

## TRPR Consultation response.

### **Question 6: How far do you agree or disagree that the current regulations on e-cigarettes have been proportionate in protecting young people from taking up use of these products?**

Disagree

Current regulations are disproportionate to the concern about e-cigarette use amongst young people, and actively discourage adult smokers from attempting to switch to safer products. The upper limit of 20mg/ml, for example, is inadequate for enabling many smokers to replace smoking with vaping. A higher nicotine concentration limit – or none at all – would be far more effective at attracting hard-to-reach heavy smokers to reduced risk products.

In the latest Public Health England update on e-cigarette use, a survey by Action on Smoking and Health found that *“around 4.8% of young people (aged 11 to 18 years) reported vaping at least once a month – the same as last year – and most of these were either current or former smokers”* (ASH Fact Sheet: Use of e-cigarettes among young people in Great Britain. ASH, 2020). This strongly suggests that, along with being an obstacle to adult smokers, the regulations as they are currently applied also serve to harm young people who smoke too.

Prohibition of advertising safer products in many media outlets is hiding them from smokers who could benefit from them and sending a message that they are as harmful – or more harmful – than smoking. Warnings on vaping products are also vastly disproportionate to the risks they present; they should be minimal or non-existent to encourage smokers to switch. Current regulations are counter-productive, and the UK would benefit greatly by diverging from many aspects of the EU Tobacco Products Directive in this area post-Brexit.

It is important to note that the main risk factor for a young person to become a smoker is whether family and friends' smoke. Making it easier for parents to stop smoking – by any and all means available - means preventing their children from becoming smokers. (ASH Fact Sheet: Use of e-cigarettes among young people in Great Britain. ASH, 2020.)

### **Question 7: How far do you agree or disagree that the current regulations have ensured that e-cigarettes are available for those smokers who wish to switch to these products?**

Agree

The UK is a world leader in making vaping products available for smokers wishing to try them, but we could still do better. PHE's latest update revealed that only 11% of Stop Smoking Services supply vaping equipment, despite the superior success they can achieve. This percentage should be greatly increased.

The TRPR demands that factual claims about the safer nature of e-cigarettes are not allowed to be made by manufacturers and retailers despite it being true. There should be no monopoly on telling the truth. Public health organisations can accurately convey the relative risk of safer alternatives to smoking, while businesses are forbidden from doing the same. Advertising regulations should also be relaxed so that truthful health advantages can be publicised more widely. PHE's latest update reported that public trust in reduced risk products is continuing to decline, this can only be reversed if smokers and the wider public are provided with truthful information from all channels.

**Question 8: What effect do you think the regulations have had on smokers considering switching to e-cigarettes?**

Discouraged

Prior to the TRPR, there was widespread understanding that vaping is safer than smoking. However, we have seen a consistent decline since then because regulations have been too precautionary and have served to deter smokers, rather than encourage them. Again, we have the opportunity in the UK to diverge from the EU TPD and better communicate the relative advantages of switching from combustible tobacco by not applying tobacco-style warnings to vaping products, thereby making smokers feel more confident in trying something new.

Media misinformation, wildly disproportionate warnings on products, and heavy censorship of truthful marketing of the benefits of vaping have conspired to drive smokers away from safer alternatives. Significant opportunities are continually being missed the longer these regulations apply, they are long overdue an update.

**Question 9: Do you consider the restrictions on e-cigarette advertising to be an effective way to discourage young people and non-smokers from using e-cigarettes?**

No

The regulations go too far by over-reacting to the minimal risks of youth vaping (see answer to Q6) to the detriment of persuading many millions of adult smokers – who are far more at risk of tobacco-related disease - to switch to vaping instead. Advertising should be far more liberal so that smokers can make an informed choice, the TRPR all but prohibits positive messages about vaping and the relative safety compared with lit tobacco.

**Question 10: How far do agree or disagree that the requirements of TRPR on novel tobacco products are proportionate?**

Disagree

Novel tobacco products such as heated tobacco are treated with far too much suspicion. They still present a significant reduction in harm as discussed by the Committee on Toxicity which conservatively assessed a reduction of 50% to 90%. UK regulations seem wedded to whether a product contains tobacco or does not, but the distinction should be whether they are combustible or non-combustible. The lack of combustion is key to reducing the harm from nicotine delivery.

Many smokers have tried alternatives such as vaping, but it has not worked for them. A more tobacco-like experience is suitable for many who have not found success with either abstinence, vaping products, or trans-dermal options. Heated tobacco has driven huge declines in smoking in many countries such as Japan and Korea, so has great potential for hard-to-reach smokers in the UK.

**Question 13: Is there anything else you would like to share on negative or positive impacts the regulations have had on topics not covered above? If so, please explain and include any evidence and research you may have to back your response.**

See our recommendations on post-Brexit regulation.

[https://nalliance.org/images/documents/Letter\\_re\\_tobacco\\_policy\\_-\\_201029.pdf](https://nalliance.org/images/documents/Letter_re_tobacco_policy_-_201029.pdf)

E-cigarettes are not the only reduced risk product in the Tobacco Harm Reduction space. There are also many opportunities being missed by not promoting a suite of safer alternatives such as nicotine pouches, heated tobacco, and other options such as dissolvable products, which deliver nicotine through the mucous membrane of the mouth. Instead of taking account of what the product is made from, we should instead be regulating on nicotine delivery products based on if they are combustible or non-combustible.

If the UK aspires to be smoke free by 2030, all options should be available to smokers and accurate information be provided instead of the doubt and uncertainty the TRPR currently allows. The TRPR was drafted in the aftermath of the EU TPD which was debated almost a decade ago. As a result, the regulations are substantially out-of-date and very much in need of reform.

The biggest error in preventing harm has been the longstanding EU ban on snus – a product which has led to remarkably low levels of smoking and subsequent smoking related cancer and disease in Sweden and other Scandinavian countries where its sale is legal. There is no justification whatsoever for snus to be banned in the UK and we should repeal this legislation at the first opportunity now we are no longer in the EU.

#### References:

Ash.org.uk. 2021. *Use of e-cigarettes among young people in Great Britain*. [online] Available at: <<https://ash.org.uk/wp-content/uploads/2021/02/YouthEcig2020.pdf>> [Accessed 16 March 2021].