The ethics of the Australian ban on sales of e-cigarettes

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Outline

- Current policy situation in Australia
- What is its rationale and how is it defended?
- An ethical analysis of
  - Current Australian policy
  - A graduated approach to allowing THR using ENDS
Smoking prevalence in Australia
1945-2016

- Blue line: men
- Red line: women
Evolving Australian responses to ENDS

- Initially a mass distraction from tobacco control
  - Australia doing very well in reducing smoking
  - Plain packaging, increased taxation & sales restrictions

- Increasingly a fear Big Tobacco will use ENDS to:
  - Discourage quitting via encouraging dual use
  - Renormalise cigarette smoking and
  - As a gateway to recruit youth to smoke cigarettes
Disagreements about ends and means

- What should the goal of tobacco policy be:
  - To eliminate tobacco *and* nicotine use?
  OR
  - eliminate smoking and allow safer forms of nicotine use?

- What are the best ways to eliminate smoking:
  - prohibiting tobacco and recreational nicotine?
  OR
  - allowing ENDS to replace cigarettes?
### ENDS Policies in Australia

- **Australian Policy (Federal and State) is to:**
  - Prohibit sale of ENDS with nicotine (using poisons regulations)
  - Unless they have been approved as cessation aids by the TGA

- **Enjoys majority support in Australia TC community**
  - Cancer Councils, AMA, Heart Foundation; Colleges of Physicians and GPs
  - Major TC media advocates: Simon Chapman, Mike Daube
  - Public health spokespersons: ANZA Public Health; NHMRC
  - Dissenters: ANZ College of Psychiatrists, DA Nurses Association
  - 70 individuals in public health and addiction fields

- **Defended as precautionary until better evidence**
  - Denial that this amounts to de facto prohibition
  - Described as “public health regulation”
  - Makes it very difficult to conduct clinical trials of ENDS for cessation
Tobacco smoking is disappearing
- why ease up on tough policies now?

Harm reduction using ENDS will not work
- Light and low tar cigarettes experiences
- ENDS will be used by Big Tobacco to subvert TC policies
- ENDS will discourage smoking cessation
- ENDS will increase smoking among youth
- ENDS contain harmful chemicals e.g. formaldehyde

ENDS perpetuate nicotine addiction
- continued addiction is an unacceptable outcome
- even if it reduces smoking-related harms
- nicotine is harmful in itself e.g. cancer promoting
The Role of Big Tobacco

- Some ENDSs now owned by Big Tobacco
  - Alarms many in TC community
  - Want to put Big Tobacco out of business
  - Some ENDS advocates have been funded by ENDS companies

- Big Tobacco will use ENDS:
  - To encourage dual use among smokers
  - Undermine tobacco smoking bans
  - Renormalise and promote smoking
Consequences of the Ban

- According to supporters it prevents:
  - A harm reduction hoax e.g. lights, low tar
  - Dual use and discouragement of quitting
  - Recruiting new smokers by renormalisation & gateway

- According to opponents it:
  - Fails to reduce harm for current smokers
  - Fails to eliminate cigarette smoking (protects cigarettes)
  - Produces disrespect for the law
  - Generates a large black market for ENDS
  - Fails to regulate ENDS in consumers’ interests
Observational evidence is sufficient to
- Establish that ENDS are a gateway to smoking
- Cold turkey as the best way to quit

But not good enough to show that ENDS
- have increased cessation among smokers UK
- Have not increased youth uptake in the US or UK

Case series and anecdotes good enough for
- Adverse events: fires; explosions
- But not for self-reported quitting
Only two policy options are presented

- A ban on sales vs anything goes
- Protect public health vs free rein to Big Tobacco

No middle ground allowed

- Regulation as a consumer good
  - Basic consumer protection
- Restrictions on:
  - sales and promotion and
  - Where they can be used
The Ethics of an ENDS Ban

- Autonomy of adults overridden: strong paternalism
  - Violates autonomy of adult smokers
  - In their own interests or interests of public health

- Unjustly disadvantages
  - current smokers in order to prevent new recruits
  - addicted and socially disadvantaged smokers
  - smokers who want to reduce their health risks

- Incoherent approach to risk management:
  - prohibits a less harmful nicotine product
  - while allowing sale of the most harmful (cigarettes)
Allowing the sale of ENDS

- Less paternalistic than status quo
  - Respects smokers’ autonomy

- Fairer to addicted smokers
  - Allowing them access to less harmful products

- A more consistent public health policy
  - Not prohibiting a less harmful product while
  - Failing to regulate the most harmful: cigarettes
Graduated Access to ENDS

- Allow sale of approved ENDS for recreational use
  - in restricted outlets e.g. tobacconists, adult stores
  - No health claims allowed in promotion
  - Use lower taxes to encourage switching
  - No use allowed in public places as per smoke free laws

- Allow ENDS to fully compete with cigarettes
  - Levelling up: ENDS sold anywhere cigarettes can be
  - Levelling down: cigarettes and ENDS sales both restricted
Advocates of a ENDS bans need to ask themselves:

- What (if any) evidence will change your mind on:
  - Value of ENDS for cessation (RCTs vs observational)
  - Effects of ENDS on smokers’ health
  - Uptake of ENDS among young nonsmokers
  - Impact of ENDS on smoking prevalence among the young
  - Public health impacts of ENDS use?