

Dialogue Summary

Addressing Area-level Disparities in Prices of Tobacco and Vaping Products in Ontario and Québec

24 September 2019



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**Dialogue Summary:
Addressing Area-level Disparities in Prices of Tobacco and Vaping Products
in Ontario and Québec**

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McMaster Health Forum and Forum+

The goal of the McMaster Health Forum, and its Forum+ initiative, is to generate action on the pressing health- and social-system issues of our time, based on the best available research evidence and systematically elicited citizen values and stakeholder insights. We aim to strengthen health and social systems – locally, nationally, and internationally – and get the right programs, services and products to the people who need them. In doing so, we are building on McMaster’s expertise in advancing human and societal health and well-being.

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Conflict of interest

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SUMMARY OF THE DIALOGUE

Participants generally agreed with the framing of the problem that area-level differences in tobacco pricing exist given that prices of tobacco products have been found to be lower in low socio-economic status neighbourhoods, and when the percentage of youth in the neighbourhood is high. However, most found this framing to be too narrow with most participants agreeing that the major problem to be addressed is to counteract sophisticated pricing strategies that are implemented by industry. Moreover, there was consensus that an important problem is that youth in low socio-economic (SES) areas have access to cheaper tobacco products. Within this broader scope, three problems emerged from the deliberations which participants felt warrant attention as part of efforts to address the problem of sophisticated pricing strategies to undermine tax policy, which has resulted in youth having cheaper access to tobacco. These are: 1) a lack of data and evidence limits the ability to identify and implement policy options to address the problem; 2) retailers not being considered part of the tobacco ‘system’; and 3) sophisticated central pricing strategies from industry means that they are far ahead in understanding and controlling the market in ways that affect smoking behaviours.

The three elements of a potentially comprehensive approach to address the problem included in the evidence brief focused on optimizing the use of tobacco-taxation policies, optimizing the use of tobacco-pricing strategies, and adopting or strengthening regulations that support implementation and enforcement. In considering these elements, the strong preference among participants was for pursuing efforts to optimize the use of tobacco-pricing strategies with a standardized price as the ultimate goal. Many highlighted that a pathway to get to this point could be through the implementation of a minimum and maximum price that could be adjusted over time, until a standardized price is reached. This was viewed as ultimately limiting the ability of industry to offer tobacco products at cost or below cost and to reduce profit margins on higher-priced brands. The result would eventually be a reduction in the price gap over time to a standardized price that could be adjusted based on data and evidence.

Several implementation considerations for this policy approach were identified, including: 1) the need to balance where to spend political capital given that windows of opportunity open infrequently, and that any capital should be spent on pursuing a standardized price; 2) considering earmarking tax proceeds as a way for creating ‘buy-in’ for any price changes to tobacco (e.g., by being specific about how proceeds from price changes will benefit those most in need); and 3) drawing on lessons learned in other sectors such as the centralized taxation and pricing system for cannabis. The main barrier to these efforts was identified as being rooted in the negotiation process that will need to take place with industry given the advantage it possesses from its informational and resource asymmetry.

Given this, participants identified two broad areas for action going forward. The first consists of two components: efforts to spark a policy-development process for developing standardized prices; and efforts to support the issue gaining prominence on government agenda to support action. For sparking a policy-development process, participants identified that next steps should include efforts to identify possible features of and evidence about a standardized price (and minimum and maximum prices as a possible pathway to achieving a standardized price) to build a supportive case for it. To accompany this, participants agreed that a ‘hook’ for bringing the issue to the forefront on government agendas is needed, and that one of the most compelling public issue is that of area-level disparities in low-SES neighbourhoods. Perpetual availability of “discount brands” was also viewed as a visible issue to capitalize on given that it ensures the availability of cheap cigarettes for price-sensitive communities (e.g., youth in low-SES neighbourhoods). The second area for action identified is complementary to the first and focused on building a robust and coordinated research agenda. A research agenda was identified as being essential to “look behind the curtain” on the sophisticated price manipulation of tobacco. Moreover, this was noted by some as being essential to support the policy-development work for a standardized price and for supporting rapid evidence-based changes over time to address new/emerging strategies from industry. Others noted that price segmentation that minimizes the public health benefits of taxes is in and of itself a reason to move forward. Finally, all participants agreed about moving beyond talking about tobacco taxation, and instead focus on tobacco pricing, which includes taxes but also depends on industry wholesale price manipulation.

SUMMARIES OF THE FOUR DELIBERATIONS

DELIBERATION ABOUT THE PROBLEM

Participants initially focused on the overall framing of the problem in the evidence brief that was sent to participants prior to the stakeholder dialogue. In the evidence brief, it was outlined that evidence strongly suggests that area-level differences in tobacco pricing exist as prices of tobacco products have been found to be lower in low socio-economic status neighbourhoods, and when the percentage of youth in the neighbourhood is high. Moreover, it was outlined that this specific problem is magnified given that:

- tobacco is the leading cause of death in Canada and continues to be taken up among those who are most vulnerable;
- the cost of tobacco to society is significant, yet the most effective interventions to continue to curb tobacco use through taxing, pricing and regulatory policies have not been used to their full extent by governments;
- rapid increases in the use of electronic nicotine delivery systems (ENDS) may provide a pathway to the cessation of tobacco use, but may also introduce a new pathway to becoming addicted to nicotine; and
- the tobacco industry continues to deploy pricing strategies that avoid or minimize the effects of government action.

While participants generally agreed with this framing, most viewed it as being too narrow in scope with general consensus that price variation is the manifestation of a broader set of problems related to price manipulation by the tobacco industry. For example, several participants emphasized that the manipulation of prices is pervasive and is used to undermine the effects of tax policy that has been designed to reduce the use of tobacco. Others pointed to the problem being about inequitable outcomes, while others pointed to use of marketing to drive demand (particularly for vaping products).

While agreement on the scope of the problem was not reached among all members, most agreed that the major problem to be addressed is to counteract sophisticated pricing strategies that are implemented by industry. Moreover, there was consensus that an important problem is that youth in low socio-economic (SES) areas have access to cheaper tobacco products.

Box 1: Background to the stakeholder dialogue

The stakeholder dialogue was convened in order to support a full discussion of relevant considerations (including research evidence) about a high-priority issue in order to inform action. Key features of the dialogue were:

- 1) it addressed an issue currently being faced in Canada;
- 2) it focused on different features of the problem, including (where possible) how it affects particular groups;
- 3) it focused on three elements of a potentially comprehensive approach for addressing the policy issue;
- 4) it was informed by a pre-circulated evidence brief that mobilized both global and local research evidence about the problem, three approach elements, and key implementation considerations;
- 5) it was informed by a discussion about the full range of factors that can inform how to approach the problem and possible elements of an approach to addressing it;
- 6) it brought together many parties who would be involved in or affected by future decisions related to the issue;
- 7) it ensured fair representation among policymakers, stakeholders and researchers;
- 8) it engaged a facilitator to assist with the deliberations;
- 9) it allowed for frank, off-the-record deliberations by following the Chatham House rule: “Participants are free to use the information received during the meeting, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed;” and
- 10) it did not aim for consensus.

We did not aim for consensus because coming to agreement about commitments to a particular way forward can preclude identifying broad areas of agreement and understanding the reasons for and implications of specific points of disagreement, as well as because even senior health- and social-system leaders typically need to engage elected officials, boards of directors and others about detailed commitments.

Participants’ views and experiences and the tacit knowledge they brought to the issues at hand were key inputs to the dialogue. The dialogue was designed to spark insights – insights that can only come about when all of those who will be involved in or affected by future decisions about the issue can work through it together. The dialogue was also designed to generate action by those who participate in the dialogue, and by those who review the dialogue summary and the video interviews with dialogue participants.

Within this broader scope, three problems emerged from the deliberations which participants felt warrant attention as part of efforts to address the problem of sophisticated pricing strategies to undermine tax policy, which has resulted in youth having cheaper access to tobacco:

- 1) a lack of data and evidence limits the ability to identify and implement policy options to address the problem;
- 2) retailers not being considered part of the tobacco ‘system’; and
- 3) sophisticated central pricing strategies from industry means that they are far ahead in understanding and controlling the market in ways that affect smoking behaviours.

We describe each of these themes in turn below.

A lack of data and evidence limits the ability to identify and implement policy options to address the problem

All participants either spoke to or agreed that a central driving factor of the problem is a lack of data and evidence which, as one participant noted, prevents us from looking “behind the curtain” of tobacco-pricing strategies. Without access to such data and evidence, many participants emphasized that developing understandings of what the problem is, what’s driving it and its magnitude is significantly limited. Moreover, participants highlighted that such a limited understanding of the problem prevents the ability to identify and choose from a range of viable policy options to address it in a meaningful way. Participants noted that the result of this asymmetry of data access has been that industry is at a distinct advantage to manipulate price to undermine tax policy given its extensive, robust and sophisticated data collection and analysis capability.

Several examples of additional factors underlying the lack of data and evidence were provided. First, some participants noted that the issue is exacerbated by the fact that governments have unused authority to get more information than it currently has. A key example provided is the lack of use of integrated digital platforms where every transaction is recorded. While such platforms are used for other products, some participants questioned why it is not used for tobacco. Second, some participants raised the issue of a lack of data throughout the supply chain from manufacturing to retail prices. Without such data, participants emphasized that industry will continue to operate at a distinct advantage in its ability to use price manipulation. Lastly, other participants highlighted that there is a lack of knowledge and understanding of solutions and price controls in other areas that could be used and adapted for addressing the issue with tobacco. For example, minimum pricing and volumetric taxation (i.e., a tax by alcohol units) has been proposed as alternative approaches to taxation to raise the price of alcohol products. In Canada, provinces such as British Columbia and Saskatchewan have used minimum pricing with the aim to reduce alcohol-related morbidity and crime.

Retailers not being considered part of the tobacco ‘system’

A connected facet of the issue that participants identified during deliberations is that retailers are not considered part of the tobacco ‘system’. This disconnection has many implications for collecting data, including the issue noted above about the lack of data throughout the entire supply chain, with retailers being an essential data-collection source for retail price.

The bigger implication discussed in relation to retailers not being considered part of the tobacco ‘system’ is the limitations it places on being able to counteract sophisticated pricing manipulation from industry. In particular, several participants highlighted that retailers are an essential component for efforts to implement solutions, and monitoring and evaluating the effects of those solutions. Without this, efforts to make rapid evidence-based changes over time to address new/emerging strategies from industry will not be possible.

Sophisticated central pricing strategies from industry means that they are far ahead in understanding and controlling the market in ways that affect smoking behaviours

These deliberations led participants to conclude that sophisticated central-pricing strategies from industry means that they are far ahead in understanding and controlling the market in ways that affect smoking behaviours. Moreover, it was emphasized that industry has used these to undermine government policies. A key example raised by many participants are the contracts that tobacco industry negotiates with retailers. Such contracts were described as often forcing retailers to purchase larger volumes than they sell, often resulting in retailers selling at cost to sell off remaining inventories. The industry also imposes price ceilings on certain brands as a condition to have a selling contract. This type of contract and pricing approach was highlighted as allowing for the lower prices documented in low-SES areas. Moreover, some participants described the process as being as nimble as fluctuations in gas prices, where the price for cigarettes is routinely adjusted to reflect market trends.

DELIBERATION ABOUT ELEMENTS OF A POTENTIALLY COMPREHENSIVE APPROACH

The evidence brief outlined three elements of a potentially comprehensive approach to address the problem, which focused on optimizing the use of tobacco-taxation policies, optimizing the use of tobacco-pricing strategies, and adopting or strengthening regulations that support implementation and enforcement. As we outline below, the strong preference among participants was for pursuing efforts to optimize the use of tobacco-pricing strategies with a standardized price as the ultimate goal. We briefly describe key themes from the deliberations about each element below followed by an assessment of the broader themes in relation to all of the elements.

Element 1 – Optimize the use of tobacco-taxation policies

Many participants agreed that raising excise taxes, harmonizing federal and provincial tobacco taxes and earmarking the proceeds from tobacco taxes for public investments are great tools to be considered. However, the deliberations about the three elements pointed to the need for taxation policies to be considered in the context of the broader ideal policy response, which most ended up agreeing was to optimize tobacco-pricing strategies (element 2), using a standardized price that is set and adjusted over time based on data and evidence.

In discussing tax increases, however, participants emphasized that if tax increases were pursued that they should not be predictable (e.g., through a roll-out over years) so that industry is not as readily able to mitigate their impact over time through the types of sophisticated price manipulation that has been taking place. In particular, one participant pointed out that industry cannot be given years to plan a mitigation strategy for a tax increase given how far advanced their market data are as compared to what government, stakeholders and researchers have available. As a result, the group concluded that because tax increases are so few and far between that any political capital spent needs to be on an approach such as standardized pricing that will have the greatest chance of yielding an impact. Given this, participants also noted that while approaches such as earmarking may indeed have a role to play in such an approach, that their consideration should come later in the sequencing of policy development (i.e., once a pricing approach is developed and implemented). However, we return later to the important role that earmarking taxes may play in supporting an implementation plan that fosters buy-in from those affected by price changes.

Element 2 – Optimize the use of tobacco-pricing strategies

As noted above, a standardized price for tobacco brands that is set and adjusted over time based on data and evidence was seen as the ideal policy goal. Participants argued that this is the only way that price manipulation can be directly and meaningfully addressed, as it would prevent industry from offering deep discounts for some brands while maintaining higher prices for what are viewed as premium products. Specifically, participants suggested that such a price should be set lower than what is charged for premium products, but higher than the

cheapest brands. While this would give a discount to some tobacco products, the policy would shift the balance of pricing power to governments, and therefore allow for changes over time using data and evidence to ensure that profits do not eventually increase as a result of price increases for some products.

Some participants suggested that the feasible pathway to achieving this may be through a mix of pricing strategies, such as minimum and maximum prices. It was highlighted by some participants that a maximum price could help avoid the brand prestige with premium brands and reduce the larger profit margins associated with them, while a minimum price would limit the ability of industry to offer tobacco products at cost or below cost. Over time the minimum and maximum prices could be adjusted to reduce the price gap and eventually toward an evidence-based standardized price that could also be adjusted over time.

Element 3 – Adopt or strengthen regulations that support implementation and enforcement

Many participants expressed that they felt as though this was the least relevant and important element included in the evidence brief as none of the sub-elements directly addressed area-level price differences. However, several common themes related to supporting implementation and enforcement of existing and new policies permeated the deliberations throughout the day. Many of these related to the need to counteract specific efforts from industry to undermine pricing policies. A number of sub-elements were seen as useful to counter certain price manipulations, such as not allowing retail volume discounts such as dual-pack prices, limiting manufacturers to one pack size, and banning agreements between industry and retailers to set prices at or below cost.

Considering the full array of approach elements

Two overarching themes emerged in the deliberation about the elements that are important to highlight. The first relates to where the group was closest to reaching consensus about and stemmed from the need to determine what the focus of any policy actions should be. As noted earlier, there was general consensus among participants that the main focus for policy action needs to be on addressing the manipulation of tobacco prices by industry. As discussed above in relation to element 2, this led participants to identify the ideal approach to be a standardized pricing approach. Specifically, participants emphasized that this would entail prices being determined and refined through a robust research agenda with taxes set at a level that ensures that industry profits do not increase at a rapid pace.

The second theme related to the need to not forget about identifying and addressing equity considerations in relation to tobacco prices. Specifically, some participants emphasized that tax and price policies need to be considered alongside broader cessation policies and tobacco-control policies, especially with respect to the equity issues that price increases raise for people of low SES. However, in response to this, others noted that there are already comprehensive interventions in these areas (e.g., free tobacco-cessation services in Quebec), that taxation is often the only way to reach low-SES smokers, and that smoking-related diseases and death cause much greater financial burden for poor families in the long run. Unfortunately, tax and pricing seem to be the pieces consistently left out of what otherwise would be comprehensive policy packages. For this reason, many participants agreed that the priority focus should remain on prices.

DELIBERATION ABOUT IMPLEMENTATION CONSIDERATIONS

Three general implementation considerations and a key barrier emerged from the deliberations. First, the need to balance where to spend political capital was highlighted given that windows of opportunity open infrequently. Participants were clear in the deliberation that any political capital spent should be on pursuing a standardized price, or, in lieu of that, a combined price floor and ceiling that could lead to a standardized price over time. Second, while earmarking tobacco taxes was viewed as too specific of a policy instrument to consider given the priority on a standardized price, when it came to discussing implementation strategies many participants viewed it as an important tool for creating buy-in for any price changes to tobacco. Earmarking was also seen as being important to address the equity challenge raised in the previous section by allowing governments to be specific about how the proceeds from such price changes will be used to benefit those most in need. Lastly, some participants raised the importance of drawing on lessons learned in other sectors. Specifically, the need for more streamlined taxation and pricing policies across the country was emphasized as an important implementation consideration, and many noted that a centralized structure such as what is being used for cannabis should be looked to for lessons in tobacco policy.

The main barrier to these efforts was identified as being rooted in the negotiation process that will need to take place with industry to agree upon a standardized price. In particular, most participants emphasized the need to address the informational and resource asymmetry that industry possess, which it will use to influence any negotiation process. As we highlight in the next section, a robust and coordinated research agenda is needed to overcome this important barrier.

DELIBERATION ABOUT NEXT STEPS FOR DIFFERENT CONSTITUENCIES

Participants identified two broad areas for action going forward. The first consists of two components: efforts to spark a policy-development process for developing standardized prices; and efforts to support the issue gaining prominence on government agendas to support action. As outlined in the section about the elements, participants agreed that the focus for policy action should be on addressing the manipulation of tobacco prices through a standardized price, with a possible pathway to it being through setting minimum and maximum prices that can be adjusted over time until a standardized price is achieved. Given this, participants identified that next steps should include efforts to identify possible features of such policies and assemble evidence about them to build a supportive case.

However, for the second component, participants agreed that actions for policy development will need to be supported by a ‘hook’ for bringing the issue to the forefront on government agendas. There was consensus among participants that a compelling ‘hook’ for this purpose was findings about area-level disparities that were documented in the evidence brief. Therefore, while the focus of policy action was argued to be broader (i.e., addressing the price manipulation in general), participants emphasized the need for a complementary set of efforts that focus on getting traction towards addressing the issue by the more narrowly framed but compelling public issue of area-level disparities in low-SES neighbourhoods.

The second area for action identified by participants is complementary to the first and focused on building a robust and coordinated research agenda. A research agenda was identified as being essential to, as previously stated, help “look behind the curtain” on the sophisticated price manipulation of tobacco that is occurring. This was noted by some as being essential to support the policy-development work for a standardized price (e.g., by identifying a strategy that would decrease the ability of industry to manipulate prices that have generated the large variation observed). A research agenda was also argued as being essential for supporting rapid evidence-based changes over time to address new/emerging strategies from industry. However, others stated that there are already compelling reasons to call for price standardization without additional research. In particular, some noted that given that the documented existence of price segmentation across SES regions and the availability of discount brands - both of which currently undermine taxation policy - is reason enough to end industry price manipulation.



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