

September 2006

Cancer Research UK response to the Department of Health consultation on Under-age Sale of Tobacco

1. General Comments

Cancer Research UK¹ is the world's largest independent organisation dedicated to cancer research, with an annual research spend of over £257 million. Our vision is to beat cancer. We carry out world-class research to improve our understanding of cancer and to find out how to prevent, diagnose and treat different types of the disease.

One of our absolute priorities is to reduce the number of people getting cancer. We know that smoking causes one in four cancer deaths² and that although there has been a decline in prevalence in recent years, this has been heavily concentrated in older age groups.

We support measures to help prevent children from taking up smoking and to encourage young smokers to quit. We know that about 1 in 6 boys and 1 in 4 girls are regular smokers by the age of 15.³ Having one cigarette as a child increases the risk of being an adult smoker and therefore the greater the risk of developing lung cancer, heart disease and a raft of other chronic conditions.⁴

We welcome the publication of the consultation document and the opportunity to respond.

2. Cancer Research UK position

Increasing the age of cigarette purchase to 18 would put cigarette sales in line with restrictions on alcohol sales and would send a strong message to young people that tobacco products are dangerous. For these reasons we support the proposal. The measure might reduce the availability of cigarettes to young people, but only if it can be properly enforced from the outset. We support the introduction of a positive licensing system with appropriate penalties for this reason, and believe it will provide greater regulation than the Government-favoured negative licensing system. Additionally, strong investment in communications to retailers over and above what is currently suggested will be required.

¹ Registered charity no. 1089464

² Doll R, Peto R. The Causes of Cancer. J Natl Cancer Inst 1981; 66:1191-308.

³ Action on Smoking and Health (2006) ASH factsheet no: 3, Young people and smoking. [Online] April 2006. Available from: <http://www.ash.org.uk/>

⁴ Fidler, J. A., Wardle, J., Brodersen, N. H., Jarvis, M. J., West, R. (2006) Vulnerability to smoking after trying a single cigarette can lie dormant for three years or more. Tobacco Control. June: 15 (3): 205-9.

However we also know that around a third of under-age smokers obtain cigarettes from older friends and family and increasing the age of purchase will not prevent this. Therefore other measures are still needed. Smoking initiation in young people is also strongly influenced by their perception of smoking as a common and desirable adult activity. Reducing adult smoking rates is also critical through measures such as greater regulation of tobacco products (including generic packaging and picture warnings), higher cigarette prices, effective enforcement of smokefree public places and more public awareness campaigns.

Other measures that may help to reduce smoking among young people include the prohibition of the sale of cigarettes from vending machines and residual point of sale marketing.

3. More detailed comments on consultation questions

3.1 Changing the age of sale

Cancer Research UK supports Option three: increasing the age limit to 18, in line with alcohol.

Raising the age of purchase would send out a clear message that smoking is a dangerous activity and that children and young people should be given legal protection to discourage the use of tobacco.

If this legislation is effectively enforced, it should make it more difficult for children to purchase tobacco, thus limiting access to cigarettes. It would also make it easier for schools to ban smoking entirely, which may have other positive consequences, perhaps reducing the peer pressure on young people to smoke.

The Government's current proposals would bring much of the UK in line with the provisions in the Framework Convention on Tobacco Control (FCTC) and other developed nations. However, it is important that the right models for enforcement are selected (Please see 3.3).

It is imperative that effective resources are made available to communicate the details of the increase in age of purchase. We believe that the Government should revise the £1 million earmarked for a communications campaign and set out a timetable for the implementation of such a campaign. We would urge the provision of greater resources to different target audiences (e.g. retailers and young people) in advance of, at the time of, and also at appropriate intervals after implementation. We would also like the Government to monitor compliance with the change in legislation via test purchasing and other methods.

It is important that adequate funding is in place to allow Stop Smoking services to meet an anticipated increase in demand. Services that are specifically targeted at under-age and adolescent smokers will be particularly important.

3.2 Other measures that might help to reduce smoking among young people

(i) Reducing adult smoking prevalence

Children are three times more likely to smoke if both of their parents smoke.⁵ Parents' approval or disapproval of smoking also influences whether young people choose to smoke. In addition, reviews of the evidence show that the most effective way of reducing smoking among young people is to implement policies that affect the whole population. It is therefore imperative that the Government continues to work to reduce overall smoking prevalence.

Whilst prevalence has fallen over the last few years, more attention needs to be paid to manual workers and lower socio-economic groups, in which more people smoke, and where prevalence has remained largely unchanged.

(ii) Smokefree legislation

We are delighted that all of the UK has either already implemented legislation to make enclosed workplaces smokefree, or is in the process of introducing such measures. We believe the introduction of smokefree workplaces is the most important advance in public health in the last fifty years.

We know that smokefree laws have a positive impact on prevalence rates. However, it is crucial that the smokefree legislation is properly enforced and publicised so that compliance levels are high. We welcome the Department of Health's commitment to review the smokefree measure three years after introduction. We hope that this will be an opportunity to assess the effectiveness of the law and to amend the regulations if necessary to ensure that the spirit of the ban is upheld.

(iii) Increased taxation

Young people are particularly responsive to increases in tobacco prices.⁶ We urge the Government to tax tobacco products at a rate that is above inflation so that the 'real' cost of tobacco products increase. In Canada, when cigarette prices were raised dramatically in the 1980s and the early 1990s, youth consumption of tobacco plummeted by 60%.⁷

(iv) An end to cigarettes in vending machines

Tobacco products are readily available and accessible to young people.⁸ 24% of regular secondary school smokers report buying cigarettes from vending machines and only 13% of those find it very or fairly difficult to do so.⁹ This is despite National Association of Cigarette Machine Operators (NAMCO) rules stating that the main consideration for deciding on the physical location of cigarette vending machines is the need to prevent sales to children. It would be extremely difficult in practice to introduce effective restrictions that would prevent young people from accessing

⁵ Teenage Smoking attitudes in 1996. Office for National Statistics, 1997.

⁶ Ogilvie, D. Grueer, L., Haw, S. (2005) Young people's access to tobacco, alcohol, and other drugs. *BMJ*. 331; 393-396.

⁷ Sweanor, D and Martial LR, The Smuggling of tobacco products: Lessons from Canada (Non-Smokers Rights Association), 1994.

⁸ Marshall, L., Schooley, M., Ryan, H., Cox, P., Easton, A., Heaton, C., Jackson, K., Davis, K. C., Homsy, G. (2006) Youth Tobacco Surveillance – United States 2001-2002. *MMWR Surveillance Summaries*. May 19; 55(3): 1-56.

⁹ Smoking, drinking and drug use among young people in England in 2004. London, National Centre for Social Research, 2005.

vending machines. Though the banning of tobacco from such machines might inconvenience some adult smokers, we believe that it would be a price worth paying for reducing cigarette consumption among children.

We propose that the Government looks into the possibility of making Nicotine Replacement Therapy (NRT) available via vending machines. This would support the policy outlined in the Government's Choosing Health White Paper which calls for the promotion of stop smoking therapies through a wider choice of outlets.¹⁰

(v) Restrictions on point of sale advertising

We believe that point of sale advertising should no longer be permitted. Evidence illustrates how tobacco companies have exploited the lack of rules regarding the display of tobacco products at the point of sale, in order to maximise the presentation and appeal of certain brands.^{11,12} Restricting tobacco advertising at the point of sale in our view represents good practice. The measure has also been adopted by Canada, Thailand and Iceland.

(vi) Generic packaging

We support plain generic packaging of all tobacco products and the introduction of a fully independent Tobacco and Nicotine Regulatory Authority to regulate all tobacco and nicotine products, including their packaging and marketing. In a recent study it was found that the branding of tobacco products affects adolescent's intentions to smoke and their perceived image of smoking.¹³

(vii) Introduction of picture warnings on cigarette and other tobacco packs

Cancer Research UK supports the introduction of visual images on cigarette and other tobacco packs as soon as possible. International evidence shows that graphic picture warnings inform people of the risks associated with smoking and help encourage people to reduce their smoking behaviour or possibly to even quit altogether.

Picture warnings can depict the harsh reality and stark consequences of smoking, and may help deglamorise smoking. We responded to the recent Government consultation on the introduction of picture warnings stressing strong support for the proposals. We are disappointed, however, that the warnings will only be introduced on the back of packs in the first instance. In our submission, we urged the Government to lobby for the European Union rules to be amended to allow front of pack warnings. This would ensure that smokers see a visual message at the point of sale, and would also reduce the space available for 'attractive' product branding. We would urge the Government to address these shortfalls so that the warnings can be as effective as possible. We would also further urge the Government to lobby on improving the European image bank. It is unfortunate that some of the images featured are non-pictorial and others appear quite 'weak'.

¹⁰ Department of Health. Choosing Health. Making healthy choices easier. 2004

¹¹ Sanford, A. Implementation of the Tobacco Point of Sale Regulations in the United Kingdom. Presentation made at the 13 World Conference on Tobacco Control and Health, July 2006.

¹² Add full MacGregor ref.

¹³ Hassan, L. M., Grant, I. C., Hastings, G. B., MacKintosh, A, Eadie, D. (2006) The influence of branding on adolescent smoking behaviour: Exploring the mediating role of image and attitudes. Under Review at the Journal of Marketing Communications.

We know that product branding is significant in the promotion of tobacco products. Cancer Research UK researchers concluded in a study of internal documents from the UK tobacco industry's principal advertising agencies that, 'perhaps the most important channel is the pack itself. Its value as both a communication tool and a 'badge' is readily acknowledged and great care is taken to ensure that it continues to communicate the correct image.'¹⁴

3.3 Sanctions against retailers

Cancer Research UK supports Option one: positive licensing.

Clearly, the current legislative framework is not succeeding in preventing many young people from purchasing tobacco. Half of smokers under the age of 16 who try to buy cigarettes from shops succeed in doing so.¹⁵ It has been found that test purchases may even be underestimating the amount of underage sales.¹⁶

During 2003 there were only 117 prosecutions in the whole of England and Wales for under-age tobacco sales, with 93 defendants being found guilty and 82 fined. Of these, 26 fines were for sums over £300.¹⁷ This example illustrates that policies aiming to restrict youth access to tobacco products can only be effective if they are rigorously enforced.

There is not a great deal of evidence underpinning the introduction and effectiveness of a negative or positive licensing scheme, however a number of other European countries have positive licensing schemes for tobacco, including Spain, Greece, Poland, Hungary, Belgium and Italy. We believe that a positive licensing scheme would provide a means of further controlling the sale of tobacco that would not be afforded by a negative scheme. Monitoring and enforcement would be easier as Trading Standards Officers would have a register of all tobacco retailers in their locality.

It is imperative that effective sanctions against retailers are introduced, which offer a real incentive to enforce the age of purchase legislation. We believe that the threat of a licence being revoked offers a stronger incentive than the proposed negative licensing scheme for retailers to self-regulate.

In contrast, negative licensing would allow retailers to continue to sell tobacco without the need to hold a licence, though they would be subject to a banning order for repeated offences with the period of suspension being made at the discretion of the courts. Currently, local magistrates appear reluctant to take significant action against retailers that flout the under-age law. A negative licensing system would rely on similar enforcement procedures. In New Zealand, where a negative licensing system

¹⁴ Hastings G, MacFadyen L. 2000. A day in the life of an advertising man: review of internal documents from the UK tobacco industry's principal advertising agencies. *BMJ*, 321:366-371.

¹⁵ Action on Smoking and Health (2006) ASH factsheet no: 3, Young people and smoking. [Online] April 2006. Available from: <http://www.ash.org.uk/>

¹⁶ Baggot, M., Jordan, C., Wright, C., Jarvis, S. (1998) How easy is it for young people to obtain cigarettes, and do test sales by trading standards have an effect? A survey of two schools in Gateshead. *Child Care Health Development*. May 24 (3) 107-216.

¹⁷ Offences relating to the illegal sale of tobacco to children under 16- England and Wales, 2003. Home Office, Feb 2004.

is currently managed, it was found that the legislation and enforcement is not a sufficient deterrent to ensure retailer compliance with age restrictions.¹⁸

There is likely to be a higher cost burden associated with the introduction of a positive licensing scheme, for local authorities and retailers. However, although there will be an initial increased cost burden, this should be offset in future years by greater compliance with law, resulting in lower enforcement costs. By contrast, although the costs of a negative licensing scheme would be lower, the weaker sanctions would be less likely to deter retailers from breaking the law.

We would be happy to provide any further information or detail as required. Please contact the Cancer Research UK Public Affairs Department at publicaffairs@cancer.org.uk, or on 020 7061 8360.

¹⁸ Darling, H., Reeder, A., McGee, R., Williams, S. (2005) Access to tobacco products by New Zealand youth. *New Zealand Medical Journal*. April 15; 118(1213): U1408.