

Policy Options for the Regulation of Electronic Cigarettes

Consultation submission

Your details

This submission was completed

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Organisation *(if applicable)*: Aotearoa Vapers Community Advocacy (AVCA)

Position *(if applicable)*: Director

(Tick one box only in this section)

Are you submitting this:

- ☐ as an individual or individuals (not on behalf of an organisation)?
- X on behalf of a group, organisation(s) or business? **Please see Addendum, item #5 for community signatures in agreement and support to this submission**

(You may tick more than one box in this section)

Please indicate which sector(s) your submission represents:

- ☐ Commercial interests, including e-cigarette manufacturer, importer, distributor and/or retailer
- ☐ Tobacco control non-government organisation
- ☐ Academic/research
- ☐ Cessation support service provider
- ☐ Health professional
- ☐ Māori provider
- ☐ Pacific provider
- X Other sector(s) *(please specify)*: Vapers Community Advocacy (community organisation)

(You may tick more than one box in this section)

Please indicate your e-cigarette use status:

- X I am using nicotine e-cigarettes.
- X I am using nicotine-free e-cigarettes.
- ☐ I currently smoke as well as use e-cigarettes.

- ☐ I am not an e-cigarette user.
- ☐ I have tried e-cigarettes.

Privacy

We intend to publish all submissions on the Ministry's website. If you are submitting as an individual, we will automatically remove your personal details and any identifiable information.

If you do not want your submission published on the Ministry's website, please tick this box:

- ☐ Do not publish this submission.

Your submission will be subject to requests made under the Official Information Act. If you want your personal details removed from your submission, please tick this box:

- ☒ Remove my personal details from responses to Official Information Act requests.

If your submission contains commercially sensitive information, please tick this box:

- ☐ This submission contains commercially sensitive information.

Declaration of tobacco industry links or vested interest

As a party to the global tobacco control treaty, the World Health Organization Framework Convention on Tobacco Control, New Zealand has an obligation to protect the development of public health policy from the vested interests of the tobacco industry. To help meet this obligation, the Ministry of Health asks all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry. The Ministry will still carefully consider responses from the tobacco industry, and from respondents with links to the tobacco industry, alongside all other submissions. Please provide details of any tobacco company links or vested interests below.

AVCA as a community organisation has no vested interests in either the tobacco industry or the electronic cigarette/e liquid manufacturing/importing/distribution sectors. We are a consumer organisation, non profit, awaiting our charitable status application to be processed by government as a community charitable trust board.

Please return this form by email to:

ecigarettes@moh.govt.nz by 5 pm, Monday 12 September 2016.

If you are sending your submission in PDF format, please also send us the Word document.

Consultation questions

Although this form provides blank spaces for your answers to questions, there is no limit to the length of your responses; you should take as much space as you need to answer or comment. Feel free to enlarge the boxes or attach additional pages.

Q1 Do you agree that the sale and supply of nicotine e-cigarettes and nicotine liquids should be allowed on the local market, with appropriate controls?

Yes X No ☐

Reasons/additional comments:

“Appropriate Control” should follow the evaluation criteria of Harm Prevention (age restriction, child proof bottles for e-liquid; harm prevention – items should conform to current consumer protections as outlined in legislation; harm reduction – even though electronic cigarettes are not an approved cessation device, they have been scientifically proven to be 95% safer than combustible tobacco and therefore, should not be treated as a tobacco product with the inherent excises and taxes that are included in tobacco products that are utilised to offset the costs of harm from said tobacco products; proportionality – utilising the criteria of harm vs. risk; ease of implementation; and cost effectiveness of enforcement.

In our view, only appropriate control should be:

Consumer Product - Restricted 18+

E-liquid should have child proof caps, appropriate labelling (ingredients being USP/BP for diluent (glycerol, propylene glycol and liquid nicotine diluent) and flavourings food grade (as proved by SDS and MSDS from manufacturer of said flavourings)

Q2 Are there other (existing or potential) nicotine-delivery products that should be included in these controls at the same time? If so, what are they?

Yes X No ☐

Reasons/additional comments:

SNUS should also be made legal under the same consumer product 18+ guideline as nicotine e liquid as it is also a product that does not fit the “harms” of combustible tobacco and is an alternative to combustible tobacco that can reduce harm.

Q3 Do you think it is important for legislation to prohibit the sale and supply of e-cigarettes to young people under 18 years of age in the same way as it prohibits the sale and supply of smoked tobacco products to young people?

Yes ☐ No ☒

Reasons/additional comments:

We believe it is important to prohibit the sale and supply of nicotine containing eliquid to young people under 18.

We do not believe it should be classified or taxed as a tobacco product as it does not produce the same form of health harm as combustible tobacco, which is taxed according to those same harms and the revenue generated from those taxes and excises is in place to cover the costs of those harms in the National Health System.

Q4 Do you think it is important for legislation to control advertising of e-cigarettes in the same way as it controls advertising of smoked tobacco products?

Yes ☐ No ☒

Reasons/additional comments:

Advertising should be available to educate and inform current smokers of combustible tobacco of the alternative of ENDS. Advertising should NOT be aimed at youth under 18 years of age.

Q5 Do you think it is important for the SFEA to prohibit vaping in designated smokefree areas in the same way as it prohibits smoking in such areas?

Yes ☐ No ☒

Reasons/additional comments:

The use of ENDS and nicotine e liquid is not a public health issue in the way that combustible tobacco products are, and therefore should not be treated as the same, either via public restriction beyond being an 18+ product. Nor should there be excessive taxation (as there are no additional costs to the National Health System from their use, as is with combustible tobacco)

Also, there is no evidence that there is any harm anyone in contact or exposed to the exhalation from an electronic cigarette with nicotine e-liquid. ("second hand vapour")

The references included in the document itself provide this evidence as proved by scientific method. (Public Health UK, Royal College of Physicians reports).

Additional references to peer reviewed science are included in the Addendum to this submission.

Q6 Do you agree that other controls in the SFEA for smoked tobacco products should apply to e-cigarettes? For example:

Control	Y e s	N o	Reasons/ additional comments
Requirement for graphic health warnings	<input type="checkbox"/>	X	
Prohibition on displaying products in sales outlets	<input type="checkbox"/>	X	
Restriction on use of vending machines	<input type="checkbox"/>	X	
Requirement to provide annual returns on sales data	<input type="checkbox"/>	X	
Requirement to disclose product content and composition	<input type="checkbox"/>	X	
Regulations concerning ingredients (eg, nicotine content and/or flavours)	<input type="checkbox"/>	X	
Requirement for annual testing of product composition	<input type="checkbox"/>	X	
Prohibition on free distribution and awards associated with sales	<input type="checkbox"/>	X	
Prohibition on discounting	<input type="checkbox"/>	X	
Prohibition on advertising and sponsorship	<input type="checkbox"/>	X	
Requirement for standardised packaging	<input type="checkbox"/>	X	
Other	<input type="checkbox"/>	X	

Q7 Do you think it is important for legislation to impose some form of excise or excise-equivalent duty on nicotine e-liquid, as it does on tobacco products?

Yes ☐ No X

Reasons/additional comments:

Nicotine e-liquid is not a tobacco product.

Also, not all liquid nicotine diluent used in e-liquid is created through the process of tobacco extraction - some nicotine e-liquid is produced synthetically, in the same process as is the nicotine contained within the currently funded Nicotine Patches, Gum and Lozenges.

As well, the excise taxes and duties that are currently imposed on combustible tobacco products is there to help fund the National Health System to offset the harms from that product. Those harms are limited to combustible tobacco products.

Q8 Do you think quality control of and safety standards for e-cigarettes are needed?

Yes X No ☐

Additional comments:

Area of concern	Y e s	N o	Reasons/additional comments
Childproof containers	X	<input type="checkbox"/>	
Safe disposal of e-cigarette devices and liquids	<input type="checkbox"/>	<input type="checkbox"/>	
Ability of device to prevent accidents	<input type="checkbox"/>	<input type="checkbox"/>	
Good manufacturing practice	X	<input type="checkbox"/>	Please see Addendum - AVCA Vendor Certification
Purity and grade of nicotine	X	<input type="checkbox"/>	Please see Addendum - AVCA Vendor Certification
Registration of products	<input type="checkbox"/>	<input type="checkbox"/>	
A testing regime to confirm product safety and contents purity	<input type="checkbox"/>	X	
Maximum allowable volume of e-liquid in retail sales	<input type="checkbox"/>	X	
Maximum concentration of nicotine e-liquid	<input type="checkbox"/>	X	
Mixing of e-liquids at (or before) point of sale	<input type="checkbox"/>	X	
Other	<input type="checkbox"/>	X	

Q9 Are there any other comments you would like to make?

We have enclosed an Addendum to this submission that includes the full AVCA response to concerns and objectives presented in policy document from the Ministry of Health

Item #1 – AVCA Nicotine Policy Statement – we believe that premade liquid at a max amount of 48mg nicotine should be available retail as a consumer product.

Item #3 - AVCA Certification (of NZ Vendors/Manufacturers) – this document outlines the best manufacturing processes that conform to a standard that currently does not exist here in NZ. It was based on information from the British PAS, AFNOR in France and AEMSA in the United States.

Item #4 – AVCA Consumer Bill of Rights (for Vapers)

Item #5 – Consumer Signatures in support of this submission on the legalisation of nicotine e-liquid for retail sale.

Item #6 – Vape Vendor Survey of Vapers in New Zealand, May 2016

Additional information on sales and use

Q10 Can you assist us by providing information on the sale of e-cigarettes in New Zealand (for example, size of sales or range of products for sale on the local market)?

Please See Addendum for Item #6

Q11 Would the Ministry of Health’s proposed amendments have any impact on your business? If so, please quantify/explain that impact.

Q12 If you are using nicotine e-cigarettes: how long have you been using them, how often do you use them, how much do you spend on them per week and where do you buy them?

How long have you been using them?	How often do you use them?	How much do you spend on them per week?	Where do you buy them?