INQUIRY INTO THE USE OF ELECTRONIC CIGARETTES AND PERSONAL VAPORISERS IN AUSTRALIA

Committee Secretariat, PO Box 6021, Parliament House, Canberra, ACT 2600

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Dear Members of the Committee

I am a public health social scientist with several decades of research and advocacy into reducing harms related to the use of psychoactive substances. I helped develop the harm reduction approach to reducing drug related harms, and now advocate for tobacco harm reduction. My professional expertise and interests are listed at the end of this letter.

Australia's history of Public Health and Harm Reduction

Australia has since the 1990s been a global leader in harm reduction related to illicit drugs. It was one of the first countries to adopt needle and syringe exchange in order to prevent HIV infection; it established one of the world's first safer injecting facilities; it has had a wide range of facilities to help those affected by illicit drug use, including the prescription of methadone. Australia's approach was pragmatic, and founded on principles of public health and human rights. This has been a huge public health success, with rates of HIV infection and other drug related problems being very low by international standards.

Not so with electronic cigarettes. The dominance of a tobacco control strategy with its emphasis on bans and restrictions, coupled with the legacy of a pre-existing ban on the sale and use of nicotine has resulted in Australian smokers being denied legal access to safer nicotine products. The issues that the Committee needs to address are I believe in part technical, regarding for example the relative safety of electronic cigarettes compared with combustible tobacco. The Committee will no doubt receive submissions dealing with the relative safety of electronic cigarettes and the epidemiology of their use. But I wish in this submission to address more fundamental issues of public health approaches, human rights, ethics and values, that I consider central to the policy debate and legal provisions pertaining to access to nicotine products.

Pragmatic public health approaches to reducing risks and harms

One of the principles of public health is to enable people to avoid risks and harms. This thinking applies to a wide range of potentially risky behaviours for example such as driving motor vehicles and sport, where there are inherent risks but these are

reduced not by banning the activity, but by for example safer vehicles, road design, driver education, separation of drinking from driving, and age restrictions; and with respect to sport, safety equipment and the design of sporting facilities.

Tobacco harm reduction is entirely in accordance with the harm reduction principles of public health. The idea for tobacco harm reduction can be traced back to Professor Michael Russell who observed that people smoke for the nicotine but they die from the tar that they inhale, and he pointed to the health gains that might be achieved if the tar in cigarettes could be reduced whilst maintaining nicotine levels [1]. The potential for tobacco harm reduction was elaborated by the UK Royal College of Physicians (the RCP) in the 2007 report "*Harm Reduction in Nicotine Addiction*" which argued that "harm reduction in smoking can be achieved by providing smokers with safer sources of nicotine that are acceptable and effective cigarette substitutes"[2]. The RCP further suggested the potential for re-balancing the market in favour of the safest nicotine products. At the time this report was written there was in much of Europe (except in the case of snus in Sweden) no widely available attractive and viable source of safer nicotine for smokers to switch to. That has now changed with the arrival of electronic cigarettes.

Tobacco harm reduction is consistent with international obligations in the international treaty on tobacco control, to which Australia is a signatory. The Framework Convention on Tobacco Control (FCTC) aims to reduce the use of tobacco – and by definition reducing use includes measure which fall short of measures which seek the abolition of tobacco or nicotine use. The preamble to the FCTC notes obligations, in Article 1d, to provide for tobacco harm reduction. Harm reduction is one of the defining strategies of tobacco control, which is "a range of supply, demand and harm reduction strategies that aim to improve the health of a population by eliminating or reducing their consumption of tobacco products and exposure to tobacco smoke" [3].

Tobacco harm reduction is also consistent with the basic principle of public health which is one of creating the conditions in which people can choose and act to lead healthier lives. One of the principles of the World Health Organization is that: "informed opinion and active cooperation on behalf of the public are of the utmost importance in the improvement of the health of the people". This is further elaborated in the World Health Organisation Ottawa Charter on Health Promotion which states that "health promotion is the process of enabling people to increase control over, and to improve, their health" [4].

The rise in the use of electronic cigarettes is a clear demonstration of individuals choosing to reduce the use of risk products in order to avoid the risk of smoking. It

[1] Russell MA (1976) 'Low-tar medium-nicotine cigarettes: a new approach to safer smoking', British Medical Journal. 1: 1430-1433, p. 1431

[2] Royal College of Physicians, 2007, Harm Reduction in Nicotine Addiction: Helping People Who Can't Quit.

[3] Framework Convention on Tobacco Control, http://www.who.int/fctc/text_download/en/.

[4] World Health Organization (1986), "Ottawa Charter for Health Promotion", http://www.who.int/healthpromotion/conferences/previous/ottawa/en/, accessed 4 July 2017.

has, globally, been a consumer driven phenomenon, and it is precisely what public health officials often hope for. Indeed, the rapid rise in the use of electronic cigarettes in for example the United Kingdom far exceeds what might have been expected for any programme initiated by professional Public Health. In the United Kingdom there are 2.9 million are current users of electronic cigarettes, and 1.5 million have ceased smoking altogether with the aid of electronic cigarettes [5]. This is a triumph for the health of the public without the intervention of organised Public Health. Such initiatives are to be encouraged, and not to be prevented by outdated legal restrictions.

There has been considerable uptake of electronic cigarettes in Australia, but the prevalence of their use lags behind many other countries and in Australian electronic cigarette users face potential criminal punishment for choosing to use the wrong way to stop smoking tobacco.

Electronic cigarettes are demonstrably safer than smoking combustible tobacco. They have proved to be a popular and acceptable alternative to smoking. Hypothesised negative impacts (such as the assertion that they will lead to the uptake of smoking by youth, and lead to a re-normalisation of smoking) have proved to be untrue (and verging on fantasy rather than having the merit of scientific hypotheses). It is therefore unethical (let alone bad public health policy) to deny smokers access to a safer product.

Considerations regarding the Right to Health

The right to health is an important human right which is mentioned in a number of international human rights conventions including the preamble to the Constitution of the World Health Organization 1946; Article 25 of the UN Declaration of Human Rights 1948; and Article 12 of the International Covenant on Economic, Social and Cultural Rights 1966.

Although Australia does not have a human rights act it *is* a signatory to the International Covenant on Economic, Social and Cultural Rights. Article 12 of the International Covenant on Economic, Social and Cultural Rights recognises the "right of everyone to enjoyment of the highest standard of physical and mental health" and that states parties must take steps regarding "the prevention, treatment and control of epidemic, endemic, occupational and other diseases".

The preamble to the FCTC refers to Article 12 as well as to the Constitution of the World Health Organization on the right to the enjoyment of the highest attainable standard of health.

Harm reduction strategies have been held by the UN Committee on Economic, Social and Cultural Rights to be component parts of a right to health [6]. A report to the

[5] Action on Smoking and Health,, *Use of electronic cigarettes (vapourisers) among adults in Great Britain*, 16 May 2017, http://ash.org.uk/information-and-resources/fact-sheets/use-of-electronic-cigarettes-vapourisers-among-adults-in-great-britain/, accessed 4 July 2017.

[6] United Nations, Committee on Economic, Social and Cultural Rights, Concluding Observations on Tajikistan, UN. Doc. E/C.12/TJK/CO/1 (24 November 2006), para 70 on 'harm reduction' among prisoners, sex workers

UN General Assembly by the United Nations High Commissioner for Human Rights averred that human rights for drug users is part of the right to health [7]. Tobacco harm reduction is in line with the obligations of states to help people avoid illness and premature death. In my view smokers have a right to health just as do others in the population.

The future

Australia has made good progress in helping reduce levels of smoking but the rate of decline appears to have stalled, especially in comparison with countries such as the UK and Sweden which allow safer nicotine products and where rates of smoking continue to drop.

The ethical issue for the Committee is what options the Australian government can offer current smokers who are unable or unwilling to forego the use of nicotine. A ban on safer nicotine products means that the main option available is "to quit or die". Since many people find it difficult to quit smoking because they like nicotine, many will unnecessarily suffer illness and premature death due to smoking; it is clearly contrary to ethical obligations to deny healthier alternatives to those who cannot give up the use of nicotine.

For these reasons I believe that it is important for Australian legislation to be remedied to:

- enable the sale, possession and use of nicotine for tobacco harm reduction: this would involve exempting nicotine e-liquid from the Poisons Standard;
- regulate nicotine and vaping devices as consumer products using common consumer regulatory and standards approaches;
- develop a tobacco control policy which reflects the relative risks and benefits of different tobacco and nicotine products and which reflects the low level of risk of electronic cigarettes and other non-combustible nicotine products.

With kind regards

Prof Gerry Stimson

* This is submitted in a personal capacity. I have also made a submission as Chair of the New Nicotine Alliance – UK on behalf of that organisation.

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and drug users; and see United Nations, Committee on Economic, Social and Cultural Rights, Concluding Observations on Mauritius, UN. Doc. E/C.12/MUS/CO/4 (8 June2010)), para 27.

[7] United Nations, A/HRC/30/65, 2015, Study on impact of world drug problem on enjoyment of human rights.

Declaration of interest

I am a public health social scientist, with nearly 50 years' experience of public health research and advocacy in the field of psychoactive substance use. I have published over 220 scientific publications and several books. My academic career focused on reducing harms from psychoactive substance use, and improving public health through social and health policy. From 1990 until 2004 I ran the UKs largest social science research centre mainly conducting studies on the epidemiology of HIV infection among people who inject drugs, studies of risk behaviour, and evaluations of interventions to prevent the spread of HIV and to prevent other drug related harms. I was one of the founders of drugs harm reduction in the 1980s and instrumental in the development and evaluation of harm reduction in the UK as a response to HIV/AIDS. The UK harm reduction policy was an outstanding public health success. I have advised the UK Government, World Health Organization, UNAIDS, UNODC, World Bank and numerous governments on issues relating to drugs, hepatitis, HIV infection and AIDS, and alcohol. I am Honorary Professor at the London School of Hygiene and Tropical Medicine, Emeritus Professor at Imperial College London, and recent past Editor of the International Journal of Drug Policy. I was Executive Director of the International Harm Reduction Association from 2004 to 2010. I was responsible for managing about £25m in government, research council, foundation and other funding in the last 25 years of my full-time work.

I am an advocate for drugs harm reduction and believe that people affected by policies should have a say in those policies.

I now advocate for tobacco harm reduction as a key public health strategy for reducing smoking related harms, including the use of lower risk nicotine products to help smokers switch from smoking. I was a member of the UK National Institute for Health and Clinical Excellence guidelines group on tobacco harm reduction, and was a member of the British Standards Institution and the European CEN working group on e-cigarette standards. In 2012 a company of which I am a director sought and received a small costs only development grant from Nicoventures (then a wholly owned subsidiary of British American Tobacco) for testing the feasibility of the use of a licensed nicotine product in a disadvantaged population. I help organise the annual Global Forum on Nicotine conference which brings together policy analysts, academics, consumer organisations, manufacturers of nicotine products, and regulators to discuss the science and policy of new nicotine products. I also help run a website and a news service on nicotine issues. I helped found and am chair of the charity New Nicotine Alliance which represents the views of e-cigarette users.