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NEW FORMS OF MARKETING:

promotion of new tobacco and nicotine products on
social networks

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ABSTRACT

This report is part of a *Transparency and Truth*¹ mandate and aims to document the use of social networks as channels for promoting new tobacco and/or nicotine products, such as disposable electronic cigarettes ("puffs"; not from the tobacco industry) or nicotine pouches (from the tobacco industry). More specifically, the aim is to explore the ways in which current marketing methods specifically target young people, and even children. The first part of this report provides a review of the factual information available on this topic. It served as the basis for establishing a reading grid to monitor the main social networks used by young people in Switzerland in 2022 (in particular Instagram and TikTok). A Swiss influencer was also interviewed to better understand the importance of these channels in product promotion.

The monitoring shows that advertisements on social networks are posted by several types of profile: tobacco industry, retailers, influencers or even personal accounts. The majority of these publications present products with a positive image, in life contexts valued by young people (e.g. parties, vacations, risk-taking). They are often located at the center of content in industry/retailer publications, and in the background in those of influencers/relay accounts (presumably so as not to draw too much attention to the product, the promotion of which is often forbidden by the platforms). Content is predominantly brightly colored, graphically polished and youth-oriented (e.g., use of colloquial language, hashtags, requests to "like" and share content). They highlight a number of factors likely to encourage young people to start and continue smoking, such as low purchase price, high-tech products, diversity of flavors or nicotine levels, discretion of use, etc. They can also encourage transgression, which is a key factor in the success of a product. They can also encourage transgression by reminding minors of the restrictions.

The monitoring also shows that marketing strategies to promote new products in Switzerland correspond to those described internationally. They evolve and differ according to social networks (e.g., restrictions and control), brands (e.g., sophisticated marketing strategies for multinationals, less structured communications for new electronic cigarettes) and countries (e.g., popularity of social networks, implementation of restrictions). The monitoring also shows that several influencer publications do not comply with current Swiss regulations (e.g. no mention of the sponsored nature of the publication) or social network regulations (e.g. no mention that the content promotes tobacco products and nicotine, no age restrictions). These data show that better regulation is needed to deal with this phenomenon and prevent social networks from becoming a lawless zone.

¹ The *Transparency and Truth* program is issued by the *Fonds de prévention du tabagisme* as part of the *Free.Fair.Future* program. "Transparency and Truth collects, describes and communicates critical facts on the tobacco and nicotine epidemic. It uncovers and publicises facts about various issues that the tobacco industry and other actors would rather keep under wraps." - <https://www.freefairfuture.ch/en/transparency-and-truth/transparency-and-truth/>, accessed on 7.03.2024

TAGLINE

Swiss TikTok account promoting Puffs:



Translation :

Hey girls, where does all your cash go?

Thanks to us, there are some of you who will be able to pay their bills.



ABRÉVIATIONS

ASMR	Autonomous sensory meridian response
AT	Swiss association for tobacco control
BAT	British American Tobacco
CNCT	Comité national français contre le tabagisme (French National Anti-Smoking Committee)
CTFK	Campaign for Tobacco-Free Kids (American Association)
FCTC	World Health Organisation's International Framework Convention on Tobacco Control
FTC	US American Federal Trade Commission
JTI	Japan Tobacco International
LPTab	Tobacco Products and Electronic Cigarettes Act (Switzerland)
OTab	Tobacco Ordinance (Switzerland)
PMI	Philip Morris International
SVTA	Swiss Vape Trade Association
Unisanté	University Center for General Medicine and Public Health, Lausanne
WHO	World Health Organization
ZHAW	Zurich University of Applied Sciences

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1. FACTUAL INFORMATION

What do tobacco companies officially say about the new products they bring to market? How are these products promoted? Have industry marketing strategies changed in recent years? What are the observations of prevention organizations? Of the media? What are politicians doing? These are just a few of the questions we will attempt to answer in the following sections, based on sources available up to 2022.

1.1. INFORMATION PUBLISHED BY TOBACCO COMPANIES AND THEIR ALLIES

This section highlights what the tobacco industry as well as the cigarette, tobacco and e-cigarette lobbies officially declare about marketing new tobacco and nicotine products. In order to preserve their right to market tobacco and nicotine products, they have adopted non-binding codes of conduct which all stipulate the same thing: do not market or sell these products to minors. But what about these smoke-filled self-regulations?

1.1.1. TOBACCO INDUSTRIES AND NEW PRODUCTS

Tobacco manufacturers say they are targeting adult smokers with their traditional cigarette brands. They also say they are targeting smokers who want to quit with new products that are supposedly smokeless and "less risky" for their health.

On their websites, tobacco manufacturers present smokers with heated tobacco, electronic cigarettes or nicotine pouches as supposedly "revolutionary" products², "less harmful alternatives to cigarettes"³ and "reduced-risk products"^{4,5}, according to their scientific research^{6,7}.

Table 1 below lists the new product brands (excluding cigarettes) of the three largest cigarette manufacturers headquartered in Switzerland and members of Swiss Cigarette⁸, the Swiss tobacco lobby.

Table 1: Main brands of tobacco or nicotine products (excluding cigarettes) from cigarette manufacturers with headquarters in Switzerland

² Revolutionary products for smokers. PMI Switzerland. <https://www.pmi.com/markets/switzerland/fr/science-et-innovation/produits-revolutionnaires> accessed on 7.03.2024

³ Invent less harmful alternatives to cigarettes. PMI Switzerland. <https://www.pmi.com/markets/switzerland/fr/science-et-innovation/inventer-des-alternatives> accessed on 7.03.2024

⁴ <https://www.jti.com/about-us/what-we-do/our-reduced-risk-products> accessed on 7.03.2024

⁵ With the aim of freeing smokers from their dependence on cigarettes, Eson Corp offers to heat NEAFS sticks, which are not made from tobacco but from a blend of aromatic herbs and plants previously impregnated with nicotine and flavors of iced lemon, mojito, blueberry, menthol or ... tobacco. Full circle! <https://neafs.com> accessed on 7.03.2024

⁶ Scientific information about IQOS. PMI Switzerland. <https://www.pmi.com/markets/switzerland/fr/science-et-innovation/iqos> accessed on 7.03.2024

⁷ Dr David O'Reilly explains how BAT's world-class science is driving our transformation. <https://www.bat-science.com/sciencereport>

⁸ <https://www.swiss-cigarette.ch>, accessed on 7.03.2024

Company	Heated tobacco device	Electronic cigarette	Snus (with tobacco)	Nicotine pouches (without tobacco)
British American Tobacco (BAT)	Glo ⁹	Vuse ¹⁰	Epok ¹¹	Velo ¹²
Japan Tobacco International (JTI)	Ploom ¹³	Logic ¹⁴	LD ¹⁵	Nordic Spirit ¹⁶
Philip Morris International (PMI)	IQOS ¹⁷	IQOS Veev ¹⁸	Kapten ¹⁹	Shiro ²⁰

1.1.2. SWISS CIGARETTE, THE SWISS LOBBY FOR CIGARETTE MANUFACTURERS

Swiss Cigarette, the Swiss trade association for manufacturers and distributors of cigarettes and new alternative and combustion-free products²¹, brings together the three major cigarette manufacturers present in Switzerland: BAT, JTI and PMI²². Its objectives are to

- ☐ Preserve the rights and interests of the free manufacture, marketing and communication of products to adult consumers.
- ☐ Develop advertising and promotion rules and ensure that members comply with them, in order to promote responsible marketing.
- ☐ Support initiatives to prevent smoking among minors
- ☐ Represent members in dealings with the authorities and national public and private organizations

⁹ <https://www.bat.com/DOAWUGNJ.html> accessed on 7.03.2024

¹⁰ <https://www.bat.com/DO9DCGT9.html> accessed on 7.03.2024

¹¹ <https://snushus.ch/en/blogs/snusbuch/epok-und-lyft-werden-ersetzt-mit-velo>, accessed on 7.03.2024

¹² <https://www.bat.com/DO9PQJLD.html> accessed on 7.03.2024

¹³ <https://www.jti.com/about-us/what-we-do/our-reduced-risk-products#element--4392>, accessed on 7.03.2024

¹⁴ <https://www.jti.com/about-us/what-we-do/our-reduced-risk-products#element--4393>, accessed on 7.03.2024

¹⁵ <https://www.jti.com/about-us/what-we-do/our-tobacco-products>, accessed on 7.03.2024

¹⁶ <https://nordicspirit.ch/en>, accessed on 7.03.2024

¹⁷ <https://www.pmi.com/our-business/smoke-free-products/heated-tobacco-products>, accessed on 7.03.2024

¹⁸ <https://www.pmi.com/smoke-free-products/veev-innovating-e-vapor-technology>, accessed on 7.03.2024

¹⁹ <https://www.mysnus.com/kapten>, accessed on 7.03.2024

²⁰ <https://www.pmi.com/smoke-free-products/nicotine-pouches>, accessed on 7.03.2024

²¹ <https://www.swiss-cigarette.ch/fr/index.html> accessed on 7.03.2024

²² <https://www.swiss-cigarette.ch/fr/qui-sommes-nous/membres-de-swiss-cigarette.html> accessed on 7.03.2024

- ☐ Inform members about regulatory issues affecting the tobacco sector.²³

Swiss Cigarette relies on self-regulation and the responsibility of manufacturers and retailers to ensure that tobacco products are marketed and sold only to informed adult smokers who can exercise their freedom of choice²⁴. With this in mind, on July 1, 2005, they signed an agreement with the Swiss Commission for Fair Trading²⁵ concerning the cigarette industry's voluntary advertising restrictions. An update to this agreement was signed on April 1, 2018²⁶. It should be noted that this agreement is in no way binding, since the commission "does not issue any state-enforceable judgments. It issues recommendations with the aim that, in future, advertisers will apply them and thus avoid the legal risks of complaints or criminal proceedings before state authorities."²⁷

1.1.3. AGREEMENT WITH THE SWISS COMMISSION FOR FAIR TRADING

Swiss Cigarette's agreement with the Swiss Commission for Fair Trading details the marketing rules that Swiss Cigarette members undertake to follow in their communications to adult consumers. Point 1.2 stipulates, for example, that advertising must not :

- ☐ address minors or be attractive to them,
- ☐ represent a famous person with an implicit or explicit message,
- ☐ depict a person under 25 years of age,
- ☐ suggest that smoking increases sporting performance, social or professional success or sexual success,
- ☐ depict people smoking in situations where the act of smoking is not credible.

According to point 2.1.1, no tobacco advertising may be inserted in any print media unless it can be reasonably established that 80% of the readership is adult. Point 2.1.3 specifies that Swiss Cigarette maintains and submits to the Swiss Commission for Fair Trading a list of publications in which advertising is authorized, based on data from the Institute for Research and Studies on Advertising Media (WEMF AG für Werbemedienforschung²⁸). The Swiss Commission for Fair Trading publishes this list twice a year.

Point 2.4 commits Swiss Cigarette members to controlling the age of Internet users accessing advertising pages, or to broadcasting only in countries where tobacco advertising is permitted. Point 2.6 prohibits any direct or indirect paid product placement.

²³ <https://www.swiss-cigarette.ch/fr/qui-sommes-nous/objectif.html> accessed on 7.03.2024

²⁴ <https://www.swiss-cigarette.ch/fr/themes/autoregulation.html> accessed on 7.03.2024

²⁵ <https://www.faire-werbung.ch/fr/> accessed on 7.03.2024. The Swiss Commission for Fair Trading is a neutral, independent institution in the communications industry, founded in 1966 with the aim of guaranteeing self-control in advertising. Anyone who considers an advertisement to be unfair can file a complaint with the Commission.

²⁶ https://www.swiss-cigarette.ch/fileadmin/documents/CH_Lauterkeitskommission/Accord_Commission_Loyaut%C3%A9_fr_f%C3%A9vr._2018_sign%C3%A9.pdf, accessed on 7.03.2024

²⁷ <https://www.faire-werbung.ch/fr/> accessed on 7.03.2024.

²⁸ <https://wemf.ch/en/>

Point 3.1 stipulates that promotional offers may only be made to adult smokers. Age checks must be carried out if offers are aimed at the general public. Point 3.3 regulates the marketing of promotional items, which must under no circumstances be aimed at minors. Under point 3.4, free cigarettes may only be offered to adult smokers.

Point 4 regulates sponsorship, which may only be awarded to events where the audience and participants are at least 75% adults, and where the broadcast on TV, radio or the Internet is part of the news coverage.

It should be noted that OxySuisse has filed several complaints with the Swiss Commission for Fair Trading, demonstrating the ineffectiveness of self-regulation of tobacco advertising²⁹. OxySuisse is currently producing a specific Transparency and Truth report on the tobacco industry's "voluntary" measures, including self-regulation and collaboration with the Swiss Commission for Fair Trading.

1.1.4. SWISS TOBACCO, THE SWISS TOBACCO TRADE LOBBY

Swiss Tobacco³⁰, the association of the Swiss tobacco trade, brings together 25 Swiss companies and organizations from the tobacco wholesale and retail trade. It is committed to moderate and reasonable regulation of tobacco products, and aims to ensure that the issue of tobacco is approached in a "responsible" manner.

Swiss Tobacco claims to defend responsible consumption of convenience products: the association relies on the decision-making capacity of consumers and therefore supports transparent and objective consumer information as well as judicious prevention in the consumption of tobacco products. It rejects the idea of placing adult consumers under protective guardianship on the pretext of health protection.

1.1.5. CODEX FOR THE MARKETING OF TOBACCO PRODUCTS, ELECTRONIC CIGARETTES AND OTHER TOBACCO PRODUCTS

Announcing their intention to protect minors from the consumption of tobacco and other products with nicotine while guaranteeing the "principle of freedom of choice for an informed adult consumer", Swiss Cigarette and Swiss Tobacco signed the "Codex for the marketing of tobacco products, electronic cigarettes and other nicotine-containing products in Switzerland"³¹ on September 18, 2018. The text was updated on January 25, 2019 and June 15, 2020 to include other nicotine-containing products.

Point 1 stipulates that signatories will refrain from selling tobacco products or products containing nicotine to minors by controlling age prior to sale, including in online shops, or via their general terms and conditions. In point 2, the signatories renounce advertising directly to minors.

²⁹ <https://agefi.com/actualites/acteurs/tabac-lautocontrôle-insuffisant-pour-la-publicite>, consulté le 7.03.2024

³⁰ <http://www.swiss-tobacco.ch/portrait/?lang=fr>, accessed on 7.03.2024

³¹ https://www.swiss-tobacco.ch/wp-content/uploads/2020/08/200803-CODEX_Tabakprodukte-E-Zigaretten-und-andere-Nikotinprodukte_F_def.pdf, accessed on 7.03.2024

1.1.6. SWISS VAPE TRADE ASSOCIATION, THE ELECTRONIC CIGARETTE LOBBY, AND ITS CODEX

The Swiss Vape Trade Association (SVTA) ³², also known as the electronic cigarette trade association, brings together manufacturers and distributors of e-cigarettes, e-liquids and accessories. Its aim is to promote e-cigarettes as a serious alternative to traditional tobacco consumption, while informing consumers about possible health risks, and focusing in particular on the protection of minors. To this end, rules have been laid down in the SVTA's "CODEX for manufacturers and traders concerning the marketing of vape objects and products" ³³.

In article 1, the signatories renounce the sale of vape products to minors and commit to age control. In article 2, they renounce all advertising aimed specifically at minors.

³² <https://svta.ch/>, accessed on 7.03.2024

³³ <https://svta.ch/kodex/>. Accessed on 7.03.2024

1.2. INFORMATION PUBLISHED BY AND IN THE MEDIA

A search for disposable electronic cigarettes in Argus press reviews³⁴ for the years 2020 to 2022 (until 15.10.2022) yielded the results below:

Table 2: Articles about disposable electronic cigarettes in the Swiss press

Search term	2020	2021	2022
« jetable »	0	1	34
« Einwegzigarette »	0	1	26
« puff »	3	4	76

Articles on disposable electronic cigarettes start appearing in 2020 with the search term "puff", continue timidly in 2021 with the search terms "jetable" and "Einwegzigarette", and explode in 2022 for all three search terms. An additional search with the search term "disposable" retrieves English articles in 2019. These are mainly provided by financial and industrial news sites, mainly finanzen.ch³⁵, which relays articles from the American PR Newswire agency³⁶, but also to a lesser extent swissquote³⁷ (one article in 2020), Biotech Gate³⁸ (one article in 2021) and lenews.ch³⁹ (one article in 2022).

On the Internet, a first article was found in 2018. It concerns the influence of tobacco companies on social media.

³⁴ <https://avenue.argusdatainsights.ch>

³⁵ www.finanzen.ch

³⁶ www.prnewswire.com

³⁷ <https://en.swissquote.com/>

³⁸ <https://www.biotechgate.com/web/cms/index.php/start.html>

³⁹ <https://lenews.ch/>

1.2.1. 2018: BIG TOBACCO'S INFLUENCE ON SOCIAL MEDIA REVEALED

In 2018, the *New York Times*⁴⁰ revealed Big Tobacco's influence on social media, reporting the results of research by Professor Robert Kozinets and an international team of researchers into the tobacco industry's use of social networks. The research, conducted in 10 countries, revealed the tobacco industry's strategy for promoting its products by skilfully circumventing laws restricting advertising to young people. They carried out highly sophisticated promotional campaigns using paid and unpaid ambassadors and micro-influencers on Instagram and Facebook.

The results of this study, along with research in 40 countries, led the Campaign for Tobacco-Free Kids (CTFK; USA) and several public health associations to file a petition with the Federal Trade Commission (FTC; USA) against PMI, BAT, JTI and Imperial Brands, accusing them of targeting American youth with social media advertising in violation of federal law. The petition calls on the FTC to put a stop to these practices. The researchers found 123 hashtags associated with tobacco products that have been viewed 8.8 billion times in the U.S. and 25 billion times worldwide. Some hashtags are brand-related, such as #lus or #likeus for Lucky Strikes. Others are more subtle, unrelated to the brands, such as #YouDecide, #DecideTonight and #RedIsHere for Marlboro or #FreedomMusic for Winston. Some publications don't show cigarettes, but mention upcoming parties and events where cigarettes are promoted on giant displays and given away. The decorations match the colors of a specific brand. Lucky Strike ambassadors were given specific instructions (see images below). The Like Us campaign ran from 2012 to 2017. Certain themes were repeated in several countries, for example #TasteTheCity to promote BAT's Dunhill and Kent brands and #Newland, #Neuland, #IDecideTo and #YouDecide to promote PMI brands.

LUCKY STRIKE 2017 - POST

Your activity was confirmed for this new period until April 30. There will not be any events in this period.

YOU HAVE TO:

- Have at least **2 shares** a week with **#likeus_party** (REMEMBER THAT YOU CAN POST PHOTOS generic photos on parties, lifestyle, fashion, travel, etc.
- At least **1 share** a week with **#lus** (THIS SHOULD ONLY BE USED FOR PHOTOS WHERE THE PRODUCT IS PRESENT.
- **LIKE** posts and **SHARE** the contents on the LIKE US FB page_ every week.

NB: these are the minimum activities required

There is a small report on the subjects to use in your posts on the following pages. Remember to change them up and to not just photos on the same subject. Do not post pictures that are too sexy or not in line with the LIKEUS MOOD.

⁴⁰ Big Tobacco's Global Reach on Social Media. In The New York Times. 24 août 2018.
<https://www.nytimes.com/2018/08/24/health/tobacco-social-media-smoking.html> accessed on 7.03.2024.

Figure 1: Lucky Strike's recommendations to campaign influencers

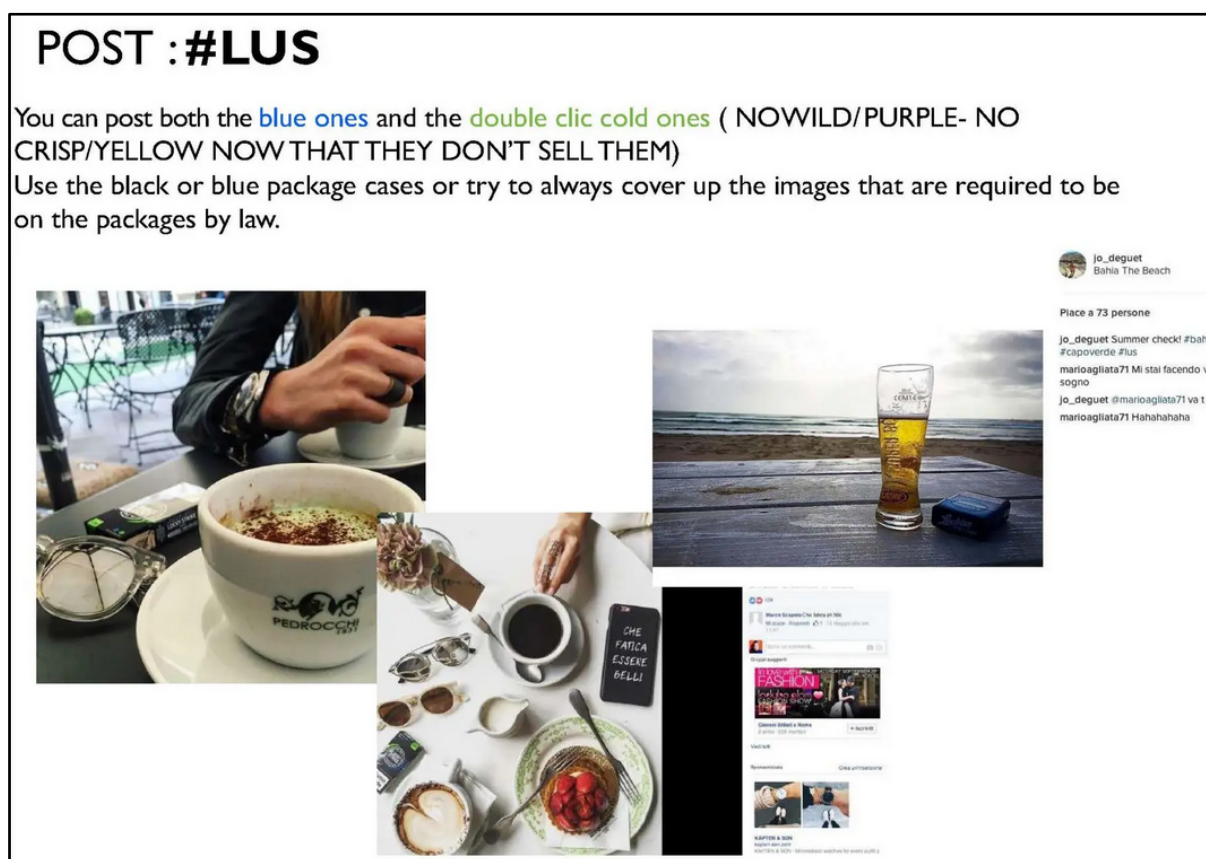


Figure 2: Examples of images to be posted by influencers

A *New York Times* reporter found a note on LinkedIn from a Brazilian business strategist working for over 3 years for BAT's Dunhill, Lucky Strike and Kent brands describing his business strategy: "Our premise was that Dunhill is the brand that transforms the city into a platform for discovery, offering exclusive experiences to a younger audience. Ensuring that Dunhill is recognized as a modern, bold and 'cheeky' brand, making it more appealing to the average under-30 smoker. All this while taking into account Brazil's legal restrictions on cigarette advertising."

The article reports that in Uruguay, researchers interviewed several ambassadors paid by Wasabi, a public relations company working for PMI. Corey Henry, a spokesman for PMI, said that none of the company's marketing programs were aimed at recruiting new smokers, that promotions included health warnings, and that no digital programs were conducted in Brazil this year. He added that the company's Uruguayan subsidiary uses digital programs to "study trends among current adult smokers", not to market cigarettes. "As we transform our business toward a smoke-free future, we remain focused on maintaining our leadership in the combustible tobacco category," Henry said.

Mr Cleverly, BAT's spokesman, told the *New York Times* that all promotional material and events were aimed at adult smokers and complied with local regulations in its 200 markets. "Across the BAT Group, we are clear that social media can only be used for activities that do not involve advertising any of our cigarette brands," Cleverly said in an email to The New York Times. "We sometimes use social media, and we also sometimes work with bloggers and brand ambassadors, to post non-branded content," he added.

The article concludes by saying that the petition filed by anti-smoking groups asks the FTC to require tobacco companies to disclose all photos, videos and hashtags that are paid advertisements or sponsorships, adding new, probably less viral hashtags: #Sponsored, #Promotion, or #Ad.

1.2.2. 2019: FIRST MENTIONS OF DISPOSABLE ELECTRONIC CIGARETTES

In 2019, the first mentions in Switzerland of disposable electronic cigarettes appear in three articles in the online financial medium *Finanzen.ch*.

The April 9 issue⁴¹ describes the *North American E-cigarette and Legal Cannabis Markets* report, as well as projections to 2022. Chapter 4 of the report discusses the advantages and disadvantages of disposable electronic cigarettes. Chapter 7 describes the market breakdown by flavor: fruit, tobacco, bakery/dessert, menthol, savory/spices, others.

The May 10 article⁴² describes the *Global E-Cigarette Market 2019-2023* report, which predicts a CAGR for the e-cigarette market of over 22% by 2023, not least because e-cigarettes are perceived to be less harmful than other substitutes, as well as stiff competition from other nicotine products. The article points out that players in the global e-cigarette market⁴³ are launching new marketing and advertising campaigns to highlight the various benefits of e-cigarettes and boost sales of their products. Part 6 of the report describes market segmentation by product, and includes disposable e-cigarettes alongside new products. Part 11 describes market trends, namely the increase in promotional activities by vendors in the global e-cigarette market, product innovations and the increasing application of e-cigarettes as a smoking cessation tool.

The June 28 article⁴⁴ describes the report *E-Cigarette Market: Global Industry Trends, Share, Size, Growth, Opportunity and Forecast 2019-2024*, which says that e-cigarettes are considered safer than traditional cigarettes. The article notes that they have recently gained in popularity, particularly among young adults and teenagers, due to their ease of access and aggressive promotion by manufacturers. It also points out that consumers' desire to stop smoking tobacco products, and their perception of e-cigarettes as a safer alternative to traditional cigarettes, has led to an increase in demand for these devices worldwide. With this in mind, the article notes, manufacturers are launching new-generation e-cigarettes that offer different nicotine concentrations and allow users to refill the cartridge. In addition, the article mentions that major manufacturers are acquiring or partnering with smaller national vendors. For example, JTI acquired UK-based e-cigarette brand E-Lites to develop new products and market its vaporizers worldwide. These players are also introducing a wide range of flavors. In addition, they are developing the designs and technology of e-cigarettes to improve their functioning.

⁴¹ <https://www.prnewswire.com/news-releases/north-american-e-cigarette-and-legal-cannabis-markets-2022---the-role-of-supply-chain-stakeholders-from-manufacturers-to-researchers-300826308.html>, accessed on 7.03.2024

⁴² <https://www.finanzen.ch/nachrichten/aktien/ecigarettes-global-market-analysis-&-forecast-2019-2023-with-british-american-tobacco-imperial-brands-japan-tobacco-juul-labs-and-philip-morris-international-dominating-1028191265>, accessed on 7.03.2024

⁴³ British American Tobacco, Imperial Brands, Japan Tobacco Inc., Juul Labs Inc. et Philip Morris International Inc, 4 players are tobacco multinationals, and the 5th, Juul Labs Inc. is partly owned by Philip Morris USA! Tobacco companies are investing in e-cigarettes to make up for the loss of revenue from traditional cigarettes, which are suffering from increasingly strict state regulations on tobacco sales and advertising..

⁴⁴ <https://www.finanzen.ch/nachrichten/aktien/global-e-cigarette-markets-2019-2024-focus-on-modular-e-cigarette-rechargeable-e-cigarette-next-generation-e-cigarette-disposable-e-cigarette-1028318268>, accessed on 7.03.2024

According to the report, the global e-cigarette market reached a value of US\$11.5 billion in 2018 and is expected to reach US\$24.2 billion by 2024, growing at a rate of around 13% during the period 2019-2024.

1.2.3. 2020: VARIETY OF FLAVORS AND COLORS, REDUCED RISKS

In 2020, in an article published on January 20⁴⁵, *Finanzen.ch* highlights the diversity of flavors and colors of disposable electronic cigarettes. It takes as an example the release of the MOTI PIIN electronic cigarette, which the brand's marketing director sees "as a tool for more inspiration and creativity, as well as a toy for relieving the physical and mental pressure".

In an article published on February 17⁴⁶, *Finanzen.ch* describes the *Vaporizers, E-Cigarettes, And Other Electronic Nicotine Delivery Systems (ENDS) Global Market Report 2020*, which bases the growth of the e-cigarette market on the health questions people are asking about the consumption of conventional cigarettes. The article states that electronic cigarettes are less toxic and safer than conventional cigarettes, as "Conventional tobacco cigarettes release toxic compounds that adversely affect the health of the individual". It's worth noting that the toxicity of cigarettes is thus recognized by the industry. The article goes on to point out that the vapour produced by heating e-liquid contains significantly fewer toxins than the smoke produced by burnt tobacco, and concludes: "Therefore, e-cigarettes have reduced risk properties compared to traditional cigarettes".

An article published on June 22, 2020 by PRNewswire⁴⁷ mentions new products that "have the potential to pull consumers away from nicotine, tobacco, and cannabis vaping products". These are the "alternative vapor products" that have become popular "with the advent of many new brands that promote the idea and support benefits of inhalable aromatherapy". The article cites the report *Alternative Non-Nicotine Liquid Vaping Products: Complete Market Analysis of Herbals, Extracts and Vitamin Vaping*, which analyzes more than 136 nicotine-free e-liquids that may contain vitamins, natural essential oils, pure plant extracts, hormones, stimulants, proteins and more. The potential health benefits and long-term effects of these products have not been scientifically proven.

1.2.4. THE NEED TO EDUCATE YOUNG PEOPLE ABOUT TOBACCO MARKETING

An article in *The Conversation*⁴⁸, reprinted in the *Journal du Vapoteur*⁴⁹, denounces the marketing strategy of the tobacco industry, which spends a staggering amount on promoting its products.

⁴⁵ <https://www.finanzen.ch/nachrichten/aktien/taste-the-inspiration-moti-launches-new-product-moti-piin-to-colorize-users-experience-1028830253>, accessed on 7.03.2024

⁴⁶ <https://www.finanzen.ch/nachrichten/aktien/global-markets-for-vaporizers-e-cigarettes-and-other-electronic-nicotine-delivery-systems-ends-2015-2030-1028911096>, accessed on 7.03.2024

⁴⁷ <https://www.prnewswire.com/news-releases/global-market-outlook-for-the-alternative-non-nicotine-liquid-vaping-products-market-2020--market-analysis-of-herbals-extracts-and-vitamin-vaping-301081143.html>, accessed on 7.03.2024

⁴⁸ <https://theconversation.com/pourquoi-il-faut-eduquer-les-jeunes-face-au-marketing-du-tabac-141637> accessed on 7.03.2024

⁴⁹ Les jeunes et la stratégie marketing de big tobacco, Le Journal du Vapoteur, 10 juillet 2020. <https://www.journalduvapoteur.com/2020/07/les-jeunes-et-la-strategie-marketing-de-big-tobacco.html> accessed on 7.03.2024

"The beginning of tobacco consumption is a major issue for prevention, but it's also a priority for tobacco industry marketing. Every year, these companies invest over eight billion euros in promoting their products. The conflict between the imperative of maximizing profit and the health of the population is inevitable."

According to this article, these investments enable industry to implement strategies to promote products that are detrimental to health: these are the "commercial determinants of health"^{50 51}. These dynamic, adaptive strategies use a variety of channels through which companies influence society as a whole, governments, consumers and, above all, adolescents.

The authors denounce a number of strategies, in particular the one that turns tobacco into a moral issue, with prevention organizations promoting moralistic hygienism and tobacco consumers becoming anti-conformist defenders of freedom.

This article relays the World Health Organization's (WHO) 2020 campaign "Stop tobacco industry exploitation of children and young people"⁵², aimed at providing new generations with educational toolkits to help them identify the strategies used by the tobacco industry to get them to consume its products.

1.2.5. 2021: MARKETING OF NEW TOBACCO PRODUCTS TO YOUNG PEOPLE IS DENOUNCED ⁵³

The consoGlobe article reports the results of an investigation⁵⁴ by the *Bureau of Investigative Journalism*, an independent non-profit organization founded in 2010, which suspects the tobacco industry of targeting young people.

The *Bureau* reveals that in 2020, concerts by a Spanish boyband, who appeared on the cover of a teen magazine, were sponsored by BAT for the release of its new Glo heated tobacco product. The company has launched an aggressive £1 billion marketing campaign that relies heavily on social networks and influencers, concert sponsorship and sponsorship of sporting events, which could encourage young people to smoke.

BAT defends itself by saying that marketing respects local laws, that influencers are only used in countries and on platforms that allow it, and that its new products, including heated tobacco and oral nicotine, are aimed at adult smokers, especially those who want to quit. But the *Bureau* reveals that to increase its growth, BAT has used several tactics in different countries around the world to attract a new generation of consumers, smokers and non-smokers alike, to highly addictive tobacco and nicotine products. BAT's tactics include:

Le Journal du Vapoteur est un blog indépendant dont l'objectif est de convertir les fumeurs à la cigarette électronique, les informer et les conseiller.

⁵⁰ West R., Marteau T. Commentary on Casswell (2013): the commercial determinants of health. *Addiction*. 2013; 108: 686-687.

⁵¹ Maani N., Petticrew Mark., and Galea S. (Eds). *The Commercial Determinants of Health*. Oxford University Press, 2022.

⁵² <https://www.who.int/news-room/detail/29-05-2020-stop-tobacco-industry-exploitation-of-children-and-young-people>, accessed on 7.03.2024.

⁵³ Comment le lobby du tabac cible les jeunes avec de nouveaux produits ? <https://www.consoglobe.com/tabac-nouveaux-produits-cg> 28 mars 2021. Accessed on 7.03.2024

⁵⁴ <https://www.thebureauinvestigates.com/stories/2021-02-21/new-products-old-tricks-concerns-big-tobacco-is-targeting-youngsters> accessed on 7.03.2024.

- ❑ Presented nicotine products as cool and "aspirational" in a glossy advertising campaign aimed at young people;
- ❑ Paid social media influencers to promote e-cigarettes, nicotine pouches and tobacco on Instagram, despite bans issued on this platform;
- ❑ Sponsored music and sports events, including an F1 e-sports tournament broadcast live on YouTube that could be watched by children;
- ❑ Offered free samples of nicotine pouches and e-cigarettes, including to minors and non-smokers.

What's more, BAT's own research shows that at least half of adult vapers and people using nicotine pouches were previously nicotine-free, i.e. they didn't smoke.

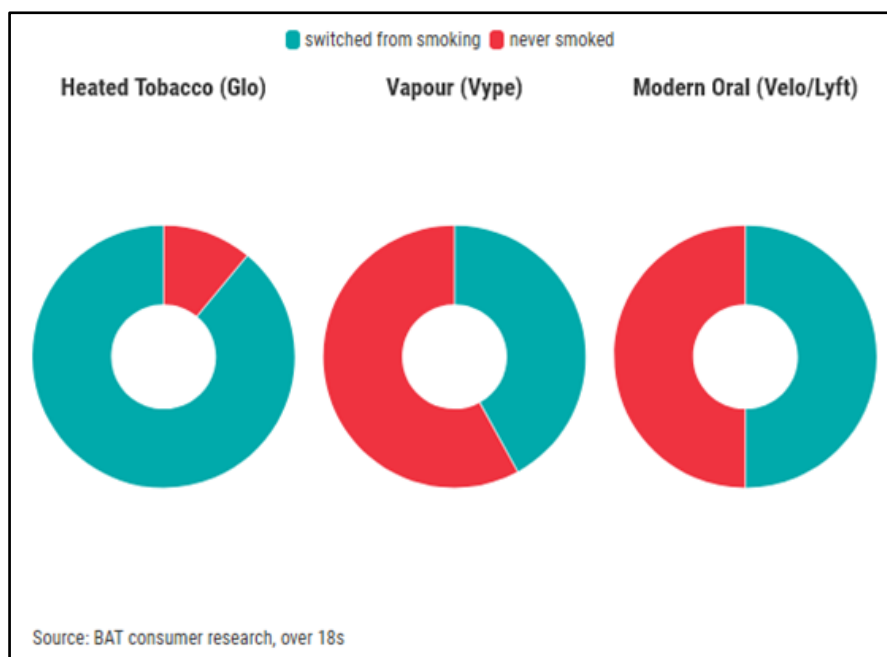


Figure 3 : How BAT's new products attract non-smokers⁵⁵

Martin McKee, Professor of European Public Health at the London School of Hygiene and Tropical Medicine, told the *Bureau*: "It's very clear that these companies are spending huge sums of money to develop new products. This makes no sense if they are weaning products that will only be used for a short period of time. The only reason to put so much effort into design is to create a new generation addicted to nicotine."

The *Bureau's* survey shows that the tobacco industry aims to develop new habits. For example, Lyft nicotine pouches⁵⁶ have become trendy in Sweden and are tending to replace traditional snus. An 18-year-old Swede told the *Bureau*: "Just look at the packaging: the bottom part is transparent, which is a bit futuristic, and the lid is white with a different color for each flavor. It's like walking into a

⁵⁵ <https://www.thebureauinvestigates.com/stories/2021-02-21/new-products-old-tricks-concerns-big-tobacco-is-targeting-youngsters>. Accessed on 7.03.2024.

⁵⁶ Former BAT brand of nicotine pouches, renamed Velo.

candy store. The packaging is much more festive than one that looks like it dates from the 1800s. Lyft knows what it's doing, and it's doing it well.

Velo is "BAT's most exciting opportunity," as this nicotine pouch is so appealing to Generation Z adults and millennials, according to BAT's Director of New Categories. What's more, the nicotine pouches are discreet, something BAT is highlighting in Facebook ads.

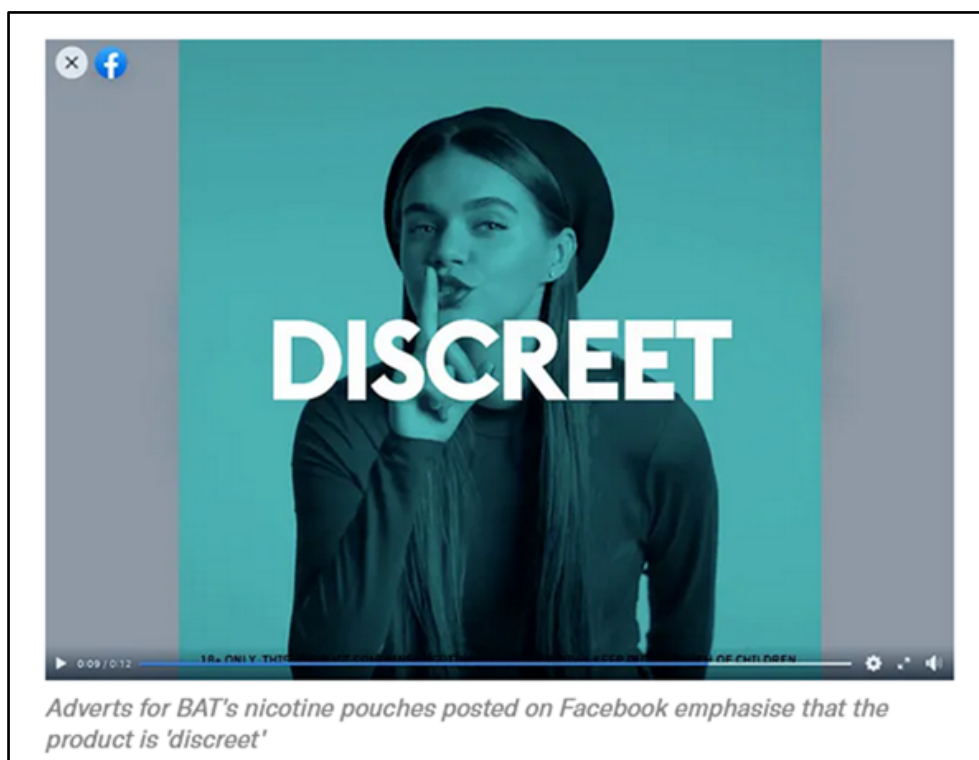


Figure 4: BAT advertises the discreet nature of nicotine pouches⁵⁷

The *Bureau* also uncovered a large-scale free distribution campaign in Pakistan at parties, shopping malls, tea rooms, restaurants and tobacco shops. Evidence suggests that the brand encouraged non-nicotine users or minors to take up Velo nicotine pouches in Pakistan or Vype e-cigarettes in the UK. Lyft pouches were even reportedly available in vending machines in large shopping malls in Kenya. These facts have all been refuted by BAT.

"The tobacco industry has a very long, very old and horrible history of targeting young people," Taylor Billings, of the *Corporate Accountability* campaign, told the *Bureau*⁵⁸. "So it's a little naive to suddenly think that, because they have a new marketing campaign, they might not be using some of the same tactics they've used for the past 20 years."

According to the *Bureau* article, the youth target hasn't changed. However, tactics have adapted to the digital age: #OpenTheCan campaign for Velo on TikTok, 40 influencers on Facebook and Instagram, with a potential audience of 181 million, used Velo hashtags that were viewed 13.1 million times. Non-tobacco nicotine pouches escape tobacco advertising regulations. BAT appears to

⁵⁷ <https://www.thebureauinvestigates.com/stories/2021-02-21/new-products-old-tricks-concerns-big-tobacco-is-targeting-youngsters>. Accessed on 7.03.2024.

⁵⁸ www.corporateaccountability.org

have targeted a young audience with "glossy" ads on a platform where the vast majority of users are adolescents and young adults..

Banned in Europe since 2005 by a European Directive⁵⁹, internationally since 2006 by the WHO Framework Convention on Tobacco Control⁶⁰, as well as by the Fédération Internationale de l'Automobile⁶¹, tobacco advertising on Formula 1 cars is circumvented by BAT and PMI (sponsor of Ferrari), who continue to promote their brands or slogans through nicotine products, notes the *Bureau* article. For example, BAT has sponsored McLaren since 2019 with the Vuse e-cigarette and Velo nicotine pouch branded on drivers' uniforms and "highly visible" locations on McLaren cars, alongside its "A Better Tomorrow" brand slogan. The company also sponsors F1 e-sports events that are streamed live on YouTube, even though they can be viewed by minors. The sponsorship debauch and influencer campaign are paying off in terms of reach and brand recognition. BAT recently told its investors that they had seen social media engagement increase during the pandemic. It found that nearly 90% of online mentions of oral nicotine were about Lyft/Velo, and that this audience had almost tripled in size compared to the previous year.

1.2.6. THE "MISSION WINNOW" CASE

We can round off the *Bureau* article mentioned above with the "Mission Winnow" case! Since October 2018, PMI has been sponsoring the Ducati teams in motorcycle grand prix and Ferrari in Formula 1 racing with its "Mission Winnow"⁶² brand, which defines itself as "change lab focused on reframing conversations, sparking open debate, connecting people and supporting the realization of innovative ideas."⁶³ The company's mission is "Breaking down barriers through the power of storytelling. Creating, enhancing and sustaining important conversations through thought-provoking content."⁶⁴ With the logo eerily reminiscent of their Marlboro brand (see opposite), Australian authorities launched an official investigation in February 2019, to find out whether this represented an attempt to circumvent the advertising ban⁶⁵, by subliminally promoting its products⁶⁶. Journalists wonder whether "it might therefore not be impossible to see Mission Winnow disappear during certain Grand Prix events."⁶⁷



In March 2019, WHO urges Member States to implement Article 13 of the WHO Framework Convention on Tobacco Advertising, Promotion and Sponsorship.⁶⁸

⁵⁹ https://ec.europa.eu/commission/presscorner/detail/en/IP_02_1788, accessed on 7.03.2024

⁶⁰ <https://iris.who.int/bitstream/handle/10665/42811/9241591013.pdf?sequence=1>, accessed on 7.03.2024

⁶¹ Tobacco sponsorship of motorsport - Achieving an effective ban by world-wide agreement in 2006: A statement by the FIA, 2002. <https://tnt.oxysuisse.ch/tntdossier.php?n=3-A7>

⁶² <https://www.missionwinnow.com/en/> accessed on 7.03.2024

⁶³ <https://www.missionwinnow.com/en/what-is-mission-winnow-all-about/> accessed on 7.03.2024

⁶⁴ <https://www.missionwinnow.com/en/mw-presents/> accessed on 7.03.2024

⁶⁵ <https://www.motoservices.com/actualite-competition/motogp-2019-les-ozzies-australiens-veulent-la-peau-du-cow-boy-marlboro-ferrari-ducatti.htm> accessed on 7.03.2024

⁶⁶ <https://blogs.bmj.com/tc/2019/02/16/chevrons-barcodes-and-arrows-pmis-continued-subliminal-promotion-of-combustible-products/> accessed on 7.03.2024

⁶⁷ <https://www.sportbuzzbusiness.fr/sponsor-mission-winnow-ferrari-philip-morris-industrie-du-tabac-revient-de-facon-detournee-sur-les-formule-1.html> accessed on 7.03.2024

⁶⁸ <https://www.who.int/news/item/14-03-2019-who-urges-governments-to-enforce-bans-on-tobacco-advertising-promotion-and-sponsorship-including-in-motor-sport> accessed on 7.03.2024

As "Mission Winnow" is clearly identified with PMI and its iconic Marlboro brand, the Comité national français contre le tabagisme (CNCT) (French National Committee against Smoking) has served an interlocutory injunction on Philip Morris, Ducati and Canal+ at the Le Mans High Court on April 30, 2019. The CNCT is asking the court to order PMI and Ducati not to use the "Mission Winnow" trademark in any way whatsoever during the forthcoming Le Mans motorcycle grand prix (May 17-19, 2019) and in related communications.

On May 15, 2019, the court ruled in favor of the CNCT in its entirety⁶⁹, basing its decision on the following facts, among others: "the Philip Morris company, manufacturer of tobacco and tobacco products has set up an advertising, promotion and sponsorship project on the occasion of sporting events known under the name "Mission Winnow"; [...] the colors of the "Mission Winnow" project and its logo are clearly reminiscent of the Marlboro cigarette brand, which has long been associated with motor sports; professionals in the sector know perfectly well and clearly recognize that the "Mission Winnow" project is merely disguising sponsorship actions by a tobacco manufacturer and equates the project with a "Marlboro comeback"".

The court concluded that "the name and logo 'Mission Winnow' constitute a definite, albeit indirect and implicit, reference to tobacco, and in particular to the Marlboro brand and its owner, Philip Morris. In this respect, the use of this brand and logo falls within the prohibition on publicity and advertising laid down in article 3512-4 of the French Public Health Code. Furthermore, the partnership set up between Philip Morris and Ducati, under cover of the "Mission Winnow" organization and brand, clearly constitutes a sponsorship or patronage operation prohibited by law."

The CNCT welcomes this decision, which according to Professor Martinet "should have a European dimension, insofar as there is a European directive making such sponsorship illegal in all EU member states"⁷⁰. The Mission interministérielle de lutte contre les drogues et les conduites addictives (MILDECA)⁷¹ has also welcomed the news.

In 2021, "Mission Winnow" returns to Ferrari fairings with a green logo⁷² (see opposite).



1.2.7. 2022: SWISS MEDIA START TALKING ABOUT THE "PUFF"

From the beginning of 2022, the Swiss will be discovering puff, a disposable vape developed to go unnoticed and which openly targets young people with lipstick or highlighter shapes, with childlike fragrances and colors, but which can contain up to 5% nicotine, according to the Swiss association

⁶⁹ <https://cnct.fr/wp-content/uploads/2021/06/Ordonnance-de-re%CC%81fe%CC%81re%CC%81-du-15-mai-2019-Mission-Winnow.pdf> accessed on 7.03.2024

⁷⁰ <https://cnct.fr/ressource/actualites/grand-prix-mans-cnct-mission-winnow/> accessed on 7.03.2024

⁷¹ <https://www.drogues.gouv.fr/interdiction-de-la-publicite-pour-le-tabac-philip-morris-rate-sa-tentative-de-retour-sur-les>, accessed on 7.03.2024

⁷² <https://www.planetf1.com/news/ferrari-sponsor-explains-green-logo> accessed on 7.03.2024.

for tobacco control (AT)⁷³. The Puff Bar brand is winning over more and more young Swiss people⁷⁴. Young people are being bombarded with various offers, sometimes even free samples; it's good, because it's flavored, usually fruity, less irritating than a cigarette, attractive and fits easily into a pocket or schoolbag⁷⁵. Puffs are resold via Instagram accounts in particular, and their low price makes them easily accessible to young people. What's more, their small size and pleasant flavors mean they can be used discreetly⁷⁶.

According to an article in *Le Quotidien jurassien*⁷⁷, young people are first influenced by social networks, then by their social circle; the different tastes, ease of use, candy-like packaging and lack of cigarette odor are all very appealing; young non-smokers are tempted to vape in the evening and continue with cigarettes; the harmful environmental aspect due to the lithium battery is by no means offset by the greenwashing actions of certain brands, but is not strong enough to prevent young people from using them.

According to an article in the *Blick*⁷⁸, disposable e-cigarettes (puffs) are colorful, fruity and slip into every pocket; sales have been rising by 30% a month since the start of 2022, and already account for 30% of the e-cigarette market, according to the president of the SVTA; fruity flavors account for 82% of the market in the USA ; "ice" or "cool" flavors are also very popular for their minty taste and the fresh sensation they provide; this attracts new customers and encourages them to consume more, as does the fact that they can take just one or two puffs; according to the director of AT, "Bright colors, trendy flavors, they are still full of nicotine and other chemicals. The pop design is aimed primarily at young people, and their packaging is so unsuspecting that teachers and parents barely notice them."

An article in *Le Temps*⁷⁹ describes the teenage craze for disposable e-cigarettes: "Often colorful, almost comparable to highlighter pens, these little single-use tubes run on a lithium battery that activates with each drag. In addition to their appearance, their pop flavors and scent unlike tobacco make them a favorite among teenagers. "These products seem to be created to attract young people, by their colors, flavors and the advertising that is done on social networks," Luc Lebon, head of Unisanté's Tobacco Prevention Unit, tells *Le Temps*."

Local TV station Léman Bleu TV asks⁸⁰: "But how did the interest in these devices come about?" Jean-Paul Humair, director of CIPRET Genève, answers: "Marketing. The manufacturers bet everything on TikTok, which is visited by 3/4 of 12-19 year-olds. With posts that were far from

⁷³ La "puff", cette vape jetable qui envahit les préaux, n'est pas sans risque. RTS.ch. 21.01.2022.

<https://www.rts.ch/info/suisse/12806363-la-puff-cette-vape-jetable-qui-envahit-les-preaux-nest-pas-sans-risque.html#:~:text=De%20la%20nicotine%20synth%C3%A9tique&text=L'Association%20suisse%20pour%20la,nicotine%20rend%20accrocs%20les%20jeunes>, accessed on 7.03.2024

⁷⁴ La Puff Bar, cigarette électronique jetable séduit de plus en plus les jeunes Suisses. Radio lac Soir journal. 01.02.2022.

⁷⁵ La tentation est partout. Journal du Jura. 11.02.2022. <https://web.journaldujura.ch/nouvelles-en-ligne/region/la-tentation-est-partout> accessed on 7.03.2024

⁷⁶ Les vaporettes jetables cartonnent dans les écoles valaisannes, mais gare aux effets addictifs. Le Nouvelliste.ch. 16.02.2022. <https://www.lenouvelliste.ch/valais/les-vaporettes-jetables-cartonnent-dans-les-ecoles-valaisannes-mais-gare-aux-effets-addictifs-1155961> accessed on 7.03.2024

⁷⁷ La puff, nouvelle cigarette star de la jeunesse. Le quotidien jurassien. 24.06.2022. <https://www.lqj.ch/articles/la-puff-nouvelle-cigarette-star-de-la-jeunesse-24217> accessed on 7.03.2024.

⁷⁸ Engouement pour les e-cigarettes jetables, malgré leurs dangers. Blick. 16.08.2022. <https://www.blick.ch/fr/news/suisse/fruite-colore-cancerigene-engouement-pour-les-e-cigarettes-jetables-malgre-leurs-dangers-id17790863.html> accessed on 7.03.2024

⁷⁹ Fumer une « puff » à 12 ans, c'est légal dans le canton de Vaud. Le Temps. 24.08.2022. <https://www.letemps.ch/suisse/vaud/fumer-une-puff-12-ans-canton-vaud-cest-legal> accessed on 7.03.2024

⁸⁰ Pourquoi la Puff bar fait-elle tant parler d'elle ? Léman Bleu TV. 25.08.2022. <https://www.lemanbleu.ch/fr/Actualites/Geneve/20220825100737-Pourquoi-la-Puff-bar-fait-elle-tant-parler-d-elle.html> accessed on 7.03.2024.

advertising in nature, the puffs went viral. The platform has since blocked the related hashtag, but the videos have not disappeared. Add fruity flavors to this cocktail, far from that of brown tobacco, and you've got the hit of youth."

An article in the newspaper *Le News online*⁸¹ reports the concern of prevention professionals about the sharp rise in teenage vaping. It cites a report by Radio Télévision Suisse Romande's *A bon entendeur* program⁸², which notes that 14 and 15 year-olds can buy puffs without lying about their age in 41% of stores visited (7/17) during mystery shopping, despite bans. Geneva cantonal physician Aglaé Tardin tells A Bon Entendeur: "We're very worried. Consumption has become widespread and commonplace in just a few months, and these are very, very dangerous products. They have this playful, harmless aspect, they look like a sweet, they look like a toy, and yet they are much more addictive than cigarettes".

The *Le News online* article goes on to report that " Another challenge is restricting marketing. Social media, where the most effective marketing takes place, it difficult to monitor and regulate. The devices can easily be bought online as well. Some school pupils in Switzerland have been buying extra devices online and selling them at school."

1.2.8. MEDIA PERCEPTION OF INFLUENCERS

"An influencer is first and foremost a passionate person, who is legitimate on a subject, who creates content on this subject, and with this legitimacy, he manages to federate thousands, tens of thousands, hundreds of thousands of "followers", subscribers, people who follow him, and with whom he shares this passion," says Guillaume Doki-Thonon, CEO and co-founder of influence marketing start-up Reech, who acts as a link between brands and influencers on TF1's *Club des idées*⁸³.

According to him, there are 150,000 influencers in France and over 8 million worldwide, each followed by an average of 50,000 followers. 75% are women, the average age is 30, and only 15% make a living from their passion.⁸⁴

A distinction is made between nano-, micro- and macro-influencers, depending on the size of their audience, respectively less than 10,000, from 10,000 to 100,000 and more than 100,000 up to several million subscribers⁸⁵.

Nano-influencers are closer to their audience, which increases their prescription power, which is sought after by brands. In fact, the rate of engagement and transformation, or conversion, between a follower and a buyer, is inversely proportional to the number of subscribers. Macro-influencers and celebrities, on the other hand, give products greater visibility.

⁸¹ Swiss experts concerned by sharp rise in teenage vaping. Le News online. 24.09.2022. <https://lenews.ch/2022/09/23/swiss-experts-concerned-by-sharp-rise-in-teenage-vaping/> accessed on 7.03.2024

⁸² Malgré les interdictions, les mineurs se procurent des "puffs" sans difficulté. RTS Info. 29.11.2023 <https://www.rts.ch/info/suisse/13399281-malgre-les-interdictions-les-mineurs-se-procurent-des-puffs-sans-difficulte.html>, accessed on 7.03.2024

⁸³ Emission de TF1 Le club des idées du 19 février 2021 : Pourquoi les influenceurs sont-ils si puissants? <https://www.europe1.fr/emissions/le-debat-du-jour/pourquoi-les-influenceurs-sont-ils-si-puissants-4026463> accessed on 7.03.2024.

⁸⁴ *Ibid.*

⁸⁵ <https://www.journalducum.com/nano-influenceurs/>, accessed on 7.03.2024

According to Mélanie Da Silva Francisco of the Undiz brand, brands first turned to macro-influencers, but now they're turning to micro-influencers whose audiences are more engaged. What's more, social networking campaigns are more effective than traditional advertising campaigns, while being less expensive.⁸⁶

For Laurence Allard, a lecturer in communication sciences, influencers are people who make their living by telling their stories on social networks, forming partnerships with brands, and selling products through advertising that doesn't look like advertising, what we call native advertising⁸⁷. It is a two-step flow of communication as theorized by Katz and Lazarsfeld⁸⁸: from the brand to the influencer, then from the influencer to his or her community.

The community forges a horizontal relationship with a person who looks like them. This person cultivates this authenticity, to *ultimately* sell or popularize the product of which he or she is the ambassador.⁸⁹

"An influencer is a person who, thanks to their exposure on the Internet, has an influence on the Internet users who follow them and on their purchasing decisions. Although this word has only recently come into use, the phenomenon is far from new. For example, all the stars who have taken part in advertising campaigns are also influencers. To be precise, it was Paul Lazarsfeld, an American sociologist, who, in 1940, developed the concept of the "influencer".⁹⁰

As such, influencers are today's opinion leaders, the intermediaries between brands and consumers.

⁸⁶ Emission de TF1 Le club des idées du 19 février 2021 : Pourquoi les influenceurs sont-ils si puissants?
<https://www.europe1.fr/emissions/le-debat-du-jour/pourquoi-les-influenceurs-sont-ils-si-puissants-4026463> accessed on 7.03.2024.

⁸⁷ *Ibid.*

⁸⁸ https://en.wikipedia.org/wiki/Two-step_flow_of_communication, accessed on 7.03.2024

⁸⁹ France Culture, La question du jour : "A quoi servent les influenceurs ?", 11.03.2021

<https://www.radiofrance.fr/franceculture/podcasts/la-question-du-jour/a-quoi-servent-les-influenceurs-8213571>, accessed on 7.03.2024

⁹⁰ <https://semji.com/fr/guide/qu-est-ce-qu-un-influenceur/>, accessed on 7.03.2024.

1.3. SCIENTIFIC PUBLICATIONS

1.3.1. CONTEXT

1.3.1.1. YOUNG PEOPLE: THE TOBACCO INDUSTRY'S MAIN TARGET SINCE THE 1970S

Dautzenberg⁹¹ has listed all the strategies used by RJ Reynolds to recruit teenagers since the 1970s. Young people represent a major target group, since recruiting them increases market share (young smokers often keep the same brand throughout their lives) and replaces smokers who die as a result of smoking or smokers who choose to quit.

RJ Reynolds classifies young people into three groups:

- ☐ non-smokers, described by the manufacturer as "pre-smokers";
- ☐ new smokers, referred to as "learners";
- ☐ "confirmed smokers", who represent regular consumers.

The tobacco industry's aim is for non-smokers to become new smokers, new smokers to become smokers, and smokers to continue smoking. In particular, it seeks to convince young people that smoking represents "a rite of initiation into adult life"⁹². The most difficult thing, therefore, is to initiate consumption. In its internal documents, the industry acknowledges that "once smoking initiation has been achieved through various psychological motivations, the pharmacological effects of nicotine take over as the primary reinforcer"⁹³.

In order to achieve its objectives, the tobacco industry has identified the physical and psychological factors likely to encourage young people to start smoking and to maintain their smoking habits.

In terms of physical factors, these are :

- ☐ for non-smokers: aromas (in the 1970s, this was the smell of tobacco; later used as factor 1);
- ☐ for new smokers: the visual aspect of the packaging (making the product attractive; factor 2);
- ☐ for smokers: nicotine dependence (factor 3), the visual aspect of the packaging, association with significant life events (factor 4), as well as flavours..

In terms of psychological factors, these are:

⁹¹ Dautzenberg, B. (2018). Comprendre la stratégie de l'industrie du tabac pour recruter les adolescents: leçons actuelles d'un document marketing de 1973. *Revue de Pneumologie Clinique*, 74(3), 196-204.

⁹² <https://www.larevuedupraticien.fr/article/strategie-de-lindustrie-du-tabac-pour-recruter-de-nouveaux-et-jeunes-fumeurs>, accessed on 7.03.2024

⁹³ *Ibid.*

- for non-smokers and new smokers: belonging to a group (factor 5), experimentation with new products (factor 6) and increased self-esteem (e.g. identification with leaders, freedom of choice; factor 7);
- for smokers: coping with stressful situations or problems. Psychological factors are clearly less important in smokers, as they are already " trapped " in their physical addiction.

1.3.1.2. SATISFYING THE PHYSICAL AND PSYCHOLOGICAL DETERMINANTS OF INITIATION AND DEPENDENCE BY NEW TOBACCO PRODUCTS

Half a century later, the tobacco industry's strategies remain similar. The marketing for new products still seeks to satisfy the physical and psychological factors mentioned above.

According to this analytical framework, puffs respond well to physical factors:

- *factor 1*: there is a wide variety of flavors, which appeal to memories and pleasant experiences (e.g. fruit, candy or cocktail flavors);
- *factor 2*: the devices are presented in brightly colored, attractive packaging, reminiscent of confectionery packaging popular with young people;
- *factor 3*: most of these products contain nicotine, with some exceeding the maximum permitted nicotine level (> 20 mg/ml, or around 2%);
- *factor 4*: the products are associated, largely on social networks, with life situations perceived as positive (e.g. parties, friends, risk-taking, etc.).

The psychological factors are also considered, insofar as :

- *factor 6*: new products have innovative technological features (e.g. ease of use). Research focusing specifically on IQOS showed that one in four young non-consumers was willing to try PMI's heated tobacco device⁹⁴, not least because it is a sophisticated and technologically attractive product⁹⁵.
- *factors 5 and 7*: products are placed at the center of discussion groups on social networks. These can influence self-esteem⁹⁶.

⁹⁴ Czoli, C. D., White, C. M., Reid, J. L., O'Connor, R. J., & Hammond, D. (2020). Awareness and interest in IQOS heated tobacco products among youth in Canada, England and the USA. *Tobacco Control*, 29(1), 89-95.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7958490/>, accessed on 7.03.2024

⁹⁵ Hair, E. C., Bennett, M., Sheen, E., Cantrell, J., Briggs, J., Fenn, Z., ... & Vallone, D. (2018). Examining perceptions about IQOS heated tobacco product: consumer studies in Japan and Switzerland. *Tobacco control*, 27(Suppl 1), s70-s73.

https://tobaccocontrol.bmj.com/content/27/Suppl_1/s70, accessed on 7.03.2024

⁹⁶ Wilcox, K., & Stephen, A. T. (2013). Are close friends the enemy? Online social networks, self-esteem, and self-control. *Journal of Consumer research*, 40(1), 90-103. <https://academic.oup.com/jcr/article-abstract/40/1/90/1792313?redirectedFrom=fulltext>, accessed on 7.03.2024

1.3.2. CURRENT STATE OF KNOWLEDGE

1.3.2.1. YOUNG PEOPLE'S USE OF SOCIAL NETWORKS

The MIKE study⁹⁷, conducted in 2019 by the Zurich University of Applied Sciences (ZHAW), reported that 25% of 6-9 year-olds, 60% of 10-11 year-olds and 77% of 12-13 year-olds in Switzerland had their own cell phone. The most frequently used applications were (in descending order): YouTube, WhatsApp, Snapchat, Instagram and TikTok.

The JAMES study⁹⁸, conducted in 2020 by ZHAW and Swisscom, reported that :

- 99% of young people aged 12 to 19 use their smartphone daily or several times a week. They spend an average of 256 minutes on their smartphone on weekdays, and 344 minutes on weekend days. The Internet is used more than three-quarters of the time.
- Over 90% of young people surveyed have a profile on Snapchat and Instagram. A Pinterest or TikTok profile is held by six and seven out of ten young people respectively. Facebook ranks fifth in terms of preferences, and is owned by one in two people (down in recent years).

In the canton of Vaud, similar results were reported for young people aged 13-14⁹⁹ :

- All young people who own a smartphone (95% of the sample) are registered on at least one social network ;
- The most widely used social networks are Instagram (83% registered), Snapchat (77%), TikTok (37%), Pinterest (26%) and X (ex-Twitter) (23%) ;
- Despite age restrictions on some platforms, young people still manage to access them. For example, WhatsApp, which is forbidden to anyone under 16, is used by 96% of 13-14 year-olds in the canton of Vaud.

1.3.2.2. POLICIES TO RESTRICT TOBACCO PROMOTION ON SOCIAL NETWORKS

Kong and colleagues recently published an article¹⁰⁰ describing the restrictive policies in place in May 2021 on the main social networks concerning the promotion and sale of tobacco products. The results of their analyses have been partially reproduced in Table 3: Policies in force in May 2021 on

⁹⁷ https://www.zhaw.ch/storage/psychologie/upload/forschung/medienpsychologie/mike/Bericht_MIKE-Studie_2019.pdf, accessed on 7.03.2024

⁹⁸

https://www.swisscom.ch/content/dam/swisscom/de/about/unternehmen/nachhaltigkeit/medienkompetenz/documents/jamesfocus_10_jahrejugendmedienforschungfr.pdf, accessed on 7.03.2024

⁹⁹ Barrense-Dias, Y., Berchtold, A., & Suris, J. C. (2020). Adolescent·e·s, Internet et médias numériques : les côtés positifs. Lausanne: Unisanté– Centre Universitaire de Médecine Générale et Santé Publique. <https://www.unisante.ch/fr/formation-recherche/recherche/publications/raisons-sante/raisons-sante-317>, accessed on 7.03.2024

¹⁰⁰ Kong, G., Laestadius, L., Vassey, J., Majmundar, A., Stroup, A. M., Meissner, H. I., ... & Romer, D. (2022). Tobacco promotion restriction policies on social media. <https://tobaccocontrol.bmj.com/content/early/2022/11/03/tc-2022-057348>, accessed on 7.03.2024



the promotion and sale of tobacco products on social networks below (with a particular focus on the social networks most used by young people in Switzerland):



Table 3: Policies in force in May 2021 on the promotion and sale of tobacco products on social networks¹⁰¹

Restriction type	Tobacco restriction policies	Instagram	Snapchat	TikTok	YouTube	Facebook	Pinterest	X (ex-Twitter)
Paid advertisement	Prohibits paid ads for tobacco products	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Prohibits paid ads for tobacco use venues (eg, hookah lounges)	Yes	No	Yes	Yes	Yes	Yes	Yes
	Prohibits paid ads for tobacco events	No	No	No	No	No	No	Yes
Promotion	Restricts platform from recommending user generated tobacco content	Yes	Yes	No	No	No	No	No
	Prohibits sponsored content (ie, influencer)	Yes	No	Yes	No	Yes	No	No
Sale	Prohibits tobacco sales	Yes ¹	No	Yes	Yes	Yes ¹	Yes ²	No
Underage access	Age-gating that restricts youth access to tobacco sales and promotions	Yes ¹	No	No	Yes ³	Yes ¹	No	No

¹ Authorisation to publish content proposing the purchase, sale, exchange or offer of tobacco products if this is via a physical shop, a website or a brand, provided it includes a minimum age limit of 18 or over

² Sales of tobacco products are restricted to user-to-user.

³ Broader definition: content serving to promote a product containing nicotine may be prohibited or made subject to age restrictions



In short, in May 2021, of the seven platforms most used by young people in Switzerland:

- ☐ Only three (Instagram, YouTube and Facebook) had banned sales and promotional content on tobacco aimed at minors;
- ☐ Only three (Instagram, TikTok and Facebook) had banned influencer posts promoting tobacco content.

As of November 10, 2022:

- ☐ Snapchat, YouTube and Pinterest still have no restrictions on the promotion of sponsored content by influencers;
- ☐ Snapchat, TikTok and Pinterest still have no restrictions on underage access to tobacco products (X, formerly Twitter¹⁰², does now).

1.3.2.3. YOUTH EXPOSURE TO TOBACCO PRODUCT PROMOTIONAL CONTENT ON SOCIAL NETWORKS

Following the implementation of restrictions on tobacco advertising and marketing, the tobacco industry has developed creative methods to ensure that it is always able to reach its target audience, young people. The development of the internet and social networks has made this easier to achieve¹⁰³. Promotional content has been reported on all social networks, including Facebook, Instagram, TikTok, X (formerly Twitter), Reddit, Pinterest, Tumblr and YouTube¹⁰⁴. The tobacco industries have a minimum presence on two different social networks, notably Instagram and Facebook¹⁰⁵.

Young people are increasingly exposed to promotional content on tobacco and/or nicotine products, due to the proliferation of social networks, the industry's attraction to this distribution channel, and the many regulatory loopholes. The underlying sections describe the content to which young people are exposed on social networks. The content of the publications follows the structure proposed by the takeapart.org website¹⁰⁶, and is divided into three parts: 1) the profile of the account publishing the content, 2) the caption of the publication and 3) the pictorial content (see illustrations of the 3 areas of interest in the screenshot below).

¹⁰² <https://business.twitter.com/en/help/ads-policies/ads-content-policies/prohibited-content-for-minors.html>, accessed on 7.03.2024

¹⁰³ Coombs, J., Bond, L., Van, V., & Daube, M. (2011). "Below the Line": The tobacco industry and youth smoking. *The Australasian medical journal*, 4(12), 655. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3413965/pdf/AMJ-04-655.pdf>, accessed on 7.03.2024

¹⁰⁴ Donaldson, S. I., Dormanesh, A., Perez, C., Majmundar, A., & Allem, J. P. (2022). Association between exposure to tobacco content on social media and tobacco use: a systematic review and meta-analysis. *JAMA pediatrics*. <https://jamanetwork.com/journals/jamapediatrics/fullarticle/2794077>, accessed on 7.03.2024

¹⁰⁵ O'Brien, E. K., Hoffman, L., Navarro, M. A., & Ganz, O. (2020). Social media use by leading US e-cigarette, cigarette, smokeless tobacco, cigar and hookah brands. *Tobacco Control*, 29(e1), e87-e97. <https://tobaccocontrol.bmj.com/content/29/e1/e87>, accessed on 7.03.2024

¹⁰⁶ <https://www.takeapart.org/wheretheressmoke/>, accessed on 7.03.2024



Figure 5 : Definition of the parts of the content analyzed for posts on social networks (in this example, on Instagram).

Zone 1, profile; zone 2, publication caption; zone 3, publication image content.

1.3.2.3.1. PROFIL

Publications can be posted by a wide variety of profiles:

- Tobacco industry, e.g. BAT with its page dedicated to promoting Velo nicotine pouches (@velo.switzerland on Instagram)
- Retailers, e.g. @freevap_officiel on Instagram;

- Influencers, e.g. @moiramusio on Instagram. N.B.: a study highlighted that in 2020, electronic cigarettes were promoted on Instagram by one and the same group of influencers. More than 600 brands were promoted on this platform by 55 influencers (with more than 1,000 followers each) ¹⁰⁷.
- Communities of fans, creating their own content or relaying influencer publications.

A study¹⁰⁸ looked at the promotion of IQOS on Instagram in 2021. It showed that :

- Promotional content was mainly distributed by fan communities (58% of posts) and online retailers (42%) ;
- ¾ of posts were written by accounts with fewer than 1,000 subscribers;
- in ¾ of the accounts, there was a single tobacco-related post.

The age of the person of the influencer profile is not mentioned in the majority of cases^{109,110,111}. This lack of specification is in the interests of the tobacco industry. By leaving the real age of influencer-users in doubt, it does not explicitly depart from its self-imposed voluntary restrictions on advertising, such as not "representing a person under 25 years of age"¹¹².

1.3.2.3.2. PUBLICATION CAPTIONS

In order to promote tobacco and/or nicotine products, the following features have been included in the captions of the publications:

- Youth culture, e.g. vocabulary, informal language¹¹³;

¹⁰⁷ Vassey, J., Valente, T., Barker, J., Stanton, C., Li, D., Laestadius, L., ... & Unger, J. B. (2023). E-cigarette brands and social media influencers on Instagram: a social network analysis. *Tobacco Control*, 32(e2), e184–e191. <https://pubmed.ncbi.nlm.nih.gov/35131947/>, accessed on 7.03.2024

¹⁰⁸ Gu, J., Abroms, L. C., Broniatowski, D. A., & Evans, W. D. (2022). An investigation of influential users in the promotion and marketing of heated tobacco products on instagram: a social network analysis. *International Journal of Environmental Research and Public Health*, 19(3), 1686. <https://www.mdpi.com/1660-4601/19/3/1686>, accessed on 7.03.2024

¹⁰⁹ *Ibid.*

¹¹⁰ Zhan, Y., Zhang, Z., Okamoto, J. M., Zeng, D. D., & Leischow, S. J. (2019). Underage JUUL use patterns: content analysis of Reddit messages. *Journal of medical Internet research*, 21(9), e13038. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6786857/>, accessed on 7.03.2024

¹¹¹ Wu, J., Harlow, A. F., Wijaya, D., Berman, M., Benjamin, E. J., Xuan, Z., ... & Fetterman, J. L. (2022). The impact of influencers on cigar promotions: a content analysis of large cigar and swisher sweets videos on TikTok. *International Journal of Environmental Research and Public Health*, 19(12), 7064. <https://www.mdpi.com/1660-4601/19/12/7064>, accessed on 7.03.2024

¹¹² https://www.swiss-cigarette.ch/fileadmin/documents/CH_Lauterkeitskommission/Accord_Commission_Loyaut%C3%A9_fr_f%C3%A9vr_2018_sign%C3%A9.pdf (rubrique 1.2.c, p. 3), accessed on 7.03.2024

¹¹³ Czaplicki, L., Kostygina, G., Kim, Y., Perks, S. N., Szczypka, G., Emery, S. L., ... & Hair, E. C. (2020). Characterising JUUL-related posts on Instagram. *Tobacco Control*, 29(6), 612–617. <https://tobaccocontrol.bmj.com/content/29/6/612>, accessed on 7.03.2024

- Product promotion elements^{114,115,116,117}: low purchase price; variety of flavors, nicotine levels (ranging from 0% to 5% nicotine), or even sizes (number of puffs); high public discretion because devices look like everyday products; packaging design; product presented as high-tech and disposable; smoking cessation aid; weight regulation via appetite suppression; no age control when sold, discreet order dispatch (not detectable by parents);
- Presence of hashtags:
 - evoking a product (e.g. #IQOS for PMI), an advertising campaign (e.g. #likeus for BAT or #nighthunters for PMI) or even a slogan (e.g. "more flavors, more buzz")^{118,119};
 - describing a desired effect (#juulbuzz) or the affirmation of a condition (#nicotineaddiction)¹²⁰
 - that have no specific link with the product being promoted¹²¹. This would make it possible to reach a larger number of people.
- The position of hashtags also seems to be important: promotional hashtags, or hashtags relating the sponsored nature of the publication, may be drowned out among a multitude of other hashtags, making them difficult to identify; they may also appear at the end of the description and only be visible after clicking on the (+) tab enabling the entire content to be expanded (indirect visibility) ;
- Request to "like" and "share" published content with the community, with the possibility of winning gifts¹²²;
- Redirection to commercial partner sites^{123,124};
- Publications to appear at peak times, which seem to change from day to day¹²⁵.

Despite the existence of community and advertising rules on social networks, breaches have also been identified with regard to published content:

¹¹⁴ Wu J. *et al.*, *op. cit.*

¹¹⁵ Kostygina, G., Szczypka, G., Czaplicki, L., Borowiecki, M., Ahn, R., Schillo, B., & Emery, S. L. (2022). Promoting corporate image or preventing underage use? Analysis of the advertising strategy and expenditures of the JUUL parent education for youth vaping prevention campaign. *Tobacco control*, 31(5), 655-658. <https://tobaccocontrol.bmj.com/content/31/5/655>, accessed on 7.03.2024

¹¹⁶ Chu, K. H., Hershey, T. B., Hoffman, B. L., Wolynn, R., Colditz, J. B., Sidani, J. E., & Primack, B. A. (2022). Puff bars, tobacco policy evasion, and nicotine dependence: Content analysis of tweets. *Journal of Medical Internet Research*, 24(3), e27894. <https://www.jmir.org/2022/3/e27894/>, accessed on 7.03.2024

¹¹⁷ Morales, M., Fahrion, A., & Watkins, S. L. (2022). # NicotineAddictionCheck: puff bar culture, addiction apathy, and promotion of e-cigarettes on TikTok. *International Journal of Environmental Research and Public Health*, 19(3), 1820. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8835227/>, accessed on 7.03.2024

¹¹⁸ Gu J. *et al.*, *op. cit.*

¹¹⁹ Czaplicki L., *et al.*, *op. cit.*

¹²⁰ *Ibid.*

¹²¹ O'Brien E. K. *et al.*, *op. cit.*

¹²² Czaplicki L., *et al.*, *op. cit.*

¹²³ O'Brien E. K. *et al.*, *op. cit.*

¹²⁴ Czaplicki L., *et al.*, *op. cit.*

¹²⁵ <https://www.insg.co/quand-instagram/>, accessed on 11.11.2022

- ☐ No mention of the sponsored nature of the publication (absence of #ad, #sponsored, #advertisement)^{126,127};
- ☐ No mention that the published content promotes tobacco and/or nicotine products¹²⁸;
- ☐ No age restriction for access to content, whether this concerns posts by brands¹²⁹, or those by influencers (absence noted in ¾ of posts)¹³⁰.

1.3.2.3.3. PUBLICATION IMAGE CONTENT

Tobacco and/or nicotine products are promoted in a variety of ways¹³¹, such as :

- ☐ Sketches and stories about the product ;
- ☐ Experience sharing ;
- ☐ Product reviews ;
- ☐ Product unpacking.

The visual content posted often has the same characteristics^{132,133,134,135,136,137}, such as :

- ☐ Creative content;
- ☐ Young person(s), alone or in a group, cool, fun or sexy attitude, in a good mood;
- ☐ Use of bright colors, including the use of filters offered by the platforms;
- ☐ Context deemed positive by young people (e.g. parties, risk-taking, dating) or in everyday situations;
- ☐ Assurance that consumption of the promoted product would be risk-free, and can provide access to an ambitious, famous, healthy and attractive life (case of IQOS) ;Contenu créatif ;

¹²⁶ Gu J. *et al.*, *op. cit.*

¹²⁷ Wu J. *et al.*, *op. cit.*

¹²⁸ O'Brien E. K. *et al.*, *op. cit.*

¹²⁹ O'Brien E. K. *et al.*, *op. cit.*

¹³⁰ Vassey J. *et al.*, *op. cit.*

¹³¹ Morales M. *et al.*, *op. cit.*

¹³² Czaplicki L., *et al.*, *op. cit.*

¹³³ Vassey J. *et al.*, *op. cit.*

¹³⁴ Boynton, M. H., Sanzo, N., Brothers, W., Kresovich, A., Sutfin, E. L., Sheeran, P., & Noar, S. M. (2023). Perceived effectiveness of objective elements of vaping prevention messages among adolescents. *Tobacco Control*, 32(e2), e228-e235.

<https://tobaccocontrol.bmj.com/content/32/e2/e228>, accessed on 7.03.2024

¹³⁵ Alpert, J. M., Chen, H., Riddell, H., Chung, Y. J., & Mu, Y. A. (2021). Vaping and Instagram : a content analysis of e-cigarette posts using the Content Appealing to Youth (CAY) Index. *Substance Use & Misuse*, 56(6), 879-887.

<https://www.tandfonline.com/doi/full/10.1080/10826084.2021.1899233>, accessed on 7.03.2024

¹³⁶ Pokhrel, P., Fagan, P., Herzog, T. A., Laestadius, L., Buente, W., Kawamoto, C. T., ... & Unger, J. B. (2018). Social media e-cigarette exposure and e-cigarette expectancies and use among young adults. *Addictive behaviors*, 78, 51-58.

<https://www.sciencedirect.com/science/article/abs/pii/S030646031730388X?via%3Dihub>, accessed on 7.03.2024

¹³⁷ Hejlová, D., Kulhánek, A., Schneiderová, S., & Klabíková Rábová, T. (2019). Analysis of Presumed IQOS Influencer Marketing on Instagram in the Czech Republic in 2018–2019. (2019). *ADIKTOLOGIE Journal*, 1, 7–15. <https://adiktologie-journal.eu/wp-content/uploads/2020/05/01hejlova.pdf>, accessed on 7.03.2024

- Association of products with external contemporary elements, which aim to normalize the product by making it part of the zeitgeist, such as:
 - Fashion, beauty products ;
 - Music that recalls a brand and/or is catchy with repetitive, punchy sounds (e.g. hip hop style), and/or in the top trends ;
 - Memes¹³⁸ (e.g. "Nicotine addiction check"): various electronic cigarettes neatly organized by color¹³⁹;
- Possibility to "tag" users in the content to increase the influence of publications (potential additional relay).

1.3.2.4. EFFECTS OF PROMOTIONAL CONTENT ON USER BEHAVIOUR

A Cochrane systematic review showed that tobacco advertising and promotion encourage young people to start smoking¹⁴⁰. Following this, several studies have demonstrated an association between exposure to content promoting tobacco products on social networks and subsequent consumption. A systematic review and meta-analysis¹⁴¹ of almost 140,000 people (three-quarters of whom were teenagers) showed that non-smokers exposed to tobacco promotional content on social networks were two times more likely to start using during their lifetime, compared with non-smokers. This risk was even higher among people registered on more than two social networks.

For both smokers and non-smokers, the appeal of e-cigarettes is particularly heightened when advertising content offers an attractive sensory experience, particularly in terms of taste and smell^{142,143}. While non-consumers are more receptive to content presenting individuals or including price reductions¹⁴⁴, smokers are more receptive to content presenting the devices as reduced risk to health, more convenient and socially accepted¹⁴⁵.

However, not all young people consider the dissemination of promotional content to be "cool" and normal. An American study¹⁴⁶ evaluated how teenagers aged 15 to 18 perceived young adults smoking (or not) a Juul electronic cigarette, within Instagram posts. The results showed that

¹³⁸ « image diffusée sur les réseaux sociaux, composée d'une photo explicite et d'un texte humoristique ou ironique, écrit, le plus souvent, dans une police large et blanche », selon <https://www.journaldunet.fr/business/dictionnaire-du-marketing/1495775-meme-definition-traduction-exemples/#:~:text=Un%20meme%20est%20une%20image,une%20police%20large%20et%20blanche>, accessed on 7.03.2024

¹³⁹ https://www.tiktok.com/@maria_saidm/video/6942297482655173893?is_from_webapp=v1&item_id=6942297482655173893, accessed on 7.03.2024

¹⁴⁰ Lovato, C., Watts, A., & Stead, L. F. (2011). Impact of tobacco advertising and promotion on increasing adolescent smoking behaviours. *Cochrane database of systematic reviews*, (10). <https://www.cochranelibrary.com/cdsr/doi/10.1002/14651858.CD003439.pub2/full>, accessed on 7.03.2024

¹⁴¹ Donaldson S., *et al.*, *op cit.*

¹⁴² Pokhrel P. *et al.*, *op. cit.*

¹⁴³ Chen-Sankey, J., Jeong, M., Wackowski, O. A., Unger, J. B., Niederdeppe, J., Bernat, E., ... & Choi, K. (2024). Noticing people, discounts and non-tobacco flavours in e-cigarette ads may increase e-cigarette product appeal among non-tobacco-using young adults. *Tobacco control*, 33(1), 30-37. <https://tobaccocontrol.bmj.com/content/33/1/30>, accessed on 7.03.,2024

¹⁴⁴ *Ibid.*

¹⁴⁵ Pokhrel P. *et al.*, *op. cit.*

¹⁴⁶ Lazard, A. J., Nicolla, S., Darida, A., & Hall, M. G. (2021). Negative Perceptions of Young People Using E-Cigarettes on Instagram: An Experiment With Adolescents. *Nicotine and Tobacco Research*, 23(11), 1962-1966. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8496470/>, accessed on 7.03.2024



teenagers perceived adults vaping as less "cool" and "stylish", and appeared to be less inclined to want to interact with them (greater social distance). However, the mechanisms underlying these negative perceptions were not investigated in this study.

1.3.2.5. SOCIAL NETWORKS AND INFLUENCE

In recent years, research in sociology, psychology and management has been focusing on the question of influence over social networks. Here are a few examples.

1.3.2.5.1. EMERGING TRENDS IN SOCIAL MEDIA

In her Master's thesis in sociology¹⁴⁷, Julie Levy describes influencer marketing on Instagram¹⁴⁸, i.e. "all the techniques that tend to use the power of recommendation of influencers, brand ambassadors or opinion leaders. In its early days, i.e. in the early days of the Internet, this type of marketing targeted active members of communities or forums; then, as social networks gained ground, influencers became the most-followed users of Facebook, X (ex-Twitter) or Instagram. The notions of influence and influencers then became widespread on the Internet and are now part of the common vocabulary". The notion of influence comes from social psychology, and refers to "the processes by which individuals and groups shape, disseminate and modify their modes of thought and action during real or symbolic social interactions"¹⁴⁹.

1.3.2.5.1.1. INFLUENCE AND DIFFUSION

Julie Levy looks at macro-level influence, also known as diffusion, which produces, through micro-processes of influence in a group or population, the widespread adoption of a behavior (p. 6). Social influence took shape with the emergence of "instagrammers", Instagram's influencers. Here, brands have created digital identities, the press and media have connected with their audiences, and individuals have created a shared universe with their friends and followers (p. 7).

Influencers were already defined in 1944 by Paul Lazarsfeld in the *two-step flow theory* described in his book *The People choice*: messages sent by the media are accepted by individuals only after they have been relayed by opinion leaders from their own group, with whom they have a connection and can discuss. "The opinion leader is seen as cultivated and legitimate and requires the following properties: being accessible, having many connections, being exposed to information" (p. 7).

Conditions have changed since then. Influencers and their communities are connected on social networks, but the underlying mechanisms of influence are the same. "A digital influencer produces content, sometimes drawing inspiration from other influencers, and thus disseminates trends to an audience that is sometimes, if not often, larger than that of specialized media. [...] An influencer uses social networks to disseminate his or her opinions to Internet users, and is capable of influencing them to the point of modifying their consumption patterns" (p. 7-8).

¹⁴⁷ Levy, J. Émergence et diffusion de tendances dans des réseaux sociaux. Étude d'un réseau d'influenceurs sur la plateforme Instagram. Master 2 de Sociologie, mention Sociologie et Statistiques. ENS, 2019.

¹⁴⁸ Fondé en 2010, racheté par Facebook en 2012, plus d'un milliard d'utilisateurs.

¹⁴⁹ De Montmollin, G., 1958. Les processus d'influence sociale. *L'année psychologique*. vol. 58, n°2. pp. 427-447.

1.3.2.5.1.2. TRENDS

Influencers can be either trendsetters, avant-gardists, promoting a trend before anyone else, or propagators of existing trends, or both, a trend being a popular orientation at a given time (p. 8).

Levy uses Rogers' (1955) theoretical framework for the diffusion of innovations¹⁵⁰, even though his field - fashion - cannot be considered an innovation in its own right. Note that this theory was used internally by PMI to model market saturation by its IQOS products (see Figure 6, page 64).

1.3.2.5.1.3. INFLUENCER NETWORKS

Analyzing the Instagram accounts selected for her study, Levy highlights a "small world" effect¹⁵¹, meaning that the average distance between any two nodes on the graph is around three nodes, while another is a "rich club phenomenon"¹⁵² (p. 28-29).

1.3.2.5.1.4. MEASURES OF INFLUENCE

An individual's influence on his or her personal network is measured in terms of :

- ☐ Number of followers: the higher the number of followers, the higher the visibility, the greater the ability to influence. However, Instagram's algorithm does not guarantee that all of an account's followers will see the same publications.
- ☐ Ratio between number of followers and number of following: an account with a high number of followers but not a high number of following shows that it doesn't buy its influence.
- ☐ Average number of "likes" versus number of followers: gives an approximation of the community's engagement rate. Variant with average number of "comments" per number of followers (p.51-52).

1.3.2.5.1.5. SOME CONCLUSIONS FROM JULIE LEVY

- ☐ Trend-spreading accounts are of two types: those that spread few to many followers in different communities, and those that spread a lot to few followers in the same community (p. 61).
- ☐ The more accounts a person follows, the more often they need to be exposed to a trend before giving in to it (p. 66).
- ☐ A person who follows few accounts is particularly confident in them and gives in more quickly to trends posted by that account (p. 71).

¹⁵⁰ Rogers EM. *Diffusion of innovations*, Toronto, Free Press, 2003, 551 p.

¹⁵¹ Milgram described this effect in 1967: there are at most 6 links between any two people in the world. On Facebook, this number is 4.74, according to a 2011 study..

¹⁵² The "rich club phenomenon" theorized by Zhou and Mongragon in 2004 suggests that, on the Internet, a restricted group of nodes possess a high number of links, are highly connected to each other and therefore possess "power", "influence".. Levy, J, op. cit.

1.3.2.5.2. INFLUENCER IDENTITY WORK

In her Master of Management thesis¹⁵³, Pauline Lange analyzes the influencer job through two organizational theories: identity work and conventions. Her literature review explores these theoretical concepts.

1.3.2.5.2.1. IDENTITY, IDENTITY WORK AND CONVENTIONS

Identity, for example as defined by Fray and Picouveau (2010)¹⁵⁴, has three components: the way we perceive ourselves, the way we want to be perceived by others, and the representation returned by others, resulting in an unstable, fluctuating, ad hoc and positional identity, as Brown (2015)¹⁵⁵ puts it (p. 4).

Identity work, as for example defined by Pratt et al. (2016)¹⁵⁶ as the process through which the content of identity is interpreted, shaped and verified by individuals and collectives, and activities that Snow and Anderson had already defined in 1987, such as (a) procurement or arrangement of physical settings and props; (b) cosmetic face work or the arrangement of personal appearance; (c) selective association with other individuals and groups; and (d) verbal construction and assertion of personal identities. For Lepisto et al. (2015)¹⁵⁷, these activities shape our personal or social identities, which are both the cause and target of individual action (p. 5). For Pratt and Lepisto, self-concept can evolve through a four-stage process: triggers (situations or events that generate a problem, such as contextual change and strong situations), Identity Motives (continuity, authenticity, distinctiveness, belonging, self-esteem, efficacy, coherence), identity work (verbal, physical and cognitive tactics, and processes of identity addition, retaining or subtraction) and outcomes (identity related or non-identity related success or failure) (p. 11-13).

Conventions, which provide the link between individual calculation and the social context that influences actors' behavior, i.e., as Gomez (2011)¹⁵⁸ puts it, individuals make personal choices, and at the same time there are shared beliefs about the norms or conventions that give meaning to these choices (Lange 2020, p. 14). Broadly speaking, a convention is a collective structure of behavioral rules based on a shared belief (p. 17).

1.3.2.5.2.2. INFLUENCERS AND INFLUENCER MARKETING

Influencers, of which Bour (2017)¹⁵⁹ gives a precise definition: "Any person who has notoriety on a specific theme across the web and particularly social networks. They create content that they distribute on social networks, according to briefs given by brands, agencies, advertisers... [...] A new digital opinion leader, the influencer is capable of affecting purchasing behavior, through various

¹⁵³ Lange, Pauline. *Le travail identitaire des influenceurs, une approche conventionnaliste*. Louvain School of Management, Université catholique de Louvain, 2020. Prom. : Antoine, Marie. <https://dial.uclouvain.be/memoire/ucl/object/thesis:25922>, accessed on 7.03.2024

¹⁵⁴ Fray, A.-M., & Picouveau, S. (2010). Le diagnostic de l'identité professionnelle : une dimension essentielle pour la qualité au travail. *Management Prospective*, 8(38), 72 -88.

¹⁵⁵ Brown, A. D. (2015). Identities and Identity Work in Organizations. *International Journal of Management Reviews*, 17, 20–40. doi: 10.1111/ijmr.12035

¹⁵⁶ Pratt, M. G., Schultz, M., Ashforth, B. E., & Ravasi, D. (2016). *The Oxford Handbook of Organizational Identity*. Oxford University Press.

¹⁵⁷ Lepisto, D. A., Crosina, E., & Pratt, M. G. (2015). Identity Work within and beyond the Professions: Toward a Theoretical Integration and Extension. *Management Faculty Publications*. 1.

¹⁵⁸ Gomez, P.-Y. (2011). " Chapitre 3. Sciences de gestion et conventions : de nouveaux cadres pour l'analyse critique " in Laurent Taskin et Mathieu de Nanteuil, *Perspectives Critiques en Management pour une Gestion Citoyenne*. Bruxelles : De Boeck. 49-66.

¹⁵⁹ Bour, L. (2017). Qu'est-ce qu'un influenceur ou une influenceuse ?. En ligne <https://www.journalducsm.com/influenceur-influenceuse>, accessed on 7.03.2024



digital channels. Their job is to influence consumers around the products and/or services they promote. [...] This stature gives them the power to prescribe new trends, which is why influencers are so sought-after by brands. Brands see influencers as indispensable levers, introducing them into their communication strategies." (p. 25). Influencers' greatest strength is their community, i.e. the people who follow them on social networks, who subscribe to their accounts, and who in principle share their interests and passions. It would seem that it's no longer the size of the community that matters - beyond a minimum threshold, 10,000 or 100,000 makes no difference - but its commitment to the influencer. Influencers encourage their followers to interact with them, exposing their lives through stories, photos and questions, to which the community responds with comments and "likes", thus increasing their trust in them, which in turn enables the influencer to profit from his or her activity (p. 25-26).

The main difference between micro- and macro-influencers is the level of engagement with their communities: strong for the former, weaker for the latter. As community size increases, proximity to the community decreases (p. 28-29). It is on the basis of this engagement rate that new tobacco brands choose to sponsor micro- or even nano-influencers.

Influencer marketing, a type of marketing in which brands use influencers to promote their products, is still very popular and effective, according to a 2020 study¹⁶⁰ that surveyed more than 4,000 companies: "the influencer marketing industry is expected to reach around \$9.7 billion in total 2020, the proportion of micro-influencers used by large companies has increased by 300% compared to 2016, the majority (55%) of respondents admit to having a stand-alone budget for content marketing, finally, almost 4/5 of respondents intend to spend a budget on influencer marketing in 2020." Consumers are likely to change their purchasing intentions after seeing the content of influencers they follow: a 2017 study shows that 75% of an influencer's followers have already purchased a product promoted by the influencer after seeing his or her publication¹⁶¹. Influencers' power of influence over their community encourages brands to solicit them and thus reduce their traditional advertising budget, because with influencers they reach a particular targeted audience that was previously unaffordable. The power of influence of influencers is great because they put themselves on stage as consumers in a personal narrative recounting a user experience. They position themselves on the same footing as their subscribers, in relation to a product or a consumer habit. However, there is a nuance: by testing several products of the same type, influencers have developed expertise in their preferred fields (p. 26-27). Of all the platforms on which influencers operate - Facebook, X (ex-Twitter), Instagram, YouTube and TikTok among them - the Influencer MarketingHub study conducted in 2020 reveals that almost 90% of respondents and influencer campaigns include Instagram in the marketing mix (p.24).

1.3.2.5.2.3. SOME EMPIRICAL RESULTS FROM LANGE

In the empirical part of her work, Lange put forward four research questions: the identity of influencers and identity work, the conventions of the influencer milieu, the evolution of influencers

¹⁶⁰ Influencer MarketingHub. (2020). The State of Influencer Marketing 2020: Benchmark Report. En ligne <https://influencermarketinghub.com/influencer-marketing-benchmark-report-2020>, accessed on 7.03.2024

¹⁶¹ Groupe Cision. (2017). Le rôle des influenceurs sur les réseaux sociaux auprès des consommateurs. <https://www.leslivresblancs.fr/livre/marketing-et-publicite/marketing-dinfluence/role-des-influenceurs-sur-les-reseaux-sociaux#:~:text=Marketing%20d'influence-,R%C3%B4le%20des%20influenceurs%20sur%20les%20r%C3%A9seaux%20sociaux%20aupr%C3%A8s%20des%20consommateurs,et%20business%20de%20la%20marque>, accessed on 7.03.2024



and the evolution of conventions. The social network chosen was Instagram, not least because of the ease of product placement on this platform. She selected 12 influencers (eleven women and one man) from Belgium or France, with a minimum of two years' experience, but differing in terms of age, area of expertise and number of followers. She interviewed them using individual semi-directive interviews.

Here are some conclusions:

- ❑ The 12 influencers believe that to be an influencer, you must first and foremost remain true to yourself (p.43).
- ❑ The relationship with the community is the most important aspect of being an influencer. All of them involve their community (p. 43).
- ❑ They are becoming more professional and paying attention to what they post and the image they give through partnerships with brands (p. 45).
- ❑ Proximity with the community is most important. They emphasize transparency and honesty. Surprising behaviors could be accounts where there's nothing but business and contests to acquire followers to attract brands (p. 47).
- ❑ They are a source of inspiration for their followers (p. 58).
- ❑ They sense a professionalization of the influencer community (p.58).
- ❑ They evolve with the changing influencer environment (p. 59).

The "Interview with a Swiss influencer" (chapter 3.2, page 80), presented below, confirms that when influencers have a good audience and are chosen by brands, they become more professional and are then less inclined to promote banned products such as tobacco.

1.3.2.5.3. INFLUENCERS AND THE PUBLICITARIZATION OF CONTENT

A conference on publicitarization was held on October 21, 2022 in Paris at Celsa of Sorbonne University. Here are the key points.

1.3.2.5.3.1. THE CONCEPTS OF PUBLICITARIZATION AND DEPUBLICITARIZATION¹⁶²

The concept of publicitarization emerged in the early 2000s. It refers to the adaptation of media form and content to accommodate advertising, by reducing the distance between editorial and advertising content, for example by increasing social or consumer content. Publicitarization is concomitant with the Internet. The media, penetrated by advertising logic, have become ambassadors for the consumer society.

The emergence of influencers is an indication of media reconfiguration: they build up their lives in media by publicizing it, with a focus on the consumer dimension (products, training, services, etc.). Since Internet users don't pay, publicitarization enables the influencers to generate income from

¹⁶² Le concept de publicitarisation, définition et enjeux. Valérie Patrin-Leclère (GRIPIC, CELSA-Sorbonne université)

their profession. They have become a means of advertising communication, an old-fashioned and most basic form of advertising, with staging, testimonials, use value, praise and so on.

Depublicitarization consists in making advertising less recognizable. Examples include television sponsorships, partnerships, product placements, branded content via magazines or branded programs, etc. It's a way of adapting advertising in response to consumer displeasure or even rejection.

1.3.2.5.3.2. INFLUENCERS AND PUBLICITARIZATION¹⁶³

Influencers publish content about brands, tell brand stories, and focus on products, activities, brands' universes and values. *Storyliving* in advertising is publicitarization:

- ☐ Experiential: this is content consisting of showing oneself experiencing products, e.g. photo of the day, point of view, crash-test, vlog, unpacking, tutorial, fitting, etc.
- ☐ Situated: in a certain context, at a certain time of day, at a party, during the vacations, in sync with the social agenda, which increases the effect of proximity and reality.
- ☐ Depublicitarized: brands appear in the intimacy of everyday life, making content seem authentic.
- ☐ Playful: in games, contests, quizzes, challenges, which invite web users to forge links with brands via entertaining activities.
- ☐ Transmedia: via cross-references (links) between their different social networks.

This concept of *storyliving* is further illustrated by the influencer we interviewed (see "Interview with a Swiss influencer », p. 80): if she were to promote a puff, she would first make a story where she did not identify the brand, and simply drank coffee with a girlfriend and smoked her puff. Then she would do a story saying she had been testing the product for a month. Finally, she would do a photo or reel on her news feed, including the puff as a fashion accessory.

1.3.2.5.3.3. COMMUNICATION OF INFLUENCE

The notion of communication of influence¹⁶⁴ comes from Katz and Lazarsfeld. It's a conception of communication as power, with a hierarchical vision of the social world. It models the public sphere in terms of communities, with opinion leaders acting as intermediaries within these communities. Its ideal is one of dialogue and harmony: the public is a stakeholder whose support is needed. In this context, the communicator is an expert in persuasion, mobilizing "communities", creating "conversations" and "influencing influencers".

At the beginning of the 2010s, a new paradigm of conversation was taking shape: after influential bloggers, now there were twittos and youtubers. In economic terms, there was a sharp rise in standards of performance and profitability, the gradual establishment of a market and

¹⁶³ Influenceurs et transmedia storyliving : de nouvelles formes de publicitarisation ? Stéphanie Marty (LERASS, Université Paul Valéry Montpellier 3)

¹⁶⁴ « L'influence » comme prétention communicationnelle : enjeu d'une querelle entre groupes professionnels. Thomas Grigon (DICEN-IdF, CNAM)



professionalization. Star influencers are being distrusted, and brands are turning their attention to micro- and nano-influencers, because on the one hand there are more of them, so they can reach a larger number of people, and on the other, they inspire more trust, as they are not suspected of forging dubious partnerships with brands. The challenge becomes knowing who to work with. Influencer databases are being created, as are social media monitoring systems.

1.3.2.5.3.4. DIGITAL INFLUENCE: WHAT KIND OF WORK IS IT?

As Massé and his colleagues¹⁶⁵ put it: "To exert influence is to obtain from others that they freely do something they would not have done spontaneously without your intervention"¹⁶⁶.

Guillaume Alloing approaches influence through the practices that constitute it, and as a work to produce or simulate authority and affection, in a digital context where platforms impose their model: discourses, standards, conventions, mimicry, with algorithms that reward and sanction their application. For him, influence is a question of authority, which organizations seek from influencers. Their reputational capital is sold as a lever of authenticity and mediatization. Influencing is affective work, emotional work, but it's also simulation work. For example, astroturfing¹⁶⁷ simulates authority, buying likes simulates affection, and click farms simulate mobilization. In short, influencing is highly specialized work.

1.3.2.5.3.5. INFLUENCE AND CREATION OF CULTURAL CONTENT¹⁶⁸

In the field of culture, the term "influencer" is little appreciated, as most want to transmit a culture rather than sell a product. They therefore prefer the term "content creator", at the service of cultural institutions and companies. Their recommendations have a significant impact, as there is a positive perception of consistent product placement, all the more so in a field that lacks prescriptions.

1.3.2.5.3.6. INFLUENCER TRAINING IN ADVERTISING SELF-REGULATION¹⁶⁹

The aim of the Autorité de régulation professionnelle de la publicité en France (ARPP - French Advertising Standards Authority) is to promote fair, truthful and healthy advertising in the public interest. It has therefore taken into account the communication of digital influencers. In 2019, it created the Observatoire de l'influence responsable (Observatory of Responsible Influence)¹⁷⁰, to find out whether the rules established between brands and influencers were respected, for example if partnerships were revealed. The results showed that shortcomings came mainly from nano-influencers. In 2021, it launched a Responsible Influence Certificate¹⁷¹ for content creators. Results

¹⁶⁵ Quel travail du clic pour faire de ses clics un travail ? L'influence numérique comme marchandise et comme pratique. Camille Alloing (Labfluens, Université du Québec à Montréal)

¹⁶⁶ MASSÉ Guy, MARCON Christian & MOINET Nicolas, 2006, « Les fondements de l'intelligence économique : réseaux & jeu d'influence », Market Management, 6 : 3, 84-103.

¹⁶⁷ Astroturfing : organized activity that is intended to create a false impression of a widespread, spontaneously arising, grassroots movement in support of or in opposition to something (such as a political policy) but that is in reality initiated and controlled by a concealed group or organization (such as a corporation). <https://www.merriam-webster.com/dictionary/astroturfing> accessed on 10.04.2024.

¹⁶⁸ Professionnalisation des créateurs de contenus culturels : collaboration, recommandation, indépendance. Marie Ballarini (MOST, Université Paris-Dauphine PSL)

¹⁶⁹ Formation des « influenceurs » à l'autorégulation de la publicité : stratégies de communication et objectifs pédagogiques de l'Autorité de régulation professionnelle de la publicité. Lucie Alexis (GRESEC, Université de Grenoble Alpes)

¹⁷⁰ <https://www.arpp.org/influence-responsable/observatoire-influence-responsable/>

¹⁷¹ <https://www.arpp.org/influence-responsable/>



show that obtaining the certificate increases the rate of content compliance. It remains to be seen whether these good intentions are sufficient to enforce codes of conduct.

1.3.3. INFORMATION FROM THE CIVIL SOCIETY

1.3.3.1. OBSERVATORY ON TOBACCO MARKETING STRATEGIES IN FRENCH-SPEAKING SWITZERLAND

An Observatory on tobacco product marketing strategies in French-speaking Switzerland was carried out in 2013-2014¹⁷². At that time, tobacco product advertising and promotion on social networks was just beginning. Three main platforms were analyzed: Facebook, X (formerly Twitter) and YouTube. The results show the presence of brand pages (Facebook) and tweets linked to advertising campaigns (X, ex-Twitter). Communications seem to be posted more by Internet users than by the tobacco industry. Internet users are described as "veritable spokespeople for cigarette brands". For example, several YouTube videos feature content presenting tobacco products, with the opinions of consumers/poster. For the tobacco industry, this mode of communication enables them to reach a large number of people (content relays), especially young people, who are the main users of these platforms at the time, at lower cost: this is participative marketing.

For the tobacco industry, young people are the main target audience. To guarantee sales, the tobacco industry needs to continually renew its customer base, which either dies of smoking or quits. Young people under the age of 21 are the main source of interest, since 85% of smokers start before that age. Communication content is therefore adapted to this customer base, with :

- ☐ Tobacco products presented with a positive image;
- ☐ Young people presented as "cool", physically attractive;
- ☐ Young, familiar language (among friends);
- ☐ Brightly colored, carefully designed, interactive images;
- ☐ Life references valued by young people (e.g. partying, vacations, risk-taking, living life to the full);
- ☐ Opportunities to win gifts or life experiences coveted by their age group;
- ☐ Incitement to break the law by reminding minors that products are forbidden for them.

Since that study, new channels (e.g. Instagram and TikTok) and new products have arrived, but the underlying principles remain the same.

¹⁷² https://www.unisante.ch/sites/default/files/inline-files/UPT_Observatoire%20des%20stat%C3%A9gies%20marketing_2013-14_Web%20.pdf, accessed on 7.03.2024

1.3.3.2. SWISS ASSOCIATION FOR TOBACCO CONTROL (AT)

In its fact sheet on disposable electronic cigarettes¹⁷³, AT denounces the aggressive marketing of puffs to young people:

- the diversity of aromas and flavors, brightly colored packaging and colorful names are especially appealing to children and teenagers;
- consumers advertise them themselves on social networks: "Videos of a phenomenon known as "puff bar challenges" are circulating on YouTube, in which young people film themselves taking as many puffs as possible until they pass out. While it's unlikely that such hyperventilation is the most common mode of puff consumption, these videos nonetheless show how very large quantities of nicotine can be absorbed in a very short space of time" ;
- the marketing argument that synthetic nicotine makes products "cleaner", "purer", "tastier" and "better quality" than other e-cigarettes made with tobacco-derived nicotine raises concerns, as the claim "tobacco-free nicotine" may lead young adults to believe that these products are harmless and not addictive to nicotine. In addition, puff uses tobacco-free nicotine with a nicotine salt formula that delivers nicotine at higher rates and more effectively than previous generations of e-cigarettes.";
- their low cost and online purchasing options make them easily accessible to children and teenagers. "In Switzerland, many e-commerce stores distribute the puff bar. In February 2022, the Puff Bar brand opened an online store with a Swiss domain name. In their store, the Puff Bar XXL (1,600 puffs) is sold for CHF 9.90. [...] In Switzerland, manufacturers of imitations offer a range from 150 to 5,500 puffs for the largest Puff Bar model at prices from CHF 5.- to CHF 20.-."
- they are promoted on the social networks most popular with young people" On YouTube, numerous channels where young people review different Puff Bar products, including the most striking new releases, are enjoying growing success. The Puff Bar was also present on TikTok, where some videos by young adults were viewed 137 million times, until Puff Bar-related content was removed last year."

1.3.3.3. CAMPAIGN FOR TOBACCO-FREE KIDS (USA)

The U.S.-based Campaign for Tobacco-Free Kids (CTFK)¹⁷⁴ is fighting for a total ban on tobacco advertising, promotion and sponsorship, to induce a drop in consumption and even an increase in quit rates. They argue that partial bans are ineffective in reducing smoking because "they allow the tobacco industry to direct its vast resources to authorized forms of advertising in order to reach its audience". They cite the examples of Mexico, where "the tobacco industry shifted its marketing strategies from outdoor advertising to point-of-sale marketing, direct-to-consumer product promotion and event sponsorship", and Singapore, where "tobacco companies stepped up TV

¹⁷³ Puff Bar and other Disposable ENDS. AT suisse. <https://www.at-schweiz.ch/en/knowledge/products/puffbar?lang=en> accessed on 11.10.2022.

¹⁷⁴ Publicité en faveur du tabac, promotion, et parrainage (TAPS) : faits essentiels. Tobaccofreekids.org. https://assets.tobaccofreekids.org/global/pdfs/en/APS_essential_facts_en.pdf accessed on 7.03.2024

advertising and sponsorship in Malaysia, knowing that marketing in the neighboring country would effectively reach Singaporeans."

CTFK also points out that "as countries adopt restrictive tobacco advertising laws, the tobacco industry is turning to new, unrestricted channels, such as social networks".

1.3.3.4. HAUT CONSEIL DE LA SANTE PUBLIQUE (FRANCE)

In France, the Haut Conseil de Santé Publique (Haut Conseil de Santé Publique) has issued an "opinion on the benefits and risks of e-cigarettes"¹⁷⁵, formulating "13 recommendations for the treatment of smokers, public policy and public information". The advertising, promotion and marketing of tobacco products are governed by articles L3513-4, 7 and 18 of the French Public Health Code:

- ☐ advertising is prohibited in all media, including the internet; at points of sale, it is restricted to one A4 poster per product, not visible from the outside.
- ☐ liquids must not contain additives that make the product more attractive, healthier, stimulating, easier to inhale or absorb nicotine, or that color the emissions.
- ☐ packaging must not suggest less harmfulness, medical, dietary or cosmetic benefits, or economic advantages.

The opinion also specifies that advertising for vaping products must not remind people of tobacco or present the product as a medicine.¹⁷⁶

The opinion cites observational studies identified by the *National Academy of Science*¹⁷⁷, which almost all conclude that the initiation or use of electronic cigarettes is a factor in the initiation or use of tobacco by young people¹⁷⁸.

The opinion seeks to determine whether electronic cigarettes can "renormalize" tobacco consumption. According to the Haut Conseil de la Santé Publique, two visions coexist here: in the first, electronic cigarettes imitate cigarettes, are attractive, and their marketing resembles cigarette marketing. This "similarity approach" (a hypothesis put forward by the WHO), intended by the tobacco industry, could lead to a renormalization of cigarettes. In the second, electronic cigarettes are a "cleaner", less risky alternative to cigarettes. Their standardization, through positive and specific marketing, would continue to de-normalize tobacco.¹⁷⁹

¹⁷⁵ Haut Conseil de la santé publique. Avis relatif aux bénéfices-risques de la cigarette électronique du Haut Conseil de la santé publique. France, 26 novembre 2021. <https://www.hcsp.fr/Explore.cgi/avisrapportsdomaine?clefr=1138> accessed on 7.03.2024

¹⁷⁶ *Ibid.*

¹⁷⁷ National Academies of Sciences, Engineering, and Medicine, Health and Medicine Division, Board on Population Health and Public Health Practice, Committee on the Review of the Health Effects of Electronic Nicotine Delivery Systems. Public Health Consequences of E-Cigarettes [Internet]. Eaton DL, Kwan LY, Stratton K, editors. Washington (DC): National Academies Press (US); 2018 [cited 2021 Nov 9]. Available from: <http://www.ncbi.nlm.nih.gov/books/NBK507171/>, accessed on 7.03.2024

¹⁷⁸ <https://www.hcsp.fr/Explore.cgi/avisrapportsdomaine?clefr=1138>, p. 26, accessed on 7.03.2024

¹⁷⁹ *Ibid.*, p. 29

1.4. ONLINE KNOWLEDGE BASES

1.4.1. WIKIPEDIA

In the article *Législation sur le tabac*¹⁸⁰ (Tobacco Legislation article), it is stated that tobacco consumption can be reduced by regulating "advertising, marketing (generic packs) and sponsorship by tobacco companies". There is no specific mention of social networks.

The article *publicité pour le tabac*¹⁸¹ (article on tobacco advertising) states:

- ❑ the presence of tobacco product placements in films in return for payment. Smokers are presented in 70% of cases with positive aspects (e.g. socially accomplished people, stars); no allusion to negative effects;
- ❑ adolescents frequently exposed to smoking scenes are three times more likely to start smoking at an early age;
- ❑ that tobacco consumption decreases if the ban on tobacco advertising, promotion and sponsorship is comprehensive, i.e. it must cover both direct (e.g. television, radio, social networks, etc.) and indirect forms (e.g. free distribution, discounts, visibility at points of sale, etc.).
- ❑ In the English version of the article¹⁸², it is pointed out that age checks can be easily circumvented online by minors, and that they are thus exposed to e-cigarette marketing. They are marketed using cartoon characters and candy flavors. They can also be found on Facebook, where age restrictions are not applied. Furthermore, it is stated that nicotine manufacturers spend tens of millions a year on online marketing, which contributes to viral marketing.

In the article *placement de produit*¹⁸³ (product placement article), it is stipulated that :

- ❑ we are seeing an explosion of product placements on social networks (the preferred tool for reaching young people);
- ❑ influencers have become broadcasters of commercial communications. Companies are taking advantage of the popularity of these people to spread their brand image on social networks (where young people spend an average of 1h30 a day);
- ❑ for some time, product placement on social media escaped advertising regulations in France. The explosion of this market has forced legal texts to be adapted.

¹⁸⁰ https://fr.wikipedia.org/wiki/L%C3%A9gislation_sur_le_tabac, accessed on 7.03.2024

¹⁸¹ https://fr.wikipedia.org/wiki/Publicit%C3%A9_pour_le_tabac, accessed on 7.03.2024

¹⁸² https://en.wikipedia.org/wiki/Nicotine_marketing, accessed on 7.03.2024

¹⁸³ https://fr.wikipedia.org/wiki/Placement_de_produit, accessed on 7.03.2024

1.4.2. TOBACCO TACTICS

On the *Tobacco Tactics* website, an article about Marlboro's media campaigns¹⁸⁴, takes up a statement made in 2012 by the co-director of marketing and sales at PMI to investors. He states: "Innovation is not only about launching new products. Importantly, it is also about thinking differently and innovating in the way we market our brands [...]"

One article, focusing specifically on social media¹⁸⁵ (especially YouTube and Facebook), reports that :

- this is an area that companies are looking to exploit ;
- Jason Falls (Internet branding expert), in a session at the *Global Tobacco Networking Forum* in 2010, stated, "It is entirely possible to leverage social media marketing and the social web as a company in a regulated industry.";
- on YouTube :
 - as early as 2010, data showed that the industry was using this platform to circumvent bans on cigarette advertising;
 - New Zealand researchers have identified pro-tobacco videos that may represent indirect marketing activities by the companies or their affiliates; some of the videos are of a professional standard, repeating similar themes within the same brand, employing images and music that may be copyrighted by the tobacco companies (but have not actually been removed);
 - researchers stated that "Tobacco companies stand to benefit greatly from the marketing potential of Web 2.0, without themselves being at significant risk of being implicated in violating any laws or advertising codes ";
 - two spokespersons for PMI (Ken Garcia) and BAT (Catherine Armstrong) denied using the platform to promote their products;
- on Facebook: a study published in 2010 revealed that BAT employees promoted the Lucky Strike and Dunhill brands on this platform, joining and administering groups and pages, acting as fans, and posting photos of events, products and promotional items.

Another article, dealing specifically with women and girls¹⁸⁶, states that:

- tobacco companies have used social media to broadcast familiar images to the female market, and that the latter represents the biggest business development opportunity ;
- BAT has spent £1 billion promoting its products to women on social networks. An interview with a Swedish student reports that half the girls in his class would consume Lyft nicotine pouches (BAT brand renamed Velo), which have been heavily promoted on TikTok. These

¹⁸⁴ <https://tobaccotactics.org/wiki/be-marlboro-targeting-the-worlds-biggest-brand-at-youth/>, accessed on 7.03.2024

¹⁸⁵ <https://tobaccotactics.org/wiki/social-media/>, accessed on 7.03.2024

¹⁸⁶ <https://tobaccotactics.org/wiki/targeting-women-and-girls/>, accessed on 07.03.2024



elements are partly echoed in another article¹⁸⁷, which mentions that BAT's campaign to promote their products on social networks, also attracted young people and children.

- social networks have had to take regulatory action following the appearance of content promoting tobacco products, notably through young female influencers.

These online knowledge bases report numerous examples of social network marketing, especially of conventional tobacco products, as well as a few examples of new products such as nicotine pouches.

¹⁸⁷ <https://tobaccotactics.org/news/bat-accused-over-social-media-use/>, consulté le 07.03.2024

1.5. GOVERNMENT PUBLICATIONS

As there were no regulations governing online advertising at municipal level when this section was written, we concentrated on the higher levels, i.e. cantonal, federal and international.

1.5.1. CANTONAL

1.5.1.1. RESTRICTIONS ON TOBACCO ADVERTISING

Advertising aimed directly at young people on the Internet is regulated at federal level (cf. Tobacco Ordinance (OTab), on page 55). There are, however, cantonal differences in advertising regulations (i.e. no regulations, bans on public billposting, bans on billposting on private property visible from the public highway, bans on advertising in cinemas and other places accessible to the public)¹⁸⁸.

There are also other related regulations, for example, the Vaud law on the exercise of economic activities, which stipulates that "the holder of a tobacco retail permit must affix a notice for the protection of young people, prominently [...] on each page of his website dedicated to the sale of tobacco." ¹⁸⁹ (art. 66j). This law applies to the websites of companies whose head office or other premises are located in the canton of Vaud.

1.5.1.2. VALAIS HEALTH LAW

Article 136 of the *loi valaisanne sur la santé* (Valais health law) on "tobacco advertising"¹⁹⁰ stipulates that:

- ☐ ¹ Advertising for tobacco products, electronic cigarettes, vaporettes, legal cannabis and other smoking products is prohibited on public property and in public places, on private property visible from the public domain, in cinemas and at cultural and sporting events.
- ☐ ² Advertising for tobacco products, electronic cigarettes, vaporettes, legal cannabis and other smoking products that reaches minors is also prohibited in private places accessible to the public.

In short, current Valais law does not govern online or newspaper advertising (which would have to be regulated at national level) and does not cover nicotine pouches.

¹⁸⁸ <https://www.at-schweiz.ch/userfiles/images/Kantone/kant%20werbeverbote%20januar%202023%20mit%20legende%20f.png>, accessed on 7.03.2024

¹⁸⁹ <https://www.lexfind.ch/tolv/110363/fr>, accessed on 7.03.2024

¹⁹⁰ https://lex.vs.ch/app/fr/texts_of_law/800.1/versions/2749, accessed on 7.03.2024

1.5.1.3. CANTON VAUD: DESARZENS INTERPELLATION AND SCHALLER POSTULATE

On February 15, 2022, Member of Parliament Eliane Desarzens (Socialist Party) questioned the Grand Council of the Canton of Vaud, asking: "How long will PUFF's be a hit with our young people?"¹⁹¹. In particular, she questioned the accessibility of these disposable electronic cigarettes to young people, sounding the alarm about the promotion of these products on social networks. The Conseil d'Etat's response¹⁹² (June 2022) does not provide any specific clarification on the promotion of these new products on social networks. It does, however, refer to the adoption of the Tobacco Products and Electronic Cigarettes Act (LPTab)¹⁹³ by the Federal Assembly, which is scheduled to come into force in 2024, and will prohibit advertising "on websites intended for minors" (art. 18, para. 1, d.). It will then be necessary to wait for its revision by the « *Enfants sans tabac* » initiative ("Tobacco Free Kids" initiative) for advertising restrictions to apply "on the Internet, applications and other electronic media" (art. 18, para. 1, b.)¹⁹⁴.

Following up on a motion by Graziella Schaller in 2018 (which subsequently became a postulate), the State Council submitted in December 2022 to the Grand Council a draft amendment to three laws (the law on the exercise of economic activities (LEAE), on advertising processes (LPR) and on the ban on smoking in public places (LIFLP)) so that puffs and electronic cigarettes in general would be subject to the same legal framework as tobacco products¹⁹⁵. In November 2023, the Vaud Grand Council accepted the proposal. From then on, the sale of electronic cigarettes, whether disposable or not, is forbidden to minors. In addition, the ban on smoking in public places now extends to electronic cigarettes, and the advertising ban for these products is aligned with that for tobacco products. In addition, advertising for these products is now prohibited not only outdoors, but also in private indoor areas accessible to the public (points of sale, events, etc.). It is not yet known when these changes will come into force (March 2024).

1.5.2. FEDERAL

1.5.2.1. RODUIT MOTION TO THE NATIONAL COUNCIL

National Council member Benjamin Roduit (Le Centre) submitted a motion to the National Council on June 16, 2020 entitled: "Flavored cigarettes. Let's protect young people"¹⁹⁶. It calls on the Federal Council to amend legislation to ban smoking tobacco products containing a characterizing flavor (e.g. menthol) and additives for tobacco products and electronic cigarettes that increase addiction potential or toxicity. These additives are known to encourage young people to start using tobacco. This motion, rejected by the Federal Council, was adopted by the National Council in June 2022

¹⁹¹ <https://www.vd.ch/toutes-les-autorites/grand-conseil/seances-du-grand-conseil/point-seance/id/0737332e-074c-4c54-b80e-aa08611898b0/meeting/1004429>, accessed on 7.03.2024

¹⁹² https://www.vd.ch/fileadmin/user_upload/organisation/gc/fichiers_pdf/2017-2022/22_INT_23_TexteCE.pdf, accessed on 7.03.2024

¹⁹³ <https://www.fedlex.admin.ch/eli/fga/2021/2327/fr>, accessed on 7.3.2022

¹⁹⁴ https://www.bag.admin.ch/dam/bag/fr/dokumente/npp/tabak/tabpg/neues-tabakproduktegetz-vernehmlassung/vorlage-tabpg.pdf.download.pdf/Projet%20LPTab_f.pdf, accessed on 7.3.2022

¹⁹⁵ https://www.vd.ch/fileadmin/user_upload/accueil/fichiers_pdf/EMPD-EMPL/EMPL_puffs_cigarettes_%C3%A9lectroniques_POS_Gr_Schaller.pdf, accessed on 7.03.2024

¹⁹⁶ <https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20203634>



with 89 votes in favor, 81 against and 15 abstentions (it should be noted that a majority of National Council members from the Le Centre party voted in favor of the motion tabled by their colleague from Valais). In May 2023, the motion was finally rejected by the Conseil des États.

1.5.2.2. FEHLMANN RIELLE INTERPELLATION TO THE NATIONAL COUNCIL

National Council member Laurence Fehlmann Rielle (Socialist Party) submitted an interpellation to the National Council on March 17, 2022, entitled: "Necessity of action against "Puff Bars". Dangerous and sometimes illegal e-cigarettes"¹⁹⁷. In it, she denounces the arrival on the Swiss market since 2020 of disposable electronic cigarettes. "These electronic cigarettes are particularly popular with young people and teenagers, thanks to the variety of chemical flavors used. These products use either nicotine salts or, since the beginning of 2021, synthetic nicotine, the health consequences of which are totally unknown." It also denounces nicotine levels in excess of the legal standard of 20 mg/ml, and poses several questions to the Federal Council on the interventions and sanctions it intends to carry out. The Federal Council replied that "market surveillance is the responsibility of the cantonal authorities responsible for enforcing food legislation, i.e. the cantonal chemists". When products are ordered from websites outside the European Union, however, they are not subject to Swiss legislation.

1.5.2.3. ADDOR INTERPELLATION TO THE NATIONAL COUNCIL

National Council member Jean-Luc Addor (Union démocratique du center) submitted an interpellation on May 11, 2022 to the National Council, entitled: "Disposable vapes. Should we be concerned?"¹⁹⁸ It raises questions about the legislation to which disposable electronic cigarettes are subject, and warns of the aggressive marketing strategies visible on the Internet and social networks, mainly aimed at minors.

The Federal Council's response of August 24, 2022 reports that "Switzerland has no binding legal requirements relating to the protection of young people in the field of electronic cigarettes. The Swiss Vape Trade Association and independent market players have, however, undertaken to comply with rules of conduct designed to protect young people, such as the age of delivery and advertising restrictions. Some cantons also have specific regulations concerning the age of delivery of electronic cigarettes", and then refers to the adoption of the LPTab, and the tightening of restrictions with the popular initiative "Yes to protecting children and young adults from tobacco advertising (No tobacco ads for children and young adults)".

1.5.2.4. CLIVAZ MOTION TO THE NATIONAL COUNCIL

Following the publication of a Unisanté report¹⁹⁹ showing high puff consumption among young people, Christophe Clivaz (Green Party) submitted a motion²⁰⁰ in March 2023 calling for a ban on disposable electronic cigarettes in Switzerland, in line with an expert consensus published in

¹⁹⁷ <https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20223211>

¹⁹⁸ <https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20223462>, accessed on 25.11.2022

¹⁹⁹ <https://www.unisante.ch/fr/unisante/actualites/premiers-chiffres-sur-consommation-puffs-jeunes>, accessed on 7.03.2024

²⁰⁰ <https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20233109>, accessed on 7.03.2024



February 2023 in the *Revue médicale suisse* (Swiss Medical Journal)²⁰¹. The motion is based on the dangers of e-cigarette use for young people, but also on ecological considerations. In its response, the Federal Council proposes rejecting the motion. While acknowledging the dangers to health and the environment, the Federal Council states that a ban in Switzerland alone, while disposable electronic cigarettes are legal in the rest of Europe, would "create [...] a new technical barrier to trade". According to the Federal Council, the legislative changes planned in the Tobacco Act will strengthen tobacco legislation, in particular by banning sales to minors, limiting advertising and increasing taxes on these products with the aim of limiting their use among young people.

1.5.2.5. TOBACCO ORDINANCE (OTAB)

Article 18 of the *Ordinance on Tobacco Products and Products Containing Tobacco Substitutes Intended for Smoking (OTab)*, which deals with advertising aimed at young people²⁰², states:

"For tobacco products and products containing tobacco substitutes and intended to be smoked, all advertising aimed specifically at young people under the age of 18 (youth) is prohibited, in particular:

- a. in places frequented mainly by young people ;
- b. in newspapers, magazines or other publications intended primarily for young people;
- c. on school equipment (binders, kits, pens, etc.);
- d. on advertising material given to young people free of charge, such as T-shirts, caps, pennants, beach balls, etc;
- e. on toys;
- f. through the free distribution to young people of tobacco products and products containing tobacco substitutes intended for smoking;
- g. at cultural, sporting or other events attended mainly by young people. "

Even if restrictions on advertising on the Internet or social networks are not clearly spelled out in the OTab, they can easily be included within the term "other publications" primarily aimed at young people (as well as in the fact that the list, introduced with "in particular", is not exhaustive). The new *Tobacco Products and Electronic Cigarettes Act (LPTab)* precisely defines and includes these communication channels.

²⁰¹ <https://www.revmed.ch/revue-medicale-suisse/2023/revue-medicale-suisse-812/nouvelles-cigarettes-electroniques-jetables-puffs-consensus-d-expert-e-s-sur-leur-reglementation>, accessed on 7.03.2024

²⁰² https://www.fedlex.admin.ch/eli/cc/2004/688/fr#art_18, accessed on 25.11.2022

1.5.2.6. TOBACCO PRODUCTS AND ELECTRONIC CIGARETTES ACT (LPTAB)

The LPTab of October 1, 2021²⁰³, scheduled to come into force in 2024, regulates new products such as disposable electronic cigarettes. Among other things, it explicitly prohibits advertising "on websites aimed at minors" (art. 18, para.1, d.). The revision of the LPTab, following the vote on the popular initiative "Yes to protecting children and young adults from tobacco advertising (No tobacco ads for children and young adults)" (accepted in February 2022), should ban all tobacco advertising that reaches minors²⁰⁴. More specifically, the Federal Council's draft revision of the law²⁰⁵ proposes to ban "advertising as well as indications of a promotion or sponsorship in favor of tobacco products, electronic cigarettes and objects that form a functional unit with a tobacco product [...] on the Internet, on apps and on other electronic media if the advertising or indications are aimed at the Swiss market" (art. 18, para. 1, b). In article 23a, an age verification system is proposed for anyone who: " a. dispenses tobacco products or electronic cigarettes by means of vending machines or on the Internet, applications or other electronic media; b. disseminates advertising for tobacco products or electronic cigarettes on the Internet, applications or other electronic media."

In September 2023, the Conseil des États amended the draft revision of the law by relaxing the regulations on promotion and sponsorship. These changes were considered unconstitutional by the Federal Office of Justice²⁰⁶. In February 2024, the National Council finally rejected the revised law. While on the one hand the right considered it too restrictive, the left rejected it because it did not respect the principles of the initiative and the will of the people.

1.5.2.7. LEGAL BASIS FOR SOCIAL MEDIA

In fulfilment of the Amherd postulate of 2011, the Federal Council published a " Legal Basis for Social Media"²⁰⁷. Under the heading "2.4.1 Constitutional rights and obligations" (p. 12), it states: " No specific legal regulations regarding communication via social networks have been adopted to date in Switzerland (or in other countries as far as can be seen). Nevertheless, the use of social media does not take place in a legal vacuum".

"The use of social networks provides opportunities and also threats in relation to the various rights of individuals as well as for the common good. In order to protect the fundamental rights of third parties and the public interest (e.g. security and public health¹⁵), the government must meet certain legal requirements.", with the following footnote : "Possible examples includes measures against alcohol and tobacco advertising and drug abuse.

²⁰³ <https://www.fedlex.admin.ch/eli/fga/2021/2327/fr> , accessed on 7.03.2024

²⁰⁴ <https://www.admin.ch/gov/fr/accueil/documentation/communiqués.msg-id-90142.html>, consulté le 7.03.2024

²⁰⁵ https://www.bag.admin.ch/dam/bag/fr/dokumente/npp/tabak/tabpg/teilrevision-tabpg-2023/tabpg-mai-2023.pdf.download.pdf/3b_LPTab_f.pdf, consulté le 7.03.2024

²⁰⁶

<https://www.parlament.ch/centers/documents/fr/Rapport%20de%20l'OFSP%20du%2008.01.2024%20c3%a0%20l'attention%20de%20la%20CSCSS-N%20concernant%20la%20constitutionnalit%c3%a9.pdf>, accessed on 7.03.2024

²⁰⁷ https://www.bakom.admin.ch/dam/bakom/en/dokumente/2013/10/rechtliche_basisfuersocialmediaberichtdesbundesrates.pdf.download.pdf/legal_basis_for_socialmediareportofthefederalcouncil.pdf&ved=2ahUKEwi6rbaw27eFAxWFXQIHHSOkDWAQFnoECA8QAQ&usq=AOvVaw22_JjQ7VrbUw-aZNhlQ7nr, accessed on 7.03.2024



More specifically, with regard to children and adolescents, who have "Special protection needs" (section 4.6.), it is stated: "To date there have been no other provisions for the protection of young persons under federal law that are specifically aimed at the regulation of social networks. However, certain provisions on the protection of children and young people also apply to social networks, e.g. the prohibition of advertising tobacco or alcohol to young people²¹⁸ [...]" (p. 51), with the following reference: "Art. 18 of the Ordinance of 27 October 2004 on Tobacco Products and Smoking Goods with Tobacco Substitutes (TobO), CC 817.06 and Art. 4 of the FDHA Ordinance of 23 November 2005 on Alcoholic Beverages, CC 817.022.110."

1.5.2.8. RULES CONCERNING INFLUENCERS

In 2017, the aforementioned "Legal Basis for Social Media" report was updated with the title "Legal Basis for Social Media: Updated Status Report"²⁰⁸. This document specifies:

"A relatively new phenomenon is that of popular and generally young hosts operating their own social media channels. Also known as "influencers" or "YouTubers", these social media stars broadcast videos which, through their themes (e.g. fashion and cosmetics advice, video game reviews), their production or the language they use, are aimed primarily at young people. The world's best-known YouTubers have several million subscribers, with a record 53 million. With the increasing professionalization of social media stars, a new market has developed. The protagonists are now supported by multi-channel network companies, aggregators and media agencies, and generate large revenues, mostly through advertising contracts. Their videos often include advertising messages in the form of product placement and presentation. In addition to advertising products and services for a fee, or placing affiliate links to the products being promoted, some videos also feature products purchased or sent free of charge, or sponsored trips. (...) In Switzerland, the principle of transparency on the Internet also plays a role. Among other things, it derives from the general clause of art. 2 UCA [*Unfair Competition Act*] and requires that advertising be identifiable as such. The aim is to enable the public to clearly distinguish between advertising and independent information. The principle of transparency applies not only to the traditional media and journalists, but also to private individuals who, in return for payment, disseminate advertising in the form of positive information about a company or its products and services on blogs or social media profiles" (section 2.4.5 Social media stars, p. 18-19). "

In short, the Federal Council recognizes the regular presence of advertising on social networks, particularly in the form of product placement. It also states that advertising, promotion and sponsorship must be identified as such. However, the Federal Council does not propose any really effective mechanism for guaranteeing transparency, but simply relies on the Unfair Competition Act, whose application in the context of the tobacco market, which has a quasi-cartel character, is far from clear.

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https://www.bakom.admin.ch/dam/bakom/fr/dokumente/informationsgesellschaft/social_media/social%20media%20bericht.pdf.download.pdf/rapport-media-sociaux-2017-FR.pdf, accessed on 7.03.2024

1.5.3. INTERNATIONAL

The World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC) is the first and only international public health treaty. It precisely defines the principles that apply to tobacco products. The primary objective of this treaty is "to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented by the Parties at the national, regional and international levels in order to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke." (Article 3 of the FCTC)²⁰⁹.

Article 13 of the FCTC²¹⁰ deals specifically with tobacco advertising, promotion and sponsorship. It recommends a ban:

- ☐ "comprehensive": applicable to all tobacco advertising, promotion and sponsorship;
- ☐ of "applies to all forms of commercial communication, recommendation or action and all forms of contribution to any event, activity or individual with the aim, effect, or likely effect of promoting a tobacco product or tobacco use either directly or indirectly";
- ☐ extending to "include cross-border advertising, promotion and sponsorship. This includes both out-flowing advertising, promotion and sponsorship (originating from a Party's territory) and in-flowing advertising, promotion and sponsorship (entering a Party's territory).";
- ☐ addressed to "all persons or entities involved in the production, placement and/or dissemination of tobacco advertising, promotion and sponsorship".

These recommendations are based on the fact that "a comprehensive ban on advertising, promotion and sponsorship would reduce the consumption of tobacco products." (p. 11), in light of the treaty's primary objective. In the context of a partial ban on tobacco advertising, promotion and sponsorship, the effect seems limited, insofar as "(...) the tobacco industry inevitably shifts its expenditure to other advertising, promotion and sponsorship strategies, using creative, indirect ways to promote tobacco products and tobacco use, especially among young people" (p. 4).

The FCTC came into force in 2005. To date, it has been ratified by 181 States and the European Union²¹¹, representing over 92% of the States recognized by the United Nations. Although Switzerland signed the WHO FCTC in 2004, it has still not ratified it²¹².

In 2013, the WHO wrote in its report *Banning tobacco advertising, promotion and sponsorship: what you need to know*. "The Web offers enormous possibilities for new media marketing to exploit loopholes in advertising and promotion bans and to stretch legal definitions⁴² in order to generate positive word-of-mouth about tobacco products. Given the ample opportunities for anonymity and deception on the Web,⁴³ one of the main challenges is to distinguish pro-smoking posts online genuinely written by private citizens from those added by tobacco companies and their agents

²⁰⁹ <https://iris.who.int/bitstream/handle/10665/42811/9241591013.pdf?sequence=1>, accessed on 7.03.2024

²¹⁰ https://fctc.who.int/docs/librariesprovider12/default-document-library/who-fctc-article-13.pdf?sfvrsn=345fb387_16&download=true (p. 2-3), accessed on 7.03.2024

²¹¹ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IX-4&chapter=9&clang=en, accessed on 7.03.2024

²¹² <https://www.admin.ch/gov/fr/accueil/documentation/communiqués.msg-id-3827.html>, accessed on 7.03.2024

posing as consumers."²¹³ Ten years on, these difficulties are even more present, with the multiplicity and diversity of influencers and social networks.

1.6. PATENTS AND REGISTERED TRADEMARKS

Disposable electronic cigarettes have been the subject of several patents and registered trademarks: 2012 for the first patents, 2019 for *Puff*-type trademarks. One of the aims of these patents is to make electronic cigarettes easier to use, and thus increase their diffusion. Some key developments are outlined below. Disposable electronic cigarette trademarks have been registered several times, in very similar forms. This contrasts with the registration of trademarks for previous tobacco and nicotine products, which were carried out by large companies with the aim of actively protecting them.

1.6.1. PATENTS

A Google Patents search for the keyword "disposable electronic cigarette" yields over 900 results. The first patents for disposable electronic cigarettes were filed in China in 2009^{214,215,216}, with the aim of reducing production costs and "facilitating" the use of electronic cigarettes. Here are some examples:

- A patent, filed in 2012 in China and in 2013 internationally by Shenzhen Happy Vaping Technology Limited²¹⁷, describes a disposable electronic cigarette designed in such a way that the power supply, a control unit and a heating device are directly integrated into an electronic cigarette tube. On this basis, the electronic cigarette is described as disposable, environmentally friendly and hygienic. What's more, the oil is not stored on cotton, which limits the burnt taste and thus improves the taste of the smoke.
- A patent filed in 2014 in China and internationally by Huizhou Kimree Technology CO. LTD²¹⁸, describes a disposable electronic cigarette designed as a sleeve in which an atomizing component and a battery are housed. The atomizing component comprises a heating wire and a liquid cup with a lid that allows only a drop of liquid to reach the heating wire. Sealing the atomizing element prevents liquid from flowing into the battery. This patent is cited in other patents filed by well-known companies such as Juul Labs and Pax Labs.
- A US patent filed by Keith Marz in 2015²¹⁹ describes a disposable electronic cigarette with two different inlets for nicotine and nicotine-free liquids. The system makes it possible to visually differentiate which type of liquid is being vaped, making it safer. In 2019, Keith Marz is offering his patent for sale to enable e-cigarette manufacturers to make their



²¹³ <https://apps.who.int/iris/handle/10665/86186> (p. 10), accessed on 7.03.2024

²¹⁴ <https://patents.google.com/patent/CN201332677Y/en>, accessed on 7.03.2024

²¹⁵ <https://patents.google.com/patent/CN201467999U/en>, accessed on 7.03.2024

²¹⁶ <https://patents.google.com/patent/CN201491720U/en>, accessed on 7.03.2024

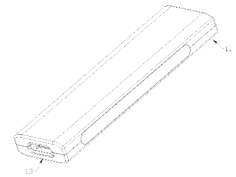
²¹⁷ <https://patents.google.com/patent/WO2013182024A1/en>, accessed on 7.03.2024

²¹⁸ <https://patents.google.com/patent/WO2016065628A1/en>, accessed on 7.03.2024

²¹⁹ <https://patents.google.com/patent/US20170113819A1/en>, accessed on 23.11.2022

vaporizers safer²²⁰. This patent is also cited in the patents of well-known companies such as Juul Labs and Pax Labs.

- A patent filed in 2019 in China and in 2020 internationally by Shenzhen Mars Power CO., LTD²²¹ describes a disposable portable electronic cigarette comprising a shell inside which is an atomizing core and an interface for connecting to an external power supply. No battery, single use, easy to use electronic cigarette.



1.6.2. "PUFF" TRADEMARKS REGISTERED IN SWITZERLAND

In August 2022, Pascal Diethelm (President of OxySuisse²²²) carried out a search on the World Intellectual Property Organization (WIPO) database²²³ for a number of "Puffs" brands present in Switzerland (e.g. Puff bar, Puff Plus, Puff XXL and Switsch Puff).

Results for the "Puff bar" search are given in Appendix 3²²⁴. The trademark Puff bar, with its current logo, was registered by EVO Brands in the USA in July 2019 and in China, by Lianhe Huiying Data Technology (Guangzhou), in May 2020. However, there is no Swiss depositary.

Results for the "Puff Plus" search are given in Appendix 4²²⁵. Again, EVO Brands registered the trademark in the USA, in December 2019. In China, the trademark was registered by Shenzhen Daosen Vaping Technology, in May 2022. In Switzerland, the brand has been registered twice by Puff Suisse SA (Lausanne), with slight variations on the logos.

The results of the "Puff XXL" search are given in Appendix 5²²⁶. EVO Brands was again the first company to register the trademark in the USA, in June 2020. It is also Shenzhen Daosen Vaping Technology that is the trademark holder in China (May 2022). In Switzerland, the depositary is a private individual.

The Switsch Puff brand, which uses a logo very similar to that of Puff Bar, has only been registered in Switzerland and in no other country (see Appendix 6²²⁷).

For Pascal Diethelm, "all these examples suggest how the puff market works, which is very different from that of the tobacco multinationals, with their monolithic, almost cartel-like structure, and their acute sense of brand protection, not tolerating any copy that comes remotely close. With puffs, you get the impression of a scheme and little arrangements "between friends", who supply themselves in China and redistribute the products they receive en masse by feeding a network of local convenience stores and small vendors".

²²⁰ <https://www.prnewswire.com/news-releases/avoiding-the-dangers-of-vaping-us-e-cig-patent-holder-offers-patent-for-sale-to-address-controversy-over-vaping-health-concerns-300928539.html>, consulté le 7.03.2024

²²¹ <https://patents.google.com/patent/WO2020191530A1/en>, accessed on 7.03.2024

²²² <https://www.oxyuisse.ch/>

²²³ <https://branddb.wipo.int/en/quicksearch>, accessed on 7.03.2024

²²⁴ <https://tnt.oxyuisse.ch/tntdossier.php?n=3-A3>

²²⁵ <https://tnt.oxyuisse.ch/tntdossier.php?n=3-A4>

²²⁶ <https://tnt.oxyuisse.ch/tntdossier.php?n=3-A5>

²²⁷ <https://tnt.oxyuisse.ch/tntdossier.php?n=3-A6>

1.7. INTERNAL DOCUMENTS FROM THE TOBACCO INDUSTRY

For over 30 years, the tobacco industry has been looking for ways to implement new trends and products in the population. The industry was quick to identify opinion leaders from within the population as a powerful vector for disseminating information. The influence strategies identified are still probably valid and applied today.

1.7.1. IMPLEMENTING NEW TRENDS

An internal RJ Reynolds document²²⁸ from 1999 describes the company's interest in understanding the ways in which new trends are establishing themselves in society.

- The document explains that the proliferation and credibility of trends would follow a "bottom-up" principle, originating "on the street". The implementation of trends would pass through different target audiences:
 - The "Explorers" who represent the gateway to the implementation of a new trend. They make it legitimate.
 - The "Visibles" who pick up on and spread the new trends.
 - The "Status Quo" who integrate new trends.
- To facilitate acceptance of new trends, marketing strategies need to present them as "cool". To do this, there are "Rules of Cool":
 - Cool cannot be accurately observed at all because the act of discovering cool causes cool to take flight;
 - Cool cannot be manufactured, only observed;
 - Cool can only be observed by those who are themselves cool (peers).
- The marketing strategies used must strive to maintain a dual link with consumers (principle of reciprocity): in addition to implementing influence marketing (e.g. with the employment of key influencers; see below), they must also allow consumers to influence the brand (e.g. via participatory marketing).

²²⁸ <https://www.industrydocuments.ucsf.edu/docs/#id=nxll0185>, accessed on 7.03.2024

1.7.2. IMPORTANCE AND CHARACTERIZATION OF OPINION LEADERS

- Since the 1990s, RJ Reynolds had already identified the benefits of using "key influencers" to launch new trends (products). In particular, they make it possible to:
 - make new trends legitimate: the imposition of fraudulent propositions on informed consumers can lead to their rejection;
 - facilitate their acceptability to the general public, by making them authentic and tangible;
 - disseminate them in a "disproportionate" way. In another internal document²²⁹, it is specifically mentioned that an opinion leader will influence twice as many people as an average person.
- An internal document from RJ Reynolds²³⁰, dated 1995, relates their appeal for characterizing the personality traits of key influencers within social interest groups. These include high self-confidence, enthusiasm, a willingness to take risks, social intelligence, dominant behavior and the ability to influence in specific geographical areas.
- RJ Reynolds²³¹ has also developed a communication strategy to get opinion leaders to adhere to their influence strategy. This is based in particular on the principle of making the influencer perceive that he or she is learning:
 - something that is useful;
 - that has not previously been made public;
 - which he is the first to benefit from;
 - that can be used in discussions with peers.

The information communicated must be adapted to the influencer's knowledge, which RJ Reynolds describes as "relatively savvy".

- This interest in understanding influence marketing is also reflected in PMI's internal documents. One document²³², dated 1993, summarizes the company's knowledge of the initiation and promotion of new products and trends via influence leaders. One of their conclusions is that "informal group leadership can be used to enhance promotional efforts". The document also highlights the importance for the industry of defining all the elements that characterize the lifestyle of influencers, such as the music they play or the language they use.

²²⁹ <https://www.industrydocuments.ucsf.edu/docs/#id=lfh0188>, accessed on 7.03.2024

²³⁰ *Ibid.*

²³¹ *Ibid.*

²³² <https://www.industrydocuments.ucsf.edu/tobacco/docs/#id=fnb0025>, accessed on 7.03.2024

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- BAT also describes the importance of understanding the role played by influencers in promoting a product subject to increasing restrictions on advertising²³³. In particular, they state that understanding product-consumer-environment interactions represents "the most challenging of all the research categories requiring our attention" (p. 9). They make a distinction between "mass communication" at national level (influenced by politicians and the media), and "mass communication" at community level. The latter seems to have received more attention, notably with the setting up of a research project called Project Whisper, the aim of which was to define "social opinion leaders [on sociodemographic, sociometric and psychological domains], the situations in which their activities are most potent, and means of influencing these opinion influencers with appropriate product information or usage habit". Unfortunately, we were unable to find the results of this project.
 - In a quarterly report^{234,235}, PMI refers to Everett Rogers' « Diffusion of innovation » model²³⁶, which models the stages through which an innovation passes in its diffusion before being massively adopted (see Figure 6). These stages each have a type of adopter of the innovation with its own characteristics, including:
 - The "*innovators*" (2.5%) are willing to take risks, have the highest social status, are sociable and in contact with other innovators ;
 - "*early adopters*" (13.5%) have higher social status, financial liquidity and educational attainment. The characteristics of this group perhaps explain why PMI positions, in its current IQOS marketing policy, this device in the category of luxury items.
 - The "early majority" (34%) have an above-average social status and maintain contacts with early adopters.

²³³ <https://www.industrydocuments.ucsf.edu/tobacco/docs/#id=xfv0196>, accessed on 7.03.2024

²³⁴ <https://philipmorrisinternational.gcs-web.com/static-files/a992f191-bfd0-452a-ae73-b236f64d0b3d>, accessed on 7.03.2024

²³⁵ <http://philipmorrisinternational.gcs-web.com/static-files/15c7e8f4-3765-457c-88b3-5ac7ab643673>, accessed on 7.03.2024

²³⁶ Rogers EM. *Diffusion of innovations*, Toronto, Free Press, 2003, 551 p.

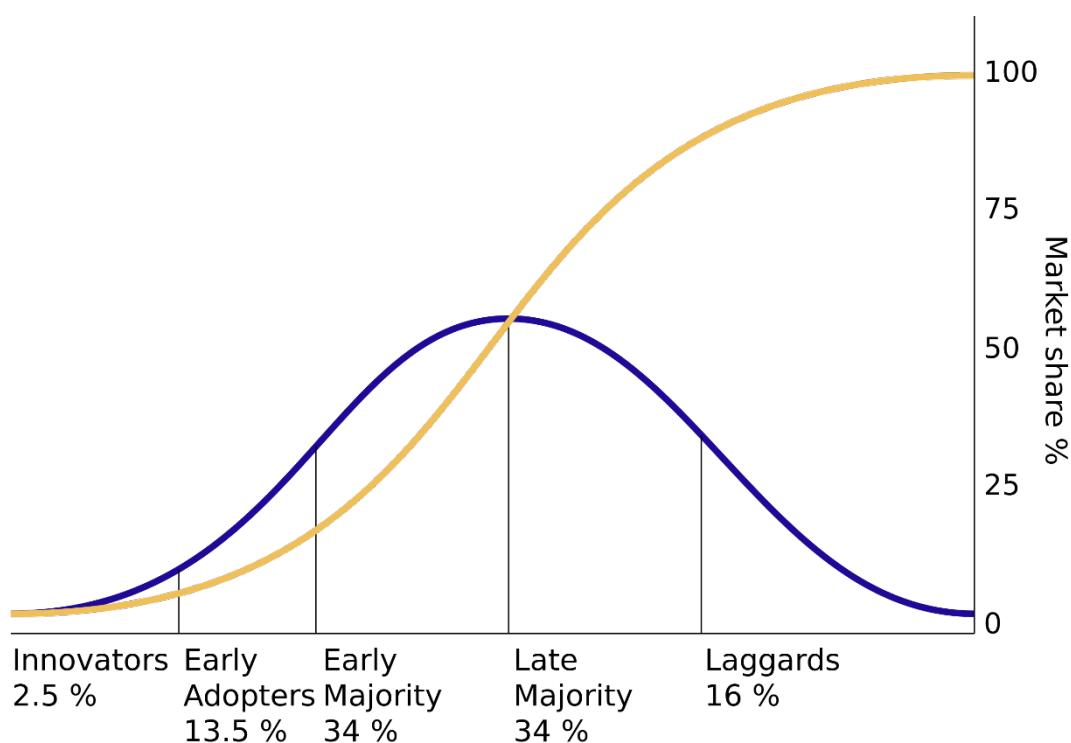


Figure 6 : The diffusion of innovations according to Rogers.

With successive groups of consumers adopting the new technology (shown in blue), its market share (yellow) will eventually reach the saturation level. The blue curve is broken into sections of adopters.²³⁷.

- In a 2016 internal PMI document, which provides communications instructions for influencers on social networks²³⁸, we read: "We're venturing out onto social media for the first time in our parent company's history, but here's the thing about being a tobacco company on social media: We're trying to reach LAS [legal-age smokers], despite having a bunch of limitations on what we can and can't do and say. (...) Since the law is set up to prevent tobacco companies from promoting their products on social media, and that iQOS is a product that uses tobacco, you'll always be walking through a minefield of sorts. Please keep this in mind every time you write for iQOS". This document perfectly demonstrates that PMI is aware of the illegal nature of advertising iQOS on social networks, but offloads this responsibility onto influencers, who will be in "a minefield".

²³⁷ https://en.wikipedia.org/wiki/Diffusion_of_innovations, accessed on 7.03.2024

²³⁸ <https://www.industrydocuments.ucsf.edu/docs/#id=mmpp0230>, accessed on 7.03.2024

2. ANALYSIS OF FACTUAL INFORMATION

For over 50 years, the tobacco industry has been developing strategies to promote its products to young people. The development of social networks since the 2000s has undeniably made it easier to reach this target audience. For many years, companies have taken advantage of the regulatory loopholes and shortcomings of these platforms to blithely disseminate promotional content on their products, presenting them as socially accepted.

In response to numerous calls for action, notably from the prevention community and the media, social networks have been urged to take regulatory measures. However, not all have yet done so. Public calls for action have nevertheless forced the industry to rethink the way it communicates on the networks, and to implement new "under the radar" marketing strategies to reach ever more young people. One of these is using influencers..

These days, advertising for tobacco and/or nicotine products and related products is omnipresent on social networks. It can take different forms, depending on the profile posting the content. Publications posted by the industry and its partners (retailers) have distinct characteristics from those posted by influencers and personal relay accounts. Some of these are summarized in Table 4: Main differences between publications issued by industries and their partners, and those issued by influencers and relay accounts

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Table 4: Main differences between publications issued by industries and their partners, and those issued by influencers and relay accounts

	Industries and partners (dealers)	Influencers and relay accounts
Posted image(s)	Single image High resolution (product focus, blurred background) Outdoor context (nature) ²³⁹	Several images (1 to 5) Everyday situations (allow people to identify with influencers)
Product position	In the center	In the background (influencer in the foreground) Exposure may be partial but does not prevent product identification (e.g. package in trouser pocket that hides warnings).

²³⁹ Moran, M. B., Heley, K., Czaplicki, L., Weiger, C., Strong, D., & Pierce, J. (2021). Tobacco advertising features that may contribute to product appeal among US adolescents and young adults. *Nicotine and Tobacco Research*, 23(8), 1373-1381. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8360628/>, accessed on 7.03.2024

		BAT's internal documents state: "If there is no media advertising even a glimpse of a brand in the right context, can have great value".²⁴⁰. Product not necessarily in first photo
Publication captions	To the point (e.g. advertising campaign with associated hashtags) Content identified as "advertising" (minors should not have access to it)	Youth culture Multitude of hashtags (including many on lifestyle and current trends) Difficult to identify whether a publication is sponsored or not

Publications posted on social networks very often include several pieces of information, which are not chosen at random (for example see Figure 7).



Figure 7 : Post by a Swiss retailer (@puffbarsuisse) on Instagram

The content²⁴¹ presented above was posted by a puff retailer on Instagram. The specific elements highlighted satisfy the physical factors of initiation among non-smokers (e.g. "+ 40 flavors" available) and new smokers (e.g. colorful, attractive packaging set against a dull background), as well as those of addiction among smokers (e.g. large capacity ["1600 puffs"], accessible at a low price ["25.-"]). The publication's caption features an emoji illustrating the retailer's dismay at the removal of Juul electronic cigarettes from sale in France. In response to this state of affairs, the written and pictorial content invites viewers to consider puffs as an alternative solution that's easier

²⁴⁰ <https://www.industrydocuments.ucsf.edu/tobacco/docs/#id=lgvd0196>, accessed on 7.03.2024

²⁴¹ Screenshot from the Instagram account @puffbarsuisse, accessed on 18.11.2022



to use (no need to refill), more diversified and half the price. In short, this example illustrates how a single publication can influence a multitude of consumer profiles and types.

While there is a substantial amount of international data on the marketing strategies employed by industries to promote their new products on social networks, there are still very few data available in Switzerland. The latest results in French-speaking Switzerland were provided by the « Observatoire des stratégies marketing pour les produits du tabac en Suisse romande » [Observatoire des stratégies marketing pour les produits du tabac en Suisse romande] in 2014²⁴², i.e. when social networks were being developed (e.g. Facebook, YouTube). At that time, advertising on these platforms was permitted. This raises the questions :

- ☐ What is the current situation in Switzerland; and
- ☐ Whether the marketing strategies used on social networks in Switzerland are the same as those described internationally.

In order to explore these questions, we carried out two marketing surveys on the social networks most used by young people in Switzerland: Instagram and TikTok. A Swiss influencer was also interviewed, to better understand her role and importance in promoting new trends and products.

²⁴² https://www.unisante.ch/sites/default/files/inline-files/UPT_Observatoire%20des%20stat%C3%A9gie%20marketing_2013-14_Web%20.pdf, accessed on 7.03.2024.

3. SITUATION IN SWITZERLAND

3.1. MONITORING SOCIAL NETWORKS (INSTAGRAM AND TIKTOK)

Two social networking monitoring campaigns were carried out to gather qualitative data on nicotine product content visible from Switzerland. These were based on data from the scientific literature (see Scientific publications, on page 27). The first monitoring took place during a week in October 2022. Following this, it was decided to conduct a second, more specific one-week monitoring of the TikTok social network during the month of November. The results of these surveys were recorded in an analysis grid (see Appendices 1²⁴³ and 2²⁴⁴).

3.1.1. INITIAL MARKETING MONITORING

The first social network monitoring explored the strategies used to promote nicotine products on Instagram and TikTok. This monitoring was carried out with an adult account. To do this, several keywords and hashtags were searched on Instagram and TikTok, such as "snus", "puff", "vape", but also brands like Velo, Edelsnus and Puff bar.

3.1.1.1. PAID PARTNERSHIPS AND SPONSORED PUBLICATIONS

The first significant difference in content between the two social networks is apparent. On TikTok, nicotine products are presented by young people through humorous content or trendy music, without any systematic mention of the product brand, partnership or redirection to a sales site. The first marketing monitoring thus focused on Instagram.

During brand research, several content creators (influencers) can be identified as partners of the Velo brand. Further analysis of these profiles reveals a number of characteristics.

- The content creators are young men and women with attractive physical features, corresponding to beauty criteria such as slim, muscular bodies, etc. They also share their "dream" lives, travels, luxury hotels, outings with friends, etc. Some of these publications are paid partnerships with the Velo brand. These include photos, videos and *reels* (videos under 30 seconds long) from the *Tomorrow Land* festival in the Netherlands and the *Caprices Festival* in the Valais region.
- The paid partnership is mentioned on publications, but not systematically in the same way: sometimes it appears above the publication (the most visible way), sometimes it's announced in the description ("invisible" from a cell phone, as you have to scroll down to read it).

²⁴³ <https://tnt.oxysuisse.ch/tntdossier.php?n=3-A1>

²⁴⁴ <https://tnt.oxysuisse.ch/tntdossier.php?n=3-A2>

- Each publication in partnership with the brand states that the product is intended for adults, and that nicotine is an addictive substance. While not all publications show the product in question, some present it discreetly (in the hand, protruding from the pocket), and/or use the brand logo. As for the number of paid partnership publications, there are periods when they are more numerous (several per month), notably during festivals, events and competitions.
- Stories, i.e. short-lived publications that are visible for 24 hours, in paid partnership with the Velo brand, are also shared by content creators. During this first marketing watch, a contest to win a trip to a tropical destination was promoted by some content creators. Mentions of the paid partnership, the legal age as well as the danger of nicotine, are added to the stories.
- As far as hashtags are concerned, they are not systematically present on publications. The most common are #VELO and #YouveGotVELO.
 - An example of a publication in paid partnership with the Velo brand is shown below:
 - Several content creators, in collaboration with the brand, are present at a festival;
 - The product is discreet (present in the hand of the young woman on the right and in that of the woman in the center). The fans also identify the Velo brand;
 - The mentions of age and nicotine are added to the publication;
 - Finally, the paid partnership is also announced at the end of the description.

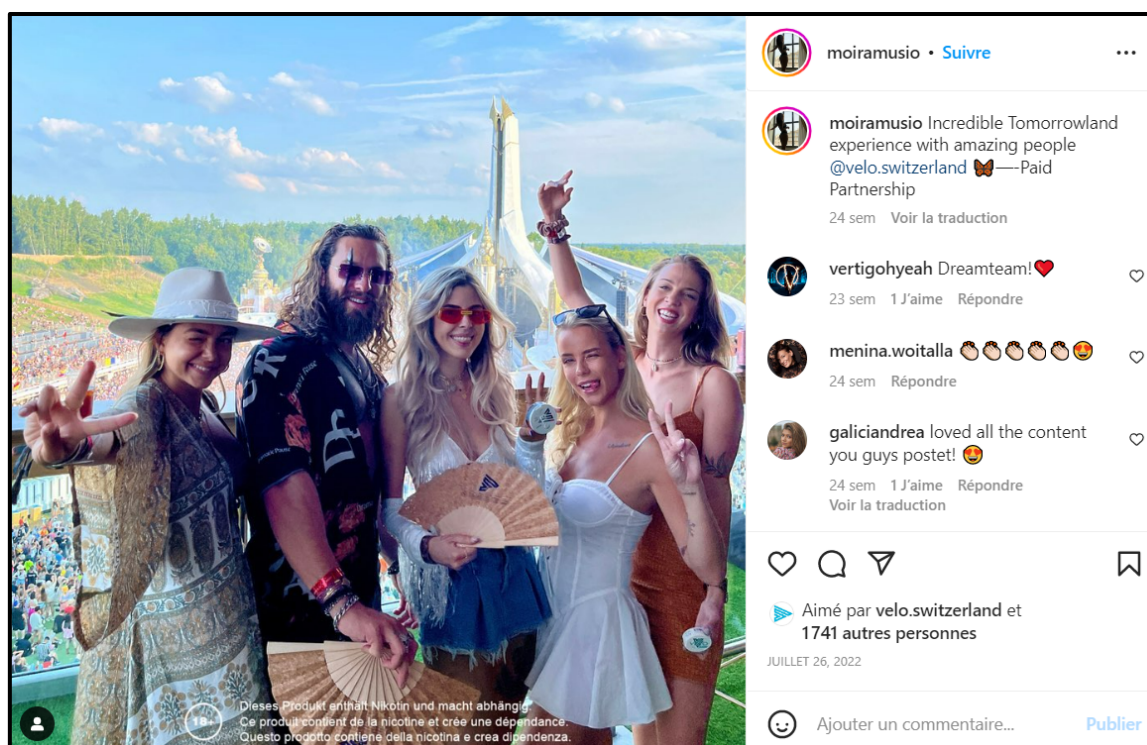


Figure 8 : Publication sponsored by Velo (BAT), posted by a Swiss influencer (@moiramusio; 13,200 followers) on Instagram

Below is an example of an Instagram story in paid partnership with the Velo brand announcing an interesting future event for followers of the @aqualion account.



Figure 9 : Story sponsored by Velo (BAT), posted by a Swiss influencer (@aqualion_; 112,000 followers) on Instagram

Although the brand's account was not being followed during the monitoring, sponsored content from the Velo brand appeared in the news feed randomly and repeatedly throughout the day. For example, promotional videos for a new project, Velo Labs, were embedded among the content from accounts that were being followed.

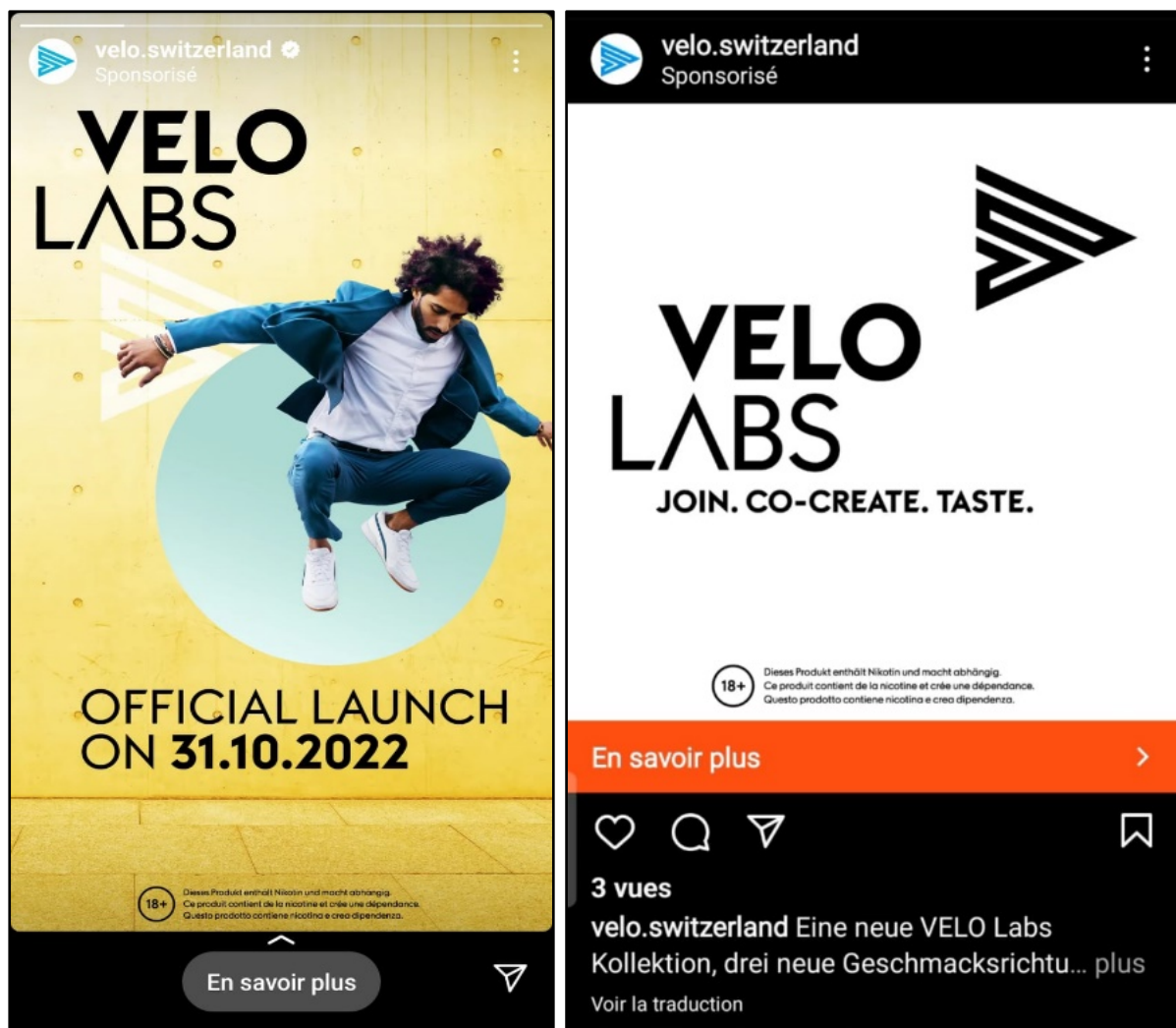


Figure 10 : Contents sponsored by @velo.switzerland (6'300 followers) from BAT, posted on Instagram

3.1.1.2. OTHER NICOTINE PRODUCTS PUBLICATIONS

Other content featuring nicotine pouches from the Edelsnus brand or e-cigarette stores is also present on Instagram, but does not clearly indicate whether it is a partnership and whether it is remunerated. For example, a content creator poses with a puff and shares a story promoting an electronic cigarette store in Lausanne. Only the store's account is identified on the publications, so the partnership is not clearly announced.

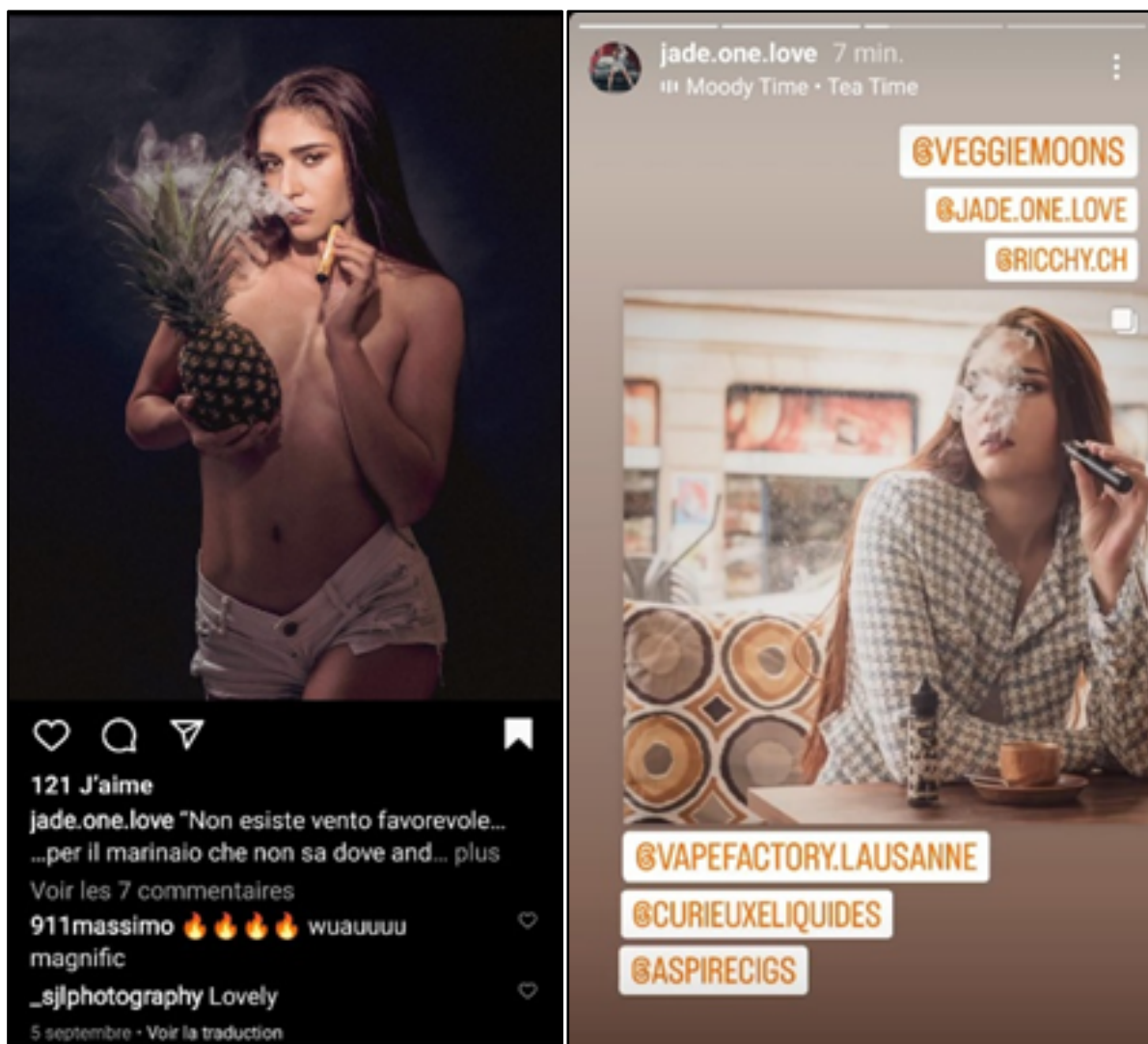


Figure 11 : Content posted by @jade.one.love (2,145 followers) on Instagram, promoting an electronic cigarette store in Lausanne (@vapefactory.lausanne)

3.1.2. SECOND MONITORING OF SOCIAL NETWORKS

For our second social network marketing monitoring campaign, we decided to focus on the TikTok platform. Popular with children and young people, TikTok allows users to view all kinds of content in the form of short videos of up to 3 minutes. As in the first monitoring, a certain amount of content emerged using keywords relating to nicotine products. Due to the use of specific keywords during the first monitoring, content relating to electronic cigarettes and puffs appeared in the news feed, called "For you" on TikTok.

3.1.2.1. MARKETING MONITORING WITH AN ADULT TIKTOK ACCOUNT

The videos featured in the news feed are of several kinds. There are videos of opening for several puffs to show the different tastes, ASMR (*autonomous sensory meridian response*) videos of opening for puffs, reaction videos to young people consuming puffs and informative videos on electronic cigarettes published by electronic cigarette stores. However, after a day and a half of

monitoring from the adult account, there were no further results in terms of the content offered in the news feed. This may be explained by the fact that this account is also used for private purposes, with the algorithms taking other interests into account.

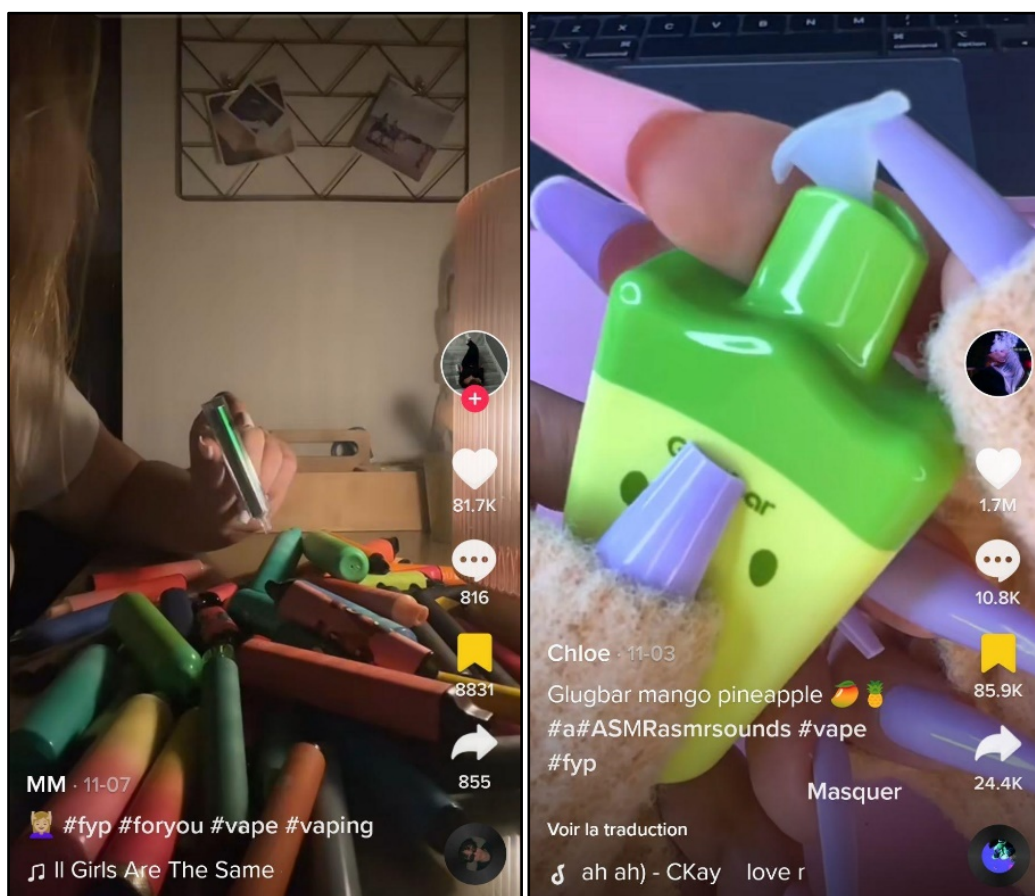


Figure 12 : Content showing the diversity of tastes for puffs (left) and ASMR (right), posted on TikTok

3.1.2.2. MARKETING MONITORING WITH A MINOR'S TIKTOK ACCOUNT

A youth account, for a 14-year-old, was first created to check whether content visible from an adult account could also be accessed by a minor, and then to see whether content relating to nicotine products was offered in the news feed.

The results show that content visible from the adult account is also visible from the youth account. There is no keyword censorship in the search bar. It's important to note that the youth account was entirely new. The first keywords searched were "puff" and "vape", so the news feed offered a lot of content related to these products. However, the news feed also featured content relating to nicotine pouches, heated tobacco, conventional cigarettes and cannabis, without the prior keyword search. The youth account thus provided access to much more content promoting tobacco and/or nicotine products, compared with an adult account. During this monitoring period, no video mentioned a paid partnership with a nicotine product brand.

3.1.2.2.1. TYPES OF VIDEOS

Several characteristics emerge from the videos featured in the news feed. When it comes to product-related videos, several trends can be identified. The most frequent is "lip-sync", which consists of lip-synching to a trendy song. This trend is particularly prevalent for various themes on TikTok. For example, young people lip-sync to rap songs or dialogues from TV series or films, and add text to the video relating to a nicotine product that relates more or less to the content. The products are sometimes mentioned in full, or sometimes certain letters are removed and replaced by * or numbers to avoid the video being deleted. Some descriptions also feature hashtags, such as #vape, #elfbar, #geekbar, but this is not systematic.

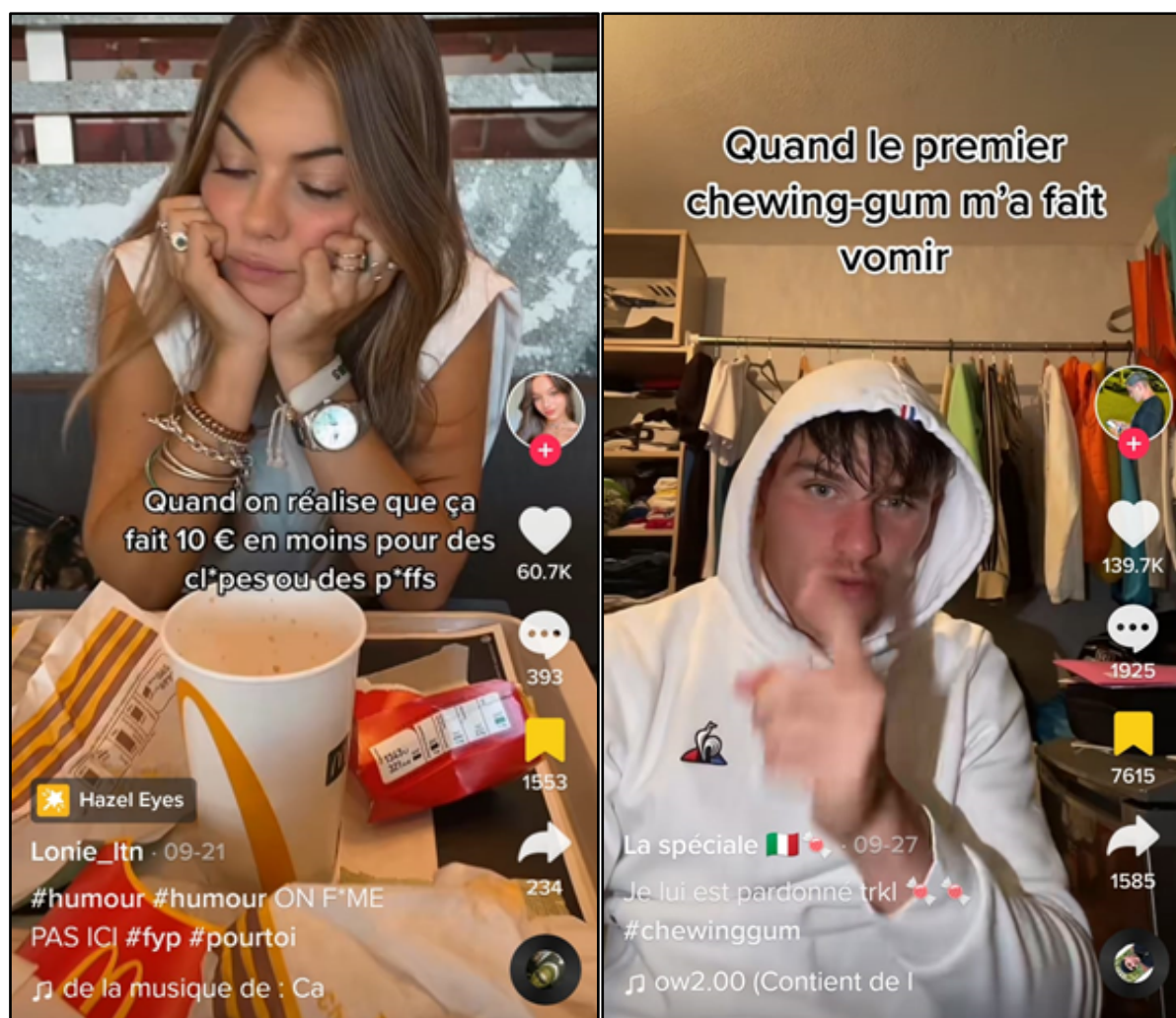


Figure 13 : Examples of content accessible from a minor's TikTok account that does not explicitly mention the consumption promoted: conventional cigarettes and puffs (left); nicotine pouches (right).

It's also possible to find videos in the news feed where the person consumes a nicotine product, without any mention of the product in the description or in the text added to the video. This latter type of content is particularly worrying, as there are no keywords highlighting this content, which is in the young profile's areas of interest. It's possible that the music chosen, which is trending on the platform, promotes this type of content.

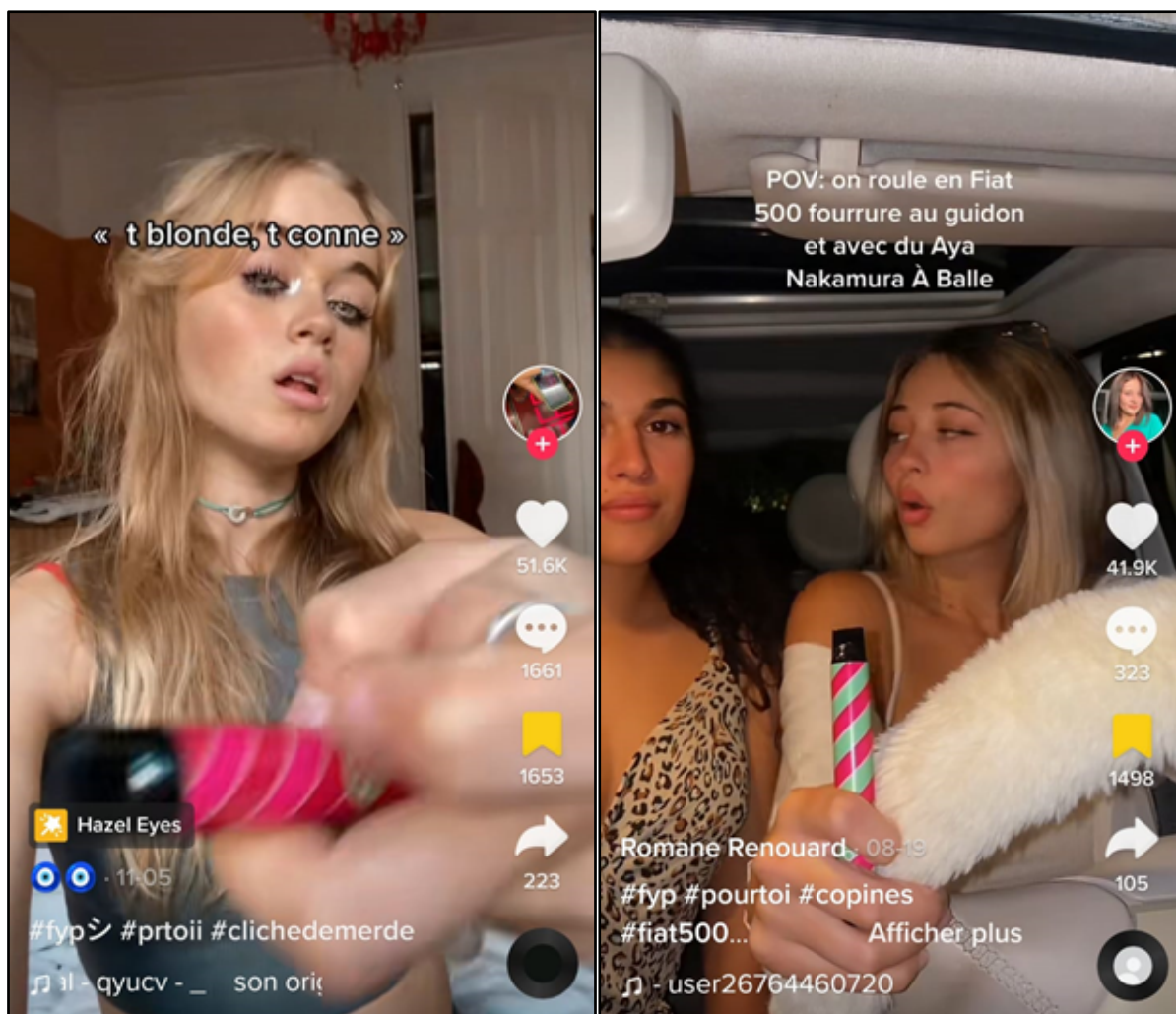


Figure 14 : Examples of content, accessible from a minor's TikTok account, promoting puffs, without mentioning the product in the caption of the publication.

Puff opening/collection videos, as well as ASMR videos, are also available in the news feed from the youth account. This type of content is visually pleasing, as there is a diversity of brands, colors/tastes and packaging.

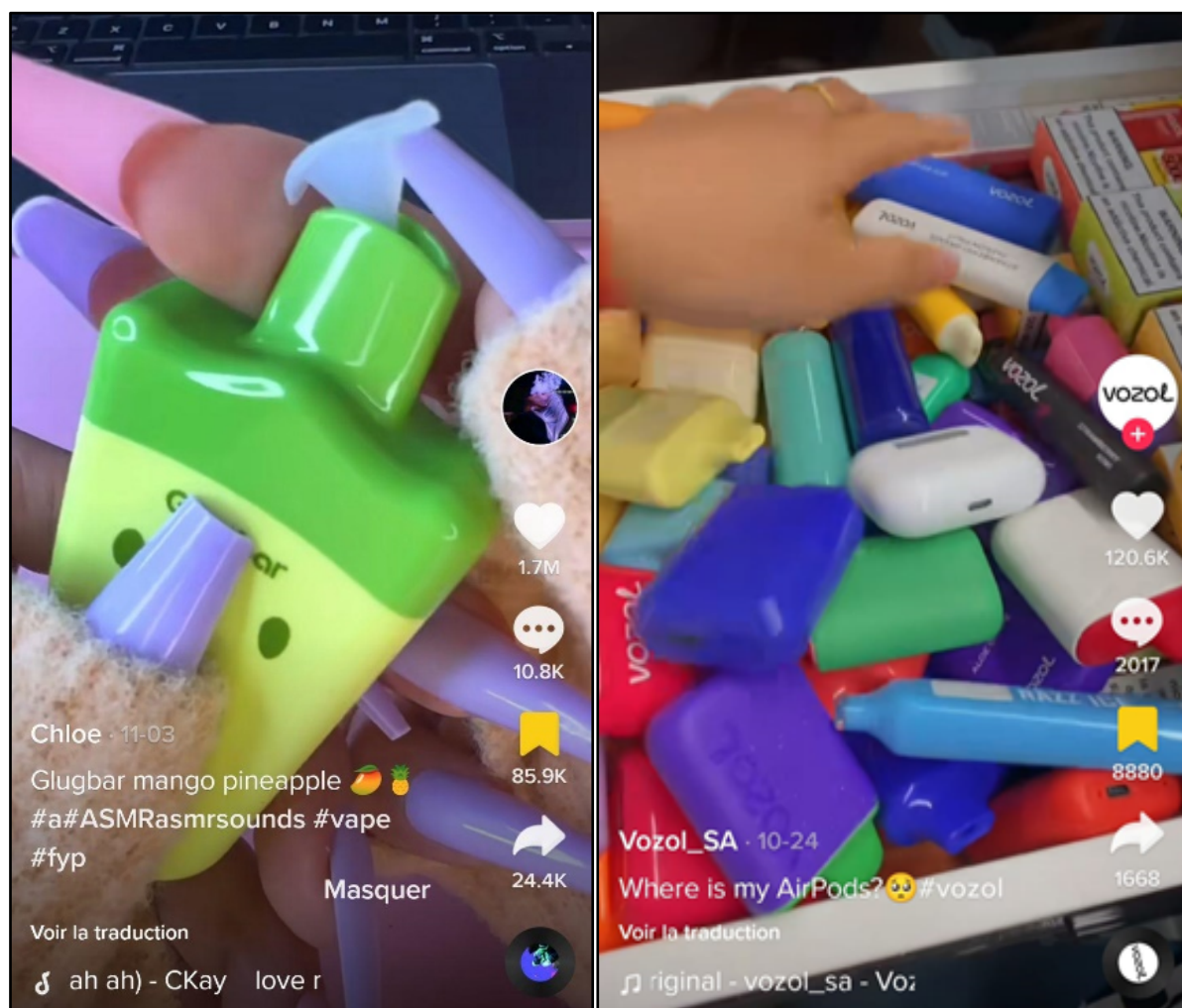


Figure 15 : Examples of ASMR content (left) and puff collection (right), accessible from a minor's TikTok account

Content relating to the consumption of cigarettes and cannabis also appeared on several occasions. There have also been videos featuring heated tobacco products.

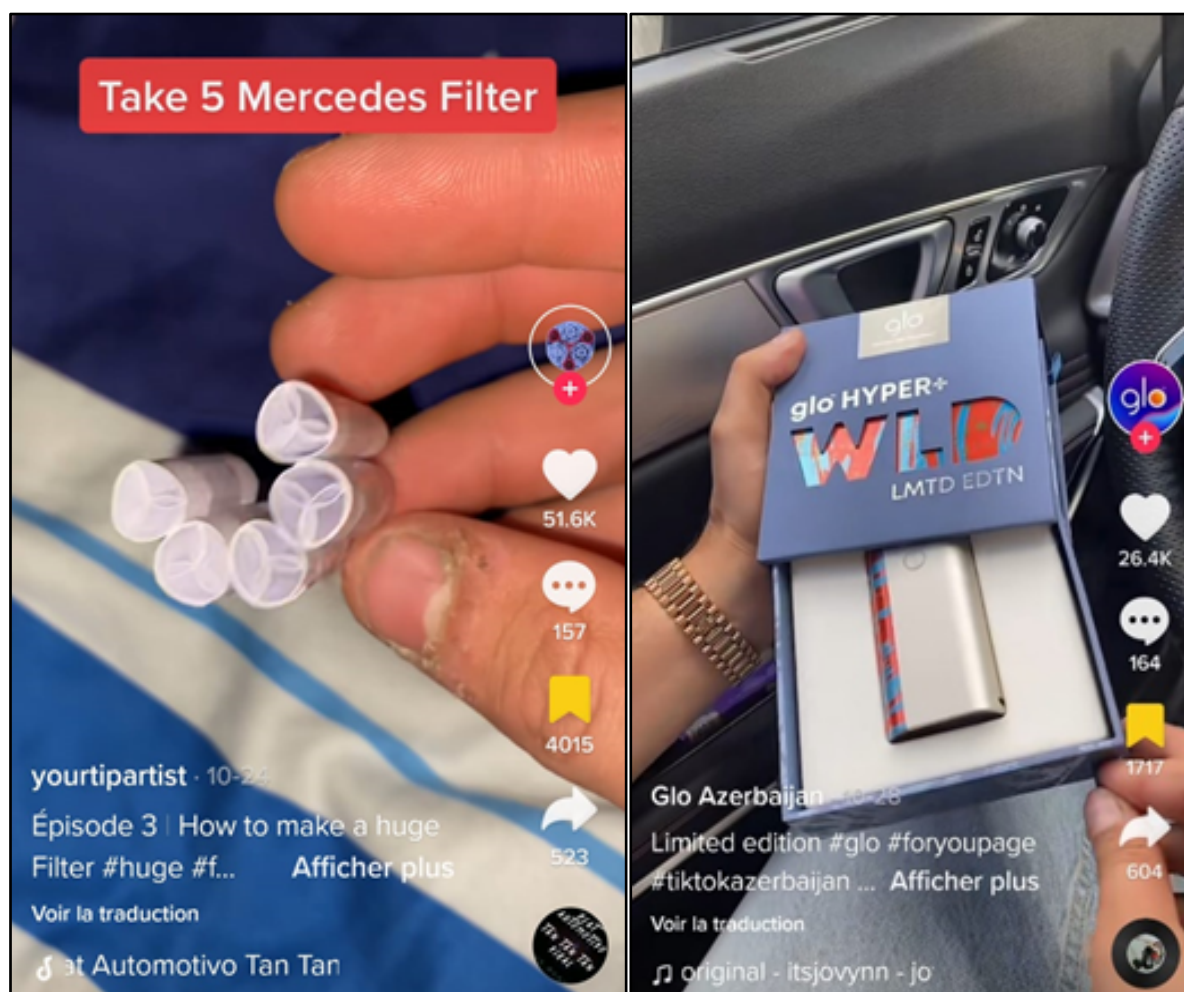


Figure 16 : Examples of content promoting tobacco products, accessible from a minor's TikTok account.

There was also some content relating to the consumption of illegal psychotropic substances, such as cocaine or ecstasy. Below is an example of a video by a young person who implicitly refers to cocaine consumption by rolling up his bill and talking about snow in his description.



Figure 17 : Content promoting illegal psychotropic substances (in this case cocaine), accessible from a minor's TikTok account.

Eventually, however, a few videos relaying prevention messages appeared in the news feed.

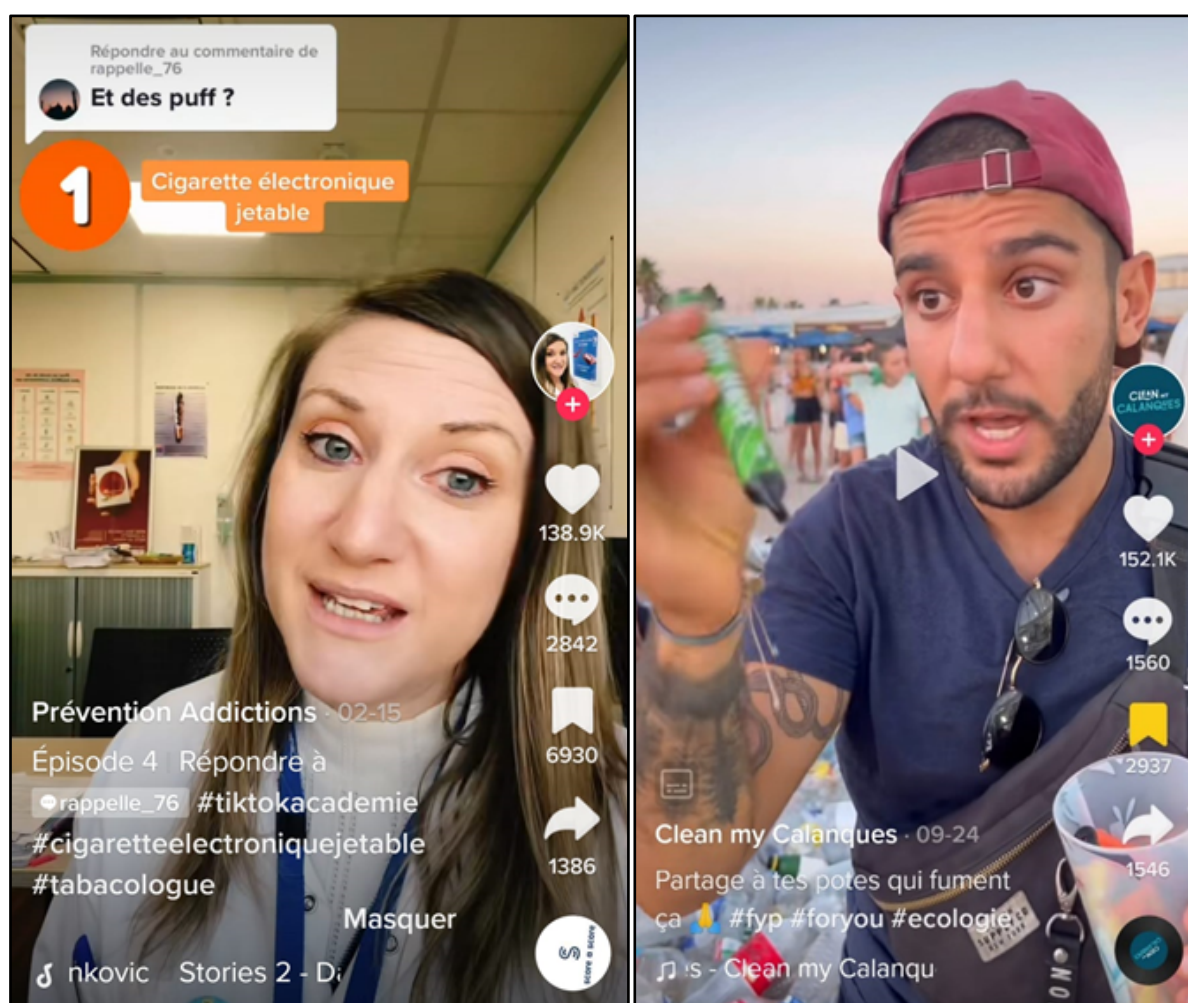


Figure 18 : Content promoting the prevention of the use of disposable electronic cigarettes, accessible from a minor's TikTok account.

3.1.2.2.2. NUMBER OF VIEWS

Another interesting feature to note when monitoring the TikTok platform is the number of views on videos relating to nicotine products. The videos in the news feed show very high numbers. However, these video viewing figures are far higher than the number of followers on the account. What's more, when it comes to a profile with few followers, it's often the case that videos relating to nicotine products are the ones with the most views, and thus potentially the most "likes".

3.2. INTERVIEW WITH A SWISS INFLUENCER

On October 21, 2022, a member of the team interviewed a 24-year-old Swiss influencer from French-speaking Switzerland (Marie²⁴⁵), present mainly on Instagram, where she has 14,000 followers, and TikTok.

3.2.1. GENERAL QUESTIONS ABOUT INFLUENCER ACTIVITY

- ☐ *How would you define an influencer in terms of number of followers, content, sponsorship, etc.?*

For her, an influencer is someone who shares their daily life, tips, tricks and lifestyle with their community. Her credibility is greater when her community is 5,000 subscribers than when it's twice that size or more, because people think that an influencer will more easily tell the truth about a product if he or she has fewer followers. The remuneration started for her at 5,000 followers. What's important for remuneration is the number of followers, but also the rate of engagement (number of likes and comments), which shows that the community is active. The origin of the followers is also important (the majority of followers must be Swiss). She only accepts paid partnerships or partnerships for humanitarian causes. She thinks it's a shame that some big brands invite people to parties instead of paying them.

- ☐ *Who do you think are the Swiss influencers for the public aged 14-17?*

In Switzerland, influencers for this public are found more on TikTok, like Margaux Seydoux (@margauxseydoux, 469,000 followers, 17,700 likes) and Léo (@leshautscommeleo, 4,600 followers, 118,700 likes).

- ☐ *Do you consider yourself an influencer? How would you describe your activity as an influencer? Does it allow you to make a living?*

Yes, Marie spends 50% of her time creating content for Instagram. The rest of the time, she studies for a master's degree on the job and works in a communications agency. Someone manages her e-mails at 30%. She doesn't want to be 100%, so she can refuse certain contracts. She doesn't count the 2 hours a day she spends replying to messages. For sponsored content, either Marie receives a briefing describing the mood of the video, what the company expects of her, its requirements (e.g. no black, no red, etc., even if it's not as precise as a film script), or she's at liberty. The big companies work with agencies that act as a bridge between the brand and the influencers. After that, Marie signs the contract (or not). She's paid by "likes". Only one in six pieces of content is paid for, but she makes a good living as an influencer.

²⁴⁵ Assumed name

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- ☐ *How would you describe your community?*

Her community is highly motivating. She receives messages every day. Her followers know that it is important to like and comment, because she is paid by the rate of engagement. The majority of comments are kind.

78% of her followers are French-speaking Swiss. 44% of her community is aged 25-34, 30% 18-24 and 2% 13-17.

- ☐ *You want your content to go viral: how do you go about it?*

She posts a video on her account, gives it to the brand, which puts it on its site and boosts it (sponsors it). Influencers don't like sponsored content because Instagram's algorithm favors other publications. Whether the influencer is paid or the publication is sponsored, he or she has to put a mention of the sponsorship, which causes it to be less attractive.

- ☐ *Do you know how algorithms are used to highlight certain content?*

Instagram's algorithm highlights content that is not sponsored, as the platform prefers money to be invested directly on it, rather than on an influencer. What works is a mix of photos, which still work, and videos of less than 30 seconds, the *reels*.

Marie is on Instagram and TikTok, even if TikTok has less of this spirit of community, proximity and trust. On the latter, content is random and followers don't necessarily see all the content from an account they follow. On Instagram, followers see all the content in their news feed. This is why people become less attached on TikTok.

3.2.2. PRODUCT PROMOTION BY INFLUENCERS

- ☐ *Do you promote any products? If so, which ones?*

She's very much a lifestyle person, promoting what she uses on a daily basis, what is meaningful to her, clothes, restaurant, etc. Since she's just moved in, she's been promoting an insurance policy that covers her rental deposit.

- ☐ *Would you refuse to promote certain products? If so, which ones and why?*

She refuses to promote politics, strong alcohol or tobacco. She has smoked puffs on vacation but doesn't want to be associated with the image of a puff smoker. She doesn't want to promote these products, because it's not something she considers positive.

- ☐ *Do you think a product can be promoted in the same way on the different existing networks? What are their differences?*

On Instagram, promotion is based on the community's trust in the influencer, whereas on TikTok, promotion is based on the effect of influence, the fact of creating desire, because it's stylish, it's a fashion effect.

- 
- ☐ *Which social network do you think works best for promoting a product today?*

On Instagram, promotion is controlled. On TikTok, the platform is in charge.

- ☐ *Do you know what you're risking if you don't comply with social networking community or advertising rules?*

She is familiar with EU rules and legislation on alcohol and tobacco. For example, she has had to block certain publications for certain countries. For the promotion of alcohol or tobacco, content must be blocked and made invisible to minors.

Contracts with brands are exclusive: for the duration of the contract, as well as a period before and after, the influencer is not allowed to promote competition.

- ☐ *Has any of your content already been banned/deleted?*

Some of her content linked to an alcohol brand was removed because she had incorrectly specified the age for which the content was visible.

- ☐ *How have you adapted to the bans?*

To avoid this, you need to manually select the age of diffusion in the various cantons and countries. This information is provided by the brands themselves.

3.2.3. STRATEGY FOR SELLING TOBACCO PRODUCTS

- ☐ *Have you ever witnessed tobacco products being promoted on social networks? If so, by whom (industry, influencer, individual)?*

She hasn't directly witnessed the promotion of tobacco products, but thinks that someone like @leshautscommeléo on TikTok, who smokes and doesn't hide it, might do that. He's seen smoking and for some people (e.g. younger people), he's a role model. Indirectly, he promotes these products. But she doesn't think he's been approached by the brands to do so, because you can't see the brand of his cigarettes at all. But that's often how you tell the difference between a paid and unpaid partnership. She thinks that if a cigarette brand contacts an influencer, they'd still like you to see the pack with the brand on it, or at least see them take the pack out. There's a *storytelling* involved.

On TikTok, you see girls doing their dance and in the middle of their dance, they smoke their device. These aren't partnerships, they're really smoking and they think it's stylish. There's this association with puff, it's cool, it's pretty, it smells good. It was the same with cigarettes in our parents' day, which isn't the case anymore, because everyone knows cigarettes are bad.

- ☐ *Has a brand or a third party ever offered you a partnership to sell new tobacco products? If so, what was your promotional strategy? If not, how would you react to this request?*



She hasn't been contacted, but she thinks that if a company contacts an influencer to promote tobacco products, there will be different scenarios: e.g. at a nightclub, with friends. We could see the whole process when they pull out their cigarette, laugh, light it.

She says she wouldn't promote puffs, because it wouldn't give off a good image.

- *In your opinion, do influencers readily accept this type of promotion? Under what conditions? Do you have any examples?*

She thinks Margaux Seydoux would never promote puffs, because it doesn't give off a good image.

To the interviewer's suggestion that industries target people with small communities, because the credibility is greater, she replies that she thinks people with large communities wouldn't agree to do that because they know it doesn't give off a good image. Maybe reality TV people, like Nabilla, who sell anything and everything, would.

- *The promotion of tobacco products is forbidden on most social networks (cf. community and/or advertising rules): how would you go about promoting them anyway?*

She has not seen any bans on social networks. She searched the Internet to see if it's bad or not. Of course it's bad. To see if there are studies and so on. Often when you do research on the Internet, afterwards you get content on social networks. She's never seen puff ads or contests, or it hasn't made an impression on her.

To the interviewer's suggestion that it's mainly young people who are targeted, she replies that she doesn't think it's the companies that sponsor, but rather that the algorithm works so well that the promotion of new products will arrive in the content of interested people.

If she were to promote a puff, she would first do a story where she wouldn't identify the brand, she'd drink coffee with a friend on a terrace and smoke her puff. This would introduce the puff into her life, so that when she promoted it, it wouldn't come out of nowhere. She senses that this could be considered a scam. Then she'd do a story where she'd say she'd tested the product, that it's been a month, that she's too happy with it, etc. and then she'd do a photo or reel for her news feed where she'd include the puff as a fashion accessory.

3.3. RESULTS

In summary, this monitoring, carried out on the social networks Instagram and TikTok, showed that:

- ☐ Advertising for new tobacco and nicotine products is ubiquitous in Switzerland ;
- ☐ The marketing strategies used to reach younger people are identical to those described in the international scientific literature (e.g., products presented positively, lifestyle situations valued by young people; polished, colorful content; physically attractive young people) ;
- ☐ Many posts do not comply with current Swiss regulations (e.g. no mention of the sponsored nature of the publication) or those of social networks (e.g. no mention that the content promotes tobacco and/or nicotine products, no age restrictions) ;
- ☐ Young people are more exposed to promotional content than adults, as soon as they register on the platforms;
- ☐ Differences exist between the sophisticated and precise marketing strategies of industries (e.g. Velo's marketing campaign in the Tomorrow Land festival) and individualized publications, with no common structure as is the case, for example, concerning the promotion of puffs ;
- ☐ Tobacco prevention content is present, but anecdotally.

The interview with the Swiss influencer helped us understand that:

- ☐ The highlighting of certain content, particularly on TikTok, is still largely misunderstood, even among influencers. A better understanding of algorithms would enable us to better quantify young people's actual exposure to tobacco and/or nicotine advertising ;
- ☐ Storytelling seems essential for influencers with small communities wishing to promote tobacco and/or nicotine products. It is thus quite possible that the elements captured as part of this monitoring only represent the end of the exposure chain, and that young people following a specific influencer are actually much more exposed, especially with short-lived promotional content that is difficult to document (e.g. lives, stories).

The results of the monitoring and the interview with the influencer raised several questions:

- ☐ Are the marketing strategies, noted on Instagram and TikTok, the same on other social networks (e.g. Snapchat, Facebook, YouTube)?
- ☐ Precisely what elements do social network algorithms rely on to highlight "unsponsored" content?
- ☐ How much tobacco-related stimuli are young people exposed to on a daily basis on social networks?

CONCLUSIONS

The industry's objectives and marketing strategies seem to have been similar for decades. **The industry adapts its media channels to the preferences and uses of young people.**

Available factual information and our own online monitoring show that advertising for tobacco, nicotine and related products is **omnipresent on social networks**. Young people seem to be more exposed than adults, right from the moment they register on the platforms.

Marketing strategies to promote new products are the same in Switzerland as they are internationally. They evolve and diverge according to :

- **Social networks:**

- Presence of restriction policies;
- Application and control of restriction policies, particularly on short-lived content (e.g. story, live);

- **Product brands :**

- For tobacco multinationals (e.g. PMI, BAT, JTI): sophisticated marketing strategies, included within an advertising campaign ;
- For e-cigarette brands, outside tobacco multinationals and which may be registered differently in different countries (e.g. puff): individual communication, not part of a specific advertising campaign;

- **Country:**

- Restrictions on Internet or social network advertising aimed at minors ;
- Regulation of influencer and non-influencer marketing ²⁴⁶.

It is important to remember that this report only covers marketing strategies aimed at promoting new products on social networks. Future research should investigate promotion via other channels, such as newsstands, the press, TV series, festivals, etc.

²⁴⁶ <https://www.europe-consommateurs.eu/en/shopping-internet/influencers.html>, accessed on 7.03.2024

RECOMMENDATIONS

Structural prevention

- Implement the "Tobacco-Free Kids" popular initiative at federal level (2025 at the earliest). Ask the cantons to legislate a ban on all advertising and promotion aimed at minors. Ultimately, ratify the FCTC and implement its Article 13, which calls for a comprehensive ban on all forms of tobacco advertising, promotion and sponsorship;
- Monitor the application of existing rules, in particular the "Legal Basis for Social Media", by the competent authorities, and sanction offenders (e.g. influencers who do not respect the principle of transparency);
- Monitor the promotion of tobacco and/or nicotine products on social networks (identify new trends at an early stage). The CLICK monitoring framework²⁴⁷, proposed by the WHO, could represent a valuable tool for monitoring the digital marketing of tobacco and/or nicotine products aimed at children and adolescents.
- Encourage the regular updating of regulations on the basis of technological developments and new products. Examples of measures that can be implemented immediately on publications:
 - Add warnings about the effects of nicotine or that products are intended for smoking cessation: these elements help to reduce the attractiveness of promoted products among young adult non-tobacco users²⁴⁸;
 - Use the hashtag #ad to signal sponsored content: twice as easily identified by young users as #sponsored²⁴⁹.

Behavioral prevention

- Develop young people's critical thinking skills about sophisticated industry marketing strategies for which they are the primary target (e.g. Tabagram tablet game²⁵⁰);
- Inform and sensitize parents and adult resources about "under the radar" marketing strategies used by the industry and aimed at young people;

²⁴⁷ <https://www.who.int/europe/activities/monitoring-and-restricting-digital-marketing-of-unhealthy-products-to-children-and-adolescents>, accessed on 7.03.2024

²⁴⁸ Chen-Sankey, J., Jeong, M., Wackowski, O. A., Unger, J. B., Niederdeppe, J., Bernat, E., ... & Choi, K. (2024). Noticing people, discounts and non-tobacco flavours in e-cigarette ads may increase e-cigarette product appeal among non-tobacco-using young adults. *Tobacco control*, 33(1), 30-37. <https://tobaccocontrol.bmj.com/content/33/1/30>, accessed on 7.03.2024

²⁴⁹ Klein, E. G., Kierstead, E., Czaplicki, L., Berman, M. L., Emery, S., & Schillo, B. (2022). Testing potential disclosures for e-cigarette sponsorship on social media. *Addictive Behaviors*, 125, 107146.

<https://www.sciencedirect.com/science/article/abs/pii/S0306460321003312>, accessed on 7.03.2024

²⁵⁰ https://www.unisante.ch/sites/default/files/upload/pdf-2022-11/unisante_web_doc_CP_Tabagram_15.11.2022.pdf, accessed on 21.11.2022

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- Use social networks to disseminate prevention campaigns (see communication recommendations²⁵¹ and examples of campaigns run by Public santé France²⁵²).

²⁵¹ Boynton M. H. et al., op. cit.

²⁵² Présentation de Santé publique France " *Tobacco prevention: How to prevent youth consumption and advertising exposure through measures and interventions?*" dans le cadre du webinaire " *The Impact of the Implementation of the Article 13 of the WHO FCTC on Youth Tobacco Use*", le 26 Octobre 2022 (en ligne).