
03rd Aug 2020

Open Letter to the Rt Hon Jacinda Ardern against Tobacco-Free Nicotine pouch category ban as in Section 53(2A) of the Vaping Amendment Bill

Dear Prime Minister

ORAL NICOTINE POUCHES ARE NOT TOBACCO SNUS

NZ Smokefree Tomorrow (NZSFT) distributes **oral tobacco-free nicotine pouches (not snus)** in New Zealand. Our business is based on the government's goal of a smokefree Aotearoa by 2025. We strongly believe that smokers need to have a wide variety of safe, reduced risk products to choose from. Not one product will fit all smokers.

We are writing this letter following your recent media comments in relation to our product category and the Hon Nicky Wagner's SOP. We were surprised and disappointed by your views, which suggested that you have not been fully advised on the nature and benefits of tobacco-free nicotine pouches.

You referred to the product in question as a tobacco product and also mentioned chewing tobacco - The product that would remain legal under Hon Nicky Wagner's SOP is completely tobacco free and is not chewed or sucked, it sits stationary under the top lip and is spit free.

You said that the opposition wanted to use the Vaping Bill as a backdoor to try and bring in an illegal product called Snus- This is inaccurate. Hon Nicky Wagner's SOP will not change the legal status of tobacco Snus (which is what you saw in Scandinavia). We sell Oral Tobacco-Free Nicotine Pouches which are currently in 2000 stores nationwide and have around 10,000 users in NZ who have made the switch from inhaled tobacco and nicotine products. It seems to us that the Select Committee, with the Associate Minister of Health's support, has used the Vaping Bill as a backdoor to outright ban this product at the last minute without the opportunity for public consultation. We are not bringing in any new products to NZ.

In summary, we are not asking for a new tobacco product to enter the unregulated space. We are asking to retain the ability for smokers to switch to what is clearly a much safer alternative. If the SOP were to be passed, the Director General would have the authority to ban any product that was dangerous.

While on the topic of tobacco Snus- Sweden has actually achieved smoke free status due to use of snus and now have the lowest tobacco-related mortality rates in the EU. Meanwhile in NZ we still have 13 people die daily from smoking related diseases. All we ask is for a tobacco free version of this product to remain legal in NZ in the same way as vaping products.

BANNING ORAL NICOTINE POUCHES BREACHES HARM REDUCTION POLICY

We believe that the proposed ban on non-tobacco nicotine pouches is:

- contrary to the government's commitment to tobacco harm reduction,
- contrary to the principles of good law-making,
- bad public health policy, giving a monopoly to only inhaled tobacco and nicotine products (cigarettes, HnB and e-cigarettes), Big Pharma (with NRT products), and,

It is likely to end the livelihood of our 17 employees, result in loss of income for our 2000 retailers and cause **great anxiety and disbelief among our 10,000 consumers (growing 25% monthly from May 2019) who rely on our product daily.**

All these points are unforeseen consequences of an amendment that has not been properly assessed. We urge NZ Government to vote for the proposed SOP tabled by the Hon Nicky Wagner that proposes to leave section 53(2A) in place as a measure to ban nicotine lozenges (lollies) and other unhelpful novel products. However this SOP will carve out Tobacco-Free Oral Nicotine Pouches from the ban and add them as a notifiable product of which the government has authority to ban if the products are seen to be dangerous.

The Government has been brave in its commitment to find pragmatic and viable policy solutions to deliver on its Smokefree 2025 goal. NZSFT has been proud to operate in a country where tobacco harm reduction is acknowledged as an important complement to traditional tobacco control measures. It is in this context we find the proposed ban of oral nicotine products that do not contain tobacco or any form of inhalation startling.

The Government has several times acknowledged that oral smokefree products are significantly less harmful than combustibles and would have a positive impact on public health. The **MoH confirms that this category is a safer alternative to smoking**. This conversation can be found in the recording of the petition of Miles Illemann for NZSFT¹.

This sentiment was endorsed in the (HSC) following a petition by NZSFT as late as October 2019. The report states *“As a committee, we share the ministry’s desire to look pragmatically at reducing the harm caused by smoking. We expect to have further discussion on the merits of individual products during consideration of upcoming legislation addressing vaping.”*²

When the government introduced the Bill, it was focused on vaping products. The Cabinet Paper, accompanying the draft Bill stated that other nicotine-containing products without tobacco are available in the NZ market and that *“work is needed to ensure that nicotine products that are not for a therapeutic purpose are adequately regulated”* (p32)³.

During consideration of the Bill, the MoH actually advised the HSC that oral nicotine products are "significantly less harmful" than smoking.⁴ For the HSC to then recommend a ban makes no sense to us.

There has been neither any assessment of appropriate regulatory measures for this category nor has there been any satisfactory explanation provided in the select committee report why a ban is a justified legislative option. We therefore respectfully ask what new information or scientific evidence has come to light for the HSC to recommend a ban on this category. Without a proper understanding of this it is impossible that this ban can constitute good law-making.

LOW RISK PROFILE OF ORAL TOBACCO-FREE NICOTINE POUCHES

To understand the risk profile of non-tobacco nicotine pouches, comparisons can be made to the risk profile of tobacco snus, or "Swedish snus". There is scientific consensus that tobacco snus is a far safer alternative than cigarettes.

¹ https://www.facebook.com/watch/live/?v=695098794308321&ref=watch_permalink

² https://www.parliament.nz/resource/en-NZ/SCR_92844/1e937a831544f9e77feb7a60361f254d6b311a3f

³ <https://www.health.govt.nz/system/files/documents/information-release/cabinet-paper-smokefree-environments-regulated-productspvapingp-amendment.pdf>

⁴ Ministry of Health Departmental Report on the Bill.

In 2007, Swedish snus was reviewed by the NZ Health Technology Assessment (NZHTA) in a report on smoking harm-reduction, the report stated *“The evidence from this review suggests that the harm of using snus relative to non-tobacco use is significantly less than found for smoking with respect to cancers of the head, neck and gastro-intestinal region, and cardiovascular disease events”*⁵.

In the US, General Snus is the only tobacco nicotine product on the market which is allowed to make a risk reduced claim versus smoking (through FDA’s MRTPA process) – No vape product has yet been allowed to make a similar claim. **Remember, this is the tobacco (snus) version of our non-tobacco product - Nicotine Pouches.**

The health risk associated with a tobacco/nicotine product is a result of the exposure of unwanted chemicals. Most of the unwanted substances in tobacco are not even detectable in oral tobacco-free nicotine pouches and the remaining few comes at very low levels. This offsets any potential issues of second hand exposure.

Since nicotine pouches do not contain tobacco, they also lack the natural constituents found in tobacco - which makes the risk profile even lower than Swedish snus. The tobacco has been substituted for food-grade ingredients and the **nicotine used in the product is of pharma grade**. With oral products, **there is also no emission of anything (eg smoke or vapour) that can harm or disturb others.**

Route of administration matters. Smoking increases the risk of lung cancer and COPD dramatically. The long-term effect on the lungs from vaping is under debate and long-term data is lacking. As oral tobacco-free nicotine pouches are administrated through the oral route (between the top lip and gum), no respiratory risk is associated and the route of administration has been proven through tobacco snus, nicotine gum and sprays with no adverse health problems. The bad vaping publicity is likely mostly unwarranted, especially for vaping products that are responsibly regulated. But the fact that our products do not involve inhalation into the lungs is likely a strong indicator the product is safer, especially for those in close proximity to the user.

⁵ Broadstock M, Systematic review of the health effects of modified smokeless tobacco products. New Zealand Health Technology Assessment, Christchurch 2007

Although the nicotine pouch category is new in New Zealand, there are some relevant data points on consumer response that we would like to draw your attention to:

Consumer information from NZ: We have around **2000 retailers** stocking our products nationwide and an estimated **user base of 10,000** who purchase **1 pack every 30 seconds, 24 hours a day**. Imagine if that was another pack of cigarettes every 30 seconds due to this proposed ban. Many of these consumers have used our product to switch from smoking. We fear that if the category is banned many of our consumers will switch back to smoking. **For a forecast 15,000 users (at election time), imagine how many packets of cigarettes every day would be sold if our products were banned.** We have attached quotes from some of our consumers in annex 1 to illustrate how our product has been received so far.

Consumer data from the US: A survey was done on ZYN pouches of Swedish Match (one of our main suppliers) by an independent third party researcher to assess the appeal and likelihood of adult tobacco users and non-users to buy ZYN products and also assess the patterns of use and reasons for use. The cohort was an online panel survey including 5179 adults, both tobacco users and non-users in conjunction with an online survey including 1266 ZYN users invited by stickers on the can.

The results showed that **only 2-3% of never and former tobacco users were interested in buying ZYN**. 96% of the ZYN consumers were regular tobacco users before using ZYN, and the remaining 4% all used other tobacco products in parallel with ZYN, whereof 25% stated that they used ZYN to quit/reduce other tobacco products. 43% of the ZYN consumers had previously used tobacco-based products and had now completely switched to ZYN. 26% were dual users of ZYN and other smokeless products, and only 8% were dual users of cigarettes and ZYN. The main reasons for using ZYN was that it was “Less harmful to my health than other tobacco products”. More than 60% of the smokers stated that they used ZYN to quit or reduce cigarette smoking⁶

International experience from use of oral tobacco: In Sweden the long-term availability of oral products (snus) that has resulted in a significant decrease of smoking prevalence and data shows the public health benefits from the availability of oral products. Sweden has:

⁶ (Plurphanswat, N. Hughes, J.R., Fagerstorm, K. and Rodu, B. 2020: Initial Information on a Novel Nicotine Product.

- Europe's highest per capita consumption of smokeless tobacco (snus)
- By far the lowest cigarette consumption in Europe (5 percent daily use).
- Lower mortality attributable to tobacco than in any other EU Member State and the use of snus has been an important contributor to this situation.
- By far the lowest lung cancer mortality in Europe.
- Lowest percentage of smoking-related deaths among developed countries.
- Lowest oral cancer mortality rate in Europe.

The success of snus is also evident in Norway. In 2008 only 6% of the Norwegian population used snus while 21% of the population were smokers. Nine years later in 2017, 12% of the population used Snus and only 11% of the population were smokers. Even more compelling is the change in tobacco habits of younger generations in Norway under the age of 25, with an astounding fall in smoking among this age group since 2008, from 16% down to 3% while snus use increased from 11% to 19% during the same period. But the female group stats of under 25's could be the most convincing for New Zealand, **in 2008, 17% of women in this age bracket smoked, in 2017 that number dropped to 1% with an inverse relationship to the use of snus (Shapiro 2018).**⁷

Another study on Swedish snus concluded that snus use is clearly much safer than smoking, and **if a risk of cancer exists, then it is probably no more than 1% of that of smoking** (Lee 2013).⁸

We note that the **MOH funded a study** in a hospital which states that NZ requires a number of new harm reduction initiatives. They achieved a **31% quit rate with Snus and a 16% quit rate with nicotine pouches** (Crane 2012).⁹

Parliament should not deprive our user base of the safer smoking alternative they have chosen through us, and should not deprive future smokers making the healthier switch to safer alternatives.

⁷ Shapiro, H. 2018. No Fire, No Smoke: The Global State of Tobacco Harm Reduction 2018. London: Knowledge-Action-Change.

⁸ Lee, P.N. 2011. Summary of the epidemiological evidence relating snus to health. *Regul Toxicol Pharmacol.* 59(2):197-214

⁹ Crane, J., Caldwell, B., Ward, V. and Thie, A. 2012: A pilot study of the acceptability of snus and nicotine pouch in smoking cessation. *Eur Respir J.* 40:13377

When NZSFT was first established, we actually believed we can help New Zealand achieve this goal, but now it seems **our trust and support of the Smokefree 2025 initiative could be the downfall of our company.**

We are seeking support from all parties in Parliament to reverse the proposed ban on Tobacco-Free Oral Nicotine Pouches and support Nicky Wagners SOP. We hope that after reading this letter you will reconsider your position on non-tobacco nicotine pouches. It is estimated that 13.6 Kiwis die every day due to tobacco smoking. Sweden, where tobacco snus is prevalent, have the lowest tobacco related mortality rate in the EU.