

1. The Commission follows the EU market of tobacco products closely. There are no safe levels of nicotine consumption. In the EU, to advertise and promote nicotine-containing e-cigarettes is prohibited in Information Society Services, in the press, other printed publications, the radio and audiovisual media¹. Member States may prohibit cross-border distance sales of nicotine-containing electronic cigarettes to consumers².

While Member States are in principle responsible for regulating age limits and sales arrangements for tobacco and related products within the remit of their own jurisdiction, they are encouraged to prevent sales of such products to children and adolescents³.

The Tobacco Products Directive allows Member States to prohibit a certain category of tobacco or related products if such prohibition is justified by the need to protect public health and based on grounds relating to the specific situation in the Member State⁴.

2. Consumer protection on online marketplaces is a priority for the enforcement of the Digital Services Act (DSA)⁵. It provides rules aimed at preventing the dissemination of illegal content as defined by the EU and national legislation and managing systemic risks posed by very large online platforms and search engines (VLOPs and VLOSEs). Providers of online marketplaces must comply with the applicable EU law regarding precontractual information, compliance, and product safety⁶. VLOPs and VLOSEs, in addition, need to comply with the provisions concerning risk assessments of the systemic risks posed by their services and measures to mitigate those risks.⁷

3. The Commission is carrying out a comprehensive evaluation of the EU legislative framework on tobacco⁸. Future steps will depend on its findings.

¹ Article 20(5) of the Tobacco Products Directive 2014/40/EU and Article 9(1)(d) Audiovisual Media Services Directive 2010/13/EU: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02010L0013-20181218>

² Article 20(6) of the Tobacco Products Directive 2014/40/EU.

³ Recital 21 of the Tobacco Products Directive 2014/40/EU.

⁴ Article 24(3) of the Tobacco Products Directive 2014/40/EU.

⁵ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act).

⁶ In line with Article 31 of the Digital Services Act.

⁷ In line with Articles 34-35 of the Digital Services Act.

⁸ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13481-Evaluation-of-the-legislative-framework-for-tobacco-control_en