

Policy Options for the Regulation of Electronic Cigarettes

Consultation submission

Your details

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Position (if applicable):		Policy Analyst Māori

(Tick one box only in this section)

Are you submitting this:

- ☐ as an individual or individuals (not on behalf of an organisation)?
- ☒ on behalf of a group, organisation(s) or business?

(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
- ☒ Other sector(s) (please specify): Non Governmental Organisation - Professional Nursing Association and Union.

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

Please indicate your e-cigarette use status:

- ☐ I am using nicotine e-cigarettes.
- ☐ 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☐ Do not publish this submission.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:

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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.

NZNO has no competing interests with respect to any of the relevant industries.

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.

About the New Zealand Nurses Organisation

NZNO is the leading professional nursing association and union for nurses in Aotearoa New Zealand. NZNO represents over 47,000 nurses, midwives, students, kaimahi hauora and health workers on professional and employment related matters. NZNO is affiliated to the International Council of Nurses and the New Zealand Council of Trade Unions.

NZNO promotes and advocates for professional excellence in nursing by providing leadership, research and education to inspire and progress the profession of nursing. NZNO represents members on employment and industrial matters and negotiates collective employment agreements.

NZNO embraces te Tiriti o Waitangi and contributes to the improvement of the health status and outcomes of all peoples of Aotearoa New Zealand through influencing health, employment and social policy development enabling quality nursing care provision. NZNO's vision is *Freed to care, Proud to nurse*.

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 ☒ No ☐

Reasons/additional comments:

1. NZNO welcomes the opportunity to comment on the Ministry draft policy options for the regulation of e-cigarettes in Aotearoa New Zealand. NZNO commend the leadership that the Ministry has shown with regard to its cautious approach to the regulation of e-cigarettes given the risks and the benefits are uncertain. All policies, should take a conservative approach to e-cigarettes and proceed with caution as there is limited evidence based research to indicate that the chemicals in vapes are safe for consumption.
2. We agree with Aspire 2025 principles that should apply to any regulatory regime for ECs in Aotearoa New Zealand:
 - the primary aim of the EC policy should be to support the achievement of the Smokefree 2025 goal for all population groups in NZ;
 - New Zealand's tobacco control efforts should be maintained and intensified;
 - E-cigarette policy should minimise the risks of 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.
3. NZNO supports the Smokefree Aotearoa 2025 principles. We agree that the primary aim of e-cigarette policy should be to support the achievements of the Smokefree 2025 goal for all population groups in New Zealand. We are aware that progress towards this goal is inadequate, especially for Māori and Pacific peoples who suffer the greater burden of tobacco related diseases in Aotearoa New Zealandⁱ.
4. We agree that any government plans to reduce the high rates of smoking for Māori (39%) and Pacific people (25%) should be a priority, and nicotine e-cigarettes have the potential to contribute significantly to reducing these ratesⁱⁱ. The products however need to be available to those people who are vulnerable to the addictiveness of tobacco related products wherever they live in Aotearoa New Zealand.

5. We strongly recommend that e-cigarettes be banned in all indoor workplaces and public places (which is 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 the other Smokefree areas at local discretion and where public consultation suggests that is acceptable. Clear signage should indicate where vaping is permitted, and these areas should be separate to “smoking permitted” areas.
6. Currently, e-cigarettes are a more preferable option to cigarettes. We do however urge caution, and restrict control and availability of e-cigarettes to pharmacies and specialist vape shops. We also believe that strictly enforced restrictions be in place for any shops in any location that are close to schools or in the vicinity of vulnerable adults. We do not agree that e-cigarettes be sold in corner dairies.
7. We urge the government to ensure that staff working in pharmacies or vape shops have training in providing Smokefree advice and support to quit.
8. We ask that all restrictions to be placed on e-cigarettes require the same if not more restrictions placed on tobacco related products, so that e-cigarettes are more widely available than tobacco related products.
9. We agree that internet sales be available for those consumers who live in rural areas and who may have limited access to e-cigarettes and available training or support through alternative agencies like Quit line.

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 ☒ No ☐

Reasons/additional comments:

10. As the long term effects of e-cigarettes are uncertain, all new nicotine delivery products should be evaluated prior to being available to the New Zealand public.
11. Examples of newly developed nicotine inhalers being marketed by Phillip Morris are ‘heat not burn’ (<https://www.pmiscience.com/platform-development/platform-portfolio/heat-not-burn-products>) require evaluating prior to being available to the New Zealand public.

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:

12. Currently the gateway effect from e-cigarettes to tobacco smoking is unproven, it is a theoretical possibility and there is some supporting evidence (see accompanying document for a review of this evidence).
13. We agree that age restrictions are entirely appropriate to point of sale. There are good reasons to aim to minimise the use of ECs by minors, and prohibition of sale and supply to young people is justified as a measure to help achieve that outcome. A possible exception however is where e-cigarettes are used as a supported smoking cessation aid by youth < 18 years, smoking cessation advice and parent involvement would be essential.

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:

14. We believe that commercial marketing of nicotine containing e-cigarettes and e-liquids products sold within NZ (if permitted) should be limited to point of sale displays regulated to avoid exposure to children and young people. Currently e-cigarettes use is already widespread in Aotearoa New Zealand. If nicotine containing e-cigarettes were available for sale in Aotearoa marketing would need to be controlled to stop tobacco industry manipulating and glamorising e-cigarettes or use cartoon characters which appeal to minors.
15. Smokefree cessation training will be essential for point of sale staff in pharmacies and specialist vape shops to give advice to e-cigarette users trying to quit and provide advice on cessation services.
16. Improving communication and working with the vaping community (users and sellers) would be an important means to communicate about e-cigarettes and maximising their use to help individuals to quit smoking or substitute completely for smoked tobacco.

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:

17. The long term effects of the chemicals in vapes is still unknown and the health impacts of second-hand vapour are uncertain. Therefore, as health professionals, we strongly advocate that e-cigarettes be banned in all indoor workplaces and public places (which is 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 the other Smokefree areas at local discretion and where public consultation suggests that is acceptable. Clear signage should indicate where vaping is permitted, and these areas should be separate to “smoking permitted” areas.
18. The principle should again apply that restrictions on smoked tobacco products should be at least as stringent as for e-cigarettes. To do otherwise might make e-cigarettes use a less attractive option than smoked tobacco use, which would be perverse. For example, it would be impossible to justify restrictions on vaping in cars where children are present if smoking in cars is not similarly prohibited.

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

Control	Yes	No	Reasons/ additional comments
Requirement for graphic health warnings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Currently there is a lack of evidence for long term health effects of e-cigarettes, we therefore do not think graphic health warnings are an accurate measure.</p> <p>We do however support safety warnings on e-cigarette packaging (e.g. dangerous to ingest, keep away from children and pets), with health information (text warnings that nicotine is addictive and that the long term health effects of e-cigarettes use are not known).</p> <p>Additional information such as Quitline and cessation providers numbers would be helpful and Smokefree Aotearoa 2025 goals.</p> <p>Consumers have also indicated that pictorial safety warnings (rather than text) have a greater impact.</p>
Prohibition on displaying products in sales outlets	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>We recommend that e-cigarettes products are restricted to pharmacies and specialist vape shops (with children excluded from the latter), then POS displays would not need to be banned. There may need to be some restrictions on prominence in pharmacies to ensure the POS displays do not appeal to non-smokers, particularly children.</p>

Restriction on use of vending machines	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Yes. We can see no justification for sales through vending machines, as these may be accessible to children, and advice on correct use of e-cigarettes and use in smoking cessation would not be available. In line with the principle of equal or more rigorous regulation for smoked tobacco products, all vending machine sales of smoked tobacco products should also be prohibited at the same time.
Requirement to provide annual returns on sales data	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Yes. This is useful for monitoring of trends in use of different product types and the balance between independent and tobacco industry owned e-cigarettes producers in the NZ market. This should include data on importation and sales (and again this requirement should be extended to smoked tobacco products).
Requirement to disclose product content and composition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Yes, disclosure of ingredients/content is important consumer information (see comment above on graphic health warnings). We note that the Government stated that they would consider a similar requirement for smoked tobacco products in their response to the Māori Affairs Select Committee. In line with the principle of applying equal or more rigorous regulation for smoked tobacco products, disclosure rules for smoked tobacco products should be introduced at the same time as regulations for e-cigarettes.
Regulations concerning ingredients (eg, nicotine content and/or flavours)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Yes. We agree that all ingredients and flavourings are identified and reviewed in line with international best practice standards. We recommend excluding selected additives/flavours (e.g. those shown to be toxic or that make products appealing or palatable for children and young adults) to nicotine containing ECs and e-liquids products sold within NZ (if permitted).
Requirement for annual testing of product composition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Yes. We recommend aligning with credible international guidance for product composition testing.
Prohibition on free distribution and awards associated with sales	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Yes. We view such incentives to retailers to maximise sales as unnecessary and having potential unintended adverse consequences and recommend that they are prohibited.
Prohibition on discounting	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Yes. We believe such price incentives are likely to promote increased volume of sales and that they are likely to encourage more intensive and longer term use of ECs (beyond use as a cessation aid), rather than trial of ECs for quitting. We recommend that they are prohibited. However, this could be an area for research and if targeted price incentives could be shown to enhance the impact of ECs on quitting or substitution among smokers who are unable to quit, this prohibition could be revised.
Prohibition on advertising and sponsorship	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Yes. Unless focused on Smokefree Aotearoa 2025 goals to quit.

Requirement for standardised packaging	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No. Given the lack of evidence for long term health effects of e-cigarettes, we do not think this would be a proportionate measure. However, we support regulation to ensure that packaging or product names that are appealing to children and young people are prohibited in order to minimise the use of e-cigarettes by minors.
Other	<input type="checkbox"/>	<input type="checkbox"/>	

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 ☒

Reasons/additional comments:

<p>19. We recommend that the status quo on excise/taxation of e-cigarettes should apply i.e. no additional tax or excise should be applied to nicotine-containing e-cigarettes and e-liquids.</p> <p>20. We agree that maintaining a price differential between smoked tobacco products and e-cigarettes is an important strategy to maximise the positive impact of e-cigarettes on reducing smoking prevalence and encourage the use of e-cigarettes to support quitting and as a long term substitute nicotine delivery mechanism (for smokers who cannot or do not want to quit).</p> <p>21. However, a review would be essential if evidence indicated that e-cigarettes were being used by children and young people, then stricter enforcement rather than tax.</p>
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Q8 Do you think quality control of and safety standards for e-cigarettes are needed?

Yes ☒ No ☐

Yes. We recommend a focus on best practice standards for child safety, with all e-cigarette packaging and e-liquids sold within Aotearoa and environmentally safe standards of disposal of all e-cigarette devices and liquids.

In regard to purity and grade of nicotine, we recommend that best international practice standards are adhered too and that compliance with these standards is a condition for products to be approved for sale in New Zealand.

Area of concern	Yes	No	Reasons/additional comments
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Childproof containers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Yes. For the protection of infants and small children in the home it is essential that childproof containers are used and that compliance with these standards is a condition for products to be approved for sale in New Zealand. This would minimise any accidental incidents or trips to emergency room.
Safe disposal of e-cigarette devices and liquids	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Similar safe disposal guide for lithium batteries, (similar to mobile phones) should be required and reflect any disposal guidelines that are supportive of the environment and wider community.
Ability of device to prevent accidents	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Yes, the Government should consult with industry experts on the best way to minimise the risk of explosions or fires from the e-cigarettes.
Good manufacturing practice	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Yes – It would be good to have discussion with vape venders on what is self regulating their market. Good practice standards.
Purity and grade of nicotine	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Yes. We recommend that requirements for purity and grade of nicotine are introduced aligned with best international practice, and that compliance with these standards is a condition for products to be approved for sale in New Zealand.
Registration of products	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Unnecessary
A testing regime to confirm product safety and contents purity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This should be left up to the manufacturer to decide how to provide a good quality product.
Maximum allowable volume of e-liquid in retail sales	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This should be based on customer demand.
Maximum concentration of nicotine e-liquid	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This should be left to manufacturers and retailers to decide, and to customer demand. It will self regulate, and the market should decide.
Mixing of e-liquids at (or before) point of sale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The personalisation and diversity of the range of liquids available is an important feature of ENDS products.
Other	<input type="checkbox"/>	<input type="checkbox"/>	Given the rapid evolution of vapour products, an advisory committee should be formed by which e-cigarette industry experts can meet with public health authorities and discuss new products.

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

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)?

Not applicable

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

Not applicable

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?

ⁱ Edwards, R., Walker, N., Bullen, C., Hoek, J., Beaglehole, R. (2016) *Background paper E-cigarettes and their potential contribution to achieving the Smokefree 2025 goal*. Prepared for the National Smokefree Working Group. Retrieved 9/9/16 <https://aspire2025.files.wordpress.com/2016/08/nsfwg-e-cig-and-their-potential-contribution-to-achieving-smokefree-2025.pdf>

ⁱⁱ Edwards, R., Walker, N., Bullen, C., Hoek, J., Beaglehole, R. (2016) *Background paper E-cigarettes and their potential contribution to achieving the Smokefree 2025 goal*. Prepared for the National Smokefree Working Group. Retrieved 9/9/16 <https://aspire2025.files.wordpress.com/2016/08/nsfwg-e-cig-and-their-potential-contribution-to-achieving-smokefree-2025.pdf>