Respond on a draft government bill to amend the Tobacco Act

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Vapers Finland ry thanks the Ministry of Social Affairs and Health for the opportunity to comment. Our statement has been prepared and published in lausuntopalvelu.fi, so in the following we will also present our position on the proposed amendments to the Tobacco Act by article in accordance with the format of lausuntopalvelu.fi.

As a non-governmental organization working to reduce the harms of smoking through low-risk nicotine products, our opinion focuses in particular on the regulation of e-cigarettes and other reduced risk nicotine products.

Article 11. Prohibited additives and properties
1) a tobacco product with a characteristic odor or taste may not be sold or otherwise handed over to the consumer

In Article 11 of the draft law, the ban on characteristic flavors would be extended not only to traditional (combustible) tobacco products but also to heated tobacco products. In addition, the same restriction already applies to e-liquids in Articles 24 and 25 of the current Tobacco Act.

The application of the flavor restriction to e-cigarettes and heated tobacco products is both an unjustified and disproportionate regulatory measure, which is why the restriction should be repealed for the former and removed from the draft law for the latter.

Reasoning:

1.
Regulation must take into account the relative risks of different products.

E-cigarettes and heated tobacco products are significantly less harmful than traditional cigarettes, so their regulation in a similar way to cigarettes is disproportionate.

The low risk of e-cigarettes and heated tobacco products in relation to combustible cigarettes is largely due to the fact that they do not burn. As a result, they do not produce smoke, ie combustion products (carbon monoxide, tar, etc.), which in turn are the main causes of the adverse health effects of smoking.

Overall, the amounts and concentrations of harmful substances released from e-cigarettes are typically very small and remains below safety limits. Due to the low amount of harmful substances, for example, the risk of cancer from the use of e-cigarettes has been found to be less than 1% of the risks of smoking. [1,2]. A study by Cancer Research UK found that the levels of harmful substances in long-term users of e-cigarettes were comparable to the users of medical nicotine replacement products. [3].

The heart risks associated with smoking, for example, are also caused mainly by harmful substances from burning, which are therefore not present in smokeless nicotine products such as e-cigarettes. As a result, Neal Benowitz, an internationally well-known researcher in the field of nicotine and tobacco research, has stated in his study of the cardiac effects of e-cigarettes that switching from smoking to e-cigarettes is most likely to have significant benefits for heart health. [4].

This has also been observed in studies examining the cardiac effects of e-cigarettes in practice. For example, a study published in the *Journal of the American College of Cardiology* found significant positive effects on heart health as early as a month after switching from smoking to e-cigarettes. [5]. A study published last year in the *Food and Chemical Toxicology* found that switching from smoking to e-cigarettes improved overall heart health and reduced arterial stiffness and oxidative stress within four months of switching to e-cigarettes. [6].

Switching from smoking to e-cigarettes has also been found to alleviate asthma and COPD symptoms, and the positive effects have been sustained over several years of follow-up. [7,8].

Due to the low levels of harmful substances released from e-cigarettes, the prestigious medical association Royal College of Physicians and Public Health England have estimated the overall risks of long-term use of e-cigarettes are at most 5% of the risks of smoking and are likely to be significantly lower than this. [9,10].

2.
Regulation should take into account the intended use and user base of alternative nicotine products.

Extensive national and international population surveys have shown that the use of e-cigarettes is in practice limited to smokers, and their main use is to reduce or quit smoking. [See e.g., 11,12]. In other words, e-cigarettes displace smoking, with the result that all measures to prevent the use of e-cigarettes benefit the most dangerous option, combustible cigarettes.

As a much lower risk substitute for smoking, e-cigarettes are most likely to bring public health benefits. This conclusion has also been reached in several studies, such as the Norwegian National Institute of Public Health's report on the health effects of e-cigarettes at the population level [13] and a recent US university study [14].

There is also ample empirical evidence of the smoking-reducing effect of e-cigarettes. In the United States, for example, smoking has declined more sharply than before since the introduction of e-cigarettes. [15]. According to a health barometer conducted by the French Ministry of Health, 700,000 French had quit smoking with e-cigarettes in just three years from 2014-2017. [16]. In the United Kingom - where, as in France, switching from smoking to e-cigarettes is also recommended by health authorities - almost two million smokers had quit smoking with e-cigarettes by 2020. [17]. At the same time, the smoking prevalence, ie the proportion of daily or occasional smokers, has fallen to fourteen per cent, after being almost at a standstill for twenty per cent at the turn of the 2010s. [18,19].

Respectively, regulatory tightening of e-cigarettes, such as tax increases and flavor restrictions, has been found to increase smoking or slow down the decline in smoking compared to a more permissive regulatory model. [20-22].

By comparison, in Finland, for example, which has extreme tight regulation on e-cigarettes, the situation is largely the same as in the UK about ten years ago: tobacco statistics of the Finnish Institute for Health and Welfare show that the number of daily and occasional smokers has practically stucked, being in 2018 exactly same than in the beginning of the decade, 19%. [23]. Converted to a population, this means about nine hundred thousand smokers.

3.
Flavors have not attracted non-smokers to vaping.

In practice the only justification for the flavor restrictions for e-cigarettes has been the assumption that flavorings would attract non-smoking youth to vaping and thus possibly also to smoking or nicotine addiction.

However, the threat has never shown any signs of materialization. Instead, regular use of e-cigarettes by never-smokers has remained very low.

For example, in the United Kingdom, where the flavors used in e-cigarettes are not restricted and the regulation of e-cigarettes is much more permissive than in Finland, only 0.2% of never-smoking young people use e-cigarettes regularly. [24]. According to a survey conducted among Finnish young people between 2013 and 2015, 0.4% of those who had never smoked used e-cigarettes weekly. [25]. The readings have also been similar in non-European Western countries such as the United States and New Zealand. [26].

Youth smoking has also not increased since the introduction of e-cigarettes, but, on the contrary, has decreased more sharply than before. In England, for example, smoking among 16- to 17-year-olds fell by 60 percentage points between 2015 and 2019, from 14 per cent to five per cent. In the United States, youth smoking has declined up to 2-4 times faster since 2014 than before. [26].

Studies show that flavors are not the main reason for young people's e-cigarette experiments, but curiosity and the same risk predisposing factors than in young people experimenting with tobacco. As a result, young people who try e-cigarettes are largely the same who, in the absence of more harmless alternatives, would likely try smoking. [27-29].

This aspect is also relevant in Finland, taking into account that about sixty per cent of young Finns tries smoking by the age of 18. [30].

4.
E-cigarettes are an effective way to quit smoking, and flavors play an important role in it.

Regular use of e-cigarettes has been repeatedly found to increase the likelihood of quitting smoking. [See e.g., 31-33]. In a study by King's College, published this spring, e-cigarettes improved the likelihood of quitting smoking even up to fivefold compared to attempts to quit smoking without any aid. [34]. E-cigarettes have also been shown in numerous studies - e.g. in the Cochrane review based on 56 studies [35] - as a more effective way to quit smoking than currently recommended medical nicotine replacement products.

Extensive user surveys have also found that flavors play an important role in substituting smoking with e-cigarettes. For example, according to a survey of nearly 70,000 vapers in the U.S. adult population, about 90 percent of respondents said they use flavors other than so-called tobacco-flavor in e-cigarettes, and that finding a flavor that matched one's own taste preferences was considered as an important factor in the success of quitting smoking. [36].

Heated tobacco products have not been sold in Finland so far, but based on statistical and research data to date, they also seem to be effective in getting rid of combustible cigarettes. Heated tobacco products have been the longest, since late 2015, on the market in Japan, where they have already accounted for about a quarter of total sales of tobacco products. At the same time, sales of combustible cigarettes have fallen sharply, declining by about a third between 2016 and 2019 alone. [37].

At the same time, total sales of tobacco products (= heated + smoked tobacco products) have declined in Japan, suggesting that, like e-cigarettes, heated tobacco products have not attracted new users to tobacco and nicotine products. [37].

5.
Smokeless nicotine products, such as e-cigarettes and heated tobacco products, are fundamentally different from combustible tobacco products, as a result of which the same regulatory measures, such as flavor restrictions, lead to very different results and contrary to public health in favor of cigarettes.

For example, restricting flavorings to "tobacco flavor" does not take into account the fact that e-cigarettes cannot realistically mimic the taste of smoking cigarettes, which arises from both tobacco and its combustion, i.e. from tobacco smoke. E-cigarettes do not contain tobacco and do not burn, so they are also unable to produce a taste similar to tobacco smoke.

Extending the flavor restriction to e-cigarettes and heated tobacco products, in other words, gives combustible tobacco products a unique competitive advantage over less harmful alternatives, thus acting in favor of the most dangerous alternative, smoking.

6.
Flavor restrictions on e-cigarettes and heated tobacco products violate harmonization of the EU internal market.

Flavor restrictions on e-cigarettes are almost non-existent elsewhere in the EU. In addition to Finland, e-cigarette flavorings are restricted in only three other EU countries (Estonia, Hungary and Denmark). To our knowledge, the flavors of heated tobacco products are not restricted in any EU country.

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Our proposed amendments to the draft law and the current Tobacco Act:

- The restriction of flavorings for e-cigarettes and heated tobacco products should be removed as an unjustified measure which hampers quitting smoking and maintains the consumption and market dominance of combustible tobacco products.

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Article 36. Mandatory and permitted markings on the retail packaging of e-cigarettes and refill containers
Article 36 a) Appearance of the retail packaging of an e-cigarette and refill container
Article 36 b) Appearance of the refill container and nicotine liquid

These Articles extend the requirement for plain packaging not only to tobacco products but also to e-cigarettes, nicotine liquids and refill containers, ie bottles containing e-cigarette liquid.

The proposal should be rejected as useless, as e-cigarette products are already subject to a display ban, in addition to which packaging will be removed immediately when the products are used. For these reasons, packaging does not have a potentially attractive effect on the use of e-cigarettes inside or outside stores.

In vape shops display is permitted, but since the vape shops are only visited for a predetermined purpose of purchasing e-cigarette products, packaging does not have potentially incentive effect on the take-up of vaping. Marketing to young people in particular is already hampered by the fact that access to vape shops is generally prohibited for those under 18 years of age.

Regulating the appearance of e-liquid and bottles is also a pointless measure, as the bottles and their contents are invisible in shops inside the packaging, which in turn are invisible due to the display ban. The e-liquid bottles are also very small (10 ml) and due to the required product and warning labels, the label almost completely covers the liquid contained in the bottle. Unlike cigarette packs, e-liquid bottles are also not used continuously throughout the day, but only momentarily while filling the tank of an e-cigarette device.

The introduction of standardized packaging for e-cigarette products is also not justified because e-cigarettes are not high-risk products like cigarettes [see above Article 11 (1)]. Applying regulatory measures equivalent to combustible tobacco products to significantly safer products is not only disproportionate, but also spreads the misconception among smokers that cigarettes and e-cigarettes are equally harmful products.

The misconception that smoking would not be more harmful than e-cigarettes, in turn, maintains smoking instead of switching to a much safer option. For example, the Public Health England considers the exaggerated perception of the health risks of e-cigarettes and the resulting misconception that cigarettes would not be substantially more harmful than e-cigarettes to be a major concern in the public debate on e-cigarettes. [1].

The introduction of plain-packaging is also called into question by the fact that it has proved ineffective in its intention. Studies in favor of plain-packaging have been primarily speculative surveys on how much less attractive standardized packaging is considered by smokers compared to previous packaging. In practice, however, the results have not met expectations. For example, in Australia, where standardized cigarette packaging was introduced as early as 2012, the downward trend in smoking has virtually come to a halt since 2013. This is particularly noteworthy because, at the same time, smoking has generally declined in other Western countries. [2].

The downward trend in smoking has not accelerated in the UK either since the introduction of standardized packaging, but has continued at the same pace as in previous years. In France, the number of smokers even increased after the introduction of standardized cigarette packs. [3,4].

One of the key purpose of packaging is to make the products of different companies stand out and to attract customers to choose a particular brand from among others. As uniform packaging level the playing field, the introduction of plain-packaging in Australia has been found to have led to an increase in the popularity of cheaper cigarette brands. Cigarettes are also more often obtained from the illegal market. Replacing expensive branded products with cheaper ones, in turn, has increased Australians smoking. [5]. Based on this development, the introduction of plain-packaging may even have the opposite effect to its purpose.

Finally, it should be noted that Article 36 of the draft law is incorrectly worded. Article states that "The retail packaging of an e-cigarette and a refill container may bear the brand name, business name and contact details of the tobacco product […]".

E-cigarette products are by definition not tobacco products, so the term "tobacco product" should be replaced, for example, by the word "product".

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Our proposed amendment to Article 36 of the draft law:

- The proposal to standardize the packaging of e-cigarette products should be repealed as an excessive, unnecessary and ineffective measure that also spread a misleading perception about the relative risks of cigarettes and e-cigarettes.
- The erroneous term "tobacco product" should be deleted from the Article.

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Article 52. Prohibition on the sale of products intended for flavoring tobacco products

The Article would extend the ban on the sale of flavored tobacco products to common food flavorings if they are sold in a shop specializing in tobacco products.

We propose deleting this provision from the draft law, as a ban on sales based purely on the point of sale would be a blatantly discriminatory practice: it is not justified to ban the sale of the same product in some shops and allow it everywhere else. The provision would also remain purely ostensible, as the products in question would still be generally available and can be ordered without restriction from abroad. Purely nominal laws, in turn, tend to undermine the credibility and prestige of the law.

It should be noted that the mention in the draft law that the so-called flavor cards are marketed in Europe solely for flavoring tobacco products is not true. They are also marketed for general flavoring purposes, as a result of which the general ban on sales proposed for them cannot be enforced under the Tobacco Act.

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Our proposed amendments to Article 52 of the draft law:

- The ban on the sale of food flavorings in shops specializing in tobacco products should be remove, as these products are generally available elsewhere from the grocery sales and can be ordered without restriction from abroad; the proposition is therefore an unjustified, discriminatory and, in practice, ineffective measure.

Article 58. Prohibition of distance sales

As indicated above, the formally same regulatory measures for cigarettes and e-cigarettes, for example in the case of flavor restrictions, works in practice in a way that favors the consumption and market dominance of combustible cigarettes. [see above Article 11, paragraph 5].

This is also the case with the ban on distance sales. The ban has no significant effect on the sales of combustible cigarettes, as they already have an effective brick-and-mortar sales network in grocery sales. Sales of e-cigarette products, on the other hand, are concentrated in a small number of specialty stores, so due to the ban of distance sales, e-cigarette products are not available at all in many places in Finland.

The disproportionate situation materializes in the number of retail permits issued for cigarettes and e-cigarettes: by the end of 2017, for nicotine liquids had been issued 143 retail permits, while for tobacco products had been issued 8,430 retail permits. [1].

Based on this information, the availability of cigarettes in Finland is about sixty times better than the availability e-liquids. The extension of the distance selling ban to e-cigarette products has thus created a market situation in favor of combustible tobacco products rather than regulatory harmonization.

The ban on distance sales not only favors the continuation of smoking instead of switching to a much less harmful option, but also maintains dual-use of cigarettes and e-cigarettes. In a recent survey of more than 30,000 vapers conducted by the European consumer organization ETHRA, the poor availability of e-cigarette products was mentioned by Finnish respondents four times more often than in the rest of Europe as a reason why dual-users did not switch to e-cigarettes altogether. More than half (52.8%) of Finnish dual-users mentioned problems with the availability of e-cigarette products as the reason why they continued to use cigarettes alongside e-cigarettes. [2].

The market situation in favor of combustible cigarettes can only be offset by allowing the distance selling of e-cigarette products, at least within national borders, which would also be in line with most other EU countries.

A ban on distance selling is a disproportionate regulatory measure also because e-cigarettes are not high-risk products like cigarettes. Instead, they are likely to have public health benefits as a significantly less harmful substitute to smoking cigarettes. [For more details, see above Article 11].

As the current situation is largely similar for heated tobacco products, ie their availability will probably be a long time significantly lower than for traditional cigarettes, the distance selling of heated tobacco products should also be allowed in order to level the playing field with the most dangerous option, combustible cigarettes.

Prohibition on distance selling have sometimes been justified by age control problems. The argument is no longer valid today due to electronic identification methods, which are already widely used in many forms of online transactions that require strong authentication, such as banking, health and governmental services.

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Our proposed amendments to the draft law and the current Tobacco Act:

- The ban on distance sales of e-cigarettes and other low-risk alternatives to smoking should be removed from the draft law and repealed from the current Tobacco Act, as it is disproportionate and favors the consumption and market dominance of combustible tobacco products.

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Article 65. Prohibition on importing products acquired by distance sales

The ban should not be applied to alternative nicotine products (e-cigarettes, heated tobacco products), as it gives combustible cigarettes an advantage as by far the most readily available nicotine product on the market.

The current disproportionate market situation in favor of the most dangerous alternative is due to the fact that low-risk alternative products do not have the same efficient distribution network developed over the decades as traditional cigarettes. As a result, more harmless alternatives are not available at all in many places in Finland, unlike combustible cigarettes, which are sold extensively in grocery sales throughout Finland.

For more details, see above Article 58 (Prohibition of distance sales).

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Our proposed amendments to the draft law and the current Tobacco Act:

- The ban on distance purchase of e-cigarettes and other low-risk nicotine products should be abolished as a disproportionate measure that favors the consumption and market dominance of combustible tobacco products.

Article 67. Quantitative limits on passenger imports

Restrictions on passenger imports of nicotine fluids need to be significantly relaxed or lifted altogether, as current import limits are based on an incorrect calculation method.

At present, it is permitted to import one ten-milliliter bottle of nicotine liquid containing a maximum of 200 mg of nicotine. This has been calculated to correspond to the amount of nicotine allowed for cigarette imports. However, one cigarette contains an average of 10 milligrams of nicotine [1], so the 200 cigarettes allowed for import do not contain 200 but 2000 milligrams of nicotine.

Apparently incorrect calculation is based on the misconception that cigarettes contain only one milligram of nicotine on average. However, that amount is the amount of nicotine absorbtion, not the amount contained in one cigarette, which is about ten times the amount absorbed by the smoker. [1].

The limit for the import of e-cigarette liquids should therefore be increased tenfold to correspond to the amount of nicotine allowed for the import of tobacco products.

The import restriction is also disproportionate to the average consumption of cigarettes and e-liquids. The number of cigarettes allowed for import corresponds to ten days' average consumption (one pack/day). The average consumption of e-liquids, on the other hand, is about 3-5 milliliters per day. [2]. Thus, the ten milliliters allowed for the import of e-liquids corresponds to only about two to three days of average e-liquid consumption.

Thus, cigarettes are currently allowed to be imported in quantities of about three to five times the average daily consumption of e-liquids.

The proposition to restrict the import of e-cigarette products in a similar way to combustible tobacco products is unreasonable also in principle, as the risks of e-cigarettes and combusticble cigarettes are not comparable. E-cigarettes have not been shown to pose significant health risks and are mainly used as substitutes for highly harmful cigarettes. [For more details, see above Article 11].

For these reasons, the restriction should be abolished as a clearly excessive and contradictory regulatory measure to public health.

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Our proposed amendments to the current Tobacco Act:

- Due to the incorrect calculation of the current import restrictions, the permitted volumes of passenger imports of e-liquids should be significantly increased or, due to the low risk level of e-cigarettes, the restrictions will be lifted altogether.

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Article 71. Ban on display

The ban on display of e-cigarette products is an excessive regulatory measure, as e-cigarettes are not high-risk products comparable to cigarettes. In addition, e-cigarettes are mainly used to quit or reduce smoking, which is why they are most likely to bring public health benefits. [For more details, see above Article 11]. Therefore, their display should be allowed in the same way as nicotine replacement products (nicotine chewing gum, patch, etc.) used for the same purpose.

The ban on display also makes it unreasonably difficult to purchase e-cigarettes compared to traditional cigarettes. E-cigarette devices are electronic products that, unlike traditional cigarettes, require familiarization with the product range and product features before making a purchase. In this respect, the ban on display may even violate the Consumer Protection Act, ie the consumer's right to get essential information about the product range and the key features of the products.

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Our proposed amendments to the current Tobacco Act:

- The display ban of e-cigarette products should be lifted as a measure that is clearly excessive in relation to the health risks of e-cigarettes and unreasonably complicates product comparison and familiarization with the key features of devices, which is essential for purchasing of electronic devices.

Article 74. General prohibitions on smoking

General smoking bans apply equally to e-cigarettes in both the current law and the draft law now being presented. There is no justification for this, as exposure to vapor released from e-cigarettes has not been shown to pose a health risk to bystanders. The amounts of harmful substances released from e-cigarettes have also remained below the permitted limits in various air quality measurements. [1-6].

It should also be noted that the particulate emissions of e-cigarette vapor and tobacco smoke are not comparable. Tobacco smoke contains solid particles generated during the combustion process and hundreds of harmful chemicals, 70 of which are carcinogenic. Unlike the toxic and solid particulate matter of tobacco smoke, the particles of the e-cigarette aerosol are liquid droplets consisting mainly of non-toxic substances such as glycerol, propylene glycol and water, which evaporate rapidly from the air. As a result, the particles of e-cigarette vapor differ substantially from the particles of tobacco smoke not only in their low amount of harmful substances, but also in their more harmless physical composition. [2,6].

In addition, it should be noted that e-cigarettes release only exhaled aerosol, in contrast to cigarettes, which release a continuous side smoke into the environment also between the breaths taken from the cigarette. Most of the environmental tobacco smoke is caused by the side stream. [7]. Thus, the amount of emissions released from e-cigarettes is substantially reduced compared to smoking, even for the most part, due to the lack of side stream.

For these reasons, the application of smoking bans to e-cigarettes cannot be justified on health grounds. The use of e-cigarettes also does not litter the environment in the same way as cigarette butts, so a ban on use in public places is also unjustified from this point of view. In addition, the vapor released from e-

cigarettes evaporates very quickly even indoors, which further calls into question the relevance of the bans, especially in the open air, such as on beaches etc.

It should also be noted that restrictions on the use of e-cigarettes can be detrimental to smoking cessation by directing vapers to public smoking areas. This not only exposes vapers unnecessarily to tobacco smoke, but may also act as an incentive to restart smoking.

For these reasons, the use of e-cigarettes cannot be equated with the use of combustible cigarettes, so restrictions on their use should be removed from the legislation and the permissibility of the use of e-cigarettes should be left to the discretion of the owner of the place in question.

A new addition to the Tobacco Act also proposes a ban on the use of oral tobacco products such as snus in playgrounds and in primary and secondary schools, high schools and vocational schools. This proposal is problematic in many respects. Firstly, it is an unnecessary provision in terms of environmental exposure and, secondly, the law is impossible to enforce in practice. Therefore, this provision would remain purely formal, which is only likely to undermine citizens' obedience to the law and the prestige of the law.

It should also be noted that extending the ban on the use of tobacco and nicotine products outdoors is in principle unjustified for health reasons. Passive exposure to tobacco smoke in the open air, let alone the vapor of an e-cigarette or similar product, has not been shown to pose a significant health risk to bystanders. For this reason, extending the ban on the use of tobacco and nicotine products outdoors restricts fundamental right of individual freedom guaranteed to Finnish citizens by the Constitution on far too light grounds.

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Our proposed amendments to the draft law and the current Tobacco Act:

- As the use of e-cigarettes has not been shown to pose a health risk to bystanders, the current ban on e-cigarettes should be repealed as unjustified. Instead, allowing or prohibiting the use of e-cigarettes should be left to the discretion of the owner of the place in question.
- As the use of oral tobacco products such as snus does not pose health risks to bystanders and restrictions on their use are impossible to control, these restrictions should also be removed from the draft law.

References:
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Article 78. Smoking bans in condominiums

See comments on Article 74 (General smoking bans).

Article 91. Surveillance fees of the Tobacco Act

The surveillance fee for e-liquids (0.01 €/ml) is higher than for cigarettes (0.001 €/pcs) and therefore unreasonable.

According to studies and user surveys, the average consumption of e-cigarette fluids is four milliliters per day [1], which would result in surveillance fees of 0.04€ to a manufacturer or importer. The surveillance fee resulting from the average cigarette consumption (one pack per day) would be 0.02 euros (20 x 0.001€).

Therefore, the surveillance fee for the average sale of e-liquids would be twice the fee for the average sale of cigarettes.

The calculation model based on nicotine content used in the draft law, on the other hand, produces an erroneous result, as has already been pointed out above (see Article 67: Quantitative limits on passenger imports). The erroneous result is caused by the inconsistent calculation model that compares the amount of nicotine contained in e-liquid (max. 20 mg/ml) with the amount of nicotine absorbed by smokers body from one cigarette (1 mg), which is, however, only about one tenth of the amount of nicotine actually contained in the cigarette (10 mg). [2].

The calculation should be based on parallel benchmarks, ie *either* the amount of nicotine contained in the products *or* the amount of nicotine that ends up in the user's body, not a cross-comparison of these two completely different things. Our association has brought the inconsistency of such cross-comparisons to the attention of the Finnish Institute for Health and Welfare, which has confirmed our remark as correct and removed such comparisons from its own communications. (*See below clarification 17.6.2021).

On a uniform basis of comparison, ie calculated on the basis of the amount of nicotine contained in the products, one milliliter of e-liquid contains a maximum of the same amount of nicotine as two cigarettes (20 mg) - not twenty cigarettes, as incorrectly stated in the draft law.

The calculation model based on the nicotine content is, however, overall inconsistent, as the surveillance fee applies equally to e-liquids that do not contain nicotine at all.

In any case, both of the above calculation methods, ie calculations based on the average consumption of the products or on the nicotine content, lead to the contradictory result that surveillance fee would be higher for e-cigarettes than for cigarettes. What makes this result particularly contradictory is that e-cigarettes are significantly less harmful than cigarettes and are used primarily to quit or reduce smoking. [For more details, see above Article 11].

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Our proposed amendments to the draft law:

- As the surveillance fee in the current form would be much higher for e-cigarettes than for cigarettes, the fee for e-cigarettes should be significantly reduced or deleted completely due to the low risk level of e-cigarettes.

*Clarification 17.6.2021: as our statement may give the impression that THL has changed its communication due to Vapers Finland ry's remark, we specify at THL's request that THL only removed its outdated Snus Test -card pdf-version from the Internet due to our comments made on January 24 and October 28, 2019. There was also an updated version of the Snus Test -card that had already been made two years earlier. Vapers Finland was not aware of the updated version.

References:
1. Farsalinos, Konstantinos - Rodu, Brad: Metal emissions from e- cigarettes: a risk assessment analysis of a recently-published study. Inhalation Toxicology 2018, page 4.
2. WHO: Gender, Women, and the Tobacco Epidemic, page 139.

Article 117. Sales packaging

See comments to Article 36 (Mandatory and permitted markings on the retail packaging of e-cigarettes and refill containers).

Other comments on the draft law

The legislative preparation of the Tobacco Act has been based largely on the report presented by the Tobacco and Nicotine Policy Working Group set up by the Ministry of Social Affairs and Health.

In order to ensure the most effective tobacco and nicotine policy possible in terms of public health, the Ministry of Social Affairs and Health should in future ensure that future working groups comprehensively address all possible means, including the harm reduction approach, to prevent smoking and the resulting public health problems.

The harm reduction model is already a widely accepted health policy approach, for example in drug policy, and on a practical level it is also practiced in nicotine and tobacco policy in almost all Western countries. This can be seen in the lighter regulation of e-cigarettes than cigarettes, in which respect Finland is a rare exception.

A large number of leading scientists in tobacco and nicotine research and authoritative health organizations are also already openly recommending the reduction of the harms of smoking by switching to low-risk alternatives. These include the Ministries of Health in the UK, France, New Zealand and Canada, the US Food and Drug Administration and numerous health organizations such as the Royal College of Physicians, Cancer Research UK, the American Association of Public Health Physicians and the Canadian Heart and Stroke Association.

Research data on e-cigarettes have also increased significantly since the previous reform of the Tobacco Act, repeatedly confirming the aforementioned facts that e-cigarettes are 1) much less harmful than smoking, 2) more effective than nicotine replacement products in quitting smoking and 3) their user base comes from smokers, i.e., they displace the most dangerous alternative, smoking.

All the above-mentioned research data and authoritative expert opinions can no longer simply be ignored, as has been done so far in Finnish tobacco and nicotine policy. For its part, this may have been influenced by the unilateral and ideologically charged composition of the tobacco and nicotine policy working group, given that as much as half of its ten members comes from one organization, the ASH Finland, which is known in the public for its strict anti-tobacco harm reduction attitudes.

However, health policy should not oppose any possibility of reducing harm to public health, but should look at all available means in an objective manner and with due regard for existing research data. It is obvious that the ASH Finland-led working group has not done so, as the harm reduction approach, which has been the subject of much discussion in other western countries, is ignored in the working group's report in one sentence.

The direct rejection of the harm reduction approach has been explained by the Finland’s nicotine-free target, which is why Finland seeks to prevent the use of nicotine in all forms, regardless of whether it is used to get rid of by far the most dangerous nicotine products, combustible cigarettes.

However, no pre-determined policy should mean a blind spot. It should not prevent an objective assessment of new practices and policies, a pragmatic cost-benefit comparison and a constant readiness to renew on the basis of the research data, as is particularly important in health policy, which must be based above all on science.

Nor must the nicotine-free goal mean that the vital opportunity for smokers to significantly reduce their health risks with less harmful alternatives would be hampered or even prevented, as the Tobacco and Nicotine Policy Working Group has stated in its report (”the aim is […] to prevent especially smokers from switching to other non-medicinal nicotine products”).

As the health risks of nicotine itself are small compared to the overall risks of smoking, a much more crucial public health target is the internationally recognized goal of smokelessness, ie the end of use of combustible tobacco products. [1]. These two goals must not be in conflict, and the goal of nicotine-freeness must not prevent 900,000 smokers in Finland from pursuing smokelessness by all means, including safer nicotine products.

There is a undoubtedly a clear need for a tobacco harm reduction, given that long-term research data has shown that less than a tenth of those who try to quit smoking with currently recommended nicotine replacement products or other pharmaceutical aids are successful for more than six months. [2].

More attention should also be paid in the future to the financial ties of the Tobacco and Nicotine Policy Working Group. ASH Finland, which formed the backbone of the latest working group, is financially dependent on government grants - the organization receives STEA grants of around 400,000€ a year - which is not conducive to an objective assessment of government health policy.

Working groups providing public health recommendations should be impartial and financially independent, and government grants are also an economic affiliation that calls into question neutrality and independence, especially when it comes to evaluating government policies.

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References:
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