

Birthdate-based commercial tobacco sales restrictions:**Will “tobacco-free generation” policies advance or delay the endgame?**

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Abstract

Endgame thinking means transitioning from merely trying to “control” the tobacco epidemic to developing plans and measures to bring it to an end within a specific time, by changing the underlying dynamics that have created and perpetuated it for more than a century. Among the innovative policies characterized as “endgame” policies are so-called “tobacco-free generation” or “smoke-free generation” policies, which prohibit sales of some or all tobacco products to individuals born on or after a particular date. Such Birthdate-based Sales Restrictions (BSR) have intuitive appeal, largely because they do not appreciably disrupt the status quo of retail sales, which continue unchanged for all those born before the designated cutoff date. They also hold the potential for further denormalizing tobacco use and sales by anticipating the long-term end of tobacco sales. In this Special Communication, we analyze BSR policies through an endgame lens and propose questions that should be discussed in jurisdictions considering them. We suggest that this policy has potential underexamined pitfalls, particularly related to equity, and that if enacted, it should include policy guardrails and be part of a package of endgame measures.

What This Paper Adds

WHAT IS ALREADY KNOWN ON THIS TOPIC

--A range of innovative policies, up to and including bans on sales of tobacco products, have been proposed to achieve tobacco endgame goals.

--Among these, birthdate-based sales restrictions (BSR) have generated recent interest, having been passed and defended in one small US city, passed in six others to date, passed and then repealed in New Zealand, and passed in the lower house of Parliament in the United Kingdom prior to new elections being called.

WHAT THIS STUDY ADDS

--This Special Communication analyzes the public health, political, equity and practical implications of BSR as an endgame policy.

HOW THIS STUDY MIGHT AFFECT RESEARCH, PRACTICE OR POLICY

--Jurisdictions considering BSR policies should consider all potential sales restriction and endgame policies. Ideally, if enacted a BSR policy should be part of a package of endgame measures that address equity and practical concerns discussed here and more expeditiously change the underlying dynamics that sustain the tobacco epidemic.

Introduction

As many jurisdictions in the US and globally transition from a paradigm of tobacco “control” to tobacco “endgame,”^{1-4 5} a range of innovative policy proposals aimed at reducing or eliminating retail sales of commercial tobacco products has emerged, several of which have been enacted or introduced. These include limiting retail outlets by location, density, or retailer type⁶ as well as rapidly or slowly phasing out sales of some or all types of commercial tobacco products completely.⁷ Birthdate-based Sales Restrictions (henceforth BSR) proposals are the slowest form of sales phase-out, in which the retail sale of some or all commercial tobacco products to

any person born after a specified date is prohibited (see Box 1). “Tobacco-Free Generation” (TFG), a form of BSR in which the sale of all tobacco products becomes illegal based on birthdate, was first proposed by Singapore researchers in 2010.^{8,9} Such a policy eliminates the notions, associated with age-based restrictions, that there is a “safe age” to begin use of tobacco products, and that tobacco use is part of “coming of age.” A TFG BSR has been enacted and defended against court challenges in Brookline, Massachusetts,¹⁰ passed in six other Massachusetts communities, and a “Smoke-Free Generation” (SFG) BSR was recently included in New Zealand’s comprehensive Smokefree 2025 plan¹¹ (limited to smoked products and now repealed under a new government). A BSR policy is under consideration for combustible tobacco products in the United Kingdom.^{12 13 14} Variations on BSR policies have also been proposed elsewhere, including Tasmania, Australia; the Philippines, and three U.S states.¹⁵⁻²⁰

BOX 1:

TERMINOLOGY

The original formulation of a birthdate-based (rather than age) sales restriction was characterized as a “Tobacco-free Generation” (TFG) measure. Since that time, given the proliferation of newly introduced commercial, non-combustible nicotine and synthetic nicotine products, and recognizing that for some Native American/Indigenous communities tobacco is a sacred plant, some have proposed a commercial “Nicotine-free Generation” (NFG) to cover sales of other addictive commercial products but exclude ceremonial and medicinal use. In the US, all nicotine-containing products are subject to regulation by the Food and Drug Administration as tobacco products, but other countries parse and regulate the range of products differently. For example, the UK has proposed a “Smoke-free Generation”(SFG)

policy that may cover combustibles but not vaping products. These variations of BSR policies will have different potential impacts. In this paper, we use Birthdate-Based Sales Restriction (BSR) as an umbrella term for these types of policies, using the other terms when referring to specific policies that include or exclude various products.

BSR policy has intuitive appeal for several reasons, including its effect of increasing the age of sale for tobacco products yearly, its minimal immediate impact on tobacco retailers and adults currently using tobacco (thus possibly decreasing opposition), and its political palatability, with its initial focus on youth and minimal immediate impact on government revenue from excise taxes. ⁸BSR draws a birthdate “line in the sand” after which legal tobacco product sales will be ended. Advocacy for the policy could engage youth, parents, and schools. If effectively implemented and enforced, the policy would theoretically result in an aging-out of tobacco use and after many decades an eventual complete end to legal sales as those born before the selected birthdate stop using the products or die. Thus, BSR as an endgame strategy anticipates the eventual end of selling tobacco as a “normal” consumer product. However, persons born before the birthdate cut-off, including those who use tobacco currently, would not be directly impacted, and no specific change is required to the physical retail sales ecosystem.

The purpose of this Special Communication is to analyze the potential effects of BSR policies and propose questions by which to evaluate whether they are likely to advance or delay achieving tobacco endgame in general, as well as based on a particular jurisdiction’s characteristics.

Is BSR an Endgame Policy?

In this paper, we use endgame to mean policies that **change permanently the structural, political, and social dynamics that sustain the commercial tobacco epidemic, in order to end it within a specified time.**^{3,4} Arguably, BSR is an endgame policy, as it aims to permanently end legal access to tobacco once all people born before the designated birthdate have died or quit, which could be considered a structural change. However, because of its very slow impact, even if rigorously enforced the policy leaves intact the current systems of retail availability for everyone else. As with other sales restrictions, the extent of change in the sustaining dynamics may also depend on the size and location of the jurisdiction and what products are covered. BSR makes only gradual changes to the structural, political, and social dynamics that sustain the epidemic, as the population to whom the products may be legally sold grows older and the use of the products perhaps appears less appealing to young adults.

It is possible that, as time passes and fewer people can legally be sold tobacco products, further reductions in retailer numbers or density could follow as some retailers find sales declining, less profitable or not worth the hassle of regulatory compliance. However, it is also possible that given a decades-long cushion, the tobacco industry and retailers will take advantage of their historic ability to manipulate political systems, and succeed in watering down or eliminating requirements. For example, in the recent case of New Zealand's comprehensive set of endgame policies, including the Smoke-Free Generation BSR policy, the entire package was eliminated after a new, more industry-friendly government took office.²¹ History suggests if the industry is unable to directly eliminate policy provisions, they will develop workarounds, taking advantage of loopholes or gaps in laws. Examples include recent industry responses to the menthol ban in California, which have included both packaging and product chemistry innovations mimicking menthol effects,^{22,23} coupon campaigns intended to blunt the impact of tax-related price

increases,²⁴ introduction of new products²⁵ and pricing strategies to minimize the effect of new taxes, especially for lower-priced products.²⁶ Since like many endgame policies the BSR policy has yet to be fully evaluated anywhere, it is possible there may be other unanticipated benefits or risks.

Overall, *as an endgame policy*, compared to other proposed policies BSR is the temporally weakest and least disruptive to the status quo, allowing the tobacco industry to continue promoting lethal products, retailers to continue selling them, and permitting the tobacco epidemic to continue for decades as the eligible-to-buy population gradually declines. For example, a modeling study from Singapore²⁷ found that a BSR type policy alone would achieve an endgame target of 5% smoking prevalence only after 39 years, compared with combining nicotine reduction and a flavor ban, which were projected to achieve it within a decade.

Evaluating the Suitability of BSR as an Endgame Policy in a Jurisdiction

BSR's intentionally slow trajectory suggests that jurisdictions wanting to work toward a tobacco endgame should consider the characteristics of their jurisdiction in deciding whether to pursue BSR versus more immediate sales-related endgame policies such as reducing retailer numbers or density rapidly, or banning the sale of some or all tobacco products. Below, we discuss some questions to consider that may be helpful in making this determination.

Has the jurisdiction passed and effectively implemented other tobacco control policies (such as smokefree measures, retail licensure, flavor sales bans, tax increases, and/or cessation support)?

If so, the community may be ready to move faster toward an endgame than BSR permits.

Jurisdictions with a strong history of supporting tobacco control may be ready to undertake

stronger endgame retail sales policies, including substantial reductions in retailer density and/or numbers (i.e. 95%), as were included in New Zealand’s law, and shorter-term phaseouts of tobacco sales such as were implemented in Beverly Hills and Manhattan Beach in California.

^{28,29}In such jurisdictions, passing a stand-alone BSR policy could potentially consume advocacy resources and political capital that could be better devoted to achieving stronger measures. If policymakers feel passage of BSR has “fixed” the problem, it could unnecessarily delay for decades more definitive measures (such as the rapid retail restrictions noted above, any of which would make actual structural changes to the tobacco-promoting environment, reducing exposure to tobacco-promoting cues).

Jurisdictions without a history of passing and implementing tobacco control policies may want to consider carefully whether a BSR ordinance is feasible politically and practically. For example, if a jurisdiction has no tobacco retail licensing, BSR may be harder to defend legally, and be more difficult to enforce because there is no mechanism for identifying the subset of retailers who did or might sell tobacco products. In addition, it is possible that other intermediate tobacco control measures that take effect immediately and often have strong public support might have more impact, such as increased clean indoor air restrictions, price minimums, and restrictions on retailer location, density, and type. Outside the United States, which has extended “freedom of speech” to commercial enterprises, restricting marketing and advertising of tobacco products may also be a feasible and effective endgame-furthering option.

Are existing retail tobacco policies rigorously and effectively enforced?

If ongoing enforcement remains problematic for already-existing policies (for example, retail sales to minors or flavored products sales are continuing despite the policies) then it may be unlikely that a BSR policy will achieve the desired effects unless retailer education, compliance

and enforcement infrastructure and penalties are ramped up substantially. If penalties for noncompliance are not robust, including both monetary fines and potential loss of retail licensure, non-compliance consequences may be seen by retailers as a “cost of doing business.” Legislation and regulations should, as a best practice, focus enforcement and penalties on the commercial tobacco ecosystem, not individual users.

Is the jurisdiction strongly antiregulatory?

In strongly antiregulatory jurisdictions, it is challenging to build community and policymaker support for *any* new government policies that constrain the private sector or appear to restrict individual behaviors. BSR, with its focus on kids and those who cannot now legally purchase tobacco, might theoretically be more politically palatable under such circumstances and if rigorously enforced, could serve as a first step toward an eventual tobacco endgame.

However, it is only a hypothesis that birthdate-based sales restrictions will be more politically palatable in such jurisdictions than other types of product sales restrictions, such as restricting sales to adult-only, tobacco-only stores or more rapid (1-5 year) sales restrictions. Also, since enforcement in the US of Tobacco 21 (T21) minimum age to purchase laws is already variable, it is not clear that the BSR approach would inherently improve compliance more than increased resources and stronger commitment to enforcement.

Is a BSR approach necessary to have sufficient support to pass endgame policy?

It is possible that some policymakers may be more likely to support a BSR policy than faster sales restriction policies. But this does not mean that the same holds true for the general public. A recent CDC survey suggests solid majorities of adults in the United States support full bans on the sale of tobacco products, with no requirement for a half-century phase-out; 57% of

respondents to a 2021 CDC survey indicated they support “a policy to prohibit the sale of all tobacco products” with no mention of time frame.³⁰ In a 2022 California survey to inform media messaging, 70% indicated they agreed/strongly agreed that “Cigarette sales should be phased out completely over the next 5 years.”³¹ California Adult Tobacco Survey (CATS)³² found that in 2023, support for a “gradual” ban on tobacco sales (no time frame specified) and support for a BSR/TFG policy was identical (60.9%). In earlier survey waves (not all questions were asked in all waves, nor consistently asked, so results are not necessarily comparable), lower levels of support (35-40%) were found for “an immediate ban on the sale of cigarettes.” Additional questions, including regarding BSR, are being developed and pre-tested for improved clarity.

Public support for sales ban measures encompassing all or some tobacco products varies globally^{33 34 35} but is surprisingly high, given that no public campaigns to build support for such a measure have yet been undertaken. Thus, although support for an “immediate” ban may appear weaker, one need not assume that a 50+year phase out is needed to gain public support for ending retail sale of commercial tobacco products. Conducting local key informant interviews, surveys or focus groups may help determine whether people in the jurisdiction differ from those in state or national surveys in their support for sales ban policies.

Is preemption explicitly addressed and does the bill or ordinance encourage or also include more restrictive measures?

Under current US law, state and local jurisdictions are explicitly permitted to end the sales of tobacco products unless the local jurisdictions are preempted from doing so, as the federal Family Smoking Prevention and Tobacco Control Act³⁶ reserves to them the right to regulate and even ban sales of all or some tobacco products.³⁷ A “tobacco-free generation” policy enacted in Massachusetts was unsuccessfully challenged in court on the basis of preemption claims, but

the tobacco industry and its surrogates continue to attempt to insert preemption language into tobacco policies, trying to preclude any later introduction of stronger measures. Research shows that the industry pursued this strategy on T21 policies in the U.S., often blindsiding tobacco control advocates by supporting or proposing T21 bills with weak and preemptive language.³⁸ Globally, in addition to any preemption limitations at the sub-national level, the tobacco industry has been working to include provisions that preempt domestic authority over tobacco policy.³⁹ Preemption will likely be an issue for any endgame policy, but the slow trajectory of BSR policy impact means that positive effects could be attenuated if preemption language (either through explicit inclusion or through legislative silence) is deployed to preclude further action on tobacco retailing over the ensuing decades.

Will BSR, if passed, reduce or increase health inequities in the jurisdiction?

Because BSR has no direct effect on reducing the accessibility, availability, and attractiveness of tobacco products for consumers born before the birthdate cutoff, without additional concurrent interventions it may entrench and worsen (or at minimum do nothing to ameliorate) already-existing tobacco-caused health inequities. Communities traditionally preyed upon by the tobacco industry, evidenced through high retail density, targeted marketing exposure, and higher prevalence and disease burden^{40 41 42} often have weaker tobacco control infrastructure. They may be less able to successfully implement additional initiatives to address ongoing tobacco use among residents born before the birthdate cut-off, and BSR enforcement may be more challenging, thus further exacerbating disparities.

Prevalence of tobacco use and health problems from it now tend to be highest among populations that are lower income, live in rural communities, are racial or ethnic minorities, LGBTQ, older, and/or have other forms of social disadvantage.⁴³ Because BSR has no direct impact on those

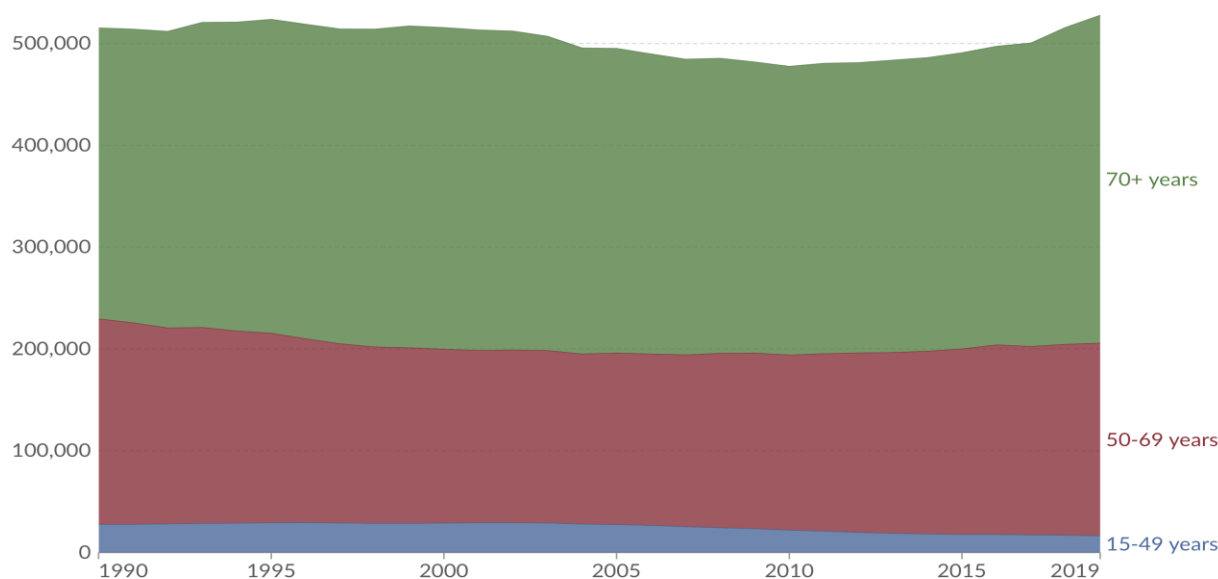
born before the cutoff date who are already using or at risk of using tobacco, if implemented in isolation from other measures it “locks in” those existing disparities.

Over 96% of smoking-caused deaths in the US occur in people 50 or older, with over 60% of smoking-caused deaths in people over 70. Worldwide, over 93% of smoking-related deaths occur in those 50 and older. Even in low-income countries with larger proportions of younger people, 86% of smoking deaths occur in those 50 and older.⁴⁴ Youth cigarette smoking rates in the US, however, have dropped to very low levels, less than 2%.^{45,46} Thus a BSR policy, even with 100% compliance, is likely to have only modest effects on smoking prevalence initially. As a stand-alone policy, it will have virtually no built-in impact on mortality and longer term health outcomes for many decades, until those born after the birthdate cut-off reach age 50. Thus, it may violate core equity and human rights concerns and principles regarding age discrimination, by discounting the worth of tens of millions of current tobacco users based solely on their age.⁴⁷

Deaths from smoking, by age, United States

Our World
in Data

Annual number of deaths from tobacco smoking (includes direct smokers, but not deaths from secondhand smoking) across both sexes. Smoking deaths for children under 15 years old are measured to be zero and therefore not included.



Data source: IHME, Global Burden of Disease (2019)

OurWorldInData.org/smoking | CC BY

Does research evidence support the effectiveness of BSR?

There is to date no research on the effectiveness of BSR as it has not been fully assessed anywhere. Thus, as with many innovative endgame policies, the evidence must be drawn inferentially from studies of other similar policies. Raising the age of purchase for tobacco products to 21 (T21) , while not fully equivalent, is the closest parallel, and research on its effectiveness is mixed, ⁴⁸⁻⁵¹but a recent study suggests that daily smoking may be reduced in younger age groups compared to older groups, although no change was found for other smoking patterns.⁵² However, a study of T21 retailer compliance in New Jersey found that underage decoys had their identification checked only 65% of the time, and were able to successfully purchase products in more than 40% of visits, ⁵³and a California study found little change in tobacco product use and similar results regarding purchases. ⁵⁴

Overall, the literature suggests that retailer noncompliance is a significant limiting factor in the effectiveness of T21 policies. ^{55,56}BSR policies, which require additional behavior changes from retailers in checking identification universally (not only for those who appear younger) and refusing sales, would require additional dedicated resources for much more rigorous enforcement and substantial penalties for retailer noncompliance. As the age of legal sale gradually increases under BSR, retailers may find universal identification checks and compliance more challenging as, for example, years hence someone aged 36 may be legally sold tobacco products but someone aged 35 cannot. No other consumer product has similar birthdate-based sales restrictions.

Additionally, there is some scientific justification for policies restricting youth access to tobacco based on nicotine's effects on the still-developing brain.⁵⁷⁻⁵⁹ Well-established community standards also exist regarding the necessity for enhanced protections for children and adolescents against exposure to other potentially addictive, psychoactive products such as alcohol and

cannabis. However, while the policy has a laudable rationale of eliminating the idea that there is a “safe” age to begin tobacco use, no clear scientific rationale or existing community standard supports a policy allowing sales to a 36-year-old but prohibiting sales to someone aged 35.

By comparison, there is considerable research evidence suggesting the likely effectiveness of some stronger endgame policy options. Reducing/restricting retail access to tobacco products by limiting retailers is associated with decreasing tobacco initiation and enhancing success for people trying to quit.⁶⁰ Retailer reduction makes visible, structural changes in the tobacco-promoting environment that can be of benefit to both current product users and non-users of all ages. For example, following the US CVS Pharmacy chain’s decision to stop selling tobacco, studies found a modest but significant increase in quit attempts⁶¹ and reduced household and population-level purchasing of tobacco.^{62,63} Post-implementation evaluations of the two communities in California with tobacco sales bans showed high retailer compliance and the virtual elimination of tobacco marketing from stores.⁶⁴ While most retailers did not like it, some noted the advantage of less cigarette butt litter outside stores, and some were relatively indifferent.⁶⁵

Will the policy reduce industry influence?

The idea of an endgame for the tobacco epidemic is incompatible with a thriving tobacco industry. The industry’s influence (directly through lobbying and marketing, and indirectly through surrogates and astroturf activities that make it appear a message came from and is supported by grassroots participants) remains the primary obstacle to ending the industrially-produced tobacco epidemic that began in the 20th century.⁶⁶⁻⁶⁸ BSR policy could have powerful symbolic significance,⁶⁹ signaling that an end to the epidemic is finally being planned, however

slowly, and with sustained attention could potentially allow other endgame measures to become more feasible in its wake, as the public and policymakers increasingly view such measures as reasonable and justified. Yet in terms of the material conditions under which the industry operates, BSR policy by itself changes very little in the near term. While this could be seen as an advantage for reducing opposition while using the policy as an opportunity to further denormalize both tobacco use and the tobacco industry, under BSR the industry relationships with retailers continue, sales and displays of the products continue, and industry power to influence tobacco control policies at all levels of government remains unabated.

By comparison, measures that reduce the number or density of retailers, restrict the products that may be sold, or rapidly phase out sales altogether directly reduce the industry's power at the level of the jurisdiction and materially denormalize the industry's presence in the community.⁷⁰

Does BSR create challenges for public health legitimacy and messaging?

For most consumer products, governments typically respond to evidence that the product has hurt or killed users by ordering the products removed from the market either permanently or until they are modified and demonstrated to be safe. This approach has been developed over the past century, and has broad legislative, regulatory and cultural support. Yet tobacco has never been subject to the same consumer protection restrictions. Thus, while compared to the status quo, BSR is a step toward making policy more consistent with the public health message that tobacco products are dangerous and deadly, BSR's decades-long phaseout period may imply a lack of urgency to address the most dangerous consumer products in history. Some vaping advocates already have asserted for years (see hashtag #KeepSmokingWeNeedTheMoney on X, formerly Twitter) that policymakers are not really interested in ending smoking because it provides tax revenue and political contributions from industry. Thus, the suggestion that ongoing

sales of addictive tobacco products (and the concomitant disease and death caused by sales) should be tolerated for decades more, appearing based in part on a need to protect revenue to government agencies and organizations receiving tobacco excise tax funding, creates potential challenges to public health legitimacy, as well as raising ethical and human rights concerns.

Have plans been developed for continuing programs funded by tobacco taxes?

Proponents of BSR policies⁸ have noted that governments may be reluctant to make faster changes that would negatively impact revenue from tobacco taxes, arguing that the slower approach of a BSR policy mitigates this concern. As tobacco control and endgame policies of any kind are successfully implemented and enforced, tax revenue from tobacco sales will indeed be reduced, as is already happening in many jurisdictions as prevalence drops. This is less an issue for local governments, which typically do not retain substantial excise tobacco tax revenue. Policymakers and agencies who receive funding from tobacco taxes should develop transition plans now for alternative funding sources as part of comprehensive endgame planning. This is critical both to avoid lapses in funding for government services and to avoid future fiscal conflicts of interest that could weaken support for strong tobacco policies. It must be clear going forward that opposition to stronger tobacco control or endgame policies out of concern these policies will decrease government revenue from the sale of tobacco products is not ethically defensible.

With planning, could alternative endgame policies with shorter time frames be achieved?

Multiple alternative endgame-advancing policy options are under consideration. All policies, including the examples below, have potential drawbacks and advantages, particularly if implemented singly or without adequate education and enforcement (see Box 2). Simply making

sales illegal, across whatever time frame, does not necessarily by itself reduce prevalence, as has been the case with cannabis in many jurisdictions. However, in addition to BSR, some alternatives might include:

--A shorter phase-out of retail sales of tobacco products (1-5 years),^{7,28,29,65 71} ideally combined with transition funding and education for retailers as well as education and cessation support for tobacco users. This time window would give clear notice to both retailers and tobacco users, is supported by research indicating restricting retail access to tobacco products is associated with reduced initiation and enhances cessation success⁶⁰ and some version of this idea is supported by a majority of the public in many countries with endgame goals.

^{30,31,34,35 33} A rapid phase-out of all tobacco product sales may benefit from strong attention to enhancing messaging about and access to treatment support, both behavioral and pharmacologic, especially for those more heavily addicted or more likely to have difficulty quitting. Some communities are exploring establishment of a minimum price policy across a region, announcing in advance the intent to end tobacco sales by a set date, then allowing retailers to retain the increased receipts during the transition period to help them introduce new products, acquire display cases, or otherwise implement alternatives to tobacco sales.

--A rapid ban on sales of combustible tobacco products, coupled with additional restrictions on non-combustible sales but without an immediate ban, which is a variant on the New Zealand proposal.⁷² Potential non-combustible restrictions could include decreased retailer density, restrictions on type of retail outlet, flavor and nicotine sales restrictions, price escalation, and perhaps a longer phase-out for non-combustible sales, such as a non-combustible BSR.

Advantages of this approach would include faster elimination of the tobacco products most associated with death and disease (cigarettes), elimination of dual use of combustible and non-

combustibles, and undercutting tobacco industry opposition, since they claim to have a goal of phasing out cigarettes anyway.⁷³ It could also soften retailer and tobacco user opposition by allowing continued access to some commercial tobacco products. Major disadvantages include uncertainty as to the degree of harm reduction, either at the individual or population level,⁷⁴ provided by product switching⁷⁵ and that retaining non-combustible sales would allow the industry to expand new product development and sales, retain revenue, and continue influencing structural, political and social dynamics to its advantage.

--Major restrictions on retail outlet density, number, and types of stores. For example, tobacco product sales could be limited to adult-only, tobacco-only retail outlets with extremely limited density and aggressive enforcement, sales banned in pharmacies and grocery stores, or other measures.⁶⁰

--In jurisdictions where not pre-empted and legally allowed, bans on sales of flavored products⁷⁶; allowing sales only of products with nicotine at non-addictive levels⁷⁷⁻⁸⁰; and/or marketing/advertising bans.⁸¹ Although not stand-alone endgame policies, alone or in combination these policies would decrease the ability of the industry to maximize the addictiveness, attractiveness and abuse liability of their products. A challenge associated with policies focused on specific categories of additives, however, is the innovative capacity of the industry to rapidly develop alternatives that accomplish similar goals, as is happening now with menthol substitution and could happen with nicotine analogs.

BOX 2:***Maximizing BSR's potential benefits and minimizing potential harms***

Based on our analysis, we believe BSR is most likely to be net beneficial under the following circumstances:

--Enacted across a large jurisdiction as part of a comprehensive package of strong supply-side tobacco-control measures with more immediate impact, such as substantial reductions in retail outlets, advertising and promotion bans, combustible sales bans (immediate or short phase-in), de-nicotinization, price increases, and/or flavored product sales bans.

--As with other policies, legislative language that excludes industry-favorable clauses, including explicitly noting that the law does not preempt stronger measures and avoiding industry-preferred policy limitations and characterizations such as "Cigarette Free Generation" which would be consistent with their "smoke-free world" rebranding.

--As with other retail sales restrictions, legislation includes sufficient budget and clear authority for enforcement, education and monitoring of retail compliance and population trends.

--Emphasis on supply-side restrictions, effective noncompliance penalties, and enforcement on retailers, wholesalers, distributors, and manufacturers, not tobacco users.

--Commitment of resources to ensure people who use tobacco are supported with a range of help for cessation, including direct assistance as well as ongoing motivating and supportive messaging through media and health systems.

--Framed as a floor or backstop policy during transition to endgame, not as a single comprehensive stand-alone solution.

Conclusion and Recommendations:

As with any endgame-oriented policy, there are potential benefits to the BSR birthdate-based sales ban approach, as well as potential unintended risks and harms. A major benefit is that even its introduction elevates the discussion around tobacco from a focus on “control” to considering how best to eliminate the ability of the tobacco industry to keep selling a deadly, addictive product, and challenges the idea of tobacco use as a “coming of age” behavior. Several potential BSR risks may be present with other endgame policy approaches, and thus subject to mitigation. For example, provision of funding and clear authority for implementation and enforcement and ensuring there is no preemption may solve some issues.

However, some concerns reflect structural and social limitations specific to BSR as an endgame strategy, particularly if pursued as a stand-alone policy.⁸² Principal among these is the abandonment of millions of people who currently smoke or use other tobacco products through BSR’s continued normalized retail access to deadly, addictive products, based solely on the year they were born. Adopting this approach discounts the value of current tobacco users and may indicate the lower regard some societies hold for older people who use tobacco⁸³ and other marginalized groups with higher smoking rates. A stand-alone BSR approach contrasts unfavorably with New Zealand’s previous endgame package, where a single law included two additional very aggressive “end game” policies (de-nicotinization and a 90+% retail density decrease) to be implemented along with a “smoke-free generation” policy. Allowing for a decades-long implementation “tail” where sales continue is inconsistent with public health messaging and customary consumer product regulation of dangerous products. BSR also gives the industry many opportunities over decades to adapt or overturn the law. The BSR approach could be beneficial in a political and social environment where other more rapid resolutions to the tobacco industry-induced epidemic are truly impossible (as may have been the perception

world-wide in 2010 when the concept was introduced). Progress towards a solution decades in the future is preferable to no solution. However, that is not now the only alternative in many countries and sub-national jurisdictions, especially those with low prevalence and successful histories of confronting the tobacco industry. Given the growing global tobacco endgame movement, the unacceptable persistent disparities in tobacco use and tobacco-caused diseases and deaths, and the sheer enormity of the harm caused by the commercial tobacco industry, proceeding with urgency is warranted.

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