

## **Cancer Research UK submission to the Scottish Parliament Health and Sport Committee's scrutiny of the Tobacco and Primary Medical Services (Scotland) Bill**

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### **Introduction**

Cancer Research UK<sup>1</sup> is the world's largest independent organisation dedicated to cancer research. We funded £333 million of research across the UK in 2007-08. Our vision is that together we will beat cancer.

Over 50,000 of our supporters have now signed our petition to put tobacco 'Out of Sight, Out of Mind' through: the removal of Point of Sale (PoS) displays for tobacco; the removal of tobacco vending machines and the introduction of plain packaging for all tobacco products. Along with other steps, all three measures were also agreed to be 'best practice' in 2008 by 160 governments through an international public health treaty (the Framework Convention on Tobacco Control), and are recommended by the World Health Organisation.

### **1. The need and justification for the creation of offences in part 1 of the Bill relating to tobacco displays and sale of tobacco products from vending machines**

#### **Point of sale displays**

Branding and product packaging play key roles in encouraging and maintaining smoking. PoS displays are also used to develop relationships between brands and customers and to deliberately increase the prominence of the packs themselves e.g. by lighting, brand specific colours on surrounds, and attention-grabbing designs.

In 2008 we published a report, 'Point of Sale Display of Tobacco Products', from Cancer Research UK's Centre for Tobacco Control Research, University of Stirling. Professor Gerard Hastings, Director of the Centre, concludes that:

- International evidence suggests that removing packs from sight at PoS could reduce adolescents' exposure to cigarette brand impressions in stores by as much as 83%. It would also help adults to quit.
- Since the implementation of the Tobacco Advertising and Promotions Act (2002), PoS has taken over as the most important source of tobacco marketing for young people. In 2006, almost half (46%) of UK teens were aware of tobacco marketing at PoS.
- The odds of a young person professing an intention to smoke may increase by 35% with every brand that they can name as having seen advertised at PoS.<sup>2</sup>

Recent research with 25,000 young people in New Zealand shows that those 15 year olds most exposed to PoS displays are almost three times more likely to try smoking and that exposure to PoS is a greater risk factor than even parental smoking.<sup>3</sup> New Zealand, like the UK, already has a ban on tobacco advertising. A further systematic review of international

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<sup>1</sup> Registered charity no. 1089464

<sup>2</sup> Hastings, G et al. (2008) Point of Sale Display of Tobacco Products. The Centre for Tobacco Control Research, University of Stirling.

<sup>3</sup> 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

research has confirmed previous findings. Seven out of eight studies show a link between exposure to PoS displays and youth smoking.<sup>4</sup>

In 2001 the Icelandic Government prohibited Point of Sale displays, which had a considerable impact on youth smoking rates. The Icelandic Public Health Institute in its survey (part of the European School Survey Project on Alcohol and Other Drugs – ESPAD) of all 10<sup>th</sup> graders (aged 15-16) found a significant fall in youth smoking from 18.6% in 1999 to 13.6% in 2003, at twice the rate of decline compared to the previous 4-year period.<sup>5</sup>

Similar trends have been found in Canada where such legislation has now been implemented in nearly all provinces. Surveys have shown that banning point of sale displays, as part of a range of tobacco control measures, has coincided with a fall in smoking prevalence rates amongst 15 to 19 year olds from 22% in 2002 to 15% in 2007.<sup>6</sup>

Nicotine is as addictive as heroin or cocaine and it takes on average three to eight attempts to stop smoking.<sup>7</sup> There is good evidence that retail displays encourage 'impulse buying' so undermining smokers' attempts to quit.<sup>8</sup>

Those opposing the ban on the display of tobacco argue that it will have an adverse financial impact on retailers. They argue that there are two potential impacts: declining sales and the cost of implementation of the legislation.

Evidence from other jurisdictions shows that the impact on sales is confined to a reduction in sales to minors and to smokers trying to quit. Adult smokers who want to carry on smoking will continue to buy their usual cigarettes from their usual sources. Over 90% of smokers have already decided what brand to buy before entering the shop.<sup>9</sup>

The Association of Convenience Stores estimates that it will cost each retailer £1,850 to implement PoS regulations. However, evidence from Canada shows that any initial financial impacts of the prohibition of tobacco displays were minor, even for small stores reliant on tobacco sales. Much of the costs of re-fitting were borne by tobacco wholesalers, and the tobacco industry continued to pay retailers for handling and selling their products.<sup>10</sup> The tobacco industry also has the incentive and the resources to assist tobacco retailers in managing similar changes in the UK. The UK Department of Health has estimated that the average cost to stores in Canada was approximately £550 per store.<sup>11</sup> In fact, one of the major suppliers in Canada has reported that it could cost under £200 to re-fit a standard UK small retailer display of 1 metre by 1.3 metres.<sup>12</sup> The

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<sup>4</sup> 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

<sup>5</sup> The European School Survey Project on Alcohol and Other Drugs (ESPAD). [www.espad.org/sa/node.asp?node=730](http://www.espad.org/sa/node.asp?node=730)

<sup>6</sup> Canadian Tobacco Use Monitoring Survey 2000-2007. [http://www.hc-sc.gc.ca/hl-vs/tobac-tabac/research-recherche/stat/ctums-esutc\\_2007-eng.php](http://www.hc-sc.gc.ca/hl-vs/tobac-tabac/research-recherche/stat/ctums-esutc_2007-eng.php)

<sup>7</sup> 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.

<sup>8</sup> Wakefield M. The effect of retail cigarette pack displays on impulse purchase. *Addiction*. Nov 2007 <http://www.addictionjournal.org/viewpressrelease.asp?pr=69>

<sup>9</sup> BMRB Omnibus Survey, August 2008. Commissioned for Cancer Research UK.

<sup>10</sup> Source: Data provided to ASH by Health Canada.

<sup>11</sup> Impact Assessments for the Health Bill 2009, Department of Health, January 2009. Available at [http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH\\_093305](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH_093305)

<sup>12</sup> Quote from 4 Solutions display Corp, Canada. Recommended supplier to Canadian Convenience Stores Association members.

lead-in time of 2011 for large retailers and 2013 for smaller retailers will also ensure retailers have the opportunity to prepare and adjust to the proposals.

There is no evidence that display bans increase the risk of crime and theft, make tobacco seem more illicit, or increase smuggling. For example, 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.<sup>13</sup> By contrast the first provinces to introduce bans -Saskatchewan and Manitoba - experienced a lower than average increase in tobacco smuggling.<sup>14</sup> The lack of correlation between smuggling and bans on PoS displays is also shown in data from the Canadian Tobacco Manufacturers' Council.<sup>15</sup>

### Tobacco vending machines

Children can and do buy cigarettes through vending machines. The most recent research, commissioned before the rise in the minimum legal age for tobacco sales from 16 to 18, around one in ten Scottish 13 and 15 year olds who smoked got cigarettes illegally from vending machines.<sup>16</sup>

A survey by LACORS reporting on test purchases by young people under the supervision of trading standards officers in England found that young people were able to buy cigarettes from coin-operated vending machines on more than four in ten occasions, with a number of councils reporting a 100% successful purchase rate.<sup>17</sup> Purchasing cigarettes from vending machines was found to be the most successful way for young people to get hold of cigarettes and was almost twice as successful as attempted purchases from a newsagent, off licence or petrol station kiosk.<sup>18</sup>

The WHO recommends a total ban on tobacco vending machines and 22 countries in Europe, including France, Belgium and Norway as well as many others across the globe, do not allow tobacco vending machines.<sup>19</sup>

It has been suggested that a token or credit card system could allow machines to verify the age of a purchaser. We believe that only a full ban will do: young people can easily get a friend to give them their credit card or tokens. Evidence from countries that have introduced age verification systems for vending machines has shown that it is very difficult to make them only accessible to over 18s. In Japan, for example, machines were modified for age verification measures but underage smokers have borrowed proof of age cards from friends and family.<sup>20</sup> And in Florida, where proof of age is required via an ID card, a test case compliance study showed that one third of attempts by minors to access cigarettes through vending machines were successful.<sup>21</sup>

## **2. The advantages and disadvantages of creating a register of tobacco retailers**

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<sup>13</sup> 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](http://www.smoke-free.ca/pdf_1/EstimatesofContraband-2008.pdf)

<sup>14</sup> Health Canada. Wholesale Sales Data - Cigarette and fine-cut sales charts 1980-2007. Accessed 24 March 09 <http://www.hc-sc.gc.ca/hlvs/tobac-tabac/research-recherche/indust/sales-ventes-eng.php>.

<sup>15</sup> Canadian Tobacco Manufacturers Council. Illegal Tobacco Sales: A crisis for Canadians. 2008. [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).

<sup>16</sup> Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS) National Report SMOKING, DRINKING AND DRUG USE AMONG 13 AND 15 YEAR OLDS IN SCOTLAND IN 2006.

<sup>17</sup> Test Purchasing of Tobacco Products, Results from Local Authority Trading Standards, 1st October 2007 to 31st March 2008: [www.lacors.gov.uk](http://www.lacors.gov.uk). LACORS is the organisation responsible for overseeing local authority regulatory services in the UK.

<sup>18</sup> Test Purchasing of Tobacco Products, Results from Local Authority Trading Standards, 1st October 2007 to 31st March 2008.

<sup>19</sup> The European Tobacco Control Report, 2007.

<sup>20</sup> Japan Times, 3 June 2008. <http://search.japantimes.co.jp/cgi-bin/nn20080603a6.html>

<sup>21</sup> Accessibility to minors of cigarettes from vending machines - Broward County, Florida, 1996. <http://www.ncbi.nlm.nih.gov/pubmed/8965805?dopt=Abstract>

Currently no licence or registration is required to sell tobacco, although licences are required to sell other age-restricted products such as alcohol and fireworks. Since tobacco is a dangerous and addictive product, it is important that there are appropriate controls on where and how it can be sold.

A national scheme of licensing or registration would strengthen current controls on underage sales, as licences could be withdrawn from those selling tobacco to under-18s. It would also help ensure compliance with measures regarding tobacco displays, and would ensure that a comprehensive record of all tobacco retailers was kept, which would make monitoring and enforcement easier for Trading Standards Officers.

More significantly while Trading Standards Officers have existing powers to confiscate counterfeit or smuggled tobacco products, under the powers of entry provided for in the Bill, enforcement officers can take possession of any product which is on the premises and retain it for as long as the officer considers to be necessary. This would help reduce the sales of smuggled tobacco. Tackling smuggling is also key to reducing young people's smoking rates since smuggled cigarettes are cheaper and young people are particularly responsive to the price of cigarettes.

### **3. The means of enforcement and the fixed penalties regime proposed in part 1 of the Bill**

Policies aiming to restrict youth access to tobacco products can only be effective if they are rigorously enforced. During 2006/07 there were only 11 prosecutions in the whole of Scotland for under-age tobacco sales (although this was a significant increase on the previous two years' - three and two prosecutions respectively).<sup>22</sup>

The proposed registration system would allow greater enforcement of under-ages sales through tobacco retailing banning orders and fixed penalty notices, without recourse to the court system. Fixed penalty notices or periods of license/registration suspension would enable the law to be enforced much more efficiently and cost effectively.

However adequate resources and training will be required for Trading Standards Officers and others involved in implementation. We are pleased that there is a commitment from the Scottish Government to fund a national campaign to help Trading Standards Officers inform tobacco retailers of the implementation of any new legislation. This will have to be regularly repeated as people move on. A monitoring and evaluation system should be established so that it will be possible to identify whether the scheme has had an impact on reducing under age sales. Should the proposed register not prove effective, a licensing scheme should be adopted.

**We hope you find these comments useful. Cancer Research UK would be delighted to provide oral evidence to this inquiry. Please contact Vicky Crichton, Senior Public Affairs Officer at [vicky.crichton@cancer.org.uk](mailto:vicky.crichton@cancer.org.uk) or on 0131 243 2641.**

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<sup>22</sup> Scottish Parliament, Written Answer S3W-3808, 11 September 2007.