

Mr Ismail Sabri Yaakob
Prime Minister of Malaysia
Prime Minister's Office
Main Block, Perdana Putra Building
Federal Government Administrative Centre
62502 Putrajaya
MALAYSIA

21 February 2022

Dear Mr Prime Minister

Proposed prohibition of sale of tobacco or nicotine products to those born after 2005

We write in support of a robust public health approach to the problem of smoking in Malaysia. We have been prompted to write the following statements at the World Health Assembly and news reports indicating that Malaysia may ban sales of cigarettes to those born in 2005.¹ In some accounts, this would extend to vaping products and tobacco products that are much less dangerous than cigarettes and may also include possession as well as the sale of such products.^{2 3}

We have spent many years as academics and advocates trying to reduce the harms caused by tobacco. We have no conflicts of interest concerning any of the industries involved. We provide [short biographies at the end of this letter](#). We would respectfully like to offer some brief comments on this concept. We hope these views will be constructive as the government decides its approach to these proposals.

The imperative to address smoking in Malaysia. Above all, we must commend and support the government's commitment to take a strong stance to address the problems caused by smoking. Minister of Health, Mr Khairy Jamaluddin, is correct to highlight the devastating health and economic impact of smoking and to signal that this is a major public health priority for Malaysia. With over 40% of Malaysian men currently smoking, it is imperative to contain the rising burden of ill-health and premature death, healthcare costs and economic losses as this population ages and succumbs to smoking-related disease.⁴

Unintended consequences of prohibitions. In our experience, governments should be very cautious about prohibition measures, especially if they are applied to adults. The proposed measures would apply increasingly to adults as those born after 2005 grow older. It is almost impossible to suppress *demand* for a recreational stimulant like nicotine, and many adolescents will try to adopt the behaviours of the adults in their lives. A prohibition does not make the banned products disappear, and age restrictions do not make them unavailable to people beneath the age threshold. A prohibition or age restriction changes how the products are supplied, who supplies them, and at what price – sometimes at a lower price if taxes are illegally avoided. Initially, those older than the age threshold will supply those younger. Over time, this market would be supplied through cross-border trade, internet sales, and more established criminal networks with aggravated risks of bribery and corruption. The measure will become harder to enforce as it involves ID checks on adults. It is also likely that young people would play a significant role in the illicit supply chain. There is already a substantial illicit market in tobacco products, with estimates of almost 60 percent of cigarettes sold illegally.⁵ A further difficulty arises in the visitor economy. Most adults visiting Malaysia will come from jurisdictions where age restrictions are only applied to adolescents. It is unclear how visitors and the visitor economy would respond. The challenge with any prohibition is, therefore, to recognise the plausible unintended harmful consequences that arise. These need a thorough assessment and the risks properly balanced against any possible benefits.

The opportunity of tobacco harm reduction. Significant reductions in health risk can be expected when a smoker switches from a smoked product like cigarettes to a smoke-free product like e-cigarettes, heated tobacco products, smokeless tobacco, or new nicotine pouches. Encouraging smokers to switch from high-risk to low-risk nicotine products is a promising public health strategy because these products have three essential characteristics:⁶

- (1) They impose much lower risks to health and welfare than smoking products because most of the smoking-related harm arises from products of combustion in cigarette smoke, not nicotine.
- (2) Multiple strands of evidence show they contribute to smoking cessation and diversion from smoking. Smoke-free products do not require the user to quit nicotine but eliminate the toxic burden of smoke. They offer an easier way to quit *smoking* for more dependent or committed nicotine users.
- (3) They function as economic substitutes for cigarettes – which means that measures that increase demand for smoke-free products tend to decrease demand for smoking. The reverse is also true.

These characteristics mean there is a significant opportunity to reduce the disease burden of smoking by encouraging (through tax, regulation, and official communications) smokers to migrate from high-risk to low-risk products –this is the concept of *tobacco harm reduction*.

Adopt risk-proportionate regulation. Given the role of smoke-free products in reducing smoking, the optimum policy should be different for these products – they should be seen as part of the solution to Malaysia’s smoking problem. A strong commitment to addressing smoking would mean having the strongest tax, product regulation, warnings, age thresholds, and marketing restrictions for the most dangerous products (cigarettes). It would also mean proportionate measures on the products that function as a low-risk alternative to smoking (vaping products etc.) focussed mainly on consumer protection. This regulatory philosophy is known as ‘risk-proportionate regulation’. The concept of risk proportionality underpins the regulatory philosophy in the UK and New Zealand, for example, and we recommend this approach to the Government of Malaysia. We recommend full implementation of MPOWER measures for smoking products,⁷ recognising that smoke-free products provide a good way for adult smokers to respond to MPOWER. For smoke-free products, we recommend the following: low or zero taxation; controls on themes and placement of advertising but not an outright ban; warning and risk communications that encourage smokers to switch; restriction on sales to under-18s; regulation to protect consumers related to chemical, electrical, thermal, and mechanical safety. Regulators should take care not to impose regulations that place smoke-free products at a disadvantage to cigarettes, for example, through caps on nicotine strength or bans on flavours unrelated to a chemical hazard.

Addressing adult smoking is the critical challenge. There are two main reasons to focus policy on *reducing adult smoking at any age*. The first is that adult smoking cessation addresses the most immediate health burden. Adult smokers are at the greatest health risk and experience the most substantial and immediate benefits from quitting or switching. The second is that it will be challenging to address male *adolescent* smoking while such a large proportion of *adult* men still smoke. Adolescence is a transitional period between childhood and adulthood. Many adolescents are drawn to the behaviours of significant adults in their lives, like parents or people they work with – a role-model effect. The tobacco harm reduction strategy aims to change the way *all adults* use nicotine to much less harmful products and, therefore, to influence the behaviour of adolescents who would otherwise take up smoking.

Tobacco harm reduction is widely supported in the expert community. The ideas we present in this letter command significant expert support. In October 2021, one hundred experts wrote to the heads of national delegations to the WHO Framework Convention on Tobacco Control to set out the arguments for tobacco harm reduction.⁸

We believe that it is time for global tobacco policy to draw on the full potential of tobacco harm reduction. We hope the public health science, policy, and practitioner communities will converge on a common purpose to meet the SDGs and to reduce the global burden of tobacco-related disease and premature mortality as quickly and deeply as possible.

In August 2021, fifteen past presidents of the Society for Research on Nicotine and Tobacco published an analysis of the claims and counterclaims about tobacco harm reduction in the American Journal of Public Health.⁹ The past presidents, some of the most eminent scientists in the world, concluded:

While evidence suggests that vaping is currently increasing smoking cessation, the impact could be much larger if the public health community paid serious attention to vaping's potential to help adult smokers, smokers received accurate information about the relative risks of vaping and smoking, and policies were designed with the potential effects on smokers in mind. That is not happening.

We have not repeated the analysis in these two documents in this letter, but both provide extensive citations of evidence to support their analysis. We hope officials will consult these sources as they provide advice to ministers and the prime minister.

We hope our letter will help stimulate a debate on the appropriate regulatory strategy to address the burden of smoking in Malaysia. We hope the government will consider the limitations and likely unintended consequences of prohibition measures. We hope ministers will consider the alternative approach of *risk-proportionate regulation* based on MPOWER and tobacco harm reduction.

We would be happy to provide further information or address any questions that arise.

We are copying this letter to the Health, Finance, and Domestic Trade and Consumer Affairs ministries.

Yours sincerely,

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Copied to:

Minister of Health: Mr Khairy Jamaluddin

Minister of Finance: Mr Tengku Zafrul Aziz

Minister of Domestic Trade and Consumer Affairs: Mr Alexander Nanta Linggi

References and source links

- ¹ Code Blue, *Malaysia To Ban Cigarettes For Anyone Born After 2005*, 27 January 2022 <https://bit.ly/3GZLqkD>
- ² CNA, *Malaysia to introduce law to ban smoking for people born after 2005: Khairy*, February 2022 <https://bit.ly/3h1Cabi>
- ³ The Star, *Khairy: Law to ban smoking for those born after 2005 will be introduced*, February 2022 <https://bit.ly/3rZm02f>
- ⁴ Institute for Public Health (IPH), Malaysia 2020. National Health and Morbidity Survey (NHMS) 2019: Vol. I: NCDs – Non-Communicable Diseases: Risk Factors and other Health Problems, <https://bit.ly/3i14ZdN>
- ⁵ Focus Malaysia, *Much is still required even as illegal cigarettes incidence drops 6.5%*, 6 January 2022 <https://bit.ly/3s5HE58>
- ⁶ We summarised the evidence for these three characteristics in a recent submission to the National Treasury of the Government of South Africa, 4 February 2022 <https://bit.ly/3sUrI5a>
- ⁷ See World Health Organisation, MPOWER. Accessed 19 February 2022. <https://www.who.int/initiatives/mpower>
- ⁸ Letter from one hundred specialists in nicotine science, policy, and practice. *The urgent need to reduce deaths from smoked tobacco*, 18 October 2021. <https://bit.ly/3BGGWhS>
- ⁹ Balfour, D. J. K., Benowitz, N. L., Colby, S. M., Hatsukami, D. K., Lando, H. A., Leischow, S. J., Lerman, C., Mermelstein, R. J., Niaura, R., Perkins, K. A., Pomerleau, O. F., Rigotti, N. A., Swan, G. E., Warner, K. E., & West, R. (2021). Balancing Consideration of the Risks and Benefits of E-Cigarettes. *AJPH*, 111(9), 1661–1672. <https://bit.ly/3F6ivuC>

Biographies

David B. Abrams PhD is Professor of Social and Behavioral Sciences School of Global Public Health, New York University. He was professor and founding director of the Centers for Behavioral and Preventive Medicine at Brown University and then directed the Office of Behavioral and Social Sciences Research (OBSSR), National Institutes of Health (NIH). He was the first Executive Director, The Schroeder International Institute of Tobacco Research and Policy Studies and Professor of Health Behavior and Society, The Johns Hopkins Bloomberg School of Public Health. He has published over 300 scholarly articles and been a Principal Investigator on numerous NIH research programs and at several Research Centers of Excellence. He served on the Board of Scientific Advisors of the NIH National Cancer Institute. He was President of the Society for Behavioral Medicine and received its Distinguished Scientist Award.

Clive D. Bates MSc is Director of Counterfactual, a consulting and advocacy practice focussed on a pragmatic approach to sustainability and public health. After an early career in the private sector and environmental campaigning, he joined the tobacco control movement. From 1997-2003 he was Director of Action on Smoking and Health (UK), campaigning to reduce the harms caused by tobacco. From 2000, he was closely involved in developing the Framework Convention on Tobacco Control as head of a leading non-profit tobacco control organisation. In 2003, he joined Prime Minister Blair's Strategy Unit and worked in senior roles in government and regulators and the United Nations in Sudan. He started Counterfactual in 2013.

Raymond S. Niaura PhD is Professor of Social and Behavioral Sciences and Epidemiology at the School of Global Public Health, New York University. From 2009 to 2017, he was Director of Research at the Schroeder Institute, Truth Initiative (formerly the American Legacy Foundation). He has extensive expertise in tobacco dependence and treatment, and he has published over 400 peer-reviewed articles and several book chapters in this area. His interests include the biobehavioral substrates of tobacco dependence, evaluating behavioral and pharmacological treatments for cessation, and understanding and addressing public health disparities in tobacco-related burdens of illness and disability. He has been Principal Investigator or co-Investigator of over 30 NIH-funded grants. He is a former President of the Society for Research on Nicotine and Tobacco.

David T. Swenor JD is Adjunct Professor of Law and Chair of the Advisory Board of the Centre for Health Law, Policy and Ethics at the University of Ottawa. He was the first lawyer in the world to work full time on policies to reduce cigarette smoking. He has worked on Canadian and global tobacco and health issues for over 40 years, helping set many international precedents, including in shaping tobacco tax policy, and drafting tobacco control legislation, in South Africa. He has worked on tobacco issues with the WHO, PAHO, World Bank and many other bodies, worked on successful litigation against cigarette companies, and spoken and published widely. He was recognised as Ottawa's outstanding individual philanthropist in 2016.