

## Your response

**Question 1: To assist us in categorising responses, please provide a description of your organisation, service or interest in protection of children online.**

*Is this a confidential response? (select as appropriate)*

No

Our mission is to help to transition the world's one billion adult smokers away from combustible cigarettes, eliminate their use, and combat underage use of our products. We want the e-cigarette industry to be responsible and regulated in the right way, led by science and evidence.

We strongly support the goal of a Smokefree England by 2030 and welcomed the publication of Javed Khan OBE's Independent Review<sup>1</sup> into the government's smokefree policies last year. The Review endorses vaping as an effective tool to help people to quit smoking tobacco and argues it will be 'critical' to achieving the government's smoke-free 2030 ambition, while rightly urging for a tighter regulatory framework to prevent non-smokers, particularly those underage, from vaping. Existing UK law, the Tobacco and Related Products Regulations 2016 (TRPR) makes clear that under no circumstances should children be allowed or encouraged to use e-cigarettes. There is an outright prohibition on non-medicinal e-cigarette advertising via social media, beyond factual claims about the product made by the marketer on "owned media".

Data and studies published last year found that while headline rates of underage vaping in the UK remain relatively low, there has been a sharp uptick since 2021:

- **Youth use and awareness: Action on Smoking and Health (ASH)** published figures in July 2022 on youth use of e-cigarettes in the UK<sup>2</sup>, which found that 7% of 11-17-year-olds were regular or occasional user in 2022, up from 4.1% in 2020, a figure expected to raise further this year given current trends. The data also found for the first time that the most frequently used products were single-use 'disposable' vapes (50.2% compared to 7.7% in 2021). This has coincided with a 1367% increase in complaints reported to Local Trading Standards services via Citizen's Advice regarding underage vape sales between May 2021 and July 2022.<sup>3</sup>

We agree with Dr Khan that the opportunity for e-cigarettes to significantly contribute to tobacco harm reduction for adult smokers is undermined by the risk of underage use. Adult smokers should be able to access the necessary factual information to support their choice to switch from smoking to potentially less harmful e-cigarettes, but this content should be targeted and abide within the advertising rules. We believe that much more should be done to protect children from online content which glamourises or promotes the use of e-cigarettes. This is why Juul does not use social media for promotional purposes to help prevent underage children from being exposed to age-inappropriate content online which should only be accessed by adult smokers.

<sup>1</sup> Khan, Javed (OBE). Making smoking obsolete – Independent Review into smokefree 2030 policies (2022). Accessible [here](#).

<sup>2</sup> ASH. Use of e-cigarette (vapes) among young people in Great Britain (2022). Available [here](#).

<sup>3</sup> Press release by the Chartered Trading Standards Institute (2022). Available [here](#).

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We are concerned that social media platforms have not acted quickly enough in this regard, and we are encouraging the Government to clarify that the Online Safety Bill will protect children against inappropriate content regarding age-restricted products, by including e-cigarettes within the definition of “Priority content” that is harmful to children, in the relevant secondary legislation (whether under Harmful health content per the indicative list of harm, or indeed elsewhere).

Were the Government not to designate content related to age-restricted products / e-cigarettes as Priority content that is harmful to children, we believe Ofcom should make its own assessment of the potential for harm as a “non-designated” category of content, and believe there is a strong case for inclusion in the Codes of Practice.

In this submission, we answer only the preliminary question and questions 6 and 7, concerning content that is harmful to children, by providing evidence of the growing presence of vaping content online, which has not been controlled by platforms despite some claimed voluntary efforts to limit this content from reaching children. Additionally, we set out a body of scientific evidence which has found that a correlation exists between young people’s exposure to vaping content online and in social media and the impacts this has on their attitudes towards e-cigarette use.

**Question 6: Can you provide any evidence relating to the presence of content that is harmful to children on user-to-user and search services?**

*Is this a confidential response? (select as appropriate)*

No

The last year has seen a number of worrying trends in children’s exposure to online vaping content – particularly on social media.

- **E-cigarette-related content online:** User-generated content that glamourises the consumption of e-cigarettes, as well as used by celebrities and other influencers, can be easily found on popular social media platforms. **A 2021 study published in the British Medical Journal** showed that two-thirds of videos in Tiktok depicted vaping use positively, and the sample of 808 videos analysed had been viewed 1.5 billion times on the platform<sup>4</sup>. Additionally, **the 2022 data by Action on Smoking and Health (ASH)**<sup>5</sup> found that 35.8% of children who had tried vaping reported being exposed to online content related to e-cigarettes, and 21.7% of children who had never tried vaping products had also seen such content. Of those children who reported seeing e-cigarettes promoted online, the most common channels were social media platforms like Tiktok (45%), Instagram (31.1%) Snapchat (22%), Facebook (15.4%), and Twitter (12.5%). Media reports<sup>6</sup> have extensively covered this issue, with experts calling for online platforms, like Tiktok, to take action to stop the glamourisation of vaping products. The **Office for Health Improvement &**

<sup>4</sup> Sun, Tianze, *et.al.* Vaping on Tiktok: a systematic thematic analysis (2021). Available [here](#).

<sup>5</sup> ASH. Use of e-cigarettes (vapes) among young people in Great Britain (2022). Available [here](#).

<sup>6</sup> For an example please see: *The Times*. Glamorous vaping on Tiktok draws young into habit, campaigners fear (2022). Available [here](#).

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**Disparities (OHID)** supported these calls, observing in its evidence update on e-cigarettes last year that the UK needs to “substantially strengthen” the enforcement or regulations to prevent the promotion of e-cigarettes in social media<sup>7</sup>. OHID cited a **report reviewing vaping product marketing published by the University of Stirling**<sup>8</sup>, which points out that children’s awareness of e-cigarette content on social media and online websites remained high (above 40%) between 2017 and 2019, despite this being a prohibited channel for advertising.

- **E-cigarette content in digital advertising:** Regulatory loopholes in the e-cigarette digital advertising regime have allowed a widespread presence of e-cigarette content in social media accessible to children. In the report cited above, OHID also noted that every post on Instagram analysed by the University of Stirling report, which included the use of influencers, was non-compliant with the Advertising Standard Authority’s (ASA) rulings and Rule 22.12 of CAP Code, which established the prohibition for the promotion of non-medicinal e-cigarettes containing nicotine in social media (the Code implements the marketing prohibitions established in the TRPR). The report recommended that “*the UK Government should take forward plans to implement a statutory regulator for digital advertising and especially for online harms and ensure this also apply to e-cigarette advertising*”. It also suggested ensuring profiles of e-cigarette manufacturers are set in private mode and for the government to consider legislative instruments banning accounts that promote vaping. While online advertising is not in scope of the Online Safety Bill, and will therefore not fall within Ofcom’s remit, we do note that there is currently a grey area in the promotion of e-cigarettes by influencers and through sponsorship deals. A study from 2021 concluded that over 600 e-cigarette brands collaborated with 55 of the most engaging influencers worldwide. According to this study, 75% of the influencers analysed did not use age-restriction notifications to prevent underage users from accessing their vape-related content.<sup>9</sup>

**Question 7: Can you provide any evidence relating to the impact on children from accessing content that is harmful to them?**

*Is this a confidential response? (select as appropriate)*

No

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<sup>7</sup> McNeill, Ann, *et.al.* Nicotine Vaping in England: 2022 evidence update summary. A report commissioned by OHID (2022). Available [here](#).

<sup>8</sup> Stead, M, *et. al.* E-cigarette marketing in the UK: evidence from adult and youth surveys and policy compliance studies (2021). Available [here](#).

<sup>9</sup> Vassey, Julia, *et.al.* E-cigarette brands and social media influences on Instagram: a social network analysis (2021). Available [here](#).

### Question 7: Can you provide any evidence relating to the impact on children from accessing content that is harmful to them?

As a relatively recent phenomenon, the evidence of the impacts that exposure to e-cigarette content online can have on underage use is not conclusive. However, a growing body of scientific studies suggests a correlation between exposure to this sort of content, the positive perception children have of these products, and ultimately their decisions to consumer the products under the age of 18:

- A **2021 study published in the Nicotine & Tobacco Journal**<sup>10</sup> conducted on underage youth in the United States found that greater exposure to e-cigarette social media content was associated with greater intentions to use e-cigarettes as well as more positive attitudes towards vaping products. The study argues that even brief exposure to vaping content on social media was related to increased intent of use and positive attitudes. The authors of the study recommend taking forward regulatory action to prohibit sponsored vaping content, including posts by influencers, which aims to appeal to young children.
- This was supported by a **2022 study conducted on c12,500 students in China aged 13-18 years and published in the International Journal of Environmental Research and Public Health**<sup>11</sup>. The study reported 73.9% of students were aware of e-cigarettes, with the internet being their main source of information (42.4%). Like the report above, it concludes that children’s exposure to vaping content online, including social media, was “significantly associated” with their vaping intention. Again, the study’s authors recommend implementing regulations to limit the presence of vaping content online.
- Moreover, a **2021 study conducted on c6,000 12 – 17-year-olds in the USA and published in the Health Communication Journal**<sup>12</sup> found that exposure to online e-cigarette ads was associated with a higher perception of positive social norms of e-cigarette use. The report concluded that positive perceptions of norms concerning e-cigarette ads influenced the perception of risk that comes from subsequent use. The authors considered that regulatory interventions which reduced young people’s exposure to e-cigarette advertising online could help to curb youth use of e-cigarettes.
- Finally, although evidence by Public Health England as proved that e-cigarettes are pose only a fraction of the risk of than smoking<sup>13</sup>, they are not risk-free and minors should not be exposed to content that distorts their perception of harm. A **2022 study looking at 12,570 children aged 12-17 years old, published in the Journal Archives of Public Health**<sup>14</sup>, found that there was a connection between exposure to advertising of e-cigarettes and reduced harm perceptions. Amongst the types of media analysed, the study found a statistically

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<sup>10</sup> Vogel, Erin A. (PhD), *et. al.* Effects of Social Media on Adolescents’ Willingness and Intention to Use E-Cigarettes: An Experimental Investigation (2021). Available [here](#).

<sup>11</sup> Dai, Luojia. Online E-Cigarette Information Exposure and Its Association with E-Cigarette Use among Adolescents in Shanghai, China (2022). Available [here](#).

<sup>12</sup> Zheng, Xia and Lin, Hsein-Chang. How Does Online e-cigarette Advertisement Promote Youth’s e-cigarettes Use? The Mediating Roles of Social Norm and Risk Perceptions (2021). Available [here](#).

<sup>13</sup> McNeill, Ann, *et. al.* Evidence review of e-cigarettes and heated tobacco products 2018. A report commissioned by Pubic Health England (2018). Available [here](#).

<sup>14</sup> Hung, Man, *et.al.* The association of adolescent e-cigarette harm perception to advertising exposure and marketing type (2022). Available [here](#).

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significant association for social media, suggesting that social media can have stronger impacts on children over other forms of advertising.

**Conclusion and next steps**

We want the e-cigarette industry to be a responsible actor in the UK's smokefree future, and we are committed to working with governments, regulators, and other stakeholders to put appropriate safeguards in place.

This submission provides Ofcom with clear evidence of how pervasive e-cigarette content is online and across social media platforms. Online services have so far been ineffective in protecting children from exposure to this age-inappropriate content in significant numbers. Juul Labs believes that social media companies should do far more to tackle content created by users which makes vaping appeal to children or promotes other irresponsible behaviour. Content depicting those who are or appear to be underage using or otherwise glamorising e-cigarettes should be prohibited, as should any content made by adult users that is likely to appeal to under 18s. E-cigarettes should never be promoted by influencers.

We think implementation of the Online Safety Bill offers a near term opportunity to make sure social media companies get this right. We urge Government to include content related to age-restricted products, like e-cigarettes, as a category of Priority content that is harmful to children – or failing that for Ofcom to include such material as non-designated harmful content in its Codes of Practice.