



UK Vaping Industry Association (UKVIA) – submission to the Building our Industrial Strategy consultation

The UK Vaping Industry Association (UKVIA) welcomes the Government's consultation on its emerging Industrial Strategy and we stand ready to support BEIS, DoH, HM Treasury and all other relevant Government organisations to ensure that the Government understands and supports the great potential that the vaping industry offers to become a 21st century UK success story.

In particular UKVIA welcomes the Industrial Strategy's focus on i) investing in science and research, ii) supporting businesses to start and grow, iii) cultivating world leading sectors and iv) creating the right institutions to bring together sectors and places. The vaping industry is an excellent example of an industrial sector in which the UK is leading the way across the globe.

About the UK Vaping Industry Association

The UKVIA is a partnership of the leading producers, distributors and vendors of vaping products. Our aim is to provide information to regulators, the public health community, the media, our consumers, and the wider public.

As the only trade association seeking to represent the whole of the vaping industry in the UK, we are committed to its continued growth and expansion. We represent the interests of the supply chain, including manufacturers, online retailers, distributors, importers and wholesalers.

Executive Summary

This submission focusses on the following areas:

- An introduction to the development of this fast-moving product category and its rapid revolution in a short space of time. It highlights how vaping has rapidly become one of the UK's most vibrant, exciting and dynamic business sectors; a sector that nearly three million consumers in Britain have already embraced to enjoy the significant health, economic and social benefits that vaping brings.
- An analysis of how the vaping industry could play a vital role in UK's industrial strategy, and why it needs support. The submission also explores how the vaping industry is thoroughly outward-looking, growth-focused and uniquely placed to capitalise on the huge potential for UK plc that the new global trading environment presents.
- A summary of the key areas of regulation that currently impact, and could potentially impede, the sector.
- An analysis of the opportunity that exiting the EU presents for shaping a bespoke regulatory framework that could support the industry more effectively and leverage this important public health intervention.

Introduction – a UK success story

The UK vaping industry has been developing rapidly since the first products began entering the market in the late-2000s. What originally began as an industry made up of independent start-ups, retailers, and distributors, has rapidly grown into a sector which now includes major manufacturers, research and development scientists, a nation-wide distribution network, and nearly 3m vaping

consumers.¹ The global market for vaping products is growing every year. A recent analysis suggested that the global market for vaping products could be as much as £25 billion by 2021.²

As the increasing popularity of vaping products found traction with smokers seeking an alternative to tobacco, global businesses such as pharmaceutical companies and tobacco manufacturers have invested in the category. What started as small independent manufacturing and distributing companies have now grown into multi-million pound industries. A few years ago vaping products were usually sold in small independent shops and off-licence counters. Today the industry has evolved into major high-street shops and supermarkets.

In short, the vaping sector has experienced exponential growth in the UK and continues to develop and play an increasing role in British industry. It is a demonstration of a UK industrial success story. The vaping industry has developed to its current position of strength without any requirement for Government intervention.

Furthermore, many – including Public Health England - regard the use of vaping products as a public health success story.³ The UK has recently gone through a period of rapidly falling use in tobacco products. The latest data from the Office for National Statistics (ONS) shows that 17.2% of adults in the UK smoked in 2015, down from 20.1% in 2010.⁴

The UK is the global leader in ‘harm-reduction’ health policy, which, simply put, is a set of practical strategies and ideas/processes aimed at reducing negative consequences associated with a substance’s use (i.e. smoking). For example the UK pioneered the ‘needle exchange’ to combat AIDS. This harm reduction approach is increasingly widely recognised by the UK’s public health community in its’ approach to the use of vaping products as a smoking cessation tool, i.e. their use being promoted as a less harmful alternative to cigarettes and an effective tool to stop or reduce smoking.

Current regulatory environment

The regulatory environment has increased in recent years due to vaping products being included in the European Union Tobacco Products Directive (TPD) which came into force in May 2016.⁵ These regulations are due to come into effect in May 2017.

The devolved administrations are also looking at their own regimes when it comes to the sale of vaping products, such as regulations on advertising, public place use, and sales protocols. These regulations have not kept pace with the rapid improvement in the science and product quality of this sector. It is in large part the regulation that overarches this sector that will shape its future growth and success.

¹ Tobacco Advisory Group of the Royal College of Physicians. Nicotine without smoke: tobacco harm reduction. Royal College of Physicians, 2016 www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0

² www.beigemarketintelligence.com/reports/research-report-consumer-and-retail-market/vape-ecigarette-vaporizer-market-research-report/

³ E-cigarettes: a developing public health consensus www.gov.uk/government/uploads/system/uploads/attachment_data/file/534708/E-cigarettes_joint_consensus_statement_2016.pdf

⁴ www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandlifeexpectancies/bulletins/adultsmokinghabitsingreatbritain/2015

⁵ E-cigarettes: regulations for consumer products www.gov.uk/guidance/e-cigarettes-regulations-for-consumer-products

It is in this context that the UKVIA makes its submission to the UK Government's Industrial Strategy consultation. This submission will highlight the ever-growing role of the vaping sector in UK industry, and importantly how that growth should be sustained and protected to ensure that vaping continues to play an important role in harm-reduction and public health policy.

This submission will address the following key pillars, as set out in the green paper consultation:

- Investing in science, research and innovation;
- Supporting new businesses to start and grow;
- Cultivating world-leading sectors;
- Creating the right institutions to bring together sectors and places.

Vaping technologies

Vaping devices (commonly known as e-cigarettes or electronic nicotine delivery systems [ENDS]) produce an aerosol (popularly referred to as 'vapour') from an e-liquid which may or may not contain nicotine, which is inhaled by the user. They do not contain tobacco or generate smoke.

Vaping devices typically have three main components:

- a battery-powered heating element;
- a cartridge (replaceable) or tank (refillable) containing a liquid solution (e-liquid) composed of propylene glycol and vegetable glycerine (which form the aerosol) and may or may not contain nicotine and flavourings;
- an atomiser that vaporises the solution when heated.

The first-generation of vaping products ('cig-a-likes') resembled conventional tobacco cigarettes. They became widely available in the UK in the late-2000s and are usually disposable. Second and third generation products (which the majority of UK consumers now use) typically resemble fountain pens, or larger battery powered tank devices, are rechargeable, with a replaceable cartridge or refillable tank. Users can often modify power and resistance to adjust vapour density, can download software to monitor usage patterns, and can personalise devices aesthetically.

The vaping market

The use of vaping devices by smokers increased rapidly after their introduction to the market. Use trebled from 700,000 in 2012 to 2.1m in 2014, then added a further 1m new users between 2014 and 2016.⁶

ONS 2014-15 survey results (published in March 2017) found approximately 2.3m vapers in England, Scotland and Wales. Action on Smoking and Health's (ASH) 2016 annual survey estimates that there are 2.8m adult consumers using vaping products in the UK, 98% of whom are current or ex-smokers.⁷

Vaping is evenly distributed across age groups, slightly more popular among women and higher socio-economic groups. Key statistics are:

⁶ ASH factsheet: Use of electronic cigarettes (vapourisers) among adults in Great Britain, May 2016
www.ash.org.uk/category/information-and-resources/briefings/

⁷ ASH factsheet: Use of electronic cigarettes (vapourisers) among adults in Great Britain, May 2016
www.ash.org.uk/category/information-and-resources/briefings/

- 61% of smokers (up from 22% in 2012), and 19% of ex-smokers (11% in 2012) have tried a vaping product;
- 19% of smokers (up from 4% in 2012), and 8% of ex-smokers (1% in 2012) currently vape;
- 46% of smokers who currently vape and 65% of ex-smokers who currently vape have been using vaping products for over a year.⁸

There are over 450 brands of vaping products and 7,500 flavours of e-liquid with, thousands of people are employed by the industry nationwide, with up to 2000 vaping specialist stores across the country (and vaping products are now included in the Consumer Price Index⁹).¹⁰ Vaping products were the fastest-growing UK supermarket product of 2014, with sales increasing by 50% during that year.¹¹ Other estimates suggest that overall UK sales rose from £25m to £459m between 2011 and 2014. The UK market is the world's second-largest behind the US.¹²

An industrial strategy for vaping – the UK leading the way

As outlined above, the vaping industry has developed rapidly both in terms of its consumer growth, technological innovation, market distribution and regulatory framework. Given this rapid development, a key priority for the industry is a stable environment in which the sector can continue to innovate and grow.

As highlighted, the UK is already seen as a world-leader in harm-reduction health policy and it is in this environment that the uptake of, and innovation in, vaping products has flourished.¹³ To that extent the vaping industry is *already* a world-leading sector. Many countries in the EU and the rest of the world look to the UK for the way it regulates, manufactures and sells vaping products. For example, the UK is seen as a key voice on the World Health Organisation's (WHO) Framework Convention on Tobacco Control (FCTC) which also includes workstreams on the regulation of vaping products (which they refer to as electronic nicotine delivery systems [ENDS]).¹⁴

Furthermore, the UK's internationally leading medical research and charity sector is hugely influential in shaping vaping policies worldwide. For example:

- Public Health England is the key oversight body in this area, and is leading a number of research pieces into the long-term health impact of vaping products. The results of these studies are likely to set the tone for future regulation in this area.¹⁵

⁸ ASH factsheet: Use of electronic cigarettes (vapourisers) among adults in Great Britain, May 2016

www.ash.org.uk/category/information-and-resources/briefings/

⁹ Consumer Price Inflation: The 2016 Basket of Goods and Services

www.ons.gov.uk/file?uri=/economy/inflationandpriceindices/articles/consumerpriceinflationbasketofgoodsandservices/2016/cpi2016basketofgoods.pdf.

¹⁰ Zhu et al. Four hundred and sixty brands of e-cigarettes and counting: implications for product regulation.

Tobacco Control Vol 23, 2014 www.tobaccocontrol.bmj.com/content/23/suppl_3/iii3

¹¹ Tobacco Advisory Group of the Royal College of Physicians. Nicotine without smoke: tobacco harm reduction. Royal College of Physicians, 2016 www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0

¹² Tobacco Advisory Group of the Royal College of Physicians. Nicotine without smoke: tobacco harm reduction. Royal College of Physicians, 2016 www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0

¹³ www.gov.uk/government/organisations/public-health-england

¹⁴ www.who.int/fctc/en/

¹⁵ www.nhs.uk/news/2017/02February/Pages/Long-term-vaping-far-safer-than-smoking-says-landmark-study.aspx

- In February 2017 Cancer Research UK published the findings of the world’s first long-term health studies which showed the benefits of smokers who had completely switched to vaping products.¹⁶

The UK has an exceptionally strong medical research base as well as one of the largest vaping consumer and manufacturing bases. It is therefore extremely well placed to be at the forefront of this burgeoning industry. It is both in a position to export the right policies and regulations to foster this effective public health intervention as well as owning the leading science, devices and manufacturing skills to ensure quality consumer products. One UKVIA member alone has a UK-based facility that includes over 50 PhDs across a range of STEM disciplines to conduct research into every aspect of vaping, from the toxicology to enhanced safety features for the products themselves.

Britain is genuinely a world leader in science and development, with the highest proportion (18%) of its total research papers among the top 10% of most cited, and four of the world’s top twenty research universities.¹⁷ To ensure that the UK’s world leading science is also applied across this category there are a number of priorities to maintain and barriers to overcome.

Strength in diversity

As described above the vaping sector began largely as a start-up industry with a multitude of small and diverse retailers and manufacturers. It is this diverse market that drove much of the initial innovation in the category which in turn largely drove the rapid uptake in products by adult consumers. In essence the wide variety of choice available to smokers (in terms of devices and flavours) enabled many to find the system that worked best for them to help them to reduce or replace smoking.

It is vitally important that the diversity in this category is maintained, and that means maintaining the UK’s business friendly environment which easily allows smaller and disruptive entrants into the market. It also means maintaining the UK’s world-leading R&D sector and vital scientific facilities.

Collaboration setting the standard

The best way to do this effectively is to ensure that the Government and UK health bodies remain fully engaged (particularly as we exit the EU) in creating a sensible and cohesive bespoke regulatory environment for the vaping industry to innovate safely in. Now that the regulatory landscape is considerably larger and more complex, there needs to be effective support for the institutions and regulatory agencies that are involved in the category.

A crucial part of that is fostering a culture of collaboration both within the industry itself and a constructive relationship with the regulators that oversee it. To date that has not been happening effectively enough. UKVIA wants to promote the urgent creation of a formal collaborative and constructive relationship between the industry and the regulatory bodies that impact it.

Life after Brexit

The largest single piece of legislation, that underpins the regulation around the vaping sector, is the EU Tobacco Products Directive (TPD) and its subsequent iterations thereafter.

¹⁶ www.cancerresearchuk.org/about-us/cancer-news/press-release/2017-02-06-e-cigarettes-safer-than-smoking-says-long-term-study

¹⁷ OECD Science, Technology and Industry Scoreboard 2015: United Kingdom, www.oecd.org/sti/UK-CN-EN-Scoreboard.pdf

For example in recent weeks the Department of Health have announced a forum *“that brings together policy makers, researchers, practitioners and the non-governmental organisation representatives to discuss the emerging evidence, identify research priorities and generate ideas for new research projects, thereby enhancing collaboration between forum participants.”*¹⁸ Currently there appears to be no formal role for industry in that process. The Government should ensure that the Department of Health engages constructively and in a timely manner with the vaping industry.

Good evidence-based policy, and therefore an effective industry environment, can only be best served by the upfront and proactive involvement of the sector that participates in it and is affected by it – as would be expected of any industry area. The involvement of industry needs to be addressed as a matter of priority.

Stable and effective regulation

To put this issue in context, the vaping industry needs to engage with, and collaborate with, all of the following bodies: The Department of Health (DoH); Medicines and Healthcare products Regulatory Agency (MHRA); Public Health England (PHE); Environmental Health; local councils (who have locus over local vaping related policies); Environmental Health; Trading Standards (who operate independently across the UK); the devolved administrations across the UK (who have devolved health responsibilities), and many more.

This is a complicated landscape that many smaller vaping businesses understandably struggle to fully engage in, which is where UKVIA can play a dynamic and positive role to ensure all affected stakeholders across the sector can be represented fairly within government. Furthermore, the implementation of certain regulations is also deployed inconsistently across the devolved nations and indeed there are significant local variations at that level also.

The UKVIA is seeking to bring together the full diversity of the industry into one cohesive place so that it can effectively engage in this fast developing landscape. However, support in engaging a more nationally consistent framework would assist the industry in moving forward. Namely the industry wants to engage with regulators and policy makers to get policies right and should be provided with forums to do so. This would increase consumer confidence in the category, which would in turn see more smokers adopt vaping.

The TPD is the first piece of EU legislation which has a section, Article 20, specifically for vaping products. From 20 May 2017, all products sold to consumers must be fully compliant with the TPD. The TPD specifies how vaping products can be sold, presented and manufactured. In particular, the TPD introduces new rules which set minimum standards for the safety and quality of all vaping related products and refill containers (otherwise known as e-liquids) and minimum requirements for information that should be provided to consumers. Only TPD compliant products can be sold in the UK after the 20 May 2017 deadline.

There are also a myriad of other regulations that impact on the vaping sector, just a few of which are listed below:

- The Medicinal Products Directive 2001/83/EC (for medically licensed vaping products)
- The General Product Safety Directive (2001)
- The Low Voltage Directive (2006)

¹⁸ Electronic Cigarettes: Written question – 67667, Parliamentary Under Secretary for Health, Nicola Blackwood MP, 13 March 2017 www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-03-13/67667/

The UKVIA absolutely supports sensible regulation. It is in the interest of the entire vaping community that there are regulations in place that ensure standards and protect consumers – but to be effective, regulations must be comprehensive, clear, evidence-based and proportionate to the sector they are regulating; and relevant, in this case, to the consumers who are the end recipient of the products in question. The current regime is not fit for purpose.

With the UK exiting the European Union it has the opportunity to objectively assess the directives and regulations that we are currently subscribed to. The Government can now re-design the regulatory environment to ensure that the vaping sector is aligned with its publicly stated health priorities:

- Make a clear distinction between vaping and smoking
- Support smokers to stop smoking and stay smokefree
- Advocate compliance with smokefree law and policies

The UKVIA stands ready to help make those priorities a reality. Parliament is about to be empowered to reshape many of the regulations that have previously been out of their control. In short we are calling on the government to seize this moment to develop a bespoke regulatory framework.

This new control combined with an ambitious industrial strategy would renew the UK's leadership in the vaping sector, drive an economically vibrant industry, and further this important public health intervention.