



January 23, 2020

Sent via E-mail: HLTH.Minister@gov.bc.ca

Dear Minister Dix,

On behalf of JUUL Labs Canada, Ltd. (JUUL Labs Canada), I am writing in regard to the Government of British Columbia's proposed regulations outlined in *Vapour Products: Intentions Papers*. JUUL Labs Canada was pleased to see the Government take a leadership role in addressing underage use of Vaping Products in the 10-Point Action Plan, including new funding for enforcement initiatives, taxation and strong education programs. While the new rules are intended to restrict underage access to Vaping Products, some of the proposed regulatory changes may also pose risks to existing adult smokers who cannot, or will not, quit smoking by unintentionally eliminating access to reduced-harm nicotine products, like JUUL.

As such, public policy, as applied to the vaping category, should focus on developing approaches which both assist adult smokers looking to switch and bar youth from initiating on Vaping Products. This necessitates a differential approach to communicating about the reduced risk opportunity presented to adult smokers by the advent of Vaping Products. Broad-based regulations on product formulation and advertising restrictions, which attempt to compensate for underage vaping could have concurrent negative effects on the adult smoking population. JUUL Labs Canada respectfully requests the Government of British Columbia to consider both goals by adopting a range of regulatory tools.

JUUL Labs' mission is to eliminate combustible cigarettes – the leading cause of preventable death globally – through technological innovation. Our ability to accomplish that mission is predicated on us earning the trust of society and working cooperatively with regulators, policymakers and stakeholders to combat underage use of Vaping Products, while providing viable alternatives to adult smokers.

Vaping Products are not harmless. Nicotine is addictive, and the long-term health impacts of vaping are not entirely known. However, many leading public health institutions – including Health Canada – believe that while vaping is not risk-free, it is much less harmful than continuing to smoke, and that switching smokers to vaping represents a significant public health opportunity. Health Canada states that “vaping is less harmful than smoking,” and “if you are a cigarette smoker, you face fewer risks by switching to an e-cigarette or vaping product.”<sup>1</sup> To be clear, JUUL Labs believes that non-smokers and underage should never use Vaping Products.

It is therefore critical that evidence-based, comprehensive regulation is thoughtfully crafted around this technology to promote harm reduction for adult smokers, while at the same time minimizing access and appeal of these products for non-smokers and youth. Product standards, advertising restrictions, quality

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<sup>1</sup> <https://www.canada.ca/en/health-canada/services/smoking-tobacco/vaping/smokers.html>



controls, minimum purchasing age restrictions, and other policy levers should be applied to maximize the public health impact of this technology.

Given the rapid developments and complexity of issues facing this emerging category, we believe that all stakeholders must work together to determine responsible regulations for this category. For your reference, we have provided further information below related to key topics for consideration, including categorizing nicotine as a public health hazard and regulating nicotine concentration.

## **NICOTINE AS A HEALTH HAZARD**

100 Canadians die<sup>2</sup> each day from smoking-related illness. According to the World Health Organization, more than 8 million people die from tobacco use per year globally, and prior to the recent introduction of vaping technology, cigarette volumes have not declined at meaningful rates. From 2013 to 2017, cigarette volume declines in Canada averaged only 3% per year.<sup>3</sup> The Canadian Community Health Survey has continued to show steady decreases in smoking rates since the introduction of the Tobacco and Vaping Products Act (TVPA).<sup>4</sup>

Yet, smoking remains the leading cause of preventable death in Canada. In 1976, noted tobacco researcher Dr. Michael Russell stated that “people smoke for the nicotine, but they die from the tar.” Nicotine, though not harmless, has not been designated as a carcinogen; rather, it is the over 7000 chemicals released when cigarettes are ignited and inhaled which cause the majority of the harms associated with smoking.

As previously stated, vaping nicotine is not harmless. However, new technology – including Vaping Products – offers the opportunity to reduce tobacco harm by providing smokers access to nicotine without the risks posed by the combustion of tobacco. Several leading public health institutions, including Health Canada, believe that while vaping is not risk-free, it is much less harmful than smoking, and that switching smokers to vaping represents a significant public health opportunity. In the United Kingdom, for example, Public Health England has stated that vaping is 95% less harmful than smoking.<sup>5</sup>

U.S. research also shows that exclusive Electronic Nicotine Delivery System (ENDS) users have significantly less exposure to biomarkers of tobacco toxicants than cigarette users.<sup>6</sup> Additionally, a JUUL

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<sup>2</sup> <https://www.canada.ca/en/health-canada/services/health-concerns/tobacco/legislation/tobacco-product-labelling/smoking-mortality.html>

<sup>3</sup> Euromonitor

<sup>4</sup> CCHS, 2018

<sup>5</sup> Evidence review of e-cigarettes and heated tobacco products - McNeill A, Brose LS, Calder R, Bauld L & Robson D (2018).

<sup>6</sup> Goniewicz *et al.* 2018. Comparison of Nicotine and Toxicant Exposure in Users of Electronic Cigarettes and Combustible Cigarettes. *JAMA Network Open.* 1(8): e185937. doi:10.1001/jamanetworkopen.2018.5937.



Labs clinical study found equivalent reductions in tobacco-specific carcinogen biomarkers between smokers who switched to JUUL and those who abstained from cigarettes.<sup>7</sup>

Regulation should be carefully crafted around this technology, taking into account the best available science on these products, to minimize access and appeal to non-smokers and underage, while making these products available for adult smokers.

JUUL Labs Canada is greatly concerned about the Government of British Columbia's proposal to designate nicotine as a "health hazard" under the province's *Public Health Act* for numerous reasons, including the following:

- The *Public Health Act* defines health hazard as "conditions or things that endanger public health or are associated with injury or illness."<sup>8</sup> Currently, the designation is used in relation to communicable diseases (i.e. SARS, West Nile virus, influenza) and unique challenges to public health (i.e. industrial camps, sewage systems, and unconventional therapies, such as hyperbaric oxygen chambers). Designating nicotine as a "health hazard" would be unprecedented, as it would be the only legally regulated substance (already used in a wide variety of products and industries) that would be subject to this kind of regulation.
- Designating nicotine as a "health hazard" would also be counter to the belief held by Health Canada that Vaping Products provide the opportunity to reduce tobacco harm. Neither tobacco, nor the other ingredients found in combustible cigarettes, have received a similar designation under the *Public Health Act*. This categorization goes beyond simply providing a necessary health warning to consumers and instead, inappropriately classifies nicotine as a serious threat to public health. Despite the intention of such a categorization, as outlined in the *Intentions Paper*, it would consequently imply that nicotine is more harmful to one's health than the combination of harmful chemicals in combustible cigarettes. Such a designation would undermine both Health Canada's and the Province's goal of encouraging smokers to switch to lower risk sources of nicotine.
  - U.S. government data on misperceptions shows that "about one quarter of Americans (27 percent) correctly disagree that nicotine is the cause of most smoking-related cancers, but 49 percent of Americans incorrectly believe that nicotine causes most smoking-related cancers, and 24 percent are unsure."<sup>9</sup> The same briefing concludes that "this is concerning because smokers who believe that nicotine is a key cause of tobacco-related disease may be less willing to use nicotine replacement therapies (NRT) in their quit attempts, hesitant to switch to potentially less harmful tobacco products if they contain nicotine, and may switch to lower nicotine (but equally harmful) products instead of quitting altogether."<sup>10</sup>

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<sup>7</sup><https://academic.oup.com/ntr/advance-article/doi/10.1093/ntr/ntz206/5613490>.

<sup>8</sup> [http://www.bclaws.ca/civix/document/id/complete/statreg/08028\\_01](http://www.bclaws.ca/civix/document/id/complete/statreg/08028_01)

<sup>9</sup> [https://hints.cancer.gov/docs/Briefs/HINTS\\_Brief\\_37.pdf](https://hints.cancer.gov/docs/Briefs/HINTS_Brief_37.pdf)

<sup>10</sup> *id.*



- If the intention is to more strictly regulate Vaping Products, this goal could be accomplished through the existing *Tobacco and Vapour Products Control Act* (TVPCA)<sup>11</sup>. The power to regulate the “sales, distribution, marketing, promotion and messaging” of Vaping Products is already conferred under section 11 of the existing TVPCA.
- Finally, it is our understanding that designating nicotine as a “health hazard” could have complicated regulatory implications, not just for Vaping Products, but also for other legally regulated products. This may include Health Canada approved smoking cessation aids, as well as other drugs and natural health products that contain nicotine, as well as naturally occurring products and substances. Any amendment to the *Public Health Act* would need to carefully consider the existing regulatory regimes for these various products and substances, as well as the contexts and tolerance limits under which nicotine should be considered a “health hazard”.

Separately, the recent outbreak of vaping-related lung illnesses in the U.S. has highlighted the importance of robust product and quality standards for inhaled products, as well as for efficient cross-border enforcement of regulatory provisions to prevent illicit trade of adult products. The U.S. Food & Drug Administration and Center for Disease Control and Prevention have since pointed to THC Vaping Products – particularly illicit THC Vaping Products containing Vitamin E Acetate – as playing a major role in this outbreak, and the agency no longer warns U.S. smokers to avoid nicotine-containing Vaping Products as a precaution.

There are a number of policy levers that may be utilized by governments to assist in further enforcing existing regulations related to the sale, distribution, marketing, promotion and messaging of Vaping Products, outlined below.

## **NICOTINE CONCENTRATION**

In order to maximize the harm reduction potential of ENDS devices, they should not deliver more nicotine per puff than cigarettes, but they should be permitted to deliver comparable levels to satisfy smokers’ cravings and to promote moving away from cigarettes entirely.

The World Health Organization’s 2019 Tobacco Regulation Working Group Report states:

“The nicotine delivery profile of ENDS may be an important determinant of how effectively the product can substitute for a cigarette for a long-term smoker.”<sup>12</sup>

“As nicotine flux is the primary determinant of the capacity of ENDS to substitute for nicotine from cigarettes, regulators should consider this factor in endeavours to maximize the nicotine substitution potential of ENDS technology.”<sup>13</sup>

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<sup>11</sup> [http://www.bclaws.ca/civix/document/id/complete/statreg/96451\\_01](http://www.bclaws.ca/civix/document/id/complete/statreg/96451_01)

<sup>12</sup> WHO's Tobacco Regulatory Study Group (TobReg) 2019 report, pp. 35

<sup>13</sup> *Ibid*, pp. 62



To this end, Health Canada has regulated nicotine concentration (mg/ml) to a maximum of 66 (mg/ml)<sup>14</sup>. Of note, there have been no changes made to nicotine concentrations via federal regulation, despite the fact that Health Canada recently had the opportunity to make amendments with the introduction of two new regulatory packages.

To minimize potential health risks, JUUL devices are designed to operate at low temperatures and voltages and, thus, require more nicotine in the e-liquid to deliver an amount comparable to a cigarette, as compared to an open vaping system. JUUL does not sell products with more than 59mg/ml of nicotine, 10% below the Health Canada limit of 66mg/ml. JUUL devices are temperature controlled and do not permit users to increase temperature, as many other ENDS devices do. When lower-strength nicotine e-liquids are used in ENDS devices that allow users to control temperature, consumers may increase the temperature in order to obtain enough nicotine - potentially causing health risks from increased exposure to emissions from overheating other ingredients in e-liquid<sup>15</sup>.

However, this technology allows JUUL's 5% pods, which contain 59mg/ml, to deliver on average **less** nicotine than a cigarette over a comparable number of puffs.<sup>16</sup> Nicotine content in a product does not strictly relate to nicotine absorption in the blood, as the route of exposure can alter uptake. Measurement of nicotine content in e-liquid is therefore not the proper mechanism for the government's stated goals, and the Government of British Columbia should instead focus on regulation of nicotine in aerosol emissions and blood-nicotine uptake.

Peer-reviewed research shows that JUUL's 5% products help transition smokers away from cigarettes at high rates. Of adult smokers who tried JUUL's 5% products, at least 28% of those had completely transitioned away from cigarettes after six months. (Of those who completed the study, 50% completely transitioned.) At 12 months, transition rates rose to 30% - 55%. (These lower-bound estimates represent the most conservative interpretation of the data and assume that all those who failed to complete the survey returned to smoking.)

While we do not currently have data about transition rates for JUUL products under 2%, a study in the New England Journal of Medicine examining non-JUUL ENDS products, offered at a maximum 1.7% concentration, found lower transition rates of around 18%. Comparing transition rates across studies with different methodologies and definitions is inherently imperfect. However, these results indicate that capping nicotine at levels well below what is delivered on a puff-by-puff basis in cigarettes may lead to fewer smokers transitioning away from cigarettes and could cause those who have already done so to return.

Finally, we are concerned that capping nicotine in ENDS products could unintentionally result in the use of these products in riskier ways - engaging in "compensatory puffing" or increasing the temperature or voltage of the devices. Studies show that, in lower-strength nicotine products, smokers tend to engage

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<sup>14</sup> <https://laws-lois.justice.gc.ca/PDF/SOR-2001-269.pdf>

<sup>15</sup> <https://onlinelibrary.wiley.com/doi/full/10.1111/add.14271>

<sup>16</sup> <https://jlisience.com/wp-content/uploads/watermark/pdfConstruct.php?article=/nas/content/live/jlisience/wp-content/uploads/2018/11/2018-0224-SRNT-PK-Poster-FINAL-0119.pdf>



in behaviors that allow them to obtain sufficient nicotine. Given that nicotine consumers will typically titrate their dosing to their need, and that it is likely that it is other components of vaping aerosol, other than nicotine that are of greater toxicity concern (see the Royal College of Physicians 2016 report, Nicotine without Smoke and chapters 4 and 5 in particular), there are likely alternative policy levers more useful in meeting the Government's intended public health outcomes.

An empirical demonstration of such an unintended consequence of the European Union (EU) establishing a maximum concentration of 20 mg/ml, Kosmider and colleagues<sup>17</sup> showed that use of a liquid of lower nicotine concentration resulted in higher exposures to a family of plausible aerosol toxins, carbonyls.

*The European Model:*

British Columbia has indicated that it is considering a 20mg/ml nicotine limit due to its use in the EU. The EU has stated that the 20 mg/mL cap was intended to roughly equalize nicotine content in cigarettes and ENDS products<sup>18</sup>.

However, this is not accurate according to the author of the research upon which this nicotine cap was based, Dr. Konstantinos Farsalinos. Dr. Farsalinos has written to the Commission<sup>19</sup> stating that they have misinterpreted his findings:

*“20 mg/ml e-liquid provides less than one-third of the nicotine delivered by one tobacco cigarette. 50mg/ml is needed to roughly match a tobacco cigarette. All other existing studies confirm this... Higher nicotine content liquids are typically used by the most dependent smokers, who have the highest risk of smoking-related damage, and who benefit most from switching to electronic cigarettes. Most such heavy smokers need more than 20mg/ml to switch from smoking to vaping.”*

A 20mg/ml level may not deliver enough nicotine to satisfy all Canadian smokers and might reduce switching away from cigarettes - the same cigarettes which remain the world's leading cause of preventable death. Among all the available studies on the comparative pharmacokinetics of ENDS and combustible cigarette delivery, only high nicotine concentrations can achieve a similar pharmacokinetic profile of a combustible cigarette<sup>20</sup>, and so achieve more significant switching rates for adult smokers. Current smokers generally rate their experience more positively with a higher nicotine product<sup>21</sup>.

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<sup>17</sup> Kosmider, Leon, et al (2018, July). Compensatory puffing with lower nicotine concentration e-liquids increases carbonyl exposure in e-cigarette aerosols. *Nicotine & Tobacco Research* 20(8) pp 998-1003.

<sup>18</sup><https://jlisience.com/wp-content/uploads/watermark/pdfConstruct.php?article=/nas/content/live/jlisience/wp-content/uploads/2018/11/2018-0224-SRNT-PK-Poster-FINAL-0119.pdf>

<sup>19</sup> <http://www.ecigarette-research.org/research/index.php/whats-new/whatsnew-2014/149-tpd-errors>

<sup>20</sup> Yingst *et al.* 2019. *JAMA Network Open*. 2(11): e1915494; O'Connell *et al.* 2019. *Internal and Emergency Medicine*. 14(6):853-861.

<sup>21</sup> Cruz-Cano *et al.* 2019. *Addictive Behaviors Reports*. 10:100217.



## **LABELLING, PACKAGING, HEALTH WARNING REQUIREMENTS AND ADVERTISING**

Following the Government of British Columbia's release of *Vapour Products: Intentions Papers*, Health Canada published their revised *Vaping Products Labelling and Packaging Regulations*<sup>22</sup> and the new proposed *Vaping Products Promotion Regulations*<sup>23</sup>. These amendments include federal regulatory changes to the areas outlined in the *Intentions Paper*, including labelling, packaging and health warning requirements, as well as advertising. Following the comment period, which closed on January 20, 2020, the government will finalize and publish the final regulations.

Given that Health Canada has concurrently released proposed regulations that address similar packaging, labelling, health warning and advertising issues as those outlined in the *Intentions Paper*, we believe it could be counterproductive for the Government of British Columbia to legislate on these same matters.

Included in Health Canada's regulatory changes are labelling changes for regulated products, including Vaping Products. The new packaging and labelling regulations create vaping-specific regulations and remove vaping products from the Consumer Chemicals and Container Regulations, 2001 (under the Canada Consumer Product Safety Act).

Further, at this time Health Canada has opted to not implement plain packaging restrictions on Vaping Products. A move to plain packaging poses a significant risk to public health by failing to provide consumers with ample evidence of which packaging is produced by reputable manufacturers. JUUL Labs Canada believes that illicit vaping products represent a significant danger to public health, and a requirement to implement plain packaging for these products would increase the ease with which black market products can enter the British Columbian market.

## **YOUTH PREVENTION**

Youth usage of Vaping Products is unacceptable. We aim to be industry-leading in our commitment to responsible practice<sup>24</sup> and restricting underage access. To this end, JUUL Labs Canada has implemented a variety of actions designed to prevent underage access to our products.

- In March we launched a "what parents need to know" campaign, in an effort to provide more information to parents and keep vaping products away from underage.
- Age verification technology leveraging identity matching and document verification on our website to make sure minors can't access and purchase the products. In fact, JUUL Labs' online age-restrictions are more robust than the provincial online cannabis stores.
- Self-imposed bulk purchase limits (two JUUL devices and five JUULpods packs) per transaction, with limits also applying to JUUL starter kits.

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<sup>22</sup> <http://www.gazette.gc.ca/rp-pr/p2/2019/2019-12-25/html/sor-dors353-eng.html>

<sup>23</sup> <http://www.gazette.gc.ca/rp-pr/p1/2019/2019-12-21/html/reg1-eng.html>

<sup>24</sup> <https://www.juul.ca/en-CA/our-responsibility>



- A national secret shopping program of retail partners to test store compliance to age restriction legislation and bulk purchase limits.
  - Stores found repeatedly non-compliant will face penalties up to and including temporary blacklist, reporting to Health Canada and/or local Health units, and permanent blacklist as a JUUL authorized retailer.
- All our product packaging is predominantly black and white, with no bright colours, and has led the industry by prominently featuring a “Skull and Crossbones” decal on all our nicotine-containing products.
- We adhere to a strict marketing and social media code to ensure our products don’t appeal to or are marketed at youth.
  - JUUL Labs Canada never has, and never will, market to young people. We have not engaged in lifestyle marketing in Canada and have voluntarily committed to never engage in social media advertising in Canada. The company abides by a strict marketing and social media code<sup>25</sup> and we have actively encouraged Health Canada to ban the use of social media by vaping companies.

Research from the U.S. on Vaping Products indicates that, as with many other age-restricted products, youth largely gain access through “social sourcing” - in short, young adults of legal purchase age legally buy, then illegally re-sell or share these products to under-age consumers<sup>26</sup>. This trend holds true in Canada, as well, with approximately 77% of all underage access to vaping products occurring through social sourcing<sup>27</sup>.

Further, JUUL Labs Canada does not engage in social media advertising. It appears that social media platforms such as Snapchat and Instagram are enabling the secondary sale of products without the checks-and-balances<sup>28</sup> of regulated retailers or JUUL Labs Canada’s online sales channel. While it may be a technological challenge to curb these sales, which do not conform to the TVPA or provincial vaping regulations, that does not absolve these platforms from playing a role in helping to curb these types of sales, which can often be a channel for underage possession through social sourcing. Canada’s regulation of Vaping Products should not be silent in this area and we would encourage governments to ban the use of social media by vaping companies.

In conjunction with other Canadian manufacturers, importers, distributors and retailers within the vaping industry, we have formed VITA - the Vaping Industry Trade Association<sup>29</sup> - with the intent of advocating for strong self-regulatory restrictions to reduce underage use of our products and to continue switching smokers to harm-reducing alternatives.

We continue to encourage all competitors in the category to join our commitment to youth prevention and support evidence-based regulations to ensure vaping products are strictly aimed at adult smokers.

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<sup>25</sup> <https://www.juul.ca/en-CA/our-responsibility#marketing-code>

<sup>26</sup> Baker *et al.* 2019. Preventive Medicine Reports. 16.

<sup>27</sup> CTADS, 2017

<sup>28</sup> <https://www.theglobeandmail.com/canada/article-vaping-advertising-marketing-investigation/>

<sup>29</sup> <https://vitaofcanada.com>





## **SOCIAL REFERENCE PRICING**

Reduction in underage use will continue to require a variety of complementary public policy solutions. Since youth are significantly more affected by price increases than adults are<sup>30</sup>, we also propose a minimum price (price floor) on vaping devices. Specifically, we propose a \$9.99 minimum social reference price on all vaping devices (after tax), similar to what has been applied in Quebec<sup>31</sup>.

This price floor will make it harder for youth to purchase the product, as well as mitigate risk of low-quality, low-cost product from entering the Canadian market, thereby minimizing the potential public health risks associated with low-quality products. In the US, vaping devices can currently be found as cheaply as \$0.99, lowering the financial barrier to underage access.

Governments should simultaneously set an appropriate tax on Vaping Products, as well as a minimum device price, to keep the product out of the hands of youth, and ensure government is allocated reasonable revenue to assist with enforcement efforts and administer health education programming. JUUL Labs Canada supports British Columbia's approach on taxation of Vaping Products and believes that implementation of a social reference price would complement this strategy.

## **RESPONSIBLE FLAVOURS**

JUUL Labs Canada supports the availability of responsible flavours that help smokers move away from combustible cigarettes.

Data shows that flavours play an important role in helping existing adult smokers permanently move away from cigarettes and stay away from cigarettes. As recently reported in the CBC, according to Health Canada, "flavours help make vaping liquids palatable to adult smokers seeking a less harmful alternative to tobacco...therefore, the use of flavours in vaping liquids is not prohibited under the Tobacco and Vaping Products Act."<sup>32</sup> Anecdotally, smokers report wanting to leave behind the flavours of cigarettes that they have become accustomed to tasting during smoking.

JUUL Labs Inc.'s research demonstrates that flavours continue to be a critical component of helping adult smokers move away from combustible cigarettes. Behavioural studies show that up to 50 percent of adult smokers will fully move away from combustible cigarettes after 6-months of using JUUL

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<sup>30</sup> U.S. National Cancer Institute and World Health Organization. Chapter 4. The Impact of Tax and Price on the Demand for Tobacco Products. The Economics of Tobacco and Tobacco Control. National Cancer Institute Tobacco Control Monograph 21. NIH Publication No. 16-CA-8029A. Bethesda, MD: U.S. Department of Health and Human Services, National Institutes of Health, National Cancer Institute; and Geneva, CH: World Health Organization; 2016.

<sup>31</sup> *Tobacco Control Act*, CQLR c L-6.2, r 1

<sup>32</sup> <https://www.cbc.ca/news/health/canadian-pediatricians-flavoured-vaping-second-opinion-1.4910030>



products.<sup>33</sup> Adult smokers who primarily used non-tobacco flavoured JUULpods – Mint and Mango – demonstrated the highest rates of moving away from combustible cigarettes.<sup>34</sup>

It is important to note that a consequence of restricting or banning flavours in the regulated market is that consumers turn to counterfeit and unregulated products to meet their demand for flavoured products. We note that while Health Canada has already banned the marketing of many products as appealing to youth, such as confectionary or dessert flavours, a recent communication from Health Canada noted an 80% non-compliance rate amongst inspected specialty retailers. We are supportive of the BC government's commitment to increased enforcement of the category. We also believe that it is critical that regulators implement appropriate interventions around marketing and access for flavoured Vaping Products, in order to limit their appeal to and access by non-smokers and youth.

JUUL Labs Canada recently announced that we would halt production of flavoured products for the Canadian market. Importantly, much like Health Canada, we believe there is significant evidence that flavoured nicotine vaping products can play an important role in transitioning adult smokers off of cigarettes, and as such, the availability of flavoured products plays a role in tobacco harm reduction. Given this, we will consider the re-introduction of flavoured products in Canada when market conditions dictate, and under the guidance and regulation of Health Canada. JUUL Labs Canada strongly believes that Health Canada, as the national regulator of all tobacco and nicotine products, is the best place to regulate flavoured Vaping Products.

## **COMPATIBLES AND COUNTERFEIT PRODUCTS**

Product quality and safety is of paramount importance at JUUL Labs. Every JUUL product is inspected multiple times, to ensure quality standards are adhered to, before it leaves our manufacturing facilities. All of our products are specifically designed with multiple protections, while charging and in use, and have undergone rigorous testing in a wide variety of scenarios to ensure the highest quality of every JUUL device and JUULpod.

However, like many new and emerging product categories, there are many non-compliant and counterfeit Vaping Products in the Canadian market today. These unregulated products, which are sold both online and in physical stores, are unlawful, made with unknown and potentially hazardous chemicals, and have unregulated quality standards. They also often target underage users with promotions, packaging elements, and flavours currently disallowed by Health Canada, and with prohibited nicotine content.

These products undermine public health efforts and all measures to keep e-cigarettes and vaping products, like JUUL, out of the hands of youth. JUUL Labs takes this very seriously and swiftly engages

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<sup>33</sup> Russell et al. 2019. Harm Reduction Journal. 16:59

<sup>34</sup> Figures based on U.S. participants who responded. JUUL Labs Inc. commissioned the Centre for Substance Use Research (CSUR) to interpedently design, administer, and analyze the results of these studies. Figured are averaged from CSUR Retail and e-commerce studies. Weighted average of retail and e-commerce studies.



both on the legal front and with the authorities to halt the flow of contraband and unapproved compatible products.

JUUL Labs Inc. has a dedicated Global Brand Protection team to support this effort. One group within Brand Protection is the Online Enforcement Team. This team monitors 300 global e-commerce sites (all accessible to Canadian consumers) and over 20 social media platforms in 20 different languages. Some of those ecommerce platforms include Amazon, eBay, and Kijiji.

Avoiding a patchwork of regulation is key to successfully reducing black market products, protecting consumers, and moving adult smokers away from cigarettes. JUUL Labs Canada strongly urges the government of British Columbia to consider the impacts of differential regulations on public health, and to align closely with Health Canada.

## **RESTRICTING ONLINE SALES**

JUUL Labs does not allow third party retailers to sell JUUL products online and has implemented a number of measures to prevent underage access through its online retail channel at JUUL.ca. JUUL Labs' online sales follow a three-level age verification system. Site visitors must attest that they are of legal age to shop and agree to be age checked before a purchase is completed, purchasers must pass age-verification, and an age-verified adult must sign for the product when its delivered.

JUUL Labs online age-verification system utilizes Veratad's AgeMatch and Jumio's NetVerify identity verification service to verify the identity of purchasers. Veratad uses billions of records from multiple trusted and secure data sources to verify the information provided and ensure that purchasers are qualified to access and purchase products from JUUL.ca. JUUL.ca also states that providing false information may constitute a violation of the law. When the information provided cannot be verified, purchasers are required to submit images of their government identification (Driver's License) and with a selfie image using Jumio's NetVerify service to confirm they are the owner of the identification and of legal age. This process has been developed with privacy in mind, and checks are secure with detailed information neither shared nor accessible.

Looking beyond JUUL Labs' own retail site, online sales continue to present a large regulatory gap. Simply clicking on a box marked "I am over the age of 19" is not a realistic barrier to underage entry. More must be done to remove underage access to products online. Government could act on this problem by requiring that all online sales of Vaping Products include a minimum 2-stage age verification module and require checking ID information against a third-party database. These modules are widely commercially available, and do not represent a significant burden to industry.

## **CONCLUSION**

Governments can, and should, use regulatory tools granted to further restrict underage access to Vaping Products. In addressing that issue, it is critical that we not put up barriers that unintentionally eliminate the harm reduction benefits these devices can have in helping to continue lower smoking rates in



Canada. Though we believe there are several other proactive regulations that BC could enact to protect youth and adult smokers (as outlined above), we also believe that classifying nicotine as a health hazard and placing restrictions on nicotine concentration will negatively impact existing adult smokers, ultimately having the potential to impede the Government's objective to reduce smoking rates.

The viability of our industry depends equally on getting our products into the hands of existing adult smokers, while keeping it out of the hands of young people. Finding the appropriate balance for these important regulations is imperative. We believe that all stakeholders must continue to work together to determine responsible regulation for this category.

Sincerely,

Michael Nederhoff  
President  
JUUL Labs Canada, Ltd.