

October 31, 2014

Hon. Leo Glavine
Minister of Health and Wellness
Department of Health and Wellness
17th Floor, Barrington Tower
1894 Barrington Street
P.O. Box 488
Halifax, Nova Scotia
B3J 2R8

Dear Minister Glavine:

I am writing to you on behalf of National Smokeless Tobacco Company (NSTC) regarding the introduction of Bill 60, which proposes to amend the *Smoke-free Places Act* and the *Tobacco Access Act*. NSTC has significant concerns about the government's proposal to ban the sale of flavoured tobacco products.

At NSTC we pride ourselves on being a leader in responsibly providing smokeless tobacco products to adult tobacco consumers. One of our mission goals is to help reasonable tobacco regulation succeed by supporting the development and implementation of regulations that improve public health and recognize individual adult consumer preferences. We do not believe that a ban on the sale of flavoured tobacco products is reasonable tobacco regulation for numerous reasons, including that it does not recognize individual adult consumer preferences.

Given the extremely high price point of NSTC's smokeless tobacco products, a provincial prohibition on retail visibility of tobacco products, low reported youth usage numbers, and the relatively small sales compared to all other tobacco products in Nova Scotia, NSTC believes that smokeless tobacco products as a category should not be included in Bill 60's proposed prohibition on the sale of flavoured tobacco products in the province. Moreover, product bans hurt law-abiding businesses and create incentives for criminals to engage in illicit activity.

About NSTC

NSTC is the Canadian distributor of smokeless tobacco products sold in Canada under the brand names of Copenhagen® and Skoal®. Smokeless tobacco is used orally and is not smoked. These products have been available in Canada since at least 1913 and are currently sold at retail in 34 gram, 23 gram, and 14 gram cans. NSTC's products represent a very small component of total tobacco sold in the province, comprising less than one half of one per cent of all tobacco sales.¹ Our products are premium smokeless tobacco products for adults and currently retail in Nova Scotia for almost six dollars more than the price of premium cigarettes.²

¹ Source: Health Canada Wholesale Sales Data, 2012 http://www.hc-sc.gc.ca/hc-ps/tobac-tabac/research-recherche/indust/_sales-ventes/canada-eng.php; NSTC sales data 2012.

² Source: NSTC field sales, 2014. Nova Scotia 34 gram smokeless tobacco: \$19.59, 25-count premium cigarettes: \$13.98, exclusive of HST



Facts About Smokeless Tobacco

Product Sales

It is important to understand the actual sales of NSTC's smokeless tobacco products in Nova Scotia and the unique product offerings. As of October 2014, NSTC distributes 20 individual products across different sizes (14, 23, and 34 gram cans), forms (long cut, fine cut, and pouches), and flavour blends of smokeless tobacco. Our smokeless tobacco products are available at approximately 525 retail locations in the province. For the year ended December 31, 2012 (the last full-year data currently available), smokeless tobacco sales accounted for approximately 0.4% of all tobacco sold in Nova Scotia. This represents approximately 8,300 kg of smokeless tobacco across all of our product offerings as compared to almost one billion cigarettes.³ Comparatively, this equates to more than 39 million 25-count packs of cigarettes versus 244,000 34 gram-equivalent cans of smokeless tobacco. While cigarette sales data for 2013 is not yet publicly available, NSTC's sales volume in the province declined by almost 10 per cent in 2013.

There is a long history of adult consumer interest in flavoured cigars and flavoured smokeless tobacco. Tobacco products come in a wide range of flavour varieties, some of which have a distinguishable dominant flavour or aroma other than tobacco. Such flavour varieties are not new; some flavour varieties of smokeless tobacco products – including peach and apple-flavoured snuff – have patents that date back to the 1800s.

Approximately one-third of all smokeless tobacco products sold in Nova Scotia are “tobacco flavour” varieties and a further one-third are “mint” and “wintergreen” flavour varieties which have been on the market since at least 1950.

Recently, some in the public health community have expressed concern that tobacco products with characterizing flavours other than tobacco may appeal to youth. NSTC believes that the prohibition of all smokeless tobacco products with characterizing flavours other than tobacco is not an effective way to address the issue of underage tobacco use and is unfair to adult tobacco consumers who prefer such flavour varieties. Instead of a ban depriving adult tobacco consumers of products they prefer, the focus should remain on responsible sale at retail and reducing underage access to tobacco products.

NSTC also believes that any regulation of flavoured tobacco products should take into account the history of flavour varieties within each tobacco category.

Product Regulation

NSTC supports reasonable product regulation and complies with all existing federal and provincial laws. The restrictions on tobacco products and the level of accountability required of tobacco companies in Canada are significant, and include the following:

Federal restrictions prohibit: sampling, price promotion, sponsorships and advertising to the general public; and impose strict labeling requirements, high taxes, flavour restrictions and minimum age-of-purchase requirements for tobacco products. Federal law also requires the submission of quarterly sales reports by product, quarterly marketing reports on permitted adult-only promotional activities, and routine reporting of all manufacturing processes and ingredients.

Provincial restrictions in Nova Scotia prohibit: branded point-of-sale signage, visibility at retail, retail self-service and sales at select venues such as pharmacies.

NSTC takes the position that any flavour-based legislation should not inappropriately target smokeless tobacco products. In 2009, the federal government introduced Bill C-32, the *Cracking Down on Tobacco Marketing Aimed at Youth Act*. This federal legislation banned the sale of flavoured cigarettes, cigarillos, and blunt wraps and established a common standard across all provinces for regulating flavoured tobacco products. This standard is enforced by Health Canada as Health Canada is in the best position to analyze tobacco product

³ Source: Health Canada Wholesale Sales Data, 2012; NSTC sales data 2012.

ingredients, sales, and youth usage data and make determinations on the availability of tobacco products sold in Canada.

On September 29, Canada's Minister of Health the Honourable Rona Ambrose announced new proposed regulatory amendments that would further restrict the sale of flavoured cigars in Canada. The government amendments would prohibit most flavours and selected additives in cigars weighing more than 1.4 grams but less than 6 grams, as well as in cigars that use tipping paper or do not feature a wrapper fitted in spiral form. Appropriately, the measures proposed by the federal government do not restrict the sale of flavoured smokeless tobacco products in Canada, a tobacco segment that simply has not shown itself to be of significant youth appeal.

The Canadian Tobacco Use Monitoring Survey (CTUMS) suggests a low prevalence of smokeless tobacco use among youth and young adults. Specifically, CTUMS reports that in 2012 1% of Canadian youth (15-19) and young adults (20-24) reported past 30-day use of smokeless tobacco. These rates remain unchanged from 1999 (the first year CTUMS addressed the topic).⁴

NSTC's products are for adults only. We believe that children should not use any tobacco products and we take our responsibility seriously in supporting and participating in programs to reduce the underage use of tobacco products.

NSTC is also a strong partner of the Canadian Convenience Stores Association (CCSA) in its Responsible Retailer Training Program. Every employee in our company is required to be certified annually on the "We Expect I.D." program of the CCSA. Age verification programs can be effective in limiting youth access to tobacco products.⁵ In Canada, the "We Expect I.D." age verification program of the CCSA – a voluntary program available to convenience retailers in Nova Scotia – has proven to be one of the most effective programs in ensuring compliance with provincial age-of-purchase laws. Data available in the province of Ontario shows that convenience stores achieve better age verification results than provincially-run liquor stores.⁶

Recommendations

NSTC recommends that smokeless tobacco as a category of tobacco products be exempt from the ban proposed in Bill 60. No Canadian province has banned the sale of flavoured smokeless tobacco products. Of note this year, both the federal government and the Government of Manitoba have proposed flavoured tobacco product regulation which does not restrict the sale of smokeless tobacco products, with Manitoba providing a specific legislative exemption for snuff, chewing tobacco, and pipe tobacco.⁷

Tobacco products in Canada are subject to significant restrictions that limit the presence and types of tobacco products in the marketplace and underage access to those tobacco products. NSTC recommends that Nova Scotia take further action to limit underage access to tobacco products by supporting provincial implementation of the CCSA's Responsible Retailer Training program with a focus on independent retailers. The infrastructure of this web-based training module is readily available for widespread access by retailers, and government support for this program would further enhance underage access prevention in partnership with retailers.

Summary

Tobacco products come in a wide range of flavour varieties, some of which have a distinguishable dominant flavour or aroma other than tobacco. Such flavour varieties are not new; some flavour varieties of smokeless tobacco products – including peach and apple-flavoured snuff – have patents that date back to the 1800s. The CTUMS demonstrates low reported youth usage of smokeless tobacco products in Canada.

⁴ Canadian Tobacco Use Monitoring Survey (CTUMS) report 2012 (http://www.hc-sc.gc.ca/hc-ps/tobac-tabac/research-recherche/stat/_ctums-esutc_2012/ann_summary-sommaire-eng.php)

⁵ See Richardson, L., Hemsing, N., Greaves, L., Assanand, S., Allen, P., et al. (2009) Preventing smoking in young people: a systematic review of the impact of access interventions. *Int. J. Environ. Res. Public Health*, 6 1485-1514.

⁶ Statopex Field Marketing for the Ontario Convenience Stores Association, May 2011

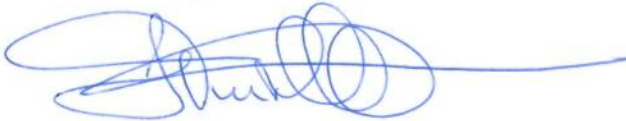
⁷ Manitoba Bill 52 as amended, June 2014, <http://web2.gov.mb.ca/bills/40-3/b052e.php>

When you consider the high price point of NSTC's smokeless tobacco products in Nova Scotia, prohibition on retail visibility of tobacco products, low reported youth usage numbers, and the relatively small sales compared to all other tobacco products in the province, it is clear that the measures proposed in Bill 60 do not represent reasonable regulation of smokeless tobacco products. Moreover, the federal announcement of September 29 further calls into question the need for additional action on this issue by the Government of Nova Scotia. If passed without amendment, the measures contained in Bill 60 would discriminate against Nova Scotia's wholesalers, retailers, and adult consumers of smokeless tobacco products as compared to such businesses and consumers in other provinces.

NSTC's Director of Government and Corporate Affairs, Mr. Jeremy Adams, will be contacting your office to arrange a meeting to discuss these issues in person and to answer any questions you may have. Should you have any questions in advance, Mr. Adams may be reached at 416-778-6761 or Jeremy.e.adams@nstco.ca.

Thank you for your attention.

Sincerely,



Mr. Jean-François Turcotte
President
National Smokeless Tobacco Company, Limited