

Backgrounder



The Case for an International Network to Represent the Interests of Nicotine Consumers

**A paper for discussion at the Consumer Advocate meeting, at the third Global Forum on Nicotine,
Warsaw, Poland, 17th June 2016**

Introduction

This paper presents a case for the establishment of an international network or coalition of nicotine consumer organizations.

It has been produced by a group of nicotine consumer advocates for discussion at the Consumer Advocates' meeting, scheduled to take place during the third Global Forum on Nicotine, at the Marriott Hotel, Warsaw, Poland, 1000-1300, Friday 17th June 2016.

The idea to produce the paper came initially from the New Nicotine Alliance UK and the New Nicotine Alliance Australia. The paper has no formal status and is intended to provide a framework for discussion among those attending, whether in an individual capacity, or representing their national/regional organization or group.

Context

The phenomenon of the adoption of low risk nicotine products is not just another way of quitting smoking, but a true consumer led self-help revolution, a solution to smoking created by smokers themselves.

The last few years have seen a rapid increase in the availability, use and effectiveness of alternative, lower risk, nicotine delivery systems. Until 2004 for those who wished to stop smoking had access to a limited range of pharmaceutical products – collectively described as Nicotine Replacement Treatments (NRT) – and smokeless tobaccos, including snus. Since that time we have seen the rapid development of a range of new technologies and nicotine products that have provided options to switch to safer and more satisfying ways to consume nicotine. This includes e-cigarettes, but also a variety of new non-combustible products based on 'heat-not-burn' technologies.

As the industry and markets have developed, the response of tobacco control and regulators has largely been driven by the precautionary principle. Despite a rapidly expanding body of science confirming the relative safety and efficacy of the new technologies and products - including the Public Health England report¹, from September 2015, which estimates e-cigarettes to be 'at least 95% safer than smoking' – politicians and regulators have proposed, and in some cases imposed, controls and prohibition that are completely disproportionate in scale to the risks posed. Indeed the consequences of their actions could see damage done to individual and public health. For example:

- There persists a belief among many in tobacco control that these products might be harmful. In support of this position, a narrative has been created to sow seeds of doubt with the media and public about the benefits of new products. The notions that e-cigarettes renormalize smoking; they provide a 'gateway' into smoking; flavours are used to target children and young people; 'we don't know what is in them'; they are a tobacco industry ploy to keep people smoking, have all been promoted as 'fact', despite there being no evidence to support any of them.
- In the EU there are the restrictive provisions on e-cigarettes of the Tobacco Products Directive (Article

20).

- The EU continues to ban snus in all countries except Sweden.
- In the US there is the imminent outcome of the FDA consultation to see what model of regulation will be adopted.
- In Australia, Singapore and New Zealand nicotine is listed as a poison and in other jurisdictions bans and heavy restrictions on production, distribution and use are being discussed.
- The quality of some research is poor and much time and energy is currently spent in debunking 'junk science'.

A robust challenge from vapers

Despite these obstacles there are several positive aspects to emerge.

Consumers have begun to make their voices heard, mainly through social media, and have also begun to organize and seek to correct misinformation and campaign for a reasonable approach to the regulation and use of products, which is based on the science and pragmatism.

- Consumers from around the world have become informed, active and organized in advocating for sensible and proportionate regulation and control of new products.
- There is a plethora of positive tobacco harm reduction activity on the social media and at vapemeets.
- There are high profile campaigns to correct public health misinformation – such as the Californian 'Not Blowing Smoke' campaign.
- Consumers have been relatively successful in fighting off the worst regulatory suggestions. Before the EU TPD was agreed in its present form, the initial plans, which ranged from medical regulation, to minimal nicotine concentration and other draconian restrictions - were significantly altered as a result of action taken by consumers, including lobbying and demonstrations. These actions produced support from legislators in Brussels. What emerged in the end was an inadequate compromise, but it could have been significantly worse.
- In the US lobbying has been robust and continues to try to ensure that the FDA regulations, when published, do not do wholesale damage to consumers and the industry that services them.
- In Australia and New Zealand there are campaigns to have nicotine removed from the schedules of poisons.
- There are now formal nicotine consumer organizations in XX countries. For example, in Asia there are a number of consumer groups – including in Malaysia, Singapore, Hong Kong – where they face significant challenges from an environment largely hostile to e-cigarettes in particular.
- In some countries, vapers and vaper organizations are involved in standards and the policy and guidance processes, for example in France and the UK.

Clear and present dangers

Whilst there will always be differences in laws and regulations across different jurisdictions, which require specific responses in each location to try to influence development and implementation, there are a number of 'big ticket' measures that transcend borders and will impact on everyone.

European Union

Currently member states of the EU are engaged in the implementation of the Tobacco Products Directive. Article 20 of this requires manufacturers/distributors to complete a bureaucratic and costly process to register each and every one of their products. It places restrictions on tank sizes, nicotine liquid concentration and the size of bottles for supply amongst other things. It is a bad compromise that will have a negative impact on manufacturers, distributors and consumers in the 28 countries, but is also a model being looked at by other countries, as an 'off the shelf' solution to their needs. The TPD is also being applied inconsistently.

USA

The FDA is considering the response to its consultation on its deeming regulations, which is likely to result in controls not dissimilar to those within the EU. Again, aside from the impact domestically, this will have implications for those in other places where US influence is strong.

CANADA

VAPING: TOWARDS A REGULATORY FRAMEWORK FOR E-CIGARETTES

Report of the Standing Committee on Health ("HESA") concluded with a 15-point list of recommendations that provided provisions from all stakeholders including consumers and consumer associations such as THRA. However each province, as is their right under the provisions of the Canadian medical system, enacted their own regulations. At the end of the day, the laws and regulations range from ignoring the issue all together (Alberta) to the draconian extreme of Quebec. Regardless of the extremes Canada remains a jurisdiction of the *continued propagation of non-evidence based reaction to a disruptive technology with the implication and public stigma that vaping is the "same as smoking"*. In fact Quebec's Bill 44 is so egregious that it has resulted in a Supreme Court challenge.

WHO-FCTC

In 2016 there will be a meeting, in India, of the Conference of the Parties (COP) to the Framework Convention on Tobacco Control (FCTC)². This is the World Health Organization treaty, which has 180 countries signed up, that seeks to *'protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke'*³. The COP will consider how new nicotine products, most specifically e-cigarettes, should be regulated. It's previous advice included the option for countries to ban them. A large number of the attendees will be from, or heavily influenced by tobacco control. The resolutions of the COP are adopted by consensus, so it is important that pressure is brought to bear on delegations to prevent a consensus being reached on prohibitionist measures.

Whilst COP is largely unaccountable its influence is significant. As a WHO treaty it has a high status in many places. It is always referred to by those in tobacco control and public health as the 'gold standard' for their activities and is something we cannot afford to ignore.

Action

There is a deficit in the level of influence consumers have on policy and this needs to be addressed.

As consumers it is important that we create and develop alliances and partnerships with those who see the potential for the new products and who are prepared to be guided by the science concerning their use.

Already there have been some (partial) successes in campaigns to counter excessive regulation and control.

These efforts have grown from the energy and passion of consumers and have been largely sustained through use of social media.

It has to be recognized that most consumers do not belong, or wish to belong, to formal organizations. Many are vocal on social media and on forums. They are willing to participate in petitions, and perhaps occasional demonstrations, but are very informed about the issues and anxious that changes don't impact adversely on their ability to pursue their enjoyment of nicotine. As such the development of formal campaigning organizations has been patchy, although there are some examples of these becoming influential and successful.

To date consumer organizations have developed locally, nationally and regionally and largely in response to proposed legal and regulatory change. It is important that these organizations continue and can maintain a focus on matters within their respective areas. However it is also important to recognize the limitations with regard to tackling issues at an international level, in particular with the UN system and WHO.

Proposal for an international network or coalition of nicotine consumer organisations

Consumer activism regarding nicotine is relatively new. However there are lessons that can be learned from other areas, such as illicit drug use and HIV/AIDS, where activism among 'affected populations' has been very successful. The whole notion of 'Nothing About Us Without Us' came from the activities of HIV/AIDS activism in the 1990s and has underpinned campaigning and influence on policy ever since. Significantly it has also become accepted as a principle for engagement by most agencies within the UN and WHO.

The UN and WHO have a variety of mechanisms to engage with affected populations, mainly through Civil Society Organizations (CSO)⁴. Indeed Dr Margaret Chan, the Director General of WHO, has acknowledged, *'the power of civil society and the activist community to generate the grassroots pressure that can ignite policy change'*⁵. This principle is also in the WHO Ottawa Charter on Health Promotion⁶, *'to acknowledge people as the main health resource. . . .and to accept the community as the essential voice in matters of its health, living conditions and wellbeing'*.

The procedures for formal recognition by the UN and WHO are somewhat complex and it is unlikely that we would be able to secure such recognition in time to engage with COP 7. However it is important that we look at what can be achieved in the short-term and do this in a way that can be developed to feed into the processes of the UN and WHO at a later date. (*A good description of UN and WHO processes relating to CSOs can be found in publication from Harm Reduction International, which was published in 2010*.)

Most important for developing activism and campaigns internationally are:

- Clear and simple demands
- Broad agreement and sign-up by those involved
- Agreed actions and plans for implementation

Principles are more important than details at the international level, for example an acceptance that nicotine is a relatively benign substance and significantly less harmful than smoked tobacco. Once this principle is agreed at the international level, it can be used to influence policy and regulation at local and national levels.

Next steps

Those present at the meeting in Warsaw will represent a number of countries and regions, each with its own specific issues to address. There will also be gaps in representation, which will need to be addressed as we progress.

The organisers of GFN have committed to making including a consumer advocate meeting as part of the event each year, although we need to be aware of the lack of additional resources and organizational capacity available to establish and develop any formal structures, etc.

With the above in mind the aims of a network or coalition might be:

Short-term

- to help mobilize support for specific national, regional and international advocacy
- to help align campaigns and highlight simple messages and demands
- to develop and agree advocacy messages for i.e., FCTC, EU, FDA
- to share ideas, information and written resources
- to help informal organizations become formal organizations and to seek representation at national, regional and international level

Longer-term

- to become an incorporated organization and adopt formal governance procedures
- to seek recognition by UN and WHO agencies, as appropriate
- to seek and secure funding and resources to develop influence

To provide an initial identity for the new body, the organizers of GFN will formally recognize it and involve it in the co-ordination of attendance at its conferences and other events of consumers from all regions. The new body might also select the winners of the vaping advocate of the year awards each year.