Submission

No 49

INQUIRY INTO TOBACCO SMOKING IN NEW SOUTH WALES

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Theme:

Summary

Submission from

The Cancer Council NSW

to the

Joint Select Committee

Inquiry into Tobacco Smoking in NSW

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INTRODUCTION AND OVERVIEW

We welcome the opportunity to make a formal submission to the Joint Select Committee Inquiry into Tobacco Smoking in NSW. This submission is a supplement to the evidence already provided in hearing (21 March 2006), and in our written responses to questions previously advised.

The key points made in our previous evidence to the Committee;

- Community opinion strongly supports increased government action on tobacco control, particularly in relation to the creation of smoke-free areas, smoking bans in pubs and clubs, and restricting retail availability of tobacco
- While Australia has done well in reducing smoking rates, our commitment is inadequate compared to the scale of the problem, international benchmarks, known cost-effectiveness of tobacco control, and the implementation of best practice
- NSW should aim to meet best practice demonstrated in other jurisdictions. These include the QLD approach to smoke-free legislation; the social marketing commitment of WA; and the research infrastructure in Vic. Overseas jurisdictions with track records in effective tobacco control include California, and the 20 plus jurisdictions that have introduced total smoking bans in all indoor workplaces.
- The new regulation dealing with smoking in pubs and clubs will not achieve the policy intent or the objectives of the legislation, and undermines the duty of care of pubs and club operators to protect workers and patrons from a known health hazard. The new regulation will permanently institutionalise exposure to second hand smoke in pubs and clubs, and is an unacceptable compromise on public health
- We support moves to ensure that cars are smoke-free, particularly those carrying children or others who are particularly vulnerable to second hand smoke. Educational campaigns have proven to be effective in changing behaviour in this area and will be required even if legislation is enacted. Parliament needs to consider whether a legislated ban on smoking in cars is the most effective mechanism for achieving the outcome.
- Tobacco products should not be displayed in retail outlets
- Restricting the retail availability of cigarettes can help quitting and reduce encouragement for experimenting smokers, particularly through restrictions on vending machines and convenience outlets
- NSW should introduce a licensing scheme for tobacco retailing, that enables accurate monitoring tobacco sales, imposing conditions on the sale of tobacco and managing the retail availability of tobacco
- There is an urgent need to address the high smoking rates amongst disadvantaged groups, and an opportunity for the State to support this by funding pilot cessation services tailored for specific groups
- Glamorisation of smoking in movies significantly increases the risk of young people taking up smoking. The Public

Health Act should mandate the screening of an anti-smoking advertisement immediately prior to movies with inappropriate portrayals of smoking.

- There is a need for increased infrastructure and support for tobacco control research and data collection in NSW. This could include a dedicated research body, and the inclusion of smoking status to be collected as part of the death notification process.
- It is possible to reduce smoking rates to less than 5%, but the major barrier is the attitudes and beliefs that lead to either complacency about tobacco control, or opposition to tobacco control.

This submission seeks to address a range of additional issues fundamental to the consideration of tobacco control in NSW, and which appeared to be of particular interest to the Committee or other witnesses to the Inquiry. Our submission covers the following issues:

- Effective strategies to reduce tobacco use and required budget investment
- Smoke-free pubs and clubs
- The importance of the retail environment
- The promotional effect of tobacco product packaging
- The role of Nicotine Replacement Therapy as a cessation aid, and as a harm reduction option

In addition, we address some misconceptions or inappropriate responses to the problem of tobacco use which have arisen during the course of the Inquiry

- That Government should move to ban the sale of tobacco products rather than pursue other options for tobacco control
- That adult smokers fully understand the health risks
- Looking for a medical or drug response to tobacco-related harm

Effective strategies to reduce tobacco use, and required budget investment

Relevant to Terms of Reference (b), (e) and (f)

The evidence from Australia and overseas indicates that - to be effective - tobacco control measures need to be comprehensive, broadly based, integrated and well resourced. A review of best practice tobacco control and its applicability to Australia concluded that:

> *A comprehensive strategy to reduce tobacco-related harm must include tax and supply policies to reduce the accessibility of products to children; education*

and treatment programs; and measures to reduce smokers' and non-smokers' exposure to tobacco toxins.[1]

The report suggested that Australia's best investment in tobacco control should include:

1. Comprehensive education through media advertising and publicity;
2. Provision of treatment for tobacco dependence as part of a systematic, universal health care;
3. Overhaul of tobacco regulation to ensure effective regulation of sales and promotion; and
4. Monitoring and research to evaluate the effect of strategies and guide the development of new strategies.

Australia has been successful at reducing smoking rates over the last 20 years. But we could do much more - a more comprehensive approach that addresses environmental cues to smoking, reduces exposure to second-hand smoke, tackles cessation amongst the most socially disadvantaged groups, and eliminates the remaining marketing and promotion tactics would see our smoking rates dive even further. Recent news from California that adult smoking rates have dropped to 14 per cent, down from 23 per cent since 1988, demonstrates the benefit of a comprehensive and well-funded anti-smoking campaign.[2]

While the budget commitment of the NSW Government has increased in recent years, the current amount spent is between $1.00 - 2.00 per capita - far below recognised benchmarks. The Centre for Disease Control recommends spending $US6-17 per capita for a state the size of NSW, and the National Tobacco Strategy recommends an investment of between $2.90 - $8.50 per capita.

TCCNSW has previously recommended that NSW commit at least $13.5M pa and sustained for at least 10 years for anti-smoking mass media campaigns. Tobacco control funds are also required for activities other than mass media or social marketing campaigns (cessation support, research and evaluation, policy and regulatory enforcement).

Smoke-free pubs and clubs

Relevant to Terms of Reference (c) and (d)

The introduction of smoke-free environments is a critical strategy for tobacco control - it plays a role in reducing the harm from exposure to second-hand smoke, reducing tobacco consumption, reducing opportunities and cues to experiment with smoking, increasing the success of quit attempts, and

[1] VicHealth Centre for Tobacco Control. *Tobacco Control: A blue chip Investment in Public Health.* The cancer Council of Victoria, Melbourne 2001

[2] Smoking among Calif. adults down to 14 percent - San Jose Mercury News/AP; April 20, 2006

changing the social norms and culture around smoking and tobacco use. These benefits have a synergistic effect that contributes to an overall reduction in smoking prevalence.

The importance of dealing with smoke-free environments is reflected in both the NSW Tobacco Action Plan 2005-2009, and the National Tobacco Strategy - both specify the elimination or reduction in exposure to ETS as a key focus area.

Smoke-free legislation and policy benefits smokers and non-smokers. The ultimate gains are in terms of reducing overall smoking prevalence, as the social norms around smoking change, and through the establishment of environments that are less likely to prompt smoking. However, the immediate gains are in the elimination of exposure to a known carcinogen and toxins. Exposure to ETS is harmful to health for everyone, irrespective of whether the person smokes or not.

NSW has strong measures in place to protect the health and safety of workers, and to require employers to take steps to reduce, manage or eliminate known health hazards in the workplace. However, the history of smoke-free environment legislation has allowed pubs and clubs an exemption from the standards expected in all other work places.

Following the announcement of the Carr Government, in October 2004, that this anomaly would be addressed with the introduction of an indoor smoking ban in pubs and clubs, it was expected that pubs and clubs would become genuinely smoke-free by July 2007. However, the Smoke-Free Environment Amendment (Enclosed Places) Regulation 2006 effectively provides pubs and clubs with a permanent exemption from the duty to eliminate a known health hazard from the workplace. There is no rational explanation to justify the state sanctioning the continued exposure to toxic and carcinogenic substances for an entire category of workplaces and public places. One might wonder why pubs and clubs are being treated so differently to any other employer, or any other workplace - what is it about this particular business sector that led the Government to introduce a new definition of an 'enclosed public place' - one that almost entirely coincides with the definition sought by the industry itself?

The decision to continue to allow smoking in areas up to 75% enclosed makes a mockery of the public health objective of the Smoke-Free Environment Act and clearly contravenes the National Occupational Health and Safety Commission guidelines on the elimination of exposure to environmental tobacco smoke. The new regulation institutionalises continued exposure to a known health hazard for pub and club workers for the foreseeable future, providing the industry with a license to kill. It is highly unlikely that the pubs and clubs lobby will willingly accept any further restrictions on smoking once capital investments have been made for renovations to meet the 75/25 definition.

The only effective way to deal with the issue of second-hand smoke in pubs and clubs is to make provision for smokers in areas that are manifestly outdoors. It is inconceivable that any commonsense understanding of outdoors would include areas that are up to 75% enclosed.

Disturbingly, there are a number of procedural improprieties regarding the decision making on this issue. The newsletter of the AHA (NSW) in June 2005, advised its members that the NSW Government had made a decision on 'outdoor areas' for the purposes of smoking bans in pubs and clubs. The AHA publication stated that it received formal advice from Minister McBride on the issue, confirming that the government had decided that smoking would still be allowed in any area that was more than 25% open to the outdoors. The AHA newsletter makes clear that Minister McBride 'steered the debate' on this issue within Cabinet, which is highly inappropriate given his responsibility for gambling. The issue of smoke free environments is properly the business of the health and cancer portfolios. The role played by Minister McBride in this decision highlights the Government's close relationship with the hotel and gambling interests in this state, in stark contrast to the lack of information and dialogue with health groups and other stakeholders on this issue.

The current Minister for Health acknowledges that there is "no safe level of ETS exposure", but argues that the definition of 'enclosed' is only designed to "provide practical guidance as to areas where smoking is permitted" and that employers are not discharged from the obligation to meet occupational health and safety requirements. It seems inexplicable that the Government can concurrently acknowledge the dangers of ETS exposure and the legal obligation on employers to protect health and safety, while instituting a regulation that fails to address both these imperatives.

There are no rational or evidence-based reasons for adopting a definition of enclosed as proposed under the new regulation. The benefits of smoke-free environments are multiple and synergistic, with benefits to patrons and workers (smokers and non-smokers) as well as to the community through reduced smoking rates and associated burden of death and illness.

An appropriate regulatory regime that would more effectively protect the health and safety of workers and patrons would include:

- Banning of smoking in any place that has an impervious ceiling or other structure that impedes the upward dispersal of smoke
- Height restrictions on walls to optimise lateral dispersion of smoke
- Banning of smoking in areas where food and drink are consumed (whether indoor or outdoor)

- Active management of any outdoor smoking areas
- Prescribing distance between areas where smoking is permitted, and non-smoking areas, particularly around doorways and windows, to minimise smoke drifting from smoking to non-smoking areas

The Smoke-free Environment Act and accompanying regulations should be reviewed to ensure consistency with occupational health and safety requirements, and maximise tobacco control benefits. At a minimum, the regulations should specify that staff not service or work in any area where smoking is permitted.

The importance of the retail environment
Relevant to Terms of Reference (b) and (e)

The retail environment is a critical frontier for tobacco control in Australia - with significant restrictions on formal advertising of tobacco in place, the in-store environment is now the dominant outlet for promotion and marketing of tobacco. It is clear that the display of cigarettes in retail outlets, the price or convenience positioning of retailers, the packaging of cigarettes, and the widespread retail availability, all influence purchasing behaviours and smoking rates. The in-store environment and distribution of retail access provides an avenue to fulfil all marketing factors for tobacco products - it provides the principal avenue for promoting tobacco products, maintaining the product brand identity, provides a trigger to purchase, and can provide price or convenience incentives to purchase.

Tobacco products are one of the most highly visible and readily available consumer products on the market in NSW. This high visibility and widespread availability means that the cues to purchase tobacco are present to a large proportion of the population during daily routines. Every time someone buys groceries, petrol, or a newspaper, they are faced with rows of cigarettes, all attractively displayed and packaged. Almost without exception, tobacco displays occupy prime locations in retail outlets - behind the cash register, or at the front of the store.

The high visibility and ready availability of tobacco products across nearly all retail sectors contributes to the problem of tobacco use in a number of ways:

- Normalises the presence and use of tobacco, to all segments of the population, including children
- Increases sales
- Triggers purchase and consumption, particularly for young people in the experimental stage of smoking uptake, recent quitters, and ex-smokers

- Provides an avenue for displaying tobacco products and reinforcing the brand personalities of different tobacco products, enticing new smokers or smokers changing brands

There are opportunities for public policy interventions on the display, placement, and promotion of tobacco in the retail environment. However, any moves to address the in-store retail environment is likely to be met with opposition from both retailers and the tobacco industry.

The tobacco industry has significant influence and control over these factors, through arrangements with retailers. Tobacco suppliers generally provide the display cases for retailers to ensure that their products are displayed in the most attractive way. The tobacco suppliers also have the advantage of being able to offer negotiated wholesale prices or a range of incentives, to retailers, which can influence the value of tobacco sales to the retailers, and the price retailers offer to smokers. Tobacco suppliers and manufacturers purchase prime store space in larger chains as part of an agreement with supermarkets, generally paying a premium for the front-of store location.

There is no publicly available data to indicate what proportion of the tobacco industry promotion and marketing budget is devoted to retail based promotions in Australia. However, data from the US reveals that retail-based promotions make up 87.4% of advertising and promotion expenditure by the industry in the USA.[3] The largest expenditures are on price discounts for retailers (63.2%); promotional allowances to retailers (10.7%) and bonus cigarettes (8.5%). The promotional allowances include things such as payments for displaying and merchandising brands.

The impact and value of retailing to the tobacco industry, and the current mechanisms by which the tobacco manufacturers and suppliers manage the retail environment, poses particular challenges for public policy in tobacco control:

1. The presence of measures such as price discounting as part of the arrangement between retailers and wholesalers effectively undermines other tobacco control such as increasing the price of cigarettes through increased taxes. The availability of discount cigarettes from supermarkets particularly influences the purchasing behaviour of smokers of lower SES - recent research commissioned by The Cancer Council NSW found that people who always, usually or sometimes purchase cigarettes from supermarkets are more likely to be female, have less than school certificate level of education and smoke more than 10 cigarettes per day.

[3] Federal Trade Commission. *Federal trade Commission Cigarette Report for 2001.* Issued 2003. htt://www.ftc.gov/os/2003/06/2001cigreport.pdf Accessed 13 April 2006

2. The close relationship between the tobacco industry and retailers means that retailers are more likely to support the interests of the tobacco industry, than public health. Tobacco is a highly profitable product line for most outlets. For example tobacco sales provide 20% of the gross margin from non-petrol sales at petrol stations.[4] This has resulted in tobacco retailers mounting lobbying campaigns, paid for by tobacco companies, to oppose new tobacco control strategies. For example, while the Federal government was considering introducing graphic warnings on cigarette packs, tobacco companies supplied retailers with pads of letters to send to the Federal Health Minister opposing the plan.

   We have also seen the establishment of the National Alliance of Tobacco Retailers, an alliance formed to oppose reforms on point of sale display and other public policy measures designed to reduce the harms associated with tobacco. This group claims to comprise industry associations "representing most small business tobacco retailers...involving 15,000 outlets and 200,000 employees." The website of the NATR reveals that its "principal supporters" include British American Tobacco, Imperial Tobacco, 7 Eleven, Caltex and BP - hardly 'mum and dad' businesses.[5]

3. The undoubted value of retail-based promotions and marketing to tobacco sales will inevitably lead to strong opposition from the tobacco industry of any attempts to restrict these activities, despite the strength of evidence of benefit from measures such as removal of cigarettes from sale.

Some States in Australia have made more progress than NSW on the issue of retail-based promotions. Both Queensland and Tasmania introduced significant restrictions for the display of tobacco in retail outlets. Both States have introduced specifications about the floor area permitted for display, bans on advertising and promotion, and a ban on display of cartons. Tasmanian legislation includes detailed restrictions on the location of cigarettes in a store and on the nature of the display arrangement. Further details on the Tasmanian and Queensland legislation is provided in Attachment 1.

It might be argued that the deterrent impact of recently mandated graphic warnings on tobacco packaging constitutes an argument for keeping tobacco products on full display. However, it is not beyond the ability of the industry to creatively display products in a way that obscures the warnings.

[4] The Allen Consulting Group Licensing of tobacco retailers and wholesalers: Desirability and Best Practice Arrangements 2002 Report prepared for the Commonwealth Department of Health and Ageing. Endorsed by the Intergovernmental Committee on Drugs, December 2002

[5] Home page of NATR - http://www.natr.org.au/

Unless NSW addresses the issue of tobacco promotion and display within the retail environment, the funds and commitments being made in tobacco control will never be fully realised. Prompting people to attempt to quit smoking through Quit campaigns is only part of the solution - the State also needs to remove environmental cues that weaken a quitter's resolve and trigger relapse. The retail environment provides many of these cues and triggers.

Retail displays should be removed from sight in all NSW stores selling tobacco, and the limitations on placement and display of tobacco in retail outlets should be prescribed by regulation.

The promotional effect of tobacco product packaging
Relevant to Terms of Reference (b) and (e)

One of the elements of tobacco promotion in the retail environment is the packaging of cigarettes and other tobacco products. However, the value of brand packaging for promoting and marketing extends far beyond the retail environment - the package travels with the smoker and is on display whenever the person is smoking, or has their cigarette packet nearby. Branded packaging also appears in movies and photographs.

The packaging of tobacco products has always been of utmost importance to the tobacco industry as a marketing medium[6,7,89]. This has been especially the case in Australia since most traditional forms of tobacco advertising and sponsorship were banned under the (Commonwealth) Tobacco Advertising Prohibition Act 1991.

Tobacco companies know the importance of pack colour, design and name to communicate the 'personality' of the brand to consumers. Different brands have been designed for different market segments - a Peter Jackson smoker is a different demographic from a Dunhill or Holiday smoker. [10]

The banning of branded tobacco packaging and the requirement that all tobacco products be sold in generic packaging would be an effective way of undermining the impact of tobacco marketing through pack design and brand colours. [11] As Wakefield et al stated "Without brand imagery, packs simply

[6] M Wakefield, C Morley, J K Horan and K M Cummings The cigarette pack as image: new evidence from tobacco industry documents *Tobacco Control* 2002;**11**:i73-i80
[7] Marketing to America's youth: evidence from corporate documents
K M Cummings[1], C P Morley[1], J K Horan[1], C Steger[1] and N-R Leavell[2] *Tobacco Control* 2002;**11**:i5-i17
[8] Slade J. The pack as advertisement. *Tobacco Control* 1997;6;169-170.
[9] M Wakefield and T Letcher My pack is cuter than your pack *Tobacco Control* 2002;**11**:154-156
[10] Carter S. The Australian cigarette brand as product, person, and symbol *Tobacco Control* 2003;**12**:iii79
[11] Carter, S.

become functional containers for cigarettes, rather than a medium for advertising".[12]

Furthermore, the introduction of generic packaging would give additional prominence to the recently mandated graphic health warnings on cigarettes.

It can be anticipated that any proposal to ban brand imagery on tobacco product packaging will be vehemently opposed by the tobacco industry.

Role of Nicotine Replacement Therapy in cessation and harm reduction

Relevant to Terms of Reference (b); (e) and (f)

Increasing availability of NRT in the community

Research suggests that only about 1 in 10 un-aided attempts to quit smoking are successful, with many of those who succeed doing so only after several attempts[13]. The main reason for this low success rate is the highly addictive nature of tobacco and the resultant nicotine withdrawal symptoms experienced by smokers attempting abrupt cessation. These symptoms contribute to high relapse levels as well as discourage further cessation attempts.

Nicotine Replacement Therapy (NRT) refers to the range of alternative pharmacological nicotine delivery systems, which are designed to improve a smoker's chance of quitting by alleviating withdrawal symptoms and urges to smoke by replacing part of the nicotine previously obtained from smoking.[14]

NRT is commonly recommended for smokers who have high levels of nicotine dependency and who are motivated to quit[15]. The review of clinical trials involving NRT found that "all commercially available forms of NRT are effective as part of a strategy to promote smoking cessation. They increase the odds of approximately 1.5 to 2 fold, regardless of setting." While access to intensive support as well as NRT is more likely to result in successful quit attempts, such support is not

[12] Wakefield et al. Op cit.

[13] Graham-Clarke P, Nathan S, Stoker L, Bauman A and Wise M. Smoking: best practise for reducing the prevalence of smoking in the Areas of NSW, State health publication no. (HP) 96-006, Sydney, NSW Health Dept, 1996

[14] Quit Vic Stopping Smoking – Quitting methods and products. http://www.quit.org.au/quit/pdf/17MthPrd.pdf

[15] Nicotine dependence is commonly determined in clinical settings by application of the Fagerstrom Nicotine or Tolerance Questionnaire. Having been described (by Bittoun) as a "formidable paper and pencil measurement", completion of the questionnaire will result in a score ranging from zero to 11. Smokers with a score of 7 or more are classified as having a higher nicotine dependence and those with a score of less than 7 are classified as being less dependent.

essential to the success of NRT as a successful cessation aid.[16]

Based on this evidence, increasing the retail availability, accessibility and affordability of NRT will contribute to increased levels of smoking cessation.[17] In stark contrast to the wide retail availability of tobacco products, NRT is primarily available only through pharmacies. There is widespread support in the tobacco control sector and from the Commonwealth Government to see NRT available in a wider range of retail outlets, including convenience stores and supermarkets. At the very least, this would assist in redressing the discrepancy in access to NRT compared to tobacco. Wider retail availability is important to smokers and recent quitters who need access to this cessation aid.

There are no regulatory barriers to NRT being sold through non-pharmacy retail outlets. The limited retail distribution appears to be either reluctance by the pharmaceutical companies, opposition from pharmacies, or lack of incentive for other retailers.

One option for the State to consider would be to include a requirement to sell NRT products for any retailer wishing to sell cigarettes. Such a requirement could be included as a condition of tobacco retail licensing.

Increasing access and affordability of NRT

Socially disadvantaged groups in the community have the highest smoking rates, and often face complex barriers to quitting smoking, more so than other smokers. People with a mental illness, the very poor, prisoners, people with concurrent drug or alcohol addictions, the homeless, and Aboriginal groups have the highest smoking rates in NSW. For these groups, and others with multiple or aggravated disadvantage, the upfront financial commitment associated with NRT is another barrier to their ability to quit smoking.

There are now a number of studies that suggest that free or subsidised NRT may increase the number of quit attempts[18,19,20,21,22] Addressing the issue of affordability of NRT

[16] Silagy C, Lancaster T, Stead L, Mant D, Fowler G. Nicotine replacement therapy for smoking cessation . *The Cochrane Database of Systematic Reviews* 2006, Issue 2.
[17] Silagy et al. Ibid.
[18] Grigg M, Glasgow H. Subsidised nicotine replacement therapy. *Tobacco Control* 2003;12:238-239.
[19] Jolicoeur DG, Ahluwalia MD, Richter KP. Mosier M, Harris KJ, Gibson C, Moranetz CA. The use of nicotine patches with minimal intervention. *Preventive Medicine.* 2000; 30(6)
[20] Dey P, Foy R, Woodman M, Fullard B, Gibbs A. Should smoking cessation cost a packet? A pilot randomised control trial of the cost of distributing nicotine therapy free of charge. *British Journal of General Practice.* 1999:49 (439): 127-8.
[21] Jaen CR, Cummings KM, Shah D, Aungst W. Patterns of use of a free nicotine patch program for Medicaid and uninsured patients. *Journal of the National Medical Association.* 1997; 89(5):325-8.
[22] Cox JL, McKenna JP. Nicotine gum: does providing it free in a smoking cessation program alter success rates? *Journal of Family Practice.* 1990; 31(3):278-80.

for disadvantaged groups will significantly increase its use, and the number of successful quit attempts.

There are several policy options for increasing the affordability of NRT for low income groups - subsidy through the PBS; cash rebates for people on health care cards; provision of free NRT to eligible quitters as part of cessation services.

The Federal Government has already rejected an application to list NRT on the PBS, and has made no indications of any other action to address the affordability of NRT.

There are several ways in which the State could ensure that NRT was accessible to people with the highest smoking rates, which in turn should make a significant contribution to addressing smoking rates amongst the most disadvantaged in our community:

- Include provision in the funding for Quitline to cover the cost of free NRT to callers on low incomes (eg health care card holders).
- Include specific budget allocations to Area Health Services to include free NRT in all cessation services for low income or socially disadvantaged groups.

It has been estimated that the cost of providing free NRT is outweighed by the costs of treating tobacco-related illness and disease[23]. As the savings from treating tobacco-related illness and disease accrues to the State budget, it would be appropriate for the State to meet the costs of assisting those most at risk to quit smoking.

The potential for NRT as a harm reduction measure

Although nicotine is the addictive constituent in tobacco, medical evidence clearly indicates that nicotine itself is far less harmful to health than other components of cigarettes such as tar, carbon monoxide and other toxic constituents of tobacco smoke.[24,25] The nicotine provided through pharmacologically designed and proven delivery systems such as patches, lozenges, tablets, sprays and inhalers, are in fact a form of 'clean nicotine'. There is a potential role for NRT as a less harmful way of providing nicotine:

- for smokers who want to avoid the harmful effects of smoking but who do not want, or are not able, to forego the psychological and/or physiological effects of nicotine withdrawal [26,27,28] and

[23] Wasley MA, McNagney SE, Phillips VL, Ahluwalia JS. The cost-effectiveness of the nicotine transdermal patch for smoking cessation. *Preventive Medicine*. 1997; 26(2):271-3.

[24] Committee on Safety of Medicines and Healthcare Products Regulatory Agency. Op cit.

[25] US Dept of Health and Human Services. Health consequences of smoking: nicotine addiction. A Report of the Surgeon General. US Govt Printing Office, 1990

- for smokers who do not want to quit but who need to abstain from smoking for extended periods due to public or workplace smoking restrictions.[29]

While there have been no studies to establish the safety of NRT if used over the long term, there is little current evidence of significant harm from the use of NRT, particularly when compared with the known harms from continued smoking.

There is substantial unexplored potential for NRT to be used as a long term substitute for tobacco, and as a concurrent measure for smokers. Under either scenario, the substitution of NRT for tobacco delivered nicotine is no doubt a much less harmful option.

NSW could lead the development of an evidence base for NRT as a harm reduction measure by funding a randomised controlled trial to further understand the potential for NRT as a long term substitute for tobacco or as a concurrent form of nicotine delivery for smokers.

MISCONCEIVED RESPONSES TO TOBACCO USE AND HARM
Relevant to Terms of Reference (b)

The Government should just ban cigarettes

At several points during the Inquiry, the issue of banning cigarettes has been raised - either as a question, or suggested as an alternative to other tobacco control measures (such as banning smoking in enclosed places). There is little evidence to suggest that a prohibition on tobacco products is either feasible or productive.

Data on the use of illicit products shows that making a product illegal unfortunately doesn't stop its use, particularly amongst young people. In the most recent surveys of secondary school students 21.6% of young people aged under 18 reported having tried cannabis, with 9.4% having used it in the previous 4 weeks. There is every reason to believe that making cigarettes illegal would only serve to make smoking more attractive to young people, and little would be gained by criminalising possession or use of cigarettes.

From a feasibility perspective, it is difficult to justify criminalising people who are currently addicted, given the

[26] Tobacco harm reduction: what do the experts think? E G Martin, K E Warner and P M Lantz *Tobacco Control* 2004;13:123-128
[27] The Cancer Council Australia Tobacco issues Committee TIC. Draft position statement paper on tobacco controlregulation and harm reduction (unpublished). 25 October 2005.
[28] Reid R, Coyle D, Papadakis S, Boucher K. Nicotine replacement therapies in smoking cessation. A review of evidence and policy issues. Canadian Council on Tobacco Control 1999.
[29] Ibid.

addiction developed while the product was legally available, and most likely when they were at an age when they were too young to fully understand the consequences. In fact, for older smokers, their addiction would have developed as a result of being targeted by tobacco advertising in the years prior to the bans on advertising.

The best evidence suggests that it is both possible and feasible to reduce smoking rates considerably, using measures other than prohibition. These measures include increased funding for mass media campaigns, tighter regulation of tobacco promotions and marketing, creating smoke-free public places, restricting retail availability and access, counteracting the impact of smoking portrayals in movies, and the provision of tailored and accessible cessation support services.

Smokers fully understand the risk and making an informed choice to smoke

There is substantial evidence that shows that smokers have very limited knowledge about the full range of risks to their health from tobacco use. The most recent survey to demonstrate this was recently completed by Quit Victoria, which confirms previous research on this issue.[30] Key findings of the Quit Victoria survey include:

- while two-thirds of smokers identified lung cancer as smoking related, only one quarter identified smoking as a cause of heart disease
- many smokers did not know that smoking was a cause of a range of other diseases and illnesses, with fewer than 10 per cent identifying stroke, vascular disease as smoking related illnesses, and only 0.1 per cent knew about the link between smoking and fertility problems.

Not only do smokers seriously underestimate the health risks of smoking, they also develop a range of beliefs to protect themselves from acknowledging any health risks, and therefore avoid the need to quit smoking. These self-exempting beliefs used by smokers to avoid quitting include the following:

- Lots of doctors and nurses smoke so it cannot be all that harmful
- The medical evidence that smoking is harmful is exaggerated
- Smoking cannot be all that bad for you because many people who smoke live long lives
- Smoking cannot be all that bad because some top sports people smoke and still perform well
- More lung cancer is caused by such things as air pollution, petrol, and diesel fumes than smoking

[30] http://www.quit.org.au/media.asp?ContentID=7944

- Cancer mostly strikes people with negative attitudes
- You can overcome the harms of smoking by doing things like eating healthy food and exercising regularly[31]

On the basis of the above, The Cancer Council believes it is reasonable to conclude that the choices smokers make are significantly less than fully informed.

The role of medical responses in tobacco-related harm.

The mainstream media regularly reports on 'breakthroughs' in research and treatment and the development of new ways of screening for diseases or dealing with addiction using pharmacological agents. This can lead to a temptation to avoid dealing with tobacco control through public policy measures, particularly those that are opposed by strong industry interests.

From a cancer control perspective, it is disturbing to note that 22% of all cancer deaths are due to tobacco smoking - this figure underscores the importance of focusing on reducing the number of people who take up smoking.[32] One of the reasons why smoking has such a devastating impact is because many of the cancers caused by smoking have a high mortality rate. For example, the 5 year survival rate for lung cancer in women is 15% compared to 85% for breast cancer. [33] Lung cancer alone is responsible for 18.2 % of all cancer deaths in NSW.[34]

While it is important to detect lung cancer at an earlier stage and treat it more effectively, any improvements through these strategies will have a much smaller impact on death rates than effective anti-smoking campaigns and other tobacco control measures.

However, looking at lung cancer alone does not show the whole picture on the health damage caused by smoking. Even if it were possible to improve lung cancer diagnosis and treatment this will not have an impact on the 13 other cancers caused by smoking or the 54 other serious illnesses or surgical complications, such as heart disease, emphysema, peripheral vascular disease.

Because of the large number of health problems caused by tobacco improving treatment and survival rates for each illness will not be practical. A more effective and practical approach is to remove the cause - cigarette smoke.

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[31] Oakes W, Chapman S, Borland B, Balmford J, Trotter L "Bulletproof skeptics in life's jungle": which self-exempting beliefs about smoking most predict lack of progression towards quitting? *Preventative Medicine.* 39 (2004) 776– 782.

[32] The Cancer Council Australia 2004. *National cancer Prevention Policy 2004-2006.* NSW The Cancer Council Australia.

[33] The Cancer Institute. *The NSW Cancer Plan 2004-2006.* Sydney

[34] Ibid

Attachment 1

Queensland Law:
From 31 December 2005 there has been a ban on the advertising of all tobacco products in retail outlets, including tobacconists and duty-free stores. The display of tobacco product names and prices is significantly restricted, limited to 1 square metre for general stores and 3 sq metres for tobacconists; no cartons are to be displayed

In addition there are stronger penalties for retailers selling to children including an automatic suspension from selling (6mths for 1st offence; 12 mths for second offence and 3 years for any subsequent offences)

Tasmania Law:

Tasmanian legislation from 2000 includes a prohibition on display of any tobacco product within 75 centimetres of any other displayed product designed or marketed for the use of a child (for example toys or comics), nor within 75 cm of confectionery.

In Tasmania tobacco product can only be displayed in a sales unit, (only one per premises is permitted) which is not on a counter accessible to the public, is wholly within the service area, and does not display more than 150 packets of tobacco product;

- and does not display a price ticket or price board, otherwise than in accordance with the guidelines;
- and does not have a device that causes movement, visible to the public, of any part of the sales unit or tobacco product;
- and does not have a mirror or other reflective device, interior lighting, exterior lighting attached to the sales unit or external spotlighting;
- and is not positioned so that the packet of tobacco product faces more or less towards a window or a public entrance, unless it is 2 metres or more from the entrance.

Tobacco products in a sales unit are not displayed in an area that exceeds 4 square metres.

None of the following are permitted to be used to enhance the display:

- colour coding of the premises in colours that form part of the usual packaging of the tobacco product within 5 metres of the tobacco product;
- lines, borders and other visual design effects that make the display stand out; partial imaging or wording of the packaging of the tobacco product;

- mirrors or other reflective devices that reflect images of the tobacco product or any other product prohibited from display;
- holograms linked to the display;
- empty packets, cartons, cigarette shippers and boxes of tobacco product;
- cabinets or display cases that contain trademark, colours or wording usually used in packaging of the tobacco product.

Cartons and cigarette shippers cannot be displayed, as these were being used as a form of advertising by the tobacco companies.

In 2004 the Tasmanian Director of Public Health and the Minister agreed to require, from 2005, the display of an A4 graphic warning notice at POS.

Hitherto the required notices had been fairly bland A4 black and white typed warnings about a prohibition on sales to minors. The graphic warning notice, of a cancerous mouth, is based on one of the designs that will be required on all tobacco packets in Australia from mid 2006.

The Tasmanian Director of Public Health made a provision that graphic warnings need not be displayed if tobacco products were not displayed. One major supermarket chain, Coles Myer, has since opted to cover tobacco product displays at all of its supermarkets in Tasmania.

Background information on the new graphic warnings for cigarette packs

Health warnings first appeared on cigarette packs in Australia in 1973. From 1 March 2006, two sets of new health warnings are required to be used on cigarette packs imported or manufactured for sale in Australia. The new warnings were introduced after evidence showed that the old set of health warnings - which were introduced over 10 years ago - had lost their impact.

Under the (Commonwealth) Trade Practices (Consumer product Information Standards) (Tobacco) Regulations 2004, from 1 March 2006 new picture-based health warning labels are required for all tobacco products imported and manufactured for retail in Australia. In the case of cigarette packs, the warnings are required to occupy 30% of the front and 90% of the back of pack, with a graphic appearing on both front and back.

A number of international jurisdictions have introduced these health warnings including Belgium, Switzerland, Finland, Canada, Singapore, Thailand and Brazil. India and Malaysia have announced intentions to introduced picture-based warnings.

The benefits of placing health warnings directly on cigarette packs include:

- The health messages are delivered directly to smokers, and are repeated and reinforced every time a smoker reaches for a cigarette.
- Smokers believe these messages more and remember them better than they do public education campaigns.
- They are inexpensive for governments to implement and tobacco companies pay the costs of printing them.[1]

Two key features of the new health warnings regime are that:

- There will be a total of 14 health warnings comprising graphic images, warning messages, explanatory messages;
- The warnings will be regularly rotated to optimise consumer learning and awareness of the health effects of smoking, with two sets of 7 health warnings (Set A and Set B) alternated every 12 months

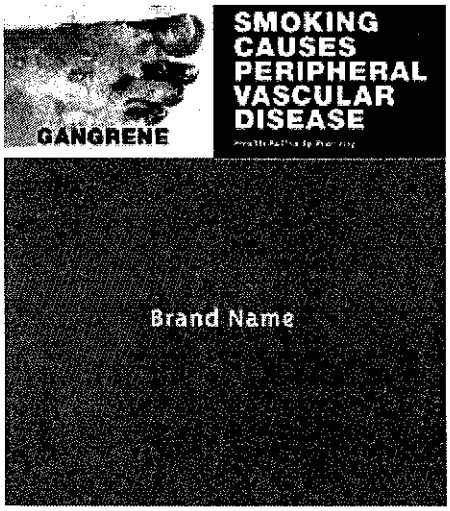
Attached are the images for Set A and Set B of the new warnings.

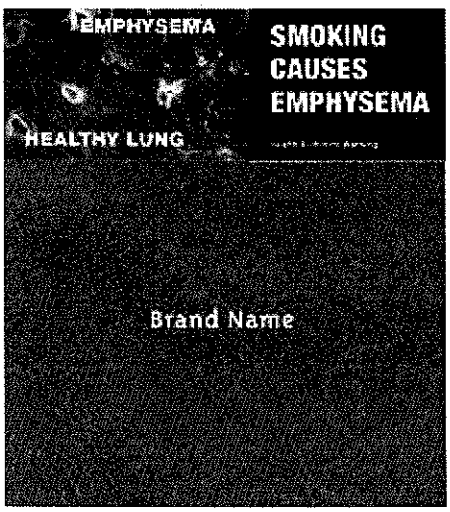
The Cancer Council NSW
April 2006

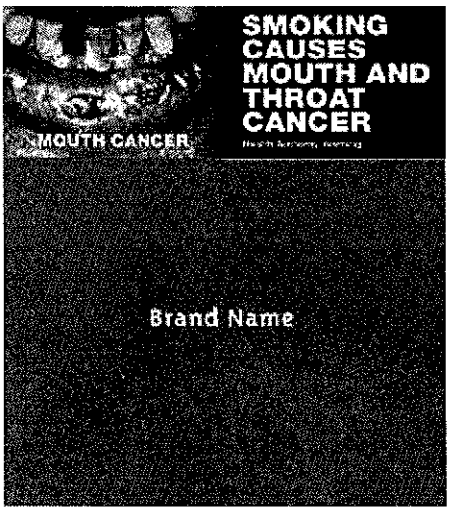
[1] Physicians for a Smoke-free Canada web site - http://www.smoke-free.ca/warnings/ (accessed 6/4/06)

SET A

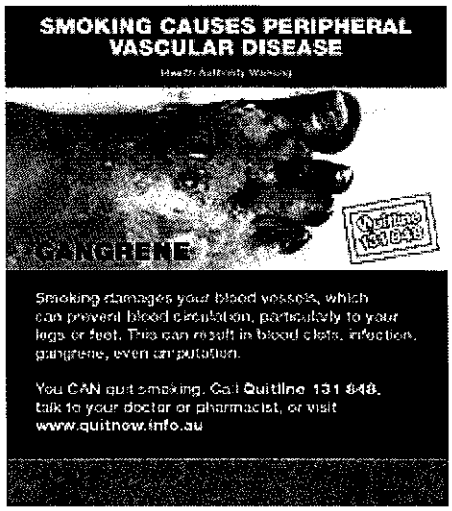
Front of pack

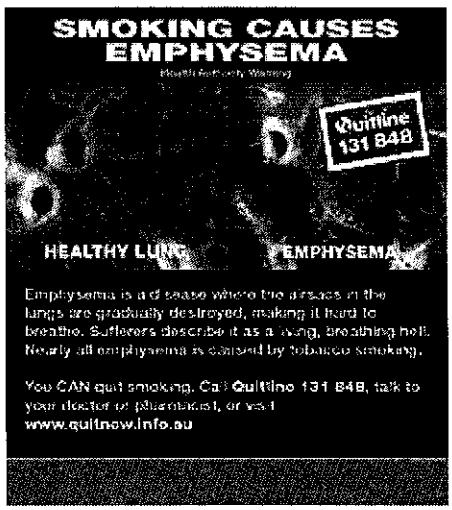


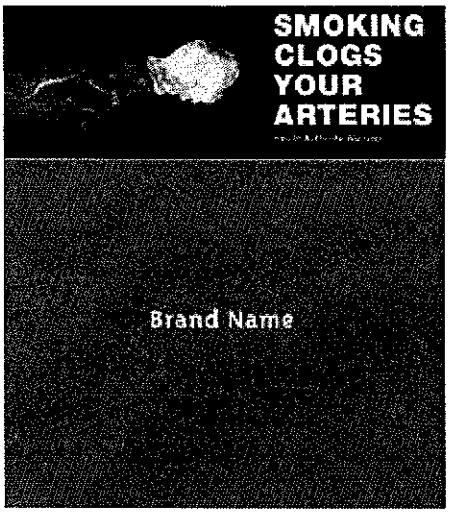




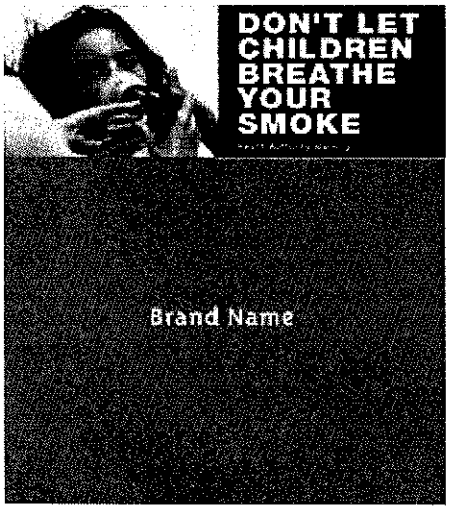
Back of pack



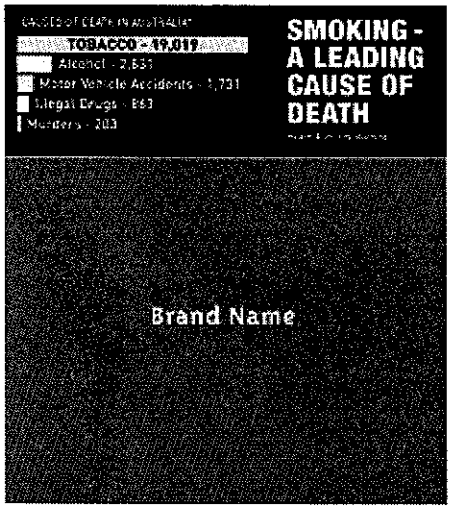



SMOKING CLOGS YOUR ARTERIES
Brand Name

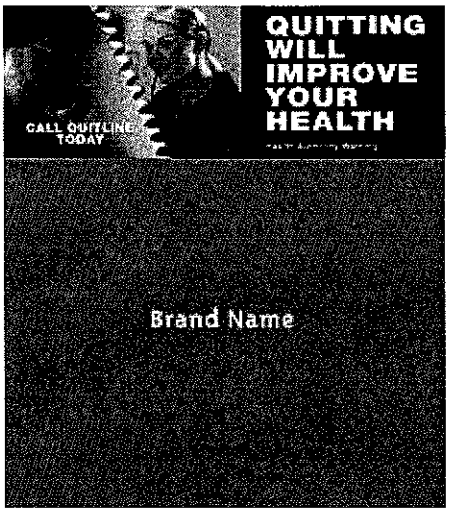

SMOKING CLOGS YOUR ARTERIES
Quitline 131 848
Smoking narrows your arteries, causing them to become clogged, and can lead to heart attack, stroke, peripheral vascular disease, gangrene of the feet and impotence.
You CAN quit smoking. Call Quitline 131 848, talk to your doctor or pharmacist, or visit www.quitnow.info.au

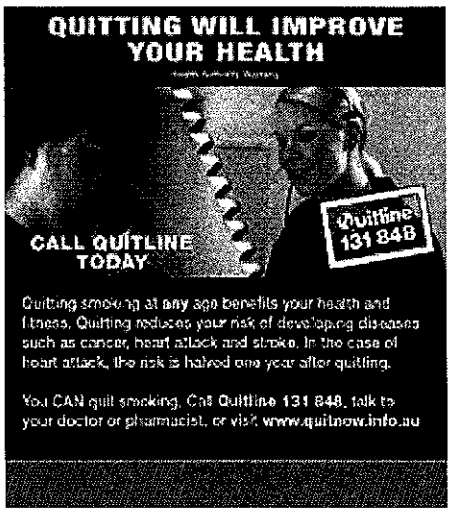

DON'T LET CHILDREN BREATHE YOUR SMOKE
Brand Name


DON'T LET CHILDREN BREATHE YOUR SMOKE
Quitline 131 848
Children exposed to passive smoking experience more serious illnesses such as pneumonia, middle ear infections and asthma attacks. Babies exposed to passive smoking are at greater risk of SIDS (Sudden Infant Death Syndrome).
You CAN quit smoking. Call Quitline 131 848, talk to your doctor or pharmacist, or visit www.quitnow.info.au


TOBACCO - 19,019
SMOKING - A LEADING CAUSE OF DEATH
Brand Name

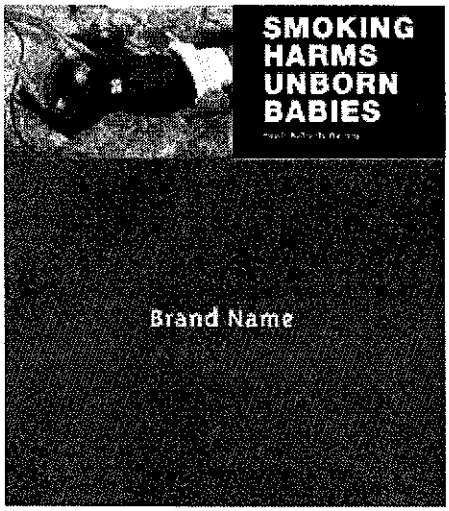

SMOKING - A LEADING CAUSE OF DEATH
CAUSES OF DEATH IN AUSTRALIA*
TOBACCO - 19,019
Alcohol - 2,831
Motor Vehicle Accidents - 1,731
Illegal Drugs - 863
Murders - 203
Quitline 131 848
Smoking causes more deaths than murder, illegal drugs, motor vehicle accidents and alcohol combined. Smokers not only live shorter lives, they also live more years with disabling health problems.
You CAN quit smoking. Call Quitline 131 848, talk to your doctor or pharmacist, or visit www.quitnow.info.au

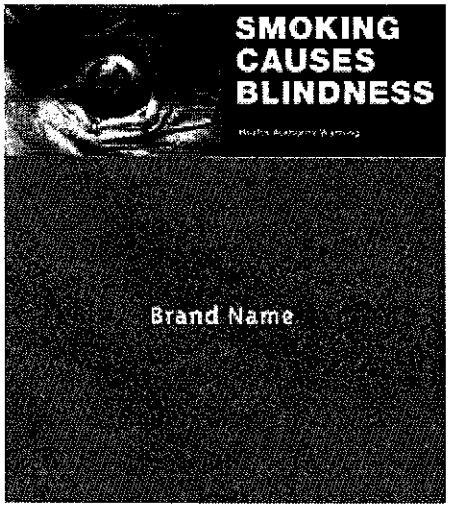

QUITTING WILL IMPROVE YOUR HEALTH
CALL QUITLINE TODAY
Brand Name

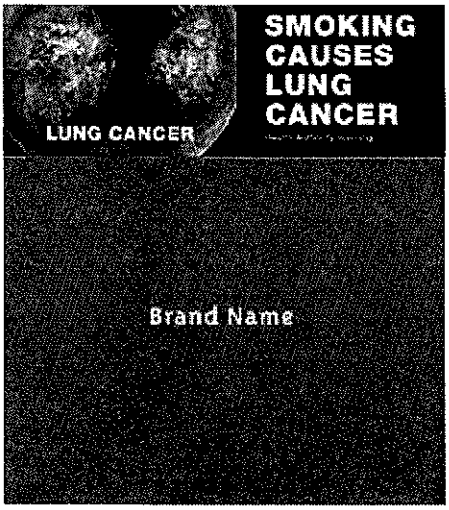

QUITTING WILL IMPROVE YOUR HEALTH
CALL QUITLINE TODAY
Quitline 131 848
Quitting smoking at any age benefits your health and fitness. Quitting reduces your risk of developing diseases such as cancer, heart attack and stroke. In the case of heart attack, the risk is halved one year after quitting.
You CAN quit smoking. Call Quitline 131 848, talk to your doctor or pharmacist, or visit www.quitnow.info.au

SET B

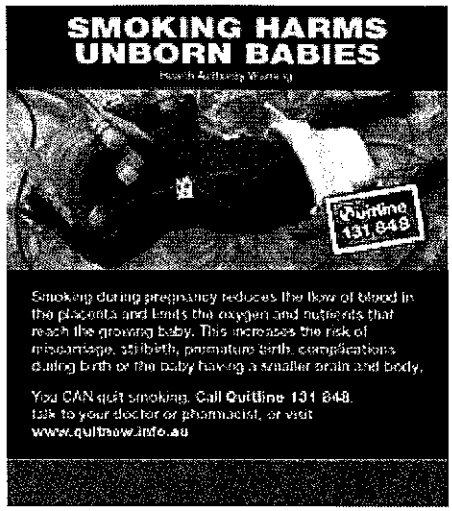
Front of pack

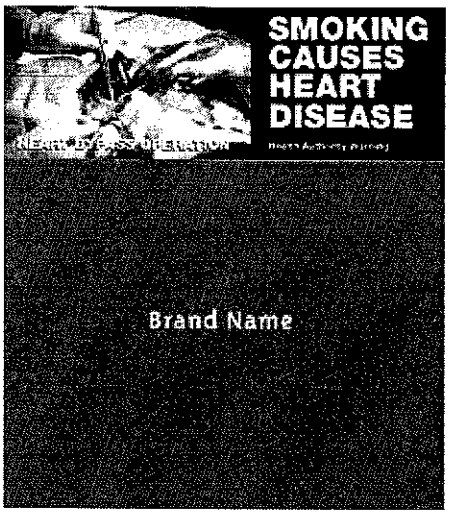




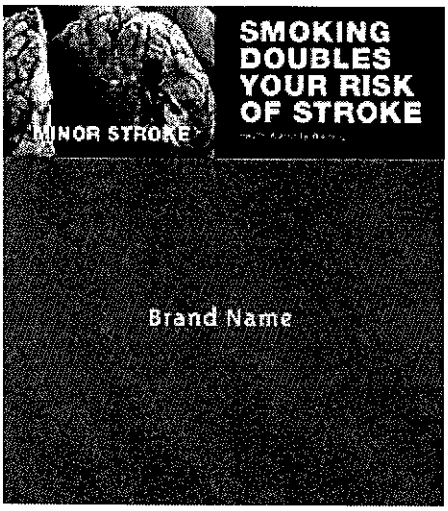


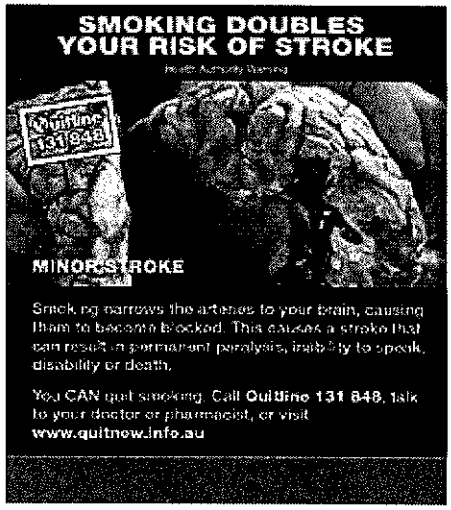
Back of pack

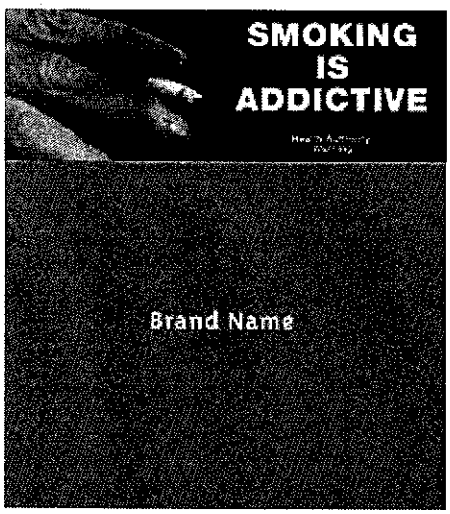



SMOKING CAUSES HEART DISEASE
Brand Name

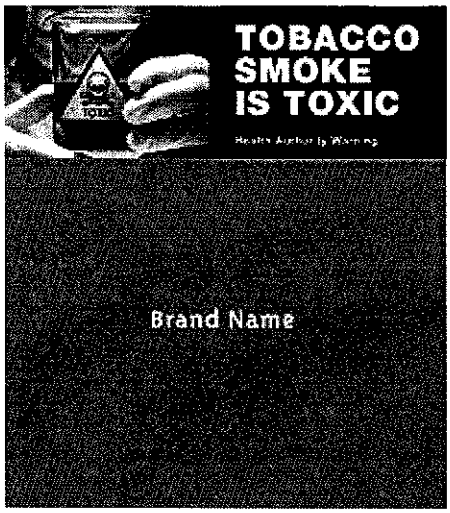

SMOKING CAUSES HEART DISEASE
Quitline 131 848
Smoking narrows the arteries to your heart, causing them to become blocked. This can cause heart attacks and death. Smoking can double your risk of dying from a heart attack.
You CAN quit smoking. Call Quitline 131 848, talk to your doctor or pharmacist, or visit www.quitnow.info.au


SMOKING DOUBLES YOUR RISK OF STROKE
MINOR STROKE
Brand Name


SMOKING DOUBLES YOUR RISK OF STROKE
Quitline 131 848
MINOR STROKE
You CAN quit smoking. Call Quitline 131 848, talk to your doctor or pharmacist, or visit www.quitnow.info.au


SMOKING IS ADDICTIVE
Brand Name


SMOKING IS ADDICTIVE
Quitline 131 848
When you smoke you inhale the drug nicotine. In a short time you can find it difficult to control how much you smoke or to quit smoking. Many people don't realise they are dependent on tobacco until they try to quit. Even lifelong smokers CAN and do quit.
You CAN quit smoking. Call Quitline 131 848, talk to your doctor or pharmacist, or visit www.quitnow.info.au


TOBACCO
SMOKE
IS TOXIC
Brand Name


TOBACCO SMOKE
IS TOXIC
Quitline
131 848
TOXIC
Tobacco smoke is a complex mixture of toxic chemicals such as nitrosamines and benzopyrenes (which contribute directly to the formation of cancer in smokers), and carbon monoxide (which reduces the ability of blood to carry oxygen). These harmful substances can reach your brain, heart and other organs within 10 seconds of the first puff.
You CAN quit smoking. Call Quitline 131 848, talk to your doctor or pharmacist, or visit www.quitnow.info.au