

Jacob Rees-Mogg
House of Commons
London
SW1A 0AA

28 March 2022

Dear Mr Rees-Mogg,

Re: EU regulations that should be abolished

We would like to offer some proposals following your call in [The Sun newspaper](#) for suggestions as to which petty regulations should be abandoned now that the UK has left the EU.

I am writing on behalf of the New Nicotine Alliance (NNA), the UK's pre-eminent consumer association and educational charity which represents consumers of low-risk alternatives to cigarettes such as vaping products, nicotine pouches, smokeless and heated tobacco products. As consumers, members have a direct interest in the regulation of these products and the personal and public health consequences of policy choices made by the government.

The [latest research](#) by tobacco control organisation Action on Smoking and Health estimates that there are now 3.6 million vapers in Great Britain, two-thirds of whom have quit smoking entirely thanks to vaping products. This is despite regulations the UK government has had to adopt as a result of the EU Tobacco Products Directive which are not justified by any credible scientific evidence and only serve to be an irritant to people who vape, while also deterring smokers who might otherwise switch to safer products.

Abolishing the pointless EU-derived regulations detailed below would not only be popular by making life easier for millions of UK vapers but would also help the government in its goal of achieving smokefree status for the UK by 2030.

Eliminate pointless restrictions on vaping tank and refill container sizes

The European Union Tobacco Products Directive limits the size of vaping product tanks to 2 millilitres and refill containers to 10 millilitres.ⁱ It is difficult to establish any reliable origin or rationale for this measure – and in practice, there is none. Recitals 40-42 of the EU TPD reflect a reasonable approach to risk arising from containers of liquids that could be toxic if ingested: use well-engineered and child-resistant containers; warn of the hazard and provide information on what to do if the liquid is swallowed. This is the usual approach for managing hazardous substances in the home, for example, cleaning fluids, medicines and fuels – and there are international standards for child-resistant containers.ⁱⁱ Limiting the size of the container to some notionally sub-lethal dose is not an approach widely used for hazardous products and not mentioned in the recitals to the TPD. Nicotine ingestion is rarely lethal, partly because it triggers vomiting, and it is not as toxic as widely assumed.ⁱⁱⁱ

The problem with smaller containers and tank sizes is that, for obvious physical reasons, these generate more refilling activity, entail a greater likelihood of running out of liquid, more chance of spillage, and create more waste. It is made more difficult by the insistence in the EU Tobacco Products Directive on small container sizes. It is a form of pointless regulatory harassment of vapers, and no one has been able to identify any public health or other benefits.

Remove the 20mg/ml limit on the strength of nicotine e-liquid

The government should raise the European Union limit on nicotine concentration in vaping liquids to allow vaping products to compete more effectively with cigarettes. This change is necessary to provide a satisfying alternative to smoking in a compact format. The limit is arbitrary and based on a nonsensical quantity (nicotine liquid strength) and does not do what it was supposed to do - set a level playing field for competition between smoking and vaping. The Tobacco Products Directive limits nicotine concentrations in e-liquids to 20mg/ml (about 2% nicotine concentration)^{iv}. This legacy European Union rule provides no benefits or consumer protections but provides unjustified regulatory protection to cigarettes on sale in the UK based on faulty reasoning.

The misunderstanding was pointed out to the Commission when the legislation was crafted, including by several of those whose science the Commission cited to justify its approach.^{v vi vii} The critics' evidence-based arguments were ignored, and the Directive proceeded unchanged, cementing in an advantage to the cigarette trade.

Lift the EU-imposed ban on snus

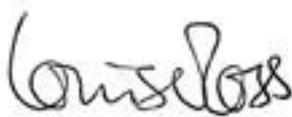
The government should lift the European Union ban on snus (oral tobacco). The lowest smoking rate in Europe (7%) is in Sweden, where many nicotine users use snus, a form of smokeless tobacco. In Norway, daily smoking among young women (age 16-24) reached 1% in 2019 and remained at that level in 2021. This was a fall from 17% to 1% prevalence over just ten years as almost all nicotine use in this age group has migrated to snus.^{viii} This is already a true "smoke-free generation", and it has been achieved very quickly and by consent rather than by force. The most recent Global Burden of Disease (GBD) study found no excess mortality, oral cancer, ischemic heart disease or stroke risk for smokeless tobacco users in Sweden and Norway,^{ix} and the 2016 GBD concluded: "*for snus or snuff, we did not find sufficient evidence of an RR greater than one for any health outcomes*".

However, despite no discernible health risk, the EU Tobacco Products Directive bans snus^x though allows cigarettes to be ubiquitously available. This product has been highly successful in reducing smoking to low levels in Scandinavia, notably in Sweden and Norway. Both countries are exempt from the EU-wide ban even though both are part of the European Economic Area, and therefore lifting the ban would not be divergent with the rules of the EU internal market

To maximise the potential of tobacco harm reduction, it is essential to have a diverse range of smoke-free options that provide for different tastes, different points in a transition to smoke-free status and use in different settings. Even if the interest in snus turns out to be limited (we cannot know this while it is banned), *there is no reason to stop any smoker from choosing snus as an alternative to smoking*. The snus ban has no basis in science, policy or ethics and is essentially a violation of consumer rights.

We sincerely hope you will consider our suggestions for EU regulations which the UK can do without post-Brexit and would welcome any questions you may have or requests for further information.

Yours sincerely,



Louise Ross
Chair, New Nicotine Alliance

About the New Nicotine Alliance: The New Nicotine Alliance was founded as a registered charity ([1160481](#)) in 2015 to advance public understanding and awareness of ways to reduce the harms associated with cigarette smoking. We take a consumer-interest, scientific and public health perspective and wish to encourage a mature public discussion about the opportunities and risks of encouraging safer nicotine products to address the health, welfare and other harms associated with smoking.

Disclosure: The New Nicotine Alliance is completely independent of commercial interests in relevant industries (e-cigarettes, tobacco, pharmaceutical companies, etc.). It operates on a small budget and not-for-profit basis and is free from commercial bias. Our policies and statements are evidence-based, with a clear focus on the health of consumers and the wider public.

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- i Tobacco Products Directive Article 20(3)(a) and SI 2016/507 regulation 36(2)(3) [\[link\]](#)
- ii ISO 8317:2015 Child-resistant packaging -- Requirements and testing procedures for reclosable packages [\[link\]](#) and related standards, 55.020 - Packaging and distribution of goods in general [\[link\]](#)
- iii Mayer B. How much nicotine kills a human? Tracing back the generally accepted lethal dose to dubious self-experiments in the nineteenth century. *Arch Toxicol* 2014;88:5–7. doi:10.1007/s00204-013-1127-0 [\[link\]](#)
- iv Tobacco Products Directive Article 20(3)(b) and SI 2016/507 Regulation 36(4) [\[link\]](#)
- v Farsalinos K. The European Commission has misinterpreted my scientific research on nicotine in e-cigarettes, 10 Jan 2014 [\[link\]](#)
- vi Etter, JF and 14 experts, Scientific Errors in the Tobacco Products Directive, A letter sent by scientists to the European Union. 17 January 2014. [\[link\]](#)
- vii Dawkins LE. Please Do Not Distort My Words To Justify Your Policy, 13 January 2014. [\[link\]](#)
- viii Statistics Norway, Tobacco, alcohol and other drugs, data tables, Accessed 17 Feb 2022. <https://bit.ly/3GUQiyb>
- ix Siddiqi, K., Husain, S., Vidyasagan, A. *et al.* (2020). Global burden of disease due to smokeless tobacco consumption in adults: An updated analysis of data from 127 countries. *BMC Medicine*, 18(1), 1–22. [\[link\]](#)
- x Tobacco Products Directive Article 17. SI 2016/507 Regulation 17 [\[link\]](#)