



An Roinn Sláinte
Department of Health

Further Regulation of Tobacco and Nicotine Inhaling Products

Public Consultation Report

July 2024

The report has been prepared to inform Government decision-making regarding further regulation of tobacco and nicotine inhaling products.

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Executive Summary

The Minister for Health held a public consultation between November 2023 and January 2024 to inform further regulation of tobacco and nicotine inhaling products. The consultation sought views on a range of topics, including regulating flavours, packaging and appearance, and Point of Sale display advertising for nicotine inhaling products. The consultation also addressed proxy sales of both products, extending smoke free restrictions to vaping, smoking in outdoor dining areas and increasing the age of sale for tobacco. Finally, questions on taxation of vaping liquids were included at the request of the Minister for Finance.

15,821 responses were received in total, and there was some evidence of coordinated campaigns around the consultation. The majority of responses were from members of the public, of which 90% were current vapers. There were very few responses from members of the public under 18. Other responses were received from organisations and individuals in the spheres of health, education, consumer rights, retail, hospitality and the manufacture and distribution of nicotine inhaling products and tobacco products.

Further regulation of nicotine inhaling products

Overall, there was strong support for all measures in their most comprehensive form from health organisations, healthcare workers, teachers and school principals, and non-vapers.

Other groups and categories had mixed views on regulation depending on the measure. There was majority support from all respondents for proxy sales and some regulation of Point of Sale and the appearance and packaging of nicotine inhaling products. Vapers, the industry and consumer organisations generally sought a proportionate response rather than equivalent regulations to tobacco.

Most respondents were not in favour of regulation of nicotine inhaling product flavours, though a majority supported specialist retailers being allowed to sell a different range of flavours to general retailers if restrictions were introduced. Most respondents were also not in favour of extending smoke free restrictions to vaping.

Broadly speaking, views in support of the above measures highlighted the need to protect children and young people, the emerging evidence of harm from nicotine inhaling products and the lack of evidence of long-term health impacts or the efficacy of nicotine inhaling products for smoking cessation. Comparisons were drawn with similar successful interventions to reduce tobacco use.

Views in opposition to the above regulation generally highlighted the benefits of nicotine inhaling products for smoking cessation (often from personal experience), the relative harm of nicotine inhaling products compared with smoking, and the lack of evidence for long-term harm. Views were particularly strong on the importance of e-cigarette flavours for moving away from tobacco. Respondents also often felt that these interventions would be ineffective and would lead to policy incoherence compared with other harmful products such as alcohol or unhealthy foods.

Further regulation of tobacco

As the consultation primarily concerned nicotine inhaling products and the majority of respondents were vapers, views on the two tobacco-related topics often referred to nicotine inhaling products.

Most respondents did not support prohibiting smoking in outdoor dining areas. Those who were opposed to such a measure felt that it would be discriminatory and increase stigma towards smokers, and that businesses should be able to manage their outdoor areas themselves. Those in favour noted that there were no safe levels of second-hand smoke, and this measure would protect workers and further denormalise smoking.

A majority were also not in favour of increasing the age of sale for tobacco, though the views expressed ranged from discussing raising the age of sale:

- generally
- specifically, to 21
- by date (Smokefree Generation)
- raising the age of sale for nicotine inhaling products
- a combination of some of the above policy options.

Those in favour felt that it would be an effective measure to address the stalled decline of smoking rates and reduce the burden of smoking in the long-term. Those who opposed it felt that it would be an infringement on some adults' right to smoke and would be ineffective.

Taxation of vaping liquids

The responses to the questions on taxation are summarised at Part 4 and are for consideration by the Department of Finance.

1 Introduction

1.1 The Current Situation

Every year, 4,500 people in Ireland die because of smoking. People who smoke are almost two times more likely to report poor health and long-standing illness¹. Smoking is the biggest preventable cause of ill health, disability and death in Ireland².

Around 1 in 5 people currently smoke³. However, this number is much higher in poorer communities than wealthier ones, and the harms of smoking are unequal across society⁴. Ireland has committed to becoming smoke free, which would mean that less than 1 in 20 people in the country smoke⁵.

At the same time, nicotine inhaling products, such as e-cigarettes or “vapes”, have become increasingly popular. Around 1 in 12 people currently vape⁶. Most adults who vape either currently smoke or used to smoke, and switching completely from smoking to vaping may be less harmful for those people⁷.

However, recently there has been a big rise in vaping among children and young people. This exposes them to nicotine, a highly addictive substance which may have a bigger impact on young people than on adults⁸. Vapes are also not harm free, and we don’t know what the

¹ <https://www.hse.ie/eng/about/who/tobaccocontrol/research/state-of-tobacco-control-report-2022.pdf>

² The Institute for Health Metrics and Evaluation, University of Washington.
<http://www.healthdata.org/ireland>

³ <https://www.gov.ie/hisurvey2023/>

⁴ See footnote 1.

⁵ <https://www.gov.ie/en/policy-information/5df1e7-tobacco-free-ireland/>

⁶ See footnote 2.

⁷ Banks et al. 2023. *Electronic cigarettes and health outcomes: umbrella and systematic review of the global evidence*. Accessed at: <https://onlinelibrary.wiley.com/doi/10.5694/mja2.51890>

⁸ Colyer-Patel et al., 2023. *Age-dependent effects of tobacco smoke and nicotine on cognition and the brain: A systematic review of the human and animal literature comparing adolescents and adults*. Accessed at: <https://www.sciencedirect.com/science/article/pii/S0149763423000076?via%3Dihub>

long-term health impacts are from vaping. There is also a possibility that some young people who vape may go on to smoke⁹, which would lead to much greater health harms.

The Government launched a public consultation to inform further regulation of tobacco and nicotine inhaling products, with the aim of protecting young people from nicotine and potential harm, while continuing to drive down smoking rates across all sections of society.

1.2 Consultation Process

Minister for Health, Stephen Donnelly, and Minister of State for Public Health, Wellbeing and the National Drug Strategy, Hildegard Naughton launched the consultation on 25 November 2023, and it ran for six weeks until 5 January 2024. The consultation took the form of an online questionnaire, delivered via the EUSurvey platform, which was open to all residents of Ireland. As this was a large-scale consultation there was no requirement for authentication to complete the survey, and the Department did not request any personal data as part of the consultation.

The online questionnaire consisted of a series of demographic questions, including a declaration that the respondent was a resident of Ireland. This was followed by 14 closed tick-box questions and 17 free-text boxes to elicit further views. The majority of the questions were not mandatory, and respondents could decide whether to answer a question and whether to provide a further free-text response. The questions covered the following areas:

- the display of nicotine inhaling products in shops
- nicotine inhaling product flavours
- the appearance of nicotine inhaling products and their packaging
- proxy sales of tobacco and nicotine inhaling products
- smoking in outdoor dining areas

⁹ O'Brien et al., 2020. *Electronic cigarette use and tobacco cigarette smoking initiation in adolescents: An evidence review*. Health Research Board: Dublin.

- extending smoke free restrictions to vaping
- increasing the age of sale for tobacco products
- taxation of vaping liquids (included at the request of the Minister for Finance)

1.3 Methodology

All quantitative responses were analysed together to provide overall figures, alongside additional analysis between the following categories:

- Respondents who selected “*Representative of a public health body, advocacy group, NGO or medical organisation*”.
- Respondents who selected “*Person or entity with a commercial interest in the manufacture, distribution, import or sale of tobacco or nicotine products*”.
- Further categorisation of the above respondents where relevant (see below).
- Members of the public differentiated by vaping status.

Analysis of demographic factors such as age or medical card status did not produce insightful differences and are not included in the results.

Qualitative responses were analysed using a topic modelling system, which grouped answers to each question by similarity based on frequency of words. Sample comments were generated for each topic, then separated by the preceding quantitative response (agreed with measure, disagreed, don't know etc.) and coded manually by at least two officials to elicit themes from each group.

Further quantitative and manual thematic analysis was conducted for those who had provided further information and could be identified as belonging to the following groups:

- consumer organisations
- health organisations
- healthcare workers
- teachers and school principals

- retailers and retail organisations
- hospitality businesses and organisations
- tobacco and vape manufacturers and distributors.

Taxation Questions

A number of questions were included at the request of the Minister for Finance to inform the development of a taxation regime. The overall quantitative results for each question are included in Part 4, and are under consideration by the Department of Finance.

2 Overview of consultation responses

2.1 Interpretation of consultation content

There are several contextual factors to note in relation to this consultation:

- There were a series of spikes in entries, beginning twelve days into the consultation period (see Figure 1). This included submissions continuing to be received throughout the night (GMT).
- The Department received complaints from members of the public that a vaping company was offering financial incentives to customers in the form of online retail vouchers and discounts instore in return for making a submission to the consultation. Some individuals claimed that the response was submitted by staff members instore on their behalf with a copy sent to them by email, and they were not aware in advance of what they were submitting a response to, and/or which answers were submitted on their behalf. In one of these cases, the response was excluded at the request of the individual.
- Even though views were only sought from residents of Ireland, the consultation was reported on and publicised internationally, including by a US-based lobbying group with links to the tobacco industry.

As the Department did not collect identifying information it was not possible to identify any responses as being fraudulent. If respondents selected themselves as 'residents of Ireland', their submissions were included at face value. With the exception of the response that was removed by request, none of the above factors resulted in submissions being excluded from the consultation.

Consultation processes do not provide representative samples of public opinion; instead, they seek information, comments and views on the consultation questions from interested

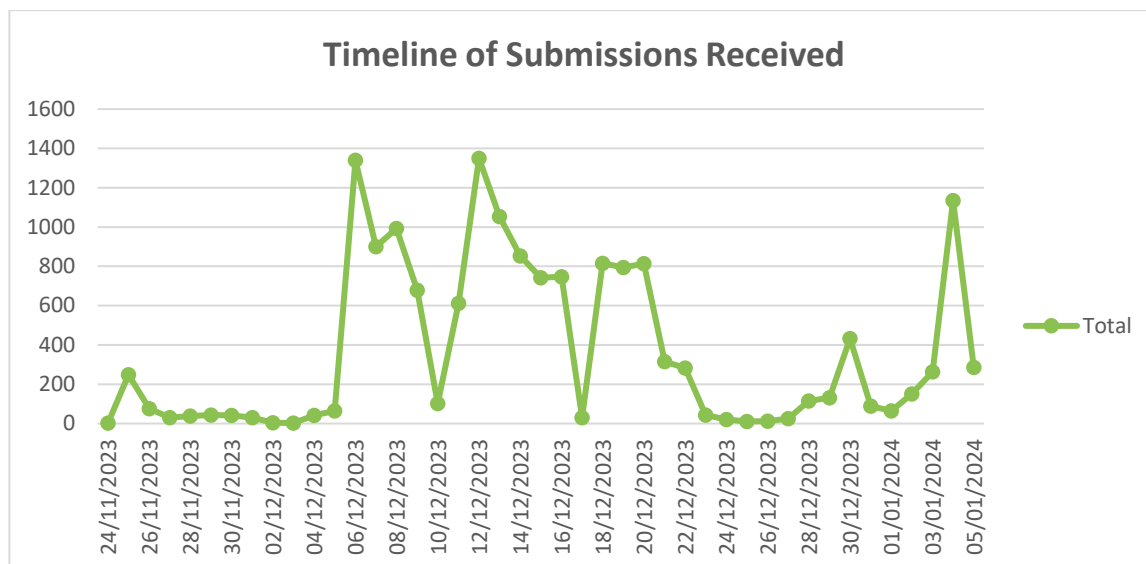
stakeholders. The nature of consultation exercises means that respondents are self-selecting and cannot therefore be considered to be a representative sample of public opinion.

2.2 Overview of responses

129 respondents declared that they were not a resident of Ireland, and therefore were not able to answer any further questions. The breakdown of respondents who declared they were residents of Ireland is outlined in Table 1.

Table 1: Consultation responses by category

| Respondent category | Number of Responses | Percentage |
|--|---------------------|------------|
| Member of the Public | 15,159 | 96.6% |
| Representative of a public health body, advocacy group, NGO or medical organisation | 139 | 0.89% |
| Person or entity with a commercial interest in the manufacture, distribution, import or sale of tobacco or nicotine products | 184 | 1.17% |
| Other | 210 | 1.34% |
| TOTAL | 15692 | |

Figure 1: Consultation submissions by date

2.2.1 MEMBERS OF THE PUBLIC

Those who selected 'Member of the Public' were asked a series of further demographic questions.

Table 2: Breakdown of responses by age

| Age Range | Number of Responses | Percentage |
|-------------|---------------------|------------|
| Under 18 | 57 | 0.38% |
| 18 - 24 | 4,472 | 29.50% |
| 25 - 34 | 3,475 | 22.92% |
| 35 - 44 | 2,986 | 19.7% |
| 45 - 54 | 2,158 | 14.24% |
| 55 - 64 | 1,130 | 7.45% |
| 65 - 74 | 349 | 2.3% |
| 75 or older | 61 | 0.4% |
| No Answer | 471 | 3.11% |

As noted in the table above, there were very few responses from those under 18, which is the intended target of the policy interventions under consultation.

Smoking and vaping status

89.6% (n=13585) of these respondents stated that they were current vapers. In comparison, only 8% of the population aged 15 and over are vapers¹⁰.

Table 3: Vaping and smoking status of respondents

| Status | Vaping (% and n.) | | Smoking (% and n.) | |
|----------------------|-------------------|-------|--------------------|------|
| Yes - Daily | 71.2% | 10799 | 26.4% | 4009 |
| Yes - Occasional | 18.4% | 2786 | 21.3% | 3231 |
| No – Have Given Up | 1.9% | 290 | 40.2% | 6099 |
| No – have never used | 6.2% | 934 | 9.7% | 1467 |
| No answer | 2.3% | 350 | 2.3% | 353 |

47.7% stated that they were current smokers, however 96% of these were dual users of both tobacco and e-cigarettes. As the vast majority of smokers were also vapers, differentiating between smoking and vaping status in the analysis was not insightful.

¹⁰ <https://www.gov.ie/en/publication/73c9d-healthy-ireland-survey-2023/?referrer=http://www.gov.ie/hisurvey2023/>

Medical Card Status

Members of the public were also asked whether they held a medical card or GP visit card. The responses broadly align with the makeup in the general population: 30.6% said yes, 65.4% said no, and 4% did not answer.

2.2.2 OTHER RESPONDENT CATEGORIES

Of the 139 who selected 'representative of a public health body, advocacy group, NGO or medical organisation' and provided further details, fourteen were identified as responding on behalf of an organisation, which were further categorised into health, consumer and hospitality organisations (see Table 4). A large proportion of the remaining respondents in this category were healthcare workers answering in a personal capacity¹¹. 71 respondents in this category provided no further details or could not be categorised. In the quantitative analysis below this overall respondent group will be referred to as the 'Advocacy & Organisations' group, with further analysis of healthcare workers, health organisations, consumer organisations and hospitality organisations as distinct groups.

Of the 184 who identified as having a commercial interest and provided further details, 73 were categorised as being representatives or owners of businesses such as tobacco and/or vape manufacturers, vape distributors, tobacco and/or vape retailers and hospitality businesses. Many remaining respondents in this category were employees of the above types of businesses. 89 respondents in this category provided no further details or could not be categorised. In the quantitative analysis below this respondent group will be referred to as the 'Commercial Interest' group, alongside further analysis of manufacturers and distributors, retailers and hospitality businesses as distinct groups.

Of the 210 who selected 'Other' and provided further details, these were primarily hospitality business owners or representatives, healthcare workers, teachers or school principals, researchers or academics and a small number of youth workers who were grouped under the

¹¹ In a few cases in each category, it was not clear whether they were submitting in a personal capacity, or on behalf of their organisation or business. The best possible judgement has been applied to clarify these edge cases, but these figures should be taken as an approximation.

healthcare worker category. 132 respondents in this category provided no further details or could not be categorised.

Table 4: Further categorisation of responses

| Categorisation | | Number of responses |
|----------------|--|---------------------|
| Consumer | Consumer Organisations | 2 |
| Health | Health Organisations | 10 |
| | Healthcare workers | 65 |
| Hospitality | Hospitality businesses | 61 |
| | Hospitality Organisations | 2 |
| Research | Researchers | 3 |
| Retail | Retail Organisations | 2 |
| | Retail workers | 22 |
| | Retailers | 46 |
| Education | School teachers and principals | 18 |
| Industry | Distribution/Wholesale of Nicotine Inhaling Products | 4 |
| | Tobacco and Nicotine Inhaling Product Manufacturers/Representative Organisations | 5 |
| | Nicotine Inhaling Product Manufacturers | 1 |

2.2.3 TOBACCO INDUSTRY DECLARATION

The questionnaire included a declaration of any links or funding from the tobacco industry. 99 respondents declared that they had direct or indirect links or received funding from the tobacco industry. Under Article 5.3 of the WHO Framework Convention on Tobacco Control, Ireland is obliged to protect tobacco control policy from the commercial or other vested interests of the tobacco industry. All consultation responses are included in this report for the purposes of transparency, however submissions from the tobacco industry or those representing its interests will not be considered in the development of policy.

3 Analysis of responses: Regulation of tobacco and nicotine inhaling products

The following section outlines the responses to the questions on the topics under the Minister for Health's remit, including the overall figures and the perspectives of those for and against further regulation.

3.1 Point of Sale Display

Participants were asked what they thought would be the most effective way to regulate the advertising and display of nicotine inhaling products in shops and given a series of options. Of those who responded:

- 32.2% indicated that nicotine inhaling products must be behind the counter and not be on display or advertised, like the current restrictions on tobacco products.
- 33.3% indicated that nicotine inhaling products must be kept behind the counter but can be on display.
- 6.8% thought that there is a different way to regulate the display of nicotine inhaling products.
- 27.9% disagreed with any regulation of the display of nicotine inhaling products.

In favour of some regulation

65% of respondents were in favour of some form of regulation on Point of Sale displays for nicotine inhaling products and chose either option 1 or 2. Among members of the public, 64.4% of non-vapers were in favour of nicotine inhaling products being kept behind the counter and not be on display or advertised, compared with 28.4% of vapers. 72.3% of healthcare workers, and 94.4% of teachers supported a full Point of Sale display ban.

For respondents who agreed that nicotine inhaling products must be kept behind the counter and not be on display or advertised, the main themes were:

- Point of Sale displays were seen as a form of inappropriate advertising
- This measure would reduce exposure and visibility to children to help prevent youth uptake and reduce impulse buys to occasional and/or first-time users.

"I am amazed and appalled to see how fervently these are marketed when you go into shops, garages, and shopping centres, with illuminated displays, appealing names such as 'Watermelon' and 'Fresh', and bright, colourful packaging."

- Member of the Public

"Non display or advertisement of nicotine inhaling products would help significantly in consumers making impulse purchase of vaping or tobacco products. While it might not make much difference to a seasoned and habitual/daily user of these products, it would I think reduce the likelihood of occasional users. Impulse purchases can become habitual purchases quite quickly and consequently habit forming"

- Member of the Public

All health organisations were in favour of full point-of sale restrictions. The main themes from their responses were:

- Exposure to nicotine inhaling products leads to increased use and greater intention to try.
- Seeing these products can act as a prompt or reminder and create a need or longing.
- Keeping nicotine inhaling products out of view will restrict children's exposure to the product.
- Introducing restrictions will not hinder the accessibility of e-cigarettes to adults.
- Restrictions used for tobacco will work well with e-cigarettes.

"Keeping e-cigarettes behind the counter and restricting point of sale display of nicotine containing products raises customer awareness that they are not a general consumer product and are not suitable for children."

-Health Organisation

For respondents who indicated that nicotine inhaling products should be kept behind the counter but can be on display, the main themes were:

- Having the product on display would encourage people to use them as a smoking cessation aid.
- Keeping the product behind the counter would help to enforce age of sale restrictions.

The majority (44%) of responses received from the 'Commercial Interest' group were in favour of nicotine inhaling products being kept behind the counter but on display, compared with 28% in favour of a full Point of Sale ban and 15% not in favour of any regulations. Respondents from the retail sector felt that some regulation of Point of Sale would be a positive step to restrict access to children and reduce the risk and appeal of the product but could have an impact on consumers using the product as a smoking cessation aid. A small number of retailers raised concerns regarding the impact of introducing these measures on their business, including storage issues and the additional workload for staff to fulfil purchases.

Different way to regulate Point of Sale Display

7% of respondents indicated that they thought there was a different way to regulate the display of nicotine inhaling products. The main suggestions included:

- Product displays should be permitted in a specialist retailer which could only be accessed by persons over the age of eighteen.
- Responsible messaging and advertising should be implemented by vape companies.

Some participants used these responses to suggest other interventions entirely, such as only allowing the sale of nicotine inhaling products via prescription or making them only available in specialist stores.

Not in favour of any regulation of Point of Sale Display

Overall, 28% of respondents were against any regulation of Point-of-Sale displays for nicotine inhaling products.

The main themes from these respondents included:

- The decision to use nicotine inhaling products is the choice of the individual and it is not appropriate for the Government to introduce legislation that would take the choice away from the user.
- Regulation would restrict access to information on the product and might affect harm perceptions of nicotine inhaling products in comparison with tobacco.
- Regulation in this area would decrease the use of e-cigarettes as a smoking cessation option.
- There should be different regulations in specialist shops.
- The laws banning nicotine inhaling products to u18s should be strongly enforced, and doing this should negate the need for further regulation.

"I believe that smokers and those who vape need to be able to see what's available. If vapes are treated as something that can only be hidden behind a counter it shines a bad light on vaping, and may make some people reluctant to switch over fell [sic] to it from smoking."

- Member of the Public

Consumer Organisations were either not in favour of regulation or thought there was another way to regulate, suggesting that a full Point of Sale ban would lead to a decrease in the use of vapes as a smoking cessation aid due to lack of visibility. Both recommended that specialist retailers should not be subject to any Point of Sale regulation.

"Point of sale promotion of vapes is an "anti-smoking" promotion paid for by manufacturers and retailers and available at the place where smokers could decide to switch. It would be counter-productive to remove this given there is no evidence it would produce any benefit."

- Consumer Organisation

Manufacturers and distributors of nicotine inhaling products had a range of responses from all options but were largely opposed to a full Point of Sale ban, echoing some of the above themes around harm perceptions and the value of nicotine inhaling products for smoking cessation. Some suggested that comprehensive restrictions in this area could lead to a competitive disadvantage, by making it more difficult to advertise and sell new products, act as a barrier to entry for new companies, and that a ban on Point of Sale displays would obstruct their rights to communicate about their product.

3.2 Nicotine inhaling product packaging and appearance

Participants were asked what they thought would be the most effective way to regulate the appearance of nicotine inhaling products and packaging and given a range of options to choose from, from which between 1 and 3 options could be chosen. Of those who responded:

- 64.4% said that the appearance of nicotine inhaling products and packaging should be regulated.
- 23.1% indicated that the appearance of nicotine products and packaging should not be regulated.
- 6.2% said that there is a different way to regulate the appearance.
- 6.3% were 'other' responses ¹².

Of the responses, options which received over 1.5% representation are listed in Table 5 below.

¹² These were combinations of responses which were selected by less than 1.5% of respondents, and had conflicting selections, for example selecting "I do not think the appearance of nicotine inhaling products should be regulated" alongside selections to regulate the appearance of nicotine inhaling products.

Table 5: Options chosen by more than 1.5% of respondents

| Option | Corresponding Percentage |
|--|--------------------------|
| Prohibit the use of animations, cartoons and child friendly images | 37.2% |
| Prohibit the use of animations, cartoons and child friendly images; Prohibit the use of branding/logos | 1.9% |
| Prohibit the use of animations, cartoons and child friendly images; Prohibit the use of branding/logos; Prohibit the use of colours | 9.8% |
| Prohibit the use of animations, cartoons and child friendly images; Prohibit the use of colours | 7.1% |
| Prohibit the use of branding/logos | 2.4% |
| Prohibit the use of colours | 6.0% |
| I think there is a different way to regulate the appearance of nicotine inhaling products | 6.2% |
| I do not think the appearance of nicotine inhaling products should be regulated | 23.1% |
| Other responses | 6.3% |

In favour of regulating the appearance of nicotine inhaling products

Regarding regulation, the most popular option (either as a standalone option or grouped with others) was to prohibit the use of animations, cartoons and child friendly images (60%), followed by colours (25%) and branding/logos (16%). 9.8% of respondents selected all three options.

For respondents who were in favour of some form of regulations on restricting the appearance of nicotine inhaling products packaging and appearance, the main themes were:

- Changing to plainer packaging and removing colours, cartoons and imagery would reduce the appeal of these products to children.
- The use of colours, cartoons and other identifiers is a marketing strategy used by vape companies to encourage uptake.
- It would reduce the appeal to the general population and reduce uptake.

"I agree that colours and animations make the products more appealing to everyone, not just children. People use them as fashion accessories. The cooler it looks the more appealing it is to those who might not normally be inclined to vape. However I do think logos and branding of some sort would be ok, largely so that they are in some way identifiable but the size of the logos or branding could be limited so that they can only be identified at very close distance by the user."

- Member of the Public

Health Organisations

All health organisations were in favour of introducing regulations to prohibit the use of animations, cartoons and child friendly images, branding/logos and colours on nicotine inhaling products and their packaging. The main themes identified from their responses were:

- These characteristics are used as a marketing tool to encourage children to use the products. Changing to plain packaging would make the product less appealing to children.
- Flavours, colours, and imagery give people a reduced harm perception.
- The inclusion of packaging characteristics contributes to brand identity.
- The colours, logos and branding of the product increase awareness of vaping.
- Current evidence from UK studies shows that standardised packaging of nicotine inhaling products would not impact their appeal to adults.

"E-cigarettes are not a normal consumer product. They are highly addictive, have established health harms and are no longer legal to sell to children. We know from decades of experience and evidence with tobacco products that marketing, including product design, branding and

packaging, sustains the epidemic of smoking related harm through recruiting children and young people into smoking and making it harder for people who smoke to quit. We are now seeing components of this “playbook” that has been used by the tobacco industry successfully to now create a new epidemic of e-cigarette use among children and young people.”

- Health Organisation

“The claim by tobacco and e-cigarette companies that their ENDS and ENNDS devices are designed and produced as smoking cessation tools does not correlate to the type of packaging and appearance of the devices presented.”

- Health Organisation

Consumer Organisations and Industry

Consumer Organisations and most manufacturers and distributors were in favour of prohibiting the use of animations, cartoons and child friendly images but raised concerns around overregulating the appearance of nicotine inhaling products:

“It's important the regulation of the packaging is proportionate. If tobacco style packaging is applied to vapes, it could lead smokers to believe that cigarettes and vapes carry the same risk and deter smokers from making the switch to reduced risk products.”

- Consumer Organisation

Different way to regulate the appearance of nicotine inhaling products

As with the other questions, many respondents who selected this option used the free text box to propose other interventions, such as prescription-only availability or stronger age of sale enforcement, rather than suggestions for other ways to regulate the appearance of nicotine inhaling products. A common theme was the concern that regulating the appearance of nicotine inhaling products could affect individuals using these products as a smoking cessation option.

Not in favour of regulating the packaging and appearance of nicotine inhaling products

For respondents who disagreed with regulating the packaging and appearance, the main themes were:

- Introducing regulations would be ineffective.
- Increasing the regulations on Point of Sale and stronger enforcement of the Age of Sale would be sufficient.
- Individuals should have free choice to purchase nicotine inhaling products.

"If products are kept behind a counter and not on display then there is no need to change the packaging or appearance. I do not think that the packaging or appearance has a bearing on deciding what product to use. I'm speaking as a former smoker who has been off cigarettes for ten years through using vapes."

– Member of the Public

3.3 Flavours

Participants were asked what options they thought would be the most effective way to regulate flavours in nicotine inhaling products. This included options to prohibit certain flavour categories, as well as the options to oppose any restrictions, suggest a different way to regulate flavours, or answer 'Don't Know'. Of those who responded:

- 62.8% were not in favour of regulating flavours in nicotine inhaling products.
- 27.8% indicated that flavours in nicotine inhaling products should be regulated.
- 2.9% indicated that there is another way to regulate flavours.
- 6.49% answered 'Don't Know'.

In favour of flavours being regulated

In terms of intervention, the most popular options chosen were to prohibit chocolate, dessert, sweet or candy flavours (19%), followed by energy drink or soft drinks flavours (14%) and fruit flavours (12%). The options that participants were least in favour of prohibiting were tobacco flavours (5%) and tobacco menthol flavours (5%).

For respondents who agreed with some form of regulation on flavours in nicotine inhaling products, the main themes were:

- It would reduce the appeal of the product to children.
- Using a large range of flavours is a marketing strategy from companies to increase uptake.
- Restricting the number of flavours should be introduced alongside other measures such as increasing the age of sale and introducing restrictions on packaging and appearance.

“As a former smoker, I always vape flavours that are far removed from tobacco flavour (mainly fruit flavours). It has made it easier for me to keep away from smoking. However, I do think there is a case for removing flavours that would appeal more to children than adults.”

- Member of the Public

Health Organisations

All health organisations were in favour of introducing regulations on flavours. The main themes from their responses were:

- Less flavours would reduce the appeal and use of the product.
- Appealing flavours can act as motivators and make vaping more attractive.
- A wide range of flavours can lead to experimentation.
- Children have a preference for flavours and can perceive flavoured products as less harmful than non-flavoured products.

“Enacted and enforced policies to restrict product design with regard to flavourings have been effective as part of a comprehensive tobacco control framework in helping to reduce smoking, especially among children and young people. We can expect the same measure applied to e-cigarettes will have a similar impact on e-cigarette use among children and young people.”

- Health Organisation

There is a different way to regulate flavours

As with other questions, respondents who selected ‘there is a different way to regulate flavours’ used the free text box to propose other interventions or address concerns with regulation. These included:

- A restriction on flavours could negatively impact those who choose nicotine inhaling products as a smoking cessation aid.
- Limiting flavours would reduce the appeal of the product to children.
- Other regulations should be implemented such as plain packaging, raising the age of sale and banning proxy sales.

However, one approach proposed by some respondents was to regulate flavours according to the harmfulness of the ingredients used to create the flavour.

Not in favour of flavours being regulated

For respondents who disagreed with any regulation of flavours, the main themes were:

- This would negatively affect people using nicotine inhaling products for smoking cessation and encourage people to return to smoking tobacco.
- It would increase illicit trade, cross border sales and encourage users to mix or create their own flavours from available products.
- Other types of regulations would be more effective such as plain packaging, raising the age of sale or banning proxy sales.

“Flavours are a huge part of the journey adult smokers make towards vaping and harm reduction. In my store, with over 10,000 quitters in 5 years, 92% of these use flavoured e-liquids, and when asked if they would use no flavour or tobacco they say they will go back to smoking.”

- Retailer

“Flavours make the use, and therefore the take up, of vape products more pleasant. I was a heavy smoker for most of my life and I am delighted that I don't have to smoke anymore. Having flavours made it easier for me. Ironically for me, and a lot of other vapers, I have no interest in tobacco flavours. I don't want my vape to be like a cigarette therefore I need different flavours.”

- Member of the Public

Consumer Organisations did not support any regulation of flavours and suggested that flavours are a key component of the use of vapes as a smoking cessation aid. However, one group stated that some controls on flavours could help to prevent inappropriate branding and descriptors.

“We strongly disagree with bans on characterising flavours as these are integral to the success of vapes as an alternative to cigarettes, both for adults and adolescents. Flavours, are intrinsic to the consumer-based harm reduction approach and support the smoke-free goal.”

- Consumer Organisation

3.3.1 SPECIALIST RETAILERS

Participants were asked if specialist retailers (shops that only sell vapes) should be allowed to sell a different range than general retailers, if flavour restrictions were introduced. Of those who responded:

52% stated that specialist retailers should be allowed to sell a different range

36% were not in favour

12% answered 'do not know'.

In favour of specialist retailers being allowed to sell a different range

For respondents who agreed that specialist retailers should be allowed to sell a different range of flavours than general retailers, the main themes were:

- Access to a wide range of products can help with smoking cessation.
- Specialist retailers have a level of expertise and knowledge that general retailers do not have.
- Moving the sale of these products to a specialist retailer space would protect children and reduce impulse buys in general retailers.
- It would be easier to enforce regulations and age checks if nicotine inhaling products were only available in a specialist retailer.

“Allowing specialist vape shops to offer a wider range of flavors than general retailers can serve a dual purpose. Firstly, it helps in regulating and monitoring the sale of flavored vaping products more effectively, as specialist shops can implement stricter age verification processes. Secondly, it ensures that adult users, especially those using vaping as a means to quit smoking, have access to a variety of flavors that can aid in their transition away from tobacco products.”

- Member of the Public

“I actually think that’s a great idea . That only specialist shops could sell a fruit flavour (getting rid of the candy , chocolate, soda drink flavours) it would reduce the ease in which younger people could obtain the products.”

- Member of the Public

“People who don’t vape are more likely to buy their first one in the supermarket because its [sic]easy and you see it there and it looks nice. if there is a limited range of flavours perhaps they wont [sic] like the one they got and will never buy one again. if actual vape shops sold all the flavours it would be better because only actual vapers go to vape shops.”

- Member of the Public

Not in favour of specialist shops being allowed to sell a different range

The majority (61.3%) of non-vapers indicated that they are not in favour of specialist retailers having different exemptions to general retailers.

For respondents who disagreed with exemptions for specialist retailers, the main themes were:

- It would be counterintuitive to introduce an exemption if there is a plan to ban flavours to discourage uptake and child appeal, as they would still be accessible.
- There would be an increase in proxy sales.
- It would be difficult to enforce regulations if they differ across types of retailers.

All Health Organisations stated that different rules should not be applied to specialist retailers. Some suggested that introducing different measures would lead to a number of issues including a shift to online purchases and the dilution of the effectiveness of new measures:

“No, there must be uniform application of e-cigarette flavour restrictions to all forms of retailers. Permitting different specialist retailers to sell a different range of flavours than general retailers will create ambiguity and loopholes that e-cigarette companies will exploit for their benefit, by increasing the supply of their products on the market. Only a full ban of all e-cigarette flavours, bar tobacco and neutral flavours, to all forms of retailers will reduce the level of youth vaping.”

- Health Organisation

They also noted that “specialist retailer” was currently ill-defined, and was open to circumvention:

“There is a lack of legal clarity on what constitutes a specialist retailer/‘vape shop’, making it difficult to comment on the proposal... There is no convincing evidence that ‘vape shops’ are any more or less compliant with the law, or offer evidence-based smoking cessation support to any greater or lesser extent, than other retail environments. We could not find any convincing

evidence that 'vape shops' offer products with more stringent safety or testing requirements. Therefore, it does not seem appropriate to offer exemptions to 'vape shops' at this time."

- Health Organisation

"In New Zealand, generic retailers are limited to selling menthol, tobacco and mint flavoured vapes, but specialist stores can sell a full range. To become a specialist store, retailers must simply prove vaping products are sold from a fixed, permanent structure, and account for at least 70% of total store revenue. This large loophole has led to a large number of retailers creating vape shops within their current retail outlet."

- Health Organisation

However, one health organisation noted the possibility for a role for specialist retailers under a different framework:

"The introduction of a new licensing system for retailers of tobacco and e-cigarettes in the Tobacco and Nicotine Inhaling Products Act 2023 allows for a more strategic approach to addressing retail environments for both tobacco and e-cigarettes. This has the potential to include an expanded role for specialist tobacco or e-cigarette shops. Restricting the sale of tobacco and e-cigarette products from supermarkets and general retail stores as means to reduce retailer outlet density and denormalise the products should be considered."

- Health Organisation

Consumer Organisations were not in favour of any regulation of flavours, but were also not in favour of different rules for specialist retailers should flavour restrictions be introduced:

"The notion that specialist retailers could have a different product range is both unworkable and anti-competitive. It offers no solution to any problem and in fact, reduces the opportunities for current smokers to be encouraged to switch."

- Consumer Organisation

Impact on adults and children

Respondents were also asked what impact they thought their suggested approach would have on a) children and b) adults.

Impact on Children

For those who were in favour of introducing some form of regulation, it was suggested that it would reduce the appeal of the product to children, and by restricting access it would decrease the uptake of e-cigarettes among children.

Those opposed stated that introducing regulations would be ineffective and other measures such as banning disposable vapes, addressing packaging and Point of Sale displays and stricter age enforcement would be a more efficient way of deterring use.

Impact on Adults

Respondents who were in favour of introducing regulations stated that this approach would reduce the appeal of the products to the general population and it would not impact adult smokers using these products. Some health organisations noted that there was currently no evidence that flavours improved the effectiveness of e-cigarettes for smoking cessation.

Those opposed suggested that reducing the range of products could affect adults using it as a cessation aid, and that individuals should have free choice to buy these products.

3.3.2 FLAVOUR DESCRIPTORS

Participants were asked if they thought that flavour descriptors affect the appeal of nicotine inhaling products to children. Of those who responded:

- 47.8% of respondents indicated that flavour descriptors affect the appeal of nicotine inhaling products to children.
- 40.7% of respondents indicated that that flavour descriptors do not affect the appeal of these products to children.
- 11.4% answered 'Don't know'.

All Health Organisations stated the belief that descriptors affect the appeal of these products to children. 75.2% of non-vapers and 69.9% of the 'Advocacy & Organisations' group thought that flavour descriptors affect the appeal of nicotine products to children.

For respondents who thought that descriptors do affect the appeal of nicotine inhaling products to children, the main themes were:

- Descriptors make the product more appealing to children as they often use child friendly language.
- Descriptors are a marketing tactic used by vape companies to entice and encourage uptake.
- Depending on the words used as a descriptor, it can lead to a reduced harm perception of the product.
- Removing descriptors will not affect adult use.

"The description and names of nicotine and non-nicotine inhaling products are designed to attract and appeal to young people. As with tobacco products, exotic names like Twista Lime, Kauai Kolada, Caribbean Chill, and Mintrigue, were once used as a means to tempt young people (Rictel, 2014), and were subsequently prohibited to reduce their appeal to children, teenagers, and young people. It is now imperative, that along with the total ban on all e-cigarette flavours, bar tobacco and neutral, that flavour descriptions of nicotine and non-nicotine inhaling product should be regulated and limited to 'Tobacco Flavour' and 'Neutral Flavour'. This would reduce the enticing appeal that e-cigarette flavours and their descriptions have on young people."

- Health Organisation

For respondents who thought that descriptors do not affect the appeal of nicotine inhaling products to children, the main themes were:

- There are other factors that affect the uptake of vaping products by children including peer pressure, curiosity and looking 'cool'.

- There should be increased enforcement of other regulations to ensure that children do not use nicotine inhaling products.
- Access to nicotine inhaling products by children should be the responsibility of the retailer and/or guardians.

For respondents who chose 'don't know', the main themes were:

- This approach would be ineffective.
- Access to nicotine inhaling products by children should be the responsibility of the guardians.
- Descriptors on sweets and sugary foods and over 18 products such as alcohol and energy drinks should also be addressed.
- Other measures should also be introduced such as plain packaging and a reduced number of flavours.

"It's difficult to say. A child could be very much appealed to by a simple "cherry" or "strawberry" flavour description. But I can absolutely see how more blatant flavour descriptions like "orange gummy bear" for example could affect the appeal of nicotine inhaling products to children, because of it having a more direct connection to sweets/desserts."

- Member of the Public

Participants were then asked if they thought flavour descriptors should be regulated. Of those who responded:

- 54.4% responded that flavour descriptors should not be regulated.
- 35.6% indicated that descriptors should be regulated.
- 9.9% responded that they 'do not know'.

In contrast to the majority believing that flavour descriptors affect the appeal of nicotine inhaling products to children, the majority of respondents indicated that descriptors should not be regulated.

The overall 'Advocacy & Organisations' Group (56%), all health organisations, healthcare workers (74%), teachers (94%) and non-vapers (69%) agreed with introducing regulations for flavour descriptors.

For respondents who thought that flavour descriptors should be regulated, the main themes were:

- Regulating descriptors would reduce child appeal.
- Descriptors are misleading advertisements.

"Enacted and enforced policies to restrict product design with regard to branding have been effective as part of a comprehensive tobacco control framework in helping to reduce smoking, especially among children and young people. We can expect the same measure applied to e-cigarettes will have a similar impact on e-cigarette use among children and young people, where risks from e-cigarettes have been clearly delineated in two HRB reviews."

- Health Organisation

For respondents who thought that flavour descriptors should not be regulated, the main themes were:

- It would decrease the use of nicotine inhaling products as a smoking cessation aid.
- Using the product is a free choice and therefore regulations on flavour descriptors should not be introduced.
- Descriptors make the product identifiable.

"The target market doesn't need to be protected from dicriptions [sic]. Adults can decide for themselves."

- Member of the Public

For respondents who answered 'Don't know', the main themes were:

- Descriptors help to give an accurate description of the product.
- It could reduce the appeal to children.

“I think that flavors should be accurately described on packaging for the benefit of the consumer. I have observed some products where the actual flavor is not apparent from the advertised flavor description. Calling the flavour Rainbow, Blue Razz, Summer cloud or using similarly nondescript language to make the product sound more exciting is probably something that could be restricted to a degree as it serves no actual benefit to the consumer and my serve to make the product seem more appealing to the wrong audience.”

- Member of the Public

3.4 Extending smoking restrictions to vaping

Participants we asked if they thought that the current laws on smoking should be extended to vaping. Of those that responded:

- 34.6% indicated that the currently laws on smoking should be extended to vaping.
- 57.9% indicated that they should not be extended to vaping.
- 7.5% answered ‘Do not know’.

In favour of extending smoking restrictions to vaping

The majority (61.8%) of respondents from the ‘Advocacy & Organisations’ Group indicated that the laws should extend to vaping. 71.6% of non-vapers also indicated that the current laws on smoking should be applied to vaping.

For respondents who agreed that the current laws on smoking should be extended to vaping, the main themes were:

- This would denormalise the use of nicotine inhaling products.

- The evidence on nicotine inhaling products is uncertain and therefore action should be taken to prevent the potential health impacts.

“Vaping is smoking. People learn by looking at others. We are all influenced by our peers. No adult should be vaping/smoking/drinking in small spaces with children. Vaping products are still new, we don't know the health repercussions of passive vape smoke. Best to err on the side of caution.”

- Member of the Public

All health organisations were also in favour of extending smoking restrictions to vaping. The main themes raised were:

- There is a growing body of evidence discussing the harms of nicotine inhaling products, including the immediate effect it has on people with asthma and respiratory conditions, and exposure to toxic chemicals and nicotine.
- Restricting where both e-cigarettes and cigarettes can be used and seen will lead to denormalisation of these products.
- Along with strong public support for a change in regulations, the WHO has also called for the ban on the use of e-cigarettes in public spaces.

“Denormalisation of smoking was key to addressing the epidemic of smoking-related harm in Ireland, especially in protecting children and young people from smoking initiation.

Normalisation of e-cigarette use sustains initiation and use across children and young people.”

- Health Organisation

Of the responses received from the hospitality industry, 80% were in favour of extending the restrictions. Some hospitality businesses noted that it would be easier to regulate within their businesses if the same law applied to both smoking and vaping.

Those who answered 'Don't Know'

For respondents who answered "Don't Know" regarding extending restrictions to vaping, the main themes were:

- Many businesses already implement their own restrictions in relation to the use of nicotine inhaling products.
- There is not enough evidence on nicotine inhaling products yet to introduce this type of restriction.

"It is difficult to regulate on health grounds when there is only small evidence of potential harm from second-hand aerosol."

- Member of the Public

"A child does not know the difference between a cloud of smoke or a cloud of vapour being exhaled, both just "look cool". However, one of the reasons adults switch to vaping is because they don't have to stand out in inclement weather in order to inhale nicotine. If vaping products shared the same regulation forcing adults to use them outdoors in designated areas, it would disincentivise switching from smoking to vaping. I believe this particular question is unfortunately "damned if you do, damned if don't"."

- Member of the Public

Not in favour of extending the current restrictions on smoking to vaping

For respondents who disagree with extending restrictions on smoking to vaping, the main themes were:

- Implementing this measure could have a negative effect on those using nicotine inhaling products for smoking cessation.
- By making nicotine inhaling products on par with tobacco it would equate them with the health harms of tobacco.

“They are completely different products so I don’t feel just because they contain [sic] nicotine the same laws should apply. Most places will not allow vaping indoors anyway applying their own restrictions and there is no proven inherent risk to anyone from second hand vaping.”

- Member of the Public

3.5 Proxy sales

Participants were asked if they thought that proxy sales of tobacco products and nicotine inhaling products should be prohibited. Of those who responded:

- 53.7% of respondents indicated that proxy sales of tobacco and nicotine inhaling products should be prohibited
- 35.7% of respondents did not think proxy sales should be prohibited
- 10.6% answered ‘do not know’

In favour of proxy sales being prohibited

Each group had a majority in favour of the introduction of proxy sales restrictions of tobacco and nicotine inhaling products. Among the public, non-vapers had the highest percentage in favour introducing a ban on proxy sales (74.1%). The majority (58%) of responses received from the ‘Commercial Interest’ group were in favour of a proxy sales ban. There was particularly strong support from retailers and retail organisations (73%) and manufacturers, distributors and wholesalers of tobacco and nicotine inhaling products (83%).

For respondents who agreed that proxy sales of tobacco and nicotine inhaling products should be prohibited, the main themes were:

- Prohibition of proxy sales should be in line with regulations on the sale of alcohol.
- A prohibition would support an increase in the age of sale for tobacco products.
- It would help to protect children and reduce access to these products by introducing an additional barrier.

Health Organisations

All of the health organisations were in favour of the introduction of a proxy sales ban. The main themes from their responses were:

- There is evidence that children find it 'easy' to get an older person to purchase tobacco products for them, and social media has made it easier for children to buy e-cigarettes.
- This measure would reduce access for young people.
- This would mitigate the inevitable increase in proxy sales from the new age of sale requirements for e-cigarettes, and would work well alongside raising the age of sale for tobacco.
- This would also help raise awareness of the seriousness of the products.

"Including proxy sales within the legislation minimises any loopholes that could be exploited by illicit operators to evade prosecution for facilitating supply."

- Health Organisation

Those who answered "Don't Know"

10.6% of respondents answered 'Don't Know' to the question about the introduction of a proxy sales ban. The main themes from this group were:

- This measure would be ineffective.
- It would be difficult to enforce.
- Purchasing these products for children should be up to the discretion of parents/guardians.

"Ideally, this should be prohibited, but this might be difficult to conduct in practise [sic] as it would be impossible to determine if someone were to buy a product for oneself or not."

- Member of the Public

Not in favour of proxy sales being prohibited

Overall, 36.7% of respondents were against proxy sales being prohibited.

The main themes from these respondents were:

- It would be ineffective.
- Purchasing these products for children should be up to the discretion of parents/guardians.
- Nicotine inhaling products should not be treated in the same way as tobacco products

“If a parent chooses to switch their smoking offspring to vaping as an aid to quitting that option must be available. Currently, NRT is allowed for underage smokers. You must be 16 to purchase but the product is marked as suitable for adults and children over 12. Removing the option of the most effective product would be self-defeating. Banning [sic] proxy sales for combustible tobacco should be implemented, possibly augmented by raising the age of purchase to 21.”

- Member of the Public

Several respondents also raised their concerns that a ban on proxy sales would be hard to enforce and could lead to an increase in illicit trade:

“You can’t take away something that has always been there. This would lead to more unregulated and unsafe black market sales which could affect public health more negatively than if safer legal product was available. Regulating too heavily would also make it more appealing to youth and teens as they would just find alternative ways to get their fix.”

- Member of the Public

3.6 Smoking in dining areas

Participants were asked if they thought that smoking should be banned in outdoor dining areas. Of those who responded:

- 23.8% agreed that smoking should be banned in these areas.
- 70.9% did not agree.
- 5.2% responded 'Don't know'.

In favour of a ban on smoking in dining areas

Health organisations (100%), teachers (78%), healthcare workers (65%) and people who have never smoked (70%) were in favour of the introduction of restrictions.

For respondents who agreed that smoking should be banned in outdoor dining areas, the main themes were:

- Second hand smoke (SHS) is harmful to the health of the staff working in areas where people are allowed to smoke. A ban would also protect the health of vulnerable people and children who are subjected to second hand smoke.
- Individuals have a right to a smoke free environment.
- It would help to denormalise smoking.

“While reduced the risk is still present to those, in particular workers who are in those areas for a considerable amount of time. Children particularly are present in those areas which are often quite closely packed due to smaller areas for seating and tables are close together. This normalizes smoking in these settings and should not be possible. It significantly deters from the experience and comfort of others in those areas. I have spoken to my children about the dangers of smoking as they are heading into teenager years and they would be uncomfortable and also anxious sitting next to someone smoking while out eating and we would definitely leave.”

- Member of the Public

Responses from Health Organisations

All Health Organisations were in favour of a ban on smoking in outdoor dining areas. The main themes which arose from their responses were:

- The dangers of SHS are well established and there is no risk-free level of SHS.
- Some businesses have already brought in their own restrictions to address this issue.
- It would further denormalise smoking.
- A ban would protect hospitality staff who have to work in areas where SHS cannot be avoided.
- Families with young children are often in outdoor dining areas which exposes children to SHS.

“Customers who are seated in the outdoor areas of bars should not be exposed to secondhand smoke. If bar staff are providing table service to all customers – including customers seated in the outdoor areas – they too will be exposed to secondhand smoke. There is no risk-free level of secondhand smoke and we need to protect the general public and in particular bar staff from the well-recognised health implications of second-hand smoke.”

– Health Organisation

Those who answered “Don’t Know”

For respondents who were unsure about the introduction of a smoking ban in outdoor dining areas, the main themes were:

- Businesses could introduce split zones to separate smokers from diners.
- It should be left to the business owners’ discretion.
- Smoking could be allowed at certain times during the day i.e. when food is not being served.

“I think it depends on how strict this law is - if it is banning anyone smoking in any outdoor seat outside a restaurant/cafe, I think that may be harsh on those who are simply having a coffee and cigarette on their own outside a quiet cafe! However, I see the use in cracking down on this

for the sake of others. Semi-closed areas would be a good place to start. On the whole I think maybe certain hours should be used – eg [sic] banned from 2pm-8pm? This is when children may be in outdoor areas. However in the morning and night I don't see the harm.”

- Member of the Public

Not in favour of prohibiting smoking in outdoor dining areas

For respondents who disagreed with the introduction of a smoking ban in outdoor dining areas, the main themes were:

- A ban would be unfair and discriminatory to smokers and lead to increased levels of smoking stigma.
- A ban would lead to loss of business for retailers and should be left to the business owners' discretion.
- Smoking is a free choice.
- There is no harm from second hand smoke.
- Businesses could introduce split zones to separate smokers from diners.
- Non-smokers can move indoors if they do not want to be in an environment where people are smoking.

“Smokers were asked to move outside 20 years ago and for the most part have complied. Beer gardens etc were set up specifically to accommodate these people all year round. Now people are trying to take them over from the smokers for the 2 weeks a year we get good weather. I think it's unfair on the smokers and also detrimental to the business as what happens when the weather changes and they have pushed away the regular outdoor patrons.”

- Member of the Public

“It is outdoors, any risk is absolutely minimal and people have long accepted that if the establishment allows smoking in their outdoor space, then the person can make an informed decision whether to eat indoors or choose a different establishment. Many outdoor dining

venues apply their own restrictions in this regard already, policy is not required.”

- Member of the Public

Of the responses received from members of the hospitality industry, 68.9% were not in favour of a restriction on smoking in outdoor dining areas, 27.9% were in favour and 3.3% responded ‘don’t know’.

The concerns raised on the introduction of a ban included:

- A ban would negatively affect businesses and decrease footfall.
- Premises have already been modified to accommodate outdoor smoking and this would incur additional costs.
- The current legislation is sufficient and has buy-in from both the public and hospitality businesses.
- It should remain at the business’ discretion as to how to organise their outdoor areas.

“We as a business already regulate where and when outdoor areas may be used for smoking. i.e. when there are no diners using the area (winter). On a good summer’s day diners want to sit outside specifically for obvious reasons. In these circumstances we designate a certain area for smokers away from diners. We are well capable of regulation in this matter. The public demand that from us as managers. A ban on smoking on outdoor dining areas could render perfectly suitable smoking areas as useless in the winter when there would be no demand for dining outside.”

-Hospitality Business

“Such a proposed ban would be particularly challenging for businesses with limited outdoor space, normally the case in cities and town centres, as it would not be feasible to split their limited space to provide both dining and smoking areas. Legally defining the separation of dining and smoking areas in this context of limited outdoor space would be confusing and challenging for both customers and businesses, and likely be hard to enforce. Given the importance of outdoor dining to hospitality businesses, combined with the obvious need to

provide designated smoking areas for customers, the proposed ban would prove damaging to the viability of all hospitality businesses with limited outdoor space.”

- Hospitality Organisation

3.7 Age of sale for tobacco

Participants were asked if they thought that the current age of sale for tobacco products should be increased. Of those who responded:

- 65.3% of respondents indicated that the age of sale for tobacco should not be increased.
- 29.7% of respondents indicated that the age of sales should be increased.
- 5% of respondents answered ‘do not know’.

Free text responses to the question provided further context to these views. As the question did not specify the age of sale intervention, some respondents gave views on raising the age of sale to 21, or “Tobacco 21”, some commented on proposals for a date-based “Smokefree Generation” as has been proposed in the UK, and some referred to both. Other responses gave views solely on raising the age of sale for nicotine inhaling products, which was not proposed in the question.

In favour of raising the age of the sale of tobacco

Non-vapers (55%), health organisations (100%), healthcare workers (54%) and teachers and principals (67%) predominantly supported an increase to the age of sale for tobacco.

For respondents who agreed with an increase in the current age of sale, the main themes were:

- This would help reduce the number of children taking up smoking and bring down the number of future smokers in Ireland and help to achieve a Tobacco Free Ireland.
- This measure would lead to a reduction in the burden on the public health system as a direct cause of the effects of smoking.

- There should be stricter enforcement and on retailers who do not comply with best practice in age verification.

“Yes we should ban the sale of tobacco to children and have a set date as a lead in time. It is untenable that a product that kills so many is still legally sold and available in every corner shop. If we ever want to address this issue we have to restrict its availability and stop the industry from recruiting the next generation of smokers. We should at the same time however increase our investment in smoking cessation supports for those already smoking.”

- Member of the Public

Responses from Health Organisations

All Health Organisations were in favour of increasing the age of sale of tobacco. The main themes from their responses were:

- It would reduce access, uptake and smoking rates.
- There is strong public support in Ireland for raising the age of sale.
- This measure is necessary to contribute to Ireland's tobacco free goal.

“The Royal College of Physicians of Ireland Policy Group on Tobacco position paper presents evidence to support raising the minimum legal age of sale for tobacco to 21 as an immediate response to evidence of stalling of progress in reducing youth and adult smoking in Ireland.”

- Health Organisation

“While most tobacco control measures do little to reduce inequalities this, as a whole of society intervention, would have more effect on higher smoking communities who tend to be more disadvantaged.”

- Health Organisation

Not in favour or “don’t know” about raising the age of sale of tobacco.

Views received from those not in favour on increasing the age of sale and those who responded with “Don’t know” were broadly aligned. The main themes which came up across these groups were:

- The right to buy tobacco products is a free choice and should not be restricted.
- Tobacco should be on par with the age of sale for alcohol as differences in the age of sale between the products would cause confusion.
- Increasing the age of sale could lead to an increase in illicit trade and proxy sales.

“In Ireland, a person is deemed an adult at 18. They should therefore be entitled to make their own decisions at this age. The idea of increasing it seems nonsensical and creates a stupid situation whereby someone can drink at 18 but not smoke until 21. This effectively will just increase levels of minor illegal activity as people will not adhere to it.”

- Member of the Public

Among retailers, 40% were in favour of an increase, 57% were not in favour, 1.5% answered ‘Don’t know’ and 1.5% did not answer this question.

The main concerns raised by this group were:

- The age of sale should be consistent with the age of sale for alcohol, and gambling and voting age. They believe that enforcing different ages of sale would be difficult and confusing for staff.
- The right to purchase tobacco products is a free choice.
- This measure would lead to an increase in illicit trade.

“This going to create a black market and while the sentiment is to be commended, if a person can vote at 18 and treated like an adult I cannot see the sense in restricting certain areas of their lives! It is a very retrograde measure for a modern democratic society.”

- Retailer

One retail organisation raised concerns regarding the interaction between the age of sale for purchase and the recently enacted minimum age to sell tobacco and nicotine inhaling products:

“The [organisation] understands the motivation to increase the age at which people can purchase tobacco and nicotine inhaling products from 18 to 21. The [organisation] would have serious concerns should the age at which you can sell tobacco products be raised to 21 years of age in line with this proposal. Should such a proposal be introduced, members of the [organisation] would face serious difficulties in sourcing and rostering staff if its employees are restricted to the age pool of 21 and above. Rural shop owners would be particularly affected in this regard.”

- Retail Organisation

4 Overview of responses: Taxation of vaping liquids

A series of questions were included at the request of the Minister of Finance to inform a taxation regime for vaping liquids. The overall results are outlined below.

Do you think an increase in the price of vapes, (e.g. due to an excise tax imposed on e-cigarette liquids), would reduce the number of young people who vape?

Yes

No

Don't know

Of those who responded:

68.7% indicated that they do not believe that an increase in the price of vapes would reduce the number of young people who vape;

24.8% of respondents indicated that an increase would impact the number of youths vaping;

6.5% responded 'don't know'.

What impact do you think an increase in price would have on consumption levels?

It would reduce consumption levels

No impact

Products may be sourced outside of Ireland

Don't know

Of those who responded:

21.9% indicated that an increase in price would reduce consumption levels;

32.2% indicated that an increase in price would not impact consumption levels;

39% of respondents chose the option that 'products may be sourced outside of Ireland';

6.9% chose 'don't know'.

Other EU Member States, which tax e-liquids, apply a rate of 10 cent to 30 cent per millilitre. Do you think Ireland should apply a rate in line with other Member States or should a higher rate of tax be imposed?

Apply a rate of tax per ml in line with other Member States

Apply a higher rate of tax per ml

Other

Of those who responded:

56.6% indicated that the rate of tax on vapes should be in line with other EU Member States;

10.1% indicated that the rate of tax should be higher than other EU Member States;

33.4% responded with 'other'.

Do you think an e-liquid tax should apply to all e-liquids or only liquids containing nicotine?

All liquids

Only nicotine-containing liquids

Don't know

Of those who responded:

53.1% indicated that only nicotine containing liquids should be subject to an e-liquid tax;

20% indicated that a tax should apply to all e-liquids;

26.9% chose 'don't know'.

Appendix 1: EUSurvey Questionnaire

Public Consultation on Further Regulation of Tobacco and Nicotine Inhaling Products

Fields marked with * are mandatory.

Introduction

Nicotine inhaling products include e-cigarettes or “vapes” and using them is known as vaping. These products are battery-powered devices. They heat nicotine mixed with flavourings and other chemicals to create an aerosol that the user inhales. They can either be open devices, where the user manually fills the device with liquid, or closed devices where there is a pre-filled liquid pod. Closed devices can be reusable or disposable.

Vaping has become more popular in recent years, particularly among young people. Compared to cigarettes, vaping may be less harmful, but vaping is not harm free. We do not yet know the long-term health effects of vaping. Most vaping liquids contain nicotine, a highly addictive substance.

This consultation looks at what further measures could be introduced to decrease the appeal of nicotine inhaling products to young people, further denormalise smoking, and improve public health. The areas where views are being sought include:

- The display of nicotine inhaling products in shops
 - Nicotine inhaling product flavours
 - The appearance of nicotine inhaling products
 - Proxy sales of tobacco and nicotine inhaling products
 - Smoking in outdoor dining areas
 - Extending smoke free restrictions to vaping
- Increasing the age of sale for tobacco products

We are also seeking views on taxation of vapes, which will be shared with the Department of Finance.

For each area, we are interested in your views on which measures might have the biggest real-world impact on public health, and any possible positive or negative unexpected effects of taking action that we should consider. This includes the knock-on effect for other health or social issues, impact to particular groups in society, or potential market responses to measures.

The results of this consultation will inform Government decision-making on increased regulation of nicotine inhaling products and tobacco. These decisions will also be informed by further evidence review, legal advice and impact assessment to make sure that any regulation is achievable and effective.

The consultation will be open until **5pm on 5 January 2024**

Further information on the topics in this consultation can be found [here](#)

About You

*** Are you currently a resident of Ireland?**

- ☐ Yes
- ☐ No

*** Which one of the following best describes you?**

- ☐ Member of the public
- ☐ Representative of a public health body, advocacy group, NGO or medical organisation
- ☐

Person or entity with a commercial interest in the manufacture, distribution, import or sale of tobacco or nicotine products ☐ Other

Please provide further details, including name of organisation or business if relevant. 300

character(s) maximum

Demographics

What is your age?

- ☐ Under 18 years old
- ☐ 18 - 24 years old
- ☐ 25 - 34 years old
- ☐ 35 – 44 years old
- ☐ 45 - 54 years old
- ☐ 55 - 64 years old
- ☐ 65 - 74 years old
- ☐ 75 years or older

Do you now or have you previously smoked tobacco products?

- ☐ Yes – occasionally
- ☐ Yes – daily
- ☐ No – I have given up smoking
- ☐ No – I have never smoked

Do you now or have you previously used nicotine inhaling products such as vapes or e-cigarettes?

- ☐ Yes – occasionally
- ☐ Yes – daily
- ☐ No – I have given up using vape products
- ☐ No – I have never used vape products

Do you hold a medical card or a GP visit card?

- ☐ Yes
☐ No

Tobacco Industry Declaration

Ireland is a party to the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) and as such we have an obligation to protect the development of public health policy from the vested interests of the tobacco industry. To meet this obligation, we ask all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry.

*** Do you have any direct or indirect links to, or receive funding from, the tobacco industry?**

- ☐ Yes
☐ No

*** Please give further details**

300 character(s) maximum

Part 1: Further Regulation of Tobacco and Nicotine Inhaling Products

Point of Sale

Currently there are no restrictions on how nicotine inhaling products are displayed in shops, unlike tobacco which must be kept out of sight in a closed container. Nicotine inhaling products can be displayed in any part of a shop, including free stand displays or beside other items like sweets and chocolate.

We are considering regulating the display of nicotine inhaling products in shops, to reduce their visibility and appeal to children.

Which option do you think would be the most effective way to regulate the advertising and display of nicotine inhaling products in shops?

- ☐ Nicotine inhaling products must be behind the counter and not be on display or advertised, like the current restrictions on tobacco products
- ☐ Nicotine inhaling products must be kept behind the counter but can be on display
- ☐ I think there is a different way to regulate the display of nicotine inhaling products in shops
- ☐ I disagree with any regulation of the display of nicotine inhaling products in shops

Please explain your answer further

2000 character(s) maximum

Appearance of Nicotine Inhaling Products

Currently there are some restrictions on the appearance and presentation of nicotine inhaling products, for example images of food or cosmetics are not allowed, and the device or packaging cannot suggest health benefits. We are considering further regulations on the appearance of nicotine inhaling products, both in terms of the packaging and the device, to reduce their appeal to children.

Please note: Text and picture health warnings for these products are decided at EU level. These are not part of the options for further regulation of packaging.

Which option(s) do you think would be the most effective way to regulate the appearance of nicotine inhaling products and packaging?

between 1 and 3 choices

- ☐ Prohibit the use of animations, cartoons and child friendly images
- ☐ Prohibit the use of colours
- ☐ Prohibit the use of branding/logos
- ☐ I do not think the appearance of nicotine inhaling products should be regulated
- ☐ I think there is a different way to regulate the appearance of nicotine inhaling products

Please explain your answer further.

2000 character(s) maximum

Flavours

Nicotine inhaling products often contain flavours such as tobacco, fruits and sweets. There is evidence that nicotine inhaling product flavours are important to both children and adults, with fruit and sweet (chocolate, candy, dessert) flavours most popular with children, and fruit and tobacco most popular with adults. The descriptions of some flavours may also increase their appeal to children.

We are considering further regulation of nicotine inhaling product flavours and the way they are described to reduce their appeal to children.

Vape flavours

Which option(s) do you think would be the most effective way to regulate flavours in nicotine inhaling products?

- ☐ Prohibit chocolate, dessert, sweet or candy flavours
- ☐ Prohibit energy drink or soft drink flavours
- ☐ Prohibit fruit flavours
- ☐ Prohibit menthol/mint flavours
- ☐ Prohibit tobacco flavours
- ☐ Prohibit tobacco menthol flavours
- ☐ Prohibit vanilla flavours
- ☐ Prohibit other flavours
- ☐ Don't know

I think there is a different way to regulate flavours

I do not think there should be any restrictions of flavours

Which other flavours do you think should be prohibited?

300 character(s) maximum

Please explain your answer further.

2000 character(s) maximum

If flavour restrictions were introduced, should specialist retailers (shops that only sell vapes) be allowed to sell a different range of flavours than general retailers (for example supermarkets)?

- ☐ Yes
- ☐ No
- ☐ Don't know

Please explain your answer further.

2000 character(s) maximum

How would your proposed approach impact the appeal of nicotine inhaling products to children?

2000 character(s) maximum

How would your proposed approach impact the appeal of nicotine inhaling products to adult smokers?

2000 character(s) maximum

Flavour Descriptions

Do you think that flavour descriptions affect the appeal of nicotine inhaling products to children?

- ☐ Yes
- ☐ No
- ☐ Don't know

Please explain your answer further.

2000 character(s) maximum

Do you think flavour descriptions should be regulated?

- ☐ Yes
- ☐ No
- ☐ Don't know

Please explain your answer further.

2000 character(s) maximum

Vaping Restrictions

Unlike for smoking, there are currently no restrictions on vaping in indoor workplaces or in cars where children are present. Many businesses and organisations have introduced their own restrictions, for example in bars, restaurants and on public transport.

There is currently very little evidence of harm from second-hand aerosol from nicotine inhaling products compared with second-hand smoke from cigarettes. However, there is some evidence of potential for low levels of harm, and we do not yet know the long-term effects of vaping or second-hand aerosol. Seeing vaping in places where smoking is prohibited may also increase young people's awareness of vaping.

Do you think that the current laws on smoking should be extended to vaping?

- ☐ Yes
- ☐ No
- ☐ Don't know

Please explain your answer further.

2000 character(s) maximum

Proxy Sales

Proxy sales are when adults buy an age restricted product on behalf of a child. Proxy sales are against the law for alcohol, but not tobacco or vapes. We are considering prohibiting proxy sales for tobacco and vapes to reduce their availability to children.

Do you think that proxy sales of tobacco products and nicotine inhaling products should be prohibited?

- ☐ Yes
- ☐ No
- ☐ Don't know

Please explain your answer further.

2000 character(s) maximum

Smoking in Outdoor Dining Areas

Currently it is against the law to smoke in indoor workplaces and in cars when children are present. There are no restrictions on smoking in outdoor areas. In 2018 the Government committed to introducing legislation restricting smoking in outdoor dining areas.

Although outdoor second-hand smoke is less concentrated than indoor levels, there is still a risk of secondhand smoke exposure particularly in semi-closed outdoor areas. Smoking in this type of environment potentially puts both hospitality workers and patrons at risk. Smoking in outdoor dining areas may also undermine Ireland's policy of denormalising tobacco use, and children are more likely to be present in dining areas than in areas where only alcohol is served.

For these reasons, we are considering further regulation of smoking in outdoor dining areas.

Do you think smoking should be banned in outdoor dining areas?

- ☐ Yes
- ☐ No
- ☐ Don't know

Please explain your answer further.

2000 character(s) maximum

Increasing the Age of Sale for Tobacco

Currently retailers in Ireland can only sell tobacco to people over the age of 18. Other countries have increased this to 21, and some have even applied a “Smoke Free Generation” policy, where no one born after a certain date can be sold tobacco. There is evidence that increasing the age of sale could further decrease the smoking rates in Ireland. There is an argument for treating tobacco differently to other age restricted products, as smoking is the leading cause of death and disability in Ireland, there is a very high potential for addiction, and research shows that most people who smoke regret starting and wish to quit.

Do you think that the current age of sale for tobacco products should be increased?

- ☐ Yes
- ☐ No
- ☐ Don't know

Please explain your answer further

2000 character(s) maximum

Part 2: Taxation of Vaping Liquids

The answers you provide in this section will be shared with the Minister for Finance, who has responsibility for pricing and taxation of nicotine inhaling products.

Price difference between vaping and smoking

There is a significant price difference between vapes and tobacco products. Disposable vapes cost an average of €8 and are only subject to VAT. Tobacco containing products are governed by the EU Tobacco Products Tax Directive and are subject to excise tax in Ireland. Almost 80% of the price of a pack of 20 cigarettes is due to excise tax and VAT. A 20 pack in the most popular price category currently retails at €16.75 (post Budget 2024). This high price differential is important, as it can encourage smokers to give up cigarettes. A consequence of the large tax

differential between tobacco and vapes, however, is that vapes are more accessible and affordable to young people and non-smokers, particularly disposable devices.

Duty and taxes on vapes

An EU-wide proposal to tax vaping liquid and novel products had been expected as part of a revision of the EU Tobacco Products Tax Directive. The Commission have not yet launched this proposal and it has been delayed a number of times. In the absence of harmonised EU legislation, 15 EU Member States currently apply a domestic tax on vaping products.

It has been argued that price is a key factor in reducing the youth uptake of vapes and this is where excise tax may have an impact.

Do you think an increase in the price of vapes, (e.g. due to an excise tax imposed on e-cigarette liquids), would reduce the number of young people who vape?

- ☐ Yes
- ☐ No
- ☐ Don't know

Please explain your answer further.

2000 character(s) maximum

What impact, from a public health perspective, would an increase in the price of vapes have?

Please explain your answer and provide evidence or your opinion to support further development of our approach.

2000 character(s) maximum

What impact do you think an increase in price would have on consumption levels?

- ☐ It would reduce consumption levels
- ☐ No impact
- ☐ Products may be sourced outside of Ireland
- ☐ Don't know

Please explain your answer further.

2000 character(s) maximum

Other EU Member States, which tax e-liquids, apply a rate of 10 cent to 30 cent per millilitre. Do you think Ireland should apply a rate in line with other Member States or should a higher rate of tax be imposed?

- ☐ Apply a rate of tax per ml in line with other Member States
- ☐ Apply a higher rate of tax per ml
- ☐ Other

Please explain your answer further.

2000 character(s) maximum

Do you think an e-liquid tax should apply to all e-liquids or only liquids containing nicotine?

- ☐ All liquids
- ☐ Only nicotine-containing liquids
- ☐ Don't know

Please explain your answer further.

2000 character(s) maximum