

About the Convenience Industry Council in Canada

The Convenience Industry Council of Canada is a new association that brings together retailers, distributors and manufacturers that sell a variety of products in convenience stores across the country. Our mission is to advance the interests of the convenience industry through effective advocacy and education. We are proud to represent an industry that contributes over \$22 billion in taxes, employs over 250,000 Canadians and brings convenience to communities from coast to coast. We reflect the communities we serve and offer opportunity to new Canadians.

While many of our retail members are bigger national chains, it is important to note that most of these stores are franchises and are therefore small businesses operating across the country. Our wholesale distributor members also distribute products to a number of independent customers. Therefore, the impact of vaping regulations should be seen from the perspective of how it impacts these small businesses.

One of our key pillars is our commitment to responsible retailing. We are in the process of launching a brand new program called ID Please which educates members and their staff about the legal requirements of asking for ID in the purchase of all age-restricted products.

We take our responsibility to protect youth and our communities very seriously.

Executive Summary

Health Canada has is consulting stakeholders and the public on the Notice of Intent – Potential Measures to Reduce the Impact of Vaping Products Advertising on Youth (“Notice of Intent”). In this Notice Health Canada is proposing further measures that further limit vaping product advertising in order to reduce the impact of vaping product advertising on youth and non-users of tobacco products.

As noted above we at CICC fully support this initiative and believe that we are well placed to support Health Canada in achieving this objective. We are also uniquely placed to help Health Canada with its overarching objective of getting smokers to transition away from tobacco given that we are a major channel for responsible legal tobacco sales. We can communicate responsibly with adult smokers to support Health Canada.

Canada’s convenience stores, and our responsible retailers:

1. Support Health Canada’s objective to keep nicotine, in any form, out of the hands of youth and have a demonstrated track record in the sale of age-restricted products. Data supports that youth are not purchasing vape in our channel, instead through family and friends; Health Canada’s own CTADS 2017 data showed that approximately 77% of all youth vapour product access is through social sourcing (family, friends, etc.). Online purchasing is also increasingly common for vapour tobacco products.
2. Offer a controlled point of access with a significant brick & mortar footprint in Canada. Adult smokers who purchase legal tobacco come into our stores and we

are therefore the best place for them to learn about reduced risk alternatives. There is significant evidence that even when youth enter our stores, the presence of adult-targeted point-of-sale advertising does not affect their likelihood of trying vaping products illicitly.^{1,2} Our footprint across Canada gives us unparalleled access to adult smokers and thus an opportunity to communicate responsibly with them.

3. Have consistently operated within the bounds of the law well before the introduction of vaping regulations, even when vape shop competitors have not. Convenience stores are always responding to consumer demands - why should responsible small business retailers be put at a competitive disadvantage?
4. Are willing to work towards constructive solutions on the proposed regulations, including limiting in-store information to the area where tobacco is sold and not permitting any advertisements outside and in store windows for vaping products. We are also willing to consider reducing the “bulk buying” of vapour products to ensure these products remain in the right hands. These steps are strongly supported by a significant proportion of the Vapour Products manufacturing sector. We will work with Health Canada to find the right balance between protecting youth and communicating with adult smokers – and we think this is very much possible to do.

By preventing retailers from being able to discuss vaping product information with customers, the current regulatory framework not only limits a manufacturer’s ability to effectively sell their product but prevents retailers from being able to service adult tobacco users who wish to transition to vaping products at a time when a growing body of medical evidence, and scientific consensus, suggests these are reduced risk products with high success rates as switching tools.³ As noted above the members of CICC have the presence across Canada and the footfall to make a big impact in this transition.

Convenience Stores Are A Safe, Tested Outlet for Retailing Age-Restricted Products

Many of our stores across Canada operate as the primary retail outlet for their community for a number of commercial goods in remote and rural regions. Many remote communities do not have the market size to support specialty tobacco retailers. As such, customers who may be looking to transition from tobacco to vape products will not be able to access a retail environment where they can receive effective details and product information to make this transition. The added communications restrictions placed on the convenience industry will significantly diminish the rate of transition to vape in rural and remote communities.

The tobacco experience demonstrates that convenience store and corner store retailers are more than capable of serving as a retail-end distribution point for a controlled substance. Canada continues to maintain one of the strictest tobacco control regimes in the world. Additionally, 75% of all lottery tickets (which also follow a control regime) sold in Canada, are sold at convenience stores. Recent data from the Ontario government suggests that in that province, convenience and corner store operators are passing age-verification checks at a rate of 95%. As responsible retailers, our members use age verification training programs to ensure

¹ Cernigoi et al. 2018. *Addictive Behaviors*. 81: 78-83.

² Pokhrel et al. 2017. *Tobacco Regulatory Science*. 3(4):424-434.

³ Hajek et al. 2019. *New England Journal of Medicine*. 380:629-637.

staff are rigorous in checking for ID. In fact, the critical importance of responsible retailing is underscored by CICC's commitment to develop its own responsible retailing program for all age-restricted products. The program will be bilingual and will require that clerks be trained and certified before they are eligible for employment at one of our member's stores. The new program would ensure that convenience and corner store retailers continue to ensure that all age restricted products are retailed in a safe and controlled manner. Additionally, there is no correlation between advertising restrictions, and youth vape usage.

If point-of-sale advertising is indeed a significant driver of youth trial of vaping products, those markets where point-of-sale advertising is banned should see significantly lower rates of youth trial. However, government data is explicitly to the contrary. Quebec, which significantly restricts point-of-sale advertising not only in convenience stores but also in vape shops, has youth past 30-day use equalling those of Alberta, which has no provincial restrictions whatsoever.⁴



Allowing Retailers to Communicate with Adult Customers on Reduced-Risk Products

There is a growing acceptance among public health professionals of the potential of non-combustible nicotine-containing products to aid smoking reduction and cessation, which was highlighted in a 2018 report by Health Canada. The science to support this conclusion is growing, and is one of the major contributing factors which is fueling the rising popularity of vape products in Canada and around the world.

We believe that the limited and substantiated messaging retailers should be allowed to provide customers with should acknowledge that vapour, e-cigarettes and alternative tobacco products are not the same as traditional tobacco products. Health Canada itself recently acknowledged that vaping products should be accessible to adults “as a less harmful alternative to tobacco”. Not allowing for a comparison between products may result in fewer consumers

⁴ COMPASS Survey, University of Waterloo, 2019, <https://compassdata.uwaterloo.ca/>

switching to these products, ultimately undermining the objectives associated with legalizing these products in the first place. There is strong evidence to support the contention that Canadians do not understand the relative risks of traditional burned tobacco versus vaping products.

Allowing retailers to communicate even basic information about these products and their differences to traditional smoked tobacco products presents an opportunity to introduce tobacco users to a less harmful smoking alternative, while at the same time limiting youth access. We have been an active supporter of the Government of Canada's move to regulate the sale of nicotine e-cigarettes (a move welcomed by our members), but decision-makers should acknowledge the importance of communication between retailers and consumers with respect to education on alternative tobacco products. As a major retailer for vape products, the communications limitations imposed on the convenience industry limits the ability of our retailers to support a public transition towards reduced-risk vape products.

It is also vital to acknowledge that, as a new category, brand awareness of vaping products in the consumer marketplace is very low. Awareness of major cigarette brands is very high. For consumers to make an educated decision, and switch away from cigarettes to a product in this rapidly changing category, they must have visible access to brand availability information.

All this being said, we also understand the public health objective sought by these regulations. As such, our stores would commit to not allowing for any advertising that faces the street (i.e. keeping advertising of these products to point of sale only). This would help ensure products don't enter the grey market, or alternatively, wind up in the hands of youth.

Sales Data Supports that adult smokers rely on point of sale information

While we can't share individual store sales, a survey of our members has revealed that per stores sales of vape products to adults are anywhere between 4 and 5 times greater in Ontario than they are in Quebec.

This is compelling evidence that smokers in Ontario are seeing information about reduced risk products, whereas in Quebec most of our customers aren't even aware of the fact that we sell these alternative products since the provincial government doesn't allow for any point of sale communication.

Our Distributors help control the growing grey market for vape

Our retail members are served by professional wholesale distributors who help ensure that the products they are distributing are legal and safe. Safety is paramount when it comes to items such as vape, and our members who represent the entire supply chain are critical in keeping counterfeit goods out of the hands of consumers.

Levelling the Playing Field Between Convenience Stores and Vape Shops

Our stores, and the distributors that serve them, have been following the rules laid out by Health Canada even as the popularity of vapour and e-cigarette products grows. For years, prior to Health Canada legalizing vape with nicotine, adult customers have come to our stores

seeking these products, and because they weren't legal, they were turned away, with vape shops filling the void. According to the current regulatory framework, specialty vape shops, many of whom have been retailing vape products illegally for years, will now be granted greater flexibility in how they are allowed to retail vape products than convenience and corner stores who have abided by the law.

The Convenience and Corner Store industry is entering a period of transition. The federal government has introduced dramatic changes to the regulations that govern the sale of traditional tobacco products. The convenience industry is looking to diversify its product base away from a concentration on tobacco products, and full retail capacity for vape products would support this aim.

Offering vape products in our stores presents an opportunity to introduce tobacco users to a less harmful smoking alternative, while at the same time controlling for youth access. As the Government of Canada moves to regulating the sale of nicotine e-cigarettes (a move welcomed by our members), decision-makers should acknowledge the importance of communication between retailers and consumers with respect to education on alternative tobacco products. Accordingly, we feel the new regulatory framework should acknowledge the importance that corner and convenience stores play as a part of the retail channel for vape products, and should standardize the Point of Sale advertisement restrictions for convenience stores and specialty vape retailers.

Conclusion and Recommendations

We are aligned with the objectives of the regulations laid out by Health Canada to transition adult smokers to a reduced-risk product, and to prevent the sale of vapour products to minors. Convenience stores are uniquely positioned to do this. Adult customers looking to transition are more likely to come to our stores (where traditional tobacco is offered) looking to switch, and we have a demonstrated track record of responsibly retailing age restricted products. In summary:

- Our members have a strong track-record of dealing with youth access already – with a 95%+ compliance record for the age-gated products we already sell;
- We have programmes in place to train staff – including our newly launched ID Please campaign;
- We regularly mystery shop our own channel to ensure compliance;
- Our footprint across Canada and the footfall we have across our members puts us in a privileged position to support Health Canada in achieving its aims to transition smokers away from tobacco;
- With this in mind we would ask Health Canada ensure that adequate communication is still allowed in the convenience channel to allow our members to communicate with adult smokers.

The members of CICC would support the following:

- Limiting in-store information to the area where tobacco is sold;
- Permitting only factual messaging, and specifically, Health Canada endorsed messages, outside and in store windows for vaping products;

The advertising restrictions laid out in the regulations will put our stores at a competitive disadvantage compared to vapour and specialty smoke shops who have been retailing these products in a legal grey zone for years. As an industry looking to transition sales away from traditional tobacco, the ability for our industry to compete with other stores is paramount; these regulations pose a threat for our ability to keep up with customer demand, and in meeting the stated regulations.

As such, we are asking Health Canada to revisit wording around limiting advertisements specifically at points of sale. The restrictions would allow point of sale advertising in vape shops, whereas they would not be allowed in our stores. Given our history of preventing youth access, the desire for adult consumers to access these products in our stores and the lack of data pointing to a correlation between advertising restrictions and youth usage, we are asking for a level playing field with other retail establishments when it comes to advertising vapour products at point of sale. Treating our stores differently than vape shops undermines the objective of the regulation to transition customers to reduced-risk products, while putting our stores at a competitive disadvantage during a critical moment for our small businesses.

Recommendation: The Convenience Industry Council of Canada is asking the government to standardize the Point of Sale advertisement restrictions for convenience stores and specialty vape retailers.