

BFTG Contribution to Denmark's TRIS notification 2024/0064/DK

The German association BfTG would like to express its concerns regarding the Draft Act amending the Act on tobacco products etc. and various other acts, as notified by Denmark to the European Commission on 8 February 2024, under the reference [2024/0064/DK](#).

Many of our members in Germany maintain close business relationships with Danish vape shops. Therefore, the Draft Act affects us directly and we would like to comment on it.

According to the statement of grounds submitted by the Danish authorities, the Draft Act intends to *“prohibit the import, purchase, supply, receipt, manufacture, processing and possession of electronic cigarettes and refill containers with nicotine that have a characterising flavour other than one of menthol or tobacco”* and to allow the Danish Safety Technology Authority *“to carry out seizures of tobacco and nicotine products, as well as equipment and flavourings intended to be used in conjunction with such, if there is reason to believe that they violate penal provisions of the relevant acts”*.

The BfTG believes that these regulations will be very damaging to SMEs in the Danish vaping industry, as they will allow the Security Technology Authority to improperly confiscate legal and compliant products.

Overall, the BfTG respectfully asks the European Commission to re-examine the process on the basis of the information we provide in this contribution.

1. Risk of abusive seizures and threat to the Danish legal industry

As the TRIS notification's statement of grounds mentions, in order to carry out seizures of vaping products that do not comply with Danish legislation, the Safety Technology Authority must request the police to confiscate the goods.

In Denmark, the Safety Technology Authority is responsible for ensuring the compliance of the vaping industry with national laws. However, the Authority has been known to issue abusive immediate bans of perfectly legal products, on the basis of erroneous information and mistakes.

Allowing the Safety Technology Authority to carry out seizures directly runs the risk of abusive confiscations based on wrong information, forcing vaping companies to contest them in court. While SMEs can currently keep their products during legal proceedings, the Draft Act would allow the Authority to keep those products until the court decides on the case. As such proceedings can last up to 5 years, the seizures allowed in this Draft Act endanger the livelihoods of Danish vaping SMEs.

Denmark already has one of the strictest vaping legislation among EU Member States, with a ban on vaping flavours other than tobacco and menthol and with one of the highest taxation rates of e-liquids. These restrictive measures, justified by the Danish government with the protection of public health, have so far failed to produce the intended result. On the contrary, after flavours were banned in 2020, the percentage of 15-29 year-olds who smoked tobacco cigarettes went from 23% to 25% in 2022, according to a [report](#) by the Danish National Board of Health. More consumers bought products from the black market, and the consumption of flavoured products rose despite the ban.

Because of the pressure on SMEs due the threat of unjustified seizures, the Draft Act will deal a serious blow to the legal vaping industry, putting jobs at risk.

2. Vaping products - a harm reduction opportunity for public health policy

Many independent and publicly funded studies have highlighted the **harm reduction potential of vaping products**: a [report](#) commissioned by Public Health England found that vaping is 95% less harmful than smoking combustible cigarettes, and a [study](#) financed by the prestigious Institut Pasteur confirmed that vaping is significantly less carcinogenic than smoking and constitutes an acceptable replacement for traditional tobacco. Other sources pointing to the harm reduction potential in vaping can be found in studies by the [Royal College of Physicians](#) or published in the [British Medical Journal](#). Overall, vaping products reduced the risk of cancer for smokers.

Vaping products also play a **critical role in helping adult smokers to quit traditional tobacco**. Peer reviewed studies by the [American Journal of Public Health](#) and research led by the [University of Oxford](#) highlight the smoking cessation potential of vaping.

The [Cochrane Database of Systematic Reviews](#) has found high certainty evidence that e-cigarettes lead to better chances of quitting smoking than traditional Nicotine Replacement Products (NRP). Since the last update in 2022, ten new studies have been added to the review. Currently, 88 studies with more than 27,235 participants have been evaluated.

A [recent study from Switzerland](#) with 1246 participants published in the New England Journal of Medicine “[clearly shows](#) that nicotine e-cigarettes can help people to stop smoking. It adds to a strong and consistent body of evidence supporting the use of nicotine e-cigarettes as a stop smoking aid.”

The European Parliament considered in two separate reports - the report on [strengthening Europe in the fight against cancer](#) (2022) and the report on [non-communicable diseases](#) (2023) - that “electronic cigarettes could allow some smokers to progressively quit smoking”.

For these reasons, we can expect that the Draft Act, by endangering legal vaping companies, **will push smokers away from a safer alternative** and lead to a **bigger rise in tobacco smoking rates** than is already the case. At the same time, the Draft Act holds no provision capable of deterring the black market of vaping products, which by definition does not comply with the law. Illegal products, which are not controlled and are therefore dangerous for consumers, will flourish even more than they already do. The Draft Act will therefore do **more harm to Danish public health than good**.

About the BFTG

The BFTG has been representing small and medium-sized companies in the German e-cigarette industry since 2015. It represents around three quarters of the market and operates absolutely independently of the tobacco industry. In doing so, it advocates a factual dialogue on necessary regulations as well as the health and economic policy potential of the e-cigarette. Its members include well-known liquid and hardware manufacturers as well as wholesalers and retailers from all over Germany.

We remain available anytime for any further questions or comments you may have:

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