Consultation on the Advertising of Electronic Cigarettes

Cancer Research UK Response

About Cancer Research UK

Every year, around 300,000 people are diagnosed with cancer in the UK and more than 150,000 people die from cancer. Cancer Research UK is the world’s leading cancer charity dedicated to saving lives through research. Together with our partners and supporters, our vision is to bring forward the day when all cancers are cured. As the largest fundraising charity in the UK, we support research into all aspects of cancer through the work of over 4,000 scientists, doctors and nurses. In 2014/15, we spent £341 million on research, plus £41 million went to the Francis Crick Institute. The charity’s pioneering work has been at the heart of the progress that has already seen survival rates in the UK double in the last forty years. We receive no funding from the Government for our research.

Cancer Research UK’s position on e-cigarettes

Cancer Research UK is determined to reduce deaths from smoking-related cancers and supports measures to help people quit. Evidence so far indicates e-cigarettes are much safer than tobacco cigarettes and may help smokers to cut down or quit smoking. A balanced approach is needed towards e-cigarettes – one that maximises their potential to help people stop smoking, whilst minimising the risks of unintended consequences that could promote smoking.

PART A: CAP’s proposal to approximate the advertising prohibitions in the Tobacco and Related Products Regulations 2016 in the CAP Code

A.2: Products for which advertisements are prohibited

In media subject to the regulations:

1. Do you agree that CAP’s proposal to prohibit advertisements which have the direct or indirect effect of promoting nicotine-containing e-cigarettes and their components which are not authorised as a medicine / medical device is consistent with the law? If not, please explain why.

YES

2. Do you agree that the prohibition should apply to advertisements for non-nicotine and refillable products which can be refilled with nicotine-containing e-liquid? If not, please explain why.

YES

3. Do you agree that advertisements for products in the list above would be lawful under TPRR and that CAP therefore does not need to prohibit them? If not please explain why.

YES

4. Do you have any further views regarding the types of products for which advertising should or should not be prohibited?

NO
A.3: Prohibition on advertising in newspapers and magazines

5. CAP’s proposal is to prohibit marketing communications for nicotine-containing e-cigarettes, which are not authorised as medicines, in newspapers, magazines and periodicals which are not targeted exclusively to a trade audience. Do you agree that this is consistent with the law? If not, please explain why.

YES

A.4: Prohibition on advertising in online media and some other electronic media

6. CAP’s proposal is to prohibit advertisements in information society services and to reflect this in the CAP Code as a prohibition on “advertisements in online media and some other forms of electronic media”. This would be accompanied by a reference to a new guidance note which explains the legal framework and lists specific media types that are likely to be prohibited, as above. Do you agree that this proposal is consistent with the law? If not, please explain why.

YES

7. Are there any types of media that you consider to be information society services which are not referenced above?

NO

8. Are there any types of online media listed above or otherwise which you think should not be categorised as an information society service?

NO

A.5: Prohibition on promotional claims on retailers’ websites

9. Do you agree that the law allows for factual claims on marketers’ own websites? If not, please explain why.

YES

10. Do you agree that in principle the above types of claim are, all other things being equal, factual in nature and should therefore be permitted? If not, please explain why.

Yes, Cancer Research UK agrees that in principal these claims are factual in nature and should therefore be permitted. However, differentiating between factual and promotional claims in practice may not be straightforward and there is potential for overlap between the two types of information. We recommend these decisions be monitored to ensure informational messages do not cross over into promotion. The need to monitor this was highlighted by those involved in implementing the regulations.

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11. Are there any other claims / types of claims you consider are factual in nature should appear on this list?

Yes, Cancer Research UK believes claims regarding the relative risk of e-cigarettes compared to tobacco should be permitted. Please refer to Question 24 for a more detailed response.

12. Do you agree that the above types of claims are likely to be promotional in nature and should be prohibited? If not please explain why.

YES
13. Are there other types of generic claims that should be included in this list?
NO

14. Do you have any other comments to inform CAP’s consideration of whether a claim is factual or promotional?
NO

15. Do you agree that social media pages might, in principle, be capable of meeting the criteria set out for websites in the section A.5.1. above? If not, please explain why. Please provide any examples and evidence you might have in support of your response.
YES

A.6: Non-broadcast media channels not subject to TRPR

16. Do you agree that the media channels set out above are not prohibited by law from carrying advertisements for unlicensed, nicotine-containing e-cigarettes? If not, please explain why.
YES

A.7: Proposed changes to the CAP Code

17. Do you support the revised wording in Section 22? If not please explain why and how you think it should be amended.
Cancer Research UK agrees with most of the wording in Section 22. However, the second sentence in the last paragraph is unclear. In addition to the MHRA’s responsibility for licensing medicines, it also has a role in overseeing the regulation of e-cigarettes under the remit of the EU Tobacco Products Directive. The sentence refers to ‘… electronic cigarettes which are authorised by the MHRA’, but should be amended to include ‘… electronic cigarettes that are regulated by the EU Tobacco Products Directive and those which are authorised by the MHRA, except where there is an exception for medicines (rules 22.5 and 22.12).’

18. Do you support the proposed wording of the, newly created, rule 22.12? If not please explain why and how you think it should be amended.
No, Cancer Research UK believes the bullet point referring to ‘online media and some other forms of electronic media’ is too vague. The specification of what ‘other forms of electronic media’ refers to should be included.

PART B: Other issues relevant to both the CAP and BCAP Codes

B.1: Preventing indirect promotion of nicotine-containing e-cigarettes

19. Do the criteria above provide a workable framework for identifying marketing communications that are likely to indirectly promote unlicensed, nicotine-containing e-cigarettes that are not authorised as medicines?
Cancer Research UK agrees with the criteria, and suggest brand imagery should be included as well.

20. Are there any criteria you consider should be added to the list?
NO
21. Should CAP allow advertisements for e-cigarette retailers so long as those advertisements do not refer to products which cannot be advertised?

YES

22. Do you agree with BCAP’s proposal to allow e-cigarette retailers to advertise their services on TV and radio? If not, please explain why.

YES

23. Do you agree with BCAP’s proposed additional text for rule 10.1.11? If not, please explain why.

YES

B.2: Ongoing suitability of current CAP and BCAP content, placement and scheduling rules

24. Do you have information or evidence which can inform CAP and BCAP’s future consideration as to whether they might allow for substantiated health claims to be made for unlicensed e-cigarettes?

Cancer Research UK believes claims regarding the relative risk of e-cigarettes compared to tobacco should be permitted. These claims can educate the public of the relative harms of nicotine and tobacco, and potentially influence smokers to stop smoking using e-cigarettes.

According to research from Action on Smoking & Health (ASH) iii, there is a growing misperception in the UK that e-cigarettes are as harmful, or more harmful, than smoking tobacco. The public and smokers are increasingly failing to recognise that e-cigarettes are less harmful than smoking – more than three times as many people in 2016 than in 2013 think they are as harmful, or more harmful, than smoking. In 2016 only 15% of adults correctly identified that electronic cigarettes are a lot less harmful than smoking compared to 21% who correctly identified they were a lot less harmful than smoking in 2013.

The survey also identified the most common reason why smokers who had never tried an e-cigarette had not done so was concerns regarding potential health harms. Smokers who had not tried an e-cigarette were also more likely to have poor understanding of the harms from nicotine compared to those who had tried. Only 8% of smokers who hadn’t tried an e-cigarette accurately stated that nicotine’s contribution to the risk from smoking is none or very small, whereas 44% wrongly believed it is at least half the risk or more.

The UK public health community is in consensus that e-cigarettes are far safer than smoking tobacco and have a useful role to play in tobacco harm reduction. Comprehensive evidence reviews by Public Health England iv and the Royal College of Physicians v have endorsed this position.

The results from the survey conducted by ASH indicate the public is not well-educated regarding the relative risks of tobacco and nicotine. These misperceptions potentially discourage smokers who might otherwise switch to vaping from doing so, or where they have switched make it more likely that they continue dual use; and may make it more likely that vapers who have quit using e-cigarettes revert back to smoking.

E-cigarette advertising can be a method of influencing smokers to switch from tobacco to e-cigarettes, by providing them with accurate health information regarding their relative risks. Permitting these claims to be made also associates e-cigarettes with smoking cessation, rather than a product that could be used by anyone (including non-smokers and children).
Cancer Research UK recently commissioned a review of the evidence on e-cigarette marketing, and found that exposure to e-cigarette adverts influenced smokers’ thoughts about quitting smoking and trying an e-cigarette.\(^i\) A study specifically investigating the impact of advertising message theme on smokers’ interest in trying e-cigarettes found that there was greater interest for trying e-cigarettes after viewing adverts with messages about the differences between e-cigarettes and tobacco cigarettes. Greater interest was also triggered when the advertising message stated that e-cigarettes were healthier than tobacco cigarettes, or helpful to quit smoking.\(^iv\) Using health claims within marketing messages can therefore promote the use of e-cigarettes among smokers, while at the same time avoiding promotion of specific manufacturers or brands.

25. Should BCAP remove rule 33.7 for the reasons given above? If not please explain why.

YES

26. Do you have any other comments or evidence for CAP and BCAP in relation to the ongoing suitability of their e-cigarette rules for the regulation of lawful advertisements?

NO

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\(^iii\) ASH. Use of electronic cigarettes (vapourisers) among adults in Great Britain. London. May 2016.


