



Ms Maeve McLaughlin MLA
Committee for Health, Social Services and Public Safety
Northern Ireland Assembly
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

15 December 2015

Dear Ms McLaughlin,

I am pleased to enclose herewith comments on the Health (Miscellaneous Provisions) Bill, from Japan Tobacco International (JTI).

JTI is supportive of the Northern Ireland Executive's decision to make it an offence to sell e-cigarettes to under-18s, and to ban so-called 'proxy-purchases' of e-cigarettes for minors by adults. However, JTI does not support the Executive's proposal to ban the sale of e-cigarettes through vending machine technology. We believe that such a ban is not justified as strictly controlling access to vending machines would be a more proportionate approach.

JTI always welcomes the opportunity to offer constructive feedback to regulators, but we are concerned at the extremely short period of time given for stakeholders to respond to this call for evidence. UK Cabinet Office guidance calls for a minimum of six weeks to allow respondents to prepare consultation responses, and compressing the timetable may reduce the number of respondents who are able to offer their feedback to the Committee.

I hope that the attached document is of use to the Committee in its consideration of the Bill.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'C. Cunningham-Reid', is written over a light blue horizontal line.

Charlie Cunningham-Reid
Head of Corporate Affairs and Communications, UK

Comments on the Health (Miscellaneous Provisions) Bill

From Japan Tobacco International

15 December 2015

Organisation name

Japan Tobacco International (JTI) is part of the Japan Tobacco group (JT Group) of companies, a leading international 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). Gallaher Limited is the registered trading company of JTI in the UK.

In 2014 the JT Group acquired Zandera Ltd, one of the UK's largest electronic cigarette companies and integrated it into JTI. E-Lites is the main brand of Zandera Ltd. With electronic cigarettes being an increasingly popular alternative to cigarettes among many adult smokers, E-Lites is a logical and important extension to JTI's portfolio and is its first non-tobacco, nicotine-containing product. The JT Group further expanded its portfolio of electronic cigarettes with the acquisition of Logic Technology Development LLC in 2015, one of the leading U.S. electronic cigarette brands. As part of JTI, the E-Lites and Logic brands 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 (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.

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 have access to tobacco products or nicotine containing products. This belief is central to the way JTI does business.

JTI supports regulation that is proportionate, carefully defined, necessary and appropriate to achieve a clearly articulated and legitimate public policy objective. Regulation should be made in accordance with internationally-accepted Better Regulation principles, which are supported by the UK Government and the European Commission. In essence, these principles require regulation to be transparent, accountable, proportionate, consistent and targeted at cases where action is needed.

JTI actively seeks dialogue, either written or oral, with government authorities around the world regarding the regulation of tobacco products and all other nicotine containing products that 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 to propose alternative, less restrictive and more targeted solutions that meet Better Regulation principles where we believe proposed regulations to be excessive.

JTI supports reasonable and proportionate regulation of electronic cigarettes. It believes that:

- Adults should be free to choose whether they wish to use electronic cigarettes, including as an alternative to tobacco products;
- All marketed electronic cigarettes should comply with all relevant regulations concerning general consumer product safety, electrical safety and consumer protection from misleading marketing claims;
- Regulation of electronic cigarettes should aim to keep electronic cigarettes out of the hands of under-18s; and
- Governments and regulators should avoid excessive regulation that prevents adult consumers from choosing these products.

JTI strongly supports the objective of preventing under-aged consumers from having access to electronic cigarettes and other nicotine containing products.

Our comments are limited to Part 1 of the Health (Miscellaneous Provisions) Bill (***the Bill***). We welcome the opportunity to provide this written response.

Part 1, Clause 1: Prohibition of sale of nicotine products to persons under 18

JTI fully supports both the Northern Ireland Executive's decision to make it an offence to sell e-cigarettes to under-18s and the introduction of a ban on proxy purchases. We believe that these measures could make a significant contribution to reducing young people's access to nicotine containing products.

JTI does not market electronic cigarettes, or any other nicotine containing product, to under-18s or to non-users of tobacco or nicotine-containing products. In line with our core principle that children should not smoke, or have access to tobacco products, we also believe that children should not have access to electronic cigarettes or other nicotine containing products.

As such we support the proposal to introduce legislation that would make it an offence to sell electronic cigarettes to under-18s.

JTI would also support the introduction of legislation making it an offence to allow a person under the age of 18 to sell nicotine products, unless specifically authorised to do so by a responsible person.

Part 1, Clause 2: Prohibition of sale of nicotine products from vending machines

JTI is fundamentally opposed to a ban on electronic cigarette vending machines. Adults who choose to use electronic cigarettes are entitled to be treated fairly and equally, and have the right to choose and to obtain the products they prefer. We believe that under-18s should not be able to obtain electronic cigarettes either via vending machines or any other sales channels, and therefore access to vending machines should be strictly controlled by, for example:

- Introducing adult identification functions in vending machines, either by electronic age verification means, ID coin mechanisms or remote control operation, in line with various international precedents. JTI has experience of introducing such systems in other countries around the world, including Austria, Germany¹ and Japan, and JTI would be willing to share further information on the costs, timings and technicalities of the different types of adult identification functions available;
- Where vending machines are not equipped with adult identification functions, requiring them to be located solely in areas where only adults are permitted; or
- Requiring vending machines to be located within sight of employees of the venues in which they are located so that their use can be monitored.

In our opinion a very clear and convincing justification needs to be present before restricting the means by which adult users can access electronic cigarettes. In addition, the Northern Ireland Executive must show that there are no more proportionate methods of achieving the goal of preventing under-18s from accessing electronic cigarettes via vending machines. As no such justification has been presented, and as we believe that strictly controlling access to vending machines is a more proportionate method, we do not support an extension of the vending machine prohibition to include electronic cigarettes.

¹ In Germany, for example, adult identification functions have been in place in tobacco vending machines since 2006, operating predominantly on the basis of electronic chips bearing information on card holder's date of birth, which are common in German credit or debit cards. A reading device in the machine verifies eligibility of the purchaser and enables to proceed with purchase. Many vending machines can also read dates of birth contained in the European Union identity cards and driver's licenses, allowing for purchase by eligible tourists who do not hold German bank cards.