



Submission to the Netherlands Ministry of Health, Wellbeing and Sports via Overheid.nl in response to the public consultation on heaters and standard packs of e-cigarettes and cigars.

From: Vape Business Ireland

Date: 18.09.2020

[Vape Business Ireland](#) is the largest vaping trade body in Ireland. Our membership is representative of the manufacture, supply, distribution, and sale of vaping products in Ireland.

Our members operate to the legal requirements as set out in the European Union Tobacco Products Directive (TPD) and national regulations in Ireland. As an organisation we are deeply concerned with proposals in the Netherlands to introduce 'plain packaging' for vaping products, ostensibly under the auspices of the Tobacco Products Directive.

The reasons we are opposed to this proposal include:

- 1) Article 24(2) of the TPD expressly permits EU Member States to introduce a national standardised packaging regime for tobacco products. However, there is no equivalent provision in the Directive for vaping products.
 - a) Plain packaging for combustible tobacco products has been applied in Ireland and several other EU markets.
 - b) Products that are not combustible and which are potentially less harmful should not be treated in the same way as cigarettes.
 - c) Novel products, which are designed to deliver nicotine without smoke from combustion, are clearly different and should not be presented the same as cigarettes or other tobacco containing products.
 - d) Placing vaping products in plain packaging which is designed for tobacco products would be misleading for consumers. This would have a negative impact on an emerging market with the potential to reduce the harm caused by smoking tobacco products.
- 2) E-cigarettes Vaping products do not contain tobacco or produce smoke and cannot be categorised as tobacco products.
 - a) Vaping product packing should be different to that of cigarette packing and provide consumers with fact-based information on which to make purchasing decisions.
 - b) Misapplying the plain packaging regulations for tobacco products to electronic cigarettes, which do not contain tobacco or produce smoke, would seriously undermine the potential role these products have in tobacco harm reduction in the Netherlands.
 - c) They do not burn tobacco and do not produce tar or carbon monoxide – the most damaging elements in traditional cigarettes. Vaping is less harmful than smoking. According to the *'Evidence review of e-cigarettes and heated tobacco products 2018'* a report commissioned by Public Health England, *'vaping is at least 95% less harmful than smoking'* and Cancer Research UK have also stated that *'evidence so far indicates e-cigarettes are less harmful than tobacco smoking.'*
 - d) There is no evidence that the introduction of plain packaging for vaping products would provide any benefit to public health. On the contrary, there is likely to be a public health disbenefit by misrepresenting products to consumers that produce smoke in the same way as products that do not contain smoke.



- e) Smoking is the largest cause of preventable disease and death. Therefore, it is critical that consumers can differentiate between products that produce smoke and those that do not produce smoke.
- 3) Vaping products have proven to be an effective tool in helping smokers in Ireland quit
 - a) Vape Business Ireland support measures to help transition to a smoke free society and very significant scientific evidence shows that vaping can help smokers switch from tobacco products.
 - b) According to figures from Ireland's Department of Health's [2019 Healthy Ireland Survey](#), 38% of those who made an attempt to quit smoking used vaping products and the percentage of Irish Vapers who are smokers or ex-smokers, is 99%. We need to listen to what smokers say works for them and ensure they have appropriate information available to them.
 - c) The consequences of the proposed measure would remove a clear distinction between tobacco products and vaping products, potentially confusing consumers and undermining the very public health measures that framed the TPD.
- 4) An attempt by an EU member state to interpret the TPD in a way that is not provided for in the Directive is not consistent with the European treaties
 - a) All measures imposed at EU or national level that prohibit or restrict the marketing of tobacco products or vaping products that comply with the TPD requirements, needs justification on the grounds of public health protection and should be in accordance with the principles of proportionality, subsidiarity and effectiveness.
 - b) The TPD makes specific reference to the need to differentiate vaping products to avoid confusion with tobacco products and the proposed measures would remove the current clear distinction between tobacco products and vaping products.
 - c) The justification for requiring plain packaging for cigarette packaging, originates in the TPD and this regulation was introduced to reduce the appeal of combustible tobacco products in order to reduce the harms caused to public health from the smoke these products produce.
 - d) The TPD created a separate category for vaping products. These products have a different set of regulations and are not covered by the plain packaging regulations contained in the Directive. For example, in Ireland the regulations relating to vaping products are separate to the regulations relating to tobacco products.
- 5) Vaping products are already highly regulated and adhere to strict legislation on ingredients and product standards
 - a) All vaping products sold in Ireland must be notified to the Department of Health six months in advance of launch. All Irish and EU vaping devices and liquids are regulated by the [Tobacco Products Directive \(TPDII\)](#). TPDII regulates nicotine strengths, bottle sizes and ensures communications about products are factual and clear. The ingredients that make up all Irish regulated vaping products must be provided to the Health Service Executive, with detailed information including chemical studies and risk assessments. These regulations act as an important barrier to any products that do not adhere to EU standards entering the Irish market.

ENDS