

DÁIL ÉIREANN

AN COMHCHOISTE UM SHLÁINTE

JOINT COMMITTEE ON HEALTH

Dé Céadaoin, 3 Samhain 2021

Wednesday, 3 November 2021

Tháinig an Comhchoiste le chéile ag 9.30 a.m.

The Joint Committee met at 9.30 a.m.

Comhaltaí a bhí i láthair/Members present:

Teachtaí Dála/Deputies	Seanadóirí/Senators
Colm Burke,	Seán Kyne.
Bernard J. Durkan,	
Thomas Gould,*	
Neasa Hourigan,	
Róisín Shortall.	

* In éagmais/In the absence of Deputy David Cullinane.

Teachta/Deputy Seán Crowe sa Chathaoir/in the Chair.

Business of Joint Committee

Chairman: Are the draft minutes of the meetings of the joint committee on 15, 21 and 22 September and 5, 6, 13 and 19 October agreed? Agreed.

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

Chairman: I welcome the following officials from the Department of Health who will brief the committee on the general scheme of the public health (tobacco and nicotine inhaling products) Bill 2019: Ms Claire Gordon; Ms Siobh ain Brophy; Mr. Yann Chalmers; and Mr. Eoghan Flynn.

Members now have the option of being physically present in the committee room or may join the meeting remotely from Leinster House. Members and all in attendance are asked to exercise personal responsibility in respect of protecting themselves and others from the risk of contracting Covid-19. They are strongly advised to practise good hand hygiene and leave at least one vacant seat between them and others attending. They should also maintain an appropriate level of social distancing during and after the meeting. Masks, preferably of a medical grade, should be worn at all times during the meeting, except when speaking, and I ask for the members' full co-operation in this regard.

All witnesses are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against any person or entity either by name or in such a way as to make him, her or it identifiable or otherwise engage in speech that might be regarded as damaging to the good name of the person or entity. Therefore, if their statements are potentially defamatory in respect of an identifiable person or entity, they will be directed to discontinue their remarks. It is imperative that they comply with any such direction. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official either by name or in such a way as to make him or her identifiable.

I call on Ms Claire Gordon to make her opening remarks.

Ms Claire Gordon: I thank the Chairman and members of the committee for the opportunity to discuss the general scheme of the Bill. The proposals in the general scheme are grounded in our national tobacco control policy, Tobacco Free Ireland, which has two underlying objectives - the denormalisation of smoking and the protection of children. According to our latest survey data, 14% of our adult population smoke daily, 3% smoke occasionally and 5% of school-age children are current smokers. The primary objective of this proposed Bill is to reduce tobacco smoking rates in all the population. The measures are particularly focused on measures to prevent young people from starting to smoke. This is in order to spare them a lifetime of addiction and illness due to a decision made in childhood.

In the long term, smoking causes a range of illnesses such as chronic obstructive pulmonary disease, COPD, peripheral arterial disease, diabetes, aneurysms, stroke and 16 types of cancer. These entirely preventable illnesses may not develop for up to 30 years after initiation of smoking. In the shorter term, smoking during childhood and adolescence causes both reduced lung function and impaired lung growth. Smoking during adolescence and young adulthood is also a

cause of abdominal aortic atherosclerosis in young adults. There is also evidence that smoking during adolescence increases the risk of developing psychiatric disorders and cognitive impairment in later life. In addition, adolescent smokers suffer from attention deficits which become worse with years of smoking. According to the evidence, one out of three young people develop a compulsion to smoke after only three or four cigarettes. One out of two develop it after only ten to 19 cigarettes. The measures proposed in this proposed Bill are designed to reduce the likelihood of a young person trying those first few cigarettes and becoming a smoker.

Part 1 of the general scheme contains heads 1 to 7, which are standard and transitional provisions. Part 2 contains heads 8 to 15. It sets out some detail on the proposed licensing system for retailers of tobacco products and nicotine inhaling products, including that licences will have to be renewed every year and one licence will be needed for each retail outlet.

Part 3 contains heads 16 to 21. It deals with restrictions on the sale of tobacco products and nicotine inhaling products. The proposed measures in this part include: a prohibition on the sale of tobacco products from temporary or moveable premises; with some exceptions, persons under the age of 18 years will no longer be allowed to sell tobacco products or nicotine inhaling products; a prohibition on the sale of nicotine inhaling products to persons under 18 years of age; and a prohibition on the sale of tobacco products at events or locations primarily intended for children.

Part 4 contains heads 22 to 25. This part gives the enforcement body, the environmental health service of the HSE, additional tools to ensure compliance with tobacco control law. These tools include compliance notices and prohibition orders and the power to publish the names of retailers that have been convicted of an offence under tobacco control law.

Part 5 contains heads 26 to 31. It includes the power to issue on-the-spot fines and proposed minimum periods of suspension of a licence for retailers convicted of an offence.

Part 6 contains heads 32 to 39. This part contains amendments to the Public Health (Tobacco) Act 2002. Head 35(1)(b) repeals section 43(2) of the Act and its effect will be the prohibition on the sale of tobacco products through vending machines.

Part 7 contains heads 40 to 43. It applies the new range of enforcement tools to the 2016 regulations which transposed the tobacco products directive into Irish law. The tobacco products directive is the primary EU law on tobacco products and nicotine inhaling products. These heads are likely to be revised when drafting starts as we have been advised by the Office of the Attorney General that it may be better to do these changes through secondary law as the tobacco products directive is currently being reviewed and likely to be revised at EU level.

Part 8 contains head 44. This is a necessary amendment to align the treatment of nicotine inhaling products with tobacco products under criminal justice law.

Part 9 contains heads 45 and 46, which deal with repeals and any consequential amendments.

Again, I thank the committee for giving its time today and we look forward to this opportunity to discuss these proposals.

Chairman: Members can now ask questions. They have ten minutes each for questions and replies. I call Senator Kyne.

Senator Seán Kyne: I thank the officials from the Department for being with us and for their work on this important proposed legislation. It is a follow up on a great deal of progressive legislation relating to nicotine over a considerable number of years. The purpose of the Bill is to stop or discourage young people getting hooked. Ms Gordon referred to the statistics that indicate how few cigarettes it takes for children to become hooked. That is an important measure. The people, mainly adults, who wish to give up cigarettes and turn to e-cigarettes are in a slightly different category. Research states there is insufficient evidence to conclude that heat-not-burn tobacco products are less harmful than conventional tobacco cigarettes. They are all included in this. Is this being kept under review subject to further evidence? I refer in particular to the cohort who currently smoke and have changed to heat-not-burn products.

Ms Claire Gordon: I wish to make a distinction between e-cigarettes and heat-not-burn. They are two separate kinds of products. In the context of cessation, e-cigarettes are very popular in Ireland and are used by a lot of people who quit. I will explain the two ways e-cigarettes can be considered from a risk-benefit analysis, and I will refer to heat-not-burn products afterwards. This Bill prohibits the sale of e-cigarettes to young people. For a young person who is not a smoker, there is a risk with e-cigarettes because they are not harmless and there is no benefit to a young person who is not a smoker. For smokers, as I have mentioned in the briefing material, there is no consensus about the long-term health effects of e-cigarettes but there is general consensus that they are less harmful than tobacco cigarettes. Let us consider a risk-benefit analysis for a smoker. In this case, the risk of e-cigarettes is lower than the risk of tobacco cigarettes. If a person can go on to use e-cigarettes and get off tobacco cigarettes, it is generally agreed that it is better for him or her. The person will be in better shape as a result. I have said there is no consensus on this. There is huge disagreement across the scientific community about e-cigarettes, particularly because it is a new product with multiple types on the market so no one can say what the long-term health effects might be. From a risk-benefit point of view, from our understanding of the evidence, if a person is a smoker, it is better to go on to e-cigarettes. That is something we would welcome.

Heat-not-burn products are slightly different. E-cigarettes contain an e-liquid chemical that has nicotine in it. Heat-not-burn products contain tobacco. There are some interesting devices that look like a mobile phone into which what looks like a little cigarette can be inserted, which is then heated. The reason they are considered a harm reduction product, relative to tobacco cigarettes, is tobacco combustion does not occur. Much of the harm caused by smoking cigarettes comes from that moment of combustion and the tar. That does not occur in the heat-not-burn products, although that assertion is up for grabs because some scientific papers argue that with the level of heat achieved is similar to combustion. The bottom line on heat-not-burn products is that there is not as much evidence for their harm-reduction value as there is for e-cigarettes. The WHO stated that it is not clear at present whether heat-not-burn products are less harmful than tobacco cigarettes. E-cigarettes are used in Ireland. There are no heat-not-burn products for sale in Ireland at present.

Senator Seán Kyne: They would be treated the same way as ordinary tobacco for the purposes of the Bill.

Ms Claire Gordon: That is exactly right because they contain tobacco.

Deputy Seán Kyne: The licensing issue is important in respect of controls. The present system was easy on multiples in regard to single applications. This Bill will ensure that is tightened up and will provide for fines and penalties.

Head 18 is a little confusing. It prohibits the sale of tobacco products or nicotine inhaling products by persons under the age of 18 except for close relatives of the licensee. Can Ms Gordon explain the rationale there?

Ms Claire Gordon: Is the Senator referring to the ban or the exemption?

Deputy Seán Kyne: I understand the ban. What is behind the exemption?

Ms Claire Gordon: That is in recognition of families, for example, small shops within which a family member who is under 18 years might work, and there might not be an alternative person to do that job.

Deputy Seán Kyne: Have the legal practicalities of that been examined and how a close relative is defined? I understand why they should be exempt in cases where children work behind the counter of a small shop. At the same time, is it right that a distinction be made between two sets of families? This goes back to the time of the smoking ban when it was suggested that family-run businesses should be exempt because they were aware of the risks they were taking. Ms Gordon does not have to comment on this now, but it is an area worth examining.

Ms Claire Gordon: We are strongly in favour of that prohibition because we do not want young people exposed to tobacco and nicotine inhaling products in their daily life as part of their work. We are trying to be proportionate and pragmatic so that certain businesses by virtue of their size do not suffer more than others. We are fully behind the proposal but it is about being proportionate. It is certainly an interesting area we could consider again.

Deputy Seán Kyne: In regard to the legality of it, how will it be phrased? I am sure the legal teams would be better placed to comment on that.

Ms Claire Gordon: The Attorney General will definitely advise us on that.

Deputy Seán Kyne: The Irish Cancer Society made a number of recommendations, such as a statutory ban on flavouring e-cigarettes and a statutory ban on all e-cigarette product advertising through all communication mediums, including outdoor areas, billboards, buses, at point-of-sale, and online. It commented on how important it is that heads 19 and 35 are included in the final Bill regarding the prohibition of the sale of e-cigarettes to children and the prohibition of the use of vending machine in the sale of tobacco products. Will the witnesses comment on the issue of advertising?

Ms Claire Gordon: Absolutely. I will hand over to my colleague, Ms Brophy. There is a lack of awareness about the restrictions on advertising under the tobacco products directive.

Ms Siobhain Brophy: Currently, the advertising of e-cigarettes is prohibited on radio, television and online through the tobacco products directive. There is a recognition within the EU that more needs to be done in this area. The directive will be revised in the coming years. The EU Commission published a review of the directive and it recognises that more needs to be done around advertising, particularly in social media and how young people are targeted online. We anticipate the advertising of these products will be considered at EU level.

Deputy Seán Kyne: When I was a child I never smoked, but I recall the little cigarette-shaped candies. I am not sure if they are still around or if they are banned.

Ms Claire Gordon: They are banned.

Deputy Seán Kyne: That is good. The other issue is the subliminal use of advertising through the making of programmes, which I will not name, in Hollywood and elsewhere that are based on the 1940s or 1950s and within which every second person is seen smoking. That is a subliminal way of avoiding the rules. The majority of people do not smoke now, so perhaps James Bond will not be seen smoking but an equivalent character or ordinary people from the 1940s and 1950s are portrayed smoking. I have heard people ask whether it is as a result of the tobacco industry funding such drama series. Perhaps there is evidence of this, perhaps not. It is interesting that three years ago in France there was talk about re-editing old movies such as the James Bond movies to take out the bits where they smoke. I was quite new in the Department at the time and I thought this was crazy. Now, three years later and after I have been exposed to the extraordinary damage from that product, this seems like a reasonable proposal.

There is no doubt about why children start smoking. Mostly it is because they see adults around them doing it. Adults must take the responsibility. The other bit is the glamorisation. There is no question that seeing role models smoking is a big issue. Certain organisations have taken this into account. Netflix, for example, has a policy of watching the dramas to see whether characters are smoking. Netflix is aware of that and has a commitment to reduce or eliminate smoking by characters. In the past we have written to RTÉ to discuss that issue also and to draw RTÉ's attention to characters smoking in certain dramas.

The advertising of tobacco and cigarettes is essentially eliminated in Ireland, but there is that thing whereby a 12-year-old or a teen sees someone cool having a smoke. Smoking itself as an action is not particularly enjoyable. We have the plain packaging, tobacco products are located behind the shop counters where we cannot see them, and the warnings are there, including the horrible pictures of the damage done. It is easy to see why people took up smoking 20 years ago a 30 years ago as they were not aware of the dangers. The current generation are aware of the dangers but are still attracted to the product. We must ask what are the areas that are left that we must try to shut down.

It is one of those public health tragedies. If we can stop someone from taking up smoking - and 99% of people have had their first cigarette by the time they are 25 - and if we can stop them from starting in the early teens to early 20s, they will never smoke and they will never have all the illness. How do we block off what could be perceived as the positive messages about something that is a hideous habit? It does nothing for a person except to make them sick. It kills two out of three people that use it. The only enjoyment that a smoker gets from it is the feeding of the nicotine addiction that is started by the product. A person does not get a high from smoking such as from other substances. It is just feeding the addiction that the product causes. To say there is nothing good about it is an understatement. It is expensive and dirty and two out of three people who use it will be killed if they use it as instructed by the manufacturer or the retailer.

It is to try to understand how a product of that nature, that has nothing going for it, is still being taken up by young people all of the time. Re-editing the James Bond movies so that Sean Connery is not smoking seems like a reasonable idea when one looks at the full travesty of the product. I am not saying that this is policy, just that it seems like a good idea.

Senator Seán Kyne: I thank Ms Gordon.

Deputy Thomas Gould: I would like to start where Ms Gordon has just finished. During the lockdown many people may have watched a lot of TV. I could not believe the number of new shows and series, such as those commissioned in the past five years, where major charac-

ters in all of the shows were constantly smoking. Some of the series were period dramas but many were more up-to-date shows or set in the future. Touching on Ms Gordon's earlier point, is there a policy on this from the Department and is the Department looking at this? It might be hard for us to do it in Ireland, but certainly the EU might send out a clear signal that this is a type of advertising. In fact, it is probably even more dangerous than normal advertising because a major character in a motion picture or a TV series is being associated with cigarettes and it is being glamorised. These characters are over the age of 18, but we know that teenagers watch these shows, and they see these characters smoking. Does Ms Gordon see the Department pushing the EU on this and is it something that the EU is looking at?

Ms Claire Gordon: It is a tricky one because one of the difficulties with regulation of tobacco is that many people think the problem has been solved. To be fair, there has been a pandemic and it is reasonable to have focused on that, but it is one of those areas where other public health problems have come to the fore such as obesity and so on. Another element with smoking is that it occurs more in disadvantaged areas than in more prosperous areas. There is, for example, a nearly 10% difference between smoking rates in a disadvantaged area and a more affluent area. There is an element, clearly not within the Department of Health, but outside, that believes the problem is solved and that "we have done that plain packaging, we have put them behind the counters, so what more can we do?" After that, when one starts doing other things such the Deputy talks about, it becomes exactly like my reaction when I initially came into the Department: "Sure that is ridiculous; people have a right to do what they want; can they not make their own decisions?; why do we need to keep censoring things?; and are people not adults?" These arguments come up. In the context of drama, we certainly get the argument that smoking is necessary for the story or it is necessary for the character. Strangely enough, people find it hard to believe that things like a drama will cause people to go and try smoking. With children especially, the number one thing with smoking is that it is an adult activity. Therefore, I am making myself an adult if I have a smoke. What smoking looks like is the attraction, the actual experience of smoking is fairly rotten. It is about how it looks. Essentially it looks cool and the programme- and film- makers use it in dramas to make characters look cool. I am not aware of any concerted action at EU level to look at those dramas. Potentially there would be issues of artistic freedom. We could be pushed back on the old issue, which is that people have been told it is a risk. The warnings and the plain packaging in Ireland especially are very good. Looking at a box of cigarettes as they are sold in Ireland now it would be difficult to be attracted by it. We could certainly come up against the argument that we are going a bit too far and that people should be left to themselves.

Deputy Thomas Gould: On that point, I must let the Chairman know that the clock has not started and we are two minutes into this questioning.

Chairman: The Deputy has plenty of time, do not be worrying.

Deputy Thomas Gould: I thank the Chairman. I started smoking in my teens and I am off them a year. I smoked for 40 years. I had made numerous attempts. Every 1 January I would make an attempt. For many years when I played sports I was able to stay off them for a couple of years at a time. Playing sports gives a person a huge incentive not to smoke.

I go back to the point made by Ms Gordon in her introduction about de-normalising smoking and protecting young people. This is key to the Bill. We support this Bill and we have a couple of ideas we would like to see incorporated to make it as strong as possible. Once a person starts smoking as a teenager or a young person, the consequences include trying to give it up. It is a battle for the rest of that person's life.

With regard to motion pictures and television shows, I often sat down at night and saw somebody on the television light up a cigarette and I instantly had an urge to smoke even though I am off them now. I remember when I did smoke, that feeling would often lead me to have a cigarette. My wife hates cigarettes. Her father, God rest his soul, passed away from lung cancer. She always hated it. As a student she worked as a barmaid and she would hate coming home at night with the smell of cigarettes on her clothes. I never smoked in our house and I would be out the back. I would see someone on TV smoking and I would end up throwing on the kettle, making a cup of tea and going out the back to have a cigarette. Thankfully, my 12 year-old and 15 year-old daughters never saw me smoking because I was always conscious of that. However, many people, including me, did not know the consequences of cigarettes as they were growing up. We know now and we have to protect our children to the best of our ability. That is why this Bill includes restrictions on e-cigarettes for those under 18. I certainly support that.

I will also touch on advertising, which was discussed earlier. When passing an e-cigarette shop or any other shop that sells e-cigarettes, people will see posters promoting them and their different flavours. The flavours are a key issue. We saw this issue years ago in respect of alcopops in the drink industry. E-cigarettes now come in different sweet flavours, including bubblegum and candy. These appeal to a younger audience. These companies are trying to get young people onto the candy flavours to start with. People, especially adults, may want to have an e-cigarette because, as the witnesses have said, there may be a benefit to using e-cigarettes instead of smoking as regards risk reduction. It may not be completely risk free, but the risk is certainly lower than for cigarettes. Should they then be limited to tobacco flavours only to avoid covering up what the product is? The witnesses touched on advertising earlier. Could there be a complete ban on e-cigarette advertising as is the case for cigarettes? There is also the issue of flavoured products.

My colleague mentioned earlier the work the Irish Heart Foundation is doing. Like the Department, the foundation is looking at the travesty of smoking and the carnage that results from it. Will the witnesses touch on that?

Ms Claire Gordon: It is great that the Deputy made the point that it is very hard to quit. The global percentage of smokers who successfully quit is less than 10%. Our year-on-year data collected for Healthy Ireland tells the same story. Some 60% to 70% of smokers want to quit. Approximately half, or 50%, give it a go and approximately 10% succeed. I understand that there is a view that people need to just put in more effort. That is not the case. The younger people start smoking, the more addicted they will be. The brain chemistry changes. Their brain actually changes when they get a hit from a cigarette, which begins that gnawing addiction. Addiction is interesting. A person can, for example, smoke one cigarette every month or two months. People think that such people can take it or leave it but that is considered addiction. A person does not to smoke 80 a day to be addicted. There is a change in the brain chemistry. A person who has been a smoker for a few years may begin to try to fight it but I have seen the intensity compared to heroin addiction with regard to how difficult it is to quit. Different people have different brain chemistry. It works in different ways. However, one of the ways it can be made more difficult to quit, by which I mean extremely psychologically and biologically stressful, is to start young. The younger people are when they start, the more likely it is that their brain will take that twist, leaving them stuck with a nicotine addiction.

The Deputy discussed e-cigarette flavours. As I said earlier, we have to think about two cohorts. One is, of course, the younger people. There is no benefit for them in e-cigarettes, which

is why we are banning them for those under 18. However, we also have to think about smokers who have tried patches, gum and, perhaps, medication from their GP and who are now trying e-cigarettes. In striking that balance, some of those flavours may be useful. I am not saying that all flavours are necessary. We certainly have not come to any conclusion on the flavours. We will probably be led by the EU on this issue because the governing law on e-cigarettes in Ireland at the moment is EU law.

We have to tread carefully because, while we absolutely do not want young people vaping, we do not want to take away flavours if flavours are one of the reasons a person would choose e-cigarettes over tobacco cigarettes. One has to look at the product from the point of view of younger people, and banning it for them is clearly correct, but we cannot forget about smokers. There has been a great deal of attention on younger people and how much they vape but people are forgetting about heavy smokers and people who have been smokers for 30 years, for whom the patches and the gum do not work and who are not going to their GP. They have voted with their feet to a certain extent because they are using e-cigarettes instead of tobacco cigarettes. Some 42% of smokers in Ireland in 2019 used e-cigarettes to try to quit. We have to strike that balance. I am not coming to any conclusion on the flavours.

Deputy Thomas Gould: On that point, could we make the flavours available by prescription only? That would introduce regulation. At the moment, a person who is under 18 can go into a shop and buy bubblegum flavoured e-cigarettes. This law, which we support, will ban e-cigarettes for those under 18. However, an 18-year-old or a 19-year-old will still be able to buy bubblegum or candy flavoured e-cigarettes. That is not right. Perhaps prescriptions should be considered. I have friends who are off cigarettes and who are successfully using e-cigarettes instead so I acknowledge what Ms Gordon is saying. I know people who have said that has made a profound difference in their lives. That is welcome but the problem is that we now see more young people using e-cigarettes. Unfortunately, we are also seeing more young people using cigarettes again. A multifaceted approach is needed. We should certainly highlight in Europe how many people smoke cigarettes in television programmes and films relative to the number of people who smoke. There should be some kind of restriction on that. We should also make flavours available by prescription only so that those who need them and who are over 18 can get them while young people are protected. That would accomplish what the Department is trying to do, which is to support people who are in addiction while preventing young people from getting on nicotine. I was out with my wife at the weekend. Every time I have a drink, I feel I want a cigarette because, growing up, that is the way my life was. I still have pangs and want to smoke. I am very lucky - touch wood - but many others out there are not. If we can prevent what happened to me and many other people of my generation happening again, we will support that. I hope the witnesses can take that on board.

Deputy Neasa Hourigan: I thank everybody here today. This is important legislation, which is quite complex. One of the reasons it is complex is that, similar to other issues we will deal with in the committee in the near future, there is not a great deal of relevant research, particularly on vaping. Does that pose a particular challenge in progressing legislation in this area or locking things in now? Do the witnesses envisage the lack of long-term research in this area being an issue?

Ms Claire Gordon: The lack of research on the long-term effects is a feature of the fact that these are a new product. There is no way around that. We cannot go forward. I would not say there is a lack of research. There is significant focus on this at the WHO level. Across the globe, there are at least three scientific papers on different aspects of the issue every week.

From our point of view, the Minister for Health asked the Health Research Board to examine three areas of e-cigarettes in 2019 and published a paper in October 2020. I wish I had brought in the paper on the harms and benefits because it is about 400 pages, but it is too much research. The Health Research Board came to some conclusions. It was asked to look at three areas on e-cigarettes.

The first was whether they were useful as an aid to smoking cessation. It concluded that e-cigarettes were as useful or as effective as nicotine replacement therapies, such as patches, nicotine gum and those sorts of items.

The second area that they looked at was whether the use of e-cigarettes appeared to lead to smoking tobacco products by adolescents. The Health Research Board found an association between adolescents who use e-cigarettes and subsequent smoking.

The third area looked at was that the board did a map of what might be called the harms or benefits, or both, of e-cigarettes. That is the 500-page document. This examines matters at a chemical level and the effect of the vapes on one's cells and such matters. The essential conclusion was that it definitely appears that from all the research examined - I forget how many research papers it looked at but it was probably 150 - there is evidence that e-cigarettes are less harmful than tobacco cigarettes. There is also evidence that e-cigarettes are not harmless. The final point that the board made, which returns to the Deputy's point, was that more research is needed.

We are at a point in history, unfortunately, where e-cigarettes as a product are relatively new - I believe they were introduced in 2005 or 2007 - but it is also the case that the e-cigarettes that came on the market at that time bear little resemblance to the e-cigarettes that are around now and there are new products coming on stream all the time. As I was saying earlier about the heat-not-burn products, weird hybrid products are appearing. They are e-cigarettes in the sense that it is a liquid that is vaped but there is also a capacity for tobacco to be used in those products. Much of the research is trying to keep up with the technology, no more than mobile phones. There are some very attractive, sleek, e-cigarette products out there and these are being developed all of the time and made more beautiful in appearance, for want of a better term. Also, I cannot remember how many ingredients are in the average e-liquid but there are quite a few. As has already been mentioned, the flavours are out there. To try to have solid research on all of those aspects is very difficult because the minute the research is done another product is coming out in Japan or somewhere else. Then, exactly as the Deputy has said, it is a question of the point at which we can say we know what the long-term effects are.

Deputy Neasa Hourigan: To be clear, I am fully supportive of this legislation. I was just wondering if the newness of the product is a particular challenge. Does the Department of Health feel that this legislation will be a suitable framework as the technology moves faster than we can perhaps keep up with? Will we be able to add to it as new products come online?

Ms Claire Gordon: Definitely. The key measure in it with regard to e-cigarettes is the banning of their sale to under-18s. It will be illegal to sell any of these products to a person who is under 18. The number one effort is to remove from the table the ability of those under 18 to buy the product legally.

The licensing system is another matter. At the moment one does not need to register or to have a licence to sell e-cigarettes. We are going to have a full licensing system whereby one has to fill out a form to get a licence every year. This will involve showing that one is a true and fit

person, and there will be a fee. The impact of licensing e-cigarette retailing can be seen in data from Pennsylvania. When a licence was introduced there, the use of e-cigarettes among adolescents went down. One of the features of introducing licences, and it is the same for tobacco cigarettes, is that some people get out of the business because it is no longer profitable. If the licence is of a sufficiently high price, if there is much paperwork and if certain obligations have to be met, if it was an-----

Deputy Neasa Hourigan: That actually leads into my next question. I am very interested in the relationship between the density of retail outlets in Ireland and smoking prevalence and use of vaping products. Does the Department envisage that if we introduce a licensing fee, the density of retail units will naturally fall? Will there be any mechanism for us to be able to further control the density subsequently? I am thinking specifically around schools, perhaps. There may still be a very high density in urban areas but not in rural areas. Are there any other kinds of mechanisms around density that the Department thinks are worth considering?

Ms Claire Gordon: The Deputy is completely correct. There is evidence that the density of retailers only impacts on the initiation of children. In other words, the more shops that sell cigarettes around me, the more likely I am to start smoking. The other unfortunate consequence is that the more outlets there are around me, the more likely I am to fail in my attempts to quit. Essentially, I am being presented with it all of the time so it is really difficult. As the previous speaker was saying, every time one sees it, the urge comes back.

With the current registration system, we know that at a certain point somebody registered to sell cigarettes but we do not know what happened after that. Under the current system, one registers once, one pays a one-off fee and one has no obligation to communicate with the HSE from then on. When our new licensing system comes in, one will get a licence for a year, which then will have to be renewed. For the first time, we will know exactly who is selling cigarettes and e-cigarettes, and where. We will have proper data on where the outlets are. At that stage, and I am not saying that this is a proposal from us, we will at least understand the density of retailers. There is evidence that the density of retailers has an impact on consumption. That is something that might be looked at in the future. For now, we need to know who and where. There is no system for the retailing of e-cigarettes or nicotine inhaling products under the current system but there is a registration system for tobacco products. That was a one-off fee and one registered once. Essentially, we do not know whether some of the people who registered are still selling.

Deputy Neasa Hourigan: Obviously, there is a similar correlation between that and advertising. I am aware that we do not have advertising on TV or radio but a similar phenomenon has come up in childhood obesity, in cigarettes and in alcohol in respect of the density of advertising and its proximity to particular areas like schools and sports facilities. Does the Department envisage that this will be an important part of the legislation?

Ms Claire Gordon: It certainly will be. This general scheme was submitted in October 2019. It is hard to keep track of years since the pandemic. Following the submission of the general scheme, the new programme for Government came in and one of its recommendations is the curbing the advertising of nicotine inhaling products near schools, public transport and cinemas. This is a similar provision to the one that is in the Public Health (Alcohol) Act. That is clearly in the programme for Government and is something that we would go to the Government on in order that we can include it in the scheme.

The other very good provision in the general scheme is the ban on the sale of tobacco prod-

ucts in places or at events which are designed for children. We do not have any of the detail of that provision right now - for example, with regard to what would constitute a place for children or a children's event - but it will definitely be a very powerful provision if the Office of the Attorney General drafts it in the way that we hope, which would involve keeping it fairly wide. Essentially, you are not naming out. This is one of those provisions whereby it is quite difficult to set out in law exactly what events or places you are talking about, but anyone would know them if they saw them. For example, we would all know that a Peppa Pig concert would be directed primarily at children, so that would be an event at which we would not want someone selling cigarettes.

Deputy Hourigan referred to the density of retail outlets. This is another way to address that issue and make sure that a child can go about his or her daily life without being exposed to the sale of cigarettes. Somebody mentioned denormalisation earlier. That is the issue for us when we look at the damage. This is a normal consumer product. That is what is so odd about tobacco and cigarettes. As a legacy, for historical reasons, there is a product for sale beside the chewing gum and the newspapers that will literally kill two out of three people who use it. Historically, fair enough, it was there as a consumer product, but now, when we know what we know, it is always a matter of saying this is not an ordinary consumer product. It kills, I think, 7.6 million people a year and, because our population is increasing across the globe, yes, the proportion of people who smoke is going down, but the actual number of people who smoke is going up. There is a huge level of disease and death to come, and that is from just a consumer product. That is what it is. It is sold in shops, it is legal to buy it and there is nothing going for it except that it will kill you if you keep using it. We are trying to find ways-----

Deputy Neasa Hourigan: When Ms Gordon puts it like that, it is stark. I do not know if I have enough time, but I have one question that is kind of related to this. I know that there are 13,000 registered tobacco retailers right now and that there were only 61 convictions in the six-year period between 2014 and 2019. How important is it to see applied regulation and that the Revenue Commissioners and nobody else would be responsible for collecting this licence fee?

Ms Claire Gordon: In the general scheme, we have not envisaged that it would be Revenue; we envisage that it would be us. The register I have just slagged off, whereby you pay the one amount and register, is run by the environmental health service of the HSE. That is the enforcement body. It does food law, alcohol law and tobacco control law and has been doing them for years. We presume, therefore, that that service will hold the licensing system and the ICT relating to it, and that in the context of the fees paid by any tobacco and cigarette retailer, some of that money might go towards tobacco control law enforcement. I know it is a tricky business to get hypothecation of money but we might give it a go anyway. That is one part of the enforcement.

As for the other one, Deputy Hourigan might have noticed in the general scheme that we are seeking to legislate for minimum suspension periods. In other words, if an offence is committed, we are setting out in law that a licence should be suspended for a minimum period of, I think, two to seven days for a low-grade offence and seven to 30 days for a high-grade offence. One of the reasons for that is that it is not always the case that tobacco control offences are treated very seriously in terms of suspensions of registration given out by courts. There are examples in the past whereby someone's registration was suspended for one hour, so the response to the offence that was committed was that the retailer could not sell cigarettes for an hour. There was one suspension for a day and another for two days. I can understand this in one sense because the harm that comes from breaching tobacco control law requirements is not

so obvious. It is not as obvious as that relating to assault or burglary. It is not clear because this is strange law in the sense that tobacco control law regulates people who sell tobacco, but the ultimate objective is the smoker, so the people being regulated are not the people who are affected the most.

For us, it is a sin to sell cigarettes to a person under 18 because we understand what the consequences of that will be, including early addiction and a lifetime of illness. However, a person on the street might say, "Sure, he sold cigarettes and did not ask the customer whether he or she was over or under 18, but is it not the buyer or consumer who should make the decision?" It is tricky to communicate to people out there that these are serious offences. That is why we have tried in the general scheme to provide that the licence will have to be suspended for a minimum period of two days, even if the offence is considered light because while the offence itself, on the face of it, may not look that serious, the issue is the consequences of that - for example, for the consumer who is under 18 and who was sold cigarettes. It is a tricky one because, obviously, the average person would clearly recognise assault, burglary, etc. Those are terrible offences and of course a penalty should apply to them, whereas something like this seems almost like an administrative error in what the person has done, and to read into that the consequences is not always easy for the courts. We are trying to push through that public health message that, in and of itself, the fact that a retailer did not have the sign up is not a big deal but it is a big deal overall in the context of what we are trying to do denormalise this and to protect children. Sorry. That was too long an answer.

Deputy Neasa Hourigan: No, it was a great answer, and I thank Ms Gordon for it. I am very excited to see this legislation come through. It is fantastic. Thank you, Chair. I know you gave me some extra time.

Chairman: No problem at all. Could I have Deputy Durkan next, please? How are you, Deputy Durkan? You are still on mute. Maybe we should leave you like that, should we? You can hear me. You are still on mute. Will you put on a headset, Deputy Durkan, if you have one? I am sorry about this. That is still not working, Deputy Durkan. Do you want to come down if you are in your office and maybe I will continue with some questions of my own? You want to do that. Okay.

While we are waiting, I will come in with a couple of questions. In the scoping note we got, one of the issues and one of the worrying trends is that, for the first time in 25 years, smoking among young people between the ages of 15 and 16, a key age period for smoking initiation, has increased. When was this research carried out? Did this happen last year?

Ms Claire Gordon: That was in 2019.

Chairman: It was not during pandemic years that-----

Ms Siobháin Brophy: No, it was not.

Chairman: Was that just a blip or do we need more research on it? Is it a one-off? Are there plans for more research on this? It is worrying that this is happening after 25 years. Are there particular reasons this has happened at this particular time? During the pandemic people have been told they are going to die, so long-term life considerations go out the window for many people, but for young people aged 15 or 16, I presume there are probably different triggers. Why is this happening in those years? Is it a trend right across the world or is it just in Ireland?

Ms Claire Gordon: It is definitely a trend throughout the world that the fantastic decreases

that were happening in the number of people smoking have stalled. I think that happened around 2007. A total of 50% of persons under the age of 18 smoked at certain periods in the 1970s and 1980s and that figure was falling steadily, but there was a stall. There is no single answer as to why that has happened and we would not jump to conclusions based on one year. We cannot say whether it is a trend or a blip. Nevertheless, it is definitely the case that when it initially became clear, following new information, how bad cigarettes were for people, steep decreases happened. Now, it is almost as though people feel that problem has been solved and there is nothing to worry about anymore. The media do not necessarily talk about it as much and there is not as much panic about it, for want of a better word. Perhaps the younger generations have just missed that information older people had whereby all these revelations were coming out about the new diseases and harms coming from smoking.

The pandemic was interesting in the impact it had on smokers. This is a classic example of how the tobacco industry operates. During the pandemic, the Minister for Health had to issue press releases making clear that smoking did not protect people from Covid-19. Some data suggested there were fewer smokers in hospital with Covid-19 than there were in the general population. It appeared smokers were less likely to become ill from Covid-19. As we can imagine, those data were exploited by the industry. The message going around was that one of the ways to protect from Covid-19 was to smoke, whereas exactly the opposite is the case. The data show a person is more likely to have serious illness from Covid-19 if he or she smokes. Trends or events always occur that can be exploited by the industry, and the person, who might be 15 or 16 years old, is left in the middle. Who are they to believe?

I do not have any explanation for why the trend has changed. I would imagine it is more of a stall than an increase, although there was definitely an increase in the period the Chairman mentioned. Throughout the world in developed countries, the decrease has definitely stalled. Obviously, the ideal objective in all countries is a figure of 0% for under-18s who are smokers. It is about how to get there and that is part of what the provisions in the Bill are about. Much of the messaging has been shut down and we are just trying to shut down the others. We do not know which factor causes a 15 or 16-year-old to smoke. Part of being that age is we think we are invincible. We do not have that fear about our health or health harms. We believe that stuff happens to someone else, years from now, and it is nothing to do with us. Unfortunately, it is true to a large extent that someone who smokes at 15 or 16 is not going to pay for it for perhaps 30 years. There is some rationale in that, but what young people do not realise - this is the tragedy of smoking - is they are addicts. They may smoke, the addiction may be developing and they may think they are smoking voluntarily. They just do not realise they have started what could be a lifetime addiction.

That was a long answer, but there is no one reason for the stall. We are trying to do exactly what the Chairman identified. The main steps have been taken, such as putting cigarettes behind cabinets and in plain packaging, and now we are trying to shut down the other messaging and the other exposures, such as selling them in shops or at festival stalls. We are trying to shut that down. We do not want them to be sold in temporary or moveable premises. Vending machines are another example. The data suggest it is easier for persons under the age of 18 to access cigarettes from vending machines than over the counter. The big steps have been taken and we are trying to shut down smaller channels or smaller messaging to people of that age group. We hope that, with a suite of measures, we will hit on the right ones for individuals and get that number decreasing again.

Chairman: It is the age at which young people experiment and they will try different things.

As for older ages, every year, including in the most recent budget, the price of tobacco and other nicotine products has been increased. Many people make the argument that this will only make people who have an addiction try to get the products somewhere else. Every time the price of cigarettes is increased, people are further encouraged to go elsewhere. We are driving them into the black market and the dodgy products, where there is no regulation and we do not know what people are smoking. That is the downside of that approach. Similarly, there is no evidence that the latest legislation, relating to graphic pictures on the products, is working on people. There was evidence at one stage that some young women smoked because they believed it was linked to losing weight and so on.

Ms Claire Gordon: Absolutely.

Chairman: It is those types of messages we need to focus on, particularly for young people. Deputy Gould spoke about the smell of the product on a person's clothes and breath. There is also the impact it has on health but that seems to be secondary for many young people who start smoking. I am not convinced by the idea of censoring images of people smoking in old films and so on. On some of the chat shows from years ago, everyone was smoking. I grew up during that period, but that looks really odd to me when I see it now. I ask myself what these people were doing. It is a bit like people who used to drink and drive; it is not acceptable to society now. At one stage, we almost turned people who smoked into pariahs in that we put them outside the pub or the social areas, but there was a sort of bounce-back and people would talk about how all the craic was outside. We are going through cycles in that regard but my main worry regarding the research relates to why more people are trying it. I do not think the price increases work, although they are a good earner for the State that can be reinvested.

Deputy Bernard J. Durkan: I am a former smoker who smoked for 20 years or so, and I have not done so in ten. There is a new challenge coming now in the form of the alternatives to smoking. As was noted, they might be a benefit to those who have smoked and want to stop, but they could also be a gateway drug for those who have not started to smoke but might fancy it. I was once told that when someone becomes addicted, he or she will need to undergo a long programme to quit. That is not true at all. It is possible to stop instantly and walk away from it, although there is no doubt it has weight implications. We need to counter the argument the Chairman made correctly. Some women believe smoking is an alternative way of controlling weight, and while it does have an effect on weight, it is also bad. We need to bring those two arguments together in a way that is receptive to people who are looking at it from that point of view. Small children, the 10-year-olds to 12-year-olds, who start smoking are influenced by the cinema and television. The hero who smokes casually is part and parcel of that. I refer to Clint Eastwood with the chewed-off cigar at one side of his mouth and so on. That was a big influence in years gone by, before the witnesses were born. The damage to health must also be emphasised much more in order to have a positive impact on that particular generation. We need to be very clear in our minds about that.

The next thing to consider is the alternatives. We discussed e-cigarettes and what goes with them. I cannot understand how products with tobacco content can represent an improvement because they continue the use of tobacco. The argument can be made that such products involve a reduction in the amount of tobacco and nicotine heated or taken in, whatever way one wishes to describe it, but it still continues the hazardous habit of smoking, albeit by an alternative means. I know the science is still out on this. There is an argument taking place at present. That argument needs to come to fruition and reach a conclusion at the earliest possible date. The advice should err on the side of safety because, if it comes to pass that the alternatives lead

back to smoking again, there is no advantage for anybody, including the scientists.

I will raise an issue that came up during the Covid pandemic. It appears that there was increased consumption of tobacco by way of home-rolled cigarettes. Two issues arise from that. I refer to the size of the pack in which loose tobacco is sold and made available in sales outlets and to the illegal importation of tobacco, which is a different matter but which also needs to be controlled. Is the Department satisfied that the legislation as proposed will deal adequately with the reintroduction to nicotine, tobacco and smoking by that route, the home-rolled method? From indications we are seeing, it also appears that the increase among the younger age cohort has been fairly substantial. I regard that as worrying. I have put questions down on this already. Does the Bill contain sufficient obstructions and restrictions to discourage the return to smoking in that way? That is my first question.

Ms Claire Gordon: I will mention in passing the issue of women smoking to control their weight. There is evidence that this idea is completely untrue and that whether younger women smoke or not does not impact on their weight. This idea has been exploited by the industry, which sells products like Virginia Slims in the US. These are long, slim cigarettes. The boxes are also slim. We have banned those kind of fancy boxes. The industry is fantastic at targeting particular cohorts. It probably understands why people smoke and how to appeal to them better than we, or public health officials in general, do. There are some horrifying advertisements from the 1970s suggesting that women can show they have become independent by being a smoker. There is a brilliant advertisement with the slogan “You’ve come a long way, baby”, which shows a woman having a smoke. Smoking is supposed to be a sign of her liberation. I have seen evidence that smoking has literally no impact on weight. Young women who are smoking to manage their weight should know it has no impact on their weight at all. I just want to get that idea, which is beloved by the tobacco industry, out of the way.

I was asked whether I think the measures in the proposed Bill are sufficient to deal with illegal importation. I will hand over to Ms Brophy on that. We might talk a little bit about the EU track-and-trace system, which is designed to reduce the amount of illicit cigarettes in circulation. At the moment, 15% of the market comprises illicit cigarettes. Revenue has estimated that 15% of cigarettes sold are illicit. That is not a Department of Health estimate but that of the Revenue Commissioners, but we are involved because of this EU-wide system which we hope will reduce that figure.

Ms Siobhain Brophy: This is known colloquially as the track-and trace-system. Since 2019, every tobacco product, whether cigarette or rolling tobacco, has a unique identifier on it. This can be tracked all the way through the supply chain. This comes under the World Health Organization Framework Convention on Tobacco Control, the protocol on illicit tobacco. It is an EU response to the issue of illicit tobacco. We have worked with the Revenue Commissioners. This comes under the Directorate-General for Health and Food Safety, DG SANTE, in the EU. Its overall objective is to make sure that each tobacco product leaving a manufacturer can be tracked all the way through the supply chain to the retailer. It could be argued that what we are doing by introducing a licensing system is the next step in this process. It will bring in greater controls which will lead to better and more comprehensive enforcement. Revenue would say that it is becoming more successful in targeting the smuggling of tobacco products. It has the figures to back that up. The traceability and security of this system is another tool to help us deal with the issue of illicit tobacco. The World Health Organization would still say that raising taxes on tobacco is one of the most effective and efficient ways to reduce tobacco consumption.

Deputy Bernard J. Durkan: Have we determined the extent to which illegally imported tobacco forms part of that market? Is it 15%? Is it more?

Ms Siobhain Brophy: The most recent figures from the Department of Finance suggest that 15% of tobacco on the market in 2019 was illicit. The illicit trade in cigarettes represented €242 million in lost excise duties. The equivalent figure for rolling tobacco was €22 million.

Deputy Bernard J. Durkan: Does that reflect an increase or a decrease in the availability of illegally imported product?

Ms Claire Gordon: My understanding is that the figure had been 10% or 11%, so there has been a steady increase.

Deputy Bernard J. Durkan: It is growing.

Ms Claire Gordon: The difficulty is that illicit importers do not fill out forms. As a result, a lot of this is estimated. There is no real way to tell. I am sure that Revenue has its own methodologies but the figure was definitely lower than 15% at a certain point and is now increasing. From our perspective, there is an argument that the price cannot be increased too much or people will go to the illicit market. As Ms Brophy said, there is evidence that increasing the price is an effective way to make people decide to quit. The more expensive it becomes, the more impetus there is for a smoker to think about quitting. That is one of the most powerful tools across the globe. It is not just an Irish concept. Raising prices is the best way to reduce harm. It is absolutely the case that persons on lower incomes are affected more by this measure but persons on lower incomes are also those carrying more of the burden of disease from tobacco. When people say that those who are experiencing hard times should be left with their smoke because it is the only treat they have, they are essentially saying that it is okay to leave that person to illness and death. That is what they are saying. I understand perfectly why that comment is made but, from our point of view, we have seen the devastation smoking causes. The WHO says that 14% of cases of Alzheimer's disease across the world are caused by tobacco. I am referring to dementia. The width of disease that comes from this product is unbelievable. Every system in the body - reproductive, respiratory, cardiovascular, you name it - is affected. When I hear it said that it is not fair on people on lower incomes, I think this is the only way to help those on lower incomes because illness causes poverty and poverty causes illness. It is to try to get the push over-----

Deputy Bernard J. Durkan: On the issue of illegally imported product and the extent of those rolling tobacco at home, etc., are our guests satisfied that the proposals in the general scheme will adequately deal with the problem? There is another issue. How do we inform people who, for instance, wish to lose weight and, rightly or wrongly, will rely on smoking as a means of quelling their appetite at particular times of the day? They may be right or wrong. What other product that is medically safe can be offered to those people who, rightly or wrongly, believe smoking kills their appetite for food? Even though they know smoking is bad for them, they still have to resort to it because they wish to control their weight.

Ms Claire Gordon: That area is slightly out of my bailiwick. All we can do is to say that cigarettes are not the answer to anything. We can do so through plain packaging, warnings, the horrible pictures on packets of tobacco cigarettes and the ban on advertising, as well as the constant stream of new information in respect of new harms associated with smoking that, thankfully, still gets into the media. That is all we can say. I do not know how to convince a person that cigarettes are-----

Deputy Bernard J. Durkan: This will be my last question. I refer to the size of cigarette cartons. It has been suggested that cartons containing more than 20 cigarettes are another means of offloading considerable amounts into the marketplace that otherwise would not be as readily available to potential consumers. Is legislation needed to deal with that issue? The Bill does not address it. Can our guests take that issue on board and consider bringing forward such legislation?

Ms Claire Gordon: We have considered that issue. At the moment, there is no evidence that more cigarettes being in a box leads to an increase in consumption. Under the WHO framework convention on tobacco control, FCTC, a ban on selling boxes of cigarettes with fewer than 20 cigarettes is recommended, and we certainly have that ban in the law here. As set out in the convention on tobacco control, if cigarettes are sold in smaller boxes, they become more affordable for minors. Many smokers began by buying a single cigarette over the counter. That was the way it used to work. When you were a kid, you could afford to buy one cigarette with your pocket money. In 2002 we brought in a ban on boxes with fewer than 20 cigarettes. There must be a minimum of 20 cigarettes in a box. Right now in 2021, there is insufficient evidence that boxes with more than 20 cigarettes cause an increase in consumption. The issue was considered in an Australian study earlier this year which stated that there is a dearth of evidence that having more cigarettes in a box causes the person to smoke more. That is not to say that evidence will not be found in the future but, for now, we do not have a basis on which to examine that issue. We have a basis in respect of boxes with fewer than 20 cigarettes because they make it more affordable for minors. That is well known and it has been stated in the FCTC. The WHO understands that to be an issue. However, there is no evidence at this stage that boxes with more than 20 cigarettes are an issue.

Deputy Bernard J. Durkan: I might come back in again.

Chairman: We might have time for that. Deputy Colm Burke is waiting to come in.

Deputy Colm Burke: I thank the Chairman. My apologies for the delay in joining the meeting. To follow up on Deputy Durkan's remarks relating to packets of cigarettes, there is legislation stating that cigarettes may not be sold in packets of fewer than 20 but there is no law in respect of an upper limit. For instance, 30% of cigarette packets sold now contain more than 20 cigarettes. Those are the figures I have received. Is it not time to consider stipulating that cigarettes only be sold in packets of 20? If a person who normally smokes a packet of cigarettes a day buys a packet of 27, 28 or 25 cigarettes, is he or she not likely to smoke 25 or 27 cigarettes instead of smoking 20?

Finland will not allow cigarettes to be imported unless the health warning is in Finnish and Swedish. During the lockdown, the sale of tobacco in this country increased by approximately €150 million in 12 months, which gives an indication of the amount of product that is coming in. As people were not able to travel abroad during the lockdown, they were not able to bring in cigarettes. There is no restriction in real terms in the context of health warnings on cigarettes that are brought into the country. The health warning may be in English and Spanish, for example. Why can we not legislate to stipulate that all cigarette packets must have a warning in English and in Irish?

Another issue is the number of cigarettes people are allowed to bring in. The number is far higher here than in other European countries, such as Sweden and Finland, for example.

Ms Claire Gordon: On the Deputy's first point, as I stated, we have considered the issue of

packets containing more than 20 cigarettes. At the moment, there is no evidence on the matter. I understand what the Deputy is saying. Intuitively, it sounds correct, but the evidence is not there to support it. There is not enough evidence to justify a prohibition on packets of more than 20 cigarettes. An Australian paper published in April or August 2021 stated there is a dearth of evidence on this issue. The measures in tobacco control are evidence based because, in effect, we are regulating and preventing people from going about their normal business and making a living. Irrespective of what we think of the product, people are entitled to import, manufacture and sell tobacco products. These products are not illegal. For every measure we take and every measure in the Bill, we need evidence that shows that if we do this, it will reduce consumption. That evidence is not currently available in the context of packets with more than 20 cigarettes. If such evidence becomes available, it is definitely something at which we will look, but there is no evidence currently available to state that it has an impact.

Senator Colm Burke: The point I am making is that 30% of cigarettes now sold come in packets of more than 20 cigarettes. If there are 27 cigarettes in a packet, they are costing the purchaser less per cigarette compared with a packet of 20 cigarettes. By allowing there to be packets with more than 20 cigarettes, are we not encouraging people to smoke 10%, 15% or 20% more than the number they might smoke if we brought in a regulation stipulating that cigarettes only be sold in packets of 20?

Ms Claire Gordon: As I stated, the evidence is not there in respect of the impact of the size of the packet. The aspect relating to cost is absolutely something that we address. We are lucky that the Minister for Finance agrees to this. Each year, the Minister for Health writes to the Minister for Finance and seeks an increase in the excise duty on cigarettes and other tobacco products. I refer to cigarettes being purchased more cheaply. The evidence-based way to address that is to increase the price. As I said, there is no evidence currently that the bigger the box, the more people will smoke, but there is evidence that the more you increase the price of cigarettes, the more people decide to get off them. If evidence were to emerge showing that we could justify a measure to ban boxes of more than 20 cigarettes, that is absolutely something that the Minister of Health would look at, but when the evidence is not there, we do not have a reason to act. Where we do have a reason to act is in respect of the price, which we do every year. We are lucky that every year in the budget, prices are continually increased. Irrespective of what manufacturers do to try to make someone think that they are getting a bargain or whatever, in Ireland we relentlessly and consistently increase the price of tobacco products every year. That is the way to address that.

On the other issue of the number of cigarettes a person can bring into the country, was the Deputy referring to the personal quota permitted when a person is travelling?

Deputy Colm Burke: Yes. The figure I provided related to the increase in the sale of tobacco products from 1 January 2020 to 31 December 2020. I do not have the exact figure here, but there was an increase in sales of over 150 million. It is being put down to the fact that people were not able to travel, therefore, less product was brought into the country by individuals.

Ms Claire Gordon: That makes sense. First of all, and it is kind of a blunt statement, but from a public health perspective, the cigarettes that have warnings on them in English will kill you just as much as the cigarettes that do not. So, in one sense, if a flood of tobacco products came into Ireland through personal use that did not have the warnings on them or did not have the warnings on them in a language that was understandable, it would definitely undercut and undermine what we are trying to do in terms of the messaging. However, there is no particular

merit in cigarettes that have those warnings, in the sense that they will kill you just as much. As I understand it, decisions are made at EU level about personal quotas for bringing cigarettes into the country.

Ms Siobhain Brophy: Cheap cigarettes, no matter whether they are illicit or come from a different country within the EU, are not good. There is a huge price differential within the EU on the cost of cigarettes. People can get them a lot cheaper in other countries and bring them into Ireland. Under an EU directive, the maximum number of cigarettes that can be brought in is 800 per person. I know that the Finnish have done something different on this.

Deputy Colm Burke: They have.

Ms Siobhain Brophy: I am not entirely sure how, within the context of EU law, they have been able to do it, but we will certainly talk to Revenue about how it works and what is happening. At EU level they are also looking at a review of the tobacco products tax directive. We are certainly pushing for them to look at the differentials in prices from a public health perspective. We will continue to push that on regardless.

Deputy Colm Burke: The point I am making about the warning is that in Finland, you cannot bring cigarettes into the country unless the warning is both in Finnish and Swedish. If you want to bring in a product that contains a warning that is only in English or Spanish, for example, you will not be allowed to bring it in. They have limited the number of cigarettes that can be brought in to 200 per person.

The figures for the 12-month period in 2020 are interesting as they demonstrate how the sale of products in this country increased by over 150 million, which gives a clear indication of the amount of product that is coming in that is not on the record, as such. It is the first indication that we have got as to the extent of those goods coming in.

Ms Siobhain Brophy: I think it will be examined at EU level. There may be a significant reduction in the amount that you can bring into the country for personal use.

Ms Claire Gordon: At a broader level, it is exactly as Ms Brophy described in respect of the price differential. Why do people bring the products in? They do so because they are cheaper elsewhere. In that sense, where is the EU harmonisation on the issue to make it so that it is not worth your while bringing products in? Everybody knows somebody who asks them to bring them back a carton of cigarettes when they go on holiday. That is the driver for it. At an EU level, there is such a push for harmonisation on so many issues, and that is one issue that definitely needs to be harmonised to balance it out. Essentially, when we are talking about Finland, what we are wondering is how they got away with it, because it is definitely something that is harmonised at EU level. We are all supposed to act the same way, so we are trying to find out how they got away with it exactly.

Deputy Colm Burke: The reason I am raising the issue is because of the drain on the health budget. I fully understand that for someone who is a smoker, it is not easy to come off cigarettes. It is such a challenge for anyone and we must acknowledge that. The question is whether there are sufficient supports in place for people who want to stop smoking for their own health. I am not sure whether there are enough supports in place currently. Perhaps that is something that we should also be reviewing.

Chairman: I agree. I think we all have evidence and know of people who have been told that they will lose limbs because of smoking and they have lost limbs. I know of one man who

lost two limbs because of his smoking habit, which eventually killed him. It is very easy for us to tell people to give the cigarettes up. The man tried everything and he could not give them up. It would not have been unusual when I was growing up to know people smoked 40 or 50 cigarettes a day. How would anyone be able to afford that in today's world? There is a cost implication and it does impact on families. There is also the issue of passive smoking, and so on. There are many good reasons for quitting that we need to be getting out there. I think the Deputy is right about the provision of additional supports. Perhaps we can come up with ideas about that.

On the legislation and some of the issues that have been raised, I think the pandemic has brought important information to light because people were not travelling, so we will have a better idea of what products were coming in. One would imagine that the fact that people were not congregating should have made it more difficult for them to get the black market cigarettes but, again, people probably have contacts in local areas. People are not just going into Moore Street or the traditional areas to buy them. In every community there is someone who is involved in the trade, whether they are selling them in a shop or door to door. All of that is still going on. However, it should have been more difficult for people to buy them during the pandemic. We know that certainly at the start of the pandemic, people were drinking more. Perhaps as people were working from home they were smoking more. Deputy Gould spoke about the social aspect of smoking. That was not going on during the first part of the pandemic, as pubs and restaurants were closed. It might have been easier for people to try to give up cigarettes in that period.

Has Deputy Burke finished?

Deputy Colm Burke: I have.

Chairman: Did Deputy Durkan want to come in again?

Deputy Bernard J. Durkan: Yes, just a quick one. Going back to the point raised by Deputy Burke, an advertising technique that is used is to offer 10% extra free. That technique is used in all products, from breakfast cereals to soap powders, or anything that consumers want. It is clearly an area that needs to be addressed, whether it is in relation to how the products are sold in the retail outlets or the way they are being brought into the country. I could never understand why people would want to bring half a tonne of tobacco products into the country at one time. I could never work out the logic of that. People look at things differently. I would strongly recommend that the Department look at that and see to what extent it can address it, if it is not already addressed in the proposals.

The other issue relates to habit forming, if I might go back to that again. Any product that recreates the habit is a threat to the whole programme and a danger. I speak as a person who has given up smoking, which I enjoyed immensely, incidentally. There is no good saying I did not. If I was driving a long journey late at night, as people in this business must do from time to time, from Donegal or Cahersiveen to Dublin, smoking was a refuge and helped keep me alert. We need to look at the medical alternatives in terms of products that will address those issues. The cup of coffee is a great idea and it works as well, without a doubt.

In regard to weight loss, I am of the firm opinion, and I have been for a long time, that if people are convinced smoking dulls the appetite for food, they are going to do it, especially because it is enjoyable. If a product were found that was safe, and I am told such products are available but they need to be thoroughly tested, that would be a big breakthrough in terms of

the attractiveness of smoking to some people who may want to lose weight and at the same time want to give up smoking. The witnesses might look to their colleagues with a view to addressing that issue because it is an issue. From my experience I know losing weight and stopping smoking at the same time is a double challenge. I am not suggesting everyone's experience is the same but that is an area we need to address.

The last point I want to make is in regard to the home rollers. I do not know how that can be controlled effectively. The product cannot be banned outright. I am not certain whether the legislation herein contains adequate provision to dissuade people from relying on home manufacture of cigarettes, because there is an economic element to it as far as they are concerned. We must be able to explain to the smoker that this product is not good for him or her; in fact it is worse. That point needs to be driven home.

There should also be a review after a year of the legislation being in operation to see how it is working, and whether it is working as was intended. It would not be necessary to spend much time on the review, just to tap into the various bullet points with a view to seeing whether the legislation is as effective as was intended.

There are people who will find it extremely difficult to give up smoking - there is no doubt about that - and we must be sympathetic to that and address their problems in a meaningful way. E-cigarettes can be used to wean them off, but the emphasis should be on weaning-off. It is similar to dealing with drug consumption, where we have programmes for people which are used sometimes as a means of continuation of supply rather than a weaning-off from the product. I urge in particular that the weaning-off element be addressed in a very aggressive way, which means and includes identifying smoking alternatives that are on the market. All need to be geared towards weaning off and away from the tobacco products and away from dependence on their alternatives if they happen to be habit forming as well.

Ms Claire Gordon: One of the tragedies for us is that 42% of people try to quit cigarettes by willpower. There are many alternatives, such as the HSE Quit programme which provides support, groups and face-to-face cessation counselling. There is gum, there are patches, and there are medications like varenicline that will literally suppress the nicotine urge. Those are all available, but by and large most people try to do it on willpower, and that is why it is so difficult and the numbers are so low. I understand perfectly someone who does not want to medicalise it. He or she is a smoker who wants to get off smoking but who does not feel it is something to see the GP about. It would be great if more people would look at the services that exist and take advantage of them. At the moment, clinical guidelines are being developed by the HSE for GPs and others about how to deal with people who are smokers, as in what advice to give them, where to point them and what to discuss.

One of the terrible things for us is that many services and alternatives are available but there is the attitude, "Just have a backbone", or, "Just give up; what is your problem?", and there is always this example of Jimmy who gave up without any help. However, everybody is different, neurologically and biochemically, so the addiction is different for different people, and I do not need to tell the Deputy that. For us the view is, why would someone not get the help that is out there? Why do people try to hard-nose it and do it all by themselves? They do not see it as something medical but as a lifestyle issue, like eating less or exercising more.

We need to recognise the power of the addiction - the absolute power of nicotine addiction, so much so that a colleague of ours who is a public health doctor was on a ward, exactly as the Chair said, where four men had limb amputations because of their smoking and one of them

would get into the wheelchair five or ten times a day to go out and have a smoke. That is the power of the addiction. It is such a tragedy then when people think, “Oh I failed. I did not quit. I tried and gave up. I had to go back”, as if it is some kind of character failing or lack of moral spine when it is not that at all. It is a massive biochemical addiction such that someone who has already suffered something like a lost limb will continue to smoke. There needs to be more recognition of that, no more than harm reduction with other drugs as well, because it is the same thing. It would be brilliant if we were all doing everything right and off everything, but if some in-between stage can assist in quitting cigarettes, such as gum, e-cigarettes, the drugs or talking to the GP, it is a sufficiently serious problem that needs all the help that is available. Definitely one of the things for us is that 42% of people try to go it alone, and it is really hard.

Deputy Bernard J. Durkan: What percentage of that 42% achieve their objectives?

Ms Claire Gordon: Unfortunately, only about 10% of people who attempt to quit will actually succeed year on year.

Deputy Bernard J. Durkan: A point we also need to remember is that we talked about the smell of smoke on people’s clothes and in the house and so on. To the smoker that is a comfort zone, an enjoyable place to be. Within that zone the smoker feels this is lovely, like a garden of roses. It is a different perspective altogether. How do we address that?

I did not smoke until I was in my 20s, which is most unusual. It was out of a reason to have something to do while I was listening to people like me talking for a long time. I gave up and the first thing I discovered was the smell of smoke permeated the car, for example, because I would always smoke in the car. It was now repugnant whereas previously I did not notice the smell of smoke at all. The smoker is not aware of that aspect at all. Others can smell it where the smoker cannot. There are a lot of areas there.

The information the witnesses have given to us, and the discussion, have been very helpful. The points I have taken from it relate to the packaging, which has been referred to already; the 10%, 20% or 30% extra that becomes available in larger amounts; and the need to ensure habit formation in the alternatives does not become a feature.

I saw a guy in a car in front of me at the traffic lights the other morning and he was obviously using one of those machines that exude a lot of smoke. I thought the car had gone on fire there was so much smoke around it.

I thank the Chairman for the indulgence and I thank our witnesses for the information they have made available to us.

Chairman: To go back to the Bill and some of the submissions we received from the various groups, including the tobacco and e-cigarette industry, many of the submissions cited Public Health England which has said vaping products are 95% less harmful and offer an alternative to smoking. Is there contrary evidence to that?

Ms Claire Gordon: I would not say there is contrary evidence, but there are definitely views on that particular number. Other organisations and research institutes, including the WHO, would look at that figure and say it is too early to make that kind of call. This essentially is what it is. In the UK, for instance, it was announced last weekend that e-cigarettes are going to be put onto prescription. The UK and New Zealand are two countries that are going four-square behind e-cigarettes as the alternative.

One of the things this will include is that someone can be prescribed e-cigarettes. This will be e-cigarettes that go through their equivalent of our Health Products Regulatory Authority, HPRA. They will be medically approved devices. A manufacturer of e-cigarettes can send its product to that body and it will be approved, essentially at the level of a medical device. It can then be prescribed by doctors to people to get them off smoking. Across the globe in other countries such as Brazil, India and Australia, they have banned e-cigarettes. This will tell committee of the incredible polarisation of views.

The 95% paper is one paper but then the WHO has said it is too soon to tell, that we do not know what the harms are, that we have certainly identified some harms, and that the jury is out on this. This is not to say the 95% figure is wrong but it is just one of many views, and it is certainly one view that Public Health England and the UK have gone behind. That is the way they are going. Equally respectable and authoritative research sources are saying other things and other countries are making the decisions based on that research.

One of the most difficult things around e-cigarettes is that there is no consensus except on those couple of levels, which is that tobacco cigarettes are definitely worse than e-cigarettes. Is it agreed across the globe that e-cigarettes are 95% less harmful than tobacco cigarettes? It is not agreed across the globe that this is a meaningful figure or that it is true. As was said earlier, ultimately, there is always the question of the long-term effects. A lot of the illness from tobacco cigarettes takes 30 years, so while a person would be okay now, he or she has already started the process whereby, 30 years from now, he or she would get peripheral arterial disease or chronic obstructive pulmonary disease. Nobody can tell right now that this is what is going to happen. That is the big fear about e-cigarettes. Everything looks pretty good and a 95% figure sounds very good but nobody knows what that means 20 years or 30 years from now for the people who are vaping now. "I do not know" is the answer.

Chairman: In the context of the e-cigarettes legislation, we have some idea of the additives that go into tobacco cigarettes but we do not know the impact of the additives in e-cigarettes. Is this what Ms Gordon is saying?

Ms Claire Gordon: That is exactly right. Oddly, even though tobacco cigarettes seem like a more natural product, there are fewer toxins in e-cigarettes by quantity than in tobacco cigarettes, because with tobacco cigarettes it is not a case of pulling the tobacco out of the field, rolling it up and off you go. There are a lot of things added. Ms Brophy has looked at the website of one of the American manufacturers, which are required by law and by a court order to state on their website that they have modified the product to make it more addictive and harmful in the past 50 years. Cigarettes from 50 years ago are not the same as cigarettes now. The industry has modified them so a person will get his or her nicotine hit faster and they are more addictive. This is through the introduction of chemicals. Oddly, a so-called natural product has more toxins in it than the artificial product that is e-cigarettes. I forget why I was saying this now. Perhaps the Chairman will remind me.

Chairman: We were referring to regulation and the difficulty of banning a particular product. I cite the example of the head shops and some of the drugs that were coming in. The shops then changed the names or changed one of the elements of a product and so on. This presented difficulties for legislators in trying to keep up with that, which was almost impossible. Are we into a similar situation with some of the e-cigarettes in the sense that these additives are potentially harmful? Is there anything we can firm up in this legislation around this part of it, if there are concerns about some of the additives? I believe people can make up their own minds where they believe it is less harmful than tobacco cigarettes and whether they feel e-cigarettes can

progress them away from tobacco cigarette products to make them give up. This was included in submissions made to us and included some information coming from Public Health England around that.

Ms Siobhain Brophy: There has already been quite a bit of regulation on electronic cigarettes under EU law and under the tobacco products directive, which Ireland has transposed. There are regulations around labelling and the nicotine content, and there are restrictions around characterising flavours. There is a pretty strong notification process because of the number of products out there. On an EU database we are talking about 300,000 different types of products currently registered within the EU. Manufacturers and importers are required to notify the HSE in Ireland if there are issues with products.

The revision of the tobacco products directive will definitely see further regulation of e-cigarettes. It is hard to know at this stage whether they will go down the road of having more restrictions on flavours, which poses the problems I spoke about earlier. They may reduce the tank sizes for the actual devices. There are already restrictions on the nicotine content. There are warnings on every product telling consumers this product contains nicotine and that it is a highly addictive substance. The EU is definitely concerned by e-cigarettes, for all the reasons we have spoken about.

With regard to cessation, the Commission has said, not unlike the UK, that if electronic cigarettes are to be used as a cessation product or tool, it should fall under niche pharmaceutical legislation. They are not saying this is proposed for the revision of the tobacco products directive but that is where the Commission is coming from, and that may be the route other countries go also.

Chairman: While I acknowledge that it is not covered in the proposed legislation, are there examples of other jurisdictions that have banned certain e-cigarette flavours that might be attractive to children or young people? Members of the Oireachtas might wish examine such examples in order to go down that route.

Ms Siobhain Brophy: A number of countries in the EU have done it and others are proposing to do it. Hungary has done and Lithuania is considering it. There is a potential role for restricting flavours favoured by children, which other countries have examined. Once this proposed legislation comes into force, it will be interesting to see the impact of banning the product to under-18s. Given that 38% of people who try to quit smoking use e-cigarettes, there is a question as to whether, if we were to cut off the type of e-cigarette they might use, we risk them not using a safer product to give up a product that kills two of every three people who use it. Should we try to find out what flavours people are using to try to give up and whether we can identify a limited number of flavours? That may be a way of doing it. There are definitely measures we can consider that other countries are taking.

Chairman: I was talking to someone who said he used to import a certain type of e-cigarette from the US, but now that An Post does not allow liquids in the post, he was going to try to give it up because he could not get the product he wanted. Is that another avenue whereby, as in the case of other products, people use the post or the Internet to get these products into Ireland?

Ms Siobhain Brophy: Yes, people certainly use these avenues to buy products. We should bear in mind that the regulations in place in the EU are much stricter than those in the US. Anybody who sells products into Ireland or uses cross-border distance sales needs to be registered with the HSE. There is regulation of purchasing products online. Under a market surveillance

regulation that applies to a range of products, the HSE will get increased powers in the area of online sales. If there is an issue with products or if the HSE believes certain products are unsafe, it will have increased regulatory powers to instruct a company to remove them from its website. There are also many reporting mechanisms within the EU to highlight dangerous products through the RAPEX system and the market surveillance system, and that is increasing. The EU, as a whole, through market surveillance and within the review of the tobacco products directive, is recognising there need to be increased restrictions, and they will come.

Deputy Bernard J. Durkan: I might make one point by way of light illustration. There was mention of the influence of films, with actors smoking and so on. Ben Affleck had a film about the release of hostages from Iran, where the plan was to disguise a crowd of people as actors and to get them out of the country that way. He smoked wall to wall and floor to ceiling throughout the film. I almost choked looking at him. That is a relatively new film, released in 2012, and it got through the production companies somehow. It is a good film - there is no doubt about that - but that was the sting in the tail.

Chairman: There is also the question of whether, if we start censoring images of cigarettes, we should move on to censoring violence and so on and where we will stop. That is the balance we need to strike as a society.

The meeting has been really helpful. It would be useful if we could receive examples of other jurisdictions' approaches, for the benefit of the wider Oireachtas. I thank our guests. They provided some really useful information and it has been a good discussion. We are all a bit more aware of the challenges we face in the context of this legislation. I appreciate them attending and giving of their time.

The joint committee adjourned at 11.36 a.m. until 9.30 a.m. on Thursday, 11 November 2021.