

CHALLENGING CONVENTIONAL WISDOM ON YOUTH ACCESS TO TOBACCO: REDEFINING YOUTH ACCESS INTERVENTIONS

A report of the
Ministerial Advisory Council on Tobacco Control
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EXECUTIVE SUMMARY

After a careful review of the scientific evidence, the Ministerial Advisory Council on Tobacco Control concludes that Health Canada's present and planned future efforts to prevent tobacco sales to minors are unlikely to have any appreciable direct effect on youth smoking. However, sales-to-minors laws remain a potentially useful tool to communicate information about the risks of becoming addicted to tobacco products.

The Ministerial Advisory Council therefore recommends that existing laws remain in effect but that enforcement goals be significantly revised to maximize potential demand-side effects.

Specifically, the Council recommends that Health Canada:

- reframe the issue of youth access from a matter of simply obeying the law to a matter of health (i.e.: preventing addiction to a deadly product);
- define success in different terms: instead of working to achieve target compliance rates, implementation efforts should seek to change social norms about tobacco, and new yardsticks need to be developed to allow meaningful measurement of this social norm change;
- redefine the role of enforcement officers to include public education on the health reasons for not supplying tobacco to young people, maximization of public relations opportunities regarding enforcement activities and integration of youth access interventions in local tobacco reduction efforts;
- change point-of-sale signage to educate the public about the importance of preventing young people from getting addicted to tobacco;
- mandate the registration of all tobacco retailers and
- improve enforcement efficiencies, e.g. by developing a standard compliance check protocol that incorporates critical elements identified in the research literature.

Part I: Key Findings From the Research

There is a large body of research on the issue of youth access to tobacco products, with most of the research focused on the mix of policies and enforcement measures necessary to affect retailer compliance with sales-to-minors laws. There is little doubt that many access interventions have succeeded in increasing retailer compliance with the law and that compliance is directly related to the type and intensity of enforcement activities. The research has shown that interventions that produce high rates of retailer compliance are based on regular, unannounced compliance checks using underage youth. They also include a graduated system of fines and suspension of a retailer's ability to sell tobacco products for a specified period of time. The research is clear that sustained high rates of compliance require a sustained enforcement effort.

Very few interventions aimed at reducing tobacco sales to minors, however, have been successful in reducing youth *access* to tobacco, either perceived or actual. This is both because of adolescent smokers' success in locating delinquent retailers and because of the many social sources of cigarettes, such as parents, older siblings, and friends. As a result, few access interventions have produced a concomitant change in youth smoking behaviours.

Most studies that have looked at the impact of sales-to-minors interventions on youth smoking prevalence have found no relationship. Effects on prevalence have been noted in some studies with very high retailer compliance rates, but not enough to conclude with any degree of certainty that supply-side interventions of this type are effective. The few access interventions that have been associated with reductions in youth smoking have been embedded in comprehensive, community-based interventions. Alongside enforcement efforts, there have been community activities and media attention devoted to the issue, as well as negative publicity for the non-compliant vendors and/or positive exposure for retailers found to be obeying the law.

A thorough review of the literature leads to following conclusions:

1. There is strong evidence that rigorous and sustained enforcement can increase retailer compliance to a high level.
2. There is no conclusive evidence that compliance rates have a measurable impact on youth access or on youth perceptions of their access to tobacco products.
3. There is no conclusive evidence that increasing compliance has an impact on youth smoking, but there is some evidence that very high compliance achieved as part of a comprehensive intervention to reduce youth smoking is associated with a reduction of youth smoking rates.

It is also clear that controversy remains on three issues in particular:

1. Whether a threshold level of retailer compliance exists above which there is an impact on youth access to tobacco and youth tobacco use. (Based on studies that show an effect on youth tobacco use from access interventions, supporters of a supply-side approach postulate that the compliance rate threshold exceeds 90%.)
2. Assuming there is a threshold, whether the level of spending necessary to get compliance rates above the threshold level is a cost-effective tobacco control intervention.
3. Whether there are other costs or benefits from investing in youth access interventions.

Part II: Key Considerations

Demand-side vs. Supply-side Interventions

In efforts to control or eliminate the use of harmful or addictive products, there are two types of possible interventions. *Supply-side interventions* refer to measures that attempt to prevent users, or potential users, from obtaining the product — such as detecting and arresting sellers of cocaine or heroin, or prohibiting the sale of alcohol during certain hours. *Demand-side interventions* refer to measures designed to affect users' (and potential users') desire to obtain the targeted product. This can include a wide variety of interventions, including rehabilitation programmes for addicts, education efforts to warn adolescents of the health hazards of a particular product, high prices, or restrictions on promotion, to reduce the glamorization and desirability of a product.

There is a widespread belief that a comprehensive approach to tobacco control requires interventions that address both the demand for and the supply of tobacco products. Some supply-side measures (i.e. smuggling control) are clearly necessary to ensure the continuing effectiveness of demand-side interventions (i.e. taxation).

However, the high cost, limited effectiveness and unintended consequences of the “War on (illicit) Drugs” suggest we should be cautious about allocating excessive resources to supply-side measures in tobacco control, particularly measures that involve attempts to change the individual behaviour of those at the lowest rung in the supply chain. (Supply-side measures that seek to modify *manufacturer* behaviour — such as regulatory or fiscal provisions that penalize companies for sale of their products to children — have yet to be explored in detail.) Indeed, research has shown that the two tobacco-control interventions that are the most effective in producing measurable decreases in smoking rates are 1) increased tobacco taxes and 2) restrictions on smoking in public places and workplaces — both of which serve to reduce *demand* for tobacco.

In some years, the human and financial resources within Health Canada devoted to reducing the supply of tobacco through enforcement of sales-to-minors laws have been

out of proportion to the resources available for demand-side interventions. For example, in 1997, more than half of the federal budget for tobacco control (\$5-\$7 million out of \$10 millions) was spent on the enforcement of youth access restrictions. Since 2001, however, the tobacco control budget has been substantially increased—to an average of \$96 million a year. The amount currently spent on youth access enforcement represents about 16 % of the all the funding dedicated to tobacco control activities other than mass-media and anti-smuggling activities. Health Canada plans to increase the number of compliance checks, thereby increasing both human and financial resources for youth access enforcement activities.

Options Identified

A thorough review of the research evidence (see *A Critical Analysis of Sales-to-Minors Laws* from the Canadian Cancer Society) has led the Council to the conclusion that current efforts to deal with youth smoking through supply-side interventions, such as enforcement of sales-to-minors laws, are doomed to failure at present and projected levels of investment.

That is, most researchers and advocates agree that even if Canada were to achieve the 80% of retailer compliance target set in the present federal tobacco strategy, this would not be sufficient to have a measurable impact on youth tobacco use. Thus Health Canada's goal of attaining 80% retailer compliance over the next ten years should be abandoned. This conclusion points to two alternative approaches:

- Option A: to set a more ambitious compliance target (such as 90%), to be achieved either through the implementation of many or most of the recommendations put forward by various researchers and organizations that aim to increase compliance.
- Option B: to re-design youth access interventions to optimize their potential demand-side effects.

In the absence of convincing research evidence that demonstrates a substantial supply-side effect on youth smoking rates, the Council believes the second option is more promising. The Council believes that the primary benefits of sales-to-minors laws derive from demand-side effects—that is, from their role as a form of risk communication and tobacco control messaging—rather than from an actual reduction in the supply of tobacco to minors. By acknowledging that this is the main potential health benefit of access interventions, a more effective program that makes more efficient use of limited resources can be developed.

In Part III of this report, the Council lays out specific recommendations for amending the federal government's access program to maximize the potential demand-side effects of sales-to-minors interventions. These *demand-side* effects of sales-to-minors interventions have not been studied in any detail by tobacco control researchers. The Sub-committee recommends that this approach, once adequately implemented, should be rigorously evaluated.

Access Laws and Interventions are a Form of Risk Communication

As mentioned above, the Council believes that sales-to-minors laws have potential value above and beyond their putative effect on the supply of tobacco to youth. Used in the right way, such laws can act as a means of risk communication and thus complement public education measures such as pack warnings and mass media campaigns.

As research on risk perception has shown, contextual cues play a significant role in shaping people's understanding of the magnitude of hazards. In the case of particularly hazardous products, it is therefore important that explicit risk information and contextual cues should correspond. For example, in laboratory or industrial settings where particularly dangerous chemicals are used, employees are supposed to receive detailed information on the level and type of risks associated with each chemical. In well-managed laboratories, this is reinforced by storing particularly hazardous chemicals in a separate storage space, under lock and key. The purpose of this arrangement is not primarily to physically prevent employees from gaining access to the chemicals, but rather to underscore (through contextual cues) hazard information and ensure that particularly hazardous chemicals are not confused with less dangerous products.

At present, there is a significant mismatch between the risk information the government provides about tobacco products (e.g., warnings) and the contextual cues surrounding their sale. They are prominently displayed in small stores, with little to differentiate them from other consumer products, such as chewing gum or disposable cameras. No particular training or qualifications are necessary to sell tobacco products; no risk information is communicated about side-effects (as would be the case when a pharmacist fills a prescription, for example); the only restriction relates to age of the purchaser, and even violating that restriction has few immediate consequences for retailers. In short, contextual cues at the point of sale suggest that tobacco products are a widespread, relatively banal products.

Not surprisingly, then, young people significantly underestimate their risk of addiction from experimentation with tobacco products and seriously discount the health risks of becoming smokers. Many adults see teen smoking as an unfortunate but, for the most part, an unavoidable phenomenon. The ban on sales to minor is seen largely as a technical regulation, on a par with parking rules. This makes it difficult to get community and court support in order to conduct effective enforcement activities and obtain effective deterrents. Finally, providing cigarettes to teenagers (e.g., a smoking parent giving a pack to their 17-year-old) is frequently seen as being unremarkable.

Access initiatives can be one way to change the contextual cues that warp the community's perceptions of the dangers of getting addicted to tobacco. Penalizing retailers for selling tobacco to minors can send a normative message, not just to delinquent retailers, but to the community at large about the importance of preventing

addiction before it begins — as long as everyone is regularly reminded of the crucial role of youth uptake in feeding the epidemic: the vast majority of smokers begin smoking before the age of 18. Thus, sales-to-minors law can have valuable demand-side effects, in conjunction with more direct forms of risk communication.

However, the Council believes that the current focus of Health Canada's access program on compliance rates alone is both ineffective and inadequate. A more holistic approach is needed to deal with the broad problem of youth addiction to tobacco products. Part III of this report provides detailed recommendations for a more comprehensive strategy to address youth access issues.

Focus on Enforcement Impedes Action on Other Issues

The Council is concerned about the current singular emphasis on achievement of a certain compliance target for another important reason. Quite apart from monopolizing resources that might be spent on initiatives that are more likely reduce tobacco use, the present levels of spending on enforcement of sales-to-minors laws send a misleading message to the Canadian public. Laws to prohibit tobacco sales-to-minors are highly popular with the public and politicians. Public health initiatives to enforce these laws may lull community members and policy-makers into the intuitively appealing but false belief that the youth smoking problem is being addressed, and can actually be “solved” by physically preventing young people from purchasing cigarettes from commercial sources.

This illusion is furthered by the tobacco industry's highly visible “Operation ID” campaign, which enlists community support in promoting the message that the way to fight youth smoking is to educate and support retailers on youth sales issues.

It should be noted that this campaign serves a number of other purposes for the industry, one of which is to mask the simple reality that youth uptake of smoking is vital to its long-term viability. In fact, the commercial success of any cigarette company will be determined by the effectiveness its marketing strategies in making cigarettes attractive to young people. Through their massive public relations activities built on Operation ID, cigarette manufacturers hide this vested interest behind the underdeveloped refusal “skills” of shop clerks (who supposedly require major educational efforts before they “understand” how to obey a rather simple legislative prohibition). The irony is that, unlike governments, cigarette manufacturers would actually be in a position to enforce a supply-side solution to the youth smoking issue. While the government has a few dozen inspectors, the tobacco industry has thousands of sales representatives that visit tobacco retailers on a regular basis. The companies could easily detect delinquent retailers—and could implement an easy and effective way to penalize such retailers: by simply refusing to supply product to them.

Another purpose of campaigns such as Operation ID is to steer policy-makers away from legislation, regulations or fiscal policies that would actually reduce or eliminate the tobacco industry's ability or financial incentive to recruit new customers.

For all of these reasons, Health Canada should resist contributing to the tobacco industry's public relations efforts that aim to offer easy, attractive but ultimately useless responses to this major public health problem.

Part III: Recommendations

The prohibition against tobacco sales to minors should be maintained, and the law should continue to be enforced, but Health Canada's efforts should focus on two new goals:

- 1) To communicate to young people and adults that tobacco products are exceptionally hazardous and highly addictive.
- 2) To build public perceptions that it is unacceptable to contribute in any way to addicting people to tobacco.

The specific recommendations detailed below are designed to operationalize these fundamental goals.

1) Reframe the Issue

First and foremost is the need to reframe the way the issue of youth access to tobacco is perceived by the public at large, by adolescents, and by tobacco retailers. The issue needs to be reframed from a question of obeying the law to a matter of health—the importance of protecting people from addiction to tobacco and its ensuing health consequences. The same social norm change that has taken place concerning smoking restrictions in public places needs to occur with regard to youth access to tobacco.

Health Canada has primary authority to implement a set of policy and program changes that will contribute to changing the social acceptability of contributing to anyone's tobacco addiction.

2) Define Success in Different Terms

As stated previously, although enforcement must continue, the emphasis on compliance rates as a measure of success is inappropriate. A different measure of success would also increase the likelihood that government inspectors would spend time and money on activities that have the potential to be more effective (and more cost-effective).

The new goals of the access program should be to reduce demand by increasing public awareness of the dangerous and addictive nature of tobacco and to make it socially unacceptable to contribute to other people's addiction. For evaluation purposes, such demand-side effects will not be particularly easy to tease out, given the confounding impact of many other tobacco-control measures. But several intermediate measures can be developed to gauge success.

For example, specific yardsticks could be:

- Increased understanding among the general public of the health reasons why it is unacceptable to provide tobacco to youths — i.e. awareness of tobacco addiction as a pediatric disease.
- Changed attitudes among the public at large and among certain sub-sectors of the public regarding the acceptability of supplying tobacco to youth.
- Decreased willingness among certain sub-sectors of the population, in particular parents, older teens smokers, and adult smokers aged 18-24, to supply tobacco to young people.

Other desired impacts of the new orientation could include:

- Increased percentage of youth who believe that cigarettes are highly addictive.
- Increased percentage of youth who believe that experimenting with tobacco products can lead to addiction.

3) Redefine the Role of Enforcement Officers

News coverage of an enforcement blitz in Sherbrooke, Quebec, underlines the need for changes in how enforcement officers perceive their responsibilities and explain them to the public. In describing the enforcement program, a Health Canada regional manager expressed sympathy for the retailers who were charged but justified the enforcement actions in terms of the need to have retailers obey the law: *“I understand that it is not pleasant for merchants to be fined, but at the same time, we have to enforce the law.”* (*“Je comprends que ce n’est pas agréable pour les commerçants d’avoir une amende mais en même temps, nous devons faire respecter la loi.”*)

Across the country, common complaints against the law and its enforcement include:

- Claims of entrapment against retailers (underhanded, totalitarian tactics, etc.);
- Concern that the adolescent test shoppers are committing an unethical and illegal act;
- Sympathy for independent retailers who operate on long hours and low profit margins, who risk losing a day's profits or a week's salary because of “a moment of distraction”;
- Sympathy for the clerks, who can't be expected to judge the correct age of a purchaser in a split second or to inconvenience other customers by requesting identification every time they are in doubt about the buyer's age;
- A belief that the young people should shoulder as much responsibility as the retailers (i.e. support for a law against purchase or possession of tobacco by minors).

It is clear from these perceptions that there is a pressing need to reframe the public's understanding of the urgency and rationale for preventing youth addiction to tobacco.

Enforcement officers are especially important links with retailers and the community. The Council believes that the role of enforcement officers should be redefined, to reduce the emphasis on achieving a specified rate of retailer compliance and to focus instead on communicating the highly addictive and hazardous nature of tobacco products and the importance of not contributing to the tobacco addiction of young people.

Enforcement officers should work more closely with community stakeholders and leaders to educate them about the health reasons for the law against selling and supplying tobacco to youth. Enforcement officers should be trained in working with the media. In addition to conducting compliance checks and laying charges, enforcement officers should be seeking positive media coverage of convictions related to enforcement activities. Exposing non-compliant retailers by publicizing their names reinforces community beliefs that tobacco is a truly hazardous product with strict rules regarding how it may be sold. Furthermore, enforcement officers can use the media exposure to reinforce with the public the central message about the addictive and dangerous nature of tobacco and, in consequence, the importance of not supplying tobacco to minors.

To some extent, seeking media coverage of convictions is the current practice. In a number of jurisdictions, enforcement officers routinely issue news releases following convictions. There is a difference, however, between passively issuing a list of convicted retailers and actively seeking media coverage not only of the convictions but also of the reasons for them. Social norms will only change when the community understands the reasons why minors should not be given or sold tobacco.

An expanded role for enforcement officers would allow them to contribute to the fight against tobacco in a larger fashion. Inspectors could use their interactions with retailers to enforce other elements of provincial and federal law, such as provisions regarding the marketing of tobacco products at retail. For example, the province of Saskatchewan recently adopted legislation banning the display of all tobacco products in retail stores to which minors have access, and Manitoba has indicated that it may follow suit. Enforcement officers could play a key role in ensuring that both the spirit and the letter of these provisions are obeyed.

Enforcement officers should also serve as the eyes and ears of Health Canada in the community, keeping Health Canada officials informed of new marketing and sales initiatives undertaken by retailers or tobacco companies. This would provide a useful way of double-checking the marketing and sales data obtained by government under reporting regulations.

Finally, the mandate of enforcement officers should include integrating youth access interventions into local community tobacco control efforts. Not only would there be

better communication and collaboration between Health Canada representatives and local health departments and NGOs, but job satisfaction would likely increase substantially (current turnover is very high). Inspectors' work would no longer be limited to compliance checks, but would include interactions with other tobacco control resources and supporters. They would receive more encouragement for their difficult work, would feel like they are part of a larger movement and could collaborate on other local tobacco reduction initiatives.

4) Change Point-Of-Sale Signage

Current federal and some provincial signs at point of sale regarding sales to minors are inadequate and may be more harmful than helpful. The federal message *"It is prohibited by federal law to provide tobacco products to persons under 18 years of age."* only emphasizes the legal aspect. The Government of Ontario message seems to be challenging youth to defy authority: *"Under 19? Forget it."* These messages may be reinforcing the "forbidden fruit" image of cigarettes, which is a key component of most tobacco industry marketing campaigns and "prevention" programs: (e.g. Operation ID and Operation ID School Zone: *"Because it's the law"*, *"Keep tobacco out of the hands of children"*).

At present only five provinces include health warnings on their retail signs that specify the access provisions of the law. Retail signs should be used as an opportunity to educate the public about the true intent of the law: to prevent young people from becoming addicted to tobacco.

New standardized government signs incorporating these messages should be developed, focus-tested, and mandated in all retail stores across the country (respecting provincial differences in the law, of course). All other signs should be prohibited. This would eliminate the misleading influence of tobacco-industry-sponsored programs such as the Operation ID.

The posting of a suspension notice should also be made mandatory. At present only three provinces (B.C., Ontario and Quebec) require retailers to post a sign indicating that their right to sell tobacco has been suspended for a specified length of time and stating the reason for the suspension. Such signs can play a role in educating the public about the seriousness of the consequences of contributing to tobacco addiction and in making community members aware of which retailers repeatedly show disregard for the need to keep tobacco out of the hands of youth.

5) Mandate Registration of All Tobacco Retailers

The mandatory registration of all tobacco retailers would contribute to the new goals of access interventions as a means of risk communication. A mandatory registration

(required for the privilege of selling tobacco products) would reinforce the message with retailers and the public that tobacco is not like any other consumer product and that selling this addictive and lethal product is a privilege and not a right.

The privilege imposes strict obligations, one of which is not to sell tobacco to minors. Once the issue is framed in these terms, it is clear that governments should be able to temporarily withdraw this privilege through a simple administrative procedure — in the same way that some provincial governments automatically suspend drivers' licences in cases of suspected drunk driving even before the alleged offence goes to court. Currently, according to Health Canada officials' estimates, it takes 20 hours to prepare and take one charge to court.

Registering all tobacco retailers would also provide governments with a reasonably accurate and up-to-date database of all venues that sell tobacco products. It makes no sense on any grounds that governments do not know who is selling the most dangerous consumer product on the market. A database of retailers in each province would permit more cost-effective work planning, by enabling the tracking of enforcement activities and their outcome, by retailer. National standards for documenting inspection history would permit more detailed research and analysis by class of establishment, by jurisdiction, across provinces, etc.

6) Improve Enforcement Efficiencies

Redefining program objectives and the role of enforcement officers does not mean that enforcement activities would cease. While not aiming expressly at increasing compliance rates in a given region, inspectors should nevertheless improve their enforcement activities to enhance their ability to catch and penalize delinquent retailers. For example, compliance testing protocol should be amended to reproduce more realistic purchase conditions. At present, the requirements render the test purchases too artificial to reflect the real experience of underage smokers attempting to buy tobacco (e.g.: test shoppers must be non-smokers, girls are not permitted to wear make-up or high heels, etc.). Tobacco vendors are aware of the usual behaviour of teens seeking tobacco and of the unnatural comportment of test shoppers. As a result, the compliance checks as conducted fail to catch many non-compliant retailers.

Improving the efficiency of compliance checks would also free up more time and resources to devote to other more effective actions.

Conclusions

Selling tobacco products to children is offensive to most Canadians — and this sentiment will only grow as increasing numbers of people recognize tobacco products for the highly addictive and extremely hazardous drugs that they are. As a society, we clearly have a

legitimate interest in curtailing and, if possible, eliminating this type of anti-social behaviour.

However, as public health experts, our task is to recommend policies that have the best prospect of reducing the toll of death and disease as quickly and effectively as possible. It is our considered judgement that there is no realistic prospect of success for a supply-side solution to the issue of youth addiction to tobacco. That is, in the absence of extremely high levels of investment, we do not believe that efforts to physically prevent young people from obtaining cigarettes will make a meaningful contribution to reducing youth smoking.

The primary efforts in tobacco control are directed towards reducing *demand* for tobacco products, and we believe this focus should also guide public interventions on the youth access/addiction issue. Health Canada can and should use its youth access resources to address this issue of youth demand.

In doing this, Canada will be heading into uncharted territory: no jurisdiction has explicitly set out to maximize the use of youth access laws as a normative and risk communication tool. Consequently, careful thought and rigorous evaluation will be needed to find the best way to maximize demand-side effects. However, the untested nature of the changes we are proposing is no justification for maintaining the status quo. To do so would be to pursue a costly approach for which there is no convincing proof of any positive effect rather than exploring a much more promising alternative.

In the youngest age bracket regularly monitored by Health Canada, 15- to 17-year-olds, 18% are already smokers, most of them well on their way to full-blown addiction. This amounts to a quarter-million new customers for the tobacco industry — and a quarter-million likely victims of heart disease, lung cancer and a host of other illnesses. We owe it to these young people to urgently seek the most effective use of our tobacco control resources, even if that means challenging conventional wisdom.