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Before the
Ministry of Health - Singapore

In the Matter of:
PUBLIC CONSULTATION ON STANDARDISED PACKAGING
AND ENLARGED GRAPHIC HEALTH WARNINGS FOR TOBACCO PRODUCTS

Joint Comments of:

The Australian Taxpayers' Alliance (ATA) and MyChoice Australia (MC)

February 15th, 2018

The ATA and MC thank the Singaporean government and Ministry of Health for the opportunity to provide the following comments on the above-mentioned proposals to amend tobacco control laws and regulations, with a focus on plain packaging and amendments to regulations governing safer alternatives to tobacco products including e-cigarettes or 'vapes'.

The ATA is a grassroots not-for-profit public advocacy group with 50,000+ members across Australia. We stand for the principles of individual freedom and informed consumer choice. MC is our affiliate organisation which focuses on public health and consumer choice issues.

Plain Packaging

In 2012, Australia instituted world-first plain packaging laws for tobacco products. The Australian legislation shared the proposed Singaporean policy's objective of decreased tobacco consumption by reducing the attractiveness of tobacco products and increasing the effectiveness of existing health warnings which have existed in Australia since 2006. Like the proposed Singaporean policy outlined in the consultation paper, this was achieved by depriving private businesses of the ability to utilise branding and rights to their own intellectual property. Similar legislation has since been introduced and implemented in France and the United Kingdom (2017).

Restrictions on the use of a company's branding and intellectual property were justified on the basis that public health outcomes produced by the policy would outweigh these detriments.

It is our submission that evidence from the plain packaging experience of Australia and France has overwhelmingly demonstrated that the laws are **ineffective in meeting their stated outcomes** with **evidence indicating that tobacco consumption in these countries has actually increased since their introduction**. To this end, the Singaporean government's proposal to abrogate the branding and intellectual property rights of private business cannot be justified from a public health or evidence-based policy standpoint.

Plain Packaging and tobacco consumption

An independent study from RMIT University based on Australian government statistics found that 0.8% more cigarettes were sold in Australia within a year of the introduction of plain packaging than over the previous 12 month period, when adjusted for tax refunds paid to companies for non-compliant tobacco products.[1] Since France banned branded cigarettes in January 2017, the results have been similarly poor and contrary to the policy's objectives. Government data released on 29 January by the OFDT (Observatoire français des drogues et des toxicomanies) shows that plain packaging has not impacted smoking rates. Sales remained stable over the course of 2018, with a slight decrease of 0.7% in volume after a 1.3% increase in sales during the first half of the year.[2] This failure was acknowledged by the French Health Minister, Agnes Buzyn, who concluded that plain packaging does not lead to a reduction in cigarette sales and that it does not result in smokers giving up smoking.[3]

Plain Packaging and the effectiveness of graphic health warnings

An Australian government-commissioned post-implementation review of plain packaging laws found that it was impossible to isolate the effectiveness of plain packaging laws from

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[1] Davidson, S. and A. de Silva. 2014. The Plain Truth about Plain Packaging: An Econometric Analysis of the Australian 2011 Tobacco Plain Packaging Act. *Agenda: A Journal of Policy Analysis and Reform*. 21(1): 27 – 43.

[2] Cigarette sales on a constant delivery basis, *in Tableaux de bord des indicateurs tabac* – OFDT (Observatoire français des drogues et des toxicomanies), August 4 2017 to January 29, 2018.

[3] Statement issued on 29 November 2017 by the Minister of Health, Agnès Buzyn, on the efficiency of plain packaging during the 2nd vote on the Social Security finance bill. http://www.assemblee-nationale.fr/15/cri/2017-2018/20180075.asp#P1117763

that of graphic warnings which have existed in Australia since 2006.[4] Survey data has shown that graphic health warnings on tobacco packets, which have existed in Australia since 2006, are regarded by consumers as unappealing.[5] However, an independent 2017 review of the study and data found that the effectiveness of graphic health warnings in deterring smoking did not increase since the introduction of plain packaging and that the combined effect of graphic health warnings and plain packaging did not contribute to an increase in actual smoking cessation attempts by consumers.[6]

Plain Packaging and the market share of cheap tobacco

The removal of tobacco branding destroys brand loyalty. The result is that competition based on price becomes the predominant factor driving consumer choice, thereby increasing the market share of cheaper tobacco and incentivising the production of cheaper tobacco. According to Australian industry monitor InfoView, the market share of deep discount and low price tobacco increased significantly since the introduction of plain packaging in December 2012, rising from 32% to 37% over 2013, while the market share of mid-price and premium tobacco diminished.[7] Australian Association of Convenience Stores spokesperson Jeff Rogut has noted that since the introduction of plain packaging, consumers have frequently asked store owners for the cheapest product available.[8]

Similarly, Chart 2.2.2b (below) from a 2016 report by accounting firm KPMG, illustrates how the market share of low-priced cigarettes has increased from 33% in 2012 to 60% in 2016 at the expense of mid-priced and premium categories of cigarettes.[9] The data suggests that down trading has been most significant in the last few years, dramatically reducing the margins for all in the supply chain.

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[4] https://www.health.gov.au/internet/main/publishing.nsf/content/491CE0444F7B0A76CA257FBE00195BF3/$File/PIR%20of%20Tobacco%20Plain%20Packaging%20-%20with%20Addendum.docx.

[5] Wakefield, Melanie, et al. "Australian adult smokers' responses to plain packaging with larger graphic health warnings 1 year after implementation: results from a national cross-sectional tracking survey." Tobacco control 24.Suppl 2 (2015): ii17-ii25.

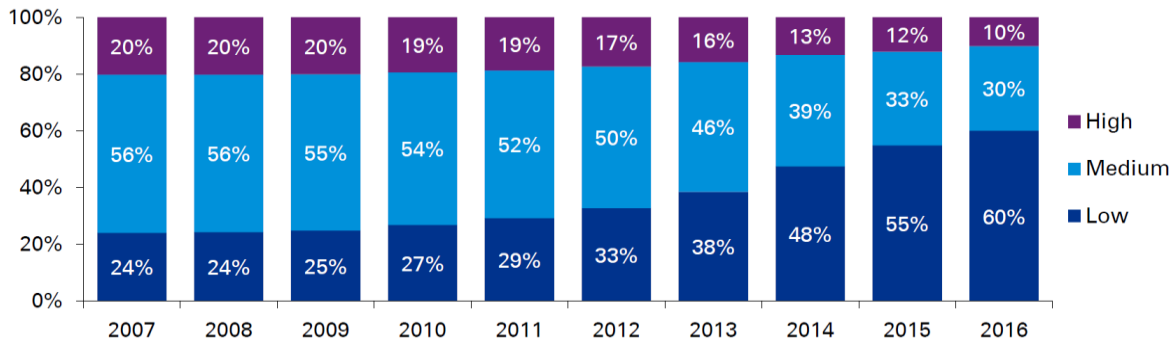
[6] Davidson, S. and A. de Silva. 2017. What the Government Demanded As Proof for Plain Packaging Efficacy: An Analysis the Public Health Lobby Did Not Perform. SSRN Working Paper.

[7] Christian Kerr, "Labor's plain packaging fails as cigarette sales rise" *The Australian* June 6, 2014 http://www.theaustralian.com.au/national-affairs/labors-plain-packaging-fails-as-cigarette-sales-rise/news-story/78ee3d2608e1a01fbbb5fd4c22acafbc

[8] Ibid.

[9] KPMG's 2016 Full-Year Report "Illicit Tobacco in Australia", March 2017. Available at: https://home.kpmg.com/content/dam/kpmg/uk/pdf/2017/04/Australia-illict-tobacco-Report-2016.pdf

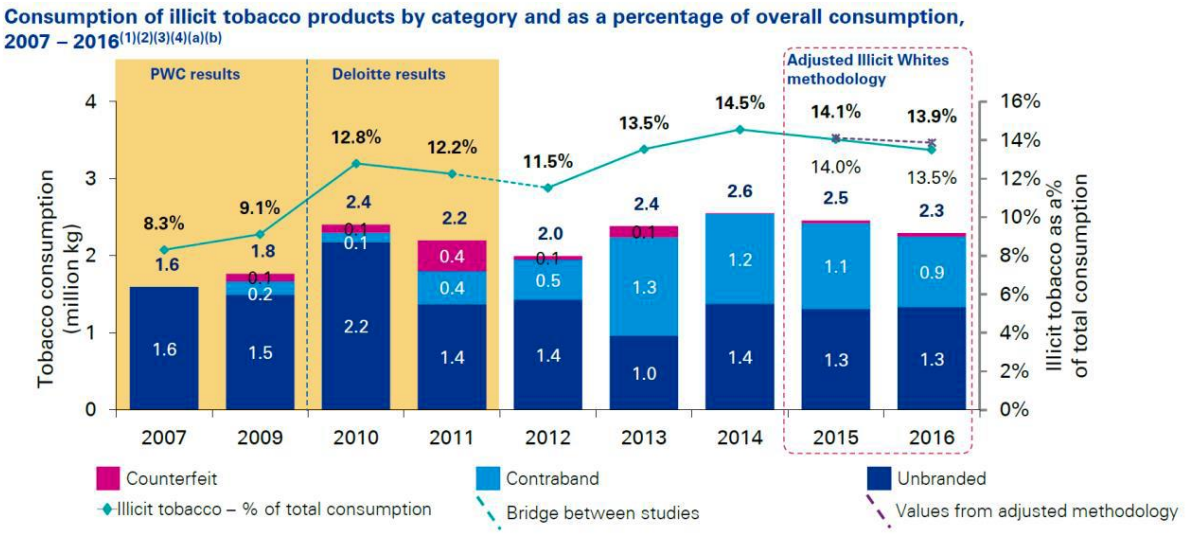
Figure 2.2.2b: Market share of manufactured cigarettes by price category, 2007 – 2016[(2)(3)]



Plain Packaging and the illicit tobacco black market

The KPMG report also found that the market share of illicit tobacco in Australia rose sharply following the introduction of plain packaging laws in December 2012.[10] The absence of branding makes illicit products relatively less unattractive compared to legal products and ultimately contributes to this trend.

[10] Ibid.



The growth in the illicit tobacco market represents a significant loss in tax revenue for the government and contributes to the growth of other illicit enterprises. It is likely that a similar exacerbation of the black market will take place in Singapore, which is already the 4th largest illicit tobacco market in Asia,[11] should the plain packaging restrictions pass.

Cheaply available illicit tobacco is a serious threat to public health, costs governments billions of dollars in lost revenue annually (As of late 2013, Singaporean smokers had consumed 900 million contraband cigarettes, depriving the state of around $347 million in tax revenue),[12] destroys jobs and often funds other, even more serious illicit enterprises such as human trafficking,[13] drug trafficking and even terrorism.[14] This is especially concerning for Asia-Pacific nations such as Singapore and Australia as terror group ISIS is active in our region and is currently waging a military campaign against the Philippines government.[15] ISIS is known to have derived a significant portion of its funds through the global illicit tobacco trade.[16] It is our submission that the dire implications of plain packaging laws for this

[11] Straits Times, "Singapore is No. 4 for illicit tobacco use; 1 in 4 cigarettes here illegal" September 27, 2013. http://www.straitstimes.com/singapore/singapore-is-no-4-for-illicit-tobacco-use-1-in-4-cigarettes-here-illegal
[12] Ibid.
[13] According to the US Department of State https://webcache.googleusercontent.com/search?q=cache:6NgbnwGahi0J:https://2009-2017.state.gov/documents/organization/250513.pdf+&cd=3&hl=en&ct=clnk&gl=au
[14] http://www.abc.net.au/news/2016-12-05/illegal-tobacco-trade-fuelling-drug-trafficking-and-terrorism/8075174
[15] New York Times, 23rd October 2017 "ISIS threat in Philippines spreads to remote battles" https://www.nytimes.com/2017/10/23/world/asia/isis-philippines-mindanao-marawi.html
[16] The Guardian, 28th November 2015 "How to beat Islamic State? Crack down on cigarette smuggling" https://www.theguardian.com/commentisfree/2015/nov/27/isis-cigarette-smuggling-isis-middle-east

black market industry as well as the policy and enforcement challenges and expense involved in countering the industry should be considered by policy makers conducting this inquiry.

Change in smoking rates

The ATA and MC further note the latest data from the Australian government confirming that whilst Australia has traditionally been regarded as a model example of tobacco control, the trend has reversed. The National Health Survey found that more people smoke in Australia today than they did in 2013 –despite exacerbation of the world's strictest punitive tobacco regulations including plain packaging laws and significant increases to tobacco excise over this period. By contrast, the UK and USA which have traditionally experienced lower smoking cessation rates than Australia, have had significantly greater success despite the non-existence of plain packaging laws in these countries over the same period.

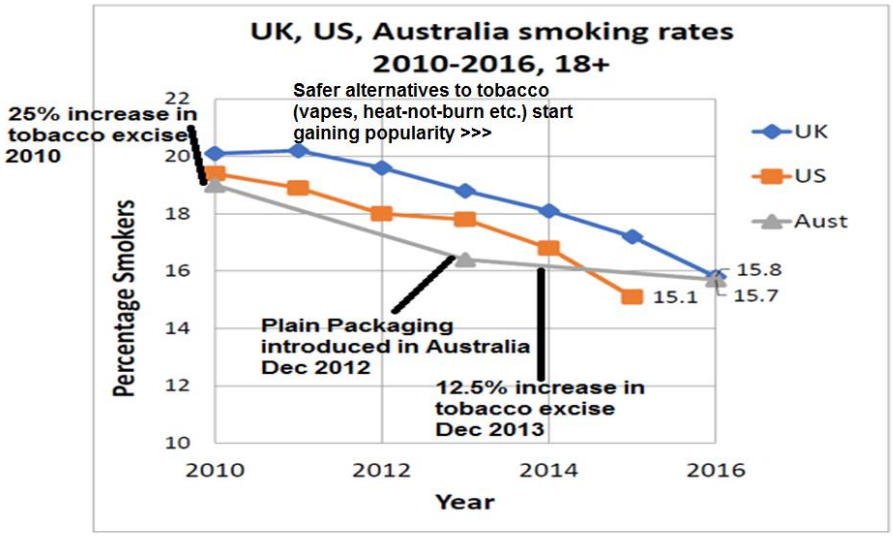
Change in the number of adult daily smokers in Australia, 2010-2016

Ref		Daily smoking rates 18+	Population 18+ (ref 4)	Number of daily smokers 18+	Difference
1	2010	15.9%	16,972,406	2,698,613	
2	2013	13.3%	17,906,642	2,381,583	317,030 less than 2010
3	2016	12.8%	18,770,982	2,402,686	21,102 more than 2013

Note: The total number of smokers (ie all ages and daily + non-daily) in Australia is just under 3 million.

References

1. Australian Institute of Health and Welfare (2011), National Drug Strategy Household Survey 2010. Available at http://www.aihw.gov.au/publication-detail/?id=32212254712&tab=3. Supplementary table: Proportion of adult daily smokers by jurisdiction, 1998 to 2010 (33KB XLS)
2. Australian Institute of Health and Welfare (2014), National Drug Strategy Household Survey 2013, Table 2 -available at: http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=60129548784.
3. Australian Institute of Health and Welfare (2017), National Drug Strategy Household Survey 2016, Table 2 -available at: http://www.aihw.gov.au/alcohol-and-other-drugs/data-sources/ndshs-2016/data/.



(Data: UK. Annual Population Survey, Office of National Statistics; US. National Health Interview Survey, CDC National Centre for Statistics; Australia. National Drug Strategy Household Survey, Australian Institute of Health and Welfare)

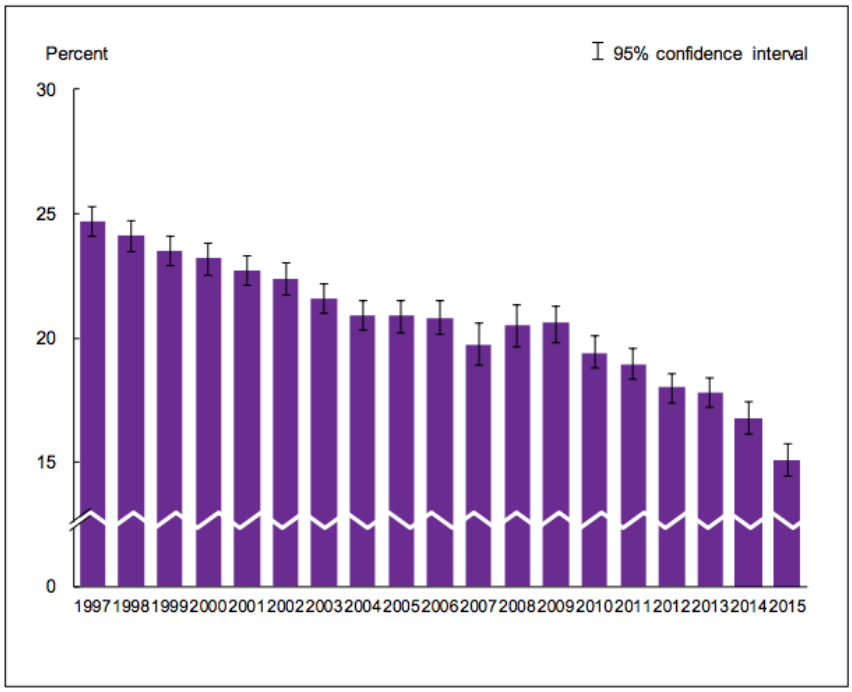
Safer Alternatives to smoking

Notably, the above-mentioned significant improvements in the smoking cessation rates of the USA and UK have coincided with the exponential increase in the popularity and availability of safer alternative products to tobacco,* including electronic cigarettes (or e-cigarettes/vapes) and heat-not-burn tobacco since 2011. American adult smoking rates have fallen rapidly between 2011 and 2015 – from 18.9% to a record low of 15.1% which is below Australia's adult smoking rate. Notably, the decline between 2014 and 2015 was especially sharp: See figure below illustrating US government statistics:[17]

*- there is currently no publicly available data on smoking rates in the UK since the very recent introduction of plain packaging there this year.

Current smoking

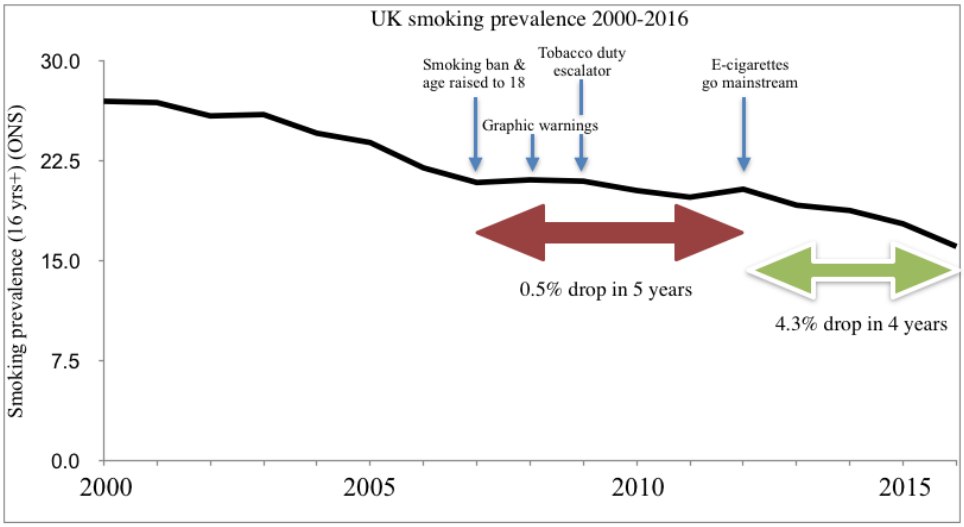
Figure 8.1. Prevalence of current cigarette smoking among adults aged 18 and over: United States, 1997–2015



Similar developments have occurred in the UK. After a period of significant smoking rate reduction, the UK adult smoking rate stalled in the late-2000s, then sharply reduced between

[17] CDC, *National Health Interview Survey, 2015* https://www.cdc.gov/nchs/nhis/nhis_2015_data_release.htm

2011 and 2014 at which point it hit a record low of 17.4%.[18] Over the same time period, there has been a rapid uptake of safer alternatives to cigarettes including vapes and heat-not-burn products. The smoking prevalence rate dropped only 0.5% in the 5 years between 2007 and 2012 despite the institution of multiple smoking deterrence measures (see below). After safer alternatives to tobacco became mainstream and enjoyed a rapid uptake post-2011 however, the smoking rate experienced nearly 9 times the decline seen in the previous period. The only significant anti-tobacco reform during this period was a display ban which did not take effect until 2015 towards the end of the period.



The experience of the UK and USA are in stark contrast to Australia where alternatives to tobacco, including vapes and heat-not-burn products, are illegal for sale and where public health authorities have preferenced and/or continued to strengthen punitive and abstinence-based measures while failing to favour informed consumer choice or access to proven safer nicotine delivery products as a harm reduction strategy.

The UK Royal College of Physicians has found that nicotine delivery products such as vapes and heat-not-burn products such are AT LEAST 95% safer than conventional smoking of combustible tobacco.[19] A long-term, cross-sectional study recently found that transitioning from cigarettes to alternative nicotine delivery products drastically lowers the build-up of

[18] Office of National Statistics (UK), Adult Smoking Habits in Great Britain1974-2014. 18 February 2016 Table 1 http://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/drugusealcoholandsmoking/datasets/adultsmokinghabitsingreatbritain

[19] Royal College of Physicians (London), Nicotine without smoke: tobacco harm reduction. 28 April 2016. https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0

carcinogens and tar in the bodies of smokers.[20] No study has linked alternative nicotine delivery products to any long-term material health risks. Multiple studies have instead found that alternative nicotine delivery products do not pose any material risk to passive smokers.[21] [22] [23] The same has been confirmed by a recent, comprehensive landmark review of the available evidence by Public Health England.[24] For these reasons, the Royal College of Physicians and Public Health England as well as NHS Health Scotland not only recommend the legalisation of alternative nicotine delivery products, but advise doctors to recommend these products to patients who wish to quit smoking.[25] [26] Public Health England also recommends that smoke-free workplace laws and laws which prohibit indoor smoking do not apply to alternative nicotine delivery products in recognition of the lack of risk these products pose for passive smokers.[27]

Vapes do not utilise tobacco and do not produce smoke. They instead produce vapour in a range of flavours by heating a small quantity of glycerine-based solution or e-liquid. E-liquids that contain nicotine allow smokers to satiate their cravings and resolve withdrawals without exposure to carcinogens, toxins or tar that is produced when a tobacco cigarette is lit. Public health agencies have concluded that nicotine itself is a mild, relatively benign

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[20] Shahab L, Goniewicz ML, Blount BC, Brown J, McNeill A, Alwis KU, et al. Nicotine, Carcinogen, and Toxin Exposure in Long-Term E-Cigarette and Nicotine Replacement Therapy Users: A Cross-sectional Study. Ann Intern Med. [Epub ahead of print 7 February 2017] doi: 10.7326/M16-1107 http://annals.org/aim/article/2599869/nicotine-carcinogen-toxin-exposure-long-term-e-cigarette-nicotine-replacement

[21] Hall W, Gartner C, Forlini C. Ethical issues raised by a ban on the sale of electronic nicotine devices. *Addiction* 2015; **110**:1061–7 http://onlinelibrary.wiley.com/doi/10.1111/add.12898/abstract

[22] Igor Burstyn, "Peering Through the Mist: Systematic Review of What the Chemistry of Contaminants in Electronic Cigarettes Tells Us About Health Risks," *BMC Public Health* 14 (January 2014), http://bmcpublichealth.biomedcentral.com/articles/10.1186/1471-2458-14-18

[23] Royal College of Physicians, Nicotine without Smoke: Tobacco Harm Reduction, April 2016, https://www.rcplondon.ac.uk/projects/outputs/nicotinewithout-smoke-tobacco-harm-reduction-0

[24] Evidence review of e- cigarettes and heated tobacco products 2018. A report commissioned by Public Health England https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/680964/Evidence_review_of_e-cigarettes_and_heated_tobacco_products_2018.pdf

[25] UK Government policy paper, 18 July 2017: https://www.gov.uk/government/publications/towards-a-smoke-free-generation-tobacco-control-plan-for-england

[26] NHS Health Scotland. Consensus statement on e-cigarettes. 2017 http://www.healthscotland.scot/media/1576/e-cigarettes-consensus-statement_sep-2017.pdf

[27] Public Health England. 'Use of e-cigarettes in public places and work places'. 6 July 2016. (viewed August 2017) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534586/PHE-advice-on-use-of-e-cigarettes-in-public-places-and-workplaces.PDF

stimulant that is no more harmful than caffeine,[28] and that smokers "*smoker for the nicotine but die from the tar*."[29]

Vaping with nicotine has been legal in the USA, European Union and the UK for many years. Over 6 million Europeans,[30] and over 1.5 million Britons,[31] have quit smoking by transitioning to vaping and many of these individuals (750,000+ in the UK),[32] have gone on to quit both smoking and vaping completely. Vaping with nicotine is also in the process of legalisation in Canada,[33] and New Zealand.[34]

Public policy changes worldwide are, especially in the developed world, have been driven by recent, comprehensive studies across multiple nations which have shown that contrary to the hypothesis that vaping could be a 'gateway' to smoking, it is in fact a 'gateway' *away* from smoking. A vast majority of people who vape are smokers trying to quit or reduce their exposure to smoking.[35] [36] A mere 0.3% of adult vapers have never smoked previously.[37] Amongst teenagers, large, national cross-sectional studies show no evidence that vaping uptake increases the ranks of future smokers in countries where ENDS is legal.[38] For example, since 2011 when vaping experienced a massive uptake, American high school students have seen a drop in smoking prevalence from 15.8% in 2011 to 9.3% by 2015.[39] This rapid and ongoing decline in smoking prevalence, especially amongst new smokers, is in

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[28] Tobacco Advisory Group to the Royal College of Physicians (UK) 2016, 'Nicotine without smoke: Tobacco harm reduction'
[29] Russell MJ. Low-tar medium nicotine cigarettes: a new approach to safer smoking. BMJ 1976;1:1430–3.
[30] Farsalinos KE, Poulas K, Voudris V, Le Houezec J. Electronic cigarette use in the European Union: analysis of a representative sample of 27 460 Europeans from 28 countries. Addiction (Abingdon, England). 2016.
[31] ASH. Use of electronic cigarettes (vapourisers) among adults in Great Britain. Fact sheet. May 2017 http://ash.org.uk/category/information-and-resources/fact-sheets/
[32] Ibid.
[33] Canadian Parliament. Bill S-5. An Act to amend the Tobacco Act and the Non-smokers' Health Act and to make consequential amendments to other Acts. 2017.
[34] New Zealand Government. Nicotine e-cigarettes to become legal (media release). 2017. https://www.beehive.govt.nz/release/nicotine-e-cigarettes-become-legal
[35] McNeill A, Brose LS, Calder R, Hitchman SC, Hajek P, McRobbie H. E-cigarettes: an evidence update. A report commissioned by Public Health England. PHE publications gateway number: 2015260 2015.
[36] Britton J, Bogdanovica I, McNeill A, Bauld L. Commentary on WHO report on electronic nicotine delivery systems and electronic non-nicotine delivery systems. UK Centre for Tobacco & Alcohol Studies. 2016.
[37] Zhu S. E-cigarette use and associated changes in population smoking cessation. BMJ 2017
[38] Kozlowski L, Warner K. Adolescents and e-cigarettes. Objects of concern may appear larger than they are. Drug Alc Depend 2017
[39] Singh T, Arrazola RA, Corey CG, et al. *Tobacco Use Among Middle and High School Students — United States, 2011–2015*. MMWR Morb Mortal Wkly Rep 2016;65:361–367. http://www.cdc.gov/mmwr/volumes/65/wr/mm6514a1.htm?s_cid=mm6514a1_w

stark contrast to both Singapore and Australia where smoking cessation rates have recently stagnated and where vaping with nicotine is illegal.

To this end, with reference to the international experience and extensive scientific evidence, we recommend that the Ministry of Health legalises vaping (subject to an appropriate regulatory framework to promote safety and ensure that advertising appeals only to former smokers) in Singapore as part of its Tobacco Control Strategy in order to achieve the present consultation paper's strategic objectives of significantly lowering the nation's smoking prevalence and improving public health, welfare and wellbeing outcomes in Singapore.

Conclusion

Approximately 7 Singaporeans die prematurely from smoking–related diseases each day and smoking–related diseases, including cancer, heart disease, stroke and Chronic Obstructive Lung Disease are the nation's top killers.[40] These dire figures connote an imperative for the Singaporean government to favour compassionate and pro-consumer choice strategies which put innovative and safer products in the hands of smokers. The USA and UK which have adopted the pro-consumer choice approach to safer alternatives to tobacco report continuous and ongoing record rates of smoking cessation, while Singapore's own smoking rate has seen no continuous pattern of decline over the last 10 years. The ATA and MC therefore urge the Ministry of Health to adopt a liberal approach towards vaping and vape-related products including devices and e-liquids in order to improve Singapore's smoking cessation rates and reduce smoking-related harms affecting Singaporean smokers. Vaping in Singapore should instead be subject to an appropriate regulatory framework that prevents potential negative externalities such as litter, promotes safe and responsible product use and restricts advertising so it appeals only to existing smokers who want to quit or improve their health and does not appeal to minors.

Conversely, plain packaging is a strategy of dubious effect that does not significantly impact tobacco cessation rates, abrogates intellectual property rights and enhances the market share of cheap tobacco and black market tobacco products which already pose a dire challenge for

[40] Ministry of Health – Singapore "Questions on Smoking, Tobacco Use and Health" https://www.healthhub.sg/live-healthy/597/questions_smoking Accessed: 15 February 2018.

Singaporean policy-makers. The ATA and MC recommend that Singapore's Ministry of Health considers the above-mentioned evidence from Australia by comparison to other nations and does not adopt plain packaging regulations.

Concerns about tobacco advertising's appeal to minors can be addressed through more comprehensive guidelines applicable to advertising as well as through comprehensive public education campaigns and education programs within schools that focus on smoking-related harms and their impact on social and family life as well as health and wellbeing. These measures will enhance the effectiveness of graphic health warnings by reinforcing their message.

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