

12th June 2006

Ministry of Health
PO Box 5013
Wellington

Dear Gordon McKenzie

Subject: Submission to the Ministry of Health on the Review of the Smoke-free Environments Regulation 1999 – Health Warnings on Tobacco Products

The Cancer Society of New Zealand thanks the Ministry of Health for the opportunity to comment on the *Review of the Smoke-free Environments Regulation 1999 – Health Warnings on Tobacco Products*. Please find attached our submission on the proposal for your attention.

The Society sees the introduction of graphic health warnings as a substantial and positive step in further regulating the marketing and promotion of cigarettes in this country, and congratulates the Ministry for initiating this work.

Nevertheless we are disappointed at the conservative approach taken by the Ministry. The Society finds the proposed sizes for the new graphic health warnings insufficient and calls on the Ministry to provide leadership in this area by revising the proposal so that the new warnings cover significantly more of the packaging.

Yours sincerely

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Neil Chave
Chief Executive
Cancer Society of New Zealand

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Submission on the Review of the Smoke-free Environments Regulation 1999 – Health Warnings on Tobacco Products

This submission was completed by:

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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. 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 reduce exposure to second-hand smoke, increase rates of smoking cessation and decrease uptake of smoking. Over the years the Society has provided important strategic leadership within Smokefree, 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.

Question 1: Do you support option 1, with 50 percent of the principal display areas displaying health warnings, or option 2, with health warnings displayed on 60 percent of the principal display areas (30 percent front, 90 percent back)? Why?

The Cancer Society opposes any cigarette branding on cigarette packaging. Cigarette branding is in every sense a marketing tool, as is illustrated in the following:

“Internal tobacco industry documents show that, especially in the context of tighter restrictions on conventional avenues for tobacco marketing, tobacco companies view cigarette packaging as an integral component of marketing strategy and a vehicle for (a) creating significant in-store presence at the point of purchase, and (b) communicating brand image. Market testing results indicate that such imagery is so strong as to influence smoker's taste ratings of the same cigarettes when packaged differently. Documents also reveal the careful balancing act that companies have employed in using pack design and colour to communicate the impression of lower tar or milder cigarettes, while preserving perceived taste and "satisfaction". Systematic and extensive research is carried out by tobacco companies to ensure that cigarette packaging appeals to selected target groups, including young adults and women.”¹

As such the Cancer Society believes that any amount of branding on packaging will work to undermine the effectiveness of health warnings and confuse consumers as to the risks associated

¹ 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.

with smoking. The Society calls on the Ministry to give serious consideration to progressing toward a ban on all marketing on cigarette packaging in the medium term. We believe that any slowing of the process as a result of commercial concerns by the tobacco industry undermines the Ministry's proclaimed goal to 'significantly reduce levels of tobacco consumption and smoking prevalence'.²

The introduction of graphic health warnings is strongly supported by the Society, which notes that they have been shown to be highly effective in jurisdictions where they have been introduced. Research shows that the larger the image the greater the potential impact.

The International Tobacco Control Policy Evaluation Project³, which evaluated the impact of cigarette health warnings across the US, Canada, Australia and the UK, found that smokers exhibited, "*significant gaps in their knowledge of the risks of smoking. Smokers who noticed the warnings were significantly more likely to endorse health risks, including lung cancer and heart disease. In each instance where labelling policies differed between countries, smokers living in countries with government mandated warnings reported greater health knowledge.*" The researchers concluded that smokers are not currently fully informed about the risks of smoking and that warnings that are graphic, larger, and more comprehensive in content are more effective in communicating the health risks of smoking.⁴

It is for this reason that the Society is disappointed that the options presented by the Ministry provide more prominence for the marketing of cigarettes than the communication of the inherent health risks associated with the use of the product. This is fundamentally unacceptable and contrary to the intent of this regulation and the work of the Ministry and others working to reduce smoking in this country.

We strongly advise the Ministry to scale up its proposed health warnings. The Cancer Society would support health warnings which covered over 80% of both sides of the packaging as a first step. At a minimum we would expect health warnings to cover 50% of the front and 90% of the back of cigarette packaging. Anything less than this would allow the existing marketing to undermine the objective of having health warnings and the Society would consider them insufficient. The Society does not support anything less than 50% coverage of either side of the packaging and calls on the Ministry to provide leadership in this area by progressing health warnings which cover significantly more of the packaging than the current proposal.

Question 3: Do you support the Ministry of Health's proposal to adopt pictorial health messages for cigars, bidis, cigarillos, loose cigarette and pipe tobacco and other forms of tobacco products, similar to the Australian regulations? Why, why not?

The Cancer Society does not support the proposal, which would require smaller warnings for non-cigarette tobacco products. There is no justification for different rules for non-cigarette tobacco products. Indeed, given the growing use of loose tobacco by low income communities, and the

² Clearing the Smoke: A five-year plan for tobacco control in New Zealand 2004–2009, Ministry of Health, September 2004. URL: <http://www.moh.govt.nz/moh.nsf/ea6005dc347e7bd44c2566a40079ae6f/aafc588b348744b9cc256f39006eb29e?OpenDocument>

³ International Tobacco Control Policy Evaluation Project, <http://www.itcproject.org>

⁴ Effectiveness of cigarette warning labels in informing smokers about the risks of smoking: findings from the International Tobacco Control (ITC) Four Country Survey. D Hammond, G T Fong, A McNeill, R Borland, and K M Cummings. Tobacco Control 2006; 15 (Suppl 3): iii19-iii25. doi:10.1136/tc.2005.012294. URL: http://tc.bmjournals.com/cgi/reprint/15/suppl_3/iii19

prevalence of myths around the comparative safety of loose tobacco compared to tailored cigarettes, we consider it vitally important to ensure high profile communication of the health effects of smoking to non-cigarette smokers. Messages should however, where appropriate, reflect differing health impacts if they exist.

Question 4: Are there other shapes and sizes of tobacco packaging that need specific attention?

The Cancer Society encourages the Ministry to be vigilant in ensuring that industry efforts to undermine the impact of warnings through the alteration of packaging shapes and sizes are pre-empted.

BAT began marketing du Maurier, one of Canada's leading brands, in octagon-shaped packages, with angled edges on the front and back of the package face, in June 2005. The design decreases the prominence of the health warnings in that the brand information is positioned on the flat surface of the pack, whereas a significant portion of the warning appears on the angled sections that are less visible, particularly when viewed on a retail display.⁵



Fig. 1 Du Maurier, one of Canada's leading brands, now being marketed in octagon-shaped packs

In order to prevent this situation from developing here the Cancer Society supports ASH's recommendation to implement a packaging standard as part of this regulatory review.

Question 7: Do you support the Ministry of Health's proposal to have yellow and black backgrounds to the pictorial health messages for tobacco products? Why, why not?

In general this is acceptable although we would support The Quit Group's recommendation that if the Ministry proceeds with the 50/50 option that the written warning on the front of the pack should be in black text on a yellow background.

Question 8: Do you support the Ministry of Health's proposal to have 14 health warnings, with two sets of seven rotated annually? Why, why not?

In general we support this however we would encourage the Ministry to utilise the pack space for warnings to tie in with national mass media campaigns to give them added weight.

Question 9: Do you support a message referring to Quitline on tobacco packaging? Why, why not?

Yes, certainly. There also needs to be assurance given that tobacco products sold in New Zealand must have the *New Zealand* quitline number on them. This may become an issue given the level of imports from Australia.

Question 10: Do you support the wording of the proposed 'call Quitline' message? Why, why not?

⁵ D Hammond, 'Canada: a new angle on packs', *Tobacco Control* 2006;15:150
<http://tc.bmjournals.com/cgi/reprint/15/3/150-a?maxtoshow=&HITS=10&hits=10&RESULTFORMAT=&fulltext=Canada%3A+a+new+angle+on+packs+Tobacco+Control&andorexactfulltext=and&searchid=1&FIRSTINDEX=0&sortspec=relevance&resourceType=HWCIT>

Yes.

Question 11: Do you support the placement of a 'boxed' quit message on each pack? Why, why not?

Yes however, the placement of the Quitline stamp requires further work. We support recommendations by The Quit Group in relation to this question.

Question 12: Do you agree with the Ministry of Health's proposal to replace the current quantitative message for tobacco packaging on manufactured cigarettes and other tobacco products, with a qualitative health message, as per example? Why, why not?

Yes. In addition we believe that there is a need to ban misleading descriptors like 'light' and 'mild' as well as other devices aimed at communicating a reduced risk.

We also believe that given the level of misinformation caused by the use of these misleading terms, that the Ministry should fund a mass media campaign aimed at informing smokers as to the deceptive nature of these claims.

Question 14: Do you support the Ministry of Health's proposal for the placement of health information in te reo Maori and English on tobacco packaging? Why, why not?

In line with the results of our consultation with key Maori agencies, we strong support this inclusion.

Question 15: Do you support messages in te reo Maori that relate to the subject of each health warning or do you support the more general health messages? Why?

In line with the results of our consultation with key Maori agencies, we strongly support the inclusion of messages in te reo Maori that relate to each of the health warnings.

Question 16: Do you agree with the Ministry of Health's proposal to retain the 0.2 percent rule for importers of tobacco with low market share? Why, why not?

No. The obligation to fully inform smokers of the health effects of their smoking is vital and should not be subverted as a result of commercial considerations.

Question 17: Should consideration be given to qualifying the 0.2 percent rule exemption to ensure compliance with the minimum standard set out in the FCTC?

No. The minimum requirement under the FCTC is insufficient. Companies importing small amounts of their product should be made to attach a non-removable sticker with the same warnings as per other tobacco products sold in this country.

Question 18: Do you agree with the design and concepts used in the following health warning messages? Why, why not? When commenting on a particular proposed warning, please refer to the message number.

The comments below are made based on the review of the Ministry's evaluation and other research however we would urge the Ministry to ensure that the process of developing new health

warnings is appropriately rigorous. These health warnings ought to be seen as an important and cost effective opportunity to communicate directly to smokers.

The Cancer Society calls on the Ministry to fund New Zealand's inclusion in the International Tobacco Control Policy Evaluation Project.⁶ This would allow New Zealand to evaluate and compare the impact of our new warnings, and other policy initiatives, with other jurisdictions. We believe that in order to maintain their impact the images must be revised and improved, on an ongoing basis.

4.1.1 You are not the only one smoking this cigarette

Ok

4.1.2 Your smoking can harm your kids

Ok

4.2.1 Smoking causes blindness

Ok

4.2.2 Cigarettes are a heart breaker

The Cancer Society does not support the current tag line. We suggest it be replaced with, "Smoking causes heart attacks" or "Smoking causes heart disease."

4.2.3 Emphysema is a living hell

The Cancer Society is concerned that this message will not be well understood and suggests the use of the phrase "Lung disease is a Living Hell" instead. We are concerned that this image may not convey the trauma of emphysema and COPD very well and suggest the Ministry commission the production of a locally produced image of a COPD patient.

4.2.4 Smoking causes mouth cancer:

Ok

4.2.5 9 out of 10 lung cancers are caused by smoking

Ok

4.2.6 Smoking doubles your risk of stroke

Ok

4.2.7 Smoking blocks your arteries

Ok

4.2.8 Smoking causes gangrene

Ok

4.3.1 Tobacco use can make you impotent

For consistency and clarity the Cancer Society supports the slight alteration of this tag line to read, 'Smoking can make you impotent'. Otherwise ok.

⁶ The International Tobacco Control Policy Evaluation Project is an international collaboration of tobacco control researchers whose mission is to evaluate the psychosocial and behavioral effects of national-level tobacco control policies throughout the world. See <http://www.itcproject.org/index.htm> for further details.

4.3.2 Smoking causes foul and offensive breath

Ok

4.4.1 Tobacco smoke is poisonous

The Cancer Society is concerned that this image may not convey the message well and may be inadvertently attractive to young people. It did not test especially well.

4.5.1 Smoking is highly addictive

Ok

Comments

1. The Cancer Society also wishes to highlight the need for the Ministry to work to ensure that efforts by the tobacco industry to undermine the introduction of the new warnings are pre-empted. Specifically we note that in jurisdictions where graphic health warnings have already been introduced the tobacco industry has acted to delay and defer smokers' access to the new graphic warnings.



Fig 2: An example of 'peel off' warnings in Australia.

2. We believe that it is highly likely that the tobacco industry will take similar steps in New Zealand unless the Ministry takes action to prevent such abuse from happening. The tobacco industry has taken steps such as the following.
 - Stockpiling the products with 'out-of-date' warnings so that when the law requires updated warnings on all manufactured products from a predetermined date, that date is further delayed by distribution of stockpiled products. This has been done in at least Australia and Thailand.
 - Marketing of covers and containers, including cigarette tins, to cover up the warnings.
 - Marketing of cigarette containers with peel off health warnings to facilitate smokers' reuse of containers without health warnings.
3. Given this, the Cancer Society recommends that the Ministry take the following steps:
 - That all tobacco products sold after the health warning introduction date must include the new health warnings. Old stock can be sold after that date only if it has a non-removable sticker with the identical health warning placed on it. Heavy penalties should apply to any retailer selling products without the new warnings. The use of these stickers should be stopped within three months after which time the only products legally able to be sold will be those with the required graphic health warnings printed on them. This measure should ensure that industry attempts to create further delays to the introduction of the graphic warnings by stockpiling will be avoided;
 - Legislation should clearly state that health warnings cannot be removed and that covers or tins for tobacco products must also include the graphic health warnings.

4. We are concerned about the unnecessary delay of the introduction of the new graphic health warnings and view objections from the industry as a strategy to delay the introduction of the new warnings. We recommend a two-month timeframe (rather than 12 months) be given for the introduction of the new warnings after the regulation is ratified.

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