

'Government's policy on regulation of the sale, advertising and promotion of e-cigarettes'

Lords Debate

Tuesday 17 December 2013

The British Medical Association (BMA) is an independent trade union and voluntary professional association which represents doctors from all branches of medicine across the UK. It has a total membership of over 153,000.

Background

The BMA published a paper in March 2012 calling for greater regulation of electronic cigarettes (e-cigarettes).¹ E-cigarettes, or electronic nicotine delivery systems (ENDS), have become increasingly popular since the mid-2000s with their own advocacy groups, marketing and increasing online interest.^{2,3,4}

There is emerging evidence that e-cigarettes are being used by some smokers to help cut down or quit; yet, they are subject to limited regulation, are not licensed as a medicine in the UK, and there is limited evidence that they are safe or effective for this purpose. These devices may also undermine efforts to prevent or stop smoking by making cigarette use seem normal in public and at work.

The BMA is calling on the Government to regulate the sale and use of e-cigarettes.

E-cigarettes, safety and harm reduction

In 2011, a review of the evidence regarding the safety of e-cigarettes concluded that they are a safer alternative to tobacco cigarettes.⁵ Their use has therefore been suggested as a way of reducing the harm associated with smoking tobacco.^{6,7} Despite this, there has been little research into the efficacy of e-cigarettes as aids to stop smoking or cutting down.^{8,9} In June 2013, The Medicines and Healthcare products Regulatory Agency (MHRA) announced that all nicotine-containing products would be regulated, including e-cigarettes. The BMA welcomed this development but continues to call for good research about the efficacy and health implications of e-cigarettes.

A 2008 review by the World Health Organization (WHO) does not exclude the possibility that the e-cigarette could be useful as a smoking cessation aid, but concluded that no rigorous, peer-reviewed studies have been conducted showing that the e-cigarette is a safe and effective nicotine replacement therapy.¹⁰ There is evidence that e-cigarette products are highly variable in the efficacy of their vaporisation of nicotine,¹¹ and that the labelling of nicotine levels may be inconsistent and misleading.¹² In 2009, the United States Food and Drug Administration (FDA) released results of an analysis of some e-cigarette products.¹³ The analysis found that the e-cigarette cartridges contained carcinogens and toxic chemicals. Analysis of two leading brands revealed:

- diethylene glycol (a toxic chemical) in one cartridge at approximately 1 per cent
- tobacco-specific nitrosamines (which are human carcinogens) in half of the samples
- tobacco-specific impurities suspected of being harmful to humans (anabasine, myosmine, and β -nicotyrine) in a majority of the samples.¹⁴

The Trading Standards Institute and others have stated that safety concerns have come to light around some brands of e-cigarettes, including electrical safety, the need for proper labelling, and the provision of child resistant packaging.^{15,16}

In the UK, e-cigarettes are only subject to basic regulation under the General Product Safety Regulations 2005, the Chemicals (Hazard Information and Packaging for Supply) Regulations 2009, and by trading standards.¹⁵ It is clear that the MHRA's decision¹⁷ to regulate these products is a necessary step in ensuring that e-cigarettes are safe and effective as a nicotine replacement therapy, and for use as part of a harm reduction approach. This includes the requirement for clear unambiguous labelling and packaging that details the contents of the cartridges and the conditions for their safe use.

While e-cigarettes have the potential to reduce tobacco-related harm (by helping smokers to cut down and quit), a strong regulatory framework is required for the sale and use of e-cigarettes to ensure they are safe, quality assured and effective at helping smokers to cut down or quit.

Marketing, sale and promotion of e-cigarettes

With the exception of statements about the product needing to be substantiated, the promotion of e-cigarettes – which includes point-of-sale displays, and advertising via television, radio, in print media and online – is not specifically controlled.¹⁸ Their promotion ranges from being advertised as 'cigarette substitutes' and 'a healthier alternative to smoking traditional tobacco products', to evocative advertising with phrases such as 'an exceptional alternative smoking experience', 'vape with style', and 'add flavour to your lifestyle'. The advertising also frequently makes positive associations with recreational activities and can incorporate celebrity endorsements. It is worth noting that the provisions of the 2002 Tobacco Advertising and Promotion Act (TAPA) prohibit any brandsharing or connections with tobacco products. E-cigarettes are sold online and can be bought from a variety of high street outlets, ranging from pubs, chemists and newsagents to specialist shops.

There are no mandatory regulations on the sale of e-cigarettes as age restricted products, including their sale to children,¹⁵ and they are widely available online and from a variety of high street outlets.

We also believe that a strong regulatory framework is required to restrict the marketing, sale and promotion of e-cigarettes so that it is only targeted at smokers as a way of cutting down and quitting, and does not appeal to non-smokers, in particular children and young people.

EU Tobacco Products Directive

In October 2013, the European Parliament passed a draft law to introduce a raft of measures aimed at curbing tobacco's appeal to young people, including regulation of e-cigarettes. The measures include that:

- E-cigarettes would be regulated, but not to the same rules as medicinal products unless they are presented as having curative or preventative properties
- E-cigarettes for which no such claims are made should contain no more than 30mg/ml of nicotine, carry health warnings and should not be sold to those aged under 18 years
- Manufacturers and importers would have to supply a list of all ingredients
- E-cigarettes would be subject to the same advertising restrictions as tobacco products.

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References

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- ¹http://bma.org.uk/-media/Files/PDFs/Working%20for%20change/Improving%20health/tobaccoecigarettespublicplaces_jan2013.pdf
- ² Henningfield JE & Zaatari GS (2010) Electronic nicotine delivery systems: emerging science foundation policy. *Tobacco Control* **19**: 89-90.
- ³ Yamin CK, Bitton A & Bates DW (2010) E-cigarettes: a rapidly growing internet phenomenon. *Annals of Internal Medicine* **153**: 607-9
- ⁴ Ayres JW, Ribisl KM & Brownstein JS (2011) Tracking the rise in popularity of electronic nicotine delivery systems (electronic cigarettes) using search query surveillance. *American Journal of Preventative Medicine*. **40**: 448-53.
- ⁵ Cahna Z & Siegel M (2011) Electronic cigarettes as a harm reduction strategy for tobacco control: a step forward or a repeat of past mistakes? *Journal of Public Health Policy* **32**: 16-31.
- ⁶ Flouris AD & Oikonomou DN (2010) Electronic cigarettes: miracle or menace? *British Medical Journal* **340**: 215.
- ⁷ Cahna Z & Siegel M (2011) Electronic cigarettes as a harm reduction strategy for tobacco control: a step forward or a repeat of past mistakes? *Journal of Public Health Policy* **32**: 16-31.
- ⁸ World Health Organization (2009) *Report on the scientific basis of tobacco product regulation: third report of a WHO study group*. Geneva, Switzerland: World Health Organization.
- ⁹ Flouris AD & Oikonomou DN (2010) Electronic cigarettes: miracle or menace? *British Medical Journal* **340**: 215.
- ¹⁰ World Health Organization press release (19.9.08) *Marketers of electronic cigarettes should halt unproved therapy claims*.
- ¹¹ Goniewicz ML, Kuma T, Gawron M et al (2013) Nicotine levels in electronic cigarettes. *Nicotine & Tobacco Research* **15**: 158-66.
- ¹² Westenberger BJ (2009) *US Food and Drug Administration: evaluation of e-cigarettes*. St Louis, MO: US Food and Drug Administration, Center for Drug Evaluation and Research, Division of Pharmaceutical Analysis.
- ¹³ Westenberger BJ (2009) *US Food and Drug Administration: evaluation of e-cigarettes*. St Louis, MO: US Food and Drug Administration, Center for Drug Evaluation and Research, Division of Pharmaceutical Analysis.
- ¹⁴ Westenberger BJ (2009) *US Food and Drug Administration: evaluation of e-cigarettes*. St Louis, MO: US Food and Drug Administration, Center for Drug Evaluation and Research, Division of Pharmaceutical Analysis.
- ¹⁵ Trading Standards Institute (2010) *Response of the Trading Standards Institute to MHRA consultation on the regulation of nicotine containing products*. Basildon, Essex: Trading Standards Institute.
- ¹⁶ North East Lincolnshire Council press release (5.1.12) *Use e-cigarettes with care, warn trading standards officers*.
- ¹⁷ <http://www.mhra.gov.uk/home/groups/comms-ic/documents/websiteresources/con286834.pdf>
- ¹⁸ Trading Standards Institute (2010) *Response of the Trading Standards Institute to MHRA consultation on the regulation of nicotine containing products*. Basildon, Essex: Trading Standards Institute.