

SUBMISSION

Friday, 27 March

Inquiry into the illegal tobacco crisis in Australia

AMA submission to the Legal and Constitutional Affairs References Committee

Online submission

The Australian Medical Association (AMA) recognises the urgency in curbing the illegal tobacco supply and access in Australia. We thank the Legal and Constitutional Affairs References Committee for investigating the scale and nature of the illegal tobacco market. Since the definitive international evidence on the health harms of smoking in the late 1960s, the AMA has provided sustained medical advocacy efforts alongside cancer, heart and public health organisations, supporting restrictions on advertising, public education and stronger regulation.

Illegal tobacco is no longer a marginal compliance issue. It is a rapidly expanding, highly organised market that is undermining Australia's tobacco control achievements, driving community harm and violence, and eroding the revenue base that supports essential public services. The AMA is deeply concerned that fragmented regulation, weak retail controls and inconsistent enforcement have created the conditions for illegal operators to proliferate openly in suburbs and regional towns across the country.

To restore control of the tobacco supply chain and rebalance the risk-to-reward equation for illicit actors, the AMA calls on the Committee to recommend the following four immediate, practical reforms.

1. Establish and implement a nationally consistent tobacco retail licensing framework.
2. Establish national data capability spanning health, police, border, revenue, fair trading and corporate regulators, supported by a simple public reporting mechanism for suspected illegal activity, new shops and community concerns.
3. Expand on-the-spot enforcement options, including closure powers and licence cancellation and seizure of assets, so illegal operators can be shut down swiftly when breaches are evident.
4. Future-proof any new laws by avoiding narrow definitions and closing loopholes that will be exploited by the next nicotine product or delivery device.

We urge the Committee to consider five key factors throughout the inquiry process:

1. Tobacco industry and lobbyists knowingly promote a deadly harmful and addictive product and do not have a right to influence public debate and policy.

2. Regardless of whether the tobacco is purchased legally or illegally, smoking is still the leading cause of preventable death in Australia.
3. Nicotine addiction is real and enduring, reinforcing smoking behaviour and undermining individual choice, especially in the absence of strong regulatory controls.
4. Reducing tobacco excise, as advocated by tobacco and nicotine industry-aligned groups, would increase smoking prevalence and undo decades of effective public health advocacy.
5. Jurisdictions need to adopt a public health-guided framework if they are to be successful in eliminating the illegal tobacco trade.

Tobacco use remains a significant public health burden in Australia

Smoking causes the premature deaths of tens of thousands of Australians every year, billions in annual healthcare costs, and hundreds of billions in social costs. Based on national survey data in 2024, approximately 10–11 per cent of Australians aged 14 years and over currently smoke¹. Australia aims to reduce rates of daily smoking to 5 per cent by 2030. Smoking, whether accessed legally or illegally, causes significant health damage. Australians who smoke die every year as a result of lung cancer (8,900 per annum), chronic obstructive pulmonary disease (COPD) (7,400 per annum) and smoking related cardiovascular disease, including coronary heart disease and stroke (15,000–16,000 per annum)². People who smoke have consistently higher rates of health service use than never-smokers, including higher rates of hospitalisation and longer hospital stays. Health care costs attributable to smoking are estimated at around \$7.9 billion per year, reflecting expenditure on hospital care, medical services and medicines for smoking-related illness. These costs represent only a portion of the overall impact of smoking but place sustained pressure on a publicly funded health system under multiple pressures. Beyond direct health care expenditure, smoking imposes substantial indirect pressures on the health system through premature mortality, disability and lost quality of life. Updated national estimates place the total social cost of smoking at nearly \$160 billion, with health care representing a significant tangible component of this burden³.

Illegal tobacco crisis in Australia

Decisive and coordinated action is required at all levels of government to address emerging regulatory gaps and prevent further erosion of hard-won public health gains in tobacco control. While the National Drug Strategy Household Survey 2022–23 reports continued declines in daily smoking and a growing proportion of people who have never smoked, the AMA is concerned that these trends may not have been sustained. The AMA is concerned not only by the rapid and disproportionate proliferation of tobacconists in communities across Australia, many of which are operating with little apparent regulatory oversight, but also the greater accessibility to low-priced cigarettes increasing consumption, driving higher cigarettes-per-day among people who smoke. At the same time, tobacco use is being re-presented in popular culture. Recent analyses indicate a resurgence of tobacco imagery in films, including high-profile productions, and the ongoing portrayal of smoking in television

¹ <https://www.aihw.gov.au/news-media/media-releases/2024/february/smoking-rates-continue-to-decline#:~:text=According%20to%20the%20National%20Drug%20Strategy%20Household,49%25%20in%201991%20to%2065%25%20in%202022%E2%80%932023>

² <https://www.aihw.gov.au/reports/alcohol/alcohol-tobacco-other-drugs-australia/contents/drug-types/tobacco>

³ <https://www.georgeinstitute.org/sites/default/files/documents/cost-of-alcohol-drug-use-in-aus-report.pdf>

and streaming content popular with young audiences⁴. The visibility and accessibility of tobacco products, including illicit products, alongside a lack of effective enforcement, risks contributing to the re-normalisation of smoking and undermining decades of effective tobacco control policy.

Establish and implement a nationally consistent tobacco retail licensing framework.

As a direct result of multiple system failures simultaneously, Australia has created the ideal conditions for rapid illegal tobacco retail expansion. There is no authoritative national count of illegally operating tobacconists in Australia. The proliferation of tobacconists, particularly in disadvantaged areas, is striking and inconsistent with stable or declining legal tobacco consumption. Transnational serious and organised crime (TSOC) groups have exploited Australia's structural regulatory gaps faster than regulation has been able to respond. By rapidly financing new storefronts, using intimidation and violence to control retail turf and treating tobacconists as disposable distribution nodes, the tobacco market has been particularly attractive to TSOC groups. There is no coincidence that the rise in unprecedented violence has concentrated around tobacco shops, particularly in Victoria and NSW. The enforcement of tobacco-related regulation must be resourced in a manner that is sustainable and recognises the significant presence of serious and organised crime in tobacco retailing.

All Australian governments have signed up to the National Tobacco Control Strategy 2023–2030⁵ under which Priority Area 8: Strengthen regulation to reduce the supply, availability and accessibility of tobacco products details several elements vital to controlling illegal tobacco. As a party to the World Health Organisation Framework Convention on Tobacco Control (FCTC)⁶, Australia has legal obligations to implement all its articles, including article 15 pertaining to illegal trade. The National Tobacco Control Strategy explicitly calls for exploring a consistent national framework for licensing schemes across the tobacco supply chain. In Priority 8 (Strengthen regulation to reduce the supply, availability and accessibility of tobacco products) it states: "Explore mechanisms to have a consistent licensing scheme in place covering all aspects of the tobacco supply chain in Australia, such as establishing a national framework for licensing schemes."

The AMA calls upon the health ministers meeting to urgently agree to a model licensing framework that each state and territory must implement. In numerous jurisdictions, tobacconist licensing requirements are weak at best and lack monitoring frameworks. Tobacconists are categorised as low-risk retail premises, despite selling one of the most highly regulated and harmful consumer products. With this "low-risk" categorisation, there are no density caps, no fit-and-proper-person tests for owners or operators, no minimum distance from schools or youth-focused venues in many states and no mandatory supply chain disclosures. Councils have limited grounds to refuse applications. The low-risk category is significantly different to the licensing structure permitting alcohol sales. This is why multiple tobacconists can open on the same street and stores can open, close, and reopen under new names with minimal friction.

Health inspectors alone cannot reasonably be expected to conduct activities that resemble organised crime disruption. A sustainable model requires a joint operational approach between jurisdictional

⁴ Truth Initiative & NORC at the University of Chicago. *Tobacco Imagery in Movies: 2024*. November 2025.

⁵ <https://www.health.gov.au/sites/default/files/2023-05/national-tobacco-strategy-2023-2030.pdf>

⁶ <https://fctc.who.int/>

health, police and justice with clear escalation pathways, stable funding (including via licensing fees) and cross jurisdiction licensing visibility, including a public register of licensed wholesalers/retailers.

Governments should also be doing all they can to encourage small businesses to get out of the tobacco trade and to move to other goods/services that are more profitable and carry less risk (insurance/theft). The WHO FCTC recognises the need for economically viable alternatives for workers and small sellers, alongside enforcement.

Expand on-the-spot enforcement options, including closure powers and licence suspension or cancellation, so illegal operators can be shut down swiftly when breaches are evident.

The Illicit Tobacco and E-cigarette Commissioner (ITEC) Report 2024–25, *A national picture of the illicit market*⁷, tabled in Parliament in December 2025, reveals a striking disparity between enforcement activity and prosecutions: 3,321 inspections and 2,027 operations during 2024–25 resulted in just 98 charges. During the same reporting period, just \$0.6 million was collected from civil and criminal fines. Australian governments need to urgently rebalance the risk to reward ratio for illicit actors. High profit margins, combined with light penalties and low rates of conviction, continue to provide strong incentives for illegal tobacco activity.

Law enforcement agencies must be provided with resources to fight criminals, strengthen powers to seize criminal profits and assets, break criminal business models, increase the likelihood of prosecution by enhancing Australia’s legislative and regulatory framework to optimise existing powers and align penalties with severity of offence.

Establish national data capability spanning health, police, border, revenue, fair trading and corporate regulators, supported by a simple public reporting mechanism for suspected illegal activity, new shops and community concerns.

The AMA supports the development of cross-jurisdictional data capability so regulators can identify and shutdown phoenixing, repeat offenders, and suspicious supply patterns. The AMA also supports ensuring enforcement capability is a statewide operation, not metropolitan-only. Regional communities are disproportionately affected by reduced enforcement presence, and limited access to cessation support. Such inequity cannot continue if we are to work as a nation and curb illegal tobacco trade.

Public reporting must be treated as a core enforcement input, not an afterthought. The AMA supports a single, nationally consistent and widely promoted reporting pathway (online and phone) that allows anonymous reports, provides a reference number and basic feedback to the complainant, and triages matters in real time to the appropriate regulator (health, police, fair trading, revenue or border control). Reports should capture a minimum dataset (e.g. premises details, product type, pricing and photographs where safe) and feed directly into a shared intelligence picture and risk-based inspection program. Critically, verified reports must have clear escalation pathways — including rapid inspection, licence suspension and closure powers — so communities can see that reporting leads to action.

⁷ https://www.itec.gov.au/sites/default/files/2025-12/ITEC_Commissioner-Report_2024-25.pdf

Tobacco excise and customs tax is a measure that has supported smoking decline for decades and must remain intact

Current failures to police illegal tobacco must not undermine the commitment to and ongoing success of the tobacco excise and affordability driving smoking cessation. Increases in the cost of cigarettes has been a significant driver for people choosing to quit. Results from the 2019 National Drug Strategy Household Survey showed that almost half (58 per cent) of smokers aged 14 years and over who had changed their smoking behaviour in the past year cited “it was costing too much” as a key reason⁸.

The persistent argument that high taxes are the primary driver of the illegal tobacco trade is misleading and has been wielded by the tobacco industry to undermine the primary goal of public health policy — to protect, promote and improve health and wellbeing outcomes for all Australians. Price remains one of the most effective public policy levers, playing an important role in both initiation and quit decisions. In 2021, 42 per cent of people who considering quitting cited cost of tobacco as their primary motivator⁹. Modelling suggests that a 10 per cent increase in price translates to a 4–5 per cent reduction in consumption, supporting the effectiveness of the 12.5 per cent annual excise hikes introduced in 2013¹⁰.

Australia is a high-income country, with a high floor price for cigarettes. Illicit tobacco products, by comparison, are sold cheaply and with far lower margins than the legal equivalent. Reducing or removing the tobacco excise would not eliminate the price differential between legal and illegal products and could instead lead to an increase in use of illicit products, particularly in price-sensitive populations such as young people and low-income groups. After such substantial progress, this is not a risk we can afford to take. Furthermore, focusing solely on excise ignores the supply-driven aspects which continue to fuel the black market.

Reduce consumer demand for tobacco

Reducing consumer demand for tobacco products and preventing uptake requires a comprehensive, health-led approach that addresses affordability, availability and social acceptability while strengthening cessation support. Tobacco excise must remain a cornerstone of public health policy, supported by stronger controls on retail availability, including licensing, density limits and enforcement to prevent illicit supply undermining price signals. Continued action is needed to reduce the normalisation of tobacco use, including limiting exposure to tobacco imagery and promotion, protecting young people from access to tobacco and vaping products, and preventing progression from vaping to smoking.

The AMA strongly endorses maximising educational campaigns and mandating that all retailers display promotional materials from the Australian government to expand public awareness of the negative effects of tobacco products. The goal should be deterring people, not at the point of smoking

⁸ Australian Institute of Health and Welfare (2020). Data tables: National Drug Strategy Household Survey 2019 - 2. Tobacco smoking chapter, Supplementary data tables. Canberra, AIHW. <https://www.aihw.gov.au/reports/illicit-use-of-drugs/national-drug-strategy-household-survey-2019/data>.

⁹ Cancer Institute NSW, 'NSW Smoking & Health Survey 2023' (Report, 5 October 2023)

¹⁰ World Bank Group, Confronting Illicit Tobacco Trade: A Global Review of Country Experiences (Vol 1) (Working Paper, WBG Global Tobacco Control Program, 2019)

or when they are already addicted, but before they even start. Increasing education is a crucial step towards encouraging the public to think critically about strategic marketing of illicit products and move away from the notion that tobacco is an everyday product.

Support nicotine cessation

Many people who smoke wish that they didn't or are trying to quit, highlighting the importance of accessible and culturally appropriate assessment opportunities and cessation support. Governments must expand access to evidence-based cessation support through primary care and community health services, with targeted interventions for populations experiencing disadvantage. Three forms of medicine — Nicotine Replacement Therapy (NRT), varenicline and bupropion — are licensed and available in Australia to assist smoking cessation. The most successful quit approach for those who are nicotine dependent is behavioural support combined with first-line pharmacotherapy and follow-up¹¹.

The AMA urges the Pharmaceutical Benefits Advisory Committee (PBAC), pharmaceutical sponsors of NRT, varenicline and bupropion, QUIT and the government to hold discussions and reassess the access criteria and price points for people wanting to quit. Nicotine addiction is real and enduring, and it can take multiple attempts for smokers to quit for life. Queensland (QLD) has made progress to overcome this barrier, offering free access to various nicotine replacement therapies and supporting use of higher-concentration nicotine patches where needed.

Future-proof any new laws by avoiding narrow definitions and closing loopholes that will be exploited by the next nicotine product or delivery device.

The fundamental principal of the Big Tobacco sales manual is to get people hooked to nicotine. All considered changes to the current legislation must not only be relevant to tobacco and e-cigarettes (vapes) but also relevant to emerging nicotine paraphernalia. The black market has become a game of nicotine-whack-a-mole, with new chemical concoctions arising quicker than we can understand their compositions and harms. Vapes and oral nicotine pouches (known as "zyns") are just two recent examples, which have soared in popularity due to enticing colours and flavours specifically marketed to young people. Such products take advantage of legislative loopholes and lags, allowing them to subvert regulation and proliferate under the radar. All federal and state and territory legislation must be broadened to effectively regulate currently known products as well as proactively defend against the emergence of novel products. The AMA recommends drawing on South Australia's (SA) 2025 legislative reform, which granted new authority for the state minister to ban novel nicotine and substitute products and enforce greater penalties for illicit activity, particularly involving sale to minors.

Conclusion

Australia's long-standing success in tobacco control is under serious threat from the rapid expansion of the illegal tobacco market. The evidence before this inquiry demonstrates that illegal tobacco is no longer a marginal issue but a large, highly organised and increasingly visible market that undermines public health, community safety and government revenue. High profit margins, weak retail-level regulation, fragmented enforcement and low deterrence have created the conditions for widespread

¹¹ Kotz D, Brown J, and West R. 'Real-world' effectiveness of smoking cessation treatments: A population study. *Addiction* 2014;109(3):491-99

non-compliance, the proliferation of tobacconists, and the normalisation of illegal tobacco supply in Australian communities.

The AMA strongly supports a comprehensive, nationally coordinated response that addresses both supply and demand. This must include strengthening retail licensing and enforcement, closing regulatory gaps across jurisdictions, and rebalancing the risk-to-reward equation for illicit actors. Equally, demand-side measures must remain central, including maintaining tobacco excise, reducing availability and visibility, preventing uptake among young people, and expanding access to evidence-based cessation support, particularly for populations experiencing disadvantage.

This inquiry presents a critical opportunity to restore the integrity of Australia's tobacco control framework. Decisive action by all levels of government is required to protect hard-won public health gains, prevent a new generation of Australians from taking up smoking, and ensure Australia meets its obligations under the WHO Framework Convention on Tobacco Control. Failure to act will entrench the illicit tobacco market further and risk reversing decades of progress in reducing tobacco-related harm.

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