Should New Zealand’s Commerce Commission act on cigarette brand name deception?

The New Zealand Commerce Commission has begun an investigation into the misleading use of the terms “light” and “mild” on cigarette packets in New Zealand.¹ Such action is consistent with New Zealand’s treaty responsibilities, since part of the treaty Framework Convention for Tobacco Control (that New Zealand has signed) requires action on misleading descriptors.²

However, some brand names themselves can also be considered misleading. An example from New Zealand is the “Freedom” brand, because of the connotations of the name, and the flying bird images on the pack (Figure 1). Even the cigarette stems have the word “Freedom” on them (Figure 2). Given the near universal regret that smokers have about starting smoking³ and the highly addictive nature of nicotine, the use of the term “freedom” would appear to be extraordinarily inappropriate. It is also highly misleading, and by creating positive associations with tobacco smoking contributes to the promotion of tobacco.

Cigarette packs in New Zealand require health warnings in text and one of these covers “addiction” (Figure 1). However, in this case, the brand name and accompanying images are likely to seriously compromise the effect of the warning. The key word in the warning (“addiction”) is also smaller than the brand name (“Freedom”) with a font size ratio between the words of approximately 1.5 to 1 (Figure 1). And if a picture is “worth a 1000 words” the ratio of the “flying birds picture” to that of the complete warning text is over 71 to 1. For the back of the pack these ratios are over 4 to 1 and over 15 to 1, respectively in favour of the pro-tobacco message.

Figure 1. A pack of the “Freedom” brand of cigarettes marketed in New Zealand (front side)  
Figure 2. Stem of a “Freedom” brand cigarette
This concern about the name of the “Freedom” brand is not new, with adverse comment on it in Australia in 1995. There are also other cigarette brand names with problematic positive associations in New Zealand (e.g. “Holiday” and “Lucky Strike”). What is new, however, is the neuroscience evidence base from experiments with functional magnetic resonance imaging (fMRI). This provides biomedical mechanisms for the powerful effect of brand names and imagery on human beliefs and behaviour.

The Commerce Commission should consider expanding its current investigation to also address deceptive branding by the tobacco industry.

In addition to fines they may impose on the industry, the policy options they could recommend to Government include:

- Making the brand name a very small part of the pack cover (perhaps 5% and on one side only);
- Not allowing certain brand names where these have positive associations and attributes; or
- Banning brand names and branding altogether and allowing only plain packs with health warnings.

Ultimately, however, there is an urgent need to adopt a new regulatory framework that removes the tobacco industry from all aspects of tobacco marketing. Such a framework could also remove the profit motivation from cigarette production and distribution by making this the responsibility of a not-for-profit agency with a public health mandate.

Nick Wilson, George Thomson, Richard Edwards

Department of Public Health
Wellington School of Medicine & Health Sciences, University of Otago
Wellington
(nick.wilson@otago.ac.nz)

References:
