

# Call to arms on e-cigarettes in the European Parliament (updated)

written by Clive Bates | 5 July 2013



## Take action: join the [Brussels Vape In](#) 10 July at the European Parliament !!

I did a recent [full update on where we are with the tobacco products directive](#) - this posting is a further update to that. We are now in a crucial period before the ENVI committee vote on 10/11 July *and it's time to get busy...* ask MEPs on the committee to reject medicines regulation as excessive and inappropriate, and to support regulation for e-cigarettes that provides *enough* confidence in safety and quality but most importantly does not impose so much red tape, costs and restrictions that it kills off the appeal of the products to smokers.

Situation. The various players are haggling over the text that should apply to e-cigarettes - trying to get some sort of compromise hammered out before the crucial votes next week (10/11 July). The approaches are broadly dividing as follows... [Socialist](#) and [Green](#) groups seem unable to resist the urge to regulate e-cigarettes as medicines, smothering a very clever innovation with red tape, costs and restrictions that will make them appeal less to smokers. Liberal Democrats ([ALDE](#) group) and UK Conservatives ([ECR](#) group) are the good guys so far, and have proposed a much more proportionate approach based on [consumer protection legislation](#) - recognising that this gives e-cigs the best chance to compete with cigarettes. The key political grouping is the large conservative European People's Party ([EPP](#)) group . *EPP is split - but how they go will probably be decisive.*

**Updated 5 July** Options in play. There are broadly three options in play, with a default to the Commission's proposal if none are agreed by a majority of the ENVI committee.

Bad option 1. Regulate everything that isn't a tobacco product but contains nicotine as a medicine - see [10 reasons why this is a bad idea](#)

Bad option 2. A 'simplified procedure' - the rapporteur's effort to find a compromise, but is basically badly drafted and incomplete medicines regulation in disguise (see [my critique](#))

Good option. The Liberal ([ALDE](#)) group and Conservative ([ECR](#)) group have come to a common position (see below) - **update: great news - the ban on flavours in the earlier version has gone!** The warnings requirement remains excessive - these are basically safe products and don't need big warnings to put people off. The table below is a copy of the ALDE-ECR amendment... they will be haggling right to the end so this will probably continue to change. It something that we can live with and much much better than having regulators micro-managing everything. The advantage of this is that it has already built up support - if EPP members will support it, then it could come out ahead.

Any remaining problems could be ironed out before the plenary. The Legal Affairs committee led by [Klaus Heiner Lehne](#) (a senior German EPP member) proposed a very good amendment on e-cigarettes in its formal '[opinion](#)'. This is now replaced by this ALDE-ECR-EFD consolidated amendment.

*Amendment 58 ALDE-ECR - EFD Consolidated amendment replacing Amendments 1146 to 1248, JURI 65, IMCO 59, INTA 55, AGRI 69, ITRE 65*

*Proposal for a directive*

*1. Nicotine-containing products may only be placed on the market in accordance with the provisions for tobacco products as laid out in articles 5, 17, 20, 21, 22, 23, 24, 25 and 26 of this Directive. Member States shall ensure that nicotine containing products comply with all relevant EU legislation.*

*2. Nicotine-containing products that are presented as having properties for treating or preventing disease may only be placed on the market if they were authorised pursuant to Directive 2001/83/EC.*

3. For all nicotine-containing products notified in accordance with the procedure set out in article 18 (1), Member States shall ensure that:

(a) the product is clearly labelled with the nicotine content, instructions for use, instructions for reporting adverse reactions, and details of the manufacturer;

(b) each unit packet and any outside packaging shall carry the following health warning: "This product is intended for use by existing smokers above the legal smoking age as an alternative to tobacco products. It contains nicotine which is a highly addictive substance. Consult your doctor if you are pregnant, breast feeding, allergic to nicotine or propylene glycol, or have high blood pressure."

(c) the sale of the product shall be restricted in line with the legal age for sale of tobacco products in the relevant Member State;

(d) the products shall be available to be sold outside pharmacies; (e) advertising and promotion shall be appropriately regulated;

4. The health warning referred to in paragraph 3 shall comply with the requirements specified in Article 10. In addition, it shall:

(a) be printed on the two largest surfaces of the unit packet and any outside packaging;

(b) cover 30 % of the external area of the corresponding surface of the unit packet and any outside packaging. That proportion shall be increased to 32 % for Member States with two official languages and 35 % for Member States with more than two official languages.

5. Member States shall monitor the development of the nicotine-containing products market, including any progress made in harm reduction, as well as any evidence of gateway use amongst young people. Based on the evidence, the Commission shall report back to the European Parliament and the Council 5 years after the transposition date of this Directive. The report shall assess whether amendments to this Directive are necessary;

6. The Commission shall request an opinion from the Scientific Committee on Emerging and Newly Identified Health Risks (SCENIHR) within 24 months of the entry into force of the Directive in order to obtain reliable scientific and toxicological data to determine the health effects of the main ingredients of

*electronic cigarettes as well as suggestions for potential measures to regulate this tobacco related product.*

What to do? If you want to influence the decision then this week is critical. E-mail, tweet including MEPs name, meet the MEPs, stir up the local papers, and make sure these remote legislators know what you want - they should be listening, there's an election in May 2014. Join the [Brussels Vape In 10 July](#).

My talking points would be:

- Medicines regulation is grossly excessive, and in any case these products are not medicines, either legally or as a matter of common sense
- Why make it harder to sell e-cigarettes than cigarettes? Why impose more red tape, costs and restrictions on the products that can free people from smoking?
- Why use a form of regulation that will destroy the very things that has made e-cigarettes a success - innovation, diversity, niche products and consumer enthusiasm?
- Please do not support any approach that is or looks like medicines regulation
- Please do support any approach that provides a sensible level of protection but leaves it to consumers market to decide which products
- Banning flavour is totally counterproductive - e-cigs are basically flavoured nicotine products, and it is good you can get them in flavours other than tobacco
- There are virtually no risks to children or any other downsides associated with e-cigarettes - they are always better and far less risky than cigarettes
- Ask where they stand and why, tell them how much it matters to you

... but you should always use your own ideas and words, and add you own experience and concerns. You can also draw on [my own letter to MEPs: 10 things to think about before you vote](#) sent 4 July.

Who to contact: You can write to your own MEP (use [writetothem.com](#)). [MEPs on the ENVI committee](#) are particularly important at this time, and you can write to them as they are making the decisions. [MEPs on the ENVI committee and part of the EPP group](#) are the most critical of all - there are no UK MEPs in this group,

but if you are reading from other members states, especially Germany, please act now!!

Feed the fire - leave comments and feedback here and spread the news to other forums.