



Response of Esigbond to TRIS Notification 2025/0400/NL regarding the Draft Regulation on the Introduction of Standardised Packaging for E-cigarettes

October 2025

The independent Electronic Cigarette Association of the Netherlands (“Esigbond”) welcomes the opportunity to express its serious concerns regarding the consequences of the Dutch draft regulation amending the Tobacco and Smoking Products Regulation in connection with the introduction of standardised packaging for cigars and electronic vaping products, notified under TRIS reference 2025/0400/NL.

Esigbond also wishes to take this opportunity to correct several persistent misconceptions about the regulated e-cigarette and to underline the important role that the e-cigarette plays for current users—and can play for adult smokers—in reducing smoking prevalence and achieving public-health gains.

Summary — We respectfully ask the Dutch government to:

1. Provide clarity on the technical implementation of the measure.
2. Take into account the obligations applying to consumer sales.
3. Seriously consider the practical (in)feasibility and accommodate the regulated sector.
4. Make an exception for products without nicotine.
5. Reflect the relative risk of the e-cigarette compared with the tobacco cigarette and allow this to be expressed on the packaging.
6. Prevent and better enforce against the illegal trade and inflow of unregistered e-cigarettes.
7. Take into account the European trade and harmonisation implications, including the risk of additional costs, market fragmentation and restrictions on the free movement of goods within the European internal market.

1. European trade and harmonisation implications

The proposed introduction of standardised packaging for e-cigarettes in the Netherlands also has significant implications for the European internal market. Manufacturers and distributors operating in multiple EU Member States will face additional costs and logistical burdens, since they must develop and maintain separate packaging lines for the Netherlands. This leads to fragmentation of the European internal market and constitutes a barrier to the free movement of goods, as protected under Article 34 TFEU.

In addition, there is a risk of unequal treatment between market participants from different Member States: companies active in the Netherlands are subjected to stricter requirements than competitors elsewhere in the EU.

Although several other EU Member States have already introduced national rules for standardised packaging, these measures differ markedly in scope, execution and product categories. The Dutch proposal risks further intensifying this fragmentation, creating a patchwork of diverging national

rules that places EU harmonisation under the Tobacco Products Directive (2014/40/EU) under pressure. The directive deliberately does not mandate standardised packaging for e-cigarettes, precisely to balance public-health goals with innovation and the proper functioning of the European internal market. Further national deviations increase regulatory complexity and legal uncertainty for market operators active in multiple Member States.

2. Flawed basis for the proposal

The proposal appears to be based on the assumption that TPD-compliant e-cigarettes (products that meet EU requirements) are equivalent to illegal, unregistered products that appear in the media almost daily. This is a misconception:

1. The colourful and cartoon-like images of products presented as examples in the RIVM report concern non-TPD-compliant illegal products that are not produced or sold by the regulated sector.
2. TPD-compliant products are registered in the EU-CEG database, which means that contents, quality and manufacturer are known and therefore enforceable. Illegal products, by contrast, are unregistered and the seller is unknown. As a result, these products are not enforceable, yet are popular among minors.
3. Since 1 January 2024, packaging has already been adapted to the flavour ban: only “tobacco flavour” is allowed. These are clearly not the products purchased by minors. There is therefore no justification or necessity for standardised packaging.

By requiring standardised packaging for TPD-compliant products, the measure targets the wrong party, while the true source of the problem—the illegal trade in unregistered products—remains unaddressed.



3. The measure is ineffective — illegality persists and the stated aim will not be achieved

The stated aim of the measure—“to prevent children from becoming addicted to nicotine and to protect them from the temptation to smoke/vape”—will not be achieved. The proposal does not address the actual source of the problem, namely youth access to illegal products, but affects only the regulated sector that sells registered products complying with TPD requirements. The problem lies in:



1. Minors' access to illegal, non-TPD-compliant, unregistered products that fall outside regulation.^{1 2}
2. The fact that earlier measures (such as NIX18, the display ban, the flavour ban and the online sales ban) have not had the desired effect to prevent youth from getting access to these illicit products.

Illegality and trade in unregistered products have grown into a serious problem. In the past six months, hundreds of thousands of illegal products have been seized. Youth predominantly use unregulated vaping products that exceed legal limits for nicotine content and liquid volume.³⁴⁵ Introducing standardised packaging will therefore make no contribution to reducing minors' use of illegal, non-TPD-compliant, unregistered e-cigarettes, with all the attendant public-health risks.⁶

4. Risk proportionality: the e-cigarette is substantially less harmful than the tobacco cigarette and is a proven cessation aid

Risk proportionality

There are many misconceptions about e-cigarettes. Over 85% of Dutch smokers wrongly believe that e-cigarettes are as harmful as, or even more harmful than, conventional cigarettes.⁷ This is a global issue. The UK Office for Health Improvement and Disparities (OHID)⁸ notes that public perceptions of the absolute and relative harms of vaping often do not align with the scientific evidence, and that such misperceptions clearly influence smoking and vaping behaviour. Incorrect perceptions (that vaping is as or more harmful than smoking) are associated with a greater likelihood of relapse to smoking among ex-smokers, whereas correct perceptions (that vaping is less harmful) are associated with more switching to vaping among smokers. The e-cigarette is a demonstrably substantially less harmful alternative to the cigarette, and smokers who transition away from smoking with the help of an e-cigarette are advised not to stop using the e-cigarette until the risk of relapse to smoking has subsided.

E-cigarettes provide health benefits for smokers who switch completely. This is confirmed by the Trimbos Institute.⁹ RIVM further states that smokers have an interest in clear and comprehensible information about less harmful products such as e-cigarettes.¹⁰ Packaging—as well as broader policy—should support this relative-risk message.

Adult smokers' right to effective tools

¹ <https://archive.ph/bkpwZ#selection-1419.90-1425.180> *De illegale vapehandel op schoolpleinen neemt toe, maar makkelijk verdienen is moeilijk te stoppen Volkskrant*

² RTL <https://www.rtl.nl/nieuws/artikel/5450560/wat-zit-er-vapes-vapes-van-nederlandse-kinderen-lab-onderzocht-bomvol-gif>

³ <https://www.nvwa.nl/nieuws-en-media/nieuws/2025/07/10/nvwa-neemt-80.000-illegale-vapes-in-beslag>

⁴ <https://www.nvwa.nl/nieuws-en-media/nieuws/2025/07/10/nvwa-neemt-80.000-illegale-vapes-in-beslag>

⁵ <https://www.nvwa.nl/nieuws-en-media/nieuws/2025/05/19/nvwa-neemt-70.000-verboden-vloeistoffen-voor-vapes-in-beslag>

⁶ <https://www.rtl.nl/nieuws/artikel/5450560/wat-zit-er-vapes-vapes-van-nederlandse-kinderen-lab-onderzocht-bomvol-gif>

⁷ <https://www.weareinnovation.global/documents/wai-ipsos-innovation-misperception-epidemic.pdf>

⁸ *Nicotine vaping in England: 2022 evidence update main findings (2022) GOV.UK. Available at: <https://www.gov.uk/government/publications/nicotine-vaping-in-england-2022-evidence-update/nicotine-vaping-in-england-2022-evidence-update-main-findings>.*

⁹ Trimbos factsheet Factsheet Elektronische Sigaretten (Vapes) (oktober 2023) [link](#)

¹⁰ Staal, Y.C.M. and Talhout, R. (2016) 'Alternatieve tabaksproducten: harm reduction?' [link](#)



As long as more than 2.5 million adults still smoke in the Netherlands and many fail or do not attempt to quit, all tools are urgently needed to reduce smoking-related health risks.¹¹ E-cigarettes are among the most effective tools to step away from smoking and can help more smokers than the methods designated by the Dutch government.¹² Smoking is demonstrably harmful and smokers have the right to know that switching to e-cigarettes brings health gains. By equating e-cigarettes with tobacco cigarettes, the measure sends the wrong signal and deprives smokers of a less harmful alternative.

Quitting smoking—at any time—reduces the risks of serious disease and premature death. Almost all excess mortality risks disappear when quitting before the age of 40. There is no doubt that vaping (use of e-cigarettes or ENDS) and the use of other smoke-free nicotine products (oral nicotine pouches, smokeless and heated tobacco) are far safer than smoking cigarettes. Smoke-free products involve no combustion and produce no combustion products. Switching from smoking to smoke-free nicotine use leads to a greatly reduced exposure to the main toxicants associated with serious diseases.¹³

Misperceptions about current practice

Policy choices are pushing consumers towards the illegal market.¹⁴ Media reports about minors' use of unregistered e-cigarettes are being confused with the registered, TPD-compliant e-cigarettes sold by the regulated sector, yet they are used as justification for policy—misleading the public.¹⁵

5. Consumer information obligations

Under both Dutch and European law, the retailer is obliged to provide the consumer with clear information prior to purchase. Consumers are entitled to clear and accurate information, and retailers must comply with the following rules:

1. Before purchase, the retailer must provide clear, accurate and complete information about the product: characteristics, price (incl. VAT and any costs), delivery time and the identity of the seller.
2. Misleading or incomplete information is prohibited (Unfair Commercial Practices Act).

This measure (standardised packaging) prevents retailers from providing the correct information. Existing rules already make this difficult: retailers may not inform consumers about e-cigarettes (advertising ban) and, at the only place where consumers may be informed about e-cigarettes (the physical store), promoting e-cigarettes is prohibited. Retailers may not take the product out of the packaging. If the packaging no longer offers the possibility to provide information, consumers cannot be properly informed. In Denmark, where neutral packaging for e-cigarettes applies, consumers can

¹¹ Etter, J.-F. (2025) 'Let's talk about nicotine, tobacco, smoking cessation and harm reduction', *Nicotine, tobacco and smoking cessation*, 21 May. Available at: https://profetter.substack.com/p/welcome?utm_medium=ios.

¹² Lindson, N. *et al.* (2025) 'Electronic cigarettes for smoking cessation - Lindson, N - 2025 | Cochrane Library'. Available at: <https://www.cochranelibrary.com/cdsr/doi/10.1002/14651858.CD010216.pub9/full>

¹³ 'Tobacco harm reduction: evidence briefs for policymakers' (2025) *The Counterfactual*. Available at: <https://clivebates.com/evidence/>

¹⁴ https://acvoda.nl/2024/08/30/enquete-onder-nederlandse-dampers-over-de-gevolgen-van-het-online-verkoop-en-smaakverbod/?_sm_nck=1

¹⁵ Hulten, M. van (2025) *Als deze moeder ontdekt hoeveel haar zoon vapet en hoe schadelijk dat is, bedenkt ze een onorthodox alternatief, de Volkskrant*. Available at: <https://www.volkskrant.nl/volkskrant-magazine/als-deze-moeder-ontdekt-hoeveel-haar-zoon-vapet-en-hoe-schadelijk-dat-is-bedenkt-ze-een-onorthodox-alternatief~b21ff196/>



inform themselves online. In the Netherlands this is not possible because of the online sales and display bans.

6. Lack of clarity, impracticable execution and unrealistic transition period

The entry-into-force period is not feasible and the transition period is unrealistic. There are more than 1,200 non-nicotine products (devices and accessories) on the market. Every e-cigarette has unique accessories such as coils, clearomisers and batteries. All these products have their own packaging. This excludes e-liquids, of which approximately 320 are in circulation.

Uncertainty about packaging requirements, production time and stock turnover

Firstly, there remains uncertainty on many points regarding the packaging requirements, which makes it impossible for manufacturers to implement them at this time. We refer to letters sent by the association and multiple market parties to the Ministry requesting clarification. Only after receiving clarity will it be possible to instruct designers on implementation of the measure.

Request to consider production and logistics lead times and stock turnover

We kindly ask you to account for the time required for the production and transport of new packaging as well as for the turnover rates of both importers and retailers.

Turnover of e-cigarettes and accessories is low and Dutch inventories are large—both in stores and with importers. The average turnover time (manufacture, transport, stock) for devices at an importer is 18 months. Importers hold substantial inventories due to minimum order quantities at Chinese manufacturers and to ensure supply compliant with Dutch TPD rules.

The average turnover time at a retailer is 12 months.

As long as it is technically not yet feasible to supply new packaging, we request that the government allow importers to continue supplying regulated Dutch retailers with current packaging. Retailers, in turn, should be given ample opportunity to sell through their inventories.

7. Consumer impact

Refillable and rechargeable e-cigarettes (devices) are relatively durable products: consumers use their device for a longer period, partly due to the higher purchase price.

Accessories for these durable starter sets (coils and clearomisers) are purchased by consumers for a considerable time after purchase. Volumes are low, and it will not be economically viable for manufacturers to provide new neutral packaging for these accessories. This saddles consumers with a problem: if such accessories are no longer available, the consumer will have to purchase a new device. The government should also ask whether there is any necessity to require neutral packaging for accessories. The packaging of an accessory will not influence whether someone decides to use an e-cigarette.

Moreover, the introduction of standardised packaging makes it practically impossible for consumers to find the right product.

8. Disproportionate impact on the sector — no demonstrable necessity

Earlier measures have led to an approximately 80% decline in sales in the regulated sector. The drop is corroborated by the NSO Retail sales monitor, which has recorded a 64% decline since the



introduction of the flavour ban on 1 January 2024.¹⁶ This decline does not correspond with reported e-cigarette use. It clearly shows that young people (and adults) purchase vapes through channels other than the regulated sector.

In recent years the regulated sector has faced significant, impactful legislation intended to protect non-smokers and minors from e-cigarette use (display ban, online sales ban and flavour ban). The actual results or impact of these rules on the intended target group for regulated products have not been measured by the Dutch government.

Moreover, since January 2024 the sector has already implemented two major, costly changes to packaging and products:

1. 1 January 2024: As a result of the flavour ban, all existing products—including those with tobacco flavour—had to be removed from the market. This necessitated the development of entirely new e-cigarettes (including packaging).
2. 1 January 2025: All packaging once again had to be adapted to remove references to “tobacco flavour”.

The current plan means that more than 1,200 products would have to be adapted yet again, leading to insurmountable costs and an unworkable situation.

This would therefore be the third time that changes are demanded of a sector that is cooperative but is wrongly portrayed as the cause of the problem.

The forthcoming measure to limit the sale of e-cigarettes to specialist shops makes this measure entirely superfluous.

9. The crucial role of the legal sector is being undermined

The legal sector plays an essential role in supporting adult smokers to move away from smoking. Current and planned measures make this role virtually impossible:

1. With the introduction of the online sales ban (1 July 2023) and the flavour ban (1 January 2024), specialist vape shops have almost disappeared from the high street.
2. Sales of e-cigarettes now take place only in tobacconists and convenience stores, which severely restricts access for adult ex-smokers. Government plans to confine availability of e-cigarettes strictly to specialist stores will drastically reduce consumer availability.
3. There is an urgent need for greater focus on the adult smoker. The number of adult and hard-to-quit smokers is hardly declining, and fewer people are making quit attempts.

By undermining the legal sector, it becomes virtually impossible to support smokers—who would otherwise continue smoking—in switching to a less harmful alternative from which they can substantially benefit.

¹⁶ <https://nsoretail.nl/ledenvoordelen/nso-retail-omzetmonitor/>



10. Justification of the measure is inconsistent with science and practice

The justification of the measure (as set out in the explanatory memorandum to Stb. 2025, 8) is not consistent with the current state of science and practice, and may unintentionally undermine both the ability of adult smokers to stop smoking completely and the opportunities to significantly reduce their health risks through harm reduction.

Objective of stopping smoking and vaping for all ages

Government's argument:

A combination of legal measures and intensive campaigns aims to ensure that all smokers (young and old) and users of electronic vaping products stop smoking and vaping, remain abstinent, and that second-hand smoke and vapour exposure for young and old is prevented.

Response:

Reducing adult e-cigarette use cannot be a goal in itself, given that a large group of adult smokers fail to quit smoking or have no intention of ceasing nicotine use. As long as millions still smoke in the Netherlands, it is essential that substantially less harmful alternatives—such as e-cigarettes and other proven, less harmful nicotine products—remain available and attractive. These products offer smokers an effective opportunity to quit completely or to substantially reduce their health risks. Independent assessments—including the Nicotine Vaping in England Evidence Update (OHID, 2022)—confirm that complete switching from smoking to regulated e-cigarette use is associated with substantially lower health risks. Even when complete cessation is not achieved, replacing (part of) one's cigarettes with vaping can lead to significant reductions in exposure to carcinogens and other toxins. Moreover, OHID emphasises that people who have switched to vaping should be discouraged from quitting vaping if there remains a real risk of relapse to smoking. In such cases, continued use of e-cigarettes is an acceptable harm-reduction strategy because its health risk is only a fraction of that of smoking.

Consistency in tobacco control policy

Government's argument:

Introducing standard requirements for the packaging of cigars and electronic vaping products will significantly reduce the attractiveness of the packaging of these products and, consequently, of the products themselves. A standardised package for all electronic vaping products and cigars is consistent with the already-introduced standardised packaging for cigarettes and roll-your-own tobacco.

Response:

The drive for regulatory consistency is understandable, but uniform packaging for products with widely diverging risk profiles can have unintended negative effects. International research, including the OHID report (2022)¹⁷, highlights the importance of correct risk communication. Visually equating e-cigarettes with tobacco cigarettes can reinforce the growing misperception that both are equally harmful. Such misperceptions are identified in the literature as a barrier to smokers' willingness to switch to less harmful alternatives and thus as a missed opportunity for substantial health gains. In practice, sales of regulated e-cigarettes have shifted almost entirely towards unregulated, illegal products with a much higher risk profile. The measure applies only to the regulated market, which

¹⁷ Nicotine vaping in England: 2022 evidence update main findings (2022) GOV.UK. Available at: <https://www.gov.uk/government/publications/nicotine-vaping-in-england-2022-evidence-update/nicotine-vaping-in-england-2022-evidence-update-main-findings>



now constitutes a very small share of total consumption. The result is that for smokers the attractiveness of products that meet strict safety and quality standards as switching aids is reduced, while the far riskier unregulated e-cigarettes remain unaffected.

Assumed attractiveness of packaging overtaken by practice

Government's argument:

Standardised packaging is an appropriate measure because packaging largely determines how attractive a product is. Current packaging is often attractively designed and gives cigars and electronic vaping products the appearance of a luxury product. For e-cigarettes the packaging sometimes even gives the impression that the product is harmless, and it is not infrequently targeted at young people.

Response:

While packaging elements can in theory contribute to product appeal, packaging design for regulated e-cigarettes in the Netherlands has already been markedly simplified since the flavour ban (2024). There is no longer any question of the striking marketing expressions that were possible in the past. The assertion that packaging still frequently has a luxury appearance or seems harmless does not reflect today's legal market. The necessity for further packaging neutrality has therefore been overtaken by events. The key challenge now is to curb the extensive illegal market, where products with bright colours, eye-catching designs and a much higher risk profile circulate. New restrictions on the packaging of regulated products will not change the attractiveness of these unregulated products, but will discourage the less harmful, regulated offer.

More prominence for health warnings

Government's argument:

Standardised packaging will draw more attention to the discouraging elements on the packaging, such as the health warning. This increases awareness of the harmful risks of electronic vaping products to public health and can thus contribute to discouraging use.

Response:

International evidence (including OHID 2022) shows that health warnings on vapes are often misinterpreted as indicating that these products are as harmful as cigarettes. This increases misperceptions and may cause smokers to be less inclined to switch. If the aim is to reduce the most harmful forms of nicotine use, packaging must warn without obstructing switching. That requires a different visual and textual balance than for tobacco.

No less far-reaching options possible

Government's argument:

It is not possible to reduce the attractiveness of the packaging of these products for young people, smokers, vapers or former smokers/vapers in another way: less far-reaching requirements would still allow room for attractive features and would distract from the health warnings, and therefore would not sufficiently contribute to the ambitious goal of a smoke-free generation by 2040.

Response:

The assertion that it is not possible to reduce packaging attractiveness in a less far-reaching way does not match current practice. Since the flavour ban and subsequent packaging changes, there are no longer any regulated e-cigarettes with packaging that exerts appeal on young people through its design. This is also evident in youth behaviour: they do not buy regulated, TPD-compliant products,



but exclusively unregulated, illegal ones. This shows that it is indeed possible to limit attractiveness via less intrusive measures. Restrictions can remain targeted at specific elements that appeal to young people (such as bright colours, toy-like design or brand logos), while functional and neutral appeal for adult smokers is preserved. This aligns with harm-reduction approaches such as in the UK, where youth access and marketing are restricted, but switching options for adult smokers are supported.

No exemptions for nicotine-free e-cigarettes or components

Government's argument:

Exempting certain products—such as nicotine-free e-cigarettes—or components could suggest that use of those products or parts is not, or is less, harmful.

Response:

In reality, there *is* broad scientific consensus that (nicotine-free) e-cigarettes are significantly less harmful than smoking tobacco.¹⁸ Applying identical packaging requirements reinforces the false impression that all forms of use are equally dangerous. This undermines the goal of harm reduction and may discourage adult smokers from switching to less harmful options.¹⁹

Esigbond

info@esigbond.nl

¹⁸ *Nicotine vaping in England: 2022 evidence update main findings* (2022) GOV.UK. Available at: <https://www.gov.uk/government/publications/nicotine-vaping-in-england-2022-evidence-update/nicotine-vaping-in-england-2022-evidence-update-main-findings>

¹⁹ 'Tobacco harm reduction: evidence briefs for policymakers' (2025) *The Counterfactual*. Available at: <https://clivebates.com/evidence/>