European Commission

FINAL REPORT:
Study on smoke-free environments and advertising of tobacco and related products

Health

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Luxembourg: Publications Office of the European Union, 2021

PDF ISBN 978-92-76-42343-0 doi:10.2875/802479 EW-09-21-451-EN-N

This report was produced under the EU Third Health Programme 2014-2020 under a service contract with the Consumers, Health, Agriculture and Food Executive Agency (Chafea) acting under the mandate from the European Commission. From 1 April 2021, a new executive Agency with name HaDEA (Health and Digital Executive Agency) is taking over all contractual obligations from Chafea. The information and views set out in this report are those of the author(s) and do not necessarily reflect the official opinion of the Commission/Executive Agency. The Commission/Executive Agency do not guarantee the accuracy of the data included in this study. Neither the Commission/Executive Agency nor any person acting on the Commission's/Executive Agency's behalf may be held responsible for the use which may be made of the information contained therein.

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Directorate-General for Health and Food Safety (DG SANTE)

Directorate B - Health systems, medical products and innovation

Unit B2 - Cross-border healthcare and tobacco control

sante-consult-b2@ec.europa.eu

European Commission

Brussels

Health and Digital Executive Agency (HaDEA)

Health and Food

Brussels

European Commission

L-2920 ***Luxembourg***

Study on smoke-free environments and advertising of tobacco and related products

Specific contract 2019 71 01 implementing FWC N°SANTE/2016/A1/39 – Lot1

Final Report

Final version

Date: December 2021

Consumers, Health, Agriculture and Food Executive Agency

Third EU Health Programme

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RAND: Katherine Morley, Sarah Parkinson, Lucy Hocking, Fook Nederveen, Shann Hulme, Hamish Evans

IVO: Nikita Poole, Barbara van Straaten

Independent expert: Vincent Delhomme

Expert reviewers: Gera Nagelhout, Sara Hitchman, Ute Mons

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Luxembourg: Publications Office of the European Union, 2018

ISBN: 978-92-76-42343-0

doi:10.2875/802479

Consumers, Health, Agriculture and Food Executive Agency

Third EU Health Programme

December, 2021 *EN*

TABLE OF CONTENTS

Abstract

This study examined two important aspects of tobacco control: on the one hand, advertising, promotion and sponsorship and on the other, smoke-free environments.

In relation to the former, most Member States have successfully implemented, introduced and monitored rules, and compliance has been high. However, new products and forms of advertising, promotion and sponsorship have created implementation and monitoring challenges. Gender, education, current use of tobacco and related products, and age were associated with noticing advertisements and promotions. Current use of tobacco or related products and country seemed to influence the appeal of advertisements and interest in trying products. Young people were seen as the target of many advertisements, although current use of products was more of a predictor of appeal than age. Concluding lessons and recommendations concern gaps in the current regulatory framework, implementation / application challenges, as well as compliance challenges.

In relation to smoke-free aspects, this study further documents positive social, economic, and environmental impacts of smoke-free environments, showing that most countries have implemented the Council Recommendation (2009 Council Recommendation on smoke-free environments 2009/C 296/02). Compliance with national rules, as well as monitoring and enforcement has been high, and, since 2013, countries have increased protection for children and adolescents. However, there have been several challenges, including differences in the ease of enforcement depending on the environment type: exposure to tobacco smoke, e-cigarettes and heated tobacco products seemed to be most common in certain outdoor environments. Most countries have multi-sectoral tobacco control policy programmes since 2013, with almost all having comprehensive guidelines, media campaigns to promote smoking cessation and telephone quit lines. Finally, concluding lessons and recommendations concern identified gaps in the current regulatory framework, implementation and application challenges, compliance challenges, and enforcement issues.

Executive Summary

This report presents the results of the external study commissioned by the European Commission's Directorate-General for Health and Food Safety (DG SANTE) on smoke-free environments, and advertising, promotion and sponsorship of tobacco and related products.

Introduction

Key provisions on advertising, promotion and sponsorship of tobacco and related products are set out in the Tobacco Advertising Directive (TAD) 2003/33/EC, the Audio-visual Media Services Directive (AVMSD) amended by Directive (EU) 2018/1808, and the Tobacco Products Directive 2014/40/EU. Smoke-free environments' provisions and policies are outlined in the 2009 Council Recommendation on smoke-free environments 2009/C 296/02. Against such a framework, this external study aims at providing an independent evidence base, using primary and secondary data, to explore such provisions through two overarching objectives: offering an overview of the application of provisions related to advertising, promotion and sponsorship of tobacco and related products in all EU Member States (Work Stream 1), and, provide an assessment of smoke-free environment provisions and policies in all EU Member States, EU candidate countries and countries of the European Economic Area (Work Stream 2). Carried out between May 2020 and September 2021, the following evidence concerning Work Stream 1 was collected: Member States' rules and key legislative and policy developments; tobacco industry advertising, promotion and sponsorship activities; exposure to advertising, promotion and sponsorship of tobacco and related products; and placement and content of advertising, promotion and sponsorship. The study also collected the following evidence regarding Works Stream 2: legislation on smoke-free

environments; enforcement of the legislation; progress made to protect children and adolescents; measures for cessation; multi-sectoral approaches; and impacts of rules on smoke-free environments.

We reviewed and assessed against the guiding study questions relevant qualitative and quantitative information gathered from desk research, including an extensive collection of peer-reviewed and grey literature sources, as well as a mapping of national rules. The consultation approach sought to collect further information and feedback on various aspects of the key topics from several stakeholder groups, which further fed into the assessment and analysis. We structured the stakeholder consultation around a variety of different sub-tasks, including targeted stakeholder surveys, phone interviews, focus groups, a citizen's survey of a sample of at least 500 respondents from each of 10 EU/EEA countries, and observational research. Findings presented in this report are based on analysis and triangulation of the data gathered from these various sources. A draft report was peer-reviewed by three independent external experts (Sara Hitchman, Gera Nagelhout and Ute Mons), whose suggestions have been integrated in the final report.

The results and findings contained in the Impact Assessment of 2008 accompanying the Council Recommendation on Smoke-Free Environments[1] are still largely valid.

Work Stream 1 on advertising, promotion and sponsorship of tobacco and related products

Most Member States have successfully implemented and monitored rules and provisions on advertising, promotion, and sponsorship. There has also generally been a high level of compliance. However, new products and new forms of advertising, promotion and sponsorship have created some challenges in implementing and monitoring rules.

There have not been many issues with **implementing** the various EU and international rules on advertising, promotion and sponsorship of tobacco and related products, and overall the definitions contained in these rules are clear and unambiguous. However, some difficulties did emerge, which centre on three main problems: firstly, there are discrepancies between the key definitions contained in the different rules. The terms 'tobacco products', 'advertising' and 'sponsorship' are defined slightly differently in the TAD, FCTC, AVMSD and TPD, while some provisions refer to 'commercial communications'. Secondly, difficulties or gaps exist regarding advertising, promotion, and sponsorship on Internet and social media (including regulation of social media influencers), and finally, gaps exist concerning emerging or novel products which categorisation as traditional tobacco products or e-cigarettes poses difficulties. This concerns heated tobacco products and their devices, nicotine products, herbal products, and flavour cards.

Most **advertising, promotion and sponsorship activities** have been prohibited for traditional tobacco products for smoking in the Member States, therefore only a few types of advertising, promotion and sponsorship activities remain, including ads in trade magazines (though these are not directed at the consumer but exclusively at retailers), providing product information on the manufacturer's website and point-of-sale advertisement (including putting products at eye-level in stores and newsletters directed at retailers). There are fewer national rules for advertising, promotion and sponsorship activities of e-cigarettes and heated tobacco products (especially in terms of internet, social media and mobile applications). Table 1 provides more detailed information. The table represents national rules stemming from transposition of EU legislation,

[1] Commission of the European Communities. (2009). COMMISSION STAFF WORKING DOCUMENT: Accompanying document to the Proposal for a COUNCIL RECOMMENDATION on smoke-free environments: IMPACT ASSESSMENT. Available at: https://eur-lex.europa.eu/resource.html?uri=cellar:61a070b4-d46e-4d1f-8d8b-8ff57923d5d8.0001.01/DOC_1&format=PDF

implementation of FCTC provisions or Member States' own initiative, and is based on self-reported data.

*Table 1. Overview of the **self-reported** level of coverage of national rules on advertising, promotion and sponsorship (across all countries in scope)*

		Traditional products for smoking	E-cigarettes	Heated tobacco products
Billboards, posters and other types of advertising outside the house	Advertising outside the home	Full ban: BE CY DK EE ES FI FR GR HR HU IE IT LU LV NL PL PT RO SE SI SK UK Partial ban: AT BG CZ DE LT No ban: none	Full ban: BE CY DK EE ES FI GR HR HU IT LU LV NL PL PT RO SI SK Partial ban: AT BG CZ DE FR IE LT UK No ban: SE	Full ban: BE CY DK EE ES FI FR GR HR HU IE IT LU NL PT SE SI SK UK Partial ban: AT BG CZ DE LT LV PL RO No ban: none
	Cinema advertising	Full ban: AT BE CY CZ DK EE ES FI GR HR HU IE IT LT LU LV NL PL PT RO SE SI SK UK Partial ban: BG DE No ban: FR	Full ban: AT BE CY DK EE ES FI GR HR HU IT LT LU LV NL PL PT RO SI SK Partial ban: BG DE UK No ban: CZ FR IE SE	Full ban: BE CY CZ DK EE ES FI GR HR HU IE IT LT LU NL PL PT SE SI SK UK Partial ban: AT BG DE LV RO No ban: FR
Points of sale, sample, giveaways, promotional items and direct marketing	Free samples, free gifts and promotional items	Full ban: AT BE CY CZ DK EE ES FI FR GR HR HU IE IT LT LU LV NL PL PT SE SI SK UK Partial ban: BG DE RO No ban: none	Full ban: AT BE CY CZ DK EE ES FI GR HR HU IT LT LU LV NL PL PT SI SK UK Partial ban: BG FR IE SE No ban: DE RO	Full ban: BE CY CZ EE ES FI FR GR HR HU IE IT LT LU NL PL PT SE SI SK UK Partial ban: AT BG DK LV RO No ban: DE
	Free trial of tobacco and related products	Full ban: BE CY CZ DK EE ES FI FR GR HR HU IE IT LT LU LV NL PL PT SE SI SK UK Partial ban: AT BG DE RO No ban: none	Full ban: BE CZ DK EE ES FI GR HR HU IT LT LU LV NL PL PT SI SK UK Partial ban: AT BG CY FR IE SE No ban: DE RO	Full ban: BE CY CZ DK EE ES FI FR GR HR HU IE IT LT LU NL PL PT SE SI SK UK Partial ban: AT BG LV RO No ban: DE
	Competitions or prize draws linked to tobacco and related products	Full ban: AT BE CY CZ DE EE FI FR GR HR HU IE IT LT LU LV NL PL PT SE SI SK UK Partial ban: BG ES No ban: RO	Full ban: BE CY CZ DE EE FI FR GR HR HU IT LT LU LV NL PL PT SI SK UK Partial ban: AT BG ES IE SE No ban: RO	Full ban: BE CY CZ DE EE ES FI FR GR HR HU IE IT LT LU NL PL PT SE SI SK UK Partial ban: AT BG LV No ban: RO
	Products visible on display in shops, supermarkets and other retail outlets	Full ban: ES FI GR HR LU LV PT SI SK UK Partial ban: CZ DK EE HU IE NL No ban: AT BE BG CY DE FR IT LT PL RO SE	Full ban: CZ ES FI GR HR LU LV PT SI SK UK Partial ban: DK EE HU IE NL No ban: AT BE BG CY DE FR IT LT PL RO SE	Full ban: CZ ES FI FR GR HR LU PT SI SK UK Partial ban: DK EE HU IE LV NL No ban: AT BE BG CY DE IT LT PL RO SE
	Advertising at point of sale in shops,	Full ban: CY EE ES FI FR GR HR HU IT LT LU LV PL PT SI SK UK	Full ban: CY EE ES FI GR HR HU IT LT LU LV PL PT RO SI SK UK	Full ban: CY DK EE FI FR GR HR HU IT LT LU PL PT SI SK UK

		Traditional products for smoking	E-cigarettes	Heated tobacco products
	supermarkets and other retail outlets	Partial ban: BE DK IE NL SE No ban: AT BG CZ DE RO	Partial ban: AT BE CZ DK FR IE NL No ban: BG DE SE	Partial ban: BE CZ ES IE LV NL SE No ban: AT BG DE RO
Printed media	National or local print advertising for the general public	Full ban: BE BG CY CZ DE EE ES FI FR GR HR HU IE IT LT LU LV NL PL PT RO SE SI SK UK Partial ban: AT DK No ban: none	Full ban: BE BG CY CZ DE DK EE ES FI FR GR HR HU IE IT LT LU LV NL PL PT RO SE SI SK UK Partial ban: AT No ban: none	Full ban: BE BG CY CZ DE EE ES FI FR GR HR HU IE IT LT LU NL PL PT RO SE SI SK UK Partial ban: AT DK LV No ban: none
	International print advertising for the general public	Full ban: AT BG CY CZ ES GR HR IE IT LT LU LV NL PL PT SI SK UK Partial ban: BE DE FI HU RO SE No ban: FR	Full ban: AT BG CY CZ ES GR HR IE IT LT LU LV NL PL PT SI SK UK Partial ban: BE DE FI HU RO SE No ban: FR	Full ban: BG CY CZ ES GR HR IE IT LT LU NL PL PT SI SK UK Partial ban: AT BE DE FI HU LV RO SE No ban: FR
	Print advertising in the trade press	Full ban: ES GR LU LV PT SK Partial ban: CY FI HR RO SI UK No ban: AT BE BG CZ DE DK EE FR HU IE IT LT NL PL SE	Full ban: ES GR LU LV PT SK Partial ban: CY FI HR RO SI UK No ban: AT BE BG CZ DE DK EE FR HU IE IT LT NL PL SE	Full ban: ES GR LU PT SK Partial ban: CY FI HR LV RO SI UK No ban: AT BE BG CZ DE DK EE FR HU IE IT LT NL PL SE
TV and radio and product placement	National or local TV advertising	Full ban: AT BE BG CY CZ DE EE ES FI FR GR HR HU IE IT LT LU LV NL PL PT RO SE SI SK UK Partial ban: none No ban: none	Full ban: AT BE BG CY CZ DE EE ES FI FR GR HR HU IE IT LT LU LV NL PL PT RO SE SI SK UK Partial ban: none No ban: none	Full ban: BE BG CY CZ DE EE ES FI FR GR HR HU IE IT LT LU NL PL PT RO SE SI SK UK Partial ban: AT LV No ban: none
	International TV advertising	Full ban: AT BG CY CZ DE EE ES FI GR HR HU IE LT LU NL PL PT RO SI SK UK Partial ban: BE IT LV SE No ban: FR	Full ban: AT BG CY CZ DE EE ES FI GR HR HU IE LT LU NL PL PT RO SI SK UK Partial ban: BE IT LV SE No ban: FR	Full ban: BG CY CZ DE EE ES FI GR HR HU IE LT LU NL PL PT RO SI SK UK Partial ban: AT BE IT LV SE No ban: FR
	National or local radio advertising	Full ban: AT BE BG CY CZ DE EE ES FI FR GR HR HU IE IT LT LU LV NL PL PT RO SE SI SK UK Partial ban: none No ban: none	Full ban: AT BE BG CY CZ DE EE ES FI FR GR HR HU IE IT LT LU LV NL PL PT RO SE SI SK UK Partial ban: none No ban: none	Full ban: BE BG CY CZ DE EE ES FI FR GR HR HU IE IT LT LU NL PL PT RO SE SI SK UK Partial ban: AT LV No ban: none

		Traditional products for smoking	E-cigarettes	Heated tobacco products
	International radio advertising	Full ban: AT BG CY CZ DE EE ES FI GR HR HU IE LT LU NL PL PT RO SI SK UK Partial ban: BE IT LV SE No ban: FR	Full ban: AT BG CY CZ DE EE ES FI GR HR HU IE LT LU NL PL PT RO SI SK UK Partial ban: BE IT LV SE No ban: FR	Full ban: BG CY CZ DE EE ES FI GR HR HU IE LT LU NL PL PT RO SI SK UK Partial ban: AT BE IT LV SE No ban: FR
	Product placement	Full ban: BE BG CY CZ DE EE ES FI FR GR HR HU IE IT LT LU LV NL PL PT SE SI SK UK Partial ban: AT RO No ban: none	Full ban: BE BG CY CZ DE EE ES FI GR HR HU IE IT LT LU LV NL PL PT SE SI SK UK Partial ban: AT No ban: FR RO	Full ban: BE BG CY CZ DE EE ES FI FR GR HR HU IE IT LT LU NL PL PT SE SI SK UK Partial ban: AT LV RO No ban: none
Internet, social media and mobile applications	Online sales by specialist retailers of tobacco and related products for smoking	Full ban: AT BE BG CY DE DK EE ES FI FR HR HU IT LT LU LV NL PL PT SI UK Partial ban: CZ IE RO SE No ban: GR SK	Full ban: AT BE BG CY CZ DE DK EE ES FI HR HU LT LU LV NL PL PT SE SI Partial ban: FR IE IT RO No ban: GR SK	Full ban: BE BG CY DE DK EE ES FI FR HR HU LT LU NL PL PT SI Partial ban: AT CZ IE IT LV RO SE No ban: GR SK
	Wider sales channels	Full ban: AT BE BG CY DE EE ES FI HR HU IT LT LU LV NL PL PT SI SK Partial ban: CZ FR IE RO SE UK No ban: GR	Full ban: AT BE BG CY CZ DE EE ES FI HR HU LT LU LV NL PL PT SE SI SK Partial ban: FR IE IT RO No ban: GR	Full ban: BE BG CY DE EE ES FI HR HU LT LU NL PL PT SI SK Partial ban: AT CZ FR IE IT LV RO SE No ban: GR
	Non-retailer websites, social media, appstore or apps downloaded from appstores for mobile devices	Full ban: AT BE BG CY DE DK EE ES FI HR HU IT LT LU LV NL PT RO SE SI SK Partial ban: CZ FR IE UK No ban: GR	Full ban: AT BE BG CY CZ DE DK EE ES FI HR HU LT LU LV NL PT RO SE SI SK Partial ban: FR IE IT No ban: GR	Full ban: BE BG CY DE DK EE ES FI HR HU LT LU NL PT SI SK Partial ban: AT CZ FR IE IT LV RO SE No ban: GR
Sponsorship, corporate responsibility, corporate promotion and other public relations tactics, brand stretching and imitation products	Sponsorship	Full ban: AT BE CY EE ES FI FR GR HR HU IE IT LT LU LV NL PL PT SE SI SK UK Partial ban: BG CZ DE DK RO No ban: none	Full ban: AT BE CY CZ DK EE ES FI FR GR HR HU IT LT LU LV NL PL PT SE SI SK UK Partial ban: BG DE IE RO No ban: none	Full ban: AT BE CY EE ES FI FR GR HR HU IE IT LT LU NL PL PT SE SI SK UK Partial ban: BG CZ DE DK LV RO No ban: none
	Corporate Social Responsibility	Full ban: AT BE CY CZ EE ES FI FR GR HR HU IE IT LT LU LV PL PT SI SK UK	Full ban: AT BE CY CZ EE ES FI FR GR HR HU IT LT LU LV PL PT SI SK UK	Full ban: AT BE CY CZ EE ES FI FR GR HR HU IE IT LT LU PL PT SI SK UK

		Traditional products for smoking	E-cigarettes	Heated tobacco products
	actions by tobacco companies	Partial ban: RO No ban: DE NL SE	Partial ban: IE No ban: DE NL RO SE	Partial ban: LV RO No ban: DE NL SE
	Brand stretching and imitation products	Full ban: AT CY CZ ES FI FR GR HR IE IT LT LU LV PL RO SI SK UK Partial ban: BE DK HU NL PT SE No ban: BG DE	Full ban: AT CY CZ ES FI FR GR HR IT LT LU LV PL PT SI SK UK Partial ban: BE DK HU NL No ban: BG DE IE RO SE	Full ban: AT CY CZ ES FI FR GR HR IE IT LT LU PL PT RO SI SK UK Partial ban: BE DK HU LV NL SE No ban: BG DE
	Corporate promotion and other public relations tactics	Full ban: AT BE CY CZ ES FI FR GR HR HU IE IT LT LU LV NL PT SI SK UK Partial ban: none No ban: DE PL RO SE	Full ban: AT BE CY CZ ES FI FR GR HR HU IT LT LU LV NL PT SI SK UK Partial ban: IE No ban: DE PL RO SE	Full ban: AT BE CY CZ ES FI FR GR HR HU IE IT LT LU NL PT SI SK UK Partial ban: LV No ban: DE PL RO SE

Source: ICF analysis of responses to the country written questionnaire (2021). Note: the information is based on self-reported data from 27 countries. For each type of advertising channel and for each country, a score of "1" was awarded for a "full ban", a score "0.5" was awarded for a "partial ban", and no score was awarded in case of a "no ban" or "not applicable". An average score was then computed for each type of advertising, promotion and sponsorship activities (ranging from 0 to 27). "Very low level of coverage" (red cells) corresponds to scores between 0-4, "Low level of coverage" (pink cells) to scores between 5-9, "Moderate level of coverage" (yellow cells) to scores between 10-17, "Good level of coverage" (light green cells) to scores between 18-22 and "Very good level of coverage" (dark green cells) corresponds to scores between 23-27.

There has also been generally high **compliance** with national rules on advertising, promotion and sponsorship, except for "products visible on display in shops, supermarkets and other retail outlets" and "internet, social media and mobile applications" (especially for e-cigarettes and heated tobacco products). It also seems that the level of compliance varies based on the product considered: while compliance is high for traditional products for smoking, it is less the case for heated tobacco products. A few concerns were raised including challenges caused by e-cigarettes and heated tobacco products entering the market, as the regulations may be out of date or have not caught up with the changing landscape related to these products. Table 2 provides more detailed information; note this table is based on self-reported data.

Table 2. Overview of the self-reported level of compliance with national rules on advertising, promotion and sponsorship (across all countries in scope)

		Traditional products for smoking	E-cigarettes	Heated tobacco products
Billboards, posters and other types of advertising outside the home	Advertising outside the home	High	High	Moderate
	Cinema advertising	High	High	High
Points of sale, sample, giveaways, promotional items and direct marketing	Free samples, free gifts and promotional items	High	High	Moderate
	Competitions or prize draws linked to tobacco and related products	High	High	High
	Products visible on display in shops, supermarkets and other retail outlets	Moderate	Moderate	Moderate
	Advertising at point of sale in shops, supermarkets and other retail outlets	High	Moderate	Moderate
Printed media	National or local print advertising for the general public	High	High	High
	International print advertising for the general public	High	High	High
	Print advertising in the trade press	High	High	High
TV and radio and product placement	National or local TV advertising	High	High	High
	International TV advertising	High	High	High
	National or local radio advertising	High	High	High
	International radio advertising	High	High	High
	Product placement	High	High	High

Internet, social media and mobile applications	Online sales by specialist retailers of tobacco and related products for smoking	High	Low	Low
	Wider sales channels	High	Low	Low
	Non-retailer websites, social media, appstore or apps downloaded from appstores for mobile devices	Moderate	Low	Low
Sponsorship, corporate responsibility, corporate promotion and other public relations tactics, brand stretching and imitation products	Sponsorship	Moderate	High	Moderate
	Corporate Social Responsibility actions by tobacco companies	Moderate	High	Moderate
	Brand stretching and imitation products	High	High	High
	Corporate promotion and other public relations tactics	High	High	Moderate

1. *Source: ICF analysis of responses to the country written questionnaire (2021).*
2. *Note: the information is based on self-reported data from 27 countries. For each type of advertising, promotion and sponsorship activities and for each country, a score of "1" was awarded for "high compliance", a score "0.5" was awarded for "moderate compliance", and no score was awarded in case of "low compliance" or "not applicable". An average score was then computed for each type of advertising, promotion and sponsorship activities (in %), by using the following formula: (number of countries that reported "high compliance" + 0.5 * number of countries who reported "moderate compliance")/(number of countries that provided an answer i.e. not "NA"). "Low level of compliance" corresponds to scores between 70%, "Moderate level of compliance" to scores between 70-85% and "High level of compliance to scores above 85%.*

Most Member States have provisions in place for a mechanism and/or infrastructure to ensure **monitoring and enforcement** within the national rules on advertising, promotion and sponsorship of tobacco and related products, whether that be through dedicated agencies, inspections, collaboration with civil society, or other procedures. Challenges with monitoring and enforcing rules have included a lack of financial and human resources, administrative burdens or delays, and instances of cross-border advertising, promotion and sponsorship, whereby it is difficult to conduct inspections and determine responsibility for regulation.

While stakeholders from the industry indicated that rules on advertising, promotion and sponsorship have been very restrictive, other stakeholders and some literature have contradicted these claims.

It seems that Member State rules on advertising, promotion, and sponsorship have been strictly **enforced**, both those national rules that are the transposition of EU law, and also those that fall outside of harmonised EU legislation. However, there is some disagreement about the extent of cross-border advertising of tobacco and related products, and the degree to which advertising restrictions are enforced. It seems (based on self-reported interview information gathered as part of this study) that rather than re-allocating budgets to different advertising, promotion and sponsorship avenues, the gradual banning of various advertising, promotion and sponsorship activities over the years has led to expenditures by tobacco companies being cut significantly.

Consulted stakeholders from the tobacco industry reported that they focus their advertising, promotion, and sponsorship activities on adult consumers. However, there is evidence from interviews with civil society organisations suggest that much of the advertising, promotion, and sponsorship strategy of the tobacco and related product industry specifically targets **young people.** The literature suggests that such advertising focuses on "psychological needs" such as popularity, peer acceptance, and positive self-image. Many TV shows popular among young people depict smoking. There have also been concerns about the use of social media influencers to promote tobacco and related products, as young people are active users of social media. Finally, this study found there have been some sponsored events favoured by young people that advertise or distribute tobacco and related products.

Variables including gender, education, current use of tobacco and related products along with age were all associated with noticing advertisements and promotions in analyses conducted for the present study. The citizens' survey indicated that male gender, high education and the current use of tobacco and related products were associated with a modest increase in the likelihood of noticing advertisements and promotions, controlling for other factors. This finding is unexpected, as previous research in Europe has not identified a strong relationship between education level and exposure to these advertisements and promotions. There was little variation in exposure to print media that can be explained by country, gender, age, education and the use of tobacco and related products, as compared to other categories. Exposure through social media, sponsorships and corporate social responsibility activities seemed to be more strongly associated with age than other factors included in the analysis, while exposure through online retailers, advertising outside the home and retailers outside the home seemed to be more strongly associated with country of residence than other factors. Latent class analysis suggests that people recall promotion and advertising of tobacco and related products from different groups of promotion channels. Only about a quarter reported very low levels of recalling advertising and promotion of tobacco and related products across all channels. In contrast, 43% reported high levels of noticing advertisements and promotions across a wide range of channels. Age was most strongly associated with the pattern of advertising and promotion channels that participants recalled observing; participants aged under 35 were much more likely to have noticed advertisements and promotions across all channels.

The observational research conducted for the present study indicated that current use of tobacco or related products and country both influenced the appeal of advertisements and interest in trying products. Young people were seen as the target of much of the ads, although current use of products was more of a predictor of appeal than age.

Participants who **did not use** tobacco or related products were consistently less likely to find products appealing, want to try them, think the products were depicted as having health benefits, or consider the presented company as socially or environmentally responsible. There was substantial **variation between countries** regarding the appeal of products to participants and their interest in trying them. This highlights the importance of local context when considering the impact of the promotion of tobacco and related products.

Mixed trends were found through this study related to **age**: current use of tobacco and related products was much more strongly associated with finding advertised products appealing than the age of the person viewing the advertisement. However, there was some evidence that older participants (aged 36 and over) were less likely to express interest, and they were also slightly less likely to view some examples as presenting the company as environmentally or socially responsible. The age group most seen to be targeted by the presented example ads were those aged 25-39 years. The two main factors that influenced respondent perceptions about the target audience for the examples were the age of the individuals shown (where people were depicted) and the items used.

There are some concluding lessons and recommendations on advertising, promotion, and sponsorship, to do with gaps in the regulatory framework, implementation / application challenges, and compliance challenges.

The current provisions on advertising, promotion and sponsorship contained in EU rules are limited in that they do not unambiguously cover all emerging products, including heated tobacco products and their devices. Many countries and study stakeholders recommended revising these provisions so that all tobacco and related products are clearly within their scope.

In addition, study stakeholders recommended updating EU rules to more clearly include and cover social media advertising. They also said that there should be a broader definition of advertising, which includes the behaviour of smoking (to prevent visuals of people smoking in social media posts, articles, or apps).

The study also highlighted several challenges in terms of monitoring and enforcing rules on advertising, promotion, and sponsorship. For instance, the study showed that bans should be accompanied by an efficient enforcement mechanism in order to be useful. Other suggestions made by study stakeholders included creating an EU-level online compliance tool (for example, a trusted flagging system whereby civil society could flag non-compliance online), and having mandatory reporting of tobacco industry promotional expenditures, as there is in Canada and in the US.

Greater cooperation is also needed to improve the enforcement system. This could be done for example between Member States (including exchange of best practices, discussion on challenges faced and steps taken to overcome them). However, many other parties have a role to play in enforcing rules, and collaboration between Member States and other relevant stakeholders would be very beneficial (for example, civil society organisations, global initiatives - such as Stopping Tobacco Organizations and Products - citizens and audio-visual services regulators).

Work Stream 2 on smoke-free environments

There seems to be a high level of implementation of the Council Recommendation, with a majority of countries implementing it in full.

However, some have only implemented it partially, with specific environments and product types posing challenges.

Key gaps in implementation identified in this study are the continuing existence of designated smoking areas (usually smoking rooms), and allowing smoking in certain semi-open environments (e.g. terraces, bus shelters and open-air railway stations[2]). Furthermore, there have been difficulties with the definition of 'indoor public places'[3], especially with semi-open terraces. The main reported issues with implementing the Recommendation have been the opposition of the hospitality sector to smoke-free measures and the difficulty to impose 100% smoke-free environments without allowing for designated smoking areas.

In terms of **national implementation**, the level of coverage varies greatly based on the type of smoke-free environments considered, for example, while there is very good level of coverage in educational facilities, the level of coverage is very low in outdoor public places and private areas. The study also found that the level of coverage varies based on the product considered: while implementation is good for traditional products for smoking, it is less the case for heated tobacco products and e-cigarettes. Overall, the number of EU Member States completely banning the use of tobacco products for smoking (instead of having only partial bans) significantly increased since the 2013 report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments, especially in indoor workplaces, enclosed public spaces, prisons and hotels. Table 3 provides more detailed information.

[2] The Annex to the 2009 Council Recommendation on smoke-free environments provides the following definition of the term 'indoor': "It is recommended that 'indoor' (or enclosed) areas be defined to include any space covered by a roof or enclosed by one or more walls or sides, regardless of the type of material used for the roof, wall or sides, and regardless of whether the structure is permanent or temporary."

[3] The Annex to the 2009 Council Recommendation on smoke-free environments provides the following definition of the term 'indoor': "It is recommended that 'indoor' (or enclosed) areas be defined to include any space covered by a roof or enclosed by one or more walls or sides, regardless of the type of material used for the roof, wall or sides, and regardless of whether the structure is permanent or temporary."

*Table 3. Overview of the **self-reported** level of coverage of national smoke-free rules (across all countries in scope)*

		Traditional products for smoking	E-cigarettes	Heated tobacco products
General workplaces	Indoor workplaces	Full ban: BG CY EE ES GR IE LU NL NO PT SI SK UK Partial ban: AT BE CZ DE DK FI FR HR HU IS IT LI LT LV PL RO SE No ban: none	Full ban: CY EE GR LU NL NO PT SI SK Partial ban: AT BE CZ DE DK ES FI FR HR HU IS IT LT LV PL SE No ban: BG IE LI RO UK	Full ban: CY EE ES GR IE LU NL NO PT SI SK Partial ban: AT BE CZ DK FI FR HR HU IS LT LV PL SE No ban: BG DE IT LI RO UK
	Outdoor workplaces	Full ban: none Partial ban: AT BG CZ DE EE ES HR IS IT LI LU LV SK UK No ban: BE CY DK FI FR GR HU IE LT NL NO PL PT RO SE SI	Full ban: none Partial ban: AT CZ EE ES HR IS LU LV SK No ban: BE BG CY DE DK FI FR GR HU IE IT LI LT NL NO PL PT RO SE SI UK	Full ban: none Partial ban: AT CZ EE ES HR IS LU LV SK No ban: BE BG CY DE DK FI FR GR HU IE IT LI LT NL NO PL PT RO SE SI UK
Enclosed public spaces (e.g. town hall, public library)		Full ban: BG CY EE ES GR HR HU IE IS LI LU LV NL NO PT SI SK UK Partial ban: AT BE CZ DE DK FI FR IT LT PL RO SE No ban: none	Full ban: CY EE ES GR HR HU IS LU LV NL NO PT SI SK Partial ban: AT BE CZ DE DK FI FR IT LT PL SE No ban: BG IE LI RO UK	Full ban: CY EE ES GR HR HU IE IS LU LV NL NO PT SI SK Partial ban: AT BE CZ DE DK FI FR IT LT PL SE No ban: BG LI RO UK
Health care facilities	Indoors	Full ban: BG CY EE ES FR GR LT LU NL NO PT SI SK UK Partial ban: AT BE CZ DE DK FI HR HU IE IS IT LI LV PL RO SE No ban: none	Full ban: CY EE ES GR IS LT LU NL NO PT SI SK Partial ban: AT BE CZ DE DK FI FR HR HU IT LV PL SE No ban: BG IE LI RO UK	Full ban: CY EE ES FR GR LT LU NL NO PT SI SK Partial ban: AT BE CZ DE DK FI HR HU IE IS IT LV PL SE No ban: BG LI RO UK
	Outdoors (e.g. outside, but on facilities' grounds)	Full ban: EE ES IT LT PL Partial ban: AT CY CZ DE HR HU IS LU LV NO RO SE SK No ban: BE BG FI FR GR IE NL PT SI UK	Full ban: EE ES IS LT PL Partial ban: AT CY CZ HR HU LU LV NO SE SK No ban: BE BG DE FI FR GR IE IT LI NL PT RO SI UK	Full ban: EE ES LT LU PL Partial ban: AT CY CZ DE HR HU IS LV NO SE SK No ban: BE BG FI FR GR IE IT LI NL PT RO SI UK
Residential care facilities		Full ban: BG CY GR HR LT LU NL PT UK Partial ban: AT BE CZ DE DK EE ES FI FR HU IE IS IT LI LV NO PL RO SE SI SK No ban: none	Full ban: CY GR HR LT LU NL PT Partial ban: AT BE CZ DE DK EE ES FI FR HU IS IT LV NO PL SE SI SK No ban: BG IE LI RO UK	Full ban: CY GR HR LT LU NL PT Partial ban: AT BE CZ DE DK EE ES FI FR HU IE IS IT LV NO PL SE SI SK No ban: BG LI RO UK

		Traditional products for smoking	E-cigarettes	Heated tobacco products
Educational facilities	Schools (e.g. primary and secondary)	Full ban: AT BE BG CY CZ DE DK EE ES FI FR GR HR HU IE IS LI LT LU LV NL NO PL PT SI SK UK Partial ban: IT RO SE No ban: none	Full ban: AT BE CY CZ DK EE ES FI FR GR HR HU IS LT LU LV NL NO PL PT SI SK Partial ban: DE IT SE No ban: BG IE LI RO UK	Full ban: AT BE CY CZ DE DK EE ES FI FR GR HR HU IE IS LT LU LV NL NO PL PT SI SK Partial ban: IT SE No ban: BG LI RO UK
	Adult learning premises (e.g. universities and vocational learning centres)	Full ban: AT BE BG CY CZ DE EE ES GR HR HU IE IS LI LT LU LV NL NO PL PT SE SI SK UK Partial ban: DK FI FR IT RO No ban: none	Full ban: AT BE CY CZ EE ES GR HR HU IS LT LU LV NL NO PL PT SE SI SK Partial ban: DE DK FI FR IT No ban: BG IE LI RO UK	Full ban: AT BE CY CZ EE ES GR HR HU IE IS LT LU LV NL NO PL PT SI SK Partial ban: DE DK FI FR IT SE No ban: BG LI RO UK
Public transports		Full ban: AT BE BG CY DE EE GR HR HU IE IS IT LI LU NL NO PL PT SI SK UK Partial ban: CZ DK ES FI FR LT LV RO SE No ban: none	Full ban: AT BE CY DE EE GR HR HU IS IT LU NL NO PL PT RO SI SK Partial ban: CZ DK ES FI FR LT LV SE No ban: IE UK	Full ban: AT BE CY DE EE GR HR HU IE IS IT LU NL NO PL PT SI SK Partial ban: CZ DK ES FI FR LT LV SE No ban: LI RO UK
Prisons		Full ban: BG CY EE GR LU NL UK Partial ban: AT BE CZ DE DK ES FI FR HR HU IS IT LI LT LV NO PL PT RO SI SK No ban: IE SE	Full ban: CY EE GR LU NL Partial ban: AT BE CZ DE DK ES FI FR HR HU IT LT LV NO PL PT SI SK No ban: IE IS LI RO SE UK	Full ban: CY EE GR LU NL Partial ban: AT BE CZ DE DK ES FI FR HR HU IS IT LT LV NO PL PT SI SK No ban: IE LI RO SE UK
Hotels and accommodation	Hotels	Full ban: BG GR LU NL UK Partial ban: AT BE CY CZ DE DK EE ES FI FR HR HU IE IS IT LT LV NO PL PT RO SE SI SK No ban: LI	Full ban: GR LU NL Partial ban: AT BE CY CZ DE DK EE FI FR HR HU IS IT LT LV NO PL PT SE SI SK No ban: BG ES IE LI RO UK	Full ban: GR LU NL Partial ban: AT BE CY CZ DE DK EE ES FI FR HR HU IE IS IT LT LV NO PL PT SE SI SK No ban: BG LI RO UK
	Private home rentals	Full ban: LU Partial ban: CY DE ES FI HR HU LT PT SI SK No ban: AT BE BG CZ DK EE FR GR IE IS IT LI LV NL NO PL RO SE UK	Full ban: LU Partial ban: CY DE FI HR HU LT PT SI SK No ban: AT BE BG CZ DK EE ES FR GR IE IS IT LI LV NL NO PL RO SE UK	Full ban: LU Partial ban: CY DE ES FI HR HU LT PT SI SK No ban: AT BE BG CZ DK EE FR GR IE IS IT LI LV NL NO PL RO SE UK
Eating and drinking establishments	Restaurants and eating establishments, indoors	Full ban: AT BG CY ES GR HU IE IS LU LV NL NO SE SI SK UK Partial ban: BE CZ DE DK EE FI FR HR IT LI LT PL PT RO No ban: none	Full ban: AT CY DE GR HU LU LV NL NO SE SI Partial ban: BE DK EE FI FR HR LT PL PT SK No ban: BG CZ ES IE IS IT LI RO UK	Full ban: AT CY ES FI GR HU IE LU LV NL NO SE SI SK Partial ban: BE DE DK EE FR HR IS PL PT No ban: BG CZ IT LI LT RO UK

		Traditional products for smoking	E-cigarettes	Heated tobacco products
	Bars and drinking establishments, indoors	Full ban: AT BG CY ES GR HU IE IS LU LV NL NO SE SI UK Partial ban: BE CZ DE DK EE FI FR HR IT LI LT PL PT RO SK No ban: none	Full ban: AT CY DE GR HU LU LV NL NO SE SI Partial ban: BE DK EE FI FR HR LT PL PT SK No ban: BG CZ ES IE IS IT LI RO UK	Full ban: AT CY ES FI GR HU IE LU LV NL NO SE SI Partial ban: BE DE DK EE FR HR IS PL PT SK No ban: BG CZ IT LI LT RO UK
	Restaurants and eating establishments, outdoors	Full ban: LU SE Partial ban: ES GR HU IE IS IT LV RO SI SK UK No ban: AT BE BG CY CZ DE DK EE FI FR HR LI LT NL NO PL PT	Full ban: LU SE Partial ban: GR HU LV SI SK No ban: AT BE BG CY CZ DE DK EE ES FI FR HR IE IS IT LI LT NL NO PL PT RO UK	Full ban: LU SE Partial ban: ES GR HU IS LV SI SK No ban: AT BE BG CY CZ DE DK EE FI FR HR IE IT LI LT NL NO PL PT RO UK
	Bars and drinking establishments, outdoors	Full ban: SE Partial ban: ES GR HU IE IS IT LU LV RO SI SK UK No ban: AT BE BG CY CZ DE DK EE FI FR HR LI LT NL NO PL PT	Full ban: LU SE Partial ban: GR HU LV SI SK No ban: AT BE BG CY CZ DE DK EE ES FI FR HR IE IS IT LI LT NL NO PL PT RO UK	Full ban: LU SE Partial ban: ES GR HU IS LV SI SK No ban: AT BE BG CY CZ DE DK EE FI FR HR IE IT LI LT NL NO PL PT RO UK
Outdoor public places	Playgrounds or other spaces frequented by children and young people	Full ban: BG CY CZ EE ES FR GR HU IS LI LU LV PL PT SE SK Partial ban: DE IT RO SI No ban: AT BE DK FI HR IE LT NL NO UK	Full ban: CY CZ EE ES GR HU IS LU LV PL PT SE SK Partial ban: DE SI No ban: AT BE BG DK FI FR HR IE IT LI LT NL NO RO UK	Full ban: CY CZ EE ES FR GR HU IS LV PL PT SE SK Partial ban: DE SI No ban: AT BE BG DK FI HR IE IT LI LT NL NO RO UK
	Public parks	Full ban: GR LU Partial ban: IS IT LV PL RO SK No ban: AT BE BG CY CZ DE DK EE ES FI FR HR HU IE LI LT NL NO PT SE SI UK	Full ban: GR LU Partial ban: LV PL SK No ban: AT BE BG CY CZ DE DK EE ES FI FR HR HU IE IS IT LI LT NL NO PT RO SE SI UK	Full ban: ES GR LU Partial ban: LV PL SK No ban: AT BE BG CY CZ DE DK EE FI FR HR HU IE IS IT LI LT NL NO PT RO SE SI UK
	Public beaches	Full ban: LU Partial ban: HU IT LV PL SK No ban: AT BE BG CY DE DK EE ES FI FR GR HR IE IS LI LT NL NO PT RO SE SI UK	Full ban: LU Partial ban: HU LV PL SK No ban: AT BE BG CY DE DK EE ES FI FR GR HR IE IS IT LI LT NL NO PT RO SE SI UK	Full ban: LU Partial ban: HU LV PL SK No ban: AT BE BG CY DE DK EE ES FI FR GR HR IE IS IT LI LT NL NO PT RO SE SI UK
Private areas	Cars	Full ban: FR LU Partial ban: AT BE FI GR IE IT LT SI UK	Full ban: LU Partial ban: AT BE FI GR LT SI	Full ban: FR LU Partial ban: AT BE FI GR IE LT SI

		Traditional products for smoking	E-cigarettes	Heated tobacco products
		No ban: BG CY CZ DE DK EE ES HR HU IS LI LV NL NO PL PT RO SE SK	No ban: BG CY CZ DE DK EE ES FR HR HU IE IS IT LI LV NL NO PL PT RO SE SK UK	No ban: BG CY CZ DE DK EE ES HR HU IS IT LI LV NL NO PL PT RO SE SK UK
	Homes	Full ban: LU Partial ban: FI LT RO No ban: AT BE BG CY CZ DE DK EE ES FR GR HR HU IE IS IT LI LV NL NO PL PT SE SI SK UK	Full ban: LU Partial ban: LT No ban: AT BE BG CY CZ DE DK EE ES FI FR GR HR HU IE IS IT LI LV NL NO PL PT RO SE SI SK UK	Full ban: LU Partial ban: FI LT No ban: AT BE BG CY CZ DE DK EE ES FR GR HR HU IE IS IT LI LV NL NO PL PT RO SE SI SK UK

3. *Source: ICF analysis of responses to the country written questionnaire (2021).*
4. *Note: the information is based on self-reported data from 30 countries. For each type of environments and for each country, a score of "1" was awarded for a "full ban", a score "0.5" was awarded for a "partial ban", and no score was awarded in case of a "no ban" or "not applicable". An average score was then computed for each type of environments (ranging from 0 to 30). "Very low level of coverage" (red cells) corresponds to scores between 0-4, "Low level of coverage" (pink cells) to scores between 5-9, "Moderate level of coverage" (yellow cells) to scores between 10-20, "Good level of coverage" (light green cells) to scores between 21-24 and "Very good level of coverage" (dark green cells) corresponds to scores between 25-30.*

The environments with the highest rates of bans on using **e-cigarettes and heated tobacco products** were educational facilities (e.g. schools and adult learning premises); public transport; and enclosed public spaces. The environments that had the least bans on use of e-cigarettes and heated tobacco products were outdoor workplaces, private homes, public parks and public beaches. In general, environments that were not highly regulated for tobacco products for smoking did not have many rules for heated tobacco products and e-cigarettes. However, there were a few cases whereby rules seemed to be proportionally more lenient for e-cigarettes and heated tobacco products than for tobacco products for smoking, namely, outdoor workplaces, drinking and eating establishments (outdoors), and private homes.

Overall, there have been good levels of compliance with national rules on smoke-free environments, and monitoring and enforcement has also been largely possible. There have been, however, a few challenges, including differences in the ease of enforcement depending on the environment type.

The concerns raised in relation to **compliance** included moderate or low compliance in some environments, such as bars and restaurants, workplaces, residential care facilities, prisons and outdoor educational and healthcare facilities. Evidence also suggests that in some environments, compliance is lower for e-cigarettes and/or heated tobacco products than for tobacco products for smoking, where restrictions are in place. Enforcing compliance may also be harder when national legislations include provisions for exceptions or when there is ambiguity in the practical application of definitions. It appears that overall, the level of compliance varies based on the environments considered. For example, while there is a high level of compliance with rules in indoor workplaces for all types of products (i.e. tobacco products for smoking, e-cigarettes and heated tobacco products), in outdoor workplaces however, the level of compliance is only moderate for tobacco products for smoking, and low for e-cigarettes and heated tobacco products. Table 4 provides more detailed information.

Table 4. Overview of the self-reported level of compliance with national smoke-free rules (across all countries in scope)

		Traditional products for smoking	E-cigarettes	Heated tobacco products
General workplaces	Indoor workplaces	High	High	High
	Outdoor workplaces	Moderate	Low	Low
Enclosed public spaces (e.g. town hall, public library)		High	High	High
Health care facilities	Indoors	High	High	High
	Outdoors (e.g. outside, but on facilities' grounds)	Moderate	Low	Low
Residential care facilities		High	High	High
Educational facilities	Schools (e.g. primary and secondary)	High	High	High
	Adult learning premises (e.g. universities and vocational learning centres)	High	High	High
Public transports		High	High	High
Prisons		Moderate	High	High
Hotels and accommodation	Hotels	High	High	High
	Private home rentals	High	High	High
Eating and drinking establishments	Restaurants and eating establishments, indoors	High	High	High
	Bars and drinking establishments, indoors	Moderate	High	High
	Eating and drinking establishments, outdoors (e.g. terraces, garden seating)	High	High	High
	Playgrounds or other spaces frequented by children and young people	Moderate	High	High

Outdoor public places	Public parks	Low	Moderate	Moderate
	Public beaches	Moderate	High	High
Private areas	Cars	Moderate	Moderate	Moderate
	Homes	Moderate	Moderate	Moderate

5. *Source: ICF analysis of responses to the country written questionnaire (2021).*
6. *Note: the information is based on self-reported data from 30 countries. For each type of environments and for each country, a score of "1" was awarded for "high compliance", a score "0.5" was awarded for "moderate compliance", and no score was awarded in case of "low compliance" or "not applicable". An average score was then computed for each type of environments (in %), by using the following formula: (number of countries who reported "high compliance" + 0.5 * number of countries who reported "moderate compliance")/(number of countries who provided an answer i.e. not "NA"). "Low level of compliance" corresponds to scores between 70%, "Moderate level of compliance" to scores between 70-85% and "High level of compliance to scores above 85%.*

A large majority of countries reported provisions for a mechanism and/or infrastructure to ensure **monitoring and enforcement** within the national legislation on smoke-free environments. Responsibility for compliance was most commonly placed through a basic responsibility for the owner, manager or other person in charge to supervise the observance of the law, followed by a legal responsibility to post clear signs at entrances and other appropriate locations indicating that smoking is not permitted. The third most reported type of responsibility was a legal responsibility to taking reasonable specified steps to discourage individuals from smoking on the premises. Finally, and less commonly reported, was the legal responsibility to remove any ashtrays from the premises and to have ashtrays outside the entry of premises. The approaches taken by different countries to monitoring and enforcing rules range from dedicated agencies to monitor and enforce requirements, inspections, complaint systems, and support from civil society. The most commonly used **punitive measure** for violations of rules by a person in charge of the smoke-free environments was fines, although the suspension or cancellation of business license is used in several countries in restaurant and bar settings. Only Belgium reported having provisions in place to imprison offenders (person in charge of the smoke free environments). Fines are also the most commonly used **punitive measure for smokers** who violate the rules but are distributed by fewer countries compared to the number who fine owners, managers or others in charge. A few countries mentioned having provisions in place to imprison offenders (smokers).

The main **challenge with monitoring and enforcing** rules has been a lack of financial and human resources. However, other challenges were mentioned such as: difficulty accessing places where breaches are thought to have occurred (for instance, due to health and safety legislation); and high administrative burdens (caused in part by the interpretation of some provisions).

The Eurobarometer and citizens' survey carried out as part of this study indicated that exposure to tobacco smoke, e-cigarettes and heated tobacco products is most common in certain outdoor environments. Private cars and private homes seemed to be the most common indoor places for using tobacco products for smoking, but in general, exposure to tobacco smoke in indoor hospitality settings is limited. Exposure to tobacco smoke in outdoor hospitality settings is much more prevalent, and common outdoor tobacco use seems to occur in workplaces, public parks, and bars. Exposure to e-cigarettes and heated tobacco products use was not reported as frequently, but the top locations were the same: workplaces, public parks, and bars. However, there was substantial variation between countries in terms of place and frequency of observing use.

Since 2013, countries have continued to increase the level of protection for children and adolescents, as stated in the Recommendation. For example, protection measures have been reinforced in educational establishments (the majority of EU Member States have now banned smoking altogether in educational establishments) and some of them have extended this ban to other places where children might be present such as sport venues, playgrounds and open stadiums. Another positive development is that some countries have introduced a smoking ban in private cars when minors are present. Although there is no comprehensive legislation at the EU level to protect children from second-hand smoke exposure in private cars, there is a large public support (which has been increasing in the last few years) for smoke-free cars' legislation. Furthermore, there has been a shift from reports of households having partial restrictions to reports of completely smoke-free homes. There were some concerns raised about the comprehensiveness of provisions to protect children and adolescents, including that outdoor areas (for example in schools or universities, playgrounds, parks and areas where children are present) are not covered by the Council Recommendation, and there is a gap in the legislation of exposure to smoking in multi-unit housing. Finally, one of the main challenges in protecting children and adolescents is the fact that smoke-free measures are difficult to monitor in private places (for example homes and cars).

Almost all Member States have comprehensive and integrated guidelines, media campaigns to promote smoking cessation and telephone quit lines. In addition, some countries have gone beyond these measures and introduced smoking cessation programmes in different settings, such as dentists, pharmacists, or support given through online channels. Half of the countries researched as part of this study have smoking cessation programmes targeted at specific population groups, such as young people/adolescents (and in some cases their parents), heavy smokers, pregnant women/new mothers, citizens with mental illness and substance use problems and other forms of vulnerabilities (i.e. homelessness), and groups of low socio-economic status. Half of the countries also have low-cost schemes or reimbursement schemes for Nicotine Replacement Therapy. There have been a few challenges with cessation schemes, such as differences between countries in terms of treatment possibilities (e.g. access and reimbursement).

Most countries have multi-sectoral tobacco control policy programmes since 2013. For example, Portugal's Tobacco Prevention programme includes cooperating with other sectors such as education, fiscal and tax authorities. However, as in the 2013 Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments, most Member States did not report specifically on the multi-sectorial aspect of tobacco control.

There are documented positive social, economic, and environmental impacts of smoke-free environments.

The literature review undertaken as part of this study confirmed that rules on smoke-free environments have **positive health impacts.** Worldwide, 5.4 million smoking-attributable deaths would be averted by comprehensive smoke-free laws, according to a recent study[4]. In addition, there is evidence that morbidity and other health indicators (such as heart attacks in the general population and improvements in respiratory health) have improved due to rules of smoke-free environments. The evidence is less clear for smoke-free policies for e-cigarettes or heated tobacco products, although studies have demonstrated that a comprehensive, full smoking ban is more effective when compared to partial smoking bans.

In terms of **social impacts**, there is some evidence that smoke-free legislation can drastically reduce smoking where the legislation applies, and further some studies also showed that smoke-free legislation has the potential to reduce smoking even in places where the legislation does not apply. Results on the impacts of smoke-free rules on socio-economic inequalities are mixed, with some sources indicating that inequalities are reduced but others not confirming this. Finally, the majority of countries reported that implementing smoke-free rules increases the level of support for smoke-free legislation.

Whilst the impact on gross domestic product is difficult to assess, some positive **economic impacts** of smoke-free measures were reported for government and society. Macro-economically, a few countries mentioned a reduction in annual medical costs due to reduced second-hand smoke exposure among staff, and some countries also reported reduced revenues from tobacco taxes due to reduced smoking. A few countries reported an increase in workers' productivity related to smoking breaks (a micro-economic impact). There seems to be no substantial economic gains or losses associated with smoke-free policies in the hospitality sector, although evidence suggests that prohibiting indoor smoking had a positive impact on the health of employees, and in turn on their productivity and presenteeism. There were some reported effects in other industries: a few countries experienced job losses within the tobacco and related products industry, and a few countries experienced increased governmental costs for implementing and enforcing national smoke-free measures.

[4] Levy, D.T., Yuan, Z., Luo, Y. and Mays, D., (2018). Seven years of progress in tobacco control: an evaluation of the effect of nations meeting the highest level MPOWER measures between 2007 and 2014. Tobacco control, 27(1), pp.50-57.

Finally, in terms of **environmental impacts**, there is evidence that smoke-free rules improve air quality inside the venues where smoking is banned: several studies demonstrated that indoor pollution and concentrations of particles significantly decreases after the introduction of such rules.

There are a number of concluding lessons and recommendations on smoke-free environments, related to the identified gaps in the current regulatory framework, implementation and application challenges, compliance challenges, and enforcement challenges.

The 2009 Council Recommendation is limited in that it only covers 'tobacco smoke' and does not include vapour from e-cigarettes and the emissions of heated tobacco products. Many countries and study stakeholders recommended extending the current Council Recommendation to other products such as e-cigarettes and heated tobacco products[5]. Results from the desk research and the literature review support this recommendation. Extending rules more consistently would have the following impacts: consumers would find rules much less confusing, (as they would not have to keep track of varied rules and would therefore increase compliance); the tobacco industry would be less able to exploit gaps; rules would be easier to enforce; and e-cigarettes and heated tobacco products would be perceived as equally harmful as traditional tobacco products for smoking.

While the 2009 Council Recommendation refers to 'indoor workplaces, indoor public places, public transport and, as appropriate, other public places', it does not explicitly include some types of environments, and in particular specific outdoor public spaces (e.g. restaurant and bar terraces, public parks, beaches or the streets) or private areas (e.g. homes and cars). Extending bans to public parks and beaches could help smokers to stop associating smoking with pleasant venues or activities, and, in turn, would reduce their willingness to smoke. Regulating private areas such as private homes would probably not be feasible or appropriate in most countries. However, certain targeted bans could be enacted (e.g. in cars or multi-unit housing).

The study also highlighted several challenges in terms of monitoring and enforcing rules on smoke-free environments. For instance, the study showed that there is a need to increase financial and human resources available for such activities.

Greater cooperation between countries is also needed (including exchange of best practices, discussion on challenges faced and steps taken to overcome them). This could be done for example between national competent authorities in the EU via meetings of the expert groups (such as the Group of experts on tobacco policy), or at regional WHO workshops and conferences.

Finally, enforcement of rules should go hand in hand with strong communication and advocacy campaigns explaining the benefits of such rules: smoke-free rules cannot be accepted unless there is a strong public understanding of and support for them.

[5] These are not explicitly covered under the 2009 Council Recommendation on smoke-free environments according to current rules.

I. Introduction

This is the Final Report of the Study on smoke-free environments and advertising of tobacco and related products, launched by the European Commission's Directorate-General for Health and Food Safety in May 2020.

Study aim

The purpose of this evaluative study is to provide the Commission with a comprehensive and independent evidence-based assessment of the application of advertising, promotion and sponsorship provisions. It also provides an assessment of smoke-free environment provisions and policies.

The study comprises two work streams:

- **Work stream 1 on tobacco products and e-cigarette advertising, promotion and sponsorship** aimed to provide an overview of the application of provisions related to advertising, promotion and sponsorship of tobacco and related products in all EU Member States (including provisions outlined in the Tobacco Advertising Directive 2003/33/EC[6], the Audio-visual Media Services Directive amended by Directive (EU) 2018/1808[7], and the Tobacco Products Directive 2014/40/EU[8]).

- **Work stream 2 on smoke-free environments** focused on providing an assessment of smoke-free environment provisions and policies in all EU Member States, EU candidate countries and countries of the European Economic Area (including provisions outlined in the 2009 Council Recommendation on smoke-free environments 2009/C 296/02[9]).

Purpose of this report

The purpose of this report is to present the main findings and conclusions concerning both work streams, based on synthesis and triangulation of all evidence collected.

This report includes:

- A summary of the methodological approach (section II);
- An overview of the definitions used in the study as well as the scope of the study (section III);
- Findings for Work Stream 1 on advertising, promotion and sponsorship (section IV);
- Findings for Work Stream 2 on smoke-free environments (section V); and
- A list of all references used in the study (section VI).

This report also includes appendices:

- Appendix 1 presents background information on tobacco and related products in the EU;
- Appendix 2 presents background information on advertising, promotion and sponsorship of tobacco and related products;
- Appendix 3 presents background information on smoke-free environments;
- Appendix 4 provides more information on national implementation of EU and international rules per type of advertising, promotion and sponsorship activities;
- Appendix 5 provides more information on compliance and other challenges per type of advertising, promotion and sponsorship activities;

6 https://eur-lex.europa.eu/eli/dir/2003/33/oj

7 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02010L0013-20181218

8 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL_2014_127_R_0001

9 https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32009H1205(01)

- Appendix 6 provides more information on national implementation of the 2009 Council Recommendation on smoke-free environments per type of smoke-free environment;
- Appendix 7 provides more information on compliance per type of smoke-free environments;
- Appendix 8 provides information on the level of public acceptance of smoke-free rules;
- Appendix 9 provides additional data from the citizens' survey;
- Appendix 10 provides additional data from the observational research.

II. Methodology

This section summarises the methodological approach taken as part of this study. Table 6 at the end of this section provides an overview of the research tools and the strength of the evidence collected.

Task 1: Inception

The main objectives of the inception task were to capture lessons to inform the study design and to refine and further elaborate the suggested methodological approach. In the inception phase, the study team undertook the following activities: a kick-off meeting, a rapid document review, the refinement of the study approach, as well as the inception report and meeting.

The rapid document review included an initial review of key literature and documentation, and its results were used to provide a solid understanding of the legal and policy context/background for both Work Streams. Specifically, this initial review included:

- the 2016 study[10] concerning EU citizens' exposure to tobacco and e-cigarette marketing; and
- the 2013 Commission Staff Working Document report[11] on the implementation of the Council Recommendation 2009/C 296/02.

Task 2: Desk research activities

Literature review

A range of sources were reviewed, including peer-reviewed literature, position statements and evidence reports from stakeholder associations. Relevant documentation was found through a variety of sources, through desk research or provided by DG SANTE, Member States or the key stakeholders involved in the consultation activities (see Task 3).

Documents were analysed thematically, using a template based on the analytical framework for this study. Each document was read, and relevant notes were recorded by study question.

The distribution of the reviewed sources is given in Table 5 below.

Table 5. Documents reviewed in literature review

Type of document	WS1	WS2	Total
Grey literature	67	80	**147**
Peer-reviewed literature	22	67	**89**
Total	**89**	**147**	**236**

A list of all documents reviewed which were used in the preparation of this report is available in Section VI.

10 European Commission, Burson-Marsteller, & Smoke-free Partnership. (2016). Study: An assessment of citizens' exposure to tobacco marketing. Brussels: DG SANTE. Available at: https://ec.europa.eu/health/sites/health/files/tobacco/docs/citizensexposure_tobaccomarketing_en.pdf

11 European Commission (2013). Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02). Commission Staff Working Document. Brussels: European Commission; 2013. Available online: https://ec.europa.eu/health/sites/health/files/tobacco/docs/smoke-free_implementation_report_en.pdf.

Mapping of national rules

The study team extracted information available from the Tobacco Control Laws website (https://www.tobaccocontrollaws.org/) on relevant national rules for each Work Stream.

Information on the extent to which each country implements and enforces EU rules for each Work Stream was then extracted using the following sources: the Tobacco Control Laws website[12], the WHO's 2019 report on the global tobacco epidemic[13], the Smoke Free Partnership's smoke-free map and the Tobacco Control Scale studies[14].

Task 3: Consultation activities

Country written questionnaire

A written questionnaire was sent to National Competent Authority representatives in all EU Member States, the UK, countries of the European Economic Area[15] and EU candidate countries[16] at the end of October 2020. The objective was to collect evidence on how each country implements and enforces EU rules on 1) advertising, promotion and sponsorship of tobacco and related products and 2) smoke-free environments, as well as to collect information on countries' views on current and emerging issues and challenges.

The responses were received between November 2020 and January 2021. All but one of the EU Member States, the UK and all of the countries of the European Economic Area responded to the written questionnaire: a total of 30 questionnaire submissions were received. The EU Member State who did not submit an answer to the questionnaire provided answers at a later date (June 2021) in a slightly different format. No answers were received from EU candidate countries, despite several reminders.

Targeted key informant interviews

Semi-structured interviews were undertaken to develop emerging ideas and findings, explore themes across both workstreams, and identify any study gaps. A cross-section of individuals with knowledge and experience of tobacco control were invited to provide a range of views and insights. The stakeholders, who were identified during the inception phase (see Task 1), covered five main stakeholder groups (civil society organisations, health experts, advertising and promotion stakeholders[17], environmental stakeholders[18] and social media stakeholders). Tailored topic guides were developed for each of the groups, and specific questions were asked to interview participants based on their specific expertise. In some cases, where stakeholders were not able to participate in a telephone interview, they were given the option to provide answers by email.

A total of 34 interviews were conducted between November 2020 and January 2021: 17 with civil society organisations, nine with health experts, four with advertising and promotion stakeholders[19], three with environmental stakeholders[20] and one with a social media stakeholder.

In addition, a major on-demand audiovisual media service, a major search engine, as well as a major e-commerce platform provided written answers on their policies against tobacco and related products advertisement and promotion through their services, as well as challenges they face in complying with EU and country-specific rules.

12 Available at: https://www.tobaccocontrollaws.org/
13 World Health Organisation. (2019). Tobacco control profiles - countries, territories and areas. WHO. Available at: https://www.who.int/tobacco/surveillance/policy/country_profile/en/
14 Available at: https://www.tobaccocontrolscale.org/
15 Iceland, Liechtenstein and Norway
16 Albania, Montenegro, North Macedonia, Serbia and Turkey
17 Advertising and promotion stakeholders from the following sectors: advertisement and promotion regulation/control, advertisement and promotion agencies
18 Environmental stakeholders from the following fields: Hospitality (hotels, bars and restaurants) and Prisons
19 Advertising and promotion stakeholders from the following sectors: advertisement and promotion regulation/control, advertisement and promotion agencies
20 Environmental stakeholders from the following fields: Hospitality (hotels, bars and restaurants) and Prisons

Focus groups

Three focus groups were organised and facilitated with relevant stakeholders from specific countries (as "mini case studies") on countries that are of particular interest because of their good practice in terms of tobacco control, both related to advertising of tobacco and related products and smoke-free environments: Romania (April 2021), Italy (June 2021), and France (September 2021). See Table 6 for an overview of these case studies and the strength of the evidence collected.

Each focus group brought together up to eight or nine stakeholders (e.g. national competent authorities, civil society organisations, health experts). Overall, the focus groups followed the same topic guides as the interviews with civil society organisations, but some tweaks were made to the questions to reflect the specific country contexts.

Targeted interviews with industry stakeholders

The study team designed and piloted the interview protocol, identified potential participants, and conducted 11 interviews with stakeholders in tobacco and related industries between November 2020 and February 2021. A further three individuals working in these industries provided written submissions in response to the interview questions, but did not answer all questions. Data collection took place between 29 October 2020 and 10 February 2021.

Industry stakeholders represented a variety of organisations active in different markets (both in terms of products and Member States). Three out of 11 stakeholders represented a single manufacturer, whilst the other eight represented associations of cigarette, cigar, and e-cigarette manufacturers. Six of those focused on the market of specific EU Member States and two were pan-European associations. Five associations mainly represented small and medium-sized manufacturers, one represented only large manufacturers, and two represented both.

Citizens' survey

The study team designed and piloted a citizens' distributed it to participants from market research panels in 10 countries[21] via a market research company, Dynata. The latter recruited members of the general population to their panels using a variety of approaches, and had their own quality control systems for the data collected[22]. Specific care was taken to recruit a sample that was as representative as possible of each country's population with regard to gender and age. To this end, participant characteristics were monitored during recruitment to proactively ascertain individuals from under-represented population subgroups. Participants received a small reimbursement (<€1). In total, 5,187 participants were recruited across the 10 countries. Data collection for the citizen survey took place between 18 November 2020 and 7 December 2020.

The results provide an overview of the results for all the key survey questions, including exploring differences by age group and country. These results were derived from univariable (summarising results for a single question) and bivariable (summarising the results for a single question separately for different groups, e.g. country) analyses. This report also includes the results of more sophisticated multivariable approaches (logistic regression, Latent Class Analysis).

21 Bulgaria, Denmark, France, Germany, Greece, Ireland, Italy, the Netherlands, Romania and Spain. These countries were selected to align with the 2016 citizen survey, although the Ireland was substituted for the UK (as the UK is no longer an EU member state), and Bulgaria was substituted for Lithuania, as they have similar tobacco control profiles.

22 Including participation limits, screening questions, and digital fingerprinting

Observational research

The study team designed and piloted a first observational research data collection exercise, and distributed it to participants in 10 countries[23]. Although recruitment for the exercise was good (1,314 submissions from 1,026 individuals located across the 10 countries), it was found that a much higher percentage of participants than expected did not follow the instructions provided and did not submit appropriate examples of advertising, promotion or sponsorship. This provided the study team with 111 useable examples. Data collection for this first round of the observational research took place between 8 December 2020 and 5 January 2021.

The study team therefore carried out an additional survey. This survey used six of the examples submitted in the first data collection exercise (two traditional tobacco products, two e-cigarettes, and two heated tobacco products), showing these to participants and asking them to reflect on the characteristics of the examples and the products portrayed in them using the same set of questions from the first study. This provided the study team with information on the perceptions of the same set of advertisements and promotions, making it possible to undertake additional analyses investigating differences related to age, gender, smoking status and other participant characteristics. This second data collection activity produced good quality data; univariable, bivariable, and multivariable (logistic regression) analyses of these data are presented in this report, in addition to the findings from the first data collection activity. Data collection for the second round of the observation research took place between 10 May 2021 and 9 June 2021.

Task 4: Data analysis and synthesis of findings

The data and information gathered from the desk research and consultation activities tasks described above were analysed with the objective of answering the study questions. Evidence was triangulated to construct detailed, robust and traceable findings.

Considerations for interpreting findings

Table 6 presents the strengths and limitations of the study approach.

Table 6. Overview of the research tools and the strength of the evidence collected

Research tools	Description	Strength of the collected evidence
Secondary data collection tools		
Literature review	Identification and review of: - Peer-reviewed literature - Grey literature - Press articles	**Strong quality:** This literature review sought to gain an understanding of key studies and an overview of the field. Most of the literature used was identified through a 'snowball' search, based on the bibliography provided in the Terms of Reference, and documents provided by DG SANTE. This evidence base was further expanded, based on internal discussions with study experts; suggestions from DG SANTE; reference mining using bibliographies of highly relevant studies previously identified; targeted literature searches to fill gaps, and recommendations from Member States and interviewed stakeholders. **Limitations**: Documents produced by the tobacco industry were not included.
Mapping of national rules	Data collection from: - Tobacco Control Laws website - WHO's 2019 report on the global tobacco epidemic	**Low quality:** There were large gaps in the available data, missing all or partial information for several countries, types of advertising, promotion and sponsorship activities and types of smoke-free environments. When data was available, there were concerns that the information collected might be out of date.

23 Bulgaria, Denmark, France, Germany, Greece, Ireland, Italy, the Netherlands, Romania and Spain. These countries mirror the countries included in the citizen survey.

Research tools	Description	Strength of the collected evidence
	- Smoke Free Partnership's smoke-free map - Tobacco Control Scale studies	
Primary data collection tools		
Country written questionnaire	Written questionnaire sent to National Competent Authority representatives in: - All EU Member States - The UK - Countries of the European Economic Area - EU candidate countries (not received)	**Strong quality:** The written questionnaire was designed and sent to national competent authorities from 36 countries. Completed responses were received from 30, an 83% response rate. Malta provided responses to the country written questionnaire in a slightly different format, but this still allowed the study team to gather relevant data. **Limitations:** None of the EU candidate countries replied to the invitations and some countries did not provide answers to all questions. Some countries answered the written questionnaire questions on 'compliance with smoke-free rules' even though they indicated their countries had no bans at all. For consistency purposes, these answers were excluded from the analysis.
Targeted key informant interviews	34 semi-structured interviews with four key stakeholder groups: - Civil Society Organisations (CSOs) - Health experts - Advertising and promotion stakeholders - Environmental stakeholders - Social media stakeholders	**Mixed quality:** Tailored topic guides were developed for each of the stakeholder groups. In addition, each interviewer tailored specific questions depending on the responses provided by the interviewees. The quality of responses differed across stakeholders and stakeholders provided different viewpoints. **Limitations:** Many potential interviewees did not acknowledge the study team's invitation emails and reminders, or refused to participate, due to lack of time, sensitivity of the topics covered, or because they felt they were not knowledgeable enough to answer the study questions. Interviews were organised with CSOs and health experts from 12 EU Member States (44%). The remaining countries have not been covered specifically (Austria, Bulgaria, Croatia, Czechia, Estonia, Greece, Hungary, Italy, Latvia, Luxembourg, Poland, Portugal, Romania, Slovakia, Sweden).
Focus groups	3 focus groups organised with relevant stakeholders from: - Italy - Romania - France	**Strong quality:** The focus groups acted as "mini- case studies" on countries of particular interest for the study because of their good practice in terms of tobacco control, both related to advertising of tobacco and related products and smoke-free environments. A large amount of information was collected during the focus groups, such as examples of implementation and enforcement challenges, as well as in good practices.
Industry interviews	11 interviews held with tobacco industry representatives	**Weak and problematic evidence:** The quality of the data is in most cases difficult to verify and relies on the willingness of the interviewees to truthfully disclose the requested information. Given the conflict of interest, this information is unlikely to be complete. Nonetheless, it provides some basic insights into what avenues of advertising, promotion and sponsorship of tobacco and related products are being used by the tobacco industry. Saturation was reached in these interviews, meaning that by the last few interviews no new content that was significantly different from what was mentioned by previous interviewees was added. This indicates that the interviews likely captured the spectrum of views and perceptions that industry associations were willing to share at a high level. **Limitations:** Due to conflicts of interests, answers of interviewees are likely to be highly biased. For the same reason, interviewees may not

Research tools	Description	Strength of the collected evidence
		have spoken freely and may not have provided a comprehensive overview of their advertising, promotion and sponsorship activities. Due to the limited number of interviews, not all markets in all Member States were covered, or all the different rules and strategies applied to each product in each market.
Citizens' survey	Survey of a sample of 5,187 respondents from 10 different EU countries (Bulgaria, Denmark, France, Germany, Greece, Ireland, Italy, the Netherlands, Romania and Spain), which gathered information on sociodemographic variables, use of tobacco and related products, frequency of use of different types of media and reported frequency of encountering advertisements and promotions for tobacco products for smoking, e-cigarettes and heated tobacco products across different traditional and new and emerging media channels. Sample was representative on age, gender and education for each country.	**High quality:** The citizens' survey is a large, representative sample from across the EU, which provides primary data on how often citizens recall seeing advertisements and promotions for tobacco and related products in the previous 12 months. With this data, it is possible to understand how different groups of EU citizens encounter ads and promotions in different media sources, along with differences by age, country, use of tobacco products and other factors. The data also provide an update since the 2016 survey, which can be used to understand qualitative differences over time. **Limitations:** The survey is based on respondents' recall of different forms of advertisements and promotions over the previous 12 months. It is possible that respondents did not accurately recall how often they were actually exposed to advertisements and promotions, particularly in relation to very specific types of media sources. It is also possible that respondents did not fully understand the difference between e-cigarettes and heated tobacco products (particularly for non-users of these products), and that respondents had different understandings of the scope of each type of media channel. Lastly, there are methodological differences between the current citizens' survey and the 2016 survey which limit the ability to make direct comparisons across survey years.
Observational research	Survey of a sub-group of respondents to the citizens' survey. Respondents were asked to submit an image/video/audio clip of advertising, sponsorship or promotion of tobacco or related products and answer a short set of questions about their example. Six of these examples were then selected for an additional survey in which all respondents were asked the same set of questions about each example.	**Mixed quality:** The survey was sent to respondents aged 18-34 who had previously completed the citizens' survey, which allowed for a comparison of the two surveys. Each submitted example was screened to ensure relevancy to the study; those deemed irrelevant were excluded from analysis which left a sample too small for multivariable analysis. The second observation study elicited responses from over 1,000 participants from the same six examples, permitting subgroup and multivariable analyses. **Limitations:** While the initial sample size for the first observational study was high (over 1,300 submitted examples), most of these were examples not related to the study and so were excluded from analysis. In total, only 109 examples were eligible for inclusion. In addition, the survey was administered during the COVID-19 pandemic, which may have restricted the ability for respondents to submit examples from public areas. Finally, some examples may have been more difficult than others to submit (e.g. online screenshots may have been easier than taking a photo in a shop), so results may be skewed towards types of ads and promotions that are more easily captured. For the second observational study, the main limitations are that (i) there was some difficulty recruiting sufficient participants aged 18 to 24; individuals 36 to 45 were included to increase sample size; (ii) participants were only responding to six examples of advertising and promotion and therefore the responses may not generalise to other examples.

III. Definitions and scope of the study

Definitions

The table below provides definitions for the main types of tobacco and related products mentioned in this report.

Table 7. Definitions of tobacco and related products

Types	Definitions and examples
Tobacco products for smoking	Cigarette: "A roll of tobacco that can be consumed via a combustion process and is further defined in Article 3(1) of Council Directive 2011/64/EU" (TPD Article 2(10)). Roll-your-own tobacco: "Tobacco which can be used for making cigarettes by consumers or retail outlets" (TPD Article 2(3)). Pipe tobacco: "Tobacco that can be consumed via a combustion process and exclusively intended for use in a pipe" (TPD Article 2(2)). Cigar: "A roll of tobacco that can be consumed via a combustion process and is further defined in Article 4(1) of Directive 2011/64/EU" (TPD Article 2(11)). Cigarillo: "A small type of cigar and is further defined in Article 8(1) of Council Directive 2007/74/EC" (TPD Article 2(12)). Waterpipe tobacco: "A tobacco product that can be consumed via a waterpipe. For the purpose of [the TPD], waterpipe tobacco is deemed to be a tobacco product for smoking" (TPD Article 2(13)).
Electronic cigarette (E-cigarette)	"A product that can be used for consumption of nicotine-containing vapour via a mouth piece, or any component of that product, including a cartridge, a tank and the device without cartridge or tank. Electronic cigarettes can be disposable or refillable by means of a refill container and a tank, or rechargeable with single use cartridges" (TPD Article 2(16)).
Refill container	"A receptacle that contains a nicotine-containing liquid, which can be used to refill an electronic cigarette" (TPD Article 2(17))
Nicotine-free liquids	Nicotine-free liquids that can be used for vaporisation (currently not in the scope of the TPD) refer to a liquid other than a nicotine-containing liquid that is intended for vaporisation by means of an electronic cigarette or a similar method[24].
Heated Tobacco Products (HTPs)	Heated Tobacco Products (HTPs) are tobacco products that produce aerosols containing nicotine and toxic chemicals when tobacco is heated or when a device containing tobacco is activated.
Nicotine-containing products (excluding e-cigarettes and e-liquids)	Any non-tobacco products containing nicotine, which are currently outside the scope of the TPD and are not regulated as medicinal product at individual Member State level. For the purposes of this study, e.g. nicotine pouches, nicotine lollipops, chewing marmalade and chewing mix are considered to fall within this broader category of products.
Other tobacco surrogates	Any non-tobacco products outside the scope of the TPD that 1) is used either concomitantly with tobacco and related products, or 2) is mirroring the use of such products.
Smokeless tobacco products	"A tobacco product not involving a combustion process, including chewing tobacco, nasal tobacco and tobacco for oral use." (TPD Article 2(5))
Herbal products for smoking	"A product based on plants, herbs or fruits which contains no tobacco and that can be consumed via a combustion process." (TPD Article 2(15))

[24] Definition taken from the Finnish National Supervisory Authority for Welfare and Health (Valvira). https://www.valvira.fi/web/en/tobacco/-tupakan-tuotevalvonta-/-sahkosavukkeet-ja-nesteet-

Novel tobacco product	A tobacco product which: (a) does not fall into any of the following categories: cigarettes, roll-your-own tobacco, pipe tobacco, waterpipe tobacco, cigars, cigarillos, chewing tobacco, nasal tobacco or tobacco for oral use; and (b) is placed on the market after 19 May 2014 (TPD Article 2(14))

Scope of the study

The tables below show what the scope of this study is. In particular, information is provided on the scope in terms of: the types of tobacco and related products, the types of advertising, promotion and sponsorship activities, and the types of smoke-free environments.

Table 8. Types of advertising, promotion and sponsorship activities in scope for Work Stream 1 on advertising, promotion and sponsorship of tobacco and related products

Types	Sub-types
Billboards, posters and other types of advertising outside the house	Advertising outside the home (e.g. billboards, posters at bus-stops, advertising in sports stadia, advertising in taxis, and advertising on public transport etc) Cinema advertising (e.g. prior to movie)
Internet, social media and mobile applications	Online sales by specialist retailers of tobacco products for smoking, e-cigarettes and HTPs Wider sales channels (e.g. e-commerce websites) Non-retailer websites (e.g. search engines, news services), social media, appstore or apps downloaded from appstores for mobile devices
Points of sale, sample, giveaways, promotional items and direct marketing	Free samples, free gifts and promotional items (i.e. distribution of free tobacco product samples, or free gifts supplied by tobacco manufacturers, or tobacco-branded promotional items, in the street, in the mail/post, at events, in restaurants/bars/discotheques and any other retail outlets) Free trial of tobacco products for smoking, e-cigarettes and HTPs Competitions or prize draws linked to tobacco products for smoking, e-cigarettes or HTPs Products visible on display in shops, supermarkets and other retail outlets (i.e. products can be seen by customers and are not required to be hidden behind shutters or curtains, or are not required to be stocked out of sight under a counter) Advertising at point of sale in shops, supermarkets and other retail outlets (i.e. posters inside shops, posters on shop windows, branding on display units or vending machines, branding on other shop furniture and fittings such as clocks and change mats)
Printed media	National or local print advertising for the general public (e.g. national or local newspapers, magazines) International print advertising for the general public (e.g. international newspapers, magazines) Print advertising in the trade press (e.g. magazines and newsletters for tobacco traders and retailers)
Sponsorship, corporate responsibility, corporate promotion and other public relations tactics, brand stretching and imitation products	Sponsorship (i.e. financial support for cultural, sporting and other events, or for organisations) Corporate Social Responsibility actions by tobacco companies (i.e. donations, funding for research or scholarship, corporate entertaining, and any other activities carried out by companies under the heading of corporate social responsibility) Brand stretching and imitation products (i.e. companies producing non-tobacco products under their brand name, such as clothing, and tobacco companies selling e-cigarettes using the same brand name as tobacco products and which resemble tobacco products) Corporate promotion and other public relations tactics (e.g. Mission Winnow, Unsmoke your world, Foundation for a Smoke-Free World)
TV and radio and product placement	National or local TV advertising International TV advertising National or local radio advertising International radio advertising

Types	Sub-types
	Product placement (i.e. manufacturers paying for their products to be featured in films and television programmes, or brand names mentioned in the likes of radio broadcasts) Use of products in films or television without explicit mention of the brand Crosses with sponsorship (e.g., branding on race car)

Table 9. Types of smoke-free environments in scope for Work Stream 2 on Smoke-free environments

Types	Sub-types
General workplaces	Indoor workplaces Outdoor workplaces
Enclosed public spaces (e.g. town hall, public library)	
Health care facilities	Indoor health care facilities Outdoor health care facilities (e.g. outside, but on facilities' grounds)
Residential care facilities	
Educational facilities	Indoor schools (e.g. primary and secondary) Indoor adult learning premises (e.g. universities and vocational learning centres) Outdoor schools (e.g. primary and secondary) (e.g. outside but on facilities' grounds) Adult learning premises (e.g. universities and vocational learning centres) (e.g. outside but on facilities' grounds)
Public transports	
Prisons	
Hotels and accommodation	Hotels Private home rentals
Restaurants and bars	Indoor restaurants and eating establishments Indoor bars and drinking establishments Outdoor restaurants and eating establishments (e.g. terraces, garden seating) Outdoor restaurants bars and drinking establishments (e.g. terraces, garden seating)
Outdoor public spaces	Playgrounds or other spaces frequented by children and young people Public parks Public beaches
Private areas	Cars Homes

IV. Work Stream 1 on advertising, promotion and sponsorship of tobacco and related products

Part IV presents findings on "Work Stream 1 on advertising, promotion and sponsorship of tobacco and related products":

- Chapter 1) provides an overview of Member States' legislative provisions and of key legislative and policy developments;
- Chapter 2) presents tobacco industry advertising and promotion activities;
- Chapter 3) maps exposure to advertising and promotion activities;
- Chapter 4) examines the placement and content of 'traditional' and other forms of advertising, promotion and sponsorship; and
- Chapter 5) provides a synthesis of lessons learnt.

Countries in scope for PART III include the EU28 countries (during the timeframe considered for this report, the UK was still an EU Member State).

1) Overview of Member States' rules and of key legislative and policy developments

The EU has adopted various instruments regarding advertising, promotion and sponsorship of tobacco and related products, including:

- the Council Recommendation 2003/54/EC on the prevention of smoking and on initiatives to improve tobacco control (adopted 2 December 2002);
- the Tobacco Advertising Directive (TAD) (adopted 26 May 2003);
- the Audiovisual Media Services Directive (AVMSD) (adopted 10 March 2010), as amended by Directive (EU) 2018/1808; and
- the Tobacco Products Directive (TPD) (adopted 3 April 2014).

In addition, the Framework Convention on Tobacco Control (FCTC; in particular Article 13) was adopted 21 May 2003, and entered into force 27 February 2005.

Error! Reference source not found. presents the scope of EU law and international rules surrounding advertising, promotion and sponsorship of tobacco and related products.

Table 10. Scope of EU law and international rules surrounding advertising, promotion and sponsorship of tobacco and related products

	TAD	AVMSD	TPD	FCTC
Products covered	Tobacco products	- Cigarettes and other tobacco products - Electronic cigarettes and refill containers	- Electronic cigarettes and refill containers *(- Tobacco products and herbal products for smoking)25*	Tobacco products
Definitions of the products covered	- Tobacco products: products intended to be smoked, sniffed, sucked or chewed inasmuch as they are made, even partly, of tobacco	Not defined	- Electronic cigarette: product that can be used for consumption of nicotine-containing vapour via a mouth piece, or any component of that product, including a cartridge, a tank and the device without cartridge or tank -Refill container: a receptacle that contains a nicotine-containing liquid, which can be used to refill an electronic cigarette *˙(-Tobacco products: products that can be consumed and consisting, even partly, of tobacco (i.e. leaves and other natural parts of tobacco plants))26*	- Tobacco products: products entirely or partly made of the leaf tobacco as raw material which are manufactured to be used for smoking, sucking, chewing or snuffing

25 Provisions on advertising, promotion and sponsorship contained in the TPD do not apply to these categories of products.

26 Provisions on advertising, promotion and sponsorship contained in the TPD do not apply to tobacco products.

	TAD	AVMSD	TPD	FCTC
Prohibited activities	- Advertising - Sponsorship (includes free distribution of products in the context of sponsorship activites)	- (Audiovisual) commercial communications - Sponsorship - Product placement	- Commercial communications (covers the same activity as TAD advertising covers)27 - Sponsorship	- Advertising - Sponsorship - Promotion
Definition of commercial communications /advertising	Advertising: any form of commercial communications with the aim or direct or indirect effect of promoting a tobacco product	- (Audiovisual) commercial communications: images which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal person pursuing an economic activity Forms of audiovisual commercial communication include television advertising, sponsorship and product placement - (Television) advertising: any form of announcement	No explicit definition of commercial communications, covers commercial communications with the aim or direct or indirect effect of promoting electronic cigarettes and refill containers	Advertising (and promotion): any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly

27 The TPD also adds that audiovisual commercial communications to which the AVMS Directive apply shall be prohibited.

	TAD	AVMSD	TPD	FCTC
		broadcast in order to promote the supply of goods or services		
Definition of sponsorship	Any form of public or private contribution to any event, activity or individual with the aim of direct or indirect effect of promoting a tobacco product	Any contribution made by public or private undertakings or natural persons not engaged in providing audiovisual media services or video-sharing platform services or in producing audiovisual works to the financing of audiovisual media services, video-sharing platform services, user-generated videos or programmes with a view to promoting their name, trade mark, image, activities or products	Refers to public or private contribution, without an explicit definition.	Any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly
Media where commercial communications/advertising are prohibited	Press and other printed publications (except for professional publications and publications printed, published in and intended for third country markets) Information Society services (except for professional publications and publications printed,	All forms of audiovisual commercial communications	Press and other printed publications (except for professional publications and publications printed, published in and intended for third country markets) Information Society services (except for professional publications and publications printed,	Comprehensive ban on radio, television, print media and, as appropriate, other media, such as the internet,

	TAD	AVMSD	TPD	FCTC
	published in and intended for third country markets) Radio		published in and intended for third country markets) Radio28	
Places/activites to which the prohibition of sponsorship applies	Radio (by undertakings whose principal activity is the manufacture or sale of tobacco products.) Any event, activity or individual person involving or taking place in several Member States or otherwise having cross-border effects	Audiovisual media services or programmes The prohibition applies to sponsorship by undertakings whose principal activity is the manufacture or sale of tobacco products, electronic cigarettes and refill containers	Radio Any event, activity or individual person involving or taking place in several Member States or otherwise having cross-border effects	Comprehensive ban on radio, television, print media and, as appropriate, other media, such as the internet,
Product placement	Not covered29	Programmes should not contain product placement (i. e. the inclusion of or reference to a product, a service or the trade mark thereof so that it is featured within a programme or a user-generated video in return for payment)	Prohibited in the audiovisual sector30	Prohibited (listed in the Article 13 Guidelines)

28 And other media to which the AVMS Directive applies, see above footnote 21.

29 Although product placement in the audiovisual sector is prohibited by the AVMS Directive.

30 See footnote 21.

	TAD	AVMSD	TPD	FCTC
		The prohibition applies to sponsorship by undertakings whose principal activity is the manufacture or sale of tobacco products, electronic cigarettes and refill containers		

More information on the EU policy landscape on advertising, promotion and sponsorship of tobacco and related products is available in Study Appendix 2.

This Chapter presents findings on:

- how these rules have been implemented (section 1.1);
- the level of compliance with these rules (section 1.2); and
- how these rules have been monitored and enforced (section 1.3).

1.1) Implementation of EU law and international rules on advertising, promotion and sponsorship of tobacco and related products

This section discusses implementation of rules on advertising, promotion and sponsorship of tobacco and related products. Information in this section is mainly drawn from the responses Member States provided to this study's written questionnaire.

A majority of Member States reported not having faced any issues implementing the various EU and international rules on advertising, promotion and sponsorship of tobacco and related products, and overall they said they consider the definitions contained in these rules to be clear and unambiguous. However, some difficulties did emerge, which centre on three main problems:

- There are discrepancies between the key definitions contained in the different rules. The terms 'tobacco products', 'advertising' and 'sponsorship' are defined differently in the TAD, FCTC, AVMSD and TPD, while some provisions refer to 'commercial communications' without explicit definitions.
- Difficulties or gaps exist regarding advertising, promotion and sponsorship on Internet and social media.
- Gaps or uncertainties exist concerning emerging or novel products which cannot be categorised as traditional tobacco products and e-cigarettes: heated tobacco products (HTPs) and their devices, nicotine products, herbal products, flavour cards, etc.31

Definitions contained in EU law and international rules

A small majority of Member States said they consider the **definitions in the TAD** to be clear and unambiguous. However, several Member States (Austria, Belgium, Cyprus, Czechia, Denmark, Finland, France, Hungary, Ireland, Italy, Romania and Slovenia) reported unclarities and ambiguities, and in particular some difficulties with the definitions of 'advertising' and 'sponsorship' (Art. 2 TAD). For instance, Romania called for these definitions to be broadened to include the 'likely effect' of promoting tobacco products, in line with Article 13 FCTC, and to refer not only to the prohibition of the promotion of tobacco products but also to the promotion of tobacco use. Regarding the definition of 'sponsorship', Austria suggested that the definition be extended to include contributions to 'a company or institution itself' (rather than being limited to concrete projects or events).

Several Member States also raised some questions regarding the definition of Information Society Services (ISSs). For example, France said they consider the expression 'intended for the Community market' contained in Art. 3(1) TAD to be difficult to determine in practice, especially with ISSs. Finally, regarding the definition of an ISS, Cyprus enquired whether communications made in a private group on social media fall within its scope or not.

31 It must be kept in mind that these different products are not in a similar position with regards to EU law: on the one hand, the TAD can be interpreted as covering HTPs and their devices (see infra footnote 26) and herbal products are covered in the TPD (although not in relation to advertising and promotion), on the other hand, nicotine products and flavour cards fall outside the scope of the EU instruments analysed here.

Several Member States said they consider the scope of the TAD to be too narrow and called for all kinds of tobacco and related products to be categorically included in the prohibition of advertising and sponsorship: HTPs and their devices,[32] nicotine products, herbal products, flavour cards, etc.

A majority of Member States said they consider the **definitions in the FCTC** to be clear and unambiguous. However, some Member States (Austria, Belgium, Czechia, Finland, Ireland, Italy and Romania) reported unclarities and ambiguities: their main grievance lay with the narrow scope of Article 13 which only covers tobacco products and not, *inter alia*, e-cigarettes, nicotine products and devices used with novel tobacco products.

A majority of Member States said they consider the **definitions in the AVMSD** to be clear and unambiguous. However, some Member States (Austria, Belgium, Cyprus, Finland, Ireland, Italy and Romania) reported unclarities and ambiguities. Problems raised include: the different definition given to 'sponsorship' in the AVMSD and the TAD; the existing regulatory gaps due to the focus of the AVMSD on tobacco products and e-cigarettes only; and the fact that not all social media fall within the scope of the AVMSD. Similarly to its comment on the TAD, Romania also suggested including in the definitions of 'advertising' and 'sponsorship' not only the promotion of tobacco products but also the promotion of tobacco use.

A small majority of Member States said they consider the **definitions in the TPD** to be clear and unambiguous. However, several Member States (Austria, Belgium, Cyprus, Czechia, Finland, France, Hungary, Ireland, Italy, Luxembourg, Malta and Slovenia) reported some unclarities and ambiguities. In particular, Cyprus explained that the definition of e-cigarette does not allow for a precise difference to be made between the cartridge and the tank and suggested that a definition of those terms be given in the TPD. France also pointed at the need for a definition of 'commercial communications' to be given in the TPD. Malta also stated that emerging products such as nicotine pouches are not defined and therefore not regulated.

Ease of implementation of EU law and international rules

Regarding the **implementation of the Council Recommendation 2003/54/EC** on the prevention of smoking and on initiatives to improve tobacco control, a majority of Member States declared not having faced any issues while a few said they had to some extent (Belgium, Cyprus, France, the Netherlands, Portugal and Romania). For instance, France pointed at the fact that many of the prohibitions it had enacted to comply with the Recommendation had not been complied with by manufacturers for many years and that manufacturers had used 'numerous marketing strategies to promote tobacco consumption (sponsorship operations and the use of the packet of cigarettes for advertising purposes in particular)'.

Regarding the **implementation of the TAD**, a majority of Member States declared not having faced any issues while several said they had to some extent (Belgium, Cyprus, Denmark, France, Ireland, Italy, the Netherlands, Poland, Portugal and Romania). Some of these countries reported a potential conflict between the prohibition of advertising in the context of ISSs (Art 3 TAD) and the possibility of cross-border internet sales (i.e. underlining that the mere fact that it is possible to sell on the internet is already a kind of 'ISSs advertising'). Denmark indicated that its transposition of the TAD had been until recently incomplete, targeting only advertising having 'the aim' of promoting the sale of tobacco products and not the 'effect' - this mistransposition was corrected in December 2020.

32 The TAD could actually be construed as already applicable to heated tobacco products and their devices. Regarding heated tobacco products themselves, Article 2(a) of the Directive defines tobacco products as 'all products intended to be smoked, sniffed, sucked or chewed inasmuch as they are made, even partly, of tobacco' and HTPs are to be considered to be tobacco products. As for their devices, these are not tobacco products but their advertising and sponsorship could be interpreted as an indirect promotion of tobacco products (see Art 2(b) and (c)) and hence be equally prohibited under the TAD.

Overall, it appears difficult to enforce the prohibition of advertising and sponsorship on social media. For instance, Cyprus was uncertain as to whether promotion taking place within private groups on social media was covered by the TAD. Romania stated that the ban on sponsorship for events with a cross-border dimension and the ban on the free distribution of tobacco products during these events (Art. 5) was difficult to enforce when it concerned commercial entities not registered in the country.

Regarding the **implementation of the AVMSD**, a majority of Member States declared not having faced any issues and only a few countries said they had to some extent (Belgium, Cyprus, the Netherlands and Romania). Similar to the TAD, issues regarding advertising in social media and cross-border advertising were reported.

Regarding the **implementation of the TPD**, a majority of Member States declared not having faced any issues, but Italy and Ireland declared having faced issues and a few more Member States (Belgium, Cyprus, Hungary and Poland) said they had too, to some extent. For example, Ireland pointed at the fact that allowing cross-border distance sales leads to situations where images and descriptions of tobacco products are used on websites, which could be in conflict with Art. 3 TAD.[33] Further, Ireland found Art. 20(5)(d) TPD on the sponsorship of cross-border events difficult to interpret in practice, when any event can be placed on social media and therefore has the potential to lead to a cross border effect. Finally, Ireland pointed at the widespread use of e-cigarette promotion on social media despite the prohibition on commercial communications in ISSs contained in Art. 20(5)(d). The TPD application report from the European Commission, released in 2021, also concluded that banning commercial communications and sponsorship activities to promote e-cigarettes continued to be challenging, especially in information society services and on social media where young people are particularly exposed/targeted.[34]

Regarding the **implementation of the FCTC**, a large majority of Member States declared not having faced any issues and only a few countries said they had to some extent (Belgium, Cyprus, France and the Netherlands). For instance, Cyprus wondered whether internet sales should be considered as advertisement and promotion.

Gaps in the current EU regulatory framework

A majority of Member States reported that there are gaps in the current EU regulatory framework.

Most of these said they would like the current prohibitions on advertising and sponsorship contained in EU rules to be unambiguously **extended to all tobacco and related products**, such as HTP devices, nicotine products or accessories such as flavour cards. This is a particularly important point for some Member States – for instance, Estonia stressed that nicotine pouches seemed to be one of the main causes of concern for them, in addition to e-cigarettes. Malta also recommended clarity in terms of including and regulating nicotine pouches.

Some Member States reported they would like all kinds of promotion on **all forms of social media to be more clearly covered** by these rules.

Some Member States regretted that the EU legislation **only applies to cross-border advertising and not to static advertising** (billboards, spots in cinemas, etc.). Regarding this latter point, it is important to keep in mind that the scope of the TAD results from the Court's finding that the EU could legitimately only introduce a ban on certain types of

33 On the issue of cross-border distance sales, see the Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the application of Directive 2014/40/EU concerning the manufacture, presentation and sale of tobacco and related products, COM(2021) 249 final, pp. 10-11, and the accompanying support study, pp. 99-105.
34 TPD report, cit., p. 13, see also the support study pp. 136-138.

tobacco advertising and sponsorship with cross-border implications on the basis of Treaty provisions (then Art.95 - internal market).[35]

Interviews with CSOs and health experts have confirmed the points raised above. Indeed, when asked about the gaps in the current EU regulatory framework, CSOs and health experts raised the following concerns: the coverage of existing EU rules on advertising and sponsorship should be unambiguously extended to cover all tobacco and related products such as HTP devices and nicotine pouches; there currently are regulatory loopholes regarding social media platforms on which the scope of regulation is mostly left unclear (e.g. what the status of private groups is, on which accounts linked to tobacco manufacturers can post promotional materials; recourse to influencers, 'friend-to-friend advertising'); and EU binding rules only apply to advertising with a cross-border aspect.

1.2) National legislation on advertising, promotion and sponsorship of tobacco and related products

The Tobacco Control Scale reports monitor the implementation of tobacco control policies systematically at country-level across Europe. They contain a dimension titled "Comprehensive bans on advertising and promotion", for which countries are ranked on a 13-point scale, depending on how stringent their bans on advertising and promotion (and sponsorship) are[36]. The most recent report on the Scale, from 2019[37] found that the top scoring EU Member States were Finland, Ireland and Slovenia (13 points each), closely followed by Croatia and the UK (12 points each), and the lowest scoring Member States were Greece and Austria (7 points each), and Germany (4). The Tobacco Control Scale shows that there are still wide differences in the implementation by Member States of European and international rules on advertising and promotion of tobacco and related products. On subjects where European law does not provide for binding rules (e.g. outdoor advertising or advertising at point of sale), Member States differ in the level of protection sought. Table 11 provides a more detailed overview per Member State[38].

Table 11. Tobacco Control Scale - Comprehensive bans on advertising and promotion score on 1 January 2020 (13 points)

Country	Outdoor advertising (e.g. posters)	Cinema advertising	Point of sale advertising	Print media (e.g. newspapers and magazines)	Display of tobacco products at the point of sale	Advertising on television and radio	Internet advertising	National sponsorship	International sponsorship	Indirect advertising	Total
Maximum amount of points	2	1	2	1,5	2	2	0,5	0,5	0,5	1	13
Finland	2	1	2	1,5	2	2	?	0,5	0,5	1	**13**
Slovenia	2	1	2	1,5	2	2	?	0,5	0,5	1	**13**
Ireland	2	1	2	1,5	2	2	?	0,5	0,5	1	**13**
UK	2	1	1	1,5	2	2	?	0,5	0,5	1	**12**
Croatia	2	1	2	1,5	2	2	?	0	0	1	**12**
Hungary	2	1	2	1,5	0	2	?	0,5	0,5	0	**11**
Malta	2	1	2	1,5	0	2	?	0,5	0,5	1	**11**
Poland	2	1	2	1,5	0	2	?	0,5	0,5	1	**11**
France	2	1	2	1,5	0	2	?	0,5	0,5	1	**11**
Estonia	2	1	2	1,5	0	2	?	0,5	0,5	1	**11**
Cyprus	2	1	2	1,5	0	2	?	0,5	0,5	1	**11**
Bulgaria	2	1	2	1,5	0	2	?	0,5	0,5	1	**11**
Portugal	2	1	2	1,5	0	2	?	0,5	0,5	0	**10**

35 ECJ, case C-376/98, *Germany v Parliament and Council*, EU:C:2000:544.
36 https://www.tobaccocontrolscale.org/
37 Joossens, L., Feliu, A., & Fernandex, E. (2020). The Tobacco Control Scale 2019 in Europe. Brussels: Association of European Cancer Leagues, Catalan Institute of Oncology. Available at: https://www.tobaccocontrolscale.org/TCS2019.pdf
38 The table includes the United Kingdom, which is no longer an EU Member State.

Country	Outdoor advertising (e.g. posters)	Cinema advertising	Point of sale advertising	Print media (e.g. newspapers and magazines)	Display of tobacco products at the point of sale	Advertising on television and radio	Internet advertising	National sponsorship	International sponsorship	Indirect advertising	Total
Latvia	2	1	2	1,5	0	2	?	0,5	0,5	0	**10**
Lithuania	2	1	2	1,5	0	2	?	0	0,5	1	**10**
Spain	2	1	0	1,5	0	2	?	0,5	0,5	1	**9**
Slovakia	2	1	0	1,5	0	2	?	0,5	0,5	1	**9**
Italy	2	1	2	1,5	0	2	?	0	0,5	0	**9**
Luxembourg	2	1	0	1,5	0	2	?	0,5	0,5	1	**9**
Netherlands	2	1	0	1,5	0	2	?	0,5	0,5	1	**9**
Sweden	2	1	0	1,5	0	2	?	0,5	0,5	1	**9**
Czechia	2	1	0	1,5	0	2	?	0,5	0,5	0	**8**
Belgium	2	1	0	1,5	0	2	?	0,5	0,5	0	**8**
Denmark	2	1	0	1,5	0	2	?	0,5	0,5	0	**8**
Romania	2	1	0	1,5	0	2	?	0	0,5	1	**8**
Greece	2	1	0	1,5	0	2	?	0	0,5	0	**7**
Austria	2	1	0	1,5	0	2	?	0	0,5	0	**7**
Germany	0	0	0	1,5	0	2	?	0	0,5	0	**4**

Source: Joossens L, Feliu A, Fernandez E. The Tobacco Control Scale 2019 in Europe. Brussels: Association of European Cancer Leagues, Catalan Institute of Oncology; 2020. Available from: http://www.tobaccocontrolscale.org/TCS2019.pdf

Note: "?" means that there are no data to verify whether the ban was enforced or not.

The 2016 EU study[39] concerning EU citizens' exposure to tobacco and e-cigarette marketing provided an overview of the provisions on advertising, promotion and sponsorship of tobacco and related products. More information is available in Study Appendix 2 on the baseline situation in 2016. However, as a snapshot, this 2016 report is out of date.

The objective of this section is to provide a more recent and comprehensive overview of the implementation of EU and international rules on advertising, promotion and sponsorship of tobacco and related products, based on the results of the country written questionnaire. Member States were asked whether they have rules in place to ban each different type of advertising, promotion and sponsorship activity, and more specifically whether the rules provide for a "full ban", a "partial ban" or whether there is "no ban" at all. A partial ban might mean that, for example, advertising, promotion and sponsorship of tobacco and related products is: permitted in magazines for tobacco traders/retailers but not in magazines for the general public; or not permitted on billboards near schools but is permitted on other billboards; or permitted at a local level but not nationally.

Table 12 presents an overview of the level of coverage of national rules, by type of advertising, promotion and sponsorship activities, across all the countries, which answered the country written questionnaire. The table represents national rules stemming from transposition of EU legislation, implementation of FCTC provisions or Member States' own initiative, and is based on self-reported data. It appears that overall, there is a good level of coverage of rules on advertising, promotion and sponsorship, except for "products visible on display in shops, supermarkets and other retail outlets" as well as for "print advertising in the trade press". It also seems that the level of coverage varies based on the product considered: while implementation is good for traditional products for smoking, it is less the case for HTPs and even less for e-cigarettes. More information and specific examples of what is meant by "partial bans" are provided in the detailed Study Appendix 4.

39 European Commission, Burson-Marsteller, & Smoke-free Partnership. (2016). Study: An assessment of citizens' exposure to tobacco marketing. Brussels: DG SANTE. Available at: https://ec.europa.eu/health/sites/health/files/tobacco/docs/citizensexposure_tobaccomarketing_en.pdf

Table 12. Overview of the self-reported level of coverage of national rules on advertising, promotion and sponsorship (across all countries in scope)

		Traditional products for smoking	E-cigarettes	HTPs
Billboards, posters and other types of advertising outside the home	Advertising outside the home	Very good	Good	Very good
	Cinema advertising	Very good	Good	Very good
Points of sale, sample, giveaways, promotional items and direct marketing	Free samples, free gifts and promotional items	Very good	Very good	Very good
	Competitions or prize draws linked to tobacco and related products	Very good	Good	Very good
	Products visible on display in shops, supermarkets and other retail outlets	Moderate	Moderate	Moderate
	Advertising at point of sale in shops, supermarkets and other retail outlets	Good	Good	Good
Printed media	National or local print advertising for the general public	Very good	Very good	Very good
	International print advertising for the general public	Good	Good	Good
	Print advertising in the trade press	Low	Low	Low
TV and radio and product placement	National or local TV advertising	Very good	Very good	Very good
	International TV advertising	Very good	Very good	Good
	National or local radio advertising	Very good	Very good	Very good
	International radio advertising	Very good	Very good	Good
	Product placement	Very good	Very good	Very good
Internet, social media and mobile applications	Online sales by specialist retailers of tobacco and related products for smoking	Very good	Good	Good
	Wider sales channels	Good	Good	Good
	Non-retailer websites, social media, appstore or apps downloaded from appstores for mobile devices	Very good	Good	Good
Sponsorship, corporate responsibility, corporate promotion and other public relations tactics, brand	Sponsorship	Very good	Very good	Very good
	Corporate Social Responsibility actions by tobacco companies	Good	Good	Good
	Brand stretching and imitation products	Good	Good	Good

stretching and imitation products	Corporate promotion and other public relations tactics	Good	Good	Good

Source: ICF analysis of responses to the country written questionnaire (2021).

Note: the information is based on self-reported data from 27 countries. For each type of advertising channel and for each country, a score of "1" was awarded for a "full ban", a score "0.5" was awarded for a "partial ban", and no score was awarded in case of a "no ban" or "not applicable". An average score was then computed for each type of advertising, promotion and sponsorship activities (ranging from 0 to 27). "Very low level of coverage" corresponds to scores between 0-4, "Low level of coverage" to scores between 5-9, "Moderate level of coverage" to scores between 10-17, "Good level of coverage" to scores between 18-22 and "Very good level of coverage" corresponds to scores between 23-27.

1.3) Compliance and other challenges with rules on advertising, promotion and sponsorship of tobacco and related products

This section discusses non-compliance and other challenges faced related to advertising, promotion and sponsorship of tobacco and related products. Information in this section is drawn from desk research, country written questionnaire, as well as interviews with CSOs and health experts.

Over-arching perspectives on non-compliance and other challenges

Compliance and challenges with regulatory frameworks

Some of the CSOs and health experts interviewed reported high compliance overall[40] with the current EU regulatory framework. During interviews, a few CSOs and health experts reported high compliance with Member State-specific regulatory frameworks, particularly for tobacco products (in Ireland[41]) or for large organisations with strong legal teams (in Denmark[42]).

However a few concerns were raised, including:

- One CSO reported that there is a lack of jurisprudence at the European Court of Justice, so there is no official interpretation for contentious issues.
- A health expert reported that the tobacco industry tends to violate the principles of the laws, despite technically following the laws[43].
- One CSO, based in Ireland, reported that in Ireland's code, e-cigarette communication is not permitted to contain anything youth-associated or contain fictitious characters. However, the tobacco industry company that owns a HTP has used cartoonish advertising[44].
- In Estonia, all of the same advertising rules apply for nicotine pouches as for tobacco products. Estonia reported that economic operators associated with nicotine pouches often break rules.
- Evidence collected also suggests that there are issues which are not strictly instances of non-compliance, but rather due to the tobacco industry exploiting loopholes or circumventing the law. For instance, some Member States (Denmark, Finland and Spain) reported that the tobacco and related product industry uses any loopholes available or has tested the limits between legal and prohibited activity (particularly with promotion that can be claimed to constitute merely corporate image promotion, for example a chain of vape shops advertising their high-quality customer service without reference to products). In addition, a CSO reported that sometimes, attempts to circumvent regulations are intentional to bring public and media attention rather than to actually succeed in circumventing the rules. In this way they are a PR exercise which cannot necessarily be legislated for[45].
- As reported in previous sections, many Member States do not include HTP devices in their regulation. The devices are therefore heavily promoted. There have reportedly been several lawsuits in Lithuania related to this, although no court decision has yet been made.
- One CSO reported that in Ireland, e-cigarettes are not licenced for smoking cessation. However, advertising and promotion often uses ambiguous language such as "make the switch"[46].

40 CSO, 12 November 2020, (#1); CSO, 4 December 2020, (#13); CSO, 16 December 2020, (#11)
41 CSO, 19 November 2020, (#3)
42 CSO, 15 January 2021, (#10)
43 HE, 16 December 2020, (#7)
44 CSO, 19 November 2020, (#3)
45 CSO, 19 November 2020, (#3)
46 CSO, 19 November 2020, (#3)

- Austria reported that nicotine products which are neither tobacco products for smoking nor e-cigarettes[47] are not included in regulations and are therefore promoted in many places such as billboards, posters on public transport, and through giveaways.

Challenges caused by changes in the tobacco and related products market

E-cigarettes entering the market

During interviews, CSOs and health experts reported that the regulations may be out of date or have not caught up with the changing landscape related to e-cigarettes[48]. It was felt that the definitions in the EU or national rules should be updated and broadened accordingly[49], and that Member States have not always enacted strong legislative responses related to e-cigarettes[50]. Relatedly, the fact that the TPD only covers nicotine-containing e-cigarettes has reportedly enabled economic operators to advertise non-nicotine containing versions of products, with a small footnote disclaimer[51].

Concerns were raised by a health expert that there is higher exposure to e-cigarette marketing in places where non-smokers and adolescents could be exposed (e.g. billboards, supermarkets and stores that sell tobacco among other products, social media and the internet), therefore warranting more comprehensive regulation and effective enforcement in order to prevent initiation of e-cigarette use among these groups[52]. Similarly, a health expert voiced their concerns over the fact that e-cigarettes need not be registered as medical devices, and so when they are not registered as such, economic operators are not permitted to advertise their products as cessation aids[53]. Therefore, they market their e-cigarettes as "fun" or recreational, which may appeal to young people. This health expert therefore suggested a specific framework in which e-cigarettes may only be promoted in adult settings, and only as a cessation aid (therefore targeted at current smokers only)[54].

Finally, some stakeholders reported that the introduction of e-cigarettes into the market has created increased advertising "spill over" for tobacco products for smoking. For example, according to a CSO, imagery used for e-cigarettes is reportedly the same as that used for tobacco products for smoking, thereby indirectly promoting tobacco products for smoking[55]. In addition, a health expert raised concerns that advertising of e-cigarettes which are linked to tobacco brands promotes these brands in a form of brand stretching (as described in Table 8, brand stretching refers to companies producing non-tobacco products under their brand name, such as clothing, and tobacco companies selling e-cigarettes using the same brand name as tobacco products and which resemble tobacco products) [56].

HTPs entering the market

The main challenges discussed for HTPs were similar to the challenges highlighted above regarding e-cigarettes.

As for e-cigarettes, some of the CSOs and health experts interviewed were concerned that rules are not up to date considering developments for HTPs[57]. For example, several stakeholders advocated for clearly including HTPs and their devices in regulations, rather

47 The Member State did not give specific examples of such products, but this may include i.a. heated tobacco products, nicotine pouches, snus, or chewing tobacco.

48 CSO, 16 December 2020, (#11); HE, 14 December 2020, (#5)
49 HE, 14 December 2020, (#5)
50 CSO, 16 December 2020, (#11)
51 HE, 17 December 2020, (#6)
52 HE, 14 December 2020, (#5)
53 HE, 16 December 2020, (#7)
54 HE, 16 December 2020, (#7)
55 CSO, 18 November 2020, (#4)
56 HE, 16 December 2020, (#7)
57 Including CSO, 16 December 2020, (#11)

than being vague or including them with other products such as e-cigarettes[58]. There were also differences reported relating to the **device** used for such products. A few Member States (Austria, France, Italy, Latvia and Romania) reported that their bans on advertising, promotion and sponsorship for HTPs do not include devices. For example, Romania and Latvia clarified that there is a full ban in place on advertising, promotion and sponsorship for the tobacco component of a HTP, but no ban at all for the corresponding device. Several Member States (Austria, the Netherlands, Romania and Latvia) reported intending to include devices in the EU or national bans in the future. In contrast, Lithuania specified that in their Member State, devices are included in bans. Malta avoids such issues by banning the sale of heated tobacco products altogether.

During interviews, a CSO reported that there has been aggressive marketing related to these products, and that this mainly happens online[59]. Other CSOs reported that there is more HTPs advertising at the point of sale, including in nightclubs[60].

There are also concerns about harm reduction strategies, with several CSOs reporting that HTP advertisers have taken 'stop smoking promotion' or risk reduction angles [61].

Other products

In addition to e-cigarettes and HTPs, Malta reported that a potential issue may come from the discussions underway about the legalisation of smoking cannabis as an herbal product for smoking, as this may in the long-term upturn efforts to reduce smoking and tobacco use.

Further, Austria reported that filter papers for tobacco products for smoking, as well as nicotine pouches, have been offered as free gifts. Examples of brand stretching and imitation products for other products were given by a few Member States. Products called "energy snus", which do not contain tobacco but rather contain ingredients such as tea, caffeine, guarana, or vitamins, are reportedly sold in Finland. In Sweden, there was reportedly a recent case in which tobacco brand names and logotypes were placed on other products. However, the court considered this to be marketing of a tobacco product, rather than brand stretching.

Challenges caused by changes in the tobacco and related products market were discussed in the two focus groups conducted with Italian and Romanian stakeholders; see the box below for more information.

58 CSO, 17 November 2020, (#2); HE, 16 December 2020, (#7); CSO, 18 November 2020, (#9)
59 CSO, 17 November 2020, (#2)
60 CSO, 15 January 2021, (#10); CSO, 16 December 2020, (#11)
61 CSO, 12 November 2020, (#1); CSO, 16 December 2020, (#11)

Focus group findings: Challenges caused by changes in the tobacco and related products market

Italy

Participants reported that the Italian Ministry of Health sent a letter[62] in 2019 to the National Union of Consumers (Unione Nazionale Consumatori) acknowledging enforcement issues linked to e-cigarettes and HTPs. For example:

- The letter stated that some commercial operators have launched advertising campaigns online and on billboards placed in stations and on buses in many Italian cities, despite the fact that a 2016 legislative decree establishes precise provisions for the marketing of electronic cigarettes as well as specific advertising prohibitions. The letter added that such activities were presumably implemented under the erroneous assumption that it was permissible to advertise the device itself.
- Similarly, the letter stated that, for HTPs, the commercial promotion of the device alone (online or on billboards located in railway stations and airports) indirectly promote the consumption of tobacco.

The letter also mentioned that a formal request was submitted to law makers to extend the legislation on cigarette advertising to e-cigarettes and novel tobacco products.

Romania

It was reported that HTPs are not explicitly covered in the Romanian legislation. Participants added this means that in practice there are no limits on what actions the tobacco industry can take. According to them, the tobacco industry has therefore used all types of channels to normalise the use of HTPs, and this reportedly influences the renormalisation of traditional tobacco products. Moreover, the tobacco industry used socially acceptable channels to later extend the scope of channels to those that are prohibited from traditional tobacco products. For example, HTP devices and sticks (tobacco products) were initially advertised in a separate way to circumvent the provisions of advertising laws for traditional tobacco products. For a while, only the device was advertised. After some time, the tobacco industry included the product (sticks) in the ads. The tobacco industry reportedly uses all channels possible: point of sales, sampling, giveaways, social media.

Overall national compliance with bans on advertising, promotion and sponsorship

The WHO's 2019 report on the global tobacco epidemic scored countries depending on their overall level of compliance with bans on tobacco advertising, promotion and sponsorship[63]. This report considered both direct advertising[64] (i.e. when a company asks potential customers to buy its products) and indirect advertising[65] (i.e. when a company builds awareness about its products or otherwise builds customer trust or loyalty towards the company, its products or brands) The top scoring countries were Finland, Hungary, Lithuania, Luxembourg, Malta and Slovakia (10 points each for compliance with both direct

62 Ministero della Salute DIREZIONE GENERALE DELLA PREVENZIONE SANITARIA. (2019). Oggetto: esposti pubblicità sigarette elettroniche e nuovi prodotti del tabacco. Available from: https://www.consumatori.it/wp-content/uploads/2020/01/risposta-esposti-prot.pdf

63 World Health Organisation. (2019). Tobacco control profiles - countries, territories and areas. WHO. Available at: https://www.who.int/tobacco/surveillance/policy/country_profile/en/. The score is out of 10 points. Compliance with national and comprehensive subnational smoke-free legislation as well as with advertising, promotion and sponsorship bans was assessed by up to five national experts, who scored the compliance in these two areas as "minimal", "moderate" or "high". The experts performed their assessments independently. Average scores were calculated by WHO from the five individual assessments by assigning two points for highly enforced policies, one point for moderately enforced policies and no points for minimally enforced policies, with a potential minimum of 0 and maximum of 10 points in total from these five experts. The compliance assessment was obtained for legislation adopted by 1 April 2018. For countries with more recent legislation, compliance data are reported as "not applicable".

64 Direct bans include bans on: National TV and radio; International TV and radio; Local magazines and newspapers; International magazines and newspapers; Billboards and outdoor advertising; Advertising at point of sale; Advertising on internet; Other direct bans

65 Indirect bans include bans on: Free distribution; Promotional discounts; Non-tobacco products identified with tobacco brand names; Brand name of non-tobacco products used for tobacco product; Appearance of tobacco brands in TV and/or films (product placement); Appearance of tobacco products in TV and/or films; Prescribed anti-tobacco advertisements required to be presented before, during or after the broadcasting or showing of any visual entertainment media product that depicts tobacco products, use or images; Sponsorship; Corporate Social Responsibility activities (CSR); Other indirect bans

and indirect bans), and the lowest scoring countries were Portugal (5 for direct bans) and Greece (4 for indirect bans), Denmark and Italy (5 for indirect bans). Table 13 provides a more detailed overview per Member State[66].

Table 13. WHO compliance score with bans on tobacco advertising, promotion and sponsorship (2018) (10 points)

Country	Direct bans	Indirect bans
Austria	10	7
Belgium	10	8
Bulgaria	7	8
Croatia	10	8
Cyprus	NA	NA
Czechia	9	9
Denmark	9	5
Estonia	7	8
Finland	10	10
France	9	8
Germany	8	6
Greece	9	4
Hungary	10	10
Ireland	10	8
Italy	10	5
Latvia	10	9
Lithuania	10	10
Luxembourg	10	10
Malta	10	10
Netherlands	10	8
Poland	NA	NA
Portugal	5	7
Romania	10	8
Slovakia	10	10
Slovenia	10	9
Spain	9	6
Sweden	NA	NA
United Kingdom	NA	NA

Source: WHO Report on the Global Tobacco Epidemic, 2019. Geneva: World Health *Organization; 2019. Licence: CC BY-NC-SA 3.0 IGO. Available at: https://www.who.int/publications/i/item/9789241516204*

Compliance and other challenges per type of advertising, promotion and sponsorship activities

This study has aimed to collect new data on compliance with national rules[67] and other challenges faced by Member States for each specific type of advertising, promotion and sponsorship activities. This section includes insights from Member States, some information from interviews conducted with CSOs and health experts, as well as information from the literature and document review.

Some countries answered the written questionnaire questions on 'compliance with advertising, promotion and sponsorship rules' even though they indicated their countries had no bans at all. For consistency purposes, these answers were excluded from the analysis.

Table 14 presents an overview of the level of compliance with national rules[68], by type of advertising, promotion and advertising activities, across all the countries, which answered the country written questionnaire. This table is based on self-reported data. It appears that overall, there is a high level of compliance with rules on advertising, promotion and

66 The table includes the United Kingdom, which is no longer an EU Member State.
67 National rules stemming from transposition of EU legislation, implementation of FCTC provisions or Member States' own initiative
68 National rules stemming from transposition of EU legislation, implementation of FCTC provisions or Member States' own initiative

sponsorship, except for "products visible on display in shops, supermarkets and other retail outlets" and "internet, social media and mobile applications" (especially for e-cigarettes and HTPs). It also seems that the level of compliance varies based on the product considered: while compliance is high for traditional products for smoking, it is less the case for HTPs. More information and specific examples of compliance issues and ways in which loopholes are used are provided in the detailed Study Appendix 5.

Table 14. Overview of the self-reported level of compliance with national rules on advertising, promotion and sponsorship (across all countries in scope)

		Traditional products for smoking	E-cigarettes	HTPs
Billboards, posters and other types of advertising outside the home	Advertising outside the home	High	High	Moderate
	Cinema advertising	High	High	High
Points of sale, sample, giveaways, promotional items and direct marketing	Free samples, free gifts and promotional items	High	High	Moderate
	Competitions or prize draws linked to tobacco and related products	High	High	High
	Products visible on display in shops, supermarkets and other retail outlets	Moderate	Moderate	Moderate
	Advertising at point of sale in shops, supermarkets and other retail outlets	High	Moderate	Moderate
Printed media	National or local print advertising for the general public	High	High	High
	International print advertising for the general public	High	High	High
	Print advertising in the trade press	High	High	High
TV and radio and product placement	National or local TV advertising	High	High	High
	International TV advertising	High	High	High
	National or local radio advertising	High	High	High
	International radio advertising	High	High	High
	Product placement	High	High	High
Internet, social media and mobile applications	Online sales by specialist retailers of tobacco and related products for smoking	High	Low	Low
	Wider sales channels	High	Low	Low
	Non-retailer websites, social media, appstore or apps downloaded from appstores for mobile devices	Moderate	Low	Low
Sponsorship, corporate responsibility, corporate promotion and other public relations tactics, brand stretching and imitation products	Sponsorship	Moderate	High	Moderate
	Corporate Social Responsibility actions by tobacco companies	Moderate	High	Moderate
	Brand stretching and imitation products	High	High	High
	Corporate promotion and other public relations tactics	High	High	Moderate

Source: ICF analysis of responses to the country written questionnaire (2021).

*Note: the information is based on self-reported data from 27 countries. For each type of advertising, promotion and sponsorship activities and for each country, a score of "1" was awarded for "high compliance", a score "0.5" was awarded for "moderate compliance", and no score was awarded in case of "low compliance" or "not applicable". An average score was then computed for each type of advertising, promotion and sponsorship activities (in %), by using the following formula: (number of countries that reported "high compliance" + 0.5 * number of countries who reported "moderate compliance")/(number of countries that provided an answer i.e. not "NA"). "Low level of compliance" corresponds to scores between 70%, "Moderate level of compliance" to scores between 70-85% and "High level of compliance to scores above 85%.*

1.4) Monitoring and enforcement of rules on advertising, promotion and sponsorship of tobacco and related products

Article 13 of the WHO FCTC sets out the importance of effective monitoring, enforcement and sanctions to support the implementation of a comprehensive ban on advertising, promotion and sponsorship of tobacco and related products. The WHO FCTC (and guidelines supporting its implementation) recommends an independent authority to monitor and enforce the law, the involvement of civil society organisations to undertake rigorous monitoring, and opportunities for citizens to initiate complaints[69],[70]. Further, Article 7 of the TAD states that Member States must set rules on penalties applicable to infringements of the TAD provisions and "shall take all measures necessary to ensure that they are implemented". The penalties must be "effective, proportionate and dissuasive". This section discusses the several ways in which countries monitor and enforce compliance, as well as challenges faced. Information in this section is drawn from desk research, country written questionnaire, as well as interviews with CSOs and health experts.

Approaches to monitoring and enforcement of rules on advertising, promotion and sponsorship of tobacco and related products

In response to the written questionnaire, most Member States reported provision for a mechanism and/or infrastructure to ensure monitoring and enforcement within the national rules on advertising, promotion and sponsorship of tobacco and related products. Only a few countries (Cyprus, France, Italy, Luxembourg and Slovakia) declared not having such a provision in place within the rules, although later did describe various approaches to monitor and enforce compliance.

Dedicated agencies to monitor and enforce requirements

A range of bodies were described as being responsible for monitoring and enforcement.

- Most countries responding to the written questionnaire described the role as belonging to national-level state bodies, governmental departments or their executive agencies. Examples include the Consumer Protection Commission (Bulgaria), the National Supervisory Authority for Welfare and Health (Valvira) (Finland) and the Danish Consumer Ombudsman (Denmark).
- A few countries also explicitly described the responsibility for enforcement additionally falling on regional or local bodies, such as regional trade offices (Czechia) and municipalities (Finland).
- Several countries described the role of advertising regulation bodies, e.g. KommAustria National who monitor compliance with Austrian advertising regulations across radio, television and broadcasting websites; and likewise the Council for Radio and Television Broadcasting in Czechia, the Advertising Standards Authority of Ireland, and the Authority for Communications Guarantees in Italy.

Respondents to the country written questionnaire were then asked to describe how potential breaches were investigated. Most reported a similar process of inspecting and reviewing the breach and the source, requesting evidence and/or consulting experts and asking for a statement from the party suspected of committing the breach prior to commencing infringement proceedings. Several countries explained a proactive approach to identify breaches such as monitoring advertising material and platforms (Denmark, Germany, Hungary, Ireland and Sweden), or requesting to see contracts between tobacco selling points and tobacco companies (Belgium).

69 World Health Organisation Framework Convention on Tobacco Control. (2003). WHO Framework Convention of Tobacco Control. WHO. Available at: https://apps.who.int/iris/bitstream/handle/10665/42811/9241591013.pdf?sequence=1
70 World Health Organisation (2008) Guidelines for implementation of Article 13: Tobacco advertising, promotion and sponsorship. WHO Conference of the Parties. Available at: https://www.who.int/fctc/treaty_instruments/adopted/Guidelines_Article_13_English.pdf

Countries indicated challenges in investigating more 'covert' breaches and those that happen on social media platforms, including the cross-border element of this and the difficulty in finding conclusive evidence of the breach and who committed it. A few countries described tackling this issue by introducing additional human resources to monitor tobacco retailers, influencers and tobacco manufacturers on the social media channels (e.g. a specific e-commerce unit in Belgium). According to a CSO, heavy administrative burdens and high litigation costs can make investigating breaches difficult for enforcement bodies[71]. However, other CSOs remarked that this is not always the case. For example, one interviewee provided an example in Belgium where an investigation resulted in a fine for illegal advertising in Politico (a political journalism company that covers politics and policy)[72] – this process was described as being 'relatively easy' as the organisation informally flagged the breach to relevant tobacco control stakeholders who were able to take this forward. However, the interviewee felt this was only possible due to it being a fairly informal process; the investigating organisation relied on their previous networking and informality to progress, but this is restrictive as a principle according to the interviewee. *"As a principle, access to justice should be equally open for individuals and interested parties, but there are lots of obstacles. This goes against the directives and the FCTC."*[73]

Inspections, spot checks and consumer protection investigations

Different approaches to inspections and spot checks were described in the country written questionnaire for this study. For example:

- Belgium noted that they have around 30 inspectors who carry out daily inspections (both on the ground and online). They are supervised by four experts in tobacco and e-cigarettes legislation. The inspectors alert the experts when new publicity campaigns appear. The experts will then discuss and decide how to deal with the possible violation of the law.
- Poland explained that randomly selected entities are inspected and in the event of non-compliance, notifications are sent to district Prosecutors' offices or to the Police, applications to Courts for punishment are made based on the Code of Petty Offenses.
- Greece indicated that competent authorities (e.g. the Health Services of Local and Regional Government, the Municipal Police and the Port Authorities) conduct checks on their own initiative or carry out enquiries following complaints.
- Germany declared that competent authorities act on a case-by-case basis. Cases are picked up as part of other official controls including on-the-spot-controls in retail shops.

Expanding on earlier comments about investigating breaches, several countries mentioned actively inspecting websites for non-compliant content. For instance, it was reported that in Portugal, the Consumer Directorate General monitor the internet and social media by using certain key words in a 'sweep' which is conducted at least once a year. Likewise, Lithuania mentioned that staff monitor known websites of certain manufacturers and traders.

Complaint systems

In response to the written questionnaire, nearly all countries reported having a complaint system (i.e. telephone number or online form) in place for the public to report transgressions or violations of bans on advertising, promotion and sponsorship of tobacco and related products. Only France and Italy stated that they do not have such a system,

71 CSO, 12 November 2020, (#1)
72 (CSO, 17 November 2020, (#2)
73 (CSO, 17 November 2020, (#2)

and Germany clarified that they have a complaint system in some, but not all, federal states.

In some countries, there are dedicated email mailboxes and phone lines, whilst in others, a more general approach is used. For example, Czechia described the public being able to generally contact enforcement bodies (e.g. through an online form for the Council for Radio and Television Broadcasting) and reported that a council has been set up with the aim of reviewing these complaints. Finland stated that they hope to use the public more to support monitoring and enforcement in the future.

Furthermore, more than half of countries declared having national legislation in place to enable any interested person or non-governmental organisation to initiate legal action against illegal advertising, promotion and sponsorship of tobacco and related products. In Czechia, legal action is described as only being possible if someone is party to the administrative proceedings or through civil law (and other conditions are met).

Support from civil society organisations to monitor and enforce direct and indirect advertising bans

According to the written questionnaire, almost three out of four Member States declared that civil society organisations have been very or quite engaged, whilst several countries reported less engagement with a couple of countries suggesting civil society organisations to be 'very unengaged'[74]. Several examples of engagement were provided by countries including:

- Participation in monitoring activities, identifying breaches or non-compliant practices and reporting this to the authority in charge of enforcement.
- Legal action (for example, German NGOs reportedly take legal steps independently).
- Advocacy initiatives and information campaigns, as well as public relation activities (e.g. Bulgaria noted that members participate in roundtables, seminars, press conferences in coordination with the local WHO office).
- Research projects and surveys.

Support from civil society was discussed in the two focus groups conducted with Italian and Romanian stakeholders; see the box below for more information.

74 One country provided two answers citing differing levels of engagements between two different organisations (one was described as being quite engaged, and the other as quite unengaged). This has been reflected in the overall totals.

Focus group findings: Support from civil society and civil society organisations

Italy

Participants reported that there are actions that the tobacco industry could legally take (e.g. advertise devices or HTPs on TV), but they choose not to due to fear of the reaction from the civil society.

Romania

Participants reported that when a large tobacco company donated a large amount of money to the Romanian Red Cross for the purchasing of ventilators and equipment for medical staff for COVID-19, civil society brought this before the International Federation of Red Cross as it was a clear breach of the law. Civil society therefore was able to ensure that the promotion of that sponsorship by the Romanian Red Cross did not continue.

In Autumn 2020, civil society reportedly submitted a legal complaint to the National Consumer Protection Association. The complaint was initiated by investigating the advertising and sponsorship of HTPs. The first round of legal arguments has been submitted in the official complaint. Moreover, this official complaint has been based on breaching consumer protection legislation, especially in terms of protecting young people from the advertising of a product which does not provide the whole perspective to the public, for example advertising the HTP device separated from the sticks (tobacco product).

Stakeholders reported that while previously news outlets would accept information from the tobacco industry without verification, some news channels have changed their approach and now verify the information, asking civil society organisations to make sure that they comply with regulations.

Finally, civil society has acted on corporate social responsibility events at a local level, for example to remove tobacco industry from sponsorship banners at galas or awards.

Importantly, one health expert raised concerns during the interview that there is actually very little opportunity or funding for capacity-building for advocacy in civil society. It was reported by a health expert that many medical societies are not aware of their role which can make it difficult to coordinate united action against the tobacco industry when violations occur[75].

Collaboration with other EU Member States or countries

Since 2008, collaboration and the exchange of information between Member States and other countries has been recommended by the EU to ensure effective coordination[76].

Just under half of countries responding to the written questionnaire stated they have collaborated with other EU Member States or countries to monitor and enforce rules. Collaboration efforts described primarily related to those led at the EU-level (e.g. official meetings convened by the European Commission, DG SANTE expert group, notification system and emails) and those that occur with bordering states, especially in the case of cross-border violations and for enforcement of the legal regulations.

Some countries, especially those that have similar processes in place for monitoring and compliance, appear to engage in ongoing dialogue. For example:

- Belgium stated they have exchanged information with the Netherlands as they have similar inspection units and share best practice on how to handle specific and complex cases.

75 HE, 28 January 2021, (#17)
76 European Commission Directorate-General for Health & Consumers. (2008). Report on the implementation of the EU Tobacco Advertising Directive. European Communities. Available at: https://ec.europa.eu/health/archive/ph_determinants/life_style/tobacco/documents/com_20080520_en.pdf

- Denmark explained liaising with Norway and Sweden regarding enforcement on this area (e.g. on actions against specific companies, interpretation of legislations, producing ban guidelines, etc.).
- Ireland declared liaising with the UK authorities to advise of direct and indirect promotion on UK-based websites which have been brought to their attention or assessed as part of an investigation.

Punitive measures for violations of rules

As described above, Article 7 of the TAD states that Member States must set rules on penalties for infringements of rules, which are effective and dissuasive.

Almost all countries responding to the written questionnaire described punitive measures for violations of direct and indirect advertising bans. For example, in Sweden, at the time the written questionnaire was submitted, the Consumer Ombudsman was currently taking legal action towards three tobacco companies (regarding advertising of tobacco products at an online point of sale, advertising of a HTP in printed media and sponsorship of a public event), and towards one e-cigarette company regarding advertisement of electronic cigarettes and nicotine liquids at an online point of sale. At the time of this report's publication, These court proceedings are ongoing and have not yet been decided.

Different types of punitive measures are used across countries and different forms of advertising, promotion and sponsorship, examples of which are described below.

Fines

Fines – for both first time and repeated violations – were the most common punitive measure reported across all forms of advertising, promotions and sponsorships. This is often well-described in national legislation. For example, in Croatia, the Article 40 in Section VI (Penal Provisions) of the Act on Restrictions on the Use of Tobacco and Related Products states that a legal person shall be guilty of a misdemeanour and shall be fined a sum between approximately EUR 9,200 and EUR 19,800[77] (HRK 70,000 and HRK 150,000) for violating Article 22 (which describes measures to reduce and restrict the use of tobacco and related products).

Importantly, fines appear to range by country, but it is difficult to draw comparisons as to how strict fines are. Although some countries were able to report ranges (e.g. EUR 2,000 – EUR 8,000 in Bulgaria) or maximum amounts (e.g. up to approximately EUR 76,700[78] or CZK 2,000,000 in Czechia), other countries described that the level of fine was dependent on several factors. This includes whether the fine is given to a natural or legal person, the size/turnover of a company, how serious the violation is thought to be, the type of platform used to advertise or promote a product, the level of profit/benefit gained as a result of the advertisement etc.

77 Conversion done in March 2021 based on Google Currency Converter
78 Conversion done in March 2021 based on Google Currency Converter

Focus group findings: Example of fines

Italy

Participants mentioned that advertising in magazines or newspapers is illegal in Italy. In 2018, a number of articles were published in different publications, pretending to cover subjects unrelated to tobacco and related products, but for which the hidden aim was to promote a HTP (e.g. recipes in the 'Cooked and Eaten' magazine). PMI in Italy was found guilty of a breach of the Consumer Code as a result of 'hidden advertising' of the IQOS device for smokers through articles in Conti Editore magazines. The Italian Competition Authority held that this was a violation of non-transparent advertising and found PMI guilty of a breach of the Consumer Code. They fined PMI EUR 500,000[79].

Removal of the advertising, promotion or sponsors

The removal of the advertising, promotion or sponsors is also commonly used by countries, often in conjunction with fines or other punitive measures. This measure is used across all types of media by at least half of all countries, with removals of advertising, promotions and sponsors on the internet, social media and mobile applications reported as most common followed by removals of billboards, posters and other types of advertising outside the home. As mentioned by some stakeholders during interviews, companies can capitalise on ambiguities in the legislation to circumvent removals (see section on Compliance for specific examples).

Imprisonment

Only a few countries (Belgium, Finland, Ireland and the UK) reported having provisions in place to imprison offenders who violate rules covering all types of advertising, promotion and sponsorship; and Cyprus reported having the same provision in place for billboards, posters and other types of advertising outside the home. Length of potential imprisonment varies by country, e.g. ranging from 14 days to two years in Finland, one month to a year in Belgium (although the respondent explained this measure has never actually been used) and six to 12 months in Ireland.

Other measures

Less used punitive measures include the publication of court decisions (Denmark, Finland, France, Ireland, Lithuania and Luxembourg), or the suspension / cancellation of business licence (Finland, Hungary, Ireland, Romania, Slovenia, Spain and the UK[80]).

Application of punitive measures

Not all countries collect (or have available) data on the application of punitive measures for violations of direct and indirect advertising bans between 2016-2020. Where data was provided by respondents, there appears to be considerable variation between countries (this is also as a result of inconsistent data collection practices, including the time period of data collection). For example:

- Belgium reported that 53 official reports were written by inspectors of the inspection unit concerning illegal publicity for tobacco products by tobacco companies. Based on these official reports, the legal office of the Federal Public Service for Health, Food Chain Safety and Environment (an NCA) gave 27 fines for a total of EUR 2,369,920 (ranging from a minimum fine of EUR 20,000, to a maximum of EUR 179,140. The inspection unit also wrote 55 official reports concerning illegal publicity in small tobacco selling points from 2019 onwards. Based on these official reports,

79 https://www.tobaccocontrollaws.org/files/live/litigation/2713/IT_IQOS%20hidden%20self-advertising%20d.pdf

80 In Romania, suspensions only apply to sponsorship, corporate responsibility, corporate promotion and other public relations tactics, brand stretching and imitation products. In Hungary, Slovenia and the UK, suspensions apply to points of sale, sample, giveaways, promotional items and direct marketing.

the legal office of the FPS Health gave 35 fines for a total of EUR 219,142. The minimum fine was EUR 400, and the maximum fine was EUR 80,000.
- Slovenia mentioned a high number of fines, but the nature and resulting impact of these is unspecified. 328 measures were taken in 2016, 68 in 2017, 132 in 2018, and 40 in 2019.

Challenges in monitoring and enforcing rules

Sufficiency of financial and human resources

Roughly half of Member States reported having sufficient financial resources available for enforcement (the other half felt they did not).

Fewer countries reported having sufficient human resources available for enforcement, noting that certain infractions, especially those relating to sponsorship, can take a lot of time (and therefore resource) to resolve.

Several interviewees felt there was a lack of resources for monitoring. For instance:

- One interviewee reported a lack of resource specifically at municipality level and for reviewing the high volume of Internet advertising[81].
- Another suggested their enforcement body has many other priorities as they have responsibilities around food safety legislation as well, and there is a lot of bureaucracy involved in the complaints process[82].
- Another interviewee shared their concern that *"at the central/national level there are too few people for monitoring and enforcing. At the local/municipal level, there is a complicated process which can take two to three years for instance against a shop owner who is not complying"*[83].
- Lack of capacity was perceived by one interviewee to mean that there was a trade-off, meaning that instead of focusing on smaller/local problems, the main focus would be on bigger firms (e.g. those with deals in several supermarkets) to maximise capacity/results[84].

A need to improve the competences of inspectors was described by a few countries in the written questionnaire. For example, one country explained they do not have inspectors who are specially educated and trained to work on advertising, promotion and sponsorship rules, and, as there are few of them, they also have to work on other areas. Another country suggested improving the professional qualification of inspectors for identifying the online and social media breaches in particular.

Administrative burdens and delays

Countries responding to the written questionnaire reported high levels of administration as another challenge. For example, one country described complex administrative management processes in enforcing their national advertising act; another described a slow process if cases have to go to court (e.g. if fines are unpaid) which means it can be years before a verdict is reached. Additionally, it was reported that administrative challenges extend to having to often deal with large international operating companies with their own legal departments.

A negative consequence of this is that non-compliant operators can capitalise on the delays caused by navigating administrative processes, and they can therefore continue to host and benefit from the illegal or banned advertising, promotion or sponsorship.

81 CSO, 12 November 2020, (#1)
82 HE, 28 January 2021, (#17)
83 HE, 19 January 2021, (#12)
84 CSO, 15 January 2021, (#10)

Lack of (suitable) enforcement powers or mechanisms

In response to the written questionnaire, a few Member States explained that the lack of suitable enforcement powers or mechanisms was problematic. For instance, one country reported having limited means to investigate individual cases (especially regarding marketing/advertising online or abroad). Another country explained that having 'lighter' proceedings, such as administrative sanctions would be better than 'cumbersome' criminal proceedings. A lack of experience was also noted in monitoring or enforcing rules on social media platforms, especially when advertising, promotion or sponsorship is covert (e.g. hidden in puns).

Cross-border advertising, promotion and sponsorship

Internet and social media advertising

The main cross-border issue reported by CSOs, health experts, advertising stakeholders, and Member States related to internet and social media advertising, promotion and sponsorship.

Overall, an interviewed CSO stakeholder explained that social media and the internet have quickly become areas of difficulty over the last 18-25 years, due to their dramatic changes[85].

Member States reported difficulties with conducting online inspections. This point is related to the visibility of advertisements, sponsorships and promotions in person compared to online. For example, one advertising stakeholder interviewed for this study explained that TV broadcasters are the most highly regulated form of media, and for that reason and because of their visibility they cannot take any risks[86]. In contrast, social media content is less visible. As noted by one Member State, customised marketing of tobacco and tobacco related products is often directed to groups that typically do not make complaints to the supervisory authorities (e.g. younger groups) and can take place in closed settings (e.g. social media groups which are not accessible to the public).

A common point of difficulty mentioned by stakeholders was that the internet and social media are cross-border (unless geoblocking is being used: technology that restricts access to Internet content based upon a user's geographical location). They therefore stated that it is more difficult to monitor and enforce provisions. Events or products which are posted or promoted on internet and social media can be viewed in all Member States[87], even if the content originates outside the EU (e.g. in the USA or Eastern Europe)[88]. An interviewee also mentioned that EU legislation considers the place where social media advertising originates as being the jurisdiction it should be regulated in, but this means that other Member States do not have the ability to address breaches of code in their country[89]. For example, if a social media company is headquartered in one EU country, this country is responsible for enforcing rules on this company and other Member States do not have the jurisdiction or ability to address breaches of code by such a company. It was suggested during an interview with a CSO that a harmonised enforcement system would aid enforcement across Member States[90]. This idea was furthered by Belgium, which reported that as controls cannot be brought onto websites outside Belgium, increased collaboration is needed with other Member States.

Other reasons were provided as to why enforcement of rules is difficult for internet and social media advertising[91]:

85 CSO, 18 November 2020, (#4)
86 Advertising stakeholder, 14 January 2020, (#4)
87 CSO, 17 November 2020, (#2)
88 HE, 17 December 2020, (#6); CSO, 15 January 2021, (#10)
89 CSO, 19 November 2020, (#3)
90 CSO, 17 November 2020, (#2)
91 HE, 14 December 2020, (#5); HE, 16 December 2020, (#7)

- each small breach must be addressed, and "as soon as one [online advertising] comes down, another one pops up"[92];
- it is time-consuming to identify the national competent authority responsible[93];
- it is often difficult to discern the source of content[94]; and
- social media companies are not responsible for content on their platforms, are reliant on illegal content being reported to them, and it can also take a while to remove the content.

Despite some CSOs and health experts having concerns, one interviewed health expert cautioned against over-stating the role of online advertising, as they noted that the relative exposure to tobacco marketing is much higher from packaging than online. They stated it would be a mistake to overlook more "traditional" forms of advertising of tobacco and related products, such as advertising at points of sale[95].

Social media insights

A major social media platform interviewed in the present study provided some information on their experience with tobacco and related products.

On the platform, influencers are not permitted to post branded content for any tobacco or related product, and this is monitored by the platform's team, as well as stakeholders such as NCAs and NGOs. However, there are still cases of posts which slip through, potentially due to the fact that financial transactions for such posts occur outside of the platform and are therefore difficult to monitor. It can be difficult to determine if a post is branded content if this is not disclosed by the person posting. Importantly, the use of influencers and branded content is distinct from paid advertisements on the platform, for which there are clear and strict rules about banning tobacco and related product content.

The platform does allow legitimate companies or entities (such as brick-and-mortar retailers) to demonstrate sales, for example encouraging users to visit their website to buy a product, but this is only allowed if the institution can demonstrate its legitimacy.

On this platform, hashtags which are not directly associated with tobacco and related products (for example "lifestyle" related hashtags) are not considered a violation of the policies. However, if there are other pieces of text associated with the hashtag which indicate an attempt to buy, sell, trade, donate, or gift tobacco products or related products, this could be taken down on a case-by-case basis.

The enforcement measures in place for the policies include allowing governments, NGOs, or other stakeholders who are aware of a financial transaction for branded content to report this, and also proactive and reactive enforcement and the ability of users to report violations.

Broadcast of international events

Other cross-border advertising and promotion activities can also present challenges or difficulties in terms of enforcement, especially the broadcast of international events. One country described that there remain enforcement challenges (for example, the Ministry of Health had to intervene at the 2020 Austrian Grand Prix on an issue around advertisement). In 2019, Formula 1 reportedly accepted U.S. $100 million in sponsorships from the tobacco industry. This includes PMI's Mission Winnow branding on Ferrari cars and BAT's branding of McLaren cars with logos of the company's vaping and alternative products and its A Better Tomorrow initiative. Research indicated that if Mission Winnow and A Better Tomorrow stopped branding in 2020, the sponsorship might still be associated with the sport by Formula 1 fans in 2032[96]. Several Member States mentioned auto racing

92 CSO, 17 November 2020, (#2)
93 CSO, 17 November 2020, (#2)
94 HE, 14 December 2020, (#5); HE, 17 December 2020, (#8)
95 HE, 16 December 2020, (#7)
96 STOP. (2019). Driving Addiction: Formula 1 and Tobacco Advertising. Available at: https://exposetobacco.org/campaigns/driving-addiction/

as an instance of difficulty. For instance, Belgium reported that branding can be seen in Belgium through auto racing events which are abroad, and the Netherlands mentioned that the social media account for a tobacco-sponsored brand makes their content visible to Dutch consumers despite not being posted from within the Netherlands. A few CSOs also mentioned auto racing and branding as being an issue some years ago, although they stated that this appears to have reduced recently[97]. In June 2021, PMI announced that the Mission Winnow logo will not appear on the team's cars at the French Grand Prix or any other races in the European Union, indicating a change in this area[98]. BAT also recently announced it would be handing over its spot on the McLaren Formula 1 cars to display the logo of Tomorrowland (a music festival of which BAT is a partner) at the Austrian Grand Prix.

However, most other countries reported that events such as the Formula 1, Olympics and Soccer championships was a more minor concern or issue compared to the challenges posed by social media advertising.

A concern was raised during interviews that a challenge remains with ensuring third countries are willing to cooperate to meet EU standards when international events are broadcasted[99].

2) Tobacco industry advertising and promotion activities

This Chapter presents findings on:

- Tobacco industry views on advertising, promotion and sponsorship expenditures (section 2.1). This is based on the 11 interviews that were conducted with tobacco industry stakeholders.
- Advertising activities targeting young people (section 2.2). This is mostly based on desk research results as well as on stakeholder interviews.

2.1) Tobacco industry views on advertising, promotion and sponsorship activities

Over the course of this study, 11 tobacco industry stakeholders were consulted to understand how the tobacco, e-cigarette and novel and emerging tobacco products sector engages in advertising, promotion and sponsorship activities. The study team approached companies involved in the production and/or sale of the range of products covered by this study (tobacco products for smoking, e-cigarettes, heated tobacco products (HTPs)) and aimed to speak with representatives with oversight of advertising, promotion and sponsorship. The study team also approached representatives from organisations representing multiple industry stakeholders. Telephone/video calls with participants were undertaken where possible, but three industry stakeholders elected to send written interview questions. The written responses were ultimately excluded from the analysis as their responses did not directly answer the study questions and were mostly out of scope. Moreover, because they were written responses, researchers could not probe and ask follow-up questions.

This section examines:

- tobacco industry views on implementation and enforcement of rules;
- impacts of legislative changes on advertising, promotion and sponsorship activities; and

97 CSO, 19 November 2020, (#3); CSO, 4 December 2020, (#13)
98 Collantine, K. (2021). Mission Winnow logos removed from Ferrari's cars again. RaceFans. [Accessed 29 July 2021]. Available from: https://www.racefans.net/2021/06/18/mission-winnow-logos-removed-from-ferraris-cars-again/
99 CSO, 19 November 2020, (#3)

- new strategies adopted in response to them and new strategies adopted by the tobacco industry in response to changes in the tobacco and related products market.

Over-arching perspectives from tobacco industry

Prior to each interview, the tobacco industry stakeholders were invited to complete a spreadsheet listing a range of advertising, promotion and sponsorship avenues of tobacco and related products and their relative (i.e. proportional rather than absolute) direct and indirect expenditures by type of product. However, no participants were willing to provide exact quantitative data as requested. Several interviewees representing associations of manufacturers said their involvement in and knowledge of advertising, promotion and sponsorship expenditures of their association's members were not sufficient to provide this information, and they did not have access to collated expenditure data or the approval to share this information.[100] Interviewees representing individual manufacturers preferred not to disclose any detailed overviews of advertising, promotion and sponsorship expenditures. For example, one stakeholder stated they considered it sensitive corporate data.[101] Despite not providing precise advertising and promotional spend figures, tobacco industry stakeholders did provide high-level *qualitative* estimates and reflections on the avenues mentioned in the spreadsheet. Accordingly, rather than estimated shares of the budgetary allocations, Table 15 provides qualitative descriptions on the importance of each advertising, promotion and sponsorship avenue according to the 11 stakeholders consulted. This table is designed to summarise the *views expressed by interview participants only*; it is not intended to provide a comprehensive overview of the *status quo* with regard to industry spend on promotion and advertising or the types of promotion and advertising that are permitted in different Member States. Information on quantitative estimates of spend figures are available in the literature.[102]

Table 15. Qualitative reflections of industry stakeholders on the use of advertising, promotion and sponsorship by product group. Note that this table only summarises the views expressed and is not intended to provide a comprehensive overview of either industry spend on advertising and promotion or which avenues are permitted in different Member States

Advertising, promotion and sponsorship avenue	Tobacco products for smoking	E-cigarettes and HTPs
Billboards, posters and other types of advertising outside the home	This is currently still applied in Germany, but banned in other Member States.[103] However, this is currently being phased out in Germany, and will be illegal in 2022.	Due to high costs this has only been used by transnational tobacco manufacturers.[104] In certain Member States, for HTPs it is only allowed to advertise the device, not the stick.[105] In some Member States, all advertising outside the home of e-cigarettes and HTPs is banned.[106]

100 Tobacco industry representative, 17 November 2020, (#1), Tobacco industry representative, 30 October 2020, (#3), Tobacco industry representative, 9 November 2020, (#5), Tobacco industry representative, 10 November 2020, (#6), Tobacco industry representative, 12 November 2020, (#7), Tobacco industry representative, 25 November 2020, (#8)
101 Tobacco industry representative, 6 November 2020, (#4)
102 For example, see CRUK 2021 report for an estimate of spend for e-cigarette advertising in the UK. Stead, M., Hitchman, S.C., Angus, K., Aleyan, S., Ford, A., MacKintosh, A.M., Purves, R., Mitchell, D., Hammond, D., Fong, G.T., Driezen, P., Reid, J., Craig, L., Chung-Hall J., Cummings, K.M., Thrasher, J.F., Cho Y.J., Cowell, C., Coker, T., Bullock, S., Froguel, A., Vohra, J., "Ecigarette marketing in the UK: evidence from adult and youth surveys and policy compliance studies." Cancer Research UK. 2021.

103 Tobacco industry representative, 17 November 2020, (#1), Tobacco industry representative, 9 November 2020, (#5), Tobacco industry representative, 3 December 2020, (#9)
104 Tobacco industry representative, 5 November 2020, (#2), Tobacco industry representative, 12 November 2020, (#7)
105 Tobacco industry representative, 3 December 2020, (#9)
106 Tobacco industry representative, 10 November 2020, (#6)

Advertising, promotion and sponsorship avenue		Tobacco products for smoking	E-cigarettes and HTPs
Points of sale advertising, samples, giveaways, promotional items and direct marketing		In some Member States this is not banned, but being phased out.[107] This can be used to place product on eye-level.[108] Due to costs, this is mainly taken up by transnational companies.[109] Electronic newsletters disseminated to retailers by email are sometimes used.[110]	A poster displaying the e-cigarette or HTP or presenting the product itself on the countertop at the point of sale with no further information is allowed in some Member States.[111] Registered customers may be approached directly, for example through electronic newsletters aimed at adult consumers with information about e-cigarettes free of nicotine.[112] Leaflets are also used.[113]
Printed media (i.e. newspapers, magazines)		Trade journals are not covered by the TPD and are used to advertise products to retailers.[114],[115]	
TV and radio and product placement[116]		All consulted stakeholders consistently stated that this advertising, promotion or sponsorship avenue is not employed.	
Internet, social media and mobile applications	Own retail website(s)	In some Member States, products, accompanied by product information, are sold through the website.[117]	In some Member States, e-cigarettes and HTPs are sold through the website, and e-cigarettes and liquids advertised, provided that the wording meets certain criteria (i.e. factual).[118] Sometimes, 'how to guides' are included.[119] Descriptive rather than marketing language needs to be used, though price, discounts and offers may be used as a promotional strategy.[120]
	Wider online sales channels (e.g. e-commerce websites)	All consulted stakeholders consistently stated that this advertising, promotion or sponsorship avenue is not employed.	This is used for sales, but not for advertising, promotion and sponsorship purposes.[121] Manufacturers may pay a listing fee to sell their e-cigarettes through online outlets exclusively selling e-cigarettes.[122]
	Social media	Advertising tobacco products via social media is explicitly forbidden in some Member States.[123] There are known cases of influencers being used for advertising, promotion and sponsorship purposes in the past[124], but this is	

107 Tobacco industry representative, 17 November 2020, (#1), Tobacco industry representative, 9 November 2020, (#5), Tobacco industry representative, 3 December 2020, (#9)
108 Tobacco industry representative, 17 November 2020, (#1), Tobacco industry representative, 9 November 2020, (#5)
109 Tobacco industry representative, 12 November 2020, (#7)
110 Tobacco industry representative, 25 November 2020, (#8)
111 Tobacco industry representative, 10 November 2020, (#6), Tobacco industry representative, 12 November 2020, (#7), Tobacco industry representative, 3 December 2020, (#9), Tobacco industry representative, 10 February 2021 (#11)
112 Tobacco industry representative, 6 November 2020, (#4), Tobacco industry representative, 12 November 2020, (#7)
113 Tobacco industry representative, 6 November 2020, (#4)
114 Tobacco industry representative, 17 November 2020, (#1), Tobacco industry representative, 9 November 2020, (#5), Tobacco industry representative, 25 November 2020, (#8), Tobacco industry representative, 3 December 2020, (#9), Tobacco industry representative, 18 December 2020 (#10)
115 Please note that trade journals are also not covered by the TAD.
116 This includes: Direct advertisements or product placement via streaming services and Direct advertisements or product placement via TV or radio
117 Tobacco industry representative, 17 November 2020, (#1)
118 Tobacco industry representative, 5 November 2020, (#2), Tobacco industry representative, 6 November 2020, (#4)
119 Tobacco industry representative, 10 February 2021 (#11)
120 Tobacco industry representative, 10 November 2020, (#6), Tobacco industry representative, 12 November 2020, (#7)
121 Tobacco industry representative, 12 November 2020, (#7)
122 Tobacco industry representative, 10 February 2021 (#11)
123 Tobacco industry representative, 9 November 2020, (#5), Tobacco industry representative, 25 November 2020, (#8)
124 Tobacco industry representative, 25 November 2020, (#8), Tobacco industry representative, 18 December 2020 (#10)

Advertising, promotion and sponsorship avenue		Tobacco products for smoking	E-cigarettes and HTPs
		reportedly not part of the advertising, promotion and sponsorship strategy for any of the stakeholders consulted.	
	Online gaming	All consulted stakeholders consistently stated that this advertising, promotion or sponsorship avenue is not employed.	
	Non-retailer websites[125]	All consulted stakeholders consistently stated that this advertising, promotion or sponsorship avenue is not employed.	
Sponsorship, corporate responsibility, corporate promotion and other public relations tactics, brand stretching and imitation products	Sponsorship of events (e.g. music festivals) or sporting teams	This is banned in most Member States, although this depends on the type of tobacco product, and there may be particular questions around sponsorships of events by e-cigarette companies. Exceptions include Germany, but there it is being phased out according to the interviewee.[126] Example events are music festivals and political party conventions, but due to costs these are mainly done by transnational companies.[127] Some marketing events with adult smokers in some Member States in the past where brands were discussed but without showing products.[128]	
	Corporate social responsibility (CSR) initiatives	CSR initiatives focus on issues such as littering and are not used for advertising, promotion and sponsorship purposes.[129] During such events it is not allowed to show the brand.[130]	
	Branding of non-tobacco products (e.g. clothing, lighters) Interviewees reported that this is only permitted in Germany for traditional cigarettes, but not a significant avenue.[131] For e-cigarettes, it is more widely permitted and covers t-shirts, e-cigarette cases, etc.[132]		
Other		No other advertising, promotion or sponsorship activities were mentioned by tobacco industry stakeholders.	

Note: E-cigarettes and HTPs are combined because most interviewees grouped these two products together in their responses.

Tobacco industry stakeholders pointed out that most advertising, promotion and sponsorship activities have been prohibited for traditional tobacco products for smoking.[133] As a result, only a few avenues remain, that, according to the stakeholders, can only be exploited on a small scale. Examples are ads in trade magazines (though these are not directed at the consumer but exclusively at retailers), providing product information on the manufacturer's website and point-of-sale advertisement (including putting products at eye-level in stores and newsletters directed at retailers). The notable exception is Germany, where manufacturers of traditional tobacco products are currently allowed to conduct outdoor advertising, sponsorship of events and branding of non-tobacco products. More details and information on sponsorship activities, as well as on corporate social responsibility actions are available in Appendix 4 and Appendix 5 (see subsections on Sponsorship, corporate responsibility, corporate promotion and other public relations tactics, brand stretching and imitation products").

Table 15 shows that manufacturers of e-cigarettes and HTPs have more advertising, promotion and sponsorship avenues at their disposal to advertise, promote or sponsor

125 (e.g. search engines, news services), app store or apps downloaded from app stores for mobile devices
126 Tobacco industry representative, 25 November 2020, (#8)
127 Tobacco industry representative, 25 November 2020, (#8)
128 Tobacco industry representative, 3 December 2020, (#9)
129 Tobacco industry representative, 9 November 2020, (#5), Tobacco industry representative, 3 December 2020, (#9)
130 Tobacco industry representative, 18 December 2020 (#10), Tobacco industry representative, 10 February 2021 (#11)
131 Tobacco industry representative, 3 December 2020, (#9)
132 Tobacco industry representative, 10 February 2021 (#11)
133 Tobacco industry representative, 17 November 2020, (#1), Tobacco industry representative, 6 November 2020, (#4), Tobacco industry representative, 9 November 2020, (#5), Tobacco industry representative, 10 November 2020, (#6), Tobacco industry representative, 12 November 2020, (#7), Tobacco industry representative, 25 November 2020, (#8), Tobacco industry representative, 3 December 2020, (#9)

these products in some Member States. Notwithstanding differences between Member States and legal requirements, this may include outdoor advertising, retailer websites and social media using promotional offers (directed at visitors or followers of the page, rather than a wider campaign), point-of-sale advertisements (including displays of the product in-store and newsletters containing information about perceived benefits of certain products to existing adult consumers), sponsorship of local events and branding of non-tobacco products such as accessories and mouse pads.

Though advertising, promotion and sponsorship is considered by tobacco industry stakeholders consulted to be highly restricted across all Member States, Germany is considered the least restrictive regarding these activities.[134] Given that Germany also has the largest economy in Europe[135], it would be reasonable to assume that advertising, promotion and sponsorship expenditures in other Member States are unlikely to exceed expenditures in Germany. In Germany, all companies involved in the tobacco industry are required to provide the German authorities with their expenditures on advertising, promotion and sponsorship in accordance with Article 13 of the WHO FCTC.[136] The Drugs Commissioner at the German Federal Ministry of Health publishes a high-level summary of the collective advertising, promotion and sponsorship expenditures on an annual basis. Table 16 shows the annual expenditures in the period 2014 until 2018. Based on the table, it seems that the tobacco industry in Germany mainly invests in promotional activities and outdoor advertising when it comes to advertising, promotion and sponsorship.

Table 16. Total annual expenditures on advertising, promotion and sponsorship in Germany in euros

Advertising, promotion and sponsorship avenue	2014	2015	2016	2017	2018
Advertising	**73,957,000**	**93,813,000**	**87,808,000**	**98,008,000**	**63,409,000**
Outdoor	72,718,000	91,206,000	87,204,000	95,865,000	61,968,000
Print media	156,000	220,000	43,000	93,000	50,000
Cinema	1,080,000	2,383,000	554,000	2,047,000	1,368,000
Online	4,000	3,000	8,000	3,000	2,000
Other	0	1,000	0	0	22,000
Promotion	**116,557,000**	**133,091,000**	**118,511,000**	**141,561,000**	**122,332,000**
Sponsorship	**5,610,000**	**5,086,000**	**5,463,000**	**7,810,000**	**7,754,000**
Total	**196,124,000**	**231,989,000**	**211,783,000**	**247,379,000**	**193,495,000**

Source: Die Drogenbeauftragte der Bundesregierung beim Bundesministerium für Gesundheit. 2019; 2020.

Tobacco industry views on implementation and enforcement of rules on advertising, promotion and sponsorship

This sub-section is designed to summarise the *views expressed by interview participants only*.

Broadly, industry interviewees associated with **tobacco products for smoking**, such as cigarettes and roll-you-own or pipe tobacco, agreed that both EU and Member State rules on advertising, promotion and sponsorship were strictly enforced.[137] Interviewees felt that this was especially the case as advertising, promotion and sponsorship rules are dealt with in the main by local authorities who are in regular contact with manufacturers around

134 Tobacco industry representative, 3 December 2020, (#9)
135 Eurostat. 2021. 'GDP and main components (output, expenditure and income).' Last update: 08-01-2021. As of 13 January 2021: https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=nama_10_gdp&lang=en
136 Die Drogenbeauftragte der Bundesregierung dz vubeim Bundesministerium für Gesundheit. 2019. Drogen- und Suchtbericht 2019. As of 10 December 2020: https://www.bundesgesundheitsministerium.de/fileadmin/Dateien/5_Publikationen/Drogen_und_Sucht/Berichte/Broschuere/Drogen-_und_Suchtbericht_2019_barr.pdf
137 #1, #3, #4, #8, #9, #10.

perceived and potential violations.[138] While another interviewee reported that there were occasional cases of infringement in their Member State, these are generally limited as most organisations observed the rules closely.[139] According to interviewees, at the EU-level a limited number of companies violated national provisions that transpose EU rules by using "more descriptive" language to advertise their products online.[140]

For **e-cigarettes** and **HTPs**, several interviewees broadly agreed that legislation was well enforced across Member States in the EU.[141] Two interviewees expressed the view that Member State legislation was often stricter than the EU on advertising, promotion and sponsorship,[142] with some national regulations being more extensive than those at the EU-level.[143] However, one interviewee reported that legislation on e-cigarettes was not well enforced in their Member State, while another said that the level of enforcement depended on the 'political will and resources' available in the Member State.[144] In regard to regulation of traditional tobacco products, interviewees tended to say that legislation was strict and actively enforced.

Interviewees disagreed about the extent of **cross-border** advertising of tobacco and related products, and the degree to which advertising restrictions are enforced. One interviewee asserted that 'cross-border advertising doesn't exist' for e-cigarettes and HTPs,[145] but other interviewees did not agree with this perspective and expressed concern that legislation on cross-border advertising for e-cigarettes was not being properly enforced. Concerns were raised by one interviewee that e-cigarette restrictions are not properly enforced in some Member States. In particular, the interviewee believed there have been efforts to promote e-cigarettes to minors.[146] Another interviewee said that some companies selling HTPs have been actively circumventing the advertising ban.[147] In their opinion, instead of using purely descriptive language for products online, they were promoting the product using promotional language, such as 'the world's best'. Others cited the example of a Formula 1 team promoting an e-cigarette brand as an example of this, with one saying it 'raises questions about whether it is an infringement [of EU legislation]',[148] and another interviewee stating it is not compliant to advertise at Formula 1 events as it is, in their view, a cross-border event.[149] The same interviewee also expressed the view that less visible, but more pervasive infringements occurred online in the e-cigarette market, particularly amongst young independent retailers.[150] On the whole, industry representatives did not view Formula 1 advertising as a CSR initiative, but as promotion of tobacco and related products (in this case, of e-cigarette products).

Tobacco industry views on impacts of rules on advertising, promotion and sponsorship of tobacco and related products

Though no concrete quantitative data was provided during interviews, tobacco industry stakeholders stated that rather than re-allocating budgets to different advertising, promotion and sponsorship avenues, the gradual banning of various advertising, promotion and sponsorship activities over the years has led to expenditures (including personnel and in-house expertise) by tobacco companies being cut significantly.[151] Some tobacco industry stakeholders believed the barriers to advertising, promotion and sponsorship have frozen

138 #8
139 #5
140 #5
141#4, #6, #7, #9
142 #6, #7
143 #7
144 #11,#2
145 #7
146 #2
147 #5
148 #4
149 #9
150 #9
151 Tobacco industry representative, 17 November 2020, (#1), Tobacco industry representative, 12 November 2020, (#7), Tobacco industry representative, 25 November 2020, (#8)

market shares, hampered innovation and made it difficult for new companies to enter the market.[152] One tobacco industry stakeholder suggested that advertising bans are a particular difficulty for the pipe tobacco market as these products have a much wider variety of flavours than other tobacco products and thus using advertising, promotion and sponsorship to explain ingredients and taste is important for selling to both retailers and consumers.[153] According to other industry stakeholders, a similar issue arises for e-cigarettes and HTPs as explaining their use and 'educating' the public was challenging within the confines of EU legislation.[154]

Tobacco industry views on new strategies adopted in response to legislative changes

During interviews, most tobacco industry stakeholders said that, for all three types of products (tobacco products for smoking, e-cigarettes and HTPs), changes in Member State legislation has had a very limited impact on advertising, promotion and sponsorship strategy for the industry.[155] For many interviewees, this was because, in their view, the tobacco industry was not allowed to do any kind of advertising, promotion and sponsorship in the EU, and as such, there were no new advertising, promotion and sponsorship avenues to move into.

Some tobacco industry stakeholders mentioned social media as a potential avenue. However, they believed that social media was also limited because of strict EU regulations and the fact that few existing smokers use social media to buy products. One tobacco industry stakeholder said they were increasingly reliant on 'word of mouth' for advertising purposes,[156] while another said that 'money is better spent on a good business to business (B2B) service' and talking to retailers than on any other advertising streams.[157] However, wider evidence, including from the citizen survey conducted for this study, suggests that social media may be a neglected area despite industry views that there is limited potential to promote through social media due to strict regulations.

Tobacco industry views on new strategies adopted in response to changes in the tobacco and related products market

Similarly, tobacco industry stakeholders consistently indicated during interviews that the emergence of e-cigarettes and HTPs has had a limited influence on traditional tobacco product business and advertising, promotion and sponsorship avenues.[158] According to an interviewee associated with tobacco products for smoking, e-cigarettes and HTPs are 'not a big challenge for [them as] […] they're not [their] competitor'.[159] Interviewees indicated that e-cigarettes had limited profitability at this moment in time. One interviewee whose organisation sold both tobacco products for smoking and e-cigarettes echoed these comments, saying they 'currently make no money on electronic cigarettes'.[160] However, this interviewee also remarked that e-cigarettes and HTPs have 'opportunities to be a growing market',[161] which is reflected in analyses of e-cigarette and HTP market size.

152 Tobacco industry representative, 17 November 2020, (#1), Tobacco industry representative, 25 November 2020, (#8), Tobacco industry representative, 3 December 2020, (#9)
153 Tobacco industry representative, 25 November 2020, (#8)
154 Tobacco industry representative, 10 February 2021 (#11)
155 Tobacco industry representative, 17 November 2020, (#1), Tobacco industry representative, 9 November 2020, (#5), Tobacco industry representative, 10 November 2020, (#6), Tobacco industry representative, 3 December 2020, (#9), Tobacco industry representative, 18 December 2020 (#10)
156 Tobacco industry representative, 5 November 2020, (#2)
157 Tobacco industry representative, 25 November 2020, (#8)
158 Tobacco industry representative, 17 November 2020, (#1), Tobacco industry representative, 18 December 2020 (#10)
159 Tobacco industry representative, 25 November 2020, (#8)
160 Tobacco industry representative, 3 December 2020, (#9)
161 Tobacco industry representative, 3 December 2020, (#9)

2.2) Advertising activities targeting young people

Research found that younger respondents are more likely to notice tobacco[162] and e-cigarette promotion than older smokers[163]. This may be due to the way in which advertising is tailored to a younger audience. Advertising of tobacco and related products "targets the psychological needs of adolescents" (e.g. popularity, peer acceptance, and positive self-image)[164]. For example, tobacco and related product industries promote e-cigarettes using familiar marketing strategies as were used to market tobacco products for smoking, focussing on identity and lifestyle[165].

While one tobacco industry stakeholder acknowledged that targeting of minors does occur in relation to e-cigarettes, all tobacco industry stakeholders interviewed consistently stated that their company focuses on adult consumers, primarily those who currently use their products. However, sources reviewed during the desk research and interviews with civil society organisations suggest that much of the advertising and promotion strategy of the tobacco and related product industry targets young people. According to the WHO, channels for promotion include "movies, music videos, online videos, television programmes, streaming services, social media posts, video games, and mobile phone applications popular with children and adults"[166]. In 2021, a WHO report confirmed that tobacco and e-cigarette companies design products to appeal to young people by making them sleek and providing a range of flavours, and companies sell them in "glamourous and hyper modern" stores. The report also cites the promotion of products at youth-focused events[167]. Activities targeting young people were discussed in the focus groups with Italian and Romanian stakeholders; information is provided in the box below.

162 Kahnert, S., Demjén, T., Tountas, Y., et al. on behalf of the EUREST-PLUS consortium. (2018). Extent and correlates of self-reported exposure to tobacco advertising, promotion and sponsorship in smokers: Findings from the EUREST-PLUS ITC Europe Surveys. Tobacco Induced

163 Filippidis, F.T., Laverty, A.A., Fernández, E., Mons, U., Tigova, O., Vardavas, C.I. (2017). Correlates of self-reported exposure to advertising of tobacco products and electronic cigarettes across 28 European Union member states. Tobacco Control

164 National Cancer Institute. (2008). The Role of the Media in Promoting and Reducing Tobacco Use. Tobacco Control Mono graph No. 19. Bethesda, MD: U.S. Department of Health and Human Services, National Institutes of Health, National Cancer Institute. NIH Pub. No. 07-6242. Available at: https://cancercontrol.cancer.gov/brp/tcrb/monographs/19/m19_complete.pdf

165 de Andrade, M., Hastings, G., Angus, K., et al. (2013). The marketing of electronic cigarettes in the UK. Commissioned by Cancer Research UK. Available at: https://www.cancerresearchuk.org/sites/default/files/cruk_marketing_of_electronic_cigs_nov_2013

166 WHO FCTC. (n.d.) Report of the Expert Group on Tobacco Advertising, Promotion and Sponsorship: Depiction of Tobacco in Entertainment Media. Available at: https://www.who.int/fctc/cop/Document-TAPS-1.pdf

167 WHO Report on the Global Tobacco Epidemic, 2021. Geneva: World Health Organization; 2021. Available at: https://www.who.int/publications/i/item/9789240032095

Focus group findings: Advertising activities targeting young people *Italy*

In addition to general points about social media advertising being available to young people, the consulted stakeholders discussed some specific examples of advertising activities targeting young people, based on reported or anecdotal evidence:

- A HTP was advertised in a pizzeria in front of a school in an Italian city.
- Large billboards of another HTP were placed at the main entrance of "La Sapienza" University in Rome.
- "Embassies" promote the devices of HTPs and are strategically located to target younger population groups. These shops are reportedly similar to "Apple Stores", stimulating interest in new technologies, innovative designs, and targeting young people in general.

Romania

Stakeholders reported that there are many activities targeted towards young people by the tobacco industry. Since the COVID-19 pandemic started, the tobacco industry has reportedly moved to social media and has invested heavily in the communication channels that are preferred by young people, for example using messages such as "stay at home" and sponsoring online concerts or events, and appropriating governments' and health authorities' "stay at home" hashtags to instead promote their e-cigarettes and HTPs. . Further, the tobacco industry has sponsored concerts, different events, giveaways, contests, prizes, and other activities related to culture and creativity.

One participant suggested that potentially more than 90% of the tobacco industry money going in ads are targeting young people because due to a need for new customers. In Romania, a large tobacco company has promised that they will stop using influencers to promote their products online. To date this promise has not been fulfilled and there are still many Romanian influencers who promote these products.

Depiction of smoking on TV shows

Researchers at the Truth Initiative used a sample of youth and young adults to identify the 14 most popular broadcast and cable TV shows in the age group in the US in 2018. The shows were then analysed for tobacco imagery, and the study found 79% of these shows depict smoking prominently[168]. Many of these shows are also broadcast and popular in the EU.

A stakeholder from a major on-demand audiovisual media service, consulted as part of this study, reported that while they strongly support artistic expression, they also recognize that smoking is harmful and when portrayed positively on screen can adversely influence young people. Therefore, they have sought to reduce the depictions of smoking in the projects they commission. For those with ratings of TV-14 or below for series or PG-13 or below for films, their goal is to eliminate smoking and e-cigarette use except for reasons of historical or factual accuracy. For new projects with higher ratings, they will reportedly limit smoking or e-cigarettes unless it is essential to the creative vision of the artist or because it's character-defining (historically or culturally important).

Internet and social media

Some stakeholders reported that economic operators' online advertising targets young people[169].

More specifically, concerns were raised over the use of influencers. Anti-tobacco campaigners have claimed that British American Tobacco and Philip Morris International have used young influencers to market products to a young audience. In particular, British American Tobacco was accused of using influencers under the age of 25 (violating their

168 The Truth Initiative. (2018). While you were streaming. Available at: https://truthinitiative.org/smokescreens
169 HE, 14 December 2020, (#5); HE, 17 December 2020, (#6); CSO, 19 November 2020, (#3)

own marketing principles[170]) - as such, campaigners claim that these influencer campaigns are reaching teenagers[171]. In a 2019 letter to Facebook, around 200 international civil society organisations warned that "without a policy on influencer marketing of tobacco products, Facebook and Instagram (…) provide tobacco companies a loophole to market addictive products online to billions of young people"[172].

The same letter noted that in recent years, tobacco companies have increasingly used social media to target young people, "flood(ing) Instagram and Facebook with ads for cigarettes like Marlboro and Lucky Strike and heated cigarettes like Iqos and Glo". Their main concern is that "in the absence of meaningful policies from social media platforms, tobacco companies have found a way to turn today's Instagram post into this generation's "Marlboro Man.""[173].

A major social media platform interviewed in the present study indicated that posts relating to demonstrating sales (for example telling users to go to a website to purchase a product) are age-gated and not visible to users under the age of 18.

Note that interestingly there have been similar trends in influencers promoting alcohol, with one study from 2020 indicating young people can be exposed to influencers' alcohol-related posts, potentially leading to increased drinking[174]. There may be similar difficulties regulating such posts.

Sponsorship of events and corporate social responsibility

Festivals are another channel for tobacco and related product advertising and promotion. One advertising stakeholder[175] reported that brands are given their own 'zones' at large music festivals which are age-controlled and that tobacco and related products are promoted there. Whilst the use of 'zones' protects underage people from exposure to advertising and promotion, a European Commission report[176] mentioned free distribution of products and exclusive selling arrangements for young people. The presence of tobacco and related product promotion at festivals is an example of glamorising these products[177].

Stakeholders provided the "Be Marlboro" campaign as an example of a global campaign which reportedly directly targets youth (this included videos of partying and rebellion which were available online[178]). These specific advertisements were subsequently banned in a German court in October 2013, on the grounds that the campaign is designed to encourage children as young as 14 years of age to smoke[179].

More details and information on sponsorship activities, as well as on corporate social responsibility actions are available in Appendix 4 and Appendix 5 (see subsections on

170 Furlong, A. (2019). Influencers cloud debate over vaping promotion. Politico. Accessed: 17 June 2020. Available at: https://www.politico.eu/article/hazy-regulations-on-vaping-e-cigarettes-vape-could-obscure-ad-sponsored-advertisement-influencer-violations/?utm_source=POLITICO.EU&utm_campaign=eb6f3339ad-EMAIL_CAMPAIGN_2019_12_18_06_03&utm_medium=email&utm_term=0_10959edeb5-eb6f3339ad-189561229

171 Furlong, A. (2019). Influencers cloud debate over vaping promotion. Politico. Accessed: 17 June 2020. Available at: https://www.politico.eu/article/hazy-regulations-on-vaping-e-cigarettes-vape-could-obscure-ad-sponsored-advertisement-influencer-violations/?utm_source=POLITICO.EU&utm_campaign=eb6f3339ad-EMAIL_CAMPAIGN_2019_12_18_06_03&utm_medium=email&utm_term=0_10959edeb5-eb6f3339ad-189561229

172 Tobacco Free Kids. (2019). Letter to Mark Zuckerberg. Available at: https://www.tobaccofreekids.org/assets/content/press_office/2019/influencers/FacebookInstagramTobaccoInfluencerLetter.pdf

173 Tobacco Free Kids. (2019). Letter to Mark Zuckerberg. Available at: https://www.tobaccofreekids.org/assets/content/press_office/2019/influencers/FacebookInstagramTobaccoInfluencerLetter.pdf

174 Hendriks, H., Wilmsen, D., van Dalen, W., & Gebhardt, W.A. (2020). Picture Me Drinking: Alcohol-Related Posts by Instagram Influencers Popular Among Adolescents and Young Adults. Front. Psychol., https://doi.org/10.3389/fpsyg.2019.02991

175 Advertising stakeholder, 4 December 2020, (#1)

176 European Commission Directorate-General for Health & Consumers. (2008). Report on the implementation of the EU Tobacco Advertising Directive. European Communities. Available at: https://ec.europa.eu/health/archive/ph_determinants/life_style/tobacco/documents/com_20080520_en.pdf

177 European Commission Directorate-General for Health & Consumers. (2008). Report on the implementation of the EU Tobacco Advertising Directive. European Communities. Available at: https://ec.europa.eu/health/archive/ph_determinants/life_style/tobacco/documents/com_20080520_en.pdf

178 Tobacco Free Kids. (2014). You're the Target. New Global Marlboro Campaign Found to Target Teens. Available at: https://www.tobaccofreekids.org/assets/global/pdfs/en/yourethetarget_report.pdf

179 Tobacco Free Kids. (2014). You're the Target. New Global Marlboro Campaign Found to Target Teens. Available at: https://www.tobaccofreekids.org/assets/global/pdfs/en/yourethetarget_report.pdf

Sponsorship, corporate responsibility, corporate promotion and other public relations tactics, brand stretching and imitation products").

3) Exposure to advertising, promotion and sponsorship of tobacco and related products

The latest 2020 Eurobarometer survey on "Attitudes of Europeans towards tobacco and electronic cigarettes" found that[180]:

- More than a third (35%) of respondents have seen advertising or promotions for tobacco products for smoking in the last year (an increase by five percentage points since 2014). However, the largest share say they have only rarely encountered them.
- Nearly 40% of respondents have seen advertisements or promotions for e-cigarettes in the last year, and almost 30% have seen such advertisements for heated tobacco products (HTPs), but very few say they have seen ads for e-cigarettes or HTPs often.

The Eurobarometer survey also found that when asked where they have seen these advertisements and promotions, respondents most frequently answer at points of sale (for all three product categories: tobacco products for smoking, e-cigarettes and HTPs). This is in line with the response from one interviewed CSO, who described advertising at the point of sale as "the last real visible element of tobacco advertising", in that this is the only place many consumers see advertising for tobacco products[181].

This Chapter presents additional findings, based on the results of this study's citizens' survey. The Chapter presents levels of exposure to tobacco and related products in: "traditional" advertising, promotion and sponsorship channels (section 3.1); and other channels (section 3.2). The Chapter includes a comparison between this study's survey and the 2016 citizens' survey (section 3.3). More sophisticated multivariable analyses of the survey data were also undertaken (section 3.4); multivariable regression was used to explore the extent to which participant characteristics (e.g. age, gender, country) are associated with exposure to different advertising and promotion channels, and latent class analysis (LCA) to identify profiles of advertising and promotion exposure.

In order to understand how populations in EU countries are exposed to advertisements and promotions for tobacco and related products, a "citizens' survey" was conducted, of a sample of at least 500 respondents from each of 10 EU countries (Bulgaria, Denmark, France, Germany, Greece, Ireland, Italy, Netherlands, Romania and Spain), which was representative on age, gender and education for each country. In total, 5187 respondents completed the citizens' survey (Bulgaria n=512, Denmark n=510; France n=522, Germany n=524, Greece n=523, Ireland n=523, Italy n=513, Netherlands n=517, Romania n=529, and Spain n=514). Information about the sociodemographic characteristics of the sample, and their use of tobacco and related products and use of media is available in Appendix 9.

Prior to analysis, data quality checks were performed by Dynata, who was subcontracted to administer the survey to a representative sample in each country (as described above), drawn from panels of survey respondents that they maintain. The quota for this survey was at least 500 complete, valid responses from each country, representative on a per-country basis on gender, age and education based on census data. Dynata cleaned and quality-assured the data prior to delivering it to the study team; only valid responses are included. Participants were compensated for completing the survey. Participants could not progress through the survey without answering all closed ended survey questions, and as

180 EU (February 2021), Special Eurobarometer 506, Attitudes of Europeans towards tobacco and electronic cigarettes. Available at: https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/survey/getsurveydetail/instruments/special/surveyky/2240
181 CSO, 19 November 2020, (#3)

such there is no missing data for any question. However, participants who did not wish to answer could still withdraw from the survey.

In the sections that follow univariable and bivariable summaries of the survey data are presented. In the next phase of analysis, multivariable analyses will be conducted to examine the relationship between exposure to advertisements and promotions and other factors including country of residence, age, smoking status, and media use.

The analysis has several limitations. The survey is based on respondents' recall of different forms of advertisements and promotions over the previous 12 months. It is possible that respondents did not accurately recall how often they were actually exposed to advertisements and promotions, particularly in relation to very specific types of media sources. This would mean that they may have reported seeing advertisements more or less frequently than they did in reality. Although text and photo product definitions were provided in the survey, it is also possible that respondents may have confused e-cigarettes and HTPs given their similar appearance, particularly non-users of these products. Lastly, it is also possible that respondents had different understandings of the scope of each advertisement or promotion source, particularly for categories that potentially overlap (e.g. mobile apps, social media), and for categories that may be understood differently depending on the country (e.g. specialised shops that sell tobacco products, which may vary from country to country).

3.1) "Traditional" channels

The study team examined recall of advertising and promotions for tobacco products for smoking, e-cigarettes, and HTPs via the following "traditional" channels:

- **Billboards, posters, and other types of advertising outside the home** including billboards or posters, temporary sales or promotions, modes of transport, and the cinema;
- **Points of sale, sample, giveaways, promotional items and direct marketing** including vending machines and advertisements inside and outside in-person retailers for tobacco products for smoking, e-cigarettes, and HTPs and other retailers;
- **Free samples, gifts and promotional items** received inside retailers of tobacco products for smoking, e-cigarette, and HTP or other retailers, in the street, at events, at restaurants, bars or discotheques, online, and transport hubs, and in the mail;
- **Printed media** including national and local print media, international print media, and travel magazines.

Detailed findings from the survey are presented in Appendix 9. Overall findings relating to "traditional" channels are summarised below:

- Across the different advertising and promotion channels, participants were consistently **less likely to report having seen HTP advertisements or promotions in the past twelve months compared to those for cigarettes and e-cigarettes**. Recall of advertising or promotions for cigarettes was generally highest, although the difference between cigarettes and e-cigarettes was minimal for almost all channels (apart from outside/inside e-cigarette retailers; see Appendix 9).
- For almost all channels, **younger respondents (18-24 years) were significantly more likely to report seeing advertisements or promotions than those aged 25 and over**. The exceptions to this (i.e. where there was no evidence for an age difference) were: advertisements or promotions for HTPs outside tobacco retailers and outside e-cigarette retailers; receiving free gifts or samples of tobacco products in restaurants, bars or discotheques, e-cigarettes in

the post and inside retailers, and HTPs in specialist retailers, other retailers, and transportation hubs.

- Participants from the **Netherlands, Denmark and France were consistently the least likely to report seeing any advertisement or promotion** in the previous 12 months, with the exception of print media (Netherlands and France were still the least likely, but a larger proportion of respondents from Denmark reported recall of advertisements and promotion via this channel).
- Participants from **Romania and Bulgaria were consistently the most likely to report seeing advertisements or promotions** across almost all channels. Exceptions to this were: point of sale advertisements and promotions, for which participants from Greece were also amongst the most likely to recall this; international, national and local print media advertising and promotion, for which participants from Italy (along with Romania) were the most likely to report recall over the past 12 months.

3.2) Other channels

The study team examined recall of advertising and promotions for tobacco products for smoking, e-cigarettes, and HTPs via the following channels:

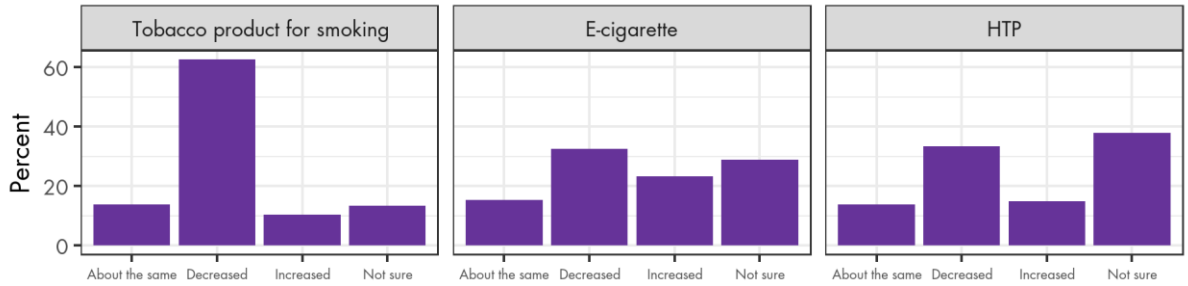
- **TV and radio and product placement** including direct advertisements on TV, film, radio, or streaming services, or product placements on TV, film, radio or streaming services;
- **Internet, social media and mobile applications** including online retailers of tobacco products for smoking, e-cigarettes, and HTPs, other online retailers, online games, search engines, mobile applications, non-retail websites, email or SMS, and online social media;
- **Sponsorship of events** including in-person events, virtual events, and non-EU sponsored online events;
- **Corporate social responsibility** including sponsorship of charity events, corporate entertaining, donation to charities or non-profit organisations, funding for public projects, or funding for research or scholarships **and brand stretching**.

Detailed findings from the survey are presented in Appendix 9. Results are broadly similar to those obtained for "traditional" advertising and promotion channels, namely: (i) recall of examples depicting cigarettes is highest, followed by e-cigarettes; (ii) younger respondents (18-24 years) are consistently more likely to recall seeing advertising or promotion of all products across all channels; (iii) participants from the Netherlands, France, and Germany are the least likely to report recall of advertisements and promotions across products and across channels, while participants from Romania, Italy, and Bulgaria are the most likely to report recall.

Additional overall findings relating to these channels are summarised below:

- Over **60% of respondents reported that depictions of smoking tobacco in movies, TV, and on-demand video services have decreased over the past five years**, while only about 10% reported that they had increased. However, opinions were more mixed for e-cigarettes and HTPs. About a third of respondents reported that depictions had decreased although between a fifth and a quarter thought they had increased for e-cigarettes and HTPs (Figure 1 below; see Appendix 9 for a more detailed breakdown).

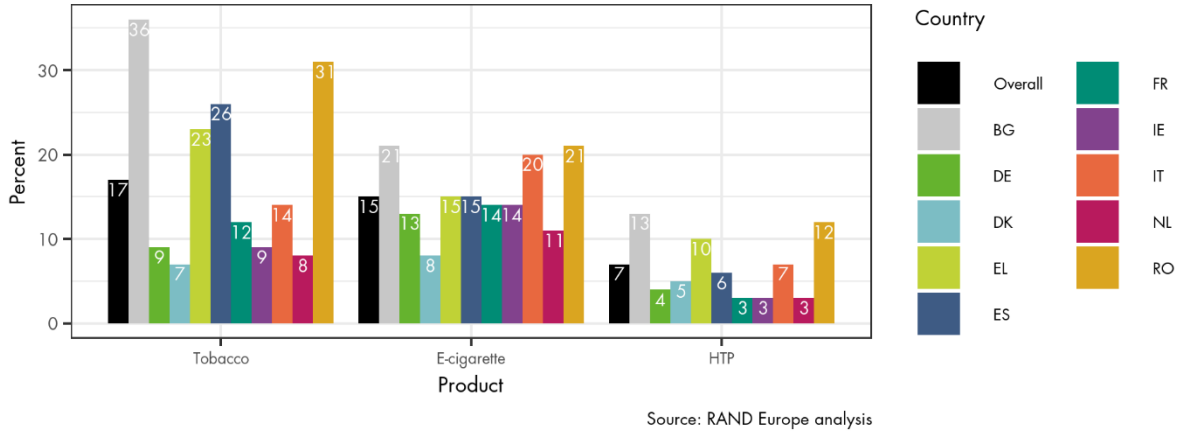
Figure 1 Depictions of using tobacco and related products on movies, TV and on-demand video services in the previous five years.



Source: RAND Europe analysis

- Overall, about three quarters (76%) of respondents reported they had not seen a online event that took place in a non-EU country in the previous 12 months sponsored by companies that sell tobacco or other related products, and a further 22.1% reported not being sure. **Only about 2% of respondents reported that they had seen an online event sponsored by a company that sells tobacco or related products that took place in a non-EU country**.
- **Overall, around 20% of participants recalled seeing any corporate responsibility activities**, although less than 10% of the sample recalled seeing any single type of corporate social responsibility (CSR) activity (e.g. sponsorship of charity events, funding for public projects). Only 3% of survey participants recalled seeing any type of promotional campaign in the past 12 months that promoted a positive image of companies that sell tobacco products for smoking, e-cigarettes or HTPs; encouraged using tobacco and related products; or encouraged switching from tobacco products for smoking to e-cigarettes or HTPs.
- Overall, **17% of respondents reported recall of brand stretching in the past 12 months from companies that sell tobacco products for smoking, 15% for companies that sell e-cigarettes and 7% from companies that sell HTPs**. For tobacco products for smoking, about a quarter (26%) of younger respondents reported brand stretching, as compared 17% of older respondents. For e-cigarettes, a quarter of respondents reported brand stretching compared to 14% of older respondents. For HTPs, 10% of younger respondents reported brand stretching as compared to 6% of older respondents.
- There was **substantial variation in recall of brand stretching across countries, and the pattern of recall was not consistent by product type** (tobacco products for smoking, e-cigarettes, HTPs). For companies that sell tobacco products for smoking, recall of brand stretching ranged from less than 10% in Denmark (7%), Netherlands (8%), Germany (9%) and Ireland (9%), to around a third of respondents in Bulgaria (36.1%) and Romania (31%). Respondents from countries that had reported the lowest levels of brand stretching for companies that make tobacco products for smoking did not necessarily report the lowest levels of brand stretching for e-cigarette companies (see Figure 2 below) and *vice versa*.

Figure 2 Recall of brand stretching in the past 12 months – Percent by country



Source: RAND Europe analysis

- Overall, **14% of respondents reported seeing companies that sell tobacco products for smoking marketing other tobacco and nicotine products** in the previous 12 months. This ranged from less than 10% in Netherlands (7%), Denmark (9%), Germany (10%) and Ireland (10%), to around 20% in Greece (21%) and Bulgaria (20%).

3.3) Comparison with the 2016 citizens' survey

In 2016, a similar citizens' survey was conducted to understand how people in EU/EEA countries are exposed to advertisements and promotions for tobacco and related products.[182] This section compares the results from the two surveys, but the ability to make direct comparisons is limited by methodological differences between the two surveys, namely:

- The two surveys do not include all the same EU/EEA countries. The 2016 survey sampled participants from Denmark, France, Germany, Greece, Hungary, Lithuania, Netherlands, Poland, Portugal, Spain and the UK. The current survey does not include participants from Hungary, Lithuania, Poland, Portugal and the UK, and instead includes participants from Italy, Ireland, Bulgaria and Romania.
- The age range of the participants is different. The 2016 survey collected data from respondents as young as 15 years old while the current survey collected data from participants only as young as 18 years old.
- The way information on the frequency of viewing advertisements and promotions was collected is not the same. The 2016 survey measured the frequency with which respondents reported recalling ads in the previous 12 months using a four-point, qualitative scale (1= 'Often'; 2= 'Occasionally'; 3= 'Very rarely'; 4= 'Never'), and the average of this metric across respondents was reported in the 2016 report. In the current citizens' survey, frequencies were collected on a scale that specified how often a respondent saw a type of ad or promotion in relation to a unit of time (e.g. less than monthly, once every two weeks).)

Given these differences, a direct quantitative comparison between the 2016 survey and the current citizens' survey is not possible. However, the results from the two surveys can be qualitatively compared, understanding that separate metrics were used to capture frequency.

182 European Commission (2016). Study: an assessment of citizens' exposure to tobacco marketing. Final report. doi:10.2818/7898

Differences between countries and age groups

The 2016 citizens' survey revealed significant differences between countries in the frequency of recalling ads and promotions in nearly all types of media, which is consistent with the current survey. In the current survey, chi-squared tests were used to test for significant differences between countries, all of which revealed significant differences in how respondents from different countries recall advertisements and promotions for tobacco and related products. While different countries were included in each survey, Denmark and Netherlands tended to be some of the countries with the lowest reported recall of ads and promotions for tobacco and related products, which also seems to be true for the current citizens' survey.

The 2016 survey found that younger people tended to report more frequent recall of ads and promotions across different media (print media, online media, advertisements outside the home, TV and radio, retail locations, free samples and promotional items), which was also found in the current citizens' survey. Chi-squared tests were used to test for significant differences between age groups, all of which revealed significant differences in how younger and older respondents encounter advertisements and promotions for tobacco and related products.

Change in advertising and promotion strategies over time

In terms of products, the 2016 survey found a tendency towards lower levels of recall for e-cigarette ads and promotions as compared to tobacco products for smoking, which is also consistent with the current survey, although in 2016 the e-cigarette market was less developed than it was in 2020 when the current data were collected.

Although the different metrics between the two surveys make it difficult to make a direct comparison between surveys, the balance between "traditional" and other channels for advertisements and promotions for tobacco and related products was considered in a qualitative way.

- **Recall of advertising via TV and radio media has increased by 50% from 2016 to 2020.** In the 2016 survey 30% of respondents reported at least one form of tobacco advertisement on TV and radio media.[183] In the current survey, 45% of respondents had indicated that they had seen ads or promotions in just one form of TV and radio media (product placements on TV, film and radio).
- **Recall of advertising and promotion via internet and mobile applications has increased slightly between 2016 and 2020.** In the 2016 survey, 39% of participants recalled at least one type of internet and mobile application media.[184] In the current survey 45% of respondents reported seeing an ad or promotion on any form of social media (which is just one online media channel out of several). However, each survey asked respondents to answer based on different forms of online and social media (see footnote for details on what was asked in 2016 survey).

These increases indicate a potential increase in ads and promotions on other media channels, although it is important to note that each survey used different metrics to measure reported ads and promotions. For example, as described above the surveys used different metrics around frequency of seeing advertisements or promotions, and the surveys did not collect data on exactly the same channels for advertising and promotion.

However, several sections of the survey lend themselves to direct comparison between years:

183 Includes: national or local TV channels, TV channels from another country, on-demand TV programmes (e.g. streamed online or via a special device in your home), national or local radio channels, radio channels from another country, and on-demand radio programmes (e.g. streamed online).
184 Includes: e-commerce websites, online retailers of tobacco and related products, online retailers of electronic cigarettes and related products, online search engines (Google, Yahoo, etc.), social media (Facebook/Twitter, etc.), websites that stream online video clips (YouTube, etc.), online games, and appstores or apps downloaded from appstores for mobile devices (e.g. smartphones).

- **Recall of industry-sponsored events increased between 3-fold and 5-fold between 2016 and 2020.** Regarding events sponsored by tobacco companies, 9% of respondents reported recalling such events in the 2016 survey, as compared to 26% of respondents in the current citizens' survey. For events sponsored by e-cigarette companies, this increased from 5% in the 2016 survey to 24.8% in the current citizens' survey.
- **Recall of CSR activities increased 4-fold between 2016 and 2020.** Regarding CSR activities, only about 5% of respondents reported them for tobacco companies and e-cigarette companies in the 2016 survey, compared with 21% (tobacco products for smoking companies) and 20% (e-cigarette companies) in the current citizens' survey.
- **Recall of brand stretching doubled between 2016 and 2020.** Regarding brand stretching only 9% of respondents to the 2016 survey reported brand stretching for tobacco companies, compared to 17% in the current citizens' survey.

These increases suggest a shift towards ads and promotions through sponsorships, CSR activities and brand stretching, although the surveys used different metrics to estimate frequency of observing these.

3.4) Multivariable analysis of the survey data

The study team conducted multivariable analyses of the survey data to explore the association between participant characteristics and reporting observations of different types of advertising and promotion of tobacco and related products. Multivariable regression was used to analyse different advertising and promotion channels individually (section 3.4.1) and used LCA to identify profiles of noticing advertising and promotion (section 3.4.2).

For these analyses, exposure was defined as seeing *any* advertisement or promotion in each category for *any* product in the past year. The data for different types of tobacco and related products were explored in depth in the previous sections; the objective for the multivariable analyses was to provide a higher-level exploration of the relationship between participant characteristics and the channels by which they noticed advertising and promotion, regardless of which types of products were being promoted. The categories of advertisement and promotion used are:

- **Print media** (incl. national or local print media, international print media or magazines produced for airplanes, ships or other means of transport)
- **Direct ads and product placements** (incl. direct ads or product placements via TV or radio, direct ads via streaming services, product placements via TV or radio or product placements via streaming services)
- **Online retail** (incl. specialised online retailers of tobacco and related products or other online retailers)
- **Social media** (incl. Facebook, Instagram, Youtube, Snapchat, Twitter, Reddit, TikTok, Tumblr, Pinterest, live video streaming/Twitch or other social media)
- **Advertising outside the home** (incl. billboards or posters in stadiums or at sporting or cultural events, advertising in different forms of transportation, cinema advertisements or billboards or posters in other public areas)
- **Retail outside the home** (incl. temporary sales or promotions, inside or outside specialised retailers that sell tobacco and related products, inside or outside other retailers or vending machines)
- **Free samples** (incl. in the street, in the mail/post, at events, in restaurants/bars/discotheques, online, in train station or public transportation hubs, inside specialised retailers that sell tobacco and related products, inside other retailers or other locations)
- **Sponsorship** (incl. of cultural or entertainment events, Formula 1 events, football championships/tournaments, other sporting events, political events or demonstrations, corporate events, social events or other events)

- **CSR** (incl. sponsorship of charity events, donations to charity or non-profit organisations, funding for research or scholarships, funding for public projects, corporate entertaining or other CSR activities)

3.4.1 Results from multivariable logistic regression analyses of citizen survey data

Multivariable logistic regression was conducted on the citizen survey data to further explore the differences in reported observation of advertisements and promotions, using country, gender, age, education and use of tobacco and related products at least weekly to explain the observation. The results of are briefly summarised here, and the detailed outputs from each regression can be found in Appendix 9.

Regression results for the association of each participant characteristic and each outcome (i.e. noticing examples in the past year) are presented as adjusted odds ratios with associated 95% confidence intervals and p-values in Appendix 9 with a more qualitative summary provided in the text below. Odds ratios are relative measures so for each explanatory variable a reference or comparison category must be used. In each analysis, Netherlands was used as the reference category for country, as it falls roughly in the middle of the 10 countries included in this survey on the 2019 Tobacco Control Scale, a ranking of European countries based on their implementation of tobacco control policies.[185] Additionally, although the Netherlands ranks in the middle in terms of tobacco control policies, in this survey, participants from the Netherlands were the least likely to report observing promotions or advertisements in each category, so using this country as the reference category makes interpretation of the regression results more straightforward. Female was used as the reference category for gender. Not smoking or using tobacco and related products at least weekly was used as the reference category for use of tobacco and related products. The study team fitted an interaction term between age and education level; to simplify interpretation of these results, some categories for these variables were collapsed. Age groups were simplified to 18 to 24, 25 to 29, 30 to 44, and 45 and over, while education was simplified to 'secondary or less' versus 'tertiary or postgraduate'. The reference category for the interaction was age 18 to 24 with secondary education or less. For the purpose of this qualitative summary, p-values of 0.01 or less are considered significant.

Country

Country of residence was strongly associated with reported noticing each of the promotion/advertisement types (Wald test p-values <0.001 for all outcomes). There was substantial variation between countries in terms of the degree of reported noticing of ads and promotions, even after adjusting for gender, age, education level, and use of tobacco and related products.

For the most part, there was no significant difference in how often respondents from Denmark and France reported advertisements and promotions compared to Dutch respondents (the reference group), controlling for gender, age, education and the use of tobacco and related products. However, there were several countries where respondents were significantly more likely to report seeing advertisements and promotions for tobacco and related products than Dutch respondents, controlling for other factors. Respondents from Romania, Bulgaria, Greece and Italy were much more likely to see advertisements and promotions than Dutch respondents, and to a lesser degree those from Ireland, Spain and Germany.

Respondents from Romania were about three to 6.6 times more likely to see advertisements and promotions than Dutch respondents, and were particularly more likely to notice advertising outside the home (5.2 times more likely than Dutch respondents), free samples (5.9 times more likely), advertisements in online retail (6.2 times more likely)

185 See: https://www.tobaccocontrolscale.org

and advertisements in retail locations outside the home (6.6 times more likely). Respondents from Bulgaria were about 1.7 to 6.9 times more likely to see advertisements or promotions as compared to Dutch respondents, and were particularly more likely to see advertising in retailers outside the home (6.1 times more likely than Dutch respondents) and advertising outside the home (6.9 times more likely). Greek and Italian respondents were also about two to five times more likely than Dutch respondents to see advertisements and promotions. Greek respondents were particularly more likely to see advertisements in retail locations outside the home (5 times more likely than Dutch respondents), and Italians were particularly more likely to advertisements in online retail (4.8 times more likely) and in retail locations outside the home (4.5 times more likely). Respondents from Ireland and Spain were both about 1.5 to 2.5 times more likely to see advertisements and promotions across all channels as compared to Dutch respondents, with the exception of for CSR activities where they did not differ meaningfully from the reference group controlling for other factors. For some channels, German respondents did not differ meaningly from Dutch respondents in terms of the likelihood of seeing ads and promotions, although they were about 1.5 to 2.8 times more likely to see them via print media, online retailers, advertising outside the home, retail locations outside the home and free samples.

Gender

Gender was strongly associated with reported noticing each of the promotion/advertisement types (Wald test p-values <0.001 for all outcomes). There was substantial variation between genders in terms of the degree of reported noticing of ads and promotions, even after adjusting for country, age, education level, and use of tobacco and related products.

Male respondents were about 1.4 to 1.8 times as likely to notice each type of advertisement or promotion for tobacco and related products compared to female respondents, controlling for other factors. The magnitude of how much gender influences noticing ads and promotions was more or less consistent across categories of advertisements or promotions.

Age and education

The interaction between education and age was included in the model to investigate variation in noticing ads and promotions for tobacco and related products, controlling for country, gender and use of tobacco and related products. The reference category for age and education was age 18-24 (the youngest age group) with secondary education or less. This analysis found that the association between education/age and noticing ads and promotions is primarily driven by differences between age groups, rather than differences in education.

Looking across age groups with secondary education or less, there was no significant difference in reporting seeing ads or promotions for respondents age 25 to 29 compared to those aged 18 to 24, although older groups with secondary education were less likely to report noticing ads and promotions compared to the youngest group. Those aged 30 to 44 with secondary education or less were about half as likely (odds ratios of 0.4 to 0.6) to report seeing each type of ads and promotion compared to the youngest age group with secondary education or less, and those aged 45+ were even less likely (odds ratios of 0.2 to 0.4 compared to the youngest age group with secondary education or less).

Looking across education categories, there was no difference in reporting ads and promotions for younger respondents (aged 18 to 24 or aged 25 to 29) with tertiary or postgraduate education as compared to those with secondary education or less, with the exception of free samples, sponsorships and CSR activities. Respondents aged 18 to 24 with postgraduate education were 1.8 to two times more likely to report these types of ads and promotions as compared to their peers with secondary education or less (the reference group). This may be because students are more likely to attend certain types of events where these types of ads and promotions are more prevalent (e.g. concerts, cultural events), although it is not possible to determine the exact reason from the available data.

Older respondents (aged 45+) with tertiary or postgraduate education were also less likely to report seeing ads and promotions than respondents aged 18 to 24 with secondary education (the reference group), with odds ratio estimates ranging from 0.3 to 0.6.

Use of tobacco and related products

Using tobacco or related products at least weekly was strongly associated with reported noticing each of the promotion/advertisement types (Wald test p-values <0.001 for all outcomes). There was substantial variation between respondents that used tobacco and related products in terms of the degree of reported noticing of ads and promotions, even after adjusting for country, gender, age, and education.

Respondents that used tobacco and related products at least weekly were 1.6 to 2.7 times more likely to see advertisements or promotions as compared to those that did not. They were particularly more likely to notice them through free samples (2.4 times more likely), online retailers (2.6 times more likely) and retailers outside the home (2.7 times more likely), potentially due to frequenting locations and websites that sell tobacco and related products. Those that use tobacco products may be more likely to see advertisements and promotions for a variety of reasons, including online algorithms that prioritise showing ads to tobacco users, more frequent use of specialised retailers that sell tobacco and related products, or just being more interested in and aware of ads and promotions.

3.4.2 Results from the latent class analysis

LCA identifies subgroups, or classes, within a sample using participant characteristics defined as categorical variables. The aim is not to represent all possible combinations of characteristics but to identify the main patterns present, assuming some measurement error.[186,187] For this study, this translates to identifying patterns of noticing advertising and promotion of tobacco and related products based on reported past-year exposure.

To find the likely number of subgroups, models postulating increasing numbers of classes were sequentially fitted, with identification of each model evaluated by refitting it using 100 sets of random starting values. Models were considered identified if at least 80% of sets converged to the same solution. [188,189] The best-fitting model was selected by examining the Akaike information criterion and Bayesian information criterion for each model,[190] and considering the size, distinctness and ease of interpretation of the classes identified.[191] This was informed by the class membership probabilities, the estimated proportion of the sample belonging to each class and the item-response probabilities for each class, which represent the likely values for the set of characteristics (i.e. probability of reporting each advertising or promotion channel), given membership of a particular class.

Latent class model

Reporting seeing ads and promotions through sponsorship and CSR channels of advertising and promotion were highly correlated (r=0.93) so these two variables were combined for the LCA. Seven latent class models (one to seven classes) were fitted to the data for the different types of advertising and promotion; the 4-class model was the best-fitting model.

The probabilities of noticing the different advertising and promotion channels for each latent class are shown in Figure 3. In this figure, each line represents a class or profile,

186 Lanza ST, Coffman DL, Xu S. Causal inference in latent class analysis. Struct Equ Modeling 2013;20:361–83.

187 Lanza ST, Rhoades BL. Latent class analysis: an alternative perspective on subgroup analysis in prevention and treat- ment. Prev Sci 2013;14:157–68.

188 Lanza ST, Coffman DL, Xu S. Causal inference in latent class analysis. Struct Equ Modeling 2013;20:361–83.

189 Lanza ST, Rhoades BL. Latent class analysis: an alternative perspective on subgroup analysis in prevention and treat- ment. Prev Sci 2013;14:157–68.

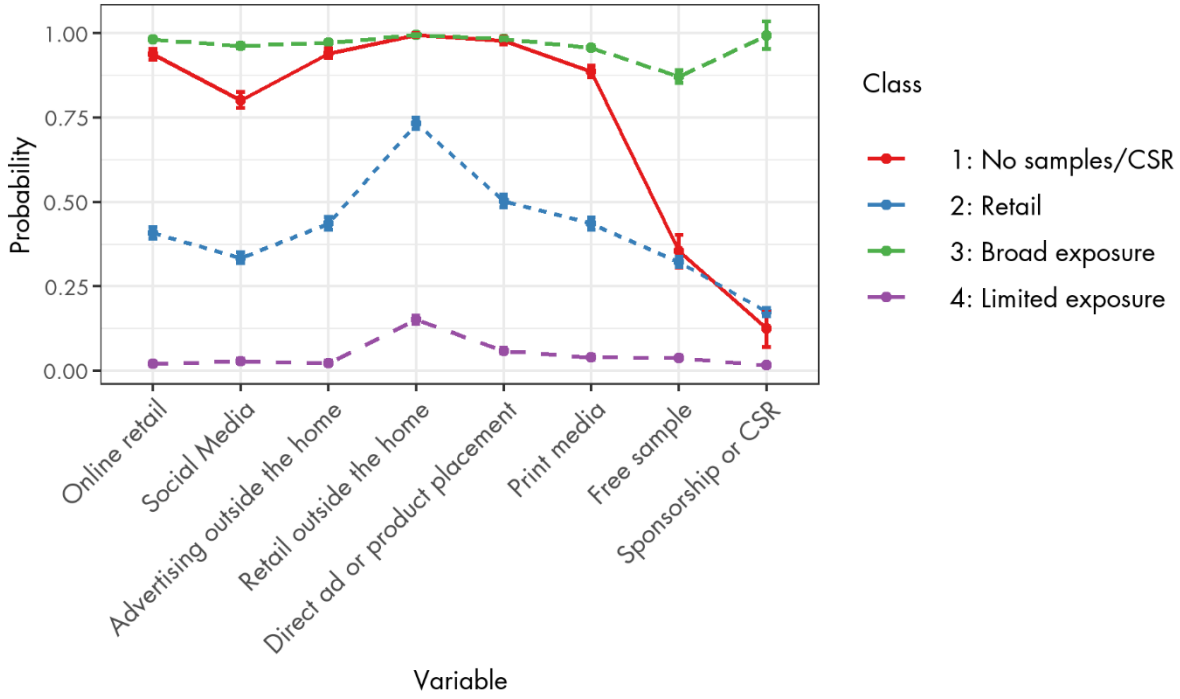
190 Nylund KL, Asparouhov T, Muthén BO. Deciding on the number of classes in latent class analysis and growth mixture modeling: a Monte Carlo simulation study. Struct Equ Modeling 2007;14:535–69.

191 Lanza ST, Rhoades BL. Latent class analysis: an alternative perspective on subgroup analysis in prevention and treat- ment. Prev Sci 2013;14:157–68.

and the graph shows the conditional probability of participants with that profile reporting each of the types of advertising and promotion included, so a probability of 1 means all members of a class or profile would report exposure. The figure suggests that the classes or profiles defined by the model can be characterised as follows:

1. **No samples or CSR/sponsorship** (16% of the sample): High probability of noticing most advertising and promotion channels except free samples and corporate sponsorship or CSR.
2. **Retail** (29% of the sample): Moderate level of noticing all channels apart from sponsorship or CSR, but comparatively high levels to advertising and promotion in retail locations outside the home.
3. **Broad** (27% of the sample): High levels of noticing all advertising and promotion channels.
4. **Limited** (28% of the sample): Very low levels of noticing all advertising and promotion channels.

Figure 3 Item response plot displaying the probability of noticing each type of advertising/promotion by latent class



Source: RAND Europe analysis

Association of participant characteristics with different advertising and promotion profiles

The study team investigated whether certain participant characteristics (age, gender, education level, country of residence, and use of tobacco and related products) were more or less strongly associated with belonging to the different advertising and promotion profiles by using the case-weight method to conduct a latent class multinomial logistic regression analysis.[192] Like the multivariable regression, the results are reported as odds ratios and therefore have a reference category; these are the same for latent class

192 Kamata A, Kara Y, Patarapichayatham C, Lan P. Evaluation of analysis approaches for latent class analysis with auxiliary linear growth model. Front Psychol. 2018;9:1–12.

regression as for the multivariable regression. The reference class is the 'Retail' class. The results from the model are shown in Table 8 below, followed by a qualitative interpretation.

Table 17. Results from the latent class regression, shown as adjusted odds ratios (95% confidence intervals). Note that the reference category for the outcome is the 'Retail' class; for the participants characteristics it is indicated by 'Ref.'. Results that are statistically significant (p<0.01) are shown in bold font.

Explanatory variable	Categories	No Samples/CSR	Broad	Limited
Country	Netherlands	Ref.	Ref.	Ref.
	Bulgaria	**1.5 (1.2-1.8); <0.001**	**1.7 (1.4-2); <0.001**	**0.1 (0.1-0.2); <0.001**
	Denmark	1 (0.8-1.2); 0.71	1.3 (1-1.5); 0.031	**0.7 (0.6-0.9); <0.001**
	France	0.9 (0.7-1.2); 0.585	1.1 (0.9-1.3); 0.53	0.8 (0.7-1); 0.012
	Germany	1 (0.8-1.3); 0.753	1.1 (0.9-1.3); 0.357	**0.5 (0.5-0.6); <0.001**
	Greece	1.2 (0.9-1.4); 0.174	1.2 (1-1.5); 0.043	**0.2 (0.2-0.2); <0.001**
	Ireland	1.1 (0.9-1.3); 0.51	1.1 (0.9-1.3); 0.408	**0.4 (0.4-0.5); <0.001**
	Italy	**1.8 (1.5-2.2); <0.001**	**2.1 (1.8-2.6); <0.001**	**0.3 (0.3-0.4); <0.001**
	Romania	**1.4 (1.1-1.7); 0.006**	**2.7 (2.2-3.2); <0.001**	**0.2 (0.2-0.3); <0.001**
	Spain	1.1 (0.9-1.4); 0.364	**1.3 (1.1-1.6); 0.005**	**0.5 (0.4-0.5); <0.001**
Gender	Female	Ref.	Ref.	Ref.
	Male	**1 (0.9-1.1); 0.734**	**1.5 (1.4-1.7); <0.001**	**0.8 (0.7-0.8); <0.001**
Tobacco and related product use	Less than weekly use of tobacco and related products	Ref.	Ref.	Ref.
	At least weekly use of tobacco and related products	**1.2 (1.1-1.3); <0.001**	**1.8 (1.7-2); <0.001**	**0.6 (0.5-0.6); <0.001**
Age x education	Age 18 to 24, secondary education or less	Ref.	Ref.	Ref.

	Age 25 to 29, secondary education or less	**0.6 (0.4-0.9); 0.005**	1 (0.8-1.3); 0.799	**1.6 (1.2-2.2); 0.004**
	Age 30 to 44, secondary education or less	**0.7 (0.6-0.9); 0.004**	**0.5 (0.4-0.6); <0.001**	**2 (1.6-2.5); <0.001**
	Age 45+, secondary education or less	**0.5 (0.4-0.7); <0.001**	**0.2 (0.2-0.2); <0.001**	**2 (1.6-2.4); <0.001**
	Age 18 to 24, tertiary/postgraduate education	0.8 (0.6-1); 0.09	**1.8 (1.4-2.2); <0.001**	1 (0.7-1.3); 0.823
	Age 25 to 29, tertiary/postgraduate education	0.7 (0.5-0.9); 0.016	1.1 (0.9-1.4); 0.375	1.2 (0.9-1.6); 0.184
	Age 30 to 44, tertiary/postgraduate education	1.1 (0.9-1.4); 0.226	0.9 (0.7-1.1); 0.191	**1.6 (1.3-2); <0.001**
	Age 45+, tertiary/postgraduate education	**0.7 (0.6-0.9); <0.001**	**0.3 (0.2-0.3); <0.001**	**2 (1.6-2.4); <0.001**

The results from this latent class analysis echo the findings from the other analyses of the citizen survey data:

- **Participants who use tobacco and related products** were more likely to be in the two classes noticing the greatest range of advertising and promotion types (*no samples/CSR* and *broad*) than the *retail* class. They were about half as likely to be in the *limited* class compared to those who did not use these products.
- **There were limited differences between countries** in terms of profiles after adjusting for participant age, gender, education, and use of tobacco and related products. However, participants from Bulgaria, Denmark, Germany, Greece, Ireland, Italy, Romania, and Spain were all less likely to be in the *limited* class compared to the *retail* class than participants from the Netherlands. Participants from Italy and Romania were more than twice as likely to be in the *broad* class compared to Dutch participants, and those from Bulgaria and Spain were also slightly more likely to be in this class. Those from Italy, Bulgaria and Romania were also more likely to be in the *no samples/CSR* class as well.
- **Male participants were more likely to report noticing advertisements and promotions**, being 50% more likely to be in the *broad* class compared to the *retail* class and 20% less likely to be in the *limited* class.
- **There was an age gradient** in terms of being in the *broad* and *limited* classes that was observed regardless of education level. Older participants (aged 30 to 44, and 45 and over) with secondary education or less were twice as likely to be in the *limited* class as those aged 18 to 24 with a similar education level; and at least half as likely to be in the *broad* class. A similar pattern was observed for participants with tertiary or postgraduate education, although this was strongest for the oldest (aged 45 and over) group, which was twice as likely to be in the *limited* class and about three times less likely to be in the *broad* class.

3.4.3 Summary of the multivariable analysis results

The regression results indicate that country, gender, age, education level and the use of tobacco and related products all significantly are associated with noticing advertisements and promotions. Looking across the different factors that may influence reporting ads and promotions, the magnitude of the associations with both country and age were particularly substantial. Male gender and the current use of tobacco and related products were also consistently associated with a modest increase in the likelihood of noticing advertisements and promotions, controlling for other factors. There was an age-related gradient in noticing advertisements and promotions, with older age groups, particularly those over 45, being substantially less likely to report noticing them. For the youngest age group (aged 18 to 24) level of education did not appear to be associated with noticing most types of advertising and promotion, with the exception of free samples, sponsorship, and CSR; those with tertiary or postgraduate education were about twice as likely to report noticing these. This may be related to differences in leisure activities between young people who are and are not currently in education, but this cannot be determined from this survey and warrants further investigation.

The results from the LCA suggest that people recall promotion and advertising of tobacco and related products from different groups of promotion channels. Only about a quarter (28%) of the sample reported very low levels of recalling advertising and promotion of tobacco and related products across all channels. In contrast, 43% were in one of two groups reporting high levels of noticing advertisements and promotions across a wide range of channels. Age was most strongly associated with the pattern of advertising and promotion channels that participants recalled observing; participants aged over 30 were much less likely to be in the group that reported noticing advertisements and promotions across all channels, and more likely to belong to the group the reported very low recall of noticing advertisements and promotions in any channels. It also showed that these groups of channels are associated with an individual's use of tobacco and related products, and their gender, education, and to some extent, their country of residence.

4) Placement and content of 'traditional' and other forms of advertising, promotion and sponsorship

Two rounds of the observational survey were run, the first in December 2020 - January 2021 in which participants provided examples of the promotion or advertisement of tobacco and related products, and the second May – June 2021 in which participants were asked to respond to a pre-specified set of examples. Findings are presented for:

- Results of the first data collection:
  - traditional tobacco products for smoking (section 4.1.1);
  - e-cigarettes (section 4.1.2);
  - heated tobacco products (HTPs) (section 4.1.3); and
  - a cross-product summary (section 4.1.4).
- Results of the second data collection:
  - impact of each example in terms of appeal and interest in trying (section 4.2.1);
  - perceived target audience for each example (section 4.2.2);
  - how the product or company is portrayed (section 4.2.3);
  - subgroup analyses investigating how appeal and perceptions may differ by age, country of residence, or use of tobacco and related products (section 4.2.4 for bivariable analyses and section 4.2.5 for multivariable analyses);
  - a summary of the findings (section 4.2.6).

4.1) First observational research study

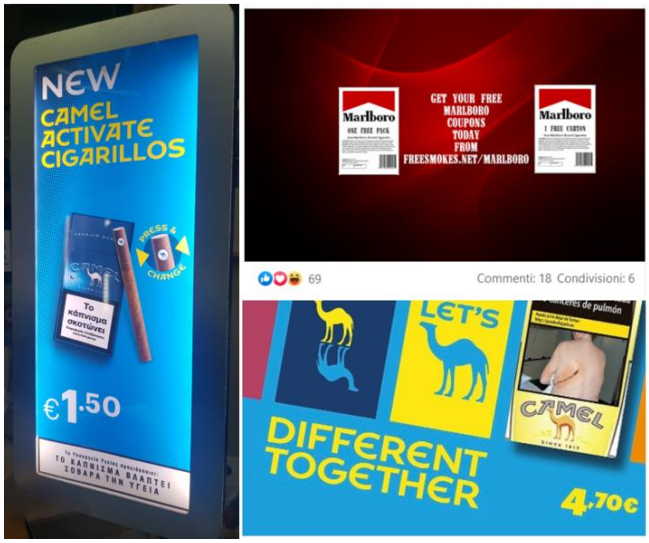
Citizens of the 10 EU countries included in the citizens' survey (aged 18 to 35 only) were asked to provide examples (in the form of photos, videos or sound clips) of advertising, promotion or sponsorship of tobacco products for smoking, e-cigarettes, and HTPs identified during a 1-month period in 2020. For each example of each type of product, portrayed information was collected on where the example of advertising, promotion or sponsorship was found, how the product was portrayed, who respondents thought the target audience was, and whether the example appeared to portray the product or company in a positive way relating to health or social responsibility.

Respondent submissions were screened to only include relevant examples; participants were paid a small monetary incentive for each relevant example submitted. In total, 111 examples of advertising and promotion were included (submitted by 84 participants). Participants from all of the ten countries submitted examples; the most participants came from Italy (n=26), followed by Greece (n=13), Germany (n=11), Spain (n=10), Ireland (n=6), Romania (n=6), Netherlands (n=5), Bulgaria (n=5), and France (n=2). Participants were selected for the study based on age group (18-24 *versus* 25-35 years) and regular use of tobacco or related products (including e-cigarettes and HTPs), with equal numbers in each group invited. Of those who submitted valid examples, the majority (76%) were aged 25 to 35 years of age and just under a third (30%) were regular users of tobacco or other products (including e-cigarettes and HTPs). Further details of respondent and example characteristics are provided in Appendix 10. Due to the small sample size for the first round of the observational research study, results from this data collection activity should be interpreted with caution.

4.1.1 "Traditional" tobacco products for smoking

There were 34 examples of advertising and promotion that featured "traditional" tobacco products for smoking submitted by 30 participants (note that examples could contain more than one product and participants could submit more than one example). The type of tobacco product included most often in the uploaded advertisements were cigarettes (29 examples). Other types of tobacco products for which examples were submitted were: cigarillos (4), cigars (2) and roll your own tobacco (1 example). Some examples are shown in Figure 4. Examples were submitted from: Italy (9); Greece (9); Spain (5); Germany (5); Netherlands (2); Romania (2); Bulgaria (1); and Ireland (1). Of the respondents submitting these examples, 70% were aged 25-35 and 60% did not regularly use and tobacco or related products.

Figure 4 Examples of advertisements and promotions of traditional tobacco products (including cigarettes and cigarillos)

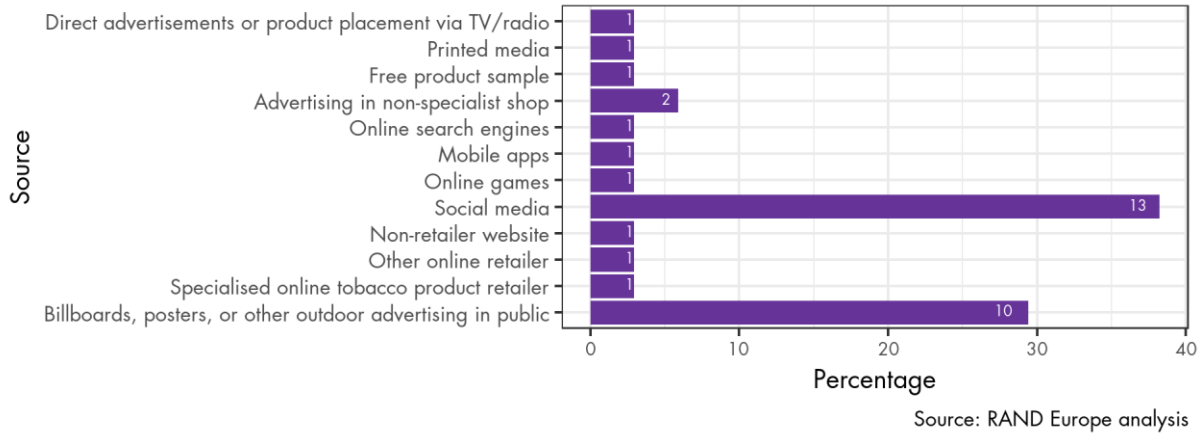


Source: RAND Europe data collection

Promotion placement

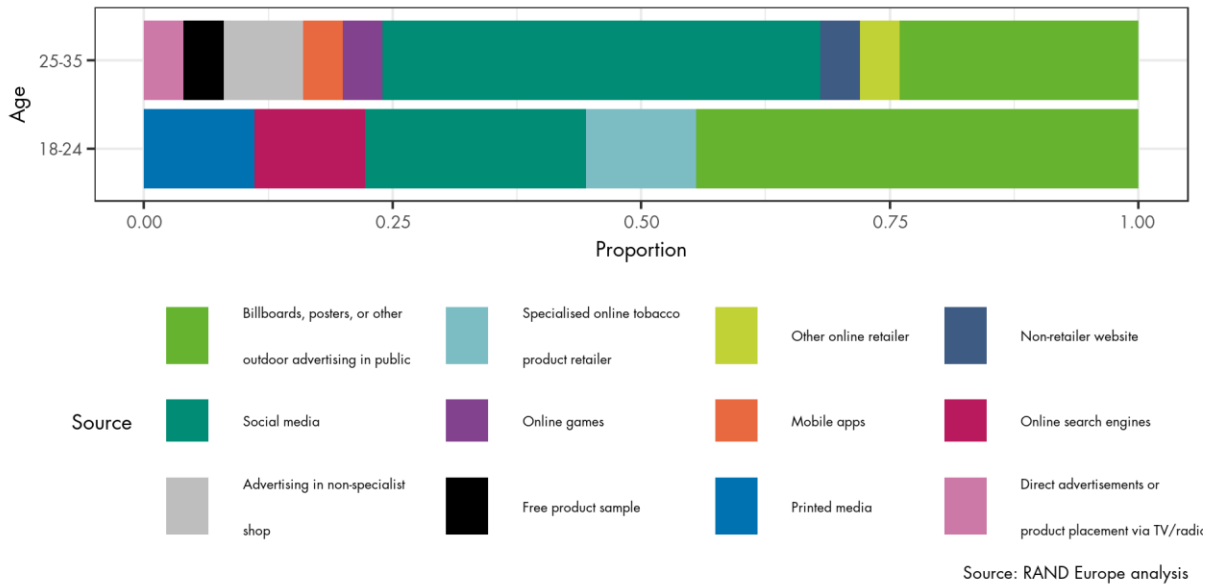
Tobacco examples were most often identified in social media (38%), followed by billboards, posters or other forms of outdoor advertising (30%; see Figure 5). No tobacco examples were submitted that were identified in: advertising flyers; direct advertisements or product placement via TV or radio; email; free gift or promotional items; mobile phones; specialised online retailers of e-cigarettes; specialised online retailers of HTPs; or specialist shop for tobacco or related products.

Figure 5 Source of tobacco product examples. Numbers on bars indicate the counts underlying the percentages.



The source of tobacco examples identified by the two age groups of respondents (18-24, N= 9; and 25-35, N= 25) were compared (Figure 6). Respondents aged 18-24 identified tobacco examples via specialised online retailers of tobacco products for smoking, online search engines and printed media, which those aged 25-35 did not. In addition, online games, direct advertisements or product placement via TV or radio, non-retailer websites, mobile apps and free product samples were sources of tobacco examples identified by those aged 25-35 but not 18-24. While social media and billboards, posters and other forms of outdoor public areas were sources of tobacco advertisements for both age groups, those aged 18-24 reported a smaller proportion of social media sources and greater proportion of billboards (etc.) sources.

Figure 6 Tobacco example sources by age (see Appendix 10 for data table)

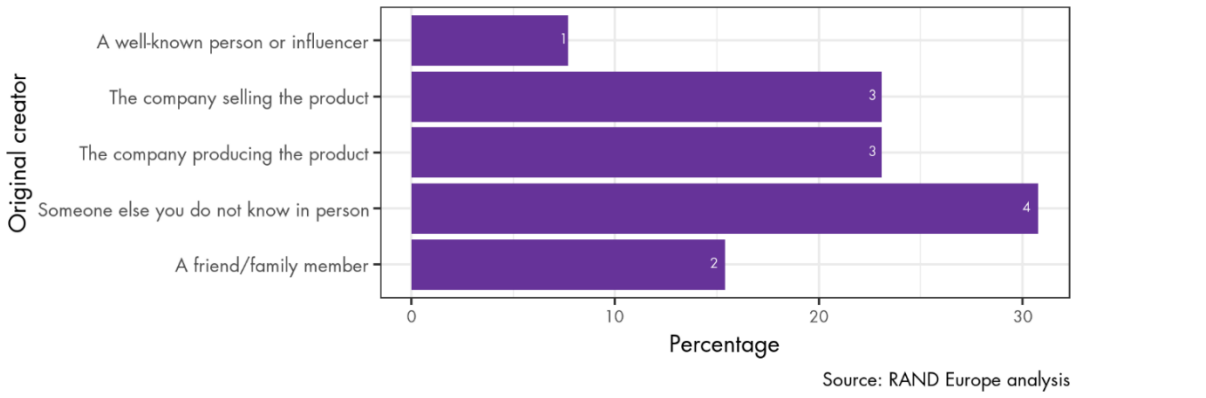


Social media

Examples of tobacco advertising, promotion or sponsorship were identified most commonly from Facebook (39%) and YouTube (31%), followed by Twitter (15%) and Instagram (8%) with the remaining 7% selecting "Other". No examples promoting tobacco that were submitted were identified during the survey as originating from Reddit, Snapchat, TikTok, Tumblr, LinkedIn, Pinterest or live video streaming.

When asked who respondents thought created the original social media post (Figure 7), the most frequently selected response was someone else they did not know in person (31%). This was followed by the company producing the product and the company selling the product (both 23%).

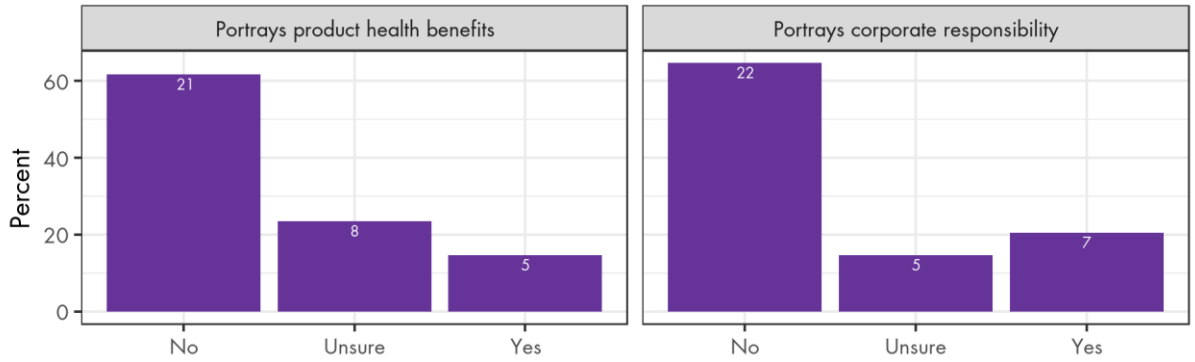
Figure 7 Original creator of social media tobacco examples. Numbers on bars indicate the counts underlying the percentages.



Portrayal of product

In general, respondents did not feel that the examples promoted the tobacco product as offering a health benefit (62%) (Figure 8). However, 15% of respondents did feel that the tobacco example they submitted did promote the product portrayed as having health benefits. A total of 65% of respondents felt that the tobacco example they submitted was not portraying the company as socially or environmentally responsible (Figure 8). However, 21% of respondents did feel that this was the case.

Figure 8 Whether respondents felt tobacco product advertisement, promotion or sponsorship promoted the health benefits of the product or promoted the company as being environmentally or socially responsible. Numbers on bars indicate the counts underlying the percentages.

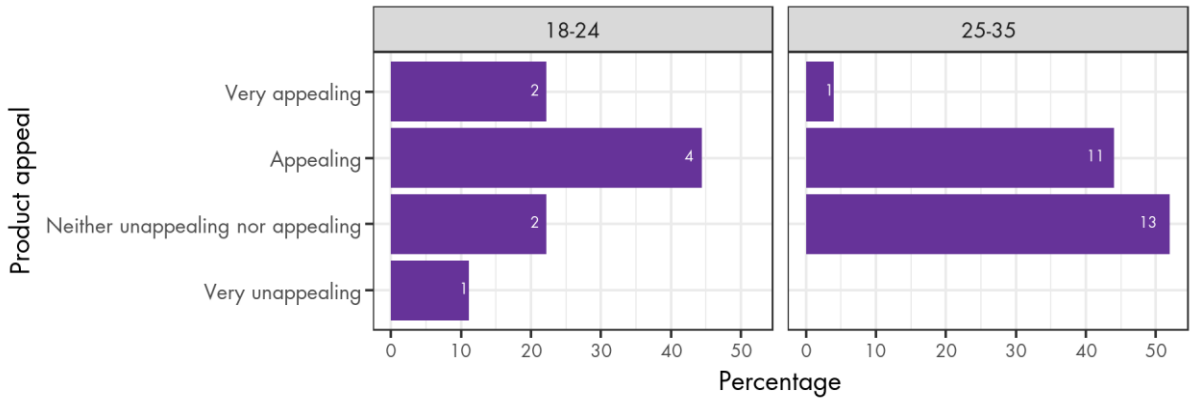


Source: RAND Europe analysis

Impact of example

Most respondents reported that the example they submitted made the product appear appealing (44%) or it was neither appealing nor unappealing (44%). A smaller number felt the product looked very appealing (9%) or very unappealing (1%). None of the respondents thought the product was unappealing. This differed slightly by respondent age group, with those younger than 25 being more likely to find the product both very appealing *and* very unappealing (Figure 9). This difference was not statistically significant (p=0.7; Fisher's exact test).

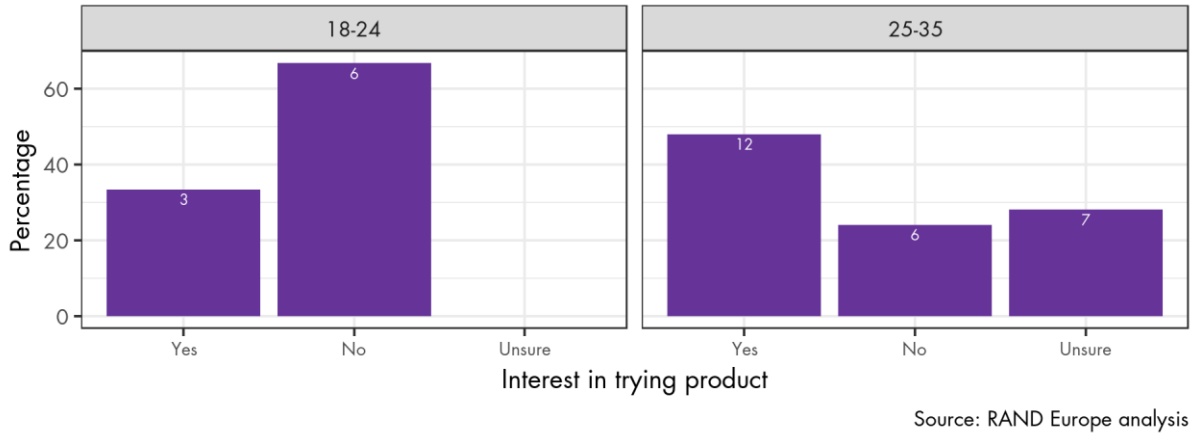
Figure 9 Appeal of product portrayed in example by respondent age group. Numbers on bars indicate the counts underlying the percentages.



Source: RAND Europe analysis

Overall, 44% of respondents said they would be interested in trying the product portrayed in the example submitted, although over one third (35%) were not interested. However, this differed by age group; over two thirds of those aged less than 25 did not want to try tobacco product whereas only a quarter of those aged 25 and over said they did not (Figure 10). This difference is statistically significant (p=0.04; Fisher's exact test).

Figure 10 Interest in trying tobacco product in example by respondent age group. Numbers on bars indicate the counts underlying the percentages.



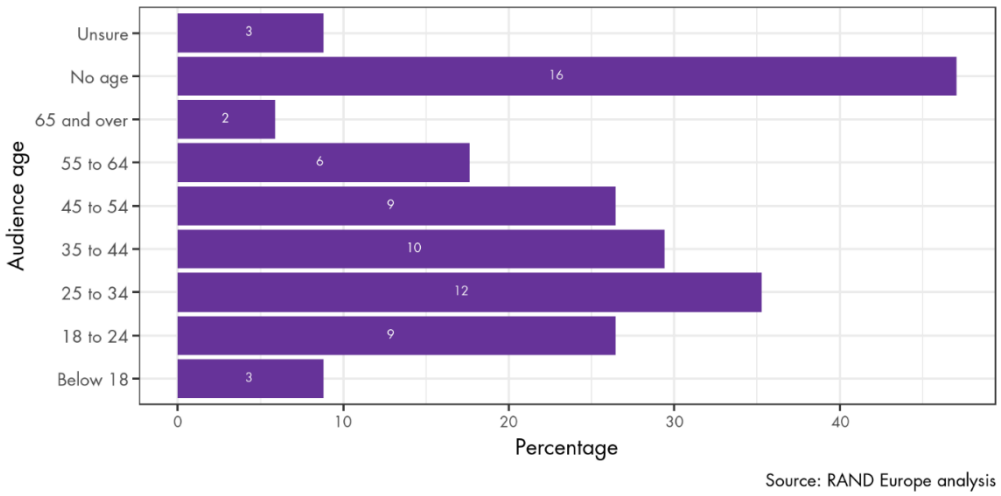
Source: RAND Europe analysis

Target audience

Almost all respondents felt the examples they submitted were aimed at people who use cigarettes (97%). A smaller number felt that the example was aimed at people who do not use cigarettes (18%) or who use e-cigarettes/HTPs (12%). In addition, 6% of respondents felt the tobacco examples were aimed at people who do not use e-cigarettes/HTPs.

The target age group for tobacco examples most frequently identified by respondents was no age group in particular (47%) (Figure 11), followed by 25-34 (35%). Those aged 65 and over were felt to be the least likely to be the target of the tobacco example (6%). In addition, 9% felt the example was aimed at people under 18.

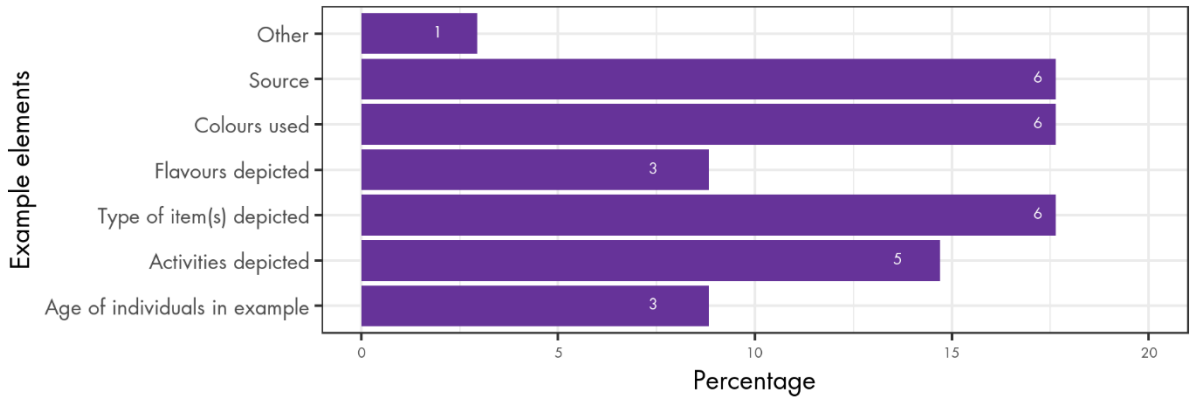
Figure 11 Age group respondents felt tobacco examples were targeted towards (more than one category could be specified). Numbers on bars indicate the counts underlying the percentages.



Source: RAND Europe analysis

Examples were felt to be aimed at particular age groups for various reasons (Figure 12), predominantly because of the type of item(s) depicted, colours used and the source (all 18%).

Figure 12 Reasons tobacco examples were felt to be targeted at particular age groups (more than one option could be selected). Numbers on bars indicate the counts underlying the percentages.



Source: RAND Europe analysis

4.1.2 E-cigarettes

There were 45 examples of advertising and promotion that featured e-cigarettes submitted by 34 participants (note that examples could contain more than one product and participants could submit more than one example). Some examples are shown in Figure 13. Examples were submitted from: Italy (17); Greece (7); Ireland (6); Spain (4); Netherlands (3); Germany (2); and Romania (2). Of the respondents submitting these examples, 79% were aged 25-35 and 71% did not regularly use and tobacco or related products.

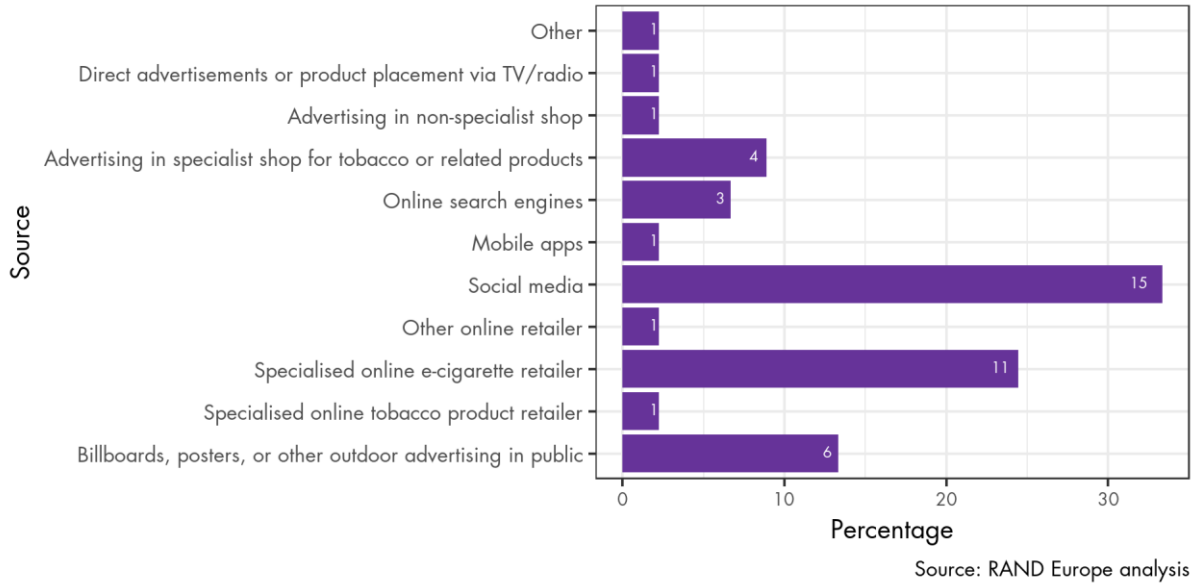
Figure 13 Examples of advertisements and promotions of e-cigarettes

Source: RAND Europe data collection

Promotion placement

Social media was the most frequently identified source for examples (33%), followed by specialised online retailers of e-cigarettes (24%) (Figure 14). No e-cigarette examples were identified from direct advertisements or product placement via advertising flyers; streaming services; email, free gift/promotional item; free product sample; mobile phone; non-retailer websites; online games; printed media; or specialised online retailers of HTPs.

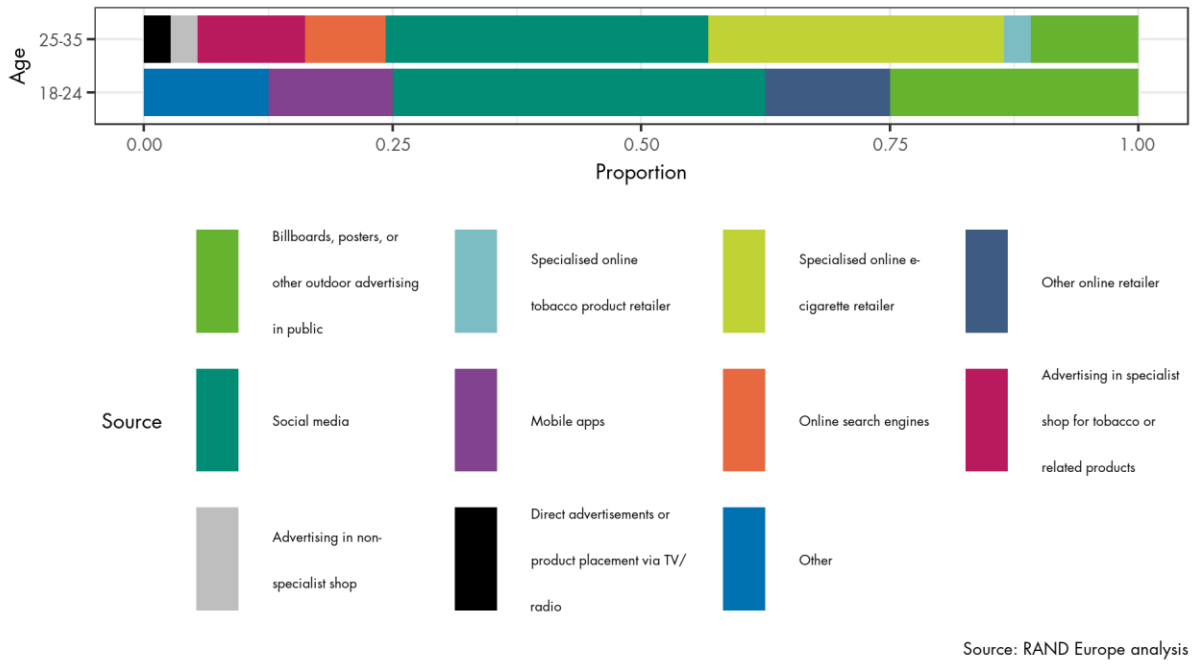
Figure 14 Sources of e-cigarette examples. Numbers on bars indicate the counts underlying the percentages.



Source: RAND Europe analysis

The sources of e-cigarette examples were compared to the two age groups of respondents (18-24 and 25-35) (Figure 15). Respondents aged 18-24 identified e-cigarette examples via other online retailers, mobile apps and 'other' sources, which those aged 25-35 did not.

Figure 15 Source of e-cigarette examples by age (see Appendix 10 for data table)



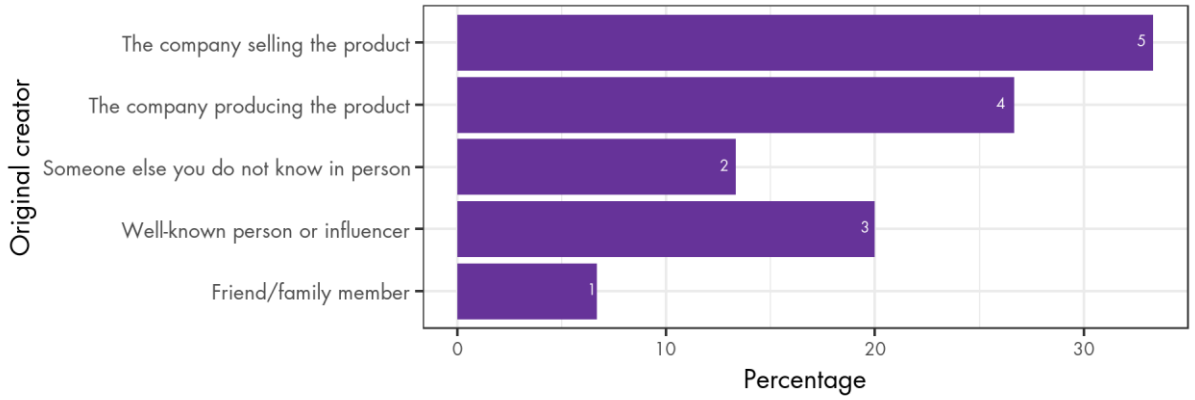
Source: RAND Europe analysis

In addition, specialised online retailers of tobacco products for smoking, advertising in a specialised retail shop for tobacco and/or related products, direct advertisements or product placement via TV or radio, online search engines, advertising in a non-specialised retail shop, advertising flyers and specialised online retailers of e-cigarettes were sources of e-cigarette advertisements identified by those aged 25-35 but not 18-24. While social media and billboards, posters and other forms of outdoor public areas were sources of e-cigarette examples for both age groups, those aged 18-24 reported a greater proportion of e-cigarette examples via these two sources.

Social media

Four social media platforms were identified as sources for e-cigarette examples: Instagram (47%), Facebook (33%), YouTube (13%) and Twitter (7%). When asked who respondents thought created the original social media post (Figure 16), the most frequently selected response was the company selling the product (33%), followed by the company producing the product (27%) and a well-known person or influencer (20%).

Figure 16 Original creator of social media e-cigarette examples. Numbers on bars indicate the counts underlying the percentages.

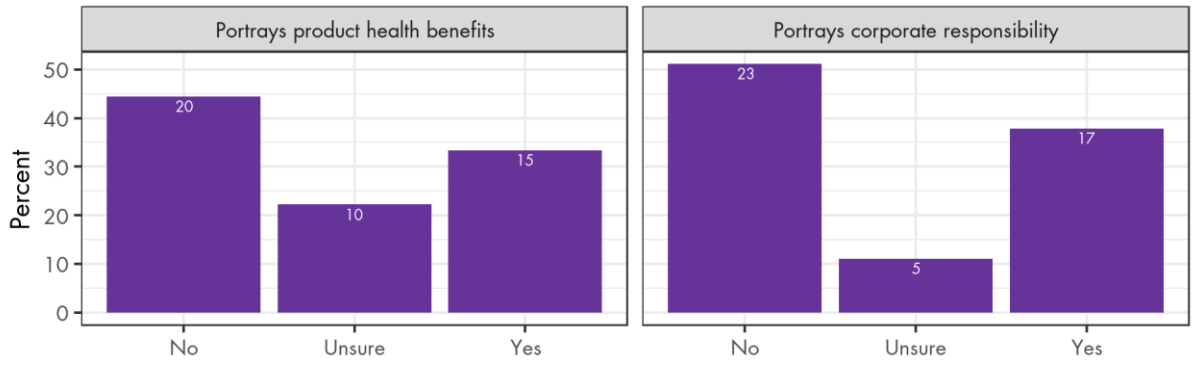


Source: RAND Europe analysis

Portrayal of product

For the promotion of health benefits (Figure 17), 44% of respondents felt that the e-cigarette examples did not promote the health benefit of the product. Alternatively, one third (33%) did feel like the e-cigarette example they submitted promoted their health benefit.

Figure 17 Whether respondents felt e-cigarette advertisement, promotion or sponsorship promoted the health benefits of e-cigarettes or promoted the company as being environmentally or socially responsible. Numbers on bars indicate the counts underlying the percentages.



Source: RAND Europe analysis

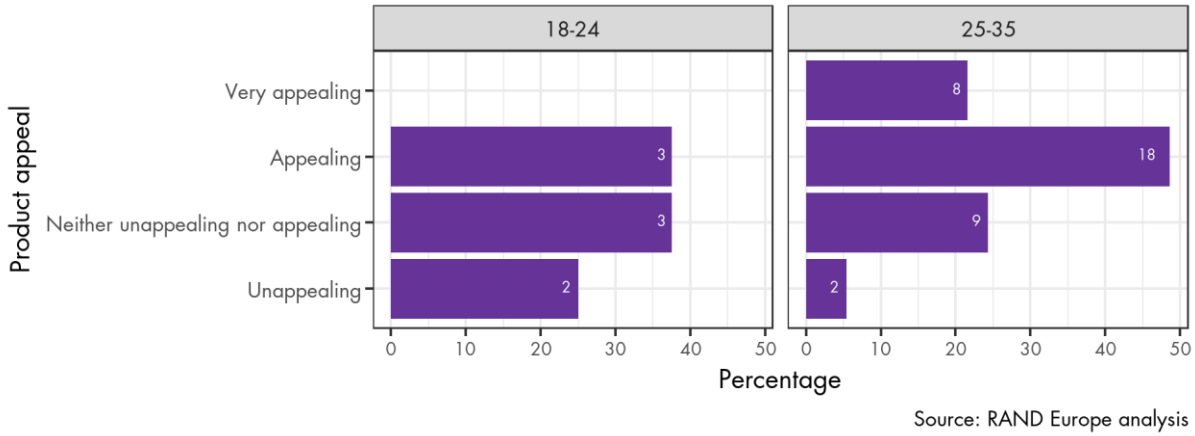
Over half of respondents (51%) felt that the e-cigarette example submitted did not portray the company as being economically or socially responsible. However, over one third (38%) did think the example was portraying the company in this way.

Impact of example

Most respondents reported that the example they submitted made the product look appealing (47%), followed by it was neither appealing nor unappealing (27%). A smaller

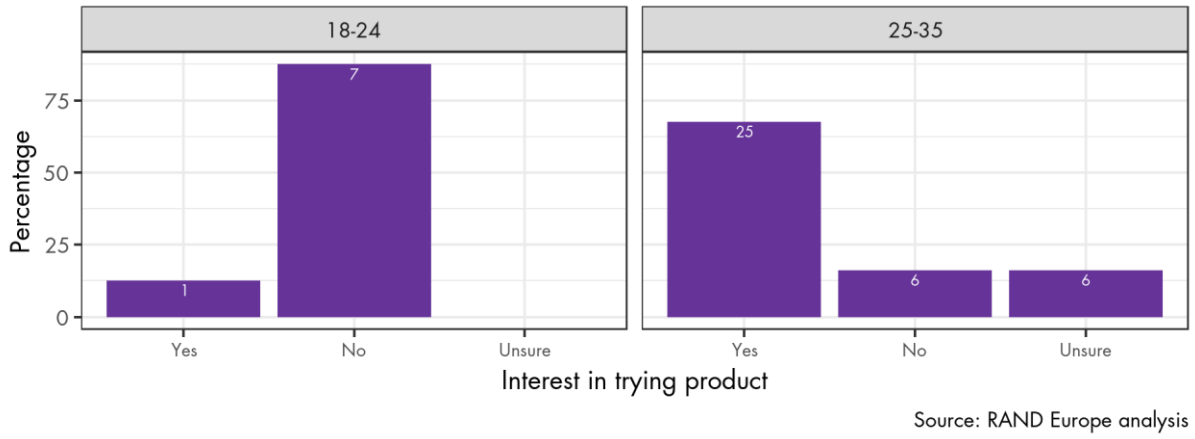
number felt the product looked very appealing (18%) and unappealing (9%). None of the respondents felt the example made the e-cigarette look very unappealing. This differed by age group (Figure 18); almost one quarter of those aged 25 and over viewed e-cigarette examples as very appealing, while no participants under 25 reported this. However, this difference was not statistically significant (p=0.2; Fisher's exact test).

Figure 18 E-cigarette product example appeal by respondent age group. Numbers on bars indicate the counts underlying the percentages.



Over half of respondents (58%) reported they had an interest in trying the e-cigarette product being advertised. Another 29% did not have an interest in trying the product. However, interest in trying the products portrayed varied significantly between age groups; 88% of those aged under 25 said they were not interested in trying the e-cigarette product depicted whereas only 22% of those aged 25 and over said they would not be interested (Figure 19; p<0.001, Fisher's exact test).

Figure 19 Interest in trying e-cigarette products depicted by age group. Numbers on bars indicate the counts underlying the percentages.



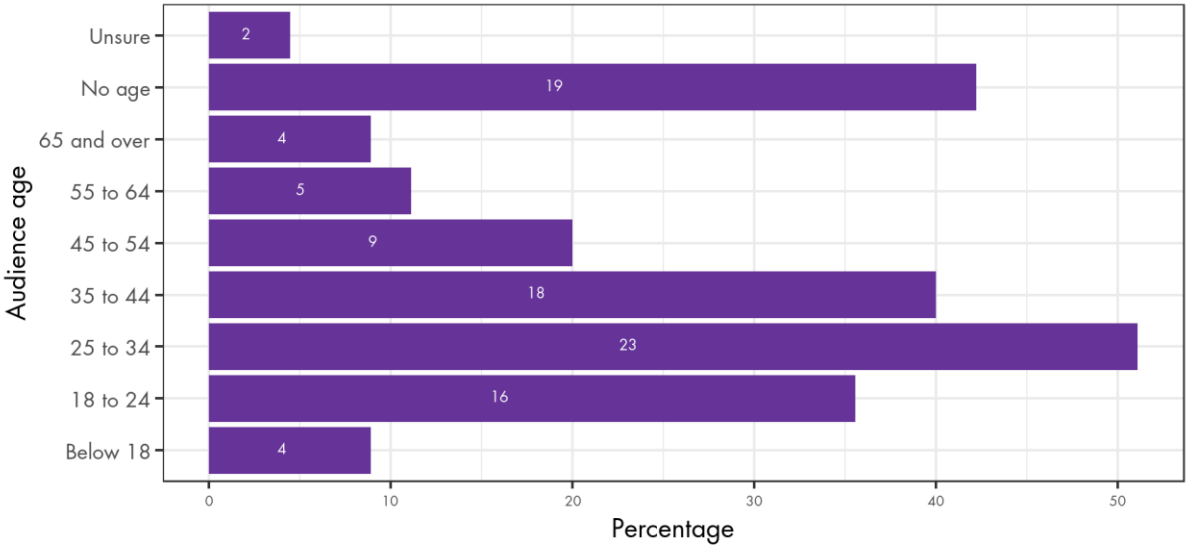
Target audience

Most respondents felt the target audience for the e-cigarette examples they submitted were people who use e-cigarettes/HTPs (84%). A smaller percentage felt that the example was aimed at people who use cigarettes (42%) and/or who do not use e-cigarettes/HTPs (31%). Fewer than 10% of respondents felt that their submitted e-cigarette example was aimed at people who do not smoke cigarettes.

Just over half of respondents (51%) felt the example they submitted was targeted at the age group was 25-34 years, followed by no age group in particular as the target (42%;

Figure 20). Those aged 65 and over and 18 and under were both felt to be the least likely to be the target of e-cigarette examples submitted (both 9%).

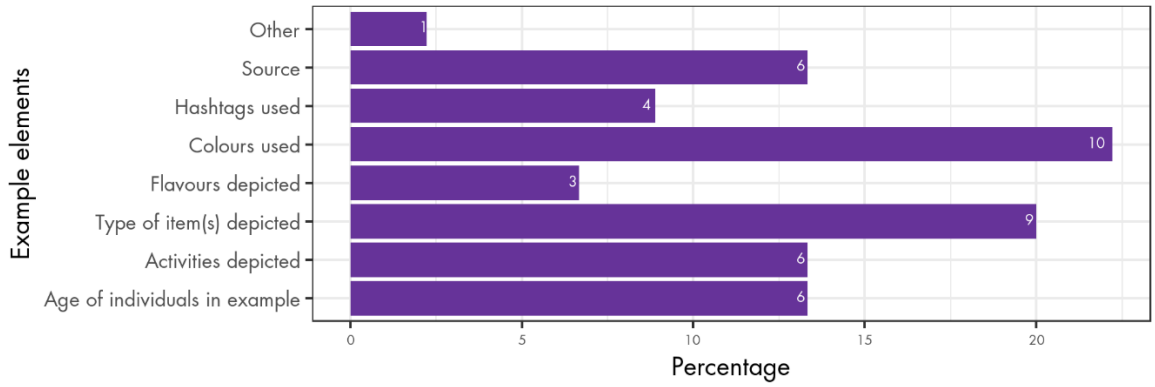
Figure 20 Age group respondents felt e-cigarettes examples were targeted towards (multiple options could be selected). Numbers on bars indicate the counts underlying the percentages.



Source: RAND Europe analysis

The e-cigarette examples were felt to be aimed at particular groups for various reasons (Figure 21), predominantly because of the colours used (23%), followed by the types of items depicted (20%).

Figure 21 Reasons e-cigarette examples were felt to be targeted at particular age groups (multiple options could be selected). Numbers on bars indicate the counts underlying the percentages.



Source: RAND Europe analysis

4.1.3 HTPs

There were 35 examples of advertising and promotion that featured HTPs submitted by 31 participants (note that examples could contain more than one product and participants could submit more than one example). Some examples are shown in Figure 22. Examples were submitted from: Italy (17); Germany (5); Bulgaria (4); Greece (3); Spain (3); Romania (2); and France (1). Of the respondents submitting these examples, 81% were aged 25-35 and 77% did not regularly use and tobacco or related products.

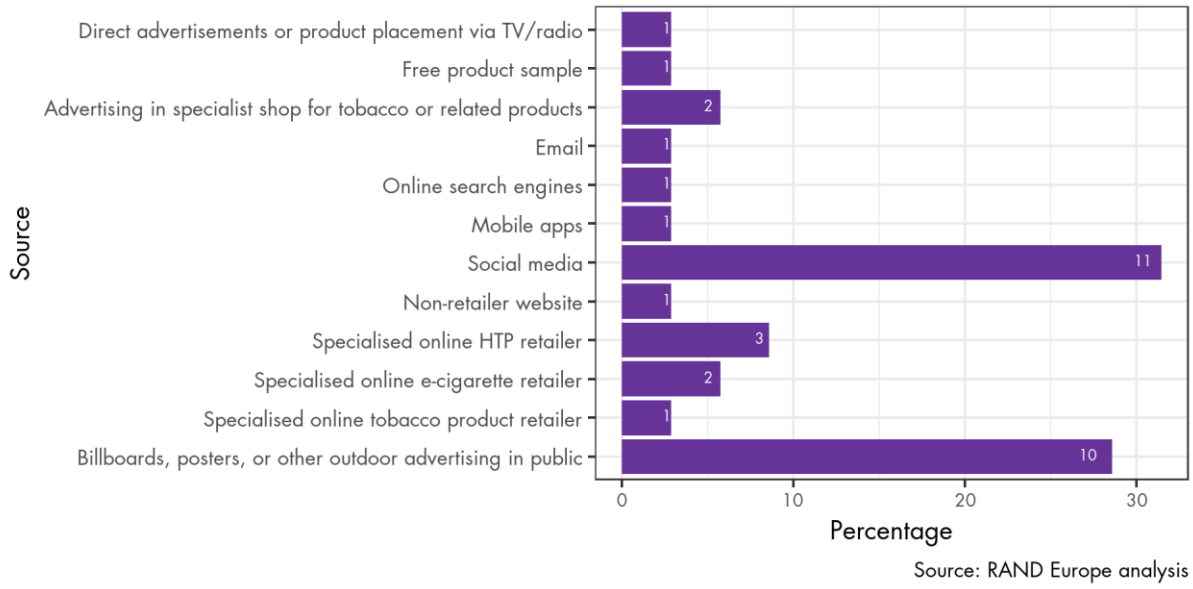
Figure 22 Examples of advertisements and promotions of HTPs

Source: RAND Europe data collection

Promotion placement

Social media was the most frequently identified source for the HTP examples submitted (31%), followed by billboards, posters and other forms of outdoor public advertising (29%) (Figure 23). No HTP examples were identified from advertising in a non-specialised retail shop; direct advertisements or product placement via streaming services; free gift/promotional item; mobile phone; other online retailers or e-commerce sites; online games; advertising flyers; or printed media.

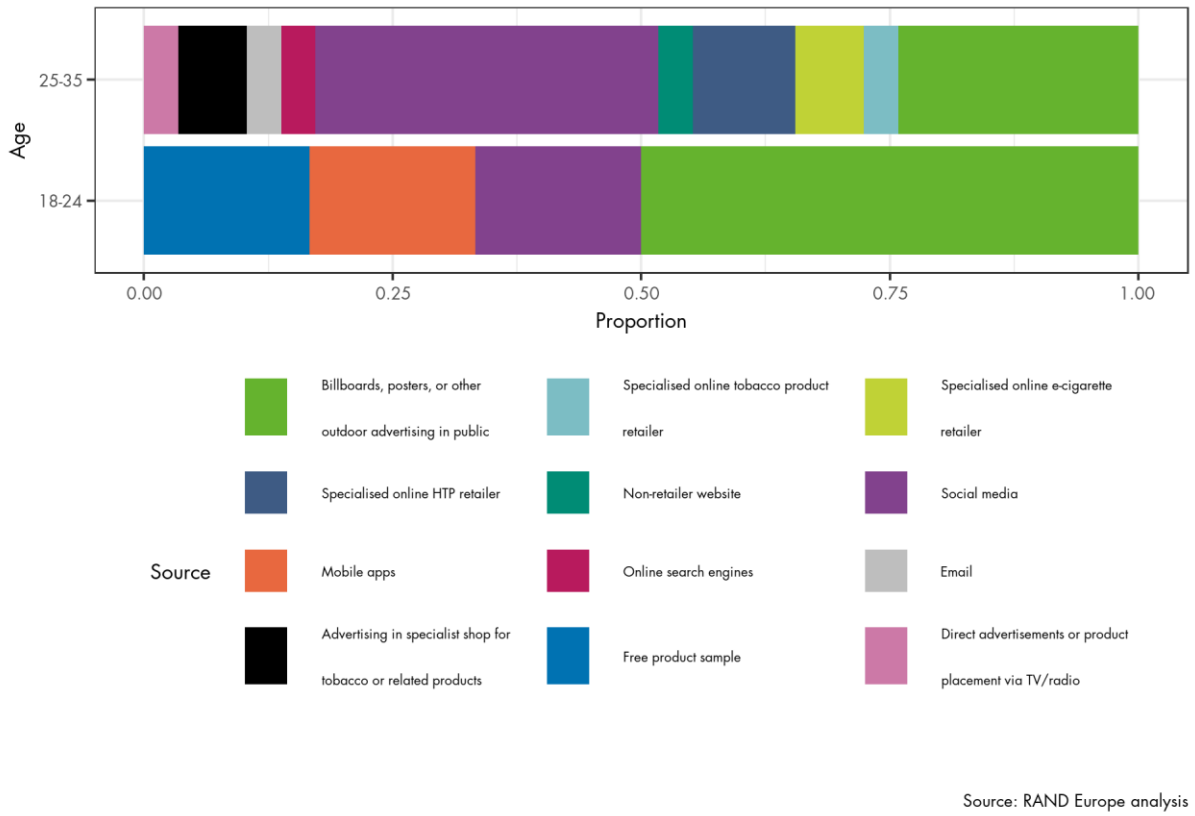
Figure 23 Sources of HTP examples. Numbers on bars indicate the counts underlying the percentages.



Source: RAND Europe analysis

The sources of HTP examples were compared to the two age groups of respondents (18-24 and 25-35) (Figure 24). Respondents aged 18-24 identified HTP examples via mobile apps and free product samples, which those aged 25-35 did not.

Figure 24 Sources of HTP examples by age (see Appendix 10 for data table)



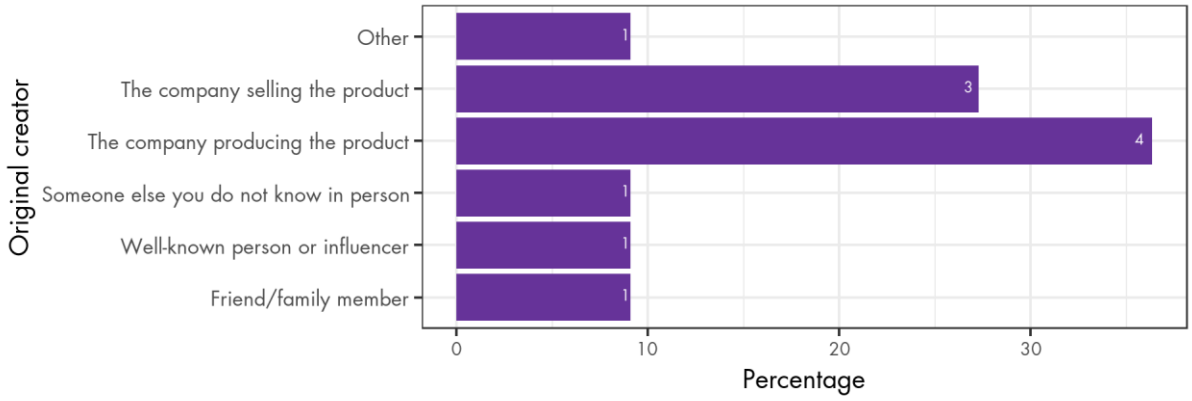
Source: RAND Europe analysis

In addition, specialised online retailers of tobacco products for smoking, specialised online retailers of e-cigarettes, specialised online retailers of HTPs, non-retailer websites, online search engines, email, advertising in a specialised retail shop for tobacco and/or related products and direct advertisements or product placement via TV or radio were sources of HTP examples identified by those aged 25-35 but not for those age 18-24. While social media and billboards, posters and other forms of outdoor public areas were sources of HTP examples for both age groups, those aged 18-24 reported a greater proportion of HTP examples via billboards (etc.) and 25-35 via social media.

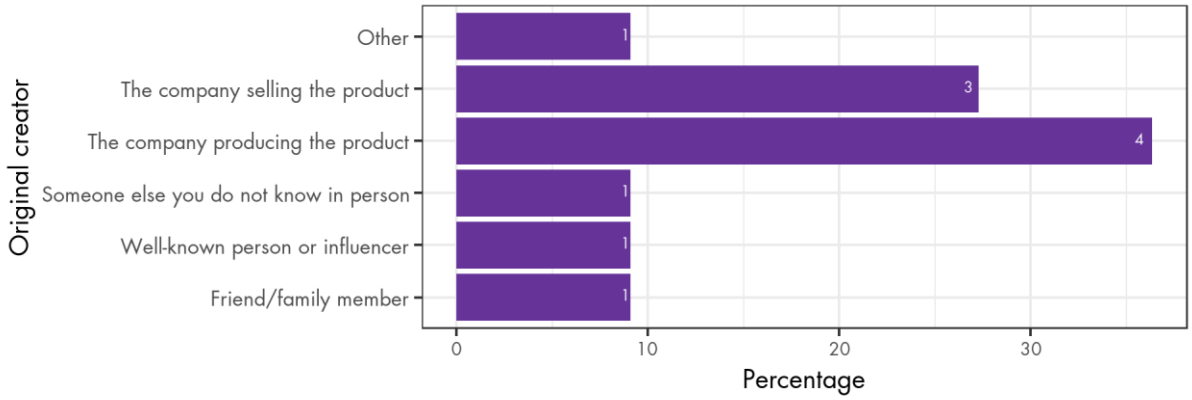
Social media

HTP examples from social media were identified from Instagram (36%), YouTube (36%) and Facebook (27%). When asked who respondents thought created the original HTP social media advertisements (Figure 25), most thought it was the company producing the product (36%). This was followed by the company selling the product (27%).

Figure 25 Original creator of HTP social media examples. Numbers on bars indicate the counts underlying the percentages.



Source: RAND Europe analysis

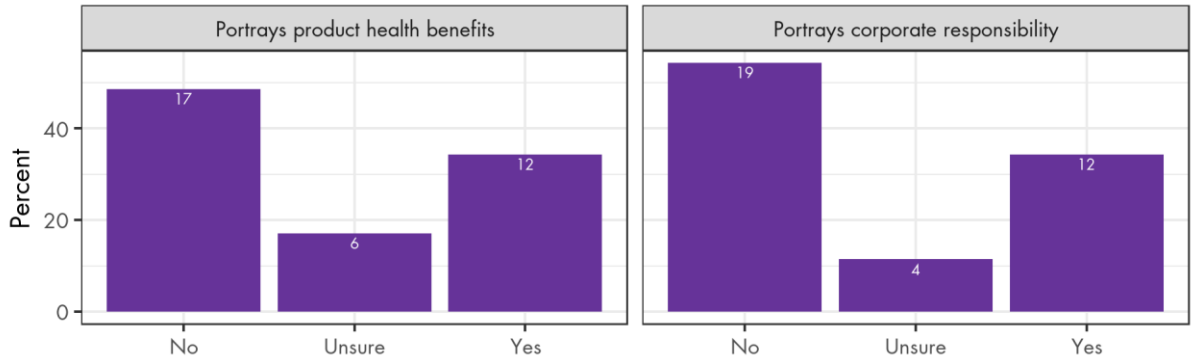


Source: RAND Europe analysis

Portrayal of product

For the promotion of health benefits, almost half of respondents (49%) felt that the HTP example they submitted did not promote the health benefit of the product. Alternatively, 34% did feel like HTP example promoted their health benefit (Figure 26).

Figure 26 Whether respondents felt HTP advertisement, promotion or sponsorship promoted the health benefits of HTPs or the corporate responsibility of the company producing the product. Numbers on bars indicate the counts underlying the percentages.



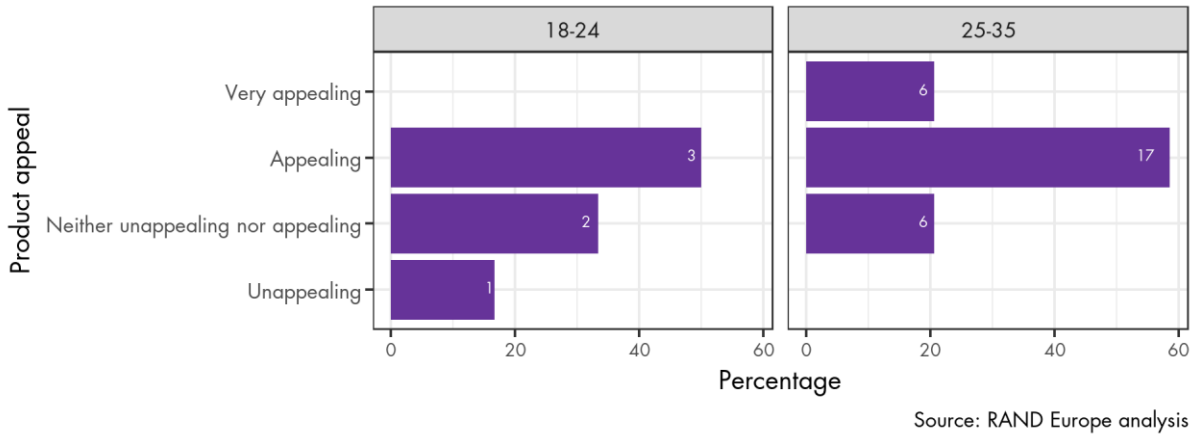
Source: RAND Europe analysis

Over half of respondents (54%) felt that the HTP example submitted did not portray the company as being economically or socially responsible (Figure 27). However, 34% did think the example was portraying the company in this way.

Impact of example

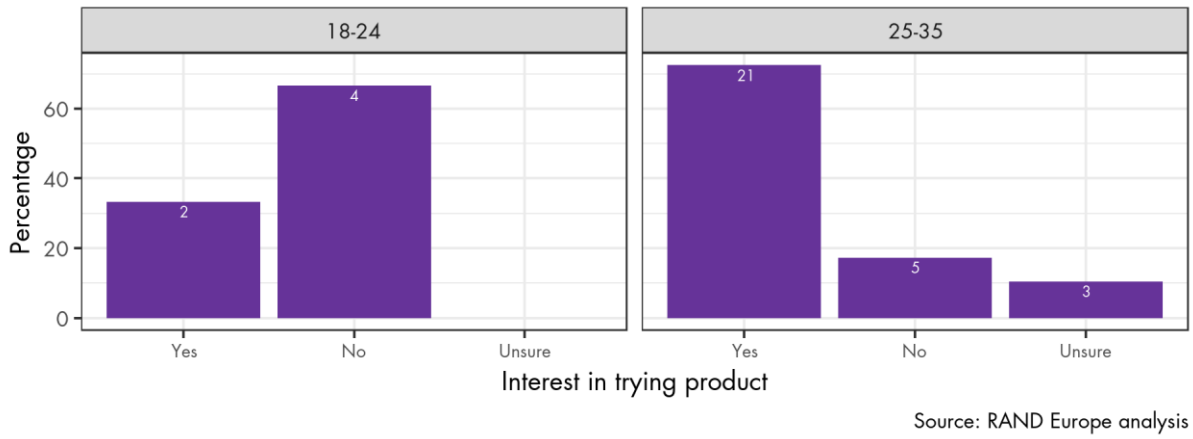
Most respondents reported that the HTP product portrayed in the example submitted was appealing (57%). A smaller number felt that the product was neither appealing nor unappealing (23%), very appealing (17%) and unappealing (3%). None of the respondents felt the example made the HTP look very unappealing. The perspective the appeal of the HTP product depicted differed slightly by age; no participants aged under 25 found the product very appealing, whereas no participants aged 25 or older found the products unappealing. (Figure 27).

Figure 27 HTP product example appeal by age group. Note that no respondents selected very unappealing. Numbers on bars indicate the counts underlying the percentages.



Two thirds (66%) of respondents expressed interest in trying the HTP depicted in their example. However, this differed by age group. The majority of participants aged 25 and over (72%) said they were interested in trying the HTP in the example, whereas only 33% of those aged under 25 were interested in trying it (Figure 28, p=0.06, Fisher's exact test).

Figure 28 Interest in trying HTPs depicted in example by age group. Numbers on bars indicate the counts underlying the percentages.



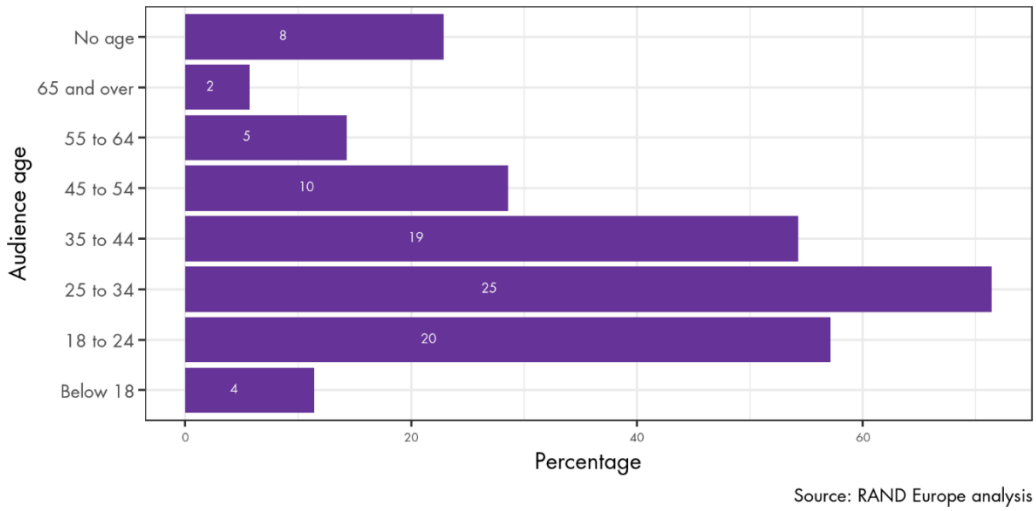
Target audience

For respondents submitting examples of HTPs advertising, promotion and sponsorship, 77% felt the example was aimed at people who use e-cigarettes/HTPs. This was followed

by people who do not use e-cigarettes/HTPs (54%). A smaller percentage felt that the advertisement was aimed at people who use cigarettes (34%) and/or who do not use cigarettes (11%).

The target age groups reported by respondents for the HTPs examples are provided in Figure 29. As this shows, the most frequently selected age group was 25-34 (71%), followed by 18-24 (57%) and 35-44 (54%). Those aged 65 and over were felt to be the least likely to be the target of HTP advertisements (6%). In addition, 11% of respondents felt the example was aimed at people under 18.

Figure 29 Age group respondents felt HTP examples were targeted towards (multiple categories could be selected). Numbers on bars indicate the counts underlying the percentages.



HTP examples were felt to be aimed at particular groups for various reasons, predominantly because of where the types of item(s) in the example (37%) and the colours used (28%).

4.1.4 Cross-product summary

Locations of advertisements and promotions

Social media was the most common source of tobacco, e-cigarette and HTP examples. For tobacco products and HTPs, this was followed by billboards, posters or other forms of outdoor advertising, but for e-cigarettes the second most common source was online retailers of e-cigarettes. Across the three product types, the overlapping source of examples for the two age groups (18-24 and 25-35) were social media and billboards, posters or other forms of outdoor advertising. When looking at differences across age groups, only those aged 25-35 identified examples through direct advertisements or product placement via TV or radio.

Facebook, Instagram and YouTube were the main social media sources of tobacco, e-cigarette and HTP examples. While Instagram was the most common social media platform for e-cigarettes and HTPs (alongside YouTube), it was the fourth most common for tobacco.

Facebook, Instagram and YouTube were the main social media sources of tobacco, e-cigarette and HTP examples. While Instagram was the most common social media platform for e-cigarettes and HTPs (alongside YouTube), it was the fourth most common for tobacco. Finally, Twitter was a source of tobacco and e-cigarette examples, but no HTP examples were identified via Twitter.

The companies producing and companies selling the product were most commonly identified as the creator of social media examples for e-cigarettes and HTP examples, but the second for tobacco for which the most common was someone the participant did not know in person. A well-known person or influencer was thought to create e-cigarette

examples more than HTPs and tobacco products (20% for e-cigarettes compared to 9% for HTP and 8% for tobacco). Someone else the respondent did not know in person was thought to be less likely to have created the HTP (9%) and e-cigarette (13%) examples compared to tobacco (31%). Across all three product types, a friend/family member was thought to have created the social media example to a small extent (15% and below for all products).

Portrayal of product

A greater percentage of respondents submitting examples of HTPs and e-cigarettes reported that the example demonstrated the product could offer a health benefit (34% and 33% respectively) compared to tobacco examples (15%). For e-cigarette examples, over one third of respondents reported that the example suggested the company was environmentally or socially responsible (38%). This was slightly lower for HTP examples (33%) and much lower for tobacco products (21%).

Impact of example

For all three product types, the most frequently selected option for whether or not the example made the product seem appealing was 'appealing' (with an equal percentage selecting 'neither appealing nor unappealing' for tobacco products). A smaller percentage of respondents found the product to be unappealing for e-cigarette and HTP examples, and no e-cigarette or HTP examples were deemed to be very unappealing.

A greater percentage of respondents submitting HTP examples showed interest in trying the product (66%), followed by e-cigarettes (58%). Almost half of respondents submitting tobacco product examples expressed interest in trying the product (44%). For each product, there were differences between the age groups regarding interest in trying the product depicted, but across products those aged under 25 consistently said they were less interested in trying the product than those aged 25 and over.

However, these results should be interpreted with caution as many examples were drawn from social media; individuals who found the product appealing may already be interested in these products and were therefore targeted by advertisers based on their online behaviour or following people/organisations on social media who promote these products.

Target audience

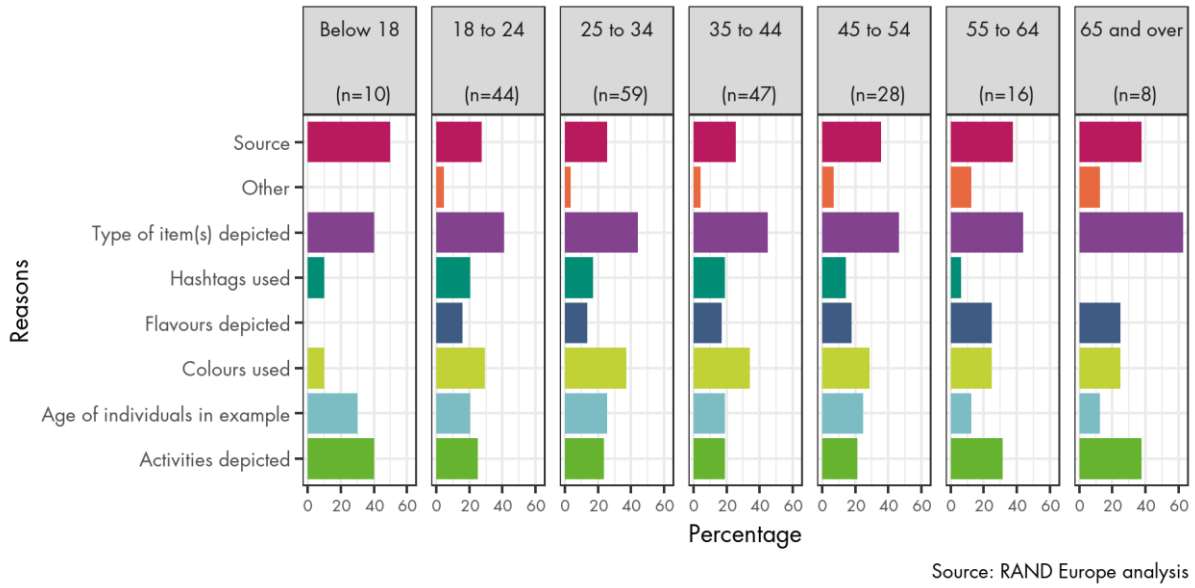
Existing product users were most frequently identified as the target for the examples submitted (e.g. e-cigarette examples were most frequently thought to be aimed at people who use e-cigarettes/HTPs). For e-cigarette and HTP examples, 31% and 34% of respondents respectively felt that the example was aimed at people who do not use e-cigarettes/HTPs. Only 6% of respondents submitting tobacco examples felt that it was aimed towards people who do not use e-cigarettes/HTPs. For all three product types, a small percentage of respondents (18% or less) felt that the example was targeted to people who do not use cigarettes.

For e-cigarettes and HTP examples, the most frequently selected target age range for the example was 25-34. For tobacco examples, the most frequently selected was no age group. Those 65 and over were felt to be the least likely target of the examples for all products (9% or below for all products, with an equal percentage selecting age under 18 for e-cigarettes). For all three products, between 9-11% of respondents felt that the example was targeted to people under 18.

The colours and type of items used in the examples were the two main reasons the respondents felt the example was targeted at a certain age group for all three product types. When exploring these responses by the age group thought to be targeted by the example across all products (Figure 30), the source of the example, the age of individuals and the activities depicted were more likely to be the reasons respondents felt the example was targeted at those under 18 than other age groups. Although not the most frequently selected reason, the age of the individuals depicted was more often selected as the reason

for targeting those under 18 than for any other age group targeted (30% compared to around 20% for other age groups). The flavours depicted were not reported by any respondents as being a reason for the example to be targeted at those under 18, but this factor appeared to be more important as the age of the target group increased.

Figure 30 Reasons participants felt examples were targeted to particular age groups, by age group targeted

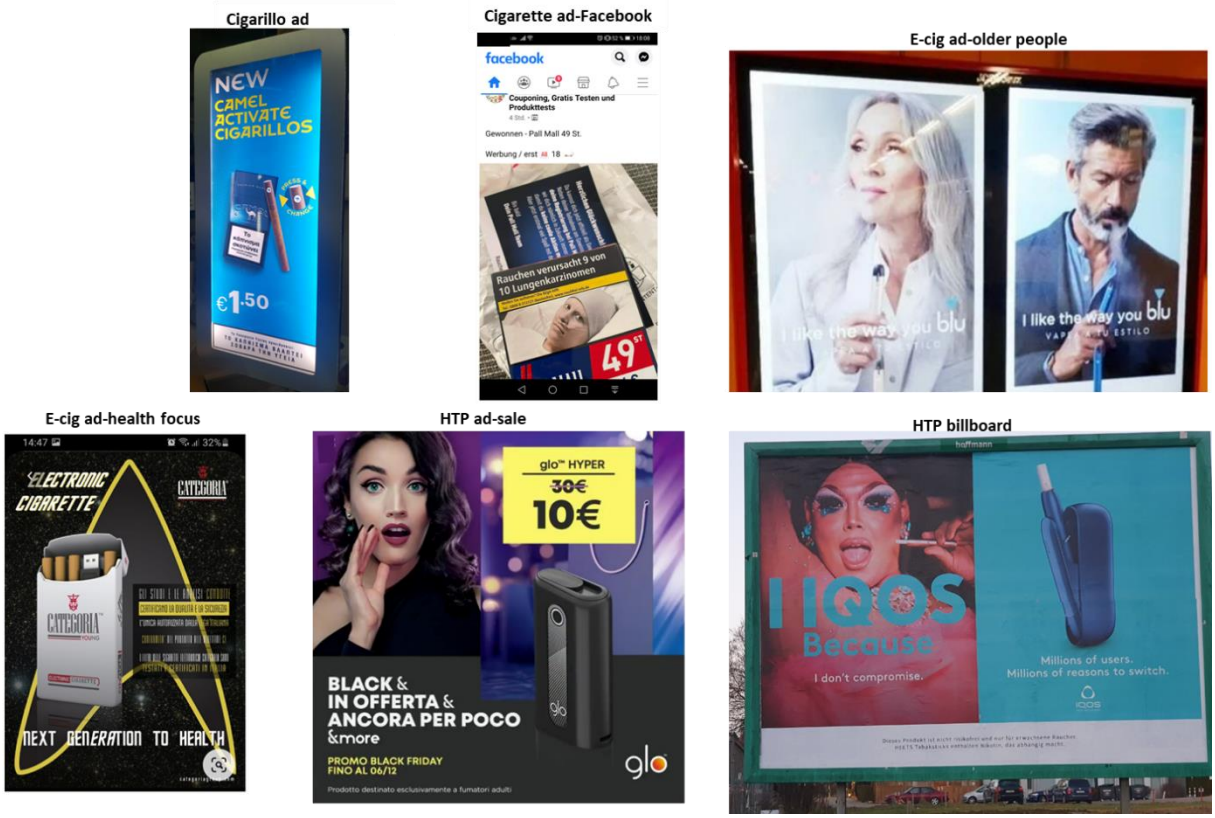


4.2) Second observational research study

In this second observational research survey, six of the examples submitted in the first observational research survey were used and showed to participants: they were asked to reflect on the characteristics of the examples and the products portrayed in them, using the questions from the original data collection exercise. This survey was administered to the same set of participants as the original data collection exercise i.e. sampling those aged 18 to 35 years across the 10 countries, aiming for an equal percentage of those who do and do not use these products. This provided information on the responses of the whole sample to the same set of advertisements and promotions, allowing the study team to undertake the additional analyses investigating differences related to age, gender, smoking status and other participant characteristics.

The six examples selected included two examples of tobacco products, two of e-cigarettes and two of HTPs (see the examples below). This subsection reports the findings for the whole sample, and then explores differences between subgroups defined by the use of tobacco and related products, age, and country of residence using both simple descriptive statistics and a multivariable regression approach.

Figure 31 Examples of advertisement and product placement of tobacco and related products shown to participants



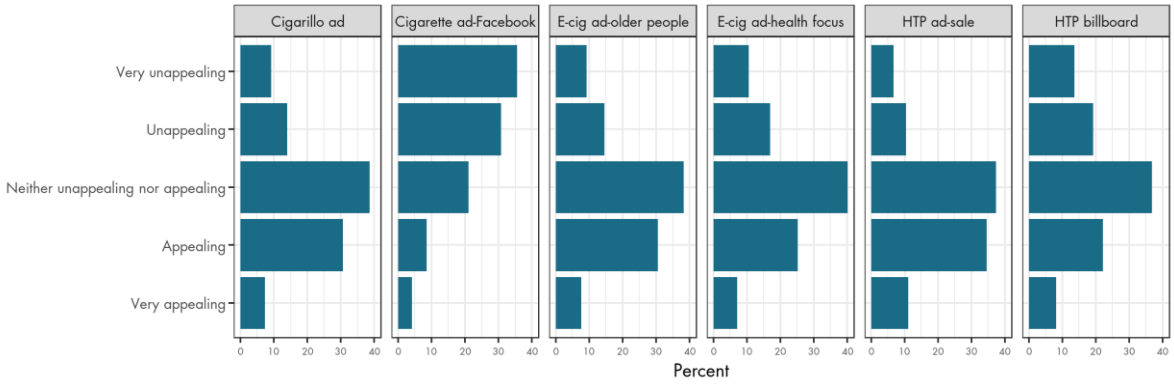
In total, 1,017 individuals responded to the survey, including participants from all of the ten countries. The most participants came from Spain (n=125), followed by Greece (n=120), Netherlands (n=117), France (n=110), Ireland (n=110), Italy (n=107), Germany (n=104), Bulgaria (n=100), Romania (n=64) and Denmark (n=60). Participants were aged 18-24 (n=251), 25-35 (n=567) and 36-44 (n=199); due to difficulty recruiting those aged 24 and younger, Dynata included those aged 36-44 as well. There were similar number of respondents who used any tobacco and product (n=524; 51.5%) and who did not (n=493; 48.5%). Further details of respondent and example characteristics and question analyses are provided in study appendix 10.

4.2.1 Impact of each example

For each example, respondents were asked whether it was the first time they had seen this type of product being displayed or promoted. Similar results were obtained for all examples, with roughly half of respondents reporting it was the first time they had seen the products being displayed or promoted (ranging from 47% for the second tobacco example to 56% for the first HTP example).

When asked whether the respondents found the product in the example appealing, the most frequently selected option for most examples was 'neither unappealing nor appealing' (ranging from 37-40%). This was only different for the second tobacco example, in which a health warning was prominent, where the most frequently selected option was very unappealing (36%). Very appealing was selected by 11% or fewer respondents for all examples. See Figure 29.

Figure 29: Whether the product in the example was appealing



Source: RAND Europe analysis

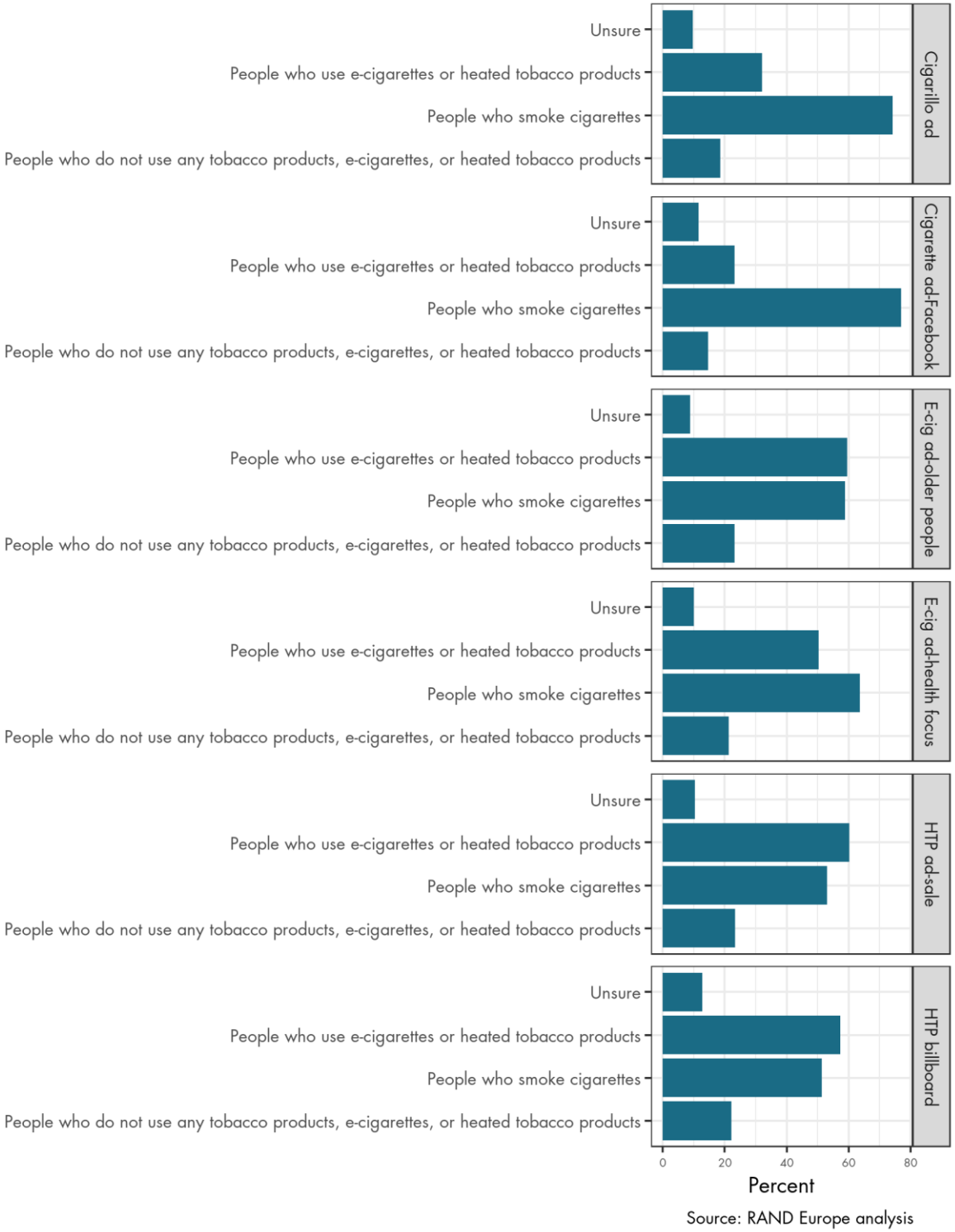
Respondents were then asked to state if they would be interested in trying the product in the example. Responses were similar across the examples, with the most frequently selected for all being that respondents were *not* interested in trying the product (ranging from 50% for the first HTP example advertising a sale to 69% for the second tobacco example with cigarette promotion on Facebook). However, around one-third of respondents were interested in trying the products from the first tobacco example promoting cigarillos (35%), both e-cigarette examples (34% for the first and 33% for the second) and the first HTP example advertising a sale (37%). The tables for these results are in study appendix 10.

4.2.2 Target audience

Users of tobacco and related products

For the two examples of tobacco product promotion, the majority (around 75%) of respondents felt they were aimed at those who already smoke cigarettes (see Figure 32). Although between a quarter and one-third also felt they were aimed at people who use e-cigarettes or HTPs (31%).

Figure 32 : Who respondents felt the promotion example was aimed for type of tobacco user (note that respondents could select more than one option to percentages to not sum to 100).



Source: RAND Europe analysis

The association between the product depicted and the product use of the target audience was not as strong for the e-cigarette and HTP examples. For the e-cigarette examples, between 50% and 60% of respondents felt that they were aimed at those who use e-cigarettes or HTPs. However, around 60% of respondents felt the examples were also aimed at those who smoke cigarettes. Similar results were seen for the HTP examples as for e-cigarettes, with around 60% of respondents reporting that the HTP examples were

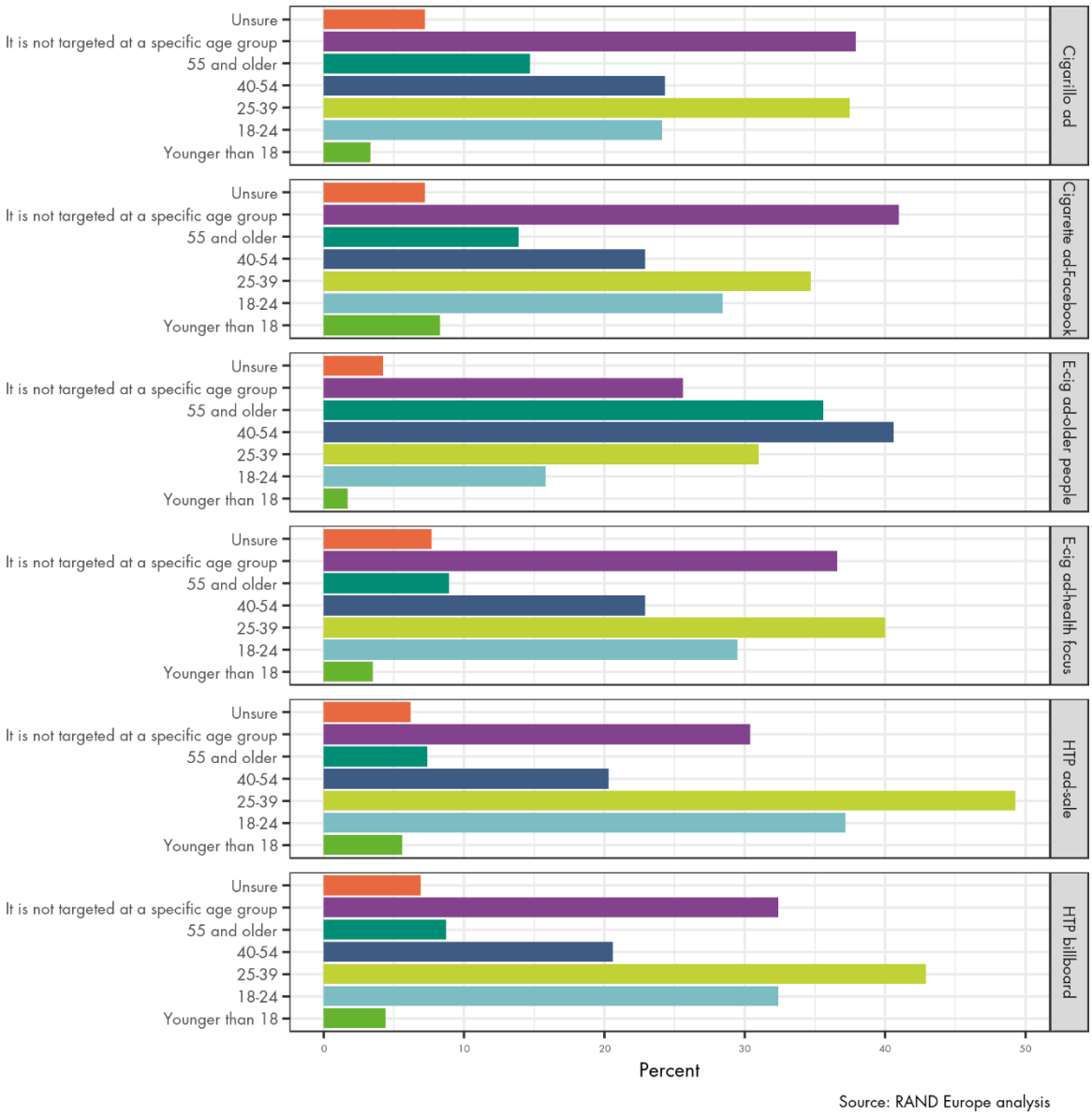
aimed at those who use e-cigarettes or HTPs and around 50% reporting the HTP examples were aimed at those who smoke cigarettes.

Across all six examples a similar percentage of respondents reported that the example was aimed at people who do not use any tobacco product, e-cigarette or HTP (ranging from 15% to 23% for all examples).

Age of target audience

The most frequently selected age range for which the respondents thought the examples were aimed at varied both across and within product types (see Figure 33.). For the two tobacco examples, the most frequently selected option was that the examples were not aimed at a specific age group (around 40% for both examples). However, where participants felt they were targeted at a specific age group, age 25-39 years old was the group most commonly selected (38% for the first example and 35% for the second).

Figure 33 Who respondents felt the promotion example was aimed for age of audience (note that participants could select more than one response so percentages do not sum to 100).

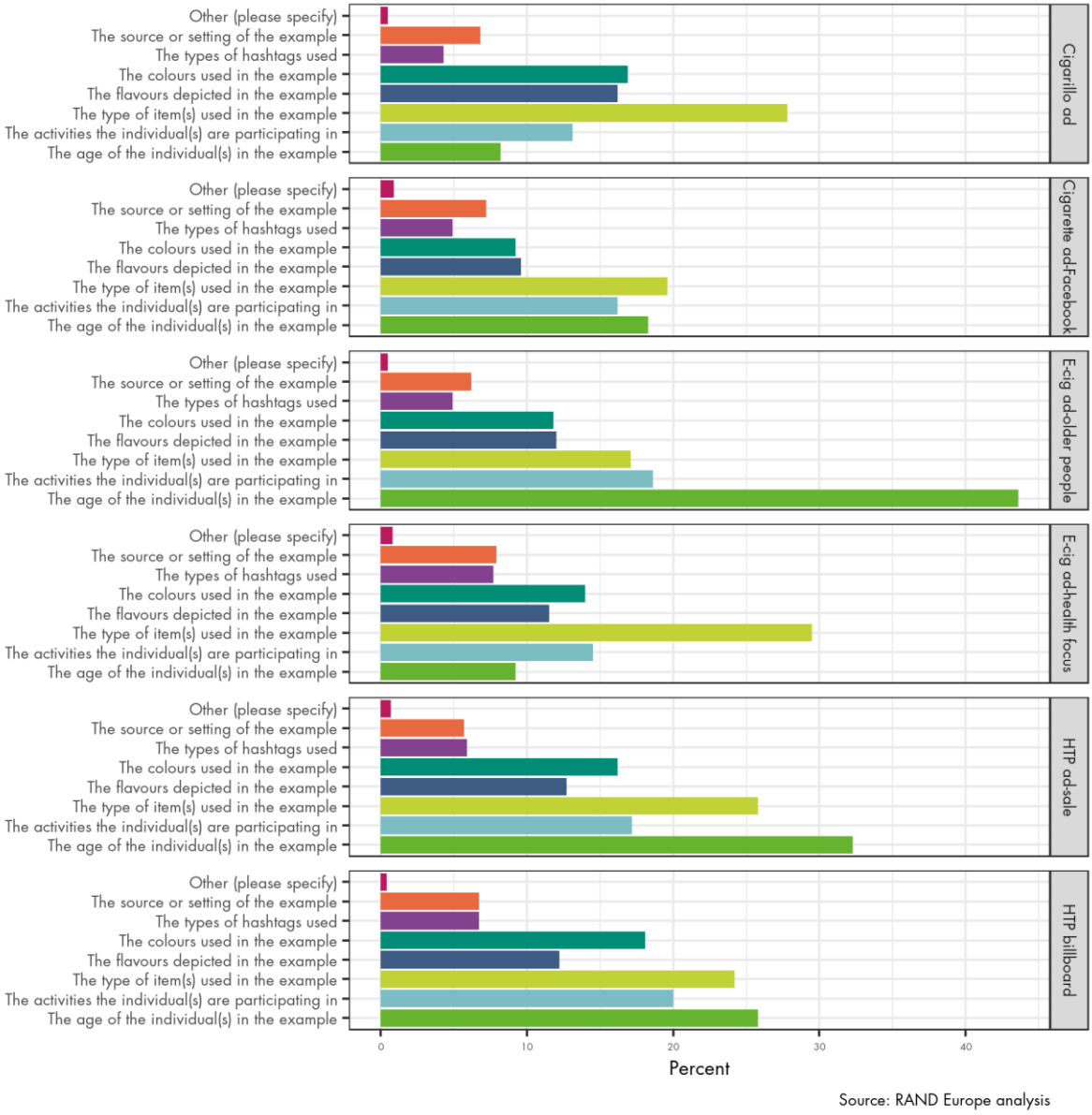


Source: RAND Europe analysis

In general, participants were most likely to think that the e-cigarette and HTP examples were aimed at people aged 25-29 (40% for the second e-cigarette example with a health focus, 49% for the first HTP example advertising a sale and 43% for the second HTP example showing a woman on a billboard). The exception to this was the first e-cigarette example which features large images of older adults with grey hair; participants were mostly like to feel this example was aimed at people aged 40-54 years old (41%), followed by aged 55+ years old (36% of respondents). For each example, fewer than 8% of respondents felt that it was aimed at people under the age of 18.

When respondents were asked why they felt the examples were aimed at certain age groups, the results differed across the six examples but related primarily to the items being promoted and the age of the people depicted in the example (see Figure 34). For both tobacco examples and the second e-cigarette example (focused on health), the predominant reason respondents felt it was targeted at a certain age group was due to the items used in the example (29% for the first tobacco example with cigarillos, 20% for the second tobacco example with cigarette promotion on Facebook and 30% for the second e-cigarette example focused on health). For the other three examples, the most frequently selected reason for the example being aimed at a certain age group was due to the age of the individual in the example (44% for the first e-cigarette example with older people, 32% for HTP 1 advertising a sale and 26% HTP 2 with a woman on a billboard).

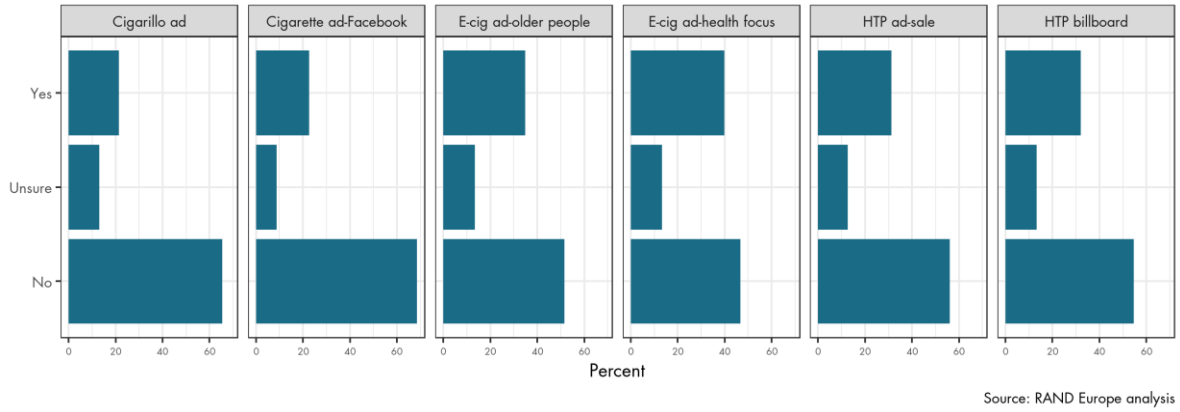
Figure 34 Why respondents felt the example was aimed at certain age groups



4.2.3 Product portrayal

When asked whether the examples suggests that the promoted product has health benefits or reduces the health risks of using tobacco or nicotine in some way, the most frequently selected option was 'no' (ranging from 47-69% across examples; see Figure 35). However, respondents were more likely to think the e-cigarette and HTP examples promoted health benefits (ranging from 31-40% compared to around 20% for tobacco examples). This was highest for the second e-cigarette example which featured the text 'next generation to health'.

Figure 35: Whether respondents felt the example suggests that the promoted product has health benefits or reduces the health risks of using tobacco or nicotine in some way



When asked whether the example seems to be promoting the product or the company/brand that makes it as being environmentally or socially responsible, the most frequently selected option for all examples was that the example did not promote this (ranging from 52-66%). Between 22-32% of respondents did feel that the examples were promoting that the product/company was environmentally or socially responsible. The table outlining the responses to this question can be found in study Appendix 10.

4.2.4 Sub-group analyses

Further analyses were conducted to explore the differences in the survey responses by use of tobacco and related products, age and country. The key findings from the sub-group analyses are summarised here, with detailed tables presented study Appendix 10. Findings are first highlighted based on unadjusted percentages. For key questions related to appeal of the product and presentation of the company producing it, results for multivariable binomial logistic regression models are then presented, which allow the study team to explore the associate between one variable (e.g. age) while adjusting for other factors (use of tobacco and related products and country of residence).

Tobacco and related product use

Respondents who used tobacco or related products were more likely to find all the products in the examples appealing to some extent. The difference between those who do and do not use these products was most striking for the second tobacco example (showing promotion of cigarettes on Facebook) and the second HTP example (showing a woman on a billboard). Almost half (47%) of participants who did not use any of these products found the second tobacco example, which featured a health warning, very unappealing compared to a quarter (25%) of those who do use these products. Similarly, 44% of people who use tobacco and related products found the second HTP example appealing to some extent, compared to 16% of those who do not use any of these products.

For all examples, respondents who use tobacco or related products were between two and three times more likely than those who do not use these products to state that they were interested in trying the product in the example. They were also about two times more likely to think the examples suggested that the product had health benefits and portrayed the product/company as being environmentally or socially responsible.

For both HTP examples, respondents who use tobacco or related products were slightly more likely to think the examples were aimed at people who do not use any tobacco products, e-cigarettes, or HTPs than those who did not use these products (27% versus 19% for the first HTP example and 26% versus 18% for the second, respectively). For all the examples, respondents who use tobacco or related products were less likely (by around 10 percentage points) to think the examples were not targeted at a specific age compared to those who do not use these products.

Age

When asked whether they would be interested in trying the product in the example, those aged 25-35 years old were more likely to say yes than the other age groups (aged 18 to 24 years or over 35 years) for all examples by around 6-10 percentage points. There was limited variation between the age groups in terms of the perceived target age group for each example, although respondents aged 18-24 were more likely than the other two age groups to think that all examples were aimed at people aged 18-24.

There were no differences in age as to whether respondents thought the examples demonstrated the product as having health benefits, or the product/company as being environmentally socially responsible.

Country

For most of the questions, there was a high amount of variation seen from respondents across different countries. The tables analysing responses across countries for each question are provided in study appendix 10; the key findings from the descriptive analyses are discussed below.

In general, roughly 50-70% of respondents from all countries reported that, for all examples, it was the first time they had seen that type of product being displayed or promoted. This was not the case for German respondents, who were more likely to report having seen the type of product advertised/promoted before.

Respondents from all countries were more likely to report that the second tobacco example (depicting a health warning on a cigarette promotion on Facebook) was not appealing and that they did not want to try it. Respondents from all countries were also more likely to state that they did not want to try the products depicted in the second HTP example (with a woman on a billboard). Respondents from Romania were generally more interested in trying the products than those from other countries.

Respondents from all countries felt both tobacco product examples and the second e-cigarette example (with a health focus) were aimed at people who smoke cigarettes. Respondents from France, Italy, Greece and Romania were more likely to think the other examples were aimed at people who use e-cigarettes or HTPs. Respondents from Spain were more likely to think the other examples were aimed at people who smoke cigarettes.

The age group the example was targeted at that was most selected across countries was 25-39 years. This was except for the first e-cigarette example (depicting individuals with grey hair), which was thought to be aimed at an older age across all countries. Respondents from France and the Netherlands reported than the example was not targeted at a specific age group for more examples than other countries. Across all countries, the reason both tobacco examples and the second e-cigarette example (with a health focus) were thought to be aimed at a particular group was the items used. For the other examples, the age of the individual was thought to be the main reason the example was aimed at a particular age group for most countries.

4.2.5 Findings from the multivariable regression analyses

Multivariable regression was conducted on the binary survey questions to further explore the differences in responses across use of tobacco related products, age and country. The results of this will be briefly summarised here and the tables for each question can be found in study Appendix 10. For age, the reference category used was 25-35. For use of tobacco and related products, the reference category was those that did use these products. The reference category for country was the Netherlands as it falls roughly in the middle of the 10 countries included in this survey on the Tobacco Control Scale, a ranking of European countries based on their implementation of tobacco control policies, and was

found in the citizen survey to have a lower level of reported exposure than most countries.[193]

Tobacco and related product use

For all examples, respondents who did not use tobacco or related products were around two times less likely to find the products appealing and around five times less likely to be interested in trying them than those who did use these products (p=<0.001 for all examples).

Respondents who did not use tobacco or related products were around half as likely to think that the examples were depicting the products as having health benefits or that the company is environmentally/socially responsible for all examples than respondents who did use these products (p<0.01 for all examples).

Age

There were no statistically significant differences between age groups in whether respondents found the products depicted in the examples appealing or whether they thought the examples promoted health benefits.

Respondents aged 36+ were slightly less likely to be interested in trying the products in the first tobacco and first e-cigarette example compared to those aged 25-35 (p<0.05). Respondents aged 36+ were about half as likely than those aged 25-35 to think the examples depicted the company as being socially or environmentally responsible for the first e-cigarette and second HTP examples (p<0.001 for all examples). There were no significant differences between those aged 18 to 24 years and those aged 25 to 35 years for these questions.

Country

Although there was some variation between countries in terms of the appeal of the products depicted to participants, respondents from Italy, Spain and Romania were consistently two to three times more likely to find the products depicted in the example appealing compared to the Netherlands (the reference country), and for the first tobacco example and first HTP example Romanian participants found them four to six times more appealing (all p<0.001; see Appendix 10). The exception to this was the second tobacco example (which depicted a health warning) where there were few differences between countries, apart from respondents from Greece and Bulgaria finding this example significantly less appealing than participants from the Netherlands.

Interest in trying the products depicted in the examples followed the same pattern as participant perspectives on product appear; respondents from Italy, Spain and Romania were around twice as likely to express interest in trying the product (with the exception of the second tobacco example). Romanian participants showed a much stronger preference for trying the product from example 1 (cigarillos) than those from any other country (6 times higher than those from the Netherlands; p<0.001).

There was little variation across countries in whether respondents felt the examples depicted the products as having health benefits and the company as environmentally/socially responsible. France (for tobacco example 1 and e-cigarette example 2) and Germany (for e-cigarette example 2 and HTP example 2) were about half as likely to think that the examples were depicting the products as having health benefits than Dutch respondents (p<0.01). For whether the example depicts the company as being environmentally/socially responsible, there were no differences across country except for the second e-cigarette example. In this example, respondents from Germany, Greece and Ireland were half as likely as the Dutch participants to think the example depicted the company as being environmentally/socially responsible (p<0.05).

193 See: https://www.tobaccocontrolscale.org

4.3) Summary

Participants who did not use tobacco or related products were consistently less likely to find products appealing, want to try them, think the products were depicted as having health benefits, or presented the company as socially or environmentally responsible. Current use of tobacco and related products is much more strongly associated with finding advertised products appealing than the age of the person viewing the advertisement. Although the descriptive statistics suggested an age difference, when the study team adjusted for use of tobacco and related products and country of residence, participant age was no longer significantly associated with finding the products appealing. However, in terms of interest in trying depicted products, there was some evidence that older participants (aged 36 and over) were less likely to express interest. They were also slightly less likely to view some examples as presenting the company as environmentally or socially responsible, although there was no age difference with regard to whether participants felt the examples presented the products as having health benefits.

The age group the examples were targeted at was most likely to be identified as those aged 25-39 years. The exception was the first e-cigarette example (depicting individuals with grey hair), which was consistently thought to be aimed at an older age group. The two main factors that influenced respondent perceptions about the target audience for the examples were the age of the individuals shown (where people were depicted) and the items used. The influence of this was most pronounced when comparing the responses for the first e-cigarette example, which focused on photographs of older people with grey hair actively using the product, to the other examples including people, who all appeared to be in their 20s (HTP examples 1 and 2). The e-cigarette example was perceived to be targeted at people aged 40-54 by around 40% of respondents and age 18-24 by about 16%. In contrast, only 20% of respondents felt the HTP examples were targeted at the 40-54 age group, while around 35% thought they were targeted to the 18-24 age group.

There was substantial variation between countries regarding the appeal of products to participants and their interest in trying them. There was little difference between the Netherlands, France, Denmark, Ireland, Germany, and Bulgaria, despite the fact that these countries have differing levels of implementation of tobacco advertising and promotion policies. Similarly, although the Netherlands, Italy and Spain have nominally similar levels of tobacco control policy implementation (particularly in relation to advertising bans and use of health warnings), the appeal of these products to participants from these countries differed from the Netherlands substantially. This highlights the importance of local context when considering the impact of the promotion of tobacco and related products.

4.4) Limitations and caveats

There are a number of important limitations to consider when interpreting the results of these surveys. For the first survey, the overall sample size was smaller than intended. While over 1,300 initial example submissions were received, less than 10% were eligible examples. This therefore limits the conclusions that can be drawn from the evidence. In addition, although the methodology followed aimed to recruit equal numbers of participants in each age group (18-24 and 25-35), this was not achieved as more people in the older age group (76%) submitted valid examples to the study. This survey was administered during the COVID-19 pandemic when various different lockdown restrictions were in place in the countries surveyed. This may have restricted ability of participants to obtain examples of advertising and promotion in public places, although may have increased exposure to online and social media examples. Additionally, some types of advertising and promotion would have been easier to capture; while online and billboard examples may be easy to capture, those in a shop or on terrestrial television (that cannot be paused) may have been more difficult to capture, so there may be a skew towards ads and promotions that are more easily captured in photos.

For the second survey, the main limitation is that the study team selected six examples of advertising and promotion to show to participants. This decision was both pragmatic and methodological, in that showing a large number of examples would have resulted in participant fatigue and likely lowered the quality of the responses. While the study team endeavoured to select examples that covered a range of products and had the potential to appeal to different consumer groups, this subset cannot be considered representative of all currently used advertisements and promotions and therefore it cannot be said conclusively that findings would generalise to other advertisements. Additionally, recruitment of individuals aged 18 to 24 was more difficult than for older ages, and therefore some individuals aged 35 to 44 were included to ensure a sufficient sample size was obtained.

5) Conclusions

In conclusion, Most Member States have successfully implemented and monitored rules and provisions on advertising, promotion and sponsorship. There has also generally been a high level of compliance. However, new products and new forms of advertising have created some challenges in implementing and monitoring rules.

There were mixed perspectives concerning tobacco industry advertising and promotion activities: stakeholders from the industry indicated that the rules have been very restrictive, and they denied targeting young people, however some literature and other stakeholders have contradicted these claims.

Further, the analyses conducted for the present study, variables including gender, education, current use of tobacco and related products, and age were all associated with noticing advertisements and promotions in analyses conducted for the present study. The observational research conducted for the present study indicated that current use of tobacco or related products and country both influenced the appeal of advertisements and interest in trying products. Young people were seen as the target of much of the ads, although current use of products was more of a predictor of appeal than age.

In addition, Member States and stakeholders who took part in data collection activities of this study (i.e. CSOs, Health Experts) were asked for their reflections on lessons learnt, either in cases of good practice they have experienced, or learnings gained from things which have not gone so well. Some key lessons and recommendations are described below.

Gaps in the current EU regulatory framework

As discussed in previous sections, there are gaps in the current EU regulatory framework in terms of the **tobacco and related products** covered. Many Member States and study stakeholders (i.e. interviewed CSOs and health experts) said they would like the current prohibitions on advertising and sponsorship contained in EU rules to be unambiguously extended to all e-cigarettes and HTPs, so that these are regulated in the same way as tobacco products for smoking[194]. Some suggested to extend the regulatory framework (i.e. TAD, FCTC, AVMSD and TPD) to all tobacco and related products (e.g. non-nicotine containing e-cigarettes, nicotine pouches, flavour cards). Others suggested to extend the regulatory framework to any products associated with tobacco and related products (e.g. accessories such as cigarette papers, filters, HTP devices). However, this idea was not shared by all health expert stakeholders. There also seemed to be some level of debate around whether or not to adopt a harm-reduction approach to novel tobacco products. For instance, one health expert stated that regulating these products differently to traditional

194 As stated in a footnote in section 1.1, the TAD could actually be construed as already applicable to heated tobacco products and their devices. Regarding heated tobacco products themselves, Article 2(a) of the Directive defines tobacco products as 'all products intended to be smoked, sniffed, sucked or chewed inasmuch as they are made, even partly, of tobacco' and HTPs are to be considered to be tobacco products. As for their devices, these are not tobacco products but their advertising and sponsorship could be interpreted as an indirect promotion of tobacco products (see Art 2(b) and (c)) and hence be equally prohibited under the TAD.

tobacco products for smoking indicates to the public there are potential differences in harmfulness[195].

As discussed in previous sections, there are also gaps in the EU regulatory framework in terms of the **types of advertising, promotion and sponsorship activities** covered. Recommendations for improvements were mainly related to social media advertising. Some Member States reported they would like all kinds of promotion on all forms of social media to be more clearly covered by these rules, for instance messages posted in private groups. Similarly, one CSO recommended updating the laws, explaining that the rules were made before social media was prevalent, and should therefore be updated accordingly[196]. Some stakeholders added that self-regulation and voluntary advertising and marketing standards are not effective, and so prohibitions on advertising should not be made by platforms themselves.

Some Member States also suggested including a broader definition of advertising, which includes the behaviour of smoking, as, for example, visuals of people smoking in social media posts, articles, or apps could be interpreted as advertising, even if brands are not visible.

Implementation / application challenges

As discussed in previous sections, there are still wide differences in the practical implementation by Member States of EU and international rules on advertising, promotion and sponsorship of tobacco and related products. Relatedly, CSOs commented that there should be more harmonious regulations across the EU[197].

Several stakeholders mentioned challenges relating to implementation. One health expert explained that it was easier to restrict an advertising channel than restrict the content on it[198].

Compliance and other challenges

As discussed in previous sections, there are still instances of non-compliance with EU and national rules for many of the different types of advertising, promotion and sponsorship. Concerns were raised that bans on tobacco advertising, promotion and sponsorship need to be accompanied by an efficient enforcement mechanism in order to be useful[199].

A number of challenges were identified related to enforcement of rules on advertising, promotion and sponsorship, and it seems there is a need to: increase financial and human resources available for enforcement, reducing administrative burdens and delays and increasing enforcement powers or mechanisms. On this last point, it was suggested during interviews that an EU-level online compliance tool (e.g. a trusted flagging system whereby NGOs could flag non-compliance online) would be beneficial[200].

Member States and study stakeholders also mentioned the need to improve the enforcement system in **collaboration with other parties** such as:

- **Member States**: Regarding advertising on internet, Belgium reported that as controls cannot be brought onto websites outside Belgium, increased collaboration is needed with other Member States.
- **CSOs**: Several CSOs described the importance of CSO involvement to enforce rules on advertising, promotion and sponsorship of tobacco and related products. Examples were provided, where CSOs are active in commenting on legislation to ensure that loopholes are addressed by the Parliament, monitoring compliance and

195 HE, 19 January 2021, (#15)
196 CSO, 28 January 2021, (#18); HE, 16 December 2020, (#7)
197 CSO, 17 November 2020, (#2); CSO, 15 January 2021, (#10)
198 HE, 16 December 2020, (#7)
199 CSO, 17 November 2020, (#2)
200 CSO, 17 November 2020, (#2)

raising complaints and alerts in cases of non-compliance[201]. Also, the above-recommended trusted flagging system would reportedly encourage better cooperation with NGOs[202].

- **Global initiatives**: Stakeholders reported that global initiatives may also play an increasing role, such as STOP (Stopping Tobacco Organizations and Products) – a global tobacco industry watchdog that aims to expose and counter industry behaviour that undermines public health through robust monitoring, research and reporting[203].
- **Citizens**: Romania recommended encouraging reporting of breaches by citizens.
- **Other regulators**: Regarding advertising on internet, a CSO stated there is a need to cooperate more with audio-visual media services regulators[204].

Several other recommendations were made. For instance, a CSO recommended that coercive administrative decisions be saved for more extreme cases of non-compliance, and that informal guidance be provided in more minor cases such as misunderstandings (i.e. instances where industry did not comply with legislation because they did not fully understand the law, e.g. problems with definitions)[205]. In addition, a health expert recommended that there should be a clearly established mechanism to ensure monitoring following new regulations, rather than just identifying it as a principle or a desire[206]. Stakeholders provided examples of loopholes used by the tobacco and related products industry to continue to promote their products in a legal way (e.g. use of influencers on social media - more information and specific examples are provided in the detailed Study Appendix 5). They emphasised the need for clear legislation with minimal loopholes[207].

Other

Other points made by stakeholders included:

- A CSO reported that there should be mandatory reporting of tobacco industry promotional **expenditures**, as there is in Canada since 2000[208] (for tobacco products as well as any accessory or product that displays a consumer tobacco product-related brand element or a manufacturer's name)[209], or in the US (where the Federal Trade Commission has reported cigarette sales and marketing expenditures annually since 1967 and smokeless tobacco sales and marketing expenditures periodically since 1987[210]).
- Another CSO recommended strong regulations on **lobbying** and registering lobbying activities (Ireland was cited as a good example of this[211]).

201 CSO, 12 November 2020, (#1); CSO, 30 November 2020, (#20); CSO, 04 February 2021, (#23); HE, 17 December 2020, (#8)
202 CSO, 17 November 2020, (#2)
203 Expose Tobacco. 2020. STOP (Stopping Tobacco Organizations and Products). [ONLINE] Available at: https://www.tobaccofreekids.org/what-we-do/industry-watch/pmi-foundation. [Accessed 2 July 2020].
204 CSO, 17 November 2020, (#2)
205 CSO, 21 January 2021, (#22)
206 HE, 16 December 2020, (#7)
207 CSO, 18 November 2020, (#4)
208 https://www.laws-lois.justice.gc.ca/eng/regulations/SOR-2000-273/FullText.html
209 HE, 16 December 2020, (#7)
210 https://progressreport.cancer.gov/prevention/tobacco_marketing
211 CSO, 19 November 2020, (#3)

V. Work Stream 2 on smoke-free environments

Part V presents findings on "Work Stream 2 on smoke-free environments". The first Chapters provide an analysis of progress made since 2013 on implementation of the Council Recommendation 2009/C 296/02:

- legislation on smoke-free environments (Chapter 1);
- enforcement of the legislation (Chapter 2);
- protecting children and adolescents (Chapter 3);
- measures for cessation (Chapter 4); and
- Multi-sectoral approaches (Chapter 5).

Chapter 6 presents the impacts of rules on smoke-free environments and Chapter 7 provides a synthesis of conclusions and recommendations for future research.

1) Progress made on implementing the Council Recommendation - legislation on smoke-free environments

On 30 November 2009, the European Council issued Recommendation 2009/C 296/02 on smoke-free environments[212]. In line with the WHO FCTC, it advised Member States to provide protection from tobacco smoke in indoor workplaces, indoor public places, public transport and, as appropriate, other public places. The purpose of the Recommendation was to protect citizens from exposure to second-hand smoke, as well as to encourage current smokers to quit[213].

More information on the EU policy landscape on smoke-free environments is available in Study Appendix 3.

This Chapter presents findings on how this Recommendation has been implemented with:

- over-arching perspectives (section 1.1);
- an overview of national implementation (section 1.2); and
- an analysis of the extent to which existing measures are being applied to novel tobacco products (section 1.3).

1.1) Over-arching perspectives on implementation of the 2009 Council Recommendation

This section discusses implementation of rules on smoke-free environments. Information in this section is mainly drawn from the responses countries provided to the written questionnaire circulated as part of the study.

All the 30 countries, which answered the written questionnaire reported having implemented the Council Recommendation[214]. A majority said to have implemented it in full. The rest stated the implementation is partial:

- The implementation gap that countries described most frequently is the continuing existence of designated smoking areas, usually smoking rooms. This is in contradiction with Principle 1 of the WHO Guidelines, part of the Council Recommendation, calling for the creation of a 100% smoke-free environment.

212 The Council of the European Union. (2009). Council Recommendation of 30 November 2009 on smoke-free environments (2009/C 296/02). Official Journal of the European Union. Available at: https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:296:0004:0014:EN:PDF

213 European Commission. (2013). Commission staff working document: Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02). European Commission. Available at: https://ec.europa.eu/health/sites/health/files/tobacco/docs/smoke-free_implementation_report_en.pdf

214 Denmark left this specific question blank but based on their other answers, it can be induced that they have partially implemented the Recommendation.

- Several countries continue to allow smoking in certain semi-open environments (e.g. terraces, bus shelters and open-air railway stations). This is despite the fact that the WHO Guidelines note in point 24 that Article 8 of the FCTC "creates an obligation to provide universal protection by ensuring that (…) possibly (…) (outdoor or quasi-outdoor) public places are free from exposure to second-hand tobacco smoke".
- Finally, Finland reported to rarely impose fines when its smoke-free rules are violated, in contradiction with point 32 of the WHO Guidelines.

Interviews with CSOs and health experts have confirmed the points raised above. Indeed, these CSOs and health experts consider the level of implementation of the Council Recommendation to be overall satisfactory, yet inconsistent across countries. According to them, the main implementation gaps are the continued reliance on smoking rooms[215]and the lack of a consistent prohibition of smoking on terraces and in outdoor spaces. The desk research exercise and the literature review confirmed that these two aspects remain a barrier to achieving the objectives of the Council Recommendation:

- Several studies found that the only effective way to protect people from the dangers of second-hand smoke is to implement 100% smoke-free policies (i.e. not allowing for designated smoking rooms, ventilation systems and other partial approaches)[216],[217],[218].
- Additionally, the Tobacco Atlas notes that allowing people to smoke in designated smoking rooms means smoking is still preserved as a social norm, removing a major motivating factor for smokers to quit[219].
- Another study found that second-hand smoke exposure remains a relevant risk factor in terraces of hospitality venues "where the concentration of a large number of smokers in delimited spaces means exposure levels could still be very high"[220]. Therefore, the authors concluded that a total ban for terraces should also be enacted to fully protect non-smokers.

During interviews, some CSOs and health experts also called for a better reporting and monitoring of countries' actions in this area, through the development of a common reporting tool with harmonised definitions across countries[221].

Terminology contained in the 2009 Council Recommendation on smoke-free environments

Several countries (Austria, Belgium, Czechia, Estonia, Lithuania, the Netherlands, Romania, Spain and Norway) reported a lack of clarity and ambiguities in the terminology used in the Council Recommendation that do not allow for clear interpretation and implementation. For instance:

215 Heijndijk, S. M., & Willemsen, M. C. (2015). Dutch tobacco control: Moving towards the right track? FCTC Shadow Report 2014. Den Haag: Alliantie Nederland Rookvrij. Available online: http://fctc.wpengine.com/wp-content/uploads/2015/02/FCTC_Shadow_Report_2014.pdf [Accessed June 2020]

216 Wagner, J, et al (2004). "Environmental Tobacco Smoke Leakage from Smoking Rooms," Journal of Occupational and Environmental Hygiene 1(2):110-118

217 Pion, M & Givel, MS (2004). "Airport smoking rooms don't work," Tobacco Control 13(suppl 1):i37-i40.

218 HHS (2006). The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General, U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health

219 https://tobaccoatlas.org/topic/smoke-free

220 Henderson E et al. (2021). Secondhand smoke presence in outdoor areas in 12 European countries. Available at: https://www.sciencedirect.com/science/article/pii/S0013935121001006

221 The responses to the country questionnaire that were collected as part of this study could provide the backbone for such a tool in the future.

- Some countries referred to the limited scope of the Recommendation which only covers 'tobacco smoke' and does not include the vapour from e-cigarettes and the emissions of heated tobacco products (HTPs)[222] and other nicotine products.
- A few countries (Belgium and Finland) explained having had some difficulties with the definition of 'indoor public places', especially in the hospitality sector where different sorts of semi-open terraces exist[223]. This is despite the fact that the Council Recommendation provides an indication of how indoor (or enclosed) areas should be defined[224].

Ease of implementation of the 2009 Council Recommendation on smoke-free environments

France and Romania declared having faced issues in implementing the Council Recommendation, and several more countries (Austria, Belgium, Czechia, Finland, Ireland, Portugal, Spain, Sweden and Norway) said they had too, to some extent. The main issues these countries stated were: i) the opposition of the hospitality sector to smoke-free measures; and ii) the difficulty to impose 100% smoke-free environments without allowing for designated smoking areas. A few countries (Belgium, Czechia, Portugal and Norway) also reported an overall lack of political will to implement fully the Council Recommendation.

Gaps in the current EU framework for smoke-free environments

The 2009 Council Recommendation has a very extensive spatial coverage since it refers to 'indoor workplaces, indoor public places, public transport and, as appropriate, other public places'. Regulating private homes would probably not be feasible or appropriate in most countries[225]. However, certain targeted bans could be enacted. Since 2013, at least 13 countries have introduced a smoking ban in private cars when minors are present (including Ireland, the UK[226], France, Finland, Italy, Malta, Cyprus, Lithuania, Slovenia, Luxembourg, Austria, Greece, and Belgium)[227].

The 2009 Council Recommendation only applies to tobacco smoke and leaves aside emissions from other products such as e-cigarettes and HTPs[228]. Even though some claim that these emissions are less damaging to health than tobacco smoke, interviewed CSOs argue that they remain harmful and such product should therefore be banned[229]. In addition, and allowing the use of e-cigarettes, HTPs and other related products in public spaces could have the effect of re-normalising smoking: this was suggested by a study[230] and by some of the CSOs and health experts interviewed[231]. This risk of re-normalisation would warrant a similar ban on their consumption in public places.

222 A textual reading of the 2009 Recommendation would lead to the inclusion of the emissions of heated tobacco products within its scope, since the FCTC Guidelines refer to 'smoking' as 'being in a possession of a lit tobacco product'. However, smoke in the general sense only refers to combustion, which is absent from heated tobacco products (see also in that sense the definition of smoking contained in the Tobacco products Directive, Articles 2(5) and (9)). This remains a point of unclarity to be addressed.
223 For instance, this could refer to areas which are formally outside of the indoor premises but can have a roof and/or some sort of walls
224 Point 19 of the Annex of the Council Recommendations 2009/C 296/02 on smoke-free environments includes a definition of 'indoor' (or enclosed) areas based on an UN definition, it reads as follows: "It is recommended that 'indoor' (or enclosed) areas be defined to include any space covered by a roof or enclosed by one or more walls or sides, regardless of the type of material used for the roof, wall or sides, and regardless of whether the structure is permanent or temporary"
225 WHO Guidelines on protection from exposure to tobacco smoke. Available at: https://www.who.int/fctc/cop/art%208%20guidelines_english.pdf ("Public education campaigns should also target settings for which legislation may not be feasible or appropriate, such as private homes")
226 Timor Faber et al, 'Investigating the Effect of England's Smoke-Free Private Vehicle Regulation on Changes in Tobacco Smoke Exposure and Respiratory Disease in Children: A Quasi-Experimental Study' (2019) 4 *The Lancet Public Health* 12, 607-617.
227 https://www.tobaccocontrolscale.org/comments-and-key-provision-2019/.
228 A textual reading of the 2009 Recommendation would lead to the inclusion of the emissions of heated tobacco products within its scope, since the FCTC Guidelines refer to 'smoking' as 'being in a possession of a lit tobacco product'. However, smoke in the general sense only refers to combustion, which is absent from heated tobacco products (see also in that sense the definition of smoking contained in the Tobacco products Directive, Articles 2(5) and (9)). This could benefit from more clarity.
229 CSO, 27 November 2020, (#18)

Finally, several CSOs interviewed as part of this study stated that enacting binding EU legislation on smoke-free environments would be more effective than a simple recommendation. However, the EU does not currently have the power or the means to do so under the current competence framework contained in the Treaty on the Functioning of the European Union.

1.2) National legislation on smoke-free environments per type of smoke-free environments

The Tobacco Control Scale reports monitor the implementation of tobacco control policies systematically at country-level across Europe. They contain a dimension titled "Smoke-free work and other public places", for which countries are ranked on a 22-point scale, depending on how stringent their bans on smoking in public spaces are[232]. The most recent report on the Scale, from 2019[233] found the top scoring EU Member States were Ireland (22 points), Hungary (21), Spain (21), Romania (21), Greece (20), and Austria (20), and the lowest scoring Member States were Cyprus (10), Croatia (11), Portugal (11), Poland (11), Bulgaria (11), Denmark (11), and Germany (11). The Tobacco Control Scale shows that there are still wide differences in the implementation by Member States of 2009 Council Recommendation on smoke-free environments. Table 18 provides a more detailed overview per country.

Table 18. Tobacco Control Scale - Smoke-free work and other public spaces score on 1 January 2020 (22 points)

Country	Workplace	Public places	Public transport	Bars and restaurants	Private cars	**Total**
Maximum amount of points	10	1	2	8	1	**22**
Ireland	10	1	2	8	1	**22**
United Kingdom	10	1	2	8	1	**22**
Hungary	10	1	2	8	0	**21**
Romania	10	1	2	8	0	**21**
Spain	10	1	2	8	0	**21**
Greece	8	1	2	8	1	**20**
Austria	8	1	2	8	1	**20**
Finland	8	1	2	6	1	**18**
France	8	1	2	6	1	**18**
Iceland	6	1	2	8	0	**17**
Norway	6	1	2	8	0	**17**
Belgium	6	1	2	6	1	**16**
Italy	6	1	2	6	1	**16**
Luxembourg	6	1	2	6	1	**16**
Slovenia	6	1	2	6	1	**16**
Ukraine	6	1	2	6	0	**15**
Russia	6	1	2	6	0	**15**
Sweden	6	1	2	6	0	**15**

232 https://www.tobaccocontrolscale.org/
233 Joossens, L., Feliu, A., & Fernandez, E. (2020). The Tobacco Control Scale 2019 in Europe. Brussels: Association of European Cancer Leagues, Catalan Institute of Oncology. Available at: https://www.tobaccocontrolscale.org/TCS2019.pdf

Country	Workplace	Public places	Public transport	Bars and restaurants	Private cars	Total
Maximum amount of points	10	1	2	8	1	**22**
Netherlands	6	1	2	6	0	**15**
Turkey	8	1	2	4	0	**15**
Czechia	6	1	2	6	0	**15**
Israel	6	1	2	6	0	**15**
Estonia	6	1	1	6	0	**14**
Lithuania	4	1	1	6	1	**13**
Latvia	4	1	1	6	0	**12**
Slovakia	6	1	1	4	0	**12**
Malta	4	1	2	4	1	**12**
Poland	4	1	2	4	0	**11**
Switzerland	4	1	2	4	0	**11**
Bulgaria	4	1	2	4	0	**11**
Portugal	4	1	2	4	0	**11**
Croatia	4	1	2	4	0	**11**
Serbia	6	1	2	2	0	**11**
Denmark	4	1	2	4	0	**11**
Germany	4	1	2	4	0	**11**
Cyprus	4	1	2	2	1	**10**

Source: Joossens L, Feliu A, Fernandez E. The Tobacco Control Scale 2019 in Europe. Brussels: Association of European Cancer Leagues, Catalan Institute of Oncology; 2020. Available from: http://www.tobaccocontrolscale.org/TCS2019.pdf

The 2013 EU Commission Staff Working Document report[234] provided an overview of the smoke-free legislation by Member States in 2013. More information is available in Study Appendix 3 on the baseline situation in 2013. However, as a snapshot, this report is quite dated.

The objective of this section is to provide a more recent and comprehensive overview of the implementation of the Council Recommendation on smoke-free environments, based on the results of the country written questionnaire. Countries were asked whether they have legislation in place to provide effective protection from exposure to tobacco smoke in different environments, and more specifically whether the legislation provides for a "full ban", a "partial ban" or whether there is "no ban" at all. A partial ban might mean that, for example, smoking or using tobacco and related products is: permitted in specific outdoor workplaces but not others; not permitted in public spaces near schools but is permitted in other public spaces; or permitted at a local level but not nationally.

Table 19 presents an overview of the level of coverage of national smoke-free rules, by type of environment, across all the countries, which answered the country written questionnaire. This table is based on self-reported data. The main observations are as follows:

234 European Commission (2013). Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02). Commission Staff Working Document. Brussels: European Commission; 2013. Available online: https://ec.europa.eu/health/sites/health/files/tobacco/docs/smoke-free_implementation_report_en.pdf.

- It appears that the level of coverage varies greatly based on the type of smoke-free environments considered: e.g. while there is very good level of coverage for educational facilities, the level of coverage is very low in outdoor public places and private areas.
- It also seems that the level of coverage varies based on the product considered: while implementation is good for traditional products for smoking, it is less the case for HTPs and even less for e-cigarettes.
- Overall, the number of EU Member States banning the use of tobacco products for smoking increased since the 2013 report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments[235], especially in indoor workplaces, enclosed public spaces, prisons and hotels[236].

More information and specific examples of what is meant by "partial bans" are provided in the detailed Study Appendix 6.

235 European Commission (2013). Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02). Commission Staff Working Document. Brussels: European Commission; 2013. Available online: https://ec.europa.eu/health/sites/health/files/tobacco/docs/smoke-free_implementation_report_en.pdf

236 European Network for Smoking and Tobacco Prevention (ENSP) (2017) Factsheet: Maps of smoke free policy in Europe. Available at: https://ensp.network/wp-content/uploads/2017/06/Maps-of-smokefree-policy-in-Europe.pdf. [Accessed on: October 2021

Table 19. Overview of the self-reported level of coverage of national smoke-free rules (across all countries in scope)

		Traditional products for smoking	E-cigarettes	HTPs
General workplaces	Indoor workplaces	Good	Moderate	Moderate
	Outdoor workplaces	Low	Very low	Very low
Enclosed public spaces (e.g. town hall, public library)		Good	Moderate	Good
Health care facilities	Indoors	Good	Moderate	Moderate
	Outdoors (e.g. outside, but on facilities' grounds)	Moderate	Moderate	Moderate
Residential care facilities		Moderate	Moderate	Moderate
Educational facilities	Schools (e.g. primary and secondary)	Very good	Good	Very good
	Adult learning premises (e.g. universities and vocational learning centres)	Very good	Good	Good
Public transports		Very good	Good	Good
Prisons		Moderate	Moderate	Moderate
Hotels and accommodation	Hotels	Moderate	Moderate	Moderate
	Private home rentals	Low	Low	Low
Eating and drinking establishments	Restaurants and eating establishments, indoors	Good	Moderate	Moderate
	Bars and drinking establishments, indoors	Good	Moderate	Moderate
	Eating and drinking establishments, outdoors (e.g. terraces, garden seating)	Low	Very low	Low
Outdoor public places	Playgrounds or other spaces frequented by children and young people	Moderate	Moderate	Moderate
	Public parks	Low	Very low	Very low
	Public beaches	Very low	Very low	Very low
Private areas	Cars	Low	Very low	Low
	Homes	Very low	Very low	Very low

Source: ICF analysis of responses to the country written questionnaire (2021).

Note: the information is based on self-reported data from 30 countries. For each type of environments and for each country, a score of "1" was awarded for a "full ban", a score "0.5" was awarded for a "partial ban", and no score was awarded in case of a "no ban" or "not applicable". An average score was then computed for each type of environments (ranging from 0 to 30). "Very low level of coverage" corresponds to scores between 0-4, "Low level of coverage" to scores between 5-9, "Moderate level of coverage" to scores between 10-20, "Good level of coverage" to scores between 21-24 and "Very good level of coverage" corresponds to scores between 25-30.

1.3) Extent to which existing measures are being applied to e-cigarettes and novel tobacco products

Application of rules to e-cigarettes and HTPs

Some Member States have begun to take steps to adapt their existing legislation/policies to regulate e-cigarette consumption. For example in Germany, the DKFZ (2018b) advised that smoking bans in schools should be extended to all e-products (e-cigarettes and e-hookahs) on the basis that this environment should be considered a protected space in which legal and illegal drugs have no place[237].

However, the application of smoke-free rules to e-cigarettes and HTPs was overall mixed. Overall, environments that had stricter rules for tobacco products for smoking also tended to have stricter rules for novel tobacco products and e-cigarettes. The environments with the highest rates of bans on using e-cigarettes and HTPs, whereby most countries reported full or partial bans, were educational facilities (e.g. schools and adult learning premises); public transports; and enclosed public spaces.

The environments that had the least bans on use of e-cigarettes and HTPs were outdoor workplaces, private homes, public parks and public beaches. In general, environments that were not highly regulated for tobacco products for smoking did not have many rules for HTPs and e-cigarettes. However, there were a few cases whereby rules seemed to be proportionally more lenient for e-cigarettes and HTPs than for tobacco products for smoking: namely, outdoor workplaces, drinking and eating establishments (outdoors), and private homes.

The application (or lack thereof) of rules to e-cigarettes and HTPs was discussed in the focus group with Romanian stakeholders; see the box below for further information.

Focus group findings: Application of rules to e-cigarettes and HTPs

Romania

Participants reported that the scope of the ban originally proposed in Romania was greatly reduced when laws were actually adopted, and exemptions around e-cigarettes and other products were reportedly allowed following lobbying and advocating from the tobacco industry. Participants also reported that exemptions were confusing, and that the National Institute of Public Health has received several questions on behalf of the general population about e-cigarettes (related to the risk of using these products, or to whether e-cigarettes can be used as a tool for smoking cessation), which indicated some misunderstanding around these products.

Participants reported that public health stakeholders would support the extension of smoking bans to new products, as the tobacco industry has tried to normalise the use of new products in public spaces. The tobacco industry is reportedly engaging in marketing and promotion of HTPs as products which are allowed in public enclosed spaces. This has raised challenges in enforcement and compliance.

Extensions of rules to other products

Some CSO stakeholders recommended that more products be included in smoke-free rules[238] (e.g. water pipes and other products such as e-cigarettes, HTPs, tobacco surrogates and other new and emerging products[239]).

237 European Commission (2020) Consumer preference and perception of specific categories of tobacco and related products. Request for Service Chafea/2017/Health/34 under Framework Contract Chafea/2015/CP/01. Not published.

238 CSO, 21 January 2021, (#22); CSO, 04 February 2021, (#23); CSO, 14 January 2021, (#24)

239 These are not explicitly covered under the 2009 Council Recommendation on smoke-free environments according to current rules.

Around a third of countries reported that there is a plan in their country to include other products in smoke-free environment legislation. For instance, Finland and Norway reported plans to extend their smoking bans to all tobacco and related products. Similarly, Sweden reported they plan to include all products with nicotine without tobacco, and Denmark has recently included all tobacco surrogates in bans in schools. Other products that countries planned to include were: e-cigarettes (Slovakia, Spain, Romania and Liechtenstein) and e-cigarettes without nicotine (Romania); HTPs (Liechtenstein) and their devices (Austria); water pipes (Romania and Finland); herbal products (Spain); and nicotine pouches (Latvia).

A few countries reported they may include other products in the future, but do not have concrete plans to do so now. Several countries did not report plans to add more products, but some of these explained this is because their bans were already comprehensive.

More importantly, many CSOs and health experts advocated that all rules, which prohibit smoking tobacco products should be extended to other products in a consistent way[240]. For example, they noted that some countries include certain products but not others, or apply provisions prohibiting smoking in some environments to e-cigarettes but not all environments. CSOs and health experts reported that making rules for e-cigarettes and HTPs match rules for tobacco products for smoking would bring several benefits:

- consumers would find rules much less confusing[241], as they would not have to keep track of varied rules and would therefore increase compliance;
- the tobacco industry would be less able to exploit gaps[242]; and
- rules would be easier to enforce[243].

A recent study on consumer preferences and perceptions of specific categories of tobacco and related products suggests that there is an appetite for extending current smoke-free policies to more tobacco and related products. This study found most of those surveyed believed current prohibitions on smoking cigarettes at work, in public transport and in bars and restaurants should also apply to e-cigarettes and HTPs[244]. Additionally, 15% of the 18-25 age group (N = 6090) and 22% of the 26+ age group (N = 5910) wanted the smoking of e-cigarettes to be prohibited in all of the settings included in the questionnaire, which also includes private transportation and open outdoor spaces.

2) Progress made on implementing the Council Recommendation - enforcement of the legislation

This Chapter presents findings on:

- the level of compliance with national smoke-free rules (section 2.1); and
- how smoke-free rules have been monitored and enforced (section 2.2); and
- levels of exposure to tobacco smoke, e-cigarettes and heated tobacco products (HTPs) (section 2.3).

240 CSO, 17 November 2020, (#2); CSO, 19 November 2020, (#3); CSO, 18 November 2020, (#4); CSO, 18 November 2020, (#4); CSO, 28 January 2021, (#18); CSO, 16 December 2020, (#11); CSO, 27 November 2020 (#19)
241 CSO, 17 November 2020, (#2); HE, 14 December 2020, (#5); HE, 13 January 2021, (#16)
242 CSO, 4 December 2020, (#13)
243 CSO, 18 November 2020, (#4)
244 European Commission (2020) Consumer preference and perception of specific categories of tobacco and related products. Request for Service Chafea/2017/Health/34 under Framework Contract Chafea/2015/CP/01. Not published.

2.1) Compliance with national rules on smoke-free environments

This section discusses compliance with national rules on smoke-free environments. Information in this section is drawn from desk research, the country written questionnaire, as well as interviews with CSOs and health experts.

Over-arching perspectives on non-compliance

Overall, Member States and study stakeholders reported good levels of compliance with national rules on smoke-free environments. However, a number of concerns were raised:

- Some countries reported moderate or low compliance in some environments, such as bars and restaurants, workplaces, residential care facilities, prisons and outdoor educational and healthcare facilities. Similarly, in a 2013 European Commission study[245], several Member States reported the hospitality sector to be the most challenging enforcement.
- During interviews, CSOs and health experts[246] stated that while the level of implementation of the Council Recommendation is overall satisfactory, it is inconsistent across countries.
- Evidence also suggests that in some environments, compliance is lower for e-cigarettes and/or HTPs than for tobacco products for smoking, where restrictions are in place. This could be explained by the fact that people are not always aware of the legislation for novel tobacco products and infringements can therefore be slightly more frequent.
- A few CSOs reported that enforcing compliance is harder when national legislations have exceptions (e.g. smoking ban in cars in the presence of pregnant women or children below the age of 15), or when there is ambiguity in the practical application of definitions (e.g. waterpipe, terraces, rooms)[247].

The WHO's 2019 report on the global tobacco epidemic scored countries depending on their overall level of compliance with smoking bans[248]. The top scoring countries were Finland, Hungary, Iceland, Ireland, Luxembourg, Norway and the UK (10 points each), closely followed by Croatia, Greece, Latvia, Slovenia, Spain (9 points each), and the lowest scoring countries were Montenegro (2), France and Serbia (4).

Similarly, the Smoke-Free Partnership[249] conducted a mapping exercise in 2019 on countries' level of compliance with Article 8 of the FCTC.[250],[251] Compliance was deemed very good in Denmark, Finland, Ireland, Italy, Sweden and the UK. In contrast, compliance was rated as weak in Bulgaria, Cyprus and Greece[252]. Table 20 provides a more detailed

245 European Commission (2013). Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02). Commission Staff Working Document. Brussels: European Commission; 2013. Available online: https://ec.europa.eu/health/sites/health/files/tobacco/docs/smoke-free_implementation_report_en.pdf

246 CSO, 12 November 2020, (#1); CSO, 19 November 2020, (#3); CSO, 15 January 2021, (#10); CSO, 16 December 2020, (#11); CSO, 21 January 2021, (#22); HE, 28 January 2021, (#17)

247 CSO, 14 January 2021, (#24); CSO, 17 November 2020, (#2); CSO, 04 February 2021, (#23)

248 World Health Organisation. (2019). Tobacco control profiles - countries, territories and areas. WHO. Available at: https://www.who.int/tobacco/surveillance/policy/country_profile/en/. The score is out of 10 points. Compliance with national and comprehensive subnational smoke-free legislation as well as with advertising, promotion and sponsorship bans was assessed by up to five national experts, who scored the compliance in these two areas as "minimal", "moderate" or "high". The experts performed their assessments independently. Average scores were calculated by WHO from the five individual assessments by assigning two points for highly enforced policies, one point for moderately enforced policies and no points for minimally enforced policies, with a potential minimum of 0 and maximum of 10 points in total from these five experts. The compliance assessment was obtained for legislation adopted by 1 April 2018. For countries with more recent legislation, compliance data are reported as "not applicable".

249 Smoke Free Partnership (2019) Smokefree Map. [Accessed 08 February, 2021] Available at: https://www.smokefreepartnership.eu/smokefree-map

250 WHO FCTC, Article 8 : Protection from exposure to tobacco smoke : "Each Party shall adopt and implement in areas of existing national jurisdiction as determined by national law and actively promote at other jurisdictional levels the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places."

251 The data refers to the legislation in force by 1 January 2020.

252 Very good: follow the letter and the spirit of the guidelines of Article 8 of the WHO FCTC: smoke-free legislation is both very strong and strongly enforced. As a result, smoking in workplaces, hospitality venues such as bars and restaurants and other

overview per country. Results vary between the WHO score and the Smoke-free Partnership rating. This might be explained by differing methodologies, and issues considered (e.g. legal situation, enforcement methods, enforcement level). The Smoke-free Partnership rating does not depend only on compliance (determined through desk research, discussions with partners, contacts with tobacco control focal points and opinion polls[253]): it also depends on the rules in place and how extensive they are (i.e. in terms of areas and products covered, exceptions etc.).

Table 20. Compliance score/rating with smoking bans

Country	WHO compliance score (2018) (10 points)	Smoke-free Partnership rating (2019)
Finland	10	Very good
United Kingdom	10	Very good
Hungary	10	Good
Iceland	10	Good
Ireland	10	Good
Luxembourg	10	Good
Norway	10	Good
Latvia	9	Good
Slovenia	9	Good
Spain	9	Good
Croatia	9	Limited
Greece	9	Weak
Denmark	8	Very good
Belgium	8	Good
Czechia	8	Good
Lithuania	8	Good
Romania	8	Good
Slovakia	8	Good
Malta	8	Limited
Estonia	7	Good
Turkey	7	Good
North Macedonia	7	Limited
Portugal	7	Limited
Bulgaria	7	Weak
Austria	5	Good
Albania	5	Limited
France	4	Good

public places is negligible; Good: follow the letter of the guidelines of Article 8 of the WHO FCTC: smoke-free legislation is both strong and well enforced; Limited: offer limited protection to European citizens: many public areas may be smoke-free but 100% protection is unattainable due to exemptions or strong legislation is weakened due to poor compliance & Weak: offer little or no protection to European citizens: smoke-free legislation is both weak and unenforced. Consequently, exposure to second-hand smoke is high.

253 Examples of documents reviewed for Greece: Greek Ministry of Health (available at http://www.moh.gov.gr/ in Greek), and the Global Adult Tobacco Survey, 2013 – Greece (available at http://www.who.int/tobacco/surveillance/survey/gats/grc/en/index.html in English)

Country	WHO compliance score (2018) (10 points)	Smoke-free Partnership rating (2019)
Serbia	4	Limited
Montenegro	2	NA
Italy	NA	Very good
Sweden	NA	Very good
Netherlands	NA	Good
Germany	NA	Limited
Poland	NA	Limited
Cyprus	NA	Weak
Liechtenstein	NA	NA

Sources: WHO Report on the Global Tobacco Epidemic, 2019. Geneva: World Health Organization; 2019. Licence: CC BY-NC-SA 3.0 IGO. Available at: https://www.who.int/publications/i/item/9789241516204

Smoke Free Partnership (2019) Smokefree Map. Available at: https://www.smokefreepartnership.eu/smokefree-map

Compliance per type of smoke-free environments

The present research has aimed to collect new data on compliance faced by countries for each specific type of smoke-free environments.

Several countries mentioned limitations to the level and quality of information they felt they could provide. For instance, they noted that in their country:

- Many different competent authorities are participating in the controls, and the timeframe to answer the country written questionnaire was too short to consult all of these.
- It is possible that not all cases of non-compliance will come into the knowledge of the authorities that supervise compliance with the smoking bans.
- There are only few or no inspections taking place, meaning there is not enough or no data to determine the level of compliance.

Some countries answered the written questionnaire questions on 'compliance with smoke-free rules' even though they indicated their countries had no bans at all. For consistency purposes, these answers were excluded from the analysis.

Table 21 presents an overview of the level of compliance with smoke-free rules, by type of environment, across all the countries, which answered the country written questionnaire. This table is based on self-reported data. It appears that overall, the level of compliance varies based on the environments considered: e.g. while there is a high level of compliance with rules in indoor workplaces for all types of products (i.e. tobacco products for smoking, e-cigarettes and HTPs), in outdoor workplaces, the level of compliance is only moderate for tobacco products for smoking, and low for e-cigarettes and HTPs. It also seems that compliance is harder to ensure in outdoor public places and private areas. More information and specific examples of compliance issues are provided in the detailed Study Appendix 7.

Table 21. Overview of the self-reported level of compliance with national smoke-free rules (across all countries in scope)

		Traditional products for smoking	E-cigarettes	HTPs
General workplaces	Indoor workplaces	High	High	High
	Outdoor workplaces	Moderate	Low	Low
Enclosed public spaces (e.g. town hall, public library)		High	High	High
Health care facilities	Indoors	High	High	High
	Outdoors (e.g. outside, but on facilities' grounds)	Moderate	Low	Low
Residential care facilities		High	High	High
Educational facilities	Schools (e.g. primary and secondary)	High	High	High
	Adult learning premises (e.g. universities and vocational learning centres)	High	High	High
Public transports		High	High	High
Prisons		Moderate	High	High
Hotels and accommodation	Hotels	High	High	High
	Private home rentals	High	High	High
Eating and drinking establishments	Restaurants and eating establishments, indoors	High	High	High
	Bars and drinking establishments, indoors	Moderate	High	High
	Eating and drinking establishments, outdoors (e.g. terraces, garden seating)	High	High	High
Outdoor public places	Playgrounds or other spaces frequented by children and young people	Moderate	High	High
	Public parks	Low	Moderate	Moderate
	Public beaches	Moderate	High	High
Private areas	Cars	Moderate	Moderate	Moderate
	Homes	Moderate	Moderate	Moderate

Source: ICF analysis of responses to the country written questionnaire (2021).

*Note: the information is based on self-reported data from 30 countries. For each type of environments and for each country, a score of "1" was awarded for "high compliance", a score "0.5" was awarded for "moderate compliance", and no score was awarded in case of "low compliance" or "not applicable". An average score was then computed for each type of environments (in %), by using the following formula: (number of countries who reported "high compliance" + 0.5 * number of countries who reported "moderate compliance")/(number of countries who provided an answer i.e. not "NA"). "Low level of compliance" corresponds to scores between 70%, "Moderate level of compliance" to scores between 70-85% and "High level of compliance to scores above 85%.*

2.2) Monitoring and enforcement of rules on smoke-free environments

The 2013 Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments noted that by 2013 all EU Member States had measures for effective enforcement[254].

In response to the written questionnaire conducted for this study, a large majority of countries reported provision for a mechanism and/or infrastructure to ensure monitoring and enforcement within the national legislation on smoke-free environments. Only few countries (Cyprus, France, Luxembourg and Slovakia) did not report any legislative provisions.

Country written questionnaire respondents were asked how their national legislation placed responsibility for compliance on the owner, manager or other person in charge of the smoke-free environments:

- Most commonly reported was a basic responsibility for the owner, manager or other person in charge to supervise the observance of the law.
- This is followed by a legal responsibility to post clear signs at entrances and other appropriate locations indicating that smoking is not permitted.
- Third most reported was a legal responsibility to take reasonable specified steps to discourage individuals from smoking on the premises (e.g. asking the person not to smoke, discontinuing service, asking the person to leave the premises and contacting a law enforcement agency or other authority).
- Finally, and less commonly reported, is the legal responsibility to remove any ashtrays from the premises and to have ashtrays outside the entry of premises.

This section discusses the several ways in which countries monitor and enforce compliance, as well as challenges faced. Information in this section is drawn from desk research, the country written questionnaire, as well as interviews with CSOs and health experts.

Approaches to monitoring and enforcement of rules on smoke-free environments

Dedicated agencies to monitor and enforce requirements

The 2013 Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments found health authorities were primarily responsible for enforcement of rules on smoke-free environments, but responsibilities are often shared with other bodies/agencies such as labour authorities, police, and food safety agencies[255]. The country written questionnaire conducted for this study supports this finding.

- More than half of the countries responding to the written questionnaire described a role for national-level state bodies, governmental departments or their executive agencies, and policing units.
- A few countries have a dedicated control department (e.g. in Lithuania, responsibility for enforcement lies with the Drugs, Tobacco and Alcohol Control Department and in the Netherlands, there is a Food and Consumer Product Safety Authority).
- Many countries also explicitly described the responsibility for enforcement falling additionally on regional or local bodies, such as local authorities and municipalities

254 European Commission (2013). Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02). Commission Staff Working Document. Brussels: European Commission; 2013. Available online: https://ec.europa.eu/health/sites/health/files/tobacco/docs/smoke-free_implementation_report_en.pdf. [Accessed June 2020]

255 European Commission (2013). Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02). Commission Staff Working Document. Brussels: European Commission; 2013. Available online: https://ec.europa.eu/health/sites/health/files/tobacco/docs/smoke-free_implementation_report_en.pdf [Accessed June 2020]

(Spain, Sweden, the UK, Iceland and Norway), regional health inspectors (Bulgaria), public health authorities (Czechia), public order office (Germany), local community patrols (Hungary) and local or municipal police (Czechia, Finland, Latvia and Lithuania).

Some countries provided examples of specific monitoring practices, including Romania, which stated that compliance is monitored by using the WHO tobacco control survey for adults (Global Adult Tobacco Survey - GATS). In contrast, other countries such as Latvia declared not having any specific monitoring practices but rather detecting cases of non-compliance through everyday policing duties or through complaints. In some countries, monitoring and enforcement responsibilities are designated to different agencies based on the location and/or activity the ban is covering. For example, Czechia reported that the Public Health Authorities are primarily responsible for checking the compliance of smoke-free environments within its competence as part of regular state health supervision, but that they also work in cooperation with Police, Fire Rescue Services and Customs Administration to check compliance in food services during special check actions such as "HAD" ('Hazard, alkohol, děti', translating into 'Hazard, Alcohol, Children'). Italy described a joint effort between the Prevention Department of the Ministry of Health and the Police for Health to elaborate a controls plan covering different places (e.g. bars, restaurants, discos, arcades, hospitals, tobacco and e-cigarette shops, vending machines, etc.). Malta described that ensuring compliance and enforcement falls under the remit of the Environmental Health Directorate, the Maltese Police Force as well as the Local Enforcement Systems Agency (LESA).

Importantly, breaches in environments where smoking is permitted under certain conditions may not be investigated in the same way. For example, Finland reported that supervision rather than inspection is used to monitor breaches in restaurant and bar facilities with designated smoking rooms, with self-monitoring plans reviewed by the responsible authority, in order to ensure correct practices are in place (e.g. the airflow of the smoking room has to be checked in a regular basis and the observations shall be recorded).

Inspections

Respondents to the country written questionnaire were then asked to describe how potential breaches are investigated, and in the majority of cases, an inspection is undertaken to check compliance with the rules stated in the national tobacco legislation.

Different approaches to inspections were described in the country written questionnaire for this study, including:

- Belgium stated they have around 30 inspectors to investigate the ban on smoking in closed spaces which are publicly accessible. Points of investigation are selected on the basis of a risk analysis. Malta noted that inspections happen on an ad hoc basis. However, they added that these are rare due to scarce human resources.
- Finland noted that systematic supervision of smoking bans only covers designated smoking rooms in restaurants/bars and all other smoking bans are supervised either together with other legislation such as the Health Protection Act or in reaction to complaints.
- In regard to the actual inspection itself, Netherlands, Finland and Portugal reported that evidence of an infraction is sought through observation such as the presence of smokers or other indicators (used ashtrays, smell of tobacco smoke, cigarette butts on the ground). In Finland, the facility owner will also be interviewed on how they handle cases of breaches of the smoking ban.
- In Latvia, a standard administrative violation process specified in the Law on Administrative Liability is reported to be followed when a possible violation has been reported. Likewise, Slovenia described using tools permitted under the official Inspection Act.

- To improve enforcement, the Food and Consumer Product Safety Authority (NVWA) in the Netherlands was commissioned to undertake a study into enhanced detection methods for enforcing the smoking ban (by sampling ambient air, to be analysed in the laboratory). It was concluded that the developed methods and devices could, with further testing, be applied in practice as a valuable addition for enforcement purposes[1].
- In the focus group with Italian stakeholders, stakeholders cited a recent report[256] from the Ministry of Health, which shows that there have been roughly 4,000 inspections per year (in locations such as discos, bars, restaurants and pizzerias, betting rooms, and hospitals). Participants also said there is a special force within the police (Special force of Carabinieri) that takes on at least 10,000 inspections every year. Usually, these inspections occur in hospitality venues and schools.

Complaint systems

In response to the written questionnaire conducted for this study, a majority of countries reported having national legislation in place to enable any interested person or non-governmental organisation to lodge a complaint concerning illegal smoking in a smoke-free environment. This was often through having a complaint system (i.e. telephone number or online form) in place for the public to report violations. Most of these reported having a legislative obligation to investigate upon receipt of a complaint. Several countries (including Austria, Cyprus, Estonia, France, Sweden and Norway) stated they do not have such a system in place.

An example of complaint systems was provided by Ireland, where a national 'Lo-call' compliance line for members of the public was set up, in order to report potential breaches of the legislation. In the first 12 months after the workplace smoking ban being introduced in 2004, over 2,000 complaints were lodged by the public; and in recent years, this has fallen to approximately 50 per year.

Other examples include the following:

- Austria noted that organisations can report breaches to the ombudsperson for non-smoker protection at the Federal Ministry of Social, Health, Care and Consumer Protection ("Ombudsstelle für Nichtraucherschutz").
- Finland indicated that the public can inform the authority responsible for supervising the smoking ban.
- Portugal mentioned that any person can complain about illegal smoke-free environments to the Inspection Authority or the police authorities.
- Malta noted that complaints by phone /email are followed up. However in order to take court action, the non-compliant person/action must be witnessed by enforcement officers.

Support from civil society organisations to monitor and enforce rules

According to the written questionnaire, more than half of the countries declared that civil society organisations have been very or quite engaged, whilst a few countries reported less engagement, with one country suggesting civil society organisations to be 'very unengaged'[257]. Several examples of engagement were provided by countries including:

- Participation in "soft" monitoring, e.g. through surveys.
- Collaboration with enforcing authorities, by informing them of non-compliant activities and illegal practices. For example, Romania explained that some NGOs

256 Ministerio della Salute. (2020). PREVENZIONE E CONTROLLO DEL TABAGISMO. Available from: https://www.salute.gov.it/imgs/C_17_pubblicazioni_2916_allegato.pdf

257 One country provided two answers citing differing levels of engagements between two different organisations (one was described as being quite engaged, and the other as quite unengaged). This has been reflected in the overall totals.

(health advocates, medical associations, parents' associations) are involved in monitoring the implementation of the law by referring the complaints to authorities.
- Advocacy initiatives such as in Austria where civil society organisations ran the "Don't smoke" initiative, which led to a very successful petition for a referendum on smoke-free hospitality.
- Lobbying (for example, Cyprus mentioned that the Cyprus National Addiction Authority lobbies to the competent authorities for enforcing the legislation and/or? even for amending legislation).
- Provision of advice, support and consultancy when new legislation is drawn up or rulings are made; or in the design of action plans or priority programmes.

The role of civil society organisations was discussed in the focus group with Romanian stakeholders; see the box below for further information.

Focus group findings: Role of civil society organisations

Romania

Participants reported that civil society associations have tried to engage in the monitoring of effective enforcement of the legislation, including civic monitoring during the first years after the enactment of the ban. Interestingly, in 2016/2017, civil society reportedly used data on enforcement and monitoring of compliance as an argument to defend the bans in front of the Romanian Parliament. In more recent years there has been less work done due to a lack of resources; however, the WHO office in Romania has done some work in monitoring of compliance, and civil society organisations have run trainings for the enforcement bodies to make sure that the legislation is well enforced and well monitored.

Punitive measures for violations of rules

Punitive measures on the owner, manager or other person in charge of the smoke-free environments for violations of rules on smoke-free environments

Almost all countries responding to the written questionnaire described punitive measures implemented in cases where rules were violated. The most commonly used measure across all types of environments were **fines.** This was also the case in the 2013 Report on the implementation of the 2009 Council Recommendation[258]. Fines were reported to be used by all countries for smoking ban violations in restaurant and bars, health care facilities and educational facilities; and in all but one country where the infraction occurs in an enclosed public place, on public transport, or in a hotel. A high number of countries also have fines in place for violations in residential care facilities, the general workplace and prisons. Slightly fewer have fines in outdoor public spaces and private areas.

The size of the fines varies between countries.

- Fines range by whether the violation is a first time or repeated incident. For example, in Austria a fine is up to EUR 2,000 for an isolation incident and EUR 10,000 if repeated. Similarly, in Denmark a first-time offence is around EUR 670 (5,000 DKK), a second offence is around EUR 1,300 (10,000 DKK) and a third one is around EUR 2,700 (20,000 DKK)[259].
- Romania reported combining punitive measures, with these becoming increasingly strict with repeated offences. For example, the fine for the business violating the rule is around EUR 1,000 (5.000 lei) (first offence), around EUR 2,000 (10.000 lei)

258 European Commission (2013). Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02). Commission Staff Working Document. Brussels: European Commission; 2013. Available online: https://ec.europa.eu/health/sites/health/files/tobacco/docs/smoke-free_implementation_report_en.pdf
259 Conversion done in March 2021 based on Google Currency Converter

and suspension of business licence (second offence) or around EUR 3,000 (15.000 lei) and cancellation of the business (third offence)[260].

- Other factors may also influence the size of a fine. For example, in Slovenia, a fine of EUR 4,000 to EUR 33,000 shall be imposed for an offence on a legal person; a fine of EUR 800 to EUR 2,000 shall be imposed on the responsible person of a legal entity, the responsible person of a self-employed person, and the responsible person of a sole trader; and a fine of EUR 1,600 to EUR 8,000 shall be imposed on a sole trader or self-employed person.

Only Belgium reported having provisions in place to **imprison offenders** as a punitive measure alongside fines across most environment areas and stated this could last between eight days to three months.

The **suspension or cancellation of business license** is used in several countries in restaurant and bar settings (Cyprus, Germany, Greece, Italy, Luxembourg and Romania) and in the general workplace (Germany, Italy, Luxembourg, Romania and Sweden). Slightly fewer countries use this in hotels and accommodation settings (Italy, Luxembourg and Romania) and elsewhere. In the 2013 Report on the implementation of the 2009 Council Recommendation[261], several countries already reported that in cases of repeated violation, establishments may lose their license.

Other less frequent punitive measures were mentioned. For instance, in Belgium, the court may order the **closure** of general workplaces, hotels and accommodation, and restaurant and bars, for a period of one month to six months, if a breach has taken place. Czechia reported that **a disciplinary punishment** (written reprimand, reduction of salary, deprivation of an official medal/of a rank and others) may be given in a prison setting when a violation takes place.

Punitive measures on the smokers for violations of rules on smoke-free environments

Fines are also the most commonly used punitive measure for smokers who violate the rules, but are distributed by fewer countries compared to the number who fine owners, managers or others in charge. This was also the case in the 2013 Report on the implementation of the 2009 Council Recommendation[262]. Most countries clarified that fines are handed out for violations against smokers in enclosed public spaces (e.g. town halls, public libraries), health care facilities, educational facilities, hotels and accommodation, bars and restaurants and on public transport. Slightly fewer reported using fines in residential care facilities, prisons, the general workplace, outdoor public spaces and private areas.

The size of the fine varies between countries. Fines range from approximately EUR 30 in Italy and Spain to a maximum of EUR 8,000 in Belgium. Importantly, across nearly all countries, the fines are dependent on whether the violation is an isolated incident (or first-time offence) or a repeated one. Additionally, in Finland, fines are reported to be based on the daily income of the offender (penal provision) and a conditional fine may also be used to enforce a prohibition. In the 2013 Report on the implementation of the 2009 Council Recommendation[263], the fine's amount ranged differently, from EUR 14 (for individuals in Latvia) to EUR 10,000 for repeated business violations in Austria and Greece.

A few countries mentioned having provisions in place to **imprison offenders**. For instance, Belgium mentioned having such a provision for most environment areas, and stated this

260 Conversion done in March 2021 based on Google Currency Converter
261 European Commission (2013). Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02). Commission Staff Working Document. Brussels: European Commission; 2013. Available online: https://ec.europa.eu/health/sites/health/files/tobacco/docs/smoke-free_implementation_report_en.pdf
262 European Commission (2013). Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02). Commission Staff Working Document. Brussels: European Commission; 2013. Available online: https://ec.europa.eu/health/sites/health/files/tobacco/docs/smoke-free_implementation_report_en.pdf
263 European Commission (2013). Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02). Commission Staff Working Document. Brussels: European Commission; 2013. Available online: https://ec.europa.eu/health/sites/health/files/tobacco/docs/smoke-free_implementation_report_en.pdf

could last between eight days to three months. Liechtenstein reported having such provisions in place when violations occur in general workplace settings.

Other punitive measures include **disciplinary punishment** for prisoners (e.g. reprimand, reduction of pocket money and others in Czechia), **rejection from the area** (used across all environments except for prison settings in Sweden) and the **confiscation of tobacco or tobacco and related products** (used across all environments except for prison settings in Lithuania).

Data on application of punitive measures

Not all countries collect (or have available) data on the application on punitive measures for violations of smoke-free rules between 2013-2020. Where data was provided by respondents to the country written questionnaire, there appears to be some variation between countries because of the number/format of inspections carried out. Illustrative examples of fines given out by countries responding to the written questionnaire are provided below.

- Between January 2013 to October 2020, Bulgaria noted a total of 5,846,162 inspections carried out at 5,822,418 places, by the 28 regional health inspections (RHI) which resulted in 23,169 prescriptions, 23,940 acts drawn up for established violations and 23,166 penalty orders with a total value of around EUR 11,288,300[264] (22,112,550 BGN).
- Croatia mentioned that from 2015-2020, 5,505 inspections/official controls took place, leading to 436 punitive measures including 388 fines of around EUR 130[265] (HRK 1,000.00) on the spot for a misdemeanour if a person or many of them are found smoking a tobacco or related product.
- Italy declared that there were around 30,000 inspections/controls with 1,300 (4.3%) fines, 400 (1.3%) for violation of the smoking ban and 900 (3%) for other inappropriate law enforcements between 2013-2019.

Challenges in monitoring and enforcing rules

Sufficiency of financial and human resources

A study which assessed the compliance with national comprehensive smoke-free laws in 41 countries in 2014 (including six countries from Europe)[266] concluded that the level of compliance with a national comprehensive smoke-free law is related to two key factors, which require sufficient financial and human resources:

- the depth of the enforcement infrastructure (defined as how closely involved the government is at local level to enforcement, including in training enforcement officials/agents or directing their inspections); and
- efforts to combat corruption in the enforcement process.

In the 2013 Report on the implementation of the 2009 Council Recommendation[267], the lack of resources was most often reported to be the main difficulty in enforcement efforts. Similarly, in this study, slightly more than half of countries reported having sufficient financial resources available for enforcement. However, several countries reported this was not the case. Previous research has shown that nearly all of the costs of implementation

264 Conversion done in March 2021 based on Google Currency Converter
265 Conversion done in March 2021 based on Google Currency Converter
266 Peruga A, Hayes LS, Aguilera X, Prasad V, Bettcher DW. Correlates of compliance with national comprehensive smoke-free laws. Tob Control. 2018;27. doi:10.1136/tobaccocontrol-2017-053920
267 European Commission (2013). Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02). Commission Staff Working Document. Brussels: European Commission; 2013. Available online: https://ec.europa.eu/health/sites/health/files/tobacco/docs/smoke-free_implementation_report_en.pdf

and enforcement will be taken on by governments rather than by businesses, with the latter only having limited signage and enforcement costs[268].

Less than half of the countries reported having sufficient human resources available for enforcement while several of them felt they did not have sufficient human resources. A need to improve the competences of inspectors was described by a few respondents to the country written questionnaire (e.g. due to a lack of training among enforcing officers, or to the fact that there are no dedicated inspectors for this work).

Other challenges

Other specific enforcement difficulties and/or challenges described include:

- Difficulty accessing places where breaches are thought to have occurred, for instance due to health and safety legislation, which needs to be followed and may create additional administrative or financial burden.
- High administrative burdens, caused in part by the interpretation of some provisions (e.g. "indoor space of restaurants" in case of terraces with roof) and cases of circumventing the rules (e.g. by establishment of "a private club"). Similarly, enforcement difficulties were reported by some Member States in the 2013 Report on the implementation of the 2009 Council Recommendation[269], especially in Member States where exceptions exist (e.g. size of the venue or covered terraces in winter months).
- A few countries noted that better collaboration with other enforcement authorities could help.
- Reliance on good public and political support. One stakeholder felt that compliance is more reliant on public goodwill than strict enforcement[270]. Another felt that workplace safety/welfare organisations who are responsible for monitoring smoke-free working environments may not see this as a priority[271].

In addition, when a new government is formed that does not agree with the legislation implemented by the former government and decides to change it, this poses challenges for enforcement.

- This happened for example in the Netherlands after the elections in 2010, when the new government reversed the decision to apply smoking restrictions for small bars (<70 m2) without employees[272].
- In Austria, a new government voted in March 2018 to stop the smoking ban in bars and restaurants that was decided on by the previous government and would enter in force in May 2018. However, after the fall of the government in May 2019, the ban was reintroduced and came into force after all on 1 November 2019.[273]
- After years of lengthy political discussion in Czechia, a smoking ban in bars and restaurants came into force in May 2017. However, the issue kept being discussed, with opponents arguing that it has caused economic damages to bars, and proponents arguing that more non-smokers and families visit the hospitality industry now.[274]

268 IARC Handbooks of Cancer Prevention, Tobacco Control, Vol. 13: Evaluating the Effectiveness of Smoke-free Policies (2009: Lyon, France).
269 European Commission (2013). Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02). Commission Staff Working Document. Brussels: European Commission; 2013. Available online: https://ec.europa.eu/health/sites/health/files/tobacco/docs/smoke-free_implementation_report_en.pdf
270 CSO, 19 November 2020, (#3)
271 CSO, 15 January 2021, (#10)
272 More information in Hummel, K., Willemsen, M. C., De Vries, H., Monshouwer, K., & Nagelhout, G. E. (2017). Social acceptance of smoking restrictions during ten years of policy implementation, reversal and reenactment in the Netherlands: Findings from a national population survey. Nicotine & Tobacco Research, 19, 231-238.
273 More information in Burki, T. K. (2019). New smoking ban for restaurants and bars in Austria. The Lancet Oncology, 20(12), e668.
274 More information in Czech Radio (2018) Support for Czech cigarette ban still strong after smoke free year

Enforcement challenges were discussed in the focus group with Romanian and French stakeholders; see the box below for further information.

, available at: https://english.radio.cz/support-czech-cigarette-ban-still-strong-after-smoke-free-year-8159920 and in Schönherr (2017) No Smoking: After a long battle in Parliament, the Czech Republic finally adopts smoking ban
, available at: https://www.schoenherr.eu/content/no-smoking-after-a-long-battle-in-parliament-the-czech-republic-finally-adopts-smoking-ban/

Focus group findings: Enforcement challenges

Romania

Participants reported that Civil Society has asked enforcement bodies in Bucharest about sanctions and penalties applied since 2019, and results suggested enforcement bodies did not find any breaches of the legislation. However, this did not align with the number of complaints that civil society has received. Participants reported that enforcement problems may come from issues with definitions (e.g. the definition of terraces was noted as controversial - despite the fact that the Council Recommendation provides an indication of how indoor or enclosed areas should be defined[275]). Therefore, participants requested an EU decision or definition to avoid gaps that allow circumvention or controversy.

France

Participants underlined that France has an 'impressive' legislative framework for tobacco control[276]. However, participants highlighted, that in practice compliance is low and results are not as expected, citing several challenges in France:

- Lack of political will: participants explained that politicians should put more emphasis on enforcing legislation. A 2021 report evaluating the 1991 Evin law (which forbids smoking in all enclosed places accessible to the public) concluded that this law "suffers from a serious lack of control by the competent authorities, which explains the incessant nature of violations of the bans on smoking and the promotion of tobacco products"[277].
- Lack of exemplarity: participants provided several examples of non-compliance with smoke-free rules by those who are supposed to lead by example.
- Lack of resources: participants said it would be useful to set up a European level obligation to earmark a minimum amount of resources per inhabitant allocated to the fight against tobacco (and ideally to reserve a share of this for the civil society). T
- Legal issues: participants explained that France's legislation is focused on *criminal* sanctions, and that such sanctions are difficult to enforce. They suggested to examine the possibility of using administrative sanctions as well. Participants mentioned very complicated and lengthy processes to fight against non-compliance. The 2021 report evaluating the 1991 Evin law provides an example where it took civil society 10 years (and many negative decisions by a court of first instance and several courts of appeal) to get one non-compliant restaurant to be sanctioned[278].
- Behavioural issues: participants noted that in France, tobacco control is very negatively perceived. They therefore stressed the importance of having advocacy campaigns, to create support for policies designed to fight against tobacco and related products (e.g. communicating on their positive impact on public health). On a similar note, the 2021 report evaluating the 1991 Evin law states that "the strong symbolism of the Evin law, which seeks to change behaviour in the long term rather than punishing it, is a very often neglected element that should be brought up to date in order to effectively fight against smoking".

2.3) Exposure to tobacco smoke, e-cigarettes and HTPs

This sub-section summarises the findings on second-hand exposure to tobacco smoke, e-cigarettes and HTPs from the latest Eurobarometer survey on "Attitudes of Europeans

275 Point 19 of the Annex of the Council Recommendations 2009/C 296/02 on smoke-free environments includes a definition of 'indoor' (or enclosed) areas based on an UN definition, it reads as follows: "It is recommended that 'indoor' (or enclosed) areas be defined to include any space covered by a roof or enclosed by one or more walls or sides, regardless of the type of material used for the roof, wall or sides, and regardless of whether the structure is permanent or temporary"

276 https://solidarites-sante.gouv.fr/prevention-en-sante/addictions/article/lutte-contre-le-tabac-principaux-textes-et-orientations-strategiques

277 DNF (2021). 30 ans de loi Evin, et apres?. Available at: https://dnf.asso.fr/wp-content/uploads/2021/01/LoiEvin30ans-210113.pdf

278 DNF (2021). 30 ans de loi Evin, et apres?. Available at: https://dnf.asso.fr/wp-content/uploads/2021/01/LoiEvin30ans-210113.pdf

towards tobacco and electronic cigarettes" (fieldwork from August to September 2020)[279], as well as results from the citizens' survey carried out in this study.

Indoor exposure

Citizens reported in the survey that private cars and private homes were the most common **indoor places** where they observed people using tobacco products for smoking (41% and 31% respectively). Apart from these settings, use of tobacco and related products was not frequently observed by respondents, with 20% or less reporting this in most instances. Results from the citizens' survey also found that there were no statistically significant differences between countries relating to use of tobacco in schools.

Similar to the citizens' survey, the latest Eurobarometer survey found that overall, exposure to tobacco smoke in indoor hospitality settings is limited. Respondents in the Eurobarometer survey were asked about exposure to smoke from tobacco products in the past six months.

- Less than one in five respondents (16%) in the Eurobarometer survey said that people were smoking in **drinking establishments e.g. bars**[280]. This shows a decrease of four percentage points compared to 2017 and nine percentage points compared to 2014. In most of the countries, less than a quarter of respondents declared being exposed to tobacco smoke, but there are a few exceptions (in particular, Croatia, where 73% reported having seen people smoking). Results from the citizens' survey also found that in most countries, encountering people smoking in bars was reported by less than one in five respondents (18%), except for Bulgaria (31%) and Greece (30%).
- An even lower proportion of respondents (9%) to the Eurobarometer survey said that people were smoking in **eating establishments e.g. restaurants**[281] (a similar proportion as in 2017). In most of the countries, less than 15% of respondents declared being exposed to tobacco smoke, but there are a few exceptions (in particular, Cyprus, where 39% reported having seen people smoking, despite them reporting there is a full ban on tobacco products for smoking).

Outdoor exposure

Overall, participants in the citizens' survey were most likely to report tobacco use **outdoors** in workplaces (46%), public parks (42%), and bars (48%). Similarly, the latest Eurobarometer survey found that exposure to tobacco smoke in outdoor hospitality settings is much more prevalent. When asked about exposure to smoke from tobacco products in the past six months:

- Seven in ten respondents (70%) to the Eurobarometer survey said that people were smoking tobacco products on an **outdoor terrace of a drinking or eating establishment**. There were large differences between countries, with some reporting low exposure (e.g. 26% in Sweden and 34% in Hungary) and others high exposure (e.g. 89% in France, 88% in Spain and 87% in Belgium and Cyprus).
- Six in ten respondents (60%) to the Eurobarometer survey said that people were smoking tobacco products at **outdoor events**[282] (e.g. open-air concert, sporting event). Again, there were large differences between countries, with some reporting

279 EU (February 2021), Special Eurobarometer 506, Attitudes of Europeans towards tobacco and electronic cigarettes. Available at: https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/survey/getsurveydetail/instruments/special/surveyky/2240
280 In 2020, the operation of eating and drinking establishments in various MSs might have been affected by the COVID-19 restrictions during the six months preceding the survey.
281 Ibid.
282 In 2020, organisation of open-air concerts or sporting events might have been affected by the COVID-19 restrictions in various MSs
during the six months preceding the survey.

low exposure (e.g. 33% in Sweden and Hungary) and others high exposure (e.g. 82% in France and Cyprus, 80% in Belgium).

- However, a much lower proportion of respondents (31%) to the Eurobarometer survey said that people were smoking tobacco products in **outdoor spaces intended for use by children or adolescents** (e.g. nursery and school courtyard, playground). Again, there were differences between countries, with some reporting low exposure (e.g. 8% in Sweden and 13% in Hungary) and others high exposure (e.g. 63% in Cyprus and 62% in Bulgaria).

Exposure to e-cigarettes and HTPs

The citizens' survey found that exposure to e-cigarettes and HTPs use was not reported as frequently, but the top locations were the same: workplaces (34% and 19% respectively), public parks (34% and 19%), and bars (41% and 26%). However, there was substantial variation between countries in terms of place and frequency of observing use (Figure 35; chi-squared test $p<0.001$ in all instances).

Exposure to the use of tobacco related products in schools showed variation among countries when compared to tobacco products for smoking (chi-squared test $p=0.02$; all others $p<0.001$, threshold adjusted for multiple testing).

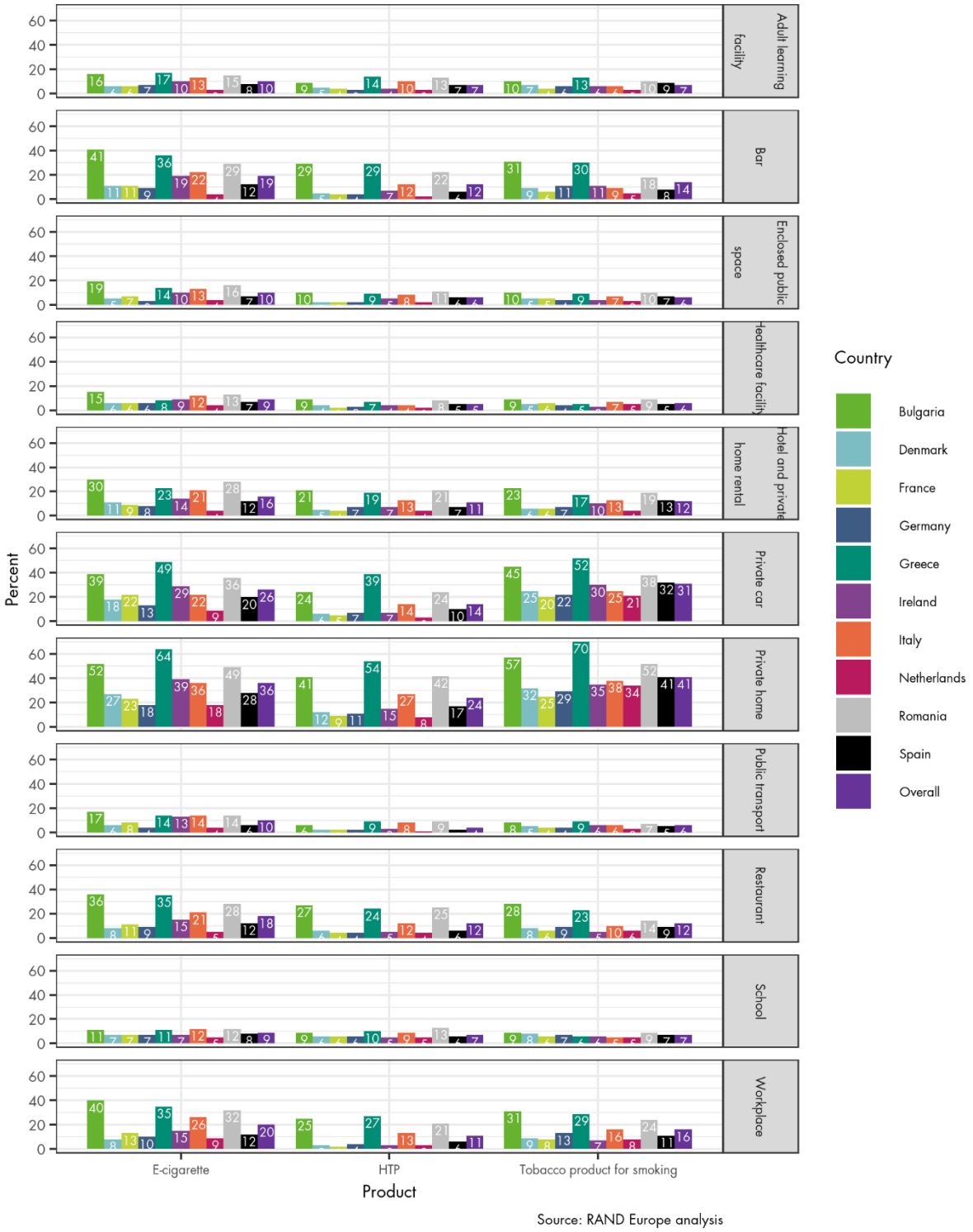
The latest Eurobarometer study found that exposure to e-cigarettes or HTPs in indoor hospitality settings is relatively frequent, but largely depends on the country. Respondents in the Eurobarometer survey were asked about exposure to e-cigarettes or HTPs in the past six months.

- More than one quarter (28%) of respondents to the Eurobarometer survey said that people were using e-cigarettes or HTPs **inside** the last time they visited a **drinking establishment**[283] (e.g. bar). The majority stated that no-one was using such products. In some countries, less than 10% of respondents reported having been exposed to e-cigarettes and heated tobacco (Sweden and Hungary). However, in some countries, the exposure was higher (e.g. 66% in Croatia and 64% in Cyprus, despite them reporting there is respectively a partial and a full ban on e-cigarettes and HTPs). The citizens' survey also found variations across countries, with the highest percentage of respondents recalling the use of e-cigarettes and HTPs in bars reported in Bulgaria (41%, 29% respectively), Greece (36%, 29% respectively), Romania (29%, 22% respectively), Italy (22% for e-cigarettes) and Ireland (19% for e-cigarettes) and the rest of countries reporting less than 12% for both types of products.
- A lower proportion of respondents in the Eurobarometer survey (19% or less than one in five) reported having seen people using e-cigarettes or HTPs **inside** the last time they visited an **eating establishment**[284] (e.g. restaurant). The majority stated that no-one was using such products. In some countries, less than 10% of respondents reported having been exposed to e-cigarettes or HTPs (Germany, Austria, Hungary, Sweden and Denmark). However, in some countries, the exposure to e-cigarettes or HTPs was higher (e.g. 55% in Cyprus, despite them reporting there is a full ban on e-cigarettes and HTPs). The citizens' survey also found variations across countries, with the highest percentage of respondents recalling the use of e-cigarettes and HTPs in restaurants reported in Bulgaria (36%, 27% respectively), Greece (35%, 24% respectively), Romania (28%, 25% respectively), Italy (21%, 12% respectively) and the rest of countries reporting less than 15% for e-cigarettes and 6% for HTPs.
- One in four respondents (25%) to the Eurobarometer survey reported having seen people using e-cigarettes or HTPs **inside** the last time they visited a **public space**

283 In 2020, the operation of eating and drinking establishments in various MSs might have been affected by the COVID-19 restrictions during the six months preceding the survey.
284 Ibid.

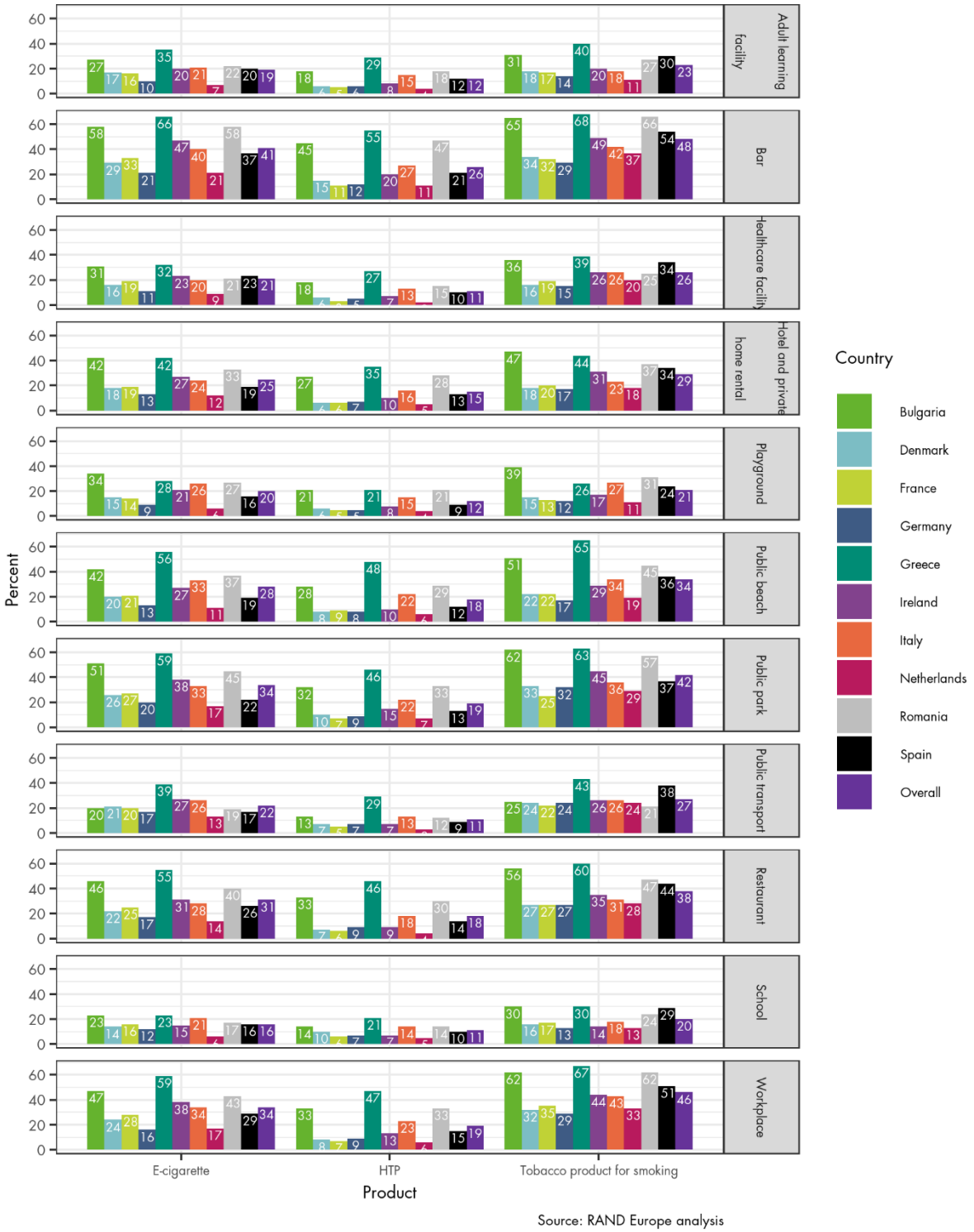
where people normally do not smoke (e.g. shopping mall, airport, concert hall). The majority stated that no-one was using such products. In some countries, less than 10% of respondents reported having been exposed to e-cigarettes or heated tobacco (Hungary and Austria). However, in some countries, the exposure to e-cigarettes or heated tobacco was higher (e.g. 49% in Cyprus).

Figure 35 Percentage of respondents recalling consumption of tobacco and related products indoors in the past 12 months, by setting and product type



Source: RAND Europe analysis

Figure 36 Percentage of respondents recalling consumption of tobacco and related products outdoors in the past 12 months, by setting and product type



Source: RAND Europe analysis

3) Progress made on implementing the Council Recommendation - Protecting children and adolescents

The Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02) places a special emphasis on the need to develop or strengthen measures to reduce exposure to tobacco smoke for children and adolescents and to adopt

complementary/supporting measures. A European Commission study[285] stated that in 2013, almost all EU Member States had strategies in place to protect children and adolescents.

Since 2013, countries have continued to increase the level of protection. In particular, protection measures have been reinforced in educational establishments (the majority of EU Member States have now banned smoking altogether in educational establishments) and some of them have extended this ban to other places where children might be present such as sport venues, playgrounds and open stadiums.

In addition, since 2013, measures to further protect children from second-hand smoke exposure in private cars and other private spaces (such as households) have been increasingly gaining attention. In this regard, the Tobacco Control Scale 2019 report found that since 2013, 12 EU Member States countries have introduced a smoking ban in private cars when minors are present (Ireland, France, Finland, Italy, Malta, Cyprus, Lithuania, Slovenia, Luxembourg, Austria, Greece and Belgium)[286]. However, there are still improvements to be made.

Strategies and/or other measures to reduce exposure to second-hand smoke of children and adolescents

At the EU-level, the Amended Tobacco Products Directive (TPD) introduced changes in pictorial health warnings, which include explicit messages about the harms of second-hand smoke exposure to children. According to the 2012 Eurobarometer survey on "Attitudes of Europeans towards tobacco and electronic cigarettes", there is a partial agreement that health warnings on tobacco packs prevent young people from starting smoking, as around a quarter (26%) of EU citizens believe that these warnings discourage young people, while 70% think this is not the case[287].

At the country-level, almost all countries reported having strategies and/or other measures to reduce exposure to second-hand smoke of children and adolescents. These measures mainly take the form of awareness raising campaigns. Examples include:

- In Bulgaria, a national student competition "The project of our class - for a life without tobacco" is held every year. The aim of this competition is to show that when living in a tobacco smoke-free environment, life is healthier and more environmentally friendly.
- Czechia has a range of different game projects depending on the age groups (e.g. the "How (not) to become dependent" interactive game for students at secondary schools, and the "Prevention of Smoking Playfully" for children of pre-school age and younger children).
- In Poland, the #StopFejkFriends[288] campaign implemented by the Ministry of Health aims to discourage teens and teenagers from reaching to cigarettes and e-cigarettes (presented as false buddies who cause loss of money and reduction of health). Influencers took part in the campaign[289].
- In Hungary, the "Smoking is Sticky" school prevention programme tries to focus children's attention and opinion on healthy lifestyle by considering their interests, game software (for 5-10 years old children) and Portable Touch Screen Computer (PTSC)[290]. Hungary also has the Smoking Prevention Program in Kindergartens of

285 European Commission, Burson-Marsteller, & Smoke-free Partnership. (2016). Study: An assessment of citizens' exposure to tobacco marketing. Brussels: DG SANTE. Available at: https://ec.europa.eu/health/sites/health/files/tobacco/docs/citizensexposure_tobaccomarketing_en.pdf
286 Joossens L, Feliu A, Fernandez E. (2019) The Tobacco Control Scale 2019 in Europe. Association of European Cancer Leagues, Catalan Institute of Oncology. Available online at: https://www.tobaccocontrolscale.org/TCS2019.pdf
287 TNS Opinion & Social (2012) Special Eurobarometer 385: Attitudes of Europeans towards Tobacco. Brussels: European Commission Directorate-General Health and Consumers. Available: http://ec.europa.eu/health/eurobarometer?s/index_en.htm.
288 http://stopfejkfriends.pl/
289 https://www.wirtualnemedia.pl/artykul/ministerstwo-zdrowia-kamapnia-stop-fejk-friends-macadamian-girl-matura-to-bzdura-sebastian-kowalczyk-saszan-reklama-opinie
290 https://www.dohanyzasvisszaszoritasa.hu/eng/iskolai_megelozesi_program.html

the Focal Point for Tobacco Control (FPTC)[291], which provides special educational tasks in early ages.

- In the focus group conducted with Romanian stakeholders, it was reported that due to the introduction of e-cigarettes and heated tobacco products (HTPs), civil society organisations were putting together a strategy to revisit the tobacco control legislation and regulatory needs accordingly.

There are also legislative measures and other preventive activities in some countries. According to the Smoke-Free Partnership, and as confirmed by the results of this study's country written questionnaire, the majority of EU Member States have banned smoking altogether in educational establishments[292] and in some cases this has happened in other establishments used by children and adolescents, such as sport venues, playgrounds and open stadiums.

Support for strategies and/or measures to protect children and adolescents

A 2020 EUREST-PLUS study[293] found that, while there is still no comprehensive legislation at the EU level to protect children from second-hand smoke exposure in private cars, there is a large public support (which has been increasing in the last few years) for smoke-free cars legislation (96.3% of surveyed people in Germany, Greece, Hungary, Poland, Romania and Spain supported smoke-free legislation for cars carrying pre-school children, compared to 93.9% in 2016).

In addition, banning smoking at home is also highlighted in several reports as a useful strategy[294],[295],[296],[297]. There is a shift from reports of households having partial restrictions to reports of completely smoke-free homes[298]. This may be a good indicator of population acceptance of the harmfulness of second-hand smoke and tobacco control success which is linked to protection of children and adolescents. According to a study, in Italy, more than 80% of non-smokers, but also the majority of current smokers who have a child aged 0-5 years, do not allow smoking in their homes[299].

Monitoring youth / child exposure to second-hand smoke

According to the latest Eurobarometer survey on "Attitudes of Europeans towards tobacco and electronic cigarettes"[300] (fieldwork from August to September 2020), around three in ten (31%) respondents who went to outdoor spaces intended for use by children or adolescents (e.g. nursery and school courtyards, playgrounds) in the last six months said

291 https://www.dohanyzasvisszaszoritasa.hu/eng/ovodai_dohanyzas_megelozesi_program.html
292 Smoke Free map
293 Nogueira, S. O., Tigova, O., Driezen, P., Fu, M., Kyriakos, C. N., Zatoński, M., Mons, U., Quah, A., Demjén, T., Trofor, A. C., Przewoźniak, K., Katsaounou, P. A., Fong, G. T., Vardavas, C. I., Fernández, E., & EUREST-PLUS Consortium (2020). Do smokers want to protect non-smokers from the harms of second-hand smoke in cars? Findings from the EUREST-PLUS ITC Europe Surveys. European journal of public health, 30(Supplement_3), iii108–iii112. https://doi.org/10.1093/eurpub/ckaa056
294 IARC Handbooks of Cancer Prevention, Tobacco Control, Vol. 13: Evaluating the Effectiveness of Smoke-free Policies (2009: Lyon, France)
295 European Commission. (2009). Flash Eurobarometer No 253 Survey on Tobacco. Analytical report. Hungary: The Gallup Organisation, 2009. Available online: https://ec.europa.eu/health/ph_determinants/life_style/Tobacco/Documents/eb_253_en.pdf [Accessed June 2020]
296 Fernández, E., Tigova, O., López, M. J., Gallus, S., Semple, S., Clancy, L., Behrakis, P. K., Boffi, R., Gorini, G., López-Nicolás, Á., Radu-Loghin, C., and Soriano, J. B. (2017). The TackSHS Project. Tackling secondhand tobacco smoke and e-cigarette emissions: exposure assessment, novel interventions, impact on lung diseases and economic burden in diverse European populations. Tobacco Prevention & Cessation, 3(May Supplement), 21. https://doi.org/10.18332/tpc/70598
297 ITC Project (March 2012). Smoke-free Policies: ITC Cross-Country Comparison Report. University of Waterloo, Waterloo, Ontario, Canada.
298 Fernández, E., Tigova, O., López, M. J., Gallus, S., Semple, S., Clancy, L., Behrakis, P. K., Boffi, R., Gorini, G., López-Nicolás, Á., Radu-Loghin, C., and Soriano, J. B. (2017). The TackSHS Project. Tackling secondhand tobacco smoke and e-cigarette emissions: exposure assessment, novel interventions, impact on lung diseases and economic burden in diverse European populations. Tobacco Prevention & Cessation, 3(May Supplement), 21. https://doi.org/10.18332/tpc/70598
299 Silvano Gallus, Alessandra Lugo, Giuseppe Gorini, Paolo Colombo, Roberta Pacifici, Esteve Fernandez, Voluntary home smoking ban: prevalence, trend and determinants in Italy, European Journal of Public Health, Volume 26, Issue 5, October 2016, Pages 841–844, https://doi.org/10.1093/eurpub/ckw146
300 EU (February 2021), Special Eurobarometer 506, Attitudes of Europeans towards tobacco and electronic cigarettes. Available at: https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/survey/getsurveydetail/instruments/special/surveyky/2240

that, the last time they did so, people were smoking tobacco products, while more than two thirds (69%) said people were not smoking. In this context, monitoring youth/child exposure becomes of particular importance.

More than half of the countries stated that they monitor youth/child exposure to second-hand smoke. One third of the countries said they do not do so (Austria, Belgium, Bulgaria, Estonia, Ireland, Lithuania, Luxembourg and the Netherlands, Sweden and Malta). In most cases, this information is monitored throughout the Global Youth Tobacco Survey and its questionnaire (WHO), National Health Surveys, and National Youth Surveys.

Comprehensiveness of the legislative provisions and/or or other measures regarding the protection of children and adolescents

A couple of interviewed CSOs stated that overall, legislative provisions and/or other measures regarding the protection of children and adolescents are comprehensive, noting there has been particular success so far with school-based schemes[301], [302]. On the other hand, a number of concerns were also raised with regards to such legislative provisions:

- Outdoor areas (e.g. in schools or universities, playgrounds, parks and areas where children are present) are not covered by the Council Recommendation[303].
- Another health expert declared that there is a gap in the legislation of exposure to smoking in multi-unit housing[304].
- Another CSO explained that in Belgium the main discussion concerning rules to protect children and adolescents is around the prohibition to visit smoking bars and restaurants.

During interviews, CSOs suggested that, to better protect children and adolescents, there needs to be more harmonisation of existing rules[305]. Some CSOs and health experts provided examples of additional measures that could be implemented to protect children and adolescents[306], such as increasing tobacco taxation, focusing on adult smoking (as a means to discourage youth uptake and smoking), creating new smoke-free environments (such as beaches) and, in some national contexts, tackling the use of snus.

Challenges

There are several challenges in protection children and adolescents from exposure to second-hand smoke. For example:

- One health expert also explained that one of the main challenges in protecting children and adolescents is the fact that smoke-free measures are difficult to monitor in private places (e.g. homes and cars)[307].
- Participants of the focus group with French stakeholders mentioned that it is very difficult to enforce rules banning smoking in front of children in private cars. They added that, on occasions where such offences were penalised, the accused went to Court and managed to have their fines withdrawn.

4) Progress made on implementing the Council Recommendation - Measures for cessation

The Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02) calls on EU Member States to introduce tobacco cessation policies. A European

301 CSO, 19 November 2020 (#3)
302 CSO, 15 January 2021, (#10)
303 CSO, 17 November 2020, (#2); CSO, 28 January 2021, (#18)
304 HE, 14 December 2020, (#5)
305 CSO, 17 November 2020, (#2)
306 CSO, 18 November 2020, (#9); CSO, 15 January 2021, (#10); CSO, 28 January 2021, (#18)
307 CSO, 4 December 2020, (#13)

Commission study[308] stated that in 2013, a large majority of EU Member States had developed comprehensive cessation guidelines based on scientific evidence and best practice, media campaigns to promote cessation, cessation programs for certain target groups, telephone quitlines and local events (e.g. No Tobacco Day).

Since 2013, the progress has been mainly observed in those few EU Member States that had not yet implemented the measures stated above. Now, almost all Member States have comprehensive and integrated guidelines, media campaigns to promote smoking cessation and telephone quitlines. In addition, some countries have gone beyond these measures and introduced smoking cessation programmes in different settings, such as dentists, pharmacists, or support given through online channels. Finally, since 2013 the number of countries having low-cost schemes or reimbursement schemes for nicotine-replacement therapy has increased.

Measures for cessation were described and discussed in the focus group conducted with Romanian stakeholders; see the box below for more information.

Focus group findings: Measures for cessation

Romania

Participants reported that through a collaboration between the European Network for Smoking and Tobacco Prevention (ENSP) and the Romanian Society of Pneumology, the ENSP updated the Romanian Society of Pneumology's guideline, and the latest version of the guideline was recently submitted to the Special Commission of the Minister of Health to be approved as an official guideline to be used in Romania for tobacco dependence treatment and cessation activities.

Introduction of complementary policies/measures to promote cessation

Almost all countries reported having introduced **comprehensive and integrated cessation guidelines based on scientific evidence and best practice**.

Nearly all countries stated that they have also introduced **media campaigns to promote smoking cessation**. The vast majority said they started implementing those measures before 2013, whereas a few countries reported having introduced media campaigns at a later stage, since 2013.

In the written questionnaire, almost all countries reported that they have also introduced **telephone quitlines.** Only a couple of countries reported not having done so yet (Estonia and Lithuania). The majority of countries that introduced Telephone quitlines did so before 2013 and a few countries (Greece, Latvia and Slovakia) reported having the Quitline in place since 2013. Another country (Norway) has ended the Quitline but has replaced it with a Mobile app for cessation of smoking and snus use. Malta reported to have a Quitline available and advertised on tobacco products products packs, as per the TPD.

All countries except for Denmark stated that they have **local events in place to promote smoking cessation**. These events were introduced before 2013 in all countries except for Latvia, Slovakia and Sweden that did so since 2013.

Cessation programmes

Almost all countries reported having cessation programmes implemented through different means and by varying stakeholders, as presented below.

Specialised centres for cessation and counselling and treatment of tobacco dependence

Most countries reported having in place specialised centres for cessation and counselling

308 European Commission, Burson-Marsteller, & Smoke-free Partnership. (2016). Study: An assessment of citizens' exposure to tobacco marketing. Brussels: DG SANTE. Available at: https://ec.europa.eu/health/sites/health/files/tobacco/docs/citizensexposure_tobaccomarketing_en.pdf

and treatment of tobacco dependence. In most of the cases, those are based inside the hospitals. Countries reported that these centres can be private or public.

Primary Healthcare

The majority of countries confirmed having in place cessation programs in primary care settings, usually offered by general practitioners. As an example, in Latvia, cessation guidelines for use in primary and perinatal health care settings were developed and distributed in 2018.

Secondary (e.g. hospitals) and Tertiary (e.g. highly specialised treatment) Health Care

Two thirds of countries responding to the written questionnaire reported offering specific cessation programmes in Secondary and Tertiary healthcare settings through a variety of means. For instance:

- Austria explained that some health care facilities offer support in quitting – partly through on-site specialists, and partly in cooperation with health insurances.
- Slovakia mentioned that there are different healthcare institutions, mostly Psychiatric Hospitals/Clinics where "Daily Hospitals for Tobacco Addiction" are established, offering smoking cessation programmes guided by specially trained physicians.
- Denmark stated that hospitals do not typically offer smoking cessation courses as this falls under the responsibility of the municipalities. The regions (in charge of the Health Care System in Denmark) have implemented or are in the process of implementing Very Brief Advice (VBA) as a referral tool from the hospitals to the smoking cessation course in the municipality where the given patient lives.

Other

One third of countries reported having other cessation measures. These include in most cases smoking cessation programs organised in different settings such as:

- other health professionals, such as pharmacies (e.g. Czechia, Denmark, Malta), dentists or nurses (e.g. Czechia);
- institutes of public health (e.g. Croatia);
- workplaces (e.g. Finland, Malta);
- educational institutions (e.g. Finland, and Malta where short training sessions on tobacco cessation are delivered during undergraduate and postgraduate trainings of health professionals);
- online channels (e.g. in Ireland, online support is given through a social media platform (open and closed group trial, webchat). Ireland also reported having organised webinar-type interventions using an application called 'attend anywhere').

Cessation programmes targeted at specific population groups

Half of the countries reported having in place smoking cessation programmes targeted at specific population groups. These programs are directed to young people/adolescents (and in some cases their parents), heavy smokers, pregnant women/new mothers, citizens with mental illness and substance use problems and other forms of vulnerabilities (i.e. homelessness), and groups of low socio-economic status. Examples are provided below:

- In Ireland, 'We Can Quit' is a 12-week group stop smoking support programme delivered to women in disadvantaged areas. Attendance at the course is free. Also, maternity-specific stop smoking services are provided in a number of maternity hospitals and community settings and attendance at these services is free.
- In Luxembourg, 2021 will mark the start of an experiment combining ambulant and clinical treatment of heavily addicted smokers that need to quit smoking for medical reasons. Luxembourg is also focusing on groups with low socio-economic status, although this is reportedly still work in progress.

- In Norway, a cessation programme for heavy smokers was started in 2020 (pilot project for three years).

Availability of low-cost schemes or reimbursement schemes for Nicotine Replacement Therapy (NRT)

Half of the countries reported having in place low-cost schemes or reimbursement schemes for nicotine replacement therapy. For instance:

- In Denmark, it is possible in most municipalities for heavy smokers and economically vulnerable citizens to receive free of charge or partly free of charge cessation medicine and nicotine replacement therapy. Most municipalities issue out vouchers that the citizen will hand in at the local pharmacy and then receive the chosen nicotine replacement therapy. In France, since January 1, 2019, nicotine substitutes have been reimbursed at 65% by Health Insurance and the rest could be paid for by complementary health insurance, if the user has one. In 2018, this represented a cost of EUR 33.48 million for the National Health Insurance.
- In Ireland, nicotine replacement therapy is provided for free to women in disadvantage areas as part of the programme 'We Can Quit'. In addition, members of the population who hold a medical card can benefit from free NRT products/stop smoking medications, when prescribed by a medical practitioner. The average reimbursed cost for NRT/Stop smoking medications in Ireland in 2019 was estimated at EUR 188/person.
- In the UK, nicotine replacement therapy is available free of charge.

In some of the countries with no low-cost or reimbursement schemes, alternative schemes are offered. For instance, Varenicline and/or Buproprion are reimbursed (partially in countries such as Finland, Portugal, fully in countries such as Spain and Italy).

Participants in the focus group with French stakeholders stressed the importance of nicotine replacement therapy. They stated that EU-level rules and national legislations in other Member States should follow the example of France[309], and require products aimed at reducing addiction to tobacco to be considered as 'essential medicines' (i.e. they should be easily accessible to smokers and they should be reimbursed). According to them, they should thus meet the marketing authorization obligation of Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004[310].

Challenges[311]

During interviews, some CSOs and health experts explained they believe that some countries have better treatment possibilities than others. For example:

- Nicotine Replacement Products may be available in most places but there is no uniformity at the EU-level on reimbursement of therapies. Participants of the focus group with French stakeholders stressed that reimbursing these products is critical, not only to encourage more people to quit smoking but also to send out a clear message that these products are essential medicines.
- Other stakeholders mentioned the different quality of cessation measures and reported that certain programmes have not been implemented in some countries (cessation programs for e-cigarettes, or Quitlines).

Another organisation explained that accessibility to some of these complementary services might be a problem for certain population groups and explained that although there are smoking cessation clinics in their countries, these are not easily accessible for those living

309 https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000006689878/

310 https://ec.europa.eu/health/sites/default/files/files/eudralex/vol-1/reg_2004_726/reg_2004_726_en.pdf

311 HE, 28 January 2021; CSO, 12 November 2020, (#1); CSO, 18 November 2020, (#4); (#17); CSO, 21 January 2021, (#22); CSO, 04 February 2021, (#23)

rurally. This results in some courses being cancelled as there are too few people enrolled to run the course. On this matter, another CSO commented that in some countries (e.g. Norway) despite the fact that there are complementary policies (free cessation app for people who are addicted to tobacco or snus, and information websites run by the health authorities), these are not offered to the whole population.

Participants of the focus group with French stakeholders also commented on the accessibility of nicotine replacement products, stating that there is not enough monitoring by the national authorities with regards to the manufacture of such products, considering their importance in helping people be healthier. As an example they highlighted the 2021 supply disruption of Champix (a medicine designed to help people stop smoking), caused by the presence of impurity at levels above those considered acceptable for EU medicines. The European Medicines Agency concluded that this level of impurity was not acceptable 'as the product was not critical and its absence from the EU market would not create a concern in terms of public health'.[312]

Finally, a couple of organisations reported a limited EU competence in tobacco cessation as a limitation to implement complementary tobacco cessation policies and measures, and explained that the Council should consider the guidelines available to implement article 14 of the FCTC.

5) Progress made on implementing the Council Recommendation - Multi-sectoral approaches

Traditionally, the health sector is in the lead when it comes to developing tobacco control policy. The Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02) invites EU Member States, however, to extend tobacco control beyond the health sector and to develop a comprehensive multi-sectoral approach[313]. In practice, this means that other governmental sectors and ministries should support the development of comprehensive tobacco control measures (e.g. through taxation). A European Commission study[314] stated that in 2013, a majority of EU Member States reported that they had a multi-sectorial tobacco control strategy. For example, a 2014 study found that tobacco control in the Netherlands was increasingly being included as part of a broader, integrated section on substance use instead of as an independent theme[315].

Most countries reported having in place multi-sectoral tobacco control policy programmes since 2013. For example, Portugal provided an example of a comprehensive multi-sectoral strategy. Their Tobacco Prevention programme includes cooperating with other sectors such as education, fiscal and tax authorities.[316] However, as in the 2013 Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free

312 https://www.ema.europa.eu/en/news/meeting-highlights-committee-medicinal-products-human-use-chmp-13-16-september-2021

313 Article 11: "Smoke-free policies should have adequate instruments to implement the multi-sectorial approach to tobacco control"

314 European Commission, Burson-Marsteller, & Smoke-free Partnership. (2016). Study: An assessment of citizens' exposure to tobacco marketing. Brussels: DG SANTE. Available at: https://ec.europa.eu/health/sites/health/files/tobacco/docs/citizensexposure_tobaccomarketing_en.pdf

315 Heijndijk, S. M., & Willemsen, M. C. (2015). Dutch tobacco control: Moving towards the right track? FCTC Shadow Report 2014. Den Haag: Alliantie Nederland Rookvrij. Available online: http://fctc.wpengine.com/wp-content/uploads/2015/02/FCTC_Shadow_Report_2014.pdf. This study explained that set of guidelines had been developed by the Centre for Healthy Living (…) to support municipalities in incorporating tobacco control in their local health policies. In addition, the Netherlands encouraged an integral approach to tobacco control, "incorporating environmental factors (e.g. reaching agreements with school boards to implement smoke-free schoolyards), regulation and enforcement (less relevant at the local level, but municipalities can stimulate compliance), education (e.g. stimulating the use of intervention at schools), signalling and support (e.g. providing financial means to encourage quit attempts among poorer segments of the population)". The study further added that as of 2015, the Trimbos Institute (…) would support municipalities in developing and implementing local prevention and enforcement policies.

316 https://www.dgs.pt/programa-nacional-para-a-prevencao-e-controlo-do-tabagismo.aspx

Environments[317], most Member States did not report specifically on the multi-sectorial aspect of tobacco control.

Multi-sectorial approaches were described and discussed in the focus group conducted with French and Romanian stakeholders; see the box below for more information.

317 European Commission (2013). Report on the implementation of the Council Recommendation of 30 November 2009 on Smoke-free Environments (2009/C 296/02). Commission Staff Working Document. Brussels: European Commission; 2013. Available online: https://ec.europa.eu/health/sites/health/files/tobacco/docs/smoke-free_implementation_report_en.pdf

Focus group findings: Multisectorial approaches

Romania

Participants reported that civil society has been a strong tobacco control coalition. For example, civil society brought a Tobacco Free Romania strategy (the "2035 - First Tobacco-Free Generation") forward to policymakers in 2016[318]. However, this has not yet been adopted or formalised into a governmental program.

Further, the Ministry of Health is reportedly currently in the process of developing the National Health strategy for 2021-2027. The Ministry of Health will work with external experts to develop a strategic document and it will have a strong focus on prevention of diseases. Legislation was also passed requesting the Ministry of Health to implement norms for disease prevention, including setting up a proper agency for prevention inside the Ministry.

Another example given was the European Cancer Plan, which brings the opportunity of action at national level through the National Cancer Control plan (reportedly currently being developed).

France

In France, two programmes have aimed to reduce smoking:

- The 2014 - 2019 National Tobacco Reduction Programme (Programme National de Réduction du Tabagisme - PNRT[319]), which enabled:
  - the establishment of national and regional governance;
  - the renewal of the legal framework on tobacco; and
  - the implementation of actions such as: tobacco advertising ban in tobacco stores; smoking ban in vehicles; mandatory declaration of ingredients; prohibition of some flavours and additives; obligation to declare the tobacco industry lobbying expenses; the 'month without tobacco' initiative; plain packaging; enlarged health warnings; and extended prescription rights for nicotine replacement therapy.
- The 2018 - 2022 National Tobacco Control Programme (Programme National de Lutte contre le Tabac - PNLT[320]), which broadens the range of interventions, for example by:
  - including economic and fiscal actions (such as fight against trafficking, homogenization of tax legislation at European level, and price increases);
  - creating more/new tobacco-free places (e.g. health care facilities, outdoor public spaces, workplaces);
  - ensuring better insurance coverage of nicotine replacement therapies;
  - intensifying actions to prevent tobacco use during pregnancy;
  - supporting the conversion of tobacconists' businesses; and
  - supporting research to fight against tobacco.

One participant commented that the second programme was more successful because it included economic and fiscal measures. However, other participants stressed the importance of implementing *a set of different types of approaches* to achieve one's objectives of reducing the prevalence of smoking, noting that it is difficult to say which of the measures was most effective.

6) Impacts of rules on smoke-free environments

In the country written questionnaire, respondents were asked about the health, social and economic impacts of rules on smoke-free environments. Many of the countries were unable to provide information on these impacts. For instance, some countries explained that evaluating impacts and establishing a measurable causal relationship is difficult to do, considering there are many variables in play and effects might not always be seen in the

318 Guvernul Romaniei. (2016). Prime Minister Dacian Ciolos has met with the representatives of the Initiative "2035- Romania's First Tobacco-Free Generation". Available from: https://www.gov.ro/en/news/prime-minister-dacian-ciolos-has-met-with-the-representatives-of-the-initiative-quot-2035-romania-s-first-tobacco-free-generation-quot

319 https://solidarites-sante.gouv.fr/IMG/pdf/PNRT2014-2019.pdf

320 https://solidarites-sante.gouv.fr/IMG/pdf/180702-pnlt_def.pdf

short term. However, several countries reported that they do monitor and evaluate the effectiveness of legislation or policy measures in place for smoke-free environments and provided some responses, based on their monitoring and evaluation work.

This Chapter presents findings from stakeholder consultations as well as the body of literature on the impacts of rules on smoke-free environments. The discussion mirrors the impacts discussed in the Impact Assessment of the Council Recommendation on smoke-free environments[321]: social impacts (section 6.1), economic impacts (section 6.2) and environmental impacts (section 6.3).

6.1) Social impacts of rules on smoke-free environments

Reduced smoking in venues where smoking is banned

Research focusing on Ireland demonstrated that smoke-free legislation has the potential to drastically reduce smoking where the legislation applies[322]. The study showed that following the implementation of the comprehensive workplace smoke-free law in March 2004, smoking reduced in all venues, including workplaces (62% to 14%), restaurants (85% to 3%), and bars/pubs (98% to 5%). Another study showed decreases in smoking in bars from 84% before the smoke-free law in France to 3% after the smoke-free law, from 88% to 34% in the Netherlands, and from 87% to 44% in Germany[323]. The higher post-implementation percentages in the Netherlands and Germany can be explained by the fact that those countries implemented partial instead of comprehensive smoke-free laws.

Reduced smoking in venues where smoking is not banned

Some studies also showed that smoke-free legislation has the potential to reduce smoking even in places where the legislation does not apply. For example, a study showed that there was a link between US smoke-free policies in workplaces and hospitality venues and the prevalence of smoking in private homes: the authors found that people living in a US county that is fully covered by a 100% clean indoor air law in workplaces, restaurants or bars were more likely to implement a voluntary 100% smoke-free-home rule (irrespective of whether they were living with smokers or not)[324].

Similarly, a study measured the impact of the implementation of national smoke-free legislation in four countries (Ireland, France, Germany and the Netherlands)[325]. It found that smoke-free legislation may stimulate smokers to establish total smoking bans in their homes, considering that in all four countries, there was a significant increase in the proportion of smokers with a total home smoking ban and that among continuing smokers, the number of cigarettes smoked per day either remained stable or decreased significantly.

321 Commission of the European Communities. (2009). COMMISSION STAFF WORKING DOCUMENT: Accompanying document to the Proposal for a COUNCIL RECOMMENDATION on smoke-free environments: IMPACT ASSESSMENT. Available at: https://eur-lex.europa.eu/resource.html?uri=cellar:61a070b4-d46e-4d1f-8d8b-8ff57923d5d8.0001.01/DOC_1&format=PDF

322 Fong, G. T., Hyland, A., Borland, R., Hammond, D., Hastings, G., McNeill, A., Anderson, S., Cummings, K. M., Allwright, S., Mulcahy, M., Howell, F., Clancy, L., Thompson, M. E., Connolly, G., & Driezen, P. (2006). Reductions in tobacco smoke pollution and increases in support for smoke-free public places following the implementation of comprehensive smoke-free workplace legislation in the Republic of Ireland: findings from the ITC Ireland/UK Survey. Tobacco control, 15 Suppl 3(Suppl 3), iii51–iii58. Available at: https://pubmed.ncbi.nlm.nih.gov/16754947/ https://doi.org/10.1136/tc.2005.013649

323 Nagelhout, G. E., Mons, U., Allwright, S., Guignard, R., Beck, F., Fong, G. T., ... & Willemsen, M. C. (2011). Prevalence and predictors of smoking in "smoke-free" bars. Findings from the International Tobacco Control (ITC) Europe Surveys. Social science & medicine, 72(10), 1643-1651

324 Cheng KW, Glantz SA, Lightwood JM. Association between smokefree laws and voluntary smokefree-home rules. American Journal of Preventive Medicine. 2011;41(6):566–572. Available at: https://pubmed.ncbi.nlm.nih.gov/22099232/

325 Mons U, Nagelhout GE, Allwright S, et al (2012). Impact of national smoke-free legislation on home smoking bans: findings from the International Tobacco Control Policy Evaluation Project Europe Surveys. Tobacco Control 2013. Available at: https://tobaccocontrol.bmj.com/content/22/e1/e2

Reduced morbidity and mortality from active and passive smoking

The analysis to support the Impact Assessment of the Commission's smoke-free initiatives[326] predicted that an EU smoke-free initiative would reduce mortality from diseases such as lung cancer, stroke, heart disease, and chronic lower respiratory disease due to reduced second-hand smoke exposure.

When asked about annual mortality due to second-hand smoke exposure and/or reduced active smoking, most of the countries who responded to the question reported that this is monitored. When asked about annual morbidity due to second-hand smoke exposure and/or reduced active smoking, more than half of the countries who responded to the question reported that this is monitored in their country, with some providing evidence that morbidity has reduced due to rules of smoke-free environments[327],[328]. During interviews, CSOs and health experts[329] confirmed that rules on smoking have positive impacts on health.

The literature review confirmed that rules on smoke-free environments have positive health impacts. For example:

- A European Commission study[330] found that, in 2013, studies on the health effects of smoke-free legislation indicated that positive impacts appear very quickly after starting to implement smoke-free legislation (e.g. reduction in the incidence of heart attacks in the general population and improvements in respiratory health). The report also states that employee health was also positively impacted by smoke-free legislation at workplaces.
  This finding was confirmed by a 2016 Cochrane systematic review[331] which demonstrated that across 21 countries, enacting national legislative smoking bans led to improved health outcomes for smokers and non-smokers in terms of cardiovascular, respiratory, and perinatal health outcomes. There was also consistent evidence for reduced mortality.
- A 2016 study examined WHO MPOWER measures implemented between 2007 and 2014, and projected that worldwide, 5.4 million smoking-attributable deaths would be averted by comprehensive smoke-free laws[332].
- Several studies have demonstrated that smoke-free policies reduce incidence of heart attacks[333].
- In Finland, exposure to second-hand smoke decreased substantially from 1992-2012 (a period during which smoking bans were enacted), and this study also indicated that second-hand smoke exposure was associated with chronic bronchitis and all-cause and cardiovascular mortality[334].

326 Scoggins, A., de Vries, H., Conklin, A., & Hatziandreu, E. (RAND Europe). (2009). Analysis to support the Impact Assessment of the Commission's smokefree initiatives. Available at: https://ec.europa.eu/health/archive/ph_determinants/life_style/tobacco/documents/tobacco_reportia_en.pdf
327 Ministerul Sănătăţii (2016) *Bolile legate de fumat sunt în scădere, dar parlamentarii discută din nou modificarea legii* [press release] 29 December. Available at: http://www.ms.ro/2016/12/29/bolile-legate-de-fumat-sunt-in-scadere-dar-parlamentarii-discuta-din-nou-modificarea-legii/ (Accessed 23 February 2021).
328 Clancy, L., 2007. Ireland's workplace smoking ban. Breathe, 3(3), pp.236-244.
329 HE, 17 December 2020, (#6); HE, 17 December 2020, (#8); HE, 19 January 2021, (#15); CSO, 20 January 2021, (#26)
330 European Commission, Burson-Marsteller, & Smoke-free Partnership. (2016). Study: An assessment of citizens' exposure to tobacco marketing. Brussels: DG SANTE. Available at: https://ec.europa.eu/health/sites/health/files/tobacco/docs/citizensexposure_tobaccomarketing_en.pdf
331 Frazer, K., Callinan, J.E., McHugh, J., van Baarsel, S., Clarke, A., Doherty, K., Kelleher, C., (2016). Legislative smoking bans for reducing harms from secondhand smoke exposure, smoking prevalence and tobacco consumption (REVIEW) Cochrane Database of Systematic Reviews 2016, Issues 2: CD005992. DOI: 10.1002/14651858.CD005992.pub3:
332 Levy, D.T., Yuan, Z., Luo, Y. and Mays, D., (2018). Seven years of progress in tobacco control: an evaluation of the effect of nations meeting the highest level MPOWER measures between 2007 and 2014. Tobacco control, 27(1), pp.50-57.
333 E.g. Glantz, S.A., 2008. Meta-analysis of the effects of smokefree laws on acute myocardial infarction: an update. *Preventive medicine*, *47*(4), p.452.; Cesaroni, G., Forastiere, F., Agabiti, N., Valente, P., Zuccaro, P. and Perucci, C.A., 2008. Effect of the Italian smoking ban on population rates of acute coronary events. *Circulation*, *117*(9), p.1183.
334 Pelkonen, M.K., Laatikainen, T.K. and Jousilahti, P., (2019). The relation of environmental tobacco smoke (ETS) to chronic bronchitis and mortality over two decades. Respiratory medicine, 154, pp.34-39.

- Other studies indicate that the health of hospitality workers (e.g. bartenders) improved following smoking bans[335]. Note that there is not much recent research on this topic, potentially because many countries banned smoking in hospitality several years ago.
- In Belgium, a study showed that smoking ban interventions were associated with reductions in the population rate of myocardial mortality, with public health gains even before and during the middle-aged period of life[336].
- In Czechia, a study found that there had been a significant decrease in the number of hospitalisations for acute heart attack and asthma following the anti-smoking law[337].
- Ireland was the first country in the world to implement a national workplace smoking ban in March 2004. A study demonstrated that the smoking ban was associated with immediate reductions in early mortality, and that post-ban risk differences did not change with a longer follow-up period[338].
- In Romania, official data showed that the implementation of the law banning smoking in public places led to a decrease in the number of discharges for smoking-related diseases and to fewer acute illnesses caused by tobacco[339].
- A systematic review and meta-analysis of 11 studies found that smoke-free legislation was associated with reductions in hospital attendances for asthma and pre-term births[340].
- A systematic review and meta-analysis of 11 studies found that smoke-free car policies are associated with an immediate reduction in child tobacco smoke exposure in cars and could result in a 0.2-2.4% reduction in asthma diagnoses in children[341]. Similarly, in Scotland, enacting legislation for smoke-free vehicles in the presence of a minor was found to significantly decrease the incidence of emergency admissions for asthma among children under the age of five (but not for those aged 5-15 years) in the two-year period after its introduction[342]. The reduction in incidence found among children under five years old was greater than that for previous smoke-free interventions such as smoke-free public place legislation and the national mass-media 'Take it Right Outside' campaign.

The evidence is less clear for smoke-free policies for **e-cigarettes or heated tobacco products** (HTPs). A first observation is that e-cigarettes and HTPs are relatively new products, and there is consequently little knowledge on their long-term impacts on health. A recent preliminary opinion from the Scientific Committee on Health, Environmental and Emerging Risks (SCHEER) concluded that there was weak to moderate evidence of risks of

335 E.g. Rajkumar, S., Stolz, D., Hammer, J., Moeller, A., Bauer, G.F., Huynh, C.K. and Röösli, M., (2014). Effect of a smoking ban on respiratory health in nonsmoking hospitality workers: a prospective cohort study. Journal of occupational and environmental medicine, 56(10), pp.e86-e91.; Semple, S., Maccalman, L., Naji, A.A., Dempsey, S., Hilton, S., Miller, B.G. and Ayres, J.G., (2007). Bar workers' exposure to second-hand smoke: the effect of Scottish smoke-free legislation on occupational exposure. *Annals of Occupational Hygiene*, *51*(7), pp.571-580.; Menzies, D., Nair, A., Williamson, P.A., Schembri, S., Al-Khairalla, M.Z., Barnes, M., Fardon, T.C., McFarlane, L., Magee, G.J. and Lipworth, B.J., (2006). Respiratory symptoms, pulmonary function, and markers of inflammation among bar workers before and after a legislative ban on smoking in public places. *Jama*, *296*(14), pp.1742-1748.

336 Cox B, Vangronsveld J, Nawrot TS Impact of stepwise introduction of smoke-free legislation on population rates of acute myocardial infarction deaths in Flanders, Belgium *Heart* 2014;**100:**1430-1435. Available at: https://pubmed.ncbi.nlm.nih.gov/25147283/

337 https://reporting.uzis.cz/cr/index.php?pg=aktuality&aid=29

338 Stallings-Smith S, Zeka A, Goodman P, Kabir Z, Clancy L. Reductions in cardiovascular, cerebrovascular, and respiratory mortality following the national irish smoking ban: interrupted time-series analysis. PLoS One. 2013 Apr 24;8(4):e62063. doi: 10.1371/journal.pone.0062063. PMID: 23637964; PMCID: PMC3634756. Available at: https://pubmed.ncbi.nlm.nih.gov/23637964/

339 http://www.ms.ro/2016/12/29/bolile-legate-de-fumat-sunt-in-scadere-dar-parlamentarii-discuta-din-nou-modificarea-legii/

340 Been, J.V., Nurmatov, U.B., Cox, B., Nawrot, T.S., van Schayck, C.P. and Sheikh, A., 2014. Effect of smoke-free legislation on perinatal and child health: a systematic review and meta-analysis. The Lancet, 383(9928), pp.1549-1560.

341 Radó, M.K., Mölenberg, F.J., Westenberg, L.E., Sheikh, A., Millett, C., Burdorf, A., van Lenthe, F.J. and Been, J.V., 2021. Effect of smoke-free policies in outdoor areas and private places on children's tobacco smoke exposure and respiratory health: a systematic review and meta-analysis. The Lancet Public Health.

342 Mackay, D.F., Turner, S.W., Semple, S.E., Dick, S. and Pell, J.P., 2021. Associations between smoke-free vehicle legislation and childhood admissions to hospital for asthma in Scotland: an interrupted time-series analysis of whole-population data. The Lancet Public Health.

respiratory and cardiovascular damage due to second-hand exposure to e-cigarette vapour[343]. Additionally, there is consensus that e-cigarettes are much less harmful than tobacco and, in most countries, much less people are using e-cigarettes than tobacco, which makes it more difficult to establish (separate) effects of smoke-free policies for e-cigarettes. Therefore, smoking bans for e-cigarettes may also have health benefits, although the authors of the SCHEER opinion concluded that more research was needed on this topic.

It is important to note, that studies have demonstrated that a comprehensive, full smoking ban is more effective when compared to partial smoking bans[344],[345],[346]. The WHO Report on the Global Tobacco Epidemic, 2021[347] made a strong statement that "the only way to fully protect people from second-hand smoke is to permit no exceptions" (e.g. designated smoking areas/rooms, ventilation systems, filtration devices), considering that "such exceptions are not protective and cannot eliminate all second-hand smoke".

Impact on occupational safety and workers' health

Smoke-free environments can have a positive impact on occupational safety and workers' health, as demonstrated by the close link between occupational safety and health regulations and smoke-free legislation. For example:

- In the United States, occupational safety regulations do not allow exposures from chemical compounds found in tobacco smoke to exceed certain levels (29 CFR 1910.1000) and the Mine Safety and Health Administration states that persons shall not smoke, carry smoking materials, matches, or lighters underground, or smoke in areas that could cause fire or an explosion (30 CFR 75.1702)[348].
- The Finnish government implemented partial smoke-free workplace legislation, with designated smoking areas and with exemptions for the hospitality industry, in 1995. The Revised Tobacco Act from 2000 classified second-hand tobacco smoke as an occupational carcinogen. Although only a partial smoking ban was implemented in the hospitality industry, pregnant restaurant workers could be transferred to work in the smoke-free areas for their own protection and that of their unborn child.[349]
- A European Commission recommendation (C(2003) 3297) recommends Member States to introduce national laws concerning scientifically recognised occupational diseases liable for compensation and subject to preventive measures. The suggested list of occupational hazards and diseases does not specifically include tobacco smoke or occupational disease caused by second-hand tobacco smoke, but some of the chemical compounds found in tobacco smoke are included (e.g. formaldehyde, lead, arsenic, ammonia) and so are some of the diseases that can be caused by second-hand tobacco smoke (e.g. diseases of the respiratory system and cancers)[350].

Increased quit attempts

A study examining comprehensive smoke-free workplace legislation in Ireland and England as well as partial hospitality industry legislation in the Netherlands found indications that

343 Scientific Committee on Health, Environmental and Emerging Risks (SCHEER). (2020). Preliminary Opinion on electronic cigarettes. European Commission. Available at: https://ec.europa.eu/health/sites/health/files/scientific_committees/scheer/docs/scheer_o_017.pdf
344 Nagelhout, G.E., de Vries, H., Boudreau, C., Allwright, S., McNeill, A,. van den Putte, B., Fong, G.T., Willemsen, M.C. (2012) Comparative impact of smoke-free legislation on smoking cessation in three European countries, European Journal of Public Health, Volume 22, Issue suppl_1, February 2012, Pages 4–9, https://doi.org/10.1093/eurpub/ckr204
345 Frazer, K., Callinan, J.E., McHugh, J., van Baarsel, S., Clarke, A., Doherty, K. and Kelleher, C., (2016). Legislative smoking bans for reducing harms from secondhand smoke exposure, smoking prevalence and tobacco consumption. Cochrane Database of Systematic Reviews, (2).
346 Nagelhout, G.E., Willemsen, M.C. and de Vries, H. (2011). The population impact of smoke-free workplace and hospitality industry legislation on smoking behaviour. Findings from a national population survey. Addiction, 106: 816-823. https://doi.org/10.1111/j.1360-0443.2010.03247.x
347 WHO Report on the Global Tobacco Epidemic, 2021. Geneva: World Health Organization; 2021. Available at: https://www.who.int/publications/i/item/9789240032095
348 https://www.cdc.gov/niosh/topics/tobacco/tobaccosmoking.html
349 https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/publication/wcms_108424.pdf
350 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003H0670&from=EN

comprehensive smoke-free laws may have a positive effect on quit attempts and quit success, while partial smoke-free legislations have no such impact[351]. The authors therefore recommended that countries implement comprehensive smoke-free legislation.

A systematic review found a 6.4 percentage points increase in smoking cessation among smokers exposed to a smoke-free law[352]. However, another review describes the literature as being mixed about whether smoke-free laws have an impact on quit attempts[353].

Reduced prevalence of smoking

As noted in the Impact Assessment for the Council Recommendation, smoke-free policies may reduce smoking prevalence, and therefore bring health benefits. The Cochrane systematic review found inconsistent evidence that smoking bans reduce smoking prevalence rates and tobacco consumption[354]. However, another study showed that the take-up of employer-offered cessation programmes was significantly higher among workplaces with a 100% smoke-free policy, suggesting that there are opportunities for workplace smoke-free policies to reduce tobacco use (and second-hand smoke exposure)[355].

Reduction in socio-economic inequalities

Results on the impacts of smoke-free rules on socio-economic inequalities are mixed.

Several countries reported that they monitor changes in socio-economic inequalities as a result of smoke-free legislation. The notion that socio-economic inequalities can be reduced when introducing bans is supported by some of health experts interviewed[356] and some of the documents reviewed. For example:

- One study noted that, prior to a smoke-free environments act, there were large differences between Māori and non-Māori in New Zealand (with smoking prevalence being strongly associated with Māori ethnicity)[357]. This study found that the act reduced second-hand smoke exposure, impacting Māori health positively and reducing disparities between Māori and non-Māori.
- After workplace smoking was prohibited in Ohio, one study found a reduction in the odds of smoking pre-conception in low-income women[358]. The authors noted that lower income women are at higher risk for prenatal smoking: considering that that maternal smoking has negative impacts on birth outcomes, this finding therefore suggests that smoke-free rules can reduce health disparities between socio-economic groups. Similarly, there were reductions in preterm births and maternal smoking in Ireland, even when controlling for confounders such as income[359].

351 Nagelhout, G.E., de Vries, H., Boudreau, C., Allwright, S., McNeill, A,. van den Putte, B., Fong, G.T., Willemsen, M.C. (2012) Comparative impact of smoke-free legislation on smoking cessation in three European countries, European Journal of Public Health, Volume 22, Issue suppl_1, February 2012, Pages 4–9, Available at: https://doi.org/10.1093/eurpub/ckr204

352 Hopkins, D. P., Razi, S., Leeks, K. D., Kalra, G. P., Chattopadhyay, S. K., Soler, R. E., & Task Force on Community Preventive Services. (2010). Smokefree policies to reduce tobacco use: a systematic review. American journal of preventive medicine, 38(2), S275-S289

353 Hahn, E. J. (2010). Smokefree legislation: a review of health and economic outcomes research. American journal of preventive medicine, 39(6), S66-S76

354 Frazer, K., Callinan, J.E., McHugh, J., van Baarsel, S., Clarke, A., Doherty, K., Kelleher, C., (2016). Legislative smoking bans for reducing harms from secondhand smoke exposure, smoking prevalence and tobacco consumption (REVIEW) Cochrane Database of Systematic Reviews 2016, Issues 2: CD005992. DOI: 10.1002/14651858.CD005992.pub3:

355 Syamlal, G, et al. "Workplace Smoke-Free Policies and Cessation Programs Among U.S. Working Adults," American Journal of Preventive Medicine, 56(4):548-562, April 2019. Available at: https://pubmed.ncbi.nlm.nih.gov/30772152/

356 CSO, 28 January 2021, (#18)

357 Edwards, R., Gifford, H., Waa, A., Glover, M., Thomson, G. and Wilson, N., (2009). Beneficial impacts of a national smokefree environments law on an indigenous population: a multifaceted evaluation. *International Journal for Equity in Health*, *8*(1), pp.1-14. Available at: https://equityhealthj.biomedcentral.com/articles/10.1186/1475-9276-8-12

358 Klein, E.G., Liu, S.T. and Conrey, E.J., (2014). Comprehensive smoke-free policies: a tool for improving preconception health?. Maternal and child health journal, 18(1), pp.146-152. Available at: https://pubmed.ncbi.nlm.nih.gov/23467844/

359 Kabir, Z., Clarke, V., Conroy, R., McNamee, E., Daly, S. and Clancy, L., (2009). Low birthweight and preterm birth rates 1 year before and after the Irish workplace smoking ban. *BJOG: An International Journal of Obstetrics & Gynaecology*, *116*(13), pp.1782-1787. Available at: https://pubmed.ncbi.nlm.nih.gov/19832830/

However, interviews with other health experts[360] and other studies suggest that smoke-free rules do not always lead to a reduction in socio-economic inequalities. For instance:

- A study examined the period 1991 to 2009 in Finland where the tobacco law has gradually restricted smoking of population. It found that while there was a strong decrease in adolescents' exposure to environmental tobacco smoke, socio-economic differences in exposure to environmental tobacco smoke persisted amongst adolescents[361].
- Results from the Austrian Health Interview Survey showed that while smoke-free rules had been effective in reducing both active and passive smoking for all socio-economic groups, these reductions were stronger for the higher-income groups than in the lower-income ones, and the legislation therefore actually increased socio-economic differences. Austria reported that while this could also be due to a general increasing of inequalities, there should nevertheless be more focus on socio-economic marginalised groups when implementing smoking bans.
- A health expert explained that in Portugal, current smoking bans promoted health inequalities between rural and urban areas: he said that enforcement was easier in cosmopolitan cities than rural areas, leading to unequal levels of compliance and protection[362].
- A systematic review[363] found that smoke-free policies which were voluntary, regional or partial were more likely to have a negative equity impact in comparison to national and comprehensive smoke-free policies.

Impact on attitudes

The majority of countries reported a change in support for smoke-free legislation.

An analysis of several waves of the International Tobacco Control (ITC) surveys in France, Germany and the Netherlands indicated that smoke-free rules can increase support once they are in place, and this effect seems strongest for more comprehensive policies[364]. Some health experts interviewed[365] and several studies reported increased public support (amongst smokers and non-smokers) for smoke-free legislation and in particular how support increases after implementation. A few examples include:

- A EUREST-PLUS study found that 96.3% of the sample supported smoke-free legislation for cars carrying pre-school children (a 2.8 percentage point increased from 2016). Among smokers who owned cars, there was a significant 7.2 percentage points increase in voluntary implementation of smoke-free cars carrying children from 2016 to 2018[366]. This data represents a sample across Germany, Greece, Hungary, Poland, Romania and Spain, suggesting very high levels of support across the EU and that implementation of such measures is feasible.

360 HE, 17 December 2020, (#6)
361 Raisamo, S.U., Doku, D.T., Heloma, A. and Rimpelä, A.H. (2013). Persistence of socioeconomic differences in adolescents' environmental tobacco smoke exposure in Finland: 1991–2009. Scandinavian journal of public health, 42(2), 184-193. https://doi.org/10.1177/1403494813514301
362 HE, 28 January 2021, (#17)
363 Brown, T., Platt, S. and Amos, A., 2014. Equity impact of population-level interventions and policies to reduce smoking in adults: a systematic review. Drug and alcohol dependence, 138, pp.7-16. Available at: https://www.sciencedirect.com/science/article/abs/pii/S0376871614007741
364 Mons, U., Nagelhout, G.E., Guignard, R., McNeill, An. Van de Putten, B., Willemsen, M.C., Brenner, H., Potschke-Lange, M., Breitling, L.P. (2012) Comprehensive smoke-free policies attract more support from smokers in Europe than partial policies. European Journal of Public Health, Volume 22, Issue suppl_1, February 2012, Pages 10–16, https://doi.org/10.1093/eurpub/ckr202
365 HE, 9 December 2020, (#14)
366 Nogueira, S. O., Tigova, O., Driezen, P., Fu, M., Kyriakos, C. N., Zatoński, M., Mons, U., Quah, A., Demjén, T., Trofor, A. C., Przewoźniak, K., Katsaounou, P. A., Fong, G. T., Vardavas, C. I., Fernández, E., & EUREST-PLUS Consortium (2020). Do smokers want to protect non-smokers from the harms of second-hand smoke in cars? Findings from the EUREST-PLUS ITC Europe Surveys. European journal of public health, 30(Supplement_3), iii108–iii112. https://doi.org/10.1093/eurpub/ckaa056

- In Ireland, a study showed that support for total bans among Irish smokers increased in all venues, including workplaces (43% to 67%), restaurants (45% to 77%), and bars/pubs (13% to 46%).[367]
- A study using ITC surveys in France indicated that after a ban on smoking indoors, most smokers (74.5%), non-smokers (89.4%) and quitters (74.0%) supported a partial or complete ban on smoking in outdoor areas of restaurants[368]. Belgium reported that a Foundation against Cancer survey revealed there was 49 % of support before the general ban and 77 % of support after the ban among the general population (among smokers, this was 27 % before and 59 % after the ban). A recent EUREST-PLUS study found that more than half of smokers (53.1% in 2016 and 54.6% in 2018) across Germany, Greece, Hungary, Poland, Romania, Spain and England supported a ban on using **e-cigarettes** in smoke-free environments.

Reduction of ETS exposure at home

Although some used to think that public smoking bans may displace smoking into the home, and subsequently increase second-hand smoke there, as noted in the Impact Assessment for the Council Recommendation[369], smoke-free policies actually reduce exposure to second-hand smoke in the home.

A 2017 systematic review concluded that the displacement hypothesis was unfounded, and in fact public smoking bans decreased smoking in the home[370]. Similarly, a 2018 systematic review and meta-analysis concluded that public smoking bans indeed reduced children's exposure to second-hand smoke at home[371].

6.2) Economic impacts of rules on smoke-free environments

Economic impacts of smoke-free environments in general are discussed below.

E-cigarettes and HTPs are relatively new products, and their market share is still low compared to "traditional" tobacco products for smoking, meaning that it is difficult to assess the economic impact of extending smoke-free laws to these products. Research on this topic was very scarce.

Macroeconomic impacts

Impact on medical and non-medical costs

Some positive economic impacts of smoke-free measures were reported for government and society. For instance, a few countries (Italy and Spain) mentioned a reduction in annual medical costs due to reduced second-hand smoke exposure among staff. Austria noted that the effects of the Austrian smoking ban in hospitality have not yet been felt. However,

367 Fong, G. T., Hyland, A., Borland, R., Hammond, D., Hastings, G., McNeill, A., Anderson, S., Cummings, K. M., Allwright, S., Mulcahy, M., Howell, F., Clancy, L., Thompson, M. E., Connolly, G., & Driezen, P. (2006). Reductions in tobacco smoke pollution and increases in support for smoke-free public places following the implementation of comprehensive smoke-free workplace legislation in the Republic of Ireland: findings from the ITC Ireland/UK Survey. Tobacco control, 15 Suppl 3(Suppl 3), iii51–iii58. Available at: https://pubmed.ncbi.nlm.nih.gov/16754947/ https://doi.org/10.1136/tc.2005.013649

368 Kennedy, R. D., Behm, I., Craig, L., Thompson, M. E., Fong, G. T., Guignard, R., & Beck, F. (2012). Outdoor smoking behaviour and support for outdoor smoking restrictions before and after France's national smoking ban. European journal of public health, 22 Suppl 1(Suppl 1), 29–34. https://doi.org/10.1093/eurpub/ckr208

369 Commission of the European Communities. (2009). COMMISSION STAFF WORKING DOCUMENT: Accompanying document to the Proposal for a COUNCIL RECOMMENDATION on smoke-free environments: IMPACT ASSESSMENT. Available at: https://eur-lex.europa.eu/resource.html?uri=cellar:61a070b4-d46e-4d1f-8d8b-8ff57923d5d8.0001.01/DOC_1&format=PDF

370 Monson, E. and Arsenault, N., (2017). Effects of enactment of legislative (public) smoking bans on voluntary home smoking restrictions: a review. *Nicotine & Tobacco Research*, *19*(2), pp.141-148.

371 Nanninga, S., Lhachimi, S.K. and Bolte, G., (2018). Impact of public smoking bans on children's exposure to tobacco smoke at home: a systematic review and meta-analysis. *BMC public health*, *18*(1), pp.1-12.

the Austrian Institute for Advanced Studies predicted a medium-term decrease of medical costs as a consequence of this ban[372].

Several studies have also shown that smoke-free policies could help reduce healthcare costs[373],[374]. In particular, a review which considered several smoking-reduction policies concluded that non-price-based interventions (including smoking bans) present economic benefits such as savings from smoking-related medical expenditures, heart diseases averted and the value of lives saved[375].

Direct impact on revenue from tobacco taxes

The Impact Assessment for the Council Recommendation[376] notes that if smoking bans reduce smoking prevalence, this could reduce revenues gained from taxes on tobacco. However, it also states that taxation has been increasing, which counteracts reductions in smoking to increase or stabilise revenue from taxation, and therefore concludes that smoking bans are unlikely to impact the budget of Member States significantly.

Nevertheless, in the present research some countries (Germany, Greece, Italy, Latvia and the Netherlands) reported reduced revenues from tobacco taxes due to reduced smoking.

Micro-economic impacts

The Impact Assessment for the Council Recommendation[377] notes several potential micro-economic impacts of smoke-free rules, including reducing cleaning, maintenance, redecorating, and fire damage costs. Another impact proposed was productivity gains from fewer smoking breaks taken.

Cleaning, maintenance, redecoration + fire damage

One country (the Netherlands) reported reduced **costs of fires, cleaning and redecoration**. Interviews with health experts reinforced the point that there are economic benefits for restaurants in terms of reduced costs for cleaning furnishings that are damaged by smoke[378]. Although dated, a couple of studies also found that business that allow smoking experience higher cleaning and maintenance costs than those that are smoke-free[379],[380]. A more recent review which considered several smoking-reduction policies concluded that non-price-based interventions (including smoking bans) present economic benefits such as costs averted by a reduction in smoking-induced fires[381].

372 Institute for Advanced Studies (2021) Volkswirtschaftliche Effekte des Rauchens: Vermeidbare Kosten von jährlich 2,4 Milliarden Euro. Available at: https://www.ihs.ac.at/about/public-relations/press-releases/2018/volkswirtschaftliche-effekte-des-rauchens

373 Mudarri D. The costs and benefits of smoking restrictions: An assessment of the smoke-free environment act of 1993 (h.R. 3434). Washington, DC: United States Environmental Protection Agency, Office of Radiation and Indoor Air, 1994

374 Ong MK and Glantz SA. Cardiovascular health and economic effects of smoke-free workplaces. American Journal of Medicine, 2004; 117(1):32-8. Available from: https://www.ncbi.nlm.nih.gov/pubmed/15210386

375 Ekpu, V.U. and Brown, A.K., (2015). The economic impact of smoking and of reducing smoking prevalence: review of evidence. *Tobacco use insights*, *8*, pp.TUI-S15628.

376 Commission of the European Communities. (2009). COMMISSION STAFF WORKING DOCUMENT: Accompanying document to the Proposal for a COUNCIL RECOMMENDATION on smoke-free environments: IMPACT ASSESSMENT. Available at: https://eur-lex.europa.eu/resource.html?uri=cellar:61a070b4-d46e-4d1f-8d8b-8ff57923d5d8.0001.01/DOC_1&format=PDF

377 Commission of the European Communities. (2009). COMMISSION STAFF WORKING DOCUMENT: Accompanying document to the Proposal for a COUNCIL RECOMMENDATION on smoke-free environments: IMPACT ASSESSMENT. Available at: https://eur-lex.europa.eu/resource.html?uri=cellar:61a070b4-d46e-4d1f-8d8b-8ff57923d5d8.0001.01/DOC_1&format=PDF

378 HE, 17 December 2020, (#8); HE, 9 December 2020, (#14)

379 Javitz HS, Zbikowski SM, Swan GE, Jack LM. Financial burden of tobacco use: an employer's perspective. Clin Occup Environ Med. 2006;5(1):9-29, vii. doi: 10.1016/j.coem.2005.10.007

380 Mudarri DH. The costs and benefits of smoking restrictions: an assessment of the Smoke-Free Environment Act of 1993 (H.R. 3434). Washington, DC: U.S. Environmental Protection Agency, Office of Radiation and Indoor Air; 1994

381 Ekpu, V.U. and Brown, A.K., (2015). The economic impact of smoking and of reducing smoking prevalence: review of evidence. *Tobacco use insights*, *8*, pp.TUI-S15628.

Productivity

A few countries (Austria and the Netherlands) reported an **increase in workers' productivity** related to smoking breaks[382]. This statement was corroborated by a representative organisation from the hospitality sector[383], who noted that prohibiting indoor smoking had a positive impact on the health of employees, and in turn on their productivity and presenteeism.

A handbook[384] from the International Agency for Research on Cancer (IARC) evaluating the effectiveness of smoke-free policies stated that smoke-free policies might lead to reduced productivity in some workers, due to employees taking more smoking breaks or being less able to concentrate because of reduced opportunities to smoke. However, the handbook concludes that this loss in productivity is likely to be offset by the reductions in time lost for smoking breaks by some employees who quit or cut back in response to the policy as well as by productivity gains that accrue from reductions in absenteeism and premature deaths caused by smoking. In addition, a review which considered several smoking-reduction policies concluded that non-price-based interventions (including smoking bans) present economic benefits such as gains in productivity[385].

In addition, a 2018 study from the USA found that workplace smoking bans lead to increased corporate innovation, measured in terms of patents and patent citations, and that this impact is greater in states with stronger enforcement of laws[386]. The authors suggested that smoke-free laws affect innovation through three mechanisms: local residents' health conditions improved; productivity of a firm's inventors increased; and more productive non-smoker inventors moved to the legislating state.

Distributional effects

Impact on hospitality industry

A systematic review of several countries concluded that there are no substantial economic gains or losses associated with smoke-free policies in the hospitality sector[387].

A 2013 European Commission study[388] found that the economic impact of smoking bans on the restaurant/hospitality sector was limited (neutral or even positive).

Similarly, a 2003 review of the quality of studies assessing the economic impacts of smoke-free legislation on the hospitality industry found no impact or a positive impact of smoke-free restaurant and bar laws on sales or employment, once accounting for the quality of the study[389],[390]. Two of the authors continued to review studies until 2008, and found that results were maintained[391].

382 Note that Austria's comment was based on an assumption that employees in the hospitality sector are more productive after implementing the smoking ban, and that the Netherlands does not conduct systematic monitoring.
383 Environmental stakeholder, 17 November 2020, (#1)
384 IARC Handbooks of Cancer Prevention, Tobacco Control, Vol. 13: Evaluating the Effectiveness of Smoke-free Policies (2009: Lyon, France).
385 Ekpu, V.U. and Brown, A.K., (2015). The economic impact of smoking and of reducing smoking prevalence: review of evidence. *Tobacco use insights*, *8*, pp.TUI-S15628.
386 Gao, H., Hsu, P.H., Li, K. and Zhang, J., (2020). The real effect of smoking bans: evidence from corporate innovation. *Journal of Financial and Quantitative Analysis*, *55*(2), pp.387-427.
387 Cornelsen, L., McGowan, Y., Currie-Murphy, L.M. and Normand, C., (2014). Systematic review and meta-analysis of the economic impact of smoking bans in restaurants and bars. *Addiction*, *109*(5), pp.720-727.
388 European Commission, Burson-Marsteller, & Smoke-free Partnership. (2016). Study: An assessment of citizens' exposure to tobacco marketing. Brussels: DG SANTE. Available at: https://ec.europa.eu/health/sites/health/files/tobacco/docs/citizensexposure_tobaccomarketing_en.pdf
389 In studies concluding a negative impact, the odds of not being peer-reviewed was 20 times that of studies concluding no such negative impact. All of the studies concluding a negative impact were supported by the tobacco industry. 94% of the tobacco industry supported studies concluded a negative economic impact compared to none of the non-industry supported studies.
390 Scollo, M,. Lal, A., Hyland, A., et al (2003) Review of the quality of studies on the economic effects of smoke-free policies on the hospitality industryTobacco Control 2003;12:13-20. Available at: https://tobaccocontrol.bmj.com/content/12/1/13.short
391 Scollo M and Lal A. Summary of Studies Assessing the Economic Impact of Smoke-free Policies in the Hospitality Industry – includes studies produced to January 2008. Melbourne, Australia: VicHealth Centre for Tobacco Control, 2008. Available at: http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.512.3097&rep=rep1&type=pdf

A handbook[392] from the International Agency for Research on Cancer (IARC) evaluating the effectiveness of smoke-free policies reached similar conclusions. The Handbook reported that 47 of 49 studies meeting the most rigorous quality criteria found that smoke-free policies had either no economic impact or a positive economic impact on the businesses affected by them. This view was also shared by some of the interviewed health experts (either no economic impact[393] or a positive one[394]).

When interviewed, a representative organisation from the hospitality sector provided a mixed view on the economic impacts of smoking bans for hotels, restaurants, pubs and cafes[395], stating that it was costly for these establishments to **implement** smoking rooms when the first legislation started coming into effect, and that this investment was lost when total bans were eventually implemented. However, they also noted that prohibiting indoor smoking had a positive impact on the health of employees, and in turn on their productivity and presenteeism.

According to the country written questionnaire, no countries reported increased **private costs for the hospitality industry of implementing national smoke-free measures**. Austria explained that the smoking ban was very clear and strict, and therefore there were no costs for implementing the ban.

Despite claims from the tobacco industry that smoke-free policies in hospitality venues would lead to a reduction in **sales and revenues**, several studies and answers from Member States suggest that this is not the case. For instance:

- In Norway, the ban on smoking was extended to all drinking and eating establishments in June 2004. A report evaluating smoke-free bars in Norway showed that while sales in the restaurant segment were virtually unchanged, predominantly drinking establishments such as bars and pubs experienced a slightly sharper reduction (down 4.4% for the first twelve months of the amendment's lifetime)[396]. Furthermore, the report found that the first two quarters after the smoking ban saw a rise in bankruptcies amongst hotels and restaurants. However, the rise occurred at a time of year when bankruptcies tend to rise anyway and so it is not certain that this can be attributed to the smoking ban. A more recent study found that Norway's 2004 smoke-free law did not have an impact on restaurant revenue[397]. The study also found that, while the law had a negative *short-term* effect on bar revenues, there was no evidence of a long-term impact. The authors added Norway presented an interesting study due to its cold climate: "if there is a negative effect [of smoke-free policies] on revenue, one would expect to find it in Norway".
- In Hungary, an amendment strengthening the Protection of Non-Smokers Act came into effect on 1 January 2012 in an effort to minimise exposure to second-hand smoke. A report showed that this was followed by an increase in the number of hospitality venues (i.e. restaurants, confectioneries, drink shops, music clubs), an increase in the income of the hospitality industry, as well as an increase in guest flow and income from accommodation charges[398].
- Belgium mentioned that no negative impacts were observed in terms of the number of restaurants and the revenues for the hospitality sector after the ban on smoking in restaurants came into force in January 2007.

392 IARC Handbooks of Cancer Prevention, Tobacco Control, Vol. 13: Evaluating the Effectiveness of Smoke-free Policies (2009: Lyon, France).
393 HE, 17 December 2020, (#6)
394 HE, 9 December 2020, (#14)
395 Environmental stakeholder, 17 November 2020, (#1)
396 Lund (2006) Innføringen av røykfrie serveringssteder i Norge. Konsekvenser for omsetning, besøksfrekvens, trivsel og etterlevelse. Available at: https://www.fhi.no/globalassets/dokumenterfiler/rapporter/2009-og-eldre/sirusskrifter1.06.pdf
397 Melberg HO, Lund KE. Do smoke-free laws affect revenues in pubs and restaurants? Eur J Health Econ. 2012;13(1):93-9. Available from: http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3249552
398 World Health Organization (2014) Tobacco control in practice Article 8:
Protection from exposure to tobacco smoke: the story of Hungary. WHO. Available at: https://www.euro.who.int/__data/assets/pdf_file/0020/263333/Tobacco-control-in-practice-Article-8-Protection-from-exposure-to-tobacco-smoke-the-story-of-Hungary.pdf

Two studies conducted in the US to assess the effect of smoke-free policies on hospitality venues' **business values** found that bars located in areas with smoke-free laws sold for prices that were comparable to prices for similar bars in areas with no smoking restrictions[399], and that there was a 16% increase in the sale price of a restaurant in a jurisdiction with a smoke-free law compared to a comparable restaurant in a community without such a law[400].

A review study from 2003 found five studies that showed that smoke-free hospitality industry legislation had no impact or a positive impact on **employment[401]**. These five studies were not funded by the tobacco industry. A more recent meta-analysis, published in 2014, found no impact of smoke-free legislation on employment in bars and a small positive impact on employment in restaurants[402]. The study also found indications that more positive effects were identified if studies funded by the tobacco industry were excluded.

A more in-depth analysis with county-level data on employment from the United States found that communities where smoking was banned experienced reductions in bar employment compared with counties that allow smoking[403]. Smoking bans seemed to have a larger detrimental impact on bars in geographic areas with a high prevalence of smokers. The relative effect on restaurant employment was, however, neutral or mildly positive. The positive effects were concentrated in areas with fewer smokers. Bans seemed to have a positive effect on restaurant employment in warmer regions of the country, especially during the cooler winter months, and in the summer in colder regions. This suggests that the prevalence of outdoor seating might influence the policy's effect.

A 2019 study examined US smoke-free laws between 1990 and 2015, and found that such types of policies did not have a significant impact on hospitality employment (a one-percentage point increase in population covered by a restaurant smoke-free law is associated with a 0.01% increase in restaurant employment).[404]

Impact on tobacco and related products industry

The analysis to support the Impact Assessment of the Commission's smoke-free initiatives[405] noted that smoking bans could lead to job losses in the tobacco industry (although this would be a very small percentage of the entire labour force).

In the present study, a few countries (Greece, Italy and the Netherlands) reported annual lost revenues in the tobacco and related products industry. However, some health experts stated during interviews that the tobacco and related products industry profits seem to be immune to smoke-free legislation[406].

A few countries (Hungary and the Netherlands) reported job losses within the tobacco and related products industry. However, the IARC Handbook[407] states that "any reductions in tobacco-related employment that result from smoke-free policies, or other tobacco control

399 Alamar B, Glantz SA. Effect of smoke-free laws on bar value and profits. Am J Public Health. 2007;97(8):1400-2. Available from: http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1931474

400 Alamar B, Glantz SA. Smoke-free ordinances increase restaurant profit and value. Contemp Econ Policy. 2004;22(4):520-5. Available from: http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3104276.

401 Scollo, M., Lal, A., Hyland, A., & Glantz, S. (2003). Review of the quality of studies on the economic effects of smoke-free policies on the hospitality industry. Tobacco control, 12(1), 13-20

402 Cornelsen, L., McGowan, Y., Currie-Murphy, L. M., & Normand, C. (2014). Systematic review and meta-analysis of the economic impact of smoking bans in restaurants and bars. Addiction, 109(5), 720-727

403 Adams, S., & Cotti, C. D. (2007). The effect of smoking bans on bars and restaurants: an analysis of changes in employment. The BE Journal of Economic Analysis & Policy, 7(1).

404 Shafer, P, "Impact of US Smoke-free Air Laws on Restaurant and Bar Employment, 1990–2015," Nicotine & Tobacco Research, ntx280, December 2017. Available at: https://doi.org/10.1093/ntr/ntx280

405 Scoggins, A., de Vries, H., Conklin, A., & Hatziandreu, E. (RAND Europe). (2009). Analysis to support the Impact Assessment of the Commission's smokefree initiatives. Available at: https://ec.europa.eu/health/archive/ph_determinants/life_style/tobacco/documents/tobacco_reportia_en.pdf

406 HE, 9 December 2020 (#14)

407 IARC Handbooks of Cancer Prevention, Tobacco Control, Vol. 13: Evaluating the Effectiveness of Smoke-free Policies (2009: Lyon, France).

activities, will be offset by increased employment in other sectors as the money once spent on cigarettes is spent on other goods and services".

Impact on other industries

As seen in the analysis to support the Impact Assessment of the Commission's smoke-free initiatives[408], little information is available about the impact of smoke-free policies on the pharmaceutical industry's revenues and employment.

Implementation and enforcement costs

A few countries (Greece and the Netherlands) reported increased governmental costs for implementing and enforcing national smoke-free measures.

6.3) Environmental impacts

A 2016 study found that in the evenings, air quality was worse in a pedestrianised area compared to a high-traffic area, and that this was likely due to cigarette smoking[409]. A 2016 report from the WHO concluded that second-hand exposure to e-cigarette vapour is a new air contamination source for particulate matter, including fine and ultrafine particles, as well as some heavy metals[410]. Therefore, Several studies have found that smoke-free rules may improve **air quality**. Evidence has found this to be the case inside the venues where smoking is banned. For example:

- A study showed that worldwide, the level of air pollution inside smoke-free Irish pubs was 93% lower than the level found in Irish pubs where smoking was permitted[411].
- Another study found that air quality improved in hospitality venues in New Zealand following a smoke-free law in 2004[412].
- Two studies aimed to quantify the change in respirable suspended particles in the air in New York before and after implementation of smoking regulations in 2003. One study found that it took less than two hours for the level of respirable particulate matter in hospitality venues to drop to 15% of the level on a normal smoking night[413]. Another report showed that on average, levels of respirable suspended particles in hospitality venues decreased 84% after the law took effect[414].
- A study assessed Greek hospitality venues for their indoor concentrations of particulate matter (PM2.5), before and after the smoke-free legislation implemented in 2010. The study found that indoor air levels of PM2.5 attributable to second-hand smoke dropped by more than a third following the transition from a partial to a complete ban[415].

408 Scoggins, A., de Vries, H., Conklin, A., & Hatziandreu, E. (RAND Europe). (2009). Analysis to support the Impact Assessment of the Commission's smokefree initiatives. Available at: https://ec.europa.eu/health/archive/ph_determinants/life_style/tobacco/documents/tobacco_reportia_en.pdf

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413 RTI International, "First Annual Independent Evaluation of New York's Tobacco Control Program," New York State Department of Health, November 2004. Accessed on November 29, 2004. Available at http://www.health.state.ny.us/nysdoh/tobacco/reports/docs/nytcp_eval_report_final_11-19-04.pdf
414 Goodman, P., Agnew, M., McCaffrey, M., Paul, G. and Clancy, L., (2007). Effects of the Irish smoking ban on respiratory health of bar workers and air quality in Dublin pubs. *American journal of respiratory and critical care medicine*, *175*(8), pp.840-845.; Travers, M.J., Cummings, K.M., Hyland, A., Repace, J., Babb, S., Pechacek, T. and Caraballo, R., (2004). Indoor air quality in hospitality venues before and after implementation of a clean indoor air law-Western New York, 2003. *Morbidity and mortality weekly report*, *53*(44), pp.1038-1041.
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- Another study showed that both nicotine and PM2.5 concentrations decreased by more than 90% in indoor hospitality venues in three Spanish regions after the 2011 Spanish smoking ban on second-hand smoke exposure came into effect[416].
- Several studies have also found that prison smoke-free policies have positive impacts on indoor air quality[417],[418],[419],[420].

In addition, a 2016 study found that in the evenings, air quality was worse in a pedestrianised area compared to a high-traffic area, and that this was likely due to cigarette smoking[421].

Rules applying to novel tobacco products may also improve air quality. A 2016 report from the WHO concluded that second-hand exposure to e-cigarette vapour is a new air contamination source for particulate matter, including fine and ultrafine particles, as well as some heavy metals[422].

There is limited evidence available on the impact of smoke-free policies on **litter**. Studies identified reached different conclusions.

- One study surveyed UK local authorities to see whether they had noticed a difference in the amount of smoking-related litter after a smoke-free legislation came into effect in 2007: a majority (85%) of local authorities perceived this to have at least slightly increased[423]. Similarly, a study conducted in Madrid found that residents believe there has been an increase in cigarette butt litter after the implementation of the comprehensive smoke-free law, which relocated smokers to outdoor settings in 2011[424].
- However, another study found that tobacco-free community college campuses in the US had significantly fewer cigarette butts at their doors than campuses with no outdoor restrictions[425].
- Decreasing litter from cigarette butts is one of the primary policy motivations to implement smoke-free beaches. A study found that smoke-free beaches result in cost savings because cigarette butts are an important part of beach litter[426]. Another study found that New York City's smoke-free parks and beaches law (2011) was associated with a significant reduction in smoking litter on beaches and playground

416 Lopez MJ, Fernandez E, Perez-Rios M, Martinez-Sanchez JM, Schiaffino A, Galan I, et al. Impact of the 2011 Spanish Smoking Ban in Hospitality Venues: Indoor Secondhand Smoke Exposure and Influence of Outdoor Smoking. Nicotine and Tobacco Research 2013; 15(5):992–6. Available at: https://pubmed.ncbi.nlm.nih.gov/23100458
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420 Tweed EJ et al (2021). Evaluation of a national smoke-free prisons policy using medication dispensing: an interrupted time-series analysis. Available at: https://www.sciencedirect.com/science/article/pii/S2468266721001638
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425 Lee JG, Ranney LM, Goldstein AO. Cigarette butts near building entrances: what is the impact of smoke-free college campus policies? Tob Control. 2013 Mar;22(2):107-12. doi: 10.1136/tobaccocontrol-2011-050152. Epub 2011 Dec 1. PMID: 22135167. Available at: https://pubmed.ncbi.nlm.nih.gov/22135167/
426 Ariza, E., & Leatherman, S. P. (2012). No-smoking policies and their outcomes on US beaches. Journal of Coastal Research, 28(1A), 143-147

but not in parks[427]. A possible explanation for the lack of a reduction in parks may be that cigarette butts may linger longer in parks because they are less likely to be displaced from grassy areas.

7) Conclusions

Overall, the results and findings contained in the Impact Assessment of 2008 accompanying the Council Recommendation on Smoke-Free Environments are still largely valid.

Countries and study stakeholders were asked for their reflections on good practices and lessons learnt. Some key lessons are described below.

Gaps in the current EU regulatory framework

As discussed in previous sections, the 2009 Council Recommendation only applies to tobacco smoke and leaves aside emissions from other products such as e-cigarettes and novel tobacco products. Many countries and study stakeholders (i.e. interviewed CSOs and health expert[428]) recommended extending the bans on traditional tobacco products for smoking to e-cigarettes and novel tobacco products. Results from the desk research and the literature review support this recommendation. For instance:

- In 2016, the WHO issued a recommendation to "prohibit by law the use of [Electronic Nicotine Delivery Systems and Electronic Non-Nicotine Delivery Systems] in indoor spaces or at least where smoking is not permitted"[429].
- A 2021 study analysing Eurobarometer data in 28 countries concluded that "given the serious interests of the tobacco industry in [heated tobacco products (HTPs)], growth is likely and warrants additional regulation when revising EU and national regulatory frameworks"[430].

There were also some gaps identified related to the environments that are covered by the current regulatory framework. While the 2009 Council Recommendation refers to 'indoor workplaces, indoor public places, public transport and, as appropriate, other public places', it does not explicitly include some types of environments, and in particular specific outdoor public spaces (e.g. public parks, beaches or the streets) or private areas (e.g. homes and cars).

- Participants of the focus group with French stakeholders noted that extending bans to public spaces such as parks or beaches would be an interesting idea. While this would have a limited impact on reducing risks of secondary exposure to smoke, this would nevertheless help smokers to stop associating smoking with pleasant venues or activities, and, in turn, would reduce their willingness to smoke.
- Regulating private areas such as private homes would probably not be feasible or appropriate in most countries. However, certain targeted bans could be enacted (e.g. in cars or multi-unit housing).

Implementation / application challenges

As discussed in previous sections, there are still wide differences in the implementation of the 2009 Council Recommendation on smoke-free environments across the Member States. Relatedly, some countries reported that greater harmonisation across countries in

427 Johns, M., Coady, M. H., Chan, C. A., Farley, S. M., & Kansagra, S. M. (2013). Evaluating New York City's smoke-free parks and beaches law: a critical multiplist approach to assessing behavioral impact. American journal of community psychology, 51(1-2), 254-263

428 CSO, 27 November 2020, (#19); CSO, 17 November 2020, (#2); CSO, 19 November 2020, (#3); HE, 28 January 2021, (#17)

429 https://www.who.int/fctc/cop/cop7/FCTC_COP_7_11_EN.pdf?ua=1

430 Laverty A, Vardavas C, Filippidis F (2021). Prevalence and reasons for use of Heated Tobacco Products (HTP) in Europe: an analysis of Eurobarometer data in 28 countries. Available at: https://www.thelancet.com/journals/lanepe/article/PIIS2666-7762(21)00136-8/fulltext

terms of environments and products would be beneficial to consumers and their health, and explained that implementing similar rules in other countries is a case of political and enforcement will. The notion that rules should be harmonised is reinforced by the fact that almost all countries which provided examples of good practice (e.g. in terms of smoke-free environments) noted that other EU Member States should be able to implement similar restrictions.

Compliance challenges

As discussed in previous sections, there are still instances of non-compliance concerning many different types of smoke-free environments. During interviews, CSOs and health experts mentioned practices that could improve public compliance with smoke-free rules, e.g.:

- Allowing a "settling-in" period[431], focusing on simple solutions (such as providing umbrellas to residents in smoke-free housing to encourage them to smoke/vape outside)[432], and
- Conducting research (and disseminating results to the public) about how many lives have been saved thanks to smoking bans (for example, a study which projected that worldwide, 5.4 million smoking-attributable deaths would be averted by comprehensive smoke-free laws[433]).

Another frequent suggestion made by CSOs and health experts to increase compliance consists of strengthening awareness raising and other prevention measures, e.g. educational banners/ billboards in places hosting children and young adults[434]. Stakeholders provided some good-practice examples, including a campaign by the Spanish Ministry of Health which informed that tobacco is harmful in all forms, including e-cigarettes and HTPs[435], or a similar campaign led by Portuguese civil society organisations to denounce e-cigarettes and HTPs, including using studies to demonstrate health harms[436]. Research showed that raising awareness of the harms of second-hand smoke, and thus making people understand why a smoke-free law is needed, is important to increase compliance with smoke-free laws[437],[438]. Another review study, however, described the available evidence on effectiveness of strategies to increase compliance with smoke-free laws as weak and stated that well-designed trials are needed[439].

Enforcement challenges

Many stakeholders emphasised that smoke-free rules are most effective when accompanied by appropriate enforcement mechanisms.

A number of challenges were identified related to the enforcement of smoke-free rules, and there appears to be a need to increase financial and human resources available for enforcement in particular[440]. For instance, a CSO felt that "complacency is the enemy of the good", and that there was a tendency, once a piece of legislation was passed, for governments to then insufficiently finance enforcement[441]. One health expert provided an

431 CSO, 19 November 2020, (#3)
432 HE, 13 January 2021, (#16)
433 Levy, D.T., Yuan, Z., Luo, Y. and Mays, D., (2018). Seven years of progress in tobacco control: an evaluation of the effect of nations meeting the highest level MPOWER measures between 2007 and 2014. Tobacco control, 27(1), pp.50-57.
434 CSO, 4 December 2020, (#13)
435 CSO, 14 January 2021, (#24)
436 HE, 28 January 2021, (#17)
437 Nagelhout, G. E. (2012). It has been done elsewhere, it can be done everywhere. Impact of smoke-free legislation on smoking. Maastricht: Datawyse, Universitaire Pers Maastricht. https://cris.maastrichtuniversity.nl/en/publications/it-has-been-done-elsewhere-it-can-be-done-everywhere-impact-of-sm
438 Zhou, L., Niu, L., Jiang, H., Jiang, C., & Xiao, S. (2016). Facilitators and barriers of smokers' compliance with smoking bans in public places: a systematic review of quantitative and qualitative literature. International journal of environmental research and public health, 13(12), 1228
439 Wynne, O., Guillaumier, A., Twyman, L., McCrabb, S., Denham, A. M., Paul, C., ... & Bonevski, B. (2018). Signs, fines and compliance officers: a systematic review of strategies for enforcing smoke-free policy. International journal of environmental research and public health, 15(7), 1386
440 e.g. HE, 17 December 2020, (#6); CSO, 18 November 2020, (#9); CSO, 15 January 2021, (#10); CSO, 30 November 2020, (#20); HE, 28 January 2021, (#25)
441 CSO, 19 November 2020, (#3)

example of good practice, where funding was being given to hospitals in their country to implement and enforce smoke-free environments outside the hospitals[442].

A CSO reported that more comprehensive laws could also be related to more effective enforcement, as enforcement is easier when the rules are uniform and not confusing. For example, it can be difficult to determine when consumers are outdoors or indoors when rules differ for indoor restaurants and restaurants with terraces[443]. Another enforcement challenge may be the varied organisations and bodies which are responsible for enforcement. For example, one CSO reported that legislation includes local authorities, the police, and health inspectorates, which made enforcement complicated and confusing[444]. Some stakeholders reported that the police were not highly involved in enforcement (this could be due to a lack of financial and human resources)[445], and a CSO stated that smoke-free rules were often enforced by workplace safety and welfare organisations, for which tobacco was not a main priority[446]. One CSO reported that if there was not an immediate enforcement action when a rule was violated, this could lead to a sense of impunity and further violations[447]. Other CSOs cited that enforcement was difficult in private areas such as residential buildings[448].

Stakeholders also mentioned the need for collaboration with other parties (e.g. Member States, CSOs, citizens) in order to improve enforcement mechanisms. Guidelines on how to implement Article 8 of the FCTC suggest that the effectiveness of a monitoring-and-enforcement programme is enhanced by involving the community in the programme, which would help to extend the reach of enforcement agencies and reduces the resources needed to achieve compliance. A joint system of inspections and complaints (with the public being able to initiate complaints via hotlines) is therefore recommended[449]. A good practice example was provided by Austria, which stated that they have good cooperation between stakeholders including the Federal Ministry of Health and civil society organisations.

Greater cooperation between countries is also needed. A good practice example was provided by Ireland, which explained that their national competent authorities engaged with colleagues in the EU to share experiences, via meetings of the expert groups (such as the Group of experts on tobacco policy), and at regional WHO workshops and conferences. Participants in the focus group with Romanian stakeholders reported that Romania had learned from the experiences of other Member States (e.g., Ireland) and also shared its experience with other countries, for example by organising international conferences. However, more forms of participation are reportedly needed, for example, stronger participation of the Romanian Government in European projects such as the JATC.

Another challenge, as reported by participants in the focus groups with French and Romanian stakeholders, is the interference from the tobacco industry.

Romanian participants noted that in Romania, advocacy around smoke-free environments has benefited from political "champions" and support from politicians including Members of the Romanian Parliament, the president of Romania, and the Ministry of Health which issued messages in support of smoke-free environments. Similarly, French participants said that every time a 'high-level' political leader strongly supported anti-tobacco campaigns, these have worked.

Finally, participants in the focus group with French stakeholders explained that enforcement of rules needs to go hand in hand with strong communication and advocacy

442 HE, 17 December 2020, (#8)
443 CSO, 17 November 2020, (#2)
444 CSO, 04 February 2021, (#23)
445 HE, 17 December 2020, (#8); CSO, 4 December 2020, (#13)
446 CSO, 15 January 2021, (#10)
447 CSO, 19 November 2020, (#21)
448 CSO, 21 January 2021, (#22); CSO, 20 January 2021, (#26)
449 World Health Organisation. (2008). Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control (Tobacco advertising, promotion and sponsorship). WHO. Available at: https://www.who.int/fctc/cop/art%208%20guidelines_english.pdf

campaigns explaining the benefits of such rules: smoke-free rules cannot be accepted unless there is a strong public understanding of, and support for, them.

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EW-09-21-451-EN-N ISBN 978-92-76-42343-0