

BIG NICOTINE

THE RE-INVENTION OF THE TOBACCO INDUSTRY

Global tobacco companies are rising from the ashes.

In their reports to investors, product offerings to consumers and submissions to regulators the 3 multinational tobacco companies are focusing on “next generation products”. These “NGP”s include e-cigarettes, heat-not-burn tobacco products, snus and other nicotine delivery systems that deliver lower levels of the combustion chemicals found in cigarette smoke.

Some see these products as a beneficially disruptive technology—a way to steer smokers away from cigarettes in favour of something that will reduce disease. The mass marketing of these products that is beginning this year is a natural experiment to test this theory in Canada.

Certainly, the industry is using the new technologies in a campaign to regain some public and political legitimacy, and to revive a marketing presence. Their PR strategies are laying the groundwork for a government-approved market for long-term nicotine customers.

PMI claims “This changes everything”

Philip Morris’ trademarked phrase for its IQOS heat-not-burn cigarette is more than a sales pitch—it is a public relations strategy.

For decades, tobacco industry executives stayed out of the public light — speaking publicly only when summoned by parliamentarians. But in recent months, they have sought out attention for their new products and have presented themselves as leaders—or even champions—in public health efforts. Governments won’t promise a “smoke-free” future, but Philip Morris/RBH makes this their headline message in its quest for regulations that help it market its heat-not-burn cigarettes.

BAT acknowledges “The vapour business is additive”

Next Generation Products are being sold to regulators as a way to reduce disease, but are being presented to investors as a way to maintain revenues.

British American Tobacco reassures shareholders that selling e-cigarettes does not reduce the market for conventional cigarettes, it adds to it. In the United Kingdom (which has the most established e-cigarette market), BAT reports that the vast majority of people who use e-cigarette also smoke regular cigarettes. Never smokers or former smokers who have ‘returned’ to nicotine use make up one eighth of BAT’s UK e-cigarette clientele.

Persuading Health Canada to see vaping ads as harm reduction.

In previous decades, Health Canada faced resistance from tobacco companies when trying to get laws through parliament. But when it came to vaping laws, the industry cleared the path to move e-cigarettes from the grey zone of illegal-but-tolerated vape shops to one where they could openly market their products through convenience channels. (Unlike vape shops, convenience retailers and tobacco/nicotine companies have a long-term interest in promoting dual use.)

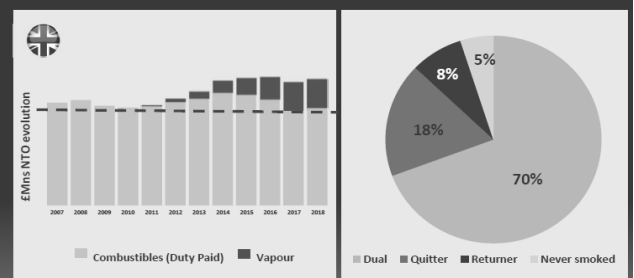
In 2016, for example, BAT/Imperial Tobacco Canada used World No Tobacco Day to demand the federal government “acknowledge the harm reduction potential of smokeless electronic nicotine products and table clear regulations around these products.”

Two years later, the federal government did just that. On May 23, 2018 it gave Royal Assent to a law legalizing vaping sales, giving BAT and other nicotine companies both the right to market and the right to advertise e-cigarettes. In the new federal strategy announced days later, harm reduction appeared as a central element. Vaping, the department explained, is “part of our broad new vision for dealing with tobacco use.”

By mid-summer, these big companies were aggressively transforming a vaping market previously characterized by small players, specialized vape shops and clunky tank systems into one of sleek systems, sophisticated marketing and extensive convenience store distribution.

Big Nicotine has arrived.

The vapour business is additive



NEW OCCASIONS	
When I can't smoke cigarettes	86%
In the car	62%
Inside pubs and restaurants	47%

Source: Company data.

BAT Investor Report, October 2018

Renewal of the federal tobacco strategy

Looking to repeat past successes (and ignoring the failures!)

After a one-year delay, federal health Minister, Ginette Petitpas Taylor, unveiled Health Canada's new tobacco strategy. The goal, she said, was "to drive down the smoking rate in Canada to less than 5% by 2035."

Ms. Petitpas Taylor is the 21st Canadian health minister to lead federal anti-smoking efforts. In the more than 50 years since minister Judy LaMarsh announced the first strategy, smoking rates have fallen from one-half the adult population to slightly less than one-sixth.

For five decades, the underlying approach of the federal government to the tobacco market has not changed. The emphasis is on "reducing demand" for tobacco but making no specific requirements for manufacturers to reduce or modify supply.

The federal "demand-side" recipe remains in place—but without some key some ingredients.

Health Canada's new strategy is based on four very familiar "main themes": a) helping smokers quit, b) protecting youth and non-tobacco users from nicotine addiction, c) working with Indigenous groups to develop specific plans for their communities and d) strengthening the science base.

It includes a continued role for the federal government in regulating packaging and in forcing the industry to disclose business intelligence. The next step in package control is plain packaging (with renewed warning labels in about 4 years).

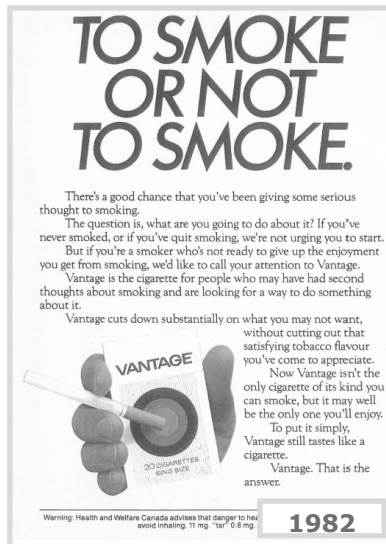
Some components of past strategies have been discarded. There were no moves to rescind the cuts imposed by the previous government with respect to public education (mass media), community programs (formerly \$15 million per year), nor support for protection from smoke.

A change in direction?

A year ago, there were signs that Health Canada was planning to deliver a much more ambitious plan to address tobacco use. In early 2017, former health minister Jane Philpott promised a "bold and innovative" plan.

Since then, the tobacco file at Health Canada has been put into new hands. A new minister, a new assistant deputy minister, a new director general and a new director of policy were assigned the task of designing the next phase of work.

It now seems that it was not only the planners who changed, but also the plan.



**Beginning in the early 1970s, National Health and Welfare backed low-tar cigarettes as a way to reduce the harms of smoking.
In 2018, Health Canada wants smokers to try e-cigarettes.**

For tobacco manufacturers, harm reduction is an opportunity to market new products and to find new customers.

Harm reduction—controversy and cloudy objectives

Harm reduction has been re-established as major thrust of the federal tobacco approach. Health Canada's encouragement of vaping has quickly become the most contested element of its tobacco plan.

The concerns arise in part from new knowledge about the population-wide impact of e-cigarettes. Recent research results increasingly show that e-cigarettes are depressing overall quitting rates and that dual use is not associated with any reduction in disease risk (the vast majority of e-cigarette users also continue to smoke regular cigarettes). Researchers in the United Kingdom, relying mostly on older information, have come to the opposite conclusion, and consider that encouraging vaping has net population health benefits. Reducing harm by encouraging vaping is now official policy in the U.K.

Health Canada has yet to articulate its harm reduction goals in a way that allows for an assessment of their success or failure. Unlike most significant tobacco policy changes, this one did not benefit from a public consultation process before the introduction of legislation to legalize vaping products.

A blast from the "Less Harmful Smoking" past.

The new strategy is the third occasion that the health ministry formally embraced the goal of finding ways to reduce health risks for smokers 'who don't want to quit'.

The first was in the 1970s, when the primary focus of federal action was on reducing the tar levels of cigarettes. Smokers were encouraged to buy lower tar brands, farmers were encouraged to change their crops, manufacturers were pressured into changing their product design.

This shortcomings of this approach were soon identified, but it took decades to reverse course. By late 1980s it had become clear that 'light' cigarettes had given smoking a new legitimacy, and had led to higher smoking rates among women. Another decade or more would pass before the federal government formally renounced their belief in less harmful smoking and banned the sale of cigarette brands labelling 'light'.

Harm reduction was also adopted as the fourth pillar of Health Canada's tobacco strategy in 2000, with an emphasis on research. This initiative was short-lived, and quickly dropped from departmental reports.

We warned government about TV ads. (They didn't seem worried.)

In early September, Canadian broadcasters began showing commercials for BAT/Imperial Tobacco's vaping products (the ePen3). This was the first time for generations that tobacco companies had been given direct access to television audiences to pitch addictive products.

The Vype ad associated the nicotine dispenser with a number of aspirational lifestyles — successful businessmen, attractive women, relaxation, style and nightlife. This despite the fact that the new *Tobacco and Vaping Products Act* explicitly prohibited lifestyle advertising for vaping products. (The new law defines lifestyle advertising as "advertising that associates a product with or evokes a positive or negative emotion about or image of, a way of life such as one that includes glamour, recreation, excitement, vitality, risk or daring.")

Although text warnings were flashed at the beginning and end of the ads, it is



Although the new law bans lifestyle advertising, ITL/BAT is using lifestyle imagery on Vype advertisements shown on television, the internet and at retail.

impossible to read the text in the time it is displayed. Nor was there anything in the narration or imagery to suggest that the vaping device carried risks of addiction or other health consequences.

Physicians for a Smoke-Free Canada filed complaints about the ads with the Minister of Health, as did some members of the public.

Many weeks

later, however, the ads were still running and no explanation had been provided as to whether any enforcement action was being put in place.

A predictable problem.

TV campaigns for vaping devices was entirely predictable. Almost all of the Canadian tobacco control organizations had cautioned parliament that the

permissions in the new law for advertising would trigger tobacco companies to use their advertising savvy to create demand for e-cigarettes.

Some opposition parliamentarians shared these concerns and tried to amend the law to ban ads on television and mass media. Using its majority, the government voted these proposals down. One reason they gave for doing so was an assurance that such ads could not be attractive to young people or non-smokers because lifestyle ads would not be permitted.

Six months after the law came into effect, those assurances have not translated into enforcement action.

Smokers can learn about e-cigarettes without putting youth and non-smokers at risk.

The risks of addiction and other disease are too great to permit vaping products to be marketed to non-smokers, or to allow non-smokers to be exposed to such marketing.

Information about vaping products can be made available to smokers through cigarette packages, during the transaction of buying cigarettes or by other means that do not expose non-smokers to such promotions. Physicians for a Smoke-Free Canada will continue to advocate this approach, and will encourage government to adopt regulations to this effect.

"Juuling": We should all be concerned.

Since its launch in 2015, the Juul e-cigarette has become the defining vaping device in the U.S. market, climbing to claim \$3 of every \$4 spent on e-cigarettes in the United States.

The staggering market growth of these products is attributed to more than its discrete USB-shape and the kid-friendly flavours. Juul delivers significantly more nicotine—and with a faster hit. The 'secret sauce' is the use of nicotine salts which

lowers the pH and facilitates inhaling and the absorption of more nicotine. (Juul has patented the use of certain acids to create the salts.)

American regulators are scrambling to respond to the epidemic of Juuling among teens. Meanwhile, the impact of Juuling is beginning to be felt north of the border.



The small Juul device offers teens a high dose of fruit-flavoured nicotine that can be easily inhaled.

It was not until summer 2018 that Juul began to be sold outside the USA—in Israel (May 2018), the United Kingdom (July 2018) and Canada (August 2018).

The version sold in the United Kingdom delivers less nicotine because the EU regulations set the maximum nicotine concentration at a level of about one-third of the amount in the version of Juul pods sold in the USA. In August 2018, Israel announced a ban on Juul products.

The U.S. FDA has begun to clamp down on Juul's operations—seizing documents, imposing tighter rules on where flavoured products can be sold, and is now threatening additional action.

Juul's competitors are also responding. In late November 2018, ITL/BAT began advertising that it would soon have a nicotine salt device for sale in Canada.

The industry’s strengthened control over retailers.

Around ten years have passed since Canadian provinces banned displays of cigarette packages in retail stores. Since then, the companies have not withdrawn from promotions to retailers — they have reinvented them.

Until the display bans came into effect, retailers earned money from tobacco in two major ways: they charged a percentage on each pack of cigarettes they sold and they received payments in return for promotional displays of packages. (Other branded displays had been banned by federal law around the turn of the century).

New carrots. New sticks.

Today, tobacco retailers are rewarded somewhat differently. They still receive a percentage mark-up on the cigarettes they sell, but they also get bonuses and rebates if they meet certain sales targets. Loyalty points are awarded on the basis of the number of cigarettes sold (except in Quebec) or the willingness of retailers to learn about or repeat the companies’ sales pitch.

In addition to these incentives, the companies impose strict conditions on retailers. They impose maximum prices for certain brands, to ensure that cheap cigarettes remain widely available. They force retailers to accept (and pay for) a set number of cartons of each brand the companies want them to carry, putting pressure on them to sell the excess inventory rather than carry the debt. The companies demand access to data on their sales and prices, giving the industry “big data” on local conditions.

New structures. New laws.

New technologies, new structures and new laws have strengthened the companies’ hold on the corner store. In years past, retailers bought their cigarettes at a uniform price from wholesalers. Now, each store orders directly from the company. Those who don’t accept the conditions of sale have no other alternative source.

When it amended the *Competition Act* in 2009, the federal government removed the requirement that manufacturers charge the same price to all distributors. Once allowed to charge lower prices to select retailers, tobacco companies were able to trigger price wars between retailers. The most compliant and cooperative retailers—and those with the highest sales—could be given a market advantage. This spurred others to try to gain favoured status by lowering prices,

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Retailers are rewarded for taking ‘word of mouth’ promotional training.

increasing sales and being more cooperative with sales representatives.

New nicotine devices.

Decisions by federal and provincial governments on how to legalize the vaping market have allowed tobacco companies to graft their nicotine sales onto their existing tobacco retail infrastructure.

They are able to apply to vaping products their extensive knowledge of local market conditions, their incentive programs that drive word-of-mouth promotions, and their trade terms for cigarettes. Imperial Tobacco won’t sell cigarettes to retailers who aren’t willing to sell vaping products.

Tobacco companies and their distribution network do not currently have an economic incentive or legal requirement for vaping products to replace cigarettes. They have every incentive to discourage smokers from quitting, and to encourage vapers to be long-term customers.

They are motivated to encourage smokers to see vaping as an alternative to quitting. They have the infrastructure and market intelligence to help make this happen.

The result? Higher sales. More smoking.

The combined impact of these programs is a tobacco market where retailers are forced to lower their profit margins and increase their volume sales to maintain revenues. It is a market where tobacco

companies can adjust their price structures to respond to local market conditions (i.e. making less money in poor neighbourhoods and replacing lost revenues with higher prices in richer neighbourhoods). It is a highly efficient tobacco market, where costs are minimized to keep prices low.

Needed: a public health response.

Public health controls over tobacco and nicotine retailing are urgently in need of reform. A key objective should be to reduce the controls over retail that are exercised by manufacturers. Two years ago, the Quebec government took steps in this direction when it banned some retail incentive programs.

Other important reforms are relatively easy and cheap. We need public health research using the same kind of “big data” that is currently collected by the industry. commercial data surveillance systems. A requirement for all tobacco sales data to be centrally reported would provide health researchers with the means to monitor the impact of vaping on tobacco consumption in real-time. (Such digital reporting systems are already in place for restaurants in Quebec).

Lessons from cannabis?

In 2018, federal laws legalized vaping products (May) and cannabis (October). Both triggered a shift from an illegal-but-tolerated system of retailing to a rules-based approach. The inclusion of health-related rules for cannabis retailing is worth contemplating for tobacco.

Although provinces have adopted different retail regulations for cannabis, they have all demanded greater public control on retailing than is currently in place for tobacco.

These include requirements that cannabis be sold by dedicated retailers—and not alongside candy and chips. Cannabis must be purchased from government-controlled wholesalers, giving government data on sales and pricing. In many provinces, minors are not permitted to enter the store and stores may not be within certain distances from schools or health care facilities. Mail order is seen as a way of allowing consumer to legally access these recreational drugs without the impact of a storefront presence.

The hard realities of population-wide cessation efforts

After all we have learned about smoking since the 1950s and all the improvements in smoking cessation methods, why does the percentage of former smokers in the population remain so stable?

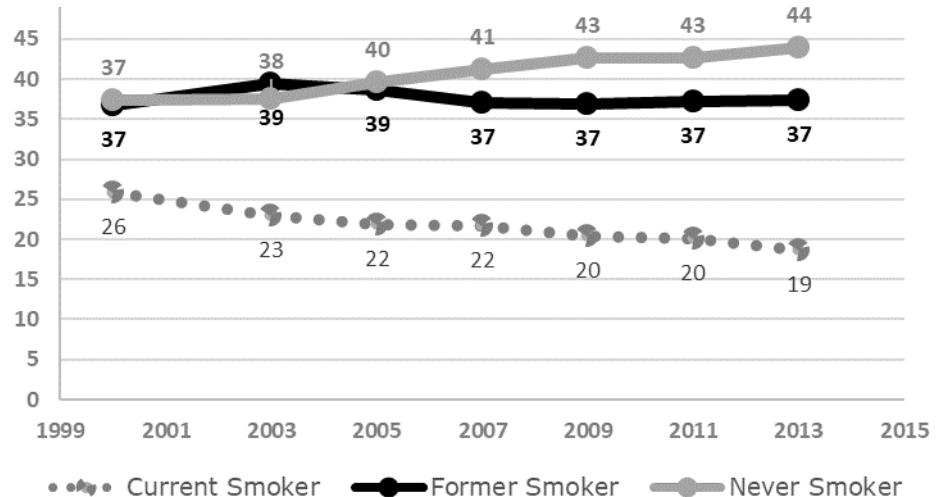
As shown in the results of the Canadian Community Health Survey over the past decade, although the percentage of smokers falls, the percentage of **former smokers** barely changes—hovering around 37%. There are new quitters—but only enough to replace those who relapse or die.

The tobacco industry has long known how few smokers quit, which is why it seldom opposes smoking cessation programming.

Tobacco industry data revealed through litigation shows that decades ago, the percentage of would-be quitters who managed to stay quit for one year as a percentage of ever-smokers was almost always in the very narrow range of 1–2% per year. More recent, but similar low rates of quitting in Ontario were reported by the Ontario Tobacco Research Unit: annualized rates between 2007 and 2014 were reported in the range of 1.3–2.2%.

A real challenge is that cessation programs have neither broad reach nor outstanding success rates. The Ontario government, for example, provides support to 10 different smoking cessation programs and ensures that the outcomes of these efforts are evaluated. These programs all use well-established forms of assistance of proven worth—but collectively they reach fewer than 1 in 10 smokers (7%) and contribute to less than 1% of smokers quitting (0.6%). Ten government-supported forms of smoking cessation assistance yielded a barely perceptible

Prevalence of Smoking, Quitting and Never smoking
Canadian Community Health Survey, 2000 to 2013-2014.



increase in the number of people in Ontario who successfully quit smoking.

Many have been hopeful that electronic cigarettes (e-cigarettes) would help people quit smoking. However, the evidence is increasingly discouraging. Recent reports conclude that the net effect of e-cigarette marketing is to depress smoking cessation behaviour. (Glantz and Bareham, 2018).

Yet no comprehensive tobacco control programs will be credible unless it includes smoking cessation programming. Even if smoking cessation is one of the least effective tobacco control measures, it is a necessary part of a comprehensive tobacco control policy. Indeed Article 14 of the Framework Convention on Tobacco

Control obliges Parties to provide smoking cessation programs.

The Canadian federal, territorial and provincial governments all fund smoking cessation programs. While funding for these programs should continue, we should not expect them to be more successful in the future than they have been in the past. Progress towards the Canadian government's stated goal of achieving less than 5% tobacco use prevalence by 2035 will not be made by greatly increasing smoking cessation programming, but rather by strengthening other areas of comprehensive tobacco policies and programs.

"5 by 35"

- slogan or commitment?

The goal of "5 by 2035" was announced by Health Canada in early 2017, but months later government voted down a proposal to give it legal standing.

The parliamentary study of S-5 (the law to legalize vaping products) was a chance for the 5% target to become part of the foundational tobacco law.

Physicians for a Smoke-Free Canada advocated that the statement of purpose of the law include this goal, and the NDP health critic (Don Davies) proposed it as an amendment during committee study of the bill.

The government spokesperson on the committee (Ramez Ayoub) said "such a goal now is premature" and that "political will ... can change." The governing party used its majority to vote down a statutory goal for tobacco reduction.

HESA-94

February 28, 2018

Mr. Ramez Ayoub (Thérèse-De Blainville, Lib.): If I understand the amendment correctly, I would say it's a little redundant.

...

Any goal like that is generally laudable. That said, I think setting such a goal now is premature. According to scientific reports, the political will, even the development of the public, can change. Given that the bill is already very broad in scope, I think it's redundant and it does not add anything.

I therefore propose that this amendment not be passed.

2018

The year in review

February

Federal government raises taxes by \$2.29 per carton.

Tobacco leaf supplier **Alliance One** buys majority stake in two Canadian cannabis producers.

March

Quebec municipality of **Hampstead** bans smoking on all city property (including streets and sidewalks).

U.S. FDA announces an advance notice of proposed rulemaking to lower nicotine in cigarettes to minimal or non-addictive levels.

April

Winnipeg bans smoking on patios.

Victoria bans smoking tobacco, cannabis and vaping in almost all public spaces—including playing fields, playgrounds and public squares.

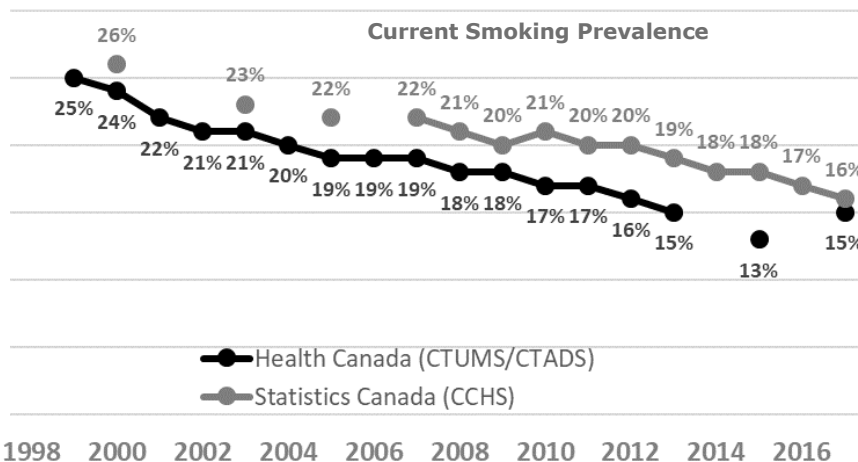
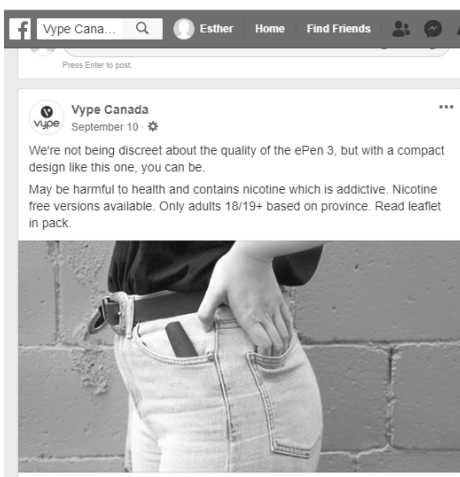
May

Parliament gives Royal Assent to *Tobacco and Vaping Products Act*. E-cigarette sales become legal—and the way is paved for plain packaging.

Ontario government announces a new 5-year plan for tobacco.

Federal Health Minister announces a renewed tobacco strategy.

Imperial Tobacco/British American Tobacco begin selling e-cigarettes across Canada, launching social, retail and television campaigns.



Did smoking rates go up in 2018?

For the first time in almost 2 decades, the federal government's major health surveys showed nearly the same rate (but different trends!).

June

Health Canada publishes draft regulations for plain and standardized packaging. The proposal includes a ban on "purse packs" and some decorative elements on cigarette tips, and would require manufacturers to revert to "slide and shell" packaging.

The **Canadian Centre on Substance Use and Addiction** updates its estimates on the costs of substance use in Canada. Direct health care costs are pegged at \$5.9 billion, with an additional \$5.8 billion in lost productivity.

Statistics Canada releases data from the 2017 cycle of the **Canadian Community Health Survey**. Due to methodological changes, the government agency is not comparing with previous cycles. If they did, smoking rates would be shown as falling.

Health Canada's survey on student smoking (CSTADS) found that no progress had been made in reducing smoking between 2014-15 and 2016-2017. Moreover, the use of e-cigarettes had grown among high school students—with 15% of children in grades 10 to 12 using one in the past month.

August

Juul Labs begins shipments to Canada.

September

Newly-elected **Ontario** government backs away from restrictions on vaping promotions in convenience stores.

Imperial Tobacco launches television ad campaign for Vype e-cigarettes

October

Cannabis sales become legal across Canada, prompting many universities to adopt smoke-free campus regulations.

Halifax bans smoking in most public places.

Newly-elected **Quebec** government announces that the legal age for cannabis will be raised to 21.

November

Health Canada seeks input on a proposal to put warning labels on each cigarette.

U.S. FDA responds to concerns about youth vaping by restricting availability of flavoured products to specialty shops.

Health Canada request IQOS to remove sign from its flagship store — 18 months after the store opened.

Data from the 2017 cycle of the **Canadian Tobacco, Alcohol and Drugs Survey** is released. Smoking rates went up.

Imperial Tobacco/British American Tobacco begin pre-sales on a new vaping device using nicotine salts.

Two year anniversary of **Quebec Court of Appeal** hearing of the Blais-Letourneau tobacco judgment passes without a ruling.

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