CAP/BCAP consultation of e-cigarette advertising
Sent by email: e-cigarettes@cap.org.uk.

24 October 2016

Dear Sir/Madam

Consultation on changes to the regulation of e-cigarette advertising

The BMA (British Medical Association) is an apolitical professional association and independent trade union, representing doctors and medical students from all branches of medicine across the UK and supporting them to deliver the highest standards of patient care. On average our membership this year has been around 170,000. The Association welcomes the opportunity to respond to the joint CAP/BCAP consultation on new rules and guidance on the advertising of e-cigarettes. The BMA supports the regulations on the advertising of e-cigarettes contained within the TPD (Tobacco Products Directive), and we broadly welcome the proposed changes to the CAP/BCAP codes and guidance to reflect these regulations. In general, we believe that rules on the marketing and promotion of e-cigarettes should ensure that they do not:

- appeal to children / young people and non-smokers
- make or imply any claims of effectiveness as a smoking cessation aid, unless the product has obtained a medicines license from the MHRA
- include any misleading information that implies a health benefit of e-cigarettes
- promote the re-normalisation of conventional tobacco cigarette smoking.

Our response to some of the specific questions set out in the consultation document are as follows.

Do you agree that the prohibition should apply to advertisements for non-nicotine and refillable products which can be refilled with nicotine-containing e-liquid? If not, please explain why.

We agree that regulations - as intended - should apply to any products that can be refilled with nicotine containing e-liquid.

In media subject to the Regulations:
Should CAP allow advertisements for e-cigarette retailers so long as those advertisements do not refer to products which cannot be advertised?

It is unclear how advertising the existence of retailers without referring to the actual products they sell would work practically. We would be concerned if rules to allow such advertisements were to undermine the intention of legislation to restrict the marketing/promotion of e-cigarettes, especially in respect to their appeal to children/young people and non-smokers.
Do you agree with BCAP’s proposal to allow e-cigarette retailers to advertise their services on TV and radio? If not, please explain why.

As highlighted above, it is not clear how allowing e-cigarette retailers to advertise their services would be compatible with regulations restricting the advertising of the products they sell. We would be concerned if rules to allow such advertisements were to undermine the intention of the new regulations, to restrict the marketing and promotion of e-cigarettes.

Do you have information or evidence which can inform CAP and BCAP’s future consideration as to whether they might allow for substantiated health claims to be made for unlicensed e-cigarettes?

The BMA recognises the potential for e-cigarettes to reduce harm associated with tobacco. The current regulatory system allows substantiated health claims to be made through medical licensing. It is the responsibility of the MHRA (Medicines and Healthcare products Regulatory Agency) to determine which products should be medically licenced on the basis of the evidence of their safety, quality and efficacy. We would be concerned about health claims being made for any products where there is insufficient evidence of their safety and efficacy for smoking cessation.

I hope that you find our submission to the consultation useful – please do not hesitate to contact us for more information if required. We look forward to hearing the outcomes of your consultation.

Yours faithfully,

Raj Jethwa
Acting policy director