

# EU draft Tobacco Products Directive: who to write to and what to say (a short guide)

written by Clive Bates | 6 January 2013

The European Commission has published a draft directive on tobacco products.

Unfortunately it bans and obstructs much lower-risk alternative to cigarettes, such as smokeless tobacco and e-cigarettes, so its effect would be to protect cigarettes and harm health. However, it is not too late to do something about it.

## 1. What has happened?

On 19th December 2012, the EU produced a proposal for new laws controlling tobacco and nicotine products like e-cigarettes. The [proposal](#) includes a justification for the measures with draft legal text and comes with [supporting documentation](#). It covers a wide range of issues, including: labelling and warnings on cigarette packs; branding restrictions; control of flavours and additives; tracking and tracing to prevent smuggling and counterfeiting; and measures that apply to smokeless tobacco products and nicotine-containing products like e-cigarettes. **The proposed directive contains measures that could make it harder or impossible for smokers to switch from cigarettes to much less dangerous nicotine products - an approach that will cause more death and disease than it prevents. If you smoke, use e-cigarettes, or if you have friends or relatives that smoke, or if you are concerned about the health damage from smoking, then this directive matters to you.**

If you want to write to your MP or MEPs, the main information you need together with my advice is set out below. More detailed briefing on the directive is available [here](#) and on influencing the scrutiny process is [here](#). A good political article on the directive [here](#) and letter [here](#). A good background video on tobacco harm reduction [here](#).

## 2. Why do you need to act?

The European Union has proposed legislation that would ban, or effectively ban, nicotine products that people can (and do) use as much less dangerous alternatives to smoking cigarettes - for example, smokeless tobacco, e-cigarettes, vapour devices, or other novel ways of taking nicotine that don't involve burning tobacco. Although the risk is reduced by 95-99% if there is no smoke, Europe still thinks it is better to ban these products even though they are a potential life-saver for people who can't or don't want to give up nicotine. If you use these products yourself, they are restricting your options and adding to your health risks. Background information on 'tobacco harm reduction' [here](#)

## 3. What are they doing?

The proposed new law (an EU directive) does three main bad things:

*1. Bans the safest tobacco products.* It bans the least hazardous form of tobacco known to mankind - snus - whilst allowing cigarettes to be widely sold. Snus (or oral tobacco) is much less dangerous than cigarettes, and widely used in Sweden, where it is the main reason why Sweden has much lower rates of cancer and other smoking-related disease than anywhere else in Europe. According to the official survey ([Eurobarometer 2012](#) - page 7) Sweden has by far the lowest rate of smoking in Europe, just 13% of adults compared to the EU average of 28%.

*Why ban these products when they have been so successful at reducing harm in Sweden? Why deny people in other countries access to tobacco products that dramatically reduce risk and may save them from cancer, lung damage or heart disease?*

*2. Treats e-cigarettes as though they are medicines - potentially banning or marginalising them.* It places most non-tobacco nicotine products, like e-cigarettes, under the highly restrictive regulation regime used for medicinal products. This requires the manufacturers or distributors to justify them for their therapeutic effect and to demonstrate that benefits outweigh the risks and comply with potentially expensive and burdensome regulation. Even though that may be obvious to most people, it is potentially difficult to do it to scientific standards. In fact these are really consumer products chosen by consumers as an alternative to

smoking the most unhealthy forms of nicotine rather than medicines – and should be judged as alternatives to cigarettes. Depending on the attitude of medicines regulators this type of regulation could have the several negative effects. It could:

- amount to an effective ban if regulators demand impossibly high standards of proof or
- take these products off the market as early as 2013 as there is no ‘transition’ period to allow manufacturers to apply for and get the necessary authorisation and it would be illegal to sell them as soon as the directive comes into force, which could be as soon as 2013 and likely to be before May 2014
- take these products off the market for many years as most or all manufacturers will struggle to get the necessary ‘marketing authorisation’ from regulators, who may all disagree with each other around Europe
- apply restrictions that make these products unattractive to smokers through packaging requirements, marketing restrictions, bans on flavours, technical limitations imposed;
- greatly close down competition, limit innovation, raise costs leaving the market to big players, such as tobacco or pharma companies, that can cope with the potentially huge burdens that comes with medicines regulation.

The directive treats e-cigarettes below a certain threshold as consumer products. The very weakest form of e-cigarettes (with liquids below threshold of nicotine density 4mg/ml) might escape medicines regulation. But these are extremely weak in e-cigarette terms, and not regarded as adequate substitutes for conventional cigarettes and unlikely to do much to help people switch from smoking. More on this in [my briefing](#) on the directive.

*Why would governments make it harder to put these products on the market than the much more dangerous products they are designed to replace or compete with?* Read novelist Lionel Shriver (We need to talk about Kevin) on [Puritans and the powerful – and tobacco smokers – can’t take the fact that electronic cigarettes are harmless and enjoyable](#) . For more background on e-cigarettes this [ASH fact sheet](#) is good. [Update Feb 2013... an in depth posting on medicines regulation and e-cigs: [Medicines regulation and e-cigarettes: when caution can kill](#).

*3. Prevents any claim that one tobacco product is less harmful than another.* The trouble is that the boring old *truth* is that smokeless tobacco products may be *many times* less harmful than cigarettes, perhaps 10-1000 times less harmful. So what looks like an attempt to stop false or excessive claims, is actually going to do real harm:

- It denies consumers the most relevant information about lower risk tobacco products - information they could use to reduce their own risk and protect their health This is misleading by omitting the most important information.
- Why should a manufacturer bother to make or market these products or invest in innovation if they can't say the one (truthful) thing that makes them valuable as alternatives to cigarettes? All this does is reinforce the market for the most harmful tobacco products by shielding them from competition from less harmful forms.

*This makes a law out of misleading consumers - who benefits from it?*

## **4. Does it matter?**

Yes it does - the health of real people is at stake. Smoking already kills 700,000 and costs €25 billion in health care costs in Europe annually (about 100,000 and £3.7 billion for the UK) [[source](#)]. Quit rates remain stubbornly low despite years of effort and drug development. The [2012 Eurobarometer survey of attitudes towards tobacco](#) shows 28% of European adults still smoke (about 27% in the UK) despite almost universal knowledge of the dangers and millions spent. *But only 13% smoke in Sweden.* The difference is harm reduction: many Swedes use oral tobacco (snus) as their chosen way of taking nicotine - but snus carries only minor risks compared to cigarettes. Sweden is dramatic 'proof-of-concept' for a market-based, user-driven personal harm reduction approach... in other countries smokers may choose to turn to e-cigarettes, novel nicotine devices, or even snus - but regulators have to stop getting in the way, and start encouraging and enabling this trend. Most smokers say they would like to quit and most say they wish they had never started. Some like a nicotine hit and some of the ritual that goes with smoking, but we know that if safer alternatives to cigarettes can be found many people will use them. There is a grave danger that people denied much safer alternatives will either lapse back to smoking or never be able to try

these ways of giving up smoking. I have never seen a directive where the evidence so clearly points to it causing more death and disease - it is reckless, irresponsible, unscientific and unethical.

## 5. What to do: write to your MP and MEPs

Your Member of Parliament (MP) represents you in the UK, and several Members of the European Parliament represent you in matters to do with the European Parliament. Both MPs and MEPs have a role to play on the tobacco directive, so it is best to write to both. Your MP can approach UK government ministers and ask them to influence the directive as it passes through the European Council (comprised of ministers of the member states). Your MEPs can influence the European Parliament scrutiny of the directive, propose amendments and influence the stance taken by political groupings in the European Parliament. If they are members of the Environment, Public Health and Food Safety Committee (usually known as the ENVI committee), they will be involved more directly in scrutinising the directive.

The simplest way to do this is to access [www.writetothem.com](http://www.writetothem.com). This is an excellent service: you enter your postcode; it works out who your MP and MEPs are (you will have several MEPs) then sets up e-mails for you to send them. You enter your own text and address details and then follow the procedure on the site and it will send your letter. Once you have drawn up a good letter that covers most of the points you want to get across you can use it for lots of different purposes - customising and personalising for each if you want to make an impact.

For non-UK readers. For non-UK readers, I have less information - but all MEPs can be located [here](#) - and information on how different national parliaments scrutinise EU legislation can be found [here](#). You can follow many of the tips here and tailor for your national situation.

### ***Some tips on writing to MPs and MEPs***

*1. Decent.* Always be polite and dignified, don't make accusations or pre-judge their motives - most representatives want to do a good job for you.

*2. Engaging.* Work on the basis that the the MP or MEP is open-minded but

*might need some persuading. Don't dismiss other views, tackle them.*

**3. Authentic.** *Write your own views in your own words -MPs and MEPs want to hear genuine heartfelt views, and not standard letters or borrowed text.*

**4. Natural.** *Don't feel you need to use formal or legal language - it is their job to understand you, not your job to understand the technicalities of EU legislation*

**5. Concise.** *Concentrate on the things that really matter to you and stay focussed - if you are writing about e-cigarettes, don't dilute your message with views on other issues or even other aspects of the directive unless they really matter to you. Keep it short (max 2 pages or 800 words) and to the point.*

**6. Personalised.** *Even though the web site allows you to send a single letter to all your MEPs in one go, I would advise emailing each individually. You can use the same basic text with each, but a little bit of a personal touch goes a long way.*

**7. Relevant.** *Only write to your own MP or MEPs.*

If you want to write on proper paper and post a letter, you can use the [www.writetothem.com](http://www.writetothem.com) site to find out their names and then post a letter (stamp to Brussels is 87p for a letter). The addresses are:

*Their Name MP  
House of Commons  
London SW1A 0AA*

*Their Name MEP  
European Parliament  
Rue Wiertz  
B-1047 Brussels  
Belgium*

## **6. What to say**

It is important that you write in your own words, based on your own experience and express your own views. I must stress this - authenticity really matters.

## 6.1 A good letter to an MP or MEP might have the following main components:

- 1. About you and your experience – eg. have you tried to quit smoking? What effect has vaping had on you? What experience have you had of e-cigarettes? What you think of the threshold e-liquids?*
- 2. Why you think what is proposed will be bad, especially if it is bad for you personally*
- 3. What you think should be done, and what you would like them personally to do*
- 4. Questions that make sure you get a response: ask questions, ask for a reply and/or ask for a meeting*

## 6.2 Reasons why the directive might be bad

You don't need to use any or all of these, but they might help you construct a letter. Remember to personalise these to reflect your own situation where possible.

- 1. The proposed directive seems to deny or obstruct smokers options to quit cigarettes by switching to nicotine or tobacco products that are much less risky. This is very risky and irresponsible, and will probably cause more death and disease.*
- 2. It looks like it is designed to tie up e-cigarettes and their makers in medical red tape, which could amount to banning them by the back door – and it makes no sense to ban them whilst leaving real cigarettes on the market. We need light-touch regulation that builds confidence in the safety and quality of the products, and no more.*
- 3. Even if medicines regulation doesn't stop these products getting to the market, it may place restrictions on them making them less attractive, more expensive and less innovative – for example by banning flavours, making the packing look like medicines, and strictly limiting advertising and marketing. We don't really know how medicines regulators will treat these these products.*
- 4. It could mean e-cigarettes are taken off the market while the makers apply*



*for permission - there should be 2-3 years transition to give existing products time to comply with the directive.*

*5. It is wrong to pretend that all tobacco and nicotine products are the same - smokers should have true and relevant information about risks so that they can make informed choices.*

### 6.3 What should be done?

These are a few suggestions from me.. please pick ones that matter to you, add your own views and use your own words.

*1. There should be no ban on oral tobacco (snus) - instead all smokeless tobacco should be regulated to reduce any toxic substances in the tobacco. This product is much safer than cigarettes and is a viable substitute for smoking. Smokers should not be denied this option, which has worked incredibly well in Sweden.*

*2. E-cigarettes should be regulated for what they are - consumer products, placed on the market as alternatives to cigarettes. The appropriate regulatory regime is that used more generally for products - 'General Products Safety Regulation', which is governed by an [EU Directive](#) and [UK regulations](#).*

*3. Only where an e-cigarette maker wants to make a health or 'therapeutic claim' should medicines regulation apply - otherwise treat it like a consumer product. If they don't make a therapeutic claim, how can they provide evidence for it? It makes no sense to apply really tough regulation to these products and much weaker regulation to cigarettes when they are just competing to be alternatives to appeal to consumers. Some manufacturers may choose to get a medicines marketing authorisation, but that should be up to them.*

*4. If the EU is determined to press ahead with applying medical regulation there should be three year transitional period to allow the makers to submit applications to sell these products and to ensure they don't disappear from the markets overnight when the directive enters into force, thus forcing many users back to smoking.*

*5. That products like e-cigarettes should remain on the European market - otherwise there will just be a flood of internet sales and all the business will be*



*done with traders outside the EU.*

*6. The European Union should find ways to encourage smokers to switch to e-cigarettes or smokeless tobacco, not ban or marginalise these products through regulation.*

#### 6.4 What you could ask your MP or MEPs to do...

Write to your MP and MEPs - you need slightly different letters because they have different roles and can do different things:

*1. Ask your MP and MEPs to reply to you... ask them to give their views on the parts of the proposed directive that deal with smokeless tobacco products and nicotine containing products.*

*2. If you are an e-cigarette user, ask your MP and MEPs to give an undertaking that they will not support an EU directive that removes most or all e-cigarettes from the EU market, and point out this is important for your own health.*

*3. Ask to meet your MP and MEPs, and tell them you would like them to understand why this matters to you by explaining it in person.*

*4. Ask your MP to raise your concerns with the Secretary of State for Health (Rt Hon Jeremy Hunt MP) and Secretary of State for Business, Innovation and Skills (Rt Hon Dr Vince Cable MP). Ask your MP to ask them to press for amendment of the directive as it will harm health and works against the EU single market.*

*5. Ask your MEP to raise your concerns with the Commission and to speak out in the debate in the European Parliament.*

*6. Advanced! Ask your MEP to contact the relevant MEPs on the ENVI committee and to make their views known. If your MEP is on the ENVI committee, ask them to raise your concerns in the committee sessions that scrutinise the directive. This is a list of [members of the ENVI committee](#) or you can consult my [more detailed guide](#) on how this will all work.*

## 7. What else?

If you do write to a representative, then you could leave a copy of your letter here in the comments as an inspiration for others.

If you have questions about the directive or disagreements with my interpretation or advice, please comment and I'll respond, and change as necessary.

Watch me discussing the issue with [Dave Dorn](#) of [VapourTrails TV](#).