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**The Royal Australasian College of  
Physicians' submission to the Health  
Select Committee**

**Smokefree Environments and Regulated  
Products (Vaping) Amendment Bill  
Paenga-whāwhā 2020**

## Introduction

The Royal Australasian College of Physicians (RACP) welcomes the opportunity to submit feedback to the Health Select Committee on the Smokefree Environments and Regulated Products (Vaping) Amendment Bill.

The RACP works across more than 40 medical specialties to educate, innovate and advocate for excellence in health and medical care. Working with our senior members, the RACP trains the next generation of specialists, while playing a lead role in developing world best practice models of care. We also draw on the skills of our members, to develop policies that promote a healthier society. By working together, our members advance the interest of our profession, our patients and the broader community.

## Background

In 2018, the RACP published its Policy on Electronic Cigarettes. The Policy called for a cautious approach to be taken in the use of e-cigarettes, due to the lack of consensus on a public health benefit from their use<sup>1</sup>. Despite this, it acknowledged e-cigarettes have a potential role in tobacco harm reduction and smoking cessation, for smokers unable to quit.

In the time since the release of the Policy, further evidence has become available to the efficacy of vaping as a smoking cessation tool. For example, Public Health England estimated that e-cigarettes were contributing to at least 20,000 successful attempts to quit smoking a year in England<sup>2</sup>.

For those who do not smoke, the RACP believes that e-cigarettes present no health benefits and only potential harm, and their use should be discouraged. For those who do smoke, the RACP believes that vaping has potential as a smoking cessation tool. For all groups, our Policy emphasises that e-cigarettes which employ nicotine containing e-liquid are addictive, and should be treated with caution.

## Smoking Amongst Māori and Pasifika Whānau

Māori and Pasifika in Aotearoa New Zealand suffer inequitable health outcomes as a result of high levels of tobacco smoking. Across the Aotearoa New Zealand population, 12.5 per cent of adults aged 15 or over smoke, but for Māori and Pasifika, the rates are much higher at 31 per cent and 21 per cent respectively<sup>3</sup>. This is particularly pronounced for Māori women, who have a smoking rate of 36 per cent. The prevalence of tobacco smoking in Māori and Pasifika communities contributes to nearly half of all deaths of Pasifika, and over half of all deaths of Māori, being attributed to preventable causes, with lung cancer at the fore<sup>4</sup>. As such, drastically reducing the harm from

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<sup>1</sup> The Royal Australasian College of Physicians. RACP Policy on Electronic Cigarettes. [Internet]. Sydney: The Royal Australasian College of Physicians; 2018. Available from: <https://www.racp.edu.au/docs/default-source/advocacy-library/policy-on-electronic-cigarettes.pdf>. Accessed 1 April 2020

<sup>2</sup> Public Health England. Vaping in England: evidence update summary February 2019. [Internet]. London: Public Health England; 2019. Available from: <https://www.gov.uk/government/publications/vaping-in-england-an-evidence-update-february-2019/vaping-in-england-evidence-update-summary-february-2019>. Accessed 1 April 2020

<sup>3</sup> Ministry of Health. Annual Update of Key Results 2018/19: New Zealand Health Survey. [Internet]. Wellington: Ministry of Health; 2019. Available from: <https://www.health.govt.nz/publication/annual-update-key-results-2018-19-new-zealand-health-survey>. Accessed 1 April 2020

<sup>4</sup> Walsh M, Grey C. The contribution of avoidable mortality to the life expectancy gap in Māori and Pacific populations in New Zealand—a decomposition analysis. N Z Med J [Internet]. 2019; 132(1492): 46-60. Available from: <https://www.nzma.org.nz/journal-articles/the-contribution-of-avoidable-mortality-to-the-life->

tobacco smoking will have significant positive effects on Māori and Pasifika whānau, and the wider community. There are clear opportunities in these communities to promote vaping as a tool to quit smoking and improve their health outcomes<sup>5</sup>. Making vaping products more available within these groups, particularly where blunt regulatory interventions have failed to result in meaningful decline in the use of tobacco, is a key concern for the RACP in the regulation of vaping in Aotearoa New Zealand.

## Vulnerability of Youth to Vaping Advertising

Youth are particularly susceptible to advertising during their formative years, as has been established across a number of contexts including in previous research on cigarette advertisements<sup>6</sup>. As demonstrated, particularly in the United States, e-cigarette manufacturers are aware of this, and actively market their products with the least possible acknowledgment of their harmful effects<sup>7</sup>. Over one third of youth exposed to e-cigarette advertising across multiple countries found vaping appealing and perceived that these advertisements specifically targeted non-smokers. Relying on novelty, and the attraction of available flavours, e-cigarette advertisements such as these contribute to an environment where vaping is construed by youth as safe and appealing. Exposure of youth to advertising for e-cigarettes such as this, across multiple channels, is significantly positively associated with e-cigarette use<sup>8</sup>, and marks the need for advertising regulations and educational campaigns which convey the risks of vaping for these populations.

## Content of the Bill

### Integration of Vaping Within Wider Smokefree Legislation

The RACP strongly supports amendment of the Smoke-free Environments Act to include vaping, as this has the best chance to avoid harm from vaping products. Because of the association with nicotine, it is logical that vaping be regulated within the same framework as tobacco. This includes prohibition of sale to minors, which is key in ensuring that vaping does not become widespread among people who have never, or do not currently, smoke.

We also support the prohibition of vaping within legislated smokefree areas. This maintains parity with the approach to tobacco products, that vaping should not be promoted to people who do not smoke.

### Product Health and Safety Requirements

The RACP commends the Bill for its commitment to health and safety standards for vaping products. Establishing requirements for vaping or smokeless tobacco products to be notified to the

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[expectancy-gap-in-maori-and-pacific-populations-in-new-zealand-a-decomposition-analysis](#). Accessed 1 April 2020

<sup>5</sup> Walker N, Verbiest M, Kurdziel T, et al. Effectiveness and safety of nicotine patches combined with e-cigarettes (with and without nicotine) for smoking cessation: study protocol for a randomised controlled trial. *BMJ Open* [Internet]. 2019; 9(2) Available from: <https://bmjopen.bmj.com/content/9/2/e023659>. Accessed 1 April 2020

<sup>6</sup> Kim A E, Loomis B R, Busey A H, Farrelly M C, Willett J G, Juster H R. Influence of retail cigarette advertising, price promotions, and retailer compliance on youth smoking-related attitudes and behaviors. *J Public Health Manag Pract* [Internet]. 2013; 19(6): 1-9. Available from: <https://www.ncbi.nlm.nih.gov/pubmed/23715218>. Accessed 1 April 2020

<sup>7</sup> Malone R E. JUUL: beaten-down innovator or vicious bully?. *Tob Control* [Internet]. 2019; 28(6): 597-598. Available from: <https://www.ncbi.nlm.nih.gov/pubmed/31659007>. Accessed 1 April 2020

<sup>8</sup> Dai H, Hao J. Exposure to Advertisements and Susceptibility to Electronic Cigarette Use Among Youth. *J Adolesc Health* [Internet]. 2016; 15(6): 620-626.

Ministry of Health, and certification that products meet applicable standards is a strong baseline from which standards can be enforced. Supplementing this with provisions which enable the setting of product safety requirements, including requiring manufacturers and importers to report adverse reactions, as well as enabling product recalls, suspensions, cancellations and warning statements, creates a more comprehensive product safety system, appropriate to the products at hand.

This system goes above and beyond that recommended in the RACP Policy on Electronic Cigarettes, and the RACP commends this action.

## Issues Identified Within the Bill

### Advertising of Regulated Products

Within Part Two of the Bill, which governs how advertisements of regulated products are treated, there are significant loopholes, which could allow for the advertisement of regulated products in Aotearoa New Zealand. Particularly, Section 24 identifies contexts exempt from the advertising ban. Within this, advertisements which do not specifically target a New Zealand audience, that are also developed and produced overseas, are exempt. Many advertisements created by the global corporations who produce tobacco and vaping products fit into this category, and these regulations may allow for them to screen and display advertisements in Aotearoa New Zealand.

Exposure to e-cigarette advertising has been shown to increase use among adolescents and young adults, and there is a lack of evidence to predict impacts upon other sections of non-smokers<sup>9</sup>. These advertisements have been found to be predictive of more positive beliefs surrounding e-cigarettes, and a higher likelihood of selecting e-cigarettes from a range of products<sup>10</sup>. To protect our communities from the proliferation of regulated products, we believe this is undesirable, and should be amended.

The RACP contends that advertising for regulated products is diverse, and targets many communities within Aotearoa New Zealand society. Advertisements are commonly created in languages other than Aotearoa New Zealand's official languages of English, Te Reo Māori and New Zealand Sign Language. Advertising that features other languages must not be construed as not targeting Aotearoa New Zealand audiences, as this would leave many communities in our society vulnerable.

### Packaging Regimes for Regulated Products

The RACP notes that the Bill only establishes the regulatory framework for standardised packaging requirements, and does not set into place regulations within this framework. We believe that the restrictions on advertising of nicotine products should be proportionate to the risk associated with those products. We believe it is desirable for regulations to be set that are risk-proportionate, as evidence suggests that under current legislation, e-cigarettes may be displacing smoking in Aotearoa New Zealand's society<sup>11</sup>.

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<sup>9</sup> Merry S, Bullen C. E-cigarette use in New Zealand—a systematic review and narrative synthesis. *N Z Med J* [Internet]. 2018; 131(1470): 37-50. Available from: <https://www.nzma.org.nz/journal-articles/e-cigarette-use-in-new-zealand-a-systematic-review-and-narrative-synthesis>. Accessed 1 April 2020

<sup>10</sup> Padon A A, Lochbuehler K, Maloney E K, Cappella J N. A Randomized Trial of the Effect of Youth Appealing E-Cigarette Advertising on Susceptibility to Use E-Cigarettes Among Youth. *Nicotine Tob Res* [Internet]. 2018; 20(8): 954-961. Available from: <https://www.ncbi.nlm.nih.gov/pubmed/29106669>. Accessed April 1 2020

<sup>11</sup> Walker N, Parag V, Wong S F, Youdan B, Broughton B, Bullen C. Use of e-cigarettes and smoked tobacco in youth aged 14-15 years in New Zealand: findings from repeated cross-sectional studies (2014-19). *The*

## Lack of Specific Attention to Online Sales

The sale of vaping products online has grown alongside their increasing popularity in Aotearoa New Zealand society. Studies show that generally, minors are able to purchase vaping products online, and this is something that has been further demonstrated in Aotearoa New Zealand, with 90 per cent of New Zealand vendors of vaping products not requiring age verification prior to the introduction of the Bill<sup>12</sup>. It is desirable that minors do not have access to vaping products, so as to prevent young people from becoming addicted to nicotine.

There is little evidence to suggest that this will change once vaping is introduced to the Smoke-free Environments Act, as robust checks are not currently enforced for online sales under the Act. We believe that stringent checks must be required, to prevent minors gaining access to vaping products via the internet.

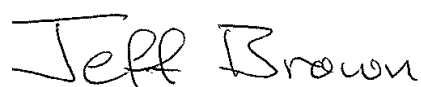
## Significance of Flavours

The RACP acknowledges the impact flavoured e-liquid has on motivating current smokers to switch to vaping. However, we are concerned about the impact that flavoured e-liquid has on motivating people who do not smoke to take up vaping. Particularly sweet flavours, including fruits, have been shown to be appealing to young people who have never smoked, and could contribute to their uptake of vaping<sup>13</sup>. It has been found in the United States, that sweet flavours for e-cigarettes increase product appeal, decrease product harm perceptions and increase willingness to use and initiation of e-cigarettes<sup>14</sup>. Although the RACP does not advocate for a ban on specific flavours on any basis other than safety, we do consider the appeal of certain flavours to be a factor underscoring the importance of regulation on advertising, packaging, and online sales.

## Conclusion

The RACP thanks the Health Select Committee for the opportunity to provide feedback on the Smokefree Environments and Regulated Products (Vaping) Amendment Bill. To discuss this submission further, please contact the Aotearoa NZ Policy and Advocacy Unit at [policy@racp.org.nz](mailto:policy@racp.org.nz).

Nāku noa, nā



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**The Royal Australasian College of Physicians**

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<sup>12</sup> Gurram N, Thomson G, Wilson N, Hoek J. Electronic cigarette online marketing by New Zealand vendors. *N Z Med J* [Internet]. 2019; 132(1506): 20-33. Available from: <https://www.nzma.org.nz/journal-articles/electronic-cigarette-online-marketing-by-new-zealand-vendors>. Accessed 1 April 2020

<sup>13</sup> Shang C, Huang J, Chaloupka F J, Emery S L. The impact of flavour, device type and warning messages on youth preferences for electronic nicotine delivery systems: evidence from an online discrete choice experiment. *Tob Control* [Internet]. 2017; 27: 152-159. Available from: <https://tobaccocontrol.bmj.com/content/27/e2/e152>. Accessed 1 April 2020

<sup>14</sup> Meernik C, Baker H M, Kowitz S D, Ranney L M, Goldstein A O. Impact of non-menthol flavours in e-cigarettes on perceptions and use: an updated systematic review. *BMJ Open* [Internet]. 2019; 9(10) Available from: <https://www.ncbi.nlm.nih.gov/pubmed/31619431>. Accessed 1 April 2020