

To whom it may concern,

Re: Including a group entry for nitrite inhalants in Schedule 9 of the Poisons Standard

I strongly object to this proposition. While I have never used poppers myself I know they are safer than alcohol and cigarettes which are legal, and like with any drug making them illegal increases harm (both from the taking of the drug as people are less likely to get medical help due to fear and are less likely to be educated about their use, and from social harm including criminalisation and unnecessary contact with law enforcement). This is also a cultural issues as they are primarily used by lgbti+ people making this law an unfair targeting of lgbti+ people. We've only just equalised age if consent laws which disproportionately impacted gay men and now another way of invading lgbti+ sex lives is being suggested and used to further marginalise the community. See reasoning and evidence below.

Medical

The interim decision does not consider the probability of injury, which is likely to be extremely low given the common use of poppers in the gay community.

The Centre for Social Research in Health Annual Report of Trends in Behaviour (2016) reports that among gay men,

Amyl nitrite is the most commonly used drug by gay men in the GCPS (Gay Community Periodic Survey, a yearly survey conducted in capital cities since 1996). The proportion of men reporting the use of amyl nitrite has remained stable over the last decade, and was used by around 35%-40% in the six months preceding the survey. (CSRH 2016 p8)

The Australian Study of Health and Relationships (ASHR2) study reported 3.2% of adult male respondents identified as gay or bisexual (ASHR2 2015 p5). Assuming the adult population at 8,000,000 (IndexMundi 2018), approximately 89,600 adult gay and bisexual men may have used poppers products in the past 6 months.

A small number of cases of 'poppers maculopathy' have been reported in the ophthalmology literature. Any experience of vision loss is a serious harm, but the risk -- the probability of this harm -- is incredibly low, given the high rate of poppers use in the gay community alone.

Legal and regulatory

Reports of ophthalmic injury only emerged after earlier attempts to regulate poppers in Canada and the European Union.

A common ingredient in poppers products, isobutyl nitrite, was banned in the European Union in 2007 over concerns about possible links to cancer and reproductive problems.

Since it was banned, isolated case reports have described partial vision loss as a result of using a changed formulation that was only adopted as a result of the EU ban.

The potential for unintended consequences of regulatory action has not been properly considered by the TGA in its interim decision.

The ban is likely to drive product substitution with unknown formulations and risks.

There are already ‘aerosol’-type products on sale in Australia that are sold as equivalent to poppers. They are not nitrite-based and their mechanism of action is akin to paint-sniffing. These products would be unaffected by the proposed changes. The ban on nitrite inhalants will generate a market in substitute products with significantly higher risks.

The risks can be prevented through less restrictive means

The risks associated with isopropyl nitrite could be prevented by scheduling isopropyl nitrite, requiring warnings on poppers products and the promotion of harm reduction messages.

Restricting access to poppers will place Australia out of step with other jurisdictions, including the United Kingdom, which have rejected a ban on nitrite inhalants.

Laws controlling the sale and use of poppers vary around the world.

Criminal prosecution is also a harm

Making poppers illegal may reduce the risk of physical harms but it drastically increases the risk of social harms caused by criminal prosecution. The harms caused by criminalisation far outweigh the harms prevented by restricting access to nitrite inhalants.

Penalties for offences involving schedule 9 substances vary widely between states/territories, making the ban unpredictable and arbitrary in its effects

ACT has separate offences for supply, possession and use, with up to five years’ imprisonment for each one. Victoria has a single offence with a fine of \$1600.

The ban will create a black market in poppers products

Social and cultural

Poppers are primarily used by communities of gay men and queer people who have been historically marginalised, stigmatised and criminalised.

Additional comments

In the United Kingdom, the Conservative Party MP Crispin Blunt spoke publicly about the benefits that nitrite inhalants offer gay men, during debate over legislation to ban legal highs. A Home Affairs Select Committee report found the use of poppers was ‘not seen to be capable of having harmful effects sufficient to constitute a societal problem.’[i]

Poppers have been used by gay men for sexual purposes since the 1970s. The medical literature shows a smattering of case reports documenting injuries attributed to poppers use. Only recently have there been reports of retinal injuries subsequent to poppers use. This trend needs to be understood in a regulatory context.

In the EU in 2007 and in Canada in 2013, regulatory action was taken to ban the sale of the chemical formulations commonly included in poppers products. This in turn caused some

manufacturers to include different formulations in poppers products. Users have reported the reformulated products often cause an intense headache, ‘blue lips’ and a characteristic chesty cough in the days after use. The Lancet attributes ‘poppers maculopathy’ to the reformulated product.[ii]

This highlights the risk of product substitution posed by any ban. Following the EU and Canadian regulatory action, alternative products have been brought to market. These are packaged in aerosol cans. These are not nitrite inhalants and their mechanism is effectively the same as paint-sniffing. These products would not be captured by the proposed ban, and indeed the proposed ban is highly likely to increase the market for such products.

Poppers have been in use for nearly five decades with very few reports of serious harm, and recent case reports describe a previously undocumented form of harm. This suggests the harm is the result of the reformulated products, which were only adopted due to regulatory action. Banning nitrite inhalants as a class will have a significant impact on the capability of many gay men to achieve sexual pleasure and intimacy without pain and discomfort. In addition, it will expose a historically marginalised, stigmatised and criminalised community to a new vulnerability to criminal prosecution.

A more targeted ban, leaving long-standing formulations legal, would reduce the risks of rare but serious clinical harms, and prevent the import and widespread uptake of copycat products whose risks are substantially unknown.

[i] Home Affairs Committee, Psychoactive Substances (report), London: Stationery Office, 23 Oct 2015, p. 14
<https://publications.parliament.uk/pa/cm201516/cmselect/cmhaff/361/361.pdf>

[ii] Gruener, Anna M., Megan A. R. Jeffries, Zine El Housseini, and Laurence Whitefield. “Poppers Maculopathy.” *The Lancet* 384, no. 9954 (November 1, 2014): 1606.
[https://doi.org/10.1016/S0140-6736\(14\)60887-4](https://doi.org/10.1016/S0140-6736(14)60887-4).

Regards,

