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Chair

Mr. Ben Lobb

Standing Committee on Health

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● (1105)

[*English*]

The Chair (Mr. Ben Lobb (Huron—Bruce, CPC)): Good morning, ladies and gentlemen. We're ready to go. It's just a little after 11:00. We extended our start time to accommodate some members who were speaking in the House today on a motion. We are going to start now.

We're pleased to begin our study on e-cigarettes. We have officials from Health Canada here this morning.

Ladies and gentlemen, we'll begin with Ms. Geller. You can make your opening statement, and then we'll start with questions and answers.

Ms. Hilary Geller (Assistant Deputy Minister, Healthy Environments and Consumer Safety Branch, Department of Health): Thank you, Mr. Chair, and good morning.

My name is Hilary Geller. I'm the assistant deputy minister of the Healthy Environments and Consumer Safety Branch of Health Canada. I'm joined here today by Suzy McDonald, the associate director general of the Controlled Substances and Tobacco Directorate within my branch; Dr. John Patrick Stewart, executive medical director within the Health Products and Food Branch; and Peter Brander, the acting senior director general of the regions and programs branch, where Health Canada's inspection capacity resides.

[*Translation*]

We are pleased to be here today to discuss the issue of electronic cigarettes, or e-cigarettes.

[*English*]

Mr. Chair, in recent years Canada and the world have witnessed the emergence of the e-cigarette market. E-cigarettes are devices, some of which resemble conventional cigarettes, that turn a liquid into a vapour inhaled and exhaled by the user. The liquid may contain propylene glycol, glycerin, and such flavours as candy, fruit, menthol, or tobacco flavour, which may be sold separately from the device itself. Some liquids contain nicotine, a toxic and addictive substance, while others do not.

There is a rapidly growing consumer demand for e-cigarettes. While the e-cigarette market barely registered in 2008, there are now more than 450 brands on the global market. ln 2013, the global e-cigarette market was worth approximately $3 billion U.S. Some business analysts project that e-cigarette sales in the United States may surpass those of traditional cigarettes as early as 2020.

E-cigarettes are marketed, sold, and consumed as alternatives to tobacco or as smoking cessation devices. ln some cases, marketing appears to be targeted at youth and young adults through the use of flavours and certain promotional techniques that glamorize their use.

[*Translation*]

The single greatest challenge with regard to e-cigarettes is that there is a lack of conclusive scientific data on the risks and benefits of these products.

[*English*]

A limited number of studies have shown that e-cigarettes with nicotine may be beneficial for smoking cessation; however, other studies have shown that e-cigarettes may prevent quitting attempts by smokers by allowing them to satisfy their addiction in places where smoking is not permitted, such as public indoor spaces and workplaces.

The health effects of long-term use and exposure to e-cigarette vapour are unknown. What is known is that nicotine is a toxic and addictive substance. The World Health Organization has also identified the potential for fetal and adolescent nicotine exposure to have long-term consequences for brain development.

E-cigarettes have caused injuries due to device or electrical malfunction, and there are documented cases of poisoning, including cases among children, due to ingestion or spilling of nicotine-containing liquids. Variability in the quality of products available on the market has also been observed, with some products containing nicotine while labelled as containing none.

There is also a lack of evidence regarding the risk that e-cigarettes pose to the tobacco control environment, particularly when youth are involved. There are concerns that e-cigarette use may increase the social acceptability of smoking-like behaviour or the re-normalization of smoking, and about whether e-cigarette use could initiate a nicotine addiction that might then lead to tobacco use.

While there is a lack of evidence regarding youth e-cigarette use, we know that youth are using these products. ln a 2013 Ontario study, nearly 15% of students in grades 9 to 12 were reported to have tried e-cigarettes. We know that preventing early initiation of tobacco use is one of the most effective means of reducing tobacco use in adulthood.

[*Translation*]

This lack of evidence on risks and benefits poses a significant challenge for regulators, as regulatory regimes are generally based on a risk/benefit profile of what is being regulated.

[*English*]

ln the case of e-cigarettes, there is agreement that youth protection is a fundamental objective and that measures should be put in place to ensure it; however, evidence may arise that allowing adult access might have a positive impact on cessation, and so an overly restrictive regulatory approach has the potential to lead to unintended consequences.

Under the current legislative regime, e-cigarettes that contain nicotine and/or that are marketed with a health claim, such as smoking cessation, are subject to the Food and Drugs Act. These products need to be authorized by Health Canada prior to sale, based upon evidence of safety, quality, and efficacy as demonstrated by the manufacturer. To date, no e-cigarette product has been authorized under the Food and Drugs Act. This means that currently the advertisement and sale of e-cigarettes, including e-liquids that contain nicotine or that make health claims, are illegal and may be subject to compliance and enforcement actions.

E-cigarettes that do not contain nicotine and do not make health claims are legally available without authorization by Health Canada and are subject to the Canada Consumer Product Safety Act.

While these acts address human health or safety concerns, they do not prevent marketing and sales to youth. They do not address risks to the tobacco control environment, nor do they prohibit the addition of flavours that may appeal to youth.

Canada's compliance and enforcement approach for e-cigarettes is led by the regions and programs branch. Examples of our approach include the issuance of a compliance letter requesting that parties stop selling or advertising illegal e-cigarettes, the refusal of non-compliant commercial and personal shipments at the border, and the issuance of import alerts for repeat commercial offenders.

To give you an idea of recent compliance activity, from April 1 to the end of June of this year, almost 740 commercial or personal shipments were recommended for refusal. During the same period our laboratories tested 91 e-cigarettes that claimed to contain no nicotine or had no nicotine information on the packaging, and almost half of the samples actually did contain nicotine.

Mr. Chair, the Government of Canada is not the only jurisdiction seized with the issue of e-cigarettes. This issue is also a concern to our provincial and territorial counterparts. In fact there has been significant federal-provincial-territorial collaboration over the last year, including discussions at a recent federal-provincial-territorial meeting with ministers of health. No province or territory has yet taken action to regulate e-cigarettes; however, Nova Scotia, Quebec, British Columbia, and Alberta have indicated plans to do so.

This issue is also receiving attention internationally. In April of this year, the United States Food and Drug Administration announced a proposal to regulate e-cigarettes with nicotine but without health claims as tobacco products. Under this approach, e-cigarettes with nicotine and health claims would continue to be regulated as therapeutic products. This proposal is currently being consulted on and is not likely to result in a new regulatory framework for a number of years. In March of this year, the European Union approved a revised tobacco products directive that subjects e-cigarettes containing small amounts of nicotine but without health claims to tobacco-like restrictions. E-cigarettes with higher concentrations of nicotine may be available if approved under therapeutic products frameworks. Member countries may also choose to regulate e-cigarettes with any concentration of nicotine as therapeutic products.

Mr. Chair, there have also been a number of reports published on e-cigarettes. I would like to briefly mention two of those. The first is a report published by the World Health Organization in August of this year. The report noted that regulations by member states are needed to impede e-cigarette promotion, minimize potential health risks to e-cigarette users and non-users, prohibit unproven health claims, and protect existing tobacco control efforts from commercial and other vested interests of the tobacco industry. The report also recommended that legal steps should be taken to end the use of e-cigarettes indoors in public places and workplaces.

The second report I'll mention was also published in August of this year by the American Heart Association. The AHA offered policy recommendations for areas in need of focus such as the inclusion of e-cigarettes in smoke-free air laws, preventing youth access, restrictions on the marketing and advertising aimed at youth, taxation of e-cigarettes at a rate high enough to discourage youth use, labelling, and quality control over manufacturing and standards for contaminants.

● (1110)

[*Translation*]

Together, these two reports address the scope of the challenge of the issue of e-cigarettes and provide a wide range of areas for possible regulatory intervention.

[*English*]

Mr. Chair, what I've attempted to do with my remarks today is to provide a high-level overview and some context on the issue of electronic cigarettes. What becomes clear when discussing this issue is that in many cases there are as many unknowns as there are knowns. The lack of evidence with regard to the dangers these devices might pose to users or bystanders, whether there are potential benefits, and what impact their presence will have on tobacco control objectives all contribute to the challenge of establishing an appropriate regulatory framework.

[*Translation*]

Thank you again for the opportunity to appear before you today to discuss this important issue.

[*English*]

My colleagues and I would be happy to answer questions that you and members of the committee may have.

Merci.

The Chair: Thank you very much.

Ms. Davies, you're up for seven minutes.

Ms. Libby Davies (Vancouver East, NDP): Thank you very much, Chairperson. Thank you to the officials for coming today.

This of course is our first meeting of looking at this issue, so it's interesting to get an overview of what's going on. I have to say that I've been following this story, particularly in the media, because there have been quite a few news stories about the issue, particularly over the last year but maybe even before that. You're correct that there is sort of a debate going on between organizations, or health care professionals and scientists, who seem to be taking the approach that we should be really cracking down on e-cigarettes. Then there are others taking an approach that they could be seen as a smoking cessation tool, sort of a harm reduction tool. There is obviously debate out there.

You say that basically going back as far as 2008, so say about six years, this has been emerging. I'm a bit surprised that Health Canada hasn't taken a more proactive approach. You talk about the studies and that they sort of go on both sides. You say on page 3 that other studies have shown that e-cigarettes may prevent a quit attempt by smokers by allowing them to satisfy their addiction in places where smoking is not permitted and then you also raise the issue of youth. It seems to me the obvious response is.... Of course, a regulatory approach would deal with that. It's not like it's an unknown or something that can't be dealt with.

I've got two questions. Has Health Canada actually considered banning e-cigarettes? If not, has Health Canada made any move to regulate them? If so, how far down the line are you? Or are you really just letting the status quo be the status quo and focusing on your enforcement, your non-compliance elements that you noted on page 6? I just feel like it's sort of a passive response that we're getting. But this has been around for six years, so I assume that Health Canada is going somewhere on this and it would be helpful to know where you're going on it and what you've done so far.

● (1115)

Ms. Hilary Geller: I propose to give part of the answer and then turn it over to my colleague, Peter Brander, who can talk a little bit about our compliance enforcement approach that we have taken over the last number of years.

The challenge that we face as a regulator is you need to be evidence-based in terms of what you do and what your approach is. Obviously part of the evidence is the scientific work. That scientific work has truly just been emerging over the last number of years and it certainly hasn't caught up. I would say the prevalence of use in the market has well outpaced the state of the science.

I think it's also important to note that we do have a regulatory framework in place. We do have the Food and Drug Act. We can act and we have acted. Peter will be able to tell you a bit more of that story. We also have the consumer product safety framework. We've seen reports from abroad, but we haven't had reports here of exploding e-cigarettes, leaking cartridges, etc. We do have the regulatory authority to act. I think it's important to understand that there is a regulatory framework that allows us to take action today, but it's the touch that you want to take that relies on the science.

Ms. Libby Davies: Before your colleague answers, I certainly understand that you have the authority to take a regulatory approach. I just find it not quite credible that somehow you're waiting for this committee to do something. I mean, surely you guys must be heading one way or the other. Is it really the status quo and you're just focusing on compliance? Where are you going on this?

Ms. Hilary Geller: No, I certainly don't want to create the impression that we've been waiting. We've been working with our provincial and territorial counterparts for a number of years now. We have a very detailed work plan with them that involves sharing the science and the regulatory approaches, because we don't exclusively act in this domain. That's the provinces and territories—

Ms. Libby Davies: —so you're saying that B.C., Ontario, Quebec, and Nova Scotia, which you mentioned, if they're heading in the direction of a regulatory approach around use, smoking inside, youth, the actual products whether nicotine is involved.....

Are you saying you are developing a regulatory approach?

Ms. Hilary Geller: Certainly, we've been developing the policy work that one has to do to propose a regulatory approach in cooperation with the provinces and territories as the science evolves. In the meantime, we've been using our existing tools.

Ms. Libby Davies: I'm not so interested in the compliance that's going on, because I understand what you're doing there, but it's really where you're headed. Do you have a timeframe in working with the provinces and territories? Are you saying that within six months, a year, or eighteen months you're going to have this policy work done and will start working on a regulatory approach? You must have a game plan.

I think if the committee can have an understanding of that it helps us look at where we need to go as well.

Ms. Hilary Geller: I would mention that at the federal-provincial-territorial health ministers meeting only last month this was on the agenda. Certainly, ministers gave direction to accelerate the cooperative approach that we have with the provinces and territories, so we are doing that.

We are also informed by what the U.S. and the EU are doing. I think it's interesting to note that they use three different pieces of legislation. The proposal is to deal with electronic cigarettes, depending on whether there is nicotine and whether there is a health claim involved.

The reports that we are seeing both from the WHO, the American Heart Association, and others all tend to be lining up toward recommending a similar approach.

● (1120)

Ms. Libby Davies: Are you saying you have no timeline?

Ms. Hilary Geller: We don't have a specific fixed end date, but what I can tell you is that all the work is happening.

Ms. Libby Davies: Thank you.

The Chair: Thank you, Ms. Davies.

Next up for seven minutes is Mr. Regan.

Hon. Geoff Regan (Halifax West, Lib.): Mr. Chairman, I am sitting in today on behalf of a colleague, Dr. Hedy Fry. I don't have the medical background that she does, of course, but I do have an interest in this issue and I know someone who is trying to quit smoking and is using e-cigarettes in the hope that will help.

What is the evidence in terms of assisting people to stop smoking actual cigarettes by using e-cigarettes?

Ms. Suzy McDonald (Associate Director General, Controlled Substances and Tobacco Directorate, Healthy Environments and Consumer Safety Branch, Department of Health): As Hilary noted earlier, the evidence is not clear on whether or not these products assist folks to quit smoking. There has only been one randomized control trial done by Bullen and that indicated that the quit rates were similar to other nicotine replacement products. There are a number of other studies ongoing that have mixed reviews around the ability of these products to help folks quit smoking.

I think the second piece of information that's interesting to look at is whether or not the products create dual use within smokers, as opposed to helping folks quit, that folks continue to smoke a regular tobacco product and then use e-cigarettes as a secondary mechanism. What we do know is that quitting tobacco outright has a much better overall impact on your health than continuing to smoke even some products in the long term. But the bottom line is that we do not have the evidence yet to demonstrate that these products definitively help folks quit smoking.

Hon. Geoff Regan: I missed the very start and I didn't hear what scientific or medical qualifications the panel or you may have, or whether this has been advice by the department. Can you clarify that, just so I understand?

Ms. Suzy McDonald: I'm the associate director general of the controlled substances and tobacco directive. My colleague here, Dr. Patrick Stewart, might want to add a few things to that, but that's the information we have.

Hon. Geoff Regan: I will let you answer that, but maybe you can answer this as well. Is there any doubt in your mind that for someone who is trying to stop smoking, an e-cigarette is less harmful than an actual cigarette with tobacco in it that's lit and burning and there is smoke produced?

Dr. John Patrick Stewart (Executive Medical Director, Therapeutic Products Directorate, Health Products and Food Branch, Department of Health): Maybe I'll answer the first question a little bit more substantively.

The intuitive assumption is that yes, this product may assist with smoking cessation as have other nicotine replacement therapies that are out there. But the fact is that this is a novel route of administration. The nicotine replacement therapies that are now marketed have provided evidence that they do have a positive impact and an understandable safety profile. They deliver the nicotine through a different route, through the skin or the oral mucosa. The rate of rise in nicotine in those products is slow and predictable. When these products were marketed they came in with clinical studies around blood levels and the addiction potential of the product, as well as efficacy of treating smoking cessation.

This is a new product. It is actually delivering the nicotine into the lungs. What the e-cigarette does is generate a vapour that has very, very tiny droplets that allow the nicotine to get into the pulmonary tissue. Some studies that have been done show that you have a much more rapid absorption of the nicotine, so you have much more of a cigarette-like effect of nicotine coming into your bloodstream and distributing it very quickly. It more mirrors not only the craving but the reward that you get from a cigarette.

The other thing is that we don't know the addictive potential of this. The concern is that intuitively it may play a role but actually it may be as addictive as, if not more addictive than, cigarettes. Before we run off and plan a regulatory framework we need to look at what the science is telling us and not introduce risks we don't understand.

Hon. Geoff Regan: Would I be right to assume, from your opening comments, that the assessments Health Canada have concluded are not studies that Health Canada itself has initiated, but reviews of medical studies? Is that accurate? Not that there's anything wrong with that, but just so I understand. Health Canada hasn't initiated an assessment other than examining the literature and the studies.

● (1125)

Dr. John Patrick Stewart: That is correct.

Just to clarify, under the Food and Drugs Act and regulations, if a manufacturer of, say, an e-cigarette or any health product wants to gain market access, it's up to them to carry out the research to demonstrate that the product has efficacious effects on the disease they're trying to treat, that it doesn't introduce unrealistic or intolerable safety issues, and that it can produce a product in predictable quality. In getting market access in the current framework in Canada, it's up to the manufacturers to develop that evidence and bring it in to the regulator. If it's reviewed and felt to be acceptable for a proposed indication, then it will get a market authorization.

Hon. Geoff Regan: How is Health Canada currently handling the stores that are selling e-cigarettes, on the one hand, those that contain nicotine, and on the other hand, those that don't?

Mr. Peter Brander (Acting Senior Director General , Regions and Programs Bureau, Department of Health): Since 2009 Health Canada's been very clear in advising Canadians not to purchase or use these cigarettes. As Hilary has mentioned, their safety, quality, and efficacy remains unknown, and they may pose a health risk.

Our compliance and enforcement approach for these products is complaint-driven and risk-based. It includes site visits, warning letters, stop-sale requests, and customs refusals and/or the seizure of products. We continue to monitor the sale of these products as well as non-compliant retail locations and websites. We're taking actions in accordance with our compliance and enforcement approach.

Hon. Geoff Regan: Has Health Canada examined any other jurisdictions to see how they're handling the issue of e-cigarettes, and if so, which ones—if the list is not too long?

Ms. Suzy McDonald: I think we noted earlier that we'd been looking at what the U.S. in particular has been doing and what the EU has been doing. The EU came out in May with a directive around e-cigarettes. They're looking, essentially, at treating e-cigarettes that have a health claim and contain nicotine as a drug, those that do not have a health claim but contain nicotine as a tobacco product, and those with no health claim and no nicotine as a consumer product. The U.S. is taking a similar approach, using three regulatory regimes to regulate the product overall.

The Chair: Thank you.

Ms. Adams.

Ms. Eve Adams (Mississauga—Brampton South, CPC): Thank you, Mr. Chair.

Ms. Geller, thank you very much for coming and presenting here today. I very much welcomed your comments at the start.

This may not be a fair question to put to you in your role at Health Canada. It's very true that in fact the manufacturer of any product, before it is approved by Health Canada, would have to undertake their own scientific studies. I'm concerned more about the level of knowledge and scientific evidence available out there, generally speaking.

On the one hand, all lay people hear that the e-cigarette may help people end their addiction to smoking, and that it maintains some of the physical attributes of that addiction and allows them to wean themselves off nicotine, much like the patch, where you would start off with, perhaps, a higher content of nicotine and then eventually lower the content, and hopefully, eliminate all nicotine that you are consuming.

Others say it's quite the opposite, that maybe e-cigarettes are a gateway, that you start using e-cigarettes, perhaps just the ones with glycerine, the ones that have no nicotine, and then ramp your way up, and then start a fulsome addiction to cigarette smoking.

Have you at Health Canada reviewed the scientific literature available? On balance, which side do you think that scientific literature favours?

Ms. Hilary Geller: We constantly review the scientific evidence as it comes out. I would say that on this particular issue there's new evidence very regularly that is starting to suggest certain directions, but I don't think anybody would say that we have the weight of evidence yet to be conclusive on any of these key issues. There are a few issues where it is conclusive, and the dangers of nicotine is one of them.

I'd like to turn to Dr. Stewart for a moment to talk about nicotine and our approach to the evidence in making these kinds of decisions.

Dr. John Patrick Stewart: To build on what's just been said, we've definitely been monitoring e-cigarettes, what scientific evidence is out there in the public domain, and looking at it from the context of our regulatory frameworks. We did put out a notice in 2009 that alerted stakeholders to the fact that we felt this was a new drug format, in the sense that it was not the same as nicotine-containing gum or lozenges or patches, that this was a novel route of administration. We put it out so as to caution Canadians that Health Canada did not fully understand comprehensively the safety of this product, and to not seek it out without discussion with your health practitioner. Some e-cigarettes contain nicotine; some of them do not. Some of them contain just propellants or things like propylene glycol. There are some studies looking at the toxicity or the hazards associated with this, but they are certainly not comprehensive.

From the regulatory point of view, if we're looking at providing access to e-cigarettes, for, say, smoking cessation through the Food and Drugs Act and its regulations, then we would want to see evidence of the same sort of detail that we expected with other nicotine replacement therapies when they came in, or other pharmaceutical products that do play a role in smoking cessation.

To date, we have not had that evidence presented to us, and the evidence isn't comprehensive enough that we would feel comfortable that a product could be marketed in Canada with a clear claim that this plays a role in smoking cessation. The level of evidence is not comprehensive, is not population-based. It's not well designed and organized to the state that we would feel comfortable authorizing it. It may play an important role, and we hope that we do find that. I think our due diligence is such that we need to ensure that if anything gets an approval from Health Canada with a claim that there is substantive evidence that supports that, and if Canadians embark on using this product, they know it's going to have a positive impact, and they will not be assuming undue risks or risks that are not well characterized.

● (1130)

Ms. Eve Adams: In reviewing the scientific literature available, can you provide to us some information about the probability of addiction for e-cigarettes that contain nicotine and those that do not contain nicotine, compared to regular cigarettes?

Dr. John Patrick Stewart: Again, it would be nice to say that there have been well-designed studies that demonstrate this, but to date, there have not. If you just think about an e-cigarette for a minute, it has a liquid in it. The liquid has varying constituents. Some have nicotine in them. Some have nicotine in varying concentrations. They have coils that heat this liquid up. Various manufactured products will deliver different amounts. It depends on the individual, how frequently they're puffing, how much they're drawing in, and other things that come in with it. It's not a straightforward matter—

Ms. Eve Adams: If I may interject, sir, what are the possible health implications from that e-liquid, whether it's ingested, inhaled, or comes in contact with skin?

Dr. John Patrick Stewart: Again, it depends on what it contains. And again, I don't think there's been a comprehensive evaluation of this. Certainly, the paper from the WHO explored some of the concerns around hazards of it. Nicotine itself, as we mentioned earlier, is quite toxic. If taken in doses of significant quantity, it can be fatal. As far as we know early on, the propylene glycol constituents seem to be an irritant to the airways and may cause problems for asthma and other things. But again, in order to be able to say with comfort or clarity that this is an acceptable risk, we need to have properly designed studies that demonstrate efficacy as well as a well-characterized frequency of adverse events.

Ms. Eve Adams: Thank you.

And some provinces have taken steps, or are looking at taking steps, but inasmuch as cigarettes were originally regulated by many municipalities in sort of a hodgepodge system, are you aware of any municipalities that have currently taken steps to regulate e-cigarettes?

Ms. Suzy McDonald: A number of municipalities have taken action to ban e-cigarettes in places where smoking is not allowed, so anywhere there is a smoking ban there is now also an e-cigarette ban, and those municipalities go across the country. Most recently—I think just yesterday—Saskatchewan announced too.... There have been some out in British Columbia. We're starting to see that municipalities are in fact stepping up, but just with regard to smoke-free spaces.

Ms. Eve Adams: And so are these bans on e-cigarettes that do not contain nicotine, or only those that do contain nicotine?

Ms. Suzy McDonald: They're bans on e-cigarettes overall, whether or not they contain nicotine. The outside user, and in fact sometimes even the person using the product, can't tell whether or not there's nicotine in that product, so it's a global ban.

Ms. Eve Adams: Thank you.

Do I have time?

The Chair: Sorry, your time is up.

Mr. Wilks, for seven minutes, please.

Mr. David Wilks (Kootenay—Columbia, CPC): Thank you, Chair.

And thanks for being here today.

I guess I look at it from the enforcement side, from my background. I just see that we're lacking, terribly. Mr. Brander, you mentioned warning letters and seizure actions. I'm assuming they fall under the FDA and other regulatory bodies. Could you explain to me a little more about that? If we have seizure actions that are available, then that would mean to me there are other opportunities available through Health Canada that they've looked at. If there's a seizure action I think there's something wrong.

● (1135)

Mr. Peter Brander: Seizure activity would take place at the border. In the early days there were a number of seizures that had taken place. The approach has shifted. As we're aware of product coming across the border it is actually not allowed to enter the country, thereby negating the need for us to seize products.

The remainder of our approach, as I mentioned earlier, is complaint-based and risk-based. We exercise our authority under the Food and Drugs Act, so we have inspectors across the country. They examine the risk. They prioritize their activities based on the risk.

Mr. David Wilks: Could you define the risk for me?

Mr. Peter Brander: That's part of the challenge in looking at e-cigarettes. The science or the lack of science that's out there makes it difficult to accurately define the risk of those activities. Those inspectors work across a broad range of activities, doing inspections in areas such as pharmaceutical drugs, medical devices, biologics, radiopharmaceuticals, and natural health products, including e-cigarettes. The risk is looked at across that broad spectrum of activities and actions are determined based on that.

Mr. David Wilks: So of the 450 brands that, as said in the initial statement, are on the market, how many of those are created in Canada? Do you know?

Ms. Hilary Geller: We don't have that kind of market intelligence.

Mr. David Wilks: So that would also mean, since we've stopped seizure.... Correct me if I'm wrong. We've stopped seizure actions at the border?

Mr. Peter Brander: As we're aware of shipments coming across the border we work with Canada Border Services Agency to stop those shipments from entering the country.

Mr. David Wilks: It would seem to me if we have 450 brands available on the market and we have a significant usage in any...I can walk into any Peoples Drug Mart and buy it...that our seizure actions probably aren't what they should be.

Ms. Hilary Geller: We aren't aware of any e-cigarette manufacturing that happens in Canada. We certainly are aware that the vast majority of it is offshore, initially certainly in Asia. I think we're now seeing more happening in the United States. The vast majority of e-cigarettes would come into this country from abroad.

Mr. David Wilks: I'm a little confused because it seems to me that Health Canada, being the regulatory body, would oversee the seizure of products, probably working with CBSA. We have a $3-billion business with 450 brands potentially coming into Canada. You or I could walk down to any store within two blocks of here and purchase these cigarettes but we have absolutely no regulatory framework to control it.

What would be your optimum enforcement view within one year, if at all possible? Regardless of having to study things to death to try to get to a regulatory body, where could we be in one year? We do know that e-cigarettes—some of them—contain nicotine. We know what we do with regular cigarettes with nicotine. That's pretty simple. The ones that I'm more concerned about are the flavoured cigarettes. There are some that are flavoured with illegal substances. I'll leave it. I can explain that to some degree later.

Is it possible for a child under the age of 12 to go into any store in Canada and purchase e-cigarettes and not be stopped?

● (1140)

Ms. Hilary Geller: I'll take the question. I'll start with the issue of the potential use of illegal substances in these cigarettes. Yes, we're aware of that as well. I think all I would say is that if illegal substances are used in an electronic cigarette, they remain illegal substances. If we're thinking of substances that are regulated under the Controlled Drugs and Substances Act, law enforcement has the authority they need to act.

In terms of a product coming into the country, as Peter said, the dilemma that any regulator has is, you have a limited number of inspectors, you have a limited number of dollars, and you have a universe that you have to regulate with that limited number of inspectors and resources.

In the world that Health Canada regulates, electronic cigarettes certainly—the nicotine and the flavours—are part of that, but so are prescription drugs, so are medical devices, and so are various other things that Peter mentioned. So when you're doing your risk-based approach, you're kind of balancing off the risk to the public from a bad prescription drug that's produced in a dirty facility and the harm that may cause hypothetically versus the hypothetical health effect of undeclared nicotine, or even more difficult to quantify, the potential to induce a young person to end up with a nicotine addiction. That is our struggle, to be perfectly honest. As the science develops, it will allow us to be more precise in how we make those risk trade-offs, because the product itself will be better characterized, and we will be better able to quantify the risk trade-offs that we face every day.

The Chair: Thank you very much.

Next up we have Mr. Morin.

I'm sure all of our witnesses here today are quite versed in both official languages, but in case you're not, you might want to be prepared to take some French in here just now.

Thank you.

[*Translation*]

Mr. Dany Morin (Chicoutimi—Le Fjord, NDP): Thank you, Mr. Chair.

I very much appreciate the questions and answers that have been provided to us today on both sides of the table. We are learning a lot about electronic cigarettes. Most of all, we are learning that we don't know enough about them.

I have several questions to ask you.

My colleague David talked about regulation and I'm going to continue in that vein.

I am really shocked to learn that close to half of the 91 cigarettes that were tested contained nicotine, even if the packaging stated that they did not.

We have heard that 450 brands of electronic cigarettes are available in Canada. Are these the brands that contained nicotine, or did all of the brands contain traces of nicotine?

Ms. Suzy McDonald: That is a very good question.

As we said there are 450 brands, and there are probably more. The last figure was 466, and this continues to grow. Indeed, certain brands contain nicotine and others do not.

Most e-cigarettes that do not contain nicotine, that is to say the ones to be found on the licit Canadian market, are flavoured or scented and are disposable. New information on the Canadian e-cigarettes market is always coming to light, as it is a market that is growing rapidly.

You asked about the percentage of e-cigarettes that contain nicotine. My colleague cited the figure of 46%. Do you have a question for me on that topic?

Mr. Dany Morin: Yes.

Of the 91 e-cigarettes that were tested, half contained nicotine, even though their packaging stated that they did not. Are the companies doing this false advertising always the same ones, or should we worry about all of them?

● (1145)

Ms. Suzy McDonald: Several brands are at issue and are not produced by the same companies. We have samples of several product brands.

Mr. Dany Morin: Well, this disturbs me considerably. We know that a lot of smokers decide to turn to e-cigarettes to get rid of their habit, but in actual fact, without even knowing it, they could be prolonging their dependency.

Addiction among young people also concerns me a great deal. According to the study you referred to, in Ontario, in 2013, 15% of young people from grades 9 to 13 had used e-cigarettes at some point in their lives. That bothers me a lot.

I understand that together, the Canadian, provincial and territorial governments want to decrease cigarette consumption, but the e-cigarette is being presented, as cigarillos are, to look sexy to young people, and they become addicted.

You also mentioned that more than three-quarters of those who smoked before the age of 20 became regular smokers at one point or another in their lives. It worries me a lot to see that cigarette use is on the rise.

Has Health Canada changed its anti-smoking awareness-raising campaign, in light of that?

Ms. Suzy McDonald: There are two aspects, one being the awareness-raising campaign, and the other a regulatory project that could protect young people. We don't yet have the data that would allow us to determine if e-cigarettes lead people to start to smoke. As you mentioned and as we did as well, we can see that a growing number of young people are trying these products.

If we look at what is being done abroad—and I think your colleague asked a question about that—we can also see that the United States, for instance, and the European Union, have proposed restrictions on sales to minors. That is a solution that Nova Scotia is also considering. We are studying all of these options. I think my colleague discussed the fact that this is one of the things we are looking at in the context of political action.

[*English*]

The Chair: Thank you very much.

Mr. Lunney.

Mr. James Lunney (Nanaimo—Alberni, CPC): Thank you very much.

I want to pick up on the theme we've been discussing here. You mentioned of course that Health Canada has been monitoring the scientific evidence, we've been evaluating the literature, but by Ms. Geller's admission the rapidly expanding usage is way ahead of the scientific evidence. We look at some of the facts that have come forward here about the impact on children of the ones that you intercepted and analyzed: many of them contain nicotine even though they didn't say they did on the labels. The WHO has identified a potential risk of fetal and adolescent nicotine exposure of long-term consequences for brain development. Those are things that cause me a very significant measure of concern. When we look at what you said about the study from Ontario, that 15% of students 9 to 12 had tried e-cigarettes, and a Cancer Society study in Quebec found that 34% of elementary and secondary students had used e-cigarettes, it seems to me this is rapidly becoming a major concern about the impact on children. A new generation of smokers is being created by exposure to nicotine. It seems to me there's a high-risk train that's roaring down the track here. By the time the scientific literature catches up maybe 10 years from now it's going to be a really immense public health concern with tobacco use, which has been declining, taking on a whole new manifestation here.

Maybe I'd follow up and just carry it to the next step and say that the other thing is of course that cannabis is being used in these things. I just did a little check online on all of the use of loading. Online you can see how to load your own e-cigarettes with cannabis oils and how to prepare it in about a couple of hours of creative work with the dried product. The impact of that on a new generation of young people who can smoke in front of their teachers, or in front of their parents, and because there's no smell actually think they're getting away with something....

We just did a study on the harmful effects of marijuana. It seems to me that there's a real need to get ahead of this somehow. The scientific literature may catch up, but I think we have enough evidence of the harm of nicotine to maybe put some restrictions on these products much more rapidly and restrict their use to those who might benefit in cessation programs through some of the measures identified by the American Heart Association, which had some five policy recommendations that could be employed fairly rapidly.

● (1150)

Ms. Hilary Geller: We agree. As the American Heart Association, the WHO, and others have said, there is a need for a regulatory regime that is sufficiently broad to deal with the scientific uncertainties that—you're absolutely right—will evolve over time. You want a regulatory regime that is broad enough and flexible enough to be responsive to the emerging science and our emerging understanding of the harms and the benefits, and one that protects youth. Youth protection is definitely foremost in our minds and certainly was foremost in the minds of these various international studies that you've mentioned.

Related to that, we certainly think it's important to have a regime that would protect the tobacco control gains we have made in this country. Canada remains a world leader. Something we certainly want to avoid is, through electronic cigarettes, seeing our gains in tobacco control erode.

I certainly agree with what you say, wholeheartedly.

Mr. James Lunney: Do you see, or does Health Canada see, any impediment to imposing some of the things that are recommended here, such as inclusion of e-cigarettes under smoke-free air laws, so as to have them smoked only in areas that are controlled such as we see at airports, and efforts to restrict youth access by making it illegal to sell e-cigarettes to minors, or restrictions on the marketing and advertising that is aimed at youth? And why not tax them high enough that only an adult who legitimately was using them to break a smoking habit might have access to these things?

Do you see any impediments to imposing that kind of regime?

Ms. Hilary Geller: In some of the areas you mentioned, no, I don't. For instance, I think having smoke-free spaces was discussed in response to a previous question. We are seeing municipalities act on this. It is by and large within the jurisdiction of municipalities, except in federal workplaces—and we are seeing movement there.

In some of the other areas you mentioned—for instance, restrictions on promotion to youth—there are challenges vis-à-vis the current regulatory regime. Under the Tobacco Act, these cigarettes don't currently meet the definition; therefore, the sorts of promotion regimes and restrictions and bans on sales to youth, etc., that you find in the Tobacco Act by definition are not applicable today to electronic cigarettes.

The Chair: Mr. Kellway.

Mr. Matthew Kellway (Beaches—East York, NDP): Thank you, Mr. Chair.

Thank you folks for coming in today and talking to us about this issue.

I was struck, like many of us around the table here, with the opening remarks and the challenge of reconciling the comments that we don't have enough scientific certainty to recommend a regulatory regime and that discussion about regulatory regimes and policy recommendations is coming out of other jurisdictions and agencies. I guess all of my questions are going to be in an effort to reconcile those two parts of the presentation.

There was some discussion about the policy work being done in the department. Could you elaborate on what that policy work is and what the policy process is that would bring us to the point at which recommendations would come out of the department on this issue?

Ms. Hilary Geller: The policy work is focused in a couple of areas.

We are examining the Food and Drug Act, the Tobacco Act, and the Controlled Drugs and Substances Act and are going through an exercise concerning how we can use our current tools.

The gaps in how we can regulate a unique product like electronic cigarettes are emerging. We have discussed some of those challenges today and certainly we have seen them internationally pointed to as well, because these are a unique product.

We would have serious concerns about some parts; about others we're not so sure. So we are engaged in an exercise of trying to devise some sort of unique, we think, regulatory regime that would appropriately fit the risks and the benefits and the unknowns of this new product category.

I'll just note in that regard that at the FPT health ministers' meeting, Nova Scotia made a very useful proposal, to devise in cooperation with the provinces and territories a new regulatory regime that would have all those fundamental characteristics of youth protection, access for adult smokers, etc., that we have been discussing this morning.

We are in the process of working through the various options, the pros and cons, and the most efficient and effective way to regulate what is a completely new product category for us.

● (1155)

Mr. Matthew Kellway: Does the department then have the capacity to do this work in a timely way? I'm wondering how Nova Scotia gets to a unique regulatory regime but the Department of Health doesn't.

Ms. Hilary Geller: Very simply put, it's the difference between recommending high-level principles, which are relatively easy to come to and certainly we've seen them stated in various places, and then turning that into actual, perhaps proposed, changes to legislation or regulation, and how that would actually work, what the most efficient and effective mechanism is, and what the federal role is versus the provincial and territorial and municipal roles. So it's kind of taking it from the level of concept to something that could be proposed to work well in reality.

Mr. Matthew Kellway: I presume that's not a unique policy process, though. Other jurisdictions, I presume, approach these things in very similar ways.

Ms. Hilary Geller: It's not a unique policy approach. It's fair to say that if the WHO report highlights this, they did a survey of all the member states. The diversity in approach is striking. Some countries have banned electronic cigarettes outright. Others have no regulatory controls at all. Then there is a whole bunch in the middle. It's fair to say that there is no “one size fits all”. It really does depend on a country's unique structures, unique laws, and that country's analysis of the state of the evidence and what side they come down on.

The Chair: Mr. Young, for five minutes, and that will conclude our first hour.

Mr. Terence Young (Oakville, CPC): You have an addictive product with a $3-billion market that is growing quickly. You have 450 brands and growing. There are stores popping up all over the GTA that sell these devices, and you have marketing to youth with fruity flavours, obviously to create customers for life. Does all this sound familiar? Does it bring to mind any other product?

Ms. Hilary Geller: Certainly there are parallels with the tobacco industry, yes. That's correct.

Mr. Terence Young: That's what came to mind.

I'm very concerned because I think what we're facing, what you're facing as a regulator, is a tsunami of marketing and sales and health risks and health issues.

I have a bunch of questions. I'm not going to get to them all, so I'll just start at the top. What narcotics are users inhaling in these devices, other than marijuana and nicotine?

Ms. Hilary Geller: We aren't aware of narcotics being used in these devices. We've received no reports from law enforcement on that.

Mr. Terence Young: Is there an issue with people sitting near users getting second-hand nicotine into their lungs, like with second-hand smoke?

Dr. John Patrick Stewart: The question is there certainly. There is legitimate reason to suspect that the vapour that contains nicotine when it's inhaled still contains nicotine for other recipients. Before we say yes or no, we need to do more studies.

● (1200)

Mr. Terence Young: Do the users think these things are safe? Have you seen any studies? Are people using them because they think they are a safe way of getting nicotine without smoking?

Ms. Suzy McDonald: I'm not sure that we have market research on that particular question. I will note though that under the Canadian tobacco use monitoring survey we have asked a series of questions around e-cigarettes and Canadian use and perceptions on it.

Mr. Terence Young: Okay.

You said you sent letters to stop sale. I'd like to ask you how that is working.

Mr. Peter Brander: To date we're aware of 123 physical locations and 31 websites as of the end of August this year that continue to sell e-cigarettes containing nicotine despite receiving stop-sale letters.

Mr. Terence Young: It's not working.

Mr. Peter Brander: We continue to monitor it, and we take a risk-based approach.

Mr. Terence Young: How much product have you seized?

Mr. Peter Brander: On product we have seized in the last two years, we have not seized any product. Prior to that we have seized 4,828 e-liquid bottles and cartridges, 21 complete sets, and 71 disposable e-cigarettes and e-cigars.

Mr. Terence Young: That would represent a tiny percentage of what's on the market, I would assume.

Mr. Peter Brander: That would be a safe assumption.

Mr. Terence Young: Have you considered issuing any cautions to the public in newspapers, social media, posters for high schools, that kind of thing?

Ms. Hilary Geller: Health Canada has issued a warning, recommending that people not use these products.

Mr. Terence Young: I'm talking about how warnings are issued, for example, those methods that reach people.

Ms. Hilary Geller: The tool we've used to date has been the Health Canada website.

Mr. Terence Young: Thank you.

You mentioned poisonings of children in your opening remarks. How did they occur?

Ms. Hilary Geller: We have no reported incidents of that in Canada but we do monitor internationally. The cases we're aware of involve large refillable cartridges that contain nicotine, when the child gets their hands on a cartridge and drinks it.

Mr. Terence Young: Madam Geller, it sounded in your opening statement—and correct me if I'm wrong—that you were waiting for more evidence before you enforced the Food and Drugs Act.

Do I have that right?

Ms. Hilary Geller: No. That's not the impression we were trying to convey.

We do enforce the Food and Drugs Act. The actions that Peter spoke about were under the Food and Drugs Act. It's a question of the Food and Drugs Act covering a lot more than electronic cigarettes and where you choose to apply your inspection resources. That's the risk-based approach he was referring to.

Mr. Terence Young: Okay.

Is it your impression that e-cigarettes are selling primarily because people want nicotine in their systems?

Ms. Suzy McDonald: I'm not sure that we have a response to that.

I'll go back to the fact that we have some data that we're expecting to release early in the new year. We asked a series of questions around e-cigarettes, including how difficult it would be to get the substances and whether people think they are harming themselves by using the products. We will have more information available to us in the near future.

Mr. Terence Young: Thank you.

We're out of time?

Thank you, Mr. Chair.

The Chair: I'd like to thank our guests for appearing today, and thank you for your answers.

I'd like to thank our members for the good questions they asked.

We're going to suspend the meeting for a few minutes, and we'll go in camera to discuss some committee business.

Thank you very much.

[*Proceedings continue in camera*]