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POLICY AND REGULATORY SPECIALISTS

Analysis of submissions
SFE Regulations Review: health warnings
on tobacco packaging

Final report

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Contents

Contents.....	2
Executive summary	3
1. Introduction	6
1.1 Background	6
1.2 The purpose and structure of this report.....	7
1.3 Submissions received	7
2. Key findings.....	9
2.1 Introduction	9
2.2 Cross cutting issues / comments	9
2.3 Detailed comments, by topic area.....	10
2.3.1 Size of health warnings.....	10
2.3.2 Warnings for cigars, bidis, pipe and loose cigarette tobacco and other tobacco products	12
2.3.3 Background colour of warnings	14
2.3.4 Pictorial warnings with explanatory text	15
2.3.5 Rotation and number of warnings.....	15
2.3.6 Government attribution of health warnings	16
2.3.7 Referral to Quitline	16
2.3.8 Constituent information on packs of manufactured cigarettes.....	18
2.3.9 Languages to appear on health warnings	19
2.3.10 The 0.2 percent rule.....	20
2.3.11 Specific warnings chosen for placement on cigarette packets.....	23
2.3.12 Cost-related issues for industry	25
2.3.13 Transition periods for phasing in new warnings.....	26
3. Areas for consideration	28
4. Question by question responses.....	30
4.1 Size of health warnings	31
4.2 Warnings for cigars, bidis, pipe and loose cigarette tobacco and other tobacco products	36
4.3 Background colour of warnings.....	43
4.4 Pictorial warnings with explanatory text.....	45
4.5 Rotation and number of warnings	46
4.6 Government attribution of health warnings.....	49
4.7 Referral to Quitline.....	50
4.8 Constituent information on packs of manufactured cigarettes	56
4.9 Languages to appear on health warnings	60
4.10 The 0.2 percent rule	64
4.11 Specific warnings chosen for placement on cigarette packets	69
4.12 Cost-related issues for industry.....	78
4.13 Transition periods for phasing in new warnings	80
4.14 General comments on the review	84
Appendix A: Submissions received	90

Executive summary

This report analyses submissions made on the Ministry of Health's May 2006 consultation document *Review of the Smoke-free Environments Regulations 1999: health warnings on tobacco packaging*. The report provides a detailed database of all comments made by submitters, as well as a summary of comments presented by type of submitter.

Views of health and related agencies

There appears to be a strong level of consensus between health advocacy groups, health professional bodies, researchers and universities in support of proposals to introduce larger, bolder and pictorial health warnings and other messages on tobacco packaging. The key themes from these submissions are presented below:

- **The bigger the better:** there is a high level of consensus that neither of the two warning coverage options presented in the consultation document (50:50 or 30:90) are ideal and that the Ministry should be advancing at least a 50:90 option.
- **Strong preference for 50:50 over 30:90:** there was particular concern about the 30:90 option, with many submitters arguing that the warnings on the front would not be prominent enough and that this configuration would not allow effective communication of the Quitline message and number on both sides of the packet.
- **Graphic warnings endorsed:** there was unanimous support for the use of pictures on tobacco packets.
- **All products must be treated the same:** there was strong agreement that all products, regardless of type (cigarettes, RYO, pipe, cigars, etc), market share or origin should have the same warnings and information in terms of size, broadly-similar content, graphic nature, prominence, background colours, inclusion of the Quitline message, etc.
- **The industry must be regulated:** there is concern that the tobacco companies will apply various tactics to undermine implementation. Submitters argued that regulation must prevent the use of stickers and innovative designs and packet shapes that would detract from the new warnings.
- **New background colours supported:** there was strong support of the future use of the yellow and black colour combination for all products.
- **14 warnings supported:** there was support for two sets of 7 warnings, rotated in alternate years, and a call for review and updating or replacement of warnings after the two year period.
- **Emphasis on Quitline:** there was unanimous support for inclusion of the Quitline message and number on packages, boxed for increased prominence, and for inclusion of the Quitline message and number on both sides of the packet. Submitters stressed that all products, regardless of origin, need to carry the New Zealand Quitline message and number.
- **Rejection of levels of harmful constituents:** there was strong support for replacement of the levels of harmful constituents (tar, nicotine, CO) on manufactured cigarettes with a qualitative message.
- **Principal languages:** there was unanimous support for inclusion of messages in Te Reo Māori on all tobacco packages, and strong support for all English messages to be presented in their Te Reo Māori equivalents.
- **Wide range of views on content of warnings:** there was considerable comment on the nature of the 14 warnings, with some concern expressed over wording, particularly

in relation to the emphysema and heart breaker messages. There was also concern about message 1, as the head of the person was not shown on the picture.

- **No support for the 0.2% rule:** there was a strong rejection of the 0.2% rule in favour of all products carrying the same warnings.
- **Evaluation crucial:** many submissions stressed the need for the approach taken, and individual warnings, to be thoroughly evaluated.
- **Too long to implement:** there was rejection of the timetable advanced in the consultation document for implementation of the new labelling. Submitters considered that 12 months for introduction of warnings, and a further three months for disposal of old stocks by retailers, was far too generous.

Views of tobacco industry and retail groups

Submissions by tobacco industry and retail interests contained some common themes as well, although there was not as great a level of consensus among these submitters. The key findings include:

- **Scepticism over pictorial warnings:** some submitters questioned whether pictorial warnings would be effective in reducing tobacco consumption.
- **Broad commitment to compliance:** tobacco companies indicated their willingness to comply with regulations. There was general agreement that it was up to the Government to decide the content of the images and text, but one submission noted that they needed to be backed up by evidence, and retail groups expressed concern that shocking images may offend customers.
- **Preference for option 2:** companies indicated a preference (if not support) for Option 2 (30:90) and in most cases opposed Option 1 (50:50). One company indicated, however, its intention to seek compensation for alleged expropriation of trade marks should graphic warnings taking up a larger portion of the pack, than is currently the case, be advanced.
- **Concern over costs:** all companies indicated that the costs of implementation of graphic warnings are substantive, that there are practical difficulties with changing to a ten colour printing process and that it will take time to implement the changes.
- **Split on the 0.2% rule.** smaller companies, particularly importers of products with small market volumes (eg cigars and pipe tobacco), are extremely concerned that if they are required to label all products with New Zealand warnings that they will not be able to continue to import products. They are instead promoting regulations allowing the import of products with Australian-style warnings (in line with the 0.2% rule). There is a counter argument, advanced strongly by one company, in particular, that all products must comply with New Zealand regulations. Retention of the 0.2% rule was rejected by the two retailer groups who provided comment.
- **Single cigars:** there was a call for single cigars to be exempted from labelling requirements, in line with Australia's approach and for practical reasons.
- **Concern over background:** companies expressed concern over the possible application of a yellow and black background colour combination for packets due to printing considerations.
- **Rotation of warnings:** tobacco companies were divided over the idea of two sets of seven warnings, two companies saying they would accept this approach if directed (but requesting a four month overlap of the two sets of warnings), and one suggesting a set of 12 warnings rotated over a two year period.

- **Quitline acceptance:** there was acceptance of the Quitline message, but a request by small importers that the Australian warnings (with Australia Quitline) be accepted for imported products (especially cigars and other low volume imports). The idea of having both countries' Quitline on tobacco packets was advanced by two importers.
- **Content information:** there was either support or ambivalence over the idea of replacing the levels of harmful constituents (tar, nicotine, CO) on manufactured cigarettes with a qualitative message.
- **Te Reo Māori:** companies generally considered it was up to the government to decide the merit of including warnings in Te Reo Māori.
- **Request for close liaison as regulations developed:** tobacco companies have sought ongoing consultation and liaison as the regulations are developed, as a means of facilitating implementation and avoiding delays or mistakes.
- **Implementation timeframes:** tobacco companies argued strongly for at least 12 months (one New Zealand-based company sought 18 to 24 months) to introduce the new warnings. Industry and retail groups sought at least six months to dispose of old stock.

Section 3 of this report provides advice on critical issues raised by submissions that the Ministry of Health needs to explore further. These are:

- The preferred option for tobacco packet coverage (30:90, 50:50, or an alternative approach)
- The adoption of graphic warnings
- Specific warnings for cigars, RYO, pipe tobacco, etc
- Whether the 0.2% rule should be retained
- Practical issues around implementation of new labelling requirements
- The specific content (wording and graphics) of warnings
- Cost-related issues, including the need to secure more detailed costings from industry
- The process for finalising the preferred option for a decision by the Government
- The future evaluation of the regulations and of specific warnings.

1. Introduction

1.1 Background

In July 2004 the Ministry of Health issued a consultation document on a review of the Smoke-free Environments Regulations 1999.¹ The consultation document was used to solicit industry and public feedback on four key areas of potential regulatory change:

- Determining what warnings, messages, and other information (including the possibility of pictorial warnings) should optimally be required to be displayed on all tobacco products;
- Reviewing whether the use of certain terms, descriptors and markings should be regulated or prohibited on the grounds of actual or potential ability to mislead or deceive consumers;
- Reviewing the disclosure of the constituents of tobacco products and tobacco smoke; and
- Reviewing options for reducing the harm caused by tobacco use.

The consultation document emphasised that the most immediate regulatory changes required related to changes to tobacco packaging to ensure that New Zealand was in compliance with Article 11 of the Framework Convention on Tobacco Control (FCTC). Forty written submissions were received and the analysis of these was completed in January 2005.²

In May 2006 the Ministry issued a new consultation document³, with specific proposals for health warnings and messages for placement on tobacco packaging. The document stated that the two objectives of the regulations review with respect to the consultation document were to:

- ensure that New Zealand complies, by February 2008, with the mandatory requirements of Article 11 of the FCTC, which New Zealand has ratified, as a minimum; and
- propose warnings that should optimally be required to be displayed on all tobacco products sold in New Zealand.

The consultation document presented two key labelling options:

- The 50:50 option (warnings taking up 50% of the front and 50% of the rear of a packet of cigarettes); and

¹ Allen & Clarke. *Review of the Smoke-free Environments Regulations 1999: Labelling of tobacco products – Tobacco product content regulation – Disclosure by tobacco companies – Regulation of product disclosures: Consultation Document*. July 2004. Wellington: Ministry of Health. Available at: <http://www.ndp.govt.nz/publications/review-smokefreeenvironments.html>

² Allen & Clarke. *Summary of Submissions on the Review of the Smoke-free Environments Regulations 1999 with commentary and recommendations*. January 2005. Wellington: Ministry of Health. Available at: <http://www.ndp.govt.nz/publications/summary-of-submissions-on-smoke-free-environments-review.htm>

³ Ministry of Health. *Review of the Smoke-free Environments Regulations 1999: Health warnings on tobacco products: Consultation document*. May 2006. Wellington: Ministry of Health. ISBN 0-478-29984-2 (Book).

- The 30:90 option (warnings taking up 30% of the front and 90% of the rear of a packet of cigarettes).

The consultation document also outlined a range of packaging design elements for comment, including the use of pictorial warnings alongside textual elements, warnings in Te Reo Māori, different colours for text and background, and the placement of the Quitline phone number on packaging.

1.2 The purpose and structure of this report

The purpose of this report is to summarise and analyse the submissions made on the May 2006 consultation document.

The report is presented in four parts.

- Part 1 provides an introduction and some background information on the review.
- Part 2 presents the key findings of the analysis of submissions, including commentary presented on a stakeholder basis.
- Part 3 presents recommendations based on the key findings in part 2.
- Part 4 provides a database of comments made by submitters, presented by question number or topic, and by stakeholder group.

1.3 Submissions received

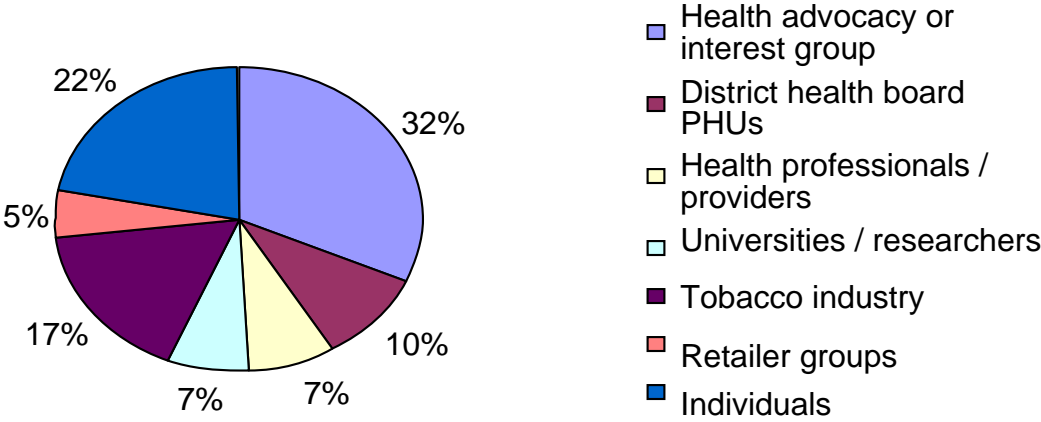
The Ministry of Health received 41 submissions on the second round of consultation on proposed warnings for display on tobacco packaging. A full list of submitters is attached as Appendix A.

Submissions came from a range of sources:

- 13 health advocacy or health interest groups
- 7 tobacco companies / industry suppliers
- 4 District Health Boards' public health units
- 3 health professional bodies / health providers / health professionals
- 3 universities / researchers
- 2 retailers or retailer groups
- 9 individuals.

The breakdown of the submissions is shown in figure 1 below:

Figure 1: Breakdown of submissions



2. Key findings

2.1 Introduction

This section of the report summarises the key points made in submissions, identifying where there is consensus within and between groups of submitters. It draws exclusively on the detailed database of submitters' comments that comprises section 4 of this report.

Where appropriate, different types of submitters have been grouped together to facilitate summarising of comment, particularly where the breadth of views and comments made are similar. All comments and views are linked to those submitters who have presented them, by inclusion of submission numbers within brackets at the end of each point made. Appendix A to this report includes a list of submissions for ease of reference.

2.2 Cross cutting issues / comments

Many submitters made general comments about the scope of the review, the benefits of health warnings as a tobacco control intervention, the role of government in regulation setting, tobacco industry behaviour or ethics, and wider policy imperatives that need to be considered in the development of policy or regulation. As these comments did not relate strictly to any one of the specific questions posed in the consultation document, these comments were summarised separately in section 4.14 of this report.

Briefly, these comments included the following:

- Concern that the consultation document lacks leadership and the view that the Ministry of Health and/or the Government need to take a stronger stand on the issue by adopting tobacco health warnings that dominate the packaging, well beyond the Options presented in the consultation document (27,31,32)
- Concern that the tobacco industry has been given the opportunity to comment on, or influence the outcome of, the review; or that the views of the industry have been given too much weighting by government (12,18,19,27,32,33)
- Assessments of the impact of trade agreements and other instruments on the ability of the government to regulate for stricter packaging and labelling requirements (for example, the ability of the TTMRA to be used to undermine consistent and New Zealand-specific labelling requirements) (27,29,30)
- Industry acceptance of the role of the government in determining the content of health warnings on tobacco packaging (9,10,14) and support for the principle of providing consistent and effective information on the risks of smoking to consumers (9,10,23,24)
- Scepticism from industry submitters that pictorial health warnings will have an impact on smoking behaviour (23,41)
- Call for dialogue between the Government / Ministry of Health and tobacco companies on tobacco control generally, and/or on implementation of new health warning regulations specifically (23,41).

One industry submitter challenged the lawfulness of the proposed options for tobacco packaging on the grounds that they constitute an expropriation of the company's intellectual

property rights as well as rights protected under the New Zealand Bill of Rights Act 1990. The company stated its view that it should be compensated for breach of these rights (41).

The reader is referred to the table in section 4.14 for a full listing of comments made.

2.3 Detailed comments, by topic area

2.3.1 Size of health warnings [consultation document section 3.2.1, questions 1 and 2]

Health, advocacy and research agencies

Submissions from health advocacy and interest groups, district health boards, health professionals, and researchers and universities were very similar in their views. Accordingly, their submissions have been grouped together in this section.

There was some support for having no tobacco branding on tobacco packets at all (17,18,27,29,30,31,32). Reasons advanced included the potential to send mixed messages, and that branding was an industry marketing tactic that undermined public health messages. Four submissions called for near total coverage of the packet by health warnings, with one advocating 90:100 (12), one supporting 80:90 (31) as their first preference, and two supporting 60:100 (18,20). One submission called for near total coverage of the front (13). Of those submissions advocating total or near total coverage, several identified their compromise position as 50:90 (17,18,27,29,30,31,32).

Several submitters rejected both options presented in the consultation document specifically in favour of 50:90, an approach that had been advocated strongly by ASH, the Smokefree Coalition and Te Reo Marama as their compromise position (8,11,15,27,36). One key reason given for supporting a 50:90 approach was the ability to have the Quitline number prominently featured on both front and rear of the packet, with the 30% front option seen as too small to effectively communicate this information.

Several submitters stated that if their first preference for near total coverage, or for 50:90, was not adopted, then their preference between the two options would be Option 1 which provides for 50:50 (12,13,15,17,18,20,29,30,31,32). Others simply identified Option 1 as their preferred option of the two presented (6,19,22). Most of those supporting Option 1 cited the need to have the Quitline featured prominently on both sides as a key reason for this support. One submission suggested that the 50:50 option be modified so that it used a yellow banner on the front with black text rather than having yellow bands on the side (17).

Two submitters simply stated their support for positions advanced by other submissions: by submission 18 (34) and by submissions 18 and 31 (25).

Two submitters supported Option 2 over Option 1 (7,11), and one submission supported Option 2, if Option 1 was not selected (6).

However, several submitters specifically rejected Option 2 (30:90) on the grounds that it would: be ineffective; leave too much tobacco branding which would be distracting, conflicting and undermine the public health messages; because the Quitline message would not be easily read; or because the message would be obscured when the flip top is open (17,18,

20,32). One submitter stated that if the 30:90 option was adopted then something needed to be done to ensure the Quitline information was clearer on both sides (17).

A common message in submissions was “the larger the better” with many submitters quoting research (including that by the International Tobacco Control Policy Comparison (ITC) project) that suggested that the larger the warnings were, the more effective, and that graphic warnings were also a highly effective approach.

There was some comment on the suggestion that harmonisation of warnings between Australia and New Zealand be promoted, with two submissions stating harmonisation was not possible anyway because of messages in Te Reo Maori and the New Zealand Quitline number (17,27).

Tobacco industry

Two submitters stated that it was the role of the Government to decide the scope, content and format of warnings on tobacco packets (9,10). However, two submissions expressed the view that the evidence was inconclusive or that it had not been proven that pictorial warnings reduced smoking behaviour (23,41).

If one of the two identified options was to be selected, four tobacco companies expressed a strong preference for the 30:90 (Option 2) approach (9,10,23,41). One submission stressed that this should apply to manufactured cigarettes only, and supported the Australian approach (30:50) for RYO and pipe tobacco (41). Reasons for supporting Option 2 over Option 1 included that:

- it is consistent with section 21(c) of the Smoke-free Environments Act 1990 (SFE Act 1990), whereas Option 1 is not (10,41)
- it would promote harmonisation with Australia (41) and that not harmonising with Australia could lead to reliance on TTMRA and the import of products without Te Reo Maori warnings or the NZ Quitline number (10)
- there are implementation and cost issues (10)
- it achieves a better balance (communication on health versus trademark communication with customers)
- it would assist with retention of the 0.2% rule / facilitate the option of having Australian warnings for those products imported from Australia (9,23).

Cost issues

One industry submission suggested that the cost differences between Options 1 and 2 are not material. The significant costs result from the move from black and white text, to graphic warnings. An explanation of the various costs was provided, with the company estimating the total cost of pictorial warnings at NZ\$3.19 million to implement and \$0.427 million per annum for increased cost of materials. These costs relate to New Zealand-produced cigarettes, RYO and pipe tobacco only, excluding set-up costs for cigars and products imported from countries other than Australia (41).

Another submission suggested that the costs of pictorial warnings would be proportionately higher for that company compared with the other major manufacturer due to its ownership of a large number of brands compared with market share. While noting that fixed costs could not

be advised until the proposals have been finalised, it estimated costs at approximately NZ\$2.5 Million for manufactured cigarettes. Detailed costs were provided. The cost estimate did not include other (RYO, pipe tobacco, etc) products as the company seeks their exemption from the requirement for pictorial warnings. Ongoing costs for tobacco packaging were estimated to be approximately 15% higher per annum. If adequate transition periods are not provided, then write-off costs could increase (23).

One submission stressed that harmonisation with Australia (Option 2) would provide practical efficiencies and cost savings for those who already have the designs, plant and equipment set up as a result of compliance with the recent Australian warnings (10). The company did not provide cost estimates in the event that this approach should not be adopted.

One submission expressed its commitment to meet any future legislative requirements, but noted that any changes would incur significant costs, particularly for small importers (28).

Retailers

One retailer group expressed the view that graphic warnings should be placed on the rear of packets to avoid the shock factor that may offend some customers. The submission did not oppose larger textual warnings on principal display panels (21).

Individuals

Individuals were split in their support of Option 1 or Option 2. Two out of the six surveyed students (see submission 5) supported Option 1, while the remaining four students supported Option 2. One other submission supported Option 2 for the impact of having most of one side taken up with health information (14). The remaining individuals' submissions that commented specifically on this question supported the 50:90 approach, with the preferred option of the two set out in the consultation document being Option 1 - so that the Quitline message could be on both sides (33).

2.3.2 Warnings for cigars, bidis, pipe and loose cigarette tobacco and other tobacco products [section 3.2.2, questions 3, 4, 5 and 6]

Health, advocacy and research agencies

Again there was a high degree of consistency between submissions from health advocacy and interest groups, district health boards, health professionals, and researchers and universities. Their submissions have been summarised together below.

Almost universally, health advocacy and interest groups considered that all tobacco products should carry the same warnings (ie broadly or exactly the same graphics, same text, same coverage, same size, inclusion of same Quitline message) as manufactured cigarettes (17,18,19,20,22,27,29,30,31,32,36). Reasons given included that all tobacco is harmful whatever its nature; that RYO is increasing in use, including by young people, and is used in particular by target groups (Māori, low income groups); that having lesser warnings could imply that these products were somehow safer; that there were myths around RYO being safer than cigarettes; and that we need to avoid any incentives for people to switch to RYO.

The submissions on this question from health professionals and researchers similarly stated their support for warnings on these products, including for graphic warnings (6,7,11,12,13,25).

One submission supported the suggested graphics and text but considered that they should be the same size as the warnings for manufactured cigarettes (15). Another believed that messages should cover differing health impacts where they exist but did not support different rules for different products otherwise (31).

There was some detailed comment on the specific content of the suggested warnings, including some recommendations for changes to wording (see submissions 11 and 12).

Some submissions called for a packaging standard and / or detailed regulatory requirements so that there are consistent requirements for tobacco packages (11,15,17,18,19,22,27,29,30,31,32). This was sought as a means of avoiding tobacco industry strategies to undermine health messages (examples of these strategies that were cited included new shapes such as octagonal packages that mean that warnings are obscured by being wrapped around the sides of a package, reusable packages that can have sticker-based warnings removed, twin packages being counted as cartons, and use of the inside of the flip top to carry messages to undermine health warnings). Specific strategies recommended, as part of a packaging standard or alongside, included the banning of health warnings being applied by stickers, banning the making of stickers to cover warnings, requiring all messages to be printed directly onto all packaging and specifying the shapes and sizes that are permitted for tobacco packages.

Tobacco industry

Two submissions did not oppose pictorial warnings on other tobacco products but asked that products labelled in accordance with current Australian regulations be able to be legally sold in New Zealand, consistent with harmonisation and section 21(c) of the 1990 Act (9,24).

One submission commented that pictorial warnings were not a requirement of the FCTC and that loose and pipe tobacco should not be required to have pictorial warnings. Further, a one-size-fits-all approach would be problematic given different sizes, shapes and material used for tobacco packaging. The submitters argued that there needs to be flexibility in proportions and colours used for packaging (23).

With respect to cigar warnings, one submission stressed the need to take into account the marked differences in product types, sales volume, market size, pack terminology and smoking incidence with respect to cigars versus other forms of tobacco packaging. This submission sought harmonisation with Australia with respect to cigar packaging (24).

Another submission strongly advocated for one standard for packaging for all tobacco products sold in New Zealand, irrespective of origin and market share. While supporting Australian-style / size warnings for RYO and pipe tobacco, and not opposing a set of cigar-specific health warnings, the submission argued that packaging should be New Zealand-specific, including carrying Te Reo Maori warning(s) and the New Zealand Quitline message. Different standards would promote unfair competition and the same standards would promote compliance and enforcement of the regulations (41).

Submission 41 in stressing consistent labelling requirements across all products, sought some flexibility, however:

- Single cigars should not have to carry warnings, for practical reasons
- Companies should be able to affix adhesive, non-removable health warnings on imported products and those of low volume sales
- Overwraps if they are transparent should not have to have health warnings provided that health warnings are visible on internal packages (however, overwraps on cartons that are semi-transparent or non-transparent should comply with the 30:90 standard)
- Non-retail packaging should not have to carry warnings.

Companies did not provide specific cost estimates, beyond the general costs provided in response to question 2.

With respect to the issue of whether single cigars should carry warnings, three submissions noted practical difficulties with labelling single cigars which usually come in sealed boxes from offshore (9,24,41). Two submissions noted that Australian regulations do not require single cigar labelling as the Australian Government recognised that it would be impracticable and would result in the virtual withdrawal of all products from the market (9,24). It was also suggested that warnings on larger packages that contain single cigars should suffice to warn consumers (9,24).

Retailers

No comment.

Individuals

Four of the six students surveyed as part of submission 5 supported the proposed warnings for other tobacco products, while one did not and a further one did not have a view. Another individual submission commented that they supported 30:90 coverage for packaging of all tobacco products (14) while a third expressed the view that warnings should be exactly the same as for manufactured cigarettes (33). This submission also stressed that the Quitline number should be in boxed text on both sides of the packets of all products, including cigars, and expressed concern over means of undermining warnings by strategies such as placing warnings via removable stickers (33).

2.3.3 Background colour of warnings [section 3.2.3, question 7]

Health, advocacy and research agencies

Health, advocacy and research groups were unanimous in their support of the yellow and black background colour combination (6,7,11,12,13,15,17,18,19,20,22,27,29,30,31,32,36). Reasons given for this support included the association of those colours with hazard warnings, and because they stand out and are highly visible. Several submissions also referred to the BRC research finding that this colour combination scored well with focus groups.

Two submissions supported the colour combination, but stated that if the 50:50 option is selected, the writing should be black text on a yellow background to ensure that it stands out (17,31).

Tobacco industry

Two submissions commented on this issue, expressing concerns regarding the practical complexities of colour printing, and the use of process versus spot colours (23,41). One submission stated its desire to work with the Ministry on the development of the new regulations due to these complexities (23). Both submissions provided technical comment around how to best undertake the printing, and noted approaches permitted in Australia and Canada to facilitate printing of pictorial warnings. The Ministry of Health is referred to the detailed comment included in these submissions and to submission 35 when considering these matters.

Retailers

No comment.

Individuals

Responses were very similar to those made by health, advocacy and research groups.

2.3.4 Pictorial warnings with explanatory text [section 3.2.4 (no question, but comments provided)]

There was limited comment on this section of the consultation document. There was support from some health advocacy / interest groups and researchers / universities for graphic warnings (4,12,16,25,31). Two tobacco companies stated that it was the role of the government to decide the scope of warnings on tobacco packaging (9,10) and one company expressed the view that pictorial warnings would be unlikely to be effective in hastening an already existing decline in smoking prevalence (23).

2.3.5 Rotation and number of warnings [section 3.2.5, question 8]

Health, advocacy and research agencies

Health, advocacy and research groups were unanimous in their support of having a set of 14 warnings, in two sets of seven in alternate years (6,7,11,12,15,17,18,19,20,22,27,29,30,31,32,36). Several submissions recommended linking the graphics on tobacco packages with mass media campaigns and vice versa so as to maximise the reach of the messages (11,15,17,18,19,29,30,31,32).

There was a consistent recommendation for all messages individually, and the warnings as a package, to be comprehensively evaluated, including in some cases advocating for a baseline assessment to be undertaken and surveying using a robust Māori sample (11,15,17,18,19,22,27,29,30,32). Many of these submissions referred to the ITC project as providing an opportunity to carry out this evaluation (as well as of wider tobacco control policies and programmes) in a cost effective way (15,17,18,19,29,30,32). Note: this theme of evaluation was also strongly explored in responses by submitters to the specific warnings advanced by the consultation document (see section 2.3.11 below).

Some submissions recommended that after two years new warnings be introduced to avoid graphic images losing their impact (18,19,20).

Tobacco industry

One tobacco company supported rotating health warnings and advised that it would defer to the Ministry on the appropriate number to be rotated at one time (10). Another company suggested that it would prefer two sets of six warnings but could accept two sets of seven (41). One submission did not support two sets of seven warnings due to packets being printed from a cylinder engraved with 12 pack designs (23). The company suggested that consideration be given to twelve warnings rotated over a period of two years.

Two companies proposed, given logistical difficulties and the approach taken in Australia due to those difficulties, that there be a four month period during which both sets of seven messages can be manufactured (10,41). Submission 41 also sought agreement for compliance to be based on display of an equal number of retail packages “as nearly as is possible”. The same company also suggested that tobacco packages are of a ‘different kind’, and thus requiring to be considered separately when it comes to ensuring that all warnings be displayed in rotation, should be defined as including different brand variants and different pack sizes (similar to the current regulations).

Retailers

No comment provided.

Individuals

Submissions from individuals were broadly similar to the views presented by health, advocacy and research groups.

2.3.6 Government attribution of health warnings [section 3.2.6 (no question)]

Only one non-tobacco industry submission commented on attribution, supporting it (11). One tobacco company commented that attribution should be prohibited as the company wants to make it clear that it supports a message on the risks of smoking. If attribution is to be permitted, the company argued it should be required rather than leaving it to individual companies to decide whether to attribute or not (10).

2.3.7 Referral to Quitline [section 3.2.7, questions 9, 10 and 11]

Health, advocacy and research agencies

Note: also refer to section 2.3.1 discussion (above) about the strong support for the inclusion of the quit message on both front and rear of tobacco packaging.

Health, advocacy and research groups were strongly supportive of the addition of the Quitline number on tobacco packages (4,6,7,8,11,12,13,15,17,18,19,20,22,27,28,29,30,31,32,36,37,). A consistent reason given for this support was the need for, and value of, positive messages

to balance the negative messages about health effects. People needed a clear and accessible avenue for action once they had been exposed to information about risks.

There was a similarly high level of support for the specific message advanced in the consultation document, with the words “You CAN quit” having particular support as it is clear, positive and encouraging (4,6,7,11,12,15,17,18,19,20,22,27,29,30,31,32,36). One submission recommended a change to include reference to the local quit smoking provider (36). However, another submission suggested cutting the text short for simplicity, finishing the wording after the Quitline number (7).

Most submissions responded, and responded favourably, to the question regarding the value of the Quit message being in a box (6,7,11,12,13,15,17,18,19,20,22,25,27,29,30,31,32,36). Many of these submissions also explicitly stated support for a boxed message on both sides of the packet (11,15,17,18,19,27,29,30,31,32,36). There was some suggestion, however, that on some of the mock-ups the Quitline message was too hard to read, either because of the size of the warning or the placement of the text over the top of graphics. Several submissions called for greater contrasting and/or recommended specific colour combinations with the most common suggestion being that the border of the box and the text be white, on a black background (11,15,17,18,22,27,29,30,31,32,36).

Some submissions emphasised the need for Australian-imported products to have the new Zealand Quitline number of their packaging (17,18,27,29,30,31,32). Two submissions suggested rerouting attempted calls made in New Zealand to the Australian Quitline to the New Zealand number (29,30).

Tobacco industry

Two submissions, advancing the view that cigars and pipe tobacco should be able to be imported with Australian labelling, proposed that consideration be given by Australian and New Zealand authorities to inclusion of both countries’ Quitline numbers on the same packaging, to be added progressively over time (9,24).

One submission suggested that it was up to the Government to decide whether inclusion of the Quitline would be effective (23). Another considered it a reasonable and effective means of advancing the Government’s objectives and stressed that it should appear on all products regardless of origin or market share (41). Both submissions suggested that the actual wording chosen should be up to the Government to decide and that it should be included within the total area set aside for warnings (23,41).

One submission, commenting on the idea of a boxed message referred to their comments in response to the issue of background colours and the practicalities of implementing yellow and black (41).

Retailers

No comment.

Individuals

All submissions by individuals supported the placement of the Quitline number on tobacco packages. The specific wording advanced by the consultation document, and the concept of

including it within a box, was also supported by some submissions (5,14,33). One submission recommended that “Me Mutu” also be added (33). Two submissions recommended that the quit message be displayed on both sides of the package (14,33).

2.3.8 Constituent information on packs of manufactured cigarettes [section 3.2.8, questions 12 and 13]

Health, advocacy and research agencies

Submissions from those health groups, district health boards, health professionals and researchers who responded to this question were all supportive of replacing a list of levels of harmful constituents on the side of packets of manufactured cigarettes with a qualitative statement about risks (6,7,11,13,15,17,18,19,22,27,29,30,31,32,36). The reasons given included that smokers do not usually read, assimilate or understand what the chemicals are as stated, that a qualitative message would be simpler and easier to understand and that smokers had become blasé about the quantitative message.

One submission suggested that the better known constituents such as arsenic, benzene, etc should be listed (27). Another suggested that such matters as whether a quantitative or qualitative message was best were “best left to those with expertise in marketing” (37). Two submissions were concerned that inclusion of such a message should not be used as an excuse to reduce the size of the health warnings (18,19).

Tobacco industry

One submission supported the proposal as it was consistent with Australia and recognised that current ISO yields are not useful for consumers and can influence consumer decision-making. It suggested that ISO yields be prohibited from placement elsewhere on the packaging. If future, effective machine test methods are developed then the government should reconsider the message then (10).

Two submissions noted that the EC had taken the different view that measured yields should still be displayed on packaging (23,41) and one referred to FCTC Article 11(2) requirements in this regard (23). The company suggested that quantitative and qualitative information should be presented together.

Another company commented that it was the Government’s role to determine wording. However, if a quantitative message was retained, it could be supplemented to clarify that levels are derived from standard machine testing and tar, nicotine and CO inhaled may differ. It also noted that if it is a qualitative message, then consumers will need to rely on brand variant names in order to identify their product of choice. The submission also noted that there is currently no content message on other products, so if it is decided to proceed with such for other products, further consultation would be required unless the Australian format was chosen (41).

There was limited comment on the cost implications of the change. One submission made a general comment (not in relation to this question) that any changes will incur significant costs, particularly to small cigarette importers (28). Another noted that no additional costs would apply if the change is implemented at the same time as introduction of new warnings, or if the current message was retained (41).

Retailers

No comment.

Individuals

There was largely support for the qualitative message among those individuals who commented on this question (5,14). One submission recommended giving consideration to the inclusion of quotes from reputable authorities on a further side panel (14).

2.3.9 Languages to appear on health warnings [section 3.2.9, questions 14 and 15]

Health, advocacy and research agencies

There was unanimous support for inclusion of health warnings in Te Reo by those submitters who commented on this question (4,7,8,11,12,13,15,17,18,19,20,22,25,27,29,30,31,32,36). The majority of submissions supported the banner-line approach (ie: all English health warnings being presented in Te Reo Māori) (8,11,15,17,18,19,20,22,27,29,30,31,32).

Key reasons given for having warnings in Te Reo Māori, and in particular for having all English warnings duplicated in Te Reo Māori, included that:

- a disproportionate number of Māori smoke / Māori are a priority population / Māori may relate better to a warning in their own language (11,13,18,19,20,22,27,32,36);
- Te Reo is an official language of New Zealand (8,15,17,22,27,29,30,32);
- the inclusion of warnings in Te Reo Māori is consistent with the FCTC Article 11(3) requirement to have health warnings on tobacco packages in the principal language or languages of the country concerned (11,15,17,27,29,30,32);
- tokenism should be avoided / all smokers should be treated equally (18,19,25,29,30);
- Te Reo Māori is a dynamic language that should reflect the specific context / having one translated message would be out of context or result in a mixed or weakened message (27,32);
- it shows commitment to / is required by the Treaty of Waitangi (19,22);
- a greater number of people, particularly young people, are becoming fluent Te Reo speakers (11,32);
- there is a risk of marginalising / undervaluing Te Reo Māori compared with English (27);
- it promotes learning of the language (11).

Two submissions stressed the importance of pre-testing all messages, and/or seeking advice from Māori public health and smoking experts to determine the best content of any warnings (8,36).

Some submissions supported having only one or two messages in Te Reo. One submission commented that the translation of all messages into Māori may not always be the most effective form of message delivery (37). This submission suggested that a single message in Māori might be used and that it should be short and sharp (eg KA MATE KOE I TE KAI HIKARETI) as long translations such as those in the consultation document may not be useful as it may be too difficult for non-fluent speakers to understand. Another submission supported

use of one or two messages to get across the key messages which are that smoking is addictive and that it kills (36). A further submission commented that not all Māori are fluent in Te Reo (12), so maybe only several should be used.

Two submissions provided comment on specific wording options that should be considered (11,27).

Tobacco industry

Two companies commented on this. Both considered that it was up to the Government to decide whether messages in Te Reo Māori would be useful, and stressed that any messages must be included within the area set aside for warnings (23,41). One submission indicated that developing specific messages in Te Reo Māori could increase the relative cost per market share (23). The other stated that Te Reo Māori messages should be mandatory for all products sold in New Zealand, regardless of country of origin or variant market share (41).

Retailers

No comment.

Individuals

There was generally support for warnings in Te Reo Māori on tobacco packages alongside English warnings, for much the same reasons as those advocated by health groups and researchers. One respondent in the group making up submission 5 suggested, however, that warnings in Te Reo Māori would mean less room on the packet for English, and that most people read this language.

2.3.10 The 0.2 percent rule [section 3.2.10, questions 16 and 17]

Health, advocacy and research agencies

Those who responded on this issue were almost unanimous in their opposition to retention of the 0.2% rule (6,7,8,11,12,13,15,17,18,19,20,22,27,29,30,31,32,36). The reasons given were that submitters saw no need to protect small players, would not be worried if small players were not able to compete in the market, that all tobacco products are harmful, that there is a need to treat all importers and manufacturers consistently in order to promote a level playing field, that the current reference to “substantially the same effect” in the context of exempting some packages from full compliance is vague and confusing and that such an exemption may be inconsistent with the FCTC.

However, one submitter stated that they would be happy to “... leave the small product lines well alone, given that this will do little to undermine the broad intent and impact of tobacco health messages” (37).

Given opposition to the 0.2% rule, most comment that was provided on whether it should be qualified to emphasise that any products relying on the exemption still needed to comply with minimum requirements of the FCTC, simply reiterated opposition to retention of the rule. However, two submissions supported such a qualification if the 0.2% rule was retained (7,32).

Tobacco industry

Views on this issue were polarised.

Those supportive (9,23,24) argued that:

- the rule facilitates an even playing field, ensuring the market remains competitive and stays open for imports (23)
- in the absence of the 0.2% rule, it would not be commercially feasible to produce products with New Zealand-specific warnings (9,24). An example was given of one company's highest selling cigar brand having only 0.05% market share in New Zealand (9). Another noted that the total sale of cigars in New Zealand is estimated at only 0.35% of the total market (24)
- it is consistent with TTMRA (9)
- it is consistent with section 21(c) of the 1990 Act (9)
- there would be divisional closure and job losses if cigar brands were removed from the market (24).

One submission considered that the terminology around what is substantially compliant and thus can rely on the 0.2% rule needs to be clarified and should relate to New Zealand pictorial warnings only and not allow text-based warnings (23).

Those opposed (10,41) argued that:

- The public should receive a consistent message: brands with low volume sales are no safer (10)
- The law should be applied consistently (41)
- Consumers should benefit from the Te Reo Māori warning and the reference to the New Zealand Quitline (41)
- Implementing the same regime would facilitate compliance and enforcement (41)
- A large proportion of the market (over 90 brands) would be exempted if the 0.2% provision was retained (41).

In relation to whether any qualification of the 0.2% rule should be introduced to ensure compliance with minimum FCTC requirements, there was a reiteration of tobacco companies' stated positions either in support or opposition to the 0.2% rule.

Retailers

The two retailer groups who responded to this question opposed retention of the rule. The reason given was that all products should comply with the same rules to promote a level playing field (21,26).

Individuals

Individuals were broadly of the same view as the majority of health and research groups and retailers that the 0.2% rule should not be retained (5,14,33). One submission suggested that if the 0.2% rule was retained then it should be qualified to ensure that any importers relying on it complied with the minimum requirements in the FCTC (33).

2.3.11 Specific warnings chosen for placement on cigarette packets [section 4, question 18]

Health, advocacy and research agencies, and individuals

Note: As with the answers to many questions, health advocacy groups, health interest groups, health professionals, researchers and research institutions seemed to have a very similar breadth of views. In this instance too, individual submitters (with one notable exception) appeared to have similar views to the above groups. Accordingly, in this section individual submissions have been summarised with the other non-industry groups.

Responses to question 18, which asked whether submitters agreed with the designs and concepts used in the various health warnings presented in section 4 of the consultation document, were extremely detailed with many submitters commenting on each and every warning. Many submissions recommended alternate wording, images, and colour combinations. A few even provided alternate mock-ups. Some submitters also reiterated their views about the ideal size of warnings and coverage of the packet.

No attempt has been made to repeat all comments made by submitters here: the reader is referred to the detailed tables listing responses (see section 4 of this report). This section does, however, set out the key themes from the submissions, including views on specific warnings where there appears to be a strong consensus.

General support

Many submitters explicitly stated their general support for the design and concepts, even where they had concerns over individual images or text elements (4,6,13,17,18,19,20,27,36).

Accuracy of text

A few submissions commented on accuracy of warning text, expressing the concern that inaccurate facts or over-stating risks could undermine belief and acceptability of the warnings as a whole (4,11,12). Two submissions suggested that relevant organisations be consulted over content (eg Cancer Society for cancer; Heart Foundation for heart disease) (18,19).

Pre-testing / evaluation

A number of submissions emphasised the need for all warnings to be evaluated, including with target groups, and some recommended evaluation as part of New Zealand's participation in the ITC project (12,15,16,17,27,31,36). Note: This theme of evaluation was also strongly explored in responses by submitters to the questions around rotation and number of messages (see section 2.3.5 above).

Alternate warnings

Some submissions sought additional or alternate warnings. Three submissions, in particular, provided a wide range of alternative wordings and images (12,13,32). Two submissions sought retention of the current warning "Smoking Kills" (4,13). One submission opposed warnings that targeted sub-groups such as pregnant women as smokers might then select packets with those warnings that don't relate to them (13). A submission by one individual also suggested specific wording options for message 3, relating to blindness (3).

Impact of different size / coverage options on clarity of warnings

Some submissions commented that the warnings selected may need to be altered or enhanced depending on the coverage option selected (ie: 50:50 or 30:90). Various suggestions were made for specific warnings based on which way this decision went (17,14,32,33).

Placement of text over images

Some submissions opposed the placement of explanatory text over the top of images in messages 6 (mouth cancer), 8 (minor stroke), and 10 (gangrene). They were seen as unnecessary and / or distracting (15,17,22,29,30).

Common themes about specific warnings

- *Message 1: You are not the only one smoking this cigarette*
A number of submissions expressed concern over the pregnant woman's head not being shown in this image as this "dehumanised the woman" and implied that the health of the baby was the only concern (8,15,17,18,22,29,30,32,33);
- *Message 2: Your smoking can harm your kids*
Three submissions suggested this warning refer to "children", not "kids" (15,29,30);
- *Message 3: Smoking causes blindness*
Two submissions commented that the image looked like something out of a horror movie (11,14);
- *Message 4: Cigarettes are a heart breaker*
There was significant opposition to the use of the wording "Cigarettes are a heart breaker", with strong support for "Smoking causes heart disease" or "Smoking causes heart attacks" instead. The reasons cited for this was that it needed to relate more directly to the health issue or that the phrase was in poor humour (11,15,17,18,19,22,29,30,31,32,33);
- *Message 5: Emphysema is a living hell*
There was significant concern about the wording of this message. Many considered that the word "emphysema" would not be well understood (12,14,15,17,18,20,22,29,30,31,32,33). Variations were suggested with the most common one being "Lung disease is a living hell". Several submissions also called for a stronger image that clearly showed the impact of having to constantly breathe bottled oxygen (11,17,18,31,32);
- *Message 6: Smoking causes mouth cancer*
No common themes highlighted;
- *Message 7: 9 out of 10 lung cancers are caused by smoking*
No common themes highlighted;
- *Message 8: Smoking doubles your risk of stroke*
No common themes highlighted;
- *Message 9: Smoking blocks your arteries*
No common themes highlighted;
- *Message 10: Smoking causes gangrene*
No common themes highlighted;
- *Message 11: Tobacco use can make you impotent*
Some submissions suggested rewording so that it reads "Smoking can make you impotent". This was considered more accurate (4,12,17,22,30,31);

- *Message 12: Smoking causes foul and offensive breath*
This was highlighted by some submissions as not being a particularly desirable or effective message (4,11,12,15). However, few submissions commented either favourably or unfavourably on this warning;
- *Message 13: Tobacco smoke is poisonous*
Many submissions expressed concern over the use of the image of a skull and cross bones, on various grounds including that it could appeal to young people, was used as a clothes label, could be collected, and because it was too cartoon-like (11,12,15,17,18,19,22,31,32,33);
- *Message 14: Smoking is highly addictive*
Some submissions suggested elaborating on the addictive nature of smoking either by comparing addictiveness with other drugs or heroin and/or by associating it with a different image such as a syringe (15,17,22,27,32,33) or a ball and chain (19) or perhaps even a picture and quote from Janice Pou (11).

An individual's opposition to revolting images

One submission expressed profound opposition to revolting and vulgar images (although not to text or less graphic images) on the grounds of decency and good taste. The non-smoking submitter objected to having no choice but to be exposed to such images should they be adopted (39).

Tobacco industry

Three submissions reiterated previously stated positions that it is up to the Government to decide content (9,10,41). One submission also reiterated its concern over yellow and black backgrounds (41).

One submission commented that warnings should provide information and not be designed solely to vilify, shock or stigmatise adults who make the decision to smoke. The submission also called for the Ministry to verify that it has the evidence available as to accuracy of content (23).

Retailers

One retail group indicated that there might be a need to change display cabinetry to reduce the visual impact of the graphic warnings at some checkouts. This retail group is obtaining an assessment of costs which will be presented to the Ministry of Health (26). Another submission continued this theme, expressing strong concern over the potential for the graphic warnings to undermine their members' strenuous efforts to provide a shopping environment that provides a pleasant and congenial atmosphere for their customers to shop in (21). This submission is concerned that the proposed warnings may offend or upset customers.

2.3.12 Cost-related issues for industry [section 4, question 19]

Health, advocacy and research agencies

Those submissions that commented on this question considered a 12 month period for manufacturers and importers to change packaging to be an unacceptably long time

(17,18,22,31,32). Most recommended, or would accept, two months (17,18,22,31,32) or three months (18). One submitter commented that the published literature would indicate that the industry could make changes within a matter of months (12).

Tobacco industry

Most companies had already commented on this issue in response to question 2.

One company stressed again its view that Australian-labelled products should be permitted in New Zealand, given their similar nature and the fact that otherwise the company's continued presence in New Zealand would be in question (9). Another company noted that if it could continue to sell cigars with Australian-warnings then there would not be unreasonable costs (24).

One company provided some background information on the nature of the company and the challenges they face, competing in a market dominated by another company holding over 70 percent of the market. The company argued that it would be disproportionately impacted given the number of brands it holds compared to market share. The company also expressed concern about future costs should the Government move to require removal of descriptors at a future time.

Retailers

One retail group simply noted that this was best commented on by manufacturers (21).

Individuals

No comment.

2.3.13 Transition periods for phasing in new warnings [section 4, questions 20 and 21]

Health, advocacy and research agencies

The four submitters who specifically commented on the suggestion that there be a three month period for retailers to dispose of tobacco products with old labelling, considered that stickers could be provided to cover the old warnings and thus either a three month period (31), one month period (17,22,32) or no period (18) was necessary. One submitter commented that heavy penalties should apply to any retailers who sell products without the new warnings. Legislation should state that warnings cannot be removed, and that covers or tins for tobacco products must also carry warnings (31).

Retailers

Both retail groups who responded to this question indicated that three months would not be sufficient to dispose of existing stocks with old labelling and that smaller stores and low selling brands in particular will need longer. A six month transition period is sought (21,26).

Tobacco industry, and tobacco industry supplier

Note: All tobacco companies provided detailed information on the steps required to implement new packaging requirements including: redesign of packaging, purchase of print equipment, engraving of gravure cylinders, replacement of print cylinders, printing, etc. See submissions for this detail. Also refer to the submission from a printing firm (35) which provided a technical explanation of the plant, equipment and materials required for the printing of tobacco packaging by the gravure printing method and also provided detailed input on timeframes for modifications to equipment as well as some technical issues around printing logistics.

One Australian-based company noted that capital upgrades in Australia would make the 12 month implementation period feasible for that company if the 30:90 option was adopted. However, Option 1 (50:50) would take 18 months and would be more expensive. These timeframes do not include a period for retailers to dispose of stock with old packaging (10).

Another company, about to relocate its manufacturing operation to Australia, indicated that a minimum of 12 months would be required. This takes into account that its Australian supplier has commissioned a 10 colour press. This estimate similarly does not include a period for retailers to dispose of stock with old packaging. The company seeks consultation on draft regulations before finalisation (41).

The remaining company, a New Zealand-based company, submitted that the 12 months timeframe is not logistically possible for that company. It seeks a period of 18 to 24 months from finalisation of artwork. The company notes problems in Australia over finalisation of artwork impacting on implementation timeframes and wishes to avoid those problems here (for example, by ensuring copyright is secured first). The company proposes an implementation committee and/or close consultation between the Ministry and industry (23).

All three companies considered that the three month period for retailers to dispose of stock with old packaging was unreasonable. One submission commented that no rationale had been provided for this three month period and recommended that New Zealand follows Australia's lead in allowing the natural sell-through of products (23). Two others recommended six months (24,41), with one stressing the need for a consistent approach for all manufacturers and importers regardless of origin or variant market share (41).

Individuals

No comment provided.

3. Areas for consideration

The Ministry of Health will use this analysis of submissions to inform its decision-making on the regulatory approach to be advanced to the Government for consideration.

It is recommended that the Ministry gives particular consideration to the following critical areas where there are conflicting views among those who made submissions and/or with the Options advanced in the Ministry's consultation document:

- **Preferred Option (30:90 or 50:50):** a large number of submissions from non-industry groups have recommended a 50:90 approach, and tobacco companies have argued that a lesser approach may be appropriate. The Ministry needs to consider the evidence submitted and make a decision on the approach to be advanced to Government for consideration;
- **Large graphic warnings:** tobacco companies have challenged the need for both graphic warnings and extensive coverage of tobacco packaging with warnings. One company has stated its intention to seek compensation for alleged expropriation of trade marks. The Ministry needs to consider these views, consult with other government agencies as appropriate, and document its decision-making: including the evidence it is relying on in making its decision;
- **Cigars, RYO, pipe tobacco:** non-industry submitters were fairly uniform in their views, arguing for a consistent approach for all products. However, there was a wide range of views presented by industry groups over the future scope of warnings for these products, including whether Australian-labelling should be accepted in line with the 0.2% rule (see below), proposing that single cigars be exempted, suggesting that a variation of the proposal in the consultation document might be acceptable, and querying whether importers might be permitted to add warnings by way of non-removable stickers. These need consideration and decisions on what should be advanced for consideration by the Government;
- **The 0.2% rule:** while non-industry submitters were strongly opposed to retention of this rule, the industry was split. Arguments over the continued viability of some importers' activities were alleged and these require further investigation. Consultation with relevant government agencies will also be necessary;
- **Practicalities of the change:** tobacco companies and a printer (submission 35) provided considerable comment on the processes for gearing up to print graphic warnings, including timeframes for implementation and costs and practical issues around printing. These all need careful review and consideration and, where necessary, further investigation (for example, with Australian officials and perhaps with other printing experts);
- **Content of warnings:** several submissions made very specific recommendations for changes to wording: these should be reviewed and perhaps even tested with target audiences. The strong support from non-industry submitters for all messages to be in both English and Te Reo Maori, and for the Quitline number/message to be displayed on both sides of the packet, also needs to be considered in light of the need to modify

designs, obtain copyright and develop a final set of approved designs for industry. Some of the practical considerations mentioned above (for example, with respect to background colours) will also need to be fed into finalisation of designs;

- **Costs:** it is noted that smaller tobacco importers did not provide cost estimates for changes to tobacco packaging, emphasising their hope that Australian-labelled products would be permitted under the 0.2% rule. Further, the two larger companies did not include all costs for changing all product categories' packaging, advising that they could not do so until the proposals were finalised. This information will be necessary when it comes to development of the regulatory impact statement and business compliance cost statement required prior to Cabinet approval for regulation development;
- **Finalisation of the proposals:** in light of all the issues listed above, the Ministry needs to decide what approach to take with respect to finalising the proposed approach for the Government. There may be a need for liaison with industry over some of these points and the Ministry should also note tobacco companies' request for close liaison as the regulations are developed;
- **Evaluation:** the Ministry should consider what process of evaluation should be put in place. This may necessitate a baseline monitor being initiated sooner rather than later.

4. Question by question responses

This section compiles the responses received from submitters on the basis of each question asked in the discussion document. Each submission has been numbered for ease of presentation, and the identity of each submitter is included in Appendix A.

The key findings discussed in part 2 of this report are drawn from the responses outlined in this section. This section follows the structure of the discussion document:

- Size of health warnings [consultation document section 3.2.1, questions 1 and 2]
- Warnings for cigars, bidis, pipe and loose cigarette tobacco and other tobacco products [section 3.2.2, questions 3, 4, 5 and 6]
- Background colour of warnings [section 3.2.3, question 7]
- Pictorial warnings with explanatory text [section 3.2.4 (no question, but comments provided)]
- Rotation and number of warnings [section 3.2.5, question 8]
- Government attribution of health warnings [section 3.2.6 (no question)]
- Referral to Quitline [section 3.2.7, questions 9, 10 and 11]
- Constituent information on packs of manufactured cigarettes [section 3.2.8, questions 12 and 13]
- Languages to appear on health warnings [section 3.2.9, questions 14 and 15]
- The 0.2 percent rule [section 3.2.10, questions 16 and 17]
- Specific warnings chosen for placement on cigarette packets [section 4, question 18]
- Cost-related issues for industry [section 4, question 19]
- Transition periods for phasing in new warnings [section 4, questions 20 and 21].

4.1 Size of health warnings [consultation document section 3.2.1, questions 1 and 2]

Context

The consultation document proposed two options for tobacco health warnings' coverage on tobacco packets:

- 50:50 option (warnings taking up 50% of the front and 50% of the rear of a packet of cigarettes)
- 30:90 option (warnings taking up 30% of the front and 90% of the rear of a packet of cigarettes).

In both cases the warnings would be located in the top section on the front and rear of the packet.

Questions:

- Question 1 asked whether submitters would support 50% coverage provided for in option 1 (50:50) or 60% coverage provided for in option 2 (30:90), and why.
- Question 2 asked the tobacco industry to comment on the likely costs (nature, amount, initial, ongoing) of implementing each of these two options.

Submission number	Response to question 1
Health advocacy / interest groups	
4	Supports more space for warnings.
8	Supports ASH's recommendation for 50:90 approach. This would allow larger picture warnings with the Quitline information on both front and rear. This would be consistent with the Clemenger BBDO report and would come the closest to dominating the packaging without removing all branding.
15	Commented that they are pleased that both size options are greater than the minimum required under the FCTC but considered NZ could be a leader and go for larger warnings. Supports the proposal put forward by ASH and Te Reo Marama (50:90). If the Ministry did not agree, then would support Option 1 with some minor change to ensure that the Quitline number is visible on both sides.
17	First preference is plain packaging. Branding undermines and is a distraction from health messages. Research suggests the larger the warning, the better. Rejects Option 2 (30:90) as considers this to be ineffective. Supports 50:90 as 30% on one side will not be sufficiently visible and will limit ability to have the Quitline number on both sides. If one of the two options must be selected, prefers option 1 (50:50) with some modifications: <ul style="list-style-type: none"> • Inclusion of the Quitline stamp and number of the front and rear of the packet – recommends a black box with white border and text • Consider using a yellow banner on the front with the text in black (as per 30% front option) rather than yellow bands on the side [this provides for greater visibility than the 30:90 option). If the Ministry selects the 30:90 option then the Quitline information needs to be substantially clearer and on both sides of the pack. Harmonisation with Australia should not be a driver and cannot be achieved anyway given the need for messages in Te Reo Māori and

Submission number	Response to question 1
	the NZ Quitline number.
18	<ul style="list-style-type: none"> • Would like to see no branding at all on tobacco packets as it implies that smoking is a normal activity, sends mixed messages to young people and is a distraction from the fact that smoking is addictive and dangerous. • Does not support either option. Supports 60:100. At the very least no less than 50% must carry picture warnings – particularly given US research said to show that graphic warnings are the most effective for deterring youth smokers. Compromise position would be 50:90. • If had to choose between the two options would choose 50:50, provided that both sides had identical “call the Quitline” information on front and rear. Opposes Option 2 as it will be ineffective: once the flip top is open there is no warning to see, and the Quitline information would be almost indecipherable given size.
20	Does not support Option 2. Smokers minimise impact of the warnings information by the way they place a packet on the table. It is critical that as much of both sides as possible be taken up with the message. In the absence of any better option such as 60:100, they support Option 1.
27	<ul style="list-style-type: none"> • Does not support either of the options. There is strong justification for either 50:90 or 60:90. The evidence says that the larger the warning, the better – the only dissenting voice would be the tobacco industry. • Had sought 70:100. Now seeks 50:90 to highlight the effects in a graphic manner. The remaining space should be white with black lettering identifying the brand. • Does not consider harmonisation is possible given warning in Te Reo Māori and the NZ Quitline number.
30	<p>Duplicate of submission 29</p> <p>Particularly supportive of larger and more graphic warnings. Prefers no branding. Second preference is 50:90. If this is not accepted, would support Option 1. All attempts should be made to ensure that important information like the Quitline information is clearly visible given legibility issues with the 50:50 option.</p>
31	<ul style="list-style-type: none"> • Opposes any cigarette branding on cigarette packets. Such branding is a marketing tool and undermines the effectiveness of health warnings and confuses consumers (cites research of internal tobacco industry documentation around the use of tobacco packaging in marketing). • Asks the Ministry to move towards a ban on all tobacco packaging marketing. Any slowing of the process as a result of commercial concerns undermines progress towards reducing smoking. • Strongly supports graphic warnings. Cites research via the TIC of health warnings in the US, Canada, Australia and the UK that concluded that a) smokers are not fully informed about risks and b) that graphic, larger and more content-comprehensive warnings are more effective in communicating risks to the smoker. • Disappointed that the Ministry options allow prominence for the marketing of cigarettes. This is unacceptable and contrary to efforts to reduce smoking. • Supports 80:80 as a first step. As a minimum seeks 50:90 and does not support anything less than 50% of either side of the packaging.
32	<ul style="list-style-type: none"> • Opposes any branding on cigarette packets. Such branding conveys desirable features to smokers and potential smokers. Young people are vulnerable. Branding is a misrepresentation of smoking and a distraction from the message that smoking is dangerous and

Submission number	Response to question 1
	<p>addictive.</p> <ul style="list-style-type: none"> • If the Ministry allows branding, then supports 50:90. This would allow the Quitline to be incorporated on the front. Submission 32 cited research supporting the approach of having 50% of the front taken up with warnings. • If the Ministry decides to look only at option 1 or 2, then S32 would support option 1. The Quitline message needs a dark, untextured background so it stands out (mock-up example provided). • S32 rejects option 2. If this is adopted, then two changes are suggested: 1) the Quitline number should be on the front as well as rear and 2) the Quitline message should always have a black, untextured background to ensure it is salient.
34	Stated in principle support for all comments and recommendations in the Smokefree Coalition's submission.
37	Submits that the question of size of messages is best left to those with expertise in marketing.
District Health Boards	
19	<ul style="list-style-type: none"> • Supports no less than 50% must carry picture warnings: research said to show that the larger the warnings the better, and that graphic warnings are the most effective for deterring youth smokers. Also, Canadian research said to show that most people put the packs down facing up, thus maximum pictorial effects and the NZ Quitline number should be on the front. • Asks whether both front and rear could have the Quitline number.
22	Supports Option 1. 50:50 allows sufficient space for health warnings and Quitline information on both front and rear. A "loss-framed" message (negative consequences) is more likely to be effective if combined with a gain-framed message (ie emphasising that quitting is possible and information on where to get help). Effectiveness has been shown to increase with size of warning. The front of the pack is more important from a marketing perspective. Having the same size on both sides will mean that the effectiveness of the warning is not dependent on the side with the larger warning exposed.
29	Particularly supportive of larger and more graphic warnings. Prefers no branding. Second preference is 50:90. If this is not accepted, would support Option 1. All attempts should be made to ensure that important information like the Quitline information is clearly visible given legibility issues with the 50:50 option.
36	Does not support either option. Strongly supports 50:90. Justification easily made. The only dissenting voice would be the tobacco industry who have benefited financially at the huge expense of public health.
Health professionals	
6	Supports Option 1 given greater coverage of packet, but supports Option 2 if Option 1 not chosen.
7	Supports Option 2 as has more dramatic impact.
13	Supports an option that sees the front taken up with 90% as the most visible part of the packet is the front. Supports Option 1 as 90% front has not been put forward.
Researchers and Universities	
11	Notes that the larger the pictorial message, the greater its potential impact. Hence, supports 50:90 option. Supports Option 2 over

Submission number	Response to question 1
	Option 1. Favours cleaner format on the front of the pack shown as Option 2 on p 12, but this should take up 50%. 90% on the back is more striking.
12	Considers that larger warnings are an excellent proposal. Argues that warnings should cover 90% of the front and 100% of the rear. Anything less “represents a wasted opportunity to deliver these valuable and well targeted messages – and will ultimately mean that the Ministry has to spend more taxpayer dollars on mass media campaigns”. Considers the “least worse” of the proposed Ministry options is 50:50 as the back of the pack is far less valuable for messaging purposes.
25	Supports Cancer Society and Smokefree Coalition submissions on the review.
Tobacco industry groups	
9	No specific comment on this question, however, supports option of Australian warnings being permitted to be used (30:90).
10	It is the role of government and public health officials to decide scope, content and format of warnings. They note that both options would satisfy the FCTC requirements. S10 supports Option 2 (30:90) as: <ul style="list-style-type: none"> • Option 2 is consistent with section 21(c) of the SFE Act, Option 1 is not. • Not harmonising with Australia could lead to inconsistent warning configurations in NZ (importers from Australia could rely on TTMRA and import Australian-labelled products, including those without warnings in Te Reo Māori). • Implementation and cost issues (see response to Q2). • Option 2 provides an appropriate balance between communicating with consumers about health effects while allowing communication of trademarks to adult consumers. This is important in New Zealand where the tobacco packet is one of the only means of communication with adult consumers.
23	<ul style="list-style-type: none"> • Notes that the proposals are stricter than the 30% requirement in the FCTC. • Does not support pictorial warnings and believes that they will be ineffective in reducing smoking, with no conclusive evidence that they have resulted in reduced smoking in countries where introduced. • If Government proceeds, Option 2 would be preferable. It would assist with retention of the 0.2% rule and thus allow Australian warnings for those products that S23 imports from Australia.
28	(Did not respond to any question specifically) Will follow any legislative requirement and commits to updating their packaging to meet any new legislation.
41	<ul style="list-style-type: none"> • Considers that there is universal awareness of risks of smoking and that the case for graphic warnings impacting on smoking has not been proven. However, prefers option 2 (30:90) for cigarette packets only because it is consistent with Australia, the company is moving manufacturing to Australia and the option would promote harmonisation between the two countries, consistent with section 21(c) of the SFE Act. • Prefers the Australian approach for RYO & pipe tobacco (30:50). If alternative proposals for RYO are proposed, the company would require further consultation. • Based on experience with last round of regulatory changes, seeks consultation with the Ministry on the content and mechanics of draft regulations (efore Cabinet being briefed). This will facilitate compliance by the company.

Submission number	Response to question 1
Retailers and retailer groups	
21	S21 states that they cannot provide meaningful comment on the effectiveness of pictorial health warnings but expresses concern that the consultation paper does not explore the implications for retail display of tobacco products. They seek the placement of graphic warnings on the rear of packets where they are not visible in situations where retailers still display packets of tobacco for selection. They do not oppose larger text warnings on the principal display panels as they would impart useful information without the shock factor that may offend some customers.
Individuals	
5	Two of the students surveyed for this submission supported Option 1; 4 supported option 2.
14	Of the two options, supports Option 2 for the impact of the space taken up on the rear of the packet. If the person turns the pack over, the smaller message will still be there to remind the person. It reduces the overall amount of space available and has other positive attributes (as per the consultation document). He suggests that the remaining space on the packet be stripped of colour as a means of emphasising the warnings. The company logo should be left to enable consumers to identify the manufacturer.
33	<ul style="list-style-type: none"> • Supports ASH submission opposing branding, for the reason ASH sets out. • Supports 50:90. Cited research supporting larger warnings being the better. • If the Ministry decides to look only at Option 1 or 2, then S32 would support Option 1 as this will allow the Quitline message to be on both front and rear of the pack.

Submission number	Response to question 2
Tobacco industry groups	
10	Harmonisation with Australia (Option 2) would provide significant practical efficiencies for those who already have the designs, plant and equipment set up as a result of compliance with the recent Australian warnings: S10, for example, has made extensive capital investment to accommodate the technical requirements for printing colour graphic warnings. Maintaining consistency with the Australian format will require S10 to make only minimal changes to design and thus provide for reduced implementation time and costs.
23	<ul style="list-style-type: none"> • Costs of implementing pictorial warnings would be high – and proportionately higher for S23 compared with the other major manufacturer due to large number of brands compared with market share. Estimates costs at approximately 3 times higher than the market leader. • Majority of S23's packs use gravure printing. Currently, changes to packaging of each tobacco brand costs approximately \$2,500 and a cutting tool costing approx NZ\$28,000. However, pictorial warnings would require further gravure cylinders. • Fixed costs can not be estimated until the proposals have been finalised. However, S23 estimates the cost of implementing pictorial warnings to be approximately NZ\$2.5million. If other tobacco packages are not exempted (see response to Qs 3 to 6), then the cost is likely to be higher. If adequate transition periods are not provided (see response to questions 20 and 21), write-off costs could increase.

Submission number	Response to question 2
	<ul style="list-style-type: none"> • Such an investment would be required each time there is a change to the warnings: frequent changes would be a significant cost to S23's business. • Ongoing costs for tobacco packaging are estimated to be approximately 15% higher per annum.
24	See response to Q16.
28	(Did not respond to any question specifically) Any changes will incur significant costs, particularly to small cigarette importers like S28.
41	<ul style="list-style-type: none"> • Cost differences between Options 1 and 2 are not material. The significant costs result from the move between black and white text, to graphic: due to <ul style="list-style-type: none"> ○ Redesign of all brand packaging and creation of new artwork ○ Replacement of all printing cylinders ○ Ongoing higher costs of procuring materials for a more complex printing task (including move to 10 colour printing) • Has revised cost estimates from last consultation exercise to: NZ\$3.19 million to implement for all packaging (up from last estimate of NZ\$2.8 million) and \$0.427 million per annum (ongoing) for increased cost of materials (up from NZ\$0.2 million per annum). These costs relate to BAT NZ produced cigarettes, RYO and pipe tobacco. They exclude set-up costs for cigars and products imported from countries other than Australia. • Significant capital investment has taken place in Australia, meaning that ten colour printing can be undertaken, thus costs have been revised downwards in that regard, from the advice at the last consultation .

4.2 Warnings for cigars, bidis, pipe and loose cigarette tobacco and other tobacco products [consultation document section 3.2.2, questions 3, 4, 5 and 6]

Context

The consultation document noted that the WHO Framework Convention on Tobacco Control does not differentiate between forms of tobacco products when it requires all products to meet minimum labelling requirements (FCTC Article 11 refers).

The Ministry proposes that New Zealand adopts pictorial health warnings for cigars, bidis, cigarillos, loose cigarette and pipe tobacco and other forms of tobacco, similar to the Australian approach. This includes a 30:50 approach for loose tobacco, most cigars carrying 25:35, and cartons 30:90. Pictorial and textual warnings specific for cigars are also presented. The Ministry also flagged the possibility that wrapped single cigars be exempted from labelling requirements but noted that there may be compliance issues in relation to the FCTC requirement that all tobacco packages meet minimum requirements.

Questions:

- Question 3 asked whether warnings similar to Australian-required warnings for cigars, bidis, pipe and loose cigarette tobacco and other tobacco products should be adopted.
- Question 4 asked whether there were other shapes and sizes of tobacco packaging that need specific attention.
- Question 5 asked the tobacco industry for the likely costs (nature, amount, initial, ongoing) of implementing the proposals for tobacco products that are not manufactured-cigarettes
- Question 6 asked the tobacco industry what difficulties might be posed if health warnings were required on single cigar packaging in order to ensure compliance with the FCTC.

Submission number	Response to question 3	Response to question 4
Health advocacy / interest groups		
15	Supports the suggested graphics and health messages, but not the size. Argues that all tobacco packets should carry the same sized warnings, regardless of product.	Proposed that the tobacco industry be restricted with respect to what part of the pack they can use for their own branding. S15 referred to the potential for the tobacco industry in New Zealand to use the inside of the flip top for additional promotional messages. Such messages could, it was suggested, undermine the health warnings.
17	Opposes. Warnings should be identical for all tobacco products given the risks of all products (and fact that RYO in particular is heavily used, especially by Māori) as well as the fact that we do not want to imply that some products are safer to use. Supports 50:50 option, as per wish for manufactured cigarettes (see response to Q1). The warnings should be only slightly modified for different shaped packages. There should be messages on front and back, and the Quitline number should similarly be on both front and rear.	Not that aware of. All packages should have pictorial warnings on front and rear. A packaging standard is required to include requirements as to size and shape of packages and warnings must be printed directly onto all forms of tobacco packaging. Packaging designed to obscure warnings, stickers to cover warnings, and use of the inside of the flip top are all strategies used to undermine health warnings.
18	Opposes. No rationale for smaller warnings on other tobacco products: could imply somehow safer. Should be identical to those for manufactured cigarettes (60:100). RYO is popular with Māori and low income groups – the very groups trying to reach with warnings.	All should have 60:100. Understand there is a new octagonal shape of packet being tested which would obscure graphic warnings by wrapping them around sides. States that NZ should require all packages to conform with a standard size and shape.
20	Does not support any reduction in size for other products. There should be no implication that products somehow safer than others. Wants to avoid people swapping to RYO.	
27	Does not support this: pictorial messages should be identical and	Supports consistent sizing of principal display areas on all tobacco

Submission number	Response to question 3	Response to question 4
	the same size (50:90) for all products. Māori are particularly high users of RYO, hence the need to consistently apply the pictorial warnings.	products.
30	Duplicate of S29 Does not support specific messages for different products as ideal is to have consistent pictorial health messages on all products. Even where messages may be indistinct due to different tobacco product sizes, the goal should still be to have consistent size, images and wording that are legible and visible.	Duplicate of S29 Ideal is to have consistent sizes for all tobacco products. S29 is aware of obscuring of messages in other countries through packet design and other means. Example cited of twin packs being counted as cartons. Notes inconsistencies between the definitions of 'tobacco package' and 'tobacco carton' and a number of other words and phrases, between the SFE Act 1990 and SFE Regulations 1999.
31	Does not support. No justification for different rules, especially given growing use of loose tobacco by low income communities and myths around comparative safety of loose tobacco. However, messages should cover differing health impacts where they exist.	Encouraged the Ministry to be vigilant against tobacco industry efforts to undermine the impact of new warnings through such things as: delayed introduction of warnings; octagon-shaped packages that decrease the prominence of warnings; marketing of covers and containers, including tins, to cover up the warnings; and marketing of cigarette containers with peel-off warnings to facilitate reuse of containers without health warnings. In order for such things to be discouraged, S31 supports ASH's recommendation to implement a packaging standard as part of this review.
32	Does not support warnings proposed for loose tobacco as this is increasingly becoming the choice of smokers, including young people. This is primarily due to cost savings of RYO, but lesser warnings could exacerbate this switch. The Quitline number must be in boxed text on both sides.	Concerned over octagonal packaging. S32 seeks, as part of this review, a requirement that all packages confirm to a standard size and shape. Also concerned over placement of removable sticker warnings on packages that can be refilled. Ministry should require all warnings to be printed directly onto packaging.
34	Stated in principle support for all comments and recommendations in the Smokefree Coalition's submission.	
District Health Boards		
19	Opposes. Should be identical to those for manufactured cigarettes (60:100). RYO is popular with Māori and low income groups – the very groups trying to reach with warnings. RYO should have same sized warnings as cigarettes.	All should have 60:100. Understand there is a new octagonal shape of packet being tested which would obscure graphic warnings by wrapping them around sides. States that NZ should require all packages to confirm with a standard size and shape.
22	Notes that as a signatory to the FCTC, New Zealand is bound to have warnings taking up at least 30% of the principal display areas on all tobacco products. Thus all tobacco products should	Recommends, based on Australian experience: <ul style="list-style-type: none"> • Requiring refillable cigarette tins to carry printed warnings as opposed to peel-off warnings

Submission number	Response to question 3	Response to question 4
	be treated the same (and warnings be the same size), otherwise it could imply that some products are a safer option.	<ul style="list-style-type: none"> Prohibiting the availability of 'sleeves' for refillable cigarette tins.
29	Does not support specific messages for different products as ideal is to have consistent pictorial health messages on all products. Even where messages may be indistinct due to different tobacco product sizes, the goal should still be to have consistent size, images and wording that are legible and visible.	Ideal is to have consistent sizes for all tobacco products. S29 is aware of obscuring of messages in other countries through packet design and other means. Example cited of twin packs being counted as cartons. Notes inconsistencies between the definitions of 'tobacco package' and 'tobacco carton' and a number of other words and phrases, between the SFE Act 1990 and SFE Regulations 1999.
36	Does not support. All packaging should be consistent (in terms of both size and content)	Supports, for all tobacco products.
Health professionals		
6	Support pictorial warnings for other tobacco products: all carry risks and should carry similar warnings.	
7	Supports. All tobacco products have health implications, thus must carry warnings.	
13	Generally approve. Suggests that while there is not a body of evidence on the effectiveness of this form of labelling, they consider that the more graphic advertisements are likely to drive the message home.	Not aware of any.
Researchers and Universities		
11	Supports. Māori are particularly high users of RYO. Comments: <ul style="list-style-type: none"> Message 1 is a bit lame. Messages 2,3,4 supported. Suggests that the wording of Message 5 be checked. Smoking in pregnancy that is "almost wholly responsible for an increased risk of SIDS". 	<ul style="list-style-type: none"> Package size should be regulated to prevent shapes that would require only one side to have a warning, and to prevent the ability to refill tins which don't carry warnings, or have warnings removed. Regulations should prohibit tobacco companies from making stickers that are designed to cover warnings. Recommends that both sides of the pack be generic (white background) in nature.
12	Supports, but should be larger. All the cigar messages are problematic given the significantly lesser risk profile, particularly if smoke is not inhaled. Suggests the one cigar message could be along the lines of "cigar smoking is addictive and causes serious diseases – but is less hazardous if the smoke is not	All such products need to be covered but need to consider issue of specificity raised for cigars under question 3.

Submission number	Response to question 3	Response to question 4
	inhaled". All tobacco products should include the Quitline number.	
25	Considers all products must carry the pictorial warnings, including RYO.	
Tobacco industry groups		
9	Given view that it is up to Government and public health officials to decide, does not oppose rotating pictorial and textual warnings for cigar and pipe tobacco. However, asks that products labelled consistent with current Australian regulations be able to be legally sold in New Zealand (consistent with harmonisation provisions of section 21(c) of the SFE Act 1990.	
23	<ul style="list-style-type: none"> • Notes that it is not a requirement of the FCTC to have pictorial warnings. • S23 considers loose and pipe tobacco should not be required to carry pictorial warnings. • S23 uses a number of different styles and materials for packaging which give rise to difficulties in placement of pictorial warnings as proposed. A one-size-fits-all approach can create disproportionate problems for this tobacco category. More than 90% of market volume is sold in a portrait style pouch and placement on the rear is a significant problem for various practical reasons (see p6-7 of the submission for elaboration). • There must be flexibility regarding the proportions and colours in the reproduction of warnings for these products. 	<ul style="list-style-type: none"> • See response to Q3, and p6-7 of S23's submission. • Pictorial warnings may need to be modified in size depending on the size of packets. Flexibility will be required to ensure warning and brand integrity. Additional complexities come from the variety of printing methods and the type of packaging used (eg tin, card, plastic, wood, etc). • Printing difficulties were recognised by the EU which allows member states the ability to exempt certain products from pictorial requirements. EU also fixes the size of the warning at 22.5cm² for products with a greater surface area than 75cm².
24	<ul style="list-style-type: none"> • Would not oppose introduction of warnings similar to Australia's, but asks that packages labelled in accordance with Australian regulations be permitted on the NZ market: regulatory development needs to take into account the marked differences in product type, sales volume, market size, pack terminology and smoking incidence with respect to cigars versus other products. • Seeking harmonisation with Australia with respect to cigar packaging: consistent with TTMRA and section 21(c) of the 	

Submission number	Response to question 3	Response to question 4
	SFE Act.	
41	<ul style="list-style-type: none"> • See response to question 1 re: RYO & pipe tobacco: Supports Australian-style for these. • Does not support different labelling for cigars (with the exception of single cigars, labelling of which would be impracticable as in many cases they are sold unwrapped). NZ-required warnings should be applied consistently, including Te Reo message and Quitline number, regardless of country of origin and market share. Different standards would perpetuate unfair competition. Implementing the same standard would promote improvement of enforcement of the current regulations. • Does not oppose a set of cigar-specific health messages, provided that it is applied consistently across all cigars (except single sticks). • Seeks flexibility in method of affixing warnings: as per current regulations where non-removable adhesive labels or stickers are considered part of the packaging. 	<p>In principle supports consistent approach to all packages of tobacco manufactured, imported or distributed in NZ, with the following exceptions:</p> <ul style="list-style-type: none"> • Single cigars being exempted from health warning requirements • Flexibility for affixing warnings – for imported products and those with exceptionally low volumes • Flexibility for secondary packaging (over-wraps or cartons carrying more than one tobacco product which is sold at retail), which will in future be produced in Australia: suggesting that a larger package be compliant if the outer wrapper is totally transparent and the smaller packages within are arranged so that the warnings and graphics are visible. Note: agrees with Australian approach for semi-transparent and non-transparent cartons (30:90) • Tertiary shipping containers which are not displayed or sold in retail outlets (consistent with current regulations). <p>Seeks detailed consultation on layout of RYO and pipe pouches once decision made (unless Australian format is adopted).</p>
Retailers and retailer groups		
Individuals		
5	4 said yes; 1 said no; 1 said don't mind. Noted that other tobacco just as harmful as cigarettes. Will make people aware of hazards and reduce harms.	No response: 3; Don't know: 1; No: 1. Chewing tobacco and single cigars suggested.
14	Supports 30:90 ratio for the reasons under Q1.	Need to ensure that cartons and boxes are covered. Adhesive labels could be an option here. All unique identifiers should be stripped and replied with basic textual information.
33	Does not support warnings proposed for loose tobacco as this is increasingly becoming the choice of smokers, including young people. This is primarily due to cost savings of RYO, but lesser warnings could exacerbate this switch. The warnings should be	Concerned over octagonal packaging in Australia. Supports ASH's call for a requirement that all packages conform to a standard size and shape. Also concerned over placement of removable sticker warnings on refillable packages. Ministry should require all warnings

Submission number	Response to question 3	Response to question 4
	the same as cigarettes size and content-wise. The Quitline number must be in boxed text on both sides of all products, including cigars.	to be printed directly onto all forms of packaging.

Submission number	Response to question 5	Response to question 6
District Health Boards		
Health professionals		
Researchers and Universities		
Tobacco industry groups		
9		Cigars sourced by S9 come from several jurisdictions, and come sealed. It would not be possible or practical to label individual cigars in sealed boxes that are drawn from worldwide distribution stocks. Australian regulations do not require this as the Australian government recognised it would be impractical and would result in the virtual withdrawal of all products from the market. Argues that given larger boxes carry warnings, is not necessary to label individual cigars.
10		
23	A cost can not be provided until the proposals are finalised. However, estimate at \$2.5 million based on consultation document – but if other tobacco packages are not exempted or additional transition periods are not provided, then the cost is likely to be higher.	Does not manufacture cigars. However, health warnings should be appropriate to the product on which they are placed.
24	See response to Q2.	S24 sources products from overseas and they come in sealed packages. It would be commercially impractical to label single cigars contained within these packages. Australian regulations do not require this as authorities recognised it would result in the withdrawal of virtually all cigar brands from the market. Through the Australian warnings on cigars, cigar smokers are adequately and effectively informed of the potential risks.
41	Additional cost estimates not provided. See	Does not support labelling on single cigars or single cigar packaging due to practical

Submission number	Response to question 5	Response to question 6
	response to Q1.	difficulties.
Retailers and retailer groups		
Individuals		

4.3 Background colour of warnings [section 3.2.3, question 7]

Context

The consultation document identified that the colour combination of yellow and black had the most impact on focus group participants asked to comment on the likely impact of various health warning design elements.

Question

- Question 7 asked whether submitters would support yellow and black backgrounds to the pictorial health warnings selected for placement on tobacco packets.

Submission number	Response to question 7
Health advocacy / interest groups	
15	Supports given their recognition as warning colours.
17	Supports, but if the 50:50 option is selected, the writing should be black text on a yellow background as per the other options to ensure it stands out.
18	Supports. Are stark, stand out and catch attention. The colours represent hazard and a signal to beware and cautious.
20	Supports as very visible.
27	Supportive of BRC findings that these are the most effective colour combinations.
30	Duplicate of submission 29: Supports: they are novel, have an association with other warning signs, are highly visible and research from consultation document indicates they had the most impact on focus groups.
31	In general this is acceptable. However, if the Ministry adopts the 50:50 option, would support the Quit Group's recommendation that the written warning on the front of the pack should be in black text on a yellow background.

Submission number	Response to question 7
32	Supports because new, have an association with other warning signs and because BRC testing found it elicited positive comment about how it stood out.
34	Stated in principle support for all comments and recommendations in the Smokefree Coalition's submission.
37	Submits that the question of yellow and black backgrounds is best left to those with expertise in marketing.
District Health Boards	
19	Supports. Are stark, stand out and catch attention. The colours represent hazard and a signal to beware and cautious.
22	Supports: identified as attention getter by psychologists in the graphic arts industry; and has been used historically for warnings signs.
29	Supports: they are novel, have an association with other warning signs, are highly visible and research from consultation document indicates they had the most impact on focus groups.
36	Supports based on BRC findings that this is the most effective colour combination.
Health professionals	
6	Supports yellow and black backgrounds as this provides the greatest contrast to aid visibility. Provides commentary on response of human visual system to colours in a certain range.
7	Supports yellow and black as testing showed most impact.
13	Supports, for the reasons in the discussion document.
Researchers and Universities	
11	Supports because they have been used in past campaigns (eg <i>Why Start</i>).
12	Supports.
Tobacco industry groups	
9	No specific comment on this, but noted its view that it is the role of government and health officials to decide the nature and content of health warnings.
23	<ul style="list-style-type: none"> • Advises that currently 6 to 8 colours are usually used for cigarette packs. Flexibility in the use of colours would reduce the number of additional colours required, thus enabling manufacturers to maintain brand and combined warning integrity. • Note: S23 provides technical comment on nature of colour printing and highlights practical implications / difficulties of the proposals. • S23 noted that the Canadian government provided some flexibility in the use of "process" versus "spot" colours given the limitations on printers. • S23 reiterates its desire to work closely with the Ministry of Health on the development of new regulations due to these complexities.
41	Supports use of black background with white text on graphic health warnings rather than use of yellow and black, because: <ul style="list-style-type: none"> • Limitations to print process: NZ brands current utilise 8 colours. Using yellow within the warning will result in a reduction of colours available for some key brands, seriously eroding intellectual property of that registered trademark

Submission number	Response to question 7
	<ul style="list-style-type: none"> • There would be an issue of print quality: where the yellow background joins the brand colour, a blurring effect is created by overlapping/bleeding of colours: to avoid this, a 'keyline' would need to be added. Given serious implications for trademarks, company recommends adopt approach adopted in Australia: <ul style="list-style-type: none"> ○ Graphic warning be limited to four process colours (cyan, magenta, yellow, black, with no substitution) ○ Solid black background with white text, thus not requiring a keyline ○ All colour graphics to include a keyline enclosing the graphic to prevent colour bleed from the graphic onto the pack face.
Retailers and retailer groups	
Individuals	
5	Yes: 5; Don't know: 1. Catches the eye, international colour, easier to read.
14	Supports if reliable research supports it. Suggests that bright colours are supported by their practical use as safety clothing by those working on the roads: this could be enhanced by removing other colours from cigarette packs and making them plain white to ensure further contrast.
33	Supports because new, have an association with other warning signs and because BRC testing found it elicited positive comment about how it stood out.

4.4 Pictorial warnings with explanatory text [consultation document section 3.2.4 (no question)]

Context

The consultation document indicated that the Ministry of Health is proposing that pictorial warnings with explanatory text be placed on all tobacco products. While no specific question was posed, some submitters provided general comment.

Submission number	Response to 3.2.4
Health advocacy / interest groups	
4	Strongly supports graphic warnings. Percentage of people can't read English.
16	Supports pictorial warnings.
31	Strongly supports graphic warnings.
34	Stated in principle support for all comments and recommendations in the Smokefree Coalition's submission.

Submission number	Response to 3.2.4
District Health Boards	
Health professionals	
Researchers and Universities	
12	Considers that pictorial warnings are an excellent proposal.
25	Supports Smokefree Coalition and Cancer Society's submissions on the review.
Tobacco industry groups	
9	No specific comment on this question, but noted its view that it is the role of government and health officials to decide the nature and content of health warnings.
10	It is the role of government and public health officials to decide scope, content and format of warnings.
23	Does not consider that pictorial warnings would be effective in hastening the already existing decline in smoking prevalence.
28	(Did not respond to any question specifically) Will follow any legislation requirement and commits to updating their packaging to meet any new legislation.
41	
Retailers and retailer groups	
Individuals	

4.5 Rotation and number of warnings [section 3.2.5, question 8]

Context

The consultation document suggested that in future tobacco packets carry 14 health warnings, with two sets of seven warnings, rotated on alternate years.

Question

- Question 8 asked whether submitters supported the concept of 14 warnings, in two sets of seven in alternate years.

Submission number	Response to question 8
Health advocacy / interest groups	
15	Supports. Notes that warnings can also increase the effectiveness of anti-smoking campaigns. Emphasises the need for any policy initiative to be evaluated for effectiveness. Suggests NZ participation in the ITC project is an ideal opportunity for New Zealand to evaluate the initiative. They recommend a robust Māori sample in any evaluation.
17	Supports. There should be scope for linking in the release of various warnings with mass media campaigns. This was done in Australia and corresponded with a large rise in calls to the Quitline. It will be important to liaise with other jurisdictions about use of their campaign materials, and with the Quit Group over timing issues. Stressed need for comprehensive evaluation of every warning individually, and in the context of each rotation and in conjunction with any associated mass media campaigns. A baseline assessment would be required. The ITC project if implemented in New Zealand provides an opportunity for this comprehensive evaluation, in a cost effective manner.
18	Supports. Two sets rotated annually. Also advocates a new fresh set every 2 years, otherwise graphic images lose their impact on smokers. The ITC project provides an opportunity to not only evaluate the warnings (with a view to refresh, change or adapt warnings) but also to join other leading nations in advancing best practice in tobacco control. Strongly supports use of graphics from the Every Cigarette is Doing You Damage TV campaign. Any future graphics should also be used on tobacco packets.
20	Supports. Also supports new images every two years in order to retain the impact of the visual warnings.
27	Supports. Would strongly recommend a comprehensive evaluation of each warning individually and in the context of each evaluation – so as to ensure most effective messages used.
30	Duplicate of S29: Supports: agrees with rotation of warnings. Also suggests rotated messages support, and are supported by, mass media campaigns to further reinforce warning messages. Notes recommendation of tobacco control groups that NZ should join the ITC evaluation project as a cost effective means of evaluating health warnings (among other initiatives).
31	In general supports. However, encourages Ministry to utilise the pack space for warnings linked to the national mass media campaign.
32	Supports. However, all warnings should be evaluated in terms of the right mix and number of warnings. The ITC project provides a cost effective mechanisms for doing this. This can assist with determining the need to refresh, change or adapt the warnings. The Ministry needs to conduct a baseline assessment before the new warnings are implemented. Suggested that warnings be linked to the mass media campaigns as a way of enhancing the public health impact, and encouraged use of the Australian “Every Cigarette is Doing You Damage” advertisements as these are effective.
34	Stated in principle support for all comments and recommendations in the Smokefree Coalition's submission.
37	Submits that the question of rotation of messages is best left to those with expertise in marketing.
District Health Boards	
19	Supports. Two sets rotated annually. Also advocates a new fresh set every 2 years, otherwise graphic images lose their impact on smokers. The ITC project provides an opportunity to not only evaluate the warnings (with a view to refresh, change or adapt warnings) but also to join other leading nations in advancing best practice in tobacco control. Strongly supports use of graphics from the Every Cigarette is Doing You Damage TV campaign. Any future graphics should also be used on tobacco packets.
22	Supports. Research shows rotation and changing regularly helps prevent messages becoming stale and retains noticeability and

Submission number	Response to question 8
	interest. Provides an opportunity to evaluate the impact of the new warnings – S22 would therefore welcome research initiatives that investigate the efficacy of the warnings and the frequency with which the warnings need to be updated to ensure they retain potency.
29	Supports: agrees with rotation of warnings. Also suggests rotated messages support, and are supported by, mass media campaigns to further reinforce warning messages. Notes recommendation of tobacco control groups that NZ should join the ITC evaluation project as a cost effective means of evaluating health warnings (among other initiatives).
36	Supports rotating messages. Recommends that Ministry ensures that the messages are balanced so that the most effective messages are in circulation.
Health professionals	
6	Supports 14 warnings with 2 sets of 7 warnings rotated annually.
7	Supports 14 and rotation. Rotating provides for change and impact without overdue familiarity.
Researchers and Universities	
11	Supports depending on how messages split between years. Recommends ongoing evaluation to determine need for refreshing, changing, adaptation. Recommends a mass media campaign to match first round of warnings.
12	Supports, with improvements noted under question 14.
Tobacco industry groups	
10	Supports use of several, rotating health warnings that communicate different health effects. This is consistent with the EU and Australia. They will defer to the Ministry on the appropriate number to be rotated at one time. However, they note that this can raise technical and logistical concerns around implementation and ask the Ministry to consider including in the regulations a provision allowing a phase-in period of four months during which both sets of seven messages can be permitted to be manufactured.
23	Does not support 14 warnings. Packets are printed from a cylinder engraved with 12 pack designs. Thus, it is not possible to ensure that each of seven warnings are printed in equal amounts. S23 recommends that consideration be given to the introduction of 12 warnings in equal rotation for a period of two years. S23 states that it is not clear whether the proposed 14 warnings should be across the market or across brands. Each brings difficulties. S23 has a number of smaller products with lesser volumes, raising issues of disproportionate cost impact on S23.
28	(Did not respond to any question specifically) Will follow any legislative requirements.
41	Up to Government to decide, but Government should consider compliance costs and practicalities. Had preferred 2 sets of 6, but can accept 2 sets of 7 provided on basis, as in Australia that: <ul style="list-style-type: none"> • one set must be in place for a period of 8 months, with overlapping period of four months where all 14 are in place, followed by 8 months where second set in place. • Cigarettes or loose tobacco of a 'different kind' includes different brand variant or different pack size (similar to definition in regulation 11(2)).

Submission number	Response to question 8
	<ul style="list-style-type: none"> Due to printing limitations it is not possible to achieve an equal spread of warnings – so, as currently, seeks ability to comply based on display on an equal number of retail packages as nearly as is possible.
Retailers and retailer groups	
Individuals	
5	Yes: 4; No: 2. More effective to have more so people don't get used to them. One said one would suffice as more don't mean smokers would pay attention.
14	Supports. Messages should provide substantive coverage of the various conditions and maintain their efficacy by rotation. Refers to the concept of "self-funding": the word of mouth discussion that the messages may spark may influence the frequency of rotation required to ensure the messages remain fresh, particularly as successive generations pass through the age when most people commence smoking.
33	Supports. However, all warnings should be evaluated in terms of the right mix and number of warnings. The ITC project provides an ideal opportunity to evaluate changes, but also join other countries in advancing best practice in tobacco control. The introduction of the new warnings is an ideal opportunity to run a reinforcing media campaign. This will ensure the greatest impact.

4.6 Government attribution of health warnings [section 3.2.6 (no question)]

Context

The consultation document indicated that the Ministry of Health supported allowing tobacco companies to attribute all health warnings they are required to place on tobacco packets to the Ministry of Health.

Submission number	Comments on section 3.2.6
Health advocacy / interest groups	
District Health Boards	
Health professionals	
Researchers and Universities	

Submission number	Comments on section 3.2.6
11	Supports attribution.
Tobacco industry groups	
9	
10	S10 recommends that attribution be prohibited as they want to make it clear they support the message of the public health community on risks of smoking. If attribution is to be permitted, it should be <u>required</u> rather than leaving it to individual companies to decide whether to attribute or not.
41	
Retailers and retailer groups	
Individuals	

4.7 Referral to Quitline [section 3.2.7, questions 9, 10 and 11]

Context

The consultation document proposed the inclusion of the Quitline number on tobacco packets as a means of providing smokers with an avenue for positive action following exposure to more negative / shocking images about the health consequences of smoking.

Questions:

- Question 9 asked whether submitters supported a message relating to the Quitline being included
- Question 10 asked whether submitters supported the specific wording advanced for the call Quitline message
- Question 11 asked whether submitters supported a 'boxed' quit message on each pack.

Submission number	Response to question 9	Response to question 10	Response to question 11
Health advocacy / interest groups			
4	Supports message regarding Quitline.	Supports slogan "you CAN quit"	
8	Strongly supports Quitline messages.	Quitline message should be on both front and	

Submission number	Response to question 9	Response to question 10	Response to question 11
	Need positive messages to balance messages about the negative health consequences. Simply scaring people is insufficient to achieve positive change.	rear. Messages must be clear and legible.	
15	Supports. Is an absolute requirement. Smokers need first hand information about cessation services.	Supports.	Supports, as long as the boxed message appears on both front and rear of the pack and the border and text is white, with a black background.
17	Definitely. If providing a threat message, need to provide smokers with information about what they can do to change behaviour. Must ensure that all tobacco products carry the New Zealand (rather than Australian) Quitline number. Removable labels should be avoided.	Yes, the message is clear without being too detailed.	Yes. Regardless of size of warnings, the Quitline number should be on both sides, clearly visible, similar to Option 1 (white text on a black background, with white border). The proposed Quitline stamp set out in the mock-ups of Option 2 is too difficult to read.
18	Supports a very clear and visible message referring to Quitline. Smokers must be given an action to take rather than just have effects pointed out. The number must be the NZ Quitline, not the Australian. Note: S18 seeks feedback from the Ministry on how the Ministry will ensure that tobacco products imported from Australia do <u>not</u> carry the Australian number.	Yes: is very clear and straightforward.	Yes, both front and back. This highlights the message and assigns importance to it. The Quit message must have a black background.
20	Supports a message.	Supports the proposed wording.	Supports a small box.
27	Supports as it is a national service (even though not Māori-specific). Would be concerned if Australian products were permitted without the New Zealand Quitline number. The message should be on both front and rear of the packet.	Supports wording as it is clear. Asks whether a Te Reo Māori version was considered.	Supports boxed text as highlights service to smokers. The box (on both front and rear) should be consistent in colour: with white text on black appearing to be the most visible option.
30	Duplicate of S29 Supports reference to Quitline on all tobacco packaging. This balances the graphic warnings and provides a means	Duplicate of S29 Supports. Previous wording caused confusion.	Duplicate of S29 Supports. This must be on both front and rear of the pack and must be legible and clearly visible.

Submission number	Response to question 9	Response to question 10	Response to question 11
	of support. All products including Australian imported product should carry the Quitline number. If Australian products cannot, on ringing the Australian number in NZ, callers should be routed to the NZ Quitline.		
31	Supports. All tobacco products sold in New Zealand must carry the New Zealand Quitline number.	Supports.	Supports, but considers the placement of the Quitline stamp needs work: supports recommendations of the Quit Group in relation to this question.
32	Supports. This positive message balances the message about negative consequences of smoking. The cigarette packet, being handled often, is the ideal location for advice on quit smoking services, and provides an avenue for immediate action. All products sold in New Zealand must carry the New Zealand Quitline number.	Supports because it is positive and identifies the Quitline.	Supports. However, the quit message needs a black background behind it to make it more distinct from the picture. Although S32 rejects the 30:90 option, if it is chosen, then the boxed quit message must go on the front as well as the rear. S32 provided mock-ups showing how this could be achieved.
34	Stated in principle support for all comments and recommendations in the Smokefree Coalition's submission.	Stated in principle support for all comments and recommendations in the Smokefree Coalition's submission.	Stated in principle support for all comments and recommendations in the Smokefree Coalition's submission.
37	Supports the display of the Quitline number on tobacco packaging.		
District Health Boards			
19	Supports a very clear and visible message referring to Quitline. Smokers must be given an action to take rather than just have effects pointed out. The number must be the NZ Quitline, not the Australian. Research shows 80% want to quit and clear and easily read contact numbers need to be available.	Yes: supports wording "you CAN quit" as it has a strong helpful meaning for smokers and family.	Yes, both front and back. This highlights the message and assigns importance to it.
22	Supports a message referring to the NZ	Support the wording: is encouraging,	Supports. Supports the use of the best

Submission number	Response to question 9	Response to question 10	Response to question 11
	Quitline on all tobacco packaging, Loss-frames messages more effective if provided in association with a gain-framed message that emphasises that quitting is possible and where to go to get help.	supportive and succinct.	available evidence to determine the colours that will achieve the best contrast between the boxed message and the picture.
29	Supports reference to Quitline on all tobacco packaging. This balances the graphic warnings and provides a means of support. All products including Australian imported product should carry the Quitline number. If Australian products cannot, on ringing the Australian number in NZ, callers should be routed to the NZ Quitline.	Supports. Previous wording caused confusion.	Supports. This must be on both front and rear of the pack and must be legible and clearly visible.
36	Supports because it may prompt quitting.	Supports, but recommends a slight change so reads: "You CAN quit smoking. Call the Quitline 0800 778 778, or talk to your local quit smoking provider"	Supports. More eye catching and highlights service. Should be on both front and rear. Boxed text needs to be consistent in colour recommends white text on black background.
Health professionals			
6	Supports reference to the Quitline.	Supports the wording of the proposed Quitline message as provides immediate call to positive action.	A box aids clarity.
7	Supports: needs to be easily available and provides an action oriented message.	Generally supports. Do the public know what a quit provider is / how to access them? For simplicity and impact may be best to finish message after the Quitline number.	Yes, reinforces larger message.
13	Supports. A warning with a possible solution is a sensible idea.	Supports. Reinforces that there is an organisation that can help.	Supports: will help it stand out.
Researchers and Universities			
11	<ul style="list-style-type: none"> • Supports. • All imported tobacco products should 	Supports. Asks whether a Te Reo Māori version was considered.	Supports. Recommends a black background so that it stands out from the

Submission number	Response to question 9	Response to question 10	Response to question 11
	<p>show the Quitline number.</p> <ul style="list-style-type: none"> If 30:90 option is selected, then the Quitline number should be on both sides, with a black, untextured background. 		<p>picture. The Quitline number should be on both sides of the pack.</p>
12	<p>Considers that having the NZ Quitline mentioned on all packets with the slogan You CAN quit is an excellent proposal. The Government would be negligent if it failed to do so. It would be unethical not to have a message concerning support alongside messages that frighten. Also supports a message relating to prescription medicines.</p>	<p>Supports.</p>	<p>Supports.</p>
25	<p>All products must carry the Quitline number. The use of fear is more effective when people are given a way of reducing that fear or anxiety.</p>	<p>Must specifically refer to the Quitline and include the telephone number.</p>	<p>Must be a highlighted, boxed message.</p>
Tobacco industry groups			
9	<p>Supports. However, S9 asks that cigars and pipe tobacco be able to be labelled in compliance with Australian regulations (including Australian Quitline number). Offers, if the NZ Ministry of Health agrees, to approach Australian authorities to seek their agreement to add the NZ Quitline (progressively, over time) to all products.</p>		
10	<p>It is the role of government and public health officials to decide scope, content and format of warnings.</p>		
23	<p>The Government should decide if it considers inclusion of the Quitline to be effective in encouraging smokers to seek</p>	<p>The wording is for the Ministry of Health to decide. Any wording should be included within the area set aside for warnings: not</p>	<p>See response to Qs9 and 10.</p>

Submission number	Response to question 9	Response to question 10	Response to question 11
	further information. It should be included within the areas set aside for warnings and not occupy any additional area. It is important that the Quitline not change in the future as this would require change of all packaging, at great cost.	additional.	
24	Concerned over commercial practicality of packaging print runs for small cigar markets. Provided the Australian and New Zealand authorities were agreeable, S24 proposes inclusion of both countries' Quitline phone numbers on all packets – as new print runs come into production.	See response to question 9.	See response to question 9.
41	Considers it is a reasonable and effective means of advancing the Government's objectives. Should appear on all products regardless of country of origin or market share.	Government's role to determine wording.	Does not oppose format as long as within 30:90 framework for cigarettes and 30:50 for RYO products. See response to question 7 regarding black and yellow colours, however.
Retailers and retailer groups			
Individuals			
5	Yes: 6. Gives options to smokers and would help them.	Yes: 6. for people to seek help: nice and simple.	Yes: 6.
14	Supports.	Supports: it is succinct and positive.	Supports: it draws attention.
33	Supports message on both front and rear of packet, of all tobacco products. That way, it will be seen every time someone smokes. All imports must carry the New Zealand Quitline number.	Supports because it is positive and identifies the Quitline. Would like to see "Me Mutu" added given Te Reo is an official language and the most appropriate language to deliver written messages to Māori. The Treaty of Waitangi gives equal status to Te Reo and thus all warning messages must be in both languages.	Supports. However, the quit message should be on both front and rear and have a black untextured background behind it to make it more salient and distinct from the picture.

4.8 Constituent information on packs of manufactured cigarettes [section 3.2.8, questions 12 and 13]

Context

The consultation document proposed that instead of requiring manufactured cigarettes to list the average yields for tar, nicotine and carbon monoxide on packaging, that packets of manufactured cigarettes should carry a qualitative message about exposure and harms caused, and the value of quitting to reduce exposure and risk.

Questions:

- Question 12 asked submitters' views on the Ministry's proposal to replace the list of harmful constituents on packaging for manufactured cigarettes with a qualitative message.
- Question 13 asked the tobacco industry for the cost implications of placing a qualitative message on manufactured cigarettes' packaging.

Submission number	Response to question 12	Response to question 13
Health advocacy / interest groups		
15	Supports. The wording is much clearer and likely to be less misunderstood.	
16		
17	Yes, as is much less misleading and more informative to the smoker.	
18	Yes. Good idea. Research shows smokers don't actually read, properly assimilate or understand what the chemicals are as stated. A qualitative message is more effective. This should not be used as an excuse to reduce the size of the warnings however.	
27	Supports. The better know constituents should be displayed: "Contains: Arsenic, Benzene, Carbon Monoxide, Hydrogen Cyanide, Ammonia, Lead". The sides of the pack should be generic (white).	
30	Duplicate of S29: Supports information that is less misleading and more informative.	
31	Supports.	
32	Supports. The original messages were not read or noticed.	
34	Stated in principle support for all comments and recommendations in the Smokefree Coalition's submission.	
37	Submits that the question of qualitative versus quantitative messages is best left to those	

Submission number	Response to question 12	Response to question 13
	with expertise in marketing.	
District Health Boards		
19	Yes. Good idea. Research shows smokers don't actually read, properly assimilate or understand what the chemicals are as stated. A qualitative message is more effective. This should not be used as an excuse to reduce the size of the warnings however.	
22	Considers the qualitative message would have significantly more impact on smokers than the quantitative message which smokers have become blasé towards.	
29	Supports information that is less misleading and more informative.	
36	Strongly supports. People should be informed of the chemicals they are inhaling. Young people are often unaware. Tobacco should be treated like other consumer products. Recommends the sides of the packet be generic (white).	
40	Presents the view that there should be dual constituent labelling: one as in food labelling, the other in common language. The submitter acknowledges that initially at least the listing of additives may need to be selective given the large number.	
Health professionals		
6	Supports replacement with a qualitative message as more meaningful to users.	
7	Yes. Simplifies, thus easier to understand.	
13	Supports. Specific levels, along with 'light' and 'mild' phraseology can lead people into a false sense of security about some products.	
Researchers and Universities		
11	Supports.	
Tobacco industry groups		
10	S10 supports the proposal: <ul style="list-style-type: none"> • It is consistent with Australia • It reflects the fact that smokers do not smoke like machines and that ISO yields, while having an important role in the regulation of tobacco products, do not produce figures that are of use for consumer information. • They share the concern of the global public health community that consumer decision-making can be influenced by reported ISO yields. • They suggest that ISO yields be prohibited from being used elsewhere on the packaging. 	

Submission number	Response to question 12	Response to question 13
	<ul style="list-style-type: none"> • They note that in the future if new machine test methods are developed that more accurately reflect human exposure to constituents, that the government should then reconsider communication of yield to consumers. 	
23	<p>Believes no cigarette is safe and that no machine can routinely predict a smoker's exposure. Refers to the EC report on the application of the Tobacco Products Directive COM(2005)339 which indicates the EC takes the view that measured yields should continue to be displayed on packaging. Also refers to FCTC Article 11(2) as indicating information on relevant constituents and emissions should be placed on tobacco packaging. Concluded that the quantitative and qualitative information should be addressed together: happy to work with the Government to ensure this is done through this regulatory review.</p>	Refer to response to Q12.
24	Seeks agreement with retention of 0.2% rule, and thus that Australian-labelled products will be permitted.	
28	(Did not respond to any question specifically) Will follow any legislation requirement and commits to updating their packaging to meet any new legislation.	(Did not respond to any question specifically) Any changes will incur significant costs, particularly to small cigarette importers like S28.
41	<ul style="list-style-type: none"> • Government's role to determine wording. However, if decide to retain quantitative message, should consider supplementing the message to clarify that levels are derived from standard machine testing and tar, nicotine and CO inhaled may differ. • Ministry should note that ISO has set up an ISO working group to look at a better way of measuring yields. • Ministry should consider work done by, and decision made by, EC to retain the ISO numbers. • Consumers should be reminded not to engage in compensatory smoking, that there is no such thing as a safe cigarette, and that the only way to avoid the risks is to quit. • If the message is qualitative, then consumers will need to rely on brand variant names to identify their product of choice. In the absence of any constituent information, there will be a need for a communication strategy to overcome any initial consumer confusion. • There is currently no content message on other products, so if it is decided to proceed with such for other products, further consultation would be required unless the Australian format was chosen. 	No additional costs will be incurred if the change is implemented in conjunction with any introduction of graphic health warnings, or if current message was retained.
Retailers and retailer groups		
Individuals		

Submission number	Response to question 12	Response to question 13
5	Yes: 4; No: 1; Don't mind: 1. Easy to understand. The person who said 'no' said "don't read it".	
14	<ul style="list-style-type: none"> • Supports move to qualitative statements rather than levels, as the word "qualitative" is synonymous with "subjective". Such an approach is likely endorsed by a developmentalist viewpoint. Queries phraseology and statistics used relating to harmful chemicals: "40 harmful chemicals" and "4000 toxic substances" have both been used. Need to clarify this. • He suggests use of a further side panel to add quotes from reputable authorities (gives the example of the US Surgeon General). 	
33	Supports. Original message potentially misleading. The change will be more meaningful for smokers. It is a small step in the right direction to dispel the misleading and deceptive myths around 'light and 'mild' labelling.	

4.9 Languages to appear on health warnings [section 3.2.9, questions 14 and 15]

Context

The consultation document proposed two options for inclusion of health information in Te Reo Māori. These were:

- A banner-line message relating to the subject of the health warning displayed prominently on the rear of the packet.
- One or more of two general health warnings (specified in the consultation document).

The option of both was also floated, with the possibility of this being achieved by rotation each year or assigning them to particular health warnings.

Questions:

- Question 14 asked whether submitters supported the proposal for information in both English and Te Reo Māori to be displayed on tobacco packets
- Question 15 asked which of the two options (a translation of each warning, or one or two general health warnings) was supported.

Submission number	Response to question 14	Response to question 15
Health advocacy / interest groups		
4	Smoking Kills' translation in Te Reo should be on every packet.	
8	Supports messages in Te Reo. Māori public health and smoking experts are the best to determine content of messages.	Te Reo Māori is an official language and must be equally recognised. If there are multiple English messages, it should be the same for Te Reo Māori.
15	Supports as Te Reo is an official language of NZ. This is consistent with the requirement in the FCTC to have warnings in the principal languages.	All warnings should be in both English and Te Reo.
17	Te Reo is an official language. Use is consistent with the FCTC.	Supports Te Reo messages relating to each warning in English. Generic messages would be less effective, especially if only two are used and don't present new information.
18	Supports. Disproportionate number of Māori smoke, thus translation is important. Māori may relate to a message in their own tongue more easily.	Each warning must be presented in both languages to avoid tokenism. Provides Te Reo speakers the same information that English readers receive. S18 defers to the submission by Te Reo Marama and their suggested specific wording for translations.
20	Supports. Given large proportion of Māori who smoke, need to	Supports Te Reo Marama position.

Submission number	Response to question 14	Response to question 15
	target tools that may assist quitting.	
27	Strongly supports information in both languages. States that even asking the question is redundant given status of Te Reo as an official language since the Māori Language Act 1987 and Article 11(3) requirement for health information to be on tobacco packets in the country's principal languages.	<ul style="list-style-type: none"> • Strongly supports messages that relate to each health warning. Does not support one or two generic warnings. The risk otherwise is that: <ul style="list-style-type: none"> ○ Te Reo would be marginalised / undervalued compared with English ○ Te Reo is a vibrant language that should reflect the relevant context: one message would be out of context in most cases ○ Māori are a priority population and deserve / need to be informed in both languages. • S27 stresses its flexibility by citing the fact that it has not insisted on bilingual <u>explanatory</u> messages.
30	Duplicate of S29 Supports. Should be a requirement as Te Reo is an official language and because of the FCTC Article 11(3) reference to warnings being in the principal languages.	Duplicate of S29 Supports messages relating to each health warning so that Te Reo speakers receive the same information as English speakers.
31	Strong supports, in line with their consultation with key Māori agencies.	Strongly supports, in line with their consultation with key Māori agencies, inclusion of messages in Te Reo that relate to each English message.
32	Supports. Both are official languages and must be equally recognised.	Supports translation of all messages into Te Reo especially as Māori are disproportionately affected. Te Reo is the appropriate language to reach Māori. The single Te Reo warning proposed is an accurate translation of only one message and its placement on other packs would result in a mixed and consequently weakened message. Referred to the rise in fluent young Te Reo speakers and the high smoking rates among this group make it "imperative that all warnings are equally and fully translated and displayed to reach the largest number of Māori youth possible". S32 also noted that Te Reo was an official language of New Zealand and the requirement in Article 11(3) of the FCTC that warnings be displayed in the country's principal language or languages.
34	Stated in-principle support for all comments and recommendations in the Smokefree Coalition's submission.	
37	Submits that the translation of messages into Māori is not always the most effective form of message delivery.	Considering the target group of Māori women, submits that a single message in Māori should be used and that it should be short and sharp

Submission number	Response to question 14	Response to question 15
		(eg KA MATE KOE I TE KAI HIKARETI". Do not believe that long translations such as those in the consultation document are useful.
District Health Boards		
19	Supports. Disproportionate number of Māori smoke, thus translation is important. Also shows commitment of Government to the Treaty of Waitangi.	Each warning must be presented in both languages to avoid tokenism. Provides Te Reo speakers the same information that English readers receive. S18 defers to the submission by Te Reo Marama and their suggested specific wording for translations.
22	Supports. Both are official languages. Māori may more readily identify with health information in their own language. Supports response of ASH and Smokefree Coalition to this question.	Treaty gives equal status to Te Reo. There has been an increase in young Māori speakers. For these reasons each health message should be written in Te Reo.
29	Supports. Should be a requirement as Te Reo is an official language and because of FCTC Article 11(3) reference to warnings being in the principal languages.	Supports messages relating to each health warning so that Te Reo speakers receive the same information as English speakers.
36	Supports. Māori are a priority population and deserve to be told in both official languages. More Māori children are growing up with Te Reo as their first language: they have the right to be informed in Te Reo. Strongly recommends consultation with Māori to ensure the Te Reo messages are appropriate.	Supports use of one or two messages: key issues are that smoking kills and is addictive.
Health professionals		
7	Yes.	
13	Supports. Māori and Pacific peoples are among the highest users of tobacco.	Have no specific view.
Researchers and Universities		
11	Strongly supports messages in both languages: this is consistent with Article 11(3) of the FCTC.	<ul style="list-style-type: none"> • Supports the banner-line approach. • Supports the use of "KA MATE KOE I TE MOMI HIKAREI (Smoking will kill you) as the current warning is an accurate translation of only one message (Smoking kills) and is weakened when used in association with other English messages. • Does not support KA ORA AKE KOE I TE KORE MOMI HIKAREI. It is too difficult to understand for non-fluent users of Te Reo.

Submission number	Response to question 14	Response to question 15
		<ul style="list-style-type: none"> • Need to check how Pacific Island peoples would understand this. • Supports messages related to each warning as they promote learning. The rise in fluent young speakers of Te Reo Māori, and the fact that Māori are a priority population, make it imperative that all warnings are presented in both languages. Māori are disproportionately represented in youth and adult smoking statistics – all messages should be relevant to Māori whenever possible, and clear.
12	Supports.	Possibly just the general messages since not all Māori are fluent in Te Reo Māori.
25	Supports.	Messages should be in Te Reo Māori and English so that all smokers are treated equally.
Tobacco industry groups		
23	Considers it is up to the Government to determine this. However, all information should be included within the area used for health warnings.	Developing specific messages in Te Reo Māori could increase the relative cost per market share.
41	<ul style="list-style-type: none"> • Company would support Government if it decides to proceed with messages in Te Reo, provided within 30:90 limit for manufactured cigarettes and 30:50 for RYO. • Use of Te Reo warnings should be mandatory for all tobacco products sold on the market regardless of country of origin or variant market share. 	Government has a central role in deciding. Information communicated should be consistent.
Retailers and retailer groups		
Individuals		
5	Yes: 4; No: 2. Because Māori need education as well and are at high risk. Nay said it will mean less room for English and most people read this.	Yes: 5; No: 1. High rate of smoking by Māori: agree to some extent. Nay: less room for English, higher cost for tobacco companies.
14	Supports because Māori are heavily represented in smoking-related illnesses (quotes some of those statistics).	Supports banner line messages relating to the subject of each health warning because Māori have a great reliance on the spoken word and Option 2 is more conducive to that. Given higher prevalence in smoking-related illnesses, specific words related to each condition are required. He acknowledges FCTC Article 4 reference to indigenous

Submission number	Response to question 14	Response to question 15
		peoples. The use of the second side panel (see response to question 12) for quotes from prominent Māori is suggested.
33	Supports. Both are official languages and must be equally recognised. Use of Te Reo uses the language of the consumer.	Supports translation of all messages into Te Reo especially as Māori are disproportionately affected. Te Reo is the appropriate language to reach Māori. Treaty of Waitangi gives equal status. Referred to the rise in fluent young Te Reo speakers and suggested that the high smoking rates among this group make it “imperative that all warnings are equally and fully translated and displayed to reach the largest number of Māori youth possible”. S32 also noted that Te Reo was an official language of New Zealand and the requirement in Article 11(3) of the FCTC that warnings be displayed in the country’s principal language or languages.

4.10 The 0.2 percent rule [section 3.2.10, questions 16 and 17]

Context

The consultation document proposed retention of regulations that allow tobacco products with less than 0.2% of the tobacco market to be legally sold in New Zealand provided that their health message(s) ‘substantially complies’ with tobacco labelling requirements and they display a list of harmful constituents in a manner that is ‘substantially to the same effect’. The document notes that such an exemption could be modified to ensure compliance with minimum requirements under Article 11 of the FCTC.

Questions:

- Question 16 asked whether submitters agreed with the proposal to retain the 0.2% rule for imports of tobacco with low market share.
- Question 17 asked whether consideration should be given to qualifying the 0.2% rule exemption to ensure compliance with the minimum standard in FCTC Article 11.

Submission number	Response to question 16	Response to question 17
Health advocacy / interest groups		
8	Opposes. Sees no need to protect small players. The rule is vague and unclear as to what is required to 'substantially' comply.	
15	Does not support. All tobacco products should comply with the same regulations.	
17	Opposes. There should be consistency across all products. Retaining the dispensation raises compliance costs.	As for response to question 16.
18	Do not support "ill-advised" rule. All products should be treated the same. May be inconsistent with the mandatory requirements of the FCTC.	No. The rule should not be retained. See comments in response to question 16.
20	Do not support the rule. All tobacco is harmful and must be treated the same.	See response to question 16.
27	Does not support retention of the 0.2% rule. Need to be consistent.	See response to question 16.
30	Duplicate of S29 No. All importers should be treated equally. Otherwise it is inconsistent and this leads to increased compliance costs.	Duplicate of S29 No. All should be treated the same.
31	No. Commercial considerations should not subvert the need to inform smokers.	No. Companies importing small quantities should affix a non-removal label with same messages. Minimum requirement under the FCTC is insufficient.
32	No. This exemption should be removed because of: <ul style="list-style-type: none"> • Lack of clarity of terms such as "substantially to the same effect" • Inconsistency: all importers should be treated the same • Compliance with the FCTC: not sure if the approach would meet the requirements of the FCTC • Monitoring costs • Irrelevance: given the two largest companies make up 95% of the tobacco market, only a tiny minority of companies are affected by the rule. 	If 0.2% rule was retained, then the rule should clearly ensure compliance with the FCTC.
34	Stated in-principle support for all comments and recommendations in the	

Submission number	Response to question 16	Response to question 17
	Smokefree Coalition's submission.	
37	The majority of young pregnant women smoke standard cigarettes and S34 would be happy to "... leave the small product lines well alone, given that this will do little to undermine the broad intent and impact of tobacco health messages".	
District Health Boards		
19	Do not support "ill advised" rule. All products should be treated the same. May be inconsistent with the mandatory requirements of the FCTC.	No. The rule should not be retained. See comments in response to question 16. If a small importer with a product that can kill its consumer can no longer be in business, then that won't be a bad thing.
22	No, for the reasons set out in the ASH submission.	The rule should not be retained, for reasons set out in the submission by the Smokefree Coalition.
29	No. All importers should be treated equally. Otherwise it is inconsistent and this leads to increased compliance costs.	No. All should be treated the same
36	Does not support. Consistency is the key.	As per answer to question 16.
Health professionals		
6	Opposes exemption based on market share: absence of warnings could imply those products are more harmful. There need to be warnings on all packets.	
7	No. All tobacco should carry warnings. The labelling changes would appear to make the rule even less clear.	If 0.2% rule is retained, then it should be qualified to prevent confusion.
13	Opposes. Regulations should not protect importers with low market share.	Opposes. The same rules should apply to all. If some stop trading, then that would be a good thing.
Researchers and Universities		
11	Does not support. Need consistency.	All tobacco products should be treated same. Products with less intrusive messages would be an advantage.
12	Absolutely not. The exemption is bad for consumer rights, for public health and undermines a level playing field for businesses.	
Tobacco industry groups		
9	Supports retention of 0.2% rule. It would not be commercially feasible to	All cigars and pipe tobacco have a share markedly less

Submission number	Response to question 16	Response to question 17
	produce products with NZ-specific warnings. Cites example of their highest selling cigar brand having only 0.05% market share. Continuation of the rule would allow S9 to import cigars and pipe tobacco and compete in a market dominated by two large companies. The company respectfully requests the Ministry of Health to take into account the small size of the pipe and cigar tobacco market and to give consideration to allowing their products to be labelled in accordance with Australian requirements. Such permission is consistent with the 0.2% rule and harmonisation requirement of section 21(c) of the SFE Act.	than 0.2%. The health labelling regime required in Australia exceeds the minimum standard set out in the FCTC. Thus, S9's products, if allowed to be sold carrying Australian warnings, would meet this standard.
10	Opposes retention of 0.2% rule. The public should receive a consistent message. Brands with low volume sales are no safer than higher sale volumes.	Opposes (for same reasons as set out in response to question 16) any qualification that would allow 0.2% brands to display health warnings that meet the minimum standard set out in the FCTC as this is not a level playing field for tobacco products.
23	Supports retention of the 0.2% rule as a means of ensuring a level playing field and ensuring that the market remains competitive and open for imports. Considers the term "substantially compliant" needs clarification: The rule should apply to the <u>New Zealand</u> pictorial warnings and textual warnings should not be considered compliant.	See response to question 16. The standard should be NZ-specific and not just relate to FCTC requirements.
24	Total sales of cigars sold in New Zealand are estimated at 0.35% of the total New Zealand tobacco market. The 0.2% rule is a commercially sensible approach to legislation. Without it it would not be commercially feasible to produce many of the cigar brands available on the NZ market. For S24 there would be divisional closure and job losses if cigar brands were removed from the market.	Seeks to supply New Zealand market with products which comply with the Australian regulations.
28	Did not comment, except to say (broadly) that would comply with any requirements for packaging.	
41	Opposed. NZ consumers should benefit from both the Te Reo warnings and the NZ Quitline, regardless of country of origin and brand share. Implementing the same regime for all products would also assist in compliance and enforcement. Notes that a large proportion of the market would be exempted should the 0.2% provision be retained (the submission provides a list of 92 brand variants (manufactured cigarettes only – does not include RYO, cigars, etc) that the company says have a market share of 0.2% or less).	Does not support an exemption. The law should be applied consistently.

Submission number	Response to question 16	Response to question 17
Retailers and retailer groups		
21	Opposes the exemption. There does not appear to be a strong argument for exempting small product lines and it is important to have the same rules: a level playing field. Such a policy could encourage new 'niche' brands as a way of getting around the new regulations.	
26	All brands of cigarettes sold in New Zealand should comply with the new requirements. Does not support the 0.2% rule.	
Individuals		
5	No: 4; No response: 1; Don't know: 1	No response: 4; Don't know: 1; No: 1
14	No. These products are just as harmful.	No. Must be a level playing field. Concerned that products without the warnings might experience increased demand.
33	Does not support. Stickers could be removed. Supports ASH submission and rationale why this exemption should be removed.	If 0.2% rule was retained, then the rule should clearly ensure compliance with the FCTC.

4.11 Specific warnings chosen for placement on cigarette packets [section 4, question 18]

Context

The consultation document outlined the rationale for the selection of specific health warnings. This included the importance of warnings that have universal appeal, and those that are targeted at specific sub-groups of the population and/or relate to specific health risks. The document presented mock-ups of the various warning options, presented in both 30:90 and 50:50 formats. Five categories of messages, incorporating 14 messages, were presented:

- Children, second-hand smoke: role modelling
 - 4.1.1 Message 1: You are not the only one smoking this cigarette
 - 4.1.2 Message 2: Your smoking can harm your kids
- Physical fear
 - 4.2.1 Message 3: Smoking causes blindness
 - 4.2.2 Message 4: Cigarettes are a heart breaker
 - 4.2.3 Message 5: Emphysema is a living hell
 - 4.2.4 Message 6: Smoking causes mouth cancer
 - 4.2.5 Message 7: 9 out of 10 lung cancers are caused by smoking
 - 4.2.6 Message 8: Smoking doubles your risk of stroke
 - 4.2.7 Message 9: Smoking blocks your arteries
 - 4.2.8 Message 10: Smoking causes gangrene
- Social fear
 - 4.3.1 Message 11: Tobacco use can make you impotent
 - 4.3.2 Message 12: Smoking causes foul and offensive breath
- Poison
 - 4.4.1 Message 13: Tobacco smoke is poisonous
- Addiction
 - 4.5.1 Message 14: Smoking is highly addictive

Question

- Question 18 asked whether submitters agreed with the design and concepts used in the various listed health warnings.

Submission number	Response to question 18
Health advocacy / interest groups	
4	<ul style="list-style-type: none"> • Smoking Kills (and Māori translation) should be displayed on all packets. Premature death is the main consequence of smoking. Required as a means of discharging the Ministry’s obligation to consumers. • Supports message about addictiveness. Smokers require basic knowledge that it is the smoke that kills, it is the nicotine that addicts. A message about nicotine is important to counter baseless fears of nicotine which undermines use of NRT. • Supports mention of the various diseases, including stroke. • Not as supportive of breath message: focus for adolescents should be on life and death issues. • Wording “Tobacco causes impotence” is inaccurate: it is <u>smoking</u> (not tobacco use per se) and more accurate to say that it <u>can</u> cause impotence. • Warning “Smoking causes gangrene” similarly more accurate if said “Smoking <u>can</u> cause gangrene”. • The cigar message is misleading because whole truth is not stated: smokers would still be better off smoking cigars (particularly if they don’t inhale) than cigarettes. • Generally, the picture tells the story powerfully and should avoid the text overstating the case.
6	Believes “Smoking causes Blindness” must be included and be in frequent rotation given the irreversibility of sight loss (compared, for example, with some other conditions). Provides a rationale for costs (health, social, economic) of blindness, including that 13,000 New Zealanders have sight loss due to smoking.
8	Dismayed that Message 1 depicts a headless pregnant woman as this dehumanises the woman. While pregnancy can be a positive motivator, it is the woman who makes the decision regarding smoking during pregnancy and many relapse. Changing the message to show the women’s face would send a more appropriate public health message.
15	<p>Some of the suggested photos are “messy” and have additional wording that detracts from the images. It is assumed that this will be tidied up. Also suggests that all messages be evaluated following their release (include a robust Māori sample in that evaluation).</p> <p>Message 1: Overall happy with the message but concerned that the woman is headless.</p> <p>Message 2: Happy with the image but think it should refer to “children”, not “kids”</p> <p>Message 3: Happy with image and text. Use of that image is consistent with TV advertising – this will reinforce the message.</p> <p>Message 4: Suggests using “Smoking causes heart disease” instead.</p> <p>Message 5: Asthma & Respiratory Foundation suggests that the wording “Smoking causes COPD – debilitating and often fatal lung diseases like emphysema” is better than the current wording.</p> <p>Messages 7,9,11: Supports.</p> <p>Message 8: Happy with the wording and the image. The use of the words “minor stroke” on the image seems unnecessary.</p> <p>Message 10: Supports, but wonder whether need the word “gangrene” on the image.</p> <p>Message 12: Wonders whether this message is strong enough. Foul and offensive breath is not going to cause any lasting ill health.</p> <p>Message 13: The message is correct but concerned about the image of a skull and cross bones: this may be appealing to some young people.</p> <p>Message 14: Suggests wording “Smoking is more addictive than many other drugs”.</p>

Submission number	Response to question 18
16	Stresses the importance of pre-testing the warnings with lower socio-economic groups, Māori, and Pacific peoples – and evaluating (post implementation) any differential impact by ethnicity and socio-economic position.
17	<ul style="list-style-type: none"> • Generally supports the design and concepts. • Recommends an evaluation of individual warnings following release (including a robust Māori sample). Would like information on how any evaluation will be carried out. • There are some inconsistencies with recognition of copyright, small words on images are messy and detract from the message especially when the warning already tells people what they are looking at (eg gangrene). • Message 1: The message needs to include the woman's head as well. • Message 2: OK – except the incorrect written warning is included on the 50:50 option. • Messages 3, 7, 9, 12: OK. • Message 4: Suggests alternative warning that is more direct and in keeping with a health effects warning – <i>Smoking causes heart attacks</i>. • Message 5: Suggests more understandable language – <i>Lung disease is a living hell</i>. Also need to show a stronger image that clearly shows the impact of having to constantly breathe bottled oxygen. • Message 6: Suggests no need to say 'mouth cancer' on the 30:90 picture as the written warning is clear. • Message 8: Suggests no wording is needed on the image, but if do include wording, should just say "stroke". • Message 10: The word gangrene is not needed on the images. Otherwise OK. • Message 11: Suggests reword to "Smoking can make you impotent". • Message 13: Concerned that skull and cross bones could appeal to young people. Agrees with the message but consider an alternative image. • Message 14: The image doesn't fit with the warning. Recommended an alternative, showing a syringe and the words "Smoking is".
18	<ul style="list-style-type: none"> • In general agreement with the design and concepts. The larger the warnings, the more effective. • Having the Quitline on both front and rear is extremely important. • Pictorial warnings on the front are important for when they are on retail display. • RYO tobacco must have pictorial warnings and have the Quitline number. • The design and colours of the graphics and the Quitline message need to be coherent and consistent. • Believes the relevant organisations need to be consulted on content of the warnings (eg Cancer Society: cancer warnings, National Heart Foundation: heart disease). • Message 1: Image is offensive: pregnant women have heads. • Message 4: Should be reworded to "Cigarettes cause heart attacks". • Message 5: Should be reworded "Lung disease is a living hell" as people may not know what emphysema is or be able to pronounce the word. Reference to COPD could be similarly confusing. A more graphic image is required. • Message 14: The skull and cross bones is used on clothing. Suggests alternate image such as a coffin.
20	Supports the design and concepts. Would like change to wording about emphysema which is generally known now as COPD. It should

Submission number	Response to question 18
	be reworded to “Lung disease is a living hell”. People may know what emphysema or COPD is. The warning also needs a more graphic image since in other than the larger picture, it is unclear.
27	<ul style="list-style-type: none"> • Supports the overall design and concepts. Strongly recommends that a robust evaluation take place to ensure the integrity of the health warnings and information. • Asks what process will take place to replace warnings and information. • Message 5: Need to relate to what actually happens with emphysema: the term living hell could mean different things. • Message 14: Using a reference to another addiction may emphasise level of addiction (eg “Smoking is as addictive as heroin”).
30	<p>Duplicate of S29: Generally supports the design and concepts provided they are consistent, legible and visible.</p> <p>Message 1: Image should show the head.</p> <p>Message 2: The word ‘kids’ should be changed to ‘children’.</p> <p>Message 4: More direct language would be better understood: “Smoking causes heart attacks”.</p> <p>Message 5: Suggests ‘lung disease’ would be better understood than ‘emphysema’ or ‘COPD’. This would ensure consistency with the health message “Smoking causes debilitating and often fatal lung diseases like emphysema”.</p> <p>Message 8: Suggests word ‘minor’ be removed, or alternatively have no wording on the image at all.</p> <p>Message 11: Suggests replace the words “tobacco use” with “smoking” for consistency.</p>
31	<p>Ministry should ensure the process for developing new health warnings is appropriately rigorous. Calls on Ministry to fund New Zealand’s participation in the ITC project. This would allow evaluation and comparison of the impact of new warnings, and other policy initiatives.</p> <p>Messages 1,2,3, 6,7,8,9,10,12,14: OK.</p> <p>Message 4: Does not support current tag line. Prefers “Smoking causes heart attacks” or “Smoking causes heart disease”.</p> <p>Message 5: Considers message could not be well understood. Suggests “Lung disease is a living hell”. Concerned also the image may not convey the trauma of emphysema and COPD and suggests a local image of a COPD patient.</p> <p>Message 11: For consistency and clarity, suggests use “Smoking can make you impotent”.</p> <p>Message 13: Concerned that the image may not convey the message well and may be attractive to young people.</p>
32	<p>Message 1: Woman is dehumanised by removal of her head. A headless woman perpetuates the notion that pregnant women should only quit for the health of their babies. The picture used in the 30% warning shown in the consultation document does not clearly link smoking with a negative consequence.</p> <p>Message 4: Prefers “Smoking causes heart attacks”</p> <p>Message 5: Not convinced that the term emphysema is well known or understood. Suggests “Lung disease is a living hell”. Notes that a more accurate term is COPD. S32 would prefer a harder-hitting image that clearly shows the impact of having to constantly breathe bottled oxygen. Mock-up option provided, but S32 seeks development by the Ministry of an image using a New Zealander.</p> <p>Message 13: Supports the text image but considers the image too cartoon like: this lacks seriousness and might be a desirable image to collect. S32 recommends the Brazilian picture of a dead rat and cockroaches (perhaps made NZ-specific using a dead stoat or possum).</p> <p>Message 14: Supports the message but does not consider the image hard-hitting enough. A more effective message would be one showing how addictive tobacco is (mock-up of message with syringe provided).</p>

Submission number	Response to question 18
34	Stated in-principle support for all comments and recommendations in the Smokefree Coalition's submission.
37	Supports focus on a health promotion message that targets cigarette smoking during pregnancy. Suggests that a stark message such as "Smoking in Pregnancy causes Cot Death" is powerful and appropriate. Also suggests inclusion of a narrative on the back of the pack relating to SIDS.
District Health Boards	
19	In general agreement with the design and concepts. The larger the warnings, the more effective. Having the Quitline on both front and rear is extremely important. Pictorial warnings on the front are important for when they are on retail display. RYO tobacco must have pictorial warnings and have the Quitline number. The design and colours of the graphics and the Quitline message need to be coherent and consistent. Supports the ASH mock-ups. Believes the relevant organisations need to be consulted on content of the warnings (eg Cancer Society: cancer warnings, National Heart Foundation: heart disease). Message 1: This is a strong graphic that could prompt mums into quitting. Message 4: Does not like terminology "heart breaker", prefers "causes heart disease". Message 5: Could appeal to older smoker. It could provide hope and change behaviour as families have experienced members' hospitalisations and disability through COPD. Message 6: Should be effective especially for young women. Message 13: Skull and cross bones is a trendy image on some clothing items. Suggests looking for an alternate image: perhaps a coffin. Message 14: Would like to see a stronger image: perhaps smoker wearing a ball and chain. It is important to keep the addictive message linked to the tobacco industry.
22	Refer to the ASH submission's answer to this question: supports the arguments presented in that submission in relation to messages 1,4,5,13 and 14.
29	Generally supports the design and concepts provided they are consistent, legible and visible. Message 1: Image should show the head. Message 2: The word 'kids' should be changed to 'children' Message 4: More direct language would be better understood: "Smoking causes heart attacks". Message 5: Suggests 'lung disease' would be better understood than 'emphysema' or 'COPD'. This would ensure consistency with the health message "Smoking causes debilitating and often fatal lung diseases like emphysema". Message 8: Suggests word 'minor' be removed, or alternatively have no wording on the image at all. Message 11: Suggests replace the words "tobacco use" with "smoking" for consistency.
36	Supports the overall design and concepts that have been developed. Recommends a robust evaluation to ensure the integrity of the warnings / information.
Health professionals	
6	Agrees with design and concepts in the document.

Submission number	Response to question 18
13	Agrees. Concerned however that “Smoking Kills” will not appear. Concerned that smokers may pick and choose messages that are targeted at other groups as their preferred messages. Therefore, directed warnings that target “only a small group – (eg pregnant women) should not be used. A further example quoted is the “smoking causes impotence” warning.
Researchers and Universities	
11	<p>Message 1</p> <ul style="list-style-type: none"> • Not supported as not strong enough. Also, the emphasis of this message is on SHS. The health message about smoking in pregnancy needs to be a clear message about the dangers of smoking in pregnancy. A message about smoking in pregnancy should be displayed each year. One should target pregnant Māori woman with use of a “brown skinned model”. • Supports statement “Smoking during pregnancy increases the risk of miscarriage, stillbirth, premature birth” • Does not support statement “or the baby having a smaller brain and body at birth”. • Suggests: “babies damaged by smoking during pregnancy will be sicker than other children”. • <u>Suggested text for general pregnancy related warnings:</u> <ul style="list-style-type: none"> ○ Smoking in pregnancy damages baby. ○ Smoking can harm your pregnancy. Miscarriage, stillbirth, birthing complications. ○ It is best to be totally smokefree during pregnancy. ○ Pregnant? Ring Quitline. • The process by which a baby gets damaged should be spelt out “The poisons in smoke go via your blood through the placenta to baby”. • <u>Suggested text for SHS-related warnings:</u> <ul style="list-style-type: none"> ○ Smoking in pregnancy increases risk of SIDS. ○ Smoking in pregnancy increases the risk of your baby dying from SUDDEN infant death syndrome. • Suggests a possible picture for a SIDS warning: a small coffin being carried by a Māori man with mother crying. <p>Message 2</p> <ul style="list-style-type: none"> • Message needs to say how smoking harms kids (for example, the children of smokers have more asthma, glue ear, meningitis, pneumonia, colds and flu, leukaemia and are more likely to become smokers themselves. • The picture is too soft The child should look sick and miserable. • Suggest moving “Babies exposed to tobacco smoke are at greater risk of Sudden Infant Death Syndrome” to Message 1. • <u>Suggested text:</u> Your children are more likely to become smokers if you smoke. • <u>Suggested picture:</u> A toddler trying to smoke a cigarette butt. <p>Message 3: Looks like it is out of a horror movie. There is therefore a risk that this could picture could be seen as ‘cool’.</p> <p>Message 4: The slogan is a poor attempt at black humour. The message should be clear (Smoking causes heart attacks).</p> <p>Message 5: Does not support the picture. Concerned that use of a white man makes the picture irrelevant for too many smokers. Suggests showing a harder hitting picture like a rotting lung. Also argues that the term emphysema is not necessarily well understood: “lung disease” is better.</p>

Submission number	Response to question 18
	<p>Message 6: How many people will actually end up looking like the picture. Seems too extreme and exaggerating effects could lose the campaign credibility.</p> <p>Message 7: Supports. Excellent, clear informative message.</p> <p>Message 8: Supports, Links to TV campaign and excellent information.</p> <p>Message 9: Supports.</p> <p>Message 10: Does not support. Concerned that it is not common. If use it, should emphasise it is especially the case for people with diabetes.</p> <p>Message 11: Does not support. Is not strong enough. Not sure enough people know what the word “impotent” means. Suggests “Smoking makes you soft”. Concerned that this message might be a popular one for women to choose. Another possible message could be “Smoking affects your fertility”.</p> <p>Message 12: Doesn’t support. The picture reflects poor dental hygiene.</p> <p>Message 13: Lame. The message is too vague. The image is too cartoon like and might be a desirable image to collect.</p> <p>Message 14: Supports a message on addiction. However, the image is not hard hitting enough. The phrase “highly addictive” needs explanation. Suggested consider whether could use a picture and quote from Janice Pou. Better to show a manicured woman’s or metrosexual’s hand. Need to ensure the message is accurate. The message on the back is contradictory (“You may not realise how addicted you are until you try to quit. Long term smokers can and do quit”).</p>
12	<p>Message 1: Good.</p> <p>Message 2: Good but main title should probably be replaced with “Your smoking can cause asthma in your kids” or “Smoking around children causes cot deaths and asthma”.</p> <p>Message 3: Good – but possibly better in main heading to use “causes untreatable blindness”. The small print should be changed to “Smoking is a major cause of untreatable blindness by damaging the back of your eyes. It also causes cataracts.” Could add “Smoking is the only proven and preventable cause of AMD, the commonest cause of blindness in New Zealand”.</p> <p>Message 4: Quite good, but prefers a more direct “Smoking causes death from heart attacks”.</p> <p>Message 5: This is a value judgement so may degrade value of the other “evidence-based” health warnings. Consider use of alternative to “emphysema” which might not be widely understood eg, “Lung disease from smoking can make walking a breathless struggle” or “Lung disease from smoking – may mean life beside an oxygen tank”.</p> <p>Message 6: Possibly should not be used because the outcome is rare and for young smokers these images might seem unrealistic and reduce credibility of other messages. The message could impede possible future efforts to switch smokers to pharmaceutical grade nicotine snuff or low nitrosamine oral snuff.</p> <p>Message 7: Not sure about value of statistics given the evidence around the self-exempting beliefs of smokers. A better alternative might be: “Smoking increases your risk of lung cancer by at least 10 times”. Need to check the 9 out of 10 statistic with NZ-specific figures from Peto et al in 2000 (given it varies by sex and ethnicity). To avoid complexity, a non-numerical statement would be better.</p> <p>Message 8: Excellent that “stroke” is included. The risk is probably much greater than “double”. Provides references for this. It is therefore probably better to have “greatly increases stroke risk”.</p> <p>Message 9: The main message might be better as: “Smoking clogs blood vessels and causes heart attacks and stroke”. Impotence could be added in the small print. “Blood vessels” may well be better wording than “arteries”.</p>

Submission number	Response to question 18
	<p>Message 10: It might be good to link all the outcomes in the small print: “By blocking blood vessels smoking causes gangrene, heart attacks, stroke, and impotence”.</p> <p>Message 11: Partly incorrect: the word “tobacco” should be changed to “smoking” – as the risk for other types of tobacco use (eg, oral) is not proven for impotence (and is probably either very small or nonexistent for oral tobacco). Any future harm reduction strategy involving switching smokers to oral tobacco (eg, low nitrosamine oral snuff) could be damaged by this more general “tobacco” message.</p> <p>Message 12: The graphic nature is potentially helpful in stimulating quitting, but the wording might be stronger as: “Smoking rots your gums”. However, are arguments for dropping the image: for young smokers the images may seem unrealistic and reduce credibility of the other messages, and could undermine any future strategy to switch smokers to low nitrosamine oral snuff.</p> <p>Message 13: Possibly better to focus on the adverse health outcomes. In wider policy terms it may be best to reserve the skull & crossbones symbols for “acute poisoning”. Concern also at potential appeal of picture to young people. If used, it might be good to have in the small print a stronger link between tobacco smoke and poison and pollution.</p> <p>Message 14: Good, but the word “very” may be better than “highly”. Another option is the message “Smoking is highly addictive, don’t start”.</p> <p>Gaps in messages:</p> <ul style="list-style-type: none"> • No messages around how NRT can help you to quit. • No messages that indicate that certain prescription messages are proven to help quitting. • The message Smoking Kills should not be dropped. It should be expanded to “Smoking kills over half of long-term smokers”, with the small print saying “Smoking kills by causing cot deaths, heart attacks, strokes, lung diseases and many different cancers”. • Warnings should not be capitalised. They are easier to read when in normal type. • There needs to be a systematic evaluation programme for the warnings – including pre and post testing of all labels. This could be done under the NZ arm of the ITC (if approved by the HRC).
25	Messages relating to the effect of smoking on children, and smoking during pregnancy are especially important.
Tobacco industry groups	
9	It is the role of government and public health officials to decide content of warnings.
10	It is the role of government and public health officials to decide scope, content and format of warnings.
23	<ul style="list-style-type: none"> • Health warnings should “... provide information to the smoker and not be designed solely to vilify, stigmatise and shock adults who have made the decision to smoke”. • Nothing in the consultation document indicates that the images used are direct consequences of smoking. Ministry needs to verify this and have evidence available that the actual content of the images is accurate.
24	
28	(Did not respond to any question specifically) Will follow any legislation requirement and commits to updating their packaging to meet any new legislation.
41	Supports the Government’s role in deciding which warning designs and concepts should be implemented. However, emphasises concern over black and yellow background (see response to Q7).

Submission number	Response to question 18
Retailers and retailer groups	
21	Expressed strong concern over the potential impact of pictorial health warnings when tobacco products are displayed in tobacco retail outlets. Notes that retailers, and Foodstuffs stores in particular, make strenuous efforts to provide a shopping environment that provides a pleasant and congenial atmosphere for their customers to shop in. Given that the apparent primary objective of pictorial warnings is to shock, S21 is concerned that in a retail context, the display of the proposed graphic warnings may offend or upset some customers (for example, the young or elderly). As 75 percent of adults don't smoke, S21 considers that non-smoking customers should not be subjected to the images. Placing the images on the rear of packets would stop the images being visible when on display but still ensure they are visible to the target audience.
Individuals	
2	Most picture warnings won't work because of "it won't happen to me" syndrome. Pictures relating to impacts on skin wrinkling may be effective for women
3	Supports inclusion of the warning relating to blindness and proposes two alternate wordings as well: "Smoking causes blindness" or "Smoking causes untreatable blindness" or "Smoking is a major cause of blindness". Indicated satisfaction with following the Australian warnings.
5	<p>Yes: 6. At least one student commented the messages should be more gory.</p> <ul style="list-style-type: none"> • Message 4: Not interesting, and one suggested should be alongside a healthy heart. • Message 5: 3 suggested this picture / message not great: picture's impact and connection with text questioned. • Message 13: Not visually effective as others.
14	<ul style="list-style-type: none"> • Yes, but also supports removing other colours from the pack to render the remaining pack black and white. • Suggests the Quitline logo and number be on both sides. • Images could be refreshed by turning them over (changing direction of faces, for example). • The messages enhance knowledge and body awareness. <p>Specific comments:</p> <p>Message 1: could the baby image be included on both sides?</p> <p>Message 3: looks like something from a horror movie; could the eye colour change between packets to make the image specific to different individuals?</p> <p>Message 4: Good.</p> <p>Message 5: There is room to expand on what emphysema is.</p> <p>Message 6: Is attention grabbing, unpleasant and unsettling.</p> <p>Message 7: Would be effective to contrast an unhealthy lung with a healthy lung.</p> <p>Message 8: Increases understanding of brain function, circulation and how cardiovascular accident in one part affects function.</p> <p>Message 9: The 50:50 rear message needs the explanation in the same colour as the Māori warning at the top to contrast the Quitline message. Arteries range from large to small – suggests this range be accounted for in the written message.</p>

Submission number	Response to question 18
	<p>Messages 10, 11, 12: Are “in your face” and comprehensive messages. Message 13: Need to alter the skull expression to make it look more menacing. Message 14: Suggested wording: “To continue to smoke is to deprive yourself of choice. Long-term smokers can and do quit”.</p>
33	<p>Message 1: Woman is dehumanised by removal of her head. This also raises cultural concerns and issue with regard to Māori. The 30% mock-up does not clearly link smoking with a negative consequences. The 50% picture does: this supports S33’s position on the 50:90 option. Message 4: Supports ASH’s call for “Smoking causes heart attacks” instead. Message 5: not convinced that the term emphysema is well known or understood. Would prefer a harder-hitting image that clearly shows the impact of having to constantly breathe bottled oxygen. Also concerned that image is dehumanised by removal of the head. Seeks a new image. Message 13: Would prefer a harder hitting image: this is cartoon like. Message 14: Agrees with ASH: supports the message but does not consider the image hard-hitting enough. A more effective message would be the ASH mock-up showing how addictive tobacco is (syringe image).</p>
39	<p>Strongly objected to many of the images on the grounds of good taste and decency. Finds some images in particular (eg diseased feet, mouth and eyes) to be hideous, revolting and vulgar and does not wish to be exposed to them. Notes that these images will be in wide circulation and it is inevitable that the submitter will have to sight the packets routinely. Does not object to the public good objectives with the proposal, is not a smoker, is not associated with the tobacco or health industries, and is not opposed to health warnings in general or to other pictorial warnings. However, “some members of the public consider they ought to be able to go about their business without being needlessly subjected to vile visual images” and “.. it is at best tactless, and at worst irresponsible, for a public agency to intentionally cause offensive and stomach-turning images to be widely and publicly distributed ...”.</p>

4.12 Cost-related issues for industry [section 4, question 19]

Context

The consultation document sought feedback on cost-related issues.

Question:

- Question 19 asked the tobacco industry what the costs would be in implementing proposed changes to health warnings for:
 - The two size options for the 14 pictorial health warnings
 - The proposed health warnings for cigar packaging
 - The proposed health warnings for loose cigarette and pipe tobacco

- Other factors associated with the proposed changes.

Submission number	Response to question 19
Health advocacy / interest groups	
District Health Boards	
Health professionals	
Researchers and Universities	
Tobacco industry groups	
9	The cost to label packaging with NZ warnings would be prohibitive and would put in to question their continued presence in New Zealand. Argues that given Australian warnings are substantially to the same effect anyway, S9 submits that packaging carrying Australian warnings should be acceptable to New Zealand.
10	
23	<ul style="list-style-type: none"> • See response to Q2. • Stressed some key points about the nature of the company and the challenges they face in the New Zealand market: <ul style="list-style-type: none"> • They have less than 20 percent of the market, a market dominated by one major player holding in excess of 70 percent of the market • Individually, brands do not hold large market shares or provide the same financial returns • The company has 66 brands, some manufactured offshore – all would require major alterations to packaging to comply • As a result of the above, S23 argues that the proposals would disproportionately impact on the company compared with the market leader – and result in seriously reduced competition. • S23 also expressed concern that the consultation document does not deal with the issue of descriptors at the same time as other packaging changes. They expressed concern at future costs should the Government decide to move to require removal of these descriptors. All such changes should be dealt with at the same time.
24	If S24 can sell cigars with Australian warnings, then a commercially-practical solution will result without unreasonable cost implications.
28	(Did not respond to any question specifically) Any changes will incur significant costs, particularly to small cigarette importers like S28.
41	See response to Q2.
35	
Retailers and retailer groups	
21	

Submission number	Response to question 19
26	There would be cost impediments to retailers in changing cabinetry in some stores to meet the new requirements, particularly if display cabinets are required to be changed to reduce the visual impact of cigarettes at checkouts in particular stores. S26 is undertaking an assessment of costs and will make this available to the Ministry.
Individuals	

4.13 Transition periods for phasing in new warnings [section 4, questions 20 and 21]

Context

The consultation document outlined the transition times provided the last time tobacco labelling regulations were changed. It outlined a proposal by the Ministry of Health to provide a 12 month transition period for all manufacturers and importers to change tobacco health warnings on tobacco packets, and a three to six month period for retailers to dispose of non-complying stock (stock with old labelling).

Questions

- Question 20 asked tobacco companies to comment on their ability to have any new warnings on tobacco packaging within 12 months from the date regulations are promulgated.
- Question 21 asked retailers whether three to six months was sufficient time to dispose of old stock carrying old tobacco health warnings.

Submission number	Response to question 20
Health advocacy / interest groups	
17	Considers 12 months an unacceptably long timeframe. Recommends two months.
18	Expressed concern about the 22 month period since the original consultation exercise on new health warnings commenced. States that industry should place stick-on warnings on old stock so that all products comply from day one. Can see no practical reason why three months is not sufficient. "Further tolerance for an industry of this nature is unconscionable".
31	Concerned over unnecessary delay with introduction and view objections by the industry over timeframe as a strategy to delay introduction. Recommends a two month timeframe once the regulations are made.
32	Primary concern is the timeframe. The original consultation was in October 2004, meaning that based on the Ministry's timeframe, it will

Submission number	Response to question 20
	have been four years before the new warnings are in place. 12 months is not acceptable. S32 considers two months sufficient. S32 indicated that they printed graphic mock-ups of tobacco packets in two weeks and that "This is a high-tech industry with near infinite resources at their disposal".
34	Stated in-principle support for all comments and recommendations in the Smokefree Coalition's submission.
District Health Boards	
22	Does not support the suggested 12 month period. Considers two months sufficient, for the reasons outlined in ASH's response to this question.
Health professionals	
Researchers and Universities	
12	Noted that the industry makes regular changes to its packaging and comments that the published literature would suggest that it is therefore likely that they would be able to make changes within a matter of months.
Tobacco industry groups, and tobacco industry supplier (S35)	
9	
10	S10 noted that Australia provided 18 months for implementation of new warnings. However, they noted that capital upgrades by S10 to accommodate pictorial warnings have been put in place. If Option 2 (30:90) is selected, this could be accommodated within 12 months of regulations being promulgated, given less design time, etc required. Option 1 would take six months longer to implement. S10 has offered to explain design and other stages of implementation to the Ministry if required. S10 also commented that Option 1 would be more expensive for the company.
23	<ul style="list-style-type: none"> • Timeframe is too short. It is not logistically possible. • Advises that a period of 18 to 24 months <u>from finalisation of artwork</u> is required to implement the proposals. They cite problems with artwork in Australia as the rationale for the timeframe not commencing until artwork is completed. • Lack of copyright for all images is of concern given the proposed timeframes for implementation. This resulted in problems in Australia around unplanned or last minute adjustments to artwork. Problems of this nature can affect timeframes and result in increased costs. • Regular contact with the Ministry (perhaps through an implementation committee of Ministry and industry representatives) would facilitate implementation. S23 requests a consultation process or a committee to avoid the problems experienced in Australia. • The timeframe required is influenced by: the time required for the various steps of the printing process and the time needed to adjust and purchase the printing machinery. • S23 imports a number of products from overseas and requires the same amount of time for new artwork development in the manufacturing of the product.

Submission number	Response to question 20
	<ul style="list-style-type: none"> Notes that the EC, when drafting its directive on labelling (2001/37/EC), granted longer transition times for other tobacco products (other than manufactured cigarettes) – recognising small brand volumes.
24	
28	
41	<p>Submits that a minimum of 12 months would be required from the time the regulations are promulgated – this should apply to stock manufactured on or after that date. This is based on the following:</p> <ul style="list-style-type: none"> It includes the time required to re-design packaging, replace print cylinders, print, manufacture stock and ship to New Zealand It excludes a period for distributors and retailers to sell through non-complying stock It takes into account the infrequent manufacture of some smaller brand variants, and imported products from countries other than Australia that have long lead-times It takes into account that Australian supplier has commissioned a 10 colour press It takes into account the intention that the company intends to move production to Australia. It assumes consultation with the company on draft regulations before Cabinet consideration. <p>The company submits that for tobacco manufacturers a compliance point of manufacture is preferable.</p>
35	<p>S35 provided a technical explanation of the plant, equipment and materials required for the printing of tobacco packaging with graphic health warnings, using the gravure printing method. They outlined some practical manufacturing, printing and production constraints that dictate the timing the cost and the feasibility of producing packages containing new, different and/or coloured image health warnings. These include:</p> <ul style="list-style-type: none"> The limited number of printing companies in New Zealand that use the gravure printing method. The limited number of manufacturers of gravure metal cylinders. Increased number of cylinders required – based on number of colours. Installation of cylinders at the printers, and new heads to hold the extra cylinders. Approach to applying colours: spot versus process colours; and numbers of colours required (it is expected that the new warnings may require 9-10, some possibly as many as 11-12). Cost of the print heads and the cylinders (a print head can cost about \$30,000). If the technical specifications for the printing require the use of process colours it could take between 18 and 24 months to purchase and install additional heads. Some machines are not capable of having additional print units “bolted-on”. The investment required by printing companies to be able to accommodate the requirements could be substantive. It was suggested that the factory may not be large enough to accommodate all the new equipment. <p>S35 noted that until the final technical specifications are provided, there can be no decision made on what is required to be done to modify plant and equipment. In summary, they advise they will require more than 12 months to install the extra machinery required to print the proposed pictorial warnings. The cost, depending on the final specifications, could be significant.</p> <p>Please refer to the submission for a detailed discussion of these matters.</p>

Submission number	Response to question 20
Retailers and retailer groups	
21	Manufacturers are best placed to comment on implementation timeframes.
26	
Individuals	

Submission number	Response to question 21
Health advocacy / interest groups	
17	Does not support a three month period for retailers to dispose of old stock. Recommends a one month period. Also recommend that retailers be provided with non-removable stickers to place on old stock during this period. This will discourage stockpiling of old product.
18	As per response to Q20. Any old stock must have a sticker from day one.
31	Recommends that all tobacco products sold after the new warnings introduction date must include the new warnings. This could be achieved by allowing non-removable stickers to be used on old stock, but this should be stopped within three months after introduction. Heavy penalties should apply to any retailers who sell products without the new warnings. Legislation should state that warnings cannot be removed, and that covers or tins for tobacco products must also carry warnings.
32	Does not support a three month period. One month is supported, but with retailers supplied with stickers to cover old warnings with the new ones.
34	Stated in-principle support for all comments and recommendations in the Smokefree Coalition's submission.
District Health Boards	
22	Supports ASH response to this question.
Health professionals	
Researchers and Universities	
Tobacco industry groups	
9	
10	
23	Three months is unrealistic and unreasonable for most retailers. No rationale is provided in the consultation document for this. S23

Submission number	Response to question 21
	recommends that NZ follow Australia's example of allowing the natural sell through of non-pictorial warnings: this assisted industry and retailers alike.
24	Three months is too short for the retail industry to dispose of old stock. Recommends a six month transition period.
28	
41	The company states it will not accept return of non-complying products from retailers. Therefore, a period of at least six months is required. The company provided examples of stock sell-through time periods (upwards of 12 months) from previous products that were delisted. Argue that a decrease in the time allowed for retailers to dispose of old stock (down from six months last time warnings were changed) is contrary to the tripartite obligation of public authorities to act reasonably, fairly and in accordance with law. This decrease has not been justified. The company supports a consistent approach for all manufacturers and importers regardless of origin or variant market share.
35	
Retailers and retailer groups	
21	From a retail perspective they simply need time to dispose of old stocks. Smaller stores, and low selling brands may need longer. A six month timeframe should be adequate for all.
26	Three months is too short a time to dispose of old stock. Six months is sought.
Individuals	

4.14 General comments on the review

Submission number	General comments
Health advocacy / interest groups	
8	Expressed concern over the rising tide of women's tobacco use and stressed the need for tobacco policy and addiction treatment to be gender-sensitive in order to be successful.
15	<ul style="list-style-type: none"> Expressed scepticism over New Zealand's ability to comply with the timeframe for complying with Article 11 requirements and stressed how it would be highly embarrassing if New Zealand failed to do so. S15 suggested placement of a "Call the Quitline" notice at all points of sale.
16	Stressed the importance of New Zealand adopting measures beyond the minimum standard required under the FCTC.
18	Expressed a concern that a decision on outcome may already have been made (no elaboration on this statement was provided). Also

Submission number	General comments
	commented that the National Drug Policy team in the Ministry may not have the capacity to do the work required of it, and stressed that this serious capacity issue needs to be addressed. Also expressed a general concern about the appropriateness of allowing the tobacco industry to take part in consultation (again no elaboration beyond this general comment was provided).
20	Considered that greater emphasis on the Quitline and the new tobacco warnings is likely to spark demand for the Quitline. They considered it important therefore to ensure that the Quitline has the capacity to respond and for smokers to access the Quitline. A funding increase is required.
27	<ul style="list-style-type: none"> • Stated that the consultation document lacks leadership. The New Zealand government should take a lead on addressing the fact that 650 Māori are lost each year as a result of tobacco use. The Government should follow the evidence and extend on current labelling and packaging regimes internationally. S27 notes that the preambular text in the FCTC expresses concern over the high use of tobacco among indigenous peoples. This is a strong basis for action by the government, especially given that Māori are New Zealand's most disproportionately-affected population. • Commented that the tobacco industry has for far too long had the ability to operate in a manner that is incongruent to the damage imposed on smokers and non-smokers. They see the review as an opportunity to place the industry under more stringent regulation, regardless of some perceived cost or difficulty: <ul style="list-style-type: none"> “The tobacco industry is an anomaly in the 21st century that needs no respect or time during these consultations. It is an industry that is relatively unregulated given the kill ratio it is ‘legally’ permitted to weld over the populace – and especially with Māori. The NZL Government has an opportunity to provide a strong regulatory framework and environment that is cognisant of the high morbidity and mortality rates created by this industry”. • S27, on behalf of the Māori community: <ul style="list-style-type: none"> “... demands a change that sees this tobacco industry placed in a regulatory framework more akin to the chemicals and arms industry. There is no excuse allowing this industry to operate in its current mode in the 21st century”. • S27 provided an assessment of the TRIPS, GATT, TBT and TTMRA Agreements, and the New Zealand Trade Marks Act in the context of the balance between trade facilitation and the protection of human health and safety, concluding that there is a strong basis for action to strictly control tobacco labelling, and that the industry should be challenged on their arguments that action should not be taken. S27 also expressed concern over the potential of TTMRA to see quantities of Australian-labelled products placed on the New Zealand market, without the Te Reo warnings, or reference to the New Zealand Quitline. S27 recommends that the feasibility of a permanent or temporary exemption from TTMRA for tobacco labelling be explored, given the high risk nature of the product and that the New Zealand market is unique in regards to Māori people. • In commenting on the Quitline, reiterated the need for the Quitline to continue, and improve, the referral service to Māori callers.
30	<ul style="list-style-type: none"> • S29 and S30 (essentially duplicate submissions) made the point too that the protection of human health or safety is generally an exception to domestic legislation and international agreements acceded to by New Zealand. Thus “the New Zealand Government is able to take bold steps to protect the health of its citizens from the harm caused by tobacco”. • Also sought further discussions that will address other issues such as the inconsistencies between the Smoke-free Environments Act 1990 and the 1999 regulations.

Submission number	General comments
31	<ul style="list-style-type: none"> • Congratulated the Ministry for initiating the review, but expressed disappointment at the conservative approach taken by the Ministry in terms of the suggested size of warnings for adoption. They called on the Ministry to provide leadership in the area. • Believed there is a need to ban misleading descriptors as well as other strategies that communicate a reduced risk. S31 also considered that the Ministry should fund a mass media campaign aimed at informing consumers about the deceptive nature of these claims.
32	Expressed concern over a perceived lack of leadership taking the size of warnings further. The continued ability for tobacco branding to dominate tobacco packaging was seen as undermining the effectiveness of warnings. S32 concluded that tobacco company interests seemed to have been given higher priority than public health interests. S32 did not consider that there needs to be a balancing act between business interests and public health: public health "... must have the scales tipped in its favour".
34	S34 provided general comment in support of the Smokefree Coalition's submission, noted the requirements of the FCTC and existence of the International Tobacco Control Policy Evaluation Project which has come to some relevant conclusions in terms of cigarette packaging. These include identification of the cigarette packet as ranking highly among smokers as a source of information about the dangers of smoking, retention of health-related information from cigarette packaging and correlation between the size of the warning and increased awareness of health risks of smoking.
37	S37 provided detailed statistics relating to the impact of SIDS on child mortality, including Māori infant mortality. S37 strongly supported the proposal to adopt pictorial health messages on tobacco packaging.
District Health Boards	
19	S19 supported the stance taken by the Smokefree Coalition. S19 did not consider it appropriate that the tobacco companies should have a say on the regulation of their "deadly product". The costs to industry, and any difficulties in implementation, are "irrelevant when compared to people's lives".
29	See comments under S30.
Health professionals	
Researchers and Universities	
11	S11 commented that a stronger rationale than the FCTC for enhanced warnings is the Treaty of Waitangi and the commitment made within it to protect Māori and ensure equal citizenship.
12	<ul style="list-style-type: none"> • Provided some historical background to the placement of health warnings on tobacco packaging in New Zealand and presented the findings of some recent research on the effectiveness of health warnings, including research from Canada indicating that around one fifth of participants in a study reported smoking less as a result of graphic health warnings. They also use New Zealand-based reactions to television and media publicity of new smoking information to demonstrate the effectiveness of such exposures to new information in prompting efforts to quit (as evidenced by the impact of that publicity on number of callers to the Quitline). • Strongly advocated that the Ministry of Health treat with extreme scepticism any submissions from the tobacco industry or their allies.

Submission number	General comments
	<p>Argued that it could be considered ethically dubious for the Ministry to treat the tobacco industry as a legitimate agent with which to negotiate and ask questions of.</p> <ul style="list-style-type: none"> In commenting on the desirability of including a message on tobacco packaging regarding prescription medicines assisting quitting, S12 commented on the lack of subsidy for bupropion. This was presented as ethically very problematic given that some smokers are not able to use nortriptyline, or have failed to quit on it.
Tobacco industry groups	
9	<p>Expressed the concern of the public health community with regard to the consumption of tobacco products and the company's support for the view that those who choose to smoke should be comprehensively and effectively informed of the potential health consequences of their decision to smoke. Considered that it is the role of the government and public health officials to determine the nature and content of warnings to best achieve this outcome. Noted that it did not oppose, and now complies, with recent new Australian labelling requirements.</p>
10	<ul style="list-style-type: none"> Agreed that cigarette smoking causes serious and fatal diseases, that it is addictive and that adults who choose to smoke should be reminded of that. Supported a single, consistent public health message to be placed on the packet on the role played by cigarette smoking in the development of disease in smokers, smoking and addiction. Suggested that all tobacco products should bear prominent warnings and that it is the role of the Government and public health officials to determine the most appropriate warning – including whether they are textual, graphic, the content of messages, colour, use of explanatory text, and referral to cessation services such as Quit line. Stated that it is the role of government and public health officials to decide scope, content and format of warnings. Recommended that the Ministry prohibit the use of adhesive messages on tobacco packets as they can be removed through various means.
23	<p>Does not consider that pictorial warnings would be effective in hastening the already existing decline in smoking prevalence. Wants to participate in constructive and effective dialogue with regulatory agencies:</p> <p>“Imperial tobacco is a responsible manufacturer that aims to meet the demands of those adults who choose to smoke with the knowledge of the risks associated with the activity. We support reasonable and practical regulations as well as self-regulatory initiatives that deliver strong and consistent public health messages”.</p>
24	S24 supports the principle of adequate and effective consumer information for smokers about the consequences of a decision to smoke.
28	(Did not respond to any question specifically) Will follow any legislation requirement and commits to updating their packaging to meet any new legislation.
41	<ul style="list-style-type: none"> Considers that there is universal knowledge of the current health warnings and health risks associated with tobacco use. Considers that based on experience of Canada, Brazil and Thailand, the effectiveness of graphic health warnings on consumption has yet to be established. Noted that the company has a lot of expertise, knowledge and experience in the areas covered by the consultation document, and offered to make that available to the Ministry. Stated their willingness to work co-operatively with the Ministry. However, rejected

Submission number	General comments
	<p>'unlawful' regulatory changes that will impact detrimentally on their ability to operate in NZ.</p> <ul style="list-style-type: none"> • Submits that the proposed increases in the size of warnings will: <ul style="list-style-type: none"> ○ Constitute an expropriation of the company's intellectual property rights. The scale of the changes is unreasonable and unjustified. It will result in an erosion of the rights to such an extent that the company is substantially deprived of their use (and packs become to a large extent, government policy instruments). This is a disproportionate burden imposed on the company purportedly in the name of the public good. The company seeks compensation should the proposal go ahead. Argues that provisions in TRIPS strengthen the argument that compensation should be provided. ○ Constitute a breach of section 21 of the NZBORA. Property (trademarks) will have been seized. A failure to compensate will amount to a further breach – of the company's right to effective remedy. Sections 5 and 6 of the NZBORA should be interpreted in such a way as to give the company a remedy: the only realistic remedy being compensation. • The company also states that the Smoke-free Environments Act 1990 does not include any express authorisation allowing for expropriation without remedy. Any attempt to do so via regulations in particular will either be invalid or lead to courts interpreting the action as requiring compensation proportionate to the expropriation.
Retailers and retailer groups	
26	<p>Accepts that some changes to tobacco labelling is going to take place to bring New Zealand into compliance with the FCTC. They accept that some targeted messages relating to the health implications of smoking on cigarette packages is a reasonable objective, and are aware that graphic depictions are a feature of cigarettes sold in some trading partners such as Australia and Canada.</p>
Individuals	
1	<p>Expressed concern over the cost of the health warnings proposal, commenting on an apparent lack of funding for assistance for people who are terminally ill compared with funding for those wanting to quit smoking.</p>
5	<p>One of the students represented under S5 indicated as a smoker that (s)he agreed with the concept of warnings but felt more needed to be done in the education area. More funding (from tax) should be applied.</p>
14	<ul style="list-style-type: none"> • Stressed the value in drawing attention not just to the product, but also to those who produce and promote it. Supports efforts to draw consumer attention to the conduct of the tobacco industry. Quoting a Southland Times' article on the Janice Pou ruling, he critiques the statement that "British American Tobacco is engaged in the legal business of manufacturing tobacco products for informed adults who make a personal decision to smoke". He argues that no smokers can be truly informed, suggests that the comment implies that individuals are not influenced by their surroundings, and that the comment acknowledges that the industry is willing to "... exploit human ignorance, pass the responsibility for smoking-related illness on to the customer, and disregard the harm done by these products, whilst continuing to derive commercial gain" . • Emphasised the need for the tobacco health warning "stills" to be supported by moving images and narratives, for example, documentaries, explaining more about the industry.
33	<p>Considered that protection of corporate trademarks, intellectual property regulations and business rights must not be given priority over the protection of human health and life.</p>

Submission number	General comments
38	Provided general comment on the impact of revolting images in discouraging smoking. She queried the effectiveness of such messages, but noted that she had heard commentary from smokers who considered they might be helpful. She stated her support for whatever it takes to get people to give up smoking. She supported messages relating to the body being sacred or tapu.

Appendix A: Submissions received

Note: submitters are categorised according to the identified affiliation in their submission. This is despite the fact that in some cases they might otherwise fall under one or more other categories.

Submission number	Organisation	Received from	Category
1	Not relevant	Tracey Andrews	Private individual
2	Not relevant	Peter Little	Private individual
3	Not relevant	Graham Wilson	Private individual
4	Smokeless New Zealand	Murray Laugesen	Health advocacy or interest group
5	School of Health and Community Studies, nursing students	Elizabeth Niven	Private individuals
6	NZ Association of Optometrists Inc	Lesley Fredrikson	Health Professional Body
7	Western Bay of Plenty Primary Health Organisation	Mary-Ann Carter	Health provider / health professional
8	Women's Health Action	Kristen Berger	Health advocacy or interest group
9	Swedish Match	Reg Hodgson	Tobacco industry
10	Philip Morris	Chris Argent	Tobacco industry
11	Auckland Tobacco Control Research Centre	Marewa Glover	Researcher / University
12	Wellington School of Medicine	Nick Wilson et al	Researcher / University
13	NZ Medical Association	Lucille Curtis	Health Professional Body
14	Not relevant	Shaun Cavanagh	Private individual
15	NZ Drug Foundation	Ross Bell	Health advocacy or interest group
16	Cancer Control Council of NZ	Craig Tamblyn	Health advocacy or interest group
17	Quit Group	Helen Glasgow	Health advocacy or interest group
18	Smokefree Coalition	Mark Peck	Health advocacy or interest group
19	Public Health Unit, Nelson Marlborough District Health Board	Sue Campbell	DHB PHU
20	Asthma & Respiratory Foundation of New Zealand	Jane Patterson	Health advocacy or interest group
21	Foodstuffs New Zealand	Melissa Hodd	Retailer group
22	Tobacco Control team, Community & Public Health,	Tanya McCall et al	DHB PHU

Submission number	Organisation	Received from	Category
	Canterbury District Health Board		
23	Imperial Tobacco	Not stated	Tobacco industry
24	Stuart Alexander	Tim Oakes	Tobacco industry
25	Social & Behavioural Research in Cancer Group, University of Otago's School of Medicine	Rob McGee	Researcher / University
26	New Zealand Retailers Association ⁴	Not stated	Retailer group
27	Te Reo Marama	Shane Bradbrook	Health advocacy or interest group
28	New World	Peter Cao	Tobacco industry
29	Auckland Regional Public Health	Jennifer Lamm	DHB PHU
30	Auckland regional smokefree coordinators	Jennifer Lamm	Health advocacy or interest group
31	Cancer Society of New Zealand	Belinda Hughes	Health advocacy or interest group
32	Action on Smoking and Health	Becky Freeman	Health advocacy or interest group
33	Not relevant	Bridget Rowse	Private individual
34	Stroke Foundation of New Zealand	Mark Vivian	Health advocacy or interest group
35	Lamprint Packaging Ltd	Patrick Lenihan	Tobacco industry (supplier)
36	Taranaki DHB	Tamara Higgs	DHB PHU
37	Child & Youth Mortality Review Committee	Dr David Tipene-Leach	Health advocacy or interest group
38	Not relevant	Calia Chevalier	Private Individual
39	Not relevant	EJ Child	Private Individual
40	Not relevant	Mr EGT Broad	Private individual
41	British American Tobacco (NZ)	Susan Jones	Tobacco industry

⁴ Note: submission developed in association with Progressive Enterprises Ltd and Foodstuffs NZ Ltd, as well as with major petroleum suppliers. The regulatory proposals were also discussed with the major suppliers who are associate members of the NZ Retailers Association.