

Heated Tobacco Products: Deep Dive Switzerland A Policy Brief



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This report provides a narrative summary of how Switzerland is considering, regulating and/or evaluating product policy relevant to regulation of HTPs. It also considers how those products are sold and marketed in the country and what the present situation on Switzerland regarding those aspects is. It also formulates some key recommendations for policy action.

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1. Introduction

Switzerland was one of the first markets in which heated tobacco products (HTPs)¹ were introduced. In 2015 Philip Morris International (PMI) used Switzerland, together with Japan and Italy, as a forerunner for its HTP IQOS. The precursor of IQOS, the Heatbar, had already been launched in the Swiss market in 2006. The other two big tobacco companies, PMI competitors British American Tobacco (BAT) and Japan Tobacco International (JTI), followed with their respective HTPs glo and plloomTECH² in 2017. In March 2020, the glo (www.glo.ch) and plloom websites (www.plloom.ch) were closed and visitors are now forwarded to electronic nicotine delivery systems (ENDS) products of BAT and JTI. In the HTP market sector, IQOS currently seems to be the dominant brand although we lack complete market data.³ Other HTPs are not known in the Swiss market.

Regulation of HTPs is still very loose. Switzerland scores very poorly in tobacco control policies in European comparisons.⁴ Tobacco companies are politically well integrated and successfully lobbied to postpone a new federal law on tobacco in 2015. This new Federal Act on Tobacco Products is only now under discussion in the Swiss Parliament and cannot be expected to enter into force before the end of 2022.

HTPs are advertised and available in supermarkets, kiosks, and tobacconists. PMI has introduced flagship stores, the IQOS Boutiques, and is advertising and promoting HTPs on the internet as well as in social media.

The prevalence of HTP consumption in Switzerland is not precisely known. The Swiss Health Survey shows a prevalence of 1.89% in the Swiss population,⁵ while TobaccoIntelligence puts the figure at 4.2%.⁶ The aim of PM Switzerland was that 100,000 smokers (1.2% of the Swiss population) would have taken up its HTP IQOS by the end of 2019, which it claims to have almost reached.⁷ Nevertheless, five years after the introduction of HTPs in Switzerland a small proportion of smokers are consuming them. On the streets, one can see some HTPs but traditional cigarettes dominate, followed by ENDS, of which e-cigarettes are the most common.

Although the big tobacco companies have bought e-cigarette producers and products, their main focus remains on tobacco products, traditional cigarettes and more recently HTPs⁸. E-cigarettes were introduced in the first decade of this century, years before HTPs, so that they are strong competitors to HTPs in Switzerland, as in many other countries. The market for vaping products is very heterogeneous.

¹ https://www.who.int/tobacco/publications/prod_regulation/heated-tobacco-products/en/ "Heated tobacco products" is the accepted WHO terminology. However, it should be noted that the tobacco industry promotes the term "heat-not-burn" for their marketing strategy.

² https://www.jti.com/sites/default/files/local-files/ch/german/documents/news-documents/20170721_Ploom_launch_DE.pdf

³ "IQOS and Glo dominant: Switzerland heated tobacco market report," TobaccoIntelligence, January 8th, 2020, (<https://tobacointelligence.com/product/iqos-and-glo-dominant-switzerland-heated-tobacco-market-report/>) has not opened its sources, so that we cannot evaluate its methodology nor the validity of the data. Some facts are outdated.

⁴ <https://www.tobaccocontrolscale.org/>

⁵ Swiss health survey in German: <https://www.bfs.admin.ch/bfs/de/home/statistiken/gesundheits/determinanten.assetdetail.11907022.html>.

⁶ See note 3 above.

⁷ <https://www.tagblatt.ch/leben/verdampfen-statt-verbrennen-wie-ein-tabakkonzern-menschen-vom-rauchen-abhalten-will-ld.1128107>, <https://baernerbaer.ch/people/so-ein-shop-hat-gerade-noch-gefehlt/>

⁸ «Mit unserem Produktportfolio von Zigaretten und verbrennungsfreien Alternativen sind wir Marktführer in der Schweiz.» <https://www.pmi.com/markets/switzerland/de/ueber-uns/uebersicht>

Third generation e-cigarette devices seem to dominate in public, while the newer type of e-cigarette JUUL is prominently sold in the kiosks. JUUL Labs introduced its product JUUL in 2018 in Switzerland. JUUL is the market leader in the USA, and Altria, the owner of Philip Morris USA, now has a 35% stake in the company. JUUL contains 20 mg/ml nicotine or 1.7%.

In the years since the introduction of HTPs, no overview of them in Switzerland yet exists⁹. This analysis tries to fill the gap.

2. Methods

The report is based on limited field and desk research, mainly the internet, as well as media and legal analysis. Retail webpages and those of tobacco companies were taken into account. The political and public debate, as far as it is open to the public, was followed in the media and on the websites of the national parliament and government, as well as nongovernmental associations active in tobacco and prevention of its use. The legal analysis is based on the current legal framework and the prospective new Federal Act on Tobacco Products (FATP), currently being discussed in the Swiss Parliament. Limited field research including visits to supermarkets and kiosks was also conducted.

3. Legal framework

Switzerland signed the WHO Framework Convention on Tobacco Control in 2004 but has yet to ratify it. Ratification is foreseeable only after the adoption of the new Federal Act on Tobacco Products, thus not before the end of 2022.

Switzerland is not a member state of the European Union, therefore the European Tobacco Products Directive 2014/40/EU has no legal validity in Switzerland. However, the European Court of Justice *Cassis de Dijon* principle is applicable to vaping devices and products (e-cigarette, see below).

All current law that applies to tobacco products has been developed for traditional tobacco cigarettes and fine-cut tobacco. HTPs are tobacco products and are largely regulated as other tobacco products, though they are taxed at a much reduced rate and they are not necessarily subject to “smoking” legislation (see below).

Switzerland is a federal state consisting of the Swiss Federation and 26 cantons. Cantons have their own tobacco legislation and can have more restrictive rules than the federal ones; this makes for a fragmented legal situation. In addition, at a third level of state, communities are taking up tobacco control lately, mainly for child protection, i.e. smoking prohibition on community playgrounds (not treated in this report).

3.1. Federal law

Federal law regulates first the production, labelling, and advertising, and second the taxation of tobacco products, as well as, third, protection from second-hand smoke. A new Federal Act on Tobacco Products is under discussion in the Swiss Parliament (see below).

⁹ For a descriptive introduction see *Berthet, A., Jacot Sadowski, I, Zürcher, K., Guenin, V., Gendre, A., Auer, R., Vernez, D., Cornuz, J., (2018). [Produits du tabac «chauffé»: que faut-il savoir?](#), Rev Med Suisse 2018; volume 14.1935-1941.*

HTPs contain tobacco and therefore are subject to the federal tobacco regulations. One exception is the protection from second-hand smoke, since it is debated whether HTPs are “smoked” (see below).

While the tobacco legislation is with the ministry of public health (officially Federal Office of Public Health, FOPH), the tobacco tax is treated within the Ministry of Finance by the Federal Custom Administration (FCA).

3.1.1. Production and labelling of tobacco products

Due to the rule of law principle, each state action or regulation needs a law also called a federal act. In the absence, for the moment, of a specific Federal Act on Tobacco Products, the following laws apply:

Federal Act on Foodstuffs and Utility Articles (Foodstuffs Act or FSA)¹⁰ The FSA, in particular articles 4 and 73, applies to tobacco and tobacco products. Article 73 (transitional commission) requests the government’s adoption of a specific tobacco regulation by spring 2021. Because of the shifting deadline in the preparation of the new Federal Act on Tobacco Products, this will not be possible; as already noted, the new FATP will not be adopted before, at best, the end of 2022. Therefore, a revision of the FSA to prolong the Ordinance after 2021 will be necessary in spring 2021.

Ordinance on Tobacco and Smoking Products (OTSP)¹¹ The government, based on the FSA, has adopted an ordinance (or application law), the OTSP. This ordinance regulates the production, labelling, advertising, and delivery to consumers of tobacco products (Article 1). This includes HTPs. When the ordinance has no regulation or is not specific, the FSA, as superior legal instrument, is applicable.

The OTSP delegates warning declarations to the Federal Department of Home Affairs (FDHA), which has issued the Ordinance of the FDHA on Combined Warnings on Tobacco Products¹². Products must be declared through a formula available on the internet in order to receive a market authorization by the federal authority (“Application and Permission for Tobacco Products”).¹³ The Application and the authorization are not subject to any deadlines.

The appearance of the combined warning is laid down in article 3. The image must occupy around 50% of the surface of the combined warning. The additional warning must occupy around 38% of the surface of the combined warning. Where the image takes the form of a text, it must, together with the additional warning, occupy around 88% of the surface of the combined warning. The quitline notice must occupy around 12% of the surface of the combined warning, not counting the filter of the broken cigarette which overlaps the border. The additional warning and the colour photograph are linked

¹⁰ <https://www.admin.ch/opc/en/classified-compilation/20101912/index.html> (in English)

¹¹ This directive does not exist in English, but in German: Verordnung über Tabakerzeugnisse und Raucherwaren mit Tabakersatzstoffen <https://www.admin.ch/opc/de/classified-compilation/20021287/index.html>, French Ordinance sur les produits du tabac et les produits contenant des succédanés de tabac destinés à être fumés <https://www.admin.ch/opc/fr/classified-compilation/20021287/index.html>, and Italian Ordinanza sui prodotti del tabacco e gli articoli per fumatori con succedanei del tabacco <https://www.admin.ch/opc/it/classified-compilation/20021287/index.html>.

¹² <https://www.admin.ch/opc/en/classified-compilation/20071031/index.html>

¹³ This website does not exist in English but in German: <https://www.bag.admin.ch/bag/de/home/gesetze-und-bewilligungen/gesuche-bewilligungen/gesuche-bewilligungen-im-bereich-sucht/gesetzliche-vorgaben-tabakprodukte.html>, French: <https://www.bag.admin.ch/bag/fr/home/gesetze-und-bewilligungen/gesuche-bewilligungen/gesuche-bewilligungen-im-bereich-sucht/gesetzliche-vorgaben-tabakprodukte.html>, and Italian: <https://www.bag.admin.ch/bag/it/home/gesetze-und-bewilligungen/gesuche-bewilligungen/gesuche-bewilligungen-im-bereich-sucht/gesetzliche-vorgaben-tabakprodukte.html>.

graphically by a gradient zone going from 100% black to 0% black. This zone must occupy around 10% of the surface of the combined warning. The images are proposed in three series as annexes to the ordinance.

3.1.2. Advertisement

The OTSP¹⁴ prohibits all advertisement and promotion aimed “specifically” at minors under the age of 18 (Article 18). This means that any advertisement not produced or aimed specifically at minors is allowed.

Federal Act on Radio and Television (RTVA)¹⁵ Article 10 of this RTVA (adopted in 1964) bans all advertisement of tobacco goods on radio and television, including HTPs. However, advertising for ENDS would be allowed on radio or television. However, no such commercial is known to date.

3.1.3. Taxes and levies

Tobacco is submitted to four taxes and levies: (1) the value added tax (7.7%), like most products or services; (2) a special tobacco tax; and finally two levies, (3) one collecting money that is then distributed as subsidies to tobacco farmers, and (4) one in favour of the Tobacco Prevention Fund (main financing mechanism for the prevention of smoking in Switzerland).^{16, 17}

Federal Act on the Tobacco Tax (FATT)¹⁸ According to this act tobacco is only taxed on the national level. The special tobacco tax based on the FATT differentiates among four different product groups with different taxation levels. Cigarettes are taxed at 53% of the price; most of the other tobacco products are taxed only at 6% or 12% (fine cut tobacco and HTP).

The detailed regulations are fixed in the **Ordinance on the Tobacco Tax and the Ordinance of the Tobacco Prevention Fund**.¹⁹ The special tobacco tax itself is divided in four different categories: (1) traditional cigarettes, (2) cigars and cigarillos, (3) fine cut tobacco and tobacco for shishas, and (4) other tobacco products, to which HTP belong. Categories (1) and (3) have a specific tax as well as tax quota ad valorem. Categories (2) and (4) have only tax quota ad valorem. HTPs are therefore subject to the tobacco tax, but only at the reduced rate of 12%. In 2017, a Parliamentary motion tried, unsuccessfully, to tax HTPs at the cigarette rate.²⁰

¹⁴ See note 11 above.

¹⁵ <https://www.admin.ch/opc/en/classified-compilation/20001794/index.html>

¹⁶ Article 28 Paragraph 2 of the Federal Act on the Tobacco Tax, see note 9 above.

¹⁷ The Tobacco Prevention Fund is focused on structural prevention.

¹⁸ This Act does not exist in English but in German: Bundesgesetz über die Tabakbesteuerung <https://www.admin.ch/opc/de/classified-compilation/19690056/index.html>, French Loi fédérale sur l'imposition du tabac <https://www.admin.ch/opc/fr/classified-compilation/19690056/index.html>, and Italian Legge federale sull'imposizione del tabacco <https://www.admin.ch/opc/it/classified-compilation/19690056/index.html>.

¹⁹ This ordinance does not exist in English but in German: Verordnung über den Tabakpräventionsfonds <https://www.admin.ch/opc/de/classified-compilation/20031733/index.html>, French: Ordonnance sur le fonds de prévention du tabagisme <https://www.admin.ch/opc/fr/classified-compilation/20031733/index.html>, and Italian: Ordinanza sul fondo per la prevenzione del tabagismo <https://www.admin.ch/opc/it/classified-compilation/20031733/index.html>.

²⁰ <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20173878>

3.1.4. Special legislation to protect non-smokers

Federal Act on the Protection Against Passive Smoking (FAPAPS)²¹ In 2008, the Swiss Parliament adopted FAPAPS, which the government followed with an ordinance.²² Both came into force in 2010. The act forbids smoking in the majority of closed public places, including public transportation vehicles (article 1). Restaurants and bars can allow smoking if the smoking rooms do not affect other (non-smoking) rooms (article 3). HTPs are not necessarily subject to this act, depending on the interpretation of “smoking.” The federal government considers intervention by a cantonal laboratory as necessary to define HTPs as products which have to be smoked, and are therefore like cigarettes. A jurisdictional decision would end this uncertainty. Cantonal laws (see below) can be more restrictive than the federal act (article 4).

Companies and employers can sometimes be more restrictive than the national and cantonal law. For example, the Swiss Federal Railways (SFR) has recently started to extend smoking bans to train stations’ open areas. SFR has restricted smoking to smaller smoking areas clearly designated on the floor on the platforms. However, they still allow the sale of tobacco products in the railway stations, in kiosks, and supermarkets.

²¹ This Act does not exist in English but in German: Bundesgesetz zum Schutz vor Passivrauchen <https://www.admin.ch/opc/de/classified-compilation/20071656/index.html>, French: Loi fédérale sur la protection contre le tabagisme passif <https://www.admin.ch/opc/fr/classified-compilation/20071656/index.html>, and Italian: Legge federale concernente la protezione contro il fumo passivo <https://www.admin.ch/opc/it/classified-compilation/20071656/index.html>.

²² This directive does not exist in English but in German: Verordnung zum Schutz vor Passivrauchen <https://www.admin.ch/opc/de/classified-compilation/20090967/index.html>, French: Ordonnance sur la protection contre le tabagisme passif <https://www.admin.ch/opc/fr/classified-compilation/20090967/index.html>, and Italian: Ordinanza concernente la protezione contro il fumo passivo <https://www.admin.ch/opc/it/classified-compilation/20090967/index.html>.

3.1.5. Electronic nicotine delivery systems (ENDS)

HTPs seem to aim at the same target group as some of ENDS. While IQOS arrived first, JUUL followed in Switzerland in December 2018, and seems to be gaining market position rapidly. We do not yet have sufficient market data to analyse the competition among these products. We only know that half of young people between 13 and 15 have already tried ENDS.²³

ENDS, e-cigarette, and other vaping product devices are regulated as utility articles by the Federal Act on Foodstuffs and Utility Articles,²⁴ a framework that does not take into account product specifics. The salient fact is that they contain nicotine, not tobacco.

Sale of ENDS with nicotine was initially not allowed under Swiss law²⁵; only import for private use was allowed. A judicial decision of 24 April 2018 reversed the situation. ENDS containing nicotine can be imported to Switzerland from the EU or the European Economic Space under the condition that they are approved by authorities of EU Member States. Such ENDS thus can also be produced and sold under the same conditions within Switzerland.

Based on the EU Cassis de Dijon principle, ENDS are allowed in Switzerland if they are admitted and brought into circulation in a Member State of the European Union or the European Economic Space.²⁶ Switzerland has therefore adopted the EU regulations, especially on container sizes and amount of nicotine per millilitre.²⁷

In Switzerland, ENDS and e-liquids are currently sold freely without any age limitation. ENDS do not fall under the Federal Act on Passive Smoke of 2008. Cantonal authorities can issue more restrictive rules, and fifteen have done so. No tax is levied on e-cigarettes because nicotine liquids do not contain tobacco. In addition, a court ruling of 2012 exempted ENDS from agricultural and tobacco prevention levies as long as they do not contain tobacco.²⁸ This ruling came into force on 1 April 2012. This creates a comparative advantage for these kinds of products. However, the draft Federal Act on Tobacco Products intends to ban the sale of ENDS to minors of less than 18 years old.

²³ <https://www.hbsc.ch/de/publikationen/2018>

²⁴ See note 10 above.

²⁵ Article 61, Ordonnance sur les denrées alimentaires et les objets usuels (ODAIUOs): <https://www.admin.ch/opc/fr/classified-compilation/20143388/index.html>

²⁶ <https://www.blv.admin.ch/blv/de/home/gebrauchsgegenstaende/e-zigaretten.html>;
<https://www.blv.admin.ch/blv/de/home/import-und-export/rechts-und-vollzugsgrundlagen/cassis-de-dijon.html>

²⁷ Under Title three “Electronic cigarettes and herbal products for smoking” Article 20 Electronic cigarettes https://ec.europa.eu/health/sites/health/files/tobacco/docs/dir_201440_en.pdf.

²⁸ The ruling exists only in German: Urteil vom 17. Januar 2012, A-3123/2011. <https://www.bvger.ch/bvger/de/home/rechtsprechung/entscheidatenbank-bvger.html>.

3.2. Cantonal Laws

In the absence of national regulation, the 26 cantons are free to regulate all matters concerning tobacco sales, smoking, vaping, advertising, sponsoring, and promotion as well as protection of non-smokers in venues such as restaurants and bars. When a Federal Act exists, very often cantons can be more restrictive. The cantons have exercised their authority over a few issues²⁹:

<i>Cantonal age limitations on sales of tobacco products</i>	no age restrictions at all	limited sales to minors under the age of 16 years	restricted sales to minors under the age of 18 years	
Cantons	3 (11,5%)	10 (38,5%)	13 (50%)	
<i>Cantonal ban on advertising</i>	ban tobacco advertising that can be viewed from public places	ban tobacco advertising in public places	ban advertising in movie theatres	ban on sponsoring by tobacco companies or that favours tobacco products
Cantons	15 (58%)	2 (8%)	6 (23%)	2 (8%)
<i>Cantonal protection of non-smokers</i>	allow restaurants without smoking restrictions	allow serving in any restaurant with smoking	allow smokers rooms with no service in restaurants	
Cantons	11 (42%)	15 (58%)	8 (31%)	

Table 1: Cantonal legislation, Source: Federal Office of Public Health

- *Cantonal age limitations on sales of tobacco products*³⁰ Of the 26 Swiss cantons, three (11.5%) have no age restrictions at all, thirteen (50%) restrict sales to minors under the age of 18 years, and ten cantons (38.5%) limit sales to minors under the age of 16 years. HTPs contain tobacco, therefore they are automatically subject to these cantonal laws.
- *Cantonal ban on advertising*³¹ Fifteen cantons (58%) ban tobacco advertising that can be viewed from public places; two additional cantons (8%) ban tobacco advertising in public places. Six cantons (23%) ban advertising in movie theatres. Two cantons (8%) have introduced a ban on sponsoring by tobacco companies or that favours tobacco products. Similar to age limitations, these bans apply as well to HTPs.

²⁹ Status February 1st, 2020

³⁰ This Information does not exist in English but in German <https://www.bag.admin.ch/bag/de/home/strategie-und-politik/politische-auftraege-und-aktionsplaene/politische-auftraege-zur-tabakpraevention/tabakpolitik-kantone/abgabeverbot-tabakprodukte-kantone.html>, French: <https://www.bag.admin.ch/bag/de/home/strategie-und-politik/politische-auftraege-und-aktionsplaene/politische-auftraege-zur-tabakpraevention/tabakpolitik-kantone/abgabeverbot-tabakprodukte-kantone.html>, and Italian: <https://www.bag.admin.ch/bag/it/home/strategie-und-politik/politische-auftraege-und-aktionsplaene/politische-auftraege-zur-tabakpraevention/tabakpolitik-kantone/abgabeverbot-tabakprodukte-kantone.html>

³¹ This source does not exist in English but in German: <https://www.bag.admin.ch/bag/de/home/strategie-und-politik/politische-auftraege-und-aktionsplaene/politische-auftraege-zur-tabakpraevention/tabakpolitik-kantone/werbeeinschraenkungen-kantone.html>, French: <https://www.bag.admin.ch/bag/fr/home/strategie-und-politik/politische-auftraege-und-aktionsplaene/politische-auftraege-zur-tabakpraevention/tabakpolitik-kantone/werbeeinschraenkungen-kantone.html>, and Italian: <https://www.bag.admin.ch/bag/fr/home/strategie-und-politik/politische-auftraege-und-aktionsplaene/politische-auftraege-zur-tabakpraevention/tabakpolitik-kantone/werbeeinschraenkungen-kantone.html>

- *Cantonal protection of non-smokers*³² Three cantons extended the same bans pertaining to traditional cigarettes to HTPs and ENDS. An additional restriction on ENDS comes into force in another canton (Neuchâtel) on 1 June 2020. In a fifth canton (Geneva), the parliament has adopted a cantonal law that also extends such a ban; it will be submitted to a referendum to be held soon.³³ Following article 3 of the Federal Act on the Protection Against Passive Smoking, which allows exceptions for small establishments with an area of less than 80 square meters, eleven cantons (42%) allow such restaurants without smoking restrictions, i.e. with no protection of non-smokers, whether personnel or guests. Fifteen cantons (58%) allow serving in any restaurant with smoking, i.e. no protection for the personnel. Eight cantons (31%) allow smokers rooms with no service in restaurants. HTPs are not necessarily subject to the protections afforded non-smokers with respect to second-hand smoking. The legal situation is not clear. A judicial decision would be necessary to clarify this. Basically, it depends on whether the cantonal law refers to “smoking” or the “use of tobacco products.” If the word “smoking” is in the law, then HTPs are not necessarily subject to the law.³⁴

An overall evaluation of the cantonal laws and their effectiveness has not yet been made.

3.3. Forthcoming Federal Act on Tobacco Products

The Swiss Parliament is currently in the process of debating a new Federal Act on Tobacco Products (FATP)³⁵. The Swiss government submitted the first version of FATP to the Parliament in 2015.³⁶ The Parliament rejected it on various grounds, but mainly because of the proposed restrictions on advertising, sponsoring, and promotion.³⁷ The Parliament mandated the government to bring up a new proposal. This new version of the Act, weakened and strongly criticized by public health specialists, was submitted to the Parliament in November 2018.³⁸

The new FATP will include all tobacco products: traditional cigarettes and other tobacco products, as well as HTPs and ENDS. In the current proposal, HTPs are defined as “Heated Tobacco Products: a device for inhaling the emissions of a product containing tobacco heated by an external source of energy, as well as the refills for this device.”³⁹ Waterpipes and tobacco for waterpipes are tobacco products as well and are subject to the tobacco legislation.

³² This source does not exist in English but in German: <https://www.bag.admin.ch/bag/de/home/strategie-und-politik/politische-auftraege-und-aktionsplaene/politische-auftraege-zur-tabakpraevention/tabakpolitik-kantone/passivrauchschutz-kantone.html>, French: <https://www.bag.admin.ch/bag/fr/home/strategie-und-politik/politische-auftraege-und-aktionsplaene/politische-auftraege-zur-tabakpraevention/tabakpolitik-kantone/passivrauchschutz-kantone.html>, and Italian <https://www.bag.admin.ch/bag/it/home/strategie-und-politik/politische-auftraege-und-aktionsplaene/politische-auftraege-zur-tabakpraevention/tabakpolitik-kantone/passivrauchschutz-kantone.html>

³³ Political functions such as voting have been partially delayed due to the Covid-19 pandemic.

³⁴ For example Article 109 of the Health Act in the Canton of Wallis/Vallais. This law does not exist in English but in German and French: https://lex.vs.ch/app/de/texts_of_law/800.1/versions/2132?all_languages=true&diff=split.

³⁵ <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20150075>

³⁶ <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20150075>

³⁷ www.parlament.ch/centers/eparl/curia/2015/20150075/N02,%20SGK%20DF.pdf

³⁸ www.admin.ch/opc/de/federal-gazette/2019/919.pdf

³⁹ Article 3, al. c: « produit du tabac à chauffer: un dispositif permettant d’inhaler les émissions d’un produit contenant du tabac chauffé au moyen d’une source externe d’énergie, ainsi que les recharges pour ce dispositif ».

The FATP will hold all of the various products to the same regulations on advertising, sponsoring, and promotion (it is still unclear how far those limitations will go) as well as sales restrictions to minors under 18 years of age (this limitation does not seem controversial in the current parliamentary debate).

The tobacco industry, especially Philip Morris International, has a strong presence in the Swiss Parliament. Their aim is to obtain different treatment for their products (IQOS and JUUL), in particular for advertising and taxation. Their main argument is that they are “less dangerous” and they promote a “harm reduction” approach.

In September 2019, the Swiss Senate adopted stronger control on tobacco that partially reversed the previous decisions to maintain a liberal advertising policy and therefore strengthened the FATP. However, FATP still falls short of the total ban on advertising for tobacco products in the initial government proposal of 2015. The lower chamber will discuss this project in summer and fall 2020.⁴⁰ At the moment, the final discussion and adoption of the Federal Act is expected toward the end of 2020. Given the possibility of a referendum⁴¹ and the deadlines for the development of the application laws, the FATP is not expected to enter into force before the end of 2022 at the earliest. Given the current COVID-19 pandemic, this agenda could shift further. When the new FATP enters into force, it is expected that Switzerland will finally ratify the WHO FCTC.

In September 2019, the Swiss Senate also adopted a parliamentary motion asking that ENDS be subject to tobacco taxation, though at a reduced rate because they are claimed to be “less harmful” than traditional cigarettes.⁴² As already mentioned, today ENDS are not taxed at all and HTPs are taxed at only 12%. The motion will cause a debate on how to tax the various products and at which level each product should be taxed. We expect a difficult discussion in Parliament. On 21 February 2020, the Social and Health Commission of the lower chamber decided to put the taxation debate on hold until the FATP is discussed and adopted. As it has done in the past, the tobacco industry is expected to lobby again for a lower taxation rate applied to both ENDS and HTPs when the motion is discussed in both chambers.

⁴⁰ The current status in March and April 2020 is as follows: 1. Minimum age for all tobacco products including HTP is 18 years, as well as for ENDS; 2. Same advertisement restriction for tobacco and vaping products, 3. Same protection for second-hand smoking (tobacco) and vaping (ENDS); 4. Combined warnings only for cigarettes and fine-cut tobacco, simple warnings on all other products.

⁴¹ There are three ways a referendum can be initiated: first, prescription by the constitution; second, vote of parliament to avoid a popular referendum; third, a popular referendum triggered by 50,000 Swiss citizens within three months after official publication, which is easy for well organized and wealthy organisations and difficult for all others. The question of the referendum is to accept or not the law (or decision) voted by parliament (yes or no question).

⁴² Motion 19.3958. This proposal does not exist in English but in German: <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20193958>, and French: <https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20193958>

4. Economic impact of tobacco products

Tobacco companies are strongly positioned in Swiss society as producers and as employers. Most cigarettes sold in Switzerland are produced here by PMI in Neuchâtel, by BAT in Boncourt, and by JTI in Dagnersellen.⁴³ Around 75% of the production is exported.

PMI has located its worldwide headquarters in Lausanne and maintains a big research laboratory in Neuchâtel. Philip Morris Switzerland is the Swiss subsidiary of PMI. It is responsible for sales in Switzerland and has a production site for cigarettes and IQOS-Heets (i.e. HTP) for the world market in Neuchâtel next to PMI's research laboratory.

In 2017, PMI announced an investment of CHF 30 million in two new production lines for Heets in Neuchâtel to serve the Swiss market.⁴⁴ Neuchâtel also hosts the PMI main research centre where IQOS was developed. The number of PMI employees in the Lausanne headquarters was 1,500 in 2017. The other major European production sites, where PMI invested massively in 2017, are Otopeni, Romania (investment in 2017 US\$ 490 million)⁴⁵; Dresden, Germany (investment in 2017 US\$ 320 million)⁴⁶; and Bologna, Italy (investment in 2017 US\$ 500 million).⁴⁷ It is unclear whether the Heets for IQOS produced in Neuchâtel are also exported.

Through taxes on tobacco and other products, the tobacco industry contributes to public funding in four ways. In 2016 this included, first, the tobacco tax of 52.8% of cigarette price that goes to the public pension fund (CHF 2,130.5 million), which is an important resource for the pension fund and has never been questioned; second, the value added tax of 7.4% of a cigarette price that goes to the national fund (CHF 319.4 million); third, the funding of Swiss tobacco farmers at 0.3% of cigarette price (CHF 13.7 million); and fourth, the tobacco prevention fund at another 0.3% of cigarette price (CHF 13.7 million).⁴⁸ In addition to levies on its products, big tobacco companies based in Switzerland also pay corporate taxes.

About 150 farmers plant tobacco. Neither their quantity nor their quality is important to the tobacco industry. Nor are they economically important to the tobacco industry or to Switzerland.

⁴³ http://www.swiss-cigarette.ch/fileadmin/media/pdf/KPMG_study_2017_de_final.pdf

⁴⁴ Le Temps, July 7th, 2017. According to this article, PMI invested more than US\$ 3 billion over 10 years for the research and development of smoke-free products: <https://www.letemps.ch/economie/philip-morris-investit-30-millions-francs-neuchatel>

⁴⁵ <https://www.pmi.com/media-center/press-releases/press-release-details/?newsId=12216>

⁴⁶ <https://www.pmi.com/media-center/press-releases/press-release-details/?newsId=12191>. However, we are not sure this factory was realized.

⁴⁷ <https://www.pmi.com/media-center/press-releases/press-release-details/?newsId=12196>

⁴⁸ http://www.swiss-cigarette.ch/fileadmin/media/pdf/KPMG_study_2017_de_final.pdf

5. Political lobbying of the tobacco industry

The three big tobacco companies, PMI, BAT, and JTI, founded the association “Swiss Cigarettes.”⁴⁹ Because there are no restrictions for interest groups or private enterprises on the contact with Parliament, between 1936 and 2004 the president of the organisation and precursor organisations was always a Member of Parliament.

Swiss Cigarettes is a member of the Union of Industries and Crafts (Gewerbeverband/Union Suisse des Arts et Métiers)⁵⁰ and Swiss Employers Association (Schweizerischer Arbeitgeberverband/Union Patronale Suisse.)⁵¹ These two organisations are strong and well represented in Parliament. In general, the Union of Industries and Crafts intervenes on behalf of the interests of the tobacco companies.⁵²

Tobacco merchants also have an umbrella organisation, Swiss Tobacco.⁵³ Their president, Gregor Rutz, is currently a Member of Parliament for the Swiss Peoples Party.

6. Public campaigning by the tobacco industry

The full extent of the advertising, marketing, and lobby efforts of the tobacco industry in Switzerland is difficult to gauge. Switzerland is not only a country where the tobacco companies profit from fiscal advantages and almost nonexistent advertising restrictions, but they can “optimize” their revenues and organize their planetary strategies unchecked. Switzerland has become a key location from which worldwide industry rhetoric is deployed.

The tobacco industry is flexing its financial power to obtain positive coverage in influential Swiss media, as the following four examples show. All of them are part of the PMI “smoke free world” campaign.

- a) On 22 May 2019, a full-page interview of the CEO of PM Switzerland (with a picture of him) was published in one of the major Swiss German newspapers, the Neue Zürcher Zeitung.⁵⁴ The NZZ is traditionally known to have a liberal economic position and is influential in economic and political leaders. The interview was uncritical and the PM Switzerland CEO used it to promote IQOS. Only a few days later, on 16 June 2019, an important campaign to promote IQOS was published in a series of publications belonging to the NZZ group. In the NZZ am Sonntag (Sunday special issue of NZZ) a full 2-page advertisement of IQOS was published with a large picture of the CEO who gave the interview to the NZZ on 22 May. This proximity raises serious questions about the independence of the two publications.

⁴⁹ <http://www.swiss-cigarette.ch/> formerly ASFC and CISC founded 1933

⁵⁰ <https://www.sgv-usam.ch/>

⁵¹ www.arbeitgeber.ch

⁵² <https://tabagisme.unisante.ch/pratiques-influence-industrie-du-tabac/>

⁵³ <https://www.swiss-tobacco.ch/>

⁵⁴ [https://www.pmi.com/markets/switzerland/de/medienzentrum/details/nzz---es-gibt-kein-zur%C3%BCck-mehr-\(de\)](https://www.pmi.com/markets/switzerland/de/medienzentrum/details/nzz---es-gibt-kein-zur%C3%BCck-mehr-(de))

Heated Tobacco Products: Deep Dive Switzerland

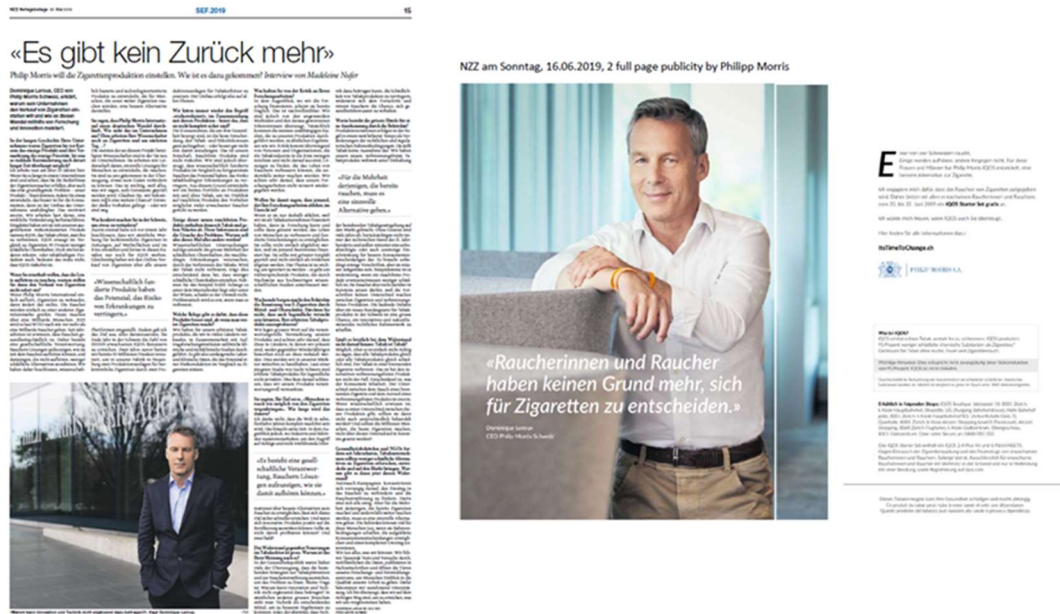


Figure 1: NZZ, 22 May 2019; NZZ am Sonntag, 16 June 2019

- b) In January 2020, PMI published a new white paper called “Unsmoke your mind”⁵⁵ during a high-profile conference: the World Economic Forum in Davos, Switzerland. In Davos this year, the central preoccupation was the future of our planet and our environment. PMI was not interested in this topic nor the famous guest Greta Thunberg, but wanted to promote their product IQOS. PMI was able to profit from Davos to attract global media coverage to influence public opinion and shape perceptions of global leadership. However, we should stress that PMI was not formally invited to the WEF in Davos. The tobacco industry actually is considered *persona non grata* there.
- c) On 15 March 2020, again in NZZ am Sonntag, PM Switzerland published a special supplement (22 glossy pages)⁵⁶ under the title "Inside Innovation" to promote IQOS with a focus on how Switzerland should follow the Japanese example. Trendy topics such as innovation and pseudoscientific arguments for HTPs were accompanied by graphical material and support from a scientist, Dr Kumamaru, who is a regular speaker at events organized by the *Foundation For A Smoke-Free World* funded by interests that include PMI. The publication displayed the logo “NZZ Media Solutions,” which sustained readers' perception that the IQOS material was editorial rather than advertising content. The payment by PMI to NZZ for the IQOS promotion is not known but clearly substantial.

⁵⁵ <https://www.pmi.com/our-initiatives/unsmoke-your-mind>

⁵⁶ Neue Zürcher Zeitung, NZZ am Sonntag, edition of March 15 2020.



Figure 2: PMI Inside Innovation, special supplement to NZZ am Sonntag, 15 March 2020

- d) Finally, PMI is also using money for questionable charitable donations. After intense tropical cyclone Idai hit Mozambique in March 2019, PMI donated US\$ 400,000 to the Swiss Red Cross (against ethical rules laid down by the International Federation of Red Cross⁵⁷) for relief efforts for farmers in the country. From the wording of the PMI press release, it is clear that the PMI's worry was for the loss of tobacco crops there.⁵⁸

⁵⁷ In May 2013, the IFRC Governing Board issued a decision to encourage all movement components to avoid accepting tobacco industry money; the decision was communicated to all national societies, but not acknowledged publicly. In August 2015, the IFRC followed up on this decision by issuing an internal guidance brief entitled "Red Cross Red Crescent non-Engagement with Tobacco Companies." <https://seatca.org/dmdocuments/Red%20Cross%20Policy%20on%20TI.pdf>

⁵⁸ PMI Press Release, 29 March 2019: <https://www.pmi.com/media-center/news/pmi-supports-relief-efforts-in-mozambique-after-cyclone-idai> (last consulted 11.04.2020)

7. Surveillance

In Switzerland, surveillance data on prevalence and behavior with regard to HTPs is limited. Only very recently has some data been made available. Consistent yearly HTP data are not available and trends are not yet visible.

The Swiss Health Survey (2017)⁵⁹ Every five years the Federal Office of Statistics conducts a nationwide Swiss Health Survey. This survey is based on phone interviews and written questionnaires addressed to the adult population (15+ years). This survey also includes questions related to tobacco consumption. There is a specific question asking what product respondents are consuming. This question differentiates ENDS and HTP. A separate question asks about the frequency of HTP use.

Dual use is common. Currently 96% of female smokers and 84% of male smokers use cigarettes, while only 7% of all smokers use HTPs. Among HTP users, 70% continue to smoke traditional cigarettes.

The general prevalence of smokers in the adult population remains very high, at 27%. More worrying, prevalence has remained stable at this level over the last 10 years. Men (31%) smoke more than women (23%). Daily consumers are slightly lower: men, 21%, women 17%. Smokers begin during their youth; two-thirds began to smoke before the age of 20. Prevalence in the age group 15 to 24 is even higher at around 32%.

Swiss Addiction Monitoring (2016)⁶⁰ A study based on data from regular Swiss drug monitoring that was published in 2017 examined the use of ENDS and HTPs. The phone survey was conducted among 11,000 people 15 years and older all over Switzerland during 2016. The main findings of this study with regard to HTPs are as follows:

- A total of 2.0% already used an HTP.
- Among daily smokers, 7.6% already used HTPs (either regularly or simply had tried), including 2.4% during the last 30 days before the survey.
- Regular consumption: 0.3% of the population declares consumption of those products (ENDS and HTP) weekly, 0.2% daily.
- Dual consumption of ENDS and HTPs: users of these products are not the same—usually they consume either one or the other. Dual consumers are mainly daily smokers who use a new generation product, either ENDS or HTP, at least weekly.

⁵⁹ The results do not exist in English but in German: <https://www.bfs.admin.ch/bfs/en/home/news/whats-new.gnpdetail.2020-0253.html>, French <https://www.bfs.admin.ch/bfs/fr/home/actualites/quoi-de-neuf.gnpdetail.2020-0253.html>, and Italian: <https://www.bfs.admin.ch/bfs/it/home/attualita/novita-sul-portale.gnpdetail.2020-0253.html>. The questionnaire is not available in English but in German <https://www.bfs.admin.ch/bfs/de/home/statistiken/gesundheit/erhebungen/sgb.assetdetail.7606607.html>, French <https://www.bfs.admin.ch/bfs/fr/home/statistiques/sante/enquetes/sgb.assetdetail.7606607.html>, or Italian <https://www.bfs.admin.ch/bfs/it/home/statistiche/salute/rilevazioni/sgb.assetdetail.7606607.html>.

⁶⁰ Kuendig, Hervé; Notari, Luca; Gmel, Gerhard; Gmel, Christiane (2017): Cigarette électronique et autres produits du tabac de nouvelle génération en Suisse en 2016. Analyse des données du Monitoring suisse des addictions. Addiction Suisse. Lausanne. See: https://www.suchtmonitoring.ch/docs/library/kuendig_o6c0u4xw5o5v.pdf

Consumption of psychoactive substances in school age children (2018) Another study published in 2019 examined the consumption in school age children (11 to 15 years old) based on a survey conducted in 2018.⁶¹

HTPs appear to be used by few boys and girls of school age; less than 2% try them at least once. This figure is in strong contrast with the consumption of ENDS. For those products, 50.9% of boys and 34.8% of girls aged 15 years declared already having used them at least once. Use of ENDS during the 30 days before the survey was 20.6% for boys and 12.9% for girls.

The data have not been further analyzed for correlation with product availability or advertising.

Surveillance gaps

Regular behavioral surveillance via knowledge, attitudes, behavior, and practices (KABP) surveys should be conducted at the national level.

Monitoring of digital marketing aimed in particular at children and adolescents is totally missing. Switzerland should start to monitor digital marketing of unhealthy products to children; the so-called CLICK monitoring framework developed by WHO-Europe should be implemented urgently.⁶²

Switzerland has never participated in the Global Youth Tobacco Survey,^{63,64} contrary to most Eastern European Countries as well as Portugal, Italy, and Finland.⁶⁵ Nor has Switzerland participated in the Global Adult Tobacco Survey⁶⁶ or any other international tobacco survey.

⁶¹ Delgrande Jordan, Marina; Schneider, Eva; Eichenberger, Yvonne; Kretschmann, Andrea (2019): La consommation de substances psychoactives des 11 à 15 ans en Suisse –Situationen 2018 et évolutions depuis 1986. Résultats de l'étude Health Behaviour in School-aged Children (HBSC). Addictionsuisse. Lausanne. Available online at https://www.addictionsuisse.ch/fileadmin/user_upload/DocUpload/HBSC-2018-rr-100.pdf.

⁶² WHO (2019): Monitoring and restricting digital marketing of unhealthy products to children and adolescents (2019). Geneva. <http://www.euro.who.int/en/health-topics/disease-prevention/nutrition/publications/2019/monitoring-and-restricting-digital-marketing-of-unhealthy-products-to-children-and-adolescents-2019>

⁶³ <https://www.who.int/tobacco/surveillance/survey/en/>

⁶⁴ <http://www.euro.who.int/en/health-topics/disease-prevention/tobacco/publications/data,-statistics-and-surveillance-reports/global-youth-tobacco-survey-gyts>

⁶⁵ <http://www.euro.who.int/en/health-topics/disease-prevention/tobacco/publications/data,-statistics-and-surveillance-reports/global-youth-tobacco-survey-gyts/implementation-of-the-global-youth-tobacco-survey>

⁶⁶ <https://www.who.int/tobacco/publications/surveillance/gatstlas/en/>

8. Swiss research on HTP

A recent (2019) systematic literature review of heat-not-burn tobacco identified only one independent Swiss study.⁶⁷ In comparison, five have been conducted by Philip Morris.

a) In 2017, a team of Swiss researchers published an important article titled “Heat-Not-Burn Tobacco Cigarettes: Smoke by Any Other Name.”⁶⁸ The study investigated the presence of volatile organic compounds, polycyclic aromatic hydrocarbons, and carbon monoxide in IQOS smoke in comparison to conventional cigarettes (not the standard reference cigarette 3R4F).

This study concluded that the smoke released by IQOS contains elements from pyrolysis and thermogenic degradation that are the same harmful constituents of conventional tobacco cigarette smoke. The analyses reveal that advertising slogans such as “heat-not-burn” dodge science. Dancing around the definition of smoke to avoid indoor smoking bans is unethical. Principle 1 for implementing Article 8 of the WHO FCTC highlights that we should reject the idea that there is a threshold value for toxic effects from second-hand smoke. Independent studies should further evaluate the health effects⁶⁹ and the potential addictiveness⁷⁰ to IQOS as it delivers nicotine at a rate similar to a conventional cigarette. In the meantime, heated tobacco products such as IQOS should fall under the same indoor-smoking bans for conventional tobacco cigarettes.

A few days after the study’s publication, PMI wrote a letter, dated 6 June, 2017, to the heads of the Swiss research and medical institutions with which the authors of the study are affiliated. This letter was published online by a Swiss newspaper, the Beobachter.

A Beobachter article titled “New tricks—Old Lies” (“Neue Tricks—Alte Lügen”) that accompanied the letter describes how the industry is using the same old methods to promote its new products and discredit independent science and critical researchers. Philip Morris attacked the study and asked the Universities of Bern and Lausanne to withdraw it. In the words of PMI the results were “inaccurate” and “misleading.” In addition, PMI charged the researchers with incompetence “since the authors do not appear to have a relevant track record in the field of study” and suggest they should consult with other experts.⁷¹

Philip Morris also offered to pay for a new study using “validated methods” in an “accredited laboratory”—in other words, a study paid for by the tobacco industry, steered in the direction it wishes. Both universities politely declined the offer.

b) On its Swiss webpage, PMI listed the existing scientific studies of HTPs,⁷² but the only study commented upon in a negative way is that of Auer et al., which the PMI criticism characterizes as “*the*

⁶⁷ Simonavicius, Erikas; McNeill, Ann; Shahab, Lion; Brose, Leonie S. (2019): Heat-not-burn tobacco products: a systematic literature review. In Tobacco control 28 (5), pp. 582–594. DOI: 10.1136/tobaccocontrol-2018-054419.

⁶⁸ Auer, Reto; Concha-Lozano, Nicolas; Jacot-Sadowski, Isabelle; Cornuz, Jacques; Berthet, Aurélie (2017): Heat-Not-Burn Tobacco Cigarettes: Smoke by Any Other Name. In JAMA internal medicine 177 (7), pp. 1050–1052. DOI: 10.1001/jamainternmed.2017.1419.

⁶⁹ Health effects should be studied on short vs. long-term users, even if it is very difficult to study long term effects as HTP products are on the market only for 5 years. Health effects on passive smokers should also be considered.

⁷⁰ The nicotine intake will influence on the topography, the intensity of use, and the exposure to toxicants.

⁷¹ Hebessein, Chantal, Neue Tricks – Alte Lügen, Der Beobachter, March 16th, 2018. The full 2 pages PMI letter is available online: <https://cdn.beobachter.ch/sites/default/files/iqos-brief.pdf> (last consulted: 22.03.2020)

⁷² <https://www.pmi.com/markets/switzerland/de/forschung-und-innovation/iqos/unabhaengige-studien-ueber-iqos> (last consulted: 22.03.2020)

only Swiss study that does not confirm our data. However, the methods used in this study have been questioned by our researchers,⁷³ independent researchers,⁷⁴ and also by the American Food and Drug Administration (FDA); the latter came to the following conclusion: "The data published is not considered adequate for comparing the levels of HPHCs between the IQOS products and combusted cigarettes. There are significant analytical issues in the Auer et al. study, such as lack of testing reference samples, low number of replicates, lack of selectivity on some analytical methods. In comparison, we have not identified specific issues with the applicant's methods. (FDA Briefing Document: January 24-25, 2018 TPSAC Meeting)."⁷⁵

The allegation that the methods of Auer et al. were also questioned by "independent researchers" is itself questionable. The critique of Auer et al. published in JAMA⁷⁶ was written by authors associated with PMI and a researcher who receives lecture fees from the tobacco industry that he donates to nonprofit vaping advocacy associations.⁷⁷

c) Research led by the Swiss Federal Laboratories for Materials Science and Technology, EMPA, is underway that aims at measuring the concentration, chemical composition, and size distribution of particles as well as volatile organic compounds in the mainstream emissions of a selected list of ENDS (Puritane⁷⁸) and HTPs (IQOS, PloomTECH) compared to those from a reference conventional tobacco cigarette (3R4F).⁷⁹ Initial findings show that the particles emitted by the conventional cigarette were slightly larger than those from the Puritane and IQOS (mode at 220 nm for 3R4F, vs. 150 nm for Puritane and IQOS), while the size distribution of particles emitted by the PloomTECH was very broad, ranging from 10 to 200 nm. Volatile organic compound concentrations were 6 times higher with the

⁷³ <https://www.pmiscience.com/news/comments-on-the-article-entitled-heat-not-burn-tobacco-cigarettes-smoke-by-any-other-name>

⁷⁴ Caruso, Massimo; Polosa, Riccardo (2017): Perplexing Conclusions Concerning Heat-Not-Burn Tobacco Cigarettes. In JAMA internal medicine 177 (11), p. 1699. DOI: 10.1001/jamainternmed.2017.5843. Riccardo Polosa can in no way be considered as an independent researcher. He has well known ties with the tobacco industry. Polosa's conflict of interest statements have been inconsistent. https://www.tobaccotactics.org/index.php/Riccardo_Polosa (last consulted: 11.04.2020)

⁷⁵ «Hinweis : Es handelt sich hierbei um die einzige Schweizer Studie, die nicht unsere Daten bestätigt. Die in dieser Studie angewendeten Methoden wurden jedoch von unseren Forschern (hier), von unabhängigen Forschern (hier), und auch von der amerikanischen Food and Drug Administration (FDA) in Frage gestellt; letztere gelangte zu folgendem Schluss: "The data published is not considered adequate for comparing the levels of HPHCs between the IQOS products and combusted cigarettes. There are significant analytical issues in the Auer et al. study, such as lack of testing reference samples, low number of replicates, lack of selectivity on some analytical methods. In comparison, we have not identified specific issues with the applicant's methods." (FDA Briefing Document: January 24-25, 2018 TPSAC Meeting). (Die in dieser Studie veröffentlichten Daten werden als nicht geeignet angesehen, um den Gehalt an schädlichen und potentiell schädlichen Bestandteilen des IQOS Systems und brennbarer Zigaretten zu vergleichen. Die Studie weist signifikante analytische Methodedefehler auf, wie die fehlende Untersuchung von Referenzproben, eine geringe Anzahl an Testwiederholungen und unzureichende Selektivität bei verschiedenen analytischen Methoden. Dahingegen haben wir keine besonderen Probleme bezüglich den analytischen Methoden [von Philip Morris] feststellen können.)» available here: <https://www.pmi.com/markets/switzerland/de/forschung-und-innovation/iqos/unabhaengige-studien-ueber-iqos> (last consulted: 22.03.2020)

⁷⁶ Caruso, Massimo; Polosa, Riccardo (2017): Perplexing Conclusions Concerning Heat-Not-Burn Tobacco Cigarettes. In JAMA internal medicine 177 (11), p. 1699. DOI: 10.1001/jamainternmed.2017.5843.

⁷⁷ <https://jamanetwork.com/journals/jamainternalmedicine/article-abstract/2660131>

⁷⁸ Puritane is an ENDS launched in 2014 by Imperial Tobacco.

⁷⁹ Setyan A., Bühner T., Leuzinger F., Netkueakul W., Michael P., Jing W., ETH Zürich / Empa, Switzerland, https://www.researchgate.net/publication/322855531_Physico-Chemical_Characterization_of_Particles_and_Volatile_Organic_Compounds_Emitted_by_Electronic_Cigarettes_and_Heat-Not-Burn_Products_Compared_to_a_Reference_Tobacco_Cigarette (study abstract – not yet published).

conventional cigarette than with the Puritane and IQOS, and more than 100 times higher than with PloomTECH. A wide range of monoaromatic (mainly benzene and furan derivatives) and oxygenated compounds were identified in gaseous emissions of the conventional cigarette. Most of these compounds were also present in the IQOS, but in much lower concentrations, while volatile organic compounds emitted by the Puritane were mainly constituted of oxygenated compounds and alkanes. Insight from toxicological and air quality studies is still needed to determine whether these new products really reduce risks for users and bystanders.

d) A survey of users of tobacco vaporizers (this term is confused with ENDS, but it is HTPs) asked them about reasons and modes of utilization, perceived advantages, and perceived risks.⁸⁰ The online questionnaire collected data from October 2016 to January 2018 from self-selected visitors aged > 18 to an antiaddiction website.

The main findings of this online survey among mostly Swiss and French visitors to the website were that Brand 1 (probably IQOS, but the authors are not explicit about the products) was by far the most frequently used tobacco vaporizer, that the tobacco vaporizer was used mainly to replace cigarettes, and that it scored highly in terms of satisfaction. Users also considered the vaporizer to be less toxic than cigarette smoke, although the study relied upon an ad hoc (i.e. not formally validated) question to assess this. The vaporizer was perceived to be helpful for reducing cigarette consumption or for stopping smoking, and also to diminish respiratory symptoms such as coughing and shortness of breath after physical effort.

In this online sample, the tobacco vaporizer was used exclusively by current and former smokers. Most current smokers—dual users—reported currently trying to reduce their cigarette consumption and around one-third were trying to quit smoking. But only around 10% had decided to stop smoking immediately or in the next 30 days, and their confidence in their ability to quit smoking successfully was low. Most vaporizer users were also current smokers, but concomitant cigarette smoking reduces the potential of vaporizers to lower the risk of tobacco-related harm.

e) Currently a researcher at the University of Lausanne is undertaking research on pollution and second-hand smoking⁸¹.

f) PMI also maintains a webpage called **PMI Science** through which it presents research financed and sponsored by PMI to promote PMI products. The majority of the studies mentioned are directly linked to the tobacco industry⁸² or researchers paid by or with historical connections to the tobacco industry. In comparison, only a few are from truly independent researchers.⁸³

⁸⁰ Queloz, Sébastien, Etter, Jean-François. An online survey of users of tobacco vaporizers, reasons and modes of utilization, perceived advantages and perceived risks. BMC Public Health, 2019, vol. 19, no. 1, p. 642, DOI : 10.1186/s12889-019-6957-0

⁸¹ Email March, 18 2020 from the scientist to the author.

⁸² Summary of Published Scientific Articles https://www.pmiscience.com/resources/docs/default-source/Library_Documents_latest/pmi-science-ths-executive-summary20e4a5852f88696a9e88ff040043f5e9.pdf

⁸³ <https://www.pmi.com/markets/switzerland/de/forschung-und-innovation/iqos/unabhaengige-studien-ueber-iqos>

9. Sales, prices, marketing, and production of HTP

In Switzerland, HTP are sold either in shops (supermarkets, kiosks, tobacconists, IQOS-Boutiques) or on the internet. We have no data that allow us to estimate the distribution of sales volumes among those different channels.

9.1. General points of sale

The IQOS web page allows finding the nearest selling point (see Annex 1). IQOS has opened so-called IQOS Boutiques—seven so far in Switzerland. All of them are situated in central areas in larger Swiss cities: Zürich, Luzern, Lausanne, St. Gallen, Bern, Lugano, and Wallisellen (important shopping centre). In their design, these boutiques strongly mimic the Apple stores: simple design, basic colours, nothing that would suggest you are buying a tobacco product.

In Switzerland, a network of stores or “kiosks” (brand name “kkiosk”) sells newspapers, cigarettes, some basic foods, and beverages including alcohol. The kiosks are mostly situated in highly frequented locations inside train stations, commercial centres, or at gasoline stations. They sell HTPs, too. Very often special stands have been added in highly frequented sales venues such as those in train stations or in commercial centres. They have a small counter at which a young person promotes IQOS to clients.

Large retail shops and supermarkets like Coop or Denner also sell HTPs.^{84,85}

9.2. Internet sales

There are five different internet sales providers: tobacco companies, retail companies and supermarkets, general online shops, specialized online shops, and tobacconists with an online channel.

1. Tobacco companies. PMI has its own internet page for their product IQOS: www.iqos.ch. Advertising in flyers and online promotes the product and the website. The initial age verification on www.iqos.ch can easily be bypassed by giving a false year of birth. There is no real age verification with an identification card, etc. Anyone can buy the IQOS holder and charger as well as the sticks called Heets. On the webpage, IQOS promotes a “free 15 days trial offer”: *“Sign-up and receive your IQOS Kit at home with 3 free HEETS packs for trial. Try for 15 days, and after this period, you can decide to buy it or to return it for free.”* If one does not return it after 15 days, the customer will have to pay for the device, but not the 3 free HEETS.

The products glo and plom no longer have their own dedicated Swiss websites. Promotion of BAT's ENDS product via the Swiss domain www.glo.ch has been supplanted by www.govype.ch, and JTI's ENDS has been moved from www.ploom.ch to logicvapes.ch. Our impression that glo and plom are disappearing from the Swiss market.

2. Traditional retail companies. Among the big retail companies, including supermarkets and kiosks, only one sells HTPs online: Coop. No age is requested for site access. Coop sells only IQOS Heets and some vaping products among many traditional cigarettes in bundles of 10 pieces.⁸⁶

⁸⁴ The other major Swiss retailer, Migros, does not sell alcohol or tobacco products. This was a decision of its founder. However, subsidiaries of Migros, like Denner, or sub-branches, like Migrolino, do sell such products.

⁸⁵ Denner often gives discounts <https://www.denner.ch/de/aktionen/list/gf/tabakwaren/>.

⁸⁶ https://www.coopathome.ch/en/wine-spirits/tobacco-products/e-cigarettes-heat-not-burn/c/m_4379

3. General online shops. The site www.tutti.ch sells glo; Amazon also sells IQOS, all sorts of IQOS accessories, and HEETS (www.amazon.de)
4. Specialised internet shops. The web shop www.smoke24.ch is dedicated to online sale of tobacco products. Some glo and HEETS products are available.
5. Tobacconists with an online channel. Most of the dedicated tobacco shops that have an online channel specialize in cigars and do not provide HTPs. We identified only one such shop that offers HTPs.⁸⁷ No age checking is visible in these online shops.

9.3. Products and sales volumes

Marlboro flavours for IQOS have not yet reached Switzerland. IQOS HEETS in Switzerland started with five and now are sold in seven different flavours. These are flavours that are not common among adult smokers and therefore are flavours particularly looking for a young audience: 1. Sienna Label, tobacco taste with woody nuances and subtle light tea aroma note; 2. Amber Label, tobacco taste sensation defined by pleasingly woody and light nutty top notes; 3. Yellow Label, citrusy taste sophisticated, beautifully balanced tobacco taste enhanced with light herbal note; 4. Bronze Label, tobacco taste sensation with cocoa and dry fruit variant notes; 5. Turquoise Label, crisp menthol taste and subtle zesty hint for a thoroughly stimulating and refined tobacco experience; 6. Purple Wave, with cool menthol and berry flavours; and 7. Green Zing, crisp menthol cooling sensation colliding with citrus and the aroma of spicy herbs.

BAT has started with one flavour of their neostiks for glo, and is joined by JTI with one Winston for plomTECH.

Which flavour is most favoured in the market is not known.

Each of the three HTPs is associated with a different device with evolving generations. The latest HTP of JTI is “plomTECH S”, the latest HTP of PMI is “IQOS 3 DUO”:



Figure 3: devices of plomTECH, Source: <https://www.jti.com/about-us/what-we-do/our-reduced-risk-products>

⁸⁷ <https://www.tabaklaedeli.ch/produkt/kent-neostiks-bright-tobacco-for-glo/>

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Figure 4: IQOS 3 DUO, Source: <https://ch.iqos.com/de/shop/iqos/3-duo/ger%C3%A4te>

PMI announced on 19 November, 2019, that IQOS was already used by close to 100,000 users (without specification of age, gender, and region), which is double the tally of one year earlier. PMI attributes this change mostly to “measures taken by PMI to help adult smokers to discover IQOS as the best alternative to cigarettes.”⁸⁸

The advertisement features a photograph of Dominique Leroux, CEO of Philip Morris Switzerland, standing in a modern, well-lit interior. He is wearing a light blue button-down shirt and khaki trousers. The headline reads: «Eine Schweiz ohne Zigaretten ist möglich.» Below the headline, it says: Dominique Leroux, CEO Philip Morris Schweiz. To the right of the photo, there is a block of German text. At the bottom left of the photo, a small note reads: Nur für erwachsene Raucher mit Wohnsitz in der Schweiz. At the bottom right, there is a box with the text: Was ist IQOS? IQOS enthält echten Tabak, anstatt ihn zu verbrennen. Genießen Sie Tabak ohne Asche, Feuer und Zigarettenrauch. The Philip Morris S.A. logo is also present.

Figure 5: PMI advertisement in various Swiss newspapers, November 2019

The IQOS devices are able to transfer data via Bluetooth about consumption habits to PMI. On the basis of such data PMI can adapt its products as well as its advertising and promotion. This begs questions about data protection, which is highly valued in Switzerland.

Consumer numbers for BAT and JTI HTPs in Switzerland are not publicly available. This is consistent with the fact that both firms seem to be retiring from the HTP market and switching entirely to their vaping products in Switzerland.

⁸⁸ PMI Press Release, 19.11.2019: <https://www.pmi.com/markets/switzerland/de/medienzentrum/details/les-utilisateurs-IQOS-ont-doubl%C3%A9-en-Suisse> (last consulted:22.03.2020)

9.4. Marketing

PMI is positioning IQOS as a luxury product in design and in price. The products are stylish and there is a wide range of accessories available (leather holders, etc.). The holders are neither particularly large (like glo) and nor too small. A store is called a “boutique,” which aims to project a very modern design and fancy image, distancing the product as much as possible from traditional tobacco products and more toward a high-tech digital device similar to Apple products.

A wave of advertising led the way for the introduction of these products in the Swiss market. Tobacco companies use the usual advertising channels⁸⁹ or invite the media to conferences.⁹⁰

Naming is part of the marketing. All three names are short and trendy: IQOS, glo, and plloom have no connotation linking them to tobacco and cigarettes. The “I” in IQOS alludes to Apple products like the iPhone, iPad, etc. This goes along with the presentation of the IQOS-Boutiques, which align with the design of Apple stores. IQOS is easily read as an acronym for “I quit ordinary smoking.”^{91,92,93} However, PMI denies this origin story for IQOS.⁹⁴ PMI does not want the product to be associated with either tobacco or ENDS which, though having little in common with traditional tobacco cigarettes are still identified as cigarettes. (JUUL, too, choose a trendy name in hopes of evoking associations with “cool” and “jewel.”)

In order to promote and set apart their products, the industry plays on the name that identifies them. The tobacco industry calls these products “heat-not-burn”. “Heat” connotes “new,” and “not burning” suggests fewer or no toxic pyrolysis products, which is good. Burn is old and smoke is associated with harmful, toxic substances, and thus is bad.⁹⁵ “Heat-not-burn” thus echoes “good-not-bad.” In the Swiss public debate, “heat-not-burn” dominates over the neutral “heated tobacco products” or “tobacco heater” (Tabakerhitzer in German, or “produits de tabac chauffé” in French).

In April 2019, PMI offered extended discounts in the UK to attract new customers. Customers who adopted the new IQOS for at least 3 months received a 25% discount, and when they stayed with IQOS for one year the discount was 50%. It is as yet unclear whether this promotion by pricing schemes is also available in the Swiss market.⁹⁶ IQOS is being promoted in Switzerland by Swiss celebrities including ex-Miss Switzerland Melanie Winiger and well-known Swiss model Tamy Glauser,⁹⁷ whose IQOS ads target young people.

⁸⁹ <https://www.persoelich.com/kategorie-werbung/wie-iqos-nutzer-das-produkt-erleben;> <http://de.vapo-teurs.net/Swiss-Philip-Morris-Versuche-installieren-e-klapp-Caf%C3%A9-IQOS/>

⁹⁰ <https://www.luzernerzeitung.ch/schweiz/tabakmultis-geben-sich-pharma-image-id.1170091>

⁹¹ https://www.swissinfo.ch/eng/inside-philip-morris-international_big-tobacco-on-a-mission-to-convince-the-skeptics/44624402

⁹² <http://tobacco.cleartheair.org.hk/?p=18214>, page 41.

⁹³ <https://www.nzz.ch/wirtschaft/am-besten-waehlt-man-die-zweitschlechteste-loesung-id.1490038>

⁹⁴ <https://www.pmi.com/our-science/facts-versus-fiction---world-health-organization-report-on-tobacco>

⁹⁵ “The problem with burning,” article by PMI <https://www.pmi.com/our-science/the-problem-of-burning>

⁹⁶ <https://www.blick.ch/news/wirtschaft/marlb主ro-hersteller-mit-neuem-lockvogel-angebot-wer-auf-iqos-zigis-umsteigt-bekommt-versicherungsrabatt-id15291470.html>

⁹⁷ <http://www.melaniewiniger.ch/werbung/>, and <https://www.nau.ch/people/aus-der-schweiz/melanie-winiger-macht-ihren-fans-tabak-schmackhaft-65489843>

PM Switzerland promotes IQOS aggressively in ads that include double page advertisements in national newspapers and even entire supplements to the Sunday newspaper, and PM wanted to sponsor the Swiss Pavilion at the World exhibition 2020 in Dubai. Sponsoring was called off after public outrage. While advertising campaigns intend to sell IQOS as better than smoking, whether HTP are really “less harmful” than cigarettes has been debated since the introduction of HTPs and harm reduction has not been demonstrated.⁹⁸

9.5. Pricing

We collected current prices of products available in Switzerland (expressed in Swiss Francs):

Products/CHF	IQOS 3 Starter Kit	IQOS 3 DUO Kit	IQOS 2.4Plus Kit	IQOS Heets 1 Pck	IQOS Heets 10 Pcks	Ploom 5 capsules	GLO Silver	Kent neostiks 10 Pcks
www.iqos.ch		109	69	8	64			
www.coo-pathome.ch					80			
www.amazon.de	€ 119							
www.smoke24.ch					76		78	78.-
Tabaklädeli						7.50		80,82,88

Table 2: Source: Authors' research

To compare prices: the price of one IQOS Heets package, CHF 8.00, can be compared to the price of one standard package of cigarettes (main brands) at CHF 8.60.

⁹⁸ <https://www.apotheken-umschau.de/Rauchen/Tabakerhitzer-Das-bessere-Rauchen-553493.html>

10. Conclusion

This analysis presents data collected through 15 April 2020.

10.1. Key findings:

- In international comparison, the Swiss regulation of HTPs as well as that of other tobacco products is insufficient. HTPs can be sold in most of Switzerland to young persons, the products are very lightly taxed, and they can be advertised through many channels. In addition, restriction of HTP use is limited; in particular, provisions regarding the use of HTPs in public places are non-existent, or at least unclear.
- The legal framework is fragmented and not coherent. A new Law on Tobacco Products is currently being developed, but will not be implemented, at best, before the end of 2022. Ratification of the WHO FCTC will be possible only after implementation of the new law.
- The tobacco industry has a strong presence in both politics and the media. Its lobby is powerful.
- Data about prevalence and consumption behaviour of HTPs are sketchy and insufficient. Behavioural surveillance is meagre and there is an urgent need to monitor the digital marketing aimed at youth.
- Few independent studies of HTPs have been conducted in Switzerland. Moreover, as it has done since the mid-twentieth century, the tobacco industry continues to challenge independent research on the use of tobacco—no matter in what form—as it attempts to dominate the scientific debate with research it supports and finances openly or clandestinely.
- Switzerland is a rich country, ideal for launching and testing HTPs. Marketing in the country is intensive. Because digital channels allow very effective targeting of specific demographic groups, highly effective marketing aimed at the young, and among them those who are non-users, may be nearly invisible to health professionals, politicians, and other observers.
- Competing HTPs appear to be fading, leaving the market to only IQOS. Competition from new ENDS such as JUUL appears strong. PMI and PM Switzerland are aggressively promoting IQOS.
- Products are readily available and comparatively inexpensive.

10.2. Policy recommendations

Regulation: HTP should be subject to the same legal conditions as other tobacco products, in particular the limitation of sales to minors and advertising restrictions. Only a total ban on advertising, sponsorship, and promotion will be effective. HTPs should also be subject to the same regulation of passive smoking as any other tobacco product.

International Regulations: The Swiss Government signed the WHO FCTC in 2004 and has recognized many times that it wishes to ratify the WHO FCTC as soon as the new Law on Tobacco Products is implemented. Under Article 18 of the Vienna Convention on the Law of Treaties (Vienna, 23 May 1969), a country has an obligation not to defeat the object and purpose of a treaty prior to its entry into force. In this respect, Switzerland should particularly respect Article 5.3 of the WHO FCTC.

Taxation: Taxation of HTPs and other tobacco and nicotine products is an important issue. Large price differences could encourage consumers to switch from one product to another without any scientific basis. Products that are priced too low could attract consumers and not contribute to, or even discourage complete cessation. The taxation model should increase prices of all products and should avoid distortions in favour of products without fully sound scientific evidence.

Flavours: A general ban of flavours should be considered.

Industry data gathering: The use of mobile apps combined with HTP devices to collect personal data (location and behavioural profile data) should be examined. There is a strong potential for infringement of current legislation on personal data and privacy protection.

Research: Independent research on ENDS, ENNDS (electronic non-nicotine delivery systems), and HTPs should be promoted and increased. Research should systematically compare HTP, ENDS, ENNDS, and traditional tobacco products. Research should consider various issues, including but not limited to toxicity, health impact, and behaviour. Interdisciplinary research approaches should be promoted.

Surveillance: The surveillance of HTPs and their use, as well as that of other tobacco and nicotine products urgently needs to be improved. Knowledge, attitudes, beliefs and practices (KABP) must be surveyed and marketing data must be included in the surveillance system.

11. Appendix

11.1. Employees

	<i>Arbeitsplätze in der Schweiz</i>				
<i>Zigaretten-Firma</i>	<i>Internationale HQ</i>	<i>Internat. Forschung</i>	<i>Schweizer HQ</i>	<i>Produktion</i>	<i>Arbeitsplätze Total</i>
PMI (2017)	1500	400	500	600	3000
JTI (2017)	1000	-	115	185	1300
BAT (2016)	-	-	130	300	430
<i>Total nach Sparte</i>	<i>2500</i>	<i>400</i>	<i>745</i>	<i>1085</i>	<i>4730²</i>

Table 3: Source: Author's research

In January 2020, PMI announced that at least 265 of its 1,500 employees will be laid off.

11.2. Map of IQOS sales points in Switzerland

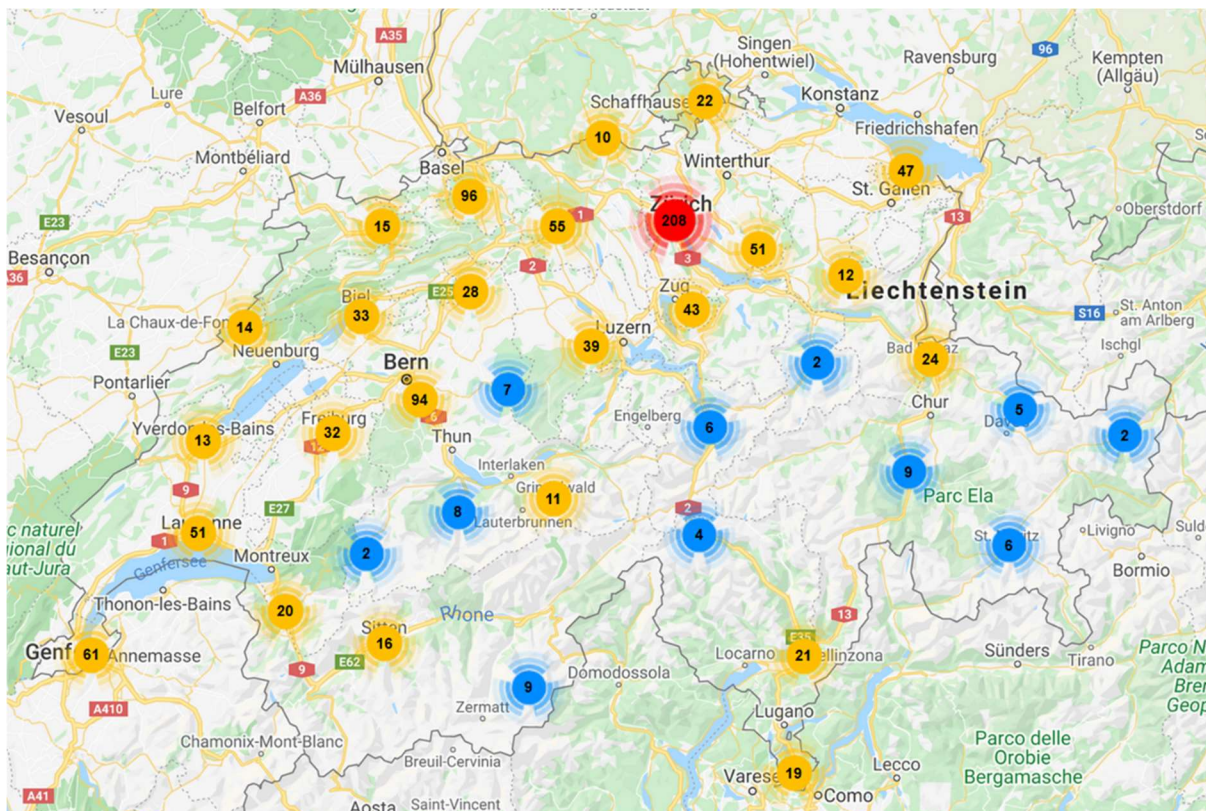


Figure 6: Source: <https://ch.iqos.com/de/stores>

Legend : The colors represent the number of IQOS vendors: blue 1 – 10, yellow 11 – 100, red over 100.

11.3. Photo IQOS-Boutique Bern



Figure 7: Source: BärnerBär 25. February 2020



Figure 8: Source: <https://www.cylex-swiss.ch/firma/iqos-boutique-12262136.html>

11.4. Influencer's Instagram



Figure 9 Source: screenshot of @tamynation Instagram account

https://jolygram.com/profile/tamynation/photo/1950810847078835969_28818614

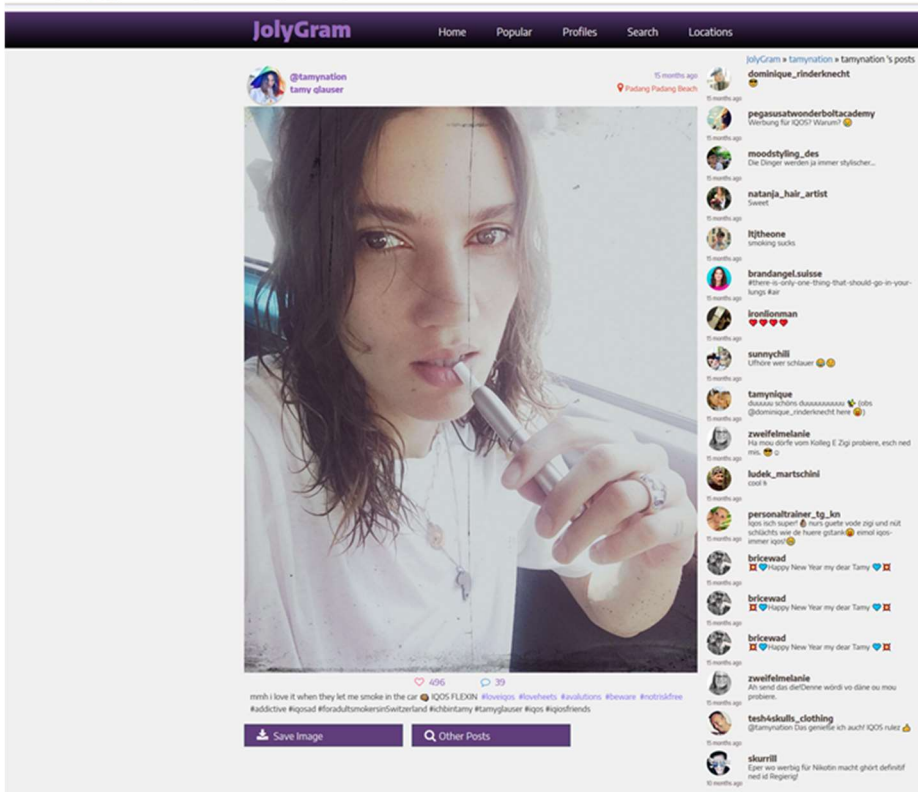


Figure 10: Source: screenshot of @tamynation Instagram account