The law on tobacco products: impacting public health through legislative changes - opportunities and limits

Luciano Ruggia

ISPM Associated Scientist, Director AT Schweiz
Currently a new Law on tobacco products is discussed in the Swiss Parliament. How can the stakeholder’s community develop a positive lobby and act to improve the law in order to obtain real changes in public health? What are the legislative opportunities and limits in the current Swiss context of tobacco control, including the challenges posed by the arrival of e-cigarettes on the market?
The great vape debate: are e-cigarettes saving smokers or creating new addicts?

The US is cracking down on vaping while the UK is promoting e-cigarettes as an aid to giving up smoking. Where does the truth lie?

By Sarah Boseley

Main image: Photograph: Bloomberg via Getty Images

Tue 18 Feb 2020 06.00 GMT
1. **PURSUE PUBLIC HEALTH POLICY GOALS**

The public health policy goals for any government regulating e-cigarettes should be to:

1.1 Prevent e-cigarette use by non-smokers, particularly youth
1.2 Minimize potential health risks to e-cigarette users and non-users
1.3 Prevent e-cigarettes from undermining progress in reducing tobacco consumption and nicotine addiction
1.4 Protect public health policy from the commercial interests of the tobacco and e-cigarette industries
1.5 Assist smokers to quit and avoid dual use

2. **ASSESS COUNTRY CIRCUMSTANCES**

2.1 Current status of tobacco control measures
2.2 Trends in smoking rates
2.3 Existing market for e-cigarettes

3. **SELECT REGULATORY OPTION**

3.1 Complete ban
3.2 Regulate as medicinal product
3.3 Regulate strictly using tobacco control measures
1. **PURSUE PUBLIC HEALTH POLICY GOALS**

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1.3 Prevent e-cigarettes from undermining progress in reducing tobacco consumption and nicotine addiction

1.4 Protect public health policy from the commercial interests of the tobacco and e-cigarette industries

1.5 Assist smokers to quit and avoid dual use
Cigarettes, e-cigarettes and heat-not-burn devices
### Tabelle 1: Schematische Übersicht: E-Zigaretten und erhitzte Tabakprodukte.

<table>
<thead>
<tr>
<th></th>
<th>E-Zigaretten («electronic nicotine delivery systems [ENDS]»)</th>
<th>Erhitzte Tabakprodukte («heat not burn devices»)</th>
<th>Tabakzigaretten</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Inhaltstoffe</strong></td>
<td>Nikotinhaltige Flüssigkeit mit Trägersubstanz Propylenglycol oder Glycerin und zahlreichen Aromastoffen</td>
<td>Echte Tabakprodukte mit diversen Aroma- und Zusatzstoffen</td>
<td>Echte Tabakprodukte mit diversen Aroma- und Zusatzstoffen</td>
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<tr>
<td><strong>Mechanismus</strong></td>
<td>Verdampfung (Aerosolisierung) bei 100–300 °C</td>
<td>Erhitzung bei 30–350 °C (Verkohlung ab ca. 200 °C)</td>
<td>Verbrennung bei 600–900 °C</td>
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<tr>
<td><strong>Nikotingehalt</strong></td>
<td>20 mg/ml in Liquids*</td>
<td>0,5 mg im Aerosol** (kein legaler Höchstwert festgelegt)</td>
<td>0,4–0,8 mg im Rauch**</td>
</tr>
<tr>
<td><strong>Nachgewiesene Substanzen im Aerosol/Rauch</strong></td>
<td>&gt;100 chemische Substanzen im Dampf nachgewiesen (u.a. Nitrosamine, Aldehyde, Toluene), darunter auch Schwermetalle wie Cadmium, Nickel und Blei (von Heizspirale)</td>
<td>Bestandteile des Aerosols ähneln dem von Zigaretten, aber in unterschiedlicher, oft in geringerer Konzentration</td>
<td>Mehr als 4800 Substanzen im Rauch nachgewiesen, davon &gt;250 giftig und &gt;70 karzinogen</td>
</tr>
<tr>
<td><strong>Gesundheitliche Langzeitwirkungen</strong></td>
<td>Bisher keine Daten vorhanden</td>
<td>Bisher keine Daten vorhanden</td>
<td>Herz-Kreislauf-Erkrankungen wie Herzinfarkt und Hirnschlag, COPD, Tumoren, etc.</td>
</tr>
<tr>
<td><strong>Studien zu Rauchstopp</strong></td>
<td>Wenige Studien mit geringer nachhaltiger Wirkung vorhanden</td>
<td>Als Alternative zum Zigarettenrauchen gedacht</td>
<td>–</td>
</tr>
<tr>
<td><strong>Hersteller (Beispiele)</strong></td>
<td>Verschiedene kleinere Firmen (Juul®, Blu™, Smok®, Eleaf®, Vandy Vape®, Logic Vapes etc.)</td>
<td>Tabakindustrie (IQOS™, Glo™, Ploom™)</td>
<td>Tabakindustrie Herkömmliche Tabakzigaretten</td>
</tr>
</tbody>
</table>

COPD: chronische obstruktive Lungenerkrankung  
* Höchstwert gemäss EU-Direktive (in den USA bis 50 mg/ml erlaubt).  

How a Cigarette Is Engineered

The design and content of cigarettes continue to make them attractive, addictive, and deadly. Every day, more than 1,300 people in the United States die because of cigarette use.

**Filter**
- Typically made from bundles of thin, hair-like fibers.
- Designed to trap smoke, but only stops a small portion of the smoke from being inhaled.
- The filter (and ventilation holes) in most cigarettes may lead smokers to inhale more deeply, pulling dangerous chemicals farther into their lungs.

**Tipping paper**
- Wraps around the filter, connecting it to the rest of the cigarette.
- **Ventilation holes**, if unblocked, dilute inhaled smoke with air.
- Manufacturers have chosen to place the ventilation holes where they are. The holes are largely ineffective. Because of their location, most smokers unknowingly block them with their fingers or lips.

**Cigarette paper**
- Holds the tobacco filler.
- Manufacturers add chemicals to the paper to control how fast the cigarette burns.
- Smokers inhale everything that is burned—the tobacco filler, the paper... everything.

**Additives**
- Manufacturers can add hundreds of ingredients to a cigarette to make smoking more appealing and to mask the harshness of smoke.

- Certain **additives**, like sugars, can form cancer-causing chemicals when they are burned.

- **Sugar** and **flavor additives** can change the taste of smoke and make it easier to inhale, but no less harmful.

- **Ammonia** and other **chemicals** added to tobacco may increase the absorption of nicotine, which is addictive.

- Some additives are **bronchodilators** that could increase the amount of dangerous chemicals absorbed by the lungs.

*In 2009, the Family Smoking Prevention and Tobacco Control Act banned characterizing flavors in cigarettes, except for tobacco and menthol flavors.*
The Price of a Pack of Cigarettes around the World
Selling price for a 20 pack of Marlboro cigarettes in selected countries (Aug 2019)

- Australia: $20.38
- New Zealand: $18.33
- Ireland: $16.32
- Norway: $13.30
- U.K.: $12.09
- Canada: $10.51
- Singapore: $10.10
- France: $8.88
- U.S.: $7.43
- Germany: $7.11
- Spain: $5.55
- South Korea: $3.71
- Russia: $2.12
- Pakistan: $0.99

Source: numbeo.com
<table>
<thead>
<tr>
<th></th>
<th>The Economist Big Mac Index 2019</th>
<th>Standard Cigarette Price</th>
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</thead>
<tbody>
<tr>
<td>Switzerland (CHF)</td>
<td>6.50</td>
<td>8.60</td>
</tr>
<tr>
<td>UK (£)</td>
<td>3.39</td>
<td>10.20</td>
</tr>
</tbody>
</table>
Philip Morris’ iQOS

Philip Morris International’s iQOS heats tobacco instead of burning it, releasing nicotine-laced vapor. The company says that means the device avoids subjecting smokers to the same levels of carcinogens and other toxic substances found in a regular cigarette.

Sources: Philip Morris International; TechInsights Inc
In the US, JUUL retired several flavours from the market, because of accusation of addicting youth
The last five years have seen enormous spikes in youth e-cigarette use rates.

- In 2017, 11% of high school students had used an e-cigarette in the past 30 days. By 2018, that number had risen to 21% and, by 2019, 27.5% of high school students had used e-cigarettes in the past month.

- Compared to 2002 and 2003, the current increase in teen vaping is among the highest in history.

- Many young people report that e-cigarettes may lead to cigarette use: 41% of current users report that they plan on smoking cigarettes if they cannot get e-cigarettes.

- A recent survey found that 26.7% of JUUL users aged 15-21 were not aware the product always contains nicotine.
<table>
<thead>
<tr>
<th></th>
<th>Prix de référence</th>
<th>Coût consommation annuelle (1 pod ou 1 paquet par jour)</th>
<th>Prix de JUUL en pourcentage des cigarettes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 pod JUUL</td>
<td>4.49</td>
<td>1637.94</td>
<td></td>
</tr>
<tr>
<td>1 paquet (prix moyen, 20 cigarettes)</td>
<td>8.60</td>
<td>3193.00</td>
<td>52.18</td>
</tr>
<tr>
<td>1 paquet (entrée de gamme, 20 pcs.)</td>
<td>5.95</td>
<td>2171.75</td>
<td>75.42</td>
</tr>
</tbody>
</table>
E-cigarettes

Safe?
Safer?
Harm reduction?
What are the health dangers of e-cigarettes?
Toxicants with known health effects

Formaldehyde
Acetaldehyde
Hydroxycarbonyls
Nicotine
Volatile organic compounds
Dicarbonyls
Polycyclic Aromatic Hydrocarbons
Glycols
Metals
Ultrafine particles
Methylglyoxal

Vape weakens the immunosystem

Researches examined 594 genes known to aid in immune system support and fighting off infections in a 3 branches studies (smokers, vapers, non-users of any).

Conclusion: both vape users and cigarette smokers showed signed of diminished activity in these genes, however the vape group in particular exhibited decreased activity in 300 more genes in comparison to regular smoking.

This evidence suggests that compounds found in the liquid used to create the vapor has an immunosuppressive effect on the body.

There are > 7,000 e-cigarette flavors currently marketed. Flavoring chemicals gained notoriety in the early 2000s when inhalation exposure of the flavoring chemical diacetyl was found to be associated with a disease that became known as “popcorn lung.” There has been limited research on flavoring chemicals in e-cigarettes.

Objective: to determine if the flavoring chemical diacetyl and two other high-priority flavoring chemicals, 2,3-pentanedione and acetoin are present in e-cigarettes.

Results: At least one flavoring chemical was detected in 47 of 51 unique flavors tested. Diacetyl was detected above the laboratory limit of detection in 39 of the 51 flavors tested, ranging from below the limit of quantification to 239 μg/e-cigarette. 2,3-Pentanedione and acetoin were detected in 23 and 46 of the 51 flavors tested at concentrations up to 64 and 529 μg/e-cigarette, respectively.

Allen, Joseph G.; Flanigan, Skye S.; LeBlanc, Mallory; Vallarino, Jose; MacNaughton, Piers; Stewart, James H.; Christiani, David C. (2016): Flavoring Chemicals in E-Cigarettes: Diacetyl, 2,3-Pentanedione, and Acetoin in a Sample of 51 Products, Including Fruit-, Candy-, and Cocktail-Flavored E-Cigarettes. In Environmental health perspectives 124 (6), pp. 733–739. DOI: 10.1289/ehp.1510185.
Study Finds Dangerous Heavy Metals In Some Types Of E-Cigarette Vapors

aluminum, calcium, chromium, copper, iron, lead, magnesium, nickel, silicon, sodium, tin and zinc

The total concentration of elements/metals in the aerosol of tank-style EC (226–6,767 μg/L) was higher than that found in cigarette smoke

Tank-style EC have evolved to provide larger puffs, store larger amounts of refill fluid, and allow for more customizability by the consumer. These changes enable operation of products at higher voltage/power, which correlates with increased concentrations of several elements/metals (including lead, nickel, iron, copper) in their aerosols.

Toxicology of E-Cigarette Constituents

Conclusion 5-1. There is **conclusive evidence** that in addition to **nicotine**, most e-cigarette products contain and emit **numerous potentially toxic substances**.

Conclusion 5-2. There is **conclusive evidence** that, other than nicotine, the number, quantity, and characteristics of potentially toxic substances emitted from e-cigarettes are **highly variable** and depend on **product characteristics** (including device and e-liquid characteristics) and **how the device is operated**.

Conclusion 5-3. There is **substantial evidence** that except for nicotine, under typical conditions of use, exposure to potentially toxic substances from e-cigarettes is **significantly lower compared with combustible tobacco cigarettes**.

Conclusion 5-4. There is **substantial evidence** that e-cigarette aerosol **contains metals**. The origin of the metals could be the metallic coil used to heat the e-liquid, other parts of the e-cigarette device, or e-liquids. Product characteristics and use patterns may contribute to differences in the actual metals and metal concentrations measured in e-cigarette aerosol.

Conclusion 5-5. There is **limited evidence** that the **number of metals in e-cigarette aerosol could be greater than the number of metals in combustible tobacco cigarettes**, except for cadmium, which is markedly lower in e-cigarettes compared with combustible tobacco cigarettes.

Toxicity vs. Harm

**Toxicity**: The degree to which a substance (a toxin or poison) can harm humans or animals.

**Harm**: physical or other injury or damage

**Harm reduction** refers to policies, programmes and practices that aim to minimise negative health, social and legal impacts associated with drug use, drug policies and drug laws. Harm reduction is grounded in justice and human rights - it focuses on positive change and on working with people without judgement, coercion, discrimination, or requiring that they stop using drugs as a precondition of support.

[https://www.hri.global/what-is-harm-reduction](https://www.hri.global/what-is-harm-reduction)
Harm reduction is a range of pragmatic policies, regulations and actions that either reduce health risks by providing safer forms of products or substances, or encourage less risky behaviours. Harm reduction does not focus exclusively on the eradication of products or behaviours. Tobacco harm reduction, using safer nicotine products, offers new choices to millions of people worldwide who want to switch away from smoking, but have been unable to with the options previously available.


Financed by Foundation for a Smoke-Free World (PMI)
Comparing definitions

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(Harm Reduction International)

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“E-cigarettes are 95% less harmful than tobacco”?


Independent Scientific Committee on Drugs → very controversial, Nutt

First, there was a “lack of hard evidence for the harms of most products on most of the criteria”. Second, “there was no formal criterion for the recruitment of the experts”. In other words, the opinions of a small group of individuals with no prespecified expertise in tobacco control were based on an almost total absence of evidence of harm.

 Founded by EurosSwiss Health: Delon Human is a South African doctor based in Switzerland where he runs a number of companies / consultancies and charities, predominantly to do with health and tobacco harm reduction. At least two of his companies have taken money from British American Tobacco (BAT).
“E-cigarettes are 95% less harmful than tobacco”?

Tobacco is the largest single cause of preventable deaths in England—e-cigarettes may have a part to play to curb tobacco use. But the reliance by PHE on work that the authors themselves accept is methodologically weak, and which is made all the more perilous by the declared conflicts of interest surrounding its funding, raises serious questions not only about the conclusions of the PHE report, but also about the quality of the agency's peer review process. Lancet, The (2015): E-cigarettes: Public Health England's evidence-based confusion. In The Lancet 386 (9996), p. 829. DOI: 10.1016/S0140-6736(15)00042-2.

UK commentators are less worried about vaping among children and teenagers because they say there are tighter regulations on advertising and nicotine levels here than in the US. PHE says that while the use of e-cigarettes did rise among young people up to 2015, it has flattened since then.

More worrying, say some, is disinvestment in UK smoking cessation services. A recent analysis by The BMJ found that overall investment in NHS smoking cessation services fell by 14% in the past three years, from £70.2m in 2016-17 to £60.3m in 2018-19.

Kmietowicz, Zosia (2018): Public Health England insists e-cigarettes are 95% safer than smoking. In BMJ, k5429. DOI: 10.1136/bmj.k5429.
Toxicity of products (e-cigarettes vs. Traditional cigarettes) × Health impact (product acceptance, usage) × Risk of addiction (product acceptance, usage) = Realized Public Health Benefits

Extra smokers

- Gateway to smoking
- Dual Use
- Reduced quitting
- Normalising nicotine consumption

Quitters

- Gateway exits
- Complete cessation
- No dual use
- Integration in cessation therapies

$N^*$ Smokers ex-ante + $N^*$ Smokers ex-post = $N^*$ Smokers
2. ASSESS COUNTRY CIRCUMSTANCES

2.1 Current status of tobacco control measures
2.2 Trends in smoking rates
2.3 Existing market for e-cigarettes
TOBACCO CONTROL SCALE 2019

7 countries continue to lead...
3 continue to disappoint!

How does your country rate on tobacco control?

<table>
<thead>
<tr>
<th>Score</th>
<th>2019 Rank</th>
<th>2016 Rank</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>80</td>
<td>1</td>
<td>1</td>
<td>United Kingdom</td>
</tr>
<tr>
<td>74</td>
<td>2</td>
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<td>France</td>
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<td>73</td>
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<td>2</td>
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<td>70</td>
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<td>6</td>
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<td>Germany</td>
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The Tobacco Control Scale (TCS) 2019 in Europe

Rank: 35/36 (2016: 21/35)
Score: 41* (2016: 46/100)

* Switzerland is the only country in this survey which has not ratified the WHO Framework Convention on Tobacco Control (FCTC): minus one point.

The TCS quantifies the implementation of tobacco control policies at country level, is based on six policies described by the World Bank, which they say should be prioritised in a comprehensive tobacco control programme. Switzerland has no comprehensive tobacco control programme and scores badly in all six policies.

www.at-schweiz.ch  www.tobaccocontrolscale.org
<table>
<thead>
<tr>
<th>Criteria</th>
<th>CH</th>
<th>Total possible</th>
</tr>
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<tbody>
<tr>
<td>Price increases through higher taxes on cigarettes and other tobacco products</td>
<td>13</td>
<td>30</td>
</tr>
<tr>
<td>Bans/restrictions on smoking in public and workplaces</td>
<td>11</td>
<td>22</td>
</tr>
<tr>
<td>Spending on public information campaign, Better consumer information, including public information campaigns, media coverage, and publicising research findings</td>
<td>4</td>
<td>10</td>
</tr>
<tr>
<td>Comprehensive bans on the advertising and promotion of all tobacco products, logos and brand names</td>
<td>2</td>
<td>13</td>
</tr>
<tr>
<td>Large, direct health warning labels on cigarette boxes and other tobacco products</td>
<td>5</td>
<td>10</td>
</tr>
<tr>
<td>Treatment to help dependent smokers stop, including increased access to medications</td>
<td>7</td>
<td>10</td>
</tr>
<tr>
<td>Illicit Trade (Ratification of the Protocol to Eliminate the Illicit Trade in Tobacco Products)</td>
<td>0</td>
<td>3</td>
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<tr>
<td>Art. 5.3 FCTC (lack of ratification of the FCTC -1)</td>
<td>-1</td>
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<tr>
<td>Total</td>
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Switzerland is the homeland for international tobacco companies, has very weak tobacco advertising legislation and is the only country in this survey which has not ratified the WHO Framework Convention on Tobacco Control. Since 2017, the Federal Council (cabinet) has no more the competence to increase cigarette taxes. The last time the Federal Council increased the tax by 10 cents was in 2013. A price increase is only possible when tobacco companies increase their price and thus their profits (16). Switzerland seems to be more interested in the well-being of the tobacco companies than in the health of its citizens (17).
Raising awareness → working with media
How the U.K. uses science-backed innovation to help cut smoking levels

The United Kingdom shows how better alternatives can help deliver a smoke-free future.

Industry in bending the arguments
2017: **27%**
31% men and 23% women (15+ ans)
19% smoke every day

2017: 24% men and 19% women ex-smokers

2007-2017: **average prevalence stable** at around 27%
but adult population: 2007: 6.1 mio; 2017: 7 mio = **234’000 ↗**

Youth prevalence (15 to 25): **31.6%** (Addiction suisse Kuendig et al. 2017)

Highest prevalence: men 25 to 34 (42%) and women 15 to 34 (30%).
But JUUL arrived only in December 2018 in Switzerland
Costs of tobacco consumption in Switzerland

**Direct medical insurances costs: 3 billions (2015)**
Direct costs linked to the treatment of tobacco related pathologies. Cancer treatments: 1,2 billions; cardiovascular diseases: 1 billion; COPD and other pulmonary pathologies: 0,7 billion.

Those 3 billions correspond to **3,9% of the total health expenses in Switzerland in 2015**

**Indirect costs: 2 billions** (work days lost, or productivity loss) Work absences because of sick days, permanent absence, invalidity or premature death.

Mattli, R. et al., Die Krankheitslast des Tabakkonsums in der Schweiz: Schätzung für 2015 und Prognose bis 2050, ZHAW, Winterthur, 2019
Safe heaven for big tobacco

NO ratification of Framework Convention on Tobacco Control of WHO
At what age can you buy cigarettes in Switzerland?

It depends on the Cantons.....
11 Cantons: 18 yo; 12 Cantons: 16 yo; 3 Cantons: no age limit

**Advertisement**
Ban in television (Law on television art.10) and addressing minors (art 18 Ordonnace sur le tabac)

**Advertisement is targeting young people:**
- point-of-sale
- bar and parties: extremely present
- marketing with presents, competitions (trips), exclusive parties, free cigarettes
- sponsoring of events (music festivales receives on average 400-500k per event)
- Printed medias and cinemas (21 Mio in 2013)
- Digital marketing (??)

**No ban for e-cigarettes**
Umsätze 2017 (CHF):
PMI: 29 Milliarden
BAT: 26 Milliarden
JTI: 18 Milliarden
If it is scientifically demonstrated that a product is less harmful than cigarettes, it is important to be able to communicate this fact to smokers. It makes no sense to have such information without sharing it with adult smokers. **This is why those new products and cigarettes should be regulated differently.**

Dominique Leroux, CEO de Philip Morris Suisse
In 2016, Switzerland produced 34.6 billion cigarettes – nearly two billion packets. Some 25% were sold on the domestic market. Nearly 75% were exported, providing enough cigarettes for over four million people to smoke a packet a day over the year.

“Export income generated by tobacco products, totalling CHF 561 million, is comparable to that of most Swiss commodity exports, such as cheese (CHF 578 million) or chocolate (CHF 785 million)” KPMG study published at the end of 2017

http://stories.publiceye.ch/tobacco/
3. SELECT REGULATORY OPTION

3.1 Complete ban
3.2 Regulate as medicinal product
3.3 Regulate strictly using tobacco control measures
Important public health laws addressing e-cigarettes


Heated tobacco products are considered as « other manufactured products » which are taxed to a much lower rate. The taxes on “heated” tobacco products are on average of 12%, while on traditional cigarettes is on average 53%.

Current 12% tax on heated tobacco products; No current tax on e-cigarettes

Switzerland is currently discussing a new Law on Tobacco products that will cover also e-cigarettes.
Composition du prix de vente

À l'heure actuelle (avril 2019), le prix de vente d'un paquet de 20 cigarettes de la marque la plus vendue est de 8,60 francs. Il se compose des éléments suivants :

<table>
<thead>
<tr>
<th>Impôt sur le tabac</th>
<th>4.516</th>
<th>52,5 %</th>
</tr>
</thead>
<tbody>
<tr>
<td>TVA</td>
<td>0.615</td>
<td>7,20 %*</td>
</tr>
<tr>
<td>Fonds de prévention du tabagisme</td>
<td>0.026</td>
<td>0,3 %</td>
</tr>
<tr>
<td>Fonds pour la culture du tabac indigène</td>
<td>0.026</td>
<td>0,3 %</td>
</tr>
<tr>
<td>Part du fabricant et du commerçant</td>
<td>3.417</td>
<td>39,7 %</td>
</tr>
</tbody>
</table>

* soit 7,7 % du prix de vente sans TVA

État : avril 2019
• **1964:** TV and Radio ban on tobacco advertisement

• **2004:** Creation of a Tobacco prevention fund (OFPT) (641.316) du 5 mars 2004 (ca. 12-13 millions par an, dont 20-30% pour le sport) (2,6 cts fixe par paquet, soit ca. 0,3% du prix d’un paquet à 8,60)

• **2004:** Creation of the SOTA (Fonds pour la culture du tabac indigène) – subventions pour les cultivateurs suisses de tabac (2004: 354; 2019: 155) (ca- 12-13 millions par an, rien pour le sport) (2,6 cts fixe par paquet, soit ca. 0,3% du prix d’un paquet à 8,60)

• **25.06.2004:** Switzerland signs the WHO-FCTC (but still no ratification)

• **2008:** Federal Law on Passive Smoke (818.31) du 3 octobre 2008 (en vigueur depuis 2010)

• **2013:** last increase of cigarettes taxes (10 cts)

• **2016:** Parlement refuse to allow the CF to increase cigarettes taxes

• **2016:** First Project on a Law on Tobacco Products rejected by Parlement
• 2017: New National Strategies « Addictions » and « NCD »
• 2017: novembre: e-cigarettes are allowed to be sold in Switzerland, no taxation
• 2018: End of the National Program on tobacco
• 2018: public consultation on a new LPTab and transmission of the project to the Parliament (nov.)
• 2018: dec.: arrival of JUUL in Switzerland
• 2019: discussion of the Law in the CSSS-CE and Dubai and Moldavia « affaires »
• 2019 (septembre): success of the Initiative populaire « Oui à la protection des enfants et des jeunes contre la publicité pour le tabac » (aim to ban all advertisement for tobacco products that could reach children and youth)
• 2019 (septembre): adoption du projet de LPTab par le Conseil des Etats; adoption de la Mo 19.3958 Imposition des cigarettes électroniques
• Décembre 2019: disparition de la Commission fédérale pour la lutte contre le tabagisme (CFPT)
Philip Morris, sponsor du pavillon suisse à Dubaï. Tollé

Pour un montant de 2 millions de francs, le numéro un mondial du tabac s’est payé une place de choix dans la participation suisse à l’Expo 2020 Dubaï. En colère, les milieux antitabac demandent à la Confédération de renoncer à son choix. Même l’Office fédéral de la santé publique s’indigne.
Art. 118 Abs. 2 Bst. b Er erlässt Vorschriften über:

2 die Bekämpfung übertragbarer, stark verbreiteter oder bösartiger Krankheiten von Menschen und Tieren; er verbietet namentlich jede Art von Werbung für Tabakprodukte, die Kinder und Jugendliche erreicht;

Sept. 12th, 2019: 120’000 Unterschriften
• 2020: (21.02): CSSS-CN: adoption of Mo 19.3958 Taxation of e-cigarettes: (20 against 3), but with an amendment: taxation should be applied only after the new LPTab is adopted

• **May 2020: First reading of the LPTab by the CSSS-CN**

• Fin 2020 : Final vote on the LPTab in Parliament

• Early 2021 : Transitory Adaptation of the Law on food products (currently valid for tobacco only until May 1st, 2021).

• 2021 : Elaboration of the Verordnungen (application laws)

• Mid-2022 : LPTab and application laws enter into force
Ways law might be used to address social and behavioural factors

Limit school-aged children’s and youth’s access to e-cigarettes

- Majority of adolescent e-cigarette users have never smoked cigarettes
- e-Cigarette use was associated with greater risk for subsequent cigarette smoking initiation and past 30-day cigarette smoking (Soneji et al 2017)

Reduce the consumption of nicotine (an addictive product)

Public health objective: to reduce the number of young people smoking any kind of tobacco product

Important political considerations (1)

Traditionally weak regulation of tobacco

Strong Tobacco Industry (TI) lobby against any additional tobacco regulation

Opposition from TI

- TI will push e-cigarettes as a harm reduction strategy
- “Divide (public health community) and conquer”

Ban on sales of e-cigarettes with nicotine was overturned by the Swiss Federal Administrative Court (April 2018)

- TI voluntary sales ban for minors (under 18) from 1 Oct 2018 until a Swiss law comes into effect (industry code of conduct)
- RED FLAG: TI pre-empt strong legislation or regulation by pressing for the adoption of voluntary codes or weaker laws (Saloojee and Dagli, 2000)

Important political considerations (2)

How e-cigarettes should be taxed in order to reduce consumption among young people?

What should be taxed?
1. Amount of nicotine in the product;
2. Volume of usable liquid product regardless of nicotine content;
3. E-cigarette devices or disposable e-cigarettes

To what level tax should be establish? Like traditional cigarettes? What factors should also be considered in fixing the taxation level?
Which taxation model?

![Graph showing taxation models]

- CHF 8.60
- CHF 4.19
- Traditional cigarettes
- E-cigarettes

New Law
Important political considerations (3): Potential challenges

**Impact of taxation**: how to measure and evaluate the impact of taxation? Should traditional cigarettes taxation be increased again at the same time?

**Resistance from the industry**: Tobacco Industry is strongly working to establish e-cigarettes as a “safe” way of smoking. They want no taxation or a taxation so low as possible (95% less?)
Putting forward concrete proposals

**Proposition d’amendement du projet de loi fédérale sur les produits du tabac (P-LPTab)**

<table>
<thead>
<tr>
<th>Préambule</th>
<th>Vorwort</th>
</tr>
</thead>
</table>
| 1vu les art. 11, al. 1, 95, al. 1, et 118, al. 2, let. a et b, de la Constitution^
| 1gestützt auf die Artikel 11 Absatz 1, 95 Absatz 1 und 118 Absatz 2 Buchstabe a und b der Bundesverfassung, nach Einsicht in die Botschaft des Bundesrates vom ...

<table>
<thead>
<tr>
<th>Art. 1</th>
<th>Zweck</th>
</tr>
</thead>
<tbody>
<tr>
<td>La présente loi a pour but de :</td>
<td></td>
</tr>
<tr>
<td>Mit diesem Gesetz :</td>
<td></td>
</tr>
<tr>
<td>a. protéger l’être humain contre les effets nocifs liés à la consommation des produits du tabac et à l’utilisation des cigarettes électroniques ;</td>
<td></td>
</tr>
<tr>
<td>a. soll der Mensch vor den schädlichen Auswirkungen des Konsums von Tabakprodukten und der Verwendung elektronischer Zigaretten geschützt werden;</td>
<td></td>
</tr>
<tr>
<td>b. protéger en particulier les mineurs de la consommation de, et de l’exposition à, ces produits ;</td>
<td></td>
</tr>
<tr>
<td>b. sollen insbesondere Minderjährige vor dem Konsum und dem Kontakt mit diesen Produkten geschützt werden;</td>
<td></td>
</tr>
<tr>
<td>c. réduire la consommation de produits du tabac et l’utilisation de cigarettes électroniques.</td>
<td></td>
</tr>
<tr>
<td>c. soll der Verbrauch von Tabakprodukten und elektronischen Zigaretten gesenkt werden.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Art. 14</th>
<th>Warnhinweise für weitere Produktekategorien</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lors de la remise au consommateur, les mises en garde suivantes doivent figurer sur chaque emballage:</td>
<td></td>
</tr>
<tr>
<td>Jede Verpackung muss bei der Abgabe an die Konsumentinnen und Konsumenten die folgenden Warnhinweise tragen:</td>
<td></td>
</tr>
<tr>
<td>a. pour les cigarettes électroniques contenant de la nicotine: «Ce produit peut nuire à votre santé et crée une forte dépendance, mais il est moins dangereux que les cigarettes combustibles»;</td>
<td></td>
</tr>
<tr>
<td>c. für die nikotinhaltigen elektronischen Zigaretten: «Dieses Produkt kann Ihre Gesundheit schädigen und macht stark abhängig, ist aber weniger gefährlich als herkömmliche Zigaretten».</td>
<td></td>
</tr>
<tr>
<td>d. pour les cigarettes électroniques ne contenant pas de nicotine: «Ce produit peut nuire à votre santé, mais il est moins dangereux que les cigarettes combustibles».</td>
<td></td>
</tr>
<tr>
<td>d. für die nikotinfreien elektronischen Zigaretten: «Dieses Produkt kann Ihre Gesundheit schädigen, ist aber weniger gefährlich als herkömmliche Zigaretten».</td>
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Putting forward concrete proposals

Art. 1 Zweck
Mit diesem Gesetz soll der Mensch vor den schädlichen Auswirkungen des Konsums von Tabakprodukten und der Verwendung elektronischer Zigaretten geschützt werden.

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Mit diesem Gesetz

a. soll der Mensch vor den schädlichen Auswirkungen des Konsums von Tabakprodukten und der Verwendung elektronischer Zigaretten geschützt werden;

b. sollen insbesondere Minderjährige vor dem Konsum und dem Kontakt mit diesen Produkten geschützt werden;

c. soll der Verbrauch von Tabakprodukten und elektronischen Zigaretten gesenkt werden.
Analyze interests
Find partners
Build coalitions
Political Strategy

1. **Clear Target**: Talk to members of parliament using key messages (after an indepth analysis of their mandates and link of interests)

2. **Simple message**: Repeat key messages wherever you can: PROTECTION OF MINORS by prohibition of ads and (as a consequence) FCTC ratification; regulate e-cigg like traditional cigg

3. **Coordinate actors**: Emphasize common goals with other public health actors and coordination of activities

4. **Leverage partners**: health insurance companies, FMH, Pharmasuisse and medical and public health community at large
Course, Aug 27 – 29, 2020:
Better Health Faster: Using Law and Policy Effectively in Public Health

www.ssphlugano-summerschool.ch
Thank you

Luciano.ruggia@ispm.unibe.ch
Luciano.ruggia@at-schweiz.ch