



**COALITION QUÉBÉCOISE
POUR LE CONTRÔLE DU TABAC**

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Creating an optimal and coherent fiscal framework for tobacco, including a robust price policy

Pre-budget
submission to the
Quebec Ministry of Finance

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Some 470 Quebec organizations – medical associations, professional associations, municipalities, hospitals, schools, school boards, etc. have endorsed the policies comprising the Quebec Coalition for Tobacco Control platform. Founded in 1996, the Coalition principal objectives include preventing initiation to tobacco use, promoting cessation, protecting non-smokers from exposure to tobacco smoke, and advocating for laws and regulations that are commensurate with the addictive and hazardous nature of tobacco products.

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Table of Contents

Executive Summary.....	i
Foreword.....	1
1. The crucial role of tobacco taxes	5
A. The importance of high cigarette prices to public health.....	5
B. Tobacco industry efforts to lower tobacco taxes in Quebec	7
C. Cigarette taxes in Quebec.....	12
2. Tobacco industry price manipulations.....	17
A. The new multi-price cigarette market in Canada.	21
B. Tobacco companies have restructured their operations.....	24
C. Increased price dispersion	27
D. Discount brands sold as loss leaders?.....	28
E. Tobacco companies can afford to manipulate cigarette prices.....	30
3. Consequences of price manipulation	31
A. Discount brands barely more expensive than a decade ago	31
B. Cheaper cigarettes undermine public health	32
C. The Quebec experience is shared in other jurisdictions.....	32
4. Strategies to optimize the impact of taxes	34
A. Taxes and levies	34
B. Price policy	41
C. Effective tobacco price monitoring.....	51
5. Complementary measures.....	53
6. The industry's contribution towards the cost of government interventions	55
Conclusion.....	59
Appendices.....	60

EXECUTIVE SUMMARY

Tobacco taxes are globally acknowledged as one of the most powerful tools for governments to reduce tobacco use. Higher cigarette taxes and prices encourage smokers to quit, help quitters to not relapse, discourage young people from starting and reduce the number of cigarettes consumed by smokers.

However, tobacco companies also see tobacco prices as a strategic tool. Higher cigarette prices provide increased profits per unit sold. Lower cigarette prices generate sales, attract new customers, and can blunt the impact of cigarette tax increases. In all cases, lower cigarette taxes help companies increase sales and profits.

Tobacco companies have successfully campaigned to suppress and delay tobacco tax increases in Quebec. In the early 1990s, they fuelled contraband sales to pressure governments into a 70% tax cut in Quebec. Over the past decade, they have directed a political campaign to exaggerate fears of contraband and this has contributed to the fact that Quebec has the lowest cigarette taxes in the country.

The companies have also modified their marketing practices to keep some brands inexpensive and to ensure that cigarettes remain affordable to Quebecers. In previous decades all cigarettes were sold at the same price. However, since the early 2000s cigarette brands have been marketed in increasingly wider price ranges.

Moreover, the companies have restructured their operations to better exploit price as a marketing tool. Imperial Tobacco shifted production to Mexico to reduce costs. Both Imperial Tobacco and Rothmans, Benson and Hedges eliminated wholesale and distribution “middlemen” to increase their influence over retailers and retail pricing. They imposed ceiling prices for their cheaper brands while shifting profit-taking to the more expensive brands.

The result is the continued availability of cheap cigarettes in Quebec, and virtually no increase in the real price of discount brands over the past decade, despite tax increases.

Governments in Canada have been slow to respond to this new marketing strategy. They have not yet put in place measures to monitor this practice, to evaluate its impact on public health, or to counter the use of price-based promotions to induce young people and others to smoke.

The Quebec government has made an initial response to the emergence of price-based promotions by banning rebates, discounts and benefits paid to retailers which are related to the sale or retail price of cigarettes. These measures, now in force, do make it more difficult for the tobacco industry to manipulate retail prices downwards. However, enforcing these provisions will be challenging and we suspect that the tobacco industry will find ways around the law with relative ease. Furthermore, the

new legal requirements still allow the industry to focus on several other tactics of price promotion.

There are, nevertheless, measures available to government which would strengthen public controls over tobacco sales, and would reduce the ability of companies to use pricing strategies to recruit or sustain customers or to diminish the impact of tax increases.

We recommend that the government adopt the following measures:

Measures to optimize the effect of tobacco taxes

1. Increase the Quebec excise tax on tobacco products by \$5.00 per carton (or 50¢ for each package of 20 cigarettes) followed by similar increases at opportune times.
2. Adjust the Quebec tobacco excise tax to inflation by imposing an annual 2% increase, as is currently done in Ontario.
3. Identify options to counter inconsistencies in the current fiscal framework for tobacco (namely by eliminating tax deductibility for promotional expenses) and to address the tobacco industry's other tax-avoidance strategies.

Measures to minimize price segmentation

4. **Develop a new price policy for products subject to tobacco excise taxes in order to minimize, or ultimately eliminate, industry price-based manipulations that encourage tobacco use. The implementation of this policy could rely on various levers, including a pre-tax price ceiling for each product category, regulated profit margins (or mark-ups) at the retail level, and, eventually, price standardization by product category.**
5. Implement a surveillance system to monitor wholesale and retail prices for all tobacco brand and brand variants across Quebec in order to support the development and implementation of an effective price policy, and ensure that this data be readily available to the public.
6. Pending the implementation of a new price policy, eliminate price promotions such as price discounts based on quantities sold.
7. Forbid price and availability signs in retail stores, so as to not fuel price wars and price segmentation (prices can already be conveyed by other means, such as a binder placed on the counter.)

Measures that would ensure that the tobacco industry, not taxpayers, pay the roughly \$50 million spent each year to regulate tobacco in Quebec — an amount which could be reallocated towards other public health interventions.

- 8.** Establish a licence fee for manufacturers and importers of tobacco products that will completely offset the government's tobacco control costs, including anti-contraband interventions. It is inconceivable that the tobacco industry is not obliged to pay for the costs of regulating its deadly products, while government programs in other sectors are financed by industry levies (alcohol, construction, environmental protection, etc.)
- 9.** Establish a tobacco retailer's licence fee of approximately \$250 per year to completely offset the cost of monitoring and enforcing retail related regulations. By comparison, tobacco retailers in Ottawa pay an \$877 annual tobacco vendor's licence fee.

FOREWORD

This pre-budget submission builds on the recommendations presented by the Coalition to the Minister of Finance, Carlos Leitão, in a letter sent on October 18, 2016 (Appendix I). The Coalition welcomes the pre-budget consultations as an opportunity to provide greater detail regarding not only the taxation of tobacco products, but also ways in which the Ministry of Finance ought to strengthen and modernize its interventions with respect to tobacco. Such steps are necessary to enable the government to achieve its objectives of reducing tobacco use to 10% by 2025¹ by decreasing the affordability of all tobacco products, as well as to allow for new goals to be achieved, such as that of having the tobacco industry make a greater contribution to the social and economic costs associated with the use of its products, instead of having this burden solely carried by consumers and the government.

Revenue from excise taxes on tobacco are paid from the pockets of smokers, not the coffers of the tobacco industry. They do not compensate for the \$1.6 billion in health care costs due to tobacco use, not even with a substantial tax hike factored in. Moreover, the earmarking of tobacco taxes towards funds other than those dedicated to tobacco control perpetuates the myth that tobacco taxes are “net revenues”. While we applaud the increase of any investments in health prevention in general, we particularly support funding of government spending associated with tobacco control through “polluter-pays” approaches. (This would free up substantial sums that could then finance other government interventions in public health.)

Tobacco use is the leading preventable cause of death and disease in Quebec, responsible for about one in five deaths and the costs associated to one third of all full-day hospitalization stays.² It is the greatest risk factor for the three top causes of death in Canada: cancer, cardiovascular disease and respiratory disease. Nicotine is a powerfully addictive substance, and more than half of those who are unable to quit will lose more than a decade of their life as a result of cigarette smoking.³ The great majority of smokers have, as they have for decades, fallen into the tobacco trap when they were very young. According to the *Institut de la statistique du Québec*, the average age that people started smoking in 2013 was 13.3 years old.⁴

¹ **Ministry of Health and Social Services**, “Le gouvernement du Québec lance la toute première Politique gouvernementale de prévention en santé”, 23 October 2016
<http://www.msss.gouv.qc.ca/documentation/salle-de-presse/ficheCommunique.php?id=1189>.

² **Analysis Group**, “Impact direct du tabagisme sur le système de santé au Québec”, 2010, prepared for the Coalition québécoise pour le contrôle du tabac.
http://cqct.qc.ca/Documents_docs/DOCU_2010/ETUD_10_08_10_GroupeDAnalyse_FardeauTabac_FINAL.pdf.

³ **Coalition québécoise pour le contrôle du tabac**, *Fact Sheet*, June 2015.
http://www.cqct.qc.ca/Documents_docs/DOCU_2015/DOCU_15_06_19_FaitsSaillants_ENG.pdf

⁴ **Institut de la statistique du Québec**, *Enquête québécoise sur le tabac, l'alcool, la drogue et le jeu chez les élèves du secondaire. Rapport d'enquête 2013*, November 2014. Table A2.2,

The recommendations in this brief should be considered in the context of three important decisions taken by Quebec in recent years.

1. Quebec's support of the Framework Convention on Tobacco Control

In 2005, the then Minister of Health (and current Premier) Dr. Philippe Couillard asked the Quebec National Assembly to give its unanimous support to the World Health Organization's Framework Convention on Tobacco Control (FCTC), and on December 15 of that year the legislature adopted a motion stating that « *under section 22.3 of the Act respecting the Ministère des Relations internationales, the National Assembly approves the World Health Organization's Framework Convention on Tobacco Control.* » [Our translation]⁵ Although Canada's participation in this international undertaking was determined by the federal government, the implementation of many of the treaty measures would fall, as the then Minister of International Relations pointed out, under the constitutional powers and responsibilities of the province.

As part of his remarks, Dr. Couillard explained, "*The smoking phenomenon is one that has no real reason for being: its existence seems today like a mistake in the evolution of our society. Everything must be done to reduce it, and to do so as quickly as possible.*"

He also pointed out that a cornerstone of the FCTC was its acknowledgement of the role of the tobacco industry in the smoking epidemic. "*To be effective, tobacco control can never rely only on the necessary but insufficient measure of public education. It must also address the social environment which sustains the epidemic. To raise concerns about and denormalize the sale and use of tobacco is the basis of an active tobacco control strategy. To do this requires diverse and comprehensive measures. Legislation has a special role in this, especially to control the activities of the industry whose obvious role in the continuation of tobacco use is recognized by all relevant authorities.*" [Our translation and emphasis]

2. Litigation to recover \$60 billion in health care costs

In line with other Canadian provinces, Quebec is suing the tobacco companies (as well as their trade association and parent companies) which sold cigarettes in the province between 1970 and 2011. In the statement of claim filed on June 8th 2012, Quebec's Attorney General is demanding a combined payment of \$60 billion from British American Tobacco (BAT), Carreras Rothmans, Philip Morris International (PMI), R.J. Reynolds Tobacco Company (RJR), their current and past

<http://www.stat.gouv.qc.ca/statistiques/sante/enfants-ados/alcool-tabac-drogue-jeu/tabac-alcool-drogue-jeu-2013.pdf>.

⁵ **Québec National Assembly.** *Motion proposant que l'Assemblée approuve la Convention-cadre de l'World Health Organization pour la lutte antitabac*, Journal des débats, 15 December 2004.
http://cqct.qc.ca/Documents_docs/DOCU_2005/LOI_05_12_15_AssNat_Motion_Appui_CCLA_EXTRAIT.pdf

subsidiaries, as well as from the Canadian Tobacco Manufacturers Council.⁶ This sum is intended to recover the health care costs caused by tobacco use between 1970 and 2030 that were or will be paid by the province's health care insurance program. Not surprisingly, the cigarette companies have tried to strike down⁷ and delay⁸ this court action. The greater Big Tobacco profits are, both here and abroad, the more resources industry has to contest laws adopted by our governments through democratic processes, including Quebec's 2009 *Tobacco-related Damages and Health-care Costs Recovery Act*, as well as revisions to Quebec's tobacco legislation adopted in November 2015.

3. The unanimous adoption of Bill 44, "*An Act to bolster Tobacco Control*", including the introduction of Article 21.1

As part of the 2015 revision of Quebec's tobacco control law, a new clause (Article 21.1) states that "*a manufacturer or distributor of tobacco products is prohibited from offering rebates, gratuities or any other form of benefit related to the sale or the retail price of a tobacco product to operators of tobacco retail outlets, including their employee.*"⁹ This measure came into effect on November 26, 2016 and bans the programs and contracts between manufacturers and retailers that are designed to keep retail prices low.

These three developments invite further consideration of the following:

- The current practice of extending business licenses and other privileges to tobacco companies without attempting to recover the regulatory and other costs associated with their activities is not fair to other enterprises which are required to make such payments, even though their products are less harmful. Nor is this coherent with the stated government policy of reducing smoking.
- The unanimous adoption of Bill 44 and its measures to end retailer incentives linked to sales or pricing conditions is an acknowledgement of the public health harms associated to the industry's efforts to manipulate retail prices. Government is now expected to ensure that industry conforms to the letter and

⁶ **Attorney General of Quebec**, Statement of claims in *Attorney General of Quebec vs. Imperial Tobacco Canada Ltd et al.*, June 8, 2012. (500-17-052494-096) http://www.smoke-free.ca/litigation/US-CDA-Litigation/Canada%20Litigation/Quebec/requetePGQ_tabac_8juin2012.pdf

⁷ **Quebec Superior Court**, Jugement sur la requête amendée en jugement déclaratoire in *Quebec Attorney General vs Imperial Tobacco Canada Ltd et al.* (500-17-052494-096), March 5, 2013. <http://citoyens.soquij.qc.ca/php/decision.php?ID=07EED663CEB7165C28D26098EA841D06&page=1>

⁸ **Quebec Superior Court**, Jugement sur les requêtes en suspension de l'instance in *Quebec Attorney General vs. Imperial Tobacco Canada Ltd et al.* (500-17-052494-096), January 10, 2013. <http://www.canlii.org/fr/qc/qccs/doc/2013/2013qccs23/2013qccs23.html?resultIndex=2>.

⁹ **Government of Quebec**, *An Act to bolster tobacco control* (section 26 modifying section 21.1 of the Law), November 26, 2015. <http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=5&file=2015C28A.PDF>

spirit of the law, and to make the necessary legislative and regulatory changes as required.

- The government's recently announced public health strategy calls for increased cooperation and coherence between government departments to achieve public health goals, including a reduction in tobacco-use. This reinforces the need for the Ministry of Finance to contribute and be coherent with the actions taken by departments of health as well as justice.

1. THE CRUCIAL ROLE OF TOBACCO TAXES

A. The importance of high cigarette prices to public health

Among the most powerful policies that governments can adopt is to raise the price of tobacco products. Historically, all government needed to do was raise tobacco taxes periodically.

The power of taxes to reduce smoking has been proven time and time again. The World Health Organization has concluded that “a significant increase in tobacco product taxes and prices has been demonstrated to be the single most effective and cost-effective intervention for reducing tobacco use, particularly among the young and the poor.”¹⁰

The International Agency for Research on Cancer (IARC) summarized the evidence to link tobacco taxes with health outcomes.¹¹ It concluded that there was a causal relationship between increasing taxes and reducing tobacco use among adults and young people and that such taxes have a larger impact with lower-income populations.

This means that higher tobacco taxes can help address disparities in smoking rates between lower and upper income Quebecers. Children and adolescents are more price-sensitive than are adults, and so benefit even more from policies which keep tobacco prices high. In its most recent report on the economics of tobacco control, the WHO concluded that “significant increases in tax and price lead to greater reductions in tobacco use among the poor than among the rich, and thus contribute to reducing health disparities.”¹²

Some of IARC’s conclusions about the strength of the evidence behind tobacco taxes as a tobacco control policy are shown in Table 1.

¹⁰ **World Health Organization.** *WHO Technical manual on Tobacco Tax Administration*, 2010, page 18
http://apps.who.int/iris/bitstream/10665/44316/1/9789241563994_eng.pdf

¹¹ **International Agency for Research on Cancer.** *Effectiveness of Tax and price policies for Tobacco Control Handbook of Cancer Prevention, Volume 14*, 2014.
<http://www.iarc.fr/en/publications/pdfs-online/prev/handbook14/>

¹² **National Cancer Institute and World Health Organization.** *The Economics of Tobacco and Tobacco Control*, page 8, January 2017. <http://www.who.int/tobacco/publications/economics/nci-monograph-series-21/en/>

Table 1: IARC's evaluation of evidence to support tobacco tax policies¹³
(an adaptation of the table cited in reference 13)

Conclusion statements	Evidence	
	Sufficient*	Strong†
Increases in tobacco excise taxes that increase prices result in a decline in overall tobacco use.		
Increases in tobacco excise taxes that increase prices reduce the prevalence of adult tobacco use.		
Increases in tobacco excise taxes that increase prices induce current tobacco users to quit.		
Increases in tobacco excise taxes that increase prices reduce the prevalence of tobacco use among young people.		
Increases in tobacco excise taxes that increase prices reduce the initiation and uptake of tobacco use among young people with a greater impact on the transition to regular use.		
Increases in tobacco excise taxes that increase prices lower the consumption of tobacco products among continuing users.		
Tobacco use among young people responds more to changes in tobacco product taxes and prices than does tobacco use among adults.		
In high-income countries tobacco use among lower-income populations is more responsive to tax and price increases than is tobacco use among higher-income populations.		
Changes in the relative prices of tobacco products lead to some substitution to the products for which the relative prices have fallen.		
Tobacco industry price discounting strategies price-reducing marketing activities and lobbying efforts mitigate the impact of tobacco excise tax increases.		
Tobacco tax increases that increase prices improve population health.		
Higher and more uniform specific excise taxes result in higher tobacco product prices and increase the effectiveness of taxation policies in reducing tobacco use.		
Tax avoidance and tax evasion reduce but do not eliminate the public health and revenue impact of tobacco tax increases.		
A co-ordinated set of interventions (a set of interventions that includes international collaborations strengthened tax administration increased enforcement and swift severe penalties) reduces illicit trade in tobacco products.		
Increases in tobacco tax increase tobacco tax revenues.		
Increases in tobacco tax do not increase unemployment.		

* Sufficient evidence: an association has been observed between the intervention under consideration and a given effect in studies in which chance bias and confounding can be ruled out with reasonable confidence. The association is highly likely to be causal.

† Strong evidence: there is consistent evidence of an association but evidence of causality is limited by the fact that chance bias or confounding have not been ruled out with reasonable confidence. Explanations other than causality are unlikely.

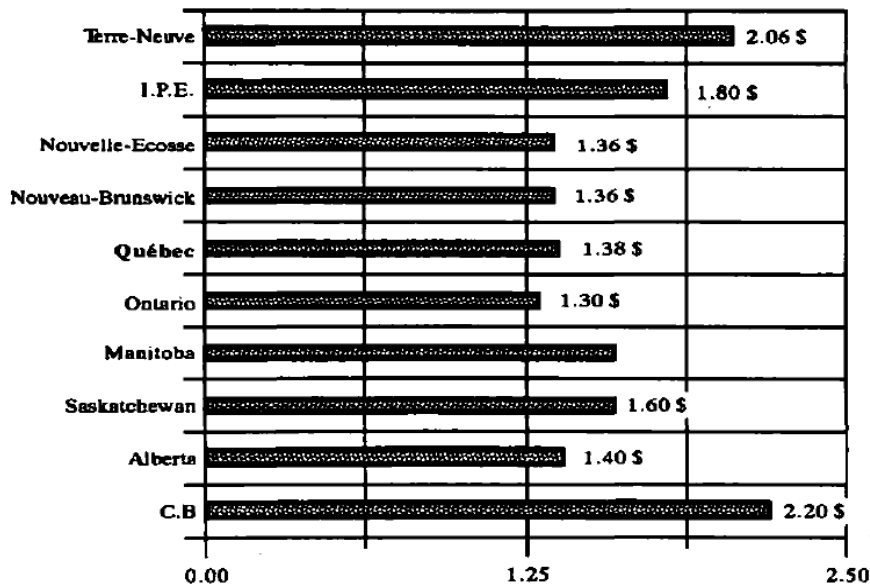
¹³ **International Agency for Research Cancer**, *Effectiveness of Tax and price policies for Tobacco Control Handbook of Cancer Prevention, Volume 14*, 2014. Page 356
<http://www.iarc.fr/en/publications/pdfs-online/prev/handbook14/>

B. Tobacco industry efforts to lower tobacco taxes in Quebec

1990s: fuelling contraband sales to defeat Canada's and Quebec's tax policy

In the early 1990s, cigarette taxes in Quebec were higher than in Ontario, New Brunswick and Nova Scotia, and only \$8.20 per carton less than in the province with the highest taxes (British Columbia). (See Chart 1: Price per carton is 10 times the amount shown for price per pack of 20.)

Chart 1: Provincial taxes on 20 cigarettes as of March 31, 1993¹⁴



The events which led to Quebec's low-tax policy are rooted in the early 1990s and in the actions by tobacco manufacturers to roll back, prevent or delay tax increases.

Between 1989 and 1991, the federal and provincial governments imposed steep tax increases on tobacco products.¹⁵ The industry put pressure on the government to reconsider, threatening to close factories,¹⁶ and warning of increased contraband^{17,18}.

¹⁴ Graph : **Non-Smokers' Rights Association et al.** *La réduction des taxes sur le tabac au Québec: Une Solution à courte vue et intéressée pour l'industrie du tabac, mais désastreuse pour la santé des Québécois et Québécoises*, April 1993, page 4.
<http://www.santecom.qc.ca/Bibliothequevirtuelle/santecom/35567000016623.pdf>

¹⁵ J. Dupuis, *Fiscalité des produits du tabac*. Direction de l'économie, division de la recherche parlementaire, December 1998. <http://publications.gc.ca/Collection-R/LoPBdP/modules/prb98-8-tobacco/fiscalite.htm>

¹⁶ R. Dupaul, "Le budget et le tabac : Imasco crie à l'injustice", *La Presse*, May 5, 1989, page A9.
http://www.cqct.qc.ca/Documents_docs/DOCU_2017/ART_89_05_05_Le_budget_et_le_tabac_Imasco_crie_a_li_njustice_LaPresse_pA9.pdf

¹⁷ Richard Johnson, "La nouvelle taxe sur le tabac risque d'augmenter la contrebande", *Le Journal de Montréal*, May 5, 1989, page 50.
http://cqct.qc.ca/Documents_docs/DOCU_96_99/ART_89_05_05_Nouvelle_taxe_tabac_risque_augmenter_cont_rebande_JmlDeMtl.pdf

Post-cards which protested the tax were printed in cigarette packages, smokers were encouraged by the companies to mail them to government,¹⁹ and 3.3 million were received by the Prime Minister's Office.²⁰ By threatening plant closures and sending their workers to protest outside parliament, the companies even forced the federal government to back down from an export tax to curb contraband.²¹ They even created front groups to repeat their message,^{22,23} and encouraged defiant sales of untaxed tobacco by retailers.²⁴

Beginning in 1992, each of the companies sold cigarettes to smuggling rings in the northern United States, knowing that their products would be returned to Canada through the porous borders of Akwesasne and sold on the illicit market.²⁵

The political crisis created by these actions led the federal and five provincial governments (including Quebec) to severely cut tobacco taxes.²⁶ On February 8, 1994, combined federal and provincial excise taxes fell from \$29.61 per carton in Quebec to only \$8.61 per carton. This was the largest reduction than in any of the other provinces which cut their tobacco taxes (Ontario, New Brunswick, Nova Scotia and Prince Edward Island).^{27,28}

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- ¹⁸ N. Bernier, "Le tabac : une taxe abusive, selon l'industrie", *La Presse*, February 27, 1991. http://cqct.qc.ca/Documents_docs/DOCU_96_99/ART_91_02_27_Le_tabac_Une_taxe_abusive_LaPresse.pdf
- ¹⁹ **Canadian Tobacco Manufacturers' Council**. "Aux 6 400 000 fumeurs du pays". annonce, *Journal de Montréal*, May, 26 1991. cqct.qc.ca/Documents_docs/DOCU_96_99/PUB_91_05_26_Aux_6400000_Fumeurs_duPays_JrnlDeMtl.pdf
- ²⁰ Henry Neville, former president of the **Canadian Tobacco Manufacturers' Council**, (1986-1997), testimony in *Cecilia Létourneau v. Imperial Tobacco*, June 7, 2012. <http://tobaccotrial.blogspot.ca/search/label/Neville>
- ²¹ M. Lortie, "2,500 travailleurs du tabac reviennent déçus d'Ottawa" *Le Journal de Montréal*, March 3rd, 1992. http://cqct.qc.ca/Documents_docs/DOCU_96_99/ART_92_03_10_2500_travailleurs_du_tabac_reviennent_decus_DOttawa_LaPresse.pdf
- ²² C. François, "Le monde du tabac part en guerre contre la taxation", *Journal de Montréal*, April 24, 1992, page 29. http://www.cqct.qc.ca/Documents_docs/DOCU_2017/ART_92_04_24_Le_monde_du_tabac_part_en_guerre_contre_la_taxation_JdeM_p29.pdf
- ²³ A. Noel, "Les Épiciers ont crée de toutes pièces le mouvement des dépanneurs généreux.", *La Presse*, January 27, 1993, page A1. http://cqct.qc.ca/Documents_docs/DOCU_96_99/ART_94_01_27_AndreNoel_Epiciers_ont_cree_de_toutes_pieces_le_mouvement_des_depanneurs_genereux_LaPresse.pdf
- ²⁴ M. Girard-Solomita, "Cigarettes: le coup de force du MATRAC", *Journal de Montréal*, January 25, 1994, page 4. http://www.cqct.qc.ca/Documents_docs/DOCU_2017/ART_94_01_25_Cigarettes_le_coup_de_force_du_MATRAC_JdeM_p4.pdf
- ²⁵ M. Roissy, police officer, Customs and Excise Division, Montreal, **RCMP**, excerpts from the *Information to Obtain A Search Warrant Form*, 22 November 2014. http://www.cqct.qc.ca/Documents_docs/DOCU_2017/DOCU_14_11_22_Extraits_Denonciation_pour_mandat_perquisition_contrebande.pdf
- ²⁶ **Breton E et al.**, "Fighting a tobacco-tax rollback: a political analysis of the 1994 cigarette contraband crisis in Canada.", *J. Public Health Policy* 2006, Vol. 27(1):77-99. <http://hdl.handle.net/10536/DRO/DU:30003728>.
- ²⁷ **Hamilton VH et al.**, "The effect of tobacco tax cuts on cigarette smoking in Canada", *Canadian Medical Association Journal* 1997; 156: 187-191. http://www.collectionscanada.gc.ca/eppp-archive/100/201/300/cdn_medical_association/cmaj/vol-156/issue-2/0187.htm

Some fourteen years later, in 2008 and in 2010, the three large cigarette companies entered guilty pleas against charges relating to their smuggling activities and made partial restitution for lost revenues to governments.^{29,30} This brief historical review clearly shows that it was not higher taxes that led to contraband, but rather the clandestine actions of Big Tobacco that fuelled contraband in order to provoke cuts to the tobacco taxes.

2000s: Fueling fears of contraband to prevent public health measures

Since 1994, the tobacco industry has stopped selling their own brands through the illegal market, but it continues to use contraband as a rallying cry against tobacco taxes and other public health measures.³¹

Tobacco industry campaigns on contraband cigarettes generate the impression that illicit tobacco sales are higher than they actually are, and that they represent a disproportionate threat to government revenues.



Campaigning against taxes, 1991
Journal de Montréal. May 26, 1991



Campaigning against taxes, 2010
BAT Investor Presentation, Anti-illicit trade : scale and opportunities. 2011

Meanwhile, other studies, including government figures, suggest that illegal tobacco sales (account for 15 % of the market and represent tax avoidance of about \$125 million) are not disproportionate to illegal sales in other commodities:

- A recent study found that “none of the data ... provide support to the tobacco industry narrative that cigarette contraband has been increasing in recent

²⁸ **Canadian Cancer Society et al.** “Surveying the Damage. Cut-rate Tobacco Products and Public Health in the 1990s,” October 1999. http://www.smoke-free.ca/pdf_1/submission.pdf

²⁹ **Canada Revenue Agency** “Federal and provincial governments reach landmark settlement with tobacco companies”, News release, July 31, 2008. http://nouvelles.gc.ca/web/article-fr.do?nid=412799&_ga=1.251464326.162074855.1403105245

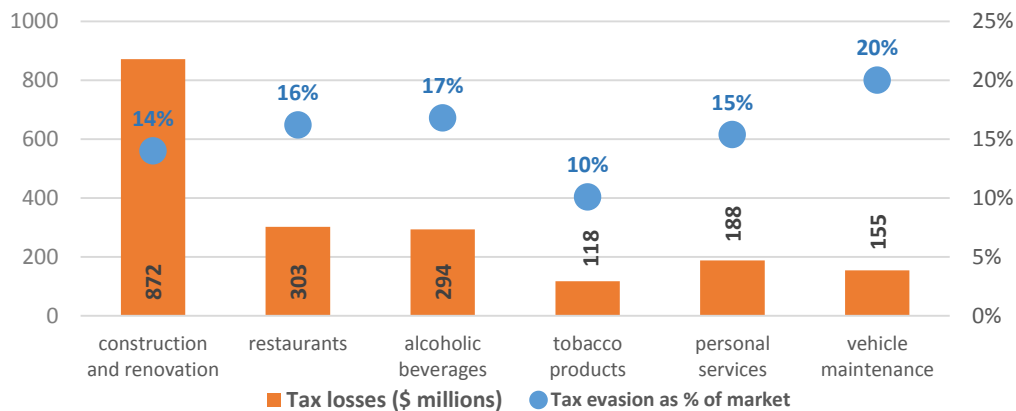
³⁰ **Revenu Québec**, “Contrebande de tabac : Québec encaissera plus de 97 millions de dollars”, communiqué, April 13, 2010. <http://www.revenuquebec.ca/fr/salle-de-presse/communiqués/autres/2010/2010-04-13.aspx>

³¹ **Coalition québécoise pour le contrôle du tabac**, “Qu’est ce qu’on sait de l’Association canadienne des dépanneurs en alimentation (ACDA)?”, Août 2015. http://www.cqct.qc.ca/Documents_docs/DOCU_2015/DOCU_15_08_24_QUI_ACDA.pdf

years” and that in Quebec there have been “relatively low levels of cigarette contraband since 2010, at levels no higher than in the early 2000s.”³²

- A study conducted for the Quebec Finance Ministry based on 2002 data found that contraband tobacco represented about 5% of the taxes lost in the underground economy, and that illegal sales and lost tax revenues were higher in several other sectors.³³
- Examples of sectors with higher rates of untaxed revenue were cited in a recent Quebec government study, which concluded that 60% of taxi revenues were undeclared for tax purposes, costing the treasury \$72 million (2.1% of the lost revenues), as was 18% of the bar and restaurant income (costing \$420 million or 12% of tax losses) and 14% of construction revenues (representing 43% of lost revenues, or \$1.2 billion).³⁴
- Statistics Canada estimates that one-tenth of the average household expenditures in the underground economy went to tobacco (\$211 per year of a total of \$2,156 in 2013) compared to the restaurant industry (21%), rent (19%), alcohol (7%) and car maintenance (5%).³⁵

Chart 2: Tax losses from contraband tobacco and other underground economic activities (\$millions), and illegal share of market. Quebec, 2002.³⁶



In fact, contraband cigarettes currently occupy about the same percentage of the Quebec market as they did at the beginning of the current decade.³⁷

³² **Guindon E et al.**, “Levels and trends in cigarette contraband in Canada”, *Tobacco Control*, 2016. doi:10.1136/tobaccocontrol-2016-052962 2016. http://www.cqct.qc.ca/Documents_docs/DOCU_2016/ETUD_16_09_06_Guindon_ContrbandTrendsInCanada_TobControl.pdf

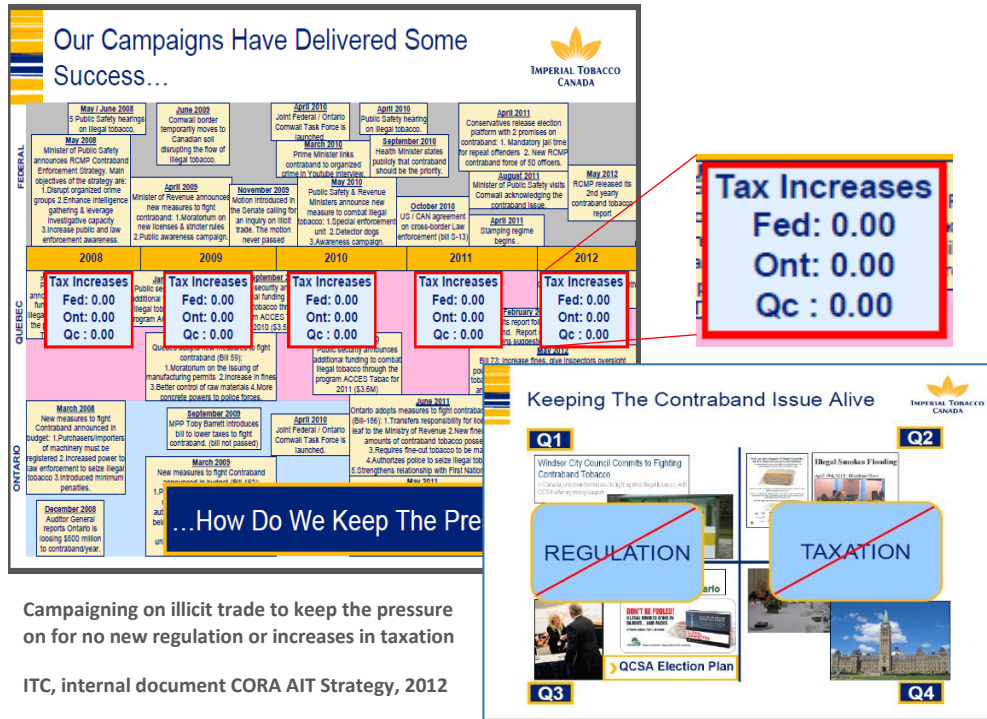
³³ **Ministry of Finances**, *L'évasion fiscale au Québec: Sources et ampleur*, Government of Quebec, April 22, 2005. http://www.finances.gouv.qc.ca/documents/EEFB/fr/eefb_vol1_no1.pdf

³⁴ S Larocques, "Fiscalité québécoise: L'évasion fiscale atteint 60 % dans l'industrie du taxi", *La Presse*, December 8, 2016. http://plus.lapresse.ca/screens/36dee060-8f1e-4841-808b-dfe038cc437a%7C_0.html

³⁵ **Statistics Canada**, L'économie souterraine au Canada, 2013. *Le Quotidien*, June 20, 2016.. <http://www.statcan.gc.ca/daily-quotidien/160620/dq160620b-fra.htm>

³⁶ **Statistics Canada**, L'économie souterraine au Canada, 2013. *Le Quotidien*, June 20, 2016. <http://www.statcan.gc.ca/daily-quotidien/160620/dq160620b-fra.htm>

Imperial Tobacco Canada internally acknowledges that its contraband awareness campaign aims to defeat taxes and regulations.



A 2012 report from Imperial Tobacco Canada to its parent company, British American Tobacco, details the impacts of its 5 years of contraband awareness campaigns in Ontario and Quebec. In 2012, for example, their campaign activities included:

- “Mobilizing local governments to pressure big Government” to not raise taxes;
- “Ensuring contraband is front and center in the media” through front groups like the National Coalition Against Contraband Tobacco;
- “Rallying retailers to keep contraband a political issue” during the 2012 Quebec election campaign.

The intention to suppress tax increases was unambiguously expressed in this internal and previously secret review. “Keeping the contraband issue alive” was a way to ensure NO further regulations and NO tax increases. Success was identified as the achievement of “0.00” tax increase imposed by the federal government or by governments in Ontario or Quebec.³⁸

³⁷ **Government of Quebec. Budget 2016.** Additional Information 2016-2017, page-A 48.
<http://www.budget.finances.gouv.qc.ca/budget/2016-2017/en/documents/AdditionalInfo.pdf>

³⁸ Presentation by **Imperial Tobacco Canada** (division Corporate and Regulatory Affairs) to British American Tobacco, "CORA AIT Strategy. Raising Public Awareness & Demanding Government Action," August 2012
http://cqct.qc.ca/Documents_docs/DOCU_2012/INDU_12_08_00_ImperialTobacco_CORA_strategy.pdf

C. Cigarette taxes in Quebec

There are three levels of tax imposed on tobacco products in Quebec and in other Canadian provinces.

- Excise taxes are imposed by the federal government (currently \$21.03 for 200 cigarettes);
- Excise taxes are imposed by the provincial government (currently \$29.80 for 200 cigarettes in Quebec);
- Sales taxes, such as the GST, provincial sales tax or harmonized sales taxes are levied on the purchase price, which includes the excise taxes. In Quebec, the GST is applied at the rate of 5% and provincial sales tax is not applied to tobacco products.

The price of a carton of cigarettes purchased in a convenience store in January 2017³⁹ for \$96.29 (a more expensive brand) can be broken down as follows:

\$4.59 (5% of the price) for GST which is added to the bill
\$29.80 Quebec excise taxes on cigarettes
\$21.03 Federal excise taxes on cigarettes

The remainder of \$40.87 is shared between the manufacturer, the retailer and (in rare cases) the distributor. **The tax portion of the purchase price of this carton is \$55.42, which is 57% of the purchase price, below the 70% level recommended by the World Health Organization.**⁴⁰

It is also possible to buy a carton of cigarettes from the same convenience store which costs \$32 less per carton, i.e. \$64.05. The price of this less expensive brand breaks down as follows:

\$3.05 (5% of the price) for GST which is added to the bill
\$29.80 Quebec excise taxes on cigarettes
\$21.03 Federal excise taxes on cigarettes

The remainder of 10.17 \$ is shared between the manufacturer, the retailer and (in rare cases) the distributor. For this carton, taxes represent 84% of the purchase price.

See next page for photograph of cartons and respective receipts.

³⁹ Receipt, Greater Montreal-area, convenience store, January 5. 2017.
http://cqct.qc.ca/images/2017/Prix_PallMall_Matinee_17_01_05_BanlieuDeMontreal_ANON.jpg.

⁴⁰ **World Health Organization**, WHO Technical Manual on tobacco tax administration, 2011.
http://apps.who.int/iris/bitstream/10665/44316/1/9789241563994_eng.pdf



Quebec tobacco taxes have fallen to the lowest in Canada

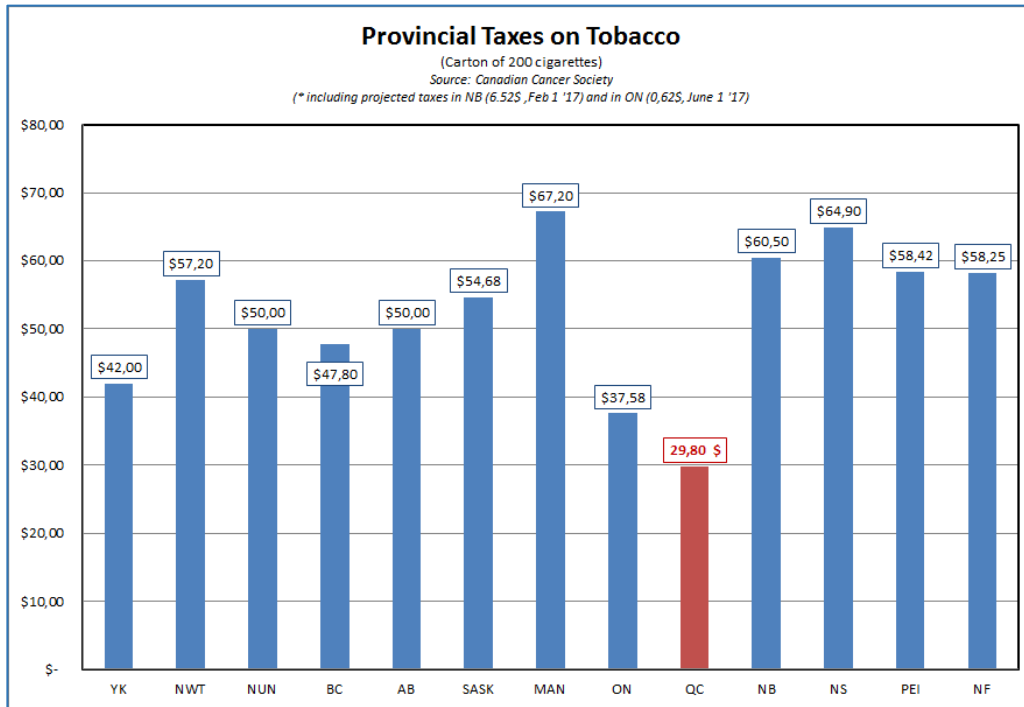
In 1993, before the contraband crisis fuelled by the tobacco companies, tobacco taxes (including federal excise tax) on cigarettes sold in Quebec were \$30 per carton and comparable to those in most other provinces.⁴¹ Provincial taxes charged on cigarettes in Quebec (\$1.38 per pack of 20 or \$13.80 per carton – see Chart 1) were 63% of those charged in the highest-taxing province, British Columbia (\$2.20 per pack of 20 or \$22 per carton – see Chart 1).

Today, cigarette taxes in Quebec per carton are the lowest in Canada (See Chart 3), and the gap has grown. The Quebec tobacco tax (\$29.80) is only 44% of that applied in the highest-taxing province, Manitoba (\$67.20).

⁴¹ **Non-Smokers' Rights Association et al.**, *La réduction des taxes sur le tabac au Québec: Une Solution à courte vue et intéressée pour l'industrie du tabac, mais désastreuse pour la santé des Québécois et Québécoises*, April 1993, page 4.

<http://www.santecom.qc.ca/Bibliothequevirtuelle/santecom/35567000016623.pdf>.

Chart 3: Provincial Excise and Sales Taxes on 200 cigarettes, including scheduled increases for Ontario and Northwest Territories.⁴²



Once adjusted for inflation, tax increases have been less than generally perceived. Since 1993, Quebec has had a lowest rate of increase of tobacco taxes than any other province.

A number of provincial and federal tax increases since 1994 have raised the nominal tax rate for cigarettes in Quebec to 170% of their 1994 value: they have gone from 30 to 51\$, as shown in Chart 4. However, once adjusted to inflation, the increase drops from 51 to only 34\$, as shown in Chart 5. Otherwise stated, since 1993, inflation-adjusted tobacco taxes in Quebec have increased by only 13% or \$4 per carton over the past 23 years!

⁴² Canadian Cancer Society, data supplied by R. Cunningham, January 2017.

Chart 4: Combined federal and provincial excise taxes on 200 cigarettes, 1993, 1994, 2001 and 2016⁴³ (Not indexed to inflation)

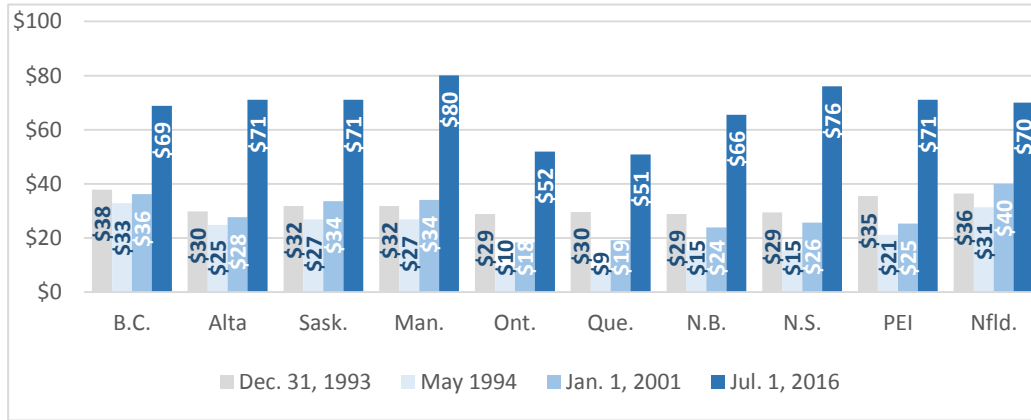
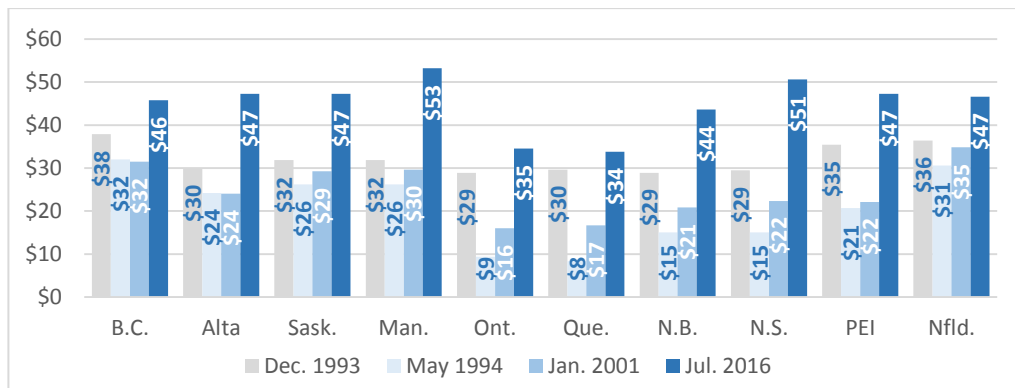


Chart 5: Combined federal and provincial excise taxes on 200 cigarettes, 1993, 1994, 2001 and 2016⁴⁴ (indexed to inflation)



⁴³ **Hamilton VH et al.**, "The effect of tobacco tax cuts on cigarette smoking in Canada", *Canadian Medical Association Journal* 1997; 156: 187-191. http://www.collectionscanada.gc.ca/eppp-archive/100/201/300/cdn_medical_association/cmaj/vol-156/issue-2/0187.htm

⁴⁴ Inflationary adjustments between 1994 and 2016 using **Statistics Canada**, *Consumer Price Index by province*. Cansim Table 326-0020, 2016.

Quebec taxes remain lower than in most neighbouring jurisdictions

The Quebec tax on cigarettes is also lower than that of the U.S. states which border the province. Federal and state cigarette taxes in Vermont are US \$40.90 per carton (equivalent to CAD \$53.94), and in New York are US \$53.60 (equivalent to \$70.69).⁴⁵ New York City imposes an additional tax of US \$15.00 per carton (equivalent to CAD \$19).⁴⁶

While it complains about tax increases, tobacco manufacturers have raised their prices.

Since the summer of 2015, each of Canada's tobacco companies has implemented a series of quarterly price increases. Over this 18-month period, the price increases on most brands, as shown in Chart 6, have exceeded \$4 per carton, the same amount as Quebec's last tobacco tax increase in June, 2014.

Chart 6 : Price increases announced by major tobacco companies, August 2015 to December 2016⁴⁷

	Price category	Date of announcement				Total
		August 2015	Dec 2015- Jan 2016	May-June 2016	December 2016	
ITL- Du Maurier	Premium	\$1.00	\$1.00	\$1.00	\$1.25	\$4.25
ITL-Matinée	Premium	\$2.00	\$1.50	\$1.50	\$1.50	\$6.50
ITL-Pall Mall Red	Discount	\$1.00	\$1.50		\$1.50	\$4.00
RBH-Craven A	Premium	\$2.00	\$1.50	\$1.50	\$1.00	\$6.00
RBH-Accord	Mid-priced	\$1.50	\$1.00		\$1.00	\$3.50
RBH-Philip Morris	Discount	\$1.50	\$1.50	\$1.50		\$4.50
JTIM-Export A	Premium	\$1.00	\$1.00	\$1.00	\$1.00	\$4.00
JTIM-Vantage	Mid-priced	\$1.00	\$1.50	\$1.00	\$1.00	\$4.50
JTIM-Liggett Ducat	Discount	\$1.50	\$1.50	\$1.50		\$4.50

In contrast to the protests heard from retailers and others when governments have increased taxes by similar amounts as to the inevitable increase in contraband which will ensue,⁴⁸ the industry's own price increases have passed without comment or fears.

⁴⁵ Campaign for Tobacco Free Kids, "Campaign for Tobacco Free Kids, "Top combined state-local cigarette tax rates", November 2016. <http://www.tobaccofreekids.org/research/factsheets/pdf/0267.pdf>

⁴⁶ Campaign for Tobacco Free Kids, "Campaign for Tobacco Free Kids, "Top combined state-local cigarette tax rates", November 2016. <http://www.tobaccofreekids.org/research/factsheets/pdf/0267.pdf>

⁴⁷ Personal communication between C.Callard and retailers in Ontario, January 2017

⁴⁸ Association québécoise des dépanneurs en alimentation (AQDA), "Aucune hausse de taxes sur le tabac dans le budget Leitão - "Merci de ne pas subventionner les contrebandiers" - Michel Gadbois, président, AQDA," Communiqué de presse, 26 March 2015. <http://www.newswire.ca/fr/news-releases/aucune-hausse-de-taxes-sur-le-tabac-dans-le-budget-leitao---merci-de-ne-pas-subventionner-les-contrebandiers---michel-gadbois-president-aqda-517401601.html>.

2. TOBACCO INDUSTRY PRICE MANIPULATIONS

Just as higher cigarette prices benefit health by reducing smoking, lower cigarette prices lead to higher smoking rates. Tobacco companies can use price promotions to reduce the price of cigarettes and to soften the impact of taxes. For instance, they use periods between tax hikes to quietly increase their wholesale prices and to bank the increased revenue for use in the future phases of their price strategies.⁴⁹ These increases provide greater margins and flexibility to manipulate retail prices, namely by lowering their mark-ups on certain brands and thereby tempering the increase in prices brought on by new taxes on those same brands.

Unlike taxes, which are a “one size fits all” approach applied equally across all brands, these price discounts can be targeted to specific groups of people, to selected neighbourhoods or for specified periods of time.

By segmenting their market into different price categories, companies encourage smoking by offering lower-priced cigarettes (“low price brands” or “discount brands”) to smokers who might otherwise be encouraged to quit if prices got too high. By the same token, companies can make up the money they lose by these price reductions by taking a higher profit level on the premium cigarettes they sell to smokers who are in effect less sensitive to price variations.

Different expressions are used to designate the various price categories of cigarettes. Health Canada defines “discount” cigarettes as “cigarettes sold at a price below the average unit wholesale price”, while “premium” refers to “cigarettes sold at a price above the average unit wholesale price”.⁵⁰ Other sources refer to the more expensive brands with terms such as “luxury” and “super-premium”, and to the lower priced brands as “budget”, “low price” / “ultra low price”, “value” / “super value”. Some manufacturers and researchers further define by referring to a third category between the previous two, known as “medium”, “mainstream” and “sub-premium”.

As explained in the 2017 report by the World Health Organization (WHO): “price gaps between different tobacco brands and different tobacco products limit the effect of tobacco tax increases on tobacco consumption and government revenues because these differentials create opportunities for consumers to substitute lower priced brands or products in response to tax increases. When facing tax or price increases, some smokers will quit smoking, others will reduce consumption (i.e., smoke fewer cigarettes), and others will trade down— that is, move from a higher priced brand to a lower priced brand. Although price increases that result from increased taxes

⁴⁹ S. Dusseault, « Les fabricants augmentent discrètement le prix des cigarettes avant le budget fédéral », *Journal de Montréal*, 17 February 2014. <http://www.journaldemontreal.com/2014/02/13/les-fabricants-augmentent-discretement-le-prix-des-cigarettes-avant-le-budget-federal>

⁵⁰ Health Canada, *Discount Cigarettes*, 2011. <https://www.canada.ca/en/health-canada/services/publications/healthy-living/discount-cigarettes.html>

reduce overall cigarette consumption, the degree to which consumption decreases depends, in part, on whether opportunities to trade down exist”.⁵¹

Tax systems and price segmentation

The way taxes are imposed can affect the capacity of manufacturers to manipulate cigarette prices. As recently pointed out by the WHO/NCI: “Cigarette manufacturers differentiate their products because differentiation provides them with additional market power. Still according the WHO report: “Manufacturers’ ability to pass taxes on to consumers depends on market power. The structure of the excise tax system, whether it is specific or ad valorem, affects the variety, quality, and prices of products available. Similarly, the tax structure affects the number of brands produced. Specific taxation tends to lead to greater product variety by giving the tobacco industry an incentive (the ability to charge a higher price) to invest in different product characteristics.”⁵²

The Coalition prefers that levers other than ad-valorem taxes be used to address price diversification, as they are better suited to address the variety of ways in which the industry ensures a variety of prices, such as price differentials between retailers, or package size or format.

Public data is sparse on the scope and impacts of price segmentation in Quebec

Although the companies closely track prices charged in differing communities in Quebec and elsewhere in Canada,^{53,54} there is currently no system in place within government to monitor how prices are manipulated to market tobacco to vulnerable populations.

We know, however, that in the United States, lower prices have been observed near schools attended by poorer and more price-sensitive youth.⁵⁵ It is incumbent upon the Quebec government to become aware of the extent of cigarette price diversification in Quebec and its impact on communities and various sub-populations.

In recent decades, price-based promotions have become common place around the world. In the United States, where the companies must report how much they spend

⁵¹ **National Cancer Institute and World Health Organization.** “*The Economics of Tobacco and Tobacco Control*”, 10 January 2017, page 178. <http://www.who.int/tobacco/publications/economics/nci-monograph-series-21/en/>.

⁵² **National Cancer Institute and World Health Organization.** “*The Economics of Tobacco and Tobacco Control*”, 10 January 2017, page 178. <http://www.who.int/tobacco/publications/economics/nci-monograph-series-21/en/>.

⁵³ Personal communication with retailer, January 2017.

⁵⁴ Personal communication with former ITL sales representative, 2016.

⁵⁵ **Cantrell et al.** , “Cigarette price variation around high schools: evidence from Washington DC.,” *Health and Place*, 2015 Jan;3:193-8. <https://www.ncbi.nlm.nih.gov/pubmed/25560754>.

on these and other types of promotions, price-promotions are the main form of cigarette advertising, representing 85% of the \$8.9 billion advertising spend in 2013.⁵⁶

Current tobacco control laws are unable to prevent price manipulation

Federal and provincial laws to restrict tobacco marketing also forbid some of the ways in which price can be used to encourage people to smoke. Under the federal *Tobacco Act*, for example, tobacco companies and retailers cannot use lifestyle advertising, cannot give cigarettes away, cannot provide customers with rebates, redeem coupons or offer contests or other rewards.⁵⁷ The Quebec *Tobacco Control Act* has similar restrictions.⁵⁸

These laws were not designed to address the current situation of a multi-priced market where cheap cigarettes are used to induce smoking.



Cigarette prices prominently displayed
Journal Metro. 21 November 2014.



CBC Television. August 21, 2015

As a result, many types of price promotion are not banned by law in Quebec. Both federal and Quebec tobacco control laws expressly identify prices as a type of permitted informational advertising.⁵⁹ These laws prohibit tobacco companies from giving cigarettes away, but they do not set any minimum prices for cigarettes, they do not forbid cross-subsidization in the tobacco market, nor do they forbid companies from selling some brands of cigarettes at a loss (loss-leaders).

⁵⁶ **Federal Trade Commission**, *Cigarette Report for 2013*, Washington, March 2016. <https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2013/2013cigaretterpt.pdf>.

⁵⁷ **Government of Canada**. *The Tobacco Act*. (SC. 1997, ch. 13) <http://laws-lois.justice.gc.ca/eng/acts/T-11.5/>.

⁵⁸ **Government of Québec**, Tobacco Control Act (Chapter L-6.2) updated to 1 November 2016. <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/L-6.2>.

⁵⁹ **Government of Québec**, Tobacco Tax Act, article 7.1.1. <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/l-2>.

Under these laws, tobacco companies and retailers operating in Quebec can promote the price of certain brands on signs displayed at retail (these signs are subject to regulatory restrictions).⁶⁰

Tobacco companies can sell to retailers and retailers can re-sell to consumers using a variety of price promotions. They can charge less if consumers buy packs containing 25 cigarettes or cartons of 200 cigarettes, instead of packs that only contain 20, since these are “part of regular marketing operations by the manufacturer”⁶¹. Furthermore, tobacco companies have begun providing other discounts on packs that are sold as bundled packages (“duo packs” or “twin packs”), practices that the Coalition deems an abusive interpretation of the Quebec’s law and offerings which are likely to proliferate in the future. This loophole damages public health and encourages tobacco addiction as it *rewards* purchases of large quantities of cigarettes.

Manufacturers can lower or increase the wholesale price of their products at any time and for any length of time. They can choose which retailers get products at a lower regular price, by region, by neighborhood and even by specific store.

Differential pricing across retailers

Outside Quebec (and until recently, here too) manufacturers can offer lower prices to selected retailers, and can choose which retailers are eligible for those discounts. They can enter into contracts with retailers that require the retailer to follow a pricing policy that results in lower cigarette prices.^{62,63} This has been ruled consistent with the federal *Competition Act*.⁶⁴ Hence, there is a need for specific prohibitions of this behaviour in law.

Fortunately for Quebecers, since November 26, 2016, the Quebec *Tobacco Control Act* forbids “offering rebates, gratuities or any other form of benefit related to the sale or the retail price of a tobacco product”.⁶⁵

The Coalition strongly supports this measure and congratulates the legislator, but recognizes that monitoring and surveillance of this new measure will pose significant challenges given what we know about tobacco industry behaviour in the face of restrictive measures. However, even if its implementation is successful, this provision

⁶⁰ **Government of Quebec**, *Regulation under the Tobacco Control Act*, article 2. <http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/L-6.2,%20r.%201>.

⁶¹ **Government of Québec**, *Tobacco Control Act*, article 21. <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/L-6.2>

⁶² **Labour Relations Board of Quebec**, *Manon Piché c. Imperial Tobacco Compagnie limitée*, QCCRT, 20 December, 2012, lines 29 et 32. http://www.crt.tat.gouv.qc.ca/uploads/tx_crtdecisions/2012_QCCRT_0600.pdf.

⁶³ I. Porter, “Tabac: des dépanneurs sous pression”, **Le Devoir**, October 16, 2016.

<http://www.ledevoir.com/politique/quebec/453529/titre-tabac-les-depanneurs-sous-pression>

⁶⁴ **Canadian Competition Tribunal**, *Safa Enterprises Inc. v. Imperial Tobacco Canada Limited* (CT-2013-007), decision from December 9, 2013. <http://www.ct-tc.gc.ca/CasesAffaires/AffairesDetails-fra.asp?CaseID=363>

⁶⁵ **Government of Quebec**, *Tobacco Control Act*, article 26. <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/L-6.2>.

will not end price promotions, as it does not specifically require companies to charge each retailer the same price or to maintain stable prices from one order to the next.

For example, the companies could legally change their prices from one week to the next, selecting which retailers they sell to in what period. They can even disguise discounts in adding a delivery charge for some orders, but not others. What is forbidden is the offering of incentives (like lower wholesale prices) to retailers in exchange for specific conditions related to retail sales and pricing.

A. The new multi-price cigarette market in Canada.

Through the last ten years, tobacco companies operating in Canada have modified their marketing and distribution model to capitalize on price-based marketing and to increase their hold on pricing at the retail level.

Until recently, tobacco companies in Canada sold each of their brands of manufactured cigarettes at the same price, and also at the same price as their competitors. Canada was unusual in this respect: in most parts of the world, price bands for cigarette (i.e. discount, mid-price and premium) was a well-established marketing tool.

The pricing dynamic in the tobacco market is illustrated in one of the last newspaper advertisements for cigarettes, published in La Presse on December 28, 1988 three days before such ads were banned by federal law. In this advertisement, the Steinberg grocery chain offers all brands of cigarettes for sale at the same price, illustrating this point with pictures of each company's leading brand. In this era, price competition was between retailers, not between manufacturers.



One price for all brands
La Presse, December 28, 1988



A variety of prices
L'Actualité, May 16, 2010.

Beginning in 2003, the companies abandoned their one-price marketing for manufactured cigarettes and began to offer cheaper brands of cigarettes, with

different terms used to describe them, such as “low price”, “ultra low price”, “value”, “super-value”, “discount” and “budget”.

One event which led to widespread price differentiation was competition from newly established small local manufacturers, like ADL Tobacco (based in Pointe-Bleue, Qc) and Grand River Enterprises (located near Brantford, On).

The oligopolistic nature of the Canadian cigarette market (with only three manufacturers) and the lowering of taxes had allowed the companies to increase their wholesale prices and profit margins in the 1990s. Imperial Tobacco Canada's earnings per cigarette grew from 1.3 cents per cigarette in 1990, to 4.2 cents per cigarette in 2003, the last year for which full financial statements were made public.⁶⁶ These high profits (and the ability to acquire machinery) made it possible for smaller companies to enter the cigarette market, despite their relatively higher production costs and other barriers to entry. Between 2001 and 2003, the market share of discount brands made by these small manufacturers grew to 12%.⁶⁷

Rothmans, Benson & Hedges was the first of the main companies to respond to this new competition by introducing its own lower-priced brands. It did this in 2003 when it repositioned its established brand, Number 7, into the “price category, dropping the per-package cost by about \$2 per package. The company was reported as saying that they did so in response to “massive tax increases.”⁶⁸ Very quickly, Imperial Tobacco Canada lowered the price of Peter Jackson cigarettes and JTI-Macdonald introduced Macdonald Special.

Within four years, the market had been transformed. The major manufacturers had regained control of the market, but it was a market where price differentiation had become firmly established.

The market share of the newly-introduced lower priced cigarette products (including roll-your own) grew from under one-fifth in 2002 to one-half in 2006,⁶⁹ and 62% in 2012.⁷⁰

⁶⁶ **Physicians for a Smoke-Free Canada** *Profits per cigarette, 1990-2003*, 2005. <http://www.smoke-free.ca/factsheets/pdf/earningspercig-04.pdf>.

⁶⁷ D. Coté, "Succès rapide des marques économiques", *Info-tabac*, August 2003. <http://info-tabac.ca/succes-rapide-des-marques-economiques/>

⁶⁸ T. Barrett, "Fuming over discount cigarettes", *North Bay Nugget*, August 21, 2003, page A12. http://www.cqct.qc.ca/Documents_docs/DOCU_2017/ART_03_08_21_Fuming_over_discount_cigarettes_North_Bay_Nugget_pA12.pdf

⁶⁹ **Rothmans Inc.**, *Renewal Annual Information Form*, 2006. http://www.cqct.qc.ca/Documents_docs/DOCU_2017/INDU_06_06_16_Rothmans_Renewal_Annual_Information_Form.pdf.

⁷⁰ N. Lockington, "Volume Driver. Value for money tobacco segment continue to grow", *Your Convenience Manager*, July 2013. <http://digitalmedia.ycmonline.ca/YCM/YCM2013July/index.html#p=13>.

At least one provincial health minister (Gary Mar in Alberta) raised concerns that this pricing system would hinder efforts to reduce smoking, but these concerns were dismissed by the federal government.⁷¹

The companies shifted their promotional efforts away from lifestyle and sponsorship advertising (which was phased out by October 2003) and towards promotions which focused on price and packaging, as illustrated by typical promotions from 1997 and a decade later.



RBH advertising promoting imagery, 1996



RBH advertisement promoting price, January 2007



JTI advertisement promoting price, May 2008

As in the United States, traditional promotions (like print advertisements) have given way to price discounting, rebates and financial incentives for retailers.⁷²

Although Canadian federal law requires tobacco companies to report expenditures on traditional advertising, it does not require any disclosure of spending on price promotions.⁷³ The personal work profile of an ITCO retail sales manager suggests that Imperial Tobacco had a “trade investment budget” for retail level promotions of \$350 million in 2010.⁷⁴

⁷¹ T. Barrett, “Fuming over discount cigarettes”, *North Bay Nugget*, August 21, 2003, page A12. http://www.cqct.qc.ca/Documents_docs/DOCU_2017/ART_03_08_21_Fuming_over_discount_cigarettes_North_Bay_Nugget_pA12.pdf

⁷² Caraballo RS et al., *Can you refuse these discounts? An evaluation of the use and price discount impact of price-related promotions among US adult smokers by cigarette manufacturers*, *BMJ Open*, 2014. <http://bmjopen.bmj.com/content/4/6/e004685>

⁷³ Government of Canada. *Tobacco Reporting Regulations*. (DORS/2000-273, 2000. <http://laws-lois.justice.gc.ca/eng/regulations/SOR-2000-273/index.html>.

⁷⁴ M. Nadon, Imperial Tobacco Sales Director, *LinkedIn Profile*, 2016.

B. Tobacco companies have restructured their operations

Since 2006, the two largest tobacco companies have substantially restructured their distribution methods and their contractual relationships with retailers. The intent and effect of these changes is now understood to provide the manufacturers with significantly more control over the prices that retailers charge for their brands.

They have also reduced their production costs, giving them more room to reduce prices while remaining profitable. Imperial Tobacco, for example, closed its factories in Canada and relocated all its production to Mexico by 2007.⁷⁵

Until 2006, all the cigarette manufacturers used wholesale distributors to manage retail distribution of their tobacco products to retailers. Sales representatives managed contracts with retailers related to retail displays and other factors related to the retail environment, but did not exert influence over the price charged by retailers for their products.⁷⁶

In 2006, Imperial Tobacco broke with this practice and set up a Direct to Store Sales (DSS) model for tobacco in Canada. Retailers began to order their products directly from Imperial Tobacco, and paid \$3 less per carton than they had previously been charged by wholesalers.⁷⁷ A key motivation for the change was the company's frustration with wholesaler's refusal to pass discounts on to clients, a desire to drive up the distribution costs of its competitors relative to its own, and to impose "commercial trading terms" on retailers.⁷⁸

During this period, retail display bans were being implemented across Canada. The Quebec and Ontario display bans came into force on May 31, 2008. Imperial Tobacco responded by shifting its retail promotion focus from "visual communication" (retail displays) to "category growth" (selling more cigarettes).⁷⁹

On the first day of Quebec's display ban (June 1, 2008), Imperial Tobacco implemented its new "CORE" program which institutionalized its new focus on pricing. This program set out to reward retailers who agreed to its pricing strategies,

⁷⁵ **TVA Nouvelles**, "Imperial Tobacco ferme deux usines", 20 October 2005. <http://www.tvanouvelles.ca/2005/10/20/imperial-tobacco-ferme-deux-usines>

⁷⁶ **RJR-Macdonald**, *1998-2000 Strategic Plan: Canada*. http://www.cqct.qc.ca/Documents_docs/DOCU_2017/INDU_RJR_Macdonald_1998_2000_Canada_Strategic_Plan.pdf

⁷⁷ D. Green, "Rethinking the business model. Convenience channel reacts to Imperial Tobacco's DSD move", *Your Convenience Manager*, November 2006. <http://digitalmedia.ycmonline.ca/YCM/YCM2006November/index.html#p=36>

⁷⁸ **P. Lorange et J. Rembizewski**, *From Great to Gone: Why FMCG Companies are losing the race for customers*, Routledge Press, 2012. <http://dhenh.us/download/from-great-to-gone-why-fmcg-companies-are-losing-the-race-for-customers.pdf>

⁷⁹ J. Greenber, "Life After Dark. Realizing the opportunity in your dark market", *Your Convenience Manager*, July 2008. <http://digitalmedia.ycmonline.ca/YCM/YCM2008July/index.html#p=42>.

but ran into difficulties when retailers used the discount to increase their profit margins instead of reducing their prices.⁸⁰

Two years later, the program had been redesigned with stronger controls over retail pricing. In 2010, ITL's EXPANSION Preferred Pricing Program (PPP) was launched⁸¹ with the goal "to ultimately offer lower retail prices to consumers on ITCO products."⁸² A new "lowest price" brand, Pall Mall was concurrently put on the market.⁸³ By this time having the lowest-priced brand on the market was an established goal for ITCO and the key task of sales representatives, as documented through proceedings from a labor related dispute with a former employee.⁸⁴

Retailers who were enrolled in the program paid \$5 to \$6 less per carton for all ITL brands than did those who were not.^{85,86} In return they agreed to a ceiling price on ITL's cheaper brands.^{94,95} There was significant resentment to this change by retailers who were not recruited, but who were under economic pressure to reduce their profits on ITL brands or lose business to their competitors. Non-participant retailers became frustrated and bitter.^{87,88} Complaints from some independent retailers were met with threats of legal action and threats of withdrawal of all funding of their trade association by the manufacturer.⁸⁹

In 2014, Rothmans Benson and Hedges also moved away from wholesale distribution and implemented its own direct-to-store delivery program (CONNEXIONS).⁹⁰ It also began contracting with retailers to offer reduced prices and other rewards in return

⁸⁰ **Labour Relations Board of Quebec**, *Manon Piché c. Imperial Tobacco Compagnie limitée*, QCCRT, 20 December 2012, para. 28-36. http://www.crt.tat.gouv.qc.ca/uploads/tx_crtdecisions/2012_QCCRT_0600.pdf

⁸¹ **Labour Relations Board of Quebec**, *Manon Piché c. Imperial Tobacco Compagnie limitée*, QCCRT, 20 December 2012, para. 28-36. http://www.crt.tat.gouv.qc.ca/uploads/tx_crtdecisions/2012_QCCRT_0600.pdf

⁸² T. Schmidt, Regional Sales Director, **Imperial Tobacco Canada**, *Letter to Safa Entreprises Inc.*, 17 January 2013. http://cqct.qc.ca/Documents_docs/DOCU_2013/INDU_13_01_17_ImperialTobacco_Lettre_a_Safa.pdf

⁸³ **Labour Relations Board of Quebec**, *Manon Piché c. Imperial Tobacco Compagnie limitée*, QCCRT, 20 December 2012, para.89. http://www.crt.tat.gouv.qc.ca/uploads/tx_crtdecisions/2012_QCCRT_0600.pdf

⁸⁴ **Labour Relations Board of Quebec**, *Manon Piché c. Imperial Tobacco Compagnie limitée*, QCCRT, 20 December 2012, para.89. http://www.crt.tat.gouv.qc.ca/uploads/tx_crtdecisions/2012_QCCRT_0600.pdf

⁸⁵ Personal communication between CQCT and retailers, October 2015 and 2016.

⁸⁶ I. Porter, "Tabac: des dépanneurs sous pression", **Le Devoir**, 16 October 2016. <http://www.ledevoir.com/politique/quebec/453529/titre-tabac-les-depanneurs-sous-pression>

⁸⁷ **CBC NEWS**, "Imperial Tobacco denies sparking price war", December 2010. <http://www.cbc.ca/news/canada/nova-scotia/imperial-tobacco-denies-sparking-price-war-1.903168>

⁸⁸ **Canadian Competition Tribunal**. *Safa Enterprises Inc. v. Imperial Tobacco Canada Limited* (CT-2013-007), decision of 9 December 2013. <http://www.ct-tc.gc.ca/CasesAffaires/AffairesDetails-fra.asp?CaseID=363>

⁸⁹ **Imperial Tobacco**, letter to the Ontario Korean Businessmen's Association, 2010. http://cqct.qc.ca/Documents_docs/DOCU_2010/INDU_10_00_00_ImperialTobacco_ToOKBA_ExpansionProgram.pdf

⁹⁰ L. Earle, "Connecting with customers. RBH launches connexions to build retailer relationships", **Your Convenience Manager**, September 2014. <http://digitalmedia.ycmonline.ca/YCM/YCM2014September/index.html#p=31>

for keeping prices low. Contracted retailers paid \$4 to \$6 less per carton, and other “trade allowances” were in place to lower retail prices.^{91,92}

As part of these programs, tobacco sales representatives visit retailers regularly to gather data on prices, sales and local conditions.⁹³ Retailers are encouraged in these visits, through trade publications, or by contractual *obligation* to reduce their profit margin on discount brands of cigarettes, and to make up any lost revenues by charging relatively more for premium cigarettes.⁹⁴

Retailers are rewarded for volume sales by receiving their products at lower cost. This can be in the form of a lower invoiced price, in the form of a rebate, or even in the form of a cash payment or gift cards.^{95,96} They could also be forced to attain sales targets by the threat of losing the discounts they need to remain competitive.⁹⁷

The new pricing programs marked a second phase in the marketing of cheaper cigarettes, and the introduction of even cheaper ‘super value’ brands - like Viceroy, Parliament, Pall Mall, Philip Morris and Ligget Ducat, etc.

A recent report from JTI-Macdonald shows that in the past 5 years, the market share of the “super value” category grew by 70% (See Chart 7).

⁹¹ Michael Ghesquiere, RBH Regional Sales Manager., Lettre aux détaillants, November 2014. http://www.cqct.qc.ca/Documents_docs/DOCU_2017/INDU_14_11_10_RBH_Price_Change_Announcement_ON.pdf

⁹² S. Dusseault, « Des cadeaux pour les dépanneurs qui vendent plus de Tabac », *Journal de Montréal*, September 15, 2015. <http://www.journaldemontreal.com/2015/09/15/des-cadeaux-pour-les-depanneurs-qui-vendent-plus-de-tabac>

⁹³ **Quebec Labour Relations Board of Quebec**, *Manon Piché c. Imperial Tobacco Compagnie limitée*, QCCRT, December 20, 2012. http://www.crt.tat.gouv.qc.ca/uploads/tx_crtdecisions/2012_QCCRT_0600.pdf

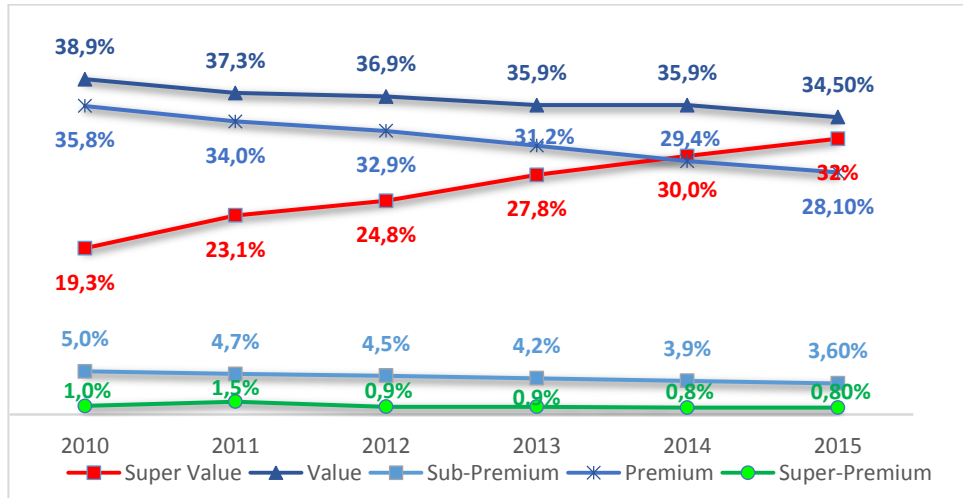
⁹⁴ Personal communication between CQCT and retailers, October 2015 and 2016.

⁹⁵ I. Porter, "Tabac: des dépanneurs sous pression", *Le Devoir*, 16 October 2016. <http://www.ledevoir.com/politique/quebec/453529/titre-tabac-les-depanneurs-sous-pression>

⁹⁶ Personal communication with former ITL sales representative, 2016.

⁹⁷ I. Porter, "Tabac: des dépanneurs sous pression", *Le Devoir*, 16 October 2016. <http://www.ledevoir.com/politique/quebec/453529/titre-tabac-les-depanneurs-sous-pression>

Chart 7: The growth of “super-value” cigarettes since the restructuring of cigarette distribution, as documented by Japan Tobacco⁹⁸



C. Increased price dispersion

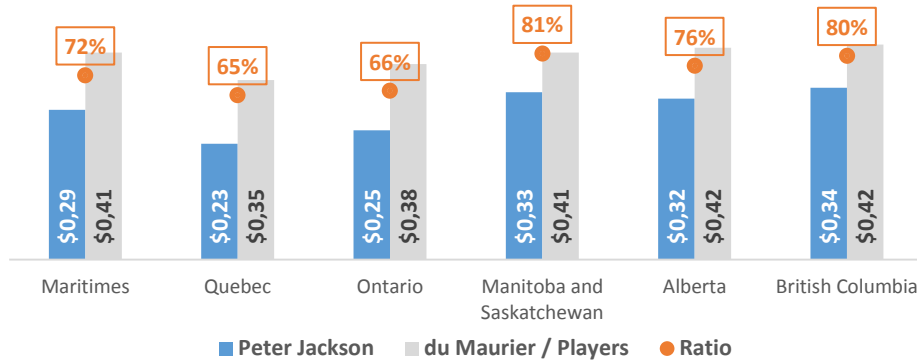
Tobacco companies have taken a regional approach to price promotions, with different price offerings and marketing strategies in the low tax provinces of Ontario and Quebec than in other high tax provinces.

According to ACNielsen sales data from 2006⁹⁹ (the only year for which data has been made available), it is in the lower tax provinces of Ontario and Quebec that the price dispersion is greatest. In those two regions in that year, the cheapest cigarettes sold by Imperial Tobacco (Peter Jackson) were sold at two-thirds the price of their premium brands, Player’s and du Maurier. In the higher tax western provinces, the difference in prices was about one-fifth. In absolute value, there was a 12 cent difference in price per cigarette in Quebec, compared to an 8 cent difference in British Columbia (Chart 8).

⁹⁸ Japan Tobacco International, *Response to Health Canada consultation on plain packaging*, août 2016. http://www.jti.com/files/2014/7281/6956/JTI_response_to_Health_Canada_Consultation_on_Plain_and_Standardized_Packaging_for_Tobacco_Products_31_August_2016.pdf

⁹⁹ ACNielsen, *Convenience & Gas Convenience Track Rankings*, 2006.

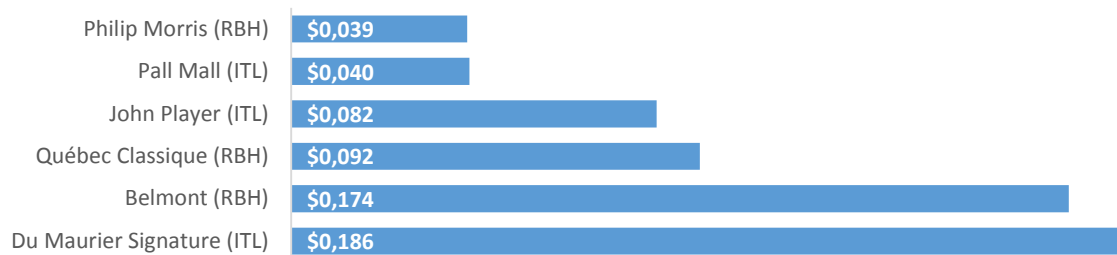
Chart 8: Average per-cigarette price of Imperial Tobacco's lowest and highest priced brands and ratio (%) of cheapest to most expensive brand, 2006¹⁰⁰



D. Discount brands sold as loss leaders?

Tobacco companies may follow the advice they give to retailers – to use the higher profits on premium cigarettes to offset the revenues they lose by selling cheaper cigarettes. Lost revenues on cheaper brands are also compensated by the fact that cheap cigarettes attract more customers.

Chart 9 : Cost per cigarette, calculated based on wholesale prices paid by various retailers, December 2016¹⁰¹



Very few company price lists have been made public. An RBH list from late 2014¹⁰² shows a six-fold difference between the before-tax price it charges to retailers for its most expensive brands (\$90.55 per carton with no discount and taxes included: \$41.57 before taxes¹⁰³) and least expensive brands (\$55.83 per carton with no discount and taxes included; \$6.85 before taxes). At \$41.57 per carton, the pre-tax price of a single cigarette is 20.8 cents. At \$6.85 per carton, the pre-tax price of a single cigarette is just 3.42 cents.

¹⁰⁰ Analysis of data from **ACNielsen**, *Convenience & Gas Convenience Track Rankings*, 2006.

¹⁰¹ Personal communication between CQCT and retailers, October 2015 and 2016.

¹⁰² Michael Ghesquiere, **RBH** Regional Sales Manager., Letter to retailers, November 2014.
http://www.cqct.qc.ca/Documents_docs/DOCU_2017/INDU_14_11_10_RBH_Price_Change_Announcement_ON.pdf

¹⁰³ In November 2014, federal and Ontario grew to \$21.03 and \$27.95 respectively, totalling \$48.98 per carton.

Without information on the costs of production, which are not currently available to government or the public, it is impossible to assert that the lowest cost brand is being sold below the cost of production and distribution, although this scenario warrants consideration.

In a traditional market, with many producers, prices will largely reflect the costs of production and distribution. But in a market like Canada's, with only a few large producers, the companies have greater power to control market pricing.¹⁰⁴

It can be in the interests of tobacco companies to reduce the price of their cigarettes below profit-maximizing levels in order to trade-off short-run and long-run profitability. According to a report from IARC "The greater price sensitivity of young people ... and the addictive nature of tobacco use may lead companies with market power to set prices lower than the short-run profit-maximizing level to 'get more consumers hooked on the addictive good' so that long run profits will be higher than they would be if prices were set higher in the short run and fewer young people took up tobacco use."¹⁰⁵

A 2013 study conducted by the *Institut de la statistique du Québec* found that the weekly income of Quebec secondary students was a factor associated with tobacco use.¹⁰⁶ Those who had \$11 or more at their disposal each week were more likely to smoke. In the interests of its long-term survival, the tobacco industry has an interest in continuing to make products available below this price point.

A 2013 study by Gilmore and colleagues¹⁰⁷ of tobacco pricing strategies and previously secret tobacco industry documents explained that offering low-price products, whether discount cigarettes or roll-your-owns, is a crucial counterpoint to tax increases. These cheaper products serve to keep smokers in the market, in the hopes that they will later return to their preferred, more expensive products.¹⁰⁸ In other words, the tobacco industry counts on the consumption of these products that

¹⁰⁴ **International Agency for Research Cancer**, *Effectiveness of Tax and price policies for Tobacco Control Handbook of Cancer Prevention, Volume 14*, 2014.
<http://apps.who.int/bookorders/anglais/detart1.jsp?codlan=1&codcol=76&codcch=30>

¹⁰⁵ **International Agency for Research Cancer**, *Effectiveness of Tax and price policies for Tobacco Control Handbook of Cancer Prevention, Volume 14*, 2014, page 37.
<http://apps.who.int/bookorders/anglais/detart1.jsp?codlan=1&codcol=76&codcch=30>

¹⁰⁶ **Institut de la statistique du Québec**, *Enquête québécoise sur le tabac, l'alcool, la drogue et le jeu chez les élèves du secondaire. Rapport d'enquête 2013*, November 2014, page 51.
<http://www.stat.gouv.qc.ca/statistiques/sante/enfants-ados/alcool-tabac-drogue-jeu/tabac-alcool-drogue-jeu-2013.pdf>

¹⁰⁷ **Gilmore A et al.**, "Understanding tobacco industry pricing strategy and whether it undermines tobacco tax policy: the example of the UK cigarette market" *Addiction*, 2016 Volume 108(7): 1317–1326
<http://onlinelibrary.wiley.com/doi/10.1111/add.12159/full>

¹⁰⁸ **Gilmore A et al.**, "Understanding tobacco industry pricing strategy and whether it undermines tobacco tax policy: the example of the UK cigarette market" *Addiction*, 2016 Volume 108(7): 1317–1326
<http://onlinelibrary.wiley.com/doi/10.1111/add.12159/full>

offer little or no profit as being a *temporary* phenomenon that will allow smokers to get over the shock of a tax increase and later return to their usual brands.

In Canada, in earlier times when cigarettes were all sold at the same price, the tobacco industry's lower-price offerings were roll-your-owns and cigarette kits (i.e. Presto-Pak). These were taxed at lower rates than manufactured cigarettes. The lower tax rate for roll-your-own tobacco still exists.

E. Tobacco companies can afford to manipulate cigarette prices

To be able to afford to relinquish short-term profits in anticipation of long-term business, an industry needs to have the financial capacity to manage the loss. Tobacco companies operating in Canada are in such a position.

The financial statements of Imperial Tobacco and Rothmans, Benson and Hedges were formerly made public on an annual basis. This practice ended after ITL was 100% acquired by British American Tobacco in 2000 and RBH by Philip Morris International in 2008. JTI-Macdonald was never a publicly owned company in Canada, and its financial records were not made public.

As a result of litigation efforts, however, the summary financial reports of ITL and RBH for 2014 were made public. These disclose that the gross revenue for both companies, after excise taxes were deducted, was around \$1 billion (\$1.1 billion for ITL and \$946 million for RBH).^{109,110} Their profit from operations, (EBITDA) was around \$500 million each (\$535 million for ITL and \$495 for RBH). In other words, the operating profit margin for each company was about 50% (49% for ITL and 52% for RBH). For every \$1 in sales, they retained 50 cents after paying all the costs of production, distribution and management.

¹⁰⁹ **Imperial Tobacco Canada Ltd.**, *Consolidated Financial Statements based on IFRS for the year ended December 31, 2014*, 2015, page 3.
http://www.cqct.qc.ca/Documents_docs/DOCU_2017/INDU_15_ITC_Consolidated_Financial_Statements_2014.pdf

¹¹⁰ **Rothmans, Benson & Hedges Inc.**, *Unaudited Financial Statements (December 31, 2014)*, 2015, page 2.
http://www.cqct.qc.ca/Documents_docs/DOCU_2017/INDU_15_RBH_Unaudited_Financial_Statements_2014.pdf

3. CONSEQUENCES OF PRICE MANIPULATION

A. Discount brands barely more expensive than a decade ago

Although data on cigarette prices in differing communities and neighbourhoods is routinely collected by tobacco companies and used for market research, there is no equivalent source of information to assist independent research on the public health impact of recent price differentiation and increased price competition in Canada.

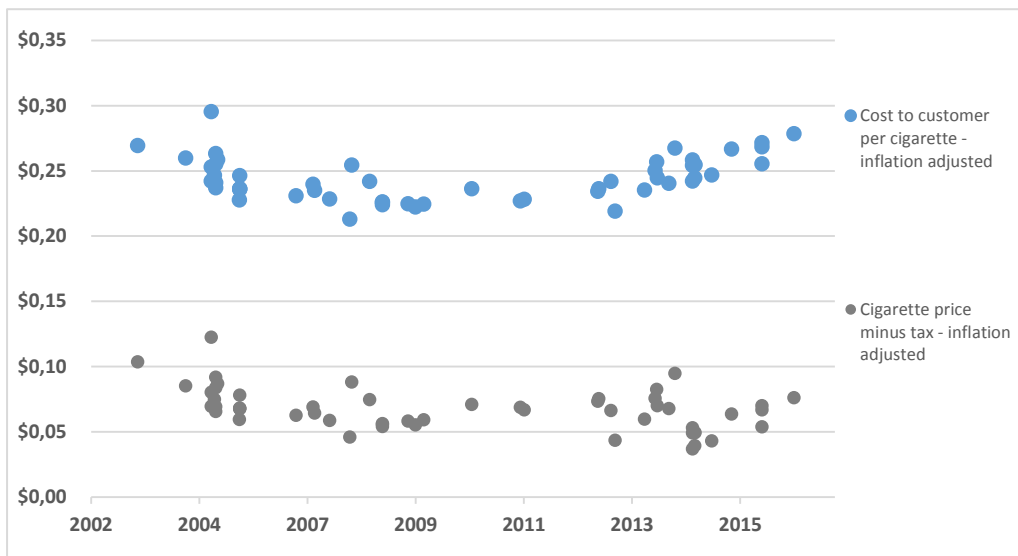
ACNielsen data which tracks convenience store sales is available for purchase, although severe limitations are put on use by those who acquire the data. ACNielsen data for 2006 was acquired, but not for other years.

In the absence of robust data, it is not possible to state categorically whether cigarettes have become less affordable as a result of tax increases, or whether the companies have been able to offset the impact of such taxes through price-based marketing. The limited data that is available suggests that this may be the case.

Archival photographs of retail display of cigarettes which include prices have been located in retail trade publications, newspapers, television reports, the collection of the Coalition and other sources. Dozens of price observations were found in photographs of Quebec retail displays taken between 2003 and 2016. (See Appendix II).

These photographs show only a modest increase in the price of discount cigarettes charged to customers once inflation has been taken into consideration. (See Chart 10).

Chart 10: Displayed price per cigarette and non-tax portion of price for discount brands (indexed to inflation, 2002=\$1) in Quebec, 2003-2016



B. Cheaper cigarettes undermine public health

Discount cigarettes disproportionately harm the health of disadvantaged Quebecers.

Smokers who are most price-sensitive are those most likely to quit smoking as a result of higher tobacco prices, more often those who have lower income or who have not benefitted from higher levels of education.¹¹¹ These are the same smokers who are most likely to purchase discount cigarettes.¹¹² Price-based marketing is thus most likely to prevent the health benefits of tobacco tax policy on these individuals and to exacerbate social inequalities in health.

A 2011 study by Ross and colleagues on Canadian smokers concluded that smokers would respond more to tax increases by quitting if lower price cigarettes were not available.¹¹³

C. The Quebec experience is shared in other jurisdictions

A number of studies have shown that, as in Canada, tobacco companies are increasing the price differential between discount and premium cigarettes, and that smokers are increasingly purchasing discount brands or price-reduced products.

Given its strong restrictions on advertising, Australia, like Canada, is considered by the tobacco industry as a “dark market”. Following the implementation of display bans in that country, tobacco companies introduced lower priced cigarettes and contractual arrangements with retailers to control the price of the lowest cost cigarettes.¹¹⁴ Following the introduction of plain packaging in 2012, the price spread between brands increased.^{115,116,117}

¹¹¹ **Azagba S et Sharaf M**, "Cigarette Taxes and Smoking Participation: Evidence from Recent Tax Increases in Canada", *International Journal of Environmental Research and Public Health*, 2011. <http://www.mdpi.com/1660-4601/8/5/1583>

¹¹² **Cornelius ME et al.**, "Trends in the use of premium and discount cigarette brands: findings from the ITC US surveys (2002–2011)" *Tobacco Control* 2013 Mar;23 Suppl 1:i48-53
<https://www.ncbi.nlm.nih.gov/pubmed/24092600>

¹¹³ **Ross H et al.**, "Do cigarette prices motivate smokers to quit? New evidence from the ITC survey," *Addiction* 2011, 106(3): 609–619 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4439203>

¹¹⁴ **British American Tobacco Australia**, *Tobacconist Retail Trading Agreement with Freechoice*, 2011. <http://www.freechoicestores.com.au/CMSFiles/importantnews/Precis%20BATA%20Trading%20Terms%202011.pdf>

¹¹⁵ **Scollo M, et al.**, "Did the recommended retail price of tobacco products fall in Australia following the implementation of plain packaging?", *Tobacco Control* 2015;24:ii90-ii93.
http://tobaccocontrol.bmj.com/content/tobaccocontrol/24/Suppl_2/ii90.full.pdf

¹¹⁶ **Greenland S et al.**, "Tobacco manufacturer brand strategy following plain packaging in Australia: implications for social responsibility and policy", *Social Responsibility Journal* 2016, Vol. 12(2):321-334.
<http://www.emeraldinsight.com/doi/abs/10.1108/SRJ-09-2015-0127>

¹¹⁷ **Greenland S**, "The Australian experience following plain packaging: the impact on tobacco branding" *Addiction* 2016, Volume 111(12):2248–2258. <http://onlinelibrary.wiley.com/doi/10.1111/add.13536/abstract>

However, this does not mean that this measure caused a price decrease, as is often claimed by the tobacco industry.¹¹⁸

The United Kingdom is also a “dark market” with tobacco display bans and imminent plain packaging. Like Canada, cigarettes in the United Kingdom are increasingly price differentiated which has doubled the market share of “ultra low price” cigarettes.¹¹⁹

A review of the price of the cheapest brands in the U.K. found that the real (adjusted to inflation) price did not grow in the decade 1999-2009.¹²⁰ The increase in those who used cheaper cigarette products was most prominent in those who were young and were economically disadvantaged.¹²¹

The United States is not a “dark market” and cigarettes continue to be displayed in retail and other locations. As discussed earlier, price-based promotions are now the predominant form of cigarette marketing in that country. Unlike Canada and the United Kingdom, price discounts are often used by companies to reduce the price of premium brands.¹²² In the absence of laws that specifically banning it, price discounting was ruled legal by the U.S. Supreme Court.¹²³

The World Health Organization monitored cigarette affordability and price dispersion in its 2015 Report on the Tobacco Epidemic. It found that very large price gaps between cheap and inexpensive cigarettes was commonplace in developing countries. Among the 33 OECD countries, there were only four that had a greater price dispersion than in Quebec:¹²⁴ Chile, Japan, Turkey and Chile. Canada was one of only two OECD countries which did not provide these data to WHO.

A recent Ontario study observed that most brands of cigarettes cost between 6% and 14% less in stores surrounding high schools located in poorer neighbourhoods than in those in more affluent areas, with an even greater difference for discount brands

¹¹⁸ **Scollo M, et al.**, "Did the recommended retail price of tobacco products fall in Australia following the implementation of plain packaging?", *Tobacco Control* 2015.
http://tobaccocontrol.bmj.com/content/tobaccocontrol/24/Suppl_2/ii90.full.pdf

¹¹⁹ **Gilmore A et al.**, "Understanding tobacco industry pricing strategy and whether it undermines tobacco tax policy: the example of the UK cigarette market" *Addiction*, 2016 Volume 108(7): 1317–1326
<http://onlinelibrary.wiley.com/doi/10.1111/add.12159/full>

¹²⁰ **Gilmore A et al.**, "Understanding tobacco industry pricing strategy and whether it undermines tobacco tax policy: the example of the UK cigarette market" *Addiction*, 2016 Volume 108(7): 1317–1326
<http://onlinelibrary.wiley.com/doi/10.1111/add.12159/full>

¹²¹ **Gilmore A et al.**, "Smoking Patterns in Great Britain: the rise of cheap cigarette brands and roll your own (RYO) tobacco", *Journal of Public Health*, 2014. <https://academic.oup.com/jpubhealth/article-lookup/doi/10.1093/pubmed/fdu048>

¹²² **Caraballo RS et al.**, "Can you refuse these discounts? An evaluation of the use and price discount impact of price-related promotions among US adult smokers by cigarette manufacturers", *BMJ Open*, 2014.
<http://bmjopen.bmj.com/content/4/6/e004685>

¹²³ **U.S. Supreme Court**, *Brooke Group Ltd. v. Brown & Williamson Tobacco Corp.*, 509 U.S. 209 (1993), 1993.
<https://www.law.cornell.edu/supct/html/92-466.ZO.html>

¹²⁴ **World Health Organization**. *WHO Report on the Global Tobacco Epidemic: Appendix II*, 2015.
http://www.who.int/tobacco/global_report/2015/appendix2.pdf?ua=1

(10% to 11.5%). The researchers concluded that should their results be confirmed, there is reason to curtail the ability of tobacco companies to manipulate prices.¹²⁵

4. STRATEGIES TO OPTIMIZE THE IMPACT OF TAXES

There are a number of public policy tools that can be called on to prevent tobacco companies from depressing the price of cigarettes to promote tobacco use.

A. Taxes and levies

1) Increasing specific excise taxes on tobacco

Raising the price cigarettes by increasing tobacco taxes is not only an obvious policy option, it is an approach fully supported by evidence and policy consensus.

If the tax rate on cigarettes sold in Quebec were eventually raised to that of the neighbouring province of New Brunswick, each cigarette would cost an additional 15 cents.¹²⁶ The combined federal and provincial excise taxes on each package of 20 cigarettes would increase from \$5.08 to \$6.55.

To achieve this level, incremental increases may be optimal: substantial enough to trigger smokers into a quit attempt, but not so high as to push smokers towards contraband.

Recommendation 1:

As submitted to the Finance Ministry last October (Appendix I), the Coalition recommends an increase the Quebec excise tax on tobacco products by \$5.00 per carton (or 50¢ for each package of 20 cigarettes) followed by similar increases at opportune times.

Such an increase would be a first step towards bringing tobacco taxes in line with those charged in Ontario, another province challenged by the contraband market and the province with the second-lowest tobacco taxes. Quebec tobacco taxes should eventually be raised at least to the average of all Canadian provinces. An increase of \$5 per carton would increase government revenues by about \$145 million each year, or \$730 million over 5 years, and would reduce the number of smokers by approximately 18,000 (see Appendix III).

¹²⁵ **Guindon, GE., Brown, KS.**, “Do cigarette prices in stores near secondary schools vary by area-level socioeconomic status in Southern; Ontario: a pilot study”, Study financed by the Ontario Tobacco Research Unit, pre-publication version, January 2017.

¹²⁶ New Brunswick provincial taxes at 60,50 \$ / 200 cigarettes (\$0.302/cigarette) with those in Quebec at 29,80 \$ / 200 (\$0.149/cigarette). http://www2.gnb.ca/content/gnb/en/news/news_release.2016.02.0068.html

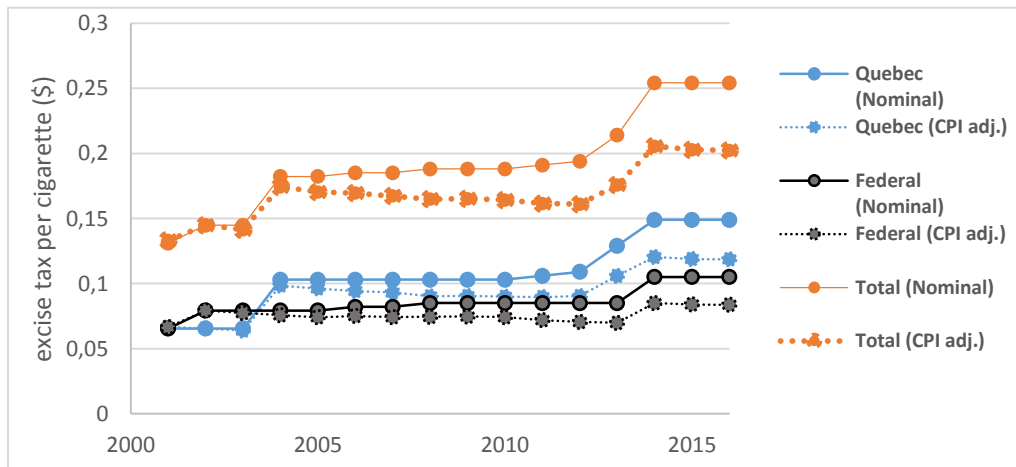
It is important to note that even with these proposed new revenues, the government of Quebec will still not offset tobacco-related health care costs. It would therefore be imprudent to encourage the popular but false perception that “the government makes money off the backs of smokers” by creating special long-term funds financed by tobacco tax revenue that are devoted to causes other than tobacco control.

2) Indexing excise taxes to keep up with inflation like in Ontario

One challenge to maintaining the beneficial impact of tobacco taxes is the erosive effect of inflation. According to the World Health Organization, “*Inflation erodes the value of a specific tax, leading to lower inflation-adjusted tax revenues and less potential for reducing tobacco consumption and prevalence. Of several approaches that can be used to deal with this issue, the most straightforward is to incorporate an automatic adjustment for inflation. The main technical issue with this approach is the frequency of adjustment.*”¹²⁷

The real value of Quebec excise taxes on cigarettes has fallen by about 70¢ since 2014 (when it was set at \$29.80). Indexed to inflation, an equivalent rate in 2017 would be \$30.48.

Chart 11: Excise tobacco taxes on cigarettes sold in Quebec, nominal and indexed to inflation¹²⁸



Factoring in inflation, a tax increase of \$0.70 per carton will simply bring cigarettes to the level of 2014, no more. In implementing tax increases, government should make clear that this \$0.70 is simply a cost-of-living adjustment, and not a true tax increase. To illustrate, a tax increase of \$4 is in fact one with a real value of \$3.30. The Coalition

¹²⁷ World Health Organization, *The Economics of Tobacco and Tobacco Control*, page 184, 10 January 2017. <http://www.who.int/tobacco/publications/economics/nci-monograph-series-21/en/>.

¹²⁸ Data from the Quebec Ministry of Finance and the Government of Canada.

considers that clearly communicating this information would favour the acceptance of such a tax policy.

Recommendation 2:

The Coalition reiterates its previous recommendation that the Quebec tobacco excise tax be indexed to inflation by imposing an annual 2% increase, as is currently done in Ontario.

A \$5 per carton tax increase in the spring of 2017, automatically adjusted for inflation in 2018 would result in a further 70-cent increase in the tax in 2018, a 71-cent increase in 2019, and so on. According to our calculations (Appendix III), this \$5 tax increase, indexed to inflation, after five years, would further reduce the number of smokers by 9,600, as well as generating additional revenues of more than \$80 million.

3) Pre-scheduled increases in excise taxes

The World Health Organization recommends automatically adjusting specific tobacco taxes by an amount greater than inflation, as is done in Australia¹²⁹ and New Zealand.¹³⁰ The United Kingdom increases its excise duty by the amount of inflation plus an additional 2% every year.¹³¹

While interesting, this is not, in our view, well suited to the Quebec context. With a continued manageable rate of contraband at 15% and more substantial anti-contraband activities in neighbouring provinces, Quebec certainly has the capacity to achieve larger rates of increase than 2% per year without provoking significant increases in contraband. However, the Coalition considers that it would be imprudent to signal to the industry and contraband channels when tax increases are scheduled to go beyond the inflation rate.

The tobacco industry already manipulates its prices according to *anticipated* tax increases in order to dampen their impact and to discretely increase its own profit margins. In fact, tobacco manufacturers would be delighted to have advance knowledge of scheduled tax increases. This was confirmed by a declaration entered in the Quebec lobbyists register by a Rothmans, Benson and Hedges representatives whose lobbying mandate is described as “ensuring long-term predictability for tobacco tax increases”. It goes on to state that “the goal would be to replace large

¹²⁹ **ABC NEWS**, “Smokers slugged in Government’s plan to raise \$5.3 billion”, August 2013.
<http://www.abc.net.au/news/2013-08-01/government-to-raise-5-billion-from-cigarette-tax-increase/4857244>

¹³⁰ **New Zealand Herald**, “Budget 2016: Tobacco tax hike announced”, May 2016.
http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11645449

¹³¹ **Cancer Research UK**, *Briefing: Tobacco Tax & Pricing*, 2015.
http://www.cancerresearchuk.org/sites/default/files/policy_june2015_tax_pricing_briefing.pdf

increase applied periodically with predictable increases spread out over time. For example, if the government were to decide to increase tobacco taxes, it would be preferable that they indicate in the budget the tax increase desired and to apply it over several years, thus assuring gradual, progressive tax increases rather than a sudden large increase.”¹³²

The same holds true for contraband networks, as a tax roadmap would assist them in their investment and risk decisions.

For these reasons, the Coalition favours the sudden announcement of substantial tax increases (greater than the inflation rate) instead of regular increases of lower amounts, and that each increase be preceded by an evaluation of the broader context.

4) A few words about environmental levies on tobacco products

Levies have been proposed to address the significant environmental harm caused by tobacco litter. This is consistent with the concept of product stewardship, which shifts responsibility and the cost of protecting the environment from taxpayers to the manufacturer, retailer and consumer. San Francisco has imposed a cigarette litter abatement fee of US\$0.20 per pack, which was less than the actual costs associated with cigarette litter.^{133,134}

Quebec has imposed environmental handling fees on new electronic products, paint, lightbulbs, batteries and other products.¹³⁵ The development of an appropriate scale of eco fees for tobacco products could provide revenue to address the environmental damage caused by smoking (in helping the operators of waste management and sewage facilities to better manage their operations), while simultaneously raising the package price.

While the Coalition is, in principle, in favor of imposing a scale of environmental fees for cigarettes, cigars and other tobacco products and their accessories (ensuring that their price includes the costs associated with their post-use treatment and the environmental consequences of their often toxic and non-biodegradable nature), we nevertheless believe that it would be more practical to simply raise provincial taxes by an amount approximately equal to an environmental fee for tobacco product waste.

¹³² **Philippe Gervais**, « Mandat 1 : **Rothmans Benson & Hedges Inc.** », Quebec Lobbyist Registry, 2017, page 5. http://www.cqct.qc.ca/Documents_docs/DOCU_2017/INDU_17_Fiche_Lobby_Gervais_Philippe_pour_RBH.pdf

¹³³ **Schneider JE et al.**, "Tobacco litter costs and public policy: a framework and methodology for considering the use of fees to offset abatement costs", *Tobacco Control*, 2011. http://tobaccocontrol.bmj.com/content/20/Suppl_1/i36.full

¹³⁴ **City of San Francisco**, *Environment Cigarette Litter Abatement Fund*, 2009. <http://administrative.sanfranciscocode.org/10/XIII/10.100-70/>

¹³⁵ **Government of Quebec**, *Regulation respecting the recovery and reclamation of products by enterprises*. <http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/Q-2,%20r.%2040.1>.

This is another example of the failure of the current tobacco fiscal framework to make industry pay for the damage to society caused by its products, in this case environmental damages.

5) Developing a fiscal framework adapted to tobacco industry tactics

Taxing tobacco company revenues

In recent years, at least two of the three tobacco companies have employed income tax avoidance measures which were exposed in unrelated court proceedings. These measures have allowed them to artificially enhance their profitability and facilitated the commercialization of cheaper products.

- JTI-Macdonald has been restructured by its parent company, Japan Tobacco, so that its debt payments to the company exceed its profits. As a result, it operates at a loss in Canada, even though its earnings before taxes are otherwise \$103 million.¹³⁶ If it were required to pay the normal 11.5% Quebec corporate income tax (about \$12 million), and recovered this amount from its cigarette sales (2.5 billion in 2015),¹³⁷ each package would increase in price by 10 cents.
- Imperial Tobacco has entered into complex cross ownership arrangements with other companies owned by its parent, British American Tobacco. This arrangement reduced its taxes payable to the federal government by \$12 million per year.¹³⁸
- The federal government has imposed a surtax on the profits of tobacco manufacturing in Canada (introduced at 40% surtax in 1994 and increased to 50% in 2001).¹³⁹ For a number of years the government disclosed the revenues from this surtax. By shifting production to Mexico, Imperial Tobacco was able to avoid this surtax, and by converting its profits into loan payments, JTI-Macdonald has also reduced the effect of this tax.¹⁴⁰
- Quebec also imposed a surtax on tobacco company profits from 1994 to 1998. The nominal rate was 50% rate, but was capped at an amount equal to the tax on capital payable in 1993.¹⁴¹ Several fiscal maneuvers by the tobacco companies,

¹³⁶ **Quebec Superior Court.** *Létourneau c. JTI-MacDonald Corp*, 2015 QCCS 2382, 2015, page 210.
<http://www.canlii.org/fr/qc/qccs/doc/2015/2015qccs2382/2015qccs2382.html>

¹³⁷ **Euromonitor**, *Cigarette Sales in Canada—2015, 2016*.

¹³⁸ **Callard C**, "A footnote from the federal tax court," *Eye on the Trials*, 2015.
<http://tobaccotrial.blogspot.ca/2015/08/a-footnote-from-federal-tax-court.html>

¹³⁹ **Physicians for a Smoke-Free Canada** *Backgrounder: The Tobacco Manufacturers' Surtax, 1994-2012*, 2013.
<http://www.smoke-free.ca/factsheets/pdf/CorporateTaxandBigTobacco.pdf>

¹⁴⁰ **Physicians for a Smoke-Free Canada** *Backgrounder: The Tobacco Manufacturers' Surtax, 1994-2012*, 2013.
<http://www.smoke-free.ca/factsheets/pdf/CorporateTaxandBigTobacco.pdf>

¹⁴¹ **Quebec Ministry of Finance.** *BUDGET 1994-1995. Discours sur le budget et Renseignements supplémentaires*, annex A, page 126.
http://www.budget.finances.gouv.qc.ca/budget/archives/fr/documents/1994-95_fine.pdf

however, resulted in only a modest tax yield for the provincial government. The tobacco companies were also able to pass this tax on to consumers instead of taking it from corporate profits. An internal 1997 letter from an RBH employee summarized the situation very well: “The Federal surtax is calculated using a complex formula ... The end result to RBH was an increase in our effective income tax rate from 37 percent to 43 percent.” It noted that at the moment when the surtax was made permanent the company considered as a ‘product tax’ which should be passed on to consumers.”¹⁴²

- France has notably implemented a measure to counter tax-avoidance by tobacco companies who have been able to reduce their footprint in France because distribution of tobacco products is managed by a third-party monopoly. On December 5, 2016, France established a new tobacco control fund,¹⁴³ which will be financed by a 5.6% tax on the gross revenues (less excise taxes) of tobacco products at the point of distribution.¹⁴⁴ The fund and tax came into force on January 1, 2017 and is expected to provide annual revenues for tobacco control of €130 million.¹⁴⁵ In France, cigarette distribution is managed by a monopoly which is, in effect, a subsidiary of the four global tobacco manufacturers. The experience in France, while particular to that country, nevertheless shows that frequent review of tobacco taxation policy can help counter ever-changing strategies used by tobacco companies to avoid or minimize taxes to be paid.

Tax deductions for promotional expenses

To bring tobacco tax administration into line with its legislative intent, it is not only important to respond to the companies’ corporate restructuring, but also to ensure consistency between tax and other government policies.

Currently, Canadian and Quebec governments permit tax deductions for promotional expenses by tobacco companies which, in effect, act as a “public subsidy” for these promotions. Allowing tax deductions for the promotion of these deadly products is an unacceptable situation which can be readily addressed.

¹⁴² **Rothmans, Benson & Hedges**, *Tobacco Manufacturers’ Profit Surtax*, December 10, 1997. <https://www.industrydocumentslibrary.ucsf.edu/tobacco/docs/tlfx0172>

¹⁴³ **Government of France**, *Décret n° 2016-1671 du 5 décembre 2016 portant création d’un fonds de lutte contre le tabac*. <https://www.legifrance.gouv.fr/eli/decret/2016/12/5/AFSS1624710D/jo/texte>

¹⁴⁴ **National Assembly of France**, « **Article 28 : Contribution sociale à la charge des fournisseurs agréés de produits du tabac** ». *Projet de Loi de financement de la sécurité sociale pour 2017*, texte adopté, session ordinaire de 2016-2017. <http://www.assemblee-nationale.fr/14/pdf/ta/ta0851.pdf>

¹⁴⁵ **Government of France** (Ministry of the Economy and Finance), *Projet de loi de financement de la sécurité sociale 2017: Dossier de presse*, 2016, page 46. http://social-sante.gouv.fr/IMG/pdf/2016-09-22_-_dp_plfss_2017_-_complet-sircom-vidicom.pdf

Although the law prohibits many forms of tobacco advertising, it continues to allow some forms of promotion. Manufacturers continue to spend money to pay for price/availability signs at points of sale, for promotional expenditures directed to wholesalers and retailers, and even to “reward” retailers for completing surveys that elicit their knowledge about tobacco products.

It is not only counter-productive for the government of Quebec to offer a tax break on these promotional expenditures, it is also ethically questionable. Canadian health organizations in Canada are calling for an end to this tax deduction.¹⁴⁶ The Framework Convention on Tobacco Control calls on Parties to the convention, including Canada, to prohibit all forms of advantage and promotion given to the tobacco industry.¹⁴⁷

There are several examples of business expenses for which partial or full tax deductibility cannot be claimed: These include:

- Only 50% of meal and entertainment expenses are deductible (Income Tax Act, article 67.1).
- Tax deduction is not permitted for broadcast advertising undertaken in the United States by Canadian companies (Income Tax Act, article 9.1).
- Tax deduction for advertising is not permitted for print media unless the medium is at least 75% Canadian-owned and it is written, edited and published in Canada (Income Tax Act, article 19).

All forms of tax avoidance, whether achieved through corporate restructuring, tax-deductibility of promotional expenses, or any other legislative loophole exploited by tobacco companies, offer opportunities for government to improve its taxation frameworks and to collect taxes that tobacco companies should be paying.

Recommendation 3:

The Coalition recommends that the Quebec government identifies options to counter inconsistencies in the current fiscal framework for tobacco (namely by eliminating tax deductibility for promotional expenses) and to address the tobacco industry’s other tax-avoidance strategies.

¹⁴⁶ **Canadian Coalition for Action on Tobacco**, *Advancing Public Health and Public Revenue: A Pre-Budget Submission to the House of Commons Standing Committee on Finance*, August 2016. <http://www.parl.gc.ca/Content/HOC/Committee/421/FINA/Brief/BR8398108/br-external/Canadian%20Coalition%20for%20Action%20on%20Tobacco-e.pdf>

¹⁴⁷ **FCTC Secretariat**. *Guidelines for the Implementation of Article 13. Framework Convention on Tobacco Control, 2008*. http://www.who.int/fctc/treaty_instruments/article_13_fr.pdf?ua=1

B. Price policy

In order to minimize or, ideally, to eliminate the perverse effects on tobacco consumption caused by competitive marketing and promotion strategies based on price, price standardization for tobacco products should be given serious consideration.

The World Health Organization recommends that governments work towards the “minimization of incentives for tobacco users to switch to cheaper brands or products in response to tax increases.”¹⁴⁸ A principal tobacco price policy objective should therefore be to minimize or to eliminate the price segmentation for tobacco products that currently exists in Quebec.

To address the problem of price segmentation, interventions will be needed at two levels: the wholesale price charged by manufacturers and the profit margins taken by retailers. These, with taxation, determine the retail price.

Regulating profit margins for retailers

In recent years in Quebec, tobacco manufacturers have exercised greater control over the final retail price for their products. They have accomplished this not only through the wholesale price but also by manipulating the profit margins of retailers through preferential pricing and other incentives.

It would be reasonable for the government to protect retailers against tobacco industry pressure within a new tobacco pricing policy, by standardizing the profit margins for retail tobacco sales. A standardized retail profit margin is practical and realistic, considering that it is common practice in many other business areas here and elsewhere.¹⁴⁹

For example, there are fixed marginal returns to bookstores and other suppliers in the book distribution chain in Quebec as specified in the *Act respecting the development of Québec firms in the book industry* and its related regulations.¹⁵⁰ This law was adopted to not only ensure the viability of booksellers, but also to serve the public interest in recognition of the “the fundamental importance of accredited bookstores in the development of books and reading,” as well as the role of “all involved in book production and distribution, from publishers to consumers, as partners in this development.”¹⁵¹ The *Regulation respecting the accreditation of Quebec distributors*

¹⁴⁸ **World Health Organization**, *Tobacco Free Initiative, Taxation*.
<http://www.who.int/tobacco/economics/taxation/en/>

¹⁴⁹ **Genakos C, et al.**, “The Impact of Maximum Markup Regulation on Prices”, London School of Economics and Political Science, September 2015. <http://cep.lse.ac.uk/pubs/download/dp1310.pdf>

¹⁵⁰ **Quebec Ministry of Culture and Communications**, *Loi et règlements s’appliquant à la lecture du livre*.
<https://www.mcc.gouv.qc.ca/index.php?id=1005>

¹⁵¹ **Quebec Ministry of Culture and Communications**, *Loi sur le développement des entreprises québécoises dans le domaine du livre*. <https://www.mcc.gouv.qc.ca/index.php?id=4385>

and the method of calculating sales prices requires distributors to agree to a profit margin of at least 40% for accredited bookstores for most books.¹⁵²

The concept of fixed retail profit margins for tobacco products also simplifies reflections concerning possible options for standardized prices. For example, if one assumes there are fixed margins at retail, then there is no need to devise mechanisms to prevent tobacco companies from “hogging” the available margin under a fixed price ceiling. Therefore, putting aside from the fixed government-imposed tax portion of price, we will combine the two other components of retail prices (wholesale price and retail mark-up) into a single “price” for the purpose of the following discussion.

1) Introduction to policy options for tobacco product pricing

There are many other examples of price regulation, including many in Canada. Provincial governments and the federal government have imposed price regimes in several sectors, especially as a response to monopolistic practices (for example: cable television, telephone and transportation). Governments want to ensure that consumers are not subjected to prices that are unfairly high because of the lack of competition.

Policy objectives for tobacco price standardization would be very different; the purpose would be to protect young people and other vulnerable populations from incitements to smoke.

Price regulation could take several forms, targeting one or more objectives and complementing other measures. Rules could target one or more of the following objectives:

- **Raise the market price floor** through a minimum price.
- **Reduce industry’s capacity to segment prices** by imposing a price ceiling that would limit profits generated by premium brands. The price in this case is the pre-tax price (made up of the wholesale price plus the retail profit margin).
- **Prohibit “temporary” price variations**, such as short-term price reductions promoting a brand or a “special edition”, short term blunting of the effect of a tax increase, or matching or undercutting the price of a competitor, by banning all discounting.
- **Prohibit variable pricing by geographic area**, by ensuring the same price for the same brand, regardless of retail location.

¹⁵² **Government of Quebec.** *Regulation respecting the accreditation of Québec distributors and the method of calculating sales prices.* <http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/D-8.1,%20r.%202>.

- **Prevent volume discounting**, such as lower unit prices for larger quantities like packs of 25, “duo-paks” or cartons of 200, by requiring the same price per cigarette for the same brands.
- **Completely eliminate price variations** by having a standardized price for each category of product. For example every cigarette would have the same price and every 34-gram package of chewing tobacco would have the same price.

2) Minimum price

Minimum price laws for tobacco were introduced decades ago in the United States as a way to ensure fair competition and to protect small retailers from predatory business practices.¹⁵³ They are now recognized as a potential way to protect public health from the risk of large tobacco companies using low prices to generate new customers, and are seen as a complement to excise taxes.^{154,155,156}

Half of all U.S. states currently have minimum price laws for cigarettes. These state laws vary in the minimum mark-up they require of wholesalers (2% to 6.5%), or retailers (6% to 25%).¹⁵⁷ They take varying approaches to protecting against the price discounts offered to wholesalers by manufacturers. The methods used in the U.S. laws were not designed to respond to circumstances similar to those now existing in Canada, where wholesale distribution has been replaced by direct contracting with manufacturers.

American public health advocates propose a variety of ways to establish minimum retail prices. These are:

- **A flat rate minimum price**, with a specific floor price below which no tobacco product may be sold.
- **A markup minimum price**, with a high minimum percentage markup at the retail level.
- **A hybrid flat rate or markup law**, requiring both a high minimum percentage and a price floor.¹⁵⁸

¹⁵³ **Tobacco Legal Consortium**, *Cigarette Minimum Price Laws*, July 2011
<http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-guide-cigminimumpricelaws-2011.pdf>

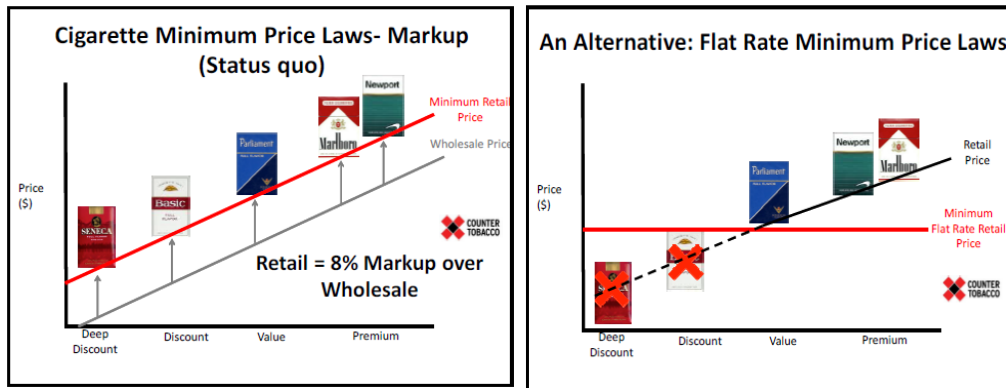
¹⁵⁴ **International Agency for Research Cancer**, *Effectiveness of Tax and Price Policies for Tobacco Control Handbook of Cancer Prevention, Volume 14*, 2014, page 89 <http://www.iarc.fr/en/publications/pdfs-online/prev/handbook14/>

¹⁵⁵ **Centers for Disease Control**, *State Cigarette Minimum Price Laws—United States*, 2009.
https://www.cdc.gov/tobacco/data_statistics/mmwr/byyear/2010/mm5913a2/highlights.htm

¹⁵⁶ **Huang J, et al.**, “Do state minimum markup/price laws work? Evidence from retail scanner data and TUS-CPS”, *Tobacco Control* 2016;25:i52-i59. http://tobaccocontrol.bmj.com/content/25/Suppl_1/i52.full

¹⁵⁷ **Tobacco Legal Consortium**, *Cigarette Minimum Price Laws*, July 2011
<http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-guide-cigminimumpricelaws-2011.pdf>

¹⁵⁸ **McLaughlin I, et al.**, “Reducing tobacco use and access through strengthened minimum price laws”, *American Journal of Public Health* 2014, Vol. 104(10):1844-1850.
<http://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2014.302069>.

Graphic 12: Differing approaches to minimum prices for tobacco¹⁵⁹

Jurisdictions outside the U.S. have also established minimum price laws.

- **Quebec** regulations require that the total cost of a purchase of tobacco other than cigarettes be at least 10 \$.¹⁶⁰ This measure was introduced to counter the single sale of little cigars and was particularly relevant before the federal law required them to be sold in packs of 20, which increased their price.
- Across **Canada** (as well as under **Quebec** law¹⁶¹) there is a minimum package size of 20 units for cigarettes, implemented to avoid making these available to young people in affordable “kiddy packs”. This restriction was extended to small cigars in 2009 through Bill C-32.
- In 2010, **Malaysia** implemented minimum price laws for cigarettes, as well as reporting requirements for manufacturers to provide data on retail sales prices. Other price promotions were also banned.¹⁶²
- **Brazil**¹⁶³ and **France**¹⁶⁴ have also implemented pricing policies which ensure that the same price per brand (determined by the industry) is in place across these countries. The policies in these countries are described in greater detail later, in the section dealing with standardized pricing.

¹⁵⁹ **Public Health Law Center**, “Policy Options for combating Tobacco Industry Price Discounting”, Webinar, April 3, 2012. <http://publichealthlawcenter.org/sites/default/files/Pricing%20Webinar%20-%20FINAL%20merged%20slides.pdf>.

¹⁶⁰ **Government of Quebec**, *Règlement d'application de la Loi sur le tabac, article 6*. <http://legisquebec.gouv.qc.ca/fr/ShowDoc/cr/L-6.2,%20r.%201>

¹⁶¹ **Government of Quebec**, *Tobacco Control Act* (Chapter L-6.2), article 20. <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/L-6.2>.

¹⁶² **Government of Malaysia**, *Control of Tobacco Product (Amendment) (No. 2) Regulations 2009*, 2009. <http://www.tobaccocontrolaws.org/files/live/Malaysia/Malaysia%20-%20TC%20Regs%202009.pdf>

¹⁶³ **Government of Brazil**, Law 12.546, December 14, 2011. <http://www.tobaccocontrolaws.org/files/live/Brazil/Brazil%20-%20Law%20No.%2012546.pdf>

¹⁶⁴ **Government of France** (Ministry of the Economy and Finance), *Revente de tabac*, 2016. <http://www.douane.gouv.fr/articles/a10945-revente-de-tabac>

Minimum pricing is also used in other areas of public health such as:

- “social reference pricing” for alcohol.¹⁶⁵
- In 2014, **British Columbia** imposed minimum prices on alcohol served in bars and restaurants, and banned happy hours.¹⁶⁶
- In its 2016 budget, the **Ontario** government implemented a minimum retail price for table wine, which was already in place for beer and spirits.^{167,168}

There is not yet an international consensus in support of cigarette price controls or minimum price laws.¹⁶⁹ The Guidelines for implementation for Article 6 (tax and price) of the Framework Convention on Tobacco Control suggests using specific taxes, such as the excise taxes already in place in Canada, to establish a minimum price. The WHO’s Technical Manual on Tobacco Tax Administration similarly advocates for a minimum tax (not price) floor.¹⁷⁰

In some jurisdictions, health groups have opposed minimum price laws, expressing concern that these serve to increase industry profits.¹⁷¹ Some health researchers have concluded that minimum price laws are ineffective unless accompanied by appropriately high tax levels and other measures aimed at curtailing price promotions.¹⁷²

Minimum price laws for tobacco and alcohol were attempted by a number of European countries (including Austria, Scotland and Ireland), but were found inconsistent with EU law and with goals that could be achieved through taxation.¹⁷³

The Coalition does not recommend the minimum markup approach at this time, as tobacco companies, which are both manufacturers and distributors, will be able to manipulate the wholesale price by virtue of their direct-to-store distribution system.

¹⁶⁵ **Chalmers J. et al.**, "Real or perceived impediments to minimum pricing of alcohol in Australia: public opinion, the industry and the law," *International Journal of Drug Policy*, 2013. [http://www.ijdp.org/article/S0955-3959\(13\)00076-5/fulltext](http://www.ijdp.org/article/S0955-3959(13)00076-5/fulltext).

¹⁶⁶ **Government of British Columbia** (Liquor Control and Licensing), *Policy Directive No. 14-07*, 2014. <http://www.pssg.gov.bc.ca/lclb/docs-forms/policy-directive-2014-07.pdf>

¹⁶⁷ **Government of Ontario**, *Regulation 116/10: Minimum pricing of liquor and other pricing matters*, 2010. <https://www.ontario.ca/laws/regulation/100116/v4>

¹⁶⁸ **Government of Ontario**, *Budget 2016*: <http://www.fin.gov.on.ca/fr/budget/ontariobudgets/2016/>

¹⁶⁹ **WHO Framework Convention on Tobacco Control**, *Guidelines for the Implementation of Article 6*. 2014. http://www.who.int/fctc/treaty_instruments/Guidelines_article_6_fr.pdf?ua=1

¹⁷⁰ **World Health Organization**, *WHO Technical manual on Tobacco Tax Administration*, 2010, page 18. http://apps.who.int/iris/bitstream/10665/44316/1/9789241563994_eng.pdf

¹⁷¹ **International Agency on Cancer**, *Effectiveness of Tax and price policies for Tobacco Control Handbook of Cancer Prevention*, Volume 14, 2014, pages 83-84. <http://www.iarc.fr/en/publications/pdfs-online/prev/handbook14/>

¹⁷² **Feighery EC, et al.**, "How do minimum cigarette price laws affect cigarette prices at the retail level?", *Tobacco Control* 2005. <http://tobaccocontrol.bmj.com/content/14/2/80.full>

¹⁷³ **European Union Court of Justice**. *Legislation in France, Austria and Ireland fixing minimum retail prices for cigarettes infringes European Union law*, communiqué, 4 March 2010. http://europa.eu/rapid/press-release_CJE-10-21_en.htm

3) Price ceilings

Price cap regulations were initially implemented by electricity regulators, and are in place in the electricity sector in several Canadian and international jurisdictions.¹⁷⁴ They have also been used in Canada to address health-related and other market issues, such as generic drug pricing and telephone services.

In Quebec, the *Petroleum Products Act*¹⁷⁵ authorizes the government to act in the public interest by setting maximum prices for the sales and distribution of petroleum products.

“68. Where in its opinion such action is required in the public interest, the Government may fix, by an order in council, the maximum price at which a petroleum product may be sold or distributed.

The order in council may concern

(1) one or several petroleum products;

(2) the price or its components, except any component in relation to a duty or tax levied pursuant to any law of the Parliament of Canada;

(3) all or part of the territory of Québec.”

This law’s purpose is to prevent actions by suppliers to artificially raise the price consumers pay for gas.

In the case of tobacco, the public interest is served by disallowing price strategies that allow manufacturers and retailers to sell certain brands at strategically high prices (aimed at increasing tobacco company profits), that allow them to support the sale of other brands at artificially low prices, and still be in a position to fund marketing, litigation and lobbying activities.

Regulated pricing with (pre-tax) price caps has been proposed as a way to respond to the industry’s pricing and marketing strategies including segmentation.^{176,177} Limiting the profit margin on premium brands also allows for this space to be replaced with taxes.

“By setting price caps close to the level of production costs, authors argue that the large companies that currently dominate the market will no longer be able to target specific audiences with low prices, because they cannot make up the profit loss

¹⁷⁴ **Elenchus Research Associates Inc.**, *Performance Based Regulation: A review of design options as background for the review of PBR for Hydro Québec Distribution and Transmission Divisions*, 2015. <http://studylib.net/download/12197264>

¹⁷⁵ **Government of Quebec**, *Petroleum Products Act*, article 68. <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/P-30.01>

¹⁷⁶ **International Agency for Research Cancer**, *Effectiveness of Tax and price policies for Tobacco Control Handbook of Cancer Prevention, Volume 14*, 2014. Page 356. <http://www.iarc.fr/en/publications/pdfs-online/prev/handbook14/>.

¹⁷⁷ **Golden SD et al.**, "Beyond Excise Taxes: a systematic review of literature on non-tax policy approaches to raising tobacco product prices", *Tobacco Control*, 2016. <http://tobaccocontrol.bmj.com/content/25/4/377.full>.

*through higher prices on other products or in other venues. Implemented by itself a price cap would then compress prices, but might actually lower average product prices. Supporters of price caps therefore recommend pairing them with high excise taxes.*¹⁷⁸

As previously discussed, tax increases give tobacco companies an opportunity to discretely tack on a manufacturers' price increase. In a 2010 paper, Gilmore and colleagues¹⁷⁹ explain that a wholesale price cap guarantees that when consumers pay an increase in price, the full amount of that increase is tax revenue, and no part of it goes to increase tobacco company revenue. (The authors also said that price caps could be regularly adjusted to reflect the actual costs of production and distribution.)

4) Standardized pricing

The same price for every brand

Having the same price for every brand would mean manufacturers could no longer sell at different prices to different retailers as they currently do. More importantly, standardized pricing would prevent the companies from redesigning their retail rebate programs to skirt the intent of the newly-introduced restrictions on retailer incentives and programs designed to ensure the availability of lower priced products, as previously discussed.

Some jurisdictions already have the same price by brand:

- In **Brazil**, tobacco companies are not allowed to sell below a minimum price. This minimum has increased over the years. Since 2012, they have been obliged to report to government authorities their price lists by brand and by brand variant.¹⁸⁰ The price for each product must be the same everywhere in Brazil,^{181,182} except for price variations due to differing rates of taxation in different states.¹⁸³

¹⁷⁸ **World Health Organization**, *Taxation*, referenced January 26, 2017, page 2. <http://www.who.int/tobacco/economics/taxation/en/>.

¹⁷⁹ **Gilmore AB, et al.**, "The case for OFSMOKE: how tobacco price regulation is needed to promote the health of markets, government revenue and the public", *Tobacco Control*, 2010. <http://tobaccocontrol.bmj.com/content/19/5/423.full>

¹⁸⁰ **Gigliotti A, et al.**, "How smokers may react to cigarette taxes and price increases in Brazil: data from a national survey", *BMC Public Health* 2014; 14: 327. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3991916/#B16>

¹⁸¹ **Philip Morris Brasil Indústria E Comércio Ltda**, *Rreceita federal* liste des prix au recueil fédéral, September 21, 2016. http://cqct.qc.ca/Documents_docs/DOCU_2016/INDU_16_09_21_ListePrixBresil_PHILIP_MORRIS.pdf

¹⁸² **Government of Brazil**, *LawNo. 12.546*, articles 20. 14 December 2011. <http://www.tobaccocontrolaws.org/files/live/Brazil/Brazil%20-%20Law%20No.%2012546.pdf>

¹⁸³ **Gigliotti A, et al.**, "How smokers may react to cigarette taxes and price increases in Brazil: data from a national survey", *BMC Public Health* 2014; 14: 327. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3991916/#B16>

- In **France**, tobacco retailing is regulated by the Ministry of the Economy and Finance (Ministère de l'économie et des finances), and the prices are approved by the government.^{184,185} Each brand/packaging variation has a set price across the country (overseas territories excepted). Cigarettes are sold at different price levels which are (sadly) set by the industry. However, the price differential between lowest and highest prices for a pack of 20 cigarettes in France, of €0.5 or \$0.70, is less extreme than it is in Quebec, where a price spread of \$4 to \$6 is not uncommon.¹⁸⁶ For cigarettes purchased in suburban Montreal in January 2017, the after-tax price difference between lowest and highest price brands was \$3.20.¹⁸⁷

The same unit price for each category of tobacco product

Only by requiring the same price per unit for each category of tobacco product (such one price for all cigarette) can we bring an end to all price manipulation strategies employed by the tobacco industry to encourage tobacco use and maximize profits. Requiring the same price per unit for every category would:

- ✓ End segmentation by brand.
- ✓ End loss leaders and sales below the cost of production.
- ✓ Eliminate the risk of unofficial price-based agreements with retailers that circumvent the new law and other industry-initiated retail price fixing.
- ✓ End discounts for larger volume purchases.
- ✓ End temporary price cuts.

¹⁸⁴ **Government of France**, "Arrêté du 3 March 2016 modifiant l'arrêté du 4 février 2015 portant homologation des prix de vente au détail des tabacs manufacturés en France, à l'exclusion des départements d'outre-mer", Journal officiel de la République française, 2016, article 1. http://bdoc.ofdt.fr/doc_num.php?explnum_id=22234.

¹⁸⁵ **Government of France. Direction générale des douanes et droits indirects**, *La revente de tabac*, November 2016. <http://www.douane.gouv.fr/Portals/0/fichiers/professionnel/fiscalite/tabac-fiche-info-revente-nov-2016.pdf>

¹⁸⁶ **Government of France**, "Arrêté du 3 March 2016 modifiant l'arrêté du 4 février 2015 portant homologation des prix de vente au détail des tabacs manufacturés en France, à l'exclusion des départements d'outre-mer", Journal officiel de la République française, 2016, annexe. http://bdoc.ofdt.fr/doc_num.php?explnum_id=22234

¹⁸⁷ Cash register receipt, **Montreal convenience store**. 5 January 2017. http://cqct.qc.ca/images/2017/Prix_PallMall_Matinee_17_01_05_BanlieuDeMontreal_ANON.jpg

Impact on → Measure ↓	Price segmentation by brand:	Loss leaders/ products sold below cost:	Preferential pricing for some retailers:	Volume discounts:	Temporary price reductions:
Price cap	✓ (still possible, but less widespread)	✓ (still possible, but less profitable for tobacco companies)	✗ (still allowed)	✗ (still allowed)	✗ (still allowed)
Minimum price	✗ (still possible, but the price range will start higher)	✓ (more difficult - depending on the threshold price established)	✗ (still allowed)	✗ (still allowed)	✗ (still allowed)
Stable price over time	✗ (still allowed)	✗ (still allowed)	✗ (still allowed)	✗ (still allowed)	✓ (eliminated)
The same price by brand	✗ (still allowed)	✗ (still allowed)	✓ (eliminated)	✗ (still allowed)	✗ (still allowed)
The same price by unit and brand	✗ (still allowed)	✗ (still allowed)	✓ (eliminated)	✓ (eliminated)	✗ (still allowed)
The same price by unit for every category of tobacco product	✓ (eliminated)	✓ (eliminated)	✓ (eliminated)	✓ (eliminated)	✓ (eliminated)

On the other hand, requiring the same unit price for each category of product may have perverse effects that need to be weighed against the long-term benefits for public health they could bring. These include:

- The risk of market disruption if prices are raised by too much too quickly, particularly if the new standard price is a great deal higher than the prices of discount cigarettes currently on the market.

- The risk that smokers who are used to paying more for premium cigarettes might smoke more or be less likely to quit if the new standard price is lower than the preceding price of premium brands (or lower than the average price). That being said, this risk should be assessed in the context that smokers of higher-priced cigarettes are less price-sensitive than the smokers of discount brands, which were already just as available to them as premium brands.
- The risk that the tobacco industry will have higher profits if the new standard price is higher than the current price of discount brands, given that discount brands predominate in the marketplace.
- The risk that tax revenues may fall if it is the tobacco industry and not the government that occupies the price room between the current price for discount brands and the new, higher standard price.

Of course, all of these risks should be weighed against the benefits of price standardization. Consideration can also be given to ways to minimize these risks. With that in mind, it might be relevant to establish a new pricing policy in progressive stages. For example, an initial step could be to create a minimum price with further steps leading eventually to standardized pricing.

Predictive modelling and further policy analysis of possible outcomes and repercussions, both positive and negative, will be necessary to determine the optimal standard price and the steps needed establish it with the least disruption to the marketplace.

One consideration is the forthcoming implementation by the federal government of plain and standardized packaging. This will require nearly identical packaging for cigarettes. Ideally, standardized packaging and standardized pricing would be brought into force simultaneously, especially given that the industry is expected to respond to standardized packaging by increasing the intensity of price diversification, as they have done in Australia.^{188,189} With standardized packaging in effect, brand names and pricing are the only visible features that distinguish cigarette brands.

Pricing plays a role in cigarette branding, as detailed in the recent WHO/NCI report. Tobacco companies use price differentials to help create a distinctive image for each brand, thus ensuring diversity among brands. In marketing, vertical price segmentation is achieved by pricing cigarettes from high to low with reference to their quality. With price as a marker, one brand can be seen to be of higher or lower quality than another. As a general rule, better products have higher prices because of

¹⁸⁸ **Scollo M, et al.**, "Did the recommended retail price of tobacco products fall in Australia following the implementation of plain packaging?", *Tobacco Control* 2015;24:ii90-ii93. http://tobaccocontrol.bmj.com/content/tobaccocontrol/24/Suppl_2/ii90.full.pdf

¹⁸⁹ **Scollo M, et al.**, "Tobacco product developments coinciding with the implementation of plain packaging in Australia." *Tobacco Control* 2015;24:e116-e122. <http://tobaccocontrol.bmj.com/content/24/e1/e116.extract>

higher production costs and qualities highly desired by consumers. *“In the case of tobacco products, ‘better’ means more appealing to consumers; it does not mean less damaging to health.”*¹⁹⁰

In a recently published study, smokers were asked to smoke two cigarettes that were identical, although they were presented in different packages, one a premium brand package and the other a discount brand package. In the main, smokers rated the cigarettes from the premium package as tasting better, being less irritating and moister than the identical cigarettes from the discount brand package. This observation was true regardless of whether it was discount cigarettes or premium cigarettes in the two packages. Most smokers in this study claimed they were capable of discerning between premium and discount cigarettes. The authors concluded that cigarette pricing and cigarette price advertising are effective marketing strategies, and that restricting price advertising and standardized pricing could reduce false perceptions of differences among brands.¹⁹¹

Recommendation 4:

The Coalition recommends that the Quebec government develop a new price policy for products subject to tobacco excise taxes in order to minimize, or ultimately eliminate, industry price-based manipulations that encourage tobacco use. The implementation of this policy could rely on various levers, including a pre-tax price ceiling for each product category, regulated profit margins (or mark-ups) at the retail level, and, eventually, price standardization by product category

C. Effective tobacco price monitoring

Achieving the long-term goal of the recommendations proposed here will be a long-term exercise. Whatever price policy the government chooses, it will need to have readily available, reliable data on price segmentation and the trends in tobacco prices in Quebec.

A decade has passed since Canadian tobacco companies introduced multi-price marketing to Quebec and the impact of these promotions on smoking rates is still unmeasured. Efforts to analyze their effect have been hindered by an absence of data available to health researchers or policy-makers, despite the fact that this information has been collected.

¹⁹⁰ **National Cancer Institute and the World Health Organization**, « The Economics of Tobacco and Tobacco Control », Page 181, 10 January 2017. <http://www.who.int/tobacco/publications/economics/nci-monograph-series-21/en/>

¹⁹¹ **Skaczkowski G, et al.**, "Influence of premium versus value brand names on the smoking experience in a plain packaging environment: an experimental study". *British Medical Journal*, 16 January 2017. <http://bmjopen.bmj.com/content/7/1/e014099>

- Tobacco company sales representatives currently monitor retailer compliance with pricing agreements, and electronically gather pricing information on all brands (including competitors) in their retail visits.¹⁹² This information is not reported to government, and it is not made public.
- ACNielsen collects information from cash registers in selected convenience stores. When aggregated, this information is theoretically available for sale, and is believed to have been sold to some government departments.
- Tobacco manufacturers are required to provide monthly information to Health Canada on the quantities of cigarettes they sell for each brand, as well as the wholesale price.¹⁹³ These requirements have been in place since 2000, but no data has been released to the public, even in aggregated anonymized form. In 2003, Health Canada reversed its policy of making per-brand sales data available through the provisions of the *Access to Information Act*.

In sum, a lot of data is disclosed (by retailers to manufacturers and ACNielsen, and by manufacturers to government), but there is very little public access to it. This has made it difficult to assess the impact on public health of industry's pricing practices and strategies.

“Sunshine laws” have been proposed as a way to address price promotions.¹⁹⁴ This approach goes beyond disclosure in that it is aimed at providing public exposure of tobacco marketing. This has the potential to denormalize and reduce such marketing strategies, to create public awareness of tobacco industry marketing and to provide data that can be used to build more effective tobacco control policies.

Quebec has implemented price monitoring for petroleum products, managed through the Quebec energy authority (Régie de l'énergie).¹⁹⁵ The government has had legislative authority since 1998 to require tobacco manufacturers and distributors to report on a range of information that the “Minister considers necessary to protect public health” including sales volume, range of products marketed, amount spent on promotion and advertising and other information.¹⁹⁶

The current federal reporting requirements provide a foundation for this approach. These regulations could be modernized and adapted to Quebec in order to be more responsive to the current marketing practices of the industry and to facilitate analysis

¹⁹² Personal communication with form ITL sales representative and retailers, July 2016.

¹⁹³ **Government of Canada**. Tobacco Reporting Regulations. (DORS/2000-273) Part 5, 2000. <http://laws-lois.justice.gc.ca/fra/reglements/DORS-2000-273/index.html>.

¹⁹⁴ **Tobacco Control Legal Consortium**, Sunshine laws. *Requiring Reporting of Tobacco Industry Price Discounting and Promotional Allowance Payments to Retailers and Wholesalers*, 2012. http://publichealthlawcenter.org/sites/default/files/resources/tclc-guide-sunshinelaws-tobaccocontrol-2012_0.pdf

¹⁹⁵ **Régie de l'énergie du Québec**, *Produits pétroliers : informations utiles*, accessed January 25, 2017. http://www.regie-energie.qc.ca/energie/petrole_tarifs.php

¹⁹⁶ **Government of Quebec**, *Tobacco Control Act* article 30. <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/L-6.2>

of the effects of this marketing on public health. Strengthening these regulations could include:

- Requirements for reports on all promotional payments or gifts given to retailers, including compensation for training, rebates, cash-cards, discounts, free trips, hockey tickets, etc.. Under article 21.1, payments and gifts are prohibited only if they are linked to price and sale conditions.
- Disclosure by the industry to government of its market data and pricing variance (by brand, in time, by region and by retailer) as well as the rationale underlying these variations.
- Public disclosure of this information, as well as any governmental analyses of this information.

Recommendation 5:

In order to support the development and implementation of an effective price policy, the Coalition recommends the implementation of a surveillance system to monitor wholesale and retail prices for all tobacco brand and brand variants across Quebec, and ensure that this data be readily available to the public.

5. COMPLEMENTARY MEASURES

Many price-based promotions for tobacco are already illegal in Quebec. Cigarettes may not be given away, and cannot be sold through coupons or prize offerings. Nevertheless, existing laws have some weaknesses that could be rapidly corrected, pending the development of a new, comprehensive tobacco pricing policy.

1) Closing the loophole on volume discounts

Article 21 of the Quebec *Tobacco Control Act* specifies that “The operator of a business and a manufacturer or a distributor of tobacco products may not ... reduce the retail price of tobacco on the basis of quantity.”¹⁹⁷ This prohibition is, however, qualified with an exception in the same clause: “otherwise than as part of regular marketing operations by the manufacturer.”

The exception was likely included with reference to the business practices in place at the time the law was written, but there has been nothing in place to prevent the companies from changing these practices. Faced with increasing restrictions on traditional forms of promotion, it has increasingly turned to price and quantity as its main selling proposition and to encouraging retail sales practices that will drive

¹⁹⁷ Government of Québec, *Tobacco Control Act*, article 21. <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/L-6.2>

purchase. Already, we see that the offer of cheaper “duo-packs” is limited to selected retailers. It would seem that these selected retailers are the ones who have met certain “criteria” set by the tobacco manufacturers.

In Australia, tobacco companies have gone so far as to create pack sizes of 21 and 23 cigarettes, thereby offering 1 or 3 cigarettes as “bonuses”. Nothing prevents the tobacco industry from doing likewise in Quebec.

The practice of varying pack sizes and creating volume discounts is yet another means by which the tobacco industry can blunt the impact of tax increases with ever-greater price segmentation, even within the same brand or brand family.

There is no public health justification for the types of volume discounts that are currently on offer, nor for those that we are likely to see in the future.

Recommendation 6:

Pending implementation of a new pricing policy, the Coalition recommends the elimination of price promotions such as price discounts based on quantities sold.

2) Prohibiting price advertising at points of sale

Quebec and federal tobacco laws have made explicit provisions to allow for the price of cigarettes to be communicated to consumers, such as the exemption for “advertising that is intended to provide consumers with factual information about a tobacco product, including information about the price or the intrinsic characteristics of a tobacco product and about brands of tobacco products.”¹⁹⁸

Quebec law permits the display of price boards at retail and this fuels price segmentation, in addition to advertising the lowest prices available. Regulations stipulate the maximum size of these boards, the maximum number that can be displayed as well as permitted colours.

These restrictions limit non-verbal communication of brand imagery such as colour (blue for masculine brands, pink for feminine brands, green for “less hazardous” brands, etc.). However, they do not limit price-based marketing strategies. On the contrary, these price signs, visible to all customers, afford the manufacturers a powerful promotional tool to communicate price segmentation to the public. Even in the eight provinces where brand names are not allowed (Quebec and Alberta are the exceptions), tobacco companies advertise prices by category.

¹⁹⁸ Government of Quebec, *Tobacco Control Act* article 24. <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/L-6.2>.



Price sign in Ontario (2011)



Price sign in Saskatchewan (2007)

Price signs seen by all customers are powerful marketing tools for price-based marketing strategies.

Recommendation 7:

The Coalition recommends that the Quebec government forbid price and availability signs in retail stores, so as to not fuel price wars and price segmentation (prices can already be conveyed by other means, such as a binder placed on the counter).

6. THE INDUSTRY'S CONTRIBUTION TOWARDS THE COST OF GOVERNMENT INTERVENTIONS

As indicated in the Coalition's letter to Minister Leitão in October 2016 (Appendix I), the annual \$1.1 billion in tobacco tax revenues received by the Quebec government are paid by smokers, not by the tobacco industry. It is a scandal in and of itself that these excise tax revenues are not sufficient to cover the direct health care costs associated with tobacco use (more than \$1.6 billion), an imbalance that is even more unacceptable in the context of the absence of any benefit from tobacco use to society in general.

In light of this deficit, the government is justified in ensuring that it is the industry and not the taxpayers who underwrite the costs to government of monitoring the tobacco market, implementing interventions to reduce tobacco use and controlling contraband sales (about \$50 million annually).¹⁹⁹

¹⁹⁹ **Quebec Ministry of Health and Social Services**, *Informations concernant les investissements pour la lutte au tabagisme*, 2015. http://www.msss.gouv.qc.ca/ministere/acces_info/documents/demandes_acces/2015-2016/2015-2016-072-Document.pdf

Levies or licence fees can be used for this purpose. Unlike excise taxes, such fees are imposed on manufacturers to recoup the regulatory and other costs associated with tobacco use.

Generating new revenue from such an approach could ensure the sustainability of tobacco control programs as long as the source of the epidemic exists. It would also free up resources that could be used to support other preventive health programs, health care or other government priorities.

Quebec, like other jurisdictions, has already implemented licence fees in other areas to recover some or all of the costs to government of activities which create risks, such as the inspection or other regulatory costs related to the manufacturing, distribution or sales. Examples of such fees can be found in relation to alcohol, pesticides, or the management of industrial waste and environmental damage:

- Quebec's alcohol and gaming authority (*Régie des alcools, du jeu et des courses du Québec*) imposes annual licence fees on alcohol manufacturing for large breweries, as well as manufacturers of gaming devices.²⁰⁰
- Quebec's environment law adopts a similar approach, using certificates or operating permits for facilities which release pollutants into the environment, with an annually adjusted fee to which additional fees are added, depending on the extent and nature of the waste.²⁰¹ Fees are also imposed to "to cover the costs of control and monitoring measures, particularly the costs of inspecting facilities and examining information or documents provided to the Minister, the conditions of payment and the interest payable in case of non-payment, and exempt from payment of all or part of the fees, on the conditions the Minister determines, a holder who has set up an environmental management system that meets a recognized Québec, Canadian, or international standard."²⁰²

By failing to implement an annual license fee on tobacco manufacturers, the government is in effect giving this sector preferential treatment compared with other regulatory fee-paying industries. This is not fair to companies operating in these other sectors. An even greater injustice is done to those who suffer the consequences of the tobacco market (damage to their health, increased costs of health care and other social and economic costs to the community) while the industry continues to receive billions in profits. This situation is unfair to other industries, but is also unfair to taxpayers, on whom the costs of the tobacco industry (health damage, increased health care costs) are externalized. The current situation is incoherent both with the

²⁰⁰ **Régie de l'alcool, des courses et des jeux du Québec**, *Frais et droits payables – 1 January 2017 (Secteur alcool)*, https://www.racj.gouv.qc.ca/fileadmin/documents/Accueil/Formulaires_et_publications/Formulaires/Alcool/RACJ-1047A.pdf

²⁰¹ **Quebec Ministry of Sustainable Development, Environment and Parks**. *Ministerial Order concerning the fees payable under the Environment Quality Act*. <http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/Q-2,%20r.%2028>

²⁰² **Government of Quebec**, *Environment Quality Act* (Chapter Q-2), article 31(t), <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/Q-2;> <http://www.mddelcc.gouv.qc.ca/ministere/tarification/documents/arrete.pdf#page=10>

government's ongoing legal efforts against the companies and with its other efforts to address the damage caused by this industry.

1) License fees for manufacturers and importers

Manufacturers, importers, retailers and other suppliers of tobacco products are already required to register under Quebec law.²⁰³ To date there are no fees attached to this registration.

In 2013, the Coalition reviewed the use of such fees in several U.S. jurisdictions.²⁰⁴ The largest and best known of these is the one implemented by the United States Food and Drug Administration, which recovers user fees from tobacco manufacturers and importers, based on market share.²⁰⁵ In 2016, almost US\$600 million was collected.²⁰⁶ The revenues collected this way are spent on public education, regulatory science, regulatory activities and enforcement.²⁰⁷

Such permits could be issued, at least in part, by the health ministry and subject to payment by the manufacturer or importer. The assessment on companies could be made on an annual basis.

The total amount of the fee could be established to ensure the recovery of annual government spending on tobacco control interventions, including the tobacco control department or the *Service de lutte contre le tabagisme* (\$17 million), cessation therapy (\$12.7 million) and contraband control (\$19 million).²⁰⁸

Finally, each licence fee should be weighted according to market share. Given current government investment of about \$50 million per year in tobacco control activities (excluding legal fees), Imperial Tobacco, with 50% of the Canadian market and a resumed similar percentage of the Quebec market, would pay \$25 million for its permit.²⁰⁹

²⁰³ **Revenu Québec**, *Détention d'un permis - Impôt sur le tabac*.
<http://www.revenuquebec.ca/fr/entreprises/taxes/tabac/detention-permis.aspx>

²⁰⁴ **Coalition québécoise pour le contrôle du tabac**, *Tarifification de la mise en marché, de la distribution et de la vente du tabac au Québec*, March 2013.
http://cqct.qc.ca/Documents_docs/DOCU_2013/MEMO_13_03_25_Tarifification.pdf

²⁰⁵ **U.S. Government Accountability Office**, *Tobacco Product Regulation*, 2014, page 8.
<http://www.gao.gov/assets/670/664279.pdf>

²⁰⁶ **U.S. Food and Drug Administration**, *FY 2016: Tobacco User Fee Yearly Allocation Formulation by Product Class Under Section 919 of the Federal Food, Drug, and Cosmetic Act User Fees*, 2016.
<http://www.fda.gov/downloads/TobaccoProducts/Labeling/RulesRegulationsGuidance/UCM462190.pdf>

²⁰⁷ **U.S. Government Accountability Office**, *Tobacco Product Regulation*, 2014, page 8.
<http://www.gao.gov/assets/670/664279.pdf>

²⁰⁸ **Quebec Ministry of Health and Social Services**, *Informations concernant les investissements pour la lutte au tabagisme*, 2015. http://www.msss.gouv.qc.ca/ministere/acces_info/documents/demandes_acces/2015-2016/2015-2016-072-Document.pdf

²⁰⁹ **Non-Smokers' Rights Association**. *Backgrounder on the Canadian tobacco market*, Spring 2015.
https://www.nsr-aadnf.ca/cms/file/files/2015_Canadian_Tobacco_Market.pdf

Recommendation 8:

The Coalition recommends that the government of Quebec establish a licence fee for manufacturers and importers of tobacco products that will completely offset the government's tobacco control costs, including anti-contraband interventions.

2) Licence fees for retailers**Recommendation 9:**

The Coalition reiterates its previous recommendation in support of the Godbout report, that the government of Quebec establish a tobacco retailer's licence fee of approximately \$250 per year to completely offset the cost of monitoring and enforcing retail related regulations.²¹⁰

The 2015 report of the Quebec Taxation Review Committee (the Godbout report) recommended implementing a \$250 licence fee on tobacco retailers. It estimated that this fee would generate \$2 million a year, and would defray the costs to the Ministry of Health of inspecting retailer compliance with regulations on retail signs and posters and display of tobacco products.²¹¹ The new financing would allow the Ministry to strengthen its financing and improve its inspection service (with 26 inspectors for tobacco and other sectors), as well as freeing up resources for other tobacco control or public health measures.

Retailer licence fees could be established through regulations developed and managed by the health ministry. In setting the fees, consideration could be given to imposing higher fees where there are additional costs or concerns, such as retailers located in close proximity to schools, or the creation of new retail locations, especially where there is already a high density of cigarette outlets. Inflationary adjustments could be made to the annual fee. As a matter of comparison, the 2017 licence fee for the sale of tobacco in the city of Ottawa was 877 \$.²¹²

²¹⁰ **Commission d'examen sur la fiscalité québécoise**, *Se tourner vers l'avenir du Québec*, vol. 2, March 2015, page 125. http://www.examenfiscalite.gouv.qc.ca/uploads/media/Volume2_RapportCEFQ.pdf

²¹¹ **Commission d'examen sur la fiscalité québécoise**, *Se tourner vers l'avenir du Québec*, vol. 2, March 2015, page 125. http://www.examenfiscalite.gouv.qc.ca/uploads/media/Volume2_RapportCEFQ.pdf

²¹² **City of Ottawa**, Tobacco vendor licence. <http://ottawa.ca/fr/entreprises/permis-dentreprise-demandes-et-permis/permis-dentreprise>

CONCLUSION

The tobacco industry has been able to suppress the price of cigarettes in Quebec through a sequence of political and marketing manoeuvres.

- In the 1990s, the tobacco companies forced the government to reduce tobacco excise taxes by 70%.
- Since 2000, they have stoked fears of tobacco contraband for the express purpose of delaying or halting tax increases. They have succeeded.
- Since 2004, they have completely restructured their marketing strategies, giving a central role to price, in order to minimize the public health benefit of tobacco taxes.

The result is the continued availability of cheap cigarettes in Quebec, and virtually no increase in the real price of discount brands over the past decade, despite tax increases.

The Quebec government has made an initial response to the emergence of price-based promotions banning rebates, discounts and benefits paid to retailers which are related to the sale or retail price of cigarettes. These measures, which have just come into force, will continue to allow the companies to promote the price of cigarettes and to minimize the impact of tobacco taxes on smokers.

Measures are available to government to strengthen public controls over tobacco sales, and to reduce the capacity of the companies to recruit or sustain customers through price segmentation. The government can also oblige the tobacco industry to pay a larger portion (ideally, the total) of the costs now paid by the government to reduce tobacco use and contraband tobacco.

The Quebec government's power to raise taxes and improve its controls on tobacco prices can even be seen as a political and moral obligation: using these powers would save innumerable Quebecers from painful deaths that are completely avoidable, since they are caused by a product that has neither legitimate use nor benefit for society.

APPENDICES



COALITION QUÉBÉCOISE
POUR LE CONTRÔLE DU TABAC

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Montréal, le 18 octobre 2016

Monsieur Carlos Leitão
Ministre des Finances
Gouvernement du Québec
12, rue Saint-Louis, 1^{er} étage
Québec, QC G1R 5L3
Courriel : ministre@finances.gouv.qc.ca

Objet : Optimisation des politiques fiscales québécoises sur le tabac

Monsieur le Ministre,

À l'approche de la mise à jour budgétaire prévue le mois prochain, la Coalition québécoise pour le contrôle du tabac souhaite vous transmettre une série de recommandations concernant les aspects fiscaux de la lutte contre le tabac, soit la première cause de maladies évitables et de décès prématurés au Québec. En effet, bien que la Coalition se soit surtout concentrée ces dernières années sur la mise en œuvre de mesures antitabac non fiscales, notamment celles adoptées dans le cadre de la révision de la Loi concernant la lutte contre le tabagisme en novembre 2015, nous souscrivons à l'avis largement partagé par les experts en santé publique à l'effet que les mesures fiscales touchant le tabac peuvent être tout aussi importantes dans une perspective de réduction du tabagisme.

Nous souhaitons donc partager avec vous nos réflexions concernant les diverses options visant, entre autres,

- à maximiser l'effet dissuasif du prix du tabac,
- à mettre à contribution les fabricants et les commerçants de tabac pour éventuellement autofinancer les efforts gouvernementaux pour encadrer le commerce du tabac et réduire le tabagisme,
- et à augmenter les budgets pour mieux soutenir les programmes, services, campagnes et autres interventions (inspections, etc.) du ministère de la Santé en matière de lutte antitabac.

Nos demandes viennent bonifier celles qui vous avaient été adressées dans une lettre datant de 2015¹.

Sans vouloir minimiser le fardeau inestimable que constituent la souffrance et les pertes en vies humaines encourues au Québec par plus de 10 000 victimes du tabac et leurs proches chaque année, la présente lettre se concentrera principalement sur des enjeux financiers. Après tout, comme votre Ministère le soulignait dans le budget 2013-2014, le tabagisme « *impose au système de santé des coûts estimés à 1,6*

¹ Coalition québécoise pour le contrôle du tabac, lettre au ministre des Finances, 17 mars 2015.
http://cqct.qc.ca/Documents_docs/DOCU_2015/MEMO_15_03_17_Recommandations_MinFinances_2015.pdf

milliard de dollars par an »².

En d'autres mots, à eux seuls les coûts directs du tabac éclipsent de loin l'ensemble des revenus provenant de la taxe provinciale sur le tabac, qui étaient de 1,093 milliard \$ en 2015-2016³. À cet écart assumé par l'État s'ajoutent les quelque 20 millions \$ investis par le gouvernement dans le programme de lutte au tabagisme (comprenant les efforts de sensibilisation, de prévention, de cessation et d'inspection du MSSS), ainsi que les 17,8 millions \$ en fonds publics qui soutiennent la stratégie anti-contrebande du gouvernement⁴.

Progrès de la lutte contre la contrebande

Force est de constater que le gouvernement du Québec demeure hésitant face aux hausses de la taxe spécifique sur le tabac, sans doute en raison de la proximité de grands centres urbains comme Montréal avec des réserves autochtones reconnues pour être des lieux de fabrication ou de transit à grande échelle de cigarettes de contrebande. Toutefois, les multiples mesures déployées par Québec dans le cadre de son programme ACCES-Tabac et de sa stratégie multi-ministérielle, couplées aux interventions concertées du gouvernement fédéral et de l'Ontario, ont fait leur preuve, avec un taux de contrebande passant de plus de 30 % du marché québécois en 2009 à 15 % depuis 2011⁵.

Par ailleurs, de nombreuses mesures instaurées depuis plusieurs années au Québec dans le cadre de la lutte à la contrebande du tabac sont maintenant en vigueur dans d'autres provinces, notamment chez nos voisins ontariens. L'Ontario a profité de son dernier budget pour confirmer sa volonté d'aller plus loin en travaillant avec ses vis-à-vis fédéraux et avec d'autres provinces pour mieux contrôler l'accès aux matières premières utilisées pour la fabrication de cigarettes, dont les filtres d'acétate⁶ qui ne sont actuellement pas contrôlés par Québec. Quant au Nouveau-Brunswick, tout en rattrapant le niveau de taxation de la Nouvelle-Écosse (le 1^{er} février dernier), il a annoncé un renforcement de sa stratégie anti-contrebande par l'établissement d'une unité spécialisée au sein de ses équipes de sécurité publique⁷. Les interventions des autres provinces placent les efforts du Québec dans un environnement global toujours moins favorable à la contrebande.

Cela dit, le bas niveau de la taxe spécifique québécoise handicape sévèrement les politiques de taxation des provinces avoisinantes, fragilisant notamment leur commerce à proximité des frontières provinciales, sans parler des impacts sur le tabagisme au Québec et dans ces autres populations. Terre-Neuve-et-Labrador a même un taux de taxation du tabac plus faible pour son territoire adjacent au Québec

² **Ministère des Finances**, Budget 2013-2014, page A.109. <http://www.budget.finances.gouv.qc.ca/budget/2013-2014/fr/documents/Planbudgetaire.pdf>

³ **Ministère des Finances**, Budget 2016-2017, page D.61. <http://www.budget.finances.gouv.qc.ca/budget/2016-2017/fr/documents/PlanEconomique.pdf>

⁴ **Ministère de la Santé et des Services sociaux**, *Informations concernant les investissements pour la lutte au tabagisme*, 2015. http://www.msss.gouv.qc.ca/ministere/acces_info/documents/demandes_acces/2015-2016-072-Document.pdf

⁵ **Gouvernement du Québec**, budget 2016-2017, « Renseignements additionnels 2016-2017 », page C.8, 2016. <http://www.budget.finances.gouv.qc.ca/budget/2016-2017/fr/documents/RenseignementsAdd.pdf>

⁶ **Ministère des Finances (Ontario)**, « Contrer l'économie souterraine et maintenir l'équité fiscale », *Budget 2016*, 2016. <http://www.fin.gov.on.ca/en/budget/ontariobudgets/2016/ch2c.html>

⁷ **Gouvernement du Nouveau-Brunswick**, *Déclaration : Lutte contre la contrebande de tabac*, 2016. http://www2.gnb.ca/content/gnb/en/news/statement/rendrer.2016.02.2016-02-11_2.html

(Labrador) que par sa partie insulaire⁸.

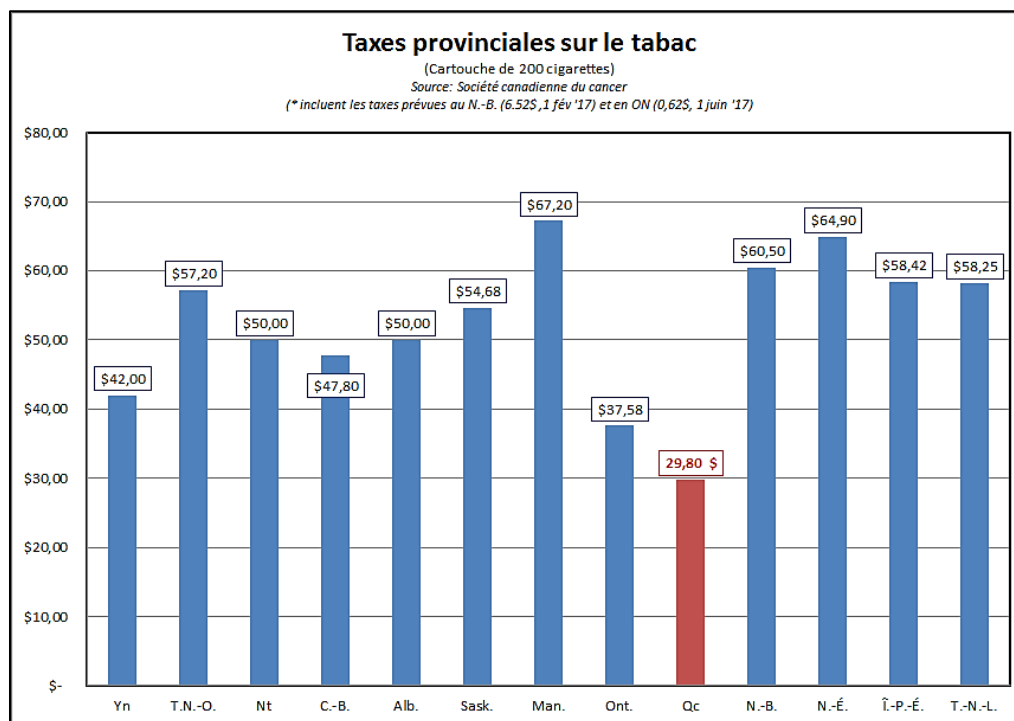
Enfin, la Coalition est également consciente que la perception publique d'un phénomène de contrebande « hors de contrôle » diminue l'acceptabilité sociale et politique d'une hausse de la taxe tabac, et c'est pourquoi nous travaillons sans relâche afin d'exposer les efforts déployés par l'industrie du tabac, notamment par l'entremise de groupes-façade⁹, qui visent justement à exagérer la perception quant au niveau de contrebande et à apeurer le public et les politiciens.

Ainsi, face à la stabilité du taux de contrebande au Québec et, ce, malgré les hausses de taxes de 2012 et 2014, nous sommes confiants que Québec peut et doit maintenant remettre en œuvre sa propre politique de hausse progressive de sa taxe sur le tabac, tout en demeurant vigilant face à la contrebande et en continuant à instaurer de nouvelles mesures pour la contrer.

Hausse progressive de la taxe tabac, et son indexation

Développements provinciaux

Depuis la dernière hausse de 4 \$ de la taxe québécoise sur le tabac en juin 2014, plusieurs provinces ont procédé à leurs propres hausses (dix-sept fois en tout), y compris plusieurs fois dans le cas de certaines provinces. Plus spécifiquement, l'Alberta (10 \$ en deux temps), le Manitoba (1 \$), l'Ontario (3 \$), le Nouveau-Brunswick (6,52 \$), la Nouvelle-Écosse (4 \$) et Terre-Neuve-et-Labrador (6,13 \$) ont augmenté depuis l'hiver 2015 le niveau de leur taxe provinciale sur le tabac.



⁸ Gouvernement de Terre-Neuve-et-Labrador, « Taxe sur le tabac », http://www.fin.gov.nl.ca/fin/tax_programs_incentives/personal/tobacco.html

⁹ Coalition québécoise pour le contrôle du Tabac, Médecins pour un Canada sans fumée, Association pour les droit des non-fumeurs, communiqué, 18 octobre 2016. http://www.cqct.qc.ca/Communiqués_docs/2016/PRSS_16_10_18_CQCT_ADNF_MCSF_GroupesFaçade_ImperialTobacco.pdf

L'écart du niveau de taxation au Québec (29,80 \$) avec la moyenne canadienne (sans le Québec), qui se chiffre à 54,04\$, est à l'heure actuelle de plus de 24 \$. Historiquement, le Québec n'a jamais haussé sa taxe de plus de 5 \$.

Prochaine hausse

La Coalition appelle à une hausse de la taxe spécifique sur le tabac du Québec de 5 \$ la cartouche, soit 50¢ le paquet de 20 cigarettes. Une telle hausse constituerait un bon premier pas pour éventuellement rejoindre le niveau de taxation de l'Ontario, l'autre province touchée le plus par la contrebande sur son territoire. Cette augmentation générerait des revenus totaux supplémentaires d'environ 145 M\$ par année (ou 730 M\$ sur 5 ans), en plus d'environ 18 000 fumeurs en moins¹⁰.

Par la suite, en restant vigilant face à la contrebande, le gouvernement devrait, au moment opportun, procéder à des nouvelles hausses de ce même ordre.

Indexation annuelle

Outre une hausse « traditionnelle » de la taxe provinciale, c'est-à-dire une hausse ponctuelle et fixe, il importe de considérer la possibilité de maintenir la valeur de celle-ci afin d'empêcher qu'elle ne s'effrite dans le temps, réduisant ainsi la capacité des taxes à réduire le tabagisme. En effet, pour maintenir leur effet dissuasif sur la consommation, les taxes doivent nécessairement augmenter au moins au même taux que l'inflation, et c'est pourquoi plusieurs juridictions à travers le monde ont recours à l'indexation systématique (sur une base annuelle ou bisannuelle) de cette taxe, en Australie par exemple¹¹.

Le budget fédéral 2014 a instauré une indexation sur une base quinquennale du droit d'accise fédéral prévu pour les produits du tabac, mais seulement à partir du 1^{er} décembre 2019¹². L'Ontario prévoit également l'indexation annuelle de sa taxe pour les cinq prochaines années, à un taux de 2 % à compter des 1^{er} juin 2017 à 2021¹³.

Nous recommandons donc que la taxe québécoise sur le tabac soit indexée à l'inflation sur une base annuelle. Une telle indexation, suivant une hausse de 5\$ la cartouche, générerait environ 20 M\$ de plus en revenus gouvernementaux par année, pour un total de 815 M\$ sur cinq ans au lieu de 730 M\$, en plus de résulter en 10 000 fumeurs additionnels en moins, amenant le total à plus de 27 000 fumeurs en moins.¹⁴

¹⁰ **Coalition québécoise pour le contrôle du tabac**, « Scénario d'impact d'une hausse de 5\$/cartouche - avec indexation des taxes provinciales sur le tabac », octobre 2016.

http://cqct.qc.ca/Documents_docs/DOCU_2016/STAT_16_10_16_Scenario_Elasticite_HausseTaxe_5Dol_Quebec.pdf

¹¹ **Ministère de la Santé (Australie)**, [Tobacco] Taxation, consulté le 16 mars 2016.

<http://www.health.gov.au/internet/main/publishing.nsf/content/tobacco-tax>

¹² **Agence du revenu du Canada**, Nouvelles sur l'accise et la TPS/TVH - No 91, consulté le 16 mars 2016. <http://www.cra-arc.gc.ca/F/pub/gr/news91/news91-f.html#h1.2.1>

¹³ **Ministère des Finances (Ontario)**, Hausses du taux de la taxe sur le tabac, 2016. <http://www.fin.gov.on.ca/publication/tobacco-tax-rate-increases-fr.pdf>

¹⁴ **Coalition québécoise pour le contrôle du tabac**, « Scénario d'impact d'une hausse de 5\$/cartouche - avec indexation des taxes provinciales sur le tabac », octobre 2016.

http://cqct.qc.ca/Documents_docs/DOCU_2016/STAT_16_10_16_Scenario_Elasticite_HausseTaxe_5Dol_Quebec.pdf

Établissement des prix par les grands manufacturiers

Marge de manœuvre accaparée par l'industrie

Outre le différentiel entre le taux de taxation québécois et celui des provinces à proximité, il existe une autre importante marge de manœuvre pour hausser la taxe québécoise, soit celle qui est présentement accaparée par les fabricants de tabac pour hausser leurs prix de vente (et donc leurs profits).

Bien qu'ici comme ailleurs dans le monde, les cigarettiers sonnent constamment l'alarme au sujet de la contrebande dans le but d'empêcher les hausses de taxes sur le tabac¹⁵, ces mêmes fabricants ne se sont pas privés d'augmenter eux-mêmes, bien que discrètement, les prix au détail de leurs propres produits. En effet, quelques reportages et témoignages confirment que les cigarettiers procèdent à des hausses mêmes supérieures aux hausses de taxes qu'ils décrient.

Par exemple, un article du Journal de Montréal¹⁶ révèle qu'Imperial Tobacco, anticipant la hausse de la taxe fédérale de février 2014, aurait augmenté en douce le prix d'au moins une de ses marques populaire à peine quelques jours avant le dépôt du budget, résultant en une augmentation totale de 10 \$ pour une cartouche alors que la hausse de la taxe n'était en soi que de 4 \$. De même, en novembre 2015, le cigarettier Rothmans, Benson & Hedges (RBH) a annoncé via une note à ses détaillants ontariens membres de leur programme « Connexions »¹⁷ une augmentation pour ses marques les plus populaires d'environ 5 \$ la cartouche¹⁸, suivie en janvier 2016 d'une deuxième d'environ 1 \$¹⁹. L'Ontario a augmenté ses taxes en février 2016 de 3\$ la cartouche.

Ces augmentations du prix au détail démontrent l'importante marge de manœuvre que détiennent les fabricants pour augmenter leurs prix, parfois pour des montants supérieurs aux hausses de taxes. Selon nous, cette marge devrait revenir aux gouvernements et non aux cigarettiers, qui s'en servent uniquement pour amplifier leurs profits — surtout compte tenu de l'énorme fardeau des coûts de soins de santé qui tombent sur le dos des contribuables. (Imperial Tobacco fait d'autant plus de profits grâce à la réduction de ses coûts résultant du déménagement de l'entièreté de sa production de Montréal au Mexique en 2007²⁰).

¹⁵ **La Presse**, « Imperial Tobacco utilise des groupes paravents pour contrer des mesures antitabac », 17 octobre 2016.
<http://www.lapresse.ca/actualites/sante/201610/16/01-5031133-imperial-tobacco-utilise-des-groupes-paravents-pour-contrer-des-mesures-antitabac.php>

¹⁶ **Journal de Montréal**, « Les fabricants augmentent discrètement le prix des cigarettes avant le budget fédéral », 13 février 2014.
<http://www.journaldemontreal.com/2014/02/13/les-fabricants-augmentent-discretement-le-prix-des-cigarettes-avant-le-budget-federal>

¹⁷ Les membres du programme "Connexions" bénéficient de rabais importants qui compensent une large partie de ces hausses, mais ces rabais ne s'appliquent pas à tous les autres détaillants tabac.

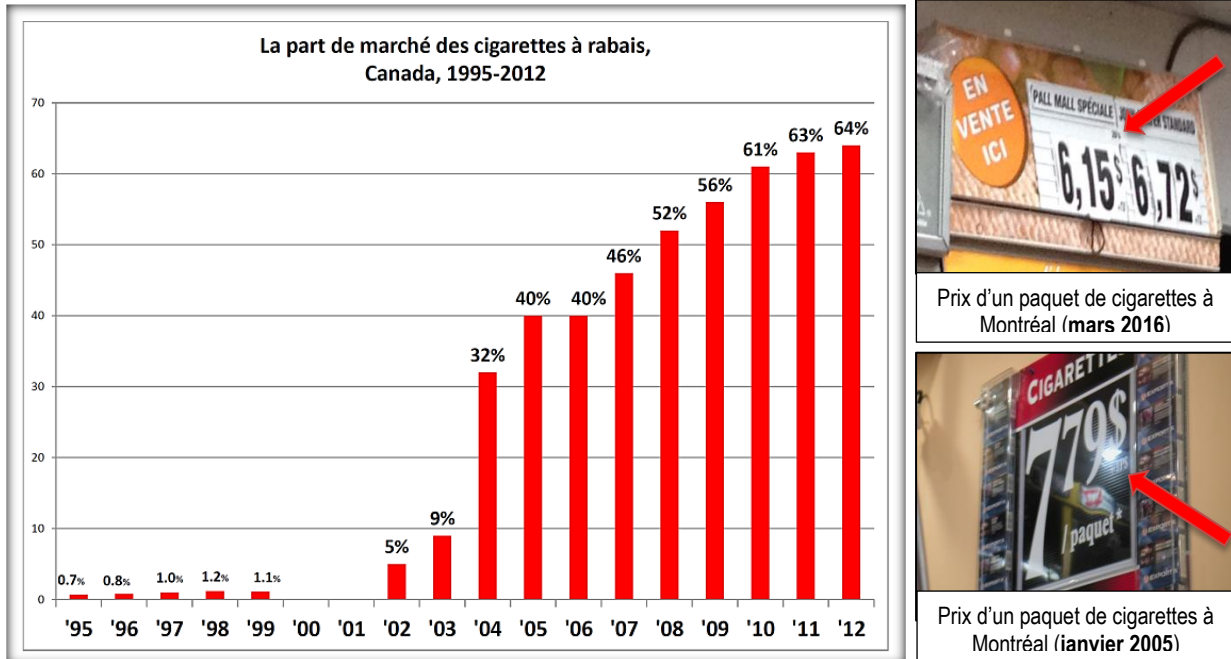
¹⁸ **Rothmans, Benson & Hedges inc.**, lettre, 10 novembre 2014.
http://cqct.qc.ca/Documents_docs/DOCU_2014/INDU_14_11_10_RBH_Price_Change_Annoucement_ON.pdf

¹⁹ **Rothmans, Benson & Hedges inc.**, lettre, 6 janvier 2015.
http://cqct.qc.ca/Documents_docs/DOCU_2015/INDU_15_01_06_RBH_Connexions_Price_Change.pdf

²⁰ **CBC News**, "Imperial Tobacco to close Ontario manufacturing plants, cutting 635 jobs", 20 octobre 2005.
<http://www.cbc.ca/news/business/imperial-tobacco-to-close-ontario-manufacturing-plants-cutting-635-jobs-1.553827>

Diversification des prix

Les cigarettiers se sont donné une tout autre et nouvelle marge de manœuvre au cours de la dernière douzaine d'années : la diversification des prix. A contrario des décennies précédentes, alors que toutes les cigarettes étaient vendues au même prix, les marques de cigarettes sont maintenant commercialisées en fonction d'une gamme de prix de plus en plus étendue ou segmentée depuis le début des années 2000²¹. Cette tactique leur permet de positionner leurs marques en fonction du prix de vente et d'y exploiter un angle de marketing (différenciation des cigarettes par catégorie, telles que « économiques », « à rabais », « premium », « haut de gamme », etc.).



Cette diversification des prix permet aux compagnies de tabac d'estomper l'impact des hausses de taxes en veillant à ce que certaines marques demeurent bon marché et donc toujours abordables pour les populations les plus sensibles aux prix, comme les jeunes et les personnes à faible revenu. Ainsi, plusieurs marques de cigarettes demeurent aussi abordables pour les Québécois qu'elles ne l'étaient il y a dix ans, tandis que les bénéfices des cigarettiers demeurent élevés. La diversification permet aussi aux fabricants de cibler les marques « haut de gamme » comme sources de profits plus importants. (Source du graphique²²)

Enfin, la diversification des prix rend très difficile l'application d'une des recommandations de la Convention-cadre pour la lutte antitabac, le traité international de l'Organisation mondiale de la Santé ratifié par le Canada et endossé par le Québec par le biais d'une motion unanime de l'Assemblée nationale²³. Celle-ci stipule que les taxes devraient représenter au moins 70 % du prix payé par le

²¹ Physicians for a Smoke-Free Canada, *Price Segmentation takes hold in Canada*, 2003. <http://www.smoke-free.ca/filtertips04/discount.htm>

²² Tableau des cigarettes à rabais : données de la Société canadienne du cancer, 17 janvier 2014.

²³ Motion proposant que l'Assemblée nationale approuve la Convention-cadre de l'Organisation mondiale de la Santé pour la lutte antitabac, journal des débats, 15 décembre 2004. http://cqcq.gc.ca/Documents_docs/DOCU_2005/LOI_05_12_15_AssNat_Motion_Appui_CCLA_EXTRAIT.pdf

consommateur²⁴. Or, la différenciation des prix fait que cette condition s'applique déjà pour plusieurs marques sur le marché québécois, alors qu'elle est loin de s'appliquer pour d'autres.

La Coalition invite donc le gouvernement à considérer les diverses options législatives à sa disposition pour mettre fin à cette pratique. Nous-mêmes allons continuer à documenter le problème et ferons des recommandations spécifiques en temps et lieu concernant une véritable politique des prix qui va au-delà de la simple augmentation des taxes. Une telle politique répondrait à la recommandation de l'Organisation mondiale de la Santé qui demande aux gouvernements d'en arriver à « la plus forte réduction possible des incitations pour le consommateur à passer à des marques ou à des produits moins chers face à l'augmentation des taxes »²⁵.

Ententes avec les détaillants

Les cigarettiers ont complètement restructuré leurs opérations depuis le milieu des années 2000 afin de pouvoir interagir directement avec les détaillants (au lieu de passer par des fournisseurs) et ainsi contrôler plus facilement les prix au détail en tant qu'outil de marketing. En fait, Imperial Tobacco et RBH^{26,27} ont complètement éliminé les intermédiaires grossistes et de la distribution, alors que JTI-Macdonald vend ses produits directement et via des grossistes. De plus, les trois fabricants ont développé des programmes d'entente avec les détaillants comportant une gamme de conditions, dont des « prix plafonds » pour leurs marques économiques. Ces plafonds sont rendus possibles grâce aux rabais considérables que reçoivent les détaillants en échange²⁸. Heureusement, ces programmes seront interdits au Québec à partir du 26 novembre prochain (la seule province à le faire²⁹) — une excellente chose — mais qui ne peut suffire à empêcher la diversification des prix.

Optimiser la lutte contre le tabagisme

Augmentation du budget de lutte contre le tabac

Le budget du Service de lutte contre le tabagisme du Ministère de la Santé et des Services sociaux (MSSS) est demeuré sensiblement inchangé depuis 2003, aux alentours de 17-20 millions \$ par année³⁰ et, ce, malgré un taux d'inflation de 25,07 % entre 2003 et 2016. En d'autres mots, le budget de la lutte contre le tabac, toujours la première cause de maladies et de décès évitables, diminue d'année en année depuis belle lurette.

²⁴ **Organisation mondiale de la Santé**, *Taxation des produits du tabac*, consulté le 16 mars 2016. <http://www.who.int/tobacco/economics/taxation/fr/>

²⁵ **Organisation mondiale de la Santé**, *Taxation des produits du tabac*, consulté le 16 mars 2016. <http://www.who.int/tobacco/economics/taxation/fr/index1.html>

²⁶ **Toronto Star**, "Rothmans profit rises on revenue increase", 2 février 2007. https://www.thestar.com/business/2007/02/02/rothmans_profit_rises_on_revenue_increase.html

²⁷ **Your Convenience Manager**, "Connecting with customers. RBH launches connexions to build retailer relationships", septembre 2014. http://cqct.qc.ca/Documents_docs/DOCU_2014/INDU_14_09_00_YCM_ConnectingWithCustomers_P30_32.pdf

²⁸ « Des dépanneurs sous pression », Isabelle Porter, **Le Devoir**, 26 octobre 2015. http://www.cqct.qc.ca/Documents_docs/DOCU_2015/ART_15_10_26_Tabac_Des_depanneurs_sous_pression_Devoir_P1.jpg

²⁹ **Le Devoir**, « Québec interdit les ristournes et crée un précédent », 12 novembre 2015. <http://web1.ledevoir.com/societe/actualites-en-societe/454919/tabac-les-programmes-de-fidelisation-interdits>

³⁰ **Ministère de la Santé et des Services sociaux**, *Informations concernant les investissements pour la lutte au tabagisme*, 2015. http://www.msss.gouv.qc.ca/ministere/acces_info/documents/demandes_acces/2015-2016/2015-2016-072-Document.pdf

De plus, l'entrée en vigueur des diverses mesures de la *Loi concernant la lutte au tabagisme* (adoptée en novembre 2015) fait appel au MSSS à court et à moyen termes pour mener à bien des campagnes de sensibilisation en lien avec les nouvelles mesures et pour surveiller et faire respecter la Loi via une intensification des inspections.

Dans le contexte de la restructuration du réseau de la santé, il est également probable que la consolidation des services mène à une réduction des points d'accès aux services de cessation, souvent plus sollicités lors de l'entrée en vigueur de nouvelles restrictions sur l'usage du tabac.

Toute hausse de la taxe sur le tabac devrait donc être accompagnée d'une bonification des budgets investis pour réduire le tabagisme, soit la source mortelle de ces mêmes revenus. Rappelons qu'il s'agit ici de « revenus négatifs » dans la mesure où chaque dollar généré fini par coûter plus cher à la société, autant en termes de soins de santé qu'en termes de vies humaines.

Afin de maintenir le niveau de capacité qui existait en 2003, le budget du Service de lutte contre le tabagisme devrait être bonifié de quelque 5 millions \$. L'Ontario a justement profité de sa dernière hausse de taxe pour augmenter ses investissements dans les interventions de cessation³¹.

Mettre à contribution l'industrie du tabac

Il est important de noter que les revenus provenant des taxes sur le tabac proviennent des consommateurs et non de l'industrie. De plus, ces revenus ne parviennent même pas à couvrir les frais de santé directs qu'occasionne le tabagisme sur le système de santé. Vu cet énorme manque à gagner, il est tout à fait dans l'intérêt de l'État et des contribuables d'instaurer des mécanismes pour au moins faire payer à l'industrie du tabac le budget des interventions visant à réduire la consommation de ses produits mortels, comme c'est déjà le cas aux États-Unis³² et comme ce sera bientôt le cas en France^{33,34} où « *une nouvelle taxe sera créée sur le chiffre d'affaires des distributeurs de cigarettes* ». De telles politiques assurent la pérennité des programmes de lutte au tabagisme tant que la source du problème persiste et, d'autre part, libèrent des fonds publics pour des investissements ailleurs en prévention, en soins de santé ou dans d'autres priorités gouvernementales.

Le document intitulé « Informations additionnelles » associé au plus récent budget étaye les divers programmes d'actions concertées contre l'évasion fiscale³⁵. Dans un premier temps, ces programmes permettent à l'État de récupérer les sommes qui lui sont dues; dans un deuxième temps, ces programmes protègent les entreprises impliquées dans le commerce légal, puisque ces programmes ont pour effet de freiner la concurrence déloyale qui s'opère sur le marché noir.

³¹ **Ministère des Finances (Ontario)**, « Mesures fiscales », *Budget 2016*, 2016.

<http://www.fin.gov.on.ca/en/budget/ontariobudgets/2016/ch5a.htm>

³² **Coalition québécoise pour le contrôle du tabac**, Tarification de la mise en marché, de la distribution et de la vente du tabac au Québec, mars 2013. http://cqct.qc.ca/Documents_docs/DOCU_2013/MEMO_13_03_25_Tarification.pdf

³³ **Le Figaro**, « Le prix du tabac à rouler va augmenter de 15% », 23 septembre 2016. <http://www.lefigaro.fr/conjoncture/2016/09/23/20002-20160923ARTFIG00084-le-prix-du-tabac-a-rouler-va-augmenter-de-15.php>

³⁴ **Fondation du Souffle**, « Fonds de prévention : financer la première génération sans tabac », <http://www.lesouffle.org/wp-content/uploads/2015/03/fiche-fonds-de-prevention.pdf>

³⁵ **Ministère des Finances**, *Le Plan économique du Québec : Renseignements additionnels 2016-2017*, page 6.8, 2016. <http://www.budget.finances.gouv.qc.ca/budget/2016-2017/fr/documents/RenseignementsAdd.pdf>

Les quatre programmes ou comités d'actions concertées sont actuellement en place, pour lutter:

1. contre le travail au noir dans le secteur de la construction (ACCES Construction)

« Ces actions concertées... ont notamment permis... de mettre au point les outils requis pour favoriser la détection des activités au noir. »³⁶
2. contre le commerce illicite des boissons alcooliques (ACCES Alcool)

« Ces actions permettent notamment de récupérer les revenus dus à l'État, de diminuer la concurrence déloyale et d'avoir un effet dissuasif sur le commerce illégal de boissons alcooliques. »³⁷
3. contre les crimes économiques et financiers (ACCEF), soit
 - « la lutte contre les crimes à incidence fiscale, qui permet de mettre fin à des stratagèmes complexes d'évasion fiscale et de blanchiment d'argent;
 - la lutte contre les crimes commis sur les marchés financiers, qui vise des stratagèmes dont les victimes sont en général des investisseurs;
 - la lutte contre le recyclage des produits de la criminalité, qui vise la dissimulation de la provenance d'argent acquis de manière illégale. »³⁸
4. et contre le commerce illicite du tabac (ACCES Tabac)

« Créé en 2001, le comité ACCES tabac vise à démanteler les réseaux de contrebande et à limiter les pertes fiscales liées au commerce illicite du tabac, afin notamment d'augmenter les revenus provenant de la taxe spécifique sur les produits du tabac. ... La part de marché des produits de la contrebande de tabac est passée de près de 30 % en 2009 à environ 15 % de 2011 à 2014. »³⁹

Les entreprises ne contribuent pas directement au financement des activités de surveillance et d'enquête des programmes ACCES. Cependant, les entreprises de la construction, de l'alcool et des marchés financiers ont toutes à défrayer sur une base annuelle les coûts d'une licence ou d'un permis d'opération. Ces revenus sont payés à une agence gouvernementale du Québec, ce qui nous permet de déduire qu'elles contribuent d'une façon générale au financement des programmes visant à encadrer et à surveiller leurs activités respectives. Les revenus des droits exigés pour les divers permis payés à la Commission de la construction, à la Régie des alcools, des courses et des jeux ou à l'Autorité des marchés financiers sont versés dans les coffres de l'État, soit dans le fonds consolidé ou parfois dans des fonds spécifiques. Par exemple, en date d'aujourd'hui, les entreprises touchées par le Règlement d'application de la Loi sur les sociétés de fiducie et les sociétés d'épargne doivent payer des droits annuels de 854 \$ pour une demande de permis⁴⁰; celles touchées par le Règlement d'application de la Loi sur les assurances qui veulent poursuivre leurs activités doivent obtenir un certificat de continuation s'élevant à 2748 \$⁴¹, alors que celles qui fabriquent ou distribuent des gros volumes de bière doivent payer à la Régie des alcools, des courses et

³⁶ **Ministère des Finances**, *Le Plan économique du Québec : Renseignements additionnels 2016-2017*, page 6.9, 2016. <http://www.budget.finances.gouv.qc.ca/budget/2016-2017/fr/documents/RenseignementsAdd.pdf>

³⁷ **Ministère des Finances**, *Le Plan économique du Québec : Renseignements additionnels 2016-2017*, page 6.10, 2016. <http://www.budget.finances.gouv.qc.ca/budget/2016-2017/fr/documents/RenseignementsAdd.pdf>

³⁸ **Ministère des Finances**, *Le Plan économique du Québec : Renseignements additionnels 2016-2017*, page 6.10, 2016. <http://www.budget.finances.gouv.qc.ca/budget/2016-2017/fr/documents/RenseignementsAdd.pdf>

³⁹ **Ministère des Finances**, *Le Plan économique du Québec : Renseignements additionnels 2016-2017*, page 6.8, 2016. <http://www.budget.finances.gouv.qc.ca/budget/2016-2017/fr/documents/RenseignementsAdd.pdf>

⁴⁰ Article 88 du **Règlement d'application de la Loi sur les assurances** « Dépôt de statuts de continuation d'une compagnie d'assurance et délivrance d'un certificat de continuation conformément aux articles 200.0.15, 200.0.16 ou 200.6 de la Loi sur les assurances ».

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=3&file=/A_32/A32R1.htm

⁴¹ **Gouvernement du Québec**, *Règlement d'application de la Loi sur les assurances*, consulté le 18 avril 2016. http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=3&file=/A_32/A32R1.htm

des jeux un permis leur coûtant 7224 \$ par année⁴².

Or, pour des raisons qui nous échappent, aucun fabricant, distributeur ou vendeur de tabac au Québec n'est appelé à contribuer financièrement, par l'entremise d'un permis ou d'une licence tarifée, aux efforts d'encadrement, de surveillance et d'enquête rattachés à ces produits⁴³. Pourtant, le commerce du tabac est différent des autres domaines énumérés ci-dessus : c'est la seule industrie qui fait ses profits grâce à la commercialisation d'un produit qui cause la maladie et qui provoque la mort.

Entre autres, la Coalition appuie la recommandation du rapport Godbout, qui demandait que soient instaurés des permis de vente pour les détaillants de tabac au coût annuel de 250 \$⁴⁴. Les auteurs expliquaient que les 2 millions \$ en revenus qui seraient générés par ces permis permettraient de financer le service d'inspection du MSSS, qui veille notamment à ce que l'affichage et l'étalage des produits du tabac soient conformes aux exigences provinciales en la matière.

De plus, un système de licences et permis tarifés devrait s'appliquer aux fabricants et distributeurs de produits du tabac commercialisés au Québec. En effet, le gouvernement consacre plus de 17 millions \$⁴⁵ par année à lutter contre le tabagisme et 19,4 millions \$⁴⁶ à lutter contre la contrebande (ce qui, au bout du compte, protège les ventes des fabricants légaux). Il n'y a aucune raison pour ne pas faire payer les fabricants et les distributeurs pour tous les coûts engendrés par l'encadrement de la commercialisation du tabac et les interventions pour en réduire la consommation. Un tel financement représente vraiment le minimum de ce que devrait payer ceux qui profitent de la vente d'un produit qui n'apporte aucun bénéfice à la société (dans un monde juste, l'industrie payerait aussi pour tous les soins de santé attribuables au tabac!).

Conclusion

Nous nous retrouvons présentement dans un contexte très particulier face à la taxation du tabac. D'abord, le Québec n'a pas augmenté ses taxes depuis près de deux ans et demi. Ensuite, le retard qu'accuse le Québec par rapport aux autres provinces s'est amplifié au lieu de se résorber depuis notre dernière hausse, et ne sera bientôt plus rattrapable sans passer par des hausses de taxes radicales, qui représenteraient un risque accru et réel pour la contrebande. Enfin, nous en sommes au milieu de la mise en vigueur d'une série de nouvelles interdictions de fumer qui touchent directement les fumeurs.

⁴² Régie des alcools, des courses et des jeux, *Frais et droits payables – 1er avril 2016 : Secteur alcool*, 2016.

https://www.racj.gouv.qc.ca/fileadmin/documents/Accueil/Formulaires_et_publications/Formulaires/Alcool/RACJ-1047A.pdf

⁴³ Notez que les licences exigées en vertu de la Loi de 2001 sur l'accise et des règlements connexes fédéraux pour les fabricants, importateurs et commerçants de tabac et de spiritueux ne requièrent aucuns frais, mais plutôt des dépôts en garantie ou en caution. Agence du revenu du Québec, « Obligation de détenir une licence ou un agrément », EDM2.2.1 *Obtention et renouvellement d'une licence ou d'un agrément*, 2003. http://www.cra-arc.gc.ca/F/pub/em/edm2-2-1/edm2-2-1-f.html#P40_1625

⁴⁴ Commission d'examen sur la fiscalité québécoise, *Rapport final : Se tourner vers l'avenir du Québec*, volume 2, page 135, 2015. http://www.examenfiscalite.gouv.qc.ca/uploads/media/Volume2_RapportCEFQ.pdf

⁴⁵ Ministère de la Santé et des Services sociaux, *Informations concernant les investissements pour la lutte au tabagisme*, 2015. http://www.msss.gouv.qc.ca/ministere/acces_info/documents/demandes_acces/2015-2016-072-Document.pdf

⁴⁶ 1 million \$ supplémentaire annoncé dans le cadre du budget 2014-2015. Ministère des Finances, *Discours sur le budget*, page 24, 2014. <http://www.budget.finances.gouv.qc.ca/budget/2014-2015a/fr/documents/Discours.pdf>. Cela s'ajoute aux 18,4 millions \$ déjà investis dans la lutte à la contrebande dans le budget précédent. Ministère des Finances et de l'Économie, *Plan budgétaire : Budget 2013-2014*, page F.16, 2012. <http://www.budget.finances.gouv.qc.ca/budget/2013-2014/fr/documents/Planbudgetaire.pdf>

En somme, une hausse des taxes est maintenant due si le Québec entend poursuivre sa stratégie de hausse progressive de la taxe sur le tabac. Une prochaine hausse d'au moins 4\$ est nécessaire pour empêcher que le Québec ne prenne encore plus de retard par rapport aux autres provinces (et pour éventuellement rattraper la moyenne canadienne). Enfin, une hausse de la taxe au moment de la mise à jour budgétaire agirait à titre de levier synergique avec les nouvelles dispositions de la nouvelle loi antitabac, en incitant davantage de fumeurs à cesser.

Nous sommes persuadés que le Québec peut s'outiller de nouvelles mesures fiscales afin de lutter plus efficacement et équitablement contre l'épidémie de tabagisme. En effet, les mesures que nous réclamons contribueraient positivement et de façon simultanée non seulement à la santé de la population, mais aussi au désengorgement du système de santé et au redressement des finances publiques.

Veuillez agréer l'expression de nos sentiments les plus respectueux.



Flory Doucas, D.E.S.S. B.SC., Env. et préven.
Codirectrice et porte-parole

c. c.

- Mme Lucie Charlebois, ministre déléguée à la Réadaptation, à la Protection de la jeunesse, à la Santé publique et aux Saines habitudes de vie
- Dr Gaétan Barrette, ministre de la Santé et des Services sociaux

*Fondée en 1996, la **Coalition québécoise pour le contrôle du tabac** représente quelque 470 organisations québécoises — associations médicales, ordres professionnels, municipalités, hôpitaux, écoles, commissions scolaires, etc. — qui appuient une série de mesures destinées à réduire le tabagisme et ses conséquences. Ses principaux objectifs incluent prévenir l'initiation au tabagisme, favoriser l'abandon, protéger les non-fumeurs contre la fumée secondaire et obtenir un cadre législatif qui reflète la nature néfaste et toxicomanogène du tabac.*

APPENDICE II

APPENDIX 2: PRICE OBSERVATIONS IN QUEBEC

Lowest prices for cigarettes as shown in media stories and photos of cigarette price boards in Quebec, 2005 – 2015

Year	Brand	Lowest price displayed (quantity)	Equivalent Price for 20 cigs.	Excise tax on 20 cigarettes	Pack price w/o tax	Cost to customer per cigarette	costs per cigarette CPI adjusted (\$2002=1)	
2003	A.	Unidentified	\$6.90 (25)	\$5.52	\$3.40	\$2.12	\$0.276	\$0.27
2004	B.	Vantage (JTI)	\$6.78 (25)	\$5.42	\$3.65	\$1.77	\$0.271	\$0.26
2005	C.	Export A (JTI)	\$7.79 (25)	\$5.33	\$3.65	\$1.68	\$0.267	\$0.25
2005	D.	Mark Ten (RBH)	\$6.39 (25)	\$5.11	\$3.65	\$1.46	\$0.256	\$0.24
2005	E.	Studio / Legend (JTIM)	\$5.34 (20)	\$5.34	\$3.65	\$1.69	\$0.267	\$0.25
2005	F.	Studio / Legend (JTIM)	\$5.34 (20)	\$5.34	\$3.65	\$1.69	\$0.267	\$0.25
2005	G.	Mark Ten (RBH)	\$6.40 (25)	\$5.12	\$3.65	\$1.47	\$0.256	\$0.24
2005	H.	Studio (JTIM)	\$6.65 (20)	\$5.12	\$3.65	\$1.47	\$0.256	\$0.24
2005	I.	Matinée (ITL)	\$6.87 (25)	\$5.50	\$3.65	\$1.85	\$0.275	\$0.26
2005	J.	Mark Ten (RBH)	\$6.40 (25)	\$5.12	\$3.65	\$1.47	\$0.256	\$0.24
2005	K.	Avanti (ITLO)	\$5.60 (20)	\$5.60	\$3.65	\$1.95	\$0.280	\$0.26
2005	L.	Mark Ten (RBH)	\$6.30 (25)	\$5.04	\$3.65	\$1.39	\$0.252	\$0.24
2005	M.	Mark Ten (RBH)	\$6.39 (25)	\$5.11	\$3.65	\$1.46	\$0.256	\$0.24
2005	N.	Number 7	\$6.55 (25)	\$5.24	\$3.65	\$1.59	\$0.262	\$0.25
2005	O.	Macdonald Select (JTIM)	\$6.17 (25)	\$4.94	\$3.65	\$1.29	\$0.247	\$0.23
2005	P.	Number 7 (RBH)	\$6.78 (25)	\$5.42	\$3.65	\$1.77	\$0.271	\$0.25
2006	Q.	Peter Jackson (ITLO)	\$49.95 (200)	\$5.00	\$3.65	\$1.35	\$0.250	\$0.23
2007	R.	Peter Jackson (ITL)	\$5.19 (20)	\$5.19	\$3.70	\$1.49	\$0.260	\$0.24
2007	S.	Accord (ITL)	\$5.09 (20)	\$5.09	\$3.70	\$1.39	\$0.255	\$0.23
2007	T.	Accord (ITL)	\$5.65 (20)	\$5.65	\$3.70	\$1.95	\$0.283	\$0.25
2007	U.	Viceroy (ITL)	5.89 (25)	\$4.71	\$3.70	\$1.01	\$0.236	\$0.21
2008	V.	"Budget"	\$5.05 (20)	\$5.05	\$3.76	\$1.29	\$0.253	\$0.23
2008	W.	"Budget"	\$5.00 (20)	\$5.00	\$3.76	\$1.24	\$0.250	\$0.23
2008	X.	"Budget"	\$4.99 (20)	\$4.99	\$3.76	\$1.23	\$0.250	\$0.23
2008	Y.	"Budget"	\$4.95 (20)	\$4.95	\$3.76	\$1.19	\$0.248	\$0.22
2008	Z.	Viceroy (ITL)	\$6.79 (25)	\$5.43	\$3.76	\$1.67	\$0.272	\$0.24
2009	AA.	"Budget"	\$5.05 (20)	\$5.05	\$3.76	\$1.29	\$0.253	\$0.22
2009	BB.	"Budget"	\$5.00 (20)	\$5.00	\$3.76	\$1.24	\$0.250	\$0.22
2009	CC.	Quebec Classics (RBH)	\$5.10 (20)	\$5.10	\$3.76	\$1.34	\$0.255	\$0.22
2009	DD.	Matinée (ITL)	\$5.45 (20)	\$5.45	\$3.76	\$1.69	\$0.273	\$0.24
2010	EE.	John Player Standard (ITL)	\$5.37 (20)	\$5.37	\$3.76	\$1.61	\$0.269	\$0.24
2011	FF.	"Economiques"	\$5.39 (20)	\$5.39	\$3.76	\$1.63	\$0.270	\$0.23
2011	GG.	Pall Mall (ITL)	\$5.39 (20)	\$5.39	\$3.82	\$1.57	\$0.270	\$0.23
2012	HH.	Pall Mall (ITL)	\$7.05 (25)	\$5.64	\$3.88	\$1.76	\$0.282	\$0.23
2012	II.	Pall Mall (ITL)	\$7.11 (25)	\$5.69	\$3.88	\$1.81	\$0.284	\$0.24
2013	JJ.	Pall Mall (ITL)	\$5.89 (20)	\$5.89	\$4.28	\$1.61	\$0.295	\$0.24
2013	KK.	Pall Mall (ITL)	\$5.33 (20)	\$5.33	\$4.28	\$1.05	\$0.267	\$0.22
2013	LL.	Liggett Ducat (JTI)	\$7.16(25)	\$5.73	\$4.28	\$1.45	\$0.286	\$0.24
2014	MM.	Pall Mall (ITL)	\$7.87 (25)	\$6.30	\$4.28	\$2.02	\$0.315	\$0.26
2014	NN.	Pall Mall (ITL)	\$5.99 (20)	\$5.99	\$4.28	\$1.71	\$0.300	\$0.24
2014	OO.	Liggett Ducat (JTI)	\$6.30 (20)	\$6.30	\$5.08	\$1.22	\$0.315	\$0.25
2014	PP.	John Player Standard (ITL)	\$8.28 (25)	\$6.62	\$4.28	\$2.34	\$0.331	\$0.27
2014	QQ.	Peter Jackson (ITL)	\$61.39 (200)	\$6.13	\$4.28	\$1.85	\$0.307	\$0.25

Year	Brand	Lowest price displayed (quantity)	Equivalent Price for 20 cigs.	Excise tax on 20 cigarettes	Pack price w/o tax	Cost to customer per cigarette	costs per cigarette CPI adjusted (\$2002=1)
2014	RR. Pall Mall (ITL)	\$6.05 (20)	\$6.05	\$5.08	\$0.97	\$0.303	\$0.24
2014	SS. Pall Mall (ITL)	\$5.95 (20)	\$5.95	\$4.28	\$1.67	\$0.298	\$0.24
2014	TT. John Player Special (ITL)	\$6.29 (20)	\$6.29	\$5.08	\$1.21	\$0.315	\$0.25
2014	UU. Philip Morris (RBH)	\$6.39 (20)	\$6.39	\$5.08	\$1.31	\$0.320	\$0.26
2014	VV. Pall Mall (ITL)	\$5.99 (20)	\$5.99	\$5.08	\$0.91	\$0.300	\$0.24
2014	WW. Pall Mall (ITL)/ Liggett Ducat (JTIM)	\$6.30 (20)	\$6.30	\$5.08	\$1.22	\$0.315	\$0.25
2015	XX. Philip Morris (RBH)	\$6.67 (20)	\$6.67	\$5.08	\$1.59	\$0.334	\$0.27
2015	YY. Pall Mall (ITL)	\$6.15 (20)	\$6.15	\$5.08	\$1.07	\$0.308	\$0.25
2016	ZZ. Philip Morris (RBH)	\$6.99 (20)	\$6.99	\$5.08	\$1.91	\$0.350	\$0.28
2016	AAA. Philip Morris (RBH)/ LD (JTIM)	\$6.84 (20)	\$6.84	\$5.08	\$1.76	\$0.342	\$0.27
2016	BBB. LD (JTIM)/ Philip Morris/ LD (JTIM)	\$6.76 (20)	\$6.76	\$5.08	\$1.68	\$0.338	\$0.27
2016	CCC. Pall Mall (ITL) Viceroy (ITL) Philip Morris (RBH)	\$6.43 (20)	\$6.43	\$5.08	\$1.35	\$0.322	\$0.26



- A Coalition québécoise pour le contrôle du tabac. 2003-08-11
- B Coalition québécoise pour le contrôle du tabac. 2004-08-01
- C Coalition québécoise pour le contrôle du tabac. 2005-02-05
- D Coalition québécoise pour le contrôle du tabac. 2005-09-04
- E Coalition québécoise pour le contrôle du tabac. 2005-09-04
- F Coalition québécoise pour le contrôle du tabac. 2005-02-05
- G Coalition québécoise pour le contrôle du tabac. 2005-09-04
- H Coalition québécoise pour le contrôle du tabac. 2005-04-09
- I Coalition québécoise pour le contrôle du tabac. 2005-03-25



- J Coalition québécoise pour le contrôle du tabac 2005-03-10
- K Coalition québécoise pour le contrôle du tabac. 2005-03-10
- L Coalition québécoise pour le contrôle du tabac. 2005-03-10
- M Coalition québécoise pour le contrôle du tabac. 2005-02-05
- N Coalition québécoise pour le contrôle du tabac. Consultation 2005-03.
http://www.cqct.qc.ca/Documents_docs/DOCU_2005/MEMO_05_03_03_Memoire_CQCT_final.pdf
- O Your Convenience Manager. Multi-pricing changes the face of tobacco retailing. September 2005.
- P Coalition québécoise pour le contrôle du tabac. 2005-03-11
- Q Coalition québécoise pour le contrôle du tabac. 2006-10-26
- R Coalition québécoise pour le contrôle du tabac. 2007-03.
- S Coalition québécoise pour le contrôle du tabac. 2007-03-12
- T Coalition québécoise pour le contrôle du tabac 2007-12-12



W. 2008^W

X. 2008^X

Y. 2008^Y

Z. 2008^Z



AA. 2009^{AA}

BB. 2009^{BB}

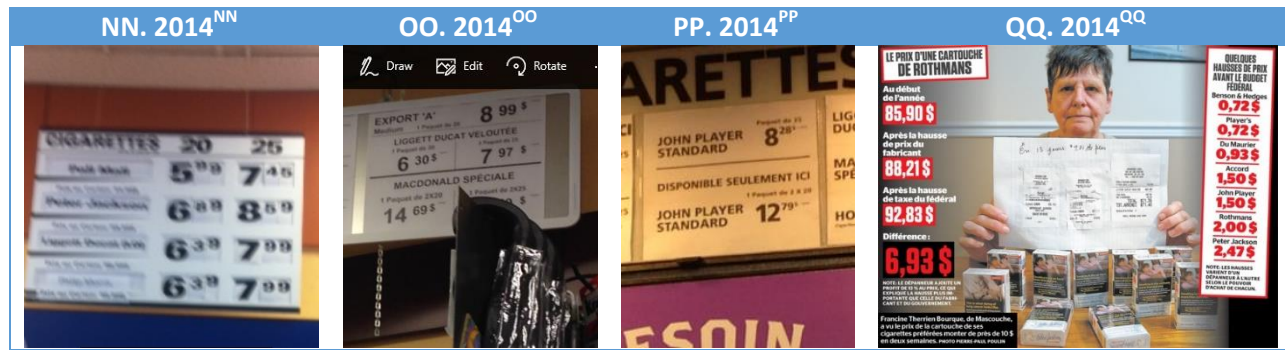
CC. 2009^{CC}



- U Coalition québécoise pour le contrôle du tabac 2007-11-27
- V Miguel Tremblay Blog. Hors des lieux communs. Commenting on removal of retail cigarette displays. 27 July 2008. http://ptaff.ca/blogue/2008/07/27/le_nouveau_dpanneur/
- W Coalition québécoise pour le contrôle du tabac 2008-07-25
- X Coalition québécoise pour le contrôle du tabac 2008-07-25
- Y Coalition québécoise pour le contrôle du tabac 2008-07-25
- Z Coalition québécoise pour le contrôle du tabac 2008-04-22
- AA Coalition québécoise pour le contrôle du tabac 2009-01-30
- BB Coalition québécoise pour le contrôle du tabac 2009-03-27
- CC Coalition québécoise pour le contrôle du tabac 2009-05-27



- DD La Presse. Les dépanneurs demandent une baisse de taxes sur le tabac. 1 June 2009.
- EE L'Actualité. Sacré dépanneur. May 16, 2010. <http://www.lactualite.com/societe/sacre-depanneur/>
- FF Coalition québécoise pour le contrôle du tabac. 2011-05-10
- GG Coalition québécoise pour le contrôle du tabac 2011-06-11
- HH Coalition québécoise pour le contrôle du tabac 2012-12-04
- II Coalition québécoise pour le contrôle du tabac 2012-12-11
- JJ Coalition québécoise pour le contrôle du tabac 2013-03-11
- KK Coalition québécoise pour le contrôle du tabac 2013-04-11
- LL Coalition québécoise pour le contrôle du tabac 2013-11-16
- MM Coalition québécoise pour le contrôle du tabac 2014-02-18



- NN Coalition québécoise pour le contrôle du tabac 2014-02-18
- OO Coalition québécoise pour le contrôle du tabac 2014-11-20
- PP Coalition québécoise pour le contrôle du tabac 2014-06-28
- QQ Journal de Montréal. Les fabricants augmentent discrètement le prix des cigarettes avant le budget fédéral. February 13, 2014.
<http://www.journaldemontreal.com/2014/02/13/les-fabricants-augmentent-discretement-le-prix-des-cigarettes-avant-le-budget-federal>
- RR Journal Metro. Incendie suspect: un passant sauve 13 personnes. 21 November 2014.
- SS Coalition québécoise pour le contrôle du tabac. 2014—05-13
- TT Coalition québécoise pour le contrôle du tabac. 2014-11-05
- UU Coalition québécoise pour le contrôle du tabac. 2014-11-05
- VV Coalition québécoise pour le contrôle du tabac. 2014-02-08
- WW Coalition québécoise pour le contrôle du tabac. 2014-11-24



AAA. 2016^{AAA} BBB. 2016^{BBB}



CCC. 2016^{CCC}



- XX CBC Television. Source: CBC News story Dépanneurs in Quebec push for mandatory carding. August 21, 2015 <http://www.cbc.ca/news/canada/montreal/d%C3%A9panneurs-in-quebec-push-for-mandatory-carding-1.3200230>
- YY Coalition québécoise pour le contrôle du tabac. 2015-03-27
- ZZ Coalition québécoise pour le contrôle du tabac. 2016-11-25
- AAA Coalition québécoise pour le contrôle du tabac. 2016-04-
- BBB Coalition québécoise pour le contrôle du tabac. 2016-04-
- CCC Coalition québécoise pour le contrôle du tabac. 2016-04-


Scénario d'impact d'une hausse de 5\$/cartouche - avec indexation des taxes provinciales sur le tabac

(Octobre 2016)

Indice d'élasticité de consommation: -0,46	Hausse initiale	Montant de l'indexation année 2	Montant de l'indexation année 3	Montant de l'indexation année 4	Montant de l'indexation année 5	Total (hausse + indexation sur 5 ans)	Gain de l'indexation sur 5 ans
Prix moyen actuel d'une cartouche au Qc	88,12 \$	93,12 \$	93,82 \$	94,53 \$	95,25 \$		
Taxes provinciales (Qc) sur le tabac (5 juin 2014)	29,80 \$	34,80 \$	35,50 \$	36,21 \$	36,93 \$		
Nombre de fumeurs - 12 ans et plus (2014, données de ESCC)	1 371 221	1 353 326	1 350 969	1 348 582	1 346 166		
Nombre total de cigarettes fumées par les fumeurs actuels (moyenne de 16,86/jour en 2015-16*)	8 435 906 040	8 325 814 212	8 311 312 280	8 296 630 049	8 281 766 646		
Estimé des revenus en taxes provinciales (sans compter la contrebande)	1 256 950 000 \$	1 429 535 695 \$	1 452 978 803 \$	1 501 935 619 \$	1 529 229 801 \$		
Pertes de revenus dues à la contrebande (15% du marché en 2014-15 selon le ministre des Finances)	-188 542 500 \$	-214 430 354 \$	-217 946 820 \$	-225 290 343 \$	-229 384 470 \$		
Revenus nets en taxes provinciales	1 068 407 500 \$	1 215 105 340 \$	1 235 031 983 \$	1 276 645 276 \$	1 299 845 331 \$		
Montant de l'augmentation	5,00 \$	0,70 \$	0,71 \$	0,72 \$	0,74 \$	7,87 \$	2,87 \$
Nouveau total des taxes provinciales (Qc) sur le tabac (29,80 \$ en 2014 + augmentation)	34,80 \$	35,50 \$	36,21 \$	36,93 \$	37,67 \$		
Nouveau prix d'une cartouche au Qc (88,12 \$ + aug)	93,12 \$	93,82 \$	94,53 \$	95,25 \$	95,99 \$		
Augmentation du prix en %	5,67%	0,75%	0,76%	0,77%	0,78%		
Impact sur la consommation selon élasticité	-2,61%	-0,34%	-0,35%	-0,35%	-0,36%		
Nombre de cigarettes fumées en moins	-220 183 657	-29 003 863	-29 364 463	-29 726 805	-30 090 830		
Nombre total de cigarettes fumées par les fumeurs suite à l'augmentation des taxes	8 215 722 383	8 186 718 520	8 157 354 057	8 127 627 252	8 097 536 423		
Nombre de fumeurs de moins (1/2 de l'impact**)	-17 895	-2 357	-2 387	-2 416	-2 446	-27 500	-9 605
Estimé des revenus en taxes provinciales suite à l'augmentation (sans compter la contrebande)	1 429 535 695 \$	1 452 978 803 \$	1 476 722 542 \$	1 500 767 933 \$	1 525 115 888 \$		
Pertes de revenus dues à la contrebande (15 % du marché - taux stable)	-214 430 354 \$	-217 946 820 \$	-221 508 381 \$	-225 115 190 \$	-228 767 383 \$		
Revenus nets en taxes provinciales	1 215 105 340 \$	1 235 031 983 \$	1 255 214 161 \$	1 275 652 743 \$	1 296 348 505 \$		
Revenus supplémentaires dus à l'augmentation (et l'indexation)	146 697 840 \$	19 926 642 \$	20 182 178 \$	20 438 582 \$	20 695 762 \$	227 941 005 \$	81 243 165 \$
Revenus supplémentaires sur cinq ans	733 489 202 \$					814 732 367 \$	
0,46 élasticité		2% indexation					

* Nous estimons le nombre moyen de cigarettes consommées par fumeur à partir des données du Plan budgétaire 2016-2017. Le ministère estime encaisser 1 093 M\$ en 2015-16. Ajoutons à cette moyenne les pertes dues à la contrebande (estimé à 164 M\$ pour 2015-16, soit 15% du marché total), pour des revenus totaux théoriques (incluant revenus perdus à la contrebande) de 1,257 M\$. Comme les taxes par cartouche étaient de 29,80 \$ en 2015-16 on conclut que les 1,37 M fumeurs au Québec fument en moyenne 16,86 cigarettes/jour.

Estimation de la consommation quotidienne moyenne, Qc 2015-16

1 093 000 000,00 \$	revenus 2015-16 (Budget 2016-17)
1 256 950 000,00 \$	total revenus théorique sans contrebande (1 093 M\$ légal + 164 M\$ contrebande ou 15%)
42 179 530	no cartouches consommées / an (29.80 la cartouche en 2016)
8 435 906 040	no cigarettes consommées/an (200 cigarettes par cartouche)
6 152	no cig/fumeur/an (divisé par le nombre de fumeurs: 1 371 221)
16,86	cig/fum/jour (divisé par 365 jours)

Sources:

Prix moyen d'une cartouche (la moyenne varie en fonction de la méthodologie de calcul. Étant donné la diversification de + en + importante des prix, autant entre les marques qu'entre les détaillants/régions/provinces, il est difficile d'obtenir un estimé solide)	https://www.nsr-a-dnf.ca/cms/file/files/160704_map_and_table.pdf
Nombre de fumeurs	http://cqct.qc.ca/Documents_docs/DOCU_2015/STAT_16_06_17_ESCC.jpg
Inexation: 2% en Ontario (à partir de 2017)	http://www.banqueducanada.ca/taux/reenseignements-complementaires/feuille-de-calcul-de-linflation/
Revenus estimés pour 2016-17 (page D.61)	http://www.budget.finances.gouv.qc.ca/budget/2016-2017/fr/documents/PlanEconomique.pdf
Pertes dues à la contrebande 2014: 15% (p C.8)	http://www.budget.finances.gouv.qc.ca/budget/2016-2017/fr/documents/RenseignementsAdd.pdf

** La moitié de l'effet de la réduction de la consommation de tabac est due à la diminution du nombre de fumeurs, selon la Banque mondiale.