

# Which Regulatory Framework Is Best for Nicotine Vaping?

Colin P. Mendelsohn, MBBS, and Alex Wodak, MBBS

## ABOUT THE AUTHORS

Colin P. Mendelsohn is from Sydney, Australia, and is unaffiliated. Alex Wodak is an emeritus consultant at St Vincent's Hospital, Sydney.

Since our commentary in 2020,<sup>1</sup> vaping nicotine has contributed to an unprecedented decline in tobacco smoking rates in the United States in both youths and adults. The empirical evidence for vaping as a substitute for smoking and its positive impact on public health continues to strengthen. However, the recent decision to not authorize most vaping products for the US market seems destined to undermine this remarkable progress in reducing smoking.

According to the National Health Interview Survey, the adult cigarette smoking rate in 2020 was 12.5%, an 11% decline since 2019<sup>2</sup> (Figure A, available as a supplement to the online version of this article at <https://ajph.org>) Youth cigarette smoking appears to have been almost eliminated. Past-30-day cigarette smoking in high schoolers was 1.9% in 2021 according to the National Youth Tobacco Survey.<sup>3</sup> Past-30-day vaping declined by 59%—from 27.5% in 2019 to 11.3% in 2021.

In spite of this progress, US government policy remains driven by exaggerated concerns about youth vaping, especially the role of flavored products. However, growing evidence supports the hypothesis that, rather than being a gateway to smoking, vaping is displacing young people from smoking.<sup>4</sup>

There is also mounting evidence that flavored vaping products help smokers transition away from cigarettes and that flavor bans inadvertently lead to increased smoking in both adults and youths.<sup>5</sup>

## AUSTRALIA'S FLAWED PRESCRIPTION-ONLY MODEL

Different countries are responding to these data in a variety of ways. Like the United States, Australia remains focused on the potential risk to youths. On October 1, 2021, the federal government tightened its prescription-only model. The importation and use of nicotine e-liquids without a prescription is a criminal offense with fines of up to US \$165 000. Unlike cigarettes, nicotine e-liquids cannot be legally sold in Australia except from pharmacies on presentation of a prescription from a doctor.

As expected, this has intensified widespread noncompliance. Very few doctors are willing to write prescriptions for nicotine e-liquid, and patients find the process complex, onerous, and costly. Many vapers take the risk of importing nicotine without a prescription, a thriving black market sells unregulated products without

consumer protection or age restrictions, and there are many reports of vapers returning to smoking. Smoking rates are declining slowly (Figure A).

## PROMISING DEVELOPMENTS IN NEW ZEALAND

New Zealand has taken an altogether different approach. Legislation was introduced in November 2020 to provide a comprehensive, risk-proportionate framework for vaping products intended to maintain access for adult smokers while banning sale and marketing to youths. Education and enforcement are key components of the plan.

A wide range of flavored e-liquids can be purchased from specialist vape retailers. However, only tobacco, mint, and menthol flavors are available from nonspecialist outlets such as petrol stations and supermarkets. The New Zealand Ministry of Health encourages vaping as a quitting aid for adult smokers and has established the Vaping Facts and QuitStrong Web sites to support it.

The recent New Zealand Health Survey suggests that this more liberal and balanced approach to vaping is already working. In 2021, 10.9% of adults aged 15 years and older were current smokers, an unprecedented 20% decline in the previous 12 months<sup>6</sup> (Figure A). The fall in smoking rates coincided with a sharp rise in adult vaping from 3.5% in 2020 to 6.2% in 2021.<sup>6</sup>

A similar pattern was seen in young people in New Zealand. In 2021, only 1.1% of youths aged 15 to 17 years were smoking daily (3.1% in 2020), and 5.8% were vaping daily (2.3% in 2020).<sup>6</sup>

During this time, New Zealand has not had other major smoking policy changes. It is likely that vaping is a key

reason for the accelerated decline in smoking rates.

It remains to be seen which model will work best over time. The early signs suggest that the New Zealand model is likely to have the most positive impact on public health for both adults and youths. *AJPH*

**CORRESPONDENCE**

Correspondence should be sent to Colin P. Mendelsohn, 11 Carlotta Rd, Double Bay NSW 2028, Australia (e-mail: mendel@bigpond.net.au). Reprints can be ordered at <https://ajph.org> by clicking the “Reprints” link.

**PUBLICATION INFORMATION**

Full Citation: Mendelsohn CP, Wodak A. Which regulatory framework is best for nicotine vaping? *Am J Public Health*. Published online ahead of print May 26, 2022:e1–e2.

Acceptance Date: April 13, 2022.

DOI: <https://doi.org/10.2105/AJPH.2022.306896>

**CONTRIBUTORS**

Both authors wrote and revised the comment.

**CONFLICTS OF INTEREST**

C. P. Mendelsohn and A. Wodak have never received payments from e-cigarette or tobacco companies. C. P. Mendelsohn was a board member of the Australian Tobacco Harm Reduction Association (ATHRA) health-promotion charity until January 2021. ATHRA received unconditional funding for establishment costs from small Australian vape businesses but has not accepted vape industry funding since March 2019. He is the author of the book *Stop Smoking Start Vaping*. A. Wodak is currently a board member of ATHRA.

**REFERENCES**

1. Wodak A, Mendelsohn CP. The Australian approach to tobacco harm reduction is even more misguided than the US approach. *Am J Public Health*. 2020;110(6):783–784. <https://doi.org/10.2105/AJPH.2020.305675>
2. Cornelius ME, Wang TW, Jamal A, Loretan CG, Neff LJ. Tobacco product use among adults—United States, 2019. *MMWR Morb Mortal Wkly Rep*. 2020;69(46):1736–1742. <https://doi.org/10.15585/mmwr.mm6946a4>
3. Gentzke AS, Wang TW, Cornelius M, et al. Tobacco product use and associated factors among middle and high school students—National Youth Tobacco Survey, United States, 2021. *MMWR Surveill Summ*. 2022;71(5):1–29. <https://doi.org/10.15585/mmwr.ss7105a1>
4. Sun R, Mendez D, Warner KE. Is adolescent e-cigarette use associated with subsequent smoking? A new look. *Nicotine Tob Res*. 2022;24(5):710–718. <https://doi.org/10.1093/ntr/ntab243>

5. Gades MS, Alcheva A, Riegelman AL, Hatsukami DK. The role of nicotine and flavor in the abuse potential and appeal of electronic cigarettes for adult current and former cigarette and electronic cigarette users: a systematic review. *Nicotine Tob Res*. 2022:ntac073; epub ahead of print March 19, 2022. <https://doi.org/10.1093/ntr/ntac073>
6. Ministry of Health New Zealand. New Zealand Health Survey 2020/21. 2022. Available at: <https://www.health.govt.nz/publication/annual-update-key-results-2020-21-new-zealand-health-survey>. Accessed March 1, 2022.

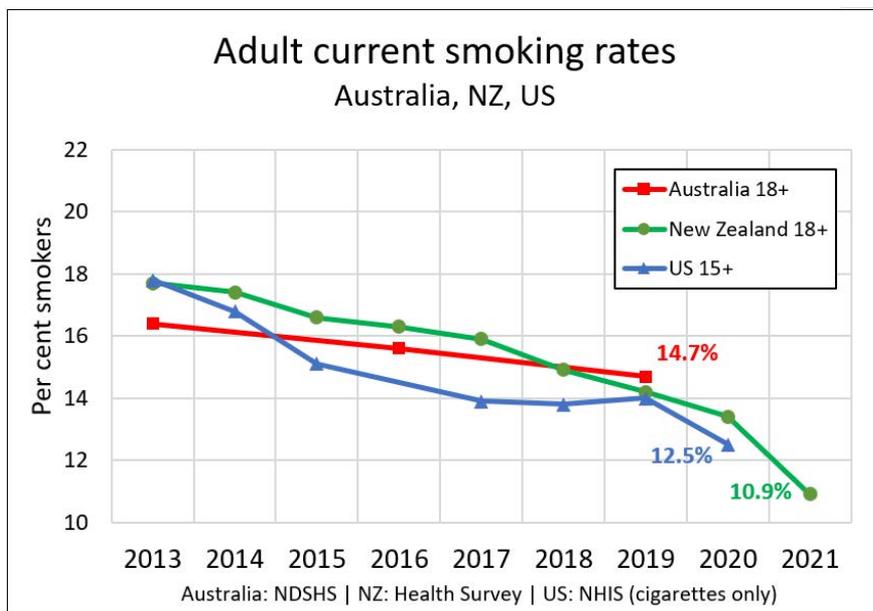


Figure A

AJPH Published online ahead of print May 26, 2022