

## Consumer Choice Center Comments on the Third Legislative Review of the Tobacco and Vaping Products Act

August 18, 2025

**Health Canada  
Address Locator 1801B  
Ottawa, Ontario  
K1A 0K9**

The **Consumer Choice Center** is an independent, non-partisan consumer advocacy group championing the benefits of freedom of choice, innovation, and abundance in everyday life. We champion smart policies that are fit for growth, promote lifestyle choice, and defend technological innovation.

Herein, we will offer our comments on the [Discussion paper on the third legislative review of the Tobacco and Vaping Products Act](#), albeit from a consumer-focused perspective of Canadian consumers.

### General Views on the Consultation

The aim of the TVPA is to curb tobacco use and protect youth from nicotine addiction. While these goals are laudable, the Act's overly restrictive framework stifles harm reduction strategies that are proven to save lives. Smokers deserve access to safer alternatives, and policies must evolve with evidence showing that not all nicotine products are equal in risk. This review is our chance to modernize the TVPA for a healthier future.

### Our Response to Health Canada's Approach to Harm Reduction Alternatives

The Government of Canada itself has officially stated that [“switching completely to vaping nicotine is less harmful than continuing to smoke.”](#) Evidence shows that this is true and that vaping is a powerful and effective harm reduction tool for smokers. In the linked document, the Government of Canada says that evidence shows those who switch completely from combustible tobacco to vaping:

1. Immediately reduce their exposure to the harmful chemicals found in cigarette smoke
2. See general health improvements in the short term as a result of no longer smoking cigarettes
3. They are more likely to quit smoking than those who use nicotine replacement therapy (NRT) or counseling to quit
4. Do not currently report serious unwanted effects while using vaping products to quit
5. May have a higher upfront cost, but save money in the long run (cost per equivalent puff)

According to the Government of Canada, vaping is clearly helpful. This claim is indeed backed by scientific evidence, as Public Health England has stated that vaping is [at least 95% less harmful](#) than traditional cigarettes. Vaping is also less harmful in terms of secondhand smoke, since the [UK's National Health Service \(NHS\) has stated](#) that there is no evidence that vaping is harmful to those around someone who is vaping. The discussion of cigarettes and vaping products in the same conversation treats a harm-reduction aid like vaping as though they are just as bad as cigarettes, which is seriously harming the chances of a smoker to quit and live a healthier life.

The TVPA should permit comparative risk statements to educate smokers about alternatives like nicotine pouches, heat-not-burn devices, and vaping.

Under the current rules that Health Canada is monitoring, manufacturers can't highlight that these products pose reduced risks compared to combustible cigarettes, which is harmful to smokers. Allowing statements like "Switching to vaping reduces your risk by up to 95% compared to smoking" would empower informed choices and would mirror the FDA approvals for modified-risk claims on certain products.

Bans on such messaging perpetuate the myth that all nicotine is equally dangerous, deterring smokers from safer options and prolonging exposure to deadly tobacco. It is heartening to see that, according to the third legislative review of the Tobacco and Vaping Products Act, Health Canada inspected gas stations and convenience stores for compliance with TVPA vaping rules,

where there is a 97% compliance rate, which shows that retailers can be trusted to sell responsibly and so should be allowed to have the products they sell display messages regarding comparative risk that will better serve the health of their customers.

Also in the vein of harm reduction, Health Canada should allow nicotine pouches to be available for sale in convenience stores where they can also buy cigarettes, since they are, like vapes, a powerful harm reduction tool. Pouches are free of tobacco and don't involve burning, which makes them much less harmful than smoking. Research shows they have [fewer harmful chemicals than cigarettes or traditional snus](#), leading to lower chances of cancer and breathing problems. Studies on user behavior indicate they help people cut back on cigarettes or stop altogether.

A continuum of risk is essential for saving people's lives. Lumping cigarettes, vapes, pouches, and heat-not-burn products together robs consumers of the ability to reduce or quit smoking using tools that have already been proven effective. Having the TVPA and Health Canada recognize harm reduction tools would be a massive step towards actually curbing tobacco use and protecting youth from nicotine addiction, as well as safeguarding Canadians from second-hand smoke.

### **Our Response to Online TVPA Compliance with Flavour Bans**

According to the Discussion paper on the third legislative review of the Tobacco and Vaping Products Act, Health Canada is conducting investigations of websites and social media accounts of manufacturers and retailers to verify compliance with online requirements such as the prohibition of the promotion of vaping flavours. The idea behind such bans is a concern that they will make youth who do not vape want to vape simply because the flavour seems appealing to them.

However, a prohibition on flavour is the wrong approach to quitting smoking. Flavoured vaping products play a vital role in quitting smoking, with research showing they increase adult smoking cessation success rates by an [astounding 230%](#). Vaping flavours are powerful behavioral aids for adult

smokers seeking to break free from cigarettes. The continuation of this prohibition condemns adult smokers to fewer options and higher relapse rates.

Outside of vaping, Health Canada should also allow more flavours for nicotine pouches, which could encourage adults to switch from smoking, as long as age checks prevent youth access. Making pouches, including flavoured pouches, available in convenience stores would position them as what they are: an effective quitting tool. This could help lower Canada's adult smoking rate of [about 11%](#).

### **Our Response to the taxation strategy of Canada's Tobacco Strategy partners**

According to the Discussion paper on the third legislative review of the Tobacco and Vaping Products Act, Canada's Tobacco Strategy is led by Health Canada in terms of legislative and regulatory programming, but other departments are also involved in the development and implementation of these strategies, in particular the Department of Finance in the case of evaluating federal tax policies and excise duty legislation, and the Canada Revenue Agency, in terms of implementing and interpreting excise duty legislation.

Our organization is concerned by the approach Health Canada and its partner organizations are taking to legislating and regulating reduced-risk products like vapes, pouches, and heat-not-burn products. In order to truly promote harm reduction from cigarette smoking, Health Canada and its partner organizations must shift to a risk-based model, one where reduced-risk products should not be taxed the same way as cigarettes.

Cigarettes carry a massive healthcare burden, which is estimated at billions of dollars annually in Canada, and so incur excise taxes comprising nearly 70% of their price. Shockingly, harm reduction tools like vapes, pouches, and heat-not-burn products incur similar levies, with an additional 20% provincial sales tax hike in some regions. It does not make sense to tax harm reduction tools as highly or sometimes higher than cigarettes when they lead to fewer

hospitalizations from cancer and heart disease. Instead, it signals to the consumer that there is serious harm associated with these products, just like cigarettes. Our organization believes the solution is a graduated tax, which is lower for these harm reduction alternatives, to incentivize harm reduction among cigarette smokers.

### **Our Response to the TVPA Concerns Surrounding the Black Market**

According to the Discussion paper, Health Canada is concerned about illegal products and their inevitable risk to the health and safety of Canadians, to the government's tobacco control efforts, and to the maintenance and growth of organized crime groups who use the tobacco black market to further fund other criminal activity. This leads to Health Canada counting Public Safety Canada, Canada Border Services Agency, the Royal Canadian Mounted Police, as well as respective police forces across the country, as part of the group that is Canada's Tobacco Strategy partners.

Our organization is equally concerned with the black market in tobacco and its connection to organized crime, and the negative effects this has on all Canadians. We believe that part of what is fueling this black market is many of the TVPA's restrictive policies that essentially help the black market grow around contraband tobacco and vaping products.

In 2023, organized crime profited nearly [\\$1.3 billion](#) from illicit cigarette sales alone. Furthermore, according to the Discussion paper on the third legislative review of the Tobacco and Vaping Products Act, "reports for the first 3 quarters of 2024-2025 fiscal year show just under 80,000 cartons, approximately 560,000 kilograms of tobacco and over 1.2 million inadmissible tobacco products have been seized", and that is a huge jump from the 2018-2019 fiscal year, where "just under 14,000 cartons of tobacco products, approximately 161,000 kilograms of tobacco and 252,800 inadmissible tobacco products were seized". Obviously, the problem is getting worse, and the present policies of the TVPA are not helping to quell the growth of the black market.

High taxes and bans drive consumers underground, which ends up plaguing provinces like Ontario and British Columbia, with studies estimating [30-50% of market share](#) from illegal sources in some areas, which are, of course, funding other crimes. Illegal vaping products, often laced with unregulated nicotine, surged post-2018 amendments, with youth access rising despite bans.

The most obvious way to curb this unwieldy consequence of high taxes and bans instituted by the TVPA is to ease up the restrictions on legal harm reduction tools, as we have stated earlier on in this document, and instituting a graduating tax based on how harmful a product actually is would stop consumers from seeking out cheaper alternatives on the black market.

When vapes are taxed less, rendering them more accessible, they will be used more, thereby reducing the need for consumers to go to the black market for their products.

When flavours are allowed, consumers are more incentivized to buy vaping products than those flavoured products on the black market. That is not only good news in terms of keeping them away from funding criminal activity, but it also allows for a much higher likelihood of quitting cigarettes for good, as previously stated in this document. It is a win-win situation for consumers and for law enforcement.

Our recommendations for the third legislative review of the Tobacco and Vaping Products Act

1. Health Canada has the opportunity to amend regulations to reflect the continuum of risk of different products. The TVPA should be amended to allow manufacturers to include comparative risk statements like "Switching to vaping reduces your risk by up to 95% compared to smoking" to educate smokers about alternatives. In addition, nicotine pouches should be sold in convenience stores alongside cigarettes, moving Canada further towards the harm reduction goals of the TVPA.

2. The TVPA should not set flavour regulations on vaping and pouch products, since they are powerful and effective behavioral aids for adult smokers seeking to break free from cigarettes.
3. The TVPA and its Tobacco Strategy partners should introduce a graduated tax that is lower for harm reduction alternatives in order to incentivize harm reduction among cigarette smokers.
4. Health Canada should rethink high taxes and bans on harm reduction tools like vapes, pouches, and heat-not-burn products that reflect their ability to help smokers break free from cigarettes in order to make a serious dent in black market sales and reduce danger to Canadians resulting from organized crime.

Respectfully,

**The Consumer Choice Center**