



中華人民共和國香港特別行政區政府總部食物及衛生局  
Food and Health Bureau, Government Secretariat  
The Government of the Hong Kong Special Administrative Region  
The People's Republic of China

*Our Ref* : FH CR 1/3231/19  
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*Tel. No.* : 3509 8961  
*Fax No.* : 2840 0467

26 November 2019

Ms Maisie LAM  
Clerk to Bills Committee  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Ms Lam,

**Bills Committee on Smoking (Public Health) (Amendment) Bill 2019**  
**Motions passed at the meeting on 25 June 2019**

I refer to your letter dated 28 June 2019. With regard to the two motions passed at the Bills Committee meeting on 25 June 2019, our response is as follows -

**Public consultation and explanation**

2. Over the years before the introduction of the Amendment Bill in February 2019, the Government has received over thousands of submissions on the tobacco control legislative proposals from stakeholders, members of the public and various organisations through different channels, including the Legislative Council (“LegCo”). The Food and Health Bureau first raised the idea of a full ban on electronic-cigarettes (“e-cigarettes”) at a LegCo Panel on Health Services (“HS Panel”) meeting in May 2015. The HS Panel arranged a meeting with deputations in July 2015, at which the public were invited to express their views on the various tobacco control legislative proposals, including a ban on e-cigarettes. A total of 100 organisations and individuals presented their views at the meeting and 54 written submissions were received from those not attending the meeting. Later in June 2018, the Government briefed the LegCo HS Panel

on the regulatory proposal for alternative smoking products (“ASPs”) and 104 submissions were received. We also received close to 2 000 letters or email messages from the public or organisations expressing their views on a full ban. The Hong Kong Council on Smoking and Health alongside representatives from the medical professions, patient groups and the education sector meanwhile held joint press conferences to support the ban on 15 June, 27 September and 15 October 2018.

3. At the Bills Committee’s three meetings with deputations on 13, 25 and 27 April 2019, some 270 parties attended to express their views with over 11,000 written submissions received. The medical professions, education sector, parents and many members of the public have expressed their strong support for a full ban. We are also aware of the concern and opposing arguments raised by the tobacco industry, traders and retailers of ASPs, as well as people who smoke ASPs and their friends and relatives. The latter argue that ASPs are less “harmful” and would cause less nuisance than conventional cigarettes, and as such people should be given the choice of ASPs.

4. Indeed, ASPs are often marketed as less harmful substitutes of conventional smoking products, something which we disagree. Hence, in the course of pressing forward with the legislative proposal, we have in parallel stepped up efforts to publicise the harm of ASPs in the community so that the public could better understand the rationale of a full ban.

5. The Department of Health (“DH”) has produced infographics and pamphlets to clarify misunderstandings related to the use of both e-cigarettes and heat-not-burn (“HNB”) products. The infographics have been disseminated through social media and the pamphlets are distributed to DH clinics and made available to the public. In July, an announcement of public interest (“API”) was launched on TV and radio to warn the public of the dangers associated with ASPs. In addition, DH has been working with non-government organisations to organise various health promotion activities in schools, including drama, board display and interactive classroom teaching, to publicise the negative health effects of ASPs to students from kindergarten to secondary school. The Hong Kong Council on Smoking and Health has also enhanced its publicity against ASPs. A roadshow titled “另類煙害2.0” and a new Facebook page “煙害2.0” have been launched in August 2019. An API will be launched in November to reveal the harm of ASPs and the tobacco industry's false claims, tactics to target youth, and their scientifically unfounded claims.

6. With the protection of public health as the prime consideration and to ensure our achievement in tobacco control over the years will not be

undermined, the Chief Executive, upon weighing the pros and cons of a regulatory approach as opposed to a full ban, announced in the 2018 Policy Address the proposal of a full ban of ASPs.

### **Rationale for imposing a full ban of ASPs**

7. In relation to the suggestion that the Government should consider separate treatment of e-cigarettes and HNB products, we wish to reiterate the fact that **all** these new smoking products are **harmful** to health and **produce second-hand smoke**. As such, we must take a precautionary approach to impose a **full ban**, which is the most effective form of control, to prevent all emerging ASPs from entering and taking root in the local market. We also take the opportunity to provide the latest update on the emerging evidence on the damaging effects in particular of HNB products to further support our arguments.

8. Apart from the health effects of HNB products detailed in Annex B of the LegCo Brief (file reference FH CR 1/3231/19) issued by the Administration on 13 February 2019, the World Health Organisation (“WHO”) released in July 2019 a report on the global tobacco epidemic to further summarise the health risks related to the use of these products. The report found that HNB products contain tobacco and produce toxic emissions similar to toxicants found in cigarette smoke. Although the levels of some toxicants in HNB products are lower than those found in conventional cigarettes, the levels of other toxicants are higher. In any case, we should reiterate that a lower level of toxicants does not necessarily mean a reduction in health risk. In fact, all these new tobacco products are harmful to health and produce second hand smoke. Moreover, WHO stated that HNB products are tobacco products and therefore it would not constitute cessation even if a tobacco user converts from the use of conventional cigarettes to HNB products.

9. There are also claims that there is a lack of conclusive evidence that HNB products are more harmful than conventional smoking products, as evidenced by the authorisation of the Food and Drug Administration of the United States (“FDA”) of the marketing of an HNB product in the United States “for the protection of public health”. We note that FDA has authorised the sale of an HNB product on 30 April 2019 although it has also remarked that the authorisation to permit the product to be sold in the United States does **not** mean that such products are safe or “FDA approved”. FDA has also reminded the public that “all tobacco products are potentially harmful and addictive and those who do not use tobacco products should continue not to”. Moreover, it is

worth noting that the regulatory framework for tobacco products in the United States is different from that in Hong Kong and FDA's review of the product is inconclusive based on limited data. The Government's stance on FDA's report is detailed in the Administration's response to issues raised at the meeting on 25 June 2019 issued to the Bills Committee on 26 November 2019.

10. Both HNB products and e-cigarettes are rapidly evolving products, with thousands of e-cigarettes and at least hundreds of HNB products now available online. As the great majority of the published studies related to HNB products were conducted on IQOS, one brand of HNB products, used with its own device, little is known about the interchangeable devices, including their functions, performance (e.g. the temperature they can heat up to), and emission profiles. Devices of ASPs also carry functions that have been non-existent in conventional smoking products. Devices of e-cigarettes and HNB products now have the technological capability to collect data on users and their use patterns, as well as to send prompts to users to influence their smoking behaviours. We have to admit that regulation of ASPs in a way similar to conventional cigarettes will not be adequate, as the devices and accessories of ASPs should also be brought under effective control.

11. Overall, we maintain that a full ban of ASPs is necessary for the protection of public health, the effective control against their proliferation in Hong Kong and to ensure that the results of the Government's tobacco control efforts over the years are not undermined. We will continue to explain to the public and Members the justifications for the Amendment Bill with a view to securing passage of the Bill as soon as practicable. We hope Members will take protection of public health as the primary consideration like we do in considering the Amendment Bill.

Yours sincerely,



(Miss Emily CHAN)

for Secretary for Food and Health