

# E-cigarette Advertising Post-TPD

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**CAP** 

# Two bodies, shared goals

**CAP** ✓ writes and enforces the Advertising Codes

**ASA** ✓ assesses if ads breach the Advertising Codes



## 2014 - Sector-specific rules...

10 content rules loosely under the following themes:

- Prevention of links with tobacco
- Protection of non-smokers / non-nicotine users
- Protection of young-people
- Prevention of health and medicinal claims

+ Placement and scheduling rules

# Advertising rules:

- CAP and the ASA have to have proper regard to the wider legal framework:
  - The Tobacco Products Directive
  - The Tobacco and Related Products Regs 2016
- Consultation has just closed (31 Oct) on how best to approximate these laws in CAP and BCAP Codes



# Covered in the consultation

- Setting out the definition of products that can't be advertised and which products can
- Setting out which media can carry advertising and which cannot
- Proposes guidance on how advertisers of non-nicotine products can advertise without having the 'indirect' effect of promoting products which can't
- Looking at what kinds of claims are acceptable on marketers' own websites
- Making clear how businesses may advertise their existence without falling foul of the prohibitions on ads for products
- Re-examining our existing rules: particularly health claims

# The status of different media

Permitted	Prohibited
<ul style="list-style-type: none"><li>• Outdoor advertising, including digital outdoor advertising</li><li>• Posters on public transport (not leaving the UK)</li><li>• Cinema</li><li>• Direct hard copy mail</li><li>• Leaflets</li><li>• Publications / websites etc. targeted exclusively to the trade</li><li>• Activities by private individuals (blogs, tweets etc.)</li></ul>	<ul style="list-style-type: none"><li>• Newspapers, magazines and periodicals</li><li>• Online advertising of all types</li><li>• Paid-for search</li><li>• Marketers' online sales promotions / prize promotions</li><li>• Email</li><li>• Text message</li></ul>

# Marketers' own websites

Marketers can still retain their own websites provided the content thereon is **factual** rather than **promotional**.

Factual	Promotional
<ul style="list-style-type: none"><li>• Names of products</li><li>• Descriptions of product components</li><li>• Price statements</li><li>• Instructions as to how products can be used</li><li>• Product ingredients</li><li>• Flavours</li><li>• Nicotine content</li></ul>	<ul style="list-style-type: none"><li>• Descriptive language that goes beyond objective, factual claims</li><li>• Promotional marketing</li><li>• Significant imagery that is not related to the product</li><li>• Comparative claims with other e-cigarette products or the general market.</li></ul>

# Avoiding ‘indirectly’ promoting nicotine-containing e-cigarettes

**In media subject to TRPR ads will need to avoid featuring:**

- A brand or range name under which a nicotine e-cigarette is sold. That name could be featured on non-nicotine products or other products but is strongly associated with a nicotine product.
- An identifiable nicotine e-cigarette
- A direct response mechanic relating to a nicotine e-cigarette
- A strapline, celebrity, licensed character or branding which is synonymous with a nicotine-product.



## Consultation has also sought views on:

- **Proposal to clarify that TRPR does not prohibit companies advertising their own existence provided that they do not directly or indirectly promote a product that can't be advertised. This would result in guidance for CAP but a change to the BCAP Code**
- **Invitation for views on whether CAP needs to look again at its prohibition on health claims**

# Next steps

- Consultation responses are being evaluated.
- CAP and BCAP will look at them carefully and decide what changes to make to their Codes and guidance

# Scotland

- Health (Tobacco, Nicotine etc. and Care) (Scotland) Act empowers ministers to ban all e-cigarette advertising, bar point of sale.
- SG will consult and ASA / CAP will be working with them to clarify the effect in practice, particularly with regard to cross-border media within UK



# CAP and ASA websites

The ASA website homepage features a red header with the ASA logo and the text "The UK's independent regulator for advertising across all media". A search bar is located in the top right. The main navigation bar includes "Home", "About ASA", "Consumers", "Industry", and "Rulings". The main content area has a large heading "Protecting children and young people" and a sub-heading "The protection of children sits at the heart of our work. We make sure that ads targeted at or likely to be seen by children don't contain anything that is inappropriate or harmful." Below this are three columns: "Consumers" with a "Make a complaint" button and links for "What we cover" and "Advice for parents"; "Industry" with a "Make a complaint" button and links for "Advertising Codes (CAP site)", "How to comply (CAP site)", and "Complaint about your ad - what next?"; and "Rulings" with a "Rulings" button and a link for "Non-compliant online advertisers". A "Latest rulings" section highlights "Acorn Mobility Services Ltd t/a Acorn Stairlifts" and "Alpro (UK) Ltd". A "Latest news" section highlights "The ASA is 50" and "Countdown to our 50th anniversary: 2010".

The CAP website homepage features a blue header with the CAP logo and the text "Responsible for writing and maintaining the UK Advertising Codes and providing authoritative advice on the rules". A search bar is located in the top right. The main navigation bar includes "Home", "About us", "Advice and Training", "Advertising Codes", "News and reports", and "Industry Zone". Below this is a secondary navigation bar with "AdviceOnline database", "Help Notes", "Bespoke Copy Advice", "Website audits", "Training and events", and "Copy Advice Team". The main content area has a large heading "CAP Advice & Training" and a sub-heading "CAP / Advice and Training". The main text reads: "The professional and brand damage from getting your advertisement banned by the Advertising Standards Authority can be devastating. At CAP we want you to produce excellent and compelling campaigns that also comply with the rules. That's why we've created a wide range of advice services – so you can look good and be good at the same time." Below this are three sections: "AdviceOnline database - Practical advice" with a "Read more" link; "Help Notes - Formal regulatory advice" with a "Read more" link; and "AdviceOnline Database" with a search bar and "Search" button. On the right side, there are links for "Sign Up", "Log in", "Follow Us", and "Bespoke Copy Advice".

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