Balancing the Scales: The Role of the Canadian Supreme Court in Weighing Commercial Speech and Public Health

Margherita M. Cinà[1] *and Francesca E. Nardi*[1]

1: O'NEILL INSTITUTE FOR NATIONAL AND GLOBAL HEALTH LAW AT GEORGETOWN UNIVERSITY, WASHINGTON, DC, USA

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Abstract: The Supreme Court of Canada has established that commercial speech is protected under the Canadian Charter of Rights and Freedoms and that commercial speech exists along a continuum of utility and value, which is balanced against objectives such as public health. This article examines jurisprudence to determine when infringements on commercial speech are acceptable, analyzing considerations of evidence, rational connections between policies and outcomes, proportionality, and minimal impairment.

Noncommunicable diseases (NCDs) impose significant human and economic costs on Canadians, with thousands of deaths per year and a large burden of disability attributable to NCDs, costing approximately $190 billion yearly.[1] These numbers are largely due to modifiable risk factors including tobacco consumption, alcohol use, and unhealthy diets, which has led the Canadian government to implement a range of regulatory measures such as health warning labels to reduce tobacco consumption and, most recently, to seek to implement front-of-package labeling (FOPL) and restrictions on advertising of unhealthy foods and beverages to children. However, as the Canadian government has moved towards addressing these modifiable risk factors, industries in the business of selling these unhealthy commodities have deployed their usual playbook to delay or challenge any potential regulation that could impact their profits.[2] One tactic has been to use legal avenues to prevent or delay regulations meant to protect the health of Canadians. In particular, corporate actors have increasingly argued that regulatory measures violate their constitutionally protected freedom of expression, as was seen when the Canadian Parliament sought to regulate tobacco advertising, first in the 90s and again in the early 2000s.[3] These challenges will likely continue as the Canadian government pursues measures to reduce the burden of NCDs.

This paper will examine the case law of the Supreme Court of Canada (hereinafter "the Court") on the rela-

Margherita M. Cinà, B.A.Sc., J.D./B.C.L., LL.M., *is an Associate at the Global Center for Legal Innovation on Food Environments (O'Neill Institute for National and Global Health Law at Georgetown University).* **Francesca E. Nardi, B.Communications, J.D./B.C.L., LL.M.**, *a Junior Associate at the Global Center for Legal Innovation on Food Environments, O'Neill Institute for National and Global Health Law at Georgetown University.*

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tionship between freedom of expression — in particular commercial speech — and other societal objectives such as public health. After exploring the evolution of the constitutional protection of commercial speech under the *Canadian Charter of Rights and Freedoms* (hereinafter "*Charter*"), this paper's analysis focuses on the informational component of commercial speech as both the basis for its constitutional protection and how the Court has circumscribed protection of such speech. In particular, this paper seeks to highlight the roadmap the Court has laid for legislators, and to encourage the thoughtful design of public health regulations that both protect and improve the health of Canadians, as well as survive possible constitutional challenges.

This paper will examine the case law of the Supreme Court of Canada (hereinafter "the Court") on the relationship between freedom of expression — in particular commercial speech — and other societal objectives such as public health. After exploring the evolution of the constitutional protection of commercial speech under the Canadian Charter of Rights and Freedoms (hereinafter "Charter"), this paper's analysis focuses on the informational component of commercial speech as both the basis for its constitutional protection, and how the Court has circumscribed protection of such speech. In particular, this paper seeks to highlight the roadmap the Court has laid for legislators, and to encourage the thoughtful design of public health regulations that both protect and improve the health of Canadians, as well as survive possible constitutional challenges.

Introduction to Freedom of Expression and Commercial Speech in Canada

In Canada, commercial speech is regulated by a variety of normative instruments issued by regulatory bodies, statutory provisions, and the *Charter* entrenched in the Canadian Constitution. The Canadian regulatory landscape is a complex patchwork, involving a range of public, private and judicial actors at both the provincial and federal levels, regulating not only the channels of commercial speech, but also the content of such speech and the audiences to which it can be directed.[4]

Where commercial speech in Canada is regulated by different actors and at different levels of government, the judiciary has played a critical role in determining if and to what extent commercial speech is protected under freedom of expression in the *Charter*.[5] In determining where commercial speech fits within the constitutional framework, Canadian courts have had to grapple with two fundamental questions. First, whether commercial speech, although not enumerated in the *Charter*, falls within the sphere of "freedom of thought, belief, opinion and expression" protected by s.2(b); and second, whether specific limitations on commercial speech imposed by Parliament are "reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society" under s.1 of the *Charter*.[6]

Commercial Speech in the *Charter*: Protecting Information for Consumers

Where freedom of expression was traditionally conceived as protecting political speech, courts have expanded their vision of expression that is valuable in a democratic society. Following this trend, Canadian courts evolved from offering no recognition, and therefore no constitutional protection, to commercial speech, to a comprehensive approach that recognizes, protects and regulates commercial speech as a constitutionally protected freedom in Canada.

Commercial speech disputes first came before provincial courts in the years immediately following the introduction of the *Charter* in the early 1980s, however there was no consistent or unanimously accepted approach across jurisdictions. First, in a challenge brought against the Law Society of Upper Canada as a result of an advertising prohibition imposed on members of the legal profession, the Ontario Superior Court (ONSC) found that purely economically moti-

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vated speech did not fall within the scope of protected expression.[7] In coming to this conclusion, Justice Callaghan wrote:

> Simply because commercial speech involves expression does not mean that it is protected under s. 2(b) of the *Charter*. Form should not be confused with substance. Pure commercial speech mimics political speech in form (both involve expression) but not in substance or function. Commercial speech flows from the realm of economic activity; political speech from that of politics and government. In a democratic society the economic realm must be subordinate to the political realm.[8]

While the ONSC concluded that commercial speech was not constitutionally protected, other courts disagreed. In *Re Grier*, the Alberta Court of Appeal tied the value of commercial speech to consumer protection, stating that "[t]he valued activity engaged [...] is the dissemination of service and product information for consumer protection."[9] This decision marked a shift from thinking about commercial speech's value to the business or service provider to its value to the consumer.

The Supreme Court settled this question in *Ford v. Quebec (Attorney General)*, concluding that commercial speech is protected under s.2(b) of the *Charter* because it is critical for providing consumers with information necessary to make "informed economic choices, an important aspect of individual self-fulfillment and personal autonomy."[10] By shifting the focus from the "speakers" of commercial speech (i.e. businesses and service providers), to the "listeners" (i.e. consumers), the Court concluded that the informational aspect of commercial speech was necessary to protect in a free and democratic society.[11]

In a series of cases decided after *Ford* involving challenges to banning advertising to children (*Irwin Toy*), the prohibition of advertising dental practices (*Rocket*), and the regulation of tobacco advertising (*RJR* and *JTI*), the Supreme Court solidified the constitutional protection of commercial speech, further establishing that information for consumer decision-making is the core of why such speech deserves constitutional protection.

In *Irwin Toy,* the first step of the Court's analysis required it to determine whether advertising aimed at children fell within the scope of s.2(b). It wrote that "[a]ctivity is expressive if it attempts to convey meaning," and that the advertising at issue "[s]urely [aimed] to convey a meaning, and [could not] be excluded as having no expressive content."[12] In *Rocket,* the Supreme Court took this analysis of commercial speech under s.2(b) further. It found that the advertising ban placed on dentists contained important information including, for example, "dentists' office hours, the language they speak, and other objective facts relevant to their practice," all information that serves "an important public interest by enhancing the ability of patients to make informed choices."[13]

The goal of protecting consumers was also at the core of both cases involving Parliament's attempts to regulate tobacco advertising in Canada, where the tobacco industry used constitutional arguments to challenge the legislation. In *RJR*, the Court struck down the provisions of the *Tobacco Products Control Act* that broadly prohibited, with few exceptions, advertising and promotion of tobacco products and required unattributed health warnings on tobacco products.[14] The Majority noted that the total ban extended "to advertising which arguably produces benefits to the consumer while having little or no conceivable impact on consumption" of tobacco products.[15] At the root of its analysis, the Court could not uphold the infringement because the ban prevented "[p]urely informational advertising, simple reminders of package appearance, advertising for new brands and advertising showing relative tar content of different brands," all of which would deprive consumers "of an important means of learning about product availability to suit their preferences and to compare brand content with an aim to reducing the risk to their health."[16] This view was reiterated in *JTI*. For the Court, consumers of legal, albeit noxious, products, deserve access to information upon which they can form the basis of their purchase decisions.[17]

Limitations on Commercial Speech in a Free and Democratic Society

However, while the Court stated that protecting consumers is at the core of protecting commercial speech, it also acknowledged the existence of a continuum that extends beyond pure information. While also protected under s.2(b), commercial speech along this continuum would be more easily subject to restrictions justifiable under s.1 of the *Charter*.

The Court established that "[f]reedom of expression claims must be weighed in light of their relative connection to a set of even more fundamental or core values," identifying some of these "core values" as " "the search for political, artistic and scientific truth, the protection of individual autonomy and self-development, and the promotion of public participation in the democratic process."[18] As the Court's jurisprudence on commercial speech exemplifies, this core is relevant in analyzing the value of the speech being challenged and

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the corresponding degrees of infringement to *Charter* in light of the objectives being sought by Parliament. When considering the spectrum of protected speech, the Court has found that "[w]here the expression in question is farther from the core of freedom of expression values, a lower standard of justification may be applied" in determining whether an infringement is justified in a free and democratic society.[19] The Court's jurisprudence points to two areas in particular that fall far from this core in the continuum: (1) commercial speech not meant to inform the consumer but rather to induce them to use the product; and (2) commercial speech targeted at vulnerable groups.

(1) Commercial Speech Not Meant to Inform but Rather to Induce Consumers to Use the Product

Where the Majority in *RJR* noted that the total ban disproportionately impacted freedom of expression and unjustifiably impacted the core of commercial speech, the judgment in *JTI* added nuances to this decision, particularly as it relates to how the informative value of commercial speech fits into the determination of whether infringements imposed by Parliament are justified.

Specifically, the factual scenario of *JTI* and the Court's corresponding analysis recognized instances of commercial speech where that information crosses a line and no longer helps consumers. Unlike the total ban in *RJR*, at issue in *JTI* was Parliament's new scheme in the *Tobacco Act* that permitted information and brand-preference advertising but banned specific categories of advertising. These categories included: (1) false or misleading advertising or promotion, (2) a total ban on lifestyle advertising and promotion, as well as sponsorship, and (3) all advertising appealing to young persons.[20] Parliament provided specificity as to the context, purpose, need and audience of such bans and explained the careful tailoring of these categories. In its proportionality analysis, the *JTI* decision relied on the fact that, in each category of banned advertising, the speech in question did not provide information that would help consumers.

The first category — *false or misleading advertising or promotion* — was "set in the factual context of a long history of misleading and deceptive advertising by the tobacco industry,"[21] and was created with the intention of protecting consumers by combatting "misleading false inferences about product safety and to promote informed, enlightened consumer choice."[22] While some information is critical for reasoned decisions, "the right to invite consumers to draw an erroneous inference as to the healthfulness of a product" is "of low value," particularly in the face of Parliament's public health objectives.[23] Expression based on false or misleading information is situated far from the core of protected speech and therefore restricting such speech would likely be upheld at the proportionality stage of the infringement analysis.

In the same case, the Court's logic for upholding the ban on the second category of *lifestyle advertising and promotion and sponsorship* was based on a similar analysis of the speech at issue and the means chosen by Parliament to achieve its public health objectives. Banning lifestyle advertising was proportionate because "[s]uch advertising crosses the line when it associates a product with a way of life or uses a lifestyle to evoke an emotion or image that may, by design or effect, lead more people to become addicted or lead people who are already addicted to increase their tobacco use."[24] It also noted that the expression in question — "the inducement of increased tobacco consumption" — was of low value because it did not provide useful information for consumers and was outweighed by the "significant benefits of lower rates of [tobacco] consumption and addiction."[25]

(2) Commercial Speech Targeted at Vulnerable Groups

The Court in *JTI* also found that the third category - a complete ban on *advertising and promotion to young persons* — was a justifiable infringement, reiterating its position from previous cases as to the importance of protecting vulnerable groups. Most notably, the Court's analysis in *JTI* mirrored its conclusion in *Irwin Toy*,[26] which found that protecting children from commercial manipulation is not only a pressing and substantial objective, but is also supported by the evidence about children's limited "cognitive ability" and evidence of the tactics used by corporations to take advantage of this limitation.[27] This position has led to the Court being more willing to grant greater deference to Parliament when the health or welfare of vulnerable groups is in question.

JTI examined the relationship between a manufacturer's rights to commercial speech in light of the public health goals of the full advertising prohibition directed at young persons, reframing the value of information in relation to this particular group. Where the Court found that certain kinds of information may be valuable to consumers that already use tobacco products, it found that such information was less worthy of protection under s.2(b) when it came to groups such as young persons, that have not yet taken up this habit. In considering the value of the commercial speech in relation to the protection of vulnerable people in the last prong of the s.1 analysis, the Court wrote:

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> The prohibited speech is of low value. Information about tobacco products and the characteristics of brands may have some value to the consumer who is already addicted to tobacco. But it is not great. On the other hand, the beneficial effects of the ban for young persons and for society at large may be significant. [...] Moreover, the vulnerability of the young may justify measures that privilege them over adults in matters of free expression.[28]

Interestingly, the Court went so far as to comment on the value of purely informational advertising going beyond an analysis in relation to vulnerable groups. While this obiter seemingly contradicts the Court's previous determination that informational and brand-preference advertising would likely be outside the scope of the public health objectives being sought, this comment may have resulted from the increased evidence available to the Court and to the public at large as to both the harms of tobacco use and the nefarious practices undertaken by the tobacco industry.

Evidentiary Standards for Upholding Limitations on Commercial Speech

Irrespective of the value of the speech impacted by a regulation, the burden of proof still rests on Parliament to justify an infringement on protected speech. The scope, type and amount of evidence that may be needed to justify restrictions have been distilled through the case law of the Court.

The Court's jurisprudence sets out the criteria for the standard of proof relevant to a s.1 analysis as well as the parameters of the deference owed to Parliament in relation to complex social issues and those that involve vulnerable groups. First, the s.1 analysis – the multi-pronged test to determine whether infringing legislation is justified in a free and democratic society - uses a civil standard of proof. This standard "does not require scientific demonstration" but can be "established by the application of common sense to what is known, even though what is known may be deficient from a scientific point of view."[29] Secondly, Parliament deserves a certain amount of deference depending on the complexity of the social issue at hand. In *RJR*, Justice McLachlin wrote that "[t]he difficulty of devising legislative solutions to social problems which may be only incompletely understood may also affect the degree of deference that the courts accord to Parliament or the Legislature."[30] When it comes to legislation that attempts to address complex social issues such as the control and prevention of NCDs, deference will be given to the government so long as they provide evidence as to the reasoning of their decision. The Court is also prepared to allow a wider margin of appreciation to the government when it comes to the goal of protecting vulnerable groups, confirming that it "would not take a restrictive approach to social science evidence and require legislatures to choose the least ambitious means to protect vulnerable groups."[31]

Central to the Court's decision not to uphold the complete ban in *RJR* was the fact that the government failed to provide evidence to support either a rational connection between the law and objective or to find that the law minimally impaired the manufacturers' rights. In particular, the Court found that Parliament's scheme was not supported by a sufficient evidentiary record at trial to justify sweeping infringements of a *Charter* right or freedom.[32] The Majority found that Parliament did not provide direct or indirect proof to establish a rational connection between the total ban and the goal of reducing tobacco consumption. With regards to "indirect evidence," the Court noted that it could have found a connection based on "reason" or "logic," however, to do so, it would require a certain degree of evidence supporting the claim that "purely informational advertising" was meant to increase the total market for their products.[33]

In determining whether the ban minimally impaired commercial speech, another step of the s.1 analysis, the Court again found it could not give deference to Parliament's decision because it "had presented no evidence showing that a less comprehensive ban on advertising would not have been equally effective."[34] The Court noted that, while "in the calm of the courtroom" it may "be possible to imagine a solution that impairs the right at stake less than the solution Parliament has adopted,"[35] the Court's job is only to assess whether the measure in question "falls within a range of reasonable alternatives" and could therefore be considered a reasonable infringement.[36] Despite this flexibility, the lack of evidence supporting the full ban was fatal in this case. Justice McLachlin noted that "while one may conclude as a matter of reason and logic that lifestyle advertising is designed to increase consumption, there is no indication that purely informational or brand preference advertising would have this effect."[37] She then suggested a range of alternative measures that would be considered reasonable, including a ban that would allow information and brand preference advertising, a ban on lifestyle advertising only, and prohibitions of advertising aimed at children and adolescents.[38]

In *JTI*, Parliament maintained the broad objective of reducing consumption of tobacco — the same as the objectives of the legislation at issue in *RJR* — however, it enacted more specific legislation by creating categories of advertising, as described above.[39] This

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approach allowed the government to provide context-specific evidence in support of banning each category, particularly by highlighting advertising tactics undertaken by industry. Because of the specificity of the new legislation and the corresponding evidentiary record provided at trial in *JTI*, the Court unanimously found that the specific bans were proportional to the objectives being sought within each category.[40]

The requirement of warning labels on tobacco products, at issue in both *RJR* and *JTI*, also provides key insights into the kinds of evidence the Court will consider when making a determination as to the legality of an infringement. In *RJR*, the legislation required tobacco manufacturers to include unattributed health warnings, which meant that the labels seemed to be communicated by the tobacco companies, rather than Health Canada.[41] While the objective of the warning labels — "to discourage people who see the package from tobacco use"[42] — was important, the government's scheme failed the proportionality test because the government did not provide any evidence that unattributed warning labels would be more effective than attributed ones.

In its revised scheme in *JTI*, Parliament required larger health warnings on tobacco products — increased from 33% to 50% of the principal display surface — that were attributed to Health Canada.[43] Although the Court concluded that the health warning was an infringement on freedom of expression, it found that it was justified based on the evidence of the increased effectiveness of the larger label. Specifically, the Court relied on legislative schemes from other jurisdictions — Australia, Belgium, Switzerland, Finland, Singapore and Brazil — that required warning labels at least as large as the ones proposed by Canada.[44] The Court also accepted evidence from Canada's international commitments to support the reasonableness of the increased size of the health warnings, including the ratified Framework Convention on Tobacco Control, which "stipulates that warning labels "should" cover at least 50 percent and "shall" cover at least 30 percent of the package."[45] The willingness to accept international legal commitments and examples from other jurisdictions as convincing evidence on par with more traditional kinds of evidence demonstrates the Court's willingness to defer to Parliament's public health agenda when it is thoughtfully supported by evidence. As global consensus on the role of public health regulations in preventing NCDs grows, legislators should remember that this evidence is compelling to the Court, and use it to support their policy decisions.

Despite having developed a landscape where, under the right social and evidentiary circumstances, future legislation and regulation for public health could withstand constitutional challenges,46 industry has devised tactics that have prevented legislation from being able to even reach the Court. Industry has worked to ensure that constitutional challenges are unnecessary by influencing the legislative process both directly and indirectly. Industry interference in public health policymaking is perfectly exemplified by the recent attempt of the Canadian government to pass the Child Health Protection Act (Bill S-228), which sought to restrict marketing of food and beverage products high in salt, saturated fat and sugar to children 12 and under.47 Despite overwhelming support from Senators, Parliamentarians, and the general Canadian public, the Bill failed in the Senate the second time around

Conclusion

The Court has firmly entrenched commercial speech as a component of the constitutionally protected freedom of expression, largely due to the informational value that such expression can provide consumers. However, the jurisprudence examined in this article shows not only that commercial speech exists along a continuum where some elements — such as objective informational elements — may be worth more protection than others, but that societal objectives may be sufficient to curtail even valuable expression when supported by proper evidence.

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2. The strategies used by industry actors in Canada mirror those used in other jurisdictions around the world. The tobacco industry has exploited weaknesses in the political process, exaggerated the economic importance of the industry, manipulated public views to gain acceptability, used front groups, attacked sound research and used lawsuits to intimidate governments. Although there is less documented evidence of the strategies used by the alcohol and food industry, several strategies have already been identified. For instance, the alcohol industry uses information and other means to gain access to political decision makers, indirectly targets political decision makers through constituent support, promotes alternative policies or voluntary measures (policy substitution), provides financial incentives to influence government policy makers and employs legal preemption, litigation, or circumvention. The food industry uses information and messaging to frame the debate on diet- and public health-related issues, shapes the evidence base, stresses the economic importance of industry, and develops and promotes alternatives to proposed policies, among other strategies.
3. *RJR-MacDonald Inc. v. Canada* (Att'y Gen.) [1995] 3 SCR 199 (Can.); *Canada (Att'y Gen.) v. JTI-Macdonald Corp.* [2007] 2 SCR 610.
4. Federal regulation happens primarily through the Canadian Radio-television and Telecommunications Commission (CRTC), an arm of the Canadian government that regulates and supervises broadcasters and telecommunication carriers. It regulates the content of some speech through special advertising and broadcasting rules, the channels where speech is disseminated, and licensing requirements on compliance with advertising standards published by other bodies. The Federal Parliament has also passed legislation that has implications for commercial speech. National level regulation also comes through an industry-led, self-regulating body called Advertising Standards Canada, which creates, administers, and interprets advertising codes in Canada, including the Canadian Code of Advertising Standards and the Children's Code. Despite these standards being developed and largely enforced by private industry actors, the CRTC has adopted many into their regulatory framework. Provinces have also implemented consumer protection legislation that have implications for commercial speech.
5. Government of Canada, *Guide to the Canadian Charter of Rights*, *available at* <https://www.canada.ca/en/canadian-heritage/services/how-rights-protected/guide-canadian-charter-rights-freedoms.html> (last visited April 25, 2022).
6. In *R v. Oakes*, the Court established a test to determine whether the challenged limitations are justified in a free and democratic society. To uphold limits under s.1, the government must demonstrate that the objective of the rights-infringing measure is "pressing and substantial," and that it meets all prongs of the proportionality test which include (1) a rational connection between the infringement and the objectives being sought, (2) the infringement minimally impairs the right in question, and (3) the effects of the infringement are proportional to the purpose of the objectives.
7. Re Klein and Law Society of Upper Canada Re Dvorak and Law Society of Upper Canada (1985) CanLII 2221 (ON SC), *available at* <https://canlii.ca/t/g142l> (last visited April 25, 2022).
8. *Id.* at 60.
9. *Grier v. Alberta Optometric Association*, 1987 ABCA 149 (CanLII), paras. 29-30, *available at*: <https://canlii.ca/t/2dl1n> (last visited April 25, 2022).
10. *Ford v. Quebec* (Att'y Gen.) [1988] 2 SCR 712 (Can.) para. 59.
11. *Id.* at para 59.
12. *Irwin Toy Ltd. v. Quebec* [1989] 1 SCR 927 (Can.) at 971.
13. *Rocket v. Royal College of Dental Surgeons of Ontario*, [1990] 2 SCR 232 at 247, *available at* <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/628/index.do> (last visited April 25, 2022).
14. *RJR-MacDonald Inc. v. Canada* (Att'y Gen.) [1995] 3 SCR 199 (Can.).
15. *Id.* at para. 162.
16. *Id.*
17. *Id.* at para. 170; *Canada (Att'y Gen.) v. JTI-Macdonald Corp.* [2007] 2 SCR 610 at para. 34.
18. *RJR-MacDonald Inc. v Canada*, 3 SCR 199, para. 72.
19. *Id.* at para. 73.
20. *Canada (Att'y Gen.) v. JTI-Macdonald Corp.*, 2 SCR 610, paras. 21-30.
21. *Id.* at para. 61.
22. *Id.*
23. *Id.* at para. 68.
24. *Id.* at para. 115.
25. *Id.*
26. *Irwin Toy Ltd. v. Quebec*, 1 SCR 927, pages 990-991.

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27. *Irwin Toy Ltd. v. Quebec* 1 SCR 927 was not the only instance in which the Court accepted extraordinary measures aimed at protecting vulnerable groups. In *Rocket* the Court found that "[t]he fact that the provincial legislature here acted to protect a vulnerable group argues in favour of viewing its attempted compromise with some deference."
28. *Canada (Att'y Gen.) v. JTI-Macdonald Corp*., 2 SCR 610, para. 94.
29. *RJR-MacDonald Inc. v. Canada*, 3 SCR 199, para. 137.
30. *Id*. at para. 135.
31. *Irwin Toy Ltd. v. Quebec*, 1 SCR 927 at 990-991.
32. *RJR-MacDonald Inc. v. Canada*, 3 SCR 199, para. 153ff.
33. *Id*. at paras. 155-158.
34. *Id*. at para. 161.
35. *Id*.
36. *Id*. at para. 162.
37. *Id*. at para. 164
38. *Id*.
39. *Canada (Att'y Gen.) v. JTI-Macdonald Corp*., 2 SCR 610.
40. *Id*. at para. 68.
41. *Id*. at para. 130.
42. *RJR-MacDonald Inc. v. Canada*, 3 SCR 199, para. 144.
43. *Canada (Att'y Gen.) v. JTI-Macdonald Corp*., 2 SCR 610, para. 130.
44. *Id*. at para.138.
45. *Id*.
46. In the aftermath of *Canada (Att'y Gen.) v. JTI-Macdonald Corp*., the legislation was further expanded to cover similar products, including vaping products and cannabis, without similar challenges.
47. An Act to amend the Food and Drugs Act (prohibiting food and beverage marketing directed at children), B. S-228, 42nd Parliament, 1st sess. (2016), *available at* <https://www.parl.ca/LegisInfo/en/bill/42-1/S-228> (last visited April 25, 2022).
48. N. R. C. Campbell and N. G. Raine, "The Child Health Protection Act: Advocacy Must Continu," *Canadian Medical Association Journal* 191, no. 38 (2019): E1040–E1041, *available at* <https://dx.doi.org/10.1503%2Fcmaj.190857> (last visited April 25, 2022).
49. C. Mulligan et al., "Stakeholder Interactions with the Federal Government Related to Bill S-228 and Marketing to Kids in Canada: A Quantitative Descriptive Study," *Canadian Medical Association Journal Open* 9, no. 1 (2021): E280-E287, *available at*: <https://doi.org/10.9778/cmajo.20200086> (last visited April 25, 2022).
50. *Id*.

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