



## Proposals for action by the working group

### Development of tobacco and nicotine policy



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Ministry of Social Affairs and Health

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<div>Summary</div> <p>On 29 June 2017, the Ministry of Social Affairs and Health appointed a working group tasked with submitting proposals for amendments of law and other actions to support and promote the objective of Finland's Tobacco Act which is to end the use of tobacco and other nicotine-containing products by 2030.</p> <p>In order to achieve the objective of the Tobacco Act, the systematic and purposeful actions must be continued and developed, and new actions adopted. Achieving the objective requires that the working group's proposals will be implemented starting from the beginning of the next government term.</p> <p>The actions proposed in the report create preconditions to end the use of tobacco and other nicotine products. However, to achieve the aim, further actions must be carried out every few years. The working group proposes that each government until 2030 investigates and assesses the realisation of the objective of the Tobacco Act and propose necessary further actions. The working group underlines that the implementation of such new proposals must always be included in the subsequent government programme.</p> <p>The proposals of the working group are focused on taxation, prevention of young people starting smoking, smoke-free environments, smoking cessation, communication, marketing, new nicotine products, improving the effectiveness of enforcement, monitoring systems and other necessary methods. When drafting the proposals, the working group has taken into account the reduction of socioeconomic disparities.</p>			
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<b>Tiivistelmä</b> <p>Sosiaali- ja terveysministeriö asetti 29.6.2017 työryhmän, jonka tehtävänä on tehdä esityksiä lakimuutoksiksi ja muiksi toimenpiteiksi, jotka tukevat ja edistävät tupakka- ja nikotiinituotteiden käytön loppumista vuoteen 2030 mennessä.</p> <p>Tupakkalain tavoitteen saavuttaminen edellyttää tähänastisten systemaattisten ja määrätietoisten toimien jatkamista ja kehittämistä sekä uusien toimenpiteiden käyttöönottoa. Tavoitteen saavuttamiseksi tarvitaan työryhmän esittämien ehdotusten toteuttamista jo seuraavan hallituskauden alussa.</p> <p>Mietinnössä esitetyt toimenpiteet luovat edellytykset tupakka- ja muiden nikotiinituotteiden käytön loppumiselle. Tavoitteen saavuttaminen edellyttää kuitenkin muutaman vuoden välein toteutettavia lisätoimia. Työryhmä esittää, että jokaisella hallituskaudella vuoteen 2030 saakka selvitetään ja arvioidaan tupakkalain tavoitteen toteutumista ja esitetään tarvittavia lisätoimia. Työryhmän näkemyksen mukaan näiden uusien ehdotusten toteuttaminen tulee ottaa mukaan aina seuraavan hallituksen ohjelmaan.</p> <p>Työryhmän ehdotukset kohdistuvat verotukseen, nuorten tupakoinnin aloittamisen ehkäisyyn, savuttomiin ympäristöihin, markkinointiin, viestintään, uusiin tuotteisiin, tupakoinnin lopettamisen tukeen, toimeenpanon tehostamiseen, seurantajärjestelmiin sekä muihin tarvittaviin toimenpiteisiin. Ehdotuksia laadittaessa on kautta linjan otettu huomioon sosioekonomisten erojen vähentäminen ja poistaminen tupakka- ja nikotiinituotteiden käytössä.</p>			
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<b>Referat</b> <p>Social- och hälsovårdsministeriet tillsatte den 29 juni 2017 en arbetsgrupp som hade till uppgift att lämna förslag till lagändringar och andra åtgärder som stödjer och främjar upphörandet av användningen av tobaks- och nikotinprodukter före 2030.</p> <p>För att uppnå tobakslagens målsättning krävs att man bygger vidare på och utvecklar de systematiska och målmedvetna åtgärder som hittills införts och att man implementerar nya åtgärder. För att uppnå målen måste de förslag som arbetsgruppen lagt fram genomföras redan i början av nästa regeringsperiod.</p> <p>Åtgärderna som läggs fram i betänkandet skapar förutsättningarna för att användningen av tobaks- och nikotinprodukter ska upphöra. För att uppnå målet krävs emellertid genomförande av tilläggsåtgärder med några års mellanrum. Arbetsgruppen föreslår att man under varje regeringsperiod fram till 2030 utreder och bedömer uppfyllandet av tobakslagens målsättning och föreslår de tilläggsåtgärder som behövs. Enligt arbetsgruppens syn bör genomförandet av dessa nya förslag alltid införlivas i nästa regerings regeringsprogram.</p> <p>Arbetsgruppens förslag riktas på beskattning, förebyggande av att unga börjar röka, rökfri miljö, stöd för rökstopp,, marknadsföring, kommunikation, nya produkter, mer effektivt verkställande, uppföljningssystem och andra nödvändiga åtgärder. I utarbetningen av förslagen beaktades över hela linjen minskningen och avskaffandet av de socioekonomiska skillnaderna i användningen av tobaks- och nikotinprodukter.</p>			
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## Assignment

On 29 June 2017, the Ministry of Social Affairs and Health appointed a working group tasked with submitting proposals for legislative amendments and other actions to support and promote the objective of ending the use of tobacco and other nicotine-containing products by 2030.

The working group's assignment was to submit proposals for:

1. developing tobacco and other relevant legislation so as to further decrease the use of tobacco and nicotine products, prevent the entry of new tobacco and nicotine products into the market and end the use of such products by 2030;
2. any other actions that may be necessary to achieve the objective mentioned in point 1 above, paying special attention to the need to reduce and eliminate socio-economic disparities in the use of tobacco and nicotine products when drafting its proposals;
3. a system for monitoring and assessing the progress made towards the objective referred to in point 1 above.

The mandate of the working group extended from 1 July 2017 to 31 May 2018.

The working group was chaired by Director *Ilkka Oksala* from the Confederation of Finnish Industries (EK). The members appointed to the working group were *Mervi Hara*, Executive Manager from Action on Smoking and Health (ASH) Finland; *Heikki Hiilamo*, Professor from the University of Helsinki; *Reetta Honkanen*, Senior Officer from the National Supervisory Authority for Welfare and Health (Valvira); *Susanna Huovinen*, Member of Parliament; *Meri Paavola*, Ministerial Adviser, with deputy *Jari Keinänen*, Director, from the Ministry of Social Affairs and Health; *Pekka Puska*, Member of Parliament; *Matti Rautalahti*, Secretary General from the Finnish Medical Society Duodecim; *Merja Sandell*, Senior Government Adviser from the Ministry of Finance; and *Olli Simonen*, Chairman of Finland's Doctors Against Tobacco (DAT) network.

The working group's secretaries were Mervi Hara and Reetta Honkanen.

The working group consulted the following experts: *Klas Winell*, Chair of the Current Care working group from the Finnish Medical Society Duodecim; *Pauliina Ikäheimo*, Senior Medical Officer from the Finnish Medicines Agency Fimea; *Anneli Laiho*, Senior Medical Advisor from the Social Insurance Institution of Finland (Kela); *Veikko Kujala*, Director from the Finnish Institute of Occupational Health; *Anne Mironen*, Adviser for Health, Safety and Equality at Work from the Central Organisation of Finnish Trade Unions SAK; *Riitta Työläjärvi*, Senior Adviser, Social and Health Policy, from the Finnish Confederation of Professionals STTK; *Hanna Ollila*, Specialist, Youth Tobacco

Prevention, from the National Institute for Health and Welfare; Laura Terho, Lawyer from the Ministry of Social Affairs and Health; Sami Rakshit, Director from Finnish Customs; Tuija Laukkanen, Counsellor of Education from the Finnish National Agency for Education; Kati Lounemaa, Head of Unit, Vocational Upper Secondary and Adult Education and Training, from the Finnish National Agency for Education; Pinja Perholehto, Social Policy Advisor from Sakki ry; Päivi Aalto-Nevalainen, Senior Advisor from the Ministry of Education and Culture; and Elina Laine, Social Responsibility Specialist from the Finnish Olympic Committee.

Written opinions were requested from the following parties: Allergy, Skin and Asthma Federation; EHYT Finnish Association for Substance Abuse Prevention; Filha (Finnish tuberculosis and lung disease NGO); Organisation for Respiratory Health in Finland; Finnish Real Estate Management Federation; Finnish Commerce Federation; Finnish Real Estate Federation; Association of Finnish Local and Regional Authorities; Finnish Hospitality Association MaRa; Philip Morris Finland Oy; Finnish Federation for Social Affairs and Health (SOSTE); Finnish Shipowners' Association; Finnish Heart Association; Cancer Society of Finland; Council for Choices in Health Care in Finland (COHERE Finland); Finnish Tobacco Industries' Federation; and Ministry of the Environment.

Furthermore, opinions were submitted by Vapers Finland and Imperial Brands.

The working group met 17 times.

This report has made extensive use of the existing research materials produced by the National Institute for Health and Welfare (THL). The most important of these references are listed at the end of the report, along with other key sources.

This is the working group's report, which was prepared in keeping with the decision to appoint the working group. The actions proposed in this report create the preconditions to end the use of tobacco and other nicotine products. In order to achieve the objective of the Tobacco Act (549/2016), further actions must be carried out every few years, and these must be revisited on a regular basis during each government term.

Helsinki, 31 May 2018

Ilkka Oksala

Mervi Hara  
Heikki Hiilamo  
Reetta Honkanen  
Susanna Huovinen  
Jari Keinänen

Meri Paavola  
Pekka Puska  
Matti Rautalahti  
Merja Sandell  
Olli Simonen

## Actions proposed in 2018

### Taxation

1. The excise duty on tobacco products should be raised over the forthcoming government terms at least at the same rate as during the 2016–2019 term, taking into account any developments in purchasing power and the risk of a black economy.
2. The current structure of tobacco tax, based on three elements, should be retained.
3. The possibilities of imposing taxes on non-tobacco nicotine products under the Tobacco Act should be studied, along with the appropriate level of taxation for such products.

### Preventing young people from taking up smoking

4. The Tobacco Act should be amended so as to make it illegal to sell, otherwise supply or pass on tobacco products, nicotine-containing liquids and nicotine-containing tobacco substitutes to people under the age of 20. The minimum age for the import and possession of such products should also be raised to 20.
5. The prohibition on characterising flavours or aromas should be extended to apply to all tobacco products.
6. The Act on the Promotion of Sports and Physical Activity (390/2015) and the Youth Act (1285/2016) should be amended by introducing the commitment to prevent the use of tobacco and nicotine products as one of the requirements for national subsidies. Such activity should also be included in the quality club criteria.
7. It is recommended that local governments introduce the commitment to prevent the use of tobacco and other nicotine products as a criterion for granting aid to youth work and sports and physical activity.
8. The Ministry of Education and Culture should collect best practices relating to prevention of using tobacco and nicotine products among young people and introduce these as part of the operating culture of youth work and sports and other physical activities.

### Smoke-free environments

9. Section 73 of the Tobacco Act on the application of smoking bans should be amended so as to cover the smoking and heating of all products under the Tobacco Act and any other use that releases aerosols deteriorating indoor air quality.
10. Smoking bans should be extended to include outdoor places and areas that are mainly used by minors, such as playgrounds and EU beaches. Such smoking bans would also apply to the use of oral tobacco.
11. Smoking bans should be extended to apply to public transport stops (including taxi ranks).
12. Local governments and other public and private parties should be recommended to take their own actions to restrict smoking in outdoor areas where smoking is not prohibited under the Tobacco Act, especially those where minors spend time or where smoking otherwise disturbs people. Such outdoor areas include market squares, among others.

13. The Limited Liability Housing Companies Act (1599/2009) should be amended so as to allow housing companies to ban smoking on balconies or indoors in facilities controlled by residents by majority vote.

### **Marketing of products under the Tobacco Act**

14. The regulation of the properties of tobacco products, nicotine-containing liquids and refill containers and their retail packaging should be amended so as to introduce plain packaging and product regulations.
15. The use of tobacco and other nicotine products should be inserted into section 15 of the Act on Audiovisual Programmes (710/2011) as audiovisual content detrimental to the development of children.
16. Finland should submit a proposal to the European Commission for including the use of tobacco and nicotine products in content descriptors indicating the nature of the content when modernising the Audiovisual Media Services Directive in order to protect minors from detrimental programme content.

### **Smoking cessation support**

17. Health and social services staff throughout the care chain from primary to specialised services should maintain their smoking cessation skills, offer cessation services to all smokers and participate in their patients' smoking cessation processes.
18. Healthcare and social welfare services staff should be encouraged to take up the topic of using tobacco and other nicotine products as comprehensively as possible with their clients. This refers at least to asking clients about their use of tobacco and nicotine products, advising them to quit and entering the relevant information in client records.
19. Smoking cessation units should be established in every county to function as regional training bodies, provide the region's healthcare and social welfare units with consultation on implementing cessation therapies and offer cessation support using different methods.
20. All prescription-only medicines used to treat tobacco and nicotine dependence should be included as medicines reimbursable under National Health Insurance.
21. Workplaces should include their smoking cessation programmes in their written action plans for occupational healthcare.
22. Smoking cessation support should be included in student welfare plans while ensuring basic professional skills in how to relate to smokers.
23. Cessation of tobacco and other nicotine product use among special groups of heavy smokers should be enhanced in primary and specialised services.
24. Carbon monoxide testing should be performed on pregnant smokers during their maternity clinic visits.

### **Communication campaigns**

25. A nationwide communication campaign should be created to encourage cessation of tobacco and nicotine product use and to disseminate supporting information.

### **Restrictions on passenger imports**

26. Duty-free imports of cigarettes and other tobacco products from outside the EU should be restricted from 200 to 40 cigarettes, from 50 to 10 cigars, from 100 to 20 cigarillos and from 250 grams to 50 grams of smoking tobacco.

27. The maximum daily quantities of passenger imports of snus, chewing tobacco and nasal tobacco should be lowered from 1,000 grams to 100 grams.
28. Aggravated forms of smuggling and unlawful dealing in imported goods should be included in the Criminal Code of Finland (39/1889).

### Regulation of new products

29. The concept of 'nicotine-containing tobacco substitutes' should be added to the Tobacco Act.
30. The regulations applicable to nicotine-containing tobacco substitutes should be brought in line with those applied to tobacco products and nicotine-containing liquids.
31. A study on how to take all nicotine-containing products more effectively into account in (tobacco) legislation should be conducted during the next government term.
32. The Medicines Act (395/1987) should be amended by giving the public authorities more discretion concerning the distribution channels of nicotine-containing self-care medicines in cases where a product is clearly designed to maintain nicotine dependence instead of helping with smoking cessation.
33. It should be prohibited to sell or otherwise supply to consumers products that are intended to give a characterising flavour or aroma to a product subject to the prohibition on characterising flavours and aromas under the Tobacco Act.
34. Smoking accessories should be divided into those that are directly used for smoking (such as pipes and filters) and those that are indirectly used for smoking (such as pipe cleaners and cases).
35. The regulations applicable to smoking accessories directly used for smoking should be aligned as closely as possible with those applied to electronic cigarettes.

### Enhancing enforcement

36. The sanction for violating a smoking ban should be changed into an administrative penalty payment (cf. parking ticket).
37. The annual supervision fees laid down in the Tobacco Act should remain at the maximum level as specified in the currently valid Tobacco Act.
38. National guidelines should be prepared for Article 5.3 of the WHO Framework Convention on Tobacco Control, which aims to protect public health policies from the interests of the tobacco industry.

### Other actions

39. The Ministry of Social Affairs and Health should work with the Ministry of the Environment to study national proposals required to prevent the risks posed by products under the Tobacco Act to human health and the environment and cover the costs arising from such action.
40. The cooperation group appointed by the Ministry of the Environment to prepare a Roadmap on Plastics and its proposals for action should specifically address the environmental issues relating to cigarette butts.
41. A study should be conducted into the possibility of creating a reimbursement system based on product liability for treatment of tobacco-related diseases and cessation therapies.
42. Public funds should not be invested in companies where products under the Tobacco Act account for more than 50% of net turnover. When investments are made in funds, due consideration should be given to whether they refrain from investing in the tobacco and nicotine industry.

### **Monitoring systems**

43. The functionality of information systems concerning the population and the surveillance of compliance with the Tobacco Act should be ensured. The systems should provide up-to-date information on the sale, consumption (including special groups), acquisition and marketing of nicotine products and imitations, cessation of nicotine product use, diseases and morbidity caused by their consumption, as well as the costs arising from these and their distribution over different population groups.
44. Sufficient resources should be allocated to the National Institute for Health and Welfare for its national tobacco and nicotine policy guidance, monitoring and expert tasks in order to ensure the continuity of the information systems and the utilisation of the collected materials.



# 1 Situation in Finland

The objective of the Finnish Tobacco Act is to end the use of tobacco products and other nicotine-containing products that are toxic to humans and cause addiction.

Health is one of the most important resources for wellbeing and development. The purpose of Finland's health policy is to promote and maintain the population's health and wellbeing, working and functional capacity and social security, and to reduce health inequalities. The Constitution of Finland entrusts the promotion of the population's health to the public authorities. This is based on preventive healthcare and effective health services available to the entire population. A further objective is to realise health promotion in all decision-making processes. A healthy population is an important prerequisite for economic growth, sustainable development and competitiveness.

Smoking is the single most significant health risk and cause for premature mortality among our population. Smoking of cigarettes, a pipe or a water pipe and use of snus are the most common – and also the most hazardous – nicotine delivery methods. These have been supplemented and substituted by new nicotine products, such as electronic cigarettes and other nicotine delivery products.

Nicotine is an extremely toxic chemical that causes various harmful effects in the body, even in small concentrations. Although the role of nicotine in different tobacco-related diseases is not sufficiently well known, even the current state of knowledge makes it clear that nicotine products are not harmless. Nicotine is highly addictive, and this effect is further enhanced with chemicals added to tobacco products. Manufacturers of nicotine products are constantly bringing to the market new products based on creating and maintaining nicotine addiction.

The most significant diseases caused by smoking are cancer, respiratory and circulatory diseases. Smoking significantly reduces the efficacy of treatments used for many diseases, increases the risk of complications relating to treatments or operations such as surgery, and delays the healing of wounds and fractures, among other things. Smoking also weakens the efficacy of many pharmacological treatments by accelerating the metabolism of certain drugs. Conversely, smoking cessation improves the treatment prognosis of diseases while significantly decreasing the risk of complications.

Furthermore, smoking causes cancer and heart diseases for those exposed to passive smoking. Smoking also leaves nicotine and other toxic residues on various surfaces (third-hand smoke), which are especially harmful to children.

Snus is also a tobacco product that causes nicotine addiction. Snus contains substances that are hazardous to health, including nearly 30 carcinogenic substances as well as heavy metals, such as arsenic, chrome and nickel. The hazardous substances contained in snus are absorbed through the oral mucosa and digestive tract into the circulation, which distributes them throughout the body.

While snus users are not exposed to tobacco smoke and carbon monoxide, snus does have other, undeniable and serious health risks, such as an elevated risk of coronary heart disease, myocardial infarction and cardiac insufficiency. Moreover, snus users have been especially diagnosed with oral, nasal and pharyngeal cancers.

According to the Framework Convention on Tobacco Control of the World Health Organisation (WHO), cigarettes and some other products containing tobacco are highly engineered so as to create and maintain dependence. Many of the compounds they contain and the smoke they produce are pharmacologically active, toxic, mutagenic and carcinogenic. (WHO Framework Convention on Tobacco Control, Finnish Treaty Series 27/2005) The European Union's Tobacco Products Directive (2014/40/EU) also states that tobacco products are not ordinary commodities.

Globally, around seven million people die from diseases caused by smoking every year. The National Institute for Health and Welfare (THL) puts the equivalent figure for Finland at 4,300 to 4,500 annual deaths.

Mortality rates are just the tip of the iceberg, as they do not portray the significantly higher incidence of several diseases among smokers when compared with the rest of the population. Moreover, smoking increases the risk of disease and aggravates already diagnosed diseases.

Smokers die an average of ten years earlier than non-smokers, while about 10% of all deaths are caused by smoking. A study published by the National Institute for Health and Welfare estimates that, in 2012, smoking caused about 8.5% of all the deaths and about 13% of deaths among people aged 35 to 84. When analysing the working-age population, it is estimated that smoking caused 1,450 deaths in 2012, which is proportionately equivalent to about 17% of deaths among those aged 35 to 64. Furthermore, smoking is estimated to have resulted in more than 700 new disability pension periods and around 340,000 inpatient days.

Smoking also imposes significant economic burdens on society. The National Institute for Health and Welfare has estimated the direct and indirect costs caused by smoking. Direct costs refer to the actual costs caused by the use of tobacco products, such as healthcare costs. Indirect costs are imputed costs arising from the use of tobacco products, such as labour input lost due to sickness absences. In addition, the National Institute for Health and Welfare has estimated income transfers attributable to smoking with regard to sickness allowances and survivors' and disability pensions.

It is estimated that the direct costs of smoking amounted to around EUR 290–294 million in 2012. Furthermore, income transfers attributable to smoking stood at EUR 327 million. The total direct economic burdens totalled about EUR 617–621 million, while indirect costs amounted to around EUR 840–930 million.

In total, smoking-related costs stood at around EUR 1.5 billion in 2012. Correspondingly, revenue from tobacco tax for the same year amounted to EUR 752 million.

## Use of nicotine products among adults

**Prevalence of smoking.** In 2017, 13% of adults aged 20 to 64 smoked daily; the figures for men and women stood at 15% and 12%, respectively. Smoking rates are higher among the working-age population (aged 20 to 64) than among the retired population (aged 65 to 84). The prevalence of smoking has declined among both groups over the last few decades, but the drop has been sharper among the working-age population. The change has been lowest among retired women, but smoking prevalence in this group was at a low level to begin with.

**Smoking during pregnancy.** The prevalence of smoking during early pregnancy has decreased in all other Nordic countries except for Finland, where 14% of all women giving birth in 2016 smoked during pregnancy. This figure has remained nearly unchanged since the mid-1990s.

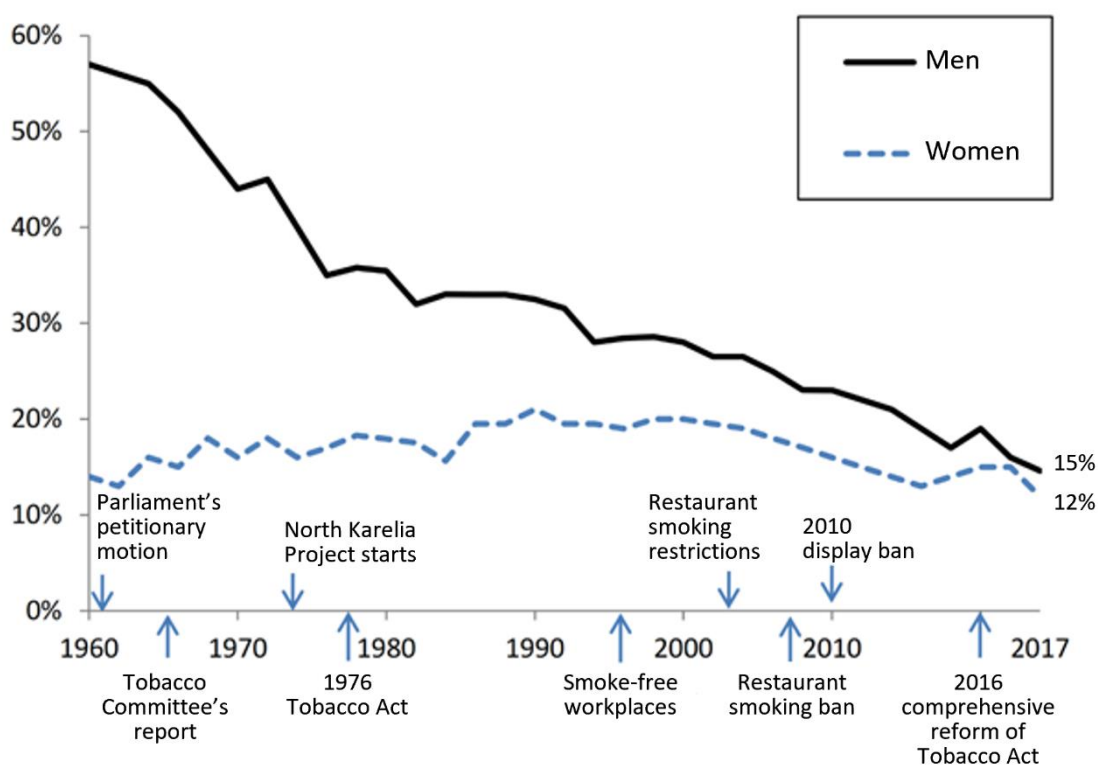
While the number of pregnant women who quit smoking during pregnancy has also increased in Finland, the proportion of smokers at the end of pregnancy (8.2%) is still the highest among the Nordic countries.

**People recovering from mental health problems.** Smoking is considerably more prevalent among people with psychiatric problems when compared with the rest of the population. Smokers account for 38–64% of people with schizophrenia. Smoking is also common among people with affective disorders and especially among those with substance abuse problems.

**Socio-economic disparities.** Smoking is the most significant cause of health disparities between population groups, and the differences are directly related to the prevalence of smoking among these groups. Smoking accounts for 25% and 13% of socio-economic differences in mortality among men and women, respectively.

Among the working-age population, smoking is most prevalent in groups with a lower level of educational attainment. Although the socio-economic disparities of smoking are significant, they have no longer increased in recent years. In 2017, 16% of people with the lowest level of educational attainment and 11% of those with medium level of educational attainment were smokers, while the figure for those with the highest level of educational attainment stood at only 5%.

**Figure. Daily smoking among the working-age population and some key tobacco policy actions in 1960–2017.** (National Institute for Health and Welfare, 2018)



**Snus.** According to the adult health, wellbeing and services survey conducted by the National Institute for Health and Welfare, snus was used daily by 3% and occasionally by 3.6% of men aged 20 to 74 in 2016. Among women in the same age group, snus was used daily by 0.4% and occasionally by 1%.

**Water pipe.** Use of water pipe was rare in 2016: 1.4% of men and 0.4% of women used it daily or occasionally. However, the use of water pipe is common in certain population groups.

**Electronic cigarettes.** Use of electronic cigarettes is very rare among the adult population. In 2016, 1.4% of those aged 20 to 74 used electronic cigarettes on a daily basis.

### Use of nicotine products among young people

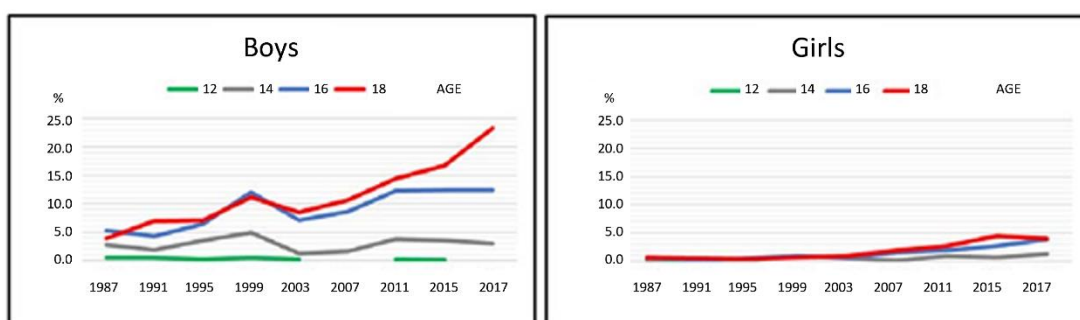
**Smoking.** According to the Adolescent Health and Lifestyle Survey, smoking cigarettes and experimentation with smoking have decreased from the turn of the millennium. Likewise, the age of experimenting with smoking and taking up regular smoking has continued to rise. In 2017, cigarettes were smoked daily by 7% of girls and boys aged 14 to 18. The prevalence has decreased sharply from 2015 to 2017.

Regardless of this positive trend, there are differences in young people's smoking prevalence between educational groups. According to the School Health Promotion Survey of the National Institute for Health and Welfare, 23% of first- and second-year students at vocational institutions smoked daily in 2017, whereas the figure for first- and second-year students at general upper secondary schools stood at 3%.

**Snus.** The Adolescent Health and Lifestyle Survey indicates that, despite the sales ban, the use of and experimentation with snus increased among 14–18-year-olds up until 2015. During the two subsequent years, however, the trend only prevailed among 18-year-old boys, 23% of whom use snus daily or occasionally. Use of snus has also become more common among girls since 2007. In 2017, 3% of 14–18-year-old girls used snus daily or occasionally.

There are also differences in the use of snus between educational groups: According to the School Health Promotion Survey, 10% of first- and second-year students at vocational institutions used snus, including just under 17% of boys and 2% of girls. Correspondingly, less than 4% of first- and second-year students at general upper secondary schools used snus daily, including 8% of boys and less than 1% of girls.

**Figure. Proportions (%) of 12–18-year-olds using snus daily or occasionally in 1981–2017 by age and gender.** Adolescent Health and Lifestyle Survey 2017.



**Electronic cigarettes.** Young people are familiar with electronic cigarettes: only about one in six 12-year-olds cannot identify electronic cigarettes, while almost everyone in older age groups knows the product.

According to the Adolescent Health and Lifestyle Survey 2017, only a few per cent of young people used electronic cigarettes regularly, while daily users were more or less isolated individuals. The number of daily users was highest (1.7%) among 18-year-old boys.

**Water pipe.** Regular water pipe use is very rare among young people. Only 1% of 16- and 18-year-old girls had smoked a water pipe more than 20 times, while the corresponding figure for 18-year-old boys was 3%.

## 2 Roadmap to a Finland free from tobacco smoke and nicotine

In order to achieve the objective of the Tobacco Act, the systematic and determined actions carried out to date must be continued and developed and new actions must be introduced. The objective calls for implementing the proposals put forward by the working group on tobacco and nicotine policy development immediately at the beginning of the next government term. The working group proposes that a clear policy for implementing the proposals put forward in this report be outlined in the next Government Programme. This report also includes certain specific issues, which the working group proposes to be clarified separately.

The actions put forward in this report create the preconditions to end the use of tobacco and other nicotine products. Nevertheless, in order to achieve the objective of the Tobacco Act, further actions should be carried out every few years. The working group proposes that each Government until 2030 investigate and assess the realisation of the objective of the Tobacco Act and propose necessary further actions. In the working group's opinion, the implementation of such new proposals should always be included in the subsequent Government Programme.

Adopted in 2003, the Framework Convention on Tobacco Control (FCTC) of the World Health Organisation (WHO) has promoted the development of tobacco legislation in all countries. The Convention has been ratified by 181 Parties, including Finland and the European Union. This Convention obliges all Parties to protect the present and future generations from the harmful effects of smoking and environmental tobacco smoke by implementing the Articles of the Convention. Based on respect for human rights, the Convention reinforces everyone's right to a high level of public health protection.

When the Universal Declaration of Human Rights was adopted by the UN General Assembly in 1948, smoking was allowed throughout the world, while the tobacco industry was perceived as business that benefits society. At the time, no-one could imagine that the production and marketing of tobacco might be against human rights. In subsequent years, however, human rights have been extended to also cover the right to a tobacco-free life as a result of the massive health hazards caused by tobacco, the conduct of tobacco companies and the significance of premature deaths.

The human right to enjoy the highest attainable standard of physical and mental health should be promoted both by investing in nicotine addiction treatment for users and by guaranteeing environments completely free from tobacco smoke and nicotine for other people.

Finland has already been one of the pioneering countries in tobacco policy since 1976 when Parliament enacted the Act on Measures to Reduce Tobacco Smoking (693/1976, subsequently renamed as the Tobacco Act by amendment 698/2010). Ever since, tobacco legislation has been consistently developed regardless of fierce opposition from the tobacco industry. Major legislative tobacco policy measures, such as marketing bans on tobacco products and smoke-free workplaces and restaurants, have been embraced by the majority of the population after their implementation. The

measures already implemented have helped decrease smoking in Finland, while its social acceptability has also declined.

As part of the process of enacting the Tobacco Act in the 1970s, the following four key implementation areas were defined: health education, pricing policy, restrictions, and research and monitoring. Regardless of social developments and several amendments made to the Tobacco Act, the foundation of tobacco policy has remained similar to the original. At present, a new priority is the role of healthcare in providing cessation therapy services. In addition to the provisions laid down in the Tobacco Act, another crucial element of tobacco policy is tobacco tax, which is governed by the Act on Excise Duty on Tobacco (1470/1994).

The perspective of tobacco policy has changed over the course of 40 years. In the 1970s, the aim was to reduce smoking in order to prevent health risks and adverse health effects. The premise was that cigarettes were dangerous to smokers themselves, exposing them to diseases such as cancer. In the 1980s, people started to pay more attention to environmental tobacco smoke, as research findings confirmed that it was hazardous as well. In recent years, concerns have been raised by new ways of using nicotine, such as electronic cigarettes and other nicotine delivery products. This has introduced the need to put a complete end to the use of tobacco products – i.e. an ‘endgame’ approach – into public debate in a new way.

Finland was the first country in the world to enshrine the objective of ending the use of tobacco products in its Tobacco Act in 2010. In 2016, this objective was further specified to also include ending the use of other nicotine products, which is unique in international terms. The objective of Finnish tobacco and nicotine product policy will not be achieved through a ‘harm reduction’ approach endorsed by some countries, which aims to reduce the consumption of cigarettes by substituting these with other nicotine products.

Systematic research and monitoring have enabled the continuous development of tobacco legislation and policy. The Tobacco Act has already been amended several times since the 1970s, keeping Finland in the front line of international tobacco policy, regardless of the fact that several countries have gone further or made faster progress in areas such as protection from tobacco smoke and details relating to restrictions on marketing of tobacco products.

In international comparative studies, Finland's record is poorest with regard to smoke-free environments, since separate smoking areas are still allowed. The WHO Framework Convention on Tobacco Control emphasises completely smoke-free spaces, since even with the best possible ventilation, smoking areas expose people to indoor tobacco smoke.

Finland has experienced a tremendous, positive social and societal change in the prevalence of and attitudes towards smoking: nowadays, tobacco products are no longer regarded as normal everyday consumer goods.

In 1978–1982, 26% of the adult population smoked daily, while this proportion had halved in 2017. The decrease in smoking is already reflected in the number of cancers and cardiovascular diseases caused by smoking, among other things. The change brought about in Finland is based on determined and comprehensive tobacco policy, which has led to positive developments through the combined effects of several evidence-based measures.

Finnish tobacco tax policy has progressed positively in recent years. Tobacco tax does not only aim to generate tax receipts for the state, but also to promote the health policy objective of the Tobacco Act, i.e. ending the use of tobacco and nicotine-containing products.

Despite tax increases, the price of cigarettes in Finland is not very high from a Western viewpoint. In the European Union, the price of a pack of 20 cigarettes varies from EUR 2.52 in Bulgaria to EUR 9.68 in Ireland. The tax rate of cigarettes is highest in Ireland, the United Kingdom and France.

Tobacco tax plays a role in terms of the distribution of income between population groups. People on low incomes smoke the most and, this being the case, pay the most in tobacco taxes. If tobacco tax is increased, this will affect those on the lowest incomes for two reasons: their income is lower and they smoke more. Assuming that low-income earners give up smoking, an increase in tobacco tax therefore means that their consumption taxes will decrease more in relative terms when adjusted to a low income level. As a result, a tobacco tax increase reduces health differences more and more effectively while also contributing to preventing young people from taking up smoking.

Achieving the objective of the Tobacco Act calls for an annual reduction in smoking by 6% among women and by 8% among men. It also requires that the reduction in smoking is not compensated with the use of other nicotine delivery methods. This could mean that, moving forward, tobacco tax may increasingly focus on tobacco substitutes or new nicotine products, which do not necessarily contain tobacco.

In the working group's opinion, it is important to monitor the consumption and use of tobacco and other nicotine products at an annual level and to assess the implementation of the Tobacco Act and its objective. Regular and continuous monitoring should be used as a basis to make proposals for the necessary legislative amendments and any other action that may be required at least once every government term.

Each Government Programme should include regular and moderate tobacco tax increases carried out twice a year, for example, also taking account of increases in the level of earnings. In the future, tobacco tax should also be extended to cover other non-pharmacological nicotine products that are used as substitutes for tobacco.

These proposals for action aim to promote and support the Tobacco Act objective of ending the use of tobacco and other nicotine products by 2030. In this scenario, less than 5% of the adult population would use these products on a daily basis.



### 3 International examples

There are sound, evidence-based means to reduce smoking, on which there is a substantial consensus among experts. The most efficient means is pricing, which is regulated through taxation. Other effective means include protection from exposure to tobacco smoke, smoking cessation support, warning about the harmful effects of smoking, and advertising and marketing bans.

In addition to Finland, a similar objective of freedom from tobacco smoke – i.e. an endgame goal of putting an end to the use of tobacco products – has been adopted by Sweden, Norway, Denmark, Scotland, Ireland, Australia, New Zealand, Canada, etc. Finland differs from other countries in that our goal also applies to other nicotine products as well as tobacco products. The extent and implementation of the goal also varies between countries, while many countries have set it in unofficial action plans.

In various countries, the actions to reach the endgame goal put forward in action plans mainly focus on well-known measures to decrease the prevalence of tobacco use and on enhancing their implementation.

#### Different approaches to developing tobacco policy and achieving the endgame goal

**Sales ban based on birth cohort.** This means a ban on the sale of tobacco products to people born after a certain year, referred to as a 'tobacco-free generation'. Used in Singapore. New Zealand is also planning to introduce this ban.

**Raising the minimum purchase age to 20 or 21 years.** In the United States, California, New Jersey, Oregon, Hawaii and Maine have raised the minimum age for purchasing tobacco products to 21 years. The same age limit is used in about 300 cities, including New York, Chicago, San Antonio, Boston, Cleveland and Kansas City.

**Limiting access.** Retail outlets have been restricted in the vicinity of locations such as schools. Several cities in California, Colorado, Illinois, New York and Wisconsin prohibit the retail sales of tobacco within about 150 or 300 metres from schools. In Philadelphia, it is not allowed to establish new tobacco points of sale within a 300-metre radius of a school. Some retail chains have voluntarily stopped selling tobacco products in the United States.

**Standardised tobacco packaging.** Adopted in Australia, France, the UK, Norway (also applies to snus), Ireland, New Zealand and Hungary (applicable to new brands since 2016 and to all products as of 20 May 2019); will enter into force in Slovenia in 2020.

**Reducing nicotine content in tobacco products** is part of official tobacco policy in the United States. While reducing the nicotine content of tobacco products may abate addiction, it may also give consumers a misconception about their less adverse health effects.

**Increasing the pH value of cigarettes.** Increasing the pH value of cigarettes would make it more unpleasant and difficult to inhale smoke. While experts have discussed this action, it has not been adopted anywhere.

**Prohibiting the use of additives (incl. sugar and preservatives).** Brazil has prohibited the use of all additives in tobacco products. The EU Tobacco Products Directive regulates the additives allowed in cigarettes, but Member States may specify wider national restrictions on the use of additives.

**Using alternative nicotine delivery systems and methods.** In England, people are officially encouraged to switch to using electronic cigarettes. A research group in New Zealand has proposed that these products be harnessed to achieving the endgame goal. Political decision-makers in Sweden are advocating snus.

**Prohibiting filters,** since some of the tar and toxins in tobacco smoke remain in the filter and end up in the environment in cigarette butts thrown on the ground. This action has been widely discussed at international meetings, but it has not been adopted by any country. The prohibition has been justified on environmental grounds and from the perspective of reducing the appeal of smoking.

**A government monopoly for tobacco product sales and a licence system.** Enacted in Hungary in 2012. The number of granted licences was set in proportion to the number of inhabitants, while licences were only granted to kiosk-like tobacco shops (National Tobacco Shops). Tobacco purchases by minors halved within a year as a result of this law.

**Extending the advertising ban to entertainment media.** In Turkey, it is prohibited to depict tobacco products on television, in films and in music videos. In Russia, it is prohibited to depict tobacco products and smoking in audiovisual material intended for children. In Spain, it is prohibited to show a smoking person ("presenter, partner or guest") on television or other media. In China, a certain type of tobacco imagery is prohibited by a directive. India has prohibited the depiction and product placement of tobacco brands. If tobacco is depicted on television or in films, 100 seconds of anti-smoking messages and health warnings concerning the adverse effects of tobacco will be displayed during the film or on the TV screen.

**Smoke-free outdoor areas.** Several countries have prohibited or made it possible to impose local prohibitions on smoking in places such as outdoor areas of restaurants and bars, beaches, parks, pedestrian zones, public transport stops, sports areas and playgrounds. Such prohibitions are already in place in the United States, Canada, Australia, Norway, Iceland, Estonia and Russia, for example. The US States of Hawaii and Washington have prohibited smoking at a certain distance in the proximity of building doors, while Washington's prohibition also applies to windows and air intake valves. Norway and Iceland have prohibited smoking in the proximity of entrances to health centres and other buildings used by healthcare and social services. Sweden is planning to extend smoking bans to cover outdoor areas.

**Minimum pricing of tobacco products.** Minimum prices for tobacco products are used in several states in the United States. There is only limited research evidence on the effects.

**Reducing the quantities of passenger imports.** Tobacco: Estonia has adopted lower maximum quantities for cigarettes imported free of duty from outside the

European Union as follows: 40 cigarettes – maximum of 200 cigarettes for air passengers – or 100 cigarillos or 50 cigars, or 50 grams of other smoking tobacco. In addition to Estonia, other EU countries applying lower maximum quantities include Bulgaria, Greece, Latvia, Lithuania, Poland, Slovakia, Hungary and Romania.

Snus: The maximum allowed quantity of imports to Estonia from other EU countries is ten packs of no more than 50 grams. Iceland has completely prohibited the import of snus. In Norway, the duty-free import quota for snus is 250 grams, and the same applies in Russia.

**Specific levies for the tobacco industry.** A specific corporate tax was collected from tobacco companies in Canada in 1994–2016. In the United States, the Food and Drug Administration (FDA) has been authorised to collect Tobacco User Fees from tobacco manufacturers and importers since 2009. The Tobacco User Fee is based on the market shares of the companies. A tobacco industry tax and a specific environmental tax were proposed in Ireland, but the matter has not progressed. A specific tax for tobacco manufacturers and importers was also discussed in the UK, but no proposals were made. A cigarette pack waste charge is in place in San Francisco.

**Smoking cessation support.** Combining pharmacological treatment of tobacco dependence with cessation counselling is cost-effective. Other cost-effective means to stop smoking are free helplines and cessation support provided by pharmacies. These are widely used in many countries.

**Reimbursability and availability of cessation medicines and nicotine replacement therapies.** Prescription-only medicines used to treat tobacco dependence are exempt from value-added tax (VAT at 0%) in the UK. Non-prescription cessation medicines are subject to a reduced VAT rate at 5%.

**Campaigns on mass media or social media.** Campaigns have been found to reduce the prevalence of smoking by increasing cessation rates and cessation attempts and curtailing the initiation of smoking. In India, the tobacco industry is obliged to cover such campaign expenses. In Turkey, television channels are obliged to offer free broadcasting time. Long-term financial commitments have been made in Australia. In Switzerland, 2.6 cents from each cigarette pack sold are channelled into a government-administered fund, which finances efforts to prevent smoking initiation and support smoking cessation. In Vietnam, tobacco companies are obliged to pay a mandatory contribution to a fund operating under the Ministry of Health.

## 4 Proposed actions with justifications

### 4.1 Taxation

#### Proposals by the working group:

1. **The excise duty on tobacco products should be raised over the forthcoming government terms at least at the same rate as during the 2016–2019 term, taking into account any developments in purchasing power and the risk of a black economy.**
2. **The current structure of tobacco tax, based on three elements, should be retained.**
3. **The possibilities of imposing taxes on non-tobacco nicotine products under the Tobacco Act should be studied, along with the appropriate level of taxation for such products.**

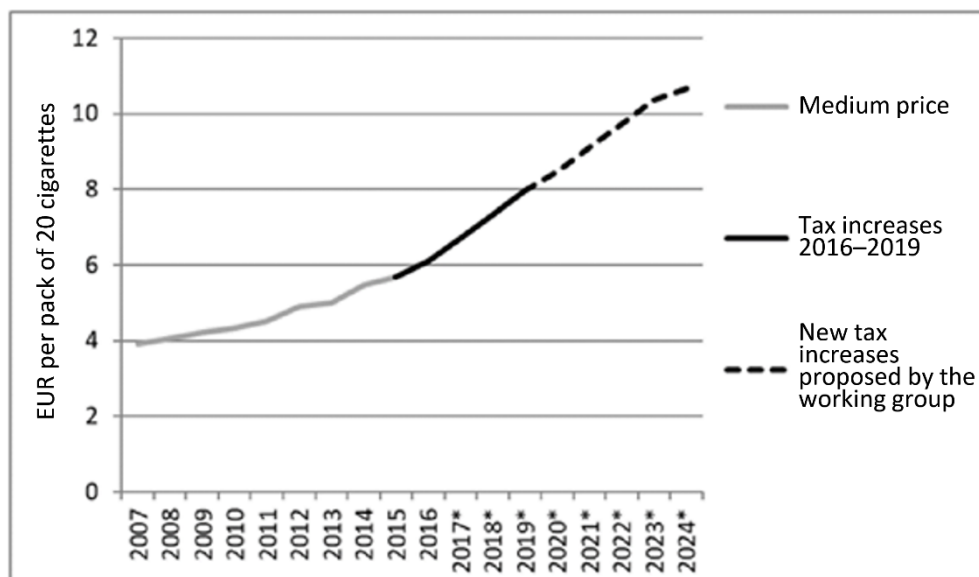
One of the most effective means to reduce smoking at the population level is to influence the pricing of tobacco products through taxation. Since 2009, tobacco tax has been raised almost every year. During the 2016–2019 government term, the tobacco tax has been and will be increased every six months. The purpose of imposing gradual rather than large lump-sum increases is to reduce the risk of negative and unexpected impacts on the market and to make it easier to monitor the effects of the increases.

The tobacco tax has worked in line with its objectives: prices have significantly increased in different product and price groups, as expected, while the taxable consumption of tobacco products has declined. At the same time, undesirable impacts on the market have been avoided and there are no signs of growth in unrecorded consumption (except for snus). On the whole, the price of a mid-priced pack of cigarettes is estimated to increase by EUR 2.50, or about 45%, as a result of tax increases carried out in 2016–2019.

Following the implementation of the tobacco tax increases during the current government term, the medium price of a cigarette pack in 2020 is estimated to stand at about EUR 8.20, of which the tax accounts for around EUR 5.60. In other words, the tax increases carried out over the current government term will have raised the amount of tobacco tax on a mid-priced pack of cigarettes by about EUR 1.90. The tobacco tax increase proposed by the working group, resulting in a price increase to the tune of EUR 2.50, would be more or less at the same level.

**Figure. Illustration of the actual and projected prices of a pack of mid-priced cigarettes.**

The tax increase calculated here for the upcoming government term is equal to the increases made during the current term (EUR 2.50), as proposed by the working group. The increase is phased.



In euro terms, the tax increases carried out in the 2016–2019 term represent higher annual tax increases on the medium price of cigarettes when compared with previous increases. Regardless of the above-mentioned increases, at the beginning of July 2016, the medium price of a pack of cigarettes was already at a significantly higher level in countries such as Ireland at EUR 9.68, the UK at EUR 9.42, Iceland at EUR 8.35<sup>1</sup> and Norway at EUR 11.07 when compared with Finland<sup>1</sup>.

The working group considers that the tax increases already implemented have been successful and proposes that the increases be also continued during future government terms. The increases should be set higher than the growth in consumer purchasing power.

According to the objective enshrined in the Act on Excise Duty on Tobacco, the purpose of tobacco tax is to promote the health policy objectives of the Tobacco Act. The objective of the Tobacco Act, in turn, is to end the use of tobacco products and other nicotine-containing products that are toxic to humans and cause addiction.

Due to the successful tobacco policy, including tax policies, the number of daily smokers has steadily declined: today, about 13% of adults smoke daily. If these objectives are achieved, it is therefore necessary to prepare for decreasing tobacco tax receipts in the years to come, regardless of the tax increases. This can, nevertheless, be justified by long-term savings due to the declining prevalence of smoking.

<sup>1</sup>Price of the most popular cigarette brand -10%.

In the working group's view, a special objective of tobacco tax should be to support the prevention of smoking initiation and, consequently, the tobacco-free lifestyle of future generations. At the same time, this means that, in addition to traditional tobacco products, any new tobacco products introduced into the market should also be subjected to tobacco tax. In addition, it would be advisable to look into the possibility to also bring new types of non-tobacco nicotine products under the Tobacco Act into the scope of taxation, as has been done with electronic cigarette liquids. Furthermore, the appropriate level of taxation for such products should be established. As these products are not, at least for the time being, covered by EU-wide harmonised tobacco taxation, their taxation presents more significant supervisory challenges than actual tobacco products, since there is no electronic control system available for them equivalent to the one in place for products subject to harmonised taxation. By way of example, the tax revenue from electronic cigarette liquids has so far stood at a relatively modest level.

The working group considers that the taxation of the above-mentioned new tobacco and nicotine products should be developed with a view to reducing their use and, in particular, preventing smokers from substituting other non-medical nicotine products for cigarettes.

In addition to tax increases, however, it is also necessary to pay attention to the measures aiming to reduce unrecorded consumption and risk of a growing black economy. A decrease in recorded consumption does not necessarily reflect a corresponding reduction in the total consumption of tobacco products if some of the recorded consumption is replaced by contraband tobacco products or snus, for example. In addition to tax revenue losses, this may also be harmful in terms of health objectives due to the lack of product quality and age limit control, among other things. It is also possible that established smuggling channels may be used to supply other prohibited products that are harmful to health.

While the tobacco industry frequently warns that tax increases will boost smuggling, there are currently no signs of this in Finland. However, this is certainly a challenge for Finland, since there are already considerable differences in tobacco product prices between Finland and its adjacent areas.

In any event, the Protocol to Eliminate Illicit Trade in Tobacco Products to the WHO Framework Convention on Tobacco Control will create an effective international mechanism to combat smuggling. The European Union ratified this international protocol in 2016. In this context, the European Commission adopted in December 2017 a new EU-wide tracking and tracing system to ensure that tobacco products are easily traceable with a unique identifier for each product. In addition, each packet must have at least five types of authentication elements, making sure that tobacco products meet specific security requirements.

Provisions on the structure and minimum rates of tobacco excise duty, which are binding on the Member States, are laid down in the EU Tobacco Excise Directive (2011/64/EU). According to the Directive, the excise duty on cigarettes is a mixed tax, which consists of an ad valorem excise duty based on the price of cigarettes and a unit-based specific excise duty, which has been assigned a certain maximum percentage share. Furthermore, the Member States may levy a minimum excise duty on cigarettes at a rate that they are free to specify, as long as the above-mentioned mixture of ad valorem and specific elements is applied to the normal structure of taxation.

In addition to the specific excise duty levied per unit, the Finnish tobacco tax on cigarettes includes a high proportion of ad valorem excise duty (52% of the retail price including taxes), which has made it possible to set a sufficiently high level of relative tax burden on more expensive cigarettes. Due to the high ad valorem excise duty and value added tax, when raising tobacco product prices, tobacco companies will need to raise their prices 3.5 times the tax-free price increase in order to bring in a return equivalent to the tax-free price increase. The third element, i.e. a sufficiently high fixed minimum excise duty, guarantees a minimum price for all cigarettes that is desirable in view of health policy. An equivalent tax structure also applies to roll-your-own tobacco and cigars.

This three-element structure of tobacco tax enables efficient taxation of tobacco products in all price ranges. As an alternative to the current tax structure, it has been proposed to adopt a strongly unit-based tax model, where differently priced cigarettes would be taxed almost equally in euro terms. However, this would mean that the proportion of tobacco tax in the price would decrease as the price increases. At a low proportion of the ad valorem excise duty, tobacco companies would be able to increase prices less to bring in an equal amount of additional returns. The working group considers that the current tax structure is justified in view of health policy and endorses its retention in connection with any future tax increases as well.

Monitoring data on passenger imports indicates that there has been a downward trend in cigarette imports over a long period of time. This can be partly attributed to the import restriction laid down in the Tobacco Act, which only allows the import of 200 cigarettes without warning labels in Finnish and Swedish. Furthermore, it is only allowed to import tobacco products from outside the European Economic Area when the journey has lasted more than 24 hours. However, passenger imports of snus have soared despite the fact that the potential tax consequences involved in smuggling snus are significant.

Since it is illegal to sell snus in Finland, snus cannot be subject to the regular tobacco tax regime. Nevertheless, there is a tobacco tax rate in place for snus (60% of the price) which is applied to illegal import and supply. The taxable price is confirmed by the Finnish Tax Administration.

## 4.2 Preventing young people from taking up smoking

### 4.2.1 Minimum age for nicotine products

#### Proposal by the working group:

- 1. The Tobacco Act should be amended so as to make it illegal to sell, otherwise supply or pass on tobacco products, nicotine-containing liquids and nicotine-containing tobacco substitutes to people under the age of 20<sup>2</sup>. The minimum age for the import and possession of such products should also be raised to 20.**

Raising the age limit for tobacco and other nicotine products aims to strengthen the implementation of Article 16 of the Framework Convention on Tobacco Control. According to the Article, the parties must implement effective means to reduce the supply and availability of tobacco products by preventing their sales to people under the age limit set by national law or to those under the age of 18.

The Finnish Tobacco Act already restricts the availability of tobacco products and nicotine-containing liquids to minors. The minimum age for selling, importing and possessing tobacco products and nicotine-containing liquids is 18. It is also prohibited to supply or pass on these products to people under 18 years of age, and a minor cannot sell these products without constant supervision of a person who has reached full legal age. Shops have voluntarily started to ask for identification from everyone who looks under 30.

Despite the above-mentioned points, 7% of young people under 18 are still smoking on a daily basis. Among 18-year-olds, 14% of boys and 12% of girls smoke daily. In other words, the prevalence of daily smoking among those who have just reached full legal age is almost at the same level as among the adult population as a whole (cf. 15% and 12% of men and women aged 20 to 64, respectively). People tend to start smoking at a young age, i.e. under 18. The figures cited above support, on the one hand, the fact that people start smoking under the legal age and, on the other, that the current age limits for sales have failed to effectively intervene in smoking taken up while being under the legal age.

In international terms, the minimum purchase age for tobacco products is mostly set to 18. However, there have been lively debates on raising the minimum purchase age for tobacco products or restricting purchases based on the year of birth in a number of countries. By way of example, at least five US states have raised the minimum purchase age to 21, while the same limit has also been adopted at a local level in about 300 cities, such as New York and Chicago. New Zealand, in turn, has been planning to prohibit the sale of tobacco products to anyone born in the 2000s. This ban is already in place in Singapore.

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<sup>2</sup>See the working group's proposal in Section 4.8.1.



Finland has also seen similar debates on prohibiting the sale of products under the Tobacco Act to Finns born after the year 2000. However, this proposal is problematic from the perspective of the Finnish Constitution.

Based on research, raising the minimum age beyond 18 is estimated to reduce smoking initiation among people aged 15 to 17 in particular. It is estimated that raising the minimum age to 21 would reduce smoking by 12% more than the existing smoking restrictions, while raising the age limit to 25 would result in a 16% drop.

Age limits for sales are also applied to other products besides tobacco, such as alcohol, gambling and adult entertainment. As a general rule, all age limits require full legal age. From the perspective of public health, however, it has been deemed necessary to set the minimum age for the sale and possession of spirits, for example, to 20 instead of 18 years. Contrary to the Alcohol Act (1102/2017), which aims to reduce the detrimental effects of alcohol, the objective of the Tobacco Act is to end the use of tobacco products and other nicotine-containing products. This is because nicotine-containing products differ from other consumer goods available on the market due to their toxic and addictive properties.

Due to the negative public health impacts of the use of tobacco and other nicotine products and to the fact that, despite the age limit of 18, 7% of those under 18 are still smoking on a daily basis, the working group proposes that the age limit for such products under the Tobacco Act be raised to 20 in keeping with the minimum age set for spirits. As a result, this would harmonise the age limits set out in tobacco and alcohol legislation. The minimum purchase age for nicotine-free products under the Tobacco Act, such as smoking accessories and tobacco substitutes, would remain at 18.

## 4.2.2 Characterising flavours or aromas

### Proposal by the working group:

- 1. The prohibition on characterising flavours or aromas should be extended to apply to all tobacco products.**

The Tobacco Act prohibits any characterising flavours and aromas in cigarettes, roll-your-own tobacco and liquids used in electronic cigarettes. The purpose of the prohibition on characterising flavours and aromas is to reduce the appeal of the products, especially among young people.

With regard to cigarettes and roll-your-own tobacco, the prohibition on characterising flavours and aromas is based on the Tobacco Products Directive. Other tobacco products, such as water pipe tobacco, cigars or any possible new tobacco products, are exempt from the prohibition under the Directive, since young people mainly use cigarettes and roll-your-own tobacco. The prohibition on characterising flavours and aromas in electronic cigarette liquids was laid down at the national level and it applies to both nicotine-containing and nicotine-free liquids.

In the working group's view, it would be consistent with the objective of the Tobacco Act for the prohibition on characterising flavours and aromas to apply to all tobacco products. Any flavour or aroma in a tobacco product tends to increase its appeal,

especially among young people. The prohibition on characterising flavours and aromas reduces the likelihood of young people taking up or switching over to tobacco products that taste or smell better. Consequently, the working group proposes that characterising flavours or aromas be prohibited in all tobacco products.

## 4.2.3 Sports clubs and youth work

### Proposals by the working group:

1. **The Act on the Promotion of Sports and Physical Activity (390/2015) and the Youth Act (1285/2016) should be amended by introducing the commitment to prevent the use of tobacco and nicotine products as one of the requirements for national subsidies. Such activity should also be included in the quality club criteria.**
2. **It is recommended that local governments introduce the commitment to prevent the use of tobacco and other nicotine products as a criterion for granting aid to youth work and sports and physical activity.**
3. **The Ministry of Education and Culture should collect best practices relating to prevention of using tobacco and nicotine products among young people and introduce these as part of the operating culture of youth work and sports and other physical activities.**

In Finland, about half of children and young people are actively involved in sports clubs. However, participation rates decline steeply during adolescence, with the relative proportions at the age of 11 and 15 standing at 58% and 35% of the age group, respectively.

Organised physical activities and sports clubs generally support the health behaviour of their members. They may also be important environments for health promotion and wellbeing. Children and young people participating in sports club activities have good dietary habits, for example, and they are physically more active than their peers who do not participate in club activities. Nevertheless, a sports club may expose children and young people to unfavourable behaviours, such as the use of nicotine products.

Smoking is less common in endurance sports than in team sports, where people also use more snus. The adverse effects of smoking on sports are probably rather well known, whereas those of snus are not that familiar.

Sports club coaches are usually volunteers, who play a crucial role in their clubs. It would therefore be essential to develop and ensure their competences. At the same time, it has been observed that substance use is the least considered area of health promotion in their work.

Role models representing youth culture, sports and exercise are important for children and young people. The messages and images that these idols convey also tend to shape young people's attitudes towards tobacco and nicotine products. The conduct of these idolised stars may also guide young people's own choices. This is precisely why the example that these people set plays a broader role. Youth and sports organisations should act responsibly and conduct a thorough review of their own procedures and guidelines in order to avoid harmful effects.

Many sports organisations are already doing important work in the fight against nicotine products and substance use. It would be advisable to collect and share these good practices as effectively as possible as a part of the basic work of clubs and associations. This cannot be left exclusively to the organisations; instead, the relevant ministries must also support their work.

For the above-mentioned reasons, the working group proposes that the prevention of the use of tobacco and nicotine products be diversely incorporated as part of sports club activities and youth work.

## 4.3 Smoke-free environments

### Proposals by the working group:

1. **Section 73 of the Tobacco Act on the application of smoking bans should be amended so as to cover the smoking and heating of all products under the Tobacco Act and any other use that releases aerosols deteriorating indoor air quality.**
2. **Smoking bans should be extended to include outdoor places and areas that are mainly used by minors, such as playgrounds and EU beaches. Such smoking bans would also apply to the use of oral tobacco.**
3. **Smoking bans should be extended to apply to public transport stops (including taxi ranks).**
4. **Local governments and other public and private parties should be recommended to take their own actions to restrict smoking in outdoor areas where smoking is not prohibited under the Tobacco Act, especially those where minors spend time or where smoking otherwise disturbs people. Such outdoor areas include market squares, among others.**
5. **The Limited Liability Housing Companies Act (1599/2009) should be amended so as to allow housing companies to ban smoking on balconies or indoors in facilities controlled by residents by majority vote.**

According to Article 8 of the WHO Framework Convention on Tobacco Control, the Contracting Parties must ensure protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places. The Guidelines for implementation of the Article require the total elimination of smoking and tobacco smoke in a particular space in order to create a 100% smoke-free environment. There is no safe level of exposure to environmental tobacco smoke and technical measures, such as ventilation, air filters or marked smoking areas, do not protect from it. The level of protection must also be strengthened and expanded, if necessary.

When smoked, heated or otherwise used, products under the Tobacco Act always release smoke, vapour and fine particles harmful to human health into the air. The currently valid Tobacco Act already prohibits the use of most of the products under the Act in premises where smoking is prohibited. However, due to intense product development, certain products under the Tobacco Act can be used in premises where smoking or using products such as electronic cigarettes is currently prohibited. In the working group's view, it is justified to extend the scope of application of the smoking bans laid down in the Tobacco Act to apply to smoking, heating and other uses of such

products that release fine particles into the air, in order to protect human health. The use of other products under the Tobacco Act is also widely covered by smoking bans in place in many other European countries, such as Portugal and Spain.

The smoking bans under the valid Tobacco Act mainly apply to indoor public places. Smoking outdoors is only prohibited with regard to daycare centres and schools, as well as outdoor public events where participants stay in one place. Use of oral tobacco (such as snus) is also prohibited in both outdoor and indoor areas of daycare centres and schools.

One of the main objectives of the Tobacco Act is to protect children and young people from the products under the Tobacco Act and from the adverse effects of their use. Nevertheless, smoking is not prohibited in all outdoor places mainly frequented by children and young people, such as playgrounds and beaches.

Consequently, the working group proposes that the smoking bans laid down in the Tobacco Act be extended to also apply to outdoor places and areas that are mainly used by minors, such as playgrounds and EU beaches. Finland has just under 2,000 public beaches supervised by authorities, and about 300 of these are designated as EU beaches. 'EU beaches' refer to beaches that are used by a large number of swimmers (in practical terms, more than 100 swimmers per day). The working group considers that extending the smoking ban to apply to playgrounds and EU beaches is justified with a view to protecting both minors and other beachgoers from exposure to tobacco smoke. In the working group's view, extending the prohibition to also apply to the use of oral tobacco in the above-mentioned places and areas is also justified in order to protect children.

People are also commonly exposed to tobacco smoke and emissions from other products under the Tobacco Act at public transport stops (such as bus stops, platforms and taxi ranks) where people gather together to wait for or queue to board vehicles. Consequently, the working group proposes that smoking bans be extended to apply to public transport stops and taxi ranks.

The smoking bans applicable to outdoor public areas must always be based on law. Public bodies such as local governments do, however, have the possibility to take voluntary action to protect people from involuntary exposure to emissions from products under the Tobacco Act. Such actions may also be justified by the example they set to children and young people, as well as to improve the protection, tidiness and pleasantness of environments. An example of voluntary action is to restrict the use of products under the Tobacco Act in a certain limited area by only allowing people to smoke in clearly designated smoking areas. Some local governments have already used this possibility to restrict smoking in areas such as beaches and market places.

The working group therefore recommends that public bodies make decisions to restrict smoking, especially in outdoor areas frequented by many minors where smoking is not prohibited under the Tobacco Act.

Exposure to emissions from products under the Tobacco Act is not solely restricted to public places and areas, as it may also affect private residences. Housing companies may mainly prohibit smoking on flat balconies and inside flats in their articles of association. According to case law, an amendment to the articles of association requires the consent of all shareholders of a housing company.

The Tobacco Act that entered into force in 2016 made it possible for various types of housing corporations to apply for smoking bans for residential flats by majority vote. However, both housing corporations and the authorities imposing smoking bans have perceived the ban application process to be burdensome. Furthermore, the ban's power is affected by challenges involved in its enforcement. The Tobacco Act only provided solutions to some problem situations and there are still many residents in housing corporations who are suffering from tobacco smoke issues caused by their neighbours in their own homes. In other words, there is still a significant range of everyday situations where people are involuntarily exposed to tobacco smoke. Smoking on the balcony and smoking situations generally relating to housing would require even more effective actions than those currently available.

Since housing companies may decide to apply for a smoking ban under the Tobacco Act by majority decision, the working group considers that it would be justified for housing companies to be able to ban smoking in areas belonging to residential flats by majority decision.

Consequently, the working group proposes that the Limited Liability Housing Companies Act be amended so as to allow housing companies to ban smoking on balconies or indoors in facilities controlled by residents by majority vote.

## 4.4 Marketing of products under the Tobacco Act

### 4.4.1 Standardised packaging

#### Proposal by the working group:

- 1. The regulation of the properties of tobacco products, nicotine-containing liquids and refill containers and their retail packaging should be amended so as to introduce plain packaging and product regulations.**

The purpose of plain or standardised packaging is to implement Articles 11, 12 and 13 of the WHO Framework Convention on Tobacco Control.

Article 11 of the Framework Convention on Tobacco Control requires the Contracting Parties to implement effective measures to ensure that tobacco product packaging and labelling do not create a false or misleading impression about the characteristics, health effects or hazards of a product. According to the Guidelines for implementation of the Article, the main principle of its implementation is that every person should be informed of the health consequences, addictive nature and mortal threat posed by tobacco consumption and exposure to tobacco smoke. The same communication obligation is addressed in Article 12 of the Framework Convention.

Furthermore, the Parties must consider research evidence and the experiences of other countries when determining new packaging and labelling measures and aim to implement the most effective measures they can achieve.

The implementation guidelines further urge the Parties to consider adopting measures to restrict the use of logos, colours, brand images or promotional information on packaging other than brand names and product names displayed in a standard colour and font style (plain packaging). The implementation guidelines suggest that plain packaging may increase the noticeability and effectiveness of health warnings and prevent other packaging elements from detracting attention from them.

According to Article 13 of the Framework Convention, a comprehensive ban on advertising, promotion and sponsorship would reduce the consumption of tobacco products. As a minimum, and in accordance with its constitution or constitutional principles, each of the Contracting Parties must restrict the use of direct or indirect incentives that encourage the purchase of tobacco products by the public (Article 13, subparagraph 4(c)). The Guidelines for implementation of the Article point out that packaging is an important element of advertising and promotion and that this advertising effect can be eliminated by adopting provisions on plain packaging.

The provisions of the Finnish Tobacco Act concerning retail unit packets are mainly derived from the Tobacco Products Directive. However, the Tobacco Products Directive (2014/40/EU) enables providing for standardisation of packaging at a national level. According to the Directive's Recitals (Preamble paragraphs), tobacco and related products should benefit from the free movement of goods, but the Member States should retain the power to impose further requirements in order to protect public health. This is the case in relation to the presentation and the packaging, including colours, of tobacco products other than health warnings, for which this Directive provides a first set of basic common rules.

Accordingly, Member States could, for example, introduce provisions providing for further standardisation of the packaging of tobacco products, provided that those provisions are compatible with the Treaty on the Functioning of the European Union, with WTO obligations and do not affect the full application of the Directive.

Among the EU Member States, plain packaging is already regulated in France, England and Ireland. Furthermore, similar legislation has been adopted in Hungary, Slovenia and Norway. In international terms, the first country to adopt plain packaging was Australia in 2012. Other countries that have either adopted or are currently drafting plain packaging regulations include New Zealand, Canada and Uruguay.

A great deal of research has recently been conducted on plain packaging legislation and its impacts, especially in Australia. This research indicates that the appeal of tobacco products has considerably decreased, even as the significance of health warnings on retail packaging has increased. Although smokers are exceptionally brand-loyal, plain packaging seems to weaken consumer attachment to certain brands and, subsequently, promote cessation intentions and attempts as well as reduction in smoking prevalence. Consumer knowledge of the risks caused by the products has also increased. Plain packaging regulations have played a key role in reducing smoking prevalence among young people in Australia: a considerable proportion of young smokers has tried to quit or has at least thought about quitting after retail packaging was standardised.

Furthermore, no difference from the previous levels of availability or use of illicit cigarettes has been observed in Australia. In order to prevent illicit trade within the European Union, as of 20 May 2019, unit packets of cigarettes and roll-your-own tobacco must be marked with a unique identifier and security features and their

movements must be recorded so that such products can be tracked and traced throughout the Union. With regard to other tobacco products, these regulations will enter into force on 20 May 2024. The regulations aim to prevent the placing on the market of illicit tobacco products, including those illegally imported into the Union.

Laying down provisions on standardised packaging does not exclude the above-mentioned markings to prevent smuggling and illicit trade, which will remain as part of product packaging. Finland also requires that the information on product retail prices, as specified in section 11 of the Act on Excise Duty on Tobacco, must be included on product packaging for tax control purposes.

As a result of plain packaging regulations, some changes were observed in the products available on the market in Australia. New products, brand extensions and new packaging sizes appeared on the market. One of the most conspicuous changes was the growing number of brand variants available on the market.

Brand names became longer, emphasising new product features, such as changes made to filters, while still retaining the established brand as part of the name. Brand names and extensions play a key role in marketing when distributing information on the product, such as its strength, harmful effects, quality or modernity. Brand extensions and variants aim to keep the brand's existing consumers while enticing new, different target groups to take up the brand.

In international terms, plain packaging regulations apply to tobacco products and their retail packaging. Norway is the first country to extend its regulation to also cover oral tobacco such as snus. This prompted Swedish Match to take legal action against the Norwegian State, arguing that tobacco for oral use could not be compared to smoking tobacco from the perspective of public health, which is why extending plain packaging regulations to cover oral tobacco was an excessive measure relative to the objective. So far, the Norwegian State has won all the court proceedings concerning the case.

Advertising and other promotion of tobacco products have already been prohibited in Finland since 1978. The display ban on tobacco products, one of the most significant new measures to restrict marketing, entered into force in 2010. As part of the comprehensive Tobacco Act reform in 2016, the prohibitions on marketing (including the display ban) were extended to also apply to products such as electronic cigarettes and the liquids used in these. As a result, the primary marketing tools still remaining for products under the Tobacco Act include the products themselves, their components and unit packets.

The objective of the Finnish Tobacco Act is to end the use of tobacco products and other nicotine-containing products. Laying down provisions on plain packaging is one of the measures that make it possible to achieve this objective. There is clear scientific evidence that plain packaging reinforces the effect of health warnings while also encouraging smokers to give up smoking and bolstering young people's willingness to stay smoke-free.

The objective of the Tobacco Act to end the use of tobacco products and other nicotine-containing products is based on protection of public health. Indeed, from the perspectives of public health and the objective of the Tobacco Act, it is of the utmost importance that plain packaging regulations do not only apply to all tobacco products but also to other nicotine-containing products under the Tobacco Act. Treating nicotine-containing products under the Tobacco Act as equally as possible is a sustainable

solution from the public health perspective. This will also reduce the likelihood of product users switching over to some other nicotine product that looks more appealing. Finland would be the first country in the world to extend the scope of plain packaging regulations beyond tobacco products to also apply to products such as nicotine-containing liquids used in electronic cigarettes.

In Finland, it is prohibited to display tobacco products, tobacco substitutes, electronic cigarettes, nicotine-containing liquids and their trademarks in retail sale. The display ban has been one of the most significant measures to prevent the marketing of the above-mentioned products. Nevertheless, tobacco and electronic cigarette products and their retail unit packets are still visible in people's everyday lives through product consumers and as litter on the ground, for example. Indeed, attractive products and unit packets function as the primary marketing tool for these products. An example of this is product development geared towards making cigarette paper or filters more attractive to consumers by changing their features, such as colour. These new product features need to be communicated to consumers, and this is mainly done by means of information provided on retail packaging.

As a general rule, sharing such information on packaging is contrary to the marketing ban included in the Tobacco Act. However, its advantages to the industry appear to outweigh the disadvantages, since such marketing takes place constantly to a certain extent, whereas the supervisory means to tackle it are limited. Consequently, plain packaging and product regulations supplement both the marketing and display ban and reduce the opportunities to mislead consumers by means of products, their components or elements used on retail packaging.

Retail packaging of tobacco products has already been gradually standardised through legislation for the last few decades with a view to protecting public health. By way of example, health warnings have changed from plain text warnings to combined warnings comprised of texts and photographs, while they have gradually expanded to cover 65% of the front and back surfaces of unit packets. Wider standardisation of unit packets as well as products will significantly reduce the opportunities to use the products and/or their unit packets as tools for marketing products that are extremely detrimental from the perspective of public health.

In practical terms, the standardisation of nicotine products under the Tobacco Act and their unit packets means that the appearance and shape of the products, their components and unit packets are harmonised, while also restricting the use of brand features, such as the font or other recognisable elements used in the brand name. Prohibitions and restrictions on marketing, including plain packaging regulations, play a significant role from the perspective of several fundamental rights, such as those enshrined in sections 12, 15 and 19 of the Finnish Constitution.

Commercial communications falls within the scope of application of the provision on freedom of expression, but it has not been regarded as being at the core of this freedom. Commercial communications may be subjected to more comprehensive restrictions than the substantive core of freedom of expression. The Constitutional Law Committee of Parliament has stated that the display ban on products under the Tobacco Act is relevant in terms of freedom of expression, since, together with the advertising ban, it materially limits the opportunities of a business to make use of its trademark as a distinctive mark to differentiate the goods offered for sale or otherwise put into commercial circulation from other goods. However, the Committee has



deemed that there are sufficient public health grounds for the display ban (Constitutional Law Committee statement No. 21/2010).

Regulation of plain products and packaging also restricts the use of trademarks in the products themselves and on their retail unit packets. However, the use of a trademark is, by nature, a negative right preventing others from using the trademark.

The tobacco industry has made extensive use of the legal remedies provided by international law against countries that have adopted plain packaging regulations. However, the industry's claims have not been successful. The restriction on the use of trademarks with regard to nicotine products under the Tobacco Act is justified on the grounds of public health, as its purpose is to protect consumers, especially children and young people, from toxic and addictive products.

On the one hand, plain packaging regulations reduce the opportunities to mislead consumers with the advertising features of products and packets, while, on the other, they increase consumer awareness of the risks arising from the use of such products.

According to section 19 of the Finnish Constitution, public authorities must promote the health of the population. Nicotine products under the Tobacco Act differ from other commodities available on the market due to their toxic and addictive properties.

Because of the health hazards and economic burdens involved, it has been deemed justifiable for public authorities to aim to promote ending the use of these products. This will also contribute to guiding the development of legislation concerning these products. In the working group's view, laying down provisions on plain products and packaging is justified from the perspectives of the Tobacco Act's objective and, in particular, of public health, since less appealing packets will reduce consumers' willingness to buy the products in question.

## 4.4.2 Audiovisual programmes<sup>3</sup>

### Proposals by the working group:

1. **The use of tobacco and other nicotine products should be inserted into section 15 of the Act on Audiovisual Programmes (710/2011) as audiovisual content detrimental to the development of children.**
2. **Finland should submit a proposal to the European Commission for including the use of tobacco and nicotine products in content descriptors indicating the nature of the content when modernising the Audiovisual Media Services Directive in order to protect minors from detrimental programme content.**

Article 13 of the Framework Convention on Tobacco Control focuses on advertising, promotion and sponsorship issues. According to the Article, the Contracting Parties should undertake a comprehensive ban on all cross-border advertising, promotion and

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<sup>3</sup>In this report, 'audiovisual programmes' refer to audiovisual programmes as defined in the Act on Audiovisual Programmes (710/2011).

sponsorship. The Article covers commercial communications in broad terms. Furthermore, the Framework Convention urges the Parties to include all media contents in their restrictions, ranging from the traditional to the more recent forms of media (incl. the internet, mobile phones, films).

As tobacco advertising is being prohibited in an increasing number of countries, the entertainment industry has become a more significant player in terms of influencing young people's decision to take up smoking. Electronic cigarettes have also made their way to popular films and audiovisual programmes to an increasing extent. Tobacco companies have become more interested in marketing their products and smoking in films due to the fact that the worldwide production and distribution of films is concentrated in a couple of major companies. Marketing through films still holds particular appeal because the life cycle of a film (incl. DVD production, television rights, digital and mobile distribution) enables repetition and communication of messages over a long period of time. The internet provides almost everyone with easy access to films.

Even as smoking has become less prevalent in real life, heavy smoking is still common in films. Several studies have shown that smoking in films has a direct link to smoking prevalence among children and young people: the more they see smoking on screen, the more likely they are to take up smoking. The amount of smoking being shown is more relevant than whether it is depicted in a good or bad light. This is what is known as modelling, or social or observational learning. There is European research evidence at least from Germany, Iceland, Italy, the Netherlands, Norway, Poland, England and Scotland.

According to the chief public health officer of the United States, the Surgeon General, prohibiting smoking scenes in films permitted for those under 17 would save up to one million children currently alive in the United States from smoking-related death.

Furthermore, experts estimate that eliminating smoking scenes from material permitted for children would decrease smoking prevalence among young people in the United States by almost 20%. The impact of smoking scenes in films on smoking initiation among young Finns has not been studied, but it is fair to presume that the impacts are similar. Since American films dominate both cinema screenings and television broadcasts around the world, it is not irrelevant how much people smoke in popular American films.

Finland does not prohibit showing tobacco products and smoking in entertainment media, such as films, even though smoking in films functions as an advertising element. Smoking is also widely depicted in more recent media contents and channels, such as streaming services; by way of example, people smoke a lot in 79% of the most popular Netflix series among young people aged 15 to 24.

Various restrictions on smoking shown in films have been proposed in order to prevent the use of tobacco products. The same means can also be applied to other media. The possibility to restrict the visibility of tobacco products in films and other media has been considered in the UK and Ireland, for example. In the United States, many NGOs and public organisations (such as Centers for Diseases Control and Prevention, CDC) have demanded that the recommendations put forward by the World Health Organisation be adopted in order to prevent smoking on screen. The World Health Organisation recommends raising the age limit for films that depict smoking to full legal age, prohibiting the depiction of brands in films, and displaying effective anti-tobacco messages at the beginning of any film that contains smoking. Other proposals include

a clear message that the producers of a film have not received any compensation from a tobacco company for depicting smoking or tobacco products in the film.

The European Commission has drawn up a proposal (COM(2016) 287 final) for a new Directive concerning the provision of audiovisual media services (amending Directive 2010/13/EU), which is currently under consideration in the European Parliament and Council. The revised Directive provides for alignment of the standards of protection of minors for TV broadcasting and on-demand services. There is currently no certainty about the schedule for the progression of the Directive.

Among other things, the Commission proposes that audiovisual media service providers be required to provide sufficient information about content that may impair minors' physical, mental or moral development. This could be done by introducing a system of content descriptors indicating the nature of the content. Content descriptors could be delivered through written, graphical or acoustic means. This would empower viewers, including parents and minors, in making informed decisions about the content of the audiovisual programme to be watched.

In the working group's view, it is important to take the use of tobacco and nicotine products into account in the classification of audiovisual programmes in order to protect children. The classification of audiovisual programmes is based on the definition of audiovisual content detrimental to the development of children, as provided in section 15 of the Act on Audiovisual Programmes. Based on this section, the context and manner in which the programme's events are described must be taken into consideration when assessing the detrimental nature of an audiovisual programme. If an audiovisual programme is detrimental to the development of children, as referred to in section 15, it must be classified with an age limit of 7, 12, 16 or 18, depending on the programme's content, and be given a symbol that describes the content. The working group proposes that the use of tobacco and other nicotine products be inserted into section 15 of the Act on Audiovisual Programmes as content detrimental to the development of children.

## 4.5 Smoking cessation support

### Proposals by the working group:

1. **Health and social services staff throughout the care chain from primary to specialised services should maintain their smoking cessation skills, offer cessation services to all smokers and participate in their patients' smoking cessation processes.**
2. **Healthcare and social welfare services staff should be encouraged to take up the topic of using tobacco and other nicotine products as comprehensively as possible with their clients. This refers at least to asking clients about their use of tobacco and nicotine products, advising them to quit and entering the relevant information in client records.**
3. **Smoking cessation units should be established in every county to function as regional training bodies, provide the region's healthcare and social welfare units with consultation on implementing cessation therapies and offer cessation support using different methods.**

4. **All prescription-only medicines used to treat tobacco and nicotine dependence should be included as medicines reimbursable under National Health Insurance.**
5. **Workplaces should include their smoking cessation programmes in their written action plans for occupational healthcare.**
6. **Smoking cessation support should be included in student welfare plans while ensuring basic professional skills in how to relate to smokers.**
7. **Cessation of tobacco and other nicotine product use among special groups of heavy smokers should be enhanced in primary and specialised services.**
8. **Carbon monoxide testing should be performed on pregnant smokers during their maternity clinic visits.**

An average Finn uses healthcare services three times per year, a smoker even more frequently. Healthcare services and professionals play a key role in reducing the use of tobacco and nicotine products among the population. The role of healthcare staff is based on their professional expertise, knowledge of the health effects of tobacco and nicotine products and recurring opportunities to encourage people to stop using such products.

An updated version of the Current Care Guideline for ending the use of tobacco and nicotine products was completed in May 2018. Cessation should form an integral part of the treatment and care plan of every healthcare and social welfare client who uses tobacco and nicotine products.

The working group considers that health and social services centres should prepare an action plan indicating the approaches in place to end the use of tobacco and nicotine products. In hospitals, doctors and nurses should actively intervene in patients' use of tobacco and nicotine products and encourage them to quit. The population should be provided with specialist cessation services and behavioural expertise.

The most successful way to end the use of tobacco and nicotine products is multidisciplinary cooperation, where every healthcare and social welfare professional knows their own and other people's responsibilities and possibilities at different stages of the integrated care pathway. It is also important to have a functional feedback system in place for the integrated care pathway.

In Finland, smoking prevalence among pregnant women is at a considerably high level when compared with other Nordic countries, for example. Smoking is also very common among people recovering from mental health problems and many other special groups. In the working group's view, healthcare staff should do everything possible to reduce smoking and the use of other nicotine products among these groups.

**Occupational healthcare.** Employers can partner with occupational healthcare services to support smoking cessation by organising peer support groups, supporting the implementation of replacement and cessation therapies, organising competitions relating to cessation/smoke-free lifestyles, and by establishing smoke-free workplaces.

Transition into a smoke-free workplace must be planned carefully in order to avoid unnecessary conflicts and to get the entire personnel on board. While management's commitment and example are crucial success factors in project implementation, the

best results can be achieved when the decision on going smoke-free is made in cooperation between management and personnel.

As a general rule, joint workplace measures are more effective than an individual employee's own cessation attempts, even with support.

Occupational healthcare services play a significant role in reducing smoking, even without any special workplace measures. Occupational health staff can ask patients about their lifestyles during appointments and, if necessary, encourage them to make changes. In the working group's view, systematic entry of these details in patient records helps monitor and assess operational effectiveness.

An employer can compensate an employee's nicotine replacement therapy free of tax, for example, if its written occupational healthcare action plan includes a smoking cessation programme that covers the entire personnel.

**Student welfare services.** In addition to developing vocational competence, the purpose of vocational education and training is to provide capabilities required for continuous maintenance of working and functional capacity. The topic is included in upper secondary vocational qualifications as a compulsory part entitled 'maintenance of working capacity and wellbeing'. As social actors, education and training providers have a significant role in and responsibility for contributing to the wellbeing of their students.

The statutory objective of student welfare services is to create safe and healthy learning and working environments and to promote the wellbeing and community spirit of the school community and learning environments.

Students at vocational institutions smoke and use snus at considerably higher rates than those at general upper secondary schools or other young people in the same age group. In terms of promoting tobacco-free lifestyles, the challenges of vocational institutions include engaging the adults close to students in achieving the goal (including student healthcare, sports clubs, school staff) and offering support for giving up tobacco and nicotine products. A smoke-free lifestyle and health education should be seen as part of maintaining working and functional capacity. In practical terms, students' wellbeing can be supported by means such as the Work Ability Card, which may be included as part of an upper secondary vocational programme. The working group suggests that it can be used to influence students' wellbeing behaviour and to increase their knowledge, skills and motivation to look after their own health and wellbeing during and after their studies.

**Medicines reimbursable under National Health Insurance.** In Finland, nicotine replacement therapy products are by far the most commonly used products for giving up tobacco. There is strong evidence on their efficacy and safety in support of cessation. The purpose of using these products is to alleviate withdrawal symptoms from smoking cessation by replacing the nicotine contained in tobacco products.

In addition to nicotine replacement therapy products, other products used as cessation medicines in Finland include varenicline and bupropion and, in special cases, nortriptyline. The only product reimbursable under National Health Insurance is varenicline used to treat nicotine addiction. In December 2016, its reimbursability was extended to cover two 24-week courses instead of one.

According to the relevant Current Care Guideline, reimbursing cessation therapies to patients increases smoking cessation and the success rate of pharmacological cessation therapy. On average, people who have stopped smoking have tried to quit three to four times before permanent success. In other words, cessation should be regarded as a long process that might take years. This is why it is not justified to limit the reimbursement for prescription-only cessation medicines according to the number of courses. The results of smoking cessation clearly improve with pharmacological cessation therapy when combined with proper guidance.

Accordingly, the working group proposes that all prescription-only medicines used to treat tobacco and nicotine dependence should be included as medicines reimbursable under National Health Insurance.

## 4.6 Communication campaigns

### Proposal by the working group:

- 1. A nationwide communication campaign should be created to encourage cessation of tobacco and nicotine product use and to disseminate supporting information.**

Although health is recognised as a resource for Finland's social and economic development, there has not been any large-scale, years-long, systematically implemented communication campaign. Under the Framework Convention on Tobacco Control (Article 12), Finland is committed to promoting and strengthening, using all available means, public awareness about the health risks including the addictive characteristics of tobacco consumption and exposure to environmental tobacco smoke, the cessation of tobacco use, the benefits of tobacco-free lifestyles, and the activities of the tobacco industry.

Smoking cessation campaigns on mass media or social media have been found to reduce the prevalence of smoking by increasing cessation rates and attempts and curtailing the initiation of smoking. Campaigns that have proved to be effective are based on a solid theoretical foundation, have conducted a target group analysis for planning and implementation purposes and have run their messages repeatedly on various media over a long period of time.

There is some evidence indicating that campaigns targeted at adults also reduce smoking initiation among young people. With regard to young people, there is also a fair amount of evidence suggesting that campaigns concentrating on de-normalising the tobacco industry reduce smoking prevalence, but the evidence is weaker with regard to young adults and adults.

Although Finns have been informed of the health risks of tobacco use with occasional campaigns since the 1960s, they cannot grasp the real health risks and nicotine addiction as a whole. Regardless of the basic knowledge learnt at school, the population's health knowledge is often based on views conveyed by the media, which may even be contradictory. New nicotine products and snus are aggressively marketed as less harmful, although there is existing evidence on their health risks.

Modern communication tools, such as social media, make it possible for contradictory information to spread with increasing ease. Amidst this thicket of messages, even parents and other guardians of children and young people are often powerless in their own parenting duties. While several studies indicate that people know that the use of tobacco products is somewhat hazardous to health, they cannot grasp the real picture due to strong nicotine addiction, information overload and tobacco industry lobbying efforts.

In particular, young people lack sufficient experience and maturity to assess the risks of tobacco use and the real magnitude of the health hazards involved. Since the majority of new smokers are children and young people, each generation must be educated anew to stay tobacco-free.

In the working group's view, adequate resources should be allocated to a nationwide communication campaign in order to ensure the effectiveness of multi-channel communications. It is also advisable to appoint an expert group in smoking reduction efforts and a responsible party to plan and coordinate campaigns and to monitor and report on their implementation. The implementation and impact of such campaigns should be assessed on a regular basis.

## 4.7 Restrictions on passenger imports

### Proposals by the working group:

1. **Duty-free imports of cigarettes and other tobacco products from outside the EU should be restricted from 200 to 40 cigarettes, from 50 to 10 cigars, from 100 to 20 cigarillos and from 250 grams to 50 grams of smoking tobacco.**
2. **The maximum daily quantities of passenger imports of snus, chewing tobacco and nasal tobacco should be lowered from 1,000 grams to 100 grams.**
3. **Aggravated forms of smuggling and unlawful dealing in imported goods should be included in the Criminal Code of Finland (39/1889).**

According to Directive 2007/74/EC on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries, it is possible to restrict the quantities of passenger imports in order to promote a high level of health protection for Community citizens. Article 8 of the Directive allows lowering the quantity of duty-free cigarette imports from the current 200 cigarettes to 40 cigarettes. The quantities of other products may be cut down from the current 100 cigarillos to 20 cigarillos, from 50 to 10 cigars, and from 250 g to 50 g of smoking tobacco.

The working group proposes that the duty-free quantities of tobacco products imported from outside the EU be lowered to the minimum quantities allowed by the Directive. Since the Åland Islands are regarded as an area outside the EU for value added tax and excise duty purposes, this proposal also has some impact on passengers' duty-free import rights between the Åland Islands and the rest of Finland and on the rights of vessels operating via the Åland Islands to sell the above-mentioned tobacco products to passengers free of duty. In the working group's view, lowering the maximum quantities of imports is justified, since the possibility to sell duty-free tobacco

products is highly exceptional, considering their toxic and hazardous nature as consumer products.

Under existing EU law, it is prohibited to commercially import, sell or otherwise supply oral tobacco, i.e. snus, throughout the European Union, with the exception of Sweden and its territorial waters. Sweden obtained a derogation for selling snus products when it joined the European Union. At the time, however, Sweden was obliged to ensure that snus would not be placed on the market in other Member States. Sweden has neglected this obligation, as Swedish snus is widely marketed and sold to other EU countries, especially those neighbouring on Sweden.

The Finnish Tobacco Act prohibits the sale and import of snus, chewing tobacco and nasal tobacco. The import ban also applies to the acquisition and receipt of these products by mail or other comparable means from countries outside Finland. However, the Tobacco Act includes a derogation from the import ban concerning passenger imports, allowing individuals to import a maximum of 1,000 grams of snus, chewing tobacco and nasal tobacco within a calendar day for personal use.

Prohibitions on passenger imports of snus vary by country. Since January 2018, the maximum allowed quantity of imports to Estonia from other EU countries has been ten packs of no more than 50 grams. Denmark raised the maximum allowed quantity from 1,500 to 2,250 grams including packaging (750 g of raw tobacco) in October 2017. Iceland has completely prohibited the import of snus. In Norway, the duty-free import quota for snus is 250 grams, and the same applies in Russia.

Despite the strict regulation of the import of smoke-free tobacco products, the use of snus is constantly increasing in Finland. To date, the use of snus has been more common among (young) men in particular. In 2016, 3% of Finnish men aged 20 to 74 used snus on a daily basis. Among women, the use of snus is almost non-existent in Finland.

In 2017, the daily use of snus was rare among girls, standing at 1% among girls in grades 8 and 9 of basic education, less than 1% among female first- and second-year students in general upper secondary education, and 2% among female first- and second-year students at vocational institutions. Conversely, boys used snus on a daily basis much more frequently. Among boys in basic and general upper secondary education, 8% used snus daily, while the figure for vocational institutions was 17%. The proportion of boys using snus daily has especially increased at vocational institutions when compared with 2010, when the figure was under 5%.

The growing popularity of snus is also reflected in passenger import statistics, which have tracked snus imports since 2009. The most significant change in passenger imports of snus over the entire monitoring period occurred between 2016 and 2017, when snus imports increased by 61%. Although the currently valid Tobacco Act only allows limited passenger imports of snus for private use, the latest statistics indicate that 22% of travellers reported that they imported snus for use by someone else, while another 11% reported that they imported snus both for personal use and on behalf of someone else. According to passenger import statistics, the average quantity of snus imported in one go was 675 grams. The quantities of snus imported varied greatly, ranging from a few dozens of grams to several kilos.

In the working group's view, putting an end to the continuous growth in snus consumption calls for stronger measures. Consequently, the working group proposes



that the maximum daily quantities of passenger imports of snus, chewing tobacco and nasal tobacco be lowered from 1,000 grams to 100 grams. In order to ensure the effectiveness of this action in practical terms, it is also necessary to pay attention to sanctions imposed for violating passenger import restrictions. In the working group's view, aggravated forms of smuggling and unlawful dealing in imported goods should be included in the Criminal Code of Finland, so as to ensure effective import restrictions of smokeless tobacco products (nasal tobacco, chewing tobacco and tobacco for oral use). Inclusion of aggravated forms of these offences would emphasise the reprehensible nature of such acts while also strengthening the means available to public authorities to control illicit import and trade of the above-mentioned products.

## 4.8 Regulation of new products

### 4.8.1 Nicotine-containing products

#### Proposals by the working group:

1. **The concept of 'nicotine-containing tobacco substitutes' should be added to the Tobacco Act.**
2. **The regulations applicable to nicotine-containing tobacco substitutes should be brought in line with those applied to tobacco products and nicotine-containing liquids.**
3. **A study on how to take all nicotine-containing products more effectively into account in (tobacco) legislation should be conducted during the next government term.**
4. **The Medicines Act (395/1987) should be amended by giving the public authorities more discretion concerning the distribution channels of nicotine-containing self-care medicines in cases where a product is clearly designed to maintain nicotine dependence instead of helping with smoking cessation.**

The Tobacco Act's scope of application covers a wide variety of products that may contain tobacco or nicotine and/or that resemble tobacco products in terms of intended use or appearance. As a general rule, product regulations are most stringent for products containing parts of tobacco plants or nicotine. Accordingly, the objective laid down for the Tobacco Act is "to end the use of tobacco products and other nicotine-containing products that are toxic to humans and cause addiction" (Tobacco Act, section 1).

New products that resemble tobacco products in terms of intended use and contain nicotine but no parts of tobacco plants are constantly entering the market. Such products include nicotine-containing snus-like pouches, nicotine gels used in water pipes or nicotine salt intended for vaporisation by means of an electronic cigarette or some other equivalent device.

As a general rule, the existing nicotine-containing tobacco substitutes already meet the definition of a tobacco substitute under the Tobacco Act. A 'tobacco substitute' means a product which corresponds to tobacco in its intended use but does not contain tobacco. Tobacco substitutes include herbal products for smoking (herbal cigarettes,

certain herbal mixtures used in water pipes), so-called kick-up snus and nicotine-free liquids used in electronic cigarettes.

The currently valid Tobacco Act includes provisions on the sale of tobacco substitutes, such as an age limit of 18, and they are subject to both marketing and display bans. However, placing tobacco substitutes on the market does not require notifying the National Supervisory Authority for Welfare and Health (Valvira). As a general rule, there are also no provisions on health warnings and other such requirements for the retail unit packets of tobacco substitutes; nor is their sale subject to notification or licensing.

Based on current market developments, it seems that the number of different nicotine-containing products already on or striving to enter the market is clearly growing. However, new nicotine-containing tobacco substitutes already on or about to enter the market are not regulated as stringently in the currently valid Tobacco Act as tobacco products or nicotine-containing liquids used in electronic cigarettes, even though these products contain nicotine.

In keeping with the objective of the Tobacco Act, the working group proposes that the regulations applicable to nicotine-containing tobacco substitutes with regard to requirements for product notifications, unit packets, retail licensing and wholesale notifications, etc., be brought in line with those applied to tobacco products and nicotine-containing liquids. In the working group's view, nicotine-containing tobacco substitutes should also be subject to tobacco tax.

The working group further proposes that the need to amend (tobacco) legislation be studied on a cross-administrative basis during the next government term, with a view to taking all nicotine-containing products into account more effectively.

The Tobacco Act does not apply to nicotine products that have been granted a marketing authorisation under the Medicines Act and, consequently, fall within the scope of application of the latter. Such products include nicotine replacement therapy products, such as nicotine chewing gums or inhalers intended to help smokers with smoking cessation. In addition to pharmacies, nicotine-containing self-care products are also widely sold in grocery stores and kiosks.

The range of self-care products has lately diversified, making it increasingly difficult for consumers to distinguish nicotine-containing self-care products from other nicotine products. The blurring borderline between these products, in turn, leads to a situation where certain types of self-care medicines are used contrary to their purpose to maintain nicotine dependence.

Certain products are more likely to be used contrary to their purpose than others. Some products are clearly engineered in such a way that they run a considerable risk of simply maintaining nicotine dependence. Even if a public authority referred to in the Medicines Act recognises that a product constitutes a risk, the currently valid Medicines Acts does not bestow discretion on such authorities to decide on its distribution channels. Restricting distribution channels based on a product risk assessment conducted by a public authority would effectively reduce the misuse of nicotine-containing self-care medicines. Consequently, the working group proposes that the Medicines Act be amended by giving the public authorities discretion concerning the distribution channels of nicotine-containing self-care products in the

same way as provided in the currently valid Medicines Act on traditional non-prescription herbal medicinal products and homeopathic products.

## 4.8.2 Products intended for flavouring

### Proposals by the working group:

1. **It should be prohibited to sell or otherwise supply to consumers products that are intended to give a characterising flavour or aroma to a product subject to the prohibition on characterising flavours and aromas under the Tobacco Act.**

The Tobacco Act prohibits any characterising flavours or aromas in cigarettes, roll-your-own tobacco and liquids used in electronic cigarettes. With regard to cigarettes and roll-your-own tobacco, the prohibition on characterising flavours and aromas is derived from the Tobacco Products Directive, whereas liquids used in electronic cigarettes are covered by national legislation. The purpose of the prohibition on characterising flavours and aromas is to reduce the appeal of the products, especially among young people, while also preventing the creation of new paths to nicotine addiction.

As a result of the prohibition on characterising flavours or aromas, new products have been introduced into the market with the specific purpose of enabling the addition of flavours or aromas to above-mentioned products. Such products include flavoured cards that can be placed inside packs of cigarettes or packets of roll-your-own tobacco to impart flavour. Flavoured smoking accessories have also been detected on the European market, such as flavoured filters sold separately to impart flavour to roll-your-own tobacco. Due to this development, some European countries, such as Belgium, have decided to prohibit by law the placing on the market of products intended to alter the taste or smell of tobacco products.

In the working group's view, it would be consistent for the prohibition on characterising flavours and aromas to not only apply to end products, but also to other products intended to give an end product a characterising aroma or flavour.

The working group proposes that it be prohibited to sell or otherwise supply to consumers products that are intended to give a characterising flavour or aroma to a product subject to the prohibition on characterising flavours and aromas under the Tobacco Act. However, some of these products may also be used for seasoning other products, such as foodstuffs. In such cases, the relevant aspect is the purpose for which the product is actually sold.

### 4.8.3 Classification of smoking accessories

#### Proposals by the working group:

1. **Smoking accessories should be divided into those that are directly used for smoking (such as pipes and filters) and those that are indirectly used for smoking (such as pipe cleaners and cases).**
2. **The regulations applicable to smoking accessories directly used for smoking should be aligned as closely as possible with those applied to electronic cigarettes.**

The currently valid Tobacco Act defines smoking accessories as “equipment or supplies mainly intended for smoking or the preparation thereof”. In other words, smoking accessories cover a wide range of different products, such as cigarette paper, filters, mouthpieces, pipes, ashtrays, pipe holders, cases and lighters. Some of these products, such as filters and pipes, can only be used with tobacco products or are required for tobacco use. Others, such as pipe cleaners or cases, are mainly used for or in preparation of smoking, but they are not necessary for tobacco use or they may have some other purposes.

Tobacco accessories are regulated less stringently than the other products falling within the scope of the Tobacco Act. In addition to the marketing ban, they are subject to the minimum purchase age of 18, but not to the bans on display and distance sales.

As a result of new products and product development, the scope of application of the Tobacco Act has expanded – and will continue to expand – to include various products that may require different types of accessories. The best-known example of such products are electronic cigarette products. These are divided into electronic cigarette devices and liquids used in the devices.

In some respects, electronic cigarettes may be compared to tobacco accessories, since the device enables the appropriate use of nicotine-containing liquids in the same way as a pipe enables the smoking of pipe tobacco, for example. However, electronic cigarettes are regulated more stringently in the Tobacco Act than tobacco accessories. In addition to the marketing ban and age limits, electronic cigarette devices are also subject to the bans on display and distance sales. Furthermore, Valvira must be notified of these devices before they are brought to the market. To some extent, the more stringent regulations are based on the fact that, unlike smoking accessories, electronic cigarette devices fall within the scope of application of the Tobacco Products Directive. In other respects, there are no grounds for the divergent regulations on these two product groups.

In the working group’s view, accessories intended for using nicotine-containing products under the Tobacco Act should be regulated as equally as possible in keeping with the objective of the Tobacco Act.

The working group proposes that smoking accessories be divided into two categories: those that are directly used for smoking (such as pipes and filters) and those that are indirectly used for smoking (such as pipe cleaners and cases). Furthermore, the working group proposes that the regulations applicable to smoking accessories directly used for smoking be aligned as closely as possible with those applied to electronic cigarettes.

The working group's proposal would further extend the number of product groups subject to the display ban. In practical terms, this development should lead to a situation where the sale of products under the Tobacco Act will be increasingly concentrated in special shops. It is likely that, moving forward, only the most popular products will be available in grocery stores and kiosks. This development would be positive in terms of the Tobacco Act's objective, since restricting the availability of products is one of the most effective ways to reduce the use of products under the Tobacco Act.

## 4.9 Enhancing enforcement

### 4.9.1 Administrative penalty payment

#### Proposal by the working group:

- 1. The sanction for violating a smoking ban should be changed into an administrative penalty payment (cf. parking ticket).**

Violation of smoking bans is punishable as a criminal offence ('smoking violation') under the currently valid Tobacco Act. Furthermore, the local authorities supervising compliance with the Tobacco Act can issue prohibitions as administrative sanctions, which can be enforced with a notice of a conditional fine. In practical terms, fines are very rarely imposed on violations of smoking bans, while it is even rarer to initiate administratively burdensome procedures for issuing prohibition decisions and conditional fines. Nevertheless, the low utilisation rate of sanctions does not mean that smoking bans are not violated. Conversely, it has more to do with the fact that, due to the scarce resources of the supervisory authorities, smoking violations are mainly regarded as too insignificant to warrant any enforcement measures.

In Finland, people generally comply with smoking bans quite well when it comes to indoor public places. Violations of smoking bans mostly occur either in outdoor events, such as festivals, or in premises that can be perceived as outdoor places. Such places include indoor car parks, certain types of covered public transport stops and waiting areas, as well as covered restaurant terraces. Immediately imposed administrative penalty payments would be a more effective way to intervene in smoking ban violations than the currently valid sanctions.

Submitted in November 2017, Government Proposal No. 180/2017 for the Road Traffic Act deals extensively with questions relating to administrative penalty payments. Text quoted from the Government Proposal:

*The Programme for the reform of the administration of justice for 2013–2025 (Ministry of Justice Publications 16/2013), which is one of the key projects of Prime Minister Sipilä's Government, states that the Finnish sanctions system is largely based on the use of criminal sanctions. The programme discusses the relevance of an extensive criminal justice system, concluding that the Government will study the prerequisites for extending the scope of application of administrative sanctions.*

*An 'administrative sanction' typically refers to a consequence other than a criminal sanction imposed by an administrative authority for an action considered*

*reprehensible, i.e. a violation. Imposing administrative sanctions does not follow the course of criminal procedures. Nevertheless, they apply to sanctioned acts and the payments imposed as a consequence may be tiered on various grounds.*

*It is conceivable to transfer certain acts, such as those that involve no injured parties, from the scope of the current forms of criminalisation to the scope of administrative sanctions. When considering potential acts that may be suited to be dealt with in an administrative procedure, attention must be paid to the type of legal interest that is protected by the sanction. The more clearly that the act solely violates public interest, the better it would be suited to be resolved in an administrative procedure.*

*The programme to reform administration of justice also states that transferring minor acts to the administrative sanctions system could generate cost savings without compromising the credibility of the criminal justice system. This would enable more cases to be initially resolved by administrative authorities; in such cases, the prosecutor would play no role, while the courts would only handle appeals.*

*A 'penalty' generally means a negative event imposed by sentence or order on a party who has perpetrated an act established by law as a criminal offence. The purpose of a penalty is to dispense censure and condemnation as well as reasonable suffering or damage. Provisions on different types of criminal penalties are mainly laid down in the Criminal Code of Finland. In addition to these penalties, special legislation also provides for a wide variety of administrative sanctions,*

*which are also of a punitive nature. Administrative sanctions constitute a type of consequences which is either based on an official decision or legal provisions. Especially minor volume crime offences, such as parking offences, have been transferred from the criminal justice system to the scope of the administrative sanctions system. The cash settlements used in some special fields are also imposed in an administrative procedure, including competition infringement fines, where the amount of the sanction is tied to the financial interests involved in the case. The administrative sanctions used in road traffic include parking tickets and overload charges.*

*Criminal penalties are characterised as being socially stigmatising for reasons such as their registration in criminal records. In order to ensure the general deterrence effect of the sanctions system, it has been deemed necessary to differentiate the system and classify sanctions into tiers based on the severity of the act. The most minor offences, with minimal negative impact for society, should not burden the criminal justice system.*

*One of the fundamental principles of the rule of law is that the state's right to interfere with the rights of individuals is provided by law. The principle of legality in criminal cases involves the requirement that punishable acts must be determined by law. Since an administrative penalty payment is similar to a criminal penalty, it is clear that this requirement of legal basis applies. The powers of administrative authorities to impose sanctions substantively comparable to a penalty must be provided by law.*

*Attention should also be paid to determining the amount of the penalty payment. As the working group on fixed fines already stated in 1975, the efficacy of a sanction determined as a fixed amount may be different for people with different financial standings. However, a fixed payment may be the most appropriate means in view of the objective of procedural simplicity.*

*European Union law also creates pressure to develop more flexible forms of sanctions than criminal penalties, such as various administrative penalty payments. There are already plenty of such penalties in Finnish legislation, including taxation and competition legislation.*

In the working group's view, a violation of smoking bans is precisely the kind of socially reprehensible act for which an administrative penalty payment would be a more suitable sanction than criminalisation, in keeping with the rationale of the Government Proposal cited above. Consequently, the working group proposes that the smoking violation laid down in the currently valid Tobacco Act be replaced with an administrative penalty payment. Introduction of an administrative penalty payment is also supported by the fact that a similar sanction was introduced in the new Alcohol Act which entered into force this year.

## 4.9.2 Annual supervision fees

### Proposal by the working group:

- 1. The annual supervision fees laid down in the Tobacco Act should remain at the maximum level as specified in the currently valid Tobacco Act.**

According to the currently valid Tobacco Act, each municipality charges an annual supervision fee for each point of sale, based on the rate the authority has approved, from those who hold a retail licence granted under the Tobacco Act and from those who have submitted a wholesale notification referred to the Tobacco Act. The maximum amount of supervision fee is EUR 500 per point of sale. If a sales outlet sells both tobacco products and nicotine-containing liquids, the maximum amount charged is twice the amount of supervision fee.

The maximum amount of annual supervision fee was inserted into the Tobacco Act as part of its 2016 amendment, while eliminating the possibility of a municipality to charge fees for inspections or sampling included in its supervision plan. This means that local governments cannot charge for supervision of smoking bans, such as supervision of restaurant smoking areas. All expenses incurred by local governments as part of their supervisory duties are covered by the annual supervision fees.

In 2017, the amounts of supervision fees per point of sale varied from less than EUR 100 to the maximum amount allowed by law, EUR 500, depending on the municipality. As a general rule, however, the largest cities applied the maximum supervision fee allowed by law.

The phase II legislative package of the regional government reform includes a proposal on changing the annual supervision fee of the Tobacco Act. The draft bill proposes a fixed supervision fee of EUR 350 per point of sale and, for outlets selling both tobacco products and nicotine-containing liquids, a fixed supervision fee of EUR 500 per point of sale.

The number of retail outlets selling tobacco products has decreased by more than 1,500 since 2016. This is estimated to be due to the high annual supervision fees. The reduction of annual supervision fees as part of the regional government reform is likely to lead to an opposite development where the number of sales outlets and their individual points of sale will take an upward turn while also increasing the availability of

products under the Tobacco Act. Increasing the availability of such products does not support the achievement of the objective of the Tobacco Act.

In the working group's view, the annual supervision fee laid down in the Tobacco Act should not be lowered from the level allowed by current legislation.

### 4.9.3 National guidelines for Article 5.3

#### Proposal by the working group:

1. **National guidelines should be prepared for Article 5.3 of the WHO Framework Convention on Tobacco Control, which aims to protect public health policies from the interests of the tobacco industry.**

Article 5.3 of the WHO Framework Convention on Tobacco Control requires the Contracting Parties to protect public health policies – and the tobacco policies aiming to support these – from the interests of the tobacco industry in accordance with national law. According to the Guidelines for implementation of Article 5.3, there is a fundamental contradiction and irreconcilable conflict between the tobacco industry's interests and public health objectives. Therefore, any operations of and interaction with the tobacco industry must be restricted, accountable and transparent.

The implementation guidelines provide recommendations for measures to ensure the effective protection of health policies from the industry's interests in keeping with Article 5.3.

The Framework Convention on Tobacco Control has been binding on Finland since 2005. More attention should be paid to the implementation of the objective of Article 5.3 in order to ensure awareness of the Article and commitment to its implementation among decision-makers, public officials and other parties involved in health policies. Consequently, the working group proposes that national guidelines for implementation of Article 5.3 be drawn up by 2020.

## 4.10 Other actions

### 4.10.1 Environmental impacts

#### Proposals by the working group:

1. **The Ministry of Social Affairs and Health should work with the Ministry of the Environment to study national proposals required to prevent the risks posed by products under the Tobacco Act to human health and the environment and cover the costs arising from such action.**
2. **The cooperation group appointed by the Ministry of the Environment to prepare a Roadmap on Plastics and its proposals for action should specifically address the environmental issues relating to cigarette butts.**



About four billion cigarette butts are discarded into the environment in Finland every year, generating 680,000 kg of waste harmful to human health and the environment in our living environment. Cigarette butts are the most common type of waste found in our living environment around the world and in Finland. They constitute at least one fifth – and in cities, as much as one third – of all the litter thrown on the ground.

Cigarette butts contain many toxic chemicals that dissolve into the environment, such as cadmium, arsenic and lead. The waste generated from the use of tobacco and nicotine products (cigarette butts, used snus pouches) contains the same toxins as cigarettes in a condensed form, including nicotine, tar, heavy metals and insecticides. Cigarette butts thrown on the ground are carried by wind and rain to water systems where toxic chemicals leach into their ecosystems. Birds and marine animals may get injured or killed as a result of eating cigarette butts.

The Baltic Marine Litter Project MARLIN found plenty of plastic waste and cigarette butts on Finnish coasts when compared with other Baltic Sea coasts. The average time for a cigarette butt to degrade is one and a half years in fresh water and three years in sea water.

The waste generated from the use of other nicotine products under the Tobacco Act, such as nicotine-containing liquids, contains at least nicotine residues. Since nicotine is a highly toxic substance, new nicotine delivery methods also pose an environmental threat.

The filter part of a cigarette butt is made of plastic and, instead of decomposing, it will eventually break into tiny particles. As a result, cigarette butts will turn into toxin-saturated microplastics and spread in the environment and water systems, including amidst plankton. These microplastic particles will collect more environmental toxins on their surfaces. From plankton-eating organisms, the plastic will enter the food chain, first finding its way into fish, then into fish-eating animals and eventually into humans.

The problems caused by cigarette butts and other single-use plastic products (especially marine and other environmental litter) have also featured prominently on the agenda of the European Commission as part of its 'mini-package' on the circular economy and strategy on plastics published at the beginning of this year. Single-use products were chosen as the targets of the proposed measures, since they generate the most of marine and environmental litter. These products also include cigarette butts. The proposal may eventually result in various restrictions for single-use products (including tobacco products) and/or additional responsibilities for their manufacturers.

The working group considers it extremely important to take action to ensure that toxic waste generated from the use of products under the Tobacco Act will not cause environmental loads and hazards. Consequently, the working group proposes that the Ministry of Social Affairs and Health work with the Ministry of the Environment to study national proposals required to minimise the risks posed by products under the Tobacco Act to the environment and, subsequently, to human health. In the working group's view, cigarette butts and waste generated by other nicotine products are a type of municipal waste that is harmful to human health and the environment. This view is supported by a report of the World Health Organisation entitled 'Tobacco and its environmental impact: an overview'.

The cooperation group appointed by the Ministry of the Environment in March 2018 to prepare a Roadmap on Plastics is currently determining and prioritising short-term and

long-term actions that will help Finland reduce the harmful effects of plastic waste and litter, enhance plastic recovery and recycling and promote better product design. Consequently, the working group proposes that the environmental issues relating to cigarette butts be specifically addressed by the working group preparing the Roadmap on Plastics and in its proposals for action.

## 4.10.2 Manufacturer's liability

### Proposal by the working group:

- 1. A study should be conducted into the possibility of creating a reimbursement system based on product liability for treatment of tobacco-related diseases and cessation therapies.**

While tobacco products are strictly regulated and supervised by public authorities, their use is still associated with recognised and studied harmful health effects. Since it is still allowed to use tobacco products, it is justified to estimate the harmful effects involved from the perspective of damages.

As early as in 1990, Parliament's Legal Affairs Committee unambiguously classified tobacco products under the scope of strict product liability due to their hazardous nature while addressing the Government Proposal for the Product Liability Act. Parliament confirmed the classification when it adopted the report of the Legal Affairs Committee.

The premise of product liability and consumer protection is that consumers are free to choose whether to use or not to use a product. The right to life, personal liberty, integrity and security is also guaranteed in section 7 of the Finnish Constitution. As there is no such freedom of choice with tobacco products due to their severely addictive nature, it is justified to examine these products as divergent from other consumer goods in terms of tort law.

The product liability of tobacco manufacturers applies regardless of what the population may possibly have known about the properties of tobacco products that cause addiction and other diseases. A warning on the risks of such products imposed by an external party is not enough to discharge manufacturers from liability.

Nicotine dependence is completely different from other addictions. It is created and maintained by the normal use of products, which causes smokers to develop lung cancer, chronic obstructive pulmonary disease and other serious diseases. Such associated diseases do not only cause personal tragedies but also significant healthcare and social security costs and appreciable costs arising from loss of labour input.

The working group finds it important to study the possibility of creating a reimbursement system based on product liability for society to cover the costs arising from treatment of tobacco-related diseases and cessation therapies.

### 4.10.3 Responsible investment

#### Proposal by the working group:

- 1. Public funds should not be invested in companies where products under the Tobacco Act account for more than 50% of net turnover. When investments are made in funds, due consideration should be given to whether they refrain from investing in the tobacco and nicotine industry.**

'Responsible investment' generally refers to the UN Principles for Responsible Investment (PRI), which require investors to take environmental impacts, social considerations and good governance into account as part of their investment activities. These are commonly abbreviated as 'ESG' in the context of responsible investment. Companies committed to the ESG criteria guarantee that they look after the environment, social justice, and open and fair governance.

The Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control also recommend that the Contracting Parties should not invest in the tobacco industry or related ventures if they do not have a state-owned tobacco industry.

Globally, around seven million people die from smoking every year. The rights of farmers and workers are violated in tobacco cultivation. The use of child labour is also common in countries that cultivate tobacco. Furthermore, the rights of children and adults to truthful information and health, among other things, are disregarded in many respects in the marketing of tobacco products.

Manufacturing of products subject to the Tobacco Act also causes environmental loads. The largest amount of information available concerns the environmental impacts of the manufacture of tobacco products. Each of the nearly 600 tobacco factories around the world uses considerable amounts of water, energy and chemicals. Every year, the tobacco industry manufactures more than six trillion cigarettes, which generate plenty of waste on their own. According to the World Health Organisation, tobacco manufacture generates over two million tonnes of solid waste, 300,000 tonnes of nicotine-containing, non-recyclable waste and 200,000 tonnes of other chemical waste annually.

The tobacco industry's carbon dioxide emissions are also significant: in the United States alone, its carbon dioxide emissions correspond to the emissions of four million cars.

Based on the above, the working group considers that the operations of tobacco companies and other nicotine product manufacturers do not support the UN Principles for Responsible Investment, and such operations should not be supported through investment from public funds. It is also advisable to refrain from investing in these companies when investing in funds.

## 4.11 Monitoring systems

### Proposals by the working group:

1. **The functionality of information systems concerning the population and the surveillance of compliance with the Tobacco Act should be ensured. The systems should provide up-to-date information on the sale, consumption (including special groups), acquisition and marketing of nicotine products and imitations, cessation of nicotine product use, diseases and morbidity caused by their consumption, as well as the costs arising from these and their distribution over different population groups.**
2. **Sufficient resources should be allocated to the National Institute for Health and Welfare for its national tobacco and nicotine policy guidance, monitoring and expert tasks in order to ensure the continuity of the information systems and the utilisation of the collected materials.**

Finland has high-quality research and monitoring systems providing information on the population's health and health trends, which are also used to assess the outcomes of health promotion efforts. Moving forward, it is necessary to further ensure that research as well as assessment and monitoring of the implementation methods and effectiveness of tobacco policy actions produce sufficient information for decision-making purposes and on the impacts of the decisions on tobacco sales and consumption and on morbidity in different population groups. This information is required for monitoring the achievement of the Tobacco Act's objective, developing tobacco policy and applying plans in practice.

In Finland, monitoring and tobacco research involve challenges relating to the continuity of population and school surveys, constancy of relevant tobacco indicators and the responsiveness of surveys and other information sources to changes in tobacco policy and new tobacco and nicotine products. Since smoking and related themes are monitored as a part of more extensive health and wellbeing surveys, it is not always possible to collect data relating to smoking and tobacco policy interventions in sufficient detail.

Article 20 of the Framework Convention on Tobacco Control sets out the general principles for organising data collection, surveillance and monitoring concerning the tobacco epidemic. The Article obliges the parties to develop and promote research in the field of tobacco control. The parties are also obliged to develop indicators for the surveillance of tobacco consumption and its adverse social, economic and health consequences. It is important for the collected data to be regionally and internationally comparable.

According to the World Health Organisation, surveillance should be built on a sustainable foundation, while data should be collected persistently and regularly. In addition to monitoring and surveillance, more detailed research is also required to form the necessary overview of the tobacco epidemic.

Some international recommendations have been put forward on monitoring the prevalence of smoking and organising tobacco research. Detailed guidelines are available on how to collect reliable information on smoking and related social, economic and health indicators that is as comparable as possible in international

terms. It is also important to collect data on policy actions relating to reducing the prevalence of smoking and their impacts.

The monitoring and assessment system should be planned carefully, data should be collected at regular intervals and monitoring should be carried out on a long-term basis. The monitoring system should include a wide variety of standardised indicators. The data collected at different times should remain comparable to allow monitoring of long-term trends and developments.

The collected data should represent the entire population while also offering possibilities to follow developments among different population groups and special groups, such as pregnant women. Monitoring and surveillance systems are also required to be flexible so as to make it possible to respond to developments such as new products or new tobacco policy actions by creating new indicators or revising the existing ones.

Furthermore, it is necessary to follow international developments in tobacco policies and, in particular, actions taken by the countries that have adopted the 'endgame' goal of putting an end to the use of tobacco products. Finland is the only country where the endgame approach also means putting an end to the use of other nicotine products.

The monitoring systems should be sufficiently simple and assigned with adequate financial and human resources. There should be a plan in place for reporting the collected data and communicating research findings, which should be disseminated as quickly as possible. An international example of a versatile monitoring system developed to support assessment and development of tobacco policies is the International Tobacco Control (ITC) Project.

In Finland, section 5 of the Tobacco Act obliges the National Institute for Health and Welfare to monitor the prevalence of smoking and to conduct and support research relating to reducing the health risks and adverse effects of smoking. The National Institute for Health and Welfare collects data on the use of tobacco and nicotine products by means of population surveys focusing on adults as well as school surveys. These are health and wellbeing surveys, which only ask about smoking as part of a larger battery of questions.

In addition to the National Institute for Health and Welfare, data on young people's smoking habits is also collected by universities as part of population surveys (Adolescent Health and Lifestyle Survey, University of Tampere; twin studies conducted by the University of Helsinki). Data on young people's smoking habits is also collected as part of international school surveys, such as the European School Survey Project on Alcohol and Other Drugs (ESPAD) and The Health Behaviour in School-aged Children Study (HBSC) by the University of Jyväskylä. These surveys also collect data on topics other than smoking and use of other nicotine products. Surveillance-related registers are maintained by Valvira (registers of retail licences and wholesale notifications).

In the working group's view, surveillance and monitoring systems should be put to more extensive and effective use. Furthermore, the working group considers that achieving the objective of the Tobacco Act requires support from effective, financially stable and continuous research, surveillance and monitoring activities. It is necessary to secure the functionality of the monitoring and surveillance systems of tobacco and nicotine products.

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