

**All Party Parliamentary Group for Vaping
COP9 Inquiry
Guy Bentley, director of consumer freedom
Reason Foundation**

Chairman Pawsey, members of the committee, thank you for providing the opportunity to submit comments to the inquiry on the ninth session of the Conference of the Parties (COP9).

My name is Guy Bentley, and I'm the director of consumer freedom at the Reason Foundation, a nonprofit think tank headquartered in Los Angeles. Reason Foundation's nonpartisan public policy research promotes choice, competition, and a dynamic market economy as the foundation for human dignity and progress.

The objective of the World Health Organization's (WHO) Framework Convention on Tobacco Control (FCTC) is to protect present and future generations from the consequences of tobacco consumption and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented by the Parties at the national, regional and international levels.

The emergence of a wide variety of reduced-risk nicotine products since 2003 emphasizes the need for a reexamination of the FCTC mechanism, and the WHO's priorities and policy preferences regarding tobacco control. Tobacco use is responsible for around seven million deaths per year, predominantly in low and middle-income countries.¹ With such a heavy toll from tobacco use, it's critical safer nicotine alternatives not just be made available to consumers, but accurate information on their relative risks and benefits be communicated to those of every income and educational level.

The UK has enjoyed considerable success in accelerating the decline of smoking by promoting these products as safer alternatives to smokers who cannot or will not quit through other means. Millions of adult smokers in the UK have successfully transitioned to vaping, and there has been no significant uptake among youth and those who

¹ World Health Organization. WHO Report on the Global Tobacco Epidemic, 2011.
https://www.who.int/tobacco/global_report/2011/en/

previously used no tobacco products.² Unfortunately, the UK's regulatory and taxation model regarding reduced-risk products has not received significant attention in previous WHO discussions. The relative safety of these products and their efficacy for smoking cessation have consistently been called into question by the WHO.³ COP9 discussions would significantly benefit from the UK's considerable body of evidence demonstrating that accurate public health communications, risk proportionate taxation, and the absence of wide-ranging product prohibitions can reduce smoking rates without unintended consequences. The benefits of replicating such an approach in other jurisdictions, whether they are full parties to the FCTC or not would be substantial. If every American smoker switched to an e-cigarette, 6.6 million premature deaths could be prevented over the next ten years.⁴

Unfortunately, COP9 threatens to partially undo many of the UK's gains and prevent the adoption of such policies globally by promoting tobacco control strategies that stymie harm reduction. Should COP9 proposals entail stricter regulation, taxation, or prohibition of reduced-risk products, it will slow the rate at which UK smokers switch to these products. Such proposals could increase public misperceptions around the relative risk of these products, which has been rising in recent years. In 2020, Public Health England's (PHE) sixth independent report on e-cigarettes showed more than half of UK smokers believe e-cigarettes are just as or more harmful than combustible cigarettes.⁵ The proportion of smokers who correctly believe e-cigarettes are safer than combustible cigarettes stands at less than a third.

As one of the most significant financial contributors to the WHO, with extensive experience in international development and tobacco harm reduction, COP9 provides the UK with a significant opportunity to advance global health and development goals by sharing best practices from its successful implementation of smoking cessation strategies. But one of the major challenges preventing the WHO from developing optimal policy recommendations is a severely limited range of voices who provide

² Action on Smoking and Health. Use of e-cigarettes among young people in Great Britain. June 2019. <https://ash.org.uk/wp-content/uploads/2019/06/ASH-Factsheet-Youth-E-cigarette-Use-2019.pdf>

³ World Health Organization. E-cigarettes are harmful to health. February 5, 2020. <https://www.who.int/news/item/05-02-2020-e-cigarettes-are-harmful-to-health>

⁴ Georgetown University Medical Center. Tobacco Smokers Could Gain 86 Million Years of Life if they Switch to Vaping, Study Finds. October 2, 2017. https://gumc.georgetown.edu/news-release/tobacco_smokers_could_gain_86-million_years_of_life_if_the_y_switch_to_vaping_study_finds/

⁵ McNeill, A., Brose, L.S., Calder, R., Bauld, L., and Robson, D. (2020). Vaping in England: an evidence update including mental health and pregnancy, March 2020: a report commissioned by Public Health England. London: Public Health England.

advice and evidence.⁶ A Reason Foundation study in 2016 concluded that the FCTC violates many of the core precepts of good governance as spelled out by the United Nations Development Program (UNDP).⁷ The UNDP notes that:

[T]hese core characteristics are mutually reinforcing and cannot stand alone. For example, accessible information means more transparency, broader participation and more effective decision-making. Broad participation contributes both to the exchange of information needed for effective decision making and for the legitimacy of those decisions. Legitimacy, in turn, means effective implementation and encourages further participation. And responsive institutions must be transparent and function according to the rule of law if they are to be equitable

While the FCTC does have a process for engaging stakeholders, it does not meet the UNDP's standards for "participation," "responsiveness" and "consensus orientation" because it is insufficiently broad and excludes important groups of people affected by its decisions. Articles 29, 30 and 31 of the FCTC's Rules of Procedure permit certain "Observers" to "participate without the right to vote in public or open meetings of the Conference of the Parties and of its subsidiary bodies." But permitted participation in the FCTC is extremely narrow. The FCTC lists only 21 NGOs as Observers.⁸ The Framework Convention on Climate Change lists more than 2,000 NGOs as Observers.

There is almost no participation from consumers and producers of tobacco and vapor products. The vast majority of NGOs listed as Observers are hostile to the concept of tobacco harm reduction and the UK's policy approach. For instance, The Union has advocated a complete ban on e-cigarettes and heated tobacco products in low and middle-income countries, which are home to 80 percent of the world's smokers.⁹ The same report does not, however, call for a ban on combustible cigarettes. Such a policy represents one of harm maximization rather than harm reduction. Such views should be included in WHO discussions but have historically not been balanced by alternative approaches such as those advanced by the UK.

⁶ Morris, Julian. The WHO's Opposition to Tobacco Harm Reduction: A Threat to Public Health?. Reason Foundation. September 2016.

https://reason.org/wp-content/uploads/2016/09/pb136_tobacco_harm_reduction.pdf

⁷ UNDP, Governance for Sustainable Human Development: A UNDP Policy Document, (Geneva: United Nations Development Program, 1997).

⁸ http://www.who.int/fctc/cop/observers_ngo/en/

⁹ Ban E-cigarettes and HTPs in LMICs to Prevent a New Epidemic of Nicotine Addiction, says New Union Position Paper.

<https://theunion.org/news/ban-e-cigarettes-and-htps-in-lmics-to-prevent-a-new-epidemic-of-nicotine-addiction-says-new-union-position-paper>

As a consequence of sidelining harm reduction strategies and limiting input for evidence and guidance, the FCTC has failed to achieve its aim of reducing tobacco use and exposure to tobacco smoke on a global level. According to an analysis of the FCTC published in the British Medical Journal, there is no evidence to indicate that the FCTC treaty mechanism reduced global cigarette consumption.¹⁰ The study finds cigarette consumption has decreased substantially in high-income and European countries, but low and middle-income countries and, Asian countries showed an increase in cigarette consumption. Since Africa, the Middle East, and Asia were primary targets of the FCTC, these results are especially disappointing.

From its inception the FCTC provided explicit support for harm reduction, stating: “‘tobacco control’ means a range of supply, demand and harm reduction strategies that aim to improve the health of a population by eliminating or reducing their consumption of tobacco products and exposure to tobacco smoke.”¹¹ Yet, the WHO has to date, both directly and through the FCTC, has sought to limit access to harm reduction technologies that would enable smokers to quit. Should the WHO continue to sideline input from the UK, relevant stakeholders, or downplay the significance of agencies such as the Food and Drug Administration granting reduced risk products authorization to make positive claims about their toxicity,¹² it will continue to fail in its mission to reduce smoking on the global level.

Sincerely,
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¹⁰ Hoffman Steven J, Poirier Mathieu J P, Rogers Van Katwyk Susan, Baral Prativa, Sriharan Lathika. Impact of the WHO Framework Convention on Tobacco Control on global cigarette consumption: quasi-experimental evaluations using interrupted time series analysis and in-sample forecast event modelling BMJ 2019; 365 :l2287 <https://www.bmj.com/content/365/bmj.l2287>

¹¹ World Health Organization, WHO Framework Convention on Tobacco Control, Geneva: World Health Organization, 2003, Article 1.

¹² US Food and Drug Administration. FDA Authorizes Marketing of IQOS Tobacco Heating System with ‘Reduced Exposure’ Information. July 7, 2020. <https://www.fda.gov/news-events/press-announcements/fda-authorizes-marketing-iqos-tobacco-heating-system-reduced-exposure-information>