



# Physicians *for a* Smoke-Free Canada

134 Caroline ♦ Ottawa ♦ Ontario ♦ K1Y 0S9 ♦ [www.smoke-free.ca](http://www.smoke-free.ca)  
Tel: 1 613 600 5749 ♦ Fax: 1 613 728 9049 ♦ [ccallard@smoke-free.ca](mailto:ccallard@smoke-free.ca)

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## Staff:

Cynthia Callard  
Neil Collishaw

February 19, 2020

Matthew Boswell  
Commissioner of Competition  
Competition Bureau of Canada  
Competition Bureau  
Place du Portage I  
50 Victoria Street, Room C-114  
Gatineau, Quebec  
K1A 0C9

Dear Mr. Boswell:

I am writing to request that your office review the current “Facts not Fear” campaign of Imperial Tobacco Canada Ltd.

To my knowledge, this campaign is run in print, out of home and electronic media. As you will see in the attached image and on their web-site and newspaper ads, this campaign communicates to the public that information on the dangers of vaping are “misinformation”.

The *Competition Act* is enforced by the Competition Bureau which you head. This Act prohibits false or misleading representations. For example, section 52 provides that:

*52 (1) No person shall, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever, knowingly or recklessly make a representation to the public that is false or misleading in a material respect.*

Given that Imperial Tobacco is the manufacturer of one of the most widely advertised vaping products (VYPE), this advertisement is clearly in its business interest.

The *Tobacco and Vaping Products Act* similarly prohibits false promotions, but limits this prohibition to the promotion of “vaping products”. It is less clear that the Facts Not Fear campaign is a product promotion than it is that the campaign is aimed at promoting the business interests of Imperial Tobacco. For these reasons, the more appropriate law for enforcement purposes is the *Competition Act*.

I believe you will find ample evidence to support quick enforcement action in this case. While many of the health consequences of vaping are not yet established, there are several scientific reviews which conclude that the use of these products is dangerous. You will know that Quebec Courts



**Figure 1: Poster at Carlingwood Mall, Ottawa. February 18, 2020**

recently ruled against this company, citing its use of public relations campaigns similar to this one which misled consumers, including by lulling them into a sense of non-urgency about the associated risks.<sup>1</sup> This conclusion was upheld by the Quebec Court of Appeal.<sup>2</sup>

Your quick action is requested. We would be happy to provide you with any additional information you may require to further your investigations.

Yours truly,

A handwritten signature in black ink, appearing to read 'Cynthia Callard', with a stylized flourish at the end.

Cynthia Callard  
Executive Director

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<sup>1</sup> Létourneau c. JTI-MacDonald Corp., 2015 QCCS 2382

<sup>2</sup> Imperial Tobacco Canada Ltée c. Conseil québécois sur le tabac et la santé, 2019 QCCA 358