

Stockholm den 28 September 2022

Regulation of e-cigarette flavor in The Netherlands

I am writing on behalf of myself as a 15 year observer of western policymaking inadvertently but surely causing massive negative outcomes in LMIC countries from being forced to copy policy enacted in donor countries or risk losing development support. With constantly increasing data in support of harm reduction policy it is clear that THR must be an integral pillar in tobacco control everywhere, as specified also in article 1(d) of the FCTC. Proof of concept is now self-evident for the curious and openminded regulator or politician, as the most effective strategy to avoid an otherwise inevitable cancer, COPD and CVD catastrophe in Africa and other LMIC contexts by 2040. I am sending the strongest possible support for the concept of tobacco harm reduction as a policy and practice to reduce the severe harms associated with smoking and as a vehicle to de facto assist in ending smoking. To highlight again the massive opportunities presenting themselves right now and despite being your national decision, rest assured you will have an impact Unionwide as well as on the Global level.

There have been so many instances of excellent and balanced research presented by other groups and persons who have already submitted, that it would be superfluous for me to even try and add anything further or new. I would however want to implore you to look around and decide if the human rights work after World War II is of so little value and those rights frameworks have provided so little positive effects for The Dutch people that it is ok to start a process to cancel them, for everybody? Given what is emanating from agencies in the UN - WB - FAO - WHO system where calls are getting louder for reinterpreting the human rights framework as a whole to allow effectively addressing climate, SDG's, NCD's, UHC and food safety - it is clear to me that canceling parts of hard won individual rights is precisely what that means. Individual rights do not stand a chance if suddenly downgraded to allow for a majority decision to actually put rights on hold. That this happens de facto is a limitation we live with as it is, formalising it as a quicker route to decisive actions would spell the end of this era that started in 1948.

I am an economist/activist with interest in Harm Reduction and human rights in relation to public health and bad habits. I argue zero conflicts of interest to any entity that may give rise to concern given the FCTC article 5.3 guidelines and much less the actual treaty to the extent that is possible. We have an unprecedented chance to end smoking fast, with ok tax revenue and BIG industry willing to play ball, and with as good or better safety and efficacy profiles already proven, as with most chemicals, pharmaceuticals, pesticides and similar when they are placed on the market with confidence in that the Cautionary Principle has been adequately applied.

I find that if active otherization of groups in also the Dutch society, induced by negative feedback loops in groupthink and frankly illegal and unethical policies to control not smoking, but nicotine, by utilizing economic burdens, stigma, and social isolation, are fundamental and instrumental to the massive ostrich phenomenon that has captured The Netherlands. The bizarreness that not more of lawmakers, scientists, human rights experts and policy experts in The Netherlands have protested is curious. We haven't even spotted very much in the form of expected intelligent satire against this perversion of good and responsible governance, not shying from the difficulties of balancing serious and valid (partly) goal conflicts. Actively destroying as much of pleasure and functionality as possible for a 99% strong group of whom at least the 90% are adults at serious risk from smoking related disease, in order to perhaps maybe have a positive effect for the 1% is madness, sheer madness. Lastly, it does deserve to be repeated that clearly any effects that this proposed legislation will have in relation to the BECA is that it will make it even more impossible to reach any targets that are smoking and health related by 2040. More likely 2075-2080 is when we would think we'd see real

drops in Cancer incidence. Those levers acting here would be the protection of the incumbent cigarette industry, setting a catastrophic example for the rest of the EU that you will subsequently

have to defend, and equally sending signals also to the entire LMIC where 80% of the problem is but almost no resources with which to deal with them are to be found. Spillover negative effects are inevitable to other products also that are possible routes out of smoking, like heated tobacco products and nicotine containing snus or non-tobacco pouches. These are already banned in The Netherlands so will therefore become natural additions to any materials for international Public Health continuing education that the EU does.

There is no doubt that there are extremely influential people and groups and university institutions in the Netherlands that are quite busy since several years driving an agenda to reinterpret the way we see the human rights and international public law frameworks. Activities aiming to open the possibility of temporary dictatorship in emergencies whereby saving the earth's climate is more important than individual human rights, saving health expenditure through authoritarian public health is more important than individual human rights, and keeping us safe from disease is more important than individual human rights. This sounds relevant and reasonable to many, especially so to the vast majority who at any stage will feel they have credible information and believe themselves and their in-group to be the beneficiaries of whatever new policy is coming. This framing of the global situation, analogous to "Tobacco OR Health", seems to have fully caught on for e-cig flavours in The Netherlands. So much so it seems, that The Netherlands may in fact become notorious as the nation that eyes wide shut takes over the relay stick of counterproductive regulation in tobacco from Sweden that has been running with it for 50 years with snus. Likely if so another 50 then where regulations more or less force the Big Tobacco corporations to keep a focus on what is certain, the cigarette in all the LMIC parts of the world while The Netherlands increases its war on nicotine, fighting e-cig flavor criminality and tax evasion not so different from Al Capone 100 years ago. At the end of the day, massively improving individual's incentive and ability to never smoke cigarettes again and doing so in the millions/billions, WHO could possibly have made you believe that would NOT massively improve global health, through improving individual health?

The product class that you are de facto intending to completely shadow ban, without banning it, in effect the current Vaping products etc. can and will play a key and growing role in individual health in time for 2040 providing smokers find them appealing. Equally so the existence of smart and relative regulation will generate massive visual cues that smoking is NOT cool to younger people. The effect if one extrapolises a bit from the other countries with good offerings the main concern for Dutch regulators will be how fast they want the dominoes to fall. The current proposal will reduce the appeal and protect the cigarette trade.

The proposed "whitelist" approach to ingredients will amount to an almost complete ban on commercially viable vaping products. It will assist the continued dominance of the cigarette.

The impact on public health depends on how current users and future potential users will respond to the measure. The government cannot just assume they will become abstinent. Simply removing one appealing aspect of one product category does not address the deeper drivers of nicotine, tobacco or substance use. So, the likely responses will be to switch to other forms of nicotine use, including smoking, or other forms of substance use. Alternatively, users may try to secure the same vaping experience by other means. They can do this by using food or aromatherapy flavours, buying illicitly manufactured flavoured products, importing flavoured products from outside the Netherlands, or creating homemade flavours for personal use or selling to family and friends. Each of these options is worse than the status quo. There is no credible assessment of how these pathways will play out. If there were, it would show that even minor increases in smoking would destroy any conceivable health justification for this intervention.

The proposal is unworkable and should not proceed. As an annexe, I have provided a more detailed analysis submitted to an earlier consultation by twenty-four experts in nicotine science and policy. Nothing has changed to invalidate this analysis, and its findings remain relevant to the consideration of this measure.

Yours sincerely

Atakan Erik Befrits

A handwritten signature in black ink, appearing to read 'Atakan Befrits', with a stylized flourish at the end.

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