



Cancer Society of New Zealand
National Office

Te Rōpū Mate
Pukupuku o Aotearoa

Level 6
Wakefield House
90 The Terrace
PO Box 10847
Wellington

Telephone: 64 4 494-7270
Facsimile: 64 4 494-7271

Websites: www.cancernz.org.nz
www.daffodilday.org.nz
Email: admin@cancer.org.nz

10th October 2007

Parliamentary Health Committee
Parliament House
Wellington

To the Health Committee

Subject: Submission to the Health Committee on the link between health and tobacco displays in retail outlets

The Cancer Society of New Zealand thanks the Health Committee for the opportunity to articulate our reasons for calling for a complete ban on the display of tobacco products in retail outlets.

Members of the Committee will be aware that tobacco is far from being a normal consumer product, and therefore its legal status should in no way protect it from regulation. Smoking is a proven cause of cancer in many different parts of the body and is the largest readily preventable cause of cancer mortality in New Zealand. It is highly addictive and smokers almost always become addicted as children.

Tobacco POP displays create a 'cancerogenic environment'



Whilst much progress has been made in recent years in relation to the creation of smoke-free public places and the introduction of graphic health warnings,¹ the Cancer Society believes that to properly tackle smoking there must be a substantial shift in the current approach to the retailing of tobacco products.

Current regulations still allow companies to actively promote tobacco products through the 8600 tobacco retailers around New Zealand. Nearly all of these outlets contain prominent tobacco displays at the check-out which, far from being passive, provide tobacco companies with a critical avenue for promoting brand imagery and awareness.

The widespread and prominent display of tobacco products as normal consumer items can distort young people's perceptions about smoking - creating a sense of familiarity with tobacco products and increasing youth perceptions of the prevalence (and therein social acceptability) of smoking. Displays can affect young people's perception of their ability to access tobacco products and undermine their perception of the risks of smoking.

Tobacco displays also discourage and undermine quit attempts and promote relapse in former smokers. Most smokers want to quit and many are actively trying to do so – with nearly half of New Zealand smokers (46%) having made a serious attempt to quit smoking the last 12 months. But their efforts are undermined by retail tobacco displays which provide an unacceptable obstacle to their success. Nearly half of New Zealand smokers (45%) state that tobacco displays make it harder to quit.

A ban on tobacco displays is considered an important tobacco control measure by public health experts, and by industry specialists such as Morgan Stanley Research Europe that stated, *"In our opinion, [after taxation] the other two regulatory environment changes that concern the industry the most are homogenous packaging and below-the-counter sales. Both would significantly restrict the industry's ability to promote their products."*ⁱⁱⁱ

There is an urgent need to address the ubiquitous and prominent display of tobacco in retail outlets which provides tobacco companies with an important and large-scale marketing avenue. This type of marketing is no longer acceptable to New Zealanders, over two-thirds of whom support a total ban on the display of tobacco products.

Tobacco products are highly addictive and cause fatal cancers - they simply should not be sold in the same way as confectionery. Removing tobacco products from view is good for health, it is what the public wants and it is consistent with purpose of the Smoke-free Environments Act and international law (including the Framework Convention on Tobacco Control). We ask Parliament to put the interests of young people above those of the tobacco industry and to help get tobacco out of sight in Aotearoa-New Zealand.

Yours sincerely

Dalton Kelly
Chief Executive
Cancer Society of New Zealand

Belinda Hughes
Tobacco Control Adviser
Cancer Society of New Zealand

Submission to the Health Committee on tobacco displays in retail outlets

This submission was completed on behalf of petitioner Dalton Kelly and the Cancer Society of New Zealand by:

Name: **Belinda Hughes**
Address: **P.O. Box 10847, Wellington**
Email: **belinda.hughes@cancer.org.nz**
Telephone: **04 494 7270**
Organisation: **Cancer Society of New Zealand**
Position: **Tobacco Control Policy Advisor**

Oral submission

The Cancer Society indicates its interest in making an oral submission to the Health Committee and requests that a number of key informants are also able to present to the Committee in support of the Cancer Society's petition.

Oral submission in person by:

- *Belinda Hughes* (Tobacco Control Adviser, Cancer Society of New Zealand)
- *Prof. Janet Hoek* (Professor in Marketing, Massey University)
- *Cancer Society Smoke-free Youth Ambassadors*

Oral submission by video-conference by:

- *Prof. Melanie Wakefield* (Director, Centre for Behavioural Research in Cancer)

In addition we request that the following researchers accompany us to provide additional expert advice as required:

- *Dr. George Thomson* (Senior Research Fellow, University of Otago)
- *Dr. Richard Edwards* (Senior Lecturer, University of Otago)
- *Helen Glasgow* (Director, The Quit Group)

Cancer Society of New Zealand

The Cancer Society of New Zealand is a non-profit organisation which aims to minimise the incidence and impact of cancer on all those living in New Zealand. Tobacco smoking is a proven cause of cancer in many different parts of the bodyⁱⁱⁱ and causes a quarter of all cancer deaths in New Zealand, making it the largest readily preventable cause of cancer mortality.^{iv} As a result of the unequivocal link between smoking and cancer, the Society considers efforts to reduce smoking rates in this country to be one of the key strategic objectives of its cancer prevention programme and strongly supports efforts to increase rates of smoking cessation, decrease the uptake of smoking and reduce exposure to second-hand smoke. We see the creation of supportive environments as key to achieving these aims. Over the years the Society has provided important strategic leadership within Smoke-free, helping to establish key agencies which now play a major role in smoking cessation, health promotion and tobacco control policy development. We continue to strongly advocate for evidence-based regulation and other measures in order to reduce the impact of smoking in New Zealand.

TABLE OF CONTENTS

EXECUTIVE SUMMARY

INTRODUCTION

- 1. TOBACCO IS NOT A NORMAL CONSUMER PRODUCT AND MUST BE REGULATED IN LINE WITH THE HARM IT CAUSES**
 - 1.1 Smoking causes fatal and chronic diseases
 - 1.2 Nicotine is highly addictive
 - 1.3 Tobacco use contributes to poverty and health inequalities
 - 1.4 There is inadequate public understanding of the health effects of smoking and the addictiveness of nicotine
 - 1.5 Smoking initiation almost always occurs amongst young people
 - 1.6 Tobacco should be regulated in line with the harm it causes

- 2. TOBACCO DISPLAYS ARE AN IMPORTANT MARKETING DEVICE WHICH PROMOTE SMOKING INITIATION IN CHILDREN AND TEENAGERS AND UNDERMINE AND DISCOURAGE QUIT ATTEMPTS**
 - 2.1 Tobacco marketing is not dead – bans on traditional advertising have led to focus on retail marketing
 - 2.2 Tobacco retail displays are an effective form of advertising
 - 2.3 Tobacco displays encourage young people to start smoking
 - 2.4 Tobacco displays undermine and discourage quit attempts

- 3. INTRODUCING A COMPLETE BAN ON TOBACCO DISPLAYS**
 - 3.1 What we want
 - 3.2 The NZ public wants to ban tobacco displays
 - 3.3 There is significant international precedent and growing momentum
 - 3.4 Legal process for banning tobacco displays
 - 3.5 Banning cigarette displays will simplify the law
 - 3.6 Implement a Tobacco Retailer Licensing Scheme to ensure compliance is rigorously enforced

- 4. TOBACCO INDUSTRY SCAREMONGERING**

CONCLUSION

APPENDICIES

Appendix 1: Legal Opinion on a Tobacco Retail Display Ban

Appendix 2: Statement by the Saskatchewan Coalition for Tobacco Reduction

Appendix 3: Campaign Supporters

EXECUTIVE SUMMARY

“Of all the things that will confuse historians of the next century, certainly the idea of a lethal product, a product of illness and despair, peddled to youngsters for the profit of the peddler, will be the most confusing.”

– William Foege, 8th World Conference on Tobacco OR Health

Tobacco is not a normal consumer product and must be regulated in line with the harm it causes

- Tobacco is a unique product for all the wrong reasons. Smoking causes fatal and chronic diseases, leading to death in half of long term users. The nicotine in tobacco products is highly addictive - including to young people – and is the main reason that people continue to smoke.
- There is inadequate public understanding of the health effects of smoking and addictiveness of nicotine, with few smokers fully appreciating the breadth of disease, both fatal and chronic, which smoking causes.
- Critically this harmful and addictive product is almost always taken up when people are too young to make an informed decision.
- Most smokers – including young people - wish they'd never started to smoke and want to quit. Unfortunately smoking causes both physical and psychological addiction which makes quitting difficult especially when compounded by the impacts of poverty.
- The unique status of tobacco needs to be recognised when considering the type of regulation of tobacco products which is justified.
- Tobacco is far from being a normal consumer product and therefore its legal status should in no way protect it from regulation aimed at increasing cessation rates and decreasing smoking initiation. Tobacco must be regulated in line with the harm it causes.

Tobacco displays are an important marketing device which promote smoking initiation in children and teenagers, and undermine and discourage quit attempts

- New Zealand has progressively moved to eliminate tobacco promotion and advertising since 1963 with a major step forward in 1990 with most types of advertising and promotion being banned.
- However as New Zealand and other countries banned traditional methods of tobacco advertising, the tobacco industry looked to identify new marketing opportunities which enabled them to continue to promote their products.
- A growing appreciation within the marketing community of the importance of the retail environment, in conjunction with a lack of regulation, has seen tobacco companies invest heavily in retail marketing including point of sale

space and display cabinets, slotting (display) fees, sales calls and trade allowances.

- Tobacco industry documents illustrate that tobacco companies see Point-of-Purchase (POP) displays as a critical marketing strategy. Their visual prominence has become the primary (and largest) vehicle for communicating brand imagery and building brand awareness for tobacco companies.
- Tobacco displays are extremely effective marketing tools which have been strategically located at the POP where all customers, children included, must go. In addition to promoting brand imagery and awareness, they also promote the category. That is tobacco displays do not only promote certain brands of tobacco, but they promote smoking in general. Displays do this by promoting 'friendly familiarity' and 'social proof' of smoking which can impact on youth smoking uptake and on cessation.
- For smokers tobacco displays provide false reassurance and legitimise and normalise smoking, the effect of which is to reduce quit attempts.
- For those smokers trying to quit and former smokers, tobacco displays present a constant temptation which can trigger impulse purchasing and provide smoking cues, the effect of which is to undermine quit attempts and promote relapse by former smokers.
- For young people tobacco displays undermine health messages, make cigarettes seem easier to access and make smoking appear more socially acceptable, the effect of which is to promote youth smoking initiation.
- Tobacco displays are highly effective marketing devices which undermine much of the work to reduce smoking rates in New Zealand and especially encourage youth smoking initiation. A total ban will help to reduce youth smoking uptake and support and encourage smokers to quit.

Introducing a ban on tobacco POP displays

- The Cancer Society believes that in order to make headway into reducing youth smoking uptake and smoking rates, there must be a significant tightening of the current environment for the retail of tobacco products. Specifically we are calling for the 1990 Smoke-free Environments Act to be amended to ban the visual display of any tobacco products or imagery in retail outlets, with tobacco products required to be kept in closed containers/cupboards under the counter. To bolster the effectiveness of this measure and to ensure it is fully implemented and enforced, we also ask the Health Committee to consider the following associated measures:
 - A ban on the payment of tobacco slotting fees to retailers.
 - A limit of one POP location selling tobacco per shop.
 - The in-store display of large (minimum 0.5m²) graphic/pictorial health warnings at the POP with the Quitline telephone number.
 - The implementation of a self-funding Tobacco Retailer Licensing Scheme (TRLS) which requires retailers to attend annual training. Breaches in relevant regulations should result in the loss of licenses and therein the ability to sell tobacco products.

- There is substantial and growing public support for these measures including both a total ban on tobacco displays (68%) and the implementation of a Tobacco Retailers Licensing Scheme (63%).
- There is also growing international momentum and precedent for bans on retail tobacco displays - including Iceland, several Canadian Provinces, Thailand and Ireland, with other jurisdictions considering bans and stronger regulations.
- Legal advice has concluded that to ban retail tobacco displays would require a Statutory Amendment to the 1990 Smoke-free Environments Act repealing section 23 and amending section 22.
- Current regulations are weak, complicated to enforce, have low compliance and do not achieve the purpose of the 1990 Act. A ban on the display of tobacco products will make enforcement simpler and further progress the elimination of tobacco marketing in New Zealand.

Tobacco Industry scaremongering

- The tobacco industry has a lot to lose if tobacco displays are banned as they are the last large-scale marketing tool available to them. In trying to maintain their ability to advertise through displays the tobacco industry is using the same scaremongering tactics with retailers as they did with hoteliers during the debate over the Smoke-free Environments Amendment.
- However not all retailers have been taken in by tobacco industry rhetoric. In the December 2006 issue of the C-Store magazine, Australia's 7-eleven convenience chain chief, Warren Wilmot says, *"I don't think there's any doubt that it (cigarette display) will go dark before long- which won't particularly worry me as an operator – it will just open up retail space behind the counter."*
- Tobacco industry arguments against a ban on tobacco displays are false and misleading. At worst they set out to protect their interests at the expense of others and at best they are minor compared to the need to reduce the marketing of a highly addictive drug that kills over half of long-term users.

Conclusion

- The Cancer Society believes that the protection of children from commercial exploitation by tobacco companies is a societal responsibility and that this requires a total ban on the display of tobacco products in retail outlets.

INTRODUCTION

It is extraordinary that in 2007 we continue to allow tobacco to be marketed. As more traditional avenues for advertising have declined through legislative changes, retail marketing has emerged as the primary communication channel for tobacco promotion.

There are reportedly 8600 tobacco retailers in New Zealand^v and almost all have prominent tobacco Point-of-Purchase (POP) displays. These displays provide the last remaining large-scale advertising vehicle available to tobacco companies. The POP displays create what could be called a '*cancerogenic environment*' which undermines health information, promotes a sense of social acceptability and normality to tobacco products, encourages children to try smoking and discourages and undermines quit attempts.

This situation is not acceptable to New Zealanders, two-thirds of whom want to see a complete ban on the retail display of tobacco products.

Tobacco companies have a long history and significant financial motivation to protect their interests, but the New Zealand government must make a decision in the interests of the public, not foreign multi-nationals who show continuing contempt for the health of New Zealanders.

Smoking is not a minor health issue, globally and in New Zealand deaths from tobacco use are in epidemic proportions. Eliminating the promotion and advertising of tobacco products is a fundamental requirement if we are to see any substantive changes in rates of smoking and youth initiation.

1. TOBACCO IS NOT A NORMAL CONSUMER PRODUCT AND MUST BE REGULATED IN LINE WITH THE HARM IT CAUSES

1.1 Smoking causes fatal and chronic diseases

- Tobacco is far from being a normal consumer product. It causes fatal and chronic diseases when used as the manufacturer intends with half of all long-term smokers dying as a result of smoking.^{vi}
- Smoking is the main cause of lung cancer and Chronic Obstructive Pulmonary Disease (COPD) and a major cause of heart disease, stroke, and a variety of other cancers. As a result it is estimated that smoking causes 5000 deaths in New Zealand each year.^{vii}

Key facts

- Smoking is a proven cause of **cancer** in many different parts of the body.^{viii} It causes over 80% of lung cancers,^{ix} 50% of upper aero-digestive cancers, 40-70% of bladder cancers and 30% of pancreatic cancers.^x Overall smoking causes a 25% of all cancer deaths in New Zealand, making it the largest readily preventable cause of cancer mortality.^{xi}
- Smoking is the “*most important of the known modifiable risk factors for coronary heart disease*”^{xii} and is associated with a two-to-four fold increase in the risk of developing **coronary heart disease, stroke and peripheral vascular disease**^{xiii}
- More than 85% of the burden of **Chronic Obstructive Pulmonary Disease** (COPD) arises from smoking^{xiv}

1.2 Nicotine is highly addictive

‘The unique selling point of tobacco is its nicotine content - tobacco products without nicotine are not commercially viable. Nicotine is an addictive drug, and the primary purpose of smoking tobacco is to deliver a dose of nicotine rapidly to receptors in the brain... Nicotine addiction is the primary reason why smokers find it difficult to give up smoking.’^{xv} - Royal College of Physicians (UK)

- Critical to the status of tobacco products as unique is the highly addictive nature of nicotine. A report by the UK’s Royal College of Physicians has described cigarettes as “*highly efficient nicotine delivery devices*” and stated that nicotine is as addictive as heroin and cocaine.^{xvi}
- Tobacco companies have privately long recognised that the main reason that people continue smoking is nicotine addiction. Publicly however they have denied that nicotine is addictive, because such an admission would have undermined their stance that smoking is a matter of personal choice. As the US Tobacco Institute put it: “*We can’t defend continued smoking as ‘free choice’ if the person was ‘addicted’.*”^{xvii} This argument is further weakened when it is understood that most smokers become addicted to tobacco products before they turn 18.^{xviii}
- The level of addiction to nicotine by young people has long been underestimated; recent research shows that adolescents who smoke even just a few cigarettes per month suffer withdrawal symptoms when deprived of nicotine. The study found that 10 percent of youth who become hooked on cigarettes were addicted within two days of first inhaling from a cigarette, and 25 percent were addicted within a month.^{xx}
- This addiction means that young people - like adults - struggle to quit smoking despite wanting to. A quarter of young people aged 15-19 smoke every day in New Zealand^{xxi} and the Ministry of Health’s Tobacco Use Survey shows that the majority regret starting, with nearly three quarters of young people who smoke saying they would not smoke if they had their lives over. Whilst the vast majority

Tobacco industry in their own words...

“Nicotine is addictive. We are, then, in the business of selling nicotine, an addictive drug.” - Lawyer acting for Brown & Williamson^{xix}

- (85%) report their intention not to be smokers in their 20s^{xxii} the unfortunate fact is that once nicotine dependence is established, the majority of smokers will continue to smoke for nearly 40 years.^{xxiii}
- The tobacco industry has long been aware of this:

“Starters no longer disbelieve the dangers of smoking, but they almost universally assume these risks will not apply to themselves because they will not become addicted. Once addiction does take place, it becomes necessary for the smoker to make peace with the accepted hazards. This is done by a wide range of rationalisations ...The desire to quit seems to come earlier now than before, even prior to the end of high school. In fact, it often seems to take hold as soon as the recent starter admits to himself that he is hooked on smoking.” – Imperial Tobacco^{xxiv}

1.3 Tobacco use contributes to poverty and health inequalities

- It is ironic that much of the marketing imagery which surrounds tobacco products is associated with wealth and an opulent lifestyle because tobacco is almost always an addiction of the poor and disadvantaged – especially in developed countries like New Zealand. Smoking rates in New Zealand are highest amongst those with a low socioeconomic position (SEP), Māori (45.2%) and Pacific peoples (37.4%),^{xxv} with a 20% difference in smoking rates between the most deprived (34.2%) and the least deprived (14.3%) population quintiles.^{xxvi}
- As a result tobacco use is a major cause of health inequalities in New Zealand with low income earners and Maori bearing the brunt of the tobacco epidemic. Smoking has been estimated to account for around a fifth of the low SEP gradient in deaths for men and around a tenth for women (where SEP is measured by educational level). As people with higher socio-economic status are quitting faster than those from more deprived communities, these inequalities appear to be increasing.^{xxvii}
- Smoking is an especially serious issue for Māori. Smoking is estimated to cause 25% of all deaths among Māori women and 21% of all deaths among Māori men and contributes to the gap in death rates between Māori and non-Māori by around 5% for men and 8% for women.^{xxviii}
- Given the additional pressures experienced in disadvantaged communities, it is critical that government policy is used to ensure health gains for these communities. Tobacco control public policy has the potential to be particularly beneficial to Māori which has been demonstrated with the successful implementation of the 2003 Amendment to the Smoke-free Environments Act. The Amendment has provided substantial benefits to Māori including a decrease in the level of exposure to second-hand smoke in workplaces and households, a reduction in socially-cued smoking and increased calls to Quitline.^{xxix}

1.4 There is inadequate public understanding of the health effects of smoking and the addictiveness of nicotine

“The extent to which smokers understand the magnitude of these health risks has a strong influence on their smoking behaviour. Smokers who perceive greater health risk from smoking are more likely to intend to quit, and to quit smoking successfully. The health risks of smoking are also the most common motivation to quit cited by current and former smokers, as well as the best predictor of long-term abstinence among reasons for quitting.”^{xxx}

- It is commonly perceived that ‘everyone knows smoking is bad for you’ however whilst smokers generally recognise that smoking is a health risk, they are often unaware of the full extent of the effects of smoking on their health and are the targets of marketing efforts (such as retail displays) aimed at providing false reassurance.
- The International Tobacco Control Four Country Survey (which surveys the United States, United Kingdom, Canada, and Australia) found that smokers *“exhibited significant gaps in their knowledge of the risks of smoking”*. Smokers were both unable to recall specific health risks and tended to underestimate their scope. The researchers also note that whilst most smokers acknowledge the risk of smoking, they tend to *“minimize that risk and show a clear tendency to believe that the risk applies more to other smokers than to themselves.”*^{xxxi}
- This low level of awareness about the health effects of smoking is compounded in those with a lower SEP.^{xxxii}

1.5 Smoking initiation almost always occurs amongst young people

“Cigarette smoking is a vicious cycle. Each year a new generation of children experiments with smoking. In many societies, half of them will become addicted, most destined to smoke for decades thereafter until either they manage to quit or death ends their struggle to do so.... Their children or grandchildren become their replacement smokers. The cycle repeats itself again and again, year after year...”

- Warner, 2003

- Smoking has been described as a paediatric disease^{xxxiii} because most smokers start when they are adolescents.^{xxxiv} In New Zealand the mean age of smoking initiation is 14.6 years, with 3.8% starting before 12 years of age.^{xxxv} This is of course well below the minimum legal age of purchase (18 years).^{xxxvi} Researchers argue that at this age *“health risks seem remote and the reality of dependence is appreciated even less than among adults.”*^{xxxvii}
- Whilst tobacco companies often argue that smoking is *“an adult choice”*^{xxxviii} as a way of countering calls for regulation, it is young people who are virtually their only source of new customers and they have

invested heavily in researching and targeting young people with marketing. As an internal tobacco industry document states: *"It is important to know as much as possible about teenage smoking patterns and attitudes. Today's teenager is tomorrow's potential regular customer, and the overwhelming majority of smokers first begin to smoke while in their teens."* ^{xxxix}

1.6 Tobacco should be regulated in line with the harm it causes

- In New Zealand and internationally tobacco is seen as a critically important public health issue. American Cancer Society Chief Executive Officer John Seffrin described tobacco as, *"the single greatest cause of preventable death in the world"*^{xl} and the World Health Organisation's Regional Director for the Western Pacific, Shigeru Omi has described the deaths and misery caused by smoking as *"one of the greatest scandals of our time."*^{xli}
- Regulating dangerous products is often necessary to protect and promote public health and there are many examples of legal products which are controlled through regulation for this purpose - including pharmaceuticals, fire-arms and chemicals.
- Where tobacco differs from these products is that smoking causes fatal and chronic disease through normal use of the product and has no safe levels of use. In addition - as described above – tobacco products are highly addictive and almost always taken up as minors.
- It is accepted that it is the government's responsibility to take action to tackle smoking and particularly to protect children and young people from smoking uptake. The dangerous and addictive nature of tobacco smoking justifies government restrictions on its distribution and sale as well as the elimination of all marketing, advertising and promotion.

2. TOBACCO DISPLAYS ARE AN IMPORTANT MARKETING DEVICE WHICH PROMOTE SMOKING INITIATION IN CHILDREN AND TEENAGERS AND UNDERMINE AND DISCOURAGE QUIT ATTEMPTS

"One thing is crystal clear... as above the line activities diminish through legislative restrictions, the future will belong to the company that develops and successfully executes superior below-the-line or retail environment capabilities."

- BAT ^{xlii}

2.1 Tobacco marketing isn't dead

Banning advertising and promotion in New Zealand

- New Zealand has progressively moved to eliminate tobacco advertising and promotion. A ban on tobacco advertising on radio and television was introduced in 1963 followed by billboards and cinema advertising in 1973.^{xliii} The 1990 Smoke-free Environments Act (SFE Act) took a giant

- leap forward with the introduction of a comprehensive ban on tobacco advertising and promotion, which was followed by a ban on tobacco sponsorship in 1995.^{xliv}
- Retail marketing was not a focus of this legislation with only one regulation included in the SFE Act (that of banning the display of tobacco products within a shop if this could be seen from outside) and this appears not to have been well adhered to by retailers.^{xlv} Some restrictions on retail marketing were introduced in 1995^{xlvi, xlvi} and again in 2003.^{xlviii}
 - However these regulations have only restricted retail marketing and still allow companies to promote tobacco use through the use of prominent tobacco displays. Additionally their implementation has been undermined by the way they were implemented and a lack of retailer compliance (for further detail see: Section 3.5 Banning cigarette displays will simplify the law).



Tobacco industry shifts focus to retail marketing

- The loss of traditional marketing opportunities has resulted in tobacco companies deliberately identifying and developing new avenues and approaches to marketing. This has seen a major shift in focus to retail marketing in all dark markets like New Zealand, which is attested to in numerous tobacco industry documents.
 - *“As marketing media have become increasingly restricted through Government legislation, the role of POP and the in-store environment has changed. In many markets, in-store activity is now the primary communication vehicle to talk to target smokers.” – BAT^{li}*
 - *“...we need to ensure that we have a well rounded and competitive retail package to ensure optimised presence for British American Tobacco brands in increasingly darker markets.” – BAT^{lii}*

- Whilst this move was primarily motivated by increasing restrictions on traditional media,^{lviii} it also reflected a general increase in the importance of alternative and new marketing opportunities^{liv, lv} and an increasingly prevalent view that traditional media were losing their effectiveness.^{lvi, lvii} As BAT notes, *“The loss of traditional media and its weakening effectiveness through fragmentation has placed greater importance on other contact points... Fundamentally, the in-store environment remains one of the key communication vehicles available to the tobacco industry in all the markets in which it operates.”* – BAT^{lviii}

2.2 Tobacco retail displays are an effective form of advertising

“The key is to make the cigarette category more visible and accessible.”
– British American Tobacco^{lix}

- POP displays are the last large-scale avenue for tobacco advertising in New Zealand, and are the key way tobacco companies get their products in front of young people and in front of smokers who are trying to quit. They enable tobacco companies to achieve their marketing and advertising objectives despite other restrictions on advertising.
- As tobacco companies recognised this, there was an increased focus on developing relationships with retailers and on: investing in POP display cabinets, payment of slotting (display) fees¹, sales calls and the provision of trade allowances / volume discounts – all aimed at maximising the in-store presence of tobacco products.^{lx, lxi, lxii}
- Most of these strategies were focused on building the presence of POP displays which are the most important component of retail marketing. Research by the Point of Purchase Advertising Institute POPAI (a US industry trade group)^{lxiii} found that displays have the highest consumer recall of all in-store activity at 42%. They found that *“retailers recognise consumer communication at the POP as a key business driver”* with 81% saying it attracted customer attention, 63% saying it communicated brand image and 48% saying it increased impulse purchasing.^{lxiv}
- *Visibility and Prominence:*
 - In 2007 BATNZ reported that there were approximately 8600 tobacco retail outlets in New Zealand, with nearly all New Zealand convenience stores (diaries, chain convenience stores, and service stations) and supermarkets selling tobacco products.^{lxv} The majority have prominent tobacco POP displays which tobacco companies exert significant control over and often pay for.^{lxvi}
 - Tobacco companies have invested heavily in researching POP marketing to ensure they maximise their impact, including the use of eye-gaze cameras.^{lxvii} BAT research indicates that the number of tobacco pack ‘facings’ (packages on view in displays) is the most influential factor in drawing attention to the product,^{lxviii} with the

¹ A slotting fee is a fee paid by tobacco companies to retailers to have their products displayed.

impact building as the number of facings increases.^{lxxix} A full row of facings receives one and a half times more attention than half a row.^{lxxx} As can be expected one of BAT's "10 commandments" of POP is to maximise the number of facings in retail displays.^{lxxxi}

- **Location**

- Retail location is critically important in generating sales and location at the point of purchase is especially effective. POPAI note that POP marketing is *"the only mass medium executed at the critical point where products, consumers and the money to purchase the product all meet at the same time."*^{lxxxi}
- The marketing mantra 'eye-level is buy level' explains part of the reason why location at the POP is so effective, as BAT notes, *"items placed at eye level are more likely to be purchased than those on higher or lower shelves."*^{lxxxiii}

- **Brand imagery and awareness:**

- Developing brands is a key role of marketing generally and brands are particularly important for tobacco companies because there are few meaningful differences between competing products,^{lxxxiv} as tobacco industry marketer John Speakman says *"in cigarette marketing, creating and then maintaining the right brand image is the difference between success and failure."*^{lxxxv}
- Tobacco POP displays provide companies with the means to ensure that their carefully developed brands^{lxxxvi} are presented to the public in a way which maximises their impact. They have invested heavily in researching retail marketing and clearly understand the importance of tobacco displays as a means of promoting brand awareness, as stated in a marketing study by Brown and Williamson, *"The store environment, especially displays inside stores, is the biggest source of advertising awareness for all cigarette trademarks."*^{lxxxvii}

- **Familiarity = Liking:**

- The common phrase 'familiarity breeds contempt' is turned on its head in marketing where researchers across a broad spectrum of marketing fields regularly find that brands with higher levels of familiarity are liked more by customers and retailers. Research indicates that the reason that this relationship is so strong is that familiarity with a brand or product promotes social desirability.^{lxxxviii}
- Most New Zealanders visit stores selling tobacco products a number of times a week - when they buy groceries, petrol or drop into a convenience store. This ensures high levels of exposure to POP marketing whether you are a smoker, non-smoker, former smoker or a child. In this way POP marketing can impact on many different groups in society with different impacts. POP marketing can help reassure and reinforce smoker loyalty, sensitise youth to tobacco brands, normalises tobacco use, and prompt impulse purchases.^{lxxxix}

2.3 Tobacco displays encourage young people to start smoking

“Today’s teenager is tomorrow’s regular smoker and the overwhelming majority of smokers first begin to smoke while in their teens.” - Philip Morris^{lxxx}

- Despite tobacco industry attempts to frame smoking as an adult choice, worldwide it is clear that almost all smokers become addicted to smoking before they turn 18. Whilst most parents (including smokers) don’t want their children to smoke, many feel powerless to stop them. This is especially the case in disadvantaged communities which have other factors working against them.^{lxxx} It is especially important to provide an environment which is conducive to not smoking for this group. A ban on retail tobacco displays will make a substantial contribution to this.
- Children and young people are influenced by the environment around them including marketing. Given the addictiveness of nicotine and the substantial and serious health effects of smoking, it is imperative that governments work to reduce youth smoking initiation. The extension of the current advertising restrictions to include tobacco POP displays is an important move for young people given the evidence of its role in smoking experimentation.

Marketing tobacco to children and young people

“Tobacco advertising and promotion can serve to reassure adolescents and reinforce their developing notions about the extent of smoking in society, its acceptability, its social value, and its relationship to their own identities.”^{lxxxii}

- Although tobacco companies deny that they market to children, there is irrefutable evidence to the contrary. Internal tobacco industry documents refer to youth as a source of sales and as fundamental to the survival of the industry.^{lxxxiii, lxxxiv}
- In order to ensure they successfully reach young people, tobacco companies have conducted detailed and continuous research on the lifestyles, motivations, and aspirations of young people^{lxxxv} and there is evidence that companies design their marketing to ‘cultivate’ smokers throughout the process of smoking initiation.^{lxxxvi} Cigarette brands, packaging and advertising have all been developed to appeal to young people.^{lxxxvii}
- Unsurprisingly given the amount of tobacco industry investment in reaching young people, research shows that their exposure to tobacco marketing is a risk factor for young people starting smoking.^{lxxxviii} Most recently a 2007 Cochrane review concluded that tobacco advertising and promotion increases the likelihood that adolescents will start to smoke.^{lxxxix}

- Tobacco marketing works by fostering positive attitudes, beliefs, and expectations regarding tobacco use which in turn fosters intentions to smoke and increases the likelihood of initiation.^{xc}
- The influence of marketing can be substantial, as evidenced by a longitudinal study in California which attributed a third of youth smoking experimentation to tobacco promotional activities.^{xcj}

Tobacco displays, brands and young people

- Tobacco retail marketing has its greatest impact on young people, with tobacco displays providing a key mechanism through which companies promote brand image and awareness.
- Young people are particularly vulnerable to branding because they are in the process of developing their own identity, and brands work by helping people define themselves and how they relate to the world.^{xcii} Young people often use tobacco products as 'badge products' – something which is well understood by tobacco companies e.g. *"The adolescent seeks to display his new urge for independence with a symbol, and cigarettes are such a symbol."*^{xciii}
- Unsurprisingly tobacco displays, as a key vehicle for communicating brand imagery and awareness, have been found to impact considerably on young people by increasing positive brand user imagery,^{xciv} promoting brand awareness (increasing the likelihood of young people recalling brands)^{xcv} and impacting on brand choice.^{xcvi}
- Tobacco companies have a significant financial incentive to ensure that young people smoke their brands because they are likely to continue to smoke the same brand as they get older^{xcvii} - something not lost on tobacco companies like Philip Morris which notes: *"it is during the teenage years that the initial brand choice is made"*.^{xcviii}

Tobacco displays and smoking initiation

- Research which examined the differential impact of cigarette marketing strategies on youth smoking initiation has demonstrated that different marketing strategies have differential effects on progression from experimentation to regular smoking. The study found that POP marketing is specifically associated with smoking experimentation.^{xcix}
- This finding is reinforced by US research which found that weekly exposure to retail tobacco marketing is associated with greater likelihood of experimenting with smoking.^c Similarly Australian research found an association between the frequency of student visits to convenience stores and experimenting with cigarettes.^{ci} Other research has estimated that exposure to retail tobacco marketing increases the chance a young person will smoke by almost 40%.^{cii}
- Repeated studies have indicated that tobacco displays increase young people's perceptions of the ease of purchasing tobacco.^{ciii} This undermines an important 'protective factor' for smoking as children who

- perceive difficulty in accessing tobacco products are less likely to smoke.^{civ}
- There is also evidence that retail outlets which young people frequent have a greater level of tobacco retail marketing. For example in California, cigarettes are marketed more heavily in stores where young people frequently shop - this included having twice as much shelf space for brands smoked by minors.^{cv} In New Zealand research has found a lower level of compliance to tobacco retail regulations by stores in areas with the highest proportion of children.^{cvi}

Tobacco displays convey the social acceptability of smoking and undermine health messages

- Currently tobacco is prominently displayed alongside normal consumer items in almost all convenience stores and supermarkets in New Zealand. Though regulations restrict tobacco from being located within 1m of children's products, this regulation is especially meaningless when the products are still within the same line of sight (see Section: 3.5 Banning cigarette displays will simplify the law).
- The widespread and prominent display of tobacco products as normal consumer items can distort young people's perceptions about smoking in many different ways. They can create a sense of familiarity with tobacco products and increase young people's perceptions of the prevalence (and therein social acceptability) of smoking. Displays can affect young people's perception of their ability to access tobacco products, they can undermine their perception of the risks of smoking and - especially with the prohibition of sales to minors being promoted through 18+ signs - they can make smoking appear mature and desirable.^{cvii, cviii, cix, cx}
- The Creative Director of one of Australia's leading advertising agencies, John Bevins,^{cxii} sees tobacco displays as providing 'Social Proof' regarding smoking. That is that the prominence and ubiquitous nature of tobacco displays 'prove' to young people that smoking is a common and accepted activity.^{cxii} This marketing analysis is reinforced by research which shows that advertising exposure influences perceptions about smoking prevalence, and peer approval for smoking.^{cxiii}

2.4 Tobacco displays undermine and discourage quit attempts

In addition to increasing smoking uptake, keeping customers is important to the tobacco industry and the widespread availability and prominent display of tobacco products in retail outlets has an impact on all smokers. By conveying the social acceptability of smoking, promoting brand imagery and providing easy access to tobacco products, displays can:

- Trigger impulse purchasing – encouraging smokers to smoke more and undermining quit attempts.

- Reassure smokers and legitimise smoking - discouraging quit attempts.
- Provide temptation – undermining quit attempts and promoting relapse in former smokers.

New Zealand smokers want to quit and are trying

- Most smokers want to quit - research indicates that 80% of New Zealand smokers would like to quit smoking^{cxiv} - however many find it difficult.
- Despite these difficulties many New Zealand smokers are actively making quit attempts. The 2006 NZTUS survey showed that 46% of adult smokers have tried to quit at least once over the past year and around 65% have tried to quit in the last 5 years.^{cxv}
- Unfortunately quitting smoking successfully is difficult for many people. It is estimated that it takes an average of 14 attempts to successfully quit smoking.^{cxvi}
- Creating a supportive environment is important in assisting smokers in their quit attempt, and a ban on tobacco displays contributes to this significantly.

Tobacco displays undermine quit attempts and prompt relapse

- Tobacco displays provide smoking 'cues' which tobacco companies actively exploit to affect smoking behaviour. Research has found that cues are an important determinant of habit forming behaviour and can provoke cravings and trigger impulse purchasing. Smokers experience heightened nicotine craving when they see smoking cues including advertising such as retail displays.^{cxvii}
- In other words, the ubiquitous and prominent display of tobacco in petrol stations, supermarkets and convenience stores provides constant reminders and temptation which can discourage smokers to quit, sabotage quit attempts and trigger relapse in former smokers.
- This is borne out in Australian research which indicates that around one third of people who have quit in the last year say they have been tempted to buy cigarettes when they've seen tobacco displays. Of those trying to quit, 38% said that displays triggered a desire to buy tobacco and over 60% actually purchased the tobacco as a result. Australian smokers see the banning of displays as a useful step to support people trying to quit with 30% of smokers believing that banning cigarette displays would make it easier to quit.^{cxviii}
- This research reflects similar findings in New Zealand where smokers also see tobacco displays as helping to undermine quit attempts. A recent NZ Cancer Society survey found that nearly half of New Zealand smokers (45%) agreed that cigarette displays at the check-out make it harder for smokers to quit.^{cxix}
- This research underlines the powerfully negative impact which tobacco displays can have on those trying to quit smoking and stay smoke-free. It also highlights the importance of a ban on tobacco displays in helping to

create a supportive environment for those trying to quit smoking or stay smoke-free.

Tobacco displays reassure smokers and discourage quit attempts

- Research on tobacco industry documents shows that the tobacco industry sees one of the key objectives of marketing as reassuring smokers, particularly "concerned smokers".^{cxx}
- Tobacco displays, like tobacco advertising in general,^{cxxi} work to reinforce brand image, reassure smokers and legitimise smoking. Many smokers feel guilty about their smoking and their failure to quit, and the prominence of tobacco products in displays communicates social approval of smoking. They serve to remind and reinforce smoking behaviour and make smokers less conscious and fearful of the health effects of smoking, promoting a more positive view of their smoking.
- Given the high level of 'concerned smokers' in New Zealand this false reassurance provides tobacco companies with an important mechanism for keeping their existing customers. However in doing so it is undermining the right of smokers to stop using this extremely harmful product.

Tobacco displays trigger impulse purchasing and increase consumption

Tobacco displays must be positioned so that they will be easily visible, readily accessible to shop assistants and displayed in such a way as to generate a strong impulse to buy.^{cxxii}

- Retail displays attract consumer attention and can have the effect of stimulating impulse purchases.^{cxxiii} It's likely that a ban on tobacco displays will see the current downward trend in the amount smokers smoke continue, as a result of reductions in impulse purchasing.
- Studies show that retail marketing in general can boost average sales by between 12%^{cxxiv} and 28%.^{cxxv} The effect seems to be somewhat lower with tobacco products, with tobacco industry research estimating that between 8%^{cxxvi} and 15%^{cxxvii} of tobacco purchases are bought on impulse as a result of retail marketing.
- This is reflected in research on smokers. Australian research found that a quarter (25%) of Australian smokers said that they sometimes bought cigarettes on impulse after seeing cigarette displays.^{cxxviii} This is similar to findings of a NZ Cancer Society survey in which 34% of New Zealand smokers indicated that they agreed that cigarette displays trigger smokers to buy cigarettes.^{cxxix}

3. INTRODUCING A COMPLETE BAN ON TOBACCO POP DISPLAYS

3.1 What we want

- The Cancer Society believes that the protection of children from commercial exploitation by tobacco companies is a societal responsibility. As such we are calling on Parliament to significantly tighten regulations around the retail of tobacco products. Specifically we are calling for the 1990 Smoke-free Environments Act to be amended to ban the visual display of any tobacco products or imagery in retail outlets, with tobacco products required to be kept in closed containers/cupboards under the counter. To bolster the effectiveness of this measure and to ensure it is fully implemented and enforced, we also ask the Health Committee to consider the following associated measures:
 - A ban on the payment of tobacco slotting fees to retailers.
 - A limit of one POP location selling tobacco per shop irrespective of the number of check-outs.
 - The in-store display of large (minimum 0.5m²) graphic/pictorial health warnings at the POP with the Quitline telephone number.
 - The implementation of a self-funding Tobacco Retailer Licensing Scheme (TRLS) which requires retailers to attend annual training. Breaches in relevant regulations will result in the loss of licenses and therein the ability to sell tobacco products.

3.2 The NZ public wants to ban tobacco displays

- New Zealanders don't want to smoke, don't want their children to smoke, don't want people to smoke around them and don't want tobacco products in their children's line of sight in retail outlets.
- Surveys show that the vast majority of New Zealanders support a complete ban on the display of tobacco products in all retail outlets. In June 2007 over two thirds (68%) supported a ban, up 2 percentage points from late October 2006. Support was particularly high amongst Pacific Peoples, over three-quarters (76%) of whom supported the call to ban tobacco displays.^{cxxx}
- There is also strong support (63%) for the introduction of a Tobacco Retailers Licensing Scheme (TRLS) which would regulate the retail of tobacco products.

3.3 There is significant international precedent and growing momentum

- The growing focus on retail marketing has led to a number of countries taking action to ban and further regulate tobacco retail marketing.
- Iceland was the first jurisdiction in the world to place a complete ban on the visual display of tobacco which it introduced in 2001. BAT Nordic challenged the ban but the case was dismissed in October 2003.^{cxxxi cxxxii}

- Between 2002 and 2005 a notable decrease in smoking rates has been seen in both males (22.8% to 19.4%) and females (22.8% to 19.7%).^{cxxxiii}
- The Canadian province of Saskatchewan banned tobacco displays in outlets that minors have access to in 2002 but was challenged by Rothmans Benson & Hedges Inc. The law was upheld in January 2005 by a unanimous judgment of the Supreme Court of Canada.^{cxxxiv} Several other Canadian Provinces have now followed suit and have complete bans on the retail display of tobacco products including Nunavut (2004), Prince Edward Island (2006), Nova Scotia (2007), Ontario (2008) and Québec (2008).^{cxxxv} Canada is now considering national legislation regulating tobacco displays.^{cxxxvi}
 - A complete ban on the retail display of tobacco was introduced in Thailand in 2005. Tobacco companies initially threatened to sue the Thai Ministry of Public Health when they introduced a ban on tobacco displays^{cxxxvii} but this was not carried out and compliance is now high.
 - Ireland introduced a ban on the display of tobacco products in a 2004 Amendment to the Public Health (Tobacco) Act^{cxxxviii} however its implementation was delayed as a result of litigation by tobacco companies. The companies dropped their legal challenge in 2007^{cxxxix} and Ireland is now moving to implement the legislation.^{cxl}
 - Work on tobacco display bans is also underway in Norway, South Africa, the UK, Australia and other jurisdictions.
 - It is clear that tobacco displays will be banned at some point in the future, the question is whether New Zealand will be a leader or a follower.

International precedents

Iceland – banned displays in 2001



Thailand – banned displays in 2005



3.4 Legal process for banning tobacco displays

- According to a legal opinion by QC David Collins a statutory amendment to the 1990 Smoke-free Environments Act (SFEA) is required and should include the repeal of section 23 and the amendment of section 22 (by deleting references to exemptions set out in section 23). A copy of this legal opinion is attached (see Appendix 1: Legal Opinion on Options for the Implementation of a Tobacco Retail Display Ban).

3.5 Banning cigarette displays will simplify the law

- Tobacco displays are the last large-scale marketing mechanism open to tobacco companies. Merely tinkering with the requirements provides no protection for young people and smokers who are trying to quit.
- Current regulation of tobacco displays sets out to:
 - limit displays to 100 packages and 40 cartons of cigarettes for each point of sale (unless the retailer is a specialist tobacconist);
 - limit to no more than two packages of a 'kind' in displays;
 - require a 'smoking kills' sign be displayed;
 - ban the display of tobacco on counter tops; and,
 - limit the display of tobacco to no closer than one metre from children's products.^{cxli, cxlii}
- However the regulations are weak (given the evidence of the importance of displays as a marketing tool), too complicated (making them difficult to be easily enforce), frequently breached (as a result of an inadequate penalties and retailer education), and do not achieve the purpose of the 1990 Smoke-free Environments Act. Retailers often rely on tobacco companies (who typically own the displays) to ensure they are compliant despite the fact that they are ultimately responsible.



Current regulations are weak and do not achieve the purpose of the Act

- The purpose of Part 2 of the 1990 Smoke-free Environments Act is, *“to reduce the social approval of tobacco use, particularly among young people...by imposing controls on the marketing, advertising, or promotion of tobacco products.”* As described above cigarette displays are clearly important and effective marketing devices which encourage youth smoking initiation and undermine quit attempts. Minor limitations which the industry easily manipulates to their advantage are insufficient to meet this purpose. A total ban on the display of tobacco is amply justified and will contribute to the purpose of the SFEA.

Current regulations are overly complicated and often breached

- To be effective laws should be clear, non-discriminatory, and consistent with other laws and international obligations. The current regulations on retail marketing of tobacco are subject to deliberate misinterpretation, genuine confusion and wilful breaches (see table 1).
- A recent survey of 300 tobacco retailers in the Wellington region showed that most stores and retail outlets selling tobacco are in breach of current regulations, particularly convenience stores and dairies in areas with a higher proportion of children. The survey found that convenience stores (82%) and dairies (76%) were the most likely to break at least one or more of the regulations for retail tobacco displays.^{cxliiii}

Table 1: Examples of undermining the intention of regulations

<p>1. <i>Brand extension</i></p> <p>Section 23A(2)(d) of the SFEA states that “not more than 2 packages of the same kind are exposed for sale”, however the use of brand extensions (for example marginally different packaging) means that there are large sections of displays taken up by a single brand.</p>	
<p>2. <i>Children’s products</i></p> <p>Section 23A(2)(i) of the SFEA aims to keep children’s products including confectionary more than a metre from tobacco displays, however this is clearly unachieved given that confectionary is almost always in the same line of sight as tobacco products.</p>	

3. Health warning signs

Section 23A(2)(k) of the SFEA requires retailers to display health warning signs however these small black and white text signs are no competition for the carefully developed packaging of tobacco products. They are also often frequently undersized and displayed in much less prominent locations.



4. Prominent displays

Section 23A(2)(b) of the SFEA limits the display of tobacco products in retail outlets to 100 tobacco packages, however the industry has interpreted the law and associated guidelines in such a way as to enable them to maintain much larger displays than intended. For example having numerous check-out's adjacent to each other (see photo), duty free shops keeping tobacco products in aisle's and wall-less kiosks in shopping malls.



5. Visible from outside retail outlets

Section 23A(2)(a) of the SFEA states that retailers must ensure that "no tobacco products exposed for sale is visible from outside the place" however this is frequently breached and is difficult in glass front stores.



- A requirement to have tobacco products out of sight provides a simple solution and an even playing field for all retailers. In jurisdictions where a

complete ban has been put in place there has been much better compliance, eg it has been reported that the ban on displays in the Canadian province of Saskatchewan achieved 98% compliance in 6 months (See: Appendix 2: Statement by the Saskatchewan Coalition for Tobacco Reduction).

3.6 Implement a Tobacco Retailer Licensing Scheme to ensure compliance is rigorously enforced

- To ensure high levels of compliance to the ban on cigarette displays, the Cancer Society supports the introduction of a strong and comprehensive Tobacco Retailer Licensing Scheme (TRLS).
- A TRLS will enable a greater level of oversight and control of the distribution of this highly addictive and harmful product. There is strong public support (63%)^{cxliv} for tobacco retailers to be controlled through a licensing scheme.
- A TRLS (which can be self funding through licensing fees) will have the added benefit of supporting the enforcement of the prohibition of the sale of tobacco products to minors.^{cxlv}
- There is widespread non-compliance by retailers to this law, as evidenced by the Ministry of Health's Tobacco Use Survey which found that most youth smokers (74.2%) purchase cigarettes themselves.^{cxlvi} Other research has shown that purchases of tobacco products by minors were most frequently from service stations and dairies.^{cxlvii}
- Although enforcing youth access laws alone is unlikely to achieve a decrease in youth smoking prevalence; they have been described as 'critical in maintaining the consistent message that tobacco smoking is a serious health issue'.^{cxlviii}
- However the laws must be fully enforced to have an impact on youth smoking. A 2001 review by DiFranza²⁰ found that compliance of 90% or more was required before youth access laws would decrease youth smoking prevalence.
- It should be noted that there is international concern about the way in which tobacco companies are exploiting the ban on sales to minors as advertising. From a marketing perspective the display of products with in-shop messages on restrictions on sales to minors may well actually communicate to young people that cigarettes are a rite of passage into adulthood. As John Bevins^{cxlix}, has explains, "*whether by accident or design, it must help recruit smokers.*"
- Whilst the Cancer Society supports the ban on sales to minors it must be rigorously enforced with retailers permanently losing their ability to sell tobacco products in the event of a breach.
- The failure of retailers to behave responsibly in regards to the ban on sales to minors illustrates the vital importance of implementing a strong and comprehensive TRLS which ensures that irresponsible retail of tobacco products results in the permanent loss of the ability to sell tobacco rather than ineffectual fines or temporary suspensions.

2. TOBACCO INDUSTRY SCAREMONGERING

- Just as was seen during the debate about the Smoke-free Environments Amendment Act (SFEA), the tobacco industry often uses other agencies to provide a sympathetic public face to what are fundamentally tobacco industry interests. In the case of the SFEA tobacco companies used hoteliers to oppose bans on smoking in pubs and restaurants.
- We are now seeing moves by tobacco companies to use tobacco retailers in the same way to combat the campaign to ban cigarette displays. For example in Australia, efforts to ban tobacco displays saw tobacco companies establish the National Alliance of Tobacco Retailers (NATR) in 2004.
- However there is evidence that this opposition by retail groups reflect tobacco industry scaremongering more than genuine concerns. In the December 2006 issue of the C-Store magazine, Australia's 7- eleven convenience chain chief, Warren Wilmot says, *"I don't think there's any doubt that it (cigarette display) will go dark before long - which won't particularly worry me as an operator – it will just open up retail space behind the counter."*
- Tobacco companies have raised many 'concerns' about the introduction of a ban on tobacco displays in its efforts to delay their introduction. Their arguments are false and misleading and often contradictory. Evaluation of the ban on displays in the Canadian Province of Saskatchewan has found no evidence to support their criticisms (see [Appendix 2: Statement by the Saskatchewan Coalition for Tobacco Reduction](#)). At worst they set out to protect their interests at the expense of others and at best they are minor compared to the need to reduce the marketing of a highly addictive drug that kills over half of long-term users

CONCLUSION

A ban on the display of tobacco products in retail outlets will be an important step in continuing to shut down tobacco marketing opportunities and there are real and substantial benefits to be gained for the community including reducing youth smoking initiation and providing much-needed support to people trying to quit smoking or stay smoke-free. By removing an important vehicle for smoker reassurance, a ban will increase the impact of existing cessation and health promotion campaigns resulting in an increase in quit attempts and a reduction in consumption. It will do this without impacting on those wanting to continue to smoke.

In conjunction with a ban on tobacco displays the Cancer Society supports the introduction of a self-funding TRLS which will assist in increasing compliance and provide a mechanism for regulating and educating retailers. We also support requirements that retailers inform their customers about the health effects of

smoking by displaying graphic health warnings and provide information to them on cessation support.

A reduction in smoking rates will have considerable economic and health benefits to New Zealand as a country and to individual smokers themselves. The only group to lose are tobacco companies. A ban on tobacco displays and the accompanying measure outlined above are critically important to changing the current 'cancerogenic' environment.

APPENDICIES

Included as appendices are:

- Appendix 1: Legal Opinion on a Tobacco Retail Display Ban
- Appendix 2: Saskatchewan Coalition for Tobacco Reduction Statement
- Appendix 3: Campaign Supporters

APPENDIX 1: Legal opinion

DR. DAVID COLLINS LL.D.
QUEEN'S COUNSEL



14 July 2006

Belinda Hughes
Health Promotion Adviser (Tobacco Control)
Cancer Society of New Zealand
PO Box 10847
WELLINGTON

Purpose of opinion

1. ASH and the Cancer Society are working on a background document in order to advance legislation that would see a total ban on tobacco product retail displays in New Zealand.
2. You seek a legal opinion to support your proposal which:
 - 2.1 Outlines how a display ban could be implemented in New Zealand; and
 - 2.2 Identifies and addresses any legal obstacles that would need to be overcome.

Options for implementation of retail ban

3. The two theoretical options for implementing a ban on point of sale advertising are statutory amendment to the current Smoke Free Environments Act 1990 (SFEA) or implementation of new Regulations.
4. For the reasons set out below, I suggest that statutory amendment is the most appropriate course of action to pursue.

Lambton Chambers, Level 3, 101 Lambton Quay, Wellington, New Zealand.
PO Box 5300, Wellington 6015; Telephone (04) 499 4552; Facsimile (04) 499 4620.

Explanation

5. In this opinion I will explain the reasons why a statutory amendment is the most legally safe course of action to follow, and why I see potential difficulties in trying to achieve your objective by way of implementing a statutory regulation.
6. I have also set out in this opinion a description of experiences in other countries which help demonstrate why an amendment to SFEA is the most effective means of achieving your objectives.

Statutory Amendment

7. Currently the SFEA places a near total ban on all forms of advertising and promotion (section 22). However, section 23 exempts certain point of sale advertising. Given this express exemption under the primary Act, I suggest any proposed imposition of a ban on all point of sale advertising would require Parliament to either amend or repeal section 23. In my view the clearest course of action is to repeal section 23 and amend section 22 by deleting in section 22 the current references to the exemptions set out in section 23 of the SFEA.

Statutory Regulations

8. Statutory Regulations may be promulgated as a fast and effective way of achieving government policy. Statutory regulations are passed by the executive. They therefore do not follow the tortuous route of a bill which requires select committee scrutiny and Parliamentary debate before they can be enacted as statutes.
9. It is a well established constitutional principle that statutes set out the policy in substance of the law while statutory regulations can be passed to implement the policy of the law contained in the statute. The Cabinet Manual 2001 provides that:

"Regulations should not in general, deal with matters of substantive policy ... or contain provisions that purport to amend primary legislation".

10. In my opinion, attempting to circumvent the current provisions of section 23 SFEA by way of a statutory regulation would be fraught with danger and likely to be successfully

challenged before the Regulations Review Committee and/or the High Court by way of Judicial Review because:

- 10.1 A regulation that purported to totally ban tobacco product retail displays would be a matter of substantive policy;
- 10.2 A regulation that purported to totally ban tobacco product retail displays would effectively amend section 23 SFEA and therefore offend one of the most basic requirements of statutory regulations set out in the Cabinet Manual 2001;
11. If a statutory regulation were passed that attempted to totally ban tobacco product retail displays the following likely consequences would follow:
 - 11.1 There would undoubtedly be a complaint to Parliament's Regulations Review Committee which in turn is likely to refer the regulation to Parliament;
 - 11.2 The tobacco industry would undoubtedly challenge the regulations in the High Court as being *ultra vires* the SFEA. In my view, a regulation which purported to repeal section 23 would be likely to be considered *ultra vires* the SFEA and it is accordingly likely the High Court would declare the regulation invalid.

Overseas Experiences

Canada

Saskatchewan

12. The Tobacco Control Act 2001 took effect in Saskatchewan on 11 March 2002. It stipulates that both the promotion and display of tobacco and tobacco-related products are prohibited in premises accessible to minors under 18 years of age.
13. During May 2002, Rothmans, Benson and Hedges (RBH), Canada's second largest tobacco manufacturer, challenged the Act on constitutional grounds. The tobacco company argued that the Saskatchewan regulations contravened its constitutional right to freedom of expression and that they were in conflict with the federal legislation allowing stores to display tobacco products. In October 2002, the Saskatchewan Court

of Queen's Bench upheld the law, finding that the province was within its rights to protect the health of young people and that the law was consistent with the federal Tobacco Act.

14. RBH successfully appealed the decision. The Saskatchewan Court of Appeal declared the Act inoperative. However, a unanimous nine-member Supreme Court of Canada subsequently upheld Saskatchewan's ban on retail displays in any premises accessible to minors under 18.

Manitoba

15. The government of Manitoba passed legislation which bans tobacco product retail displays in stores accessible to minors under age 18 and provides other advertising regulations for tobacco products. The legislation took effect on 1 January 2004 but, because of the Supreme Court case involving Saskatchewan, it could not be enforced until 15 August 2005.

Nunavut

16. The comparable law in Nunavut applies to all premises and came into effect on 1 February 2004, again enforcement of the law was delayed until after the Supreme Court decision in January 2005. Prince Edward Island followed suit on 1 June 2006.

Quebec

17. In Quebec, a statute completely banning retail displays will come into effect on May 31, 2008.

Ontario

18. The Smoke-Free Ontario Act 2005 eliminated all countertop displays and product enhancement or promotion material displays in retail outlets as of 31 May 2006. A complete ban on the retail display of tobacco products will come into force on 31 May 2008.

Summary

19. Thus, the Canada Supreme Court has specifically upheld the right of provincial parliaments to pass statutes which prohibit the advertising of tobacco products at point of sale.

United Kingdom

20. The UK case of *R (on the application of British American Tobacco UK Ltd and five others) v Secretary of State for Health*¹ involved an application for judicial review brought by six tobacco industry companies challenging the legality of the Tobacco Advertising and Promotion (Point of Sale) Regulations 2004.
21. The Regulations were adopted pursuant to the Tobacco Advertising and Promotion Act 2002 and came into force in December 2004. The regulations allow advertisements to be placed on websites and also at the point of sale of tobacco products, provided certain criteria are met. While there is not a total ban on point of sale advertising in Britain, the tobacco companies objected to the regulations on a number of grounds, which are of relevance to your proposal.
22. Principally the tobacco companies argued that the government placed such disproportionate restrictions on tobacco advertising that the "very essence" of their commercial free speech had been compromised, thereby infringing Article 10 European Convention on Human Rights (ECHR). The restrictions were defended on the basis that it was necessary to impede freedom of commercial speech in this instance in order to address a significant and pressing risk to public health and that national authorities enjoy a wide area of discretion.
23. This argument was upheld by McCombe J who reflected that the case law of the European Court of Human Rights has traditionally permitted commercial free speech to be regulated in a far more robust manner than political or artistic expression.
24. Freedom of commercial expression "is perceived to be of less value to society than political or artistic speech, it accordingly receives diminished protection from the courts".

¹ [2004] EWHC 2493 (Admin)

Iceland

25. In August 2001 Iceland became the first jurisdiction in the world to implement a law banning all retail displays of tobacco. The tobacco industry challenged the law but lost the case.

Thailand

26. In September 2005 Thailand ordered tobacco vendors remove all cigarettes from display or risk a US\$50,000 fine. Although these moves were the subject of strenuous opposition, the law has been successfully enforced.

Ireland

27. From 2006 tobacco retailers in Ireland will be required to keep tobacco products "in a closed container or dispenser that is not visible or accessible to any person" other than the retailer and will also have to remove any notice or sign which would indicate that individual tobacco products may be purchased at the premises.

New Zealand Bill of Rights Act 1990

28. If Parliament were to ban point of sale advertising by amending the SFEA along the lines I have suggested then the tobacco companies may try to challenge the constitutionality of that legislation by alleging that such an amendment infringes the tobacco companies freedom of expression.
29. Section 14 of the New Zealand Bill of Rights Act 1990 (NZBORA) states: "*Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form*".
30. Undoubtedly the tobacco companies would argue section 14 New Zealand Bill of Rights Act conflicts with the SFEA. However, the NZBORA does not invalidate the SFEA (or any other legislation)² as the rights and freedoms contained in it are subject to "*such*

² Section 4 NZBORA states that no court shall, in relation to any enactment (whether passed or made before or after the commencement of this Bill of Rights): (a) Hold any provision of the enactment to be impliedly repealed or revoked, or to be in any way invalid or ineffective; or (b) Decline to apply any provision of this enactment by reason only that the provision is inconsistent with any provision of this Bill of Rights.

reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.”

31. As seen above, the tobacco industry has been unsuccessful in challenging total advertising bans in Canada and the United Kingdom. The UK case clearly indicates that restrictions on free speech may be justifiable when balanced against the greater need to address a significant and pressing risk to public health, and that the governments enjoy a wide area of discretion in pursuing this objective.

Conclusions

32. For the reasons set out above I believe the most effective course of action is to repeal section 23 SFEA and amend section 22 by removing all references to the exemptions currently set out in section 23 SFEA.
33. I am happy to assist further if you wish.

Yours sincerely



David Collins QC

APPENDIX 2: Statement by the Saskatchewan Coalition for Tobacco Reduction

April 27, 2005

Mr. Pat Hoy and Committee Members
Standing Committee on Finance and Economic Affairs
Room 1405, Whitney Block
Queen's Park
Toronto, Ontario
M7A 1A2



SASKATCHEWAN
COALITION
FOR TOBACCO
REDUCTION

Dear Mr. Hoy and Committee Members:

The *Saskatchewan Coalition for Tobacco Reduction* congratulates you and your Committee on your work in consulting with the public concerning Bill 164, *The Tobacco Control Statute Law Amendment Act, 2004*. The measures in the Bill will be effective in protecting children, youth and all Ontario residents from the devastation caused by tobacco addiction, illness and death.

It is our understanding that the proposed legislation contains a ban on point-of-sale displays. Since Saskatchewan was the first jurisdiction to pass this legislation in North America, we would very much appreciate the opportunity to provide your Committee with some of the "lessons learned" in our province as well as the opportunity to counter some of the misinformation that may have been provided to you.

Our provincial display ban was first recommended by our *All Party Committee on Tobacco Control*, a Committee of the Saskatchewan Legislative Assembly which was set up to identify ways to protect children and youth from tobacco. Legislation which includes the ban was passed unanimously by Members of the Legislative Assembly in 2001 and proclaimed in 2002.

Saskatchewan's point-of-sale ban legislation has been a success story. The opportunity to ban one of the tobacco industry's last avenues to promote their products to children and youth was precedent-setting and although legally challenged by a tobacco company, it was upheld by the Supreme Court of Canada. We are pleased to say that Saskatchewan no longer promotes tobacco products to children!

Ease of Implementation

The display ban was well accepted by the public. Health Canada's tobacco enforcement officers^{cl} report the law achieved a high level of compliance, 98%, within six months to a year after its proclamation.

All Regional Health Authorities, health organizations and the Saskatchewan Urban Municipalities Association support the display ban. Public support is high and includes one group whose support was unexpectedly enthusiastic. Ex-smokers tell us it is much easier not to start smoking when they are not faced with tobacco displays in stores.

Lack of Negative Economic Impact

Tobacco enforcement officers also report compliance appears to have been achieved at minimal cost to retailers. No stores have closed and no staff have been laid off.

Mr. Ray Joubert, spokesperson of the *Saskatchewan Pharmaceutical Association* (now the *Saskatchewan College of Pharmacists*), reported that although there may have been a few transitional issues, implementation of the ban on tobacco product advertising to children had gone “smoothly”. He said “*Compliance is high. There have been no significant problems or failures, economically or otherwise.*” He has not heard of any negative outcomes such as businesses closing or staff being let go.

There have also not been any media reports of negative economic impact due to the point-of-sale ban.

Increase of ‘point-of-sale’ research

With the passage of point-of-sale bans in Saskatchewan, Iceland, Ireland, Manitoba, Nunavut and other jurisdictions, there has been increase in research around this area. In reviewing the literature, we are pleased to see it confirms what Saskatchewan’s All Party Committee perceived: **The primary purpose of point-of-sale displays is to advertise to children and youth.** Through their decision to ban displays, Saskatchewan legislators effectively created an environment where children and youth are protected.

We should mention that the research says **partial bans are not effective** given the tobacco industry’s propensity to make much the most out of such situations. You may be being pressured not to have a complete ban. We encourage you to provide children and youth in your province with **complete** protection from tobacco industry promotion.

Detractors

We would be remiss if we didn’t mention there were detractors to this legislation. The *Saskatchewan Committee for Responsible Tobacco Retailing* was formed just prior to the legislation being passed. Although claiming to be ‘poor’ retailers the Committee had extensive funding to run its campaign.

The Committee mounted a \$10,000 fax campaign to retailers urging them to oppose the legislation by calling their Member of the Legislative Assembly. Retailers were provided with misinformation. Some of it may be similar to what is being said in Ontario. Suspicions of links between the retail committee and the tobacco industry were confirmed when a Committee spokesperson admitted on one occasion it was a sub-committee of the *Canadian Coalition for Responsible Tobacco Retailing*, a tobacco industry coalition with a similar name. The Coalition is described on the industry’s Operation ID website - www.operationid.com/

Misinformation

Some of the following misinformation may be being provided to Members of the Provincial Parliament in Ontario. Some of this was also heard in Saskatchewan and we would like to share the information we have to refute it.

- **“Banning tobacco product displays won’t affect youth smoking.”**
As mentioned, there is considerable research evidence that proves tobacco advertising and promotion increase tobacco use. If such advertising did not work, it is unlikely the tobacco industry would spend 88 million dollars on it every year in Canada.
- **“The legislation will cause undue economic hardship”**
There has been no media or other reports of economic losses because of the display ban in Saskatchewan. There may be losses of payments from the tobacco industry to retailers. However, the *Canadian Cancer Society* has reported that retailers can offset these by increasing the cost of each package by a few pennies. The only business that will suffer is the tobacco industry.
- **Saskatchewan retailers have extensively used shower curtains to cover displays of tobacco products.**
We think it is important for you to know that no one we know across the province has ever seen a shower curtain used in this way. The term was coined by the tobacco industry to trivialize the law. The phrase was used by Rothmans Benson & Hedges lawyers in all of their court appearances including the last one at the Supreme Court of Canada.
- **Thefts in stores increased because clerks have to spend more time with their backs turned.**
Such a suggestion is outside the experience of Saskatchewan retailers. In fact, 30% to 40% of retailers continued to keep their display bans in place during the 18 months the law was struck down by the industry’s legal challenge. These retailers reported that they did this for a number of reasons, one being they believed that having tobacco products visible increases theft.

There is further evidence that theft does not increase with point-of-sale bans:

- There have been no media reports of thefts increasing in Saskatchewan.
 - Tobacco enforcement officers have not heard of increased thefts.
 - According to the *Saskatchewan College of Pharmacists*, many pharmacists in Saskatchewan quit selling tobacco because they believe having it in stores increases thefts. Currently, 60% of pharmacists in Saskatchewan do not sell tobacco.
- Testimony was provided to the Standing Committee on Social Development, Prince Edward Island, on March 11, 2004, by Constable Gary Clow who stated that power walls of tobacco products encourage ‘break and enters’.

It is also possible to investigate theft in Saskatchewan as it compares to Canada. This can be done through a review of property crime, specifically shoplifting. Shoplifting and other theft statistics are kept by the Canadian Centre for Justice Statistics in Ottawa which has provided the following statistics. (Table 1)^{ci}

Table 1. Reported shoplifting incidents per 100,000 population in Saskatchewan and Canada, 1998 - 2003

Year	Saskatchewan	Canada
1998	371	303
1999	330	276
2000	316	262
2001	351	258
2002	357	257
2003	394	274
2004	Not available	

These numbers show Saskatchewan rates follow a similar trend as Canadian rates. Rates for both initially decrease from 1998 to 2000 and then increase until 2003. Since there were no display bans anywhere else in Canada, one may conclude that the Saskatchewan display ban had no effect on shoplifting theft in that province.

- ***Clerks were at personal risk because their backs were turned to their customers for longer periods of time.***

Again, we have not heard anything about this and nothing has been reported in the media in Saskatchewan.

In closing, we encourage your Committee to recognize that the tobacco industry and its allies will fight to keep the promotion of its product in front of the next generation of smokers – the children and youth of Ontario. We would be pleased to provide any further information or answer any questions. Please feel free to contact the *Saskatchewan Coalition for Tobacco Reduction* at (306) 766-7903.

Yours sincerely,



June Blau
President



Lynn Greaves
Chair, Advocacy Committee

APPENDIX 3: Supporters

The following organisations are official supporters of the campaign to ban cigarette displays.

- Cancer Society of New Zealand - Te Rōpū Mate Pukupuku o Aotearoa
- Royal New Zealand College of General Practitioners
- New Zealand Medical Association
- Paediatric Society of New Zealand
- New Zealand Nurses Organisation
- Auckland Chinese Medical Association
- National Heart Foundation of New Zealand
- Te Hotu Manawa Māori
- Te Reo Mārama - Māori Smokefree Coalition
- Action on Smoking and Health New Zealand
- New Zealand Drug Foundation - Te Tuapapa Tarukino o Aotearoa
- Stroke Foundation
- Asthma and Respiratory Foundation of New Zealand
- The Quit Group
- Public Health Association of New Zealand
- Royal New Zealand Plunket Society
- Barnados



- ⁱ 'Graphic warnings for cigarette packets', Press Release, Hon Damien O'Connor, 2 November 2006.
- ⁱⁱ Morgan Stanley Research Europe. Tobacco: Late to the party. London: Morgan Stanley Research; 2007.
- ⁱⁱⁱ The World Health Organizations' International Agency for Research on Cancer has stated that smoking is an important contributing factor for cancers of the lung, oral cavity, nasal cavity and paranasal sinuses, larynx, oesophagus, stomach, pancreas, liver, kidney (body and pelvis), ureter, urinary bladder, uterine cervix and bone marrow (myeloid leukaemia). (*Tobacco Smoking and Involuntary Smoking, IARC Monographs on the Evaluation of Carcinogenic Risks to Humans, Volume 83, International Agency for Research on Cancer, World Health Organisation, 2004. Online summary viewed July 15th 2006 at: <http://monographs.iarc.fr/ENG/Monographs/vol83/volume83.pdf>*).
- ^{iv} Mortality statistics: totals for 2000 and 2001, New Zealand Health Information Service. Viewed online 26th September 2005 at: <http://www.nzhis.govt.nz/stats/mortstats-p.html>
- ^v British American Tobacco New Zealand. Retail sector. British American Tobacco New Zealand: Auckland. 21 December 2006. Accessed May 14, 2007. http://www.batnz.com/OneWeb/sites/BAT_5LPJ9K.nsf/vwPagesWebLive/80256D0B004C1BC780256B0C00436793?opendocument&SID=&DTC
- ^{vi} Wald NJ, Hackshaw AK. Cigarette smoking: an epidemiological overview. *Br Med Bull* 1996;52:3–11. Viewed online 3rd August 2007 at: http://bmb.oxfordjournals.org/cgi/content/abstract/52/1/3?ijkey=e63cb3c6c893987945063e42b26623ec0896773b&keytype=2=tf_ipsecsha
- ^{vii} Ministry of Health. 2006. Tobacco Trends 2006: Monitoring tobacco use in New Zealand. Wellington: Ministry of Health. Viewed online 14th August 2007 at: [http://www.moh.govt.nz/moh.nsf/pagesmh/5658/\\$File/tobacco-trends-2006.doc](http://www.moh.govt.nz/moh.nsf/pagesmh/5658/$File/tobacco-trends-2006.doc)
- ^{viii} The World Health Organizations' International Agency for Research on Cancer has stated that smoking is an important contributing factor for cancers of the lung, oral cavity, nasal cavity and paranasal sinuses, larynx, oesophagus, stomach, pancreas, liver, kidney (body and pelvis), ureter, urinary bladder, uterine cervix and bone marrow (myeloid leukaemia). (*Tobacco Smoking and Involuntary Smoking, IARC Monographs on the Evaluation of Carcinogenic Risks to Humans, Volume 83, International Agency for Research on Cancer, World Health Organisation, 2004. Online summary viewed July 15th 2006 at: <http://monographs.iarc.fr/ENG/Monographs/vol83/volume83.pdf>*).
- ^{ix} Peto R, Lopez A, Boreham J, Thun M. Mortality from smoking in developed countries 1950-2000 (2nd edition: data updated, 9 December 2005). Oxford: Oxford University Press. <http://www.ctsu.ox.ac.uk/~tobacco/>; 2005.
- ^x Tobacco and Cancer, World Health Organisation website. Viewed online 15th September 2007 at: <http://www.who.int/tobacco/research/cancer/en/index.html>.
- ^{xi} Mortality statistics: totals for 2000 and 2001, New Zealand Health Information Service. Viewed online 26th September 2005 at: <http://www.nzhis.govt.nz/stats/mortstats-p.html>
- ^{xii} The health benefits of smoking cessation - a report of the Surgeon General, US DHHS 1990.
- ^{xiii} New Zealand Guidelines Group, The Assessment and Management of Cardiovascular Risk. Evidence-based Best Practice Guideline, December 2003.
- ^{xiv} 'The Burden of COPD in New Zealand', Asthma and Respiratory Association of New Zealand and The Thoracic Society of Australia and New Zealand (New Zealand Branch), October 2003. Viewed online 3rd August 2007 at: <http://www.asthmanz.co.nz/files/PDF-files/burdenCOPD.pdf>
- ^{xv} Nicotine Addiction in Britain. A report of the Tobacco Advisory Group of the Royal College of Physicians, February 2000. Viewed online 31st July 2007 at: <http://www.rcplondon.ac.uk/pubs/books/nicotine/>
- ^{xvi} Nicotine Addiction in Britain. A report of the Tobacco Advisory Group of the Royal College of Physicians, February 2000. Viewed online 31st July 2007 at: <http://www.rcplondon.ac.uk/pubs/books/nicotine/>
- ^{xvii} Tobacco Institute, 9 September 1980. Minnesota trial exhibit 14,303.
- ^{xviii} Ministry of Health. 2007. New Zealand Tobacco Use Survey 2006. Wellington: Ministry of Health.
- ^{xix} Yeaman, A. Brown & Williamson memo 1802.05, 17/7/63.
- ^{xx} 'Inhaling from just one Cigarette can lead to Nicotine Addiction', University of Massachusetts Medical School, July 3, 2007. Viewed online 2nd August 2007 at: [<http://www.umassmed.edu/main.aspx?id=40422>]
- ^{xxi} Ministry of Health. 2006. Tobacco Trends 2006: Monitoring tobacco use in New Zealand. Wellington: Ministry of Health, pg 7.
- ^{xxii} Ministry of Health. 2007. New Zealand Tobacco Use Survey 2006. Wellington: Ministry of Health.. Viewed online 3rd August 2007 at: <http://www.moh.govt.nz/moh.nsf/0/2DBE37909A88DA7ACC257300007FB7E7>
- ^{xxiii} Nicotine Addiction in Britain. A report of the Tobacco Advisory Group of the Royal College of Physicians, February 2000. Viewed online 31st July 2007 at: <http://www.rcplondon.ac.uk/pubs/books/nicotine/>
- ^{xxiv} Kwechansky Marketing Research, Project Plus / Minus, Report for Imperial Tobacco Limited, 1982, 7 May: Exhibit AG-217, *RJR-MacDonald Inc. v. Canada (Attorney General)*. Quoted in: *Tobacco Explained: The truth about the tobacco industry... in its own words*, ASH UK, 1998.
- ^{xxv} Ministry of Health. 2006. Tobacco Trends 2006: Monitoring tobacco use in New Zealand. Wellington: Ministry of Health.
- ^{xxvi} Reducing smoking – a target for the whole health sector, Ministry of Health, September 2007.
- ^{xxvii} Health Inequalities and Tobacco Smoking: A Cancer Society Fact Sheet, June 2006.
- ^{xxviii} Health Inequalities and Tobacco Smoking: A Cancer Society Fact Sheet, June 2006.
- ^{xxix} Edwards, R., 'Impact of a new national smoke-free law on Māori and low-income New Zealanders, Conference presentation, Smoke-free Oceania Conference, September 2007.
- ^{xxx} D Hammond, G T Fong, A McNeill, R Borland and K M Cummings, Effectiveness of cigarette warning labels in informing smokers about the risks of smoking: findings from the International Tobacco Control (ITC) Four Country Survey, *Tobacco Control* 2006;15(suppl_3):iii19-iii25; doi:10.1136/tc.2005.012294. Viewed online 14th August 2007 at: http://tobaccocontrol.bmj.com/cgi/content/full/15/suppl_3/iii19?maxtoshow=&HITS=10&hits=10&RESULTFORMAT=&fulltext=%22knowledge%22+AND+%22smoking%22&andorexactfulltext=and&searchid=1&FIRSTINDEX=0&sortspec=relevance&resourcetype=HWCIT

- ^{xxxj} D Hammond, G T Fong, A McNeill, R Borland, and K M Cummings, 'Effectiveness of cigarette warning labels in informing smokers about the risks of smoking: findings from the International Tobacco Control (ITC) Four Country Survey', *Tobacco Control*, Jun 2006; 15: iii19 - iii25. Viewed online 14th August 2007 at: <http://thorax.bmj.com/cgi/content/full/54/7/655e> They do not know the number of diseases that can be caused from smoking, the likelihood of becoming ill from smoking or the severity of tobacco-caused disease.
- ^{xxxii} M Siahpush, A McNeill, D Hammond and G T Fong, Socioeconomic and country variations in knowledge of health risks of tobacco smoking and toxic constituents of smoke: results from the 2002 International Tobacco Control (ITC) Four Country Survey, *Tobacco Control* 2006;15(suppl_3):iii65-iii70.
- ^{xxxiii} FDA Head Calls Smoking a "Pediatric Disease", *Columbia University Record* -- March 24, 1995 -- Vol. 20, No. 21. Viewed online 2nd August 2007 at: http://www.columbia.edu/cu/record/archives/vol20/vol20_iss21/record2021.22.html
- ^{xxxiv} Helen Darling, Anthony Reeder, Rob McGee, Sheila Williams, 'Access to tobacco products by New Zealand youth', *Journal of the New Zealand Medical Association*, 15-April-2005, Vol 118 No 1213
- ^{xxxv} Ministry of Health. 2007. *New Zealand Tobacco Use Survey 2006*. Wellington: Ministry of Health.
- ^{xxxvi} Ban on sale and supply of smoking products to people under 18, Information for retailers, Smokefree Law in New Zealand, Smoke-free Law website, Ministry of Health. View online at: http://www.moh.govt.nz/moh.nsf/wpg_Index/About-smokefreelaw-retailers#2
- ^{xxxvii} Reeder, T. Nicotine dependence and attempts to quit or cut down among young adult smokers, *New Zealand Medical Journal*, 14 Sept 2001; 114: 403-6
- ^{xxxviii} George Thomson and Dr Nick Wilson, 'The Tobacco Industry in New Zealand: A Case Study of the Behaviour of Multinational Companies', Public Health Monograph Series No. 6, Department of Public Health, Wellington School of Medicine and Health Sciences. View online at: <http://www.realestate.com.au/cgi-bin/rsearch?a=o&id=104302818&f=10&p=10&t=res&ty=&fmt=&header=&c=35829220&s=wa&snf=rbs&tm=1190666761>
- ^{xxxix} M. Johnston, Re: Young Smokers ? Prevalence, trends, Implications, and Related Demographic Trends, 1981, 31 March (Minn. Trial Exhibit 10,339). Quoted in: *Tobacco Explained: The truth about the tobacco industry... in its own words*, ASH UK, 1998.
- ^{xi} American Cancer Society website. View online at: http://www.cancer.org/docroot/PRO/content/PRO_1_1_Tobacco_Control_Country_Profiles.asp
- ^{xii} WHO says time to get tough with tobacco giants, *Agence France Presse*, 9 September 2007. View online at: <http://www.mywire.com/pubs/AFP/2007/09/09/4440439?extId=10029>
- ^{xiii} Going Dark A Global Merchandising Initiative, BAT, Bates number:321682077-321682234. View online at: <http://bat.library.ucsf.edu/tid/zhs72a99>
- ^{xiii} Weir Janie, 'Tobacco advertising: the New Zealand experience', *Tobacco Control* 1995;4:90-91. View online at: <http://tobaccocontrol.bmj.com/cgi/reprint/4/1/90>
- ^{xiv} Dr Murray Laugesen, 'Chronology Of Tobacco Control In New Zealand', Health New Zealand website, accessed October 2 2007 at: <http://www.healthnz.co.nz/smochronol.htm>
- ^{xiv} "In 1995 Hutt Valley Health undertook a tobacco advertising survey in the Wellington region; 600 tobacco retail outlets were visited, and 62% of tobacco retail outlets had tobacco products visible from outside the outlet." Quote from: Trish Fraser, 'Phasing out of point-of-sale tobacco advertising in New Zealand', *Tobacco Control* 1998;7:82-84 (Spring).
- ^{xv} Trish Fraser, 'Phasing out of point-of-sale tobacco advertising in New Zealand', *Tobacco Control* 1998;7:82-84 (Spring).
- ^{xvii} Dr Murray Laugesen, 'Chronology Of Tobacco Control In New Zealand', Health New Zealand website, accessed October 2 2007 at: <http://www.healthnz.co.nz/smochronol.htm>
- ^{xviii} Smoke-free Law, Ministry of Health website. Viewed online 12th September 2007 at: http://www.moh.govt.nz/moh.nsf/wpg_Index/About-smokefreelaw-about
- ^{xlix} Photo taken from: Trish Fraser, 'Phasing out of point-of-sale tobacco advertising in New Zealand', *Tobacco Control* 1998;7:82-84 (Spring). View online at: <http://tobaccocontrol.bmj.com/cgi/content/full/7/1/82?maxtoshow=&HITS=10&hits=10&RESULTFORMAT=&author1=Fraser%2C+Trish&andorexactfulltext=and&searchid=1&FIRSTINDEX=0&sortspec=relevance&resourcetype=HWCIT>
- ⁱ Photo used courtesy of Hamish McLaren
- ⁱⁱ Walton, Francis, Marketing Research and Information POP Evaluation Report, BAT. Bates number:321679431-321679439. View online at: <http://bat.library.ucsf.edu/tid/ymp04a99>
- ⁱⁱⁱ Going Dark: A Global Merchandising Initiative, BAT, Bates number:321682077-321682234. View online at: <http://bat.library.ucsf.edu/tid/zhs72a99>
- ⁱⁱⁱ Going Dark A Global Merchandising Initiative, BAT, Bates number:321682077-321682234. View online at: <http://bat.library.ucsf.edu/tid/zhs72a99>
- ^{iv} Enright, A. 'The urge to merge: marketers explore implications of technology's convergence', *Marketing News*, 15 March 2006.
- ^{iv} Quelch, J., and K. Cannon-Bonventre. "Better Marketing at the Point of Purchase." *Harvard Business Review* 61, no. 6 (November-December 1983): 162-169.
- ^{vi} Central Trade Research Projects - Plan 2000, Bates number:325034186-325034188. View online at: <http://bat.library.ucsf.edu/tid/nqq70a99>
- ^{vii} Enright, Allison, 'The urge to merge: marketers explore implications of technology's convergence', *Marketing News*, 15th March 2006.
- ^{viii} Marketing Insight Motivations Influencing Cigarette Purchasing, British American Tobacco. Bates number:760000052-760000064. View online at: <http://bat.library.ucsf.edu/tid/pui45a99>
- ^{lix} Retail Consumer Communication, Bates number:800132323-800132367. View online at: <http://bat.library.ucsf.edu/tid/bgy63a99>
- ^{lx} Paul N Bloom, Role of slotting fees and trade promotions in shaping how tobacco is marketed in retail stores, *Tobacco Control* 2001;10:340-344 (Winter)

- ^{lxvi} Feighery EC, Ribisl KM, Clark PI, et al. 'How tobacco companies ensure prime placement of their advertising and products in stores: interviews with retailers about tobacco company incentive programmes', *Tobacco Control*, 2003;12:184-8.
- ^{lxvii} Carter SM. New frontier, new power: the retail environment in Australia's dark market. *Tobacco Control* 2003;12 Supplement 3:iii95-101.
- ^{lxviii} Point of Purchase Advertising International. Website: www.popai.com/
- ^{lxix} Critical Success Factors, British American Tobacco. November 1995, Bates number:800387698-800387726. View online at: <http://bat.library.ucsf.edu/tid/miq53a99>
- ^{lxx} British American Tobacco New Zealand. Retail sector. British American Tobacco New Zealand: Auckland. 21 December 2006. Accessed May 14, 2007. http://www.batnz.com/OneWeb/sites/BAT_5LPJ9K.nsf/vwPagesWebLive/80256D0B004C1BC780256B0C00436793?opendocument&SID=&DTC
- ^{lxxi} T Harper, Why the tobacco industry fears point of sale display bans, *Tobacco Control* 2006;15:270-271; doi:10.1136/tc.2006.015875. Viewed online 3rd August 2007 at: <http://tobaccocontrol.bmj.com/cgi/content/full/15/3/270?rss=1>
- ^{lxxii} Richard W Pollay, 'More than meets the eye: on the importance of retail cigarette merchandising', *Tobacco Control* 2007;16:270-274.
- ^{lxxiii} Pop Research Where Next? British American Tobacco. Bates number:325034245-325034248. View online at: <http://bat.library.ucsf.edu/tid/yqq70a99>
- ^{lxxiv} Szucs-Farkas, Zoltan, POP Strategy, BAT, November 2000. Bates number:325034231-325034244. View online at: <http://bat.library.ucsf.edu/tid/xqq70a99>
- ^{lxxv} Walton, Francis, Marketing Research and Information POP Evaluation Report, BAT, Bates number:321679431-321679439. View online at: <http://bat.library.ucsf.edu/tid/ymp04a99>
- ^{lxxvi} POP Initiative Update, BAT, Bates number:321679401. View online at: <http://bat.library.ucsf.edu/tid/wmp04a99>
- ^{lxxvii} The Marketing at-Retail Industry, Point of Purchase Advertising Institute website. Viewed online 20th September 2007 at: http://www.popai.com/Content/NavigationMenu/AboutPOP/AboutPOP/Industry/Industry_Overview.htm
- ^{lxxviii} BAT. Merchandising, undated. Appendix 2: xv-xvi, Bates 406114627-8. <http://www.library.ucsf.edu/tobacco/batco/html/100/109> (accessed 5 Apr 2007).
- ^{lxxix} Richard W. Pollay, 'How Cigarette Advertising Works: Rich Imagery and Poor Information', October 2000. View online at: www.smoke-free.ca/defacto/D057-Pollay-HowCigaretteAdvertisingWorks.pdf
- ^{lxxx} Speakman, John, 'Marketing Communications', April 1988, Bates numbers 400885287-400885295. View online 20th September 2007 at: <http://bat.library.ucsf.edu/tid/obw93a99>
- ^{lxxxi} M Wakefield, C Morley, J K Horan and K M Cummings, The cigarette pack as image: new evidence from tobacco industry documents, *Tobacco Control* 2002;11:i73-i80
- ^{lxxxii} Non-Smokers' Rights Association. The Influence of Tobacco Powerwall Advertising on Children. Richmond Hill, ON: J. Gottheil Marketing Communications Inc.; 2005 March. Viewed online 21st August 2007 at: http://www.nsr-adnf.ca/cms/file/pdf/Tobacco_Powerwalls.pdf
- ^{lxxxiii} Rindfleisch, A., Inman, J., 'Explaining the Familiarity-Liking Relationship: Mere Exposure, Information Availability, so Social Desirability?', *Marketing Letters* 9:1 (1998): 5-19
- ^{lxxxiv} Thomson, G., et al 'Documentary evidence on the tobacco retail environment in New Zealand and overseas - A Report for the Cancer Society of New Zealand and ASH New Zealand, Interim Report, August 2007.
- ^{lxxxv} Tobacco Explained: The truth about the tobacco industry... in its own words', ASH UK, 1998.
- ^{lxxxvi} Heather Hyland Gifford, HE ARORANGI WHAKAMUA - Reducing the uptake of tobacco in Ngāi Haurangi Rangatahi, PhD theses, 2003
- ^{lxxxvii} Marc T. Braverman, and Leif Edvard Aarø, PhD, Adolescent Smoking and Exposure to Tobacco Marketing Under a Tobacco Advertising Ban: Findings From 2 Norwegian National Samples, July 2004, Vol 94, No. 7, *American Journal of Public Health* 1230-1238.
- ^{lxxxviii} Tobacco Explained: The truth about the tobacco industry... in its own words', ASH UK, 1998.
- ^{lxxxix} K M Cummings, C P Morley, J K Horan, C Steger and N-R Leavell, 'Marketing to America's youth: evidence from corporate documents', *Tobacco Control* 2002;11:i5-i17. View online at: http://tobaccocontrol.bmj.com/cgi/content/full/11/suppl_1/i5
- ^{lxxxx} Elinor Devlin, Douglas Eadie and Kathryn Angus, 'Tobacco Marketing and Young People', Prepared for NHS Health Scotland, November 2003. View online at: www.tobaccopapers.com/casestudies/Yth-Smoking.pdf
- ^{lxxxxi} Ling P & Glantz S (2002). Why and how the tobacco industry sells cigarettes to young adults: evidence from industry documents. *American Journal of Public Health*, 92(6), 908-916.
- ^{lxxxxii} K M Cummings, C P Morley, J K Horan, C Steger and N-R Leavell, Marketing to America's youth: evidence from corporate documents, *Tob. Control* 2002;11:5-17
- ^{lxxxxiii} Schooler C, Feighery EC, Flora JA. Seventh graders' self-reported exposure to cigarette marketing and its relationship to their smoking behavior. *Am J Public Health* 1996;86:1216-1221
- ^{lxxxxiv} Lovato C, Linn G, Stead LF, Best A, (2003). Impact of tobacco advertising and promotion on increasing adolescent smoking behaviours. *Cochrane Database Syst Rev*: CD003439.
- ^{xc} Joseph R. DiFranza, Robert J. Wellman, James D. Sargent, Michael Weitzman, Bethany J. Hipple, Jonathan P. Winickoff., 'Tobacco Promotion and the Initiation of Tobacco Use: Assessing the Evidence for Causality', *Pediatrics*, Vol. 117 No. 6 June 2006, pp. e1237-e1248. View online at: <http://pediatrics.aappublications.org/cgi/reprint/117/6/e1237>
- ^{xcii} John P. Pierce, Won S. Choi, Elizabeth A. Gilpin, Arthur J. Farkas, Charles C. Berry, 'Tobacco Industry Promotion of Cigarettes and Adolescent Smoking', *JAMA*. 1998;279:511-515.
- ^{xciii} Gerard Hastings and Lynn Macfadyen, 'Smoking, branding, and the meaning of life', *Tobacco Control* 1998;7:107-108 (Summer). View online at: <http://tobaccocontrol.bmj.com/cgi/content/full/7/2/107>

- ^{xciii} RJR-McDonalds major study, Youth Target Study '87. Quoted in Richard W. Pollay, 'How Cigarette Advertising Works: Rich Imagery and Poor Information', October 2000. View online at: www.smoke-free.ca/defacto/D057-Pollay-HowCigaretteAdvertisingWorks.pdf
- ^{xciv} Donovan, R.J., Jancey, J., and Jones, S, 'Tobacco point of sale advertising increases positive brand user imagery, *Tobacco Control* 2002;11:191-194
- ^{xcv} Wakefield M et al, "An experimental study of effects on schoolchildren of exposure to point-of-sale cigarette advertising and pack displays", in *Health Education Research*, May 15, 2006. Viewed online 1st August 2007 at: <http://her.oxfordjournals.org/cgi/content/abstract/cyl005v1>
- ^{xcvi} Wakefield, M.A., Ruel, E.E., Chaloupka, F.J., Slater, S.J., Kaufman, N.J. 'Association of point of purchase tobacco advertising and promotions with choice of usual brand among teenage smokers', *Journal of Health Communication*, 7(2), 113-121.
- ^{xcvii} Donovan, R.J., Jancey, J., and Jones, S, 'Tobacco point of sale advertising increases positive brand user imagery, *Tobacco Control* 2002;11:191-194
- ^{xcviii} M. Johnston, Re: Young Smokers ? Prevalence, trends, Implications, and Related Demographic Trends, 1981, 31 March (Minn. Trial Exhibit 10,339). Quoted in: *Tobacco Explained: The truth about the tobacco industry... in its own words*, ASH UK, 1998.
- ^{xcix} Sandy J. Slater, PhD; Frank J. Chaloupka, PhD; Melanie Wakefield, PhD; Lloyd D. Johnston, PhD; Patrick M. O'Malley, PhD, 'The Impact of Retail Cigarette Marketing Practices on Youth Smoking Uptake', *Arch Pediatr Adolesc Med*. 2007;161:440-445.
- ^c Henriksen L, Feighery EC, Wang Y et al. Association of retail tobacco marketing with adolescent smoking. *Am J Public Health* 2004; 94: 2081-3.
- ^{ci} Wakefield M et al, "An experimental study of effects on schoolchildren of exposure to point-of-sale cigarette advertising and pack displays", in *Health Education Research*, May 15, 2006. Viewed online 1st August 2007 at: <http://her.oxfordjournals.org/cgi/content/abstract/cyl005v1>
- ^{cii} Schooler C, Feighery E, Flora JA. Seventh graders' self-reported exposure to cigarette marketing and its relationship to their smoking behavior. *Am J Public Health*. 1996;86:1216-1221.
- ^{ciii} Melanie Wakefield, Daniella Germain, Sarah Durkin and Lisa Henriksen, 'An experimental study of effects on schoolchildren of exposure to point-of-sale cigarette advertising and pack displays', *Health Education Research* 2006 21(3):338-347; doi:10.1093/her/cyl005.
- ^{civ} Gilpin, E., Lee, L., & Pierce, J. P. (2004). Does adolescent perception of difficulty in getting cigarettes deter experimentation? *Preventive Medicine Journal*, 38, 485-491.
- ^{cv} Henriksen L, Feighery EC, Schleicher NC, et al. Reaching youth at the point of sale: cigarette marketing is more prevalent in stores where adolescents shop frequently. *Tob Control*. 2004;13:315-318
- ^{cvi} Shruti Anand et al, 'Cigarettes and Candy: A Study of Retailer Compliance with the Point of Sale Tobacco Display Regulations in the 2003 Smoke-free Environments Amendment Act', Department of Public Health, Wellington School of Medicine and Health Sciences, 2006.
- ^{cvi} Feigherty E, Borzekowski DLG, Schooler C et al. Seeing, wanting, owning: the relationship between receptivity to tobacco marketing and smoking susceptibility in young people. *Tob Control* 1998; 7: 123-8.
- ^{cvi} Henriksen L, Flora JA, Feighery E et al. Effects on youth of exposure to retail tobacco advertising. *J Appl Soc Psychol* 2002; 32: 1771-89 referenced in Henriksen L, Feighery EC, Schleicher NC, et al. Reaching youth at the point of sale: cigarette marketing is more prevalent in stores where adolescents shop frequently. *Tob Control*. 2004;13:315-318
- ^{cxix} Lee RG, Taylor VA, McGetrick R. Toward reducing youth exposure to tobacco messages: examining the breadth of brand and nonbrand communication. *J Health Commun* 2004; 9: 461-79.
- ^{cx} Marc T. Braverman, and Leif Edvard Aarø, PhD, Adolescent Smoking and Exposure to Tobacco Marketing Under a Tobacco Advertising Ban: Findings From 2 Norwegian National Samples, July 2004, Vol 94, No. 7, *American Journal of Public Health* 1230-1238.
- ^{cx} One of Australia's leading independent advertising agencies, John Bevins has a reputation for outstanding creative work for some of the best known local and international brands in the Australian marketplace. With audited annual billings of over \$15.5 million, the agency provides its clients with creative and strategic planning capabilities supported by in-house TV, print and online production. (Source: John Bevins Pty Limited - Company Listing, [moneymanagement.com.au](http://www.moneymanagement.com.au), 2007, Financial Services, Reed Business Information. Viewed online 30th July 2007, http://www.moneymanagement.com.au/Companies/John-Bevins-Pty-Limited_14386/Products/83702)
- ^{cxii} Leading adman says: Product display is advertising, Fact Sheet, ASH Australia. Viewed online 1st August 2007 at: <http://www.ashaust.org.au/v4/POSadman.doc>
- ^{cxiii} Henriksen L, Flora JA, Feighery E et al. Effects on youth of exposure to retail tobacco advertising. *J Appl Soc Psychol* 2002; 32: 1771-89.
- ^{cxiv} Heath Sponsorship Council, Smokefree Schools website. View online at : <http://www.smokefreeschools.co.nz/default.asp?sectionID=44>
- ^{cxv} Ministry of Health. 2007. New Zealand Tobacco Use Survey 2006. Wellington: Ministry of Health. Viewed online September 12th 2007 at: [http://www.moh.govt.nz/moh.nsf/pagesmh/6384/\\$File/nz-tobacco-use-survey-2006-v2.doc](http://www.moh.govt.nz/moh.nsf/pagesmh/6384/$File/nz-tobacco-use-survey-2006-v2.doc)
- ^{cxvi} Professor Professor Shu-Hong Zhu, Differential cessation rates across populations: What explains it and how to reduce it, Department of Family and Preventative Medicine, School of Medicine, University of California, San Diego, Presentation, Smoke-free Oceania Conference, September 2007.
- ^{cxvii} Laibson, D., 'A Cue-Theory of Consumption', *The Quarterly Journal of Economics*, Vol. 116, No. 1, (Feb 2001), pp 81-119.
- ^{cxviii} Germain, D., 'Impulse purchase: Adult smokers' reaction to tobacco pack displays at the point of sale, Cancer Council Victoria, Australia.
- ^{cxix} Cancer Society of New Zealand, Cigarette Displays, Omnibus results, UMR Research, September 2007.

-
- ^{cxxx} Richard W Pollay, 'Targeting youth and concerned smokers: evidence from Canadian tobacco industry documents', *Tobacco Control* 2000;9:136-147 (Summer).
- ^{cxxxi} Speakman, John, 'Marketing Communications', April 1988, Bates numbers 400885287-400885295. View online 20th September 2007 at: <http://bat.library.ucsf.edu/tid/obw93a99>
- ^{cxxxii} BAT. Some guidelines for marketing tobacco products in the context of increasing restrictions on advertising. iii-v.
- ^{cxxxiii} Quelch, J., and K. Cannon-Bonventre. "Better Marketing at the Point of Purchase." *Harvard Business Review* 61, no. 6 (November-December 1983): 162-169.
- ^{cxxxiv} Anon. *The 1999 annual report of the promotion industry, a PROMO magazine special report*. Overland Park, Kansas: Intertec Publishing, 1999. Quoted in: Feighery, Ellen et al., *The 1999 annual report of the promotion industry, a PROMO magazine special report*. Overland Park, 1999; and *Tobacco Control* 2001.
- ^{cxxxv} Point of Purchasing Advertising Institute. *The Point -of-Purchase Advertising Industry Fact Book*. Englewood, New Jersey: The Point of Purchase Advertising Institute, 1992. Quoted in: Feighery, Ellen et al., *The 1999 annual report of the promotion industry, a PROMO magazine special report*. Overland Park, 1999; and *Tobacco Control* 2001.
- ^{cxxxvi} Retail Consumer Communication, Bates number:800132323-800132367. View online at: <http://bat.library.ucsf.edu/tid/bgy63a99>
- ^{cxxxvii} Trade Marketing Strategy for Lights, BAT. Bates number:321629172-321629185. View online at: <http://bat.library.ucsf.edu/tid/klp04a99>
- ^{cxxxviii} Germain, D., 'Impulse purchase: Adult smokers' reaction to tobacco pack displays at the point of sale, Cancer Council Victoria, Australia.
- ^{cxxxix} Cancer Society of New Zealand, *Cigarette Displays, Omnibus results*, UMR Research, September 2007.
- ^{cxxx} Cancer Society of New Zealand, *Banning Cigarette Displays in Retail Outlets, Omnibus Results*, UMR Research, June 2007.
- ^{cxxxi} *Restrictions on the Retail Display of Tobacco Products: Policy Analysis, Smoke Free Nova Scotia*, Prepared for Smoke Free Nova Scotia by Tilson Consulting, August 2004.
- ^{cxxxii} Kathy Barnsley, 'Growing momentum: international precedents for banning cigarette (and other tobacco) displays', Presentation at the Smoke-free Symposium, Wellington NZ, 16 October 2006
- ^{cxxxiii} The European Tobacco Control Report 2007, WHO Regional Office for Europe, World Health Organization 2007.
- ^{cxxxiv} Canadian Council for Tobacco Control website. *Ban Cigarette Displays, Frequently Asked Questions*. Viewed online 22nd August 2007 at: <http://www.cctc.ca/cctc/EN/bandisplays/faq>
- ^{cxxxv} Support for Tobacco Retail Display Bans in Ontario, The Ontario Tobacco Research Unit, March 2007
- ^{cxxxvi} A Proposal to Regulate the Display and Promotion of Tobacco and Tobacco-Related Products at Retail Consultation Document, Health Canada, December 2006. Viewed online 22nd August 2007 at: http://www.hc-sc.gc.ca/hl-vs/tobac-tabac/commun/consultation/current-actuelle/tob-ret/tab_e.html
- ^{cxxxvii} Ban on cigarette displays for public interest, TNA, 4th August 2005. Viewed online 21st August 2006 at: <http://etna.mcot.net/query.php?nid=15367>
- ^{cxxxviii} Office of Tobacco Control (Ireland), website. Viewed online 8th October 2007 at: <http://www.otc.ie/article.asp?article=19>
- ^{cxxxix} Press Release, Office of Tobacco Control welcomes discontinuation of legal challenge against tobacco legislation, Office of Tobacco Control (Ireland), 31 January 2007.
- ^{cxli} 'Ban on display of tobacco products planned', Ireland.com, Saturday, 6th October, 2007
- ^{cxlii} Smoke-free Environments Act 1990. View online at: http://www.legislation.govt.nz/browse_vw.asp?content-set=pal_statutes
- ^{cxliii} Smoke-free Law, Ministry of Health website. Viewed online 12th September 2007 at: http://www.moh.govt.nz/moh.nsf/wpg_Index/About-smokefreelaw-about
- ^{cxliiii} Shruti Anand et al, 'Cigarettes and Candy: A Study of Retailer Compliance with the Point of Sale Tobacco Display Regulations in the 2003 Smoke-free Environments Amendment Act', Department of Public Health, Wellington School of Medicine and Health Sciences, 2006.
- ^{cxliiv} Cancer Society of New Zealand, *Cigarette Displays, Omnibus Survey*, UMR research, September 2007.
- ^{cxliv} The Smoke-free Environments Act 1990 prohibits the sale of tobacco products to persons under 18 years of age. Before the Act was amended in July 1997, the minimum age of sale was 16 years. (Source: 'Enforcing the law on tobacco sales to minors', NZ Public Health Report, Volume 5, Number 2, February 1998.)
- ^{cxlv} Ministry of Health. 2007. *New Zealand Tobacco Use Survey 2006*. Wellington: Ministry of Health.
- ^{cxlvii} HSC's 2002 Youth Lifestyle Study
- ^{cxlviii} Helen Darling, "Curiously Strong Allure: Reducing initiation and uptake of smoking", 'Moving forward for a Smoke-free Auckland Symposium', 14 July 2004. Viewed online 14th August 2007 at: <http://smokefreeschools.co.nz/Downloads/CuriouslyStrongAllure%20paper.doc>
- ^{cxlix} One of Australia's leading independent advertising agencies, John Bevins has a reputation for outstanding creative work for some of the best known local and international brands in the Australian marketplace. With audited annual billings of over \$15.5 million, the agency provides its clients with creative and strategic planning capabilities supported by in-house TV, print and online production. (Source: John Bevins Pty Limited - Company Listing, [moneymanagement.com.au](http://www.moneymanagement.com.au), 2007, Financial Services, Reed Business Information. Viewed online 30th July 2007, http://www.moneymanagement.com.au/Companies/John-Bevins-Pty-Limited_14386/Products/83702)
- ^{cl} Tobacco enforcement officers with Health Canada administer the display ban legislation under contract with Saskatchewan Health.
- ^{cli} The Saskatchewan display ban was in place from March, 2002 until October, 2003 when the tobacco industry's appeal was allowed. The Supreme Court of Canada upheld the law on January 19, 2005, Weedless Wednesday.