



**Irish Heart
Foundation**

**Submission to the Joint
Committee on Health**

**General Scheme of the
Public Health (Tobacco and
Nicotine Inhaling Products)
Bill 2019**

June 2021



Introduction

The Irish Heart Foundation is the national heart and stroke charity and for decades has been a leading campaigner for public health policies that reduce smoking rates and thereby preventable deaths due to cardiovascular disease.

We are grateful for the Committee's invitation to make this submission on a Bill that provides a crucial opportunity to drive our country forward towards the goal of a Tobacco Free Ireland, whilst also protecting young people from the relentless efforts of the global tobacco industry to addict them to nicotine through e-cigarettes.

Despite a continuing decline in adult smoking rates in Ireland secured through a world class approach to tobacco control by successive Governments, almost 6,000 people still die each year from the effects of smokingⁱ. This is far more than the lives sadly lost due to the Covid pandemic and necessitates the strongest possible legislative response.

Although Ireland's smoking rate of 15.4%ⁱⁱ, which is roughly equivalent to 600,000 smokers, is now at its lowest since records began, we remain a long way off the 5% target set for 2025 in our Tobacco Free Ireland policy.

We can also not assume the numbers smoking will continue to fall. For the first time in 25 years smoking among 15–16-year-olds – a key age period for smoking initiation – has increased. The rate was 40.9% in 1995, it fell to 13%ⁱⁱⁱ in 2015 and has now increased in the last year to 14.4%^{iv}.

The reasons for this have not been established and we cannot say that e-cigarette addiction is responsible. However, the same study revealed a sharp corresponding rise in e-cigarette use with 39% of respondents saying they had vaped and 15.5% being current users^v. And research from the Health Research Board has found that adolescents who had used e-cigarettes were 3-5 times more likely to start smoking^{vi}.

All this has happened against the backdrop of aggressive marketing tactics by an international vaping industry dominated by Big Tobacco, that led the US Surgeon General to warn of an epidemic of youth e-cigarette use in the US^{vii}. It creates a very real threat that many of the hard-won gains in driving down youth smoking rates over the last generation could be lost.

This, in addition to growing evidence around the health harms associated with e-cigarettes, means this Bill needs to provide the strongest possible legislative basis to counter youth vaping, whilst also helping to accelerate the journey to an Ireland free of the pain and misery that tobacco inflicts.

Consequently, in addition to the measures set out, which we strongly support, this Bill should include additional measures, in particular prohibition of all e-cigarette flavours, a blanket ban on advertising and plain packaging of these products.

It is crystal clear that long-term smokers represent just a small part of the target market of the big e-cigarette brands. The bigger objective – and the bigger profits – lie in causing children and young people who have never smoked to become addicted to nicotine.

E-cigarette liquids are sold in bright, attractive packaging, often with cartoon characters and come in a variety of sweet, fruity flavours such as bubble gum and candyfloss that are demonstrably aimed at children. Meanwhile, rules preventing promotion of e-cigarettes online are being cynically circumvented through the use of influencers and celebrities, as well as tagging sports and events popular with young people.

In addition to supporting these measures, we would stress that legislation is only one of the means by which we can further reduce smoking rates. We would ask Committee members to champion other tough approaches that we know will work. For example, the Irish Heart Foundation is calling for taxation in successive Budgets to bring the price of 20 cigarettes up to €20 per pack by 2025. This coupled with increased investment in antitobacco smuggling measures, can play a huge role in deterring young people from taking up smoking.

Higher taxes should be accompanied by a vastly more realistic approach to helping smokers quit. At present around 1% of the €1 billion in additional tax paid by smokers is spent on helping them give up the habit – even though up to 80% of them wish to do so.

When comparisons are made between the scale of smoking-related deaths and Covid deaths, it's often said that the difference is that smokers have a choice. But tobacco is one of the most addictive substances known to humankind and therefore one of the greatest usurpers of free will. Smokers need a lot more help to quit than they are currently getting.

Summary of Recommendations:

Amendments to the bill.

- Amend head 8 of the bill to mandate that all employees employed at a retailer that holds a license to sell any or all of tobacco products, non-combustible tobacco products, or nicotine-inhaling products complete a HSE education and training programme on the sale of these products.
- Amend head 9 of the bill to introduce three separate categories of licenses required to sell each type of product per retail premises, with an annual fee accompanying each license.
 - Introduce a category A license for the sale of tobacco products per retail premises, with an accompanying annual fee of €500.
 - Introduce a category B license for the sale of non-combustible tobacco products per retail premises, with an accompanying annual fee.
 - Introduce a category C license for the sale of nicotine-inhaling products per retail premises, with an accompanying annual fee of €50.
- Prohibit the sale of tobacco products and nicotine-inhaling products from temporary or movable premises.
- Prohibit the sale of tobacco products or nicotine-inhaling products by all persons under the age of 18 years, regardless of nature of family relationship to the licensee.

- Prohibit the sale of tobacco products or nicotine inhaling products or electronic inhaling products that addition of nicotine is optional to persons under the age of 18 years.
- Prohibit the sale of tobacco products and nicotine-inhaling products at events or places intended for children.
- Prohibit the sale of tobacco products and nicotine-inhaling products from self-service vending machines.

Additional measures we are calling for in the Bill.

- Prohibit all nicotine inhaling products flavours, except for tobacco flavour.
- Prohibit all forms of nicotine inhaling products advertising through all communication mediums, including outdoor areas (billboards, buses), at point of sale, and online.
- Amend the General Scheme of the Bill to introduce plain packaging for all non-combustible tobacco products and nicotine-inhaling products.

Set out below are comments and recommendations on various heads of the Bill, followed by additional recommendations relating to e-cigarette flavours, packaging, and advertising.

PART 2 – LICENSING SYSTEM FOR THE RETAIL SALE OF TOBACCO AND NICOTINE INHALING PRODUCTS

Head 8 – Requirement to hold a license for the retail sale of tobacco or nicotine inhaling products.

Research from the HSE Environmental Health division indicates that the level of knowledge among retail staff on the health harms of tobacco products, non-combustible tobacco products, and nicotine-inhaling products is low. Moreover, retail staff generally had poor awareness and knowledge of the legislation regulating non-combustible tobacco products and nicotine-inhaling products.

As these products are still relatively new in Ireland compared to tobacco products, it is understandable that many retail staff have limited knowledge. To better inform retail staff of the health harms and regulations surrounding these novel products, we believe that all retail staff that are employed by a retailer that holds a license to sell tobacco products and/or non-combustible tobacco products and/or nicotine-inhaling products should be mandated to undertake an education and training programme designed and managed by the HSE.

Recommendation

- Amend head 8 of the bill to mandate that all employees employed at a retailer that sells any or all of tobacco products, non-combustible tobacco products, or nicotine-inhaling products complete a HSE education and training programme on the sale of these products.

PART 2 – LICENSING SYSTEM FOR THE RETAIL SALE OF TOBACCO AND NICOTINE INHALING PRODUCTS

Head 9 – Licence, licensee, and fees

The bill in its current format, provides that there will be a requirement to hold a license for the retail sale of tobacco or nicotine inhaling products. It provides that a separate license will be required for each premises and that an annual fee will be charged. There will be two categories of licenses. Category 1 will apply to combustible tobacco products, non-combustible tobacco products and nicotine inhaling products, and category 2 will apply to non-combustible tobacco products and nicotine inhaling products.

These provisions are to be hugely welcomed as the current retail licensing system is derisory. There is no retail licensing system for the sale of e-cigarettes, so no database exists of the number of retail outlets that sell nicotine-inhaling products. Regarding the sale of tobacco products, currently anyone selling tobacco products by retail in Ireland whether over the counter or from a self-service vending machine must register with the National Tobacco Control Office (NTCO)^{viii}.

Each applicant registering with the NTCO must pay a once-off application fee of €50 and this fee only applies once to a business regardless of how many retail outlets they have^{ix}. This is inadequate given the harm wrought on society by tobacco and the need for a strong regulatory system overseeing its sale.

Increasing the tobacco retailer license fee from a once-off payment of €50 per entity to a minimum annual license fee of €500 per outlet in which they sell tobacco would create a much more robust system. In March 2021, there were 12,758 retail outlets registered to sell tobacco on the National Register of Tobacco Retailers^x.

Assuming that figure remains constant for the remainder of 2021 and that each retail outlet purchases a tobacco retail license annually to continue to sell tobacco, the €500 annual fee could raise up to €6,379,000 each year. This revenue could be re-directed to tobacco cessation services, as well as to support the development and maintenance of a HSE retailer database.

However, introducing an annual tobacco retailer fee of €500 per outlet would act as a disincentive to retailers opting to sell tobacco. This would reduce the number of locations where tobacco can be purchased and contribute to lowering the rate of smoking in Ireland. A retailer selling tobacco forms the most crucial element of the tobacco supply chain, linking tobacco manufacturers and wholesalers to consumers.

There is growing evidence from Australia that greater retail availability of tobacco, as measured by retailer density and proximity, is associated with greater overall smoking prevalence, including increased likelihood of youth initiation and reduced cessation amongst existing smokers^{xi}.

In New South Wales, Australia, for example, a study on retail outlet density and smoker perceptions and behaviour found that 88% of smokers reported daily retail availability of

tobacco within walking distance, leading to a conservative estimate of one tobacco outlet for every 77 smokers. It concluded that some groups of smokers appear vulnerable to the availability of tobacco, and that a reduction in the availability of tobacco would likely benefit smokers who wish to quit^{xii}.

Research from the US exploring the effects of alcohol retailer density on drinking behaviours identified a similar trend as it linked greater density around university campuses to higher rates of alcohol consumption and drink driving^{xiii}.

This greater level of tobacco retailer density is often found in disadvantaged communities and areas that are largely populated with young people such as schools and universities where there is already a higher-than-average rate of smoking. Studies from Australia^{xiv}, the US^{xv}, and Canada^{xvi} that examined the relationship between socioeconomic status and tobacco retailer density, found a clear link between the two, with one study from Western Australia^{xvii} identifying that the most disadvantaged suburbs and towns had more than five times the number of tobacco outlets than more affluent areas.

Further studies have reported an association between the density of tobacco retail outlets and proximity to schools with youth smoking rates^{xviii} ^{xix}. This proximity had an additional impact in that a high density is associated with a greater likelihood of experimental smoking among young people^{xx}.

A substantial increase to the license fee in Ireland would act as a strong deterrent for retailers and reduce the number of points of sale across the country for a product that is already low in demand. In Australia, where the rate of smoking is 11.6%, the retail tobacco license regulations vary across states and territories^{xxi}. At the start of January 2007, the state of South Australia increased its tobacco retailer license fee 15-fold from A\$12.90 to A\$200 per annum^{xxii}.

This increased license fee was associated with a significant reduction in the number of tobacco licenses purchased or renewed in the subsequent years, which in turn led to the total number of tobacco licenses to fall by nearly a quarter (23.7%) in just two years. These results show that an increase in the license fee from a low base such as Ireland has, is a potentially effective method of reducing tobacco points of sale when the consumer demand for cigarette products is low.

Not only does reducing the level of density of tobacco retail points limit the exposure of tobacco to current smokers, but research also indicates that it diminishes the potential for greater uptake among never-smokers such as adolescents^{xxiii} and helps improve the likelihood of successful smoking cessation among moderate and heavy smokers^{xxiv}.

The current pervasive availability of tobacco in Ireland is in stark contrast to the public health goal of denormalising smoking and achieving a Tobacco Free Ireland by 2025. If we wish to reduce the level of smoking in Ireland, strong tobacco control policies should be matched by sensible regulations limiting the number of points of sale.

According to the Department of Health's Regulatory Analysis of this bill, currently there is an annual fee of €500 per category of alcohol products to be sold and it is considered that the fee to sell tobacco products be equivalent so as to represent the seriousness of the products being sold^{xxv}.

The Irish Heart Foundation wholly supports the introduction of an annual license per retail premises and an accompanying fee for the purchase of such a license for a period of 12 months. However, we believe there should be separate licenses for each type of product that a retailer intends to sell at each retail premises.

We recommend that the bill be amended so there are three categories of licenses available: A category A license for the sale of tobacco products per retail premises that would have an annual fee of €500; a Category B license for the sale of non-combustible tobacco products per retail premises that would have an annual fee, and finally a category C license for the sale of nicotine-inhaling products per retail premises that would have an annual fee of €50 also.

This would ensure that if a retailer intends to sell tobacco products, non-combustible tobacco products, and nicotine inhaling products at one of their retail premises, they would be required to purchase an annual license for categories A, B, and C.

Recommendation:

- Amend head 9 of the bill to introduce three separate categories of licenses required to sell each type of product per retail premises, with an annual fee accompanying each license.
 - Introduce a category A license for the sale of tobacco products per retail premises, with an accompanying annual fee of €500.
 - Introduce a category B license for the sale of non-combustible tobacco products per retail premises, with an accompanying annual fee.
 - Introduce a category C license for the sale of nicotine-inhaling products per retail premises, with an accompanying annual fee of €50.

PART 3 – RESTRICTIONS ON THE SALE OF TOBACCO AND NICOTINE INHALING PRODUCTS
Head 16 – Prohibition on the sale of tobacco products from temporary or movable premises

Currently, under Head 16 Prohibition on the sale of tobacco products from temporary or movable premises, the bill provides that:

(1) A person shall not sell, or cause to be sold, tobacco products from temporary or movable premises excluding ships.

(2) For the purposes of this Bill “temporary” means a place where a trader does not carry out his or her business on a usual and permanent basis.

While the prohibition of tobacco products from temporary or movable premises such as stalls and vans, as recommended by the Tobacco Free Ireland strategy, is positive, this prohibition should be extended to both tobacco products and nicotine inhaling products.

As e-cigarette advertising marketing has become more restricted, tobacco companies behind these e-cigarettes use a wide range of marketing tactics to promote their nicotine inhaling products. Pop-up stores, events and music festivals have all been used to help market e-cigarettes to young people^{xxvi}. Linking e-cigarettes to popular events and music festivals regularly attended by young people promotes these nicotine-inhaling products as cool lifestyle additions.

To protect young people from being targeted by tobacco companies and initiating e-cigarette use, the Irish Heart Foundation recommends that Head 16 of the bill is extended so that there is a prohibition on the sale of tobacco products and nicotine-inhaling products from temporary or movable premises. In this regard, the bill would provide that:

(1) A person shall not sell, or cause to be sold, tobacco products or nicotine inhaling products from temporary or movable premises excluding ships.

(2) For the purposes of this Bill “temporary” means a place where a trader does not carry out his or her business on a usual and permanent basis.

Recommendation:

- Prohibit the sale of tobacco products and nicotine-inhaling products from temporary or movable premises.

Head 18 - Prohibition on the sale of tobacco products or nicotine inhaling products by persons under the age of 18 years.

The Irish Heart Foundation welcomes the provision of the bill that will prohibit the sale of tobacco products or nicotine inhaling products by persons under the age of 18 years. It is imperative that all persons under the age of 18, regardless of relationship to the licensee, be prohibited to sell tobacco products or nicotine inhaling products.

Recommendation:

- Prohibit the sale of tobacco products or nicotine-inhaling products by all persons under the age of 18 years, regardless of nature of family relationship to the licensee.

Head 19 - Prohibition on the sale of tobacco products and nicotine inhaling products to persons under the age of 18 years.

The implementation of a ban on the sale of nicotine inhaling products, in this case e-cigarettes, to persons under the age of 18 years of age is to be hugely welcomed. This measure is long-overdue as the latest figures from the 2020 European School Survey Project on Alcohol and Other Drugs^{xxvii} (ESPAD) show that 39% of students aged 15 and 16 years old surveyed reported ever having used an e-cigarette and of these, 15.5% could be categorised as current users.

The bill, in its current format, under Head 19 Prohibition on the sale of tobacco products and nicotine inhaling products to persons under the age of 18 years, it provides that:

(1) A person shall not sell, or cause to be sold, a tobacco product or a nicotine inhaling product to a person under the age of 18 years.

It is assumed that a nicotine inhaling product refers to novel products such as e-cigarettes. However, not all e-cigarettes contain nicotine, and the nicotine can be added optionally as a shot. To ensure that all potential loopholes are closed, we recommend that the bill should provide that:

(1) A person shall not sell, or cause to be sold, a tobacco product or a nicotine inhaling product or an electronic inhaling product that addition of nicotine is optional to a person under the age of 18 years.

Why prohibiting the sale of e-cigarettes to persons under the age of 18 is critical.

Health harms - While short term evidence has found that e-cigarettes are less harmful than combustible cigarettes, e-cigarettes are in no way harm free. Although more longitudinal evidence is required to assess long-term risk, the most recent evidence have shown that e-cigarettes damage the brain, heart, blood vessels and lungs^{xxviii}.

In its 2020 review of e-cigarettes, the Health Research Board (HRB) found that e-cigarette acute effects include poisonings, burns, blast injuries, lung injury and asthmatic attacks. Some of the chemicals in e-cigarettes are thought to cause tissue and cell damage and some are agents that may cause cancer in the long-term. The research also showed that dual use of both e-cigarettes and conventional cigarettes is not less harmful than smoking conventional cigarettes alone, with the HRB highlighting that this “raises questions about the smoking reduction benefit of e-cigarettes^{xxix}.”

Furthermore, in April of this year, the European Commission’s Scientific Committee on Health, Environmental and Emerging Risks (SCHEER) provided its final opinion on electronic cigarettes. SCHEER was tasked by the Commission to study the health effects of e-cigarette use, and their role in encouraging people to start or quit smoking to understand better the health effects and the public health dimension of electronic cigarettes.

For users of e-cigarettes, SCHEER concluded that the overall weight of evidence for risks of long-term systemic effects on the cardiovascular system is moderate and there is moderate weight of evidence for risks of local irritative damage to the respiratory tract. In addition, SCHEER concluded that there is weak to moderate weight of evidence for risks of carcinogenicity of the respiratory tract due to long-term, cumulative exposure to nitrosamines and due to exposure to acetaldehyde and formaldehyde and that weight of evidence for risk of poisoning and injuries due to burns and explosion is strong.

SCHEER also concluded that there is weak to moderate weight of evidence for several risks related to second-hand exposure^{xxx}.

Gateway effect - There is a growing body of evidence, at an Irish and European level, suggesting the strong gateway effect of e-cigarette use to eventual combustible tobacco usage. This is of grave concern as the dangers of smoking are well known and in Ireland nearly 6,000 people die in Ireland each year from the effects of smoking and thousands of others suffer from smoking-related diseases^{xxxi}.

The 2020 HRB systematic evidence review of studies examined whether e-cigarette use leads to smoking in adolescents. The research found that those adolescents who had ever used an e-cigarette were between three and five times more likely to start smoking compared to those who never used e-cigarettes^{xxxii}. According to Dr Jean Long, Head of Evidence Centre at the HRB, their findings highlighted that “e-cigarettes have the potential to negatively impact on the health of adolescents, leaving them more likely to initiate tobacco smoking. These factors would have to be considered as part of any smoking harm reduction strategy^{xxxiii}”.

In addition, the recent SCHEER final opinion on e-cigarettes, found that overall, there is moderate evidence that e-cigarettes are a gateway to smoking for young people and strong evidence that flavours make a relevant contribution to attractiveness of use of electronic cigarette and initiation^{xxxiv}. Worryingly, SCHEER found consistent evidence that flavours attract youths to e-cigarettes, decrease the perception of harm, and increase willingness to try and initiate use of e-cigarettes. SCHEER states that young non-users see the e-cigarette as “a cool and fashionable product that mimics the smoking routine and is judged to be rather safe to use^{xxxv}”.

Evidently, e-cigarettes pose a dangerous threat to young people as they are harmful to one’s health and can act as a serious gateway to eventual tobacco use. We cannot allow the decades of strong tobacco control work to reduce the smoking rate among adolescents in Ireland to be undone in a generation.

In 1995, smoking prevalence among Irish adolescents aged 15 to 16 years of age was 40.9%. With the success of effective tobacco control measures, this dropped to 13% by 2015^{xxxvi}. However, this continued reduction in adolescent smoking rate came to a halt and in fact reversed as the latest evidence recorded a current smoking rate among students aged 15 and 16 years of age of 14.4%^{xxxvii}. Although the researchers made no link with e-cigarettes, the role that e-cigarettes and their gateway effect had on this increase in youth smoking must be seriously questioned.

This is of grave concern as the tobacco industry controls a considerable share of the e-cigarette market in Ireland and internationally. E-cigarette brands available in Ireland include Vype and VIP, which are owned by British American Tobacco, and Logic, which is owned by Japan Tobacco International^{xxxviii xxxix}. In 2018, the tobacco company Altria acquired a 35% stake in “Juul”, an e-cigarette device that at one point had 72% of the e-cigarette market share in the U.S.^{xl}.

With smoking levels among young adults and adolescents generally decreasing over the past few years, tobacco companies are using e-cigarettes as a means to recruit a whole new young generation of nicotine-addicted customers to feed their profits^{xli}. We simply cannot allow this to happen.

Recommendation:

- Prohibit the sale of tobacco products or nicotine inhaling products or electronic inhaling products that addition of nicotine is optional to persons under the age of 18 years.

Head 21 - Prohibition on the sale of tobacco products at events or places intended for children.

Under Head 21 of the Bill Prohibition on the sale of tobacco products at events or places intended for children, it provides that:

(1) A person shall not sell, or cause to be sold tobacco products -

(a) at an event aimed particularly at children or an event in relation to which the majority of the participants, audience or competitors are children,

(b) at a place where an event referred to in (a) is happening, or

(c) at a place which is primarily for children

(2) A person who contravenes subhead (1) is guilty of an offence.

Again, these are positive elements of the bill and will protect children and young people as tobacco products will no longer be sold at events targeted towards them. However, there is no reason why this prohibition should not be extended to cover nicotine-inhaling products also.

Many currently available nicotine-inhaling products such as e-cigarette devices and liquids are packaged in bright, attractive packaging with cartoon characters and come in a variety of sweet, fruity flavours such as bubblegum, cherry and cola that are designed to entice young people. Claims by e-cigarette companies that sweet flavours such as milkshake or banoffee pie are designed for adults only are utterly unfounded.

It is critical that we prevent tobacco companies from selling these nicotine-inhaling products at events or places intended for children. There is no logical reason to allow such products to be sold at events for children. The Irish Heart Foundation recommends that Head 21 of the bill be expanded to Prohibition on the sale of tobacco products and nicotine-inhaling products at events or places intended for children, such that it would provide that:

(1) A person shall not sell, or cause to be sold tobacco products and nicotine inhaling products -

(a) at an event aimed particularly at children or an event in relation to which the majority of the participants, audience or competitors are children,

(b) at a place where an event referred to in (a) is happening, or

(c) at a place which is primarily for children

(2) A person who contravenes subhead (1) is guilty of an offence.

Recommendation:

- Prohibit the sale of tobacco products and nicotine-inhaling products at events or places intended for children.

Part 6 – AMENDMENT OF THE PUBLIC HEALTH (TOBACCO) ACT 2002

Head 35 – Amendment of section 43 of the Act of 2002

Under Head 35 Amendment of section 43 of the Act of 2002, the explanatory note outlines that section 43 will be amended. It states:

Section 43(1) of the Act of 2002 prohibits the sale of tobacco products by means of self-service.

Section 43(2) provides an exemption to licensed premises and registered clubs, allowing them to sell tobacco products by means of self-service vending machines.

The effect of repealing section 43(2) is to prohibit the sale of tobacco products by means of a self-service vending machine in licensed premises or registered clubs

The Irish Heart Foundation welcomes this measure as outlined in the Department of Health's Regulatory Analysis of the Bill, there are currently 7,690 premises with self-service vending machines and the proposal to ban such machines is for the protection of children and to contribute to the denormalisation of tobacco use^{xlii}.

However, we believe this amendment needs to go further and an additional Head to the bill should be added to include the prohibition of nicotine-inhaling product self-service vending machines. This would ensure that children and young people, who are targeted by tobacco companies with enticing e-cigarettes from purchasing such harmful devices that act as a gateway to eventual tobacco use.

A new additional head would be included to the bill. This Head would provide that:

The sale of nicotine-inhaling products by means of a self-service vending machine in licensed premises or registered clubs would be prohibited.

Recommendation:

- Amend the General Scheme of the Bill to prohibit the sale of tobacco products and nicotine-inhaling products from self-service vending machines.

ADDITIONAL AMENDMENTS

Prohibition of all nicotine inhaling products flavours, except for tobacco flavour.

Many currently available e-cigarette liquids are sold in bright, attractive packaging with cartoon characters and come in a variety of sweet, fruity flavours such as bubblegum, cherry and cola that are designed to entice young people. Claims by e-cigarette companies that sweet flavours such as milkshake or banoffee pie are designed for adults only are utterly unfounded.

Joint focus group research carried out by the Irish Heart Foundation in partnership with the Irish Cancer Society among third and fourth-year students showed universal agreement among them that young people their age would be more interested in trying e-cigarettes with sweet or fruity flavours rather than a tobacco flavoured e-cigarette, and that fewer young people would use e-cigarettes if fruity, sweet, minty, or desert flavours were not available^{xliii}.

None of the third or fourth-year students believed the claim by e-cigarette companies that e-cigarette flavours are designed for adults only and are not intended to appeal to children and young people or the assertion that companies design their packaging and advertising for adults only. It is clear that e-cigarette companies use sweet, fruity flavours and package their product in bright, colourful packaging to target young people.

Studies undertaken in the US have shown that e-cigarette flavours are highly attractive to children. A report by the US Surgeon General showed that of those adolescents who had ever tried e-cigarettes, more than 4 in 5 (81%) used flavours the first time they tried an e-cigarette^{xliv} while a separate study shows that more than 4 in 5 adolescents say they use e-cigarettes because “they come in flavours I like”^{xlv}.

Both the HRB and the EU’s SCHEER group found that e-cigarettes act as gateway to eventual tobacco use, and the latter noted that flavours attract young people to e-cigarettes, decrease the perception of harm, and increase willingness to try and initiate use of e-cigarettes. A 2019 systematic review of the literature found that flavoured e-cigarettes increase willingness to try and initiation of e-cigarette use^{xlvi}.

Moreover, studies suggest that e-cigarette flavours can damage cardiovascular cells^{xlvii} and may increase heart disease risk^{xlviii}. And if we examine the USA, where there is an “epidemic of young e-cigarette use” according to the US surgeon general^{xlix}, among high school students in 2019, an estimated 72.2% of current exclusive e-cigarette users reported current use of flavoured e-cigarettes. A 2016 -17 study found that 96% of youth who had initiated e-cigarette use started with a flavoured product^l.

If we are to protect young people in Ireland from taking up e-cigarettes, this legislation must prohibit all flavours of nicotine-inhaling products, except for tobacco flavour.

Recommendation:

- Amend the General Scheme of the Bill to prohibit all nicotine inhaling products flavours, except for tobacco flavour.

ADDITIONAL AMENDMENTS

Prohibition of all forms of nicotine inhaling products advertising through all communication mediums, including outdoor areas (billboards, buses), at point of sale, and online.

The EU Tobacco Products Directive regulates that e-cigarette advertising is banned in print, radio and on TV. However, there is no such ban for billboard, public transport advertising and at point of sale (POS) at retail outlets. Billboard advertisements close to schools, on high-streets, and on public transport, along with in-store marketing means that children and young people are constantly exposed to these advertisements in their daily lives. This is concerning as evidence shows that e-cigarette advertisements elicit greater appeal and interest in buying and trying e-cigarettes among children and young people^{li}.

Furthermore, while EU regulations prohibit e-cigarette companies from marketing online, they are still permitted to run company accounts on social media sites such as Instagram and Facebook.

E-cigarette companies actively target young people by recruiting popular social media influencers and celebrities to promote their products, often through outside marketing agencies. They argue that the online data and technology allows them to target only adult audiences, however research has shown that e-cigarette companies' social media efforts target young people^{lii}.

E-cigarette brands are permitted to have their own website and social media accounts, and they circumvent the rules by using certain hashtags in their social media posts such as #gaelicfootball and #londonfashionweek for young people to find. Just last month, Italy opened a probe into British American Tobacco (BAT) over covert advertising of its tobacco heating product Glo Hyper on social media. The watchdog said in a statement that three influencers who had commercial agreements with BAT invited their followers on Instagram to publish content linked to Glo Hyper, without specifying it was advertising^{liii}.

EU member states are permitted to go further beyond the Tobacco Products Directive in relation to marketing and the programme for government committed to curb the advertising of nicotine-inhaling products near schools, on public transport, and in cinemas^{liv}.

To protect young people and children from being targeted by tobacco companies promoting their nicotine-inhaling products, this piece of legislation should prohibit all forms of marketing and advertising, including online, of tobacco products and nicotine inhaling products.

Recommendation:

- Amend the General Scheme of the Bill to prohibit all forms of marketing and advertising, including online, of tobacco products and nicotine inhaling products.

ADDITIONAL AMENDMENTS

Introduction of plain packaging for all non-combustible tobacco products and nicotine-inhaling products.

In 2017, Ireland became the fourth country in the world to successfully introduce plain packaging for tobacco products after numerous reports suggested that the measure would help Ireland to achieve its public health policy objectives in relation to tobacco control^{lv}.

A 2014 evidence review prepared on behalf of the Department of Health indicated that tobacco packaging is a critically important form of tobacco promotion, particularly in jurisdictions with comprehensive advertising and marketing restrictions, such as Ireland. Moreover, the evidence showed that plain packaging reduces false beliefs about the risks of smoking, increases the efficacy of health warnings, reduces consumer appeal among youth and young adults, and may promote smoking cessation among established smokers^{lvi}.

In that report, it noted that plain packaging would be effective in preventing non-smokers including children and young people from starting to smoke. Young people in Ireland now face a very similar threat in the form of e-cigarettes and the potential gateway affect that they pose. Boxed in bright, colourful packaging with cartoonish characters on their face, e-cigarette packaging is designed to entice and appeal to children and teenagers rather than long-term adult smokers. E-cigarette companies capitalize on this gap in regulation by offering kid-friendly flavours in attractive bright coloured packaging^{lvii}.

Plain packaging for non-combustible tobacco products and nicotine-inhaling products has been introduced in other jurisdictions. From January 2020, all e-cigarettes and heated tobacco products in Israel were required to be displayed in plain packaging and have warning labels that cover 30% of the packaging area^{lviii}. And within the EU, the Netherlands have declared that plain packaging for e-cigarettes will be required from 1 January 2022^{lix lx}.

To protect our youth from taking up e-cigarettes, this piece of legislation must introduce plain packaging for all non-combustible tobacco products and nicotine-inhaling products.

Recommendation:

- Amend the General Scheme of the Bill to introduce plain packaging for all non-combustible tobacco products and nicotine-inhaling products.

Ends

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References

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