

## **CONSULTATION QUESTIONS**

### **Age restriction for e-cigarettes**

**1. Should the minimum age of sale for e-cigarette devices, refills (e-liquids) be set at 18?**

Yes ☒ No ☐

**2. Should age of sale regulations apply to:**

**a. only e-cigarette devices and refills (e-liquids) that contain nicotine or are capable of containing nicotine, or**

**b. all devices / refills (e-liquids) regardless of whether they contain or are capable of containing nicotine?**

a ☐ b ☒

**3. Whom should the offence apply to:**

**a. the retailer selling the e-cigarette**

**b. the young person attempting to purchase the e-cigarette**

**c. both**

a ☐

b ☐

c ☒

**4. Should sales of e -cigarettes devices and refills (e-liquids) from self-service vending machines be banned?**

Yes ☒ No ☐

**5. Should a restriction be in place for other e-cigarette accessories?**

Yes ☐ No ☒

6. If you answered “yes” to question 5, which products should have restrictions applied to them?

n/a

**Proxy purchase for e-cigarettes**

7. Should the Scottish Government introduce legislation to make it an offence to proxy purchase e-cigarettes?

Yes ☒ No ☐

**Domestic advertising and promotion of e-cigarettes**

8. Should young people and adult non-smokers be protected from any form of advertising and promotion of e-cigarettes?

Yes ☒ No ☐

9. In addition to the regulations that will be introduced by the Tobacco Products Directive do you believe that the Scottish Government should take further steps to regulate domestic advertising and promotion of e-cigarettes?

Yes ☐ No ☒

10. If you believe that regulations are required, what types of domestic advertising and promotion should be regulated?

- |  |                            |
|--|----------------------------|
| a. Bill boards   | a <input type="checkbox"/> |
| b. Leafleting  | b <input type="checkbox"/> |
| c. Brand-stretching (the process of using an existing brand name for new products or services that may not seem related) | c <input type="checkbox"/> |
| d. Free distribution (marketing a product by giving it away free)  | d <input type="checkbox"/> |
| e. Nominal pricing (marketing a product by selling at a low price)   | e <input type="checkbox"/> |
| f. Point of sale advertising (advertising for products and services at the places where they were bought)                | f <input type="checkbox"/> |
| g. Events sponsorship with a domestic setting  | g <input type="checkbox"/> |

11. If you believe that domestic advertising and promotion should be regulated, what, if any, exemptions should apply?

n/a

**12. Are you aware of any information or evidence that you think the Scottish Government should consider in relation to regulating domestic advertising in relation to impacts on children and adults (including smokers and non-smokers)?**

No.

**13. Are you aware of any information or evidence that you think the Scottish Government should consider in relation to regulating domestic advertising in relation to impacts on business, including retailers, distributors and manufacturers?**

No.

**Inclusion of electronic cigarettes on the Scottish Tobacco Retailer Register**

**14. Do you agree that retailers selling e-cigarettes and refills should be required to register on the Scottish Tobacco Retailers Register?**

Yes ☒ No ☐

**15. Do you agree that the offences and penalties should reflect those already in place for the Scottish Tobacco Retailers Register?**

Yes ☒ No ☐

**16. If you answered 'no', to question 15, what offences and penalties should be applied?**

n/a

**E-cigarettes – use in enclosed public spaces**

**17. Do you believe that the Scottish Government should take action on the use of e-cigarettes in enclosed public spaces?**

Yes ☐ No ☒

**18. If you answered 'yes' to Question 17, what action do you think the Scottish Government should take and what are your reasons for this?**

n/a

**19. If you answered, 'no' to Question 17, please give reasons for your answer.**

E-cigarettes have not been proven to be harmful to bystanders. The NFRN believes that banning them from enclosed public spaces would take away the benefit of people using them to quit or reduce how much they smoke.

**20. Are you aware of any evidence, relevant to the use of e-cigarettes in enclosed spaces, that you think the Scottish Government should consider?**

No.

**Smoking in cars carrying children aged under 18**

**21. Do you agree that it should be an offence for an adult to smoke in a vehicle carrying someone under the age of 18?**

Yes ☐ No ☐

**22. Do you agree that the offence should only apply to adults aged 18 and over?**

Yes ☐ No ☐

**23. If you answered 'no' to Question 22, to whom should the offence apply?**

Comments

**24. Do you agree that Police Scotland should enforce this measure?**

Yes ☐ No ☐

**25. If you answered 'no' to Question 24, who should be responsible for enforcing this measure?**

Comments

**26. Do you agree that there should be an exemption for vehicles which are also people's homes?**

Yes ☐ No ☐

**27. If you think there are other categories of vehicle which should be exempted, please specify these?**

Comments

**28. If you believe that a defence should be permitted, what would a reasonable defence be?**

Comments

**Smoke-free (tobacco) NHS grounds**

**29. Should national legislation be introduced to make it an offence to smoke or allow smoking on NHS grounds?**

Yes ☐ No ☐

**30. If you support national legislation to make it an offence to smoke on NHS grounds, where should this apply?**

- |  |                            |
|--|----------------------------|
| a. All NHS grounds (including NHS offices, dentists, GP practices) | a <input type="checkbox"/> |
| b. Only hospital grounds   | b <input type="checkbox"/> |
| c. Only within a designated perimeter around NHS buildings         | c <input type="checkbox"/> |
| d Other suggestions, including reasons, in the box below           |                            |

Comments

**31. If you support national legislation, what exemptions, if any, should apply (for example, grounds of mental health facilities and / or facilities where there are long-stay patients)?**

Comments

**32. If you support national legislation, who should enforce it?**

Comments

**33. If you support national legislation, what should the penalty be for non-compliance?**

Comments

**34. If you do not support national legislation, what non-legislative measures could be taken to support enforcement of, and compliance with, the existing smoke-free grounds policies?**

Comments

**Smoke-free (tobacco) children and family areas**

**35. Do you think more action needs to be taken to make children's outdoor areas tobacco free?**

Yes ☐ No ☐

**36. If you answered 'yes' to Question 35, what action do you think is required:**

- a. Further voluntary measures at a local level to increase the number of smoke-free areas** a ☐
- b. Introducing national legislation that defines smoke-free areas across Scotland** b ☐
- c. That the Scottish Government ensures sufficient local powers to allow decisions at a local level as to what grounds should be smoke-free** c ☐
- d. Other actions. Please specify in the box below**

Comments

**37. If you think action is required to make children's outdoor areas tobacco-free, what outdoor areas should that apply to?**

Comments

**Age verification policy 'Challenge 25' for the sale of tobacco and electronic cigarettes**

**38. Do you agree that retailers selling e-cigarettes, refills and tobacco should be required by law to challenge the age of anyone they believe to be under the age of 25?**

Yes ☐ No ☒

**39. Do you agree that the penalties should be the same as those which are already in place for selling tobacco to someone under the age of 18?**

Yes ☒ No ☐

**Unauthorised sales by under 18 year olds for tobacco and electronic cigarettes**

**40. Do you agree that young people under the age of 18 should be prohibited from selling tobacco and non-medical e-cigarettes and refills unless authorised by an adult?**

Yes ☒ No ☐

**41. Who should be able to authorise an under 18 year old to make the sale, for example, the person who has registered the premises, manager or another adult working in the store?**

Any member of staff over the age of 18.

**42. Do you agree with the anticipated offence, in regard to:**

a. the penalty

a ☒

b. the enforcement arrangements

b ☒

**Equality Considerations**

**43. What issues or opportunities do the proposed changes raise for people with protected characteristics (age; disability; gender reassignment; race; religion or belief; sex; pregnancy and maternity; and sexual orientation)?**

Comments

**44. If the proposed measures are likely to have a substantial negative implication for equality, how might this be minimised or avoided?**

Comments

**45. Do you have any other comments on or suggestions relevant to the proposals in regard to equality considerations?**

Comments

## **Business and Regulatory Impacts Considerations**

**46. What is your assessment of the likely financial implications, or other impacts (if any), of the introduction of each of these proposals on you or your organisation?**

We believe there will be minimal financial implications; the products will be treated in the same way as all other tobacco products.

**47. What (if any) other significant financial implications are likely to arise?**

None.

**48. What lead-in time should be allowed prior to implementation of these measures and how should the public be informed?**

These measures should be implemented as soon as possible. The NFRN encourages all of its members to follow these guidelines already.

**49. Do you have any other comments on or suggestions relevant to the proposals in regard to business and regulatory impacts?**

None.

As a party to the World Health Organization's Framework Convention on Tobacco Control (FCTC), Scotland has an obligation to protect the development of public health policy from the vested interests of the tobacco industry. To meet this obligation, we ask all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry. We will still carefully consider all consultation responses from the tobacco industry and from those with links to the tobacco industry and include them in the published summary of consultation responses.

1. In 2012 the NFRN reorganised with the separation of the not-for-profit trade association from its commercial operations, NFRN Commercial Ltd.

### **The NFRN**

2. The NFRN, while working with tobacco manufacturers on issues of mutual concern, has no financial links or arrangements with any tobacco manufacturer.

3. The NFRN does work with the Tobacco Retailer Association, Tobacco Manufacturers Association and campaign groups such as "Hands Off Our Packs" and "No Thank EU" on matters of common interest. In August 2013



the NFRN assisted in arranging the distribution of campaign and information packs from the “No Thank EU” campaign to NFRN members across the country.

4. The NFRN does not receive any funding from, nor does it fund, any of these groups.

5. NFRN policy is set by members at its Annual Conference. Members of staff, including those who deal with tobacco manufacturers and campaign groups, are not permitted to take part in the policy debates at the Annual Conference.

6. In the Republic of Ireland, Transatlantic Public Affairs, who also work for Philip Morris, have provided no cost public affairs advice to the local NFRN district. Such advice is monitored by the Head Office Public Affairs team to ensure compliance with the aims and objectives of the NFRN.

7. The Public Affairs team works for the NFRN and does not have sight of commercial agreements between the NFRN, NFRN Commercial Ltd and third parties, whether they be tobacco manufacturers or not.

### **NFRN Commercial Ltd**

8. NFRN Commercial Ltd, a wholly owned subsidiary of the NFRN, maintains commercial relationships with most tobacco manufacturers. As a result of these relationships an amount of 19350 pa is spent by tobacco manufacturers on advertising and sponsorship. Imperial Tobacco is the highest value client, contributing £7600 to NFRN Commercial Ltd each year, including the sponsorship of the NFRN Awards

9. As these relationships are with NFRN Commercial Ltd, the companies have no influence over NFRN policy.

10. Senior management have received a modest amount of hospitality from tobacco manufacturers. As members of staff, they do not have any say in the adoption or revision of NFRN policy.

### **Newtrade Publishing Ltd**

11. The NFRN also owns Newtrade Publishing Ltd, publishes inter alia of Retail Newsagent and Retail Express. Newtrade Publishing Ltd is operated as an arm's length organisation, with contact limited to senior NFRN management and the Communications and Public Affairs teams who deal with Newtrade Publishing Ltd staff as normal press contacts. Newtrade Publishing Ltd publications have carried advertising from tobacco manufacturers but this is unrelated to the work of the NFRN.

### **General Principle**

12. While the NFRN and NFRN Commercial I believe that it is perfectly legitimate to have business relationships with the manufacturers of legal tobacco products, they are aware of the sensitivity of the sector and the potential for reputational risk. The NFRN and NFRN Commercial Ltd

therefore take a conservative approach to these relationships, ensuring that relationships are focussed towards achieving the aims and objectives of the NFRN and that all commercial arrangements are proportionate to the service being provided.