



New Psychoactive Substances: The need for policy reform

YouthRISE for Reform: Drug policy series



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YOUTHRISE
for reducing drug related harm

Introduction

The last five years have seen some very significant changes in the international drug markets with a rapid growth in the consumption of “new psychoactive substances” (NPS) by young people in many parts of the world. The emergence of NPS (referring to a new substance that has not yet been scheduled under one of the international drug conventions) has led to an extraordinary diversity of substances on the market available to new generations of users and raises some fundamental questions about the current policy of drug prohibition.

According to the European Monitoring Centre for Drugs and Drug Addiction¹, 24 new NPS were identified in 2009 and 41 in 2010, with over 150 substances currently identified globally. As new substances emerge in the international market and are scheduled (a category of drugs not considered legitimate for medical use), new lesser known substances continue to be created at an alarming pace bypassing the law. The composition of these NPS often lack consistency (in terms of what the substance is actually comprised of) which has considerably increased the potential harms for users whilst also making it more difficult for law enforcement authorities to control the market². In a recent study conducted by Energy Control in Spain³, it was found that many of the NPS that were tested were mislabelled, with the same brand of drug testing positive for a diversity of unscheduled substances.

In this report, Youth RISE explores this issue and identifies important recommendations for how to reduce the harms faced by young people who use NPS, including “legal highs” and other unscheduled substances available both online and at local head shops (a shop specialising in drug paraphernalia). We first look at some of the policy responses that have arisen to deal with this relatively new phenomenon, how and why these responses have been unsuccessful and what barriers currently exist in creating more effective harm reduction interventions for young people. In addressing these failed policy responses, the report will then highlight Youth RISE’s recommendations for creating a more effective approach to addressing the harms associated with the use of NPS.



Government Responses

1

There have been two general legislative policy approaches that governments have used in order to attempt to control the availability and use of NPS. The first approach has been to try and schedule NPS into the existing prohibitive drug control legislation through “catch-all” generic controls⁴. This involves scheduling new substances into existing drug control laws, rather than establishing new forms of control through newly drafted legislation. An example of this approach can best be seen in the UK, where in the last two years there have been more than 5 separate additions totalling more than 50 different compounds to the Misuse of Drugs Act, the main drug control legislation in the UK (this represents more legislative additions than in the last two decades put together⁵).

2

The second type of approach has been for governments to use other forms of legislation, such as consumer protection or trading standards legislation as a method of limiting the availability of new psychoactive substances through targeting substance distributors. Using this approach, a number of different methods have been employed. For example, some countries have used medicinal legislation to stop the import and supply of substances which in some cases has resulted in the rapid cessation in its open sale, while others have used similar types of legislation through prohibiting the sale of NPS through suppliers providing inappropriate labelling.

¹ EMCDDA: “Responding to new psychoactive substances”, December 2011

² EMCDDA: “Risk assessment report of a new psychoactive substance: Mephedrone”)

³ Energy Control: “Legal Highs in Spain”, 2011

⁴ TNI/IDPC: “Expert Seminar on herbal stimulants and legal highs” October 2011.

⁵ ACMD: “Consideration of the Novel Psychoactive Substances (‘Legal Highs’)”, October

Why do we need a new approach to addressing the use of new psychoactive substances?

1 Prohibition based policies do not work

Although precautionary approaches taken by some governments in creating pre-emptive legislation may remove some NPS from a widely accessible market, the reality is that as soon as one substance is made illegal, several others have appeared within days/weeks to take its place. The rapidly evolving nature of the drugs market means that NPS are being replaced by equally unfamiliar compounds that may or may not share similar risks and effects. Such substances are continuing to be used by young people in different communities, many of whom may not have experienced using drugs before⁶. In most cases, these NPS appear for sale online before any information on how to reduce harms associated with these new drugs can be made accessible.

This cyclical process continues to take place where legislation prohibiting one substance has resulted in the emergence of sometimes more harmful substances with slightly different molecular compositions arriving on the market within weeks. For example, many have claimed the prohibition of GHB led directly to the rise in use of GBL (a drug traditionally used in the formulation of GHB) which is just as dangerous if not more dangerous in terms of toxicity. Mephedrone is also a particularly relevant example, where the legislating against mephedrone, enacted with little appropriate risk-assessment, resulted in a whole range of similar substances but with slightly different compositions flooding the market, such as MDPV.



2 Its policies are unenforceable

The internet and other technological developments have significantly changed the nature of the drugs market making some of the traditional methods of enforcement redundant and ineffective⁷. Suppliers and consumers of NPS have been afforded a unique level of anonymity which has allowed young people who may not have had traditional networks of suppliers and been inexperienced in purchasing and using drugs to buy substances with ease. Whilst drug paraphernalia shops are somewhat easier to regulate and ensure adequate age restrictions are enforced, purchasing NPS through the internet requires no checks whatsoever.

The grouping together of diverse groups of substances with different chemical compositions and different risks and effects under the same broad prohibitive legislation has also created an unmanageable task for policy makers to make informed and accurate decisions⁸. For example, in Washington State (USA) all cathinones were banned with the exception of Bupropion, a cathinone prescribed in the treatment of depression that is currently in trials as a potential amphetamine substitution therapy. It is possible that other NPS can have medicinal properties, but due to widespread emergency legislation, the research of their therapeutic properties is thwarted. Many legal highs could be legitimately used as substitution therapy for illegal substances, but without proper research outlining the benefits and risks there will be little movement in this area.

Scientific knowledge of NPS is often limited and struggles to keep up with developments in the market⁹. Information can be exchanged and drugs marketed through the internet easily, making NPS widely available to audiences that wouldn't be traditionally associated with recreational drug use. This has led to rushed legislative decisions based on limited risk assessments due in part to lack of research, short history of use, time pressures and increasing financial constraints. This is compounded by widespread media pressure and scare stories which have come to play a decisive role in rushed decision making. This is evident in many countries and even the European Commission has admitted that⁹, 'risk assessments are inherently based on partial knowledge' and in the case of mephedrone and BZP 'there was limited scientific evidence on the acute and long term-effects on health and fatalities, on consumption patterns and on prevalence'. In some cases such as Canada, the media's role in exploring publishing scare stories about legal highs, appear to have actually increased the amount of young people using mephedrone.

⁶ EMCDDA: "Responding to new psychoactive substances", December 2011

⁷ TNI: "Legal highs, the challenge of new psychoactive substances." Winstock & Wilkins, October 2011

⁸ EMCDDA: "Briefing paper, Online sale of new psychoactive substances, legal highs: summary results from the 2011 multilingual snapshots"

⁹ EMCDDA: "Responding to new psychoactive substances", December 2011

3 Young people are being criminalised in huge numbers

Hundreds of thousands of otherwise law abiding young people are potentially being made vulnerable to criminal prosecution for their use of NPS. Moreover, increasing amounts of NPS that are commonly thought of as “legal highs” are discovered by scientific analysis to contain controlled substances. Many young people therefore think they are in the possession of legal substances, when in fact they are illegal. This lack of awareness by many users, especially young and inexperienced recreational users, increases the possibility of being subjected to prosecution and potential criminal records with all the future problems this entails.

Furthermore, the term “legal high” is often a misrepresentation since many of the substances are regulated by secondary legislation such as through the Medicines Act in the UK, which make the sale, supply and advertisement of these drugs illegal for human consumption. Many legal highs are therefore marketed as products such as plant fertiliser or bath salts further complicating the legal status of supplying and using these NPS. The age restriction on the purchasing of some legal highs has also meant that young users under the age of 18 haven’t gone to seek medical help due to fear of consequences.

4 The creation of a vast black market

Applying criminal legislation to control NPS like mephedrone has created a black market with the vast profit that this entails. It has also encouraged suppliers to introduce harmful adulterants with their own inherent toxicity that can supplement the toxicity of mephedrone and exacerbate the harms that already exist. Due to the amount of time it takes national governments to legislate against NPS¹⁰, suppliers can make vast profits in a matter of months while the risks associated with its use remain unknown.

¹⁰ EMCDDA, “Briefing paper, Online sale of new psychoactive substances, legal highs: summary results from the 2011 multilingual snapshots”

The barriers to effective harm reduction interventions

1

There are a number of issues that need to be addressed before more effective harm reduction interventions and policies for NPS can be formulated. One of the main barriers in creating necessary and appropriate harm reduction interventions for NPS is the severe lack of adequate risk assessments on the myriad of substances that now appear on the market. The lack of accurate and comparable data around use and long term harms makes analysing potential harms much more difficult. The popularity and rapidly evolving market has meant research into the risk of NPS and legal highs is lagging with very few full format assessments on the risks of new substances being carried out.

2

While there are plenty of specialised drug services for traditional substances, many countries don't have any specialised services for addressing the needs of NPS users. The rapid changes in the drugs market has meant that emergency departments and hospital staff are often not aware of these substances, what the symptoms of overdoses are and therefore the treatment provided is often sub-standard and consequently there are many examples of patients being misdiagnosed.

3

The swift replacement on banned substances with other equally unfamiliar substances means there is little time for users to become knowledgeable about the effects of these substances. The limited research into the short-term and long-term effects of these substances means that users cannot access credible information on how safe legal highs really are. Furthermore the increasing trend in poly-drug use means the effects of mixing legal highs and other substances, legal or illegal, is fairly unknown. Therefore, the initial information on the effects associated with the use of legal highs most often comes from unsubstantiated internet discussion forums.



Recommendations:

Remove criminal sanctions

History has shown the demand for recreational stimulants does not diminish with tighter drug control legislation and the impact of legislative scheduling is largely ineffective in demand reduction, as well as supply reduction. The black market will always stay ahead of legislative scheduling and the current evidence suggests they are getting better at it.

With the legal status of NPS constantly changing, many young people remain unaware of what constitutes a legal or illegal substance creating confusion among users, police and medical professionals. As such the current approaches are leaving young people increasingly vulnerable to both prosecution and physical harms associated with using unknown substances. The current punitive legislation that has been created in many countries where new psychoactive substances exist disproportionately punishes drug users, leads to worsening health consequences and continues to stigmatise young drug users, creating greater social exclusion and marginalisation. We should instead be looking to decriminalise possession for users and concentrate on improving research, treatment and drug education programs.

Explore regulation of existing illicit substances

In reducing the harms associated with NPS, the safest and logical approach based on what evidence is available would be to regulate tried and tested substances where the authenticity can be guaranteed and age restriction checks ensured. Through decriminalising and regulating the use of substances like MDMA, the market in NPS will be severely undermined and it can be assumed that young people will revert to using much safer substances where the harms are known and where there are established methods of treatment.

Improve funding for research

Without proper risk assessments being undertaken, legislation that has been created has in many cases been rushed through with the public health consequences being overly negative including fatalities among young users. Medical professionals often have little knowledge or training about how to diagnose and treat cases of overdose. A considerable increase in research funding addressing these substances is needed.

Improve specialised drug treatment services and drug education programs

As has been shown that the approaches that have been adopted by various countries to address the new market in NPS have not been successful and have lead to far greater public health risks for young people. As such, there needs to a much greater emphasis on specialised drug treatment services that address NPS which young people can attend without the need for parental consent, the guarantee of confidentiality and without age restrictions, all provided in a youth-friendly environment.

