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DEPARTMENT OF HEALTH

**GOVERNMENT RESPONSE
TO THE HEALTH SELECT
COMMITTEE'S SECOND REPORT
ON THE TOBACCO INDUSTRY AND
THE HEALTH RISKS OF SMOKING**

*Presented to Parliament by the Secretary of State for Health
By Command of Her Majesty
October 2000*

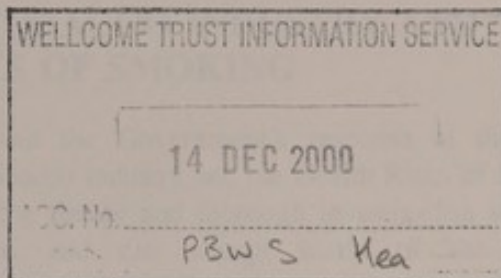
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THE GOVERNMENT'S RESPONSE TO THE HEALTH SELECT COMMITTEE'S SECOND REPORT ON THE TOBACCO INDUSTRY AND THE HEALTH RISKS OF SMOKING

This command paper sets out the Government's response to the Health Committee's report on the Tobacco Industry and the Health Risks of Smoking. The Government welcomes the timely and thorough investigation which the Committee has undertaken and can accept many of the report's recommendations. Below we respond in full to the report's recommendations and comments, but first we set out the Government's overall strategy to give the context to our response.

The Government has a clear commitment to tackle the adverse health effects that smoking has on the lives of many thousands of our people. 120,000 people die each year from smoking-related diseases. 70% of smokers say that they want to give up, but nicotine is addictive. The White Paper 'Smoking Kills', published in December 1998, introduced a comprehensive strategy that committed the Government to: introduce a ban on tobacco advertising; launch a major education campaign (at a cost of up to £50m over three years); develop NHS smoking cessation services to help those who want to give up (at a cost of up to £60m over three years); support the licensed hospitality industry's Public Places Charter on smoking in pubs, bars and restaurants; continue the real terms increases in tobacco duties; promote enforcement of the law on underage sales; support consultation on stronger measures on smoking in the workplace, and lead and promote tobacco control measures at a European and global level.

Smoking is the major cause of health inequalities. As announced in the NHS Cancer Plan we are introducing a new target to reduce smoking rates among manual groups. Resources will be targeted to achieve the new target and narrow the gap between manual and non-manual groups.

Since "Smoking Kills" was published we have launched our tobacco education campaign. We are rolling out NHS smoking cessation services across all Health Authority areas and we will soon have the most extensive Government-funded smoking cessation services in Europe. We have agreed an enforcement protocol on underage sales with the Local Authorities Co-ordinating Body on Trading Standards (LACOTS) and with the Local Government Association (LGA). We have taken the initiative in key areas and actively supported a draft Directive, which will strengthen the law on tar, nicotine and carbon monoxide yields, health warnings and tobacco additives. We have continued to keep tobacco duties high, giving a clear disincentive to smokers to carry on smoking, whilst investing in a £209m campaign over three years to tackle smuggling.

The Government will build upon its progress in tackling smoking: we will ban tobacco advertising and sponsorship. In the light of the decision of the European Court of Justice (ECJ) to annul EC Directive 98/43/EC, which bans tobacco advertising, promotion and sponsorship, the Government is preparing primary legislation to ban tobacco advertising. We will broaden the range of our tobacco education programme by expanding specific campaigns targeted at, for example, pregnant smokers, ethnic minorities and the young.

We will continue to invest heavily in smoking cessation to help those who

want to give up smoking. Our vision is for a comprehensive NHS cessation service with a spectrum of care ranging from opportunistic interventions at one end to intensive support in specialist services at the other, as part of an NHS which focuses as much on prevention as treatment. Already specialist services are being set up across England; we intend now to ensure that primary care can play a full role in smoking cessation. That is why the Government has made bupropion (Zyban), the non-nicotine smoking cessation treatment, available on NHS prescription and will consult on making Nicotine Replacement Therapy (NRT) available on prescription, in addition to its current availability over the counter in pharmacies.

We will continue to tighten up on enforcement. The enforcement Protocol on Underage Sales was launched on 13 September. We have agreed with LACOTS that an annual survey will be carried out of enforcement by local trading standards authorities to monitor enforcement of the law on underage sales.

Last, but not least, the Government agrees with the Select Committee that tobacco products need to be regulated more effectively than at present and that the public should be entitled to more information from the tobacco industry. The Draft European Directive on the manufacture, presentation and sale of tobacco products requires much greater openness, something which the UK has argued for strongly in Europe.

The Government's tobacco-related disease programme amounts to the most comprehensive attack on smoking this country has ever seen. We are determined to continue to tackle the biggest cause of ill health and death in our country and help those who want to give up smoking. We will continue to do all we can to help, inform and protect our citizens from tobacco related disease. We will lead the way in Europe and internationally, by example.

We will be the only country in the world to provide both Zyban and NRT (subject to consultation) on prescription from the public purse. We can be proud of our comprehensive tobacco strategy. It offers better health for our citizens – less heart disease, less cancer and fewer deaths – and it puts us in the lead internationally.

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

(a) We very much welcome the Government's firm commitment to action to combat smoking in its White Paper Smoking Kills. We do not, however, regard the targets they have set as sufficiently challenging to justify the Department of Health's rhetoric that it is for the first time tackling smoking seriously. The target trends for adult smoking are no more than would be expected extrapolating from the general trends since the 1970s. We believe that the DoH should set much tougher targets and take such measures as are open to it to achieve those targets (paragraph 19).

The Government welcomes the Committee's praise for our commitment to tackle smoking and notes its conclusions that the targets are too easy. Smoking rates have fallen steadily since the 1970s but more recently have levelled-off since the mid-1990s. The challenge is to restart the downward trend and get more smokers to stop smoking, especially the more disadvantaged groups. We have therefore set a new target to reduce smoking rates among manual groups from 32% in 1998 to 26% in 2010. This and a series of supportive initiatives were announced in The NHS Cancer Plan published in September 2000. One way we are planning to achieve this reduction is by targeting resources in areas with the highest smoking rates. This challenge should not be underestimated.

Our Healthier Nation targets for cancer and coronary heart disease and stroke are also relevant. These targets are to reduce deaths caused by cancer in the under 75s by at least one fifth by 2010 and to reduce deaths caused by coronary heart disease, stroke and related conditions in the under 75s by at least two fifths by 2010. These are very challenging targets and tackling smoking will be a key part of achieving them.

We are pleased that there is progress towards achieving our targets. In particular the 2010 target for 11-15 year olds has been met in 1999. This is good news. However, we must wait to see if the downward trend continues. We will push ahead with the comprehensive strategy to ensure that numbers stay down before looking at new targets.

Finally, we are not complacent. Our wish is to do all we can to help smokers who want to stop smoking as soon as possible.

(b) The Royal College of Physicians (RCP) drew the following main conclusion: "Cigarette smoking should be understood as a manifestation of nicotine addiction... the extent to which smokers are addicted to nicotine is comparable with addiction to 'hard' drugs such as heroin and cocaine." We endorse this conclusion, which underlies many of the recommendations in our report and is, we believe, of fundamental importance to policy makers in the UK and elsewhere (paragraph 33).

The Government supports the RCP's view that nicotine is an addiction. It believes that the facts are clear: nicotine in tobacco is highly addictive. That is why the Government is spending £100m over three years to help people who want to give up smoking, and to help young people avoid addiction in the first place through, for example, use of cessation services and a comprehensive education campaign.

(c) Bearing in mind that asthma causes 1,400 deaths per year, we do not regard asthma attacks as merely unpleasant and believe that policy goals related to Environmental Tobacco Smoke must take account of the real health risks it poses (paragraph 42).

The Government agrees that the health risks of passive smoking are clear. Hundreds of people die every year in the UK as a result of high levels of exposure to passive smoke. The Government is tackling environmental tobacco smoke by a number of measures that offer the possibility of substantial progress. The Government is supporting the licensed hospitality industry's Public Places Charter, which will improve the provision of facilities for non-smokers in pubs, bars and restaurants. The Health and Safety Commission has recently announced that it favours the introduction of an Approved Code of Practice on passive smoking at work and the Government will take this recommendation into account before making a final decision.

(d) We find it inherently unsatisfactory that the trade association of the tobacco companies was unable to comment on the research activities of its predecessor body. It seems to us that this is symptomatic of a more general failure by the industry as a whole to take responsibility for the effect of its activities (paragraph 52). We also find extremely unconvincing the explanation that the Harrogate research stopped simply because analytical techniques improved to such an extent that researchers were able to analyse ever-smaller components (paragraph 53).

The Government would welcome full disclosure of the results of research activities carried out by the tobacco industry; it is in the interests of the consumer and public health for the general public to be made aware of any relevant research into carcinogenicity of individual cigarette components and their action on other components within a cigarette. We would urge tobacco manufacturers to make full disclosure of all their research and be open with their consumers about the severe health consequences of smoking, both active and passive.

(e) Tobacco companies are commercial enterprises whose imperatives have nothing in common with the public health community. Their past records of denial and obfuscation militate against any claims they may make towards scientific objectivity. We find ourselves most strongly agreeing with the viewpoint expressed by Dr Axel Gietz, Vice President of R J Reynolds Tobacco (UK) Limited: "we are aware that we do produce and market a very controversial product – what we do in terms of product development is much more important than anything we say". We believe it is for public health authorities to measure the risks of smoking and to set appropriate regulatory parameters (paragraph 55).

(f) The current regulation applying to tobacco products is entirely inadequate (paragraph 59). We take the view that if the Government fails to take the sort of direct regulatory action we recommend below as a consequence of its anxiety not to be seen to be 'nannying', it would be failing in its responsibilities (paragraph 61).

We believe that people should have a choice about whether or not to smoke but they should also be properly informed.

(g) We believe that the Department should urgently commission comprehensive research relating to the age at which children start smoking, the reasons they begin, continue and quit smoking, the relationship between pack size and consumption by children, and the sources from which children obtain cigarettes. We believe that the Tobacco Regulatory Authority we propose below at paragraph 189 would be the appropriate body to commission and analyse such research (paragraph 63).

The Government will make £2.5m available for a policy research programme to support research into smoking related issues. We are considering a wide range of research proposals including several specific to smoking and young people. Research will be commissioned in the following areas: evaluation of the NHS smoking cessation strategy; effective methods of promoting smoking cessation in target groups, such as young people and pregnant women, and in different settings; understanding social influences which lead to smoking initiation and continuation; support for health care professionals and their training needs; and workplace smoking policies. Previous DH sponsored research has specifically addressed smoking in adolescence and the factors which influence young girls in particular.

(h) We believe that a much more widespread use of proof of age cards would reduce the incidence of retailers unwittingly selling tobacco products to children. We think it would be helpful if the Government could approve those photo-identity proof of age cards it regards as reliable and useful. Such cards could then bear an appropriate marking to indicate that they belonged to a Government approved scheme (paragraph 70).

The Government strongly supports the use of proof of age cards. It believes that it is ultimately for the producers of age-restricted goods to introduce such cards as it is in their interests to have a card that aids the legal sale of these products. However, as we have done in the past, we will encourage the industries concerned to introduce such cards.

(i) Detection of those illegally selling tobacco to youngsters is the job of trading standards officers, and we believe they need to be given clear instructions, definite targets and dedicated resources. They should also be made accountable for the success of their operations and ensuring shopkeeper compliance (paragraph 71).

(j) We believe it is deplorable that so many local authorities have failed in their responsibilities to deter under age tobacco sales. Those not undertaking regular enforcement procedures should be named and shamed (paragraph 72).

- See response under (l) below.

(k) We regret the fact that the Scottish Office has not modified its guidance [on the use of children in test purchase cases], and call on the Secretary of State to make appropriate representations to achieve a uniformity of approach towards tackling sales of tobacco products to children (paragraph 73).

This is entirely a matter for the Scottish Executive. The Crown's reluctance to use children in test purchase operations in Scotland has not been arrived at lightly. It is the result of careful and repeated examination of the implications of such authority in a number of areas of criminal investigation. The Scottish Executive is committed to tackling the problem

of underage sales of tobacco and will continue to explore with enforcement agencies alternative enforcement strategies, including other means of obtaining evidence for use in prosecutions.

(l) The policy failure on youth access to tobacco results from both inadvertent and deliberate law breaking. This was recognised in the White Paper, which promised to draw up an enforcement protocol with local authorities to tackle both issues. We welcome this - the terms of the Children and Young Persons (Protection from Tobacco) Act need to be greatly strengthened - but we feel that the protocol will need to be strongly worded, and backed by both adequate resources and severe penalties for non-compliance, if it is to have any effect. We also note that, despite "lengthy discussions" having taken place, no such protocol has yet been agreed. With this in mind, it is our view that Government cannot simply shift the blame for lack of enforcement on to local authorities, trading standards officers and magistrates. It is essential that the Government issues clear guidelines and quickly develops effective protocols to ensure more test purchases take place and more convictions are secured. (paragraph 74).

The Government has agreed an Enforcement protocol with the Local Authorities Co-ordinating Body on Food and Trading Standards (LACOTS) and the Local Government Association (LGA), which includes clear guidance on test purchases and convictions. LACOTS have agreed to conduct an annual survey of enforcement practice to highlight where enforcement is making a difference and where it is not, and also the extent of best practice. All local authorities should be enforcing the law and monitoring the problem of underage sales and we would encourage them to do so. Whether they are or not will become clear from the annual survey. Enforcement should be seen as a key part of local authorities fulfilling their duties under local Health Improvement Programmes.

(m) We recommend that magistrates should be actively encouraged to pass deterrent sentences by means of guidance from central Government (paragraph 75).

The Department will talk to the Lord Chancellors Department (LCD) and the Magistrates' Association to consider what more we can usefully do in this area.

(n) One possible way to enhance deterrence would be to introduce a system of 'negative licensing'. Rather than requiring all retailers to be licensed, this would simply forbid sale by those who have infringed the law. We believe that this would act as a potentially powerful deterrent. It would also be appealingly appropriate in that the punishment would fit the crime - "shopkeepers who sell to children can't be trusted to retail tobacco responsibly, therefore should not be permitted to do it at all". Such a system would also, we believe, act as an incentive for retailers and those aged 16 and over to involve themselves in proof of age schemes. However, perhaps the most attractive feature of negative licensing is that it would not require a new or extensive bureaucracy to support it. Existing local licensing boards could implement it as and when convictions occur. Alternatively, the Department might wish to assess the advantages of introducing a comprehensive licensing system for all retailers of tobacco, which would give consistency with the arrangements for the sale of alcohol (paragraph 76).

(o) We believe that the measures set out in this and the previous section will bring about significant reductions in the numbers taking up smoking. The tobacco industry's public stance on children's smoking is explicit: they see tobacco use as an adult activity, do not endorse underage sales and, in some cases support an increase of the legal age to 18. On the other hand, as noted above, most smokers start as children and complete prevention of child access to the product would have serious repercussions for their profits. The companies' response to the proposals made here will help establish where their priorities really lie (paragraph 77).

The Government does not believe that a system of negative licensing to target retailers who partake in underage sales is necessary. It is, however, fully committed to giving enforcement authorities greater powers to deal with unlawful trading practices. To that end, the Department of Trade and Industry has made it a priority to take forward the proposals to increase protection against the activities of unscrupulous traders that were outlined in last year's consumer White Paper "Modern Markets: Confident Customers". Some of these proposals will require legislation, although not necessarily primary legislation in all cases.

(p) The evidence we have reviewed from the advertising agencies leads us to conclude that, once more, voluntary agreements have served the industry well and the public badly. Regulations have been seen as hurdles to be overcome or side-stepped; legislation banning advertising as a challenge, a policy to be systematically undermined by whatever means possible. We recommend that any future regulation of marketing should be statutory, and overseen by an independent and powerful regulatory body which has the consumer's interest at heart, such as the Tobacco Regulatory Authority which we propose below at paragraph 189 (paragraph 88).

(q) Most of the tobacco companies have sought to challenge the Government's commitment to introduce an advertising ban in advance of the date for implementation set by the EU directive. The argument they have repeatedly advanced is that tobacco advertising does not increase consumption, it merely persuades smokers to switch brands. However, looking through the documents that the agencies themselves produced, this view is completely discredited (paragraph 89).

(r) Our review of the copious evidence from the advertising agencies, which includes substantial quantities of market research, leads us to conclude that the advertising agencies have connived in promoting tobacco consumption, have shamelessly exploited smoking as an aspirational pursuit in ways which inevitably make it attractive to children, and have attempted to use their creative talents to undermine Government policy and evade regulation. We welcome the Government's commitment to end all forms of tobacco advertising and sponsorship (paragraph 99).

(s) In our view, such connotations [associations between smoking and the 'glamour' of Formula 1 in the advertising papers we examined] blatantly subvert the attempts of successive Governments to dissociate smoking from aspiration and glamour. They also expose as pusillanimous the decision of the present Government to agree to the exemption for Formula One from the EU Directive banning advertising and sponsorship until 2006 (paragraph 102).

The Government welcomes the Committee's support for the legislative route to ban tobacco advertising. In the light of the European Court of Justice's decision to amend Directive 98/43/EEC, we are preparing primary legislation to fulfil our manifesto commitment to ban tobacco advertising.

The Government disagrees with the Committee's description of the transitional period for Formula One and other global sports from the EU Directive. The Government is committed to introducing a ban on advertising, promotion and sponsorship of tobacco products without harming sports or putting unacceptable burdens on businesses and sponsored events. We have made it clear that sponsored events should have time to 'wean' themselves off tobacco sponsorship and where the scale of tobacco sponsorship is extremely high that will take longer. Where events operate on a global scale with the competition spread across several countries, the too rapid a transition to a Europe-wide ban could either harm the sport or risk driving it out of Europe altogether.

(t) We share Mr Mosley's view that the EU's tobacco subsidy undermines its anti-tobacco health promotion strategy, a point we touch on elsewhere. We also regard it as unacceptable that the majority of health ministers [in each of the countries where Grand Prix are held] questioned have not had the courtesy to reply to an invitation to contribute on a crucial health issue put to them by a major sporting body [the FIA]. We recommend that the Department of Health writes to each of its counterparts in those countries which have and have not replied, to ascertain the nature of the replies given and the factors underlying the failure to reply by 10 governments. We would like to be provided with copies of this correspondence (paragraph 106).

The Government notes the frustration of the Committee that some health Ministers in EU countries had not replied to the invitation from FIA. We will raise this issue with these other Governments, as the opportunity arises.

(u) We see no reason why sponsorship has been treated more leniently than advertising in the White Paper, and we call on the Government to remove tobacco sponsorship in general, and that pertaining to Formula One in particular, as soon as is legally possible. If more evidence is needed to support this move, Formula One Management's offer, in response to an inquiry we made, to fund independent research should be accepted and supervised by the Tobacco Regulatory Authority which we propose below (paragraph 108).

- **We have set out our view on tobacco sponsorship at (s).**

(v) We believe that the extraordinarily dangerous nature of the product being marketed means that tobacco companies cannot expect to operate in the same commercial environment as most other industries. We are concerned that tobacco manufacturers continue to think of cigarette packs as being a way either of exploiting the aspirational nature of their products or conveying implied health messages. Notwithstanding the potential restrictions caused by EU single market legislation we believe that the advantages and disadvantages of introducing generic or plain packaging for all tobacco products should be carefully assessed by the Tobacco Regulatory Authority we propose below (paragraph 189). Such packaging would be of a standard colour with the brand name in a standard typeface. Beyond this, the only other permitted information would be health warnings and consumer information about product contents (paragraph 112).

Packaging and labelling is governed by European legislation. We consider that the increased size, variety and prominence of health warning proposed in the draft Directive on manufacture, presentation and sale of tobacco products represents a considerable improvement in product packaging. There are arguments for and against generic packaging but we agree there is a need to keep this whole issue under review.

(w) Other promotional techniques, such as direct marketing, point of sale displays, brand stretching (the branding of non-tobacco products such as clothing with tobacco marques) have also received less attention than advertising. We believe that the proposed Tobacco Regulatory Authority (see below) should monitor these activities, check compliance with current controls and propose new ones whenever there is a danger that a particular activity will encourage consumption. Innovative promotional efforts are also a threat, especially on the internet, and will, we believe, require careful monitoring (paragraph 113).

- **We recognise that tobacco manufacturers may seek to exploit any gaps in present regulation. We will monitor implementation of the law on advertising carefully with other interested parties.**
- **The Government agrees that innovative promotional efforts are a threat to the success of an advertising ban. We will work with Trading Standards Officers and others to monitor the effectiveness of the ban.**

(x) Most fundamental of all, every effort needs to be made by both the Government and the tobacco companies to limit the appeal of tobacco brands to young and new smokers. As a start, we believe the Government should compile and publish information on those brands that have particular appeal amongst children. Such data could inform the operation of the proposed Tobacco Regulatory Authority, both in terms of its analysis of any ongoing marketing activity and its assessment of additives (paragraph 114).

- **We will bear in mind the Committee's comments on collating data on brands most popular with children. The advice of experts will be sought on how best to make use of such information in respect of industry marketing activities and product regulation.**

(y) In our view, voluntary agreement on passive smoking cannot yet be said to be really delivering smoke-free environments to all those who want them. The very real improvements of recent years probably owe more to market forces than to any action by Government. Indeed, we believe that market forces will continue to be a significant driver for change in this area. On balance, we accept that in the leisure sector, voluntary codes may offer the best way forward. We would hope, however, that these yield much more effective action on the part of the hospitality sector than has been the case to date. In this respect, we believe it is essential that the Government sets out a strict timetable for the targets to measure performance cited in its White Paper. Certainly, if the latest agreements do not significantly improve the situation we think the Government will have to consider what more stringent actions it could take. In respect of the workplace, we believe that the proposed Health and Safety Commission Code of Practice offers a good way forward (paragraph 121).

The Government welcomes the Committee's support for its strategy to encourage progress on smoking in public places by voluntary means. We accept that if progress is not made by voluntary means then tougher action will need to be considered. The Health and Safety Commission has recommended the introduction of an Approved Code of Practice for smoking in the workplace and the Government will take this into account in reaching a decision in due course.

(z) We believe that even greater efforts need to be made throughout the primary care teams to educate adults on the dangers their smoking poses to children (paragraph 121).

The Government agrees that primary care teams have a key role to play in smoking cessation and we will be encouraging them to actively take up this role. Since the Committee took evidence we have announced that bupropion (Zyban, an anti-depressant medication known to reduce nicotine cravings) will be available on NHS prescription and that we will consult on a proposal to remove all NRT products from the "blacklist" (Schedule 10 of the NHS (General Medical Services) Regulations 1992). If adopted this will make NRT products available on NHS prescription and give Primary Care a further key weapon to tackle smoking. In the interim, we have authorised NHS Smoking Cessation services to supply free NRT for four to six weeks to smokers entitled to free prescriptions.

(aa) We believe that a Tobacco Regulatory Authority (TRA) such as that we propose below in paragraph 189, with access to high quality scientific advice, would be the appropriate body to advise the Government on the evidence as to the health risks of passive smoking, possible measures to reduce its impact and even the potential benefits of innovative products which might reduce the amount of sidestream smoke which cigarettes emit (paragraph 123).

The Government agrees that further research and high quality scientific advice on passive smoking is necessary. The Scientific Committee on Tobacco and Health (SCOTH) previously tackled the issue of the health effects of environmental tobacco smoke (ETS) on non-smokers in their Report to the Chief Medical Officer, (published on 11 March 1998). SCOTH has now been reconstituted and will consider further work on this subject as it considers its workplan.

(bb) Tobacco companies should produce the least harmful product possible. We are totally unconvinced that Imperial Tobacco can be committed to producing such a product while its public stance is to refuse to accept that cigarettes are intrinsically unsafe (paragraph 125).

The Government shares the frustration of the Committee. The Government believes that there can never be a "safe" cigarette and therefore will continue to encourage smokers to give up the habit.

(cc) Three charges are made against the tar reduction strategy. The first – that, mainly because of compensatory smoking, it is simply ineffective in making cigarettes less harmful – is disputed amongst experts. Although the evidence about compensatory smoking is convincing, it is difficult to reconcile this with the fact that deaths from smoking have fallen faster than can otherwise be accounted for during the period in which the policy was enacted. This latter point leads us to support the further reduction in tar levels in the proposed EU

Directive and the further provisions made in the Directive to review the effectiveness of the tar reduction programme based on the best evidence available. We further recommend that the Tobacco Regulatory Authority which we want to see established should, as a high priority, examine the factors responsible for the reductions in death rates from smoking, with a view to establishing a firmer basis for regulating cigarettes in the future (paragraph 137).

(dd) The two further charges are that actual or implied claims about beneficial health effects of low-tar cigarettes have lessened the incentive of people to give up smoking entirely; and that it has distracted from the other, potentially much more effective, regulatory options available. We take these two charges very seriously. In order to tackle the first, we recommend that the terms 'light', 'mild', 'ultra', 'low tar' and 'low nicotine' be proscribed by law in cigarette branding and marketing (by EU Directive, or by primary legislation in the United Kingdom). To tackle the second charge we recommend that the Tobacco Regulatory Authority, which we propose at paragraph 189, be able to examine, propose and enforce innovative and effective alternative regulatory regimes. It is clear that a regulatory approach based on reducing nominal tar yields alone is inadequate (paragraph 138).

In response to (cc) and (dd):

- **The Government recognises there is a scientific debate around the issue of the health benefits of low tar cigarettes. The UK has supported the proposal in the draft European Directive to reduce tar yields from 12mg to 10mg as a prudent step. We have also strongly and successfully argued for a robust review mechanism, so that the Commission can take advice from independent scientific experts and propose changes to the regulatory system, if and when an alternative approach commands consensus.**
- **We have strongly supported the provision, set out in the draft Directive, which bans misleading descriptors. Whether there are health benefits or not from lower tar cigarettes the most sensible option is not to smoke. We therefore agree that manufacturers of cigarettes should not make any implicit health claims.**

(ee) Given that, because of their addiction, people will demand cigarettes for the foreseeable future, it is clearly preferable that they smoke 'safer' cigarettes. We therefore hope that such products will be developed. We note the argument put forward by some of the companies that the successful marketing of such products is stymied by the regulatory framework. We recommend that the new Tobacco Regulatory Authority which we want to see established should have powers to review and approve applications from companies to market such products in a way which conveys their potential benefits compared to normal cigarettes, as long as full information about the product is provided and assessed by an independent panel of experts (appointed by the Authority), a process which should be funded – via a charge by the Authority – by the company applying. There should then be regular and rigorous reviews of the product and its effects to ensure that it deserves to retain its preferential marketing status. We would expect that status to be very narrowly defined and its promulgation strictly enforced by the Authority (paragraph 146).

(ff) We believe responsibility for licensing additives permitted for use in tobacco products sold in the UK should be passed to the Tobacco Regulatory Authority we propose below. We further believe that this body should take account of the overall public health impact of the inclusion of an additive in determining whether or not it should be permitted for use in tobacco products (paragraph 154).

(gg) We think that the position of the tobacco companies in withholding information on the additives their cigarettes contain is completely untenable. Consumers have a right to know what they are smoking, including the percentage of the product such additives form, and we believe that this information should be available on every packet. We believe the companies should immediately take steps to ensure this is done and that the Secretary of State should introduce measures to make such labelling a mandatory requirement for cigarettes sold or manufactured in the UK (paragraph 158).

The Government agrees that consumers should have more information. Nevertheless, the Government believe there is no such thing as a safe cigarette and will continue to support smokers who want to give up and measures to deter young people from starting smoking. Where it is possible to produce a less toxic cigarette, for example by removing carcinogens, we believe this should be done but stress the need for great caution in claiming a specific product is safer without consensus that there is reliable scientific evidence to support such a claim. The draft Directive on the manufacture, presentation and sale of tobacco products requires much greater openness, something, which the UK has strongly argued for in Europe. Once adopted, we will be implementing the Directive. It is clear that tobacco companies should make all information on additives available to the public without delay. The information published by this Committee, which the Government welcomes, is a good step in the right direction. It is not necessarily practicable to put such information on each cigarette packet, but we will ensure it is publicly available.

(hh) We do not believe it would be appropriate for health policy to be shaped by the activities of criminal gangs. With this in mind we welcome the additional funding the Treasury is providing to boost Customs and Excise in their efforts to secure compliance with the law [in respect of smuggling of tobacco products into the UK] (paragraph 164).

The Government welcomes the Committee's support for our anti-smuggling strategy.

(ii) We welcome the fact that the Government has launched its ambitious recent [tobacco education] campaign. We are not, however, convinced that the Government has enough knowledge of the reasons why people smoke to make such a campaign fully effective (paragraph 165).

(jj) We would draw the attention of health education authorities to the materials we have uncovered from the advertising agencies relating to the motivations of young and adult smokers. We believe that if this material were to be analysed carefully it could yield important information which could be used to dissuade people from smoking (paragraph 169).

(kk) We think it important that the information provided by public health authorities on cigarette packets, and given out in public health campaigns (in schools, workplaces, via primary care or through other media) adopts a greater

variety of messages and conveys information not yet addressed in the health warnings. We believe that the general assertions that "smoking causes heart disease" or "smoking causes lung cancer", whilst having a place in an overall educational strategy, are not in themselves sufficient (paragraph 170).

(ll) We believe that the Department of Health should instigate a much more comprehensive and sophisticated educational programme. From our meetings with public health groups in America we think it is vital that young people should themselves be actively involved in dissuading their peers from smoking (paragraph 172).

(mm) We believe that messages for young people, who are often not impressed by arguments that their life will be shortened by smoking since death for them seems such a distant prospect, should range from information on the way smoking makes them less desirable socially to the ways in which tobacco makes poor people poorer. For example, the fact that smoking can damage skin and teeth should be made clear. There is also evidence that male potency can be damaged by smoking. This is a particularly strong message for young men and we recommend that the Government and health authorities make greater use of it when communicating the dangers of smoking. We further recommend that this message be included as one of the health warnings on packs (paragraph 172).

(nn) So far as adults are concerned, it is our view that the Department should take account of the fact that smoking is skewed towards those in poorer and less well educated households, as the advertising agencies do in many of their campaigns. We believe that the Department should examine the ways in which the agencies have marketed their advertising to this sector and copy some of their most successful strategies. We think it important that public health authorities, as well as conveying the risk of smoking attempt to convey the magnitude of the risks of smoking, in terms of stressing, for example, the numbers of years of life lost by an average smoker or the fact that smoking kills half of all lifelong smokers, and half of those before the age of 69. We think it important that adults should be much more aware of the benefits of quitting in respect of the surprisingly rapid health gains, not least in terms of the speedy improvement in likely life-expectancy that quitting yields. (paragraph 173).

(oo) We believe it is essential that the packet contains clear and effective labelling to the effect that tobacco products are drug-delivery devices creating addiction through nicotine (paragraph 174).

(pp) We also believe that packs should have a contact number to gain access to NHS smoking cessation advice and programmes (paragraph 174).

(qq) Messages should appear on all packs, stating the addictiveness of, and damage to health caused by smoking. In addition, a variety of health messages – such as that relating to male potency which we recommend above – should be used on certain packets. These messages should be harder hitting and more relevant to consumers than those currently used. (Paragraph 174).

The Government agrees that achieving behaviour change through public education is complex and difficult. In addition, there are specific challenges when sophisticated messages have to be communicated to the public. That said, we welcome the suggestions and proposals from the Committee.

Where appropriate, we will build these ideas into our specific campaigns for, for example, young people. The Committee's analysis of the industry marketing strategies is powerful and we will seek to learn from it. We agree that we need to be imaginative in our health message and learn from young people themselves. In developing the education campaign the Government will build on the past and work in an inclusive way, learning from people in music, sports, fashion and the arts, who can really sell to young people and from young people themselves, as the Committee recommended. We will also refresh the key selling points of our education campaigns.

We welcome the Committee's specific ideas on health warnings and have taken note. We would draw the Committee's attention to the draft directive on manufacture, presentation and sale of tobacco products. Amongst the new health warnings proposed are warnings on impotence, ageing of the skin, and a warning that will give the NHS Smoking helpline number 0800 169 0 169. Another proposed warning states that smoking is addictive.

(rr) If NRT is shown to increase smokers' motivations to quit, we believe the Government should consider making NRT available on prescription – available from smoking cessation clinics – for two weeks at a time, up to a maximum of six weeks in total. (Paragraph 180).

We welcome and agree with the principle of the recommendation. The Government has recently made bupropion (Zyban) available on prescription. This is an anti-depressant medication, which was found to reduce cravings for nicotine and is therefore a non-nicotine based treatment. The suitability of this therapy for the individual patient must be a clinical judgement. The Government will consult on making NRT available on NHS prescription. Providing the consultation to remove NRT from the blacklist is successful, this will increase the help for smokers, particularly those less able to afford to buy these products. In the interim, we have authorised NHS smoking cessation services to supply free NRT for four to six weeks to smokers entitled to free prescriptions. These new NHS services, which are being developed in all health authority areas, allow us to have in place support for the majority of smokers who say they wish to stop – services that are unequalled anywhere else in the world.

(ss) We believe that the Government is right to keep its distance from the tobacco industry which has, in our view, been the main beneficiary of the regime of voluntary agreements (paragraph 188).

(tt) The final conclusion of the RCP in its "Report Nicotine Addiction in Britain" was that "an independent expert committee should be established to examine the institutional options for nicotine regulation, and to report to the Secretary of State for Health on the appropriate future regulation of nicotine products and the management and prevention of nicotine addiction in Britain". We concur. It seems to us entirely illogical that treatments for nicotine replacement therapy are subject to stringent regulation whereas the infinitely more deadly tobacco products they are designed to supersede escape any fundamental regulation. So we believe a Tobacco Regulatory Authority (TRA) should be introduced (paragraph 189).

(uu) The proposed TRA could examine nicotine:tar ratios to determine how these could be optimised to minimise exposure to toxins (paragraph 191).

(vv) The TRA could consider the marketing of tobacco products, looking at areas of promotion going beyond advertising into issues such as point of sale displays (paragraph 192).

(ww) We think that technological means to make cigarettes safer and less addictive should be explored and that a TRA could provide the necessary impetus for this. The TRA could, we believe, profitably set upper limits, and progressive reductions for known carcinogens (paragraph 193).

(xx) We recommend that the UK should institute a TRA with responsibility for all aspects of tobacco regulation consistent with the limitations posed by EU law. We would eventually like to see a Europe-wide TRA, but we feel that such a body would have no credibility until such time as the CAP subsidy for tobacco growing is eliminated (paragraph 197).

The Government agrees with the Select Committee that tobacco products need to be regulated more effectively than at present. We believe that much of this regulation will be most effective if it is done at the European level, which is why we continue to argue strongly for tighter regulation and greater openness in negotiations with our European partners. The Draft European Directive on the manufacture, presentation and sale of tobacco products requires much greater openness, something which the UK has argued for strongly in Europe. Once adopted, we will be implementing the Directive.

(yy) We regard the current staff resources devoted to tobacco control, especially in the area of scientific knowledge and advice, to be pitifully weak. Irrespective of whether the Secretary of State accepts our recommendation that root and branch reform is needed in terms of a TRA, we would expect to see a major increase in resources, met out of the enormous income the tobacco companies pay in duties to the Treasury (paragraph 199).

No amount of resources can match the tobacco industry. That said, we have reconstituted the Scientific Committee on Tobacco and Health (SCOTH). This will increase the quality of scientific support to the Department.

(zz) We recommend that the Secretary of State makes immediate and urgent representations in Brussels to create a far more substantial unit to combat the enormous resources of the tobacco industry. We believe that European policy is already hugely compromised by the CAP subsidy, and that unless appropriate resources go into tobacco control European action in this sphere will lack credibility (paragraph 200).

The Commission's resources are a matter for the Commission.

The Government strongly disapproves of the CAP tobacco regime on health, expenditure and control grounds and continues to press for progressive disengagement from the regime. However, given that eight Member States are tobacco producers, achieving reform of the regime is extremely difficult.

(aaa) Gallaher's stance that they deplore smuggling appears to be contradicted by their advertising, which seems to want to court those doing the smuggling. Gallaher noted in its evidence to us that smuggled tobacco gives children access to tobacco. If they genuinely believe that this and the other problems associated

with smuggled tobacco are a "tragedy", they should make sure that all their business practices and those of their advertisers work against the illegal trade rather than encourage it (paragraph 207).

Tobacco smuggling is unacceptable; it undermines the Government's health objectives, reduces revenue and involves serious crime. The Government places great importance on tackling it and on 22 March the Government launched the new tobacco anti-smuggling strategy. This strategy is designed to reverse the trend of tobacco smuggling within three years, and reduce it to below current levels in the longer term.

The Government expects the fullest co-operation of all the tobacco manufacturers in their drive to tackle tobacco smuggling.

(bbb) We welcome the fact that BAT's audit committee will look into this matter [allegations of BAT involvement in smuggling] and we will be calling for its findings when they are available. But this is not enough. The allegations need to be looked at independently and we therefore call on the DTI to investigate them. If they prove to be substantiated, the case for criminal proceedings against BAT should be considered; if they prove to be false, then those perpetrating them should publicly apologise to BAT for what will have amounted to a malicious slur on the company's name (paragraph 222).

The Secretary of State for Trade and Industry has carefully considered the Committee's call upon his Department to investigate the allegations that British American Tobacco plc (BAT) has been involved in smuggling; the Committee's report and recommendations; the evidence given to the Committee and other representations made and the Committee's aim that allegations of criminal activity should either be pursued or BAT vindicated. He has also considered the various powers available to him. The Secretary of State shares the Committee's concern with regard to the allegations that offences may have been committed. He has therefore decided to conduct an investigation under Section 447 of the Companies Act 1985. Should this uncover material indicating that consideration should be given to the launching of a criminal investigation, the matter would then be referred to the appropriate prosecuting authority. However, a conclusion that there is no basis for prosecution action is not the same as a vindication, and therefore is unlikely to lead to the apology that the Committee seeks if criminal proceedings are not pursued.

(ccc) We welcome the Framework Convention proposed by the World Health Organisation and the Government's support for it. However, any success will be dependent on a responsible approach being taken by the tobacco companies. Depressingly, there is little sign of that in the cheap jibes made at the WHO's expense by BAT. To call an organisation committed to improving global health 'zealots' and a 'super-nanny' because of its concern about the 10 million deaths which will be caused by tobacco each year by the late 2020s seems to us bizarre. We hope that the other companies – and, belatedly, BAT – will work constructively with the WHO. On a national level, we recommend that the Government requires the British tobacco companies to provide an annual summary of the action they have taken to co-operate with the WHO, to which the WHO should be invited to respond. If the action taken by the companies is not satisfactory, further action, including legislative and fiscal approaches, should be considered. It would be a hollow victory if, as a result of more

stringent action taken on tobacco control in the developed world, smoking related deaths were merely exported to the world's poorer nations (paragraph 230).

The Government will be working to ensure that the Framework Convention negotiations are a success and, with our European partners, we will work to ensure that smoking related deaths are not exported to developing countries. We will also work with our friends and others around the world to limit the quantity of exports of cigarettes. We believe it is not for government to require tobacco companies to provide annual summaries of the action they have taken to co-operate with the WHO, but we would encourage the tobacco industry to work with WHO as part of their wider responsibilities.

(ddd) We believe that a commitment on the part of BAT to put all non-privileged documents held at Guildford on the internet, preferably in a searchable form, would indicate that it was serious in its attempts to "start the new millennium with a positive approach" to bringing an end to the allegations and arguments which have characterised relationships between public health authorities and the tobacco companies. At the very least, we believe BAT should automatically put all non-privileged documents which it has already scanned, or which it scans in the future, on the internet. Should BAT find this simple, and relatively cheap, option beyond it, the obvious inference should be drawn that they are resisting any attempts to have wider public access to this material. We regard BAT's limits of one organisation, and a maximum of six visitors, per day to be indefensible. It seems to us that BAT is failing to enter into the spirit of the Minnesota agreement. Finally, we think that BAT should employ professionally qualified staff and up to date computers at Guildford – in this respect the contrast between the company's research and development facilities, with their highly qualified staff and state of the art equipment which we saw at Southampton, and the archive, with its untrained staff and slow computers, was stark (paragraph 241).

(eee) We very much welcome the approach that Gallaher has taken to our request that it should make its archival material on the health risks of smoking publicly accessible. We believe that this represents a more mature response to the public health issues than has been evinced by UK companies in the past and that Gallaher should be commended for its responsible approach in this area (paragraph 243).

(fff) We believe that Imperial have adopted a reactionary and defensive posture. Their refusal to place in the public domain documents, which may have a real bearing on the public health community's knowledge of the health risks of smoking seems to us lamentable (paragraph 245).

The Government would like to see the BAT, Imperial and Gallaher documentation made more readily available to the public and researchers. It calls upon these companies to respond positively to the recommendations of the Committee.

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