

# Health Canada makes it legal for flavoured nicotine products from Imperial Tobacco to be sold to children

## Health organizations call on federal government to take immediate action

Ottawa, November 14, 2023 – Health Canada has approved the sale of flavoured nicotine pouches by Imperial Tobacco Canada Ltd. in such a way that the products can be legally sold to children of any age. Moreover, Imperial Tobacco can promote these products on TV or on billboards across from schools, on social media, through lifestyle advertising, through free samples, and by other means.

On July 18, 2023, a sister company of Imperial Tobacco was given approval to sell flavoured nicotine pouches under the *Natural Health Product Regulations*, with the products containing nicotine but not tobacco. Imperial Tobacco is now aggressively marketing these nicotine pouches by selling and promoting them in convenience stores and gas stations, with in-store promotions that may be located near candy or chocolate bars. It is completely legal for stores to sell these flavoured nicotine pouches to children of any age.

“This is a stunning development. It is absolutely incomprehensible that these flavoured nicotine products could be allowed on the market without adequate regulatory protections in place,” says Cynthia Callard, Executive Director of Physicians for a Smoke-Free Canada. “While this decision was made prior to the appointment of the current Minister of Health and the Associate Minister of Health, we urge the Ministers to take immediate action to remedy this unacceptable situation, and to prevent nicotine addiction among youth. The Canadian public will not tolerate these new developments and this regulatory gap.”

A group of health organizations – Action on Smoking and Health, Canadian Cancer Society, Canadian Lung Association, Coalition québécoise pour le contrôle du tabac, Heart & Stroke, and Physicians for a Smoke-Free Canada – are urging the Health Ministers:

- **to reclassify nicotine pouches as a prescription product, or to suspend the sale of nicotine pouches until the regulatory gap is closed**, both of which are approaches that could be done quickly and administratively without the need for regulatory amendment; and
- **to establish a temporary moratorium on approval of any more nicotine pouch products, or any new category of nicotine products, under the *Natural Health Product Regulations*, until the regulatory gap is closed**, unless the products are sold on a prescription basis.

“This is the first time in more than 100 years that it is legal for a nicotine product from a tobacco company to be sold to minors in Canada,” says Rob Cunningham, Senior Policy Analyst, Canadian Cancer Society. “Tobacco companies cannot be trusted. It is essential that the federal Health Ministers take action on an urgent basis.”

“These nicotine pouches are clearly appealing to youth,” adds Cunningham. “With attractive flavours such as Tropic Breeze, Chill Mint and Berry Frost, and with colourful, small packages that might well hold candy, of course youth will want to buy them. The devastating result is that youth will become trapped into nicotine addiction.”

“Imperial Tobacco is using classic cigarette lifestyle advertising approaches to promote nicotine pouches, with ads featuring happy young people,” says Flory Doucas, Co-Director and spokesperson of the Coalition québécoise pour le contrôle du tabac. “Let’s be serious - Imperial Tobacco is a tobacco company and does not actually want people to quit smoking. Imperial Tobacco wants to grow the overall nicotine market. The company’s tactics will result in more youth becoming addicted.”

“Have we not learned our lessons from e-cigarettes?” adds Callard. “Given the increase in youth vaping, how is it possible that Health Canada would allow a new category of nicotine product on the market, sold by a tobacco company, with massively inadequate regulations in place? How can it possibly be legal to sell to children flavoured nicotine products from a tobacco company?”

“Nicotine is a highly addictive drug, and there must be adequate controls before a nicotine product is allowed on the market,” says Terry Dean, President and CEO of the Canadian Lung Association. “Nicotine pouches are becoming popular with youth in other countries, which makes nicotine pouches different than smoking cessation products such as nicotine patches or gum. There is no indication that youth are becoming addicted to nicotine through the use of nicotine patches or gum.”

“Nicotine gum was initially only sold by prescription in Canada, and later a non-prescription approach was allowed,” says Diego Marchese, Executive Vice-President, Mission, Research and Social Enterprise, Heart & Stroke. “Requiring nicotine pouches to be sold by prescription only could be done quickly and easily. The need for immediate action is all the more necessary given that other companies are already seeking approval to sell nicotine pouches, which would make the problem even worse.”

"The decision to authorize the sale of these nicotine pouches by Imperial Tobacco is a sharp reminder that Health Canada has yet to issue guidelines to public servants on how to protect health policies from the commercial and vested interests of the tobacco industry," says Les Hagen, Executive Director of Action on Smoking and Health (ASH), referring to Article 5.3 of the WHO Framework Convention on Tobacco Control, a treaty to which Canada is a party. "The approval of these nicotine pouches was done without any transparency, without any opportunity for public input, and without any disclosure of the material submitted by Imperial Tobacco’s sister company. The need for government to strengthen its implementation of Article 5.3 is more pressing than ever."

### **Background**

- On July 18, 2023, Health Canada [approved](#) the sale of Zonnic nicotine pouches as a nicotine replacement therapy smoking cessation product under the [Natural Health Product Regulations](#), regulations which fall under the [Food and Drugs Act](#). The approval was given to Nicoventures Trading Ltd. Both Imperial Tobacco Canada Ltd. and Nicoventures Trading Ltd. are subsidiaries of British American Tobacco.
- On Oct. 12, 2023, Imperial Tobacco Canada Ltd. announced that it had begun selling the Zonnic nicotine pouches.
- The [Prescription Drug List](#) requires products containing nicotine, other than tobacco products, to be sold on prescription, but provides exceptions for gum or lozenges containing 4 mg or less of nicotine, and patches containing 22 mg or less of nicotine. There is also an exception that was used to approve nicotine pouches: “in a form to be administered into the oral cavity by means of a non-active device (one that operates on energy generated by the human body or by gravity) that delivers 4 milligrams or less of nicotine per dose for buccal absorption.” The Prescription Drug List could be modified so that nicotine pouches are no longer exempt from prescription status.

- Section 19 of the *Natural Health Product Regulations* states that “The Minister [of Health] shall suspend a product licence before giving the licensee an opportunity to be heard if, as a result of any circumstance, the Minister has reasonable grounds to believe that it is necessary to do so to prevent injury to the health of a purchaser or consumer.” The Regulations then outline subsequent processes for the Minister to follow in the case of a suspension.
- A paper “[Flavours in Nicotine Pouches](#)” provides examples of the marketing of nicotine pouches internationally. This paper is made available to country delegates who will be attending the 10<sup>th</sup> Session of the Conference of the Parties (COP10) to the international tobacco treaty, the WHO Framework Convention on Tobacco Control.
- The federal *Tobacco and Vaping Products Act* prohibits the sale of tobacco products and vaping products to persons under 18 and restricts promotion of these products. All provinces and territories have legislation prohibiting the sale of tobacco products and vaping products to young persons, with the age at 18, 19 or 21 depending on the province or territory. These federal/provincial/territorial tobacco control laws do not apply to nicotine products approved under the *Food and Drugs Act*, such as under the *Natural Health Product Regulations*. The *Natural Health Product Regulations* do not have a minimum age of sale, thus there is no minimum age of sale for nicotine pouches.
- The authorization for the Zonnic nicotine pouches states that they are not to be used by persons under age 18. However, if a retail store sells to someone under 18, there is no offence, and no possibility of charges or fines.
- In Quebec only, nicotine pouches can only be sold in pharmacies. It is still the case in Quebec that nicotine pouches can be sold to children of any age.
- Examples of promotions for Zonnic, including promotional videos, can be accessed [here](#).

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