



JTI's written evidence to the Health, Social Care and Sport Committee's consultation on the Public Health (Wales) Bill

16 December 2016

Japan Tobacco International

Japan Tobacco International (JTI) is part of the Japan Tobacco group (JT Group) of companies, a leading international e-cigarette and tobacco product manufacturer.

JTI has its UK headquarters in Weybridge, Surrey, and has a long-standing and significant presence in the UK. JTI manufactures a range of tobacco products for the UK market in Northern Ireland and other EU Member States (Germany, Romania and Poland). In the UK, JTI employs over 1,000 people.

With the acquisition of two major e-cigarette brands, E-Lites and Logic, JTI has also become a global player in the e-cigarette business. E-Lites first launched in the UK in 2009, and offered the first USB rechargeable kit on the market. Logic began in the United States and is the number one e-cigarette brand in New York.

E-Lites and Logic are important extensions to JTI's portfolio and, as part of JTI, these brands now have access to:

- JTI's extensive manufacturing expertise – enabling standards of product quality to be further enhanced;
- The JT Group's wider technological, research and scientific resources – including a UK R&D Centre – facilitating compliance with future regulatory requirements, driving the development of next generation products to meet evolving consumer expectations, and delivering ever better electronic cigarette products; and
- JTI's global distribution network in over 120 countries.

Gallaher Limited is the registered trading company of JTI in the UK.

Address

JTI, Members Hill
Brooklands Road
Weybridge
Surrey
KT13 0QU

Confidentiality

JTI is happy for this response to be made public.

Introduction

Under-18s should not smoke and should not be able to obtain tobacco products or nicotine-containing products. Everyone should be informed appropriately about the health risks of smoking. These core principles are central to JTI's Code of Conduct, Global Marketing Standard, operational policies and the way JTI does business.

JTI supports regulation that is proportionate and appropriate, in order to achieve a clearly articulated and legitimate public policy objective, and which meets internationally-accepted Better Regulation principles. These principles – which are supported by the Welsh Government, UK Government and the European Commission – require regulation to be transparent, accountable, proportionate, consistent, and based on clear and reliable evidence.¹

JTI actively seeks dialogue, either written or oral, with government authorities around the world regarding the regulation of the products it makes and sells. JTI has a right, and an obligation, to express its point of view regarding regulation that affects its products and the industry. It is our belief that we have the responsibility, when engaging in a consultation process, to be open and transparent in our dialogue with government authorities, and, where we believe proposed regulations to be excessive, to propose less restrictive and more targeted alternative measures that meet Better Regulation principles.

JTI strongly supports the objective of preventing under-aged consumers from having access to both electronic cigarettes and other nicotine-containing products, which is why we support certain provisions of the draft Bill, as outlined in more detail below.

In addition, we welcome the Welsh Government's decision to remove provisions that were included in the previous version of the Bill (as introduced to the National Assembly for Wales on 8 June 2015), which would have restricted the use of nicotine inhaling devices in some spaces. As we made clear in our written submission on the previous Bill, any legal requirements to prohibit or restrict the use of electronic cigarettes in public places, work places or vehicles are unnecessary and unjustified.

Indeed, a report published in August 2015 by Public Health England² found that electronic cigarettes release negligible levels of nicotine into ambient air with no identified health risks to bystanders. Furthermore, the report stated that "*best estimates show e-cigarettes are 95% less harmful to your health than normal cigarettes*", indicating that capturing both product categories under the same regulatory regime is inappropriate.

A separate systematic review of the available evidence also concluded; "*... there is no evidence that vaping produces inhalable exposures to contaminants of the aerosol that would warrant health concerns by the standards that are used to ensure safety of workplaces. ... Exposures of bystanders are likely to be orders of magnitude less, and thus pose no apparent concern.*"³

We welcome the opportunity to provide this written response in order to expand on our position in relation to certain other provisions of the Bill.

Extending the restrictions on smoking to additional premises or vehicles, and restrictions on smoking in school grounds, hospital grounds and public playgrounds

1. As stated in our written submission to the previous Bill, JTI believes there already exists a high level of public awareness regarding the health risks associated with smoking. It is our strong belief that since tobacco smoke is easily dispersed in the atmosphere and highly diluted in outdoor environments, there is no basis on which to regulate smoking outdoors.
2. JTI notes that there is limited scientific literature on outside tobacco smoke. Even well-known anti-tobacco advocates have questioned the scientific basis for restrictions on smoking outdoors.⁴ Considering these factors, JTI considers that extending the smoking ban to outdoor spaces is excessive.
3. We recognise that tobacco is a legal, but controversial, product; as such, we believe adults are entitled to make an informed choice about whether they wish to smoke. More generally, it is not appropriate to seek to discriminate against, or stigmatise, existing adult smokers, or to treat the use of tobacco as abnormal, unacceptable, or tainted.
4. Therefore we believe the Welsh Government should not seek to further prohibit adult smokers from undertaking a lawful activity when going about their everyday lives.

The creation of a national register of retailers of tobacco and nicotine products;

5. JTI agrees with the rationale underlying this proposal; that under-18s should not smoke or have access to tobacco products or nicotine products. JTI believes that smoking and vaping are, and should be, informed adult choices. This is central to our Code of Conduct, and the way in which JTI does business.
6. As made clear in our submission to the previous Bill, JTI does not oppose a national retailer register if this would be effective in improving compliance with the ban on sales to under-18s. However, we believe any regulation in this area should result in the minimum feasible burden on retailers – many of whom are small, independent businesses already working hard to operate under a broad range of regulatory burdens.
7. The Welsh Government's preferred option for the introduction of a national register includes a registration fee for retailers of £30. We remain strongly opposed to any additional financial burden upon retailers, and it is our understanding that the Scottish Tobacco Retailer's Register has a high compliance rate, despite being free-of-charge for the trade.

The provision of regulation-making powers to Welsh Ministers to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales

8. JTI agrees that including a broader range of tobacco offences in the RPO regime would be an effective way to support the work of local authorities in enforcing tobacco and nicotine laws. JTI believes that retailers who repeatedly break the law – such as selling

smuggled or illegal tobacco, which is not included under the current RPO regime – should have their right to sell tobacco products removed.

9. Indeed, it is JTI's policy to remove our tobacco gantries from any retailer who has been prosecuted for selling illegal tobacco; since the beginning of 2015, JTI has removed over 20 gantries from stores for this reason. Our commitment to support the actions of Trading Standards and HM Revenue & Customs is steadfast, and all relevant stakeholders must work together in order to take a stand against illegal tobacco.

Prohibition of handing over tobacco and/or nicotine products to a person under the age of 18

10. JTI fully supports legislation that makes it an offence to sell tobacco and electronic cigarettes to those under the age of 18, and to buy these products on behalf of someone under the age of 18. We believe that this additional measure could make a contribution to reducing underage access to tobacco and nicotine-containing products, and therefore support this measure.

¹ Professor Martin Cave OBE (an expert in regulatory economics who has specialised knowledge in the design of regulatory policies to achieve economic and also social objectives) identified the OECD Checklist for Regulatory Decision-making's requirement. See Professor Martin Cave's report "*Better Regulation and Certain Tobacco Control Measures*", November 2010. Available at: <http://www.jti.com/how-we-do-business/key-regulatory-submissions>. See also: <http://www.martincave.org.uk/>

² Public Health England, 'E-cigarettes: an evidence update', August 2015
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457102/Ecigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf

³ <http://bmcpublichealth.biomedcentral.com/articles/10.1186/1471-2458-14-18>

⁴ Jordan Raphael, in his discussion of American municipal outdoor smoking bans, indicated that outdoor smoking bans go "*beyond what is justified by the scientific findings on ETS*" (Raphael, 2007). Researchers also caution that it is premature to draw policy conclusions from their findings: Cameron et al. (2010) "*do not advise that the present results are used to advocate for outdoor smoking restrictions at the expense of other tobacco control policies known to reduce smoking prevalence.*"