

# ASA System briefing note on vape advertising

A note for policymakers

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## Background

The UK Advertising Codes contain general rules that require all ads are responsible. And, recognising their inexperience, vulnerability and credulity, we have strict rules dedicated to protecting young and vulnerable people from potential ad related harms. This includes specific rules for age-restricted products such as vapes.

There's been a growing trend of vape/e-cigarette use in the UK in recent years. The rise in the popularity of vaping products has led to concerns about their promotion, especially given their potential appeal to young people and non-smokers. According to a YouGov survey, experimental vaping among 11- to 17-year-olds was up from 7.7% in 2022 to 11.6% in 2023.

Our advertising rules reflect the law (the Tobacco and Related Product Regulations 2016). Ads for nicotine-containing vapes not licensed as medicines are allowed in some media, including cinema, posters and public transport. But they're not allowed on TV, radio, newspapers, magazines and, crucially, most online media including social media. (The very limited exception to that is factual, not promotional, claims on companies' own websites.)

Where vapes can legally be advertised, our rules go further: the content of the ads must be responsible, and that includes not being targeted at or likely to appeal particularly to under-18s. That enables advertisers legitimately to advertise their vapes responsibly to adult smokers, provided those ads are not targeted, through content or placement, at under-18s.

So under existing law and our advertising rules, advertising shouldn't be a factor in under-18 vaping. And we're taking action to make sure that's the case.

We consider it is a legitimate regulatory objective to seek to minimise children's exposure to age-restricted ads generally, including vapes. Age-restricted ads are those for products subject to legal restrictions on their sale to people of a specified age (under-16/18) or where there is another policy basis (e.g. public health) for limiting the protected age group's exposure. Currently, vape ads are sometimes being placed in social media and targeted at young people. It's a top priority for us to stamp that out. One vaping ad on these channels is one too many.

We've stepped up our monitoring of influencer vape ads, which simply shouldn't be appearing. We're exploring using our in-house AI capability to help. We're stepping up our work with TikTok and other platforms to prevent such ads appearing in the first place, and to quickly take down any that do. And we're working closely with other regulators and enforcement bodies. All with a view to reducing - as far as is practically possible - under-18 exposure to non-compliant vape ads.

We respond quickly to consumer complaints, banning ads on the infrequent occasions when the rules are broken. But we have rebalanced our regulation, shifting away from complaints-led investigations towards front-foot, ASA-led, tech-assisted monitoring and enforcement action. Our AI-assisted Active Ad Monitoring system has allowed us to significantly expand our monitoring of vape ads online, particularly on social media.

The ASA continues to work with the vaping and novel nicotine sectors, through educational events and training seminars, to maintain high rates of compliance with the rules. Following the announcement in the King's Speech that the current Government would be seeking to implement further restrictions on the marketing of vapes, we've been coordinating with the Department of Health and Social Care, and we stand prepared to reflect any legislative changes in our Codes.

## The vape advertising rules

In summary, our vape advertising rules prohibit ads from:

- Promoting a design, imagery or logo style that might reasonably be associated in the audience's mind with a tobacco brand.
- Containing anything which promotes the use of a tobacco product or shows the use of a tobacco product in a positive light.
- Containing medicinal claims unless the product is authorised for those purposes by the MHRA. Vapes can be presented as an alternative to tobacco, but advertisers shouldn't undermine the message that quitting tobacco is the best option for health.
- Using endorsements from health professionals.
- Encouraging non-smokers or non-nicotine-users to use e-cigarettes.

Our rules also state that vape ads must:

- Make clear that the product is an e-cigarette and not a tobacco product.
- Clearly state if the product contains nicotine.

## Scheduling, placement and targeting

The Codes are designed to appropriately limit under 18's exposure to vape ads.

In **broadcast media**, the codes reflect the Tobacco Products Directive (TPD) which prohibits the advertising of vapes on TV and radio. In cases where vapes are not caught by the definitions outlined in the TPD, they may continue to be advertised subject to the rules outlined above. Radio broadcasters must ensure ads for vapes are centrally cleared.

In **broadcast and non-broadcast media**, vape ads must not be directed at people under 18 through the selection of media or the context in which they appear. And vape ads cannot appear in dedicated children's media, including on websites or social media, or where under-18s make up 25% of the audience.

Additionally, ads for vapes shouldn't be likely to appeal particularly to people under 18, especially by reflecting or being associated with youth culture. They shouldn't feature real or fictitious characters



who are likely to appeal to people under 18, and people shown using vapes, or playing a significant role in a vape ad must not be, nor seem to be, under 25. People shown using e-cigarettes, or playing a significant role in the ad, shouldn't be shown to be behaving in an adolescent or juvenile manner.

With the exception of ads targeted exclusively to trade, ads for vapes and their components which aren't licenced as medicines are not permitted in newspapers and magazines, or online. Factual claims about products are allowed on advertiser's own websites and, in certain circumstances, in other non-paid-for space online under the marketer's control.

## Monitoring and enforcement

In response to major political and societal concerns around youth vaping, in June 2023, we stepped up our proactive monitoring and enforcement in this area.

We noted issues with 'influencer marketing' content on TikTok, as well as some vaping brands offering affiliate marketing and brand ambassador programmes. We also uncovered several agencies offering digital marketing services directly to vaping companies.

We've made use of our in-house Data Science capability to try, as far as possible, to determine the extent of any issues around vaping ads appearing on social media. We found that whilst TikTok has received significant press attention, there was little difference between major social media platforms in terms of the amount of potentially problematic content

We've published [several rulings](#) concerning ads appearing in prohibited media and also on brands offering affiliate programmes that incited potential participants to break the law.

We issued a 'fast track' [Enforcement Notice](#) in June 2023 addressed to over 150 vaping brands, making clear that if they were using TikTok as a platform to advertise, they must stop immediately. Follow up monitoring was carried out and we reported over 300 posts to TikTok for removal. Approximately 80% of those posts predated the notice, suggesting that significantly less content was being posted (or permitted to be posted) following the notice.

In February 2024, we issued another [Enforcement Notice](#) that addressed most, if not all, of the key players - including brands, wholesalers and retailers and spanned across all social media platforms and all types of advertising.

Using our AI based '[Active Ad Monitoring System](#)', we have since been identifying and tackling ads for e-cigarettes and/or vaping products that, in breach of the rules and Enforcement Notice, continue to appear on social media and targeted at under-18s. Where advertisers refuse to comply, we've been applying sanctions, including referral to the social media platform for account take-down.

## Key vape rulings

**Vape-Bars Ltd:** Five TikTok posts seen on five influencers accounts promoted nicotine-containing e-cigarettes and their components in non-permitted media as they offered vapes from Vapes Bars as a prize to passers-by who correctly answered general knowledge questions.

**Ama Vape Lab Ltd:** An Instagram post for an e-cigarette retailer was banned for promoting nicotine-containing e-cigarettes and their components in non-permitted media, and for featuring people who are or seem to be under 25 using e-cigarettes.

**Apollo Future Technology Ltd:** A webpage for an affiliate programme for vaping products broke the rules by indirectly promoting unlicensed nicotine-containing e-cigarettes and their components.

**CCHG Ltd t/a VPZ:** A website for an e-cigarette retailer made smoking cessation claims about their products in the absence of a relevant MHRA licence.