

Fwd: Consultation on electronic smoking devices' regulation.

Coordenacao de Cooperacao Internacional - COCIN <cooperacao@anvisa.gov.br>

Ter, 25/08/2020 08:15

Para: Stefania Schimaneski Piras <Stefania.Piras@anvisa.gov.br>**Cc:** Felipe Oliveira Dias <felipe.dias@anvisa.gov.br>

Prezada Stefania,

Encaminho resposta recebida de Hong Kong

Atenciosamente,

Felipe Dias

COCIN/AINTE

De: [REDACTED]**Enviado:** terça-feira, 25 de agosto de 2020 06:42**Para:** Coordenacao de Cooperacao Internacional - COCIN**Assunto:** Re: Consultation on electronic smoking devices' regulation.

Dear COCIN,

Your email enquiry dated 16 July 2020 to Department of Health of HKSAR Government refers.

(1)

For ENDS, nicotine (except tobacco) is listed as a Part 1 poison under the Pharmacy and Poisons Ordinance (Cap. 138). Furthermore, e-cigarette with nicotine is regarded as pharmaceutical product in Hong Kong. All pharmaceutical products have to fulfill the requirements on safety, quality and efficacy, and must be registered with the Pharmacy and Poisons Board of Hong Kong before they can be legally possessed or sold by licensed medicine dealers, including licensed wholesale dealers and authorized sellers of poisons in the market. Illegal sale or possession of Part 1 poisons and unregistered pharmaceutical products are criminal offences. Currently, no e-cigarette is registered as pharmaceutical product in Hong Kong.

ENNS are not regulated.

On the other hand, heated tobacco products are tobacco products. The sale, distribution, prescribed format of health warnings, and advertisement and promotion of any tobacco products in Hong Kong are strictly regulated under the Smoking (Public Health) Ordinance (Cap. 371). Under the Smoking (Public Health) Ordinance (Cap. 371), any manufacturer or wholesale distributor of tobacco products, who sells, offers for sale or possesses for the purpose of sale any tobacco product commits an offence if any packaging of the product —

- (a) bears any term, descriptor, trademark, figurative or any other sign that is likely to create an erroneous impression that the product is less harmful to health than other tobacco products the packaging of which does not bear such term, descriptor, trademark, figurative or sign; or
- (b) promotes the product by any means that is false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions.

(2) to (5)

Tobacco advertisement and promotion is banned in Hong Kong under the Smoking (Public Health) Ordinance (Cap. 371). No cigarette packs may bear any term, descriptor, trademark, figurative, or any sign that is likely to create an erroneous impression that the product is less harmful to health than other tobacco products the

packaging of which does not bear such terms, descriptors, trademark, figurative. It is also prohibited to promotes the product by any means that is false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions. For more details, you may wish to visit our website [https://www.taco.gov.hk/t/english/legislation/legislation_so.html] or Hong Kong e-Legislation [<https://www.elegislation.gov.hk>].

There is not yet precedent case on marketing of tobacco products with claim of 'reduced risk" on cigarette pack. The law would require prosecution to prove why the descriptors/signs creates 'erroneous" impression (i.e. why it is erroneous).

The Government of HKSAR introduced the Smoking (Public Health) Amendment Bill 2019 into the Legislative Council on 20 February 2019 to ban the import, manufacture, sale, distribution and advertisement of alternative smoking products including e-cigarettes and heated tobacco products. Despite the dissolution of the Bills Committee on Smoking (Public Health) (Amendment) Bill 2019 on 2 June 2020 due to insufficient time to complete the scrutiny process within the current legislative term, the Government plans to introduce again the legislative proposal for a full ban of alternative smoking products in the next legislative term.

Thank you.

Best regards,

Tobacco and Alcohol Control Office, Department of Health
Hong Kong SAR Government