133 Molesworth Street

PO Box 5013

Wellington 6140

New Zealand

**T**+64 4 496 2000

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Paul Radich KC

Clifton Chambers

paul.radich@cliftonchambers.co.nz

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Tēnā koe Paul

Thank you for your letter of 7 December 2022 to the Director-General, Dr Di Sarfati, about product safety requirements for vaping products, which was forwarded by Nick Hodson. Dr Sarfati has asked me to reply on her behalf.

I note that you characterise issues raised with notifiers by the Vaping Regulatory Authority (VRA) on 27 October 2022 as a recent reinterpretation. However, communications from the VRA have simply re-stated existing product safety requirements and notifiers’ obligations under the Smokefree Environments and Regulated Products Act 1990 (the Act) and the Smokefree Environments and Regulated Products Regulations 2021 (the Regulations) in order to assist notifiers to understand and support them to comply.

The VRA have consistently re-stated the limits for nicotine salts in response to queries since the Regulations were made, and recent communications have been to remind notifiers and retailers of their existing obligations. There have been no changes to the intended meaning of the Regulations since they came into force, and industry participants have been required to understand and meet their obligations under the Regulations since August 2021.

You suggest the drafting of clause 15 in Schedule 2 of the Regulations is awkward and can only be interpreted to refer to the strength of nicotine in a nicotine salt vaping substance. However, the drafting is clear and concise when read in the context of its intended meaning – that the limit applies to the concentration of nicotine salt in a vaping substance.

You suggest the 50 mg/mL maximum permitted concentration of nicotine salt in a vaping substance in the Regulations is a barrier to current or ex-smokers using vaping products to help them quit smoking. Mānatu Hauora is satisfied that there is no clear evidence in New Zealand or other comparable jurisdictions to support this position. New Zealand set a substantially higher limit for nicotine salts than the UK and Europe, and we are confident that the current limits remain appropriate for New Zealand at this time.

New Zealand is a party to the World Health Organization Framework Convention on Tobacco Control (FCTC) that protects tobacco control policy from commercial and other vested interests of the tobacco industry. To meet its obligations under article 5.3 of the FCTC, the VRA will only interact with the tobacco industry, and other parties that are aligned and working with the tobacco industry, when and to the extent strictly necessary for effective regulation. At this stage, the VRA does not consider a meeting on the matters raised to be strictly necessary for effective regulation.

Thank you for taking the time to write. I hope this information is useful, and I wish you well.

Nāku noa, nā

Phil Knipe

**Chief Legal Advisor**