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Michael Vaughan

By email: [fyi-request-23478-fa646efc@requests.fyi.org.nz](mailto:fyi-request-23478-fa646efc@requests.fyi.org.nz)  
Ref: H2023029086

Tēnā koe Michael

### **Response to your request for official information**

Thank you for your request under the Official Information Act 1982 (the Act) to Manatū Hauora (the Ministry of Health) on 12 July 2023 for information regarding vape products, and for the concerns you have raised about the availability vape products.

Vaping is not intended for young people or non-smokers, and while Manatū Hauora supports the use of vaping products to help people to stop smoking, we also recognise that vaping may pose a risk to the health of young people and are committed to reducing young people's use of these products. Please be assured that the Government has put measures in place to discourage non-smokers, particularly young people, from vaping and continues to consider the effectiveness of regulations in place.

Please find a response to each part of your request below:

*“Since vape products became widely available in New Zealand (to non-smokers as well as smokers), they have become a craze among our young people. Many thousands of young New Zealanders who were non-smokers have become addicted to vape products due to their highly-addictive nicotine content. Widespread harm is happening to these young people which would not be occurring if vape products had not been allowed to become widely available to non-smokers as well as smokers. This is nothing short of catastrophic.*

- 1) *When a company wants to start selling a product of this nature in New Zealand, what is the process? Does the company have to seek permission to sell the product? Does the company have to provide evidence of safety? Are there any 'checks and balances' and if so, who is responsible for administering them?”*

There are several regulatory requirements for the importation of goods into New Zealand, such as biosecurity and customs. In addition, specific legislative requirements may also need to be met to sell products domestically and this includes the Consumer Guarantees Act for example.

For vaping products, herbal smoking, and smokeless tobacco, there are additional legislative requirements that must be met before they can be sold. Manufacturers and importers of these products must notify the Vaping Regulatory Authority about the products they intend to

sell. This includes health warnings on vaping products, packaging, and requirements around vaping product safety. The Vaping Regulatory Authority also manages applications from retailers to become Specialist Vape Retailers, including any required harm reduction notices and ensuring that they only sell notified vaping products. Further information about the notification process for manufacturers and importers of notifiable products can be found on the [Vaping Regulatory Authority webpage](#).

- 2) *Which Ministry, individual, agency or other authority in New Zealand could have prevented the widespread availability of vape products?"*

Any new product is required to meet the legal and regulatory requirements that exist at the time of introduction. When vaping products were introduced to New Zealand around 2010 they complied with the relevant requirements and so no Ministry, individual, agency or other authority could have prevented their availability. The Smokefree Environments and Regulated Products (Vaping) Amendment Act 2020 was the Government's response to concerns about widespread availability. The Act is administered by Manatū Hauora and strikes a balance between ensuring vaping products are available for smokers who want to switch to a less harmful alternative and ensuring these products aren't marketed or sold to young people.

In addition to these legislative requirements, local councils, individual businesses and workplaces can also make their own policies around the availability of vaping as long as they meet the minimum legislative requirements. Further information is available on the [Vaping Facts website](#).

- 3) *Why did the Ministry of Health not recommend to the relevant decision-makers that vape products be made available ONLY to smokers who genuinely wanted to use them as a means to stop smoking cigarettes? This could easily have been achieved by making the vape products prescription-only.*

Cabinet is currently considering advice on the final regulations. It is expected that the Government will be able to make an announcement shortly on upcoming changes to curb youth vaping. Manatū Hauora intends to proactively release key documents on the Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Act. This will include Cabinet material, briefings, copies of submissions and other decision documents. It is expected that these will be made available on the [Manatū Hauora website](#) by the end of August 2023.

The intent of the Government's vaping laws is to achieve the dual objectives of preventing the uptake of vaping among children and young people and supporting people who smoke to switch to a less harmful product. We want to make it easy for everyone who smokes to have the option to switch to a product that is less harmful than smoking tobacco. Vaping is not intended for non-smokers or young people. Other nicotine replacement therapies are widely available without prescription and so for this reason, the Government has decided to regulate vaping products as a consumer product instead of requiring a prescription.

I trust this information fulfils your request. If you wish to discuss any aspect of your request with us, including this decision, please feel free to contact the OIA Services Team on: [oiagr@health.govt.nz](mailto:oiagr@health.govt.nz).

Under section 28(3) of the Act, you have the right to ask the Ombudsman to review any decisions made under this request. The Ombudsman may be contacted by email at: [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz) or by calling 0800 802 602.

Please note that this response, with your personal details removed, may be published on the Manatū Hauora website at: [www.health.govt.nz/about-ministry/information-releases/responses-official-information-act-requests](http://www.health.govt.nz/about-ministry/information-releases/responses-official-information-act-requests).

Nāku noa, nā

A handwritten signature in black ink, appearing to be 'A. Old', written in a cursive style.

Dr Andrew Old  
**Deputy Director-General**  
**Public Health Agency | Te Pou Hauora Tūmatanui**