



Submission to the Legal and Constitutional Affairs References Committee

Inquiry into the Illegal Tobacco Crisis in Australia

Submitted by: World Vapers' Alliance (WVA)

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Summary

The [World Vapers' Alliance \(WVA\)](#) welcomes the opportunity to submit to this inquiry. We represent thousands of consumers worldwide who have successfully used vaping and other non-combustible nicotine products to quit smoking. Our perspective is clear: Australia's current regulatory framework - specifically the de facto prohibition and harsh prescription-only model for vaping - has inadvertently fueled the very illegal market this committee seeks to address.

This submission argues that the illegal tobacco and nicotine crisis in Australia is a direct symptom of policy failure. By restricting legal access to less harmful nicotine alternatives like vapes and nicotine pouches, the government has handed control of the market to criminal syndicates. This has led to a booming illicit trade, increased violence (including firebombings of retail outlets), and a loss of government revenue, all while failing to reduce smoking rates as effectively as nations that embrace Tobacco Harm Reduction (THR).

We recommend a shift towards a risk-proportionate regulatory framework. Legalizing and strictly regulating vapes and nicotine pouches as adult consumer products, taxed according to their lower risk profile, will undercut the black market, restore government revenue, and significantly improve public health outcomes.

Response to Terms of Reference

This submission addresses the following terms of reference:

- The scale and nature of the illegal tobacco market.
- The impact of illegal tobacco on public health and government revenue.
- The social and economic impacts, including safety implications for communities.
- Options for reform, including amendments to existing policies and taxation.

1. The Correlation Between Prohibition and the Illicit Market

The current "illegal tobacco crisis" cannot be viewed in isolation from the regulation of nicotine vaping products. Australia's prescription-only model is a global outlier that has failed



to control youth access or support adult smokers. Instead, it has created a lucrative vacuum filled by organised crime.

- **Fueling Demand for Illicit Goods:** When legal avenues for less harmful nicotine products are blocked or made overly burdensome, consumers turn to the black market. The demand for nicotine does not disappear; it simply shifts to unregulated channels.
- **Evidence from the Ground:** We have received [reports](#) from members in regional Victoria detailing firebombings and ram-raids on tobacconists selling illicit vapes and tobacco. These violent turf wars are a direct result of a lucrative prohibition-style market where criminal groups compete for territory, endangering public safety and legitimate small businesses.
- **Youth Access:** Contrary to the intent of current laws, youth vaping rates in Australia are higher than in countries with regulated open markets. For example, youth (12-17yo) past-month vaping prevalence in [Australia](#) is approximately **10%**. In contrast, the [UK](#) (11-17yo) sits at **7.2%** and the [US](#) (11-18yo) at **5.9%**. This demonstrates that strict bans do not protect youth; they simply remove age verification safeguards present in regulated retail environments. [New Zealand's](#) pragmatic harm reduction approach is yielding impressive results, with regular vaping among 14-15-year-olds [halving](#) since its 2021 peak and daily use dropping to 7.1%. Simultaneously, the country continues to [slash smoking rates](#), which have fallen to 6.8% overall, while the under-25 demographic is already effectively smoke-free at approximately 3%. This data demonstrates that regulated access to safer alternatives can successfully drive down smoking without sustaining a long-term youth vaping epidemic.

2. The Science of Harm Reduction: A Missed Opportunity

Tobacco Harm Reduction (THR) is the strategy of encouraging smokers, who are not able or do not want to quit, to switch to less harmful nicotine products. Australia's refusal to embrace THR is a key driver of the illicit market.

- **Relative Risk:** Public Health England and other major health bodies have stated that vaping is at least **95% less harmful** than smoking. Vaping involves heating a liquid to create an aerosol, avoiding the combustion that releases thousands of toxic chemicals found in cigarette smoke.
- **Smoking Cessation:** Cochrane Reviews state with high certainty that nicotine vaping increases quit rates compared to traditional nicotine replacement therapies.
- **The "Gateway" Myth:** There is no proven causal link that vaping leads to smoking. In fact, in countries with high vaping rates like the UK and New Zealand, smoking rates are plummeting.



[Here](#) is an extensive list of scientific evidence for the above.

By treating vapes with the same (or greater) severity as cigarettes, Australia denies smokers access to these life-saving tools, keeping them smoking or forcing them to buy unregulated vapes from the same criminals selling illegal tobacco.

3. International Success Stories vs. Australian Stagnation

Australia can learn from nations that have successfully reduced both smoking rates and illicit trade by legalizing and regulating alternatives.

- **Sweden:** On track to becoming the [first "smoke-free" country](#) (defined as <5% smoking prevalence). This is largely due to the widespread use of snus, nicotine pouches, and vaping. Sweden has [41% fewer cancer cases](#) than the EU average.
- **United Kingdom:** The UK government actively promotes vaping as a quit tool, even distributing free "[Swap to Stop](#)" vape kits. As a result, adult smoking prevalence has [dropped to 10.6%](#).
- **New Zealand:** Through a combination of THR promotion and regulation, daily smoking has [fallen to 6.8%](#). Youth smoking is virtually non-existent at ~3%.
- **Japan:** The introduction of Heat-Not-Burn (HnB) products led to a [50% decline in cigarette sales](#). The [regulated HnB](#) market decimated the demand for combustible cigarettes without fueling a black market.

In contrast, Australia's smoking rates have stagnated relative to these leaders, and the illicit market is booming.

4. The Role of Taxation and Regulation

High excise taxes on tobacco have long fueled the black market. Extending this punitive approach to vapes (or banning them entirely) only exacerbates the problem.

- **Price Elasticity:** Vaping products are [price-sensitive](#). When taxes are too high or bans are enforced, users do not just quit; they often return to [smoking](#) or turn to the [black market](#).
- **Unintended Consequences:** A Yale analysis found that for every \$1 tax increase on vapes, smoking among young adults [increased by 3.7 percentage points](#).
- **Risk-Based Taxation:** To destroy the business model of criminal gangs, legal products must be cheaper and easier to access than illegal ones. A risk-proportionate tax system would tax vapes and pouches significantly lower than cigarettes, reflecting their lower harm profile and incentivizing smokers to switch.

Recommendations for Reform



To effectively dismantle the illegal tobacco and nicotine market, the Committee should recommend the following:

1. **Legalize and Regulate Vapes as Consumer Products:** Abandon the failed prescription-only model. Vapes should be sold in retail outlets (like tobacconists and vape shops) with strict age verification (18+), quality standards, and ingredients restrictions.
2. **Embrace Risk-Proportionate Taxation:**
 - **Cigarettes:** Higher tax rates, but increase enforcement against illicit trade.
 - **Vapes and Heated Tobacco:** Apply a specific, lower excise rate that makes them significantly cheaper than cigarettes but generates revenue to fund enforcement and health programs.
 - **Nicotine Pouches:** Legalize and tax at the lowest rate, reflecting their minimal risk profile.
3. **Allow Flavours for Adults:** Banning flavours drives consumers to the black market. Regulate flavours to ensure they appeal to adult smokers (e.g., fruits, mints) while restricting packaging that targets children.
4. **Decouple Nicotine from Smoking Policy:** Recognise that while nicotine is addictive, it is not the cause of smoking-related disease. Policy should be realistic, pragmatic, and therefore focused on eliminating combustion, not nicotine.

Conclusion

The "illegal tobacco crisis" is fueled by a policy framework that restricts legal access to the very products that could destroy the black market's demand. Criminals thrive on prohibition. By legalizing, regulating, and appropriately taxing safer nicotine alternatives, Australia can crush the illicit trade, protect its communities from violence, and accelerate the decline in smoking rates. We urge the Committee to look to the evidence from Sweden, the UK, and New Zealand: harm reduction is the most effective weapon against both the black market and the smoking epidemic.

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