

date: 2022-09-27

aff:{ FCOI=0.00, PCOI=0.75 }

tk: -

cls: policy-val, ergo-h, flavour-fallacy



Dear State Secretary for National Health,

As citizen from an adjacent EU country, I'm writing in to voice concerns at the rationale and insufficient consequence analysis, and discarded impacts outside your domestic market. Long story short, I strongly disagree with large parts of the proposed amendments to the Dutch tobacco products regulation.

While it's absolutely warranted and prudent to account for product existence on adolescents, this does not provide an ethical basis to discount regulatory outfall on less cherished population groups(1). E-cigarettes constitute the most effective smoking cessation avenue to date(2). Limiting availability to the extend that it becomes unusable as substitute for lethal combustible tobacco, will invariably further smoking-related death and disease. And death elevation is in no way commensurable by even significant adolescent abstinence. Which is why the motivation behind the amendment is called into question. No less so because of plausible negative consequences for adolescents alongside.

Most crucially I'd like to point out some misdescriptions. Such as alluding to NVPs (nicotine vaping products) as tobacco products – despite not being constituted of tobacco, nor of tobacco industry origin. And moreover labeling this effort as “Geschmacksverbot”, despite commanding to have tobacco relapse/habitation flavours mandatory - instead of prescribing flavourless products (which while also carrying adverse consequences, would be more in the line with the publicized rationale).

## Flavour fallacy

It's academic consensus that product appeal sparks adherence and efficacy(3) for the actual purpose of e-cigarettes. For the same reason that NRT (nicotine replacement) is not commonly mandated to carry “tobacco”-like flavours. Nor would normal people suggest that recovering alcoholics be treated to whiskey-reminiscent lemonade.

The insinuation that flavours were “invented” to addict all the children or only used by them originated in the US (a non-FCTC-ratifying country) and various lobbying groups with financial constraints on continued tobacco sales. It hinges on misrepresenting access-driven preferences for causality. And is thus

insufficient grounds to penalize (smoking relapse and disease) adult consumers for.

Obviously there's validity to the preference by non-smoking youths, and incentives for experimentation are commonly affirmed in surveys. Presenting it as primary, sole or even foremost uptake reason is not. That's an argument strain based on emotional appeal, not out of scientific candor.

Moreover it's not affirmed that synthetic tobacco-ish flavours (even less plausible for the variant mandated by the proposal) would provide a magic deterrent to all youth use. There's certainly a reduction in experimental and infrequent use to be expected (as in: the least concerning subset). It's much less certain that remaining VSNS (vaping susceptible non-smoking) adolescents would be likewise deterred. And more crucially that the vague resemblance to tobacco-esque flavours wouldn't constitute a habituation gateway(4) in the same way tobacco-relapse flavour mandates would for adults.

Which is why it's unconscionable to imply from the rudimentary reasoning on flavouring product features that a reassociative flavour should be introduced. Even though the recommendation, if applied, would have even less resemblance to anything burned/smoked than regular synthetic tobacco flavours (can't be willed into existence, really).

If the line of reasoning were sound, it would advocate for semi-medicalized and flavourless NVP e-liquids, which do not carry any relapse or habituation risk to adults nor adolescents.

## **See also: San Francisco**

Unethical flavour ban experiments have been tried in the United States (again, non-FCTC-ratifying country). Most prominently in San Francisco. And despite the emerging illicit market, led to a surge in smoking among adolescents(5). While this is most widely and plausibly attributed to the bidirectional substitution of NVPs for lethal CT, an aforementioned flavour habituation can not be discounted.

## **See more: Australia**

The consequences of effectual NVP prohibition are currently best observable in all states of Australia. It's what in reserved academic phrasing would be best described as an utter and complete shitshow.

With a "prescription model" devised to fail (doctors and pharmacies have been ill-informed to the point that there's no realistic access), a ludicrous illicit market has spawned. And despite proclamations to the contrary, has enabled extremely trivial access for adolescents. A large part of which is non-beneficial (a minor slice abets smoking diversion, of course).

Notably the majority of NVPs now available are dodgy and low-quality disposable devices. Which apart from uncertain composition, pose an even more significant environmental impact.

Similar regulation that will effect comparable outcomes in the Netherlands, will also impair neighboring countries. The flood of unregulatable garbage vapes

will invariably promulgate. (A better approach would be taxing the F out of those first, before making them prevalent.)

## Packaging restraints: fine

This may come as a surprise, and I'll explain why.

The amendment does include provisions to mandate adulteration of product packaging. Which is perfectly fine, or would be in isolation or at the very least as first step to curb any perceived youth use prevalence. And it's unclear why this wasn't prioritized.

In fact, many of us e-cigarette users would prefer such a step. Since notably some cashgrab NVP vendors do in fact utilize attention-thirsty packaging without reason. And there's good reason to assume that inappropriate packaging is a plausible motivator or highly misleading as to the product purpose.

As such it would even be fine to mandate bland or grayscale packaging, with additional health risk warnings (given they're non-hysterical and based on balanced analyses or clinical relevance). The advocates for the tobacco products amendment would know that there would be support for such a move among adult ex-smokers who use e-cigarettes, if they had sought out to ask. For reasons that should be obvious, they haven't.

Moreover this is the area most plausible to deter non-smoking adolescents from non-beneficial or detrimental use of e-cigarettes. Expanding the bare minimum warnings about nicotine dependency risks with e.g. "Only envisioned for smoking cessation. Else a waste of time and money." (or similar such non-therapeutic hints) is much more probable to avert gadget appeal - than translucent scare campaigns or risk exaggerations(6).

## Phrasing recommendations

In order to avoid some misconception and the appearance of topical inelegance or ill intent, the amendment should be augmented with clear and upfront messaging on following points:

- It's not an actual "smaakjesverbod" (flavour illegalization), if in practice it mandates vaguely tobacco-esque mixtures to be **added** to products.
- "Tobacco" flavours in the proposal should be referred to as **synthetic** tobacco flavours to avoid the obvious assumptions on resemblance.
- Deliberations on vendor costs is highly irrelevant, if not appearing to be a smokescreen. Assessments on smoking **relapse** for adults (and also teenagers) should be included instead. Other regulators are more upfront of such predictable consequences (e.g. HealthCan).
- It should further exhibit some cognition of the dependence risk differential between NVP and combustible tobacco (nicotine plus accelerants, amplifiers and anti-depressants, e.g. MAOIs). That's easily perceivable as tobacco trivialization otherwise.

- “[...] to reduce attractiveness, especially for young people.” does not communicate much appreciation for the adherence aspect for NVPs used as smoking cessation pathway.
- Concrete advocates for this amendment, if passed, should be enlisted in published ministerial records. The outcome of such measures is best left properly attributable. (The anti-vaping lobbyism is not in line with any academic consensus, and thus will be of historical interest.)
- Sourcing for the recommendation should be checked for sourcing constraints and if originating from public discourse aversion(7).

I’m hoping you’ll impart consideration to the population at large in any case.

Thank you for your time,  
M. Salzer

## References

1. Balfour, D, Benowitz, N, Colby, S, Hatsukami, D, Lando, H, Leischow, S, Lerman, C, Mermelstein, R, Niaura, R, Perkins, K, Pomerleau, O, Rigotti, N, Swan, G, Warner, K, West, R. (2021).  
Balancing Consideration of the Risks and Benefits of E-Cigarettes **Am J Public Health** DOI: 10.2105/AJPH.2021.306416  
<<https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2021.306416>>
2. Hartmann-Boyce, J, McRobbie, H, Butler, A, Lindson, N, Bullen, C, Begh, R, Theodoulou, A, Notley, C, Rigotti, N, Turner, T, Fanshawe, T, Hajek, P. (2021).  
Electronic cigarettes for smoking cessation **Pharmacology (medical)** DOI: 10.1002/14651858.CD010216.pub6  
<<http://doi.wiley.com/10.1002/14651858.CD010216.pub6>>
3. Farsolinos, K. (2021)  
The Case for Flavours in Tobacco Harm Reduction, to Save Lives  
<<https://thr.ams3.cdn.digitaloceanspaces.com/strapi/0cbd3b34cef86dad0032528c324d2f7b.pdf>>
4. Response to King, B. (2022) **PubPeer**  
Flavors Remain a Major Driver of Youth E-Cigarette Use  
<<https://pubpeer.com/publications/CDFAC596CD67E60950806D252E1866>>
5. Friedman, A. (2021).  
A Difference-in-Differences Analysis of Youth Smoking and a Ban on Sales of Flavored Tobacco Products in San Francisco, California **JAMA Pediatr** DOI: 10.1001/jamapediatrics.2021.0922  
<<https://jamanetwork.com/journals/jamapediatrics/fullarticle/2780248>>
6. Minton, M. (2020) **CEI**  
Perverse Psychology: How Anti-Vaping Campaigners Created the Youth Vaping “Epidemic”  
<<https://cei.org/studies/perverse-psychology/>>
7. Gunther, M. (2022) **Medium**  
Michael Bloomberg loves data. Except when he doesn't.  
<<https://medium.com/the-great-vape-debate/michael-bloomberg-loves-data-except-when-he-doesnt-a6abb02d4d0a>>