

Response to commentaries on proposed regulation of nicotine vaping

We thank Gartner [1] and Bullen et al. [2] for their thoughtful reflections on our commentary [3].

Gartner [1] notes that youth vaping has increased globally in countries that regulate nicotine vaping products (NVP) as consumer products (e.g., New Zealand, UK, USA and Canada) and in Australia with one of the most restrictive regimes.

The challenge is to find a regulatory model that will allow adult smokers to use NVPs for cessation while protecting youth. Australia's restrictive approach has failed to achieve both goals: smokers find it difficult to legally access NVPs and there has been widespread youth uptake because of non-compliance with the current restrictions by retailers and black-market suppliers.

The most popular proposal with the Australian tobacco control community has been to double down on current policy by banning all NVP imports and prosecuting and fining non-compliant retailers (and possibly vapers). As Gartner notes, the regulatory costs of enforcing current policy for the Therapeutic Goods Administration have exceeded its compliance budget. The Therapeutic Goods Administration and state and territory health authorities would face an even larger financial burden if they have to expand monitoring and take further action against illegal NVP supply. Furthermore, we know from experience that harsh restrictions and prohibition have minimal long-term impact on the supply of illegal drugs. Further crackdowns are unlikely to improve the current situation.

Vapers affected by more draconian laws will not comply if they believe them to be unjust, as Gartner observes. This appears to be the case for adults who now purchase illegal NVPs. These attitudes will make it difficult to enforce more restrictive regulations while combustible tobacco products are freely available. They will also amplify vapers' complaints that these regulations are designed by governments to protect tobacco tax revenue.

British American Tobacco Australia is funding a campaign to allow the regulated sale of NVPs from

licensed retail outlets, which aligns with our preferred approach. However, the involvement of the tobacco industry has led to suspicion and an inevitable push-back against this model, making a rational discussion of NVP regulation more difficult. So does any suggestion that regulated supply will fail because it will not eliminate youth use of NVPs. By this standard no policy is a success, including the current Australian policy.

There is no ideal regulatory model that will be acceptable to all stakeholders, but we should not allow the perfect to be the enemy of a better model than the current one. We would welcome the regulation of NVPs being combined with increased restrictions on where combustible tobacco products can be sold. It is difficult to defend a policy that bans the sale of less harmful products while allowing the free sale of tobacco cigarettes in convenience stores and supermarkets.

Bullen et al. [2] argue that Australia could benefit from following New Zealand's example in regulating tobacco and nicotine in ways that reduce 'avoidable unjust differences in health status between different communities'. New Zealand's regulatory framework appears so far to be achieving that goal. There have been large falls in daily smoking among Māori, from around 40% in 2006/2007 to 20% in 2021/2022, and vaping has been a significant contributor.

The New Zealand approach to NVP regulation has achieved a good balance between delivering benefits to adult smokers and restricting vaping uptake by youth. Adult smoking declined by an unprecedented 33% since vaping was legalised and regulated in August 2020. Only 8% of New Zealand adults were daily smokers in 2021/2022, half the prevalence of a decade ago.

Experimentation with vaping by youth is common, but daily vaping is rare among youth who have never smoked. Most youth who are vapers also smoke cigarettes. The regulated sale of NVPs in New Zealand has not prevented a decline in daily smoking in this age group to 1.1% in 2022.

We heartily agree with Bullen et al. that Australia's policymakers who profess to be committed to evidence-based regulation of NVPs should pay more attention to the evidence emerging from New Zealand's policy experiment with the regulated sale of NVPs.

CONFLICT OF INTEREST STATEMENT

Colin Mendelsohn was an unpaid board member of the Australian Tobacco Harm Reduction Association (ATHRA), a registered health promotion charity, from October 2017 to January 2021 and Alex Wodak has been an unpaid board member since October 2017. ATHRA accepted unconditional seed funding from the vape retail industry to become established. Funding ceased in March 2019. Colin Mendelsohn and Alex Wodak were Directors of ATHRA in March 2018 when it received a donation from KAC Communications. The donation was sourced from a surplus arising from the Global Forum on Nicotine conference in May 2017. Colin Mendelsohn is the author of *Stop Smoking Start Vaping*, published by Aurora Press. Colin Mendelsohn and Alex Wodak have never received payments from electronic cigarette or tobacco companies.

Wayne Hall has no competing interests.

KEYWORDS

vaping, youth

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