

## Submission to Health and Social Care Committee

### Overall views

1. The Independent British Vape Trade Association ("IBVTA") is grateful for the opportunity to contribute to the Health and Social Care Committee's scrutiny of the Legislative Consent Memorandum on the Tobacco and Vapes Bill. As a professional voice of the independent vape industry, the IBVTA recognises the role that it has to play in ensuring the Tobacco and Vapes Bill is fit for the public and its health priorities. The IBVTA makes no substantive comments on traditional tobacco products or their sale, as we and our members are free of any interest, control or funding from the tobacco industry.

2. The Bill must strike a crucial balance in terms of vaping regulation, by both preventing youth initiation of nicotine use and ensuring that dramatically less harmful alternatives for adult smokers continue to be accessible and attractive as a form of cessation. Since 2015, vapes have been recognised as effective harm reduction tools and are now incorporated into DHSC and NHS-funded cessation programs.

3. This balance is supported by extensive research and real-world evidence. In order to support the continued building of a robust, evidence-based foundation, the IBVTA encourages effective consultation with the health sector and specialist academics throughout the development and implementation of the Bill. This will also be important in the development of secondary legislation consequent to the Bill.

4. It is important to recognise that the Tobacco and Vapes Bill 2024 enables both standalone and secondary legislation. However, it is presented with two other highly impactful policy measures currently being enacted. The measures to be introduced by the Bill must be considered in the context of both of these preceding measures being in place either before, or shortly after any of the Bill's measures become law; the Single Use Vapes ban, effective from 1<sup>st</sup> June 2025, and the Vaping Products Duty, effective from 1<sup>st</sup> October 2016.

5. The IBVTA have not commented on the impact on areas of devolved competence as we believe this to be outside of the purview of a trade body.

### **Do you think the legislation sufficiently protects young people from vaping while supporting smokers to quit?**

6. Responsible retailers play a crucial role in preventing youth access to vaping products, yet current evidence suggests significant failures in enforcement. Both ASH's 2024 Use of Vapes Among Young People in Great Britain report, and the ASH Wales Youth Vaping Survey 2024 suggest that while many young people are illegally sold vapes in shops or on the internet, informal sources, such as friends and family, are the most common channel for obtaining vapes. This highlights the urgent need for a robust licensing system for vape retailers.

7. Contrary to some beliefs, the age of sale restrictions contained in the Bill do not change the requirements for the sale of vaping products. An amendment to the Children and Families Act 2014 made the sale of vapes to under-18-year-olds, and "proxy purchase" by adults illegal from October 2015.

8. The Bill risks unintended consequences that may increase the uptake of adult smoking or decrease the likelihood of an adult smoker finding alternatives that may help them quit. Effective consultation with leading academics, public health stakeholders and the independent vape sector should ensure these risks are properly considered.

9. Ensuring that smoking and vaping are treated and recognised in accordance with their different levels of associated harms is important, as this will help determine the attractiveness of vaping as an alternative for adult smokers. People who currently smoke and are looking to switch to vaping can only do so if they know what vapes are and where to buy them from responsible retailers.

10. Vaping products have only been allowed very restricted advertising since the Tobacco and Related Products Regulations came into force in May 2016. As is currently drafted, the Bill's measures seem to be additional to these restrictions and go as far as to treat vaping products the same as smoked tobacco products. It is important to recognise that vaping products are used by smoking cessation services, and that those services often advertise to recruit smokers that want to quit

11. In short, we think the legislation sufficiently protects young people from vaping, but we fear that it may fall short in supporting adult smokers to quit, and very importantly, supporting ex-smokers to remain smoke free.

### **Your views on proposals to:**

**a) make it an offence to sell tobacco products, herbal smoking products and cigarette papers to anyone born on or after 1 January 2009;**

**b) make it an offence for a person aged 18 or over to buy, or attempt to buy tobacco products, herbal smoking products and cigarette papers for someone who was born on or after 1 January 2009;**

12. The IBVTA supports the policy intent of both measures but notes that the IBVTA and all its members are independent of the tobacco industry, and are unaffected by this legislation.

### **Vaping and other nicotine products**

13. The IBVTA is broadly satisfied with the majority of the measures introduced in the Tobacco and Vapes Bill and acknowledges the broad range of measures that have been introduced as "subject to consultation". While we will always engage in meaningful dialogue with Government departments and agencies where possible and appropriate, we do have some concerns.

14. The IBVTA has developed a set of principles that we believe to be essential to making legislation that is fit for purpose and should help to guide regulations that can have a meaningful

impact on youth uptake of vaping, while limiting the impact on adults either returning to smoking, or not even considering vaping instead of smoking. In addition, we address some of the specific proposals.

#### **14.1. Vaping and smoking are different, and must be treated differently**

Differential in potential for harm from vaping vs. smoking is undeniable. Treating both product sets the same is both unjustified and can only have negative consequences for Public Health.

#### **14.2. Vaping has far-reaching health benefits for adult smokers, and those that would otherwise be Smoking.**

Youth vaping is clearly an issue, but its treatment as an “epidemic” with potential for great future harm is a cautious approach. In reality smoking has killed and continues to kill older people. There is a clear danger that actions to limit youth vaping are already causing unnecessary death and disease in older smokers. This should be unacceptable.

#### **14.3. Great tasting flavours, and easy to use products, are important to make vaping an attractive alternative for adult smokers.**

It is too easy to assume that some product features have been developed to make vapes attractive to people under 18. In reality these features became popular during a time when adult vaping was rapidly growing, with no measurable youth uptake. There is huge potential to unwittingly make vaping less attractive to adults. Given the relatively high levels of “dual-use” currently, that can only result in increases in smoking. However, we cannot deny that some recent developments, while clearly attractive to adults, are also attractive to under 18s. Prohibition is not the best way to address this, and proportionate regulation would be more balanced.

#### **14.4. Effective consultation with the health sector and specialist academics is key to proportionate and effective legislation**

There are a huge number of qualified academics who have researched vaping health impacts, efficacy in helping people quit and stay quit, and the epidemiology of vaping vs. smoking. When the IBVTA insists on the necessity of consultation, it doesn't have to be with us. But it is a complete oversight not to consult neutral and well qualified Public Health stakeholders who have world-leading status within this field.

#### **14.5. Specialist independent vape businesses present unique opportunities for Public Health**

Specialist vape shops have the unique capacity to carry more ranges of products and offer considered 1-to-1 consumer advice on usage, maintenance and enabling smoking cessation. Many IBVTA members also have trained smoking cessation advisors on staff. In addition, they are premises with potential for a more regulated space because those under 18 are less likely to frequent. Policy changes that might benefit specialist vape shops over other retailers can only be supported by the IBVTA where they do not limit the availability of the right products in the right places for adults that would otherwise be smoking. We will never seek commercial advantage at the expense of Public Health but must recognise that dedicated vape shops present unique opportunities for an alternative retail experience.

## Your views on proposals to:

### **b. ban advertising, promotion and sponsorship agreements for vapes and nicotine products;**

15. Vaping products have only been allowed very restricted advertising since the Tobacco and Related Products Regulations came into force in May 2016. It is of particular concern that clauses in the Tobacco and Vapes Bill seem to be additional to these restrictions and go as far as to treat vaping products the same as smoked tobacco products. Indeed, clause 121 allows for specific exceptions for specialist tobacconists, when no such provision is made for dedicated vape stores. This is ludicrous given that vapes are of far lower harm even than cigars or pipes that can be advertised in specific shops under the Bill.

16. We are also deeply concerned about clause 119 on internet services, and how this might be interpreted in terms of our members' websites. Our concerns are only deepened by the lack of requirement for consultation on these clauses, when they may have such serious consequences for our sector.

17. Smoking and vaping are different, have very different potentials for harm, and should be treated differently from one another. Adults who currently smoke and are looking to switch a vape can only do so if they know what vapes are and where to buy them.

### **c. provide regulation-making powers to regulate the flavours, packaging, and other product standards of vapes and nicotine products;**

**18. Flavours** are a particularly important feature of vapes that have been fundamental to their growth in popularity, and to their perceived differences from tobacco. Similarly, devices have been developed over years to allow market competition through product differentiation and specific brand differentiation. While we appreciate these powers are subject to consultation before producing secondary legislation, we hold deep concerns that this consultation be with appropriate parties, and cognizant of the importance of flavours to vaping.

19. We do however agree that emotive flavour names and 'cartoon' packaging be addressed, to remove aspects believed to be disproportionately attractive to children.

### **d. provide powers to regulate the display of vapes and nicotine products, empty retail packaging and their prices;**

20. Previous to the resurgence of single use vapes, and accompanied with the rise in the illicit trade in non-UK-compliant single use vapes, a plethora of outlets who had never sold vapes before began stocking them. There have been media reports of Trading Standards around the UK finding vapes for sale in barber shops, fast food outlets and phone shops, often without proper age verification in place. While we acknowledge the desire to address the display of vapes in stores, especially those premises not experienced in selling age restricted products, a balance must be struck that allows adult consumers to see what is being sold and ask for it.

Therefore, removing product displays from countertops in shops or areas of shops where young people are more likely to frequent unaccompanied seems reasonable. However, independent dedicated vape shops are premises where young people are far less likely to frequent, and products are usually kept behind counters as a matter of course, and so exceptions should be made for these premises.

**e. ban the presence of vape and nicotine product vending machines;**

21. Nicotine vending machines have been found to be a vital tool in health settings such as in-patient mental health wards. While enabling adult patients to become and stay smokefree during their treatment, vending machines give them independence rather than relying on staff to dispense them and also saves public money. As just one example, the Cambridgeshire and Peterborough NHS Foundation Trust say that their vending machine accounts for a £12,000 saving over just 6 months.

22. We urge that healthcare settings where vapes are facilitating smokefree policies and smoking cessation should be exempted from the ban. This is also the position of the Mental Health and Smoking Partnership, a coalition of organisations which includes the Mental Health Foundation, the Mental Health Nurses Association, Mental Health UK, Mind, ASH, Cancer Research UK, and the Royal Colleges of General Practitioners, Nursing, Occupational Therapists and the Royal College of Psychiatrists.

23. In addition, the IBVTA are aware of vending machines currently situated in age-gated licenced premises, where the vending business has worked with their Trading Standards Primary Authority to demonstrate their machines, software and protocols acts as best practice within the vending sector. Their machines use the same age verification tools and protocols supported by the UK Government in plans to control alcohol sales. Given the Bill introduces a retailer licencing scheme, it would be more logical to hold this measure until such time as the scheme is considered.

**f. introduce powers to introduce a new and more robust registration scheme for all vapes and nicotine products. This scheme would also cover tobacco products and non-nicotine vapes;**

24. The IBVTA are supportive of this, as it allows the MHRA more effective market surveillance and levels the playing field for UK independent vape businesses. We have previously called for non-nicotine vapes to have the same regulatory oversight, so welcome this measure.

**g. introduce powers to extend smoke-free laws so that they could also prohibit the use of vapes and heated tobacco products in specified areas where smoking is prohibited.**

25. According to the ASH Wales Annual Survey 2024, revealed that almost a quarter of current smokers (23%) said they did not know whether vapes were more harmful, less harmful or just as harmful as regular cigarettes. Treating smoking and vaping in exactly the same way risks perpetuating these misperceptions. Full and comprehensive consultation is important, and vaping in certain settings such as health grounds or in mental health settings should be

**Independent British Vape Trade Association**  
T: 0203 909 8080 E: [info@ibvta.org.uk](mailto:info@ibvta.org.uk) W: [www.ibvta.org.uk](http://www.ibvta.org.uk)

VAT Registration Number: 236 1797 89  
Company Number: 10033135

exempted so that adults using vapes to quit their smoking habit can continue to become and stay smoke free.

### **Enforcement**

26. Regulations only work if they are adhered to and adequately enforced. Enforcement of the regulations seems dependant on unidentified resources for already overworked Local Authority and Weights & Measures Departments.