

Good afternoon Madam Chair and members of the Law Amendments Committee. My name is Anne Kothawala and I am president of the National Convenience Stores Distributors Association, or NACDA. NACDA is a national not-for-profit industry association representing Canada's large and small wholesale distributors to the convenience store industry. NACDA's mission is to foster an environment that allows the convenience store distribution industry to prosper.

First, I would like to commend the government for its commitment to reducing tobacco use among underage youth. Like our partners in the convenience store market, distributors share these objectives. As a mother of 2 boys, I share them as well.

It is illegal for underage youth to purchase tobacco products, and distributors have worked closely with our private and public sector partners to support this important public policy goal. We believe it is important to focus on this issue, rather than create legislation that not only does not "fix" the problem, but will create unintended consequences that could actually increase the access of youth to illegal tobacco products.

As a result, I must express the concern of our association members over the plan to ban the sale of flavoured tobacco products. I wish to raise several key points which I believe have been overlooked in the debate over this issue.

We must emphasize an essential problem with a complete ban: previous experience shows that a complete ban will result in the illegal sale of these products on the black market. Our distributors and our retailer partners want to remind the Government that we are an important part of the solution in preventing youth access to tobacco products. The same cannot be said for the criminals who sell illegal, contraband tobacco products as they sell to anyone who is willing to buy.

We are concerned that a product ban will fuel this existing illegal market in our province, and negate the intent of the bans. The unintended consequence of product bans is best evidenced by the results of the federal government's ban on little cigars. The RCMP saw a nearly 800% increase in the number of little cigars seized following the implementation of the ban in 2010.

It is essential to underscore with the Committee the scope of the illegal market. For example, in the case of menthol cigarettes, there are literally 32 different brands that are being produced and sold in the black market. You can bet some of these businesses, if you can call them that, are in the midst of working on business growth plans and they are grateful to government for driving sales to their illegal channel. They won't discriminate on who they sell to, in fact, they will target youth, and government won't get the revenue. This is a lose lose proposition in our view.

The other channel that this move will incent is somewhat more legal and that is cross border. If government thinks that menthol smokers won't be buying menthol cigarettes from New Brunswick in big quantities they are not appreciating the lengths to which these smokers will go to get their product. Nova Scotia will still have to deal with the health costs while losing the tax revenues to your neighbouring provinces and the illegal market.

It is also important to understand that our members are wholesalers of a wide variety of tobacco products. We have always advocated for the responsible retailing of tobacco products to adults by licensed vendors with no exceptions. An across the board and outright flavor ban doesn't recognize or reflect the fact that both within the tobacco category and the flavoured category, not all products are created equal.

It is unfortunate that groups in favour of a ban have been using statistics from the Propel report to suggest that youth smokers have been using flavoured tobacco products in far greater numbers than is actually the case. This is not only completely wrong, but a grossly inappropriate basis upon which to create legislation that will damage legitimate businesses employing thousands of Nova Scotians. Teenage smoking has continued to decline, and statistics show that if a high school kid is not already a smoker - there is almost zero chance that he will "try" a flavoured tobacco product. Unlike the flavoured alcoholic drinks market, the presence of flavours in tobacco products is not relevant enough to entice kids into becoming smokers.

We have always been fully supportive of removing from the market products such as candy-flavoured mini-cigars and wraps that clearly appear to be targeting minors.

We are confused, however, by plans to ban decades-old products such as pipe tobacco, wine, port and whisky flavoured cigarillos, menthol, and a variety of smokeless products. We know

that adults are the target market for these products and that adults are the vast majority of consumers of these products.

In fact, we know that the government must agree with the fact that menthol and mint products are adult products. When the government first introduced the idea of a flavour ban the Minister said that menthol would be exempt as it was an adult flavour.

I'm sure it would come as no surprise to you when I say that our industry was shocked at the severity of the flavoured tobacco ban that has been introduced. We firmly believe that any legislation that impacts the sale of legal tobacco must be complemented by deterrence and enforcement measures to address the illegal tobacco trade. High school kids are smoking because they are getting (illegal) access to tobacco products in general. The issue of youth smoking is not one of product design (flavours), but rather product "access".

Distributors will now face a double whammy as they will no longer be able to distribute these banned products through legitimate channels they also face competition from vape shops that are selling illegal nicotine e-cigarettes. In punting the responsibility to legislate e cigarettes to the federal government, our industry is left in an untenable situation competing against traffickers and vape shops, being penalized for being law abiding.

I bring these points to your attention, but the main purpose of my presence here today is to discuss the current effective date of May 31<sup>st</sup> that the flavour ban will take effect.

On what amounts to a moment's notice, a number of wholesale distributors and retailers will face significant financial challenges. Inventory in the wholesale and retail channels – product that has been paid for – must be cleared. Jobs will be lost among wholesale businesses and that's not fair to hardworking individuals who are selling legal product to retailers.

As you can well appreciate, flavoured tobacco products do not magically appear on retail shelves. Many of these products are imported with meaningful lead times, and the fact that a number of these products have long shelf lives gives the wholesaler economies of scale through bulk purchasing.

Flavoured tobacco is a niche part of the tobacco category. As such, turnover is slow relative to purchase quantities and inventory-on-hand. It is not practical to redirect product with a Nova Scotia excise stamp to other jurisdictions and it is our professional opinion based on years of

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experience distributing tobacco products that the flavoured tobacco product channel in Nova Scotia cannot be adequately cleared in 40 days.

The consequence of this is that wholesalers and retailers face the real risk of holding banned inventory on May 31<sup>st</sup> and will have no option but to dispose of that product at a financial cost. All those costs are borne by us.

I'm sure you will agree that this outcome is not what government intends or desires. A move by the European Union last year to ban menthol tobacco products would not take effect until 2020. If Ontario moves ahead with its flavour ban, it will not take effect for two years in order to give the industry adequate opportunity to clear the channel and adjust business operations.

Ideally we are in favour of a 2-year effective date. At a minimum, we urge that the effective date be the end of December of this year.

We strongly believe that the passage of Bill 90 as it currently stands will lead to a perfect storm. It will drive sales to the illegal market and cross border market, create lost tax revenue for government, result in increased access for youth, since criminals don't ask for ID, and unduly harm responsible law abiding businesses and adult flavoured tobacco consumers. Will encourage and incent more lines of illegal and legal channels through cross border

Thank you and I'd be happy to take any questions you have.



**BRITISH AMERICAN  
TOBACCO  
CANADA**

**Imperial Tobacco Canada**

**Written Submission**

*Bill 90, An Act to Amend Chapter 14 of the Acts of 1993, the Tobacco Access Act*

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