



Public Health Bill

INFORMATION SHEET

25 February 2008

The Public Health Bill: Why submissions are very important

The Public Health Bill had its first reading in December 2007. Once enacted it has the potential to play a very significant role in reducing risks to our health such as obesity – but only if effective regulation-making powers are retained. In its current form the Bill allows the Government to make regulations that would reduce risk factors for conditions such as cancer, heart disease and diabetes (referred to as ‘non-communicable diseases’). Obesity is a major risk factor for all three.

The next step is for the Health Select Committee to consider and report on the Bill. The Select Committee has called for people to comment on the Bill. Submissions on the Bill close on 7 March 2008.

How is the Bill relevant to non-communicable diseases?

Traditionally, public health has been concerned with infectious diseases. As the Bill recognises, non-communicable diseases now pose a greater risk to public health. The Bill provides a legislative framework for addressing non-communicable diseases. Part 3 of the Bill authorises the Director-General of Health to issue codes of practice or guidelines to modify activities that increase risks for non-communicable diseases. Such risks include food manufacture, distribution and marketing, and the design or construction of buildings and infrastructure.

The problem with Part 3 is that compliance with these codes or guidelines will be voluntary. The statement on compliance costs of the Bill (published on the Ministry of Health website) admits that affected industries are unlikely to comply when this significantly lowers their profits. Further, a voluntary regime can penalise more socially responsible companies by giving a competitive advantage to other companies that do not comply.

The great news is that Clause 374 of the Bill contains regulation-making powers relating to non-communicable diseases. Subclause 374(r) allows “the prohibition or regulation of the importation, manufacture, packing, or sale of any thing likely to introduce or increase a risk to public health”. Subclause 374(x), allows the Government to issue binding regulations to reduce risk factors for non-communicable diseases. However, we know that there will be submissions from powerful sectors and industries calling for these provisions to be removed. We also know that there is political opposition, with attempts to brand use of regulations for non-communicable diseases as ‘nanny state’.

FOE does not accept the ‘nanny state’ argument. Preventing obesity is not about telling people what to do. It is about creating an environment in which it is easier to make healthy choices. The advertising of junk food to children, for example, is an attempt to manipulate the food choices children make. Reducing the ability of advertisers to do this has nothing to do with a nanny state telling people how to live

their lives. Rather, it is making it easier for parents to do what they believe is best for their children.

Both the industry and political opposition claim voluntary measures and education provide adequate protection and that regulation is unnecessary. Public health experts have provided convincing evidence that this approach will not work.

How might subclause 374(x) be used?

We cannot anticipate all future risks that might be reduced through regulation by Government. This is why a general “catch-all” statement such as subclause 374(x) is so valuable. Potential uses include:

- regulating the advertising of junk food to children on TV and elsewhere
- regulating the siting of fast-food outlets near schools
- requiring local authorities to make better provision for walking, cycling and active recreation
- regulating the content or processing of commercially-supplied food, such as the fat used for cooking fish and chips
- requiring employers to adopt healthy eating and healthy action practices for employees to encourage healthy choices.

What needs to be done?

It is essential that regulation-making powers remain in the Bill, and are strengthened by the inclusion of principles such as the duty of the Government to act in the face of well-defined and serious risks.

Without effective provisions for regulation of non-communicable diseases in Clause 374, Part 3 of the Bill will be toothless and ineffective. If voluntary codes have any chance of working, sectors or industries responsible for activities that increase the risk of non-communicable diseases need to know that the Government can regulate if they fail to cooperate or deliver on effective risk reduction.

The ability of future governments to significantly reduce the environmental risks that contribute to the major killer diseases must be part of the new Public Health Act. For this reason it is vital that the Health Select Committee gets a very clear message from a wide range of people and organisations that regulation-making powers are crucial and must be retained.

Submissions are more likely to be effective if they concentrate on making a case why regulation-making powers are necessary rather than just expressing support for the retention of subclauses 374(r) and 374(x).

Why submissions are so important

The Public Health Bill will be before Parliament in election year. Politicians need to receive a powerful message that makes it very clear that a wide range of groups and individuals concerned about our health want to see effective steps taken to reduce risk factors for non-communicable diseases. FOE urges you to participate in delivering this message by making a submission.

How to make a submission

Information about making a submission on the Bill is available on the parliamentary website. The FOE website (www.foe.org.nz) provides a link to this, as well as providing further information. Submissions can be short: a one-page letter making a single point can be effective. They need to be forwarded by Friday 7 March 2008 to:

Secretariat
Health Committee
Parliament House
Wellington

How FOE might help

FOE will providing further information about aspects of the Public Health Bill on www.foe.org.nz. This may be helpful to you in drafting a submission.