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Submission on Estonia's Draft Act amending the Tobacco Act and the State Fees Act

ETHRA welcomes Estonia's objective of preventing youth use of adult products and supports proportionate product safety rules and clear enforcement against supply to minors. However, several core provisions of the draft would also make low-risk alternatives to smoking less acceptable, less available or practically unusable for adults who smoke. That would undermine the draft's public health purpose.

The central weakness is that the draft proposes regulation through prohibition rather than regulating products based on the risk they pose relative to combustible tobacco. Estonia still has a substantial population of adults who smoke: 13.2% of adults aged 16–64 smoked daily in 2024, and 51.6% of daily smokers said they wanted to quit¹. A tobacco control law should protect young people while preserving realistic routes away from combustion.

Our response is on behalf of the European Tobacco Harm Reduction Advocates (ETHRA). ETHRA is the voice of 27 million EU² consumers of safer nicotine products (SNPs). The safer nicotine products we use include vapes, nicotine pouches, snus, and heated tobacco products. ETHRA is a consortium of 24 grassroots consumer associations in 17 European countries, supported by experts in tobacco control and nicotine research. We are a voluntary operation with no industry funding or conflicts of interest. Our transparency registration number is 354946837243-73.

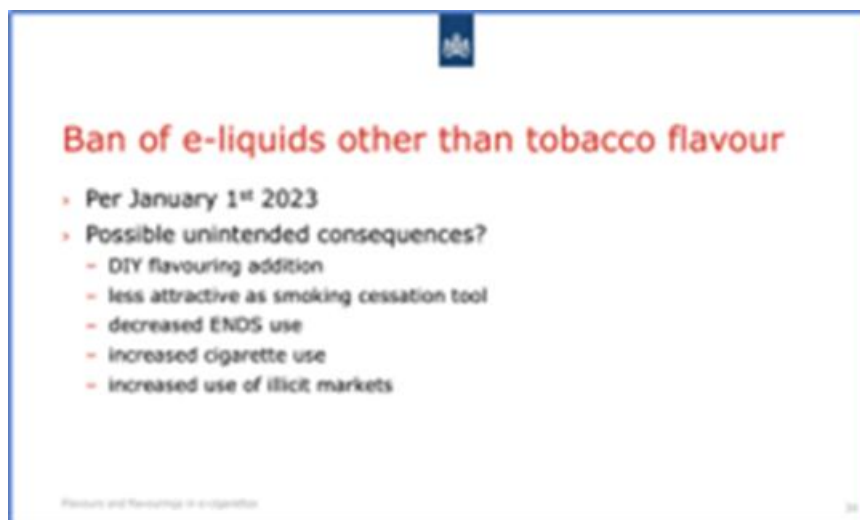
Below we outline our position and share relevant evidence that underpins our position.

- Consumers believe regulation should be risk proportionate and non-discriminatory. While risks arising from combustible products are sufficiently severe to justify many tobacco control measures, no such equivalent risk applies to non-combustible products.
 - Tobacco harm reduction works by encouraging people who smoke to switch their product choice from smoking to much safer, smoke-free products. Smoke-free products must appeal to smokers to compete with cigarettes. One example of this appeal is the wide range of flavourings for safer nicotine products. While banning flavours might reduce the appeal of SNPs to some users, policymakers cannot just assume that users of flavoured SNPs will become abstinent – they may respond in various ways. A ban on flavours makes alternatives to cigarettes less competitive with cigarettes and, in doing so, protects and aids the cigarette trade.
 - Banning flavours. While characterising flavours play some role with combustible products, most of the flavour is imparted by the burning tobacco. For vape products or pouches, added ingredients impart all the flavour. A ban on flavours would be highly prone to unintended consequences. Recent evidence from economic studies

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in the United States shows that bans on vaping flavours increase cigarette consumption. It should not be surprising that flavour bans favour cigarettes: a flavour ban aims to make an alternative to cigarettes less attractive.

- Evidence from trials, observational studies, population-level trends, market analysis and user testimony strongly suggest that vaping displaces smoking through quitting or cutting down, including among users who had no intention to quit smoking. Economic data shows that the price of vaping products affects cigarette demand. It is impossible, therefore, to assess vaping or smoking policies in isolation because one affects the other. Given the respective risks, a ban on flavours will negatively impact health by making vaping less appealing than smoking for those inclined to use nicotine.
- Flavour bans stimulate an increase in adult smoking. December 2023, in a presentation on the Netherlands' approach to banning flavours, the Dutch public health agency RIVM summarised the plausible negative responses to a flavour ban³.



- The slide represents a good summary of the reasons for scepticism about flavour bans. These unintended consequences are far more significant than the intended purposes of flavours. Yet, the proponents of flavour bans, including RIVM, have no analysis supporting a flavour ban once these effects are included
- A survey of French consumers found that half said they would source flavours illegally, and about one-quarter said they would return to smoking⁴. Several academic studies have identified risks with flavour bans: Posner et al. (2021)⁵ found that one-third of vapers would be likely to switch to cigarettes. Gravely et al. (2021)⁶ examined possible responses to flavour restrictions in the United States, Canada, and England, finding that 28.8% would access their preferred flavours via illicit means and 17.1% would stop vaping and smoke instead
- Controls on flavours. Flavours can be conceptualised as either (1) a chemical recipe, (2) a sensory experience (e.g., “apple”, “mint”), or (3) a descriptor: the language, trademarks or iconography used to describe a product. Regulation should focus on banning or restricting known toxicants, CMRs, and respiratory sensitisers and ensuring that descriptors are not deliberately appealing to children.
- Regulating nicotine content in pouches. We agree that there should be controls on the amount of nicotine in nicotine pouches. However, we strongly believe that the threshold should be set at the amount of nicotine per sachet not per gram. Nicotine

content per sachet increases consumer confidence in the product and the end user knows exactly what they are getting.

- Set the upper limit for pouches relatively high. To be a viable alternative to cigarettes, nicotine pouches must have a nicotine content that is satisfactory for the consumer. The German Federal Institute for Risk Assessment (BfR)⁷ has assessed the health risks from nicotine pouches based on existing studies and data. BfR has calculated that a 16.6 mg dose is estimated to be equivalent to the level in blood after smoking a cigarette. Setting any lower limit increases the risks of adverse consequences (more smoking, illicit trade, workarounds) arising from banning products already used by adult consumers.
- Consumers (smokers, vapers, and other nicotine users) are by far the most significant stakeholders. Economic analyses show that people who smoke bear the overwhelming share of the economic burden through disability and premature death. Consumers have interests that are distinct from economic actors and from professional activists who support the elimination of all nicotine use. We should not be bracketed with either.
- Consumers believe that policymakers should do what they are supposed to do: promote the free movement of goods with a high level of human health and consumer protection while respecting the long-established principles of proportionality and non-discrimination – with a focus on reducing cancer (Europe’s Beating Cancer Plan) and reducing the burden of non-communicable disease (Healthier Together). If it did so, it would recognise smoke-free forms of nicotine and tobacco as significant opportunities with minimal and manageable risks, with the potential to expedite the obsolescence of the cigarette through the smooth functioning of a competitive internal market.
- Consumers believe the most important distinction from a policy perspective is between combustible and non-combustible products, not between tobacco and non-tobacco or between traditional and novel products. Smoke inhalation is responsible for the health and other risks of tobacco or nicotine use and should be the basis for defining proportionate regulation and taxation.
- Consumers raise concerns about a range of likely unintended consequences that arise from proposed policies to control products like vapes, heated tobacco, nicotine pouches and snus. There are essentially three forms of risk: (1) reversion to cigarettes or reduced switching or other adverse behavioural response; (2) stimulation of illicit and unregulated trade; (3) potentially risky workarounds by users or suppliers, such as making or adding flavours. In each case of a proposed new regulation, policymakers must recognise and evaluate these effects and be realistic about the damage they could do.
- Consumers believe the concern about youth use is excessive and has become a moral panic aided by tobacco control activists. Most youth use is experimental, infrequent, and likely to be transient. More intensive and frequent use by adolescents is mostly displacing smoking, and hence, beneficial in the longer term. There is no evidence for a gateway effect – all the evidence points the other way: vaping is an exit route from smoking.
- Consumers are not hostile to all regulation but draw a distinction between regulation designed to protect consumers (e.g., from chemical, electrical, or thermal hazards or misleading information) and regulation intended to deter use. The latter diminishes the consumer experience. As a result, it is highly prone to the unintended consequences described above and raises costs to users of finding and maintaining alternatives to smoking.

In conclusion, the evidence presented strongly suggests that a flavour ban on safer nicotine products would be counterproductive to public health goals. Flavours play a crucial role in helping people who smoke transition away from cigarettes, and a ban could lead to increased smoking rates, a rise in the black market, and potentially risky workarounds by users. Furthermore, concerns about youth use appear to be overstated, with most use being experimental and displacing smoking in the long run. A focus on harm reduction strategies that acknowledge the significant difference in risk between smoking and safer nicotine products is a more effective approach. By regulating these products to ensure safety while allowing for a variety of flavours, the government can encourage smokers to switch to a less harmful alternative and ultimately reduce the burden of smoking-related disease.

Sincerely,

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On behalf of ETHRA & Partners

References

¹ Reile R, Põlajev A, Saavaste J. Eesti täiskasvanud rahvastiku tervisekäitumise uuring 2024 [Health Behaviour among the Estonian Adult Population 2024]. Tallinn: National Institute for Health Development; 2025. Table 3-45, p.51.

² Estimate of 27 million consumers provided by ECigIntelligence/TobaccoIntelligence. The actual figure is likely to be far higher because the data for smokeless tobacco is taken from research (Leon et al 2016) using data gathered in 2010 in only 17 countries.

³ Reinskje Talhout, Flavours and flavourings in e-cigarettes, National Institute for Public Health and the Environment (RIVM), Ministry of Health, Welfare and Sport, The Netherlands. Presentation [presentation PDF] to French National Cancer Institute Conference, International Scientific Conference on E-cigarette, Paris, 5-6 December 2022.

⁴ AIDUCE, SOVAPE, La Vape du Coeur and FIVAPE, Communiqué: Première synthèse de l'enquête MERCI LA VAPE – 40000 réponses + 1 alerte sanitaire, 3 November 2023 [[link](#)] Full report (French) [[PDF link](#)]

⁵ Posner H, Romm KF, Henriksen L, Bernat D, Berg CJ. Reactions to Sales Restrictions on Flavored Page 10 of 10 Vape Products or All Vape Products Among Young Adults in the United States. Nicotine Tob Res. 2021 [[link](#)]

⁶ Gravely S, Smith DM, Liber AC, Cummings KM, East KA, Hammond D, et al. Responses to potential nicotine vaping product flavor restrictions among regular vapers using non-tobacco flavors: Findings from the 2020 ITC Smoking and Vaping Survey in Canada, England, and the United States. Addict Behav. 2021 [[link](#)]

⁷ Federal Institute for Risk Assessment. October 2022. Health assessment of nicotine pouches. [[link](#)]