

# E-cigarette policy and regulation: current and future

**E-cigarette summit London**  
**Thursday 14<sup>th</sup> November 2019**

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ASH receives funding from:



**ash.**  
action on smoking and health

# Declaration of Interest

- ASH (UK) is a public health charity set up by the Royal College of Physicians in 1971 to advocate for policy measures to reduce the harm caused by tobacco.
- Funded primarily by 2 leading UK health charities: British Heart Foundation and Cancer Research UK.
- Is in receipt of project funding from DHSC to support implementation of the Tobacco Control Plan.
- ASH does not accept commercial funding
- ASH does not have any direct or indirect links to, or receive funding from, the tobacco industry.

# What this presentation covers

- E-cigs regulatory review due next year
- Current regulatory framework what it covers and what it doesn't
- My initial thoughts – only speaking for myself not for ASH or our UK alliance the SFAC
- TPD regs not included in the presentation only what can be regulated domestically

# E-cig Regs review in 2020 for 2021

- Legal duty to review any legislation that impacts on business within 5 years (by 20 May 2021)
- Post implementation review (PIR) has to:
  - assess if each reviewed legislation is achieving its objective
  - review the health and economic impact of the legislation
  - recommend whether the legislation should remain in force as it is, be amended or revoked
- Government will use PIR to make “an informed decision about the impact of the legislation and how to proceed in the future”.

# Objectives of e-cig regulations

Likely to be in line with 2019 post-implementation regs review which were:

- discouraging young people from taking up smoking and vaping
- encouraging existing smokers to quit
- protecting others from the harmful effects of cigarette smoke

**Possible additions e.g.:** minimise harms from vaping

# EU regulatory framework

## Regulatory approach by nicotine content

- No nicotine = unregulated
- Up to 20 mg/ml = have to comply with 2014 EU Tobacco Products Directive (TPD)
- Over 20 mg/ml (or making cessation claims) = have to comply with EU medicines Directives

# EU Tobacco Products Directive regs: 1

## Safety

- Notification of ingredients & emissions
- Banned substances = vitamins; caffeine/other stimulants; colourings; carcinogenic/mutagenic/reprotoxic (CMR)
- Adverse effects must be monitored and reported
- Child-resistant; tamper evident; breakage & spillage proof

# EU Tobacco Products Directive regs: 2

## Advertising, promotion, sponsorship

- Internet, print, broadcast media all banned
- Point of Sale and Out-Of-Home allowed

## Packaging and labelling

- 30% health warning on pack: *'This product contains nicotine which is a highly addictive substance'*
- Disposable e-cigs, cartridges and tanks  $\leq$  2 ml
- Refills  $\leq$  10 ml



# Member States regulate: *UK situation*

- Age limits for electronic cigarettes or refill containers: ***18 in force***
- Flavours: ***not currently regulated***
- rules on “smoke-free” environments – ***UK Govt said won’t regulate***
- domestic sales arrangements: ***not currently regulated***
- domestic advertising: ***allowed & regulated by ASA - Scotland about to consult on restrictions***
- brand stretching: ***already prohibited under tobacco advertising laws***

# Pressure on politicians growing

## There are already calls to:

- Ban or restrict flavours
- Ban domestic advertising
- Ban vaping in enclosed places = smokefree laws
- Require medicines licensing/ban e-cigs (not possible while aligned to EU)

## And for

- Plain packaging

# ASH Survey Spring 2019: the good news

- 3.6 million vapers (+12.5% since 2018)

## Smoking status of current vapers

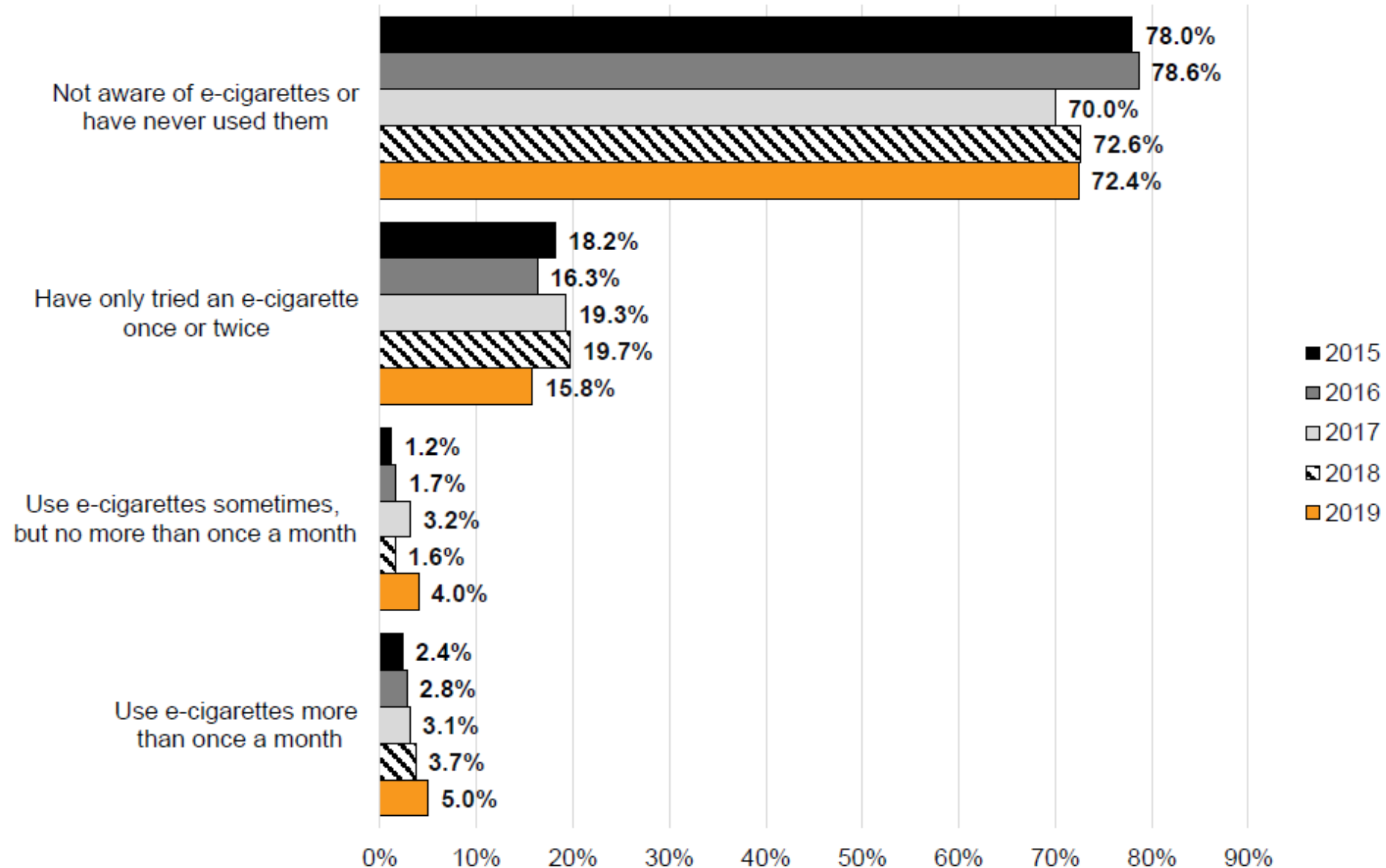
- Growing proportion (54% vs 38% in 2015) ex-smokers
- Under half (40% vs 60% in 2015) current smokers

## Proportion by smoking status of current vapers

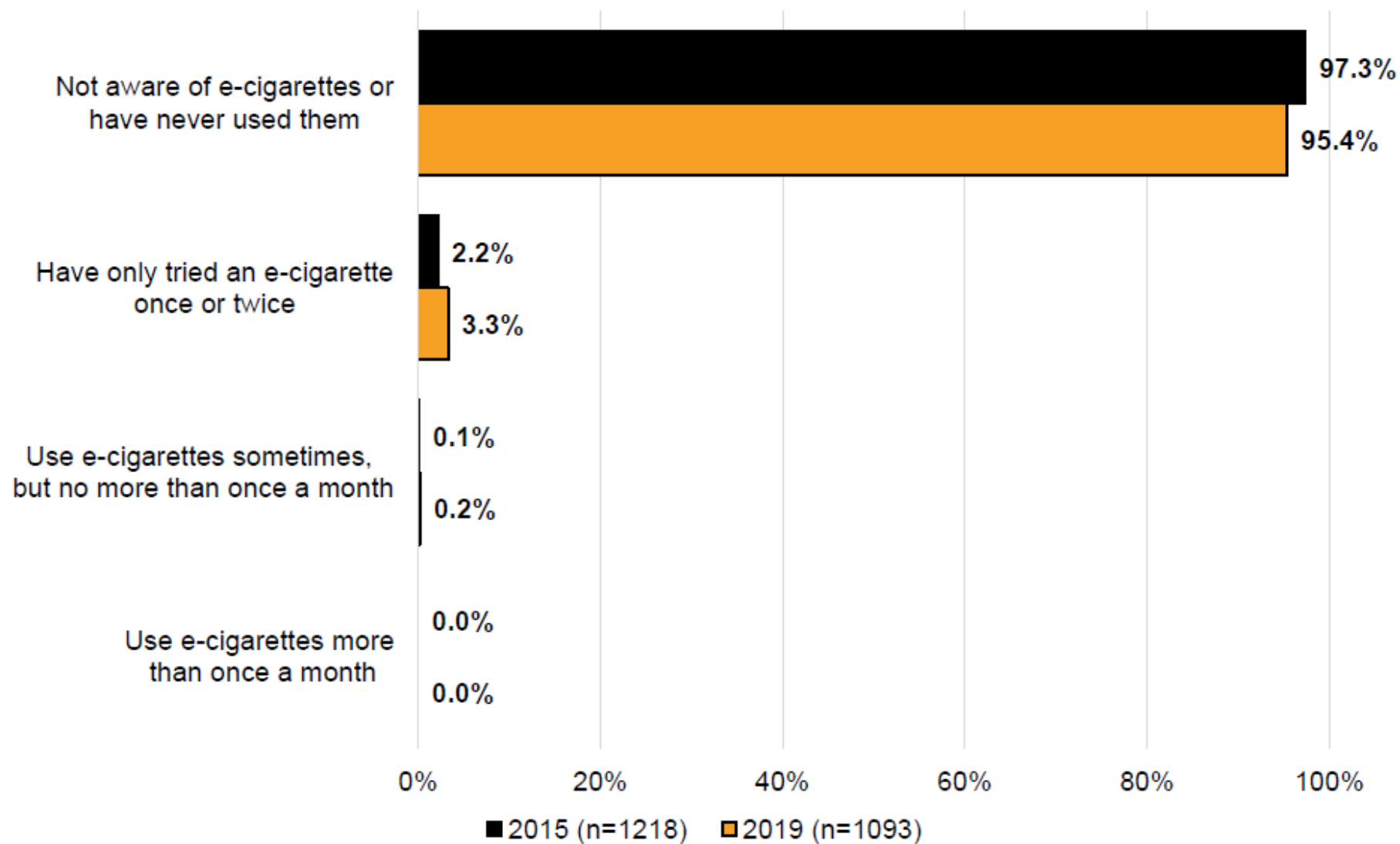
- 20% of smokers vape
- 12% of ex-smokers vape
- Less than 1% of never smokers vape (= 6% of vapers)

Total sample size was 12,393 adults in Great Britain. Fieldwork was undertaken online by YouGov between 12th February 2019 and 10th March 2019. The figures have been weighted and are representative of all adults (aged 18+).

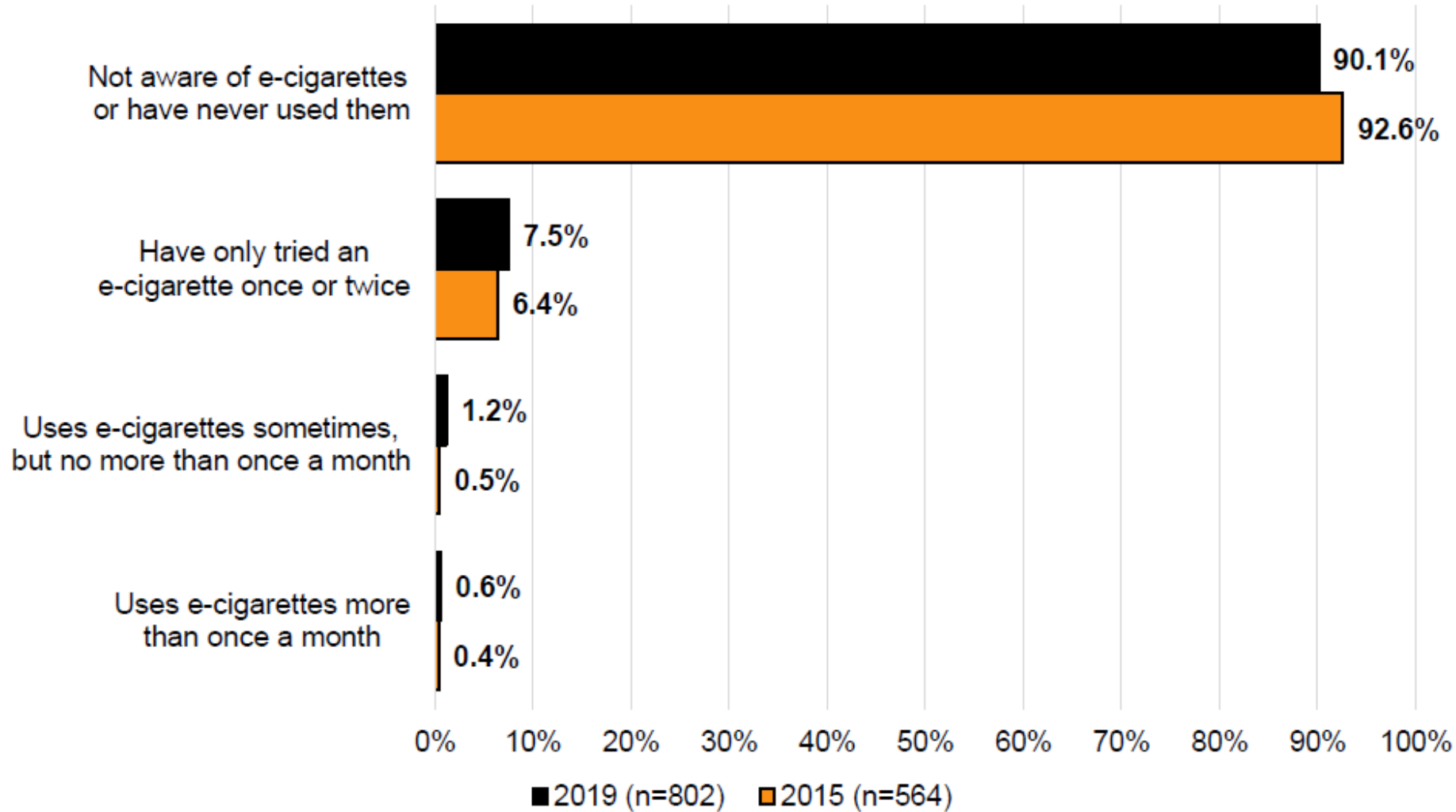
## E-cigarette use among 16-18 year olds (2015 - 2019)



## E-cigarette use among 11-15 year old never smokers

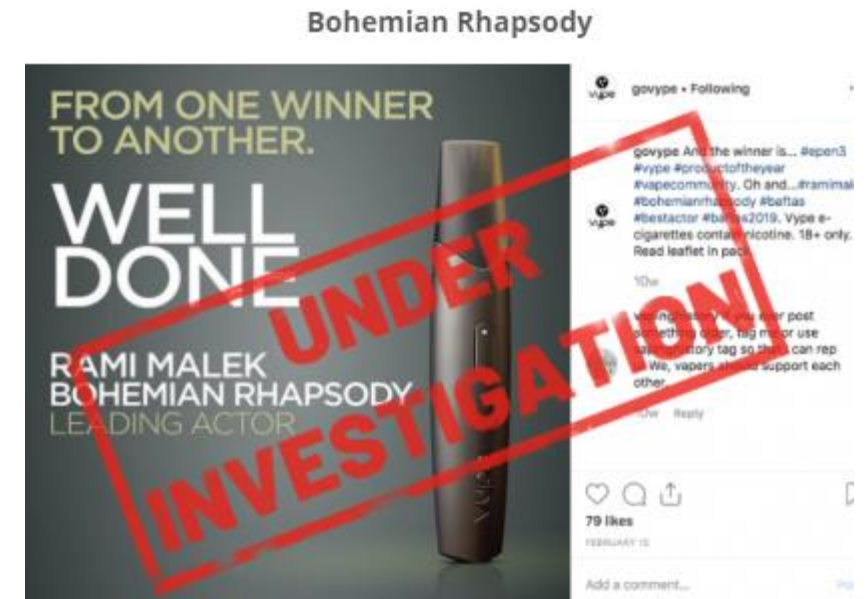


## E-cigarette use among 16-18 year old never smokers



# BUT Industry needs to clean up its act

- Social media is advertising
- ASA investigation still underway
- Impact on UK youth: young people are as likely to report seeing online ads as in the US despite their being illegal here and not in the US.



## Big Tobacco confirm 'earned social media' tactics as ad authorities investigate

April 30, 2019 by Arvind Hickman and Stephen Delahunty

Advertising authorities are investigating the use of influencers to promote e-cigarette products on social media as one major tobacco company continues to focus on earned media tactics to reach adult consumers.

# Packaging and labelling

## Minister in e-cig debate 31 Oct 2019:

- “I would like the industry to show stronger leadership in the areas of e-cigarette product labelling and, in particular, design to ensure that its products do not appeal to young people. Some of the current naming appears to lean in that direction.”*

**More than lean:** use of sweet names, cartoon characters, garish coloured packaging





# Packaging and labelling

- Child friendly packaging and labelling is:
  - Unacceptable
  - Unnecessary
  - Must stop
- Tobacco packaging and labelling strictly regulated
- Regulation needed for e-cig packaging and labelling too



From **£2.50**

10ml

Vape UK RY6

Caramel, Creamy, Sweet, Tobacco, Vanilla

**£3.99**

★★★★★ 6 reviews

The product contains nicotine which is a highly addictive substance. Made in Great Britain.



3 for **£9.99**

10ml

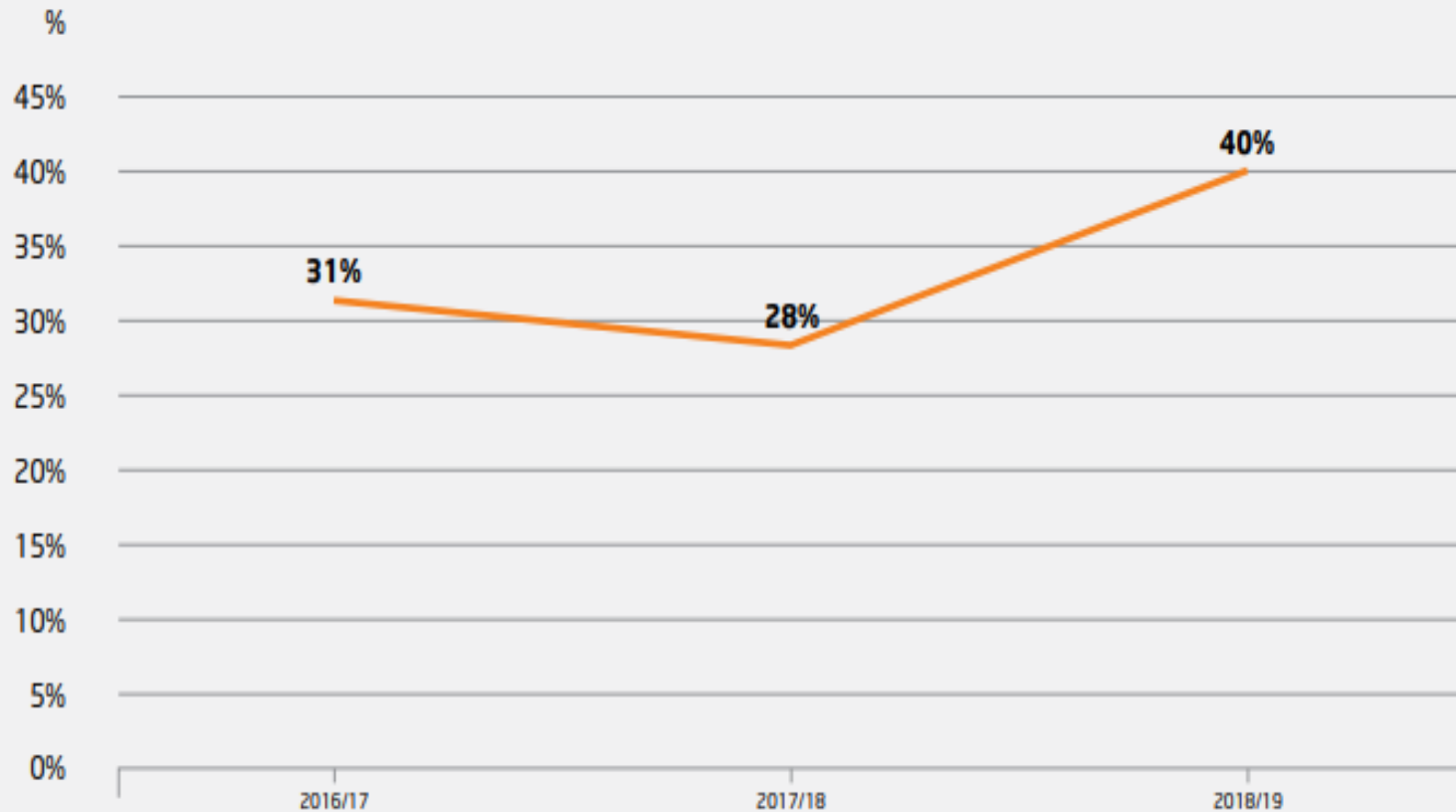
Momo Salt Caramel Tobacco

Caramel, Sweet, Tobacco

**£3.99**

# Better compliance needed on sales

Figure 8. Underage sales: nicotine Inhaling products – percentage of visits resulting in illegal sales



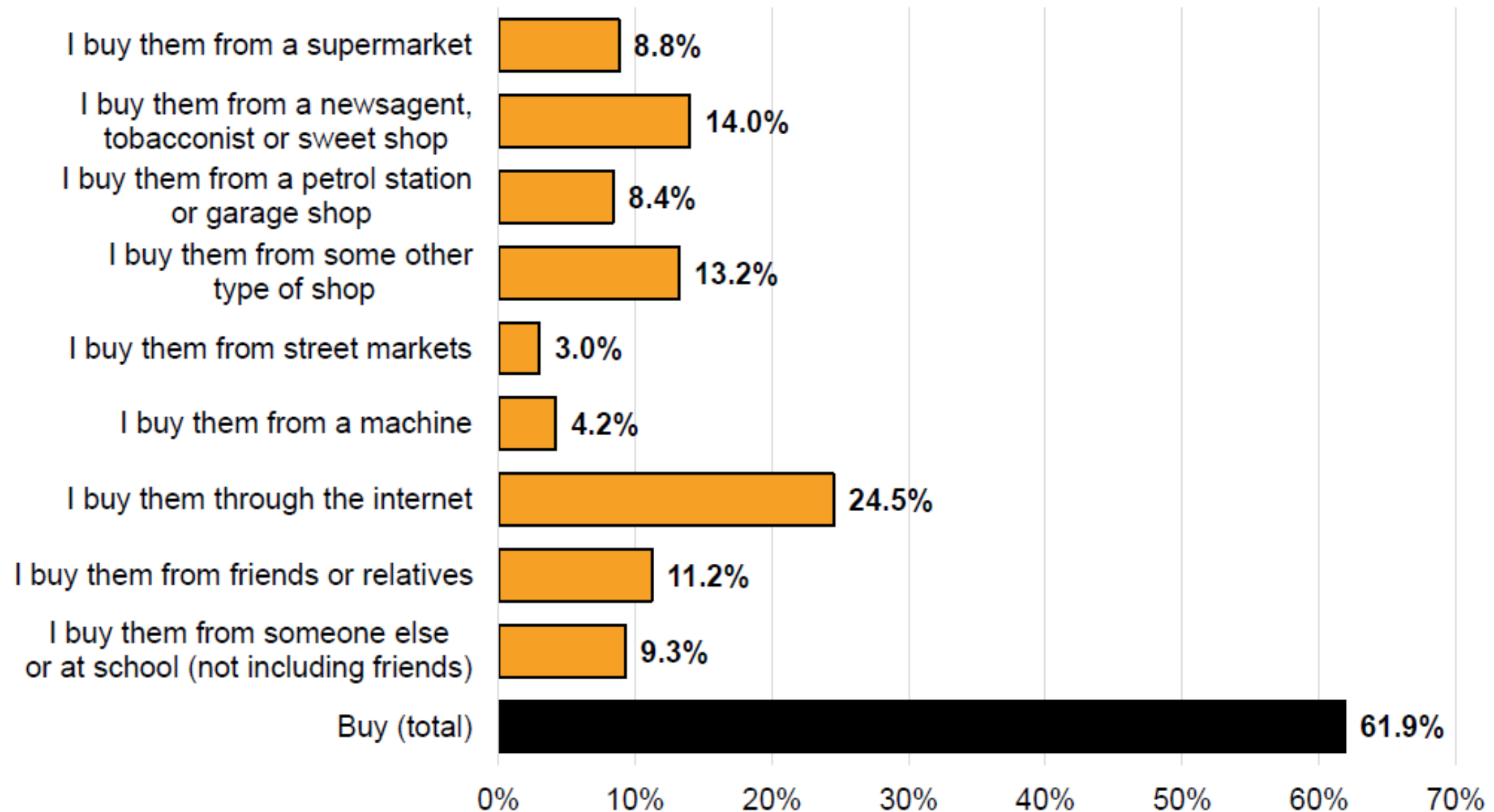
## Trading standards visits

- 17% visits found non-compliant nicotine inhaling products – biggest culprit specialist vape shops (40%)

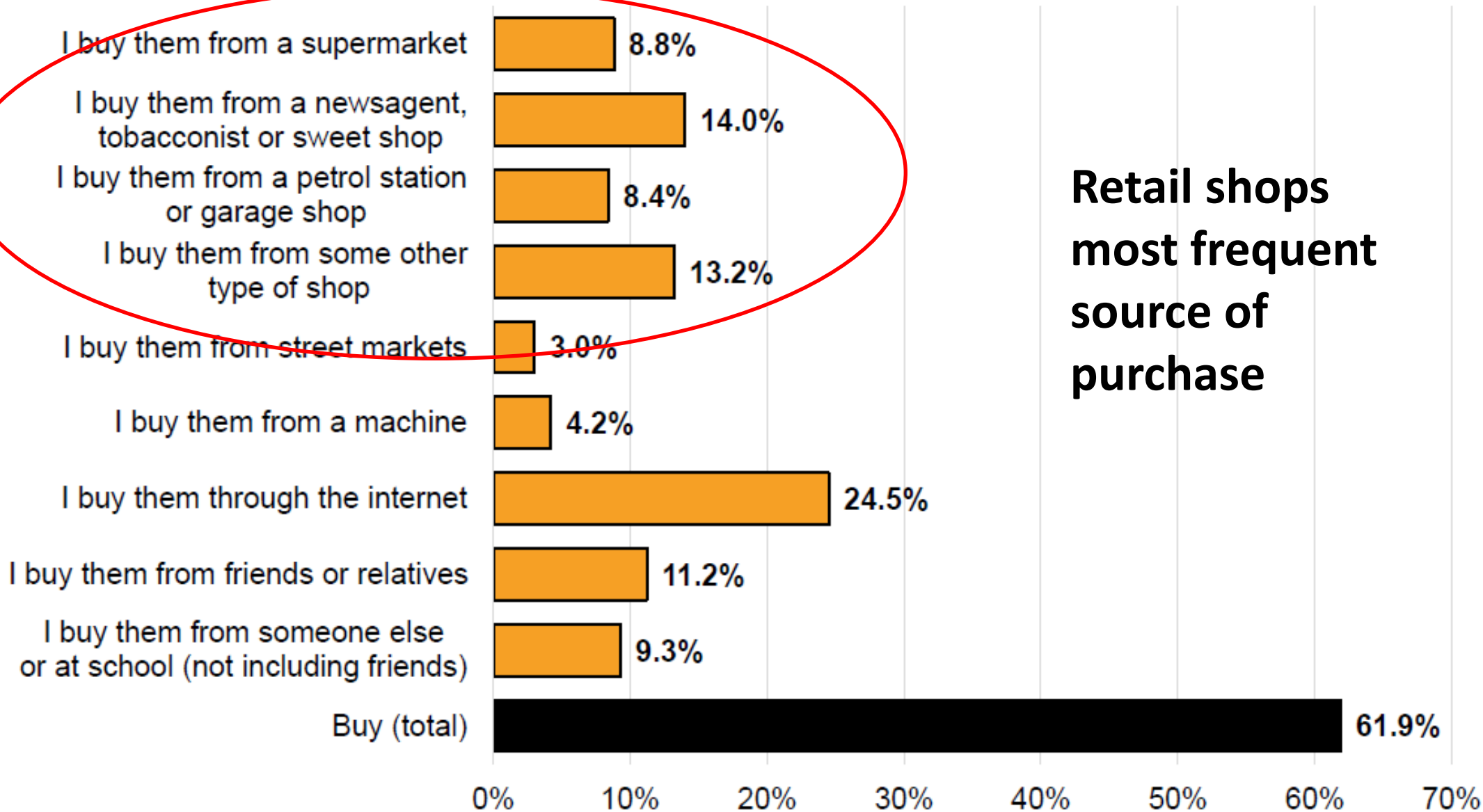
## Underage sales

- Councils received more complaints
- Test purchases – again biggest culprit vape shops whereas last year it was discount stores

## Where do you buy your e-cigarette from? GB Youth (11-18), 2019



# Where do you buy your e-cigarette from? GB Youth (11-18), 2019



# Initial thoughts on regulatory review

- Non-nicotine e-cigs need regulating too – loophole in the law
- Packaging and Labelling has to be cleaned up – or plain packaging will be coming down the track
- Companies must stop trying to subvert advertising rules – banning domestic advertising can be banned
- Compliance with age of sale needs to improve
- Trading standards enforcement needs better resourcing - part of MHRA notification fees should be used for this

# THANK YOU

**Contact:** [deborah.arnott@ash.org.uk](mailto:deborah.arnott@ash.org.uk)

## **Resources:**

ASH research and factsheets: [www.ash.org.uk](http://www.ash.org.uk)

E-cigarette regulations: [http://www.legislation.gov.uk/ukxi/2016/507/pdfs/ukxi\\_20160507\\_en.pdf](http://www.legislation.gov.uk/ukxi/2016/507/pdfs/ukxi_20160507_en.pdf)

Department of Health [Tobacco Control Plan for England 2017](#)

Public Health England e-cigarette evidence reviews [2018](#); [2019](#)

MHRA regulation of e-cigarettes:

- [Regulations for consumer products](#)
- [Medicines licensing process](#)

British Medical Association [e-cigarette position paper 2018](#)

RCP report 2016. [Nicotine without smoke: Tobacco Harm Reduction](#)