

# Limiting the Appeal of and Access to Tobacco and Nicotine Products by the Underage<sup>1</sup>

## 1. What's at stake?

At Member States level, national initiatives have been undertaken in the last couple of months, using public health arguments to either ban reduced risk product categories (such as nicotine pouches) or restrict the use of tobacco and nicotine products by notably suggesting flavour or format (e.g. disposable vapour product) bans amongst other initiatives. The main argument used is the perceived appeal of these new nicotine products for minors, including presumed concerns about their potential<sup>2</sup> impact on the health of consumers.

Furthermore, special attention is given to the issue of underage appeal on a wider level: in its BECA report, the European Parliament is leveraging this as a means to legitimize a ban on all characterizing flavours in heated tobacco products and novel tobacco products with a view to reduce the appeal of these products to smokers, non-smokers, and the **underage**.

In this paper, we would like to highlight that measures related to underage access prevention already exist at national level and that the industry, **retailers, together with Governments all have an important role to play** on this matter.

We therefore express our views in the below on how the industry can continue to **help address the underage appeal and access prevention to tobacco and nicotine products**, notably by reminding relevant stakeholders of the existing initiatives put in place by the various actors mentioned above.

### **As responsible manufacturers – the measures we take to prevent underage access**

With the aim to limit that their products appeal to or are accessed by the underage, the member companies of Tobacco Europe adhere to the following stringent measures and commitments and ensure they are continuously assessed and updated as needed:

- Products are specifically designed and labelled for adult smokers and nicotine users only.
- Strict marketing principles<sup>3</sup> are followed to ensure the marketing of products is aimed at those aged over the minimum legal age only.
- Brand ambassadors must be adults, both in age and appearance.

In addition to these voluntary measures applied by the Industry, Tobacco Europe would like to underline that restrictions on tobacco advertising and sponsorship tailored to national markets and to national consumer habits, notably with a special focus on underage smoking prevention, are currently in force and well established in all Member States.

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<sup>1</sup> Underage means people who are under the legal smoking or vaping age - usually 18 years old - unless local law has a lower legal smoking or vaping age

<sup>2</sup> A list of national measures could be included in this paper or as an annex

<sup>3</sup> Tobacco Europe Marketing Principles

That said, and while Tobacco Europe's member companies are committed to conducting their advertising and marketing in a responsible manner, they also believe that any restrictions on doing so should be proportionate and reasonable so as to enable them to provide existing adult consumers of tobacco and nicotine products with appropriate information to enable them to choose from among the various tobacco and nicotine products with substantially different characteristics.

In other words, communicating and informing consumers in a responsible way about their products is a fundamental right of manufacturers and consumers which regulation should not infringe upon.

### **As responsible retailers**

Retailers play a fundamental role in limiting underage access to tobacco and nicotine products, being the source of such products for consumers. Hence, the following measures should be undertaken or re-enforced:

- Adult smokers and adult nicotine product users across the EU should have access to, and information about, new nicotine products at retail level, including their potential to reduce the harm associated with smoking. Retailers should be equipped with and provide such information to adult consumers.
- Optional: voluntary code of conduct outlining clear criteria on who can sell tobacco and nicotine products but also the range of available products in these stores (to avoid "cartoons" products) through licenses or other schemes should be developed. This would ensure that only retailers or licensed operators are legitimate to sell such products. Such voluntary code could then be implemented into national regulation.

The industry could further support the retailers by ensuring that product displays have a [legal age of sale]+ sign and by providing them with educational information on Underage Access Prevention to help them communicate to consumers that tobacco and nicotine products are only for sale to those who are over the legal age of sale.

For online retailers, websites with robust age verification checks at entry and purchase should be controlled regularly to ensure that those under the minimum legal age of sale cannot access any tobacco and nicotine products.

### **Public authorities role at national level**

- Existing rules should be enforced by the national governments, especially with regard to age verification, and necessary resources should be allocated in support of these efforts.
- Enforcement of age restrictions on the sale of tobacco and nicotine products, wherever sold, including sanctions (fees) for retailers who sell to minors, are crucial to preventing underage use.
- Activation of regular mystery shopping programmes: currently, such initiatives are rarely organised. As a result, there is a strong lack of enforcement from public authorities and a lack of incentives for retailers.
- Public authorities must guarantee regular controls in retailers' shops.



- Penalties in case of non-respect should range from relevant fines to the revocation of the sales license.

## Conclusion

As responsible companies, it is the industry's duty to **support efforts on underage appeal and access prevention** and to be **pro-active on the public scene at policy level**, in collaboration with **retailers and with Governments**.