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# Summary of ASI Response to the Smoke Free Generation Consultation December 2023



# AUTHOR

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Before working at the Adam Smith Institute, he worked as a Public Affairs and Communications Executive at strategic consultancy Hanbury Strategy. Clients he worked with included leading financial institutes, crypto firms, fundraising platforms, and transport providers. He was previously Development and Research Officer for the ASI. He is also a Non-Executive Director at the Masonic Charitable Foundation, one of the UK's largest charities, where he advises on policy horizons and strategic vision.

Maxwell graduated with a first class Joint Hons BSc in Politics and History from the London School of Economics & Political Science, where he was also twice consecutive President of the Hayek Society. Whilst at LSE, he was a Don Lavoie Fellow in Political Economy at the Mercatus Center, George Mason University. He is a Fellow at the Consumer Choice Center.

**Enforcement and liberty concerns of a smoking ban:** The UK's proposed ban on cigarette smoking raises significant challenges in enforcement and is viewed as an infringement on personal freedoms. The age-specific restrictions of the ban are particularly problematic: certain countries, such as Indonesia, have declared them unconstitutional. This illustrates the difficulty in uniformly enforcing such a policy. This ban is likely to lead to an increase in black market activities for tobacco products, posing significant enforcement challenges and potentially offsetting the benefits of the policy.

**Diverse impact on tobacco products:** The ban's impact extends beyond cigarettes to include products with small market shares, such as cigars, cigarillos, and heated tobacco. These products are often not seen as direct substitutes for cigarettes and are classified as luxury items. The ban on heated tobacco is especially concerning as it represents a safer alternative to cigarettes and plays an essential role in smoking cessation. Removing these alternatives could negatively impact the efforts of smokers trying to quit.

**Complexities of proxy sales and legislative focus:** Enforcing a ban on proxy sales of tobacco is seen as highly impractical, given the considerable volume and complexity involved. Legislation should primarily target factory-made cigarettes and hand-rolled tobacco, which constitute the bulk of tobacco consumption. Excluding other tobacco products (OTPs) from the ban is advised due to their niche appeal and role in harm reduction.

**Importance of vape flavours in smoking cessation:** Flavoured vapes are integral in helping smokers' transition away from cigarettes. Research indicates that bans on vape flavours can inadvertently lead to an increase in smoking rates. Nicotine vapes are effective tools for smoking cessation and restricting their flavours could be detrimental to public health. This could potentially lead to a resurgence in smoking or an increase in the illicit vape market.

**Regulatory impact and environmental concerns:** Regulating the use of child-friendly imagery on vape packaging is a positive move. However, excessive regulation could lead to issues like counterfeiting and reduced effectiveness of vapes as smoking cessation aids. The discussion around disposable vapes is also critical, as their ban could foster an underground market. The environmental impact of disposable vapes is a growing concern, with proposals for recycling initiatives and deposit schemes being considered as potential solutions.

**Economic factors and consumer choices:** Implementing price floors for vapes could create illegal markets and diminish the economic incentive for smokers to switch from cigarettes to vapes. Stringent enforcement of age-related sales legislation is recommended. Nicotine pouches, as an emerging alternative, should be regulated to prevent sales to minors but not so heavily as to diminish their availability for smokers seeking to quit. Balancing regulation to protect public health while respecting consumer choice and market dynamics is crucial.



**Vaping as a harm reduction tool:** Vaping has been increasingly recognised as a harm reduction tool for smokers. The diversity of flavours plays a significant role in this, attracting smokers away from traditional cigarettes. Banning these flavours could counterintuitively lead to an increase in traditional smoking, as evidenced by various studies.

**Impact of over-regulation on vaping:** Over-regulation, especially in terms of packaging and marketing, could lead to a rise in counterfeit products and potentially decrease the appeal of vaping as an alternative to smoking. The importance of maintaining a balance in regulation to protect public health without stifling the potential benefits of vaping is emphasised.

**Disposable vapes and environmental concerns:** The environmental impact of disposable vapes is a notable issue, with a push for recycling programs and deposit-return schemes to mitigate this impact. Banning disposable vapes could inadvertently lead to increased tobacco use or a surge in black market activity.

**Recommendations for tobacco and vaping policies:** Policies should focus on reducing harm while respecting individual choices. This includes targeting the primary contributors to tobacco use, like factory-made cigarettes, while allowing safer alternatives like heated tobacco and vaping products to remain accessible.

**Economic and public health considerations:** Economic incentives, such as price floors for vapes, should be carefully considered to avoid unintended consequences like the growth of black markets. Public health policies should aim to balance the reduction of smoking rates with the provision of safer alternatives for nicotine consumption.

**Regulation of nicotine pouches and OTPs:** Nicotine pouches, a newer alternative to traditional smoking and vaping, require thoughtful regulation. Preventing sales to minors is essential, but over-regulation could limit their potential as a smoking cessation aid.

**Long-Term strategies and public awareness:** Long-term strategies should focus on education and public awareness, emphasising the risks of smoking and the potential benefits of safer alternatives. Policies should be adaptable to evolving scientific evidence.