

Tobacco Advertising at Point of Sale

Report to ASH

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Executive Summary

The Department of Health consultation document "The Future of Tobacco Control" was published on 31st May 2008. Views are sought about the display of tobacco products in retail premises in particular whether additional controls should be exercised.

This report summarises the results of a survey of 153 retail premises in 20 local authorities, representing a range of different regions, types of outlet and settings, both urban and rural. It includes photographic examples drawn from across the country of the way in which tobacco products are being displayed currently in a range of retail premises, all of which were located in the vicinity of secondary schools. While it should be noted that the premises represent only a small proportion of the total number of retail businesses selling cigarettes across the country, the displays are believed to be typical of the retail trade as a whole.

Key findings:

- In all premises the packs are prominently displayed near checkouts in such a way as to promote the product to customers.
- In 19% of premises the health warnings on the packs were obscured by shelf markers.
- In 53% of premises confectionary was placed within 1 metre of tobacco sales.
- In 84% of premises there was overt reference to the need for proof of age before purchase, yet underage smokers still find it easy to purchase cigarettes through retailers.

It is clear that the existing legislative control of advertising and promotion of tobacco products does not provide adequately for the control of display of products at point of sale. Photographic examples clearly show that such displays are used as a marketing tool. Without legislative control it is unlikely that this situation will change. There is considerable scope for additional control to be exercised. From a regulatory perspective removing all displays of tobacco products at point of sale (option 3 in the DH Consultation) would be easiest to enforce.

Introduction

This report has been commissioned by ASH to establish the level of compliance with Tobacco Advertising legislation within retail businesses and how tobacco products are displayed and promoted in this context. This will form part of the response by ASH to the Department of Health Consultation on the Future of Tobacco Control published on 31st May 2008¹.

The report provides evidence of the current situation and assesses whether the proliferation of tobacco display methods seen post implementation of the Tobacco Advertising (Point of Sale) Regulations 2004 has been maintained. It also explores the way in which tobacco products are presented to young people at point of sale.

Examples of current practice are included to highlight specific areas of concern.

Background

The Tobacco Advertising Point of Sale Regulations 2004 came into force in England on the 21st December 2004. The Regulations form part of a wider regulatory strategy to reduce tobacco promotion and are enforced by Local Authority Trading Standards Services; there are 145 of these in England of various sizes ranging from small Borough and Unitary authorities to large County Council Authorities.

Whilst compliance has been reported as being high; concern has repeatedly been expressed by Local Authority Trading Standards officers about the *alternative* methods used by Tobacco Manufacturers to promote and display their tobacco products, using the pack as a means to promote the product.

See example on the following page.

¹ www.dh.gov.uk/publications



Figure 1: Product is arranged in blocks around a central section highlighting Mayfair

Scope of this report

This report will inform (in part) the consultation "The Future of Tobacco Control" published by the Department of Health on the 31st May 2008.

In Part B of the consultation document "Protecting *children and young people from smoking*" the Government specifically poses the question

"Do you believe that there should be further controls on the display of tobacco products in retail environments? If so, what is your preferred option?"

Three options are proposed:

Option 1: do nothing; retain current restrictions, maintaining enforcement of relevant legislation

Option 2: Regulate point of sale display more strictly by further restricting permitted advertising space and / or restricting display space or ways in which tobacco products are displayed

Option 3: Require retailers to remove tobacco products from display

This report focuses on Tobacco displays at the Point of Sale in business premises during the time period May – July 2008. It seeks to explore the methods by which tobacco products are presented to the consumer in a variety of premises across

England. There is a particular emphasis placed upon young people as consumers.

It provides an updated position statement to that presented in the report "Point of Sale Report: What the Manufacturers did next"² published by LACORS in 2006 and makes recommendations in light of the options outlined by the Department of Health in the consultation document.

Method

A survey document was developed in order to establish the data required for the purposes of this report. This was sent to a total of twenty Local Authority services who all agreed in advance to participate in this research. (see Appendix 1 for survey document).

The Local Authority services were drawn from London Borough, Unitary, Metropolitan Borough and County Council services. They represent different regions of the country and different social settings. (See Appendix 2 for list of participating authorities).

Each Authority or Region was tasked with undertaking a number of visits to premises in their Local Authority area. The visits were made to a wide variety of business premise types (see Appendix 1 for more detail), with a focus on those premises situated within easy walking distance of a secondary school. These premises are more likely to be within easy access of a large number of young people.

A record sheet was completed for each premises and photographs taken of each tobacco point of sale area. All data was returned by the 18th July 2008.

Findings

Overall

A total of 153 visits were made to retail business premises across seven of the Government Regions. The major criteria used for selection of the premises was that of proximity to a secondary school, so they are illustrative of the premises that young people are regularly exposed to. There was no other specific

² www.lacors.gov.uk

targeting applied to the selection of the premises. The visits represent what the author believes to be an accurate picture of tobacco retail practice in 2008.

The following pages of this report present examples of current practice in the presentation of tobacco products to the consumer. The key areas of focus are:

- **Size of display area;**
- **Health warnings on tobacco products;**
- **Location of products within the store and access by young people;**
- **Proximity of tobacco products to confectionery;**
- **Use of “alternative” means to promote particular brands;**
- **Indication of incentives provided for retailers by Tobacco companies;**
- **Presence of statutory age of sale signage and**
- **Evidence of Proof of Age cards or other means to prevent under age sales**

Size of display area and location

The size of the tobacco product retail area varied enormously dependent upon the nature of the business visited.

Typically, a display area contained several “blocks” of the same product, the purpose of which is clearly to promote the product in question (for examples see figures 5 to 17).

Larger National retailers generally had the largest areas assigned to the sale of tobacco products. The largest area was found to be 3.6 m x 1.9m.

The location of the tobacco retail area tended to be near the entrance of the premises where the business was large, often with a bespoke tobacco sales area or kiosk. Conversely, the tobacco sales area tended to be located at the rear of the store where the business was a smaller independent.



Figure 2: Small tobacco sales area in an independent Newsagent located at the rear of the store measuring 1m x 1.3m



Figure 2: Largest tobacco sales area in a national retailer measuring 3.6m x 1.9m

Health Warnings

There is a requirement for tobacco products to be marked with specific health warnings. In 19 % of visits, this information at point of sale was either partially or completely obscured by price indications.

The examples shown in Figures 3 and 4 below are typical of that found.



Figure 3: price stickers partially obscure the health warnings



Figure 4 – A National retailer obscures the health warnings specifically “Smoking Kills” by means of price indications

Use of “alternative” means to promote particular brands

Tobacco products may only be advertised by means of an A5 sign at the point of sale; this has not however prevented the adoption by the tobacco manufacturers of other means by which to seek a competitive advantage.

There has been a shift in the methods used to compete by brand. It is noticeable that there is less usage of “objects” to promote brands although there was still some evidence of the use of counter top boxes and illuminated clocks within the display area. More noticeable in 2008 however is the use of colour and lighting on the overhead gantries and within the display area. In addition, blocks of product were widely reported as a means of gaining prominence for a brand.

In terms of brand prominence, the following table details the number of occurrences where a particular brand was noted to be the MOST prominently presented in premises.

Brand	Number of occasions
Lambert & Butler	23
Benson & Hedges	20
Mayfair	17
Malboro	12
Richmond	4
Pall Mall	3
Regal	2
Lucky Strike	1
Royals	1
Silk Cut	1

Table 1: Brand prominence

As stated there are many and varied methods used to create brand advantage; the effect of these methods particularly on young people is of significant concern given that in most cases they involve the use of colour, lighting, gimmicks or a combination thereof.

Examples of various methods are shown in figures 5-16 below.



Figure 5: The Marlboro clock is still in use largely in the independent newsagent / grocer sector



Figure 6: Marlboro counter top box. Note proximity of confectionery products below. (Same premises as Figure 5)



Figure 7: Marlboro tower and clock (separate premises to Fig 5)



Figure 8: Prominence given to Benson & Hedges



Figure 9: The overall effect of using colour is eye catching



Figure 10: Bright overhead gantry with illuminated strips at each side



Figure 11: Use of illuminated panels containing product



Figure 12 : This cabinet is suspended from the ceiling above the counter and is in addition to a conventional tobacco product sale point



Figure 13: On a similar theme to fig. 12; Pall Mall is promoted separately to the other products within the conventional gantry area



Figure 14: Blue panels add colour and prominence to the tobacco point of sale



Figure 15: Two prominent panels promote brands above others



Figure 16: Silk Cut takes centre stage

Indication of incentives provided for retailers by Tobacco companies

There was very little reporting on this aspect of the survey, with many businesses either unable or unwilling to provide details. However the following comments provide some indication of current practice as it is interpreted by the retailer.

“Display is owned by the Tobacco company. When move briefs round by a deadline Trader has either star points or money donated towards the department to put towards a meal for the staff. Tobacco company takes photos to prove briefs changed by deadline. It takes 2 staff one night shift to change briefs”

“ £100 incentive from Lambert & Butler for 5 years”

“points which are redeemable at the Cash and Carry and Argos etc”

Proximity to confectionery

Evidence shows that young people exposed to tobacco advertising and promotion are more likely to take up smoking and that they are more receptive to tobacco advertising than are adults ³

The survey sought to ascertain the proportion of premises where the tobacco point of sale was within 1 metre of the display of confectionery products i.e. where children and young people in particular would be most likely to be exposed to the impact of tobacco advertising and promotion.

³ Pierce J et al (1991) “Does tobacco advertising target young people to start smoking?” Journal of the American Medical Association ,266(22), pp.3154-3158

In 53 % of visits, the tobacco products were positioned within 1 metre of the confectionery.



Figure 18: A typical example showing the proximity of confectionery to the tobacco point of sale

Use of Proof of Age

The promotion of Proof of Age cards was very widespread. In 84% of premises there was an overt reference to the requirement to produce proof of age before purchase. The schemes varied dependent upon location. For example, the London Boroughs recorded promotion of their own PASS accredited Proof of Age Schemes SPA and BIZ, the South East region produced large numbers of CitizenCard references. Think 21 and the use of other PASS accredited cards were widely reported.

However, illegal tobacco sales are still frequently made to young people that are under the age of 18 years. In the six month period between October 1st 2007 and 31st March 2008, after the age of sale of tobacco had been increased to 18 years, research by LACORS found an increase in sales to under-age children of nearly 50% on the previous year. In 2006-7 only 13% of attempts to purchase cigarettes succeeded, while in 2007-8 the proportion rose to 19%.⁴ Survey results from 2006 found that 78% of under-age smokers reported buying cigarettes from retail outlets at that time.⁵ Given the test purchasing results it is unlikely that this will have declined since the age limit increased.

⁴ Test Purchasing of tobacco products results from Local Authority Trading Standards 1st October – 31st March 2008 accessed at:

www.lacors.gov.uk

⁵ NHS Information Centre (2007). Smoking, drinking and drug use among young people in 2006.

Conclusions

The report illustrates that the existing point of sale legislation does not provide adequately for the control of the display of products and this, it would appear, is still being exploited by tobacco manufacturers in their efforts to gain competitive advantage.

Of particular concern is the large number of premises (over half) where tobacco products were on sale within 1 metre of confectionery products. Such products will quite clearly attract young consumers. This brings young people on a regular basis into close contact with a product that is age restricted.

The legal age of purchase for tobacco was raised to 18 years in October 2007 for a reason, and that was to protect the health of young people. It seems incongruous therefore that it should be permitted to retail tobacco products (intended for adults) alongside items that are particularly appealing to young people. This is further compounded by the one fifth of premises where the required health warnings were obscured at the point of sale.

The total size of the tobacco sales area is also an aspect for further examination. While the range between premises was enormous, in all cases tobacco displays were a significant element at point of sale. In particular the extensive use of blocks of the same product within the gantry was a matter for concern. It was clear that given restrictions on all other forms of advertising and promotion the packs are now the main means for marketing and promoting the product.

Recommendations

Without strong and clear legislation it is unlikely that the way in tobacco products are displayed at point of sale will change. We might reasonably expect to see a continuation of what we experience now in the use of colour, lighting, blocks of product, clocks etc. For this reason, the proposed **Option 1** (do nothing) outlined in the consultation cannot be considered as being viable.

Voluntary arrangements with the tobacco manufacturers could be considered but experience shows that these are ineffective; and there is little action that can be taken if there is a "breach" of such an arrangement.

Option 2 (regulate further) is worthy of consideration. However, any new regulations will need to be highly prescriptive leaving little room for variable interpretation. To be effective, any new legislation will require robust and consistent enforcement by Local Authority Trading Standards to achieve a level playing field for businesses and the tobacco manufacturers alike.

Option 3 (remove tobacco from display) is the preferred option. In terms of enforcing any new legislation, this option is likely to present fewer difficulties than option 2 as there will be less chance of “grey” areas developing. It would also create a level playing field for all retailers and tobacco manufacturers. Such regulations should also include tobacco accessories such as cigarette papers.

Jane MacGregor
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August 2008

Appendix 1

Tobacco Control Survey

Point of Sale Advertising of Tobacco Products 2008-9

Please complete one sheet per premises. Where possible, please also provide a photograph of the tobacco point of sale.

Upon completion of your visits, please save all data to the USB provided and send to: Jane MacGregor by **18th July 2008** (address details sent separately via email)

Name & contact details of person completing data entry:

Local Authority:

Name & address of premises visited (for your own records) :

Premise Type⁶ :

Rural or Urban setting:

How large is the gantry/display unit for tobacco products on the premises (dimensions)	
Are packs displayed in a particular manner/format so that they are a prominent feature on the gantry/display	

⁶ Choose from the following : **Large Retailer National** (e.g. Waitrose), **Small Retailer Independent Grocer** (e.g. SPAR), **Newsagents National** (e.g. Martin McColl), **Newsagents independent** , **Off license**, **Petrol Station kiosk**, **Other**

Are the Health warnings on the packets obscured (Smoking Kills etc.)	
Which brand or brands are most prominently displayed?	
Where are the products located? e.g. Entrance , rear of premises , behind the checkout etc	
Are the tobacco products located in close proximity to confectionery? (within 1 metre)	
Are there any other means of display being used? Please describe E.g. Counter top displays, Clocks , lighting , towers, and state tobacco brand	
Does the retailer receive any financial reward or other incentive from a tobacco company for the hosting of the tobacco display unit? Please give details	
Is the legal age of sale sign being displayed as required?	
Is Proof of Age referred to in store? If yes, which card/s are accepted?	
Other comments e.g. Age of sales person (young)	

Thank you for your participation, your data will form part of the response to the forthcoming Department of Health consultation.

For further information please contact:
Jane MacGregor on 0790 4987329

Appendix 2

List of Local Authorities participating in research

Council	Region	Visits
Bristol City Council	South West	20
LB Bromley	London	10
Doncaster Metropolitan Borough Council	Yorkshire and Humber	13
Hertfordshire County Council	Eastern	20
Newcastle City Council	North East	20
LB Southwark	London	20
Brighton & Hove Council	South East	5
East Sussex County Council	South East	5
Hampshire County Council	South East	5
Isle of Wight Council	South East	5
Medway Council	South East	5
Milton Keynes Council	South East	5
Royal Borough of Windsor & Maidenhead	South East	5
Bolton Metropolitan Borough Council	North West	1
Cumbria County Council	North West	2
Halton Borough Council	North West	1
Lancashire County Council	North West	2
Oldham Metropolitan Borough Council	North West	2
Tameside Metropolitan Borough Council	North West	1
Wirral Metropolitan Borough Council	North West	1

Appendix 3

Tabulated results by Region

Region	Number of visits carried out	Obscured health warnings	Confectionery within 1 m of tobacco sales	Proof Of Age obvious
TSSE	40	8	26	33
EETSA	20	4	18	12
SWERCOTS	20	0	8	20
North West	10	4	8	10
North East	20	1	8	19
Y&H	13	4	6	6
LONDON	30	8	7	28
TOTAL	153	29	81	128
% of all		19%	53%	84%

Region	Number of visits carried out	Most prominent brand reported	Number of premises reporting	Percentage of visits
TSSE	40	Malboro	5	12.5%
EETSA	20	Mayfair	5	25%
SWERCOTS	20	Lambert & Butler	13	65%
North West	10	Lambert & Butler	1	10%
		Malboro	1	10%
		Richmond	1	10%
North East	20	Lambert & Butler	5	25%
Y&H	13	Mayfair	7	54%
LOTSAs	30	Benson & Hedges	9	30%
TOTAL	153			

Key :

TSSE – Trading Standards South East

EETSA – Eastern Region represented by Hertfordshire Trading Standards

SWERCOTS – South West Region represented by Bristol City Council

North West – Trading Standards North West

North East – North East region represented by Newcastle City Council

Y&H – Yorkshire and Humber region represented by Doncaster Metropolitan Borough Council

LOTSAs – London Boroughs represented by Bromley and Southwark