

## SUBMISSION TO THE MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT ON THE BUY-NOW, PAY-LATER DISCUSSION DOCUMENT

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Thank you for the opportunity to submit feedback on the relative benefits and costs (including financial hardship) of Buy-Now, Pay-Later (BNPL).

Te Hiringa Hauora is a Crown entity established by the New Zealand Public Health and Disability Act 2000. As part of our role we work to achieve improvements in health and wellbeing for those whose needs are greatest.

Our key role is to lead and support health promotion initiatives to:

- promote health and wellbeing and encourage healthy lifestyles
- prevent disease, illness and injury
- enable environments that support health, wellbeing and healthy lifestyles
- reduce personal, social and economic harm.

Te Hiringa Hauora has alcohol-specific functions to:

- give advice and make recommendations to government, government agencies, industry, non-government bodies, communities, health professionals and others on the sale, supply, consumption, misuse and harm of alcohol as those matters relate to the general functions of Te Hiringa Hauora
- undertake, or work with others, to research alcohol use and public attitudes to alcohol in New Zealand and problems associated with, or consequent on, alcohol misuse.

In this submission we focus on the potential harms that BNPL schemes can have when used to purchase products that are harmful to health and wellbeing such as: alcohol, tobacco and vaping products, and unhealthy foods.

## RECOMMENDATIONS

In general, our recommendations include:

- regulating BNPL services via the Credit Contracts and Consumer Finance Act 2003 (option 3)
- excluding the purchase of alcohol, tobacco and vaping, and unhealthy food products from any BNPL or other unregulated credit service.

## BACKGROUND

1. BNPL services can provide a low-cost, no interest/fee payment alternative to other credit services. However, BNPL services can create financial hardship for consumers, especially if unregulated.
2. Globally there has been a rapid expansion of online sales and delivery services<sup>1</sup> (especially since COVID-19 restrictions have been in place), many of which provide BNPL options.
3. BNPL services increase the accessibility and availability of commodities such as alcohol, tobacco and vaping products, and unhealthy food. Further, BNPL services provide a perceived lower cost to the consumer due to fractional costing options.
4. This is concerning as increased accessibility and affordability of these products is associated with increased use, harm and inequities in harm.

### Alcohol use in Aotearoa New Zealand

5. Alcohol causes harm to people, whānau and communities and drives health and social inequities, as well as significant costs in the health, welfare and justice sectors. Despite this, alcohol is increasingly affordable, easy to access, widely promoted and highly visible to young people and whānau.
6. There is strong evidence that greater availability of alcohol contributes to increases in alcohol-related harms and that when further restrictions are placed on alcohol availability, harm from alcohol decreases<sup>2,3,4,5</sup>.
7. The World Health Organization (WHO) includes strengthening restrictions on alcohol availability as one of the five 'best buys' for reducing alcohol-related harm<sup>6</sup>.
8. Remote sales and delivery of alcohol products increase accessibility. The harm this causes was highlighted during 2020 and 2021 COVID-19 restrictions, which saw an increase in people accessing delivery services<sup>7</sup> and some increase in heavier drinking<sup>8</sup> in Aotearoa New Zealand.

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<sup>1</sup> Pinho, M., Mackenbach, J. D., den Braver, N. R., Beulens, J., Brug, J., & Lakerveld, J. (2020). Recent changes in the Dutch foodscape: socioeconomic and urban-rural differences. *The international journal of behavioral nutrition and physical activity*, 17(1), 43. <https://doi.org/10.1186/s12966-020-00944-5>

<sup>2</sup> Anderson, P. & Baumberg, B. (2006) *Alcohol in Europe: A public health perspective*. London, UK: Institute of Alcohol Studies

<sup>3</sup> Cook, P. (2007) *Paying the tab: The costs and benefits of alcohol control*. Princeton, NJ: Princeton University Press

<sup>4</sup> Anderson P. & Baumberg B. (2006) *Alcohol in Europe: A public health perspective*. London, UK: Institute of Alcohol Studies.

<sup>5</sup> Cook P. (2007) *Paying the tab: The costs and benefits of alcohol control*. Princeton, NJ: Princeton University Press

<sup>6</sup> WHO (2019). Discussion Paper: Implementation of the WHO Global Strategy to reduce the harmful use of alcohol since its endorsement, and the way forward, Geneva, Switzerland: WHO.

<sup>7</sup> Jones, A. (2021, November 25). August 2021 COVID lockdown survey: Alcohol-specific key findings and results [PowerPoint slides]. Te Hīringa Hauora/Health Promotion Agency.

<sup>8</sup> Huckle, T., Parker, K., Romeo, J.S. and Casswell, S. (2020), Online alcohol delivery is associated with heavier drinking during the first New Zealand COVID-19 pandemic restrictions. *Drug Alcohol Review*. <https://doi.org/10.1111/dar.13222>

Further, online sales of alcohol do not adequately prevent sale to underage or intoxicated people<sup>9,10,11</sup> with alcohol being delivered within the hour and often left unattended<sup>12</sup>.

9. Affordability of alcohol is a key driver of alcohol consumption in Aotearoa New Zealand<sup>13</sup>. Price is especially important for low income, heavy drinkers<sup>14</sup> who experience disproportionate levels of harm.
10. In Australia, BNPL services are now being utilised to purchase food and beverages at pubs and restaurants<sup>15</sup>. As alcohol impairs decision-making processes this puts people at risk of financial hardship if using BNPL services while impaired.

## **Tobacco and vaping products**

11. Tobacco is one of the three leading modifiable risks to health in Aotearoa New Zealand<sup>16</sup>, accounting for approximately 5000 deaths every year. New Zealand has a goal to achieve a national daily smoking prevalence of 5% of the population by the end of 2025. While some population groups will achieve this, Māori, Pasifika and low socio economic groups are not on track.
12. There is evidence that price increases can decrease tobacco consumption and motivate quit attempts. Price is especially important for low income, daily smokers, and young adults. Conversely, because tobacco is so addictive, some people who smoke do not respond to price increases, meaning increased financial burden on vulnerable communities.
13. Aotearoa New Zealand is a signatory to the WHO Framework Convention Tobacco Control. Article 6 recommends strengthening restrictions on tobacco availability through taxation and pricing strategies. WHO considers these strategies to be the most important factor in an effective tobacco control system.
14. Due to a series of tax increases in recent years, Aotearoa New Zealand has some of the most expensive tobacco products in the world. It follows that fractional costing utilised by BNPL services would increase the affordability of tobacco products.
15. Vaping products are considered to be less harmful than tobacco, and there is evidence they can assist people to quit smoking, but they are not without harm. Reducing accessibility of

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<sup>9</sup> Mojica-Perez, Y., Callinan, S., & Livingston, M. (2019). Alcohol home delivery services: an investigation of use and risk. Centre for Alcohol Policy Research and Foundation for Alcohol Research & Education.

<sup>10</sup> Fletcher, L. A., Toomey, T. L., Wagenaar, A. C., Short, B., & Willenbring, M. L. (2000). Alcohol home delivery services: A source of alcohol for underage drinkers. *Journal of Studies on Alcohol*, 61(1), 81-84. <https://doi.org/10.15288/jsa.2000.61.81>

<sup>11</sup> Williams, R. S., & Ribisl, K. M. (2012). Internet alcohol sales to minors. *Archives of pediatrics & adolescent medicine*, 166(9), 808–813. <https://doi.org/10.1001/archpediatrics.2012.265>

<sup>12</sup> Colbert, S., Thornton, L., & Richmond, R. (2020). Content analysis of websites selling alcohol online in Australia. *Drug and alcohol review*, 39(2), 162-169. <https://doi.org/10.1111/dar.13025>

<sup>13</sup> Wall, M., & Casswell, S. (2013). Affordability of alcohol as a key driver of alcohol demand in New Zealand: a co-integration analysis. *Addiction (Abingdon, England)*, 108(1), 72–79. <https://doi.org/10.1111/j.1360-0443.2012.03992.x>

<sup>14</sup> Casswell, S., Huckle, T., Wall, M., & Yeh, L. C. (2014). International alcohol control study: pricing data and hours of purchase predict heavier drinking. *Alcoholism, clinical and experimental research*, 38(5), 1425–1431. <https://doi.org/10.1111/acer.12359>

<sup>15</sup> <https://www.mz.co.nz/national/programmes/ninetonoon/audio/2018820706/dine-now-pay-later-afterpay-moves-into-australian-hospitality-industry>

<sup>16</sup> IHME. 2017. GBD Compare Data Visualization [Data File]. URL <http://vizhub.healthdata.org/gbd-compare>. (Accessed 17 September 2018).

these products is a part of the tobacco control system to ensure young people and non-smokers do not take up vaping.

16. As with alcohol, age verification via online sales does not adequately prevent sale of tobacco and vaping products to underage people.

## **Unhealthy foods**

17. A poor diet is a leading cause of early death in Aotearoa New Zealand, accounting for nearly 20% of all illness and premature death in 2017<sup>17</sup>. The majority of foods eaten in high-income countries like Aotearoa New Zealand is processed or pre-prepared by the food industry<sup>18</sup>.
18. Unhealthy diets and obesity are two of the biggest modifiable health risks in Aotearoa New Zealand. Consumers need a food environment that enables them to follow a healthy eating pattern based mostly on whole foods and less processed foods low in added sugar and salt.
19. Actions that improve the quality of the Aotearoa New Zealand food supply, such as reducing affordability of and access to unhealthy foods, have the potential to reduce overweight, obesity and premature death and disability amongst millions of New Zealanders including disadvantaged groups.

## **DISCUSSION**

20. The increase in availability of unhealthy products such as alcohol, tobacco and vaping products, and unhealthy foods, online and for delivery has negative impacts on health and increases harms. BNPL services further provide increased availability and affordability of unhealthy products.
21. Due to the use of fractional costing BNPL services are, in effect, offering unhealthy products at a low price even if the full cost is received later.
22. Currently the BNPL sector is highly unregulated. As BNPL services do not charge interest or fees (except when payments are missed) they are excluded from the regulations under the Credit Contracts and Consumer Finance Act 2003 (CCCFA). These regulations require:
  - reasonable and cost-based fees
  - lenders to provide adequate disclosure
  - lenders to comply with the responsible lending obligations
  - lenders to assess a consumers' financial position or assess whether the consumer is likely to be able to repay the credit without substantial hardship.
23. The lack of the above obligations for BNPL services places consumers in a vulnerable position to receive the credit they cannot repay.

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<sup>17</sup> Mackay, Sally; Ni Mhurchu, Cliona; Swinburn, Boyd; Eyles, Helen; Young, Leanne; Gontijo de Castro, Teresa (2019): State of the Food Supply New Zealand 2019. The University of Auckland. Online resource. <https://doi.org/10.17608/k6.auckland.9636710.v1>

<sup>18</sup> Mackay, Sally; Ni Mhurchu, Cliona; Swinburn, Boyd; Eyles, Helen; Young, Leanne; Gontijo de Castro, Teresa (2019): State of the Food Supply New Zealand 2019. The University of Auckland. Online resource. <https://doi.org/10.17608/k6.auckland.9636710.v1>

24. BNPL services can impose financial hardship on people who are dependent on unhealthy products if the BNPL sector is left unregulated or without any control over products sold on these platforms.

## OPTIONS

25. Te Hiringa Hauora supports a strong regulatory approach by applying the CCFA to regulate BNPL services (option 3).

26. Te Hiringa Hauora does not support the status quo (option 1) as evidence from the discussion document and evidence of increased financial harm justify the need to regulate the BNPL sector.

27. While a BNPL sector industry code and ongoing review of the sector (option 2) provides flexibility for the sector to evolve, Te Hiringa Hauora does not believe a voluntary industry code will be effective. This is exemplified by the voluntary self-regulation system run by the Advertising Standards Authority to receive complaints about alcohol advertisements, which has been criticised as being ineffective at reducing harmful exposure of alcohol advertising<sup>19</sup>.

28. Te Hiringa Hauora supports the Ministry of Business, Innovation & Employment in reviewing the BNPL sector regularly.

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<sup>19</sup> Noel, J., Lazzarini, Z., Robaina, K., & Vendrame, A. (2017). Alcohol industry self-regulation: who is it really protecting? *Addiction* (Abingdon, England), 112 Suppl 1, 57–63. <https://doi.org/10.1111/add.13433>