



May 13, 2024

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

ESIGBOND - the Dutch Trade Association for e-cigarette producers and sellers - 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](#).

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”.

ESIGBOND believes that these provisions will penalise Danish vaping industries' SMEs by allowing the Safety Technology Authority to abusively seize legal and compliant product.

Overall, ESIGBOND respectfully calls on the European Commission to re-examine it in the light 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 legislations 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 to 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 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**.

Conclusion

Against this background, ESIGBOND respectfully calls on the European Commission to examine the Draft Act taking into account the information provided in this contribution, and encourage the national authorities to adopt measures adapted to the pursued aim and refrain from penalising the legal vaping industry.