Supplementary written evidence submitted by the 
UK Vaping Industry Association (ECG0111)

Advertising restrictions and vaping products

- In addition to our published evidence already submitted to the Committee on this point, we thought the Committee may be interested to note a practical example of the advertising restrictions facing the vaping industry and their effect.

- In April 2018, the UKVIA organised an industry-led campaign, called VApril, to raise awareness of vaping as a far less harmful alternative to smoking amongst smokers. The campaign was fronted by Dr Christian Jessen, the TV doctor from shows like Embarrassing Bodies.

- We used the campaign to explain some of the facts about vaping versus smoking, offered free ‘vaping masterclasses’ and products for smokers and provided support and information to explain about different types of vaping products available to consumers. We estimate that the campaign reached thousands of smokers across the UK; the VApril hashtag on Twitter created 2.1million impressions, over 10,000 people viewed VApril videos and 34,000 flyers, posters and education packs were distributed.

- Yet, despite the aim of this campaign being to convince smokers to switch to a less harmful alternative, we received a fairly aggressive letter from pharmaceutical company Johnson & Johnson the night before our VApril launch event. Johnson & Johnson asserted that we had committed a range of complicated breaches of advertising law and demanded that we remove the majority of material from our campaign website.

- As an Association, we had been able to work together, using our collective knowledge, to ensure we were operating within the current advertising restrictions. We were therefore able to assert with confidence that Johnson & Johnson’s allegations were wrong.

- However, that a major pharmaceutical company would feel able to pressurise the vaping industry in this way illustrates the confusion and unfairness created by the current advertising rules. Johnson & Johnson is the company responsible for the Nicorette brand of Nicotine Replacement Therapy products, which runs an advertising campaign discouraging smokers from vaping. This means it has a clear financial interest in preventing the growth of the vaping industry and clearly considers maintaining the current advertising restrictions key to this financial objective.

- We enclose below for the Committee’s information the following correspondence relevant to the above:
  - Letter from Johnson & Johnson to the UKVIA, dated 28 March 2018.
  - Letter from the UKVIA to Johnson & Johnson, dated 13 April 2018.

May 2018
Letter from Johnson & Johnson to the UKVIA, dated 28 March 2018

Upon review of the current [http://www.vapril.org/](http://www.vapril.org/) website, we note that there are numerous breaches of the CAP code for e-cigarette advertising. The following breaches of the code have been identified:

1. **Take the VApril Challenge. If 1.5m UK smokers* can quit through vaping, you can too.**

   The CAP code prohibits smoking cessation claims unless an e-cigarette has been specifically authorised for that purpose by the MHRA.

   Your VApril challenge therefore is encouraging consumers to use unlicensed e-cigarettes for stopping smoking, which your website also states is supported by the "VApril partners who have made the campaign a reality to encourage more people to quit smoking through taking up vaping during April" ([http://www.vapril.org/our-partners/](http://www.vapril.org/our-partners/)). As we do not believe that any of your VApril partners have any e-cigarettes that are authorized by the MHRA and available, this is against the CAP code.


   Dr Christian Jessen is prominently displayed on your website to promote your VApril campaign ([http://www.vapril.org/christian-jessen/](http://www.vapril.org/christian-jessen/)). This breaches rule 22.6 of the CAP code which states that marketers must not use health professionals to endorse e-cigarettes.


   Lucy provides a testimonial in which she states "Since I started vaping, my asthma has got a lot better. I use my inhaler a lot less and my lung capacity has doubled in the time I've been vaping, so I'm definitely seeing the health benefits". Your website in this instance has not only promoted smoking cessation from the use of unlicensed e-cigarettes but also promotes vaping as beneficial for asthma which is a health claim and medicinal claim and in breach of the CAP code.


   Your website testimonial promotes e-cigarettes with health and medicinal claims with the following: "I've really noticed the health benefits". "I don't wake up in the morning coughing, my room smells so much better as well as my clothes. My teeth aren't yellow anymore! My breathing is better. I've managed to get back to the gym and I can do my runs like I used to so it's greatly improved my health".
5. There is consensus amongst leading organisations that vaping presents one of the best ways to stop smoking and that it is 95% less harmful than smoking. http://www.vapril.org/public-health-fags/

This statement from Public Health England is prominently placed on your website to imply that all e-cigarettes are 95% less harmful to health than tobacco. This is a health claim for unlicensed e-cigarette products in this instance.

6. A study supported by Professor Linda Bauld of Stirling University and Action on Smoking and Health (ASH) found that vaping products are much less harmful than cigarettes during pregnancy and should be used as a tool to assist pregnant mothers to give up smoking. http://www.vapril.org/public-health-fags/

Please be aware that products licensed by the MHRA already exist to help women give up smoking with proven safety and efficacy. Your website now encourages pregnant mothers that they "should" use unlicensed products during their pregnancy.

7. Initial studies of the effects of 'second-hand vapour' demonstrate any impact on bystanders to be negligible. http://www.vapril.org/public-health-fags/

This is a health claim for e-cigarettes in this instance and with no evidence of substantiation.

8. As vaping products do not combust, and deliver nicotine in a different way to smoking, they present little health impact. http://www.vapril.org/public-health-fags/

This is a health claim for e-cigarettes in this instance and with no evidence of substantiation.

Recent advice from the ASA states that:

As stop-smoking claims are medicinal and require a relevant marketing authorisation from the MHRA, ads for e-cigarettes (including e-liquids and devices) cannot claim that the product can act as a stop-smoking device unless it has been specifically authorised for that purpose by the MHRA. Marketers also need to take care to avoid claims which might imply that the product is suitable as a stop-smoking device, for example by making references to “Stoptober”.


We therefore expect you to review and remove your VApril challenge, and all associated health professional endorsement, medicinal claims and health claims for this campaign as it is purely a means to directly promote smoking cessation by the use of unlicensed e-cigarettes, which ultimately breaches the CAP code.
Letter from the UKVIA to Johnson & Johnson, dated 13 April 2018

Dear Sirs,

The VApril awareness campaign

We acknowledge receipt of your letter dated 28 March 2018, which makes various assertions concerning the compliance of the UKVIA’s VApril campaign website (www.vapril.org) (“VApril Website”) with the Code of Advertising Practice for E-Cigarettes (“CAP Code”).

We consider your assertions to be incorrect. The VApril Website is in full compliance with the CAP Code for the following reasons:

1. The UKVIA is a trade association not a purveyor of e-cigarettes. It is not possible to purchase any products from the VApril Website (or indeed the UKVIA’s own website). We are therefore not marketing or advertising e-cigarettes as you suggest. The VApril Website provides factual information concerning e-cigarettes and accurately reports relevant public health research. We would also highlight that TRPR section 43 (1) bans the marketing and advertising of vaping products where it occurs “in the course of a business”. As stated above, the UKVIA is not a business that sells vaping products.

2. The VApril Website includes references to e-cigarettes as a class of products and does not include reference to a particular product or recommend the use of a particular brand or type of e-cigarette as a smoking cessation tool.

3. Dr Christian Jessen only refers to e-cigarettes as a class of products. He has not been used to market or promote a brand or type of e-cigarettes.

We would like to take this opportunity to highlight that the VApril campaign is similar to Public Health England’s Stoptober campaign, which specifically referenced e-cigarettes as a class of products and partnered with a vaping trade association, and other bodies with a commercial interest in smoking cessation. Similar style campaigns have also been run by charities such as Cancer Research UK. Vaping products are a legitimate alternative to smoking, recognised and supported by many health agencies including Public Health England – the UKVIA is simply echoing and supporting that message. Indeed, we would highlight that Johnson & Johnson’s Nicorette adverts “Don’t Vape. Quit for Good” present a stark contradiction to the Department of Health’s clearly stated aims of encouraging vaping as a smoking cessation aid.

We trust the above sufficiently clarifies the UKVIA’S position.

Yours faithfully

UK Vaping Industry Association