

立法會

Legislative Council

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Panel on Health Services

Background brief prepared by the Legislative Council Secretariat for the meeting on 14 July 2023

Tobacco control measures

Purpose

This paper provides background information and summarizes the concerns of Members of the Legislative Council (“LegCo”), including members of the Panel on Health Services (“the Panel”) on issues relating to tobacco control measures.

Background

Tobacco control policy

2. The Government’s tobacco control policy aims to safeguard public health by discouraging smoking, containing the proliferation of tobacco use and minimising the impact of passive smoking on the public. To this end, the Government adopts a progressive and multi-pronged approach comprising legislation, enforcement, publicity, education, smoking cessation services and taxation.

3. Since 2007, the Government has prohibited smoking in all indoor public places (including dining and shopping premises as well as workplaces) and outdoor public pleasure grounds and facilities¹, and has expanded the smoking ban by phases to public transport terminuses/interchanges.² Besides, it has tightened packaging requirements

¹ Examples are beaches, public swimming pools, sport grounds and parks managed by the Government.

² These include all indoor public transport interchanges and some 200 designated public transport facilities including outdoor bus terminuses.

by mandating larger graphic health warnings on tobacco products,³ and increased the tobacco duty by 50.0% in 2009, 41.5% in 2011 and 11.7% in 2014 and 31.48% in 2023.⁴ The Government also runs a Quitline, which offers counselling and referrals to cessation services at designated clinics, such as acupuncture and the mailing of medication (e.g. nicotine replacement therapy) to help people quit smoking. Besides, the Government has prohibited the import, promotion, manufacture, sale, and possession of alternative smoking products (“ASPs”) for commercial purposes since the end of April 2022.

4. The Government has referred to the World Health Organization (“WHO”)’s target and committed to achieve a smoking prevalence of 7.8% by 2025 as promulgated under the “Towards 2025: Strategy and Action Plan to Prevent and Control Non-communicable Diseases in Hong Kong”⁵, with the ultimate aim to make Hong Kong a smoke-free, healthy and vibrant city. The Administration has advised that it would endeavour to strengthen the work focus on the following three major areas:

- a. conducting a comprehensive review on the current tobacco control policies, especially with regard to the hazards of second-hand smoking, and expand the scope of no smoking areas (“NSAs) in Hong Kong as well as consider raising tobacco duty from time to time;
- b. strengthening the efforts in smoking cessation: apart from endeavouring to deter the younger generation from picking up smoking, the Government must also proactively take forward measures to motivate smokers to quit smoking; and
- c. Tobacco Endgame:⁶ launching a comprehensive tobacco control strategy, formulating a timetable and roadmap for the Tobacco Endgame, thereby steadily progressing towards the goal of a smoke-free Hong Kong.

³ Effective from 2017, all tobacco products must (a) enlarge graphic health warnings to cover at least 85% of the packaging surface, (b) increase the number of warning forms from six to 12, and (c) show details of the Quitline.

⁴ At the House Committee meeting on 17 March 2023, Members agreed to form a Bills Committee to study the Dutiable Commodities (Amendment) Bill 2023 which sought to give effect to the proposal of increasing the rates of duty on various types of tobacco by about 31.48%. The Bill was passed at the Council meeting on 10 May 2023.

⁵ In 2021, the rate of smoking prevalence among people aged 15 and above in Hong Kong was 9.5%.

⁶ “Tobacco endgame” is a concept that goes beyond tobacco control, and aims to ban smoking and end the tobacco epidemic by strengthening tobacco control efforts.

Ordinances for governing smoking control

5. In Hong Kong, there are two ordinances for governing smoking control, namely the Smoking (Public Health) Ordinance (Cap. 371) and the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600). Cap. 371 provides a legal framework for restricting the use, sale and promotion of tobacco products in Hong Kong. Cap. 600 provides for a fixed penalty of \$1,500 payable for smoking offences at statutory NSAs.

Tobacco and Alcohol Control Office

6. The Tobacco and Alcohol Control Office (“TACO”)⁷ was established in February 2001 with priority functions including: acting as a principal enforcement agency under Cap. 371; assisting venue manager of statutory NSAs to ensure public compliance to Cap. 371; promoting smoke-free culture and enhance compliance to Cap. 371 through publicity and health education; coordinating the smoking cessation service of the Department of Health (“DH”); and assisting the Health Bureau in reviewing tobacco control legislation.

The Hong Kong Council on Smoking and Health

7. The Hong Kong Council on Smoking and Health (“COSH”) was established in 1987. It is a statutory body vested with functions of: informing and educating the public on smoking and health matters; conducting and coordinating research relating to smoking; and advising Government, community health organizations or any public body on matters relating to smoking and health.

Next-phase tobacco control

8. According to the Administration, a public consultation on next-phase tobacco control would be launched in the first half of 2023 (“Public Consultation 2023”). Different options would be listed in the public consultation to reduce the accessibility of tobacco products, reduce the attractiveness of tobacco products, reduce public’s exposure to second hand smoke and help smokers to quit. The Government would engage stakeholders on the measures for next-phase tobacco control and formulate its tobacco control policies.

Major concerns of Members

9. Members’ major discussions and concerns relating to tobacco control measures recently are summarized in the following paragraphs.

⁷ Formerly the Tobacco Control Office.

Target rate of smoking prevalence

10. Some Members expressed concern about how the Administration would set and achieve the target rate of smoking prevalence of 7.8% mentioned in paragraph 4 above. The Administration advised that it had referred to WHO's target of reducing the smoking prevalence rate by 30% as compared with that in 2010, and was committed to achieving the target rate of smoking prevalence of 7.8% by 2025. To achieve the target, apart from increasing tobacco duty, the Administration would also launch Public Consultation 2023. In addition, the Administration advised that 7.8% was a short to medium term target. After this target was achieved, the Administration would continue its work on tobacco control to further bring down the smoking prevalence.

11. Some Members urged the Administration to set a long-term target for smoking prevalence. In this connection, some Members suggested the Administration to consider designating a year after which any people born would be prohibited from smoking or selling tobacco. The Administration advised that it would draw reference to experience of overseas countries and consider the local situation when determining the long-term target. It would also include views from LegCo Members in the paper of Public Consultation 2023. It was hoped that practicable tobacco control measures based on consensus could be introduced as soon as possible after the public consultation exercise.

Tobacco duty

12. Some Members expressed concern that after the increase in tobacco duty on 22 February 2023, the proportion of tobacco duty to retail price was about 68%, which was still lower than the proportion of 75% recommended by WHO. A question was asked whether the Administration would consider increasing tobacco duty continuously to the level recommended by WHO.

13. The Administration advised that it had set a target of bringing the tobacco duty as a proportion of retail price of cigarette to 75% (the minimum level recommended by WHO), with the plan to raise the tobacco duty in a phased approach after balancing all relevant factors (including the Government's commitment to reducing tobacco smoke and the public's acceptance of this commitment). The Administration would keep under review the effectiveness of the overall tobacco control measures and the pace of future tobacco duty adjustments, while stepping up efforts to promote smoking cessation services and enforcement against illicit cigarettes.

14. Some Members requested the Administration to consider establishing a statutory mechanism to link the tobacco duty with the target proportion of tobacco duty to retail price (i.e. 75%), such that once the latter dropped to lower than 75%, the tobacco duty would be adjusted automatically. The Administration advised that it would consider to include the proposal in the paper of Public Consultation 2023.

Enforcement against illicit tobacco, “Cheap Whites” and alternative smoking products

15. Some Members raised concern about the enforcement against illicit tobacco and “Cheap Whites”. The Administration advised that the Customs and Excise Department (“C&ED”) would continue to enhance enforcement to vigorously combat illicit tobacco activities through intelligence analysis and interception at source. C&ED would step up promotional efforts to remind the public that even buying illicit cigarettes was an offence. C&ED had put in place a reward scheme for reporting illicit cigarette activities to reward informers who provided quality information.

16. The Administration further advised that there was no legal definition of “Cheap Whites”. In the industry, it generally referred to cigarette brands that were not popular in the market, and the packaging was no different from that of the ordinary duty-paid cigarettes that sold in the market at a low price (i.e. lower than the tobacco duty of \$50.12 per pack of cigarettes). Among the illicit cigarettes seized by C&ED, it was estimated that about 3% to 5% were “Cheap Whites”. C&ED would closely monitor the situation of the Cheap White trade

17. Expressing concern that as ASPs were not subject to the duty increase, some Members asked how the Administration would stop people from using ASPs as well as the measures to combat the sale and distribution of such products.

18. The Administration explained that DH would conduct inspections of suspected illegal sale of ASPs, and monitor online selling activities of ASPs. Since there were still people using ASPs, the Administration would study the reasons behind in the Thematic Household Survey on smoking status.

No smoking area

19. Some Members expressed concern how the health of non-smokers could be protected as they were forced to breathe in second-hand smoke on the streets. Some Members asked whether the Administration would

consider setting up smoking areas instead of NSAs because this would reduce the impact of passive smoking on non-smokers, help improve the city's appearance and environmental hygiene, as well as encourage more smokers to quit smoking by increasing the difficulty of smoking.

20. The Administration advised that the proposed measures to be put forward in Public Consultation 2023 would include, among others, reducing the public's exposure to second-hand smoking. The Administration would study the impact of smoking by people while walking on other road users and of smoking at designated areas based on scientific evidence. It would also study the practicability of law enforcement against such offences.

Education and publicity

21. Some Members raised concern over smoking problem among teenagers and asked about the measures (apart from education against smoking through the television, textbooks and talks) taken to strengthen education in this regard. Some other Members also enquired whether the Administration understood why teenagers smoke and how to stop them from smoking at source.

22. According to the Administration, teenager education was one of the focuses of tobacco control. The Administration had been making efforts to discourage teenagers from smoking, such as organizing the Smoke-free Elite Teens Programme with COSH. In 2010, there was 3.2% secondary students smoking, whereas such number was reduced to 1.2% in 2021. Apart from via the television, the Administration was promoting a scheme called Tobacco-free Generation with a view to letting the young generation understand the disadvantages of smoking.

Smoking cessation services

23. Some Members expressed concern about the adequacy of the resources devoted by the Administration to the promotion and provision of smoking cessation services. The Administration advised that over the years, DH had been actively promoting a smoke-free environment through publicity on smoking cessation services. To mobilize the community, DH had collaborated with COSH, non-governmental organizations ("NGOs") and healthcare professionals to promote smoking cessation and provide smoking cessation services.

24. The Administration further advised that DH operated an integrated Smoking Cessation Hotline (Quitline: 1833 183) to handle general enquiries and provide professional counselling on smoking cessation, and coordinated the provision of smoking cessation services in Hong Kong. DH also arranged referrals to various smoking cessation services in Hong Kong,

including public clinics under the Hospital Authority, as well as community-based cessation programmes operated by NGOs.

Relevant papers

25. A list of the relevant papers on the Legislative Council website is in **Appendix**.

Recent developments

26. The Administration will brief the Panel on 14 July 2023 on the progress of the tobacco control measures adopted to achieve the goal set out in the “Towards 2025: Strategy and Action Plan to Prevent and Control Non-communicable Diseases in Hong Kong” (i.e. smoking prevalence of 7.8% by 2025), and the public consultation on tobacco control strategies.

Council Business Division 4
Legislative Council Secretariat
11 July 2023

Relevant papers on tobacco control measures
(since the Sixth Legislative Council)

Committee	Date of meeting	Paper
LegCo Meetings (Questions)	11.1.2017	<u>Question 18: Stepping up regulation of e-cigarettes</u>
	5.7.2017	<u>Question 9: Combating the activities of buying and selling of duty-not-paid cigarettes and selling of counterfeit cigarettes</u>
	16.1.2019	<u>Question 3: Decision on eradicating new types of smoking products</u>
	20.3.2019	<u>Question 21: Enforcement of smoking ban</u>
	28.4.2021	<u>Question 12: Combating illegal smoking</u>
	27.4.2022	<u>Question 16: Problem of smoking</u>
	30.11.2022	<u>Question 18: Combating the buying and selling of duty-not-paid and counterfeit cigarettes</u>
	24.5.2023	<u>Question 4: Enforcement of law governing alternative smoking products</u>
Panel on Health Services	31.5.2023	<u>Question 6: Combating activities of selling duty-not-paid cigarettes</u>
	19.12.2016 (Item IV)	<u>Agenda Minutes</u>
	17.1.2017 (Item III)	<u>Agenda Minutes</u>

Committee	Date of meeting	Paper
	28.2.2017 (Item VII)	Agenda Minutes
	20.3.2017 (Item IV)	Agenda Minutes
	24.4.2018 (Item VI)	Agenda Minutes
	19.6.2018 (Item V)	Agenda Minutes
Public Accounts Committee	-	Public Accounts Committee Report No. 70 - Chapter 5 of Part 4 (July 2018)
-	-	Information Note titled “ Regulation of e-cigarettes and heated tobacco products in selected places ” prepared by the Research and Information Division of the Legislative Council Secretariat (June 2018)
-	-	Fact Sheet titled “ Health effects of e-cigarettes and heated tobacco products ” prepared by the Research and Information Division of the Legislative Council Secretariat (August 2018)
-	-	Essentials titled “ Tobacco control in Singapore and New Zealand ” prepared by the Research and Information Division of the Legislative Council Secretariat (February 2023)
Finance Committee	13.4.2023	Reply Serial Nos. HHB086, 100, 117, 236, 242, 248, 254, 267, 275, 276, 296 and 345

Committee	Date of meeting	Paper
Bills Committee on Dutiable Commodities (Amendment) Bill 2023	-	Report

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