

Ms Lenka Teska Arnostova
Deputy Minister
Ministry of Health
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Prague, April 9, 2017

Dear Ms Arnostova

It was a pleasure to see you at the Swedish Embassy in Prague on 21 March for a discussion on tobacco harm reduction. We thought your remarks were very well-judged and encouraging. As you requested any further information, we wish to follow up.

To summarise we believe there is an opportunity for the Czech Republic to lead a new progressive direction in tobacco policy within the European Union by fully embracing a “harm reduction” approach to policy alongside conventional tobacco control measures. This would have multiple benefits: it would have a highly beneficial public health impact; it would support people to change their habits; it would raise revenue; it would be low-cost and allow some spending on focussed support services while making an overall budget saving.

We already know from the experience of Sweden that the harm reduction approach can have a dramatic impact on reducing smoking and smoking-related harm. Sweden now has a smoking prevalence of approximately 10 percent (compared to Czech Republic at 25 percent)¹ and can show significant reductions in the burden of disease as a result². This has happened because cigarette smoking has been displaced by a much lower-risk product, in Sweden’s case ‘snus’. In other countries it could be a completely different products as long as they share one key characteristic: they do not involve combustion of tobacco and inhalation of smoke – it is the smoke, not the nicotine, that cause almost all of the smoking related disease. Such products include all forms of smokeless tobacco, vaping technologies, pharmaceutical or pure nicotine products and heated tobacco products (where there is no combustion).

The public health opportunities for harm reduction are vast, and in the case of vaping (e-cigarettes) these have been well described by the Royal College of Physicians of London (RCP) in its thorough April 2016 report³. For example, on the subject of relative risk, the RCP expects e-cigarettes to be at least 95% lower risk than smoking based on smoke and vapour toxicology:

"Although it is not possible to precisely quantify the long-term health risks associated with e-cigarettes, the available data suggest that they are unlikely to exceed 5% of those associated with smoked tobacco products, and may well be substantially lower than this figure". (5.5)

On the question of what the products are being used for, the RCP is clear they are alternatives to smoking and used primarily by smokers to reduce their health risks.

¹ European Commission. Eurobarometer Special Survey 429: Attitudes of Europeans towards Tobacco and Electronic Cigarettes. 2015. [\[link\]](#)

² Ramström L, Borland R, Wikmans T. Patterns of Smoking and Snus Use in Sweden: Implications for Public Health. *Int J Environ Res Public Health*. Multidisciplinary Digital Publishing Institute (MDPI); 2016 Nov 9;13(11). [\[link\]](#)

³ Royal College of Physicians (London), *Nicotine without smoke: tobacco harm reduction*. 28 April 2016 [\[link\]](#)

...the available evidence to date indicates that e-cigarettes are being used almost exclusively as safer alternatives to smoked tobacco, by confirmed smokers who are trying to reduce harm to themselves or others from smoking, or to quit smoking completely.

No country has so far tried to maximise the potential advantages of harm reduction – most have tended to take a highly risk-averse approach focussed on minor or purely speculative risks, and this has even applied in Sweden where the benefits are clear and very substantial. The RCP sets out the dangers of this ‘cautious’ approach – it may just encourage smoking:

“ A risk-averse, precautionary approach to e-cigarette regulation can be proposed as a means of minimising the risk of avoidable harm, eg exposure to toxins in e-cigarette vapour, renormalisation, gateway progression to smoking, or other real or potential risks.

“However, if this approach also makes e-cigarettes less easily accessible, less palatable or acceptable, more expensive, less consumer friendly or pharmacologically less effective, or inhibits innovation and development of new and improved products, then it causes harm by perpetuating smoking. Getting this balance right is difficult. (Section 12.10 page 187)

Almost all of the policymaking at European Union level has fallen into this trap – not least the ban on snus which is unscientific, unethical and probably illegal⁴, but also many aspects of the policy towards e-cigarettes embodied in Article 20 of the Tobacco Products Directive⁵.

We would like to propose that Czech Republic takes a strong, positive and proactive approach to tobacco harm reduction for public health, welfare, ethical and fiscal reasons. We set out below, eight elements of a possible approach for further discussion.

1. **Capacity.** Build a small team in the ministry. There is great potential to improve public health, reduce healthcare burdens and strengthen the fiscal position by exploiting market-based tobacco harm reduction, but it will require a small team with a clear mandate and ministerial support within the ministry to do make this work. We would welcome the opportunity to meet and work with such a team.
2. **Taxation.** Use the tax system to drive switching to low risk products. It is possible to incentivise switching from high-risk products to low-risk products by increasing the tax differential between these products. This would mean focussing on raising taxes on smoked products to be more in line with European Union norms⁶, while keeping taxes on non-combustible products as low as possible⁷. The current renegotiation of the European Union Tobacco Excise Directive (2011/64/EU) should focus on exploiting the tobacco excise system to create strong signals to switch from high-risk to low-risk products. That would mean applying no excise to vapour

⁴ Bates CD. A strong case to overturn the EU snus ban - 10 reasons why legal action should succeed this time. The Counterfactual. 4 July 2016 [\[link\]](#)

⁵ Etter JF et al, Scientific Errors in the Tobacco Products Directive A letter sent by scientists to the European Union, E-cigarette Research, (Letter from 15 experts to European Commission) 16 January 2014 [\[link\]](#)

⁶ Czech Republic has low excise yield relative to EU norms. Excise yield per 1000 cigarettes: Czech Republic €91; Italy €137; Germany €156; France €216; UK €353. Data from European Commission, July 2016 [\[link\]](#)

⁷ Chaloupka FJ, Swenor D, Warner KE. Differential Taxes for Differential Risks--Toward Reduced Harm from Nicotine-Yielding Products. New England Journal of Medicine 2015;373:594–7. [\[link\]](#)

products and a significantly lower rate to non-combustible tobacco compared to combustibles⁸.

3. **High quality services.** Support smoking cessation services for smokers that advise on the full range of cost-effective options to quit smoking (including tobacco harm reduction)⁹, with particular focus on highly dependent or economically disadvantaged smokers, and those with psychiatric problem or other substance abuse problems. There
4. **Advertising and promotion** . Allow advertising and promotion of reduced-risk tobacco or nicotine products to the extent allowed by European law and press to amend the European Union excessive ban on advertising. Banning the advertising of low risk products is similar to banning anti-smoking advertising. It is possible to provide protection to young people by restricting the timing, placement and subject matter of advertising – an approach often used to restrict, but not ban outright, alcohol advertising. This approach has been adopted in the UK¹⁰, though is limited by an excessive European Union ban.
5. **Consumer information.** Help smokers make properly informed choices. Smokers will switch to lower risks if they know they are confident that the risks are much lower. Yet many are denied informed choice because confusing media reports and misrepresented science leave them unsure if there is any difference in risk, even though doubt among experts that the risks are *much lower*. The government or trusted authorities within the Czech Republic should provide Czech citizens with realistic information and statements about the risks of different tobacco and nicotine products. If the products have no combustion and smoke, then the risks are likely to be at least 95% lower than smoking.
6. **Use in public places.** Let property owners decide vaping policy and reserve the law for protecting people from established harms. The case for banning smoking in public places rests the conclusion that second-hand tobacco smoke causes significant risks to bystanders – and therefore ought to be the subject of health and safety protection, especially for workers.. No such evidence exists for vapour products and the exposure to harmful agents will be orders of magnitude lower¹¹, and of course it does not apply to smokeless tobacco. We do not advocate that vaping should be permitted everywhere – just that the *owner of the property* should be allowed to decide their policy rather than a blanket application of the law. This is currently possible in restaurants in the CR due to the new law about protection against addictive substances.
7. **Changing the European legal framework.** Expedite the review and replacement of defective European Union legislation. The Tobacco Products Directive 2014/40/EU as it applies to reduced risk products is a mess – it was a product of a political negotiation behind closed doors at the end of 2013 and it shows. Article 28 of the directive requires a review to be complete no later than May 2021. We think it needs to be reconsidered as soon as possible and its numerous barriers to

⁸ New Nicotine Alliance. Briefing paper Revision of the Tobacco Excise Directive Implications for low-risk nicotine products, 16 December 2016 [[link](#)]

⁹ McRobbie H. McEwen A. E-cigarette briefing (Version 2). National Centre for Smoking Cessation and Training, Public Health England. London, February 2016 [[link](#)]

¹⁰ Committee on Advertising Practice (UK), UK Code of Broadcast Advertising: 33. E-cigarettes Broadcast [[link](#)]; UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing (CAP Code): 22. E-cigarettes [[link](#)]

¹¹ Burstyn I. Peering through the mist: systematic review of what the chemistry of contaminants in electronic cigarettes tells us about health risks, *BMC Public Health* 2014;**14**:18. [[Link](#)]

both a high level of health protection and trade within the internal market should be lifted. The Directive has no benefits, but has many obvious unintended consequences¹². Beginning at least part of the Article 28 review in 2018 would allow the Directive Articles 17-20 to be reconsidered in the light of greatly improved understanding since the Directive was formulated in 2012-13. We hope the Czech Republic will press for an early review under Article 28.

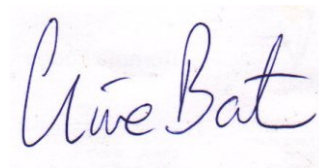
8. **Lifting the ban on snus.** Consider joining the legal action to overturn the ban on snus. The Tobacco Products Directive also maintains the ban on snus (Article 17) without any justification. Experts in tobacco control have been calling for the lifting of this ban for many years and its replacement with product quality standards^{13 14}. This is now the subject of legal action in the Court of Justice of the European Union¹⁵. We hope that member states, including the Czech Republic, will support the case against the ban and bring this truly irrational and harmful policy to an end.

There are several ways to advance this agenda if there is political interest in taking this approach.

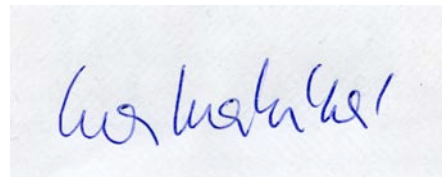
- We would be willing to provide more information or justification in any of the areas we have raised above – this a preliminary response.
- We would be willing to meet with or speak to ministers or officials with an interest at any convenient time.
- We recommend that the government of the Czech Republic sends at least one representative to the ‘Global Forum on Nicotine’ to be held in Warsaw 15-17 June, <https://gfn.net.co/>. There will be a special session for regulators and government officials on the afternoon of 15 June.

Please let us know what you think of these proposals. We look forward to hearing from you and, to working together to improve health, wellbeing and financial strength of the Czech Republic.

Yours sincerely



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¹² New Nicotine Alliance, Letter to UK Department of Health, Assessing and mitigating unintended consequences of policies for vapour technologies and other low risk alternatives to smoking. 29 July 2016. [\[link\]](#)

¹³ Axel T, Borland R, Britton, J et al The advancement of the scientific basis for the EU Tobacco Products Directive. Letter to Commissioner Dalli from practising scientists to the European Commission, 31 May 2011 [\[link\]](#)

¹⁴ Bates C, Fagerström K, Jarvis MJ, Kunze M, McNeill A, Ramström L. European Union policy on smokeless tobacco: a statement in favour of evidence based regulation for public health. *Tob Control*. 2003 Dec;12(4):360–7. [\[link\]](#)

¹⁵ European Court of Justice Case C-151/17, Swedish Match v Secretary of State for Health (UK)