IPH response to the Department of Health consultation on Further Regulation of Tobacco and Nicotine Inhaling Products

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Introduction

The Institute of Public Health (IPH) informs public policy to support healthier populations in the Republic of Ireland and Northern Ireland. Our key priorities are promoting health and wellbeing, improving health equity, and reducing health inequalities through Evidence, Policy, and Partnership.

On 24 November 2023, the Department of Health in Ireland launched a public consultation to help inform future regulation of tobacco and nicotine inhaling products such as e-cigarettes. The consultation asked questions across 7 areas for which new legislation would be needed:

1. Point of sale display
2. Appearance of nicotine inhaling products
3. Flavours
4. Vaping restrictions
5. Proxy sales
6. Smoking in outdoor dining areas
7. Raising the legal age of sale for tobacco

Full details of the consultation can be found on the Department of Health's website.

IPH has developed a response to this consultation in recognition of the target to reduce tobacco use to less than 5% set out in the Department of Health Tobacco Free Ireland strategy and the cross-departmental Healthy Ireland Framework (1-3).

IPH seeks to support the development of evidence-informed and equity-focused tobacco control in Ireland and Northern Ireland. IPH recently responded to the UK government and devolved administrations' consultation 'Creating a smokefree generation and tackling youth vaping' and contributed to the mid-term and end of term review of the Northern Ireland Tobacco Strategy (4-6).

Key Points

Context

Ireland continues to experience an epidemic of tobacco-related illness, disability, and death. Smoking prevalence in the adult population is static at 18% and the government's 2025 endgame target (<5%) will not be met. A more robust approach is needed with short-term, medium-term and long-term strategic actions beyond those set out in the 2013 Tobacco Free Ireland policy.

Regular use of e-cigarettes is increasing among children and measures are required to reduce the appeal, accessibility, and affordability of e-cigarettes to children.

Regulatory measures proposed in this consultation are necessary, proportionate, feasible, equitable and supported by both evidence and public opinion.

Tobacco regulation

IPH strongly supports the introduction of legislation to create a smoke-free generation on the island of Ireland and recommends:

- Introducing a package of short-term and medium-term tobacco endgame measures including further regulation of nicotine concentrations and product packaging
- Increasing the minimum legal age of sale for tobacco products to 21, with a firm commitment to ultimately prohibit tobacco sales to anyone born after 2009
- Adoption of a comprehensive pricing strategy including taxation and minimum unit pricing of tobacco and e-cigarette products
- Application of place-based approaches to reduce the accessibility of tobacco utilising the recently approved licensing system
- Investment in workforce capacity and resources for enforcement within the Health Service Executive, local councils and an Garda Síochána
- Introducing a legal requirement for all government departments and elected officials in Ireland to report on compliance with Article 5.3 of the World Health Organization Framework Convention on Tobacco Control (7)
- Introducing regulations to create smoke-free outdoor dining areas.

E-cigarette regulation

IPH recommends an approach to e-cigarette regulation that focusses on reducing the appeal and accessibility of e-cigarettes to children and young people, and recommends:

- Keeping e-cigarette products behind the counter and prohibiting in-store marketing and promotional materials
- Introducing further regulation on the marketing and sale of e-cigarettes online
- Prohibiting the use of all imagery including animations/cartoons, colouring and branding for both e-cigarette packaging and device
- Restricting e-cigarette flavours including flavour descriptors
- Adopting a comprehensive strategy on reducing retail outlet density for tobacco prior to any consideration of exemptions for specialist vape shops
- Introducing progressive e-cigarette taxation targeted to products preferred by young people, but maintaining a price differential through consistent increases in tobacco taxation
- Resourcing change management, communications, evaluation, and monitoring systems to assess policy impacts on children, tobacco users, dual users, and e-cigarette only users.

IPH Response

1. 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

(2000-character(s) maximum)

IPH recommends that nicotine inhaling products must be kept behind the counter and cannot be on display on the basis that:

- 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
- Restricting point of sale display of nicotine-containing products is important to restrict children's exposure to e-cigarette branding and promotions
- Keeping e-cigarettes behind the counter may reduce opportunities for theft of products by children or other persons facilitating proxy sales to minors
- Keeping e-cigarettes behind the counter and restricting point of sale display does not hinder the accessibility of e-cigarettes to adult users.
- Evidence from point-of-sale display restrictions on tobacco products supports the effectiveness of the measure (8, 9).

E-cigarette branding in retail environments is promoted through the display of packaging, branded gantries, branded merchandise, window displays and branding of staff clothing. In Scotland, e-cigarette products were displayed close to products of interest to children in around one third of stores (10).

Adolescents who recalled seeing e-cigarettes in shops were more likely to have tried one and showed greater intention to try (11). This mirrors more established evidence that exposure to tobacco point of sale display is associated with smoking in youth (12-14). Finland has demonstrated that restricting e-cigarette advertising and product display at points of sale is feasible and proportionate.

Although not addressed in this consultation, IPH recognises the importance of advancing evidence-based regulation of online and distance sales within the new legislative proposals as a means to reduce accessibility of e-cigarette products to minors. Many countries, including Estonia and Lithuania, have already banned online and distance sales (15).

2. 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

(2000-character(s) maximum)

Options 1-3 are the most effective way for the Irish Government to restrict the way e-cigarettes are packaged and presented to reduce youth e-cigarette use, on the basis that:

- Animations, cartoons, and child-friendly images increase the appeal of products to children. Restriction of these elements alone will not be sufficient to counteract youth appeal and will create ongoing complexities in enforcement in terms of interpretation of terms.
- Imagery, colouring, and branding are all appropriate targets for regulation as they act synergistically to communicate with consumers about product characteristics

- Imagery, colouring, and branding are all appropriate targets for regulation as they all contribute to the brand identity, attractiveness, and appeal of the product (16).
- Several components of packaging and device design must be regulated to increase the salience of existing health warnings on the addictiveness of the product
- Many children identify that colourful packaging used for e-cigarettes make them appealing (17).
- Evidence from the introduction of standardised packaging of tobacco shows that the measure is feasible and effective, and that comprehensive measures encompassing imagery, colouring and branding are needed in order to be effective (18)
- UK studies show that standardised packaging measures may reduce the appeal of e-cigarettes among youths without reducing their appeal among adults (19, 20).
- Legislation on standardised packaging of e-cigarettes has already been drafted in the Netherlands which provides a useful starting point for drafting of legislation in Ireland (21).

This position is in line with the Joint Oireachtas Committee on Health Report on Pre-legislative Scrutiny of the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019, which recommends that 'measures to restrict the use of brightly coloured packaging and further regulation in the form of plain packaging restrictions should be implemented' (21).

3. Which option(s) do you think would be the most effective way to regulate flavours in nicotine inhaling products? (You can select as many as you like I think)
    - 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

(2000-character(s) maximum)

The most effective way for the Irish Government to reduce the appeal of e-cigarettes to children and young people would be to prohibit all flavours (excluding tobacco flavours) for the general retail market, adopting this position through a phased change management process. This position is in line with the Joint Oireachtas Committee on Health Report on Pre-legislative Scrutiny of the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019 which recommends that 'the flavouring of e-cigarettes and all flavours, except for tobacco, should be strictly prohibited so as not to entice minors (21).

This option is proposed, on the basis that:

- Evidence reviews conclude that e-cigarette flavour bans or restrictions can reduce e-cigarette use among adults and youth, with larger reductions for younger users (22)
- Survey data show that children generally have a preference for sweet and fruity flavoured e-cigarette products (23)
- Although adults switching to e-cigarettes use flavoured products, there is no evidence that certain flavours enhance the ability of smokers to stop using tobacco (22).

However, there are no clear estimates of effect size in terms of expected reductions in youth e-cigarette use or of changes in behaviour of adult e-cigarette users. Therefore, a clear evaluation framework should be agreed on in advance of adoption, and baseline data should be collected.

To meet the flavour preferences of people who have fully switched to e-cigarettes from tobacco, a wider range of flavoured nicotine replacement products could be made available through state-run stop smoking services. This approach would direct dual users, and ex-smokers who have switched to e-cigarettes to engage and benefit from the full range of available stop smoking supports. This may help e-cigarette users to optimise their stop smoking journey through engagement with statutory services that are free from commercial interest, while not excluding them from access to nicotine replacement.

4. 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

(2000-character(s) maximum)

There is a lack of legal clarity on what constitutes a specialist retailer/'vape shop,' making it difficult to comment on the proposal. Research conducted on 13- to 16-year-olds in Sligo and Leitrim found that of those who bought e-cigarettes from an outlet, 32% bought from a 'vape shop' (24). 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.

However, 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 (25, 26). The new legislation should provide powers to local authorities to restrict the density and location of tobacco and e-cigarette retailers within certain areas.

In Australia, e-cigarettes are regulated by the Therapeutic Goods Administration, the government authority responsible for evaluating, assessing, and monitoring products that are defined as therapeutic goods (27). Under new regulations, e-cigarettes will only be available with a prescription at pharmacies (27). An import permit will be required to bring any e-cigarettes into the country (28). The Irish government should carefully consider the

results of the Australian experience in deciding on future developments to the regulatory framework in Ireland.

5. How would your proposed approach impact the appeal of nicotine inhaling products to children? (2000-character(s) maximum)

Evidence reviews conclude that cigarette flavour bans or restrictions may reduce e-cigarette use among adults and youth, with larger reductions for younger users (22). There are no clear estimates of projected effect size in terms of reductions in youth e-cigarette use or of changes in behaviour of adult e-cigarette users. With these information deficits in mind, a clear evaluation framework should be agreed in advance of adoption, and baseline data should be collected.

The European Commission's Scientific Committee on Health, Environmental and Emerging Risks (SCHEER) Opinion on electronic cigarettes, found evidence to suggest that flavours contribute to the attractiveness of use of e-cigarettes and initiation (29). The World Health Organization recommends that where countries permit commercialisation (sale, importation, distribution, and manufacture) of e-cigarettes as consumer products, strict regulations should be introduced to reduce their appeal and their harm to the population, including banning all flavours, limiting the concentration and quality of nicotine, and taxing them (30).

More comprehensive e-cigarette regulations including, but not limited to, enforcement of age of sale laws may be protective of e-cigarette and dual use among adolescents (31). Current use of e-cigarettes exclusively and in combination with cigarettes is less likely in countries with more comprehensive e-cigarette regulations. Perceived difficulty in obtaining cigarettes appears to be protective for e-cigarette use (31). Adopting comprehensive e-cigarette regulations that address protection from exposure, advertising, taxation, and flavours may therefore support lower uptake of nicotine inhaling products among children.

6. How would your proposed approach impact the appeal of nicotine inhaling products to adult smokers? (2000-character(s) maximum)

Flavours attract both youth and adults to use e-cigarettes (32). However, there is no evidence that certain flavours enhance the ability of smokers to stop using tobacco (22).

Many countries and regions across the world, including Finland, the Netherlands, and Australia are implementing restrictions on e-cigarette flavours. As these measures have only been recently implemented, there are limited reports on policy impacts available at this time in terms of reducing youth e-cigarette use or on the risk behaviours of cigarette smokers, e-cigarette users and dual users.

A watching brief on outcomes from different policy approaches is advised, but inaction on e-cigarette flavours is not a viable or ethical option, as e-cigarette use among children and young people is increasing and evidence produced for the Department of Health by the Health Research Board concluded that e-cigarette use increases the probability of subsequent tobacco use (33).

7. Do you think that flavour descriptions affect the appeal of nicotine inhaling products to children?
   - Yes
   - No
   - Don't know

(2000-character(s) maximum)

Flavour descriptions affect the appeal of nicotine inhaling products, particularly among young people (17). Sweet and fruity flavours are the most popular choice for school children in Ireland (34). E-cigarette products with flavours other than tobacco are perceived by youth to be less harmful (32).

8. Do you think flavour descriptions should be regulated?
   - Yes
   - No
   - Don't know

(2000-character(s) maximum)

To reduce youth vaping, flavour descriptions should be regulated. Prohibited descriptors should include:

- Food-based descriptors (including, but not limited to, candy, dessert, confectionery)
- Drink-based descriptors (including but not limited to soft drinks, coffee)
- Fruit-based descriptors
- Descriptors referring to branded or unbranded products primarily used by children, including toys or games.
- Product descriptors relating to temperatures, textures, or oral sensations (e.g. ice, chill).

9. Do you think that the current laws on smoking should be extended to vaping?
    - Yes
    - No
    - Don't know

(2000-character(s) maximum)

E-cigarette use in indoor places should be banned on the basis that:

- E-cigarette aerosol contains some harmful constituents, such as nicotine and metals (35-37).
- Bystanders absorb nicotine from e-cigarette aerosol at levels comparable with second-hand tobacco smoke (38). Additionally, e-cigarette aerosol may expose non-users to toxic chemicals, including particulate matter and carcinogens (39-41).
- Second-hand aerosol from e-cigarette (SHA) from e-cigarettes has been found to cause acute reduced lung function and associated with higher odds of asthma exacerbations, which might reflect more adverse health effects with longer period of exposure (42, 43).
- Exposure to SHA from e-cigarette may renormalise tobacco smoking, induce relapse to smoking for those who have quit smoking and foster initiation of e-cigarette use among non-smokers, particularly young people (44-46).

TackSHS survey data found that in 2017-2018, 16% of e-cigarette non-users across 12 European countries (including Ireland) were exposed to SHA in any indoor setting at least weekly. E-cigarette non-users reported exposure in 'Other indoor settings' (e.g. restaurants) (8.3%), workplace/educational venues (6.4%), home (5.8%), and public transportation (3.5%). SHA exposure was

more likely to occur in certain groups of non-users: men, younger age groups, those with higher level of education, e-cigarette past users, current smokers, those perceiving SHA harmless and living in countries with a higher e-cigarette use prevalence.

In Ireland, 8% of the population currently use e-cigarettes either daily or occasionally, compared with 6% in 2022 (47). It is evident that e-cigarette use in Ireland is increasing, and the number of people exposed to SHA now is likely to be higher than that seen in the TackSHS survey data.

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

- Yes
- No
- Don't know

(2000-character(s) maximum)

Proxy sales of all tobacco products should also be prohibited on the basis that:

- Proxy sales may be a significant route of supply for children so a deterrent must be in place to enhance the effectiveness of the core legislation and ensure consistency
- Prohibiting proxy sales raises overall societal awareness and understanding of the lethal nature of tobacco products and can support communities to denormalise tobacco use and act in ways that protect children
- Including proxy sales within the legislation minimises any loopholes that could be exploited by illicit operators to evade prosecution for facilitating supply.

There is limited evidence around proxy sales, as the behaviours by their nature are challenging to capture and explore. It is unclear what interventions, if any, can support compliance with a ban on proxy sales and further evidence is needed. Notwithstanding the real-world challenges in monitoring and enforcement, a ban on proxy sales should be maintained and protected (48). Although there are no specific estimates on proxy sales in Ireland, a focus group of adolescents in 2020 found that the most popular way to obtain e-cigarettes was by using social media (34). Mobile phone and tablet ‘apps’ such

as Snapchat and Instagram were used by some children to buy and sell e-cigarettes, making proxy purchasing a viable target for regulation (34, 49).

11. Do you think smoking should be banned in outdoor dining areas?
    - Yes
    - No
    - Don't know

(2000-character(s) maximum)

IPH welcomes restrictions to reduce exposure to second-hand smoke (SHS) in outdoor dining areas. We note that some states in Australia ban the use of cigarettes and e-cigarettes in commercial outdoor dining areas. Health Survey Northern Ireland data shows that between 2015 and 2020, up to 23% of adults experienced regular exposure to SHS in "Outdoor smoking areas of pubs/restaurants/cafes" (50, 51). One European study, including Ireland, levels of nicotine are detectable in the air of 94% of outdoor spaces in 220 hospitality venues sampled (52). IPH welcomes this consideration for further restrictions on exposure to SHS in outdoor dining areas.

While exposure to SHS in outdoor dining areas is an important consideration, we consider the scope of tobacco control measures being proposed in this consultation to be insufficient to reach the government's tobacco endgame ambition (53). The selection of tobacco regulations should prioritise measures with the greatest predicted effect size and the capacity to significantly reduce tobacco-related harms in the shortest possible time. Based on simulation modelling studies internationally and the best available evidence, these would include:

- Introducing a mandatory very low nicotine content standard
- Prohibiting tobacco sales to anyone born after 2009 to create a smoke free generation on the island of Ireland (6)
- Comprehensive pricing strategies including taxation and minimum unit pricing
- Application of place-based approaches to reduce the accessibility of tobacco utilising the newly approved licensing system.

These approaches should be supported by modelling studies using data from Ireland incorporating cost-benefit and health equity analysis as well as robust

information systems to monitor tobacco and e-cigarette use in adult and child populations, including through longitudinal data and enhanced data on tobacco users.

12. Do you think that the current age of sale for tobacco products should be increased?
    - Yes
    - No
    - Don't know

    (2000-character(s) maximum)

IPH supports raising the current age of sale for tobacco products on the basis that:

- Tobacco is the single biggest contributor to early death in Ireland, causing around 6,000 deaths annually (54)
- Measures progressed through Tobacco Free Ireland have proven insufficient to achieve tobacco endgame (47, 55)
- This measure will reduce health inequity caused by tobacco (56)
- There is public support among the Irish population for raising age of sale (57).

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 (56, 58). Raising the age of sale will be effective if progressed within a suite of evidence-based tobacco endgame measures, including:

- Reducing allowable nicotine concentrations in tobacco products (59)
- Enhancing regulations on tobacco packaging, cigarette design and mandating inclusion of quit information in packs (60, 61)
- Place-based approaches to reducing retail density (62, 63)
- Investment in workforce capacity and resources for enforcement within local councils, an Garda Síochána, and in the HSE
- Introducing a legal requirement for all government departments and elected officials to report on compliance with Article 5.3 of WHO FCTC (7).

In 2016, there were 33,615 inpatient hospital admissions, with an estimated cost of €172 million (64). Tobacco-related harms place an unsustainable burden on families, communities, the HSE and the environment. The Irish government should formally indicate its intention to prohibit the sale of tobacco to anyone born after 2009, in parallel with the UK ambition. As the measure is being consulted on in Northern Ireland (which complies with the European Tobacco Products Directive under the Windsor Framework) we do not believe there is any legal impediment to Ireland progressing this measure under the Directive.

13. 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

(2000-character(s) maximum)

An increase in the price of e-cigarettes is likely to reduce the number of young people who use them, but the optimal pricing strategy to adopt is currently unclear (65). Progressive e-cigarette taxation targeted to those products preferred by young people, alongside tobacco cigarette minimum pricing and progressive tobacco taxation, will be more effective than adopting siloed approaches to pricing of tobacco and e-cigarette products. Price differential between tobacco products and e-cigarettes should be maintained. If a decision is made to retain disposable e-cigarettes on the market in Ireland, the price differential between disposable and non-refillable e-cigarette devices should be closed.

One study in the US found that price increases resulted in an overall decrease in adolescent e-cigarette use, with no increase in tobacco or marijuana use (66). Another found that jurisdictions that implemented an e-cigarette tax had a significantly smaller increase in consumption than those that did not (67). Several studies have estimated the price elasticity of e-cigarettes. Higher prices for e-cigarette disposable appear to be associated with reduced e-cigarette use among adolescents in the US (68, 69). Research conducted for six EU markets (including Ireland) found that every 10% increase in e-cigarette

prices was associated with a drop in the e-cigarettes sales of approximately 8.2% (70).

The Department of Health should explore the feasibility of additional taxation on nicotine salts, on the basis that salts increase the addictiveness and palatability of e-cigarette product – including consideration of the taxation regime introduced in the Philippines (71). Nicotine salt solutions contain nicotine concentrations 2 to 10 times those found in most free-base-nicotine e-cigarette products, and have higher ratings of appeal, sweetness, and smoothness, and lower ratings of bitterness and harshness (72, 73).

14. What impact, from a public health perspective, would an increase in the price of vapes have? (2000-character(s) maximum)

As previously mentioned, current research on general e-cigarette use has already identified several health risks, particularly among children and adolescents. There is a strong association between ever e-cigarette use and subsequent ever or current cigarette use at follow up based on longitudinal data and a high-quality systematic review (74). Systematic reviews also found some evidence to support the association between e-cigarette use and having asthma, increased coughing, mental health, marijuana use, and alcohol use (75-79). IPH is completing an evidence review on harms to children associated with e-cigarette use for the Department of Health in Northern Ireland which can help inform the position in Ireland.

An increase in the price of e-cigarettes is likely to reduce their consumption, thus reducing the risk of any potential negative health impacts.

15. 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

(2000-character(s) maximum)

Reducing the affordability of tobacco has been highly effective in reducing

consumption. Affordability has the most impact on those who are most price sensitive, such as younger smokers (80). In response to a hypothetical minimum price for cigarettes and roll-your-own tobacco, approximately one fifth of smokers in the UK indicated they would smoke less or quit and almost two-fifths of ex-smokers indicated the prices would help them stay quit (81).

Disposable e-cigarettes can be purchased for as little as €4.99, which is of concern as this may increase their accessibility to children and young people (82). It is likely that e-cigarette companies will manipulate pricing to maintain low-cost e-cigarette products. This should be actively monitored, and further regulation considered if required.

16. 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

(2000-character(s) maximum)

The Department of Finance produced a General Excise report in July 2023 (83). In it, the Department of Finance outline that significant work and lead in time would be required to implement domestic tax measures and the preference would be to await developments at EU level in order to align with a harmonised tax regime across the EU. If a harmonised tax regime is not developed, Ireland should consider introducing a domestic tax that is proportionate to the health harms of the product. It has been hypothesised that high taxes for e-cigarette products could encourage switching to traditional tobacco products, but this risk can be mitigated by matching the level to higher taxation on tobacco products.

17. 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

(2000-character(s) maximum)

IPH recommends that non-nicotine e-liquid, for example short fills, should also be included, on the basis that:

- The long-term safety profile of non-nicotine e-liquids is unknown but flavours and non-nicotine ingredients may have some toxic effects
- Some products are designed for customisation to allow addition of nicotine shots
- Restricting non-nicotine e-cigarettes will help to denormalise use and prevent future loopholes in tobacco and e-cigarette regulation.

Under Regulation 26 of the European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) Regulations 2016 (S.I. No. 271 of 2016), there are requirements that e-cigarettes and refill containers be child-resistant and tamper proof and have a mechanism that ensures refilling without spillage to protect consumers (84). However, if these requirements do not apply to non-nicotine e-cigarettes, this provides opportunities for other substances to be consumed. Awareness of short fills was common among youth in England, including among those who had never used e-cigarettes or smoked. Among youth who used e-cigarettes in the past 30 days, short fill use was more prevalent among those who also smoked and those who vaped nicotine-containing e-liquids (85).

There is some evidence that concentrations of flavour chemicals in e-liquid are high enough to be cytotoxic (86, 87). Further toxicological studies of e-liquid ingredients are warranted, and there is a need to determine if these flavours will lead to adverse health effects. There are also concerns that using non-nicotine e-cigarette use can foster transition to nicotine-containing products and/or tobacco products (74).

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