



Consultation – Proposed Concentration on Nicotine in Vaping Products Regulations

The Risk of Over Regulation based on flawed studies – The Risk of Further Harms to Adult Canadians who use Nicotine Vaping products to become and remain Smoke-free.

The Tobacco Harm Reduction Association of Canada “THRA Canada” along with other persons and vaping industries affected by these new proposed regulations was invited to submit its comments in respect to this consultation topic.

THRA Canada is a federal not for profit consumer organization, staffed entirely by *consumer volunteers* who use THR (tobacco-harm reduction) products to become and remain smoke-free. Our organization is funded by members of its Board of Directors, none of whom have any ties to industry. Our mission is to inform and educate ex-smokers, nicotine vapers, smokers, soon to be vapers, and the general public at large on issues about the overall health benefits of switching to THR products for smokers who have difficulty quitting smoking.

THRA Canada has no affiliation with the vaping industry, the tobacco industry, or the pharmaceutical industry. THRA Canada is a member of the International Network of Nicotine Consumer Organizations (“INNCO”). INNCO is a registered NGO organization of consumer organizations in 35 countries across 6 continents on the globe, who voluntarily advocate for consumers of safer nicotine products. While THRA Canada may be limited in its visibility by a lack of funds, our reach on social media outlets is extensive and unlimited.

First and foremost, THRA Canada represents the interests of the consumers--and only the consumers--of safer nicotine vaping products. We are the end users of these products and any regulations, proposed or otherwise, affect the voting adult consumers who use these products.

This proposed regulation is overreaching and will cause significant harm to people who use nicotine vaping products to become smoke-free or remain smoke-free. Health Canada’s anti-nicotine stance and prohibition agendas have devastating consequences for ex-smokers who use this disruptive technology to escape the illnesses and death associated with combustible tobacco.

There are many flaws with Health Canada's reasoning for these proposed regulations. The push for an ideological moralistic agenda on all smokers, as well as vapers, is inhumane. The continued demoralization and dehumanization of adults who use these consumer products as a harm reduction alternative in order to better their health and well-being is to be applauded, not demonized.

The government of Canada continually sends the message, quit our way or die. They believe if they lower nicotine strength allowance and ban flavourings on nicotine vaping products, that suddenly all consumers will comply. This stance is not pragmatic or realistic. Instead, over-regulation harms the most vulnerable communities that do smoke as they will see no point in switching to the less harmful alternative. As well, those who have made the switch may return to combustible tobacco as they will not be able to obtain what they need to remain smoke-free.

Health Canada states the reasoning for the proposed cap on nicotine strengths in vaping products is due to an alleged high rate of youth using, or rather experimenting, with vaping products. Firstly, the statistics they use to justify their reasoning, were based on flawed studies. For example, the study done by Hammond et al. 2019. (BMJ) [\[1\]](#) misinterpreted the information because of an inappropriate weighting of the data. While the authors originally claimed that youth vaping and smoking rates were on a sharp incline between 2017 and 2018. However, the rise in smoking was a mirage. There were errors arising from a flawed calculation, and this error was corrected by BMJ in July 2020. The link clearly states, now, that there were corrections in this study.

More recent data shows that in fact over the past year, experimentation of vaping rates among youth has taken a sharp decline of 29% in the USA in 2020. This is due in part to lock-downs and high school closures, and also possibly due to youth moving onto a different trend. [\[1a\]](#). However, while vaping rates declined, the lock-downs, hostile nature by agencies towards ENDS products, and governments imposing overly restrictive regulations have caused a significant increase in smoking rates in the USA. This is a failure for public health as it is in fact causing public harm. [\[1b\]](#)

It is well documented over the years, with peer reviewed studies, that nicotine vaping products have helped millions across the globe finally become smoke-free. In fact, England, which has the second highest quit rate in the world, endorses nicotine vaping as a tobacco harm reduction tool and a smoking cessation method. They even run yearly campaigns to help smokers switch, such as Stoptober and Vapril, that inform smokers that vaping is vastly safer than smoking. The Royal College of Physicians, London, recommends doctors suggest vaping to smokers who don't wish to quit or who have trouble quitting

smoking. As well, throughout the UK, there are also vaping areas at hospitals to encourage smokers to switch to the safer nicotine alternative. In a recent Public Health England update, the evidence still shows that vaping is 2 times more effective for smoking cessation than NRT's. [\[1c\]](#)

However, countries that impose overly restrictive legislation on vaping products, undermine decades of anti-smoking efforts. [\[1d\]](#). They also create black markets for products which puts the public at risk, not just because of unregulated ingredients, but also access to youth – who will see vaping as a naughty thing to do and will be able to access it openly without question.

Various public health “experts” try to make claims such as there is a rise in vaping use among youth, as reasons to further implement more restrictions on the products. Do flavor bans or nicotine caps stop youth from experimenting with vaping? No. ENDS or e-cigs, and e-liquids are inherently flavoured products. Even tobacco flavoured e-liquid is a blend of flavours that mimic a taste similar to tobacco. [\[2a\]](#) Removing flavours is like banning all the ingredients used in bakery goods, except for flour and water. Leaving a repulsive tasting cake dough. Flavours are critical to the success of vaping as a harm reduction product. By removing all flavors, you make the products useless and less appealing to adult smokers, the very people who benefit the most with switching to vaping. It promotes black markets and this increases risks to youth as it protects cigarettes – leaving youth who currently use nicotine with cigarettes which are far more harmful to their health,[\[2b\]](#) or encourages youth to seek a black market, which would not follow safety standards. Why limit the flavour profiles to just tobacco flavours? When adults who switch to vaping are trying to escape anything that reminds them of cigarettes. Flavours are shown to increase successful switching to less risky vaping products. In fact, the more often the adult vaping consumer switches flavour profiles, the more likely they are to remain smoke-free.[\[2c\]](#)

Dedicated e-cigarette users who are also former smokers report that switching between flavors within the same day is common and that regular use of multiple e-liquid flavors was associated with significantly higher odds of having quit smoking, with fruit and sweet flavors being the most popular choices among established long-term vapers. [\[2d\]](#)

Is the goal not to reduce smoking rates?

While people may smoke in order to obtain nicotine, it is the smoke and not the nicotine itself that causes the whole host of debilitating smoking-related health problems. Reducing the allowable nicotine strength

for vaping products would make vaping products a less effective alternative for smokers, resulting in more smoking. Moreover, Health Canada was already well within the safety guidelines of nicotine strengths, at 66mg/mL.

Nicotine is a toxic compound that should be handled with care, but the frequent warnings of potential fatalities caused by ingestion of small amounts of tobacco products or diluted nicotine-containing solutions are unjustified and need to be revised in light of overwhelming data indicating that more than 0.5 g of oral nicotine is required to kill an adult [2e]

Therefore, we need to ask, is Health Canada's position that they want a smoke-free society or a nicotine-free society? On their own website, Health Canada states, "***Vaping is less harmful than smoking. Many of the toxic and cancer-causing chemicals in tobacco and the tobacco smoke form when tobacco is burned.***" Given that the vast amount of harm comes from the inhalation of smoke toxins, as recognized by Health Canada, we respectfully submit that the focus should be on reducing smoking rates and not on erecting barriers for adults to switch to low-risk vaping products.

Then, we must address one of the biggest elephants in the room - the rights of adult consumers under the Canadian Charter of Rights, Section 7.

Section 7 - Life, liberty and security of person. 7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice. Section 7 guarantees the life, liberty and personal security of all Canadians.

Residents of Canada have the right to make lifestyle choices and to make informed choices on matters related to their own health. Yet, Health Canada chooses to ignore the rights of Canadians citizens when it comes to tobacco harm reduction. [3a]

While they are supportive of other harm reduction initiatives--face masks, seat belts, safe injection sites, rights to refuse childhood immunization programs, and the right to pursue sexual identities--they fail the families of smokers by not supporting tobacco harm reduction with the same enthusiasm as many other accepted harm reduction choices. Harm reduction is a part of our everyday lives. Riding a bicycle or driving a car is not 100% safe, but using bicycle helmets and seat belts reduce the risk of serious injury in the event of a crash. Governments embrace harm reducers and promote them for people who partake in risky behaviours such as driving or cycling.

**Tobacco Harm Reduction Association of Canada Inc. Federally Incorporated Not-for-profit organization:
Status Active: 01/15/16 Corporation Number: 958617-2
Health Canada Submission: March 2021. Page 4 of 7**

Health Canada recognizes that nicotine vaping does reduce harm for smokers. In spite of this, they continually convey the messages, we don't know enough, and they are not 100% safe, therefore, they should be shunned by the general public. It is irresponsible and misleading for governments across Canada to continue to spread the message that because nicotine vaping is not 100% safe, it is therefore not valid to be called harm reducers. Across our great nation, hundreds of thousands of Canadian adult consumers, who have been given the opportunity to be fully informed, have chosen safer nicotine vaping as a means of harm reduction from smoking.

Probably one of the saddest consequences of Health Canada's overly restrictive approach to nicotine vaping products is the vast injustice to our minority communities. Our First Nations citizens have among the highest smoking rates in Canada. Smoking among Canada's Indigenous persons ranges from 31% in Métis youth, 33% in First Nations and 56%! among Inuit youth. [4a] Among 20-29 year-olds, those figures can be as high as 66%. [4b] Certain demographics have higher smoking rates than other communities, such as those of lower household incomes, those with less education, those with mental health concerns, or those who have a history of substance abuse. This not only includes our Indigenous peoples, but also those who work in the service industries and construction sectors. Another marginalized community, our LGBTQ+ persons, range from 24% to 45% as being identifiable as smokers. Certain trades also have a higher percentage of smokers, miners, oil & gas extraction field workers, with a range of 26% in this field reported as daily smokers. [4c]

These high smoking rates among minority and disadvantaged communities is not only a failure for our public health system, it also affects our economic prospects.

Imagine, for example, a First Nations community that has independent vape shops on their tribal reservations. They would employ people from their reservation. They would also be helping their own citizens, in their own native language. They would be helping themselves and each other adapt to harm reduction approaches in a way that does not demean or stigmatize the person. Imagine the health care costs saved over the long term, and the better quality of overall life this would offer those communities. Small mom and pop independently owned vape shops across Canada do just that. They employ local employees, they provide an economic stimulus to their community, and they are also helping smokers become non-smokers. It is done with an approach of compassion and nonjudgmental attitudes, unlike the Quit Our Way or Die message that is often heard by smokers from public health "experts".

What an infamous record Canada will create when they deny or severely punish our most vulnerable communities with overly restrictive regulations. Capping nicotine levels at 20mg/mL will not help the most heavy smokers, who do require levels over 20mg/mL to fully switch to nicotine vaping products.

Conclusions: Nicotine exposure and subjective relief were directly related to JS nicotine concentration: higher nicotine concentrations gave rise to significantly greater plasma nicotine levels and relief from craving. Heavier and more dependent smokers may require the greater nicotine delivery of JS 59 mg/mL to successfully transition away from cigarettes. [4b]

Again, is Health Canada's goal a smoke-free society, or a nicotine-free society? Ironically, all Canada will achieve with these types of moralist views is handing the products and their consumers over an eagerly awaiting black market. As a reminder, black markets do not comply with safety standards, and they most certainly do not check for age verification. Consumers want fair regulations that allow adults the right to choose what method of "smokeless alternatives" or tobacco harm reduction products that works best for their unique needs. Consumers want fair regulations and assurances of safety standards on these products.

It is even more deeply concerning that organizations like the Heart and Stroke Foundation of Canada are wanting to even further demonize adults who use nicotine vaping products, as a safer nicotine delivery system. They advocate for an extra 20% tax on top of any provincial taxes that are already in place. Consumers are fully aware this means that in some provinces, those taxes would equate to 55%. In those areas, there is already talk of underground supply sources. That is hardly an incentive to switch to a safer nicotine choice, when the costs add up to more than combustible tobacco.

Over-regulation in the form of lowering allowable nicotine concentrations, imposing flavor bans, and heavily taxing vapor products will harm nicotine users, but it will actually benefit the tobacco companies who profit from the sale of deadly combustibles. It is very poor public policy to protect the combustible cigarette market from low-risk competitors.

In the words of David Sweanor, "*Taxes should be relative to risks.*" Nicotine vaping products are at least 95% safer than continued smoking, and produce no harm to bystanders, according to Public Health England. It also comes at no cost to taxpayers, and saves on public health costs in the long run. The Heart & Stroke Foundation much like USA comparable nonprofits organizations, use fear as a means to obtain funding. They are Canada's example of Fear Profiteers. [5a] Most smokers are on tight budgets, and that is

**Tobacco Harm Reduction Association of Canada Inc. Federally Incorporated Not-for-profit organization:
Status Active: 01/15/16 Corporation Number: 958617-2
Health Canada Submission: March 2021. Page 6 of 7**

especially true in today's COVID-19 climate with lock-downs accompanied with job losses and economic uncertainty. They will not buy tobacco harm reduction products if they are more expensive than continued smoking or more expensive to maintain.

Already, in the province of Nova Scotia, there has been a steep rise in smoking rates when they introduced their draconian regulations of 20% taxes on vaping products, plus 50 cent per mil tax on e-liquids, as well as a flavor ban. [\[6a\]](#) [\[6b\]](#) Such a steep rise in adults returning to smoking might help replenish the coffers of Health Canada and the Heart & Stroke Foundation, but it harms consumers and works against genuine public health. If Canada wishes to meet its 5% smoking rate goal by 2035, we need to embrace harm reduction and ensure smokers have effective choices to reduce their risk. Going down the path of over-regulation will not lead to less smoking. It will, however, lead to a sharp increase in black market activities and, sadly, fewer smokers making the switch to become smoke-free.

Consumers have a right to be heard. Harm Reduction is a human right. Tobacco Harm Reduction should be too. Nothing about us, without us.

The Directors of the Board, and its' Advisors: Tobacco Harm Reduction Association of Canada Inc ®.

March 2021.