



Chartered  
Institute of  
Environmental  
Health

# Consultation on the marketing of e-cigarettes - CAP and BCAP proposals for new rules

Response from the Chartered Institute of Environmental Health (CIEH)

28 April 2014

# The Chartered Institute of Environmental Health

As a **Chartered professional body**, we set standards and accredit courses and qualifications for the education of our professional members and other environmental health practitioners.

As a **knowledge centre**, we provide information, evidence and policy advice to local and national government, environmental and public health practitioners, industry and other stakeholders. We publish books and magazines, run educational events and commission research.

As an **awarding body**, we provide qualifications, events, and trainer and candidate support materials on topics relevant to health, wellbeing and safety to develop workplace skills and best practice in volunteers, employees, business managers and business owners.

As a **campaigning organisation**, we work to push environmental health further up the public agenda and to promote improvements in environmental and public health policy.

We are a **registered charity** with over 10,000 members across England, Wales and Northern Ireland.

For correspondence relating to this consultation response and for any further information

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## Section 1: Position Statement of the Chartered Institute of Environmental Health (CIEH)

The CIEH has a longstanding involvement in tobacco control activities and we campaigned for over 20 years for protection for workers from secondhand smoke. We have had important roles in the development and implementation of smokefree legislation and we continue to provide technical advice and practical guidance, particularly to local authority regulatory officers who are involved in securing compliance, the majority of which are environmental health officers.

Our Principal Policy Officer, who has prepared this response to your consultation, is recognised as an expert in developing and securing compliance with smokefree legislation. He has also been a professional member of NICE Policy Development Groups responsible for providing the evidence based guidance to inform both policy and practice in relation to reducing smoking:

- Member of NICE PDG *Smoking cessation services*  
NICE public health guidance 10 Issued: February 2008
- Member of NICE PDG *Tobacco: harm-reduction approaches to smoking*  
NICE public health guidance 45, Issued: June 2013

The adoption of harm reduction approaches to smoking is particularly significant in relation to the use of electronic cigarette products.

## Section 2: CIEH support for submission made on behalf of Action on Smoking and Health (ASH)

The CIEH is a founder member of the Smokefree Action Coalition whose members collectively possess a wide range of academic and practical expertise in all aspects of tobacco control. <http://www.smokefreeaction.org.uk/about.html> The coalition has been closely observing and monitoring the increasing use of electronic cigarette products and the associated advertising and promotional activities. Our shared concerns and proposals for controls and safeguards are properly contained in the comprehensive response to this consultation provided to you by Action on Smoking and Health (ASH).

The CIEH endorses and commends to you the [statements and recommendations](#) provided to you by ASH.

## Section 3: Particular concerns of CIEH and its members and answers to consultation questions

### Rule 1:

Marketing communications/advertisements for e-cigarettes must be socially responsible.

**Question 1:** Do you agree with the inclusion and wording of this rule? If not, please explain why and provide any suggestions you may have for improvement?

**Question 2:** What specific advertising approaches if any, that are not covered by the following rules do you consider might be identified as problematic within the wording of the rule?

### Depiction of the use of electronic cigarette products

Our members have expressed concerns to us regarding the use of electronic cigarette products in such a manner as to undermine compliance with and enforcement of the requirements of our highly successful smoke-free legislation. This is because of the close resemblance of some electronic cigarette-type products to smoked tobacco products. Some of these simulate not only 'real' cigarettes but also cigars, pipes and water-pipes.

Throughout the UK smoking is prohibited by law in virtually all enclosed workplaces and public places, on public transport and in vehicles used for work. This is because of the conclusive scientific evidence of the harm that can be caused not only to the smokers themselves, but also to people other than the smoker through the inhalation of so-called 'secondhand smoke'. However, the smokefree legislation is only concerned with smoking tobacco and other 'lit' materials, that is to say, when combustion or burning is taking place. For this reason, it is not an offence to have an unlit cigarette in your hand or your mouth, and neither is it an offence to use an electronic cigarette product.

The concerns are that if people are allowed to use electronic cigarette products in places where the law prohibits smoking, or where no-smoking policies are in place, then they may be mistaken for actually smoking. This may encourage others to smoke believing either that it is permitted to do so or that no action will be taken against them for doing so.

Of course there is no reason why these products should be made to resemble 'real' cigarettes and other tobacco products so closely and it is accepted that many do not. However, many have the appearance of thin white tubes with a glowing end and simulated filter. Indeed referring to these products as 'cigarettes' only adds to the confusion and is not necessary.

The advertising and promotion of electronic cigarette products is an important aspect to consider in reducing this confusion and maintaining the 'smokefree' status of workplaces and public places. This is particularly important in those premises such as pubs and clubs and where alcohol is available, which were previously closely associated with smoking activities and still are in many countries of the world. In this regard we are particularly concerned about depictions which 'glamorise' the use of electronic cigarette products in these venues.

Indeed without sufficient controls it is possible that advertising and promotion of electronic cigarette products can create a mistaken belief that smoking is interchangeable with using

electronic cigarette products. At best this could cause confusion about what is and what is not permitted and prohibited. At worst, this could encourage irresponsible people to use electronic cigarette products as a deceit to evade detection of smoking in contravention of the law. Our members report that, although not widespread, attempts are being made to do so.

### **Safety aspects**

Until such time as the safety of the use of these products can be assured, including the re-charging of batteries, advertising should contain reference to the safety precautions of using electronic cigarette products including not using them in areas where combustible products and used or stored, e.g. explosives, and where points of ignition are prohibited e.g. in proximity to flammable liquids and gasses.

### **Rule 5:**

Marketing communications / advertisements must state clearly if the product contains nicotine [or if it does not]. They may include factual information about other product ingredients.

**Question 9:** Do you agree with inclusion and wording of this rule? If not, please explain why and provide any suggestions you have for improvement.

### **Visible vapours and odours**

Some electronic cigarette products emit substantial quantities of visible vapour and the addition of flavourings and scents can give rise to odours which are objected to by other people and give rise to complaints.

In order to avoid giving rise to complaints some consumers will wish to avoid purchasing products with ingredients that could cause the effects and the policies of some employers may stipulate this as a requirement of permitting their use.

Marketing communications and advertisements should be required to state whether or not visible vapour will be produced and whether or not odours will be emitted.

**Rule 5** should be amended to read as follows (see emboldened type):

*Marketing communications / advertisements must state clearly if the product contains nicotine [or if it does not]. **They must state whether visible vapours and/or odours will be produced when the product is in use.** They may include factual information about other product ingredients.*