



CCC response to 2020/228/DK (Denmark)

The Consumer Choice Center is responding to Bill amending the Act on the ban on tobacco advertising etc., Act on tobacco products etc., Act on electronic cigarettes etc. and various other acts (Implementation of the national action plan against smoking by children and young people), tabled by Denmark on April 17, 2020.

Comments and quotes used stem from the [English translation of the impact-assessment provided by the Ministry of Health of Denmark](#).

Display ban

In the United Kingdom, [existing scientific evidence](#) points to the fact that smoking susceptibility amongst young people has dropped following the introduction of the display ban on tobacco in small and large shops.

A decrease in smoking susceptibility does not necessarily equate to a decline in smoking rates, since this decrease also correlates with a number of other factors, on both the regulatory and the educational side, as well as innovations such as harm-reducing products. A negative side-effect of a display ban can be that smoking is perceived as an ominous and secretive act, which encourages certain youth to pick it up. In a comparable fashion, illicit narcotic substances are also purchased in large numbers by youths, without any advertising or display. We know through evidence in countries that have legalised or decriminalised these substances (particularly in the case of cannabis) that youth consumption rates normalise as the handling of the substance reaches social acceptance.

It would be ill-advised for the Danish government to recreate the bad side-effects of prohibition in the case of tobacco. [Scientific evidence presented by the World Health Organization \(WHO\)](#) points to the example of New Zealand, where a display ban coincided with a decrease in smoking prevalence from 9% to 7%. However, correlation does not mean causation. The

measure also has overlap with both the regulatory and educational measures, as well as innovations such as harm-reducing products.

Adding to this point, we also believe that it is ill-advised for the Danish government to treat electronic cigarettes and other harm reduction products the same as conventional combustion cigarettes. We believe that harm-reducing products such as e-cigarettes represent an innovative way of smoking cessation. The UK's permissive approach to e-cigarettes has shown a positive impact. [According to the NHS](#), between 2011 and 2017, the number of UK smokers fell from 19.8% to 14.9%. At the same time, the number of e-cigarette users rose: almost half of these consumers use e-cigarettes as a means of quitting smoking.

Although not all vape liquids contain nicotine, the addictive chemical is the main draw for smokers that want to quit smoking. Compared to other alternatives, like the Nicotine Replacement Therapy patches and drugs, vaping has [been found to be more effective](#) at helping smokers quit.

We also disagree with the assessment laid out in the impact-assessment that states :

"Habitual consumers of tobacco products know which products and brands they prefer; they do not need visual reminders."

Outside of the fact that such an approach paralyses the existence of fair competition -- particularly as it relates to new product entries -- this conclusion would hamper the switch of users of conventional tobacco to harm reducing alternatives, as they would be less exposed to these products.

Given the insufficient amount of evidence on the question of effectiveness and the clear risks that the Consumer Choice Center has listed in an answer on the impact of the display ban, we do not believe that the measures constitute an effective way to protect children and young people from taking up smoking and supporting those who wish to quit.

Tightened advertising rules

We disagree with the objectives laid out on tightening advertising rules. Our objections on this particular issue are twofold:

1. Associations and organisations rely on sponsorship and promotion agreements with companies in order to sustain their activities. Cutting ties between these two actors (event organisers and the tobacco industry) is not proportionate to the overall public health objectives, since none of the agreements specifically aim to promote the consumption of tobacco products, as already prohibited by existing Danish rules on

tobacco advertising. Agreements that lead to the sale of tobacco, for instance in the realms of a music festival -- exclusive or otherwise -- do not violate any existing rules. Tobacco is a legal product that consumers can choose to consume freely in authorised venues, in accordance with the legal requirements, therefore the mere presence of tobacco products does not constitute advertising, but mere product availability. If the Health Ministry believes that tobacco consumption ought to be completely absent from venues such as music festivals, then it ought to launch a separate conversation on that question

2. From a legal perspective, the implication that agreements between associations and organisations constitute a form of tobacco advertising would imply that both sides have, up until now, been breaking the law. The Ministry of Health of Denmark would need to clarify whether it believes that sponsorship agreements in themselves constitute advertising, and if so, why it chose not to enforce clear violations of tobacco advertising infringements up until now.

Tightened rules on sponsorship and free distribution

We disagree with the objectives laid out in tightening rules on sponsorship and free distribution from tobacco companies and for tobacco products.

In both situations, our objections relate to the fact that tobacco is a legal product in Denmark, which implies that tobacco companies, if acting in accordance with the law, operate legally on the Danish market like any company selling fast-moving consumer goods. Any company should be allowed to sponsor media productions, events, activities, or individual persons, as long as such sponsorships or donations are in accordance with existing legal standards on financial contributions. The implication by the Ministry of Health that such sponsorships promote the use of tobacco products, tobacco surrogates, or herbal products for smoking through indirect ways is mistaken for two reasons :

- Without an agreement for reciprocal action, the statement that a donation leads to promotion is merely based on assumptions. If such assumptions were generalised, we would hold individual citizens up to the same standard as law-makers, which would lead to the conclusions that no donations of any kind can be made.
- The impact-assessment by the Ministry of Health does not provide any reasons for why it believes that any donation or sponsorship automatically constitutes advertising. For instance, if a company makes a donation (in-kind or otherwise) to a local food bank, should we count this as an advertising of the respective product?

On free distribution, we believe that all legal products should be able to be freely distributed, in accordance with the legal provisions relating to the legal use of a product (for example age verification). The free distribution of reduced risk products can lead consumers of conventional

tobacco products to make the switch. Since [vaping is 95% less harmful than smoking conventional cigarettes](#), this would not have an undesirable effect.

Standardised packs

Based on existing experience in the field of tobacco plain packaging, we disagree with the implementation of such a measure.

Australia was the first country to introduce plain packaging. The Australian government claims it has been a success, but a 2016 [study](#) by the RMIT University of Melbourne described the policy as a complete failure. It showed that the government's evaluation of the policy was biased, and failed to accurately represent the data it collected and was carried out by the same advocacy groups that had called the policy in the first place. Smoking rates have indeed decreased in Australia since the plain-packaging policy was introduced in 2012. But they were [already falling](#) prior to then. In fact, the decline in the smoking rate has slowed since plain packaging came in. Plain packaging was even introduced at the same time as high tax hikes on tobacco products, but neither seems to have made a great impact on smoking rates.

So why has plain packaging had so little effect? Perhaps because one of the few beneficiaries of the policy seems to be counterfeiters. As plain packs are easier to copy than their branded alternatives, the trade in illicit cigarettes is thriving. In Australia, from 2012 to 2017, the proportion of cigarettes sold illegally has risen from 12 per cent to 17 per cent. It is difficult to say whether plain packaging or tax rises are the biggest drivers of this increase. But it is certain that plain packaging eases the work of those who sell illegal, cheaper cigarettes to low-income consumers. In 2018, the Australian government vowed to crack down on the black economy and the trade in [illicit tobacco](#) was their largest target.

It's a similar story in France, which introduced plain packaging in January 2017. In the first six months of the policy, there was a slight [increase](#) in cigarette sales by 0.9 per cent, compared with the same period in the previous year. Not only that, the sales of [rolling tobacco](#) increased by 3.6 per cent over the first three months of 2017, even after the introduction of a new tax on the product. The French government plans to increase the price of cigarettes to €10 per pack within three years. But once again, even if this manages to decrease sales in the local tobacco shops, it will make consumers more likely to switch to illicit cigarettes. According to [current estimates](#), a third of cigarettes are already sold on the black market in France.

See also: [Tobacco plain packaging policies have been chasing their own tail](#), by CCC European Affairs Associate Maria Chaplia, March 12, 2020

Ban on certain flavourings

We believe that a ban on certain flavourings is misguided. We understand the objective of the Danish government to avoid youth consumption of tobacco products, but reducing the choice in the variety of products does not achieve public health objectives. The purchase of tobacco products or electronic cigarettes is already age-limited in Denmark, and we support the strong enforcement of these restrictions. However, the implication that certain flavours are only appealing to youth is without evidence, particularly as the companies producing these products cater to an age-appropriate market. Knowing that these products are purchased primarily by adults, we believe that restricting their sale will 1) reduce access to a variety of choices to consumers to a product that remains a legal product in Denmark 2) provide users of conventional tobacco another excuse not to switch to harm-reducing alternatives.

See also: [CCC Senior Fellow Jeff Stier interview on Vice News](#), November 2018

Regulation of tobacco surrogates

For comments on this part, we refer to some of the aforementioned comments made about harm-reducing alternatives to tobacco products.

See also:

[Myths and Facts about Vaping: What Policy-Makers Should Know](#), by CCC Deputy Director Yaël Ossowski and CCC Senior Policy Analyst Bill Wirtz, September 19, 2020

[Nicotine is Not your Enemy](#), Interview with Univ.-Prof. Dr. Bernhard-Michael Mayer of the Institute of Pharmaceutical Sciences, Department of Pharmacology and Toxicology at the University of Graz alongside the World Health Organization (WHO)'s WHO FCTC, conducted by CCC Deputy Director Yaël Ossowski, October 2018

[From Smoking to Vaping](#), illustrated interactive world map and database on vaping, 2020

Better age verification and heavier penalties as well as rules on disqualification for violation of the ban on the sale of tobacco to persons under 18 years of age

We agree with the objectives of the Danish government. The sale of tobacco products or harm-reducing products to consumers below the legal age in Denmark should be enforced

better. We believe that the strict enforcement of tobacco age rules clearly marks the distinction between the consumption of consenting adult consumers and those consumers who have not reached the legal age to make these decisions.