

## Protecting children from tobacco marketing: Smokefree Action Second Reading briefing on the tobacco control measures in the Health Bill 2009

Smokefree Action is an alliance of over 80 organisations committed to promoting public health. We came together initially to lobby for smokefree workplaces and are now committed to working for a comprehensive strategy to reduce the harm caused by tobacco.

The Health Bill 2009 contains proposals to:

- prohibit point of sale (PoS) 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.

The Bill received its Third Reading in the House of Lords on 12<sup>th</sup> May. It has now passed to the Commons and second Reading is on 8<sup>th</sup> June. During the Report Stage in the House of Lords, Peers defeated a motion to remove the prohibition of tobacco point of sale displays from the Bill by 204 votes to 110.

Smokefree Action is encouraging MPs to support measures in the Bill:

- (a) to prohibit the display of tobacco at PoS;
- (b) to prohibit tobacco vending machines as soon as possible;
- (c) the inclusion of reserve powers to introduce plain packaging for all tobacco products.

### Key points

- Smoking is an addiction of childhood not an adult choice. Approximately 340,000 under-16s try cigarettes for the first time each year<sup>1</sup> and 80% of smokers start before the age of 19.<sup>2</sup>
- The tobacco industry needs to recruit over a hundred thousand new smokers every year in this country, the vast majority of whom will be children and young people, in order to replace those who die or quit.<sup>3</sup>
- Smoking plays a major role in perpetuating health inequalities, accounting for half of the difference in life expectancy between social classes I and V.<sup>4</sup>
- The House of Lords voted strongly in favour of removing PoS displays.
- Guidelines to the WHO Framework Convention on Tobacco Control (FCTC) recommend the banning of retail displays of tobacco and sales of tobacco from vending machines<sup>5</sup> and these measures are also supported by the Chief Medical Officer. These measures are also already in place in many jurisdictions around the world.
- Channel 4's 'FactCheck', an impartial and empirical scrutiny of topical claims made by those in the public eye, has examined the evidence for a ban on PoS displays and found that it 'points pretty firmly the Government's way.'<sup>6</sup>
- A 2008 YouGov poll showed that 59% of the public support putting tobacco out of sight and 65% back the total prohibition of tobacco vending machines, with only 16% opposed to either measure.<sup>7</sup>
- The Scottish Government has announced its intention to prohibit PoS displays and to prohibit tobacco vending machines as part of its new Tobacco Bill. The Northern Ireland Assembly has also passed a Legislative Consent Motion to enable it to prohibit PoS displays once the Health Bill is passed in Westminster.
- The tobacco control proposals within the Health Bill must be viewed as part of a comprehensive tobacco control strategy. The Government will be publishing a strategy this year. Such a strategy should also seek to help adults to quit and to further tackle tobacco smuggling.



## **The rationale for the prohibition of tobacco PoS displays**

**Introduction:** Smoking remains the single biggest preventable cause of premature death, killing more people than alcohol, obesity, illegal drugs and road accidents put together, yet tobacco marketing is still used to recruit new, young smokers. It has been established beyond all reasonable doubt that tobacco advertising encourages young people to take up smoking. The evidence base also demonstrates that tobacco marketing at the point of sale encourages young people to take up smoking.<sup>8</sup> The Health Select Committee has endorsed the Government's intention to remove PoS displays.<sup>9</sup> PoS displays are already banned in Iceland, Thailand and nearly all Canadian provinces and are due to come into effect in Ireland from 1 July this year and a number of Australian states starting in 2011.

### **It's about children**

- Since the ban on advertising was implemented in 2003 PoS 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 PoS.<sup>8</sup> Whilst the advertising ban has reduced overall awareness of tobacco promotion, and of brands among the young, awareness of new pack design/size has increased from 11% to 18%.<sup>8</sup>
- When other risk factors are controlled for, young non-smokers' susceptibility to start smoking increases with greater brand awareness, and awareness of tobacco marketing at PoS.<sup>8</sup> International evidence suggests that removing packs from sight at PoS could reduce adolescents' exposure to cigarette brand impressions in stores by as much as 83%.<sup>8</sup>
- Research with 25,000 young people in New Zealand shows that those 15 year olds most exposed to PoS displays are almost three times more likely to try smoking and that exposure to PoS is a greater risk factor than even parental smoking.<sup>10</sup> New Zealand, like the UK, already has a ban on tobacco advertising.
- A recent systematic review of international research<sup>11</sup> has confirmed previous findings.<sup>8</sup> Seven out of eight studies show a link between exposure to PoS displays and youth smoking.

### **Putting tobacco products out of sight will help reduce youth smoking rates**

- **Canada:** Twelve out of thirteen provinces and territories have implemented legislation to remove displays of tobacco at PoS. Surveys show that display bans, as part of a range of tobacco control measures, have coincided with a fall in smoking prevalence rates amongst 15 to 19 year olds from 22% in 2002 to 15% in 2007.<sup>12</sup>
- **Iceland:** Survey evidence has shown that youth smoking rates fell significantly after a display ban was implemented in 2001. Smoking prevalence rates amongst Icelandic 10<sup>th</sup> graders (aged 15-16) dropped from 18.6% in 1999 (two years prior to the display ban) to 13.6% in 2003 - twice the rate of decline compared to the previous four year period.<sup>13</sup> The Public Health Institute of Iceland (a statutory Government body) has indicated that these results give the most accurate view of youth smoking prevalence in the country.

### **Experience suggests that the implementation burden to shops will be low**

- Low cost solutions exist, are in widespread use in Canada and are entirely feasible in the UK as well.<sup>14</sup>
- Action on Smoking and Health (ASH) and the Department of Health have both been quoted a price of around £200 for the cost of lightweight PVC magnetic covers for a typical UK small shop display.<sup>15</sup> This system is designed to last a minimum of seven years in a typical environment, to fit behind security shutters, and be simple enough for the retailer to fit themselves if they want.
- Small shops have adapted to survive despite the long-term decline in smoking rates from 45% of the population in 1974 to 20%<sup>16</sup> of the population today.
- If the removal of PoS displays had been a disaster in Saskatchewan, the first province to introduce this measure, it would not have been adopted by 11 other Canadian provinces and territories of all political profiles.
- The tobacco industry has continued to pay retailers for handling and selling their products after the implementation of retail display bans in Canada.<sup>17</sup>
- The legislation will allow small retailers until 2013 to comply with the measure to allow ample time to explore a range of possible solutions.<sup>18</sup>

### **Growth in tobacco smuggling in Canada has not been due to PoS display bans**

- Canada has seen a steady increase in tobacco smuggling since 2001 - before Canadian provinces introduced bans on tobacco displays. Recent analysis of Canadian tobacco sales data shows that the greatest increase in smuggling was in provinces that had **not** yet introduced PoS bans, such as Ontario and Quebec which implemented their bans in June 2008.<sup>19 20</sup>
- The Government of Canada's *2008 Contraband Tobacco Enforcement Strategy* lists the main drivers of tobacco smuggling, such as pricing and organised crime, but does not cite the removal of PoS displays as a factor.<sup>21</sup>
- Counterfeiters already have no problem in producing extremely high quality counterfeit products. For this reason the UK requires covert identifying marks on all authentic tobacco packs. This means that authentic products (both duty paid and non-duty paid) can be distinguished from counterfeit products.
- There is no evidence from countries that have implemented a PoS ban that smuggling rates have risen as a result or that people have changed where they buy their tobacco.

### **Putting packs out of sight will help existing smokers to quit**

- Research reveals that just showing a cigarette pack to a smoker can induce a craving.<sup>22</sup>
- Nicotine is as addictive as heroin or cocaine and it takes on average 12 to 14 attempts to stop smoking.<sup>23</sup>
- Retail display encourages 'impulse buying' so undermining smokers' attempts to quit.<sup>24</sup>

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## **Proposals on tobacco vending machines – why they need to go further**

**Introduction:** Various test purchase studies have shown that children can easily obtain cigarettes from tobacco vending machines and evidence from other countries suggests that age-restriction mechanisms, as proposed in the Bill, have not been effective. 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, supported by the Chief Medical Officer. In Europe 22 countries, including France, Belgium and Norway, as well as many others across the globe, do not allow tobacco vending machines.<sup>25</sup>

### **It's about children**

Vending machines provide an easy source of cigarettes for children:

- In 2006, 1 in 6 children who were regular smokers usually bought their cigarettes from vending machines in England.<sup>26</sup>
- In contrast, in 2008 only 1 in 20 adult daily smokers said they had bought cigarettes from vending machines over the last six months.<sup>27</sup>
- The British Heart Foundation (BHF) has estimated that machines are the source of cigarettes for around 46,000 children in England and Wales.<sup>28</sup>
- Calculations from the BHF suggest that in 2006, around 45 million cigarettes were sold to 11-15 year olds through cigarette vending machines.<sup>29</sup>

### **The unsupervised status of vending machines means that they are too easy for children to access**

- Recent test purchasing showed that buying from vending machines was the most successful way for children to get hold of cigarettes. It was almost twice as successful compared to ways tested such as purchasing from newsagents, off licences or petrol station kiosks.<sup>30</sup>
- An unmanned machine cannot be properly policed, wherever it is situated – a complete ban is the only effective way to cut off one of the major sources of cigarettes for children.

### **Restrictions are unlikely to prevent children from using cigarette vending machines**

- Restricting vending machines to licensed premises only will not put them out of children's reach. In April 2009, the BHF produced documentary evidence showing how easy it is for children to buy cigarettes from vending machines in pubs. Two 14 years olds successfully purchased cigarettes from vending machines in three Westminster pubs even though they were clearly underage.<sup>31</sup>
- There is some evidence that measures introduced in other countries to restrict underage access to vending machines have not been effective.
- For example, in Florida, where proof of age is required via an ID card, a test compliance study showed that one third of attempts by minors to access cigarettes through vending machines were successful.<sup>32</sup>

- Japan has issued age verification cards, but underage smokers have circumvented the system by borrowing cards from friends and family or falsifying cards with photos of older people.<sup>33</sup>

### **Prohibiting all tobacco vending machines is likely to benefit adults who wish to quit**

- Several Peers spoke during Committee Stage of the Health Bill about the difficulties they encountered quitting smoking and how vending machines make it even harder to quit because they could access them easily.
- Adults who wish to purchase cigarettes can still get them from other sources, such as small corner shops.

### **The need for a consistent approach for age-limited products**

- Other age-limited products such as alcohol, fireworks, solvents and knives can only be bought in a face-to-face transaction over the counter.
- It is inconceivable to imagine alcohol or knives being sold through vending machines.
- The fact that cigarettes continue to be available in this way is an anomaly which must be tackled to protect children from the harm of tobacco.

## **Proposals on plain packaging**

**Introduction:** Since the restrictions on marketing following the Tobacco Advertising and Promotion Act 2002, the tobacco industry has been exploiting innovative pack design in order to communicate brand imagery and increase sales. The tobacco industry has also increased their range of brands to maximise their impact on shop shelves and to increase their share of the market.

### **The variety of tobacco packaging has grown in response to the 2002 tobacco advertising ban**

- Since 1998 tobacco manufacturers have increased their ranges within brands or 'brand families' by more than 100% with popular brands like Benson and Hedges increasing their brand family from 4 in 1998 to 12 in 2008.<sup>34</sup>
- Between 2002 and 2006, the proportion of young people aware of new pack designs rose from 11% in 2002 to 18% in 2006.<sup>35</sup>
- 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 by the University of Nottingham 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>36 7</sup>

### **Tobacco manufacturers continued to challenge the legal rights of governments to introduce plain packs even after having been told that their claims are unfounded**

- Organisations including the World Intellectual Property Organization, the then UK Department of Trade and Industry and the Directorate General for Trade of the European Commission are among the organisations advising industry bodies that their claims are unwarranted.<sup>37</sup>

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- <sup>28</sup> This is a BHF calculation using the latest available data regarding vending machines from *Smoking, Drinking and Drug Use among Young People in England 2006* and mid-2006 population estimates by individual year for Wales. It is assumed that trends in smoking amongst young people and children are similar in England and Wales.
- <sup>29</sup> This is another BHF calculation using the latest available data regarding vending machines from *Smoking, Drinking and Drug Use among Young People in England 2006* and from the *Department of Health (2009) Consultation on the future of tobacco control*, annex 4, page 96 & 99. It is assumed that trends in smoking amongst young people and children are similar in England and Wales.
- <sup>30</sup> Test Purchasing of Tobacco Products, Results from Local Authority Trading Standards, 1st October 2007 to 31st March 2008: [www.lacors.gov.uk](http://www.lacors.gov.uk) \_LACORS is the organisation responsible for overseeing local authority regulatory services in the UK.
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