

Protecting children from tobacco marketing: Smokefree Action Report Stage and Third 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 includes measures to:

- prohibit point of sale (PoS) displays of tobacco products from 2011 for larger retailers and 2013 for small retailers; and
- provides powers to prohibit or restrict tobacco sales from vending machines.

The Bill completed its Commons Committee Stage on June 25th. It moves to Report Stage and Third Reading on October 12th. The Coalition urges all MPs to vote to put public health first:

- **Clause 21:** Vote to **keep** the ban on tobacco displays at the point of sale.
- **Clause 22:** Vote at every opportunity in favour of amendments to put vending machines beyond the reach of children. Clause 23 applies to Northern Ireland.
- **New Clause:** Vote in favour of amendments to require plain packs for tobacco products
- **New Clause:** Vote in favour of amendment to require tobacco companies to disclose their marketing expenditure

Key points

- Smoking is an addiction of childhood not an adult choice. 340,000 under-16s try cigarettes for the first time each year¹ and 80% of smokers start by the age of 19.²
- The tobacco industry needs to recruit over 100 000 new smokers every year in this country, largely children and young people, to replace those who die or quit.³
- Smoking is the single most important factor in health inequalities, accounting for half the difference in life expectancy between social classes I and V.⁴
- Ireland's ban on PoS displays came in to force on July 1, 2009. For many retailers, tobacco manufacturers met the cost of compliance. Where retailers met the costs themselves, they were typically reported at around €500 (£430).
- The House of Lords voted strongly in favour of removing PoS displays by a majority of 94.
- Guidelines to the WHO Framework Convention on Tobacco Control (FCTC) recommend banning retail displays of tobacco and sales of tobacco from vending machines⁵ and these measures are also supported by the Chief Medical Officer.
- Claims that point of sale displays influence youth smoking rates have been independently verified. Channel 4's 'FactCheck', found the evidence on PoS displays 'points pretty firmly the Government's way'.⁶ These measures enjoy wide public support. 70% of adults support putting tobacco products out of sight in shops and 75% support getting rid of tobacco vending machines.⁷
- 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.



“Business as Usual” for retailers after Irish POS ban

Manufacturers met the cost of compliance with Irish PoS ban for many retailers

Tobacco displays in Ireland were prohibited from July 1, 2009. A report on the Irish experience in the trade magazine *The Grocer* reports “*the outlook may not be as gloomy as feared – at least not for retailers.*”⁸ The Irish Office of Tobacco Control reports that by 2008 68% of retailers were equipped with automated dispensers⁹ and this has been observed to have increased more recently.¹⁰ These “Retail Vending Machines” are owned and operated by the manufacturers and have been easily and cheaply adapted to comply with the legislation.¹¹ A study by ASH has found that RVMs are already being installed in England. The installation of RVMs has also been observed in Norway, where point of sale displays will be prohibited from January 2010.¹²

Costs to retailers are low

Retailers paying for their own compliance have reported costs to be around €500 (£430).¹³ This contrasts with scare tactics employed by industry groups suggesting the costs would be many times greater than that estimated in the Government RIA. One retailer recently said “*For years, space on retail vending machines has been used to advertise other brands. Now, we can use it ourselves.*”⁸

New evidence submitted at Committee Stage

The body of scientific evidence continues to grow

In January 2009 a peer reviewed appraisal of research found evidence showed “*ample justification exists for banning PoS advertising and displays of smoked tobacco products*” and the evidence has continued to grow rapidly since.¹⁴

This year has already seen the publication of 8 new relevant scientific studies, each providing further evidence linking PoS displays to smoking behaviours and beliefs.^{14 15 16 17 18 19 20 21} The authors of 7 of these 8 studies explicitly state that the results support the restriction or prohibition of such displays. No scientific studies were identified that refute a link between PoS display and increased smoking behaviour. These new studies add to the evidence that:

- PoS displays contribute to youth smoking uptake
- PoS displays trigger impulse purchases and undermine quit attempts
- PoS displays are a marketing tool controlled by the tobacco industry targeting disadvantaged communities

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.²² The Health Select Committee has endorsed the Government’s intention to remove PoS displays.²³ PoS displays are already banned in Iceland, Thailand, nearly all Canadian provinces and in Ireland (from 1 July this year) and are due to come into effect in 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. 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%.²²
- 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. 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%.²²
- 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.²⁴ New Zealand, like the UK, already bans tobacco advertising.

- **NEW EVIDENCE** A recent systematic review of international research has confirmed previous findings. Seven out of eight studies show a link between exposure to PoS displays and youth smoking.¹⁴
- **NEW EVIDENCE** A UK study published earlier this year²⁰ monitored the impact of the Tobacco Advertising and Promotions Act (TAPA) on adolescent smoking behaviour. It found that TAPA helped reduce young people's intentions to smoke but suggested that PoS marketing may be responsible for an increase in perceived social benefits from smoking.
- **NEW EVIDENCE** A US study published this year²¹ showed children as young as 7 begin to form lifestyle associations with smoking. Younger children (7-8) understood promotions as promoting smoking in general, whereas slightly older children (10-12) tended to perceive promotions as promoting a particular brand.

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

- Many factors affect susceptibility to smoke and policies can take time to have an effect. Despite this, there is evidence that the measure will help reduce 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 2007.²⁵
- **Iceland:** Youth smoking rates fell significantly when a display ban was implemented in 2001. Iceland has had a national tobacco control strategy for many years. When a ban on PoS displays was introduced, youth smoking rates fell from 18.6% in 1999 to 13.6% in 2003. This rate of decline was twice as fast as during the previous period.²⁶ It has been mistakenly suggested that smokefree legislation was introduced at the same time and that this or some other factor might have caused the reduction. In fact smokefree legislation was not introduced until 2007.

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.²⁷
- 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.²⁸ 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 21%²⁹ 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 and the Republic of Ireland.^{30 31}
- The legislation will allow small retailers until 2013 to comply with the measure to allow ample time to explore a range of possible solutions.³²

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.^{33 34}
- 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.³⁵
- 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.³⁶
- Nicotine is as addictive as heroin or cocaine and it takes on average 12 to 14 attempts to stop smoking.^{37 38}
- **NEW EVIDENCE** A 2009 Australian study of the effect of tobacco displays found that over 1 in 4 participants made unplanned purchases and that displays influenced nearly four times as many unplanned purchases as planned purchases. Unplanned purchases were more common among young smokers. Half of smokers

(49%) supported a proposal to ban PoS tobacco displays (four times as many as opposed such a law) and one in four (28%) believed that such a law would make it easier to quit.³⁹

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.⁴⁰

It's about children

Vending machines provide an easy source of cigarettes for children:

- In 2008, **1 in 8 of children and young people** who were regular smokers usually **bought their cigarettes from vending machines** in England.⁴¹
- In contrast, only 1 in 20 adult daily smokers said they had bought cigarettes from vending machines over the last six months.⁴²
- The British Heart Foundation (BHF) has estimated that machines are the source of cigarettes for around 23,000 11-15 year old regular smokers in England and Wales.⁴³ The raising of the age limit for cigarettes from 16 to 18 means there may now be more underage smokers accessing cigarettes from vending machines.

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.⁴⁴
- 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.⁴⁵
- 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.⁴⁶
- 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.⁴⁷
- **NEW EVIDENCE** In a test purchase exercise in the South West of England 73% of attempts by 15 year olds to buy cigarettes from vending machines resulted in a sale. More worryingly still, on return visits to 5 of these premises following intervention from Trading Standards Officers, 4 again resulted in a sale including 3 where bar staff assisted in the purchase.⁴⁸

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.
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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 sales⁴⁹. 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 2008.⁵⁰
- Between 2002 and 2006, the proportion of young people aware of new pack designs rose from 11% in 2002 to 18% in 2006.²²
- It is 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 risk, and easier to quit compared to regular varieties of the same brands.^{7 51}

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.⁵²

Proposals on reporting of tobacco industry marketing expenditure

- Health Select Committee Chairman, Kevin Barron and former Health Secretary, Frank Dobson have tabled an amendment requiring tobacco manufactures to disclose their marketing spending.
- Similar requirements already exist in the US and Canada and make an important contribution to monitoring industry activity and evaluating the impact of health policy.

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