

Investing for Health Team (Tobacco Control)
Room C 4.22
Castle Buildings
BELFAST BT4 3SQ

27 October 2006

Dear Sirs

Thank you very much for giving the CBI the opportunity to comment on the proposals for smoke-free premises and vehicles, specifically the following two sets of proposed Regulations to be made under powers in the Draft Smoking (Northern Ireland) Order 2006: the Draft Smoke-Free (General Provisions) Regulations (NI) 2007; and the Draft Smoke-Free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (NI) 2007.

The CBI is the premier organisation speaking for companies in the UK and this response reflects the views of CBI member organisations representing businesses of all sectors and sizes on the general aspects of the definitions of smoke free premises and vehicles and the signage requirements. We entirely support the health improvement objectives of the legislative package.

The CBI does not have views on the very specific exemptions related to:

- Private accommodation;
- Accommodation for guests and club members;
- Other residential accommodation such as care homes, hospices, mental health units and prisons;
- Performers;
- Specialist tobacconists;
- Offshore installations;
- Research and testing facilities;
- Non-application for aircraft, ships or hovercraft.

Those trade associations, organisations and companies with a particular interest will comment on these aspects.

A general comment is that the separation of parts of the legislation to the devolved areas of Wales and Northern Ireland causes confusion for business – as does the fact that Scotland now has its own legislation, which was less flexible in terms of signage and time for consultation. Even fine differences between the legislatures could undermine the health improvement objectives and ‘compliance rather than enforcement’ approach that is essential for the successful implementation of this substantial public health action. Harmonisation of all aspects, but particularly in relation to vehicles and implementation dates, would be desirable.

We have the following general concerns about signage in smoke free premises and vehicles:

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- the cost of signage has not been taken into account in the regulatory impact assessment. Although signage is to be made available and, we understand, free of charge, experience has shown that for dispersed multi-premise organisations, the assessment, erection and maintenance of signs is by far the most significant cost to business, for little added value. For such organisations the costs of the signs themselves amounts to about 10% of the costs of the signage.
- There will be a substantial publicity campaign about the requirements for enclosed buildings to be smoke free. Additionally, for buildings where only employees and authorised visitors have access, there have been well-established voluntary arrangements put in place by most employers for many years, to provide effective methods of communication of 'smoke free' policies. In such circumstances, the proposed arrangements to provide signage are superfluous and the costs disproportionate.
- Also, the concept of a premise appears to be based on a one-building establishment, whereas have sites which will include a number of separate buildings within a close or cartilage where access to the whole is controlled via a main entrance
- **A substantial waste of money could be prevented, while not detracting from the effectiveness of the proposals if the requirements were clarified. The draft Regulations require display of least one sign 'in each entrance'. Entrance is defined as 'entrance for use by persons'. Paragraph 2.8 of the consultation paper refers to a requirement that a sign be displayed 'at each *public* entrance' (my italics). We would propose that, within the framework of the draft Smoking (Northern Ireland) Order 2006 and specified by the Regulations, the signage requirement to be for the display of a sign at each primary entrance for employees and at entrances for use by members of the public. The potential burden imposed by the Regulations would be considerably reduced with no loss of impact on their objectives.**
- We have concerns about the definition of 'substantially enclosed'. Many sites have 'bus-shelter' type structures as outdoor smoking areas. These were constructed before the Regulations were considered and may consist of a roof and three sides. Most of these would be considered 'substantially enclosed' as the roof and wall area is somewhat more than 50%. They are well-ventilated places and a risk assessment is unlikely to show that smoking within them imposes a greater risk to others from the effects of passive smoke than those which fall outside the proposed definition of 'substantially enclosed'. There needs to be clear scientific evidence to justify the proposed definition of 'substantially enclosed' and if there is not, the onus should be placed on those who phase out, within a reasonable investment cycle, their current structures for outdoor smoking areas, to justify their action in terms of marginal risk and cost benefit.
- **We are concerned that the legislation about vehicles used for work by more than one person being smoke free is very confusing. The situation in relation to company cars requires clarification. Some company cars are provided for work, and although normally driven by one person, may be available to any other employee if needed. Other company cars are provided as benefits. The situation for hire or leased cars should also be clarified - if they are smoke free, who has the obligation to ensure this.**

- **It is essential that any guidance and signs are provided in good time so that those organisations with substantial requirements will be able to phase their demands and supply arrangements can be orderly and planned.**

The CBI would welcome the opportunity to work with you to ensure that communications and guidance are targeted and timely.

Yours faithfully

Deirdre Stewart

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Assistant Director