April 13, 2017

Consultation on the Future of Tobacco Control in Canada
Room 1605-626
Mail Stop 0301A
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Ottawa, Ontario
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Via email: ftcs-sflt@hc-sc.gc.ca

Re: Consultation on “Seizing the Opportunity: The Future of Tobacco Control in Canada”

National Smokeless Tobacco Company (“NSTC”) submits these comments in response to Health Canada’s solicitation for public input on its consultation on “Seizing the Opportunity: The Future of Tobacco Control in Canada” (the “Consultation”) in support of a renewed Federal Tobacco Control Strategy (“FTCS”).

Canada has a tremendous opportunity with a renewed FTCS to implement a comprehensive tobacco harm reduction strategy as a complement to proven prevention and cessation strategies. As noted in the Consultation, harm reduction can reduce tobacco-related harm by “[u]sing a range of tools (e.g., public education campaign) to actively encourage those who cannot quit tobacco use to switch completely to less harmful products, while continuing to inform youth and non-users of their harms.” We are encouraged to see the government recognize that there may be a role for tobacco harm reduction as part of a national effort to reduce the harm caused by smoking.

NSTC agrees that “[w]hile quitting is the best way for someone to improve their health, harms could also be reduced for people who use tobacco, but that are not able to quit by switching to less harmful sources of nicotine.” A harm reduction approach focuses on reducing tobacco-related morbidity and mortality among the population of adult tobacco consumers who cannot or will not quit using tobacco. If those adult tobacco consumers transitioned from smoking cigarettes to using less harmful products, like the smokeless tobacco products sold in Canada, it

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1 NSTC is the Canadian distributor of smokeless tobacco products sold in Canada under the brand names of Copenhagen® and Skoal®. “We” is used throughout to refer to NSTC.
3 NSTC also incorporates herein comments dated October 11, 2011, we previously filed with Health Canada entitled “Comments on Health Canada Consultation Document ‘Looking Forward: The Future of Federal Tobacco Control.’”
4 Consultation, p. 12.
5 Id. at 11.
would benefit public health by reducing the morbidity and mortality associated with smoking cigarettes.

Not all tobacco products are the same, nor should government treat them as if they are. This means unique product considerations should be factored into all government tobacco control efforts, including health policy and fiscal efforts. As the government has acknowledged, effective regulation must be science- and evidence-based. This is also true for the specific case of tobacco product regulation.

As part of a renewed FTCS, the government should:

- Implement a regulatory approach for tobacco products that, based on the best available science and evidence, recognizes a continuum of risk for tobacco products
- Modernize the current tax policy to recognize smokeless tobacco’s distinct characteristics and relative risks
- Dedicate resources to evaluate and develop communication strategies regarding the relative health risks of tobacco products in order to provide consumers with accurate information about them

About NSTC

NSTC is an affiliate of the U.S. Smokeless Tobacco Company, which is a wholly-owned subsidiary of Altria Group, Inc. NSTC is the Canadian distributor of smokeless tobacco products sold in Canada under the brand names Copenhagen® and Skoal®, the smokeless tobacco category’s leading brands in Canada. NSTC has been distributing smokeless tobacco products in Canada since 1913. NSTC’s headquarters are located in Pointe-Claire, Quebec and its products are manufactured in Nashville, Tennessee.

At NSTC we are a leader in responsibly providing smokeless tobacco products to adult tobacco consumers. One of our goals is to help reasonable tobacco regulation succeed by supporting the development and implementation of regulations that improve public health and recognize individual adult tobacco consumer preferences.

NSTC markets a total of 17 individual smokeless tobacco products across different sizes (14, 15, 23, and 34 gram cans), forms (long cut, fine cut, and pouches), and tobacco varieties. The suggested retail selling price for a standard 34-gram can of NSTC products varies from $19.99 to $30.19, depending on the province, plus applicable sales taxes. This high price reflects the high federal excise tax burden on smokeless tobacco products. Overall, smokeless products represent

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6 See Rt. Hon. Prime Minister Justin Trudeau’s Mandate Letter to the Minister of Science, “We are a government that believes in science – and a government that believes that good scientific knowledge should inform decision-making,” available at [http://pm.gc.ca/eng/minister-science-mandate-letter](http://pm.gc.ca/eng/minister-science-mandate-letter).
7 Not all products are available in all provinces.
8 NSTC Suggested Retail Prices, April 2017.
a small component of total tobacco sales in Canada. For the year ended December 31, 2015, smokeless tobacco sales accounted for 0.5% of all tobacco sold in Canada, and are used by tens of thousands of adult tobacco consumers.

NSTC’s products are for adult tobacco consumers only. Children should not use any tobacco product. We support and participate in programs to help reduce the underage use of tobacco products. For example, we support We Expect ID, a program that focuses on keeping tobacco products out of children’s’ hands by providing retailers a variety of education and training materials to effectively train their employees on the importance of age verification. We also support initiatives and actions by governments to help prevent underage access to tobacco products, including enhanced age verification legislation and penalties for non-compliance.

**Health Canada Should Implement a Renewed FTCS Promoting Harm Reduction Consistent with the Widely Accepted Continuum of Risk**

Discouraging initiation and promoting cessation are and should remain core strategies to reduce tobacco-related harm. Despite efforts by governments and public health, there is growing consensus that tobacco control policies based solely on prevention and cessation are not sufficient in the real world. The Consultation indicates that “In 2015, only 6% of former smokers had quit within the past year, but 1.3 million daily smokers made at least one quit attempt. It takes an average of 30 attempts before someone can quit smoking for a year and, even then, there is a risk of starting again.” Indeed, a regulatory approach that urges cigarette smokers to choose between smoking, on the one hand, or not using tobacco at all, on the other, could have the unintended consequence of preserving cigarette smoking as the dominant form of tobacco use in Canada.

Mitch Zeller, the Director of the Center for Tobacco Products at the United States Food and Drug Administration, described tobacco harm reduction this way:

> If we look at a subset of smokers who are otherwise unable or unwilling to quit, they're going to continue to smoke that pack of cigarettes. Half of them will die prematurely later in life from that decision. If we could get all of those people to completely switch all of their cigarettes to one of these non-combustible products, that would be good for public health.

A thoughtfully conceived and effectively implemented tobacco harm reduction strategy would complement proven prevention and cessation approaches by making available, and providing accurate information about, consumer-acceptable tobacco products that are proven to be lower

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10 Consultation, p. 4.

on the continuum of risk of tobacco products. Such a strategy need not, and should not, conflict with existing approaches based on prevention and cessation. To the contrary, these approaches are complimentary and harm reduction based on the “continuum of risk” should be the cornerstone of the government’s regulatory policy to achieve the greatest and most sustainable benefit to public health.

Smokeless Tobacco as a Means to Reduce Cigarette Smoking Harm

Cigarette smoking is the most hazardous form of tobacco consumption, due to the inherent risks of combusting tobacco and inhaling the smoke. There is an overwhelming scientific, medical, and public health consensus that smokeless tobacco products, including those NSTC distributes in Canada, are substantially less hazardous than combustible products. This consensus is based on extensive and compelling scientific evidence, including epidemiological disease risk data in human populations from the U.S. and other countries.

The continuum of risk of tobacco products can be represented as follows:

Continuum of Risk

Smoking conventional cigarettes is at one end of the continuum, presenting the highest health risk to the individual tobacco consumer due to the combustion and inhalation of tobacco smoke, while smoking cessation is at the opposite end. Non-combustible tobacco products, such as smokeless tobacco products, are substantially lower on the risk continuum than cigarettes – closer to medicinal nicotine and smoking cessation than to continued smoking.

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13 Nationally, smokeless tobacco sales account for one-half of one percent of all tobacco sold in Canada annually. Source: Health Canada Wholesale sales data, 2015.

14 See M. Zeller et al., The Strategic Dialogue on Tobacco Harm Reduction: a vision and blueprint for action in the United States, Tob. Control J.; vol. 18: 324-332 (2009), at 325; (hereinafter; “Strategic Dialogue”), see also Hatsukami et al., supra, at S546.
As early as 2001, the U.S. Institute of Medicine (“IOM”) observed that smokeless tobacco products pose a lower overall risk than cigarettes. Since that time, panel after panel of experts have critically and thoroughly examined the evidence and reached the same conclusion: using smokeless tobacco products is undeniably far less hazardous than smoking cigarettes.

In a 2002 report, the Royal College of Physicians (“RCP”), the oldest medical organization in the United Kingdom, concluded that “the consumption of non-combustible tobacco is of the order of 10-1,000 times less hazardous than smoking, depending on the product,” and that “[s]ome smokeless tobacco products . . . may offer substantial reductions in harm compared to smoking.” The RCP followed up with a second study in 2007, again concluding that the overall health risks of using smokeless tobacco are “considerably” and “substantially” less than those of cigarette smoking:

The health risks of smokeless tobacco are considerably lower than those associated with combustible tobacco products as it is largely the combustion process that makes tobacco use so deadly.

The American Council on Science and Health (“ACSH”) has also weighed in, issuing a number of reports and statements about smokeless tobacco. ACSH is a public health-oriented consumer education consortium with a board comprised of 350 physicians, scientists, and policy advisors. In a report released in 2006, ACSH concluded that, “[o]verall, the use of smokeless tobacco confers only about 2% of the health risks of smoking,” emphasizing that in contrast to cigarette smoking, smokeless tobacco poses no risk of lung cancer or other chronic pulmonary diseases and little risk, if any, of other cancers. In a subsequent publication, ACSH noted that almost 80% of peer-reviewed scientific and medical articles have acknowledged the differential risks between smokeless tobacco and cigarettes and concluded that the “health risks associated with ST [smokeless tobacco] use are vastly lower than those of smoking.”

In 2008, an international group of experts that provides scientific and technical advice on tobacco products to the World Health Organization (“WHO”) similarly recognized that

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16 Royal College of Physicians 2002, supra, at 5, 28.
18 Id. at 18 (emphasis added).
21 See ACSH, Smokeless Tobacco as Harm Reduction for Smokers (American Council on Science and Health 2007), available at http://www.acsh.org/publications/pubID.1538/pub_detail.asp (emphasis added). In February 2007, ACSH President Elizabeth Whelan and Executive and Medical Director Dr. Gilbert Ross released a statement on behalf of the ACSH for a Senate hearing on the then-proposed FDA regulation of tobacco. See ACSH Statement for Senate Hearing on FDA Regulation of Tobacco, Feb. 27, 2007, available at http://www.acsh.org/factsfears/newsID.929/news_detail.asp. In its statement, the ACSH addressed what it termed the “fallacy that all tobacco products are equally harmful to public health” and pointed out that “[t]he scientific studies have proven that they are not, and a rapidly-growing body of evidence confirms that they are not.” Id. In October 2008, ACSH Executive and Medical Director Dr. Ross stated in a letter to the medical journal Lancet that “the health risks of smokeless tobacco are at least an order of magnitude less than those of cigarettes.” G. Ross, Smokeless Tobacco for Cigarette Cessation, Lancet; vol. 372: 1271 (2008).
smokeless tobacco products are less hazardous than cigarettes. The WHO Study Group on Tobacco Product Regulation (“TobReg”) concluded, “[u]ers of smokeless tobacco products generally have lower risks for tobacco-related morbidity and mortality than users of combustible tobacco products such as cigarettes.”

The Scientific Committee on Emerging and Newly Identified Health Risks (SCENIHR) – an advisory body to the European Commission’s Health & Food Safety Directorate-General issued a report in 2008 concluding that the overall health risks of smokeless tobacco products of the types found in Sweden and North America are “clearly” and “substantially” less than the overall health risks of cigarettes:

 Overall therefore, in relation to the risks of the above major smoking-related diseases, and with the exception of use in pregnancy, [smokeless tobacco products] are clearly less hazardous, and in relation to respiratory and cardiovascular disease substantially less hazardous, than cigarette smoking. The magnitude of the overall reduction in hazard is difficult to estimate, but as outlined above, for cardiovascular disease is at least 50%, for oral and GI cancer probably also at least 50%, and for respiratory disease close to 100%.

SCENIHR found the body of evidence so compelling that it described its finding regarding the relative risks of cigarettes and smokeless tobacco as “undeniable”:

[I]t is undeniable that for an individual, substitution of tobacco smoking by the use of moist snuff would decrease the incidence of tobacco-related disease.

In addition to those noted above, many other medical and scientific organizations have examined the relative health risks of smokeless tobacco products and cigarettes and reached similar conclusions.

In 2009, a publication entitled “The Strategic Dialogue on Tobacco Harm Reduction: a vision and blueprint for action in the United States” (“Strategic Dialogue”) critically examined the role that smokeless tobacco products could play in harm reduction. The Strategic Dialogue is the outcome of more than two years of dialogue by a group of twenty-six scientists and

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24 Id. at 114-15 (emphasis added).
26 Strategic Dialogue, supra, at 324-332.
researchers, which convened to develop guidance for future efforts to reduce the harm caused by tobacco products.

The Strategic Dialogue concludes that cigarette smoking is “undoubtedly” more hazardous than smokeless (“non-combustible”) tobacco:

There is a very pronounced continuum of risk depending upon how toxicants and nicotine, the major addictive substance in tobacco, are delivered. Cigarette smoking is undoubtedly a more hazardous nicotine delivery system than various forms of non-combustible tobacco products for those who continue to use tobacco, which in turn are more hazardous than pharmaceutical nicotine products.

A close examination of data from the American Cancer Society Cancer Prevention Study II (CPS II) supports the same conclusion. This study was the first known prospective cohort study to compare mortality among former U.S. cigarette smokers who substituted using smokeless tobacco for cigarette smoking with those who quit using tobacco entirely. Although all-cause mortality after twenty years follow-up for smokers who switched to smokeless tobacco was higher than quitting altogether, this result was marginal and approached statistically non-significant levels.

In addition, Altria Client Services (ALCS) has conducted an extensive analysis of the comparative health risks of smokeless tobacco and cigarettes using two nationally representative longitudinal linked mortality data sets in the United States: The National Health Interview Survey (NHIS) mortality linkage and the National Longitudinal Mortality Study (NLMS). Both data sets are more recent than CPS II and contain similar numbers of smokeless tobacco users. Among smokeless tobacco users in these data sets, the all cause and all cancer mortality risks were not elevated while mortality risks were significantly elevated among cigarette smokers.

27 Membership included Mitch Zeller, the current Director of the United States Food and Drug Administration’s (FDA) Center for Tobacco Products (CTP).

28 The Strategic Dialogue participants were: Cathy Backinger (National Cancer Institute, Bethesda, Maryland, USA); Neal Benowitz (University of California, San Francisco, California, USA); Lois Biener (University of Massachusetts, Boston, Massachusetts, USA); David Burns (University of California, San Diego, California, USA); Pamela Clark (University of Maryland, College Park, Maryland, USA); Greg Connolly (Harvard School of Public Health, Boston, Massachusetts, USA); Mirjana Djordjevic (National Cancer Institute, Bethesda, Maryland, USA); Thomas Eissenberg (Virginia Commonwealth University, Richmond, Virginia, USA); Gary Giovino (University at Buffalo, SUNY, Buffalo, New York, USA); Dorothy Hatsukami (University of Minnesota, Minneapolis, Minnesota (co-chair)); Cheryl Healt on (American Legacy Foundation, Washington, DC, USA); Stephen Hecht (University of Minnesota, Minneapolis, Minnesota, USA); Jack Henningfield (Pinney Associates, Bethesda, Maryland, USA); Corinne Husten (Partnership for Prevention, Washington, DC); Kimberly Kobus (University of Illinois, Chicago, Illinois, USA); Scott Leischow (University of Arizona, Tucson, Arizona, USA); David Levy (Pacific Institute for Research & Evaluation, Calverton, Maryland, USA); Stephen Marcus (National Cancer Institute, Rockville, Maryland, USA); Matthew Myers (Campaign for Tobacco-Free Kids, Washington, DC, USA); Mark Parascandola (National Cancer Institute, Rockville, Maryland, USA); Prabhu Ponkshe (HealthMatrix Inc., McLean, Virginia, USA); Peter Shields (Georgetown University, Washington, DC, USA); Paul Slovic (Decision Research, Eugene, Oregon, USA); David Sweanor (University of Ottawa, Ottawa, Ontario, Canada); Kenneth Warner (University of Michigan, Ann Arbor, Michigan, USA); and Mitchell Zeller, (Pinney Associates, Bethesda, Maryland (co-chair)). Id. at 331.

29 Strategic Dialogue, supra, at 325 (emphasis added). See also id. at 327 (“On the continuum of risk, non-combustible tobacco products are more likely to reduce harm than a smoked form of tobacco for individuals who would otherwise be using conventional cigarettes.”)

30 Cancer Prevention Study II, sponsored by the American Cancer Society, is a large, ongoing prospective cohort study of 1.2 million U.S. adults that began in the fall of 1982. It was designed to examine the effect of tobacco use on death rates from cancer and other tobacco-related diseases.


32 ALCS provides certain services, including regulatory affairs, to the Altria family of companies, including NSTC.
These data directly demonstrate the significant risk differential between smokeless tobacco use and cigarettes.

The NLMS mortality linkage includes survey years 1993 through 2005 linked to National Death Index (2011 update). The data have five years of mortality follow-up for all survey years, with each decedent’s underlying cause of death assigned to one of 113 aggregate causes. The analyses were limited to respondents at least 18 years old at survey who are never users of both pipe tobacco and cigars, and for whom analysis weight, follow-up time, vital status, and model covariates are known. This data set included 210,090 total observations including 3,492 current smokeless tobacco users.

NHIS mortality linkage includes survey years 1987, 1991-1992, 1998, 2000, and 2005 because these surveys identified smokeless tobacco use, pipe use, and cigar use. ALCS’s research analyzed both the publicly available data (includes 10 most common underlying causes of death) and the restricted access data (includes 113 underlying causes of death). The data are linked to the 2011 National Death Index update and therefore include between six and 24 years of mortality follow-up. Restrictions were the same as for the NLMS. This data set included 154,391 total observations including 3,006 current smokeless tobacco users.

Mortality hazard ratios were estimated using Cox proportional hazards regression analyses for leading causes of mortality, and other selected mortality causes attributed to tobacco use (Table 1). The following covariates were used: gender, race (white, non-white), age, BMI (not available in the NLMS data), education, family income, health status, tobacco use, and cigarettes per day (limited to current or former smokers in NHIS).

As shown in Table 1, ALCS detected statistically significant excess risks among current cigarette smokers for mortality from all causes, all cancers, diseases of the heart and chronic lower respiratory diseases. The magnitudes of these excess risks among cigarette smokers are entirely consistent with prior studies, supporting the reliability of ALCS’s analyses. Among current smokeless tobacco users, however, ALCS detected no excess risks for mortality from all causes, all cancers, diseases of the heart or chronic lower respiratory disease. These analyses of two large, independent, nationally representative data sets in which ALCS directly compared the mortality risks of smokeless tobacco use and cigarette smoking clearly demonstrate that smokeless tobacco is associated with vastly lower mortality risks than cigarette smoking.

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33 Pipe and cigar users were excluded from our analyses.
34 Results from our analyses of the NHIS mortality linkage shown in Table 1 are based on a 10-year follow up.
Table 1. Comparison of the hazards for select mortality outcomes between current smokeless tobacco users and current cigarette smokers.

<table>
<thead>
<tr>
<th>Mortality outcome</th>
<th>Current SLT users</th>
<th>Current cigarette smokers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Hazard ratio (95% confidence interval)</td>
<td></td>
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<tr>
<td></td>
<td>NLMS</td>
<td>NHIS</td>
</tr>
<tr>
<td>All causes</td>
<td>0.88 (0.67-1.15)</td>
<td>1.08 (0.95-1.22)</td>
</tr>
<tr>
<td>All cancers</td>
<td>1.01 (0.57-1.79)</td>
<td>1.04 (0.82-1.31)</td>
</tr>
<tr>
<td>Diseases of the heart</td>
<td>1.07 (0.69-1.67)</td>
<td>0.79 (0.60-1.04)</td>
</tr>
<tr>
<td>Chronic lower respiratory diseases</td>
<td>0 deaths</td>
<td>0.43 (0.20-0.94)</td>
</tr>
</tbody>
</table>

Bold numbers are statistically elevated.

In sum, these data and many other scientific reports demonstrate that the smokeless tobacco products sold in Sweden and North America present substantially less risk than cigarettes, and the federal and provincial governments can use this science and evidence when making regulatory decisions about tobacco products.

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36 See, e.g., L.T. Kozlowski L.T. & B.O. Edwards, “Not Safe” is Not Enough: Smokers Have a Right to Know More Than There is No Safe Tobacco Product, Tob. Control J.; vol. 14: ii3-ii7, ii5 (Suppl. II 2005) (“Smokeless tobacco (SLT), for example, is substantially safer than cigarettes.”) (emphasis added); Kozlowski, L.T., “Effect of Smokeless Tobacco Product Marketing and Use on Population Harm from Tobacco Use: Policy Perspective for Tobacco-Risk Reduction, Am. J. of Preventative Medicine; vol. 33 (6S); S379-S386, S379 (2007) (recognizing the "considerable scientific consensus that smokeless tobacco products as sold in the United States, although not safe, are less dangerous than cigarettes to physical health.") (emphasis added); M. Broadstock, New Zealand Health Technology Assessment (NZHTA), Department of Public Health and General Practice, Christchurch School of Medicine and Health Science, Systematic review of the health effects of modified smokeless tobacco products at 82 (Christchurch, New Zealand: NZHTA 2007) (“The evidence from this review suggests that the harm of using snus, relative to non-tobacco use, is significantly less than found for smoking with respect to cancers of the head, neck and gastro-intestinal region, and cardiovascular disease events.”) (emphasis added); Gartner et al., Assessment of Swedish snus for tobacco harm reduction: an epidemiological modelling study, Lancet; vol. 369: 2010-2014, 2012 (2007) (“Individual smokers who switched to snus instead of continuing to smoke and new tobacco users who only used snus rather than smoking would achieve large health gains compared to smokers.”) (emphasis added); C. Bates et al., European Union policy on smokeless tobacco. A statement in favour of evidence-based regulation for public health, Tob. Control J.; vol. 12: 360-67, 361 (2003) (“Even allowing for cautious assumptions about the health impact, snus – and other oral tobaccos - are a very substantially less dangerous way to use tobacco than cigarettes.”) (emphasis in original).
Government Tax Policy Should Not Discourage Tobacco Users from Switching To Less Risky Products

NSTC agrees with the suggested option in the Consultation that government policy should “actively encourage those who cannot quit tobacco use to switch completely to less harmful products.” All tobacco products in Canada are highly taxed and, in many cases, smokeless tobacco products are more highly taxed than cigarettes. The Consultation notes that “increasing the price of tobacco products has also contributed to reductions in the number of people who smoke.” This suggests that tax policy could play a role in transitioning adult tobacco consumers who choose to continue using tobacco products to less harmful non-combustible tobacco products. Given existing high tax rates on all tobacco products, the government should not raise the tax on any of them. Instead, policy goals should be accomplished by lowering the tax on smokeless tobacco products.

Since 2008, the Federal Excise Tax (FET) on a 25-count pack of cigarettes has increased by 57 cents (from $2.125 to $2.695) while the tax on a standard 34-gram can of smokeless tobacco, and other tobacco products captured in the “Manufactured tobacco” category has increased by $3.845 (from $2.8925 to $6.7375). The 2017 federal budget compounded the tax disadvantage for smokeless tobacco products with an additional, disproportionate increase because it is captured in the Manufactured tobacco category. Under current federal and provincial tax policies, the price of NSTC’s smokeless tobacco products in most provinces is between 50 and 100% more than a pack of premium cigarettes.

The extraordinarily high taxes on smokeless tobacco products result from 2 tax policies that require modernization. First, the overly simplistic FET categories group smokeless tobacco with dissimilar products. And second, the so-called “air tax” unfairly taxes smokeless tobacco products in 50 gram increments despite the fact that all smokeless tobacco products are less than 50 grams.

The Government of Canada has five FET tax categories. One of those five categories is “Manufactured tobacco other than cigarettes or tobacco sticks” (“Manufactured tobacco”). The Manufactured Tobacco category is overly expansive and includes smokeless tobacco as well as

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37 Consultation, p. 12.
38 Id. at 11.
39 Based on FET of $0.425 per five cigarettes or fraction thereof (2008) and FET of $0.539 per five cigarettes or fraction thereof (2017).
41 For example, NSTC SRP of $28.19 plus GST for a standard 34-gram can of smokeless tobacco (province of Alberta, April 2017); 25-count package of premium cigarettes, average price $13.41 plus GST (province of Alberta, NSTC cigarette pricing survey, April 2017).
42 The federal government and all provinces and territories (other than Nova Scotia and Nunavut) tax smokeless tobacco products in the same manner as "roll-your-own tobacco" used for making cigarettes. In Alberta, Newfoundland & Labrador, and federally, the tax for smokeless tobacco is higher than cigarettes.
44 The Manufactured Tobacco category is in overall decline in Canada. Category volume has shrunk by more than 50% over the past decade from more than 2.7 million kilograms in 2004 to less than 975,000 kilograms in 2015. Within the Manufactured Tobacco category, smokeless tobacco makes up a larger component of a shrinking category, yet it is still subject to federal tax policy that is focused on tobacco for smoking and is not reflective of the different characteristics of smokeless tobacco products. Source: Health Canada Wholesale Sales Data, 2004-2015.
combustible pipe tobacco and roll-your-own tobacco for making cigarettes. Absent a specific definition to the contrary, all types of tobacco within an individual FET category are taxed the same. As a result, smokeless tobacco products are taxed in the same manner as combustible pipe tobacco or roll-your-own tobacco used for making cigarettes. The government does not have the tool to make deliberate, focused tax rate changes on any single product with in the “Manufactured tobacco” category.

We urge the government to amend the Excise Act to create three distinct tax categories for the different tobacco products captured within the current “Manufactured tobacco” category. These additional categories should be “Pipe tobacco,” “Roll-your-own tobacco,” and “Smokeless tobacco.” By establishing distinct tax categories for distinct tobacco products, Canada’s tobacco tax policy would more accurately reflect the current tobacco product marketplace. In addition, by refining tobacco tax categories, the government would have the flexibility to lower the tax rate on smokeless tobacco products in a way that recognizes its place on the continuum of risk.

Manufactured tobacco is taxed in 50 gram increments.\textsuperscript{45} Even though all of NSTC’s products come in packages of less than 50 grams (14, 15, 23, and 34 gram cans), adult tobacco consumers must still pay a tax on 50 grams of tobacco. Consumers are, in essence, paying an “air tax” on between 16 and 36 grams of tobacco they did not purchase. Not only does this incremental system contribute to smokeless tobacco being taxed more than cigarettes, it is also fundamentally unfair to adult smokeless tobacco consumers. We urge the government to amend the Excise Act to eliminate the so-called “air tax,” and instead tax smokeless tobacco on a per gram basis.

Modernizing the excise tax by creating a specific FET category for smokeless tobacco and taxing smokeless tobacco on a per gram basis, would support the government’s harm reduction goals. Smokeless tobacco should not be more expensive than cigarettes because of government tax policy. By lowering the taxes on smokeless tobacco, the government would be “actively encourage[ing] those who cannot quit tobacco use to switch completely to less harmful products.”\textsuperscript{46}

\textit{Health Canada’s Research Efforts Should Focus on Evaluating and Developing Effective Communications Regarding the Relative Risks of Tobacco Products}

As part of “actively encouraging those who cannot quit tobacco use to switch completely to less harmful products, while continuing to inform youth and non-users of their harms,”\textsuperscript{47} the government should dedicate resources to evaluating and developing communication strategies to provide consumers with factual information regarding the relative risks of different tobacco products. Alongside cessation strategies, factual, non-misleading information about the relative risks associated with the use of different tobacco products can provide consumers with scientifically-validated information on any relative risks.

\textsuperscript{46}Consultation, p 12.
\textsuperscript{47}Id. (emphasis added).
Despite the overwhelming scientific consensus that smokeless tobacco products like the ones sold in Canada are substantially less hazardous than cigarettes, a recent study shows that Canadian smokers continue to hold misconceptions regarding the relative risks of tobacco products. A study of young adult Canadian smokers shows that a significant portion incorrectly perceive smokeless tobacco products to be as harmful, or more harmful, than cigarettes:

Overall, 27.9% of respondents answered incorrectly that all four ST products were equally or more harmful to health than cigarettes. Depending on the product, between 30% and 47% of respondents incorrectly believed that ST and cigarettes are equally harmful, and a small proportion incorrectly believed that ST is more harmful than cigarettes.48

Similarly, studies show that the vast majority of smokers in the United States also believe that smokeless tobacco is as harmful as cigarette smoking. For example, in 2005, a survey of over 2,000 adult U.S. smokers found that only 10.7% correctly agreed that smokeless tobacco products are less hazardous than cigarettes, while 82.9% disagreed and 6.4% did not know.49 As noted by the public health scientists who reported this finding:

Here, smokers are misinformed in the opposite direction. Epidemiologic data suggest that [smokeless tobacco products] sold in the United States are significantly less dangerous than cigarettes... In short, this U.S. national sample of adult smokers holds beliefs about the relative harm reduction potential of modified cigarettes and [smokeless tobacco products] that are contrary to the available scientific evidence.50

Data from the Population Assessment of Tobacco and Health,51 a nationally representative survey of over 46,000 people in the United States, undertaken by the National Institutes of Health and funded by the U.S. Food and Drug Administration, found similar misconceptions. People do not understand that smokeless tobacco is substantially lower risk than cigarettes; 8.6% of the population correctly believes that smokeless tobacco is less harmful than cigarettes; while 27.6% of the population incorrectly believes that smokeless tobacco is more harmful than

50 Id. (emphasis added). Another study, published in 2007, examined adult smokers' beliefs in the U.S., Australia, Canada, and the United Kingdom and found that among the four, "U.S. smokers were least likely to believe that SLT is less harmful, even though it is an available option for them." R.J. O'Connor et al., Smokers' beliefs about relative safety of other tobacco products: Finding from the ITC Collaboration, 9 Nic. & Tob. Res. J. 1033-42 (2007).
51 “The Population Assessment of Tobacco and Health (PATH) Study is a national longitudinal study of tobacco use and how it affects the health of people in the United States. People from all over the country will take part in this study. The PATH Study is the first large research effort undertaken by the National Institutes of Health (NIH) and the Food and Drug Administration (FDA) since Congress gave FDA authority to regulate tobacco products in 2009.” Additional information available at https://pathstudinfo.nih.gov/UI/HomeMobile.aspx.
cigarettes. Overall, 90% of the population thinks smokeless tobacco is as harmful, or more harmful, than cigarettes.\textsuperscript{52}

As the Strategic Dialogue points out, “[p]olicies that shift the population to less harmful products should be explored taking into account their impact on prevention and cessation efforts and overall tobacco-related mortality.”\textsuperscript{53} Communicating accurate and non-misleading information about the relative risks of tobacco products should be part of Health Canada’s renewed FTCS.

We believe that, because the difference in risk between cigarette smoking and smokeless tobacco use is so pronounced, the movement of adult smokers from cigarettes to smokeless tobacco products is likely to have a net public health benefit. Speaking to this issue, ACSH concluded:

\begin{quote}
Some government and health organizations and health professionals may be reluctant to tell people that smokeless tobacco use is less dangerous than cigarette smoking out of concern that this information might prompt non-users of tobacco to start using smokeless tobacco. However, the overall public health impact of any increase in smokeless tobacco use is extremely unlikely to outweigh the beneficial effect of cigarette smokers switching to smokeless tobacco, since it would require 50 people to start using smokeless tobacco to equal the degree of health risk associated with one person smoking.\textsuperscript{54,55}
\end{quote}

Accordingly, we urge the government to dedicate some of its resources to evaluating and developing the best ways of communicating accurate and truthful information to adult tobacco consumers about the relative risks of different tobacco products.

\section*{Conclusion}

Health Canada has an opportunity to reduce tobacco-related harm by helping individuals who would otherwise continue to smoke cigarettes move to demonstrably less hazardous products like smokeless tobacco. We urge the government to recognize the continuum of risk as it regulates tobacco products by lowering the tax rate on smokeless tobacco products by creating an FET category specific to smokeless tobacco and taxing smokeless tobacco on a per gram basis. The government should also invest in developing and evaluating strategies to communicate truthful and accurate information to adult tobacco consumers about the relative risks of different tobacco products.

\begin{small}
\textsuperscript{52} Data excerpted from “Highlighted Findings From Wave 1 of the Population Assessment of Tobacco and Health (PATH) Study.” Presented at the 2016 annual meeting of the Society for Research on Nicotine and Tobacco, Presented by Andrew Hyland Ph.D. on behalf of the PATH Study Team, March, 2016.

\textsuperscript{53} Strategic Dialogue, supra, at 331 (emphasis added).

\textsuperscript{54} ACSH Report, supra, at 7.

\textsuperscript{55} This observation is bolstered by the results a study by the National Cancer Institute ("NCT") in which a team of U.S. public health researchers, including experts in epidemiology, medicine, statistics, and economics, evaluated the health risks of smokeless tobacco products compared to cigarettes. See D.T. Levy et al., The Relative Risks of a Low-Nitrosamine Smokeless Tobacco Product Compared with Smoking Cigarettes: Estimates of a Panel of Experts, Cancer, Epidemiology, Biomarkers & Prevention, vol. 13: 2055-2042, 2037 (2004).
\end{small}
We appreciate the opportunity to provide our views and look forward to future opportunities to engage in discussions about the renewed FTCS. If you have questions, please feel free to contact me. I can be reached at j.f.turcotte@nstco.ca or 514-697-5577.

Sincerely,

[Signature]

J.F. Turcotte
President
National Smokeless Tobacco Company, Limited