



Fresh response to the Department for Culture, Media and Sport Consultation on Product Placement on Television

January 2010

Background to Fresh

Fresh is a comprehensive regional programme and office for tobacco control. It works with a range of national, regional and local partners across all sectors to reduce the burden of tobacco on the health of the people in the North East through three main aims: helping smokers to stop; preventing young people from starting to smoke and protecting the public from secondhand smoke. Ultimately its vision is to make smoking history for children in the North East.

Smoking is the biggest cause of preventable death and disease in the North East. Every year, in our region alone, 5,500 people die as a result of smoking and one in every five deaths is a tobacco-related death. Smoking is the only legal product which, when used exactly as the manufacturer intended, will kill half of its lifelong users and, on average, smokers in the North East lose around 16 years of active life. Smoking is the single biggest cause of health inequalities and accounts for up to half the difference in life expectancy between the richest and the poorest groups. The percentage of people smoking in the North East has dropped significantly in recent years. However, at 22 per cent, rates are still too high and more must be done to drive down smoking rates further and faster.

Introduction

Fresh welcomes the opportunity to respond to the Department for Culture, Media and Sport consultation on product placement as it will play a key role in helping to reduce tobacco promotion and contribute to the reduction in smoking prevalence. This consultation process is an excellent example of the huge role that all government departments, not just the Department of Health, have to play in reducing the preventable burden that tobacco places in society.

We are pleased to see that the prohibition of product placement for cigarettes and other tobacco products will still be adhered to, as per the safeguards in the AVMS Directive and we fully support this to continue indefinitely. We agree that allowing product placement could blur the distinction between advertising and editorial content in television programmes (Section 1, paragraph 4). We are reassured to know that the DCMS are concerned in particular about the potential health issues associated with the promotion of particular types of goods by means of product placement and to know that, if television product placement of these types of product is to be permitted, it will be important to ensure that any impacts that this has on health or welfare are rigorously monitored.

However, there are a number of potential issues that cause us concern namely:

- Product placement of tobacco accessories
- Exploitation of prop placement
- Product placement of novel nicotine devices
- Product placement of simulated tobacco products, accessories or nicotine devices.

These issues of concern are expanded on under responses to individual consultation questions.

We also have a number of concerns to raise about product placement in general, particularly in relation to:

- concerns already highlighted by respondents in the previous consultation as outlined in Section 3, paragraphs 9-11
- the robustness of suggested 'permitted genres' for product placement as questioned in Section 3, paragraph 7
- the penalties available to the enforcement authorities for breaches of the regulations, who those enforcement authorities would be and how such breaches would be monitored.

Responses to consultation questions

This consultation response focuses on the seven questions that broadly relate to the issue of tobacco products and accessories.

1. What, if any, viewer and other safeguards should there be additional to those required by the AVMS Directive?

Additional safeguards should be put in place to prohibit product placement for tobacco accessories such as cigarette papers, lighters and pipes. This will strengthen further the DCMS position of continuing to prohibit product placement for cigarettes and other tobacco products and accurately reflects the need to prevent tobacco manufacturers from exploiting loopholes within regulations to promote smoking.

Tobacco manufacturers are well known for the ability to respond to such loopholes by using them as avenues for tobacco promotion. This was highlighted in a recent Department of Health consultation on proposed tobacco control regulations for England (under the Health Bill 2009) which pointed to evidence showing that since the Tobacco Advertising and Promotion Act 2002 banned tobacco advertising, the tobacco industry has put more focus on the display of tobacco in shops. It follows, then, that unless tobacco accessories are also covered by the prohibition of product placement then tobacco manufacturers will seek to use them as a means of tobacco promotion.

2. How should those additional safeguards be imposed – by law, or by means of the Ofcom Code?

Important safeguards on products such as these need to be imposed as robustly as possible in proportion to the amount of harm that the product places on society. Fresh therefore recommends that they are imposed by law.

23. Should television placement of smoking accessories such as cigarette papers and pipes be prohibited?

Absolutely. See our response to Question 1 above.

29. Are there any other product or service categories whose placement should be subject to prohibition or restriction?

Yes.

30. If so, what and why?

One category of concern has not been included within the consultation document and needs to be discussed – novel nicotine products. Such devices can easily be mistaken for real cigarettes and as such these need to be subject to the same prohibition as tobacco products. As smoking rates reduce, novel nicotine products may be used more by smokers wishing to reduce the amount of harm caused by smoking tobacco and television producers may wish to reflect this in storylines. However, despite the school of thought that these products are less harmful than cigarettes, their placement should be prohibited. Their appearance can be very similar to real cigarettes, particularly electronic cigarettes that emit vapour, and viewers will find it difficult to know the difference. As such, tobacco manufacturers could use these products as loopholes through which smoking can be promoted.

33. What impact would allowing television product placement have on the existing prop placement market and on the ability of broadcasters to source props and services in this way?

We are concerned with prop placement from the outset, that is the loan or provision of clothing, cars or other goods or services to broadcasters at a reduced rate or free of charge. We understand that this consultation document does not cover prop placement but, as this question implies, this concept is strongly linked to product placement. Safeguards must be put in place to ensure that prop placement does not undermine the robust safeguards already in place thereby creating a loophole that is likely to be exploited by tobacco manufacturers.

This is particularly pertinent since, as the consultation document states, it is not always easy to demonstrate that money has changed hands to secure the inclusion of a product in a programme (Section 2, paragraph 4).

41. Should the regulation of television product placement, if it is to be allowed, contain specific controls on the use of simulated products?

Yes. Our recommended control would be to prohibit the placement of simulated products designed to look like tobacco products, accessories or nicotine devices in the same way that we would recommend prohibition of their 'real' counterparts. The explanation for this is given under Question 30, above.

Further points to make

If television product placement is allowed we would like to be part of the consultation on its provision within the Ofcom Broadcasting Code (Section 1, paragraph 10).

We thank the DCMS for the chance to input to this consultation and we look forward to decisions being made that will help us achieve our vision of making smoking history for children.

For further information on this consultation response, or on Fresh, please contact:

Catherine McConnell
Regional Project Support Officer
Fresh Smoke Free North East
c/o Chester-le-Street Civic Centre
Newcastle Road
Chester-le-Street
Durham DH3 3UT
catherine.mcconnell@freshne.com
0191 387 2259