

Tobacco, vaping and related products: prohibition on free distribution & discount

Advertising Guidance
(broadcast and non-broadcast)

Foreword

The Committee of Advertising Practice (CAP) offers guidance on the interpretation of the UK Code of Advertising (the CAP Code) in relation to non-broadcast marketing communications.

The Broadcast Committee of Advertising Practice (BCAP) offers guidance on the interpretation of the UK Code of Broadcast Advertising (the BCAP Code) in relation to broadcast marketing communications.

Advertising Guidance is intended to guide advertisers, agencies and media owners how to interpret the Codes but is not a substitute for those Codes. Advertising Guidance reflects CAP's and/or BCAP's intended effect of the Codes but neither constitutes new rules nor binds the ASA Councils in the event of a complaint about an advertisement that follows it.

For pre-publication advice on specific non-broadcast advertisements, consult the CAP Copy Advice team via our [online request form](#).

For advice on specific radio advertisements, consult [Radiocentre](#), and for TV advertisements, [Clearcast](#).

For the full list of Advertising Guidance, please [visit our website](#).

Background

On 29 October 2026, the provisions that prohibit free distribution and discount of certain products under the [Tobacco and Vapes Act 2026](#) ('Act') came into force. The products captured within the scope of this prohibition include tobacco products, herbal smoking products, cigarette papers, vaping products and nicotine products.

These provisions prohibit the giving away of those products or coupons to a member of the public, or selling those products or coupons at a substantial discount, if the purpose or effect of doing so is to promote those products. The only exemption to the prohibition is if vaping products, nicotine products or coupons for these products were given away in accordance with arrangements by a public authority.

This prohibition applies across England, Wales, Scotland and Northern Ireland.

CAP Code rules

1.10 Marketers have primary responsibility for ensuring that their marketing communications are legal. Marketing communications should comply with the law and should not incite anyone to break it.

1.10.1 Marketers must not state or imply that a product can legally be sold if it cannot.*

(This rule reflects a prohibited practice from Schedule 20 of the DMCCA. See note in Section 3 for more details).

BCAP Code rules

1.3 Advertisements must comply with the law and broadcasters must make that a condition of acceptance.

1.3.1 Advertisements must not state or imply that a product can legally be sold if it cannot* (This rule reflects a prohibited practice from Schedule 20 of the DMCCA. See note in Section 3 for more details).

Guidance

CAP and BCAP understand that the following practices are prohibited under the Act if the purpose or effect is to promote tobacco products, herbal smoking products, cigarette papers, vaping products and nicotine products:

- Giving away these products as free samples or gifts as part of a promotion to members of the public. This also applies to other products that have the purpose or effect of promoting tobacco products, herbal smoking products, cigarette papers, vaping products and nicotine products;
- Giving away physical or electronic coupons that can be redeemed for these products (or products that have the purpose or effect of promoting these products), service, cash or any other benefit;

- Selling these products or coupons for these products at a substantial discount that significantly lowers the cost of these products (eg at a nominal sum, such as 10p) compared with their standard selling price; whether a discount is considered substantial depends on the product and the type of promotion. This also applies to other products that have the purpose or effect of promoting tobacco products, herbal smoking products, cigarette papers, vaping products and nicotine products.

This prohibition applies universally across all media. Marketing communications (such as online and social media ads, promotional marketing under CAP Code Section 8, influencer and affiliate marketing) that feature such practices are therefore also prohibited by law.

The only exemption is if vaping products, nicotine products or coupons for these products are given away in accordance with arrangements made by a public authority. For example, a retailer may give away vaping products or coupons if such activity is within the scope of a formal service agreement they entered into with a public authority, such as a local stop smoking service.

Where such marketing communications fall within the remit of the UK Advertising Codes, the ASA may take action under the legality rules in the Codes (CAP Code rules 1.10 and 1.10.1; BCAP Code rules 1.3 and 1.3.1). The ASA may also refer such cases, and other cases that appear to breach the prohibition but do not fall within the scope of the UK Advertising Codes, to the relevant statutory enforcement bodies.

Advertisers should ensure that their advertising complies with the law and the UK Advertising Codes. Advertisers, agencies and media owners are advised to refer to the guidance published by the Department of Health and Social Care (DHSC) which sets out in extensive detail how the prohibition is intended to operate and seek legal advice as appropriate.

Further information

Full details of the prohibition on free distribution and discount of tobacco, vaping and other products can be found on the UK Government website:

DHSC guidance on selling tobacco, herbal smoking products and cigarette papers: [Selling tobacco, herbal smoking products and cigarette papers - GOV.UK](#)

DHSC guidance on selling vaping and nicotine products: [Selling vaping and nicotine products - GOV.UK](#)

Full details of the Tobacco and Vapes Act 2026 can be found on here: [Tobacco and Vapes Act 2026](#)

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