



E-cigarette marketing in the UK

Evidence from adult and youth surveys and
policy compliance studies

March 2021

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Reference

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Cancer Research UK

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Foreword

E-cigarettes, while not risk-free, are less harmful than tobacco cigarettes and have been shown to help smokers stop smoking. What is needed is a regulatory framework that encourages smokers to use e-cigarettes to stop smoking, whilst deterring those who would never smoke from taking up e-cigarettes. This report addresses one important aspect of regulations, e-cigarette marketing. In the UK, from 2016, regulations were introduced which prohibited e-cigarette marketing across many channels and the Advertising Code was updated to control the content of advertisements. This report covers two studies which explored compliance with, and impact of, these regulations.

The first study found that, of the media channels covered, almost all 2019 e-cigarette advertising expenditure was in permitted channels, and for a sample of the advertisements studied compliance with the Advertising Code was generally high. Expenditure data were not available for point of sale and social media marketing channels, but the researchers did examine a sample of Instagram posts for compliance, which were all found to be in violation of the Code. Other forms of social media and unpaid media activity were not assessed.

The second study found that, in England, the proportion of young people who had never smoked or vaped noticed e-cigarette marketing at consistently higher rates than adults who smoked. This is the opposite to what regulations should be aiming to achieve. Cross-country comparisons suggested that the regulations in England

were limiting exposure to e-cigarette marketing among adult smokers, for whom such marketing could be useful, whilst also limiting exposure, and appeal, to youth. These patterns amongst others – including small increases in youth noticing e-cigarette marketing in allowed channels, high rates of noticing across social media despite it being prohibited, and increases in their perceptions that e-cigarette advertisements target people who do not smoke – warrant further attention by policymakers and regulators.

Getting the marketing regulatory balance right is clearly proving a challenge and controlling advertising so that it only reaches certain groups is notoriously difficult. But it is important that we get it right. Clearly some adjustments are needed, particularly in social media, but as CRUK indicates all messaging needs careful testing. I commend the authors for their in-depth exploration of these marketing issues - other aspects of our regulatory framework need similar scrutiny as we endeavour to optimise the contribution e-cigarettes can make towards making tobacco smoking history.

**Ann McNeill,
Professor of
Tobacco
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Executive Summary

Background

Electronic cigarettes (e-cigarettes) are battery-powered devices that heat a liquid, usually containing nicotine, to allow users to inhale the vapour. The evidence so far suggests they are far less harmful than smoking and can help people to quit smoking.¹ However, as e-cigarettes are a relatively new product and their long-term effects are unknown, they should not be used by people who have never smoked, particularly young people.

In 2016 and 2017, regulations were introduced to help ensure that e-cigarette advertising is socially responsible. This means protecting young people, minimising conflation between e-cigarettes and tobacco, and preventing uptake of e-cigarettes amongst people who don't smoke or use nicotine.² The *Tobacco and Related Products Regulations 2016* (TRPR) set rules on how e-cigarettes can be advertised and prohibited marketing in specific media channels.³ Subsequently, the UK Advertising Standards Authority (ASA), Committee of Advertising Practice (CAP) Code and Broadcast Committee of Advertising Practice (BCAP) Code, updated in 2017, set out further advertising regulations in CAP Code Rule 22 and BCAP Code Rule 33.^{4,5}

The overall aim of this report was to assess compliance with and the impact of the current UK e-cigarette marketing regulations. The UK Government is obliged to review and deliver a report on the TRPR within five years of the legislation being enacted, by May 2021. This report will help to inform the Government's review.

This report brings together two complementary studies to provide a description of e-cigarette advertising spend, advertising content, compliance with advertising regulations, and reported noticing and appeal of e-cigarette marketing. [Study A](#) consisted of an analysis of e-cigarette advertising expenditure in the UK in 2019 and a detailed content analysis of a sample of advertising taken from the same year.⁶ [Study B](#) consisted of an analysis of survey data from the International Tobacco Control Policy Evaluation Project (ITC Project), which measured reported noticing of e-cigarette marketing by young people (16 to 19-year-olds) between 2017 and 2019, and adults (aged 18 and older) between 2016 and 2018 in a broad range of marketing channels.^{7,8}

Key Findings

In general, e-cigarette advertising in the UK complies with current regulations

Analysis of e-cigarette advertising expenditure in 2019 showed that 99.9% of spend reported occurred in media channels where e-cigarette advertising was permitted under the TRPR, suggesting good compliance with this aspect of the TRPR. Social media was not included in the expenditure analysis as no data were available.

Detailed content analysis additionally demonstrated good compliance with ASA CAP Code Rule 22 in all channels except for social media (Instagram). All Instagram adverts in the sample were considered in breach of CAP Code Rule 22.12.

Youth noticing of e-cigarette marketing has stabilised in prohibited channels in England

Results from the ITC survey indicate that the TRPR has prevented further increases in youth noticing e-cigarette marketing in prohibited channels in England. In England, between 2017-2019, noticing of e-cigarette marketing amongst youth (aged 16 to 19) was relatively stable in prohibited channels, including websites/social media and television/radio. However, in the US and Canada, where marketing was not uniformly prohibited, youth noticing of e-cigarette marketing in the same channels increased.

Adult noticing of e-cigarette marketing has decreased on television, radio, posters, billboards, newspapers and magazines in England

Among adults (aged 18 and over) who currently or formerly smoked or vaped, there was a significant decrease in noticing e-cigarette marketing on television, radio, posters, billboards, newspapers and magazines between 2016 and 2018 in England, a trend which was not evident in Canada and the US. Under the TRPR, e-cigarette marketing on television, radio, newspapers and magazines was prohibited in England, whereas e-cigarette marketing in those same channels was not uniformly banned in Canada and the US at the time of the surveys. This finding suggests the decrease observed may be a result of TRPR prohibitions. However, as posters and billboards are permitted channels in England and were also included in the measure, it is not possible to conclusively determine whether the overall decrease was attributable to TRPR prohibitions. ITC survey data shows the decrease in noticing e-cigarette marketing observed across these channels in England occurred in adults aged 25 and over, while noticing remained stable in adults aged 18 to 24 in these channels in the same time period.

Young people notice e-cigarette marketing in permitted channels in England, and their overall noticing of e-cigarette marketing has increased

Despite relatively stable levels of noticing e-cigarette marketing in prohibited channels, there was an overall increase in young people reporting noticing things that promote e-cigarettes between 2017 and 2019. The increases were most prominent in youth noticing of marketing on billboards and posters, taxis, buses and public transport, which are permitted channels in England.

Young people generally notice e-cigarette marketing more than adults across almost all channels

Young people generally noticed e-cigarette marketing more than adults across almost all channels, with a particularly stark contrast observed for marketing on billboards (31.4% of young people vs 5.9% of adults reporting noticing). Similarly, young people who had never smoked or vaped reported noticing e-cigarette marketing more than adults who smoke across almost all channels. This is concerning as the intended purpose of UK regulations on e-cigarettes is to minimise promotion to young people, whilst allowing promotion to adults who smoke and vape.

E-cigarette marketing regulations should better protect young people

Young people report **noticing** e-cigarette marketing more than adults



Young people's noticing of e-cigarette marketing **increased** between 2017 and 2019...



More than a third of young people find e-cigarette marketing appealing



...particularly on billboards and posters, taxis, buses and public transport

Young people notice e-cigarette marketing on websites/social media, which is challenging to regulate

Noticing of e-cigarette marketing on websites/social media remained stable but high among young people between 2017 and 2019 (41.1– 43.8%). And, as also seen across almost all other channels, young people noticed e-cigarette marketing on websites/social media more than adults (41.1% of young people vs 14.0% of adults in 2018).

Detailed content analysis of Instagram adverts found all Instagram posts in the sample – on both public and private Instagram accounts – to be in breach of the TRPR (CAP Code 22.12). In line with ASA rulings in December 2019, all Instagram posts on public accounts are in breach due to the ability for content to be pushed onto other users without them seeking it out or providing opt-in consent.⁹ Private Instagram accounts were deemed to be in violation of the TRPR, as none of the accounts in the sample contained only factual content about a product.

Marketing of e-cigarettes is appealing to more than a third of young people

More than a third of 16 to 19-year-olds believed that e-cigarette marketing made vaping seem either appealing or very appealing, despite the introduction of the CAP Code Rules (22.9 -22.11) to limit appeal to young people and children.

Good compliance was generally observed for the CAP Code Rules aimed at protecting youth. However, ambiguity in the CAP Code meant compliance with some rules was difficult to determine. It was not possible to tell in 34% of adverts if people depicted were aged under 25 (CAP Code 22.10). Additionally, in 62% of adverts it wasn't possible to tell if they were targeted at under 18s (CAP Code 22.11), as no information on the placement of the ad was available. For example, it was not possible to determine whether outdoor adverts appeared in locations where more than 25% of the people seeing the ad would be expected to be under 18s, such as close to schools.

Young people increasingly believe e-cigarette marketing is targeted at people who don't smoke

Around a third of young people believe e-cigarette marketing targets people who don't smoke. This proportion has increased from 30.3 % in 2017 to 33.9% in 2019, a small but statistically significant increase.

Detailed content analysis revealed that, for 25% of ads, it could not be determined whether the

advert would encourage e-cigarette use among people who don't smoke or use nicotine products (CAP Code Rule 22.8). These adverts contained imagery or messages that could appeal to a broad range of people and did not explicitly state they were only for people who smoke or vape.

Consistent with current regulations, most e-cigarette advertising does not focus on smoking cessation

Around 90% of adverts did not feature messages relating to smoking cessation or presenting e-cigarettes as an alternative to tobacco. This might be because marketers are cautious of breaching CAP Code Rule 22.5 by making medicinal claims. The ASA advises marketers should not claim or imply that their product can act as a smoking cessation device, unless it is authorised for those purposes by the Medicines and Healthcare Products Regulatory Agency (MHRA). 94% of adverts did not contain any medicinal claims and around one-fifth (21%) of adverts explicitly stated that the product was not a cessation product.

E-cigarette marketing regulations can be improved

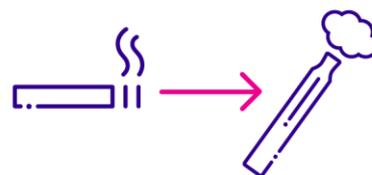
Around 9 in 10 ads did not contain messaging about smoking cessation or the benefits of switching from smoking to vaping

Around 1 in 3 young people think e-cigarette marketing targets people who don't smoke

Adults who smoke report noticing e-cigarette marketing less than young people who do not smoke



We need better targeting to adults who smoke to encourage the switch to vaping and support smoking cessation



Requirements for consumer protection messages are unclear, and messages are not easy to read when provided

24% of adverts analysed did not contain a nicotine content statement, which is mandatory under CAP Code Rule 22.7 if the product contains nicotine. 5% of adverts without nicotine content statements were for nicotine-containing products and should have included a statement. However, it is not clear whether the remainder of the adverts which did not contain nicotine statements were in breach of Rule 22.7. These adverts either promoted devices (such as e-liquid shortfills) to which nicotine may or may not be added, or were adverts which did not directly refer to a specific product but which indirectly promoted the name of a brand or specialist retailer whose product range included nicotine-containing products.

Where consumer protection messages (including the mandatory statement on nicotine content) were observed, messages were considered to have low visibility, bringing into question how informative they were to consumers. In almost 4 in 10 adverts (38%), consumer protection information occupied less than 1% of the overall ad space. The consumer protection messages were considered to be easy to read in 35% of ads.

Consumer protection messages should be improved so the public are better informed

Current consumer protection messages have low visibility.



In **almost 4 in 10** ads, this information took up less than 1% of the total ad space...



...and were considered easy to read in **35%** of ads

What should Government do?

E-cigarette advertising should be primarily targeted at and appealing to people who smoke. It should never target people who have never smoked, especially young people. Regulation on e-cigarette advertising should limit people who neither smoke nor vape, and youth especially, from noticing and being attracted to e-cigarette advertising. It should also allow adverts to effectively target people who smoke to encourage them to quit. Our findings suggest that despite relatively good compliance with the regulations, the current rules may not be sufficiently achieving these aims.

Cancer Research UK is calling on the UK Government to:

Ensure e-cigarette adverts appeal to the intended target audience and are addressing barriers to switching.



The ASA should clarify the CAP/BCAP Rules prohibiting e-cigarette marketing communications from containing unverified medicinal claims.

Proportionate MHRA licensing of e-cigarettes as medicines which are proven to support smoking cessation should be implemented. Research should be conducted to identify and solve the barriers preventing manufacturers from seeking such licensing for their e-cigarette products.

Reduce appeal to youth



More research should be commissioned to better understand what regulations would be most effective at limiting the appeal of e-cigarette adverts to youth. Further guidance on the use of imagery and the depiction of people in e-cigarette adverts is also needed.

Improve consumer protection messages



E-cigarette adverts should be required to specify that e-cigarettes should only be used by current or former smokers as an alternative to smoking.

Non-nicotine containing products with the capability to be used with nicotine

should be required to notify consumers of the potential for the product to be used with nicotine-containing products.

Consumer protection messages on e-cigarette adverts should be consistent in size, formatting and placement.

Better monitor e-cigarette advertising to promote compliance – especially on social media.



The UK Government should implement a statutory regulator for digital advertising and ensure this also applies to e-cigarette advertising.

It should be made explicitly mandatory in the TRPR/ CAP rules that e-cigarette manufacturers and retailers are only permitted to have social media profiles if these are set to private.

Extend the definition of the products under the scope of the TRPR.



The UK Government should ensure that all products or accessories which could be used with nicotine-containing vaping products be included within the TRPR's scope, even if they themselves do not contain nicotine.

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1. Introduction

1.1 Background to the study

Electronic cigarettes (e-cigarettes) are battery-powered devices that heat a liquid, usually containing nicotine, to allow users to inhale the vapour. E-cigarettes are a relatively new product and their long-term effects are unknown. However, the evidence so far suggests they are far less harmful than smoking and can help people to quit smoking.¹ Cancer Research UK (CRUK) believes e-cigarettes should be effectively regulated to ensure they are only used by people who smoke when making a quit attempt or to prevent relapse, and they should not be used by people who have never smoked. Consequently, appropriate regulation is needed that protects people who have never smoked, and young people in particular, from taking up e-cigarettes while simultaneously ensuring these products are safe, accessible and appropriately promoted to people who wish to use them as a tool to quit smoking.

Since 2013, when e-cigarette marketing was relatively new, CRUK has been funding research on e-cigarette marketing practices, as we are determined to see e-cigarettes regulated effectively as a harm reduction tool. Prior to the introduction of new regulations on the marketing of e-cigarettes in the UK in 2016, two CRUK reports highlighted e-cigarette marketing practices that were attractive to people who did not smoke and young people, as well as those who did smoke.^{10,11} Since these reports, the EU *Tobacco Products Directive 2014/40/EU* (TPD), introduced in Spring 2016 and transposed into UK law through the *Tobacco and Related Products Regulations 2016* (TRPR), set rules on how e-cigarettes can be advertised.³ Additionally, the UK Advertising Standards Authority (ASA) Committee of Advertising Practice (CAP) Code and Broadcast Committee of Advertising Practice (BCAP) Code, updated in 2017, set out further advertising regulations.^{4,5}

1.2 Current e-cigarette marketing regulations in the UK

The EU TPD was implemented in the UK by the TRPR, which came into force in May 2016. Both pieces of legislation include a framework for regulating e-cigarettes.³ Manufacturers of e-cigarettes can either apply for a medical licence for their product to be marketed as a medicine or submit it to be regulated as a consumer product. In the UK, the Medicines and Healthcare Products Regulatory Agency (MHRA) is responsible for regulating nicotine containing medicinal products, including e-cigarettes.¹² However, there are no e-cigarettes commercially available in the UK market licensed as a medicine. E-cigarette manufacturers, as with other potential medicines manufacturers, are required to assemble a detailed dossier in an application for marketing authorisation relating to the quality, safety and efficacy of their product — a process which can be both lengthy and costly.

Through the EU TPD/TRPR, there are prohibitions on which channels can be used to advertise nicotine-containing e-cigarettes sold as a consumer product within the EU and UK ([Box 1](#)). The prohibitions do not extend to advertisements for retailers of e-cigarettes as long as they do not promote an actual product which cannot lawfully be advertised.²

Box 1: Prohibited and permitted e-cigarette advertising channels under the TRPR

Prohibited	Permitted
Newspapers	Outdoor advertising, including digital outdoor advertising
Magazines	Posters on public transport (not leaving the UK)
Periodicals	Cinema
Commercial email, commercial text messaging and other electronic messaging service	Direct hard copy mail
Marketers' activities online, for example on their website and on social media (except for permissible activities described below)	Leaflets
Online ("display") advertisements in paid-for space (including banner or pop-up advertisements and online video advertisements)	Private, bespoke correspondence between a marketer and a consumer
Paid-for search listings; preferential listings on price comparison sites; viral advertisements	Media which are targeted exclusively to the trade
Paid social media placements, advertisement features and contextually targeted branded content	
In-game advertisements (including augmented reality and virtual reality environments)	
Commercial classified advertisements	
Advertisements which are pushed electronically to devices	
Advertisements distributed through web widgets	
Promotional marketing online	
Affiliate links	
In-app advertising (digital applications)	

Note: Advertising on TV and radio is prohibited by the BCAP Code and Broadcast Code. Billboards and posters in shops were not included in the scope of the TRPR and are currently permitted.

For the advertising of e-cigarettes in England and Wales, the UK Department of Health and Social Care stated that it had no intention to either capture more products or restrict advertising any further than was required by the EU TPD.¹³ In Scotland, the *Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016* became law in May 2016, and provides powers for

Scottish Ministers to prohibit and restrict the advertising of nicotine and non-nicotine vapour products through secondary legislation not yet in place.¹⁴ In its 2018 action plan, the Scottish Government committed to consult on what additional prohibitions it may wish to apply through further legislation.¹⁵

All non-broadcast advertising (e.g. print, outdoor posters, cinema, online, SMS, and direct mail) in the UK must comply with the CAP Code,¹⁶ while the BCAP Code sets out regulations for broadcast advertising (e.g. TV and radio).¹⁷ An overview of the CAP and BCAP codes relating to e-cigarette advertising (CAP Code Rule 22 and BCAP Code Rule 33) is provided in [Appendix 1](#). These regulations are designed to ensure that e-cigarette advertising is socially responsible with particular regard to protecting young people, clearly informing consumers about the nature of the product, not making medicinal claims, not creating confusion between e-cigarettes and tobacco and not encouraging people who do not smoke and non-nicotine users to use e-cigarettes.

Marketers can continue to advertise non-nicotine products in non-broadcast media under CAP Code Rule 22; however, they must not cross-promote nicotine-containing products in media prohibited under the TRPR ([Box 1](#)). For example, a non-nicotine product must not indirectly promote nicotine-based products sold under the same name. The prohibitions of advertising in specific channels under the TRPR have been written into the CAP Code via the introduction of Rule 22.12.

Regarding broadcast advertising, the TRPR led to amendments to the Communications Act 2003 and BCAP Code to prohibit the product placement of e-cigarettes and refill containers in television programming and in on-demand programmes and services. Broadcast advertising (in TV, radio and on-demand services) for e-cigarette and refill containers, and sponsorships that promote such products, have also been banned. E-cigarettes may only be advertised in broadcast media if they are licensed as medicines or medical devices, are non-nicotine-containing liquids/refill containers, or disposable e-cigarettes or rechargeable e-cigarettes which are designed to be fitted only with cartridges containing non-nicotine-containing e-liquid. [Appendix 1](#) outlines Rule 33 of the BCAP Code concerning the content of e-cigarette advertising in broadcast media for these products where advertising is still permitted.⁵

Continued technological advancements and increasing use of new media across the population, particularly among young people, has made social media a core part of the marketing mix, including for e-cigarette brands.^{18,19} Social media can present an ideal platform for e-cigarette brands and specialist e-cigarette retailers to promote their products using aesthetically appealing imagery and videos.¹⁰ In December 2019, Instagram announced that they were banning 'influencers' from promoting vaping products and Facebook stated that they no longer allowed adverts that promoted the sale or use of electronic cigarettes.^{20,21} CAP Code Rule 22.12 bans the use of marketing communications with the direct or indirect effect of promoting nicotine-containing e-cigarettes (not licensed as medicines) and their components in online media; however, factual information about a product can be provided on an e-cigarette brand's website or, in certain circumstances, in other non-paid-for space online under the marketer's control. An ASA ruling against British American Tobacco (BAT) in December 2019 concluded that a public Instagram account was not analogous to a website, as the content could be pushed to other users without them seeking it out or providing opt-in consent. Consequently, public Instagram accounts providing promotional or factual content about e-cigarettes are not permitted, though factual content on private accounts

remains allowed.⁹

1.3 Existing evidence and knowledge gaps

E-cigarette advertising expenditure data are only available on a commercial basis in the UK, therefore limiting the amount of research carried out on UK e-cigarette marketing. Recent content analysis studies of e-cigarette advertising and promotion in various traditional and new media channels have been conducted in other countries, but these do not necessarily reflect the regulatory, cultural and media context of the UK.²²⁻²⁴ Additionally, the nature of social media channels and the marketing landscape (the regulations and creative content) for e-cigarettes and associated products have changed considerably since the UK data on advertising content was collected up to 2013.^{10,25,26}

The situation is similar for research looking at exposure to e-cigarette advertising. A few studies on advertising exposure were conducted prior to the implementation of advertising regulations in the UK.^{27,28} However, recent data on e-cigarette marketing exposure in the UK since the introduction of new regulations is limited. Cross-sectional data from the 2017 International Tobacco Control (ITC) Youth Tobacco and Vaping Survey showed that, within England, noticing e-cigarette marketing was most frequently reported in shops that sold cigarettes, followed by online websites/social media.²⁹ Findings also showed that over a third of youth in England reported that e-cigarette advertising made e-cigarettes seem appealing.²⁹ However, it is unclear how the introduction of regulations may have resulted in changes in noticing e-cigarette marketing and perceived appeal of e-cigarette ads. Furthermore, there is no research comparing noticing of e-cigarette marketing between youth and adults.

This report is intended to address these gaps.

[Study A](#), conducted by the Institute for Social Marketing and Health, University of Stirling, was funded by CRUK to examine the current extent of e-cigarette advertising in the UK, the types of messaging and features used and the level of adherence to the new guidance. [Study B](#), conducted by the International Tobacco Control Policy Evaluation Project team (ITC Project), examined the exposure of different groups including adults who smoked and youth who did not smoke or vape to e-cigarette marketing, as well as the appeal of e-cigarettes to youth in response to e-cigarette marketing. The study findings are intended to provide evidence to input into any future revisions to regulations both within and outside of the EU.

2. Research aims and objectives

This report contains the results from two separate studies:

Study A: Extent and content of e-cigarette marketing in the UK

Study A, led by the Institute for Social Marketing and Health, University of Stirling, had the following objectives:

1. To assess the current extent of e-cigarette advertising as measured through advertising expenditure data in all the channels through which data are available
2. To assess compliance with the TPD/TRPR in terms of channels in which e-cigarette advertising is prohibited and not prohibited
3. To identify and describe the key features of e-cigarette advertising in the UK in terms of content and messaging
4. To assess to what extent e-cigarette advertising in the UK complies with CAP/BCAP regulations, including regulations on targeting or appealing particularly to youth.

Study B: Noticing and appeal of e-cigarette marketing in England

Study B, led by the International Tobacco Control Policy Evaluation Project team, had the following objectives:

1. To assess whether youth and adults reported noticing e-cigarette marketing across various channels in England
2. To assess the appeal of e-cigarette marketing to youth and youth perceptions of the target market for e-cigarette marketing in England
3. To determine whether in comparison with Canada and the United States (US), two countries with less restrictive e-cigarette marketing regulations, current marketing regulations in the UK are effective at:
 - i. reducing overall percentage of individuals who report noticing e-cigarette advertising in prohibited marketing channels
 - ii. reducing the appeal of e-cigarette marketing to youth.

3.Methods

3.1 Study A: Advertising expenditure analysis

3.1.1 Note on terminology

'Marketing' refers to all the ways in which firms promote their products, including product development and packaging, pricing, placement (distribution), and promotions (i.e., communications). The focus of Study A is on the last of these, advertising communications. The term *'advertising'* is used to refer to the promotion of e-cigarettes through the placement of paid advertising communications. Increasingly, content designed to promote brands, products and retailers is also created for and distributed through social media channels. Although this is not paid-for advertising in the traditional sense, it is defined here as advertising where it has been generated by commercial entities (for example, content posted on Twitter and Instagram accounts owned by brands and specialist e-cigarette retailers).

The term *'channel'* is used to refer to the different media channels through which advertising can be placed. These can include both traditional advertising channels (for example, newspapers, outdoor, cinema) and newer digital channels (for example, online display adverts and adverts pushed electronically to devices).

3.1.2 Design

Information on advertising expenditure (*'advertising spend data'*) provides a quantifiable measure of advertising activity for a given product category over a specific time period. Analysing spend is a recognised method for assessing the amount of different advertising activity for specific product categories and/or in different media channels.³⁰⁻³² E-cigarette advertising spend data for 2019 in the UK were purchased from Nielsen, a global agency which monitors and collates data on advertising activity.

3.1.3 Sample

The Nielsen sub-market *'electronic nicotine delivery systems'* advertising spend data were purchased for the whole of 2019 (1st January to 31st December).⁶ Collecting a whole year of data provided as complete a picture as possible, without any confounding seasonality effects. Nielsen monitors advertising in nine channels and found e-cigarette advertising in six channels: (1) cinema, (2) direct mail (e.g. leaflets or other print materials delivered to a named address or household), (3) door drops (e.g. leaflets or other print materials delivered to the home but with no specified addressee), (4) internet (certain formats only), (5) outdoor, including billboards, bus shelters and the sides of transport, and (6) press, including both newspapers and magazines. Nielsen collected no advertising spend data for TV, radio or email for e-cigarettes in their 2019 media monitoring. Advertising spend data are calculated using a mix of methods and data sources, depending on the media channel using Nielsen's proprietary media monitoring methodology for each channel.

Advertising spend sub-totals were provided for each month broken down by company and

media channel.

3.1.4 Analysis

Spend data were used to calculate the following:

- 1) The total amount of advertising spend for e-cigarettes in all monitored media channels over 2019
- 2) The total amount of advertising spend in each monitored media channel over 2019
- 3) The total amount of advertising spend in prohibited media channels (i.e. any advertising for nicotine-containing products not licensed as medicines which occurs in any channel prohibited under the TPD/TRPR)
- 4) The total amount of advertising spend in permitted media channels (i.e. any advertising for nicotine containing products not licensed as medicines which occurs in channels allowed under the TPD/TRPR)
- 5) The number of e-cigarette brands which account for the advertising spend overall and spend in different media channels by brand.

The TRPR only prohibits advertising of nicotine-containing products in certain channels, and therefore products that do not contain nicotine are exempt from the channel restrictions. However, as data were provided at a company level rather than for individual level campaigns or products, and as all the companies included nicotine-containing products in their range, spend data could not be examined according to the nicotine status of a particular product.

3.2 Study A: Content analysis of advertising

3.2.1 Design

Advertising content analysis is an established method for identifying, describing and quantifying the different elements of advertising.³³⁻³⁵ As well as analysing the different strategies used in advertising, it can also be used to assess the extent to which advertising content adheres to advertising codes.³⁶⁻³⁸

An in-depth content analysis of paid-for e-cigarette advertising was conducted in seven channels: the six media channels in which Nielsen found e-cigarette creatives, and social media, which was captured and sampled separately for 2019 in the UK. A content analysis approach was employed, combining measurement of advertising features such as imagery, consumer protection information and selling propositions, with assessment of adherence to the CAP Code Rule 22.⁴ None of the adverts in the sample were in media channels covered by the BCAP Code Rule 33,⁵ therefore only the CAP Code is referred to throughout the results. To objectively describe and compare advertising across different promotional channels, all content was coded using a standardised quantitative codebook which was developed and tested prior to use.

3.2.2 Sample

Two samples of advertising were collected for analysis: advertising ‘creatives’ (i.e. real world examples of advertising, obtained from Nielsen), and social media (captured and sampled separately). Social media advertising was collected separately because Nielsen do not monitor e-cigarette advertising in the UK in this channel. The analysis focused on one social media platform (Instagram). Unlike other forms of social media such as Facebook and Twitter, Instagram posts must include an image or video in each post, resulting in an extremely visual environment.³⁹

I. Advertising creatives

Creatives (real world ads) are captured by Nielsen through a variety of different monitoring methods depending on the media channel. All advertising creatives available from Nielsen for the 12-month period 1st January to 31st December 2019 (n=141) were purchased.⁶ Seven of the creatives were deemed ineligible for this study as six were for nicotine replacement therapies (NRT) and one a trade advert targeting e-cigarette retailers, and were therefore removed, leaving a final sampling frame of 134 creatives. A simple random sample of 100 was then selected for analysis.

The final random sample is shown below (Table 1). Nielsen collected no TV, radio or email creatives for e-cigarettes in their 2019 media monitoring.

Table 1. Sample of e-cigarette advertising creatives purchased from Nielsen

Media channel	n	%
Cinema	4	4
Direct mail	4	4
Door drops	8	8
Internet	5	5
Outdoor	66	66
Press	13	13
Total	100	100

Some adverts may contain multiple screens or panels — e.g., a digital advert may comprise two or more different images which are displayed sequentially, while outdoor billboard adverts may comprise several different panels visible at the same time in one linked piece of advertising. If these were defined as one single creative by Nielsen, they were similarly treated as one creative in the analysis.

II. Social media posts

Instagram was selected to represent advertising content through social media channels. Instagram is reportedly one of the most popular social media platforms in the UK,⁴⁰ and is particularly popular among adolescents and younger adults,^{41,42} a longstanding target market for the tobacco industry. Three popular e-cigarette products and specialist e-cigarette

retailers on the UK market with Instagram accounts were selected. In 2019, blu (Imperial Tobacco) and Logic Vapes (Japan Tobacco International) were the second and third highest selling brands on the UK convenience market,⁴³ while Totally Wicked was one of the most visible e-cigarette retailer brands online.⁴⁴ blu and Logic produce devices that use liquid pods or capsules; both brands are owned by tobacco companies. Totally Wicked, a vaping retailer which offers a range of products, including tank devices and e-liquids, is independent from any tobacco company control.⁴⁵ The sample therefore represented a range of different types of products and companies with differing relationships with the tobacco industry.

As brands may operate multiple, region-specific Instagram accounts, the UK page was selected as default as this content should adhere to the ASA CAP Code, and checked that these were official brand pages as opposed to 'fan-pages' created by other users. Relevant content was defined as posts made by each brand rather than content generated by users (e.g., comments or re-posts (where a user repurposes brand-generated content and posts it on their own Instagram account)). On Instagram, all posts must contain an image or video, plus varying amounts of text. Where a post contained a succession of images (i.e. a gallery of photos) these were treated as one single creative, in the same way as multiple panel or screen adverts were treated as one creative.

For each of the three brands, all Instagram posts over the 12-month period 1st January to 31st December 2019 were captured. For two brands, blu and Logic, a researcher had to request to 'follow' in order to view these private accounts, while for Totally Wicked, the brands' posts were publicly accessible. In total, 405 posts were captured: 147 posts for blu, 114 posts for Logic and 144 posts for Totally Wicked. A simple random sample of 10 Instagram posts from each of the three brands (blu, Logic and Totally Wicked) was selected for analysis. The final selection comprised 30 Instagram posts. Twenty-six of these posts consisted of single images and four were videos.

Throughout the remainder of the methods and results the term 'advert' is used to refer to the sample of both creatives and Instagram posts.

3.2.3 Development of the codebook

An initial codebook was developed, informed by previous content analysis studies of e-cigarette advertising (e.g. Banerjee et al,⁴⁶ Richardson et al,²³ and Lee et al⁴⁷), by previous content analysis of other advertising conducted by the research team^{38,48,49} and by examining a sample of e-cigarette adverts not included in the final sample. A database was created in SPSS using all the items from the codebook allowing predefined (dropdown) and free text responses. This was piloted by five members of the research team on a random 10 adverts from our full sample of purchased advertising creatives and collected Instagram posts. The entire research team met to compare and discuss the five coding results. The codebook was refined by adding or removing codes, re-ordering items, clarifying descriptions and adding more free-text response options. A second pilot test using a different random 10 adverts from the full sample was carried out by the same five researchers. The entire team compared and discussed the coding results and the codebook was refined further as for the first pilot exercise.

The final codebook contained six sections: (a) advertising characteristics, (b) people and context, (c) links to other marketing platforms, (d) selling propositions, (e) consumer

protection information, and (f) adherence to CAP Code Rules on e-cigarette advertising. A detailed description of the codebook can be found in [Appendix 2](#).

3.2.4 Coding

Each ad was independently coded by two members of the research team for all variables apart from those relating to the presence, size and characteristics of consumer protection information. One member coded all the adverts and three of the team coded a randomly allocated third of the ads. Variables relating to consumer protection information included measuring warnings relative to the whole ad and was a more time-consuming process, so these variables were coded by two of the research team coding a randomly allocated half of the adverts each. A third team member independently double-coded 25% of each person's allocation. The independent double-coding process (e.g. as used by Moran et al²⁴ and Cranwell et al²⁶) reduces the possibility that the code applied is influenced by a single researcher's biases and also reduces the risk of coding errors. On completion of all independent coding, all coding files were merged into one and divergences were identified and resolved. Where coding results raised queries about CAP Code Rule 22, the research team sought advice from the ASA for help with their interpretation via one conference call. All changes to the merged file were recorded and the reason for reaching the final coding decision noted.

3.2.5 Analysis

Data were analysed using SPSS Version 25. Descriptive statistics were computed for media channel, advert type and category of e-cigarette product. Frequencies and proportions (%) are presented for how often items in the codebook appear in advertising. Free text information was examined and coded into themes as appropriate.

3.3. Study B: Noticing and appeal of e-cigarette marketing

3.3.1 Data Sources

The adult data were derived from Wave 1 (2016) and Wave 2 (2018) of the International Tobacco Control Four Country Smoking and Vaping (ITC 4CV) Survey. The youth data were derived from Wave 1 (2017), Wave 2 (2018) and Wave 3 (2019) of the ITC Youth Tobacco and Vaping Survey.

3.3.2 ITC 4CV Adult Survey

I. Survey

The ITC 4CV Survey is an online cohort survey of adults (aged 18 years and older) who smoke and /or vape, or who have quit smoking conducted in four countries: Canada, the United States (US), England and Australia.⁷ To simplify terminology in the Methods and Results sections, these groups will be herein referred to as smokers, vapers and former smokers/vapers. This report excluded participants from Australia, where the sale of e-cigarettes is illegal.⁵⁰ The ITC 4CV Survey is designed to investigate the relationship between the use of nicotine vaping products and tobacco use, and inform emerging policies relating to nicotine vaping products in all four countries.⁷ Respondents were recruited from commercial panel firms within each country. The ITC 4CV Wave 1 Survey sample consisted of: (i) re-contacted smokers and former smokers who participated in the previous ITC 4C Survey; (ii) newly recruited current smokers and people who had recently quit smoking from country-specific panels; and, (iii) newly recruited current vapers who reported at least weekly use.

II. Sample

The analytic samples for each country and survey wave are described in Table 2. Respondents who participated in the ITC 4CV Wave 1 Survey, were invited to participate in the ITC 4CV Wave 2 Survey. Those who did not participate were replaced by newly recruited respondents to maintain roughly the same sample size across sub-groups. Additional details on methods, including response and retention rates, can be found elsewhere.^{51,52}

Table 2. Sample size of adult respondents by country and survey wave, ITC Four Country Smoking and Vaping Survey, 2016-2018

Survey Wave	England	Canada	United States	Total
Wave 1 (2016)	4328	3736	2740	10,804
Wave 2 (2018)	4852	3781	2853	11,486
Participated in Wave 1 and Wave 2	1735	1868	1210	4813
New Recruits at Wave 2	3117	1913	1643	6673
Total Number of Unique Respondents	<i>7445</i>	<i>5649</i>	<i>4383</i>	<i>17,477</i>

Note: The adult sample in Australia was not included within the analytic sample.

III. Measures

Adult respondents were asked to report whether they had noticed e-cigarette/vaping devices or e-liquids being advertised in specific locations/media channels (e.g., websites or social media sites, television), with response options including “Yes”, “No” and “Don’t know”. Demographics, smoking and vaping behaviour data were collected. Adults were categorised into four smoking/vaping status groups: (1) exclusive vapers (i.e., reported vaping at least once a month and smoked less than monthly); (2) exclusive smokers (i.e., reported smoking at least once a month and vaped less than monthly); (3) dual users (smoked at least once a month and vaped at least once a month); and, (4) former smokers/former vapers/less than monthly smokers (i.e., either quit or smoked less than monthly/vaped less than monthly).

IV. Statistical Analyses

The primary goal of this analysis was to examine levels and trends in noticing e-cigarette marketing across different locations/media channels among adults from Wave 1 (2016) to Wave 2 (2018). Weighted logistic regression models using Generalized Estimating Equations (GEE) estimated the percentage of respondents reporting noticing e-cigarette marketing across 9 specific locations/media channels within each country by survey wave. Generalized Estimating Equations are used to model correlated data from longitudinal studies.⁵³ Estimates were adjusted for sex, age group, education, time-in-sample (i.e., the number of previous times a respondent had participated in an ITC survey) and smoking/vaping status.

Weighted logistic regression models using Generalized Estimating Equations also tested whether trends in noticing e-cigarette marketing differed (a) over time (i.e., between Wave 1 and Wave 2); (b) between younger adults (aged 18-24) and older adults aged 25+; and, (c) between England, and the US and Canada.⁵³

3.3.3 ITC Youth Tobacco and Vaping Survey

I. Survey

The ITC Youth Tobacco and Vaping Survey is an online survey designed to assess the uptake of nicotine vaping products among youth aged 16-19 years in the US, Canada and England.⁸ Respondents were recruited through the Nielsen Consumer Insights Global Panel and affiliated partners, which maintain panels in each country.

II. Sample

While a limited number of youth were followed longitudinally over time, only a small percentage of youth were followed from one wave to the next. As such, only the cross-sectional samples recruited at each wave were included within the analytic sample. The analytic samples for each country and survey wave are described in Table 3. Additional details on methods, including response and retention rates, can be found elsewhere.^{8,54,55}

Table 3. Sample size of youth respondents by country and survey wave, ITC Youth Tobacco and Vaping Survey, 2017-2019

Survey Wave	England	Canada	United States	Total
Wave 1 (2017)	3995	4038	4095	12,128
Wave 2 (2018)	3874	3845	4034	11,753
Wave 3 (2019)	3493	4135	3981	11,609

III. Measures

All respondents were asked to report how frequently they had noticed “things that promote e-cigarettes/vaping” in the past 30 days, with response options ranging from “never” to “very often”. Respondents were then asked to report whether they had noticed e-cigarette/vaping devices or e-liquids being advertised in specific locations/media channels (e.g., websites or social media, television) in the past 30 days, with response options “Yes”, “No”, “Don’t know” and “Refused” for each. Those who reported they had never noticed things that promote e-cigarettes/vaping were coded as “No” for specific channels.

A set of measures were also used to examine the overall appeal of e-cigarette advertisements and who respondents thought the adverts were intended to target. Specifically, youth were asked to report whether they thought e-cigarettes/vaping adverts made e-cigarettes seem appealing, with response options ranging from “very unappealing” to “very appealing”, as well as “Don’t know” and “Refused”. Youth were also asked whether they thought e-cigarette adverts were meant for people who don’t smoke, with response options “Yes”, “No”, “Don’t know”, and “Refused”.

Respondents reported their sex, age, and smoking/vaping behaviours. Youth were categorised into five smoking/vaping status groups: (1) exclusive vapers (i.e., vaped in the past 30 days but did not smoke); (2) exclusive smokers (i.e., smoked in the past 30 days but did not vape); (3) dual users (i.e., smoked and vaped in the past 30 days); (4) former smokers/vapers (ever smoked and/or vaped, but not in the past 30 days); and, (5) never users (never smoked and never vaped).

IV. Statistical Analyses

The primary goals of the analyses were to:

- (a) Examine levels and trends in noticing e-cigarette marketing across a set of different locations/media channels among youth from Wave 1 (2017) to Wave 3 (2019), comparing Wave 1 vs. Wave 2, Wave 2 vs. 3, and Wave 1 vs. Wave 3; and,
- (b) Examine levels and trends in the perceived appeal of e-cigarette marketing and perceived target audience for e-cigarette marketing.

Weighted logistic regression models were used to estimate the percentage of youth reporting noticing e-cigarette marketing across a set of 10 specific locations/media channels within England, Canada, and the US, by survey wave. Similarly, weighted logistic regression models were used to estimate the percentage of youth reporting that they found e-cigarette marketing appealing/very appealing. Estimates were adjusted for sex, age group, and smoking/vaping status.

Weighted logistic regression models were also used to test whether trends in noticing e-cigarette marketing differed (a) over time (i.e., between Wave 1 and Wave 3) and (b) between England, and the US and Canada.

3.3.4 Statistical Analyses: Comparison of Youth vs. Adult Samples

The adjusted percentages of youth and adults reporting noticing e-cigarette marketing across different locations/media channels were compared using data from 2018 (Wave 2 of each survey). Wave 2 was specifically chosen for these comparisons, as it was the most recent wave of data available for both youth and adults. These comparisons were conducted with the aim of understanding whether there were differences in noticing e-cigarette marketing across different locations/media channels among youth versus adults. Whether there were differences in noticing e-cigarette marketing across different locations/media channels among youth never users (i.e., the unintended audience for e-cigarette marketing from a policy perspective, as the adverts should not be attracting youth who do not smoke/vape) versus exclusive adult smokers (i.e., the intended audience for e-cigarette marketing from a policy perspective) was also examined.

4. Results

4.1 Study A: Advertising expenditure analysis

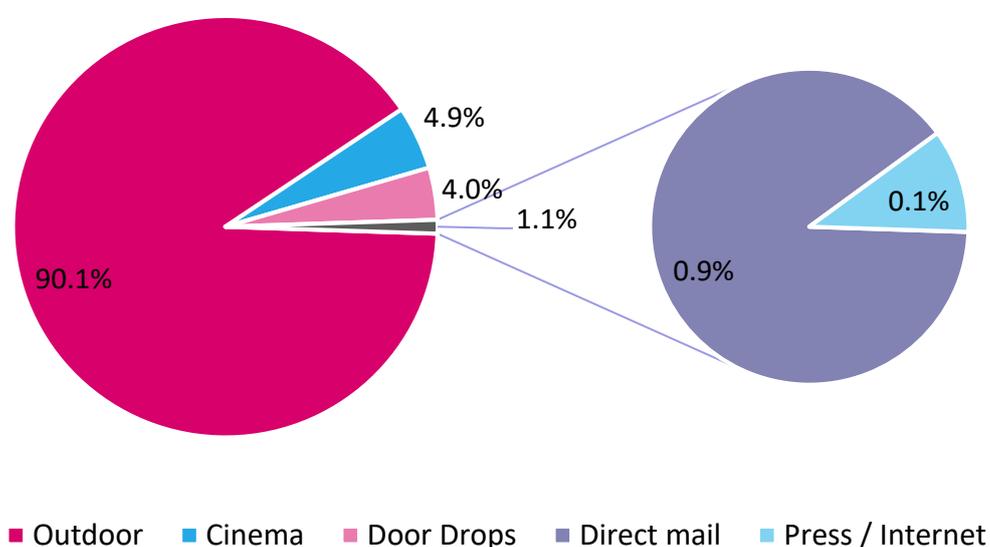
4.1.1 Spend in different media channels

Overall expenditure on e-cigarette advertising over the 12-month period was £32,239,052.

Expenditure was reported in six media channels: cinema, direct mail (leaflets delivered to a named householder), door drops (untargeted leaflets), internet, outdoor and press (including both newspapers and magazines). The vast majority of expenditure, 90%, was for outdoor advertising. Five percent of expenditure was for cinema advertising, and 4% was for door drops. The remaining 1% was for direct mail (0.9%), press (0.1%) and internet (0.002%) advertising (Figure 1). No expenditure was reported by Nielsen in any other media channels. It should be noted that advertising tariffs vary considerably between different media channels, so level of expenditure may not necessarily equate to extent of activity.

Expenditure showed seasonal fluctuation driven by variation in outdoor advertising across the year, with peaks in summer and in the lead up to Christmas.

Figure 1. Percentage of total ad spend by media type



4.1.2 Spend in permitted and prohibited channels

Advertising expenditure in permitted and prohibited media channels is shown in Table 4. The vast majority of the expenditure was in channels which are permitted: outdoor, cinema, door drops and direct mail [99.9%].

Expenditure was also reported in two prohibited channels, press: £35,346 [0.1%], and internet: £767 [0.002%]. The press and internet expenditure were accounted for by a total of four brands, two brands in each channel.

Table 4. Advertising spend by permitted and prohibited media channels

Permitted media channel ↓	Ad spend	% of Total ad spend
Cinema	£1,576,860	4.9%
Direct mail	£303,791	0.9%
Door Drops	£1,286,863	4.0%
Outdoor	£29,035,424	90.1%
Total permitted	£32,202,939	99.9%
Prohibited media channel ↓		
Press	£35,346	0.1%
Internet	£767	0.0%
Total prohibited	£36,113	0.1%
TOTAL	£32,239,052	100.0%

4.1.3 Spend by tobacco company status

Six of the twelve brands analysed were owned, or partially owned, by tobacco companies. Table 5 shows advertising expenditure by media channel split by those brands which are owned by tobacco companies and those which are not. Overall, brands that are owned by tobacco companies accounted for 90% of all advertising expenditure. They accounted for all of the expenditure for cinema, direct mail and door drops and the vast majority (89%) of the outdoor advertising expenditure. They also accounted for 90% of the small expenditure on internet. Non-tobacco company brands accounted for all the expenditure on press adverts and approximately a tenth of the expenditure on outdoor (11%) and internet (10%).

Table 5. Advertising spend by media channel by tobacco company status

Media channel → Tobacco company status ↓	Cinema	Direct mail	Door Drops	Outdoor	Press	Internet	TOTAL
Tobacco company brand							
Ad spend	£1,576,860	£303,791	£1,286,863	£25,836,647	£ -	£690	£29,004,851
% of media channel spend	100%	100%	100%	89%	0%	90%	90%
Non-tobacco company brand							
Ad spend	£ -	£ -	£ -	£3,198,778	£35,346	£77	£3,234,201
% of media channel spend	0%	0%	0%	11%	100%	10%	10%
TOTAL	£1,576,860	£303,791	£1,286,863	£29,035,424	£35,346	£767	£32,239,052

4.2 Study A: Content analysis of e-cigarette advertising

This section presents findings the content analysis of e-cigarette advertising in the UK in 2019. Findings are presented in six sub-sections.

1. General characteristics
2. Imagery
3. Links to other marketing platforms
4. Selling propositions and rhetorical themes
5. Consumer protection messages
6. Adherence with CAP Code Rule 22.

[Appendix 3](#) contains copies of the adverts referred to throughout Section 4.2 as Adverts A to W to illustrate our findings.

4.2.1 General characteristics

Table 6 presents the general characteristics coded for the sample of ads. They are presented by channel using Nielsen’s categories of outdoor, press, door drops, internet, cinema and direct mail ads,⁶ plus the additional Instagram category. Some additional subcategory information provided by Nielsen for outdoor adverts (some sizes and whether they were digital, transport or special formats) and for cinema (ad duration) was used to further categorise the ads. Table 6 also shows the focus of the adverts (whether it was for an e-cigarette product, a specialist e-cigarette retailer, both or neither (brand only)) and whether the ad was for a nicotine-containing product. Finally, the table presents a breakdown of the type of e-cigarette product in the ad. More than one type could be coded for each ad.

Table 6: General characteristics of the ads

Variable	Yes	
	n	%
Type of ad		
Outdoor	66	51
<i>Digital</i>	32	25
<i>Static (non-digital)</i>	17	13
<i>Transport</i>	13	10
<i>Side of double-decker bus</i>	9	7
<i>Single-decker bus</i>	1	1
<i>Taxi</i>	3	2

<i>Other</i>	4	3
Instagram	30	23
<i>Picture</i>	26	20
<i>Video</i>	4	3
Press	13	10
<i>Inserts</i>	8	6
<i>Newspaper adverts</i>	5	4
Door drops	8	6
Internet	5	4
<i>Banner</i>	4	3
<i>Other</i>	1	1
Cinema	4	3
<i>60 seconds</i>	4	3
Direct Mail	4	3
Focus of ad		
E-cigarette product(s)	109	84
Both e-cigarette product(s) and specialist e-cigarette retailer(s)	12	9
Neither (brand only)	6	5
Specialist e-cigarette retailer(s)	3	2
Brand owned by a tobacco company	97	75
Ad for a product or brand that contains nicotine	130	100
Type of product(s) in ad		
Reusable, rechargeable kit designed with replaceable cartridges or pods	95	73
Cartridges/pods only (i.e. no device)	60	46
Liquids only (e.g. no device)	34	26
Reusable, rechargeable kits designed to be refilled with liquid by the user (tanks)	21	16

<i>Reusable, rechargeable kit that allow users to customise their product (e.g. by regulating the power delivery from the batteries to the heating element (sometimes these are included with other tank models))</i>	16	12
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I. Type and format of the ads

Around half of the adverts (51%) were classified as outdoor ads, comprising digital and non-digital billboards, telephone boxes, Wi-Fi kiosks and vehicles, and almost one quarter (23%) of the adverts were Instagram posts (20% of these were a single static image (e.g. a photo, montage or graphic design) and 3% were videos). The rest of the sample was made up of press adverts (10%), either loose insert adverts or printed box adverts in newspapers, and smaller frequencies of door drop adverts (6%), internet adverts (4%), cinema adverts (3%) and direct mail adverts (3%). One seventh of the sample, represented by two of the categories, press adverts (10%) and internet adverts (4%), are not permitted according to Rule 22.12 of the CAP Code for marketing communications with the direct or indirect effect of promoting nicotine-containing e-cigarettes and their components which are not licensed as medicines. The nature of the press and internet advertising in our sample is discussed further in [Section 4.2.6](#), where compliance overall with ASA Codes is examined.

II. Focus of the ad and type of product

The sample of adverts contained creatives from 12 brands of e-cigarette products and specialist e-cigarette retailers: 88vape, blu, Diamond Mist, INNOKIN, JUUL, Logic, MAGICMIST, PRO VAPE, RuthlessVapor.com, Totally Wicked, VPZ and Vype. The majority of the adverts (84%) were coded as being focused on an e-cigarette product or products (Table 6). Around one tenth (9%) of the adverts were focused on both e-cigarette products and a specialist e-cigarette retailer. A smaller proportion of the adverts (5%) were focused on advertising a brand only (that is, the ad did not feature any products or contain any information on how or where to purchase e-cigarettes) and 2% were focused on advertising a specialist e-cigarette retailer; in all cases the retailer also produced an e-cigarette product with the same brand name. Three-quarters (75%) of the adverts were for tobacco-company owned brands. The research team assessed that all the adverts (100%) directly or indirectly promoted an e-cigarette product (or their components e.g. a battery) or e-cigarette brand that contains, or is capable of containing, nicotine, or an e-cigarette specialist retailer that included nicotine-containing products in its sales ranges. In other words, none of the adverts were for a product that was only available in a zero-nicotine version or was incompatible with any e-liquid containing nicotine. Consequently, it was determined that all adverts directly, or indirectly, promoted nicotine-containing e-cigarette products or their components.

Overall, the most frequently advertised products were reusable, rechargeable kits designed with replaceable cartridges or pods, which appeared in almost three-quarters of adverts (73%). Less than half of the adverts (46%) were for the replaceable cartridges or pods of liquid and around a quarter (26%) were for bottles of liquid for filling tanks or refillable pods, without the device. Around 3 in 20 adverts (16%) were advertising reusable, rechargeable kits (tanks) designed to be refilled with liquid by the user.

4.2.2 Imagery

This section describes the imagery used in the ads, focusing on the people, products shown, and context (i.e. the setting of or thematic associations evoked in the ad). Table 7 presents the findings in relation to the imagery in the ads.

Table 7: Imagery in ads: people, products and context

Variable	Yes	
	n	%
People		
Ad features a photo/video of person/people	56	43
Ad features a graphic illustration of person/people	24	18
Gender of person/people depicted in ad:		
<i>Female</i>	21	16
<i>Male</i>	25	19
<i>Mixed genders</i>	31	24
<i>Unclear</i>	2	2
<i>Not applicable</i>	51	39
Age of person/people depicted in ad:		
<i>Unclear</i>	44	34
<i>Appear over 25 years</i>	34	26
<i>Appear under 25 years</i>	1	1
<i>Appear under 18 years</i>	0	0
<i>Not applicable</i>	51	39
Number of people depicted in ad:		
<i>One</i>	43	33
<i>Two</i>	22	17
<i>Three to Four</i>	12	9
<i>Five to Six</i>	2	2
<i>Not applicable/None</i>	51	39

Does the ad depict:		
<i>Named real person/people?</i>	16	12
<i>Brand character?</i>	10	8
<i>Celebrity or influencer?</i>	5	4
<i>Health professional or scientist?</i>	0	0
Products		
Ad features a photo/video of product/s	107	82
Ad features a graphic illustration of product/s	21	16
Product use		
Ad depicts person/people holding product in hand	66	51
Ad depicts person/people vaping	6	5
Context: setting and other imagery		
Abstract imagery/no obvious setting	91	70
Social gathering	17	13
Seasonal references	17	13
Home	12	9
Flavour/s	10	8
Workplace or working	8	6
Beach or holiday	7	5
Retail	4	3
Stylish accessories	4	3
Outdoor adventure, sport and nature	4	3
Festival	2	2
Other	10	8

I. People

More than 6 in 10 adverts (62%) included an image of a person or people, with 43% of the adverts including a photo or video of a person/people, and 18% of the adverts featuring a graphic illustration of a person/people. For all items relating to the person/people depicted in ads, the focus was on the predominant person/people, and not on any people appearing

in the background of an ad. Examples of photos and videos include an Instagram post that featured a person dressed in a Halloween costume (Ad F), and cinema ads, featuring testimonials from named ex-smokers. Examples of the graphic illustrations include an Instagram post which used a cartoon image (Ad G) and highly stylised graphic illustrations showing people wearing fashionable clothing and sunglasses (Ad H).

Around a quarter (26%) of the adverts were coded as depicting a person or people that were deemed over the age of 25. This was determined based on being able to see the predominant person or people in the ad clearly from the photo, video or illustration or whether the person's age was known or identified from conducting an online search. One advert (1%) was coded as depicting a person under 25 years. This featured two footballers, one of whom was over 25 and one of whom was known to be aged 20 at the time of the ad (Ad B). No adverts were coded as predominantly featuring a person or people under 18 years. In around a third (34%) of ads, the age of the predominant person/people depicted was coded as 'unclear'. For example, the ages of people illustrated graphically in a series of adverts from one brand could not be inferred due to the style of illustration and lack of clear facial features (Ad H). In instances when only a hand was shown holding the product, the age of the person was coded as 'unclear' (Ad I).

Named 'real' people (i.e. actual real people or models given names intended to suggest real people) featured in more than a tenth (12%) of the ads. For example, a cinema ad included several named real people who discussed their own experiences of using the product. Almost a tenth (8%) of the adverts were coded as showing what we defined as a brand character, most of which related to one specific brand (Ad J). Four percent of the adverts featured a celebrity or influencer (Ads B, L, K) or a cartoon or caricature of a celebrity (Ads E, G). None of the adverts depicted a healthcare professional or scientist (0%).

II. Products and product use

The majority of the adverts (82%) were coded as showing a photo or video of the product and 16% coded as showing a graphic illustration of the product (Table 7). For example, in a series of outdoor adverts with highly stylised graphic illustrations, both an image of the actual product and a graphic illustration held by people are shown (Ad H). Around half of the adverts (51%) were coded as showing a product being held by a person and 5% of adverts were coded as showing a person using a product (i.e. putting the product in their mouth, inhaling or exhaling).

III. Context

Most of the adverts (70%) depicted or suggested no specific context, with these adverts often being product-focused, i.e. they featured the product (device, liquid or both) against an abstract background and focused on drawing attention to product features, such as, liquid flavours, device types or price (Ad M).

Where adverts did depict or evoke a particular context, the most common were social gatherings (13%) (Ads I and N) and seasonal settings (13%) such as winter (Ad G) or summer (Ad I).

Nine percent of the adverts featured an aspirational home setting (Ad O), while 8% percent of adverts depicted images suggestive of different e-cigarette flavours, including photographs or cartoons/illustrations of fruit (Ad P) or other natural flavourings such as mint leaves (Ad G). Other contexts observed included work settings or work-related props such as laptops (6%) (Ad O); beaches or holidays (5%) (Ad Q); stylish accessories (3%; e.g. watches, jewellery and handbags) (Ad R); outdoor adventures, sports and nature (3%) (an Instagram influencer in winter sports clothing on a mountainside [Ad K]); and festivals (2%). Regarding the 8% of adverts coded as ‘other’, these included graphic illustrations of events venues in London such as The Arches.

4.2.3 Links to other marketing platforms

Almost a fifth of the adverts (18%) provided a link to social media platforms (Table 8). Some Instagram posts provided a link to other Instagram pages or users outside of the brand, including the example of French influencer Leo Pask (Ad K).

More than two-thirds of the adverts coded included links to a brand website (68%), with this commonly found on the outdoor, direct mail, door drop, press and cinema ads, and less so on Instagram posts. Fifteen percent of adverts drew attention to a consumer service phone number or a separate link to consumer service webpage (Ad D).

Table 8: Links to other marketing platforms

Variable	Yes	
	n	%
Links to social media platforms	23	18
Facebook	18	14
Twitter	18	14
Instagram	23	18
Links to websites and customer service	88	68
Website	88	68
Customer service	19	15

4.2.4 Selling propositions and rhetorical themes

I. Selling propositions

The selling propositions were grouped thematically into seven categories: attributes of the product and vaping in general, psycho-social concepts, norms, appeal to new users, promotional inducements, cessation and smoking, and other. The table below (Table 9) presents, for each thematic category, the percentage of adverts which were coded as using

any of the selling propositions in that category, followed by a detailed breakdown of percentages for each individual selling proposition. More than one selling proposition could be coded for each ad.

Table 9: Selling propositions coded in the ads

Selling propositions: thematic categories and specific examples	Yes	
	n	%
Product and vaping attributes	112	86
<i>Convenience/ease of use</i>	60	46
<i>Quality</i>	51	39
<i>New product (device or flavour)</i>	47	36
<i>Flavour/s</i>	45	35
<i>Choice/variety</i>	41	32
<i>Provenance (e.g. British-made, European standard)</i>	26	20
<i>Safe/safety</i>	22	17
<i>Quality of advice available from manufacturer or retailer</i>	21	16
<i>Scientific/research expertise</i>	19	15
<i>Satisfaction</i>	15	12
<i>Testimonials from other users</i>	12	9
<i>Technological innovation</i>	11	8
<i>Taste</i>	8	6
<i>Better than other brands</i>	7	5
<i>Other product attributes</i>	37	28
Psycho-social concepts	86	66
<i>Attractive lifestyle</i>	61	47
<i>Change/self-improvement</i>	30	23
<i>Individuality</i>	29	22
<i>Freedom/independence</i>	21	16

Norms	59	45
<i>Vaping community/family</i>	31	24
<i>Popularity of vaping in general</i>	15	12
<i>Popularity of the brand</i>	14	11
<i>Frequent vaping</i>	12	9
Appeal to new users		
<i>Make the switch</i>	39	30
<i>Product for new users</i>	35	27
Promotional inducements		
<i>Draws attention to price</i>	34	26
<i>Price offer/promotion</i>	27	21
<i>Time limited offer</i>	15	12
<i>Limited edition offer/exclusive offer for existing customers</i>	6	5
<i>Loyalty inducement</i>	4	3
Cessation and smoking		
<i>Implicit cessation message</i>	8	6
<i>Can help where smoking banned</i>	6	5
<i>Smells better than smoking</i>	6	5
<i>Cheaper than smoking</i>	4	3
<i>Any other comparison with smoking</i>	10	8

A wide range of selling propositions were identified in the ads. The majority (86%) of the adverts promoted one or more *positive attributes of the product and of vaping in general*. The most commonly promoted attribute was convenience or ease of use, emphasised in nearly half (46%) of all ads; for example, one brand's adverts used the strapline 'Vaping made simple' (Ad D), while another promised 'Handy and easy vaping' (Ad H). The second most commonly promoted attribute was quality (39%). This was implied in various ways, including descriptor terms such as 'premium' (Ad M) and 'outstanding'; endorsements such as a 'Voted Product of the Year' stamp (Ad S) and a 'quality tested' stamp (Ad D). Other attributes promoted, each in more than a third of ads, were new products (Ad T) and flavours (Ads D, M, P). The choice or variety of products and flavours offered by a manufacturer or a specialist e-cigarette retailer was promoted in around a third of adverts (Ad D). Adverts also drew

attention to other product and usage attributes, including: country of origin of the device or ingredients (20%); safety of the device or of vaping in general (17%); quality of the advice available from the manufacturer or specialist e-cigarette retailer (16%); the scientific and research expertise behind the products (15%); satisfaction (12%); testimonials from e-cigarette users who were ex-smokers (9%); technological innovation (8%); taste (6%); and superiority over other brands (5%). More than a quarter of adverts (28%) were coded as emphasising another specific product feature not included in the table above because of low frequencies for each; these included features such as opening/closing mechanisms, voltage control, different device finishes, long charge life, and vapour quality.

Two-thirds of adverts (66%) were coded as associating the advertised brand with one or more *psycho-social benefits*. The most commonly evoked benefit was that of an attractive lifestyle, with nearly half the adverts (47%), including aspirational images such as stylish and attractive people, home interiors, snowsports or luxury accessories. Nearly a quarter (23%) of adverts were coded as evoking ideas of positive change and self-improvement, typically suggesting making a fresh start by taking up vaping or the specific brand. For example, a direct mail ad depicted an attractive young woman in the sunshine with the straplines 'Start the new year by switching to [Brand]...In 2019, never look back' (Ad Q), with some Instagram posts echoing this with the hashtag #neverlookback. Other adverts depicted stylish graphic illustrations of attractively dressed couples with the strapline 'We're new to [Brand]', which was judged as subtly implying that taking up that product was a positive new lifestyle choice (Ad H).

Concepts of individuality and freedom/independence were also identified in 22% and 16% of adverts respectively, via messages and slogans such as 'vape your way: there's no single way to vape' and 'Inhale the freedom' (Ad B), as well as images of holidays and leisure which were judged as implying freedom from everyday life (Ad I).

In almost half (45%) of adverts one or more *norms messages* about e-cigarette use were identified. These included suggesting the idea of a vaping community or family (24%) (Ads A, H, P), the popularity of vaping in general (12%), the popularity of the brand (11%), and the idea that vaping was a frequent part of everyday life (9%), for example, the hashtag #VapeDaily.

More than 4 in 10 adverts (43%) appealed to *new users*, either of the specific brand or of e-cigarettes in general, with messages to 'switch' or 'make the switch', and 'starter kit' offers (e.g., 'Making the switch to [Brand] couldn't be easier' (Ad D); '[Brand] Make the Switch' (Ad O)). In general, the adverts which referred to switching did not state explicitly whether the intended movement was from tobacco to e-cigarettes, or from one brand of e-cigarettes to another. Among those which explicitly stated a switch from smoking to vaping were a series of adverts which used the strapline 'The alternative for adult smokers' and featured testimonials from long-term smokers who had 'switched to [Brand]' (Ad O), and two Instagram posts which encouraged viewers to tag a smoker and encourage them to visit the online specialist e-cigarette retailer for help with switching to vaping/giving up smoking (Ad J). More than a quarter of adverts (27%) specifically emphasised that the product was for new users through references to 'starter kits' (Ad D) or 'starter bundle' (Ad Q). Generally, adverts which promoted starter kits did not specify whether the intended user was new to that particular brand, or new to e-cigarettes in general. A number of brands, however, included statements that the brand was for existing adult smokers and vapers only, or for adult smokers and vapers only (see also [Section 4.2.6, CAP Rule 22.8](#)).

Around a third of adverts (32%) were coded as using at least one promotional inducement to purchase the product. Promotional inducements included price offers (21%), time-limited promotions (12%), limited edition offers (5%), and loyalty-based offers (3%). Around a quarter of adverts (26%) included features designed to draw attention to price, such as a statement ‘Only £1’ (Ad M). Although such features do not necessarily involve an actual price-reduction, they can be considered as a means of promoting the brand or product on the basis of price.

Around a tenth of adverts (11%) were coded as using one or more selling propositions relating to *smoking cessation* or to the *advantages of e-cigarettes compared with tobacco*. The implicit suggestion that e-cigarettes could help with quitting smoking was found in 6% of adverts (for example, two Instagram posts encouraged viewers to tag a smoker and encourage them to visit the retailer’s website in order to help switch to vaping/give up smoking, and which used hashtags such as #QuitForLife [Ad J] and #SmokingCessation); no adverts were coded as containing an explicit message that e-cigarettes could assist cessation. Five percent of adverts highlighted that e-cigarettes could be used in places where smoking was banned (for example, a couple of Instagram posts promoted specific venues which allowed vaping indoors), while 5% stated that e-cigarettes smelt better than tobacco, and 3% that they were cheaper than cigarettes. Eight percent of adverts contained other comparisons with tobacco, and that products involve ‘no tar, no smoke, no ash’ and do not require the user to ‘go outside’ or ‘find a lighter’, and one claimed ‘technology better than smoking’.

II. Rhetorical themes

In addition to coding the different selling propositions identified in the ads, the overall rhetorical theme of each ad was coded (Table 10). This refers to the primary means through which the ad seeks to persuade.⁴⁶ Three rhetorical theme codes were possible: pathos, logos or ethos. Overall, almost half of the adverts (47%) were coded as primarily seeking to persuade through the rhetorical theme of pathos (that is, through eliciting an emotional reaction such as enjoyment, identification or aspiration) by using attractive imagery. One-third (33%) were coded as primarily seeking to persuade through the rhetorical theme of logos (e.g. providing information about product features), and nearly a fifth (18%) through the rhetorical theme of ethos (e.g. focusing attention on the brand as the source of the message, and its quality and trustworthiness). Two percent of adverts were coded as using a combination of two or three of the rhetorical themes of persuasion.

Table 10. Rhetorical themes coded in the ads

Rhetorical themes	Yes	
	n	%
Pathos	61	47
Logos	43	33
Ethos	23	18
Multiple of above	3	2

4.2.5 Consumer protection messages

This section reports findings regarding the presence of consumer protection messages in the adverts and the size and appearance of any consumer protection messages.

I. Presence of consumer protection messages

CAP Code Rule 22.7 requires advertising which features an e-cigarette product to contain a statement regarding the nicotine content of the advertised product (see Section 4.2.6). Within the ASA's CAP Code there are no other mandatory requirements for e-cigarette advertising to include specific consumer protection information. However, the presence or absence of other consumer protection messages were assessed which could be considered as responsible practice to provide clarity about the nature of the product and its intended use. Table 11 indicates whether or not each ad contained one or more of seven different consumer protection messages listed. More than one consumer protection message could be coded for each ad.

Table 11: Presence of consumer protection messages

Variable	Yes	
	n	%
Presence of consumer protection messages	102	78
Ad states that product contains nicotine	99	76
Ad contains an age restriction (e.g. '18+')	92	71
Ad states that nicotine is addictive	47	36
Ad states explicitly that e-cigs are only for adult smokers	43	33
Ad states that the product is not a cessation product	27	21
Ad states that product should not be used by non-smokers	0	0
Ad contains any other consumer protection message	15	12

Overall, the majority of adverts were coded as containing some form of consumer protection message (78%). Around three-quarters of the adverts (76%) were coded as containing a message stating that the product contains nicotine, as required by CAP Code Rule 22.7. This was commonly expressed as 'This product contains nicotine' (Ad H) or simply 'contains nicotine' (Ad D).

The second most common form of consumer protection message was an age restriction message (71%) usually expressed as '18+'. More than a third of adverts included a message stating that nicotine is addictive (36%) commonly expressed as 'This product contains nicotine which is a highly addictive substance'. A similar proportion included a message that e-cigs are only for adult smokers (33%) such as 'for existing adult smokers and vapers only'. However, no adverts contained a message stating that the product should not be used by non-smokers (0%).

Around a fifth of adverts (21%) included a statement that the product is ‘not a smoking cessation product’. Twenty-two percent of adverts did not contain any form of consumer protection message, these adverts were most commonly Instagram ads.

II. Size and appearance of consumer protection messages

Table 12 presents details regarding the size and appearance of consumer protection messages. Overall, consumer protection messages took up a small proportion of ad space where they were included. In nearly 4 in 10 adverts (38%) it was calculated that this information took up less than one percent of the overall ad size. These smaller messages featured on adverts from a range of brands (Ads D, G, S), and were not confined to one type of ad (press, outdoor, door drops and Instagram ads). The text on these adverts was judged to be difficult to read in comparison to the rest of the ad due to its small size (Ad S).

Table 12: Size and appearance of consumer protection messages

Variable	Yes	
	n	%
Size as percentage of overall ad		
<i>Less than 1%</i>	50	38
<i>1-4.9%</i>	32	25
<i>5-9.9%</i>	11	8
<i>10-14.9%</i>	7	5
<i>15% and over</i>	2	2
<i>No consumer protection messages</i>	28	22
Location of consumer protection messages		
<i>Single location</i>	62	48
<i>Multiple locations</i>	40	31
<i>Not applicable</i>	28	22
Consumer protection messages are clearly differentiated		
<i>Yes</i>	42	32
<i>No</i>	60	46
<i>Not applicable</i>	28	22

Consumer protection messages are salient		
<i>Yes</i>	45	35
<i>No</i>	57	44
<i>Not applicable</i>	28	22

The second most common size of consumer protection message was between 1-4.9% of the overall ad. This was judged to be the size of the message on a quarter of the adverts (25%).

Almost half of the adverts (48%) situated their consumer protection message in a single location, most commonly at the bottom of the ad (Ads N, O), while in 31% of the ads, consumer protection messages appeared in multiple locations (Ad D). In around a third of adverts (32%) consumer protection messages were clearly differentiated from the rest of the ad through the use of a border, distinct section or colour (Ads I,O), while in almost half (46%), the consumer protection information was not differentiated due to the size or colour of the text in the context of the advert (Ads D, S).

More than a third of adverts (35%) contained consumer protection messages which the research team assessed to be salient; that is, easy to read and prominent taking into account the overall ad design (Ads I, O). In contrast, 44% of the consumer protection messages were judged to be difficult to read when looking at the overall ad due to small text, a cluttered ad or the colour of the message did not stand out against the background of the ad.

4.2.6 Adherence with CAP Code Rule 22

This section presents the findings on the extent to which e-cigarette adverts were observed to adhere to CAP Code Rules 22.2 to 22.12. For each CAP Code rule, the percentage of adverts which appear to comply, or otherwise, with the code is given. Adverts were coded as 'not sure' when it was difficult to judge code compliance. Where applicable, the full reasoning for coding adverts as 'not sure' is provided. CAP Rule 22.1, '*marketing communications for e-cigarettes must be socially responsible*', was not coded as it was not viewed by the research team to be a standalone code, but one which linked to Rule 22.5 'likely to appeal particularly to people under 18, especially by reflecting or being associated with youth culture', Rule 22.8 'adverts should not encourage non-smokers or non-nicotine users to use e-cigarettes', and Rule 22.10 'does the ad show people using e-cigarettes or playing a significant role who are, or seem to be, under 25?' Therefore, any adverts viewed to be in breach of these Rules would automatically be viewed as in breach of Rule 22.1 and be deemed socially irresponsible. Table 13 presents the findings in relation to CAP Code Rule 22.

Table 13: Adherence with CAP Code Rules

Variable	CAP Code Rules†	Yes		No		Not sure	
		n	%	n	%	n	%
Does the ad* promote any design, imagery or logo style that might reasonably be associated in the audience’s mind with a tobacco brand?	CAP 22.2	0	0	130	100	0	0
Does the ad contain anything which promotes the use of a tobacco product or shows the use of a tobacco product in a positive light? (NB. This rule is not intended to prevent cigarette-like products being shown)	CAP 22.3	0	0	130	100	0	0
Does the ad make it clear that the product is an e-cigarette and not a tobacco product?	CAP 22.4	130	100	0	0	0	0
Does the ad contain medicinal claims unless the product is authorised for those purposes by the MHRA? E-cigarettes may be presented as an alternative to tobacco but must do nothing to undermine quitting tobacco use.	CAP 22.5	0	0	122	94	8	6
Does the ad use health professionals to endorse electronic cigarettes?	CAP 22.6	0	0	130	100	0	0
Does the ad clearly state if the product contains nicotine? They may include factual information about other product ingredients.	CAP 22.7	99	76	31	24	0	0
Does the ad contain any content which might encourage non-smokers or non-nicotine-users to use e-cigarettes?	CAP 22.8	0	0	97	75	33	25
Is the ad likely to appeal particularly to people under 18, especially by reflecting or being associated with youth culture? Eg. whether the ad features or portrays real or fictitious characters who are likely to appeal in	CAP 22.9	3	2	120	92	7	5

particular?							
Does the ad show people using e-cigarettes or playing a significant role who are, or seem to be, under 25?	CAP 22.10	1	1	85	65	44	34
Is the ad directed at people under 18 through the selection of media or the context in which they appear? (NB. No medium should be used to advertise e-cigarettes if more than 25% of its audience is under 18 years of age.)	CAP 22.11	0	0	49	38	81 [#]	62 [#]
Is the ad in a permitted channel?	CAP 22.12	82	63	48	37	0	0
*We use the term 'ad' however the CAP Code rules refer to 'marketing communications' and the BCAP Code rules refer to 'advertisements'. # Insufficient information to classify due to lack of information on location/context of ads. †Rules as at 2019 and at time of analysis.							

All adverts (100%) showed clear adherence to three of the CAP Code Rules. These were Rules 22.3, 22.4, and 22.6.

CAP Code Rule 22.2

No adverts (0%) were observed which promoted *'any design, imagery or logo style that might reasonably be associated in the audience's mind with a tobacco brand'*. It was considered that the design of some e-cigarette packaging featured in the adverts appeared to resemble previous branded tobacco packaging through use of similar shaped cardboard boxes, brightly coloured graphic imagery and health warnings in a similar style and font (Ad Q). However, all adverts were coded as 'no' as this packaging did not bring to mind specific tobacco brands nor resemble the standardised tobacco packaging currently mandated.

CAP Code Rule 22.5

It was observed that the vast majority of adverts (94%) did not contain any medicinal claims. While no adverts were coded as definitively containing medicinal claims, eight adverts (6%) were coded as 'not sure' as it was considered plausible that the ad created an implicit association between quitting smoking and the brand or product advertised. The ASA considers smoking cessation claims as medicinal claims, and marketers should not claim or imply that their product can act as a smoking cessation device. Examples coded as 'not sure' included: a cinema advert where an individual said 'I would never go back to smoking' after having used the e-cigarette product and two Instagram adverts with the hashtags #Quitforlife (Ad J) and #SmokingCessation.

CAP Code Rule 22.7

It was observed that the majority of adverts (76%) stated that the advertised product contains nicotine (Table 13). Coding these responses reflects the presence or absence of the statement only, not salience (as discussed in Section 4.2.5). Twenty-four percent of adverts did not contain a nicotine statement. Six of the adverts (5% of the overall sample) without nicotine content statements were for nicotine-containing products and in the research team's view should clearly have included a statement. Whether it is necessary for the remainder of these adverts to include a nicotine statement is unclear from the CAP Code and associated guidance. In discussion, the ASA explained that further clarification of codes usually follows specific complaints and rulings; unless and until complaints are raised on specific issues, guidance on codes where there is some ambiguity or scope for different interpretations can remain unclear.

The research team considered there to be uncertainty in two areas. Firstly, uncertainty lies around adverts which promote devices or e-liquid shortfills, to which nicotine may or may not be added depending on consumer preference (n=13). For example, the products shown in an outdoor ad for one brand of e-liquid shortfills and an Instagram ad for a specific device (Ad T) did not contain nicotine, but nicotine may be added when the product is used.

Secondly, there is uncertainty with regard to adverts which do not *directly* refer to a specific e-cigarette product, but which *indirectly* promoted product ranges with nicotine-containing products through use of an identical brand or retailer name (n=11). For example, while one retailer's adverts can be viewed as adverts for the specialist e-cigarette retailer, although they do not allude to a specific product, they may be viewed as indirectly promoting the retailer's own-branded nicotine containing products (Ads B, C). Similarly, adverts which may be viewed as public relations exercises, for example, an ad which linked the brand with the BBC's Children in Need charity, while not directly referring to e-cigarette products, plausibly indirectly promoted e-cigarette products given the retailer, brand and product name is the same (Ad L).

A further one ad showed an e-liquid range, but it was difficult to tell from the image whether the specific products shown contained nicotine; the range includes a variety of nicotine strengths including a nicotine-free option.

Overall, therefore, it was assessed that while 24% of the adverts did not contain a statement on nicotine content, 5% were unequivocally in breach of the rule, with uncertainty regarding whether the remaining 19% should be deemed in breach or not.

CAP Code Rule 22.8

The majority of adverts (75%) were judged not to contain '*any content which might encourage non-smokers or non-nicotine-users to use e-cigarettes.*' Adverts which were product focused, with functional messages and technical language were considered to most likely appeal to those already engaged with e-cigarettes (e.g. an ad (Ad V) which used the descriptors 'maximum nicotine, acts faster, lasts longer' and 'hyper-real vapour', would likely appeal to existing, rather than non-vapers). It was assumed that Instagram adverts from a private account would not encourage non-nicotine users, as they would have had to opt-in to see the content and it was considered unlikely non-nicotine users would follow private Instagram

accounts of e-cigarette brands or retailers. It was judged plausible that imagery contained within some adverts may be considered attractive to people who do not smoke or vape. However, adverts which contained attractive imagery but also included the message 'for existing adult smokers & vapers only' were coded as not encouraging people who do not smoke or vape to use e-cigarettes due to the presence of the consumer protection message (Ad H).

While no adverts (0%) were coded as directly encouraging people who do not smoke or vape to use e-cigarettes, the research team decided to code 25% as 'not sure'. Adverts considered to have attractive imagery or messages which may appeal or speak to a broad range of people and not just those who smoke or vape, and which did not contain a 'for adult smokers/vapers' message, were coded as 'not sure'. For example, an ad which featured an image of a female face accompanied by the text 'Claire's crazy for cola' was coded as 'not sure'. Additionally, adverts which promoted 'starter kits' and without a 'for adult smokers/vapers' message were coded as 'not sure' given it was considered plausible that this term may speak to new users (see Section 4.4.1). Five adverts placed on sports pages were also coded as 'not sure' (Ad B, C) as researchers considered that as they were placed within a specific (i.e. sports) context and featured language linked with football, they targeted a mass, rather than an existing smoker/vaper, audience. An advert which promoted free samples was also coded as 'not sure' as the research team considered the possibility that this might raise interest among a wider audience (Ad E).

CAP Code Rule 22.9

The majority of adverts (92%) were judged as unlikely to appeal to people under 18. Only three adverts (2%) were identified as plausibly appealing to people under 18, due to their clear association with youth culture or feature of a real person with likely youth appeal. For example, two Instagram adverts were identified which contained child-oriented products and imagery: one Instagram ad featured an employee in a fancy-dress costume holding a child's caterpillar birthday cake (Ad F); and another Instagram ad featured 'flavour rooms', considered to resemble children's soft play areas and filled with plastic balls, inflatable fruits and space hoppers. A third ad featured an association with youth football and showed an image of a young Scottish footballer, then aged 20, who has captained the Scotland under-21, under-19, and under-17 teams. The ad was accompanied by text identifying him as 'man of the match' and stating 'the youngster was on excellent form' (Ad B). This ad was from a retailer which also sells nicotine-containing products under the same name, therefore was considered to be subject to the CAP Code Rules.

Seven adverts (5%) were coded as 'not sure' as they were considered to have the potential to appeal to under 18s, but without the overtly youth associated products or people, which those coded as 'yes' included. Such adverts prominently featured a cartoon image, for example a devil character or humorous cartoon imagery (Ad G and Ad E).

CAP Code Rule 22.10

The majority of adverts (65%) did not 'show people using e-cigarettes or playing a significant role who are or seem to be, under 25'. Only one ad (1%) was identified as showing an

individual under the age of 25. This ad featured the name and image of a Scottish footballer, aged 20 at the time of the ad (Ad B). A further 34% were coded as 'not sure'. This code applied where the face(s) of the person/people in the ad could not be seen (Ad I) or were obscured. Additionally, for some adverts with clear photographic images of faces it was difficult to infer the ages of the main people in the ad and it was considered plausible that they could be under 25 (Ad W). Similarly the age of people illustrated graphically could not be determined (Ad H), therefore these adverts were coded 'not sure'.

CAP Code Rule 22.11

For the majority of adverts (62%) we did not have sufficient information on the location or context in which the ad appeared. As a result, it was not possible to classify them with regard to whether they were '*directed at people under 18 through the selection of media or the context in which they appear.*' This group of adverts comprised 47 outdoor, 5 internet, 10 Instagram, 15 press, and 4 cinema ads. We included some of the outdoor adverts in this category because the Nielsen data did not indicate where they had been placed. The ASA deems that outdoor adverts are generally not 'directed at people under 18' because the audience is considered to be the general population, of which less than 25% are under 18. However, adverts placed near a school could be considered to be directed at under 18s, as school students would probably make up a high percentage of people passing the ad. As information on the placement of many outdoor adverts was not provided, they were coded as 'not sure'. Similarly, the Nielsen data did not indicate in what context internet adverts appeared, or which films were shown after the cinema ads. Without this detail we were unable to make a judgement for a 'yes'/'no' response. All Instagram adverts which appeared on a public account were also coded as 'not sure', for which any hashtags can appear publicly on the corresponding hashtag page.

Thirty-eight percent of adverts were judged as not directed at people under 18 through the selection of media or the context in which they appeared. These were all the direct mail and door drop ads, the 20 Instagram adverts which appeared on private accounts, and 19 of the outdoor adverts where Nielsen data indicated that the audience was likely to be a general public one (i.e. to comprise no more than 25% under 18s); these were primarily adverts placed on transport or located in identifiable shopping centres.

CAP Code Rule 22.12

The adverts were also assessed in relation to CAP Code Rule 22.12:

Except for media targeted exclusively to the trade, marketing communications with the direct or indirect effect of promoting nicotine-containing e-cigarettes and their components which are not licensed as medicines are not permitted in the following media:

- *Newspapers, magazines and periodicals*
- *Online media and some other forms of electronic media*

Factual claims about products are permitted on marketers' own websites and, in certain circumstances, in other non-paid-for space online under the marketer's control.

Sixty-three percent of our sample had been placed in permitted channels (cinema, direct mail, door drops and outdoor) (Table 13). As outlined in Section 4.1.3, our sample contained a number of adverts which were judged as having appeared in media which are not permitted. Ten percent of adverts (n=13) were identified as press adverts by Nielsen. Five of these were adverts which referenced football, suggesting that they had been placed on newspaper sports pages. While these adverts did not directly promote nicotine-containing e-cigarettes by showing images of, or referring to, products, as the retailer/brand/product name is the same, the research team judged that these adverts indirectly promoted nicotine-containing e-cigarette products (Ads B, C). Eight of the adverts categorised by Nielsen as press adverts were one brand's adverts which appeared as press inserts within magazines or newspapers. It was unclear to the research team whether the prohibition on advertising in the press extends to inserts. A further five adverts (4%) in the sample were internet banner ads, which were judged as being in breach of the code because they directly, or indirectly, promoted nicotine-containing e-cigarette products. Three of these adverts were monochrome boxes containing text-only messages which referred to switching, the number of people who smoke in America, how many times the average person tries to quit smoking, and raising the age of sale to 21, alongside links to the brand website. One static internet ad contained a discount coupon and website link, and a further animated banner ad showed a row of e-liquid bottles (Ad E).

Instagram was judged to be 'non-paid-for space online under the marketer's control' when accounts were private. In this context adverts were observed that would be permitted if they contained factual, rather than promotional content. Within the Instagram sample, two accounts were private and one was public. Content on private accounts can only be found by those actively seeking it and cannot be viewed or pushed to others who have not opted in to receive the content. Content on public accounts can be pushed to those not actively seeking it by appearing in the Search and Explore section or on a corresponding hashtag page. Therefore the entire sample of Instagram adverts (n=10) from the public account was judged as in breach of this code, in line with the ASA ruling in December 2019.⁹ For example, one ad linking the brand with the BBC's Children in Need charity through the hashtags #ChildreninNeed and #BBCONE would have appeared on the corresponding hashtag pages and may be viewed by anyone searching these hashtags (Ad L). Although no e-cigarette products are shown in this ad, we judged the ad as indirectly promoting e-cigarettes.

The extent to which Instagram adverts were factual versus promotional was also explored. An ad was considered to be promotional if it contained any promotional content.⁴⁹ No Instagram adverts were considered to be purely factual, with all Instagram adverts (n=30) judged to contain promotional language or imagery which went beyond objective, factual content. For example, adverts which contained lifestyle (Ad K), or humorous (Ad G) imagery, descriptive promotional language around flavours, i.e. 'fresh', or product design, i.e. 'slick' and the use of hashtags such as #vapelite, #vapefam, and #vapeporn, were all considered beyond factual and in breach of the code even though some of these adverts appeared on private accounts.

4.3 Study B: Noticing and appeal of e-cigarette marketing

The results from Study B are divided into three sections. Section 4.3.1 provides a summary of the main findings on noticing e-cigarette marketing among youth versus adult respondents in 2018 (Wave 2 for both samples). Section 4.3.2 examines levels and trends in noticing e-cigarette marketing across specific locations/media channels among adults from Wave 1 (2016) to Wave 2 (2018). Section 4.3.3 examines levels and trends in noticing e-cigarette marketing across specific locations/media channels among youth from Wave 1 (2017) to Wave 3 (2019).

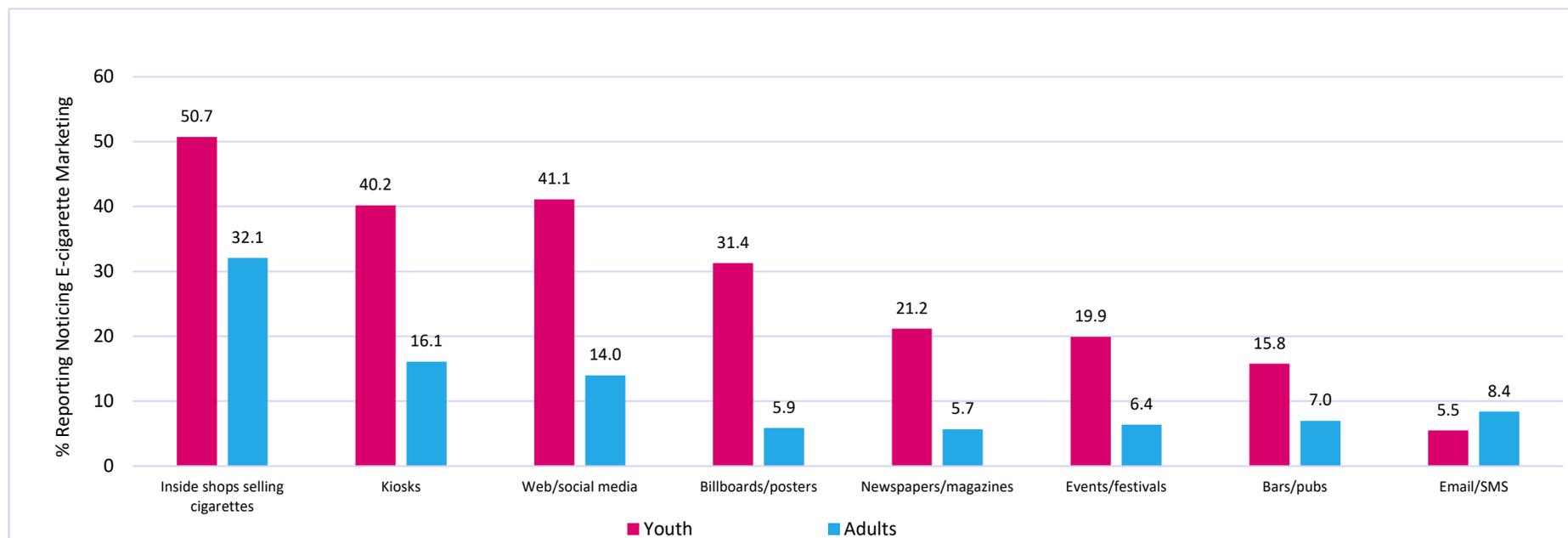
4.3.1 Summary of Main Findings on E-cigarette Marketing

Youth versus adults

Within England, a greater percentage of youth (16 to 19-year-olds) than adults (aged 18 and older) reported noticing e-cigarette marketing in each location/media channel (Figure 2), with the exception of email/SMS, where a larger percentage of adults (8.4%) reported noticing e-cigarette marketing than youth (5.5%) (Figure 2). The starkest difference between youth and adults was observed in noticing e-cigarette marketing through billboards or posters (31.4% vs. 5.9%), where e-cigarette marketing is permitted in England.

Figure 2 shows combined data for all adult groups (smokers, vapers, dual users and former smokers/vapers) versus all youth groups (smokers, vapers, dual users, former smokers/vapers and never users).

Figure 2. Noticing e-cigarette marketing in specific locations/media channels in England among youth versus adults, Wave 2 (2018) of ITC 4CV Survey and ITC Youth Tobacco and Vaping Survey

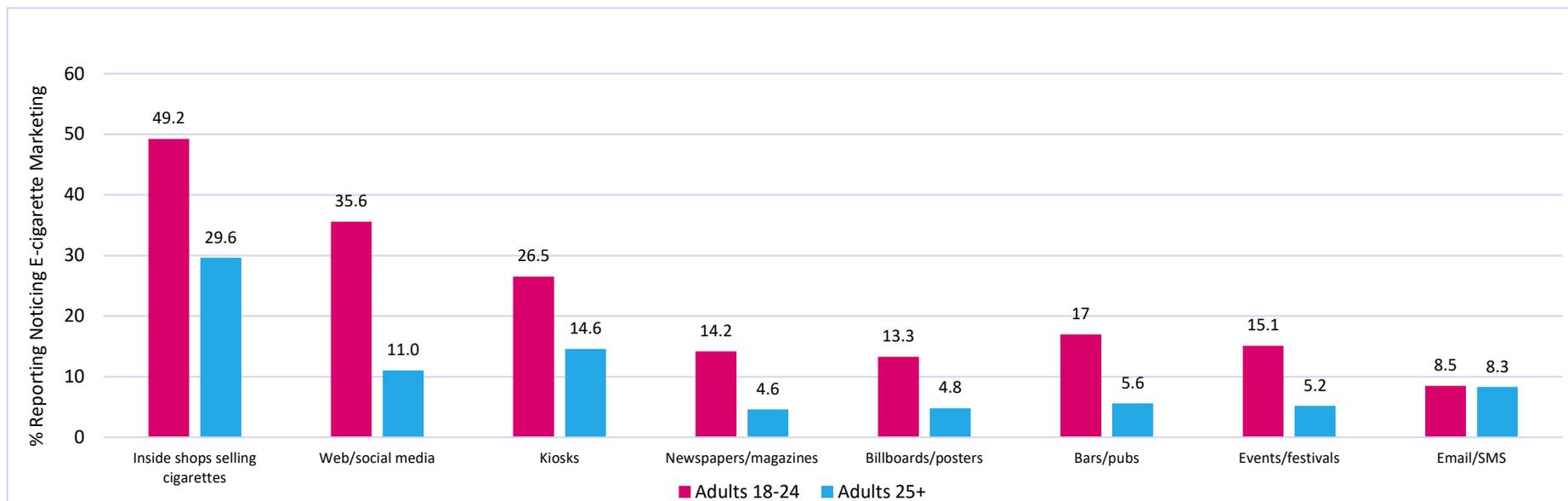


Note: Shows combined data for all adult groups (18-24 and 25+), smokers, vapers, dual users, or former smokers/vapers versus all youth groups (smokers, vapers, dual users, former smokers/vapers and never users). Advertising in web/social media and newspapers/magazines was banned at the time of the survey. Note that the Wave 2 (2018) estimates presented in Figure 2 may vary slightly from the 2018 estimates in Figure 5 due to differences in the adjustment methods.

Young adults (aged 18-24) versus adults aged 25+

In England, a greater percentage of young adults (aged 18-24 years) reported noticing e-cigarette marketing in each location/media channel, relative to adults aged 25+ (Figure 3). Across all locations/media channels, the starkest difference between younger and older adults was observed in noticing e-cigarette marketing via websites/social media platforms, where e-cigarette marketing through this channel is prohibited in England (under Rule 22.12 of the CAP code, only factual claims about products are permitted on marketers' own websites, and in certain circumstances, in other non-paid-for space online under the marketer's control).⁴ Roughly three times as many young adults (aged 18-24) reported noticing e-cigarette marketing in this channel, compared to adults aged 25+ (35.6 vs. 11.0%).

Figure 3. Noticing e-cigarette marketing in specific locations/channels in England among younger adults (aged 18-24) versus older adults aged 25+, Wave 2 (2018) of ITC 4CV Survey

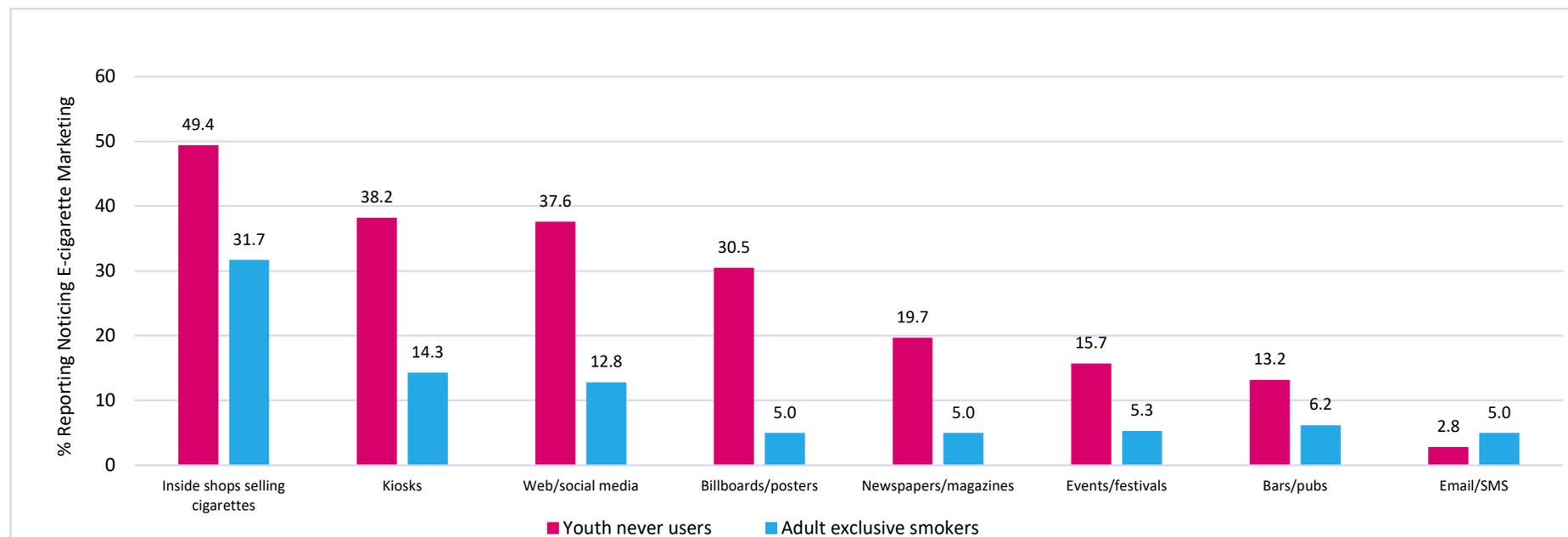


Note: All adults (18-24 and 25+) are smokers, vapers, dual users, or former smokers/vapers. Advertising in websites/social media and newspapers/magazines was banned at the time of the survey. Note that the Wave 2 (2018) estimates presented in Figure 3 may vary slightly from the 2018 estimates in Figures 7 and 9 due to differences in the adjustment methods.

Youth never users versus adult exclusive smokers

Within England, data from 2018 (Wave 2) showed that a greater percentage of youth never users (who had never smoked or vaped) reported noticing e-cigarette marketing in each location/media channel, compared to adult exclusive smokers (Figure 4), with the exception of email/SMS, where a larger percentage of adult exclusive smokers (5.0%) reported noticing e-cigarette marketing than youth never users (2.8%). The starkest difference between youth never users and adult exclusive smokers was observed in noticing e-cigarette marketing through billboards or posters (30.5% vs. 5.0%), where e-cigarette marketing is permitted in England.

Figure 4. Noticing e-cigarette marketing in specific locations/media channels in England, among youth never users versus adult exclusive smokers, Wave 2 (2018) of ITC 4CV Survey and ITC Youth Tobacco and Vaping Survey



Note: Advertising in websites/social media and newspapers/magazines was banned at the time of the survey.

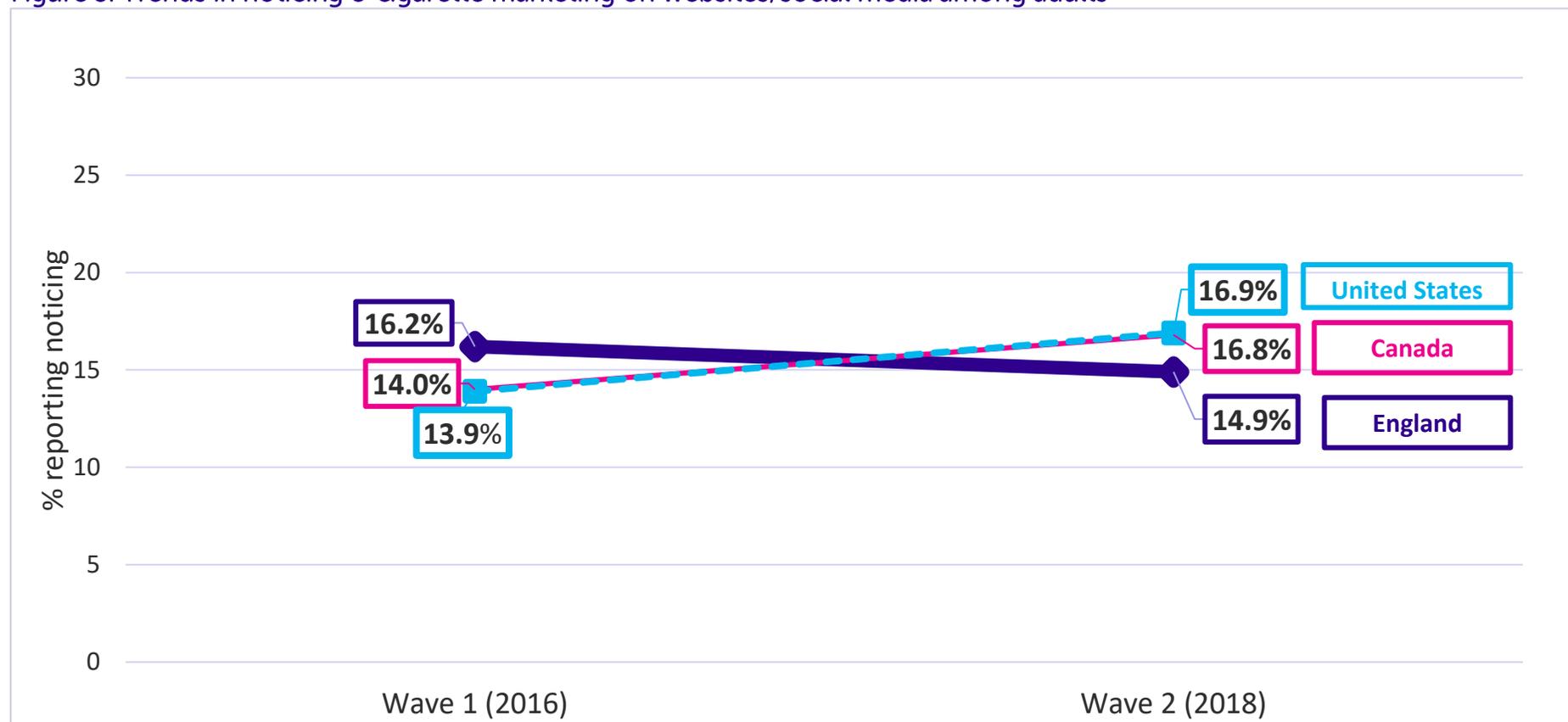
4.3.2 Levels and Trends in Noticing E-cigarette Marketing among Adults (2016-2018)

Levels and trends in England compared to the US and Canada

From 2016 to 2018, our findings showed no change in noticing in e-cigarette marketing via websites/social media platforms (where marketing is prohibited in England) among adult smokers, vapers, dual users, and former smokers in England (Figure 5). When looking at cross-country trends in noticing e-cigarette marketing on websites and social media, there were no significant changes observed over time in England which was in contrast to the significant increases seen among adults in Canada (Figure 5). In contrast with e-cigarette marketing on websites/social media, findings showed a significant decrease in noticing e-cigarette marketing on television, radio, posters, billboards, newspapers or magazines among adults in England, which was not evident in Canada and the US (Figure 6). Within England, e-cigarette marketing is prohibited in newspapers,

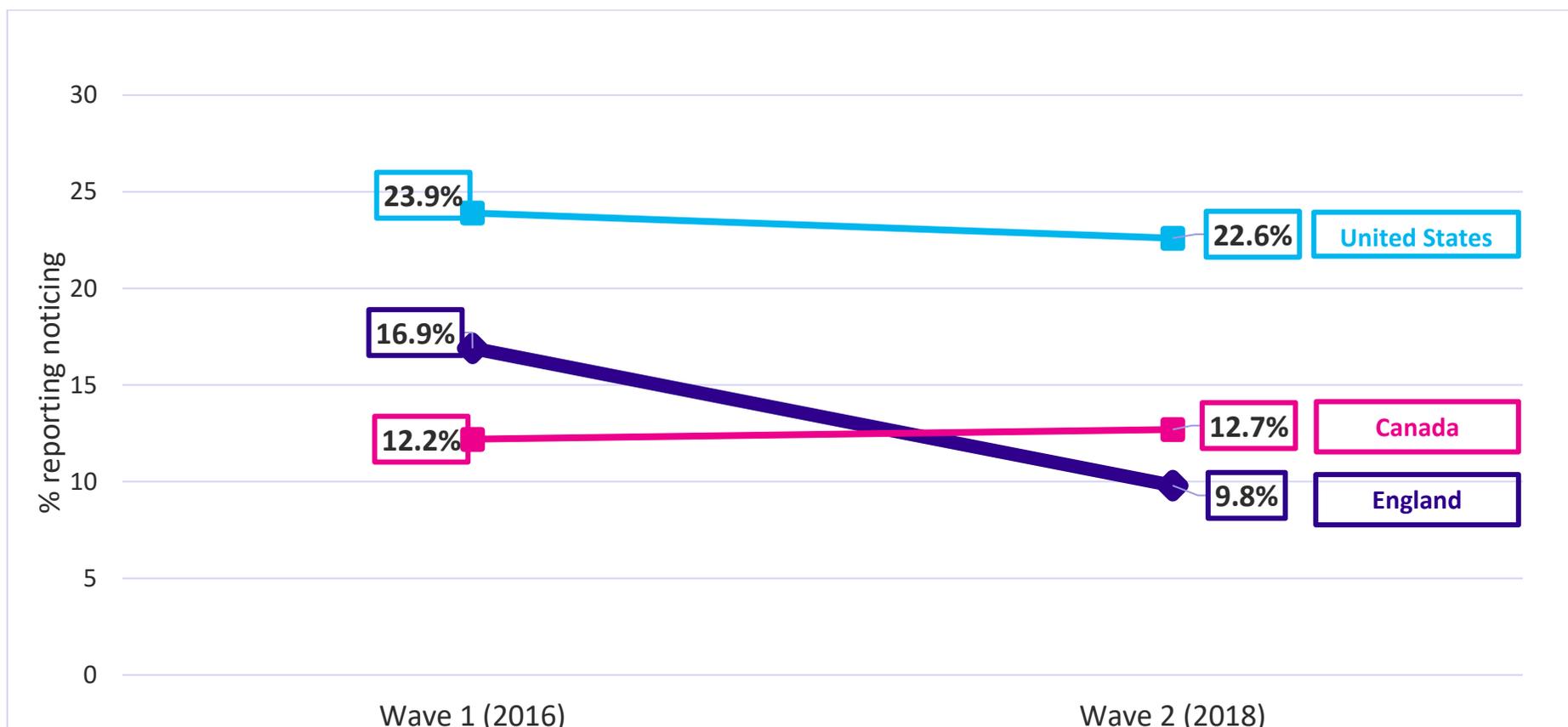
magazines, television and radio, but is permitted on billboards and posters.³

Figure 5. Trends in noticing e-cigarette marketing on websites/social media among adults



Note: Shows combined data for all adult groups (18-24 and 25+), smokers, vapers, dual users, or former smokers/vapers. Within England, marketing of e-cigarettes is prohibited on websites and social media.

Figure 6. Trends in noticing e-cigarette marketing on television, radio, posters, billboards, newspapers or magazines among adults



Note: Shows combined data for all adult groups (18-24 and 25+), smokers, vapers, dual users, or former smokers/vapers. Within England, marketing of e-cigarettes is prohibited in newspapers, magazines, television and radio, but is permitted on billboards and posters. In Wave 1, (2016) billboard and poster information was not collected separately, so it cannot be separated out in the results shown for longitudinal analysis.

Levels and trends among young adults (aged 18-24) compared to adults aged 25+

Between 2016 and 2018, there was no significant change in noticing e-cigarette marketing on websites/social media among young adults aged 18-24 or adults aged 25+ in England (Figure 7). Similarly, there was no significant change observed in noticing e-cigarette marketing on TV, radio, posters, billboards, newspapers or magazines among young adults (aged 18-24) in England (Figure 7). In contrast, there was a significant decrease in noticing e-cigarette marketing through these channels among adults aged 25+ in England (Figure 8).

Figure 7. Trends in noticing e-cigarette marketing on websites/social media among adults in England



Note: Within England, e-cigarette marketing is prohibited on websites and social media. All adults (18-24 and 25+) are smokers, vapers, dual users, or former smokers/vapers.

Figure 8. Trends in noticing e-cigarette marketing on television, radio, posters, billboards, in newspapers or magazines among adults in England

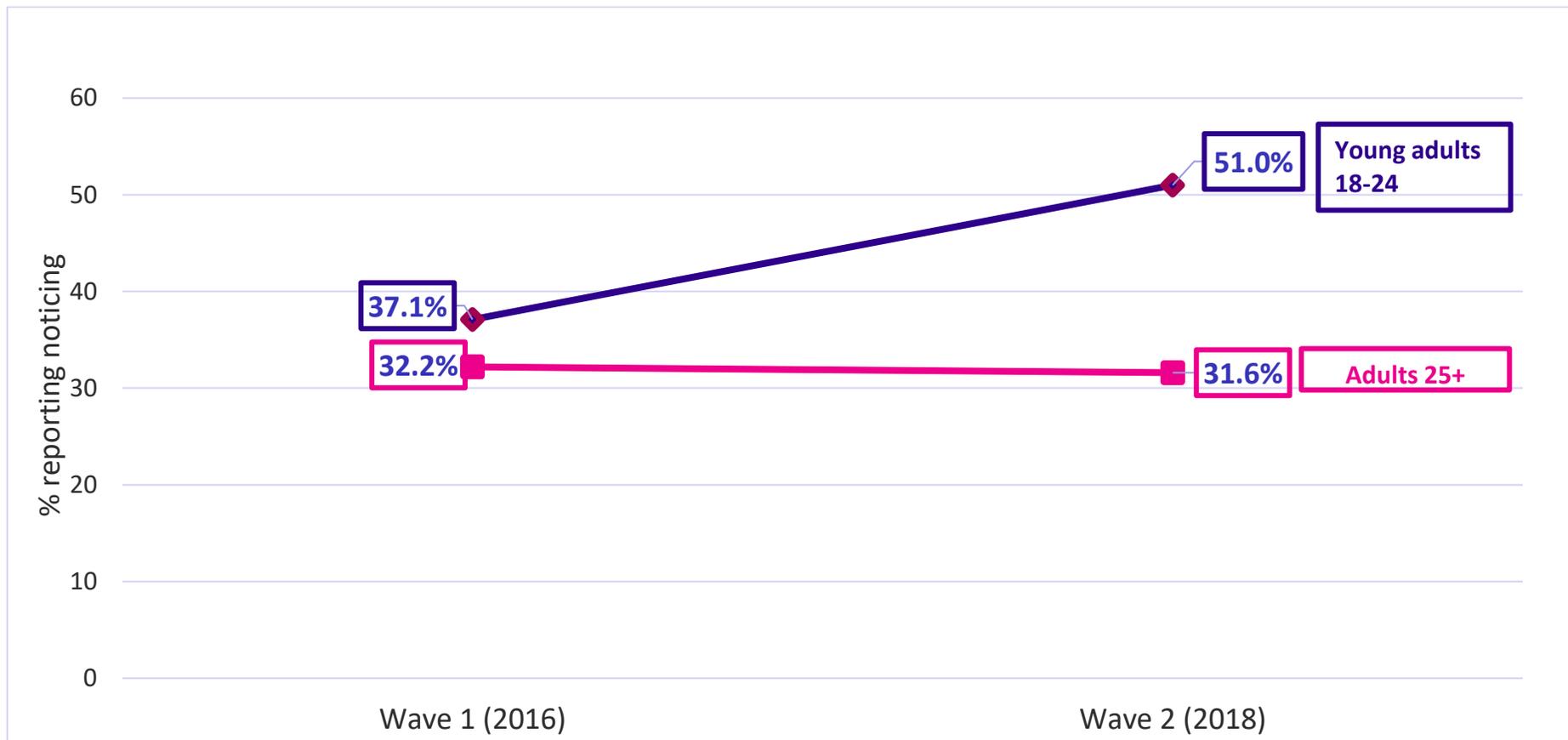


Note: Within England, marketing of e-cigarettes is prohibited on newspapers, magazines, television and radio, but is permitted on billboards and posters. All adults (18-24 and 25+) are smokers, vapers, dual users, or former smokers/vapers.

Between 2016 and 2018, findings showed a significant increase in noticing e-cigarette marketing inside shops selling cigarettes among young adults (aged 18-24) in England. By 2018, 51.0% of young adults in England reported having noticed e-cigarette marketing inside shops selling cigarettes, where e-cigarette marketing is permitted in England. This increase was in stark contrast to the relatively stable trends observed

among adults aged 25+ in England (Figure 9).

Figure 9. Trends in noticing e-cigarette marketing inside shops selling cigarettes among adults in England



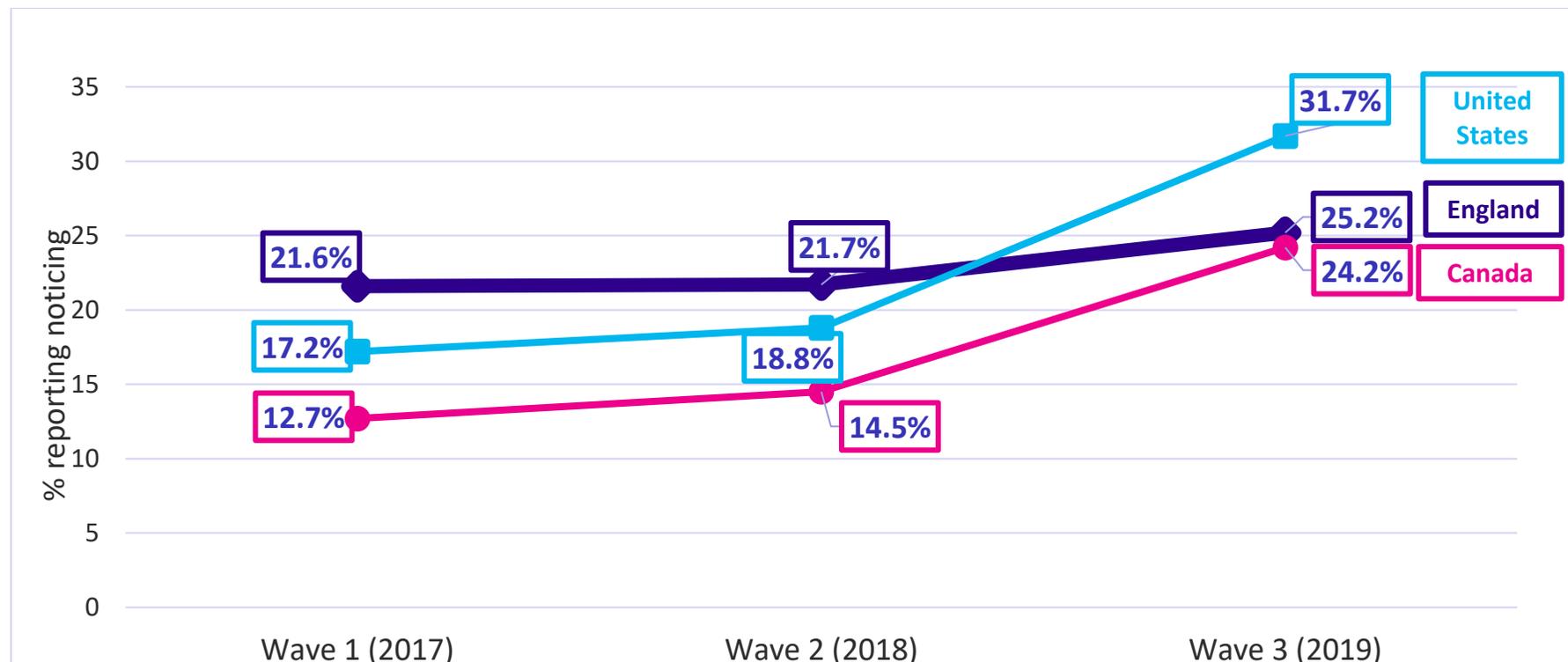
Note: Within England, e-cigarette marketing is permitted inside shops selling e-cigarettes. All adults (18-24 and 25+) are smokers, vapers, dual users, or former smokers/vapers.

4.3.3 Levels and Trends in Noticing E-cigarette Marketing among Youth (2017-2019)

Trends in England compared to the US and Canada

From 2017 to 2019, there was a significant increase in noticing things that promote e-cigarettes often/very often among youth in England; by 2019, 25.2% of youth in England reported noticing things that promote e-cigarettes often/very often in the past 30 days (Figure 10). However, the increase in noticing things that promote e-cigarettes often/very often was even greater in the US and Canada during this period (2017 to 2019) than it was in England.

Figure 10. Trends in noticing things that promote e-cigarettes often/very often in the past 30 days among youth sample

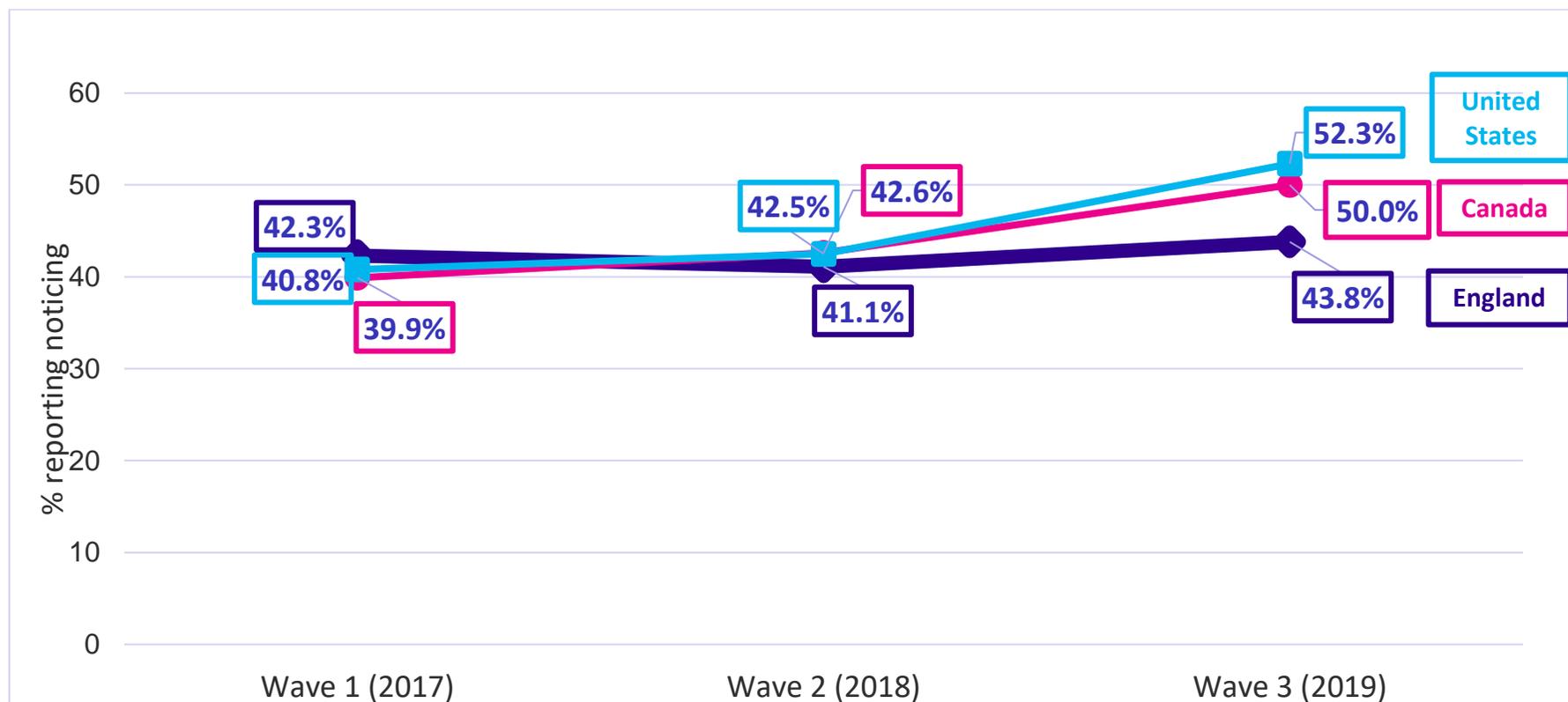


Note: Shows combined data for all youth groups (smokers, vapers, dual users, former smokers/vapers and never users).

Regarding specific locations/media channels, findings showed that from 2017 to 2019, there was no significant change in noticing e-cigarette marketing on websites/social media among youth in England (where e-cigarette marketing through these channels is prohibited).⁴ Despite the relatively stable trends seen in England compared to the US and Canada, the proportion of youth who reported noticing e-cigarette marketing on websites/social media between 2017 and 2019 was high (41.1%- 43.8%; Figure 11).

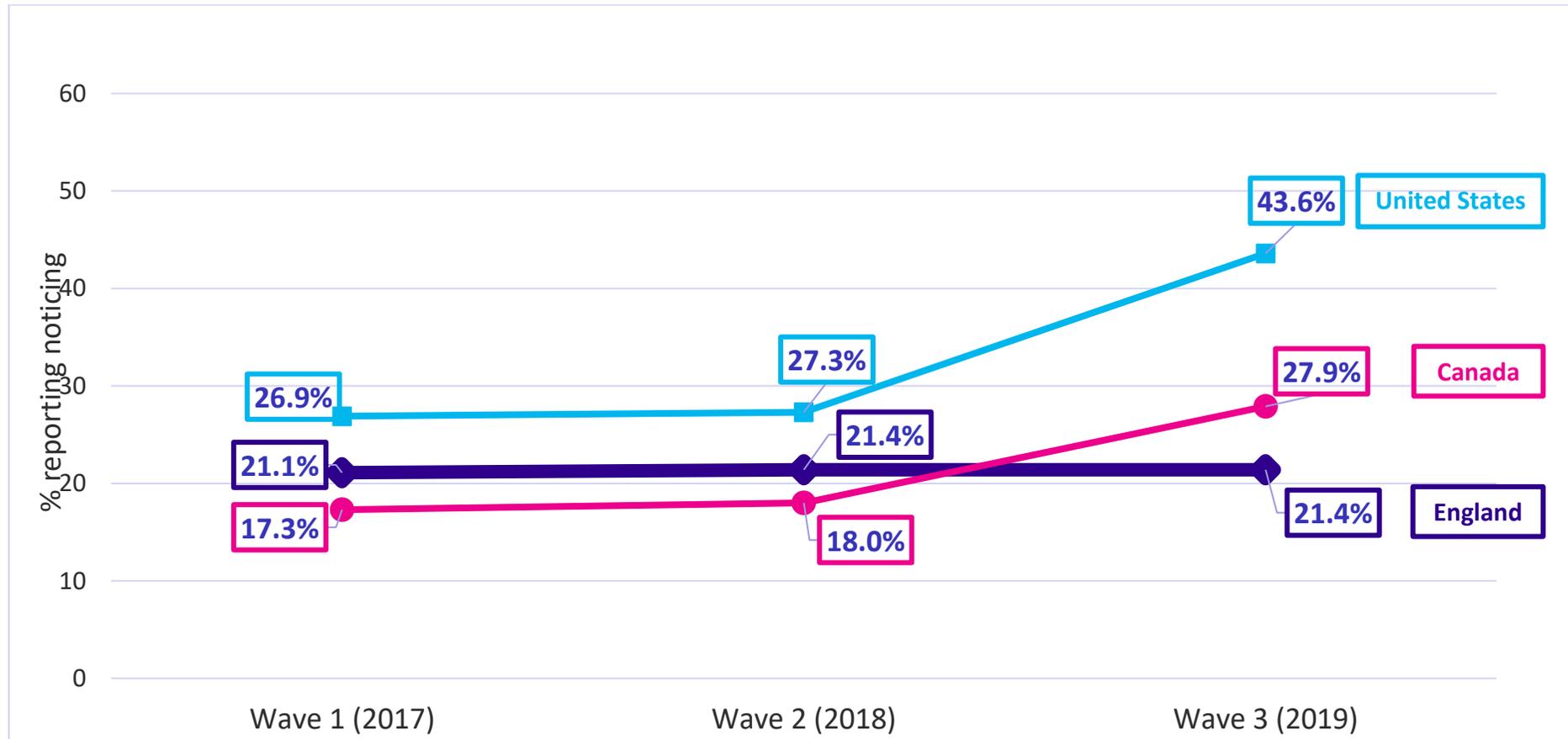
Between 2017 and 2019, there was no significant change in noticing e-cigarette marketing on television/radio among youth in England (Figure 12), where marketing through these channels was also prohibited.³ This was in stark contrast to the significant increases observed over this time period in the US and Canada.

Figure 11. Trends in noticing e-cigarette marketing on websites/social media among youth sample



Note: Within England, e-cigarette marketing is prohibited on websites, social media, television and radio. Shows combined data for all youth groups (smokers, vapers, dual users, former smokers/vapers and never users).

Figure 12. Trends in noticing e-cigarette marketing on television or radio among youth sample



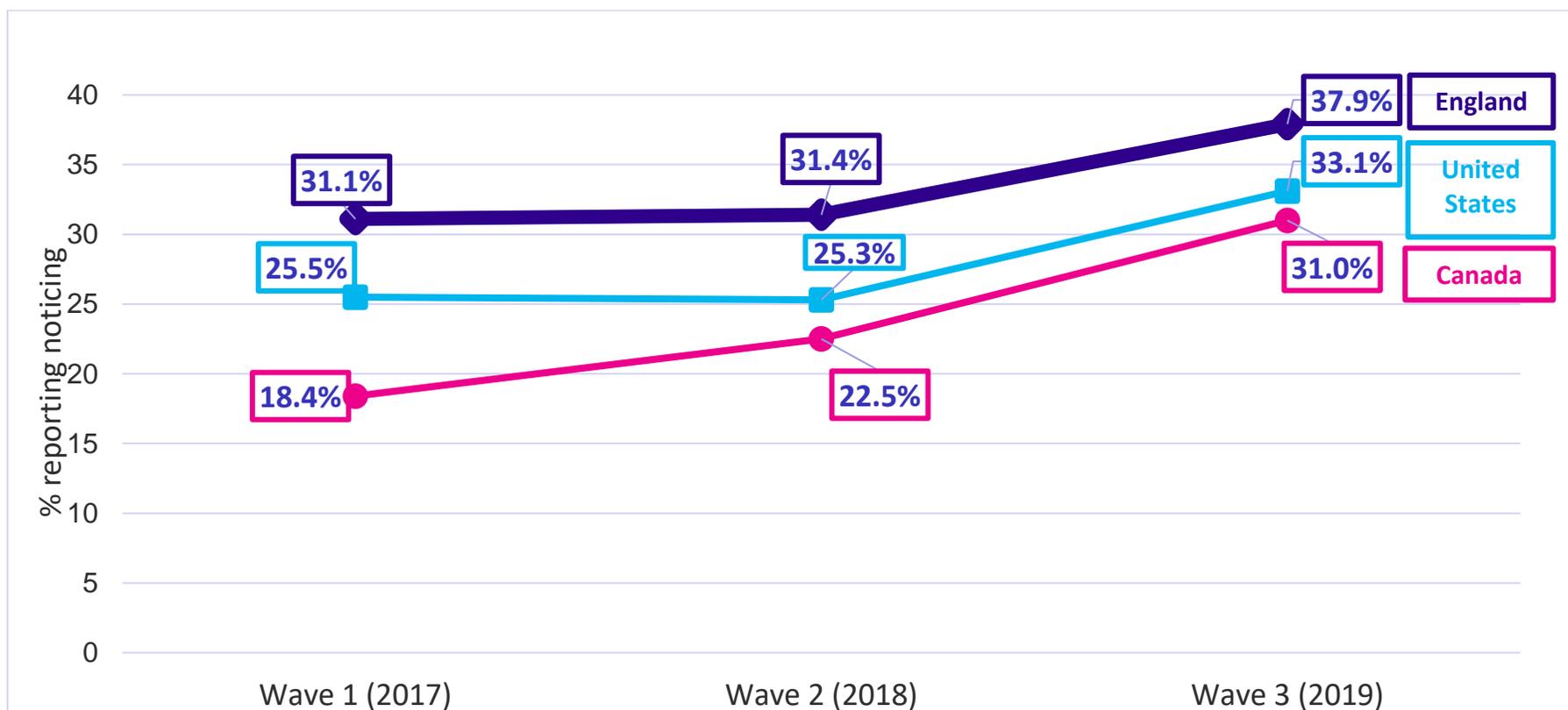
Note: Within England, e-cigarette marketing is prohibited on websites, social media, television and radio. Shows combined data for all youth groups (smokers, vapers, dual users, former smokers/vapers and never users).

There was a significant increase in noticing e-cigarette marketing on billboards or posters between 2017 and 2019 among youth in England, where e-cigarette marketing through this channel is permitted. By 2019, 37.9% of youth reported noticing e-cigarettes via billboard/poster advertisements (Figure 13).

Findings showed a significant increase in noticing marketing in taxis or on buses/public transit between 2018 and 2019 among youth in England, where marketing in taxis or on buses/public transit is permitted (Figure 14). A more pronounced increase was observed among youth in England than those in the United States over the same time period (Figure 14).

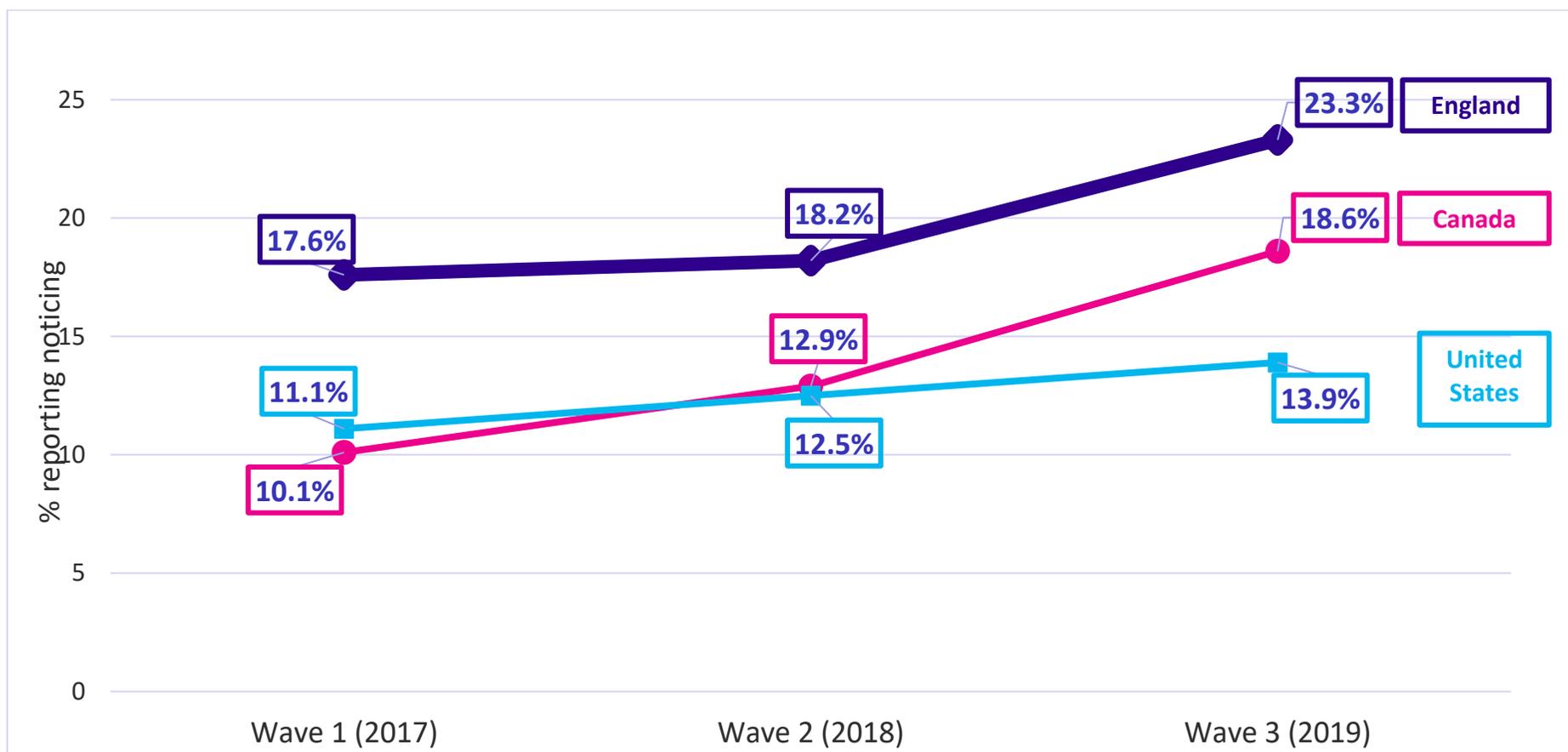
A small proportion of youth in England (5.5%-5.8%) reported noticing e-cigarette marketing via email/text messages between 2017 and 2019 (Figure 15). When comparing cross-country trends, there was no significant change over time among youth in England which was in contrast to the increases observed in the United States and Canada over the same time period (Figure 15).

Figure 13. Trends in noticing e-cigarette marketing on billboards/posters among youth sample



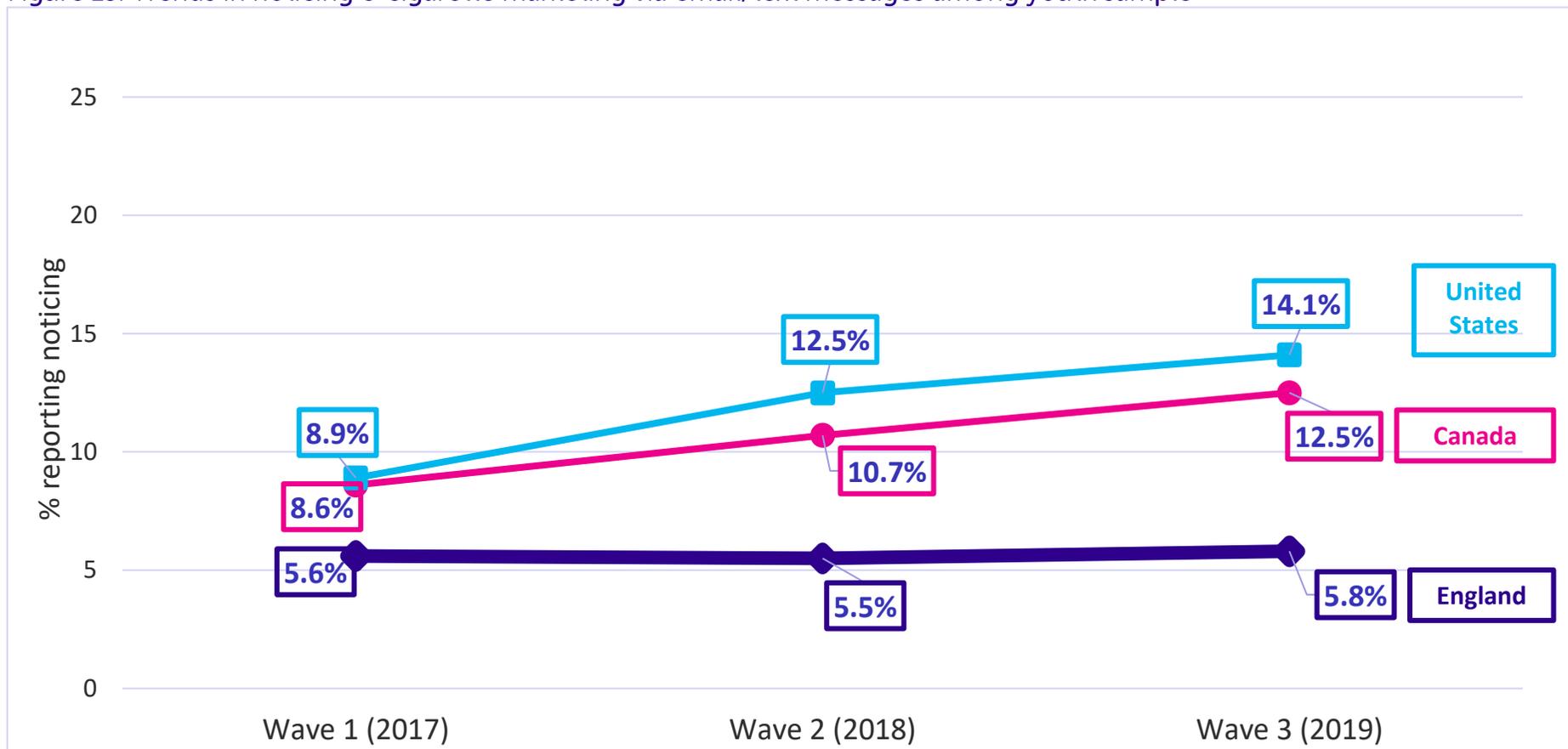
Note. Within England, e-cigarette marketing is permitted on billboards/posters. Shows combined data for all youth groups (smokers, vapers, dual users, former smokers/vapers and never users).

Figure 14. Trends in noticing e-cigarette marketing in taxis or on buses/public transit among youth sample



Note: Within England, e-cigarette marketing is permitted in taxis, buses or public transport. Shows combined data for all youth groups (smokers, vapers, dual users, former smokers/vapers and never users).

Figure 15. Trends in noticing e-cigarette marketing via email/text messages among youth sample

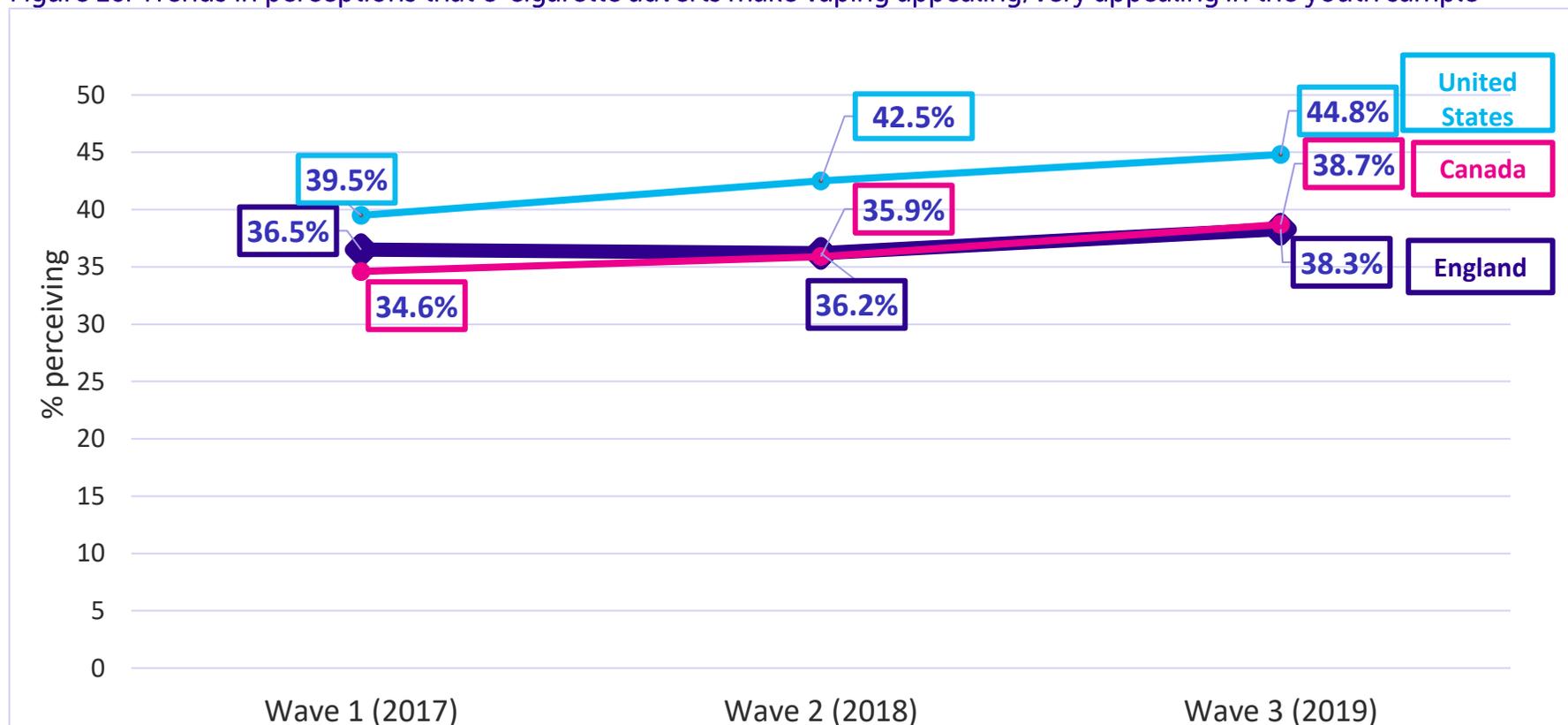


Note: Within England, e-cigarette marketing is permitted via email/text messages. Shows combined data for all youth groups (smokers, vapers, dual users, former smokers/vapers and never users).

Perceived appeal of e-cigarette marketing & intended audience for e-cigarette adverts in youth

Across all three waves, 36.2%-38.3% of youth within England reported that e-cigarette adverts made vaping seem 'appealing' or 'very appealing' (Figure 16). Within England, advertising/marketing content restrictions are in place to prevent adverts from being appealing to minors.^{4,5} There was no significant difference in the change in perceived appeal over time (2017-2019) in England compared to the increases seen in Canada and the US; however, youth in England were significantly less likely to report that e-cigarette adverts made vaping seem appealing/very appealing, compared to youth in the US in Wave 3 (2019).

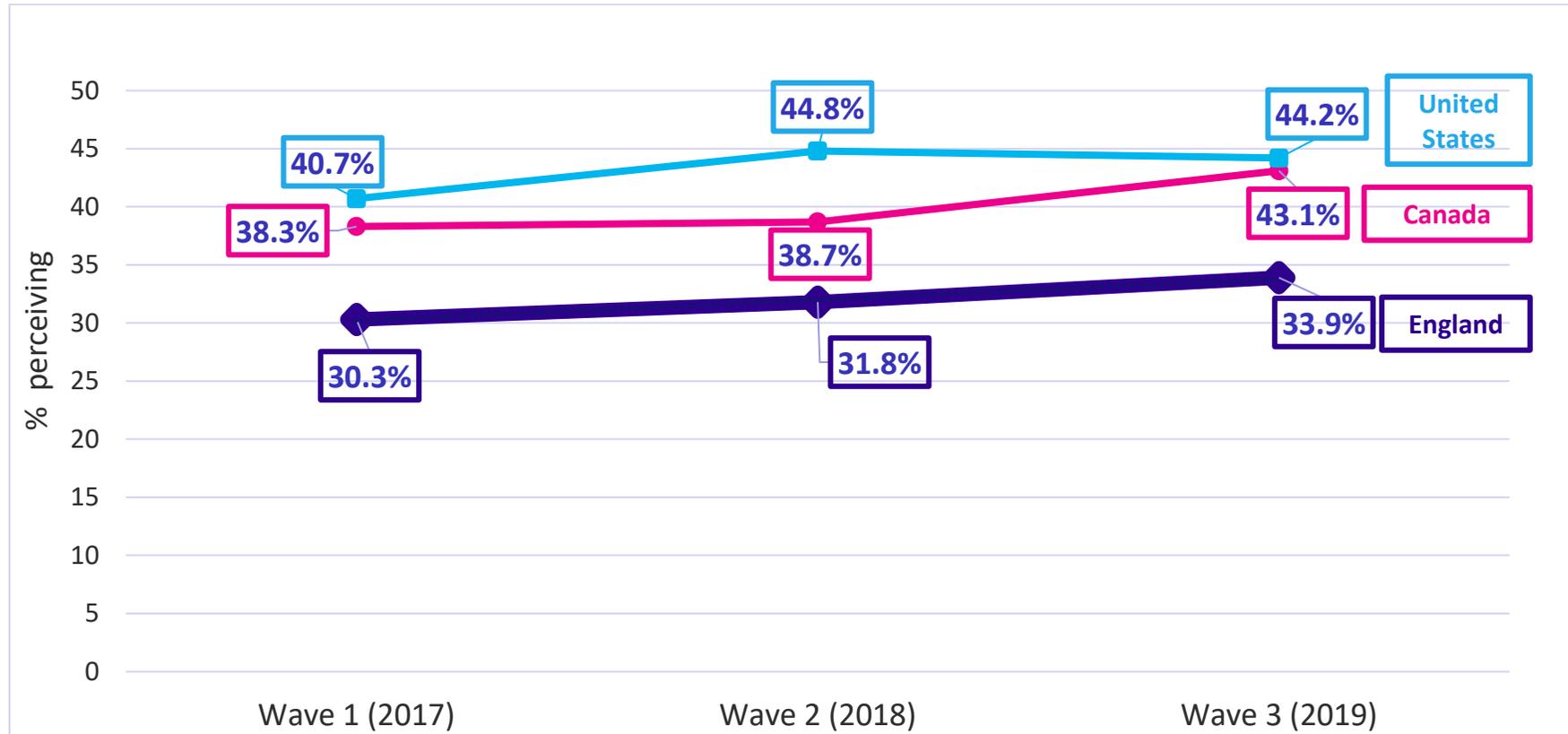
Figure 16. Trends in perceptions that e-cigarette adverts make vaping appealing/very appealing in the youth sample



Note: Shows combined data for all youth groups (smokers, vapers, dual users, former smokers/vapers and never users).

Within England, there was a significant increase in youth reporting that they believed that e-cigarette adverts targeted non-smokers; in 2019, 33.9% of youth reported that e-cigarette adverts were meant for people who don't smoke (Figure 17). The change over time in England was not significantly different from those observed in the US and Canada between 2017 and 2019. However, youth in the US and Canada were more likely to think that e-cigarette adverts were meant for people who do not smoke than youth in England.

Figure 17. Trends in perceptions that e-cigarette adverts are meant for people who don't smoke in the youth sample



Note: Shows combined data for all youth groups (smokers, vapers, dual users, former smokers/vapers and never users).

5. Discussion

This report brings together two complementary studies to provide a description of e-cigarette advertising spend, advertising content, compliance with advertising regulations, and reported noticing and appeal of e-cigarette marketing. Study A consisted of an analysis of e-cigarette advertising expenditure in the UK in 2019 and a detailed content analysis of a sample of advertising taken from the same year. Study B consisted of an analysis of survey data from the International Tobacco Control (ITC) Project, which measured reported noticing of e-cigarette marketing by young people (16 to 19-year-olds) between 2017 and 2019, and adults (18 years and older) between 2016 and 2018 in a broad range of marketing channels.

The overall aim of this report was to assess compliance with and impact of the current UK e-cigarette marketing regulations, first introduced in 2016 and 2017. These regulations were intended to protect people who do not smoke, particularly young people, from using e-cigarettes. Several conclusions can be drawn from the results.

In general, e-cigarette advertising in the UK complies with current regulations

The advertising expenditure data from Study A showed that, relative to other channels, only a small amount (0.1%) of spending was reported in channels that are not permitted under the TRPR, press and online, in 2019 (Table 4). This suggests there is good compliance in terms of ad placement with the TRPR in traditional paid-for media channels (social media was not included in the expenditure analysis as no data were available).

The detailed content analysis conducted in Study A additionally demonstrated good compliance with ASA CAP Code Rule 22 in all channels except for social media (Instagram). All of the Instagram adverts in the sample were considered to be in breach of CAP Code Rule 22.12.

Youth noticing of e-cigarette marketing has stabilised in regulated channels in England

Results from the ITC survey indicate that the TRPR has prevented further increases in youth noticing e-cigarette marketing in prohibited channels in England. Among young people (16 to 19-year-olds) noticing of e-cigarette marketing was relatively stable on prohibited channels, including websites/social media (Figure 11) and television/radio (Figure 12), in England between 2017 and 2019, whereas it increased in the same channels in the US and Canada, where marketing was not uniformly prohibited.

Adult noticing of e-cigarette marketing has decreased on television, radio, posters, billboards, newspapers and magazines in England

Among adults (aged 18 and over) who currently or formerly smoked/vaped, there was a significant decrease in noticing e-cigarette marketing on television, radio, posters, billboards, newspapers or magazines between 2016 and 2018 in England, which was not evident in Canada and the US (Figure 6). Under the TRPR, e-cigarette marketing on television, radio, newspapers and magazines was prohibited in England, whereas e-cigarette marketing in

those same channels was not uniformly banned in Canada and the US at the time of the surveys. This finding suggests the decrease observed may be a result of TRPR prohibitions. However, as posters and billboards are permitted channels in England and were also included in the measure, it is not possible to conclusively determine whether the overall decrease was attributable to TRPR prohibitions. ITC survey data shows the decrease in noticing e-cigarette marketing observed across these channels in England occurred in adults aged 25 and over, while noticing remained stable in adults aged 18 to 24 years old in these channels in the same time period (Figure 8).

Young people notice e-cigarette marketing in permitted channels in England, and their overall noticing of e-cigarette marketing increased

Study B found that despite relatively stable levels of noticing e-cigarette marketing in prohibited channels, there was an overall increase in young people reporting noticing things that promote e-cigarettes between 2017 and 2019 (Figure 10). Noticing of marketing on billboards and posters, and taxis, buses and public transport, which are permitted channels in England, have particularly increased (Figure 13 and 14). This rise in noticing may be as a result of a displacement in marketing expenditure towards permitted channels post-TRPR or an overall increase in the amount of e-cigarette marketing. However, as only expenditure data from 2019 was analysed in Study A, trends in marketing spending, which is a good indicator of changes in marketing activity across channels, could not be investigated here.

Young people generally notice e-cigarette marketing more than adults across almost all channels

Young people noticed e-cigarette marketing more than adults across nearly all channels, with a particularly stark contrast observed for marketing on billboards (31.4% of young people vs 5.9% of adults reporting noticing) (Figure 2). Similarly, young people who had never smoked or vaped reporting noticing e-cigarette marketing more than adults who smoke across almost all channels (Figure 4). This is concerning as the intended purpose of UK regulations on e-cigarettes is to minimise promotion to young people, whilst allowing promotion to adults who smoke and vape.

No evidence could be found in the literature to suggest young people generally notice marketing more than adults, therefore it is unclear why young people reported higher noticing of e-cigarette marketing. Younger adults (18 to 24-year-olds) also reported noticing e-cigarette marketing more than older adults (25 years old and older) across all channels examined (Figure 3) suggesting levels of noticing e-cigarette marketing may be associated with age.

Young people notice e-cigarette marketing on websites and social media, which is more challenging to regulate

Study B found noticing of e-cigarette marketing on websites and social media remained stable but high among young people between 2017 and 2019 (41.1%– 43.8%) (Figure 11). As seen across almost all channels, young people noticed e-cigarette marketing on websites and social media more than adults (41.1% of young people vs 14.0% of adults reported noticing in 2018) (Figure 2). From the survey data it is not possible to determine which websites or social media

platforms young people noticed e-cigarette marketing on or the format of the content (e.g. young people may have included noticing of user generated e-cigarette content, as well as e-cigarette brand generated advertising in their responses). However, the high level of reported noticing by young people indicates current regulations are not effectively limiting exposure of young people to content they perceive to be promoting e-cigarettes on social media.

Study A included a detailed content analysis of a sample of adverts from one specific social media platform, Instagram, to determine compliance with current regulations. In line with ASA rulings in December 2019, all Instagram posts on the public account in the sample were considered to be in breach of the TRPR (CAP Code 22.12) due to the ability for content to be pushed onto other users without them seeking it out or providing opt-in consent.⁹ Consequently, Instagram users may have encountered e-cigarette advertising through search and explore functions on Instagram.

Private Instagram accounts were also deemed to be in violation of the TRPR, as none of the accounts in the sample contained only factual content about a product.

Study A and B provide complementary evidence to suggest stronger enforcement of e-cigarette advertising regulations on social media is needed, to improve compliance with TRPR (Study A) and protect young people from high levels of e-cigarette marketing exposure (Study B).

Marketing of e-cigarettes is appealing to more than a third of young people

Study B found that more than one-third (36.2-38.3%) of 16 to 19 year olds believed that e-cigarette marketing made vaping seem either appealing or very appealing, despite the introduction of the CAP Code Rules (22.9 – 22.11) to limit appeal to young people and children (Figure 16).

In Study A, good compliance with ASA Codes was observed in traditional paid-for advertising channels, including for the three codes relating to youth: 22.9 (appeal to under 18s), 22.10 (depiction of people under 25) and 22.11 (adverts directed at under 18s through media placement). However, due to ambiguity in the CAP Code, compliance with some rules aimed to protect young people was difficult to determine. In 34% of ads, it was not possible to tell if people aged under 25 were depicted (CAP Code Rule 22.10). Additionally, in the majority of adverts (62%) it wasn't possible to tell if they were targeted at under 18s (CAP Code 22.11), as no information on the placement of the ad was available. For example, the researchers could not determine whether outdoor adverts appeared close to schools, in what context internet adverts appeared, or which films were shown after the cinema ads.

Further consumer research is needed, as current regulations do not appear to be limiting e-cigarette marketing's appeal to young people. Additionally, compliance to regulations should be made easier to assess with clearer CAP rules or ASA guidance.

Young people increasingly believe that e-cigarette marketing is meant for people who do not smoke

Data from Study B suggests around one-third of young people believe e-cigarette marketing targets people who don't smoke. That proportion has increased from 30.3 % in 2017 to 33.9% in 2019, a small but statistically significant increase (Figure 17). This suggests current e-

cigarette marketing does not effectively target the intended audience of the product, which according to current UK regulations should be adults who currently smoke or vape.

Study A showed that although 75% of adverts complied with CAP Code Rule 22.8 in not encouraging e-cigarette use among non-smokers and non-nicotine-users, 25% were classified as 'not sure'. Adverts where there was uncertainty had imagery or messages that may appeal to a broad range of people and did not explicitly state they were for existing adult vapers and smokers only or were visible on public Instagram profiles. Again, further consumer research is needed to determine which features make adverts attractive to people who have never smoked, to ensure they are clearly prohibited by the CAP Code.

Consistent with current regulations, most e-cigarette advertising does not focus on smoking cessation

Study A found that messages relating to smoking cessation and comparing e-cigarettes with tobacco only featured in 11% of ads. The CAP Code Rule 22.5 includes the statement that 'e-cigarettes may be presented as an alternative to tobacco' provided marketers 'do nothing to undermine the message that quitting tobacco use is the best option for health'. However, CAP Code Rule 22.5 also states that medicinal claims, which the ASA deems smoking cessation claims to be, are prohibited. Therefore, it is possible the lack of reference to smoking cessation is due to marketers being cautious of breaching CAP Code Rule 22.5 by making medicinal claims. The ASA advises marketers should not claim or imply that their product can act as a smoking cessation device, unless it is authorised for those purposes by the MHRA. It was observed that the vast majority of adverts (94%) did not contain any medicinal claims, while the remaining 6% of adverts were coded as 'not sure' as it was considered that the ad created an implicit association between quitting smoking and the brand or product advertised. Around one-fifth (21%) of adverts explicitly stated that the product was not a cessation product.

Requirements for consumer protection messages are unclear, and the messages are not easy to read when provided

Rule 22.7 in the ASA CAP Code requires e-cigarette adverts to state clearly if the product contains nicotine and around three-quarters (76%) of adverts studied in Study A contained such a statement. Six of the adverts (5% of the overall sample) without nicotine content statements were for nicotine-containing products and should clearly have included a statement. However, there is uncertainty whether the remainder of the adverts which did not contain nicotine statements were in breach of Rule 22.7. These adverts either promoted devices or e-liquid shortfills, to which nicotine may or may not be added, or were adverts which did not directly refer to a specific product but which indirectly promoted the name of a brand or specialist retailer whose product range included nicotine-containing products.

It is not mandatory for e-cigarette adverts to include any other consumer protection information; however, a wide range of consumer protection messages were observed in the sample (Study A). These included age restrictions (71%), statements on the addictiveness of nicotine (36%) and statements that e-cigarettes were intended for adult smokers (33%). Nevertheless, these consumer protection messages were considered to have low visibility: in nearly 4 in 10 adverts (38%), consumer protection information (including the mandatory statement on nicotine content) occupied less than 1% of the overall ad space. The consumer

protection messages were considered to be easy to read in 35% of adverts (in the context of the overall ad taking into account font, colour and design).

Study Strengths and Limitations

Study A

To our knowledge, this was the first systematic content analysis of whether e-cigarette advertising in the UK complies with current regulations. The codebook developed for the content analysis was robustly piloted, and an independent double-coding method increased accuracy and reduced bias. Both the content analysis and spend analysis samples captured data from across a whole year, and the advertising sample was randomly selected, meaning it was not influenced by seasonality.

The advertising spend analysis had some limitations. Although extensive, it is possible not all relevant advertising activity was captured in the advertising spend data. The data, purchased from a commercial supplier (Nielsen) consists primarily of estimated spend calculated using statistical projections rather than actual spend, and its accuracy depends on the precision and coverage of the raw data obtained from various sources. Advertising expenditure is not always a direct indicator of advertising volume, as cost of advertising in different channels may differ. A further limitation is that no spend data or examples of e-cigarette advertising at the point-of-sale were collected by the supplier, so this channel could not be examined. Advertising spend data in social media for e-cigarettes in the UK are not collected or estimated by Nielsen.

In the content analysis, as with any similar study, the adverts were scrutinised in detail. The coding approach does not reflect how a consumer typically responds to marketing in the real world and means importance may be assigned to some elements of the adverts which might not normally be noticed by consumers. Potential appeal to those under 18 was assessed by the researchers according to ASA guidance; however, this may not closely replicate what under 18s themselves might find appealing. All elements of an ad are the result of a deliberate decision by the advertiser so are worth studying; however, further consumer research is needed to provide a more rounded assessment of marketing and the impact of content on consumer opinion and behaviour.

The social media sample was restricted to Instagram; practices may differ on other platforms. The Instagram sample was not designed to be representative of all advertising activity on Instagram. Additionally, subsequent developments such as Instagram's ban on influencers from promoting vaping products in December 2019 may have affected e-cigarette marketing practice since the sample of adverts was taken from January to December of 2019.

Study B

A strength of using data from the ITC surveys is that it allowed for a comparison of youth and adult noticing of e-cigarette marketing using the same methodology. It also allowed for a longitudinal analysis of trends in noticing and appeal of e-cigarette marketing among youth.

One limitation is that data before the introduction of the TRPR and subsequent CAP/BCAP rules were not available. Consequently, it was not possible to evaluate the direct impact of regulations on e-cigarette marketing noticing and appeal in England. However, comparing the ITC data in England with ITC data from US and Canada, countries where e-cigarette marketing regulation was less comprehensive at the time of the surveys, using the same methodology,

provides some insight on the impact of TRPR regulations on limiting perceived exposure of consumers to e-cigarette marketing.

Another limitation was that the ITC youth sample included participants who had never smoked, whereas the adult sample included only adults that had or currently smoked or vaped. As such, comparisons of noticing e-cigarette marketing among youth versus adults who had never smoked could not be made. Furthermore, we could not draw inferences regarding the impact of e-cigarette marketing on adults for whom the marketing was not intended (i.e. adults who do not smoke or vape).

Regarding comparison with the content analysis, the youth survey in Study B captures potential appeal by 16 to 19-year-olds; whereas Study A assessed appeal to under 18s according to the CAP Code, therefore slightly different age ranges are considered when examining appeal.

Additionally, due to the wording of questions in the Wave 1 (2016) ITC adult survey, billboards and posters (i.e., permitted channels of e-cigarette marketing in the UK) could not be separated out from channels prohibiting e-cigarette marketing in the UK (i.e., television, radio, newspapers and magazines); thus, trends in noticing e-cigarette advertising among adults could not be analysed in exclusively prohibited versus exclusively permitted channels.

6. Policy Recommendations

Cancer Research UK's policy on e-cigarettes

Cancer Research UK is determined to reduce smoking and deaths from smoking-related cancers and supports evidence-based measures to help people quit. We discourage people from taking up smoking and support those who do to quit.

E-cigarettes are a relatively new product and, while they are not risk-free and their long-term effects are unknown, the evidence so far indicates that they are far less harmful than smoking and can help some people to quit. People who have never/not smoked, particularly young people, should never use e-cigarettes.

E-cigarettes should be effectively regulated to ensure they are only used by people who smoke when making a quit attempt or to prevent relapse.

These policy recommendations have been developed by Cancer Research UK in consultation with the research teams from the two studies. These recommendations reflect Cancer Research UK's own position and not that of the research teams.

Effective and appropriate regulation is paramount to ensure that e-cigarettes are safe, accessible and appropriately promoted to people who wish to use them to quit smoking or to prevent relapse, whilst also protecting those who have never smoked from taking up e-cigarettes. The TRPR and ASA's CAP/BCAP regulations have put in place measures to protect people who do not smoke, and young people in particular, from being unnecessarily exposed to and targeted by e-cigarette advertising. However, it is important that e-cigarettes can be effectively marketed to people who smoke to encourage them to make the switch to this less harmful alternative.

As with all regulations, it is imperative to assess whether these regulations are fit for purpose. Study B finds that in channels where advertising is prohibited in England, young people's noticing of e-cigarette advertising has not increased to the same extent it has in the US and Canada – suggesting that the TRPR has helped limit this age group from noticing e-cigarette advertising in the UK. However, this study also found relatively high rates of noticing e-cigarette marketing among young people compared to older age groups across most advertising channels.

The study also suggests that these restrictions may have had unintended consequences for adults who smoke and/or vape. Study B found that there was a reduction in the proportion of adults who smoke and/or vape noticing e-cigarette marketing across a number of marketing channels between 2016 and 2018 – this group should be considered the target audience for this type of marketing.

Our findings highlight key regulatory gaps that should be addressed in order to provide young people, and adults who have never smoked, further protections, as well as opportunities for e-cigarette advertising to better reach the appropriate target audience of current or former smokers.

The ASA CAP/BCAP rules require further guidance and amendments to ensure e-cigarette marketing is fit-for-purpose and is providing consumers with the information they need

Study A found that, in the traditional advertising channels examined, there was largely good compliance with ASA CAP Rules. Study B on the other hand showed that e-cigarette adverts remain appealing to young people, with a third of youth thinking that these adverts target people who do not smoke. These findings suggest that, despite relatively good compliance, the CAP/BCAP rules may not be sufficiently effective at reducing appeal of adverts to young people nor informing people of the intended audience.

Ensure e-cigarette adverts appeal to the intended target audience and are addressing barriers to switching

Evidence so far shows that as a category of products, nicotine-containing e-cigarettes are far less harmful than smoking and can be an effective cessation tool. To reduce the impact of smoking in the UK, it is important that people who smoke are encouraged to quit and are presented with a range of tools to help them, including e-cigarettes. A 2020 survey by Action on Smoking and Health (ASH) found that some of the main reasons people who smoke were not using e-cigarettes were: not wanting to substitute one addiction for another, not thinking e-cigarettes are sufficiently safe, not wanting to or not thinking they needed to quit, and not thinking e-cigarettes would help to them to quit or cut down.⁵⁶ Given the relative safety of e-cigarettes compared with tobacco, and the evidence so far on their utility as a cessation tool, it is important that e-cigarette manufacturers and retailers target their products and marketing to people who smoke and create adverts that address these barriers preventing people from switching.

Based on this, Cancer Research UK believes that **the ASA should clarify the CAP/BCAP (CAP Rule 22.5, BCAP Rule 33.5) prohibiting e-cigarette marketing communications from containing unverified medicinal claims to ensure that companies are aware of exactly what can and cannot be said when presenting e-cigarettes as a less harmful alternative to smoking.** Additional research and consumer testing on communications is needed to better understand what regulations would be most effective for ensuring that adverts are exclusively targeting and primarily appealing to people who smoke and/or vape.

The current advertising rules only apply to non-medicinal vaping products and accessories. E-cigarettes regulated under the MHRA as a smoking cessation tool would be allowed to make cessation claims and may be more effective at promoting them to people who smoke. However, currently no e-cigarettes on the UK market are licensed by MHRA. **Cancer Research UK supports proportionate MHRA licensing of e-cigarettes as medicines which are proven to support smoking cessation, which should be available on general sale, for adults 18 and over, with a reduced VAT of 5% in line with Nicotine Replacement Therapy.** Research should also be conducted to identify and find solutions to address the barriers preventing manufacturers from seeking such licensing for their e-cigarette products.

Reduce appeal to youth

Our findings highlight that despite broadly good compliance with the regulations, over a third of young people are finding e-cigarette advertising appealing. This highlights that the current rules may not be sufficiently effective at reducing appeal to youth and shows the need for research to better understand what regulations would be most effective at limiting the appeal of e-cigarette adverts to youth.

In addition, according to the CAP/BCAP rules (CAP Rule 22.9 and 22.10, BCAP Rule 33.9 and 33.10) e-cigarette manufacturers and retailers are prohibited from having adverts that are either likely to appeal particularly to people under 18, especially by reflecting or being associated with youth culture, or by featuring people who appear to be under the age of 25 in their adverts. However, Study A found that monitoring compliance with these rules was problematic as it was sometimes difficult to define whether an advert was likely to appeal to youth or to identify the age of the characters in adverts – especially when they were depicted through graphic illustrations.

It is therefore recommended that **further clarification to guidance on the use of imagery and the depiction of people through graphic illustrations for e-cigarette adverts is needed to support the appropriate implementation of CAP/BCAP Rules 22.9/33.9 and 22.10/33.10.** Consumer testing will be necessary to ensure that the guidance effectively prevents adverts from appealing to young people.

Improve consumer protection messages

This report examined the prevalence and salience of consumer protection messages on e-cigarette adverts. These messages were designed to inform the public about the potential risks associated with using the products, discouraging use among those who should not be using these products (that is, those who do not smoke and young people), while also promoting use among the people who smoke.

It's important that consumers are informed that e-cigarettes should not be used by people who have never smoked, and in particular young people. However, this research found that such messaging was rarely present in marketing communications. **Cancer Research UK therefore recommends that CAP/BCAP rules require e-cigarette adverts to specify that they should only be used by people who smoke or used to smoke as an alternative to smoking.** As the evidence shows that there is no benefit to dual use of tobacco and e-cigarettes, **we also recommend that CAP/BCAP consumer protection messages encourage people who smoke to stop using tobacco completely and make a complete switch to e-cigarettes.** To support people making informed choices about purchasing and using vaping products, **we further recommend that consideration is given as to whether CAP/BCAP rules should require e-cigarette adverts to explicitly state that these products are not suitable for people under the age of 18. Consumer testing will be necessary to ensure such messaging is appropriate and effective whilst not deterring adults who smoke from making a switch to vaping.**

According to the current rules, e-cigarette products and accessories that do not contain nicotine but that could be used with nicotine-containing vaping products are not required to display a nicotine content statement. This made it difficult for Study A to assess compliance

with CAP/BCAP Rule 22.7 on mandatory nicotine content statements. Given advertising for these products could be implicitly promoting the use of nicotine-containing products, Cancer Research UK recommends that **non-nicotine containing products that have the capability to be used with nicotine should be included in the scope of the CAP rule requiring a mandatory nicotine content statement (CAP Rule 22.7). These consumer protection messages must notify consumers of the potential for the product to be used with nicotine-containing products, with consumer testing necessary to develop the most appropriate and effective messaging whilst not deterring adults who smoke from making a switch to vaping.**

Our research also found that the consumer protection messages that were present on adverts only took up a very small percentage of the advert, were not frequently differentiated from the ad and were not particularly salient to consumers. **Consumer protection messages on e-cigarette adverts regulated by CAP/BCAP should be consistent in size, formatting and placement and should be differentiated from the advert, with further research and testing required to identify the most appropriate requirements.** This will help to ensure that the required warnings will be highly noticeable, and therefore be better able to support consumers in making an informed choice about purchasing and using vaping products and accessories.

E-cigarette advertising must be better monitored to promote compliance and to identify opportunities to improve regulations

This report has, for the first time, provided an overview of the extent of e-cigarette marketing in the UK by examining advertising expenditure across a number of channels. To monitor and promote compliance with advertising regulations, **Cancer Research UK recommends that e-cigarette manufacturers and retailers be required to frequently report on the marketing of e-cigarettes and e-cigarette accessories to the UK Government.**

Study B identified that young people noticed e-cigarette advertising far more than adults who smoke and/or vape, particularly across outdoor advertising channels. Based on this, **Cancer Research UK recommends that the UK Government evaluate the impact that e-cigarette advertising has on influencing people's e-cigarette purchasing and vaping behaviour, and what content or features of these adverts best appeal to the target audience (that is, adults who smoke and/or vape).**

The Scottish Government have outlined plans to hold a public consultation around the detail of restricting domestic advertising and promotion of e-cigarettes in law. However, no further information about this process or the timelines for this consultation have been formally announced. **Cancer Research UK call on the Scottish Government to deliver its consultation on e-cigarette advertising regulations as early as is feasible.**

Improve compliance with social media regulation

The UK regulations state that social media content is only permitted in “non-paid-for space online under the marketer’s control” provided that the content is “factual” rather than “promotional”. However, all of the Instagram adverts in Study A were found to be in breach of this rule by including promotional content and/or originating from a public account, and Study B found that noticing was relatively high on social media for young people. This demonstrates that the current system for monitoring compliance of e-cigarette advertising on social media is not deterring violations.

By having public social media profiles, product manufacturers and retailers are in breach of regulations and risk exposing people to e-cigarette content even if they are not actively seeking it. This was highlighted by an ASA complaint against British American Tobacco (BAT) in December 2019, which concluded that public Instagram accounts (i.e. those which do not require a user to “follow” the account to view its content) are not permitted.⁹ However, Study A showed that this is not being complied with and some e-cigarette retailers and manufacturers still have their profiles freely available to all general users on Instagram (i.e. the profiles are set to “public”).

Furthermore, other research has shown that the current system for regulating digital marketing is flawed. There is inadequate systematic monitoring of online advertising as the current system relies on ad hoc complaints to identify potential breaches. In addition, the existing sanctions for non-compliance are not sufficiently meaningful.⁵⁷ In a recent consultation looking at restricting advertising of junk food online, the UK Government recommended putting in place a statutory regulator for digital advertising which would have discretionary powers to take effective action against advertisers who breach the rules, especially in cases of more serious or repeat breaches.⁵⁸

To prevent unintended exposure to e-cigarette advertising, particularly among young people who frequently use social media, and to ensure that there is better compliance with the regulation prohibiting e-cigarette advertising on social media, the findings from this report support the following recommendations:

- **The UK Government should take forward plans to implement a statutory regulator for digital advertising and especially for online harms and ensure this also apply to e-cigarette advertising. Cancer Research UK has previously called for the advertising of unhealthy food and drink to be regulated this way. The Government should also consider how to implement robust independent compliance monitoring.**
- **It should be mandatory for the social media profiles of e-cigarette manufacturers and retailers to be set to private to ensure content posted from those accounts does not appear in search or discover functions. E-cigarette advertisers and manufacturers should be prohibited from having profiles on social media platforms that do not have the functionality to apply privacy settings. If possible, access to any social media profiles should be age-verified to ensure that only those over the age of 18 are able to access the content. The TRPR (and associated CAP Rule 22.12) should be amended so that this requirement is stated explicitly in the regulation.**
- **If proactive monitoring and regulating of advertisers’ owned social media profiles and content is not possible, then other options may need to be considered. For example, the UK Government could consider legislative instruments banning social media accounts that promote e-cigarettes in any way.**

The definition of the products under the scope of TRPR should be extended

The regulations set out in the TRPR apply only to non-medicinal nicotine-containing e-cigarettes (incorporated into CAP/BCAP regulation as Rule 22.12). This legislation bans advertising of these products on certain channels to prevent undue exposure to people who should not be using e-cigarettes; namely, those who do not smoke. However, the remainder of the ASA's CAP/BCAP rules apply to all non-medicinal e-cigarette and related products, regardless of whether they contain nicotine.

This discrepancy risks exposing young people and people who don't smoke to adverts which promote non-nicotine containing products and accessories via channels they would otherwise be protected from seeing; this is concerning as people can add nicotine to non-nicotine containing vaping products, such as shortfills, and therefore these adverts may indirectly promote nicotine-containing products. As such, it is important that all advertising for e-cigarettes and related products be regulated consistently, regardless of whether they contain nicotine. **Cancer Research UK recommends that the UK Government ensure that all products or accessories which could be used with nicotine-containing vaping products be harmonised and included within the scope of the TRPR, even if they themselves do not contain nicotine.**

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Appendices

Appendix 1: CAP and BCAP Codes related to e-cigarette advertising enforced by the ASA

CAP Rule 22	BCAP Rule 33
<i>Scope: Covers all non-broadcast advertising (e.g. print, outdoor posters, cinema, online, SMS, and direct mail)</i>	<i>Scope: Covers broadcast advertising (e.g. TV, radio and on-demand services)</i>
22.1 Marketing communications for e-cigarettes must be socially responsible.	33.1 Advertisements for e-cigarettes must be socially responsible.
22.2 Marketing communications must contain nothing which promotes any design, imagery or logo style that might reasonably be associated in the audience’s mind with a tobacco brand.	33.2 Advertisements must contain nothing which promotes any design, imagery or logo style that might reasonably be associated in the audience’s mind with a tobacco brand.
22.3 Marketing communications must contain nothing which promotes the use of a tobacco product or shows the use of a tobacco product in a positive light. This rule is not intended to prevent cigarette-like products being shown.	33.3 Advertisements must contain nothing which promotes the use of a tobacco product or shows the use of a tobacco product in a positive light. This rule is not intended to prevent cigarette-like products being shown.
22.4 Marketing communications must make clear that the product is an e-cigarette and not a tobacco product.	33.4 Advertisements must make clear that the product is an e-cigarette and not a tobacco product.
22.5 Marketing communications must not contain health or medicinal claims unless the product is authorised for those purposes by the MHRA. E-cigarettes may be presented as an alternative to tobacco but marketers must do nothing to undermine the message that quitting tobacco use is the best option for health.	33.5 Advertisements must not contain health or medicinal claims unless the product is authorised for those purposes by the MHRA. E-cigarettes may be presented as an alternative to tobacco, but marketers must do nothing to undermine the message that quitting tobacco use is the best option for health.
22.6 Marketers must not use health professionals to endorse electronic cigarettes.	33.6 Advertisements must not use health professionals to endorse electronic cigarettes.
22.7 Marketing communications must state clearly if the product contains nicotine. They may include factual information about other product ingredients.	33.7 <i>Advertisements must state clearly if the product contains nicotine. They may include information about other product ingredients. (Deleted on 8th November 2018, following public consultation.)</i>

<p>22.8 Marketing communications must not encourage non-smokers or non-nicotine-users to use e-cigarettes.</p>	<p>33.8 Advertisements must not encourage non-smokers or non-nicotine-users to use e-cigarettes.</p>
<p>22.9 Marketing communications must not be likely to appeal particularly to people under 18, especially by reflecting or being associated with youth culture. They should not feature or portray real or fictitious characters who are likely to appeal particularly to people under 18. People shown using e-cigarettes or playing a significant role should not be shown behaving in an adolescent or juvenile manner.</p>	<p>33.9 Advertisements must not be likely to appeal particularly to people under 18, especially by reflecting or being associated with youth culture. They should not feature or portray real or fictitious characters who are likely to appeal particularly to people under 18. People shown using e-cigarettes or playing a significant role should not be shown behaving in an adolescent or juvenile manner.</p>
<p>22.10 People shown using e-cigarettes or playing a significant role must neither be, nor seem to be, under 25. People under 25 may be shown in an incidental role but must be obviously not using e-cigarettes.</p>	<p>33.10 People shown using e-cigarettes or playing a significant role must neither be, nor seem to be, under 25. People under 25 may be shown in an incidental role but must be obviously not using e-cigarettes.</p>
<p>22.11 Marketing communications must not be directed at people under 18 through the selection of media or the context in which they appear. No medium should be used to advertise e-cigarettes if more than 25% of its audience is under 18 years of age.</p>	
<p>22.12 Except for media targeted exclusively to the trade, marketing communications with the direct or indirect effect of promoting nicotine-containing e-cigarettes and their components which are not licensed as medicines are not permitted in the following media:</p> <ul style="list-style-type: none"> • Newspapers, magazines and periodicals • Online media and some other forms of electronic media <p>Factual claims about products are permitted on marketers' own websites and, in certain circumstances, in other non-paid-for space online under the marketer's control.</p>	

Note: Rules 22.1 – 22.11 apply to marketing communications for both nicotine and non-nicotine containing e-cigarettes and related products (e.g., e-shisha, e-hookah products), whereas Rule 22.12 relates only to unlicensed nicotine-containing products.

Appendix 2: Codebook for content analysis of e-cigarette advertising

The final codebook contained the six sections outlined below:

(a) Advertising characteristics

Section (a) of the codebook recorded the media channel in which each ad appeared and its type or size e.g., for outdoor ads, whether it was static or digital, billboard, bus shelter or transport; for press ads, the page proportion; for cinema ads, the duration in seconds. For Instagram posts, the number of comments, likes and views were recorded, if this information was shown. It also recorded the focus of the ad. This included whether it was for an e-cigarette product(s), for a specialist e-cigarette retailer, both, or for brand only (brand-only focus was selected where the advertising did not feature any products or contain any information on how/where to purchase e-cigarettes), whether the ad was for a product(s) which contain nicotine, the type of product(s) featured in the ad (if any), and the brand, sub-brand and parent company (if shown in the ad). All items were coded using categorical response options (e.g. Yes/No/Not sure). For each item, a free text box captured additional illustrative detail.

(b) People and context

Section (b) of the codebook recorded whether any people were depicted in the ad and the context evoked in the ad through the use of settings and props. These features of an ad are important as they can foster identification (e.g., through the choice of person/people), can suggest contexts in which the product/brand can be used (e.g., through connecting the product with a particular context such as holidays or socialising), and help to create positive emotional states, such as pleasure or aspiration, which might create favourable attitudes towards the brand or product.

For any person/people depicted in ads, we recorded the apparent age, gender, and other characteristics (e.g. whether a celebrity or named person), and whether they were shown holding or using an e-cigarette. For context, we recorded whether the ad evoked a particular context through showing a particular setting or the use of particular props. Context could be evoked in a number of ways: some adverts depicted an actual setting, such as an attractive home or a cityscape; some suggested a context by showing people wearing particular clothes or behaving in a particular way (e.g., a man in summer clothing reclining in a hammock, evoking the idea of summer holiday); others used props to evoke particular associations (e.g., images of luxury accessories such as handbags to evoke attractive lifestyle, images of snowflakes to suggest Christmas). All items were coded using categorical response options (e.g. Yes/No/Not sure). For each item, a free text box captured additional illustrative detail.

(c) Links to other marketing platforms

Section (c) of the codebook recorded whether the ad contained any slogans and straplines, any endorsement claims (e.g., claims that a brand or product had won an award or third-party verification such as a quality mark), and any brand logo(s) depicted.

It also recorded whether the ad included links to any other platform such as social media (e.g. a link to Facebook or Twitter), a brand or company website or a customer helpline/service line. All items were coded using categorical response options (e.g. Yes/No/Not sure). For each item, a free text box captured additional illustrative detail.

(d) Selling propositions

This section of the codebook recorded the different ways in which adverts sought to motivate purchase and use of e-cigarettes by communicating their attributes and benefits or offering particular inducements.

We recorded whether adverts used the following kinds of selling propositions: the attributes of a specific product or brand (e.g. quality or taste); the benefits of vaping in general (e.g. growing popularity of vaping); smoking cessation (e.g. 'quit smoking') and the benefits of vaping compared to smoking tobacco (e.g. e-cigarettes are cheaper than smoking); appeals to new users (e.g. emphasis on starter kits or being 'new to vaping'); evocation of particular psycho-social attributes such as independence or individuality; and price-based inducements such as price promotions, loyalty schemes and limited offers. All items were coded using categorical response options (e.g. Yes/No/Not sure). For each item, a free text box captured additional illustrative detail.

We also made an overall assessment of the 'rhetorical theme' of the ad. This has been defined as *'the ability to convey your audience that your ideas are valid, or more valid than someone else's'*.⁴⁴ We coded an ad as deploying 'pathos' if it sought predominantly to persuade through evoking an affective reaction, such as a positive mood, identification or anticipation; typically, adverts in this category were strongly imagery-based, with limited text. We coded an ad as deploying 'logos' if it sought primarily to persuade by focusing on product attributes and advantages; typically, adverts in this category focused on the range of products available or listed product features. We coded an ad as deploying 'ethos' if it sought primarily to persuade by focusing on the source of the message; typically, adverts in this category emphasised the authority and quality associated with the brand name. A 'multiple' response option was available if an ad was deemed to deploy two or more rhetorical themes in equal balance, and a main rhetorical theme 'unclear' option was also available.

(e) Consumer protection

Section (e) of the codebook recorded whether and to what extent the ad provided information to consumers enabling informed choice and responsible use of e-cigarettes. The CAP Code Rule 22 requires adverts to clearly state if the product contains nicotine. Within the ASA's CAP Code there are no other mandatory requirements for e-cigarette advertising to include specific consumer protection information. However, we assessed the adverts for the presence or absence of other consumer protection messages which could be considered as responsible practice with regard to providing clarity about the nature of the product and its intended use. We coded whether or not each contained one or more of seven different consumer protection messages: a statement that the product contains nicotine; an age restriction (e.g. '18+'); a statement that nicotine is addictive; an explicit statement that e-cigs are only for adult smokers; a statement that

the product is not a cessation product; a statement that the product should not be used by non-smokers; and any other consumer protection messages. More than one consumer protection message could be coded for each ad. All these items were coded using categorical response options (e.g. Yes/No/Not sure). For each item, a free text box captured additional illustrative detail.

For consumer protection information to be effective, it must be clearly readable and stand out within the ad. We therefore also calculated what proportion it comprised of the total ad. This was done by pasting onto a grid and calculating the size of (i) an image of each ad in its entirety, and (ii) the same image with all content removed apart from the elements of the ad which comprised the consumer protection information. We then calculated (ii) as a percentage of (i). For adverts involving multiple panels (such as some digital outdoor adverts and some Instagram posts) and for cinema ads, the size calculation took into account both the size of the consumer protection information on the screen, and the proportion of the ad, including in terms of time duration where appropriate, for which those screens were shown. We also recorded whether the consumer protection information was clearly differentiated from the rest of the material in the ad (e.g., through the use of a border) (coded Yes/No/Not sure); whether it was located in one place in the ad or in multiple locations (coded One or Multiple); and salience (whether, taking into account the overall design of the ad, the consumer protection information would be read easily by consumers) (coded Yes/No/Not sure). A free text box captured additional detail, including the coders' justification for the salience assessment.

(f) Adherence to CAP Code regulations

The final section of the codebook assessed the extent to which an ad adhered to the relevant CAP Code regulations for e-cigarette advertising. Each item in this section of the codebook was derived from Rules 22.2 to 22.11 of the CAP Code. All items were coded using the response options Yes/No/Not sure. However, because of the subjective nature of this assessment, a 'Yes' response indicated that there was *reasonable evidence* that the ad did contain content which could be deemed to be in breach of the CAP Code Rule (or a 'No' response where the CAP Code Rule was expressed as a positive requirement). For each item, a free text box captured additional illustrative detail to explain how the coder had reached the decision. The table below lists the variables used and how they relate to the ASA CAP Code Rules (outlined fully in Box 2 above). We also assessed adverts in relation to CAP Code Rule 22.12 which was introduced to reflect changes in the law brought in via the TRPR. This was a more complex process as it included assessing various elements of the adverts in turn (see Section 4.6). The process included examining the media channel used for all adverts and, for Instagram adverts only, an assessment of whether they contained factual versus promotional claims, based on ASA guidance.⁵⁹ We judged the ad to be promotional if it contained any promotional content.

Table 2.2: Coding variables as related to CAP Code Rules

Variable	CAP Code Rules
Does the ad* promote any design, imagery or logo style that might reasonably be associated in the audience’s mind with a tobacco brand?	CAP 22.2
Does the ad contains anything which promotes the use of a tobacco product or shows the use of a tobacco product in a positive light? (NB. This rule is not intended to prevent cigarette-like products being shown)	CAP 22.3
Does the ad make it clear that the product is an e-cigarette and not a tobacco product?	CAP 22.4
Does the ad contain medicinal claims unless the product is authorised for those purposes by the MHRA? E-cigarettes may be presented as an alternative to tobacco but must do nothing to undermine quitting tobacco use.	CAP 22.5
Does the ad use health professionals to endorse electronic cigarettes?	CAP 22.6
Does the ad clearly state if the product contains nicotine? They may include factual information about other product ingredients.	CAP 22.7
Does the ad contain any content which might encourage non-smokers or non-nicotine-users to use e-cigarettes?	CAP 22.8
Is the ad likely to appeal particularly to people under 18, especially by reflecting or being associated with youth culture? Eg. whether the ad features or portrays real or fictitious characters who are likely to appeal in particular?	CAP 22.9
Does the ad show people using e-cigarettes or playing a significant role who are, or seem to be, under 25?	CAP 22.10
Is the ad directed at people under 18 through the selection of media or the context in which they appear? (NB. No medium should be used to advertise e-cigarettes if more than 25% of its audience is under 18 years of age.)	CAP 22.11
Is the ad in a permitted channel?	CAP 22.12
*We use the term ‘ad’ however the CAP Code rules refer to ‘marketing communications’ and the BCAP Code rules refer to ‘advertisements’.	

Appendix 3: Images of Ads A to W referred to in the report

*Source: Nielsen AdIntel, E-cigarettes Advertising, 1 January – 31 December 2019.

A*



B*

totally_wicked_uk

23 likes

totally_wicked_uk It's Wez's birthday on Sunday 🎂
Our very own Halloween. He does our fantastic videos, feel free to give him any hotdog puns in the comments! #hotdog #hotdogs #halloween #birthday #videographer #vape #vaping

View 1 comment

31 October 2019

F

totally_wicked_uk

14 likes

totally_wicked_uk Everyone enjoying their lazy Sunday? If you have picked up a copy make sure you have a look at our latest product update, it is full of the latest e-cigs and e-liquids available from Totally Wicked. #vape #vapelite #vapenation #vapeporn #vapeon #VapeFam #vapecommunity #vapelyfe #vapetricks #vapestagram #vapers #VapeDaily 18

29 December 2019

G

it's true, we blu.
NEW MYBLU. HANDY AND EASY VAPING.

FOR EXISTING ADULT SMOKERS & VAPERS ONLY. BLU.COM
The product contains nicotine. 18+ only. Not a smoking cessation product. © Farnham 2019.

Clear Channel

H*

we're new to blu.
NEW MYBLU. HANDY AND EASY VAPING.

FOR EXISTING ADULT SMOKERS & VAPERS ONLY. BLU.COM
The product contains nicotine. 18+ only. Not a smoking cessation product. © Farnham 2019.

Clear Channel

logicvapes_uk

66 likes

logicvapes_uk Logic Compact uses magnetic e-liquid pods that just click in, letting you enjoy a quality vape, no matter where you are. 18+ Contains Nicotine - Nicotine is an addictive substance. .

#LogicVapes #vape #vapelite #vapenation #vapelifestyle #vaping #ecig #vapepen #vapedaily

26 July 2019

totally_wicked_uk

14 likes

totally_wicked_uk The #TotallyWickedChallenge is well underway and it's time for you to play your part. Tag a smoker who needs to get down to Totally Wicked and make the switch to vaping 🍷 #QuitForLife

View all 3 comments

23 likes

bluvapinguk With a fuss-free one-click connection, you're always ready for action with #Myblu 🍷 New improved pods now available at blu.com ✓📸 @leopask

#vaping #vape #vapingcommunity #vapingstyle #vapingisthefuture #vapinglife #vapingtime #vapelite #vapenation #vapecommunity #vapestagram #VapeDaily #UKVape #UKVapers

5 June 2019

totally_wicked_uk

42 likes

totally_wicked_uk Joanne Eccles from our wonderful Customer Service department was helping out on the #DIYSOS Big Build Project for Blackburn homeless charity Nightsafe. Tune in to BBC One at 8pm tonight! @nickknowles #ChildrenInNeed #BBCONE

13 November 2019

M*

88vape.com

Premium Shortfills

Shop Online

Products contain nicotine, 18+ only.

Only **£5** SHORTFILLS

Only **£1** E-LIQUIDS



vype
ePod

New Vype ePod

GO YOUR WAY GOVYPE.COM

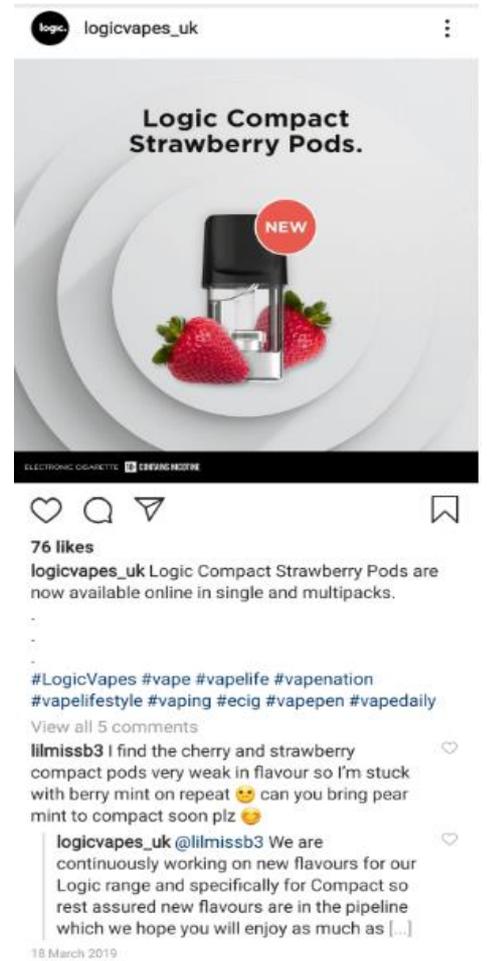
CHARGE BEYOND

For existing adult smokers and vapers only.
Vype e-cigarettes contain nicotine, 18+ only. Read leaflet in pack.

N*



O*



P



Product Code: C999999999
Date of Release: 10/10/2018
100 Main Road, Tisbury, Wiltshire, UK, SN16 9JL

START THE YEAR BY SWITCHING TO BLU

STARTER BUNDLE ONLY
£9.99*



© 2018 Blu. All rights reserved. For more information, please visit www.blu.com.
*RRP includes myblu device, one tobacco flavoured pod and one pack of 14 flavour pods.

IN 2019, NEVER LOOK BACK

3 REASONS TO SWITCH

- ▶ 1 click flavour pods let you switch flavours in seconds
- ▶ Ultimate satisfaction, vapour delivery and convenience
- ▶ Reliable power and rapid recharging

BUILD YOUR STARTER BUNDLE FOR ONLY £9.99*

MANUFACTURER'S RRP £25.98



Buy online at blu.com

14 flavours to choose from

BUNDLE CONTAINS

- ▶ myblu device + charger cable
- ▶ One tobacco flavoured pod
- ▶ One pack of flavour pods



*The product contains nicotine which is a highly addictive substance. Please see the packaging for more information.
© 2018 Blu. All rights reserved. For more information, please visit www.blu.com.

Q*

logicvapes_uk



Logic Compact
now with
added sparkle.

38 likes

logicvapes_uk Embellished with Swarovski® crystals, Logic Compact Crystal Edition is a limited edition device with added sparkle. Available online in 3 colours, including Scarlet Red. .

18+ Contains Nicotine - Nicotine is an addictive substance. .

#LogicVapes #vape #vapelife #vapenation #vapelifestyle #vaping #ecig #vapepen #vapedaily #LogicCrystal #vapemas

14 December 2019

R

InLinkUK | BT



vype

VYPE ePEN 3
PRODUCT OF THE YEAR

GOVYPE.COM

S*

 **totally_wicked_uk** ⋮



orbis COMING SOON

30 likes
 totally_wicked_uk The Totally Wicked Orbis is coming soon!
 This pocket-sized e-cig takes the simplicity of a starter kit and adds some outstanding features which make the Orbis stand out from the crowd!

T 30 September 2019

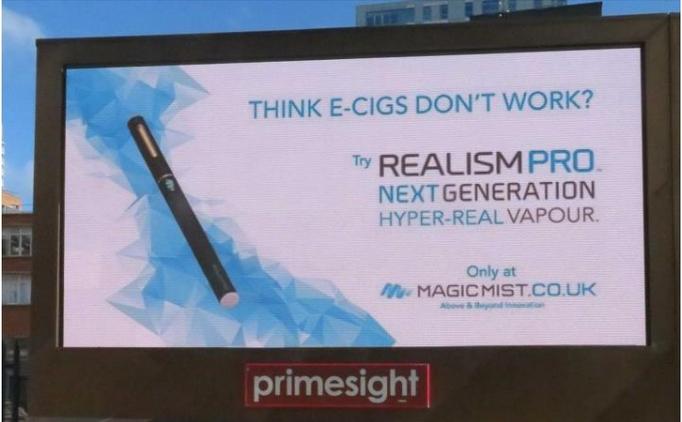


30 likes
 totally_wicked_uk Today's setup... the Wismec Reuleaux Tinker 2 with Symphonic Banana Milkshake!

Symphonic isn't your everyday Nic salt E-liquid. It uses a next generation formulation with a high VG base so the range can be used in all types of e-cigs!

#Nicsalts #Symphonic #Tinker #Wismec #handshot #Handcheck #vapers #vaping #vape #vapelite #vapenation #ecig #vapejuice #ejuice #vapeliq

U 24 September 2019



THINK E-CIGS DON'T WORK?

Try **REALISM PRO**
 NEXT GENERATION
 HYPER-REAL VAPOUR.

Only at
MAGIC MIST.CO.UK
Active & Beyond Innovation

primesight



THINK E-CIGS DON'T WORK?

Try **NIC-HIT PRO**
 MAXIMUM NICOTINE
 ACTS FASTER. LASTS LONGER.

Only at
MAGIC MIST.CO.UK
Active & Beyond Innovation

primesight

logic. logicvapes_uk



31 likes

logicvapes_uk We are at NASS Festival today. Stop by our stand next to the Plaza to try our Logic Compact and learn more about our flavours.

#vapelite #ecig #vape #logiccompact .

Electronic Cigarette 18+ Contains Nicotine. Nicotine is and addictive substance.

14 July 2019

W