

**Government Response to the
Report of the Māori Affairs Committee on its
*Inquiry into the tobacco industry in Aotearoa and the consequences of
tobacco use for Māori***

(Final Response)

**Presented to the House of Representatives
in accordance with Standing Order 248**

Government Response to the Report of the Māori Affairs Committee on its Inquiry into the tobacco industry in Aotearoa and the consequences of tobacco use for Māori

Introduction

The Government welcomes the Report of the Māori Affairs Committee on its Inquiry into the tobacco industry in Aotearoa and the consequences of tobacco use for Māori. The Government has carefully considered the report and is responding in accordance with Standing Order 248. This final response supersedes the Government's interim response presented to Parliament on 1 February 2011.

The Government appreciates the comprehensive coverage of the Committee's report and recommendations, and recognises the Committee's intent to develop an ambitious, effective approach to reduce smoking rates amongst Māori, with the wider brief of reducing smoking rates for all other New Zealanders at the same time. The Government acknowledges the Committee's work on this important *kaupapa* and considers its Report makes a significant contribution to the goal of reducing the serious harm that smoking causes both Māori in particular, and other New Zealanders and the country as a whole.

Background

Smoking is the single leading preventable cause of early death in New Zealand. Half of all long-term smokers die of a smoking related illness, losing an average of 15 years of life. An estimated 4,500 to 5,000 New Zealanders die each year due to smoking or exposure to second-hand smoke. Māori are disproportionately over-represented in these mortality statistics.

Smoking causes around 85 per cent of lung cancers, the leading cause of cancer death in New Zealand, and is linked to many other types of cancer. It is a major cause of heart attacks, strokes, other cardiovascular diseases, serious respiratory diseases such as emphysema, bronchitis, and asthma, and also a range of other conditions including blindness and infertility.

Māori are significantly over-represented in all negative smoking statistics. Smoking related disease is a major cause of health inequality, including higher incidences of cancer, cardiovascular and respiratory disease, and lower life expectancy for Māori compared to the rest of the population.

Māori in all age groups have much higher smoking rates than non-Māori – more than twice as high as the rest of the population. Māori women (49%) have higher smoking prevalence than Māori men (40%).

About 650,000 New Zealanders, or one in every five people over the age of 15, continue to put their health and lives at significant risk by smoking. This figure includes approximately 155,000 current smokers who are Māori – about 45% of the Māori population aged between 15 and 65.

These smoking statistics reflect the highly addictive properties of the nicotine contained in tobacco. However, unlike other similarly dangerous addictive substances, tobacco is a legal product and smoking is a socially entrenched behaviour. As recognised by the Committee, this is in large part due to decades of concerted and sophisticated commercial marketing by tobacco companies.

Smoking rates have been falling only gradually since the 1970s and the Government has increasingly taken a comprehensive approach to address the harm caused by smoking. This approach has focussed on informing people of the health risks from smoking, preventing young people from starting to smoke, encouraging smokers to quit, and protecting people from the dangers of second hand smoke, particularly in the workplace. Currently the key components of tobacco control policy are:

- raising the price of tobacco through excise tax increases;
- adopting 'Better Help for Smokers to Quit' as one of the six priority targets for the health sector in 2009. This target is driving clinicians to systematically assess and address the smoking status of hospital patients. The approach is now being extended into the primary health care sector;
- significant government-funded smoking cessation services such as Quitline and subsidised nicotine replacement therapy (gums, lozenges and patches) and other pharmaceuticals;
- health education and promotion, and media campaigns such as the Health Sponsorship Council's *Smoking Not Our Future* campaign targeted at preventing young people from taking up smoking and the *Face the Facts* campaign aimed to encourage smokers to quit, particularly among priority population groups such as Māori and pregnant women;
- the legal protections from second-hand smoke and controls on tobacco in the Smoke-free Environments Act 1990 and subsequent amendments and regulations;
- introduction of the Smoke-free Environments (Controls and Enforcement) Amendment Bill in December 2010 to prohibit tobacco displays and tighten other controls on tobacco retail.
- further initiatives as set out in this response.

New Zealand's current policy settings reflect the objectives, principles and key elements of the World Health Organisation's Framework Convention on Tobacco Control. New Zealand has ratified the Convention which came into force in 2005. New Zealand's comprehensive tobacco control programme is rightly recognised as being at the forefront of global tobacco control efforts.

As a result of these measures smoking rates in New Zealand are coming down. Over the last 15 years daily smoking has fallen from more than one in four New Zealanders to around one in five. The latest survey statistics show the age-standardised prevalence of current smoking in 15–64-year-olds fell significantly between 2006 (24.4%) and 2009 (21.8%).

With the addition of "Better help for smokers to quit" as one of the six health targets in 2009, smoking has been reaffirmed as a priority clinical issue. This has been given further strength and support by the successful implementation of the 'ABC approach' within the hospital setting. This approach involves Asking patients about their smoking status, giving Brief advice on the harms of smoking and the benefits of quitting, and providing or referring to appropriate Cessation support services.

As a result, the last 12 months has seen 12,000 health professionals complete an online training module and, more importantly, 45,000 smokers offered brief advice and support to quit in the hospital environment alone. This year will see the ABC approach extended into the primary care health environment as part of an incentivised performance programme.

Nicotine replacement therapies (NRT) have been shown to double an individual's chances of successfully quitting smoking. Recent initiatives such as increased subsidies, making NRT available on prescription and including access to a wider range of pharmaceuticals have led to an increase of almost 300% in the uptake of NRT since 2008.

The implementation of tobacco excise increases in April 2010 and January 2011, the first significant increase since May 2000, prompted thousands of new quit attempts – producing a sustained increase in the number of calls to services such as Quitline. A further 10% increase takes place in January 2012.

All of these initiatives combine to further reduce overall smoking prevalence and reduce the number of young people taking up smoking. There is evidence of further decreases in daily and experimental smoking among students in school year 10, and increases in the number who report never having tried smoking at all.

Building on the success of these initiatives, the Government will continue to employ a combination of taxation and health promotion initiatives in tandem to reduce the prevalence of tobacco use and the harm it causes.

Within the Government's tobacco control programme all measures recognise Māori as a priority target group, supported by specific measures targeted for Māori.

Recommendations and Government Response

The Committee has made 42 recommendations. The Government responds below to each of the recommendations in accordance with Standing Order 248. For ease of reference, the recommendations and responses are listed in the same order and using the same sub-headings as in the Committee's report. As in the Committee's report, one recommendation is repeated under two different headings.

Smoke-free New Zealand goal

Recommendation 1

That the Government aim for tobacco consumption and smoking prevalence to be halved by 2015 across all demographics, followed by a longer-term goal of making New Zealand a smoke-free nation by 2025.

Response

The Government agrees to set specific mid-term targets as a means to ensure meaningful progress towards the longer term goal of making New Zealand essentially a smoke-free nation by 2025, taking into consideration the Committee's recommendation to aim for tobacco consumption and smoking prevalence to be halved by 2015.

The Government's existing tobacco policy settings are based on a 'smoke-free' vision, but no specific date has been set. The Committee's report is clear that "the term 'smoke-free' is intended to communicate an aspirational goal and not a commitment to the banning of smoking altogether by 2025" (p.10). On that basis, the Government agrees with a longer term goal of reducing smoking prevalence and tobacco availability to minimal levels, thereby making New Zealand essentially a smoke-free nation by 2025.

Specific mid-term targets are important tools for ensuring progress towards the longer-term goal. Setting ambitious outcome targets for reducing smoking

prevalence and tobacco consumption would signal strong intent. Setting a proportionate challenge for improvement across all demographics is an appropriate response to seriously address the higher smoking rates among Māori. The Committee has itself observed that halving the Māori smoking rate from the current 45 percent will be a far bigger challenge than halving the much lower non-Māori smoking rate.

Nevertheless, time-bound targets need to be set carefully to ensure they not only provide sufficient 'stretch', but are also realistic and cost-effectively achievable. Processes to monitor and evaluate progress and to recommend any corrective action required to keep on track would need to be established, and these too would need to be cost-effective. Other intermediate outcomes such as youth uptake or smoker quitting rates might make for more useful and tractable targets.

The Government therefore proposes to undertake further detailed work to determine the optimal set of specific mid-term targets to ensure progress is made towards the long term smoke-free goal. Once decided, the Government's targets will be incorporated into the priorities set for the Government's established tobacco control programme through the Ministry of Health.

The combination of specific mid-term targets and a long term aspirational goal sets a challenging path forward. In agreeing to take on specific mid-term targets for 2015 and the aspirational smoke-free 2025 goal, the Government is committing to an ongoing programme in future years of reviewing progress towards these targets and assessing what additional steps may be required over time to further address these issues.

Holding the tobacco industry accountable

Recommendation 2

That the Government consider requiring tobacco companies operating in New Zealand to finance the cost of all smoking cessation pharmaceuticals including nicotine replacement therapy products.

Response

The Government supports the widespread provision of smoking cessation pharmaceuticals and nicotine replacement therapy products at the lowest possible cost to help smokers to quit. A number of mechanisms are already in place to achieve this. The Government will continue to consider whether additional measures are necessary or desirable, including the proposed option of a mechanism for financing by tobacco companies.

The Government would like to see nicotine replacement therapy available as widely as possible where it is accompanied by safe and clinically appropriate advice (either through clinical referral, a cessation support service, or at point of sale).

The Government already supports the provision of smoking cessation pharmaceuticals and nicotine replacement therapy products at low or no cost to help smokers to quit, and agrees with the implicit principle behind this recommendation, ie. that ideally tobacco companies rather than smokers or taxpayers should bear the cost of any subsidy involved. However, any costs levied on the industry would inevitably be passed on to smokers in higher prices.

There are other situations where industry contributes funding for harm prevention programmes, such as alcohol and problem gambling. These levy mechanisms

support objectives such as increasing industry accountability and ensuring commitment of sufficient funds to the harm reduction programmes.

However, the most efficient way to collect revenue from tobacco companies is through tobacco excise tax (see also Recommendation 32). The Government considers the most appropriate way to determine the level of smoking cessation pharmaceuticals and nicotine replacement therapy products that should be funded is through ongoing assessment of what is required to meet the Government's smoking reduction goals and targets, and prioritising this against other pharmaceuticals and public health expenditure through established budget allocation processes, and through PHARMAC (see also Recommendations 28 and 29).

Recommendation 3

That the Government consider embedding guidelines to Article 5.3 of the Framework Convention on Tobacco Control (intended to protect public policy from tobacco industry influence) in both legislation and policy making.

Response

The Government considers that New Zealand is in compliance with Article 5.3 of the Framework Convention on Tobacco Control. The Government will ensure legislation and policy-making processes continue to comply.

Recommendation 4

That the Government consider initiating a counter-marketing campaign to de-normalise the tobacco industry and tobacco products, to better inform all New Zealanders of past and ongoing industry practices and strategies.

Response

The Committee has made a number of recommendations relating to the scope, target audiences and funding of a range of smoke-free public information, education, community initiatives and marketing campaigns.

The Government will continue to:

- **consider and determine the best ongoing mix of smoke-free public information, education, community initiatives and marketing campaigns, and**
- **implement a comprehensive set of priority initiatives**

by means of its established tobacco control programme through the Ministry of Health.

There is merit in the suggestion that Government tobacco control policy, and public education and marketing campaigns in particular, could be re-framed to explicitly counter the powerful momentum and sophistication of well-resourced tobacco company marketing activities. This could be an important step forward into stronger supply-side interventions more consistent with the level of harm and wider social costs caused by smoking.

However, exposing and publicising past and present tobacco industry practices is unlikely to be a particularly effective way of countering the impact of these practices on public perceptions and social norms, compared with campaigns designed to maximise public awareness and behaviour change amongst key target groups.

Reducing the availability of tobacco

Recommendation 5

That the Government investigate further options for measures to reduce the supply of tobacco into New Zealand, taking into account trade and other implications, with a view to reducing the availability of tobacco in New Zealand over time.

Response

The Government agrees to investigate further options for measures to reduce tobacco supply.

The wording of the Committee's recommendation explicitly acknowledges that introducing possible controls to restrict supply would need to weigh trade policy and other implications. These include New Zealand's international trade obligations and legal protections for sunk investment, as well as relevant exceptions for measures necessary to protect public health.

There could also be undesirable unintended consequences, such as creating windfall profits for suppliers in a situation of excess demand, and potentially creating the conditions for illegal black market supply. Any feasible options for reducing the supply of tobacco would therefore need careful consideration and assessment, and details of design and implementation would be critical.

The feasibility of, and need for possible options is also dependent on the success of other measures in lowering smoking rates and demand for tobacco products. The case for any interventions to reduce supply is therefore likely to be more appropriate for consideration at a later stage in New Zealand's transition to the smoke-free goal.

Recommendation 6

That the Government consider annually reducing (by a set percentage) the amount of imported tobacco, the number and quantity of tobacco products for sale at each outlet, and the number of retail outlets.

Response

This proposal is one particular example of the range of supply reduction options covered by the previous recommendation. The same response applies.

Plain packaging

Recommendation 7

That the tobacco industry be required to provide tobacco products exclusively in plain packaging, harmonising with the proposed requirement in Australia from 2012.

Response

The Government is monitoring Australia's progress on its proposal to legislate for plain packaging of tobacco products in 2012, and will consider the possibility of New Zealand aligning with Australia.

New Zealand Government officials have commenced discussions with respective Australian counterparts on the possible alignment. An initial report back to Cabinet is due by 30 June 2011.

Additives

Recommendation 8

That it be compulsory for tobacco companies to publicly report the elements of their tobacco and smoke by class of product, brand, and brand variant, so consumers and the Ministry of Health know exactly what substances, and in what proportions, cigarettes and loose tobacco contain. The measure should be standardised across the industry.

Response

The Government will consider developing a more stringent, specific and effective information disclosure regime, consistent with the evolution of guidelines for Articles 9 and 10 of the WHO Framework Convention on Tobacco Control.

The Framework Convention on Tobacco Control (FCTC) includes commitments on disclosure and regulation of tobacco product contents in Articles 9 and 10. The most recent Conference of the Parties to the FCTC in November 2010 adopted further partial guidelines for implementing Article 9 and 10 commitments around disclosure and regulation of additives. These guidelines are still incomplete due to the rapidly evolving evidence in this area.

The Smoke-free Environments Act already contains regulation-making powers for information disclosure and control of the contents of tobacco products, and information is already required to be disclosed by regulation through annual tobacco company returns. The Government proposes to review the adequacy of these existing information provision requirements, taking into account the evolving FCTC guidelines.

There are strong arguments for ensuring the ingredients of tobacco products and the by-products of combustion and inhalation are disclosed in full, given the inherent dangers and harm caused. This applies equally to ingredients designed to improve the palatability of tobacco and reduce the unpleasantness of smoking, as much as it does to the active toxins and pathogens.

Detailed information disclosure to rigorous and exacting standards is important for consumer information and public health education purposes, and also to enable appropriate regulatory controls on tobacco products to be introduced where necessary (see following recommendation).

Recommendation 9

That the provisions in the Smoke-free Environments Act for regulating additives and nicotine in tobacco be used to reduce the additives and nicotine in tobacco on an annual basis.

Response

The Government will consider promulgating regulations to reduce the harmful constituents contained in tobacco products or generated in their smoke, including tar and nicotine. Developing and assessing the case for

regulation will follow after, and be informed by the renewed information disclosure regime for tobacco product contents (see response to recommendation 8 above).

The Smoke-free Environments Act 1990 already contains regulation-making powers to control harmful constituents. However, this is a difficult area for effective regulation, and to date no regulations have been promulgated. The international and domestic processes outlined in the response to recommendation 8 above present an appropriate pathway forward, focussing on tobacco product contents on the basis of the harm they cause and the effectiveness with which they can be regulated.

Covert sponsorship

Recommendation 10

That the Smoke-free Environments Act be amended to stop tobacco companies from engaging in covert sponsorship arrangements such as exclusive supplier deals.

Response

The Government agrees to consider introducing an amendment to the Smoke-free Environments (Controls and Enforcement) Amendment Bill (currently under consideration by the Health Committee) to prohibit covert sponsorship arrangements such as exclusive supplier deals.

This proposal is consistent with other amendments the Government is progressing through that Bill to prohibit retail tobacco displays and address other aspects of tobacco promotion and advertising.

Retailers — Banning displays

Recommendation 11

That all retail displays of tobacco products be prohibited.

Response

The Government agrees and has already introduced a prohibition on retail displays through the Smoke-free Environments (Controls and Enforcement) Amendment Bill.

Retailers

Recommendation 12

That the section in the Smoke-Free Environments Act that allows tobacco companies to engage in “normal trade discount or normal trade rebate” (Section 36(4a)) be removed.

Response

The Government has addressed this issue through the Smoke-free Environments (Controls and Enforcement) Amendment Bill currently before Parliament.

However, the Bill does not propose removing the section that allows tobacco companies to engage in “normal trade discount or normal trade rebate”.

The Bill instead proposes stronger enforcement of the law against supplying tobacco products at a reduced charge or with rewards, by providing that relevant contracts and agreements are unenforceable to the extent they prevent or limit compliance. For example, this would allow a retailer to reveal the terms of an illegal supply contract without fear of legal action by a tobacco company over confidentiality clauses.

The Bill has been referred to the Health Committee for select committee consideration, and the Government awaits that Committee’s report.

Recommendation 13

That the penalty for selling tobacco to minors be raised to a maximum of at least \$10,000.

Response

The Government agrees to consider introducing an amendment to the Smoke-free Environments (Controls and Enforcement) Amendment Bill (currently under consideration by the Health Committee) to raise the maximum penalty for selling tobacco to minors.

This proposal is consistent with other amendments the Government is progressing through that Bill to prohibit retail tobacco displays and address other aspects of tobacco promotion and advertising.

Comparability with penalties in other regimes that prohibit sales to minors, such as the Sale of Liquor Act, is an important consideration. This includes possibly differentiating the penalties for the individual person who makes the sale and the proprietor of the retail business.

The Government considers that measures to prevent children from taking up smoking are particularly important. There is a need for better understanding the degree of exposure of children to tobacco smoking and determining which levers are likely to be most effective in reducing their exposure.

Recommendation 14

That the legislation be amended to require those selling tobacco to be 18 years and over.

Response

The Government does not propose introducing an amendment to the Smoke-free Environments (Controls and Enforcement) Amendment Bill) to raise the minimum age for selling tobacco products.

Under the Sale of Liquor Act no-one under the age of 18 may sell alcohol, and there may be a case for introducing a similar restriction for the sale of tobacco products.

However, alcohol sales can only be conducted from licensed premises, whereas tobacco products may be sold from any retail outlet without the need for a license. Many young people work in retail – this is an important factor in convenience store viability. Restricting the ability of young people to make sales could have a significant impact on these businesses as they adjust to lower tobacco sales and would reduce employment opportunities for young people.

Protection from discrimination on the basis of age under the New Zealand Bill of Rights Act arises from the age of 16 years. For this proposal to be justified there would need to be evidence that preventing 16 and 17 year olds from selling tobacco is necessary - such as if they are demonstrably more likely to sell tobacco to minors or to take up smoking themselves.

Recommendation 15

That the investigative and enforcement powers in the Smoke-free Environments Act be strengthened to allow infringement notices and instant fines to be issued to, and retail bans imposed upon, retailers found breaching the Act.

Response

The Government has addressed this issue through the Smoke-free Environments (Controls and Enforcement) Amendment Bill.

The Bill currently before Parliament proposes an infringement notice scheme for sales of tobacco to people aged under 18.

In March 2004 a previous amendment to the Smoke-free Environments Act 1990 inserted a provision enabling court orders to be issued to repeat offenders convicted of making tobacco sales to minors. These court orders can impose conditions or full prohibitions on the sale of tobacco products by the person or the shop at which the offence occurred, and may be made in addition to any other sentence or penalty imposed. The Government does not consider that further provisions for retail bans are necessary or desirable at this time.

Recommendation 16

That the Government investigate giving local authorities the power to control the number and location of tobacco retailers, to reduce the exposure of children and young people to tobacco.

Response

This proposal is one particular example of the range of supply reduction options covered by recommendation 5. The same response applies.

In considering local decision-making powers, the Government will need to assess the appropriateness of having potentially varied controls between districts.

Recommendation 17

That legislation be amended to ban the use of the word “tobacco” (and associated terms) in names of retail outlets.

Response

The Government agrees and has addressed this issue through the Smoke-free Environments (Controls and Enforcement) Amendment Bill currently before Parliament.

Recommendation 18

That the Smoke-free Environments Act be extended to legislate against cigarette vending machines.

Response

The Government does not agree that prohibiting vending machines is necessary.

The Smoke-free Environments (Controls and Enforcement) Amendment Bill proposes prohibiting any tobacco advertising displays on cigarette vending machines. Combined with other existing controls on vending machines, this is sufficient to ensure these machines do not play any significant role in promoting tobacco consumption or stopping smoking rates from falling. The current restrictions already prohibit public access to vending machines and prohibit sales to be made from them, except where the machine is operated by a salesperson or agent who is able to view the sale and is legally liable to ensure minors are not able to access tobacco products from the vending machine.

Stopping children starting to smoke and helping people quit

Smoke-free campaigns — children

Recommendation 19

That research continue to be conducted to ensure that smoke-free campaigns are reaching the correct age demographic, particularly noting that the smoking uptake age amongst Māori (11.4) is lower than the general population.

Response

The Government will continue to determine and undertake appropriate research, monitoring and evaluation as an integral part of its established tobacco control programme implemented through the Ministry of Health.

Smoke-free campaigns are routinely monitored and evaluated for effectiveness. There is already a strong operational emphasis on ensuring interventions are appropriately directed at priority targets, such as Māori youth smoking initiation, and this is an important consideration in monitoring and evaluation.

Recommendation 20

That anti-smoking campaigns that reinforce the unacceptability, and illegality, of supplying tobacco to children be implemented.

Response

As noted above in the response to recommendation 4, the Committee has made a number of recommendations relating to the scope, target audiences and funding of

a range of smoke-free public information, education, community initiatives and marketing campaigns.

The Government will continue to:

- **consider and determine the best ongoing mix of smoke-free public information, education, community initiatives and marketing campaigns, and**
- **implement a comprehensive set of priority initiatives**

by means of its established tobacco control programme through the Ministry of Health.

Campaigns directed at preventing children from taking up smoking are considered particularly important.

Smoke-free campaigns — Māori and pregnant women

Recommendation 21

That the success of smoke-free campaigns be recognised, and that the Government continue to market to groups with high smoking rates, particularly Māori, and pregnant women.

Response

As noted in the response to recommendation 4 above and other similar recommendations, the Committee has made a number of recommendations relating to the scope, target audiences and funding of a range of smoke-free public information, education, community initiatives and marketing campaigns.

The Government will continue to:

- **consider and determine the best ongoing mix of smoke-free public information, education, community initiatives and marketing campaigns, and**
- **implement a comprehensive set of priority initiatives**

by means of its established tobacco control programme through the Ministry of Health.

Campaigns directed at groups with high smoking rates, particularly Māori, and pregnant women are considered particularly important.

All smoke-free campaigns are routinely monitored and evaluated for effectiveness.

Smoke-free campaigns — Social media

Recommendation 22

That smoke-free campaigns using newer forms of marketing, such as social media websites, be considered.

Response

Government-funded smoke-free campaigns undertaken by the Health Sponsorship Council already make use of new and innovative forms of marketing, such as social media websites.

As noted in the responses to recommendation 4 above and other similar recommendations, the Government intends to continue to consider and determine the best ongoing mix of smoke-free public information, education, community initiatives and marketing campaigns and implement these by means of its established tobacco control programme through the Ministry of Health. Within this context the use of new approaches such as use of social media websites will be considered as a matter of course.

Smoke-free environments

Recommendation 23

That the Government further increase support, including financial support, to iwi and communities to promote smoke-free events and activities, and to extend smoke-free environments, to encourage tamariki to remain smoke-free.

Response

As noted in the response to recommendation 4 above and other similar recommendations, the Committee has made a number of recommendations relating to the scope, target audiences and funding of a range of smoke-free public information, education, community initiatives and marketing campaigns.

The Government will continue to:

- **consider and determine the best ongoing mix of smoke-free public information, education, community initiatives and marketing campaigns, and**
- **implement a comprehensive set of priority initiatives**

by means of its established tobacco control programme through the Ministry of Health.

Recommendation 24

That the Government investigate extending the Smoke-free Environments Act to legislate against smoking in certain areas, such as vehicles, vehicles carrying children, and specific public places.

Response

The Government proposes to consider options (with an emphasis on non-legislative options) for extending smoke-free restrictions to include areas such as vehicles, parks, playgrounds and beaches where children are particularly at risk from second-hand smoke and the negative behavioural role model of adult smokers.

The Government recognises that second-hand smoke continues to impose health risks on non-smokers, and that children in particular are vulnerable to being exposed to second-hand smoke in situations outside their control. The confined nature of vehicles greatly amplifies the impacts of second-hand smoke, and the

acts of igniting a cigarette and dealing with a burning object and ash disposal while driving potentially creates a driver safety issue comparable to the use of mobile phones and other distractions.

As the committee notes in its report, there are numerous examples where voluntary and community-led initiatives have extended smoke-free environments beyond what is required by the law, including iwi such as Ngāti Kahungunu developing effective *auahi kore* and *tupeka kore* strategies. The Government joins the Committee in commending these various initiatives, and agrees that in many cases voluntary expansion of smoke-free environments may be more appropriate than increased legislative regulation.

Support — Māori and Māori women

Recommendation 25

That the Government extend the range and reach of services for priority populations, particularly Māori women, as Māori smoking rates are significantly higher than those of the rest of the population.

Response

The Government will continue to consider and determine the best ongoing mix of smoking cessation support services and implement these by means of its established tobacco control programme through the Ministry of Health.

Smoking cessation is available to all smokers when referred, and smoking cessation support services are already routinely monitored and evaluated for effectiveness. A review of cessation services was completed in 2009/10 and the implementation of those recommendations is near completion.

As existing services develop in maturity, increasingly useful performance data are being gathered. The Ministry of Health will continue to monitor the accessibility of smoking cessation services to specific high need and target population groups and reorient services to ensure both the range and reach of services are increased.

Recommendation 26

That the Wai 844 claim lodged with the Waitangi Tribunal, which asks for “funding for Māori health initiatives to eliminate or reduce smoking among Māori” be progressed as soon as practicable.

Response

The Wai 844 claim has not yet been referred to the Government by the Waitangi Tribunal. Decisions around the timing of the Tribunal’s reports are made by the Tribunal itself, independent of Government.

As noted by the Committee, the Government already provides funding for Māori health initiatives to eliminate or reduce smoking among Māori and will continue to do so.

Support

Recommendation 27

That nicotine replacement therapies be required to be sold everywhere tobacco is sold, thereby ensuring smokers can choose a safe option whenever they crave nicotine.

Response

The Government wishes nicotine replacement therapy to be available as widely as possible where it is accompanied by safe and clinically appropriate advice (either through clinical referral, a cessation support service, or at point of sale). Nicotine replacement therapy products are subsidised through PHARMAC and the Quitcard system ensures ready access to these products. The Government also encourages expansion of the private non-subsidised market in nicotine replacement products.

The Government does not consider that regulating to require provision of these products is likely to be the most effective way to expand nicotine replacement therapy availability as it would introduce unnecessary compliance and enforcement costs.

Recommendation 28

That to improve access to nicotine replacement therapies, pharmacists be Quitcard providers.

Response

The Government awaits the outcomes of PHARMAC's current review of delivery mechanisms for subsidised medicines. This covers the Quitcard delivery mechanism for subsidised nicotine replacement therapy products and whether this should be extended.

As noted above, the Government is highly supportive of changes that lead to a greater uptake of nicotine replacement therapy products.

PHARMAC is in the process of reviewing the ways in which people receive subsidised pharmaceuticals in New Zealand. The Government will ensure PHARMAC is aware of its support for the widest possible availability of nicotine replacement therapy accompanied by safe and clinically appropriate advice. The review will also take into consideration the established principle of separation between prescriber and dispenser roles. Conflict of interest and competitive neutrality issues can arise over being able to both prescribe subsidised medicines and also to benefit from a dispensing fee and a mark-up.

Recommendation 29

That PHARMAC be strongly encouraged to subsidise a wider range of effective cessation medications.

Response

On 1 November 2010 PHARMAC began funding Champix® (varenicline) as a smoking cessation treatment subject to appropriate criteria. As a result, New Zealand now subsidises all currently licensed effective smoking cessation medications.

Recommendation 30

That further research into the benefits and risks of alternative tobacco products be conducted.

Response

The Government will continue to provide for a comprehensive and effective programme of research through its established health research funding processes and tobacco control programme initiatives.

Research into alternative tobacco products is just one of many possible research priorities to underpin better tobacco control and smoking reduction. Some research is directly funded through the Ministry of Health to support programme development, monitoring and evaluation. Other research funding is allocated through the Health Research Council.

These mechanisms ensure research is directed to best effect to support tobacco control outcomes, including appropriate research into the benefits and risks of alternative tobacco products.

Recommendation 31

That the Government take steps to initiate proactive cessation programmes in all prisons.

Response

The Government has already taken the necessary steps to support the ban on smoking in prisons from 1 July 2011* with appropriate smoking cessation measures.

The Ministry of Health, the Department of Corrections and the Quit Group have been working together to provide prison inmates and corrections officers with better access to smoking cessation services. Provision of these services and uptake of nicotine replacement therapy are planned to increase significantly as the deadline for implementation of the ban approaches.

** Note: In commending the government for its decision to ban smoking in prisons, the Committee's report inadvertently indicated this came into effect from 1 July 2010. The correct date is 1 July 2011.*

Tax increases

Recommendation 32

That the Government legislate for further incremental tax increases over and above the annual adjustment for inflation.

Response

The current programme of three 10% increases in tobacco excise over and above the annual adjustment for inflation runs through to 2012. The Government will consider regularly increasing the price of tobacco products through raising the tobacco excise by further sizeable and regular increments from 2013 onwards.

The Government considers raising the price of tobacco products through tobacco excise increases is an effective measure to reduce tobacco consumption and

smoking prevalence. In April 2010 the Government moved to raise the tobacco excise in three steps of 10% with the last increment to come into force on 1 January 2012.

Subject to evaluation of these recent excise increases, the Government will consider further sizeable and regular tobacco excise increases from 2013 onwards.

Updating the tobacco control strategy and structure

Recommendation 33

That a tobacco control strategy and action plan be established, with a strong emphasis on Māori focused outcomes, to ensure that tobacco consumption and smoking prevalence is halved by 2015 in a cost-efficient way. In 2015, the strategy should be revised to work towards making New Zealand smoke-free by 2025.

Response

The Government already has a comprehensive action plan through its current tobacco control and smoking reduction initiatives, supplemented by the additional steps proposed in this response.

The Government's emphasis is on practical actions with a demonstrable impact on smoking. Rather than devote resources to developing a tobacco control strategy document and publishing a separate action plan, the Government prefers to focus on implementing the actions it identifies as necessary and prioritises for implementation, including tangible actions to improve outcomes for Māori in particular.

As set out in the response to recommendation 1, the Government agrees that mid-term targets are necessary to work towards making New Zealand essentially smoke-free by 2025, and that progress needs to be routinely monitored and evaluated to enable the Government to identify any further action required to keep on track.

Recommendation 34

That the Government investigate options for achieving an optimal tobacco control governance and management structure; and that consideration be given to establishing a Tobacco Control Authority with a strong kaupapa Māori approach to strengthen and accelerate New Zealand's tobacco control to reach the goal of halving tobacco consumption and smoking prevalence by 2015 and cost-efficiently making NZ smoke-free by 2025.

Response

Establishing a new entity such as a Tobacco Control Authority is not considered necessary and would not be cost-effective.

Recommendation 35

That the Government consider a funding formula that provides equitable funding to Māori specific programmes and campaigns.

Response

The Government already makes, and will continue to make funding decisions, including through population-based funding formulae, in a way that provides equitable funding to programmes and campaigns targeted at reducing the harm to Māori from smoking. This applies to both Māori specific programmes and mainstream programmes that deliver services to Māori as a priority population.

Recommendation 36

That independent research and evaluation for all Māori programmes and services be funded on an ongoing basis (biennially for significant Māori specific programmes and services).

Response

The Government will continue to determine and undertake appropriate research, monitoring and evaluation as an integral part of its established tobacco control programme implemented through the Ministry of Health.

Smoke-free campaigns are routinely monitored and evaluated for effectiveness. As it is not possible to conduct evaluations on all initiatives because of limited resource and time pressure, selective criteria are applied to prioritise evaluation effort.

Kaupapa Māori

Recommendation 37

That the Government include Māori in all tobacco control planning and policy development groups.

Response

The Government will continue to engage with and involve Māori through consultation processes and relevant planning and policy development groups.

The Government continues to fund Māori tobacco control organisations. Terms of reference for a new national Māori tobacco control service are under development, including participation in policy development. Recognising that most health service decisions are made at District Health Board level, there are mechanisms set out in the Public Health and Disability Act to ensure Māori participation in decision making.

Recommendation 38

That the Government consider a kaupapa tupeka kore approach as a viable Māori framework for tobacco control interventions.

Response

The Government agrees to consider a *kaupapa tupeka kore* (ie. tobacco-free Aotearoa) approach as a viable Māori framework for tobacco control interventions.

Recommendation 23 (duplicate)

That the Government further increase support, including financial support, to iwi and communities to promote smoke-free events and activities, and to extend smoke-free environments, to encourage tamariki to remain smoke-free.

Response

The Government recognises the Committee has repeated this recommendation under the *Kaupapa Māori* heading as well as under the *Smoke-free Environments* heading above. The response takes this into account.

As noted in the response to recommendation 4 above and other similar recommendations, the Committee has made a number of recommendations relating to the scope, target audiences and funding of a range of smoke-free public information, education, community initiatives and marketing campaigns.

The Government will continue to consider and determine the best ongoing mix of smoke-free public information, education, community initiatives and marketing campaigns and implement these by means of its established tobacco control programme through the Ministry of Health.

Dealing with untaxed tobacco

Illicit trade

Recommendation 39

That the Government increase the monitoring of the illicit trade in both home-grown and imported tobacco products in NZ.

Response

The Government is aware of the risk that tobacco control initiatives could increase the incentives for illicit trade in both home-grown and imported tobacco products, and has taken appropriate steps to address this. The New Zealand Customs Service continues to monitor illicit tobacco and liaises with the New Zealand Police.

Cabinet considered the monitoring of illicit tobacco trade in October 2010 in the context of the increased incentives resulting from the phased increase in tobacco excise. New Zealand has an internationally low level of illicit tobacco and there is no evidence to suggest this has increased.

Recommendation 40

That the Government increase support for the international development of comprehensive systems for detecting smuggled and contraband tobacco products in alignment with Article 15 of the Framework Convention on Tobacco Control.

Response

The Government will address this issue within the context of international work on an illicit trade protocol being developed to give effect to Article 15 of the Framework Convention on Tobacco Control.

This will be progressed through inter-sessional working groups in 2011 and an international negotiating body process scheduled for early 2012.

Home-grown tobacco

Recommendation 41

That the personal allowance for home-grown tobacco be reduced from 15 kilograms per adult per year—which equates to 40 to 80 cigarettes a day—to a level closer to typical daily personal use.

Response

The Government agrees to consider the case for reducing the personal allowance for home-grown tobacco alongside other priorities, and taking into account how this might be effectively monitored and enforced.

Duty-free tobacco

Recommendation 42

That the duty-free allowances in other jurisdictions be investigated with a view to changing that permitted at New Zealand ports of entry, recognising Article 6.2 of the Framework Convention on Tobacco Control.

Response

The Government agrees to investigate possible mechanisms for reducing duty-free allowances in step with major tourism partners such as Australia, taking into account international agreements and the implications for New Zealand businesses in a competitive international marketplace.

The Government recognises that current allowances undermine other tobacco control measures, and in particular remove the price signal from tobacco excise for those smokers who regularly travel internationally or are able to source tobacco products from the duty-free allowances of other travellers. The policy rationale for allowing duty-free purchases in transit between countries, such as Australia and New Zealand which both heavily tax tobacco, is questionable except for the existence of international agreements that provide for personal duty-free allowances. The Government intends to raise this issue together with plain packaging and other tobacco control policy alignment issues through trans-Tasman dialogue in 2011.