



ACS Submission: House of Commons Science and Technology Committee E-Cigarettes Inquiry

1. ACS (the Association of Convenience Stores) welcomes the opportunity to respond to the House of Commons Science and Technology Committee's call for evidence to inform their e-cigarettes inquiry. ACS is a trade association, representing the 49,918 convenience stores trading at the heart of the communities across the UK, which employ 370,000 people (see annex A for more details). Members include the Co-Op, One Stop, Costcutter, Spar UK and thousands of independent retailers.
2. Convenience retailers sell a range of grocery products and provide a number of services to their local communities, including Post Offices, free to use ATMs, bill payments services, and parcel collection. Collectively, tobacco and e-cigarettes make up, on average, 15% of sales in the convenience sector. E-cigarettes are still a new and growing product category in the convenience sector, and ACS has previously welcomed regulations, such as the introduction of a minimum age of sale, to ensure the correct management of the category.
3. There have been a number of regulatory changes to e-cigarettes in the last few years that have impacted retailers, most notably the introduction of a mandatory age of sale, which ACS supported; and the introduction of the EU Tobacco Products Directive. The introduction of the EU Tobacco Products Directive included a number of operational changes for convenience retailers who sell e-cigarettes. Retailers must ensure that they only sell e-cigarettes with a health warning, e-cigarettes with no more than 20mg/ml of nicotine (unless licensed as medicines), and e-cigarette refills with no more than 10ml. To aid retailers with the transition to the new regulations, ACS produced "Standardised Packaging and Tobacco Product Directive" best practice guidance, which can be found [here](#) for reference.
4. Please see below for ACS' response to the relevant questions.

The uptake of e-cigarettes among young people and evidence on whether e-cigarettes play a role in 're-normalising' smoking.

5. E-cigarettes are relatively new products on the market, and it will take some time before we can properly understand the impact of their use on health (for individual users and for the wider population). Current evidence suggests that it is still predominately current smokers and ex-smokers that are using e-cigarettes. Figures from ONS suggest that 13.7% of current smokers and 12.1% of ex-smokers use e-cigarettes¹. The fear of e-cigarettes acting as a gateway to smoking may be unfounded as the data suggests that only 0.6% of the proportion of non-smokers use e-cigarettes².
6. There has also been a debate regarding whether e-cigarettes provide a gateway for young people to smoking, however, this has been unfounded. Public Health England published an independent evidence review on e-cigarettes in 2015, which suggested

¹ ONS: Adult Smoking Habits in Great Britain 2016

² ONS: E-cigarette Use in Great Britain 2016

that there is no evidence so far that e-cigarettes are acting as a route into smoking for children or non-smokers³. More recently, a study has been published by UK Centre for Tobacco and Alcohol Studies, Public Health England, Action on Smoking and Health (ASH) and the DECIPHer Centre at the University of Cardiff in August 2017 which suggests that most e-cigarette experimentation among young people does not lead to regular use, and levels of regular e-cigarette use in young people who have never smoked remains low⁴. This is reinforced by figures by NHS Digital which suggest young people who are e-cigarette users are typically regular or ex-smokers, with 27% of regular smokers reporting that they regularly use e-cigarettes⁵.

7. The main sources for young people who are using e-cigarettes (6% of young people are current e-cigarette users, 2% are regular e-cigarette users⁶) is being given them by friends (35%), or bought from friends and relatives (29%). 24% of current e-cigarette users said they usually bought them from e-cigarette shops, and 23% bought from the internet⁷. While only 9% of current e-cigarette users said they purchased e-cigarettes at a newsagent and 2% at a garage shop (forecourt)⁸. Retailers work hard to ensure they retail these products responsibly through enforcing age restricted sales policies such as Challenge 25, to ensure that no one underage can buy tobacco products.
8. Retailers work hard to ensure they retail these products responsibly through enforcing age restricted sales policies such as Challenge 25, to ensure that no one underage can buy these products. ACS consistently supported a legal age restriction on e-cigarettes in order to provide retailers with complete clarity about what constitutes as a legal sale for these products.
9. Like other age restricted products, proxy purchasing is also a problem for e-cigarettes, with 42% of current e-cigarettes users responding that they had asked someone else to buy them e-cigarettes or refills from a shop in the last year. Of these 83% were successful⁹. Proxy purchasing is a challenging issue for retailers because they believe they are providing a legitimate sale. Not only is it difficult for a retailer to identify proxy purchasing, but also to challenge it. We have provided guidance on some ways on how to identify proxy purchasing in our Assured Advice guidance on Preventing Underage Sales, which can be found [here](#). Tackling proxy purchasing can only be achieved by a multi-agency approach involving local stakeholders including local police, retailers and local government.

Whether there is any regulatory variation between the EU and UK, and across UK nations, and the implications of Brexit on regulation in this area.

10. There is largely consistency regarding regulatory intervention between UK nations as England, Wales and Scotland all have minimum age of sale of 18 for e-cigarettes and have also made the proxy purchase of e-cigarettes an offence. Northern Ireland is still to introduce a minimum age of sale of 18 years of age for nicotine inhaling products and to make the proxy purchase of nicotine inhaling products an offence¹⁰ which will reflect similar legislation elsewhere in the UK. The NI Department of Health recently consulted on their proposals to introduce legislation. ACS' response can be found [here](#).

³ [PHE: E-cigarettes around 95% less harmful than tobacco estimates landmark review](#)

⁴ [ASH: UK's largest ever analysis of data shows no evidence that e-cigarettes are leading young people into smoking](#)

⁵ NHS Digital: Smoking, Drinking and Drug Use Report 2016

⁶ NHS Digital: Smoking, Drinking and Drug Use Report 2016

⁷ NHS Digital: Smoking, Drinking and Drug Use Report 2016

⁸ NHS Digital: Smoking, Drinking and Drug Use Report 2016

⁹ NHS Digital: Smoking, Drinking and Drug Use Report 2016

¹⁰ Through The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations (Northern Ireland) 2017

11. The EU Revised Tobacco Products Directive introduced regulations which meant that e-cigarettes which are licensed as medicines are exempt from the age restriction and can be sold to persons under 18. There has been confusion surrounding these regulations. While there have been no medicated e-cigarettes taken to market yet, the government, MHRA and e-cigarette manufacturers should work together to ensure that when products are introduced to the market that they communicate clearly to retailers that these products are exempt from the age restriction to avoid any confusion.
12. If there are any changes made to the regulations on e-cigarettes from the EU Revised Tobacco Products Directive following Brexit, there must be communication to retailers on the changes and a sell through period to sell non-compliant stock.

The safety of e-cigarette devices, and any safety regulation requirements.

13. We have communicated the safety risk of e-cigarettes to retailers in our ACS Assured Advice guidance on 'Product Safety'. Our guidance stipulates that retailers should "only sell electrical equipment that bears the CE marks and has been sourced from a reputable supplier. This includes e-cigarettes that are charged from the mains electrical supply". Our guidance can be found [here](#). If additional safety regulation requirements were introduced, we would communicate these changes to our members.

The Committee would also like to hear views on whether Government policy and regulation has kept up with the full range of 'smoking' and novel tobacco products (such as 'heat not burn') that are becoming available to the public, and if it takes account of their likely impact on human health.

14. HM Treasury consulted¹¹ on the tax treatment of heated tobacco products earlier this year, which would introduce a new tobacco duty category to capture 'smokeless tobacco' including heat not burn products. ACS responded to the consultation, our submission can be found [here](#). The government have yet to respond to their consultation.

For more information about ACS' submission, please contact Julie Byers, ACS Public Affairs Manager by emailing Julie.Byers@acs.org.uk or calling 01252 515001.

¹¹ [HM Treasury: Tax treatment of heated tobacco products](#)