

Policy Options for the Regulation of Electronic Cigarettes

Consultation submission

Your details

This submission was completed by: (name) Mark Forsyth

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Organisation (if applicable): Z Energy

Position (if applicable): General Manager, Retail

(Tick one box only in this section)

Are you submitting this:

- as an individual or individuals (not on behalf of an organisation)?
- on behalf of a group, organisation(s) or business?

(You may tick more than one box in this section)

Please indicate which sector(s) your submission represents:

- Commercial interests, including e-cigarette manufacturer, importer, distributor and/or retailer
- Tobacco control non-government organisation
- Academic/research
- Cessation support service provider
- Health professional
- Māori provider
- Pacific provider
- Other sector(s) (please specify):

(You may tick more than one box in this section)

Please indicate your e-cigarette use status:

- I am using nicotine e-cigarettes.
- I am using nicotine-free e-cigarettes.
- I currently smoke as well as use e-cigarettes.
- I am not an e-cigarette user.
- I have tried e-cigarettes.

Privacy

We intend to publish all submissions on the Ministry's website. If you are submitting as an individual, we will automatically remove your personal details and any identifiable information.

If you do not want your submission published on the Ministry's website, please tick this box:

Do not publish this submission.

Your submission will be subject to requests made under the Official Information Act. If you want your personal details removed from your submission, please tick this box:

Remove my personal details from responses to Official Information Act requests.

If your submission contains commercially sensitive information, please tick this box:

This submission contains commercially sensitive information.

Declaration of tobacco industry links or vested interest

As a party to the global tobacco control treaty, the World Health Organization Framework Convention on Tobacco Control, New Zealand has an obligation to protect the development of public health policy from the vested interests of the tobacco industry. To help meet this obligation, the Ministry of Health asks all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry. The Ministry will still carefully consider responses from the tobacco industry, and from respondents with links to the tobacco industry, alongside all other submissions. Please provide details of any tobacco company links or vested interests below.

Z Energy is a retailer of tobacco-related products.

Please return this form by email to:

ecigarettes@moh.govt.nz by **5 pm, Monday 12 September 2016.**

If you are sending your submission in PDF format, please also send us the Word document.

Consultation questions

Although this form provides blank spaces for your answers to questions, there is no limit to the length of your responses; you should take as much space as you need to answer or comment. Feel free to enlarge the boxes or attach additional pages.

Q1 Do you agree that the sale and supply of nicotine e-cigarettes and nicotine liquids should be allowed on the local market, with appropriate controls?

Yes No

Reasons/additional comments:

Z is not an expert in the risks associated with various nicotine products, but we are supportive of evidence-based measures that will aid or further smoking cessation and a reduction in smoking related mortality, so long as appropriate controls are in place that:

- Do not have unintended adverse consequences
- Do not compromise staff safety and wellbeing
- Are applied fairly, in a realistic timeframe and do not advantage or disadvantage one retailer over another
- Do not compromise the ability to deliver the level of service our customers expect and deserve
- Do not impose significant additional costs on doing business.

This position is consistent with our commitment to take steps that advance New Zealand towards a Smokefree 2025, including Z's support for a range of tobacco control measures, and the recent addition of a nicotine replacement product to our national product range.

We acknowledge the harm that tobacco does to families and communities and will support constructive measures that will lead to reduction of this harm. While Z is again not an expert in the efficacy of certain interventions, Z has not opposed concealing tobacco in store, tax increases, health warnings or plain packaging.

It is very important that whatever outcome of this review is applied fairly across the market and that certain subjective judgements are not made around one retailer or another. To this end, Z supports these products being treated consistently with tobacco-related products.

While scientific uncertainty remains around the risks and benefits of e-cigarettes, Z acknowledges the scientific consensus that the exclusive use of e-cigarettes is significantly less harmful than smoking. On that basis we support e-cigarettes being legally sold in New Zealand as a safer alternative to smoking, with appropriate controls.

Q2 Are there other (existing or potential) nicotine-delivery products that should be included in these controls at the same time? If so, what are they?

Yes No

Reasons/additional comments:

Not that we are aware of at this time.

Q3 Do you think it is important for legislation to prohibit the sale and supply of e-cigarettes to young people under 18 years of age in the same way as it prohibits the sale and supply of smoked tobacco products to young people?

Yes No

Reasons/additional comments:

We believe that allowing sales to minors would be inconsistent with the goal of a Smokefree 2025. Z's position recognises that while allowing the controlled use of e-cigarettes could be a step towards this goal overall, there remains scientific uncertainty about long term-health risks of e-cigarettes to users, and claims that young people's experimentation with and more regular use of e-cigarettes may lead to nicotine addiction or have a gateway effect to smoking.

As a retailer, we support one class of nicotine products to make it as simple as possible for consumers and for our staff. Unless and until there is enough evidence for the Ministry of Health to recommend e-cigarettes as an aid to stop smoking, Z advocates for prohibitions on the sale to minors consistent with tobacco products.

Q4 Do you think it is important for legislation to control advertising of e-cigarettes in the same way as it controls advertising of smoked tobacco products?

Yes No

Reasons/additional comments:

Z's tentative support for e-cigarettes is as a safer alternative to tobacco-based nicotine products. We do not have a position on whether full prohibition of advertising is warranted, however unless and until there is enough evidence for the Ministry of Health to recommend e-cigarettes as an aid to stop smoking, Z advocates for a precautionary approach to advertising and promotion that does not have the unintended consequence of promoting e-cigarettes as a new gateway to nicotine-containing products.

Q5 Do you think it is important for the SFEA to prohibit vaping in designated smokefree areas in the same way as it prohibits smoking in such areas?

Yes No

Reasons/additional comments:

Z would seek to prohibit the use of e-cigarettes on forecourts and operational sites, especially given the ongoing scientific concern about the potential adverse effects on non-users exposed to e-cigarette vapour and also to ensure there is no confusion between the treatment of different products. Our position on this respects the rights of our customers and staff not to inhale any form of secondhand smoke, regardless of how it is generated.

Our position also recognises the safety risk of distraction on high-risk sites.

National controls would assist in this.

Q6 Do you agree that other controls in the SFEA for smoked tobacco products should apply to e-cigarettes? For example:

Control	Yes	No	Reasons/ additional comments
Requirement for graphic health warnings	<input type="checkbox"/>	<input type="checkbox"/>	We are not sufficiently qualified to express a view on this but would not oppose this.
Prohibition on displaying products in sales outlets	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Our support for e-cigarettes is as a safer alternative to tobacco-based nicotine products. We do not have a position on whether full prohibition on displaying e-cigarettes is warranted, however, unless and until there is enough evidence for the Ministry of Health to recommend e-cigarettes as an aid to stop smoking, Z advocates for a precautionary approach that does not have the unintended consequence of promoting e-cigarettes as a new gateway to nicotine products.
Restriction on use of vending machines	<input type="checkbox"/>	<input type="checkbox"/>	We are not sufficiently qualified to express a view on this but would likely support in the context of preventing access of the product to children.
Requirement to provide annual returns on sales data	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Returns should be collected in a way that is consistent with tobacco sales data, to be able to measure impact on overall rates of nicotine use.
Requirement to disclose product content and composition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Generally and as a principle, people have a right to know what they are consuming. We want to know that we are selling a product that is what it says it is.
Regulations concerning ingredients (eg, nicotine content and/or flavours)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Again, people have a right to know what they are consuming. We want to know that we are selling a product that is what it says it is.
Requirement for annual testing of product composition	<input type="checkbox"/>	<input type="checkbox"/>	We will leave this to the experts to determine what is appropriate / required.
Prohibition on free distribution and awards associated with sales	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Our qualified support for e-cigarettes is as a safer alternative to tobacco-based nicotine products. Free distribution and awards should not have the unintended consequence of promoting e-cigarettes as a new gateway to nicotine-containing products.
Prohibition on discounting	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Our support for e-cigarettes is as a safer alternative to tobacco-based nicotine products. Discounting should not have the unintended consequence of promoting e-cigarettes as a new gateway to nicotine-containing products.

Prohibition on advertising and sponsorship	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Our support for e-cigarettes is as a safer alternative to tobacco-based nicotine products. Advertising and promotion should not have the unintended consequence of promoting e-cigarettes as a new gateway to nicotine-containing products.
Requirement for standardised packaging	<input type="checkbox"/>	<input type="checkbox"/>	Z would support packaging considerations that mitigate the potential unintended consequence of promoting e-cigarettes as a new gateway to nicotine-containing products.
Other	<input type="checkbox"/>	<input type="checkbox"/>	

Q7 Do you think it is important for legislation to impose some form of excise or excise-equivalent duty on nicotine e-liquid, as it does on tobacco products?

Yes No

Reasons/additional comments:

We don't have a strong view on this. However our support for e-cigarettes is as a safer alternative to tobacco-based nicotine products. Based on what we know – which we freely acknowledge is not exhaustive – e-cigarettes are highly likely to be a safer product which can potentially help transition people to smoke-free. In this context we believe e-cigarettes should remain cheaper to help encourage smokers to switch.

The lower value of e-cigarettes would also have the knock-on benefit of reducing the threat of robberies. The current robbery rate across convenience stores in New Zealand is driven in large part by the high cost of cigarettes.

Q8 Do you think quality control of and safety standards for e-cigarettes are needed?

Yes No

Additional comments:

Area of concern	Yes	No	Reasons/additional comments
Childproof containers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As a retailer we do not want to sell a product that may have unintended consequences, particularly on children. In a concentrated liquid form the risks of accidental poisoning through consumption are likely to be higher than that for, say, 'accidentally' smoking a packet of cigarettes.
Safe disposal of e-cigarette devices and liquids	<input checked="" type="checkbox"/>	<input type="checkbox"/>	This sounds sensible but we do not have an expert or informed view.
Ability of device to prevent accidents	<input checked="" type="checkbox"/>	<input type="checkbox"/>	This sounds sensible but we do not have an expert or informed view.
Good manufacturing practice	<input checked="" type="checkbox"/>	<input type="checkbox"/>	This sounds sensible but we do not have an expert or informed view.
Purity and grade of nicotine	<input type="checkbox"/>	<input type="checkbox"/>	We are not qualified to comment

Registration of products	<input type="checkbox"/>	<input type="checkbox"/>	We are not qualified to comment
A testing regime to confirm product safety and contents purity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	This sounds sensible but we are not sufficiently expert to comment in this space. As a principle, our customers have a right to know what they are buying and we have a right to know what we are selling.
Maximum allowable volume of e-liquid in retail sales	<input type="checkbox"/>	<input type="checkbox"/>	We are not qualified to comment
Maximum concentration of nicotine e-liquid	<input type="checkbox"/>	<input type="checkbox"/>	We are not qualified to comment
Mixing of e-liquids at (or before) point of sale	<input type="checkbox"/>	<input type="checkbox"/>	We are not qualified to comment
Other	<input type="checkbox"/>	<input type="checkbox"/>	We are not qualified to comment

Q9 Are there any other comments you would like to make?

Z acknowledges the harm that tobacco does to Kiwi communities. While Z is a retailer of tobacco-related products we are committed to taking the steps that we can to move New Zealand towards a Smokefree 2025. While there is probably more work to be done to fully understand the phenomenon of e-cigarettes, Z accepts the prevailing view that they are likely to be significantly less harmful than nicotine delivered through tobacco products.

We believe a shift away from tobacco-related products towards e-cigarettes can serve as a helpful step away from a more harmful addiction and may support consumers to break the nicotine addiction altogether.

To this point, we have seen some public comment around which retail outlets might and might not be permitted to sell these products. Any controls in this respect outside of current regulations would be confusing, unfair and could potentially undo some of the good associated with these proposals – e.g. service stations are a common and convenient purchase point for tobacco, which is why Z has started providing nicotine replacement products in retail stores. Denying a safer and less harmful product to consumers from outlets that currently sell tobacco is not sensible or consistent with the goals of the review.

Additionally, Z believes that enabling the sale of e-cigarettes more broadly throughout New Zealand has the very real ability to minimise the financial harm currently being caused through addiction to tobacco-related products across New Zealand, the impacts of that on families and communities and the incidence of robbery and theft of tobacco products.

Additional information on sales and use

Q10 Can you assist us by providing information on the sale of e-cigarettes in New Zealand (for example, size of sales or range of products for sale on the local market)?

We have nothing to offer here.

Q11 Would the Ministry of Health’s proposed amendments have any impact on your business? If so, please quantify/explain that impact.

The more we can shift people away from tobacco to cheaper and less harmful alternatives, the more likely we are to reduce the real and rapidly-increasing security risk around the sale of tobacco-related nicotine products.

The current robbery rate across convenience stores in New Zealand poses a very real risk to the safety of people and the community.

Anything to reduce the addiction to tobacco is likely to enhance the safety of our staff, our businesses and our families and communities.

Q12 If you are using nicotine e-cigarettes: how long have you been using them, how often do you use them, how much do you spend on them per week and where do you buy them?

How long have you been using them?	How often do you use them?	How much do you spend on them per week?	Where do you buy them?