

Comments on Article 20(5) Implementation Proposals

December 2015



Background

ASH Scotland is the independent Scottish charity taking action to reduce the harm and inequality caused by tobacco. Our activities include an expert information service, campaigning for political action on tobacco and health, supporting community groups to help their service users affected by tobacco use, building public support and awareness for making Scotland free from tobacco and supporting charities, enforcement agencies, the NHS and others to contribute to achieving that goal.

Publication of advertisements

Section 2 of the draft regulations restricts the publication of e-cigarette advertisements in the press. We support the strong and clear drafting of this section. However, we are concerned that the current wording could inadvertently prohibit researchers or other public health professionals from publishing advertisements in a research context. For instance, this could restrict an illustrated journal article from making a side-by-side comparison of e-cigarette and tobacco advertisements.

We suggest that an additional exemption be created under 2. (3), permitting the publication of e-cigarette advertisements where there is no promotional intent but a public health interest. This should not be limited only to academic journals.

“Heated tobacco” devices

Heated tobacco devices, such as IQOS (produced by Philip Morris International) and Pax (produced by Pax Labs, now independent but formerly part-owned by Japan Tobacco International) are a developing category of tobacco products. They use heating elements to heat tobacco stored within the device, producing a vapour which contains nicotine but ostensibly avoids creating the carcinogens produced when burning tobacco. While they are sometimes referred to as vaporisers, these devices are unrelated to e-cigarettes and we believe are not covered under TPD e-cigarette provisions.

At present, it is unclear whether heated tobacco devices fall under the Tobacco Advertising and Promotion Act 2002’s definition of tobacco products. We believe that clarity is needed on this subject, following reports that at least one of these devices has been advertised online in a manner which would breach the TAPA if applicable. This transposition may offer an opportunity to clarify the legal status of advertising these products, which we believe should be treated in law as any conventional tobacco product.

This submission is endorsed by the Royal College of Physicians of Edinburgh.

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