



Rothmans, Benson & Hedges Inc.

a subsidiary of Philip Morris International Inc. / une filiale de Philip Morris International Inc.

1500 Don Mills Rd., Toronto, ON M3B 3L1

Submission to the Consultation on the Proposed Vaping Products Labelling and Packaging Regulations

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Summary

The legalization and regulation of non-therapeutic vaping products through the amendments in Bill S-5 is slowly improving the landscape for reduced-risk alternatives for existing adult smokers who would otherwise continue to smoke cigarettes.

Rothmans, Benson & Hedges Inc. (RBH) generally supports all of the provisions that have been proposed in the draft regulations which have been circulated, including requirements to identify nicotine content and ingredients, and to require child-resistant seals on containers of vaping liquid and on refillable electronic cigarettes.

RBH also supports the requirement to include a health warning advising that vaping products which contain nicotine are addictive. However, we believe that more care must be taken to ensure that existing smokers seeking an alternative to cigarettes understand that vaping products are a better choice than continuing to smoke. This is consistent with Health Canada's own public position on vaping, "vaping is a less harmful option than smoking for Canadians who already smoke tobacco products."¹

The draft regulations should also be amended to include a regulation which properly recognizes and categorizes heated tobacco products as vaping products, rather than continuing to classify heated tobacco products in such a manner as they are regulated like combustible cigarettes. Doing so will allow for existing adult smokers to learn about a wider array of products and therefore be more likely to find a harm reduction solution that allows them to fully switch and stop smoking cigarettes.

1. The Definition of Vaping Products

The Tobacco and Vaping Products Act (TVPA) defines a vaping product as:

- (a) a device that produces emissions in the form of an aerosol and is intended to be brought to the mouth for inhalation of the aerosol;

¹ Ottawa Citizen, Lung problems linked to e-cigarettes in the U.S. have Canadian health officials on alert, 28 August 2019, <https://ottawacitizen.com/news/local-news/illnesses-linked-to-e-cigarettes-in-the-u-s-have-canadian-health-officials-on-alert>



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- (b) a device that is designated to be a vaping product by the regulations;
- (c) a part that may be used with those devices; and
- (d) a substance or mixture of substances, whether or not it contains nicotine, that is intended for use with those devices to produce emissions.

It does not include devices and substances or mixtures of substances that are excluded by the regulations, cannabis, as defined in subsection 2(1) of the Cannabis Act, cannabis accessories, as defined in that subsection, tobacco products or their accessories.²

As RBH has noted in past submissions and comments, this narrow definition of vaping products excludes tobacco vaporizers, including heated tobacco products.

Notably, each province which has regulated and defined vaping products has defined them in such a way that they include tobacco vaporizers because they, like electronic cigarettes, produce an aerosol vapour for inhalation, and therefore are regulated differently than cigarettes.

Recommendation: Through regulation, define tobacco vaporizers as vaping products to regulate them properly in the context of the Tobacco and Vapour Products Act.

2. Nicotine Content

Nicotine is an addictive substance that is naturally present in tobacco leaves. While addictive, scientific evidence has repeatedly substantiated that it is other chemicals and chemical compounds present in tobacco smoke which are the primary cause of smoking-related disease.³ While it is possible to synthesize nicotine, in most nicotine-containing liquid vaping, nicotine that has been extracted from tobacco plants is used.

The draft regulations propose to prohibit the sale of vaping products which nicotine concentrations of 66 mg / mL or more. This limit allows for the provision of a wide range of vaping products to provide current adult smokers with options that best fit their needs and lead them to switch fully from combustible cigarettes to less harmful alternatives.

Recommendation: RBH fully supports prohibiting the sale of vaping products in concentrations of 66 mg / mL or more.

3. Nicotine Labelling

The draft regulations propose that a standard form of nicotine content labelling be adopted and applied to all vaping products with an expression of milligrams of nicotine per milliliter. Further, the proposal recommends voluntary statements for vaping products that do not contain nicotine. Such a proposal will

² Tobacco and Vaping Products Act, 997, c. 13, s. 1 2018, c. 9, s. 2, <https://laws-lois.justice.gc.ca/eng/acts/t-11.5/FullText.html>

³ U.K. National Institute for Health Care and Excellence, Public Health Guidance: Tobacco Harm Reduction Approaches to Smoking (2013)



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allow for adult smokers to learn about different products to be able to make informed decisions about the product that is right for them.

Recommendation: RBH fully supports labelling requirements for nicotine products that express the concentration of nicotine in a standardized format such that it allows for adult smokers to make more informed choices and understand the differences between different products.

4. Health Warning

The draft regulations propose to require a health warning be applied to vaping products that nicotine is addictive. This statement is factually correct, however taken on its own it can further the misunderstanding of vaping products among adult smokers. In a recent survey conducted by Forum Research, 54 per cent of adult Canadian respondents reported that they do not believe that smoke-free alternatives, including electronic cigarettes are a better alternative to combustible cigarettes.⁴

It is important that Canadians understand that while vaping products contain nicotine, they have significantly reduced quantities of some of the same chemicals and chemical compounds found in tobacco smoke which are linked to smoking-related diseases.

This understanding is critical because, for those adult Canadians who are smokers and are not yet ready to give up nicotine entirely, it encourages them to seek out sources of nicotine which are satisfying to them but at the same time reduce their exposure to those dangerous chemicals.

It is equally critical for non-smokers, so as to ensure that they understand that vaping products are not risk-free and, if they are not already smokers, they should not be using these products.

In the past, some non-combustible tobacco products have required health warnings such as 'This Product is Not a Safe Alternative to Cigarettes'. Statements such as these do not properly address the need to provide clear information such that Canadians understand that these products are only intended as an alternative for existing adult smokers. RBH has previously made a submission with respect to warning labels for heated tobacco products, which can be found by visiting our website.⁵

Health warnings need to communicate effectively the dangers of vaping products for non-smokers and that they are not for minors, while at the same time endeavouring not to create a false equivalency between vaping products and combustible cigarettes, for they are not the same in terms of health risks and so should not be regulated the same.

⁴ Canadians and Smoke-Free Alternatives, Forum Research, 22 May 2019, https://poll.forumresearch.com/data/b0897058-cd53-4f72-91a5-3f473c55897aSmoking%20and%20Canadian%20Attitudes_News%20Release_May%202023%202019_.pdf

⁵ RBH Submission to the Consultation on *New Health Related Labelling for Tobacco Products*, 21 December 2018, https://www.rbhinc.ca/media/document/pdf/RBH_Submission_to_Health_Canada_on_Labelling_Consultation_Answers_to_Sp...pdf



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Recommendation: Modify proposed health warnings to state that vaping products contain nicotine and are addictive, and indicate that vaping products are a better alternative than continuing to smoke, but that they are not risk-free.

5. Child-Resistant Packaging and Toxicity Warnings

As Health Canada notes in its Regulatory Impact Analysis Statement, “Nicotine is highly toxic when ingested.”⁶ Moreover, there have been several documented incidents associated with ingestion of vaping liquids, which have resulted in poisonings and deaths.

As the Regulatory Impact Analysis notes, there are already in place some provisions through existing legislation, however gaps do exist and the regulations seek to address and close those gaps. The nature of certain types of vaping products, known alternatively as refillable or, in some cases, tank based systems require that vaping liquids be purchased and then transferred by the customer from the liquid container to the vaping device. Given the danger associated with nicotine ingestion and the requirement that the vaping liquid be transferred from the container to the vaping device, the best way to address the potential danger is to require child-resistant packaging for both the container and the device. At the same time, it is important to include specific toxicity warnings to ensure that it is understood that the contents are poisonous if ingested.

There are now some vaping products available in Canada which use a liquid but do so through disposable pods. With these, the pod is never intended to be opened by the user and therefore exposure to the un-aerosolized vaping liquid is unlikely. The regulations appropriately do not require that these standards be applied to these types of systems.

Recommendation: RBH fully supports the requirements to include toxicity warnings and child-resistant packaging for containers of vaping liquid and refillable vaping products.

6. Ingredients List

The draft regulations propose to require that a list of ingredients be provided with vaping substances so that adult consumers can know more about the products they are buying. The draft regulations have been responsive to concerns raised about identifying specific constituents for flavouring while still allowing adult consumers to make informed purchasing decisions.

Recommendation: RBH fully supports the proposal that vaping substances be required to include a list of ingredients on their packaging.

7. Rothmans, Benson & Hedges Inc.

Rothmans, Benson & Hedges Inc. is a wholly-owned subsidiary of Philip Morris International, which has been in continuous operation in Canada for 120 years. RBH does not manufacture the IQOS heated tobacco device or the tobacco heat sticks which it vaporizes, but does import, distribute and directly sell

⁶ Canada Gazette Part I, Vol 153, No. 25, *Vaping Products Labelling and Packaging Regulations*, pg. 3089



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IQOS and heatsticks across Canada. IQOS was first launched in Canada in 2016 and through our 'Good Conversion Practices' is only available for sale to existing smokers through our 4 Q-Lab stores across Canada.

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