Submission to the Government Health Committee on the Smokefree Environments (Controls and Enforcement) Amendment Bill

10 February 2011 S11.02

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 51 nationally organised societies and national members. It has 23 branches throughout the country attended by representatives of those societies as well as individual members. The Council's function is to serve women, the family, and the community at local, national and international levels through research, study, discussion and action.

This submission has been prepared by the Consumer Affairs Standing Committee based on input gathered from the membership, many previous submissions on this topic over several years, and current NCWNZ policy.

Introduction

1. NCWNZ welcomes the opportunity to make a submission on the Smokefree Environments (Controls and Enforcement) Amendment Bill (abbreviated as 'The Bill' hereafter).

   In submissions written to the Minister and Ministry of Health in February 2008 on the *Future of Tobacco Displays in New Zealand*, and in May 2010 on the *Proposal to Ban Tobacco Retail Displays in New Zealand*, the majority of NCWNZ members supported a complete ban on retail displays of tobacco products.

Comments on the Bill

Clause 2 Commencement Date

2. It was accepted that the prohibition period of six months after the Bill becomes law, was a reasonable time frame.

Part 1

Amendments relating to controls on tobacco products

Clause 4 Purpose of the Amendment

3. Members' responses recommended that a shorter temporary transition time to remove all tobacco displays should be considered. The temporary exemption set out in Clause 4a from compliance for people offering tobacco products for sale during a two year transition period was considered too long. It was suggested that it should be 12 months to a maximum of 18 months.

4. There was general support for prohibiting advertisements. There was also support for the amendment to treat sales outlet notices or signs that are or include tobacco product health or purchase age information or warnings, as prohibited advertisements, unless those notices or signs are ones that it requires or permits.

Clause 7. Section 23A

Promotion, Advertising and Display of Tobacco Products

5. Members' were concerned that duty-free shops and specialist tobacconists were not specifically included as retail outlets in the Bill and considered there should be a stipulation in section 23A re these sales outlets. Responses recommended that the sale of any tobacco products or smoking accessories should only be allowed at one point of sale (register) in all retail outlets.

6. Members also expressed concern about automatic vending machines dispensing tobacco products and the risks of tobacco product visibility, display of price list and visibility of health warnings and the enforcement of infringements.

7. The majority indicated that the use of vending machines as a 'retail outlet, for tobacco products should be prohibited. And removed as a retail choice for the public, (particularly as minors can access without restriction).

Clause 9 Sales Outlets Signs and Notices

Section 29AA

8. Members' responses agreed with the provision in the Bill that health warnings and notices advising of the availability of tobacco may only be provided and displayed if produced by the Ministry of Health. There was unanimous agreement that all tobacco outlets should continue to be required to display the existing under 18 signage and signs stating that 'SMOKING KILLS' as produced by the Ministry of Health.

Part 2

Clauses 11 and 13

Infringement Offences

9. Members recommended that notices for breaches of the Act should not be limited to sales to minors, but must include all breaches of the Smoke-free Environments Act relating to tobacco retail - not just the provision relating to sales to minors. Members also agreed that a person with no reasonable excuse, who allows a tobacco product,

package or carton to be visible and contravenes the law has committed an offence and is liable to be fined as stated.

Clause 16 Purposes of Smokefree Environments Section 41AA (1) (b)

10. There was general support for prohibiting advertisements.

11. Members agree that the restrictions regarding trading names should not be limited to slated terms for example 'discount', 'cheap smokes', 'SMOKO' etc but should be at the discretion of the Director General of Health.

12. Most responses agreed with the prohibition of displays on the exterior of retail premises, of retailers' names or trading names "that are or include words, phrases, trademarks, or company names that have the effect of advertising the availability of tobacco."

13. Responses indicated that enforcements or prohibitions are necessary on distribution or supply of tobacco products free of charge or at a reduced charge or with rewards.

14. The majority of members support the prohibition of reward schemes between retailers/sales outlets and the tobacco industry, and the enforcement of prohibitions on distribution or supply of tobacco products free of charge or at a reduced charge.

15. The bill should remove the provision of the standard trade rebates to be used by the tobacco industry and associated parties. Removal of rebates could also be used as a mechanism to ensure that tobacco companies cannot provide 'exclusive distribution deals' where tobacco is sold at special events, including music and fashion events.

Other Issues we would like to see included in this legislation

Storage of tobacco products

16. Member's responses agreed that the method and manner of storage of tobacco products was vitally important to avoid the possibility of them being exposed to the public. For example, use of curtains and sliding glass doors that expose the total display when opened.

17. The Bill allows retailers to find the most cost-effective way to store tobacco products from sight. However, there are no definite clauses or regulations in the Bill to define allowable methods of storage. Further guidelines for setting regulations would be a definite advantage to avoid any ambiguity and to define unacceptable ways of storing tobacco products in retail outlets.

Registration Scheme

18. NCWNZ members agree that the Bill should establish a registration scheme for all retailers who sell tobacco products. They would register with the Ministry of Health. Registration would be a requirement for selling tobacco. A visible registration number

could be clearly printed on the price list together with a health warning sign. This would inform and assist smokefree enforcement officers and the public that tobacco products are permitted on the premises.

Prohibition of using tobacco packages as promotional tools

19. Members' responses strongly supported the introduction of 'standardised or plain tobacco' packaging as part of the Bill. This recommendation was made in previous NCWNZ submissions and is reiterated here. Standardised packaging would prevent the use of tobacco packages as a promotional tool (with misleading disruptors and brands which imply one tobacco product is 'better', 'safer', 'cheaper' etc than other products, and the use of words such as light, mild, smooth, fine).

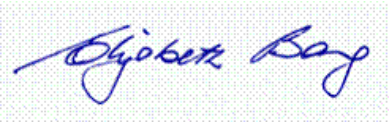
Conclusion

20. Tobacco, and therefore the industry that produces, packages and profits from it, is responsible for an estimated 5,000 deaths in Aotearoa each year, from direct smoking or second hand smoke. Overall, smoking prevalence is now 23.5 percent and consumption is around 1,000 cigarettes per adult (aged 15+) each year, down from 2,000 cigarettes in 1990. [Ministry of Health website http://www.moh.govt.nz/moh.nsf/indexmh/tobacco-nz#deaths].

21. 700 Maoris die from smoking every year; at least 22% of male deaths and 21% of female deaths. [NZ Medical Assn submission http://www.sfc.org.nz/submissions/MASCINZMA.pdf]

22. The majority of NCWNZ members consider that tobacco retail displays in or at the exterior of retail and other sales outlets should be removed and prohibited.

23. This submission fully supports the amendments and offers some further considerations in order to achieve better control and enforcement in retail environments. NCWNZ thanks the committee for the opportunity to make a submission on the Smoke-free Environments (Controls and Enforcement) Amendment Bill.



Elizabeth Bang
National President

Jan Brown
Convenor, Consumer Affairs