

Action for Children and Youth Aotearoa

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Submission on Display of Tobacco Products

Introduction

1. This submission is made by Action for Children and Youth Aotearoa (ACYA). ACYA is a coalition of non-governmental organisations and individuals interested in children's rights in Aotearoa New Zealand. ACYA's purpose is to promote the well-being of children and young people in Aotearoa New Zealand through: education and advocacy on the rights of children and young people; encouraging the Government to act on the recommendations of the United Nations Committee on the Rights of the Child; and promoting opportunities for the voice and participation of children and young people.
2. In 2003, ACYA produced and published *Children and Youth in Aotearoa 2003*, the Aotearoa New Zealand NGO Report on New Zealand's implementation of the UN Convention on the Rights of the Child (NGO Report). The NGO Report was presented to the UN Committee on the Rights of the Child (the UN Committee) in Geneva in June 2003, accompanied by a video funded by ACYA and produced by Aotearoa New Zealand children called *Whakarongo Mai / Listen Up*.
3. Since then ACYA has advocated that the Aotearoa New Zealand Government act on the recommendations of the Committee on the Rights of the Child and improve the situation of children and youth. ACYA is developing a constructive working relationship with Government. ACYA also networks information about children and youth. ACYA is a member of the international coalition the NGO Group for the Convention on the Rights of the Child.
4. We very much appreciate the opportunity to make a submission on this important issue.

5. We note that the views expressed in this submission may not be held by all members of ACYA.

The right of each child to enjoy the highest attainable standard of health

6. As described in the Ministry's discussion paper and other Ministry publications, tobacco products cause substantial harm to the health of children and young people in New Zealand and throughout the world. Information in the recent *Indicator Handbook* from the Paediatric Society reinforces the extent of the problem in New Zealand.
7. We applaud the Ministry's ongoing concern and the emphasis given to tobacco control in many Ministry activities.¹
8. Article 24 of the United Nations Convention on the Rights of the Child (UNCROC) requires the State to act to respect, protect and fulfil the right of each child to the enjoyment of the highest attainable standard of health.
9. Under Article 24 sub clause 2(f), the state is required to develop preventative health care, and under sub clause 3 the state is to abolish traditional practices prejudicial to the health of the child. These subclauses emphasise the state's obligation to protect children and young people from the harm done by tobacco.
10. A theme of UNCROC is the state's responsibility to support parents and families caring for children. The reduction of smoking among adults has direct and indirect benefits to the health - and overall wellbeing - of the children and young people.
11. Tobacco displays are marketing tools used by the tobacco industry to promote a deadly and addictive product to children and young people, discourage young smokers and adult smokers who are trying to quit, and undermine and reduce the benefits of current tobacco control legislation and other public health measures. The tobacco industry has exploited any gaps it could find in the current legislation, and such behavior means that a tough legislative response is required.

The right of the child to participate in decisions that affect them

12. One of the principles of UNRCROC is that children have the right to be participate in decisions that affect them and to have their views given due weight in accordance with their age and maturity (Article 12).

¹ For example, we note that the Ministry of Health *Statement of Intent 2007-2010* reports that 10-15 % of Year 10 students are daily smokers (page 7) and that measures for improving Maori Health include "reduce the harm caused by tobacco" (page 51).

13. We congratulate the Ministry for consulting with young people on this issue. We appreciate that this is not commonly done by government agencies, and it is not necessarily easy for Government agencies to involve young people in formal consultation processes. We are delighted that the Ministry of Health and Ministry of Youth Development are working together in seeking the views of young people.
14. We would be especially interested in receiving a summary of the responses from young people.

The principles of the United Nations Convention on the Rights of the Child

15. The articles of UNCROC are interdependent. The United Nations Committee on the Rights of the Child has described the principles of UNCROC as being children's rights to life, survival and development (Article 6), non-discrimination (Article 2), actions being in the best interest of the child (Article 3) and respect for the views of the child (Article 12).
16. The banning of tobacco displays would support children's rights to life and development, non-discrimination and equity, and ensuring that the actions of organisations are in the best interests of children and young people.

Human rights as a shield

17. New Zealand has taken an international leadership role, in tobacco control including support of the WHO Framework Convention on Tobacco Control. The Framework Convention is aligned with international human rights treaties.
18. There will be powerful interests opposed to New Zealand banning tobacco displays.
19. Professor Paul Hunt, the New Zealander who is the United Nations Special Rapporteur on the Right to Health, has stated that the obligation of governments to comply with international human rights treaties provides a shield against such powerful pressures.²

Thank you for the opportunity to make this submission.

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² Paul Hunt, *Using Rights as a Shield*, NZ Human Rights Law and Practice, 6, 2001, page 111.