

# Will Brazil rethink its vaping prohibition?

written by Clive Bates | 10 May 2022



Prohibition is about the worst regulatory response to safer alternatives to smoking

Brazil's public health agency, [ANVISA](#), has been consulting on whether the long-standing policy of prohibition of vaping products should be retained or lifted. The [consultation questionnaire](#) seeks comments on a [technical document](#).

Shortcut to [full response](#) (PDF).

Here's my take...

# The problem

Unfortunately, it looks like the Brazilian authorities have allowed too much tobacco control prohibitionist rhetoric and pseudoscience to influence their posture.

The basic options are:

- Maintain prohibition
- Maintain prohibition but with enhanced communication and education
- Legalise and regulate the manufacture, import and sale of vaping products.

The fundamental issue is that the Brazilian authorities are not recognising the interaction between smoking and smoke-free products - i.e. tobacco harm reduction. This plays out in the market and beneficially affects public health. Nor are they adequately addressing the perverse consequences of prohibition - black markets, unregulated supply, denying law-abiding smokers better options. Instead, they appear to believe that people just need more education (i.e. to be fed with anti-vaping propaganda and falsehoods) in order to support the prohibition and to reduce the demand.

*Dream on...*

This is a fundamental shift in the way the consumer nicotine market functions and trying to suppress innovation through prohibition simply protects the most harmful incumbents (cigarettes), cultivates black markets, and prolongs the burden of smoking-related disease. It's a war against progress. And that means it will inevitably be lost.

# Our response

Myself, Professor David Abrams, Professor Ray Niaura and Adjunct Professor David Sweanor have responded. We make a reasoned argument for the third option - legalise and regulate.

Our comments in full are here in PDF format: [Exploit the benefits of tobacco harm reduction and beware of unintended consequences of prohibition or excessive regulation](#) and include the [outstanding paper](#) by 15 past presidents of SRNT as an

appendix.

This builds on 2017 comments to ANVISA on tobacco and nicotine policy in Brazil: [Rational Tobacco and Nicotine Policy in Brazil](#), in which we made the basic case for tobacco harm reduction – only to be ignored in favour of prohibition.

To support our larger submission above, we also provided a brief summary in Portuguese and English.

## **Em português / In Portuguese**

Esta é uma resposta do Professor David Abrams, Clive Bates, Professor Ray Niaura e Professor Adjunto David Sweanor

O objetivo primário da política de tabaco do Brasil deve ser reduzir o excesso de mortalidade e morbidade. Na prática, isso significa reduzir o tabagismo tão profunda e rapidamente quanto possível. A redução de danos do tabaco fornece uma estratégia de ação rápida e baseada no mercado para reduzir o tabagismo e eliminar a maioria dos riscos relacionados ao tabagismo. A regulamentação de DEF e outros produtos livres de fumaça deve sempre ser considerada como parte de um sistema regulatório que abrange todos os produtos de nicotina, tanto fumados quanto livres de fumaça. O objetivo deve ser incentivar a migração de produtos de alto risco para produtos de baixo risco e apoiar a mudança positiva de comportamento. Os reguladores devem tomar muito cuidado para evitar as consequências perversas das proibições e usar a regulação. A regulamentação proporcional ao risco fornece uma base robusta para controlar o mercado consumidor de nicotina e cria fortes incentivos que apoiam a saúde pública.

Em nossa submissão anexada como um arquivo, fornecemos evidências sobre três questões principais:

1. Embora não necessariamente isento de riscos, está claro, sem sombra de dúvida, que os DEF são muito menos prejudiciais à saúde do que os cigarros.
2. O DEF contribui para a cessação do tabagismo ou substitui os cigarros entre pessoas que de outra forma começariam a fumar, incluindo jovens.
3. DEF são substitutos econômicos dos cigarros. Aumentos nos custos ou encargos regulatórios sobre DEF provavelmente diminuirão a demanda por DEF, mas também aumentarão a demanda por cigarros.

Por fim, alertamos para as consequências perversas da proibição e propomos uma estratégia de regulação proporcional ao risco para administrar o diversificado mercado consumidor de produtos de nicotina.

## **In English**

This is a response from Professor David Abrams, Clive Bates, Professor Ray Niaura, and Adjunct Professor David Sweanor

The primary goal of Brazil's tobacco policy should be to reduce excess mortality and morbidity. In practice, this means reducing smoking as deeply and rapidly as possible. Tobacco harm reduction provides a fast-acting, market-based strategy for reducing smoking and eliminating most smoking-related risks. The regulation of ENDS and other smoke-free products should always be considered as part of a regulatory system that covers all the nicotine products, both smoked and smoke-free. The aim should be to encourage the migration from high-risk to low-risk products and support positive behaviour change. Regulators should take great care to avoid the perverse consequences of prohibitions and use regulation instead. Risk-proportionate regulation provides a robust basis for controlling the consumer nicotine market and creates strong incentives that support public health.

In our submission attached as a file we provide evidence on three key issues:

1. While not necessarily without risks, it is clear beyond reasonable doubt that ENDS are much less harmful to health than cigarettes.
2. ENDS contribute to smoking cessation or displace cigarettes among people who would otherwise take up smoking, including young people.
3. ENDS are economic substitutes for cigarettes. Increases in costs or regulatory burdens on ENDS are likely to decrease demand for ENDS but also increase demand for cigarettes.

Finally, we warn against the perverse consequences of prohibition and propose a strategy of risk proportionate regulation to manage the diverse consumer nicotine product market.