



Physicians *for a* Smoke-Free Canada

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November 9, 2021

Hon. Jean-Yves Duclos
Minister of Health
Health Canada
Ottawa, Ontario
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Hon. Carolyn Bennett
Minister of Mental Health and
Addictions and Associate Minister of
Health
Health Canada
K1A 0K9

Dear Ministers Duclos and Bennett:

Please accept our congratulations on your recent appointments as ministers in the health portfolio and our appreciation for your willingness to take on these important duties.

As you prepare for the work ahead, we urge you to give priority to assisting your department in strengthening its approach to regulating the tobacco and nicotine industries. In recent years, with re-invented products, marketing and public relations, this industry has re-emerged as an even greater threat to the health of Canadians.

In moving the tobacco control file forward, we hope you will focus on two weaknesses in Canada's Tobacco Strategy: a) the commercialization of tobacco harm reduction and b) the absence of a plan to phase out supply and demand for tobacco and nicotine.

One of your duties next spring will be to provide Parliament with a report on the implementation of the federal tobacco-vaping law.¹ We hope you will see this as an opportunity to lead and engage Parliament and the public in the legislative reforms that are needed to protect future generations from the tobacco pandemic.

You will be able to count on the support of civil society and researchers to help you in this task. For the purpose of efficiency, we recommend that you mandate a Task Force of experts to contribute to your parliamentary report by developing recommendations for the next generation of tobacco control measures in Canada.

Our initial thoughts on the measures that should be included in these reforms are appended to this letter, along with some of the reasons that give us confidence that Canadians will welcome and support such endeavours.

We look forward to the opportunity to discuss these issues with your staff, and to supporting your efforts modernize and strengthen the federal response to this multi-generational health tragedy.

Sincerely:

A handwritten signature in black ink, appearing to read "Cynthia Callard". The signature is fluid and cursive, with a small flourish at the end.

Cynthia Callard
Executive Director

Considerations for tobacco control planning in 2021

Tobacco industry products are the leading cause of preventable death in Canada.

For decades the tobacco industry and its products have been responsible for more preventable deaths in Canada than any other risk factor, and even during the COVID-19 pandemic this has remained the case. The most recent estimates of tobacco-related mortality in Canada attribute one in five Canadian deaths (18%) to tobacco use, accounting for 51,700 deaths in 2019.²

Previous governments have failed to prevent the continuation of the tobacco epidemic.

Current deaths from smoking largely reflect the willingness of previous administrations to delay regulatory controls on the marketing of these lethal products. The measures in place today remain insufficient to protect the public from the preventable disease of tobacco addiction and its subsequent morbidity and mortality. The tobacco control measures currently in place have done much to reduce smoking in Canada, but they have failed to protect young people from being recruited to replace smokers to quit or die. Among the four million Canadians who are today's regular customers of the tobacco industry, one third were recruited to smoking after most federal and provincial regulations (graphic health warnings, advertising restrictions and smoking bans) were in place.³

Canadian experts have proposed the adoption of stronger public health interventions.

The insufficiency of tobacco control interventions brought the Canadian tobacco control community together 5 years ago to plan and articulate a "Tobacco Endgame for Canada".⁴ Unlike the current demand-side interventions, "Endgame" approaches recognize the need to change the structural, political and social dynamics that sustain the tobacco epidemic.⁵ Measures in this category include more powerful interventions such as de-commercializing the supply of tobacco products,⁶ tobacco-only stores,⁷ mandatory reductions in tobacco supply,⁸ reducing the addictiveness of smoked tobacco,⁹ etc.

In 2018, the federal government chose to use market liberalization and the mechanism to implement tobacco harm reduction.

Although the revised tobacco strategy that was subsequently adopted by Health Canada echoed the Endgame goal to reduce smoking to 5% by 2035, it did not adopt an Endgame approach.¹⁰ It excluded all proposals for structural changes aimed at eliminating tobacco use and instead maintained a focus on demand-side interventions. The centrepiece of the new strategy was the return¹¹ to a harm reduction approach, with an intention to "maximize the potential benefits" of smokers' switching to vaping instead of smoking by "leveraging" the widespread commercialization of vaping products.¹² The department rejected advice from groups like ours to put vaping products under the same legislative framework as applied to tobacco and cannabis.

The 2018 federal tobacco strategy of "balancing" harm reduction against youth protection has failed.

The decision to put few restrictions on vaping marketing reversed decades of progress at reducing initiation of nicotine use. The intention had been for smokers to switch to vaping products and start smoking, but the hoped-for benefits of increased cessation through vaping have not been realized: After 2018, most of the new users were never smokers, youth and young adults to a new form of nicotine. The number of adult smokers using vaping products to stop smoking did not increase.¹³ Among those smokers who do use e-cigarettes, about half have increased their likely harms by continuing to smoke, adding new health risks to the ones they were trying to avoid.¹⁴ Canada's experience is consistent with research showing that when e-cigarettes are sold and used as consumer products (eg. not as part of a therapeutic intervention), they are no more effective than conventional (and safer) stop smoking aids,¹⁵ and that they increase the risk of later relapse to tobacco use.¹⁶

Canada's Tobacco Strategy is not on track to meet its targets

Two of the three measurable objectives for Canada's Tobacco Strategy are not on track to be met. Health Canada set two targets for 2023: reducing student smoking rates to 10% and reducing student vaping rates to 10%. The first of these goals will likely be met (the most recent reported rate is 10%), the second will not (the most recent reported rate is 20%).¹⁷ Health Canada also set the goal of less than 5% of tobacco use prevalence by 2035. Based on projections commissioned in 2020 for Ontario and Quebec, cigarette smoking prevalence alone will be twice as high (12.9% in Quebec and 11.5% in Ontario).^{18*}

The regulatory process does not permit the department to address new issues in a timely way.

Health Canada has recently moved to adjust policies that permitted vaping promotions, high nicotine and flavours.¹⁹ These new regulations, however, do not address underlying problems with the legislation. The *Tobacco and Vaping Products Act* prohibits all tobacco advertising that is not specifically permitted, while allowing all vaping advertising that is not specifically prohibited. As illustrated by the department's reports on enforcement and other compliance surveys, even the specific prohibitions in this framework have proven difficult to enforce.²⁰

There remain several areas where additional regulatory needs have been flagged but not fulfilled (reporting requirements, controls on product design, etc.)

Health Canada's intentions for the tobacco market remain largely opaque.

The versions of Canada's Tobacco Strategy that are shared with the public are a scant 4-page document and 500 word web-page.^{21 22} The lack of transparency and clarity about the objectives and measures are a continued source of concern and frustration for the public health community. Last month, an article in the journal *Health Promotion and Chronic Disease Prevention in Canada* outlined many of these concerns: "Canada continues to engage in incremental, erratic and reactive tobacco control with no coherent plan to reduce tobacco use or to achieve <5 by 35 [less than 5% smoking prevalence by 2035] and with little buy-in from subnational governments and nongovernmental stakeholders. There are no milestones, benchmarks or tangible national plans beyond optimistic guidance documents. The federal government has never put forth an operational plan to achieve <5 by 35."²³

Canadians would support government taking more powerful measures to reduce smoking and youth vaping.

This fall the polling firm Leger canvassed public opinion on regulatory approaches to vaping and tobacco products. When asked to rank the effectiveness of selected measures, Canadians judged those that imposed structural change (like making cigarettes less addictive, only allowing the tobacco and vaping products to be sold in specialty stores or imposing a phase-out on tobacco supply) would be more effective at reducing smoking than enhancing current approaches like raising the minimum age to 21 or making free cessation services widely available. By a wide margin, they support Health Canada shifting its focus away from promoting harm reduction and trying instead to help smokers quit smoking and nicotine use altogether. A large majority support banning all vaping flavours, even at the risk of some smokers trying to quit being able to access only flavourless or tobacco-flavoured products. A slight majority also support restricting the sale of e-cigarettes to pharmacies or smoking cessation clinics.²⁴

Revising Canada's Drug Strategy is an opportunity to strengthen tobacco control

De-commercializing tobacco and harm reduction is in line with the advice given to Health Canada by the Expert Task Force on Substance Use earlier this year.²⁵ This task force recommended that government "immediately begin a process of legislative change" to establish for tobacco, alcohol and other substances "a single public health legal framework with regulatory structures that are specific to different types of substances."

* The encouraging drop in smoking rates that were reported from the 2020 Canadian Community Health Survey came with a disclaimer from Statistics Canada that the data should be used "with caution... when comparing to other CCHS years". The survey was not conducted in summer months (when smoking rates are higher) and the in-person interviews (which recently product estimates 8 percentage points higher) were dropped.

Implementing this recommendation presents an opportunity to better address the commercial determinants of nicotine and tobacco use.²⁶

The future of the tobacco industry is on the table – but Health Canada is not participating in the discussions.

The resolution of lawsuits against tobacco companies is another historic opportunity to stop the tobacco pandemic from reaching new generations of Canadians. Tobacco companies have used a federal law (the *Commercial Companies Arrangement Act*) to claim insolvency and suspend the enforcement of a \$13+ billion ruling against them. For more than 30 months, tobacco manufacturers have used this protection to continue “business as usual,” even though these business activities worsen the harm to Canadians. Without apparent federal oversight, the companies have met in closed door meetings with provincial governments and other creditors with an aim to maintain their operations in Canada. None of the provincial governments have made any commitments to public health goals or consulted with the public on the outcome of these negotiations. This year the federal government became party to these discussions as a result of a tax claim made by the Canada Revenue agency.²⁷ Your engagement in this file (including preparing a legislative response to an inadequate settlement, if necessary) can help protect the health of Canadians.

We have commissioned an analysis which establishes that for Ontario and Quebec (and therefore likely the other provinces as well) a non-monetary outcome to these lawsuits which includes the achievement of the federal tobacco prevalence goals will be of greater value than any expected financial return. By reducing smoking to this level instead of the projected achievements of the status quo, healthcare and related costs will be reduced by almost \$50 billion over the 15 years leading up to 2035 (\$22 billion in Quebec and \$26 billion in Ontario).²⁸

Canada can benefit from the experience and knowledge from other countries

De-commercializing Health Canada’s approach to harm reduction will bring Canada back in line with the growing body of evidence that supports a less liberalized nicotine market. Although the long-term health consequences of vaping products and other new nicotine products are yet to be diagnosed, research is converging to support a precautionary approach to the use of these products, even by cigarette smokers who are using them to quit or reduce the harms from smoking. This year the European Scientific Committee on Health, Environmental and Emerging Risks (SCHEER) recommended to EU member states that “Electronic cigarettes should only be considered to support smoking cessation for a limited time and under supervision.”²⁹ Last month the Australian government adopted this approach, requiring that e-cigarettes only be available under prescription.³⁰

Priority measures to reduce addiction and disease caused by commercial tobacco and nicotine products

1 PREVENT FUTURE ADDICTION **Commit to end the harms from commercial tobacco and nicotine.**

Adopt as a policy goal the end of commercial nicotine and tobacco use, as Finland has done.³¹ In coordination with other levels of government and civil society, Health Canada should establish a timeframe and specific interim and long-term targets to ensure that new generations are not recruited to commercial tobacco or nicotine use.

2 REFORM TOBACCO SUPPLY **Align the supply of commercial tobacco and nicotine with public health goals.**

Currently tobacco and nicotine manufacturers, retailers and other suppliers are motivated and rewarded to maximize economic returns, with many of their business practices guided by economic pressure and corporate law. Key reforms needed are:

- De-commercialization of harm reduction.
- Reforming retail distribution and ensuring that tobacco and nicotine products are not sold outside of adult-only specialty stores or by individuals trained and motivated to support cessation.
- Requiring tobacco companies to contribute to winding down tobacco use and nicotine addiction, for example by obliging them to meet public health targets for production and consumption. Examples of mechanisms that can assist this are found in the federal Climate Action Plan.³²

3 EXPAND EFFECTIVE EXISTING MEASURES **Maximize the potential for demand-reduction measures**

There is an international consensus around a set of demand-side interventions that are embraced by the Framework Convention on Tobacco Control. Canada's implementation of these measures has not yet optimized their impact. Measures that need expansion include:

- Ending all tobacco and non-therapeutic nicotine promotions, including bar promotions, social media and direct-mail promotions, incentive programs and other retail-directed promotions.
- Eliminating flavourings in all tobacco products and eliminating non-tobacco flavourings in non-therapeutic nicotine products.
- Regulate the market introduction of new tobacco/nicotine products by establishing notification and authorization processes.
- Raise the legal minimum age to 21 and phase in a smoke-free generation policy.
- Apply equally stringent regulations to non-therapeutic nicotine products and tobacco.
- Enhance programming and develop tailored approaches for more vulnerable communities.
- Increase tobacco prices substantially through tax increases and price regulation (preferably standardized pricing).
- Accelerate regulation-making and remove structural barriers to timely policy-implementation for tobacco control.
- Provide international leadership (including financial support for global efforts).
- Apply the polluter-pay principle, recovering the cost of related Canadian public health interventions from the tobacco and nicotine industries.

Notes

- 1 Canada. Tobacco and Vaping Products Act, s. 60.1
- 2 BGD 2019 Risk Factor Collaborators. Global burden of 87 risk factors in 204 countries and territories, 1990–2019: a systematic analysis for the Global Burden of Disease Study 2019. *Lancet*. Volume 396, Issue 10258, p 1223-1249. [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)30752-2/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30752-2/fulltext)
- 3 31% of current smokers were born after 1985, and would have started smoking after 2000. Statistics Canada. Smokers by age group. <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1310009610>
- 4 Tobacco Endgame for Canada. A Summit. Summary Report. January 2017. <https://www.otru.org/wp-content/uploads/2021/09/Tobacco-Endgame-Summit-Summary-Report.pdf>
- 5 McDaniel PA, Smith EA, Malone RE. The tobacco endgame: a qualitative review and synthesis. *Tobacco Control* 2016;25:594-604
- 6 Callard, C, Thompson, D, Collishaw. N. Curing the Addiction to Profits. A Supply-Side Approach to Phasing out Tobacco. Canadian centre for Policy Alternatives. 2005
- 7 ALPHA. Resolution A21-1. Reducing the Harms, the Availability and Youth Appeal of Electronic Cigarettes and Vaping Products through Regulation. 2021
- 8 Collishaw, N. This should change everything: using the toxic profile of heat-not-burn products as a performance standard to phase out combustible cigarettes. *Tobacco Control*. 2019
- 9 WHO Study Group on Tobacco Product Regulation (TobReg). Global Nicotine Reduction Strategy. 2015
- 10 Health Canada. Overview of Canada’s Tobacco Strategy. May 2018. <https://www.canada.ca/en/health-canada/services/publications/healthy-living/canada-tobacco-strategy/overview-canada-tobacco-strategy.html>
- 11 Harm reduction had been included as an objective of federal tobacco control efforts in two previous strategies. In the 1970s, Health and Welfare Canada adopted a “Less Hazardous Smoking” strategy which encouraged smokers to switch to lower tar cigarettes and which invested in reduced-tar varieties of tobacco plants. Between 2001 and 2007, the Federal Tobacco Control Strategy included “ways to reduce hazards to health” as the fourth pillar of its strategy.
- 12 Health Canada. The Canadian Experience: Considerations for Regulating E-cigarettes. November 2018. www.smoke-free.ca/pdf_1/1/0.00-James-Van-Loon.pdf
- 13 East KA, Reid JL, Hammond D. Smoking and vaping among Canadian youth and adults in 2017 and 2019 *Tobacco Control* Published Online First: 16 July 2021.
- 14 Health Canada. Canadian Tobacco and Nicotine Survey (CTNS): summary of results for 2019 <https://www.canada.ca/en/health-canada/services/canadian-tobacco-nicotine-survey/2019-summary.html>
- 15 Wang RJ, Bhadriraju S, Glantz SA. E-Cigarette Use and Adult Cigarette Smoking Cessation: A Meta-Analysis. *Am J Public Health*. 2021 Feb;111(2):230-246. doi: 10.2105/AJPH.2020.305999. Epub 2020 Dec 22. PMID: 33351653; PMCID: PMC7811087.
- 16 Pierce JP, Chen R, Kealey S, Leas EC, White MM, Stone MD, McMenamin SB, Trinidad DR, Strong DR, Benmarhnia T, Messer K. Incidence of Cigarette Smoking Relapse Among Individuals Who Switched to e-Cigarettes or Other Tobacco Products. *JAMA Netw Open*. 2021 Oct 1;4(10):e2128810. doi: 10.1001/jamanetworkopen.2021.28810. PMID: 34665239.
- 17 Treasury Board. Infobase <https://www.tbs-sct.gc.ca/ems-sgd/edb-bdd/index-eng.html#orgs/program/H-BVH12/infograph/results>
- 18 Hans Krueger. The Economic Benefits of Reducing the Prevalence of Tobacco Smoking in Quebec and Ontario. August 2020. <https://www.smoke-free.ca/SUAP/2020/Krueger.pdf>

- 19 Regulations adopted since 2019 include:
- Nicotine Concentration in Vaping Products Regulations (SOR/2021-123)
 - Promotion of Tobacco Products and Accessories Regulations (Prohibited Terms) (SOR/2011-178)
 - Vaping Products Labelling and Packaging Regulations (SOR/2019-353)
 - Vaping Products Promotion Regulations (SOR/2020-143)
- 20 Health Canada. Vaping Compliance and Enforcement Reports.
<https://www.canada.ca/en/health-canada/services/smoking-tobacco/vaping/compliance-enforcement.html>
- 21 Health Canada. Canada's Tobacco Strategy. <https://www.canada.ca/en/health-canada/services/publications/healthy-living/canada-tobacco-strategy.html>
- 22 Health Canada. Canada's Tobacco Strategy.
<https://www.canada.ca/content/dam/hc-sc/documents/services/publications/healthy-living/canada-tobacco-strategy/overview-canada-tobacco-strategy-eng.pdf>
- 23 Hagen, LM, Schwartz, R. Is "less than 5 by 35" still achievable? Health Promotion and Chronic Disease Prevention in Canada. Vol 41, No 10, October 2021.
- 24 Leger. Endgame Measures and Harm Reduction. Survey conducted among Canadians. Survey conducted on behalf of the Coalition québécoise pour le contrôle du tabac and Physicians for a Smoke-Free Canada. October 2021.
http://www.smoke-free.ca/pdf_1/2021/Leger-A-English.pdf
- 25 Health Canada Expert Task Force on Substance Use. Report 2: Recommendations on the federal government's drug policy as articulated in a draft Canadian Drugs and Substances Strategy (CDSS)
- 26 Canadian Public Health Association. A New Approach to Managing Illegal Psychoactive Substances in Canada.
- 27 Ontario Supreme Court. Court File No. CV-19-616077-00CL. Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited. Tenth Report of the Monitor. September 20, 2021
- 28 Hans Krueger. The Economic Benefits of Reducing the Prevalence of Tobacco Smoking in Quebec and Ontario. August 2020. <https://www.smoke-free.ca/SUAP/2020/Krueger.pdf>
- 29 European Scientific Committee on Health, Environmental and Emerging Risks (SCHEER). Final Opinion. Opinion on E-cigarettes. May 2021.
https://ec.europa.eu/health/sites/default/files/scientific_committees/scheer/docs/scheer_o_017.pdf
- 30 Australian Government. Department of Health. Therapeutic Goods Administration. Nicotine vaping laws are changing September 3, 2021. <https://www.tga.gov.au/blogs/tga-topics/nicotine-vaping-laws-are-changing>
- 31 The objective of Finland's Tobacco Act is "to end the use of tobacco products and other nicotine-containing products that are toxic to humans and cause addiction"
https://www.finlex.fi/en/laki/kaannokset/2016/en20160549_20161374.pdf
- 32 See, for example, the Output-Based Pricing System.
<https://www.canada.ca/en/environment-climate-change/services/climate-change/pricing-pollution-how-it-will-work/output-based-pricing-system/review.html>