

7 June 2006

Gordon McKenzie
Public Health Directorate
Ministry of Health
PO Box 5013
WELLINGTON

Dear Gordon

Review of health warnings on tobacco products

Thank you for the opportunity to make a submission to the *Review of Smoke-free Environments Regulations 1999: Health warnings on tobacco products*.

The attached submission addresses the questions posed in the consultation document. However, I would like to take this opportunity to make some general comments. These comments concern the extensive time taken to develop this consultation document; our concerns that a decision on outcome may have already been made; and the appropriateness of allowing the tobacco industry to take part in consultation.

Twenty-two months have now elapsed since the commencement of the first round of consultation on the Smoke-free Environments Regulations 1999. Only now has the Ministry commenced a second look at the matter.

It gives us no pleasure to reiterate that we warned in our submission in 2004 of our concerns that the National Drug Policy team at the Ministry lacked the capacity to do the work required of it. Nothing has been done to deal with the capacity issue and this substantial time lag between the first consultation round and the second round is further evidence of the justification for our concern. Once again we state that if the Government is serious about further regulating the tobacco industry, this serious capacity issue has to be addressed.

Furthermore we have real concerns about the tenor of these consultations. It would seem to us that the decision on the preferred size option for health warnings might already have been made for us.

Australia has already made its decision as to the graphic health warnings to be put on tobacco products and the consultation document seems to be heading submitters down the path of adopting the Australian standards. However, the Coalition submits that harmonisation with Australian standards should not be the driver for deciding on the size of warnings, when research shows that bigger warnings are clearly more effective.

Our final comment relates to the inclusion of the tobacco industry into this consultation. The goal of tobacco companies is profit, no matter how many people their product kills. Therefore, we do not think it appropriate that tobacco companies should have a say on the regulation of their deadly product. The likely costs to industry of some of the measures proposed within the consultation document, and any difficulties that might arise in implementing them, are irrelevant when compared to people's lives.

Thank you for the opportunity to comment on this consultation document.

Yours sincerely

Mark Peck
Director
Smokefree Coalition

SMOKEFREE COALITION SUBMISSION
Review of Smoke-free Environments Regulations 1999:
Health warnings on tobacco products

About us

The Smokefree Coalition consists of over 20 member organisations, including the Asthma and Respiratory Foundation, Cancer Society of New Zealand, and National Heart Foundation, committed to promoting a smokefree New Zealand/Aotearoa. Our objectives include advocating for various forms of tobacco control, undertaking relevant research, distributing information about tobacco and its harmful effects, and co-ordinating the efforts of agencies involved in tobacco control.

Question one: *Do you support option 1, with 50 percent of the principal display areas displaying health warnings, or option 2, with health warnings displayed on 60 percent of the principal display areas (30 percent front, 90 percent back?) Why?*

In the first instance the Coalition would prefer to see no branding on tobacco products. Branding conveys¹ that smoking is a normal activity and sends mixed messages to young people who are particularly vulnerable. Studies show that branding is a distraction from the fact that smoking is addictive and dangerous.²

If there must be branding, our health warnings preferences are as follows.

The Coalition supports neither option contained in the consultation document, continuing to support a 60 percent (front) 100 percent (back) position, as stated in our 2004 submission.³ The reasons for this have not changed and revolve around the Crown's obligations to ensure consistent health messages are available in both the official languages.

At the very least, no less than 50 percent of tobacco packaging must carry graphic picture warnings. International research⁴, clearly shows that the bigger the warning labels, the better. Additional research in the United States shows that graphic warnings are also the most effective for deterring youth smokers.⁵

¹ Hastings, G & MacFadyen, L. 1998. Smoking, branding and the meaning of life. *Tobacco Control* 7: 107 – 108.

² Rootman, I. & Flay, B. R. 1995. A study on youth smoking: Plain packaging, health warnings, event marketing and price reductions. Toronto: University of Toronto and University of Illinois at Chicago. <http://www.utoronto.ca/chp/download/RptsandPresents/youthsmoking.pdf> Accessed 30/5/2006.

³ Smokefree Coalition. *Submission on the Review of the Smoke-free Environments Regulations 1999.*

⁴ Fong, Geoffrey. 2005. International Tobacco Control Policy Evaluation Project: Evaluating the Tobacco Control Policies of the Framework Convention on Tobacco Control (URL: <http://arts.uwaterloo.ca/~gfong/Fong-BA-Day1-English-Finalpdf.pdf>. Accessed 22 May 2006).

⁵ O'Hegarty M, Pederson L, Nelson D, et al. Reactions of young adult smokers to warning labels on cigarette packages. *Am J Prev Med* 2006;30(6):467-73.

Our compromise position would be to amalgamate options one and two. This would see 50 percent of the front of the pack carrying health warnings and 90 percent of the back carrying warnings, giving an overall coverage of 70 percent.

If we had to choose between options one and two, we would reluctantly opt for option one. However, this would be conditional on identical 'call the Quitline' information being printed on the front and back of the pack.

We do not support option two. In our view it will be ineffective. Once the flip top is open there is no warning for the smoker to see. As well, the *Quitline* information would be almost indecipherable in such a small space.

Question three: *Do you support the Ministry of Health's proposal to adopt pictorial health messages for cigars, bidis, cigarillos, loose cigarette and pipe tobacco and other forms of tobacco products, similar to the Australian regulations? Why, why not?*

No. There is no rationale for having smaller health warnings for products like cigars, bidis, cigarillos, loose cigarette and pipe tobacco, and other forms of tobacco products. This could give the impression that these products are somehow 'safer'. Health warnings on these products should be identical to those adopted for cigarette packets (ie, in the Coalition's view taking up 60 percent of the front of the pack, and 100 percent of the back).

Roll-your-own tobacco is popular with lower income smokers, and some ethnic groups, including Maori. These are the very groups that we are hoping to reach with graphic health warnings. Roll-your-own tobacco must have the same size health warnings as cigarette packs.

Question four: *Are there other shapes and sizes of tobacco packages that need specific attention?*

As with question 3 above, it is our view that any and all packages of tobacco for sale should exhibit 60/100 percent health warnings. This should be read in conjunction to our compromise options outlined.

In recent days information from Canada has alerted us of a change to packaging of which officials need to be mindful. A new octagonal shape is being tested for the *Benson & Hedges* brand. This shape obscures graphic warnings by wrapping them around the sides of the packet.⁶ In order to prevent this happening in New Zealand it is our view that all cigarette boxes should have to conform to a standard size and shape.

⁶ Hammond, D. Canada: a new angle on packs. *Tobacco Control* 2006; 15:150

Question seven: *Do you support the Ministry of Health's proposal to have yellow and black backgrounds to the pictorial health messages for tobacco products? Why, why not?*

Yes, the Smokefree Coalition believes yellow and black are stark and arresting colours that stand out well and catch the smoker's attention. Internationally these colours are associated with hazards and a signal to beware and cautious.⁷

Question eight: *Do you support the Ministry of Health's proposal to have 14 health warnings, with two sets of seven rotated annually? Why, why not?*

Yes, the Coalition supports 14 messages consisting of two sets, rotated annually. Furthermore, we also strongly advocate that every two years new, fresh, graphic and arresting images replace existing ones. Research by *Health Canada*⁸ suggests that graphic images lose their impact on smokers if they are not regularly replaced.

Further, the International Tobacco Control Policy Evaluation Project (ITC)⁹ is an ideal opportunity for New Zealand not only to evaluate warnings but also to join other leading nations in advancing best practice in tobacco control policy development. Evaluation will assist in monitoring the need to refresh, change or adapt warnings.

We also see considerable advantage in using the same visuals that are used in the *Every Cigarette is Doing You Damage* commercials, and would strongly support the use of these images. We would also recommend that graphic images used in any future New Zealand tobacco control campaigns also be used on tobacco packs.

Question nine: *Do you support a message referring to Quitline on tobacco packaging? Why, why not?*

Yes, we support a message referring to Quitline on packaging. These messages must be very clear and visible. It is not enough to simply point out the health effects of smoking, smokers must be given an action to take, such as calling the Quitline.

Specifically and importantly, the number referred to must be the New Zealand Quitline number; not its Australian counterpart. Research shows that up to 80 percent of smokers wish to cease smoking, and clear and easily read and usable contact numbers should be available to them. We request feedback from the

⁷ BRC Marketing 2004. Smoking health warnings study: Optimising smoke health warnings stage 2 - text, graphics, size and colour testing.

⁸ See article by Jack Aubry in *The Ottawa Citizen* Tuesday, May23 2006 entitled: '*Cigarette shock ads under review*'. Retrieved on 28 May 2006 from <http://www.tobacco.org/news/224583.html>.

⁹ The ITC Project is an international collaboration of tobacco control researchers whose mission is to evaluate the psychosocial and behavioral effects of national-level tobacco control policies throughout the world.

Ministry on how it intends to ensure that tobacco products imported from Australia do not contain the Australian Quitline number.

Question 10: *Do you support the wording of the proposed call Quitline message? Why, why not?*

Yes, the Coalition supports the wording of the proposed Quitline message. We believe the proposed message is clear and straightforward.

Question 11: *Do you support the placement of a 'boxed' quit message on each pack? Why, why not?*

Yes, we support a 'boxed' message on the front and back. Such 'boxing' highlights the message, makes it stand out and assigns importance to it. For this purpose the quit message needs to have a black background.

Question 12: *Do you agree with the Ministry of Health's proposal to replace the current quantitative message for tobacco packaging on manufactured cigarettes and other tobacco products, with a qualitative health message, as set out below? Why, why not?*

Yes, we believe this is a good idea. As stated in our submission on the *1999 Smoke-Free Environments Regulations*, research has demonstrated that smokers do not in practice actually read, properly assimilate or necessarily understand what the chemicals are as stated on packaging. We therefore believe that a qualitative warning is more effective.

This qualitative rather than quantitative message should not however, be used as an excuse to reduce the size of these warnings; which should remain constant.

Question 14: *Do you support the Ministry of Health's proposal for the placement of health information in te reo Maori and English on tobacco packaging? Why, why not?*

Yes, we support this. As a disproportionate number of Maori smoke, this translation is extremely important. Maori may also be able to relate to a message in their own tongue more easily.

Question 15: *Do you support messages in te reo Maori that relate to the subject of each health warning or do you support one or two general health messages? Why?*

It is important that each particular health warning is translated. This avoids 'tokenism', is consistent and accords te reo Maori speakers the same information as English speakers. We defer to and support the Te Reo Marama submission in terms of the actual wording of the translations.

Questions 16: *Do you agree with the Ministry of Health’s proposal to retain the 0.2 percent rule for importers of tobacco with low market share? Why, why not?*

No, we do not support this ill-advised rule. It is inconsistent to do so. It is important that all tobacco products be treated equally under the law. Exemptions hinder progress.

Furthermore it may be inconsistent with the mandatory requirements of the FCTC.¹⁰

Question 17: *Should consideration be given to qualifying the 0.2 percent rule exemption to ensure compliance with the minimum standard set out in the FCTC?*

No, as above – the 0.2 rule should not be retained. See our comments above about the minimum standard set out by the FCTC.

Question 18: *Do you agree with the design and concepts used in the following health warning messages? Why, why not?*

The Coalition is in general agreement with the design and concepts used in these health warning messages. As stated earlier, international research shows that the larger the graphic warning labels, the more effective they are. They have also been found to be very effective with deterring youth from smoking.

Having the Quitline number clearly displayed on both front and back of packs is extremely important. This should work well in conjunction with the graphic images. Pictorial messages on the front of packs are also important for when packets are on display shelves. This means the warnings are also on display.

The packaging of roll-your-own tobacco must also display graphic images and the Quitline number. This is an important market segment to address.

The design and colours of the graphics and the Quitline message need to be coherent and consistent. ASH has developed mock ups of preferred warnings which the Coalition supports. In terms of individual warnings, we believe the relevant organisations need to be consulted – for example, the Cancer Society for cancer warnings, the National Heart Foundation for heart disease warnings. We support their judgements in their respective fields.

Where we don’t make specific comment, subject to the comments expressed above, the warnings are fine.

We do have specific comments about the following:

¹⁰ Foreign Affairs, Defence and Trade Committee, International Treaty Examination of the World Health Organisation Framework Convention on Tobacco Control – <http://www.clerk.parliament.govt.nz/Content/SelectCommitteeReports/fditetobacco.pdf>

4.1.1 – Pregnant women have heads. The image as it is, is offensive.

4.2.2 – Reword to “Cigarettes cause heart attacks”

4.2.3 – Reword to “Lung disease is a living hell.” People may not know what emphysema is, or be able to pronounce the word. There is some debate about emphysema being called COPD but again this may be confusing to those who do not understand what it is. In addition, this warning needs a more graphic image.

4.4.1 – The Skull and Crossbones used to be the branding of a variety of cigarettes. It also is an image on some clothing items. We suggest looking for a different image, for example a coffin?

4.5.1 – Again we would like to see a stronger image. One suggestion is a cigarette in a syringe, or a smoker wearing a ball and chain.

Question 20. *(For Industry) Comment is sought on your ability to have new warnings on tobacco packaging 12 months from the date the regulations are promulgated.*

We feel obliged to comment on this matter. We can see no practical reason why packaging cannot comply within three months of the date that regulations are promulgated. Further tolerance for an industry of this nature is unconscionable.

Furthermore, industry must print stick-on warnings of the size outlined in our submission, with a strong adhesive, to be put on old stocks of tobacco packaging from day one of the regulations coming into force.

Question 21. (For Retailers) Your comments are sought on whether three months from the date any new health warnings take effect is sufficient time to dispose of old stock.

See our answer above. Any old stock on shelves at the time new regulations take effect must be covered with a stick-on version of the new warnings from day one of the regulations taking effect.