

TRANSFORM

DRUG POLICY FOUNDATION

Submission to the Department of Health Consultation on the future of tobacco control. September 2008

Transform Drug Policy Foundation is the UK's leading centre of expertise on drug policy and law reform. For more information please visit www.tdpf.org.uk. As a registered charity and campaigning policy think-tank our mission is to "promote sustainable health and wellbeing by bringing about a just, effective and humane system to regulate and control drugs at local, national and international levels".

Introduction

Transform welcomes this consultation as timely, thorough and thoughtful, and hope that it will allow us to build on the recent achievements made in tobacco policy with more appropriate targeted regulation based around evidence of effectiveness on key public health indicators.

- **Following a dialogue with [Action on Tobacco and Health \(ASH\)](#) Transform fully endorse ASH's detailed submission¹ to this consultation and its answers to the individual questions posed.**
- **Transform also fully endorse the World Health Organisation's framework convention on tobacco control² signed by the UK in 2003**

In addition to this endorsement of the ASH submission we include some additional comments on overlooked elements of issues relating to tobacco harm reduction that are relevant to Question 17³ in the consultation document.

Transform would also like to present some additional discussion points not directly addressed in the consultation document regarding:

- Possibilities for a more radical restructuring of tobacco market regulation
- Discrepancies between alcohol and tobacco policy development
- The wider issues raised around drug policy and how to regulate drugs

¹ http://www.smokefreeaction.org.uk/news/ASH_DH_Consultation_tobacco_control_final.pdf

² <http://www.who.int/features/2003/08/en/>

³ Do you support a harm reduction approach and if so can you suggest how it should be developed and implemented.

Tobacco Harm Reduction

- **Smokeless tobacco**

There are potentially huge public health gains from the Government exploring and developing the use of non-smoked tobacco products for existing and/or potential new smokers.

The increasing use of various nicotine delivery systems, (such as inhalers, gum and patches) as cessation aids is a welcome development, is already widespread, and should be actively supported. Transform supports increased access to Nicotine Replacement Therapies (NRT's) as well as a reduction in price (subsidised where necessary) so that those most dependent on nicotine – those on low income in particular- can afford to access these products.

However, non-smoked oral tobacco products (snus, bandits etc.) are effectively banned in the UK and across most of the EU (Sweden has an exemption). Whilst this ban may have been well intentioned the result is that oral tobacco products that are substantially safer than smoked tobacco are now not available as an alternative to cigarettes.

'Snus' is very popular in Sweden and it has been convincingly argued that this high level of use correlates with the fact that the country has the lowest rate of smokers in the developed world⁴. There has been a large drop in the number of smokers in Sweden, in particular within the male population – from 40% in 1976 to 15% in 2002; this has been partially attributed to increased use of snus⁵. Studies into snus and other oral tobacco consumption demonstrate that whilst it is far from being risk free (increasing the risk of oral cancers and rates of cardiovascular disease) overall, it is dramatically less risky than equivalent use of smoked tobacco, with estimates ranging from 80-99% less risky. It is specifically smoking of tobacco rather than nicotine use per se that creates the majority of tobacco related harms.

Whilst it is recognised that many healthcare professionals and legislators are understandably unenthusiastic or unwilling to actively promote the use of non-smokeable forms of tobacco over nicotine replacement therapies or outright cessation programs, there is plenty of evidence from the Swedish model to suggest that snus and other variants can help users give up smoking. This is arguably the great unexplored frontier in drug harm reduction, and one that has the potential to save more lives in the short to medium term than almost any other single intervention.

There are obviously difficult ethical and practical questions regarding how such products can be brought to the market and be regulated and promoted responsibly so as to encourage smokers to help quit or switch from smoked tobacco, without promoting new users who would not otherwise be consuming tobacco at all. However, these questions are not insurmountable and the potentially enormous public health gains are such that the Department of Health in conjunction with other relevant departments should, on pragmatic public health grounds alone, seriously explore the options for appropriate legislative reforms, and commission research and pilot studies as appropriate to explore potential ways forward.

⁴ Smoking and tobacco statistics 1970-1998. Statistical Report 1999-09-13, VECAHB Statistical Bureau, pp. 12, 13, 61, 66, 75, 80;

⁵ Foulds, J., Ramstrom, L., Burke, M., Fagerström, K., 'Effect of smokeless tobacco (snus) on smoking and public health in Sweden', *Tobacco Control* 2003;12 pg. 349-359

- **Radioactive content in cigarettes**

It is well documented that cigarette tobacco contains radioactive polonium-210 and lead-210 and there is a substantive medical literature suggesting this radioactive content is responsible for at least some of the incidence of lung cancer amongst smokers, possibly a substantial proportion of it. There are ways in which this radioactive content can be significantly reduced or eliminated (for example, through use of different fertilisers) which have been explored and rejected by tobacco companies in the past, primarily for reasons of cost. Transform would urge the Government to review the relevant research, to monitor the radioactive content of cigarette tobacco and consider enforcing mandatory limits upon cigarette manufacturers, as well as adding a radioactive content warning to packaging.

For further discussion please see a more detailed discussion of this issue on the Transform blog⁶, and for a revealing insight into the how unprincipled tobacco companies have approached this issue please see read 'Waking a Sleeping Giant: The Tobacco Industry's Response to the Polonium-210 Issue' Monique E. Muggli et al 2008 in the American Journal of Public Health⁷.

- **Ingredients listing**

Transform note that tobacco products are not required to include ingredients listings in or on the packaging, despite the fact that they can contain up to 15% (for cigarettes, and rolling tobacco) or 30% (pipe tobacco) non-tobacco content. An extensive list of permitted additives, and permitted maximum content by % has been provided to Transform by the Tobacco Manufacturers Association. They include sugar (up to 10%), titanium dioxide (2%), starch (2%), sorbitol (8%), potassium chloride (5%), potassium carbonate (5%), molasses extract (10%), maple syrup (10%), glycerine (10%), citric acid (4%), calcium carbonate (5%), calcium chloride (5%), benzoic acid (0.5%), amyl alcohol. (0.15%), ammonia sulphate (4%), aluminosilicates (5%).

Whilst Transform is unable to comment on the implications of these additives to smoking risks, fundamental principles of consumer rights demand that the purchaser should know what is in the products they are buying and consuming⁸. Even though tobacco is not a food and therefore does not come under trading standards legislation regards ingredients listings, it is, none the less, physically consumed. At the very least ingredients of individual tobacco brands should be made publicly available online, as should a detailed breakdown of the chemical components of smoke when the ingredients are burnt and inhaled.

⁶ http://transform-drugs.blogspot.com/2006/12/at-last-polonium-210-in-cigarettes_12.html

⁷ <http://www.ajph.org/cgi/content/abstract/98/9/1643>

⁸ The only comparable examples of products that do not have to list ingredients are cosmetics (debatable whether these are actually 'consumed') and, more pertinently, alcohol products, which bizarrely are the *only* food or beverage products with an ingredient listing exemption. In all cases policy appears to have been determined by industry lobbying rather than public health or consumer rights concerns.

Possibilities for a more radical restructuring of tobacco market regulation

Transform would welcome some active exploration of, and consideration given to the impact of the regulated market model (RMM) for tobacco control as proposed by Ron Borland⁹. The RMM is similar in some respects to forms of alcohol control in Sweden, some Canadian provinces and various states in the USA.

This model is based on the principle that the addictive nature of tobacco (specifically the fact that, unlike alcohol for example, smoking tobacco is an intrinsically high risk, high harm activity even when used as directed) sets it aside from conventional products. Tobacco, it is argued, is therefore entirely unsuitable for conventional free market models that by their very nature involve profit seeking being prioritised over public health and wellbeing concerns, with producers inevitably working towards expanding their sales and user base through marketing and promotions. The regulated market model proposes that the control of the marketing of tobacco products would lie entirely with a government agency, which Borland suggests could be called the Tobacco Products Agency (TPA). Tobacco companies would continue to manufacture their products, however the TPA would manage and control *all* marketing of tobacco products in order to minimise harm, whilst still servicing the tobacco industry. The TPA would become the sole customer of manufacturers and importers (who could continue to operate competitively with one another) and would control wholesale distribution to the retailers. This model differs from the way in which North American government monopolies are run in that it does not assume retail outlets will be government-run, merely that the marketing of the product will be managed and controlled by the government agency (see diagram below).

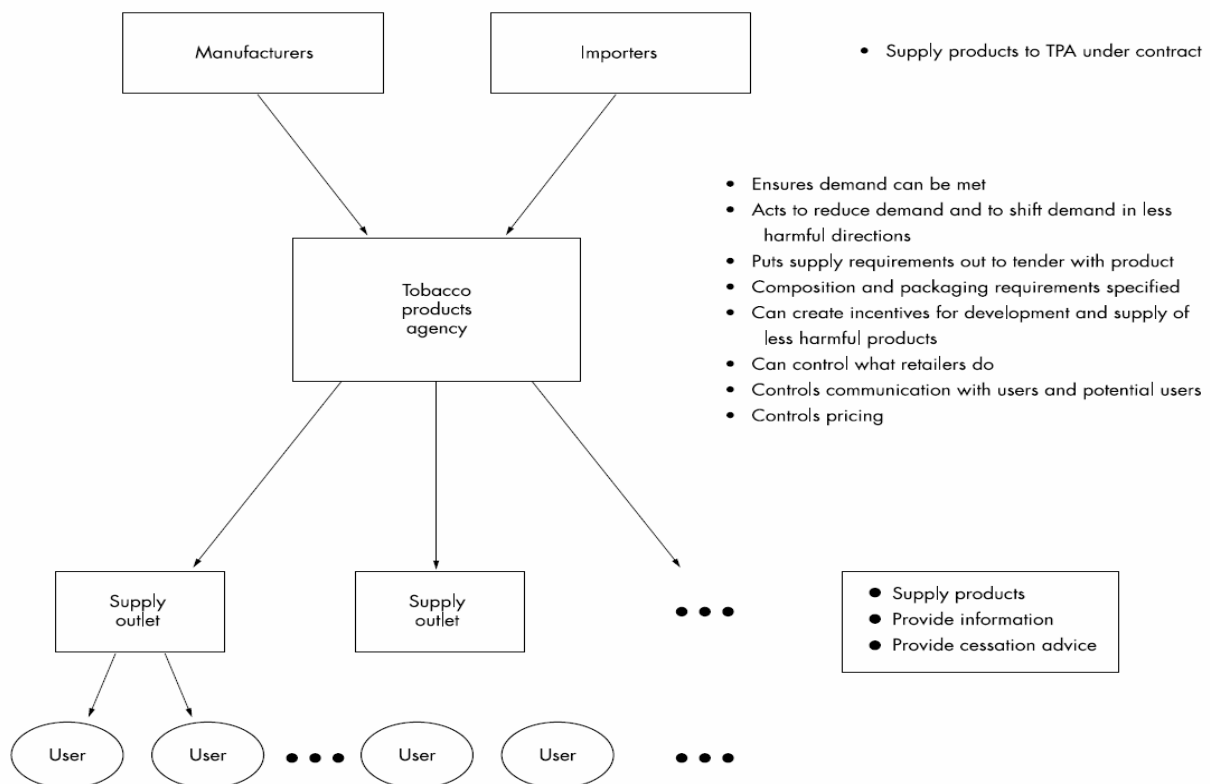


Figure 2 The regulated market model.

⁹ Borland, Ron, 'A strategy for controlling the marketing of tobacco products: a regulated market model', *Tobacco Control*, Vol 12, pg. 377, 2003 - <http://tobaccocontrol.bmj.com/cgi/reprint/12/4/374>

The bans on tobacco advertising, and other restrictions on tobacco marketing are widely accepted to have had positive effects in reducing smoking¹⁰ and, therefore, Transform argues that various alternative models for increased control of marketing, and the removal of profit seeking companies from any role in tobacco supply and marketing to retailers or users, such as the RMM, should be actively considered and explored further by the relevant authorities.

Discrepancies between alcohol and tobacco policy development

Transform welcomes the current consultation on alcohol controls running in parallel with the tobacco control consultation, and will be responding with its own submission. However, we would like to highlight the fact that the evolution of tobacco controls over the past two decades have been significantly more forward thinking, far reaching and have had far more political support. They have, unsurprisingly, been correspondingly more effective than comparable developments in alcohol control. There seems to be a remarkable failure on the part of the Department of Health and other relevant agencies to learn from or translate experiences with tobacco control into alcohol policy. The difference seems to be entirely one of political will rather than issues with the evidence base.

Current alcohol control is a shameful example of poor regulation and the systematic failure of government to stand up to vested interests in the alcohol industry and their substantive lobbying resources. As with the tobacco industry, the alcohol industry is profit-motivated and therefore public health issues become a concern only when they threaten to impact on the bottom line. Whilst there are obviously differences in how each should be approached, in many key respects research from around the world illustrates that the basic regulatory principles and public health approaches that underlie them are remarkably similar – for example regards price controls, controls on marketing and promotion, controls on availability, and controls on where and when they may be consumed. Yet developments in alcohol policy seem to be lagging almost 10 years behind progress on tobacco regulation. Whilst tobacco policy is delivering improved public health outcomes, the situation with alcohol is deteriorating. This baffling situation begs the question of how bad the public health crisis with alcohol misuse must become before it is taken anything like as seriously as tobacco?

The wider issues raised around drug policy and how to regulate drugs

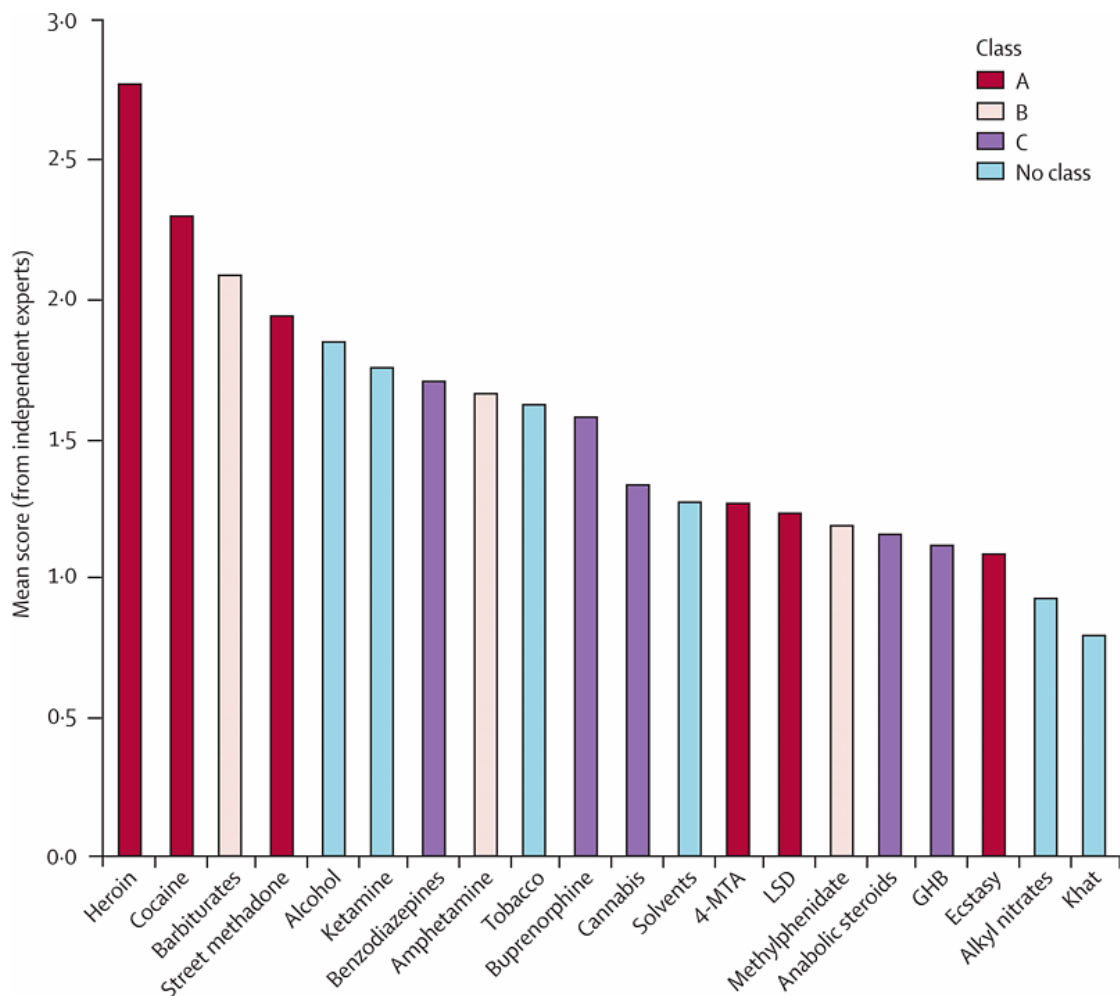
All drugs, whether currently legal or illegal, need to be subject to the optimum level of regulation such that harms, both to individual users and the wider community are minimised and wellbeing maximised. Better regulation of tobacco is now delivering positive public health benefits, and as we argue above, it is hoped, and indeed seems likely, that these lessons will soon be translated into more effective regulation of alcohol markets.

However, it is hard to ignore the fact that such regulatory interventions, on price, packaging, availability, ingredients/strength, marketing etc, and the positive outcomes they can demonstrably deliver are entirely beyond the reach of government when it

¹⁰ Willemsen Marc C and Boudewijn de Blij, 'Tobacco advertising', Doctors and Tobacco, Tobacco Control Resource Centre - http://www.tobacco-control.org/tcrc_Web_Site/Pages/tcrc/Resources/Factsheets/tobaccoadvertising.pdf

comes to drugs covered by the Misuse of Drugs Act. Responsibility for control of illegal drug markets was abdicated to criminal networks and unregulated street dealers when they were subject to absolute prohibitions against their production, supply and use, enforced with criminal law.

The distinction between legal and illegal drugs is not based on any rational evaluation of harms, but rather is a quirk of our political and cultural histories over the last 200 years. Indeed a recent Lancet paper¹¹ ranked alcohol and tobacco as more harmful than many illegal drugs (see below).



The disjuncture between how we approach legal and illegal drugs is entirely illogical, and the case for all drugs to be regulated within a single regulatory framework, by a single regulatory agency, using a consistent set of evidence-based public health principles/tools seems overwhelming. Why are alcohol and tobacco the primary concern of the DoH, whereas over 200 illicit drugs are covered by the Home Office? It is a quite bizarre and untenable situation. Even the Advisory Council on the Misuse of

¹¹ Development of a rational scale to assess the harm of drugs of potential misuse . The Lancet , Volume 369 , Issue 9566 , Pages 1047 - 1053 D . Nutt , L . King , W . Saulsburly , C . Blakemore.

Drugs, the body of experts appointed to advise Government on drugs issues recently argued that:

"As their actions are similar and their harmfulness to individuals and society is no less than that of other psychoactive drugs, tobacco and alcohol should be explicitly included in the terms of reference of the Advisory Council on the Misuse of Drugs"¹²

Transform argues that the sorts of questions being asked about appropriate levels of legal regulation and state intervention in the tobacco and alcohol consultations are precisely those we should be asking for currently illegal drugs. The current anomalous legislative framework however, completely denies us this opportunity and there is a striking and depressing contrast between the public health pragmatism of these DoH documents and the shallow politically-driven criminal justice posturing that characterised last year's disgraceful drug strategy consultation¹³. The DoH should unambiguously assert that drug policy is primarily a public health issue and is should therefore be the primary responsibility of the DoH and relevant public health authorities.

No credible calls have been made for an outright ban on tobacco, or for it to be brought within the Misuse of Drugs Act. Indeed, when the then Home Secretary, John Reid, was asked on the Jeremy Vine radio show (BBC Radio 2, 11.11.04) if he supported such a ban he replied:

"Prohibition doesn't work, as the US found out many years ago."

Transform Drug Policy Foundation. September 2008

Transform Drug Policy Foundation is a registered Charity no. 1100518 and Limited Company no. 4862177

¹² Pathways to Problems 2006 <http://drugs.homeoffice.gov.uk/publication-search/acmd/pathways-to-problems/Pathwaystoproblems.pdf>

¹³ Discussed in more detail in the submissions from Transform: http://www.tdpf.org.uk/Policy_General_DrugStrategyConsultationSubmission.htm and the Drugs and Health Alliance: http://drugshealthalliance.net/documents/consultation_submission.php