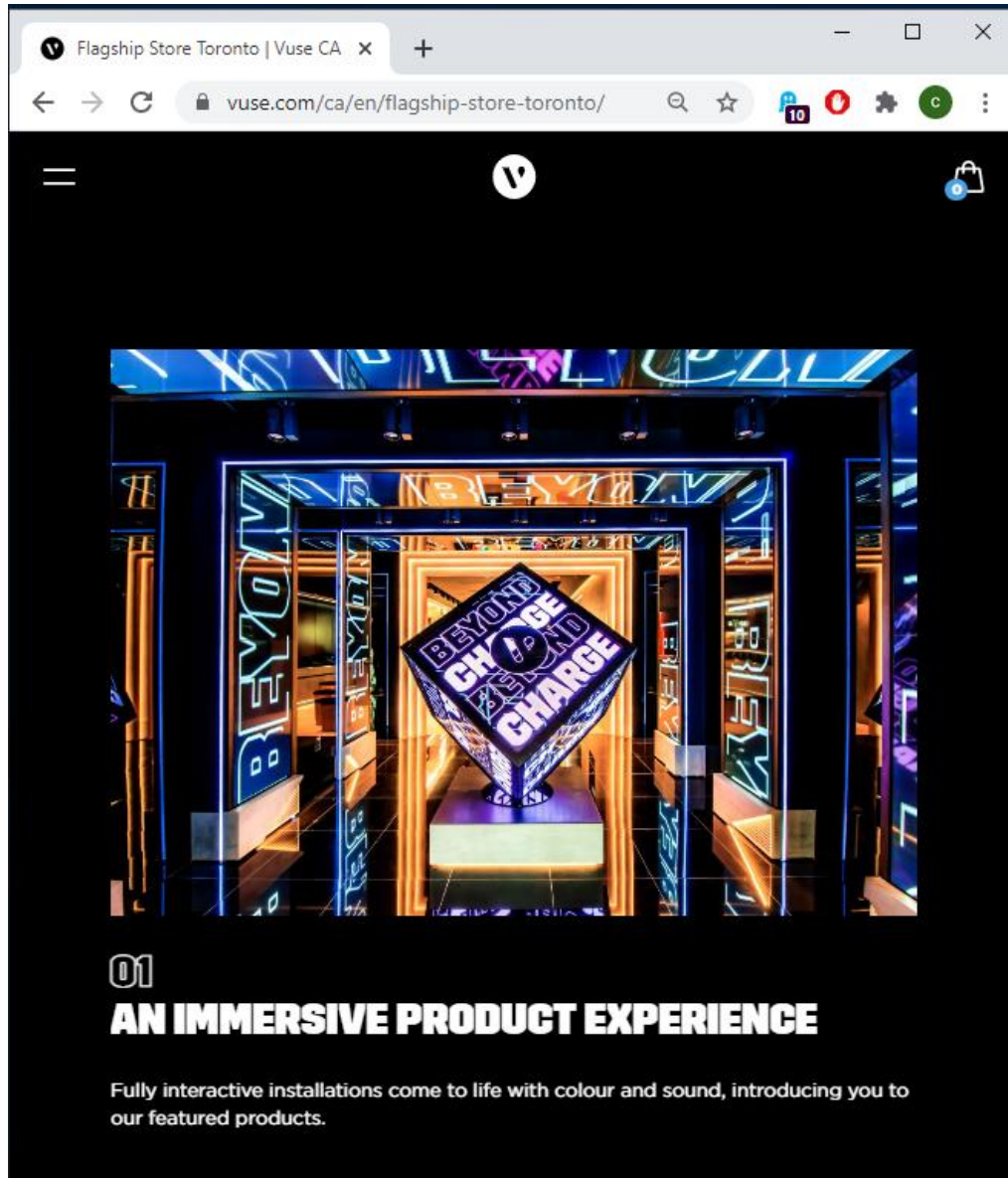


# Tobacco in Canada

Addressing Knowledge Gaps Important to Tobacco Regulation  
Environmental Scan – Autumn 2020



*Vuse flagship store opens in Toronto, October 2019.*

December 31, 2020

**Physicians *for a* Smoke-Free Canada**

134 Caroline Avenue ♦ Ottawa ♦ Ontario ♦ K1Y 0S9  
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## I. FEDERAL GOVERNMENT ACTIVITIES

### A) POLICY AND REGULATION

#### Progress indicators

The federal government tracks 9 indicators towards its 3 tobacco control goals. No new data was released in this period to assess achievement.<sup>1 2</sup>

#### Federal regulations in development

- **Concentration of Nicotine in Vaping Products Regulations**

On December 18, 2020 Health Canada released proposed regulations to limit the concentration of nicotine in e-cigarettes to 20 mg/ml.<sup>3</sup> The communications materials identified that restrictions on flavours were also being considered, as also indicated in the Departmental Plan.<sup>4</sup>

- Other regulations are identified as a priority in the department's 2019-2021 Forward Regulatory Plan.

Title of Regulatory Initiative	Consultation	Date first included in Forward Regulatory Plan
<b>Tobacco Products Labelling Regulations</b> Health Canada is proposing to make changes to the health-related labelling of tobacco products and require package labelling for those products not yet subject to labelling requirements. Tobacco products considered for modified labelling requirements may include cigarettes, little cigars, cigars, pipe tobacco, bidis, kreteks, and smokeless tobacco, while products that would be subject to new requirements may include water-pipe tobacco (also known as narguileh and shisha) and blunt wraps. The goal would be to increase awareness of the health hazards and health effects associated with tobacco use. Labelling requirements for cigarettes and little cigars were last updated in 2011, while requirements for product like cigars, pipe tobacco, bidis, kreteks and smokeless tobacco were put place in 2000. <sup>5</sup>	<b>fall 2018</b>	<b>April 1, 2015</b>
<b>Amendments to the Tobacco Reporting Regulations - 2</b> Amendments to the Tobacco Reporting Regulations (TRR) are being proposed to improve the information collected by Health Canada from manufacturers and importers of tobacco products and to require that the Minister disclose certain information to the public. The proposed amendments would be made under new regulation-making powers set out in the Tobacco and Vaping Products Act.	<b>December 2, 2017</b>	<b>April 1, 2017</b>
<b>Vaping Products Reporting Regulations</b> The objective of the proposed Vaping Products Reporting Regulations is to require manufacturers and importers of vaping products to provide timely and relevant information on their vaping products to Health Canada, which would then be used to inform the development of policies and regulations. Mandatory public disclosure of information by the Minister as well as measures to enhance compliance with the reporting requirements would also be included in the regulatory proposal	<b>August 2017</b>	<b>October 1, 2017</b>

1 Government of Canada. Treasury Board. Infobase. <https://www.tbs-sct.gc.ca/ems-sgd/edb-bdd/index-eng.html#orgs/program/H-BVH12/infograph/results>

2 Government of Canada. Treasury Board Infobase. <https://www.tbs-sct.gc.ca/ems-sgd/edb-bdd/index-eng.html#orgs/dept/127/infograph/results>

3 Canada Gazette. Part I. Vol. 154, no. 51. December 18, 2020

4 Health Canada. Departmental Plan. 2020-2021. <https://www.canada.ca/en/health-canada/corporate/transparency/corporate-management-reporting/report-plans-priorities/2020-2021-report-plans-priorities.html>

5 <https://www.canada.ca/en/health-canada/corporate/about-health-canada/legislation-guidelines/acts-regulations/forward-regulatory-plan/plan/regulatory-initiative-package-labelling-pursuant-tobacco-act.html>

## Other federal regulatory proposals in consultation stage

- In October 2020, the Minister of the Environment and Climate Change issued a consultation paper regarding potential regulations to address the impact of single-use plastics.<sup>6</sup> Cigarette filters were identified as a major pollutant, but were not included in the ban.
- A full record of government consultations can be found at the federal “Consultation and Feedback” website.<sup>7</sup>

## Enforcement and compliance actions

- Letters to cigar manufacturers informing them that while the coming into force of plain and packaging regulations was not delayed by COVID, enforcement actions would be staged such that no compliance actions would take place until November 9, 2021. This provides manufacturers with an additional 12 months before penalties for non-compliance are applied.<sup>8</sup>
- Health Canada informs vaping product manufacturers that they will not delay requirements for child-resistant containers made under the Vaping Products labelling and Packaging Regulations, but that their enforcement actions will not include penalties until July 1, 2021. New measures were supposed to be in effect on January 1, 2021.<sup>9</sup>
- Health Canada issues a warning that unauthorized nicotine pouches may pose health risks,<sup>10</sup> after it had ordered the recall of Zyn, Dryft and other oral nicotine products which have not been authorized for sale in Canada.<sup>11 12</sup>

## Other

- Health Canada issued a request for proposals for Multi-year Tobacco and Vaping Surveys.<sup>13</sup>
- Health Canada issued a tender for a system to support compliance and enforcement and to support data management of reported information. Solicitation of bids is not expected until second half of 2021<sup>14</sup>
- Health Canada awarded a contract to ACNielsen for \$187,000 for retail tobacco and vaping data.<sup>15</sup>

## Parliament

- During this period, there were no questions asked in the House of Commons or Senate regarding tobacco use.
- Don Davies, MP introduced motion (M-54) calling for tobacco companies to pay an annual fee in order to recover the annual costs of the federal government’s tobacco control strategy.

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6 Environment and Climate Change Canada. Canada one-step closer to zero plastic waste by 2030  
<https://www.canada.ca/en/environment-climate-change/news/2020/10/canada-one-step-closer-to-zero-plastic-waste-by-2030.html>

7 Government of Canada. Consultations and Feedback.  
<https://www.canada.ca/en/government/system/consultations/consultingcanadians.html>

8 Health Canada. Letter sent to manufacturers and other “interested party” by Sonia Johnson. October 6, 2020.

9 Letter sent to vaping manufacturers and interested parties by Dana Beaton, June 1, 2020

10 Health Canada. Recalls and safety alerts. Unauthorized nicotine buccal pouches may pose serious health risks  
<https://www.healthycanadians.gc.ca/recall-alert-rappel-avis/hc-sc/2020/74249a-eng.php>

11 Health Canada. Recalls and safety alerts. October 19, 2020.  
<https://www.healthycanadians.gc.ca/recall-alert-rappel-avis/hc-sc/2020/74185r-eng.php>  
<https://www.healthycanadians.gc.ca/recall-alert-rappel-avis/hc-sc/2020/74185r-eng.php>

12 Health Canada. Recalls and safety alerts. Anzar Consultants Inc./Masters Tobacco Product Recall (2020-11-04)  
<https://www.healthycanadians.gc.ca/recall-alert-rappel-avis/hc-sc/2020/74317r-eng.php>

13 Request for Proposal. HT372-203492/A  
[https://buyandsell.gc.ca/cds/public/2020/12/07/bcb9bb8b9fe306bb67f90feb69fc8aa2/ABES.PROD.PW\\_\\_CY.B031.E79414.EBSU000.PDF](https://buyandsell.gc.ca/cds/public/2020/12/07/bcb9bb8b9fe306bb67f90feb69fc8aa2/ABES.PROD.PW__CY.B031.E79414.EBSU000.PDF)

14 Tender notice. HT372-192532/A <https://buyandsell.gc.ca/procurement-data/tender-notice/PW-XL-135-38567>

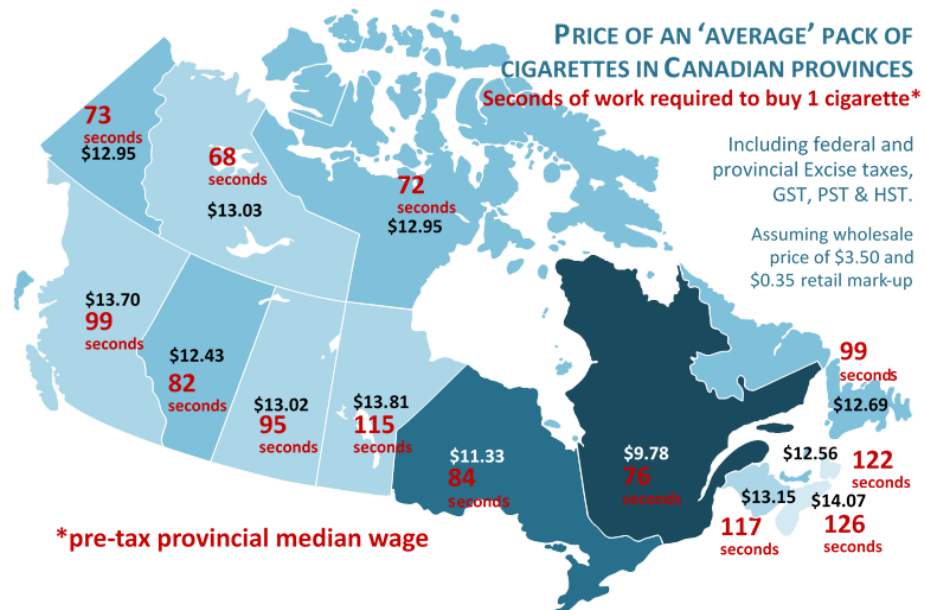
15 POR - Retail tobacco and vaping data (H4133-202552/A) <https://buyandsell.gc.ca/procurement-data/tender-notice/PW-CY-031-79057>

- Pre-budget submissions calling for tobacco control measures were filed in the summer and made public in November 2020. These included submissions from the Canadian Cancer Society,<sup>16</sup> the Canadian Lung Association,<sup>17</sup> the Heart and Stroke Foundation,<sup>18</sup> the Lung Health Foundation<sup>19</sup> and from Physicians for a Smoke-Free Canada, Action on Smoking & Health, and the Coalition Québécoise pour le contrôle du tabac.<sup>20</sup>
- Tobacco-related recommendations made by industry groups included the Convenience Industry Council of Canada,<sup>21</sup> Imperial Tobacco,<sup>22</sup> Juul Labs,<sup>23</sup> the National Coalition against Contraband Tobacco<sup>24</sup> and National Smokeless.<sup>25</sup>

## B) FINANCIAL POLICY

### Tax rates

- Tobacco tax rates continue to vary across Canada, with the lowest rates still in the most populous provinces.<sup>26</sup>



16 House of Commons. Finance Committee. Briefs.  
<https://www.ourcommons.ca/Content/Committee/432/FINA/Brief/BR10973929/br-external/CanadianCancerSociety-10291192-e.pdf>

17 House of Commons. Finance Committee. Briefs.  
<https://www.ourcommons.ca/Content/Committee/432/FINA/Brief/BR10974114/br-external/CanadianLungAssociation-e.pdf>

18 House of Commons. Finance Committee. Briefs.  
<https://www.ourcommons.ca/Content/Committee/432/FINA/Brief/BR10974274/br-external/HeartAndStrokeFoundationOfCanada-e.pdf>

19 House of Commons. Finance Committee. Briefs.  
<https://www.ourcommons.ca/Content/Committee/432/FINA/Brief/BR10974320/br-external/LungHealthFoundation-e.pdf>

20 House of Commons. Finance Committee. Briefs.  
<https://www.ourcommons.ca/Content/Committee/432/FINA/Brief/BR10973587/br-external/Jointly49-e.pdf>

21 House of Commons. Finance Committee. Briefs.  
<https://www.ourcommons.ca/Content/Committee/432/FINA/Brief/BR10974236/br-external/ConvenienceIndustryCouncilOfCanada-e.pdf>

22 House of Commons. Finance Committee. Briefs.  
<https://www.ourcommons.ca/Content/Committee/432/FINA/Brief/BR10974124/br-external/ImperialTobaccoCanadaLimited-e.pdf>

23 House of Commons. Finance Committee. Briefs.  
<https://www.ourcommons.ca/Content/Committee/432/FINA/Brief/BR10974275/br-external/JuulLabsCanadaLtd.-e.pdf>

24 House of Commons. Finance Committee. Briefs.  
<https://www.ourcommons.ca/Content/Committee/432/FINA/Brief/BR10974796/br-external/NationalCoalitionAgainstContrabandTobacco-10290310-e.pdf>

25 House of Commons. Finance Committee. Briefs.  
<https://www.ourcommons.ca/Content/Committee/432/FINA/Brief/BR10974817/br-external/NationalSmokelessTobaccoCompany-e.pdf>

26 Physicians for a Smoke-Free Canada. Taxes on Cigarettes in Canadian jurisdictions. April 2020.  
[http://www.smoke-free.ca/pdf\\_1/taxrates.pdf](http://www.smoke-free.ca/pdf_1/taxrates.pdf)

## Tobacco tax revenues

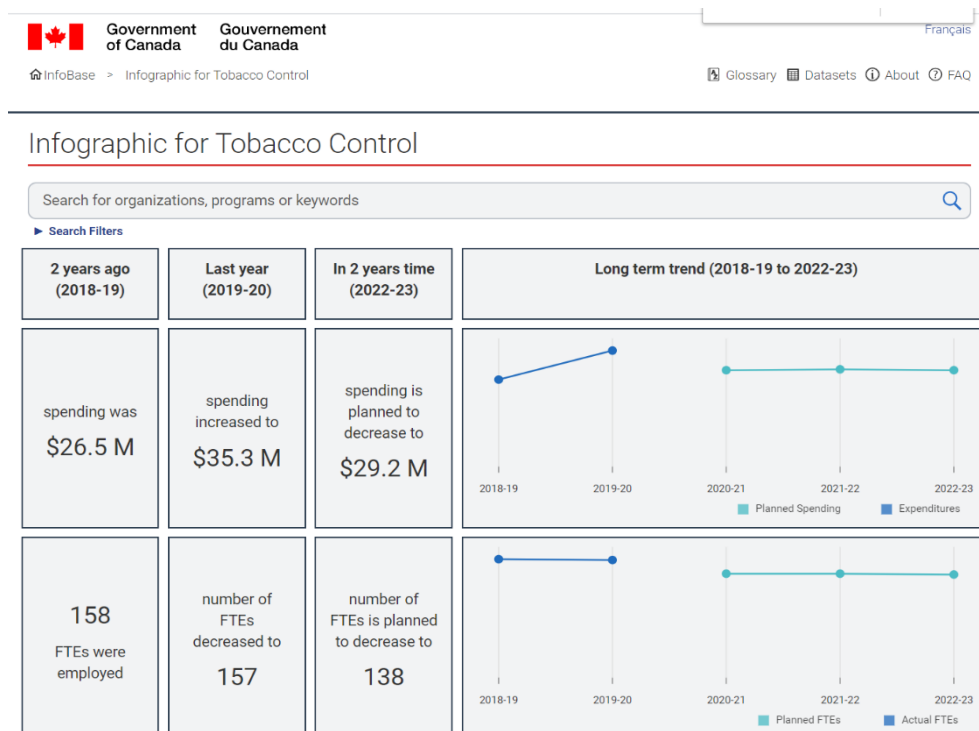
In December 2020, the federal government released the public accounts for 2019-2020. Revenues from excise taxes on tobacco products fell in all but one province.<sup>27</sup> The total tax revenues received by provincial governments fell slightly to \$4.9 billion from \$5 billion.<sup>28</sup>

Tobacco tax revenues (millions)

	2017-18	2018-19	2019-20
NFLD	\$148.8	\$139.9	\$124.5
PEI	\$31.6	\$30.5	\$28.5
NS	\$210.7	\$205.8	\$183.0
NB	\$152.7	\$139.6	\$121.8
QC	\$1,014.0	\$995.0	\$958.0
ON	\$1,244.0	\$1,241.0	\$1,118.0
MB	\$228.0	\$217.0	\$220.0
SK	\$254.3	\$236.4	\$206.8
AB	\$908.0	\$903.0	\$881.0
BC	\$727.0	\$781.0	\$729.0
Canada	\$3,156.0	\$3,401.0	\$3,017.3

## Federal expenditures on tobacco control

- Last year the federal InfoBase for spending reported that “In 2018-19, the Tobacco Control program planned to spend \$31.5 million and employ 131 full-time equivalents (FTE). It actually spent \$26.5 million and employed 158 FTEs.”<sup>29</sup>
- This year it reports that “In 2019-20, the Tobacco Control program planned to spend \$35.1 million and employ 141 full-time equivalents (FTE). It actually spent \$35.3 million and employed 157 FTEs” and that .In 2020-21, planned spending on the program "Tobacco Control" is expected to represent 0.1% of the \$52.5 billion maximum planned spending for the tag "Health".
- According to this Infobase, expenditure is scheduled to be decreased in subsequent years.



27 Public Accounts of Canada and the provinces.

28 See appendix for details and sources.

29 Physicians for a Smoke-Free Canada. Environmental Scan. March 31, 2020.

## II. MONITORING AND SURVEILLANCE

### Disease surveillance

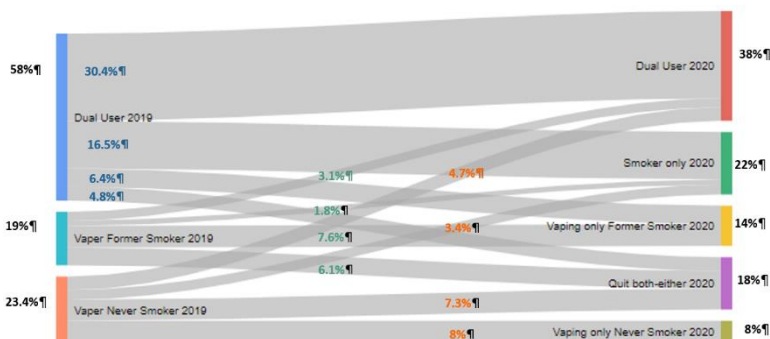
- Health Canada has provided updates on the number of vaping related illnesses. At the end of 2020 there were 20 cases and No deaths had been reported.<sup>30</sup>

	December 3, 2019	February 25, 2020	March 30, 2020	Sep 2020
15 to 19	3	4	5	5
20 to 34	3	5	5	5
40 to 49	3	4	4	5
50 years +	4	5	5	5
Female	7	8	8	8
Male	6	10	11	12
Nicotine only	7	10	11	11
Tetrahydrocannabinol (THC) only	3	4	4	5
Flavoured vaping liquid only	1	1	1	1
Nicotine, THC and other substances	2	3	3	3
Total	13	18	19	20

### Monitoring of smoking and vaping behaviours

During this period, results of 2 longitudinal studies of Canadian smokers and vapers were released.

- Health Canada's Vaper Panel (POR 098-19)<sup>31</sup> found that over the period of 1 year, the majority of vapers changed their smoking and e-cigarette use: 24% moved from a behaviour considered higher risk to a lower risk behaviour (e.g. quitting smoking, quitting both smoking and vaping or moving from dual use to vaping only), whereas 30% moved to higher risk behaviour (e.g. from vaping only to dual use or smoking only).
- In September 2020, researchers at the University of Waterloo released their review of e-cigarette use in a longitudinal study conducted in four countries, including Canada.<sup>32</sup> (This study was conducted based on data mostly collected prior to the legalization of vaping products in Canada). The researchers found that:
  - Dual users were not more likely to quit than were non-vaping smokers ("These findings suggest that smokers with established concurrent use were not more likely to discontinue smoking compared to those not vaping")
  - In Canada, daily smokers who vaped were less likely to quit than were those who did not. ("Disconcertingly, among daily smokers in Canada, discontinuation of smoking was less likely for those who vaped than for those who did not vape.")



30 Government of Canada. Vaping associated lung illness. <https://www.canada.ca/en/public-health/services/diseases/vaping-pulmonary-illness.html>

31 POR 098-19 <https://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-ef/health/2020/098-19-e/index.html>

32 Changes in Smoking and Vaping over 18 Months among Smokers and Recent Ex-Smokers: Longitudinal Findings from the 2016 and 2018 ITC Four Country Smoking and Vaping Surveys

- As identified above, Health Canada issued a request for proposals for Multi-year Tobacco and Vaping Surveys.<sup>33</sup>
- A second wave of the Canadian Tobacco and Nicotine Survey took place between December 2020 and January 2021.<sup>34</sup>

### III. PROVINCIAL GOVERNMENT ACTIVITIES

#### NEW BRUNSWICK

- **New Brunswick** throne speech promises government will “work with health specialists and advocates to develop a strategy to combat youth vaping in New Brunswick.”<sup>35</sup>

#### NEWFOUNDLAND

- **Newfoundland** adopts motion to refer issue of youth vaping to committee.<sup>36</sup>

#### NOVA SCOTIA

- **Nova Scotia’s** prohibition on vaping flavours faces a constitutional challenge from Cloud Factory.<sup>37</sup>

#### NUNAVUT

- Nunavut tables legislation to strengthen its *Tobacco and Smoking Act*.<sup>38</sup>

#### PRINCE EDWARD ISLAND

#### ONTARIO

- In its annual budget bill, Ontario includes a new *Film Content Information Act*, with measures to require disclosure of depiction of tobacco or vaping before screening of films, and revokes the film classification system.<sup>39</sup>
- Ontario court orders condo dweller to stop smoking in her unit.<sup>40</sup>

#### QUEBEC

- In late November, the Quebec Ministry of Health tabled its 5-year report on the implementation of its *Tobacco Control Act*.<sup>41</sup> The report noted a number of challenges in implementation and enforcement and made recommendations for legislative renewal.

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33 Request for Proposal. HT372-203492/A  
[https://buyandsell.gc.ca/cds/public/2020/12/07/bcb9bb8b9fe306bb67f90feb69fc8aa2/ABES.PROD.PW\\_\\_CY.B031.E79414.EBSU000.PDF](https://buyandsell.gc.ca/cds/public/2020/12/07/bcb9bb8b9fe306bb67f90feb69fc8aa2/ABES.PROD.PW__CY.B031.E79414.EBSU000.PDF)

34 Statistics Canada. Tobacco and Nicotine Survey.  
[https://www23.statcan.gc.ca/imdb/p3Instr.pl?Function=getInstrumentList&Item\\_Id=1288076&UL=1V&](https://www23.statcan.gc.ca/imdb/p3Instr.pl?Function=getInstrumentList&Item_Id=1288076&UL=1V&)

35 New Brunswick. Throne Speech. November 17, 2020. <https://www2.gnb.ca/content/gnb/en/corporate/promo/throne-speech/2020/2020-speech-from-the-throne.html>

36 Newfoundland House of Assembly. Hansard. October 21, 2020. <https://www.assembly.nl.ca/HouseBusiness/Hansard/ga49session1/20-10-21.htm>

37 [http://smoke-free.ca/eng\\_home/2020/Cloud%20Factory%20v.%20AGNS.pdf](http://smoke-free.ca/eng_home/2020/Cloud%20Factory%20v.%20AGNS.pdf)

38 Nunavut. Bill 57. Tobacco and Smoking Act. <https://www.assembly.nu.ca/sites/default/files/Bill-57-Tobacco-and-Smoking-Act-EN.pdf>

39 Ontario Bill 229. An Act to implement Budget measures and to enact, amend and repeal various statutes.  
[https://www.ola.org/sites/default/files/node-files/bill/document/pdf/2020/2020-12/b229ra\\_e.pdf](https://www.ola.org/sites/default/files/node-files/bill/document/pdf/2020/2020-12/b229ra_e.pdf)

40 York Condominium Corporation No. 266 v. Jaromira Linhart 2020 ONSC 6263  
[https://www.shibleyrighton.com/York\\_Condominium\\_Corporation\\_No.\\_266\\_and\\_Jaromira\\_Linhart\\_Judgment.pdf](https://www.shibleyrighton.com/York_Condominium_Corporation_No._266_and_Jaromira_Linhart_Judgment.pdf)

41 Rapport de mise en œuvre 2015-2020 - Loi concernant la lutte contre le tabagisme  
<https://publications.msss.gouv.qc.ca/msss/document-002779/>



- Quebec Health Minister makes public the advice provided to him by the task force he commissioned to provide recommendations on vaping regulations.<sup>42</sup>
- It is reported that the Quebec government intends to ban flavours in vaping products.<sup>43</sup>

#### IV. MUNICIPAL GOVERNMENT ACTIVITIES

- Burnaby adopts by-law reforms to ban hookah smoking in indoor public spaces, with effect in January 2022.<sup>44</sup>

#### V POLLING

##### Non-governmental public opinion surveys.

- In October, 2020, Research Co found that Canadians supported strong regulations on e-cigarettes<sup>45</sup>

Results of ResearchCo poll, October 2020	SS	MS	MO	SO	NS
<b>As you may know, the federal government recently passed Bill S-5, which is an overhaul of the Tobacco Act. Do you agree or disagree with each one of these elements of Bill S-5?</b>					
• Banning certain flavours of vaping products, such as cannabis and "confectionery"	49	20	12	7	13
• Prohibiting the sale of vaping products to minors.	73	13	5	3	7
• Restricting the use of testimonials and "lifestyle" advertising for vaping products.	522	23	10	5	11
• Restricting any reference to e-cigarettes as healthier than standard tobacco products.	63	24	8	5	10
<b>From what you have seen, read or heard, do you agree or disagree with these statements?</b>					
• There should be a ban on the use of e-cigarettes in public places where smoking is currently prohibited.	59	20	7	7	8
• Vaping products that contain nicotine should display a warning, similar to the one used for tobacco products.	69	17	6	3	5
• I would not consider dating a person who used electronic cigarettes or e-cigarettes (vaping).	36	20	14	15	14
<b>From what you have seen, read or heard, do you agree or disagree with these regulations related to smoking in Canada?</b>					
• Banning smoking in indoor public spaces, public transit facilities and workplaces (including restaurants, bars and casinos).	72	15	6	3	4
• Banning smoking in private vehicles occupied by children.	71	14	6	3	5
<b>From what you have seen, read or heard, would you support or oppose banning smoking (tobacco and marijuana) in multi-family buildings?</b>	49	20	9	11	11
SS = strongly support MS = moderately support MO = moderately oppose SO = strongly oppose NS = not sure					

42 Rapport du directeur national de santé publique. Recommendations de mesures visant à mieux encadrer le vapotage. <https://publications.msss.gouv.qc.ca/msss/fichiers/2020/20-289-03W.pdf>

43 Montreal Gazette. Quebec to ban vaping flavours and restrict nicotine content. December 9, 2020 <https://montrealgazette.com/news/quebec/quebec-to-ban-vaping-flavours-and-restrict-nicotine-content>

44 Burnaby City Council Meeting Agenda. November 23, 2020. <https://pub-burnaby.escribemeetings.com/FileStream.ashx?DocumentId=48606>

45 Research and Co. Canadians Support Strict Regulations for Smoking and Vaping. <https://researchco.ca/2020/10/27/canada-smoking-vaping/>; Tables [https://researchco.ca/wp-content/uploads/2020/10/Tables\\_Smoking\\_CAN\\_27Oct2020.pdf](https://researchco.ca/wp-content/uploads/2020/10/Tables_Smoking_CAN_27Oct2020.pdf)

## Federal public opinion research

A number of federal government consumer research reports were made public during this period included a report on vaping:

- POR 098-19  
Vapers online survey to measure attitudes and behaviours regarding vaping over time (2019 to 2020) : final report<sup>46</sup>

## VI. SELECTED INTERNATIONAL ACTIVITIES

### WORLD HEALTH ORGANIZATION

- In December 2020, the WHO launched a campaign “Commit to Quit” with the goal of helping 100 million people quit tobacco.<sup>47</sup>

### UNITED STATES

#### **FDA Activities – Fall 2020:**

- In December 2020 the FDA approved a new generation of Philip Morris tobacco-heating product (IQOS3)<sup>48</sup>
- With the CDC, the FDA releases results from the National Youth Tobacco Survey. In 2020, 24% of high school students reported current use of any tobacco product (including e-cigarettes), down from 31% in 2019. E-cigarettes remain the most commonly-used product, with 19% of students reporting use.<sup>49</sup>
- The planned requirement for new health warning labels in the USA was delayed following a court action. New effective date is January 14, 2022.<sup>50</sup>
- The FDA provided guidance on developing studies that assess perception and intention. These studies are component to the applications for e-cigarette or other modified product authorization.<sup>51</sup>

#### **US Federal Trade Commission (FTC)**

- The FTC continued its administrative complaint against JUUL.<sup>52</sup>

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46 <https://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-ef/health/2020/098-19-e/index.html>

47 World Health Organization. Press release. WHO launches year-long campaign to help 100 million people quit tobacco. 8 December 2020.

48 Altria Press Release. Administration Authorization of IQOS 3 for Sale in the United States. December 7, 2020  
<https://www.businesswire.com/news/home/20201207005912/en/Philip-Morris-International-Announces-U.S.-Food-and-Drug-Administration-Authorization-of-IQOS-3-for-Sale-in-the-United-States>

Decision at: <https://www.fda.gov/media/144187/download>

49 CDC MMWR. Tobacco Product Use Among Middle and High School Students — United States, 2020.  
[https://www.cdc.gov/mmwr/volumes/69/wr/mm6950a1.htm?s\\_cid=mm6950a1\\_w](https://www.cdc.gov/mmwr/volumes/69/wr/mm6950a1.htm?s_cid=mm6950a1_w)

50 FDA. Cigarette Labeling and Health Warning Requirements <https://www.fda.gov/tobacco-products/labeling-and-warning-statements-tobacco-products/cigarette-labeling-and-health-warning-requirements>

51 Tobacco Products: Principles for Designing and Conducting Tobacco Product Perception and Intention Studies  
<https://www.fda.gov/regulatory-information/search-fda-guidance-documents/tobacco-products-principles-designing-and-conducting-tobacco-product-perception-and-intention>

52 Federal Trade Commission. Altria Group/JUUL Labs, In the Matter of <https://www.ftc.gov/enforcement/cases-proceedings/191-0075/altria-groupjuul-labs-matter>

## U.S. Congress:

- In December, the U.S. Appropriations bill included measures to restrict the delivery of e-cigarettes by the Postal Service and to require same measures as in force for tobacco.<sup>53</sup>

## U.S. state and municipal actions

- The November election included ballot propositions in some states:
  - Colorado voters accepted a proposition that set a minimum price for cigarettes at \$7.00 and also imposed a tax on e-cigarettes.<sup>54</sup>
  - Oregon adopted increases in tobacco and e-cigarette taxes.<sup>55</sup>
- The ban on flavoured cigarettes and e-cigarettes that was adopted in August was suspended by court as a result of petition drive to require referendum in next election.<sup>56</sup>

## EUROPE

### European Commission.

- The European Commission mandated its Scientific Committee on Health, Environmental and Emerging Risks (SCHEER) to review the evidence of the harms and benefits of e-cigarettes. A preliminary opinion was released in October 2020.<sup>57</sup>
- The EU directive on the reduction of the impact of certain plastic products on the environment will require health warnings on cigarette packages. These are reported to be required as of next summer.<sup>58</sup>
- EU consults on a revised directive on excise taxes.<sup>59</sup>



## Ireland

- Ireland's health ministry commissions the Health Research Board to review three aspects of the vaping market: impact on adolescent cigarette smoking; health effects and effects on cessation.<sup>60 61 62</sup>

53 Senate amendment to HR 133. Consolidated Appropriations Act 2021. <https://assets.documentcloud.org/documents/20433223/covid-19-relief-bill.pdf>

54 Colorado Proposition EE, [https://ballotpedia.org/Colorado\\_Proposition\\_EE,\\_Tobacco\\_and\\_E-C](https://ballotpedia.org/Colorado_Proposition_EE,_Tobacco_and_E-C)

55 Oregon Measure 108, tobacco and E-Cigarette Tax Increase for Health Programs Measure (2020)

56 Public Health Law Centre. What the Referendum on California's Flavored Tobacco Sales Ban Means <https://www.publichealthlawcenter.org/blogs/2020-09-04/what-referendum-californias-flavored-tobacco-sales-ban-means>

57 Scientific Committee on Health, Environmental and Emerging Risks (SCHEER). Preliminary Opinion on electronic cigarettes. [https://ec.europa.eu/health/scientific\\_committees/consultations/public\\_consultations/scheer\\_consultation\\_10\\_en](https://ec.europa.eu/health/scientific_committees/consultations/public_consultations/scheer_consultation_10_en)

58 COMMISSION IMPLEMENTING REGULATION (EU) 2020/2151 of 17 December 2020 laying down rules on harmonised marking specifications on single-use plastic products listed in Part D of the Annex to Directive (EU) 2019/904 of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R2151&from=EN>

59 European Union. Inception Impact Assessment [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=PL\\_COM:Ares\(2020\)7441440&rid=5](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=PL_COM:Ares(2020)7441440&rid=5)

60 Health Research Board. Electronic cigarette use and tobacco cigarette smoking initiation in adolescents. An evidence review [https://www.hrb.ie/fileadmin/2\\_Plugin\\_related\\_files/Publications/2020\\_publication-related\\_files/2020\\_HIE/Evidence\\_Centre/Electronic\\_cigarette\\_use\\_and\\_tobacco\\_cigarette\\_smoking\\_initiation\\_in\\_adolescents.pdf](https://www.hrb.ie/fileadmin/2_Plugin_related_files/Publications/2020_publication-related_files/2020_HIE/Evidence_Centre/Electronic_cigarette_use_and_tobacco_cigarette_smoking_initiation_in_adolescents.pdf)

61 Health Research Board. Electronic cigarettes and smoking cessation: An evidence review [https://www.hrb.ie/fileadmin/2\\_Plugin\\_related\\_files/Publications/2020\\_publication-related\\_files/2020\\_HIE/Evidence\\_Centre/Electronic\\_cigarettes\\_and\\_smoking\\_cessation\\_systematic\\_evidence\\_review.pdf](https://www.hrb.ie/fileadmin/2_Plugin_related_files/Publications/2020_publication-related_files/2020_HIE/Evidence_Centre/Electronic_cigarettes_and_smoking_cessation_systematic_evidence_review.pdf)

62 Health Research Board. Harms and benefits of e-cigarettes and heat-not-burn tobacco products: A literature map [https://www.hrb.ie/fileadmin/2\\_Plugin\\_related\\_files/Publications/2020\\_publication-related\\_files/2020\\_HIE/Evidence\\_Centre/Harms\\_and\\_benefits\\_of\\_e-cigarettes\\_and\\_heat-not-burn\\_tobacco\\_products\\_Literature\\_map.pdf](https://www.hrb.ie/fileadmin/2_Plugin_related_files/Publications/2020_publication-related_files/2020_HIE/Evidence_Centre/Harms_and_benefits_of_e-cigarettes_and_heat-not-burn_tobacco_products_Literature_map.pdf)

## Denmark

- In response to a price war, Denmark's Minister of Health is seeking revisions to tax and price laws. He is reported to have written the EU to seek permission for minimum price.<sup>63</sup>
- Denmark's legislature accepts an action plan for tobacco. Measures include retail display bans, plain packaging, smoke-free school grounds, ban on flavouring in e-cigarettes, more help for smoking cessation.<sup>64</sup> This is in keeping with an agreement reached with the other political parties last year.<sup>65</sup>
- Denmark notifies the EU about a proposed standard for plain packaging, including an impact assessment.<sup>66</sup>

## Estonia

- Estonia legislature suspends the collection of taxes on e-cigarettes until December 22, citing concerns about illicit trade.<sup>67</sup>

## France

- The French health agency ANSES (Agence national de sécurité sanitaire de l'alimentation, de l'environnement et du travail) issued detail reports on their analysis of products the tobacco market<sup>68</sup> and the vaping market.<sup>69</sup>

## Netherlands

- Netherlands state secretary for Health, Paul Blockhuis, announces that he will be reducing the number of sales outlets for tobacco and related products.<sup>70</sup>
- Plain packaging of cigarettes comes into effect on October 1, 2020 (at manufacturer level).<sup>71</sup>
- Netherlands signalled its intent to ban flavourings in e-cigarettes, and issued a consultation paper to this effect.<sup>72</sup>

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63 DR. Inland. Regeringen klar med plan mod 'usmagelig' tobaksindustri - men den virker først fra 2022

The government is ready with a plan against 'tasteless' tobacco industry - but it will not work until 2022

<https://www.dr.dk/nyheder/indland/regeringen-klar-med-plan-mod-usmagelig-tobaksindustri-men-den-virker-foerst-fra>

64 Danish Cancer Society. New action plan is a victory for children and young people's health. <https://www.cancer.dk/nyheder/ny-handleplan-er-en-sejr-for-boern-og-unges-sundhed/>.

New law available at: [https://www.ft.dk/samling/20201/lovforslag/l61/20201\\_l61\\_som\\_vedtaget.htm](https://www.ft.dk/samling/20201/lovforslag/l61/20201_l61_som_vedtaget.htm)

65 Sundheds-OG Aeldreministeriet. Ny national handleplan skal sikre et rogfrit liv for børn og unge.

<https://www.sum.dk/Aktuelt/Nyheder/Forebyggelse/2019/December/Ny-national-handleplan-skal-sikre-et-roegfrit-liv-for-boern-og-unge.aspx>

66 Denmark. Ministry of Health and the Elderly. Draft executive order on standardisation of electronic cigarettes and herbal smoking products, <https://ec.europa.eu/growth/tools-databases/tris/en/index.cfm/search/?trisaction=search.detail&year=2020&num=604&iLang=EN>

67 ERR.EE. Amendment to exempt e-cigarette liquids from excise duty passed. December 17, 2020

<https://news.err.ee/1210447/amendment-to-exempt-e-cigarette-liquids-from-excise-duty-passed>

Alcohol, Tobacco, Fuel and Electricity Excise Duty Act Amendment Act ( 207 SE ) ,

<https://www.riigikogu.ee/tegevus/eelnoud/eelnou/5392386a-2eb0-4484-90d9-3622cb243985/Alkoholi-,%20tubaka-,%20k%C3%BCtuse-%20ja%20elektriaktiivse%20seaduse%20muutmise%20seadus>

68 ANSES. Déclarations des produits du tabac et produits connexes en France

<https://www.anses.fr/fr/system/files/CONSO2018SA0189Ra-1.pdf>

69 ANSES. Déclaration des produits du tabac et produits connexes en France Produits du vapotage - Bilan 2016-2020

70 Netherlands Health Ministry statement. <https://www.rijksoverheid.nl/documenten/kamerstukken/2020/11/20/kamerbrief-over-verminderen-van-het-aantal-verkooppunten-van-tabaks-en-aanverwante-producten>

71 FCTC Secretariat. The Netherlands: Implementation of plain packaging from 01/10/2020

<https://untobaccocontrol.org/impldb/the-netherlands-implementation-of-plain-packaging-from-01-10-2020/>

72 Government of the Netherlands. reguleren smaakjes e-sigaret. <https://internetconsultatie.nl/smaakjes>

## **Russia**

- Russia updates its tobacco laws, banning modern oral tobacco products and limiting nicotine in e-cigarettes to 20 mg/ml (effective February 2021).<sup>73</sup>

## **Sweden**

- Sweden adopts taxes on e-cigarettes to come into effect on January 1, 2021. The rate varies on the nicotine concentration – products between 15 and 20 mg/ml of nicotine will be taxed at twice the standard rate of SEK 2000/litre.<sup>74</sup>

## **United Kingdom**

- The U.K. departure from the European Union required reaffirmation of some regulations on tobacco products.<sup>75</sup>

## **OTHER REGIONS**

### **Gulf Cooperation Council**

- Members of the Gulf Cooperation Council (GCC) adopted regulations to limit the amount of nicotine in vaping products. As part of this, Bahrain circulated draft regulations.<sup>76</sup>

## **Australia**

- Australian parliamentary committee holds hearings on harm reduction, with a mandate to report on December 16, 2020.<sup>77</sup>
- Australia notifies the WTO of its intention to require physicians prescription to purchase e-cigarettes.<sup>78</sup>
- Australia researchers establish a Centre of Research Excellence on Achieving the Tobacco Endgame (CREATE).<sup>79</sup>

## **Taiwan**

- Taiwan's Health Protection Authority has proposed legislative changes, including restrictions on flavourings in combustible tobacco products.<sup>80</sup>

## **South Africa**

- Court strikes down the ban on tobacco sales during Pandemic.<sup>81</sup>

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73 Gowling WLG. New Russian regulations strike a blow against e-cigarettes and other nicotine products

74 Sweden. Lag (2018:696) om skatt på vissa nikotinhaltiga produkter

75 United Kingdom. Guidance. Changes to requirements for tobacco and related products from 1 January 2021.

<https://www.gov.uk/government/publications/labelling-tobacco-products-after-the-end-of-the-transition-period/labelling-tobacco-products-after-the-end-of-the-transition-period>

76 Bahraini technical regulation. Electronic Nicotine Products (Equivalents of Traditional Tobacco Products)

[https://members.wto.org/crnattachments/2020/TBT/BHR/20\\_5424\\_00\\_x.pdf](https://members.wto.org/crnattachments/2020/TBT/BHR/20_5424_00_x.pdf)

77 Senate Select Committee on Tobacco Harm Reduction.

[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Tobacco\\_Harm\\_Reduction/TobaccoHarmReduction](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Tobacco_Harm_Reduction/TobaccoHarmReduction)

78 <https://medicine.uq.edu.au/blog/2020/10/new-centre-research-excellence-achieving-tobacco-endgame-create> Australia. Notification to the WTO Committee on Technical Barriers to Trade. G/TBT/N/AUS/125

79 University of Queensland. Faculty of Medicine. New Centre of Research Excellence on Achieving the Tobacco Endgame (CREATE) 12 October 2020

80 Taiwan News. November 5, 2020. Taiwan mulls ban on flavored cigarettes

81 Eyewitness News. BATSA Vindicated by Unconstitutional ban on tobacco during lockdown.

## South Korea

- South Korea required 9 new health warning messages on cigarette packages.<sup>82</sup> *The National Health Promotion Act* requires a change in labels every 2 years.<sup>83</sup>

## VII. MARKET DEVELOPMENTS

### CORPORATE DEVELOPMENTS

- BAT acquires Dryft Nicotine Pouch business.<sup>84</sup>
- JUUL Labs announces a further devaluation (from \$38 billion in 2018 to \$12 billion in 2019 to \$10 billion).<sup>85</sup>



### MARKET SIZE, SHARE AND REVENUE

#### Tobacco products

- The Canadian Convenience Industry Council released a report it commissioned from EY, showing that year-over-year sales had increased during the spring of 2020. The increase was attributed to the impact of COVID on illicit supply. Revenues increased by a greater amount than sales volume (7.4% vs. 3.7%).<sup>86</sup>

#### Vapour products

- BAT reported in December 2020 that its value-based market share in Canada for VUSE was 40%.<sup>87</sup>
- Health Canada reports that “The overall vaping product market in Canada was estimated at \$1.36 billion in 2019. There are currently approximately 200 vaping liquid manufacturers in Canada and 15–20 large distributors. Canadian importers of vaping liquids and devices obtain their supplies (devices and raw materials / ingredients, including nicotine and flavours) mostly from the United States. Between 85 to 95% of vaping liquid in Canada is manufactured in Canada. The 50 largest manufacturers account for about 80% of this share. Contract manufacturing of vaping substances (i.e. vape shops using the services of a laboratory to manufacture their vaping liquids) is common in Canada.

VUSE Value share YTD		
	23.8%	+7.2pp
	40.3%	+16.3pp

Vaping products are sold in three main categories of stores: vape shops, G&C stores and online retailers. The market breakdown by channel based on value is as follows: 49% in vape stores, 30% in G&C stores, 21% online. There are 1 400 vape stores, 25% of which are chained retailers, as well as 27 240 G&C

82 Tobacco Reporter. New Graphic Health Warnings in Korea. <https://tobaccoreporter.com/2020/12/22/new-graphic-health-warnings-in-korea/>

83 National Health Promotion Act <https://www.tobaccocontrolaws.org/files/live/South%20Korea/South%20Korea%20-%20Enf.%20Decree%20of%20Nat%27%20Health%20Promotion%20Act.pdf>

84 Bloomberg. BAT Buys Dryft Sciences' Pouches Business in Oral Nicotine Push. <https://www.bloomberg.com/news/articles/2020-11-03/bat-buys-dryft-sciences-pouches-business-in-oral-nicotine-push>

85 Tobacco Reporter. Juul Labs Cuts Valuation Again. <https://tobaccoreporter.com/2020/10/30/juul-labs-cuts-valuation-again/>

86 EY. The Impact of COVID-19 on contraband tobacco and provincial tax revenues in Canada: March-August 2020 [https://convenienceindustry.ca/wp-content/uploads/2020/12/Impact-of-COVID-19-on-Contraband-Tobacco-and-Provincial-Tax-revenues-in-Canada\\_EN-Final.pdf](https://convenienceindustry.ca/wp-content/uploads/2020/12/Impact-of-COVID-19-on-Contraband-Tobacco-and-Provincial-Tax-revenues-in-Canada_EN-Final.pdf)

87 BAT. Presentation to UBS European Virtual Conference 2020 [https://www.bat.com/group/sites/uk\\_\\_9d9kcy.nsf/vwPagesWebLive/DO6FKEVZ/\\$FILE/medMDBVWBC7.pdf?openement](https://www.bat.com/group/sites/uk__9d9kcy.nsf/vwPagesWebLive/DO6FKEVZ/$FILE/medMDBVWBC7.pdf?openement)



stores, 37% of which are chained retailers, and about 1 500 websites, most of which are the online retail component of brick-and-mortar stores. The majority of these businesses, including manufacturers, are considered to be small under the Treasury Board of Canada Secretariat definition.”

It is estimated that the profit margin ratio of vaping products above 20 mg/mL nicotine is about 42.27% and that of vaping products of 20 mg/mL nicotine or below is about 51.43%.<sup>88</sup>

- BAT opened a flagship VUSE store in Toronto, located at 353 Queen Street.<sup>89</sup>
- The store displays trademarked marketing slogans, like Vuse X U and Charge Beyond.



<sup>88</sup> Canada Gazette. Part I. Volume 154, NO. 51. <http://www.gazette.gc.ca/rp-pr/p1/2020/2020-12-19/html/reg3-eng.html>

<sup>89</sup> Retail Insider. World's 1<sup>st</sup> VUSE storefront opens in downtown Toronto. <https://www.retail-insider.com/retail-insider/2020/09/worlds-1st-vuse-storefront-opens-downtown-toronto/>

## **BRAND DEVELOPMENTS**

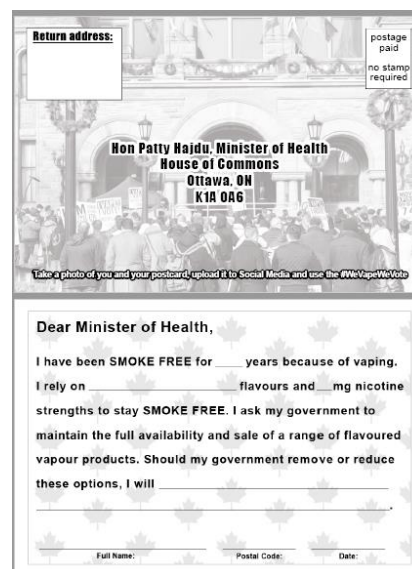
- BAT indicates that it will introduce a “Bluetooth enabled version of Vuse in Canada in the first half of 2021.”<sup>90</sup>

## **TOBACCO INDUSTRY INTERFERENCE**

- During this period, the Canadian federal government provided assistance to a company partially-owned by Philip Morris International.<sup>91</sup> This was seen as a breach of Canada’s obligations under the FCTC by a number of international observers, who contacted the ministers involved to voice their concern.<sup>92</sup>
- British American Tobacco continued to work on a COVID vaccine.<sup>93</sup>
- The Global tobacco Industry Interference Index ranked Canada 13<sup>th</sup> of 34 nations with respect to protecting public health from tobacco industry interference.<sup>94</sup>

During this period, tobacco companies launched, funded or participated in the creation of a number of communications activities. These included:

- The 2020 edition of the (tobacco industry-funded) Global State of Tobacco Harm Reduction was released in November 2020.<sup>95</sup>
- **Unsmoke Canada**  
Rothmans, Benson & Hedges provided grants to local communities to assist in filter clean up.<sup>96</sup>
- **Rights for Vapers**  
One focus of this organization “of vaping advocates” during this period was the distribution of post-cards opposing flavour restrictions.<sup>97</sup>
- **“Facts not Fear”**  
This campaign of Imperial Tobacco continues<sup>98</sup>
- **Myvaperegs.ca**  
Imperial Tobacco



Federal lobbying meetings registered included:

- Juul Labs (John Duffy) : September 29, 2020 with Tyler Meredith, Director of Policy, Finance Canada.
- Rothmans, Benson & Hedges) : Andrew Marsland, Brian Ernewein, Phil King, Miodrag Jovanovic, Finance Canada. (September 18, 2020)

90 Transcript. British American Tobacco p.l.c. (BTI) Q4 2020 Trading Update Conference Call (Transcript).

<https://seekingalpha.com/article/4393833-british-american-tobacco-p-l-c-bti-q4-2020-trading-update-conference-call-transcript>

91 Prime Minister’s Office. Press release. Prime Minister announces funding to advance the development of Canadian COVID-19 vaccine technologies. October 23, 2020

<https://pm.gc.ca/en/news/news-releases/2020/10/23/prime-minister-announces-funding-advance-development-canadian-covid>

92 Corporate Accountability. Letter to Rt Hon Justin Trudeau, to Hons. Anita Anand, Patty Hajdu, Bill Matthews and to Stephen Lucas. December 11, 2020

93 Tobacco Reporter. Shots on Goal. <https://tobaccoreporter.com/2020/06/01/shots-on-goal/>

94 Global Tobacco Industry Interference Index 2020. <https://globaltobaccoindex.org/>

95 Global State of Tobacco Harm Reduction. <https://gsthr.org/>

96 Rothmans, Benson & Hedges.

97 Rights4Vapers. [https://www.rights4vapers.com/wp-content/uploads/2020/12/Vaping-postcard-final\\_english\\_2.pdf](https://www.rights4vapers.com/wp-content/uploads/2020/12/Vaping-postcard-final_english_2.pdf)

98 Imperial Tobacco. Facts not Fear. <https://factsnotfear.ca/home>



## INTELLECTUAL PROPERTY

### New trademarks:

- Bat's Nicoventures filed and formalized its flavour symbols



- Philip Morris registered e-cigarette trademarks, NEXT QC Special,<sup>122</sup> Terea Crafted Blend,<sup>123</sup> Veev Purple touch,<sup>124</sup> Livisto,<sup>125</sup> Black Green Selection<sup>126</sup>
- BAT formalizes its registration of Silk Cut in Canada<sup>127</sup> (a brand not previously sold here).

99 Trademark application 2070532

100 Trademark application 2070518

101 Trademark application 2070516

102 Trademark application 2070515

103 Trademark application 2039240

104 Trademark application 2070552

105 Trademark application 2070510

106 Trademark application 2070507

107 Trademark application 2070502

108 Trademark application 2070492

109 Trademark application 2938233

110 Trademark application 207051

111 Trademark application 2070491

112 Trademark application 2070489

113 Trademark application 2969289

114 Trademark application 2070286

115 Trademark application 2071017

116 Trademark application 2070556

117 Trademark application 2070285

118 Trademark application 2070284

119 Trademark application 2070281

120 Trademark application 2056880

121 Trademark application 2941156

122 Trademark application 2068418

123 Trademark application 2072454

124 Trademark application 2063325

125 Trademark application 2061526

126 Trademark application 2068286

127 Trademark application 2070276

- Nicoventures advances registration of cannabis-related vaping trademarks, e.g. CBC Remix<sup>128</sup> and other tobacco and e-cigarette products, e.g. Routes of Inspiration,<sup>129</sup> (linked with a cross-platform of music by DJ Rudimental and race cars,<sup>130</sup> Cubes of Inspiration,<sup>131</sup> Vuse Flavour Origins,<sup>132</sup>
- BAT registered a new logo for its Canadian operation, Imperial Tobacco Canada Ltd.<sup>133</sup>
- Nicoventures registered the domain name vusebyu.com<sup>134</sup>



128 Trademark application 2072522

129 Trademark application 2069773

130 See video at

[https://www.youtube.com/watch?v=VpVRaF74m0o&ab\\_channel=Rudimental](https://www.youtube.com/watch?v=VpVRaF74m0o&ab_channel=Rudimental), music available at:

<https://www.complex.com/tag/vuse-rudimental-ep1>

131 Trademark application 2067952

132 Trademark application 2061972

133 Trademark application 2067242

134 <https://whois.domaintools.com/vusebyu.com>