

## 1. Sets conflicting objectives and takes a “war on drugs” approach to nicotine

According to the memorandum justifying the flavour ban (*1 Rationale*):<sup>1</sup>

In the National Prevention Agreement [...] measures have been agreed with civil society organisations to achieve a smoke-free generation by 2040. To achieve these objectives, it has been decided that by 2020 (sic) more children must grow up in a smoke-free and tobacco-free environment. According to the signatories of the Prevention Agreement, a smoke-free and tobacco-free environment also means that children will not come into contact with novel tobacco products and electronic cigarettes (hereinafter referred to as e-cigarettes), with and without nicotine.

The overwhelming cause of disease and premature death associated with tobacco use arises from *smoke inhalation*.<sup>2</sup> A smoke-free objective makes sound public health sense. It can be more easily justified and is more likely to be achieved without recourse to coercive and punitive measures when nicotine is available in alternative smoke-free options. However, the text above greatly expands the objective beyond the public health imperative to tackle serious disease. There are three problems with establishing what amounts to a ‘nicotine-free’ goal.

- First, the goal of eliminating nicotine conflicts with the more important goal of eliminating harm.<sup>3</sup> This is because it is possible to provide nicotine with low or negligible harms to the user. By banning or over-regulating these products, the government would prevent people who want to use nicotine or are dependent on it from switching to low-risk options – leaving the high-risk options (cigarettes) to dominate. This is a “quit or die” philosophy, and it will mean reaching a smoke-free status will take longer, encounter more resistance, and cause more death and disease on the way.
- Second, policymakers should be wary of advice that departs from the reality of teenage lives and imagines utopian “abstinence-only” outcomes, rather than dealing with the world as it is.<sup>4</sup>
- Third, the history of drug prohibition does not suggest that laws banning a product cause it to disappear. It is simply supplied and consumed differently, often at great cost and harm to society.<sup>5</sup>

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<sup>1</sup> Decree of the State Secretary for Health, Welfare and Sport of regulating e-cigarette flavors. Explanatory Memorandum English translation. [\[link\]](#)

<sup>2</sup> U.S. Department of Health and Human Services. How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease. Centers for Disease Control and Prevention (US); 2010. [\[link\]](#)

<sup>3</sup> See letter from 32 experts in nicotine science and policy to Mrs Helma Lodders, Committee Chair, Committee for Health, Welfare and Sports, House of Representatives (Netherlands), *Tobacco Harm Reduction and the Dutch National Prevention Agreement*: 4 March 2019 [\[link\]](#)

<sup>4</sup> Kozlowski LT, *Prevention and Protection Policies for Youth Use of E-Cigarettes and Tobacco Products*. U.S. E-cigarette Summit 2018, Washington DC, 30 April 2018 [\[slide deck\]](#)[\[video\]](#)

<sup>5</sup> Open Society Foundation, *Alternative World Drug Report: Counting the Costs of the War on Drugs [2016 2nd Edition]*