

Netherlands consultation - amending the Tobacco and Smoking Products Order: NNA Response

Thank you for allowing the opportunity to submit to the consultation on amending the Tobacco and Smoking Products Order to prohibit flavours in vaping products.

We are the New Nicotine Alliance (NNA), a consumer association and educational charity which represents consumers of low-risk alternatives to cigarettes such as vaping products, nicotine pouches, smokeless and heated tobacco products. As consumers, we have a direct interest in the regulation of these products and the personal and public health consequences of policy choices made by governments. We are not affiliated with or supported by the tobacco or e-cigarette industries. Our comments draw on academic research and our own experience of the benefits of novel nicotine delivery products for smokers who cannot or have no urge to quit smoking by other means.

The Integrated Assessment Framework for Policy and Regulations (IAK), determines that the objective of the new proposal is to reduce the attractiveness of e-cigarettes not just to young people but also to the adult population. This is a retrograde move considering vaping products have been found to be almost twice as effective as nicotine-replacement therapy (NRT) for smoking cessation.ⁱ Furthermore, the proposal to restrict flavours to only 16 specific ingredients will render all flavours unviable and represent an effective ban on all vaping products. This would have negative effects on public health and inevitably create a vast black market in unregulated vaping liquids.

The proposed amendments are not evidence-based

The Integrated Assessment Framework for Policy and Regulations (IAK) makes numerous claims that are not evidence based. It states that the policy is necessary due to the *“harmful effects of inhaling chemicals in e-cigarette liquids.”* The vast majority of people who use vaping products are former or current smokers, and it is unquestionable that vaping is far less harmful than combustible cigarettes. In 2015, Public Health England, the UK’s leading health agency, found *“that using [e-cigarettes is] around 95% safer than smoking,”* and that their use *“could help reduce smoking related disease, death and health inequalities.”*ⁱⁱ In 2018, the agency reiterated their findings, finding vaping to be *“at least 95% less harmful than smoking.”*ⁱⁱⁱ As recently as February 2021, PHE provided the latest update to their ongoing report on the effects of vapor products in adults in the UK. The authors found that in the UK, e-cigarettes were the *“most popular aid used by people to quit smoking [and] ... vaping is positively associated with quitting smoking successfully.”*^{iv}

The IAK emphasis on a gateway effect is exaggerated and not grounded in reported data. Analysis conducted this year by University College London studying data from 2007 and 2018 found that the increase in e-cigarette use in England is not associated with an increase in the uptake of smoking among young adults aged 16 to 24.^v Similarly, in 2021 the University of Queensland, Australia, concluded that *“e-cigarette use has not been accompanied by increased cigarette smoking among young people in the United States, as would be the case if e-cigarette use were a major gateway to cigarette smoking.”*^{vi} Furthermore, an article in the American Journal of Public Health by 15 former Presidents of the world-renowned Society for Research on Nicotine and Tobacco found no evidence of a gateway effect, stating that *“US survey data demonstrate that smoking among young people has declined at its fastest rate ever during vaping’s ascendancy. If vaping increases smoking initiation, other unknown factors more than compensate.”*^{vii}

The IAK is also selective with references to scientific and epidemiological evidence. It claims that nicotine exposure during adolescence can be harmful to the developing brain but the research for this claim was only performed on rodents, which is not representative of the effect this would have on humans. Smoking rates have been very high in much of the 20th century and most historical initiation was in adolescents, yet there is no significant evidence linking youth smoking to brain impairment in later life in over 100 years of global combustible tobacco use.

Additionally, despite statements made in the IAK, there is also no evidence that these products present a material risk of cancer or other smoking-related disease. Research has documented the effects of vaping and implied potential risk, but no studies have proven that the effects are sufficient to cause serious disease. It is indisputable that vaping is orders of magnitude less harmful than smoking and, considering that an overwhelming majority of e-cigarette users have a history of combustible tobacco use, it is wholly reckless to place restrictions on vaping products based on hypothetical and unproven harms which the IAK document admits are “still unknown”. This can only deter uptake of lower risk products, perpetuating smoking in the Dutch population with all the decades long proven evidence of smoking-related disease that this will entail.

The benefits of vaping

Vaping products have led to steep declines in smoking wherever they have been allowed to flourish. In the UK, an unprecedented and dramatic decline in smoking followed vaping products going mainstream in 2012. Rates plummeted from 21 percent in 2011 to less than 15 percent in 2020.^{viii}

A May 2022 study researching “the impact of vaping introduction on cigarette smoking across settings with varied regulatory approaches to vaping” concluded that “In environments that enable substitution of cigarettes with e-cigarettes, e-cigarette introduction reduces overall cigarette consumption. Thus, to reduce cigarette smoking, policies that encourage adults to substitute cigarette smoking with vaping should be considered.”^{ix}

A study published in the New England Journal of Medicine in 2019 concluded that vaping products were approximately twice as effective as nicotine replacement therapy^x, while the Cochrane Review also concluded in September 2021 that smokers are more likely to quit using an e-cigarette than traditional NRT methods.^{xi}

Furthermore, other research shows that in countries where liberal policies towards electronic cigarettes and vaping have been adopted, the decrease in smoking rates is twice as fast as the global average.^{xii} The Smoking Toolkit Study conducted by University College London has tracked e-cigarette use since 2011 in England and found that vaping is the most successful quitting aid for smokers.^{xiii}

Restrictions protect the cigarette trade

Restrictions on reduced risk tobacco and nicotine products obstruct smokers’ access to alternatives which can help them quit. This effectively protects the combustible cigarette trade against competition from far safer nicotine delivery methods. This is counterproductive to public health and is contrary to the aim of tobacco control to counter the harms of tobacco smoke.

The World Health Organization has recognized that vaping is an alternative to smoking, it states that “ENDS/ENNDS and cigarettes are substitutes – higher cigarette prices are associated with increased ENDS/ENNDS sales.”^{xiv} This is equally true of other non-combustible nicotine products such as snus, heated tobacco and nicotine pouches. As substitutes to smoking, burdens placed on reduced risk products inevitably favour sales of traditional cigarettes.

Alarming, a San Francisco flavour ban similar to that being proposed by the Netherlands government resulted in an increase in youth smoking. A Yale University study concluded that the “ban on flavored tobacco product sales was associated with increased smoking among minor high school students” and that “reducing access to flavored electronic nicotine delivery systems may motivate youths who would otherwise vape to substitute smoking.”^{xv}

Flavours

Flavours are integral to the appeal of low-risk alternatives to cigarettes. Many consumers emphasise their exit from smoking is maintained by preferring non-tobacco flavours in smoke-free products. Restrictions on flavours can be damaging. Research studying flavours in e-cigarettes and their impact on smoking found that “adults who began vaping nontobacco-flavored e-cigarettes were more likely to quit smoking than those who vaped tobacco flavors.”^{xvi} Furthermore, bans on flavours have been shown to increase smoking rates in jurisdictions where they have been enacted.^{xvii}

Not every smoker experimenting with vaping is sufficiently determined to persevere if the experience is not to their satisfaction compared with smoking. A large proportion of former smokers using e-cigarettes are “accidental quitters”; those who tried vaping on a whim, and it attracted them away from smoking specifically because of the better taste. Many consumers emphasise their exit from smoking is maintained by preferring non-tobacco flavours in smoke-free products.

Youth Vaping in the UK

The ready availability of flavors has not led to problematic youth vaping in the UK. In June 2021, the UK tobacco control organization Action on Smoking and Health’s (ASH) survey of *Use of e-cigarettes among young people in Great Britain* reported that young never-smokers do not take up vaping because they find flavors and packaging attractive.^{xviii} Latest data has found that only 0.5% of 11–17-year-olds who regularly use e-cigarettes were not former smokers and 92% had never tried one.^{xix}

Conclusion and policy recommendations

Nicotine is the primary reason people smoke, but nicotine itself is not the cause of smoking-related disease. Low-risk alternatives all share a common characteristic – they do not involve combustion and there is no smoke to inhale. They do, however, provide nicotine and can satisfy smokers who would not otherwise wish to quit or would find it hard to quit. Though not harmless, they are *much less harmful* – with likely risk reductions of one to two orders of magnitude. When smokers completely switch from smoking to a low-risk product, they avoid nearly all the incremental health risks of continued smoking. This allows for ‘harm reduction’, a well-established concept in public health policy, for example, in drugs, alcohol and HIV. This concept should be central to tobacco control policy in the Netherlands.

We do not believe traditional tobacco control measures are effective without also recognising the potential benefits of harm reduction. We are concerned that consensus positions of tobacco control and medical organisations reflect the measures they find agreeable, not necessarily what will work to maximise the number of smokers who quit combustible tobacco or switch to safer forms of nicotine use.

In our view, the key strategy for reducing smoking prevalence in the Netherlands, especially in individuals and communities where smoking is deeply entrenched, is switching from high-risk smoked products to low-risk smoke-free products. This is a more straightforward pathway to follow for many smokers because it does not demand the user gives up nicotine or many of the sensory or behavioural aspects of smoking. Yet switching is likely to reduce health risk by 95% or more.

We believe the Netherlands government's plan to prohibit all flavours in vaping products is extremely reckless and risks deterring many Dutch adults from switching to vaping as an alternative to smoking, may drive current vapers back to combustible tobacco use, will create a significant black market and increase, rather than reduce, risks to young people who may otherwise smoke or continue to smoke in the absence of viable vaping products.

ⁱ A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy, *N Engl J Med* 2019; 380:629-637, <https://www.nejm.org/doi/10.1056/NEJMoa1808779>

ⁱⁱ A. McNeill *et al.*, "E-cigarettes: an evidence update," Public Health England, August, 2015, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684963/Evidence_review_of_e-cigarettes_and_heated_tobacco_products_2018.pdf.

ⁱⁱⁱ A. McNeill *et al.*, "Evidence review of e-cigarettes and heated tobacco products 2018," Public Health England, February 2018, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684963/Evidence_review_of_e-cigarettes_and_heated_tobacco_products_2018.pdf.

^{iv} A. McNeill *et al.*, "Vaping in England: an evidence update including vaping for smoking cessation, February 2021," Public Health England, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/962221/Vaping_in_England_evidence_update_February_2021.pdf.

^v UCL: E-cigarettes not a substantial gateway to smoking for young people, <https://www.ucl.ac.uk/news/2022/mar/e-cigarettes-not-substantial-gateway-smoking-young-people>

^{vi} Hall W, Chan G (2021) The "gateway" effect of e-cigarettes may be explained by a genetic liability to risk-taking. *PLoS Med* 18(3): e1003554. <https://doi.org/10.1371/journal.pmed.1003554>

^{vii} David J. K. Balfour, *et al.* "Balancing Consideration of the Risks and Benefits of E-Cigarettes", *American Journal of Public Health* 111, no. 9 (September 1, 2021): pp. 1661-1672. <https://doi.org/10.2105/AJPH.2021.306416>

^{viii} Smoking Toolkit Study (England): <https://smokinginengland.info/graphs/top-line-findings>

^{ix} Wu DC, Essue BM, Jha P, Impact of vaping introduction on cigarette smoking in six jurisdictions with varied regulatory approaches to vaping: an interrupted time series analysis, *BMJ Open* 2022 <https://bmjopen.bmj.com/content/12/5/e058324.info>

^x A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy, *N Engl J Med* 2019; 380:629-637, <https://www.nejm.org/doi/10.1056/NEJMoa1808779>

^{xi} Hartmann-Boyce J, McRobbie H, Butler AR, Lindson N, Bullen C, Begh R, *et al.* Electronic cigarettes for smoking cessation. *Cochrane Database Syst Rev*, <https://www.cochranelibrary.com/cdsr/doi/10.1002/14651858.CD010216.pub6/full>

^{xii} Vaping Works. International Best Practices: United Kingdom, New Zealand, France and Canada. Property Rights Alliance, 2021. https://www.propertyrightsalliance.org/wp-content/uploads/PRA_VapingWorks.pdf

^{xiii} Robert West *et al.*, "Top-line findings on smoking in England from the Smoking Toolkit Study," *Smoking in England*, July 27, 2021, <https://smokinginengland.info/graphs/top-line-findings>.

^{xiv} WHO (2016). Electronic Nicotine Delivery Systems and Electronic Non-Nicotine Delivery Systems (ENDS/ENNDS). Conference of the Parties to the WHO FCTC Seventh session. FCTC/COP/7/11 November 2016.

^{xv} A Difference-in-Differences Analysis of Youth Smoking and a Ban on Sales of Flavored Tobacco Products in San Francisco, California, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8145156/>

^{xvi} Abigail S. Friedman and SiQing Xu, "Associations of Flavored e-Cigarette Uptake With Subsequent Smoking Initiation and Cessation," *JAMA Network*, June 5, 2020, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7275248/>.

^{xvii} A Difference-in-Differences Analysis of Youth Smoking and a Ban on Sales of Flavored Tobacco Products in San Francisco, California, Abigail S. Friedman, PhD <https://jamanetwork.com/journals/jamapediatrics/fullarticle/2780248>

^{xviii} Action on Smoking and Health, "Use of e-cigarettes among young people in Great Britain," June, 2021, <https://ash.org.uk/wp-content/uploads/2021/07/Use-of-e-cigarettes-among-young-people-in-Great-Britain-2021.pdf>.

^{xix} Action on Smoking and Health, "Use of e-cigarettes (vapes) among young people in Great Britain", July 2022, <https://ash.org.uk/uploads/Use-of-e-cigarettes-among-young-people-in-Great-Britain-2022.pdf>