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WVA'S VAPING PRODUCTS DIRECTIVE

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Introduction

With progressive vaping regulations, 19 million lives can be saved in Europe.¹ However, policymakers are trying to stall this life-saving technology. The upcoming reform of the EU's Tobacco Products Directive (TPD) will determine the future of vaping, possibly threatening the most successful smoking cessation aid and the health of the public we have seen in centuries.

What is TPD?

The Tobacco Products Directive (TPD), which was adopted in 2014, includes provisions on the “manufacture, presentation and sale of tobacco and related products” (European Commission, 2021).

Starting in May 2016, the European Union applied the Tobacco Products Directive (TPD) regulations, which included restrictions to advertising and new safety and labeling standards for e-cigarette products.

Currently, the EU is discussing the next TPD reform and how to include new nicotine alternatives. Unfortunately, it seems the EU aims to continue its hostile and unwarranted attack on vaping and other harm reducing products. Flavour bans, higher taxes and further restrictions are on the table.

Therefore, the World Vapers' Alliance (WVA) drafted its own “Vaping Products Directive” (VPD). VPD is based on scientific evidence and harm reduction policies. It aims to show policy-makers the most effective approach towards vaping regulations.

¹ Consumer Choice Center

<https://consumerchoicecenter.org/from-smoking-to-vaping/>

HARM REDUCTION

Introduction

Scientific evidence and facts on vaping, as well as the testimonies from former smokers, prove that vaping is much less harmful than smoking and works as a smoking cessation tool. Without vaping and other nicotine delivery alternatives, the fight against smoking-induced cancer and other illnesses will fail.

Position

The goal of harm reduction is to reduce the adverse consequences among persons who continue to use unhealthy products. It was developed in response to the unsuccessful “zero tolerance approach”.

The recent study² led by researchers from the American Cancer Society (ACS), suggests that changes in use of specific tobacco products was guided by relative harm perception. The study found that more than 60% of Americans wrongly believe that vaping is more or as harmful as smoking. Those wrong perceptions can influence behaviour away from harm reduction.

Recommendation

- **A clear commitment to the concept of harm reduction:**
Instead of idealised goals, practical solutions must be at centre stage.
Harm reduction has proved to be effective and is accepted in many countries.
- **Encourage current smokers to switch to vaping**, like the governments of the United Kingdom, France, Canada and New Zealand.
- **Guarantee access to vaping products for adults:** therefore, it is essential that affordability and variety is ensured.
- **Public health education campaigns** must facilitate informed decision making by translating emerging scientific evidence accurately to appropriate audiences. Future health campaigns must accurately communicate scientific findings – such as that vaping is less harmful than smoking.

² American Cancer Society (ACS) - <https://www.eurekalert.org/news-releases/955282>

FLAVOUR BANS

Introduction

Recently the EU opened the door for Europe-wide vaping flavour bans. Europe's Beating Cancer Plan, which will be the guideline for the TPD update, left the door open for flavour bans to curb youth vaping.

Position

Vaping has helped millions of smokers quit, and flavour varieties play a big part. More than two-thirds of vapers are using flavours other than tobacco, and those using flavours are 230% more likely to quit smoking than those who don't vape flavours at all.³ Without flavour options, adult consumers will have no choice but to turn to the black market for flavours or return to smoking. Restricting flavoured liquids makes it more challenging for smokers to quit and risks hard-fought progress made by consumers who have moved away from more dangerous cigarettes. According to the University of Waterloo, flavour bans push 5 out of 10 vapers back to smoking or the black market.⁴

Recommendation

- **Drop all proposals to ban flavours**, because they would push 5 out of 10 vapers back to smoking or the black market, where there is no guarantee of safety or quality.⁵
- To prevent the uptake of youth vaping, **existing laws need to be enforced smarter and more strictly.**
- Most countries already prohibit nicotine products for people younger than 18 or 21. Hence bans are not the solution but rather **better enforcement of existing age-restriction laws.**

³ Yale School of Public Health

<https://pubmed.ncbi.nlm.nih.gov/32501490/>

⁴ University of Waterloo

<https://academic.oup.com/ntr/article/22/10/1831/5843872>

⁵ ITC Smoking and Vaping Survey in Canada, England and the United States

<https://pubmed.ncbi.nlm.nih.gov/34695685/>

NICOTINE LEVELS

Introduction

Currently, TPD allows only a maximum nicotine strength of 20mg/ml, and nicotine-liquid containers can be no larger than 10 ml.

Position

The addiction to cigarettes is based on a combination of nicotine and other ingredients of tobacco smoke together with conditioned behaviour (known as the ‘smoking ritual’). In the absence of tobacco smoke, the potential for nicotine addiction is low.

The British National Health Service (NHS) follows a pragmatic approach toward nicotine consumption and vaping by stating, “While nicotine is the addictive substance in cigarettes, it’s relatively harmless. Almost all of the harm from smoking comes from the thousands of other chemicals in tobacco smoke, many of which are toxic.”⁶

Nicotine replacement therapy is widely accepted; hence it is counterintuitive that nicotine suddenly becomes an issue in vaping. Lawmakers express no concerns about addiction to nicotine patches or gums.

Rather than generally limiting nicotine strength, the EU could think of basing nicotine limitations on the size of the container. This could further assist vapers to gradually move towards lower nicotine strengths overtime as well as reduce plastic waste.

Recommendation

- The EU should **abolish the general nicotine limit**, or at least not further lower the current level.
- **Too low nicotine levels mean that fewer people** (especially heavy smokers) **can switch** from smoking to less harmful alternatives such as vaping.
- Moreover, the **nicotine-liquid container size limit does nothing other than create unnecessary waste** as consumers are forced to buy numerous small containers. In order to make the law more effective, there could be nicotine limitations based on the size of the container - 0mg – 6mg nicotine up to 100ml bottles, 9mg – 12mg up to 30ml, 12mg – 35mg up to 10ml.

⁶ The British National Health Service (NHS)

<https://www.nhs.uk/live-well/quit-smoking/using-e-cigarettes-to-stop-smoking/>

ADVERTISEMENT AND WARNINGS

Introduction

The TPD currently strongly restricts the advertising and promotion of vaping products. Mandatory health warnings should advise consumers that e-cigarettes contain nicotine, its health risks, and should not be used by non-smokers. Promotional elements are not allowed and cross-border advertising and promotion are prohibited.

Position

Advertisement bans and excessive warning labels for vaping prevent crucial information from reaching consumers about the relative risks of different products. As a result, many smokers are unaware of the lower risk of vaping compared to smoking. Not to mention that the EU consumer laws declare a key right: people have the right to truthful advertising.

Recommendation

- Adult consumers must have **access to accurate information** and thus, advertisement restrictions and warnings must be differentiated according to the relative risk.
- **Cigarettes and non-combustible tobacco products**, such as vaping, should **not be put in the same regulatory category**. They are not the same. Vaping has been recognised as being 95%⁷ less harmful than cigarettes, helping millions of smokers in Europe and worldwide to quit. Consumers deserve to know.

TAXATION

Introduction

The Tobacco Products Directive does not regulate vaping taxation in the EU, yet the topic is often discussed during TPD meetings. Many lawmakers see taxation as the primary strategy for addressing tobacco issues. Taxation is regulated in the “Tobacco Tax Directive” which is also in the update process. Therefore we included it here in the WVA’s Vaping Product Directive.

⁷ Public Health England

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733022/E-cigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf

Position

Making vaping less appealing to smokers by increasing prices will discourage current smokers from switching to less harmful alternatives. Multiple studies show that increased prices on vaping products lead to higher smoking rates.^{8,9} Consequently, a higher tax on vaping products will have a detrimental effect on public health in the European Union. Moreover, increased taxes on vaping products are particularly harmful to the lower-income groups, which make up the most significant proportion of current smokers. Making vaping more appealing lessens the health inequality caused by tobacco-centred smoking.

A sudden increase in e-liquid prices as a result of excise duties could not only see a portion of these users return to smoking, but dissuade current smokers from switching to a less harmful alternative. This was already observed in a working paper released by the US National Bureau of Economics in several US states:¹⁰

“[F]or every one e-cigarette pod eliminated due to an e-cigarette tax, approximately 2.1 packs of cigarettes are sold instead. These estimates suggest the short-term public health impact of e-cigarette taxes would likely be negative given that e-cigarettes are less dangerous products.”

Recommendation

- **Taxation should be proportional to the risk of the products:**
Less harmful alternatives must not become luxury products. For these reasons, non-combustible products mustn't be regulated and taxed the same way as combustible tobacco.
- We urge lawmakers to **follow the scientific evidence** and refrain from tighter regulation and higher taxation of vaping products.
- If we want to reduce the harm caused by smoking, **access and affordability to vaping products remain essential.**

8 Callison, K., & Kaestner, R. Economic Inquiry

<https://link.springer.com/article/10.1007/s11166-020-09330-9#citeas>

9 US National Bureau of Economics, The Effects Of E-Cigarette Taxes On E-Cigarette Prices And Tobacco Product Sales: Evidence From Retail Panel Data – January 2022

<https://www.nber.org/papers/w26724>

10 US National Bureau of Economics, The Effects Of E-Cigarette Taxes On E-Cigarette Prices And Tobacco Product Sales: Evidence From Retail Panel Data – January 2022

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