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Comments on draft legislation on e-cigarettes and refill containers from the New Nicotine Alliance. UK

The New Nicotine Alliance (UK) is a UK charitable organisation (a civil society organisation) which aims to improve public health by educating about and advocating for the use of reduced risk products (such as e-cigarettes) as a substitute for smoking. Our position is that smokers should have access to a wide range of alternatives to smoking. E-cigarettes are significantly safer than smoked tobacco. Good regulation of e-cigarettes and nicotine is important for ensuring consumer safety and promoting consumer confidence in the products. However, unnecessary regulation can become an obstacle to the uptake of e-cigarettes. We are writing to express our concerns on some of the provisions in the draft Act, which are not evidence based and which will in our view provide impediments to smokers switching to e-cigarettes, and which are not in the interests of individual or public health. We have commented on some of the Articles of the Act below.

Article 7

Maximum strength and size of refill containers

The limits on strengths of nicotine liquids (20mg/ml), on tank sizes (2ml) and refill sizes (10ml) are arbitrary. These limits were introduced into the European Tobacco Products Directive at a late stage in the political negotiations and there is no scientific evidence on which to base such restrictions¹. These limits place obstacles in the way of those smokers who need higher concentrations of nicotine in order to successfully switch. The safety profile of nicotine has been well established through years of trials of nicotine replacement therapy, and more recently through the assessment of health risks from Swedish snus, which provides nicotine but without smoke. Nicotine is not a carcinogen, or a cause of cardiovascular disease. Though it is the addictive agent in cigarettes, there is no evidence of significant harm from nicotine use, *per se*².

The 10ml bottle limit produces wasteful and unnecessary packaging and is an inconvenience to the consumer.

¹ Etter JF et al, [Scientific Errors in the Tobacco Products Directive A letter sent by scientists to the European Union. E-cigarette Research](#). (Letter from 15 experts to European Commission) 16 January 2014

² Farsalinos KE, Polosa R. [Safety evaluation and risk assessment of electronic cigarettes as tobacco cigarette substitutes: a systematic review](#) (Risk differences compared with conventional cigarettes and the issue of nicotine) *Therapeutic Advances in Drug Safety*, 2014

Article 10

Advertisements and visibility at points of sale

In order to establish e-cigarettes as a means by which smokers can switch from tobacco use, it is important that e-cigarettes should be afforded advantageous marketing opportunities. E-cigarettes are a disruptive technology which offers great promise in reducing harm from the use of tobacco and which can deliver significant public health gains. We consider that smokers should be made aware of the benefits of switching from smoking to e-cigarettes by all means possible in order to establish reduced harm products as a widely recognised alternative to lit tobacco. Advertising bans protect the incumbent tobacco trade and prevent the newer and far safer products from gaining market share.

Advertising bans were introduced into the European Tobacco Products Directive without any assessment as to the desirability and possible positive or negative consequences of such bans. In the UK, because of the limits on advertising by e-cigarette companies, public information campaigns in support of e-cigarettes are now funded by the state through Public Health England and though charitable organizations such as Cancer Research UK: without bans on advertising information on e-cigarettes could be provided by e-cigarette companies at no cost to the state or charitable foundations with limited resources.

Article 11

Restrictions on the use of electronic cigarettes.

E-cigarettes do not emit smoke and the evidence shows that any toxic chemicals in e-cigarette vapour are at much lower levels than cigarette smoke. There is no good evidence to show second-hand vapour causes harm to bystanders^{3 4 5}. Therefore, there is no scientific basis on which to ban vaping in public places. Prohibitions on vaping in public places send the wrong message to the public, including smokers, vapers and potential vapers, that e-cigarettes are as harmful as smoking. This discourages smokers from trying e-cigarettes or from making a full switch to the substantially safer product and may also lead to vapers relapsing to smoking.

³ Czogala J, Goniewicz ML, Fidelus B, Zielinska-Danch W, Travers MJ, Sobczak A. Secondhand Exposure to Vapors From Electronic Cigarettes. *Nicotine & tobacco research : official journal of the Society for Research on Nicotine and Tobacco*. 2013;1–8. Available at: <http://www.ncbi.nlm.nih.gov/pubmed/24336346>

⁴ McAuley TR, Hopke PK, Zhao J, Babaian S. Comparison of the effects of e-cigarette vapor and cigarette smoke on indoor air quality. *Inhalation toxicology*. 2012;24(12):850–7. Available at: <http://www.ncbi.nlm.nih.gov/pubmed/23033998>

⁵ Hess IMR, Lachireddy K, Capon A. [A systematic review of the health risks from passive exposure to electronic cigarette vapour](#). *Public Health Res Pract*. 2016;26(2):e2621617

There have been widely voiced concerns that e-cigarettes may encourage young people to take up smoking: the so-called “gateway effect”. The evidence gathered so far does not support this view in the UK. Experimentation with e-cigarettes in never smokers remains low and there is a continuing decline in youth smoking⁶. The Public Health England evidence review, which was endorsed by the Royal College of Physicians, noted that “there is insufficient evidence that e-cigarettes renormalise smoking or act as a gateway to smoking”⁷. A 2017 study from the UK Centre for Tobacco and Alcohol Studies, PHE, ASH and DECIPHer Centre at the University of Cardiff found that levels of regular vaping in young people who have never smoked remain very low. This demonstrates that the majority of young people who experiment with e-cigarettes do not progress to regular use. The highest rate of regular use of e-cigarettes in young people who had never smoked was 0.5%⁸.

Article 18

Education and awareness-raising

Public Health England’s latest evidence review supported their findings from 2015, which found that e-cigarettes are at least 95% safer than smoking: “vaping poses only a small fraction of the risks of smoking and switching completely from smoking to vaping conveys substantial health benefits”⁹. We therefore hope that the education and awareness-raising will focus on encouraging smokers to move to the far safer alternative.

⁶ ASH. (2016). [Use of electronic cigarettes among children in Great Britain](#). (October), 1–6.

⁷ McNeill, A., Brose, L., Calder, R., Hitchman, S., Hajek, P., & McRobbie, H. (2015). [E-cigarettes : an evidence update](#). Commissioned by Public Health England

⁸ Bauld L, MacKintosh AM, Eastwood B, et al. [Young people's use of e-cigarettes across the United Kingdom: findings from five surveys 2015-2017](#) Int J Environ Res Public Health 2017;14(9):973.

⁹ McNeill A, Brose LS, Calder R, Bauld L & Robson D (2018) [Evidence review of e-cigarettes and heated tobacco products](#) - .