



7 July 2023

Secretariat

Tobacco and Other Products

Department of Health and Aged Care

Via Consultation Hub and Email: TobaccoReforms@allenandclarke.com.au

Dear Secretariat,

Re: Public Health (Tobacco and Other Products) Legislation 2023

The Royal Australian College of General Practitioners (RACGP) thanks the Department of Health and Aged Care for the opportunity to comment on the Exposure Draft, Public Health (Tobacco and Other Products) Legislation, 2023.

The RACGP is a strong advocate for smoking cessation and has invested in the development of resources in this area. The RACGP guide [Supporting smoking cessation: A guide for health professionals](#) addresses many contemporary challenges identified by healthcare professionals. These include e-cigarettes, combination pharmacotherapies, higher dose nicotine replacement therapy, and high prevalence and special needs groups. This flagship resource is currently being updated to reflect further legislative changes around the prescribing of nicotine vaping products.

The RACGP provides the following feedback on this important legislative reform:

i. Streamlining tobacco-related laws, regulations, instruments, and court decisions

The RACGP supports consolidating existing tobacco legislation into a single instrument to streamline implementation. In general, the package is a good step forward and will provide improved consistency in the regulatory control of tobacco and e-cigarettes at the Commonwealth level.

ii. Chapter 1: Is the legislation package appropriate and adapted to consolidate the proposed legislative instruments?

The definitions in the draft legislation do not appear to include heated tobacco products (sometimes referred to as heat not burn products). The RACGP has [previously voiced concern](#) about the campaigning by Philip Morris International to present heated tobacco products as a safer alternative to smoking combustible tobacco and as a potential cessation aid. Claims that heated tobacco products pose a lower risk to health due to milder exposure to toxicants have been refutedⁱ and such assertions have parallels with the now illegal marketing by tobacco companies promoting light and mild cigarettes and filtered and low-tar cigarettes as being safer.

The draft Bill will also need scope to capture potential new tobacco products as they emerge. In addition, consideration will need to be made to mis-sold nicotine products such as e-cigarettes that are wrongly labelled as not containing nicotine.

The proposed 12-month transition period seems to be a fair and reasonable time frame for industry to make the necessary arrangements to become compliant. In addition to the 12-month period, a period of 3 months grace to allow retailers to sell products under the old regime is reasonable.



Recommendations:

1. Heated tobacco products must be included among the defined tobacco products under this legislation
2. The scope of the new legislation must include emerging tobacco products

iii. Chapter 2: the regulation of tobacco and e-cigarette advertising and sponsorships

The proposal that the advertising and sponsorship prohibitions relating to tobacco also apply to e-cigarettes is strongly supported by the RACGP.

In addition to advertising and sponsorship prohibitions, the RACGP recommends stronger provision to stop tobacco and/or vaping industry donations to political parties or individual politicians. These provisions need to apply to entities that might be acting on behalf of the tobacco and/or vaping industry.

However, it is not clear how the proposed advertising and sponsorship provisions will address emerging forms of media such as product placement in social media sites that are hosted overseas, for example TikTok. It is unclear what process of enforcement can be imposed on such overseas based sites promoting tobacco products to Australia.

The enforcement of these regulations will require funding. Further clarity is sought around which Commonwealth body / agency will have the role of monitoring and enforcement.

Recommendations:

3. Prohibit tobacco and/or vaping industry donations to political parties or individual politicians
4. Clarify the roles and responsibilities of government departments / agencies for the enforcement of these regulations

iv. Chapter 3: plain packaging of tobacco products

The RACGP strongly supports all of the proposed packaging and product requirements, including standardisation of sizing. In particular, the exclusion of any terminology that may imply a less harmful product, such as a 'lighter' tobacco product, or promotion of properties of filters that imply improved safety, is essential.

It is important to ensure that heated tobacco products are covered by this legislation for plain packaging as these have previously been promoted by tobacco companies as being safer products due to reduced exposure to toxicants.

Regarding the offence and civil penalty provisions outlined in Chapter 3, the new proposals are acceptable and provide appropriate restrictions for tobacco products.

Recommendation:

5. Ensure heated tobacco products are covered by the proposed plain packaging and product requirement legislation

v. Chapter 4: bans on certain regulated tobacco items

The RACGP supports the permanent ban on certain regulated tobacco items, as set out in Chapter 4. However, the RACGP also recommends that the export exception be lifted. The exportation of regulated tobacco items is

importing harm to other nations. There is also a risk of these products being then transferred back into Australia without safeguard.

Recommendation:

6. Remove the export exception ban on regulated tobacco items

vi. Chapter 5: new reporting and information disclosure requirements

The RACGP supports the reporting requirements set out in Chapter 5. This is a new provision that involves licencing of tobacco sales at the wholesale level, similar to alcohol licencing. This proposed licencing provision will enable data collection at the location of the wholesaler, but not necessarily at the point of sale. Consideration may need to be made to implement licensed tobacco sales points (eg shops) as occurs with alcohol sales.

vii. Chapter 6: compliance and enforcement provisions

The RACGP supports the proposed compliance and enforcement provisions set out in Chapter 6.

viii. Chapter 7: miscellaneous provisions

The timeframes for the transitional arrangements seem reasonable as sufficient time is required to implement change.

ix. Additional considerations

The RACGP acknowledges the great strides in tobacco reduction across Australia. The proposed legislative changes will likely impact tobacco prevalence further. However, there are sectors of society experiencing higher rates of tobacco use than the national norm. These include people with a mental illness, people from culturally and linguistically diverse backgrounds, Aboriginal and Torres Strait Islander backgrounds, and people experiencing addiction issues who have higher levels of nicotine use.

Recommendation:

7. Services and resources supporting smoking cessation need to be more easily accessible to these harder to reach groups.

The RACGP thanks the Department of Health and Aged Care for the opportunity to comment. If you have any queries please contact Mr Stephan Groombridge, National Manager, eHealth, Quality Care & Standards on (03) 8669 0544 or at Stephan.groombridge@racgp.org.au

Yours sincerely



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ⁱ Popova L, Lempert LK, Glantz SA. Tob Control 2018;27:s87-s95