Health Canada and Vaping Industry Trade Association (VITA) meeting: Vaping Regulations Compliance – February 25, 2022

Subject:

Vaping Industry Compliance

Date:

February 25, 2022

Participants:

Health Canada (HC)

- Sonia Johnson (Chair)
  - Director General, Tobacco Control Directorate (TCD)
- Laura Smith
  - Director, Office of Policy and Strategic Planning (OPSP), TCD
- Neil Malik
  - Director, Office of Research and Surveillance, TCD
- Denis Choinière
  - Director, Tobacco Products Regulatory Office, TCD
- Senior Corporate Regulatory Compliance and Enforcement Officer, Systems Configuration Unit and Compliance for Tobacco and Vaping Products, TCD
- Senior Policy Analyst, OPSP, TCD
- Policy Analyst, OPSP, TCD (Secretariat)

- Krista Locke

    - Director General, Consumer Product and Controlled Substances Directorate (CPCSD), Regulatory Operations and Enforcement Branch (ROEB)
- Sally Gibbs
    - Acting Director, Tobacco, Vaping and Controlled Substances Division, CPCSD, ROEB
- Senior Advisor, Tobacco, Vaping and Controlled Substances Division, CPCSD, ROEB
- Senior Manager, Promotions and Internet Inspections, Tobacco, Vaping and Controlled Substances Division
- Senior Manager, Tobacco, Vaping and Controlled Substances Division, CPCSD, ROEB Ontario Region
- Senior Advisor, Tobacco, Vaping and Controlled Substances Division, CPCSD, ROEB

Vaping Industry Trade Association (VITA)

- Daniel David, President
- Zvi Cohen, Imperial Tobacco Canada - Sr Regulatory & Scientific Engagement Manager
- Ali Aziz, Director (VITA), Founder (lifestylecig)

Introduction:

A meeting was held at the request of VITA to discuss vaping industry compliance efforts.

The Chair opened the meeting with round table introductions.

The Chair reminded participants that this meeting is subject to disclosure as per HC's Openness and Transparency policies. In the interest of transparency, the Department stated that it would be making a record of the meeting publicly available. The handling of information and privacy notice was mentioned and acknowledged.

HC also referred to Article 5.3 of the World Health Organization Framework Convention on Tobacco Control (WHO FCTC), its international obligation to protect tobacco control policies from the

vested interests of the tobacco industry. It was acknowledged by VITA representatives.

Subjects:

Labelling requirements
VITA requested that HC provide guidance regarding irremovable labelling requirements on e-liquid bottles (as required by the Vaping Products Labelling and Packaging Regulations).

HC confirmed that – in line with Article 5.3 of the WHO FCTC – HC does not provide specific guidance on how to comply with the *Tobacco and Vaping Products Act* (TVPA) or its related regulations.

Nicotine Restriction Implementation Window and Coordination with Provincial Enforcement
VITA explained that the 15- and 30-day implementation periods set out in the *Nicotine Concentration in Vaping Products Regulations* left the industry with a substantial amount of inventory. VITA also raised concerns with respect to federal and provincial coordination on enforcement. HC recommended that VITA discuss provincial enforcement regulations with each province/territory. Additionally, VITA stated they would support increasing test shopper inspections to address sales to youth.

Non-compliant products
VITA has noticed that some retail locations were openly selling non-compliant products, and they believe a lack of follow-up enforcement has led to a competitive disadvantage for VITA members.

E-liquid testing thresholds
VITA then raised the issues of e-liquid testing thresholds. For example, a bottle could be labelled 20 mg/mL nicotine, but there can be some variance when that product is tested, for numerous reasons. VITA members wanted to know if HC could provide a guideline on threshold variance. HC stated that the product must remain in the acceptable threshold for error bounds.

Vaping flavour restrictions
VITA raised the issue of vaping flavour restrictions. VITA stated that e-liquids were made using a complex concentration, so any kind of regulation that restricts certain ingredients would lead to an impact across the supply chain. VITA also highlighted the impact of a flavour restriction on organized crime and an increase in the illicit market observed in Nova Scotia.

VITA suggested that the ban did not affect online sales or the willingness of companies to ship products to the province. VITA proposed putting vaping products under the same section as tobacco and cannabis in the *Criminal Code*.

VITA presented an overview of the e-juice supply chain and the illicit market report that had been shared with Finance Canada and the Canada Revenue Agency.

HC asked if they could receive a list of the membership of VITA.

Conclusion:

The meeting was then concluded.

Documents:

- Agenda as provided by VITA