

Submission on the Future of Tobacco Displays in New Zealand

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Opening comments:	<p>Thank you for the opportunity for the Auckland Regional Public Health Service to provide a submission on the Review of Tobacco Displays in New Zealand Consultation Document.</p> <p>This submission represents the views of the Auckland Regional Public Health Service (ARPHS). ARPHS provides public health services for the three district health boards in the Auckland region (Auckland, Counties Manukau and Waitemata District Health Boards), with the primary governance mechanism for the Service resting with Auckland District Health Board. This submission represents the views of the ARPHS and does not necessarily represent the views of the three District Health Boards.</p> <p>ARPHS understands that all submissions will be available under the Official Information Act 1982, except if grounds set out under the Act apply.</p>

Comments on proposed options

Option 1: Current restrictions with enhanced education and enforcement

Would you support this option?	
Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>
If yes, why? If no, why not?	<p>The evidence demonstrating the harm to health resulting from the direct effects of smoking tobacco or exposure to second-hand smoke is undeniable. Its contribution to inequalities is particularly relevant to the New Zealand context, where Maori and Pacific peoples experience disproportionate levels of morbidity and mortality, which are significantly influenced by tobacco use.</p> <p>While the tobacco industry may argue vigorously that displays do not constitute advertising, ARPHS supports the Ministry of Health's categorisation of displays as point of sale advertising which 'generates awareness of products, communicates information, stimulates trial and encourages repurchase.'</p> <p>The continued promotion of tobacco products via displays is in direct contravention of the aims of the Smoke-free Environments Act, to 'restrict access to smoking products by people under 18 years of age, and prevent negative influences', and to 'promote a smoke-free lifestyle as desirable and the norm'.</p>

	<p>There is significant evidence that tobacco displays act as effective visual cues that promote tobacco awareness and encourage smoking uptake, particularly among youth and ex-smokers.¹ The continued display of tobacco products in the same field of vision as consumer goods like candy, magazines and soft drinks normalises smoking and encourages exaggerated perceptions of its social acceptability and popularity.² Exposure to tobacco products and the resulting brand familiarity have been decisively linked to increased smoking uptake in young people.³ One US study found that school students who visited convenience stores at least weekly were more likely to have tried smoking while another found stores most popular among adolescents devoted twice as much shelf space to 'youth' brands.⁴ A New Zealand study has shown that stores in areas with high youth populations were most likely to violate current display provisions.⁵</p> <p>Non-compliance with existing legislation is widespread. A recent study of the Wellington region found that 82% of convenience stores and 76% of dairies were in breach of point of sale regulations.⁶ This is not surprising given that there is no active enforcement of the Act, and that enforcement officers are mandated to respond to complaints only. Even if enforcement were to be increased, it is questionable whether the public health benefit would warrant the considerable expenditure of resources that would be involved.</p> <p>Experience has shown enforcement of existing legislation to be time-consuming and ineffective. Smoke-free officers at ARPHS have, on many occasions, informed non-complying retailers of display provisions then returned to find them still in breach. There is little an officer can do beyond this point. What, for example, would be the benefit of prosecuting a retailer for displaying cigarettes eighty centimetres away from children's products instead of the requisite one metre?</p>
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¹ Wakefield, Melanie, Germain, Daniella & Henriksen, Lisa. (2007) The effect of cigarette pack displays on impulse purchase, *Addiction*, (OnlineEarly Articles). doi:10.1111/j.1360-0443.2007.02062. See also Slater, Sandy J., Chaloupka, Frank J., Wakefield, Melanie, Johnston, Lloyd D. & O'Malley, Patrick M. (2007) The Impact of Retail Cigarette Marketing Practices on Youth Smoking Uptake. *Archives of Pediatrics & Adolescent Medicine*, 161(5), 440-445, Biener, Lois & Albers, Alison B. (2004) Young Adults: Vulnerable New Targets of Tobacco Marketing. *American Journal of Public Health*, 94(2), 326-330 & DiFranza, Joseph R., Wellman, Robert J. et. al. (2006) Tobacco Promotion and the initiation of Tobacco Use: Assessing the Evidence for Causality. *Pediatrics*, 117(6), 1237-1248.

² Henriksen, Lisa, Feighery, E.C., Flora, J.A. & E., Fortmann, S.P. (2002) Effects on Youth of Exposure to Retail Tobacco Advertising. *Journal of Applied Social Psychology*, 32(4), 1780-81 shows that youth exposed to retail advertising believed that more students smoked than those who were not exposed. See also DiFranza, 1243.

³ C. Lovato et.al., 'Impact of tobacco advertising and promotion on increasing adolescent smoking behaviours', *Cochrane Database of Systematic Reviews* 2003, Issue 4. Art. No.: CD003439. DOI: 10.1002/14651858.CD003439 and DiFranza, 1244.

⁴ L. Henriksen, E.C. Feighery, Y. Wang, S.P. Fortmann. (2004). Association of retail tobacco marketing with adolescent smoking. *American Journal of Public Health*, 94, 2004, 2081-2083.

⁵ Department of Public Health, Wellington School of Medicine and Health Sciences. (2006) *Cigarettes and Candy: A Study of Retailer Compliance with the Point of Sale Tobacco Display Regulations in the 2003 Smoke-free Environments Amendment Act*. Wellington: Author, 22.

⁶ *Cigarettes and Candy*, 19.

	Other provisions, such as the forty carton display limit, also detract from the legislation's aim to limit the tobacco industry's attempt to circumvent the advertising ban. ⁷ There is little difference between the effect of stacking cartons side by side and the block placement that the legislation ostensibly seeks to avoid. Given these considerations, it is unlikely that a programme of enhanced education and reinforcement will achieve the desired outcomes of reducing smoking initiation and increasing cessation.
What possible advantages or disadvantages do you see with this particular option?	Disadvantages of the status quo: <ul style="list-style-type: none"> • Continued exposure of tobacco to vulnerable consumers • Continuation of tobacco advertising will mean that tobacco demand will be maintained or increase • Continuation of ineffective and costly compliance activity • Continuation of the confusion and abuse of current legislation • Ongoing harm to New Zealanders

Option 2: Further restrictions

- Further limit the maximum size of tobacco displays.
- Limit the number of tobacco displays to one display per retail outlet.
- Require graphic health-warning posters to be displayed.

Do you support any of these options?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If yes, why? If no, why not?	<p>ARPHS supports the requirement to have graphic health warnings, but does not support the other two proposed further restrictions.</p> <p>Reducing the size of a display would not necessarily reduce the harmful effects outlined above and it is very unlikely that existing compliance difficulties would decrease if the legislation was modified in this way. A reduction could also result in more competition between tobacco companies for display space and more lucrative payments to retailers for optimal product placement.</p> <p>Graphic health warnings have been shown to be an effective disincentive, particularly for those who are considering trying out smoking (usually adolescents) and those contemplating giving up smoking (usually mature smokers). According to an Australian study, 78% of smokers believed health warnings had some effect on their behaviour, 33% believed they helped them smoke less, and 45% of</p>		

⁷ See also Janine Paynter, Becky Freeman & Belinda Hughes. (2006). *Bringing down the Powerwall: A review of retail tobacco displays*. Auckland: Action on Smoking and Health, 20-24 for other ways display provisions are manipulated to create large visual 'clusters' of tobacco products.

	<p>recent ex-smokers believed that the warnings helped them give up smoking.⁸</p> <p>ARPHS supports the inclusion of graphic display warnings on cigarette packaging and the requirement that all tobacco retailers display government designed graphic health warnings at tobacco points of sale. A careful consideration of content, format and graphics for maximum efficacy is also recommended.⁹</p> <p>ARPHS also supports the inclusion of the Quitline telephone number on graphic health warning posters and their eye-level placement directly next to the point of purchase.</p>
<p>Would you like to see some of the above options combined? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>ARPHS only supports the requirement to have graphic health warnings displayed.</p>	
<p>What possible advantages or disadvantages do you see with these options?</p>	<p>Disadvantage of a law change that allows displays:</p> <ul style="list-style-type: none"> • Continued exposure of tobacco to vulnerable consumers • The continuation of tobacco advertising will mean that tobacco demand will be maintained or increase • The continuation of ineffective and costly compliance activity • Further confusion and abuse of new legislation • Continued undermining of public health message • Ongoing harm to New Zealanders

⁸ Commonwealth Department of Health and Aged Care. (2001) *Review of Health Warnings on Tobacco Products in Australia*. Canberra: Author. 7, 11.

⁹ *ibid.*, 14-15 for an evaluation of different warning formats.

Option 3: Ban on tobacco displays

- Ban tobacco displays in areas accessible to under-18s.
- Completely ban all tobacco displays.

Do you support either of these options?	
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<p>If yes, why? If no, why not?</p>	<p>Due to increasing restrictions on tobacco advertising around the world, tobacco manufacturers are increasingly turning to retail outlets as the prime focus of their promotional efforts.¹⁰ In New Zealand, where all other advertising is banned, retail displays have become the only context in which manufacturers can seek to influence consumer behaviour and increase sales.</p> <p>A complete ban is an important step towards denormalising the smoking lifestyle and reducing the exposure of vulnerable populations such as youth and ex-smokers to products that encourage them to try or resume smoking. It is not a move that can be expected to produce instant results. The true benefits will be reaped in the long term, where a generation of young people will reach adulthood without being exposed to tobacco promotion and the accompanying ideas/perceptions that smoking a cigarette is normal, even desirable behaviour on a par with eating a chocolate bar or buying a magazine.</p> <p>The strongest opposition to a display ban is coming from tobacco manufacturers and retailers. Small retailers in particular argue that a ban would negatively affect their earnings, both from lost sales and the costs involved in fitting alternative tobacco storage units and changing shop layouts. These reasons in themselves should not be considered sufficient to deter the imposition of a complete ban.</p> <p>It is important to bear in mind that a decline in tobacco sales is inevitable if New Zealand's public health goals are to be reached. Retailers will need to tailor their businesses to take account of this and prepare accordingly. Another loss in income that retailers have been less forthcoming about is the payment they receive from manufacturers to ensure optimal product placement. It is however, very likely that manufacturers of non-tobacco products will step into this breach and take advantage of the prime display locations that cigarettes currently occupy.</p> <p>Another prominent industry/retailer argument is that a display ban would distort free competition. A recent reversal of a display ban in NSW was partially justified by a government acknowledgment of how such a ban would affect retailers, particularly small ones, and of industry concerns that the ban would be anti-competitive, in that smokers would no longer have the option of choosing between brands. It is worth noting that industry and retailer arguments often contradicted this latter point by arguing that displays did not encourage smokers to purchase cigarettes</p>

¹⁰ See S.M. Carter, 'New frontier, new power: the retail environment in Australia's dark market', *Tobacco Control*, vol. 12. no. 3, pp. 97-98 for an example of how display space is seen as 'prime real estate' for tobacco marketers and the depth and focus of their display strategies.

	<p>and that 'the vast majority of people purchasing cigarettes do so with a specific brand in mind, and as such are not influenced by displays.'¹¹</p> <p>If a ban is put in place, existing smokers are likely to continue to purchase tobacco from their usual retail outlets, rendering the argument that a ban could make it difficult for consumers to know where to buy cigarettes insubstantial.</p>
<p>What possible advantages or disadvantages do you see with these options?</p>	<ul style="list-style-type: none"> • Reinforcement of public health message in retail environments. • Vulnerable populations will no longer be exposed to powerful visual cues that tempt them to re-start or experiment with smoking. • Long term benefit of de-normalising cigarettes as a consumer item in the same category as confectionery and magazines. • Easy to understand and enforce.

<p>Which is your preferred option? Why?</p>	<p>ARPHS supports a total ban on all tobacco displays as the most straightforward and effective way of reinforcing the public health message and achieving public health goals of reducing smoking and promoting a smoke-free lifestyle. Displays are the last legal form of tobacco promotion in NZ, and have been shown to actively encourage smoking initiation among youth, re-uptake among ex-smokers and spontaneous purchase.</p> <p>Current legislation has proved unwieldy and ineffective, as has been demonstrated by the significant rates of non-compliance¹² across the country, and its public health utility is questionable. Enhanced education and enforcement would be a costly way of countering a measure that continues to promote tobacco use. Restricting display sizes further will not mitigate any of these concerns. The public health message will continue to be undermined and confusion around legislation could potentially increase.</p> <p>While it would be idealistic to argue that a complete ban will immediately prove advantageous to all parties concerned, the disadvantages to retailers should not be over estimated. Retailers may be inconvenienced by having to reconfigure their displays and may also incur some one-off costs in doing so. The tradition of industry paying for in-store display hardware could make it feasible for any regulatory changes in displays being assigned as the industry's financial responsibility. They may also experience a drop in income from tobacco company payments. It should be remembered however, that this revenue could well be supplanted by other manufacturers seeking to take advantage of the prime store locations previously allotted to cigarette and that they are unlikely to lose sales from existing smokers.</p>
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¹¹ Legislative Council, 'Tobacco smoking in New South Wales', p. 86.

¹² *Cigarettes and Candy*, 19-34.

	<p>In view of the wider context of New Zealand's tobacco control strategy, allowing these concerns to influence policy will delay the attainment of goals of reduced smoking initiation, tobacco sales and spending as set out in the Ministry's Clearing the Smoke Tobacco Control Plan. The benefits gained from restricting exposure (particularly of vulnerable populations such as children and ex-smokers) to tobacco products, and ensuring retail environments are places where tobacco consumption is not promoted or normalised far outweigh the perceived disadvantages for retailers which are, at any rate, temporary.</p>
<p>Is there anything else you would like to comment on?</p>	<p>Given that tobacco promotion has been banned in almost every other public context, tobacco manufacturers have invested heavily in their relationships with retailers. Alongside the provision of display units and incentive payments, industry representatives also 'assist' retailers with product display and local area marketing plans. A display ban will contribute to eroding this influential bond and provide a key opportunity for the Ministry of Health to develop stronger relationships with retailers. While centred on compliance, they could also involve support and advice on reducing dependence on tobacco profits.</p>

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