

# Intelligence MEMOS



From: Ian Irvine

To: Canadians Concerned About Vaping

Date: May 29, 2023

Re: **VAPING RESTRICTIONS SIGNAL TURBULENT MARKETS IN QUEBEC**

The Quebec and British health systems have recently taken opposing stances on the role of reduced-harm nicotine products.

Last month, Quebec [announced](#) its intention to ban the sale of all flavoured e-cigarette products, to limit the capacity of pods and disposables to 2 millilitres and limit the capacity of e-liquid containers to 30 ml, with the changes likely to take effect this fall or in early 2024. Conversely, the UK [announced](#) a major commitment to the use of such products. It intends to meet one million smokers and offer them e-cigarettes (flavoured and plain) in exchange for their cigarette packages. E-cigarettes are endorsed by Public Health England and the Royal College of Physicians.

Health and lobby groups in Quebec have convinced the government that restricting vape supplies would benefit kids – who like flavours – in particular. Despite evidence that e-cigarettes are at least an order of magnitude less toxic than cigarettes and are the most effective means of transitioning out of smoking, the government decided to define as illegal more than 90 percent of vaping liquids currently used.

To give a sense of the magnitude of this rule:

- More than 80 percent of the vaping population uses flavoured e-juice, with little variation by age. The new regulation will permit just a tobacco flavour, not even mint or menthol.
- The typical capacity of a disposable device in vape shops is 10 ml. The most popular one in convenience stores contains 4.8 ml. The new regulation will restrict capacity to just 2 ml. More than half of all e-cigarette expenditure is allocated to disposables at present.
- Approximately half of e-juice purchased in liquid form in vape shops is in containers with a capacity of 60 ml or 120 ml. The new maximum will be 30 ml.

In sum, the products available for legal purchase will form a minuscule fraction of those currently available. The government is launching a major assault on a \$500-million legal sector of the Quebec economy that sells products much less dangerous than alcohol, with its countless flavoured variants, or cannabis, a state monopoly that sells flavoured psycho-actives.

Quebec has 400,000 vapers, most former smokers, whose life expectancies have been lengthened by switching to a lower-risk product. Monumental declines in smoking have been recorded among teens and those in their twenties in the past five years.

What will these 400,000 individuals do for nicotine? And what will happen to the industry that generates almost \$150 million in excise and sales taxes?

The legal sector will see a massive contraction. A majority of vape shops will close, as happened three years ago when Nova Scotia imposed a hefty excise tax and banned flavours. The policy reduced employment in Nova Scotia, boosted commerce in New Brunswick, and generated sales for online suppliers in the rest of Canada.

Canada's cigarette market has a 20 to 25 percent illegal component. There is little reason to believe that the illegal market in vaping products will be any less.

Meanwhile, every banned product will be available in Ontario, the US and on indigenous lands. Geographic opportunism will foster supply to anyone who makes a trip to Hawkesbury, Ottawa, Cornwall, or Indigenous territory. We know that no Quebec or federal police force will interrupt trade on Indigenous territories.

Flavoured e-liquid products will also be supplied in the Quebec grey market by adding flavourants to otherwise plain e-juice. In addition, given the new 30-ml maximum container size, visitors to Ontario will buy several containers of 120 ml e-liquid that will last them for perhaps six months at a much lower price. Price discounts on larger sizes are considerable: a 120 ml container usually sells for just twice the price of a 30 ml container. Shelf life is several months.

In the pod market, where Vuse has a quasi monopoly in the convenience-store market, just a small fraction are currently tobacco flavoured. So flavoured pods, too, will become part of the underground network.

Disposables are not designed to facilitate flavour change or any form of tampering. Some users will therefore return to devices that can be refilled. Most disposables are imported from China, prefilled, by established law-abiding domestic corporations. The tax-take and mark-up combined account for perhaps \$20 of the \$35 price of a typical 10 ml disposable sold in Quebec. This \$20 per unit margin provides a favourable incentive to the illegal market.

Meanwhile, consumers who purchase 2 ml capacity disposables will become environmental vandals: each 2 ml of e-juice consumed in this way will mean a battery and casing in a garbage dump. Vaping a 10 ml disposable generates one fifth of that waste.

On the health front, fewer smokers will switch to reduced-harm products, and death rates will increase. Minority groups will be most affected – those with mental health and anxiety disorders, the poor and the LGBT+ communities, who have unusually elevated rates of smoking.

The extent to which fewer kids will vape is uncertain. Time may tell. A more sensible approach to address youth use would have been a program of rigorous inspection of outlets, while still leaving on the market products that are hugely less dangerous than cigarettes and are the most effective quitting device ever invented. The cost of such a monitoring program would have been a small fraction of the tax revenue about to be lost.

As a final note: It is only sale that will be forbidden; use and ownership will continue to be legal. Young and old will be permitted to vape flavours in disposables of arbitrary size, or from a refillable device using a 120 ml source container.

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