THE GLOBAL STATE OF E-CIGARETTES

E-cigarette regulation and the e-cigarette industry are immensely variegated around the world. In some markets a sizeable proportion of smokers and ex-smokers is now vaping; in others, despite high tobacco use, vapour products barely make a dent in prevalence.

In some countries governments are tolerant, even to the point of encouragement; in some they regulate cautiously, without rejecting the potential of the e-cigarette entirely; in a handful they prohibit utterly. And between all these categories are endless shades of grey: countries where the law is strict but the reality of its enforcement is lax, countries where new vaper populations are emerging, countries where huge regulatory changes are unlikely to kill off mature markets but are certain to transform them.

To explore all these subtleties completely in four pages would be impossible, but we at ECigIntelligence hope that the following report on the global state of e-cigarettes provides useful snapshots which illustrate some of the bigger success stories as well as the challenges.

In all cases the source for the data is ECigIntelligence research, focusing on what we consider the most important territories today and tomorrow, so the omission of a country from our lists certainly doesn’t mean it has no vapers, e-cigarette laws, or e-cig businesses at all.

We’re very pleased to be able to offer this as part of the Global Forum on Nicotine, and we’ll appreciate suggestions concerning other aspects of the vapour world – or indeed the broader nicotine picture – that we could examine next.

Barnaby Page editorial director, ECigIntelligence

Public vaping regulation in European countries, 2016

Use of e-cigarettes in public places is one of the larger policy areas not addressed by the European Union’s Tobacco Products Directive (TPD), and perhaps the one where the continent’s governments have displayed the greatest diversity in approach – by contrast, there is near-unanimity on minimum purchase ages, for example.

Many of the toughest regimes are found in the eastern European and Nordic nations, often equating vaping directly with smoking of combustible products, and forbidding the former everywhere that the latter is banned.

A middle ground is represented by countries like France and Spain, which prevent vaping in some public areas but not others, while at the liberal end, the UK has no national policy and no plans for one. In Germany, rules vary greatly from one region to another.

As so often with regulation in this emerging field, however, the devil is in the detail. Italy briefly treated vaping as smoking, for example, then pulled back from that. It (and Estonia) now only restrict usage in facilities for children.

Owners of individual premises can also have as much impact as national law. Neither the UK nor the Netherlands officially regulates public vaping, for instance, but many businesses nevertheless say no.
Largest global e-cigarette markets (total number of daily vapers aged 18+)

Three countries stand head-and-shoulders above the rest in terms of total vaping population: the United States, United Kingdom and France. Poland is a strong fourth.

What’s most notable, however, is not so much the individual countries which lead as the composition of the whole list. It is striking that Malaysia is the only Asian country (though perhaps not likely to remain on the list for long, as we note alongside our map of countries to watch). And it is telling that there is not a single South American one.

(We do, however, believe Asia as a whole to be the third-largest continental market in terms of dollar value, after North America and Europe. Indeed, the others scarcely figure by that measure.)

Despite their cultural similarities to the United States and Britain, both Canada and Australia have rather low vaping populations in absolute terms and proportionally to their population. In both cases, regulation (strict in Australia’s case and confusing in Canada’s) is undoubtedly a factor.

Fastest-growing global e-cigarette markets, 2014-2017 ($ value)

As usual, the biggest markets are not the most rapidly-developing ones: the UK and United States are both toward the bottom of the rankings here.

What may be more alarming is the negative growth experienced in some of the countries we study. The reasons for this tend to be both complex and particular to the areas concerned, but may include restrictive regulation or public distrust of vaping and worries over health impacts, often encouraged by opinion-formers.

There is still, however, healthy growth in most markets, even if it is not likely to upset the top rankings: the three biggest markets in 2014 (U.S., UK and France) are still expected to be the three largest by some distance in 2017.

Steady growth in Russia is making it an important mid-ranking market, and one worth watching.
Recent e-cigarette regulation: some noteworthy cases

No surprises here – after all, the U.S. Food and Drug Administration’s deeming rule and the European Union’s Tobacco Products Directive (TPD), both coming into practical effect within months of each other this summer, are by far the largest regulatory developments in the history of the e-cigarette. The TPD even reached beyond the EU’s borders, leading both Norway and Switzerland to regulate in parallel with their neighbours.

E-cigarette “bans”, while much-discussed (and sometimes paraded by vaping’s detractors), are difficult to define and quantify. There are many cases where the products have not been deliberately prohibited, but still cannot be legally sold, thanks to old tobacco or pharmaceutical legislation.

Among the questions law-makers ask: should a tax be calculated on price, e-liquid volume, or nicotine volume?

In the U.S., four states have legislated their own levies: Kansas, Louisiana, Minnesota and North Carolina. So has the District of Columbia. Several other states are considering it, and some municipal governments such as Chicago have local e-liquid taxes.

With the new federal deeming rule rendering individual U.S. states’ active intervention in many other areas of the vapour market unnecessary or impossible, taxation may be one way they can continue to control the development of vaping within their borders.

Taxation of vapour products worldwide

While taxes on e-cigarettes and related products that would erode their price advantage over combustibles have been a persistent fear for the industry and the products’ advocates, they remain rare.

Only six countries currently impose a national tax, five of them European: Greece (very recently), Italy (where it may be cast out by the courts), Portugal, Romania, Serbia and South Korea. Rates vary greatly – within Europe they run from €0.03 per millilitre of e-liquid in Serbia to €0.60 in Portugal, for example – and so do taxation models in different jurisdictions.
The e-cigarette world: some hot spots to watch

There is increasing pressure within Australia to liberalise the country’s prohibitory approach to vapour products.

And there is pressure too in Canada, but there it is more about clarifying a confused situation than lifting actually arduous rules. New federal law seems highly likely.

China is the world centre of e-cigarette manufacturing yet until recently its own vaping scene has been small-scale. There are now signs that this is changing. Much depends on regulatory attitudes in a country that has over recent years become more active in tobacco control, but there is at least the possibility of a very large new market emerging here.

The omens for that from Hong Kong are not positive, though: in this special administrative region of China, nicotine-containing e-cigarettes already require a pharma licence and there are demands for even them to be outlawed.

India, like China, is getting more aggressive in tobacco control and there it seems very probable that e-cigarettes will be caught up in the onslaught. This year a small businessman in Punjab was sentenced to imprisonment for selling e-cigs; that state, like the second-largest Maharashtra, bans them and others can be expected to follow.

The news is not good in Malaysia either. Reports (and some of the data we present here) suggest a rapid collapse in the once large local market, following government raids on vape stores, official anti-vaping campaigns, adverse comments by religious leaders and some state-level prohibitions.

Mexico might be a brighter spot. There, a supreme court decision came down in favour of a retailer who had been fined for selling e-cigs, ruling that the country’s ban on non-pharmaceutical products was unconstitutional. The court decision does not automatically legalise e-cigarettes in Mexico but undoubtedly sets the stage for a reconsideration of the law.

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The data and insight underlying our maps is drawn from content published on ECigIntelligence.com. Among the sources are our news updates covering regulation, policy, the industry, and science; in-depth legal and market reports on individual territories; and a range of regularly updated databases and trackers.

These include a database of key global markets: a global regulatory map; a U.S. state-by-state legislation tracker; and a selection of European data sources including a map showing regulation in key areas, a TPD progress list, and dedicated trackers covering the regulation of public place vaping and marketing/advertising.

ECigintelligence is an independent, analytical resource; virtually all content is produced specifically for our subscribers by our staff of lawyers, regulatory analysts and journalists dedicated to monitoring and dissecting developments in e-cigarettes and other alternatives to smoking.

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