



WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL

S E C R E T A R I A T



Best practices on implementation of the tobacco advertising and display ban at point of sale (Article 13 of the WHO FCTC)

**A four-country study:
Ireland, Norway, Finland and the United Kingdom**





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A four-country study: Ireland, Norway, Finland and the United Kingdom

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1. Introduction

On 18–21 March 2014, the European regional meeting on implementation of the WHO Framework Convention on Tobacco Control (FCTC) was held in Budapest, Hungary. Among other issues, participants reviewed the practice of banning advertising at points of sale (POS), including a ban on displays of tobacco products in the region¹. The meeting noted this was an important implementation milestone and an effective means of reducing the prevalence of tobacco use. In view of this, the Parties called for strengthened information exchange on the matter.

In order to help other Parties to adopt and implement a ban on POS advertising and tobacco product displays beyond the European region, it was agreed in the meeting that the Convention Secretariat would publish the experiences of the United Kingdom, Ireland, Norway and Finland as a best practice report. This report reviews the relevant legislation related to the POS advertising and display bans, and examines experience with enforcement and monitoring in these four countries. Recommendations for further improvements are also given.

1.1 Scientific evidence

By year 2015, two peer-reviewed systematic reviews of POS tobacco advertising and promotion have been published; first by Paynter and Edwards² in 2009 and most recently by Robertson et al. in 2015³. The former review included 12 peer-reviewed articles and the latter 20. The reviews focused on original quantitative and qualitative research examining the relationship between POS tobacco advertising and promotion and smoking prevalence, as well as smoking, quitting and tobacco-purchasing behaviour among individuals, smoking susceptibility and smoking-related cognitions.

In the first review, smoking initiation or susceptibility to smoking among youth was related to exposure to tobacco promotion at the POS in seven out of eight observational studies. Two experimental studies with children showed that exposure to POS tobacco promotions were associated with beliefs about the ease of purchasing tobacco and higher estimates of smoking prevalence among their peers. In a cross-sectional study, one in four adult smokers reported impulse purchasing after seeing tobacco displayed and a third of recent ex-smokers reported an urge to start smoking again. An experimental study showed that a picture of tobacco packs elicited cravings for cigarettes among adult smokers.

In the latest review, the evidence was updated and extended. Each of the included studies reported positive associations between exposure to POS tobacco promotion and smoking or smoking susceptibility, depending on the outcome measure. Their findings were consistent across different study designs, settings, and measures.

The scientific evidence for prohibiting POS advertising and tobacco displays is strong. However, there is still relatively little research on the impact of implementing POS advertising and display bans, although the first display ban was introduced in Iceland already in 2001. A four-country longitudinal comparison of Canada and Australia (with display bans

¹ WHO FCTC Convention Secretariat. Summary of Discussions. European Regional Meeting on Implementation of the WHO Framework Convention on Tobacco Control, Budapest, Hungary, 18–21 March 2014.

² Paynter J & Edwards R. The impact of tobacco promotion at the point of sale: A systematic review. *Nicotine Tobacco Res.* 2009 01;11(1):25-35.

³ Robertson L, McGee R, Marsh L, Hoek J. A systematic review on the impact of point-of-sale tobacco promotion on smoking. *Nicotine Tob Res.* 2015 01;17(1):2-17.

implemented) and the United Kingdom and the United States (no display bans at that time) showed lower rates of impulse purchasing of tobacco associated with display bans⁴. A small qualitative study from Australia found that a decrease of environmental smoking cues reduced the temptation to smoke and contributed to lower consumption⁵. However, participants reported that images of tobacco retailers and tobacco-storage arrangements triggered thoughts about smoking even when the tobacco products themselves were not displayed. Other studies are from the case countries of this best practice report and will be referenced in the respective country sections.

1.2 Article 13 of the WHO FCTC: Tobacco advertising, promotion and sponsorship (TAPS) – retail sale and display of tobacco products

The WHO FCTC defines⁶ tobacco advertising and promotion broadly as “any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly”. Furthermore, tobacco sponsorship is defined as “any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly”.

Under Article 13.2 of the Convention, Parties are obliged to undertake a comprehensive ban on tobacco advertising, promotion and sponsorship as defined in Article 1(c) and (g). If a Party is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles, it shall apply restrictions on all tobacco advertising, promotion and sponsorship (Article 12.3).

The guidelines for implementation of Article 13 of the WHO FCTC, adopted by the Conference of the Parties (COP) at its third session in November 2008, include displays of tobacco products at points of sale in the indicative list of forms of tobacco advertising, promotion and sponsorship within the terms of the Convention⁷.

In relation to POS displays of tobacco products, the guidelines for implementation of Article 13 establish that:

Display and visibility of tobacco products at points of sale constitutes advertising and promotion and should therefore be banned. Vending machines should be banned because they constitute, by their very presence, a means of advertising and promotion.

In order to ensure that tobacco product points of sale do not have any promotional elements, the guidelines further recommend that Parties should introduce a total ban on any display and on the visibility of tobacco products at points of sale, including fixed retail outlets and street vendors. Only the textual listing of products and their prices, without any promotional elements, would be allowed.

⁴Li L, Borland R, Fong G, T., Thrasher J, F., Hammond D, Cummings K, M. Impact of point-of-sale tobacco display bans: Findings from the International Tobacco Control Four Country Survey. *Health Educ Res.* 2013 10;28(5):898-910.

⁵Burton S, Spanjaard D, Hoek J. An investigation of tobacco retail outlets as a cue for smoking. *Australasian Marketing Journal.* 2013;21:234-9.

⁶World Health Organization. WHO Framework Convention on Tobacco Control. Article 1, Use of terms. World Health Organization. 2003.

⁷World Health Organization. WHO Framework Convention on Tobacco Control: Guidelines for Implementation: Article 5.3, Article 8, Articles 9 and 10, Article 11, Article 12, Article 13, Article 14. Geneva, Switzerland: World Health Organization. 2013.

In relation to domestic enforcement of laws on tobacco advertising, promotion and sponsorship, the guidelines recommend that:

Parties should introduce and apply effective, proportionate and dissuasive penalties. Parties should designate a competent, independent authority to monitor and enforce the law and entrust it with the necessary powers and resources. Civil society should be involved in the monitoring and enforcement of the law and have access to justice.

The first country in the world to ban POS tobacco product display was Iceland (2001). Based on the FCTC Global Progress Report 2014⁸, 54% of Parties reported that display at points of sale had been included in their bans on tobacco advertising, promotion and sponsorship.

2. Case study from four countries

2.1 Methods

This best practice report is based on desk research. It was prepared by searching for relevant documents and information among the following sources: FCTC Implementation database; FCTC Regional meeting on implementation of the Convention in the European Region (March 2014) and COP documents⁹; country profiles in the Tobacco Control Laws database¹⁰; Ebsco Discovery Service¹¹; and official guidance documents, press releases and other relevant publications from local governments, research institutes and advocacy organizations. In addition, news articles relating to proposed legislation and legal challenges were utilized. Searches of the literature and of documents in public domain were conducted on 19–23 January 2015, and updated in April 2015. Each country chapter draft of the report was checked by the person acting as technical focal point for WHO FCTC in that country, or by person(s) suggested by the focal point. After an external peer-review, minor revisions were made in August 2015.

The case countries are presented in chronological order of POS display ban implementation. In each case, the history of tobacco advertising regulation was reviewed briefly, but the main focus was on regulations concerning POS advertising and tobacco product displays¹².

2.2 Ireland

2.2.1 Relevant legislation and regulations

Background. Ireland ratified the WHO FCTC in November 2005 and it took effect in February 2006. The first regulations on tobacco advertising were laid down in the 1978 Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) Act and the 1979 Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) Regu-

⁸ WHO Framework Convention on Tobacco Control (FCTC). 2014 Global Progress Report on implementation of the WHO Framework Convention on Tobacco Control. http://www.who.int/fctc/reporting/summary_analysis/en/

⁹ WHO FCTC Convention Secretariat. Summary of Discussions, European Regional Meeting on Implementation of the WHO Framework Convention on Tobacco Control, Budapest, Hungary, 18–21 March 2014; Report of the sixth session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control, Moscow, Russian Federation, 13–18 October 2014.

¹⁰ International Legal Consortium of the Campaign for Tobacco-Free Kids. Tobacco Control Laws database. <http://www.tobaccocontrollaws.org>

¹¹ Ebsco Discovery Service is a single-search tool for multiple literature databases. The service is produced by the EBSCO Industries, Inc.

¹² See also annexes for comparison table and a list of relevant operative jurisdiction in the case countries.

lations¹³. Since then, advertising regulations have been substantially revised by multiple statutory instruments. By the time the POS advertising ban was enacted, all other forms of tobacco promotion and advertising were already prohibited, with the exception of POS tobacco displays and in-store advertisements and promotion.

Status of implementation. The Public Health (Tobacco) Act 2002 (Commencement) Order was signed in 2008 and the ban on POS advertising and tobacco displays took effect on 1 July 2009. Ireland was, therefore, the first European Union country to prohibit POS tobacco displays.

Enforcement and scope of the POS advertising and display ban. No advertising of tobacco products is permitted in retail premises, and retailers have to store tobacco products out of view within a closed container, or dispenser that is only accessible by the retailer and retail staff (examples in Picture 1). Retailers are free to choose what type of closed container or dispenser is used. If necessary, retailers can show customers a pictorial list containing images of the tobacco products on sale, but the list cannot be left on display. The contents of the list are regulated: each packet image cannot be greater in size than the actual size of the packet concerned, more than one image of the same product is not allowed and the list for each image must contain a mandatory health warning. In Ireland, cigarette paper, tubes or filters manufactured for use in tobacco consumption are defined as tobacco products, in addition to the products consisting in whole or in part of tobacco and intended to be smoked. All of these products are then included in the POS advertising and display ban¹⁴.

The only exceptions from the POS display ban are specialist tobacconist shops¹⁵, which can continue POS advertising inside the shop. Duty-free areas at airports must comply with the display ban, but they are allowed to have the pictorial list of the products on continuous display. For international maritime traffic, the display ban applies when vessels are within Irish territorial waters. Locally based online shops are covered by the POS advertising and display ban, with an exception for specialist tobacconists, which can continue to display and advertise inside their online shops.

Self-service vending machines for tobacco sales are also prohibited except in licensed premises and registered clubs. These permitted self-service vending machines must be free of all tobacco related advertising. The machines must also be located adjacent to, or in close proximity to an area that is generally attended by a member of staff. Self-service vending machines can be used only with a disc or card obtained from a staff member or by a device controlled by a staff member, who must also verify the buyer's age. Displaying tobacco product trademarks, emblems, marketing images or logos on selection decals/buttons for dispensing machines and self-service vending machines is prohibited unless they are out of the view of the customer.

¹³ International Legal Consortium of the Campaign for Tobacco-Free Kids. Tobacco Control Laws. Country details for Ireland. Last updated 2 April 2014. <http://bit.ly/1z9l0C9>

¹⁴ Office of Tobacco Control, Department of Health and Children. Guidance for those selling tobacco products. 2010. <http://bit.ly/1I0LQqY>

¹⁵ Specialist tobacco retailer is defined in Ireland as "a person who a) carries on, in whole, the business of selling by retail tobacco products, or products used for the purposes of or in connection with smoking tobacco products, unless he or she is a subsidiary of a company that does not carry on in whole such business, or b) carries on, in part, the business of selling tobacco products by retail and does not carry on any business that consists, in whole or in part, of selling cigarettes." A specialist tobacco retailer must apply to the Minister for a Certificate of Exemption.

Picture 1. Examples of the selling arrangements after the POS tobacco display ban in Ireland.

a) Cabinets



b) Sliding doors



Photos courtesy of National Tobacco Control Office, Health Service Executive, Ireland; published with the permission of Ms Laura Garvey, HSE.

Legal challenges. The ban on POS advertising and tobacco displays was included in the provisions of the Public Health (Tobacco) Act in 2002. However, the ban was challenged by 16 tobacco companies in 2004, including the three main companies operating in the Irish market: Gallaher [Dublin] Ltd, PJ Carroll and Co Ltd, and John Player and Sons Ltd.^{16,17} As a result, the enactment of the ban was delayed for years. The plaintiffs claimed the disputed provisions of the 2002 Act were unconstitutional, in breach of EU law and the European Convention on Human Rights, and would cause them financial losses. In 2007, the challenge was withdrawn without going into court. In addition, Philip Morris Limited (PML), Philip Morris Products S.A. (PMP SA) and an independent retailer filed a joint lawsuit after the implementation seeking to overturn the display ban¹⁸. The lawsuit was filed before the High Court in Dublin on 6 October 2009. Plaintiffs challenged the ban on the grounds that it severely restricts their ability to provide trade and services, thus violating Irish constitutional law and EU law. However, the joint lawsuit has neither proceeded nor been withdrawn.

Monitoring and penalties. Supervision of the POS advertising and display ban is the responsibility of the Health Service Executive. In cases of infractions, the retailer may be brought to court and, if found to have committed an offence, fined and/or suspended from the register¹⁹ and not allowed to sell tobacco for a period determined by the courts.

Summary and the way forward. Ireland mostly complies with FCTC Article 13 and the guidelines regarding POS advertising and tobacco product display. However, the requirement for a comprehensive ban has not been met due to the exemptions given to trade and specialist tobacconists, duty-free areas at airports and specialist online tobacconists. Vending machines have not been completely prohibited. Proportionate and dissuasive penal-

¹⁶ The Irish Times. Challenge to Tobacco Act abandoned. 1 February, 2007. <http://bit.ly/1CtBK9l>

¹⁷ McNeill A, Lewis S, Quinn C, Mulcahy M, Clancy L, Hastings G, et al. Evaluation of the removal of point-of-sale tobacco displays in Ireland. *Tob Control*. 2011(2):137.

¹⁸ Philip Morris International. Press release: Philip Morris Limited and Independent Retailer Announce Joint Lawsuit Challenging Irish Tobacco Display Ban. 5 October 2009. <http://bit.ly/1PmwGxg>

¹⁹ All persons selling tobacco products by retail in Ireland have to register.

ties have been introduced and a competent, independent authority has been designated to monitor and enforce the implementation of the POS tobacco legislation. In the future, Ireland should further pursue a comprehensive ban, and eliminate the existing exemptions.

2.2.2 Monitoring implementation and impact

In Ireland, a comprehensive impact evaluation of the POS advertising and display ban has been conducted using three types of data collection in conjunction with an economic evaluation.^{20,21} The national Office of Tobacco Control (OTC) commissioned surveys to study retailer compliance with the legislation, assessed through audit surveys in 2007 (n=1309 retail outlets), 2008 (n=1203) and 2009 (n=1209). Compliance immediately following implementation was 97%. Tobacco advertising in the stores visited had virtually disappeared following the enactment of the law (it was found in 2% of retail outlets).

In a monthly survey of adults (n=1000) commissioned by OTC, support for the POS display ban started at a high level and increased after implementation (from 58% April-June to 66% July-December). The proportion of interviewees who recalled seeing any cigarette or tobacco packs displayed for sale in shops in the last month decreased (from 49% to 22%). Post-legislation, 14% of adult smokers thought the law had made it easier to quit smoking, although no short-term changes in smoking prevalence were detected.

Youth responses were assessed using a cohort of 13–15 year olds (n=180), interviewed in June and August 2009. Among adolescents, recall of seeing cigarette or tobacco displays in shops in the last month decreased (from 81% to 22%). No short-term changes in youth smoking prevalence occurred. Interestingly, the proportion of youths believing more than a fifth of children their age smoked decreased from 62% to 46%. More than one third (38%) of adolescents thought the display ban would make it easier for children not to smoke.

In the economic evaluation, no change was observed in actual cigarette sales data in any retail category over and above seasonal patterns and an underlying downward trend over time. The studied retail channels captured all retail outlets in Ireland except vending machine sales. Specifically, the retail categories were large supermarket chains, stores that are part of a buying group (owner operated or part of a franchise), service stations, independent stores and garages that earn at least 50% of their profits from tobacco, sweets and newspapers, and other independent stores and smaller chains. The time frame for the study was from the end of 2007 to spring 2010.

In 2009, the Association of Convenience Stores, a United Kingdom retail trade body, commissioned a report regarding the experience of Irish retailers in implementing the POS display ban.²² It focused only on the smallest independent convenience stores and newsagents. A total of 100 retailers were asked quantitative questions regarding the impact of the display ban and the solution they chose to adopt. Ten qualitative interviews were also conducted. As for the new selling arrangements, the majority (78%) of respondents fitted a solution to their existing gantry. A fifth (22%) chose to install a new unit. The average reported cost of the new selling arrangements was £300. Overall, half (56%) of the retailers studied had to fund their own solution; others received financial support from tobacco

²⁰ McNeill A, Lewis S, Quinn C, Mulcahy M, Clancy L, Hastings G, et al. Evaluation of the removal of point-of-sale tobacco displays in Ireland. *Tob Control*. 2011(2):137.

²¹ Quinn C, Lewis S, Edwards R, McNeill A. Economic evaluation of the removal of tobacco promotional displays in Ireland. *Tob Control*. 2011 03;20(2):151.

²² The Association of Convenience Stores (UK). The Implementation of the Tobacco Display Ban in Republic of Ireland. 2009. <http://bit.ly/1DAMGqF>

companies. The majority (80%) of those asked believed sales had been unaffected since the changes were made. No actual sales data were collected. Almost two thirds (65%) of retailers believed that customers had not noticed any difference. Retailers' concerns were related to the aesthetics of the new selling arrangements and loss of customers, and some wanted more guidance on how to comply with the ban.

2.3 Norway

2.3.1 Relevant legislation and regulations

Background. Norway was the first country to ratify the WHO FCTC in June 2004 and it entered into force in February 2005. Act No. 14 of 9 March 1973 relating to the Prevention of the Harmful Effects of Tobacco (Tobacco Control Act) is Norway's primary tobacco control law.^{23, 24} The act governs tobacco advertising, among other things. All tobacco advertising – both direct and indirect and at points of sale – had been prohibited in Norway since 1975. However, there was an exemption for the display of tobacco products at points of sale.

Status of implementation. Norway implemented the POS display ban for tobacco products, including smokeless tobacco (snus) and smoking accessories on 1 January 2010, through an amendment to the 1973 Tobacco Control Act²⁵. Norway does not belong to the European Union and is therefore not bound to the Tobacco Products Directive (2014/40/EU) prohibition of smokeless tobacco sales, which applies in the other three case countries of this report. In 2013, the Tobacco Control Act was further amended, including changes to the POS display ban. As a result of the amendment, the display ban was extended to imitations of tobacco products and tobacco substitutes.

Enforcement and scope of the POS advertising and display ban. Advertising and visible display of all types of tobacco products, smoking accessories, imitations of tobacco products and tobacco substitutes in retail outlets is prohibited. Outlets can choose how to conceal products. Typical selling arrangements include placing tobacco products in closed containers above or below the counter, in closed cabinets or drawers or behind sliding doors, shutters or similar solutions (Examples in Picture 2a and b). Only neutral price information may be given, and the price lists must not include any pictures or other types of information. Price lists can be displayed next to the cash register or handed to the customer on request. One list per cash register is allowed.

Only tobacconists²⁶ were excluded from the ban, but their tobacco displays could not be visible from outside. Locally based online shops are covered; online pictorial displays or promotional material or information is prohibited. The display ban also applies to vessels within Norwegian territorial waters, but in practice no such sales take place.

Self-service of tobacco products in retail outlets was completely banned in 2013, except in tobacconist shops and duty-free points of sale at airports. In Norway, vending machines are allowed if they are operated inside a shop's premises and if they require separate cards

²³The Act no. 14 of 9 March 1973 Relating to Prevention of the Harmful Effects of Tobacco (Tobacco Control Act). Legally Binding only in Norway. Annex to the FCTC Implementation Report of Norway 2014. <http://bit.ly/1DFkKiQ>

²⁴International Legal Consortium of the Campaign for Tobacco-Free Kids. Tobacco Control Laws. Country details for Norway. Last updated 5 January 2013. <http://bit.ly/1xgtE10>

²⁵FCTC Implementation Database. Update. Norway: Prohibition on the visible display of tobacco products at the points of sale. 2012. <http://bit.ly/1xgtLtD>

²⁶A tobacconist shop is defined in Norway as a retail outlet that primarily sells tobacco products or smoking accessories.

display ban also covers vending machines and cards purchased for obtaining tobacco products or smoking accessories. Vending machines may not be labelled with trademarks or company logos or other identifying marks for tobacco products (Picture 2c). They may only have a neutral written indication that the device is a vending machine for tobacco products. Vending machine cards may be labelled only with a neutral indication of the trademark name of the relevant tobacco product.

Picture 2. Examples of the selling arrangements after the POS tobacco display ban in Norway.

a) Cabinet with sliding doors



b) Shutters



c) "Vensafe" vending machine (no self-service)*



Photos a) and c) courtesy of the Norwegian Institute for Consumer Research (SIFO); republished here with the permission of Dr. Janne Scheffels & Dr. Randi Lavik. Photo b) courtesy of the Norwegian Directorate of Health; published here with the permission of Mrs. Helena Wilson.

*Swedish type of smokeless tobacco (snus) needs cold storage and has typically own storage units in retail outlets.

purchased at the cash register or checkout, where the buyer's age has been checked. The

Legal challenges. The Norwegian POS display ban was challenged by the tobacco industry (Philip Morris Norway). In 2012, Oslo District Court ruled that the display ban does not constitute a barrier to trade according to Article 11 of the Agreement of the European Economic Area (EEA).²⁷ The court also concluded that even if the ban had been prohibited by Article 11, it still would have been allowed under Article 13 of the EEA Agreement, which concerns public health protection: the court found that the ban achieves a public health objective and that it does not go further than necessary. A key question in the case was whether the effects of the ban must be scientifically proven by the government, as claimed by the tobacco industry, or whether it was sufficient to provide evidence that there was reason to assume that the ban would contribute to the protection of public health. The court clearly stated that the latter was the case. The tobacco industry did not appeal against this judgement. The government was awarded costs by the Oslo District Court, in the amount of 1 364 200 Norwegian Kroner (145 445 Euros). This covered the Attorney General's costs in defending the case before the courts, including the costs of expert witnesses, but not those of the Ministry of Health, i.e. time spent preparing the case.

Enforcement and penalties. The Directorate of Health is the supervisory body for the display ban. In case of violations, the directorate can order corrections and fines. Supervision is based on notifications.

Summary and the way forward. Norway fully complies with FCTC Article 13 and the guidelines regarding POS advertising, and most of those regarding POS tobacco-product display. The requirement for a comprehensive POS display ban has still not been met due to the exemption given to tobacconists and because vending machines have not been completely prohibited. Proportionate and dissuasive penalties have been introduced and a competent, independent authority has been designated to monitor and enforce the implementation of the POS tobacco legislation. In the future, Norway should pursue a comprehensive ban by eliminating the existing exemptions.

2.3.2 Monitoring implementation and impact

In Norway, a comprehensive evaluation has been conducted of the removal of the POS tobacco displays. Data have been collected on retailer compliance and consumers' experiences before and after the ban by the National Institute for Consumer Research (SIFO)²⁸. Retailer compliance was measured using audit surveys. In January 2010 immediately after the ban, observers visited a representative sample of grocery shops (n=351) and registered whether the shops had a selling arrangement to ensure tobacco products were not visible and what kinds of arrangements had been built. Immediately after the ban, compliance with the new legislation was high: 92% of the audited shops had stored tobacco products out of view. Cards with visible logos of tobacco products for purchases from the non-self-service vending machines were still present at 5% of retailers. It was explained that this was caused by delayed deliveries of the new non-logo cards. Only 3% of the shops had not implemented the ban at all.

Consumer perceptions of the ban were assessed in three web surveys. The first took place before the ban in November 2009 (n=941), the second immediately after the ban in January 2010 (n=909), and the third in November 2010 (n=904). All surveys included persons

²⁷ Oslo District Court. Judgment: Prohibition on the visible display of tobacco products. 14 September 2012. <http://bit.ly/1zRDMVM>

²⁸ Scheffels J, Lavik R. Out of sight, out of mind? Removal of point-of-sale tobacco displays in Norway. *Tob Control*. 2013 05/02;22:e37.

aged 15–54 years. Additional samples (n=309; n=352; n=316, respectively) were drawn to get a sufficient sample of smokers and users of smokeless tobacco (snus) for statistical analysis. Support for the display ban was already high before it took effect, especially among non-tobacco users (77%). Over half of the current (occasional or daily) snus users (51%) and occasional smokers (58%) were in favour of the ban, but of the daily smokers only 28% supported it before implementation. Changes in these proportions over time were not significant, and support remained roughly on a similar level after the ban.

In November 2010, only 20% of daily and occasional tobacco users reported that the ban had made it more difficult for them to buy tobacco products, and 31% said that it had made it more difficult for them to choose a brand – the latter issue being more common among the youngest age groups. All three surveys showed that it was more usual to expect the ban to discourage the uptake of tobacco use than expect it to increase quitting smoking or snus use. A relatively large proportion of occasional smokers or snus users expected the ban to make it easier to quit, while fewer daily smokers and snus users expected this to be the case.

In addition, 10 focus group interviews with male and female daily, occasional and former smokers aged 16–50 years (n=62) were conducted in November 2009 before and in April 2010, after the ban was implemented. In interviews after implementation, most daily smokers said that they did not feel markedly affected by the display ban. Some of the daily smokers felt that the ban had made it more inconvenient to buy cigarettes because they were unable to see the packages and had to ask the checkout staff for assistance. Some of the occasional smokers expressed similar opinions to the daily smokers, while others felt that the ban could have led them to reduce impulse purchases because displays induced them to buy cigarettes. While the adult smokers were often critical in their reflections concerning the effect of the ban on their own behaviour, they talked positively about how restrictions and denormalization can contribute to preventing tobacco use among youth.

In December 2014–January 2015, the Norwegian Institute for Alcohol and Drug Research (SIRUS) commissioned a repeat of the 2010 survey. The survey involved 5 543 respondents aged 15–90 years. Between 2010 and 2014, support for the display ban increased in most studied groups²⁹. Whereas the proportions for those in favour of the ban in November 2010 were 32% among daily smokers, 49% among occasional smokers and 74% among non-tobacco users, the second survey from 2014–2015 showed figures of 37%, 49% and 76%, respectively.

2.4 Finland

2.4.1 Relevant legislation and regulations

Background. Finland ratified the FCTC in January 2005 and it took effect in April 2005. The Finnish Tobacco Act of 1976 already included a comprehensive ban on direct tobacco advertising, also for POS advertising³⁰. A 1994 amendment to the Tobacco Act introduced a ban on indirect advertising.

²⁹ The Norwegian Institute for Alcohol and Drug Research (SIRUS). Survey of support for POS tobacco display ban. Unpublished data. 2015.

³⁰ The Finnish Tobacco Act NO. 693/1976. Legally binding only in Finnish. <http://bit.ly/1Fd7TWb>

Status of implementation. A 2010 amendment further restricted advertising by banning the display of tobacco products and their trademarks at POS from 1 January 2012 and by banning tobacco sales from automatic vending machines from 1 January 2015.

Enforcement and scope of the POS advertising and display ban. Tobacco products have to be stored in closed containers above or below the counter, in closed cabinets or drawers, or behind sliding doors or similar arrangements (Picture 3). Substitute tobacco, tobacco imitations and smoking accessories³¹ have to be treated similarly if they hold a tobacco product trademark. The tobacco product retailer may, if requested, show purchasers of tobacco products a printed catalogue showing packets of the tobacco products on sale in the retail outlet, but the pictorial list cannot be left on display. At the purchaser's request the retailer may also supply a printed list of the tobacco products on sale and their prices. Further provisions on the content and layout of the catalogue and list are laid down in a decree issued by the Ministry of Social Affairs and Health. It strictly regulates the sizes of catalogues, lists, fonts and pictures used, and of material and font types allowed. In summary, the catalogue and list cannot have any promotional elements. The picture of a packet cannot be greater than its real size and the mandatory health warnings must be visible.

Picture 3. Examples of the selling arrangements after the POS tobacco display ban in Finland.

a) Electronic dispenser*



b) Cabinet over the counter



c) Sliding doors



d) Shutters



Photos courtesy of the Tobacco, Gambling and Addiction Unit, National Institute for Health and Welfare, Finland; published here with the permission of Ms. Hanna Ollila. *At the checkout, customer tells what cigarettes he/she wants to buy and the cashier tells which number button to press in the electronic dispenser in order to receive the pack.

In Finland, specialist tobacconists³² are exempt from the display ban, but they are subject to the ban on POS advertising and are obliged to have a separate entrance and to ensure that the public cannot see tobacco products from outside the shop. Sales of tobacco products on board a vessel used in international maritime traffic are also exempted from the display ban.

The POS advertising and display ban applies to online and distance retailers. Specifically, online shops must require customers to register and log in each time in order to see the list of products and their prices. The list can only contain neutral product information – no pictures, product reviews or other promotional material. The products cannot be presented in a downloadable catalogue.

Legal challenges. In Finland, the POS tobacco display ban has not been challenged by the tobacco industry.³³

Enforcement and penalties. Local authorities are responsible for granting and cancelling tobacco retail licenses and for handling violations of the rules of sale. Local authorities must carry out, either on their own initiative or on the basis of notifications, inspections of facilities storing and selling tobacco products and also supervise the sale and display of tobacco products and smoking accessories at POS. If violations are observed during an inspection or otherwise, the local authority must prohibit such activities. With regard to the display ban, the local authority may give notice of the matter to the public prosecutor.

Summary and the way forward. Finland fully complies with FCTC Article 13 and the guidelines regarding POS advertising, and most of those regarding POS tobacco product display. The requirement for a comprehensive ban in POS displays is not met due to the exemptions given to tobacconists, and similarly to vessels in international maritime traffic. Proportionate and dissuasive penalties have been introduced and a competent, independent authority has been designated to monitor and enforce implementation of the POS tobacco legislation. In the future, Finland should further pursue a comprehensive ban by eliminating the existing exemptions.

2.4.2 Monitoring of implementation and impact

The Finnish ban on tobacco product displays took effect in January 2012. No single comprehensive evaluation has been conducted, but relevant data are available from multiple sources. Exact data on compliance are not available, but only minor infractions of the display ban in stores and other retail outlets have been reported to the National Supervisory Authority.

Finnish Action on Smoking and Health (ASH) commissioned surveys both before and after the display ban took effect. The first survey was conducted in spring 2010, representing the general population aged 15–79 years (n=1002)³⁴. In the survey, 68% of the respondents supported the display ban as a means to prevent uptake of smoking among youth, while 54% supported the display ban as a means to support adults in smoking cessation. Older respondents with a higher level of education usually showed stronger support for the display ban, as measured by these the previous statements.

³² Specialist tobacconist is defined in Finland as a sales point mainly selling tobacco products or smoking accessories.

³³ The National Supervisory Authority for Welfare and Health, Finland. Guidance for the sales of tobacco products in online sales. 2014. (Only in Finnish).

³⁴ The Action on Smoking and Health Finland. Survey pre the implementation of the tobacco display ban. 2010. (Only in Finnish).

The second survey was conducted in spring 2013, representing the general population aged 18–79 years (n=997)³⁵. A majority (60%) of respondents thought it was very good or good that tobacco products were no longer displayed. This view was particularly noticeable among women, 25–34-year-olds and 50–79-year-olds, and those who did not use tobacco products themselves. Among those who had purchased tobacco, 89% reported that they had not changed their usual retailer for tobacco purchases after the display ban was enforced. Respondents generally reported that the display ban had not affected the number of cigarettes purchased at once, or their own smoking habits. Among women, the quantity of tobacco products from a single purchase had somewhat decreased and they had reduced consumption more often than men. A majority (58%) thought that the display ban had not affected their visits in the stores or other places that sell tobacco, but 30% thought that the display ban had slowed down service at the checkout. Those who used tobacco products themselves had this perception more often than others. Of those who had quit smoking, 12% considered the display ban helpful in remaining smoke-free, and nearly half of those who quit smoking within the past 12 months considered the display ban helpful.

The Finnish Grocery Trade Association (FGTA) conducted a qualitative enquiry among its members in 2012 to gather experience from the display ban³⁶. It received answers from three of its eight members. From their perspective, the transition to the new selling arrangements had generally gone well, even though in the beginning the new arrangements caused confusion both among consumers and cashiers. It was also mentioned that the local authorities responsible for the supervision of the display ban have in some cases had insufficient information about the legislation's final provisions.

The Adolescent Health and Lifestyle Survey, a nationally representative biennial survey for 12–18-year-olds carried out by the University of Tampere, included a question on whether the adolescents had seen tobacco products displayed in stores, kiosks and service stations near their home, school or workplace³⁷. The question was included in the surveys before the ban in spring 2011 (n=4566), and after the ban in spring 2013 (n=4158) and spring 2015 (n=7412). Among those who visited these sales points, visible tobacco product displays decreased over time. In shops, the proportions changed from 87% in 2011 to 65% in 2013 and to 36% in 2015; and in kiosks from 82% to 69% and 31%, respectively. In service stations the proportions were 81%, 71% and 27%. Only minor infractions of the ban have been reported, hence the small short-term decrease indicates somewhat poor validity for the measure used.

In the same survey, tobacco purchases from commercial sources decreased in 2011–2013 among underage (14–16-year-old) daily smoking respondents, but no significant changes occurred among 18-year-olds. In 2015, purchases from commercial sources among minors remained at a lower level than before the display ban. The results indicate that the display ban may have encouraged age checks for young customers in retail outlets, hence reducing tobacco sales to minors. However, the FGTA also introduced new guidance for age checks in retail outlets at the beginning of 2013, so this positive development cannot be solely credited to the implementation of the display ban.

The Global Youth Tobacco Survey, a nationally representative survey for 13–15-year-olds (n=4773) conducted by the National Institute for Health and Welfare in 2012, included a

³⁵ The Action on Smoking and Health Finland. Survey post the implementation of the tobacco display ban. 2013. (Only in Finnish).

³⁶ The Finnish Grocery Trade Association (FGTA). Member survey. Unpublished data. 2012. (Only in Finnish).

³⁷ Kinnunen JM, Pere L, Lindfors P, Ollila H, Rimpelä A. The Adolescent Health and Lifestyle Survey 2015. Adolescent smoking, alcohol and substance use in 1977–2015. (Summary and tables in English). <http://bit.ly/1FbQj3N>

retrospective question concerning the perceived difficulty of buying tobacco from commercial sources after the display ban was enforced³⁸. Purchasing tobacco from commercial sources was generally very rare (6%) in this age group. Of the respondents, who had tried to buy tobacco from commercial sources after the display ban, the majority (62%) found it difficult to say whether it was now easier or harder for them to buy it. Almost a quarter (23%) found it more difficult than before the ban, but 15% found it easier.

2.5 United Kingdom

2.5.1 Relevant legislation and regulations

Background. The United Kingdom ratified the FCTC in December 2004, and it entered into force in March 2005. Cigarette advertising was banned from television in 1965 under powers granted by the Television Act of 1964. Tobacco advertising on broadcast media (television and radio) was prohibited by the Broadcasting Acts of 1990 and 1996, as well as by the EU Audiovisual Media Services Directive. However, other types of advertising and promotion were controlled by voluntary agreements until the adoption of the 2002 Tobacco Advertising and Promotion Act (TAPA). Numerous regulations have been issued under TAPA to implement the Act. The Tobacco Advertising and Promotion (Point of Sale) Regulations 2004 and the Tobacco Advertising and Promotion (Specialist Tobacconists) Regulations 2004 were introduced to regulate POS advertising in retail shops and specialist tobacconist shops³⁹ in England, Wales, Northern Ireland and Scotland. In 2009, TAPA was amended by the Health Act, which authorized regulations for prohibiting tobacco product display at retail shops and tobacco vending machines in England, Wales and Northern Ireland. In Scotland, corresponding regulations were authorized by the Tobacco and Primary Medical Services (Scotland) Act 2010^{40,41, 42, 43}.

Status of implementation. In England, comprehensive restrictions on POS tobacco marketing were brought into force by the Tobacco Advertising and Promotion (Display) (England) Regulations in 2010. These restrictions prohibited the display and advertising of all tobacco products in retail outlets. The 2010 display regulations came into force in large retail outlets in April 2012. A large shop is defined as having floor space in excess of 280 square metres. In addition, the Tobacco Advertising and Promotion (Specialist Tobacconists) (England) Regulations 2010 further restricted POS advertising within specialist tobacconist shops. The Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010 regulate the display of price lists in shops and bulk tobacconists^{44, 45, 46}.

In Wales and Northern Ireland, three sets of regulations for POS advertising and tobacco

³⁸ Ollila H, Ruokolainen O, Heloma A. Smoking among secondary school pupils in Finland - Global Youth Tobacco Survey 2012 national report. National Institute for Health and Welfare (THL). Report 28/2014. (Summary in English). <http://bit.ly/1BZBoaz>

³⁹ Specialist tobacconist is defined in the UK as a retailer selling tobacco products (whether or not also selling other things), more than half of whose sales are of cigars, snuff, pipe tobacco and smoking accessories.

⁴⁰ International Legal Consortium of the Campaign for Tobacco-Free Kids. Tobacco Control Laws. Country details for England. Last updated 31 December 2013. <http://bit.ly/1uUN2Rm>; Country details for Northern Ireland. Last updated 20 August 2014. <http://bit.ly/1x8BGt0>; Country details for Scotland. Last updated 1 October 2013. <http://bit.ly/1zEOdKp>; Country details for Wales. Last updated 31 December 2013. <http://bit.ly/1BSPhaj>

⁴¹ Action on Smoking and Health UK. Briefing: Tobacco displays at the point of sale. 2013. <http://bit.ly/1C0y3uq>

⁴² Action on Smoking and Health UK. Fact sheet: Tobacco advertising and promotion. 2006. <http://bit.ly/1AsbBMP>

⁴³ Action on Smoking and Health UK. Fact sheet: UK tobacco advertising and promotion. 2012. <http://bit.ly/1vssaH0>

⁴⁴ Bulk tobacconist means in the UK a shop selling tobacco products in quantities that meet the definition in the regulations. The conditions are that at least 90% of cigarette sales are in pre-packed quantities of 200 or more cigarettes with the remainder in pre-packed quantities of 100 or more cigarettes (in their original packaging) and that at least 90% of hand-rolling tobacco sales are in pre-packed quantities of 250 grams or more, with the remainder in pre-packed quantities of 125 grams or more (in their original packaging).

⁴⁵ UK Department of Health. News story: Key information on tobacco displays. 2012. <http://bit.ly/1vqHHXW>

⁴⁶ UK Department of Health, The Trading Standards Institute. Guidance on the display and pricing of tobacco products in England, for tobacco retailers and enforcement officers. 2011. <http://bit.ly/1PpuWnF>

displays were issued: the Tobacco Advertising and Promotion (Display) (Wales/Northern Ireland) Regulations 2012; the Tobacco Advertising and Promotion (Display of Prices) (Wales/Northern Ireland) Regulations 2012; and the Tobacco Advertising and Promotion (Specialist Tobacconists) (Wales/Northern Ireland) Regulations 2012. Product displays and advertising in large retail shops have been prohibited in Wales since December 2012 and in Northern Ireland since October 2012^{47, 48}.

Scotland introduced the most comprehensive regulations in the United Kingdom with the Sale of Tobacco (Display of Tobacco Products and Prices) (Scotland) Regulations 2013. These restrictions prohibit the advertising and display of all tobacco products and the display of smoking accessories (currently defined as cigarette papers, cigarette tubes, cigarette filters, apparatus for making cigarettes, cigarette holders, pipes for smoking tobacco products) in large retail outlets from April 2013⁴⁹.

Despite somewhat different paths to the partial ban on tobacco POS advertising and display, the United Kingdom has had a unified, comprehensive ban from April 2015. This is mandated by the previous country-specific regulations already in effect in large stores.

Enforcement and scope of the POS advertising and display ban. As from April 2015, the ban covers all premises selling tobacco⁵⁰. In Scotland this also includes sales of smoking accessories. Examples of the current tobacco storage units in stores are presented in Picture 4. However, specialist tobacconist shops, bulk tobacconist shops and duty-free shops in airports are allowed to continue limited POS advertising and display subject to specific regulations. In bulk tobacconist shops and duty-free shops, tobacco products must be kept in a separate area not visible from anywhere else in the store. Specialist tobacconist shops can advertise and display tobacco within their premises but this must not be visible from outside the shop. In the international maritime trade, vessels are expected to uphold the principles of POS tobacco legislation within United Kingdom territorial waters. The POS display legislation does not extend to local online or distance sales of tobacco, but there are limitations for Internet tobacco advertising.

⁴⁷ Northern Ireland Department of Health, Social Services and Public Safety. Guidance on the display and pricing of tobacco products in Northern Ireland. 2014. <http://bit.ly/1LJ1qH4>

⁴⁸ Welsh Government. Guidance on the display and pricing of tobacco products in Wales, for tobacco retailers and regulatory officers. 2012. <http://bit.ly/1EDR4Gp>

⁴⁹ Scottish Government, Tobacco Control Team. Tobacco display ban guidance. 2013. <http://bit.ly/1zc1Jor>

⁵⁰ UK Department of Health, The Trading Standards Institute. The New Tobacco Display Law from 6 April 2015: Your Questions Answered. 2015. <http://bit.ly/1VNmpA0>

Picture 4. Examples of the selling arrangements after the POS tobacco display ban in the United Kingdom.

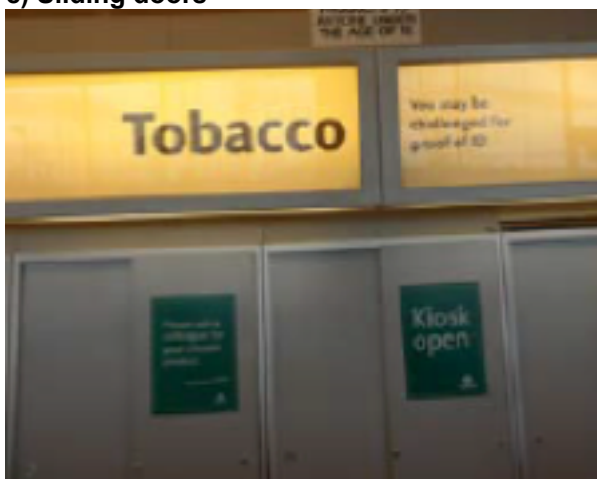
a) Vertical opaque plastic strips



b) Horizontal flaps



c) Sliding doors



Photos courtesy of the Trading Standards Institute, republished here with their permission.

In other than exempted tobacco retailers, products can be shown to a customer only on request. The sizes of permitted temporary displays have been defined: generally the area of tobacco storage unit opened in order to serve the customer cannot exceed 1.5 square metres, but in Scotland the limit is set to 1 000 square centimetres. Generally, it is illegal to display the prices of tobacco products. However, two types of permanent price display are allowed: poster style lists (up to A3 in size), and price labels on shelving, storage units or tobacco jars. In the latter case, one price label is permitted for each product either on the covered shelf where the product is stored or on the front of the storage unit. In addition, a list including pictures of products can be shown to the customer on request, but this list cannot be left on display. Type and size of fonts and pictures in all of the above-mentioned price displays are regulated.

Vending machines for tobacco sales have been prohibited in England since October 2011 by the Protection from Tobacco (Sales from Vending Machines) (England) Regulations 2010. In Northern Ireland, sales from automatic vending machines were prohibited in March 2012 under the Protection from Tobacco (Sales from Vending Machines) Regulations (Northern Ireland) 2012. It was also prohibited to display advertisements or pictures of tobacco products on vending machines. In Scotland, the ban on sales of tobacco from vending machines entered into force in April 2013 pursuant to the Tobacco and Primary

Medical Services (Scotland) Act 2010 (Incidental Provision and Commencement No. 4) Order 2013. In Wales, the ban on sales of tobacco from vending machines has been in force since 1 February 2012 pursuant to the Protection from Tobacco (Sales from Vending Machines) (Wales) Regulations 2011.

Legal challenges. Only the Scottish display ban was challenged in court by the tobacco industry^{51, 52, 53}. The display and vending machine ban, authorized by the Tobacco and Primary Medical Services (Scotland) Act 2010, was originally scheduled to enter into force for large retailers at the beginning of October 2011, but implementation was delayed due to a legal challenge initiated by Imperial Tobacco. Initially the company sought a judicial review of ministers' plans for display bans. A key argument by the tobacco industry was that the Scottish parliament did not have the constitutional powers to introduce any new laws which controlled the sale and supply of goods. In interviews, the tobacco industry also claimed that there was no credible evidence that display bans are effective in reducing tobacco consumption. In addition, the ban was said to contradict the principle of adult choice, to be anti-competitive, to burden retailers with unnecessary costs, and to cause longer in-store transaction times, shopper frustration and problems differentiating between legal products and counterfeit tobacco illegally traded in pubs, car boot sales, street corners etc. In the first instance, a judge in Scotland ruled against the company in civil court, but the company appealed. Three judges ruled against the challenge, and the company decided to appeal to the Supreme Court. However, the POS display and vending machine ban were unanimously upheld by five judges in December 2012. The Supreme Court dismissed claims that the Scottish parliament did not have the necessary constitutional powers and, according to the Supreme Court, it was clear the Scottish parliament was seeking to protect public health.

Monitoring and penalties. Non-compliance with POS tobacco legislation is a criminal offence across the United Kingdom. Regulatory officers, in most cases local authority trading standard officers, are responsible for the enforcement of POS legislation. Offenders under the advertising and promotion provisions of TAPA are subject to a fine, imprisonment or both. In Scotland, tobacco retailers are required to register under the Tobacco and Primary Medical Services (Scotland) Act 2010 and the Sale of Tobacco (Register of Tobacco Retailers) Regulations 2010. If a retailer is found to be in breach of the tobacco sales legislation three times within a two-year period, the local authority can apply to the courts to have the retailer banned from selling tobacco. In Northern Ireland, under the Tobacco Retailers Act (Northern Ireland) 2014, all tobacco retailers will be required to register⁵⁴. While it is expected that this legislation will be enacted in 2015, offences against TAPA will not lead to any application to the court for a Restricted Sales or Restricted Premises Order – only offences for underage tobacco sales, illicit tobacco sales and offences in relation to the tobacco retailers register will be taken into account. In England and Wales, retailers do not need a licence or to be registered to sell tobacco. However, negative licensing is used. This means that if provisions of TAPA are violated, the right to sell tobacco can be removed following an application to the court for a Restricted Sales or Restricted Premises Order.

Summary and the way forward. As of April 2015, the United Kingdom mostly complies with FCTC Article 13 and the guidelines regarding POS advertising and tobacco product display. However, the requirement for a comprehensive ban is not met due to exemptions given both in advertising and display to trade, bulk and specialist tobacconists, as well as

⁵¹ Cancer Research UK. News report: Tobacco giant loses display battle. 2012. <http://bit.ly/1LJ17Ms>

⁵² The Guardian. Scotland to ban cigarette displays in shops after court challenge fails. 12 December 2012. <http://bit.ly/1ApaFsy>

⁵³ The Independent. Imperial Tobacco take fight against cigarette display ban to Supreme Court. 12 November 2012. <http://ind.pn/1BSQ3Eo>

⁵⁴ Northern Ireland Executive. Health Minister welcomes passing of Tobacco Retailers Bill. 18 February 2014. <http://bit.ly/1EFiL1v>

duty-free areas at airports and online shops selling tobacco. Proportionate and dissuasive penalties have been introduced and a competent, independent authority has been designated to monitor and enforce implementation of the POS tobacco legislation. In the future, the United Kingdom should further pursue a comprehensive ban, by eliminating the existing exemptions.

2.5.2 Monitoring of implementation and impact

At the time of this review, England, Scotland, Wales and Northern Ireland were evolving from a partial ban on POS advertising and display of tobacco products to a comprehensive ban. No comprehensive evaluation of the ban on POS advertising and tobacco display is yet available. Cancer Research UK is currently funding an Adult Tobacco Policy Survey with smokers in the United Kingdom, aged 16 and over, in order to study the impact of the tobacco display ban, among other policies⁵⁵. In Scotland, a comprehensive evaluation project has been initiated and baseline data were collected in April 2013 prior to the implementation of the legislation on 29 April 2013⁵⁶. Follow-up data collection will be repeated for four years. In addition to the survey data collection, marketing audits were conducted immediately post-legislation in May 2013 to assess compliance in large retail outlets and it was planned to repeat this in May 2015 in smaller retail outlets, following the implementation of POS legislation in smaller retailers in April 2015.

The 2008 Consultation on the future of tobacco control in England⁵⁷ considered whether there should be further controls on the display of tobacco to reduce unsolicited tobacco promotion to children and people trying to quit smoking. The open consultation ran from 31 May to 8 September 2008 and gave an opportunity to different stakeholders and individuals to state their opinions related to proposed tobacco control strategies or measures. The majority of responses were pre-written postcards or e-mail campaigns. Altogether 96 515 responses were received; 85 565 were from individuals and 10 656 from private sector, mainly small, independent retailers, including specialist tobacconists, and the rest from voluntary and community groups, public sector organizations, professional bodies and other stakeholders. There were 95 488 responses to the question on tobacco displays, with around 84% of respondents favouring stricter controls. Of the given alternatives (to retain the status quo/to place some restrictions on displays such as limiting size or ways in which tobacco may be displayed/to remove tobacco displays altogether), the vast majority of respondents expressed a preference for the complete removal of tobacco displays⁵⁸.

However, among the 10 570 small retailers responding, virtually all were against the proposal. A number of reasons were given, the most common being a perceived unfairness towards small retailers, growth of the illicit market, concerns related to health and security of workers and quality of customer care (e.g. longer service time or having to bend down or reach to collect cigarettes) and large costs for new selling arrangements (estimates ranged from £1 500 to £10 000 per shop). Also, small retailers commonly argued that tobacco displays do not encourage purchases and therefore removing displays would be ineffective.

Support for the display ban was generally high before the ban had been implemented. A Cancer Research UK survey in June 2009 (n=2030, adults 18+) showed that 70% of adults support proposals to protect children from tobacco by putting it out of sight in shops and

⁵⁵ Cancer Research UK. Who and what we fund. Adult tobacco policy survey. 2014.

⁵⁶ Haw S, Amos A, Eadie D, Frank J, MacDonald L, MacKintosh AM, et al. Determining the Impact of Smoking Point of Sale Legislation Among Youth (DISPLAY) study: A protocol for an evaluation of public health policy. BMC Public Health. 2014.

⁵⁷ UK Department of Health Tobacco Programme. Consultation on the future of tobacco control: consultation report. 2008. <http://bit.ly/1EyIURv>

⁵⁸ UK Department of Health Tobacco Programme. Consultation on the future of tobacco control: consultation report. 2008. <http://bit.ly/1EyIURv>

76% support abolishing cigarette vending machines⁵⁹.

In July 2010, Cancer Research UK commissioned another study after the POS legislation had been passed by the United Kingdom and Scottish parliaments. The survey was carried out online. The data were representative of all British adults (n=1106, adults 18+). The survey found that 73% supported putting tobacco products out of sight in shops to protect children. In addition, 77% supported ending tobacco sales from vending machines completely to protect children⁶⁰.

Commissioned by the Department of Health, compliance checks and short-term evaluation in 2013 were conducted approximately 6 months after the implementation of the partial POS display ban in England. A total of 217 business premises across England were studied with retail audits and qualitative interviews. Compliance levels for the POS display legislation were found to be high in both large stores and cash-and-carry-type businesses. Personnel were mostly content with the transition to new selling arrangements. Complaints related to minor issues with the mechanisms used to cover the displays, notably the sliding doors that occasionally stuck or came off the runners, and occasionally, customers being unaware of the change to the law and being frustrated at the new system. Staff reported no short-term effect to tobacco sales at their premises⁶¹.

3. Recommendations for further improvement

3.1 Summary of observations

The most advanced of the case countries is Norway. Besides a complete ban on POS advertising, only tobacconists have been exempted from the display ban and the ban also applies to Internet tobacco sales. The display ban covers not only all tobacco products, including smokeless tobacco, but also smoking accessories, imitations of tobacco products and tobacco substitutes. Finland has a complete ban on POS advertising, but exemptions to the display ban. Other case countries have given exemptions with regards both POS advertising and display of tobacco products. For comparison purposes, display ban legal requirements in the four studied countries are summarized in Annex 1.

The remaining exemptions in the case countries are as follows:

- Tobacconists are allowed to continue limited POS advertising in Ireland and the United Kingdom.
- Trade/bulk/specialist tobacconists (all case countries; bulk applicable only in the United Kingdom), duty-free areas at airports (the United Kingdom) and ferries used in international maritime traffic (Finland) are specifically exempted from the display ban.
- Limited POS advertising and display in Internet tobacco sales is allowed for local specialist tobacconists in Ireland, while the United Kingdom has limitations for advertising in Internet tobacco sales but has exempted local online shops from POS

⁵⁹ Cancer Research UK. Press release: Irish tobacco display ban provides encouraging results for the UK. 2009. <http://bit.ly/1BZng3p>

⁶⁰ Cancer Research UK. Press release: Huge public support to remove cigarette vending machines and tobacco displays in shops. 2010. <http://bit.ly/1z8o5Co>

⁶¹ The Trading Standards Institute. The display of tobacco products: a rapid review of compliance in business premises. 2013. <http://bit.ly/1ig9i8D>

display legislation.

- Vending machines are not completely prohibited in Norway and Ireland. Norway prohibits only self-service vending machines, and Ireland allows also self-service vending machines in specific premises. However, the remaining machines are subject to the POS advertising and display ban in both countries.

All but one of the case countries faced legal challenges from the tobacco industry. While the industry was successful in delaying implementation of display bans by up to 5-7 years in Ireland and for two years in Scotland, none of the Parties have repealed legislation. In Ireland, the tobacco industry claimed the display ban to be unconstitutional, in breach of EU law and the European Convention on Human Rights and that it would involve financial losses and severely restrict their ability to provide trade and services. In Scotland, the constitutional right to introduce new laws controlling the sale and supply of goods was challenged, and in Norway the display ban was said to be a barrier to trade. None of these arguments were accepted; in cases that actually proceeded into court, courts ruled that the display ban was justified on the grounds of the protection of public health.

The concerns raised by business organizations before implementation either did not arise or were quickly resolved. None of the case countries offered financial assistance to offset costs incurred by the installation of new tobacco storage units in retail outlets. Where studied, the real costs from the new selling arrangements to the tobacco retailer were modest and often covered at some extent by the tobacco industry. Personnel were mostly content with the new selling arrangements.

Generally, the experiences of the case countries were positive. Public support for the display ban was at a high level even before implementation. Compliance with the new legislation was high. Where studied, the display ban had not altered the ease of tobacco purchases for the majority of smokers. No effect on the amounts of tobacco purchased at one store visit, or short-term tobacco sales at the national level was observed. Nor did consumers change their place of purchase. Hence, there was no evidence of financial loss to shopkeepers as a result of POS tobacco display bans. The results indicate that the display ban may be especially helpful to recent quitters, occasional smokers and smokeless tobacco users.

Only one of the case countries has studied the effect of display ban on population-level smoking prevalence so far, in a short-term assessment. No association with changes in smoking prevalence in the general population was detected. However, it is difficult to separate population-level effects of the display ban specifically from the effects of other policy measures. Tobacco-control legislation is typically amended with multiple provisions introduced at the same time, or closely following each other. Controlling for other factors is also difficult, especially if only retrospective data with few relevant measures is available.

Based on the strong evidence of the association of exposure to POS tobacco displays and smoking behaviour and perceptions, the display ban can be expected to support the decrease in smoking prevalence by further reducing the exposure to tobacco advertising marketing and promotion. In addition, the display ban supports the de-normalization of smoking and tobacco use by further urging retail outlets to treat tobacco products and smoking/tobacco accessories as no ordinary commodities.

3.2 The way forward

In spite of strong achievements overall, the studied countries allow exceptions to the ban on POS advertising and/or tobacco display, and/or for vending machines. The case countries should pursue restrictions that are as comprehensive as possible in light of their constitutions or constitutional principles. The exemption common to all case countries was tobaccoists. As their definitions and market shares differ country by country, it should be noted that these need not justify an automatic exemption, or one that needs to be maintained in the future. In addition, the guidelines for implementation of Article 13 specifically mention that the ban should also apply to ferries, airplanes, ports and airports. Case countries again allow some exceptions at such sites.

Internet sales are one area where further improvements are necessary in the case countries; advertising and display of tobacco products in online shops should be prohibited if a comprehensive ban for Internet tobacco sales is not possible. None of the case countries have banned Internet tobacco sales completely, and only Norway and Finland have fully applied the POS advertising and product display regulations to online tobacco sales. Ensuring that the domestic POS advertising and display ban applies also to Internet tobacco sales is necessary in order to achieve the elimination of all advertising, promotion and sponsorship with cross-border effects.

There is also room for improvement in the scope of the products covered by the POS advertising and display bans. The guidelines for implementation of FCTC Article 13 define tobacco advertising and promotion to encompass the production and distribution of items such as sweets and toys or other products that resemble cigarettes or other tobacco products. Guidelines even state that advertising – including display and sponsorship – of smoking accessories such as cigarette papers, filters and equipment for rolling cigarettes, as well as imitations of tobacco products, may have the effect of promoting tobacco products or tobacco use. Therefore, a comprehensive POS tobacco advertising and display ban should cover tobacco imitations, substitutes and smoking/tobacco accessories.

These products are topical issues for POS tobacco legislation due to the emergence of novel tobacco products and the growth in the market availability of electronic nicotine delivery systems (ENDS⁶²; e.g. e-cigarettes), electronic non-nicotine delivery systems (ENNDS) and other non-tobacco or non-nicotine products. POS display and promotion is very likely as important for the manufacturers of these products as it is for manufacturers of conventional tobacco products. Having these products on display, even next to closed containers for tobacco products, can give mixed signals to consumers and lessen the impact of the POS display ban. The sixth session of the Conference of the Parties (WHO FCTC COP6) specifically urged Parties to consider banning or restricting advertising, promotion and sponsorship of ENDS. Of the case countries, only Norway had fully applied the POS advertising and display ban to imitations of tobacco products and tobacco substitutes (i.e. ENNDS), and Finland has some restrictions.

Most of the case countries gained experience from legal challenges related to POS advertising and/or display bans. Court decisions and court records related to these litigation cases would be very beneficial for the countries where bans on POS marketing and tobacco dis-

⁶² «WHO FCTC Convention Secretariat. Report of the sixth session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control Moscow, Russian Federation, 13–18 October 2014.» and change the numbering of the following references accordingly.

plays are being contemplated or enacted. Many of the documents can be found via website www.tobaccocontrollaws.org⁶³, which is an extensive country-specific database for both tobacco control legislation and litigation.

In addition, countries should get acquainted with the typical retail concerns and counter arguments related to the POS advertising and display ban. These have been reviewed, for example, by the Centre for Tobacco Control Research⁶⁴ in the United Kingdom before their POS advertising and display ban. In the retail press, where the tobacco industry has a significant presence, the main counter-arguments have been that POS restrictions breach freedom of expression, the sanctity of property and freedom of enterprise. The POS restrictions have been portrayed as increasing government regulation on already overburdened shop keepers. Small retailers in particular tend to express concerns about unfairness towards businesses of their size, the growth of the illicit market, the health and security of workers, the quality of customer care and costs for new selling arrangements. Another common argument is that POS tobacco displays do not encourage tobacco purchases and therefore the lack of POS displays will not discourage these purchases⁶⁵.

The importance of comprehensive bans on tobacco advertising, promotion and sponsorship (TAPS) is highlighted in the WHO Report on the Global Tobacco Epidemic 2015⁶⁶. It concludes that, "Comprehensive TAPS bans hinder the industry's ability to promote and sell its products, and reduce tobacco consumption in all countries regardless of income level." According to the FCTC guidelines for Article 13, bans on POS tobacco advertising and display should be part of comprehensive TAPS bans. Parties that aim to introduce strong POS regulations, including display bans, may benefit from the country experiences described in this report. Suggestions, based on the experience of the four European countries, are presented in the following graph.

⁶³ Tobacco Control Laws - Legislation is a project of the International Legal Consortium of the Campaign for Tobacco-Free Kids in Washington, D.C. In addition, Litigation - part of the project is in collaboration with the O'Neill Institute for National and Global Health Law.

⁶⁴ The Centre for Tobacco Control Research. University of Stirling & The Open University. Point of Sale Display of Tobacco Products. 2008. <http://bit.ly/1DnzvzM>

⁶⁵ UK Department of Health Tobacco Programme. Consultation on the future of tobacco control: consultation report. 2008. <http://bit.ly/1EyIURv>

⁶⁶ WHO report on the global tobacco epidemic, 2015. http://www.who.int/tobacco/global_report/2015/en/

PREPARE FOR LEGISLATION CHANGE

- 1 • **Study the attitudes** in general population.
- **Communicate population support & evidence-base** to the political decision-making process.
- **Prepare for disputes and legal challenges** from tobacco industry.
- **Get acquainted with typical retail concerns** & counter arguments.
- **Prevent tobacco industry interference.**

DEFINE THE SCOPE OF LEGISLATION

- 2 • **Enact a comprehensive POS tobacco advertising & display ban.**
- If not possible yet, enforce POS advertising ban for retailers exempted from display ban.
- Cover online retailers, if internet tobacco sales are not prohibited.
- **Regulate POS price lists and product catalogues:** the content, layout, location and availability.
- **Extend the ban** from all tobacco products to
 - smoking accessories
 - tobacco imitations and substitutes
- **Prohibit tobacco sales from vending machines.**
- If not possible yet, enforce POS advertising and display ban to the machines (+ operating cards).

SECURE THE ENFORCEMENT

- 3 • **Allow for transition time** for retailers.
- **Provide guidance** documents.
- **Designate a competent, independent authority** to monitor and enforce the law.
- **Treat violation of the ban as a criminal offence**, with appropriate sanctions.
- Enforce a register/licencing system for tobacco retailers and remove the licence if the ban is violated.

EVALUATE THE IMPACT

- 4 • **Monitor compliance and impact** preferably with multiple sources of data, e.g. :
 - retail audits
 - population surveys
 - qualitative studies
- **Collect information before and after the ban** to track change over time

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Annex 1: Summary of the current POS display ban in the case countries.

	Ireland	Norway	Finland	UK (England)	UK (Scotland)	UK (Wales)	UK (Northern Ireland)
Background for the POS display ban							
Ratification of the FCTC	2005	2004	2005	2004	2004	2004	2004
POS advertising ban promulgated	2008 (included in the 2002 Act)	1973	1976	2010	2013	2012	2012
POS advertising ban implemented	2009	1975	1977	2012 in large stores, 2015 in others	2013 in large stores, 2015 in others	2012 in large stores, 2015 in others	2012 in large stores, 2015 in others
POS display ban promulgated	2008 (included in the 2002 Act)	2009	2010	2010	2013	2012	2012
POS display ban implemented	2009	2010	2012	2012 in large stores, 2015 in others	2013 in large stores, 2015 in others	2012 in large stores, 2015 in others	2012 in large stores, 2015 in others
Tobacco industry challenge	Yes	Yes	No	No (However, UK Supreme Court made the final ruling in the litigation against Scotland)	Yes	No (See England)	No (See England)
Products covered by the POS display ban							
Tobacco products	Yes (also defined to include cigarette paper, tube or filter manufactured for use in smoking tobacco)	Yes (also smokeless tobacco)	Yes	Yes	Yes	Yes	Yes
Smoking accessories	Yes (see above)	Yes	Yes, must carry tobacco product trademark	No	Yes (cigarette papers, tubes, filters and holders; apparatus for making cigarettes, pipes for smoking tobacco products – list open to future modifications)	No	No
Tobacco imitations	No	Yes	Yes, must carry tobacco product trademark	No	No	No	No
Tobacco substitutes	No	Yes	Yes, must carry tobacco product trademark	No	No	No	No
Tobacco prices ^a	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Retail outlets covered by the POS display ban							
Large retail outlets	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Small retail outlets	Yes	Yes	Yes	Yes (as of April 2015)	Yes (as of April 2015)	Yes (as of April 2015)	Yes (as of April 2015)
"On-trade" premises ^b	Yes	Yes	Yes	Yes (as of April 2015)	Yes (as of April 2015)	Yes (as of April 2015)	Yes (as of April 2015)
Trade tobacconists ^c	No	No (if premises are accessible only to people engaged in tobacco trade)	No (separate entrance required, display must not be visible from outside the premises)	No (if premises are accessible only to people engaged in, or employed by, a business which is part of the tobacco trade, and from which tobacco products and their prices are not visible to the public outside the premises)	No (if tobacco products are sold only to registered tobacco retailers and prices are not visible from outside of the premises)	No (if premises are accessible only to people engaged in, or employed by, a business which is part of the tobacco trade, and from which tobacco products and their prices are not visible to the public outside the premises)	No (if premises are accessible only to people engaged in, or employed by, a business which is part of the tobacco trade, and from which tobacco products and their prices are not visible to the public outside the premises)
Bulk tobacconists ^d	NA	NA	NA	No (the display must be in a separate "tobacco area", not visible from outside the area, a notice of age limit should be displayed at the entrance and the shop has to be designed so that customers who wish to buy other goods are not required/encouraged to pass through the tobacco area)	No (the display must be in a separate "tobacco area" and not visible from any other part of the premises)	No (the display must be in a separate "tobacco area", not visible from any other part of the premises, a notice of age limit should be displayed at the entrance and the shop has to be designed so that customers who wish to buy other goods are not required/encouraged to pass through the tobacco area)	No (the display must be in a separate "tobacco area", not visible from outside the area, a notice of age limit should be displayed at the entrance and the shop has to be designed so that customers who wish to buy other goods are not required/encouraged to pass through the tobacco area)
Specialist tobacconists ^e	No	No (display must not be visible from outside of the premises)	No (separate entrance required, display must not be visible from outside of the premises)	No (display must not be visible from outside the premises)	Yes in sales of cigarettes and hand rolling tobacco (no in the sales of other tobacco products, the display must be inside their premises, include a health warning notice and not be visible from outside of the premises)	No (display must not be visible from outside of the premises)	No (display must not be visible from outside of the premises)
Online and distance tobacco sales	Yes (only for local companies except specialist tobacconists)	Yes	Yes	No	No	No	No

On-shore duty-free premises	Yes	Yes	Yes	No (but similar requirements as bulk tobacconists)	No (the display must be located in a separate "tobacco area" and not visible from any other part of the premises)	No (but similar requirements as bulk tobacconists)	No (but similar requirements as bulk tobacconists)
Vessels in international maritime traffic	Yes for vessels when within territorial waters.	Yes for vessels when within territorial waters.	No	Yes for UK vessels when within territorial waters.	Yes for UK vessels when within territorial waters.	Yes for UK vessels when within territorial waters.	Yes for UK vessels when within territorial waters.

Colour coding: **Comprehensive ban**, **Some restrictions**, **No restrictions** Notes: ^a This involves the products that are covered by the local display ban. Display ban on product prices might have some exceptions with regard to premises, which have been exempted from the general tobacco display ban. Temporal display of price lists can also have further regulations. These are not dealt with in this summary table. ^b For example, bars, pubs, newsstands. ^c Trade tobacconists are wholesale premises where tobacco products are sold only to people who retail tobacco products. ^d Bulk tobacconists are premises where tobacco is sold in large quantities, e.g. 90% of its cigarette sales are in pre-packed quantities of 200 or more cigarettes in their original package, and the remainder in pre-packed quantities of 100 or more cigarettes in their original package. ^e Specialist tobacconists are retailers selling mainly tobacco products, e.g. more than half of whose sales are of tobacco products and smoking accessories. NA = Not applicable - do not exist in the country.

Annex 2: Operative jurisdiction for regulating or prohibiting POS tobacco advertising, product display and vending machines, country by country.

Ireland^a:

Public Health (Tobacco) Act 2002
Public Health (Tobacco) (Amendment) Act 2004
Public Health (Tobacco) Act 2002 (Commencement) Order 2008 (S.I. No. 404 of 2008)
Public Health (Tobacco) (Amendment) Act 2004 (Commencement) Order 2008 (S.I. No. 405 of 2008)
Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) (Amendment) Regulations 2009 (S.I. No. 243 of 2009)
Public Health (Tobacco) (Product Information) Regulations 2009 (S.I. No. 123 of 2009)
Public Health (Tobacco) (Amendment) Act 2009
Public Health (Tobacco) (Self Service Vending Machines) Regulations 2009 (S.I. No. 42 of 2009)

Norway^b:

Act No. 14 of 9 March 1973 relating to the Prevention of the Harmful Effects of Tobacco (Tobacco Control Act) (as amended)

Finland^c:

Tobacco Act (No. 693/1976) (as amended)

United Kingdom^d:

Tobacco Advertising and Promotion Act 2002 (2002 c. 36)
The Tobacco Advertising and Promotion Act 2002 (Commencement) Order 2002 (2002 No. 2865 [C. 90])
Health Act 2009 (2009 c. 21)
The Tobacco Advertising and Promotion (Display) (England) Regulations 2010 (S.I. 2010 No. 445)
The Tobacco Advertising and Promotion (Specialist Tobacconists) (England) Regulations 2010 (S.I. 2010 No. 446)
The Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010 (S.I. 2010 No. 863)
The Protection from Tobacco (Sales from Vending Machines) (England) Regulations 2010 (S.I. 2010 No 864)
The Tobacco Advertising and Promotion (Display and Specialist Tobacconists) (England) (Amendment) Regulations 2011 (S.I. 2011 No. 1256)
The Tobacco Advertising and Promotion (Display and Specialist Tobacconists) (England) (Amendment) Regulations 2012 (2012 No. 677)
The Protection from Tobacco (Sales from Vending Machines) (Wales) Regulations 2011 (2011 No. 2498 [W. 271])
The Tobacco Advertising and Promotion (Display) (Wales) Regulations 2012 (2012 No. 1285 [W. 163])
The Tobacco Advertising and Promotion (Display of Prices) (Wales) Regulations 2012 (2012 No. 1911 [W. 233])
The Tobacco Advertising and Promotion (Specialist Tobacconists) (Wales) Regulations 2012 (2012 No. 1287 [W. 164])
The Tobacco Advertising and Promotion (Display) (Northern Ireland) Regulations 2012 (2012 No. 246)
The Tobacco Advertising and Promotion (Display of Prices) (Northern Ireland) Regulations 2012 (2012 No. 341)
The Tobacco Advertising and Promotion (Specialist Tobacconists) (Northern Ireland) Regulations 2012 (2012 No. 244)
The Protection from Tobacco (Sales from Vending Machines) Regulations (Northern Ireland) 2012 (2012 No. 15)
The Tobacco Advertising and Promotion Act 2002 (Commencement) (Scotland) Order 2002 (2002 No. 512 [C. 26])
The Tobacco and Primary Medical Services (Scotland) Act 2010 (2010 asp 3)
The Tobacco and Primary Medical Services (Scotland) Act 2010 (Ancillary Provisions) Order 2010 (2010 No. 77)
The Tobacco and Primary Medical Services (Scotland) Act 2010 (Commencement No. 1, Consequential and Saving Provisions) Order 2010 (2010 No. 345 [C. 23])
The Tobacco and Primary Medical Services (Scotland) Act 2010 (Commencement No. 2) Order 2010 (2010 No. 372 [C. 23])
The Tobacco and Primary Medical Services (Scotland) Act 2010 (Commencement No. 3) Order 2013 (2013 No. 38 [C. 3])
The Tobacco and Primary Medical Services (Scotland) Act 2010 (Incidental Provision and Commencement No. 4) Order 2013 (2013 No. 106 [C. 8])
The Sale of Tobacco (Display of Tobacco Products and Prices) (Scotland) Regulations 2013 (2013 No. 85)

^a Jurisdiction available: www.irishstatutebook.ie

^b Translated Act available: FCTC implementation database/Tobacco Control Laws -database

^c Translated Act available: FCTC implementation database

^d Jurisdiction available: legislation.gov.uk