

Policy Briefing on E-cigarettes for Assoc. Min. of Health, Hon. Peseta Sam Lotu-Iiga (Aug 5 2016)

Key messages

- New Zealand policy prevents the sale of nicotine containing e-cigarettes (EC) and e-liquids, although it is permissible to import nicotine e-juice for personal use (up to three months' supply). Despite this policy, the illegal sale of nicotine e-juice exists;
- The long-term health effects of EC are unclear, and their role in achieving Smokefree 2025 is uncertain;
- Current evidence suggests EC have a modest effect on reducing smoking prevalence by helping some smokers to quit;
- Current evidence suggests EC help some smokers to cut-down the number of cigarettes they smoke;
- Both maintaining the status quo, or increasing the accessibility of EC through pharmacies and vaping shops, are defensible policy options; and
- Regardless of decisions made about EC, intensifying comprehensive tobacco demand and supply reduction activities are crucial to achieving the Smokefree 2025 goal, and will enhance the impact of EC in reducing smoking prevalence.

Introduction

This policy briefing is derived from a background paper which: 1) reviewed the potential contribution of EC (this term is used to refer to all types of EC in this document) to New Zealand's Smokefree 2025 goal, 2) set out suggested principles and options for EC related policy, and 3) made recommendations on how ECs' contribution to the Smokefree 2025 goal could be maximised. The background paper and this briefing paper were prepared by a group of tobacco control researchers, following a review of the evidence and consultation with members of the New Zealand's tobacco control sector.

Background

More than half a million New Zealanders still smoke tobacco, contributing to a huge burden of preventable death and disease. In March 2011 the New Zealand Government adopted the goal of making New Zealand a smokefree nation by 2025. Progress towards the goal and the 2018 mid-term targets is inadequate, especially for Māori and Pacific peoples. The use of EC has increased in New Zealand; the role that EC could play in reducing smoking-related harm, smoking prevalence and achieving Smokefree 2025 is debated.

The World Health Organization (WHO) position on the role of EC is cautious. A new WHO Framework Convention on Tobacco Control (FCTC) Conference of Parties (COP) position paper is being prepared, and is likely to be adopted at COP7 in India in November 2016.

The New Zealand Government has largely followed the WHO FCTC's position on EC. No nicotine-containing EC or e-liquids are currently approved for therapeutic purposes and smoking cessation support, nor are they included on the list of smoking cessation medicines on the Ministry of Health website. EC that do *not* contain nicotine are available for sale in New Zealand. However, it is illegal to sell or advertise nicotine-containing EC or e-liquids in

New Zealand, although up to three months supply can be bought outside of New Zealand (usually through internet sales) and imported for personal use.

There are a number of weaknesses with the current situation: sale of nicotine-containing EC products by New Zealand retailers occurs despite current legislation; there is no training for smoking cessation staff in the use of EC; no New Zealand literature is available advising smokers about the use of EC for quitting (other than an information leaflet prepared by End Smoking New Zealand and the New Zealand Vaping alliance) and there are no quality or health standards applied to imported EC (although some self-regulation by the EC industry does occur). The Ministry of Health has recently released a Consultation Document on Policy Options for the Regulation of Electronic Cigarettes.

The potential benefits and harms of EC could occur at the individual and population levels and are summarised in this paper; full details are in the Background paper.

Principles for addressing EC policy and practice

The following principles should guide the development and implementation of EC-related policy and regulation:

- New Zealand's tobacco control efforts should be maintained and intensified;
- The primary aim of the EC policy should be to support the achievement of the Smokefree 2025 goal for all population groups in New Zealand;
- It should minimise the risks initiation of nicotine use by non-smokers' (particularly children and young adults) either through long term EC use and/or via EC use to smoking;
- Regulation of ECs should not be more stringent than regulatory measures in place for smoked tobacco products; and
- The Ministry of Health should continue to monitor emerging evidence on EC and the potential impacts of these products on smoking prevalence in New Zealand. Policy and practice should be updated in light of new evidence.

Evidence Summary

Internationally, EC use has grown rapidly, including use among young people and adults in New Zealand. The adverse health effects of EC are likely to be much lower than for smoked tobacco, although adverse health impacts of long-term EC use cannot be ruled out. There are strong grounds for prioritising regulatory approaches that minimise the risk of uptake of EC use among never smokers, particularly youth and young adults.

Evidence about the addictiveness of EC is limited, but it may be similar to the low level of long-term dependence found among ex-smokers who use NRT products. The level of dependence among EC users who are never smokers, particularly children and young adults, is unknown, but again may be similar to the low level of long-term dependence found among the few never smokers who use NRT products. Such dependence would have the greatest potential significance for public health and smoking prevalence, if hypothesized gateway effects to smoked tobacco use were realised.

In developed countries there is some suggestion that the increase in EC use may contribute to some (but not all) of the observed declines in smoking prevalence. This evidence suggests that EC use will make a contribution to reducing overall smoking prevalence and achieving

Smokefree 2025, but is not the 'magic bullet'.

Evidence from around the world about impacts of EC on smoking prevalence must be considered in the context of each country's unique tobacco control policies, programmes and EC regulations.

ECs have the potential to reduce the effectiveness of current tobacco control activities by acting as a distraction or creating disunity among tobacco control practitioners, and by enhancing the credibility of the tobacco industry through their involvement with EC development and distribution resulting in increased influence on decisions about tobacco control policy. Maintaining unity within the tobacco control movement and ensuring continued vigorous advocacy for a comprehensive tobacco control strategy may be as important as the fine detail of the measures adopted to address EC use.

Recommendations

We identified and evaluated a range of possible policy options for EC in New Zealand. These recommendations will need to be reviewed and refined as further evidence or authoritative guidance comes to hand.

1. Supply and availability of e-cigarettes

Two options are supported by members of the tobacco control community that were consulted when preparing this document.

Option 1 - Maintain status quo. Sale of nicotine-containing EC or e-liquids within New Zealand is prohibited, but e-liquids are legal to import for personal use (up to three months supply). However, it should be noted that the real status quo is that nicotine-containing EC or e-liquids have been widely available for some time in New Zealand (due to importation by users and illegal sales by retailers).

Option 2 - Allow restricted sale of nicotine-containing EC or e-liquids for smokers who want to quit. Continue to allow the importation of nicotine-containing EC or e-liquids for personal use (up to 3 months supply) but also allow sales of nicotine-containing EC or e-liquids through pharmacies and a limited number of licensed specialist shops (with stipulations about proximity to schools, exclusion of minors from shops, and training/competence for staff in EC use and ABC cessation support); minimum age of purchase to be same as for smoked tobacco products.

2. Smoking cessation advice and support for EC as quitting aids

Preferred option - Cessation service providers receive resources and training in use of EC to support quitting, based, for example, on recent Public Health England advice. Healthcare providers should not recommend or support specific EC products unless these were licensed for cessation through MedSafe.

3. Marketing, packaging and consumer information

Preferred option - marketing and public information. Commercial marketing of nicotine containing EC and e-liquids products sold within New Zealand (if permitted) to be limited to point of sale displays regulated to avoid exposure to children and young people. Information (e.g. leaflets) giving advice to EC users trying to quit should be provided by cessation services and at point of sale. Consider targeted information campaigns to provide information about the availability of EC and potential benefits and harms.

Preferred option - packaging. Packaging requirements for EC and e-liquids products sold within New Zealand (if permitted) to include minimum standards of child safety, safety warnings, health warnings and Quitline information, and list of constituents. No packaging or product names would be permitted that are appealing to children and young people, i.e., only plain or standardised packaging permitted.

4. Product design/standards/additives/flavours

Preferred option –Apply existing consumer protection legislation and explore introducing minimum quality and safety standards and excluded additives/flavours for nicotine-containing EC and e-liquids products sold within New Zealand (if permitted).

5. Use of e-cigarettes in indoor and outdoor workplaces and public places

Preferred option – Use of EC to be banned in all indoor workplaces and public places (consistent with the 1990 SFE Act), all schools, in cars, and in selected outdoor locations (areas where children predominate, e.g. playgrounds, parks) but allowed in other smokefree areas at local discretion and where public consultation suggests this is acceptable. Clear signage should indicate where vaping is permitted, and these areas should be separate to “smoking permitted” areas.

6. Tax and excise for cigarettes

Preferred option – Maintain status quo, i.e. no additional tax or excise applied to nicotine-containing ECs and e-liquids. To be reviewed if there is evidence of substantial uptake of nicotine-containing EC by non-smoking children and young people.

7. Monitoring and research

Preferred option – Ministry of Health develops a framework for monitoring and evaluating emerging evidence on EC, including their evolution and use (internationally and in New Zealand), and for evaluating the impact of EC, especially on smoking prevalence in all population groups and progress towards the Smokefree 2025 goal.

Enhanced and comprehensive tobacco control in New Zealand

The impact of EC in helping achieve the Smokefree 2025 goal will be enhanced by implementing a comprehensive tobacco control strategy and by adhering to the principle that where regulatory measures are applied to EC, equivalent or more stringent regulatory measures should be in place or introduced for smoked tobacco products. Measures to ensure this principle is adhered to are:

Tobacco supply and availability: Introduction of retailer licensing and proximity to schools restrictions for smoked tobacco products, and ideally raising the age of purchase to 21 years for smoked tobacco products.

Tobacco marketing, packaging and consumer information: Intensified and targeted mass media tobacco control campaigns. The list of constituents for all smoked tobacco products to be provided on the packaging.

Tobacco product regulation: Regulating the nicotine content of cigarettes to very low levels so that they are no longer addictive (or less addictive), making cigarettes unappealing to children and young people (e.g. changing the pH of the tobacco, or banning particular additives, such as menthol and sugar and banning capsules).

Tobacco use in cars and outdoor spaces: Legislation to ban smoking in cars with children present and national legislation to ban smoking in children-focused outdoor areas such as playgrounds, sports fields and parks.

Tax on tobacco products: Continued and substantial above inflation increases in excise tax on smoked tobacco products.

Acknowledgements

This briefing has been prepared for Associate Minister of Health, The Hon. Peseta Sam Lotu-liga as independent advice from the Smokefree sector on the role that e- cigarettes could play in reducing smoking prevalence and helping achieve Smokefree 2025.

Professor Richard Edwards, Professor Chris Bullen, Associate Professor Natalie Walker, Professor Janet Hoek, and Emeritus Professor Robert Beaglehole developed the initial document that was considered and contributed to by National Smokefree Working Group (NSFWG) members.

Members' views on e-cigarettes are varied and this document aims, as much as possible, to provide a consensus view. The recommendations and views expressed here therefore do not necessarily represent the official views of the member organisations of the NSFWG.