

CONSULTATION QUESTIONS

Age restriction for e-cigarettes

1. Should the minimum age of sale for e-cigarette devices, refills (e-liquids) be set at 18?

Yes X No ☐

2. Should age of sale regulations apply to:

a. only e-cigarette devices and refills (e-liquids) that contain nicotine or are capable of containing nicotine, or

b. all devices / refills (e-liquids) regardless of whether they contain or are capable of containing nicotine?

a ☐ b X

3. Whom should the offence apply to:

a. the retailer selling the e-cigarette

b. the young person attempting to purchase the e-cigarette

c. both

a X

b ☐

c ☐

4. Should sales of e-cigarettes devices and refills (e-liquids) from self-service vending machines be banned?

Yes X No ☐

5. Should a restriction be in place for other e-cigarette accessories?

Yes X No ☐

6. If you answered “yes” to question 5, which products should have restrictions applied to them?

Totally Wicked believes that e-cigarettes are a product for current/former adult smokers and current users of nicotine containing products. Therefore Totally Wicked supports a ban on the sale of e-cigarettes, e-liquids, and all related paraphernalia to those under the age of 18.

Proxy purchase for e-cigarettes

7. Should the Scottish Government introduce legislation to make it an offence to proxy purchase e-cigarettes?

Yes X No ☐

Domestic advertising and promotion of e-cigarettes

8. Should young people and adult non-smokers be protected from any form of advertising and promotion of e-cigarettes?

Yes X No ☐

For Totally Wicked the marketing of electronic cigarettes should be primarily aimed at former smokers and existing users of nicotine containing products. In addition, such marketing must accept responsibility for not explicitly or indirectly targeting those under the age of 18. Within this context Totally Wicked believe a responsible advertising and marketing regulatory regime can be drawn up that allows for the promotion of electronic cigarettes as a viable alternative to conventional tobacco products, that allow users to continue their nicotine use without any of the harm associated with tobacco.

9. In addition to the regulations that will be introduced by the Tobacco Products Directive do you believe that the Scottish Government should take further steps to regulate domestic advertising and promotion of e-cigarettes?

Yes ☐ No X

Totally Wicked believes that the recently published rules for the advertising of electronic cigarettes, drawn up by the Committee of Advertising Practice, provide a more than adequate regulatory regime for the advertising of electronic cigarettes within Scotland.

In summary, the rules state:

- Ads must not be likely to appeal particularly to people under 18, especially by reflecting or being associated with youth culture
- People shown using e-cigarettes or playing a significant role must neither be, nor seem to be, under 25
- Ads must not be directed at people under 18 through the selection of media or the context in which they appear

- Ads must not encourage non-smokers or non-nicotine users to use e-cigarettes
- Ads must make clear that the product is an e-cigarette and not a tobacco product

For further information: <http://www.cap.org.uk/News-reports/Media-Centre/2014/New-ecig-ad-rules.aspx#.VlrxOo1ybIU>

10. If you believe that regulations are required, what types of domestic advertising and promotion should be regulated?

- | | |
|---|-----------------------------------|
| a. Bill boards | a <input type="checkbox"/> |
| b. Leafleting | b <input type="checkbox"/> |
| c. Brand-stretching (the process of using an existing brand name for new products or services that may not seem related) | c <input type="checkbox"/> |
| d. Free distribution (marketing a product by giving it away free) | d <input type="checkbox"/> |
| e. Nominal pricing (marketing a product by selling at a low price) | e <input type="checkbox"/> |
| f. Point of sale advertising (advertising for products and services at the places where they were bought) | f <input type="checkbox"/> |
| g. Events sponsorship with a domestic setting | g <input type="checkbox"/> |

Totally Wicked does not believe this question to applicable (see answer to question nine).

11. If you believe that domestic advertising and promotion should be regulated, what, if any, exemptions should apply?

Totally Wicked believes that the recently published rules for the advertising of electronic cigarettes, drawn up by the Committee of Advertising Practice, provide a more than adequate regulatory regime for the advertising of electronic cigarettes within Scotland.

In summary, the rules state:

- Ads must not be likely to appeal particularly to people under 18, especially by reflecting or being associated with youth culture
- People shown using e-cigarettes or playing a significant role must neither be, nor seem to be, under 25
- Ads must not be directed at people under 18 through the selection of media or the context in which they appear
- Ads must not encourage non-smokers or non-nicotine users to use e-cigarettes
- Ads must make clear that the product is an e-cigarette and not a tobacco product

For further information: <http://www.cap.org.uk/News-reports/Media-Centre/2014/New-ecig-ad-rules.aspx#.VlrxOo1ybIU>

12. Are you aware of any information or evidence that you think the Scottish Government should consider in relation to regulating domestic advertising in relation to impacts on children and adults (including smokers and non-smokers)?

For Totally Wicked the marketing of electronic cigarettes should be primarily aimed at former smokers and existing users of nicotine containing products. In addition, such marketing must accept responsibility for not explicitly or indirectly targeting those under the age of 18. Within this context Totally Wicked believe a responsible advertising and marketing regulatory regime can be drawn up that allows for the promotion of electronic cigarettes as a viable alternative to conventional tobacco products, that allow users to continue their nicotine use without any of the harm associated with tobacco.

If the Scottish Government is minded to develop new regulations for the domestic advertising of electronic cigarettes, something Totally Wicked does not think necessary (see answers to questions nine and 11), then these new regulations should be evidence based and proportionate.

Presently there is no evidence to suggest that children or non-smokers are using electronic cigarettes. The anti-smoking charity ASH regularly carries out research into the use of electronic cigarettes by children, they concluded, 'Of those who had heard of e-cigarettes and had never smoked a cigarette, 98 per cent reported never having tried an electronic cigarette and two per cent reported having tried them "once or twice". There is almost no evidence of regular electronic cigarette use among children who have never smoked or who have only tried smoking once.'

The latest statistical bulletin from the Office for National Statistics of Adult Smoking Habits in Great Britain, 2013, showed that 0.14 per cent of non-smokers use electronic cigarettes compared to 11.8 per cent of smokers and 4.8 per cent of ex-smokers in Great Britain.

Research undertaken by Queen Mary University found that a child trying a tobacco cigarette for the first time is 50 per cent more likely to become a regular smoker. The same research found no evidence that a child trying an electronic cigarette for the first time goes on to become a regular user of electronic cigarettes.

13. Are you aware of any information or evidence that you think the Scottish Government should consider in relation to regulating domestic advertising in relation to impacts on business, including retailers, distributors and manufacturers?

Electronic cigarettes offer a much safer alternative than conventional tobacco products. They are transforming the smoking population and the positive impact on the health of the smoking population will far exceed the combined effects of many decades of attempted initiatives to reduce the harm caused by and the exposure to tobacco products. However, tobacco products remain fully available across a range of retail outlets, and

distribution networks are dominated by financially very powerful multinational corporations. Electronic cigarettes must be allowed to compete against this entrenched monopoly of distribution and retail. An unnecessary and draconian restriction on advertising and product range and choice will serve only the commercial aims of the large tobacco corporations in undermining competition and maintaining the dominance of tobacco products and the entrenched inertia of the smoking population.

Inclusion of electronic cigarettes on the Scottish Tobacco Retailer Register

14. Do you agree that retailers selling e-cigarettes and refills should be required to register on the Scottish Tobacco Retailers Register?

Yes ☐ No ☒

Totally Wicked does not believe retailers selling electronic cigarettes and e-liquid should be required to register on the Scottish Tobacco Retailers Register as they are not selling a tobacco product.

Neither electronic cigarettes nor e-liquids are tobacco products, as the recent negotiations and votes surrounding the Tobacco Products Directive made clear, electronic cigarettes and e-liquids are consumer products. Furthermore the recently published rules for the advertising of electronic cigarettes, drawn up by the Committee of Advertising Practice, make it clear that in all advertising material, it must be stated that electronic cigarettes are not tobacco products.

According to the latest research produced by Professor Peter Hajek, Director of the Tobacco Dependence Research Unit at Barts and The London School of Medicine and Dentistry, Queen Mary, University of London, electronic cigarettes are at least 95 times safer than tobacco cigarettes.

The key health benefit of electronic cigarettes is determined by how many smokers switch to them or use them as a staging post to quitting completely. As Professor John Britton from the Royal College of Physicians has said, "If all the smokers in Britain stopped smoking cigarettes and started using e-cigarettes we would save five million deaths in people who are alive today. It's a massive potential public health prize."

This means that electronic cigarettes have to be an attractive alternative to tobacco cigarettes for established smokers. It would therefore be perverse and counterproductive from a public health standpoint to subject electronic cigarettes and e-liquids to the restrictions enforced under the Scottish Tobacco Retailers Register.

Totally Wicked believe that it is socially responsible, and legitimate, to openly market electronic cigarettes particularly when we know that there is little evidence to demonstrate that children and non-smokers are using e-cigarettes (see answer to question 12). Research undertaken by John Moores University demonstrates that there is no correlation between electronic cigarette advertising and use amongst children. The research concluded that, 'Despite widespread advertising of e-cigarette brands in print, visual and social media, the majority of participants (children) reported that they had not seen any advertising for e-cigarettes and

showed a lack of awareness of advertising and marketing strategies and approaches’.

Policy makers must ask themselves what public health benefit would derive from including retailers selling electronic cigarettes and e-liquid on the Scottish Tobacco Retailers Register as they are not selling a tobacco product. Totally Wicked believe such a move would have a wholly negative public health impact across Scotland.

15. Do you agree that the offences and penalties should reflect those already in place for the Scottish Tobacco Retailers Register?

Yes ☐ No ☒

16. If you answered ‘no’, to question 15, what offences and penalties should be applied?

Totally Wicked does not believe retailers selling electronic cigarettes and e-liquid should be required to register on the Scottish Tobacco Retailers Register as they are not selling a tobacco product.

Neither electronic cigarettes nor e-liquids are tobacco products, as the recent negotiations and votes surrounding the Tobacco Products Directive made clear, electronic cigarettes and e-liquids are consumer products.

However, Totally Wicked strongly supports the banning of the sale of electronic cigarettes and e-liquids to those under the age of 18 (see answers to questions one, three, five, and six).

The Scottish Tobacco Retailers Register comes under the Tobacco and Primary Medical Services (Scotland) Act 2010. This Act empowers trading standards officers in Scotland to issue fixed penalty notices for the sale of tobacco to those under the age of 18. According to the Act, if a retailer has been found to be selling tobacco to those under the age of 18 three times within a two year period a local authority can apply to the courts to have the retailer banned from selling tobacco. A court can then ban a retailer from selling tobacco for up to 24 months.

Totally Wicked strongly supports the banning of the sale of electronic cigarettes and e-liquids to those under the age of 18. Therefore Totally Wicked would support the issuing of fixed penalty notices to retailers found selling electronic cigarettes and e-liquids to those under the age of 18. Totally Wicked would also support repeat multiple offenders being banned by the courts from selling electronic cigarettes and e-liquids for up to 24 months.

For the avoidance of doubt, Totally Wicked does not support any other offences and penalties contained within the Scottish Tobacco Retailers Register also being used for retailers of electronic cigarettes and e-liquids.

E-cigarettes – use in enclosed public spaces

17. Do you believe that the Scottish Government should take action on the use of e-cigarettes in enclosed public spaces?

Yes ☐ No ☒

18. If you answered 'yes' to Question 17, what action do you think the Scottish Government should take and what are your reasons for this?

N/A

19. If you answered, 'no' to Question 17, please give reasons for your answer.

Totally Wicked does not believe that the Scottish Government should take action on the use of e-cigarettes in enclosed public spaces.

Any decision as to whether or not electronic cigarettes should be banned in enclosed public spaces should be based on the following evidence based criteria:

- Would such a ban result in more people switching from tobacco products to electronic cigarettes?
- Does the public use of electronic cigarettes undermine the existing smoking ban?
- Does the vapour produced by electronic cigarettes pose a threat to the health of bystanders?
- Does the public use of electronic cigarettes act as a gateway to tobacco products?
- Does the public use of electronic cigarettes normalise smoking?

In answering the above questions, the weight of independent evidence (see answer to question 20) so unequivocally demonstrates that a ban on the use of electronic cigarettes as proposed in this consultation would be disproportionate, counterproductive from a public health standpoint, go against the precautionary principle as originally intended, and demonstrate that the Scottish Government was worrying about problems that do not exist.

20. Are you aware of any evidence, relevant to the used of e-cigarettes in enclosed spaces, that you think the Scottish Government should consider?

The original ban on smoking in public places was introduced, not to improve the health of smokers, but to protect non-smokers from exposure to second-hand smoke. In seeking to include electronic cigarettes within this ban, is the Scottish Government seriously suggesting that the vapour produced by electronic cigarettes is as dangerous to bystanders as smoke from tobacco products? In actual fact, all available evidence demonstrates that there is no harm to bystanders caused by second-hand vapour. Recent research

produced by Dr Konstantinos Farsalinos (Researcher, Onassis Cardiac Surgery Centre, Greece, University Hospital Gathuisberg, Belgium) and Professor Riccardo Polosa (Director of the Institute for Internal Medicine and Clinical Immunology of the University of Catania, Italy) concluded that the 'effects of e-cigarette use on by-standers are minimal compared with conventional cigarettes.'

Totally Wicked does not consider that the use of electronic cigarettes in enclosed public places undermines nor makes more difficult the enforcement of the current ban on smoking in such places. The Chartered Institute of Environmental Health stated that there is a 99.7 per cent compliance rate with the smoking ban, and there is no evidence to support the idea that the use of electronic cigarettes in enclosed public places is undermining this.

Some companies have unilaterally acted and introduced their own bans on the use of electronic cigarettes within their businesses. However, public health policy should be based on actual evidence. Those responsible companies and organisations that have taken the time to look at the evidence take a very different position. Cambridgeshire Police, for example, looked in detail at the perceived health fears surrounding electronic cigarettes. Following their research, they concluded that it was perfectly acceptable to allow their officers to use electronic cigarettes at work.

The Scottish Government should also be aware that a growing number of companies that had previously introduced their own bans are now reversing them. Most recently, Enterprise Inns reversed their ban on electronic cigarette use in their licensed premises.

Commenting on this issue, ASH stated, 'The fact that many (18 per cent) electronic cigarettes look similar to conventional cigarettes has been said to risk confusion as to their use in enclosed public places, such as public transport. However, given that the most distinctive feature of cigarette smoking is the smell of the smoke, which travels rapidly, and that this is absent from electronic cigarette use, it is not clear how any such confusion would be sustained.

Recently ASH and the Chartered Institute of Environmental Health have been working together to promote vaping policies for businesses and the public sector. Totally Wicked recommends that the Scottish Government looks at the positive results generated from this work.

Totally Wicked does not consider that *any use* of electronic cigarettes in enclosed public places normalises the act of smoking nor acts as a gateway to the use of conventional tobacco products.

The issues of renormalisation and gateway are important and expert monitoring is required. However, at this moment in time there is no evidence whatsoever that the use of electronic cigarettes is normalising the act of smoking.

There is however growing evidence that clearly demonstrates the fact that not only does electronic cigarette use in enclosed public places not normalise the act of smoking or act as a gateway to smoking, but also that in and of themselves, electronic cigarettes neither normalise smoking nor act as a gateway to it.

Recent research from ASH has shown that just 0.1 per cent of electronic cigarette users had never smoked tobacco products previously. Given the fact that 99.9 per cent of people who use electronic cigarettes are current or former smokers, it is not surprising that electronic cigarettes are not acting as a gateway to smoking.

The latest survey produced by ASH once again found that electronic cigarettes are not a gateway into smoking. Deborah Arnott, Chief Executive of ASH stated, "There is no evidence from our research that e-cigarettes are acting as a gateway into smoking." Results of a study undertaken by Professor Robert West, Professor of health psychology and director of tobacco studies at University College London's department of epidemiology and public health, were recently published. This research found no evidence of a normalisation of smoking linked to electronic cigarette use.

Smoking in cars carrying children aged under 18

21. Do you agree that it should be an offence for an adult to smoke in a vehicle carrying someone under the age of 18?

N/A

22. Do you agree that the offence should only apply to adults aged 18 and over?

N/A

23. If you answered 'no' to Question 22, to whom should the offence apply?

N/A

24. Do you agree that Police Scotland should enforce this measure?

N/A

25. If you answered 'no' to Question 24, who should be responsible for enforcing this measure?

N/A

26. Do you agree that there should be an exemption for vehicles which are also people's homes?

N/A

27. If you think there are other categories of vehicle which should be exempted, please specify these?

N/A

28. If you believe that a defence should be permitted, what would a reasonable defence be?

N/A

Smoke-free (tobacco) NHS grounds

29. Should national legislation be introduced to make it an offence to smoke or allow smoking on NHS grounds?

N/A

30. If you support national legislation to make it an offence to smoke on NHS grounds, where should this apply?

- a. All NHS grounds (including NHS offices, dentists, GP practices) a ☐
- b. Only hospital grounds b ☐
- c. Only within a designated perimeter around NHS buildings c ☐
- d Other suggestions, including reasons, in the box below

N/A

31. If you support national legislation, what exemptions, if any, should apply (for example, grounds of mental health facilities and / or facilities where there are long-stay patients)?

N/A

32. If you support national legislation, who should enforce it?

N/A

33. If you support national legislation, what should the penalty be for non-compliance?

N/A

34. If you do not support national legislation, what non-legislative measures could be taken to support enforcement of, and compliance with, the existing smoke-free grounds policies?

N/A

Smoke-free (tobacco) children and family areas

35. Do you think more action needs to be taken to make children's outdoor areas tobacco free?

N/A

36. If you answered 'yes' to Question 35, what action do you think is required:

- a. Further voluntary measures at a local level to increase the number of smoke-free areas** a ☐
- b. Introducing national legislation that defines smoke-free areas across Scotland** b ☐
- c. That the Scottish Government ensures sufficient local powers to allow decisions at a local level as to what grounds should be smoke-free** c ☐
- d. Other actions. Please specify in the box below**

N/A

37. If you think action is required to make children's outdoor areas tobacco-free, what outdoor areas should that apply to?

N/A

Age verification policy 'Challenge 25' for the sale of tobacco and electronic cigarettes

38. Do you agree that retailers selling e-cigarettes, refills and tobacco should be required by law to challenge the age of anyone they believe to be under the age of 25?

Yes X No ☐

39. Do you agree that the penalties should be the same as those which are already in place for selling tobacco to someone under the age of 18?

Yes X No ☐

Unauthorised sales by under 18 year olds for tobacco and electronic cigarettes

40. Do you agree that young people under the age of 18 should be prohibited from selling tobacco and non-medicinal e-cigarettes and refills unless authorised by an adult?

Yes X No ☐

41. Who should be able to authorise an under 18 year old to make the sale, for example, the person who has registered the premises, manager or another adult working in the store?

Any member of staff aged over 18 who had been authorised by the store manager to authorise such sales.

42. Do you agree with the anticipated offence, in regard to:

- | | |
|--|-----|
| a. the penalty | a X |
| b. the enforcement arrangements | b X |

Equality Considerations

43. What issues or opportunities do the proposed changes raise for people with protected characteristics (age; disability; gender reassignment; race; religion or belief; sex; pregnancy and maternity; and sexual orientation)?

N/A

44. If the proposed measures are likely to have a substantial negative implication for equality, how might this be minimised or avoided?

N/A

45. Do you have any other comments on or suggestions relevant to the proposals in regard to equality considerations?

N/A

Business and Regulatory Impacts Considerations

46. What is your assessment of the likely financial implications, or other impacts (if any), of the introduction of each of these proposals on you or your organisation?

The use of electronic cigarettes has already seen marked slowing in uptake across 2014. This must in part be concluded as being affected by the ongoing campaigns of misinformation against these products by some in the media and more worryingly some in the public health community.

The Scottish Government has a responsibility to uphold the rights of legitimate businesses whilst protecting the consumer. In this case, protecting the consumer includes ensuring clarity of fact and information and also availability of these products to compete against conventional tobacco products.

As a company Totally Wicked has voluntarily implemented a ban on the

sale of electronic cigarettes and e-liquids to those under the age of 18 for the past six years. This measure, which we hope the Scottish Government will introduce, will therefore have no financial implications for our business.

However, the proposed inclusion of electronic cigarette retailers on The Scottish Tobacco Retailers Register, the proposed introduction of a ban on the use of electronic cigarettes in enclosed public places, and the proposed introduction of new rules for the domestic advertising of electronic cigarettes and e-liquids on their own or collectively have the potential to have a significant financial impact on our business.

These proposals if implemented would provide unnecessary constraints on marketing and impose bureaucratic overheads that militate against the generation and sustainment of a thriving entrepreneurial SME led industry.

Specifically a disproportionate set of regulations for the domestic advertising of electronic cigarettes and e-liquids would deny Totally Wicked the right to advertise our products to adult smokers and existing users of nicotine containing products. This would undoubtedly have a significant impact on our sales. It would also deny smokers the right to be informed about a significantly less harmful alternative to tobacco products. Furthermore, it would unwittingly support the dominance of electronic cigarettes distributed by tobacco companies as they already have well established routes to market.

Forcing retailers that sell electronic cigarettes and e-liquids to comply with The Scottish Tobacco Retailers Register would in some instances close off routes to market as retailers refused to stock electronic cigarettes and e-liquids, put off by the bureaucratic demands complying with the Register involves. It would also be a new and unnecessary burden for dedicated electronic cigarette and e-liquid shops.

The proposed ban on the use of electronic cigarettes in enclosed public places would lead to a reduction in the number of people using electronic cigarettes as we have seen from Spain where a ban on the use of electronic cigarettes in enclosed public places lead to a 70 per cent reduction in use. Whilst this would have a financial impact on our business it would, more importantly see fewer people using electronic cigarettes and more people smoking.

This ban, if implemented, would also significantly impact dedicated electronic cigarette shops. Many of our customers, when first making the switch to electronic cigarettes, sit down with one of our retailers to discuss their specific needs. Often this involves sampling particular e-liquids or electronic cigarettes. Would this be banned under these proposals? If so this would result in fewer people switching to electronic cigarettes and continuing to smoke, it could also lead to a reduction in the number of dedicated electronic cigarette shops.

These proposals (excluding the ban on sales to those under the age of 18 which we fully support) when taken collectively would ultimately affect our ability to inwardly invest and ultimately our company becoming less able to

provide the range and availability of our quality and diverse portfolio, as the market would increasingly be dominated by perfunctory devices offered by the tobacco owned multinationals.

47. What (if any) other significant financial implications are likely to arise?

Further to the answer to question 46, it is already increasingly difficult for independent electronic cigarette manufacturers and retailers to establish distribution networks due to the dominance of large tobacco multinationals. The Tobacco Products Directive will compound this situation further.

If the currently thriving dedicated electronic cigarette shops are unable as a consequence of these proposals to acquire the right product or market to a legitimate target user base, then most if not all independents will rapidly reach the point of financial unviability.

48. What lead-in time should be allowed prior to implementation of these measures and how should the public be informed?

Totally Wicked has been voluntarily implementing a ban on the sale of electronic cigarettes and e-liquids to those under the age of 18 for the past six years, as have other responsible companies. Therefore it would be relatively easy to introduce this measure and the Scottish Government should do so at the earliest available opportunity. Individual electronic cigarette businesses and retailers will be able to inform their own customers and the Scottish Government could take out advertisements in the press and on the radio and television to ensure widespread exposure of this particular change.

Totally Wicked feel that this consultation nor the accompanying documentation provide enough information regarding specific proposals for new regulations governing the domestic advertising of electronic cigarettes and e-liquids (something that Totally Wicked does not believe is necessary, see answers to questions nine and 11). Therefore, if the Scottish Government were minded to progress with this aspect of the consultation, Totally Wicked would expect the Scottish Government to initiate a new consultation process with industry and other interested parties.

As set out in answer to questions 17, 19, and 20, Totally Wicked is firmly of the opinion that there is no evidence to warrant the introduction of a ban on the use of electronic cigarettes in enclosed public places. However, if the Scottish Government were minded to ignore the independent evidence and introduce such a ban, then the very least they should do is give those businesses impacted the same lead-in time that businesses were given to comply with the smoking ban when it was introduced.

As set out in answer to questions 14, 15, and 16, electronic cigarettes and e-liquids are not tobacco products. Therefore those involved in the sale of such products should not have to register with The Scottish Tobacco Retailers Register. Again, if the Scottish Government were minded to go against this obvious fact and compel retailers of electronic cigarettes and e-

liquids to register with The Scottish Tobacco Retailers Register then at the very least such individuals and businesses should be given the same lead-in time as retailers of tobacco products were when The Scottish Tobacco Retailers Register was first introduced.

49. Do you have any other comments on or suggestions relevant to the proposals in regard to business and regulatory impacts?

For Totally Wicked the guiding principle of our business is to put our customers' needs first. We therefore wish for our sector to be robustly and proportionately regulated. We have always gone above and beyond what has been required under the current regulatory regime.

It must though be remembered by policy makers that the products we manufacture and sell have been recognised by independent experts to be at least 95 times less harmful than tobacco products. We know that 99.9 per cent of electronic cigarette users are former or current smokers, therefore the direct competitor product for electronic cigarettes and e-liquid is the significantly more harmful tobacco product. There is never a situation where it is better to smoke than to use electronic cigarettes, therefore any new regulations introduced to cover our sector must be proportionate and must not under any circumstances put electronic cigarettes and e-liquids at a competitive disadvantage to tobacco products.

As Professor John Briton from the Royal College of Physicians has said, "If all the smokers in Britain stopped smoking cigarettes and started using e-cigarettes we would save five million deaths in people who are alive today. It's a massive potential public health prize." On the 17th of December a major study was published (http://summaries.cochrane.org/CD010216/TOBACCO_can-electronic-cigarettes-help-people-stop-smoking-or-reduce-the-amount-they-smoke-and-are-they-safe-to-use-for-this-purpose) demonstrating the significant role electronic cigarettes can play in helping people to reduce the amount they smoke or stop completely.

Disproportionate regulations in areas such as advertising and a ban on the use of electronic cigarettes in enclosed public places will not just negatively impact businesses like Totally Wicked, more fundamentally they will have a negative impact on public health across Scotland.

As a party to the World Health Organization's Framework Convention on Tobacco Control (FCTC), Scotland has an obligation to protect the development of public health policy from the vested interests of the tobacco industry. To meet this obligation, we ask all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry. We will still carefully consider all consultation responses from the tobacco industry and from those with links to the tobacco industry and include them in the published summary of consultation responses.

Totally Wicked Ltd is an electronic cigarette and e-liquid manufacturer and retailer, we have no direct or indirect links to the tobacco industry.