

# Big Tobacco poised to enter the vaping market in New Zealand

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The Ministry of Health has paved the way for Big Tobacco to move into the vaping scene.

Three years before his father was diagnosed with lung cancer, Clint Baxter bought him an e-cigarette.

The gift was supposed to be a way for his father, a smoker for 40 years, to leave cigarettes behind. But in 2013 at Christchurch Hospital, Baxter learnt his father had barely given the device a chance.

"He didn't want anyone to tell him to quit, especially his son," says Baxter. "That was a reality check for me. I couldn't force him. It's not a medicine. It had to be a customer's choice."

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Baxter had been a close observer of New Zealand's vaping industry since it started to emerge online around 2010. But seeing his father receive chemotherapy — and hearing how uninspired he was by the e-cigarettes available — made Baxter realise how far the industry had to go.

In November Baxter opened Vape Merchant, a retailer dedicated to demystifying vaping for smokers. Nine months on, there are six Vape Merchant stores around the country. Two more are set to open.

It is one of many New Zealand businesses that have emerged to serve the country's growing vaping population. This was estimated at 63,000 in 2016 but is now likely larger.

In most respects, Vape Merchant is like other retailers. It sells and manufactures products it says can help smokers break free from their dependence on combustible tobacco.

But what makes Vape Merchant different is its entanglement with legacy tobacco interests.

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For eight years, Baxter worked in the tobacco industry and was, until 2015, a director of NZ Tobacco Holdings, a company with a large stake in NZ Tobacco Group, which distributes cigarette brands such as Easy, Reef and Manitou.

The sole shareholder of NZ Tobacco Holdings now owns shares in Vape Merchant's parent company, Vapertech.

These companies are not Big Tobacco – the moniker given to the top five global tobacco companies (Philip Morris International, British American Tobacco, Imperial Brands, Japan Tobacco International, and China Tobacco) – but their involvement in the vaping industry is a sign of a blurring line between an industry heralded as the death-knell for the tobacco industry.



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University of Otago's Dr George Thompson, associate professor of its health department, says there is no evidence tobacco companies are moving away from a less addictive model.

Behind an unmarked roller-door in New Plymouth's industrial fringe, Lawrence Coe passes through an airlock.

On the other side is a glass-walled room stacked high with tubs of flavouring agents mixed to produce a distinctive e-liquid range —from Butterscotch Ripple to Blueberry Sunset. The facility can produce up to 18,000 bottles daily.

While most vaping products are produced overseas, a growing number of local businesses like Coe's are producing their own e-liquid — the juice that gives vaping its flavour and, when laced with nicotine, its kick.

The scene looks like something from *Breaking Bad*.

Coe laughs and points to a name scrawled in vivid on his white coveralls: 'Gus', the cold-blooded meth kingpin from the acclaimed TV series.

But unlike Gus, Coe — who runs the vaping retailer and e-liquid manufacturer The Mushroom Cloud — is motivated by more than just profit.

"I was a 20-a-day smoker and I'd tried everything — gum, Champix, Nicorette, lozenges, everything," he says.

"Vapers are so passionate about it because they've found this magic bullet, which is what I view it as, anyway. It stopped my smoking in its tracks overnight."

While the health impacts of vaping remain fiercely contested, the success of Coe's company and others like it rests on the widespread belief that vaping products are healthier alternatives to cigarettes.

According to a 2016 survey led by Dr Penny Truman of Massey University's School of Health Sciences, the majority of New Zealand vapers are former smokers and their overriding motivation is to stop smoking.

Vaping has become a US\$22.6 billion (\$NZ33b) industry globally, up from less than \$5 billion five years ago according to Euromonitor International. Although this market still pales in comparison to global cigarette sales — estimated at over US\$600 billion annually — its rise has been rapid.

With the World Health Organisation reporting a steady decline in smoking rates globally, and the share prices of Big Tobacco companies falling across the board this year, some analysts have characterised vaping as an existential threat to the tobacco industry, which has profited off poison for decades.

But vaping may yet be tobacco's salvation.

Over the past decade, tobacco interests have bought up vaping companies and invested billions into 'next-generation products' — a category that includes vapes and heat-not-burn devices that still use tobacco.

Philip Morris International has gone so far as to rebrand itself as champion of a smoke-free future, its website asking : "How long will PMI be in the cigarette business?"

With Big Tobacco-owned brands dominant in many markets, former smokers increasingly buy vapes from the same companies that sell the cigarettes they have given up.

Although Big Tobacco describes this pivot as about providing healthier options for smokers, others are cynical.

"What is the evidence that the tobacco industry is moving to a non-tobacco business model?" asks George Thomson, an Associate Professor at University of Otago's Department of Public Health.

"I have not seen any of the experts looking at this say: Yes, there is evidence."

Thomson has been studying the tobacco industry since the '90s. His office by Wellington Hospital is littered with articles, some which describe how previous innovations pitched at protecting smokers, like filters and menthol, have been used to ultimately encourage smoking and exacerbate smoking-related harm.

This is a view supported by the World Health Organisation, who refused to back Philip Morris' Smoke-Free World Campaign, noting PMI engages in large scale lobbying and prolonged and expensive litigation against evidence-based tobacco control policies.

There are indications vapers feel the same. According to a survey of US and Canadian vapers conducted by Dr Tanusree Jain of Trinity College Dublin, a large proportion of vapers blame Big Tobacco for their past addiction to cigarettes and hold negative views of Big Tobacco owned e-cigarette brands.

But right now in New Zealand, not a single next generation device produced by Big Tobacco is available for sale, leaving New Zealand as one of few countries where vaping is thriving away from Big Tobacco's shadow.



CHRIS MCKEEN/STUFF

Josef Nolan gave up smoking with the help of vaping, the use of electronic cigarette devices.

From a distance, there are parallels between Baxter's story and the conversions of Big Tobacco companies to vaping. Both say that a past in tobacco should not determine the future.

"It's something that I can never change, that I worked in that industry," says Baxter.

"I paid the ultimate price: I lost my father over it. It's not something I'm proud of. But I'm trying to make a difference here now."

But unlike Big Tobacco, Baxter says he has given up on the tobacco industry for good. The same is simply not true for Big Tobacco.

"The lesson that both New Zealand and the world has learnt is that you have to keep the tobacco industry out of the policy process," says Thomson.

"I think that equally applies to the vaping industry. Their business is to sell an addictive product to people and to make money from it."

Jenesa Jeram, a research fellow at public policy think-tank The New Zealand Initiative, disagrees. In May, she authored a report advocating for "light-touch" regulation of vaping and other next generation products.

"I think having some kind of financial interest — having some skin in the game — is actually an incentive to act responsibly," says Jeram.

"When you're talking about products that people are switching to to reduce the harm of smoking, there's a huge incentive to compete on the safety of that product.

"The entire story of vaping in New Zealand is of retailers taking a risk."

The risk Jeram is referring to is a legal one.

Until recently, the legal status of vaping was contested. The Ministry of Health said nicotine e-liquids were illegal to sell. But to retailers, what the Ministry saw as black and white was closer to grey: the law did not expressly allow for vaping, nor did it expressly prohibit it.

Retailers risked it and sold vapes anyway.

It is this grey area that has allowed smaller, independent businesses to flourish and kept Big Tobacco — whose investments are invariably on a larger scale — out of the market.

Says a British American Tobacco New Zealand spokesperson: "The lack of clarity and lack of enforcement from the Ministry of Health has resulted in an uneven playing field as larger, law-abiding suppliers and retailers have been unable to compete in the category."



SIMON O'CONNOR/STUFF

Lawrence Coe of The Mushroom Cloud, in his New Plymouth 'lab', where he creates vape liquids, or 'e-juices'.

The terrain is quickly shifting.

In May, the Ministry of Health took Philip Morris to Court over the legality of its heated-tobacco product, HEETS, which it began selling online to New Zealand customers in December 2016, making it the first Big Tobacco company to market a next-generation product in New Zealand.

Philip Morris won but has temporarily halted sales.

In June, the Ministry announced nicotine vaping products and heated tobacco products could be sold in New Zealand legally.

Spokespeople for Imperial Tobacco New Zealand and British American Tobacco New Zealand say while exact timing cannot be confirmed, this provides them the opportunity to bring their products to New Zealand in the near future.

In the interim Big Tobacco is calling for urgent clarification around how the Ministry will regulate the sales.

A British American Tobacco New Zealand spokesperson says without it, "The category will be unable to reach its potential...the present tobacco regulations are simply not fit for purpose."

Philip Morris agrees, with General manager James Williams saying current regulations are outdated.

"Our vision is that these products will one day replace cigarettes. We've set a new course for the company, and we're committed to achieving our vision."

There is little doubt that, now vaping is legal, and Big Tobacco is poised to enter.

What is uncertain is the regulation — which will shape how the benefits and burdens of the industry are spread.

The Government says it is considering how best to apply risk-proportionate regulation across all tobacco products, including vaping products. But it has given little indication of how long this will take or what it will look like.

A Member's Bill from National MP Nicky Wagner, which would implement light-touch regulation, waits in the ballot.

"The worst thing New Zealand can do is introduce an overly restrictive regulatory framework," says Jeram.

"That's the kind of framework that favours the big companies that can afford to put in large applications and to meet all of the regulatory hurdles, and would come at the expense of the smaller players."

In contrast, Thomson — a self-acknowledged hard-liner on vaping — favours stringent regulation as a step toward New Zealand eventually becoming nicotine free.

What Jeram, Thomson and the industry all agree on is that the Government needs to make clear its intentions.

In New Plymouth, Coe ponders the future.

Unlike some, he does not rule out selling Big Tobacco products in his stores when they reach New Zealand shores.

"Business has got no feelings," he says. "If it's a good product and I can offer good deals to my customers, then why not?"

On the table next to Coe sits his preferred device, a VapeGeek mod renowned for its military-grade indestructibility. You can't buy this from Big Tobacco.

For the moment big plumes are good business for small business in the land of the long white cloud.

"All you can do is grow and evolve," he says.

"If I started worrying about what Philip Morris is going to do I'm going to have a real tough time. If they wanted to, they could smash me."



SIMON O'CONNOR/STUFF

Lawrence Coe of The Mushroom Cloud, in his New Plymouth 'lab' where he create a distinctive e-liquid range —from Butterscotch Ripple to Blueberry Sunset.

- **Sunday Star Times**

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