

**Summary of
Recent Happenings
related to the Smoke-
free Environments
Regulations 1999**

31st January 2005

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Introduction

In July 2004, the Ministry of Health issued a consultation document on its review of the Smoke-free Environments Regulations 1999. A ten week consultation period was provided for people to lodge submissions with the Ministry of Health. Forty submissions were received. The consultation document canvassed a broad range of regulatory options, including:

- Strengthening tobacco labelling requirements, focussing on health warnings (textual and pictorial) on tobacco packets;
- Addressing concerns raised by the public health community regarding the use by tobacco companies of 'misleading descriptors' on tobacco packaging – i.e. words such as 'light' and 'mild';
- The extent to which tobacco companies should be required to disclose information on the content of tobacco products, and other matters, to the Ministry of Health;
- Options for the future testing of tobacco products for identified tobacco constituents and emissions, and reporting of those to the regulator, and to the public; and
- Options for modifying the content of tobacco products via regulation, or making available other forms of tobacco or alternative nicotine sources, as a means of reducing the harms associated with continued tobacco use.

The consultation document presented a selection of research and commentaries on these topics, and invited further, detailed commentary on the various options / approaches to regulation.

At the completion of the consultation period, a report was produced that summarised the feedback received from the 40 submissions. The report included a concise summary of the key points and a comprehensive, detailed summary of the submissions. It was later updated to include commentary and recommendations from *Allen & Clarke*.

The objective of this document is to summarise the most recent developments in tobacco control, both in New Zealand and internationally as they relate to the areas reviewed in the consultation exercise. It focuses primarily on research published or come to the attention of the author, and events that have taken place, since the release of the consultation document, in July 2004.

The same format utilised throughout the consultation document and the summary will be maintained in this document. That is, the document will be divided into four chapters; health warnings and other information on tobacco packaging, descriptors on tobacco packaging, disclosure, and tobacco product modification and harm reduction.

Limitations of this report:

This report was identified by the author as a desired output. However, as it was not a requirement of the contract with the Ministry of Health, it is not a polished or peer reviewed document. Furthermore, not all the material presented in this report has come from verifiable sources. The sources are indicated where known. The Ministry is strongly cautioned to take these issues into account when reviewing the material contained within. The document is intended for internal use only (but going on website?), as a pointer to activities underway which bear further review / research.

Summary of Recent Happenings

(A) Health Warnings and other Information on Tobacco Packaging

Section 2 of the consultation document covered the issue of health warnings on tobacco packaging. The section reviewed the rationale for intervention, the applicable New Zealand legislation, the international perspective and summarised a sample of both New Zealand and international research on the effectiveness of health warnings on tobacco packaging.

1. New Zealand research

Massey University

Janet Hoek et al. of Massey University assessed the impact of fear and threat approaches to health messages on tobacco packets. She had noted research that suggested such messages could cut through the clutter of other messages and increase persuasiveness of messages, but also some evidence that such messages are less effective with youth as:

- Consequences are too long term
- There is disbelief in addiction; and
- Social consequences appear more effective.

Six prototype warnings were developed and tested. The results suggested:

- Images generally elicit stronger affective reactions from smokers and non-smokers alike
- Images appear more effective in promoting quitting behaviours than text only message
- Similar deterrence effect on non-smokers
- Images likely to increase dissonance for smokers
- Seem likely to assist in overall strategy to reduce smoking.

(See overhead presentation from Searle L, Hoek J, Maubach N.: Dept of Marketing, Massey University)

Clemenger BBDO work, October 2004

The Ministry of Health commissioned Clemenger BBDO to provide advice on marketing to inform the development of tobacco health warnings. The Clemengers report identified:

1. Influential contextual marketing influences and considerations

“International studies conclude that while smokers acknowledge that smoking is a major health risk, they underestimate the range, magnitude and severity of health effects. Yet, over 40% of smokers in international studies state that they ‘intend to quit

smoking in the next 6 months'. The imperative therefore is to find the tipping point that will move people beyond contemplation to action."

"In terms of being an important 'brand contact point', the tobacco package is an integral part of tobacco marketing. The package communicates brand imagery and product information, and is regarded as a primary communications channel in targeting specific audiences; part of a smoker's identity and self-statement. With restrictions on tobacco products' advertising, promotion and sponsorship activities, the packaging, by default, has increased its importance as a marketing communications channel. This is particularly true, given the use and exposure of packaging and messages at time of purchase and behaviour."

Key marketing implications:

- Limitations / Difficulties
 - Messages need to be expressed in the most appropriate manner and communicated via the correct channels. Given the current production constraints this poses a problem; for example, 'smoking while pregnant' messages are clearly targeted to young women, but will appear on all cigarette brands' packaging.
 - The heavier the smoking, the greater is the difficulty in changing behaviour.
 - The majority of people who smoke experience few noticeable side effects. [At least nothing serious enough to motivate quitting en masse.] Most people not only lack the motivation to quit, they are also extraordinarily adept at creating loopholes to escape anti-smoking messages. Three main loopholes were identified by Clemenger BBDO:
 1. *Smoking is just one of the many risks in life.*
 2. *The risks are too far in the future to worry about now.*
 3. *Anti-smoking messages are redundant – everybody knows smoking is bad for you.*
 - The attitude 'if you can't see it, you don't need to worry about it' has clear communications guidelines.

- Approaches
 - A single message is not going to work for everyone, and different sets of messages will be required for target groups (eg young versus old).
 - Facts can increase personal relevance, whereas emotional appeals in social marketing can create opt-outs.
 - To be effective, the anti-smoking message must have personal relevance and feel like 'new news'.
 - Young women's positive associations with smoking [aside from peer group acceptance] are mainly to do with appearance. This insight provides some clear opportunities for appropriate and relevant messages.
 - Use of an unexpected approach [contrasting with predictable, hard-hitting health warnings] has positive benefits, provided it doesn't trivialise what is seen as a serious matter.
 - A twin-pronged strategy combining hard-hitting messages on the health risks of continuing to smoke, together with the offer of access to assistance to quit, is recommended.

2. The potentially most useful sorts of themes and messages (both positive behaviour encouragement and reinforcement and negative consequences)

- *Young women and men* (15-23 years): focus on reasons to reduce or quit smoking. Position smoking as behaviour that they are capable of exercising control over. Provide reasons to consider consequences and develop actions and coping strategies.
- *Habitual smokers* (23+ years): focus on strong and compelling reminders of the reasons that they know they shouldn't smoke. Provide assistance to quit.

3. Best use of information space opportunities on packaging

The Clemenger BBDO report concludes:

“Prominent health warnings on cigarette packaging have the potential to dramatically reduce the perceived ‘value’ of the signals or cues traditionally associated with cigarette products’ branding. With this potential defacement and consequent reduction in ‘image potential’ in mind, there is a strong case to dominate packaging with health warnings and quit information. The recommendation is to adopt the recent Australian move to occupy 90% of the back of the pack, and 30% of the front area.

The optimum message format and content also influences size requirements. All experience and evidence suggests that a combination of visual and text provides the best possible communication; the visual element to attract attention and telegraph a strong message, the text to expand and provide information.”

4. The 20 best messages for pre-testing

The Clemenger BBDO report identified 20 possible messages for pre-testing.

5. Likely effective life of these messages

It is essential to strike the correct balance between ‘wear-out’ and ‘wear-in’ of messages. That is, messages have potential through their repetition to be noted and assimilated, without becoming too familiar and over looked. On the basis that habitual smokers monitor their smoking by ‘packs per day’ [a pack per day being common currency], 18 changes per year [change every three weeks] would seem optimal.”

BRC work: Stage 2

A report produced by BRC in May 2004 outlined the results of testing of a range of pictorial and text messages with smokers, recent quitters and non-smokers. The results of this are set out in the consultation document.

More recently, in August 2004, BRC took that research one step further, with its August 2004 report: *Smoking Health Warnings Study. Optimising smoking health warnings Stage 2 – text, graphics, size and colour testing*.

This report, utilising eight mini groups (parents, current smokers, Maori, young women), tested various design elements, using mock-up cigarette packets displaying messages already identified in the Stage 1 (May 2004) report as likely to have the most potential to impact on smoking behaviour. The study tested:

- The balance between pictorial and text warnings
- The size of warnings
- The use of colour.

The study also looked at three sets of constituent information:

- The key message “there is no such thing as a safe cigarette”
- A short version explaining some of the chemical content of the smoke each cigarette contains
- A longer version explaining some of the chemical content of the smoke each cigarette contains

Key conclusions:

- Pictorial warnings are likely to have significantly more impact than text-only messages
- The larger the pictorial message, the greater its impact
- Message impact may be enhanced if placed at the base of the packet (BRC noted the Ministry’s potential need to have the message at the top of the pack to maximise visibility at point of sale) – also some support for text on flip top and picture below
- The novelty value of yellow text on a black background as well as its striking nature and synergy with warning signs (eg road signs) is likely to have a significant impact (in association with picture). However, red on white ranked almost as highly
- Side of packet messages are rarely if ever read
- Simplicity, brevity and shock value are essential for all messages: over-use of text, long lists of chemicals and too general statements already understood and rejected by smokers are less likely to have an impact
- The message “there is no such thing as a safe cigarette” did not test well. However, neither did the short or long chemical messages. Few would know what these chemicals are/mean and the message was considered a waste of time.

BRC work: Stage 3

In December 2004 *BRC Marketing and Social Research* presented, as the third stage of health warnings research, the results of 100 face-to-face interviews conducted between 1 and 21 November 2004. The overall research objective was to test the pictorial and text health warnings developed by the Ministry of Health in conjunction with Clemenger BBDO, in terms of whether or not they prompt people to consider their smoking-related behaviour.

Representatives of the following four key audience groups were interviewed:

1. Current Maori smokers
2. Current young, female smokers aged 15 to 24 years of age
3. Currently smoking parents of children aged zero to 16 who live with their children
4. Young ex-smokers aged 15 to 24 years of age

Both qualitative and quantitative research techniques were utilised to measure and establish:

- A prioritisation or ranking of messages in terms of most to least impact

- Agreement on the attributes associated with the message considered to have most impact
- The likelihood that a particular message may change behaviour leading to reduced smoking
- What in particular made a particular message most or least likely to impact on smokers.

Five key warning message categories were selected and the key findings presented for each of these categories.

1. “Social fear”, i.e. peer impacts/influences

Five messages were tested, and ranked in terms of highest to lowest impact.

“Smoking slows you down” (smoking leaves you breathless and unable to perform to your best...) was ranked first or second by 56% of respondents, with 29% of respondents ranking this message first. The message was considered to be honest, attention grabbing, believable and personally relevant. The likelihood of the respondent smoking a cigarette today if their normal brand of cigarettes came in a packet with this message is a relatively average 81%.

“Quitting smoking improves energy and mental alertness” was ranked first or second by 47% of respondents, with 28% ranking this message first. The likelihood of the respondent smoking a cigarette today if their normal brand of cigarettes came in a packet with this message is a relatively high 85%.

“Smoking causes foul and offensive breath” was ranked first or second by 42% of respondents, with 14% ranking this message first. The likelihood of the respondent smoking a cigarette today if their normal brand of cigarettes came in a packet with this message is a relatively average 82%.

“Smoking makes you look older” was ranked first or second by 38% of respondents, with 20% ranking this message first. The likelihood of the respondent smoking a cigarette today if their normal brand of cigarettes came in a packet with this message is a relatively high 84%.

“Smoking can make you impotent” was ranked first or second by 32% of respondents, with 17% ranking this message first.

This message category (social fear) resulted in the most divergence of opinion as to which particular messages are, or are not, likely to have an impact. While potentially frustrating from the perspective of isolating “the” message within this category with the most potential impact on smokers’ behaviour, this finding appears to reflect the fact that social pressure or peer influences on smoking behaviour are heavily influenced by demographic characteristics, in particular gender and age.

2. Financial

One message was tested; *“Smoking means you go without”*.

Overall this message did not test particularly well, primarily because it lacks explicit shock or threat appeal, and at the same time was perceived as somewhat ambiguous until the more detailed message on the back of the pack was read, i.e. “go without what...?”.

The likelihood of the respondent smoking a cigarette today if their normal brand of cigarettes came in a packet with this message is a very high 91%.

3. Addiction

Two messages were tested, and ranked in terms of highest to lowest impact.

“Smoking is addictive” (nicotine stained fingers) was ranked first by 69% of respondents. The likelihood of the respondent smoking a cigarette today if their normal brand of cigarettes came in a packet with this message is a relatively average 74%.

“Smoking is addictive” (prison bars) was ranked first by 31% of respondents.

4. Children, 2nd hand smoke, role modelling

Four messages were tested, and ranked in terms of highest to lowest impact.

“Smoking while pregnant starves your baby” was ranked first by 66% of respondents. However, the likelihood of the respondent smoking a cigarette today if their normal brand of cigarettes came in a packet with this message is a relatively low 69%.

“Your smoking can harm your kids” and *“Your smoking could kill your kids”* were both ranked first by 17% of respondents, while *“Keep your smoke to yourself”* was ranked first by 10% of respondents.

5. Health

Eight messages were tested, and ranked in terms of highest to lowest impact.

“Smoking can give you mouth and throat cancer” was ranked first or second by 93% of respondents, with 69% ranking this message first. It had shock appeal, was attention grabbing, unpleasant and unsettling. Accordingly, the likelihood of the respondent smoking a cigarette today if their normal brand of cigarettes came in a packet with this message is a very low 53%.

“9 out of 10 lung cancers are caused by smoking” was ranked first or second by 46% of respondents, with 10% ranking this message first. The likelihood of the respondent smoking a cigarette today if their normal brand of cigarettes came in a packet with this message is a relatively low 62%.

“Smoking causes blindness” was ranked first or second by 32% of respondents, *“A stroke from smoking can disable or kill you”* was ranked first or second by 15%, *“Emphysema is a living hell”* and *“Quitting smoking improves your health”* were both ranked first or second by 12% of respondents, whereas *“Poisonous chemicals and an addictive drug”* was ranked first or second by 8% and *“Smoking slows you down”* (damages the blood vessels preventing blood circulation ...) was ranked first or second by only 6% of respondents.

The key conclusions and recommendations of the BRC research were the following:

- Pictorial warning messages are considerably more likely to have an impact than text-only messages;
- The larger the pictorial message, the greater its potential impact;
- Messages need to be simple, brief and unambiguous, but at the same time not overly general or universally known;

- A number of the higher impact messages were not overly regarded as such because of shock or threat appeal, or due to their unsettling or unpleasant nature; and
- Consideration should be given to carefully balancing the more direct impact of specific messages that target specific population segments, against messages with more universal appeal that may lack the intensity of personal relevance.

2. TobReg Recommendation 6: Guiding Principles for the Development of Tobacco Product Research and Testing Capacity and Proposed Protocols for the Initiation of Tobacco Product Testing

Key findings from this document, that relate to warnings and constituent information placement:

- Packaging must not carry labels that provide quantitative statements about a product carrying half the usual level of x, etc. These imply one brand is safer than the other. Health information should be based on qualitative statements only - e.g.: these cigarettes contain x which has shown to cause cancer.
- The regulator needs sanctions for cases where companies knowingly make a false declaration; e.g.- product withdrawal, packaging be relabelled, or inspection of premises to minimize production errors (p17)

3. European pictorial health warnings adopted

- ***The European Union's 2001 Directive on Tobacco Packaging has been adopted.*** The 15 EU member states require large text-only health warnings (30% of the front of the packet, 40% of the back, depending on the state's number of national languages) with a border to be displayed on packaging. Pictures may soon be added to the health warning requirements. The yields of tar, nicotine and carbon monoxide must be displayed on larger surfaces on the sides of the packets.¹

On 23 October 2004, the EU released its set of model pictorial health warnings. The EC expects picture warnings to be introduced in a number of countries next year, including Ireland and Belgium. The report and photo warnings are available at: http://www.europa.eu.int/comm/health/ph_determinants/life_style/Tobacco/ev_2004102_2_en.htm

4. Netherlands

In November 2002, the Dutch tobacco control organisation, Defacto, presented the results of studies on the new Dutch health warnings. The studies indicated that some adult smokers said they smoked less and were more motivated to quit by the new health warnings. They found an even stronger effect among those aged 13 to 18 years: 28% said that they smoked less because of the new warnings.²

¹ Canadian consultation document, August 2004

² Persbericht Defacto. *28% van jonge rokers rookt minder door de nieuwe waarschuwingen op verpakking* [28% of the young smokers smoke less as result of the new health warnings on the package] Press release, Den Haag 26 November 2002. As reported in ASPECT Consortium. *European Tobacco or Health in the European Union – Past Present and Future*. Published by the European Commission. 2004. (p151) ISBN 92-894-8219-2

Another study in the Netherlands found that the inclusion of the Quitline number on the packs increased calls to the Quitline.

5. Belgium

[since September 2003, average of 55% of front and back of the packet]

A December 2003 and January 2004 study of 608 smokers (reported in May 2004), undertaken by the Flemish Institute of Public Health, in collaboration with the Belgian Federation against Cancer, found that³:

- the bigger, clearer warnings motivated smokers to stop smoking
- the message made cigarette packets less attractive to young people
- warnings were particularly effective among young people aged 15-24 and amongst those who wanted to stop smoking within a year
- 29% of all smokers felt that the warnings were an additional motivation to stop smoking – and among those smokers who declared that they wished to stop smoking within a year, 46% said the warnings were an additional motivation to stop smoking
- young people found it easier to remember the messages than other age groups
- 56% of the 15-24 year olds agreed with the statement that they had discussed the warnings with others
- As a result of the new warnings, 8% of those questioned smoked less, 2% more and 88% as much as before.

6. Poland

Large health warnings have been found to be strongly linked with smokers' decisions to stop or reduce their smoking. Among Polish male smokers, 3% said they had quit following the introduction of new very large health warnings, an additional 16% said they had tried quitting, and a further 14% said they understood the health effects of smoking better because of the warnings.⁴

7. Brazil

Brazil has developed new graphic health warnings, to be displayed on cigarette packages by August 2004. Brazil already requires that health warnings fully cover one of the two principal display surfaces. The new requirements include the mandatory display of graphic images with stronger messaging and a prohibition on associating the product's brand name with the disclosure of the product's nicotine, tar and carbon monoxide levels.⁵

The warnings may be seen at: http://www.inca.gov.br/english/cigarrete_packages.html

³ Joosens L. Onderzoek naar het effect van gezondheidswaarschuwingen op sigarettenpakjes in België [Research on the effect of health warnings on cigarette packets in Belgium]. Brussels, Vlaams Instituut voor Gezondheidspromotie, 2004. As reported in ASPECT Consortium. *European Tobacco or Health in the European Union – Past Present and Future*. Published by the European Commission. 2004. (p151-152) ISBN 92-894-8219-2

⁴ As reported in ASPECT Consortium. *European Tobacco or Health in the European Union – Past Present and Future*. Published by the European Commission. 2004. (p151-152) ISBN 92-894-8219-2

⁵ Canadian consultation document, August 2004

Research quoted by Brazil suggests that the warnings introduced in February 2002 and now being revised, have been effective. The research, undertaken in April 2002, suggested:

- 76% support of the use of the health warnings
- 54% of the interviewed smokers changed their minds about the effects on health associated with tobacco use
- 67% of smokers said they wanted to quit smoking: 73% of those surveyed aged 25 to 34 said they thought about stopping as they saw the health warning labels
- 70% of those interviewed considered that the warnings would be effective in avoiding smoking initiation
- 56% considered that the method is very effective to persuade smokers to quit

Note: didn't have the full reference for the study [Datafolha, April 21, 2002] and am relying on second hand documentation.

8. Switzerland

Switzerland is reported as developing regulations to harmonise its packaging with the EC Directive. Characteristics:

- Three languages – French, German and Italian.
- The minimum size of warnings will be about 47% of the front and 63% of the rear, including a black border. Not including the border, the minimum size for the warnings is 35% of the front and 50% of the rear.

The regulation also prohibits the terms 'light' and 'mild' consistent with the EC Directive.

(source: informal email communications)

9. Summary of Countries *(source: informal email communications)*

- Australia 30/90
- Belgium 48/63 incl. border
- Switzerland 48/63 incl. border
- Finland 45/58
- Canada 50/50
- Singapore 50/50
- Thailand 50/50
- Brazil 100% of either front or rear
- Unilingual EC countries (eg UK) 43/53 incl. border

10. Review by Health Canada of its tobacco packaging labelling regulations

In August 2004 Health Canada released a consultation document and announced that it proposes changes to its labelling requirements for tobacco products.⁶

Research and evaluation results support the overall direction of tobacco labelling in Canada. Results show that both smokers and non-smokers of all ages strongly support the graphic health warnings. The warnings are considered noticeable, serve as a major (in some cases, the major) source of information on the health effects of tobacco use, and are seen as both credible and informative.

As a result of the research Health Canada is proposing a number of changes:

- *Create a series of health warnings* that include a variety of approaches and messages tailored to different needs. These warnings would be rotated every two years. In particular, the health warnings could include:
 - Some messages tailored to adults with low literacy skills and to other audiences (potential quitters, hard-core smokers)
 - Some mixed messaging including both a health warning and a related benefit associated with quitting
 - Some messages about toxic emissions/constituents including, for example, the health effects of one emission or constituent.
- *Develop new health information messages* that are clear, positive and action-oriented in nature. These new messages would be made more noticeable by:
 - Moving the health information message from the back panel of the slide-and-shell package to the upper slide flap
 - Including other information of use to smokers (e.g., a “quitting” schedule with a clear message about quitting) on the back panel or on the leaflet.
- *Replace the current toxic emissions/constituents statement* with a series of new statements that each focus on one single substance. These revised statements would be rotated every two years and would:
 - Present clear information about the substance and its health effects, including information such as its range (for emissions) or level (for constituents)
 - Be distributed equally amongst packages, in the same way as the current health warning messages.

Summary of Canadian research

Support: Research indicates that there is widespread support for the health warnings on cigarette packages. Most Canadians see the warnings as an accurate and important source of information. Moreover, most youth and adult smokers say the messages make smoking less attractive (Environics 2004a, Environics 2004b).

Noticed: Almost all Canadians have seen the current health warnings even though fewer than one-half of smokers say they read them every day. Eighteen per cent of adult smokers say they never look at or read the warnings, while only 7% of youth smokers aged 12 to 18 years say they never look at the messages. Some smokers say they avoid looking at or thinking about health warning labels by keeping the pack out of sight (13% of adult smokers; 21% of youth smokers) (Environics 2004a, 2004b).

⁶ The changes would amend the Tobacco Products Information Regulations under the authority of section 17 of the Tobacco Act

Youth smokers are also more frequent readers of health information messages on the back panel of cigarette slide-and-shell packs; 31% of youth smokers say they read the information once a week or more, compared to 20% of adult smokers. When asked if they recall seeing anything on the back of the slide, 31% of youth smokers mentioned tips to stop smoking, compared to 11% of adult smokers (Environics 2004a, 2004b).

Source of information: Smokers use the health warnings as a source of information about the impact of smoking on health and as a tool to increase their desire to quit smoking (Environics 2004a, Environics 2004b):

- More than seven in ten adult smokers and almost nine in ten youth smokers say health warnings are effective at informing them about health effects
- More than half of adults and youth say the messages compel them to smoke less around other people and increase their desire to quit smoking
- Slightly smaller proportions say the health warnings are effective in getting them to try quitting or to smoke less.

Likely behavioural changes: A 2001 study suggests that smokers who read, think about and discuss the health warnings are more likely to quit, attempt to quit or to reduce their smoking (Hammond, Fong, McDonald, Cameron, Brown 2003).

Accuracy and usefulness: More than one-half of adult smokers and more than three-quarters of youth smokers see the information on the health information messages on the back panel of the package slide or leaflet as accurate. Almost as many say the information is useful to them (Environics, 2004a, 2004b).

Health Canada suggests that its research indicates that labelling may be more effective for the youth audience than previously thought (Health Canada 2003b).

11. Recent research

- Gray N, Boyle P. Publishing tobacco tar measurements on packets (editorial in BMJ). *BMJ* 2004;329:813-814 (9 October).

In this editorial, Grey and Boyle argue that tar readings should be removed from tobacco packets as they can only cause harm. No machine can mimic the variable habits of individual smokers.

- Graphic Canadian Cigarette Warning Labels and Adverse Outcomes: Evidence from Canadian Smokers. *American Journal of Public Health*. August 2004. Vol 94, No.8. 1442-1445.

The study sought to assess emotional reactions, avoidant behaviours, and self report measures of impact in response to the new Canadian warnings. The study assessed:

- To what extent, if at all, emotional responses and avoidant behaviours predicted cessation and self-report measures of impact in response to the new Canadian labels
- To what extent, if at all, emotional responses and avoidant behaviours predicted cessation behaviour at a 3 month follow-up.

Results:

- 19% of smokers reported that the warnings had made them smoke less, 1% indicated they smoked more
- Approximately one third of smokers reported that the labels have increased their likelihood of quitting.
- 36% reported making at least some effort to avoid the labels – 19% had tried to cover them, 21% had used a different case, 17% had requested a different package to avoid a particular warning. However, those who avoided the warnings were no less likely to read and think about the warnings and no less likely to engage in cessation behaviour at follow-up
- Emotional reactions: 44% of smokers reported experiencing fear, 57% disgust. These feelings were positively associated with each of the four self-report measures of perceived effectiveness at baseline. Smokers who reported fear were significantly more likely to indicate that the warnings had reduced the amount they smoke and increased their likelihood of quitting

Conclusions: negative emotional reactions were associated with greater effectiveness of the warning labels. Smokers who reported greatest fear or disgust were more likely to have quit, made an attempt to quit or reduced their smoking at follow-up. The current research indicates that policy makers should not be reluctant to introduce graphic cigarette warning labels based on potential adverse outcomes.

(B) Descriptors on Tobacco Packaging

Section 3 of the Consultation Document focussed on the use of descriptors on tobacco packaging. Descriptors relate to the references such as “mild”, “light”, “low tar” and other terms that, when used in association with tobacco products and, in particular, when placed on tobacco packaging, imply variation in the content or delivery of tar, nicotine and other harmful constituents in tobacco products.

1. Australia

The Australian Competition and Consumer Commission has been reported as calling on tobacco companies to fund a community education campaign admitting they may have deceived smokers with words “light” and “mild” on cigarette packets. They may also have been told to stop using words such as “light” and “mild” on cigarette packets by the end of 2004. Companies are reported as saying they could not make the changes until early 2006. (*from NZDF newsletter*)

Preliminary legal advice received suggested there is a possible case that they are misleading and deceptive. They are apparently awaiting further advice. The ACCC has seized 97 boxes of documents and begun examining millions of pages from US court actions to see if there is any relevance to Australia.

The ACCC is reported as saying that tobacco companies BAT, PM and ITA had all agreed in one form or another that at some stage the light and mild descriptors on cigarette packets need to be modified or removed. (*source: informal email communications*)

2. Canada

Legal action by a B.C man against companies for promoting products while knowing they were as harmful. (*Source not known*)

Canada research into *light* and *mild* indicates that:

- The descriptor means a safer/healthier cigarette to a substantial proportion of smokers (about 18%)
- 46% of smokers say they heard the government wants to remove light and mild labels and 49% of smokers think the government will actually go ahead with the decision to remove them
- 36% of smokers say they will be annoyed if light and mild labels are removed (9% - very annoyed)
- If the descriptors, light and mild, were to be removed, smokers will still be able to identify their own brand as well as be able to “navigate” between brands currently labelled “light”, “mild” and “regular” without too much difficulty and without information, other than what now appears on the pack.
- Removing the descriptors, light and mild, will encourage a small, statistically insignificant number of smokers to either quit or cut back.

(*source: informal email communications*)

3. Switzerland

New regulation from Switzerland on health messages - regulation also prohibits the terms ‘light’ and ‘mild’ consistent with the EC Directive.

4. New research reported

- Kropp RY, Helpert-Felsher BL. Adolescents' Beliefs About the Risks Involved in Smoking "Light" Cigarettes. *Pediatrics* Vol 114 No. 4 October 2004, pp e445-e451

The authors report that young people hold misconceptions of their own personal risk and their general attitudes about the health risks, addictive properties and ease of cessation associated with light cigarettes. Young people see a progression of safety levels associated with branding as light, ultra light etc. There is an illusion of control over health outcomes as a result. The authors argue for more education on the specific risks of light cigarettes – through doctors and counter-advertising campaigns.

Available at: <http://pediatrics.aappublications.org/content/full/114/4/e445>

(C) Disclosure

Section 4 of the Consultation Document dealt with the issue of tobacco product disclosure, that is, the disclosure of information about the constituents of tobacco products and tobacco smoke, or other information relating to sales of tobacco and other marketing activities.

1. TobReg Recommendation 6: Guiding Principles for the Development of Tobacco Product Research and Testing Capacity and Proposed Protocols for the Initiation of Tobacco Product Testing

Key findings from this document, that relate to disclosure:

- Regulators have an obligation, once they have received information, to act on the findings – thus information secured must be presented in a way that it can be utilised, conclusions drawn and conclusions disseminated. A suggestion that is made is to require reporting companies to:
 - Measure baseline results and report statistically significant deviations from the baseline
 - Report relative differences between specific products produced by the same manufacturer
 - Provide summary statistics for all products for commercial sale
 - Report brands above 75%, 90% or 95% confidence intervals for all products for commercial sale (p16)
- Analysis should be published for public access. Recommendation 6 sets out what should be included (p17)
- The recommendation also sets out what laboratory reports should contain (p19)
- The regulator needs sanctions for cases where companies knowingly making a false declaration; e.g. product withdrawal, packaging be relabelled, or inspection of premises to minimise production errors (p17)

2. ASPECT report: Tobacco or Health in the European Union: Past Present and Future

This report makes a series of recommendations, including that Member states and the EC should agree a harmonised system for receiving the required information on ingredients in, and emissions from, tobacco. (p180)

Other ideas from the report include:

- Three list approach for now, companies on notice of future possibility of further more general disclosure on a by-brand basis – once have need for and/or ability to use properly is established.
- Regulations to enable the regulator to seek brand-specific content, or specific levels of an additive about which have concerns in any product, or all products – on a call-up basis as want

3. The Netherlands

Gallaher is taking the Dutch government to court over plans to force companies to disclose recipes. (*informal email communications*)

(D) Tobacco Product Modification and Harm Reduction

Section 5 of the Consultation Document discussed the issue of harm minimisation in tobacco control and product modification. The section included an overview of the New Zealand legal framework, an analysis of the problem of measurement and the presentation of a number of strategies based around harm-reduction by way of product modification, novel tobacco products and alternative nicotine delivery mechanisms.

1. TobReg Recommendation 6: Guiding Principles for the Development of Tobacco Product Research and Testing Capacity and Proposed Protocols for the Initiation of Tobacco Product Testing

This is outlined in brief in the consultation document. *Recommendation 6* discusses the complexities of testing new and innovative tobacco products, developing laboratory capacity, and recommended protocols for testing tobacco products, including recommendations that product content and emissions should be tested by both ISO–FTC and intense smoking machine-testing methods.

It recommends a series of substances that should be tested for, and issues that manufacturers should report on, as an initial minimum. See pages 14-15. This should be consulted in the next stage of policy development.

It also sets out issues around selection of laboratories and sampling methodologies.

Most interesting is this quote from TobReg:

“Use of data

The purpose of these measurements is to enable regulators to set upper limits for the nominated priority chemicals on a per milligram of tar or per milligram of nicotine basis. The upper limits could be based on the values measured for the lowest quintile of brands among a commissioned sample of existing international brands. A limit based on the levels achieved by the lowest 20% of the brands in the market is a suggested starting point. National regulators should determine the optimal timeframe in which this first step should be achieved.”

This seems to give some endorsement to reducing some toxicants as a matter of priority.

Other key points from *Recommendation 6*:

- The effective implementation of Articles 9, 10 and 11 of the FCTC necessitate the empirical testing of tobacco products
- Current testing methodologies are flawed
- It is urged that all new tobacco products and modified existing products are subject to a premarket review by regulatory authorities. However, such premarket review and product evaluation: “... are neither intended to ensure nor would be capable of ensuring the safety of the products”
- Benchmarking is not an appropriate way to determine levels of toxins in tobacco products (p13)
- It is important to take into account the many manufacturing practices and processes in evaluating a product’s potential toxic delivery
- Although the ISO/FTC methods do not accurately reflect human smoking behaviour and consequently do not accurately reflect the delivered dosages of toxic and carcinogenic constituents of smoke, it is recommended that such

testing be continued to the extent that it provides as basis for comparison of the results with new testing protocols until protocols that reflect variations in human smoking behaviour according to different cigarette designs are developed (p13)

- Where resources are available, a second set of puffing parameters is recommended to test cigarettes under more intense smoking conditions (p13)

2. ASPECT report: Tobacco or Health in the European Union: Past Present and Future⁷

Recommendations include:

- Any future regulation of ingredients should be based on the principles that the substance is not toxic, does not enhance the addictive properties of tobacco products and does not make the product more attractive (p181)
- Harmful constituents of tobacco and tobacco smoke should be reduced and ultimately removed where feasible. The report lists which ones. As a first step, the immediate reduction of TSNAs in tobacco products, without increasing the overall harm caused, should be mandatory (p186)
- The requirement for tobacco manufacturers and importers to print tar, nicotine and CO yields on packs should be rescinded, and the Commission should mandate the remaining space on packs to be reserved for consumer information provided by member states and the EC
- Communication relating to health aspects of different tobacco and nicotine products and any changes in their characteristics should be strictly regulated
- Any new tobacco product of any kind, including new brands of cigarettes must be given prior approval by regulators before entry to the market (p188)

3. Snus

EU activities

Advocate General of the European Court of Justice – opinion on the EU ban of snus. (Not a court decision, but apparently the court follows in most cases the opinion of the Advocate General). He argues that the EU did have the right to ban the sale of moist snuff in 1992 under the market harmonisation provisions of the EU treaty and that the ban is proportionate. However, the ban was not valid because it did not give current reasons for it. He recommended the ban be restated, based on proper reasoning. (*informal email communications*).

In response to legal action brought by Swedish Match and Arnold Andre, on December 14, 2004 the European Court of Justice declared an earlier prohibition on tobacco products for oral use to be valid. It was held that given that the products contain nicotine, which causes addiction and whose toxicity is not disputed, the legislature was entitled to consider that a prohibition of these products was necessary and was therefore, not manifestly inappropriate.

The Court ruled that;

⁷ ASPECT Consortium. *European Tobacco or Health in the European Union – Past Present and Future*. Published by the European Commission. 2004. (p167-188) ISBN 92-894-8219-2

... it had not been shown at the time of the adoption of Directive 2001/37 that the harmful effects of these products were lesser in that regard than those of other tobacco products. Secondly, it had been shown that they presented serious risks to health ...⁸

With respect to the freedom to pursue an economic activity, the court stated that these are not absolute rights and that restrictions may be imposed, provided that the restrictions in fact correspond to objectives of general interest and do not constitute, in relation to the aim pursued, a disproportionate and intolerable interference. The protection of health was considered an objective of general interest and the restriction to the freedom to pursue an economic activity was not regarded as disproportionate.

Globalink

Recent Globalink messages appear to bring some degree of consensus on a position regarding the promotion of smokeless tobacco. The relative risk of different tobacco products, the role of harm reduction and right for smokers to reduce their risk have all been presented. The role of snus in reducing smoking levels in Sweden has also been a topic of recent debate.

How a market would be transformed is another issue under debate through Globalink and other discussion groups and fora. One suggested approach:

1. Stop deceiving the public and be truthful about relative risks
2. Regulate the content and toxicity
3. Regulate the marketing
4. Use the tobacco taxation system to create incentive to switch.
5. Conduct post-market surveillance to understand population effects
6. Act if anything appears to be going wrong

(informal email communications)

USA

A recent paper⁹ by Levy et al. sought to determine the mortality risks associated with the use of low-nitrosamine tobacco marketed for oral use.

Australia

Professor Simon Chapman from the University of Sydney apparently recently abandoned the idea of researching the introduction of snus to smokers outside the Scandinavian cultural context, concluding that there would be no consumer acceptance of the product. Swedish Match, however, is currently seeking approval to trial the use of snus in the U.S.A. *(informal email communications)*

⁸ p.13 http://www.ensp.org/files/Judgment_141204_oral_tobacco_1.pdf

⁹ Levy D.T. et al. (2004) The Relative Risks of a low-Nitrosamine Smokeless Tobacco Product Compared with Smoking Cigarettes: Estimates of a Panel of Experts. *Cancer Epidemiology, Biomarkers & Prevention* 2004; 13 (12)

4. USA

LSRO work

The Life Sciences Research Office (LSRO), a non-profit agency of biomedical research scientists [but funded by Philip Morris who will have no input into the study apparently], is undertaking a project to evaluate the science base necessary to assess reduced risk claims for cigarette-like products.

The LSRO will:

- Evaluate whether reduced risk products actually reduce risk
- Develop a detailed research agenda to address gaps in the science base and
- (if feasible) develop an evaluative process for the scientific assessment of reduced risk claims.

Its work will build on the Institute of Medicine findings and recommendations, and will look at:

- Is the science required to evaluate reduced risk products adequate and reliable
- How can issues such as potential changes in smoking behaviour be integrated into this review process
- How much risk reduction is enough
- Can the impact of reduced-risk product availability on the overall rate of smoking be assessed prior to approval?

It has already been concluded that the toxicological effects of additives on smokers can be measured and now the impact of individual additives are being evaluated, to measure if they increase the risk of premature death or illness beyond the levels already associated with smoking

This is being done by a *relative risk approach* comparing cigarettes with other identical cigarettes lacking the same specific ingredient. See website at www.lsro.org (see Reduced Risk Review).

Alternative nicotine delivery - NicoWater¹⁰

New York State: retailers offering nicotine-enhanced water will be subject to controls from 2005, including a ban on sales to under-18s. The focus is on reducing dependence on nicotine products, rather than health effects of the product per se.

5. Reactions to cigarettes claiming reduced risk

Further research:

- Shiffman S, Pillitteri JL, Burton SL, Di Marino ME. Smoker and ex-smoker reactions to cigarettes claiming reduced risk. *Tobacco Control* 2004;**13**:78-84
Survey of 1000 smokers and 499 ex-smokers, during which a telephone interviewer read risk reduction claims made for Eclipse by its manufacturer, assessing smokers' interest in quitting before and after the exposure. Results:

¹⁰ <http://www.wstm.com/Global/story.asp?S=2752910>

91% thought Eclipse was safer than regular cigarettes. 24% thought Eclipse was totally safe. 57.4% of smokers were interested in using Eclipse. Exposure to Eclipse's claims was followed by reduced interest in quitting. Interest in Eclipse was greatest among smokers who were contemplating smoking. Authors identified a risk that reduced risk product claims could undermine adult cessation and youth prevention, possibly resulting in increased harm even if the products are less toxic.

6. Product modification: recent research

- Gray N, Boyle P. The case of the disappearing nitrosamines: a potentially global phenomenon. *Tobacco Control* 2004; 13:13-16.

The authors make the case for requiring the removal of nitrosamines from tobacco products arguing that it is clearly feasible to do so and that while removal of only one known carcinogen would not solve the problem, it will help. The authors note that the tobacco industry is moving this way anyway. The authors also argue that setting upper limits for other carcinogens and toxins is possible and urgent.

- Hatsukami DK, et al. Evaluation of Carcinogen Exposure in People who Used 'Reduced Exposure' Tobacco Products. *Journal of the National Cancer Institute*. June 2, 2004. Vol 96, No. 11, pp.844-852. Available at [http://jncicancerspectrum.oupjournals.org/\[...\]stract/jnci;96/11/84](http://jncicancerspectrum.oupjournals.org/[...]stract/jnci;96/11/84) Tested urine etc. of men got to swap to OMNI cigarette and to low carcinogen version of snuff. Found that snuff users who swapped to low carcinogen version had a significant reduction in carcinogens. Smokers who swapped to OMNI took up fewer carcinogens. Men who swapped to the patch had lower carcinogen levels than any of the others.