

INQUIRY INTO LAW REFORM ISSUES REGARDING SYNTHETIC DRUGS

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**Att.Inquiry into law reform issues regarding synthetic drugs
Legislative Assembly Committee on Legal Affairs
Parliament House , Sydney NSW 2000.
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Dear Committee Chair,

Thank you for this opportunity to provide our views to the committee on this important issue.

Background

The NSW Users & AIDS Association (NUAA) is the NSW state-wide drug user organisation. NUAA is a peer based, community organisation of people who use drugs illicitly and their friends and allies. NUAA is the largest drug user organisation in Australia and has often led the way in developing innovative approaches to peer education and community development. For twenty three years we have been working with people who inject drugs, and others to reduce harms associated with injecting drug use with a particular focus on blood-borne virus transmission.

NUAA's prime work focus has traditionally been with people who inject. This is not to say that we negate work in other drug areas. With work such as policy, consumer representation, and workforce development our work can embrace the entire range of activities relating to support people who use illicit drugs. In terms pertinent to this issue, we aim to:

'to encourage informed debate and advocate for the development of public policies and legislation that advance the rights, health, and dignity, of people who use drugs illicitly, and promote their social and economic well-being' (NUAA Aims, 2011)

NUAA and drug law enforcement

We would be remiss from the outset if we did not start by saying that we have concerns about the unintended, unwanted or problem outcomes that can be produced by a law enforcement

approach to drug use, and drug control. With hindsight many drug policy initiatives, originally with intentions to reduce harms, have in fact produced negative outcomes.

While we strongly support policy initiatives that reduces harm to individuals and their surrounding community, both NUAA and its sister organisation the national peak drug user organisation, *Australian Illicit and Injecting Drug Users League (AIVL)* do not support the criminalisation of people who use drugs. We feel that any punitive legislation aimed at drug users has not been effective and now must be reviewed with strong evidence-based enquiry. We are at a moment in history where many people are looking critically at the shortcomings of the so-called “war on drugs”. Problems with drug prohibition have been highlighted recently by many commentators – recently by notaries involved in the ***Australia 21*** report. It is within this historical review and crucially critical context that we cannot support further punitive legislation that would criminalise people who use drugs illicitly -though we are obviously concerned about harms that may be incurred by the use of the new regime of synthetic cannabinoids.

Historical context

The context of the new cannabinoid drugs is unique as it has happened historically very quickly and represents the influence of two highly sophisticated technologies- the internet and new advances in organic chemistry. This unique context further supports that we are dealing with a situation that bypasses the logic and context of traditional supply reduction approaches with drug control. Of course we have spoken elsewhere about the shortcomings of such enforcement. We are concerned that further expansion of enforcement legislation would criminalise a large section of the population.

At present the most serious questions regarding what exactly are the measurable harms with drugs such as Kronik and the other new cannabinoids can only be answered anecdotally. The Australian Law Reform Commission is quoted: *‘It’s very low levels of evidence. It’s really nothing more than anecdote. And in - when governments are passing - parliaments are passing legislation, you want something more than anecdote’ (2011:ABC Lateline, Wodak.A.)*. While we do not wish to deflate serious risks that some of these compounds may produce this must be balance against the very serious unwanted or unintended consequences of using punitive drug legislation and the serious problems that are being now firmly acknowledged by many in our community and overseas.

While little exists in medical literature about long term and similar harms given the short time these substances have been used by people we can still see clear markers of the unwanted, unintended, and negative consequences that drug prohibition could bring if applied within a drug misuse legislative perspective to synthetic cannabinoids

Dr Adam Winstock an addiction medicine specialist whilst discussing the policy pitfalls of synthetic cannabinoids lists unwanted or unintended consequences of using drug misuse legislation (2012:23)

Wider Drug Market	Individual	Nation and Resources
Replacement of drug by other new untested compounds	Criminalisation	Increased resources for enforcement
Transition of newly banned substances to the illicit street market with possible involvement of serious organised crime rings	Higher cost of substance	Loss of possible taxable revenue
Displacement to the substances within the pre-existing illicit market	Lower purity of outlawed substance with potential increase in health – related harm	Uncertain credibility of new legislation passed with limited information
Loss of analogues being investigated for therapeutic potential	Necessary contact with dealers of other substances	Increased burden upon overstretched law enforcement runs the risk of new laws never being effectively implemented
Is there something missing from these empty bits?	Unregulated drug market	-----
-----	No possibility of consumer protection or quality control	-----

There are other local issues that we feel we must also mention. NUAA currently supports the policy of the Cannabis Cautioning Scheme as it provides a non-criminal alternative in the form of offering a formal caution to an adult offender involved in a minor drug possession. The possible consequence of "net widening" to ensure the complex gathering of what may be required to gain conviction may bring about more mandatory legal outcomes and civil rights issues.

In Australia, as elsewhere, one consequence of cannabis drug prohibition has been the production of the stronger forms of hydroponically grown cannabis.

This transition occurred purely as a result of illegal market forces and production circumstances. Some have argued that the current form of hydro cannabis has a much greater potential for harm than traditional "bush buds". We mention with regard to unintended outcomes.

Alternative strategies

While we acknowledge the possibility, and some evidence for harm from people using unrestricted new synthetic cannabinoids, at the same time we have strong concerns about expanding criminalisation. We see a congruent possibility for the emergence of new drug policy reform. Clearly we are at a turning point with drug policy with the call for both evidence based policy initiatives, criticism of the failure of punitive prohibitive drug policy and a sense of need for vital alternatives.

At present we note that often in conversation and in the media the terms drug legalisation, decriminalization, de-penalisation, and regulation are often conflated. Problems with these definitions are rife generally and in the media. De-criminalisation is a far cry from unrestricted sale and there exists a wide spectrum of control options to deal with any possible drug harms new synthetic cannabinoids could produce without resorting to criminal sanctions. We feel it is worthwhile to mention that while NUAA does not support expanding criminalisation we would not support a situation where unrestricted sales of substances that could cause harms be allowed. There is a continuum of non criminal drug control options including new more innovative initiatives such as combination of civil control and public health. We acknowledge the need for control on many levels and these can exist from controlled legal sale options to medical controlled options, such as recently happened in Austria.

It is also worth remembering NSW and the Commonwealth already has strong criminal sanctions in place regarding many known synthetic cannabinoids, and second guessing criminal legislative that may try to encompass what is not known as yet in terms of precursors or similar issues may have severe human rights and similar problems.

Conclusion

We express our gratitude to the committee in allowing our point of view to be heard. And while we share your concerns about harms that may be caused by the use of the new synthetic

cannabinoids, we are concerned of the outcomes of expanding criminalisation. We also have concerns that the current technological environment also calls for innovation in drug policy control that are contrary to traditional criminal sanctions. Given the current groundswell of debate and criticism of many of the aspects of punitive criminal drug control we feel it would be tragic if laws designed to reduce harms ally themselves to a history of failed drug prohibition where unintended consequences have clearly cost the lives, health and marginalised many Australians.

References:

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<http://www.abc.net.au/lateline/content/2011/s3252171.htm>