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HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

TOBACCO AND VAPES BILL

Tenth Sitting

Tuesday 21 January 2025

(Afternoon)

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CLAUSES 89 TO 98 agreed to.
Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 25 January 2025

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The Committee consisted of the following Members:

Chairs: † PETER DOWD, SIR ROGER GALE, SIR MARK HENDRICK

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|---|---|
| † Ahmed, Dr Zubir (<i>Glasgow South West</i>) (Lab) | † Osborne, Tristan (<i>Chatham and Aylesford</i>) (Lab) |
| † Al-Hassan, Sadik (<i>North Somerset</i>) (Lab) | † Owatemi, Taiwo (<i>Lord Commissioner of His Majesty's Treasury</i>) |
| † Barros-Curtis, Mr Alex (<i>Cardiff West</i>) (Lab) | † Rankin, Jack (<i>Windsor</i>) (Con) |
| † Bool, Sarah (<i>South Northamptonshire</i>) (Con) | † Stafford, Gregory (<i>Farnham and Bordon</i>) (Con) |
| † Chambers, Dr Danny (<i>Winchester</i>) (LD) | † Stainbank, Euan (<i>Falkirk</i>) (Lab) |
| † Cooper, Dr Becca (<i>Worthing West</i>) (Lab) | † Whitby, John (<i>Derbyshire Dales</i>) (Lab) |
| † Dickson, Jim (<i>Dartford</i>) (Lab) | |
| † Foy, Mary Kelly (<i>City of Durham</i>) (Lab) | |
| † Gwynne, Andrew (<i>Parliamentary Under-Secretary of State for Health and Social Care</i>) | Chris Watson, Kevin Candy, Sanjana Balakrishnan,
<i>Committee Clerks</i> |
| † Jarvis, Liz (<i>Eastleigh</i>) (LD) | |
| † Johnson, Dr Caroline (<i>Sleaford and North Hykeham</i>) (Con) | † attended the Committee |

Public Bill Committee

Tuesday 21 January 2025

(Afternoon)

[PETER DOWD *in the Chair*]

Tobacco and Vapes Bill

Clause 89

POWER OF OFFICER OF REVENUE AND CUSTOMS TO
SEIZE AND DETAIN SNUS ETC

2 pm

Question (this day) again proposed, That the clause stand part of the Bill.

Dr Caroline Johnson (Sleaford and North Hykeham) (Con): It is a pleasure to serve under your chairmanship this afternoon, Mr Dowd.

As we discussed before the adjournment, clause 89 forms part of part 4 of the Bill. It provides the power to Revenue and Customs officers to seize and detain snus. We talked briefly about the time of detention being 48 hours. I was about to ask how one would decide that the amount was suitable to seize.

Clauses 7, 8 and 9 already provide for snus. Clause 7 bans UK manufacture. Clause 8 bans sales in the UK, but not where people buy it abroad or online and import it. Clause 9 covers the possession of snus with intent to supply, but does not give any indication of what sort of volume one would anticipate could lead to supply.

I am aware that when it comes to some illegal drugs, there is a rough and ready reckoning of how much would be considered as being possession with intent to supply and how much as being for personal use. It may be more complicated in this case, however, because the personal use of this product, which it is legal to import, will affect how often one wishes to import it.

For example, it is unlikely that someone who is importing snus for their own personal use would need to make an import on a daily or perhaps even weekly basis. Some people may decide that they are going to do it monthly or annually, which may mean that they are importing quite a sizeable amount that some customs officials may consider as not for personal use, but for supply.

Could the Minister indicate how it will be decided what counts as personal use and how people can prove that? We do not want a loophole that allows people to use this dangerous product.

The Parliamentary Under-Secretary of State for Health and Social Care (Andrew Gwynne): It is a pleasure to serve under your chairmanship once more, Mr Dowd.

These are of course operational matters for customs officials who already utilise the powers that they have been given in a variety of different forms of legislation. It is common practice for customs officials to seize illicit goods at the border, irrespective of what those illicit goods are. That will now apply to snus.

Border Force officials will decide on a case-by-case basis—on the evidence in front of them in any particular case and on the intelligence that they might have—whether the goods that they have seized are likely to be for personal use. I imagine that given the quantities that would likely be needed, in the case of seizing illicit goods, we would be talking about large quantities of a product that clearly would not be for personal consumption. It would therefore not be unreasonable for Border Force officials to come to the conclusion that the illicit goods that they have seized may well be sold on, which is illegal.

Dr Johnson: Will the Minister give way?

Andrew Gwynne: I will not. That is pretty clear.

Question put and agreed to.

Clause 89 accordingly ordered to stand part of the Bill.

Clause 90

RETAIL PACKAGING

Question proposed, That the clause stand part of the Bill.

Andrew Gwynne: The clause provides the Secretary of State with powers to make regulations about the retail packaging of vaping, tobacco and nicotine products, as well as cigarette papers and herbal smoking products. It also covers tobacco-related devices. For instance, regulations made under this power could restrict the appearance of packaging, as well as what information is provided on it, its shape and its texture.

Although vapes can be an effective quit aid for adult smokers, vaping is never recommended for children. It risks addiction and unknown long-term health impacts while their lungs and brain are still developing. Despite that clear health advice, there has been a significant and alarming rise in the number of children vaping. There are also reports of increased use of nicotine pouches among children and adolescents. That increased use is partly due to the blatant marketing of vapes to children through brightly coloured packaging and the use of child-friendly images such as cartoons. That is an unacceptable practice that the Government intend to stop.

We have seen the effectiveness of standardising tobacco packaging for youth smoking rates, and the evidence tells us that reduced brand imagery can decrease the appeal of products to children. This clause will allow us to make changes such as banning the use of cartoon characters on packaging and regulating the colours that can be used. The clause also replaces existing regulation-making powers for tobacco packaging, so that the power to regulate all the relevant products is in a single piece of legislation. I therefore commend this clause to the Committee.

Dr Johnson: Clause 90 is in part 5, on product and information requirements, and deals with the retail packaging of various products. Clause 90(1) grants the Secretary of State the authority to make regulations concerning the retail packaging of tobacco products, tobacco-related devices, herbal smoking products, cigarette

papers, vaping products and nicotine products. This is one provision where tobacco-related devices are included; they have not been previously, in most clauses. The packaging is of the device, which may be supplied separately from a refill, so that is an important addition.

Clause 90(2) specifies that the regulations may include “prohibitions, requirements or limitations in relation to the production, importation or supply of such products in the course of business.”

That is relevant because a quick search on the internet reveals that although quite a lot of things are prohibited in the UK, including different forms of cigarettes—those with branded packaging, coloured cigarettes and the like—and they may not be legal to sell in this country, it is perfectly possible to go on to a website, buy them in British pounds and have them supplied to one’s home, so there is a clear loophole that needs to be considered.

Subsection (3) outlines particular aspects that the regulations may cover, including the markings on packaging, such as the use of branding, trademarks and logos. I think the use of the word “logo” is key, because if I were to draw a pair of golden arches, people would know what I meant without my needing to write “McDonald’s” next to them, or if I did a little tick, people would know what I meant before I said that it was for Nike. The same is true of various logos, such as for Amazon and others, where the picture has become so well known that the name of the brand is not required to identify it. There is actually a board game that people can buy for their kids to test how good they are at identifying logos. Clearly, brand marketers are very aware of the use of shapes—as well as just the name—for identifying their products.

It is also possible to regulate the information provided on packaging or otherwise supplied with a product and the appearance of packaging. We have seen pretty coloured packaging and packaging designed to entice children with its texture, size and shape. I have seen vape holders that are teddy bear-shaped, so that while someone is not using their vape, they can put it in a teddy bear that comes in a range of colours. They are available on Etsy. It is even possible to regulate the means by which packaging is opened.

Those are useful powers for the Secretary of State to take, but only if he uses them. If he takes them and does not provide any regulations at all, they are worse than useless. Can the Minister explain the timescale in which he expects to perform any consultation required to introduce regulations to the House?

In addition, subsection (3) allows the Secretary of State to address in his or her regulations any packaging features that could distinguish between different brands, the number of individual products in a packet or the quantity of a product in a packet. Products then become standardised items that are less attractive, particularly to children. Subsection (4) specifies that any regulations made under the clause will be subject to the affirmative resolution procedure, meaning that they must be approved by Parliament before coming into force.

The regulations proposed as a result of the Secretary of State’s powers under the clause will build on previous regulations on shape and packaging. We are all aware that the shape, size and appearance of packaging has changed over our lifetimes. Indeed, on 20 May 2016 the UK implemented the Tobacco and Related Products Regulations 2016—the TRPRs—following the European

Union’s tobacco products directive 2014/40/EU. The TRPRs form part of the current regulations retained as EU law after Brexit, and they contain a comprehensive set of rules for the regulation of nicotine-containing e-cigarettes and related products, often referred to as vapes.

The TRPRs introduced several important product standards for nicotine-containing vapes, which marked a turning point in how those products are perceived and controlled. Notably, they placed limits on the nicotine strength allowed in e-liquids, restricted the size of refill bottles and tanks, and mandated specific health warnings on the packaging. The packaging requirements were introduced to ensure that customers were fully informed of the risks associated with using nicotine products.

Again, placing the new regulations on top of the old ones will work only if they are properly enforced, and we have all seen examples of them not being properly enforced or followed. Under the current Tobacco and Related Products Regulations, nicotine-containing products such as e-cigarettes and e-liquids are required to carry a mandatory health warning on their packaging. However, the law allows significant flexibility on the colour, shape, style and types of branding used on those products, as we can see in the adverts when we walk down the street. Some of them are smooth-shaped, some are sharp, and some are shaped like SpongeBob SquarePants or teddy bears. There are also various flavours, although we will come to flavours later. The colours, branding and shapes are all part of the advertising to try to make the products attractive to users, and in some cases particularly to children.

The approach to vapes under the current regulations is in stark contrast to the stringent requirements already in place for tobacco packaging, which is covered by the Standardised Packaging of Tobacco Products Regulations 2015. The regulations maintain that cigarettes and hand-rolling tobacco packaging must be plain, with no branding, logos or colours that could attract potential smokers. The stark difference between tobacco and vape packaging raises important questions about how best to protect young people from the growing appeal of vaping products, which are still seen by many as a safer alternative to traditional cigarettes. We must be clear that they may be safer for smokers, but not for children or people who do not smoke.

It is important to understand the context behind clause 90. Before we had formal packaging regulations, cigarettes were sold with little to no concern for public health. Tobacco companies focused primarily on branding and advertising to create an appealing and recognisable product. The early 20th century saw the rise of the iconic cigarette brands, each seeking to distinguish itself through distinctive packaging designs. Often vibrant, colourful and glamorous—as we are seeing with vapes—they were designed to entice new customers, including young people, and to create a sense of status or sophistication.

Cigarette packaging became a key component of the advertising strategy, with slogans, logos and images intended to convey a lifestyle associated with smoking. Of course, a young person attracted to them would have bought that packet, carried it and shown it to their friends. The packaging would form part of the attraction of the product, and encouraged people to take on a product that we would not have wanted them to. There

[Dr Caroline Johnson]

were no health warnings at that time, and little was done to inform the public of the dangers associated with smoking. That persisted for many years until the latter half of the 20th century. As Members will be aware, throughout the history of tobacco advertising, characters and mascots have played a significant role. These often colourful, friendly and appealing figures, designed to make smoking appear safe, desirable and even fun, were found on the packets.

2.15 pm

As I have mentioned, one of the most iconic mascots in tobacco history, the Marlboro Man, was first introduced in the 1950s by Philip Morris, as part of its marketing campaign for Marlboro cigarettes. Initially designed as a way to counter the brand's image as a feminine product, the Marlboro Man quickly evolved into a symbol of rugged masculinity, outdoor adventure and individualism. He was central to the brand's success during the second half of the 20th century and became one of the most recognisable symbols in advertising. His image was used in billboards, magazine adverts and television commercials, reinforcing the notion that smoking Marlboro cigarettes was associated with strength and masculinity, despite the increasing body of evidence linking smoking to serious health risks. He remained a figure of tobacco advertising until the 1990s, when a combination of public health campaigns and regulations led to a gradual decline.

The turning point for cigarette packaging in the UK came with a growing body of evidence linking smoking to serious health issues such as lung cancer, heart disease and emphysema, starting perhaps in 1950 with the publication of studies directly linking smoking to lung cancer. In 1962, the Royal College of Physicians published a report definitively establishing the connection between smoking and lung cancer, followed by the first publication of comprehensive evidence linking smoking to heart disease in 1964 by the US Surgeon General. In the 1980s, the Government began to take more significant steps towards regulating cigarette packaging. We now seek in clause 90 to give the Secretary of State the power to make provision about not just cigarette packaging but packaging of all tobacco products, herbal smoking products and vapes.

The 1980s saw the introduction of more explicit health warnings. As research began to grow, simply warning consumers that cigarettes would be harmful was not enough. In 1986, the first prominent health warnings appeared on cigarette packs, stating that smoking kills. That warning was a bold statement that recognised directly the fatal risk associated with smoking. If we give the Secretary of State the power in this clause to replace the regulations governing packaging, I look to him for reassurance that he does not intend to water down any of the progress we have seen over my lifetime.

In addition to health warnings, the 1980s and 1990s saw restrictions on cigarette packaging start to be targeted more directly. In 1991, the European Union introduced the requirement for all cigarette packs to feature prominent health warnings about the addictive nature of smoking, as the public were becoming increasingly aware that it was addictive. The regulation paved the way for further developments in packaging laws which, in the 2000s, led

to significant development in cigarette packaging regulations, driven largely by the desire to reduce smoking rates and improve public health.

In 2003, the UK Government introduced the first round of graphic health warnings on cigarette packs following the European Union's doctrine of directive 2001/37/EC. Those graphic warnings were much larger than the previous text warnings. We have all seen them—they depict vivid images of the health consequences of smoking, including diseased lungs and the negative effects of smoking on pregnancy. That was a significant step in making the health risks of smoking more tangible for consumers, moving beyond simple text warnings. Again, I look for the Secretary of State's reassurance that he does not intend to water them down if we give him the power to change those regulations.

Some of the most memorable images show individuals who suffer from smoking-related diseases, such as throat cancer and chronic obstructive pulmonary disease, and there are even photographs of newborn babies suffering from the effects of maternal smoking. One particularly poignant image that has appeared on cigarette packs to date shows a person who has had a laryngectomy—the surgical removal of the larynx—as a result of throat cancer. The goal of introducing such real and often stark images is to reduce the appeal of smoking, make it harder for smokers to ignore the serious life-altering consequences of the habit, and encourage them to quit.

At the same time as warning images were introduced, tobacco companies were also required to reduce the size of their branding on the packaging, as more specific rules were introduced around the design and layout of the packaging. Those areas are covered by clause 90, but I would like the Secretary of State's reassurance that he can strengthen, not weaken, the regulations if he is given the power under clause 90.

The regulations aimed to ensure that the health warnings took up a significant portion of the packaging and that the brand logos and colours were not the dominant elements. However, despite those restrictions, the packaging still featured brightly coloured designs, logos and brand names that were intended to attract customers and maintain brand recognition. This is what we are seeing again with vapes and other products, and it is another example of where the Government are constantly trying to keep up with the industry, which is evolving to try to get around regulations. It is really important that we ensure that the regulations are future-proofed and that we have thought of the most likely ways they will be circumnavigated.

By the 2010s, public health advocates and anti-smoking organisations were calling for even more stringent regulations on cigarette packaging. The main concern at that time was that despite the health warnings, colourful and branded packaging still appealed to customers, and particularly young people, as we have heard so many times. In response, the UK Government introduced plain packaging regulations aimed at removing all branding from cigarette packs and standardising their appearance. I would like the Minister to assure the Committee that when he utilises the powers under clause 90, it will be to strengthen the regulations that are in place, not to weaken them.

The Tobacco and Related Products Regulations 2016 required all tobacco products to be sold in plain packaging, with no logos, brand colours or distinctive designs. The

aim was to reduce the appeal of smoking, particularly to young people, by making the packaging less attractive and focusing on the health risks. Under the new regulations, cigarette packs were required to have a standardised shape, size and colour. They were also to feature a large health warning. The brand name, while it was allowed to be on the packet, could only appear in a standard font and in a specific location. In that way, the purchaser could identify that they had been given the right brand by the shopkeeper, but the brand name was not an attractive thing to look at.

The impact of cigarette packaging regulations needs to be considered today, because we are looking at changing the regulations for all other age-restricted tobacco, vaping and nicotine products. The impact of plain packaging has been the subject of significant research. Several studies have indicated that plain packaging has had a measurable effect on smoking behaviour, particularly among young people and those who have not yet become regular smokers. The evidence shows that removing brand logos and colours has made cigarette packs less appealing and reduced the likelihood of smoking initiation among adolescents. In our evidence sessions, we heard the chief medical officer say that young people are in a particular sweet spot to become addicted, and that is why it is important that we ensure that young people are not attracted to these products.

Dr Danny Chambers (Winchester) (LD): It is about not just the attractiveness of the packaging, but where products are located in the store. They are often near the sweets, so young people can go and grab some chocolate or sweets and a vape and then head out. One big benefit of changing the regulations is that vapes, like cigarettes, now have to be not only plain packaged, but kept behind the counter, where people have to ask for them. The culture of seeing them as something recreational, almost like junk food or a treat, would also be removed.

Dr Johnson: The hon. Gentleman is absolutely right. The aim of the regulations that were introduced to remove sweets from immediately adjacent to tills was to discourage children from taking sweets and pestering their parents at the till. That was part of a drive to reduce obesity levels, but the sad thing is that in many places those products have been replaced by vapes, which are more harmful to youngsters than sweets were.

To the hon. Gentleman's point, we have seen that putting tobacco displays out of sight of children can help to reduce products' attractiveness. Clauses 13 and 14 provide for display regulations in England and Wales—I cannot remember the clause numbers for Scotland and Northern Ireland, but those clauses also exist in the Bill. The clauses provide for displays to do exactly what the hon. Gentleman says: to ensure that children are not enticed through the display of these brightly coloured products.

To return to packaging, research has shown that graphic health warnings—particularly some of the graphic pictures—on cigarette packs can increase smokers' awareness of the health risks and motivate some to quit. The larger and more vivid the warning, the more likely it is to have an impact, with some studies suggesting that plain packaging, combined with graphic warnings,

can lead to higher levels of cessation. That is the effect of tobacco packaging, but we now need to look at vapes.

Now that vapes are so commonly used by children, the question is, what effect will vape packaging have? In recent years, research and public opinion surveys have shed light on the potential harm caused by the packaging of e-cigarettes and related products. The Government call for evidence on youth vaping published in 2023 found that many children were drawn to vaping products due to the bright colours, eye-catching designs and child-friendly images on the packaging. Those designs, which included cartoon characters and fun and vibrant logos, have led to concerns about vaping becoming mainstream and appealing to younger audiences who have never smoked.

We need to remember that, in theory, vaping is a stop-smoking device. The industry also tells us that it is—at least in theory—not trying to market vapes to non-smokers and children. However, that appears to be the effect of the marketing that it has done, and the use of packaging to target, or seemingly target, young people has become a concern for many health professionals and lawmakers and for the public and parents alike.

Research published by the Journal of the American Medical Association Network has reinforced those concerns. It showed that standardised packaging for vaping products, which reduces or eliminates brand imagery, could significantly decrease their appeal to young people. Interestingly, it did not seem to reduce the appeal of e-cigarettes to adult smokers. That suggests that although branding might attract young non-smokers, it does not play a critical role in attracting those who are already smokers or who are trying to quit—I did wonder whether that is because a plain packet is more enticing for those who are used to a packet with pictures of diseased lungs on it. It would also seem that colours are not necessary for adult smokers. Therefore, according to that research, we can bring in clause 90, without any concern that it will deter smokers from quitting, and in the knowledge that it may prevent children from starting to vape.

One study, which was particularly revealing, was designed to explore the association between different types of e-cigarette packaging—fully branded versus standardised—and the level of interest in trying e-cigarettes among youth and adults in Great Britain. Specifically, the researchers sought to determine whether standard packaging that removes brand imagery and uses a plain colour scheme could reduce the appeal of e-cigarettes to young people without diminishing the appeal to adults who may be using them as a smoking cessation aid.

That research is particularly relevant in the context of public health policy, because the Government have been considering measures to reduce the attractiveness of e-cigarettes to young people, while encouraging their use as a cessation tool among adult smokers. The study focused on young people aged 11 to 18 and on adults aged 18 or over. It was conducted in 2021 and involved 2,469 young people and 12,046 adults. They were randomly assigned to view one of three kinds of packaging: fully branded e-cigarette packaging, for control; white standardised packaging with brand names; or green standard packaging with brand names. The experimental design allowed the researchers to compare the level of interest in trying e-cigarettes under those different conditions.

[Dr Caroline Johnson]

The colour of the packets, and the fact that the researchers chose a white one and a green one, are interesting. The Committee was given evidence about which colour should be chosen. Some people suggested that black or a very drab colour, as is used for cigarettes, might give the message that vapes are as dangerous as cigarettes, which may not be the case for current smokers.

2.30 pm

The study's outcome was measured by asking participants to indicate which of the e-cigarette products, if any, they would be most interested in trying. Participants were put into two categories: "not interested" versus "interested" or "don't know". Statistical analysis showed a significant difference in the likelihood of reporting no interest across the different packaging conditions. The study also revealed significant differences in the level of interest in trying e-cigarettes between youth and adult participants, depending on the packaging.

For the youth participants—the 11 to 18-year-olds—those who were shown e-cigarettes with fully branded packaging were more likely to express an interest in trying the product. However, the young people who viewed e-cigarettes in standard green packaging were significantly more likely to report no interest in trying the product. Specifically, 35.8% of young people who saw the green packaging indicated no interest, compared to 28.7% who saw the branded packaging. That was a statistically significant result, suggesting that standardised green packaging may be effective in reducing the appeal of e-cigarettes to youths. When the Secretary of State and the Minister look at the regulations that may be available to them under clause 90, it is important that they look at evidence such as this study to see how packaging can be changed to reduce the appeal of these products to young people, in particular.

Interestingly, young people who had never smoked or vaped were even more likely to report no interest in e-cigarettes with standard green packaging, compared to those who saw the fully branded version. Among the "never having vaped" people, 39.3% expressed no interest in green packaging, compared to 32.6% of those who saw branded packaging. Some 40.1% of young people who had never smoked expressed no interest in the green packaging, compared to 32.6% who saw the branded packaging. Again, that suggests that standard packages may be particularly effective in reducing the appeal of e-cigarettes to young people who have no prior experience of smoking or vaping. If we look to change the packaging, it is important that we focus on those young people who have never smoked and never vaped.

The other participants' results were somewhat different, and we do need to consider what effect changing packaging would have on adult smokers. Adults who saw the e-cigarettes with standard green packaging were less likely to report no interest than those who saw the fully branded products. Some 86% of adults who viewed the green standard packaging expressed no interest, while 88.1% of those who saw the fully branded packaging expressed no interest. The difference was small but statistically significant. It suggests that the green standard packaging may reduce the appeal of e-cigarettes among

adults, but only slightly, and a slight reduction in appeal for adults, with a large reduction in appeal for children, is surely a good thing.

Andrew Gwynne: The shadow Minister is making a really compelling argument, but it would be best saved for the Delegated Legislation Committee following the consultation, so that we know exactly what the Government are proposing. She is setting out a resounding argument for different measures, but that is not of course what the clause sets out. It gives Ministers the power to consult and to bring secondary legislation to a future Delegated Legislation Committee. That is where the shadow Minister should be making these absolutely superb arguments, but we need the powers first.

Dr Johnson: With respect, it is unwise to give someone the power to do something you do not want them to do.

Andrew Gwynne: But you do want us to do it.

The Chair: Order. The Minister should address Members through the Chair.

Dr Johnson: Thank you, Mr Dowd—I am sure you have no opinion on this matter, as you are impartial.

Before giving powers under clause 90 to change packaging and make packaging regulations, it is important that we understand the Minister's intention. Is it to strengthen or to weaken?

Andrew Gwynne: If the shadow Minister is seriously saying that the Government are bringing forward measures to weaken existing provision, she is living in cloud cuckoo land. She does not need to ask me or, through me, the Secretary of State whether it is our intention to weaken the provisions; it absolutely is not. It is in our manifesto that we would bring them in. We want to strengthen the measures. The shadow Minister actually needs to ask Opposition Members whether they would use the powers to weaken those measures. That is not a question for me; it is one on which she has to tussle with the Leader of the Opposition and with Opposition Back Benchers on the Committee.

Dr Johnson: I thank the Minister for his intervention, but the Labour manifesto is not necessarily a document on which one can rely. I do not seem to recall its saying that the Government were going to take the winter fuel allowance from old people. I will not test your patience, Mr Dowd, by giving other examples of where the Labour manifesto did not reflect what the Government went on to do, but the point has been made.

One of the key issues from the public consultation on the Bill, which is therefore relevant to clause 90, is the growing concern and mounting evidence about vape packaging and the need to prevent products from appealing to children. The consultation paper issued by the Government expressed a clear desire to ensure that no vape packaging or vape devices should target young people. The Khan review, which was done under the last Government, recommended that restrictions be placed on packaging images and descriptions to ensure that vapes did not appeal to children.

In that vein, the Government have suggested that they will ban the use of cartoon characters, animal images, images of inanimate objects and other child-friendly visuals used on packaging and devices, recalling the infamous tobacco mascots of times gone by. By implementing such a measure, I believe that the Government aim to reduce the attractiveness of such products to children, acknowledging that current marketing practices may be encouraging the use of such products among young people who have never smoked.

A quick online search can dig up all sorts of vapes and vape paraphernalia clearly targeted at children. Vape packets with *SpongeBob SquarePants*, *Mario Kart* characters and other cartoon characters can be found online. I have listened to children who have said that they have discussed which vape they should have to match the outfit they are wearing at a particular event.

There is significant public support for stricter regulation of vape packaging. A 2023 public opinion survey commissioned by Action on Smoking and Health found that 76% of adults in England are in favour of limiting the use of sweet names, cartoons and bright colours on vape packaging. That shows that there is widespread concern among the public about the need for stronger safeguards to protect young people from becoming regular users of nicotine products.

The call for limiting the appeal of vape products to children is in line with broader efforts to tackle young vaping, which has become a growing public health issue in recent years, but public opinion is not the only factor that should drive the changes to packaging. The Government's concern over youth vaping is also reflected in their efforts to develop a comprehensive regulatory approach. In addition to restricting the use of child-friendly images on packaging, there are other, broader changes, which I will not go into now.

The packaging of vaping products is not just a cosmetic issue. The clause talks about cosmetic things such as what materials can be used, what packages can look like, how big they are or what shape they can be, but those have real implications for public health. By regulating the appearance and branding of these products, we can significantly influence how they are perceived by the public and, most importantly, younger audiences. The goal of the regulatory measures has to be to strike a balance between ensuring that vaping remains available as a harm-reduction tool for adults trying to quit and reducing the risks associated with its increasing appeal to young people.

That delicate balance requires careful consideration and ongoing dialogue between health experts, industry stakeholders and the public. As the Minister pursues such consultation—if he is given the powers under clause 90—I hope that he will consider the matter of flexibility and the way in which the businesses tend to evolve, and that he will future-proof the regulations. The UK Government have taken an important step in recognising the potential risks posed by packaging and are actively working to mitigate those risks through public consultations, policy papers and regulatory changes. However, that is only the beginning. To effectively address the challenges posed by vaping, further measures will need to be introduced not just on packaging, but in relation to other matters, which we will come to later.

We have made the case for why we should consider giving the Secretary of State or Ministers the powers to regulate retail packaging. However, the question is what

impact that will have. Will it have a big or small impact, and will we be putting a large amount of regulation on to businesses for minimal effect and increased cost? Will this make a big difference? The Government have produced an impact assessment of the measures in clause 90 and their desired outcome. It says that the appeal of vapes to children, and the subsequent number who go on to vape, is expected to reduce with the restriction of packaging presentation. Such restriction would therefore result in overall health benefits to our young people due to a reduction in vaping uptake and associated harms.

Moreover, such a decrease in vaping uptake and associated usage among young people is recognised in the impact assessment as also being potentially beneficial for the environment because of a reduction in the anticipated litter from vape-related packaging. Indeed, a litter pick with volunteers from Sleaford a little while ago drew my attention to the harm that vape-related waste is having on our environment. Again, in considering the material of packaging, the Minister may want to think about any environmental hazard posed, which is something that he can mandate under clause 90(3)(d) to ensure that the packaging is to a standard that helps to reduce the effect on the environment.

Furthermore, the impact assessment highlights that the illicit vape market has been increasing and suggests that it could be exacerbated if these powers were implemented. However, it could also be argued that more appropriate packaging restrictions could assist in distinguishing between compliant and illicit vape products, depending on how the regulations were brought forward. They could make it arguably more difficult to discretely stock, advertise or sell such illicit products, and easier to identify and tackle illegality in the sector. It is recognised that packaging-related restrictions are expected to reduce the number of children and adults vaping, thus reducing the profits for manufacturers and stockers because of packaging presentation.

The impact assessment also sets out that such measures are not expected to prohibit or affect the abilities of vape consumers themselves in making choices based on their own preferences or in purchasing the products they wish to consume. If one is already a vape customer, or one is a smoker wishing to stop, packaging will not have an effect, but it may well reduce the likelihood that children start vaping, which is a good thing. Consumers are free to engage in purchasing and consuming such products as they wish, albeit that by being in different packaging, it is less appealing to children and young people.

Although no studies have shown the real-world impact of standardised packaging for vaping products, evidence from experimental studies suggests that plain packaging may reduce the appeal of vaping products among young people. There is research in the impact assessment about standard olive-coloured packaging—I am not sure whether that is a green olive or a darker olive—in comparison with branded packaging. It found that young people aged 11 to 18 had a lower interest in trying vapes in standard packaging but there was no difference among adult respondents between the branded and plain standardised products. Research from King's College London and Action on Smoking and Health shows that different effect, with young people being more likely to be attracted by the packaging than adults.

A recent study also looked at a cross-sectional online survey to explore interest in the perceived harms of vaping products when it comes to packaging. The study

[Dr Caroline Johnson]

found that not only did young people aged 16 to 19 in England, Canada and the US find e-liquids in white or olive-coloured standardised packaging less appealing compared with those in branded vape packaging, but that they inaccurately perceived e-liquids in that standardised packaging as being equally or more harmful than smoking, compared with e-liquids in branded packaging. Again, there is evidence that packaging influences children's decisions. If they look at something in a plain packet, they are more likely to think it is not good for them than if they see it in a packet with Mario Kart or a teddy bear on it. I know that is instinctive, but the evidence also bears it out, as seen in the Government's impact assessment.

I am interested to know how clause 90 differs from existing legislation, particularly on tobacco products. It is my understanding that under the Standardised Packaging of Tobacco Products Regulations 2015, which came into effect on 20 May 2017, all products—including cigarettes, rolling tobacco and snuff—must be sold in standard packaging. The use of logos, trademarks and branding has been severely restricted and tobacco packaging must display the product name in standard font and size without any distinctive logos, colours or images.

2.45 pm

Gregory Stafford (Farnham and Bordon) (Con): It is a pleasure to serve under your chairmanship, Mr Dowd. Focusing on clause 90, my view is that the Government are taking the right step. Some on the Back Benches of my party may not agree, but I think the clause plays a vital role in shaping the future of tobacco control in the UK. The debate surrounding retail packaging regulations is, however, complex and the Minister clearly has to juggle the balance of public health interests, consumer rights, and industry and legal concerns. I believe that clause 90 is a significant legislative step that aims to standardise packaging to reduce the appeal of tobacco and vaping products, and to ensure that consumers are better informed about the health risks while restricting marketing strategies that encourage nicotine use.

The primary aim of clause 90 is to safeguard public health. Research from Public Health England and the World Health Organisation has consistently demonstrated that standardised tobacco packaging, free from branding and marketing embellishments, reduces the attractiveness of the products—particularly, as the shadow Minister said, among young people. By extending the regulations to vaping and nicotine products, clause 90 takes a proactive stance in preventing nicotine addiction. I welcome that.

Marketing tactics and eye-catching packaging clearly play a crucial role in enticing young people to experiment with tobacco and vaping products. As has been mentioned, studies indicate that standardised packaging reduces the appeal of smoking among young people, reinforcing the message that these products are harmful. Like us, Australia, which implemented plain packaging laws in 2012, has seen a significant decline in smoking rates, particularly among young people.

Clause 90 mandates clearer health warnings and restrictions on misleading information on packaging. Research shows that graphic health warnings, as we already

have on cigarette packets, and standardised packaging improve consumer understanding of the risks associated with smoking and vaping. That also aligns with international best practices, as seen in places such as Canada and France, where strong packaging regulations have contributed to reduced smoking rates.

Although cigarettes are currently subject to strict packaging regulations here, the vaping and nicotine products listed exploit the regulatory gaps used to make attractive branding and misleading claims. Clause 90 ensures that similar restrictions apply to all tobacco-related products, creating a much more consistent regulatory framework. That has the public health benefits I have mentioned but also makes it easier for the consumer to see a standardised product that they understand has implications for their health.

Many countries have likewise already introduced stringent packaging laws to curb tobacco and vaping consumption. We should be proud that the UK has long been a leader in tobacco control. Clause 90 reinforces that leadership by adopting global best practices, ensuring that our laws remain in line with international commitments such as the WHO framework convention on tobacco control.

Plain packaging has also been shown to reduce the likelihood of relapse among former smokers, by minimising the branding cues that trigger cravings. By eliminating marketing strategies that glamorise tobacco use, clause 90 strengthens the UK's efforts to support smoking cessation initiatives. Standardised packaging could include sophisticated track and trace systems to help to identify illicit products. Will the Minister be considering that as part of the new regulations he puts forward? These systems reduce counterfeiting and smuggling, ensuring that any tax revenues are protected and that illegal sales do not undermine the well outlined public health efforts.

However, clause 90 raises issues that we need to consider. Although it has a number of advantages, it is essential to address some of the concerns that could arise from its implementation. I suspect that I am pre-empting comments that may be made by my hon. Friend the Member for Windsor. There is clearly an impact on consumer choice. Some argue that standardised packaging restricts consumer choice by making it harder to distinguish between products. Although health concerns clearly must take precedence, policymakers must ensure that consumers can still access product information without ambiguity.

Dr Johnson: Can my hon. Friend illustrate whether there is any evidence suggesting that, as the result of plain packaging, consumers are less able to identify whether they have the right product in their hand as they leave the shop?

Gregory Stafford: I have not seen any evidence of that, but I want to ensure through the regulations that the consumer understands, from a health benefit point of view, what is in the product that they are taking away with them.

Unlike tobacco, vaping products are often promoted as a harm reduction tool for smokers who are trying to quit. Some argue that overly restrictive packaging rules

could deter smokers from switching to less harmful alternatives, and I urge the Minister to assess how clause 90 affects vaping uptake among smokers seeking cessation tools.

As we have heard previously, the tobacco and vaping industries have historically opposed packaging regulations, often challenging them through legal means. Many countries have seen lengthy lawsuits after implementing plain packaging laws. I urge the Minister to ensure that the UK is prepared to defend clause 90 against potential challenges and ensure that the regulations that might come through are legally sound and enforceable. Some critics also warn that overly stringent packaging laws could drive consumers towards the illicit markets, where unregulated products may pose greater health risks. Again, the Government must complement clause 90 with robust enforcement mechanisms to prevent black market proliferation.

Dr Johnson: Is it not right that in the past, when increased tobacco regulations have been made, the black market has shrunk with the overall market?

Gregory Stafford: Absolutely, and we heard that clearly in the evidence sessions before we began examining the Bill in detail. However, as Members on both sides have mentioned, the tobacco and vaping industries are extraordinarily innovative in getting around regulations; that is really what I was referring to. That brings me to my next point. The effective implementation of clause 90 will require strict monitoring and enforcement, so local authorities, through their teams, must be equipped with sufficient resource to ensure compliance and tackle any attempts to circumvent the regulations.

My final point is about what I call the potential stigmatisation of vapers. We clearly do not want anyone to start vaping, but those who are already vaping or those who may be trying to use vapes as a smoking cessation tool must be taken into account. Although discouraging nicotine use is a priority, the Minister must avoid unintended consequences, such as stigmatising vapers using e-cigarettes as a smoking cessation tool. The regulatory framework should differentiate between the combustible tobacco products and reduced-risk alternatives where appropriate.

To ensure that clause 90 achieves its intended objectives while addressing the concerns that I have raised, I ask the Minister the following questions. Will he consider differentiated regulations for vaping products, ensuring that the public health messaging does not inadvertently deter smokers from switching to the less harmful alternatives? We need clear guidelines for implementation, so comprehensive guidance should be issued to businesses, law enforcement and regulatory agencies to ensure smooth implementation. There needs to be a public awareness campaign that complements that to educate consumers about the changes of packaging and reinforce the risks of tobacco and nicotine addiction, and we must have certain timelines for producers so that they understand what the new requirements are and how they will be implemented.

We need to ensure that the Government conduct regular evaluation of the effectiveness of clause 90 using data-driven analysis to assess its impact on the smoking and vaping rates, and we need strong law

enforcement and border control agencies to prevent the illicit trade and ensure compliance with the regulations. Perhaps this does not need to be said, but the Minister should engage with public health experts and harm reduction advocates to refine the regulations and address any emerging concerns as they come in the future.

Jack Rankin (Windsor) (Con): It is a pleasure to serve under your chairmanship, Mr Dowd. It seems to me, both from the text of the clause and from his introductory remarks, that the Minister aims to do two things. He aims to bring regulations on packaging to apply more widely to vaping and nicotine products, and to consolidate the law so that tobacco and nicotine products are all dealt with in one place.

My hon. Friend the shadow Minister asked the Minister to commit, with these powers, not to undermine the regulation on cigarettes thus far. Unlike the shadow Minister, I have no concern that the Minister might water down any such remarks. I trust the Labour manifesto in that regard.

Dr Johnson: This may be the first aspect of the Labour manifesto that we can trust, so perhaps there is something to celebrate.

Jack Rankin: Indeed. In fairness, I also share both the Minister's and the shadow Minister's concern. It is very clear that the incremental changes to tobacco retail packaging are one of the public health interventions that have diminished cigarette use, which is desirable.

However, I also ask the Minister to make assurances that, despite the consolidation of the law, he will treat vaping and nicotine products in quite a different way. I echo some of the thoughts that my hon. Friend the Member for Farnham and Bordon expressed. It seems to me that, certainly when it comes to vaping, we should have proportionate and targeted regulation of vaping and nicotine products. In particular, we should be cracking down on anything that is particularly or unduly appealing to those who are under age, whether that is toys, cartoons or sweet-type imagery. That view would be shared right across the House. In the Minister's introductory remarks, he called vaping an effective quit aid. Yes, we do not recommend it to children, but we do want to maintain that.

My concern about these quite sweeping regulations is this. I take the Minister's point that delegated legislation will have to come forward in the future and will buff out how exactly the Minister plans to take this matter forward, but to me, moving towards, for example, plain packaging is likely to undermine the effectiveness of vaping as a cessation tool, which would undermine the objective that the Bill is trying to arrive at: in my understanding, a smoke-free generation by 2030. I ask the Minister to give us some assurances that he will treat vaping and nicotine products in quite a different way from tobacco products. After all, vaping is the fastest growing—I think this is uncontroversial—smoking cessation method, and I think that here there is scope for quite wide-ranging powers.

I also urge the Minister to accept this point. I do not know how he considers this, but in my view there are responsible vape businesses and I think he should work with them to understand how they think they could

[Jack Rankin]

change things so that people are directly using vaping as a smoking cessation tool and it is not appealing to people who would be new smokers. It is my understanding, from some of my research ahead of coming on to this Committee, that a Cochrane review said that vaping is twice as effective as any other stop-smoking tool. I do not think the Minister should be seeking to undermine that.

I know that we do not get on to the issue of flavours until clause 92, so I will keep my comments brief on this, but it does seem to me to be legitimate to advertise flavours, perhaps in a delimited way. The shadow Minister talked about candy floss flavours, which should not be allowed, but it seems to me that people could legitimately advertise to adults various factual flavours that show vaping as something we can progress on smoking cessation with.

I would also oppose the cancer-type warnings that we see on cigarette packs in relation to vaping. I do not believe the evidence is quite there yet. The research on vaping is in its infancy, so it is too early to say whether that is appropriate.

Dr Johnson: I understand that my hon. Friend does not believe that there is evidence at the moment on particular health disbenefits of vaping, but would he agree to be guided by the chief medical officer and other experts in this field when making that decision? At one time, medical professionals did not think smoking was bad. Things change and evidence comes out over time.

3 pm

Jack Rankin: It should be given great weight, but generally speaking, there should be a permissive rather than a prohibitive bent in public policy—something the shadow Minister and I might disagree on.

This point, which my hon. Friend the Member for Farnham and Bordon also made, is a bit more academic. In the last few years, there has been an increasing view among the public that vaping is just as bad as smoking; up to 40% of the British public now believe that. Even though there might be some contention around the true levels of harm—I do not think the science is quite settled; vaping is not harm-free, but it is certainly a lot less harmful than cigarettes—we have to ensure that, in our messaging as politicians, we do not put vaping in the same box as tobacco, because we could stamp down on the best smoking cessation tool there is. I invite the Minister to address those points in his closing remarks.

Sarah Bool (South Northamptonshire) (Con): It is a pleasure to serve under your chairmanship, Mr Dowd. I will focus on two main points from two different organisations.

The first point, which builds on the points made by my hon. Friends, was made by Cancer Research UK when discussing packaging for vapes. The organisation is obviously in support of placing some restrictions on packaging to reduce youth vaping, but it believes that the right balance must be struck between dissuasive and neutral packaging. Interestingly, it said that it does not believe that vape packaging should be made to resemble tobacco packaging in order to reduce worsening harm misperceptions, which builds on the point made by my hon. Friend the Member for Windsor.

Cancer Research UK said that more evidence is needed to determine which colours would reduce the appeal for young people, but it is important that in doing so, we do not reduce access to vapes for adults who use them to quit smoking. It said that it wants to avoid worsening misperceptions that vapes are as harmful as, or more harmful than, tobacco, so it would make sense to choose a neutral colour for vaping packs rather than the same drab green colour of tobacco packs.

The organisation went on to talk about displays, which was a point raised earlier, but it is also interesting in this wider piece. Cancer Research UK said that, to make vapes less appealing to young people, they could be behind the counter but still on display. In its view, if the UK Government change the packaging of vapes through the powers in the Bill, that will go a long way to reducing the appeal of vapes overall, and therefore they might not need to go as far when restricting the display itself. It argued that the balance would help to ensure that vapes are still visible and accessible to adults who wish to use them to quit. It would also create a differential from tobacco, so that vapes would be behind the counter with less appealing packaging, but still visible to adults who smoke and want to quit.

Dr Johnson: Does my hon. Friend agree that when the Minister is considering the regulations under clause 90, he needs to consider not just what the packaging would look like in a real-world shop, but how he can ensure that the same product will not simply be available online in the original packaging?

Sarah Bool: My hon. Friend makes a very powerful and valid point. I would like the Minister to address how we are going to tackle the issue online. If someone cannot go into a physical shop, going online is the next alternative, and we want to ensure that we protect our young ones as much as possible.

I want to highlight one other point from Cancer Research. It said that it is also important that the legislation future-proofs against the use of bright coloured lights or similar displays that could appeal to young people. Again, we need to be careful of that. As has been said, manufacturers are often very good at finding their way around these regulations, so we do not want to make the products attractive in another vein.

My second point focuses on clause 90(3)(b), which says that provisions may be made about “the information provided on packaging or otherwise supplied with a product”.

We had some evidence submitted from the North East Public Protection Partnership, which is a regional partnership that brings together chief officers of 12 local authorities in the north-east, representing environmental health, trading standards and licensing services. The partnership is in support of the measure, but believes that certain requirements should be put on packaging itself—it thinks that inserts in the packaging should be regulated. I have learnt, as I have not come across them often before, that inserts are used internationally, in Canada and Israel. They are proven to encourage people to give up smoking when they are placed inside the packaging. They usually contain positive messages to encourage people to quit—for example, by going into detail about improved breathing within a matter of days of quitting

or the 50% reduction in the risk of heart attacks within a year, or by detailing how much money a smoker is likely to save.

The North East Public Protection Partnership believes that there should be specific regulations around the inserts and the packaging, setting out the type and size of font, the colour, the layout, and dimensions. It thinks that the specific information to use on packaging should be defined and that the information provided on where to seek more help to quit should also be included. It also says it is essential to set a date for suppliers for when packaging must appear on the UK market and that the penalties on manufacturers for non-compliance should be set out.

The partnership also said:

“The Government will need to liaise with Trading Standards in order to ensure that the appropriate offence, or offences, are included in regulations on pack inserts. We would recommend an offence is included which relates to the sale or supply of a tobacco product without the correct insert, so that Trading Standards can take enforcement action against the person selling. An example of this includes the Tobacco and Related Products Regulations 2016 where there is an offence to produce as well as supply product in breach of regulations.”

Finally, it adds:

“Health messaging should be on the outside of all tobacco, nicotine and vape products.”

My final question to the Minister is: have he and his Department turned their mind to inserts, what they might contain, and the role they could play in future?

Andrew Gwynne: We have had a good debate on clause 90—that is all we are up to.

To answer why this is an issue, unlike standardised cigarette packaging, vape packaging can—as we have already heard—come in many different colours, styles, and shapes. The previous call for evidence that the shadow Minister referred to showed that this increases the appeal of vapes to children, and it can encourage them to start vaping. That is what we want to crack down on with this clause.

A number of Members have asked why we are extending the provisions, given that tobacco packaging is already standardised. Only cigarettes and hand-rolled tobacco are subject to the most stringent regulations. This includes standardised packaging, specified packet shape, amount within packs, material, colour and appearance requirements, and so on. In England, around five times more people smoke other tobacco products, such as cigars, than a decade ago. There has been an increase in that consumption and we are committed to addressing this, which is why we are extending the measures to other tobacco products.

In terms of requiring dissuasive messages, of course, these are things that we can look at in the future—it is not something that we are looking at now. We will be mandating pack inserts for cigarettes and hand-rolled tobacco packaging, and we will be running a call for evidence on standardising the packaging of all other products. The shadow Minister, the hon. Member for Sleaford and North Hykeham, asked whether the Secretary of State or Ministers will use the powers. We are coming to Parliament with this landmark Tobacco and Vapes Bill, as we committed to in our manifesto, precisely because we want to use these powers. We are seeking these powers. The Scottish Ministers, the Welsh Ministers, and the Northern Ireland Minister are seeking these

powers precisely because we all want to use them to tackle the scourge of youth vaping and move our country to smokefree 2030. Our manifesto committed to stopping vapes being branded to appeal to children, and the Bill provides new regulation-making powers to make this commitment a reality.

As has been alluded to, Members have asked over the course of our deliberations why the restrictions are not on the face of the Bill. In particular, the shadow Minister has gone into the level of detail that we will go into when the regulations are brought before the House, following consultation. My answer is that the technical and detailed nature of the requirements means that they are not suitable to be put on the face of the Bill. We might need to amend the requirements in response to future developments in the market, and scientific knowledge and evidence may change, which means that we will have to react where appropriate. It might also be necessary to gather further evidence post-implementation—this is precisely the point that the hon. Member for Farnham and Bordon made about ensuring that everything is evidence-based, that the data is there and that we scrutinise it, rightly. We may well come to decide that our regulations are the wrong regulations, or that they were the right regulations three years ago, but now need to be changed. That is the why the powers in the Bill are permissive.

It is also important to gather information about the effectiveness of the packaging regulations, to see whether they have indeed discouraged youth vaping. All the evidence from other jurisdictions that do this suggests that they will; however, we need to ensure that the evidence is relevant to the United Kingdom. We will also need to keep a close eye on what happens to adult vapers, particularly those who want to stop smoking, and whether vapes remain accessible to adults who are trying to quit smoking, which is something we need to be clear about.

To be clear, the requirements for vape packaging are yet to be determined, as I said in an intervention on the shadow Minister. The proposed restrictions will be subject to consultation, to ensure that any unintended consequences on adult smoking rates are considered. Research suggests that neutral packaging can remove appeal to youth without being dissuasive to adult smokers—the point made in the information from Cancer Research UK, which the hon. Member for South Northamptonshire rightly raised. Further analysis and consultation will take place before any regulations are made, because we absolutely want to get this right.

It is crucial that we do not rush into this, but have measures that are proportionate and workable, and that there are no unintended consequences. That is why there will be a transition period for businesses before any new regulations come into force, and the length of the transition will be considered as part of the consultation process. This is a balance to be struck between acting quickly to curb youth vaping and carefully considering unintended consequences on smoking rates, in order to ensure the most impactful change possible. That is why we have included a statutory duty to consult, to ensure that the relevant stakeholders are engaged, and to consider their responses and insights as regulations are developed.

Of course, we will provide more information about the timeline for our secondary regulation programme once we have Royal Assent, but let me make it clear to all members of the Committee that it is our intention to

[Andrew Gwynne]

move at pace. We want to use these powers, so we want to make sure that, once the Bill becomes law, we start the process of getting the relevant regulations in place, especially for smokefree, because although many of the measures in the Bill will come into force on 1 January 2027, some regulations might be done beyond that date. We will have a lot of work to do in secondary legislation, to get the measures in the Bill—which we hope will all be approved in the course of our deliberations prior to Royal Assent—so that we can hit the ground running and get to 1 January 2027 smoke-free.

Dr Johnson: I am glad to hear that the Minister wants to use the regulations and strengthen the regulation around vaping—although I appreciate that that is not the view of the entire Committee—but he is talking about 1 January 2027, which is almost two full years away. Does he anticipate that the packaging regulations will come in before or after the legislation on the smoke-free generation?

3.15 pm

Andrew Gwynne: The simple answer at this stage is: “I do not know.” It depends on parliamentary time being made available, the length of the consultations and what comes back from them, and a whole range of things that right now are outside of my control. But I say to the hon. Lady that, first, smoke-free is the priority. We have an absolute deadline for having smoke-free regulations in place, with enough of the lead-in time that we have promised retailers, and in respect of licensing requirements for the commencement of the Bill. But be under no illusion: we will be moving like the clappers, to get as many regulations in place as early as possible, so that the measures in the Bill can have the full impact and effect as soon as humanly and legislatively possible. That is my commitment.

Question put, That the clause stand part of the Bill.

The Committee divided: Ayes 16, Noes 1.

Division No. 23]

AYES

Ahmed, Dr Zubir	Gwynne, Andrew
Al-Hassan, Sadik	Jarvis, Liz
Barros-Curtis, Mr Alex	Johnson, Dr Caroline
Bool, Sarah	Osborne, Tristan
Chambers, Dr Danny	Owatemi, Taiwo
Cooper, Dr Beccy	Stafford, Gregory
Dickson, Jim	Stainbank, Euan
Foy, Mary Kelly	Whitby, John

NOES

Rankin, Jack

Question accordingly agreed to.

Clause 90 ordered to stand part of the Bill.

Clause 91

FEATURES OF PRODUCTS

Mary Kelly Foy (City of Durham) (Lab): I beg to move amendment 5, in clause 91, page 51, line 26, at the end insert—

“and markings containing health warnings”.

This amendment enables regulations to be made requiring health warnings to be marked on individual cigarettes and cigarette papers.

The Chair: With this it will be convenient to discuss the following:

New clause 1—*Mandatory health warnings on cigarettes and cigarette rolling papers: consultation—*

“(1) The Secretary of State must consult on draft regulations (see section 91 (features of products)) which would, if made, include a requirement on producers of tobacco products and cigarette papers to print health warnings on individual cigarettes and individual cigarette papers.

(2) In this section, ‘cigarette paper’ and ‘tobacco product’ have the same meaning as in section 112.”

This new clause commits the government to consult on regulations under clause 91 requiring the placing of specified health warnings on cigarettes and rolling papers by tobacco manufacturers and importers.

Clause stand part.

Mary Kelly Foy: I will not press these provisions to a vote but they are worth raising now, and perhaps for consideration at a later stage of the Bill, further down the line.

The amendment and new clause would require tobacco manufacturers and importers to put health warnings on individual cigarettes and cigarette papers. The Government are consulting on pack inserts which, of course, is welcome. However, those warnings do not catch those who buy individual cigarettes or those who are offered one out of someone else’s pack. Warnings on individual cigarettes—dissuasive cigarettes—were recommended by the all-party parliamentary group on smoking and health in 2021, and by the Khan review in 2022. These warnings already exist in Canada, introduced in August 2023, and will be implemented in Australia from July this year. Research commissioned by Health Canada into the appeal and attractiveness of cigarettes showed that cigarettes with health warnings were seen as less appealing than those without. That is true the other way too; cigarettes without health warnings were perceived as less harmful. We all know about the harms of smoking, and we have heard it again and again in these sessions, but the more that we can convey that message to consumers, and particularly young people, the better.

Overall, participants in the research felt that labelling individual cigarettes made packages complete and impactful. That was particularly true among youths who do not smoke, smoked occasionally or wished to quit. We know how addictive cigarettes are. It is often said in these debates that the only choice is the first cigarette. For many, even that may not be true; children are four times more likely to take up smoking if their parents smoke. If we truly want to stop the start, we need to make sure that people know how harmful these products are, even if they are offered just one of them.

It is great that the Department is currently consulting on pack inserts, but that does not quite capture those who may purchase or are offered single cigarettes.

Jack Rankin: Earlier in the debate, we voted on a clause about splitting up cigarettes—I was just trying to find which clause it was—so I think we are already proposing to make it illegal to sell single cigarettes.

Does the hon. Lady not think that, given that we voted for that clause to stand part, these amendments are unnecessary?

Mary Kelly Foy: No, I do not. As I said, the Department is consulting on pack inserts, but that may not capture the people who have or are offered one cigarette. We all know that it takes only one cigarette to become addicted. Does the Minister have a timeframe that the Department is working to for the introduction of pack inserts? Will the Department monitor the effectiveness of that and continue to look at evidence from other countries, such as Canada, where dissuasive cigarettes do have an impact, and potentially use the powers in the Bill to introduce dissuasive individual cigarettes at a later stage?

Dr Caroline Johnson: I thank the hon. Member for City of Durham for tabling this amendment, supported by my hon. Friend the Member for Harrow East (Bob Blackman). I suspect that it is a reversal of the process from the last Committee, when my hon. Friend was on that Committee and moved a similar amendment, which was supported by the hon. Lady.

This is not a new suggestion. In fact, looking back at the debate from the last iteration of this Bill—I think it was about new clause 5 at the time—I discovered that it was the noble Lord Young of Cookham who first proposed warnings on cigarettes in 1979. He said:

“The solution to many of today’s medical problems will not be found in the research laboratories of our hospitals, but in our Parliaments. For the prospective patient, the answer may not be cure by incision at the operating table, but prevention by decision at the Cabinet table...Historically, a nation would look to its doctors for better health. Now they should look to their Members of Parliament.”

That is one of the reasons why I am here, standing with you today, and why I see a number of other medical professionals on the Opposition Benches. Parliament offers the opportunity not to look after one’s patients one at a time, but to look after the health of many patients all at the same time. I hope that we will seize that opportunity in relation to the public health measures in much of this Bill. My noble friend in the other House, Lord Young, has now been in Parliament for over 50 years—I hope we will get round to bringing forward some of the things he has proposed before another 50 years go by. The proposal was supported not only by the noble Lord Young, but by Sir Stephen Powis, then director of NHS England, and by the Khan review.

However, I have a couple of questions. I understand the point that my hon. Friend the Member for Windsor is making, which is that if people sell cigarettes only in packages and the packages are, as we have discussed, very thoroughly controlled in terms of what they look like and what they say, is it then necessary to mark the cigarettes that are inside them? I also understand that in clause 4, we as a Committee have chosen to introduce a measure that bans the sale of single cigarettes, but despite that being something people should already not do, it does happen, as we heard from the Royal College of Physicians in its evidence at the beginning of the Committee proceedings on 7 January.

There is some benefit to marking the cigarettes. It is also the case that it does not look terribly cool to have a stick sticking out of one’s mouth that says “Smoking kills”, and I get that. One question I would ask, though—perhaps the hon. Member for City of Durham will

know the answer to this—is what they use to dye the papers chemically and what the effect of breathing in the smoke from the dyes is.

We talked about cigarette papers and why they are being banned at the beginning of the Bill; we talked about the chemicals put into cigarette papers to colour the paper, to ensure that the ash is white, to control how fast it burns and so on. If cigarette papers are to be marked with a message, that will require inks of some description, which will then be burned and the smoke from them inhaled. I do not know whether the hon. Lady has information on whether that can be done without adding additional harm to an already harmful product. On the one hand, what is the benefit of adding the message to reduce people’s uptake of cigarettes, and on the other, what harm is added to the cigarette by adding the message?

Cigarette papers already have a lot of pictures on them. I do not know whether the Minister will change that under clause 90, but health warnings on cigarette papers, as opposed to the cigarettes that come pre-rolled, would have the same effect: if one is printing a message on them, what harm is one adding and what risks is one taking away? I suppose he would have to look at both the risks and the benefits.

Clause 91 relates to the features of the products. Subsection (1) authorises the Secretary of State to make regulations on the features of various products, including

- “(i) tobacco products,
- (ii) tobacco related devices,
- (iii) herbal smoking products,
- (iv) cigarette papers,
- (v) vaping products, or
- (vi) nicotine products,”,

covering such aspects as the marking on the products, including branding, trademarks and logos, and the information provided with them. It also includes regulations on the appearance, size and shape of products and any distinguishing features that could differentiate brands.

Subsection (2) states that the regulations may include “prohibitions, requirements or limitations in relation to the production, importation or supply of such products in the course of business.” Subsection (3) clarifies that regulations made under this section are also subject to the affirmative resolution procedure, so the Minister is correct that at some point there will be a short delegated legislation meeting to debate them, but there will not be as much time to scrutinise them as there is in this Bill Committee.

The shape and size of packaging and of products have changed over time. Tobacco always used to be sold in bulk or in pouches by weight and wrapped in simple paper packaging. Cigarettes were not very common, and most tobacco products at that stage were loose-leaf cigars or pipe tobacco. The size and shape of the packages was straightforward, and the design at that time was more for preservation than marketing. As the industry grew, they became more standardised and recognisable. The first iconic package designs were rectangular boxes, usually made from cardboard, with a flip-top opening containing 10, 20 or 25 cigarettes.

3.30 pm

The era also saw the introduction of the soft pack—a more flexible package that made it easier to carry and distribute cigarettes in various sizes. The shape of the

rectangular box was not only practical, but designed to fit easily into a pocket or handbag to enhance convenience and portability, making the product more desirable to smokers, who appreciated the ease of access and discretion offered by the pack, in contrast to the bong in Strutton Ground that the Minister has been so concerned about, which I suspect would be much more difficult to carry round.

The size of the pack also became an important aspect of the marketing. The smaller pack, containing 10 cigarettes, was often marketed as the more affordable, casual option, while the larger packs of 20 were considered the standard. Much of the desired focus over time came to be on visual elements, such as colour, typography, size and shape, and different pack sizes, from the classic 20 to the king-size pack, which could contain 25 cigarettes or more. Larger pack sizes offered better value for money, making them an attractive option for regular smokers, but also potentially increasing the amount that was smoked, and therefore increasing consumption of the harmful product.

The rectangular shape remained dominant, but innovations such as flip-top boxes and plastic began to appear, which offered greater protection for cigarettes and a more premium feel. The flip-top pack could easily be opened with one hand, adding a sense of sophistication to the smoking experience. Slim packs aimed at women were marketed as being more stylish and elegant.

From the late 20th century, the tobacco industry faced increasing pressures from health authorities and Government, leading to regulatory changes. In the UK, regulations were introduced to curb the appeal of tobacco by increasing stricter requirements on size and design, aiming to reduce smoking rates by making the products less attractive to new people and younger people. Under the regulations, cigarette packs had to be rectangular in shape and have a consistent size. The shape must be a rectangular box, but devoid of any logos or distinguishing features, and the packs must have a consistent size of 20 cigarettes per packet. The reason for that was that it made it slightly more expensive, as the 10-cigarette packs were considered too accessible to children. That also avoided the king-size pack, with the idea being that people smoked more for better value. Additionally, tobacco companies were restricted to fonts and texts.

Size and shape matter a great deal when it comes to tobacco products. Before the introduction of plain packaging, the size and shape of the packaging played an important role in consumer choice, and the larger packs were offered to the regular smoker. The shape was considered more fashionable if it was slim or super-slim and therefore designed to attract women.

Size and shape have become an important factor in the appeal of vapes. I am sure that you will have seen as you walk around your constituency, Mr Dowd—as I see when I walk around mine—discarded vapes of all different shapes and sizes. One of the challenges is that manufacturers have made vapes in shapes such as a USB stick or a highlighter pen. The purpose of that is not clear, but one of the effects is very clear: they are more attractive to children and easier for them to conceal from their parents, teachers and caregivers. I sincerely hope that that is not the intent of the manufacturers—I am sure they would say it is not—but given that that is the effect, I am sure that they would not want the vapes to continue to have such an effect on children.

As they are discreet, vapes can be used in places where smoking traditional cigarettes would immediately be noticeable, such as in schools or public places. They are small, inconspicuous and do not necessarily have a particular, standard look, so it is easier for them to be used in places that they should not be without drawing attention to them. Again, when the Minister looks at regulations under clause 91, he may want to consider the effects on later clauses about public places in which vapes are used, because if vapes are of a standard shape and size, it will be easier for an individual to detect whether someone is using them somewhere that they should not.

Other vape devices come in not a minimalistic, discreet form, but an attention-grabbing variety of fun shapes, such as candy bars and animals. Those shapes not only attract older children, but appeal to some younger children by adding an element of novelty or amusement. The customisation in terms of both appearance and flavour can add further allure for younger audiences, as the vapes feel more tailored to their personal tastes or preferences.

From a psychological perspective, a smaller object may appear less threatening or harmful. An object that is seen as fun or less serious, with a playful design, contrasts sharply with the image of a cigarette, which carries a certain stigma and a perception of health risk. For children that are likely to be attracted to novelty items or things that seem cool, smaller and discreet vape device designs can create the impression that vaping is less harmful and more acceptable than smoking, further increasing its appeal.

When the Minister looks at the regulations under clause 91 and the powers that may be given to him if it passes—as it is likely to—he should consider the effects on children in particular and standardise the shape of vaping devices. I am sure that a smoker wishing to quit will not need a vape shaped like SpongeBob SquarePants.

Sarah Bool: To build on that point, it is interesting that, often, one of the biggest difficulties for those who smoke and want to stop is missing the physical act of holding a cigarette. It would be interesting to see whether these regulations can take that into account and, while not being aimed at children, aim them in a way that would help people who want to move away from smoking, in terms of the physical side of it. Does my hon. Friend have any further thoughts on that?

Dr Johnson: I thank my hon. Friend for that important point. She is right: if a smoker is trying to quit cigarettes, why would a device shaped like a highlighter pen be needed or desirable? I can see why that is desirable to children, as I have said, but why would it be desirable to an adult?

Perhaps the Minister is choosing, on balance, to protect children from vapes that they may be able to easily conceal from parents, caregivers and teachers. He may have come across industry suggestions that regulating vape appearance would reduce the appeal of vapes to adult smokers, but I am not sure that is true. In fact, even if there is evidence that it is true, I suspect that the majority of adult smokers will be so keen to protect their children from taking up the habit of being addicted to nicotine—that those smokers have fought so hard to

quit themselves—that they would be only too happy to have a standard-shaped vape to ensure that children are not brought into nicotine addiction. Subsection (1)(e) allows the shape to be regulated, and paragraphs (d) and (f) allow the size and other features to be regulated.

The Government have sought to look at the impact of this policy. The mod or tank devices are often wrapped in more neutral packaging. Vape liquids and disposable vapes are regularly sold and marketed with brightly coloured designs, as we have said. In fact, it is not uncommon to see them displayed as a rainbow. Again, I think that is designed for children. The cartoons and flavours—we will come to flavours later, so I will not talk about them now—increase children's intention to try different vaping products.

In their impact assessment, the previous Government consulted on options that could be implemented using the powers conferred by this clause. Option one was to do nothing. That would have meant that there would continue to be no regulations on the product presentation of nicotine and non-nicotine vapes, which would essentially be a rejection of clause 91. Option two prohibited the use of cartoons, characters, animals, inanimate objects and other child-friendly imagery, including on the vape device, but still allowed colouring and tailored brand designs—35.8% of respondents were in support of that option. Option three prohibited the use of all imagery and colouring on both the vape packaging and the device, still allowing for branding such as logos and names—18.2% of respondents were in support of that option.

The previous Government also consulted on the more stringent option four, which prohibited the use of all imagery, colouring and branding for both the vape packaging and the vape device. That option was somewhat equivalent to the standardised packaging rules on tobacco, and 46.1% of respondents were in support of it, showing that the general public, as consulted by the previous Government on the powers in relation to vape appearances, favour the more stringent regulatory option, which would be open to the Minister should clause 91 go through. When I began my campaign to tackle vaping, I found a number of examples of products shaped in bright, child-friendly cases, some even with cartoon characters.

We know that product presentation, as in clause 91, must be considered separately from the packaging, as we considered previously in the debate on clause 90, because for many vaping products, the small, smooth, colourful cases the vape is enclosed in is part of the attraction for children and for non-smokers.

Paragraph 1101 of the impact assessment states:

“According to ONS data on adult vaping prevalence in Great Britain, 31.6% of adults that currently vape are also current smokers, and 18.7% are ex-smokers. The exact impact on the number of smokers not quitting and ex-smokers relapsing as a result of regulating would depend on what vape packaging and product presentation was regulated.”

It is clear that the difference will depend on which step someone takes, but it is also clear that option 4, which is a more stringent approach to the regulations on offer in clause 91, would be preferable. Action on Smoking and Health provided some evidence to the Committee on how vapes are branded and promoted in shops. It talked about limiting their display, as was described by my hon. Friend the Member for South Northamptonshire earlier.

I now turn to tobacco-related devices, herbal smoking products and cigarette papers, as mentioned in the impact assessment. Although the vaping regulation is much newer than the tobacco regulation, the powers in clause 91 offer the Minister an opportunity to regulate tobacco products, herbal smoking products and cigarette papers further than he has done. Section 94 of the Children and Families Act 2014 already enables the Secretary of State to make regulations on features of tobacco products across the UK. Clause 91 will widen this power so that tobacco-related devices, herbal smoking products and cigarette papers are all within the scope of regulations.

On herbal smoking products, cigarette papers and tobacco-related devices, a simple internet search brings up sites, such as Etsy, advertising papers and rolling trays with cartoon characters. One can get a Hello Kitty grinder. In fact, it is not just a picture of Hello Kitty but a picture in which Hello Kitty appears to be vaping. There are rolling trays with pictures of Princess Jasmine, Cinderella and Snow White. Again, those characters are smoking in the picture—I am sure they are not from any Disney production; I certainly do not recognise them from any of the Disney productions I have watched.

Apart from copyright issues, such images are a clear ploy to entice younger audiences. One questions the legitimacy of the plastering of those brands on the products. Have they given their permission for these images? I very much doubt Disney has given permission for its cartoon characters, such as the Disney princesses designed for younger children, to be used in pictures of smoking or vaping.

Sarah Bool: Etsy is a very good company; it enables small businesses to sell their products, which is admirable and laudable, but I agree with my hon. Friend that it is entirely inappropriate for images of Disney characters to be changed. Sometimes the changes involve putting glasses on them, which is good as that makes young children feel that they are not isolated if they look slightly different. However, it is outrageous to make the characters appear to be using smoking products. I hope that the powers under this regulation will prevent that from happening further.

Dr Johnson: I thank my hon. Friend for her point. Of course, Etsy is an online marketplace. We have talked already about the difficulties in regulating some of these changes in the online world and about the fact that some of the current regulations on tobacco products can be circumvented by the purchase of online products. People can circumvent regulations on things such as snus by buying them online from overseas. When the Minister brings forward regulations under clause 91, how will he ensure that they are applied and enforced in both the offline and online world, which is so crucial these days, particularly for younger people?

Cancer Research UK provided evidence relating to the change of packets and products. It said it would respond to the consultation. The British Medical Association also provided written evidence. I declare an interest: as well as being a consultant paediatrician, I am a member of the British Medical Association. In relation to clauses 90 and 91, it suggested

“All imagery, colouring and branding should be prohibited”.

3.45 pm

Gregory Stafford: Given that the hon. Member for City of Durham has decided not to press new clause 1 to a vote, I will not elaborate on it much, but she did mention that she might bring it back so I will just make a few comments. New clause 1 emphasises putting specific health warnings on individual cigarette papers and cigarettes. The hon. Member mentioned that Canada has introduced this and that Australia is thinking of doing so in coming months, specifically on the butts of the cigarettes. I believe there are warnings such as “toxic addiction” and “poison in every puff”—obviously, the phraseology has to be relatively succinct, given the size of a cigarette.

I understand that the point in trying to make it clear to those using the product that it is unsafe, unhealthy and will have negative implications on their health, but I am not aware that there is any substantive evidence to suggest that placing such wording on individual papers or products has a noticeable impact on smoking cessation. If the hon. Member for City of Durham is planning to bring the new clause back later, or if the Minister is minded to pick it up in some way, we—as the Minister said during the debate on clause 90—must be data-driven along these lines. We should not put extra burdens on the producer and customer if there is no evidence that having individualised health warnings on individual cigarette papers and cigarettes has any noticeable effect on smoking cessation.

Mary Kelly Foy: In my speech, I referenced evidence from Canada—the Health Canada survey. If the hon. Gentleman would like some more information on that, he could get in touch with ASH, which has the results. There was evidence to suggest that having health warnings had an impact, particularly on young people.

Gregory Stafford: That is very helpful. If I have not already seen it in the evidence packs that have been sent to us, then I will look that up.

I move on to clause 91—the features of the product. Implementing the regulations could require significant adjustments from manufacturers. To quote the Minister back to himself, he wants to move “like the clappers” on this. Although I welcome that, there needs to be a period where manufacturers have the opportunity to adapt to the rules.

Dr Johnson: “Like the clappers” sounds quick, but it has not been defined any further than that, which leaves us in the dark. There is also a balance to be struck. On the one hand, manufacturers may need time to adapt, but on the other hand every day that these attractive products are available to children is another day when more children will become addicted to them.

Gregory Stafford: My hon. Friend makes a key point, and she has been making it throughout our discussions, as have others. Clearly, we want to move as rapidly as possible to ensure that as few children as possible are addicted to cigarettes or ever pick one up. I completely agree that we should move as fast as possible, but we need to do it in a sensible way to ensure that manufacturers

can implement what we want them to implement, and that we do not end up in a situation where they are caught out by that.

Mary Kelly Foy: I am not pressing the new clause to a vote, although I suggested that the Minister or Department could look into the issue once the Bill has received Royal Assent. But just for information, Canada is the first country in the world to require mandatory health warnings on cigarettes. That legislation came into force in 2023. To address the hon. Gentleman’s point, there was a minimum lead-in time for king-size cigarettes of nine months for manufacturers and 12 months for retailers, and longer lead-in times for other products. Australia followed suit by passing legislation in December 2023; its regulations will come into force by July this year.

Gregory Stafford: Those sound like fairly reasonable timeframes; if the Minister were minded to follow those, I would support him, notwithstanding what I have already said.

On clause 91, which I support, we need to ensure that there is a comprehensive stakeholder consultation for whatever the Minister plans to do in this area. There needs to be some kind of phased implementation—by which I mean an eight or nine-month period, or whatever—to ensure that manufacturers can catch up with whatever is being implemented. As I have said previously on other clauses, there must be robust enforcement mechanisms to ensure that manufacturers and retailers comply. Once again, this is all about educating the public about what the legislation means and what they should be expecting. Public education campaigns on this matter are essential.

Andrew Gwynne: I am grateful to the Committee for this discussion. Amendment 5 and new clause 1 require the Secretary of State to consult on regulations to introduce health warnings on cigarettes and cigarette papers. I am sympathetic towards the aim of the amendments, which encourage current smokers to quit by providing them with information on the harms of tobacco.

However, the UK already has some of the most stringent regulations in the world on tobacco packaging, which emphasise the health harms of tobacco. That includes the requirement for plain packaging and graphic picture warnings on the outside of cigarette packs. A post-implementation review published in 2022 stated that these measures still remain effective in helping smokers to quit and in deterring children from taking up the habit. As set out in our response on 5 November 2024 to the consultation on tobacco pack inserts, we will implement positive quit-themed health messaging into the packaging of cigarettes and hand-rolled tobacco. That could contribute up to 150,000 additional quit attempts and 30,000 successful quits over two years.

We are also going further. We will look to extend the legislation on pack inserts to cover all tobacco products, tobacco-related devices, cigarette papers and herbal smoking products. To do that, we are running a call for evidence on standardised packaging to consider introducing more stringent packaging requirements for the different tobacco-related product types wherever possible.

On pack inserts in particular, my hon. Friend the Member for City of Durham asked about implementation. Of course, we are working to implement that as soon as we can, but only after engagement with relevant stakeholders, as I said in the previous debates. We will consult on the final specifications before laying the legislation before Parliament. There is a lot of clapping going on; this is something else on which we will be working like the clappers to get over the line. I hope that reassures my hon. Friend that pack inserts are a priority for the Government. We will move at pace to get that done.

On a technical note to my hon. Friend's amendments, the Bill restates the existing power to make regulations on the appearance of tobacco products, including cigarette sticks. Not only that: it goes further and extends that power to other products, including cigarette papers. We therefore do not believe that the amendments are required to bring in dissuasive messages on cigarettes, because the powers already exist in this Bill should Ministers seek to consult in the future and bring forward secondary legislation.

While it is not our plan to introduce dissuasive messages on cigarettes at this time, because we already have strong health warning measures in place, we will continue to monitor the evidence. As has rightly been said, we want to be evidence-led in the measures we seek to introduce. I want to see the success of such measures in Canada and elsewhere so that we can use that evidence at a future stage.

While my hon. Friend the Member for City of Durham has indicated that she will withdraw the amendments, I hope I have given her some reassurance that the amendments are not needed because we have the powers to do precisely what she wants to do. At some stage in the future, a Minister—it may or may not be me—may come forward with secondary legislation following a consultation.

Dr Johnson: The Minister has been clear that he believes he has the power under clause 91 to put the messages on the cigarettes if he chooses to, which is interesting to note. Will he clarify whether that remains the case with information inserts? The clause refers to the appearance of the products, the shape and the messaging. Will it include pack inserts?

Andrew Gwynne: What the amendments seek to do is to put the messages on cigarettes themselves. Those powers exist in the Bill. I do not understand what the shadow Minister is talking about, because pack insert measures are happening: we will be moving at pace to ensure that they are further consulted on, that legislation is brought to Parliament and that we get the pack inserts in place. As far as dissuasive cigarettes are concerned, that is not our intention at this stage, but powers exist in the Bill for a Minister to consult and bring forward secondary legislation to put health warnings on individual cigarettes should Parliament and Government decide that that is the right thing to do.

Clause 91, included in part 5, provides the Secretary of State with the powers to make regulations about the future of vaping products, tobacco products, tobacco-related devices and nicotine products as well as cigarette papers and herbal smoking products. The clause would allow

the Secretary of State to regulate what information should be provided on a product as well as the size, shape and appearance of a product.

It is vital that we reduce the appeal of harmful and addictive products to children. A key part of that is through how these products appear themselves. There are currently no limits whatever on what a vape can look like. As we heard in evidence, there are vapes that look like highlighter pens and computer pen drives. There are vapes that look like mobile phones. There are vapes that are concealed in hoodies so people can vape through the string of the hoodie. These are pernicious attempts to hook young children and adolescents on nicotine products. That is why the measures are so crucial.

4 pm

As technology has advanced, vape devices have become able to send text messages, I am told, and access social media sites—*[Interruption.]* I hope that the hon. Member for South Northamptonshire is not vaping over there. I think it is an iPhone, but we will all be nervous now about picking up our phones.

Such designs are clear and blatant moves by the industry to target children and younger audiences by making vapes more attractive. This clause gives us the powers to stop that, and that is a good thing to do. We have seen the effectiveness of standardising cigarettes and their appearance, and this clause gives the Secretary of State powers to make regulations on the appearance of other tobacco products, tobacco-related devices, herbal smoking products—*[Interruption.]* Sorry, I have just realised that I have turned over the wrong page and I am reading an earlier note. We have covered those matters. These powers are really important for the reasons that I have set out—the industry is clearly designing vapes such that no one will know that a child has a vape in their hand.

Members have asked questions about online sales, and it was remiss of me not to answer the hon. Member for South Northamptonshire when debating the previous clause. I can answer her in relation to this clause. Regarding cigarettes, no image of a product can be used online if it does not comply with the packaging regulations. Advertising is banned anyway, so any imagery that would appear in advertising cannot appear, right now, and on online marketplaces like Etsy—which we have also discussed in relation to this clause—products that do not meet the requirements of the legislation, including for registration and licensing of products, and for the licence of the person selling, would be in breach of the law. I hope that gives her some reassurance.

Dr Johnson: We had a little search at lunch time and found some examples that may contravene the law. Can the Minister advise to where we should refer those for enforcement?

Andrew Gwynne: Of course, trading standards enforces the sale of these things, so if the hon. Lady has concerns about particular products being sold in the online sphere, the first port of call is trading standards, which can investigate and take the appropriate action.

Regarding enforcement of online sales, the Bill enables Ministers in England, Wales and Northern Ireland to introduce the licensing scheme that we have already

[Andrew Gwynne]

debated for retail sale, including online retail sale, of tobacco, vapes and nicotine products. Penalties will be capable of being brought against retailers who do not adhere to sales regulations. Obviously, as we have discussed—I do not want to tread on old ground—we will consult on the details of the licensing scheme before regulations are laid. Moreover, in the financial year 2025-26, this Government will invest a total of £30 million of new funding for the enforcement agencies, including trading standards, His Majesty's Revenue and Customs and Border Force, to tackle illicit and under-age sales of tobacco and vapes, supporting the implementation of measures in the Bill.

The hon. Member for Farnham and Bordon rightly raised some concerns about how long manufacturers and retailers will have to implement the changes. There will be a transition period for businesses before any of the new regulations come into force. The length of the transition will be considered as part of the consultation exercise. There is clearly a balance to be struck between acting quickly to curb youth vaping and carefully considering the unintended consequences that we are all worried about. That is why these measures are a proportionate step. However, let me be clear that we will not stand idly by while industry knowingly and deliberately encourages children to use a product that will addict them to nicotine. Industry has failed to self-regulate. The fact that a quarter—25%—of all children aged between 11 and 15 have vaped shows that self-regulation has failed. We must now intervene to ensure that this can no longer happen—or get worse.

We are not banning the sale or manufacture of vapes; rather, we are ensuring that all the measures that we are talking about happen in a proportionate way that seeks to remove the harm and risk to our children and future generations. However, let me be clear that industry self-regulation has failed. That is why I call on hon. Members to support clause 91.

Mary Kelly Foy: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 91 ordered to stand part of the Bill.

Clause 92

CONTENTS AND FLAVOUR

Question proposed, That the clause stand part of the Bill.

Andrew Gwynne: This clause provides the Secretary of State with powers to regulate substances, and the amount of a substance, used in vaping products, tobacco products, tobacco-related devices, nicotine products, cigarette papers and herbal smoking products.

We know that the use of tobacco products and herbal smoking products can increase when they are flavoured or are used alongside flavour accessories. For instance, menthol cigarettes appeal to young people because, compared with non-menthol cigarettes, they make it easier and less harsh to inhale smoke. That is why the sale of menthol-flavoured cigarettes was rightly banned in May 2020 by the previous Government, and I give credit to them for moving on that issue.

It is therefore very concerning that industry has used the same tactics for vaping and nicotine products. Research shows that children are attracted to the fruit and sweet flavours of vapes, both in their taste and smell, as well as how they are described. We have heard a lot over the past few weeks, particularly from the shadow Minister, as well as from others, about flavours such as gummy bear and rainbow burst. Unicorn milkshake was another favourite of the shadow Minister—not that I am suggesting that she vapes, just that it is one of her favourites to refer to.

Dr Johnson: I would rather the Minister said that it was a flavour I have commonly referred to than a favourite flavour, because I honestly cannot tell him what a unicorn's milk tastes like.

Andrew Gwynne: I would not have a clue either, because I am one of those boring individuals who has neither smoked nor vaped. I am now 50 years old, and I do not intend to start either in my next half century—now that I have had my liver check, I know that I am going to live for the next half century.

There is no reason why flavours such as gummy bear, rainbow burst or unicorn milkshake should be made available. They clearly target one audience, and one audience only: children. We cannot let industry repeat the same tactics it used to hook a generation of children on cigarettes by enticing the next generation to start and continue vaping.

Furthermore, some specific substances can increase the risk of harm to users and must be properly regulated or banned completely. Equally, any tobacco accessory that imparts flavour should also be banned. The clause will mean that the Secretary of State can close the current loophole.

However, we recognise that vape flavours can be a consideration for some adult smokers, as was mentioned earlier, and particularly those seeking to quit smoking. To avoid any unintended consequences, the scope of future restrictions will have to be carefully considered, with a statutory duty to consult on any proposed restriction, to ensure that we get the balance right.

What we do not want to do is dissuade people for whom vaping is the best stop smoking tool from stopping smoking. The advice of the chief medical officers of the four nations was clear: “If you smoke, it is safer to vape. If you are a child, you should never vape and never smoke. If you are a non-smoker, the same is true: never vape, never smoke.” We have to ensure that we do not throw out the baby with the bathwater and revert those who we wish to stop smoking back to smoking.

That point has to be carefully considered when the consultation and the secondary legislation comes before Parliament, but let me make it clear: we will not allow these child-friendly flavours that are blatantly in existence for one purpose only, which is not to stop adults smoking; it is to hook kids on nicotine. That has to stop, and that will stop.

Dr Johnson: Does the Minister want to comment on the range of flavours available, and whether he thinks that has any impact?

Andrew Gwynne: It absolutely does. That is why these powers are framed in the way they are. It is something that the Secretary of State and Ministers, when considering the balance that I have just talked about, may well take

into consideration. We still want vaping to be accessible and available to people as a stop smoking tool. We recognise that one of the attractions of vapes over cigarettes is that they tend to taste nicer—or so I am told. If cigarettes taste anything like how they smell, I can understand why that is the case.

What we do not want to do is create a loophole that retains the attractiveness of vapes to children. The range of flavours will also have to be considered in any future consultation so that there are no unintended consequences. We must get the balance right and stop these awful products being promoted to kids in the most pernicious way while respecting the fact that for a number of people, vapes are a route out of smoking. With that, I commend the clause to the Committee.

Dr Johnson: I am grateful to the Minister for setting out aspects of the clause, and particularly for his passionate speech making clear that he wants to see vaping among children stop. When I first brought forward on the Floor of the House measures on vaping, it was with the intention of protecting children from the rapidly rising trend before they became hooked on a form of nicotine. I am grateful that the Minister seems to share the same passion for protecting children; that is good to see.

Clause 92 deals with the contents and flavour of tobacco, vaping and nicotine products. It provides for the Secretary of State to make regulations on the flavour of relevant products and the substances that may be included and their amount in any relevant tobacco, vape or nicotine product.

4.15 pm

Subsection (1) gives the Secretary of State the power to make regulations on the substances that may be included in the products, devices, smoking products, cigarette papers, vaping products and nicotine products, and also allows them to address the flavour of these products and any products designed to impart flavour to them.

Subsection (2) defines relevant products as in clause 1, but also includes vaping products and nicotine products.

Subsection (3) specifies that the regulations may include prohibitions, requirements, or limitations on the production, importation, or supply of such products in the course of business. That is important, and we have talked about how the online world can be used to circumvent regulations.

When I was a teenager a lot of my friends were very keen on a particular form of cigarette that came in a range of colours and with little gold tips. Older Members in the Committee may remember those. I never smoked one. I looked online earlier and it is possible to buy them. They are quite expensive, but it is still possible to buy them in the original packaging despite them currently being illegal. Maybe that Minister needs to look at importation as a way of ensuring that the online world is equivalent to the real world.

Subsection (4) allows for regulations on how the flavour of the product is to be determined, potentially by a person authorised by the Secretary of State. I have visions of a person being appointed by the Secretary of State to taste these things. I am sure that is not what the intention is, but I would be grateful for more clarification on what is meant by that.

Subsection (5) makes it clear that the regulations under this clause are subject to the affirmative resolution procedure, meaning that once again, there will need to be a vote in Parliament to pass them. As has been remarked several times in our debate, one of the biggest risks to our efforts to tackle youth vaping is that, if the Bill is not tightly worded, companies will find loopholes and ways to introduce new products and flavours. They can innovate faster than Governments have been able to keep up. I was quite surprised to find out from the Medicines and Healthcare products Regulatory Agency that around 600,000 different vaping products have gone through the notification process and can be legally sold in the UK.

I personally consider it vital that the Secretary of State can make regulations under clause 92 about the flavours of vaping and nicotine products. Sir Chris Whitty, in his evidence last year to the Bill Committee, said:

“We are strongly supportive of Ministers in all four nations having the power to regulate flavours... We know that otherwise the vape industry will use this to essentially drive a coach and horses through the aims of the Bill, which is to make products less attractive to children.”—[*Official Report, Tobacco and Vapes Public Bill Committee*, 1 May 2024; c. 74, Q103.]

Vaping is never recommended for children, and we have just discussed the risks of addiction and the long-term health impacts. We know that children are attracted to fruit and sweet flavour vapes, both in their taste and smell, as well as how they are described. The most frequently used vape flavouring for children is the fruit flavour, with 60% of children who currently vape using them, while 17% choose sweet flavours such as chocolate or candy.

I was on the Health and Social Care Committee in the last Parliament and we did a hearing on vapes. Laranya Caslin, who was then the head teacher of St George’s academy, came to the Committee and talked about flavours. She talked to the Committee, and to me as well, about the peer pressure of children in relation to flavours and how young children can find themselves in conversation about the different flavours they have tried, and if then someone has not tried it, how they are excluded from that conversation. That can add pressure to those children to try those flavours in order to be able to participate in the discussion, which can increase the consumption of vapes among children who would otherwise not be tempted to participate in such behaviour.

Flavoured tobacco and nicotine go back a very long way. Tobacco, particularly pipe tobacco and cigars, has often been flavoured, even back in the 17th and 18th centuries, with spices such as cloves, cinnamon and vanilla. During this period the flavourings were used to mask the harshness of the tobacco and create a more enjoyable experience.

One tobacco product that we did not talk about in relation to clause 1 is something called beedis, which are still legal in the UK but I presume will be covered by clause 1—I am sure the Minister will tell me if that is not the case. A beedi is a type of cigarette mixed with various herbs and spices, popular in India, where it accounts for almost half of tobacco consumption, I am told. Their popularity grew in confluence with western varieties of tobacco products and they have remained popular because of their relative cheapness. I have not seen them for sale in the UK before but, honestly, I have

not been looking. They can be found online and I would appreciate any comments or clarification the Minister has on that.

Cigarette manufacturers began to experiment with adding flavouring to their products in the 19th and 20th centuries and it was not long before flavoured cigarette brands began to emerge. For example, in the US, Kool, a menthol-flavoured cigarette, was introduced in 1933 and quickly gained popularity. Menthol, a minty flavour, was considered to be milder than regular tobacco, making it appeal to a broader audience, including women and young people. By the 1950s, menthol cigarettes were becoming a significant part of the tobacco market, and the Minister mentioned them in his speech.

The appeal of menthol was not just the taste, but the sensation it created. Menthol can give a cooling sensation in the throat that makes smoking feel less harsh, and the tactile experience combined with the distinct flavour made menthol cigarettes popular in the US and other parts of the world, but that does not mean that they are safer.

Flavoured cigarettes were popular but flavoured cigars and smokeless tobacco products began to emerge in the 1960s and 1970s. The market for cigars during this period was primarily geared towards the more niche audience of connoisseurs who preferred a different smoking experience to that provided by cigarettes. Manufacturers of cigars began experimenting with flavours such as cherry, vanilla and chocolate to appeal to a more diverse consumer base.

On a point of order, Mr Dowd. In a previous sitting in which the Minister was on his feet and we expected votes, the Chair suggested that he sat down so that we were not interrupted by the bell. Is that something you would wish me to do?

The Chair: No, I am quite happy for you to carry on, although I should clarify that if the Division bell goes, I will interrupt you. I am assuming that the Division will be in five minutes or so, so if you wish to carry on you can, or we can suspend now.

Dr Johnson: If the Government Whip is happy, we will keep going.

As well as cigars and cigarettes, smokeless tobacco products such as chewing tobacco and snuff became available in various flavours, including mint, apple and peach. These products targeted those who preferred an alternative to smoking while still seeking the satisfaction of nicotine. Flavoured smokeless products, in particular, gained popularity among younger users because of their sweet flavours and more discreet use.

From the 1990s onwards we have seen an acceleration in the marketing of flavoured nicotine products, particularly those aimed at younger people. At this time, the tobacco industry shifted focus towards expanding its consumer base by targeting young people through advertising and product innovation. Flavoured cigarettes, cigars and smokeless tobacco became a key part of the strategy, with marketing campaigns emphasising the fun, sweet flavours. Notable products that emerged were fruit and dessert-flavoured cigarettes, often marketed in coloured packaging designed to appeal to younger, fashion-conscious consumers. Brands such as Marlboro, Camel and Newport produced sweet, fruity flavoured cigarettes including

cherry, vanilla and grape varieties. Tobacco companies also started adding candy-like flavours such as sour apple and berry to smokeless products.

The quest for flavoured products is part of a broader marketing effort to make tobacco use more socially acceptable and less intimidating. These products were seen by some as more approachable, less harsh and more in line with consumer taste, whereas sugary and fruity flavours dominated the food and beverage industry. Recognising the role of flavoured cigarettes in widening the appeal of smoking, various countries began outlawing them in the 2010s. In 2016, flavoured cigarettes, including menthol cigarettes, were banned across the European Union and in the UK in response to the European tobacco products directive.

In response to that directive, the tobacco industry sought new ways to circumvent the ban on flavoured products and to continue to appeal to customers. These methods included introducing flavoured filters and flavoured papers for those who hand rolled cigarettes. Menthol papers and filters are widely accessible from retailers across the UK, both in store and online. British shoppers can also access, on websites such as Amazon, a gallery of flavoured cigarette papers including apple, cherry, peaches and cream—including ones with pictures of apples or peaches on them—as well as a few old favourites familiar to those in the vaping industry, such as chocolate, liquorice, bubble gum and cotton candy. One may almost forget they are smoking tobacco—perhaps that is the point.

No discussion of flavours would be complete without mentioning vapes. With the advent of vapes in the 21st century, we have seen an eruption of flavours on to the market, sometimes of the most implausible kind, the unicorn milkshake referred to by the Minister being an example—I have certainly never seen a unicorn or its milk. The standard menthol and fruit flavours are popular, but many more unusual flavours lurk in the dark corners of the vape market, including butter, roast chicken, garlic, tuna, black peppercorn, bacon and Worcestershire sauce. There are websites containing reviews of those flavours—some are not terribly popular, but there are lots of different flavours available.

While some of these are obviously more novel flavours, there has also been a rise in flavours with clear appeal to children and seemingly little appeal to adults, such as candy floss, fruit loops, milkshake and bubble gum. If that sounds too grown up, I understand that the vape market also offers not just unicorn milkshake, but unicorn blood, which sounds very sad, as well as honey bear and rainbow candy. Online, one can easily find vapes flavoured like specific sweets, such as Skittles, Starburst, gummy bears, jelly beans and Sour Patch Kids. It is not clear whether the owners of those brands have given permission for them to be used.

In dealing with an issue as wide-ranging as the flavours of tobacco, nicotine and vaping products, it perhaps worthwhile examining what products like this do to our society on a moral and aesthetic level. With that, the mind is drawn to Edmund Burke's 1757 pamphlet, whose introduction is entitled "On Taste", which is apposite to today's discussion. Burke distinguishes between the rational and emotional elements in our judgment of beauty and taste. He posits that our emotional response

to things—what pleases or displeases us—is so deeply tied to our senses and desires, which can sometimes override reason.

Flavoured vapes, with their artificially sweet, intense flavours and bright colours, cater to the immediate emotional pleasure of the consumer—what Burke describes as a “base” or overly indulgent form of aesthetic experience. These excessive and artificial flavours may distort or corrupt the finer faculties of taste. Burke identifies that aesthetics and taste have social and moral implications for society overall. No doubt he would view the proliferation of flavoured vapes as the very debasement of our society, especially if it targets youth or promotes unhealthy habits—as it does. Cotton candy-flavoured vapes, Burke would probably say, are an emotional and sensory indulgence that ultimately contributes to decay, where the immediate gratification of the senses trumps the more enduring experience that shapes a moral society.

That reminds me once again of when headteacher Laranya Caslin told the Health and Social Care Committee about students asking, “Have you tried this flavour? Have you tried that flavour? I prefer this one.” She said that

“if you want...to get involved in a social conversation and you haven’t watched the last episode of ‘Love Island’, you are a bit out of it,”

and explained that the same is true of conversations on vape flavours.

Ms Caslin made a very important point, which is sometimes neglected, that role of flavours—which is why they need regulating in clause 92—in this dynamic is not just about personal preference, but can for some children be about a sense of belonging. It is a powerful form of social currency. It is not just about the product itself, but about what it represents within the broader context of social life.

Some Members—but not the Minister, as he has been clear—may remember smoking cigarettes in their youth in an effort to fit in or look cool. The proliferation of flavours has made vapes more of a trend to be constantly followed and more than just a product; in many ways, they have become a cultural marker, as much the clothes people wear or the media they consume. We have heard examples of students who have chosen their vape for the day on the basis of its colour and flavour, to match what they are wearing.

The Government have looked at impact of clause 92. Paragraph 990 of the impact assessment states:

“In the UK, a 2024 survey by ASH shows that the most frequently used vape flavouring for people that vape under 18 years old is ‘fruit flavour,’ with 59% of people that currently vape under 18 using them, while 16% of children who vape choose sweet flavours such as chocolate or candy, and 5.9% choose to vape energy or soft drink flavours.”

I note the Minister’s comments about energy drinks in last night’s debate on obesity. The impact assessment continues:

“The use of flavoured vapes in adult smokers has also increased. In 2015, most adults who vaped used tobacco flavour. However, in recent years there has been a shift, and in 2023 more adults are choosing fruit flavours (47%), as well as mint and menthol (17%), than tobacco (12%).”

I asked one of the members of the industry very early on, “Why is it that you need the flavours?” [*Interruption.*]

4.30 pm

Sitting suspended for Divisions in the House.

5.16 pm

On resuming—

Dr Johnson: I believe before we were interrupted we were discussing clause 92, which relates to flavouring provisions. The Tobacco and Related Products Regulations currently restrict certain ingredients, including colourings, caffeine and taurine, but do not restrict any combinations of flavour or flavour types. Multiple systematic reviews have found that a majority of young people are more likely to initiate vaping through flavoured vapes. The use of vapes with flavours traditionally not found in tobacco products, such as fruit and coffee, is higher among youths and young adults than older adults, highlighting that restricting flavours in vapes may reduce vaping prevalence among youths by preventing initiation.

The Government’s impact assessment for clause 92 estimates that restricting the flavour of e-liquids to tobacco only would affect a large proportion of people who vape. Among children, just 4.5% of those who vape most frequently choose tobacco or menthol-flavoured liquids. A further 0.5% reported not using flavour at all. That means that around 95% of children who vape could be affected in some way by the option of regulating the flavours of vapes.

The impact assessment goes on to note the relationship between a restriction on flavours and littering. Paragraph 1023 states that

“research commissioned by Material Focus found that almost 5 million disposable vapes are either littered or thrown away in general waste every week, equivalent to around 260 million a year. If the estimated reduction in demand for vaping products from Nova Scotia in Canada from restricting flavours of 12.15% is also seen in the UK, we could expect a similar reduction in the amount of vapes that are littered or thrown away in general waste. This would be equivalent to around 600,000 fewer vapes disposed of each week and around 30 million fewer each year.”

I understand that the Government have moved to ban single-use vapes. Nevertheless, the principle stands that having fewer flavours leads to fewer changes of product, and therefore to less litter.

There is also an impact assessment of enforcement of flavour restrictions. Paragraphs 1070 and 1071 of the impact assessment state:

“Any restriction of vape flavours could require additional enforcement activity to ensure that non-compliant vapes do not remain on the market...”

There is also evidence from the US that enforcement of any flavour restrictions is important to ensure that it has an impact on the flavours that are used by people that vape. For example, a study based on the impact restricting flavours had on vape use in three US states found that most respondents to the survey continued to use vapes with flavours that had been banned, and out of them, over 45% had purchased them in-state stores.”

That leaves us with a difficulty. If flavours are banned but illicit products are made to look like they have different flavours in them, it will be quite difficult for enforcement officers to work out the contents of any given vape. However, as the Minister has said, the Bill only provides a regulation-making power; there are no enforcement costs arising from this particular measure, and it would be the responsibility of each local authority in England to enforce the regulations made using the

[Dr Caroline Johnson]

powers conferred by the Bill. This matter must therefore be considered further. When writing regulations, the Minister must ensure that they are enforceable and that the necessary resources are made available to local authorities.

In its written evidence, Cancer Research UK highlights the importance of considering the motivations of smokers wanting to quit alongside the clear requirement to steer non-smokers away from beginning to vape. It states:

“It is important that there is a holistic approach to flavours. If the UK Government is changing the packaging and display of vapes (through other powers in the Bill), this will go a long way to reduce the appeal of vapes. Therefore, the Government may not need to go as far when restricting flavours. We believe that restricting the way flavours are described, rather than banning actual flavours could help reduce the appeal to young people with limited negative impact on adults who smoke. At the very least, CRUK believes that mint, menthol and fruit should remain available as there is evidence that these help adults quit smoking.”

One of the challenges the Minister will face if he is to restrict flavours rather than banning them is which he chooses to retain. The evidence that we have heard so far is that different chemicals are used to create different flavours, which seems somewhat obvious, but it is not clear that all companies use the same chemicals to make the same flavour, or the same apparent flavour, and it is not clear which chemicals may be harmful when inhaled over a long period of time. Strawberries are eaten quite safely by most people but inhaling one is very dangerous. We know from the chief medical officer that inhalation, as a vector of bringing a substance into the body, can be more damaging than eating it. How will the Minister choose which flavours to keep, if he is going to do so?

The other reason why I disagree to an extent with Cancer Research UK is that, when I asked people in the industry directly why they need flavours, they said, “Because it helps people to continue using vapes.” I asked them what their purpose is and they said, “If somebody is smoking, their taste buds are affected by the smoking. Therefore, their ability to taste and smell things is not as great as a non-smoker.” That means that when they stop smoking and start vaping, which we want them to do, they realise after a couple of weeks that tobacco vapes taste awful and, as such, they stop using them—and that is a good thing. They decide that they do not like the taste of tobacco and so stop using the product. That is the intention of nicotine replacement therapy: the smoker starts the therapy, they continue for a short period and then they stop, after which point they are not addicted to nicotine or using anything.

It was clear from speaking to the industry representatives that individuals will begin using vapes for the flavour. If they do not like one flavour, they will go on to a different one, but they will then continue to use the product as it is more pleasant than a tobacco-flavoured one. Instead of moving them from being a cigarette smoker, to a vaper, to a non-user of nicotine, flavoured vapes will move them from being a cigarette smoker, to a vaper—and there they will stay. For the industry, they have not swapped to stop; they have swapped to continue paying the money and making the profit. I can see why that is the industry’s intention, but it is clearly not the Government’s intention or the right thing for the individual’s health. I think that is an important consideration and I would be interested to hear the Minister’s views on it.

In its evidence, Action on Smoking and Health talks about flavour descriptors, and it is certainly true that, where flavours are retained, the descriptors will be important. ASH says that gummy bears and unicorn shake are not acceptable, and it goes on:

“In New Zealand they have set out in regulations which words can be used to describe flavours, removing descriptions such as Cotton-Candy and Bubble-Gum and replacing them with more generic flavour descriptions.”

Again, it comes back to the problem of what is in each individual flavour, which ones should be kept—if any at all—and why.

The evidence from ASH continues:

“Manufacturers must choose a maximum of two flavour descriptor words from an approved flavour list. The approved flavour list should limit the descriptors which are most popular among young people. An alternative to the New Zealand approach would be to replace product names with alpha numeric codes...For example, caramel tobacco flavour e-liquid refills can be bought garishly branded with a cartoon character on the front called Momo Salt Caramel Tobacco. Alternatively a very similar tobacco caramel vanilla salt e-liquid can be bought in plain packaging with an alphanumeric code of RY6, with the flavour components in the detail rather than the product name. Such an approach could be mandated.”

Has the Minister considered people who have allergies to all these different flavours? Has he considered whether the details of what each vape liquid contains should be put very clearly on the packaging, so that if anyone has an allergy, which can in some cases be life-threatening, they are aware of what chemicals they are using?

Gregory Stafford: We are talking about clause 92, which concerns the restriction on flavours in vapes. Children are born with tastebuds that are more aligned to sweet flavours, so clearly vapes that are flavoured with sweeter content will be more appealing to children than those that are not. I therefore support the Government’s intention to ensure that, as far as possible, children are not tempted to purchase or are not given vapes under age. Children copy what adults do. They think that it is “cool” to copy things that adults can do that children are technically not allowed to do under the law.

Dr Johnson: My hon. Friend is probably much younger than me, but does he remember the sweets that were like little cigarettes, from when we were children?

Gregory Stafford: I am considerably younger—no, that is not true at all, and I certainly do not look it. I do remember the sugar things that look like cigarettes, and although I have said previously that I have never smoked anything, or smoked tobacco, clearly when we had those, we all pretended that we were smoking stuff, because, again, it looked “cool”.

When we were children, we forced ourselves to ingest things that we did not like the taste of; I am sure that we can all remember the first time we had a cup of coffee or, for most of us, a beer. We did not actually like the taste, but we pretended to like it until our neural pathways developed in such a way that we genuinely started to enjoy the bitterness and mildly caustic sensation that we experienced. It is also true that girls have a greater sensitivity to sugar and sweet flavours than boys do. That said, children crave, and are craving even more so these days, sweet flavours—often because they have a

diet of processed foods that contain more sugar and salt, which train their tastebuds to be even more addicted, for want of a better phrase, to those sweet flavours.

Research shows that flavoured tobacco products, especially menthol and fruit-based flavours, make smoking more appealing to young people. We have heard about studies from around the world. The Centres for Disease Control and Prevention in the States found that 80% of young people who use tobacco started with a flavoured product. By regulating the flavours, clause 92 aims to curb that youth smoking initiation and promote healthier choices.

The clause aligns us with international standards. The hon. Member for City of Durham has already mentioned Canada, and the European Union has also implemented bans on flavoured tobacco products. Canada saw a 32% decline in youth smoking rates following a ban on menthol cigarettes, and we have also banned menthol cigarettes in this country.

However, the Minister needs to consider a study—I think it was in *The Lancet*—that showed that, despite the ban on menthol cigarettes, the number of people who ingest tobacco via menthol-flavoured means has not diminished significantly in the UK. That is not because they are buying menthol cigarettes illegally or through illicit means, but because the manufacturers have found ways of putting that menthol-based flavour into the products. That can include things such as filters and other things. Indeed, I googled this before I came into the Committee, and I can buy cigarettes—it said, “Great news! There are some great menthol cigarette alternatives available to shop for here.” Presumably that is totally legal and I could buy them in the UK.

My point is that the industry will try to get round the Government’s good intentions to ban menthol and other flavours in the vapes market. How does this legislation ensure that any kind of adaptation to a vape that can inject a flavour into it, not just the flavour of the product, is restricted and does not happen?

5.30 pm

As I have mentioned, I have some given some consideration to the idea of smoking cessation, which my hon. Friend the shadow Minister mentioned. We obviously need to ensure that where vapes are being used as a smoking cessation aid, they are a “welcome” alternative to smoking tobacco. Beyond the health benefits, given that vapes are less harmful than smoking a cigarette, we must in some way incentivise those people using them as a smoking cessation tool to remain on them and not revert back to cigarettes.

Dr Johnson: My hon. Friend is making a very good speech. Does he agree that the Minister will have a huge challenge in working out which flavours to choose, if he is going to choose from some? Perhaps he is deciding whether he has banana or cherry, but if we do not know whether the banana flavour or the cherry flavour is the least harmful to the individual, which do we know to recommend to the smoker who is trying to quit?

Gregory Stafford: My hon. Friend makes a good point, which she has already made during her interventions on this clause. It is vital to understand what is in the chemical make-up of the different flavours when the Minister is making those decisions.

That brings me neatly on to my next point, which is about the flavours themselves. I know that the Minister and the shadow Minister have raised unicorn milk, tutti-frutti and bubble gum flavours and all those kinds of things. I suggest to the Minister that it is less the flavour itself that appeals to children—as my hon. Friend the shadow Minister said, I do not know what unicorn milk tastes like, and I doubt any child does either—but that the phraseology “unicorn milk” sounds exciting and appealing to a child, whereas orange or banana may be less exciting.

When the Minister looks at this issue, I suggest that he looks not necessarily to ban a flavour, but to ban the naming and descriptions of those flavours, which are clearly appealing to children. If someone is looking to stop smoking and is using a vape to do so, it is not unreasonable that they should know whether what they are buying is orange, blackberry or strawberry-flavoured, whereas the terminology being used, which we have discussed in this debate already, appeals to children.

I will bring my remarks to a close. I obviously agree with the Government’s intention to target specific flavours that appeal to young people to preserve harm reduction, but we need to monitor and assess the impact of that regulation over time. When the Minister winds up the debate on the clause, will he give some indication of how that analysis and the impact assessment of the bans on specific flavours has impacted on smoking cessation, hopefully stopping children being dragged into vaping?

Sarah Bool: I want to build on the points my hon. Friends have made. As we have said, clause 92 relates to the flavouring of vapes. In the future, we will have to be incredibly agile in regulating in this area. It clearly needs further investigation, because different bodies are all disagreeing on whether we should limit the number of vapes, the flavours or the range and on what is going on. In the written evidence provided to Members, Cancer Research UK, which the shadow Minister mentioned, made some interesting observations, which I will put on record. It says that:

“Current evidence seems to suggest that e-cigarette flavours influence vaping initiation in both young people and adults who smoke. We know that the range of flavours of e-cigarettes are a large part of the appeal for both young people and adults. When taking action on e-cigarette flavours, a balance needs to be struck between dissuading uptake in young people and maintaining an appeal to those who use vapes to quit smoking, so they are not deterred from transitioning away from tobacco”.

I think we all agree with that. It further goes on to say:

“Although we believe there is currently insufficient evidence to justify banning specific e-liquid flavours, as the evidence base related to the role of flavours in youth and adult vaping increases, powers to regulate flavours will be an important lever for Government to use to reduce youth vaping.”

It then says:

“It is important that there is a holistic approach to flavours. If the UK Government is changing the packaging and display of vapes...this will go a long way to reduce the appeal of vapes. Therefore, the Government may not need to go as far when restricting flavours. We believe that restricting the way flavours are described”—

which is the point that my hon. Friend the Member for Farnham and Bordon made—

“rather than banning actual flavours could help reduce the appeal to young people with limited negative impact on adults who smoke. At the very least, CRUK believes that mint, menthol and fruit should remain available as there is evidence that these help adults quit smoking.”

[Sarah Bool]

If we go on the basis that, actually, we should limit the way the flavours are described, perhaps one day we will know what unicorn milk actually tastes like.

Mr Alex Barros-Curtis (Cardiff West) (Lab): It is interesting that the hon. Lady points to that evidence, because I have actually been considering it myself, although I am not sure that I entirely agree with some of the ways that Cancer Research UK phrased it. On the point that the hon. Lady has just read out—which, for the record, is paragraph 40 of written evidence TVB18—does she agree that it does not have to be an either/or and that it could be both?

Ultimately, what I think we are particularly focused on here—setting aside the cessation point with respect to adults—is the attractiveness and the clear advertisement from tobacco companies to children, with these flavours that have absolutely no relevance to adults. Although mint, menthol and fruit may be helpful cessation tools, flavours such as bubble gum are clearly aimed at children, and that is absolutely what we need to stamp out.

Sarah Bool: I agree. I think the hon. Member makes a valid point. It is part of the bigger discussion that we have to have, with the ability to be a bit more agile in how we actually decide, because I do not want us to take the wrong approach and have unintended consequences.

Again, that goes to another point that the shadow Minister raised, about what flavours are potentially harmful in themselves. The hon. Member for Cardiff West is right and I take his point about flavours such as bubble gum entirely, but apparently even cinnamon, vanilla and butter are toxic. They are fine for us to eat—butter in moderation, of course—but inhaling them is a different matter. I think it will be very interesting to see what combinations are used and what the impact is, because, apparently, if certain flavours and chemicals are combined, that can actually be even more toxic than before. That is something that the regulations, and some of the research, will have to look into for us.

Interestingly, the Royal College of Physicians also gave its view on this topic in the written evidence. That was along similar lines but slightly different. It says:

“While we know flavours can attract young people to vaping, the use of flavours by adults trying to quit smoking is an integral part of the effectiveness of vaping as a quit aid. We know that many adult smokers report wanting to move away from the taste of tobacco. Other nicotine replacement therapy...products, such as gums and lozenges, also have fruit flavours. The RCP supports limiting the number of flavours available and recommends restricting flavour descriptors. Bland descriptors, alongside limiting the number of flavours and removing those most popular with young people non-smokers from vaping without the unintended consequences of perpetuating smoking for adults.”

I agree with the points that have been made, but I think that we have to be careful about how we decide which flavours are used and their range. I take the point that we often want to move people away from tobacco, because a tobacco-flavoured vape is not pleasant, or so I am told, but my concern is that, if someone do not necessarily have a tobacco-flavoured vape, then with something as nice as peach and mango—which a vaper I know really likes—people will actually vape more than they ever smoked because it is tastier for them. I think we will really have to look into that as well.

I would also like some further clarity from the Minister on clause 92(3) and the clause what regulations the Department is currently thinking about, particularly when it comes to the imports of any of these vaping products.

Finally, subsection (4) that that there will be “provision for a determination to be made by a person authorised for the purpose by the Secretary of State”

to make the decision on the flavours. Who is in mind to be given those powers? A bit more clarity on that would be much appreciated.

Andrew Gwynne: Let me start with the point made by the hon. Member for South Northamptonshire on the need for agility. I have argued in respect to a number of clauses that we have to be agile. That is why the Bill is permissive in nature. It grants powers to Ministers to consult and bring forward secondary legislation at further stages. It also allows Ministers to amend the regulations, if set, or to introduce new ones if not at a future date, without having to go back through the primary legislation processes, to make the Bill always fit for purpose and for the future.

That is the case in clause 92. As I said in opening, we recognise that vape flavours are an important consideration for adult smokers seeking to quit smoking. To avoid unintended consequences on adult smoking rates, the scope and impact of any future restrictions will have to be carefully considered by Parliament, following consultation, in secondary legislation. We will consult further on any regulations on flavours before they are laid in Parliament. This is really important—I can assure Members that we are not saying here and now what the changes are likely to be. We want them to be considered based on the evidence and consultation, because we want to get the balance right between preventing youth vaping and not having the unintended consequence of pushing people away from vapes as a smoking cessation tool, thereby missing our ambition for Smokefree 2030.

Dr Johnson: Can the Minister give us some timescales for the consultation and explain the various details that it will add to the consultation done by the previous Government?

Andrew Gwynne: Again, the shadow Minister is skipping ahead of herself. We have to get these powers through Parliament. I cannot tell her the scope or extent of the consultation, the consultees, or the nature of the restrictions we may seek to bring before Members, because Ministers do not have those powers yet. All I can do is give her assurances that these matters will be looked at, at speed and within good time, to bring a set of regulations before a Delegated Legislation Committee in due course.

We want to get the balance right, as Members across the House have amplified not just in this debate but throughout the course of proceedings on the Bill, because these are big changes, and they are landmark changes. If we get them right, they will do everything we aspire the Bill to do not just in tackling child and youth vaping, but reaching a Smokefree 2030. If we get them wrong, we could end up with smoking rates increasing, which is not what we want to see. We could see children starting to smoke again, which is absolutely not what we want to see. We could see all the work done in recent

decades start to be undone. That is not the ambition or aim of the Bill. The aim and ambition of the Bill is to make smoking history and crack down on the scourge of youth vaping. I believe that if we get the regulations right, we will meet that aim. That is a good thing.

5.45 pm

On the question about the appointed person, raised by both the hon. Member for South Northamptonshire and the shadow Minister, clause 92(4) states that the regulations may

“make provision about how the flavour of a product is to be determined, including provision for a determination to be made by a person authorised for the purpose by the Secretary of State.”

I can assure the shadow Minister that this does not mean that the Secretary of State is going to delegate this responsibility to a Minister or an official in the Department of Health and Social Care to puff away at all the vapes and make decisions based on the flavours that they have tasted. The provision allows Ministers to appoint technical people to provide technical detail and specifications about what the flavour is. We can then make sound decisions based on that when it comes to restrictions we may introduce.

On imports, which the hon. Member for Farnham and Bordon and others have raised, through the Bill we will be able to establish certain import restrictions other than a complete ban. The legislation will make it illegal to sell non-compliant vapes, with the strong enforcement powers to enforce that I have already set out. On beedi, I can reassure the shadow Minister that it is a tobacco product and covered for the purposes of the Bill.

On flavours and restrictions and the details of the make-up of flavours, it will be down to the evidence. That evidence will come through consultation as well as from the appointed person by the Secretary of State. We aim to establish a testing regime to regularly check that products on shelves are what they say they are. This will support the overall enforcement and ensure that registered products are safe for sale for consumers. On flavour accessories, the clause covers any product intended to be used in connection with a relevant product with a view to imparting flavours. I hope that clarifies that for the shadow Minister.

Under the TRPRs, products already need to list ingredients. Through our regulations we have the power to go further and put additional information requirements on packaging. In relation to impact assessments for the future, more detailed impact assessments on all these matters will be produced alongside any draft regulations to be brought before a Delegated Legislation Committee. Those further impact assessments will be made available to Members in advance of the regulations being debated through the statutory instrument process.

Question put and agreed to.

Clause 92 accordingly ordered to stand part of the Bill.

Clause 93

SUBSTANCES RELEASED INTO THE HUMAN BODY
AND EMISSIONS

Question proposed, That the clause stand part of the Bill.

Dr Johnson: Clause 93 is somewhat interestingly titled, but what does it do? Subsection (1) allows the Secretary of State to create regulations that concern

“the nature and amount of the substances that may be released into the body of a person”

using the following: tobacco products, tobacco related devices, herbal smoking products, cigarette papers, vaping products and nicotine products. Subsection (2) states that the regulations may impose “prohibitions, requirements or limitations” on the “production, importation or supply” of these products in “the course of business.”

Subsection (3) clarifies that the regulations may specify how

“the nature and amount of substances or emissions released by a product are to be determined”

potentially by an authorised person designated by the Secretary of State. Again, the Minister may have comments on how the Secretary of State would choose such an individual.

Subsection (4) specifies that that these regulations will also be

“subject to the affirmative resolution procedure.”

This means there will be a vote in Parliament. In relation to this, section 13 of the Tobacco and Related Products Regulations 2016 currently sets a maximum permitted emission level for cigarettes that are produced by the manufacturer for export in the UK. Section 36 of that regulation sets out product requirements for e-cigarettes and refill containers, including current maximum nicotine quantities.

Paragraph 1403 of the impact assessment produced by the Government in relation to the Bill states,

“Currently, to supply certain tobacco, herbal, and nicotine vape products on the...market you must first notify your product. Producers must provide data such as the name and contact details of the person who manufactures the product, a list of all ingredients contained in the product, emissions resulting from its use, as well as toxicological data and a declaration that the producer bears full responsibility for the quality and safety of the product when supplied.”

In the UK, the EU tobacco products directive and the UK’s nicotine inhalation system regulations aim to control what substances are present in nicotine products. For example, e-liquids are capped at 20 mg per ml of nicotine strength, and that aims to reduce the addictive potential of vaping products. That said, I am aware of a scandal that broke in 2023 involving the widescale overfilling of vaping products by Elfbar, which required a media investigation to expose. I would be interested to know, first, how the new clause differs from previous legislation in its effect and, secondly, how the Minister intends to enforce it so that misdeeds such as the overfilling of vapes cannot occur again on the scale they have before.

There are also questions about the amount of nicotine in things such as nicotine pouches, and there has been the suggestion of limits to those as well. I ask the Minister, when he is thinking about that in relation to regulations under clause 93, to consider that, although a normal cigarette reportedly contains between 8 mg and 20 mg of nicotine, the individual smoking the cigarette absorbs only a fraction of that—around 1 mg to 2 mg per cigarette. The suggestion that pouches contain 20 mg of nicotine would lead one to believe that the level is extremely high and would add to the addiction and the

[Dr Caroline Johnson]

dependency, but the Minister should consider the limits on how much nicotine is in the nicotine pouch or other nicotine products in accordance with that. We would not wish to push an individual away from a product that is harmful and addictive on to another product that is possibly harmful and more addictive.

I would also be interested to know how, if at all, the Government intend to exercise the powers in clause 93. There are several additives that could be reduced or removed from tobacco products with significant benefit to the smoker. I will give just two examples of chemicals that could be limited under the clause. Ammonia compounds, such as ammonium hydroxide, are used to enhance nicotine delivery to the smoker. Ammonia increases the pH of the smoke, making nicotine more readily absorbed by the lungs. This enhances the addictive properties of cigarettes by increasing the hit of the nicotine. Ammonia and its compounds are toxic, and exposure can cause respiratory problems, as well as irritation to the eyes throat. The use of ammonia compounds also contributes to the overall toxicity of the smoke, as ammonia can form nitrosamines, which are carcinogenic. Reducing or removing the ammonia compounds would not only mitigate these risks, but reduce the addictive potential of cigarettes by reducing the introduction of nicotine without changing their basic function.

Butane is the second substance I want to talk about. Some Members may recall it as a lighter fluid, but it is sometimes used as a chemical accelerant to aid the burn rate of tobacco. Butane helps to maintain an even burn rate throughout the cigarette, ensuring it does not go out prematurely—potentially risky. Butane is toxic, causing particular damage to the lungs and to the nervous system when inhaled. The removal of butane or its replacement with less harmful alternatives would likely not change the cigarette's function significantly; the burn rate can still be controlled, but the risk of exposure to toxic gases will be reduced. I urge the Minister, as we look to create a smoke-free generation, not to forget those individuals in society who are already addicted to this dreadful habit, and to do what he can to ameliorate the risks to them, either by reducing the harm of the cigarette itself or by encouraging people to quit the habit.

The other question I have for the Minister with regard to clause 93 is: what are the penalties? If someone breaks the rules, if a business is found to be breaching the regulations for how much nicotine is allowed in a product or the concentration, or for how big the tank is or what the components are, what will be the penalties? Companies, largely, will be incurring the penalties, as we have talked about before. The deterrent may need to be quite a large fine in order to make a breach not worth their while.

Gregory Stafford: The clause in essence allows the Secretary of State to regulate emissions from tobacco and nicotine products, ensuring that harmful substances released during use are controlled. This is a vital measure to protect smokers and non-smokers from hazardous emissions. My first question is on that last point: can the Minister confirm that the regulations will be designed to protect those who suffer from second-hand smoke? The evidence on vaping is weak, and the evidence on the

effects of second-hand inhalation of vapour from vapes is even weaker, but some studies suggest that it is dangerous, especially given that, according to Public Health England, while cigarette smoke contains more than 7,000 chemicals, 70 of which are known to be carcinogens, there are significant problems—as my hon. Friend the shadow Minister said—from the chemicals that are, and potentially could be, in the vapes.

The clause ensures that the regulations can limit the release of those toxic substances and therefore reduce health risks for the users and those exposed to the second-hand smoke. We know that second-hand smoke causes serious health issues, including heart disease and lung cancer. Studies from the World Health Organisation suggest that exposure to second-hand smoke is responsible for 1.2 million deaths globally each year; I suppose, in the world's population, that does not sound like a vast number, but given the fact that those people have done absolutely nothing wrong and are often, unfortunately, children and young people who suffer smoke from their parents and carers, I think it is worth controlling and regulating. Stronger emission controls would definitely reduce those deaths. As my hon. Friend the shadow Minister said, while vaping has been deemed less harmful than smoking, concerns remain about long-term exposure to certain chemicals in the e-liquids. The clause allows regulators continually to assess and update guidelines on vaping emissions—I welcome that—to reflect the latest scientific advice.

I am certain that the industry will push back on this measure, as they have done on many other points, but I hope that the Government are ready for any possible legal challenges on the regulations when they are brought in. Unlike traditional cigarettes, e-cigarettes or vapes have a vast array of formulations, and therefore creating effective regulatory standards that balance the harm reduction with the safety will be complex. Will the Minister outline how he intends to go about that once the regulations are in place?

Andrew Gwynne: As has been said, the measures in the clause make provision for the amount and nature of substances that may be released into the body by vaping products, tobacco products and related devices, nicotine products, cigarette papers, and herbal smoking products. The Tobacco and Related Products Regulations 2016 set out the maximum levels of tar, nicotine and carbon monoxide emitted by cigarettes, and they require all cigarette brands to be tested for emissions. However, we do not have the same requirements in place for vapes and other nicotine products, and the clause expands the scope so those products can be regulated in the same way.

6 pm

This is important, for the precise reasons that Members have set out. We know that cigarettes contain various combinations of dangerous toxicants that can affect the user when inhaled or absorbed. In addition, certain compounds can increase the addictiveness of smoking and vaping, and entrench addiction further. Producers of vaping products continue to develop new substances and devices to aid nicotine delivery, giving users a larger nicotine rush, which can lead to worse short-term side

effects. It is vital that we control the emissions that these substances release, particularly novel chemicals, as evidence on them emerges.

The hon. Member for Farnham and Bordon made a really important point on that, because we do not have sufficient evidence to be able to determine the long-term risks of vapes in the way that we now have a mountain of evidence on smoking. There is some limited evidence that suggests that there are some harms. The balance of those harms has to be weighed up, but, as that evidence emerges over time in one way or another, we have to be able to respond adequately to whatever that evidence shows. That is in part why the Bill is as permissive as it is.

Clause 103 provides that regulations made under part 5 may create offences for failure to comply with the requirements of the regulations. The punishment for this could be imprisonment, a fine, or both. I hope that clears up the shadow Minister's point on fines. The evidence on second-hand vaping evidence is emerging. The powers in the Bill will allow us to regulate and respond to that new evidence as it develops. I hope that gives some reassurance to the hon. Member and other hon. Members. Lastly, on the appointed person, the answer is obviously the same as the answer I gave a few moments ago: the Secretary of State may appoint somebody to look in technical detail at these issues and report back to Ministers. I hope that clarifies those points.

Question put and agreed to.

Clause 93 accordingly ordered to stand part of the Bill.

Clause 94

NON-COMPLIANT IMAGES

Question proposed, That the clause stand part of the Bill.

Dr Johnson: The clause deals with non-compliant images, and subsection (1) grants the Secretary of State the power to make regulations. There is a theme here—the Secretary of State is gaining a lot of powers to make regulations, but it is not clear to what extent he will use them. We could end up with a very effective piece of legislation or not, depending on how effectively these clauses are used.

The clause states:

“(1) The Secretary of State may by regulations prohibit a person from doing the following in the course of business—

(a) publishing an image of the retail packaging of a relevant product”

—that includes tobacco products, herbal smoking products, cigarettes, vapes and nicotine products—

“from which it is possible to tell that the requirements of regulations under section 90 have not been complied with;”.

Essentially, this is a packet that does not follow the rules. The clause continues:

“(b) publishing an image of a relevant product from which it is possible to tell that the requirements of regulations under section 91 have not been complied with;”.

That might be publishing a picture of a vape shaped like SpongeBob SquarePants—assuming that the Minister decides that that is not a suitable form for a vape to take—or

“causing the publication of an image of the kind mentioned in paragraph (a) or (b).”

Subsection (3) states:

“Regulations...are subject to the affirmative resolution procedure.”

The explanatory notes set out that the clause means that an online retailer would not be able to display images of non-compliant products. As we discussed earlier, it is important that we ensure that online retailers are subject to the same regulations as in-person retailers about what they can and cannot sell. Otherwise, the rule will be ineffective, because people will still access these things by simply moving online to buy them, rather than buying them in stores. From my perspective, that is welcome.

I will make a couple of other points. Although the clause authorises the Secretary of State to regulate non-compliant images, it leaves the process of enforcement somewhat open-ended. There may be inconsistencies in how regulations are applied or enforced across different sectors or different regions, especially as the clause refers broadly to various product categories.

More widely, I would be interested to know how the clause might relate to clothing. The clothing brand MCS, formerly known as Marlboro Classics, made extensive use of Marlboro branding, employing the iconic lettering and colouring on its clothes. I understand that MCS has since distanced itself from its roots and rebranded under a new parent company. Many of its older clothes can still be found in vintage clothes shops. Many of them display tobacco product branding, as might old football or Formula One merchandise from the times when those sports received sponsorship from tobacco firms. I would be grateful if the Minister could elaborate on how such products might be affected by the regulations.

Finally, does the Minister intend the regulations to confer an exemption on law enforcement officers who may wish to produce such images to demonstrate and educate retailers about what sort of images they may or may not be allowed to publish?

Sarah Bool: Thinking about the more modern age, I want to explore how the clause would apply to social media and television.

The clause states:

“The Secretary of State may by regulations prohibit a person from...publishing an image of the retail packaging”

and from

“publishing an image of a relevant product”.

There is not really a definition of image. My first question is this: does the clause apply to moving images, such as those on television?

I almost cannot believe that I am saying this in the House of Commons, but the “Gavin and Stacey” Christmas special was very popular and contained a scene where a main character, Nessa, was smoking and vaping simultaneously. I wondered about the wider implication for the arts. How will it work in practice when we are trying to prohibit things? How will the BBC deal with it—perhaps it will come under licensing—and how will other media outlets deal with it?

I have a further point about younger children and young adults, given that we are in the social media age. The clause will

“prohibit a person from doing”

certain things

“in the course of business”.

[Sarah Bool]

On Instagram, there are influencers. Obviously, their work is monetised; they will be paid for promoting products, or just for general clicks and likes. I wonder how the provisions will work in practice for social media, if they apply to videos as well. A very popular trend is videos in which people unwrap products with the sound up, for the ASMR—autonomous sensory meridian response—qualities. Basically, the sounds of unwrapping can be very relaxing for followers to listen to. Such videos are incredibly popular, and there are thousands of them. I wonder how the measures will impact them. If influencers are making videos for that purpose, will they be caught by the clause? If so, how will we prohibit such activity, especially on social media?

Sadik Al-Hassan (North Somerset) (Lab): It is a pleasure to serve under your chairship, Mr Dowd. The hon. Member is talking about publishing. Is she not talking about the second definition of it in law—to communicate to a third party? Is that not what we are referring to, as opposed to print or social media?

Sarah Bool: I was going to ask that as well, because around the concept of publishing there is a big debate about social media—is X a publishing platform or a form of conversation? There is no definition that I can see of what publish means, nor a specific definition of what image means. I am trying to work it through and find out whether there are loopholes, and how they will play out in the modern age. I want to make sure the provisions are at their most effective. I can understand that if an influencer posts a picture, they have to make sure it complies with the rules, but how does that apply in the wider context? Perhaps I am over-examining, but I can imagine where this could go, and some clarity around from the Minister that would be interesting.

Dr Caroline Johnson: Can I ask a question?

The Chair: Perhaps we can have the Minister respond first.

Andrew Gwynne: The clause enables the Secretary of State to place restrictions on the display of non-compliant images for vaping products, nicotine products, cigarette papers, herbal smoking products, tobacco devices and tobacco products. That is so that displays of products can be brought into line with any packaging or other requirements about a product's features established in regulations made under clauses 90 and 91, which we have just discussed.

To be clear, the restriction already exists for tobacco products. The Tobacco and Related Products Regulations 2016 make it an offence to publish non-compliant images of unit or container packs of tobacco products targeted at consumers. The clause merely expands on the existing provision to include all products, such as nicotine products and vaping products, because we have seen how producers and retailers display products in colourful and attractive ways to entice customers, sometimes using product images that are clearly enhanced. As we seek to restrict the packaging of products through secondary legislation, it is important that producers use accurate images of their

products. That is what the clause is for. I acknowledge, that there is a real debate to be had—not quite to the extent set out by the hon. Member for South Northamptonshire—on the power of social media to push imagery to young people, particularly when it comes to smoking and vaping.

It is no coincidence that platforms such as TikTok are exploiting the fact that they can not only get imagery to young people, but, as a consequence, advertise products to them. That is why just this week, I have signed off an advertising campaign against youth vaping that will appear on TikTok. We have been given permission by Downing Street—one of only a handful of Departments allowed to advertise on TikTok—and we are doing so is because that is exactly where the tobacco and vaping industries are. We will not give them a free-for-all; we will go in there with some hard-hitting imagery, show how we protect young people's lungs and challenge the narrative that the influencers are pushing.

It reminds me—I may have mentioned it already—that I have had not one, two or three, but four articles in LADBible. Since I have started referring to LADBible, it has popped up on my social media all the time, so somebody is listening in. That is precisely what one of the articles was about, because LADBible was incredibly concerned about the imagery from influencers that is being pumped out to young people, undermining all the public health messages that we have been pushing for decades. I was asked, “How do you challenge to a young person this image of a sexy, good-looking influencer with a cigarette or a vape?” It is very reminiscent of the imagery that we got in the 1950s and 1960s of film stars with a cigarette, and so on. That has been reinvented on social media.

6.15 pm

I am a politician, so nobody is going to listen to me if I wag my finger and say, “Don't vape. Don't smoke,” but as a dad and a grandad, I will just say this: smoking is not sexy. It gives you bad breath, turns your fingernails yellow and gives you a horrible cough. It is not a good thing. It is not a good look. It is not sexy—actually, that is the line that LADBible went with. We have to start challenging this pervasive imagery on certain parts of social media.

Sarah Bool: The Minister is making a powerful point. I was concerned about the idea that an influencer might be able to publish an image of a retail packet that is not compliant. At the moment, there are no restrictions, especially if they are abroad. Obviously, some of the influencers with the biggest followings are outside the UK, and I am therefore not sure how we ensure compliance, other than by doing what X does with community notes that pop up. I think there will have to be a discussion with Instagram and some of the other companies, because they are making money out of it. Indirectly, I think the Bill does catch this issue, but I thank the Minister for his clarity.

Andrew Gwynne: Again, that is the beauty of the permissive nature of this Bill. Where loopholes are being exploited, Ministers will be able to come back to Parliament with a simple piece of secondary legislation, through a

Delegated Legislation Committee. The shadow Minister said that secondary legislation does not quite get the scrutiny of a Bill, but it does get up to 90 minutes—I am sure she would find it easy enough to fill that. There is therefore scrutiny of secondary legislation.

We are very aware of this issue, which is why I have signed off the anti-youth vaping campaign on TikTok, which will hopefully be going out fairly soon.

Dr Johnson: I welcome the steps that the Minister is taking on social media platforms to discourage young people from vaping; that is a very welcome intervention. Given that he has appeared in LADbible articles, I am curious to know whether he will appear in the TikTok videos. I do not have a TikTok account, but it might almost be worth joining to watch them—I think that would be great.

How does clause 94 relate to the advertising clauses, which we have not discussed yet but will discuss later? Presumably, if an influencer is receiving revenue, they are effectively advertising a product.

Andrew Gwynne: I am not sure whether my social media clips from this Committee or any other parliamentary proceedings are quite made for TikTok, but who knows?

Gregory Stafford: I do—not at all.

Andrew Gwynne: I agree with the hon. Gentleman: I do not think so either. I do not think I would get terribly many followers, and I am not sure I could ever be described as an influencer, except perhaps for Government Members—[*Interruption.*] Maybe. Even that has come to a Division. Politics can be brutal.

I will go into more detail on how the later advertising clauses interrelate with this clause when we discuss them, because there are clearly cross-overs. The clause will enable the Government to make restrictions that would prohibit an online retailer having pictures of products with non-compliant packaging on their website. That is to make sure that when we bring in the restrictions on the packaging, there cannot be images of a completely different product online or in the shop that would potentially attract children and young people to obtain it.

Hon. Members have asked why we need this clause if we are banning advertising. Without this power, businesses could continue to publish images of vapes that appeal to children both online and in store. As we know, research clearly shows that bright colours and cartoon figures have helped to fuel youth vaping. This clause will stamp that out.

The shadow Minister raised a fair point about clothing. Clause 123, if we ever reach it, contains powers on brand sharing. That could, subject to consultation—that is the caveat that most of these clauses seem to have—capture the images and logos that she mentioned.

On enforcement, clause 104 sets out that regulations can make provisions on enforcement, so that detail will be set out in regulations.

I will write to hon. Members about moving images to make sure that they are covered.

Question put and agreed to.

Clause 94 accordingly ordered to stand part of the Bill.

Clause 95

REGISTRATION

Question proposed, That the clause stand part of the Bill.

Andrew Gwynne: The clause allows the Secretary of State to make regulations to establish a register for tobacco, vaping and nicotine products for their permitted supply in the UK. That will improve the existing regime, which has separate notification processes for tobacco products and nicotine vapes. Non-nicotine vapes and other nicotine products are not currently required to be notified. The clause will give the Government the power to establish a registration scheme covering all these products.

Currently, before they can sell nicotine vapes and tobacco products on the UK market, producers must notify their products to the relevant authority. For nicotine vapes, that is the Medicines and Healthcare products Regulatory Agency, or MHRA, and for tobacco products it is the Department of Health and Social Care. That is meant to help to ensure that products comply with our regulations and that retailers are confident that they are selling notified and regulated products. However, there are weaknesses with those systems, and both fail to support enforcement agencies adequately. The clause allows us to establish a more robust scheme for the registration of products. The details of the scheme will be set out in regulations and subject to consultation.

However, in future, if a trading standards officer found a product to be different from its registration details, that product could be eligible for removal from the register until the information is updated. That will greatly improve the confidence of enforcement agencies in addressing issues with non-compliance. Unless they are well regulated, these products can be harmful, particularly for young people. Establishing a new registration system will play an important part in compliance to make sure that products meet the regulatory requirements and are safe for consumers, and it will improve retailer confidence in the products they are selling. I therefore commend the clause to the Committee.

Dr Johnson: Clause 95 relates to the registration and information requirements of the relevant products. The Tobacco and Related Products Regulations 2016 require producers to notify the Government when they place or intend to place nicotine-containing vapes in refill containers and tobacco products in the UK market. Regulation 31 deals with refill containers and regulation 22 deals with tobacco products. Producers must make their submissions to DHSC for products to be sold in England, whereas in Scotland, the Medicine and Healthcare products Regulatory Agency is responsible for publishing these notifications.

Is the MHRA the right organisation for this? We heard in evidence that when some consumers see that a product has been regulated by the Medicine and Healthcare products Regulatory Agency, they believe the product to have been medically tested for safety, which is not the case. They are not tested to the same standard as the other products that the MHRA tests, such as medicines to be prescribed by the doctor or chemist. It is misleading; I wonder whether the Minister also thinks it is misleading.

[Dr Caroline Johnson]

In her evidence, Dr Laura Squire said that it concerned her. For Northern Ireland, the EU common entry gate for producers can be used to place products on the Northern Ireland market. The notification does not currently apply to nicotine-containing vapes and refill containers, so this clause is an improvement.

Clause 95(1) allows the Secretary of State to make regulations to establish a register for products such as tobacco products, tobacco-related devices, herbal smoking products, cigarette papers, vaping products and nicotine products. Subsection (2) provides that these regulations “may impose prohibitions or limitations on the supply of an unregistered product in the course of business.”

Subsection (3) outlines the matters that the regulations may address, including who will maintain the register, who will be eligible to be registered, and the need for producers to provide information to the registrar. Regulations may also cover the content of the register, the expiry, renewal, cancellation or suspension of a product’s registration, and the publication of the register. Furthermore, the regulations may set fees for registration or continued registration, which could be used to cover the cost of administering the provisions.

We heard in evidence that although products are registered, there is no ongoing monitoring of those registered products. We have seen examples where even supermarkets have been selling products that did not meet the requirements of notification. What will the Minister do to ensure that the regulations he produces can be adequately adhered to and enforced?

Subsection (4) specifies that regulations made under the clause may require producers to provide various types of information, such as reasons for including ingredients in a product, images of the product or its packaging, information about the risks, details about substances released into the body, information about the producer’s operations, and details about any nominated responsible person. That all sounds sensible, but we are asking the industry to mark its own homework. I wonder if the Minister has any comments on how reliable industry-provided information might be on some of these, particularly in relation to risk, because the history of the industry is not strong in that area.

Subsection (5) clarifies that the regulations may allow the retention of payment of register fees into the Consolidated Fund, which we discussed last week. Subsection (6) reiterates that the regulations made under the clause will be subject to the affirmative resolution procedure, which we have also talked about.

What is the rationale for the intervention in this clause? As I understand it, to support a compliant market, it is important that we have products that are registered and can be shown to meet the regulations. This clause will help to ensure that legitimate products are available to sale and will let retailers know what the products are.

Gregory Stafford: It is not currently clear to me what this clause means by a “product”. Does the shadow Minister feel that it is a specific product, potentially with a brand name, or a product that fits within a set of standards or regulations? For example, is this regulating precisely “Bob Smith’s vape”, and somebody else’s vape?

Or do the regulations provide that a vape with a certain length, with a certain number of milligrams of nicotine in it, with a certain dispensing unit, will be compliant and therefore anybody who produces a vape that fits within those specifications will be compliant? Or is it that every single producer of every single vape and product will have to register with the relevant authorities?

6.30 pm

Dr Johnson: I thank my hon. Friend for his question. I guess that some of that will come under the regulations that the Minister would produce under this clause. The products are defined as tobacco products, tobacco-related devices, herbal smoking products, cigarette papers, vaping products and nicotine products, so I guess anything that falls into those categories would need to be registered. However, as we have seen already, simply registering a product does not necessarily say that it is safe, or even necessarily guarantee that it contains what it says it contains. It is potentially helpful to have the ingredients, to know what people have consumed, but having something registered with the MHRA may suggest to some consumers that there is a safety check that has not been done here.

Tristan Osborne: In relation to the MHRA, we know from our brief look at the data that one in three products contains impurities. That is data that is currently provided. We absolutely accept that we need a robust regulatory environment. Is the shadow Minister suggesting that the regulator should, or should not, be the MHRA, in this case?

Dr Johnson: I am suggesting that there is a difference between regulating a product as a medicine, which requires stringent steps, and a statement of what the product does, the effect it is going to have on the body, the claims made about it, and why it is safe, or safer than having the problem that it is treating. Some drugs make people quite unwell but people are willing to trade off being unwell for being cured. For example, cancer drugs make people very poorly at times, but it is considered better to have chemotherapy than cancer, because cancer leads to fatality. That process lets a consumer know that the product has been robustly tested and that the quality is there. On an ongoing basis, someone is checking that the paracetamol bought from a supermarket contains the ingredients that it says it contains on the packet. This notification process does not do that. It says to a company, “Come along and tell us what’s in it. We’ll believe you. Thank you very much. We’re not going to check and we’ll hope it’s all right.” That is a weak process.

It is not surprising that there is a weaker process for a consumer product than for a medical product. However, having it also done by the MHRA could lead consumers to believe that the vapes have gone through the first process and not the second process. I think that is misleading—some of the Minister’s hon. Friends are nodding vigorously—and was something brought up by the MHRA itself in response to, I think, my question. The MHRA answered that this could mislead consumers to think that it is medical regulation of vapes when it is not. There is only a point in having a register if it will be used to achieve something. Having a list of stuff does not make a great deal of difference if no one is going to check that the list is accurate, and I cannot see that

there is any great step to say that the list is accurate. What comes with a register is important, as well as the register itself.

The rationale, as I understand it, of the register is to support the compliant market by having products registered and shown to be meeting the regulations. Again, I understand that this registers that a company has said that it complies with the regulations but I cannot see where the provisions say that there is anyone checking. That may be something that the Minister will add, maybe in relation to later clauses.

The aim of the register is to help to ensure legitimate products are available for sale, and to let retailers know what they are. When a retailer—a chap running a corner shop—wants to buy some of these products to sell, and he has a licence, and he has checked people's ages under the provisions of the earlier clauses, and he wants to sell the product, he wants reassurance that the product is genuine and not illicit. Checking this register for that product would be a step that a reasonable retailer can take to check the product is legit, or at least said to be legit.

Both industry and enforcement agencies have asked the Government to update the current notification systems. Although that was not part of the consultation process, I understand—and the Minister can perhaps clarify this—that subsequent consultation will be required to better inform the new registration system and its implementation.

The Government would like to ensure that non-nicotine vapes and other nicotine products being sold in the UK market are subject to the current notification requirements of nicotine vapes. That is in line with the consultation undertaken by the previous Government in 2023, when the majority of responses were in favour of regulating all non-nicotine vapes and other nicotine products under a similar regulatory framework as nicotine vapes. Again, I ask the Minister to consider whether the MHRA is the best organisation to be providing that service if it is not doing what most of the public may consider it is doing?

At the moment, if enforcement agencies find that the product is notified as not being compliant with regulations, they are unable to update the notification accordingly. The new powers will ensure that the register of products can be updated, and therefore that items can be removed if they are not meeting requirements. To ensure that we can effectively monitor the products and support enforcement, it is necessary for the Government to have the power to introduce the registration regime. I am not against the principle of that, but I think it needs to be well thought through. Perhaps it will be when it comes to the regulations in the statutory instrument—when we no doubt meet again. Adding regulations in general is not necessarily a welcome thing, but in that case it may be useful.

There will be some costs to industry, due to measures including product registration requirements, particularly on non-nicotine vapes and other nicotine products. That may put off producers with lower standards and may improve the general safety standard of the industry, but it is also possible that those with lower standards will not bother, so the Minister needs to explain what the plan is for that—and also the plans for factories.

The registration requirements will also mean that consumers can access more information on non-nicotine vapes and other nicotine products. I ask the Minister:

will consumers have access to the information on what all the ingredients are? Will there be thought given to people with allergies who wish to use those products? There may be a cost to companies that have to request information from their suppliers and gather existing data on non-nicotine vapes and other nicotine products. Companies will also have to spend resources on completing the required paperwork.

Based on the impact assessment for the Tobacco and Related Products Regulations, I understand that the Government expect those tasks to take between 10 and 15 hours per notification, plus or minus any translations or translation costs that may be required. Given that any companies notifying the UK will be selling or operating in the UK, translation costs should be negligible. Therefore, it will be 10 to 15 hours work, plus currently a small fee of £150 to notify of a nicotine-containing vape product. There is also a fee for tobacco and herbal products set at £200, a fee for any modifications at £100, and a further annual reporting fee of £100.

A new fee will be imposed to register products, which will likely be in line with the current fees for tobacco, herbal and nicotine-vape products. Non-nicotine vape products and other nicotine products that were not subject to notification of fees will be charged a fee to register, with the amount to be determined through further consultation. That is another case where essentially what is happening is that the Government are taking a lot of power to do things, but not being terribly explicit about what they intend to do with them. While the Minister said that he is going to go like the clappers, we still have no clear indication of how fast those clappers are clapping away.

For potential new information requirements, there may be additional costs with acquiring that information. Some manufacturers may already collect new information, in which case there will be no additional costs other than staff time spent collating and submitting. Those costs may be more burdensome for smaller companies. The changes will be achieved through secondary legislation, which will be subject to consultation to determine what information should be notified, how the registration will operate, the process for any non-publication of notification and the level of fees associated with costs administering the system.

The impact assessment says that the Bill will also give the industry enough time for businesses to make any changes before the future regulations come into force. Again, the Government are saying that they are going to give enough time, and they are going to go like the clappers. But how fast are the clappers going and how much time is enough for industry? I still do not think we have any idea.

I have a couple of questions. In subsection (3)(a), where the regulations make a provision about who is to keep the register, will the Government clarify what that Government body or third-party private entity will be? Will it be the MHRA, or will it be something else?

Subsection (3)(b) gives the Secretary of State power to regulate eligibility for registration. There is room for debate about what constitutes eligibility and whether small businesses or new entrants will face excessive regulatory hurdles. The power may also raise concerns about what happens if a product or business fails to

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meet the requirements. Will they be shut out of the market? Will they be forced to make changes? How will that work?

Paragraphs (c) and (d) of subsection (4) require producers to provide information about potential risks to human health and substances released by products, but the wording is relatively broad and could raise questions about how tobacco and nicotine product manufacturers will assess and report risks. What level of scientific evidence will be required? How will they balance transparency with proprietary information or concerns about trade secrets? What will happen if the product risk assessment is disputed, and how will disputes be resolved?

We may have a situation where the vape manufacturer says that their product and the flavourings are safe but the evidence from medical professionals suggests otherwise. Will they provide the information themselves or will they fund other people to do it? Will that be done under a general pool, or will it be specific to that product at that time? How much influence will the industry have over the results? If we ask a specific question, we will get closer to the answer we want.

In the case of vaping products specifically, the health risks are not yet fully known. It is fair to say that there is some debate on the matter, even among respected authorities. The American Lung Association claims that vaping is linked to a condition called popcorn lung, and the Harvard Medical School lists popcorn lung under the risks of vaping. However, the NHS and Cancer Research assert that vaping does not cause popcorn lung, so there is a dispute. Clearly, more research is needed, but in the meantime how will the regulations in the clause address an issue like this?

Subsection (5) introduces the idea of fees for registration, including provisions that allow the fees collected to reflect the cost of regulation. It raises issues about how the fees may affect small and independent producers in a market that is taxed. Do we have any indication about what the fees may be? Could the cost of registration become prohibitive for small companies and push them out of the market? Will there be mechanisms to ensure that the fees are not too burdensome for newer and small businesses, or is the intention to limit the number of products on the market by making the fees higher so that we get a smaller number of products and are therefore more able to regulate and assess what is in each of them?

Andrew Gwynne: I welcome this debate because it raises some important questions. First, we have had a long discussion about the MHRA, and under the existing legislation it is the appropriate body. I want to make one thing very clear by emphasising the point that the shadow Minister rightly made and that the MHRA also made in giving evidence to us on the first day of the Committee: no medically approved vape is available. Vapes being registered through the MHRA does not make them medically approved for health purposes. It is really important to keep emphasising that no vape currently available in shops in any part of the United Kingdom is medically approved for health purposes by the MHRA.

I take very seriously the point the shadow Minister makes about whether the MHRA is the appropriate body going forward for this aspect of the registration scheme. We are considering how a more rigorous registration scheme can best be delivered given the nature of these products, which I again emphasise are not healthcare products. We are scoping a potential new home for the registration scheme. Officials at DHSC and the Office for Product Safety and Standards have already met to discuss learning and best practice from other product registration schemes. I hope that gives some hope to Members. While the MHRA is currently the appropriate body, at some stage we might well decide that it is not necessarily the best place for this new registration scheme to sit.

Dr Johnson: I thank the Minister for that. I am grateful that he is looking for a new home for the regulation that more accurately reflects what is being done.

6.45 pm

Andrew Gwynne: I am grateful to the shadow Minister.

Mr Barros-Curtis: I agree that that sounds promising. I am sure that the Minister and his officials are all over this, but to be clear, will the Bill as drafted give them the requisite flexibility? In two years' time, should that change have happened, could the requisite regulations be drafted to bring that into effect without needing to come back to the House?

Andrew Gwynne: Yes, that is absolutely the case.

On the shadow Minister's question about the ingredients in the vape—or any other product, for that matter—if those turn out to be different from those in the register, I reiterate that the product could be eligible for complete removal from the register until the information is updated. That is precisely the measure that enforcement agencies have asked for to give them the greater clout that they need when it comes to non-compliance: once those products are removed from the register, they would not be permitted for sale—end of.

Dr Johnson: Let us look back to the issues of the Elfbar items that had, as I understand it, a higher number of milligrams per millilitre—certainly a higher nicotine content—than they were supposed to. If there is no penalty other than being removed from the register until the information is updated, could not someone less reputable say, “Well, I'll put on what I want to put on; if I get caught, I will at that point say what is really in it and go straight back on the market”? Is a period of not being able to sell the product envisaged? Is a stiff fine envisaged? What is the penalty envisaged or will the register simply have to be updated?

Andrew Gwynne: As the clause stands, the product would be removed from the register and could not be sold. Alongside that, we aim to establish a testing regime to check regularly that products on the shelves are what they say they are. That will help to support overall enforcement and ensure that all registered products are safe for consumers. As with other matters, all will be set out in regulations, subject to consultation. Ultimately,

all this is down to the regulation-making powers. All of part 5 basically sets out the framework for what can be done in future, subject to regulations.

On the point about ingredients—the shadow Minister made this point twice, in particular about people who may be allergic to certain aspects of the ingredients in a product—under the TRPR, products already need to list the ingredients. We have sought to introduce powers, which we covered during our debates on the earlier clauses, whereby Ministers would be able to request even more information on packets or products, should that be deemed necessary. We have the measures already in place through the TRPR on publishing the ingredients. Were Ministers in future to decide that a particular compound was highly allergic to certain people so there needed to be further warnings on packets, they would have the power to make the necessary alteration through the usual processes of consultation and secondary legislation.

Dr Johnson: Will the Minister clarify whether the regulations require someone to print the ingredients in full on the vape packet, on the vape itself, on a website or on all three?

Andrew Gwynne: I will get back to the shadow Minister on that because I suspect that the House is about to divide, and I need a bit of inspiration from the box on the exact answer. I would not want to mislead the Committee inadvertently.

Clause 103 covers offences to provide false or misleading information. It will allow for the punishment of imprisonment or a fine, or both. I hope that covers the concern.

Question put and agreed to.

Clause 95 accordingly ordered to stand part of the Bill.

6.52 pm

Sitting suspended for a Division in the House.

7.7 pm

On resuming—

The Chair: I remind colleagues that thus far we have done eight clauses and amendments. Before the end of today, I understand, in effect we have another 50 clauses, schedules and amendments to go. Everyone should be on the same page with regards to that.

Dr Johnson: On a point of order, Mr Dowd. Did you say 50 or 15? The reason I ask is that about 50 clauses remain to be discussed and about three days are still allocated to that purpose.

The Chair: I make no comment on the scheduling; I am just bringing people's attention to the fact that that is the proposal for today, so that people are aware. I am not making any comment on it other than for people to be aware that that is what I understand the intention to be.

Dr Johnson: Further to that point of order, Mr Dowd. To make the Committee aware, that proposal has not been shared.

The Lord Commissioner of His Majesty's Treasury (Taiwo Owatemi): Further to that point of order, Mr Dowd. To let the Committee know, last week I gave the Opposition a week's notice, and I shared it again this morning. It should have been shared.

Gregory Stafford: Further to that point of order, Mr Dowd. Generally, such things are agreed between the Whips, but it was not agreed on our side. I put back a counterproposal that I thought was reasonable, and no response was received from the Government Whip.

Taiwo Owatemi: Further to that point of order, Mr Dowd. I made it very clear that I was not going to accept that proposal, and I explained last week why not. Again, I outlined the Government proposal. The counteroffer did not meet halfway; in essence, it stuck to the Opposition proposals. At the end of the day, I decided that we had a clear target of what we are trying to achieve, and we wanted to give Members reasonable time to discuss the Bill.

Dr Johnson: Further to that point of order, Mr Dowd. I am confused about what the Opposition wish to achieve—*[Interruption.]* Sorry, the Government. It was the Government's programme motion, which the Government produced and in which the Government suggested that we had a certain number of days and sittings. The Government had the numbers to decide how many sittings were allocated. Having allocated all those sittings, why have the Government suddenly decided that they want to complete the Bill in Committee three days early?

Taiwo Owatemi: Further to that point of order, Mr Dowd. We want the Committee to be able to discuss the new clauses. We are not finishing today; we are just trying to get to the new clauses, which will still need to be debated.

Dr Johnson: Further to that point of order, Mr Dowd. Will the Chair clarify how many new clauses there are, and how many of the new clauses have already been debated?

The Chair: May I get this absolutely clear? My intention was simply to tell Members what I understood the situation to be. It is not for me to make any judgments at all. It was just to give an indication, in effect, that we are moving on to amendment 6 and that I understand that the intention for today is to get to schedule 21. That is all. Frankly, I do not know how many new clauses we will be dealing with in due course. Tonight, I am focused on, for Members' benefit, everyone's understanding that that is the intention. I do that purely for Members to get the gist of what is going on. I make no judgment on it at all. It is not a matter for the Chair to make any such judgment. That is how I understand the position.

Gregory Stafford: On a point of order, Mr Dowd. To be clear, my understanding is that at a new day, we have to stop. Does that mean that the sitting runs until midnight, or can we carry on after that? My understanding is that a new day starts at one minute past midnight or one second past midnight.

The Chair: No, we would just carry on.

Dr Johnson: On a point of order, Mr Dowd. To clarify, there are 10 new clauses and we have already debated: new clause 1, when we were debating clause 91 earlier today; new clause 3, which we debated with clause 1; and new clause 10, which we debated with clause 10. That means that the Government have made a decision—I am sure that the Minister will correct me if I am wrong—that they will need to do seven new clauses over a period of three days, and all the remaining 50 clauses this evening. I am not sure that that is a reasonable expectation of civil service and House staff.

Taiwo Owatemi: Further to that point of order, Mr Dowd—

The Chair: Order. I will call the Government Whip, but then I am going to leave it at that, because it is not for the Chair to go outside the usual channels.

Taiwo Owatemi: Given the fact that we spent hours debating just one clause, the Government cannot be certain that we will finish on time, because of the pace at which Opposition are going. To ensure that we finish on time, we are doing our best to ensure that Members of this House have the time needed to debate the Bill, hence why we decided that we should get to the new clauses.

The Chair: I will just leave it at that. I repeat, I wanted people to be aware of that, for clarity about their timings, understanding, domestic commitments and all the rest of it. The issue of discussions through the usual channels is a matter for those discussions through the usual channels; it is not a matter for me.

Clause 96

INFORMATION

Jim Dickson (Dartford) (Lab): I beg to move amendment 6, in clause 96, page 54, line 24, leave out “may” insert
“must within six month of the passing of this Act”.

The Chair: With this it will be convenient to discuss the following:

Amendment 7, in clause 96, page 54, line 36, leave out “may” insert “must”.

Amendment 8, in clause 96, page 54, line 36, after “provision” insert “and publication”.

Amendment 9, in clause 96, page 54, line 38, at end insert

“, including provision of data with reference to areas specified in the regulations, which may be local authority areas.”

These amendments require the Secretary of State to make regulations which would require producers of tobacco products and other products to provide sales data by geographical area and would require the publication of such data.

Clause stand part.

Clauses 97 and 98 stand part.

Jim Dickson: It is a pleasure to serve under your chairship, Mr Dowd.

Amendments 6 to 9 stand in my name and I will endeavour to speak to them quickly in the light of the discussion we have just had. The amendments would require the Secretary of State to make regulations that, in turn, require the producers of tobacco products and other related products to provide sales data by geographical area, and require the publication of such data.

Tobacco companies collect rich data on the sales of their products, which is used for commercial purposes. Many times in Committee, we have heard how smoking is now spread unequally across our communities, with people in deprived areas being far more likely to smoke. Data is collected by companies on their sales and distribution, and could be put to better use to inform public health responses. In my case, as cabinet member for health in a London borough, I know my director of public health would have found that data incredibly useful to shape local policy.

Such data could also help researchers get better insights into tactics used by the industry to subvert price policies, thereby informing tax policy in the area and consultations on a “polluter pays” levy, which the Committee will be considering with new clause 2. The data would enable local authorities to get better insights into what is happening with sales in their area and to identify possible upticks in illicit tobacco use. There may be National Trading Standards’ uses for such data to support enforcement activity and improve the intelligence that local authorities have available to assess local problems with illicit sales.

We know that manufacturers change their sales tactics regularly. In a written submission to the Committee, Action on Smoking and Health provided an example of how access to the data could aid policy. It states in its submission that it has recently identified that cigarillos—small cigars—

“are increasing in use among young people. With timely access to industry sales data public health agencies and researchers could have identified this trend far more quickly”

and acted to do something about it. It continues:

“These products have fewer restrictions on them than other tobacco products, something that will be addressed”

by the Bill,

“but lack of knowledge has inhibited swift public health response.”

A lot of this data is shrouded in secrecy, and I hope that the Committee agrees that requiring the industry to make it public could support public health endeavours. I am sure that Philip Morris International, which submitted evidence to us, would agree that the company is committed to delivering a smoke-free future. This is one way the industry could help, but the Government should require it to do so.

Dr Johnson: May I clarify, Mr Dowd, that you wish amendments 6 to 9 and clauses 96 to 98 stand part to be debated together?

The Chair: Yes.

Dr Johnson: Thank you. I also point out that last Thursday the Opposition Whip put forward sensible proposals, and we finished to time on the clauses that were required to be assessed, so we can act very reasonably when we are asked to.

Amendments 6 to 9, tabled by the hon. Member for Dartford, would require the Secretary of State to make regulations requiring producers of tobacco products and other products covered by the Bill to provide sales data by geographical area, and would require the publication of such data. I am not clear how widely the hon. Gentleman wants the data to be published. Does he want it to be published and available on the internet, or does he want it to be provided just to the Government? Perhaps he could clarify his intentions.

I am not sure how helpful the hon. Gentleman thinks this measure will be, because people do not necessarily consume where they purchase. The figures for a major service station, for example—perhaps where the M1 meets the M25—could really skew the data that he intends to be collected. Data from around King’s Cross may reflect people having a cigarette before they leave on a long journey, and the same may be true at airports. Does he have a view on the effect of that, or how it would be mitigated?

Jim Dickson: Of course, occasionally there would be outlets for which the data is less useful, but if we looked at outlets in deprived areas—shops on estates, for example—and saw an uptick in a particular type of product being bought in the area, I think we could make a reasonable assumption that those products were being consumed pretty close to the place of purchase, and that would tell us something about trends in product use. That might tell us something very useful for public health purposes, if we were trying to promote smoking cessation or a decline in the use of particular products in the area.

Dr Johnson: I understand and support what the hon. Gentleman is trying to achieve. He seeks to ensure that individuals who smoke can be encouraged to quit, and to look at where products are sold more frequently as a way of trying to do that, but I wonder whether this data is, in effect, already collected by survey, and whether it would be a burden on businesses to require them to provide sales data. Does he envisage that the tobacco and vape companies themselves would provide data on which retailers they have supplied? Depending on how much stock a retailer is holding, that will not necessarily tell him how much has been sold. Or does he envisage that every corner shop would submit data to the Government? How much would it cost to process that data, and would it really tell us things we do not already know?

Jim Dickson: I can deal with that very quickly. We would be looking for the companies to publish the data they collect, broken down geographically, and to give us an idea of the volume of their sales, including of particular products. That is all information they hold already; we are merely suggesting that the Government should require them to publish it in that form, which would be particularly useful to public health professionals and, we think, for trading standards enforcement.

Dr Johnson: I support the hon. Gentleman’s aims, but can he clarify whether he intends the data to be published widely or just shared with the Government for the purposes of health? Will it be available to competitors, for example?

Jim Dickson: The data will be available publicly to anyone who wishes to look at the information. The companies may feel that that is a competition issue and try to make that case, but publishing the information for everyone to use, particularly public health authorities and trading standards, will be helpful in contributing to our objective of a smoke-free generation by supporting cessation efforts and enabling public health to shape policy around trends in the tobacco industry.

Dr Johnson: My support for the hon. Gentleman diminished slightly when he said that the data will be available for everyone to see. There is a point to saying that if the data is available, sharing it with Government, public health officials and those who treat it confidentially to try to improve the public’s health, and to trading standards to assist enforcement, may be useful, but providing data to competitors is the wrong thing to do.

First, that is unfair in a free market. Secondly, might not this data be used by companies in this industry, which we know is adaptable and agile, to increase sales in areas where they presumed a competitor was selling but have found out they are not? I am not sure that the data is required to be published for the public interest. The Minister could tell us whether there are any other instances where we expect private companies to tell us who they are selling to and where and to publish quantities of sale online for other companies to see. I cannot think of an example, but the Committee may be able to. Perhaps the hon. Member for North Somerset who is a pharmacist may be able to help, because he has more experience—

Sadik Al-Hassan *indicated dissent.*

Dr Johnson: The hon. Gentleman is shaking his head.

Clause 96(1) grants the Secretary of State the authority to make regulations requiring producers or importers of products including tobacco products, tobacco related devices, herbal smoking products, cigarette papers, vaping products and nicotine products to provide information about these products to specified persons. The regulations may also govern the publication of this information. Subsection (2) outlines specific types of information that may be required, including details about the ingredients, the risks posed by the product, the emissions or substances released by the product, the producer’s operations and any individual nominated by the producer to be responsible for the product. Subsection (2) also specifies that the regulations may also require sales data or market research relevant to the product. If subsection (3) already requires this, I do not think that providing that data to the general public is necessarily something there is precedent for, but I may be corrected on that. Subsection (4) affirms that the regulations will be subject to the affirmative procedure, meaning that they will go to a vote of a Committee of the House.

The provisions in subsection (2)(b) on sales data go back to the point by the hon. Member for Dartford and raise questions about how the data will be used. Could the information be used to unfairly favour certain companies or enable them to gain an advantage over competitors? There are privacy concerns to consider. How will sensitive business information such as sales strategies, pricing models or consumer preferences be protected? While

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the Government want to limit the number of people who smoke and deter smokers from smoking, by not banning cigarettes outright they have given their indication that cigarettes are a lawful product to be bought by those who smoke already and who are over the age of 18 and anyone who chooses to smoke who was born on or before 1 January 2009. Having allowed businesses lawfully to exist, they should be allowed lawfully to get on with their job.

Subsection (3) suggests that the regulations will detail when and how information must be provided. That raises questions about the practicalities of the process. How frequently will the information need to be submitted? Will it be annually—in which case, how useful will it be? Or will it be quarterly, or more often—in which case, how burdensome will it be? Will there be specific deadlines? What penalties might businesses face if they fail to comply? Moreover, the process by which businesses submit their data and the verification of the information provided will need to be transparent to ensure that businesses are adhering to the rules consistently. Will there be regular audits or checks to ensure that the data is accurate and truthful?

The information required under this clause could provide valuable data for public health officials, researchers and policymakers to monitor trends in product composition, usage pattern and health impacts. However, a critical question is how effectively this information will be used to achieve tangible health outcomes. In other words, is it collecting information for the sake of collecting information, or is it collecting information that will actually be beneficial and useful? Will it help regulators to identify new risks or trends in the market? Will it support more targeted interventions to reduce smoking and vaping-related harm?

It is worth considering how information related to new products such as novel vaping devices or alternative nicotine delivery systems will be evaluated and whether the data will be used to inform better regulations in future. I suppose there is an argument that if particular flavours, for example, are prevalent in a particular area and there is an immediate harm in that area that correlates with a particular flavouring, that is a sign that there is a problem with that flavouring. But in practice, since we have been given medical evidence that suggests that any changes are usually over a period of time and fashions change over time, it will be very difficult to weed that out of a huge amount of information. It is therefore difficult to understand exactly how the information will be used. I am sure the Minister will be able to provide further information in that regard.

Clause 97 looks at studies that might be required. Subsection (1) authorises the Secretary of State to make regulations that require a producer of a relevant product to conduct a study on a product or an ingredient within it. The producer may be required to submit a report on the study's findings to a specific person. That may be helpful, but if a company is asked to provide information on a product that it sells and the information is detrimental to the prospect of further sales, how impartial can that be considered, how much will the consumer trust that information and how much point is there in doing it?

Will the Minister consider whether the study should be done independently rather than by the producer? If so, how does he envisage that working? If the producer

of the product commissions the report, the way in which the question is phrased, the way in which the study is designed and other things can influence the result that is achieved. That may lead to a bias in the study so that the Government will not get the information they really want.

Subsection (2) defines a relevant product as a tobacco product, a tobacco-related device, a herbal smoking product, cigarette papers, a vaping product or a nicotine product. Subsection (3) outlines the specific provisions that may be included in the regulations. They include determining when and how the study should be conducted and the report submitted, specifying the questions that the study must address and defining the content and structure of the report. Subsection (4) specifies that the regulations made under this clause will be subject to the affirmative resolution procedure, meaning that they must be approved by Parliament.

The impact of the studies is assessed in paragraphs 1418 to 1426 of the Government's impact assessment. The background to that is that the TRPR currently requires nicotine vape manufacturers to submit toxicological data regarding the product's ingredients, including its ingredients in printed form, when the chemical composition may change, and emissions, referring to the effects on the health of customers when inhaled and considering things such as the addictive nature of the product.

Currently, producers of non-nicotine containing vapes and other nicotine products such as nicotine pouches are not required to test their products or the ingredients contained within. Those products fall under the General Product Safety Regulations 2005, under which the only obligation is that a producer must supply a generally safe product. Therefore, manufacturers of vaping products should carry out tests on their products to determine how the device works, how it delivers nicotine and how the ingredients react with each other to produce certain emissions—that is important to protect consumers.

In some instances, we will see the use of new chemicals and ingredients that are not well researched or well tested. If a manufacturer wishes to put such an ingredient in its products, it could be required to perform studies on its safety. As I said before, it may be that the industry does that itself initially, but there must be a provision to allow the Government to commission independent research to avoid biases in that information.

Manufactured cigarettes are the most thoroughly researched tobacco product and also the most uniform. We know much less about other products, such as novel tobacco products, non-nicotine products and smokeless tobacco. They are a hugely diverse range of products and much less well studied. We currently depend entirely on manufacturers and lack the capacity to verify industry claims. Smokeless products are of particular concern; they are often produced by small and medium-sized enterprises in low and middle-income states and then imported.

There will be an impact to industry from the cost of carrying out a study of their products and ingredients and submit the study to the relevant body. If the test for menthol was added to the standard routine testing for tar, nicotine and carbon monoxide—TNCO—currently conducted on all cigarette brands, it would be expected to impose only a small additional cost. However, any additional tests that regulations require manufacturers to conduct would also have additional costs. If manufacturers have

that product safety information for all the chemicals in their products, including for vapes, which have lots of different flavours—the long-term effects of vaping those chemicals are in many cases unknown, but suspected in some cases to be harmful—how will the Minister decide which chemicals to test? Will he require independent testing of all chemicals that are used in the vapes? That would take time: it is very difficult to work out what something will do over 20 years without waiting 20 years to find out.

I remember that when mobile phones were new there was a rumour that they might cause types of brain cancer. Around 20 years ago, I entered the cohort study of mobile phone use and health, or COSMOS, in which data was—and may still be—collected on my telephone usage and provided to university researchers in London. They measure my usage and periodically ask where I keep my telephone—whether in my front or back pocket, in a bag, or wherever—and whether I hold my phone to my ear when I am talking or hold it in front of me, on speaker. They also look at my medical records to see whether that usage has had any effect on my brain, and how many people who are in the study have subsequently got cancer. Does the Minister envisage encouraging the setting up of such long-term studies to check on the outcomes from vaping, for example?

There would also be a cost to developing the body that is required to review the studies that the producers of these products submit. For context, the extra cost of testing 12 tobacco products for menthol was around £50,000 per year. The cost to the relevant body of additional tests required by the regulations may be in a similar region. Those regulations would be subject to consultation, but has the Minister considered that the fewer flavours there are, the fewer chemicals that he needs to pay to have tested, or that he needs to encourage business to pay to have tested? The range of flavours means that there are more chemicals out there potentially needing investigation.

Clause 97 does not refer to conflicts of interest and does not require independent, objective experts—perhaps the Minister intends to include those in regulation. In instances in the past when tobacco companies conducted studies through their own research groups, they provided—perhaps unsurprisingly—remarkably optimistic conclusions about the hazards of smoking. I hope the Minister is not expecting such companies to mark their own homework again. The regulations should specify the qualifications of those conducting the studies and the methodologies that they should follow to help ensure that studies are scientifically valid and unbiased.

Subsection (3)(c) allows regulations to define the content and structure of reports that producers must submit. Although that provides flexibility to the regulators, it could also lead to confusion if the requirements for report structure and content were not clearly defined. Will there be a standardised format for reports, and how detailed will they need to be? Should the reports be publicly accessible? Will they remain confidential to the producers and regulatory bodies, or will they be more widely published, as the hon. Member for Dartford suggested other data should be?

These questions are important and the Minister's intentions are important, as unclear guidance could result in inconsistent reporting across producers or even

incomplete or misleading reports. The primary goal of requiring studies and reports is to provide regulators with information that could be used to improve public health outcomes, such as understanding the health risks associated with smoking, vaping or nicotine products. It is essential to question how this information will be used once submitted. Will it be analysed promptly and used to update product regulations to inform public health campaigns? If studies highlight emerging risks or issues, how quickly will regulators be able to act on the findings? The impact of those studies will largely depend on how efficiently the regulatory system uses that data to protect public health and respond to new threats. Are we collecting data for the sake of collecting data, so that the information is there, or are the resources going to be provided to look at the data, analyse it and act upon it? Otherwise, we may end up in a situation where we knew the answer but we did not see the wood for the trees.

Finally, clause 98 talks about the responsible person. Subsection (1) allows the Secretary of State to make regulations that require producers of tobacco products, tobacco related devices, herbal smoking products, cigarette papers, vaping products or nicotine products to nominate an individual who will be responsible for the information that must be provided under the regulations we have discussed under clauses 95 and 97.

Subsection (2) provides that the regulations may include provisions on who is eligible to be nominated as a responsible person. That could include requirements for the nominee to be a resident of the United Kingdom, or to have another connection to the country. Subsection (3) mandates that the regulations must prohibit a producer from nominating an individual without first obtaining consent, which seems to me very clear and straightforward. Subsection (4) clarifies that regulations made under this section are subject to the affirmative resolution procedure, requiring Parliamentary approval before becoming law.

The clause allows the Secretary of State to define who is eligible to be nominated as a responsible person. It is essential to ask whether there are any clear criteria for that eligibility. For instance, must the individual be a senior company representative, public health expert or legal representative? The definition of eligibility could significantly impact the effectiveness and accountability of the regulation. Subsection (2) of the clause mentions that the regulations may require the nominated responsible person to be

“resident in, or to have another connection to, the United Kingdom.”

What exactly constitutes a connection to the UK? One of my aunts moved to the States when she got married and she lived there and had her family there. Although she has sadly passed on, I have cousins in the States. Is that enough of a connection? What counts as a connection? Is it enough for the person to have a business address in the UK, or do they need to be a UK citizen or a UK taxpayer? Do they need to live in the UK for a certain period?

This is particularly important when considering that many of the largest players in the vape industry, such as Elfbar and Lost Mary, are Chinese companies and are headquartered abroad. To my understanding, Elfbar has used its geographical distance from the UK to stay at arm's length from a range of controversies caused by their products, not least the selling of vapes with illegally high levels of nicotine and the use of TikTok influencers

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with large followings among children to promote their products, which I am pleased to hear the Minister will be countering with his own adverts.

The clause specifies that the regulations prohibit a producer from nominating an individual without their consent. What process will be put in place to ensure that consent is genuinely obtained and documented? Will there be a formal registration or reporting system for nominees, and how will we ensure that the nominee knows—and that we know that the nominee knows—that they have been nominated? Will the person responsible be held personally liable for product safety or compliance failure if the product manufacturer fails to meet certain standards? Will it be the responsible person facing the fine, penalty or other consequences, the company, or both? That is an important consideration given both the nature of the penalties and also the person's willingness to be nominated.

The clause covers a broad range of products, including tobacco products, tobacco-related devices, vaping products, herbal smoking products and nicotine products. Will the nominated responsible person be expected to oversee compliance with specific regulations for each product category, or will there be a single standard compliance regulation for all? I think primarily of cases where large companies have major stakes in both the tobacco and vaping industries.

Gregory Stafford: We are debating a number of clauses and the amendments to them. I will first touch on amendments 6 to 9 in the name of the hon. Member for Dartford. I completely understand where he is coming from in trying to use data collected by companies producing such products and by retail outlets. It could have a significant health benefit. The hon. Member for Worthing West is a public health consultant and will, therefore, sympathise with the ambitions in the amendments.

Where there is a problem, however, is in the sharing of such data. Clearly, to make that effective from a public health point of view, the information needs to be shared with the Department of Health and Social Care and with relevant public health authorities at a local level, whether that be combined authority mayors—or whatever comes in the Government's reorganisation—or local authorities. My concern is that the data will be publicly available to everyone, including competitors in that market. That is an extremely dangerous precedent to set.

We would not do something similar with alcohol, although we must agree that alcohol also harms, or with fatty foods or sweets. I am sure the Minister will tell me later, and I completely agree with him, that tobacco and vape products are not in the same scale as fatty foods and alcohol, but I still think that there is an anti-competitive nature to some of the measures in the Bill, especially in the amendments, in particular when it comes to different sizes of companies. My hon. Friend the shadow Minister mentioned the big players in this market. Let us remember that we are not banning vapes—we are just banning them for those under the age of 18, and rightly so—but by using this data, the big competitors in the market could squeeze out smaller retailers and smaller companies that produce vapes.

Perhaps that was the hon. Member for Dartford's intention, but giving succour to the big beasts in this game is probably not the way we want to go. I am not sure whether he will press his amendments to a vote, but, if the Minister and the Government accept the proposals, in this form or another, we should look at a way of ensuring that we can use this data for public health benefit without the unintended consequences that might come about from sharing it with competitors.

Clauses 96 to 98, as drafted, all include a lot of positives. Clause 96 empowers the Secretary of State to require producers and importers of tobacco and vaping products to provide information about their product sales and potential health risks. Obviously, transparency is critical to ensure consumer protection, and to inform our policy making and effective regulation of the sale and manufacture of such products. A study by the World Health Organisation found that countries with strict tobacco information disclosure laws saw a 20% decrease in tobacco-related illnesses over a decade. That very much sits with my point about using data to drive policy. Mandating the detailed reporting that is mentioned in the clause will ensure that consumers have access to crucial data about product contents and the health implications.

Dr Johnson: We have talked a bit this evening about social media companies and the production on social media by influencers of what are in essence adverts, together with the difficulties in imposing any regulations on that. Does that not mean that, if all this data were published as the hon. Member for Dartford suggests—with great intentions—we could end up in a situation in which we are informing the industry exactly where they should target next with their social media posts? We all know that those can be directed to certain geographies.

Gregory Stafford: That is a real risk of the amendments tabled by the hon. Member for Dartford. Essentially, we would be mandating the companies to show their competitors and potential new entrants to the market where the potentially fertile—in the sense of wanting to buy the product, to be clear—areas of customers are so that they would know to target them. It seems rather strange that we would want to do that. I am sure that that is not the hon. Member's intention, but it is a potential conflict of interest.

7.45 pm

As my hon. Friend the shadow Minister says, and as has been stated many times, the ingenuity of the producers, manufacturers and retailers of those products is such that they will use every opportunity, especially social media, to begin to market them. As much as I like to see the Minister on LADbible, I am sure that he would prefer not to have to be there or to have to make more TikTok adverts to deal with that issue.

To move on to how clause 96 strengthens public health models, clearly the data from the tobacco companies will aid researchers and policymakers in understanding those emerging trends, such as the new nicotine delivery systems that the Minister has mentioned in relation to previous clauses. I know I keep going on about Canada, but it is a good example of where the mandatory disclosure

of vaping product compositions allowed the regulators to quickly respond to the rise in e-cigarette-related lung illnesses in 2019.

Much of the evidence that we have about the dangers of vaping and e-cigarettes comes from having an understanding of such trends. As I said, tobacco companies have historically misled consumers—we have to believe that—about the dangers of their products. Clause 96 ensures that the authorities can hold manufacturers accountable by requiring a transparent disclosure of nicotine levels, emissions and other harmful chemicals that my hon. Friend has mentioned.

As I touched on in relation to the amendments, the Minister may want to think about the compliance burden on smaller manufacturers and businesses in clause 96. Although large manufacturers will be able to adapt relatively easily to the stringent reporting requirements, smaller vaping producers may struggle with the compliance costs. The Government should provide some guidance and a phased implementation to support small businesses. If we are saying that it is still legal and acceptable to produce and to consume vapes and e-cigarettes, we must not put in place regulations that make it anticompetitive between the larger and smaller retailers and businesses. There must be a level playing field.

As I mentioned, we know the deep pockets, long reach and legal acumen of those companies. The Minister must ensure that clause 96, and many others, are robust enough to withstand legal opposition, as experienced in cases in the United States when the Food and Drug Administration imposed stricter reporting requirements.

Clause 97 requires producers to conduct scientific studies on their products and ingredients, and to submit those findings to the regulatory authorities. That is essential for assessing the safety, public health benefits and impacts of tobacco and vaping products. As I have said, evidence-based policymaking is essential, and this clause writes that into law. By requiring scientific studies, regulators can make informed decisions about product safety. In the EU, studies on heated tobacco products led to stricter regulations after the evidence showed that they still posed significant health risks. Again, the Minister has talked about agility being baked into the Bill, as parts of clause 97 demonstrate.

As my hon. Friend the shadow Minister has said, many vapes and e-cigarettes contain unknown chemicals, so identifying those harmful ingredients is essential. The studies mandated by clause 97 will help to identify toxic substances, similarly to the research from the US that I mentioned that linked vitamin E acetate to lung disease in vapers. That is the sort of thing we need to see, and we need the agility in clause 97 to deal with it. The clause also allows for continuous monitoring of emerging products. As we have said, the nicotine industry is constantly evolving, but by enforcing studies on new products, regulators can ensure that potentially harmful innovations are identified and controlled before they cause widespread harm.

There may be challenges and things that we need to consider around the potential for industry bias in conducting the studies. As the shadow Minister has already outlined, that is a significant concern. Tobacco companies have misled—let us call it what it is; they have lied—and manipulated their research to downplay the risks. To counteract that, there must be some kind of mandatory

independent verification of industry-led studies. I hope the Minister will be able to tell me that there will be mandated independent verification of those studies.

Coming back to the potential issue of the anti-competitive nature, mandating comprehensive studies could impose significant costs on manufacturers. Larger companies may be able to absorb those without much problem, but they would have a bigger impact on the smaller companies. They might also be passed on to consumers. The Minister may say, “That is exactly what I want. I want these things to become more expensive to stop people using them.” That is a reasonable argument, but it is not what this clause is meant to do. A balance must be struck between thorough research and economic feasibility. I would be interested to hear what the Minister has to say on that point.

Clause 98 is about the responsible person. It mandates that each producer nominate an individual responsible for compliance with information disclosure regulations. That strengthens accountability and ensures a clear point of contact for regulatory authorities, so I welcome it. Having a designated responsible person ensures that companies cannot claim ignorance when failing to comply with regulations, which is absolutely essential.

That model has already been successful in the pharmaceutical industry, where appointing compliance officers has reduced regulatory breaches. That is clear. It will hopefully lead to swift resolution of compliance issues. With a specific individual accountable, regulators can directly assess violations and hopefully reduce the bureaucratic delays that might occur if something was sent to a faceless email address or to a chief executive, who might rightly say that the issue is not directly for them as an individual. The Medicines and Healthcare products Regulatory Agency uses a similar model for medicine, but it raises the shadow Minister’s point about giving a veneer of acceptability to these products, so we need to be careful. However, in this instance the MHRA has expedited responses to medical product concerns, so it does work for medicine and it can work for vapes—we just need to have a look at it.

The clause increases corporate responsibility. We all know that there is a significant lack of corporate responsibility in the tobacco industry and, in some cases, in the vaping industry, especially when it markets to children. By requiring an accountable person, the clause hopefully discourages unethical practices within the industry. A World Health Organisation report found that strict accountability measures led to improved compliance in tobacco control laws in over 30 countries, including this one, so we know it works.

There are a few things we need to think about regarding clause 98; perhaps the Minister can respond to them. The clause should specify what qualifications the responsible person should have. I do not mean whether they have a degree, or otherwise, but the qualification within their company. It cannot be the tea boy—it needs to be someone that has at least the relevant oversight. I am being slightly facetious by saying “tea boy”, but companies could allocate somebody who has no internal oversight of compliance even though they are the nominated person.

Dr Johnson: My hon. Friend is making a good point. I am sure he would agree that, essentially, there is no point in naming a responsible person for the company if

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that responsible person is not sufficiently able to pull the levers of power within the company if they find that something is not up to scratch. We need someone who is not in fear of being sacked if he or she raises concerns—somebody who is at a high level within the company.

Gregory Stafford: Yes, absolutely. I think the shadow Minister is completely right. There is that point, in terms of potential fear—if that is the right word—for this person if they are not in a senior position. Indeed, some of the less scrupulous companies may seek to intimidate said compliance officer. Also, to be frank, a lack of expertise in this area could lead to ineffective compliance oversight. While that is something undesirable in and of itself, it can also potentially have negative impacts on the consumer.

Finally, could the Minister say a bit about the potential legal-liability issues of this person? Nominating a single individual raises questions about personal legal liability. Will this individual be legally responsible for compliance—or non-compliance—or will that be the chief executive or someone else, or will there be corporate responsibility or liability for breaches of the standards? I really think that provisions should be in place to ensure that the company—the manufacturer, the producer—bears the ultimate responsibility, rather than this named individual.

The clause needs a clear set of qualifications and criteria regarding the experience of said responsible person. We should make sure that the accountability is structured to prevent scapegoating of individuals, as the shadow Minister has mentioned, and some kind of training programme is in place to support those compliance officers in their roles so that they can enact their duties responsibly. We should also ensure that, should something go wrong, it is the company that holds ultimate responsibility and liability in law rather than that individual.

Andrew Gwynne: I am grateful for this discussion today, and particularly for the amendments tabled by my hon. Friend the Member for Dartford. His amendments would require the Government to make regulations under clause 96 within six months of Royal Assent to the Bill, and for the required information to be published.

I am really sympathetic towards attempts to increase transparency in the tobacco industry, and we take our obligations as a party to the World Health Organisation framework convention on tobacco control very seriously. Indeed, we take our membership of the WHO very seriously, and, given events on the other side of the pond this week, I think it needs a champion on the world stage. Multilateralism works, and the globe is a better place for having the World Health Organisation. It is not perfect and it needs reform—like a lot of major multilateral organisations—but if we did not have the WHO, we would have to invent something pretty similar to it.

8 pm

I will turn back to tobacco control: the WHO framework convention on tobacco control is something that the Government take seriously. That is why we routinely and proactively publish correspondence received from and sent to the tobacco industry, and we have produced

guidance for Government on engagement with the tobacco industry. Clauses 96, 97 and 98 support that approach for greater transparency.

Clause 96 will enable the Government to make regulations to require industry to provide information we deem appropriate. Subject to consultation, we may require information such as the reasons for an ingredient's inclusion in the product; images such as of the product or its label or packaging; information relevant to any risks or suspected risks to human health or safety posed by the product; information about substances released into the body of a person using the product or about the emissions released by the product; information about the producer's operations; information about a producer's responsible person; and sales data or market research, including unpublished research, relating to the product, to name but a few.

The powers will allow Government to continue determining exactly what information should be provided and when. That may also include sales data and market research from producers of relevant products under the scope of part 5, and would cover tobacco products. Furthermore, the clause already permits us to make regulations regarding the publication of any information provided.

Clause 97 allows the Secretary of State to make regulations to require producers of the relevant products to carry out studies about their products or specific ingredients in their products, and to report the outcomes of the studies as specified in the regulations. That provides an important safeguard for the future. We have seen how the nicotine industry adapts its products by producing new ingredients that are not well researched and well tested. If manufacturers wish to bring novel products forward and put novel ingredients in those products, they should be required to perform studies on their safety so that we can best ensure consumer safety and mitigate the potential harms to people's health.

Clause 98 allows the Secretary of State to make provisions to require a producer of the relevant products to nominate an individual to be responsible for the information provided in relation to registration and information requirements. The clause is intended to help enforcement agencies to ensure compliance with registration and information requirements. The new powers will expand the scope of responsible person requirements to cover all relevant products, providing consistency in our approach and making enforcement easier. They will ensure that a responsible person will be accountable for any information submitted as part of product registration, submission of additional information, or submission of reports from studies.

The clauses will support the establishment of a more rigorous registration scheme and allow for the Government to ensure they are seeking the appropriate information at the right point from producers. However, the requirements set out by the amendments—namely, to make the regulations under clause 96 within six months—do not adequately reflect the realities of the processes and stages required to consult on and then prepare secondary legislation. That is a rigorous and lengthy process that, by the nature of the Bill, requires consent from the three devolved Governments. It is important that in the development of robust legislation, the Government take time to develop policy, and we should not pre-empt decisions before all options are considered. We have a

statutory duty to consult on all regulations made under part 5, including regulations under clauses 96 to 98. I encourage Members and relevant stakeholders to engage in that process to ensure that their views are considered.

I will move on to answering Members' questions. Will the studies be impartial? Well, we will set out in regulations how and to whom the report is provided. On cost of studies, further detail will be set out in regulations, but our expectation is that producers will pay. Our intention is not to create burdens for business but to ensure strict standards.

I was asked when the data will be checked and whether the information will be useful. Regulations will set out how and when the information needs to be provided. On the long-term studies of the impact of vapes, the Government continue to monitor emerging trends. We are exploring additional research and will set out our plans on that in due course.

I was asked whether resources will be allocated to regulators to respond to the studies. Ultimately, that is up to the regulations, but it is obviously worthy of consideration. I was asked who is eligible to be a responsible person. Again, the regulations will specify that, including whether they need be physically resident in the United Kingdom.

I was asked whether the responsible people will be liable for offences. Clause 103 provides regulations under part 5 to create offences for failure to comply with regulations. If the responsible people do not comply with regulations, including if they provide inaccurate, incorrect information to serve their purposes, that could include imprisonment, a fine or both. For that reason, I ask my hon. Friend the Member for Dartford to withdraw his amendment. I commend clauses 96 to 98 to the Committee.

Jim Dickson: I thank the Minister for his very comprehensive response. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 96 ordered to stand part of the Bill.

Clauses 97 and 98 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.
—(*Taiwo Owatemi.*)

8.8 pm

Adjourned till Thursday 23 January at half-past Eleven o'clock.

Written evidence reported to the House

TVB62 Asian Consultancy on Tobacco Control

TVB63 Jon Berrick

TVB64 Campaign for Children's Lung Health (CCLH)

TVB65 ASH Wales Cymru (supplementary)

TVB66 North East Public Protection Partnership

TVB67 Royal College of Physicians (supplementary)

TVB68 Consumer Choice Center

TVB69 Institute of Licensing

TVB70 ASH Scotland (Action on Smoking and Health Scotland) (supplementary)

TVB71 Independent British Vape Trade Association (IBVTA) (further evidence)