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Royal New Zealand Plunket Society (Inc.)

To the Health Select Committee

Submission on the Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill

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Contact:

Helen Connors

General Manager, Service Development

Royal New Zealand Plunket Society (Inc).

helen.connors@plunket.org.nz

Background

The Royal New Zealand Plunket Society (Inc.) has been part of New Zealand's landscape for over one hundred years, and its mission - supporting the development of healthy children and families - is just as relevant now as it was when Plunket was established by Dr (Frederic) Truby King in 1907.

Plunket provides universal well child health services to 92% of newborn babies in New Zealand as well as parenting education and support services in neighbourhoods. This submission represents the voices of around 6,000 New Zealanders currently engaged in a variety of voluntary roles with Plunket, as well as more than 650 professional staff who deliver the Well Child/Tamariki Ora service framework to families with children aged from birth to 5 years.

Plunket passed a remit on taking steps to support Smoke-free Aotearoa New Zealand by 2025 at its 2011 national conference and is therefore committed to advocating for "...central and local government to actively support the goal of halving tobacco consumption by 2015 and achieving a smoke-free New Zealand by 2025.

Plunket commends the Government on the brave step of introducing this legislation when Australia's plain packaging law (in force from 1 December 2012) is now the subject of World Trade Organization (WTO) arbitration based on allegations that Australia is in breach of its international trade obligations.

Like Australia, New Zealand is a signatory to the World *Health* Organization's Framework Convention on Tobacco Control, the guidelines for which caution against tobacco manufacturers influencing political decision-making. There is a large amount of evidence supporting the population health value of plain packaging. Plunket commends to the Committee the Australian Cancer Council's review of the international evidence on this topic.¹

Summary of submission

1. **Plunket supports** the purpose of the Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill ("the Bill") as a crucial step in achieving the smoke-free 2025 goal.
2. **Plunket proposes** an amended commencement clause (i.e. Clause 2) that would ensure the Bill came into force no later than *12 months* after Royal Assent (current drafting states 18 months).
3. **Plunket opposes** Clause 9, which repeals Section 30A (Restrictions on sale of certain tobacco products in small quantities).

¹ *Plain Packaging of tobacco products: A Review of the Evidence*, May 2011, Cancer Council Australia http://www.cancer.org.au/content/pdf/CancerControlPolicy/PositionStatements/TCUCCVBkgrndResrchPlainPak270511ReEnd_FINAL_May27.pdf (retrieved 26 March 2014). The paper covers two decades of research across five countries, in addition to results of 24 published experimental studies examining the likely impact of plain packaging on young people and current smokers. Summaries of research into industry views on the impact of international law and trade agreements on domestic smoke-free legislation are also presented.

1. The purpose of the Bill

Plunket **supports** the Bill's intention to legislate for tobacco to be plain packaged with bold health warnings. Based on the Australian experience, prohibiting branding logos and eye-catching imagery makes tobacco less appealing as a consumer item and lowers its commodity status.

The advertising that remains on tobacco packages could be described as the 'last bastion' of cigarette advertising. In many ways it is the most insidious, entering the homes of thousands of children with a family member who smokes.² On the other hand, children lucky enough to be cared for in families where there is no smoking are exposed to no tobacco advertising.

The General Social Survey considered risk factors in households with children. In 2010-2011, 21% of children from this survey lived in a household with a current cigarette smoker. This was the most common risk factor (of all the factors that could adversely affect children's health and wellbeing).

These children are subjected to second-hand smoke, to subliminal messages that smoking increases a person's social capital, and readily available cigarettes. These factors create a public health risk for those children, who, should they become smokers, can expect a reduced quality of life.

Whilst the Bill itself does not have a purposive statement, Plunket supports the specific objectives of the Bill (as expressed in the explanatory note) to:

- reduce the appeal of tobacco products and smoking, particularly for young people:
- further reduce any wider social acceptance and approval of smoking and tobacco products:
- increase the noticeability and effectiveness of mandated health warning messages and images:
- reduce the likelihood that consumers might acquire false perceptions about the harms caused by tobacco products.

Our organisational vision of 'Together, the best start for every child' 'Mā te mahi ngātahi, e puāwai ai ā tātou tamariki' is best met by policies and legislation that put children first and take immediate and long-term benefits for children and therefore society into account.

Plunket takes steps every day to support New Zealand families to become smoke-free. All Plunket nurses and health workers are taught to do the 'ABC' of **assessing** caregivers' smoking status; conducting **brief intervention** via information primarily; and offering **cessation** support.

Some Plunket nurses are Nicotine Replacement Therapy Quitcard holders and therefore able to prescribe nicotine replacement therapy. All front-line staff can offer "Plunket TEXT2QUIT" and referral to *Aukati KaiPaipa* face-to-face (mainly iwi) cessation services. Plunket nurses and health workers are trained to keep offering choices for clients at every core contact and as indicated at additional contacts; this increases the chances of successful cessation. Tobacco advertising on packaging undermines this effort.

We believe the introduction of plain packaging constitutes the next step in Plunket's daily work to assist families to become smoke-free. Given the difficulties of cessation, this is truly a case of prevention being better than cure.

² General Social Survey

http://www.stats.govt.nz/browse_for_stats/people_and_communities/Children/vulnerable-children.aspx
(retrieved 24 March 2014)

2. Commencement of the new law

Plunket proposes an amendment to Clause 2(2), which is the commencement clause, to decrease the maximum commencement period from 18 months to 12 months after Royal Assent and certainly without awaiting the outcome of the World Trade Organisation (WTO) arbitration involving Australia.

It is unlikely there will ever be an optimal environment in which to introduce plain packaging, primarily because of the trade-related implications. We would expect to see legal and political processes used against other countries to dissuade them from following Australia's lead. Whilst it is tempting to wait and see if New Zealand can create a 'bullet-proof' law, there is virtually no such thing as bullet-proof legislation. Furthermore, waiting has public health implications, particularly for vulnerable children, as evidenced in the General Social Survey.³

As the Committee will know, New Zealand's public investment in children is very low when compared with other OECD countries. The introduction of plain packaging is an investment in New Zealand children's health. Plunket accepts that there will be legal and broader trade costs⁴ but delay is also costly: in health terms.

In our submission, the sooner the new legislation is in force, the sooner we all begin to reap the ongoing rewards for individuals and the health budget. A New Zealand study published internationally provided important evidence of the value of plain packaging. The authors conclude:

"Our results show that removing brand imagery and increasing graphic health warning size has a marked and significant effect on the attractiveness of cigarette packaging to young adult smokers and increases the likelihood that they will engage in cessation-related behaviours. These findings are the first to estimate the interaction between brand elements and graphic warning size."⁵

Cessation-related behaviour includes the intention to reduce the amount smoked, to increase quit attempts or help seeking to quit. Cessation is invariably a process, rather than an event. And the vast majority of smokers need to make more than one attempt to cease smoking.

3. Opposition to Clause 9 of the Bill

Plunket is **opposed** to the repeal of Clause 9. This clause repeals Section 30A (Restrictions on sale of certain tobacco products in small quantities) of the primary Act. The rationale for repeal expressed in the Bill's explanatory note is that quantities may be addressed in regulations.

³ Above at footnote 1.

⁴ For instance, the Bill's Regulatory Impact Statement refers to the Ministry Foreign Affairs and Trade's estimate of between \$1.5 and \$2 million for WTO arbitration and an unconfirmed sum in the millions for civil litigation.

⁵ Hoek J, Wong C, Gendall P, Louviere J and Cong K. *Effects of dissuasive packaging on young adult smokers. Tobacco Control 2010*. Downloaded from tobaccocontrol.bmj.com on March 25, 2014 - Published by group.bmj.com

Plunket's concern is that sales in small quantities present a particular risk to children. Older siblings wishing to experiment with smoking are inclined to be attracted to small quantities of tobacco because they have little money and it is unobtrusive. Older siblings' behaviour is even more likely to influence young children than that of their parents. Plunket urges the Committee to recommend that existing section 30A be retained - or amended if not fit for purpose in its current form - thus ensuring quantities are subject to direct legislative oversight.

Conclusion and recommendations

As a State Party to the United Nations Convention on the Rights of the Child, the New Zealand government has undertaken to ensure that children's best interests are paramount when legislative decisions are made.⁶ In addition Article 36 of the Convention requires State Parties to "protect the child against all ... forms of exploitation prejudicial to any aspects of the child's welfare." In our view, advertising tobacco smoking in homes exploits children, who are sensitised to brand status and particularly vulnerable to messages about social norms. This Bill represents an opportunity to put children first by enacting a law that contributes to the health of future generations.

Plunket is not oblivious to the debate between trade and health protections – but trade requires healthy citizens with which to engage. In addition, litigation and arbitration costs are finite, whereas health savings are open-ended, directly or indirectly benefitting generations of New Zealanders for as long as plain packaging is in force.

Thank you for considering Plunket's submission. We urge you to recommend this Bill be enacted with the amendments proposed. We would appreciate the opportunity to appear before the Committee.

⁶ Article 3, United Nations Convention on the Rights of the Child (ratified by New Zealand in 1993).