

Title: **The North of England EU Health Partnership recommendations for the proposal on the tobacco and related products Directive**

Date: **March 2013**

The following text reflects the position of the North of England EU Health Partnership [formerly the North West England Health Brussels Office] and has been developed in cooperation with partners from within the North of England Health economy.

Key Messages

Nicotine Containing Products [NCPs]: e-cigarettes

- **NCPs products should be regulated as combination drugs and medical devices.**¹ Therefore, whilst we support the referencing of NCPs in the Directive, we would encourage the European Parliament [EP] to remove the nicotine threshold and regulate all NCPs according to Directive 2001/83/EC.
- **All flavourings of e-cigarettes should be prohibited** in order to avoid these products becoming more attractive to younger people and those who are not currently cigarette smokers. At present the Directive does not restrict the use of flavourings for NCPs. Article 6 of the Directive proposes to prohibit products which have a characterising flavour for cigarettes, roll your own tobacco and smokeless tobacco. Consequently, we propose to extend this prohibition in these products [and NCPs] to cover all additives and flavourings not essential for production and which do not produce characterising flavours.^{2 3 4}
- **NCPs should contain a clear adapted health warning label.** We accept that the primary function of NCPs, such as e-cigarettes, is not to act as a smoking cessation tool. However, evidence suggests that a number of citizens may use these products for this purpose, whilst others consume the product as an alternative to conventional smoking.⁵ Therefore, unlike with Nicotine Replacement Therapies [NRTs], in which the therapeutic purpose is clear, there

¹ WHO study group on tobacco product regulation: report on the scientific basis of tobacco product regulation: third report of a WHO study group. WHO technical report series ; no. 955 (2009): http://whqlibdoc.who.int/publications/2009/9789241209557_eng.pdf

² US Food and Drug Administration, Flavoured Tobacco Fact Sheet, (2011): <http://www.fda.gov/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/ucm183198.htm>

³ Marketing Innovations, Youth Cigarette - New Concepts, Memo to Brown & Williamson; Bates No. 170042014, (1972): http://www.cancerresearchuk.org/prod_consump/groups/cr_common/@nre/@pol/documents/image/cr_078389.pdf

⁴ SCENIHR (Scientific Committee on Emerging and Newly Identified Health Risks), Addictiveness and Attractiveness of Tobacco Additives, Pre-consultation opinion, 6 July 2010: http://ec.europa.eu/health/scientific_committees/emerging/docs/scenih_r_o_029.pdf

⁵ YouGov Survey. Sample size 10,000 adults. Fieldwork conducted between 27th February and 16th March 2012: <http://taking-liberties.squarespace.com/storage/YG-Archives-Ash-CigarettePacket-130412v2.pdf>

is a need for NCPs to contain clear health warning labels for users who intend to use this product as an alternative to smoking.

- **We do not advocate the complete removal of NCPs from the market.** However, there is a clear need for regulation and the Directive 2001/83/EC is the most appropriate means by which to regulate this product without significantly restricting the accessibility for consumers. Moreover, we question the efficacy of these products as either a cessation tool or harm reduction tool, especially in light of the lack of scientific evidence on this matter.¹
- **We strongly urge the EP to consider the wider social implications of the increasing prevalence of this product:** the rising prevalence use of e-cigarettes may undermine current smoking cessation campaigns by reinforcing the normalcy of cigarette use in public. This directly contradicts wider de-normalisation strategies that have taken place around tobacco control in recent years.⁶ Consequently, we would encourage the EP to consider the application of advertising and smoke-free environment restrictions to NCPs, although we acknowledge that this is beyond the scope of this particular Directive.

[Water Pipe and other niche tobacco](#)⁷

- **The Directive gives insufficient attention to water pipe fillings.** We recommend amendments to the text clarifying the precise situation of water pipe filling, which will require defining water pipes fillings [both herbal and tobacco] in the Article 2 (Definitions). At present, the contents of water pipe filling are sometimes unclear, meaning that they may or not contain tobacco, and in many cases is variable.⁸ This requires greater regulatory attention to ensure correct labelling.
- We have concerns with potentially combining all pipe tobacco products in one category, “pipe tobacco”, which conceivably includes water pipe tobacco. Water pipe tobacco and conventional pipe tobacco are consumed by different segments of the population and are showing different trends in their prevalence.⁹ **Water pipes are attractive to young people, particularly to those who otherwise would not use tobacco products, such as cigarettes.**¹⁰ Furthermore, many users of these products may not be aware of the health risks.^{4,11} **The use of water pipe products has been increasing in recent years**⁴ and may continue to rise in the

⁶ British Medical Association. E-cigarettes in public places and workplaces. A briefing from the BM Occupational Medicine Committee and the Board of Science. London: BMA, 2013.

⁷ More information can be found at the Niche Tobacco Product Directory: <http://www.ntpd.org.uk>.

⁸ Niche Tobacco Product Directory: Water Pipe Tobacco: http://www.ntpd.org.uk/waterpipe_tobacco_smoking.

⁹ Smoking and drinking among adults, General Household Survey 2007. Office for National Statistics [ONS]: www.statistics.gov.uk/statbase/prep/5756.asp

¹⁰ Advisory note, Water Pipe tobacco smoking, health effects, research needs and recommended actions by regulators; WHO study group on tobacco product regulation (2005): http://www.who.int/tobacco/global_interaction/tobreg/Waterpipe%20recommendation_Final.pdf

¹¹ ASH fact sheets, Water Pipes, January 2010: http://ash.org.uk/files/documents/ASH_134.pdf

coming years. Therefore, it is justified to give greater consideration to these products in this Directive.

- **Other niche tobacco products:** the equity dimension of water pipe and other forms of niche tobacco should be better acknowledged within the scope of the Directive. **Although health inequalities among minority ethnic groups are influenced by a number of factors, smoking remains one of the biggest causes of inequalities in health.**⁷
- In the last decade, overall smoking prevalence has declined among the general population. However, the pattern is more complex among minority ethnic groups. Research has shown that amongst BME [Black, Minority Ethnic] communities in the UK, especially those from South Asian backgrounds, smokeless and chewing tobacco is extremely popular; part of daily life and culture. Consequently, it is now of growing concern that children may be allowed to use these tobacco products due to a lack of knowledge regarding the harmful effects.^{12, 13, 14}
- Article 12 [product description] should be thoroughly enforced by the competent bodies of the member states to ensure that niche products contravening the prohibitions of this articles are not permitted.

Tackling illicit tobacco

- **Traceability and Security Features**, within Article 14 of the proposal, require an EU tracking and tracing system down to packet level throughout the supply chain (excluding retail). **However, the proposal would be strengthened considerably by requiring links between identifiers on packs and outside packaging; invisible as well as visible security features.** Moreover, data storage and access related to tracking and tracing must be independent of the tobacco companies.

Novel tobacco products

- **We welcome the proposals made in Article 17.** However, **we question the given provision time period of six months** as this might not allow sufficient time for a full and proper scrutiny of the application for novel products within Member States. We therefore suggest that the EP considers including an extension this time period in the Directive.

¹² Trading Standards Niche Tobacco Education Programme In Bradford And Kirklees 2010-11: <http://www.ts.wyjs.org.uk/downloads/education/InterimREPORT.pdf>

¹³ Tobacco use among minority ethnic populations and cessation interventions, A Race Equality Foundation briefing paper, May 2011: http://www.better-health.org.uk/sites/default/files/briefings/downloads/health-brief22_0.pdf

¹⁴ Longman JM, Pritchard C, McNeill A, Csikar J, Croucher RE, *Accessibility of chewing tobacco products in England*. J Public Health (2010) 32 (3): 372-378: <http://intl-jpubhealth.oxfordjournals.org/content/32/3/372.full.pdf+html>

Labelling and packaging

- Evidence shows that the tobacco industry has been systematically using packaging as an advertising tool.¹⁵ Therefore, **we welcome the proposals made within Chapter II – Labelling and Packaging**, but would urge the EP to consider introducing 80% mandatory pictorial text warnings at the front and back of all smoking and smokeless tobacco products.¹⁶
- Furthermore, we fully agree that **Member States should have the right of choice to initiate plain packaging nationally**. Currently, in the UK, plain packaging is being actively considered to be introduced. Moreover, research has shown that it may be effective in reducing initiation rates amongst young people.^{17 18}

Who we are

The North of England EU Health Partnership (NEEHP) is an expansion of the North West Health Brussels Office, operating since 2004 in the North of England. NEEHP assists organisations to explore opportunities and impacts of European Union (EU) policy, legislation and funding that may influence health, and which may provide opportunities to health services and organisations responsible for public health, in the North of England.

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¹⁵ UBS Tobacco Conference, 1 December 2006, London: http://www.imperial-tobacco.com/files/financial/presentation/011206/ubs_transcript.pdf

¹⁶ Sambrook Research International. A review of the science base to support the development of health warnings for tobacco packages. A report prepared for the European Commission, (2009): http://ec.europa.eu/health/tobacco/docs/warnings_report_en.pdf

¹⁷ Tobacco Free Futures, online article, published February 14 2013: <http://www.tobaccofreefutures.org/news/over-10800-north-west-children-have-started-smoking-since-standardised-packaging-consultation-ended>

¹⁸ ASH briefing, Standard Packaging, February 2013: http://www.ash.org.uk/files/documents/ASH_877.pdf