



March 21, 2024

The Honourable Mark Holland,
P.C., M.P. Minister of Health
Via email: hcmminister.ministresc@hc-sc.gc.ca
Cc: Cyndi Jenkins, Chief of Staff; Eshan Naik, Director of Policy

Dear Minister Holland,

On behalf of Canada's 22,500 convenience stores, I am writing to voice serious concerns regarding your direction to provinces regarding the sale of nicotine pouches.

Our responsible small business owners are maligned by your comments asserting that pharmacies, not convenience stores, do a better job at preventing youth access to these products. This is not rooted in evidence and perpetuates a false narrative that our local retailers are part of the problem regarding youth nicotine use when in fact, we are part of the solution.

As you know from our previous correspondence, which has gone unanswered for three months, our industry takes our responsibility as age-gated retailers seriously. We released proactive guidance to our members on how to responsibly retail flavoured nicotine pouches in a way that does not target young people. We also stressed the importance of age-gating these products that are not meant for minors. I have provided a copy of this guidance note for reference in Appendix 1.

These steps align with your plans around marketing restrictions, as well as your goal of keeping these products behind the counter. It is regrettable that our existing efforts to fulfill these two desired requirements have gone unrecognized by you and officials to date.

Our retailers play an important role in keeping tobacco products out of the hands of young people. Our commitment to responsible retailing is underscored by our investment in a responsible retailer program called "*ID Please*," which provides training for the handling and sale of age-restricted products. When electronic cigarettes were new to the Canadian market, we proactively engaged all retailers to develop best practices for these products (including those without nicotine).

The success of this program is evident when it comes to youth access to both tobacco and vape products. A 2019 study from the Centre for Addiction and Mental Health (CAMH) reported that convenience stores were the least common source of vaping products for youth. Borrowing from a

friend topped the list (53.7%), buying from a friend or someone else (11.2%), and purchasing from a specialty vape store (9.7%) rounded out the top three sources of vaping products for youth. By contrast, the number of youth accessing vapour products from convenience stores was so low that it didn't even make the list, representing less than 1%.

We are concerned that you regard the Government of British Columbia's unsubstantiated decision as the gold standard for preventing youth access. Especially when Premier Eby pointed to concerning youth vaping rates as part of the rationale for his actions, yet our stores have not carried flavoured vape products for almost four years. It reinforces that convenience stores are not the source of youth access to tobacco products

In addition, we are surprised that you are holding up BC as an example to follow. Both the Premier and the Minister of Health have publicly stated that they are very concerned about youth vaping rates. If convenience stores were the actual problem, then vaping rates amongst youth should have declined dramatically as our stores are prevented by the BC government from selling even limited flavours to adults.

Furthermore, many Canadian-based e-commerce retailers are illicitly selling nicotine pouches, not yet approved in Canada and without any age restrictions, as seen in Appendix 2. In your letter to your provincial and territorial counterparts, you highlight youth accessing Zyn. I would note that Zyn is not sold in our member stores and is only being accessed by youth online (see Appendix 2) or in specialty vape stores. As such, none of the actions or authority you are seeking will diminish the growth of this illicit and online market. Instead, you are punishing small businesses based on anecdotes, not data.

It is for these reasons that our retailers are angered by your assertion that they are not responsible retailers of age-restricted products. If Health Canada's position remains that nicotine replacement therapies are an important part of cessation, we fail to understand why responsible retailers that sell several age-restricted products, with a strong track record of age verification, are not being consulted, and instead being sidelined and scapegoated. Overwhelmingly, it is our channel who have demonstrated that we can sell these products while protecting young people.

We hope that you will reconsider your incendiary language about convenience stores and communicate to provinces that NRTs should be sold in places that actively practice age verification. We would further request that you and your department work with our industry to pursue solutions that recognize the role our small business owners play in this activity, rather than penalizing them.

Sincerely,



Anne Kothawala
President & CEO, Convenience Council of Canada

Appendix 1



Guidelines on the Sale of Nicotine Pouches

Recently Health Canada has approved the sale of 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*. As a new and regulated product to the market, the Convenience Industry Council of Canada has developed a set of guidelines for the sale of nicotine pouches at retail member locations.

Although the sale of such products is not required to be age-gated, nor have restricted access or advertising, as responsible retailers we recognize the importance of maintaining appropriate practices of regulated products.

The CICC recommends retailers ensure the following:

1. Retailers should not sell nicotine pouches that are not approved by Health Canada
2. Nicotine pouches should be sold as an age-restricted product the equivalent to the provincial legal age for the sale of tobacco at the point of purchase
3. Retailers should always ask any person who looks to be under the age of 25 to provide valid, government issued photo-id to establish proof of age
4. Nicotine pouch products should be kept behind the counter
5. Retailers maintain reasonable efforts to avoid in-store advertising that may be seen to target youth

Finally, we will be updating our ***ID Please*** training program modules to include the sale of nicotine pouches as an age-gated product. We also recommend that retailers who do not use ***ID Please*** also update their own programs.

The introduction of new products presents an opportunity for our industry to reinforce our role as responsible community retailers. Nicotine pouches are an innovative offer for smokers that are trying to quit, and it is a product that convenience retailers are approved to sell. The CICC guidelines are to ensure that such products are sold appropriately and to maintain our reputation as responsible retailers.

Appendix 2

From <https://ca.zyn.com/>

WARNING: This product contains nicotine. Nicotine is an addictive chemical.



From: <https://smokescanada.com/product-category/nicotine-pouches/>

A screenshot of the Smokes Canada website. The top navigation bar includes "CANADA-WIDE SHIPPING" and "FIRST TIME CUSTOMERS GET 5% OFF, FREE PACK OF SMOKES & \$10 IN POINTS!". The main navigation has "Shop", "FAQ", "Reviews", and "Service Areas". The "smokes CANADA" logo is on the left, and "info@smokescanada.com" and "LOGIN / REGISTER" are on the right. Below the navigation is a category bar with icons for "All Products", "Brands", "Cigarettes", "Cigars", "Tobacco", "Nicotine Vapes", "Nicotine Patches", "Bundles", and "Specials". The "Shop By Category" section shows counts for Cigarettes (31), Cigars (6), Nicotine Pouches (10), Bundles (3), Brands (81), and Nicotine Vapes (10). The main product display shows four ZYN Nicotine Pouches products: Citrus, Coffee, Cool Mint, and Smooth. Each product is shown with a "-10% OFF" badge, a product image, and pricing information: "\$99.99 \$89.99". A "Get a free pack!" banner is visible at the bottom left of the product grid.