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Tobacco Control Directorate, Controlled Substances and Cannabis Branch  
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## RE: RESPONSE TO POTENTIAL MEASURES TO REDUCE YOUTH ACCESS AND APPEAL OF VAPING PRODUCTS

The Southwest Tobacco Control Area Network (SW TCAN) strongly supports Health Canada's exploration of potential measures to reduce youth access and the appeal of vaping products in Canada. These measures are an important step forward, and we are pleased to be able to have the opportunity to provide input.

Research suggests that adolescents are using vaping products at an alarming rate. According to the 2017 Canadian Student Tobacco, Alcohol and Drugs Survey, student usage of vaping products in Canada increased by 30% per year between 2015 and 2017.<sup>1</sup> Concerns about youth vaping increased after the introduction of new vaping products in 2018. Vaping products recently introduced into the market place are reported to deliver higher concentrations of nicotine per puff than older types of e-cigarettes and tobacco cigarettes.<sup>2</sup> Nicotine is a highly addictive substance that can have adverse effects on the developing brain<sup>3</sup>. The US Food and Drug Administration has declared e-cigarette use an epidemic among young people after research showed a 78% increase in vaping among high school students between 2017 and 2018 in the United States.<sup>4,5</sup> Not only do vaping products put youth and non-tobacco users at risk of nicotine dependence and subsequent combustible cigarette use, their usage threatens to undermine previous successes tobacco control measures have had at reducing tobacco use in Canada.<sup>6</sup>

It is commendable that the *Tobacco and Vaping Products Act* has restrictions on the promotion of flavoured vapour products, and prohibits lifestyle advertising, sponsorships, testimonials or endorsements, and other advertising that could be appealing to youth. However, further regulatory measures are needed to reduce youth access and the appeal of vaping products to young people.

### **Prohibiting the Manufacture and Sale of Vaping Products with Certain Flavours or Flavour Ingredients and/or Prohibiting the Promotion of Certain Flavours**

"Flavour is a multisensory perception" that involves taste, aroma, and feelings of cooling and burning within the mouth and throat.<sup>7</sup> The documented evidence within the food consumer science literature demonstrates that flavour impacts the appeal of consumable goods, and that flavour preferences direct food selection.<sup>8,9</sup> Youth and young adults are particularly influenced by flavours, with heightened preferences for sweet flavours and a greater dislike of bitter food tastes, with preferences generally diminishing with age.<sup>10,11</sup> Due to pervasive marketing and promotion tactics, and the addition of attractive candy and fruit flavours to e-cigarettes and vapour products, sales of e-cigarettes are growing rapidly across Canada and around the world.<sup>12,13,14</sup> Youth and young adults are using e-cigarettes because they are perceived to be "fun" or "cool".<sup>15</sup> Worldwide sales for e-cigarettes reached \$6 billion in 2014, with over one

thousand e-liquid flavours available in the marketplace under the banner of 460 different brands.<sup>16</sup>

Under the *Tobacco and Vaping Products Act*, it is illegal to promote that an e-substance contains confectionary, dessert, soft drink, energy drink or cannabis flavours, and the package, by way of illustrations or design, cannot indicate that the e-substance is flavoured with these classes of flavours. However, according to the Ontario Tobacco Research Unit, a quick search of Canadian online vaping product retailers showed that there is substantial promotion of e-substances that contain confectionary, dessert, soft drink and other flavours that are appealing to youth.<sup>17</sup> Therefore, to reduce youth appeal of flavoured e-cigarettes, the SW TCAN recommends that the Federal Government takes action to prevent the promotion of youth-appealing flavours by Canadian online vaping retailers. In addition, the SW TCAN recommends that Health Canada strengthens the current approach to regulating flavoured e-substances to include tighter prohibitions on the manufacturing and sale of e-substance flavours that are attractive to youth and adolescents, with an overall reduction/market cap to the number of flavours available for sale in Canada. Nicotine replacement therapy is only available in a limited number of flavours, and we see no reason vaping devices need to provide more flavour selections than traditional nicotine replacement therapy.

## **Restricting the Concentration and/or Delivery of Nicotine**

Nicotine is a highly addictive substance that poses significant risk, especially to young people.<sup>18</sup> The teenage brain continues to develop until an individual reaches the approximate age of 25. Exposure to nicotine during brain development can result in nicotine addiction, mood disorders, permanent lowering of impulse control, and changes in attention and learning.<sup>19</sup> While data has suggested that young people may be unaware that vaping products contain nicotine, we agree with Health Canada's statement that this may not reflect current trends, as the landscape is rapidly changing.<sup>20</sup> Anecdotally, public health staff in the SW TCAN have heard from young people that they use vapour products for the "nicotine hit". Trends such as "nicking out" have seemingly becoming more popular with young people in our TCAN. We have been told of games where young people compete to see who will vomit or pass out first. These trends would suggest that for some young people, nicotine content in vapour products adds to the products' appeal.

The SW TCAN would like to see nicotine concentration levels for vapour products aligned with the approved nicotine concentrations for nicotine replacement products (e.g. patches, gum, mist, inhalers, lozenges) that are already approved and regulated as cessation aids in Canada. Therefore, we believe nicotine concentration levels for e-substances should not exceed 21 mg/ml. This level is in alignment with the European Union Tobacco Products Directive (20 mg/ml), which states that this concentration allows for delivery of nicotine that is comparable to a standard cigarette.<sup>21</sup>

## **Restricting Online Retail Access**

The SW TCAN would like to see measures taken to further restrict online sales of vapour product to young people. When speaking with young people caught vaping on school property, Tobacco Enforcement Officers often ask where they obtained their vapour product, and it is not uncommon to hear that they were obtained online. Recently, an enforcement officer in the SW TCAN had a young man in elementary school admit to ordering his device online. The student indicated that he had "simply clicked a button" to say he was of legal age, and he arrived home from school before his parents so that he could obtain the package from the mail box before

being caught. The evidence would suggest that this story from our region of Ontario is not an isolated event, but rather one example of the way many young people are getting their hands on vapour products. A study conducted in North Carolina showed that the overall success rate for youth purchases of e-cigarettes online was 93.7%.<sup>22</sup> False birth dates were entered into the website and no delivery company attempted to verify recipients' ages at point of delivery, with 95% of e-cigarette deliveries being left at the door.<sup>23</sup>

The measures Health Canada has suggested to enhance the verification of age and identity of online purchasers of vapour products are warranted. It is noted in the consultation document that some of these measures are not currently used for other age restricted products, such as alcohol or cannabis. It is the opinion of the SW TCAN that strict age-verification measures be required for online sales, including age-verification at time of purchase and proof of legal age at delivery. The SW TCAN also recommends that these measures be considered for online sales of all age-restricted products in Canada.

## **Appearance, Shape, and Sensory Attributes, and Packaging Design**

In November 2019, Canada will join the 13 other countries that have already implemented plain and standardized tobacco product packaging regulations. With strict promotion and advertising rules in effect for tobacco products across Canada, the package became an important marketing tool for tobacco manufacturers. Acting as mini billboards, the tobacco industry used colours, images, logos, slogans and distinctive fonts, finishes, and sizing configurations to make their product appealing and attractive to existing and new tobacco users.<sup>24</sup> The design of the package can make its contents appear safe to use, undermining the visibility, credibility and effectiveness of health warnings.<sup>25</sup> Studies have determined that the colour, shape and size of a package can influence consumer behaviour and contributes to consumer perceptions of the product.<sup>26</sup> There is substantial documented evidence that confirms that plain packaging reduces the attractiveness of tobacco products, particularly among young people and women, making plain and standardized tobacco product packaging one of the most effective tobacco control policy measures to reduce consumption.<sup>27,28,29</sup>

The same principles and body of evidence can be applied to the regulation of vapour products and their packaging. Devices are being manufactured to look like small, discrete everyday objects, including USB memory sticks, so that youth can attempt to hide vaping behaviour from teachers and parents.<sup>30</sup> To reduce youth appeal, the SW TCAN recommends that Health Canada uses the same approach that has been applied to tobacco and cannabis products, by enacting plain and standardized vapour product design and packaging requirements.

## **Increasing Regulatory Transparency and Openness**

Ensuring Canadians are aware of tobacco industry practices is a valid and important initiative. The tobacco industry has a long history of deceptive marketing and advertising practices, and authoring reports with biased data that lied about the addictive nature of tobacco and downplayed the health burden from tobacco use.<sup>31</sup> Ensuring that Canadians have an accurate picture of tobacco and vapour product industry non-compliance with federal regulations, through annual reports and a public disclosure system, would encourage and promote voluntary compliance while keeping Canadians informed of industry activities. The SW TCAN recommends that vapour product manufacturers be held to the same level of accountability and scrutiny as tobacco product manufacturers, through the enactment of vapour product information and reporting regulations. The SW TCAN also recommends that Health Canada dedicate research funding to better understand the potential benefits and risks associated with

the use of vapour products. Research findings can be used to inform the development of future regulations.

Inspectors, designated by the Ministry of Health and Long-Term Care to enforce the *Smoke-Free Ontario Act, 2017* and employed by the eight public health units in southwestern Ontario, meet on a bi-monthly basis to ensure consistent enforcement and application of the rules pertaining to the sale, supply, promotion and use of tobacco and vapour products in Ontario. The ad hoc participation of Health Canada staff involved in the promotion and enforcement of the *Tobacco and Vaping Products Act* would be welcomed at these meetings. Collaboration between local public health units and Health Canada inspectors would be of mutual benefit because it would provide an opportunity to share retailer business intelligence and to share information that supports mutual goals of risk-based enforcement activities. Coordination of enforcement activities could ensure that enforcement visits from Health Canada and local health unit inspectors are spaced out over the course of the year, contributing to an enhanced enforcement presence and improved referral processes between agencies.

The proposed regulatory measures outlined in the consultation document could be an important first step to reduce youth access and appeal of vaping products in Canada. Youth vaping is a significant public health concern, and we thank you for opportunity to share our suggestions with you for your consideration.

Sincerely,

Trish Fulton, Chair  
Middlesex-London Board of Health

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<sup>1</sup> Canadian Student Tobacco, Alcohol and Drugs Survey (2017). Available from <https://uwaterloo.ca/canadian-student-tobacco-alcohol-drugs-survey/>

<sup>2</sup> American Cancer Society: <https://www.cancer.org/cancer/cancer-causes/tobacco-and-cancer/e-cigarettes.html>

<sup>3</sup> Government of Canada. Available from: <https://www.canada.ca/en/health-canada/services/smoking-tobacco/vaping/risks.html>

<sup>4</sup> U.S. Department of Health and Human Services. Available from: <https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm620185.htm>

<sup>5</sup> Youth Tobacco Use: Results from the National Youth Tobacco Survey Available from: <https://www.fda.gov/TobaccoProducts/PublicHealthEducation/ProtectingKidsfromTobacco/ucm405173.htm>

<sup>6</sup> Public Health Consequences of E-cigarettes, U.S. National Academies of Sciences, Engineering and Medicine (2018)

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<sup>14</sup> Heart and Stroke Foundation. (2018). E-Cigarettes in Canada. Available from: <https://www.heartandstroke.ca/-/media/pdf-files/position-statements/ecigarettesincanada.ashx?la=en&hash=8939FF52C37A5E11C551176982F2E4AC5D38D605>

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