

# Tobacco in Canada

Addressing Knowledge Gaps Important to Tobacco Regulation  
Environmental Scan – Spring-Summer 2019

September 30, 2019



Bruce MacKinnon's editorial cartoon for March 7, 2019. - Bruce MacKinnon  
Halifax Chronicle Herald

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The opinions or information presented in this report do not necessarily reflect those of the funder.

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The views expressed herein do not necessarily represent the views of Health Canada

## INTRODUCTION

This Environmental Scan was prepared by Physicians for a Smoke-Free Canada in connection with the project “Addressing Knowledge Gaps Important to Tobacco Regulation”. The three-year project, which began in July 2019, is funded by Health Canada’s Substance Use and Addictions Program (SUAP).

Under this project, Physicians for a Smoke-Free Canada and its partner, the Ontario Tobacco Research Unit will address priority knowledge gaps in the areas of tobacco retail distribution systems and licensing options, non-tax price measures and other economic levers, and market regulation. These activities are intended to support policymakers and regulator in their efforts to implement effective tobacco control and vaping control interventions.

This project aims to :

- Support knowledge acquisition by tobacco control policymakers and regulators;
- Identify and prioritize gaps in knowledge within the Canadian tobacco control system which have the potential to delay policy and regulatory measures which could reduce smoking; and
- Address these gaps by developing and transferring knowledge to policymakers, policy influencers and the public health community.

One component of the project is an ongoing environmental scan, and semi-annual reports on developments relevant to Canadian tobacco control regulation.

This first report presents information on relevant events from approximately March 30, 2019 to September 30, 2019. This scan focuses on issues related to the regulation of manufacturing, distribution and promotion. It does not address developments related to controls on the use of products in public places, to cessation programs, or to public education.

## I. FEDERAL GOVERNMENT ACTIVITIES

### Regulations finalized

- **Plain packaging**

On May 1, 2019 the Tobacco Products Regulations (Plain and Standardized Appearance) – SOR 2019-107 were published in the Canada Gazette, Part II.<sup>1</sup> These regulations come into effect at the manufacturers level on November 9, 2019 and at the retail level on February 7, 2020.

- Health groups applauded the development. “Canada now has the best tobacco plain packaging regulations in the world.”<sup>2</sup>
- Imperial Tobacco’s press release “denounces the federal government’s decision to take a nanny state approach instead of progressive policy options proven to make a difference.”<sup>3</sup>
- JTI set up a website to support retailers (packchanges.ca); an initiative similar to one it used in the United Kingdom (packchanges.co.uk). Through an article in a trade journal, the company warned retailers that plain packaging “devalued brands and changed the sales mix so that the key focus from consumers is on the cheapest price when there is no ‘image’ attached to a particular pack.”<sup>4</sup>



- **Amendments to the Tobacco Reporting Regulations.**

On March 4, 2019 the government published amendments to the Tobacco Reporting Regulations.<sup>5</sup> These amendments responded to concerns raised by the Standing Joint Committee for the Scrutiny of Regulations many years earlier, as well as other housekeeping amendments.

### Regulations in development

The following regulatory proposals are identified in Health Canada’s Forward Regulatory Plan: 2019 to 2021.

- **Vaping Products Labelling and Packaging Regulations**

On June 22, 2019 proposed Vaping Products Labelling and Packaging Regulations were published in the Canada Gazette, Part I.<sup>6</sup> <sup>7</sup>The proposed measures would require refillable vaping products and devices to be child resistant. They would also establish labelling requirements for nicotine containers, including mandatory listing of ingredients, and the presence of the warning ““WARNING: Nicotine is highly addictive” on all products with a nicotine concentration of 0.1 mg/mL or more. The comment period for these regulations expired in the first week of September.

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1 Tobacco Products Regulations (Plain and Standardized Appearance): SOR/2019-107  
<http://www.gazette.gc.ca/rp-pr/p2/2019/2019-05-01/html/sor-dors107-eng.html>

2 Canadian Cancer Society. News Release. 1 May 2019.  
<http://www.cancer.ca/en/about-us/for-media/media-releases/national/2019/plain-packaging-regulations/?region=qc>

3 Imperial Tobacco Canada. Press release. April 30, 2019.  
<https://www.newswire.ca/news-releases/tobacco-plain-packaging-tried-tested-and-failed-857694806.html>

4 Canada Convenience Store News. January 2019. P. 25.

5 Regulations Amending the Tobacco Reporting Regulations: SOR/2019-64  
<http://gazette.gc.ca/rp-pr/p2/2019/2019-03-20/html/sor-dors64-eng.html>

6 Canada Gazette, Part I, Volume 153, Number 25: Vaping Products Labelling and Packaging Regulations  
<http://gazette.gc.ca/rp-pr/p1/2019/2019-06-22/html/reg4-eng.html>

7 Health Canada Forward Regulatory Plan 2019-2021: Vaping Products Labelling and Packaging Regulations. August 2019

- **Vaping Products Reporting Regulations**

These regulations would require manufacturers and importers of vaping products to provide Health Canada with reports on certain business activities, and for the Minister to make this information available to the public. A consultation paper was issued in August 2017,<sup>8</sup> and a summary of comments received was made public in April 2018.<sup>9</sup>

Publication of proposed regulations in the Canada Gazette Part 1 is “expected to take place in winter 2020 and last 75 days.”<sup>10</sup>

- **Vaping product promotion regulations**

These regulations are presented as relating only to relative risk messages on permitted advertising.

*Description of the objective*

*The purpose of the proposed Vaping Product Promotion Regulations would be to prevent the public from being deceived or misled with respect to the health hazards of using vaping products.*

*The proposed regulations would set out a selection of authorized statements regarding the health risks of vaping products by comparing the health effects arising from the use of the products or from its emissions.*

A consultation paper was issued in August 2017,<sup>11</sup> and a summary of comments received was made public in April 2018.<sup>12</sup> Publication of proposed regulations in the Canada Gazette Part 1 is “expected to take place in winter 2020 and last 75 days”.<sup>13</sup>

Provincial tobacco control authorities, through the Tobacco Control Liaison Committee, request Health Canada to align restrictions on vaping promotions with those in place for tobacco, further restrict the display of vaping products are retail, require health warnings on any permitted advertising.<sup>14</sup>

- **Tobacco Products Labelling Regulations**

Health Canada will amend labelling requirements for cigarettes and other tobacco products. “The goal would be to increase awareness of the health hazards and health effects associated with tobacco use.”

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8 Health Canada. Proposals for the regulation of vaping products. 2017  
<https://www.canada.ca/en/health-canada/programs/consultation-regulation-vaping-products/proposals-regulate-vaping-products.html>

9 Health Canada. Consultation summary: proposals for the regulation of vaping products. 2018  
<https://www.canada.ca/en/health-canada/services/publications/healthy-living/consultation-summary-proposals-regulation-vaping-products.html#a3-3>

10 Health Canada. Forward Regulatory Plan 2019-2021: Vaping Products Reporting Regulations.  
<https://www.canada.ca/en/health-canada/corporate/about-health-canada/legislation-guidelines/acts-regulations/forward-regulatory-plan/plan/vaping-reporting.html>

11 Health Canada. Proposals for the regulation of vaping products. 2017  
<https://www.canada.ca/en/health-canada/programs/consultation-regulation-vaping-products/proposals-regulate-vaping-products.html>

12 Health Canada. Consultation summary: proposals for the regulation of vaping products. 2018  
<https://www.canada.ca/en/health-canada/services/publications/healthy-living/consultation-summary-proposals-regulation-vaping-products.html#a3-3>

13 Forward Regulatory Plan 2019-2021: Vaping Product Promotion Regulations.  
<https://www.canada.ca/en/health-canada/corporate/about-health-canada/legislation-guidelines/acts-regulations/forward-regulatory-plan/plan/vaping-product-promotion-regulations.html>

14 Letter from Andrew Loughead and Dr. Robert Strang to Health Canada. March 22, 2019.

The last time that labelling regulations were changed for cigarettes was in 2011. Regulations for cigars, pipe tobacco, bidis, kreteks and smokeless tobacco have not been changed since 2000.<sup>15</sup>

A consultation paper was circulated in October 2018,<sup>16</sup> and a summary of comments was published in August 2019.<sup>17</sup> Publication of proposed regulations in the Canada Gazette Part 1 is “expected to take place in winter 2021 and last 30 days”.<sup>18</sup>

- **Amendments to the Tobacco Reporting Regulations**

Tobacco manufacturers have been required to provide Health Canada with periodic reports on their activities since 2000. Health Canada proposes to revise these regulations to “improve the information” and to provide for some disclosure of information.

A Notice of Intent was published in the Canada Gazette in December 2017, specifying 8 areas in which the regulations would be amended or expanded.<sup>19</sup> Publication of proposed regulations in the Canada Gazette Part 1 is “expected to take place in winter 2020 and last 75 days”.<sup>20</sup>

### **Regulatory proposals in consultation stage**

- **Reducing Youth Access and Appeal of Vaping Products: Potential Regulatory Measures**

In April 2019, Health Canada released a consultation paper on measures that could be adopted to address the increase of youth vaping in Canada. The Consultation period ended on May 25<sup>th</sup>, 2019. Proposed regulations included:

- 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.

As of September 30, the “what we heard” report had not been made public.

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15 Health Canada Forward Regulatory Plan 2019-2021: Tobacco Products Labelling Regulations  
<https://www.canada.ca/en/health-canada/corporate/about-health-canada/legislation-guidelines/acts-regulations/forward-regulatory-plan/plan/regulatory-initiative-package-labelling-pursuant-tobacco-act.html>

16 Health Canada New Health-Related Labelling for Tobacco Products. Document for consultation.  
<https://www.canada.ca/en/health-canada/programs/consultation-tobacco-labelling/document.html>

17 Health Canada New Health-Related Labelling for Tobacco Products. Consultation Summary.  
New Health-Related Labelling for Tobacco Products CONSULTATION SUMMARY

18 Health Canada Forward Regulatory Plan 2019-2021: Tobacco Products Labelling Regulations  
<https://www.canada.ca/en/health-canada/corporate/about-health-canada/legislation-guidelines/acts-regulations/forward-regulatory-plan/plan/regulatory-initiative-package-labelling-pursuant-tobacco-act.html>

19 Health Canada. Notice to interested parties — Proposals to amend the Tobacco Reporting Regulations  
<http://www.gazette.gc.ca/rp-pr/p1/2017/2017-12-02/html/notice-avis-eng.html>

20 Health Canada Forward Regulatory Plan 2019-2021: Amendments to the Tobacco Reporting Regulations  
<https://www.canada.ca/en/health-canada/corporate/about-health-canada/legislation-guidelines/acts-regulations/forward-regulatory-plan/plan/amendments-tobacco-reporting-regulations-bill-s-5.html>



- **Potential Measures to Reduce the Impact of Vaping Products Advertising on Youth and Non-users of Tobacco Products**

In February 2019, Health Canada issued a Notice of proposed measures to restrict the placement and content of advertisements and promotions for vaping products.<sup>21</sup> The “what we heard” report, made public in July 2019,<sup>22</sup> noted a joint submission from provincial and territorial governments:

*In a joint submission, all thirteen provincial and territorial governments strongly recommended immediate regulatory measures to reduce youth uptake of vaping products. They suggested that all forms of vaping advertising and promotion restrictions should align with those in place for tobacco products.*

## **Enforcement and compliance actions**

The Minister of Health sent a letter to retailers’ associations requesting that they impress on their members the importance of complying with the federal Tobacco and Vaping Products Act in order to prevent young people from having access to vaping products or promotions or inducements to use vaping products.<sup>23</sup>

The letter prompted a public response from retail associations:

- The Canadian Vaping Association repeated its representation that the sale of nicotine vaping products should be restricted to age of majority stores, that brand specific advertising be restricted and that e-commerce be restricted to age-verification platform, and that the government establish an Industry Advisory Group.<sup>24</sup>

## **Other**

- **Meetings with Health Canada and tobacco/vaping industries**

In May 2019, Health Canada issued guidelines for transparency of industry representative meetings for tobacco and vaping.<sup>25</sup> Documentation from meetings with the department are posted at:

<https://www.canada.ca/en/health-canada/services/health-concerns/tobacco/meeting-summaries-tobacco-vaping-industry.html>

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- 21 Health Canada Notice of Intent – Potential Measures to Reduce the Impact of Vaping Products Advertising on Youth and Non-users of Tobacco Products. February 2019.  
<https://www.canada.ca/en/health-canada/programs/consultation-measures-reduce-impact-vaping-products-advertising-youth-non-users-tobacco-products/notice-document.html>
- 22 Health Canada Consultation Summary - Notice of Intent – Potential Measures to Reduce the Impact of Vaping Products Advertising on Youth and Non-users of Tobacco Products <https://www.canada.ca/content/dam/hc-sc/documents/programs/consultation-measures-reduce-impact-vaping-products-advertising-youth-non-users-tobacco-products/notice-document/summary/consultation-summary-vaping.pdf>
- 23 Health Canada. Ministers Letter to Retail Associations Concerning Youth Vaping.  
<https://www.canada.ca/en/health-canada/services/smoking-tobacco/vaping/risks/ministers-letter-retail-associations-youth-vaping.html>
- 24 Canadian Vaping Association. Press release. The Canadian Vaping Association Respond to Minister's Letter on Youth Vaping. July 15, 2019  
<https://www.globenewswire.com/news-release/2019/07/15/1883026/0/en/The-Canadian-Vaping-Association-Respond-to-Minister-s-Letter-on-Youth-Vaping.html>
- 25 Health Canada Transparency of industry representative meetings for tobacco and vaping.  
<https://www.canada.ca/en/health-canada/services/health-concerns/tobacco/meeting-summaries-tobacco-vaping-industry/transparency.html>



As of September 30, 2019, information was provided for 18 meetings between Health Canada and the tobacco and vaping industry, dating from May 5, 2017 to July 13, 2018. (the Lobbyist Registry identifies 12 additional meetings took place between August 2018 and September 2019.)<sup>26</sup>

## **Surveillance**

Health Canada is replacing the tobacco component of the Canadian Tobacco Alcohol and Drug Survey with the Canadian Tobacco and Nicotine Survey, which will be conducted by Statistics Canada in November of 2019 and subsequent years. The survey will be conducted as part of the 'Rapid Stats' program offered within the Special Survey division of Statistics Canada, with results for the first cycle expected in January 2020.<sup>27</sup> See Appendix 1 for an overview of tobacco surveillance tools currently in place in Canada.

## **Contracts awarded or tenders requested**

- Health Canada issued a contract to Galvanizing Equity Group Inc (Lorraine Greaves) to provide sex and gender-based analysis of proposed tobacco and vaping product health-related labels.<sup>28</sup> The contract runs until December 2021.
- Health Canada issued a Request for Information (RFI) to assess the feasibility of creating a robust and defensible simulation model to assess individual-level and population-level effects of the emergence of vaping products. The RFI closed on July 16.<sup>29</sup>
- Health Canada awarded a contract to Euromonitor for a study on the vaping products market in Canada which provides estimates of the market size, market share and distribution channels for vaping products. The RFP closed August 21, 2019.<sup>30</sup> (A similar contract had been issued in 2016)<sup>31</sup>
- Health Canada issued a RFP for a study on sales to youth and promotion of vaping products at retail. The RFP closed December 11, 2018.<sup>32</sup> The department announced that 1000 specialty vaping stores would be inspected, as would 2000 convenience stores.<sup>33</sup> The contract was awarded to Ipsos.

## **Public opinion research**

Research commissioned by Health Canada and released in spring-summer 2019 included the following reports:

- Phoenix SPI  
POR 013-18 **Break It Off: Tobacco Cessation Creative Concepts Testing**<sup>34</sup>
- Earncliffe Strategy Group.  
POR 067-18 **Qualitative and quantitative research on perceptions of nicotine : final report**<sup>35</sup>

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26 Search for "tobacco" or "vaping" in monthly communication reports at Lobbycanada.gc.ca.

27 Health Canada Tobacco Control Directorate. Meeting with NGOs. August 26, 2019.

28 Contract award notice. <https://buyandsell.gc.ca/procurement-data/award-notice/PW-19-00866651-001>

29 Tender notice. <https://buyandsell.gc.ca/procurement-data/tender-notice/PW-19-00877991>

30 Tender notice. <https://buyandsell.gc.ca/procurement-data/tender-notice/PW-19-00882684>

31 <https://buyandsell.gc.ca/procurement-data/tender-notice/PW-16-00735146>

32 Tender notice. <https://buyandsell.gc.ca/procurement-data/tender-notice/PW-18-00843629>

33 Global News. Health Canada cracks down on vape retailers, considers health warning packaging for vape products. <https://globalnews.ca/news/5429844/health-canada-vaping/>

34 Library and Archives Canada. Public Opinion Research Reports (PORR). POR 013-18 <http://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-ef/health/2019/013-18-e/report.pdf>

35 Library and Archives Canada. Public Opinion Research Reports (PORR). POR 067-18. <http://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-ef/health/2019/067-18-e/index.html>

- Environics  
POR 083-18: **Vapers panel survey to measure attitudes and behaviours regarding vaping products : final report**<sup>36</sup>
- Corporate Research Associates.  
POR 037-18. **Vaping Prevention Concepts Testing : final report**<sup>37</sup>
- Phoenix SPI.  
POR 054-18. **Exploratory research on smoking cessation : final report**<sup>38</sup>
- Corporate Research Associates  
POR 099-17 **Evaluation of possible labelling elements for vaping products - phase 1 and phase II : final report**<sup>39</sup>
- Environics Research Group Limited  
POR 141-18 **Vapers' Panel Survey to Measure Attitudes and Behaviours Regarding Vaping Products** (NB not released as of September 8, 2019)
- Environics Research Group Limited  
POR 119-18 **Smoking Behaviour Journey Map**<sup>40</sup>
- Phoenix SPI  
POR 093-18 **Smokers and Recent Quitters' Awareness and Perceptions of Options to Minimize Harms from Tobacco Products**<sup>41</sup>
- Corporate Research Associates Inc.  
POR 126-18. **Qualitative Testing of Revised Health Warnings for Cigarette Packages and on Cigarettes: 2019**<sup>42</sup>
- Environics Research Group Limited  
POR 058-18. **Public Opinion Research on Noticeability of Health Information Messages and Effectiveness of Health Warnings for Tobacco Labelling**<sup>43</sup>

## **Communications**

- In April 2019, the Public Health Agency of Canada released a statement by the Council of Chief Medical Officers of Health regarding the increase in youth vaping. "In Canada, we have had tremendous success driving down youth smoking rates in recent years, but we are very concerned that a new generation of

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36 Library and Archives Canada. Public Opinion Research Reports (PORR). POR 083-18. <http://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-ef/health/2019/083-18-e/index.html>

37 Library and Archives Canada. Public Opinion Research Reports (PORR). POR 037-18 <http://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-ef/health/2019/037-18-e/index.html>

38 Library and Archives Canada. Public Opinion Research Reports (PORR). POR 054-18. <http://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-ef/health/2019/054-18-e/index.html>

39 Library and Archives Canada. Public Opinion Research Reports (PORR). POR 099-17 <http://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-ef/health/2018/099-17-e/index.html>

40 Library and Archives Canada. Public Opinion Research Reports (PORR). POR 119-18 <http://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-ef/health/2019/119-18-e/index.html>

41 Library and Archives Canada. Public Opinion Research Reports (PORR). POR 093-18 <http://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-ef/health/2019/093-18-e/index.html>

42 Library and Archives Canada. Public Opinion Research Reports (PORR). POR 126-18 <http://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-ef/health/2019/126-18-f/index.html>

43 Library and Archives Canada. Public Opinion Research Reports (PORR). POR 058-18 <http://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-ef/health/2019/058-18-e/index.html>

youth addicted to nicotine may lead to a resurgence in smoking or create new public health problems, reversing decades of progress.”<sup>44</sup>

- In the spring of 2019, Health Canada launched a “Consider the Consequences” digital and event campaign.<sup>45</sup>
- On September 4, Health Canada issued an advisory on vaping and the potential risk of pulmonary illness.<sup>46</sup>
- On September 28, 2019 Health Canada again issued an advisory, “advising Canadians who use vaping products to monitor themselves for symptoms of pulmonary illness (e.g., cough, shortness of breath, chest pain) and to seek medical attention promptly if they have concerns about their health.” The advisory was updated to reflect the confirmed case of severe pulmonary illness related to vaping products.<sup>47</sup>

#### **Other federal departments:**

- It was reported that discussions are ongoing with First Nations leaders on “how to carve out First Nations jurisdiction over the cannabis industry”.<sup>48</sup> The measures under discussion are believed to include a tax agreement with Indigenous communities.

## **II. PROVINCIAL GOVERNMENT ACTIVITIES**

### **Alberta**

The Alberta Tobacco and Smoking Reduction Act includes a provision requiring the Minister to “commence a review of this Act within 5 years after this section comes into force.”<sup>49</sup> This provision has been reported as coming into effect in November 2019.<sup>50</sup>

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44 Public Health Agency of Canada. Statement from the Council of Chief Medical Officers of Health on the increasing rates of youth vaping in Canada. April 11, 2019.

<https://www.newswire.ca/news-releases/statement-from-the-council-of-chief-medical-officers-of-health-on-the-increasing-rates-of-youth-vaping-in-canada-812817220.html>

45 Health Canada. <https://considertheconsequences.ca/national-tour/>

46 Health Canada. Information Update - Health Canada warns of potential risk of pulmonary illness associated with vaping products. September 4, 2019.

<https://www.newswire.ca/news-releases/information-update-health-canada-warns-of-potential-risk-of-pulmonary-illness-associated-with-vaping-products-855983605.html>

47 Health Canada. Information Update - Health Canada warns of potential risk of pulmonary illness associated with vaping products. September 28, 2019.

<https://www.newswire.ca/news-releases/information-update-health-canada-warns-of-potential-risk-of-pulmonary-illness-associated-with-vaping-products-804515442.html>

48 CBC news. Ottawa in talks to work out cannabis rules for First Nations territories

<https://www.cbc.ca/news/indigenous/cannabis-first-nations-framework-1.5258544>

49 Government of Alberta. Tobacco and Smoking Reduction Act, s. 12.1

<http://www.qp.alberta.ca/documents/Acts/T03P8.pdf>

50 CBC News. Here's what Alberta's major political parties say about a tax on e-cigarettes. March 29, 2019.

<https://www.cbc.ca/news/canada/edmonton/alberta-vaping-products-tax-1.5076279>

During the Alberta election in 2019, All three major parties opposed the introduction of a tax on vaping.<sup>51</sup>

### **British Columbia**

In April 2019, Todd Stone, MLA (Liberal) for Kamloops-South Thompson introduced a private member's bill to restrict the marketing of vaping products to adult-only tobacco stores, vape stores and approved pharmacies was introduced.<sup>52</sup>

In April 2019, Mary Pola, MLA (Liberal) for Langley tabled a petition with 17,000 signatures asking the government to ban smoking in multi-unit dwellings.<sup>53</sup>

In June 2019, the B.C. Minister of Health, Adrian Dix, indicated that "the province is willing to act if the federal government delays implementing strict new measures to curb the dramatic rise in vaping among teenagers."<sup>54</sup> A statement from the ministry indicated that the province<sup>55</sup>

*"has recommended federal regulatory action in the following four areas:*

- 1. restricting the concentration and delivery of nicotine;*
- 2. restriction to the promotion and sale of flavoured vaping products;*
- 3. restrictions on advertising of vaping products;*
- 4. measures aimed at reducing youth appeal of the vaping device itself.*

*We have also endorsed the implementation of six measures noted in the recent federal consultation paper:*

- 1. Requiring that online retailers post information advising prospective customers that the sale of vaping and tobacco products are restricted to persons of legal age;*
- 2. Requiring two-step age verification for online retailing, like the age verification system in place in B.C. for online cannabis ordering;*
- 3. Requiring that packages containing vaping or tobacco products bear a prescribed label that reads 'Age verification required at delivery';*
- 4. Requiring a signature upon delivery and prohibiting packages from being left on doorsteps;*
- 5. Restricting delivery to prescribed carriers; and*
- 6. Restricting online retailing to retailers that utilize third-party age-verification services.*

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51 CBC News. Here's what Alberta's major political parties say about a tax on e-cigarettes.  
<https://www.cbc.ca/news/canada/edmonton/alberta-vaping-products-tax-1.5076279>

52 Legislative Assembly of British Columbia Bill M210. Vulnerable Adolescents Protection from E-Cigarettes (VAPE) Act, 2019.  
<https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/41st-parliament/4th-session/bills/bills-with-hansard-debate>

53 Legislative Assembly of British Columbia. Hansard. April 4, 2019  
<https://www.leg.bc.ca/documents-data/debate-transcripts/41st-parliament/4th-session/20190404am-Hansard-n231#231B:1055>

54 Global News. B.C. health minister promises crackdown on youth vaping after calls for Canada to act. June 21, 2019.  
<https://globalnews.ca/news/5415386/bc-youth-vaping-measures/>

55 Minister's statement on youth vaping report. June 20, 2019  
<https://news.gov.bc.ca/releases/2019HLTH0090-001285>

On September 28, Health Minister Adrian Dix was reported as saying that the province was “planning to dramatically reduce the number of vendors that can sell e-cigarettes and vaping products.”<sup>56</sup>

### **Manitoba**

Manitoba’s *Tobacco Tax Act* was amended to ensure that the total retail price of tobacco was not diminished when the provincial sales tax decreased to 7 per cent on July 1<sup>st</sup>.<sup>57</sup>

### **Nova Scotia**

In June, Nova Scotia MLA suggest stronger penalties for children vaping in schools.<sup>58</sup> In September, Health Minister Randy Delorey said vaping regulations were “an area of interest” for the provinces, and that discussions were taking place among the provinces.<sup>59</sup>

### **Northwest Territories**

In February 2019, 2 bills were introduced to the Legislative Assembly of the Northwest Territories: Bill 40 (*Smoking Control and Reduction Act*)<sup>60</sup> and Bill 41 (*Tobacco and Vapour Products Control Act*)<sup>61</sup>. They were examined concurrently by the legislature’s Standing Committee on Social Development, which reported in August 2019.<sup>62</sup> The committee heard recommendations from JUUL for lesser restrictions on the promotion of vaping devices but did not follow this advice.

*In light of the high smoking rates in the NWT, Committee considered at length the possible merit of treating vaping products with nicotine as a potentially less harmful alternative to conventional cigarettes under Bill 41. On the balance, while Committee found the evidence on the benefits of vaping as a harm reduction tool to be inconclusive, growing and shifting rapidly, the evidence about the potential harms of vaping to public health is persuasive. We believe strict controls around both tobacco and vaping products, as found in Bill 41, are necessary to protect the residents of the NWT.*

The committee rejected recommendations to raise the minimum age to 21, electing instead to harmonize the legal ages for purchase, sale and supply of tobacco and vaping products with those for alcohol and tobacco. The bills were assented to on August 21, 2019.<sup>63</sup>

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56 Randy Shore. B.C. to tighten access to vaping products, health minister says. Times Colonist/Vancouver Sun. September 28, 2019.

57 Legislative Assembly of Manitoba Bill 31. The Tobacco Tax Amendment Act.  
<https://web2.gov.mb.ca/bills/41-4/b031e.php>

58 Nova Scotia Legislative Assembly. Hansard. March 14, 2019  
[https://nslslegislature.ca/legislative-business/hansard-debates/assembly-63-session-2/house\\_190314](https://nslslegislature.ca/legislative-business/hansard-debates/assembly-63-session-2/house_190314)

59 CBC News. Health expert says more regulation needed around vaping. September 25, 2019  
<https://www.cbc.ca/news/canada/nova-scotia/vaping-illness-respiratory-canada-health-concern-regulation-1.5296818>

60 Legislative Assembly of the Northwest Territories. Bill 40. Smoking Control and Reduction Act.  
[https://www.assembly.gov.nt.ca/sites/default/files/reprint\\_-\\_bill\\_40\\_-\\_smoking\\_control\\_and\\_reduction.pdf](https://www.assembly.gov.nt.ca/sites/default/files/reprint_-_bill_40_-_smoking_control_and_reduction.pdf)

61 Legislative Assembly of the Northwest Territories. Tobacco and Vapour Products Control Act  
[https://www.assembly.gov.nt.ca/sites/default/files/reprint\\_-\\_bill\\_41\\_-\\_tobacco\\_and\\_vapour\\_products\\_control.pdf](https://www.assembly.gov.nt.ca/sites/default/files/reprint_-_bill_41_-_tobacco_and_vapour_products_control.pdf)

62 Report on the Review of Bill 40: Smoking Control and Reduction Act and Bill 41: Tobacco and Vapour Products Control Act  
[https://www.assembly.gov.nt.ca/sites/default/files/cr\\_23-183\\_-\\_report\\_on\\_bill\\_40\\_and\\_bill\\_41\\_-\\_final.pdf](https://www.assembly.gov.nt.ca/sites/default/files/cr_23-183_-_report_on_bill_40_and_bill_41_-_final.pdf)

63 Northwest Territories Legislative Assembly, Hansard. <https://www.assembly.gov.nt.ca/sites/default/files/hn190821.pdf>

## **Prince Edward Island**

PEI's Chief Public Health Officer identified as a strategic priority the development of "a coordinated harm reduction approach for reducing the health impacts of problematic substance use (tobacco, alcohol, cannabis, and opiates)", and identifies the potential of funding activities through taxation revenue streams.<sup>64</sup>

PEI MLA Cory Deagle asked government to raise the age of purchase vaping products to 21 from 19 – or even ban the sale of vaping products.<sup>65</sup>

## **Quebec**

A court challenge to the provincial Tobacco Control Act by the Quebec Association of Vape Shops (Association québécoise des vapoteries) and the Canadian Vaping Association resulted in certain provisions of the law being struck down by Quebec Superior Court justice Daniel Dumais in May, 2019.<sup>66</sup> The Quebec Tobacco Control Act<sup>67</sup> and its regulation<sup>68</sup> have more stringent restrictions against vaping promotions than in many other provinces. (See Appendix 2) The Court agreed to some of the requests of the vaping associations to strike down sections of the law, including:

- Bans on demonstrating and using vaping products in specialty shops and smoking cessation clinics. (Section 2(1) and 2(12) of the law).
- Prohibitions on advertising vaping products as cessation products to smokers. (Sections 24(4), 24(8), 24(9) and 24(3) of the law and section 6.4(2) of the regulation).

The implementation of the ruling was suspended for 6 months (i.e. to November). On June 18, 2019 the Quebec government announced that it would be appealing the judgment. Cited in the Ministry's appeal is the impact of marketing of vaping products to non-smokers and youth.<sup>69</sup>

Quebec implemented the first mandatory health warnings on permitted advertising for vaping products.<sup>70</sup>



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64 Prince Edward Island Chief Public Health Officer. Health for all Islanders. [https://www.princeedwardisland.ca/sites/default/files/publications/cpho\\_strategic\\_plan\\_2019\\_2021\\_web.pdf](https://www.princeedwardisland.ca/sites/default/files/publications/cpho_strategic_plan_2019_2021_web.pdf)

65 <https://www.cbc.ca/news/canada/prince-edward-island/pei-vaping-question-period-july-2019-1.5211027>

66 Association québécoise des vapoteries c. Procureure générale du Québec, 2019 QCCS 1644 <https://www.canlii.org/fr/qc/qccs/doc/2019/2019qccs1644/2019qccs1644.pdf>

67 Government of Quebec. L-6.2 - Tobacco Control Act <http://legisquebec.gouv.qc.ca/en/showdoc/cs/L-6.2>

68 Government of Quebec Chapter L-6.2, r. 1 Regulation under the Tobacco Control Act <http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/L-6.2,%20r.%201/>

69 Procureur Générale du Québec. 200-17-023732-167 and 500-17-093397-167. Declaration d'Appel. [http://www.cqct.qc.ca/Documents\\_docs/DOCU\\_2019/DOCU\\_19\\_06\\_06\\_Declaration\\_Appel\\_Jugement\\_AQV.pdf](http://www.cqct.qc.ca/Documents_docs/DOCU_2019/DOCU_19_06_06_Declaration_Appel_Jugement_AQV.pdf)

70 Government of Quebec. Règlement sur la mise en garde attribuée au ministre de la Santé et des Services sociaux et portant sur les effets nocifs du tabac sur la santé. chapitre L-6.2, r. 2 <http://legisquebec.gouv.qc.ca/fr/ShowDoc/cr/L-6.2,%20r.%202>

On September 28, Quebec’s Ministry of Health and Social Services made public a confirmed case of severe pulmonary illness associated with vaping.<sup>71</sup>

### **Saskatchewan**

In June, the Saskatchewan Minister of Health, Jim Reiter, said that he was “considering the possibility of introducing legislation on vaping”.<sup>72</sup> The Saskatchewan NDP leader called for stronger regulation in June.<sup>73</sup>

### **Yukon**

In May 2019, the Yukon government held consultations on amendments to the Smoke-Free Places Act, with a focus on amending the act to address vaping and vaping products.<sup>74</sup> A report on the results of the consultation were expected “in summer 2019”.

## **III. MUNICIPAL GOVERNMENT ACTIVITIES**

(This review does not cover municipal actions to limit the use of vaping or tobacco products in public or residential spaces. )

### **Communities in Alberta**

Calgary sought public input on regulations that would cover water pipe. “consideration to prohibiting waterpipe (hookah/shisha) smoking in workplaces, public premises and specified outdoor places; smoking and vaping in outdoor public parks and at outdoor public events; smoking and vaping in hotel and motel rooms.” Comments were received in June and July, with report expected in Q4, 2019.<sup>75</sup>

Edmonton City Council requested the Mayor to write letters to the provincial and federal governments to support greater advertising restrictions for vaping products.<sup>76</sup>

### **Communities in British Columbia**

In April 2019, Surrey City Council directed staff to “provide a report that includes options for increasing the restrictions on vape shops, with consideration for the possibility of banning them altogether.” The report which was presented to Council in July 2019 identified that vaping products were sold in 143 retail locations (of which 79% were gas stations or convenience stores) and that the city “does not have the authority to

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- 71 Quebec. Ministère de la Santé et des Services sociaux (MSSS). Un premier cas au Québec de maladie pulmonaire sévère associée au vapotage. <https://www.msss.gouv.qc.ca/ministere/salle-de-presse/communiqu-1927/>
- 72 CBC News. 'We have a big problem': Spike in youth vaping sparks calls for legislation. June 20, 2019. <https://www.cbc.ca/news/canada/saskatchewan/vaping-spike-canada-1.5183664>
- 73 NDP Caucus. “Treat vaping like smoking”: NDP proposes measures to curb rising cigarette and vaping usage by Saskatchewan youth. [http://www.ndpcaucus.sk.ca/\\_treat\\_vaping\\_like\\_smoking\\_ndp\\_proposes\\_measures\\_to\\_curb\\_rising\\_cigarette\\_and\\_vaping\\_usage\\_by\\_saskatchewan\\_youth](http://www.ndpcaucus.sk.ca/_treat_vaping_like_smoking_ndp_proposes_measures_to_curb_rising_cigarette_and_vaping_usage_by_saskatchewan_youth)
- 74 Yukon Government. <https://engageyukon.ca/en/2019/amendments-smoke-free-places-act>
- 75 City of Calgary. Smoking & Vaping. Engage. <https://engage.calgary.ca/smokingvaping>
- 76 Edmonton City Council Meeting Minutes July 2, 2019. Motion 6.9 <http://sirepub.edmonton.ca/sirepub/mtgviewer.aspx?meetid=2310&doctype=MINUTES>



outright prohibit the sale of vaping products.”<sup>77</sup> On this basis the city did not recommend that the city’s zoning bylaw be amended, but did recommend that the business license bylaw be amended to align vaping products with tobacco products.

## **Communities in Ontario**

A “provincial vaping working group” was established in Ontario “to lead a project which will result in consistent messaging across the province for public health units to utilize in their communications materials. This communications campaign will focus on the potential harms of vaping and is also set to be implemented beginning September 2019.”<sup>78 79</sup>

Hamilton required a \$70 “e-cigarette health fee” from retailers who sell electronic cigarettes.<sup>80</sup>

The Ottawa Board of Health recommended the province of Ontario to ban more flavours of vaping products and ban advertising at point of sale and recommends to the federal government that it align vaping promotions with tobacco promotions.<sup>81</sup>

## **IV CIVIL SOCIETY ACTIVITIES**

Recent NGO reports and recommendations to government include the following:

### **Federal-level NGO activities**

In May 2019, a coalition of health organizations working at the federal level under the name of the “Tobacco Endgame Cabinet” issued a report on progress in Canada in implementing measures identified during the 2016 Endgame Summit.<sup>82</sup> Key points made in the report included:

- The absence of pan-Canadian support to achieve the Endgame goal of less than 5% by 2035.
- The opportunities present for significant further tax increases.
- Absence of action on some key policy areas (Minimum legal age of 21, regulation of tobacco industry pricing, preventing contraband, aligning tobacco supply with public health goals, addressing the depiction of smoking in movies.
- The benefits of a cost recovery fee on the tobacco industry.
- The need for expansion and funding of community, workplace and clinical smoking cessation programs.

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77 City of Surrey. Vaping and E-Cigarette Product Use and Sales and Proposed Amendments to Business License By-law, 1999, No. 13680

[https://www.surrey.ca/bylawsandcouncillibrary/CR\\_2019-R150.pdf](https://www.surrey.ca/bylawsandcouncillibrary/CR_2019-R150.pdf)

78 Windsor Essex County Health Unit. June 2019 Board Meeting - Addressing Youth Vaping in Windsor and Essex County Information Report.

<https://www.wechu.org/board-health-meeting-agendas-and-minutes/june-2019-board-meeting-addressing-youth-vaping-windsor-and>

79 Materials are available at NotAnExperiment.ca, SmokeFreeMovies.ca, SmokeFreeCampus.ca

80 City of Hamilton. Licensing Business Reference Guide. July 2019.

<https://d3fp1f1m7bbt3.cloudfront.net/sites/default/files/media/browser/2016-02-01/business-license-reference-guide-jul2019.pdf>

81 Ottawa Board of Health. Agenda and supporting documents, Meeting March 2019.

<http://app05.ottawa.ca/sirepub/mtgviewer.aspx?meetid=7697&doctype=AGENDA>

82 Tobacco Endgame Cabinet. Getting to less than 5% by 2035. The Tobacco Endgame Report.

<https://www.lung.ca/sites/default/files/EndGameReport-final.pdf>

- The necessity of reducing the availability of tobacco retail outlets
- The need for improvements to measures to protect people from exposure to smoke in social housing, hospitals, colleges.
- The urgent need to address the uptake of vaping by young people, including by curtailing retail store availability of nicotine vaping products to adult-only specialty vape stores.

Other occasions when regulatory measures were proposed by civil society organizations include:

- Recommendation by the Canadian Cancer Society<sup>83</sup> and other health representatives, <sup>84</sup> to increase the legal age for tobacco and nicotine products to 21.
- Recommendations by the Canadian Cancer Society for regulations restricting the advertising of vaping products, ensuring regulations are at least as restrictive as advertising for cannabis. <sup>85</sup>
- Recommendations by the Canadian Cancer Society for regulations restricting the use of flavours in vaping products.<sup>86</sup>
- Recommendations by the Heart and Stroke foundation for “strengthened regulations” with respect to vaping products.<sup>87</sup>
- Recommendations by Physicians for a Smoke-Free Canada for strengthened enforcement against vaping promotions.<sup>88</sup>
- Recommendations by several tobacco control groups that the TVPA be amended to implement the same restrictions on vaping promotions as is currently on cigarettes.<sup>89 90</sup>
- Recommendations by several tobacco control groups that governments challenge and shut down the tobacco industry’s use of insolvency protection to stay all legal actions.<sup>91 92</sup>

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83 Canadian Cancer Society. Study finds dramatic 74% increase in youth vaping in Canada. Press release. June 19, 2019. <https://www.cancer.ca/en/about-us/for-media/media-releases/national/2019/youth-vaping/?region=qc>

84 City News. Vancouver doctor wants to raise legal smoking age to 21. May 31, 2019.

<https://www.citynews1130.com/2019/05/31/vancouver-doctor-wants-to-raise-legal-smoking-age-to-21/>

85 Canadian Cancer Society. Study finds dramatic 74% increase in youth vaping in Canada. Press release. June 19, 2019. <https://www.cancer.ca/en/about-us/for-media/media-releases/national/2019/youth-vaping/?region=qc>

86 Canadian Cancer Society. Study finds dramatic 74% increase in youth vaping in Canada. Press release. June 19, 2019. <https://www.cancer.ca/en/about-us/for-media/media-releases/national/2019/youth-vaping/?region=qc>

87 Heart and Stroke Foundation. News release: Study confirms epidemic e-cigarette rates and increase in tobacco use among youth. June 19, 2019. <https://www.heartandstroke.ca/what-we-do/media-centre/news-releases/study-confirms-epidemic-e-cigarette-rates-and-increase-in-tobacco-use-among-youth>

88 Physicians for a Smoke-Free Canada. ENFORCE THE LAW!: Doctors group calls on Health Canada to clamp down on illegal vaping promotions. May 16, 2019 [http://www.smoke-free.ca/eng\\_home/2019/news\\_press\\_16-May-2019.htm](http://www.smoke-free.ca/eng_home/2019/news_press_16-May-2019.htm)

89 Tobacco control groups call on all parties to commit to reversing the damage caused by federal legislation and worsened by absence of urgently-needed remedies Press release. June 02, 2019. [http://www.cqct.qc.ca/Communiqués\\_docs/2019/PRSS\\_19\\_06\\_20\\_Joint\\_Response\\_Hammond\\_VapingStatistics\\_PDF.pdf](http://www.cqct.qc.ca/Communiqués_docs/2019/PRSS_19_06_20_Joint_Response_Hammond_VapingStatistics_PDF.pdf)

90 Action on Smoking & Health (Alberta), Coalition québécoise pour le contrôle du tabac, Ontario Campaign for Action on Tobacco, Physicians for a Smoke-Free Canada

Tobacco Control Groups call on parliamentarians for urgent legislative action to fix youth vaping debacle. February 5, 2019.

[http://www.cqct.qc.ca/Communiqués\\_docs/2019/PRSS\\_19\\_02\\_05\\_PSFC\\_CQCT\\_OCOT\\_ASH\\_eCig\\_Regulations.pdf](http://www.cqct.qc.ca/Communiqués_docs/2019/PRSS_19_02_05_PSFC_CQCT_OCOT_ASH_eCig_Regulations.pdf)

91 Quebec Coalition on Tobacco Control. Le gouvernement du Québec interpellé à contester les tactiques abusives de l’industrie du tabac. April 3, 2019.

[http://www.cqct.qc.ca/Communiqués\\_docs/2019/PRSS\\_19\\_04\\_03\\_Contestation\\_Quebec\\_Procedures\\_Abusives.pdf](http://www.cqct.qc.ca/Communiqués_docs/2019/PRSS_19_04_03_Contestation_Quebec_Procedures_Abusives.pdf)

92 Action on Smoking & Health (Alberta), Campaign for Justice on Tobacco Fraud, Coalition québécoise pour le contrôle du tabac, Ontario Campaign for Action on Tobacco, Physicians for a Smoke-Free Canada. Letter to provincial ministers of health and justice. June 25, 2019.

- Recommendations that the federal budget include control on cigarette pricing.<sup>93</sup>
- Recommendation by 8 health organizations that the federal government use special powers under the *Department of Health Act* to implement an Interim Order which brings vaping products under similar restrictions as those on tobacco products. The measures sought include advertising restrictions, flavour restrictions and limits on nicotine levels.<sup>94</sup>

Non-governmental research activities made public in this period included:

- In May 2019, the Canadian Cancer Society released the ComPARE study (the Canadian Population Attributable Risk of Cancer). The study predicted the future burden of disease over the next two decades, based on current trends in health behaviours. Tobacco is predicted to remain the leading cause of cancer cases. (Cancer **mortality** was not predicted in the study). See table below.
- A new Cancer Statistics report was released by the Canadian Cancer Society and the Canadian Government, in collaboration with provincial and territorial cancer registries in September 2019.<sup>95</sup> Despite decreases in some smoking-related cancers (laryngeal, esophageal), tobacco use “continues to be the leading cause of cancer death in Canada.”

**Estimated percentages of incident cancer cases in Canadians in 2015 and 2042 attributable to modifiable exposures<sup>96</sup>**

	2015	2042
<b>Active tobacco smoking</b>	17.5%	14.2%
<b>Passive tobacco smoking</b>	0.8%	0.2%
<b>Physical Inactivity</b>	6.4%	3.8%
<b>Excess weight</b>	3.9%	5.3%
<b>Sedentary behaviour</b>	1.7%	2.6%
<b>Alcohol consumption</b>	1.8%	3.1%
<b>Low vegetable consumption</b>	1.9%	1.0%
<b>Low fruit consumption</b>	3.6%	0.4%
<b>Red meat consumption</b>	1.2%	0.8%
<b>Processed meat consumption</b>	0.9%	0.7%
<b>Ultraviolet radiation</b>	2.3%	0.9%
<b>Outdoor air pollution</b>	1.5%	0.6%
<b>Residential radon</b>	0.3%	0.7%
<b>Helicobacter pylori bacteria</b>	1.1%	1.3%
<b>Hepatitis B</b>	0.1%	0.1%
<b>Hepatitis C</b>	0.2%	0.2%
<b>Human papillomavirus</b>	2.0%	1.6%
<b>All of the above</b>	37.4%	31.0%

93 Coalition québécoise pour le contrôle du tabac; Physicians for a Smoke-Free Canada. Letter to Ministers of Health and Finance. February 26, 2019.  
[http://www.smoke-free.ca/eng\\_home/2019/Budget-Tobacco-CQCT-PSC-2019.pdf](http://www.smoke-free.ca/eng_home/2019/Budget-Tobacco-CQCT-PSC-2019.pdf)

94 CBC News. Vapes need same restrictions as tobacco, medical groups tell federal parties. September 19, 2019.  
<https://www.cbc.ca/news/health/vaping-thursday-1.5289485>

95 Canadian Cancer Statistics 2019.  
<https://www.cancer.ca/~media/cancer.ca/CW/cancer%20information/cancer%20101/Canadian%20cancer%20statistics/Canadian-Cancer-Statistics-2019-EN.pdf?la=en>

96 Poirier, AE et al. The current and future burden of cancer attributable to modifiable risk factors in Canada: Summary of results. *Preventive Medicine*. Vol. 122, May 2019.

## **Provincial-level NGO activities**

In January 2019, the Saskatchewan Coalition for Tobacco Reduction issued a report calling on the provincial government to implement 9 reforms.<sup>97</sup>

- 1. Ban flavours in all tobacco products.*
- 2. Adopt legislation on e-cigarettes to ban sales to minors; ban the use of vaping products anywhere smoking is banned; prohibit the retail promotion and display of e-cigarettes though with an exception for specialty vape stores; limit where they can be sold; and prohibit e-cigarette sales in places where tobacco sales are banned.*
- 3. Broaden outdoor smoke-free places to include patios, sports fields, children's playgrounds, beaches, provincial parks, construction sites, university/college campuses, hospital grounds, and building entrances/exits.*
- 4. Prohibit the sale of tobacco products in more locations, including athletic and recreational facilities, bars and restaurants, university/college campuses, within a specified distance of elementary and secondary schools, government buildings, and in outdoor/temporary/movable locations.*
- 5. Prohibit all hookah (water pipe) smoking wherever smoking is banned in public places.*
- 6. Set a minimum age of 21 for tobacco and electronic-cigarettes.*
- 7. Increase taxes on all tobacco products and index tax rates annually to inflation.*
- 8. Require tobacco retailers to have a licence with an applicable annual fee.*
- 9. Implement a cost recovery fee on tobacco manufacturers/suppliers based on market share in the province in order to reimburse the Saskatchewan government for the annual costs of the provincial tobacco control strategy.*

In May 2019, the Manitoba Tobacco Reduction Alliance released a report card with the following recommendations:<sup>98</sup>

- *Implement a tobacco industry Social Responsibility Fee (SRF) to fully cover the cost of a tobacco reduction strategy including enforcement of policies and anticontriband measures.*
- *Develop and implement a comprehensive tobacco framework that includes public education, policy and legislation, cessation programs, taxation and community/school programs.*
- *Prioritize regular province-wide data collection and analysis on the magnitude, patterns, equity implications, determinants and consequences of tobacco and vapour product use and exposure.*
- *Ban the use of hookah anyplace smoking is banned.*
- *Prohibit smoking in multi-unit social housing either within a specified time frame or phased-out by including a smoke-free provision in all new leases.*
- *Broaden bans on tobacco use and vaping in more places where cannabis use is banned including on patios, sports fields, children's playgrounds, beaches, provincial parks, construction sites, university/ college campuses, and near building entrances/exits.*

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97 Saskatchewan Coalition for Tobacco Reduction. Protecting our Future. Recommendations to reduce tobacco use in Saskatchewan.  
<http://www.cancer.ca/~media/cancer.ca/SK/get%20involved/take%20action/tobacco%20control/SaskTobaccoBrief---Coalition-V2.pdf?la=en>

98 Manitoba Tobacco Reduction Alliance. No Manitoban Left Behind.  
<https://www.mantrainc.ca/assets/mb-tobacco-report-card-2019.pdf>

- *Reduce financial barriers and provide equitable access to NRT and cessation support services.*
- *Invest in innovative solutions to target at risk and under served population groups with evidence-based cessation strategies.*
- Provide a province-wide mandate to better integrate tobacco use assessment, consultation and follow-up into the health care system.*
- *Fund helpline services that include live text, online chat and tailored services for under served population groups.*
- *Prioritize tobacco, and tobacco-like product education and awareness; ensuring Indigenous communities are appropriately included and that programming targeting under served populations is developed and supported.*
- *Integrate best-practice, up-to-date tobacco prevention programming into the education system in elementary and secondary school curricula and in community youth programs and activities such as those conducted by community clubs, youth groups and sports leagues.*
- *Ban all tobacco industry promotional payments/incentives to retailers*
- *Ban flavours in all tobacco products and ban the sale of flavoured vape products except in adult-only specialty vape stores.*
- *Implement age 21 for tobacco and vaping.*
- *Prohibit tobacco and vape product sales in more locations, including athletic and recreational facilities, bars and restaurants, university/ college campuses, within a specified distance of elementary and secondary schools, government buildings, and in outdoor/temporary/ movable locations.*
- *Require tobacco and vape retailers to have an annual licence fee in a similar range to current annual liquor and cannabis retail licensing fees (\$300-\$1000) to generate revenue and better regulate sales.*
- *Index tobacco tax rates to inflation so that increases become standard and tobacco products never become more affordable.*

### **Public opinion polls commissioned by NGOs.**

- In April the Quebec Coalition for Tobacco control commissioned a nation-wide poll by Leger Marketing on the subject of vaping regulations.<sup>99</sup>
  - 7 out of 10 (69%) support urgent intervention by the government to fight young people's use of vaping products.
  - 8 out of 10 (82%) support a ban on Internet and television advertising for vaping products with nicotine.
  - 86% believe that the government should apply the same advertising restrictions to vaping products with nicotine as it does to tobacco products.

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99 Leger. Promotion of Vaping Products seen by youth. April 2019.  
[http://www.cqct.qc.ca/Documents\\_docs/DOCU\\_2019/POLL\\_19\\_04\\_08\\_Leger\\_YouthVaping\\_Measures.pdf](http://www.cqct.qc.ca/Documents_docs/DOCU_2019/POLL_19_04_08_Leger_YouthVaping_Measures.pdf)

## VI. JUDICIAL ACTIVITIES

### Rulings under the Canadian Companies' Creditors Arrangement Act

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In March 2019, all three major Canadian tobacco companies filed for creditor protection using the provisions of the federal Companies' Creditors Protection Act.<sup>100</sup> Further information can be found in Appendix 3.

- These actions were precipitated by a judgment of the Quebec Court of Appeal on March 1 which upheld a lower court ruling ordering the companies to collectively pay \$13 billion in damages to Quebec smokers. In its lengthy and detailed ruling, the Court of Appeal confirmed the companies' failures to warn and other wrongdoings, actions which were also the basis of the provincial health care cost recovery suits.
- The Ontario court suspended all proceedings against the companies and appointed a mediator (former Ontario court chief justice Warren Wilson) to try to seek a settlement amongst all of the companies, all of the provinces and all of the other class actions.
- The mediator required all parties to file their demands / mediation brief on August 1, 2019.
- No information on the settlement discussions has been made public.
- The litigation stays expire on October 4, 2019 but may be extended when the court next reviews the situation on October 2, 2019.

### Other

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- A class action lawsuit was filed against JUUL in Vancouver, with two teenagers as representative plaintiffs. The civil claim says the company targetted minors with misleading advertising.<sup>101</sup>

## V. SELECTED INTERNATIONAL ACTIVITIES

### Activities by Inter-governmental organizations

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July 2019: World Health Organization released its 2019 'MPOWER' report on global tobacco epidemic,<sup>102</sup> providing comparative data on key indicators of tobacco control in most member states.

- Canada was listed as a best practice country with respect to smoke-free environments, tobacco dependence treatment, health warning labels.
- Canada was not listed as a best practice country with respect to anti-tobacco mass media campaigns, or enforcing bans on tobacco advertising, promotion and sponsorship.

Appendix 4 uses data from this report to compare the affordability of cigarettes and the dispersion of cigarette prices in Canada with those in other OECD countries. ,

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100 Developments in these cases are chronicled on the blog-site [Tobaccotrial.blogspot.com](http://Tobaccotrial.blogspot.com)

101 CBC News. Lawsuit filed in B.C. Supreme Court seeks class action, damages against e-cigarette giant Juul. Sept 30, 2019 <https://www.cbc.ca/news/canada/british-columbia/lawsuit-filed-in-b-c-supreme-court-seeks-class-action-damages-against-e-cigarette-giant-juul-1.5303154>

102 World Health Organization. WHO report on the global tobacco epidemic, 2019: Offer help to quit tobacco use is the seventh in a series of WHO reports that tracks the status of the tobacco epidemic and interventions to combat it [https://www.who.int/tobacco/global\\_report/en/](https://www.who.int/tobacco/global_report/en/)

OECD launched pilot project to collect data on the vaping market,<sup>103</sup> with data to be collected in 2020.

*The OECD is launching a pilot data collection on the vaping market, aiming to collect data on the following indicators to assess market size and consumption: Vapour Products Market, Retail Value RSP (Retail Sale Price), in millions of national currency; and Vapers, number and percentage of adults (15+) and population aged 15-24 years old, who are regular users. The goal is to assess data availability and comparability and receive data for as many countries as possible. First results will be reported during the meeting of the Working Party on Health Statistics in October 2019 and, depending on results, the indicators may then be fully integrated into the 2020 routine data collection.*

Updated estimates of the Global Burden of Disease were made available by the Institute for Health Metrics and Evaluation (IHME)<sup>104</sup> and compiled and presented by the Global Change Lab<sup>105</sup> Using this methodology:

- Smoking remained the risk factor associated with the most deaths in Canada and was associated with 49,382 deaths in 2017. Other risk factors in the top 5 were high blood pressure (42,419 deaths), high blood sugar (36,530 deaths), obesity (32,831 deaths) and low physical activity (6,690 deaths).
- The number of deaths attributable to smoking in Canada decreased over the past 20 years (from 52,815 in 1997)
- The leading cause of death in Canada was cancer (31%), followed by cardiovascular disease (29%), dementia (9%), diabetes (6%) and respiratory diseases (6%).

Appendix 5 presents data from these reports.

In April 2019, the World Bank issued a paper which addresses the potential of taxing e-cigarettes,<sup>106</sup> recommending a tax on vaping products as a way to limit youth access. Countries which currently tax e-cigarettes include Indonesia, South Korea, Kenya, Bahrain. A zero-rate tax is imposed in Croatia, Poland and Kazakhstan, which does not produce revenues for governments but provides data on market size, pricing and volume trends.

In April 2019, the International Agency for Research on Cancer (IARC) published a review of research into reducing social inequalities in cancer. Among the measures reviewed were the use of taxes, for which the report recommends that “it is appropriate to differentiate taxes according to relative risks.”<sup>107</sup>

Appendix 6 identifies more than 20 countries and 16 U.S. states which levy taxes on e-cigarettes.

## Activities by national and sub-national activities

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The activities identified below reflect regulatory actions not yet implemented in Canada or which may help guide future Canadian regulatory actions.

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103 OECD Health Data Questionnaire.

<http://www.oecd.org/statistics/data-collection/Health%20Data%20-%20Guidelines%201.pdf>

104 <http://www.healthdata.org/gbd>

105 <https://ourworldindata.org/causes-of-death#causes-of-death-in-recent-decades>

106 World Bank. E-cigarettes: use and taxation

<http://documents.worldbank.org/curated/en/356561555100066200/pdf/E-Cigarettes-Use-and-Taxation.pdf>

107 REDUCING SOCIAL INEQUALITIES IN CANCER: EVIDENCE AND PRIORITIES FOR RESEARCH. IARC Scientific publication No. 168. 2019.

<https://publications.iarc.fr/Book-And-Report-Series/Iarc-Scientific-Publications/Reducing-Social-Inequalities-In-Cancer-Evidence-And-Priorities-For-Research-2019>



## USA

- In June, the FA and FTC issued warning letters to e-cigarette companies for failing to include a statement about nicotine content in social media posts which promote vaping products.<sup>108</sup>
- In July the US FDA released guidance for e-cigarette manufacturers who wished to obtain pre-market authorization for their products.<sup>109</sup>
- In August, the FDA released a proposed rule for graphic health warnings. The proposed rule provides an extensive summary of research on cigarette warnings.<sup>110</sup>
- In August, President Trump announced he was donating his second quarter salary to Surgeon General's office to address opioid epidemic and growing use of e-cigarettes by teenagers and children.<sup>111</sup>
- The number of U.S. states raising the minimum age to purchase tobacco or vaping products to 21 years tripled in 2019 (from 6 to 17, with one additional state coming into effect on January 1, 2020.)<sup>112</sup>
- In May 2019, a bill proposing banning filters has made its way through the California Senate and will be heard by the lower house next year.<sup>113</sup>
- In June 2019, the City of Beverly Hills changed its Municipal Code to ban the sale of tobacco products or electronic cigarette paraphernalia.<sup>114</sup>
- In July 2019, Congress held hearings to "Examine JUUL's role in the Youth Nicotine Epidemic."<sup>115,116</sup>
- The U.S. Centers for Disease responded to the first death related to the outbreak of severe lung disease in those who use e-cigarette devices by cautioning "E-cigarettes are not safe for youth, young adults, pregnant women, or adults who do not currently use tobacco products."<sup>117</sup>

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108 US FDA. FTC and FDA Send Warning Letters to Companies Selling Flavored E-liquids About Social Media Endorsements without Health Warnings. June 7, 2019.  
<https://www.ftc.gov/news-events/press-releases/2019/06/ftc-fda-send-warning-letters-companies-selling-flavored-e-liquids>

109 Premarket Tobacco Product Applications for Electronic Nicotine Delivery Systems  
<https://www.fda.gov/media/127853/download>

110 US FDA. Tobacco Products; Required Warnings for Cigarette Packages and Advertisements.  
<https://www.federalregister.gov/documents/2019/08/16/2019-17481/tobacco-products-required-warnings-for-cigarette-packages-and-advertisements>

111 USA Today. President Trump donates \$100,000 of his salary to Surgeon General's office. August 16, 2019  
<https://www.usatoday.com/story/news/health/2019/08/16/president-trump-fund-surgeon-general-advisory-salary-donation/2030174001/>

112 Tobacco Twenty one. <https://tobacco21.org/>

113 California Legislative Information. SB-424. Tobacco products: single-use and multi-use components.  
[https://leginfo.ca.gov/faces/billCompareClient.xhtml?bill\\_id=201920200SB424](https://leginfo.ca.gov/faces/billCompareClient.xhtml?bill_id=201920200SB424)

114 Beverly Hills City Council. Council Meeting June 4, 2019. Minutes  
[https://docs.google.com/gview?url=https%3A%2F%2Fbeverlyhills.granicus.com%2FDocumentViewer.php%3Ffile%3Dbeverlyhills\\_a65636e1e25bbe902e56d8906a7c6663.PDF%26view%3D1&embedded=true](https://docs.google.com/gview?url=https%3A%2F%2Fbeverlyhills.granicus.com%2FDocumentViewer.php%3Ffile%3Dbeverlyhills_a65636e1e25bbe902e56d8906a7c6663.PDF%26view%3D1&embedded=true)

115 US Congress. Committee on Oversight and Reform. Examining JUUL's Role in the Youth Nicotine Epidemic: Part I  
<https://oversight.house.gov/legislation/hearings/examining-juul-s-role-in-the-youth-nicotine-epidemic-part-i>

116 US Congress. Committee on Oversight and Reform. Examining JUUL's Role in the Youth Nicotine Epidemic: Part II  
<https://oversight.house.gov/legislation/hearings/examining-juul-s-role-in-the-youth-nicotine-epidemic-part-ii>

117 Centers for Disease Control. CDC Director's Statement on the first death related to the outbreak of severe lung disease in people who use e-cigarette or "vaping" devices. Media statement. August 23, 2019  
<https://www.cdc.gov/media/releases/2019/s0823-vaping-related-death.html>

- San Francisco adopted ordinances which banned the sale of e-cigarettes which do not have FDA authority.<sup>118,119,120</sup>
- Massachusetts sues e-cigarette retailer, claiming that the advertising targeted young people and that the company failed to verify online buyers' ages.<sup>121</sup>
- In September, following reports of acute respiratory illness in young vapers, a number of U.S. legislators made adjustments to their vaping regulations:
  - On September 4, Michigan governor used emergency powers to ban the sale of flavored nicotine vaping products in retail stores and online.<sup>122</sup>
  - On September 9, New York Governor Andrew Cuomo directed his health officials to use emergency regulations to mandate warning signs in all vape and smoke shops and to advance legislation to ban flavoured e-cigarettes.<sup>123</sup>
  - On September 11, President Trump directed the FDA to restrict the marketing of flavoured e-cigarettes.<sup>124</sup>
  - On September 15, NY Governor Cuomo announced an emergency executive action to ban the sale of flavored electronic e-cigarettes.<sup>125</sup>
  - On September 24, Massachusetts Governor Baker announced a four month ban on the sale of vaping products in Massachusetts.<sup>126</sup>

## **Europe**

- In March 2019, Turkey published regulations requiring plain packaging of cigarettes.<sup>127</sup>

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118 San Francisco Board of Supervisors. Meeting Minutes. June 18, 2019.

[https://sfbos.org/sites/default/files/bag061819\\_minutes.pdf](https://sfbos.org/sites/default/files/bag061819_minutes.pdf)

119 Ordinance No. 121-19. Health Code – Restricting Commercial Tobacco Activities on City Property.

<https://sfbos.org/sites/default/files/o0121-19.pdf>

120 Ordinance No. 122-19. - Restricting the Sale, Manufacture, and Distribution of Tobacco Products, Including Electronic Cigarettes]. <https://sfbos.org/sites/default/files/o0122-19.pdf>

121 Government of Massachusetts. AG Healey Sues National E-cigarette Retailer Eonsmoke for Marketing and Selling Nicotine Vaping Products to Minors. Press release. May 30, 2019.

<https://www.mass.gov/news/ag-healey-sues-national-e-cigarette-retailer-eonsmoke-for-marketing-and-selling-nicotine>

122 Office of Governor Gretchen Whitmer. Press release. Governor Whitmer Takes Bold Action to Protect Michigan Kids from Harmful Effects of Vaping. September 4, 2019 <https://www.michigan.gov/whitmer/0,9309,7-387-90487-506450--,00.html>

123 New York Governor Cuomo. Governor Cuomo Takes Aggressive Action to Protect New Yorkers from Harmful and Addictive Vaping Products Following Rise in Vaping-Associated Illnesses Nationwide. September 9, 2019.

<https://www.governor.ny.gov/news/governor-cuomo-takes-aggressive-action-protect-new-yorkers-harmful-and-addictive-vaping>

124 Trump Administration Combating Epidemic of Youth E-Cigarette Use with Plan to Clear Market of Unauthorized, Non-Tobacco-Flavored E-Cigarette Products. September 11, 2019.

<https://www.fda.gov/news-events/press-announcements/trump-administration-combating-epidemic-youth-e-cigarette-use-plan-clear-market-unauthorized-non>

125 Governor Cuomo Announces Emergency Executive Action to Ban the Sale of Flavored E-Cigarettes. September 15 <https://www.governor.ny.gov/news/governor-cuomo-announces-emergency-executive-action-ban-sale-flavored-e-cigarettes>

126 Government of Massachusetts Press release. Governor Charlie Baker Declares Public Health Emergency, Announces Temporary Four-Month Ban on Sale of All Vape Products. September 24, 2019. <https://www.mass.gov/news/governor-charlie-baker-declares-public-health-emergency-announces-temporary-four-month-ban-on>

127 FCTC Secretariat. Turkey: new regulations on plain packaging.

<https://untobaccocontrol.org/impldb/turkey-new-regulations-on-plain-packaging/>

- The European Union in May adopted new rules under which members must pass laws within two years requiring tobacco companies to fund the cleanup of filter litter as part of a broader crackdown on single-use plastics.<sup>128</sup> (See Appendix 7)
- In July 2019, the French Minister of State to the Minister for the Ecological Transition (*Secrétaire d'État auprès du ministre de la Transition écologique et solidaire*, Brune Poirson) proposed an Antigaspillage (anti-waste) law to address pollution and to impose the costs of doing so on polluting industries.<sup>129</sup> The explanatory impact assessment identifies a cost equivalent to about 0.03 euro per package that will be imposed on manufacturers.<sup>130</sup>
- In July 2019, the United Kingdom issued a green paper “Advancing our health: prevention in the 2020s” in which it adopted the goal “to make smoked tobacco obsolete by 2030, with smokers quitting or moving to reduced risk products like e-cigarettes.”<sup>131</sup>
- France supports retraining and closing out buralistes. Currently 24,500 buralistes, down 9,000 since 2000.<sup>132 133 134</sup>
- Iceland imposes regulatory warning on e-cigarettes in March 2019 (Nicotine is a very addictive substance. Its use is not recommended for non-smokers).<sup>135</sup>
- June 2019. France expands the scope of activities that can be funded through its tariff on the tobacco industry to include other addictions to psychotropic substances.<sup>136</sup> Launches a project to encourage “mobilizing civil society against addict ions.”<sup>137</sup>
- Belgium becomes the 5<sup>th</sup> European country to require plain packaging in April 2019.<sup>138</sup> The measure will be phased in between the beginning and end of 2020
- Hungary moves to reduce the number of monopoly retail stores, and to restrict the sale of electronic cigarettes to these stores<sup>139</sup>

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128 Council of the European Union. Final Compromise Text. Proposal for a Directive of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment. 2019.  
<https://data.consilium.europa.eu/doc/document/ST-5483-2019-INIT/en/pdf>

129 Projet de loi relatif à la lutte contre le gaspillage et à l'économie circulaire (TREP1902395L).  
[https://www.legifrance.gouv.fr/affichLoiPreparation.do;jsessionid=1A170222CBCCB3857088C5DB0E529D8C.tplgr43s\\_2?idDocument=JORFDOLE000038746653&type=contenu&id=2&typeLoi=proj&legislature=15](https://www.legifrance.gouv.fr/affichLoiPreparation.do;jsessionid=1A170222CBCCB3857088C5DB0E529D8C.tplgr43s_2?idDocument=JORFDOLE000038746653&type=contenu&id=2&typeLoi=proj&legislature=15)

130 Etude d'Impact. Projet de loi relative à la lute contre le gaspillage et à l'économie circulaire. Available at: l  
[https://www.legifrance.gouv.fr/affichLoiPreparation.do;jsessionid=1A170222CBCCB3857088C5DB0E529D8C.tplgr43s\\_2?idDocument=JORFDOLE000038746653&type=general&typeLoi=proj&legislature=15](https://www.legifrance.gouv.fr/affichLoiPreparation.do;jsessionid=1A170222CBCCB3857088C5DB0E529D8C.tplgr43s_2?idDocument=JORFDOLE000038746653&type=general&typeLoi=proj&legislature=15)

131 UK Government. Advancing our health: prevention in the 2020s  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/819766/advancing-our-health-prevention-in-the-2020s-accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819766/advancing-our-health-prevention-in-the-2020s-accessible.pdf)

132 Le Monde du Tabac. Marché du tabac. L'AFP revient sur les chiffres 2018.  
<http://www.lemondedutabac.com/marche-du-tabac-lafp-revient-sur-les-chiffres-2018/>

133 <https://www.vosgesmatin.fr/edition-d-epinal/2019/07/18/une-transformation-en-7-etapes>

134 <https://www.bfmtv.com/economie/comment-l-etat-aide-les-buralistes-a-reduire-leur-dependance-aux-ventes-de-tabac-1614950.html>

135 Reglugerð um merkingar á umbúðum rafrettna og áfyllinga og efni upplýsingabæklings sem fylgja skal rafrettum og áfyllingum. <https://www.reglugerd.is/reglugerdir/eftir-raduneytum/hrn/nr/0255-2019>

136 Government of France. Décret no 2019-622 du 21 juin 2019 relatif au fonds de lutte contre les addictions liées aux substances psychoactives  
[https://www.legifrance.gouv.fr/jo\\_pdf.do?id=JORFTEXT000038670838](https://www.legifrance.gouv.fr/jo_pdf.do?id=JORFTEXT000038670838)

137 Government of France. Press release. Appel à projets : Mobilisation de la société civile contre les addictions  
<https://solidarites-sante.gouv.fr/actualites/actualites-du-ministere/article/appe-a-projets-mobilisation-de-la-societe-civile-contre-les-addictions>

138 FCTC Serretariat. Belgium, fifth European country to adopt plain packaging  
<https://untobaccocontrol.org/impldb/belgium-fifth-european-country-to-have-adopted-plain-packaging/>

139 [https://bbj.hu/business/bill-would-limit-e-cigarette-sales-to-state-run-tobacco-shops\\_167414](https://bbj.hu/business/bill-would-limit-e-cigarette-sales-to-state-run-tobacco-shops_167414)

## **Americas**

- In May, Brazil's Office of the Attorney General (Advocacia-Geral da União) filed a lawsuit against multinational tobacco companies to recover funds spent on the treatment of tobacco-related diseases in Brazil's health care system.<sup>140</sup>
- Uruguay adopts plain packaging on April 29, 2019, to come into effect within one year.<sup>141</sup>

## **Pacific and Asia:**

- Singapore adopts legislation to require plain packaging in March 2019.<sup>142</sup>
- In September, the Indian government bans electronic cigarettes.<sup>143</sup>
- Thailand includes smoking in the home among actions for which household members can be protected from abuse.<sup>144</sup>
- Thailand plain packaging comes into effect in September 2019.<sup>145</sup>
- New Zealand health ministry sets up website to encourage smokers to vape instead.<sup>146</sup>
- Australia's federal health minister announced target of reducing smoking rates below 10 per cent by 2025, with \$20 million on an education campaign.<sup>147</sup>
- Victoria state premier in Australia announces changes to legislation to ensure Formula 1 is not used to indirectly promote tobacco products.<sup>148</sup>
- Korea imposes a graphic health warning about addiction for e-cigarettes.<sup>149</sup> (See Appendix 8)

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- 140 Government of Brazil. Attorney General. Press release. AGU cobra de fabricantes de cigarro ressarcimento de gasto com tratamento de fumantes. May 21, 2019.  
[https://agu.gov.br/page/content/detail/id\\_conteudo/756818?AGU%20charges%20cigarette%20manufacturers%20reimbursement%20of%20expenses%20with%20treatment%20of%20smokers](https://agu.gov.br/page/content/detail/id_conteudo/756818?AGU%20charges%20cigarette%20manufacturers%20reimbursement%20of%20expenses%20with%20treatment%20of%20smokers)
- 141 FCTC Secretariat. Uruguay adopts plain packaging. April 29, 2019.  
<https://untobaccocontrol.org/impldb/uruguay-adopts-plain-packaging/>
- 142 FCTC Secretariat. Singapore: new regulation on standardized cigarette packaging.  
<https://untobaccocontrol.org/impldb/singapore-new-regulation-on-standardized-cigarette-packaging/>
- 143 CBC News. India bans e-cigarettes, dashing Juul and Philip Morris expansion plans.  
<https://www.cbc.ca/news/health/india-bans-e-cigarettes-1.5287953>
- 144 Bangkok Post. Smoking at home to be banned. 21 June 2019.  
<https://www.bangkokpost.com/thailand/general/1699504/smoking-at-home-to-be-banned>
- 145 FCTC Secretariat. Thailand: first country in Asia to adopt tobacco plain packaging  
<https://untobaccocontrol.org/impldb/thailand-first-country-in-asia-to-adopt-tobacco-plain-packaging/>
- 146 Government of New Zealand. Vaping Facts. Vapingfacts.health.nz.
- 147 Honourable Greg Hunt. National Press Club address — Long Term National Health Plan. August 14, 2019  
<https://www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/national-press-club-address-long-term-national-health-plan>
- 148 Victoria Minister for Health. Laws to Crack Down On Sneaky, Dangerous Tobacco Ads 28 August, 2019.  
<https://www.premier.vic.gov.au/laws-to-crack-down-on-sneaky-dangerous-tobacco-ads/>
- 149 Republic of Korea. Enforcement Decree of the National Health Promotion Act. July 2, 2019.

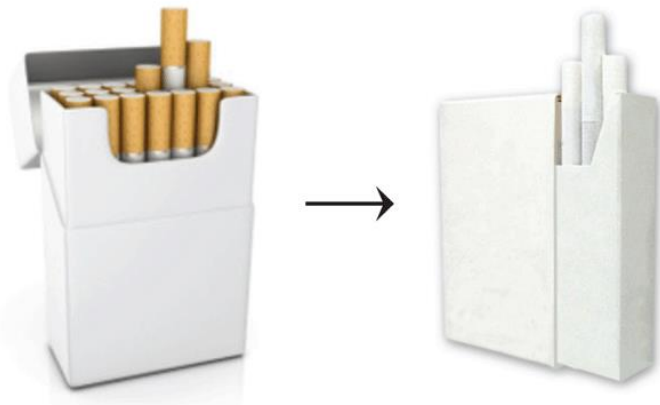
## VI. CANADIAN MARKET DEVELOPMENTS

### Product design and manufacture

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#### Cigarettes:

- The number of cigarette brands (skus) sold in Canada drops from 336 in 2017 to 275 in 2018.<sup>150</sup>
- Rothmans, Benson and Hedges adjusted its cigarette product line, reducing the number of brand offerings and removing brand names which will not be allowed when the plain and standardized packaging requirements come into force.<sup>151</sup>
- Imperial Tobacco reports to retailers that it will be replacing flip-top lids with slide opening packages, and illustrates the changes as shown below.<sup>152</sup>
- JTI launches brands with water capsule filters.<sup>153</sup>



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150 Information provided by Robert Nugent of Health Canada, August 2019.

151 Personal correspondence, Les Hagen interview with tobacco retailer. July 11, 2019

152 Ontario Korean Businessmen's Association . 8월 7일 지구협회장회의 설명회 통해 August 19, 2019. 발표 [https://okba.net/bbs.php?table=board\\_01&query=view&uid=2309&p=2](https://okba.net/bbs.php?table=board_01&query=view&uid=2309&p=2)

153 JTIM Advantage plus.com

### **Other tobacco products:**

- British American Tobacco withdrew GLO from the Canadian market, with sales suspended after September 30.<sup>154</sup>
- PMI (through Rothmans, Benson & Hedges) introduces new IQOS heating devices – the IQOS 3 and IQOS Multi.<sup>155</sup>
- PMI (through Rothmans, Benson & Hedges) introduces new IQOS heat stick flavours. Flavours are labelled Teak, Elm, Oak, Cypress, Birch, as illustrated below.<sup>156</sup>



### **Vaping products:**

- JTI Macdonald launched its vaping product Logic compact in Canada in January 2019.<sup>157</sup>
- JUUL launched the C1 product in Canada in July 2019.<sup>158</sup>

See Appendix 9 for information on vaping products associated with tobacco companies, and other brands sold in Convenience Stores in Canada in 2019.

## **Distribution**

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### **Cigarettes**

- In March 2019, each of the three major tobacco companies provided information on the number of retail outlets in which their products are sold.
  - JTI reported that there were “approximately 28,000 retailers that sell JTIM products” (“and approximately 790,000 consumers of its products”)<sup>159</sup>
  - Imperial Tobacco reported selling “to approximately 26,825 retailers and 184 wholesalers.”<sup>160</sup>
- JTI modified its retail support program and supporting website (from advantageplus-jti.com to jtidrive.ca). It is no longer possible to access material from the site without permission.
- In April, 2019, RBH updates its terms and conditions for its Loyalty Program.<sup>161</sup>
- In the summer of 2019, Imperial Tobacco adjusted the rebates offered under its GO program. Retailers who participate in the program receive a standard rebate of \$4.75 per carton of du Maurier, but retailers who exceed their target level of sales receive an additional bonus payment. This is identified as a way to

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154 Imperial Tobacco Canada Ltd. [www.glo.ca](http://www.glo.ca)

155 Rothmans, Benson and Hedges. <https://ca.iqos.com/en/>

156 Rothmans, Benson and Hedges. <https://ca.iqos.com/en/>

157 Convenience Store News Canada, January 2019. Advertorial. Finally, selling vapes just clicks.

158 Physicians for a Smoke-Free Canada. Blog. Big Data for Big Nicotine. July 31, 2019  
<http://smoke-free-canada.blogspot.com/2019/07/big-data-for-big-nicotine-inights-from.html>

159 JTI-Macdonald. Factum of the Applicant. March 8, 2019. [https://www.insolvencies.deloitte.ca/en-ca/Documents/ca\\_en\\_insol\\_JTIM\\_FactumoftheApplicantdated\\_March8\\_2019\\_030819.pdf](https://www.insolvencies.deloitte.ca/en-ca/Documents/ca_en_insol_JTIM_FactumoftheApplicantdated_March8_2019_030819.pdf)

160 Declaration of Paul Bishops. (U.S. declaration #5). P. 4

<http://cfcanaa.fticonsulting.com/imperialtobacco/docs/Docket%205%20-%20Declaration%20of%20Paul%20Bishop.pdf>

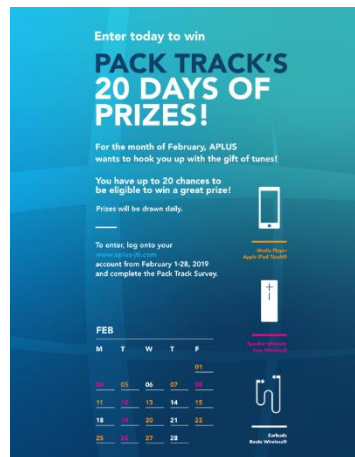
161 RBH Connect.ca [https://oneportal.rbhconnect.ca/s/login/?language=en\\_CA&startURL=%2Fs%2F&ec=302](https://oneportal.rbhconnect.ca/s/login/?language=en_CA&startURL=%2Fs%2F&ec=302)



“encourage sales”.

“판매를 장려하기 위한 인센티브 개념이다. (It is an incentive concept to encourage sales)”<sup>162</sup>

- JTI Macdonald incentivizes retailers to participate in its data-collection program Track Pack / Traque-Paquet.



## Other tobacco products:

- The IQOS stores in Toronto and Edmonton are renamed Q-lab ((Health Canada required the name change in late 2018)).<sup>163</sup>
- Although figures on national distribution have not been located, the IQOS website indicates that this product is distributed through 834 stores in Toronto, 523 in Montreal, 297 in Edmonton, 265 in Vancouver, 236 in Calgary, 161 in Ottawa, 115 in Quebec City, 108 in Winnipeg, 54 in Regina, 34 in Halifax, 35 in St. John's, 10 in Fredericton, 4 in Charlottetown.<sup>164</sup>

## Vaping products

- In July 2019, JUUL opens a branded flagship store in Toronto.<sup>165</sup>
- In summer, 2019, a store-front façade for Vype is mounted at King and Spadina, Toronto.<sup>166</sup>

162 Ontario Korean Businessmen's Association . 8월 7일 지구협회장회의 설명회 통해 August 19, 2019. 발표 [https://okba.net/bbs.php?table=board\\_01&query=view&uid=2309&p=2](https://okba.net/bbs.php?table=board_01&query=view&uid=2309&p=2)

163 Retail Insider. IQOS announces new name after Health Canada bans storefront signage. March 3, 2019. <https://www.retail-insider.com/retail-insider/2019/3/iqos-announces-new-name-after-health-canada-bans-storefront-signage>

164 [https://ca.iqos.com/en/store\\_finder-search](https://ca.iqos.com/en/store_finder-search)

165 Global News. E-cigarette maker Juul opens 1st store in Toronto amid concern about rise of teen vaping. July 31, 2019. <https://globalnews.ca/news/5702489/juul-toronto-ecigarette-teen-vaping/>

166 CBC News. Vaping is illegal for under-19s in Ontario, so why are so many able to buy products? September 3, 2019. <https://www.cbc.ca/news/canada/toronto/it-s-illegal-for-kids-under-19-so-why-are-so-many-able-to-buy-vaping-products-1.5268085>





- Imperial Tobacco reports over 10,000 locations where its Vype products can be purchased at retail.<sup>167</sup> (In 2017, before nicotine vaping sales were legalized, the Canadian Vaping Association reported to the Senate that the number of retail outlets and manufacturing facilities numbered over 800, representing over 5000 employees, with a revenue of 350 million dollars.<sup>168</sup>

## Market size, share and revenue

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### Tobacco products

- A number of sources identified a decline in the volume of legally sold cigarettes in Canada.
  - Philip Morris International noted that increased pricing lead to a market reduction of 9.7%, primarily due to the impact of cumulative pricing;<sup>169</sup>
  - Health Canada reported a decline in legal cigarette sales from 27.1 billion sticks in 2012 to 25.8 in 2018. The decline was shown at similar intensity across the country, suggesting that it reflects reduced consumption and not increased contraband.<sup>170</sup>
  - “Total cigarette consumption declined in Canada from 28 billion cigarettes in 2008 to 25 billion cigarettes in 2017, or a compounded annual decline of approximately 1.1% based on statistics provided by the TMA.”<sup>171</sup>
- Health Canada reports that 95% of cigarettes sold are sold by the three largest companies (Imperial Tobacco Canada, Rothmans, Benson & Hedges, JTI-Macdonald).<sup>172</sup>
- Tobacco companies made the following claims about their market share in 2019.

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167 Imperial Tobacco Canada website govype.ca, “store locator”. <https://govype.ca/store-locator>. Accessed September 5, 2019.

168 Imperial Tobacco Canada. Remarks to senate Committee. April; 2017. <https://chambermaster.blob.core.windows.net/userfiles/UserFiles/chambers/9417/CMS/S5/FINAL-Notes-for-Remarks-Senate-Presentation.pdf>  
Written submission to Senate  
<https://chambermaster.blob.core.windows.net/userfiles/UserFiles/chambers/9417/CMS/S5/FINAL-submission-to-SOCI.pdf>

169 Philip Morris International. First Quarter Results. April 2018.

<https://philipmorrisinternational.gcs-web.com/static-files/b1a783fa-bffb-4181-9c30-12d8d1bf4b99>

170 Health Canada. Business Intelligence Division, Office of Research and Surveillance, Tobacco Control Directorate. Tobacco Sales in Canada: Key Trends. August 2019.

171 Coremark 2018 Annual Report

<https://coremark.gcs-web.com/static-files/4c02ae91-1fb2-4c2e-9b3e-34dc2f77aacc>

172 Health Canada. Business Intelligence Division, Office of Research and Surveillance, Tobacco Control Directorate. Tobacco Sales in Canada: Key Trends. August 2019.

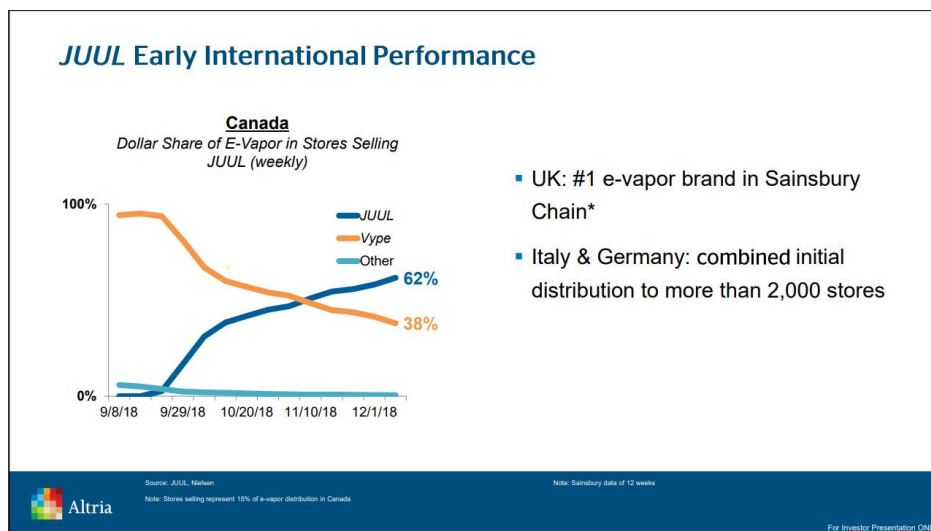
- JTI Macdonald claimed “approximately 790,000 consumers of its products”,<sup>173</sup> representing 16% of Canada’s 4.93 million smokers.<sup>174</sup>

## **Vaping products**

- Health Canada does not (yet) require vaping manufacturers to report wholesale shipment. As mentioned above, it has issued a request to tender for third party estimates of vaping sales.

Some market share information has been provided by the companies in their reports to shareholders or to the media.

- JUUL claims 79% market share in May-June 2019. (“As Canada’s #1 vapour brand, owning 79.6% of the market share”)<sup>175</sup> <sup>176</sup>
- BAT claims 12% vapour value share in June 2019. "In Canada, Vype ePod performed well, reaching 12% vapour value share in June 2019." <sup>177</sup>
- Altria claims JUUL has 62% dollar share in December 2018, as shown in chart below. <sup>178</sup>
- BAT claims that the reduction in BAT's cigarette sales in Canada is exceeded by the growth in vaping sales. "the growth of New Categories in Canada more than offset the lower total cigarette volume described above." <sup>179</sup>



173 JTIM. Factum of the Applicant. March 8, 2019.

[https://www.insolvencies.deloitte.ca/en-ca/Documents/ca\\_en\\_insolv\\_JTIM\\_FactumoftheApplicantdated\\_March8\\_2019\\_030819.pdf](https://www.insolvencies.deloitte.ca/en-ca/Documents/ca_en_insolv_JTIM_FactumoftheApplicantdated_March8_2019_030819.pdf)

174 Canadian Community Health Survey. Statistics Canada Table 13-10-0096-10

175 Canada Convenience Store News. May – June 2019. <https://issuu.com/ensembleiq/docs/csnc-0519?e=37211642/69651650>

176 CBC News. Juul opens first store in Toronto amid outcry over rise in teen vaping  
<https://www.cbc.ca/news/canada/toronto/juul-opens-first-store-toronto-1.5229322>

177 BAT half yearly results.  
[https://www.bat.com/group/sites/uk\\_\\_9d9kcy.nsf/vwPagesWebLive/DO72TJQU/\\$FILE/medMDBELNTS.pdf?openelement](https://www.bat.com/group/sites/uk__9d9kcy.nsf/vwPagesWebLive/DO72TJQU/$FILE/medMDBELNTS.pdf?openelement)

178 Altria Group. 2019 CAGNY Investor Presentation.  
<http://investor.altria.com/Cache/1500117496.PDF?O=PDF&T=Y=&D=&FID=1500117496&iid=4087349>

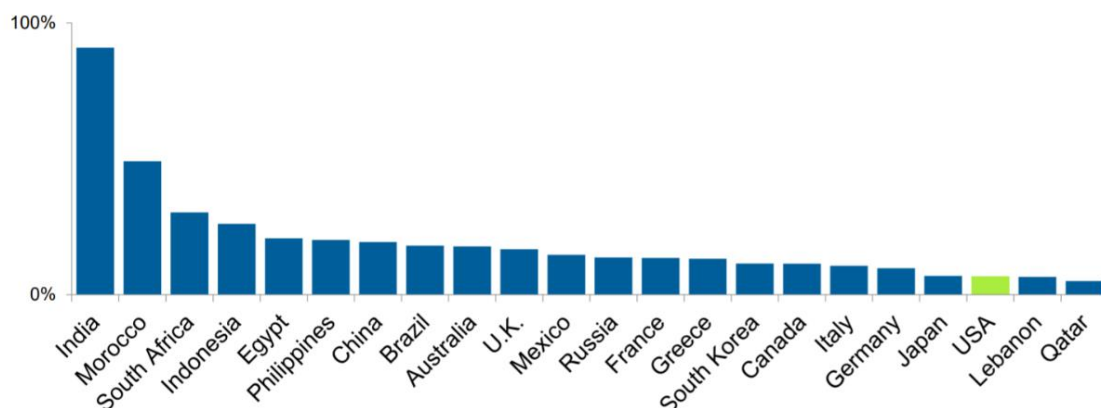
179 BAT half yearly results.  
[https://www.bat.com/group/sites/uk\\_\\_9d9kcy.nsf/vwPagesWebLive/DO72TJQU/\\$FILE/medMDBELNTS.pdf?openelement](https://www.bat.com/group/sites/uk__9d9kcy.nsf/vwPagesWebLive/DO72TJQU/$FILE/medMDBELNTS.pdf?openelement)

## Pricing

- Altria reports that cigarettes remain more affordable in Canada than in many other countries, as shown below.<sup>180</sup>

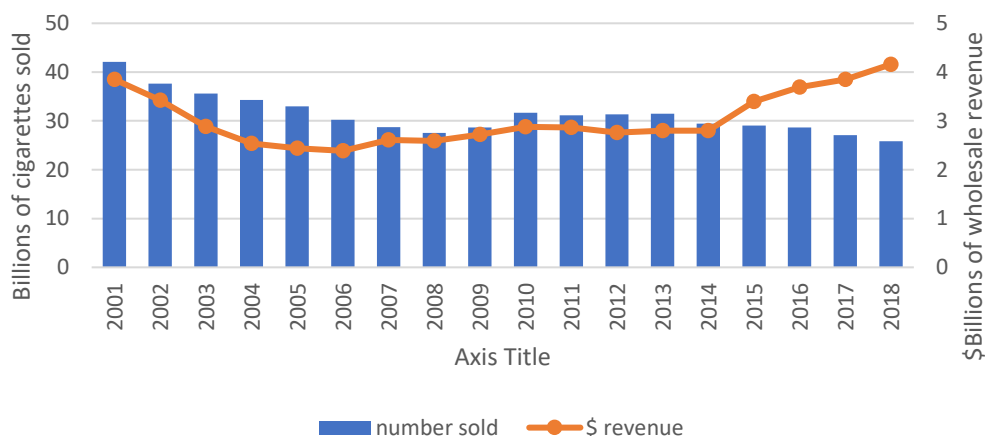
### Cigarette Affordability

Per Pack Price as a % of Daily Consumer Expenditure



- Health Canada reports that the wholesale price charged by tobacco companies has steadily increased since 2014, resulting in higher revenues for the industry even though the number of cigarettes sold has declined.

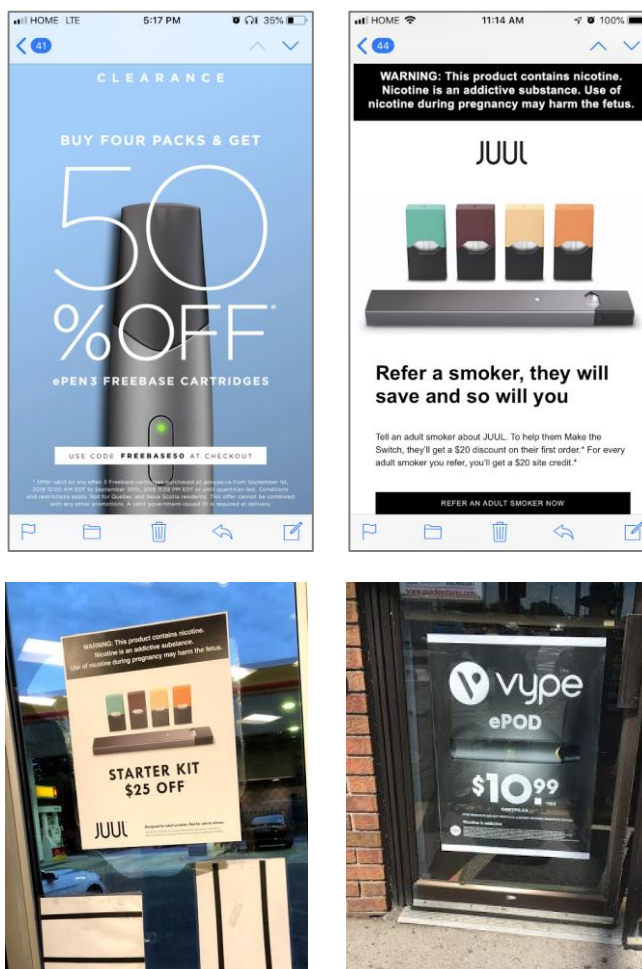
### Volume sales and non-taxed wholesale revenue for cigarettes, Canada 2001 – 2018



180 Altria. CAGNY Investor Presentation. 2019. Slide 46

<http://investor.altria.com/Cache/1500117496.PDF?O=PDF&T=&Y=&D=&FID=1500117496&iid=4087349>

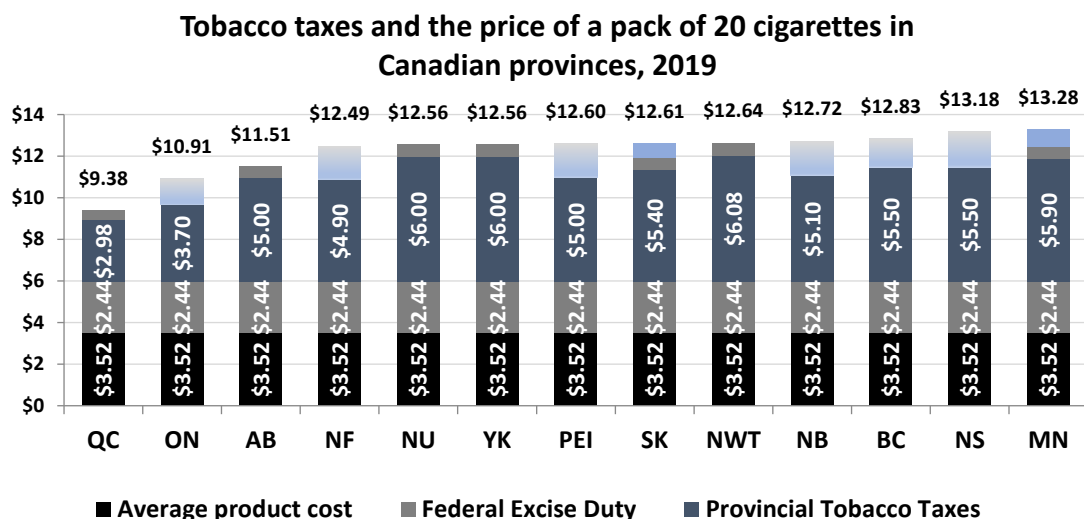
- The distributor Core Mark identifies the increased pricing as a contributor to sustained profitability for the industry in the USA and Canada: *“Although we anticipate overall cigarette consumption will continue to decline, we expect to offset these declines through continued growth in our non-cigarette categories including alternative nicotine products and OTP, market share expansion and incremental gross profit from cigarette manufacturer price increases. We expect cigarette manufacturers will continue to raise prices for the foreseeable future as carton sales decline in order to maintain or enhance their overall profitability.”*<sup>181</sup>
- BAT sells its Vype-ePod at a lower price in in Canada than in other markets: \$19.99 in Canada, compared with \$29.65 in France, \$33.40 in the United Kingdom, \$44.63 in Germany, \$43.90 in New Zealand, and \$50.41 in the United States. See Appendix 12 for details.
- Both BAT and JUUL reduced the price of their devices during the summer of 2019. The e-pod was introduced at a priced of \$45 in January 2019, and was priced at \$19.99 in September 2019. The JUUL device was listed at \$64, but is frequently advertised for sale at \$25 off. Discounts are offered in return for referring customers or for purchasing larger quantities. (Pictures below were collected in Ottawa in the summer of 2019).



181 <https://coremark.gcs-web.com/static-files/4c02ae91-1fb2-4c2e-9b3e-34dc2f77aacc>

## Government revenue from tobacco sales

- The average Canadian smoker pays \$1,348 a year in tobacco taxes.
- Excise taxes on tobacco products are applied by all provincial and territorial governments, as well as by the federal government. The rate of tax varies across the provinces, as does the practice of applying additional sales taxes to these products.<sup>182</sup> In 2019, the federal government applied a tax of \$24.38 to each carton of cigarettes. Provincial excise taxes ranged from \$29.80 per carton (Quebec) to \$59.00 (Manitoba).<sup>183</sup> (See Appendix 10 for further details. ).



- Tobacco taxes represent about 1.6% of government tax revenues and about 1.1% of total government revenues. The contribution of tobacco tax revenues to the treasury of federal and provincial governments ranges from a low of 0.8% in Ontario to a high of 2.75 in Newfoundland and Labrador.
- Newfoundland and Labrador is the province which reports the greatest revenue per smoker (as identified by public accounts and health surveys. (See Appendix 11 for further details. ).<sup>184</sup>

## Corporate activities

### Manufacturing

- In August 2019, Philip Morris International and Altria Group Inc initiated talks aimed at a re-merger of the two formerly united tobacco operations.<sup>185</sup> The talks are suspended on September 24, 2019.<sup>186</sup>

<sup>182</sup> Provinces which do not apply additional sales tax are Alberta, Quebec, Prince Edward Island.

<sup>183</sup> Sources shown on Appendix 10 Fact Sheet. Taxes on cigarettes in Canadian jurisdictions.

<sup>184</sup> Sources shown on Appendix 11 Fact Sheet. Tobacco taxes paid by smokers.

<sup>185</sup> Philip Morris International. Media Release. Philip Morris International Inc. Confirms Discussions with Altria Group, Inc. Regarding Potential All-Stock, Merger of Equals August 27, 2019.  
<https://philipmorrisinternational.gcs-web.com/static-files/3987ce25-5dee-4abb-b43f-5d10f27dfe88>

<sup>186</sup> Philip Morris International. Media Release. Philip Morris International Inc. and Altria Group, Inc. End Merger Discussions. September 25, 2019.  
<https://www.pmi.com/media-center/press-releases/press-release-details/?newsId=21526>

- In December 2018, Altria Group acquires a 35% ownership of JUUL.<sup>187</sup> In September 2019, JUUL's leadership is replaced with an executive from Altria.<sup>188</sup>
- Altria Group acquires 45% ownership in cannabis manufacturer, Cronos.<sup>189</sup>
- Imperial Brands acquires 19.9% ownership in Auxley Cannabis.<sup>190</sup>

## **Distribution**

- There was a major change in the trade organizations representing tobacco retailers in early 2019 when a new trade organization was established by the national convenience chains and convenience distributors. The Convenience Industry Council of Canada<sup>191</sup> was established in January 2019. Its directors and membership represent major gas-chain and chain grocery and convenience retailers and distributors, i.e. Sobeys, Petro Canada, Couche-Tard/Circle K, 7-Eleven, Core-Mark, Husky, Canadian Tire, Metro.
- Previously, most of these organizations had worked through (and were founders of) the Canadian Convenience Store Association (CCSA) or the National Convenience Stores Distributors Association (NACDA). The CCSA now represents 17,000 family run stores and regional family chains. It is no longer associated with the National Coalition Against Contraband.<sup>192</sup>
- In early 2019, Couche Tard announced an investment in cannabis retailing and the opening of a cannabis retail store in London, Ontario.<sup>193</sup> <sup>194</sup> It also invested in cannabis distribution firm Fire and Flower Holdings (9.9% stake with right to increase ownership to 50.1%).<sup>195</sup>
- Couche-Tard reports that, globally,
  - “For fiscal 2019, tobacco products represented approximately 39.0% and 11.0% of total merchandise and service revenues and gross profits, respectively.”<sup>196</sup>
  - 89% of cigarette sales are in convenience stores.<sup>197</sup>

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187 Altria Group. Press release. Altria makes \$12.8 billion minority investment in Juul to accelerate harm reduction and drive growth. December 20, 2018.

<http://investor.altria.com/Cache/1500116269.PDF?O=PDF&T=&Y=&D=&FID=1500116269&iid=4087349>

188 Juul Labs. Juul Labs names new leadership, outlines changes to policy and marketing efforts. September 25, 2019. <https://newsroom.juul.com/2019/09/25/juul-labs-names-new-leadership-outlines-changes-to-policy-and-marketing-efforts/>

189 Cronos Group. Press Release. Cronos Group Inc. Announces C\$2.4 Billion Strategic Investment from Altria Group, Inc. December 7, 2018. <https://ir.thecronosgroup.com/news-releases/news-release-details/cronos-group-inc-announces-c24-billion-strategic-investment-0>

190 <https://business.financialpost.com/cannabis/cannabis-business/british-tobacco-company-imperial-brands-enters-the-cannabis-space-with-123-million-investment-in-auxly-cannabis>

191 See website at: <https://convenienceindustry.ca/>

192 This information was provided privately by someone close to the CCSA.

193 <https://corpo.couche-tard.com/wp-content/uploads/2019/07/2019-Management-Discussion-and-Analysis-1.pdf>  
 “On February 21, 2019 we announced a multi-year agreement with Canopy Growth Corporation allowing us to license the “Tweed” trademark to cannabis retail store operations in the Province of Ontario, Canada. Through this new strategic partnership, we aim to lean on Canopy Growth’s cannabis expertise and leverage our experience with other age-restricted products to focus on the safe, responsible and lawful sale of cannabis. On May 17, 2019, a first licensed store was opened under this agreement.”

194 Couche-Tard Annual Report 2018.

[https://corpo.couche-tard.com/wp-content/uploads/2019/07/AnnualReport2019\\_long\\_EN-Protege.pdf](https://corpo.couche-tard.com/wp-content/uploads/2019/07/AnnualReport2019_long_EN-Protege.pdf)

195 <https://business.financialpost.com/cannabis/cannabis-business/couche-tard-to-buy-10-stake-in-cannabis-retailer-fire-flower>

196 Couche-Tard. Annual Report. Fiscal Year 2019.

<https://corpo.couche-tard.com/wp-content/uploads/2019/07/2019-Management-Discussion-and-Analysis-1.pdf>

197 Couche-Tard Investor Presentation 2019. Slide 14.

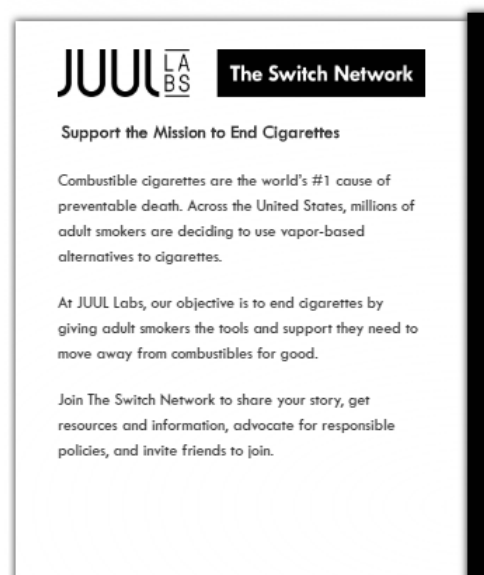
[https://corpo.couche-tard.com/wp-content/uploads/2019/07/ACT-Investor-Presentation\\_Master-2.pdf](https://corpo.couche-tard.com/wp-content/uploads/2019/07/ACT-Investor-Presentation_Master-2.pdf)



- The distributor Coremark reports that: “Historically, industry data indicates that convenience retailers have more than offset cigarette volume profit declines through higher sales of other nicotine products, fresh and food service, and other food/non-food products.”<sup>198</sup>
- The City of Vancouver reports that business licenses issued to convenience stores fell from 302 in 2008 to 226 in 2018.<sup>199</sup>

## **Public relations**

- Vaping product manufacturers creates the Vaping Industry Trade Association (VITA).<sup>200</sup> Members include Logic Vapes (JTI-Macdonald), Vype (Imperial Tobacco), Juul.<sup>201</sup>
- Philip Morris engages public in “unsmoke” campaigns, at global<sup>202</sup> and Canadian levels.<sup>203</sup>
- Philip Morris International released a global report on smokers’ access to information on products. UNSMOKE: Clearing the Way for Change<sup>204</sup> was authored to “better understand current mindsets toward smoking, the barriers that are preventing some smokers from stopping and the extent to which people are aware of smoke-free alternatives to cigarettes.” Canada was not included in the 13 countries studied.
- JUUL labs announces it is suspending all broadcast, print and digital product advertising in the U.S, and is refraining from lobbying U.S. federal health officials.<sup>205</sup>
- JUUL launches a mobilization campaign in Canada, inviting its customers to be politically active in support of vaping by signing up at the Switch Network (www.theswitchnetwork.com).<sup>206</sup>



198 <https://coremark.gcs-web.com/static-files/4c02ae91-1fb2-4c2e-9b3e-34dc2f77aacc>

199 CBC News. Why Vancouver's corner stores — the city's gathering places — are disappearing. September 6, 2019 <https://www.cbc.ca/news/canada/british-columbia/vancouver-corner-stores-disappearing-1.5272333>

200 A United Voice for the Canadian Vaping Industry <https://www.newswire.ca/news-releases/a-united-voice-for-the-canadian-vaping-industry-890591180.html>

201 <https://vitaofcanada.com/>

202 Website: <https://www.unsmokeyourworld.com>

203 Website <https://unsmoke.ca/>

204 Philip Morris International. UNSMOKE: Clearing the Way for Change. <https://www.unsmokeyourworld.com/whitepaper/>

205 JUUL Labs. JUUL Labs names new leadership, outlines changes to policy and marketing efforts. September 25, 2019. <https://newsroom.juul.com/2019/09/25/juul-labs-names-new-leadership-outlines-changes-to-policy-and-marketing-efforts/>

206 Physicians for a Smoke-Free Canada. One week into the Canadian election, JUUL launches a political action campaign. September 17, 2019.



## **Intellectual property**

- Trademarks registered or applied for during this period include:
  - IQOS In places (“Entertainment information services; organizing cultural and arts events for entertainment purposes...”)
  - IQOS Simply Amazing.
  - IQOS Care Plus. (“Customer relationship management..”)
  - JUUL Make the Switch. (“...computer software for use in posting, transmitting, retrieving, receiving, reviewing, organizing, searching and managing text, audio, visual and multimedia data and content via computers, mobile phones, wired and wireless communication devices...”)
  - JUUL C2. (“downloadable software for mobile devices for use with an oral vaporizer ...”)
  - Lil plus. Tobacco heating system trademark of KT&G
  - Unsmoke (“Education, providing of training...”)
  - Unsmoke your world (“Communications to the public of statements and announcements...”)

