**Policy Options for the Regulation of Electronic Cigarettes**

**Consultation submission**

This submission was completed by: (name) Evon Currie

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Organisation (if applicable): Canterbury District Health Board (CDHB)

*(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
- [ ] Tobacco control non-government organisation
- [ ] Academic/research
- [x] Cessation support service provider
- [ ] Health professional
- [ ] Māori provider
- [ ] Pacific provider
- [ ] Other sector(s) *(please specify)*: District Health Board, Smokefree Enforcement Officers

*(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.
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.

If you do not want your submission published on the Ministry’s website, please tick this box:

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☐ Remove my personal details from responses to Official Information Act requests.

If your submission contains commercially sensitive information, please tick this box:

☐ This submission contains commercially sensitive information.

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.

Nothing to declare.

Please return this form by email to:

cigarettes@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

Although this form provides blank spaces for your answers to questions, there is no limit to the length of your responses; you should take as much space as you need to answer or comment. Feel free to enlarge the boxes or attach additional pages.

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 ☒ No ☐

Reasons/additional comments:

CDHBSmokefree Enforcement Officers (SFEOS) and cessation support workers are aware that the sale and supply of nicotine e-cigarettes and liquids is already taking place on the local market. Clarity is needed for retailers, consumers and SFEOS on the legal status of these products. As noted on page 4 of the consultation document, emerging evidence suggests that e-cigarettes pose less of a health risk than smoked tobacco, if smokers switch completely to e-cigarettes. On that basis, the CDHB recommends that the sale and supply of nicotine e-cigarettes and liquids should be allowed within set regulations that can be amended quickly as more evidence becomes available. Proper regulation and control of e-cigarettes and liquids has the potential to improve quality control and safety, while also making an alternative product available that evidence suggests is a safer alternative when compared to smoking.

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 ☒ No ☐

Reasons/additional comments:

CDHB SFEOS have noted an increase in the use of e-shisha. In the interest of consistency, these products should be subject to the same control as e-cigarettes.

Q3  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 ☐

Reasons/additional comments:

The current law relating to e-cigarettes set out in the SFEA has caused confusion. Prohibiting the sale and supply of all e-cigarettes (nicotine or not) to under 18s will provide a clear and consistent rule for retailers and consumers to understand. Allowing sales to under 18s would give the impression that these are safe products for children to use when in fact the health risks are still unknown and nicotine e-liquids present a poisoning risk. Allowing sales to under 18s may also encourage vaping among young people who have never smoked tobacco, which should be avoided.
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 ☒

Reasons/additional comments:

The CDHB supports controlling advertising of e-cigarettes in the same way as advertising of tobacco products. Consistency will make regulations easier to understand. Minimising exposure to these products may help to prevent uptake of vaping among non-smokers, particularly young people, which could renormalise smoking behaviour. While advertising controls are supported, the CDHB recommends that regulations still allow the provision of information about e-cigarettes by cessation service providers. This will ensure people can seek impartial, accurate, evidence based information about e-cigarettes from professionals who do not stand to gain anything from their use.

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 ☒

Reasons/additional comments:

The health risks of second hand vapour are still unknown and therefore exposure should be minimised. If vaping is not prohibited in Smokefree areas under the SFE Act then the use of e-cigarettes will be difficult to regulate. The CDHB is already receiving enquiries about the ability of organisations to extend voluntary Smokefree policies, e.g. Smokefree parks and playgrounds policies implemented by territorial authorities, to include vaping. Clear regulation in the SFEA would provide much needed clarity and guidance. Allowing vaping in Smokefree areas also risks renormalising smoking behaviour and causing a nuisance in areas that have been Smokefree for years. This would be a significant step backwards on the journey to Smokefree 2025.

Q6  Do you agree that other controls in the SFEA for smoked tobacco products should apply to e-cigarettes? For example:

<table>
<thead>
<tr>
<th>Control</th>
<th>Yes</th>
<th>No</th>
<th>Reasons/ additional comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement for graphic health warnings</td>
<td>☒</td>
<td>☐</td>
<td>As the health risks of e-cigarettes are not known with certainty, a graphic health warning would not be appropriate at this time. As an alternative, the CDHB recommends that a statement of unknown health risk should be required. A poisoning warning should also be required.</td>
</tr>
<tr>
<td>Prohibition on displaying products in sales outlets</td>
<td>☒</td>
<td>☐</td>
<td>This would ensure consistency with the regulation of tobacco products and would make it easier for retailers to understand their responsibilities.</td>
</tr>
<tr>
<td>Restriction on use of vending machines</td>
<td>☒</td>
<td>☐</td>
<td>Regulations should be the same as those that are in place for tobacco products to ensure that e-cigarettes and e-liquids do not become available in confectionary vending machines.</td>
</tr>
<tr>
<td>Requirement to provide annual returns on sales data</td>
<td>✔</td>
<td>Information from annual returns would be useful to inform research and future policy reviews.</td>
<td></td>
</tr>
<tr>
<td>Requirement to disclose product content and composition</td>
<td>✔</td>
<td>This information will enable consumers to make an informed choice about the products they buy. It should also be included in annual returns so it can inform research and future policy reviews.</td>
<td></td>
</tr>
<tr>
<td>Regulations concerning ingredients (e.g., nicotine content and/or flavours)</td>
<td>✔</td>
<td>Regulation of nicotine content is important for the reduction of poisoning risk. Regulation of nicotine content and disclosure on packaging would offer consumers choice and also limit the potential for suppliers to increase levels to manipulate sales. There may also be a time in the future where reducing the nicotine content of e-cigarettes could be used as a public health tool, so having a mechanism for control in place from the outset would be beneficial. The health risks of added flavours are unknown and so there should be a mechanism in place for their regulation.</td>
<td></td>
</tr>
<tr>
<td>Requirement for annual testing of product composition</td>
<td>✔</td>
<td>Manufacturers of e-cigarettes and e-liquids should be required to pay for independent annual testing of their products.</td>
<td></td>
</tr>
<tr>
<td>Prohibition on free distribution and awards associated with sales</td>
<td>✔</td>
<td>To ensure consistency with tobacco regulations.</td>
<td></td>
</tr>
<tr>
<td>Prohibition on discounting</td>
<td>✔</td>
<td>To ensure consistency with tobacco regulations.</td>
<td></td>
</tr>
<tr>
<td>Prohibition on advertising and sponsorship</td>
<td>✔</td>
<td>To ensure consistency with tobacco regulations.</td>
<td></td>
</tr>
<tr>
<td>Requirement for standardised packaging</td>
<td>✔</td>
<td>As there is such a wide variety of e-cigarettes, standard size and shape of packaging may not be possible. However, standardisation of information about nicotine content and flavouring is needed.</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>✔</td>
<td>Restrictions on the wording used in product and flavour names should be included in the regulations. Manufacturers should not be able to use names as marketing tools to make their products seem safer or more appealing than others.</td>
<td></td>
</tr>
</tbody>
</table>
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 ☐

Reasons/additional comments:

It is important that e-cigarettes remain a cheaper option than tobacco smoking. A mechanism to impose some form of excise duty on nicotine e-liquid would enable some sort of government control on the price of these products. Even if the excise duty is $0, it still provides the option to change this at a later date.

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

Yes ☒  No ☐

Additional comments:

<table>
<thead>
<tr>
<th>Area of concern</th>
<th>Yes</th>
<th>No</th>
<th>Reasons/additional comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Childproof containers</td>
<td>☒</td>
<td>☐</td>
<td>To reduce the risk of poisoning.</td>
</tr>
<tr>
<td>Safe disposal of e-cigarette devices and liquids</td>
<td>☒</td>
<td>☐</td>
<td>Instructions on how to safely dispose of e-nicotine liquid, containers and e-cigarettes batteries should be provided by manufacturers. This will reduce the risk of poisoning and contamination.</td>
</tr>
<tr>
<td>Ability of device to prevent accidents</td>
<td>☒</td>
<td>☐</td>
<td>There has been anecdotal evidence of e-cigarettes exploding, causing injury. Quality controls to prevent these types of accidents should make e-cigarettes as safe as possible.</td>
</tr>
<tr>
<td>Good manufacturing practice</td>
<td>☒</td>
<td>☐</td>
<td>It is necessary to have these standards for quality control and safety.</td>
</tr>
<tr>
<td>Purity and grade of nicotine</td>
<td>☒</td>
<td>☐</td>
<td>It is necessary to have these standards for quality control and safety.</td>
</tr>
<tr>
<td>Registration of products</td>
<td>☒</td>
<td>☐</td>
<td>It is necessary to have these standards for quality control and safety.</td>
</tr>
<tr>
<td>A testing regime to confirm product safety and contents purity</td>
<td>☒</td>
<td>☐</td>
<td>Testing will be required to show proof of compliance with the quality and safety controls that are implemented.</td>
</tr>
<tr>
<td>Maximum allowable volume of e-liquid in retail sales</td>
<td>☐</td>
<td>☒</td>
<td>The CDHB recommends that there be a maximum allowable volume for each e-liquid container, not for retail sales. This is to reduce the risk of poisoning while also not restricting people’s ability to ‘stock up’.</td>
</tr>
<tr>
<td>Maximum concentration of nicotine e-liquid</td>
<td>☒</td>
<td>☐</td>
<td>Advice should be sought form a toxicologist to set this maximum concentration at a level that reduces the risk of poisoning.</td>
</tr>
<tr>
<td>Mixing of e-liquids at (or before) point of sale</td>
<td>☒</td>
<td>☐</td>
<td>Mixing of e-liquids at the point of sale should be prohibited. Mixing would make the content information stated on the package incorrect and useless.</td>
</tr>
<tr>
<td>Other</td>
<td>☐</td>
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</table>
Q9 Are there any other comments you would like to make?

The CDHB recommends that there be a requirement for the new regulations to be reviewed after 3 years. As research around the use of e-cigarettes continues, the regulations must be able to keep pace with emerging evidence.

The introduction of new regulations presents an opportunity to require registration or licensing of e-cigarette retailers. However, this has not been raised as a possibility in the consultation document. A register of retailers would enable SFEOS to better enforce the regulations, and enable the Ministry to track annual returns. The CDHB recommends that mandatory registration or licencing of retailers be required for both e-cigarettes and tobacco. The process to register as a licenced e-cigarette and e-liquid retailer should be easier and cheaper than that required for tobacco retailers.

Regulations should include restrictions on the number and location of e-cigarette and e-liquid retailers. The density of retailers and proximity to sensitive sites such as schools should be carefully limited to avoid prolific availability and targeting of young people. Consideration should also be given to the types of stores that are permitted to sell e-cigarettes and e-liquids. For example, supermarkets already have comprehensive procedures in place to prevent the sale of R18s products to young people and may therefore be a more appropriate retail setting than others such as small corner dairies. Specialist vaping shops and pharmacies could also be considered.

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)?

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

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?

<table>
<thead>
<tr>
<th>How long have you been using them?</th>
<th>How often do you use them?</th>
<th>How much do you spend on them per week?</th>
<th>Where do you buy them?</th>
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