



Australian Government
Department of Health

ACTING SECRETARY

Senator Slade Brockman
Chair
Senate Standing Committee on Community Affairs
Parliament House
CANBERRA ACT 2066

Dear Senator Brockman

Clarification of evidence provided at the 29 May 2017 Budget Estimates hearing

Thank you for your correspondence of 30 August 2017 regarding evidence provided by the former Secretary of the Department of Health (the Department), Mr Martin Bowles PSM, to the Senate Standing Committee on Community Affairs during its examination of the Department in the Budget Estimates hearing on 29 May 2017.

As you have noted, Mr Bowles provided the following response to a question from Senator Linda Reynolds in relation to current and planned regulatory approaches taken internationally in respect of e-cigarettes and vaping:

“I could probably give you some update, yes. I have just returned from the assembly. At that, I meet with some like-minded countries around tobacco control. Of the seven countries, I think, which have this conversation, New Zealand is the only one that has moved in that direction. Most are still in the same place that we are. Those are the UK, New Zealand, Canada and a range of other countries. They are still in that space of concern. While there is probably thinking that vaping, as long it is not using nicotine in a normal form, is better than smoking, there is still a lot of concern about it. Most countries have actually extended their smoking bans to vaping in all public places as well. So there is not a lot of movement internationally. There is some. I think this is one of those things that are going to bounce around for the next couple of years.” (Official Committee Hansard, Senate Community Affairs Legislation Committee, Estimates, Monday 29 May 2017, page 174).

I note that Associate Professor Colin Mendelsohn has asserted in correspondence to you that, in reference to the above evidence provided by Mr Bowles, ‘the suggestion that other countries are in a similar position to Australia and not progressing is incorrect.’

The Department considers the position put forward by Associate Professor Mendelsohn and other similar views to be overly simplistic. At present, there is no international consensus on the most appropriate regulatory framework for e-cigarettes. Instead, current and planned regulatory approaches to e-cigarettes vary considerably within and across countries, ranging from treatment as tobacco products, poisons, medicines (including medical devices), and consumer products. Additionally, in some countries such as Brazil and Singapore, the sale of e-cigarettes is prohibited, while in many developing countries, it is likely that minimal or no regulatory controls apply.

A range of controls currently apply to the marketing and use of e-cigarettes in Australia, like in many other developed regions overseas, including the United States, the United Kingdom, Canada and New Zealand. However, even among these regions, current and planned responses to e-cigarettes have been diverse.

For example, I understand that following the finalisation of a new deeming rule, the United States Food and Drug Administration (FDA) will require all or most suppliers of e-cigarettes to be subject to comprehensive pre-market requirements, following a transition period that was recently extended. Under these requirements, e-cigarette manufacturers will have to show that their products meet the applicable public health standard set by the law, and will have to receive marketing authorisation from the FDA. In contrast, under new arrangements proposed in New Zealand, I understand that suppliers of e-cigarettes and e-liquid would be required to notify the New Zealand Ministry of Health of their products via a web-based system and self-certify that they meet regulatory requirements.

As the above example illustrates, considerable variation exists regarding the nature and extent of current and planned pre-market requirements applicable to e-cigarette suppliers and manufactures overseas. I also note that there is considerable variation between regions overseas with respect to current and planned restrictions applicable to the substances used with e-cigarettes (such as nicotine), restrictions on their advertising, promotion and sale, tax and price policies and restrictions on where e-cigarettes may be used. For example, the Department understands that the New Zealand Ministry of Health has proposed to prohibit the use of e-cigarettes in workplaces and other legislated smoke-free areas.

The Department is continuing to examine the regulatory framework governing e-cigarettes in Australia, and is monitoring all relevant developments and evidence, particularly in markets where e-cigarettes have started to proliferate.

More broadly, while developments in other countries in relation to e-cigarettes are a relevant consideration, there is also a need to consider the range of proven and other innovative measures that may contribute to further substantial progress in tobacco control in Australia.

I trust this information is of assistance.

Yours sincerely

Mark Cormack
Acting Secretary
Department of Health
15 September 2017