



WHAT WE HEARD: REDUCING YOUTH ACCESS AND APPEAL OF VAPING PRODUCTS

CONSULTATION SUMMARY

DECEMBER 2019



Health
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Health Canada is the federal department responsible for helping the people of Canada maintain and improve their health. We assess the safety of drugs and many consumer products, help improve the safety of food, and provide information to Canadians to help them make healthy decisions. We provide health services to First Nations people and to Inuit communities. We work with the provinces to ensure our health care system serves the needs of Canadians.

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TABLE OF CONTENTS

Executive Summary	1
Introduction	3
Who Responded?	4
What We Heard	5
General comments on the regulatory options	5
Postcard campaign	6
Specific comments on the six regulatory options	7
1. Prohibiting the manufacture and sale of vaping products with certain flavours or flavour ingredients and/or prohibiting the promotion of certain flavours	7
2. Restricting the concentration and/or delivery of nicotine	9
3. Regulating design features	11
4. Restricting online retail access	12
5. Restricting product packaging	14
6. Increasing regulatory transparency and openness	15
Other comments	17
Conclusion	18



EXECUTIVE SUMMARY

On April 11, 2019, Health Canada published an exploratory consultation document entitled “Reducing Youth Access and Appeal of Vaping Products: Potential Regulatory Measures.”

Over 24,000 submissions were received, including: 288 unique submissions from parents, educators, people who vape, the general public, provinces and territories, health authorities, health professionals and their associations, non-governmental organizations (NGOs), tobacco control coalitions, consumer associations, academia, and industry and retailers and associations that represent them; 100 template submissions from various respondents including health professionals, health organizations and the general public; and nearly 23,000 postcards and almost 1,450 emails from people who reported using vaping products to quit smoking.

The vast majority of respondents to this consultation acknowledged that youth vaping is a concern; however, there was no clear consensus on whether the concern warranted increased regulatory action beyond what is already in place and in progress. Some submissions provided detailed responses for each area of focus in the consultation; however, the vast majority were limited to one or a few topics. Flavours were by far the topic that garnered the most input, even when the postcards were excluded from analysis. Parents and educators who responded wanted more regulation. They felt that many young people understand “less harmful than smoking” to mean “safe,” and that Health Canada needs to be doing everything possible to prevent vaping products from ending up in young people’s hands, including regulating them no differently than tobacco products.

Among the responses from the general public, opinion on what should be done was more varied. While some respondents broadly agreed with a mixture of measures to varying degrees, others were not as supportive, reporting they have family members and friends who used vaping products to successfully quit smoking.

Provinces and territories, health authorities, health professionals and their associations, NGOs and tobacco control coalitions were generally of the opinion that more regulation is needed, although there were varying levels of agreement about which measures should be employed and to what degree.

Submissions from academics and academic research institutions were divergent in opinion about the need for more regulation, and what kind.

Canadians who have successfully quit smoking using vaping products highlighted the crucial role that flavour continues to play in their ongoing abstinence. Postcard submissions from people who vape also emphasized the importance of flavours—respondents shared their preferences as well as the nicotine concentrations that they used to quit smoking. Consumer associations conveyed similar sentiments.

A variety of opinions were expressed by retailers, industry, and associations that represent them. Independent specialty shops were generally supportive of further measures to restrict youth access to vaping products, whereas convenience stores and their associations asserted the need for equal retail opportunity. Similarly, large manufacturers were more generally of the opinion that further measures to address flavours and nicotine concentration are not necessary, whereas some smaller manufacturers suggested that restricting flavours and nicotine concentration was a reasonable compromise that would not unduly interfere with adults switching from smoking to vaping.

Three strong themes emerged in this consultation. The first is the need for increased enforcement of the current provisions of the *Tobacco and Vaping Products Act (TVPA)* that explicitly prohibit the promotion of youth-friendly flavours, as well as the promotion and sale of products with design features that appeal to young people. The second theme involves vaping product advertising and promotion in convenience stores and gas stations, which many respondents felt should be prohibited. A third theme that emerged is one of access: many respondents asserted that the sale of vaping products should be restricted to adult-only specialty shops.

INTRODUCTION

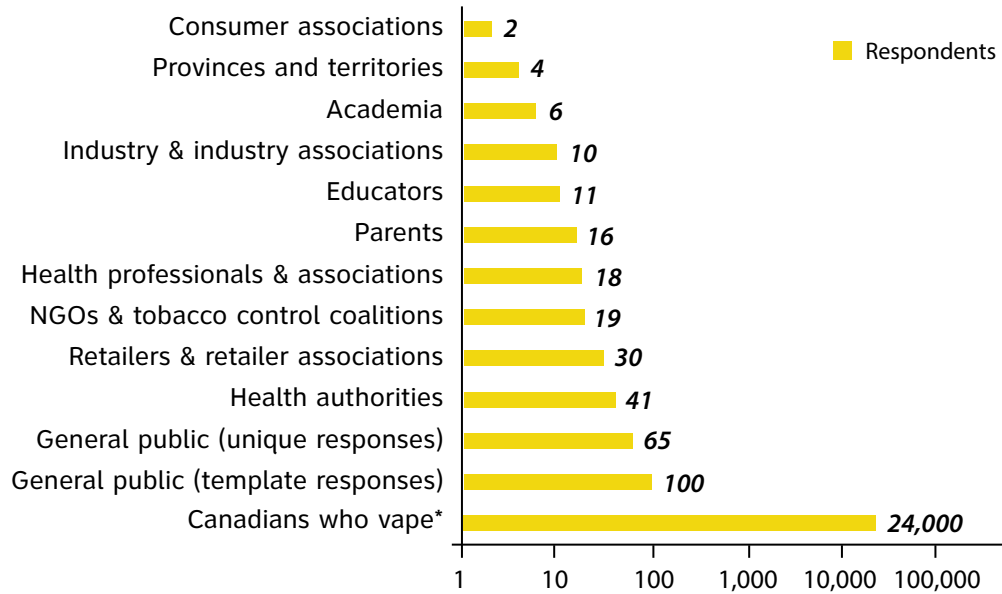
The consultation document entitled “[Reducing Youth Access and Appeal of Vaping Products: Potential Regulatory Measures](#)” was published on April 11, 2019. For a period of 45 days, Canadians were invited to submit their comments on a number of potential regulatory measures that could be considered to further reduce the access and the appeal of vaping products to youth. The consultation sought input on six topic areas under current authority of the *Tobacco and Vaping Products Act*:

- > Prohibiting the manufacture and sale of vaping products with certain flavours or flavour ingredients and/or prohibiting the promotion of certain flavours;
- > Restricting the concentration and/or delivery of nicotine in vaping products;
- > Regulating design features;
- > Restricting online retail access;
- > Restricting product packaging; and
- > Increasing regulatory transparency and openness.

WHO RESPONDED?

Over 24,000 submissions were received in response to this consultation, including 288 unique responses from a variety of stakeholders; 100 template submissions from health professionals, health organizations and the general public; and nearly 23,000 postcards and almost 1,450 template emails from people who vape. See Figure 1 below for a breakdown of submissions by category of respondents.

FIGURE 1: BREAKDOWN OF SUBMISSIONS BY CATEGORY OF RESPONDENTS



*approximate value that includes nearly 23,000 postcards, nearly 1,450 template responses and 66 unique responses.

WHAT WE HEARD

This document first provides an overview and summary of general comments received, followed by a summary of postcard submissions, followed in turn by feedback summaries for each of the six regulatory topic areas covered in the consultation.

GENERAL COMMENTS ON THE REGULATORY OPTIONS

The vast majority of respondents to this consultation acknowledged that youth vaping is a concern; however, there was no clear consensus on whether the concern warranted increased regulatory action beyond what is already in place and in progress. Some submissions provided detailed responses for each area of focus in the consultation; however, the vast majority were limited to one or a few topics. Many respondents voiced general support for, or opposition to, further restrictions, but lots of people's views were not stated or were unclear. Flavours were by far the topic that garnered the most input, even when the postcards were excluded from analysis.

Some respondents felt that not enough time has passed to assess the impacts of the TVPA on youth uptake, and that further restrictions are not warranted until the current ones are better enforced and evaluated. A strong theme that emerged was the need for Health Canada to increase enforcement of the current provisions of the TVPA that explicitly prohibit the promotion of certain vaping product flavours, as well as the promotion and sale of vaping products with design features that appeal to young people. However, while many stakeholders agreed with the need for increased enforcement of current TVPA provisions, another strong theme that emerged was the urgent need for more regulation.

Although input on advertising and promotion restrictions was not solicited for this consultation, another theme that emerged was the need to address advertising and promotion. Many public health advocates and independent retailers alike urged Health Canada to restrict advertising and promotion in various ways, such as restricting point of sale advertising to age-restricted locations. [Comments received](#) following a [Notice of Intent consultation](#) on potential measures to reduce the impact of vaping products advertising on youth were published in July 2019 and new regulations are under development.

Respondents' views on the potential areas for further regulation reflected diverse perspectives. Some Canadians expressed frustration with Health Canada as a regulator and with the role of vaping products in tobacco harm reduction. Many respondents were not supportive of vaping products as an alternative to cigarettes, and felt that they should be regulated like tobacco products. Lots of respondents, especially those working in public health, advocated use of the precautionary principle,ⁱ citing concerns about the limited evidence on the effectiveness of vaping products for smoking cessation and the still unknown long-term health effects of regular use. In addition, some suggested that the risk of making products less

ⁱ The precautionary principle is an approach to risk management that has been developed in circumstances of scientific uncertainty, reflecting the need to take prudent action in the face of potentially serious risk without having to await the completion of further scientific research.

appealing to adults is acceptable, emphasizing that vaping products are not a pharmacotherapy for nicotine dependence. Some called for the prohibition of all vaping products entirely, and felt that any resulting public health consequences would be less severe than permitting them to remain on the market.

Conversely, other Canadians felt that not enough is being done to advance tobacco harm reduction. Some stakeholders emphasized the need to ensure that smoking is not perpetuated by making alternatives less appealing, less satisfying and less accessible. Some respondents felt that Health Canada needs more effective public education, reporting that many Canadians do not believe that vaping products are significantly less harmful than cigarettes. Some tobacco control researchers specifically emphasized the importance of Health Canada not losing its focus on the importance of strengthening and accelerating policies to reduce smoking.

POSTCARD CAMPAIGN

Almost twenty-three thousand postcardsⁱⁱ were sent from people across Canada who used vaping products to quit smoking; a specialty vape shop owner from Ontario self-identified as the campaign organizer. The postcards had fill-in-the-blanks for respondents to share their name, postal code, age at which they started smoking, age at which they started vaping, the flavours they used to stop smoking, and the nicotine strength they used. None of the postcard submissions were supportive of further flavour restrictions and a caption at the bottom of the postcards read *"Flavours helped me stop smoking."*

Approximately two-thirds of postcard respondents reported that they used fruit flavoured vaping products, 18% reported candy or dessert, 9% reported mint or menthol, 6% reported tobacco, and 15% reported flavours which Health Canada categorizes as 'other' (vanilla featured somewhat prominently). Many respondents listed two or more flavours, less than one percent reported using flavourless products, and some respondents emphasized their dislike for tobacco-flavoured vaping liquids.

With respect to nicotine concentration, it was not clear if the concentration noted was the initial or present/final concentration used. Eighty-seven percent of postcard submissions reported using a concentration of 20 mg/ml or less, with the most common concentrations reported being 3 mg/ml (32% of respondents) and 6 mg/ml (30% of respondents). Two percent reported using nicotine-free liquid and three percent reported vaping 50 mg/ml and higher.

ⁱⁱ Postcards continued to arrive after May 25, 2019; however, a decision was taken to exclude from the analysis any received after July 1st which allowed ample time from the close of the consultation for postage to arrive from anywhere in Canada.

SPECIFIC COMMENTS ON THE SIX REGULATORY OPTIONS

In the sections that follow, reported levels of support for, or opposition to, the six regulatory topics were calculated based on a total of 288 unique submissions and exclude postcard and template responses.

1. PROHIBITING THE MANUFACTURE AND SALE OF VAPING PRODUCTS WITH CERTAIN FLAVOURS OR FLAVOUR INGREDIENTS AND/OR PROHIBITING THE PROMOTION OF CERTAIN FLAVOURS

The consultation asked Canadians if the list of flavour categories for which promotion is prohibited (TVPA, Schedule 3) should be expanded, and/or the list of certain flavours or flavour ingredients for which the manufacture and sale is prohibited (TVPA, Schedule 2). This issue garnered the most responses in the consultation. Among respondents, 66% were supportive of further restrictions, 14% were opposed, and 20% were unclear or did not state a position. Few respondents differentiated between prohibiting the manufacture and sale of certain flavours or flavour ingredients and prohibiting the promotion of certain flavours.

Some of the regulatory suggestions for flavours received include:

- > Prohibiting the manufacture and sale of flavours appealing to youth (candy, dessert & fruit) while still permitting a range of flavoured products for adults who smoke;
- > Restricting the promotion of product names to only the flavour and not descriptive terms that evoke feelings or sensations (i.e. mint vs. cool mint, apple vs. sour apple, etc.);
- > Prohibiting the promotion of unidentifiable flavours (i.e. unicorn milk, dragon's blood, etc.); and
- > Creating a list of approved ingredients as opposed to what is prohibited.

Other flavour suggestions intersect with issues of youth access, nicotine concentration, design, and regulatory openness and transparency. These include:

- > Restricting the manufacture and retail availability of flavoured products to adult-only specialty shops and online or to behind the counter (prescription only) in pharmacies;
- > Prohibiting or restricting the manufacture and sale of flavoured products with high levels of nicotine; and
- > Restricting the availability of vaping product flavours to only those that are currently available in nicotine replacement therapy (NRT).

Many respondents perceived vaping products as bad as or worse than cigarettes, and saw no downsides to increased regulation on flavour. Some respondents reported that young people understand “less harmful” than cigarettes to mean safe. Of the parents, educators and general public who provided a clear opinion, many were in favour of additional flavour restrictions, including a prohibition on all flavour promotions, a prohibition on the manufacture and sale of all or certain flavoured products and restrictions on the concentration of flavour chemicals.

Among the general public, some submissions were made by people with family members and friends who had quit smoking with flavoured vaping products after having tried many other methods of quitting. These respondents felt that further restrictions would be damaging to the success of vaping products as a viable alternative to cigarettes. People who vape reported how important flavours were to help them quit smoking, and how they continue to help them maintain abstinence. Many people shared how when their sense of taste returned, they realized how displeasing tobacco tastes.

Academics were more likely than others to oppose further restrictions on flavours. One academic, who had conducted primary research on flavours, emphasized that regular use of multiple non-tobacco flavours is associated with higher odds of quitting smoking. Another academic reported on the unpopularity of tobacco and menthol flavours among people who smoke. Some of these respondents also voiced concerns over possible unintended consequences of stronger regulation.

Respondents representing industry and industry associations, and retailers and retailer associations were also generally opposed to further restrictions on flavours.

Other stakeholders registered their opinions both for and against further restrictions. Many offered the opinion that people who are serious about quitting can do so without flavours, or with a limited number that lack youth appeal. These respondents were of the opinion that while some adults may prefer flavours such as fruit and desserts, the benefit of prohibiting flavours that appeal to youth outweighs the risk that some adult smokers may not switch. In addition, many respondents emphasized that the evidence supporting the effectiveness of vaping products for smoking cessation is mixed or poor, and that people who smoke should rely on proven quit methods.

An observation that emerged was that stakeholders felt the issue of youth appeal would be better addressed through greater enforcement of the current flavour promotion restrictions within the TVPA. A few respondents emphasized the short amount of time that had passed from when restrictions on flavour promotions came into effect (November 2018) to the time of the consultation, and suggested that the impacts of those restrictions on youth uptake should be assessed before more are imposed. Smaller industry and specialty shop submissions noted that thousands of flavours have been available in Canada for over a decade, but it has only been since the recent introduction of closed pod-based systemsⁱⁱⁱ (with relatively few flavour offerings), and accompanying mass marketing campaigns, that youth uptake has become a problem. Some smaller industry respondents also asserted that more promotional restrictions on flavours and the re-labelling that would be involved would be a financial burden on them.

ⁱⁱⁱ Pod-based systems represent the newest generation of vaping products available in Canada, are significantly smaller and more discreet than their immediate predecessors, and feature high concentration nicotine salts in either disposable or refillable cartridges, also known as pods.

Many owners of adult-only specialty shops reported that Health Canada's focus should be on restricting access to flavours and not restricting the flavours themselves. These respondents were more likely than others to voice concerns regarding potential downsides of more regulation, including:

- > People who smoke being dissuaded from trying and switching, and the risk of Canadians who currently vape reverting back to smoking;
- > Canadians turning to an illegal market, or making their own flavoured products with concomitant health and safety risks; and
- > A risk of the Canadian vaping industry going bankrupt, because the majority of people who vape use flavoured vaping liquids.

Some of these respondents, including the general public and people who vape, commented that there is too much focus on flavoured vaping products, and that Health Canada should be more concerned about the appeal and societal harm from youth-friendly flavoured alcohol products, as well as the widespread availability of high caffeine energy drinks with added stimulants that are frequently consumed by youth. In addition, many respondents expressed concern that restricting any specific flavour ingredient other than for a documented hazard would be arbitrary and unjustified.

2. RESTRICTING THE CONCENTRATION AND/OR DELIVERY OF NICOTINE

The consultation asked Canadians for input on placing restrictions on the concentration and/or delivery of nicotine in vaping products, and asked about the potential public health benefits and consequences of further regulation. Approximately 50% of respondents expressed support for further restrictions on nicotine concentration and/or delivery, 13% were opposed, and 37% were unclear or provided no opinion. Many suggestions were received, alone and also in conjunction with other regulatory considerations including flavours, product design and retail access.

Some of the suggestions received include:

- > Restricting the maximum allowable nicotine concentration of non-therapeutic vaping products (i.e. 36 mg/ml, the highest concentration available in Canada before nicotine salts^{iv} entered the market, or 20 mg/ml, in line with the European Union/United Kingdom);
- > Prohibiting or restricting the manufacture and sale of flavours above a certain nicotine threshold;
- > Restricting the manufacture and sale of nicotine salts to approved therapeutic products or restricting their sale to adult-only specialty shops and age-controlled locations;
- > Restricting the maximum allowable temperature and/or device voltage to limit nicotine delivery;
- > Restricting the production of vaping liquids containing nicotine to approved manufacturers;
- > Restricting the maximum allowable nicotine concentration to 21 mg/ml to align with NRT;

^{iv} Nicotine salts are a relatively recent innovation: nicotine is combined with an organic acid to create a formulation that is reportedly less aversive than vaping liquids containing free-base nicotine.

- > Aligning restrictions to those of combustible cigarettes; and
- > Imposing higher taxation/duties on higher nicotine concentration products.

All of the health authorities, provinces and territories, and the vast majority of NGOs and tobacco control coalitions that responded were in support of restricting nicotine concentration and/or delivery. Much support was also expressed from health professionals and their associations. Opinions were more divergent among academics.

Many respondents supportive of regulation in this area felt that concentrations of nicotine in vaping products should be decreased, and some people asserted that nicotine should be removed entirely, with nicotine salt pods only available as therapeutic products. There were sentiments expressed that reducing the nicotine concentrations in vaping products would help people to wean off nicotine entirely. Parents, educators and many respondents from the general public were less likely than others to voice concerns regarding potential unintentional consequences of more regulation. Some people suggested that an illegal market could be created as a result, but asserted that the benefits of more regulation would outweigh the risks.

Of those not supportive of further regulations on nicotine, most voiced concerns that restricting nicotine levels would render vaping products ineffective compared to cigarettes and undermine their role in tobacco harm reduction. Some retailers emphasized that the role of nicotine concentration in youth appeal and uptake is unclear, but that it definitely is a factor in helping adult smokers to switch to vaping. However, some suggested that there may be a concentration level above which additional nicotine is not necessary, and that there is reasonable rationale for further restriction. They felt that placing a restriction could potentially minimize the risks of nicotine dependence, unintentional over-consumption among youth, and could help mitigate a transition from vaping to smoking. Opinions on what an upper limit for nicotine concentration should be were divergent, with some respondents calling for more research to better understand the role of nicotine concentration for smoking cessation. A few industry respondents reported that it makes no sense to impose arbitrary restrictions on vaping products while there are currently no restrictions on nicotine concentration or delivery for cigarettes.

One sentiment from many respondents was that the existing restrictions in the TVPA already provide adequate protection against overtly youth-oriented products and that these should be better enforced. Many industry respondents and retailers also expressed concerns about people who vape moving to an illegal and unregulated market, or making higher concentrated liquids themselves with associated health and safety risks.

3. REGULATING DESIGN FEATURES

The consultation also asked Canadians if there are specific design features of vaping products that are attractive to youth that could be regulated. Just less than half of the responses received were supportive of more regulation, 8% were opposed and 43% were unclear or did not state a position.

Some of the suggestions received include:

- > Requiring vaping devices to be as unappealing and utilitarian as possible;
- > Standardizing the vaping hardware/delivery system to reduce appeal and harm;
- > Prohibiting disposable cartridges to make vaping products more difficult to use;
- > Restricting visible vapour levels to reduce the novelty and appeal of aerosol cloud formation;
- > Reducing the permitted volume of liquid in pods;
- > Prohibiting shape/dimensions similar to USB sticks and cell phones;
- > Requiring industry to label devices to warn against modification or use of a modified device;
- > Requiring health warnings and the toll-free quit line to be printed on the device itself, similar to tobacco package labelling requirements;
- > Requiring industry to submit any new products and accessories for pre-market review; and
- > Imposing higher taxation/duties based on device design.

A strong message of “the more regulation the better” was expressed by parents, educators, the general public, health authorities, provinces and territories, NGOs and tobacco control coalitions. The small size of vaping devices was highlighted as a leading concern, and that pod-based systems in particular can be easily concealed. Many submissions called for more research to better understand which product appearance, shape, and sensory attributes are most appealing to youth. Specific concerns over Bluetooth technology and the invasion of users’ privacy were raised by some respondents, who suggested that such technology is primarily used by younger people.

Among academics and people who vape, there was less support registered for further regulation on device design. Industry respondents, retailers, industry associations and retailer associations were also less supportive of further restrictions. Industry and retailers reported that device aesthetics are important design features for attracting and retaining adult consumers, and that manufacturers should be given reasonable freedom to design a range of products. Some respondents noted that technologies that enable adults to monitor their nicotine consumption habits could also provide built-in youth prevention capabilities, such as end-to-end product traceability and devices capable of restricting access to non-age-verified users. Many repeated their opinion that the current TVPA restrictions to limit youth appeal are sufficient but should be better enforced. Specialty shop retailers and their associations asserted that the need for further restrictions is a non-issue if the sale of vaping products is restricted to adult-only specialty shops.

In addition, concerns were expressed that over-regulating in this area could have unintended consequences including adults returning to smoking, lower conversion rates from smoking to vaping, an increasing illegal market and reduced innovation. Some independent retailers reported that the worldwide market for vapour products provides consumers with nearly unlimited options and that further restrictions would only hurt Canadian vapour businesses and would likely be ineffective in reducing youth uptake.

4. RESTRICTING ONLINE RETAIL ACCESS

The issue of online retail access of vaping products was another topic on which Health Canada consulted. Just over half of respondents expressed support for further restrictions, 8% were not supportive, and 38% offered no clear opinion. Many of the responses received provided suggestions pertaining to youth access more broadly than just online retailing.

Some of the suggestions received to address online access include:

- > Requiring multi-step age-verification, in which consumers must first register and create a profile;
- > Limiting the quantity of products that can be purchased online (and in person) at one time or over a specified period;
- > Restricting online sales to government-operated websites with sufficient protection measures;
- > Establishing a licensing system for online retailers with associated fees;
- > Learning from best practices in age-verification used in the online gambling industry;
- > Strengthening age-verification requirements at the point of delivery and limiting the delivery of vaping products ordered online to a single carrier (i.e., Canada Post);
- > Prohibiting the sale of vaping products on online marketplaces or resale platforms;
- > Limiting the payment for online sales to credit cards to leverage age and identity verification;
- > Considering employing biometric-powered identification including liveness detection; and
- > Considering the introduction of an online test shopping program.

Parents, educators, and two-thirds of the general public were supportive of additional online retail restrictions to help prevent vaping products from ending up in the hands of youth. Many people felt that online sales should be prohibited entirely, stating that current age verification systems are not sufficiently robust, and that teens can easily bypass restrictions. Others voiced support for some or all of the potential measures listed in the consultation. Strong unanimous support for more restrictions was expressed among all provinces, territories and health authorities, as well as among the vast majority of NGOs and tobacco control coalitions.

Less support for more online retail restrictions was registered among people who vape, academics, consumer associations, retailers and retailer associations: 11% were in favour, 25% were opposed and 64% did not offer a position. Some respondents felt that restricting online access would reduce the likelihood of adults successfully switching from smoking to vaping, particularly for rural Canadians who may not have access to a bricks and mortar shop, and could also worsen health disparities generally.

Some people questioned the rationale for further restrictions, citing the lack of evidence presented in the consultation document. A common sentiment expressed was that restrictions above and beyond what are required for online sales of alcohol and cannabis are unwarranted.

Many respondents expanded their suggestions on access beyond the original scope of the consultation. Other access-related suggestions received include:

- > Prohibiting the retail sale of vaping products at gas stations and convenience stores and restricting to adult-only specialty shops or pharmacies;
- > Imposing a federal licensing program for all vaping product retailers and manufacturers and instituting a mandatory training program for all vaping product retailers;
- > Installing ID scanners at retail points of sale, similar to what is currently used in some casinos;
- > Increasing retailer penalties for selling to minors (and extending fines/responsibility to industry);
- > Harmonizing measures for tobacco, vaping products, alcohol and cannabis;
- > Raising the minimum age to 21; and
- > Making possession illegal for youth.

Some industry respondents emphasized that the focus should be on better enforcement of existing laws, along with stiffer penalties, rather than on restricting the availability and appeal of specific types of products. Convenience stores and their associations raised concerns about online markets, contraband products, and under-regulated retail operations that do not remit the proper taxes or have proper age verification. It was also stated that Health Canada should not be silent on the role of social media in advertising and sales.

5. RESTRICTING PRODUCT PACKAGING

The TVPA currently limits what can appear on vaping product packaging, including illustrations or brand elements that could be appealing to youth. Following a 2017 [Consultation on proposals to regulate vaping products in Canada](#), in June 2019 Health Canada published [Vaping Products Labelling and Packaging Regulations](#) in Canada Gazette Part 1. In this current consultation Canadians were asked if there are additional elements that should be considered for regulation. Half of all the comments received were supportive of further restrictions, 7% were opposed and 43% were unclear or did not provide an opinion.

Some of the suggestions received include:

- > Aligning vaping product packaging restrictions with those for tobacco products;
 - » Requiring the display of the national toll-free quitline and website
 - » Requiring graphic health warning labels to occupy 75% of a package's surface
- > Ensuring that vaping product packaging is not less restrictive than cannabis packaging;
- > Requiring a warning against product modification or use of a modified device;
- > Requiring labelling information to indicate nicotine dosage in comparison to a cigarette;
- > Imposing a minimum number of pods or minimum size for vaping liquid bottles in a package to increase the price and make them more unaffordable; and
- > Requiring a leaflet with instructions for use and storage and contact details of the manufacturer.

Responses received from the general public, provinces, territories, health authorities, NGOs and tobacco control coalitions were strongly supportive of more regulatory measures with relatively few concerns voiced regarding any potential downsides. There was less support, or no comments registered, among parents, educators, and health professionals and their associations.

People who vape, consumer associations, academia, and industry and retailers and their respective associations were more likely than others to voice opposition to more restrictions. Some respondents were supportive of health warnings on vaping product packaging; however, it was suggested that such warnings be balanced with the simultaneous approval of comparative health statements to help increase consumer understanding of the harm reduction effects of vaping versus smoking. Concerns were also voiced that mandating plain packaging such as that required for tobacco products would send a wrong message about the relative harm of vaping products compared to cigarettes. Other respondents suggested that rather than restricting packaging itself, regulations should limit the exposure of youth to the packaging (i.e. adult-only retailers). A few retailers and one retailer association suggested that plain packaging would increase the ease with which illicit and counterfeit products enter the legal market.

6. INCREASING REGULATORY TRANSPARENCY AND OPENNESS

The final topic of the consultation was increased openness and transparency; Canadians were asked what kind of regulatory or compliance information would be of interest, and what mechanisms could be put in place to facilitate the intake and sharing of complaints and information. Among the unique responses received, just over half of all respondents did not offer any comments, 44% voiced support for increased openness and transparency, and 2% were somewhat opposed.

Some suggestions include:

- > Creating a dedicated system and public database (hotline, website and social media protocol) for the intake of complaints for both tobacco and vaping products and/or sharing of information and promoting and circulating the process for complaint intake and response to other enforcement agencies, including public health units and departments;
- > Creating a central database with the number and location of all Canadian retailers that sell tobacco and vaping products;
- > Publicizing the names of manufacturers, retailers, broadcasters and others found to be in contravention of the rules, along with details such as the section of the Act in question, product names, date & place of purchase, and recalled products;
- > Emulating the U.S. Food & Drug Administration's website for reporting violations;
- > Promptly responding to complaints, especially when enforcement partners are reporting;
- > Establishing memorandums of understanding with other stakeholders (i.e. provincial and territorial governments) to facilitate collaboration and increase coordination by allowing for information sharing;
- > Adding information on vaping products to the current *Annual Report on Compliance and Enforcement Activities (Tobacco Control)*; and
- > Developing a communications plan to inform Canadians (including retailers and manufacturers) of the regulations;
 - » Creating a plain language summary of the relevant regulations, including timelines for proposed changes and how the rules are enforced and by whom; and
 - » Clarifying how overall alignment and integration of federal monitoring and enforcement programs are supported by other orders of government.

Many respondents felt that more needs to be done in response to complaints of non-compliance with the TVPA, and that any response to reports of non-compliance also needs to be faster. Some respondents commented that Health Canada has not made it easy to participate in consultations, and that a better format is needed. For both the intake of complaints and the sharing of information related to potential contraventions of the TVPA, it was communicated that any mechanism designed should be: accessible to both the general public and stakeholders; multimodal—accessible by phone, email, online and by regular mail; easy to find and regularly promoted; easy to understand; clear on intention; and prompt with follow-up.

Many of the specific suggestions and comments received were from provinces, territories and health authorities—jurisdictions and organizations that also have responsibility for compliance and enforcement of tobacco and vaping product legislation. These groups reported that information of interest includes:

- > Number of inspectors assigned to conduct manufacturer and retailer inspections across Canada and by province/territory, and the total number of inspections completed by category and infractions observed;
- > Number of samples collected, and rates of compliance with regulations regarding labelling, packaging, additives and flavours and the promotion of flavours;
- > Number of reports submitted from manufacturers and number of letters of deficiency issued;
- > Number of seizures and number of warning letters issued to both retailers and manufacturers;
- > Test shopping reports (retailer outlets and online) for appropriate age verification process and sales to minors, including description and location of reported violations and consequences;
- > Compliance with advertising standards reports;
 - » Number of searches and rates of compliance with advertising regulations by type, content (i.e. lifestyle ads, testimonials, endorsements, sponsorship promotion, etc.) and medium (i.e. television, radio, social media platforms); and
- > Consequences imposed for violations.

Industry and industry associations also registered their general support for increased openness and transparency, provided the intent is to report on compliance in the same manner as that for tobacco and that enforcement actions should be applied evenly for both products. Some respondents told Health Canada that because complaints include allegations of non-compliance which may be contested and are not yet proven, no company or product names should be included in publicly-reported data. There was also some concern expressed that releasing information on retailers found to be in contravention of the TVPA for furnishing products to youth could be seen as a potential source of further youth access, which would have the opposite of the desired effect.

OTHER COMMENTS

In addition to comments addressing the six potential areas for further regulation to address the access and appeal of vaping products for youth, this consultation also garnered additional suggestions including making all submissions to this consultation and others publicly available and increasing resources for both enforcement and surveillance activities.

Also received were 1,447 template emails from Canadians who currently vape, expressing dismay that unpublished data was cited in the consultation document as part of the reason for Health Canada exploring shifting towards stricter measures. They said that their lives, and the lives of many other Canadians, are at risk based on evidence that they could not see or respond to. These respondents also stated that Health Canada had failed to effectively engage with them. These submissions called for a moratorium on any further regulations until there is a better understanding of the causes of youth vaping in Canada.

CONCLUSION

Health Canada would like to thank everyone who took time to submit their feedback and ideas to this exploratory consultation. Comments received are being taken into consideration as the department continues to evaluate the need for further vaping product regulatory measures.