

Regulation of e-cigarettes advertising

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What will we be covering today



Scope of the rules



Targeting restrictions



Media prohibitions
& exceptions



Content restrictions



Other rules



Sanctions



Scope of the Code rules



Scope of the Code rules



Ads for or referring to e-cigarettes and related products, including:

- a product that is intended for inhalation of vapour via a mouth piece
- any component of that product, including but not limited to:
 - **cartridges**
 - **tanks**
 - **e-liquids**
- e-shisha and e-hookah products, whether or not they contain nicotine
- sufficiently similar new products



Media prohibitions



Prohibited media



E-cigs **containing nicotine and not licensed as medicines** cannot be advertised in:

- ⊘ Newspapers, magazines and periodicals
- ⊘ Online media & some other forms of electronic media
- ⊘ TV and radio

Factual claims are permitted on marketers' own websites and, sometimes, in other non-paid-for space online under the marketer's control.






Exception to broadcast prohibitions



Nicotine-containing, unlicensed e-cigs cannot be advertised in broadcast media (ie TV and radio).

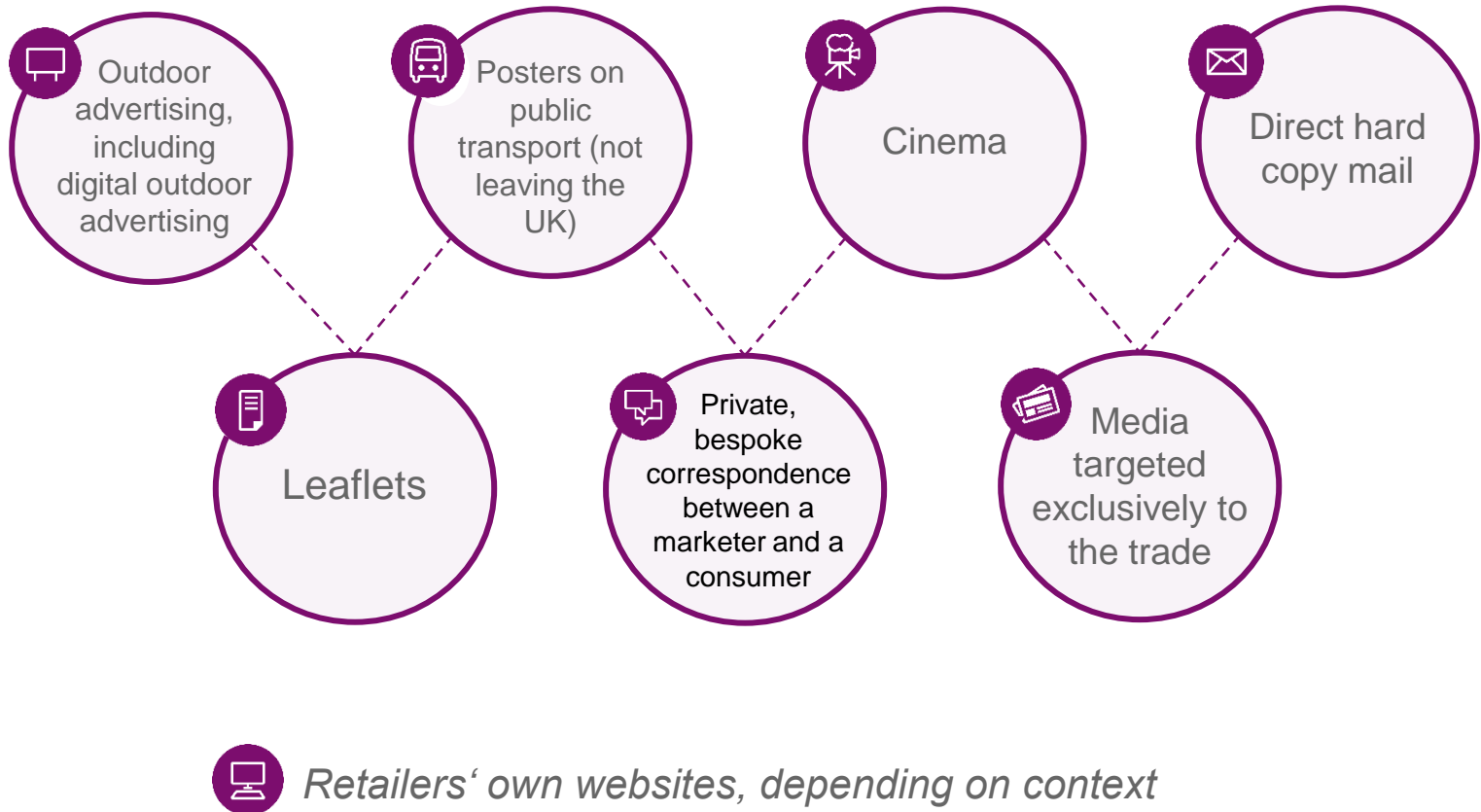
However, promotion of e-cigs **in general** as a way of stopping smoking is permissible.

This must be part of a public health campaign:

-  **National public health bodies**
-  **Stop smoking services**
-  **Charities independent of tobacco/e-cigs**



Permitted non-broadcast media



Online media



Ads in these channels are likely to be prohibited:

- ⊘ Electronic messaging (e.g. texts)
- ⊘ Marketers' activities online, e.g. on their website and on social media (with permitted exceptions)
- ⊘ Online ads in paid-for space
- ⊘ Paid-for search listings
- ⊘ Online advertorial/influencer
- ⊘ In-game advertisements (including augmented reality and virtual reality environments)
- ⊘ Commercial classified advertisements
- ⊘ Advertisements which are pushed electronically to devices
- ⊘ Advertisements distributed through web widgets
- ⊘ Promotional marketing online
- ⊘ Affiliate links
- ⊘ In-app advertising



Marketers' own website and social media



Factual information on retailers' own websites is **not** prohibited because it must be sought out by consumers

Information must be factual rather than promotional

ASA considers that some social media advertising **may** fall under this, but marketers should take care



Factual vs promotional claims







Factual	Promotional
<ul style="list-style-type: none">• Product names (if not promotional)• Descriptions of components, e.g. refill mechanism• Price statements• Product ingredients• <i>Factual</i> descriptions of flavours• Nicotine content, addictiveness warnings, contraindications etc• Instructions for use and storage	<ul style="list-style-type: none">• Descriptive language going beyond objective claims• Promotional marketing, e.g.<ul style="list-style-type: none"><i>buy one get one free</i><i>money-off</i><i>competitions/draws</i>• Significant imagery unrelated to the product• Comparative claims• Health claims• Smoking reduction or cessation claims• Promotional testimonials• Marketing leading claims



Cross-promotion



Media bans apply to ads which have both the 'direct' and 'indirect' effect of promoting unlicensed nicotine-containing e-cigarettes e.g.:

-  A **brand name** under which a nicotine-containing e-cig is sold
-  An **identifiable unlicensed nicotine-containing e-cig**
-  **Content** (strapline, imagery etc.) synonymous with an unlicensed nicotine-containing product
-  A **direct response mechanic relating to a nicotine e-cigarette** (e.g. banner ads linking directly to sites where e-cigs can be bought)



Other rules



Other relevant rules

Applicable to e-cigarette ads, whether or not the product contains nicotine. Ads must::

- Ⓜ **Not** promote design, imagery or logo associated with a tobacco brand
- Ⓜ **Not** promote or show the use of tobacco in a positive light
- Ⓜ **Make clear** the product is an e-cigarette and not tobacco product
- Ⓜ **Not** use health products to endorse the product
- Ⓜ **Make clear** if the product contains nicotine info (NB only)
- Ⓜ **Not** encourage non-smokers/non-nicotine users to vape
- Ⓜ **Not** make medicinal claims unless licensed by MHRA but can present as an alternative to tobacco



Protecting children & young people: Targeting restrictions

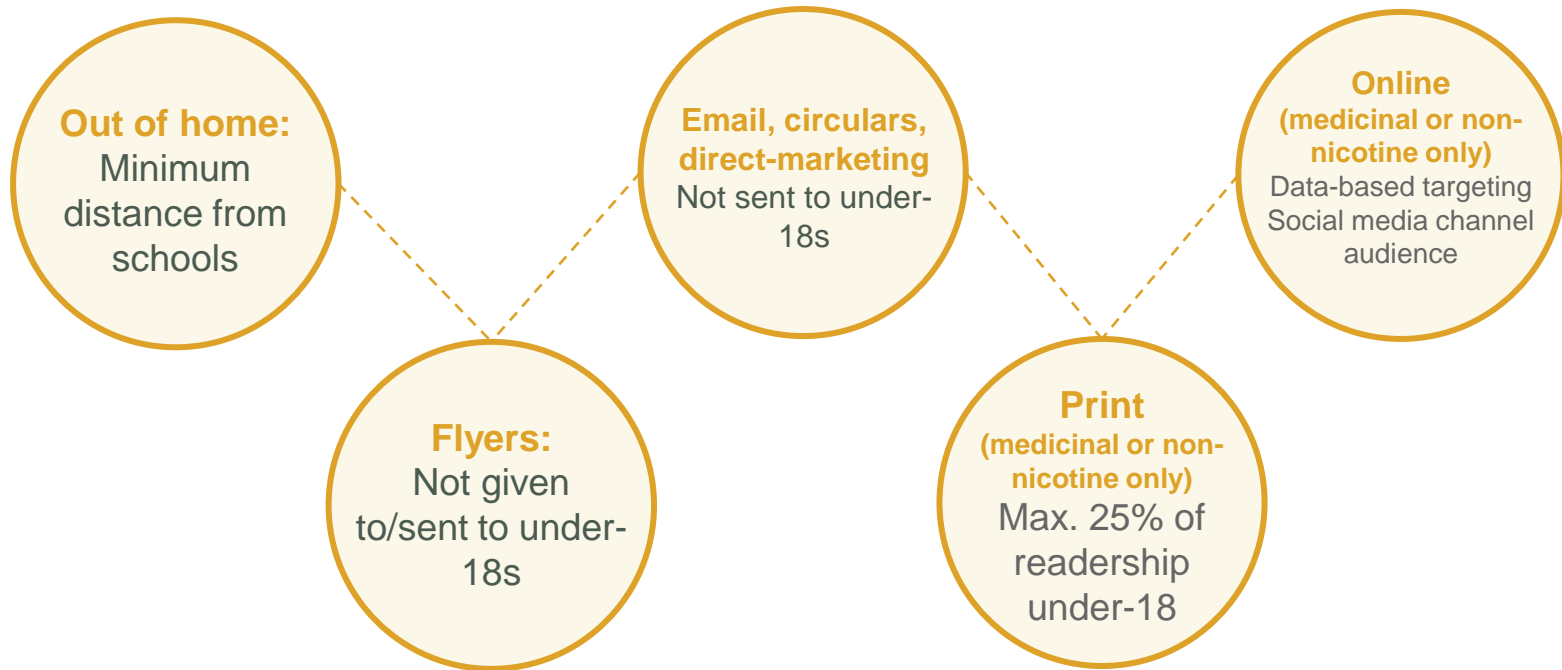


Placement (non-broadcast)



Marketing communications must not be directed at people under 18 through the selection of media or the context in which they appear.

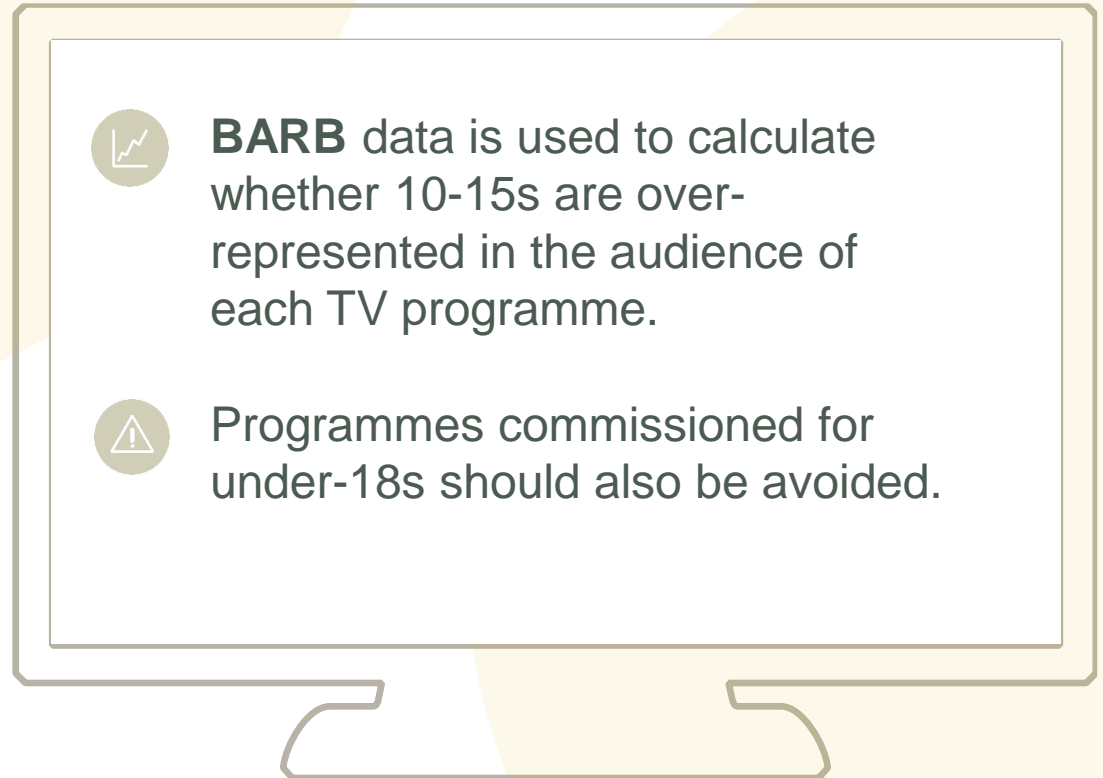
No medium should be used to advertise e-cigarettes if more than 25% of its audience is under 18 years of age.



Scheduling (broadcast)



- Where allowed in **broadcast media**, e-cig ads may not be placed in and around programmes with **particular appeal to children**
- For **radio ads**, key times such as school run hours should be avoided



BARB data is used to calculate whether 10-15s are over-represented in the audience of each TV programme.



Programmes commissioned for under-18s should also be avoided.







Protecting children & young people: Content restrictions



Particular appeal to children and young people



-  Ads must not be likely to **appeal particularly to under-18s**
-  Especially important to **avoid reflecting youth culture**
-  Care should be taken with **characters who may be likely to appeal** to under-18s
-  People should not be shown **behaving in an adolescent or juvenile manner.**



Case Study

Fischen Medical Ltd t/a The Vapes






Under-25s



People shown using e-cigarettes or playing a significant role must neither be, or appear to be, under 25 years of age. Under-25s may not be seen using an e-cig or appear in a significant role. Where under-25s appear incidentally, they must be obviously not using an e-cig.

Case Study Hubby Bubbly

-  Tweets for an e-cig brand
-  Concerns raised about the age of the people in the ads

 **Hubby Bubbly** @myHubblyBubbly · Mar 20
End of a very productive week at HB. Ready to kickoff the weekend !
#TGIF



 **Hubby Bubbly** @myHubblyBubbly · Mar 11
Hubby Bubbly - getting you through the midweek slump! #ECIG



'Incidental' vs 'Significant'



Incidental	Significant
<ul style="list-style-type: none">• Minority part of a larger mixed-age group (e.g. a family dinner or a garden party)• Background of a shot that focuses on older subjects	<ul style="list-style-type: none">• Speaking parts (or written equivalents)• The focus of an image or scene, or being singled out• Holding promotional materials

① These examples are representative, but not exhaustive.







② The significance of a role depends on the context of the whole ad.



General



As well as e-cigs rules, all ads must comply with other aspects of the Codes:

-  Truthfulness
-  Harm
-  Offence
-  Social responsibility
-  Promotional marketing
-  Medicines (where relevant)



Sanctions



Sanctions

1

Adverse publicity

2

Media refusal

3

Referral to social media platform

4

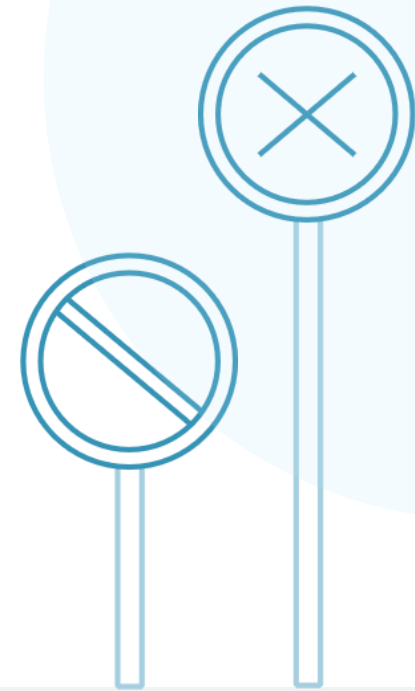
Removal of pay-per-click ads

5

ASA's own pay-per-click ads drawing attention to rulings

6

No fines, but referral to Trading Standards/ Ofcom



A blurred background image of a person presenting to an audience. The audience members' hands are raised, indicating they have questions or want to participate. The scene is set in a bright, modern room with large windows.

Any questions?



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Thank you!

