

Tuesday October 3, 2023

Re: Notification 2023/0405/LV (Latvia) - Draft law: “Amendments to the law On the handling of tobacco products, herbal products for smoking, electronic smoking devices and liquids”

To whom it may concern,

On behalf of The Tholos Foundation, a non-profit organization which advocates in the interests of taxpayers and consumers throughout the world, we write to express our strong concerns regarding the Republic of Latvia’s draft amendments to the law “On the handling of tobacco products, herbal products for smoking, electronic smoking devices and liquids”. This misguided draft law seeks to restrict access to lifesaving reduced risk tobacco alternatives such as electronic cigarettes, heat not burn devices (HNB), and oral nicotine products such nicotine pouches through banning flavors proven critical to the process of helping adults quit smoking. **The evidence clearly demonstrates that if enacted, this bill would have a disastrous impact upon not only businesses, but public health throughout the Republic of Latvia, and lead to a clear increase in tobacco-related mortality.**

The Tholos Foundation further submits that in addition to the public health disaster that reducing access to reduced risk tobacco alternatives will unleash, these proposals would also have devastating consequences on businesses, when they can afford it least at this time of high inflation, which in 2022 reached a staggering 17.31% in Latvia. It would kill countless jobs and would cost small business owners their livelihoods. As such in addition to the public health outcomes, the draft law’s total economic cost would be devastating.

Traditional combustible tobacco remains one of the leading preventable causes of death in Latvia, with over 4,000 deaths attributed annually. As such, it is a moral responsibility of governments to encourage actions which reduce the use of combustible tobacco. Unfortunately, the draft law will have the opposite effect, increasing its prevalence in the country. **It is critical to note that the negative health effects of combustible tobacco come from the chemicals produced in the combustion process, not nicotine.** While highly addictive, nicotine is a relatively benign substance like caffeine and nicotine use “does not result in clinically significant short- or long-term harms”. Nicotine replacement therapies such as nicotine patches and gums have helped smokers quit for decades. In recent years, advancements in technology have created a more effective alternative: vapor products and e-cigarettes. These products deliver nicotine through water vapor, mimicking the habitual nature of smoking while removing the deadly carcinogens that exist in traditional cigarettes.

Studies have repeatedly shown that flavors in vapor products, which this proposal would prohibit, are critical to helping adult smokers make the switch to vaping. Adults who use flavored vapor products are 43% more likely to quit smoking than an adult who uses unflavored products, according to a recent [study](#) from ten of the world's top experts in cancer prevention and public health.

The most comprehensive study to date on the effects of flavor bans on electronic nicotine delivery systems, funded by the United States National Institutes of Health, and published on September 26, 2023, examined 375 localities and 7 states in the United States where flavor bans on electronic nicotine delivery systems (ENDS) were implemented. The results found that flavor bans significantly increase consumption of deadly combustible cigarettes concluding that *“ENDS flavor policies reduce flavored ENDS sales as intended, but also [increase cigarette sales across age groups](#). As cigarettes are much more lethal than ENDS, the high rate of substitution estimated here suggests that, on net, any population health benefits of ENDS flavor policies are likely small or even negative”*. The aforementioned studies are in line also with polling commissioned by the Tholos Foundation, in partnership with Ipsos, which has consistently found that approximately 60% of current vapers believe they [will be pushed back to smoking combustible cigarettes if flavor bans are enacted and enforced](#).

Further, bans on flavored vaping products are shown to cause increased youth cigarette smoking. A [study](#) from Dr. Abigail Friedman at the Yale School of Public Health found that when San Francisco imposed a flavor ban in 2018, youth smoking doubled. Before San Francisco's flavor ban, the city had lower youth smoking rates than comparable counties like New York and Los Angeles. After the flavor ban, San Francisco's youth smoking rate rose to 6.2% while comparable districts had an average rate of 2.8%.

Contrary to the claims of anti-vaping advocates, science shows flavors play no role in youth uptake of vaping. Academic studies have found that teenage non-smokers “willingness to try plain versus flavored varieties did not differ” and a mere 5% of vapers aged 14-23 reported it was flavors that drew them to e-cigarettes. In the United States, the National Youth Tobacco Survey results have shown [no increase in nicotine dependency](#) among youths since flavored products entered the market.

It is also important to note growing evidence that flavor bans lead to significant benefits to criminal syndicates who run sophisticated smuggling operations. These networks, who also engage in human trafficking & money laundering, have also been used to fund terrorist and the **US State Department has explicitly called tobacco smuggling a “[threat to national security](#)”**, while in Europe Interpol has expressed similar alarm. Earlier this year 46 people smugglers were arrested and millions of cigarettes seized in an operation focusing on tackling tobacco and other smuggling in the Baltic Sea Region, led by Latvia and co-led by both Estonia and Lithuania. More than [30 million cigarettes and 480kg of raw tobacco were seized](#). It is clear that flavor bans will extend such operations to the vaping market. In fact polling conducted by the Tholos Foundation in neighboring Estonia found that after implementation of their flavor ban, [58% of vapers use illicit](#)

[products](#). It seems evident that a similar result will occur in Latvia if this proposal is implemented

In addition to restrictions upon the sale of flavored e-cigarettes, this proposal would extend these restrictions to other reduced risk alternatives, such as Heat Not Burn products and oral nicotine pouches. Heat-not-burn products (HNBs) heat tobacco, rather than burning like in a cigarette, to produce a vapor. HNBs are most popular in Japan and have directly resulted in cigarette sales decreasing by 43% over 5 years.

The U.S. Food and Drug Administration has authorized marketing of HNBs as having “reduced exposure” to harmful substances. One study found that HNBs emit between 85% and 95% less dangerous chemicals like carbonyl compounds and polycyclic aromatic hydrocarbons. Nicotine pouches are a completely tobacco-free oral alternative to cigarettes. Nicotine pouches have a lower toxicant profile than Swedish snus and contain only trace amounts of chemicals. In delivering nicotine in a manner similar to nicotine gums, they are placed under the lip allowing nicotine to be absorbed, and ingredients are generally limited to cellulose, water, flavors, and nicotine.

In trying to limit the use of nicotine in pouches, proponents of this proposal fundamentally misunderstand the science regarding nicotine. Although potentially lethal at very high doses, the blood levels typically achieved by consuming nicotine via harm reduction products “[does not result in clinically significant short- or long-term harms](#)”. This is why smokers have been using nicotine replacement therapies (NRT) for decades without incident. These products replace smoking with nicotine patches and gums, which provide users with controlled doses of nicotine, and are widely sold as consumer goods, including to people under the age of 18. For the past 30 years, NRT products have been consistently approved for smokers as young as 12 years old, with no noted adverse effects. It is also worth noting, that regardless of its benign health impacts, millions of vapers go on to completely quit nicotine and thus eliminate their exposure to even nicotine itself.

In addition to restricting the use of flavors in oral nicotine products, the proposal would also restrict the strength to just 4 milligrams a gram, considerably lower than in other EU member states, and one which would dramatically reduce their effect as a quit smoking device, meaning more people would continue to smoke as a result of this being implemented.

It must be emphasized there is no current evidence that an arbitrary limit on the strength of nicotine products available for adult consumption would benefit public health, but significant evidence exists that demonstrates it would cause

harm. Imposing a cap on the amount of nicotine that can be available in these products limits the number of effective products on the market designed to provide an off-ramp for those who smoke from cigarettes to reduced risk alternatives.

For heavy smokers, products whose nicotine strength exceeds the limit proposed in the proposal are essential for quitting smoking. Limiting their ability to purchase these products would further disincentivize smokers from making the switch. Those who smoke the heaviest are at the highest risk for tobacco-caused cancers and diseases. As such this proposal would keep these individuals smoking, and dying, from combustible tobacco.

Finally, it is noted that it is highly likely the draft law violates Article 34 of the Treaty on the Functioning of the European Union, which guarantees freedom of movement of goods, given it is clear from the evidence, it does not fall under any public health exception, and in addition, violates article 36 which guarantees the principle of non-discrimination and the freedom of trade and industry (Article 36 TFEU):

Benefits of E-Cigarettes and Vapor Products:

- **Vapor products have been [proven to be at least 95% safer than combustible cigarettes](#).** A comprehensive analysis of nicotine product harm estimates that e-cigarettes expose users to just 4% of the harm of combustible cigarettes.
- E-cigarettes are also more than [twice as effective](#) at helping smokers quit than traditional nicotine replacement therapies. According to one [study](#), someone who smokes and is attempting to quit with an e-cigarette has an estimated 323% higher chance of achieving complete cessation compared to someone using a traditional nicotine replacement therapy like nicotine-containing patches, gum, or mouth spray.
- Meta-analysis of all available studies conducted by the Cochrane Library, considered the gold-standard of systematic reviews and meta-analyses, has identified “[high certainty evidence](#)” that e-cigarettes are more effective than nicotine replacement therapies at helping those who smoke quit.
- Vaping has been endorsed by over 100 of the world’s leading [public health organizations](#) as safer than smoking and an effective way to help smokers quit.
- An [analysis](#) by Public Health England demonstrated just how effective vaping is in helping people quit smoking, noting that in just one year, over 50,000 British smokers, who would have continued smoking otherwise, quit smoking



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with vaping.

- A study from Value in Health Journal [found](#) that legislative actions banning flavored electronic cigarettes is directly correlated with increased traditional cigarette sales.
- A University of Glasgow study showed that e-cigarettes particularly [help disadvantaged](#) people quit smoking. As such the draft law will have a tremendously negative impact on public health and would fail to decrease socioeconomic disparities by reducing adult access to products shown to improve public health.

For the reasons outlined above, in the interests of improving public health, protecting the Latvian economy, and preventing the spread of smuggling cartels, we raise these areas of concern regarding the draft proposal.

Sincerely,

Tim Andrews
Director of Consumer Issues
Tholos Foundation