



# PROPOSAL TO CLARIFY HOW NICOTINE LEVELS FOR VAPING PRODUCTS ARE EXPRESSED IN THE SMOKEFREE ENVIRONMENTS AND REGULATED PRODUCTS REGULATIONS 2021

## Analysis of consultation submissions

2023



## Acknowledgements

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# Introduction

From 12 to 26 June 2023, Manatū Hauora (the Ministry of Health) consulted on the way that the nicotine concentration for reusable vaping products containing nicotine salts is expressed in the Smokefree Environments and Regulated Products Regulations 2021 (the Regulations). Through this consultation, Manatū Hauora aimed to address confusion regarding the interpretation of clause 15 of Schedule 5 of the Regulations relating to vaping products. This clause states that the strength of nicotine salt in a vaping substance must not exceed 50 mg/mL. The Ministry has accepted that the proper interpretation of this clause is that the nicotine strength in vaping products containing nicotine salts must not exceed 50mg/mL.

Nicotine strength levels for products containing nicotine salts can be described in two ways. It could describe the concentration of the nicotine salt in a vaping substance or as the concentration of 'freebase' nicotine in a vaping substance. The proposal seeks to amend the wording of the Regulations to always refer to the maximum nicotine concentration of a vaping product, rather than the maximum permitted nicotine salt concentration. This approach aligns with the purposes of the Act: to provide for the regulation of notifiable products in a way that seeks to minimise harm, especially harm to young people and children, by making sure products don't contain excessive levels of nicotine, which is the addictive substance in vaping products.

It is important the regulations around vaping products are accessible and easily understood by the public, especially industry and users of products. Regulating the strength of nicotine rather than nicotine salt will be easier for people to understand and cross-check against the labelling on the products. However, retaining a 50 mg/mL level for nicotine strength rather than for nicotine salt strength would mean that vaping products with significantly high levels of nicotine could be sold in New Zealand, increasing the risk of nicotine addiction.

While vaping products can only be legally sold to people aged 18 years and older, the last few years have seen a rapid increase in those under 18 years old using vapes. The estimated percentage of 14- to 15-year-olds, for example, who are vaping daily is currently 10.1%.<sup>1</sup> Daily vaping is more likely to indicate possible addiction to nicotine. Vaping rates are highest for Māori 14- to 15-year-olds and particularly Māori girls (25.2% daily vaping in 2022).<sup>2</sup> While the trend for youth is currently toward using disposable vapes, at least half still used reusable vapes of some kind (tank or cartridge) in 2022.

The proposed change will increase the protection from the highest levels of nicotine to all youth, which will reduce the likelihood of them becoming addicted.

This document summarises feedback gathered through the consultation on the proposal.

<sup>1</sup> Action for Smokefree 2025 (ASH). 2022. *ASH Year 10 Snapshot Survey 2022 Topline – Youth smoking and vaping*. URL: [ash.org.nz](https://www.ash.org.nz) (Accessed 24 July 2023).

<sup>2</sup> Ibid.



# Methodology

The consultation ran for two weeks from 12 to 26 June 2023 and was launched via an email to targeted stakeholders. The email provided a link to the online consultation platform Citizen Space.

Manatū Hauora created a consultation document setting out the proposal to clarify how nicotine levels for vaping products are expressed in the Smokefree Environments and Regulated Products Regulations 2021 (the Regulations). The proposal was available in both Word and pdf versions on the online consultation platform. Further information on the proposal was emailed to stakeholders on 22 July 2023.

Submissions were returned via the Citizen Space platform or email to the [smokefree@health.govt.nz](mailto:smokefree@health.govt.nz) inbox.

## Data quality assurance

Manatū Hauora asked all respondents to disclose any direct or indirect links to, or funding from, the tobacco industry. This was to ensure we complied with the World Health Organization's Framework Convention on Tobacco Control (FCTC) article 5.3: Protecting tobacco control policies from tobacco industry interference. The implementing guidelines for article 5.3 recommend Governments 'interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products'.

## Analysis

Manatū Hauora collated and analysed all submissions received. The consultation asked submitters to respond to the below three questions:

1. Do you agree with our proposal to set the maximum allowable nicotine concentration at 28.5mg/mL for reusable vaping products that contain nicotine salts?
2. Please explain your reasoning.
3. Is there anything else you would like to tell us at this time?

We read all responses to draw out the key themes from each.

We analysed the submissions by respondent type to ensure we captured insights unique to the specific groups. The respondent types are listed below in alphabetical order.

- Community or advocacy organisation
- Government organisation
- Health care provider



- Iwi/hapū affiliated and/or Māori organisation
- Medium or large retailer
- Other
- Pacific community or organisation
- Personal submission
- Professional organisation
- Research or academic organisation
- Small retailer
- Tobacco manufacturer, importer or distributor
- Vaping or smokeless tobacco product retailer, distributor or manufacturer.

## Results

A total of 4,731 people and organisations made submissions through the consultation process. Of those, 4,723 submissions were made via Citizen Space and eight were made via email.

## Limitations

Due to the technical nature of the consultation questions, we intended for this to be a targeted consultation with key stakeholders. On 12 June 2023 an email invitation to submit on the consultation was sent to a list of key stakeholders that comprised tobacco and vaping retailers, manufacturers and importers, non-governmental organisations and health professional organisations inviting them to submit on the consultation. At the same time, we launched the consultation on the online portal called Citizen Space.

Shortly after the consultation had opened, Manatū Hauora was notified that vaping brand Vuse had emailed their customers the following message.

We know you love your Vuse and we want to ensure you can continue to have the freedom to choose the product that's right for you. But we need your help.

The NZ Government has proposed a ban on any nic-salt vaping products with more than 28.5mg/mL of nicotine meaning our 3% (34mg) and 4% (47mg) nic strength is under threat. If this ban goes ahead these products could be off the shelves within 6 months.

If you or someone you know uses 3% or 4% nic products to help you stay smoke free, please share your story via the consultation hub before June 26th (it should only take 5 minutes). This will let the Government know that 3% and 4% vapes help to keep us smoke free.

HAVE YOUR SAY NOW

**GET A FREE VUSE GO\***



To say thank you for having your say we'll gift you a Vuse Go. Just take a screen grab of your confirmation email making sure to include the response ID, the time received and the email it was sent to, then send this to our Vuse Care Team at **info.nz@vuse.com** to get a promo code for a FREE Vuse Go\*.

This email, alongside a post on their website, encouraged their customers to fill out the consultation and offered free vapes to those who did so. Vuse is a brand of British American Tobacco (New Zealand) Limited, which also made a submission. Vuse was mentioned 135 times throughout submissions.

People supporting the proposal often did so because nicotine strengths would be reduced, and those who did not support the proposal often did so because they wanted access to vapes containing very high nicotine levels.

Respondents were asked to indicate whether they were submitting on behalf of themselves or a group, such as a small retailer, health care provider, etc. Respondents had the option of ticking more than one option, and for that reason, some submissions were analysed in more than one of the respondent type categories outlined below.

A large number of submissions were found to have duplicate IP addresses (Internet Protocol address, which indicates a connection to a particular computer network), email addresses and/or content. Though we can expect some duplications, for example, with submissions from people who work together having the same IP address, there was evidence of some respondents submitting multiple times. This may have impacted the findings of the consultation.





# Responses by respondent type

Below is summarised submission feedback by respondent type in alphabetical order.

The table below shows the submissions received by respondent type. Most submissions were made by individuals (n=3,360), followed by small retailers (n=1,238) and vaping or smokeless tobacco product retailers, distributors or manufacturers (n=455).

Submitters could select multiple categories, and many of those who identified as vaping and smokeless tobacco product retailers, distributors or manufacturers overlapped with the small retail category.

A summary of the Citizen Space responses received by each respondent type is also provided in the table below.

**Table 1: Citizen Space responses by respondent type**

Group	Total Number	N= Yes	N= No	N= Not answered	Percentage answered Yes	Percentage answered No
Personal submission	3,360	422	2,933	5	12.56%	87.29%
Small retailer	1,238	38	1,200	0	3.07%	96.93%
Vaping or smokeless tobacco product retailer, distributor or manufacturer	455	26	428	1	5.71%	94.07%
Medium or large retailer	74	5	69	0	6.76%	93.24%
Not answered	52	8	42	2	15.38%	80.77%
Other	50	10	40	0	20.00%	80.00%
Tobacco manufacturer, importer or distributor	26	3	23	0	11.54%	88.46%
Community or advocacy organisation	25	3	22	0	12.00%	88.00%
Health care provider	24	5	19	0	20.83%	79.17%
Iwi/hapū affiliated and/or Māori organisation	17	3	14	0	17.65%	82.35%

Group	Total Number	N= Yes	N= No	N= Not answered	Percentage answered Yes	Percentage answered No
Professional organisation	14	2	12	0	14.29%	85.71%
Pacific community or organisation	8	1	7	0	12.50%	87.50%
Government organisation	7	2	5	0	28.57%	71.43%
Research or academic organisation	6	2	4	0	33.33%	66.67%

## Community or advocacy organisation

### Supported the proposal

Of the submissions from community or advocacy organisations who supported the proposal, key reasons were that it would minimise harm from vaping and address current confusion around the wording of the regulations.

Some advocated for lowering nicotine concentration levels further, for example, to 20 mg/mL. One submitter commented that they were not aware of evidence to show that very high nicotine concentration products are needed for vapes to be effective as a cessation device.

### Opposed the proposal

Some submitters from this group opposed the proposal as they wanted nicotine concentration limits to be lowered further. One submission recommended all vaping products have the same limit of 20 mg/mL to avoid confusion. Another suggested the nicotine base should be referred to in the regulations.

Some commented that lower nicotine levels could be insufficient to support smokers to switch to vaping. One submission said that most whānau who use stop smoking services prefer a nicotine level of 4% and vape more heavily when the level is lower.

One submission expressed concern that the proposed change could result in harm to adult smokers and young people. Another submitter commented that lower nicotine level products may be smoother and more enjoyable and for that reason may lead to increased youth vaping.

A number of submissions from this group also emphasised that regulations should be better enforced.



# Government organisation

Seven submissions indicated that they were made on behalf of a government organisation.

## Supported the proposal

The two submissions that agreed with the proposal supported reducing the level of nicotine to reduce the appeal of vaping and the risk to young people.

## Opposed the proposal

Some of the submissions that disagreed with the proposal believed this change would disincentivise smokers to make the switch to vaping, and some indicated they did not believe nicotine levels are harmful and may increase youth uptake.

One response stated that vaping is a personal choice.

# Health care providers

## Supported the proposal

Of the 24 submissions from health care providers, 20.83% supported the proposal. Similarly to previous categories, many submitters chose to select a number of categories or did not clearly affiliate with a healthcare provider, or as a healthcare worker.

The key theme from this group was that the level was adequate for those who want to stop smoking. One submitter in this group commented that they supported the proposal as a way to address youth vaping.

## Opposed the proposal

Of the health care providers that didn't support the proposal, some thought the level in the proposal was too low and may be too large a reduction for people currently reliant on higher levels of nicotine. Some raised concerns about people relapsing to smoking or making it more difficult for people to switch from smoking.

Submissions from this group also mirrored concerns by other groups around the potential for growth in the black market and crime.

## Iwi/hapū affiliated and/or Māori organisation

Some submitters with iwi/hapū affiliations and/or from Māori organisations supported the proposal. The key reason for support was that less nicotine would reduce the risk of addiction. One respondent expressed support for the proposal as it would reduce the harm from vaping amongst tamariki.

The majority of submitters from this group disagreed with the proposal (14 of 17). They were concerned that decreasing nicotine levels would make vaping a less suitable alternative to cigarette smoking for whānau. Many also stated that adults should have the right to choose what they put in their own bodies.

Some submitters from this group disagreed with the proposal on the grounds that the nicotine limit should be lower, and ideally, vapes should not be available in New Zealand at all.

One submitter disagreed with the proposal as they felt that any nicotine concentration above 20 mg/mL is too high and limiting concentration to 20 mg/mL would better align New Zealand to the limits set in Europe, the United Kingdom and Canada. This respondent stated that youth who vape often have difficulties understanding nicotine concentrates and limiting the concentration might help reduce the risk of addiction.

## Medium or large retailer

Of the small number of medium and large retailers that agreed with the proposal (5 out of 74 respondents), many supported nicotine levels being reduced, noting that higher concentrations of nicotine may be more addictive. Most of the respondents in this group seemed to represent independent retailers such as dairies.

The vast majority of medium and large retailers disagreed with the proposal (69). Many raised concerns about impacts to their business and indicated that a large percentage of their sales were products with nicotine concentrations that were higher than the proposed limit.

Some raised concerns that a lower level of nicotine would be less effective for those wanting to use vaping as a tool to quit smoking. Some believed changing the level might cause people to revert to smoking or turn to the black market to purchase higher concentration vapes.

Some respondents felt that there were too many changes already in the regulatory environment and opposed further regulation.

## Pacific community or organisation

Eight respondents indicated that they represented a Pacific community or organisation. Of this group, one submitter supported the proposal. This submitter raised concerns about the sale of tobacco and products containing nicotine in general and suggested they should be banned entirely. They were also concerned about the use of these products among youth and teenagers.

The remaining seven respondents from this group disagreed with the proposal, noting that nicotine is addictive but not harmful on its own and that high nicotine vape products are helpful tools for those seeking to quit smoking. Some raised concerns that people might return to smoking if they no longer had access to high nicotine vapes. Some suggested people should be free to make their own choice about whether they vape or not.

## Personal submission

In all, there were 3,360 personal submissions. In addition to this, 50 submitters selected the 'other' category, and 52 did not indicate if they were submitting on behalf of themselves or an organisation. For the purpose of this analysis, we have treated these 102 submissions as personal submissions.

### Supported the proposal

Of the personal submissions, 12.64% supported the proposal. Many of those who supported the proposal were vapers themselves and felt the proposal would keep products available that are adequate for their own use and for others trying to switch from smoking to vaping.

Many of these submitters commented that a lower nicotine concentration is better for health or less likely to lead to addiction, that high nicotine products are unnecessary and that high strengths make it harder for people to switch to lower doses or quit vaping. Many also suggested that lower nicotine strengths were a good option to help address concerns about young people taking up vaping rather than regulating vapes as smoking cessation products. Some submissions commented that lower nicotine strengths could help stop youth vaping and reduce their likelihood of addiction.

Some individuals supported the proposal as they generally supported tighter regulation of vaping products and the vaping industry. A number commented that vaping companies encourage higher strength products, and some cited the email sent by Vuse. Some submitters commented that the long-term effects of high nicotine vape products are still unknown and regulation of these products is important.

Some individuals supported clarification of nicotine concentration in the proposal and supported New Zealand aligning with international standards. Others who supported the proposal wanted to ban disposable vapes or all vapes. Some recommended vapes be made prescription only.

## Opposed the proposal

Of the personal submissions, 87.29% did not support the proposal. Key themes from personal submitters who did not agree with the proposal included negative impacts on individuals and freedom of choice.

### Impact on individuals

Key concerns for this group included reducing the effectiveness of vaping as a tool to quit smoking, with many submitters saying only being able to access lower-level nicotine vapes would make the transition from smoking difficult or impossible. Others in this group said that high nicotine levels were key to their transition from smoking and that lowering nicotine strength could cause them to start smoking again. Some submitters from this group commented that they prefer the taste of high nicotine vapes.

Some of this group raised concerns that lower nicotine levels would mean they would need to vape more to get the same 'hit'. Similarly, some raised concerns around an increased cost to vapers who would need to buy more to get the same level of nicotine. Some submitters commented that this would lead to increased waste from vaping products.

Some submitters raised concerns around the negative impact not having access to high nicotine vaping products could have on an individual's anxiety, mental health and general wellbeing.

### Freedom of choice

Freedom of choice was mentioned by many submitters in this group. Many submitters viewed the impact of the proposal as penalising vapers and taking away their personal choices. Some commented that people should be able to make their own decisions around what to put in their bodies. Some emphasised there are already low nicotine options available for people to use if they want.

Some respondents from this group felt that addressing youth vaping was being prioritised over supporting people who wish to stop smoking. While many submitters supported changes that reduce harm to youth, many felt that this should not be at the expense of adults who wish to use vaping as a tool to help them quit smoking.

## Supported a lower or higher limit

Of the individual submitters who did not agree with the proposal, some supported a lowering of the current maximum nicotine concentration. Some of this group felt 28.5 mg/mL was too high and recommended lower limits, such as 20 mg/mL. Many respondents commented that lower nicotine levels make it easier for people to eventually quit vaping.

Some submitters supported an increase of the current maximum nicotine concentration. Some former smokers felt the current limit was too low to keep them



away from smoking. Some of this group recommended higher limits such as 35 mg/mL, 40 mg/mL or 50 mg/mL.

## Supported keeping the current limit

Of the personal submissions that did not agree with the proposal, some wanted levels to remain the same and felt a lower concentration would not be sufficient. Many stated they had tried lower limits and found they were not strong enough, and some supplemented vaping with cigarettes. Some of this group emphasised that keeping nicotine levels stable is important for those trying to remain cigarette free, and others commented that people need the ability to titrate down nicotine levels.

## Professional organisation

Of the respondents representing a professional organisation, 14.29% supported the proposal. Many of those supported the impact the proposal could have on protecting young people from high levels of nicotine and nicotine addiction.

Of those respondents disagreeing with the proposal, some preferred a lower limit, for example 18–20 mg/mL.

Some respondents noted that lack of availability of high nicotine vape products might make it difficult for long-term smokers to quit, particularly if they were dissatisfied with a cessation tool. One submitter suggested that a concentration of 28.5 mg/mL might not replicate the sensation of smoking and could make it more difficult to quit.

Some raised concerns about losses to businesses as a result of the changes and noted people might turn to a black market to purchase higher strength nicotine products.

## Research or academic organisation

Of the six submitters that indicated they represented research or academic organisations, four did not indicate an affiliation with a specific research or academic organisation in their submission. The remaining two submissions were from The Royal New Zealand College of General Practitioners and the ASPIRE Aotearoa group<sup>3</sup> who both supported the proposal.

## Supported the proposal

Those who supported the proposal generally supported clarifying the law and agreed with the principle of setting a nicotine limit that provides the best balance between protecting young people from nicotine addiction while also ensuring vaping products

<sup>3</sup> ASPIRE Aotearoa is a group of leading smokefree researchers and health providers from Aotearoa New Zealand. Their aim is to provide research to help the government achieve the goals of a Smokefree Aotearoa.

are effective for helping people who smoke to successfully switch from smoking to vaping.

It was noted that the ambiguity of the current wording in the regulations has contributed to the availability of nicotine salt products with very high nicotine concentrations, which may have contributed to the substantial increase in daily vaping observed in young people. One response stated that the proposal would close a loophole that was being exploited.

It was also suggested that the nicotine limit be set at 20 mg/mL to align with some international standards. One response stated that it was not clear how the 28.5 mg/mL limit was determined.

It was noted that clarifying and enforcing the law would better protect people who do not currently smoke, particularly youth and children, from nicotine addiction.

## Opposed the proposal

Some disagreed with any change to allowable nicotine concentration in vaping products. Among those that disagreed, there was a perception that the 28.5 mg/mL expression would be a large reduction, and this might drive people to vape more to compensate for the reduction in nicotine strength.

## Small retailer

The vast majority of the 1,238 small retailer submissions did not support the proposal (1,200 compared with 38 supporters).

The small number of responses that did support the proposal had several key themes. Several of these submitters supported the proposal as they believed it would make vaping less addictive, help people quit vaping and lead to improved health. Some supported strong regulation of the vaping industry or banning vapes entirely.

Those who didn't support the proposal generally mentioned the negative impact on small retailers, negative impact on people trying to quit smoking and freedom of choice. A large number of respondents from this group were concerned the proposed change would lead to an increase in black market sales. Some commented that they weren't concerned about the nicotine concentration so long as they could keep selling some vapes.

## Impact on small retailers

Submissions from small retailers consistently raised concerns around the impact the proposal could have on their income and ability to sell stock, potential loss of customers and potential business closure. This group frequently commented that there have been too many changes to requirements around sale of vaping products over a short period of time that have negatively impacted small businesses.



Many submitters from this group reported that a significant proportion of their customers use high nicotine strength vapes and that these sales make up a large percentage of their profits. Some emphasised the challenges retailers have faced since the pandemic and commented that they had already spent money on setting up specialist shops or getting licenses.

## Impact on individuals

Another key theme in the submissions from this group was the potential impact on ex-smokers or people trying to quit smoking. A number of submissions emphasised the positive impact of access to high nicotine concentration vapes on those trying to quit smoking and raised concerns that any change would make it harder for those people to remain smokefree.

A number also raised concerns that people may vape more to get an equivalent effect from their vape. Several stated that smokers need a higher nicotine percentage to come off smoking.

Some submissions from this group stated that the proposed change could negatively impact the smokefree goal as it could cause smoking levels to increase. Some submissions from this group stated that addressing youth vaping should not be prioritised over supporting adults to quit smoking.

## Tobacco manufacturer, importer or distributor

### Supported the proposal

Of the 26 respondents who indicated they represented a tobacco manufacturer, importer or distributor, only three (11.54%) supported the proposal. Of those three, comments showed support for the clarity that would be provided around how nicotine limits apply to nicotine salt-based substances.

One submitter from this group indicated that it is not always possible to identify the nicotine level within a nicotine salt and said it was not clear how the 28.5 mg/mL limit was determined. This respondent suggested it may be simpler to maintain the 50 mg/mL limit but clearly state that this limit applies to the nicotine salt strength. The respondent gave an example of possible wording for the regulations as: 'If the nicotine in a vaping substance is in the form of a nicotine salt, then the nicotine salt (and not the nicotine component alone) must not exceed a strength of 50 mg/mL'.

One respondent from this group noted they take their obligations under the Act seriously and want to be confident in their compliance with the Act. The respondent felt the regulations should clearly identify whether the proposed amendment would replace the existing limit of 50 mg/mL. They also requested clarification on labelling

requirements if the proposed limit were introduced, especially in cases where the nicotine concentration may not be known.

## Opposed the proposal

Of the 26 respondents who indicated they represented a tobacco manufacturer, importer or distributor, 88.46% (23) did not support the proposal. Of that group, many were concerned the proposed nicotine concentration of 28.5 mg/mL would limit attempts to quit smoking.

Some submitters from this group agreed the current limit of 50mg/mL is too high but believed the proposed 28.5 mg/mL is too restrictive and limits consumer choice. Some suggested setting the limit at 35 mg/mL or 40 mg/mL instead.

Some raised concerns about loss of business if these changes were implemented.

## Vaping or smokeless tobacco product retailer, distributor or manufacturer

The vast majority of respondents representing vaping or smokeless tobacco product retailers, distributors and manufacturers did not support the proposal (428 out of 455 from this respondent type).

## Supported the proposal

Twenty-six submitters from this group supported the proposal and generally felt the proposal is a minor change to the regulations that will improve clarity for everybody and aligns with the intent of the legislation that was introduced in 2021.

Some supported a lower nicotine concentration as they felt this would be less addictive and noted there is no need for vapes to have a higher nicotine strength than that available in cigarettes. Some noted they have seen customers who were never tobacco customers purchasing higher nicotine products and were concerned by the high number of young people consuming vapes. They noted that non-smokers and young people taking up vaping goes against the intention of vapes being introduced as a cessation tool for smokers.

## Opposed the proposal

Submitters from this group who disagreed with the proposal frequently commented that customers who purchased '3% or 4% nicotine strength' were ex-smokers who used vaping as a cessation tool. They were concerned that ex-smokers might return to smoking if they could not purchase nicotine at this strength.



One submitter from this group commented that the proposed change could reduce the efficacy of vaping products and have negative consequences, particularly before the very low nicotine cigarette policy comes into force in 2025. This submitter called for a delay on implementing any reductions to current nicotine limits.

Many submitters from this group were also business owners and raised concerns about losses to their business, stating that most of the products they sold had a higher strength than 28.5 mg/mL. However, others stated that consumers might need to purchase more vaping products to compensate for the lower level of nicotine.

Many noted there have been a lot of regulatory changes recently and feared further changes would have negative implications for their businesses. Some said they would need to discard large amounts of product that are above the proposed limits. One commented that having a number of different nicotine limits would make the environment unwieldy for both regulators and consumers.

Some stated that vaping is a personal choice and suggested people should be able to buy whatever nicotine strength they chose. Some stated that consumers may turn to a black market to purchase vapes with higher nicotine strengths. Some also felt crime might increase as a result of the proposed changes.

Some stated there have been too many regulatory changes in a short time, and it would be difficult for retailers and consumers to adjust quickly. One submission stated that the proposed changes would be confusing for consumers, who might not understand the difference between freebase nicotine and nicotine salts. They suggested suppliers should be required to state the strength for nicotine salts, not the freebase nicotine strength in a product containing nicotine salt.

## Further feedback and suggestions

Some individual submissions that didn't support the proposal suggested other issues should be prioritised. Some suggested that selling vape products to underage people should be addressed, and the focus should be on age confirmation and regulation of industry. Further to this, some suggested that only specialist stores should be able to sell vape products, and others recommended harsher penalties for those selling to underage people. Some submitters suggested addressing other societal issues, such as alcohol and caffeine use, domestic violence, child poverty and food issues.

A number of submitters expressed frustration around people who use vaping as a tool to stop smoking being penalised in order to address youth vaping. Some commented that personal accountability, parental responsibility and education were key in addressing youth vaping. Several responses commented that the general public is paying for the government's shortcomings in regard to reducing youth vaping and expressed doubt that this proposal would address youth vaping rates.

Some submitters raised concerns about the potential impact on smokefree programmes that encourage smokers to switch to vaping. A number called for vaping products not to be changed further and to focus on the smokefree goal instead.

Some submitters also noted that their preferred flavour isn't available in lower strengths and recommended increased availability of low nicotine and nicotine-free options. Some submitters also emphasised the importance of accurate labelling and of providing more information on ingredients. Another key recommendation was that any changes be communicated clearly.

A small number of submitters commented on manufacturers' ability to dilute the nicotine content of vape products. Others commented that the strength required for the ice range needed to be stronger to achieve the same impact. Some submitters suggested removing any limit on nicotine strength.

Many submissions from retailers mentioned freedom of choice, lack of evidence supporting the proposal and wasting time and resources as key concerns. Some felt other issues should be addressed instead, such as puff count and vape flavours that appeal to children. Some felt parents should take responsibility for their children and teach them the harms of nicotine products. Some submissions suggested making vapes available by prescription only or only through smoking cessation providers.

Retailer submissions also made several suggestions, including keeping high nicotine vape products at specialist vape retailers only and switching the focus to funding quit smoking/vaping programmes to make it easy and free for people to quit. Other suggestions included subsidising retailers impacted by changes and stricter punishment of retailers that sell to underage people.

One submission from an advocacy group recommended the consultation be postponed in favour of a more robust review of evidence, including engagement with a technical advisory group to understand how products deliver nicotine and how people use products to manage withdrawal. Another submitter from this group felt Manatū Hauora needed to be able to adjust nicotine limits as new evidence became available.



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