

Tobacco control aspects of the Health Bill: The case for protecting children

Cancer Research UK briefing for the Second Reading of the Health Bill on 8th June 2009

Background to the Bill

The Health Bill provides a vital opportunity for MPs to take decisive action to further protect children from tobacco marketing. In particular, the Bill would:

- Prohibit the display of tobacco products at the Point of Sale (PoS), starting in 2011 for large retailers and 2013 for smaller stores;
- Introduce measures to restrict the use of tobacco vending machines by those under the age of 18, and create a reserve power to remove the machines entirely, should the age restriction measures be ineffective.

The Bill was introduced in the House of Lords in January and completed its journey through the Lords on 12th May. A number of peers spoke of the need to protect children. During the Report Stage there was a vote on an amendment to remove the prohibition of tobacco PoS displays from the Bill. This amendment was strongly rejected by a cross-party vote of 204 to 110. The Health Bill has now passed its Third Reading in the Lords and received First Reading in the Commons on May 13, 2009.

What are we asking for?

Cancer Research UK's 'Out of Sight, Out of Mind' campaign is calling for:

- The prohibition of point of sale displays for tobacco;
- The prohibition of tobacco vending machines; and
- The inclusion of a reserve power to introduce plain packaging for all tobacco products at a later date.

These measures should be implemented as part of a comprehensive tobacco control strategy that includes support for those seeking to quit and other measures.

Key points for the Second Reading

- Over 190,000 11-15 year olds in England are regular smokers. The proportion increases with age: 1% of 11 year olds smoke, increasing to 15% by the age of 15.¹
- Smoking is the single largest preventable cause of cancer in the UK, and is a factor in 90% of lung and oral cancers.
- Repeated studies, including research by Professor Gerard Hastings at Cancer Research UK's Centre for Tobacco Control Research at the University of Stirling have shown that displays of tobacco in shops are influencing young people to take up smoking.²
- International experience from Canada and Iceland demonstrates that the removal of tobacco displays as part of a comprehensive tobacco control strategy is associated with declining rates of youth smoking.^{3,4}
- An amendment proposed in the House of Lords to remove the measures that would prohibit PoS displays was defeated by an overwhelming cross-party vote of 204 to 110. The Health Select Committee also endorsed the prohibition of PoS displays in its report on health inequalities, and survey research has found that the removal of PoS displays is supported by nearly 60% of the general public.⁵ Measures to prohibit PoS displays are included in the Tobacco Bill that is currently under consideration in the Scottish Parliament, and the Northern Ireland Assembly has passed a motion enabling it to prohibit PoS displays once the Health Bill is passed by Westminster.
- While cigarette vending machines account for just 1% of total tobacco sales, 17% of regular smokers between the ages of 11 and 15 usually purchase their cigarettes from this source.⁶
- The guidelines to the WHO Framework Convention on Tobacco Control define tobacco displays, vending machines and packaging as forms of tobacco advertising that should be prohibited.⁷

1. Why is the Bill needed?

Children must be protected

- A ban on the display of tobacco products at PoS is required to protect children.
- Smoking even one cigarette is highly predictive of regular smoking and young people show signs of addiction within four weeks of starting to smoke.⁸
- Approximately 340,000 under-16s try cigarettes for the first time each year⁹; 60,000 child smokers are recruited each year; eight out of ten smokers start before the age of 19.¹⁰

Smoking kills

- Tobacco is the only product that, if used according to the manufacturers' instructions, will kill one in two long term users.
- Tobacco remains the single largest preventable cause of cancer in England, accountable for over a quarter of all cancer deaths in 2007.¹¹
- Smoking is a factor in 90% of oral and lung cancers and increases a person's risk of a range of other cancers including stomach, pancreas, cervix, kidney, liver and bladder.¹²
- In 2007 smoking-related diseases killed 82,900 in England alone.¹

2. Why should Point of Sale displays of tobacco be removed?

Display walls are a form of tobacco marketing to young people that must be ended

Professor Gerard Hastings, Director of Cancer Research UK's Centre for Tobacco Control Research, University of Stirling, analysed many previous studies and new data and found that²:

- PoS displays are now 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.
- 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%
- 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.
- PoS displays encourage product brand awareness among youth. When other risk factors are controlled for, including sibling, peer and parental smoking, young people's susceptibility to take up smoking increases with greater awareness of brands and tobacco marketing. Awareness of cigarette brands is also positively associated with awareness of PoS marketing.

Quotes from recent focus group research:

'Things like [cigarette] displays arouse me to buy. Looks cool'
(Female, 14, C2DE, Smoker)

'Have seen this type [shows pack of Mayfair] in shops on the shelves and with my friends in schools. Like, it's cool and fun to smoke'
(Male 12, C2DE, Smoker)

'Say you enter into the shop you see this massive display over the counter. In the shops things like this attracts people to smoke' (Male, 11, ABC1, Non-smoker)

Brown, A., & Moodie, C. Adolescents' perceptions of tobacco control measures in the UK. Submitted to *Addiction Research and Theory* (2009)

Further studies confirm that PoS displays are linked to youth smoking

- 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.¹³ New Zealand, like the UK, already has a ban on tobacco advertising.

- A further systematic review of international research¹⁴ has confirmed previous findings.² Seven out of eight studies show a link between exposure to PoS displays and youth smoking.
- Channel 4's 'FactCheck', an impartial review of topical claims made by those in the public eye, has examined the evidence for a ban on PoS displays and found that it, 'points pretty firmly the Government's way.'¹⁵
- Parties to the Framework Convention on Tobacco Control, including the UK, have agreed to guidelines that define point of sale displays as a form of tobacco advertising and further recommend prohibiting the display of tobacco at the PoS.⁷

Putting tobacco products out of sight will reduce youth smoking rates

- In Canada where such legislation has now been implemented in 12 provinces and territories, surveys show that banning PoS 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 2007.³
- In Iceland, where a display ban was implemented in 2001, a survey found that the smoking prevalence rates of 10th graders (aged 15-16) fell significantly from 18.6% in 1999 (two years prior to the cigarette display ban) to 13.6% in 2003 - twice the rate of decline compared to the previous four year period.⁴ The Public Health Institute of Iceland has indicated that these results give the most accurate available view of youth smoking prevalence in that country.

Putting packs out of sight will help existing smokers to quit

- Nicotine is as addictive as heroin or cocaine.¹⁶
- Research suggests that PoS displays "undermine quitting intentions and behaviour among established smokers."¹⁷

3. How reliable is the evidence on Point of Sale Displays?

The evidence on the impact of tobacco marketing on youth is based on extensive research and has been widely reviewed and supported

- The work and reputation of Professor Gerard Hastings and Cancer Research UK's Centre for Tobacco Control Research (CTCR) is internationally recognised and Professor Hastings has been an expert witness to UK and international committees.
- The primary data in the CTCR report "Point of Sale Display of Tobacco Products" comes from a long-term study known as the *Youth Tobacco Policy Survey (YTPS)*, which examines the impact of tobacco advertising restrictions and other tobacco control policies on young people in the UK. A number of peer-reviewed papers have been published based on this work, and this report was an extension of previous papers.
- The YTPS has taken place five times since 1999, covering a 5 and a half year period stretching from before the tobacco advertising ban was implemented up to 2006. The report covers the four survey waves conducted with almost 4,500 young people from a variety of backgrounds, social groups and lifestyles aged between 11 and 16. The study examines 'susceptibility' to smoke to gauge the extent to which young people who have never smoked think they might do so in the future. It is helpful for examining factors that might contribute to smoking uptake rather than solely encourage the continuation of smoking.
- The CTCR report also examines many previously published studies which together demonstrate that displays affect children's uptake of smoking.

4. How will the removal of displays affect retailers and the legitimate sale of tobacco?

Experience suggests that the implementation burden to shops will likely be minimal

- International experience shows that low cost solutions to re-fit retailer displays are available.
- The 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.

- The tobacco industry has continued to pay retailers for handling and selling their products after the implementation of retail display bans in Canada.¹⁸
- Small shops 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.¹⁹

Smuggling and counterfeiting is unlikely to increase

- There is no evidence from countries with PoS bans that smuggling rates have risen as a result or that people have changed where they buy tobacco.
- While smuggling has risen in Canada since 2001, the Royal Canadian Mounted Police's new contraband strategy²⁰ lists tax evasion, illicit manufacture on first nation reserves and organised crime as the drivers of this increase, not the removal of PoS displays.
- Smuggling is a significant international problem in which the tobacco industry has been found complicit.²¹ Counterfeit products cannot be distinguished by sight from genuine products and covert marks now exist on all authentic tobacco packs so that trading standards officers can identify counterfeit from genuine.

Removing tobacco displays has not hurt the jurisdictions that have implemented it

- If the removal of PoS displays had been a disaster in Saskatchewan it would not have been adopted by many other Canadian provinces and territories of all political profiles.

Those predicting harm to retailers are supported by the tobacco industry

- The Tobacco Manufacturers' Association (which is funded by Imperial Tobacco, Gallaher and British American Tobacco) funds the Tobacco Retailers' Alliance which in turn created the Responsible Retailers group that operates the 'Save our Shops' campaign.
- The Tobacco Retailers' Alliance has funded reports from the Centre for Economic and Business Research and is quoting their figures without saying that they have funded them and that they are ultimately funded by tobacco companies.
- Dave Bryans, a former Executive of the Canadian tobacco giant RJR Macdonald, is the President of the Canadian Convenience Store Association, an organisation that has predicted that stores would close in the UK without supplying supportive evidence.²²

5. Why should vending machines be prohibited?

Vending machines are disproportionately used by children

- Government research has found that 17% of regular smokers aged 11-15 usually buy their cigarettes from vending machines.⁶
- The British Heart Foundation has estimated that machines are the source of cigarettes for around 46,000 children in England and Wales.²³
- In contrast, in 2008, only 1 in 20 adult daily smokers said they had bought cigarettes from vending machines over the last six months.²⁴

Children can easily access vending machines – even if age verification measures are in place

- In 2008, test purchases by the Local Authorities Coordinators of Regulatory Services (LACORS) found that young people were able to buy cigarettes from four of every ten vending machines tested across England, leading the organisation to call for the machines to be banned.²⁵
- Age-verification systems, including those using staff-operated infrared remote controls, tokens or ID cards, are not guaranteed to stop underage sales, especially considering that ID checks are still not being carried out stringently enough for alcohol sales.²⁶
- Some countries have tried to 'age proof' tobacco vending machines,²⁷ but there is no clear record of success. In Florida, where proof of age is required via an ID card, test purchases found that minors successfully accessed cigarettes through vending machines in one third of their attempts.²⁸ Underage smokers have also managed to circumvent the age verification card system in Japan.²⁹
- Over a third of on-trade venues in the UK failed to check for ID from young people during test alcohol purchases in July 2008.³⁰

Pubs do not earn significant revenue from vending machines

- Vending machines account for only 1% of overall cigarette sales and do not create a significant source of income for pubs.
- 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 provided as a service to customers... There is no profit to be made from them. We are not perturbed about these proposals.”³¹

Removing cigarette vending machines will not limit purchase options for adults

- While removing cigarette vending machines would make it harder for children and young people to access tobacco, adults would still be free to buy cigarettes from a range of outlets, including small convenience stores.
- Removing vending machines would reduce temptations for adult smokers trying to quit.

6. Why is the plain packaging of tobacco products necessary?

The tobacco industry is using packaging as a promotional tool

- Since the restrictions on marketing following the Tobacco Advertising and Promotion Act 2002 the tobacco industry has been exploiting innovative pack design in order to communicate brand imagery and increase sales.
- The tobacco industry has also increased brand range to maximise their impact on shop shelves. The number of variants within brands or ‘brand families’ has risen by more than 50%, with Benson and Hedges alone increasing its brand family from 4 in 1998 to 12 in 2008.³² Research shows that these packs are already having an impact, with the proportion of young people aware of new pack designs rose from 11% in 2002 to 18% in 2006.²

Tobacco packaging influences children and young people

- The more familiar a young person is with brand images promoted by the tobacco industry, the more likely they are to form an intention to smoke. Young people’s awareness of brands is so strong that it predicts future smoking more strongly even than peer influence.²
- While it is now illegal for manufacturers to claim that their products are ‘low tar’, ‘light’ or less harmful, these terms are still implied through certain colours. Research commissioned by ASH found that young people were significantly more likely to consider packages with the term ‘smooth’, ‘gold’ and ‘silver’ as lower tar, lower health risk, and easier to quit compared to regular varieties of the same brands.³³ The branding on tobacco packaging also lessens the impact of the health warnings.

Tobacco packaging should be seen as a form of advertising

- According to an opinion from a former Lord Justice of Appeal, the tobacco packaging currently in use by the tobacco industry, and therefore its use in display in shops, meets the definition of advertising set out in the 2003 EU Directive on Tobacco Products, which is ‘*any commercial communication with the aim or direct or indirect effect of promotion of a tobacco product*’.
- The guidelines for the Framework Convention on Tobacco Control define tobacco packaging as a form of advertising and recommend that countries consider the adoption of plain packaging.⁷

7. Who supports the Bill?

The public

- Over 50,000 people have now signed Cancer Research UK’s “Out of Sight, Out of Mind” petition, which asks for an end to the display of tobacco at PoS, the banning of cigarette vending machines, and plain packaging for tobacco products.
- A YouGov poll of over 1000 adults in England commissioned by ASH found that:³⁴
 - 59% supported removing PoS displays (25% didn’t know; 16% opposed);
 - 65% supported ending the sale of cigarettes from vending machines (19% didn’t know; 16% opposed)
 - 43% supported plain packaging for cigarettes (40% didn’t know; 17% opposed)

Young people

- A survey of 1,400 young people by Cancer Research UK's Centre for Tobacco Control Research has found 64% of those aged 11 to 16 want cigarettes to be put out of sight in shops. This included over half (55%) of those young people who reported smoking occasionally. Moreover, only 16% disagreed with the idea.³⁵

The Health Select Committee

- The Health Select Committee expressed support for prohibiting PoS displays of tobacco in its recent report on health inequalities, saying "We welcome both the Government's ban on smoking in public places, and its intention to ban point of sale tobacco advertising, as evidence indicates that both of these measures may have a positive impact on health inequalities."³⁶

Devolved administrations

- The Northern Ireland Assembly has already passed a Legislative Consent motion enabling it to implement the tobacco control measures in the Health Bill once it is passed by Westminster.
- The Tobacco Bill currently being considered at the Scottish Parliament also contains measures to prohibit the sale of tobacco from vending machines and to ban PoS displays of tobacco.

Health and children's charities

- A wide range of health and children's charities, including Cancer Research UK, the British Heart Foundation, the British Medical Association, the National Children's Bureau and many others, have joined together as the Smokefree Action Coalition to work in support of the tobacco measures in the Health Bill. For more information, please visit www.smokefreeaction.org.

For more background information or speaking notes, please contact Tracey Loftis, Public Affairs Manager at Cancer Research UK, at tracey.loftis@cancer.org.uk or 020 7061 8524.

¹ Health and Social Care Information Centre. (2008). Statistics on Smoking: England, 2008. <http://www.ic.nhs.uk/pubs/smoking08>

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

³ 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

⁴ The European School Survey Project on Alcohol and Other Drugs (ESPAD). www.espad.org/sa/node.asp?node=730

⁵ Action on Smoking and Health (ASH) YouGov poll shows strong public support for tough measures to protect children from tobacco (31st May 2008) http://www.ash.org.uk/ash_1va32imm.htm

⁶ National Centre for Social Research. (2007). Drug use, smoking and drinking among young people in England in 2007.

<http://www.ic.nhs.uk/pubs/sdd07fullreport>

⁷ World Health Organisation. (2008). Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control (Tobacco advertising, promotion and sponsorship). http://www.who.int/entity/fctc/guidelines/article_13.pdf

⁸ ASH (2008). Beyond Smoking Kills: Protecting Children, reducing inequalities. Part funded by Cancer Research UK and the British Heart Foundation.

⁹ Impact Assessment of prohibiting the display of tobacco at point of sale, for the Health Bill, Department of Health, January 2009.

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH_093305. p.17.

¹⁰ Goddard E. (2008). General Household Survey 2006: Smoking and drinking among adults 2006. Office for National Statistics.

¹¹ NHS (2008). Statistics on Smoking: England, 2008.

<http://www.ic.nhs.uk/webfiles/publications/Smoking%20bulletin/Smoking%202008/Statistics%20on%20Smoking%202008%20final%20format%20v9.pdf>

¹² Cancer Research UK. Tobacco, smoking and cancer: the evidence.

<http://info.cancerresearchuk.org/healthyliving/smokingandtobacco/howdoweknow/#source2>

¹³ 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.

¹⁴ 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.

¹⁵ Channel 4 (2008). FactCheck: tobacco ban evidence?

http://www.channel4.com/news/articles/politics/domestic_politics/factcheck+tobacco+ban+evidence/2879692

¹⁶ 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.

¹⁷ Wakefield, M. et al. (2008). The effect of retail cigarette pack displays on impulse purchase. *Addiction*, 103:322-328.

¹⁸ Health Canada (2009). Total amount paid to retailers to display product or sign, by province (Paragraph 22(b) of the Tobacco Reporting Regulations).

¹⁹ General Household Survey: Smoking and drinking among adults 2007, Office for National Statistics. 2008.

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

²⁰ RCMP. (2008). Contraband Tobacco Enforcement Strategy. <http://www.rcmp-grc.gc.ca/ce-da/tobacco-tabac-strat-2008-eng.pdf>.

²¹ J Collin et al. (2004). Complicity in contraband: British American Tobacco and cigarette smuggling in Asia. *Tobacco Control*. 13 (Supp. 2), pp. 112-117.

²² Kate Lunau. (23 July 2008). Butts on the line: Cigarette companies and corner stores find creative ways to help each other survive. *Macleans*.

http://www.macleans.ca/business/economy/article.jsp?content=20080723_24986_24986

²³ Calculation made using the latest data available on vending machines from *Smoking, Drinking and Drug Use among Young People in England 2006* and mid-2006 population estimates by individual year for Wales. It is assumed that trends in smoking amongst young people and children are similar in England and Wales.

²⁴ 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

²⁵ LACORS. (30 June 2008). Shocking new figures show underage cigarette sales rise by half.

<http://www.lacors.gov.uk/lacors/PressReleaseDetails.aspx?id=19685>

²⁶ According to Home Office figures, 22% of 10-17 year olds who had drunk alcohol obtained it from bars and pubs in 2004. Home Office. (2006) Underage drinking: findings from the 2004 Offending, Crime and Justice Survey. <http://www.homeoffice.gov.uk/rds/pdfs06/r277.pdf>

²⁷ For example, requiring smokers to use electronic ID cards as in Germany or getting coins from staff as in Ireland.

²⁸ Morbidity and Mortality Weekly Report. (1996) Accessibility to minors of cigarettes from vending machines - Broward County, Florida, 1996. <http://www.ncbi.nlm.nih.gov/pubmed/8965805?dopt=Abstract>

²⁹ For example, by borrowing the cards from friends and family or falsifying cards with photos of older people. See article on <http://www.pinktentacle.com/2008/06/magazine-photos-fool-age-verification-cameras/> (accessed 22nd January 2009)

³⁰ Serve Legal – quoted in the Morning Advertiser. (4 September 2008). Serve Legal is an independent test purchase service for retailers of age restricted products across the UK to check staff are checking young people for ID. These tests were carried out in 1500 off-trade and on-trade venues across the UK. <http://servelegal.co.uk/press.html>

³¹ 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>

³² Pricechecker 1998, 2003; Safeway price list 2008; Booker price list 2008.

³³ Hammond D, Dockrell M, Arnott D, Lee A, Anderson S, McNeill A. The impact of cigarette pack design on perceptions of risk among UK adult and youth: evidence in support of plain packaging regulations. Beyond Smoking Kills, ASH, 2008

³⁴ Action on Smoking and Health (ASH) YouGov poll shows strong public support for tough measures to protect children from tobacco (31st May 2008)

http://www.ash.org.uk/ash_1va32imm.htm

³⁵ Cancer Research UK. (4 May 2009). Young people want tobacco put out of sight in shops.

<http://info.cancerresearchuk.org/news/archive/pressreleases/2009/may/kids-support-out-of-sight>

³⁶ Health Select Committee. (26 February 2009). Health Inequalities: Third Report of Session 2008-09.

<http://www.publications.parliament.uk/pa/cm200809/cmselect/cmhealth/286/286.pdf>