



Response to the European Commission's Call for Evidence on the Council Directive on excise duties for tobacco and nicotine products

Organization: Consumer Choice Center

Date: 30.10.2025

Summary and background information

We welcome the opportunity to discuss and provide evidence for the [amendments](#) to the Tobacco Taxation Directive (2011/64/EU) and the Council Directive on general arrangements for excise duty (2020/262/EU).

At the same time, we are concerned by the combination of the first and second objectives driving the proposed changes: 1) "Increasing the minimum tax rates to reduce disparity in rates applied by Member States" and 2) "Extending the scope of the directive to new products (e-cigarettes, heated tobacco, and nicotine pouches). These products will be covered with new minimum taxes".

According to the new excise rates, electronic nicotine delivery systems (ENDS) will be subject to a minimum of €0.12/milliliter or 20% of the retail price for liquids containing up to 15 mg/ml of nicotine, and €0.36/milliliter or 40% of the retail price for liquids above that threshold (depending on which option is higher). The Commission anticipates a transitional period until 2032, during which the proposed rates will come into full force. The taxes will be adjusted for inflation and purchasing power parity.

In reality, this means that ordinary consumers will have to pay at least €3.60 per 10ml bottle of e-liquid, in addition to the full current retail price of equivalent products in most EU Member States. Vaping would de facto become twice as expensive as it is now, and certainly more expensive than smoking.

When it comes to heated tobacco products, the suggestion is for a minimum excise of 55% of the retail price or €108 per 1,000 sticks, subject to a four-year transition period. Nicotine pouches and other oral non-tobacco products would face a charge of 25% of the retail price or €71.5 per kilogram by 2030, increasing to 50% or €143 per kilogram by 2032.

The proposals contradict science and achieve the very opposite of the public health goals they have sought to achieve. Crucially, this decision falsely assumes alternative products are on par with traditional tobacco options like cigarettes. **The prevailing evidence points to the fact that, because they are non-combustible and do not contain tobacco, items like nicotine pouches and vapes reduce exposure to toxic substances by significant orders of magnitude, both to users and to those around them.**

Moreover, **by taxing these products like cigarettes, the suggestions are disincentivizing people from switching to the very options that would cause them less harm, at least, and pushing them onto the black market at worst.**



Finally, by expanding these amendments across the European Union, they are undermining Member States that are following the science and achieving significant harm-reduction gains, such as Sweden, Czechia, and Greece.

The online text of the Commission's proposals rightly notes that "the smoking prevalence of Europeans is not declining sufficiently fast to meet the Europe's Beating Cancer Plan objective, ensuring that less than 5% of the population uses tobacco by 2040. Smoking prevalence in the EU is currently still at 24 %". **However, the proposals fail to recognize that it is precisely the use of excise taxes, as opposed to harm-reduction strategies, that prevent the EU from achieving its public health targets.**

The first section details the available scientific evidence on why alternative products like ENDS pose a substantially lower risk compared to cigarettes. The second section details why taxing these safer alternatives leads to negative unforeseen consequences, including the resumption of smoking and the black market. The third section details how the suggestions would negatively affect harm-reduction strategies in EU Member State success stories. The conclusion sets out the Consumer Choice Center's policy recommendations for health and economics-informed revisions to the Tobacco Taxation Directive and the Council Directive on general arrangements for excise duty.

1. ENDS, pouches, and other alternative products have a very different risk profile compared to cigarettes

ENDS are orders of magnitude safer than cigarettes: electronic nicotine and non-nicotine systems heat vapor using water and other liquids in the delivery device. Harm from second-hand exposure is small to non-existent because they do not contain the dozens of toxic ingredients found in cigarettes and do not use fire to produce a flame at all. A [full 85%](#) of noxious second-hand smoke comes from the side-stream effect of a lit cigarette, whereas vape aerosols only come from users' breath.

Neither are the substances as harmful as cigarettes to users. It is important to note that the chemicals found in ENDS (propylene glycol, vegetable glycerin, flavorings) generate issues only [under "dry puff"](#) when the device is overheated or when there is not enough liquid, both situations that create an unpleasant vapor. Consumers will consequently avoid such situations, if only because they lead to a very unpleasant taste and smell. Under normal conditions that reflect actual vaping practices, [scientific articles](#) detect little to no threats. All things considered, [U.S. Academia](#) has concluded that ENDS toxicant exposures are one-fourth to ninety-fifth of cigarette smoke.

General research confirms just how much less harmful vaping is than smoking. The well-known [Public Health England](#) study has shown that vaping is 95% less harmful than traditional tobacco options. The [Royal College of Physicians](#) reconfirmed the findings of Public Health England, in that the long-term health risks associated with e-cigarettes are unlikely to exceed 5% of those associated with smoked tobacco products.

Subsequent articles have proven that vaping also outclasses other options to quit - a [2019 article in the New England Journal of Medicine](#) compared vaping as a harm-reduction tool



with other nicotine substitutes. It revealed that vaping was twice as effective at smoking cessation compared to lozenges, patches, and sprays.

When it comes to nicotine pouches, [one of the most extensive meta-reviews](#) in existence (which included no less than 62 studies) found that “The chemical composition of ONPs suggests fewer harmful/potentially harmful compounds at lower levels than cigarettes and smokeless tobacco (SLT).” [A cross-sectional study of nicotine pouches](#) was conducted among 110,000 individuals in the US over three months (2022-2023). It is the first widespread study of nicotine pouch use in the United States. It found that former smokers comprise virtually all current nicotine pouch users in America. Moreover, the absence of combustion means that pouches (like vapes) pose far fewer risks of cardiovascular disease as they avoid the substances found within traditional tobacco use. As the study itself notes, then, even if nicotine pouch use is associated with cardiovascular risks of its own relative to no use, its harm reduction potential should be strongly considered when compared to smoking cigarettes.

Finally, toxicological assessments have found that, because they do not combust, HTPs release up to [99.8% fewer](#) emissions of the toxic and harmful substances associated with traditional options (substances like styrene, toluene, benzene, toluene, isoprene, and 1,3-butadiene).

2. Higher taxation of alternative products increases smoking rates and feeds the black market

From an economist’s perspective, taxes should incentivize consumers to adopt healthier smoking habits. It is clear from the different risk profiles of alternative products relative to cigarettes (section 1) that switching to such options would help consumers quit smoking. As such, taxation should encourage people to explore these possibilities.

It is also clear that items like ENDS are economic substitutes for cigarettes, as when one's adoption rates rise, the other's fall. When applied to fiscal elements like excise duties, it means that if the rates for ENDS, nicotine pouches, and heated tobacco products rise, then there will be a decline in consumption and an increase in cigarette smoking.

Identical excise duties can sabotage [cross-price demand elasticity](#), as ordinary buyers are sensitive to price changes in one product, leading them to consume more of the substitute in response. Put simply, making cigarettes expensive will not deter people from purchasing them, especially not if vapes, nicotine pouches, and heated tobacco are just as costly. On the contrary, we should not be surprised to see more dual use (both smoking and vaping), relapse cases multiplying, and cessation numbers plummeting.

On the contrary, equal taxation creates the perfect conditions for a thriving black market, by easing the costs of producing counterfeit goods (which already did not incur excise duties to begin with) and facilitating their smuggling and distribution.

There are reasons to believe that the effect would be more substantial in the case of ENDS, considering the already expanding black market that has been caused by misguided restrictions on flavored vapes in 2024. For instance, [research](#) by the Dutch vapers



organization Acvoda among e-cigarette users shows that 80% of consumers are circumventing the flavour ban: 50% are going abroad, and 30% of respondents are still ordering them online and through social media.

This surge in illegal activity is already registering in official data. For example, the Netherlands Food and Consumer Product Safety (NWVA) organization [seized](#) more than 200,000 illicit e-cigarettes (vapes) and 70,000 flavor accessories in the first two quarters of 2025 alone.

Of course, it is not just the case for the Netherlands. As we have recently detailed in a [Brussels Times article](#), “The year 2024 saw the [largest number of illegal cigarettes](#) traded since 2015, with more than 38.9 billion illicit sticks bought and sold across the Bloc, representing nearly 1 in 10 of all cigarettes. In the Netherlands, figures [doubled last year](#) to reach 1.1 billion in 2024, or 17.9% of total smoking. In France, they are equivalent to [37.6% of total cigarette use](#) at 18.7 billion individual illegal goods, the single biggest illicit tobacco product sector in Europe. Belgium has followed the path recommended by the Commission, characterized by steep taxes and strict regulations. It is paying the price in the form of a [13% growth](#) in counterfeit and smuggled cigarettes, to a total of 1.30 billion units.”

We believe, given that smuggling was this profitable during current conditions, that it will increase substantially if the equal taxation regime were to be adopted in its current form.

3. The suggestions undermine successful harm-reduction strategies in Sweden, Czechia, Greece, and other Member States

Not only does harmonization around higher taxes not work, but it risks reversing the successes of harm-reduction strategies throughout Europe. On October 25, 2025, Sweden officially became the first country in Europe to achieve smoke-free status, with a [smoking rate among adults of less than 5%](#). Sweden has achieved this feat that the EU itself could not achieve (and 15 years ahead of the EU’s schedule!) due to the country’s exemplary [embrace of harm-reduction measures](#). The Nordic state prioritizes switching smokers away from cigarettes to options like ENDS thanks to a combination of legal access, advertising for safer products, and, crucially, [a tax system that makes items](#) like snus cheaper than a cigarette. It made its commitments to harm reduction explicit in its [national health plan](#) and fiscal policy. The results [speak for themselves](#): a [39.6% lower death rate](#) from cigarette smoking than the EU average for men in 2019, and a 39% lower mortality rate from all tobacco-related diseases relative to the EU norm. Unsurprisingly, Sweden has been one of the most vocal Member States [against the leaked plan](#); its consumers have among the most to lose.

Greece is a country that has only just begun making spectacular gains in harm reduction, achieving a 6% reduction in three years (from 42% in 2021 to 36% in 2024), the fastest decline across Europe. The recipe for success is similar to Sweden’s: Greece’s [National Action Plan Against Smoking](#) cites harm reduction alongside prevention, cessation, and protection as the four effective methods of tobacco control. Greece places its dedication to science-based evidence front and center, adopting [Law 4715/2020](#), which provides for the scientific validation of health claims for certain reduced-risk products. That dedication was



evident in practice in March 2023, when comparative risk-assessment statements were permitted for heated tobacco products, in line with the best available evidence.

Finally, Czechia holds the crown for the most significant single reduction in smoking rates in Europe – a 7% decrease from 30% in 2021 to 23% in 2024. Just like Greece and Sweden, the Czech Republic included nicotine-based products as harm-reduction tools in its [National Strategy to Prevent and Reduce the Harm Associated with Addictive Behavior](#) 2019–2027. Czechia allows for the full range of harm-reduction tools (including pouches and vape flavors). It lacks any excise duties for vapes, while applying a substantially lower rate to heated tobacco products compared to cigarettes. Much like Sweden, Czechia has made it explicitly clear that it will defend its harm-reduction approach, both today and during its 2022 Council Presidency.

The stakes could not be higher. All three Member States suffer if the excise package is adopted in its current form. Even more so, an extra [3.5 million lives would be lost](#) to smoking, lives that could be saved if harm reduction were to become an EU-wide reality.

4. Policy recommendations

Given the facts, we urge policymakers to reconsider the amendments to the Tobacco Taxation Directive (2011/64/EU) and the Council Directive on general arrangements for excise duty (2020/262/EU) along the following lines:

- **Reflect the scientific consensus** – Consider and incorporate the vast majority of scientific findings from leading health authorities that confirm alternative products have significantly lower risks than smoking.
- **Adjust excise duties by risk profiles** – Smoking should have a much higher rate of taxation, while nicotine pouches, heated tobacco, snus, and other options should have no or minimal rates.
- **Allow for policy innovation and experimentation among Member States** – As evident from countries like Sweden, the Czech Republic, and Greece, a one-size-fits-all approach does not account for what works and what does not in different contexts. Preserving a diversity of approaches allows states to discover and perfect harm-reduction strategies moving forward.
- **Adopt proven strategies to curb illicit cigarette trade** – Focusing on disincentivizing black market purchases in the first place is significantly more effective than attempting to suppress the practice.



About the Consumer Choice Center:

The Consumer Choice Center is a non-profit organization dedicated to defending the rights of consumers around the world. Our mission is to promote freedom of choice, healthy competition, and evidence-based policies that benefit consumers. We work to ensure that consumers have access to a variety of quality products and services and can make informed decisions about their lifestyle and consumption.

As an independent nonprofit organization, the Consumer Choice Center relies on support and funding from private donors. As described in our Code of Ethics, we strictly maintain editorial independence and do not give our funders any influence on editorial decisions. Our support comes from corporations, individuals, and foundations. We have a tiered membership model available to members who support us yearly, equaling silver, gold, and platinum status.

In the past and currently, we have received funding from multiple industries, such as energy, fast-moving consumer goods, nicotine, alcohol, airlines, agriculture, manufacturing, digital, healthcare, chemicals, banking, cryptocurrencies, and fintech.

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