

E-cigarettes: a conundrum for regulators

By Duncan Robinson and Shannon Bond

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The growing popularity of e-cigarettes has left regulators in a pickle. E-cigarettes have come a long way since the nattily named “Electro Fag” first appeared on the market almost a decade ago. E-cigarette sales are now \$2bn globally – a figure that will jump 50 per cent again in 2013, according to Canaccord. In the US, consumption of e-cigarettes could overtake conventional tobacco within a decade, says Wells Fargo. Their sudden popularity has left regulators with a conundrum: how do you categorise them?

Although called an e-cigarette, they contain no tobacco. Instead users inhale nicotine vapour, rather than smoke. While some use them to quit, others “vape” by choice. Regulators have generally opted for one of three options: treat them as tobacco, [regulate them as medicines](#) or – in a handful of countries – ban them.

In the UK, any electronic cigarette will have to be regulated as a medicine from 2016 – opening the possibility of large tobacco companies who have launched e-cigarettes, such as [British American Tobacco](#), supplying medicinal products.

It looked like the EU would go down a similar route, but [MEPs opted not to regulate them as medical products](#) after campaigners argued that doing so would limit their popularity.

“This has disrupted what was a fairly clear policy direction from the UK government,” says Clive Bates, a former director of ASH, the antismoking group. The UK government could, however, still go it alone on medicinal regulation.

The confusion has left e-cigarette companies – often small, private businesses – having to plan for regulation as both a medicinal product and a lifestyle one.

“It comes with a huge expense,” says Taz Sheikh, co-founder of UK e-cigarette group Gamucci. “We may well be spending a lot of money in getting our facility ready [to pass medicinal regulations], which could be used for other bits, such as marketing.”

In the US, the Food and Drug Administration is preparing regulations of the growing electronic category. Analysts say those could include restrictions on online sales, sales to minors and advertising as well as ingredient and manufacturing standards. The industry is still awaiting proposed rules that were expected to be published for public comment first in April, then delayed until October, and now expected to appear before the end of the year. But it would be several years before they went into effect.

Andries Verleur, chief executive of Miami-based electronic cigarette maker V2 Cigs, is expanding his business in South America and Europe, arguing that geographic diversification can provide a “regulatory hedge”.

“Most of the companies are trying to diversify because the regulatory environment is a coin flip,” he said.

Choosing the wrong side on the toss could be fatal: in Brazil, Norway and Singapore e-cigarettes are banned, sending e-cigarette sales up in smoke – or vapour.