

立法會

Legislative Council

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Paper for the meeting of the Bills Committee on Smoking (Public Health) (Amendment) Bill 2019 on 2 June 2020

Way forward of the Bills Committee

Purpose

This paper invites members to give views on the way forward of the Bills Committee.

Scrutiny progress of the Bill Committee

2. Since its first meeting on 18 March 2019, the Bills Committee has held eight meetings with the Administration. The Bills Committee has also received oral representations from 133 organizations and 140 individuals at three of these meetings and received over 11 500 written submissions.

3. The Bills Committee is in the process of considering the general merits and principles of the Smoking (Public Health) (Amendment) Bill 2019 ("the Bill"). Its discussion so far has been focused mainly on the proposed prohibition of the import, manufacture or sale and restriction of the giving, possession or promotion ("full ban") of prescribed alternative smoking products ("ASPs")¹. Members in general raise no objection to the proposed full ban of

¹ Under the proposed section 2 of, and Part 2 of the proposed new Schedule 7 to, the Smoking (Public Health) Ordinance (Cap. 371), the following products would fall within the definition of ASP: (a) Category 1 ASP refers to a device (other than a waterpipe) that is capable of generating an aerosol from a substance not being tobacco or a dangerous drug (as defined in section 2(1) of the Dangerous Drugs Ordinance (Cap. 134)) other than by means of lighting the substance directly and use for imitating the smoking of a cigarette, cigar or pipe ("conventional smoking"), its component or accessory, or that substance; (b) Category 2 ASP refers to a device (other than a waterpipe) that is capable of generating an aerosol from tobacco other than by means of lighting the tobacco directly and use for smoking, its component or accessory, or that tobacco; and (c) Category 3 ASP refers to specified plant material, not being tobacco or a dangerous drug, rolled up in any material in a form that is capable of immediate use for imitating conventional smoking.

electronic cigarettes ("e-cigarettes"). However, some members are of the strong view that the same should not be imposed on heat-not-burn ("HNB") products which, according to some scientific findings, have a lower level of some toxicants as compared to conventional cigarettes. In addition, the legislative proposal of solely cutting the local market supply of HNB products without prohibiting the use of these products otherwise than in a no-smoking area or public transport carrier, the usage of which among smokers is already not very low, would give rise to illicit trade activities. At its sixth meeting on 25 June 2019, the Bills Committee passed two motions urging the Government to, among others, suspend the current legislative exercise and consider employing different regulatory approaches for e-cigarettes, HNB products and other ASPs that might come on stream in future.

4. In response to the motions, the Administration advised at the seventh meeting of the Bills Committee on 2 December 2019 that protecting public health is its prime consideration. All new smoking products were harmful to health and produce second-hand smoke. There was also no scientific evidence to support the claim that the lower toxicant levels of some new smoking products would result in low health risks compared to conventional cigarettes. Hence, it had to take a precautionary approach to impose a full ban to prevent all emerging ASPs from entering and taking root in the local market to ensure that the achievement in tobacco control over the years would not be undermined. The legislative proposals were consistent with the goal of the Administration to achieve the target of lowering the smoking prevalence to 7.8% by 2025 and move toward the endgame for tobacco. The above apart, it should be noted that illicit trade could take place regardless of whether a full ban or a regulatory regime would be introduced for HNB products.

5. Those members who are against the imposition of a full ban on HNB products do not subscribe to the Administration's view. They consider that the proposed full ban is not well justified by scientific evidence. Some of them have indicated that they would propose amendments to the Bill to the effect that HNB products would be excluded from the proposed definition of ASP and would instead be subject to regulation in a way similar to conventional tobacco products.

Way forward

6. While the original plan of the Chairman was for the Bills Committee to hold meetings once a month from December 2019 onwards, the meeting of the Bills Committee scheduled for January 2020 was cancelled due to a lack of quorum, and another two meetings scheduled for February and March 2020 were not held in the light of the coronavirus disease 2019 pandemic. When the

Bills Committee resumed meeting on 4 May 2020, some members raised concern on the scrutiny progress of the Bill. Members noted that the current term of the Legislative Council ("LegCo") had less than 11 weeks left, during which only 10 Council meetings would be held. Any legislative items which could not complete the scrutiny process would lapse upon the end of the current term in accordance with section 9(4) of the Legislative Council Ordinance (Cap. 542). Given that it was assessed that the Bills Committee might need to hold about 10 more meetings in order to complete the scrutiny work ("the proposed meeting target"), members agreed at the meeting that the availability of all members of the Bills Committee for a series of meetings to be scheduled for May and June 2020 should be consulted by way of circulation of paper to facilitate the Bills Committee to decide on the way forward for its scrutiny work.

7. Pursuant to the above decision, members have been invited on 5 May 2020 by circulation of paper to indicate their availability for nine proposed meeting dates in May and June 2020. A total of 27 members provided their returns. According to the returns, there is a gap between the number of future meetings that the Bills Committee could hold and the proposed meeting target. Since the Bills Committee is still studying the general merits and principles of the Bill and has yet started clause-by-clause examination, coupled with some members' indications at the eighth meeting that a number of amendments would be proposed to the Bill for consideration of the Bills Committee, the Chairman considers that it would be practically impossible that the work of the Bills Committee could complete in time before the prorogation of the sixth LegCo. In the light of the above, the Chairman of the Bills Committee has decided not to arrange frequent meetings to expedite the scrutiny of the Bill.

8. Having reviewed the current situation, the Chairman has directed to seek members' view by way of circulation of paper on 12 May 2020 on the proposal that the Bills Committee would discontinue its scrutiny work on the Bill and report to the House Committee its decision to discontinue its work. A total of 25 members responded to the invitation, with 11 members agreed to the proposed way forward while 14 members did not agree.

9. According to paragraph 4.27 of the Handbook for Chairmen of Bills Committees, a matter considered by circulation of papers to members will be deemed to be approved by the Bills Committee, if a majority of the members of the Bills Committee have signified approval, and no member has signified disapproval or has requested that the matter should be discussed at a meeting. In the light of the consultation result that no majority consensus is reached by circulation of paper on the way forward, the Chairman has instructed that the matter should be considered at a meeting of the Bills Committee.

Advice sought

10. Members are invited to give views on the way forward of the Bills Committee.

Council Business Division 2
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