

 Regulatory Policy Committee	OPINION	
Impact Assessment (IA)	Impact Assessment for the prohibition on the sale of tobacco from vending machines	
Lead Department/Agency	Department for Health	
Stage	Final /Enactment	
Origin	Domestic	
Date submitted to RPC	10/02/2012	
RPC Opinion date and reference	22/02/2012	RPC11-DH-1048(3)
Overall Assessment	AMBER	
<p>The IA is fit for purpose. The revised IA provides sufficient justification for the net direct impact on business, which in the absence of any verifiable information from the industry itself, as explained in the IA, appears reasonable. However, the IA should have contained a more accurate estimate of the distribution of profits between vending machine operators and tobacco firms.</p>		
<p>Identification of costs and benefits, and the impacts on small firms, public and third sector organisations, individuals and community groups and reflection of these in the choice of options</p>		
<p>This policy was implemented on 1 October 2011. However, the department has resubmitted the IA because it has revised its estimate of the Equivalent Annual Net Cost to Business (EANCB) for One-in, One-out (OIOO) purposes.</p>		
<p>Originally, we validated this measure as an IN with an EANCB of £85.9 million for the Statement of New Regulation 2. This estimate was derived from the tobacco vending machine industry itself. The revised IA of 19 October 2011 then estimated the direct impact on business to be £3m in EANCB terms. We did not consider this to be a reliable estimate and issued a 'not fit for purpose' Opinion.</p>		
<p>The department has now revised and resubmitted the IA for validation of the EANCB as part of the Statement of New Regulation 3. The department says that they cannot verify the original estimate from the tobacco vending machine industry despite attempts to illicit this from the industry.</p>		
<p>The department has thus calculated the cost to the tobacco vending machine industry assuming that the additional profits on cigarettes sold from vending machines is split equally between the vending machine industry and the tobacco industry. The department is able to demonstrate that the nature of the industry is such that the tobacco companies are likely to get at least half of the additional profits through the price they charge for cigarette packs. Based on the evidence and analysis presented in the IA an even split of profits therefore seems to be a reasonable assumption..</p>		
<p>The RPC notes that according to the advice from the Better Regulation Executive (BRE) the potential loss of profits for the tobacco industry as a result of reduction in sale of tobacco products is out of scope of One-in, One-out.</p>		
<p>Have the necessary burden reductions required by One-in, One-out been</p>		

identified and are they robust?

The IA says the direct impact of the ban on tobacco vending machines is £9.8m in EANCB terms. Based on the evidence and analysis presented, and in the absence of a verifiable alternative from the industry itself, this appears a reasonable assessment of the net direct cost to business for One-in, One-out (OIOO). However this is contingent on advice from BRE that the loss of profits for the tobacco industry is out of scope of One-in, One-out.

Signed

A handwritten signature in black ink, appearing to read 'Michael Gibbons', with a long horizontal line extending to the right from the end of the signature.

Michael Gibbons, Chairman