

To: Chief Executive Mrs. Carrie Lam

Subject: 2019 Policy Address

Submission by: Knowledge• Action• Change (KAC) regarding the Hong Kong Government's proposal in the Smoking (Public Health) (Amendment) Bill 2019 (Amendment Bill), which aims to ban the import, manufacture, sale, distribution and advertisement of alternative smoking products, including electronic cigarettes, heat-not-burn products and herbal cigarettes.

Knowledge• Action• Change (KAC) is a UK-based organisation whose mission is to promote public health through harm reduction interventions and policies. In October 2018, KAC published a report entitled *No Fire, No Smoke: The Global State of Tobacco Harm Reduction*. This was the first attempt to bring together all the publicly available, independent, peer-reviewed scientific and clinical evidence relating to the use of SNP. The report is available here: <https://gsthr.org/>.

A spokesperson for the Hong Kong Food and Health Bureau has said, "Protecting public health is the Government's prime consideration. We must prevent the harm of these new products from taking root and ensure that our achievements in tobacco control over the years would not be undermined." <https://www.info.gov.hk/gia/general/201902/15/P2019021500222.htm>.

We would like to draw your attention to the evidence that these products are substantially safer than smoking cigarettes, and to the potential of the use of safer nicotine products to reduce the public and individual health burden of smoking in Hong Kong. The use of these products does not undermine progress and achievements in tobacco control: rather, their use should be viewed as a significant addition to the measures already adopted in Hong Kong to reduce smoking.

Context

The trend in current smoking in Hong Kong has been in decline since the 1980's. In the last ten years the overall prevalence has dropped from 13% in 2008 to 11% in 2018. The prevalence of male smoking (daily) has reduced from 21% to 18%, while female (daily) smoking has remained at a low level from 3.6% in 2008 to 2.7% in 2018.

However, the rate of decline has been slow - only 2% in the past decade. What this means is that despite the government's comprehensive package of tobacco control measures, there are 600,000 citizens who are still smoking. And these smokers continue to be not only at risk from death and disease, but so too are those around them through the mechanism of passive smoking.

According to the Hong Kong Cancer Registry, lung cancer kills more citizens of Hong Kong than any other form of cancer. A study conducted by The University of Hong Kong indicated that despite the decline in smoking prevalence, smoking still imposes a heavy burden on Hong Kong's economy and public health. In 2011, it led to 6,826 deaths (including around 10% due to passive smoking) and HK\$5.6 billion in economic loss to Hong Kong.¹

¹ <https://smokefree.hk/en/content/web.do?page=news20180201>

Clearly many people will quit smoking on their own or maybe through the use of nicotine replacement therapies, although the track record of success of these products is not convincing. Until recently, smokers who, for whatever reason, could not give up nicotine had only two options: quit or die. But there is now a 'third way' for smokers to switch away from smoking – the combusted cigarette being by far the deadliest nicotine delivery system - to a safer nicotine product through a policy of tobacco harm reduction.

Harm Reduction

Harm reduction is a public health intervention which works on the principle that the public engage in many behaviours that can result in harm to the individual, the community and wider society, but which are impossible to stop either through health or enforcement policies. That being the case, it is better to find ways of reducing the harm, which allows the individual an extended opportunity to find a way out of the behaviour or at least reduce the general harm being caused. Smoking is a very good example of this scenario; smokers smoke for the nicotine, which clinically, is a relatively less harmful substance, but they die from the many toxins released when a cigarette is smoked.

This is where a transition to safer nicotine products such as e-cigarettes, heat-not-burn devices and Swedish style snus oral tobacco has a significant role to play in offering this 'third way'. It is not the intention of advocates of this approach to subvert or replace existing tobacco control measures, but simply to offer smokers an alternative to an otherwise deadly behaviour.

Relative safety of SNP

We acknowledge the concerns that exist around SNP, that for example, we don't know all the long- term effects. But just because we don't know everything, does not mean that we don't know anything and there is a very real problem for public health in an overly-robust application of the precautionary principle. And the reason is that there is one simple unequivocal fact which has been universally acknowledged in varying degrees by many of the world's leading health authorities - that any nicotine product which does not involve lighting tobacco is safer than smoking a cigarette. And that safety margin is significant; through an analysis of available data, Public Health England estimates that the use of e-cigarettes is at least 95% less harmful than smoking, an assessment that is endorsed in the UK by the Royal College of Physicians, The British Medical Association, the National Health Service, the Royal Society of Public Health and the UK's major anti-smoking NGO, Action on Smoking and Health.²

But it isn't simply UK authorities who have acknowledged the role that SNP can play in reducing the death and disease toll from smoking. Both the Canadian and New Zealand governments have taken a pragmatic and proportionate response to the advent of SNP. In Sweden, allowing the use of snus has seen the country register the lowest incidence of smoking related deaths in the whole

² We note the criticisms levelled at this estimate which for the purposes of public health messaging has been translated into a 95% safety level, in particular from an editorial in *The Lancet*. However, we would caution that the authors of this editorial have a long-standing antipathy towards SNP which predates the PHE report.

of the European Union³ while the uptake of heat-not-burn devices in Japan has been accompanied by a near 30% drop in cigarette sales in two years.⁴

In January 2018, the US Food and Drug Administration (FDA) released its Strategic Policy Roadmap, which declared that “nicotine...is not directly responsible for the cancer, lung disease, and heart disease that kill hundreds of thousands of Americans each year. It is the other chemical compounds in tobacco, and in the smoke created by setting tobacco on fire, that directly and primarily cause the illness and death – not the nicotine.” The FDA expressed its commitment to “take a fresh look” at electronic nicotine delivery systems (ENDS), which include e-cigarettes, “that can deliver satisfying levels of nicotine to adults who want access to it without burning tobacco.”

Then-FDA commissioner, Scott Gottlieb described nicotine harm reduction as “a historic opportunity” to convince smokers to switch from conventional cigarettes to products that provide nicotine without the serious health hazards posed by burning tobacco. “In order to successfully address cigarette addiction, we must make it possible for current adult smokers who still seek nicotine to get it from alternative and less harmful sources”.⁵

A cautious and conditional evidence review from the US National Academy of Sciences, *The Public Health Consequences of E Cigarettes* (2018) stated nonetheless: “There is conclusive evidence that completely substituting e-cigarettes for combustible tobacco cigarettes reduces users’ exposure to numerous toxicants and carcinogens present in combustible tobacco cigarettes.” And while generally opposed to SNP, the WHO briefing on e-cigarettes conceded that “it is very likely that average ENDS use produces lower exposures to toxicants than combustible products”.⁶

Gateway concerns

There are also concerns that e-cigarettes among young people could be a gateway to regular smoking, re-introduce smoking to those who have quit or generally make smoking more acceptable. It is not surprising for example, in America, that some young people would want to experiment with a novelty product such as JUUL. There is talk of an ‘epidemic’ of JUUL use among American youth, but as yet the US authorities have not opened up the data for independent scrutiny. As it stands, there is no evidence that most of these experimenters go on to become regular or daily vapers let alone transition to cigarettes. The vast majority of those using e-cigarettes are either adult smokers looking to move away entirely from cigarettes or are dual users looking at least to cut down on their use of cigarettes. And this is a key point about the whole SNP controversy; it is most important to consider the balance of evidence at a population level – in other words – what is most likely to happen to most people who embark on a certain behaviour rather than cherry-pick those studies as a basis to attack tobacco harm reduction which simply

³ Lars Ramstrom. Institute for Tobacco Studies, Sweden. *Sweden’s pathway to Europe’s lowest level of tobacco-related mortality*. Poster presentation, World Conference on Tobacco or Health, South Africa, 2018

⁴ Euromonitor International Passport – Global Tobacco: Key findings Part 2: vapour products. October 2017

⁵ Scott Gottlieb on comprehensive regulatory plan to shift trajectory of tobacco-related disease, death. Statement from FDA Commissioner. US FDA, 2018.

<https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm568923.htm>

⁶ World Health Organisation. *Electronic nicotine delivery systems: a report by WHO*. 2014, p.4

confirm an existing bias.

The right to health

But there is a wider issue associated with concept of harm reduction and it concerns human rights and civil liberties. The WHO Framework Convention on Tobacco Control (FCTC) is very clear about health rights and its text reminds and recalls the world's most significant human rights agreements.

The FCTC makes clear that harm reduction strategies are part of tobacco control. It provides an obligation on FCTC parties to not only allow reduced-risk products but actively promote them as part of implementing their tobacco control policies based on the most current and relevant scientific, technical and economic considerations— so as to provide for the universal right to the highest attainable standards of health, politically, practically or otherwise. Specifically, Article 1d refers to harm reduction as one of the defining strategies of tobacco control: *“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”*.

And this universal right to health is reflected in several international health treaties of which these are some examples:

The International Covenant on Economic, Social and Cultural Rights 1966: Article 12 recognises: *“the right of everyone to the enjoyment of the highest attainable 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”*.

World Health Organisation Constitution 1946: The preamble states that *“The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.”*

European Social Charter 1965: *“Everyone has the right to benefit from any measures enabling them to enjoy the highest possible standard of health attainable”*. Article 11 requires states to take measures to prevent disease and to encourage individual responsibility in matters of health.

The EU Charter on Fundamental Rights 2000. Article 35 stipulates that a high level of human health protection shall be ensured in the definition and implementation of all the Union's policies and activities.

So, it is in the spirit of human rights and civil liberties and in light of the current state of scientific and clinical evidence about the reduced risk of safer nicotine products, that we respectfully urge the Hong Kong Legislature to re-consider any proposal which would deny adult smokers the choice to access these products in pursuit of health self-determination.

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Knowledge•Action•Change



Promoting health through harm reduction

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