk of harm from passive vaping. We suggest that a cautious approach is taken and vaping is prohibited in the same way smoking is currently.

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

|  |  |  |
| --- | --- | --- |
| **Control** | **Yes** | **Reasons/ additional comments** |
| Requirement for graphic health warnings | √ | Some type of health warning is required as vaping may not be entirely without adverse outcomes. Early indicators are that health warnings on tobacco packaging have been effective in increasing users’ knowledge of the impacts of smoking (AMA, 2015). |
| Prohibition on displaying products in sales outlets | √ |  |
| Restriction on use of vending machines | √ | This approach will restrict access to e-cigarettes and reduce the possibility of under-age users accessing e-cigarettes. |
| Requirement to provide annual returns on sales data | √ | Data is required to track consumption and sales. |
| Requirement to disclose product content and composition | √ | Any product being sold in NZ should be monitored to ensure it is not unduly dangerous to potential users. There have been concerns raised overseas that e-cigarettes contain dangerous toxins (besides nicotine) (RCP, 2016). |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | √ | There should be regulations around the ingredients and using flavours. The evidence is unconvincing that e-cigarettes are entirely harmless and by using flavours this trivialises the product and makes the product appealing to younger users.  The EU has banned any tobacco product with charactering flavours (EU, 2016) |
| Requirement for annual testing of product composition | √ | Given the diversity in the manufacturing of these products it is necessary to test the product’s composition. |
| Prohibition on free distribution and awards associated with sales | √ | **All types of discounting, promotion, advertising and sponsorship relating to e-cigarettes should be banned.** |
| Prohibition on discounting | √ |  |
| Prohibition on advertising and sponsorship | √ |  |
| Requirement for standardised packaging | √ | Research indicates that there are impurities and contaminants in the e-liquid, which vary between batches and suppliers (RCP,2016). |

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

The RANZCP would support some form of tax on the nicotine e-liquid but would suggest that this is not excessive so e-cigarettes are made unattractive to those individuals trying to quit tobacco smoking.

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

|  |  |  |
| --- | --- | --- |
| **Area of concern** | **Yes** | **Reasons/additional comments** |
| Childproof containers | √ | **E-cigarettes should be made child proof.** |
| Safe disposal of e‑cigarette devices and liquids | √ | **The devices and the liquids need to be carefully disposed of to ensure there is no adverse impact on the environment. We would suggest the devices are treated in the same manner as batteries.** |
| Ability of device to prevent accidents | √ |  |
| Good manufacturing practice | √ |  |
| Purity and grade of nicotine | √ | **It is important for the user to understand the nicotine titration when vaping to reduce excessive exposure. It appears that first, second and third generation e-cigarettes deliver different concentrations of nicotine (CP, 2016).** |
| Registration of products | √ | **The products should be registered, as e-cigarettes are a recent invention and therefore the safety of the various devices is not entirely known.** |
| A testing regime to confirm product safety and contents purity | √ | **The EU has standards relating to safety and quality of e-cigarettes and NZ should do the same (EU, 2014).** |
| Maximum allowable volume of e-liquid in retail sales | √ | **As above.** |
| Maximum concentration of nicotine e-liquid | √ | **As above.** |
| Mixing of e-liquids at (or before) point of sale | √ |  |

**General Comments**

We believe there is no safe level of nicotine exposure. As e-cigarettes are a relatively new invention there are no long-term studies recording the magnitude of long-term vapour inhalation on people’s health. The possible impacts on people’s health may include the inhalation of the impurities in the e-liquid, exposure to nicotine, and the inhalation process itself and potential impact on the respiratory system. Recent evidence suggests that e-cigarettes are 95% less risky to an individual’s health than smoking regular cigarettes (McNeill cited in Stimson, 2016). Until further evidence becomes available e-cigarettes should be treated very similarly to other tobacco products. The only exception is when e-cigarettes are seen as a better offer for those already addicted to smoking.

The RANZCP is generally in support of the proposals developed by the Ministry. However we do wish to highlight one additional issue relating to how e-cigarettes may be perceived by the public. The use of e-cigarettes or vaping should not be glamourised or normalised as these devices still have the potential to impact negatively on an individual’s health, e.g. not only do e-cigarettes deliver nicotine but there are other toxins inhaled at the same time (RCP, 2016). We understand the concerns recently articulated by Dame Sally Davies, Chief Medical Officer for England ‘*They make them [e-.cigarettes] look cool and chic. In the Metrocentre in Newcastle they have a vaping boutique, which looks like a perfume boutique’ (*New Scientist, 2014)*.* We also note that offering nicotine products that are, for example bubble-gum flavoured, trivialises the e-cigarettes and sends confusing messages to the public that nicotine is ‘fun’ when medical evidence points to a range of harms such as nicotine poisoning from excessive exposure.

We look forward to receiving further information regarding the outcome of this consultation.

If you require further information regarding this submission, please contact the RANZCP’s New Zealand Manager, Rosemary Matthews who supports the New Zealand National Committee. Rosemary can be contacted on 04 472 7265 or by email [Rosemary.Matthews@ranzcp.org](mailto:Rosemary.Matthews@ranzcp.org).

Yours sincerely

Signed electronically

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Policy Options for the Regulation of Electronic Cigarettes

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

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

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|  |
| --- |
| None |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes

Reasons/additional comments:

|  |
| --- |
| The need to make policy in this area where there is changing products, restricted evidence and much uncertainty, requires considerable safeguards for public health to be built into any policies. Such safeguards include regular reviews (eg, three yearly) of the consequences of new policy.  A principal such protection needed is that the introduction of e-cigarette sales is done in conjunction with the licensing of tobacco sales, with a restriction of availability on ***both*** tobacco and e-cigarettes.  In creating new policy in this area, if any difference in the regulation of tobacco products and e-cigarettes is considered, the difference should be achieved by making tobacco products ***less*** accessible and attractive than at present, rather than allowing a lower or similar standard for e-cigarettes as per current minimal controls on tobacco sales.  The risks involved in opening up e-cigarette sales include the uptake by non-smokers, gateway effects to tobacco use,(eg, Barrington-Trimis et al. *J Adolesc Health*. 2016 Jul;59(1):75-80; Chatterjee et al. *Int J Adolesc Med Health*. 2016 Aug 9. pii: /j/ijamh.ahead-of-print/ijamh-2016-0033/ijamh-2016-0033.xml) dual use of tobacco and e-cigarettes, the discouragement from cessation, and renormalising smoking.  A major risk is that e-cigarettes are used to allow continuing smokers to continue their nicotine supply in situations where they may otherwise not smoke (eg, inside at home) rather than quitting smoking tobacco. At a population level, in forming policy the emphasis should be on the *uncertainty* of e-cigarette use as a way to accelerate smoking prevalence decrease, rather on the *possibility* of effectiveness.  A 2016 review by Kalkhoran and Glantz in the journal *Lancet Respiratory Medicine* found that e-cigarettes use is ‘associated with significantly less quitting among smokers’ (*Lancet Respir Med*. 2016;4(2):116-28). The three studies found which examined frequency of e-cigarette use by smokers all found that those with less than daily use were either less likely to quit or no more likely to quit than non-users (Biener et al. *Nicotine Tob Res*. 2015;17(2):127-33; Brose et al. *Addiction.* 2015;110(7):1160-8; Hitchman et al. *Nicotine Tob Res*. 2015;17(10):1187-94). In other words, for the large proportion of smokers for whom the e-cigarette use is not daily, quitting is unchanged or worse.  Only much stronger controls on tobacco, including on availability, would mitigate this risk.  The controls needed for e-cigarette sales include:   * That the importing, local manufacturing and retail sales be licensed in a manner that would allow the prevention or removal of problematic suppliers or items. Ideally the retail licensing would be in the same manner as for pharmaceutical retail sales. Retail licensing restrictions need to be the same as for tobacco sales, including numbers of outlets per population size, proximity to schools, exclusion of minors from shops, and training/competence for staff in EC use and ABC cessation support. * The regulation of nicotine e-cigarettes and nicotine liquids types, ideally by Medsafe under the Medicines Act. * That priority in such approval be given to devices such as inhalers, that do not heat the inhaled substances. * That any claims about assistance for quitting tobacco smoking must be substantiated by strong population level evidence |

#### 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

Reasons/additional comments:

|  |
| --- |
| This area should be subject to an in-depth review of the available evidence. This could consider nicotine inhalers, that do not heat the inhaled substances (with a view to making them easier to access than e-cigarettes); also any other new nicotine product not currently Medsafe approved. The new legislation is an opportunity for the banning of hookahs and any water-pipe related devices for tobacco. |

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

Yes x

Reasons/additional comments:

|  |
| --- |
| New legislation provides an opportunity to create a further protection for young adults, by increasing the age of tobacco sales to 21 or 25. This would allow young adults (18-25) to use e-cigarettes for quitting. If population level evidence showed that young adults smoking prevalence did not markedly decrease, then e-cigarette sales to them would need to be reviewed.  There is considerable evidence that e-cigarette use by youth has dangers of leading to tobacco use (eg, Barrington-Trimis et al. *J Adolesc Health*. 2016 Jul;59(1):75-80; Chatterjee et al. *Int J Adolesc Med Health*. 2016 Aug 9. pii: /j/ijamh.ahead-of-print/ijamh-2016-0033/ijamh-2016-0033.xml). |

#### 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

Reasons/additional comments:

|  |
| --- |
| Any commercial marketing, including point of sale marketing, will reach youth. Communication about the benefits, harms and availability of e-cigarettes should only be by the Ministry of Health, funded by a levy on sales – see q.7. |

#### 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

Reasons/additional comments:

|  |
| --- |
| Smokefree policies need to be simple, to enable optimum implementation. Having different rules for vaping would decrease this simplicity.  The risks of the renormalisation of smoking (see references) further support vape-free regulation and policy being the same as for smokefree regulation and policy.  References:  Cataldo J et al. E-cigarette marketing and older smokers: Road to renormalization. *American Journal of Health Behavior*, 2015; 39(3):361–71.  Barrington-Trimis et al. The E-cigarette Social Environment, E-cigarette Use, and Susceptibility to Cigarette Smoking. *J Adolesc Health*. 2016 Jul;59(1):75-80. |

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

Because of the complexities involved, this area should be subject to an in-depth review of the available evidence, to be published before legislation is considered. At the least, any legislation should provide powers for these controls, even if they are not at first used.

|  |  |  |  |
| --- | --- | --- | --- |
| **Control** | **Yes** | **No** | **Reasons/ additional comments** |
| Requirement for graphic health warnings | x |  | Basic addiction risks need to be strongly conveyed |
| Prohibition on displaying products in sales outlets | x |  | Decrease the appeal to youth |
| Restriction on use of vending machines | x |  | No effective ability to control the age of purchase |
| Requirement to provide annual returns on sales data | x |  |  |
| Requirement to disclose product content and composition | x |  | To ensure safety of product |
| 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 |  | To prevent marketing to youth – any marketing will reach youth |
| 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?

No x

Reasons/additional comments:

|  |
| --- |
| A levy should fund the non-commercial information by government about the benefits, harms and availability of e-cigarettes – see q.4.  This should be reviewed every five years |

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

Yes

Additional comments:

Because of the complexities involved, this area should be subject to an in-depth review of the available evidence, to be published before legislation is considered. At the least, any legislation should provide powers for these controls, even if they are not at first used.

|  |  |  |  |
| --- | --- | --- | --- |
| **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 |  |  |  |
| 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 108

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

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

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

Tobacco control non-government organisation

Academic/research

Cessation support service provider

Health professional

Māori provider

Pacific provider

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

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

Please indicate your e‑cigarette use status:

I am using nicotine e‑cigarettes.

I am using nicotine-free e‑cigarettes.

I currently smoke as well as use e‑cigarettes.

I am not an e‑cigarette user.

I have tried e‑cigarettes.

### Privacy

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

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

This submission contains commercially sensitive information.

### Declaration of tobacco industry links or vested interest

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|  |
| --- |
| I work in a retail store that sells tobacco products, but have no direct links to the tobacco industry. |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| I transitioned from smoking to vaping ten months ago and buy nicotine products on-line. Since I have chosen to vape instead of smoke I feel better and am more active, it was easy to try and has worked great for me. The only down-side has been nuisance of having to order on-line. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| The only thing I’ve heard of is vaporisers that “heat not burn” but this is still tobacco. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| Nicotine should restricted to 18 and over in my opinion, so 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:

|  |
| --- |
| Many of my peers are sceptical that vaping is any less harmful than smoking. By treating it like tobacco they will think this is true and won’t give it a go and just carry on smoking instead. |

#### 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:

|  |
| --- |
| As above it treats vaping the same as smoking so people won’t view it as something they can transition to that is easy and serves as harm reduction. |

#### 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 |  |  | Again why treat a harm reduction opportunity for smokers to transition to as being “the same as smoking” |
| Prohibition on displaying products in sales outlets |  |  | If smokers can’t see it, they won’t give it a go. |
| Restriction on use of vending machines |  |  | Can’t be certain that they’re over 18. |
| Requirement to provide annual returns on sales data |  |  | Sure. |
| Requirement to disclose product content and composition |  |  | My expectation is the same as required for food labelling. I want to know the ingredients and know that it’s true to label. |
| Regulations concerning ingredients (e.g., nicotine content and/or flavours) |  |  | Especially flavours tested at temperature to ensure that they’re safe and don’t produce toxins. The same as the UK and EU have. |
| Requirement for annual testing of product composition |  |  | Absolutely. |
| Prohibition on free distribution and awards associated with sales |  |  | Stops smokers seeing this as an option if it’s too prohibited. |
| Prohibition on discounting |  |  | Should be affordable so that it’s an even more attractive option for smokers to transition to. |
| Prohibition on advertising and sponsorship |  |  | Smokers should be aware of these products. |
| Requirement for standardised packaging |  |  | Again why treat a harm reduction opportunity for smokers to transition to as being “the same as smoking” |
| 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:

|  |
| --- |
| Should be kept affordable so that it’s an even more attractive option for smokers to transition to. |

#### 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 |  |  | If Nicotine is an ingredient should be certainly. |
| Safe disposal of e‑cigarette devices and liquids |  |  | Lithium Ion batteries should have this requirement. |
| Ability of device to prevent accidents |  |  | There have been incidents with batteries overseas so yes need to meet NZ Battery safety standards. |
| Good manufacturing practice |  |  | Will make it look a safer option so smokers will be more likely to try the switch. |
| Purity and grade of nicotine |  |  | Will make it look a safer option so smokers will be more likely to try the switch. |
| Registration of products |  |  | Will make it look a safer option so smokers will be more likely to try the switch. |
| A testing regime to confirm product safety and contents purity |  |  | Will make it look a safer option so smokers will be more likely to try the switch. |
| Maximum allowable volume of e-liquid in retail sales |  |  | Otherwise people may be tempted to try their own brews for on-sale. |
| Maximum concentration of nicotine e-liquid |  |  | The EU and UK have this so probably a good idea. |
| Mixing of e-liquids at (or before) point of sale |  |  | Could no longer trust as being “true to label” if this was the case. |
| Other |  |  |  |

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

|  |
| --- |
| Vaping has totally worked for me as a way to transition away from smoking. I would like to see more people in NZ given this opportunity without having to go on-line; to order the products, but also (in my case) do research to figure out what is safest. I have chosen to get products from the EU/UK because there is a regulatory environment so it gives me greater surety. Therefore I think that a similar environment in NZ would be a great thing and will have a significant positive impact on reducing smoking rates in NZ… but only if these products are readily available where tobacco products are already sold, without the sales restrictions imposed upon tobacco and at an affordable price. |

### Additional information on sales and use

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

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

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

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

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

|  |  |  |  |
| --- | --- | --- | --- |
| **How long have you been using them?** | **How often do you use them?** | **How much do you spend on them per week?** | **Where do you buy them?** |
| 10 months | Daily | $5 | Online |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 109

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

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

X Other sector(s) *(please specify)*: Medical product developer

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

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|  |
| --- |
| No direct or indirect links to tobacco industry. |

Please return this form by email to:

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

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

## Consultation questions

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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:

|  |
| --- |
| E-cigarettes can help smokers quit, by providing access to nicotine in a less harmful manner.  These products are widely available, but not legally. The most harmful nicotine product (cigarettes) is allowed, while less harmful and, potentially, beneficial products are excluded. |

#### 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:

|  |
| --- |
| Nicotine inhalers, particularly those utilising pressurised metered dose inhalers, can deliver nicotine more safely than e-cigarettes. In other jurisdictions, laws designed to capture e-cigarettes have assumed that all e-cigs have batteries to heat the nicotine and all result in exhaled plumes.  MDI delivery requires no battery, cannot be tampered to use with other substances, does not use refillble containers, does not glamourise or petpetuate the smoking behaviour, contains pharmaceutical grade ingredients, is manufactured in GMP labs, and results in no exhaled plume.  Please ensure these products are (i) included in legalisation; and (ii) not unfairly penalised because of the assumed characteristics of e-cigs. For example, they should not be banned from indoor use, as there is no second-hand plume impact. |

#### 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:

|  |
| --- |
| Nicotine is harmful largely only in a few circumstances which include adolescent brain development. As a cigarette alternative, e-cigarettes should only be available to people who can legally smoke. |

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

Yes  No X

Reasons/additional comments:

|  |
| --- |
| Control yes – but like any other consumer product, not in the same way cigarettes are completely banned from advertising. The aim is to attract smokers to try and then migrate to e-cigarettes. |

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

Yes X No

Reasons/additional comments:

|  |
| --- |
| Yes, but only to the extent that the banned nicotine delivery mechanism results in an exhaled plume. Nicotine MDIs have no exhaled plume and are neither a danger nor a niusance to by-standers. |

#### 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 | Trying to attract smokers |
| Prohibition on displaying products in sales outlets |  | X | Trying to attract smokers |
| Restriction on use of vending machines | X |  | Unless sales to minors can be otherwise restricted |
| Requirement to provide annual returns on sales data | X |  | Important to get data on whether this strategy is working |
| Requirement to disclose product content and composition | X |  | To ensure safe contents, but allowing for safeguarding of IP |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | X |  | To ensure safety of ingredients |
| Requirement for annual testing of product composition |  | X | But audit and compliance with the law |
| Prohibition on free distribution and awards associated with sales |  | X | The strategy is to attract smokers. Let’s not restrict effectiveness |
| Prohibition on discounting |  | X | Must be able to compete with cigarettes |
| Prohibition on advertising and sponsorship |  | X | Subject to truth in claims |
| Requirement for standardised packaging |  | X | To compete against cigarettes. |
| Other |  |  |  |

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

Yes  No X

Reasons/additional comments:

|  |
| --- |
| Excise is designed to penalise smokers and discourage smoking. Legalising e-cigarettes has the same aim. Let’s not undermine the cost benefit of substituting e-cigs for cigs, particularly considering the socio-economic implications of cigarette addiction, where the poor are most vulnerable. They should be able to move to a cigarette replacement and save money. |

#### 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 |  | Normal consumer product quality |
| Purity and grade of nicotine | X |  | Consumer protection standards |
| Registration of products | X |  | No parallel unregulated market |
| A testing regime to confirm product safety and contents purity | X |  | Consumer protection |
| Maximum allowable volume of e-liquid in retail sales | X |  | Ensuring aerosols are subject to different regulations than liquids. |
| Maximum concentration of nicotine e-liquid |  |  |  |
| Mixing of e-liquids at (or before) point of sale | X |  | Consumer protection standards |
| Other |  |  |  |

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

|  |
| --- |
| In the UK, an arbitrary cannister size of 2ml was regulated. This did not consider those nicotine delivery devices that did not have liquid, and unfairly penalised MDIs with a 19ml can…but containing aerosol.  In the US, e-cigs were banned on aircraft due to battery safety concerns and exhaled plume inconvenience to other passengers. This did not consider nicotine delivery devices without batteries and without exhaled plumes. |

### 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.

|  |
| --- |
| The proposed change may enable us to make this innovative product available in New Zealand. Ironically, the product was developed by a New Zealand university. |

#### 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 110

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

*(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)*: Myself

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

Please indicate your e‑cigarette use status:

* I am using nicotine e‑cigarettes.

I am using nicotine-free e‑cigarettes.

I currently smoke as well as use e‑cigarettes.

I am not an e‑cigarette user.

I have tried e‑cigarettes.

### Privacy

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

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

Do not publish this submission.

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

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

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

This submission contains commercially sensitive information.

### Declaration of tobacco industry links or vested interest

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

|  |
| --- |
| I have no links to the tobacco industry |

Please return this form by email to:

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

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

## Consultation questions

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

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

* Yes  No

Reasons/additional comments:

|  |
| --- |
| I have been a smoker for 35 years and have been vaping for two weeks and will never purchase tobacco products |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| I am unsure of other potential products |

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

* Yes  No

Reasons/additional comments:

|  |
| --- |
| Yes I think e-cigarettes should be prohibited to people under 18 I think the focus of the e-cigs should be for long term smokers who do not want to consume tobacco products. Is it possible for e-nicotine to be prescribed by a Doctor or health professional like nicotine patches and gum are? |

#### 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 I don’t think it would be good if vaping became trendy with under 18s |

#### 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:

|  |
| --- |
| as the long term effects of vaping are at this stage un know yes this is a good idea |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Control** | **Yes** | **No** | **Reasons/ additional comments** |
| Requirement for graphic health warnings |  |  | the health advantages compared to smoking tobacco should be highlighted |
| Prohibition on displaying products in sales outlets |  |  | if sold in a R18 shop seems unnecessary |
| Restriction on use of vending machines |  |  | Unsure |
| 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 |  |  | unsure |
| Prohibition on discounting |  |  |  |
| Prohibition on advertising and sponsorship |  |  |  |
| Requirement for standardised packaging |  |  |  |
| Other |  |  |  |

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

* No

Reasons/additional comments:

|  |
| --- |
| I think taxing nicotine would be seen as just a way for the Govt to make money off our addiction to nicotine a large reason why smokers will take up vaping is due to how expensive tobacco is. |

#### 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 |  |  | I like my e-liquids mixed at point of sale |
| Other |  |  | I think the e-liquid pre-mixed in China that is currently sold is not good and I will not purchase it. |

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

|  |
| --- |
| I have been a roll your own tobacco smoker for 35 years and have been vaping nicotine for the last two weeks and I will never purchase tobacco products again. |

### Additional information on sales and use

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

|  |
| --- |
| It is very hard to find good quality product tobacco shops tend to sell pre-mixed e-juice from China which is not labelled and is very strong. I am purchasing my e-juice from Naked Vapour Papamoa where they teach you to use the hardware and also mix the liquid on site when purchased. |

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

|  |
| --- |
|  |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **How long have you been using them?** | **How often do you use them?** | **How much do you spend on them per week?** | **Where do you buy them?** |
| 2 weeks | everyday | $10 on e-juice | Naked vapour Papamoa |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 111

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

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

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

Tobacco control non-government organisation

Academic/research

Cessation support service provider

Health professional

Māori provider

Pacific provider

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

*(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.

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

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

This submission contains commercially sensitive information.

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

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|  |
| --- |
| No tobacco company links or vested interests. |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes ☑ No

|  |
| --- |
| Reasons/additional comments:  We agree with the above statement as the primary aim of allowing e-cigarettes on the local market is to build on and support the government’s goal of Smokefree 2025. There is emerging evidence that E-Cigarette (EC) use may substantially reduce the burden of disease caused by smoking.  Nicotine containing e-cigarettes have been widely available in New Zealand for some time due to importation by users and illegal sales and/or promoting overseas websites by retailers. Currently the sale and supply of e‑cigarettes[[41]](#footnote-41) in New Zealand is controlled by the Medicines Act and the Smoke-free Environments Act 1990 (SFEA). They are unlawful if the product contains nicotine derived from tobacco, or the product contains nicotine and has not been approved for supply for therapeutic use.  Tobacco products in New Zealand[[42]](#footnote-42) come under the provisions of the Smoke-free Environments Act 1990 and subsequent amendments. The Act governs where people cannot smoke and regulates the sale, marketing and advertising of tobacco products. Electronic cigarettes, vaporizers, vape pens, hookah pens and other electronic nicotine delivery systems (ENDS) should align with this Act and not the Medicines Act[[43]](#footnote-43).  Electronic cigarettes should not come under the Medicines Act and should be treated as a consumer product unless a health claim is made i.e. that the product can be used for treating or preventing disease. As stated by Stimson[[44]](#footnote-44) (2014) “It fits two public health principles – the first is to reduce harm to populations and the second is to engage and work with populations in their endeavor to lead healthier lives”.  The controls to be put in place include:   * Allow sale of nicotine-containing EC or e-liquids for smokers who want to quit with the following:   + Nicotine liquid: Warning statement on product packages: “Warning this product contains nicotine. Nicotine is an addictive chemical.”   + A maximum limit of nicotine at 30mg/ml.   + Child-proof caps similar to every day household products e.g. bleach, washing powder.   + As per the United States of America: Food and Drug Administration requirement vape shops that mixes or prepares liquid nicotine or nicotine-containing-liquids, or creates or modifies any type of ENDS should be considered a manufacturer and quality controls need to be followed.   + Minimize the risks of initiation of e-cigarette use with or without nicotine by non-smokers, particularly children and young people.   + As for tobacco products, marketing of EC and e-liquids to be limited to point of sale to avoid exposure to children and young people. No packaging or product names that appeal to children or young people.   + The sale of EC and e-liquid related products (including toy EC) to people under 18 years-old is prohibited. |

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

Yes  No ☑

Reasons/additional comments:

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

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

Yes ☑ No

Reasons/additional comments:

|  |
| --- |
| We agree with the above statement. Electronic Cigarettes should come under the provisions of the Smokefree Environments Act 1990 and its amendments. “No person may sell a tobacco product or herbal smoking product, or having sold it to a person of any age deliver it or arrange for it to be delivered, to a person younger than 18 years.” (Section 30)[[45]](#footnote-45). |

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

Yes ☑ No

Reasons/additional comments:

|  |
| --- |
| We agree it is important for legislation to control advertising of e-cigarettes in the same way as it controls advertising of smoked tobacco products.  Exposure to e-cigarette advertisements significantly increased susceptibility to e-cigarette use among adolescents. E-cigarette advertising regulations and educational campaigns are critically needed[[46]](#footnote-46).  Consider minimal commercial marketing of nicotine containing EC or e-liquids e.g. product display and/or advertising allowed at point of sale only. Public information marketing targeted and/or mass media by Health Promotion Agency (HPA) and Quitline[[47]](#footnote-47). |

**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, we agree that it is important for the SFEA to prohibit vaping in designated smokefree areas in the same way, as it prohibits smoking in such areas. E-cigarettes look like regular cigarettes and their use in public would give the appearance that cigarette smoking behaviour is more acceptable; and exposure to a new source of air pollution in places covered by smokefree policies.[[48]](#footnote-48)  We also recommend that an amendment to the current SFEA be made to include e-cigarettes which essentially are the same as regular cigarettes and therefore, subject to the same policy that restricts smoking to designated areas. |

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

|  |  |  |  |
| --- | --- | --- | --- |
| * **Control** | * **Yes** | * **No** | * **Reasons/ additional comments** |
| * Requirement for graphic health warnings |  | * ☑ | * Disagree. There is growing evidence to suggest e-cigarettes are much less harmful than tobacco and can help smokers quit tobacco[[49]](#footnote-49). However, consumers need clear indication of risk involved in consuming. |
| * Prohibition on displaying products in sales outlets | * ☑ |  | * Potentially could be appealing to children and young people. |
| * Restriction on use of vending machines | * ☑ |  | * Agree. Recommend prohibition of sales from vending machines. |
| * Requirement to provide annual returns on sales data | * ☑ |  | * Agreed. Information can be used as part of a monitoring tool. Annual returns can demonstrate hardware and volumes sold. |
| * Requirement to disclose product content and composition | * ☑ |  | * Full disclosure of product content and composition of each product. Will also ensure limit of nicotine is met as required. |
| * Regulations concerning ingredients (e.g. nicotine content and/or flavours) | * ☑ |  | * Recommend regulations are specific regarding the nicotine content (mg) and flavours. Recommend SFEA 1990 s31 (limits on harmful constituents) should apply. |
| * Requirement for annual testing of product composition | * ☑ |  | * Conduct annual and random testing. |
| * Prohibition on free distribution and awards associated with sales | * ☑ |  | * To be treated as the same as the SFEA. No free distribution or awards associated with sales. |
| * Prohibition on discounting | * ☑ |  | * In agreement that there will be no discounting on all e-cigarette products. |
| * Prohibition on advertising and sponsorship | * ☑ |  | * Highly recommend no advertising or sponsorship to avoid exposure to children and young people. |
| * Requirement for standardised packaging | * ☑ |  | * Regulatory measures applied to e-cigarettes as for tobacco products to avoid exposure and appeal to children and young people. |
| * Other | * ☑ |  | * Read other comments section. |

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

Yes  No ☑

Reasons/additional comments:

|  |
| --- |
| We do not think that excise or duty be imposed on nicotine e-liquid. In order to encourage and support tobacco smokers to quit E-cigarettes need to be affordable and cheaper to use than tobacco. |

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

Yes ☑ No

Additional comments:

|  |  |  |  |
| --- | --- | --- | --- |
| * **Area of concern** | * **Yes** | * **No** | * **Reasons/additional comments** |
| * Childproof containers | * ☑ |  | * To minimise the risk of accidental poisoning. |
| * Safe disposal of e‑cigarette devices and liquids | * ☑ |  | * May result in nicotine exposure to children, adults and animals, the contamination of soil and water and other adverse impacts on the environment.[[50]](#footnote-50) |
| * Ability of device to prevent accidents | * ☑ |  | * Quality standards of production should be used in order to avoid accidents. |
| * Good manufacturing practice |  | * ☑ | * E-cigarettes is a consumer product, under the Consumers Guarantee Act 1993[[51]](#footnote-51) and not to be treated under Med safe and medicines. |
| * Purity and grade of nicotine | * ☑ |  | Liquid nicotine is manufactured to the highest possible standards under WHO Good Manufacturing Practice conditions and subject to analytical controls to ensure the highest purity and lowest impurity levels. This ensures compliance with the strictest regulations.[[52]](#footnote-52) |
| * Registration of products | * ☑ |  | * Agreed. Recommend a similar licensing system to PSA 2013 Part 2. |
| * A testing regime to confirm product safety and contents purity | * ☑ |  | * Conduct annual and random testing to confirm product safety and contents purity. |
| * Maximum allowable volume of e-liquid in retail sales | * ☑ |  | According to the Tobacco Products Directive UK requirements on nicotine concentration (20mg/ml maximum) and size of presentation (10ml maximum for refill container and 2ml maximum for e-cigarettes) apply to products sold to end consumers (irrespective of whether the end consumer intends to modify the product). The requirements do not apply to ‘trade sales’ i.e. where you are not selling direct to a consumer. But for all sales (trade and to consumers) the tank capacity of a refillable e-cigarette must not exceed 2ml[[53]](#footnote-53). |
| * Maximum concentration of nicotine e-liquid | * ☑ |  | * To minimize the risk of accidental poisoning. * The UK policy framework, E-cigarette regulations in England, current and proposed * restricts e-cigarette to no more than 20mg/ml of nicotine * nicotine-containing liquid must be in dedicated refill containers not exceeding 10ml volume, and cartridges or tanks do not exceed a volume of 2ml.[[54]](#footnote-54) |
| * Mixing of e-liquids at (or before) point of sale | * ☑ |  | * E-liquids are dispensed at highly restricted outlets (pharmacies and licensed specialist vape shops) with all staff training to mix e-liquids at (or before) point of sale. |
| * Other |  |  | * Nicotine overdose or intoxication is unlikely to occur with vaping, since the amount consumed and absorbed is quite low[[55]](#footnote-55) |

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

|  |
| --- |
| 1. Retailers/Manufacturers (importers of goods) of electronic cigarettes, nicotine-containing EC or e-liquids shall come under the Consumer Guarantees Act 1993[[56]](#footnote-56).      1. Training, monitoring and research to be undertaken by the Ministry of Health, in particular evaluating the impact of EC on the progress towards Smokefree 2025. If EC or e-liquids are going to be used by cessation practitioners, data needs to be collected in line with the current regime for the Stop smoking Services. 2. Allow sales of nicotine-containing EC or e-liquids through pharmacies and 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). 3. EC used for cessation support containing nicotine should be licensed as a consumer product.      1. All cessation support service providers, pharmacy staff and licensed specialist shop staff are required to be competent in providing e-cigarette advice and information to support someone’s smokefree journey. This could be achieved through use of a national training resource, for example an e-learning programme developed and implemented by the Ministry of Health to ensure consistency of skills and information provided to the public. Generic resources with information on EC and e-liquids are to be made available to the above group as part of the cessation provider’s toolbox to assist people to become smokefree. 2. We recommend that cessation service providers receive resources and training in the use of e-cigarettes to support stop smoking attempts. 3. We recommend packaging requirements for e-cigarettes and e-liquids products sold within New Zealand to include minimum standards of child safety, safety warnings, health warnings, list of ingredients and Quitline information. 4. We recommend applying existing consumer protection legislation and consider introducing minimum quality and safety standards and excluded additives / flavours for nicotine containing e-cigarettes and e-liquids sold within New Zealand. 5. We ask that the Ministry of Health develops a framework for monitoring and evaluating emerging evidence on e-cigarettes and evaluating the impact of e-cigarettes, especially on smoking prevalence in all population groups and progress towards the Smokefree 2025 goal. 6. Enforcement: if these products are to be regulated under the SFEA, we ask that the Enforcement Officers powers and enforcement penalties be changed to reflect this. |

**Additional information on sales and use**

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

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

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

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

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

|  |  |  |  |
| --- | --- | --- | --- |
| * **How long have you been using them?** | * **How often do you use them?** | * **How much do you spend on them per week?** | * **Where do you buy them?** |
| * Not applicable | * Not applicable | * Not applicable | * Not applicable |

# Consultation submission 112

The Royal Australasian College of Physicians

13 July 2017

The Ministry of Health

PO Box 5013

Wellington 6140

New Zealand

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

Dear Sir/Madam

**Re: Policy Options for the Regulation of Electronic Cigarettes in New Zealand**

The Royal Australasian College of Physicians (RACP) welcomes the opportunity to respond to the New Zealand Ministry of Health’s consultation on *Policy Options for the Regulation of Electronic Cigarettes.*

The RACP represents medical specialists from across more than 40 medical specialties – including public health, thoracic and respiratory medicine, oncology and addiction medicine – to educate, innovate and advocate for excellence in health and medical care. We draw on the skills of our members to develop policies that support the delivery of high quality health services and promote a healthier society.

The RACP remains concerned about the lack of clear and robust evidence pertaining to e-cigarettes. In particular, better and more data is needed to understand their impact in a number of areas, including to the health of individuals and the population, their effectiveness as a smoking cessation aid, whether they have a gateway effect leading to non-smokers taking up vaping and then progressing to tobacco cigarettes, and whether the advent and acceptance of e-cigarettes is re-normalising smoking and potentially undermining the gains made in the last decades to reduce the prevalence of smoking in our communities.

The potential for e-cigarettes to continue supporting people’s addiction, or indeed create a new generation of people addicted to nicotine and smoking behaviour, needs to be considered. The devastating impact addiction has on people’s life choices, life opportunities and life chances is too often overlooked and underestimated.

We acknowledge claims that when directly compared with traditional tobacco cigarettes, e-cigarettes do not contain as many chemicals that we know to be unsafe, and therefore may not be as harmful. However, caution is advised as we do not know whether the large number and wide-ranging additives in e-cigarettes, such as flavourings, colourants and other chemicals (including carbonyls, metals and organic volatile compounds) are safe when heated and vapourised and repeatedly inhaled deep into the lungs. Concentrations of their components – both nicotine and non-nicotine elements – often vary within and between brands. It should be noted that similar claims about safer smoking were initially made with respect to filtered tobacco cigarettes, only to be realised as false decades later. In addition, some designs of e-cigarette devices have reportedly leaked nicotine and some have exploded. Thus the safety of these products is a significant concern for the RACP.

We also urge the New Zealand government to acknowledge that the potential for these products to play a role in reducing tobacco smoking, or minimising the harms of smoking, urgently needs further study and to implement and appropriately fund trials to generate the evidence needed to enable appropriate policy decisions to be made. It is vital that there be robust and independent evidence of the highest quality on this crucial public health matter. The development of the evidence base on e-cigarettes cannot be left to industry.

However, we recognise that these products are currently in use across New Zealand (and Australia) and are concerned that current regulatory measures governing e-cigarettes are unclear, inadequate and porous.

In light of this, the RACP supports amending the existing legislative controls on tobacco products to extend to e-cigarettes and prohibiting the advertising and promotion of these products and their sale and supply to minors (although we maintain that smoking is unsafe at any age).

The RACP is also supportive of the existing legislative controls in the Smoke-Free Environment Act for tobacco products being extended to e-cigarettes, as outlined in the consultation paper. Many of the aspects listed are crucial; for example, prohibiting their display in sales outlets and requiring disclosure of the product content and composition. Further detail is required on some to ensure they are effectively implemented in this context; for example, how the requirement for graphic health warnings would be effectively applied.

Taxation has been long recognised as one of the most effective public health measures to preclude the initiation of and promote the cessation of tobacco smoking. The RACP considers that taxation policy plays a critical role in any smoking reduction strategy and this should apply also to e-cigarettes. E-cigarettes should therefore be subject to New Zealand’s excise tax at a rate commensurate with the associated levels of harm. We suggest that a lower rate than tobacco cigarettes might be appropriate to discourage any e-cigarettes users switching to tobacco cigarettes.

Fundamentally though, we urge the New Zealand government to seriously consider how the safety of these products can be ensured and what regulatory approach to quality control and safety standards would be effective.

Again, the RACP appreciates the opportunity to provide input to the New Zealand Ministry of Health’s consideration of this important issue. It is vital that there is close and ongoing consultation with the medical professionals who treat and support people with the significant health issues caused by smoking – from addiction problems, a range of cancers, respiratory issues, through to palliative care for those dying from the scourge of tobacco. The RACP is committed to contributing to the development of health policies that help lead New Zealand to a smoke-free future and looks forward to future consultation opportunities on this matter.

If you would like to discuss this submission further, please contact the New Zealand Policy and Advocacy Unit on [policy@racp.org.nz](mailto:policy@racp.org.nz).

Yours faithfully

[redacted] [redacted]

[redacted]

# Consultation submission 113

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

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

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

Tobacco control non-government organisation

YES Academic/research

Cessation support service provider

YES 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.

YES I am not an e‑cigarette user.

I have tried e‑cigarettes.

### Privacy

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

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

Do not publish this submission.

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

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

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

This submission contains commercially sensitive information.

### Declaration of tobacco industry links or vested interest

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

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

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes YES-BUT (see notes below) No

Reasons/additional comments:

|  |
| --- |
| Congratulations to the Ministry of Health (MoH) for exploring such options and for consulting with the wider NZ public. Nevertheless, this document is suboptimal in the area of who should be the permitted retailers. Given nicotine is an addictive substance it is necessary that the sale and supply of nicotine-containing e-cigarettes should only be permitted with tight regulatory controls in place (including pharmacy-only sales or licenced vape shops, or perhaps both) – and then be seriously reviewed at regular intervals (eg, every 2 years) to ensure it is likely to be a net benefit to population health.  Please see the text from a Public Health Expert Blog that goes into detail around possible outlets that was published in September 2016: <https://blogs.otago.ac.nz/pubhealthexpert/2016/09/08/perspective-options-for-licensed-retailing-of-nicotine-containing-e-cigarettes-in-nz/>). This blog does not include the option of licensing of e-cigarette importers – which could be another reasonable option to maximise quality control and to reduce the risks of vogue behaviours in the market (eg, advertising to youth).  Of note is that my understanding of the dominant view around the scientific evidence around the net benefit of access to e-cigarettes to population health remains is that it is still fairly unclear. That is it is not clear if potential benefits (ie, any increase in quitting and for harm reduction in long-term vapers), actually outweigh the risks (ie, of increased youth uptake and prolonged dual use). Hence the need for a highly cautious and highly regulated approach to both e-cigarettes and to tobacco (as outlined in the blog referred to above). In particular, a tightly regulated approach to both these products would minimise the risks of dual use and maximise switching away from smoked tobacco (to e-cigarettes or to no nicotine).  Nevertheless, preliminary modelling work by the University of Queensland (led by Coral Gartner and Anna Crothers) and using a modified BODE3 multi-state life-table tobacco model, does suggests that legalizing nicotine-containing e-cigarettes in NZ might result in net health (QALY) gains, provide relatively greater health benefits for Māori (on a per capita basis), and result in health sector cost savings. Further details of this work will be supplied to the NZ Ministry of Health in the near future – after additional modelling refinements are made and a full set of scenario analyses are run.  It is an appropriate part of the democratic process for the Ministry of Health to consider submissions from commercial vested interests (vaping industry and tobacco industry) and also ideologically-based think tanks funded by commercial interests. While the Ministry needs to approach with due scientific scepticism all submissions (including this one), it should have particular scepticism around submissions from commercial vested interests – who might put profits before health and societal well-being. There is a vast literature on how such interests seek to subvert policy (as per FCTC requirements) – but I am willing to provide additional references if these are required. |

#### 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  YES No

Reasons/additional comments:

|  |
| --- |
| The Ministry could take this opportunity of any revisions to the SFEA to ban hookahs. It could also commission a literature review to see what else could be included. |

#### 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  YES No

Reasons/additional comments:

|  |
| --- |
| Absolutely. Indeed there is a case for raising the age for both to 21 years – given the evidence that the adolescent brain is still developing and so highly advanced decision-making is not possible in adolescent brains (especially when dealing with complex issues around addictive substances). |

#### 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  YES No

Reasons/additional comments:

|  |
| --- |
| Absolutely – the Ministry should prioritise protecting young people from experimenting with e-cigarettes and so advertising controls are critical. Probably the best way to encourage smokers to switch to e-cigarettes is via price – ie, higher taxes on smoked tobacco and no tax (other than GST) on e-cigarettes. Also there is a need for informed media discourse when the new legislation is passed – involving politicians, MoH officials, NGO commentators and academics. The evidence from other countries is that e-cigarette advertising is highly irresponsible (using sex appeal and glamour) which is attractive to youth.  The only reasonable exception might be to permit point-of-sale displays of e-cigarette products inside licensed e-cigarette retailers (but not visible from the street). |

#### 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  YES No

Reasons/additional comments:

|  |
| --- |
| Absolutely. Otherwise confusion will be generated and the benefits of the very successful SFEA might be at risk of being eroded. Also people need to be protected from the toxicants arising from vaping – these are almost certainly less than from secondhand smoke (SHS), but are probably still important (see this blog: https://blogs.otago.ac.nz/pubhealthexpert/2016/07/04/what-does-recent-biomarker-literature-say-about-the-likely-harm-from-e-cigarettes/). There are also nuisance impacts – some people don’t like the smell associated with vaping. Many overseas jurisdictions have taken this approach – same rules for smoking as for vaping. It seems fairly rare for settings in other countries to prohibit smoking but to allow vaping.  Furthermore, US data suggest that vapers exposed to clean air restrictions, most (88%) “do not find it difficult to refrain from vaping in places where they are not supposed to vape” (see Yingst et al 2016 in Tobacco Control: <http://tobaccocontrol.bmj.com/content/early/2016/09/05/tobaccocontrol-2016-053074?papetoc> |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Control** | **Yes** | **No** | **Reasons/ additional comments** |
| Requirement for graphic health warnings |  | NO | This is perhaps only relevant when smoked tobacco is no longer legal. But the Ministry of Health should have the regulatory powers to require this if various additional problems with e-cigarettes emerge (or the hazards associated with them become better quantified). |
| Prohibition on displaying products in sales outlets |  | NO | Given the wide range of e-cigarette products and the need to help smokers to experiment with different products, it would help to allow display inside the licensed retail outlets (eg, at pharmacies or licensed vape shops). But such materials should not be visible from the street. |
| Restriction on use of vending machines | YES |  | Yes – absolutely. In fact the SFEA should simply prohibit all vending machine use for both cigarettes and e-cigarettes. |
| Requirement to provide annual returns on sales data | YES |  | Yes – such data will help policy-makers determine the appropriate role of further regulating the e-cigarette market to help achieve the Government’s Smokefree Nation 2025 goal. |
| Requirement to disclose product content and composition | YES |  | Yes – disclosure of ingredients/content is a consumer right. The key ingredient is the nicotine concentration so vapers can make informed decisions about dosage. The Ministry should have the regulatory powers to easily add other disclosure requirements – as the evidence base improves. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | YES |  | As directly above for ingredients and nicotine. Flavours might help smokers with the switch to vaping but the hazards of such flavours should be regularly assessed by the Ministry of Health. Flavours might also increase the appeal of e-cigarettes to young people – so this issue needs careful monitoring. To minimise regulatory costs, the Ministry should have regulatory powers to immediately ban any particular flavours for which specific health risks are a concern. |
| Requirement for annual testing of product composition |  |  | Possibly as resources permit. If so perhaps to maximise cost-effectiveness it could involverandomly sampling the most popular brands. But the priority is to encourage vapers to try to transition off vaping (to complete nicotine abstinence) as soon as they can. |
| Prohibition on free distribution and awards associated with sales | YES |  | Absolutely. Any such marketing strategies could increase the risks of youth uptake. |
| Prohibition on discounting |  | NO | To maximise switching the price differential between tobacco and e-cigarettes is important. Hence discounting might be reasonable to allow. |
| Prohibition on advertising and sponsorship | YES |  | Yes – this prohibition is needed to minimise the risks of youth uptake. But in-store display could be permitted to help with smokers selecting e-cigarette products that are most suitable for them (see above). |
| Requirement for standardised packaging |  | NO | This is not critical – but the Ministry of Health should have the regulatory powers to require this if various additional problems with e-cigarettes emerge. |
| Other | YES |  | The SFEA should probably only permit e-cigarette sales by pharmacies or licensed vape shops (see arguments detailed below). |

#### 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  NO

Reasons/additional comments:

|  |
| --- |
| The price differential is a very important mechanism for helping encourage smokers to switch to e-cigarettes. Once smoking is rare (or tobacco sales are prohibited) then the phase-out of e-cigarettes could include use of excise taxes and other regulatory measures.  Nevertheless, there is a case for considering a levy on e-cigarette imports to fund the system of licensing retailers and for the supply of high quality official health information to customers. |

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

Yes  Possibly for some of these No

Additional comments:

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers |  |  | Possibly – if this can be achieved without substantial cost increases to the products. The Ministry of Health (MoH) should review the risks and the costs. |
| Safe disposal of e‑cigarette devices and liquids |  |  | Possibly – the MoH should review the risks and the costs. But this needs to be put into context with the huge health harm from current smoked tobacco and the large environmental burden from discarded cigarette butts – including the risks of forest fires. Most NZ smokers in public places continue to litter their butts – which often get washed into waterways (references available on request). |
| Ability of device to prevent accidents |  |  | Possibly – the MoH should review the risks and the costs. |
| Good manufacturing practice |  |  | It depends on the cost of regulating this highly diverse and dynamic e-cigarette product market. But this should be an option and so the MoH needs to have regulatory powers to act quickly as required. Ideally most smokers will switch to e-cigarettes and then phase these out over subsequent weeks or months – to become free of all nicotine addiction. The Ministry could specifically advise that vapers should regularly try to phase themselves off vaping (and possibly build this into the role that retailers who sell e-cigarettes have eg, pharmacists or licensed vape shops). |
| Purity and grade of nicotine |  |  | As above – the MoH should have these powers that could be used if the benefits are found to be significant in the future. The MoH should review the risks and the costs. |
| Registration of products |  |  | As above – the MoH should have these powers that could be used if the benefits are found to be significant in the future. The MoH should review the risks and the costs. |
| A testing regime to confirm product safety and contents purity |  |  | Possibly – if it is cost-effective. The key message is that vapers should be informed that it is best to quit vaping after weeks or months. The MoH could possibly use European on North American standards – if these are not to constraining of product innovation (which is potentially important for improving the scope of these products to replace smoking). |
| Maximum allowable volume of e-liquid in retail sales |  |  | Possibly – the Ministry of Health should review the risks and the costs. Larger permitted volumes might reduce costs to vapers – which helps reduce the risk of reverting to more expensive smoked tobacco. |
| Maximum concentration of nicotine e-liquid |  |  | Possibly – the Ministry of Health should review the risks and the costs. |
| Mixing of e-liquids at (or before) point of sale |  |  | Possibly – the Ministry of Health should review the risks and the costs. |
| Other |  |  | This is a complex topic and the products are very diverse and are rapidly evolving. The key is for the Ministry of Health to have a wide range of regulatory powers so it can quickly introduce new regulatory requirements if future research identifies harm from particular aspects of e-cigarettes. |

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

|  |
| --- |
| The critical issue is the retail outlets for e-cigarettes. Ideally these should be restricted to being pharmacy-only or possibly licensed vape shops (or both). Please see the text from a Public Health Expert Blog that goes into detail around possible outlets: <https://blogs.otago.ac.nz/pubhealthexpert/2016/09/08/perspective-options-for-licensed-retailing-of-nicotine-containing-e-cigarettes-in-nz/> (published in September 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)?

|  |
| --- |
| There are many anecdotal reports of shops which sell e-cigarette devices also supplying (illegal) nicotine-containing e-liquid. |

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

|  |
| --- |
| Given the huge health burden from tobacco (and the health cost burden as well) – this question covers an issue that is not relevant for the Ministry of Health. The Ministry of Health should be in “the business” of what is best for the health of New Zealanders overall (and with managing the health budget) and should not at all be concerned about the economic viability of those retailing nicotine products – especially tobacco retailers. As usual, business-related concerns will be well articulated by those politicians who get lobbied by the business interests (eg, the vaping industry or the tobacco industry or by pro-market think tanks). |

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

The above questions are very strange to include in a policy consultation document. This type of data should be collected in appropriately designed survey.

# Consultation submission 114

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

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

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

Tobacco control non-government organisation

√ Academic/research

Cessation support service provider

√ Health professional

Māori provider

Pacific provider

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

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

Please indicate your e‑cigarette use status:

I am using nicotine e‑cigarettes.

I am using nicotine-free e‑cigarettes.

I currently smoke as well as use e‑cigarettes.

√ I am not an e‑cigarette user.

I have tried e‑cigarettes.

### Privacy

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Do not publish this submission.

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

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

This submission contains commercially sensitive information.

### Declaration of tobacco industry links or vested interest

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

|  |
| --- |
| No tobacco industry links or vested interest. |

Please return this form by email to:

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

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

## Consultation questions

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

**Preamble**

A nicotine e-cigarette is not a tobacco product nor is it a smoking cessation device. It is an alternative nicotine product that people may use to stop smoking, reduce smoking or as an alternative behaviour to smoking. Other alternative nicotine products will hit the market in the future that will also allow for safer use of nicotine, than smoked tobacco.

Tobacco control has irrevocably changed with the introduction of nicotine e-cigarettes. Smokers now have options. The approach to reducing smoking in New Zealand (NZ) needs to be reframed. Māori and Pacific have much higher rates of smoking than non-Māori, particularly Māori women with 42% smoking compared to NZ Europeans’ rate of 13%. Anti-smoking campaigns have been reversing the rise in smoking among NZ European women. Māori women’s smoking prevalence has also been declining but the gap between Māori women and European is not narrowing, if anything the inequity is widening as tobacco control measures in New Zealand favour interventions that will reach and work primarily for European people.

This submission is based on a set of principles:

1. E-cigarettes are accepted to be significantly less harmful than tobacco.(1) It must be easier to obtain e-cigarettes than it is to buy cigarettes.
2. Vapers must not be subjected to a punitive tax. The initial setup cost for vaping has to be able to be recouped within a short time frame, or people will not switch.
3. The growth of the smaller e-liquids suppliers should be encouraged to avoid the situation where the tobacco industry dominates and can manipulate the market. It is in their financial interests to keep people smoking.
4. The overall aim is to allow e-cigarettes to be used with nicotine, so as to encourage smokers to switch to vaping as a means of stopping smoking.(2-4) This will save lives, and help us to reach the 2025 smokefree goal.
5. Tobacco Advisory Group of the Royal College of Physicians. Nicotine without smoke: tobacco harm reduction. Royal College of Physicians, 2016
6. McRobbie H, Bullen C, Hartmann-Boyce J, Hajek P. Electronic cigarettes for smoking cessation and reduction. Cochrane Database Syst Rev. 2014;(12) CD010216 doi: 101002.14651858.CD010216.pub2
7. Hajek P, Etter JF, Benowitz N, Eissenberg T, McRobbie H. Electronic cigarettes: review of use, content, safety effects on smokers and potential for harm and benefit*. Addiction*. 2014;109(11):1801-1810
8. Bullen C, Howe C, Laugesen M, McRobbie H et al. Electronic cigarettes for smoking cessation: a randomised controlled trial. *The Lancet*. 2013 Nov 16;382(9905):1629-1637

#### 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 agree that the sale and supply of nicotine e-cigarettes and nicotine liquids should be allowed on local markets **i.e. in any retail outlets** in NZ but with very minimal controls. Nicotine e-cigarettes should be widely available to all smokers as it is a much less harmful alternative product than smoked tobacco. As Professor Richard Edwards, University of Otago, Wellington said on National radio on Saturday, 27 August 2016, it would be illogical to restrict e-cigarettes more than smoked tobacco is restricted. Smoked tobacco products are readily accessible at convenience stores throughout the country at a lower entry level price than even the cheapest e-cigarette.  Controls should be minimal to ensure that nicotine for e-cigarettes is accessible to ***all*** smokers wishing to purchase these products to assist them reduce or quit smoking. The estimated harm is minor compared with many other behaviours, substances, foods etc enjoyed by people. A precautionary approach would be to allow the sale of nicotine e-cigarettes as a consumer product but monitor and review it.  There is considerable interest in nicotine e-cigarettes among low socio-economic smokers (mainly Māori and Pacific smokers) in NZ.(1) Reducing high rates of smoking among Māori (39%) and Pacific people (25%)(2) is a priority for Government, nicotine e-cigarettes have the potential to contribute significantly to reducing these rates. We need to make sure they are available to these smokers.   1. Glover M, Fraser T, Nosa V. Views of low socio-economic smokers: what will help them quit? *Journal of Smoking Cessation*, 2012;7(1):1-6) 2. Ministry of Health 2014. Tobacco Use 2012/13: New Zealand Health Survey. Wellington: Ministry of Health. |

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

Yes √ No

Reasons/additional comments:

|  |
| --- |
| All innovative harm reduced alternative products to smoked tobacco should be available to smokers, who wish to get nicotine from other sources that are not combustible and do not produce carcinogens. It is important that new and emerging and yet to be developed greatly harm-reduced nicotine delivery products are accessible to all NZ smokers including Māori and Pacific and people of lower socio-economic status. Unfounded restrictions will create barriers and risk maintaining inequitable Maori and Pacific smoking prevalence rates compared to non-Māori.  **1.Smokeless tobacco**  We have known since the early 1980's that the smokeless tobacco products that are widely available on the American and Swedish markets present far less risk of potentially fatal tobacco-related illness than cigarettes.  **2.Nicotine lactate e-cigarette**  This is replacing the nicotine pyruvate cigarette owned by Philip Morris.  **3.Heat not burn devices**  These heat tobacco to <400 degrees C but do not produce carcinogens.  No specific excise tax should be applied to new greatly harm-reduced nicotine delivery products. The excise tax currently applied to smokeless tobacco should be removed. |

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

Yes  No √

Reasons/additional comments:

|  |
| --- |
| There is no evidence nicotine e-cigarettes are a gateway product.(1) Nicotine e-cigarettes should be available to young people under 18 as:   1. Many teenagers smoke, particularly young Māori who are three times more likely to smoke than non-Māori with a prevalence rate of 11.26%.(2) 2. It is already recommended that nicotine replacement therapy products are not used by young people under the age of 12 years. 3. Young people may be interested in quitting and should be encouraged to switch to nicotine e-cigarettes, which is far safer than continued smoking. 4. Some under 18 year old girls and young women who smoke get pregnant. Every effort should be made to assist abstinence from smoking while pregnant, including switching them to greatly harm-reduced products.   Restricting sales of e-cigarettes to people under 18 will inhibit switching and leave many young people unnecessarily smoking. Supporting adults to vape so that their health is improved while denying this to smokers under the age of 18 is contradictory.  The final amendments should not create an environment whereby young under 18 year old smokers have to break the law to quit smoking.   1. Tobacco Advisory Group of the Royal College of Physicians. Nicotine without smoke: tobacco harm reduction. Royal College of Physicians, 2016 2. ASH (Action on Smoking and Health). 2015 Factsheet 1. ASH year 10 snapshot survey. Topline results. <http://www.ash.org.nz/wp-content/uploads/2016/08/ASH-Y10-Snapshot-2015-Factsheet-1-General-Topline-FINAL.pdf> Accessed 26 August 2016 |

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

Yes  No √

Reasons/additional comments:

|  |
| --- |
| Smoked tobacco products are dangerous products, which kill between 4,500 and 5,000 people in NZ,(1) which is the reason advertising of them is banned. There is no evidence that anyone has ever died from a nicotine e-cigarette-related death. Nicotine e-cigarettes are estimated to be 95% safer than cigarettes.(2) They are addictive, although it is likely they are not as addictive to smoked tobacco.(3,4) Unfounded restrictions such as banning advertising sends the misleading message that vaping nicotine is somehow dangerous and deserving of restrictions.  All of the rationale given for banning advertising of smoked tobacco e.g. to reduce initiation, will work to inhibit initiation of reduced harm nicotine delivery alternatives to smoke tobacco. It is illogical to institute known inhibitors that will discourage smokers from switching to alternative greatly harm-reduced products, products that smokers in supportive municipalities are switching to at a rate that can be described as faster than a mass exodus.  The only advertising that should not be allowed is advertising that glamourises vaping. This does not mean that the products themselves should not be glamourous but rather that the promotion of them is about the products themselves not the act of vaping.   1. Peto R, et. al. 2006. Mortality from smoking in developed countries 1950-2000 (2nd edition, 2nd edition, revised June 2006: www.deathsfromsmoking.net). Geneva: Switzerland: International Union Against Cancer (UICC). 2. Public Health England. E-cigarettes: an evidence update. A report commissioned by Public Health England. [https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/457102/Ecigarettes\_an\_evidence\_update\_A\_report\_commissioned\_by\_Public\_Health\_England\_FINAL.pdf Accessed 26 August 2016](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457102/Ecigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf%20Accessed%2026%20August%202016) 3. Dawkins L, Turner J, Roberts A, Soar K. ‘Vaping’ profiles and preferences: an online survey of electronic cigarette users. Addiction, 2013 Jun;108(6):1115-1125 4. Foulds J, Veldheer S, Yingst J, Hrabovsky S et al. Development of a questionnaire in a large sample of ex-smoking e-cig users. Nicotine Tob Res. 2015 Feb;17(2):186-92 |

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

Yes  No √

Reasons/additional comments:

|  |
| --- |
| Nicotine e-cigarettes do not burn tobacco and do not create smoke. There is no evidence of harm to bystanders from exposure to e-cigarette vapour and the risks to their health are likely to be extremely low.(5) Banning vapour from nicotine e-cigarettes because the smell offends is not sufficient reason to ban in public and work places.  Banning vaping in an environment is to continue the social exclusion and marginalisation of vapers because they are not seen as any different from smokers (e.g. they’re still recalcitrant addicts). It should not be prohibited anywhere. Anything that inhibits switching to vaping is counterproductive. We want to encourage vaping as an alternative behaviour to smoking or a method of quitting smoking.  Organisations should be able to set their own policies about vaping. This will enable compassionate employers to allow vapers to vape inside. This is happening now, it is enabling smokers to quit and they feel supported to do so. Banning vaping wherever smoking is banned will inhibit the exodus. Hospitals and prisons should be encouraged to develop policies that include nicotine e-cigarettes to support the management of smokefree policies and to assist patients and inmates to quit smoking. Banning nicotine e-cigarettes in these institutions may disproportionately affect more disadvantaged smokers.(6)  Schools could develop policies which include e-cigarettes as a smoking cessation tool but ban vaping in certain instances in the same way mobile phones, drinking sugary drinks etc are prohibited at times and in specific areas.  Vaping could be banned in areas where there is concern there may be an explosion e.g. on planes, in operating theatres and anywhere fuel is stored. However, planes have already banned them without legislation and it is likely that hospitals and fuel depots could do the same.  If vaping were prohibited in designated smokefree areas in the same way as smoking is prohibited it would mean vapers would be required to vape in the same space as smokers and this could undermine their ability to quit smoking and stay smokefree particularly those most heavily addicted. It also sends a message that vaping is somehow as dangerous as smoking tobacco. It is not and this message will see people continue to smoke or relapse to smoking. To maximise the number of smokers switching to e-cigarettes, vaping should be made a more convenient option.(5)  Offering a safe and effective alternative to smoking to people who are addicted to nicotine may help support compliance with smokefree legal requirements and make smokefree policies easier to implement.(7)   1. Public Health England. Use of e-cigarettes in public places and workplaces. Advice to inform evidence-based policy making. July 2016 <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534586/PHE-advice-on-use-of-e-cigarettes-in-public-places-and-workplaces.PDF> 2. Public Health England. E-cigarettes: an evidence update. A report commissioned by Public Health England. [https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/457102/Ecigarettes\_an\_evidence\_update\_A\_report\_commissioned\_by\_Public\_Health\_England\_FINAL.pdf Accessed 26 August 2016](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457102/Ecigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf%20Accessed%2026%20August%202016) 3. ASH UK. Will you permit or prohibit vaping on your premises? January 2014. <http://ash.org/wp-content/uploads/2014/02/ASH-Ecig-briefing.pdf> Accessed 29 August 2016 |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Control** | **Yes** | **No** | **Reasons/ additional comments** |
| Requirement for graphic health warnings |  | √ | There are no known serious health deficits, so the only reason would be to warn consumers nicotine may be addictive but it is thought that nicotine in e-cigarettes is probably less addictive than in cigarettes.(8,9,10)  (8) Dawkins L, Turner J, Roberts A, Soar K. ‘Vaping’ profiles and preferences: an online survey of electronic cigarette users. *Addiction*, 2013 Jun;108(6):1115-1125  (9)Pellegrino R, Tinghino B, Mangiaracina G, Marani A et al. Electronic cigarettes: an evaluation of exposure to chemicals and fine particle matter (PM). *Ann Ig*. 2012; 4(4):279-88  (10)Foulds J, Veldheer S, Yingst J, Hrabovsky S et al. Development of a questionnaire in a large sample of ex-smoking e-cig users. *Nicotine Tob Res*. 2015 Feb;17(2):186-92 |
| Prohibition on displaying products in sales outlets |  | √ | We want smokers to switch to nicotine e-cigarettes. It is important that products can be displayed to enable purchase as e-cigarettes are highly personal products. |
| Restriction on use of vending machines |  | √ | Not required, it is unlikely e-cigarette retailers would want to sell nicotine liquids and e-cigarettes via vending machines. There are too many choices. |
| Requirement to provide annual returns on sales data |  | √ | Not necessary, this would be too onerous for small companies. |
| Requirement to disclose product content and composition | √ |  | This should be similar to food and beauty products. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  | √ | Some regulations are required:   * Nicotine – nicotine should be of a pharmaceutical grade * Flavourings - food grade regulations should be required for all flavourings except those with known health risks. These should be banned. |
| Requirement for annual testing of product composition |  | √ | Not necessary. |
| Prohibition on free distribution and awards associated with sales |  | √ | We want to encourage smokers to try vaping. Free distribution and awards could increase the number of smokers trying nicotine e-cigarettes. |
| Prohibition on discounting |  | √ | Discounting e-cigarettes could encourage more smokers to switch to them. |
| Prohibition on advertising and sponsorship |  | √ | There should be no prohibition on advertising (apart from glamourising the act of vaping) and sponsorship. |
| Requirement for standardised packaging |  | √ | It is not justified. There would be no public health gain. |
| Other |  |  | It is important not to load e-cigarettes with burdens due to mythical ideas that nicotine is dangerous. |

#### 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:

|  |
| --- |
| Currently there is a strong financial incentive for smokers to switch to vaping. Taxing nicotine e-cigarettes would discourage smokers switching from an extremely harmful product to a much safer product.  Nicotine e-cigarettes do not kill people and so do not qualify as public health risk products. They emit nicotine, not carcinogens. |

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

Yes √ No

Additional comments

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers | √ |  | Already in manufacturers proposed voluntary Code of Standards <http://vtanz.org.nz/regulations.php> but should be included in the legislation. |
| Safe disposal of e‑cigarette devices and liquids | √ |  | This should be the same as disposal of mobile phones. |
| Ability of device to prevent accidents | √ |  | Industry standards could be developed to address aspects of safety: mechanical thermal, electrical. |
| Good manufacturing practice | √ |  | There is no need for anything more restrictive than food manufacture. This would require manufacturers to provide a safety plan and document their adherence to it. |
| Purity and grade of nicotine | √ |  | Should be pharmaceutical grade. |
| Registration of products |  | √ | Unnecessary. |
| A testing regime to confirm product safety and contents purity |  | √ | It should be left up to the manufacturer to decide how to provide a good quality product. |
| Maximum allowable volume of e-liquid in retail sales |  | √ | There is no basis for imposing a limitation on the allowable volume of e-liquid in retail sales. |
| Maximum concentration of nicotine e-liquid |  | √ | This should be left to manufacturers and retailers to decide, and to customer demand. It will self-regulate. Let the market decide. |
| Mixing of e-liquids at (or before) point of sale |  | √ | The diversity of liquids for e-cigarettes is an important part of the appeal of e-cigarettes. This should not be regulated. |
| Other |  |  |  |

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

|  |
| --- |
| A study just published has highlighted the lack of knowledge health professionals and smokers have about nicotine e-cigarettes.(11) Government will need to ensure an education campaign is developed to inform the public about nicotine e-cigarettes, where to access them, how to use them etc.  Easy availability of nicotine for e-cigarettes in NZ has the potential to be a game changer and is likely to contribute significantly to achieving Smokefree 2025. The temptation to over-regulate and stifle this option for quitting must be avoided. It must be remembered that nicotine e-cigarettes are 95% safer than cigarettes, and smokers appear to be much more interested in them than they are NRT or other quit smoking options.  (11) Fraser T, Chee N, Laugesen M. Perspectives of New Zealand health professionals and smokers on e-cigarettes. NZMJ. 2016. 129;1441:98-100 |

### 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 115

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

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

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

Tobacco control non-government organisation

Academic/research

Cessation support service provider

Health professional

Māori provider

Pacific provider

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

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

Please indicate your e‑cigarette use status:

I am using nicotine e‑cigarettes.

I am using nicotine-free e‑cigarettes.

I currently smoke as well as use e‑cigarettes.

I am not an e‑cigarette user.

I have tried e‑cigarettes.

### Privacy

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

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

Do not publish this submission.

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

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

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

This submission contains commercially sensitive information.

### Declaration of tobacco industry links or vested interest

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

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

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| All credible scientific research shows e-cigarettes to be significantly less harmful than traditional tobacco cigarettes and as such should be made available on the local market. The only controls required should be restricting sales to those 18 and over and e-liquid sold in child proof bottles with appropriate labelling of the ingredients. |

#### 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:

|  |
| --- |
| Though prohibiting the sale of e-liquids containing nicotine to young people under 18 years of age is essential, it should not be categorised as a tobacco product as it does not cause the same harm as traditional combustible tobacco. |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| Cigarettes are a known killer which is why advertising control was put in place, e-cigarettes are at least 95% safer (refer to the Royal College of Physicians report on e-cigarettes) so should not fall under the same controls. I firmly believe they should be actively promoted to current smokers over 18 years of age as a healthier alternative to combustible 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:

|  |
| --- |
| As there is no evidence that second hand vapour contains the toxins that second hand smoke is claimed to do, there is no public health risk relating to the use of e-cigarettes in communal areas. There needs to be clear distinction between smoking and vaping and all efforts made not to categorise users of e-cigarettes as smokers, by including vaping in smokefree areas you are creating the impression that vaping is as harmful as 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 |  |  |  |
| Prohibition on displaying products in sales outlets |  |  | They should be actively promoted over combustible tobacco products |
| 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:

|  |
| --- |
| Excise was introduced to counter the health impacts and related costs of smoking, as no negative health impacts have been identified in e-cigarettes there are no grounds for any additional excise on top of the GST we already pay on our consumer products. |

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

Yes  No

Additional comments:

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers |  |  |  |
| 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?

|  |
| --- |
| E-cigarettes should be at least, if not more, readily available than combustible tobacco products. They are significantly less harmful and any restrictions that make them harder to access than combustible tobacco products is, in essence, promoting combustible tobacco products over a safer alternative.  It is essential that existing barriers for accessing e-cigarettes and e-liquid are not only removed, so that local shops are able to provide advice on nicotine e-liquid to people attempting a switch to e-cigarettes, but also that New Zealand smoking cessation organisations are given the appropriate training and information to actively promote e-cigarettes alongside their other currently available options.  If we want New Zealand to be smoke free by 2025, you have a solution right in front you. |

### 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?** |
| 2 years, 10 months | Daily | $30 | UK & USA |

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 116

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

I have tried e‑cigarettes.

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Do not publish this submission.

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

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

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

This submission contains commercially sensitive information.

### Declaration of tobacco industry links or vested interest

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|  |
| --- |
| JTI is a member of the Japan Tobacco Group (JTG) of Companies, a leading international tobacco product manufacturer. Headquartered in Geneva, Switzerland, JTI is a global player in the e-cigarette market since the acquisition of E-Lites in 2014 and Logic in 2015 and has been involved in heated tobacco since 2011 with a brand called Ploom. JTI has operations in more than 120 countries and employs about 25,000 people. Please visit [www.JTI.com](http://www.JTI.com) for more information. |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes X No

Reasons/additional comments:

|  |
| --- |
| JTI welcomes the further development of appropriate and proportionate regulations for electronic cigarettes.  JTI believes that proportionate regulation of electronic cigarettes, covering product safety, quality and consumer information, should meet a number of key requirements:     * Electronic cigarettes should be available to adult consumers and their sale should not be restricted to particular sales channels, such as pharmacies. * Product regulation should be balanced. * Advertising of electronic cigarettes should not be banned. * The responsible use of flavors in e-liquids should be permitted. * Flavor descriptors should not be banned. * All relevant stakeholders should have the opportunity to contribute to the regulatory process.   JTI believes in the freedom of adults to choose whether they wish to use electronic cigarettes and that no one should use them unless he or she understands the risks associated with doing so. |

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

Yes  No X

Reasons/additional comments:

|  |
| --- |
| Not to our knowledge. |

#### 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, we believe that this is important. JTI does not market electronic cigarettes, or any other nicotine-containing product, to minors or to non-users of tobacco or nicotine-containing products. |

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

Yes  No X

Reasons/additional comments:

|  |
| --- |
| JTI is opposed to bans on electronic cigarette advertising. The ability to advertise is an essential commercial freedom and is fundamental to any consumer goods company's ability to build their brands and compete for market share.  Advertising also benefits consumers. It promotes competition, increases consumer choice and encourages manufacturers to introduce new, better quality products. Bans on legitimate advertising will damage JTI’s ability to compete effectively and will frustrate consumer choice by hindering new entrants to the electronic cigarette market.    Advertising influences demand for one product over another, within a product category. It does not have the power to make people buy products they do not want. The basic argument for advertising bans stems from the belief that advertising leads to an increase in overall consumption and also that this advertising may contribute to consumption by minors. However, the evidence to support such arguments is, at best, equivocal. Advertising is a necessary element of competition and an important means of communicating with adult users of e-cigarettes.  JTI is committed to advertising its products responsibly. We only advertise to adult e-cigarette users. JTI advertises electronic cigarettes for three reasons: to maintain brand loyalty; to encourage adult e-cigarette users of competitor brands to switch to our products; and to provide information about our electronic cigarettes to adult consumers.  JTI supports practical, effective and proportionate electronic cigarette advertising standards, which also serve to preserve electronic cigarette companies’ rights to communicate with adult consumers. In the UK, for example, the advertising of e-cigarettes is governed by two Codes (broadcast and non-broadcast) produced by the UK Committee of Advertising Practice in October 2014, an advertising industry funded, self-regulatory body.  The key elements of the CAP code are:   * Adverts must not be likely to appeal particularly to people under 18, especially by reflecting or being associated with youth culture * People shown using e-cigarettes or playing a significant role must neither be, nor seem to be, under 25 * Adverts must not be directed at people under 18 through the selection of media or the context in which they appear * Adverts must not encourage non-smokers or non-nicotine users to use e-cigarettes * Adverts must make clear that the product is an e-cigarette and not a tobacco product.   The two advertising Codes produced by the UK Committee of Advertising Practice strike the right balance between allowing responsible advertising and preventing the targeting of minors and non-smokers – and can serve as a template for the regulation of e-cigarette advertising in other markets like New Zealand. |

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

Yes  No X

|  |
| --- |
| Reasons/additional comments:    Where electronic cigarettes can be used will depend mainly on local laws and regulations. However, it is essential to reiterate that vaping is not smoking and the two should not be conflated.    Legal requirements to prohibit or restrict the use of e-cigarettes in public places or workplaces are unnecessary and unjustified. There is no credible evidence that exhaled e-cigarette vapour poses a health risk to bystanders; due to their design, electronic cigarettes do not emit ‘side stream’ vapour and any vapour that is exhaled during use disperses into the air within seconds.    Of course, there will always be exceptions where it would be ill-advised to use e-cigarettes, for example in educational facilities, but it is questionable whether legislation is needed to enforce a common sense approach. At all times it is important that e-cigarette users show due consideration for those around them.  ***Regarding ‘second hand vapor’***  The vapor from e-cigarettes consists mainly of the carrier (typically propylene glycol and or glycerol), water, flavor and nicotine. Unlike smoke from combusted tobacco products, however, e-cigarette vapor is only generated when a puff is taken on the e-cigarette device. Between puffs, no vapor is generated so there is no ‘side-stream’ vapor from the distal end of the device. Consequently, only vapor that has been inhaled and then exhaled can enter the atmosphere and disperses into the air within seconds. This exhaled vapor is likely to be chemically simpler compared to the inhaled vapor due to the retention of some constituents and general dilution with air in the respiratory tract and after exhalation.  A 2014 systematic review of the available evidence at the time concluded; “*Current state of knowledge about chemistry of liquids and aerosols associated with electronic cigarettes indicates that there is no evidence that vaping produces inhalable exposures to contaminants of the aerosol that would warrant health concerns by the standards that are used to ensure safety of workplaces. … Exposures of bystanders are likely to be orders of magnitude less, and thus pose no apparent concern.*”1  ***Regarding potential confusion between e-cigarettes and conventional cigarettes***  The argument that there could be confusion between e-cigarettes and conventional cigarettes does not stand up to scrutiny. While some types of e-cigarettes (known as cig-a-like devices) may at first sight appear similar to conventional cigarettes, they tend to be made of different materials, such as plastic or metal. Furthermore, during use, such e-cigarettes have an LED light at the distal end which lights up with each puff taken. This light is often coloured blue or green, making the distinction with lit cigarettes easy. Refillable (tank) e-cigarettes typically do not have LED lights to indicate when puffs are being taken. Such products, however, typically do not look like conventional cigarettes, making it easy to distinguish the two.  It should also be noted that the same allegation could equally be applied to medicinal nicotine inhalers (e.g. the Nicorette® Inhaler2). Indeed, should in future an e-cigarette be licensed as a medicinal product, a bizarre situation may arise whereby that product could be used in public places (as it would be used for therapeutic purposes) while a similar looking product, that is not medicinally licensed, could not be used. If anything, this situation is likely to cause more confusion than distinguishing between e-cigarettes and conventional cigarettes.  1 <http://www.biomedcentral.com/1471-2458/14/18/abstract>  2 http://www.nicorette.co.uk/products/inhalator |

#### 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 | JTI believes in the freedom of adults to choose whether they wish to use electronic cigarettes and that no one should use them unless he or she understands the risks associated with doing so. All marketed electronic cigarettes should comply with existing relevant regulations, such as those concerning general consumer product safety, electrical safety and consumer protection from misleading marketing claims. JTI also supports reasonable and proportionate regulation that aims to keep electronic cigarettes out of the hands of minors and to remind users of the risks associated with their use. But governments and regulators should avoid unnecessary and excessive regulation, such as the use of graphic health warnings. |
| Prohibition on displaying products in sales outlets |  | X | JTI fundamentally disagrees with the proposal to ban the display of electronic cigarettes at point of sale. There is no reliable evidence that proves that any display ban has been successful in reducing use. Given New Zealand’s reasons for considering the legalization of electronic cigarettes as consumer products, a display ban would seem counterproductive.  Display bans have serious negative impacts on competition, retailers, the informed choice of consumers and legal trade, without causing a reduction in use.  Display bans run counter to our fundamental legal rights as a business, including the right to commercial free speech and the right to trade. |
| Restriction on use of vending machines |  | X | JTI is fundamentally opposed to a ban on electronic cigarette vending machines. Adults who choose to use electronic cigarettes are entitled to be treated fairly, equally and have the right to choose and the ability to obtain the products they prefer. Any ban would be disproportionate and unnecessary and would prevent legitimate access by adult users of these products.  Electronic cigarettes should be available to purchase via vending machines. Very clear and convincing reasons, based on credible scientific evidence, are necessary to restrict the means by which adult users’ access electronic cigarettes.  JTI believes that minors should not use electronic cigarettes and should not be able to obtain these products either via vending machines or other sales channels. Access to electronic cigarettes via vending machines should be strictly controlled to prevent sales to minors and we advocate restrictions that are effective in preventing access by minors. |
| Requirement to provide annual returns on sales data |  | X | JTI does not see any regulatory justification for providing such data. In addition, it would unnecessarily increase the administrative burden of the New Zealand authorities. |
| Requirement to disclose product content and composition | X |  | JTI is not opposed to providing ingredients disclosure for the consumable part (i.e. e-liquid) as long as the confidentiality of trade secrets information (i.e. individual e-liquid recipes) is respected. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | X |  | JTI believes that proportionate ingredients regulation would be beneficial, such as that provided for in the European Tobacco Products Directive Article 20.3 which restricts the use of certain categories of ingredients (e.g. mutagens and reproductive toxicants). |
| Requirement for annual testing of product composition |  | X | JTI does not see any regulatory justification for requiring such testing. Manufacturers should be required to bear responsibility for the quality and safety of products (e.g. see the European Union Tobacco Products Directive Article 20.2g). |
| Prohibition on free distribution and awards associated with sales |  | X | JTI does not see any regulatory justification for such a prohibition. As with any other consumer good, in the absence of any demonstrable justification, such practises should be permitted. |
| Prohibition on discounting |  | X | JTI does not see any regulatory justification for such a prohibition. As with any other consumer good, in the absence of any demonstrable justification, such practises should be permitted. |
| Prohibition on advertising and sponsorship |  | X | JTI does not see any regulatory justification for such a prohibition. On advertising, please see answer to Q4 above. |
| Requirement for standardised packaging |  | X | JTI is categorically opposed to plain/standardized packaging:  There is no reliable evidence that plain or standardized packaging has achieved its objectives. It has widespread negative consequences. It is disproportionate, unjustified and unnecessary. It breaches legal rights as protected by various laws and treaties.  The packaging of consumer goods, including electronic cigarettes, enables existing consumers to differentiate between products. The legitimate use of branding and trademarks also serves to maintain quality standards, as packaging acts as a symbol to consumers that the manufacturer stands behind its products.  Given New Zealand’s reasons for considering the legalization of electronic cigarettes as consumer products, plain or standardized packaging seems contrary to the intent of this consultation. |
| Other: Nicotine content labelling | X |  | JTI believes that the nicotine content of e-liquids (in mg/ml) should be stated on package labelling. [see question 7] |

#### 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:

|  |
| --- |
| JTI does not oppose excise taxation of e-cigarettes, provided that the principles of sound tax policy are respected, however we believe that imposing taxation on electronic cigarettes at this juncture would be premature.  Electronic cigarettes (or e-cigarettes) are different from conventional tobacco products as they do not contain tobacco, and are not combustible. They are a non-smoking product where a liquid is heated to deliver a vapour.  As the sale and supply of e-cigarettes in New Zealand is currently unlawful (unless it is done within the limits of the Medicines Act), there is no legal market for such products in the country and relevant data on sales dynamics and consumers’ behaviour is lacking.  There is also significant uncertainty on how the e-liquid market would react to the introduction of taxes. The case of Italy clearly exemplifies this: after the country had introduced a 58.5 percent tax on vaping devices and liquids in January 2014, market growth declined from 250% to negative.  We believe that imposing taxation with limited understanding of the market risks destabilizing this nascent category and may provide incentives to unregulated sales, especially as demand for e-cigarettes already exists, thus undermining government policy objectives.  Having set out our position, as mentioned above, we recognize the government’s interest and right to levy excise taxes on specific consumer goods.    Should the Government decide to impose excise on nicotine e-liquids, it should be remembered that the key to success in tax policy is limiting incentives for tax evasion and avoidance as they undermine policy objectives.  E-cigarettes and tobacco products are completely different from one another and as such, e-cigarettes should be treated differently from conventional tobacco products for fiscal purposes. To ensure effective and efficient tax policy, it is essential to define the optimal tax base, excise tax structure and rates.  Tax base: a liter of nicotine-containing e-liquid should be defined as the tax base because the criteria for taxation shall rely on the consumption since the nicotine e-liquid is the consumable item. Such a taxable base represents a simple yet comprehensive foundation for levying excise tax and it represents the most effective approach, as it can be applied to all nicotine-containing liquids and products.  Nicotine-containing e-liquids should be the only component in scope for excise tax. The majority of countries and jurisdictions currently taxing e-cigarettes limit the imposition to nicotine-containing e-liquids. As an example, the EU Tobacco Products Directive 2014/40/EU (TPD II) regulates only nicotine-containing e-cigarettes and refill containers.  It appears that the main rationale for including non-nicotine containing e-liquids is that it would be difficult to distinguish e-liquids with and without nicotine content. In reality it is easy to identify nicotine-containing e-liquids, especially if a nicotine content labelling requirement is in place [*see* question 6; ‘Other’]. Including the non-nicotine containing e-liquids in the taxable base is also manifestly inappropriate as it creates uncertainty on the identification of the tax base and it virtually means ‘taxing water’.  Tax Structure: A specific tax based on the physical volume of the nicotine-containing e-liquid is the most efficient way to levy taxes, as it relies on consumption, minimizes the administrative and monitoring costs for the government and reduces compliance costs for legitimate manufacturers and importers of e-liquids. Minimizing administrative costs and effort is especially important given the nascent stage of the product category and the small volumes involved.  Tax Rates: the tax level should be low to account for the novelty of the category, to assess the initial impact of introducing excise tax on consumption and to preserve market stability. It is important that any tax level is moderate enough to discourage tax evasion and avoidance. |

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

Yes X No

Additional comments:

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers | X |  | For e-liquid refill bottles / containers. |
| Safe disposal of e‑cigarette devices and liquids | X |  | Devices should be disposed of in the same manner as other consumer electronic goods. Consumers should be informed accordingly in the in-pack leaflet. Liquids are consumed during use, so no specific standard is required. |
| Ability of device to prevent accidents | X |  | Device batteries should meet the appropriate electrical safety standards in New Zealand. Refill bottles should incorporate anti-leak mechanisms. |
| Good manufacturing practice |  | X | GMP per se is excessive. Instead, electronic cigarettes should be subject to more appropriate consumer product manufacturing standards, such as ISO 9001. |
| Purity and grade of nicotine | X |  | Nicotine should meet relevant pharmacopeia standard to minimize impurities. |
| Registration of products | X |  | JTI is not opposed to a pragmatic registration procedure as long as it does not inhibit innovation in this dynamic sector. |
| A testing regime to confirm product safety and contents purity |  | X | No, we believe this is the manufacturer’s responsibility, so a testing regime is unnecessary. |
| Maximum allowable volume of e-liquid in retail sales |  | X | JTI does not see any regulatory justification for such a limitation. The European Union Tobacco Products Directive (TPD2) Article 20.3a limits e-liquid volumes, but JTI believes the volume of e-liquid containers should reflect consumer preferences and choice. |
| Maximum concentration of nicotine e-liquid |  | X | JTI does not see any regulatory justification for such a limitation. The TPD2 Article 20.3b limits e-liquid nicotine concentration, but JTI believes nicotine concentration should reflect consumer preferences and choice. |
| Mixing of e-liquids at (or before) point of sale | X |  | Yes, to ensure product quality / safety |
| 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 currently do not market or sell JTI electronic cigarettes in New Zealand. |

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

|  |
| --- |
| If the regulatory environment around e-cigarettes were appropriate and proportional, JTI would consider entering the market for e-cigarettes in New Zealand. |

#### 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 117

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

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

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

☐ Tobacco control non-government organisation

☐ Academic/research

☐ Cessation support service provider

☐ Health professional

☐ Māori provider

☐ Pacific provider

☐ Other sector(s) *(please specify)*:

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

Please indicate your e-cigarette use status:

☑ I am using nicotine e-cigarettes.

☐ I am using nicotine-free e-cigarettes.

☐ I currently smoke as well as use e-cigarettes.

☐ I am not an e-cigarette user.

☐ I have tried e-cigarettes.

### Privacy

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

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

## Consultation questions

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

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

Yes ☑ No ☐

Reasons/additional comments:

|  |
| --- |
|  |

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

Yes ☐ No ☑

Reasons/additional comments:

|  |
| --- |
|  |

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

Yes ☑ No ☐

Reasons/additional comments:

|  |
| --- |
|  |

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

Yes ☐ No ☑

Reasons/additional comments:

|  |
| --- |
|  |

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

Yes ☐ No ☑

Reasons/additional comments:

|  |
| --- |
|  |

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

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

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

Yes ☐ No ☑

Reasons/additional comments:

|  |
| --- |
|  |

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

Yes ☑ No ☐

Additional comments:

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

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

|  |
| --- |
|  |

### Additional information on sales and use

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

|  |
| --- |
|  |

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

|  |
| --- |
|  |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **How long have you been using them?** | **How often do you use them?** | **How much do you spend on them per week?** | **Where do you buy them?** |
| 12 Months | Every day | $10 | Online |

# Consultation submission 118

Submitter asked that the submission not be published.

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 119

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

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

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

Tobacco control non-government organisation

Academic/research

√ Cessation support service provider

√ Health professional

Māori provider

Pacific provider

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

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

Please indicate your e‑cigarette use status:

I am using nicotine e‑cigarettes.

I am using nicotine-free e‑cigarettes.

I currently smoke as well as use e‑cigarettes.

√ I am not an e‑cigarette user.

I have tried e‑cigarettes.

### Privacy

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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

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|  |
| --- |
| No links or vested interests |

Please return this form by email to:

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

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

## Consultation questions

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

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

Yes √ No

Reasons/additional comments:

|  |
| --- |
| The clinical experience of my team makes it clear that e-cigarettes are a significant help to people who want to stop smoking. People have done very well with them, despite having failed repeatedly to quit smoking before with licensed products |

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

Yes  No

Reasons/additional comments:

|  |
| --- |
|  |

#### 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 believe that never-smokers should be discouraged from using e-cigarettes, but young people who are already smoking may well stop smoking with e-cigarettes. It does not seem logical to deny them this opportunity. |

#### 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:

|  |
| --- |
| Restrictive controls on e-cigarette advertising could mean that people who would benefit from switching miss seeing the advantages of changing to a safer product. Advertising controls actually serve to keep people using the existing product, smoked tobacco |

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

Yes  No √

Reasons/additional comments:

|  |
| --- |
| There should be much more freedom to vape, as long as vapers act in a considerate way. If people realise that they can vape in certain smokefree areas, it encourages behaviour change. |

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Control** | **Yes** | **No** | **Reasons/ additional comments** |
| Requirement for graphic health warnings |  | √ | No justification for this, it does not kill or harm like tobacco does |
| Prohibition on displaying products in sales outlets |  | √ | Sales should be encouraged |
| Restriction on use of vending machines |  | √ | As above, sales should be made easy |
| Requirement to provide annual returns on sales data |  | √ | Surveillance would be useful, but there must be other mechanisms for this. |
| Requirement to disclose product content and composition |  | √ | Industry standards should be required |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  | √ | As above |
| Requirement for annual testing of product composition |  | √ | Excessive |
| Prohibition on free distribution and awards associated with sales |  | √ | Sales should be encouraged |
| Prohibition on discounting |  | √ | Sales should be encouraged |
| Prohibition on advertising and sponsorship |  | √ | Sales should be encouraged |
| Requirement for standardised packaging |  | √ | Excessive and unnecessary |
| 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:

|  |
| --- |
| It should be duty free, or with minimal duty, to encourage switching from smoked tobacco |

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

Yes√  No

Additional comments:

|  |  |  |  |
| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers | √ |  | Sensible and proportionate industry standards should be required, but not so excessive as to crush the market |
| Safe disposal of e‑cigarette devices and liquids | √ |  | As above |
| Ability of device to prevent accidents |  |  | As above |
| Good manufacturing practice | √ |  | As above |
| Purity and grade of nicotine | √ |  | As above |
| Registration of products | √ |  | As above |
| A testing regime to confirm product safety and contents purity | √ |  | As above |
| Maximum allowable volume of e-liquid in retail sales |  | √ | Should be guided by consumer choice |
| Maximum concentration of nicotine e-liquid |  | √ | Should be guided by consumer choice |
| Mixing of e-liquids at (or before) point of sale |  |  |  |
| Other |  |  |  |

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

|  |
| --- |
| If you want to help smokers stop smoking, you should do everything in your power to take a liberal and enabling approach to this, and not treat vaping like smoking. This is not a tobacco product, in any real sense. People who use our stop smoking service and who vape have said they are amazed at how easy e-cigarettes made it for them to stop 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)?

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

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

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

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

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

Policy Options for the Regulation of Electronic Cigarettes

# Consultation submission 120

|  |  |
| --- | --- |
| Your details This submission was completed by: *(name)* | [redacted] |
| Address: *(street/box number)* | [redacted] |
| *(town/city)* | [redacted] |
| Email: | [redacted] |
| Organisation *(if applicable)*: | Fontem Ventures |
| 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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|  |
| --- |
| Fontem Ventures is dedicated to developing and growing a portfolio of innovative non-tobacco products including electronic cigarettes (“e-cigarettes”). A fully owned subsidiary of Imperial Brands plc, we nevertheless operate at arm’s length from our parent company. Currently Fontem Ventures manufactures the e-cigarette brand blu™ (available in France, Italy, UK and US). |

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## Consultation questions

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

Yes  No

Reasons/additional comments:

|  |
| --- |
| The sale and supply of nicotine e-cigarettes and nicotine liquids should be allowed, in light of the growing consensus among public health specialists that e-cigarettes can contribute greatly to tobacco harm reduction and therefore offer significant potential public health benefits.  For instance, recent studies have reported that using e-cigarettes have helped 6.1 million people across the European Union to quit smoking and another 9.2 million reduce their tobacco intake.[[57]](#footnote-57)  In addition, emerging research has shown that smokers switching to e-cigarettes significantly reduce their exposure to the harmful chemicals associated with tobacco-related diseases.[[58]](#footnote-58),[[59]](#footnote-59),[[60]](#footnote-60) These findings are also reinforced by the reports from the UK’s Public Health England and the Royal College of Physicians, which the New Zealand Ministry of Health notes in its consultation document.  Fontem Ventures supports sound, evidence-based, reasonable and proportionate regulation of vaping products. Moreover, we believe e-cigarette regulation is necessary to ensure smokers have access to high quality products and information they can trust. This will give consumers the confidence to adopt e-cigarettes over tobacco-containing products.  However, regulators need to strike the right balance. Excessive, scientifically unjustified legislation is likely to backfire if it deters adult smokers from switching away from tobacco, thereby sustaining existing levels of smoking and tobacco-related diseases.  We believe regulation should focus on endorsing robust manufacturing and product standards to ensure consumers have access to high-quality products and we work with national standardisation bodies to help develop such standards. |

#### 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 would take the opportunity to make regulators aware that some manufacturers have developed and launched a range of tobacco-based so-called “next generation” or “novel” products (“NGPs”) such as “heated tobacco” (“heat-not-burn”) or “hybrid” products. Unlike e-cigarettes, tobacco-based NGPs such as heated tobacco and hybrid products contain tobacco, just like conventional cigarettes, which when heated creates tobacco-based aerosols for the user to inhale. In addition, to date, we are not aware of any substantive or conclusive independent scientific evidence to suggest that tobacco-based NGPs offer a reduced-risk alternative for tobacco consumers. We strongly believe that comprehensive, peer-reviewed independent scientific research should be conducted on the impact of all new tobacco-based products.  Fundamentally, all tobacco-based next generation products (“NGPs”) contain tobacco. They should therefore be defined, regulated and taxed as tobacco products. Tobacco-based NGPs should always be regulated and taxed separately to e-cigarettes, which do not contain tobacco.  Regulators must establish a clear and unambiguous differentiation between tobacco and non-tobacco-containing products within regulatory frameworks. This would provide clarity for consumers, the public health community and manufacturers alike. |

#### 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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| --- |
| Fontem Ventures believes that e-cigarettes are for adult smokers only. As such, we fully support legislation prohibiting sales of vaping products to minors, and voluntarily implement a number of youth protection initiatives, including online age-verification mechanisms and clear product labelling that states “not for sale to minors”.  Fontem Ventures has its own stringent marketing standards. In all our activities, we are very clear that vaping products are an adult-only category and should not be targeted at young people.  However, we would like to stress that on the whole, e-cigarettes should not be subject to the same regulatory regime as tobacco. E-cigarettes do not contain tobacco and there is therefore no logical reason for subjecting them to tobacco legislation. |

#### 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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| --- |
| E-cigarettes should not be subject to the same advertising restrictions as smoked tobacco. This is in part because restricting e-cigarette advertising in the same way as tobacco advertising creates the impression that e-cigarettes and tobacco products are the same thing. This is unfair, inaccurate and anti-competitive, since e-cigarettes do not contain any tobacco.  In addition, as the New Zealand Ministry of Health recognises, many public health experts have concluded that e-cigarettes offer a less harmful alternative to adult tobacco smokers. Fontem Ventures believes these adults deserve access to informative, educational and scientifically legitimate information about the products available to them; this access is contingent upon manufacturers’ ability to advertise and market e-cigarette products. Through such channels, adult smokers can be made aware of existing products that offer an alternative to tobacco. It is also important that some forms of e-cigarette advertising are permitted so that vaping products can compete with well-established tobacco brands and nicotine replacement therapy products in order for smokers to switch.  However, we agree that some forms of qualitative controls on e-cigarette advertising should be introduced to limit potential appeal to children and adolescents; we would in this instance point to our own marketing standard, which ensures responsible advertising practices. [[61]](#footnote-61) For example, e-cigarette manufacturers should not feature tobacco brand names or logos in their advertising and marketing materials, and they should ensure that their advertising does not target or primarily appeal to under-18s. |

#### 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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| It is not justifiable to extend legislation on designated smokefree areas to e-cigarettes, since they are not tobacco products. Vaping products do not contain tobacco, do not burn tobacco, and do not create any of the side-stream or so-called ‘second-hand smoke’ produced by conventional tobacco products. Further, the UK’s Royal College of Physicians notes that in the long-term, the risk of electronic cigarettes to their users is likely to be “substantially smaller than that arising from tobacco smoking” and “much less, at all, harmful to users or bystanders than cigarette smoke”.[[62]](#footnote-62) This is reinforced by the Public Health England report, as well as numerous peer-reviewed studies that clearly demonstrate that exhaled e-cigarette aerosols do not breach indoor air quality standards and are unlikely to pose an issue to bystanders, with chemical analyses to date indicating that exhaled e-cigarette aerosols do not warrant a concern to bystanders.[[63]](#footnote-63), [[64]](#footnote-64), [[65]](#footnote-65), [[66]](#footnote-66)  Indeed, Fontem Ventures has carried out its own research showing that indoor vaping does not release chemicals or toxins into the air in levels that would pose an issue to bystanders when compared to regulatory standards.[[67]](#footnote-67)  Fontem Ventures therefore believes it should be up to individual establishments and business owners to decide whether or not to permit the use of e-cigarettes inside their premises.  Regulators considering legislation on vaping in smokefree areas should weigh up the existing scientific evidence on e-cigarettes, and should take into account the fact that forcing vapers – the vast majority of whom are smokers trying to reduce or stop their tobacco consumption – to share a space with tobacco users could well undermine their attempts to quit smoking and expose them to environmental tobacco smoke which the public health community has previously concluded is harmful. |

#### 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 |  |  | It is not justifiable to extend legislation on tobacco products to e-cigarettes, since they are not tobacco products. Vaping products do not contain tobacco, do not burn tobacco, and do not create any of the side-stream or so-called ‘second-hand smoke’ produced by conventional tobacco products. This comment applies to this control and to all of the subsequent controls listed in this table.  There is no scientific evidence justifying the requirement of graphic health warnings for e-cigarettes, since there is a broad consensus that the “relative risk” of e-cigarettes compared to tobacco is favourable. For instance, a recent study carried out by scientists from Roswell Park Cancer Institute concluded that: “After switching from tobacco to e-cigarettes […] exposure to selected carcinogens and toxicants is substantially reduced” (Goniewicz et al, Nicotine & Tobacco Research, June 2016). |
| Prohibition on displaying products in sales outlets |  |  | E-cigarettes should not be subject to this prohibition in light of the growing evidence of their potential role in tobacco harm reduction. The public health benefits this would generate would therefore justify making e-cigarettes readily available and visible as a tobacco alternative.  Moreover, since e-cigarettes are a very new product category, there is currently lower consumer awareness of their availability, which would be further stymied by a ban on their visible display. Such a prohibition would impede e-cigarettes’ ability to compete with well-established tobacco brands. |
| Restriction on use of vending machines |  |  | Fontem Ventures would recommend that e-cigarettes are available for self-service purchase when such vending outlets are equipped with an age-verification system, or are located in access-restricted over-18 venues. This helps widen e-cigarettes’ access – which is important to establish them as a viable alternative to tobacco products, given that they are a relatively new product category. |
| Requirement to provide annual returns on sales data |  |  | There is no scientific basis justifying this requirement, which would in addition consist an unnecessary and potentially unviable burden for smaller manufacturers. |
| Requirement to disclose product content and composition |  |  | Fontem agrees that in principle manufacturers and importers of e-cigarettes should be subject to disclose product content and composition so as to enable consumers to make informed choices. However, e-cigarette manufacturers should still be able to protect trade secrets e.g. ingredients used as part of the flavour should be collectively categorised as flavourings to maintain confidentiality. |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) |  |  | Only ingredients of high quality should be used in e-cigarettes and e-liquids. As a minimum all ingredients must be food grade or comply with the standards outlined in the European/ United States Pharmacopeia.  E-cigarette flavour variability should be permitted, but no flavour should be marketed or designed to appeal primarily to minors e.g. bubble-gum, milkshake, cotton candy.  Ingredients should be permitted for use in e-liquids subject to toxicological risk assessment. |
| Requirement for annual testing of product composition |  |  | There is no scientific basis justifying this requirement, which would in addition consist an unnecessary and potentially unviable burden for smaller manufacturers. |
| Prohibition on free distribution and awards associated with sales |  |  | Such a ban will prevent retailers from raising awareness of e-cigarettes and could discourage current smokers from trying e-cigarettes, which in turn will lead to a much lower uptake rate among smokers. This effect is undesirable in light of the growing evidence and consensus that e-cigarettes are less harmful than smoking. |
| Prohibition on discounting |  |  | Such a prohibition will prevent retailers from raising awareness of e-cigarettes and could discourage current smokers from trying e-cigarettes, which in turn will lead to a much lower uptake rate among smokers. This effect is undesirable in light of the growing evidence and consensus that e-cigarettes are less harmful than smoking.  A prohibition on discounting also reduces e-cigarette manufacturers’ and retailers’ ability to provide a financial incentive for smokers to switch from tobacco to e-cigarettes. |
| Prohibition on advertising and sponsorship |  |  | E-cigarette advertising and sponsorship should be permitted but should provide some protections that limit the appeal to children and adolescents. A prohibition as per tobacco products would be disproportionate and inappropriate, as e-cigarettes do not contain any tobacco.  Many public health experts have concluded that e-cigarettes offer a less harmful alternative to adult tobacco smokers. Fontem Ventures believes these adults deserve access to informative, educational and scientifically legitimate information about the products available to them, including some forms of advertising and marketing. Through such channels, adult smokers can be made aware of existing products that offer an alternative to tobacco. It is also important that some forms of e-cigarette advertising are permitted so that vaping products can compete with well-established tobacco brands in order for smokers to switch. |
| Requirement for standardised packaging |  |  | It is not justifiable to oblige e-cigarette manufacturers to implement a requirement for standardised packaging.  There is no scientific evidence justifying the requirement of such packaging for e-cigarettes, since there is a broad consensus that the “relative risk” of e-cigarettes compared to tobacco is favourable. |
| 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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| E-cigarettes should not be subject to excise tax in the same way as tobacco products since they do not contain tobacco and, provided they do not make medicinal claims and hold a medicinal licence, are consumer products. They should therefore be taxed in the same way as other consumer products.  Imposing excise duty on e-cigarettes is not just an inaccurate and unfair reflection of the products’ composition and characteristics; it also risks disincentivising smokers from switching from tobacco products to e-cigarettes. An excise tax would increase manufacturing costs for e-liquid manufacturers such as Fontem, pushing up end-prices for all e-liquid-containing products. A price increase may well push e-cigarette users back into smoking tobacco products, given that studies have shown that price is an important factor in encouraging smokers to turn towards e- cigarettes, with policies increasing the retail price of e-cigarettes potential causing a significant reduction in sales.[[68]](#footnote-68) As mentioned above, this is an undesirable outcome in public health terms given that many studies including the Public Health England review suggest that electronic cigarettes are 95% safer than tobacco products. |

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

Yes  No

Additional comments:

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| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers |  |  | E-cigarette packaging and containers should be child- and tamper-resistant, complying as a minimum with ISO 8317 on child-resistant packaging. |
| Safe disposal of e‑cigarette devices and liquids |  |  | Requirements for the disposal of e-cigarette devices and liquids should be in line with those for other small electrical or battery-operated consumer products. |
| Ability of device to prevent accidents |  |  | Products should as a minimum comply with basic safety requirements such as the Fair Trading Act and with future international standards for e-cigarettes (e-cigarette-specific ISO certifications, for instance). |
| Good manufacturing practice |  |  | Products should as a minimum comply with basic safety requirements such as the Fair Trading Act or ISO 9001:2008. In future, e-cigarettes should comply with specially developed international standards (e-cigarette-specific ISO certifications, for instance). |
| Purity and grade of nicotine |  |  | Only ingredients of high quality should be used in e-cigarettes, for instance as a minimum all ingredients must be food grade or comply with the standards outlined in the European/ United States Pharmacopeia. |
| Registration of products |  |  | Manufacturers, importers and retailers of e-cigarettes should provide the competent authorities with accurate information regarding the products they are selling in the market. However, this should not create unnecessary and unviable administrative burdens, and any registration or notification requirements for e-cigarette manufacturers should ensure that trade secrets are robustly protected both prior and after product launch. |
| A testing regime to confirm product safety and contents purity |  |  | Manufacturers should carry out testing to ensure that e-cigarettes comply as a minimum with the Fair Trading Act, or ISO 9001:2008. In future, e-cigarettes should comply with specially developed international standards (e.g. ISO certifications) which will help raise confidence in this product category. |
| Maximum allowable volume of e-liquid in retail sales |  |  | Regulators should take care in regulating the allowable volume of e-liquid, since it is important that a range of products are available on the market so as to incentivise smokers to make the switch from tobacco products to e-cigarettes. |
| Maximum concentration of nicotine e-liquid |  |  | Regulators should take care in regulating the allowable concentration of e-liquid, since it is important that a range of products are available on the market so as to incentivise smokers to make the switch from tobacco products to e-cigarettes. |
| Mixing of e-liquids at (or before) point of sale |  |  | Protecting retailers’ right to mix e-liquids at (or before) point of sale is important in vape shops where a custom made liquid can be made to satisfy a particular consumer taste/needs. This will help further incentivise smokers to switch from tobacco products to e-cigarettes – a desirable transition in light of the growing evidence and consensus that e-cigarettes are less harmful than smoking. |
| Other |  |  |  |

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

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| In countries where regulators and public health bodies have invested sufficient time researching and debating the science around e-cigarette use, many have concluded that e-cigarettes are significantly less harmful than conventional tobacco cigarettes and therefore have an important role to play in reducing tobacco-related disease worldwide.  Nicotine-containing e-cigarettes are almost exclusively used by current or ex-smokers[[69]](#footnote-69). Recent studies have reported that using e-cigarettes have helped 6.1 million people across the European Union to quit smoking and another 9.2 million reduce their tobacco intake.[[70]](#footnote-70) Recent clinical evidence have reported that smokers who partially or completely switch to e-cigarettes significantly reduce their exposure to harmful and potentially harmful constituents (HPHCs) found in tobacco smoke that are reported by FDA to be significant contributors to smoking-associated disease risks.[[71]](#footnote-71) This is reinforced by the findings published by the UK Government agency Public Health England, which concluded that e-cigarettes are 95% less harmful than smoking tobacco[[72]](#footnote-72) – a view supported by public health and tobacco-control groups, including Action on Smoking and Health UK and Cancer Research UK.[[73]](#footnote-73) Similarly, in France, the High Council on Public Health has endorsed e-cigarettes as a cessation tool[[74]](#footnote-74), while in Belgium the Superior Health Council has stated that e-cigarettes are a less harmful alternative to tobacco (a position subsequently endorsed by the Health Ministry).[[75]](#footnote-75),[[76]](#footnote-76)  Other reviews of scientific literature from independent organisations have similarly concluded that e-cigarettes are less harmful than tobacco. The UK’s Royal College of Physicians notes that in the long-term, the risk of e- cigarettes to their users is likely to be “substantially smaller than that arising from tobacco smoking” and “much less, at all, harmful to users or bystanders than cigarette smoke.”[[77]](#footnote-77)  All these groups are moving towards a broad scientific consensus that use of e-cigarettes, when compared to conventional tobacco cigarettes, could present a critical tool in global tobacco harm reduction. Importantly, these groups are focusing on the ‘relative risk’ of e-cigarettes compared to tobacco cigarettes – a very important distinction because nearly all e-cigarette users are current or former tobacco users looking for an alternative.  Nonetheless, because e-cigarettes are still a nascent category, it is important that researchers continue to conduct longer-term studies into e-cigarette use and potential health impacts. As a responsible manufacturer, Fontem Ventures is committed to conducting this type of research and making a meaningful contribution to the growing body of scientific literature around e-cigarettes and other nicotine delivery systems through our peer-reviewed, published studies, all of which can be found on the Fontem Ventures science website.[[78]](#footnote-78)  For example, to date our own science has shown that commercially available bluTM closed-system e-cigarettes release no detectable levels of the toxic gas carbon monoxide and other chemical analytes are reduced by >98% per puff compared to levels measured in smoke from tobacco cigarettes.[[79]](#footnote-79) This in turn leads to a >99% reduction in *in vitro* toxicity when compared to tobacco cigarettes.[[80]](#footnote-80) Importantly, our clinical research has shown that the levels of harmful and potential harmful chemicals are significantly reduced when smokers completely or partially use bluTM e-cigarettes; exclusive use being indistinguishable from complete smoking cessation.[[81]](#footnote-81) |

### Additional information on sales and use

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

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

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| The proposed amendments would enable Fontem Ventures to bring its e-cigarettes to the New Zealand market. At this point in time, we would not be able to quantify this impact. However, it would have the positive effect of enabling us to pursue growth in a new market, opening up opportunities not just for our company but for potential employees and consumers. |

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

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

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