

Smokefree Action Coalition Briefing: Putting Tobacco Out of Sight and Out of Reach



A shop display like this would count as an ad on a bus stop or billboard and be illegal - regulations under the Health Act will close this loophole and put tobacco out of sight in shops as well as outdoors

Tobacco advertising was banned in the UK in 2003, because of the evidence that it encouraged young people to take up smoking. The tobacco industry tried to get round the advertising ban by increasing the size and scale of tobacco displays in shops to compensate. So, in line with World Health Organisation recommendations¹ and as implemented by countries such as Iceland, Ireland, Norway, Thailand and all the Canadian provinces, legislation was brought in to put tobacco out of sight in shops from 2011 onwards. However, the tobacco industry is challenging, and encouraging retailers to challenge, the regulations on point of sale display to try to get them revoked.

This briefing is on behalf of the Smokefree Action Coalition, an alliance of over 130 health and welfare organisations committed to reducing the harm caused by tobacco.² The Coalition includes all the major medical bodies such as the British Medical Association and the medical royal colleges, children's organisations, charities such as the British Heart Foundation and Cancer Research UK and public health organisations such as the Chartered Institute of Environmental Health, the Faculty of Public Health and the Trading Standards Institute. We are writing to urge you to resist the pressure to revoke the legislation.

Given the harm caused by smoking, which remains the major preventable cause of premature death and disease, and an addictive habit largely taken up in childhood, this legislation is proportionate and appropriate as well as popular with the public. It is also in line with cross-party support for a reduction in health inequalities, as half of the difference in life expectancy between the richest and poorest in society is caused by smoking. By implementing this important, simple and cost-effective measure the Coalition Government would signal its commitment to the improvement of public health.

This briefing sets out the evidence in support of the Health Act regulations:

- To remove displays of tobacco in shops; and to
- Prohibit the sale of tobacco from vending machines.

WHO SUPPORTS THE LEGISLATION?

- The legislation was supported by the Health Select Committee and has passed through both Houses with majority support, including strong support from Liberal Democrat peers, without whose backing the legislation would not have passed.

¹ Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control (Tobacco advertising, promotion and sponsorship) http://www.who.int/fctc/guidelines/article_13.pdf

² For full list of members see Smokefree Action Coalition website at www.smokefreeaction.org.uk



- A survey by YouGov for Cancer Research UK found that 70 per cent of adults in the UK backed proposals to protect children from tobacco by putting it out of sight in shops and 75 per cent support abolishing cigarette vending machines.³
- Over 50,000 people signed Cancer Research UK's 'Out of Sight, Out of Mind' campaign petition that called for an end to point of sale displays of tobacco and cigarette vending machines and the DH consultation on the measures received nearly 100,000 responses the vast majority of which supported these measures.

REMOVAL OF POINT OF SALE (POS) DISPLAYS

1. The tobacco industry argues that displays of tobacco in shops don't encourage young people to smoke. In fact:

- The advertising ban has reduced overall awareness of tobacco promotion and of brands among the young making shop displays now the most important source of tobacco marketing for young people. Awareness of new pack design and size has increased from 11% to 18%.⁴
- When other risk factors are controlled for, young non-smokers' susceptibility to start smoking increases with greater awareness of brands and tobacco marketing at point of sale.⁴
- Research with 25,000 young people in New Zealand, where advertising is also banned, found that those 15 year olds most exposed to shop displays are almost three times more likely to try smoking, and exposure to shop displays is a greater risk factor than even parental smoking.⁵
- A recent systematic review of international research has confirmed previous findings with seven out of eight studies showing a link between exposure to shop displays and youth smoking.⁶
- Youth smoking rates fell significantly when a display ban was implemented in Iceland in 2001. Iceland has had a national tobacco control strategy for many years. When a ban on PoS displays was introduced, youth smoking rates measured by a survey of all 10th grade students fell from 18.6% in 1999 to 13.6% in 2003. This rate of decline was twice as fast as during the previous period.⁷ It has been mistakenly suggested that smokefree legislation was introduced at the same time and that this or some other factor might have caused the reduction. In fact smokefree legislation was not introduced until 2007.
- Research in a forthcoming publication found compliance in Ireland after the legislation banning PoS displays was introduced in July 2009 was very high and the law was popular. Recall of displays dropped significantly among adults and teenagers post legislation and there are encouraging signs that the law reduced the extent to which teenagers think smoking is the norm.

2. The tobacco industry argues that the legislation will put retailers out of business



This advertisement was put in the retail trade press by Japan Tobacco in advance of the third reading and report vote in the Commons, implying that the legislation will put retailers out of business.

³ <http://info.cancerresearchuk.org/news/archive/pressrelease/2009-10-10-irish-display-ban>

⁴ Hastings, G et al. (2008) Point of Sale Display of Tobacco Products. The Centre for Tobacco Control Research, University of Stirling

⁵ Paynter J, et al. Point of sale tobacco displays and smoking amongst 14-15 year olds in New Zealand: cross sectional study Tobacco Control Journal. Submitted. Presented March 2009 at the World Conference on Tobacco or Health.

⁶ Paynter J, Edwards R. The impact of tobacco promotion at the point of sale: A systematic review *Nic Tob Res*, 11:1: 25-35. 2009.

⁷ The European School Survey Project on Alcohol and Other Drugs (ESPAD). www.espad.org/sa/node.asp?node=730

- In fact the evidence from Ireland where the legislation was implemented in July 2009 does not support the argument it will put retailers out of business. A report on the Irish experience in the trade magazine *The Grocer* found that “*the outlook may not be as gloomy as feared – at least not for retailers.*”⁸
- The UK Association of Convenience Stores found the average cost of compliance in Ireland was £300 for those retailers which had to pay, but the industry paid for many to convert.⁹
- Small shops in the UK have adapted to survive despite the long-term decline in smoking rates from 45% of the population in 1974 to 21% of the population today.¹⁰
- Consultation on the regulations in England has ensured that they have been adapted to minimise problems for retailers, with small retailers being given an additional two years until 2013 to comply with the display regulations, allowing ample time to explore a range of possible solutions.¹¹

3. The Tobacco industry argues that it will lead to a growth in smuggling and undermine legal sales. There is no evidence that this is the case. In fact:

- Canada is the usual example that is given. Canada has seen a steady increase in tobacco smuggling since 2001 - before Canadian provinces introduced bans on tobacco displays. Recent analysis of Canadian tobacco sales data shows that the greatest increase in smuggling was in provinces that had **not** yet introduced PoS bans, such as Ontario and Quebec which implemented their bans in June 2008.^{12 13}
- The Government of Canada’s *2008 Contraband Tobacco Enforcement Strategy* lists the main drivers of tobacco smuggling, such as pricing and organised crime, but does not cite the removal of PoS displays as a factor.¹⁴
- Counterfeiters already produce extremely high quality counterfeit products. For this reason the UK requires covert identifying marks on all authentic tobacco packs. This means that authentic products (both duty paid and non-duty paid) can be distinguished from counterfeit products.
- There is no evidence from countries that have implemented a PoS ban that smuggling rates have risen as a result or that people have changed where they buy their tobacco.

4. Putting tobacco out of sight will also help smokers to quit

- Nicotine is as addictive as heroin or cocaine and it takes an average of 12 to 14 attempts to stop smoking.¹⁵
- Research suggests that PoS displays “*undermine quitting intentions and behaviour among established smokers*” by prompting unplanned purchases.¹⁶

5. The tobacco industry used the same strategy to try to stop smokefree legislation arguing that it would put pubs out of business

- Many publicans believed this and surveys by the trade press found that significant numbers were in fear of going out of business in advance of the legislation being passed.

⁸ The Grocer, 8 August 2009 p.36

⁹ Implementation of the Tobacco Display Ban in Republic of Ireland. ACS 2009.

¹⁰ General Household Survey: Smoking and drinking among adults 2007, Office for National Statistics. 2008.

¹¹ http://www.statistics.gov.uk/downloads/theme_compensia/GHS07/GHSSmokingandDrinkingAmongAdults2007.pdf

¹² Impact Assessment of prohibiting the display of tobacco at point of sale, for the Health Bill, Department of Health, January 2009.

¹³ Physicians for a Smoke-Free Canada. The Canadian Tobacco Market Place: Estimating the volume of Contraband Tobacco Sales in Canada. December 2008. http://www.smoke-free.ca/pdf_1/EstimatesofContraband-2008.pdf

¹⁴ Canadian Tobacco Manufacturers Council. Illegal Tobacco Sales: A crisis for Canadians. 2008.

¹⁵ [http://www.imperialtobacco.com/onewebca/sites/IMP_5TUJVZ.nsf/vwPagesWebLive/DO65HJNQ/\\$FILE/medMD7JDHEG.pdf?openelement](http://www.imperialtobacco.com/onewebca/sites/IMP_5TUJVZ.nsf/vwPagesWebLive/DO65HJNQ/$FILE/medMD7JDHEG.pdf?openelement).

¹⁶ RCMP. 2008 Contraband Tobacco Enforcement Strategy. <http://www.rcmp-grc.gc.ca/ce-da/tobacco-tabac-strat-2008-eng.pdf>

¹⁷ Since 1988, the U.S. Surgeon General, the Royal Society of Canada, and, most recently, the Royal College of Physicians, have all concluded that nicotine is an addictive substance that, in its addiction and withdrawal, displays similarities to such hard drugs as cocaine and heroin. Nicotine meets the criteria that are used to define a drug of addiction or dependence.

¹⁸ Wakefield, M. et al. (2008). The effect of retail cigarette pack displays on impulse purchase. *Addiction*, 103:322-328.

- In fact DCMS statistics show that the number of licenses for pubs and clubs to sell alcohol went up significantly between March 2007 (before the legislation was introduced) and March 2008.¹⁷
- Evidence recently published in the BMJ¹⁸ shows that in the first year after the implementation of smokefree legislation there was a statistically significant drop in the number of emergency admissions for heart attacks, resulting in 10,000 fewer bed days for emergency admissions which saved the NHS £8.4 million.¹⁹
- In addition the popularity of the smokefree laws has continued to grow since they were implemented, to an even greater extent amongst smokers than non-smokers. Overall support for the laws now stands at 79%²⁰ and compliance rates have been near 100% from the day the laws came into force.²¹
- Indeed the smokefree laws are cited by the Department of Business Innovation and Skills as a case study in better regulation.²¹

VENDING MACHINES

1. Vending machines are an easy source of cigarettes for children:

- In 2008, 1 in 8 children and young people who were regular smokers usually bought their cigarettes from vending machines in England.²² By contrast, only 1 in 20 adult daily smokers said they had bought cigarettes from vending machines over the last six months.²³
- Test purchasing by young people found that buying from vending machines was the most successful way for children to get hold of cigarettes – twice as successful as going to newsagents, off-licences or petrol station kiosks.²⁴ In a test purchase exercise in South West England, 73% of attempts by 15 year olds were successful.²⁵
- No attempt to create ‘child proof’ machines have been completely effective.^{26 27} The National Association of Cigarette Machine Operators gave evidence to the Scottish Government earlier this year about its test purchasing trial of radio-frequency controlled vending machines which showed that staff failed to ask for ID in 1 in 5 of cases.²⁸
- It is inconceivable to imagine a situation where other age restricted goods such as fireworks or knives were available through a vending machine. Allowing tobacco to be sold through vending machines is an anomaly which must be tackled.

2. Pubs do not earn significant revenue from vending machines:

- Vending machines account for 1% of overall cigarette sales and do not create a significant source of income for pubs.²⁹
- Asked about the proposal to ban tobacco vending machines in Scotland, Paul Waterson, Chief Executive of the Scottish Licensed Trade Association, stated “Cigarette vending machines are

¹⁷ DCMS Statistical Bulletin. Alcohol, Entertainment and Late Night Refreshment Licensing. England and Wales, April 2008 – March 2009

¹⁸ Sims et al (2010). Short term impact of smoke-free legislation in England: retrospective analysis of hospital admissions for myocardial infarction. BMJ 2010;340:c2161

¹⁹ Feleke et al (2010). Heartsavers: Cost savings from a reduction of emergency admissions for myocardial infarction following smoke-free legislation in England. London Public Health Observatory

²⁰ Passive smoking and children: A report of the Tobacco Advisory Group of the Royal College of Physicians. London, RCP, March 2010.

²¹ Department for Business Innovation & Skills. Better regulation, Better Benefits: Getting the Balance Right. case studies. October 2009.

²² Smoking, Drinking and Drug Use among Young People in England, Survey 2008, Table 2.23, Page 47

²³ Omnibus survey of adults in England. Fieldwork was conducted between January and April 2008, interviews were conducted with 3,426 adults including 822 current and recent smokers. Commissioned by ASH

²⁴ Test Purchasing of Tobacco Products, Results from Local Authority Trading Standards, 1st October 2007 to 31st March 2008: www.lacors.gov.uk

²⁵ Paul Thomas, Devon County Council, Tobacco Vending Machines – Regulatory and Compliance Survey. Presentation to the APPG on Smoking and Health. June 2009.

²⁶ Accessibility to minors of cigarettes from vending machines - Broward County, Florida, 1996.

<http://www.ncbi.nlm.nih.gov/pubmed/8965805?dopt=Abstract>

²⁷ See article on <http://www.pinktentacle.com/2008/06/magazine-photos-fool-age-verification-cameras/> (accessed 22nd January 2009)

²⁸ NACMO evidence submission to the Scottish Bill Committee, 2009

<http://www.scottish.parliament.uk/s3/committees/hs/TGPBill/documents/2009.07.08NACMO-Confidential.pdf>

²⁹ Explanatory Memorandum to the Protection from Tobacco (sales from vending machines) (England) Regulations 2010 No. 864

http://www.opsi.gov.uk/si/si2010/em/uksem_20100864_en.pdf

provided as a service to customers... There is no profit to be made from them. We are not perturbed about these proposals.”³⁰

- A survey commissioned by the BHF found that the age-verification restrictions that had been proposed were viewed as unworkable and a burden by a significant number of landlords. The survey showed that:
 - Nearly two thirds (63%) of landlords said that it would be impossible during busy times to check ID and operate a machine within their line of sight;
 - More than two thirds (68%) of pub landlords said that proposed age-restriction modifications would be a significant extra burden on their business;
 - 82% of landlords described the revenue they received from cigarette vending machines as “unimportant”;
 - Three quarters (75%) of landlords would rather remove the machine than risk prosecution for underage sales.³¹

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³⁰ Sunday Times. (30 November 2008) Smoking blitz set to stub out pub vending machines.
<http://www.timesonline.co.uk/tol/news/uk/scotland/article5257974.ece>

³¹ ComRes surveyed 300 pub landlords in England, Wales and Northern Ireland about their views towards cigarette vending machines and the proposed changes in legislation. The interviews were conducted by telephone between 29th September and 1 October 2009. The sample is made up of 200 landlords in England and 50 in each of Northern Ireland and Wales. ComRes interviewed landlords in Free houses or tied premises, rather than managed premises where the managing company would make the decisions on the new legislation. ComRes screened out any which did not have a cigarette vending machine on their premises.