

## **Second Reading briefing for peers on the tobacco control aspects of the Health Bill**

### **Introduction**

The Health Bill proposes to:

- prohibit point of sale displays of tobacco products from 2011 for larger retailers and 2013 for small retailers
- restrict underage access to tobacco vending machines and provide an enabling power to remove machines completely if restrictions prove ineffective (at review in 2013).

**The Bill has its Second Reading on Wednesday 4<sup>th</sup> February and we would be grateful if peers could demonstrate their support by:**

- (a) Speaking in support of the point of sale measures in the Health Bill;**
- (b) Calling for the full removal of tobacco vending machines from the outset;**
- (c) Calling for the inclusion of an enabling power to introduce plain packaging for all tobacco products.**

### **Cancer Research UK's position:**

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

- The prohibition of point of sale displays for tobacco;
- The prohibition of tobacco vending machines;
- The introduction of plain packaging for all tobacco products;

as part of a comprehensive and well funded tobacco control strategy.

### **Key points:**

- Smoking remains the single major preventable cause of cancer yet tobacco marketing is still used to recruit new, young smokers.
- Over 190,000 11-15 year olds smoke and eight out of ten smokers start before the age of 19. 19% of 15 year-old girls and 12% of 15 year old boys are regular smokers.
- The cost of smoking to the NHS in England has risen from £1.7 billion a year in 1998 to £2.7 billion in 2006-07.
- Recently agreed guidelines to the WHO Framework Convention on Tobacco Control (FCTC) define retail display, vending machines and tobacco packaging as forms of advertising and promotion and recommend that Parties to the FCTC, which include the UK, ban retail displays and the sale of tobacco products from vending machines and consider the adoption of plain packaging.
- Iceland, Thailand, Norway (awaiting EEA/EU approval), many Canadian Provinces and Territories and some Australian States already prohibit point of sale displays. The Republic of Ireland will introduce legislation in 2009 and Scotland will announce its intentions in spring 2009.
- Over 50,000 Cancer Research UK supporters signed our 'Out of Sight, Out of Mind' campaign petition supporting the three measures outlined above. Over 80% (79,000 out of 96,000) of the respondents to the 2008 Department of Health consultation on further steps were from members of the public who supported the same three measures.
- The WHO recommends a total ban on tobacco vending machines and 22 countries in Europe, including France, Belgium and Norway have already taken this action.
- Other measures are also needed to reduce the appeal, affordability and accessibility of tobacco products. Cancer Research UK calls on the government to develop an ambitious, comprehensive and well funded 10 year tobacco plan, as laid out in 'Beyond Smoking Kills: Protecting Children, Reducing Inequalities' – a report published by ASH and funded by

Cancer Research UK and the British Heart Foundation and supported by over 100 organisations.

- You may also wish to be aware that the Tobacco Manufacturers Association fund the Responsible Retailers, 'Save our Shop' campaign and the Tobacco Retailers Alliance.

### **(a) Under 18 year olds and tobacco**

#### **How many under 18 year olds smoke and why is it such a serious problem?**

Around 19% of 15 year-old girls and 12% of 15 year old boys are regular smokers (smoke more than one cigarette a week).<sup>1</sup> In fact, 60,000 child smokers are recruited every year and it is estimated that eight out of ten smokers start before the age of 19.<sup>2</sup> This is particularly worrying because having even one cigarette as a child increases the risk of being an adult smoker and therefore the greater the risk of developing lung cancer, heart disease and a raft of other chronic conditions.<sup>3</sup>

#### **How difficult is it for under 18 year olds to buy tobacco?**

From 1<sup>st</sup> October 2007 the age at which retailers could legally sell tobacco products to young people rose from 16 to 18 years of age. This puts tobacco sales in line with restrictions on alcohol sales. Prior to the change in legislation, surveys found that half of smokers under the age of 16 who tried to buy cigarettes from shops succeeded in doing so.<sup>4</sup> Worryingly, test purchases may even be underestimating the amount of underage sales.<sup>5</sup> We also know that vending machines are little used by adult smokers (and account for only 1% of overall cigarette sales) but are responsible for a disproportionate number of underage sales. Among 11 to 15 year olds who regularly smoke 17% report that vending machines are their usual source of cigarettes (see section c).

#### **Why is smoking in young people such a serious problem?**

Nicotine is highly addictive and is in fact as addictive as heroin or cocaine. As it can take an average of three to eight attempts to quit, it is vital that steps are taken to prevent children and young people from taking up smoking in the first place.

### **(b) Point of sale displays**

#### **How does the tobacco industry use point of sale displays to promote tobacco?**

The main purpose of tobacco marketing is to attract new smokers, who are nearly always children and young people. Since most forms of tobacco advertising and promotion were prohibited in the Advertising and Promotions Act (2002), the tobacco industry has become increasingly reliant on displays at the point of sale to attract attention to their products and to stimulate sales. As a result, displays have become more elaborate and prominent over recent years – with the use of lighting, brand specific colours on surrounds, and attention grabbing designs.

#### **What is the impact of point of sale displays on UK adolescents' behaviour?**

Professor Gerard Hastings, Director of Cancer Research UK's Centre for Tobacco Control Research, University of Stirling published a report<sup>6</sup> last year which examined the impact of point of sale displays. In his report he concluded:

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<sup>1</sup> Fuller, 2008. Drug Use, Smoking and Drinking among young people in England in 2007.

<sup>2</sup> Goddard E. (2008). General Household Survey 2006: Smoking and drinking among adults 2006. Office for National Statistics, Newport.

<sup>3</sup> Fidler, J.A., Wardle, J., Brodersen, N.H., Jarvis, M.J., West, R. (2006) Vulnerability to smoking after trying a single cigarette can lie dormant for three years or more. *Tobacco Control*. June: 15 (3): 205-9.

<sup>4</sup> Smoking, drinking and drug use among young people in England in 2006. The Information Centre for Health and Social Care, 2007

<sup>5</sup> Baggot, M., Jordan, C., Wright, C., Jarvis, S. (1998) How easy is it for young people to obtain cigarettes, and do test sales by trading standards have an effect? A survey of two schools in Gateshead. *Child Care Health Development*. May 24 (3) 107-216.

<sup>6</sup> Hastings, G et al. (2008) Point of Sale Display of Tobacco Products. The Centre for Tobacco Control Research, University of Stirling

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

Prohibiting displays will not limit the availability of cigarettes for smokers but will help to reduce the number of children and young people taking up smoking and reduce impulse purchases in smokers and those trying to quit. Cancer Research UK has demonstrated that point of sale displays are not used by smokers to decide on which product to buy, as the tobacco industry claims – only 6% of smokers decide on which product to buy based on displays.<sup>7</sup>

### **What is the international evidence of the health impact of the removal of point of sale displays?**

International evidence shows that smoking rates among adolescents have fallen in jurisdictions where tobacco products have been removed from the point of sale. In Iceland, which implemented a tobacco display ban in 2001, a survey of its 10<sup>th</sup> graders (aged 15-16) shows a significant fall in youth smoking. Smoking prevalence rates amongst 10<sup>th</sup> graders fell from 18.6% in 1999 (two years prior to the cigarette display ban) to 13.6% in 2003 - twice the rate of decline compared to the previous 4-year period.<sup>8</sup>

The Public Health Institute of Iceland, which is a statutory body of the Icelandic Government, recently wrote directly to the Tobacco Retailers Alliance to correct the Alliance's misleading assertion that Icelandic smoking rates amongst young people were sustained or increased after the removal of point of sale displays in 2001.<sup>9</sup> This claim was based on a survey size of less than 350 young people, and the Public Health Institute has advised that their survey of all 10<sup>th</sup> graders gives a more accurate view.

Similarly, in Canada where such legislation has now been implemented in nearly all provinces, surveys show that banning point of sale displays, as part of a range of tobacco control measures, has coincided with a fall in smoking prevalence rates amongst 15 to 19 year olds from 29% in 2002 to 19% in 2007.<sup>10</sup>

Iceland, Thailand, Norway (awaiting EEA/EU approval), many Canadian Provinces and Territories and some Australian States already prohibit point of sale displays. The Republic of Ireland will introduce legislation in 2009 and Scotland will announce its intentions in spring 2009.

### **What will be the impact on retailers?**

Those opposing the ban on the display of tobacco argue that it will have an adverse financial impact on retailers. The Association of Convenience Stores estimates that it will cost retailers £1,850 to implement point of sale regulations. However, evidence from Canada shows that any initial financial impacts of the prohibition of tobacco displays were minor, even for small stores reliant on tobacco sales. The costs of re-fitting were largely borne by tobacco wholesalers, and the tobacco industry continued to pay retailers for the tobacco storage units. The Department of Health estimates that the average cost to stores in Canada was approximately £550 per store.<sup>11</sup> The

<sup>7</sup> BMRB Omnibus Survey, August 2008, commissioned by Cancer Research UK

<sup>8</sup> The European School Survey Project on Alcohol and Other Drugs (ESPAD). [www.espad.org/sa/node.asp?node=730](http://www.espad.org/sa/node.asp?node=730)

<sup>9</sup> Jonsson SH. Letter to Tobacco Retailers Alliance. Public Health Institute of Iceland, 26 November 2008

<sup>10</sup> Canadian Tobacco Use Monitoring Survey 2000-2007.

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

implementation timeline of 2011 for large retailers and 2013 for smaller retailers will ensure retailers have the opportunity to prepare and adjust to the proposals.

The tobacco industry also has the incentive and the resources to assist tobacco retailers in managing similar changes in the UK. After all, the tobacco manufacturers need their product to be widely available. There is no evidence that display bans increase the risk of crime and theft, make tobacco seem more illicit, or increase smuggling. In fact, in the Canadian province of Saskatchewan some retailers kept their display bans in place while the law was delayed because they believed that having tobacco products visible increases theft.<sup>12</sup>

### **(c) Vending machines**

#### **How are young people able to access tobacco products from vending machines?**

There is currently no specific law governing the use of vending machines in the UK. Instead, there is a non-binding agreement between cigarette vending machine manufacturers and the managers of sites where vending machines are located, which states that machines should be sited in places where children cannot access them and should be in full view of staff. Despite this agreement, children have little difficulty in making purchases since the machines are self service and rarely supervised.

The latest survey of smoking among children reveals that 17% of 11 to 15 year olds who regularly smoke report that vending machines are their usual source of cigarettes. A survey by LACORS<sup>13</sup> (Local Authorities Coordinators of Regulatory Services) reporting on test purchases by young people, revealed a sharp increase in illegal sales following the raising of the minimum age for the purchase of tobacco. The study also found that young people were able to buy cigarettes from coin-operated vending machines on more than four in ten occasions, with a number of councils reporting a 100% successful purchase rate.

#### **How effective have age verification systems for tobacco vending machines been?**

It has proved difficult to make current vending machines only be accessible to over 18s (as above). Some countries have tried to make vending machines 'age proof', for example needing smokers to buy electronic ID cards as in Germany or getting ID coins from staff, as in Ireland but it is not clear that these have been effective. In Florida, where proof of age is required via an ID card, a test case compliance study showed that one third of attempts by minors to access cigarettes through vending machines were successful. Age verification cards have also been issued in Japan, but evidence shows that underage smokers manage to circumvent the system by borrowing the cards from friends and family or falsifying cards with photos of older people.<sup>14</sup> Test purchases of cigarettes from retailers in the UK show that 19% of businesses sell tobacco to an underage person.<sup>15</sup> There is no reason to assume that the failure rate would be any lower for a remote control purchase system. Removing these machines altogether is the only effective way to prevent underage smokers obtaining cigarettes from these sources.

#### **Why is action needed now?**

Removing vending machines altogether is the only effective way to prevent underage smokers obtaining cigarettes from these sources. The WHO recommends a total ban on tobacco vending machines and 22 countries in Europe, including, France, Belgium and Norway as well as many others across the globe do not allow tobacco vending machines.<sup>16</sup>

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<sup>12</sup> Hastings, G et al. (2008) Point of Sale Display of Tobacco Products. The Centre for Tobacco Control Research, University of Stirling.

<sup>13</sup> Test Purchasing of Tobacco Products, Results from Local Authority Trading Standards, 1<sup>st</sup> October 2007 to 31<sup>st</sup> March 2008: [www.lacors.gov.uk](http://www.lacors.gov.uk)

<sup>14</sup> See article on <http://www.pinktentacle.com/2008/06/magazine-photos-fool-age-verification-cameras/> (accessed 22<sup>nd</sup> January 2009)

<sup>15</sup> Test Purchasing of Tobacco Products, Results from Local Authority Trading Standards, 1<sup>st</sup> October 2007 to 31<sup>st</sup> March 2008: [www.lacors.gov.uk](http://www.lacors.gov.uk)

<sup>16</sup> The European Tobacco Control Report, 2007.

## **(d) Plain packaging**

### **How has the tobacco industry utilised packaging as a promotional tool?**

Since the restrictions on marketing following the Tobacco Advertising and Promotion Act 2002 the tobacco industry has been exploiting innovative pack design in order to communicate brand imagery and increase sales. Research shows that this has already had an effect: between 2002 and 2006 the proportion of young people aware of new pack designs rose from 11% in 2002 to 18% in 2006.<sup>17</sup>

The tobacco industry has also increased their range of brands to maximise their impact on shop shelves and to increase their share of the market. Since 1998 tobacco manufacturers have increased their ranges within brands or 'brand families' by more than 50% with popular brands like Benson and Hedges increasing its brand family from 4 in 1998 to 12 in 2008.<sup>18</sup>

### **Is current tobacco packaging a form of tobacco advertising?**

According to a recent opinion from a former Lord Justice of Appeal, the form of tobacco packaging currently in use by the tobacco industry, and therefore its use in display in shops meets the definition of advertising set out in the 2003 EU Directive on tobacco products which is '*any commercial communication with the aim or direct or indirect effect of promotion a tobacco product*'.

At a meeting in November of last year the WHO Framework Convention on Tobacco Control agreed guidelines that defined tobacco packaging as a form of advertising and promotion and recommended that Parties to the FCTC, which include the UK, consider the adoption of plain packaging.

### **What is the impact of tobacco packaging on children and young people?**

The more familiar a young person is with brand images promoted by the tobacco industry, the more likely they are to form an intention to smoke. Young people's awareness of brands is so strong that it predicts future smoking more strongly even than peer influence. Tobacco packaging can also convey misinformation about the dangers associated with the product.

It is now illegal for manufacturers to claim that products are 'low tar', 'light' or less harmful yet these are still implied through certain colours such as white and silver. Research commissioned by ASH found that young people were significantly more likely to consider packages with the term 'smooth', 'gold' and 'silver' as lower tar, lower health risk, and easier to quit compared to regular varieties of the same brands.<sup>19</sup> The branding on tobacco packaging also lessens the impact of the health warnings.

## **(e) Conclusion: how can I help?**

We are strongly urging peers who support giving greater protection to children and young people from tobacco marketing to speak in support of the prohibition of point of sale displays, the prohibition of tobacco vending machines and the introduction of an enabling power on plain packaging in the 2<sup>nd</sup> reading.

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

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<sup>17</sup> Hastings, G et al. (2008) Point of Sale Display of Tobacco Products. The Centre for Tobacco Control Research, University of Stirling.

<sup>18</sup> Pricechecker 1998, 2003; Safeway price list 2008; Booker price list 2008.

<sup>19</sup> Hammond D, Dockrell M, Arnott D, Lee A, Anderson S, McNeill A. The impact of cigarette pack design on perceptions of risk among UK adult and youth: evidence in support of plain packaging regulations. Beyond Smoking Kills, ASH, 2008