



By email: panel_hs@legco.gov.hk

11 June 2018

Prof Hon Joseph LEE Kok-long, SBS, JP
Chairman, Panel on Health Services
Hong Kong Legislative Council
1 Legislative Council Road
Central, Hong Kong

Dear Chairman

Submission on legislative proposal to
regulate electronic cigarettes and other new tobacco products

It has come to our attention that the Panel on Health Services ("Panel") has scheduled to deliberate on the topic of the legislative proposal to regulate electronic cigarettes and other new tobacco products at its meeting on 19th June 2018.

Given the rising popularity of electronic cigarettes and other new tobacco product, we believe existing smokers should be given additional choices. We support regulating these innovative tobacco products such as electronic cigarettes and heated tobacco products and we have the following observations for Panel members' reference.

Independent scientific evidence around the world points to a reduction in harmful substances found in the aerosol of electronic cigarettes and heated tobacco products which indicates they are potentially less harmful compared to traditional cigarettes^{1 2 3}.

Electronic cigarettes and heated tobacco products are fundamentally different to one another in characteristics; different approaches should therefore be taken from a regulatory standpoint. For instance, heated tobacco products contain real tobacco and fit into the existing legislative framework under the Dutiable Commodities Ordinance (Cap 109). For electronic cigarettes, they are consumer products that contain no tobacco; instead, they heat a liquid, which contains nicotine, to provide an inhalable vapor. Sale of electronic cigarettes in Hong Kong is almost impracticable as a result of the outdated provisions of the Pharmacy and Poisons Ordinance (Cap138).

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684963/Evidence_review_of_e-cigarettes_and_heated_tobacco_products_2018.pdf

² <https://cot.food.gov.uk/cotstatements/cotstatementsyrs/cot-statements-2017/statement-on-heat-not-burn-tobacco-products>

³ <https://link.springer.com/article/10.1007%2Fs00204-018-2215-y>

A sensible regulatory approach should be formulated in response to such innovative products with increasing popularity. The scientific consensus is that electronic cigarettes and heated tobacco products are potentially less harmful than traditional cigarettes. When there is a potential to reduce harm for the benefit of public health, the government should act responsibly and allow these products to be lawfully imported and sold in Hong Kong. Many public health authorities, such as Public Health England, have recognized their potential in reducing the risks associated with smoking and recommended their use in helping smokers quit smoking. To maximize effectiveness, legislative proposals should be based on rigorous scientific studies and must go through proper regulatory impact assessments.

We support the development of an appropriate, targeted and proportionate regulation for electronic cigarettes and heated tobacco products that meets internationally accepted principles of Better Regulation as defined by the Organization for Economic Co-operation and Development and endorsed by numerous organizations such as the World Bank and Asia Pacific Economic Cooperation.

Hong Kong's Basic Law guarantees the free movement of goods. Imposing overly restrictive laws on a specific type of product can potentially violate brand owners' constitutionally-protected rights, and may lead to unintended consequences such as illicit trade and loss of public revenue.

For the above reasons, we believe a prudent approach should be taken in the legislative proposal towards these innovative products to create a conducive environment for the marketing of products with the potential of reducing risks to the public.

If you have any questions, please do not hesitate to contact Alice Cheung at [REDACTED]

Yours sincerely



Coalition on Tobacco Affairs Limited

cc: All other Hon members of the Legislative Council