

Auckland Regional Public Health Service

Rātonga Hauora ā Iwi o Tamaki Makaurau



Working with the people of Auckland, Counties Manukau and Waitemata

Auckland Regional Public Health Service

Cornwall Complex
Floor 2, Building 15
Greenlane Clinical Centre
Private Bag 92 605
Symonds Street
Auckland
New Zealand
Telephone: 09-623 4600
Facsimile: 09-623 4633

13 June 2006

Gordon McKenzie
Ministry of Health
PO Box 5013
Wellington
Email: Gordon_mckenzie@moh.govt.nz

Submission from the Auckland Regional Public Health Service on the Review of the Smoke-free Environments Regulations 1999 Health Warnings on Tobacco Products

Thank you for the opportunity for the Auckland Regional Public Health Service ("the Service") to provide a submission on the Review of the Smoke-free Environments Regulations 1999: Health Warnings on Tobacco Products: Consultation Document ("the Review Document").

This submission has been prepared by the Policy and Compliance Officer for the Auckland Regional Public Health Service, and represents the views of the Service. The Service provides public health services for the three district health boards in the Auckland region (Auckland, Counties Manukau and Waitemata District Health Boards), with the primary governance mechanism for the Service resting with Auckland District Health Board. This submission represents the views of the Service and does not necessarily represent the views of the three District Health Boards.

The Service understands that all submissions will be available under the Official Information Act 1982, except if grounds set out under the Act apply.

The primary contact point for this submission is:

Jennifer Lamm
Policy and Compliance
Auckland Regional Public Health Service
Private Bag 92 605
Symonds Street
Auckland
09 6234600 extn 27217
jlamm@adhb.govt.nz

Introduction

The Service supports all practicable measures to reduce smoking initiation and promote cessation, and welcomes a review of the 1999 Regulations. The Smoke-free Environments Act 1990 has been substantially amended, and now the Regulations of 1999 need to be amended to ensure that both the Act and its Regulations are consistent.

The Service supports the Ministry of Health's proposal to revise health warnings on tobacco products, and is particularly supportive of larger and more graphic warnings that may encourage smokers to quit. Larger and more graphic warnings will also ensure compliance with the Framework Convention on Tobacco Control ("FCTC"), and address the requirement to harmonise laws of Australia and New Zealand relating to tobacco products, including requirements relating to the display of health messages (s21(c) Purpose of Part Two of the Smoke-free Environments Act 1990).

Tobacco product regulation (graphic health warnings, product information, inclusion of the Quitline number and restriction of industry branding) can be justified on public health grounds. The protection of human health or safety is generally an exception to domestic legislation any 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. If New Zealand wishes to follow international 'best practice' to reduce the burden of tobacco consumption, then larger and more graphic warnings are essential.

The Service now comments in detail:

1. Do you support option 1, with 50 percent of the principal display areas displaying health warnings, or option 2, with health warnings displayed on 60 percent of the principal display areas (30 percent front, 90 percent back)? Why?

The ideal is to have no branding whatsoever. The second preference is to have a combination of the two options with a 50:90 ratio. This would see 50 percent coverage on the front, and 90 percent coverage on the back. If this suggestion is not accepted, then the Service would support the 50:50 display option. This would still enable New Zealand to adhere to the recommendation in the FCTC, where 50 percent coverage is suggested. However, font size and readability may be an issue, and all attempts should be made to ensure that important information, such as the Quitline number, is clearly visible.

3. Do you support the Ministry of Health's proposal to adopt pictorial health messages for cigars, bidis, cigarillos, loose cigarette and pipe tobacco and other forms of tobacco products, similar to the Australian regulations? Why, why not?

The ideal is to have consistent pictorial health messages on all tobacco products. Therefore, the Service does not support the adoption of specific pictorial health messages for different tobacco products. While the size of some tobacco products (such as cigars) may be an issue where any messages may be indistinct, the goal should still be to have health messages on all tobacco products that are consistent in size, images and wording and that are legible and visible.

4. Are there other shapes and sizes of tobacco packaging that need specific attention?

The ideal is to have consistent sizes for tobacco products. The Service is aware of developments in other countries where health messages are obscured by a variety of means, including package design. The Service believes that this may also occur in New Zealand. Already, there has been a proliferation of “twin packs” which appear at first glance to be tobacco packages, but are in fact counted as “cartons” in the absence of a minimum size for “tobacco cartons” under the Smoke-free Environments Act. These twin packs have a larger size and shape, which may affect the impact of health warnings.

On another point, the Service notes the Ministry’s statement:

The Smoke-free Environments Regulations 1999 define ‘tobacco package’ in such a way that it ‘does not include a wrapper or container containing a single cigar’. It is proposed to retain this policy, but issues concerning compliance of the proposal with the FCTC remain to be addressed.

This statement highlights the lack of consistency between the Smoke-free Environments Act 1990 (as amended in 2003) and the Smoke-free Environments Regulations of 1999. In this case, the Act and Regulations have inconsistent definitions of “tobacco package”, and “tobacco carton” and a number of other words and phrases.

7. Do you support the Ministry of Health’s proposal to have yellow and black backgrounds to the pictorial health messages for tobacco products? Why, why not?

Yes. The Service supports yellow and black backgrounds because they are novel and have an association with other warning signs, both nationally and internationally (road signs, radiation and other physical dangers etc) and are highly visible. Research referred to in the Review Document appears to confirm that the colours yellow and black had the most impact on focus groups. Again, the concern is that messages are clear and visible and consistent.

8. Do you support the Ministry of Health’s proposal to have 14 health warnings, with two sets of seven rotated annually? Why, why not?

Yes. The Service agrees with the proposal to have rotating health warnings. It is also suggested that the pictorial warnings in each of the two rotations support, and are supported by, mass media campaigns to further reinforce the warning messages. An example of this can be seen in Australia with the *Every Cigarette is Doing You Damage* images and media campaign.

It has been suggested by some tobacco control groups that New Zealand should join the International Tobacco Control Policy Evaluation Project (ITC). Membership would offer a cost-effective method of evaluating health warnings with established protocols and tested survey tools.

9. Do you support a message referring to Quitline on tobacco packaging? Why, why not?

Yes. The Service supports a message referring to Quitline on all tobacco packaging. The Quitline message balances the graphic warnings and offers a means of support for smokers who want to quit. If feasible, all tobacco products should carry the New Zealand Quitline number, including imported products. This is an issue with imports from Australia where the Australian Quitline number is included in the packaging. If the New Zealand Quitline number cannot be overlaid onto the Australian number on packaging, then the Australian Quitline number should default to the New Zealand Quitline number when dialled in New Zealand.

10. Do you support the wording of the proposed call Quitline message? Why, why not?

Yes. The 1999 Regulations required that labelling include the phrase: *For more information, call 0800 778778*. This led to confusion, as many thought that the number referred to the tobacco manufacturers' product information hotline. The Service is pleased to note that the words "Quitline" will be included on all packaging and the statement: *You CAN quit smoking. Call Quitline 0800 778 778, or talk to a quit smoking provider.*

11. Do you support the placement of a 'boxed' quit message on each pack? Why, why not?

Yes. The Service supports the placement of a boxed quit message on each pack. This message needs to be on the front and back of packs, and must be legible and clearly visible.

12. Do you agree with the Ministry of Health's proposal to replace the current quantitative message for tobacco packaging on manufactured cigarettes and other tobacco products, with a qualitative health message, as set out below? Why, why not?

Yes. The Service supports the inclusion of product information that is less misleading and more informative.

14. Do you support the Ministry of Health's proposal for the placement of health information in te reo Maori and English on tobacco packaging? Why, why not?

Yes. The Service supports the provision of information in te reo Maori and English. This should be a requirement given that Maori is an official language of New Zealand (Maori Language Act 1987). The FCTC also refers to the provision of information in "its principal language or languages" (Article 11 Section 3).

15. Do you support messages in te reo Maori that relate to the subject of each health warning or do you support one or two general health messages? Why?

Yes. The Service supports messages that relate to each health warning. This ensures that te reo Maori speakers receive the same information as English speakers.

16. Do you agree with the Ministry of Health’s proposal to retain the 0.2 percent rule for importers of tobacco with low market share? Why, why not?

No. The Service believes that all tobacco importers should be treated equally. The 0.2 percent rule treats importers in an inconsistent manner. Inconsistency leads to uncertainty and increased compliance costs.

17. Should consideration be given to qualifying the 0.2 percent rule exemption to ensure compliance with the minimum standard set out in the FCTC?

No. All tobacco importers should be treated equally to ensure a consistent approach.

18. Do you agree with the design and concepts used in the following health warning messages? Why, why not?

The Service generally supports the design and concepts providing they are consistent, legible and visible. The Service recommends that each of the messages be evaluated following their release. Comments are provided on the following messages:

4.1.1 Message 1: *You are not the only one smoking this cigarette*

The image should include the head the pregnant woman (as is the case with the similar warning in Canada).

4.1.2 Message 2: *Your smoking can harm your kids*

It is suggested that the word “kids” be changed to “children” for consistency (“children” is used in the health message). The word “children” is also easier to understand for those for whom English is a second language.

4.2.2 Message 4: *Cigarettes are a heart breaker*

It is suggested that more direct language would be better understood, such as: *Smoking causes heart attacks.*

4.2.3 Message 5: *Emphysema is a living hell*

It is suggested that “lung disease” would be better understood than “emphysema” or “COPD”. This would make the statement consistent with the health message that: *Smoking causes debilitating and often fatal lung diseases like emphysema.*

4.2.6 Message 8: *Smoking doubles your risk of stroke*

It is suggested that the word ‘minor’ be removed. The word ‘stroke’ is sufficient, or alternatively, have no wording on the image.

4.3.1 Message 11: *Tobacco use can make you impotent*

It is suggested that “tobacco use” be replaced with “smoking” to ensure consistency with other health warnings.

Conclusion

As an enforcement and health promotion agency, the Service welcomes the review of the Regulations and is grateful for the opportunity to comment on the proposals contained in the Review Document. The Smoke-free Environments Act was substantially amended in 2003, and in January 2004, the New Zealand Government ratified the WHO’s Framework Convention of Tobacco Control. Both these events make it timely that the 1999 Smoke-free Environments Regulations be amended. The

requirement for larger and graphic health warnings is an important first step. The Service awaits further discussion documents that will address other issues, such as the inconsistencies between the Smoke-free Environments Act and the 1999 Regulations.

Yours faithfully

Jennifer Lamm
Policy and Compliance