**Comment to Government of The Netherlands**
**Regarding Amending the Tobacco and Smoking Products Order**
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Thank you for allowing us the opportunity to discuss the consultation on Amending the Tobacco and Smoking Products Order. We represent the Consumer Center at the Taxpayers Protection Alliance (TPA). TPA is a non-profit, non-partisan organization based in the United States dedicated to educating the public through the research, analysis, and dissemination of information on the government's effects on the economy.

TPA's comments draw on academic research and regulations in jurisdictions outside of the Netherlands.

TPA believes that the Netherlands government's intention to reduce the attractiveness of vaping products by removing all flavors is based on several flawed scientific assumptions and should be revisited.

TPA contends that the review's emphasis on a gateway effect is exaggerated and not grounded in reported data. The consultation document is also selective with references to scientific and epidemiological evidence, which can only degrade the Dutch public's already understanding of the relative risks of the products in question and lead to fewer smokers quitting or, worse, drive people who vape back to combustible cigarettes.

**Vaping is Not a Gateway into Smoking**

Major international studies have found no evidence that the use of e-cigarettes are leading non-smokers and the youth into cigarette smoking in countries such as the United States, the United Kingdom, and Australia.

A comprehensive evidence review by Public Health England in the UK found that "latest survey results in the UK do not support the idea that vaping (or the use of e-cigarettes) is a gateway to smoking" and that "[t]here is no evidence that [e-cigarettes] are undermining the long-term decline in cigarette smoking among adults and youth, and may in fact be contributing to it."[i]

A time-series analysis conducted by University College London between 2007 and 2018 in the UK (published in 2022,) showed that the increase in the prevalence of e-cigarette use in England is not associated with an increase in the uptake of smoking among young adults aged 16 to 24.[ii]

A 2021 study from 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."[iii]

A 2020 study by researchers led by Martin Jarvis from the University College London found that, at the population level, the National Youth Tobacco Survey (NYTS) 2017-2019 failed to provide evidence of e-cigarettes acting as a gateway to smoking in US adolescents. They concluded that "[d]ata from the NYTS do not support claims of a new epidemic of nicotine addiction stemming from use of e-cigarettes, nor concerns that declines in youth tobacco addiction stand to be reversed after years of progress."[iv]

An article in the American Journal of Public Health, authored 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."[v] The Professors went on to warn of the damaging consequences of exaggerating the harms of youth vaping, declaring that "[w]ith the focus on youths creating an environment in which smokers believe that vaping is as dangerous as or more dangerous than smoking, many smokers struggling to quit may be unwilling to try vaping as an alternative. This likely translates into less smoking cessation than if smokers correctly understood the relative risks of vaping and smoking."

**Selective Science**

It is claimed that the exact harmfulness of using an e-cigarette in the long term is still unknown. However, this does not mean there is no data. There have been thousands of studies on the vapour emissions and measurements of "exposure biomarkers" in the blood, urine and saliva of users which all suggest very much lower risks than smoking. There are distinct potential harms of intervening with excessive regulation such as proposed by the Dutch government. There is no doubt that combustible cigarettes are very harmful, so making e-cigarettes less attractive to discourage switching to vaping is extremely reckless considering we do know from comprehensive evidence reviews that vaping exposes users to harmful substances in minute amounts compared to smoking.

The consultation document asserts that nicotine exposure during adolescence can be harmful to the developing brain but the research for this claim was only performed on rats, which are widely regarded not to be an accurate proxy for assessing impact on humans. In the past century, millions of adolescent nicotine users have grown up as smokers and either continue to use nicotine or have quit. There is no evidence of any cognitive impairment in the population of former teenage smokers. If nicotine was indeed harmful to the developing brain, there would be extensive recorded evidence of it from the study of multiple generations of smokers who were exposed to high doses of nicotine as adolescents, but there is none.

Contrary to statements made in the consultation document, there is no evidence that these products present a material risk of cancer, cardiac or respiratory disease. There are studies that show effects of vaping, but these do not show that these effects are sufficient to cause serious

disease. For example, the claim that nicotine causes heart palpitations is also true of watching action films or football. Additionally, many studies are also confounded by prior smoking, given almost all adult vapers are former smokers.

There are, however, significant positive benefits of vaping when compared to smoking which have been identified by world-renowned public health organizations.

**Positive Health Effects of Electronic Cigarettes and Vapor Products**

E-cigarettes are significantly less harmful than combustible cigarettes.

Numerous respected scientific institutions around the world have produced in-depth research to inform policymakers of the benefits of vaping products to adult smokers. The Dutch government should refer to these sources and build messages around them to better educate its citizens.

*Public Health England (PHE)*: In 2015, a landmark report relying on 185 studies and produced by PHE (a leading health agency in the United Kingdom), found "that using [e-cigarettes are] around 95% safer than smoking," and that their use "could help reducing smoking related disease, death and health inequalities."[vi] In 2018, the agency reiterated their findings, finding vaping to be "at least 95% less harmful than smoking."[vii]

As recent 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."[viii]

*The Royal College of Physicians (RCP)*: In 2016, RCP found the use of e-cigarettes and vaping devices "unlikely to exceed 5% of the risk of harm from smoking tobacco."[ix] RCP is another United Kingdom-based public health organization, and the same public group the United States relied on for its 1964 Surgeon General's report on smoking and health.

*The National Academies of Sciences, Engineering, and Medicine*: In January 2018, the academy noted "using current generation e-cigarettes is less harmful than smoking."[x]

*Cochrane Review*: Researchers at the Tobacco Addiction Group analyzed studies that examined the effects of e-cigarettes in helping smokers quit. The researchers found 61 studies that had identified more than 16,700 adults that had smoked. The studies compared the instances of quitting smoking using e-cigarettes to other nicotine replacements including nicotine replacement therapy, nicotine-free e-cigarettes, behavioral support, and others. Of the available evidence, the authors found that more people "probably stop smoking for at least six months using nicotine e-cigarettes than using nicotine replacement therapy … or nicotine-free e-cigarettes." The authors also found that e-cigarette "may help more people to stop smoking than no support or [behavioral] support only."[xi]

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*Society for Research on Nicotine and Tobacco*: An article in August 2021 co-authored by 15 past presidents of the SRNT reported that "Many scientists have concluded that vaping is likely substantially less dangerous than smoking." Furthermore, they found that "A growing body of evidence indicates that vaping can foster smoking cessation" and warned "Studies have found that policies intended to restrict e-cigarette use may have unintentionally increased cigarette smoking."[xii]

A 2017 study in *BMJ*'s peer-reviewed journal *Tobacco Control* examined health outcomes using "a strategy of switching cigarette smokers to e-cigarette use … in the USA to accelerate tobacco control progress."[xiii] The authors concluded that replacing e-cigarettes "for tobacco cigarettes would result in an estimated 6.6 million fewer deaths and more than 86 million fewer life-years lost."

**The Role of Flavors for Smoking Cessation**

The consultation document states that the objective of the proposals is "reducing the attractiveness of the electronic cigarette to the general population" and states that this will protect public health. Nothing could be further from the truth. Restricting vaping products effectively protects sales of combustible cigarettes and insulates the tobacco industry against competition from safer nicotine consumption which is less harmful.

A vitally important aspect of vaping is that, in addition to having a fraction of the risk of smoking combustible tobacco, the act of vaping is more pleasing for adults. Flavors are essential to help transition adults away from smoking and help them remain smoke-free.

Flavors are appealing to adults in a wide variety of consumer goods, and it is no different with vaping. Importantly, flavored vapes create a disassociation between smoking and vaping which is instrumental in preventing relapse for former smokers who found it difficult to quit by other means. While some vapers stick to a tobacco flavor, the vast majority do not.

A wide choice of devices, nicotine strengths, and flavored liquids are integral to the success of vaping as an alternative to smoking because it enables individuals to tailor the vaping experience to suit their particular needs.

Flavors are also important in distinguishing combustible tobacco from vaping. There is no comparison between an attractive fruit flavor and the flavor of burned tobacco. Vaping is effectively a means of denormalizing tobacco and normalizing the use of a far safer alternative.

A 2018 survey of nearly 70,000 American adult vapers "found flavors play a vital role in the use of electronic cigarettes and vaping devices." In fact, 83.2 percent and 72.3 percent of survey respondents reported vaping fruit and dessert flavors, respectively. Most respondents indicated restricting flavors would make vaping "less enjoyable."[xiv]

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Analysis of EcigIntelligence's 2019 user survey found that fruits, sweets and candy, and desserts and bakery flavors "are among the most preferred flavors across all age groups."[xv] Use of tobacco flavor was preferred by less than 5 percent of those who vape. If legal sales were restricted to tobacco flavor only, 69 percent of respondents said they would try to acquire their flavors from alternative methods and 25 percent stated that they would be willing to drive over 100 miles to obtain supply. This illustrates that flavors are important to the appeal of vaping over smoking and that proposals to ban flavored vaping products are more an attempt at prohibition by stealth than a serious public health measure.

A 2020 study found an association between flavors and smoking cessation. In a cohort study of more than 17,900 participants, the authors found that "adults who began vaping nontobacco-flavored e-cigarettes were more likely to quit smoking than those who vaped tobacco flavors."[xvi]

**Restricting Vape Flavors Perpetuates Smoking**

Many lawmakers are being convinced into proposing a ban on vape flavors in the mistaken belief that they are the only driver of youth vaping. It seems to have been forgotten that youth experimentation with much more harmful combustible tobacco was at very high levels in the past when there was only tobacco flavor to offer.

Since vaping is a substitute for smoking in those who want to use nicotine, restricting vaping increases the appeal of combustible tobacco.

A July, 2021 survey in *Nicotine & Tobacco Research* found that one-third (33.2 percent) of survey respondents would "likely switch to [combustible] cigarettes" if flavors were banned in e-cigarettes.

More alarmingly, a 2021 Yale University study found that "San Francisco's 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."

This should not come as a surprise because of the substitution effect of competing nicotine delivery products. Nicotine use has been prevalent for many hundreds of years, restricting less harmful nicotine-containing products effectively protects sales of harmful, combustible cigarettes.

A variety of vape flavors are beneficial to public health for several reasons:

- They provide intense competition for the cigarette trade by presenting an attraction that combustible tobacco cannot match.
- Flavors provide a more appealing alternative to smoking and lead to population level reduced harm from nicotine use if uptake and initiation of vaping instead of smoking is widespread.

- Most people who smoke do so because of peer pressure, whether as adolescents or adults.
- Flavors help more people to enjoy vaping instead of smoking and therefore optimize the chance that future nicotine users will be more likely to initiate with a vape than with a combustible cigarette.

Banning all or most flavors would be like banning all or most flavors in ice cream. It would effectively prohibit all or most of the products, leaving only the unattractive base. This would severely obstruct the potential of vaping as an alternative to smoking for adult smokers, promote a black market and increase risks to young people if it encourages them to smoke or to access unregulated products sold by unscrupulous black-market sellers.

The Dutch government should recognize the crucial role that flavors play in reducing combustible tobacco use and put forth policies that inform consumers of the wide variety of less harmful products on the market.

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