

Cigarillos: Cigarettes in Disguise



kiddy packs have graphic health warnings on only one side of the box that are much smaller than the warnings required on cigarette packs.

How is this possible? When it comes to cigarettes, Canada has some of the toughest laws in the world. However, when a cigarette is wrapped in tobacco leaf instead of paper, it technically isn't a cigarette but is instead a cigarillo. As a result, some of the laws designed to prevent youth access and protect public health don't apply.

Don't be fooled by the colourful packaging and fruity flavours: a cigarillo is a wolf in sheep's clothing.

Introduction

What looks like a cigarette, feels like a cigarette, but smells and tastes like candy or a cocktail? A flavoured cigarillo. Cigarillos come in a wide variety of mouth-watering flavours, such as strawberry, mint, vanilla, sour apple and piña colada. You can buy cigarillos individually—they cost about the same as a chocolate bar. You can also buy them in “kiddy packs” at youth-friendly prices. There are no health warnings on cigarillos sold individually, and



Bravo cigarillos: available in kiddy packs of five

Youth Cigarillo Use in Canada

A disturbing picture of youth cigarillo use is emerging in Canada. In May 2008, Health Canada reported that sales of cigarillos had skyrocketed in recent years from 53 million units in 2001 to over 403 million units in 2007 (based on Health Canada's definition of cigarillos).

Cigarillos are rapidly gaining popularity among young people—data from the Canadian Tobacco Use Monitoring Survey (CTUMS) show that 37% of Canadians aged 15 years and older have ever tried smoking a cigarillo or little cigar.¹ Further analysis of this data shows that the rate of cigarillo use among youth is three times higher than that of adults. Particularly disturbing is the fact that this smoking activity isn't factored into smoking prevalence figures. When it is, Canada's youth smoking rate actually *increases* from 15% to 20%.² That five percent difference comprises a group of young people who smoke cigarillos but not cigarettes, and who otherwise might have remained 'never smokers' had it not been for the cheap price, sweet flavourings, and attractive packaging of cigarillos.

Results from the latest Canadian Youth Smoking Survey (YSS) also indicate high youth experimentation with cigarillos. Students in grades 10-12 have the highest prevalence of experimentation at 36%,

followed by 10% of youth in grades 5-9.³ Young people are most at risk for trying smoking, and youth smoking experimentation involving even just a few puffs of a cigarette is an important indicator of future smoking.⁴ For these reasons, the aggressive marketing of cigarillos to youth, with flavourings that mask the tobacco taste and soften the smoking experience for beginners, is particularly worrisome.

Both the CTUMS and YSS indicate that smoking rates among young Canadians are no longer decreasing, but have in fact flatlined.

Ubiquitous in the marketplace, cigarillos can be found in most stores that sell cigarettes. In addition to the fact that cigarillo packaging is both novel and attractive, cigarillos can be discrete and easy to disguise. The single packs of *Prime Time* and *Happy Hour*, for example, resemble tubes of lipstick or coloured markers.



A single cigarillo in its plastic tube is virtually the same size and shape as tube of lipstick.

¹ Health Canada. *Canadian Tobacco Use Monitoring Survey*. "Summary of Annual Results for 2007." http://www.hc-sc.gc.ca/hl-vs/tobac-tabac/research-recherche/stat/ctums-esutc_2007/ann_summary-sommaire-eng.php. August 2008. Accessed March 3, 2009.

² Physicians for a Smoke-Free Canada. *Cigarillo smoking in Canada: A review of results from CTUMS, Wave 1 – 2007*. February 2008. http://www.smoke-free.ca/pdf_1/cigarillos-2008.pdf. Accessed March 3, 2009.

³ Health Canada. *2006-07 Youth Smoking Survey*. June 2008. http://www.yss.uwaterloo.ca/ysssite_app/controller/index.cfm?ID=3. Accessed March 3, 2009.

⁴ Ibid.

The affordability, appealing packaging, lack of or inadequate health warning, and of course the flavouring all contribute to the perception that these products are harmless indulgences.



“Bellini – Peach flavoured mini cigar with a hint of champagne!”



“Appletini – Sour apple flavoured mini cigar with a citrus twist!”



“Cosmo – Cranberry flavoured mini cigar with a hint of orange!”



“Piña Colada – Pineapple and coconut blended together!”

What Does Federal Law Say?

Currently the federal *Tobacco Act* sets out various requirements and prohibitions for tobacco products, including cigarillos.



Twinkle cigarillos are available in kiddy packs of four and come in cherry, vanilla and peach as well as unflavoured.

The *Act* requires cigarettes to be sold in packages of at least 20 units that have large graphic health warnings occupying 50% of the front and back. However, the law does not require the same of cigarillos.

Why are Cigarillos and Cigarettes Treated Differently?

Until very recently, no specific definition for a cigarillo existed in any jurisdiction. There is still no federal legislation that actually defines a cigarillo—cigarillos are currently lumped in with cigars as per the *Tobacco Products Information Regulations (TPIR)* and the *Tobacco Reporting Regulations (TRR)* as follows:

“‘Cigar’ includes:

- (a) a cigarillo or cheroot; and
- (b) any roll or tubular construction intended for smoking that consists of a filler composed of pieces of natural or reconstituted leaf tobacco, a binder of natural or reconstituted leaf tobacco in which the filler is wrapped, and a wrapper of natural or reconstituted leaf tobacco.”

Cigars are not as regulated as cigarettes in Canada – which means by extension that cigarillos are able to slip through this loophole and to be sold individually and without adequate health warnings. This is a problem, because other than being wrapped in tobacco leaf, cigarillos are much more similar to cigarettes than they are to cigars.

Most have cellulose filters like cigarettes and they are typically the same size as regular cigarettes.



Apart from the dark, reconstituted tobacco leaf paper in which it is wrapped, the cigarillo on the left is the same as the cigarette on the right.

What Are Governments Doing?

So far, the only jurisdiction that has effectively addressed cigarillos is Ontario. In December 2008, the province swiftly passed the *Smoke-Free Ontario Amendment Act (Cigarillos), 2008* (Bill 124). The law bans the sale of flavoured cigarillos and requires that all cigarillos be sold in packages of at least 20 units. The amendment also provides regulatory authority to ban other flavoured tobacco products. However, the amendment does not address graphic health warnings. At time of writing, the law had not yet come into force.

In July 2008 the government of Quebec passed regulations (*Règlement d'application de la Loi sur le tabac*) pertaining not only to tobacco products but also to all products with or without tobacco that are intended for smoking. The regulations came into effect on July 24, 2008. To be clear, these new regulations do not pertain specifically to cigarillos but

include them in their broad purview. Under the regulations, tobacco products must be sold in packages with not less than 10 units; however, this provision does not apply as long as the total sale of tobacco products excluding cigarettes exceeds \$5 (\$10 as of June 2009).

The Quebec regulation is complex and costly to enforce and ultimately fails to ban the sale of single cigarillos. Furthermore, the regulations do not address the problem of flavourings or the lack of graphic health warnings on cigarillos sold individually.

On a positive note, by simply categorizing a cigarillo as a tobacco product without identifying additional characteristics, the government of Quebec has avoided future games of cat and mouse with manufacturers taking advantage of regulatory loopholes.

The province of Saskatchewan is the only other jurisdiction that has passed legislation pertaining to cigarillos. The 2002 provincial *Tobacco Control Act* includes a prohibition on the sale of cigarillos in packages of less than five. Although this portion of the legislation was miles ahead of similar activity in other jurisdictions, the *Act* unfortunately fails to define a cigarillo thereby nullifying the provision.

While on the campaign trail in the fall of 2008, Prime Minister Stephen Harper announced that his Conservative government would ban kiddy packs of cigarillos by amending the *Tobacco (Access) Regulations* to require a minimum package size of 20 units. He also vowed to introduce regulations to ban the use of flavourings and additives “that would appeal to children” in all tobacco products. The federal government has yet to fulfill this campaign promise.

The federal government's foot dragging is in fact hampering progress in at least one other jurisdiction. Nova Scotia's Health Minister has said that his province will leave the task of addressing cigarillos to Ottawa. As a result, the provincial government has not taken a position on a private member's bill on cigarillos that was introduced in the Nova Scotia legislature in May 2008. Private Member's Bill 159 would ban all cigarillo flavourings except for rum, sugar, tobacco and wine.

The Bill is somewhat weak, however. Aside from not banning flavourings outright, it does not address health warnings nor the minimum number of units required per package. Bill 159's proposed definition of a cigarillo is "a cigar that may or may not have a binder and that is 120 millimetres or less in length." This proposed definition is open to abuse—manufacturers could arguably produce a product 121 mm in length and avoid the partial flavouring ban. Also it is unclear why rum, sugar, tobacco and wine are exempted from the ban, except that perhaps these are considered adult flavours which would not appeal to young people.

In March 2009 federal NDP MP Judy Wasylycia-Leis introduced Private Member's Bill C-348, *An Act to Amend the Tobacco Act*. This Bill requires that cigarillos be sold in packages of not less than 20, and requires graphic health warnings occupying a minimum of 50% of both principal display surfaces of packages of cigarillos, cigars and pipe tobacco. In addition, the Bill bans the sale of blunts (empty wrappers made of reconstituted leaf tobacco). Ms. Wasylycia-Leis' Bill also bans the use of flavourings in all tobacco products, except sugar, tobacco, tobacco extracts, or reconstituted tobacco.

Also in March 2009 New Brunswick's Health Minister announced that his

government will be amending the *Tobacco Sales Act* to prohibit the sale of flavoured cigarillos and other flavoured tobacco products, unless otherwise approved by regulation. This legislation is expected to be introduced in the spring 2009 session of the New Brunswick legislature.

In addition, British Columbia NDP MPP Adrian Dix has indicated that he plans to introduce a private member's bill in the spring 2009 legislative session that would ban flavoured cigarillos as well as require a minimum package size of 20 units.

Finally, in 2008 a Prince Edward Island legislative committee recommended that the province's tobacco control legislation be immediately reviewed in response to increasing concerns about cigarillo consumption by Island youth.

What Is Health Canada's Role?

To avoid creating a patchwork quilt of different legislation across Canada pertaining to cigarillos, Health Canada should step in quickly and regulate the product. As well, since provincial legislative proposals to date only address some of the problems, federal action is needed to ensure that all relevant aspects of cigarillo marketing and sales are adequately controlled.

Knowing that new and innovative products are constantly being introduced onto the Canadian market, Health Canada should adopt measures that are inclusive enough to address not only cigarillos that are available today but also new products coming on the market tomorrow. Specifically, the federal government should adopt requirements for cigarillos, as well as cheroots, kreteks, bidis and any future new products brought to market. These requirements should include:

- A minimum package size of 20 units (or a minimum package weight in the case of loose tobacco), thereby banning the sale of individual units and kiddy packs;
- A ban on all flavourings (except as permitted by regulation);
- Large, pictorial health warnings covering at least 50% of both major faces of the package;
- Submission by manufacturers to Health Canada of all relevant product information related to consumer risk.

The evidence does not indicate that cigars currently pose a problem regarding youth uptake. Unlike cigarillos, large cigars are not likely to be offered to, or purchased by, consumers as cigarettes. In addition, many large cigars are already prohibitively priced as individual units. For these reasons, cigars should remain exempt from the regulatory requirements to which cigarillos should be subject.

To ensure that all cigarillo-type products that might appeal to youth are covered by the stricter regulatory provisions governing cigarillos and to prevent manufacturers from making minor modifications to the product or to its marketing to circumvent the controls, the definition of cigarillo needs to be quite broad. If cigarillos were defined as ‘a roll of tobacco intended for smoking that has a wrapper of leaf tobacco and is of a prescribed maximum length or weight’, manufacturers could easily circumvent the requirements by making the product marginally longer or heavier.

The Ontario legislation provides a model definition in that it includes several different criteria by which to determine whether a product is a cigarillo:

“Cigarillo’ includes any of the following products:

1. *A tobacco product that is sold as a cigarillo;*
2. *A tobacco product that:*
 - i. *weighs less than 1.4 grams, or such other weight as may be prescribed;*
 - ii. *is in the form of a roll or a tube, and*
 - iii. *has a wrapper that contains natural or reconstituted leaf tobacco.*
3. *A tobacco product that:*
 - i. *has a cellulose, acetate or other type of filter;*
 - ii. *is in the form of a roll or a tube, and*
 - iii. *has a wrapper that contains natural or reconstituted leaf tobacco.*
4. *Any other tobacco product prescribed to be a cigarillo.”*

Why Include Other Products with These Measures?

Past experience has demonstrated that the tobacco industry is often one step ahead of tobacco control initiatives, employing remarkable creativity to circumvent laws and regulations in order to keep promoting its products. By adopting broad regulations that would apply to all tobacco products, except for those specifically exempted, the federal government would prevent manufacturers from taking advantage of regulatory loopholes. The regulation should encompass kreteks, bidis, and blunts and should be broad enough to cover other tobacco products that are not yet on the market.

What about the Framework Convention on Tobacco Control?

The *Framework Convention on Tobacco Control (FCTC)* is the world's first international public health treaty. Despite being recognized as a world leader in tobacco control and being among the first to ratify the treaty, Canada is currently in contravention of Article 11—*Packaging and labelling of tobacco products*. Article 11 requires that each unit package of tobacco products, as well as any outside packaging and labelling, carry health warnings that are rotating, large, clear, visible and legible, and that occupy at least 30% of the principal display areas.

As previously described, cigarillos are available for sale individually, and the packaging of individual units is devoid of any health warnings. Although kiddy packs of cigarillos contain a graphic health warning, it is printed only on the back of packs, not on both principal display areas as required. As well in many cases, the warning is smaller than the prescribed minimum size.



Conclusions

Flavoured cigarillos are immensely popular among young people, with sales skyrocketing in recent years. Concomitantly, youth smoking rates in Canada have started to flatline instead of continuing their downward trend. Since most smokers become addicted as children, measures to make products less attractive and accessible to youth are critical to stem the tide of Canada's tobacco industry-fueled public health epidemic.

Health Canada needs to act swiftly to close the regulatory loophole that currently exists regarding cigarillos by mandating the following provisions:

- A minimum package size of 20 units (or a minimum package weight in the case of loose tobacco), thereby banning the sale of individual units and kiddy packs;
- A ban on all flavourings for all tobacco products (except as permitted by regulation);
- Large, graphic health warnings covering at least 50% of the front and back of the package; and
- Submission of all relevant product information by manufacturers to Health Canada related to consumer risk.

Beyond its obligations vis-à-vis the *Framework Convention on Tobacco Control*, Health Canada has an ethical obligation to act quickly and prevent more young people from establishing devastating life-long addictions to tobacco products.