



## Submission to the Petitions Committee

### Cancer Society of New Zealand

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**The Cancer Society would like the opportunity to speak to our submission if possible.**

## Introduction

### Cancer Society New Zealand

Firstly, thank you for the opportunity to submit on our petition: *That the House of Representatives pass legislation that significantly reduces the number of tobacco retailers, to help reach Smokefree Aotearoa 2025.*

The Cancer Society of New Zealand is a non-profit organisation (hereafter “the Cancer Society”) that is committed to reducing the incidence and impact of cancer in the community. We are committed to reducing cancer inequities. We work across the cancer continuum with a focus on prevention, supportive care, provision of information and resources, and funding of research. The Cancer Society is made up of six divisions and a national office.

### Cancer Society petition

Cancer Society launched its petition on 15 March 2021 and closed it on 28 May with 7,874 signatures collected over this two-month period.

**Petition Title:** *Phase out the sale of tobacco to save lives and reach Smokefree Aotearoa 2025*

**Petition Request:** *That the House of Representatives pass legislation that significantly reduces the number of tobacco retailers, to help reach Smokefree Aotearoa 2025.*

**Petition Reason:** *Tobacco is the most harmful consumer product in history. It kills about 13 New Zealanders every day. Yet tobacco can be sold anywhere and by anyone. Even though it’s an R18 product it’s sold with everyday grocery items in over 6,000 places where children often go. Significantly reducing the number of places selling tobacco will prevent smoking uptake, support people to quit, and greatly accelerate reaching New Zealand’s Smokefree 2025 goal.*

### Smokefree Aotearoa 2025 goal

In 2011, the Government adopted the Smokefree Aotearoa 2025 goal in response to the landmark Māori Affairs Committee **Inquiry into the tobacco industry in Aotearoa and the consequences of tobacco use for Māori** (Parliament NZ, 2010). The Government defined the goal as “reducing smoking prevalence and tobacco availability to minimal levels, thereby making New Zealand essentially a smokefree nation by 2025” (Ministry of Health, 2021). The tobacco control sector interpreted “minimal levels” to be less than five percent daily smoking prevalence by 2025 (Thornley et al., 2017).

Although wide-ranging interventions have been introduced since 2011 (including tobacco taxation, cessation support, some mass media campaigns (though funding has reduced considerably over the last few years), smoke free environment legislation, and plain packaging and health warnings), there has been no progress on reducing the availability of tobacco.

Current trends, along with modelling studies suggest that New Zealand is unlikely to meet its Smokefree 2025 goal with Māori smoking rates predicted to be 17.4% and non-Māori 7.2% by 2025 (Wilson et al., 2018). An additional 8400 Māori long-term quitters per year is needed to achieve the Smokefree 2025 goal, more than five times the current annual quitting level.

### Government Smokefree Action Plan

In mid-April this year the Government published a bold and innovative ***Proposals for a Smokefree Aotearoa 2025 Action Plan Discussion Document***. Release of this document followed the Cancer Society’s petition launch in March to reduce tobacco availability. The Cancer Society congratulates

the Government on its proposed plan and broadly supports the approach outlined and the measures included.

The Cancer Society applauds the Government's focus on eliminating inequities in smoking rates and smoking related-illness. Government recognition that we need measures to change the broader environment in which people live, making it easier for people who smoke to quit and stay smokefree, is vital.

We strongly recommend adoption of a comprehensive suite of measures to achieve Smokefree 2025. The Cancer Society particularly welcomed *making smoked tobacco products less available* as a key focus of the plan. Our submission will discuss this further on page 8.

## Summary of key points

### What we are asking for

- Cancer Society's petition request is *That the House of Representatives pass legislation that significantly reduces the number of tobacco retailers, to help reach Smokefree Aotearoa 2025.*
- Cancer Society strongly recommends restricting the sale of tobacco products to a limited number (about 300) of R18 specialist tobacco shops as proposed in the Government's **Proposals for a Smokefree Aotearoa 2025 Action Plan Discussion Document** which was released in April 2021 after our petition commenced.
- The Government to honour its obligations to uphold te Tiriti O Waitangi to actively protect Māori health and achieve equitable health outcomes for Māori.

### Impact of smoking

- Smoking is the leading cause of preventable deaths in New Zealand with about 13 New Zealanders dying every day from smoking. Most of these deaths are from cancer.
- Tobacco is the only retail product that, when used as intended, kills as many as two-thirds of its consumers.
- More than 500,000 (11.6%) people (18+ years) still smoke in New Zealand with 464,000 (11.6%) smoking daily.
- Smoking is a major contributor to health inequities and health outcomes. Nearly one in four deaths in Māori and one in seven among Pacific peoples are attributable to smoking.
- Smoking kills more New Zealanders each year than road crashes, alcohol, other drugs, suicide, murder, drowning and earthquakes – all put together.

### Why significantly reducing the number of tobacco retailers is important

#### **Tobacco is a dangerous product and should be treated as such**

- Tobacco is the most harmful consumer product in history, yet there are no restrictions on where it can be sold or who can sell it. We should treat tobacco like other harmful products that are not easily accessible at thousands of retail outlets.
- It is more than seventy years since smoking was conclusively found to cause lung cancer, yet tobacco can still be sold anywhere.
- We need to end the perception that cigarettes and tobacco are an ordinary consumer product that belong alongside normal grocery items in dairies, petrol stations and supermarkets, places where children often go.
- If tobacco products were introduced to the market today, they would never satisfy the regulatory processes now in place to protect consumers and sales would be restricted.

### **Tobacco availability contributes to health inequities**

- There are nearly four times more tobacco retailers in low-income communities, where smoking rates are highest, compared to higher-income communities.
- People trying to quit are at greatest risk of relapse if they live in areas where tobacco is easily available.
- Significantly reducing the number of places selling tobacco will support people to quit and remain smokefree and will deter young people from starting to smoke.
- Two thirds (68%) of New Zealanders want fewer places selling tobacco in their communities. 7874 people signed our petition over a two-month period earlier this year.

### **We urgently need to reduce tobacco availability**

- We applaud the Government's recent Proposed Smokefree 2025 Action Plan and in particular its focus on making smoked tobacco products less available. It is great to see the Government acknowledging that a 95% reduction in tobacco retailers is needed to make a meaningful contribution to Smokefree Aotearoa 2025.
- Currently there are between 6000 – 8000 tobacco retailers which would need to reduce to about 300 or 400 retailers (95% reduction) nationally.
- Making tobacco products a lot less available is a key strategy for reaching Smokefree Aotearoa 2025 and for reducing health inequities.

### **Small retailer concerns**

#### **Small retailers want a level playing field**

- Small retailers want a level playing field. New Zealand research found that many small retailers would prefer not to sell tobacco and would accept a policy/legislation that removed tobacco from their stores as long as the policy is implemented equitably across all retailers.

#### **Tobacco industry influence**

- The tobacco industry is behind recent small business opposition to reducing the number of tobacco retailers.
- The tobacco industry must not be allowed to influence development of public health policy (New Zealand's obligations under the WHO Framework Convention on Tobacco Control FCTC).

#### **Impact likely to be less than asserted**

- Ending sales of tobacco products by small retailers is unlikely to have the adverse impacts claimed by the tobacco industry and some small retailers.
- Margins on tobacco products are much lower than on most other items sold by small retailers so profits from tobacco are typically small.
- Tobacco products are a small proportion of small retailers' overall sales (about 14% on average).
- Small retailers and tobacco industry argue that tobacco brings in customers who then buy other products. International and New Zealand research evidence does not support this argument.

#### **Supporting retailers to contribute to their communities**

- Reducing the number of retailers selling tobacco would reduce opportunities for crime which would increase small retailers' safety and reduce their security and insurance costs.

- The Government could consider providing small retailers product diversification support or assistance from small business advisors.

## Impact of smoking

### Smoking is the leading cause of death and disease

Smoking is still the leading cause of preventable death and disease in New Zealand. It is estimated that 5,000 New Zealanders die prematurely every year from smoking-related illness (Global Burden of Disease Collaborative Network, 2019). That means about 13 New Zealanders die every day from smoking, many of them from cancer. An estimated 535,000 adults (13.4%) currently smoke in New Zealand with 464,000 (11.6%) smoking daily (Ministry of Health, 2020b).

The health impacts of smoking are well documented with smoking conclusively found to cause cancer more than seventy years ago.

Smoking kills more New Zealanders each year than road crashes, alcohol, other drugs, suicide, murder, drowning and earthquakes – all put together (Ministry of Health, 2017). Our country responded quickly after we learnt products like lead paint and asbestos were hazardous to health, and has shown international leadership in eliminating COVID-19 from Aotearoa. The Government has a duty of care to provide the same leadership with respect to tobacco to protect the health of our people and future generations.

### Smoking is a key driver for health inequities

It is widely acknowledged that smoking is a major contributor to inequalities and health outcomes (Wilson et al., 2006; Blakely et al., 2006; Blakely et al., 2018.). Māori and Pacific smoking rates continue to be significantly higher than those for the overall population with 31.4 percent of Māori adults (15+ years) and 22.4 percent of Pacific adults currently smoking (Ministry of Health, 2020a).

Adults living in the most socioeconomically deprived areas were 4.5 times as likely to currently smoke as adults living in the least deprived areas (Ministry of Health, 2020b).

Despite a decrease in smoking prevalence over the last decade, Māori, Pacific and low-income groups bear a disproportionate share of the cancer burden and harm from tobacco use, compounding health inequities.

Nearly one in four (22.6%) Māori deaths and nearly one in seven (13.8%) Pacific deaths and 12.3% deaths among non-Māori/non-Pacific people were attributable to smoking between 2013 and 2015 (Walsh & Wright, 2020). Researchers have suggested Māori life expectancy could increase by up to five years if New Zealand reaches the Smokefree goal (RNZ, 2014).

## Tobacco is harmful yet widely available

It makes no sense that tobacco, the most harmful consumer product in history, can be sold by anyone and anywhere in New Zealand. Unlike other harmful products there are no restrictions on where tobacco can be sold, on the types of outlets able to sell tobacco, or on the age of those permitted to sell tobacco (Robertson et al., 2016). If tobacco products were introduced to the market today, they would never satisfy the regulatory processes now in place to protect consumers and sales would be restricted. We should treat tobacco like other unsafe toxic products such as

poisons, pharmaceutical drugs, firearms and dangerous chemicals, which are subject to a wide variety of restrictions.

The current unregulated market has resulted in our communities being saturated in tobacco retailers. There are an estimated 6,000-8,000 tobacco retailers nationally (Robertson et al., 2016) with Tāmaki Makaurau (Auckland) having an estimated 1800 tobacco retailers (Portch, 2021). Because we do not have either a registration or licensing framework for tobacco retailers, we do not know the exact number of retailers nationwide. For example, a community study carried out by the Cancer Society Canterbury-West Coast Division over six months (November 2020 – May 2021) found that more retailers were selling tobacco than the District Health Board lists identified. Similar findings were found in other areas.

Tobacco is sold in dairies, convenience stores, supermarkets, petrol stations, liquor outlets and bars. Convenience stores or dairies represent an estimated forty percent of all tobacco retailers (Marsh et al., 2013). Tobacco is often sold in stores alongside everyday grocery items such as bread and milk and in places where children often visit.

Over half (54%) of secondary schools have at least one tobacco retail outlet within 500 metres of the school, and 83 percent have at least one outlet within one kilometre (Robertson et al., 2016). For example, four places selling tobacco and six places selling vape products were found within 300 metres of Newtown School, Wellington. The Cancer Society would like to see restrictions placed on the proximity of tobacco retailers to schools, early childhood education centres, marae and health centres.

### **Tobacco retailers concentrated in low-income areas**

Relative to higher socio-economic areas, lower socio-economic communities have around four times as many tobacco retailers. Higher retailer density means people living in these lower income neighbourhoods are more likely to be exposed to tobacco retailers (Marsh et al., 2013; Marsh et al., 2020a). Those living in New Zealand's most economically disadvantaged neighbourhoods are over four times (4.5) more likely to smoke than those living in our most advantaged neighbourhoods (Ministry of Health 2020b). The wide tobacco availability in low-income areas perpetuates the high smoking prevalence in these communities.

To gain an understanding of what this means for some of our low socio-economic communities, the Cancer Society conducted retailer observations in shopping precincts around Aotearoa between May 2019 and February 2021. This exercise entailed visiting all retailers in prioritised areas and identifying those selling tobacco and vape products in both low socio-economic and high socio-economic areas. Our findings backed up earlier research undertaken by Marsh and colleagues in 2013.

In May 2019 there were considerably more retailers selling tobacco in the main shopping precinct in low-income areas in Auckland (Manurewa 18, Otahuhu 17 retailers) compared to high-income areas (Remuera 3, St Heliers 2). Furthermore, there were more retailers selling tobacco than bread and milk in both low-income areas visited.

In Newtown North, Wellington (November 2020) there were almost twice the number of shops selling tobacco and vape products than in Kelburn, even though they have a similar population size. The smoking rate in Newtown is almost three times that in Kelburn and higher than the national average smoking rates.

In surveying nearly 600 retailers between November 2020 and May 2021 in both urban and rural areas of Canterbury West Coast region, a disproportionate number of tobacco retailers were found in lower-income areas compared with higher-income areas. The density of tobacco retailers was very apparent and further supports the need to reduce overall numbers of tobacco retailers. The survey also found over 50% of all tobacco retailers were located within one kilometre of a school.

### **Impact of wide availability of tobacco**

Allowing tobacco to be so widely available normalises tobacco, frames smoking as socially acceptable, and undermines smokefree initiatives.

Easier access to tobacco retailers is associated with an increase in youth smoking (Marsh et al., 2021; Finan et al., 2019), and increased smoking among people who already smoke (Paul et al., 2010). It is also a significant barrier to successful quitting and increases the likelihood of relapse (Halonen et al., 2014; Chaiton et al., 2018; Finan et al., 2019).

A systematic review (Marsh et al., 2021) found tobacco retailer density around the home was associated with increased youth smoking. The study also found a significant positive association between exposure to tobacco retail outlets and daily tobacco use. This review provides the basis for developing and implementing policies to reduce the number and density of tobacco retail outlets, and thus reduce the risk of smoking prevalence among youth.

Evidence shows that the more tobacco retailers there are around a school, the more likely students are to have ever smoked, engaged in experimental smoking, and be susceptible to future smoking (Adams et al., 2013; Henrikson et al., 2008; Chan et al., 2011; Marsh et al., 2016). Reduced density of tobacco retailers around schools would reduce curiosity and temptation concerning tobacco, diminish the normalising of smoking in the community, and provide fewer opportunities and cues for adolescents to attempt to purchase tobacco (Marsh et al., 2016).

## **Significantly reduce the number of tobacco retailers – a key priority**

### **A 95% reduction in tobacco retailers is needed**

A significant reduction in the number of tobacco retailers is necessary to accelerate progress towards achieving Smokefree Aotearoa 2025 (Thornley et al., 2017). New Zealand modelling has suggested that a 90 – 95% reduction in current tobacco retailers will be needed (van der Deen et al., 2018). Significantly reducing the availability of tobacco is an essential component of the Government's comprehensive approach to achieve Smokefree 2025 and can be justified considering the addictive and hazardous nature of the product.

The Cancer Society is delighted that the Government's Proposals for a Smokefree Aotearoa 2025 Action Plan Discussion Document (April 2021) included *Make smoked tobacco products less available* as a key priority. The discussion document outlined several possible options including:

- a) License all retailers of tobacco and vaping products
- b) Significantly reduce the number of smoked tobacco product retailers based on population size and density
- c) Restrict sales of smoked tobacco products to a limited number of specific store types (e.g. specialist R18 stores and/or pharmacies)
- d) Introduce a smokefree generation policy.

While the Cancer Society supports all of the above options our strong preference is for (option c) significantly reducing the number of retailers so only a limited number of licensed specialist R18 (or higher if the age limit to purchase is increased) tobacco-only stores is permitted. If introduced, this strategy would align with the Cancer Society's petition request: *That the House of Representatives pass legislation that significantly reduces the number of tobacco retailers, to help reach Smokefree Aotearoa 2025.*

Licensing retailers (option a) is a pre-requisite for reducing tobacco retail availability, providing a tool to identify and manage retailer numbers. Licensing will enable better monitoring and enforcement and help combat the sale and distribution of illegal tobacco products. However, licensing as a stand-alone option would not significantly reduce the number of tobacco retailers and therefore has no health benefits. It must therefore precede retailer reduction measures but is not a sufficient measure in itself to reduce smoking prevalence.

Capping the number of tobacco retailers to population size and restricting density of retailers (option b) could greatly decrease the number of tobacco retailers. Currently there is approximately one tobacco retailer per 800 residents (Marsh et al., 2020a) compared to one community pharmacy for every 3,745 inhabitants in Auckland (Portch, 2021). This equates to one tobacco retailer for every 80 people who smoke daily in Auckland. Introducing a cap of no more than one tobacco retailer in an area with 10,000 residents would help to substantially reduce exposure to tobacco outlets.

Tobacco density would need to be reduced sufficiently in low socio-economic areas, where smoking rates are highest, and people are more at risk of tobacco harm (Luke et al., 2017; Caryl et al., 2020). In Auckland, for example, more than fifty percent of tobacco retailers have another tobacco retailer within 100 metres (Portch, 2021). A 95% reduction in tobacco retailers would still leave Auckland with approximately 90 retailers selling tobacco and would potentially separate retailers by about four kilometres. The reduction of tobacco retailers in rural areas will require more consideration.

It is possible that some of the plan's proposed measures may increase online purchase and importation of overseas tobacco. We encourage the Government to take appropriate measures to ensure the intent of policies are not undermined (from both underage or adult purchases online from overseas).

Limiting sales to licensed R18 specialist tobacco stores (option c) would provide the greatest opportunity to substantially reduce the number of tobacco retailers. Approximately 300 retailers has been recommended by University of Otago tobacco control researchers (Edwards et al., 2021a). Modelling suggests that reducing to 300 outlets (approximately one for every 1,600 people who smoke) could have a positive effect by increasing travel time and eliminating impulse purchases (Pearson et al., 2015). Eliminating ready access to tobacco could enhance success in cessation, since



people who smoke experience stronger cravings when they expect to be able to smoke in the near future (Sayette et al., 2003).

Some commentators have suggested limiting tobacco sales to pharmacies or alcohol outlets. The Cancer Society however has concerns about these two suggestions. A significant number of pharmacists (26%) do not want to sell tobacco (van der Deen et al., 2018b). There are also a lot more than 300 pharmacies nationally so this option would not achieve our target of 95% reduction in tobacco retailers. Tāmaki Makaurau alone has about 425 community pharmacies (Portch, 2021). Restricting tobacco sales to alcohol outlets would reinforce the strong association between alcohol and smoking especially in the 18-24-year age group when smoking initiation is highest, overall smoking rates are high and social smoking is prevalent. Alcohol outlets are also over-concentrated in low socio-economic communities raising equity concerns.

Specialist R18 tobacconists or government operated R18 stores could be designated as the only suppliers of tobacco products. A government-owned model would remove tobacco sales from commercial interests. This would send a clear message to New Zealanders that we should not be making profits off this product that kills two-thirds of its users. Having government-owned facilities may also reduce the need for licensing, and they would have less incentive to sell to youth. Locations of tobacco retailers could be controlled to ensure people who smoke and live in more remote areas have reasonable access to tobacco products or reduced harm alternatives and cessation aids. This approach would stimulate quitting, reduce relapse to smoking among people who have quit, and minimise youth access by facilitating enforcement in underage sales (Edwards et al., 2021a). Significantly reducing outlet numbers is also likely to help reduce disparities as tobacco retailers are often concentrated in disadvantaged areas.

We are asking the Government to honour its obligations to uphold te Tiriti o Waitangi by promoting the health and wellbeing of Māori, meeting Māori health needs and protecting whānau and whakapapa of all people. The principle of active protection requires the Crown to act, to the greatest extent practicable, to achieve equitable health outcomes for Māori. However, because Māori have the highest smoking rates of any population group in New Zealand and have the poorest overall health status and outcomes, to do anything less than the best health measures would be a continuation of this breach of te Tiriti.

**Tobacco is the only retail product when used as intended kills as many as two-thirds of its long-time users (Banks et al., 2015) yet it is available anywhere. It is more than 70 years since smoking was conclusively found to cause lung cancer. We need to end the perception that cigarettes are an ordinary consumer product that have a logical and legitimate place in dairies, supermarkets and petrol stations. The Government has a duty of care to regulate tobacco in line with the harm it causes. Cancer Society strongly recommends limiting tobacco to R18 specialist tobacco retailers.**

### **Public support significantly reducing tobacco retailers**

There is strong public support (68%) for reducing the number of tobacco retailers nationally (Health Promotion Agency, 2018). Furthermore, New Zealand research in 2018 found the majority (62%) of people who smoke and recent quitters also supported reducing the number of places that can sell

tobacco products, that is by 95%, and allow sales only in a limited number and type of stores (ITC, 2020).

The Cancer Society's petition which requests **the House of Representatives pass legislation that significantly reduces the number of tobacco retailers, to help reach Smokefree Aotearoa 2025** collected 7,874 signatures over a two-month period from March – May this year.

In addition, over the last few years, the Cancer Society has surveyed public views on reducing tobacco retailer availability at our Relay for Life and other events.

- 92% support (2021, 844 submissions collected nationally)
- 90% support (2021, online poll, 113 votes)
- 82% support for restricting sales to R18 specialist tobacco shops (2020, online poll, 1,200 votes)
- 92% support (2019, 1,481 submissions collected nationally)

### Community voices

Below are a sample of comments from people who wrote postcards to Prime Minister, Jacinda Ardern asking for cigarettes to be made less available in shops (2019).

*"It's unnecessary that cigarettes are sold by anyone at any time and the amount of shops selling them should decrease by a lot. It affects lots of people's health which shouldn't be happening."* (Howick, Auckland)

*"Cigarettes kill, stop making this product available everywhere! You need to do better by protecting people and having stronger laws!"* (Mt Roskill, Auckland)

*"To help me quit."* (Takanini, Auckland)

*"My family has fallen to cancer, induced by cigarettes. Now it's hereditary with in my family... My cousin started smoking when she was 12... Please stop the accessibility of cigarettes."* (Riverhead, Auckland)

Cancer Society collected community submissions on the Government's Proposed Smokefree Action Plan this year. On our submission form they were asked to complete the sentence "I want a Smokefree Aotearoa because..." Below are some of their comments:

### Health and financial concerns

*"It's killing our people, keeping them poor financially, mentally, physically and spiritually."* (40-year-old Māori, Northland)

*"Too many of our people are dying and money can be spent on kai for whānau instead of cigarettes. Please, please do this and make my voice heard."* (63-year-old Māori, Northland)

*"It is damaging to health, which is costly for families and health services. The addictive nature of smoking makes it so difficult for anyone to give up. I feel it is just too easy for people to buy tobacco."* (58-year-old, Southland)

*"My father died of lung cancer and was a heavy smoker. No one needs this stuff. Make tobacco unobtainable."* (57-year-old, Dunedin)

## Smoking is normalised for youth

*“There are so many kids at high school that have already started smoking and some of them are 13!” (13-year-old, Auckland)*

*“It’s something that kids nowadays see on a daily basis and think it’s just normal. It needs to stop.” (25-year-old Māori, Northland)*

## Access to tobacco is too easy

*“There are lots of tobacco retailers especially in low-income areas, making access too easy for our whānau. Reducing availability will make it harder to buy smokes etc and hopefully a bit easier to quit”. (Young Pacific woman, South Auckland)*

*“I don’t want my children to smoke. Once you smoke no matter how little, it is so hard to resist. It should not be accessible, my children should not be exposed.” (Christchurch)*

*“My father died of lung cancer and was a heavy smoker. No one needs this stuff. Make tobacco unobtainable.” (57-year-old, Dunedin)*

*“Smoking and cancer affects too many people to not have more legal systems for preventing the young getting access to cigarettes.” (16-year-old, Auckland)*

## Retailers want a level playing field

New Zealand research found that many small retailers would prefer not to sell tobacco and would accept a policy that removed tobacco from their stores as long the policy was implemented equitably across all retailers (Badu et al., 2018, Jaine et al., 2014; Robertson et al., 2015). Small retailers say they want a level playing field – they do not want to lose tobacco customers to other retailers nearby. Tobacco retailers have previously expressed that voluntarily stopping selling tobacco is not likely, particularly when other retailers close to them continue to sell (Robertson et al., 2015; Badu et al., 2018; Witt et al., 2018). Small retailers are likely to support government legislation that permits the sale of tobacco from a few specialist stores that only sell tobacco (Badu et al., 2018).

In unpublished interviews with executives of medium to large tobacco retailers, many signalled that they expect government leadership on reducing tobacco availability and that they just want as much notice as possible (communications with the Auckland Regional Public Health Service). Many retailers thought that restricting sales to only R18 tobacco retailers would treat current retailers equally and address the challenge of providing a level playing field.

The Cancer Society does not support a ‘grandfathering approach’, which exempts current retailers from new policy changes, as the number of retailers would decrease extremely slowly and would not achieve the 95% reduction required to achieve health benefits or the Smokefree 2025 goal.

The Cancer Society supports the phasing out of tobacco retailers through the prompt passage of legislation. Legislative changes need to be enacted by this Government as a priority. We accept there would need to be a transition period after Royal Assent for the new legislative provisions to take effect. A transition period will be needed for both consumers and retailers. We support potentially two phases - with the first ‘batch’ of retailers needing to cease supply within six months, and then a second ‘batch’ within twelve months. This should provide adequate time for retailers to use up stock and exit out of selling tobacco. The policy needs to be implemented as equitably as possible across all retailers. Having only six months between ‘batch one’ and ‘batch two’ exiting tobacco sales would reduce the perceived disadvantage between retailers than a longer exit strategy. Further

consideration is needed to identify how to successfully transition from 6,000 – 8,000 retailers to about 300 R18 specialist tobacco retailers.

As some small retailers may be affected by this policy more than others, government support or assistance with small business advisors could be considered. For example, providing business development advice could help retailers re-allocate the physical retail space used for tobacco products to higher profit products, which could increase store profitability.

### **Survey with Northland small retailers who have chosen not to sell tobacco**

Many retailers have successfully maintained their business without tobacco sales. In February 2020, the Cancer Society undertook a qualitative survey of sixteen Northland small retailers who had at some stage chosen to stop selling tobacco (Cancer Society Auckland Northland, 2020). Of the sixteen retailers that had chosen not to sell tobacco, three had returned to selling tobacco under new ownership. The most common reason retailers gave for choosing to stop selling tobacco was security, followed by the high costs for stocking tobacco including insurance cover and community health and wellbeing. Support for the Smokefree 2025 goal and “not enough profit” were the other reasons for their decision to stop selling tobacco. Several respondents said that retailers often believed that they made a lot more money from tobacco sales than is the case because tobacco is a high turnover and high-cost item.

Retailers were told about the Government’s Smokefree 2025 goal and were asked what government regulations or laws they would support. Restricting tobacco to R18 stores only had the strongest support from retailers interviewed, followed by licensing of all retailers who sell tobacco. Half of the retailers agreed that licensing fees should cover monitoring costs. Two of the three retailers who chose to return to selling tobacco also supported some form of government regulation including restricting sales to R18 shops only. None of the respondents supported tobacco being sold only in supermarkets.

Backlash from people who wanted to buy tobacco was rarely an issue despite many of the retailers being in rural areas without other tobacco retailers nearby. Non-smoking customers were highly supportive of retailers’ decision to stop selling tobacco.

### **Comments from small retailers about why they chose not to sell tobacco:**

#### **Concerns about security and safety**

*“It’s too much hassle and too much expense and too much danger for the returns provided.”*

*“I didn’t want to be a target for thieves, it just wasn’t worth it. Having no cigarettes means the kids can serve in the shop.”*

*“Becoming a target for thieves wasn’t just scary and frightening for personal safety. It was also the cost of cars being driven straight through shop windows and cash and other goods being stolen. And insurance only covered a certain amount of it.”*

*“And it’s just much easier to take care of business and employees’ safety.”*

#### **Lack of financial profit**

*“If you’re a dairy owner and you’re sitting at the back, maybe going through your accounts and the buzzer goes you’ve got to get up and walk into the shop and you sell a packet of cigarettes and you’ve actually only made very little.”*

*“It makes your turnover look good selling cigarettes because you're selling thousands of dollars a week. But when you actually sit down and look at the books closely, you're not making that much money.”*

*“It costs too much to stock tobacco – \$2-3,000 a week and the profit you make out of it doesn't cover the risks and the hassle”.*

### **Survey with retailers nationally who have chosen not to sell tobacco**

Northland District Health Board conducted a survey with 31 of the 53 retailers nationally who had voluntarily stopped selling tobacco (George et al., 2021). The key reasons for stopping selling were for security and concerns for the health and wellbeing of their communities. Some explained their reasons for becoming tobacco free retailers as ‘moral or ethical,’ as they wanted to be good role models for children and the community. Some retailers said that while customers who smoked were initially disappointed, they quickly accepted the retailers’ decision not to sell tobacco. Only two retailers noted they lost some customers. Retailers said that reactions from non-smoking customers were generally congratulatory, for example, *“That’s awesome for our community!”*

Overall, retailers were positive about their decision to become a tobacco free retailer, noting the increased sense of safety and the “positive step for the community.” Five retailers noted the loss of income as a negative effect, but the vast majority of retailers saw no negative effects (apart from a few disappointed customers) to becoming tobacco-free.

As noted by McDaniel and Malone, “Voluntary retailer abandonment of tobacco sales both reflects and extends social norm changes that have problematized tobacco....Our findings suggest that such voluntary initiatives by retailers are welcomed by consumers and should be publicized, enhancing public health efforts” (p. 848).

### **Retailers’ concerns**

Whilst we acknowledge concerns about the potential impact on turnover for small retailers, we are concerned that some interest groups may put forward claims that independent research does not support. For example, it is sometimes claimed that if small retailers are no longer able to sell tobacco, they could lose their business. The NZ Association of Convenience Stores (NZACS) has previously claimed tobacco accounts for up to forty percent of sales at convenience stores (Winter, 2018), while a representative from the Dairy and Business Owners Group recently claimed that thirty – fifty percent of sales came from tobacco (TVNZ Breakfast, 2021). Dave Hooker, the Executive Director of NZACS, said in 2018 *“there was far too much reliance on tobacco which was a false economy”* (Dastgheib, 2018).

Many retailers could benefit from reducing tobacco availability including reducing the risk of crime and it would provide opportunities to transition to products that make stronger contributions to their businesses and communities.

### **Independent research evidence does not support small retailer claims**

A common argument put forward is that tobacco purchases drive footfall into small retailer premises with customers buying additional products, such as groceries or treats. Research undertaken in Dunedin (Roberston et al., 2019) and later scaled up and repeated in Auckland and Wellington (Marsh et al., 2020b) found that most transactions in small retailers do not involve tobacco and when tobacco is purchased, it is most often as a single item, without other groceries. The Dunedin study found that only 14% of transactions contained tobacco with most only buying tobacco. Only 5% of all transactions included tobacco and an additional product. Similar results were found in

Auckland and Wellington with 14% of transactions containing tobacco and just 6% of all transactions including both tobacco and other products.

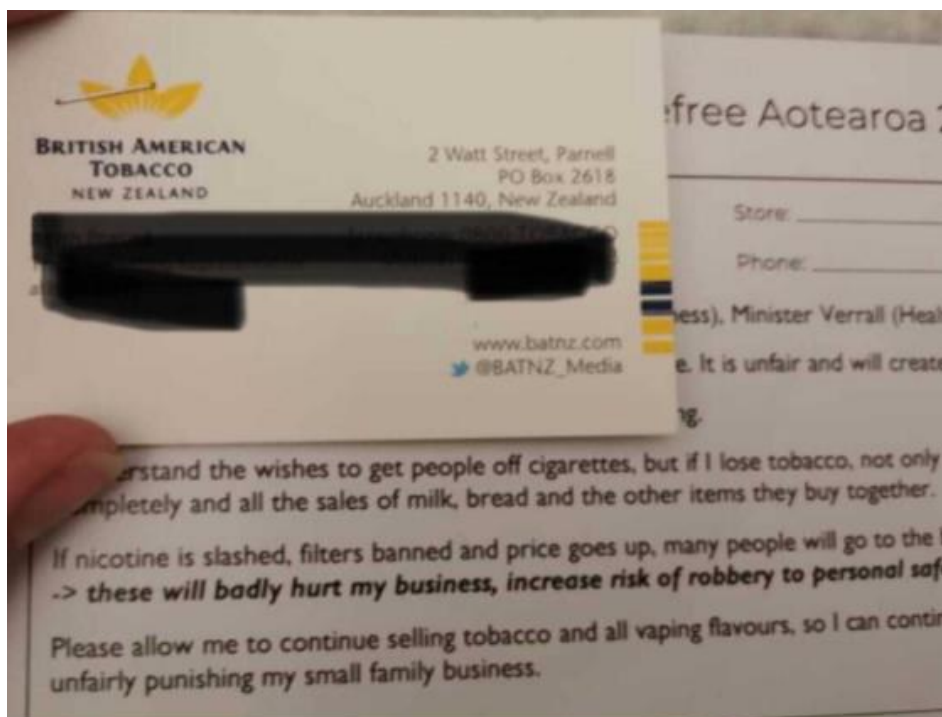
The research shows that while some people buy tobacco from small convenience stores, buying tobacco and other products is uncommon, and these purchases account for only a small amount of the total purchases. International research conducted outside convenience stores in the US and Australia supports these New Zealand findings (Wood et al., 2021; Marsh et al., 2020b).

Small retailers' profit margins on tobacco are very low, yet this is rarely acknowledged (Jaine et al., 2014; Badu et al., 2018; Marsh et al., 2020b). Tobacco not only provides low returns, it is also expensive to stock and high insurance premiums can be imposed on small retailers because of the risk of burglary.

### Tobacco industry influence on small retailers

The tobacco industry in New Zealand is being highly proactive in encouraging small retailers to sell tobacco and perpetuating the view that tobacco is essential to the business of smaller retailers.

A recent article in the NZ Herald (22 June 2021) exposed British American Tobacco (BAT) as having helped organise the dairy owners' postcard protest at Parliament on 22 June this year and suggests the postcards have been supplied by BAT (photo below). The postcard perpetuates tobacco companies' well-rehearsed assertions that if small retailers lose tobacco sales they will lose their business, black market sales will increase, and small family businesses will be unfairly punished. We note that the representative of the Dairy and Business Owners Group fronting the postcard protest in the media also has a petition online.



Source: NZ Herald 22 June 2021 'Revealed: Big Tobacco behind dairy owners' postcard protest at parliament.'

Recent Australian research (Watts et al., 2020) found tobacco industry covert marketing tactics with retailers, which included financial incentives, experiential incentives such as all-expenses paid events and vacations, and targeting education of retailers to market their products to consumers on behalf

of industry. The authors concluded that such strategies had the ultimate objective of increasing market share and driving sales.

Similar industry tactics have been identified in New Zealand. The tobacco industry has a \$2.5 billion market in New Zealand with British American Tobacco NZ (BAT) having about 65 percent of the local cigarette market, Imperial Tobacco New Zealand about 23 percent and Phillip Morris NZ (PM) about 12 percent (Underhill, 2018). In an Auckland High Court lawsuit in 2018 PM sued BAT alleging its larger rival breached the Commerce Act in the way it ties up retailers by “unlawfully incentivising and compelling retailers to restrict the availability of competitor products.” The redacted statement states that cash inducements and rebates are offered to retailers provided they meet BAT’s requirements and redacted paragraphs 41 and 42 set out what happens when the retailer doesn’t play ball.

Similar tobacco tactics are used internationally. For example, Imperial Tobacco in the UK, sent material stating that tobacco “attracts shoppers to your store” and “adult smokers don’t just buy tobacco products. Their basket spend is more than twice as much as the average convenience shopper per year” to UK retailers (ASH UK, 2016).

The New Zealand Association of Convenience Stores (NZACS) is an industry group that represents Imperial Tobacco and British American Tobacco (BAT) among numerous other major multinational companies (Robertson et al., 2021). Evidence suggests that lobbying against tobacco control policies has been a core function of the group which is consistent with the NZACS acting as an advocate for the interests of the tobacco industry (Robertson et al., 2021). Tobacco companies are major players within the NZACS with BAT and Imperial Tobacco being premier members since 2007 with Imperial Tobacco holding governance positions and prominent roles (New Zealand Association of Convenience Stores).

In 2016 the NZACS Chair reported that “the main benefit of being a member of NZACS is the access that we have built up to Ministers, government departments, those that make the laws that control our actions with our customers, and the media” and that “most of our effort in past years has been towards tobacco” (Bull, 2016). Robertson and colleagues point out that past media statements issued by NZACS appear almost exclusively concerned with **opposing tobacco control policies**. They also note that while the NZACS work to present a unified view of small retailers opposed to tobacco control measures, yet they do not have small retailers as members, rather service stations, chain convenience stores and corporate members. Given its history and membership, NZACS is likely to promote the interests of the tobacco industry members rather than small retailers.

### **Tobacco industry must not influence development of public health policy**

New Zealand has an obligation under article 5.3 of the World Health Organisation Framework Convention on Tobacco Control (FCTC) Ministry of Health, 2019) when ‘setting and implementing public health policies with respect to tobacco control...**to protect these policies from the commercial and other vested interests of the tobacco industry**’. The FCTC guidelines for the implementation of Article 5.3 note in their first principle that “there is a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policies’.

The internationally agreed Guidelines for Implementation of Article 5.3 recommend that parties to the treaty of which New Zealand is one “should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products.” To meet obligations under the FCTC the Government and Parliament must ask other



potential submitters to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry.

### **Initial opposition from hospitality industry to smokefree indoor legislation**

Prior to the introduction in 2003 of the Smoke-free indoor restaurants and bars legislation in New Zealand, the hospitality industry was strongly opposed to the legislation and predicted significant losses in jobs and incomes and business closures (Thomson & Wilson, 2006). This opposition came from some bar managers and owners, and other employers; and particularly from hospitality associations like Hotel Association of New Zealand (HANZ) however this opposition decreased subsequently. By 2005, there was evidence of increasing acceptance, if not full support, of the 2003 Smoke-free Environment Act changes (Edwards et al., 2006). Evaluation of the legislation (Edwards et al., 2006, Thomson & Wilson, 2006) found no evidence for the economic disaster predicted (particularly for pubs and bars) by opponents of the legislation in the New Zealand hospitality sector. Rather they found the effects to have been broadly neutral or weakly positive, other than a modest and temporary decrease in bar and pub sales and employment, in the quarter immediately after implementation of the Smoke-free Environments Act (2003). The data that was available found no evidence of a significant impact on the hospitality industry including bars, where opponents had predicted the most severely negative effects, and some evidence of a positive impact on the restaurant and café sector (Edwards et al., 2006).

Similar predictions of “businesses going under” are currently being made by small retailers, in particular dairies and convenience stores. However, learnings from the smokefree indoor legislation has shown that the “sky didn’t fall in” as had been predicted by the hospitality sector.

### **International precedents**

There are now many international policy precedents where communities and governments have implemented measures to reduce the number of tobacco retailers (Robertson et al., 2016). For example, in Europe, Hungary reduced tobacco outlet density by 83% in 2013, by only allowing tobacco sales at 7,000 new government-owned stores down from about 40,000 retail outlets (World Health Organisation, 2013). The Netherlands have phased in reductions in tobacco availability with sales in supermarkets and petrol stations due to be phased out by 2022 (van Lier et al., 2020). Beverly Hills (CNN, June 2019) and Manhattan Beach (City of Manhattan Beach), in California banned all tobacco sales as of 1 January 2021.

## **Conclusion**

Smoking is still the leading preventable cause of death, killing about 13 New Zealanders every day. Tobacco is the most harmful consumer product in history yet widely available and with no restrictions on where it can be sold. Tobacco is the only retail product when used as intended kills as many as two-thirds of its long-time users, yet it is still available anywhere. We need to end the perception that cigarettes are an ordinary consumer product, able to be sold in dairies, supermarkets and petrol stations.

Significantly reducing the number of tobacco retailers is a key strategy to make a meaningful contribution to Smokefree Aotearoa 2025.

With only four years to go to Smokefree 2025 it is time for the Government to take bold action. We urgently need legislation to significantly restrict the number of tobacco retailers. Cancer Society strongly supports restricting tobacco sales to a limited number of R18 specialist tobacco stores. We



also need to ensure that the number and density of retailers do not continue to be concentrated in low socio-economic areas.

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