

NSW DEPARTMENT OF HEALTH

PROTECTING CHILDREN FROM TOBACCO:
A NSW GOVERNMENT DISCUSSION PAPER ON
THE NEXT STEPS TO REDUCE TOBACCO-RELATED HARM 2008

PUBLIC CONSULTATION FORUM

PARLIAMENT HOUSE
FRIDAY 30 MAY 2008 AT 10 A.M.

The Hon. Peter PRIMROSE: I welcome everyone here today. My name is Peter Primrose. I am President of the New South Wales Legislative Council and I have been asked to speak. My job effectively is to bully people, to keep people to time today, but before I run through those processes, what I would like to do is invite the Minister, the Honourable Verity Firth, to address you for a few minutes.

The Hon. Verity FIRTH: Thank you very much. I will keep my points brief because we are here to hear from you, not from me. Before we begin, I would just like to acknowledge that we are on the land of the Gadigal people of the Eora nation and pay my tribute to the Gadigal people past and present. I would also like to acknowledge my parliamentary colleagues in the room, obviously the Honourable Peter Primrose, President of the Legislative Council, and the Honourable Fred Nile who is taking an active interest in this issue, thank you for being here. Good morning everyone and a very warm welcome to the Protecting Children from Tobacco Public Consultation Forum.

This is an important event as it brings together community members, health advocates, industry groups and other stakeholders to express their views on a number of suggestions that might be effective in reducing the uptake of smoking by our young people in New South Wales.

We have made great progress against the tobacco epidemic in New South Wales. We have legislation obviously for smoke free public places and mass media campaigns, which I am sure you have all seen, financed by the New South Wales State Government through the Cancer Institute of New South Wales. However, there is no doubt that more needs to be done to tackle smoking in some particular groups within the population.

Tomorrow is World No Tobacco Day and the theme is Tobacco Free Youth. So it is timely that we look towards the next steps to reduce the tobacco related harm amongst young people in New South Wales. The important statistics that I always use when I am talking to people about this issue is that we know from our research that 20 percent of children or teenagers aged between 12 and 17 have experimented with tobacco in the last 12 months. The reason why this is so significant is that we also know when we do our research into people who are now chronic smokers, people who now consider themselves to be smokers, that 80 percent of them say that they took up the habit in their teenage years. So it is a very key life cycle phase for the beginning of a tobacco habit. That is why we are focussing in this package of measures specifically on protecting children and young people from tobacco harm.

The purpose of the forum today is to focus on minimising the number of young people who take up smoking, as well as protecting children and young people from other people's smoke. Last month the Premier released the discussion paper *Protecting Children and Young People from Tobacco* and the paper presents a number of possible measures, such as banning smoking in cars with children, which is essentially about environmental tobacco smoke, banning shop counter displays of cigarettes and implementing a licensing scheme for tobacco retailers. These are just a few and I am sure all of you have taken the opportunity to familiarise yourself with the paper already, so I will not go through it all, but those are the sorts of options that we are looking at.

I have been enormously pleased with the overwhelming response to the discussion paper. It has far exceeded our expectations. We now have received over 2000

submissions to the Department of Health on this issue, so it is a really great community uptake.

What we are doing today, Peter will explain the rules. We have made the time limit for submissions very brief, partly due to the fact that we have got so many people here, but we are then going to put it into a report and place it up on the web, so that the community can also see what happened at this forum and the views that were displayed at the forum. It really is about getting your views out into the community and encouraging a good debate around this whole issue amongst all the stakeholders in the community.

I will now stand aside for the Honourable Peter Primrose to take control of events. Peter is just perfect for hosting and chairing this forum today. Peter has a longstanding interest in public health, having served on area health service boards and hospital boards and I really want to thank him for chairing today's forum. And thank you everyone here for participating in today's forum. I am looking forward to hearing your views about effective and responsible measures that we can put in place to prevent the next generation of young people taking up smoking. So thank you for taking time out of your very busy schedules to be here.

The Hon. Peter PRIMROSE: Thank you, Verity, and I would also like to introduce the other members of the panel. Kate Purcell, Director for Cancer Prevention, Cancer Institute of New South Wales, and Ms Liz Develin, Director, Centre for Health Advancement with NSW Health.

A couple of things. Firstly, we have been advised that there is a journalist and photographer here and there may be others in the room. If people do not wish to have anything that they say recorded, they should make that statement when they are speaking, but can I stress that that is a matter between them and the journalist. That is something that we have no authority or responsibility for, but I think that they should make their views known.

There are 25 speakers today and I am going to call each of them individually. Speakers will have a maximum of three minutes each to address the panel and at the conclusion of three minutes the speaker must close the address. We thought that to fairly give people notice that the three minutes was up, one option was to poke them with sticks. The other option is that we have a gentleman here who has got a timer and a beeper. If people go longer than three minutes and do not sit down, we may revert to the stick.

A transcript of proceedings will be made and placed on the NSW Health web site following the forum and all comments will be recorded and transcribed. Again, I stress in relation to this matter if there is an issue of confidentiality and people do not wish their comments to appear in that transcript on the web site, please say so when you begin your address.

I would ask that when people start talking, they please introduce themselves and their organisation at the beginning of their address so that that can be adequately and appropriately transcribed in the record.

Clearly members of the public will be present during the address by speakers. So

be aware that this is not a closed forum. We ask forum participants not to interject or be rude while people are speaking.

There are no facilities for Power Point or other presentation and I have an order of people here from which I will call people after the appropriate three minutes.

Please, I would ask people obviously to turn off your mobiles, Blackberries, computer games, Ouija boards and anything else that may beep during the presentation.

Having said all of that, I would like to invite our first speaker, who I understand is Reverend the Honourable Fred Nile.

Rev. The Honourable Fred NILE: I congratulate the Minister for sponsoring this forum. This is a very important subject, protecting children from tobacco.

Over 205,000 school children are smoking on a weekly basis. 24 percent of them are illegally supplied by tobacco retailers. I do not believe it is an informed about lifestyle choice because of the promotion of the product, where we have many children who start smoking at a young age. In fact, figures that I have indicate that 80 to 90 percent of smokers start as teenagers, many as young as 12 years of age. Each year 45,000 children become regular smokers.

We know already all the health costs. Smoking costs Australia over \$21 billion a year. We know that the annual cost to the hospital system is almost \$700 million. So New South Wales must take further action on this very serious health problem.

In the past New South Wales has led with tobacco reforms in this State with the very successful quit smoking campaign, then legislation to ban advertising of tobacco products, then the ban on smoking in public places and other States followed with that legislation, but now I believe New South Wales has fallen behind. Other States are further ahead of New South Wales with legislation involving smoking in cars and so on, and I believe New South Wales has to regain its leadership role in this area.

I fully support and in fact introduced the bill dealing with the issue of smoking in cars. I also support a bill to ban the public display of tobacco products. I believe this is an important way in which people are recruited into smoking addiction. I also support banning smoking in outdoor public places. There have been discussions, as you know, regarding beaches, parks, playgrounds and now outside offices and cafes. We have chased people out of the cafes and restaurants. Now they are out on the footpath and so we still have the problem.

I also support the ban on tobacco vending machines, which obviously have no-one there selling it and anyone can access that machine. I also support a one point of sale place in each retail outlet. As I have said already, it is a teenage disease. 80 to 90 percent of smokers start as teenagers and therefore the Government must act.

The tobacco industry itself makes a direct attack on children. It targets children with its product. The exposure to tobacco products in shops normalises smoking in the eyes of children, predisposing them to smoke. Many in shops allow children under 18 to sell tobacco products, further normalising it to both the under age seller and children in

shops.

Let New South Wales take the leading role again on this very important issue.

The Hon. Peter PRIMROSE: Thank you, Reverend Nile. Our next speaker is Joy Allen from Coles Supermarkets.

Ms Joy ALLEN (Coles Supermarkets): Good morning, Minister. Good morning, everyone.

Coles is a national retailer. We welcome an opportunity to submit on the paper that has been released, but our message is a little different.

We need a national approach to tobacco. We need a clear and consistent message that targets the audience we want to reach, that is measurable and achievable. We need agreed strategies and timeframes. Reverend Nile has already said other States are ahead. We could debate that but we do need a national approach. We need consistency. We need clear measures and targets.

What Coles urges is that when the Government takes its next step to draft the regulation to apply to New South Wales, that there is open consultation, that there are on site meetings with retailers and that we look at the practicalities and interpretations of that regulation. They are the things that cause concern now for both the regulators, the retailers and the inconsistent message to consumers.

You won't need the stick for me because I am very short, and we will be putting our submission in, but again, I reiterate: A national approach with clear consistent messages that are indeed measurable is what is needed in an issue like this. Thank you.

Ms Julie Anne MITCHELL (Heart Foundation NSW): Thank you for the opportunity to address you today.

In the Heart Foundation's written submission we will put cogent arguments on why all eight tobacco control proposals should be considered as part of a comprehensive approach to protect children and young people from the dangers of tobacco. However, I will focus today on why the complete removal of tobacco products from public sites at point of sale is the most fundamental, indeed the jewel in the crown, of ensuring that we do not pass on to the next generation a lifelong legacy of illness and poor health.

Today we will hear a range of red herrings presented before us as to why point of sale displays should be opposed. These will range from security issues and turning around to take products out of a closed area, to the health and safety concerns of bending down, reaching around to get tobacco products out of large scale drawers.

These arguments are not new. Do not be persuaded by them. There is little evidence to support these claims and a circular that was put out by the tobacco industry, Phillip Morris, to retailers across New South Wales indeed shows that they do not have the evidence to support their claims.

So what are their main concerns? Firstly, they have fears that point of sale bans

will actually affect the way retailers do business. This is completely unfounded. A proposal to remove tobacco products from sight does not impact on the capacity to sell or purchase tobacco products, nor does it have any bearing on the location of where retailers sell their products.

Secondly, there are concerns raised about the fact that tobacco is a legal product and should be allowed to be sold as a legal product. In fact, many other legal drugs have limited status with no advertising or promotion rights. Indeed, many pharmaceutical products designed to improve health are managed under severe restrictions and are only available on prescription or kept out of sight. Indeed, it begs the question that if tobacco kills half of its long term users, why shouldn't it also be held to the same level of accountability?

Thirdly, tobacco companies or retailers will argue they need to advertise or display their tobacco product and indeed to assist consumers make selections. This is in fact a furphy. 80 percent of smokers know their brand and brand switching occurs in less than 10 percent of cases. Advertising simply serves to make the susceptible, the young, the non-smoker, the ex-smoker more vulnerable to these visual clues.

Fourthly, greater emphasis has been placed on the argument that costs associated with removing display cabinets from point of sale will be a huge impost on the retailer. This belies the fact that many displays are in fact financed in part, or if not wholly, by tobacco manufacturers. So again we need not be dissuaded by these arguments.

So what are the arguments in support of placing products out of sight? Many arguments will be canvassed today and I think it really distills to the essential fact that tobacco retail displays normalise tobacco to children and predispose them towards smoking. This fact is well understood by the community, where figures from the Australian Institute of Health and Welfare report that 70 percent of the population supports bans on point of sale advertising and the display of tobacco products.

We urge the New South Wales Government to consider these three factors in considering removing tobacco from sight: Consider the health arguments rather than the economic ones; provide clarity and simplicity in the legislation to ensure compliance and enforcement is easily obtained; and ensure a level playing field is created between all tobacco retailers in New South Wales with no exemptions allowed. To do less is really to accuse yourself of your own smoke program which is: *Don't be a Sucker*.

Ms Anna STEFANATOS (Philip Morris Limited): Anna Stefanatos, Corporate Affairs, Philip Morris Limited.

Philip Morris Limited welcomes the opportunity to participate in the consultation forum. We recognise the New South Wales Government's health objectives of reducing tobacco related harm. We believe that tobacco products should be subject to meaningful, effective and comprehensive regulation, based on best practice regulation principles. This should include a rigorous cost benefit analysis and ensuring that the regulation is effective and proportional.

The New South Wales Government's own record in reducing tobacco related harm among children and young people shows that the Government's strategies are

indeed working and youth smoking in New South Wales is declining, dropping lower than all other Australian States.

The Minister for Health, Minister Meagher, in a media release of 8 May stated that the latest New South Wales data shows that recent smoking rates decreased 3.1 percent for male students and 6.6 percent for female students between 2002 and 2005.

While we agree with the majority of measures outlined in the discussion paper, we do oppose a ban on point of sale display, and while there is no evidence to show that a ban on point of sale display will advance health objectives, a ban in our view will impact on manufacturers and small businesses in New South Wales.

The inability to display a choice and range of products will unduly limit competition in an already restricted market. We believe that the Government's health objectives can be advanced through a number of other measures, including further restrictions at the point of sale, as is currently the case in Queensland where tobacco regulations acknowledge the interests of business as well as public health interests, and this approach was in fact recommended by the Joint Select Committee on Tobacco Smoking in its report to the New South Wales Government last year.

Preventing young people from smoking should be an integral part of a comprehensive regulatory framework that includes strict enforcement of existing laws, banning the sale of cigarettes to people under the age of 18, but in our view hiding cigarettes from view is not the solution to preventing youth from smoking, and we encourage the New South Wales Government to listen to and to take into consideration the views of all stakeholders, including the more than 12,000 retailers in New South Wales, in making any final decision.

Once again, I thank you for the opportunity for allowing us to speak today.

Mr Ron BOWDEN (Service Station Association) (SSA): Ron Bowden, the Chief Executive Officer of the Service Station Association.

I would like to thank the Minister for convening this forum and for affording the Service Station Association the opportunity to attend and also to make some brief comments.

The SSA supports any initiative that will assist in reducing tobacco consumption, provided that it does not adversely affect the legitimate right of retailers to sell tobacco products, nor discriminate between tobacco retailers. That means that we support virtually all the recommendations that have been floated here today, but we have an issue with the display, and I think that is going to be a key part of the discussions that we have today.

The SSA notes that there has been a steady decline in tobacco consumption in recent years and it attributes this to increased awareness and communication of the health risks in the community and also the higher taxes.

The SSA believes that we should be pursuing initiatives that have been proven to be effective and that are not discriminatory in their effect. In other words, go with

something that works rather than something which we don't know whether it is going to work or not.

The target should be under age smokers, not the businesses that legitimately sell tobacco products to people over the age of 18. That is an important message. Children become aware of tobacco products from a wide range of sources, all of them freely available in society. Removing the glamour or cool appeal of tobacco products is surely the key. That is the thing that we should be really focussing on. Again, education and awareness. It works. It has been working well. It needs to be the focus of our energies.

The SSA agrees that people under the age of 18 should not be able to buy tobacco products, full stop. The SSA also believes that adequate measures should be put in place to put barriers in the way of other people supplying tobacco products to under age persons, because that is where they are getting it from. They are not getting it from the retailers. They are getting it from their mates. So we need an education and awareness program to cut the supply and the supply is not from the retailers.

The SSA therefore is opposed to restricting the display of tobacco products, when that display is for the storage place of product to be provided to customers on demand. In other words, it is a practical thing. It is not a promotional thing. It is just the fact that we are legitimately selling a legitimate product to people who are over the age of 18. We need to be able to do that efficiently and effectively. The provision of quick and friendly customer service is an essential ingredient for successful retailing in service stations. Service station profitability and viability will be adversely affected by restrictions on tobacco display which would only distort the market, not change it, not reduce it, distort the market towards supermarkets for a dubious gain.

The service station industry, particularly independents, is already under significant financial strain and this will only make matters worse and our industry and my members take this issue extremely seriously. We think there is scope for the introduction of auditable training for retail sales staff as one of the key initiatives to putting that proper barrier into the supply path.

Finally, I would like to say that there are a number of other stakeholders who will be talking here today. The SSA fully supports the submission that they and David Killeen from the Australasian Association of Convenience Stores will be making later on.

Thank you once again.

Ms Andrea KUNZ (Australian Medical Association (NSW)) (AMA): Hello. I am Andrea Kunz, Public Affairs Manager for the Australian Medical Association (NSW), and thank you for inviting me to participate in this forum.

The AMA (NSW) strongly supports the package of proposals designed to protect children from tobacco. Measures restricting smoking and the promotion of tobacco products has been a successful, long running, preventative health campaign. Through bans on smoking in work places and dining areas, bans on advertising and sponsorship smoking rates have fallen, but smoking remains the leading and preventable cause of death, premature death and disease in both adults and young people.

The AMA believes that in order to achieve a further reduction in the number of individuals who smoke there has to be a change in the social climate so that smoking is no longer seen as normal behaviour. This should be accompanied by legislative restrictions, economic disincentive, education programs, encouraging smoke free environments and supporting smokers who want to quit.

The measures currently under discussion address several of these tools for lowering the smoking rates. They are aimed at children but they will also help adults who are trying to quit by making the product less attractive and accessible.

The AMA (NSW) supports the ban on smoking in cars carrying children. The damaging effects of passive smoking on young lungs are well known and in the confined space of a car smoke concentration can be very high. As we have heard, the majority of adult smokers start before the age of 18. So preventing children from becoming regular users of tobacco is an important public health goal.

The AMA therefore supports reducing the marketing value of product displays by keeping products out of sight and banning tobacco sales from vending machines; preventing children from selling tobacco products, which would reduce their exposure to the products and pressure from their peers to sell to them. Introducing retailer licensing and one point of sale in retail outlets would make it much easier to enforce the existing restrictions on sales to minors.

So the AMA feels that this is a very well integrated and thought out proposal and we will strongly support it further. Thank you.

Mr David KILLEEN (Australasian Association of Convenience Stores) (AACS): Good morning. My name is David Killeen. I am of the Executive Director of the Australasian Association of Convenience Stores. Thank you, Minister, for the opportunity to address this panel and all of you this morning.

We would like to make some points about the proposals that have recently been produced aimed at the reduction of youth smoking. First I should tell you that my association represents some 4,000 member outlets across the country and our membership is made up of convenience store operators, large and small, so from a very small single site operator right through to some of the larger chains.

I would like to say too at the outset that we fully support any effort to reduce youth smoking and we certainly don't object to banning smoking in cars when children are present, introducing the retail licensing scheme as long as adequate consultation with retailers takes place first.

Indeed, on that point we would like to propose a national training program that retailers could embark upon and if the leadership comes from New South Wales, all well and good. We would like to see a national training register set up where retailers' staff can be proven to have been through the training process and can take that ticket with them when they move on to other stores, which often happens in our industry.

We support the additional proof of age requirements for the purchase of tobacco products. We definitely support the restrictions on the sale of tobacco products by

retailer employees under the age of 18. We believe in one point of sale for tobacco in retail outlets is not an issue. We believe in banning the sales from vending machines and we also believe that having tobacco products available via shopping loyalty programs does nobody any good.

However, we do strongly object to the proposal to put tobacco products out of sight in retail outlets and the reason for this is that tobacco sales represent some 30 percent of an average store's sales and this amounts to about \$13,000 per week in a small business, which is about \$128,000 per annum in contribution to overheads. Most retailers employ about ten staff per store. So you can imagine there are a lot of people in this channel who depend on their income from the legal sale of tobacco products. If profits suffer, so do jobs.

The costs to comply with these proposals are high. It could be as much as \$9000 per store, depending on how far the restrictions go, and there is absolutely no evidence from other markets which have gone through these sorts of proposals, there is no evidence that youth smoking has reduced as a direct result of these proposals.

Out of sight products create issues for the consumer in selecting the products they wish to buy and raises the issue of how they access information regarding the type of tobacco products stocked by that particular outlet and also the price at which they are sold. This will only increase the overall transaction time. This will result in customer frustration, and not everybody is buying tobacco. Some people are in there to buy the milk, the paper, other products as well. Ultimately what will happen is sales will migrate, not overall reduction but migrate from our channel into supermarkets and specialist tobacconists probably.

Out of sight products make it harder for the retailer to train new staff to identify the products that they actually sell. It is typical in our industry to have a staff turnover in excess of 75 percent per annum. So that is a lot of new people to be inducted into stores every day.

Recently we undertook a survey in the ACT, because of similar proposals, amongst retailers to gauge the expected impacts of such proposed display bans and the results showed that four out of five retailers believe that because of rising petrol prices and interest rates there has been a negative impact on their business. 78 percent ranked tobacco sales as important or very important in their businesses. 74 percent said the display restrictions would create hassle in their businesses and on display restrictions 88 percent opposed them. In actual fact, more retailers felt that the display bans would encourage youth smoking rather than diminish it.

Anyway, AACS wants to work with all governments in this country, including Federal, to develop a national code of conduct about the way that tobacco should be sold, particularly to customers possibly under legal age. I see such a program including training for retail staff and a national register for that training available for scrutiny by the authorities.

Thank you.

Ms Becky FREEMAN (University of Sydney): Good morning, everyone. I have

worked in tobacco control in Canada and New Zealand and now here in Australia, and I am going to stick with the display theme because of my experience with tobacco display bans in Canada.

Australian and Canada really are neck and neck for who is the world leader in tobacco control. In 2002 I was working in Canada when Saskatchewan became the first province in the entire world to implement a tobacco display ban and as you can well imagine the tobacco industry did not just sit back and allow this to happen. The same tired and transparently self-interested arguments about the closing of small local businesses, massive increases in theft, expensive shop fitouts, rights to display a legal product, et cetera, et cetera, were all tarted out there as well.

The truth is the retail display ban has proved so successful in Saskatchewan, and it has survived a lengthy court battle to the Supreme Court of Canada, that now 12 of Canada's 13 provinces and territories have also adopted or are in the process of adopting such a ban. It has been a hit.

As you can see in this photo here, Canada has had some pretty large and flashy displays, but after the ban this is what they look like now. Tobacco is now under the counter in drawers, in overhead bins that only the shop assistant can see, covered up panels or in drawers under the counter. There are lots of different ways we can manage the display ban.

It's funny, when the law was first introduced the tobacco industry tried to make a mockery of it by calling it "a shower curtain law", because people could just go out and buy a cheap plastic shower curtain to cover up their tobacco in order to comply with the law, but this kind of backfired because what shopkeeper wants a cheap and tacky shower curtain hanging in their shop. So the industry actually has worked with retailers to design these fairly attractive looking cabinets and shelving units for their stores, and there was no surge in the plastic shower curtain market, so I think it was kind of a myth.

Another popular myth is that thefts in stores will increase somehow because people will turn backwards and things like this. Such a suggestion is totally outside the experience of Saskatchewan. In fact, more than 30 percent of retailers continued to keep their display ban, even during the period when the law was being challenged, because they realised that having their tobacco out of sight actually reduced the amount of theft they were experiencing. So even though they weren't required by law, 30 percent of retailers continued with the display ban.

Predictably, when industry sees the writing on the wall for these types of laws they proclaim that implementation and enforcement will be extremely painful, if not absolutely impossible. The truth is there has not been one single media report of a business laying off staff or closing up shop because of the Saskatchewan display ban, and I am sure the industry would have found them if they existed. I can also assure you that the corner shop is still standing in communities across Canada.

Enforcement officers report that in Saskatchewan a high level of compliance was achieved after six months with 98 percent of retailers complying with the law, and really these laws are very simple to enforce. A child could do it. Do you see a display or don't you see a display, as opposed to convoluted display restrictions where you have a number

of brands and sizes, you need measuring tapes. Who can enforce that?

So I strongly encourage the New South Wales Government to act swiftly and decisively to implement a total ban on tobacco displays and let's keep Australia as front runners in tobacco control.

Mr George GEORGAS (CTC Group): Good morning, dignitaries, Chair.

By way of introduction, my name is George Georgas. My family has been in tobacco retailing for the past 50 years. I personally have grown up working behind the counter of several tobacconists around Sydney.

I am currently the Managing Director of the CTC Group, a franchise tobacconist organisation of 144 stores, 128 of those being in New South Wales. Our members are typically small business owners, supporting both their immediate and extended families, who work long hard hours seven days a week to keep their businesses viable. In the spirit of this discussion I don't plan to debate the benefits or otherwise of all that has been proposed, but rather I will focus on the environment where tobacco products are purchased.

My group's observation is that there is a natural attrition in the number of trade outlets, that is small corner stores, that carry tobacco products. This has generally been brought about by high costs, high tobacco insurance and the shift in focus to concentrate on core business. Our members report that the current product display area is not a promotional tool to stimulate smokers. It is an aid for smoking adults to select the products of their choice, similar to that which occurs in any shopping experience. In addition, our members' feedback supports the mandatory proof of age requirements as a positive step for reducing under age indulgers.

Given specialist tobacconists are already in business, we support tighter controls that are attached to a tobacco licensing scheme that, firstly, delivers on purchase control to under 18 year olds, has a training education course on responsible tobacco retailing, promotes responsible product display to allow adult smokers choice while still broadcasting the health risk associated with smoking and, importantly, is not detrimental to small business. We can effectively and responsibly continue to protect our children from tobacco and at the same time protect small business.

While on small business, you would be aware that most specialist tobacconists have lease arrangements with national shopping centre landlords. Should they in the future be precluded from displaying their products, the attraction by landlords could come into contention. The results on our sector of small business would be significant.

In closing, I welcome further consultation and offer assistance to members of this panel to gain firsthand retailer feedback through our 128 affected members. Thank you for this opportunity.

Mr John BEVINS (JB Associates): Good morning, everyone. Thank you for allowing me to put this point of view.

I am an advertising man. I have been in advertising for a long time. In fact, I

started in 1963 BC. BC stands for Bryce Courtney and Bryce was a young creative director when he gave me my first job as a copywriter. I have had my own independent advertising agency for 25 years, called John Bevins Pty Limited, and I have advertised countless supermarket brands.

Displaying cigarettes normalises them, but it also advertises them, and isn't cigarette advertising banned. By displaying products important advertising objectives are achieved in a more direct way than can be achieved through paid media. Advertising by display achieves brand awareness, a fundamental goal of advertising. Like all effective advertising, it helps put the product and the category and the brand in the mind of the prospect. After all, as the old aphorism so clearly warns, out of sight out of mind.

Being there on display is very good brand awareness advertising. This form of brand awareness advertising costs the advertiser nothing apart from materials provided to retailers and perhaps in some cases some rent. Better still, it pays both advertiser and retailer because it achieves the most fundamental advertising objective of all - it sells. In everything from Cornflakes to cars, a display at the point of purchase is advertising that sells. This is why manufacturers battle so hard for shelf space in supermarkets.

Display advertising sells in two ways, one by triggering an impulse. We have all bought something that otherwise we would not have bought had it not caught our eye. Product advertising is advertising that can directly ensure the most direct result of all - an immediate sale. It is better advertising in that respect than virtually all media advertising.

The second way this advertising sells is by cultivating, although perhaps not as effectively as legal advertising, desire. All those brand names all in a row; en masse they make big statements: "Look at us. We are important. Look at us. Lots of people buy us. Why else would we be here." Such displays become social proof.

Social proof is a theory espoused by Robert B. Cialdini, who in his book *Influence: The Psychology of Persuasion* holds that one means people use to determine what is correct is to find out what others believe is correct. People often view behaviour as more correct to the degree they see others performing it.

Displaying cigarettes is a way to advertise most convincingly that lots of people buy cigarettes, that we are still a popular product, and to kids these displays, with all their well meaning warnings, say, "Look at us. We're not for you. Look at us. We're out of reach, forbidden fruit."

Ironically, displaying and advertising cigarettes so conspicuously as wrong for all kids is a way of making cigarettes a rite - R I T E - for some teenagers. Whether either by accident or design we must help decrease smokers.

Thank you.

Mr Simon BEYNON (FREECHOICE Stores Tobacconist & FREECHOICE Vending): My name is Simon Beynon and I am the General Manager of FREECHOICE Stores Tobacconist & FREECHOICE Vending. FREECHOICE Stores Tobacconist & FREECHOICE Vending have already submitted a detailed submission to this discussion paper to the New South Wales Government responding to all eight options.

Today I need to concentrate on two areas. One is a ban on display at retail level, particularly in tobacconists; and two, the suggested ban on cigarette vending machines in 18 plus licensed premises.

Ban on Display At Retail Level.

Over recent years other States have reduced the display of tobacco products in retail stores, but in all States that have introduced a reduction in display an exemption has been given to tobacconists and a definition has been written into the legislation.

New South Wales has the largest number of tobacconists in Australia with 400. The majority of these tobacconists are owner operated and 80 percent of their turnover is derived from selling tobacco products. The tobacconist segment employs over 1400 people throughout the State of New South Wales.

The tobacconist segment is made up as follows: FREECHOICE Stores Tobacconists 59; Tobacco Station 58; CTC 127; Cignalls 39; King of the Pack 46; Black Cat 20; Smokemart 11; and independents 40.

The released findings from the Select Committee in January 2007, which we participated in, backed an exemption for tobacconists in any future discussions with the New South Wales Government over the restriction of tobacco displays. We trust that the Government would follow the recommendations they put forward in January 2007.

FREECHOICE Stores has been actively involved in all State legislation and has worked with different government groups over time to come up with practical solutions which work towards the health goals of the Government, whilst not crucifying small retailers in the process, particularly tobacconists. FREECHOICE Stores would be more than happy to be involved in this process as we were in Queensland, South Australia, Western Australia and Tasmania.

Ban on Cigarette Vending Machines.

Vending machines are already restricted to licensed premises in which minors are required to be under the supervision of a parent or guardian. We feel that the placement of machines should be looked at, as has been the case in other States, but banning them will have devastating effects on a number of small venue operators in New South Wales.

There are a number of independent vending operators in New South Wales and these operators have over 1500 machines placed in the market place in licensed premises. Each machine costs between \$5000 and \$7000 to purchase, thus meaning a substantial financial commitment has been made by all vending operators to place cigarette vending machines into 18 plus licensed premises to cater for the adult consumer who has made the decision to smoke.

FREECHOICE Vending has over 270 machines in New South Wales. We feel that placing tighter restrictions on where a machine is located within a premises or even the introduction of a token system is a fair compromise to the alternative of banning. Queensland has introduced a five metre to the bar rule and South Australia has introduced

a token system to activate a vending machine. Both of these suggestions are viable alternatives.

I would like to finish off by emphasising that as a parent of five I support all practical means of preventing the supply of tobacco products to minors, but in this discussion paper all options except option 1, which discusses smoking cars, which we fully support, has a negative and in most cases a financially devastating affect on the retailer, in particular tobacconists and cigarette vending operators.

All of the other States began with similar guidelines and options as raised by New South Wales in this discussion paper but as a result of consultation like today the other States have managed to work through the concerns and effects on retailers whilst ensuring they stay on top of protecting children from tobacco. We trust that the same thought process and direction will be taken by the New South Wales Government and this forum is a great start to the process.

I would like to thank you all for giving us the time to sit here and express our concerns and hopefully work together at getting a suitable solution. Thank you.

Ms Kim CURTIS: Hello. I am Kim Curtis and I represent the most important group, that is the children of New South Wales.

I am a mother of two and while most smokers will acknowledge the harm they are doing to their own body and write that off as the price they are willing to pay to have the pleasure of smoking, all smokers are blissfully unaware of the effects they have on the rest of the general public. We, the 83 percent of the population that choose not to smoke, are forced to smoke daily as we go about our lives. Walking along footpaths in our town, standing in line at the ATM or waiting at the school gates to greet the child, you just can't escape it.

While it is bad for us as we pass by, imagine if you were tied to a smoker all day as their children are and had no voice to stop the harm being forced on you or to even walk away. The definition of abuse uses the words hurt, harm, mistreat and wrong. Knowing the facts that secondhand tobacco smoke has on children, there is no-one here that could argue smoking in a car with a child would not be harming that child and is wrong. Therefore, to smoke in a confined space such as a car with a child is in effect child abuse.

I fully support all the reforms put forward as their sole aim is to protect our children.

So why am I here? I don't smoke. People who smoke with their kids have no effect on me. Well, my five year old daughter loves to go and play at friends' houses and a few weeks ago she came home from a little girl's house smelling of tobacco smoke. It was the first time she had been to their house and even though I had met the parents and they are both fantastic people, I had no idea they smoked. I didn't think I needed to interview them just to leave my child there for a few hours. I asked my daughter why she didn't walk away when they smoked and she said she couldn't because they were in the car to go and pick up her brother.

So here's my daughter, strapped into a car with two adults in the front smoking. What's the problem? It's legal. The problem is that these people and others who do smoke in cars with children don't know that it is wrong. They are unaware how much they are harming their children. The children can't escape the effect that the smoke has on them and they have no power to stop it. It is only one trip for my child and she has suffered from the experience. How much did she inhale and how much damage did that do to her? What of the kids who are abused every time they get in a car with their mum and dad? Who will speak for them?

It is up to the policy makers in New South Wales to protect our children and all the proposed reforms are a positive step in the right direction. Thank you.

Mr Glen O'NEILL (Woolworths): Thank you, Minister and panel. My name is Glen O'Neill. I am a senior executive at the Woolworths organisation and I am representing them today.

Woolworths Limited is the largest private employer in Australia, employing over 150,000 people. We are committed to preventative health measures that will assist the everyday lives of not only our employees but the broader community. Internally, we run quit smoking programs and other health programs to support our staff. As a leading retailer in Australia we know our customers very well and endeavour to assist them in their daily needs. As a national retailer we are continually challenged by the varying and inconsistent regulation between the States and territories. Good health outcomes should be universal, as should the regulations.

From a strict business perspective the problem with these inconsistencies is that they require national tobacco retailers to develop and implement specific processes, procedures and training material for each jurisdiction, which makes compliance unnecessarily more difficult and costly. Consistent, tough retail regulations that apply to all retailers of tobacco, from the convenience stores to the large supermarkets like ourselves, will deliver the best health outcomes we believe.

We take our responsibility of doing the right thing for the community very seriously. However, placing a disproportionate burden on national retailers in the form of excessive changes to store formats and training may lead to customers leaving our stores for other outlets that may not have as rigorous training mechanisms and therefore not get the best health outcomes.

We look forward to responding to the issues paper in more detail and request that the national Government consider moving to a more uniform regulation at the national level through a process.

Thank you very much.

Mr Greg SMITH (Asthma Foundation NSW): Good morning. My name is Greg Smith. I am the Asthma Foundation NSW's CEO and we would like to thank you for the invitation to be here and to say that these are issues that the Asthma Foundation has campaigned hard on during the past few years and we would like to support the Government's proposals for the following reasons.

There are around two million people in Australia who live with the chronic respiratory disease called asthma and some 800,000 of those are in New South Wales. That is one in nine adults and one in six children. We do very well with asthma in Australia. We have the world's second highest level of adult asthma prevalence. It is a serious disease that despite the advances that have been made is still killing over 400 people each year in Australia and it is a contributory factor to some 1300 other deaths each year.

Our foundation has contributed something like \$7 million supporting research over a 40 year period, and despite our millions and other peoples' millions in researching it, we still don't know what causes asthma. What we do know though is that there are some 300 to 400 agents out there in the community that trigger asthma attacks for people and we know that one of the prime triggers is tobacco smoke.

The insidious thing about smoking is that it contains a cocktail of deadly toxins that don't just harm the person who is smoking but those around them and particularly children with soft and developing lungs. There is Australian and international research that shows that children who are exposed consistently to tobacco smoke, especially in confined environments like a car, will suffer damage to airways and impaired lung function and have more early life wheezing and respiratory infections. They will also require more urgent health care more frequently.

Although a direct link between asthma and smoking has yet to be established, children exposed to secondhand smoke have a 50 percent higher chance of developing asthma. This shouldn't surprise anyone as concentrations of tobacco smoke that build up in a car are equal to those found in a smoky pub in the bad old days and opening the windows doesn't really help because the toxins become embedded in the soft furnishings in the car where they continue to do damage.

Society would not tolerate damaging the health of an consenting minor under any other circumstances and blowing secondhand smoke over them should be viewed in those terms.

It should be done through legislation as there is a better chance of compliance once it becomes law. We are pleased to see that New South Wales is following the lead of some other States in compelling retailers to remove all tobacco products from sight and we would support the call for national consistency in that process. This will send the message that smoking is no longer to be considered part of the norm in society. Seeing cigarettes on a daily basis in supermarkets or petrol stations makes them seem like a normal product, which leads smokers to think that the act of smoking is also part of normal socially acceptable behaviour.

A recent US study found that teenagers who said they regularly smoked were four times more likely than non-smokers to develop asthma over the next eight years. Recent survey work we have undertaken reveals that people who smoke require three times as much reliever and preventer medication as people who don't. They also have been shown to have higher morbidity and more poorly controlled asthma. If removing smoking products from view discourages people from smoking we are doing them a favour.

Mr Joshua PATTEN (Smoke Screening): Good morning, panel, guest speakers

and the public.

One in two lifetime smokers will die from their habit and a third of those deaths will occur in middle age. Think of all parents who lose their children to this addiction and then think of all the children who lose the parents to it as well and then think all this can be prevented.

My name is Joshua Patten. I am 23 years of age, tobacco control advocate and active and voluntary member of Smoke Screening, a youth group affiliated with the Cancer Council of New South Wales.

Firstly, I would like to say that I support all of the eight proposed policy options put forward by the New South Wales Government. I will touch on a few of these and also discuss other reforms that can further protect children from tobacco exposure.

Graduating from high school in 2002, I can very well relate to what it is like being a teenager growing up and dealing with a number of social pressures and having to make important decisions at this age, like whether to smoke or not. What motivates a child to smoke? Is it seeing their favourite role model blowing rings of smoke on the big screen or is it seeing their parents smoke in the car on the way to the supermarket? Perhaps it is simply peer pressure or maybe it is the constant bombardment of cigarette brands they see as they line up to buy some credit for their phone or as they line up with mum to pay for petrol at their local service station. Maybe it is the candy-like vending machines they see in clubs and pubs as they accompany mum and dad to dinner. There are so many issues you deal with as a child and placing tobacco products in eyesight is unnecessary and something we should restrict and further control.

Another issue I will discuss now is smoking in movies. Smokinginmovies.com.au is the web site link for our youth advocacy group which featured a survey of 800 young people conducted as part of National Youth Tobacco Free Day. This survey found that nearly half of the respondents believed that their preferred action against smoking in movies would be to screen an anti-smoking commercial before movies that had smoking in them. It is within the New South Wales Government's jurisdiction to amend the Public Health Act and make it mandatory for the distributors of films to screen an anti-smoking advertisement preceding a movie with smoking content to inform children, young people and parents about the smoking exposure they will see in the film.

There is much research to show the link between smoking exposure in movies and the uptake of smoking amongst young people. To quote from a US study, *Exposure to Smoking Depictions in Movies*: Exposure to smoking in movies predicted risks of becoming an established smoker, an outcome linked with adult dependent smoking and its associated morbidity.

To conclude, I believe we owe a duty of care to our children. A duty of care exists to protect children from all things that will cause them harm. Tobacco falls into this harmful category. We need to implement more policies like the eight proposed to ensure that the best interests of children are always put first and if this means before the retail profits of selling tobacco products, then I believe this is a small price to pay to protect them from the harm, ill health and death smoking causes.

Thank you for your time.

Mr Ken HENRICK (National Association of Retail Grocers of Australia): Good morning, everyone and the Minister. I am Ken Henrick from the National Association of Retail Grocers of Australia. I am the CEO.

I would like to start by supporting some of the things that my industry colleagues have said. I think that there is a very strong argument for developing national standards for tobacco regulation accompanied by strong and continued public awareness programs and within the retail sector the training and accreditation of staff at a national level, so that there is a level of awareness within a store about what is expected of that staff member.

In relation to the eight proposals, we have no position on some of them because they are not really related to the retailing, the smoking in cars issue for example, banning tobacco sales from vending machines, I understand some other industry people would have more interest in that but we don't, and banning tobacco products from shopper loyalty programs, we would have no problem with that. We could live with the one point of sale for tobacco in retail outlets, and that leaves us with four other options as laid out in the discussion paper.

We could accept a licensing system but it would need to be a licensing system at a cost which was insignificant. If the purpose of a licensing system is to weed out any recalcitrant retailer who does do the wrong thing, then you could hardly object to that, but if the cost is such that it becomes a burden on that small family business particularly, then we would have a problem with it.

Additional proof of age requirements - that is a very subjective measure as outlined in the discussion paper. If somebody "appears" to be under 25. Well, appears to whom? That is a very subjective measure and I don't think that it works and I think that it will probably turn into just another burdensome procedure that is required of retailers.

Restrictions on employees under 18 of years of age selling tobacco products. Many of the retail sectors don't have a problem with that because most of their employees would be over 18. In hotels for example, and service stations and convenience stores I think employees are mostly over 18. In the grocery sector, however, both at the major chain level, at the independent stores level and right down to the mum and pop corner stores that is an issue because those grocery outlets provide numerous thousands of job opportunities for young people who work part-time after school. In the case of the small family businesses the children of the owners of the business are often employed there and it would be very difficult to replace an under 18 check-out operator every time a person came in to purchase cigarette products.

Finally, the proposition to ban display in retail outlets. 80 plus percent of people go into those retail outlets and don't smoke. The smoking rate has been declining for many many years and in all the times that we have asked health authorities in this country to produce conclusive evidence of a causal relationship between display of tobacco products and decision to smoke, they have never ever been able to produce it. Most decisions, I suspect, are taken when people are at home or at the football or in the

backyard mowing the lawn or doing something else.

Finally, I would say that taking them off display is probably not going to affect the overall use of tobacco products because - I think you would find this if the research was done - I am pretty convinced that the greatest indicator of whether a teenager takes up smoking in any serious way is whether the parents smoke and parental smoking is a big indicator.

Thank you.

Ms Margaret HOGGE (Non-Smokers' Movement of Australia Inc.) (NSMA): I am Margaret Hogge from Non-Smokers' Movement of Australia. We have been fighting over 30 years for people's rights to clean air. Clean water, clean air are everybody's basic rights. Now we are protecting children from tobacco, making tobacco the exception, rather than simply accepted as a normal part of life.

I won't add to the hypocrisy by congratulating this Government for holding this public forum, especially when the blurb states that there are competing health and business interests. Where are the competing interests where children's health is concerned? First, we find it very difficult to believe that the current Government of New South Wales will give anything more than lip service to this ideal, not while pubs and clubs can simply bash out the wall of a room, make it into a comfortable smoking palace and call the space outdoors, and while smoking is still allowed on stage. They don't use real bullets and they don't have real sex on stage, so why do they allow smoking? Also, smoking is still allowed indoors in prisons and mental institutions. We also condemn any comments by all members of the Liberal Party while they continue to accept sponsorship from the tobacco industry.

Now, let's get onto some practical measures. Non-Smokers' Movement agrees with all the reform options in the discussion paper, strongly agrees. We really need to get tobacco out of sight, get a level playing field, not a killing field. There is nothing normal about smoking. But wait, there's more.

Why don't we hear of convictions of an individual business for providing tobacco to minors. It leads us to presume that 20 percent of 12 to 17 year olds who claim to smoke either grow it themselves, steal it from the shops or their parents or older people, or lie about that smoking and we know that is not the case.

To get truly serious about the healthy future for our children we need to get much further and faster. Tough measures won't hold up without enforcement. We have to get serious about this awful addictive drug. We must consider maybe financial incentives to help people, adults to quit smoking, to help them escape from this deadly addiction.

Licensing smokers, tobacco being deadly and addictive, smokers and potential smokers must study its effect on themselves and others and pass a test and pay for an annual licence, a licence test combined with a photo proof of age which must be able to be produced at any time whilst using or purchasing tobacco products. Revenue from those licences could replace tobacco excise.

Now let's get onto the really important message, protecting children from tobacco

smoke. Children shouldn't be allowed indoors or outdoors onto premises where smoking is allowed, i.e. restaurant outdoor areas; smoking allowed areas of pubs and clubs; theatres; residential institutions where smoking is allowed; concert areas; zoos; festival events such as the Royal Easter Show and Carols by Candlelight - they still allow smoking there; hospital entrances - I have been there this morning at Royal North Shore; and outdoor events. A simple measure is to allocate a limited number of designated outdoor smoking areas, not to condone smoking but to restrict and contain the poisons in the smoke and the butts.

The Government must do more than an advertising campaign to help children and families to escape from the assault of secondhand smoke from parents, friends and neighbours. No child should be subjected to the poisons of secondhand smoke in a vehicle nor in a home. The Government must declare smoking near a child as child abuse. Nobody should be forced to barricade their family into their home to escape from the poison of secondhand smoke from neighbours, especially with Australian children having the highest incidence of childhood asthma in the world.

The New South Wales Government must support families in their battles against neighbours smoking. They do it for noise, so they can do it for smoke. We must allow non-smoking by-laws. Children, the voiceless and voteless, have been left behind in the battle to obtain clean air rights. Our Government has known and society has known for over 50 years that smoking kills.

Finally, we have to have everywhere smoke free except a limited number of designated outdoor smoking areas. These areas can be identified with a simple sign like in California. The onus should be on the smoker to find an outdoor area where his or her smoking will not affect others and where the smoke and the butts will be restricted. Let's denormalise smoking in children's eyes.

Mr Ken PACKHAM (Newsagents Association of NSW/ACT) (NANA): Mr Chairman, panel, ladies and gentlemen, Ken Packham from the Newsagents Association. Newsagents Association of NSW/ACT has a 120 year history of effective representation of newsagents' interests. Currently 1400 newsagents are in New South Wales and ACT, almost all of whom retail tobacco products.

The industry does have a goodwill measure and a capital value of around three quarters of a billion dollars, which has grown up over the 120 odd years that this industry has been around. 175 million of tobacco sales are made in the industry and that contributes significantly to the goodwill value of those businesses which has been built up. We subscribe to the protection of that goodwill but we also subscribe to the support of any health measures that can be provided to the community.

Sales to under 18's.

The vast majority of newsagents are family owned and operated with all members of the family contributing to the 70 to 90 hour week with retail experience. Children especially contribute after school and at weekends and holidays. Any suggestion therefore that individual sections of the retail product mix should be not handled by under 18s would be most difficult, but it goes further, as almost all newsagencies also employ young people, not family, after school, at weekends and holidays as well.

Training.

Newsagents have a longstanding reputation for responsible action in retail sales, brought about originally by the carefully controlled contract system, which many of you might have heard about for newspapers and magazines. In the era of tobacco licensing many newsagents were licensed. It is not a new thing. It happened. Today most newsagents are licensed to sell New South Wales Lotteries' products, while many are also licensed to sell New South Wales State Transit tickets, Western Union money transfers and other products. All of these products are sold by well trained under 18 years olds. All newsagents selling New South Wales Lotteries' products attend compulsory training, covering responsible gambling and sales education for lottery products. Senior staff members in large newsagents also attend and together they fully train all personnel irrespective of age. A further five day compulsory training is conducted by the industry to incorporate retail management and even more training when newsagents sell New South Wales State Lottery tickets and Western Union money transfers.

Again on training, our association, NANA, developed in conjunction with government and external authorities a comprehensive retail shop occupational health and safety program designed to suit a wide selection of retail outlets. As this program proceeds, we may be able to assist with the inevitable development of specific programs for tobacco retailing.

Tobacco display.

We are not in a position to debate the subjective reports available to suggest that tobacco displays promote the take-up of smoking by under 18s, nor are we aware of what proportion of smokers, albeit under age, may cease smoking if displays were removed from public view, but we are most concerned about the retail difficulties which would be likely if visual displays were not available to ensure quick, efficient service, and that is to us a very serious problem, especially where ethnics and other groups are involved.

Finally on licensing, Mr Chairman, as I referred to earlier, we do not easily recognise the need for licensing of tobacconists or tobacco sellers, for that is more than likely to bring about serious problems of underground, underhanded, under the shelf, under the counter product mismanagement and that could do nobody any good.

Thank you, Mr Chairman.

Mr Jos DE BRUIN (Master Grocers Australia) (MGA): Thank you, Peter. Thank you, Minister for this opportunity. My name is Jos de Bruin and I am the CEO of Master Grocers Australia and we represent small, medium and large independent supermarkets, such as Foodworks and IGA brands. 352 of those are here in New South Wales.

Whilst the MGA is absolutely supportive of the State of New South Wales in respect of the initiatives proposed in regards to supporting and protecting children from tobacco, we do oppose a number of the Government's proposals. We believe that they are likely to adversely affect our retailers in the independent supermarket industry. So on behalf of our members I would like to address the following five points.

Point 1: The Government is proposing to require the removal by retailers of all tobacco products from visual presence in stores. In order to comply with this law a retailer will be required to make structural changes to fixtures and fittings. This will not be a simple task in most cases. There will need to be significant adjustments in stores which will mean that a retailer will have to incur considerable costs. The financial burden of refurbishment to accommodate the proposed laws will not be easy for many struggling businesses.

Point 2: Another requirement which the Government is proposing is that employees conduct routine questioning of customers who may be under the age of 25. We would like to suggest that this will impose a further imposition on retailers. Sales assistants already experience difficulty with questioning potential under 18 year old customers and there will be even greater problems when questioning under 25 year olds.

Point 3: The proposal that employees must be over the age of 18 years to sell tobacco products will undoubtedly affect the employment of younger staff. Students rely on casual employment in supermarkets and this age restriction will potentially cut out an opportunity to obtain work. Furthermore, many independent supermarkets are family businesses and young family members work in the supermarket at various times of the week to help out overworked parents. There will be difficulties for these families, who will be prevented from utilising family help to provide customer service. Also, if only over 18 year olds can be employed to make sales of tobacco products then wages costs will be higher and the wages bills for small businesses are already a major concern.

Point 4: We also question the effectiveness of introducing a licensing system. The introduction of a licence fee will impose further additional cost on small business and add yet another regulatory burden on an industry which is already massively overloaded with government red tape. We question whether the introduction of a licensing system is a truly effective means of achieving a reduction in the harmful effects of smoking. We suggest that this could be another means of revenue raising which will further increase the cost of operating a small business in New South Wales.

Imposing a lack of visibility in having only one point of sale will create an inconvenience to customers and it is questionable whether this will achieve the objectives that the Government is trying to accomplish. If this legislation is passed it will be the retailers who will be the losers, there will undoubtedly be loss of profits to businesses as trade in smaller stores will reduce and there will be a loss of profit as customers are more likely to shop for tobacco products in bigger supermarkets.

To conclude, Minister, we do urge the New South Wales Government to reconsider these aspects of the legislation which I have referred to. Thank you again for the opportunity.

Ms Melanie O'CONNOR: Good morning, everybody, and thank you very much for giving me the opportunity to speak. Thank you, Minister, thank you Chair.

My name is Melanie O'Connor. I am a mother of three and I stand up here not only for my children today but for all of the children in New South Wales and to give them the voice that they need to get out.

For far too long the smoking debate has been seen as an adult issue. When I heard about this discussion paper, I jumped at the opportunity to be a part of the decision process. This is a golden opportunity to express just how important this issue really is.

I support all of the proposals in the paper, in particular the ban on smoking in cars where children are present.

I thought about this quite a bit and I took the paper home and put it on the kitchen table and my eldest son Joshua, who is ten, picked up the paper and asked if he could take it in to school for open reading time. While we were driving to school that morning I said to the kids, "What do you think about this issue of banning smoking in cars when the kids are around?" I said to them, "How would you guys feel if I pulled out a cigarette and lit it up and had a go at it now?" They squirmed and carried on and said, "Oh no, mum, you can't do that. It will give you cancer. It makes you sick. It will make us cough", and you know what, they're right. They are all very aware of the dangers of smoking. Even my five year old will tell you smoking gives you cancer.

Joshua took this paper to school and he did talk to the teacher and other children and they in turn invited me into the school and I spoke to about 150 Year 5 and 6 children about the issue. I asked the kids, I said, "Who in this room has been in a car where an adult is smoking?" To my horror, most of the hands in the room went up. I then said to the kids, "Alright, guys, who enjoyed that experience?" Hands went down and everybody moaned and groaned and I heard, "Oh yeah right", all this kind of thing. Then one by one the hands started going back up. They all wanted to talk to me about their experience. They all wanted to say, "I hate it when my mum and dad smoke. They're going to die. They're going to get this", and all the rest of it. One girl said to me, "I tried to hide my mum's smokes, Miss, but it didn't work".

The kids are screaming out for help. They can't tell the adults in the car not to smoke because they are told, "Sit down. Be quiet. It is none of your business". That is wrong. It is unacceptable. It has got everything to do with them. We all know smoking kills. We all know smoking causes heart disease, lung disease, cancer. The list goes on.

These kids are well educated on the issue of tobacco related harm. They know how dangerous it is and it scares them. They don't have a freedom of choice. As adults we do. We can choose to walk away from a smoker, we can choose to decline a lift from someone who smokes in a car. They don't. They have to sit there and absorb it. Children are the innocent victims who ultimately can pay a very high price for somebody else's actions.

Tobacco related diseases are preventable. It is clear. We have taught them all this stuff. We have taught them there is four thousand chemicals in a cigarette. They know it. And now we need to lead the way and implement things to stop them being exposed to it. We have a responsibility. They are our future. When they are exposed to this stuff it fills their lungs with garbage and it is no good and they know it. We have a duty of care and we need to voice their opinions.

Businesses, retailers will adapt. The kids lungs will not. Thank you.

Mr Paul STEPHENS (7-Eleven Stores Pty Ltd): Good morning, Minister, panel, members of the public and fellow speakers.

First I would like to give credit to the New South Wales Government and the Minister for the measures they have proposed in trying to reduce the number of young people who take up smoking, in particular the ban on smoking in cars.

However, I also have some grave concerns about some of the proposed changes, in particular the proposed changes regarding tobacco retail display and retailer licensing. I think it is easy to see 7-Eleven and many of the other retailers as big organisations that can handle the costs easily. 7-Eleven is also, however, a group of individual small businesses, each supporting families and extended families. In many cases the profit of the store is the sole income for that family.

On that note I would like to introduce to you Gulzar, a franchisee of 7-Eleven, who can tell you firsthand what some of the impacts will be of these proposed changes. Thank you.

Mr Gulzar MOHAMMED (7-Eleven Stores Pty Ltd): My name is Gulzar. I am a 7-Eleven franchisee. I am one of 90 7-Eleven franchisees in New South Wales. I am here today to express both my support and concerns about the proposed changes in the tobacco legislation in New South Wales.

I believe that it is a great idea by the New South Wales Government to continue to reduce the number of young people who smoke. However, the operation of our stores will be significantly affected if tobacco displaying is prohibited.

Because we are a convenience store, many of our outlets operate in an areas where our customers expect fast and prompt services. It is vital that we attend to our customers as quickly and smoothly as possible. By having to retrieve stock from cabinets and drawers, our sales will be affected. This is because customers, whether they are smokers or non-smokers, will have to wait in longer queues. Customers who don't have the time to wait will eventually stop shopping from our stores and then our sales will drop and they will shop instead at supermarkets.

It is also vital that we don't have our backs towards our customer because it could provoke shoplifting, risk of attack and anti-social behaviour.

Larger retailers and supermarkets may find it easier to adopt the proposed changes, but these changes will create a problem for smaller businesses like our 7-Eleven stores and also other small business owners such as milk bars, corner shops, et cetera.

I am also concerned about the licensing law if it comes into place. I am not sure how much this is going to cost me and how much that red tape might be involved. As a small business owner, I can't afford to have large amounts of money tied up in a licence, and any sort of regulation would need to be very simple and easy to manage for it not to be a burden.

One last thing I am concerned about is the restriction of staff under 18 serving tobacco. Many franchisees have families who work in the business. It can be important

for some of them that they can have younger members of the family share some of the workload. This law may prevent this from happening and force some franchisees to either work even longer hours or have to employ someone from outside of the family at even greater cost to the business.

As you can see, the changes in law could create real difficulties for my businesses and many businesses like my own. This will be a problem not just for 7-Eleven, but with many other small business owners, such as milk bars and the corner shops. Thank you.

Mr Andrew PENMAN (The Cancer Council NSW): Thank you for the opportunity to speak.

The Cancer Council NSW wants to address its comments in support of options 2, 7 and 8, which concern displays of tobacco products, vending machines and petrol and other discount schemes and shopper loyalty programs.

The point about all these schemes is that they share a common marketing feature. They are designed to encourage impulse purchasing by people who do not have a pre-formed consistent intention to smoke and shopping is a behaviour set about with impulse and retail marketing. Market at point of sale is a clear way in which impulse decisions are promoted in store.

This quote from the Point of Purchase of Advertising Industry's web site says it all:

Retail marketing is persuasive. Serving as the last three feet of the marketing plan, P-O-P advertising is the only mass medium executed at the critical point where products, consumers and money to purchase the product all meet at the same time. It is no coincidence that with 74 percent of all purchase decisions in mass merchandisers made in store, an increasing number of brand marketers and retailers invest in this medium.

And indeed there is a huge increase in the investment of point of sale advertising. Is this important for tobacco? Well, the same institute says that their studies in the United States and Canada show that only 32 percent of tobacco purchases were specifically planned before a person entered the store, with 47 percent of the purchases of bought tobacco made completely on impulse.

Of course, the tobacco industry, and today the Service Stations Association and Convenience Stores, will say this only influences where you buy the tobacco, it doesn't influence total sales. We can submit evidence that that is not true, that not all purchases are the same and if we cut impulse purchasing at one outlet normally that demand will transfer to other retail outlets, and the key issue here is vulnerable smokers who do not have an established habit and it includes young children.

For instance, our research shows that impulse purchasers are five times more likely to be young, 50 percent a lot more likely to be single and 50 percent less likely to smoke more than ten cigarettes a day, two and half times more likely to have made a recent quit attempt - in short, young vulnerable smokers who want to quit.

But, of course, that quitting attempt is often dashed by the disappointment of relapse and when they relapse they buy cigarettes in places and ways quite different from the usual market share. So compared to usual market share, a relapse purchase decision is 30 percent more likely at a petrol station, twice as likely at a convenience store or a newsagents, three times more likely over the counter at a pub and a rocking 11 times more likely at a vending machine. Destination venues stand out in stark contrast. It is half as likely at a supermarket and five times less likely at a tobacconist.

There is one further thing I would like to say. When you say that people get their cigarettes from other people, actually the secondary school data shows that of children who smoked in the last week 30.1 percent of them obtained their last cigarette from a retail outlet and the retail outlets they obtained their cigarettes from are remarkably like the distribution of retail outlets where recent figures show cigarettes are purchased from. They are not like usual market share. So convenience stores, petrol stations and other locations like that figure very highly in those figures.

Thank you very much.

Mr Andrew WHITE (Tobacco Station Group): Thank you, Chairman, thank you, panel, for the opportunity to speak today.

Andrew White is my name. I am the General Manager of Tobacco Station Group. We represent about 62 franchise tobacconists in New South Wales, 240 Australia-wide under our banner and I guess to some extent all specialist tobacconists in New South Wales.

Also, I am a non-smoker. I have four children myself, who I would like not to see take up smoking, but I guess I am a businessman who provides specialist support to franchisees in this field that clearly has a place in not just New South Wales markets but Australian markets and worldwide markets.

I will be discussing primarily the points about option 2, to ban tobacco products in retail outlets.

Our Tobacco Station stores are specialist tobacconists and over 50 percent of them sell tobacco and tobacco related products or giftware aimed at the adult market, so hip flasks and 21st presents, et cetera.

All our stores are responsible retailers of tobacco products through training and compliance of our franchise systems and all have adults over 18 serving. These are small businesses like any other specialist retailer selling legal products in a competitive market. A lot of our people today are generally husband and wife run businesses and they work very hard for low retail margins.

Because we are specialist tobacconists the majority of our customers who come in are regular smokers who make an informed decision to come and purchase products from us, despite obviously the advertising from the quit campaign and media and social pressures.

From my point of view they have a right to purchase these products and should

expect a retail offering as they would with other products. As a retailer I think we have the right to sell to our customers in a responsible manner and I think responsibility to offer our customers a range of products that suits their needs at a range of prices that suits their pockets. That is good retailing.

A total cover-up of our products would arguably deny retailers this. It would at least make it difficult in a busy retail environment. Our specialist tobacconists sell on average about 600 packets of cigarettes a day and I couldn't imagine trying to manage this amount of volume of sales from under the counter or from a cupboard. Stock management alone would be a major challenge.

I understand the preference to remove tobacco products from minors and I agree with this wholeheartedly. Retailers who are aimed at children's locations, such as toy shops, lolly shops, there are some stores out there that do sell tobacco products, but surely specialist tobacconists need compensation and dispensation to market responsibly to the adult smoking public who choose to enter a retail environment with a succinct purchase in mind.

Let me raise another scenario. There is obviously an epidemic of childhood obesity and soft drinks are a target there. Is the next step if we imagine going into a retail store and not being able to see Coke or sugary drinks on display? I am not sure where that would be heading, but surely that may be a next step in this specific legislation.

We must respect the adult public's right to smoke if they make an informed decision to do so and as such treat them as we would any other consumer and give them a retail choice and options.

From a specialist tobacconist retailer point of view, I would encourage the Government to take up other States' legislation of an 80/20 rule, with 80 percent of the revenue being given over from tobacco sales and with some compensation given to the display of tobacco products.

Thank you.

Prof. Simon CHAPMAN (University of Sydney): If you go back to historical writings about the history of surgery you find that 100 years ago, as little as that, young surgeons were taken to see operations for lung cancer because they said, "This is a rare operation. You probably won't see another one." Well, of course, lung cancer is now the leading cause of cancer death in countries like Australia. There is an epidemic of tobacco caused disease. It is right ahead of any other cause of death. It is an absolutely exceptional product. It is not like confectionery, it is not like bread, it is not like milk, it is not like Coca Cola. It is a product that governments have decided for many years needs to be treated very differently.

I have been in tobacco control for over 30 years and I have been in hearings where they have been trying to ban tobacco advertising, where they have been trying to ban smoking in enclosed public spaces, where they have been trying to put health warnings on packets, and on each of those occasions over my 30 year career I have seen the same sort of arguments traversed as we have heard today here. What has happened is that all of those things have come to pass and what has happened is that tobacco

consumption has fallen dramatically in this country and other countries which have followed those processes.

The main contended item in the proposals is obviously the display issue in shops. Other countries have done it. Becky Freeman has talked about Canada. I was in Thailand a couple of weeks ago. On the cover of the journal that I edit we put a photograph of what happens in Thailand. Every shop, including 7-Elevens, in Thailand, every little food cart even which sells tobacco products does not display them and what is happening is that the customer comes in, the shop assistant either takes it from above the counter, which the customer can't see, or simply turns around, presses the lever, takes the product out. The end of the world has not happened in Thailand, nor in Iceland, nor in Canada, but consumption in all of those countries is continuing to go down.

We cannot continue to see tobacco sales as a normal thing which just cannot be disrupted. I am afraid that when I hear members of the retail trade here today saying, as one of the speakers did, that they actually believe that a ban on display would cause cigarette sales to rise, I cannot help but think that if that was really true, then all members of the retail trade associations would be supporting the ban if that is what they would like to see, sales rise. I think that sends a very powerful message that if the tobacco retail groups are opposing something here, then they know what the effects are going to be, and I am afraid, ladies and gentlemen, that in the tobacco control area that is what we want to see. We do want to see your business decline. There is no other way of putting it.

The ban on smoking in cars I think is a no brainer. Nobody has opposed that. I cannot imagine anybody opposing it. The police, when it was first mooted, opposed it about 15-20 years ago and they said, "How are we going to police this?" Well, last year 28,000 people were fined in New South Wales for using a mobile phone in a car. People were fined for not having infant child restraints. It will be very easily policed.

I think this is a very responsible packaging. I commend the Lemma Government for introducing it.

The Hon. Peter PRIMROSE: Can I remind everyone that the transcript of today's proceedings will be up on the NSW Health web site and can I say again on behalf of the panel and everyone here, thank you very much for your attendance.