

# Tobacco Displays at the Point of Sale

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## Purpose of the briefing

This briefing provides information on the tobacco point of sale display ban, why it is needed, implementation dates, and evidence of what has occurred in other jurisdictions that have implemented a similar ban.

## Why ban the display of tobacco?

Since the ban on tobacco advertising in the UK in 2003, tobacco companies have become increasingly reliant on displays at the point of sale to draw attention to their products and stimulate sales. Evidence shows that children are more likely to smoke if they are exposed to in-store tobacco marketing (See Reasons for a ban – below).



## Background on the legislation

The Health Act 2009 was introduced following a widespread consultation on the future of tobacco control that received over 100,000 (mostly positive) responses.<sup>1</sup> The Act included measures prohibiting the display of tobacco products at the point of sale in England, Wales and Northern Ireland. The Coalition Government formed in 2010 confirmed that it would implement the legislation in England from April 2012 in large stores and April 2015 in all other stores.<sup>2</sup>

## What the law says

Since 6 April 2012 it has been illegal to display tobacco products at the point of sale in large stores, such as supermarkets. A large store is a store with a relevant floor area exceeding 280 square meters and is based on the definition in the Sunday Trading Act 1994.

From the relevant date, it will be illegal for any business selling tobacco products to display tobacco products to the public. The display of prices of tobacco products is also restricted.

Stores can display tobacco products temporarily in some circumstances<sup>3</sup>:

- Following requests to buy or view tobacco by customers over 18 (age checks must be carried out **before** showing them tobacco product)
- Incidental displays while staff are: restocking, assessing stock levels, cleaning, maintaining or refurbishing the storage unit or undertaking staff training
- In specified circumstances by bulk tobacconists or specialist tobacconists
- Following a request by an enforcement officer.

### **Displaying prices of tobacco products**

All price lists and labels for tobacco products must be in the format set out in the law. All information displayed must use Helvetica plain font. The only information that can be given is the brand name and price of the product (cigars can include the country of origin, dimension and size, and pipe tobacco can include the cut and type of tobacco used).

Only three types of price display are permitted:

- Poster style lists (up to A3 size) can be permanently on show
- A list including pictures of products, which must not be on permanent display, can be shown to any customer aged 18 or over who asks for information
- Price labels are permitted for each product either on the covered shelf or on the front of the storage unit

### **Who is responsible for compliance?**

It is the retailer's responsibility to ensure that the correct changes are made by the date the law comes into effect. Non compliance with the legislation is a criminal offence. Any person found guilty of such an offence, including shop managers and shop workers, is liable:

- on summary conviction in a Magistrates' Court to a fine not exceeding level 5 on the standard scale (currently £5,000) , or imprisonment for a term not exceeding six months, or both.
- on conviction in the Crown Court, to imprisonment for a term not exceeding two years, or a fine or both.

### **How is the law being enforced?**

Regulatory officers, in most cases local trading standard officers, are responsible for enforcement.

### **For further information**

Guidance has been produced by the Local Government Regulatory Support Unit with the Department of Health and in consultation with the British Retail Consortium and the Association of Convenience Stores. The guidance is available at: [businesslink.gov.uk/tobaccodisplay](http://businesslink.gov.uk/tobaccodisplay)

The legislation is set out in:

- [The Tobacco Advertising and Promotion \(Display\) \(England\) Regulations 2010](#). SI 2010 No. 445
- [The Tobacco Advertising and Promotion \(Display of Prices\) \(England\) Regulations 2010](#). SI 2010 No. 863
- [The Tobacco Advertising and Promotion \(Specialist Tobacconists\) Regulations 2010](#). SI 2010 No. 446
- [The Tobacco Advertising and Promotion \(Display and Specialist Tobacconists\) \(England\) \(Amendment\) Regulations 2011](#) SI 2011 No. 1256

## **Elsewhere in the UK**

The Health Act 2009 also gives powers to the Northern Ireland Assembly and National Assembly in Wales to prohibit the display of tobacco products at the point of sale. The display ban in large shops in Northern Ireland entered into force on 31 October 2012 and on 3 December 2012 in Wales.<sup>4,5,6</sup>

Similar proposals were passed in Scotland as part of the Tobacco and Primary Medical Services (Scotland) Act 2010 but implementation was delayed due to a legal challenge by the tobacco industry which was subsequently rejected by the Scottish High court.<sup>7</sup> In Scotland the display ban in large shops entered into force on 29 April 2013. The law will be extended to small shops in all jurisdictions of the UK on 6 April 2015.

## Reasons for a ban on point of sale displays

### 1. Tobacco displays attract new young smokers

It is estimated that each year in the UK more than 200,000 children aged 11-15 start smoking<sup>8</sup> and that about two-thirds take up smoking before the age of 18.<sup>9</sup> The younger a person starts smoking the greater the risk of getting lung cancer and other smoking related diseases.<sup>10</sup> Because nicotine is so addictive, only around half of all smokers manage to stop smoking before they die.<sup>11</sup>

Research shows that Point of Sale (PoS) display has a direct impact on young people's smoking. In 2006, almost half (46%) of UK teenagers were aware of tobacco display at PoS and those professing an intention to smoke were more likely to recall brands that they had seen at the point of sale.<sup>12</sup>

A longitudinal study in the US found that teenagers who visited convenience stores with tobacco displays were more likely to start smoking,<sup>13</sup> while similar research with 25,000 young people in New Zealand found that children exposed to displays were almost three times more likely to smoke.<sup>14</sup> Research has found that young people believe that displays encourage smoking and are considered "cool, fun and attractive".<sup>15</sup> Similarly research in Australia<sup>16</sup> and the USA<sup>17</sup> has shown that point of sale display advertising of cigarettes normalises tobacco use for children and creates a perception that tobacco is easily obtainable.

An evaluation of the tobacco display ban in Ireland found that there was an immediate impact on young people's attitudes towards smoking.<sup>18</sup> For example, the proportion of young people believing more than a fifth of youth their age smoked decreased from 62% to 46%. Also, post legislation, 38% of teenagers thought the law would make it easier for children not to smoke.

### 2. Tobacco display is a form of advertising

The main reason for prohibiting the display of tobacco products at the point of sale is to protect children and young people from the promotion of tobacco. Most forms of tobacco advertising are now banned in the UK following the implementation of the Tobacco Advertising and Promotion Act (TAPA) 2002. In December 2004 regulations were put in place limiting tobacco advertising at the point of sale to a single A5 sized poster, with 30% of the area taken up by a health warning.

Children and young people are particularly influenced by tobacco imagery<sup>19,20</sup> and the effectiveness of tobacco advertising in recruiting children to smoking is the primary reason behind legislation banning point of sale promotion. In the words of former Secretary of State for Health, Andrew Lansley "It's wrong that children are being attracted to smoke by glitzy designs on packets".<sup>21</sup>

Although the TAPA included regulatory authority to ban displays, no regulations were ever introduced. Tobacco companies exploited this loophole and since 2003 there has been considerable growth in the number and size of tobacco displays in many premises.<sup>22,23</sup> Examples include the use of clocks and specially-designed towers to highlight specific brands. Other tactics include the use of back-lighting of gantries (shelving) and eye-catching non-standard shelving to make the brands stand out.<sup>24</sup>

As can be seen from the images below, the cigarette packs themselves are now the main form of cigarette advertising and the distinction between advertising and display has become blurred. See also related [ASH Briefing on Standardised Packaging](#)



The following comments highlight the importance of the pack as a communication tool:

"It is the communication life-blood of the firm... the silent salesman"<sup>25</sup>

"It is a promotional tool in its own right"<sup>26</sup>

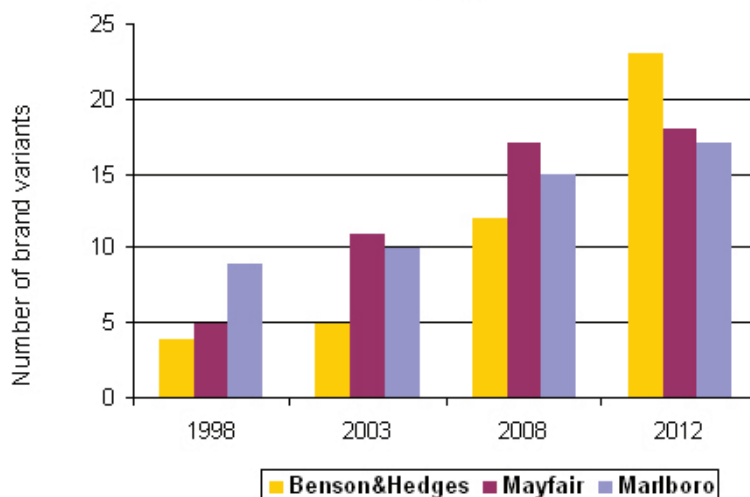
"It is a total opportunity for communications... a carefully planned brand or information communications campaign"<sup>27</sup>

### 3. Growth of 'brand families'

One way in which tobacco companies have succeeded in increasing point of sale exposure of their brands is by developing new variants of existing brands. Since 1998 brand families have grown in size by more than 50% with popular brands such as Benson & Hedges increasing brand variants from 4 in 1998 to 23 by 2012. The increase in brand variants is designed to maximise their visual impact on shop shelves.

#### Impulse Purchasing

**Brand family growth 1998 - 2012**



The graph demonstrates the growth in cigarette brand variants between 1998 and 2012. Mayfair's brand family grew from 5 in 1998 to 18 in 2012. Growth in brand variants allows tobacco companies to maximise their marketing impact through retail displays

Tobacco marketing is not primarily targeted at existing regular smokers who are extremely brand loyal. Most smokers (86%) always buy the same brand of tobacco and only 6% say their decision about what brand to buy is made on the basis of the shop display.<sup>28</sup> Tobacco displays do, however, prompt impulse purchases and increase sales by an estimated 12-28%.<sup>29</sup> Young people are particularly likely to make unplanned purchases. Ex-smokers and people who are trying to stop smoking are also vulnerable to these purchases, resulting in relapse.<sup>30</sup> The following images are of a large tobacco promotion at a music festival in Wales which was attended by young people.



This innovative tobacco merchandising structure includes a smoking area on the upper level



Each 'porthole' contains a packet of cigarettes

*Photography by Brendan Cook*

#### 4. Public Opinion

Surveys conducted since 2009 have consistently shown strong public support for a ban on the display of tobacco products at the point of sale. A 2010 survey by Cancer Research UK – when the legislation had just been passed by Parliament – found 73% support for the removal of point of sale displays.<sup>31</sup> A larger poll of GB adults conducted in February 2013 found that 64% supported putting tobacco products out of sight in shops.<sup>32</sup>

## References

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