# Consultation submission

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| Your detailsThis submission was completed by: *(name)* | Associate Professor **Marewa Glover** |
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| Organisation *(if applicable)*: | **End Smoking NZ** |
| Position *(if applicable)*: | Chairperson |

*(Tick one box only in this section)*

Are you submitting this:

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

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

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

Please indicate which sector(s) your submission represents:

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

[x]  Tobacco control non-government organisation

[x]  Academic/research

[ ]  Cessation support service provider

[x]  Health professional

[ ]  Māori provider

[ ]  Pacific provider

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

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

Please indicate your e‑cigarette use status:

[ ]  I am using nicotine e‑cigarettes.

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

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

[ ]  I am not an e‑cigarette user.

[ ]  I have tried e‑cigarettes.

Some members of End Smoking NZ are ex-smokers, and some have tried nicotine-free e-cigarettes to see what they are like. None are committed personal e-cigarette users . However we all believe that e-cigarettes are an important tool that can help people stop smoking.

### Privacy

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

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### Declaration of tobacco industry links or vested interest

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

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| --- |
| End Smoking New Zealand has no tobacco industry links, nor any commercial interest in e-cigarettes, or in nicotine replacement therapy. End Smoking NZ does not receive any Government funding. Some of our members have received research funding to study e-cigarettes and vaping. The funding has mainly come from the Health Research Council and Ministry of Health.  |

Please return this form by email to:

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

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

# Consultation questions

**End Smoking NZ**

End Smoking NZ was set up to look for and lobby for more effective strategies to more rapidly reduce smoking-related disease and deaths in New Zealand (NZ). Particularly we believed a harm reduction approach would be needed because not every smoker would be able to, or would want to, quit.

First we lobbied for NZ smokers to have access to Swedish Snus. The evidence from Sweden and Norway, 10 years later, proves that Swedish Snus is an effective harm reduction tool that potentially could have reduced smoking prevalence and subsequent harm from smoking in NZ. The tobacco control sector and public health academics didn’t like Swedish Snus, partly because it was a tobacco company product. The cost has been significant suffering and premature deaths from smoking tobacco – suffering that could have been reduced or avoided here in NZ.

Almost 10 years ago we began to investigate the potential of e-cigarettes. Over the intervening years we have become more convinced that e-cigarettes presented the first real threat to smoked tobacco. E-cigarettes did not just have potential as a smoking cessation tool, but could deliver the Endgame.

We also looked at denicotinised cigarettes and we have done considerable work looking at tobacco tax.

We are very happy to see the Government respond to the calls for a review of e-cigarettes. We are confident that this time, the chance to dramatically and rapidly reduce smoking prevalence and harms from smoking, will be seized upon. Thousands of NZ smokers have already completely switched to vaping, with and without nicotine. They have formed their own lobby groups and present a strong case for nicotine vaping to be allowed in NZ.

We call on you to put current and ex-smokers at the forefront of this debate.

Our members who are party to this submission includes:

Chair - Associate Professor Marewa Glover, School of Public Health, Massey University

Dr Penny Truman, School of Public Health, Massey University

Dr Murray Laugesen, Health NZ

Trish Fraser, Global Public Health, Glenorchy

Dr George Laking, Oncologist

Professor Randolph Grace, Canterbury University

**Preamble**

* Electronic vaporisers (e-cigarettes) are not tobacco products.
* Whilst nicotine is extracted from tobacco, or can be synthesised, we do not consider nicotine liquid produced for the purpose of vaping to fit the intended spirit of the definition of a tobacco product in the Smoke-free Environments Act.
* Electronic vaporisers are not solely, nor necessarily, a smoking cessation device.
* Electronic vaporisers were created to be a safer alternative nicotine delivery device compared to smoking tobacco products.
* The use of nicotine replacement products is well established as a safe practice.
* Vaping nicotine is estimated to be at least 95% safer than smoking tobacco. The estimated risk is as low as many of the established nicotine replacement products.
* Millions of smokers worldwide have found that vaping, with and without nicotine, has enabled them to achieve sustained abstinence from smoking tobacco. E-cigarettes are very clearly showing their potential to significantly reduce smoking rates. (1) A significant proportion of these people go on to stop vaping as well. Many others enjoy vaping and have no intention to quit in the near future.
* Vaping nicotine hasn’t resulted in sustained abstinence from smoking for all smokers who have tried it. The devices have and continue to vary greatly.
* Other alternative nicotine delivery products are in development, or are on the market overseas. No one cessation product or alternative nicotine delivery product will help every smoker either switch off or abstain from smoking tobacco. A range of products are required. We should not limit New Zealand smokers to just one type of e-cigarette or just one type of greatly harm-reduced alternative to smoking product.

Tobacco control policies have contributed to reducing smoking rates in New Zealand (NZ). But, unacceptable disparities in smoking prevalence by ethnicity remain. Māori and Pacific have much higher rates of smoking than non-Māori. In particular Māori women with 42% smoking compared to NZ Europeans’ rate of 13%. Māori women’s smoking prevalence has declined very slowly, but the gap between Māori and European is not narrowing. If anything the inequity is widening. It does not look good for our Smokefree 2025 aims, nor for our health equity aims.

* The approach to reducing smoking in NZ needs to be reframed and re-thought.

Tobacco control has irrevocably changed with the introduction of greatly harm-reduced alternatives to smoking tobacco, particularly the electronic cigarette. Smokers now have more alternatives to smoking. The huge difference is that vaping nicotine offers an equal or better experience than smoking tobacco. As a result millions of smokers have switched to vaping. Research shows clearly that the huge majority of that use is for smoking replacement or for cessation. Very few never-smokers use e-cigarettes. (1)

* Vaping, even with nicotine, is likely to be less addictive than smoking tobacco.

There are sound scientific reasons from animal studies to suspect that e-cigarettes should be less addictive than smoking is (e.g. 2-4), and some strong indications from cessation trials (e.g. 5) and observational studies that e-cigarettes will prove less addictive than smoking.

Smokers now have an option. They can receive all of the benefits that they enjoyed from smoking tobacco from a significantly less harmful (6) and probably less addictive behaviour.

* We believe that nicotine liquid for vaping and vaporisers should be legal to import for sale and distribution in NZ.

Further, it would be unethical to delay access to legal nicotine for vaping and instead wait until the market provides pharmaceutically approved nicotine containing e-cigarette or other alternative product. Vaporisers are already here as a consumer product and they are here directly because of the desire of many smokers to improve and protect their health. We (NZ society) should help, not hinder, this trend.

This submission is based on the following set of principles:

1. E-cigarettes are accepted to be significantly less harmful than tobacco.(6)
2. **It must be easier, or at least as easy, to find and buy vaping products as it is to buy tobacco for smoking**.
3. **Vaping products should have no more or specific tax over and above GST imposed upon them.** The initial setup cost for vaping has to be able to be recouped within a short time frame, or people will not switch. (8)
4. **The opportunity for NZ and foreign vaping product manufacturers and suppliers who are independent of tobacco companies to operate in NZ should not undermined** by policies that would favour established tobacco industry giants. E-cigarettes represent a major threat to the tobacco and pharmaceutical quit aid business.
5. **The primary aim should be to enable current smokers to switch to vaping** and to have vaping products widely and readily accessible for ex-smokers facing relapse to smoking.
6. Tobacco Advisory Group of the Royal College of Physicians. *Nicotine without smoke: tobacco harm reduction.* Royal College of Physicians, 2016
7. Brennan KA, Putt F, Roper V, Waterhouse U, Truman P. Nicotine and Tobacco Particulate Self-Administration: Effects of Mecamylamine, SCH23390 and Ketanserin Pretreatment. Current Psychopharmacology. 2013;2(3):229-240.
8. Brennan KA, Crowther A, Putt F, Roper V, et al. Tobacco particulate matter self-administration in rats: differential effects of tobacco type. *Addiction Biology.* 2015;20(2):227-235
9. Costello MR, Reynaga DD, Mojica CY, Zaveri NT, et al. Comparison of the reinforcing properties of nicotine and cigarette smoke extract in rats. *Neuropsychopharmacology*. 2014;39(8):1843-1851
10. 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
11. 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
12. 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
13. Stoklosa M, Drope J, Chaloupka FJ. Prices and E-Cigarette Demand: Evidence From the European Union. *Nicotine Tob Res* (2016) 18 (10): 1973-1980.

#### 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:

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| --- | --- |
| Yes, we agree that the sale and supply of nicotine cartridges or liquid for vaping and e-cigarettes should be allowed in NZ. Vaping products should be able to be sold wherever tobacco products are sold and in additional retail outlets that currently do not sell and have no desire to sell tobacco products, such as dedicated vaping product retailers (vape shops). As Professor Richard Edwards, University of Otago, 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 vaping products are accessible to smokers and ex-smokers. The benchmark for accessibility should be: how easy is it for a lower socio-economic woman who lives in a rural country area to purchase replacement nicotine e-liquid? Controls should be minimal because the estimated harm from vaping, even with nicotine, is minor compared with many other behaviours, substances, foods and drinks enjoyed by people. There is considerable interest in vaping e-cigarettes among low socio-economic smokers (mainly Māori and Pacific smokers) in NZ. (1) Nicotine e-cigarettes have the potential to contribute significantly to reducing the high rates of smoking among Māori (39%) and Pacific people (25%), a priority for Government. (2)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.
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#### 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:

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| The opportunity to legalise nicotine for vaping should not be delayed by the spectre of newer technologies and potentially harm-reduced alternatives to smoking products that are yet to be introduced to NZ. Any proposed Amendment to the Smoke-Free Environments Act at this time should focus on legalising nicotine for use in vaporisers. Provision should be made for an administrative review process that can rule on future harm-reduced alternatives to tobacco smoking products that deliver nicotine outside of tobacco. Other greatly harm –reduced alternative products to smoked tobacco have been developed and are available overseas and several more are under development. Local tobacco control and public health academics have voiced concerns about tobacco companies buying up vaping product companies, developing their own e-cigarettes and other harm-reduced products, such as, heat-not-burn products. Similar alarm has led to the FDA in the States imposing such heavy regulations on e-cigarettes that it is likely that only the tobacco companies will survive. NZ needs to be careful that we don’t repeat grave mistakes being made overseas by jurisdictions that have reacted primarily from an ideological positioning rather than on the strength of the evidence. The primary interest in new and emerging alternatives to smoked tobacco should be whether they are indeed greatly harm-reduced compared to smoking tobacco and how they compare to nicotine vaping; and whether they are highly attractive to smokers and smokers are able to switch completely and sustain abstinence from smoking. A more economical product could be more accessible to lower SES smokers. Further, questions for NZ would be whether innovative products are: attractive to Māori and Pacific smokers who have not transitioned to vaping (a good thing); attractive to never-smokers who are susceptible to smoking uptake; have any potential for attracting ex-smokers/ex-nicotine users who don’t vape. Not every remaining smoker in NZ will transition to vaping. Significant damage has been done to the product in terms of the misinformation and scare-mongering to scare people off switching to vaping. New and different greatly harm-reduced nicotine delivery products options will be needed. Lower priced options will be needed to facilitate access among smokers of lower socio-economic status. Unfounded controls will create barriers and risk maintaining inequitable Maori and Pacific smoking prevalence rates compared to Pākehā. No specific excise tax should be applied to new greatly harm-reduced nicotine delivery products. The excise tax currently applied to greatly harm-reduced smokeless tobacco products that people import for their own use should be removed.  |

####  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 [ ] √ (majority view)

Reasons/

#### Q3 Sale and supply of vaping to people under 18 years of age

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| It is clear from the other submissions that have already been publicly shared that a majority are going to argue for restricting vaping product purchase age to 18 and above. It is obvious that it would be politically uncomfortable for the Government to go against this. There are however some unintended negatives that need to be considered. 1. Many teenagers under the age of 18 smoke. Particularly young Māori who are three times more likely to smoke than non-Māori with a prevalence rate of 11.26%.(2)
2. Nicotine replacement therapy products are allowed to be used by young people aged from 12 - 17 years of age. Vaping, even with nicotine, is estimated to be in the same relative range as these products.
3. Under 18 year olds who have been unable to quit using other permitted nicotine replacement products may show an interest in quitting via vaping.
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 if they are unable to quit with permitted 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 younger smokers 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.  There is no evidence nicotine e-cigarettes are a gateway product. (1) Vaping even with nicotine is likely to be proven to be less addictive than smoking tobacco. The evidence suggesting rapid loss of autonomy upon smoking a cigarette for the first time cannot be extrapolated to first vape. Neither can the Hooked On Nicotine Checklist or other measures designed for measuring addiction to smoking be extrapolated and used to measure potential addiction to vaping. Overseas evidence suggests that jurisdictions where young people have access to vaping products enjoy lower smoking prevalence among youth compared to jurisdictions that ban youth access. Banning sales of vaping products to under 18 years olds sends a contradictory message that vaping is as dangerous as smoking. It is not. Please consider ways in which people under 18 years of age who smoke, can be supported to switch to vaping if all other quit strategies have failed for them. Under the current Act we note that parents can distribute tobacco products to their own children. Vaping products should not be disproportionately over-regulated compared to tobacco products. So if you do ban sales of vaping products to under 18 year olds, at least apply the same allowance for parents to supply their child. 1. Tobacco Advisory Group of the Royal College of Physicians. Nicotine without smoke: tobacco harm reduction. Royal College of Physicians, 2016

ASH (Action on Smoking and Health). 2015 Factsheet 1. ASH year 10 snapshot survey. Topline results. <http://www.ash.org.nz/wp-content/uploads/2016/08/ASH-Y10-Snapshot-2015-Factsheet-1-General-Topline-FINAL.pdf> Accessed 26 August 2016 |

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

Yes [ ]  No [x]

Reasons/additional comments:

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| Smoked tobacco products are dangerous products, which kill between 4,500 and 5,000 people in NZ every year (1) which is the reason advertising is of them is banned. There is no evidence that anyone has ever died from vaping an e-cigarette. Nicotine e-cigarettes are estimated to be 95% safer than cigarettes. (2) They are addictive although it is likely they are not as addictive as smoked tobacco. (3,4) Unfounded restrictions such as banning advertising sends the misleading message that vaping is as dangerous as smoking tobacco and this will put some people off vaping ever. 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/relapsers from switching to alternative greatly harm-reduced products, products that smokers in supportive countries and states are switching to at a rate that can be described as faster than a mass exodus.The only advertising of vaping products that should not be allowed is that which is currently banned in the existing Smoke-free Environments Act, such as the cross promotion of tobacco products. It is important that the independent vape shops be allowed to have a shop-front and on-line presence, so people know where to get which products and at what price. Vendors also need to provide information to assist smokers to distinguish between different types of products to ensure that they purchase a vaping kit most likely to speed and assure their complete transition from smoking to vaping. Making unfounded therapeutic claims is already prohibited. Other laws provide further protections against false and misleading or offensive advertising. The Ministry of Health will need to consider if the existing laws are sufficient to deal with advertising that some people might find offensive, such as, advertising that could be targeted at never-smokers or children. 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
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**Q5 Do you think it is important for the SFEA to prohibit vaping in designated smokefree areas in the same way as it prohibits smoking in such areas?**

Yes [ ]  No [x]

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| 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 any risks to their health, if identified, are likely to be extremely low. (5) Banning ecig vapour because “I don’t like it” is an unacceptable reason to impose a regulatory ban on vaping. We do not currently pass laws and regulations to protect some people from smells emanating from other individuals, be that body odour, perfume or after shave. Some vapour has no odour, and some vaping produces no visible vapour. Banning vaping wherever smoking is currently banned contains several risks for vapers. Tobacco control is intent on extending bans on smoking to include extensive outdoors areas, including whole streets, paved areas, footpaths and all outside dining and drinking areas. They are also intending to push for bans on smoking inside people’s personal vehicles, and inside and outside any State owned rental housing. Workplaces and higher educational facilities are being encouraged to extend smoking bans to encompass their whole grounds. Even the current bans are having a detrimental effect on smokers who have been unable to stop smoking. They are experiencing sometimes extreme social exclusion, marginalisation and discrimination (landlords won’t rent to them, some employers won’t employ smokers). Wellington City Council recently included vaping in their new outside smoking bans. This sends a message that vaping is as dangerous as smoking and that vapers are no different from smokers (e.g. they’re still recalcitrant addicts). In this scenario, vapers are also forced to retire to the same limited and increasingly close number of areas that smokers have to go to. As ex-smokers, this puts vapers at risk of relapse. Anything that inhibits switching to vaping is counterproductive. The ability to vape inside some places, where it is allowed by the organisation or venue offers a valuable advantage of vaping over smoking tobacco.The main argument for banning vaping anywhere that has any claim to a scientifically based theory, though not proven, is that viewing adults vaping might influence a child to initiate smoking. Firstly, vaping is not smoking. Research with NZ children has shown that they can distinguish between smoking and vaping. They also really want their loved ones to stop smoking and they, despite their young age, could see the sense in vaping over smoking. (6) 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. Hospitals should be allowed to develop policies that provide for vaping as an alternative to tobacco smoking for patients who are unable to, or who are prohibited to, go outside and off the grounds to smoke; and potentially for those patients who are not allowed to smoke prior to surgery. Banning vaping in these institutions may disproportionately affect more disadvantaged smokers, such as those with mental health or drug and alcohol conditions. (7) To maximise the number of smokers switching to e-cigarettes, vaping should be a more convenient option. (5) |

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| Offering a safe and effective alternative to smoking may help support compliance with smokefree legal requirements and make smokefree policies easier to implement. (8) 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. Faletau, J., Glover, M., Nosa, V. ‘Looks like smoking, is it smoking? Children’s perceptions of cigarette-like nicotine delivery systems.’ *Journal of Harm Reduction*, 2013; 10(30). <http://www.harmreductionjournal.com/content/10/1/30>
3. 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)
4. 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
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#### 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 | [ ]  | [x]  | Vapour is not smoke. There are no known serious health effects to warn people about. The established dangers of tobacco smoking cannot just be extrapolated over to vaping. It has not been established that vaping, even with nicotine is addictive. |
| Prohibition on displaying products in sales outlets | [ ]  | [x]  | We want smokers to switch to vaping. It is important that products can be displayed to entice smokers to try or retry vaping.  |
| Requirement to provide annual returns on sales data | [ ]  | [x]  | This would be too onerous for small companies. Collection of the data also implies that it will be analysed, thus increasing administrative costs to the Ministry of Health.  |
| Requirement to disclose product content and composition | [x]  | [ ]  | This could be similar to food and beauty products. The local vaping products industry and vapers are already requiring this. This is something that can be covered by a set of Standards vaping manufacturers could sign up to and agree to abide by. An industry self-regulation model could be implemented as a first step.  |
| Regulations concerning ingredients (eg, nicotine content and/or flavours) | [x]  | [ ]  | Regulations concerning ingredients need to be different from tobacco products because vaporisers do not contain tobacco. This is something that can be covered by a set of Standards vaping manufacturers could sign up to and agree to abide by. An industry self-regulation model could be implemented as a first step. For example, see their Vaping Alliance Voluntary Code of Practice as just one example.* Nicotine should be of a pharmaceutical grade
* Carrier liquids should be of high purity (certificate from manufacturer).
* Flavourings - Food grade ingredients required for all flavourings. Those with known health risks should be banned.

Do not ban sales on the basis of nicotine content or volume. It would be good to support people to buy within New Zealand. Current vapers have concerns about running out and reverting to smoking if they cannot get what they want in good time.  |
| Requirement for annual testing of product composition | [ ]  | [x]  | It should be up to the e-liquid manufacturers how they ensure they comply with any standards and regulations set. They may themselves decide it is worth checking on their compliance, or they may decide to rely on the certificates of purity provided with the base ingredients.  |
| Prohibition on free distribution and awards associated with sales | [ ]  | [x]  | There is little harm associated with this. Samples of different flavoured e-liquids can assist people to identify an optimum vaping experience that enables them to quickly and completely transition from smoking to vaping. We also want smokers to be encouraged to try, and retry, vaping.  |
| Prohibition on discounting | [ ]  | [x]  | Such a prohibition could prevent supportive programmes that are designed to encourage smokers to switch to vaping.  |
| Prohibition on advertising and sponsorship | [ ]  | [x]  | As above, there should be no prohibition on advertising and sponsorship because how otherwise can the independent vape shops tell people they exist. There is a sizeable vaping community in NZ. There are many psychological social positives for the once-stigmatised smokers who have quit and are part of this community. Restrictions on advertising, promotion and sponsorship in, for example, Canada has been used to try and limit vaping community social activities and events including their supportive Facebook forums. This type of regulation of the social activities of subcultures would be abhorrent in NZ.  |
| Requirement for standardised packaging | [ ]  | [x]  | Vaping products are not tobacco products. Such a severe action against the vaping product industry is not justified on public health grounds. |
| 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:

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| Vaping products are not tobacco products and the reason they are being allowed in the first place is that legalisation is expected to reduce disease and SAVE lives of current smokers. There is currently a strong financial incentive for smokers to switch to vaping. The addition of extra taxation, over and above the expected increase in prices due to the addition of GST, risks discouraging smokers switching from a harmful product to a relatively safe product. |

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

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| --- | --- | --- | --- |
| **Area of concern** | **Yes** | **No** | **Reasons/additional comments** |
| Childproof containers | [x]  | [ ]  | This is already implemented and is already in manufacturers proposed voluntary Code of Practice. Industry self-regulation can cover this.  |
| Safe disposal of e‑cigarette devices and liquids | [ ]  | [x]  | This should be similar to the requirements currently imposed on other devices that contain batteries, and on other products that contain liquids that can attain some level of toxicity at high volumes (e.g. could be similar to warnings on any insecticide, or medicine). The vaping products industry can cover this within agreed self-regulation standards. We would support a requirement on manufacturers to urge for safe storage and disposal of nicotine liquids and batteries (similar to any cellphone). |
| Ability of device to prevent accidents | [ ]  | [x]  | See other comments. The Consumer Guarantees Act applies.  |
| Good manufacturing practice | [x]  | [ ]  | Allow industry self-regulation, to the maximum extent possible to protect consumers.  |
| Purity and grade of nicotine | [x]  | [ ]  | Allow industry self-regulation to ensure reputable supplier, certificate of purity, use of pharmaceutical grade nicotine. |
| Registration of products | [ ]  | **[x]**  | This would be onerous on smaller manufacturers and suppliers. It also implies the need for increased funding to administer, monitor and report on such a register – it would be better to spend the money on urgent public health concerns.  |
| A testing regime to confirm product safety and contents purity | [ ]  | [x]  | As above. Plus, if regulations as to purity are imposed, it is up to MoH (or MPI) to test to see whether a given supplier is complying with the standards or regulations, just as is done with food, medicines, health supplements, or even tobacco.  |
| Maximum allowable volume of e-liquid in retail sales | [ ]  | [x]  | See comments above. Arbitrary restrictions should not be created and imposed. There is no health harm associated with the volumes vapers are currently buying.  |
| Maximum concentration of nicotine e-liquid | [ ]  | [x]  | Arbitrary restrictions should not be created and imposed. There is no health harm associated with the volumes vapers are currently buying or putting into their e-liquids. Nicotine users naturally titrate. Whilst, most vapers are using low levels, which varies widely depending on the vaping kit they use, some vapers especially to begin with need a high (e.g. 24-36mg) level to completely substitute their smoking experience.  |
| Mixing of e-liquids at (or before) point of sale | [ ]  | [x]  | Because of the current restrictions on nicotine, many vapers have had to resort to mixing their own e-liquids. Some hobbyists prefer to mix their own. There is no harm attached to this currently. The DIY aspect is likely to reduce once nicotine e-liquids can be more conveniently obtained in NZ. There is no need to regulate this aspect.  |
| Other | [ ]  | [ ]  |  |

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

|  |
| --- |
| The regulatory environment (whatever it may end up looking like) should encourage continued innovation in a range of harm reduced products to the extent that switching to them becomes a no brainer for both smokers and tobacco companies. The approach to poisoning risks with nicotine liquids should be as with other moderate household hazards: child-resistant containers, labelling, and advice on what to do in the event of contact. This and any other hazards can be specified through ordinary consumer regulation, as is done for a large number of consumer products.The Consumer Guarantees Act already provides a degree of protection against shoddy and unsatisfactory products.  |

### Additional information on sales and use

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

|  |
| --- |
| No, sorry |

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

|  |
| --- |
| Not applicable (N/A) |

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

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