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**Submission to the Joint Committee on Law Enforcement
Inquiry into Illicit Tobacco**

Via email: le.committee@aph.gov.au

Inquiry into Illicit Tobacco

The National Heart Foundation of Australia welcomes the opportunity to make a submission to the inquiry into illicit tobacco. While not experts on illicit trade in tobacco, we would like to raise our concern with the reliability of the data used by the tobacco industry regarding the extent of illicit trade. This is an important matter because of its use by the industry to pressure government into easing the annual 12.5% excise increase on tobacco products.¹

In particular, we draw the Committee's attention to findings regarding illicit trade in Australia from independent sources:

1. Data from the 2013 *Victorian Smoking and Health Survey* showed that the percentage of Victorian smokers who had purchased unbranded illicit tobacco (i.e. unbranded tobacco sold as loose tobacco in plastic bags, or rolled into unbranded cigarettes) in the previous 12 months was 4.0%.²
2. Data from the *National Plain Packaging Tracking Survey* showed that between December 2012 and March 2014, the percentage of Australian smokers who had reported any unbranded tobacco use was 3%.³
3. Data obtained by the Australian Institute of Health and Welfare as part of the *National Drug Strategy Household Survey* indicates that consumption of unbranded loose tobacco in Australia decreased steadily between 2007 and 2013. This was the case, despite the fact that on 29 April 2010, the federal government increased the excise and excise-equivalent customs duty rate applying to tobacco products by an unprecedented 25%.

Industry claims made about trends in illicit trade during Australian government consultations on plain packaging were also significantly higher than other sources. A report by accountancy firm Deloitte⁴ prepared for Australian tobacco industry claimed the market share of illegal cigarettes had increased from 6% in 2007 to 16% in 2010. This was in contrast to independent data from the Department of Health and Ageing who noted: "the Australian Government's own *2010 National Drug Strategy Household Survey* found the figure closer to 3 per cent of illicit tobacco consumption per annum".⁵

¹ British American Tobacco Australia. *British American Tobacco Australia Limited's submission to the Parliamentary Joint Committee on Law Enforcement inquiry into Illicit Tobacco*. 24 February, 2017, p5.

² Scollo M, Zacher M, Durkin S and Wakefield M. 'Early evidence about the predicted unintended consequences of standardised packaging of tobacco products in Australia: a cross-sectional study of the place of purchase, regular brands and use of illicit tobacco.' *BMJ Open*; 2014. Available from: <http://bmjopen.bmj.com/content/4/8/e005873.short>.

³ Scollo M, Zacher M, Coomber K and Wakefield M. 'Use of illicit tobacco following introduction of standardised packaging of tobacco products in Australia: Results from a national cross-sectional survey.' *Tobacco Control*; 2015. Available from: http://tobaccocontrol.bmj.com/content/24/Suppl_2/ii76.short

⁴ Deloitte. *Illicit trade of tobacco in Australia*. 2011.

⁵ House of Representatives Standing Committee on Health and Ageing. *Advisory report on the Tobacco Plain Packaging Bill 2011 and the Trade Marks Amendment (Tobacco Plain Packaging) Bill 2011*. ACT, 2011.

We would like to draw the Committee's attention to the UK experience regarding the use of 'evidence' by transnational tobacco companies (TCCs) to argue the introduction of standardised packaging would increase illicit tobacco use. One study examined the tobacco industry's manipulation of data on illicit tobacco trade in the UK and found that: "TTCs exaggerated the threat of illicit tobacco by commissioning surveys whose methodology and validity remained uncertain, planted misleading stories and misquoting government data".⁶ The authors recommended that industry data on levels of illicit tobacco trade should be treated with "extreme caution".

We would also like to remind the Committee of remarks made by the Hon Brendan O'Connor MP during his tenure as Home Affairs Minister that: "Big tobacco regularly quotes from reports that it commissions itself - rather than the independent research - because independent research does not back its claims".⁷

The 2016 KMPG report *Illicit Tobacco in Australia* offers the disclaimer that "...although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate...no one should act on such information without appropriate professional advice".

Increasing the excise on tobacco is the single most effective strategy available for reducing tobacco consumption, increasing attempts to quit, and reducing smoking prevalence, thereby reducing death and disease caused by smoking.^{8,9}

The evidence for increasing tobacco tax and prices has been confirmed recently by the National Cancer Institute of the US National Institutes of Health which, in collaboration with the World Health Organization, released in January 2017 the *Economics of Tobacco and Tobacco Control*.¹⁰

Article 6 of the World Health Organization *Framework Convention on Tobacco Control*, to which Australia is a signatory, recognises tax as an effective and important means of reducing tobacco consumption by various segments of the population, particularly young people. The Guidelines for Implementation of Article 6 of the Convention specifically state:

*The development, implementation and enforcement of tobacco tax and price policies as part of public health policies should be protected from commercial and other vested interests of the tobacco industry, including tactics of using the issue of smuggling in hindering implementation of tax and price policies...*¹¹

The Heart Foundation recommends that the Committee rely on data from independent parties that have no commercial interest in a particular outcome.

⁶ Rowell A, Evans-Reeves K, Gilmore AB. Tobacco industry manipulation of data on and press coverage of illicit tobacco trade in the UK. *Tobacco Control* 2014; 0: 1-9 Published Online First: 10 March 2014

⁷ Big tobacco lobby 'scaremongering' *The Age*, 22 May 2011, accessed 19 April 2017

⁸The World Bank, curbing the epidemic: governments and the economics of tobacco control. Washington: World Bank; 1999. Available from <http://documents.worldbank.org/curated/en/1999/05/437174/curbing-epidemic-governments-economics-tobacco-control>.

⁹ International Agency for Research on Cancer. Effectiveness of tax and price policies for tobacco control. Handbooks for Cancer Prevention, Vol 14. Lyon, France; IARC, 2011. Available from: <http://publications.iarc.fr/Book-And-Report-Series/Iarc-Handbooks-Of-Cancer-Prevention/Effectiveness-Of-Tax-And-Price-Policies-For-Tobacco-Control-2011>

¹⁰ The National Cancer Institute in Collaboration with the World Health Organization. The Economics of Tobacco and Tobacco Control. https://cancercontrol.cancer.gov/brp/tcrb/monographs/21/docs/m21_complete.pdf

¹¹ See section 1.6 of 'Guidelines for implementation of Article 6 of the WHO FCTC: Price and tax measures to reduce the demand for tobacco.' Available from: http://www.who.int/fctc/guidelines/adopted/Guidelines_article_6.pdf

Yours sincerely

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