

# **Juul Labs**

**Written Submission for the Pre-Budget Consultations in  
Advance of the Upcoming Federal Budget**

**August 2020**

**By: Juul Labs Canada Ltd.**

In order to protect existing adult smokers' access to potentially reduced harm tobacco alternatives, Juul Labs Canada Ltd. recommends that the Government of Canada:

**Recommendation 1:** *Conduct a Parliamentary Committee study and formal review on Vaping Products, including the potential public health cost-savings these potentially reduced harm products may provide the Canadian government in the long-term, and report on their findings. The report should be tabled in Parliament and provided to the Minister of Health.*

**Recommendation 2:** *In order to allow smokers to find a way to transition away from cigarettes, Vaping Products should be permitted to deliver levels of nicotine comparable to cigarettes so that Canadians can benefit from their harm reduction potential.*

**Recommendation 3:** *Implement a federal excise duty on Vaping Products.*

## Introduction

Juul Labs Canada's mission is to transition the millions of Canadian adult smokers away from combustible cigarettes, eliminate their use and combat underage usage of our products. Our ability to accomplish that mission is predicated on us earning the trust of society and working cooperatively with regulators, policymakers and stakeholders, as we strive to reset the Vaping Products category.

One hundred Canadians die each day from smoking-related illness.<sup>1</sup> Despite this, over five million Canadians continue to smoke combustible cigarettes. To be clear, nicotine is addictive and can be harmful, and people who do not already use nicotine should not start. Those who do use tobacco and nicotine products should quit. However, Juul Labs Canada believes those Canadians who cannot or will not quit smoking have a right to access potentially less harmful, alternative products.<sup>2</sup>

Prior to the recent introduction of vaping technology, cigarette prevalence rates had largely flatlined, declining only 3% per year from 2013 to 2017.<sup>3</sup> Statistics Canada data analyzed in a recent C.D. Howe Institute Intelligence Memo found a significant decline of 8.5% (population-adjusted) in cumulative past-year sales of cigarettes coinciding with Vaping Products becoming legal for sale in Canada in June 2018.<sup>4</sup>

Juul Labs Canada is prepared to work in collaboration with the Government of Canada to address ways to combat underage use of Vaping Products, while preserving adult smoker access to potentially reduced-harm alternatives. We strongly believe these two imperatives can co-exist, and only then will we realize the historic opportunity to further decrease smoking rates across the country.

***Therefore, Juul Labs Canada requests the opportunity to appear before the Standing Committee on Finance to present our recommendations and answer any questions about them.***

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<sup>1</sup><https://www.canada.ca/en/health-canada/services/health-concerns/tobacco/legislation/tobacco-product-labelling/smoking-mortality.html>

<sup>2</sup> <https://www.macleans.ca/news/canada/closing-insite-would-violate-charter-supreme-court/>

<sup>3</sup> Euromonitor

<sup>4</sup> <https://www.cdhowe.org/intelligence-memos/ian-irvine---vilification-vaping>

***Recommendation 1: Conduct a Parliamentary Committee (FINA and/or HESA) study and formal review of Vaping Products, including the potential public health cost-savings these potentially reduced harm products may provide the Canadian government in the long-term, and report on their findings. The report should be tabled in Parliament and provided to the Minister of Health.***

The *Tobacco and Vaping Products Act* (TVPA) created a new legal framework for regulating Vaping Products to protect young persons from nicotine addiction and tobacco use, while allowing adults access to Vaping Products as a potentially less harmful alternative to smoking. Since coming into force in May 2018, Vaping Products have disrupted use of combustible cigarettes, which is bound to impact health and social costs in the long run.

Juul Labs, Inc., Juul Labs Canada's affiliate recently commissioned a study to model population-wide health and cost impacts of Vaping Products for Canadian adults. The study concluded that increased accessibility to Vaping Products for existing adult smokers seeking an alternative to combustible cigarettes across Canada may generate net public-health gains and health-system cost savings in the billions of dollars.

Assuming the current regulatory environment and public health approach to Vaping Products is maintained, it is estimated to gain almost a million life-years that would have otherwise been lost and **save the health system \$36.8 billion**. A more liberal approach to Vaping Products is projected to save approximately 1.5 million life-years and reduce lifetime health system **costs by \$66.5 billion**. (These numbers are preliminary and subject to change as part of the peer review process)<sup>5</sup>

It is important to note that projected health and economic consequences are sensitive to assumptions about accessibility and use by adult smokers and may vary by type of policy environment.

These findings suggest that Canada's public health officials may be overlooking a viable opportunity to reduce life-years lost due combustible cigarettes and increase health system cost savings.

Juul Labs Canada recommends that these findings be considered as part of a Parliamentary study on Vaping Products. This study should consider whether the dual objectives of the Act, regulating Vaping Products to protect young persons from nicotine addiction and tobacco use, while allowing adults access to Vaping Products as a less harmful alternative to smoking, are being met. The report should be tabled in Parliament and provided to the Minister of Health to inform the upcoming review of the TVPA in 2021.

***Recommendation 2: In order to allow smokers to find a way to transition away from cigarettes, Vaping Products should be permitted to deliver levels of nicotine comparable to cigarettes so that Canadians can benefit from their harm reduction potential.***

In order to maximize the harm reduction potential of Vaping Products, these products should be permitted to deliver levels of nicotine comparable to cigarettes to satisfy smokers' cravings and to promote moving away from cigarettes entirely.

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<sup>5</sup> [https://www.ispor.org/docs/default-source/intl2020/appeco-modelispor2020final-pdf.pdf?sfvrsn=be974d95\\_0](https://www.ispor.org/docs/default-source/intl2020/appeco-modelispor2020final-pdf.pdf?sfvrsn=be974d95_0)

Limiting nicotine concentration of Vaping Products to 20 mg/mL, as it has been proposed in some Canadian provinces and implemented in the European Union, reduces public health benefit through tobacco harm reduction, as it:

- Is unlikely to reduce underage usage of Vaping Products;
- Deters existing adult smokers from transitioning from combustible cigarettes to this potentially reduced harm alternative; and
- Creates a highly restricted product market that is out of alignment with the United States and elsewhere, creating risk of a new contraband market in Canada.

#### *Addressing Underage Usage*

There remains no definitive scientific evidence that reducing the nicotine concentration limit in vaping liquids will reduce underage use of Vaping Products.

In the EU, the 20 mg/mL nicotine concentration ceiling was introduced by the EU Tobacco Products Directive. Recent surveys and research have shown increases in underage use of Vaping Products in EU countries with a 20 mg/mL cap. Germany<sup>6</sup>, Spain<sup>7</sup>, Italy<sup>8</sup> and Iceland<sup>9</sup> have all shown significant increases in underage use of Vaping Products in the last one to two years. In the case of Italy, peer-reviewed research illustrated that the introduction of the 20 mg/mL limit did not have a significant effect on deterring youth uptake. In the UK, a recent study by University of Waterloo Prof. David Hammond found a 40% year-over-year increase in youth vaping from 2018 to 2019<sup>10</sup>.

In addition, this policy does not address the reason those underage individuals want to access Vaping Products, which the majority of respondents to the 2019 US National Youth Tobacco Survey identified as curiosity.<sup>11</sup> JUUL Labs has advocated for numerous policies which would address youth use of Vaping Products directly without reducing their harm reduction benefit for adult smokers, including publicly advocating for a 21+ age restriction for all nicotine products (currently law in PEI), electronically controlled age verification both online and in-store, and a total ban on social media advertising.

#### *Deterring Harm Reduction for Current Smokers*

Limiting nicotine concentration is likely to deter existing adult smokers from transitioning to this potentially reduced harm alternative.

JUUL products offered in a range of nicotine strengths have the potential to transition adult smokers away from cigarettes by offering a sufficiently satisfying alternative nicotine delivery system. Approximately

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<sup>6</sup><https://www.drogenbeauftragte.de/presse/pressekontakt-und-mitteilungen/2019/iv-quartal/drogen-und-suchtbe-richt-2019-erschiene.html>

<sup>7</sup>[http://www.pnsd.msccbs.gob.es/profesionales/sistemasInformacion/sistemaInformacion/pdf/ESTUDES\\_2018-19\\_informe.pdf](http://www.pnsd.msccbs.gob.es/profesionales/sistemasInformacion/sistemaInformacion/pdf/ESTUDES_2018-19_informe.pdf)

<sup>8</sup> Gorini *et al.* 2019. Prevalence of tobacco smoking and electronic cigarette use among adolescents in Italy: Global Youth Tobacco Surveys (GYTS), 2010, 2014, 2018. Preventative Medicine.

<sup>9</sup> Kristjansson *et al.* 2019. Do population trends in adolescent electronic cigarette use coincide with changes in prevalence of cigarette smoking? Preventative Medicine Reports.

<sup>10</sup> Hammond *et al.* 2020. Changes in prevalence of vaping among youth in the United States, Canada, and England, 2017 to 2019. JAMA Pediatrics.

<sup>11</sup> Wang *et al.* 2019. Tobacco Product Use and Associated Factors Among Middle and High School Students — United States, 2019. MMWR. Surveillance Summaries.

50% of survey respondents who were adult smokers fully switched from combustible cigarettes to JUUL products at 6 months after first use.<sup>12</sup> That number increases over time, up to approximately 55% at 12 months. The users in this study were using exclusively 59 mg/mL and 40 mg/mL, strengths which would not be available if nicotine concentration was reduced to a 20 mg/mL maximum.

Additionally, an internal study examining the qualitative effects of JUUL use at different nicotine levels showed a 18 mg/mL nicotine concentration JUULpod was rated significantly lower on the 'enough nicotine' item, compared to both a 59 mg/mL nicotine concentration JUULpod and a smoker's usual brand of cigarettes.

Limiting nicotine in products used by adult vapers may also modify behaviour, including increasing frequency of use to compensate for lower nicotine yields. Studies show that in lower-strength nicotine Vaping Products, users sometimes engage in behaviours (more or stronger puffs) that allow them to obtain more nicotine, but also increase their exposure to aerosol.<sup>13,14</sup>

#### *Lack of Market Alignment*

Limiting nicotine concentration would create a highly restricted product market in Canada, out of alignment with products available in the United States, where higher nicotine concentrations are permitted, and elsewhere in the world, easily accessible online.

These restrictions in the Canadian market could bolster the unregulated and illegal contraband market for higher nicotine Vaping Products. These products, sold online and in physical stores, are unlawful, made with unknown and potentially hazardous chemicals, and have unregulated quality standards. These products undermine public health and efforts to keep Vaping Products out of the hands of underage users. Canadians' best defence against contraband products remains a strongly regulated legal market, with rules enforced by Health Canada.

Implementing a nicotine concentration maximum of 20 mg/mL is not a policy that is likely to be effective in deterring underage use of Vaping Products in Canada and would certainly increase risk of harm by stimulating the sale of illegal and unregulated higher nicotine Vaping Products.

#### ***Recommendation 3: Implement a federal excise duty on Vaping Products.***

Juul Labs Canada recommends implementing a federal excise duty on Vaping Products to increase the cost, reduce underage access to Vaping Products while providing the Federal Government with additional resources for enforcement and public education.

Evidence from the tobacco market shows that taxation works to reduce underage appeal. On average, a 10% increase in tobacco price results in an approximate 3–5% reduction in adult cigarette consumption

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<sup>12</sup> Russell *et al.* 2019. Factors associated with past 30-day abstinence from cigarette smoking in adult established smokers who used a JUUL vaporizer for 6 months. *Harm Reduction Journal*.

<sup>13</sup> Košmider, Leon, et al. "Compensatory Puffing With Lower Nicotine Concentration E-Liquids Increases Carbonyl Exposure in E-Cigarette Aerosols." *Nicotine & Tobacco Research*, vol. 20, no. 8, 2017, pp. 998–1003., doi:10.1093/ntr/ntx162

<sup>14</sup> Soar, K., Kimber, C., McRobbie, H., Dawkins, L.E. "Nicotine absorption from e-cigarettes over 12 months." *Addictive Behaviors*, Vol. 91, April, 2019, pp. 102-105.

and 7%–9% reduction in children and adolescents smoking initiation.<sup>15</sup>

Juul Labs Canada recommends that implementation of a tax, unique to Vaping Products, that is:

- Volume-based (per mL) on e-liquid
- Nicotine agnostic; and
- Collected at the wholesale level.

This proposed structure seeks to minimize complexity in administration while maximizing compliance across producers and delivery mechanisms. It also clearly separates Vaping Products from other excise duties for combustible products, while maintaining a direct tie to consumption.

While a tax on Vaping Products will reduce underage appeal, it should ensure these products remain accessible to existing adult smokers and retain a privileged cost position over combustible cigarettes. If the tax rate is set too high, the public health benefits of continuing to move existing adult smokers from cigarettes to Vaping Products will not be realized. The Council of Chief Medical Officers agree that the government should “tax Vaping Products in a manner consistent with maximizing youth protection while providing some degree of preferential pricing as compared to tobacco products.”<sup>16</sup>

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<sup>15</sup> Public Health Ontario. Ontario Tobacco Monitoring Report 2018.  
<https://www.publichealthontario.ca/-/media/documents/T/2019/tobacco-report-2018.pdf>

<sup>16</sup><https://www.newswire.ca/news-releases/statement-from-the-council-of-chief-medical-officers-of-health-on-nicotine-vaping-in-canada-860054838.html>