

SUMMARY: Meeting with Vaping Industry Trade Association

Subject: *Tobacco and Smoking Reduction Act* (TSRA) Review

Location: McDougal Centre, Calgary Alberta

Date: November 13, 2019

Participants:

Meeting Chair

- Mr. Jeremy Nixon, MLA for Calgary-Klein, appointed to conduct the TSRA review

Alberta Health

- Ms. Jessica Carlson, Executive Director, Health and Wellness Promotion Branch
- Ms. Kim Schmidt, Manager, Health and Wellness Promotion Branch
- Mr. Richard Thorne, Senior Policy Lead, Health and Wellness Promotion Branch

Office of the Chief Medical Officer of Health

- Dr. Andre Corriveau, Deputy Chief Medical Officer of Health

Alberta Treasury Board and Finance:

- Ms. Irene Chan, Executive Director, Strategy and Client Services
- Mr. Lyndon Epp, Senior Manager, Tax Policy
- Mr. Geoffrey Durocher, Tax Policy Analyst

Industry

- Mr. Daniel David, Executive Director, Vaping Industry Trade Association
- Mr. Thomas Kirsop, Director (Alberta), Vaping Industry Trade Association
- Mr. Terrance Oakey, Partner, One Persuasion

Introduction:

A meeting was held with representatives from Vaping Industry Trade Association (VITA) to discuss the review of the *Tobacco and Smoking Reduction Act* (TSRA). The Chair opened the meeting with round table introductions. The privacy key messages and tobacco disclaimer were read and acknowledged.¹

Background:

The chair indicated that the TSRA review will assess the effectiveness of the current legislative framework to address tobacco-related harms and to address issues including the recent surge in youth vaping and harms from use of tobacco-like products. He specified the scope of the review:

¹ To meet the transparency and openness requirements of Article 5.3 of the World Health Organization Framework Convention on Tobacco Control (FCTC), please be advised that this meeting will be subject to disclosure. Information, views and opinions intended to inform the development of regulations and related initiatives, as a part of a submission to a formal consultation will not be treated confidentially by Alberta Health and the Government of Alberta. Furthermore, in keeping with Article 5.3 of the FCTC, the Government of Alberta must protect public health policies from the vested interests of the tobacco industry. Alberta Health will conduct this meeting with tobacco Industry Representatives only to the extent necessary to enable the department to effectively regulate the industry and its products

- In scope: Issues related to tobacco, vaping and tobacco-like products; potential policy options to inform possible changes in legislation; review of legislation of other Ministries to identify and reduce potential overlap, inconsistency or conflict.
- Out of scope: Ceremonial use of tobacco by First Nations; policy recommendations that fall under the authority of municipalities, First Nations or the federal government; issues related to cannabis; health care cost recovery litigation against tobacco manufacturers; the decision to impose a tax on vaping products.

Feedback will be used to inform potential amendments to the TSRA, for the spring 2020 session.

Subjects:

The topics discussed during the meeting included:

- VITA Background
- Youth Vaping
- Taxation on Vaping Products
- Licensing
- Advertising of Vaping Products
- Nicotine levels
- Flavours

VITA Background

The VITA representatives stated that they formed in the summer of 2019 to represent the vaping industry's manufacturers, importers, distributors and retailers to address provincial and national vaping industry issues. The organization originated from the Electronic Cigarette Trade Association. The Board of Directors of VITA has been established based on vote share between tobacco affiliated vape companies and independent retailers, manufacturers and distributors. Tobacco affiliated companies are limited in their voting share. Other Board members are elected from the general membership of VITA.

The VITA representatives stated that its approach to the regulation of vaping in Canada is based on evidence, science, facts, and logic. The VITA representatives stated that it is committed to collaborating with Health Canada and other regulatory bodies to identify best practices and to inform the development of evidenced-based regulations.

Youth Vaping

The VITA representatives contended that the issue of youth access to vaping products was a function of online and retail access. The VITA representatives indicated that they were concentrating their efforts to reduce youth vaping by addressing issues with online and retail access. They described the development of a training program for retailers concentrating on age verification and development of retail signage standards; for online sales, they are developing an online audit program intended to ensure sufficient age verification systems, amongst its members, are in place for online sales. The VITA representatives indicated that self-regulation was a means to improve the standards of the industry and work with industry partners to improve compliance. The VITA representatives stated however that their efforts were not a substitute for government enforcement.

Taxation

The VITA representatives did not support a tax based on nicotine content. They stated that a tax on high nicotine products would shift the tax burden to high nicotine users, which they identified as former smokers. For youth that seek high nicotine products, representatives asserted that those individuals would seek lower nicotine products, due to their price sensitivity, but manipulate those lower nicotine products and vaping devices to get the physiological effects that they sought.

The VITA representatives advocated for an across the board tax, set at a certain percentage, for all vaping products. However, they stated their belief that vape products should retain a tax advantage over combustible cigarettes. This price advantage was required, to not shift consumption to lower priced jurisdictions and reduce incentives for smokers to switch to a reduced harm product. Additionally, the VITA representatives expressed their preference for a retail tax, rather than a wholesale tax.

Licensing

The VITA representatives expressed their support for retail licensing. They identified the system employed in Ontario as a preferred model. The VITA representatives stated that being registered as a vape store retailer would provide both a series of exemptions (allowance for promotion of products and ability to offer samples in adult only environment) for registered vape retailers and requirements (window coverings, adult only requirements). The VITA representatives asserted that a vaping license from the government would act as a powerful deterrent to retailers violating established restrictions. The representatives also supported licensing of convenience stores selling tobacco and vaping products.

Advertising

The VITA representatives stated that they supported restrictions on advertising in areas that are accessible to youth. They did assert that convenience stores should be allowed to inform customers of the availability of vaping products.

Nicotine levels

The VITA representatives did not offer support for or advocate against a nicotine cap. They did warn of unintended consequences of a nicotine cap that was set at too low of level. The VITA representatives asserted that the high levels of nicotine present in certain vaping products, particularly pod systems, was attractive to former smokers. Additionally, they expressed concern about the creation of a patchwork of different nicotine caps established by provinces.

Flavours

The VITA representatives affirmed their support for the continuance of flavours in vaping products. They contended that flavours are important for smokers making the switch to vaping products and that any ban may have unintended consequences, including the potential for health harms from black market or DIY products.

Conclusion:

No definitive conclusions were reached or commitments made concerning any possible future changes to Alberta's tobacco and smoking legislative framework.