



COALITION QUÉBÉCOISE
POUR LE CONTRÔLE DU TABAC

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[English translation of original French submission]
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Mr. Mathew Cook
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Subject: Comments on the Measures in the Proposed Vapour Products Promotion Regulations

Dear Mr. Cook,

We welcome the objective of the [proposed Regulations](#) published in Part I of the Canada Gazette on December 21 and we fully agree with the position expressed a few days earlier by the Minister of Health, the Honourable Patty Hadju, in her [news release](#) stating that "vaping comes with serious risks". As you are no doubt aware, the Coalition has been advocating since 2017 for a tightening of legislation regarding the means of communication and the locations permitted for advertising vaping products. We spoke out on this point even before the sale of these products was formally permitted and called for warnings on all permitted advertising.

Unfortunately, the measures set out in the proposed Regulations, while an improvement over the status quo, fall far short of what is needed to protect the public from the various risks associated with vaping products. In fact, the proposed Regulations do not reflect their main objective (i.e., "to mitigate the impact of vaping product promotion on young persons and non-users of tobacco products")¹ since they keep the door wide open for advertising directed at non-smokers who are not minors.

It is noteworthy that the legalization (as well as the promotion) of vaping products already marks a major departure from the usual rules that apply to all drugs, including nicotine. While this departure was deemed justified owing to the potential harm reduction for smokers who would switch from tobacco to

¹ "Objective - The proposed *Vaping Products Promotion Regulations* (proposed Regulations) set out measures that could mitigate the impact of vaping product promotion on young persons and non-users of tobacco products, while allowing limited but targeted promotion to adults, in particular those who smoke." **Health Canada**, "Regulatory Impact Analysis Statement, published in the Canada Gazette, Part 1," December 21, 2019. <http://www.canadagazette.gc.ca/rp-pr/p1/2019/2019-12-21/html/reg1-eng.html>.

vaping products, vaping products provide no benefit to non-smokers and, in addition to causing nicotine addiction, carry serious health risks according to a growing number of scientific studies.

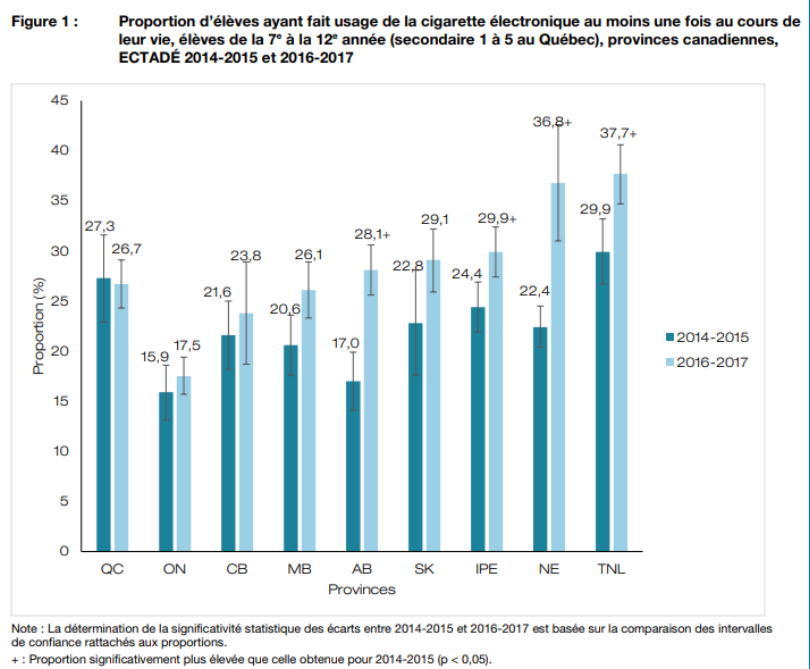
Additionally, we remain unconvinced that Health Canada appreciates the significance of recent data showing that individuals who vape are at significantly higher risk of cardiovascular² and pulmonary³ disease. (While this increase is not as high as that involving cigarette consumption, this is small comfort given the immeasurable risks associated with smoking). Indeed, last April, the [Council of Chief Medical Officers of Health](#) explicitly recommended that, "*If you smoke or vape, reach out for help to quit. If you do vape to quit tobacco, make a plan to quit vaping as the next step.*"

Young Adults

The federal government should aim to protect non-smokers from exposure to vaping product promotion, regardless of their age. As [foreseen](#) by many anti-smoking groups at the time of the debate on Bill S-5, almost limitless marketing has no doubt contributed to the explosion of vaping among high school students, going from 10% (206,000) in [2016/17](#) to 20% (418,000) in [2017/18](#) (past 30-day use), creating a whole new generation of nicotine-addicted teens. But the problem does not stop with teens: according to the Summary of Results for 2017 from the Canadian Tobacco, Alcohol and Drugs Survey, more than one-third of e-cigarette users who were never smokers are young adults aged 20-24 (45,000). Clearly, allowing the promotion of highly addictive and health-damaging products to the general public is unjustified. Promotion of these products should be reserved solely to those who could benefit from it, i.e. current smokers.

Québec context

It is important to remember that, since 2016, Québec has limited the advertising of vaping products to advertising in publications with an adult readership of 85%, essentially newspapers. This approach succeeded in preventing an increase in vaping among young persons between 2014/15 and 2016/17, at a time when the phenomenon was exploding elsewhere in Canada, according to the Institut national de santé publique du Québec (winter 2019).



² Cardiovascular: [https://www.ajpmonline.org/article/S0749-3797\(19\)30468-4/fulltext](https://www.ajpmonline.org/article/S0749-3797(19)30468-4/fulltext)

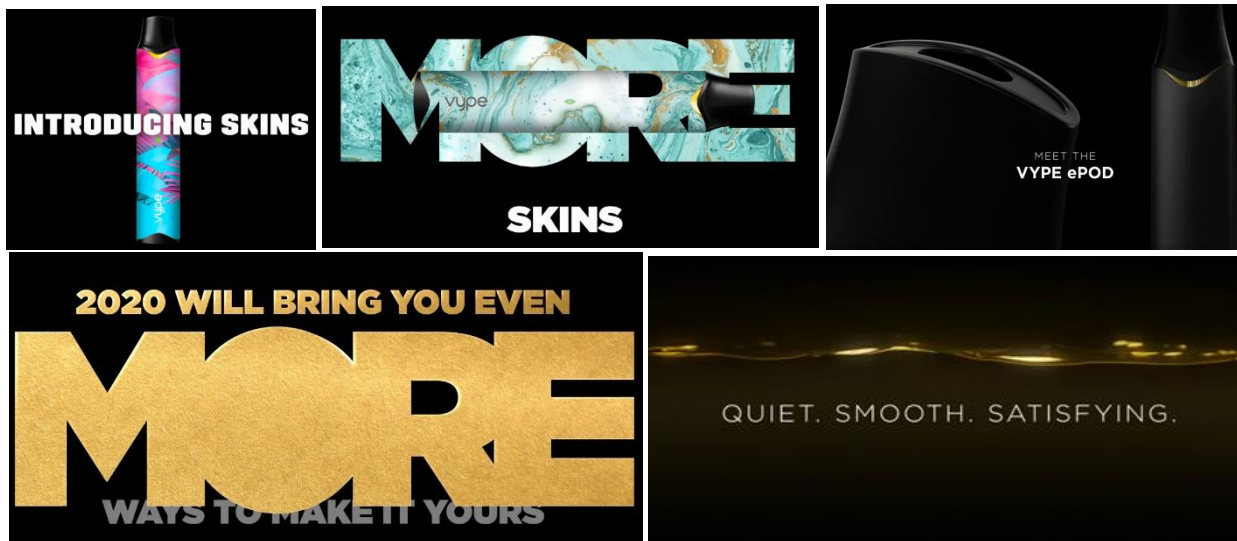
³ Pulmonary: [https://www.ajpmonline.org/article/S0749-3797\(19\)30479-9/fulltext](https://www.ajpmonline.org/article/S0749-3797(19)30479-9/fulltext) and [https://www.ajpmonline.org/article/S0749-3797\(19\)30391-5/fulltext](https://www.ajpmonline.org/article/S0749-3797(19)30391-5/fulltext)

However, this restrictive model was undermined by the arrival of vast, sophisticated and sustained marketing campaigns on the Internet and on social media platforms, accessible to youth in Québec since the summer of 2018, despite this type of advertising being prohibited by the province. These campaigns and the aggressive marketing in convenience stores most certainly contributed to the increase in vaping rates among young persons between 2016/17 (9.8% [8.8-10.8]) and 2017/18 (16.7% [14.0-19.5]), although the increase was lower than that seen elsewhere in the country. Although no data have yet been published, we are convinced that a comparable trend also exists among young adults in Québec.

Recommendations:

1) Prohibit advertising through videos, especially on the Internet, and in places young persons are not permitted by law (e.g. bars).

Advertising for nicotine-based vaping products should be limited to that which is specifically requested by a customer, is found at specialized points of sale and only reaches smokers (e.g., through insets in cigarette packs). However, the proposed Regulations would allow manufacturers to play TV commercials in bars, which are places with strong social connotations for young adults - the majority of whom are non-smokers. We can already see the level of sophistication of the promotional videos for one of the most popular brands: "Meet" the Vype ePod, "Make It Yours. Personalize your ePod with the latest SKINS collections" and "Countdown to 2020".⁴ (Images below taken from the videos)



We know that bars have long been popular places for tobacco companies to showcase their products and to overcome the formal ban on lifestyle advertising. Indeed, in 2003 and 2005 the industry organized events in bars, without explicitly calling these events "sponsorships", but with the end result being a social event displaying the colours and image of the cigarette brand being celebrated.

⁴ Videos also archived here: http://cqct.qc.ca/Documents_docs/DOCU_2020/Vype-videos/VID-20_01_15-Personalize_Your_ePod_Vype.mp4
http://cqct.qc.ca/Documents_docs/DOCU_2020/Vype-videos/VID-20_01_15-Meet_The_ePod_Vype.mp4
http://cqct.qc.ca/Documents_docs/DOCU_2020/Vype-videos/VID-20_01_15-govype_2020.mp4

Even though sponsorship and testimonials are theoretically prohibited by federal law, the mere fact of consenting to promotion in bars, on the Internet and through videos will allow the industry to organize what looks eerily like sponsorship parties or events in highly social venues, by lining their walls and setting up installations with neon signs, video screens and other promotional visuals that will inevitably be seen by anyone in attendance and circulated to the general public by anyone taking pictures in those places. (Sources: Images⁵)



While tobacco advertising is permitted in bars, the possibility of associating tobacco products with social events is more difficult since such advertising is limited to signs without visual effects such as brightness or movement. However, those allowed for vaping products could be dynamic and become an integral and striking part of the decor (e.g.: neon signs, videos) included in a DJ's installations, in lounge areas, etc.

2) Prohibit the online sale of vaping products and limit sales to brick-and-mortar points of sale registered with Health Canada.

The proposed Regulations limit advertising only at points of sale where young persons have access, through the use of black and white signs advertising their availability and price. Websites would be considered points of sale where young persons do not have access due to an age verification process that has yet to be determined. However, the dynamic, vast and opaque nature of the Internet makes it difficult to monitor manufacturers' promotional activities - both legal and illegal.

Online sales also risk perpetuating the image of these products as an extension of "young, modern and trendy" lifestyles, and open the possibility for consumers to order and have these products delivered like other more harmless consumer goods (Nespresso coffee capsules, makeup, tech gadgets and their accessories, etc.). Moreover, online sales simplify the discreet purchase of a large number of products,

⁵ <https://www.msn.com/en-gb/news/newsmanchester/lily-allen-wore-pyjamas-for-a-dj-set-in-manchester-after-partying-at-the-brits/ar-BBTWmmG> ;
<https://www.govype.com/fr/blog/meet-the-team-vype-au-festival-crossover-en-5-chiffres/> ;
<https://i.pinimg.com/originals/a0/25/3b/a0253b608f070d2deccf10216eae409b.png>

making it easier to resell the products, particularly through young people's networks, which would be extremely counterproductive in the face of efforts to counter vaping in this age group.

3) Prohibit advertising by mobile text, e-mail and other digital messages.

The proposed Regulations will continue to allow companies to communicate with adults identified by name, just as is permitted for tobacco. Once again we must ask ourselves: why allow corporate interests to appeal to non-smokers to consume nicotine? For more than a year, the industry has been collecting contact information from young adults who vape or who have shown an interest in vaping by participating, among other things, in major events aimed at normalizing vaping products and brands. Monitoring direct communications between the industry and these consumers remains a huge challenge. Moreover, the vaping industry has already shown itself to be **excessively irresponsible and delinquent** with respect to the promotion of its products.

4) Impose prominent, informative and striking warnings about the health risks of vaping.

One of the statements made in the proposed Regulations is "Enhancing public awareness about the health effects and health hazards of using vaping products would enable adults to make an informed choice". The proposed Regulations would therefore require a warning included for advertising. ["WARNING: Vaping products contain nicotine, a highly addictive chemical"; "WARNING: Vaping products release chemicals that may harm your health"]. Although other warnings may be added, the two presented are clearly too weak: they do not reflect the ease with which addiction develops, nor its strength, and do not specify the nature, range or severity of the potential health damage.

It is surprising that, for almost two years, since the advertising of vaping products was legalized by the federal government, Health Canada has not drawn on its 20 years of experience with tobacco warnings to propose more comprehensive and forceful warnings on pro-vaping advertising, particularly to reflect the various statements already published on its own website. Those statements are slightly more strongly worded than those in the proposed Regulations, for example: *"Chemicals used to flavour vaping products are used by food manufacturers to add flavour to their products. While safe to eat, these ingredients have not been tested to see if they are safe to breathe in... The long-term safety of inhaling the substances in vaping products is unknown."*

Finally, it is unfortunate that the federal government still does not require warnings to be included for tobacco advertising, which is still permitted. This aberration should be remedied as soon as possible.

Conclusion

The precautionary approach was not respected when vaping products were legalized in May 2018, when the government basically gave the industry free reign to decide upon the promotion, ingredients and sales of vaping products as if these were regular harmless consumer products. It was argued at the time that

educational campaigns would be more than enough to prevent vaping among young persons. However, given the explosion of vaping among youth and the emergence of serious health concerns, the tightening of the Act through appropriate regulations should, this time around, be firmly anchored in the precautionary principle, leaving little room for the industry to manoeuvre. Regulations could always be relaxed later should the evidence warrant it.

At a minimum, vaping product promotion should be subject to the same federal rules that apply to tobacco and exposure should be limited to current smokers. For the rest of the population, the regulations should seek to protect them from any incentive to try or consume these products. The government should, as soon as possible, ban flavours other than tobacco and reduce the maximum nicotine limit to 20 mg/ml. These measures have been called for by the Coalition since [May 2019](#). In the absence of federal action in this area, some provinces have begun to introduce more protective measures on their own, even though the current problem is an outcome of the federal legislation itself.

Finally, should certain products obtain approval and certification as smoking cessation therapies, then those could be advertised for that very purpose and be reimbursed by prescription drug plans. Indeed, in a context of smoking cessation, it would even be appropriate for certified products to contain certain flavours and higher levels of nicotine.

We sincerely hope these comments and recommendations will be taken into consideration.

Regards,



Flory Doucas

Co-Director and Spokesperson

C.C. Honourable Patty Hadju, Minister of Health
Yves-François Blanchet, Leader of the Bloc Québécois
Don Davies, Health Critic for the New Democratic Party
Robert Kitchen, Health Critic for the Conservative Party
Senator Jane Cordy, Liberal Party of Canada
Senator Donna Dasko, Independent Senate Group
Senator Chantal Petitclerc, Group of Independent Senators
Senator Judith Seidman, Conservative Party of Canada
Partners