

European Respiratory Society (ERS) and European Lung Foundation (ELF) submission to the European Commission's consultation on tobacco control: 'Evaluation of legislative framework for tobacco control'

The EU has the goal of reducing tobacco prevalence in Europe to 5% by 2040, therefore it is very important for the EU and the Member States to review regulations concerning product manufacturing, advertisement, promotion and sponsorship. In that context, restricting the sale and promotion of tobacco products to young people, reducing their accessibility on the market, as well as their affordability, are important issues that need to be taken into consideration.

Novel and emerging tobacco and nicotine products such as heated tobacco, e-cigarettes, nicotine pouches etc. should be regulated by taking into consideration scientific evidence, as well as the precautionary principle¹, to make sure that citizens' health and consumer rights are protected.

Particular attention should be given to the protection of young people and future generations. The brains of children and adolescents are uniquely vulnerable to the effects of nicotine and nicotine addiction at least until the age of 25 years. It is therefore of crucial importance that we prevent tobacco use in young people to protect them from lifelong addiction and its extensive adverse health effects².

From the early 2000s, the tobacco industry has introduced various electronic smoking devices and since then the popularity of electronic smoking devices has risen, especially among younger generations³. Despite the promotional narrative of these products reducing harm and supporting smoking cessation, ERS and ELF hold the viewpoint that such products are not risk-free for several reasons:

- Short-term safety data suggest e-cigarettes cause airway reactivity, and there are recorded cases of serious health consequences, including lung injury and acute respiratory failure⁴.
- The long-term health risks of exposure to e-cigarette constituent chemicals are still unknown, while heated tobacco devices have been shown to release cancer-causing chemicals⁵.

¹ <https://eur-lex.europa.eu/EN/legal-content/summary/the-precautionary-principle.html>

² Statement on Tobacco 21 from the European Respiratory Society Tobacco Control Committee.
<https://erj.ersjournals.com/content/61/3/2300134#ref-7>

³ World Health Organization. Electronic nicotine and non-nicotine delivery systems: a brief. World Health Organization. Regional Office for Europe;2020.

⁴ CDC. Outbreak of Lung Injury Associated with the Use of E-Cigarette, or Vaping Products.
https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html

⁵ N. Hirata, T. Horinouchi, Y. Kanda. Effects of cigarette smoke extract derived from heated tobacco products on the proliferation of lung cancer stem cells. Science Direct. (2022)
[https://www.sciencedirect.com/science/article/pii/S2214750022001378#:~:text=Cigarette%20smoke%20extract%20\(CSE\)%2C,of%20lung%20cancer%20stem%20cells.&text=CSE%20from%20HTPs%20induces%20epithelial%2Dmesenchymal%20transition%20and%20inflammatory%20cytokine%20production.&text=HTPs%20might%20be%20associated%20with%20the%20development%20of%20lung%20cancer.](https://www.sciencedirect.com/science/article/pii/S2214750022001378#:~:text=Cigarette%20smoke%20extract%20(CSE)%2C,of%20lung%20cancer%20stem%20cells.&text=CSE%20from%20HTPs%20induces%20epithelial%2Dmesenchymal%20transition%20and%20inflammatory%20cytokine%20production.&text=HTPs%20might%20be%20associated%20with%20the%20development%20of%20lung%20cancer.)

- New nicotine products provide a gateway to smoking, especially for the younger generation and they present a threat of renormalising tobacco use⁶.
- Despite being supported by the tobacco industry, harm-reduction claims concerning novel products are misleading. First of all, the long-term effects of their use are still unclear⁷. In addition, the users of these products are exposed to other harmful substances that are different from conventional tobacco.
- Many studies which state that novel products are less harmful, as well as randomised control trials, are funded by the tobacco industry, and this raises concerns about bias⁸.
- E-cigarettes are not approved for the treatment of tobacco dependence in the EU. The European Accreditation Curriculum on Tobacco Treatment does not recommend any novel nicotine products for smoking cessation purpose⁹.
- Novel products could increase dual use, which prolongs tobacco and nicotine exposure¹⁰.

Which direction should future regulations take?

- All tobacco control measures should be introduced and implemented with the ultimate goal of achieving tobacco-free generation in Europe. Supporting initiatives such as the *European Citizens' Initiative - Tobacco Free Europe* are essential¹¹.
- All tobacco products should be regulated in the same way, including emerging products.
- Novel nicotine-containing products should be strictly regulated despite the tobacco industry's harm reduction claim.
- Implement high universal minimum taxes for cigarettes and all other tobacco and novel products to decrease their affordability.
- Advertising and promotion of tobacco and novel products should be another key regulatory priority, including ending the promotion on social media where the youth is very vulnerable to this exposure.
- While ensuring strong provisions in the EU Directives, in a quickly changing market of products it should be possible for Member States to apply new and very ambitious tobacco control measures (beyond the Directives).
- Consider applying an age ban on sales of products as proposed by national tobacco- and nicotine-free generation strategies (e.g. Denmark) or policies such as Tobacco 21.
- Introduce stronger regulations on tobacco industry activities, starting with strictly adhering to WHO FCTC Art. 5.3.
- Address the cases of the tobacco industry's use of loopholes as they continue:
 - selling flavored tobacco products;
 - using pricing strategies that undermine tax policies;
 - weakening smoking bans with novel products by claiming they are smokeless or just water vapour;

⁶ Smith MJ, MacKintosh AM, Ford A, Hilton S. Youth's engagement and perceptions of disposable e-cigarettes: a UK focus group study. *BMJ Open*. 2023;13(3):e068466

⁷ Banks E, Yazidjoglou A, Brown S, et al. Electronic cigarettes and health outcomes: systematic review of global evidence. Report for the Australian Department of Health. 2022.

⁸ Simonavicius E, McNeill A, Shahab L, Brose LS. Heat-not-burn tobacco products: a systematic literature review. *Tobacco Control*. 2019;28(5):582.

⁹ ENSP's EuroPeen Accreditation Curriculum on Tobacco Treatment <https://ensp.network/ensp-tdtguidelines/>

¹⁰ Pisinger C. Why public health people are more worried than excited over e-cigarettes. *BMC Med*. (2014) 12:226. 10.1186/s12916-014-0226-y <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4260246/>

¹¹ European Commission. Call to achieve a tobacco-free environment and the first European tobacco-free generation by 2030. https://europa.eu/citizens-initiative/initiatives/details/2022/000005_en#:~:text=1.,more%20healthy%20and%20environmentally%20sustainable.

- using product rebranding (e.g. snus to ‘chewing tobacco’ for the EU); and
- disseminating misleading claims of harm reduction and aiding smoking cessation.
- A mandatory ban on online sales of nicotine products should be implemented to prevent sales to minors and decrease the accessibility of the products.

The Tobacco21 initiative

Furthermore, ERS and ELF would like to stress the necessity to promote the Tobacco 21 initiative (T21), as a way to protect adolescents and young adults, by decreasing the availability of such products. Studies have shown that an increase in the age of smoking initiation is linked to a decreased likelihood of continuing to smoke later in life, and suffering from the related health effects¹². The effectiveness of T21 has been tested by the National Academies of Sciences. The modelling evidence that has been produced shows that hundreds of premature deaths of people born between 2000 and 2019 were prevented by T21 legislation¹³.

ERS and ELF call on Member States to prioritise the implementation of T21 legislation into their respective national legislations and at the same time urge the EU to adopt T21 as part of its Tobacco Products Directive (TPD). Furthermore, ERS and ELF acknowledge a possible challenge of the T21 implementation that has to do with the accessibility of such products from online vendors who mail their products to different locations¹⁴.

Conclusions

ERS and ELF strongly advise introducing comprehensive uniform measures for all of the existing, emerging and potential future products in the interest of public health protection. We want to point out that the harm reduction claim is still not fully supported by independent scientific evidence, and that all products are harmful and addictive.

In that context, the EU and each Member State should protect its citizens — especially adolescents and young adults — from tobacco industry promotions and advertising that could be misleading and could promote the renormalisation of tobacco use. To achieve this, ERS and ELF have made recommendations about possible legislative loopholes, sales tactics and legislation.

Finally, ERS and ELF value the evidence that has been provided by the implementation of the T21 policies in other parts of the world and recommend that Member States integrate them into their national policies. ERS and ELF maintain that human lungs should only breathe clean air.

¹²National Center for Chronic Disease Prevention and Health Promotion (US) Office on Smoking and Health. The Health Consequences of Smoking – 50 Years of Progress: A Report of the Surgeon General. Atlanta, Centers for Disease Control and Prevention (US), 2014. www.ncbi.nlm.nih.gov/books/NBK179276/

¹³ Committee on the Public Health Implications of Raising the Minimum Age for Purchasing Tobacco Products; Board on Population Health and Public Health Practice; Institute of Medicine. Bonnie RJ, Stratton K, Kwan LY, eds. Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products. Washington, National Academies Press, 2015. doi:[10.17226/18997](https://doi.org/10.17226/18997)

¹⁴ Gaiha SM, Lempert LK, Halpern-Felsher B. Underage youth and young adult e-cigarette use and access before and during the coronavirus disease 2019 pandemic. JAMA Netw Open 2020; 3: e2027572. doi:10.1001/jamanetworkopen.2020.27572