

For discussion
on 18 May 2015

**Legislative Council
Panel on Health Services**

Progress of Tobacco Control Measures

INTRODUCTION

This paper briefs Members on our tobacco control policy and proposes additional measures to enhance its effectiveness in protecting public health.

PRESENT POSITION

Present Policy

2. It is estimated that tobacco consumption is responsible for causing over 6 900 deaths a year in Hong Kong¹ and nearly 6 million deaths a year worldwide. It is the single most important preventable risk factor responsible for main causes of death and chronic diseases, including cancers and cardiovascular diseases. The harm of smoking, including exposure to second-hand and third-hand smoke, is well-established by scientific research and well-recognized by local and international communities. The Framework Convention on Tobacco Control (FCTC) of the World Health Organization (WHO) represents the international efforts to address tobacco dependence as a public health epidemic. China is a signatory of and has ratified FCTC, the application of which has been extended to Hong Kong since 2006.

3. The Government's tobacco control policy seeks to safeguard public health by discouraging smoking, containing the proliferation of tobacco use and minimising the impact of passive smoking on the public. Our multi-pronged approach, comprising legislation, enforcement, publicity, education, smoking cessation services and taxation, has gradually reduced the smoking prevalence rate from 23.3% in early 1982 to 10.7% in 2012.

¹ McGhee SM, et al. Cost of tobacco-related diseases, including passive smoking, in Hong Kong. *Tobacco Control* 2006; 15:125-130.

Legislation and Enforcement

4. The Smoking (Public Health) Ordinance (Cap. 371) was amended in 2006 to, *inter alia*, extend the statutory smoking ban to cover all indoor working places and public places as well as some outdoor places. Starting from December 2010, smoking ban has been extended to public transport facilities (PTFs). There are currently 239 PTFs designated as no smoking areas (NSAs), which are either termini with more than one bus routes or two or more modes of public transport. The list of these PTFs is updated regularly to take into account changes in the physical layout and public transport services at individual locations.

5. In 2014, the Tobacco Control Office (TCO) under the Department of Health (DH) received 19 642 smoking complaints and enquiries. During the year, the TCO conducted over 29 000 inspections of various venues in response to complaints, including blitz operations against blackspot sites. A total of 7 834 fixed penalty notices (FPNs) under the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600) and 193 summonses on smoking and related offences were issued in 2014.

Publicity and Education

6. Over the years, the DH has been implementing various promotion activities relating to tobacco control. These include general publicity, health education, announcements of public interest, campaigns, and mobile phone-based application.

7. With funding support from the Government, the Hong Kong Council on Smoking and Health (COSH) is an organization established by law to protect and improve the health of the community through publicity on the harms of smoking and advising Government on matters relating to smoking and health, conduct regular publicity campaigns to encourage smokers to quit smoking and garner public support for establishing a smoke-free Hong Kong. In the light of the latest findings from the Thematic Household Surveys (THS) relating to smoking in Hong Kong, COSH launched the Smoke-free Women Smoking Cessation Promotion Programme in late 2014 and a Social Marketing Campaign targeting middle-aged smokers was launched in early 2015. COSH has also solicited support from district partners and organized “Quit-to-Win” Smoke-free Community Campaign in all 18 districts.

Smoking Cessation

8. Smoking cessation is an integral and indispensable part of the Government's tobacco control policy to complement other tobacco control measures, including taxation. DH operates an integrated Smoking Cessation Hotline (Quitline: 1833 183) to provide general professional counselling and information on smoking cessation, and arrange referrals to various smoking cessation services in Hong Kong, including public clinics under the DH and the Hospital Authority (HA), as well as community-based cessation programmes operated by non-governmental organizations (NGOs).

Smoking Cessation Services at Public Clinics

9. At present, HA operates 16 full-time and 42 part-time smoking cessation clinics to provide smoking cessation services, serving mainly its patients and those referred from the Quitline. The number of new cases handled by HA's smoking cessation clinics in 2013 and 2014 are 17 689 and 19 018 respectively. The smoking cessation rate one-year after treatment exceeds 50%.

Community-Based Cessation Programmes by NGOs

10. To strengthen the provision of smoking cessation service, the Government has in recent years engaged local NGOs in providing free community-based smoking cessation services with different approaches like Chinese medicine acupuncture, mobile clinics, outreach service to workplaces, and services for ethnic minorities and new immigrants. The quit-rate of these services ranges between 25% and 30%. The number of people using the smoking cessation services provided by these NGOs increased significantly from about 700 in 2009 to over 7 200 in 2014.

Tobacco Duty

11. Article 6 of the FCTC states that price and tax are effective and important means of reducing tobacco consumption. In this regard, WHO encourages its members to raise taxes on tobacco products periodically and recommends raising tobacco taxes to accounting for at least 70% of retail prices.

12. Tobacco duty rates were last increased by 11.72% in 2014, bringing the proportion of duty to the retail price of cigarettes to about 70%. We will monitor closely changes in cigarette retail prices and the overall

smoking situation in Hong Kong and review the tobacco duty rates regularly.

PROPOSED ADDITIONAL MEASURES

13. Taking into account overseas experience and in response to new development in the tobacco market and public complaints received, we are working on the following legislative proposals to strengthen our tobacco control efforts –

- (a) to change the prescribed form of health warning and indication of tar and nicotine yields on packet or retail container of cigarettes and relevant tobacco products;
- (b) to designate bus interchange facilities located at the tunnel portal areas as statutory NSA; and
- (c) to regulate electronic cigarettes.

(a) Health Warnings on Tobacco Products

14. At present, the Smoking (Public Health) (Notices) Order (Cap. 371B) stipulates that health warning should cover at least 50% of the surface of packet or retail container of cigarettes, cigar, pipe tobacco and cigarette tobacco in accordance with the prescribed forms and pictures. The existing batch of health warning pictures has been used since 2007.

15. WHO's Guidelines recommend that two or more sets of health warnings and messages, specified from the outset, should be established to alternate after a specified period, such as every twelve to thirty six months, as rotation of health warnings and messages and changes in their layout and design are important to maintain saliency and enhance impact. Also, the size of the health warnings and messages should cover more than 50% of the principal display areas and aim to cover as much of the principal display areas as possible.

16. According to WHO Guidelines, the provision of specific sources for cessation help on tobacco packaging, such as a toll-free telephone "quitline" number, can be important in helping tobacco users to change their behaviour. Evidence also supports the inclusion of quitline number in health warning leads to increase in call volume to quitline.

17. Having regard to the above, we propose to amend the prescribed forms (including specifications) of health warnings, the size and number of the health warnings and messages for packet or retail container of cigarettes under the Smoking (Public Health) (Notices) Order as follows –

- (a) the area of the graphic health warning shall be of a size that covers at least 85% of two largest surfaces of the packet and of the retail container;
- (b) increasing the number of forms of health warning from six to twelve;
- (c) the health warning message “HKSAR GOVERNMENT WARNING” / “香港特區政府忠告市民” will be replaced the by following –

“Tobacco kills up to half of its users 半數煙民因煙草失去生命”
“Quitline: 1833 183; 戒煙熱線 : 1833 183”;

- (d) the indication of tar and nicotine yields should be printed on a side adjacent to a typical flip-top lid of a cigarette packet, excluding the portion which forms part of the lid and the two largest surfaces, presented in a conspicuous place of such side of the packet.

We will also adjust the manner of display of the above and introduce similar changes to the graphic content and format for retail container of cigar, pipe tobacco or cigarette tobacco. Samples of the existing and proposed warning pictures and messages under the Smoking (Public Health) (Notices) Order and an illustration of the health warning graphic content and messages under our proposal are at **Annex A**.

18. We plan to table the amendment order in the Legislative Council in the second quarter of 2015 with a view to effecting the new forms and warning pictures/messages in early 2016. This should give sufficient lead time for the industry and manufacturers to change their packets.

(b) **Smoking Ban at Bus Interchange (BIs) at Tunnels Portal Areas**

19. In recent years, the TCO has received complaints and suggestions (the breakdown is at **Annex B**) for imposing smoking ban at BIs, where

passengers using the facilities are mainly for interchange into other franchised bus routes. Unlike PTFs, these BIs are not currently designated as NSAs. Similar to PTFs, non-smokers waiting and queuing for change of bus at BIs are unable to take any effective measures against second-hand smoking. To protect the health of the individuals, we propose to extend smoking ban to these locations.

20. Having regard to the physical configuration of these public facilities, the pedestrian flow and enforcement issues, we plan to designate the following eight BIs located within the tunnel portal areas as NSAs -

- (a) Cross-Harbour Tunnel;
- (b) Lion Rock Tunnel;
- (c) Shing Mun Tunnels;
- (d) Eastern Harbour Crossing;
- (e) Western Harbour Crossing;
- (f) Tate's Cairn Tunnel;
- (g) Tai Lam Tunnel; and
- (h) Tsing Sha Highway (between Sha Tin Heights Tunnel and Eagle's Nest Tunnel).

21. The NSA will cover the boarding areas and some adjoining waiting areas. We will consult the relevant District Councils and other stakeholders in the next few months to solicit their views, including the boundary of the proposed NSA. We aim to submit the legislative amendments to LegCo in the fourth quarter of 2015 with a view to effecting smoking ban at these BIs in early 2016.

(c) Electronic Cigarettes

22. Electronic cigarettes (e-cigarettes), also known as electronic nicotine delivery systems, are devices that deliver an aerosol/vapour by heating a solution that users inhale in a way that simulates the act of cigarette smoking. The main constituents of the solution may include nicotine, propylene glycol, and possibly glycerol, flavouring agents and some unknown ingredients. Some e-cigarettes may claim that they do not contain any nicotine. While many e-cigarettes look like conventional tobacco products (e.g. cigarettes, cigars, cigarillos, pipes or hookahs), some take the form of ordinary items such as pens, USB memory sticks and larger cylindrical or rectangular devices.

23. According to WHO's latest report, there is indication that the use of e-cigarettes is increasing rapidly. It is estimated that there were 466 e-cigarette

brands in 2014. In 2013, US\$3 billion was spent on e-cigarette globally, and sales are forecasted to be increased by a factor of 17 by 2030. Available data has also indicated that e-cigarettes use at least doubled among both adults and adolescents from 2008 to 2012, and is growing rapidly among children and adolescents.

24. While e-cigarettes have only emerged in the market in the past few years, their potential health effects have increasingly become a major concern and they also have a potential to significantly undermine our tobacco control measures if not controlled effectively from the start (especially they tend to target at the younger generation as their designs and marketing tactics suggest). Contrary to some e-cigarette advocates and manufacturers have argued, there is evidence that e-cigarette aerosol is not merely “water vapour” as is often claimed in the marketing of these products. In a recent study, it was demonstrated that formaldehyde-releasing agents could be formed during vapourization of e-cigarette liquid.² Formaldehyde is a known cancer-causing agent. Besides, most e-cigarettes contain propylene glycol which is a known irritant when inhaled. Inhalation of irritants may induce airway disorders such as asthma and other inflammatory respiratory diseases. In addition, e-cigarettes also give rise to exposure to nicotine and other toxicants from passive smoking.

25. Apart from direct health effects, WHO has expressed concerns about the “gateway” and “renormalization” effects arising from the use of e-cigarettes. The former refers to the possibility that children will switch to cigarette smoking once addicted to nicotine through e-cigarettes. As for smokers, e-cigarettes may bring renormalisation effect by making e-cigarettes (smoking-like behavior) attractive and perpetuate the smoking problems. As a result, WHO has recently recommended that measures should be considered to prohibit or regulate e-cigarettes products to -

- (a) prevent the initiation of e-cigarettes by non-smokers and youth with special attention to vulnerable groups;
- (b) minimize potential health risks to users of e-cigarettes and protect non-users from exposure to their emissions;
- (c) prevent unproven health claims from being made about e-cigarettes; and

² R. Paul Jensen, Wentai Luo, James F. Pankow, Robert M. Strongin, David H. Peyton. Hidden Formaldehyde in E-Cigarette Aerosols. N ENGL J MED 372;4 January 22, 2015. DOI:10.1056/NEJMc1413069

- (d) protect tobacco-control activities from all commercial and other vested interests related to e-cigarettes, including interests of the tobacco industry.

26. Internationally, Singapore, the United States, the United Kingdom and a few other countries have planned/adopted measures to either regulate or prohibit import, distribution and sale of e-cigarettes (see the latest situation and regulatory measures introduced by these countries at **Annex C**).

Local Situation

27. At present, e-cigarettes containing nicotine are pharmaceutical products regulated by the Pharmacy and Poisons Ordinance (Cap. 138) and must be registered with the Pharmacy and Poisons Board before they can be sold in Hong Kong. In addition, nicotine is a listed Part I poisons under the same Ordinance. The possession or sale of unregistered pharmaceutical products or Part I poisons are both criminal offences that are liable on conviction to a fine of \$100,000 and to imprisonment for two years.

28. Under section 3 of the Smoking (Public Health) Ordinance, no person shall smoke or carry a lighted cigarette, cigar or pipe in a no-smoking area, and "smoke" is defined as "inhaling and expelling the smoke of tobacco or other substance". As such, any person who smokes (including e-cigarettes) in a statutory no smoking area constitutes an offence and is subject to a fixed penalty of \$1,500.

29. According to the 2012/13 school-based survey on smoking conducted by the University of Hong Kong³, about 1% of secondary school students had used e-cigarette. COSH has recently expressed concern on the spread of e-cigarettes in particular the school sector, and recommended a total ban on e-cigarettes.

³ School of Public Health, the University of Hong Kong. School-based Smoking Survey 2012-13.

Proposed Regulation of E-cigarettes

30. While the number of smokers using e-cigarettes in Hong Kong is not yet significant, overseas experience suggests that this may change very quickly and that once it has taken root it would be very difficult to reverse the trend. There are claims that e-cigarettes are less harmful than traditional tobacco products and that e-cigarettes could help smokers to quit. However, such evidence is considered limited and inconclusive up to now. If there is such scientific proof later on that e-cigarettes may be used for smoking cessation purpose, we can consider regulating it as pharmaceutical product for such purpose. But until such proof has been established scientifically, given the apparent health effect and hazards arising from the use of e-cigarettes, the wider long-term impact to students and youngsters (e.g. inducing them to smoke) and the recommendation of the WHO, we propose to strengthen the existing legislative framework and prohibit import, manufacture, sale, distribution, and advertising of e-cigarettes. In the meantime, we will step up publicity and public education on the potential harms from e-cigarettes.

ADVICE SOUGHT

31. Members are invited to note the progress of our tobacco control measures and the legislative proposals set out in paragraphs 13 to 30, including the proposed regulatory measures against e-cigarettes.

**Food and Health Bureau
Department of Health
May 2015**

(1) Existing health warnings and pictures on cigarette packet

Chinese version



English version



(2) Examples of proposed new of health warnings and pictures on cigarette packets

We propose to include the warning above the quitline:

“Tobacco kills up to half of its users 半數煙民因煙草失去生命”

Example 1



Example 2



Example 3



Example 4



Example 5



(3) Layout/Display of the existing and proposed health warning on cigarette packet

(i) Existing layout of pictorial health warning on cigarette packet

HKSAR GOVERNMENT WARNING	香港特區政府忠告市民
SMOKING CAUSES LUNG CANCER	吸煙引致肺癌
TAR : mg NICOTINE : mg	焦油 : 毫克 尼古丁 : 毫克

(ii) Proposed new layout of pictorial health warning on cigarette packet

TOBACCO KILLS UP TO HALF OF ITS USERS QUITLINE: 1833 183	半數煙民因煙草失去生命 戒煙熱線 : 1833 183
SMOKING CAUSES LUNG CANCER	吸煙引致肺癌

Area of pictorial health warning

**Number of Suggestions Received by TCO to
Impose Smoking Ban at BIs (since 2011)**

Location	No. of suggestions received
Shing Mun Tunnels	71
Cross-Harbour Tunnel	29
Tai Lam Tunnel	17
Western Harbour Crossing	2
All Tunnels	2

**E-Cigarettes:
Latest Situation in and
Regulatory Measures Planned/Adopted by Some Countries**

Country	Latest Situation and Regulatory Measures Planned/Adopted
Singapore	Importation, distribution and sale of any article including e-cigarette which is designed to resemble a tobacco product are prohibited.
Brazil	<p>A research published in 2014 revealed that about 3% of adult in Brazil were ever e-cigarette users.⁴</p> <p>The government prohibits the sale, importation and advertising of any electronic smoking devices.</p>
The United States	<p>According to a research conducted by the Centers for Disease Control and Prevention in 2013, it was estimated that about 20.4 million adults in the United States had ever smoked e-cigarette smokers.⁵ Current e-cigarette use tripled from 2013 (660 000 [4.5%]) to 2014 (2 million [13.4%]) among high school students; and among middle school students, prevalence increased by a similar magnitude, from 1.1% (120 000) to 3.9% (450 000).⁶</p> <p>The Food and Drug Administration only regulates those e-cigarettes that are marketed for therapeutic purposes.⁷ On the other hand, 40</p>

⁴ Gravely S, et al. Awareness, Trial, and Current Use of Electronic Cigarettes in 10 Countries: Findings from the ITC Project. *International Journal of Environmental Research and Public Health*. 2014;11(11):11691-11704.

⁵ CDC. Key Findings: Trends in Awareness and Use of Electronic Cigarettes among U.S. Adults, 2010-2013. http://www.cdc.gov/tobacco/basic_information/e-cigarettes/adult-trends/index.htm (accessed on 11 May 2015)

⁶ CDC. Tobacco Use Among Middle and High School Students — United States, 2011–2014. April 17, 2015 *MMWR* 64(14):381-385.

⁷ The Food and Drug Administration of the United States <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm172906.htm> (accessed on 11 May 2015)

	states prohibit sale of e-cigarettes to minors. ⁸
United Kingdom	In Great Britain, there are about 2.1 million adults currently use e-cigarette. ⁹ The government plans to ban the sale of e-cigarettes to children under 18 ¹⁰ , and all nicotine-containing products, such as e-cigarettes, are to be regulated as medicines in 2016. ¹¹
United Arab Emirates ¹²	Importation and trading of e-cigarettes are prohibited.
Others (Argentina ¹³ , Panama ¹⁴ , Uruguay ¹⁵ and Mexico ¹⁶)	Governments prohibit the sale, importation and advertising of electronic cigarettes.

⁸ CDC. State Laws Prohibiting Sales to Minors and Indoor Use of Electronic Nicotine Delivery Systems — United States, November 2014, MMWR. 63(49);1145-1150

⁹ The Tobacco Atlas (Fifth Edition). The American Cancer Society.

¹⁰ News. *BMJ* 2014;348:g1160.

¹¹ Medicines and Healthcare Products Regulatory Agency, UK.

<http://webarchive.nationalarchives.gov.uk/20141205150130/http://www.mhra.gov.uk/NewsCentre/Pressreleases/CON286855> (accessed on 11 May 2015).

¹² http://www.tobaccocontrolaws.org/files/live/United%20Arab%20Emirates/United%20Arab%20Emirates%20-%20Decree%20No.%20GSM_36%20%28e-cigs%29.pdf (accessed on 11 May 2015)

¹³ http://www.anmat.gov.ar/comunicados/Disposicion_3226-2011.pdf (accessed on 11 May 2015)

¹⁴ <http://www.tobaccocontrolaws.org/files/live/Panama/Panama%20-%20Res.%20No.%20660%20-%20national.pdf> (accessed on 11 May 2015)

¹⁵ <http://www.tobaccocontrolaws.org/files/live/Uruguay/Uruguay%20-%20Decree%20No.%20534%20on%20E-Cigs%20-%20national.pdf> (accessed on 11 May 2015)

¹⁶ <http://www.tobaccocontrolaws.org/files/live/Mexico/Mexico%20-%20GLCT.pdf> (accessed on 11 May 2015)