



The Committee Secretary
Inquiry into the impact of illicit drugs being traded online
Parliamentary Joint Committee on Law Enforcement
Via email: le.committee@aph.gov.au

17th December 2021

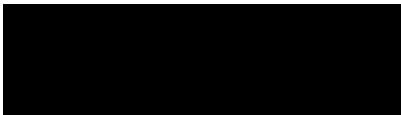
Thank-you for the opportunity to provide a written submission for the **Inquiry into the impact of Illicit drugs being traded online.**

The Drug Policy Modelling Program (DPMP), UNSW is the leading drug policy research and practice program in Australia. Our mission is to improve government decision-making on drugs. We have been conducting research into drug policy, including online purchasing and sales of drugs as well as drug-related legislation, and more specifically decriminalisation of personal use of drugs.

We note the broad-reaching terms of reference, and we are aware of substantial research efforts by many outstanding research groups across Australia in relation to trends and changes in online illicit drug availability and the impacts of new technologies. This includes experts such as Dr Monica Barratt (RMIT), Dr Alexia Maddox (RMIT), Dr Raimondo Bruno (Uni of Tasmania), Dr Amy Peacock (NDARC, UNSW), A/Prof James Martin (Swinburne) and Dr Marie Morelato (UTS). We have read and endorse the submission by the Social and Global Studies Centre, the Centre for Innovative Justice, and the Blockchain Innovation Hub to this inquiry (Barratt et.al., 2021).

As such, we confine our submission to comments on Terms of Reference (f). the impact of legislation and policies that seek to decriminalise drug use and possession on the online availability, quality control and the capacity of law enforcement agencies to police illicit drugs.

Yours sincerely,



Alison Ritter, AO
On behalf of the Drug Policy Modelling Program
Director, Drug Policy Modelling Program
Social Policy Research Centre
UNSW Sydney, Sydney, NSW 2052
T: +61 (2) 9065 8354 | E: Alison.ritter@unsw.edu.au

Drug Policy Modelling Program Submission to the **Parliamentary Joint Committee on Law Enforcement Inquiry into the impact of illicit drugs being traded online**

Alison Ritter¹, Michala Kowalski¹, Isabelle Volpe¹ and Katinka van de Ven^{1,2 3}

17th December 2021

Decriminalisation of personal drug use is an evidence-based policy

Removing criminal penalties for personal drug use/possession for personal use (“decriminalisation”) draws a clear distinction between personal use and the sale and supply of drugs, which remain criminal activities. Instead of a criminal response to personal drug use/possession, responses may include a civil sanction (such as a fine) or referral to education and/or treatment. In this way, society sees personal drug use as a health and social issue, rather than a criminal justice issue.

Around 43% of Australians (NDSHS, 2019) have used an illegal drug at least once in their lifetime. This perforce means that almost half of the Australian population would be regarded as criminals under the law. The Australian community supports health and social-led responses (rather than criminal responses) to personal possession of all drugs (Hughes et al., 2016). The removal of criminal penalties for drug use recognises that it is important that the law be upheld and respected in line with community expectations. At the same time society recognises that the supply and sale of drugs is a criminal offence, and those individuals should be subject to criminal sanctions.

Over 30 countries have implemented some form of decriminalisation (Eastwood et al., 2016), with multiple studies confirming no evidence of significant increases in the prevalence of use after decriminalisation (Csete et al., 2016; Eastwood, Fox, & Rosmarin, 2016; Hughes et al., 2018; Single, Christie, & Ali, 2000); and many positive consequences including reductions in drug-related harms, reduction in the burden on the criminal justice system and improved employment and economic outcomes (Hughes et al., 2018).

A wealth of evidence demonstrates the benefits of decriminalisation of personal use/possession of drugs. This includes our own research showing no increase in drug use associated with diversion and its cost-effectiveness (Shanahan, Hughes, & McSweeney, 2017; Hughes, Shanahan, Ritter, McDonald, & Gray-Weale, 2014; Hughes, Stevens, Hulme, & Cassidy, 2018). The benefits are seen in countries other than Australia. Eighteen years post-reform in Portugal and the impacts include a reduced burden on the criminal justice system, reductions in problematic drug use, reductions in drug-related HIV and AIDS, reductions in drug-related deaths, increases in access to treatment and reintegration services (such as employment assistance) and reduced social costs of responding to drugs (Gonçalves, 2015; Hughes & Stevens, 2010).

Online illicit drug markets are a minor part of personal purchasing behaviour

Illicit drugs are available in both traditional (face-to-face) and online markets. In Australia, the proportion of people who report purchasing their drugs online (as compared to traditional drug markets) remains somewhere between 7% and 11% (Barratt et al., 2021; Sutherland et al., 2021). As such, the online illicit drugs markets do not represent the major ways in which people purchase drugs for personal consumption.

¹ Drug Policy Modelling Program, USNW Sydney

² Centre for Rural Criminology, University of New England

³ Suggested citation; Ritter, A., Kowalski, M., Volpe, I. & van de Ven, K. (2021) Drug Policy Modelling Program submission to the Parliamentary Joint Select Committee on Law Enforcement Inquiry into the impact of illicit drugs being traded online. Sydney: Drug Policy Modelling Program, UNSW Sydney

Despite the seeming novelty of online drug availability, the very first exercise of online commerce was for the sale of marijuana in 1971 or 1972, between students at Stanford and students at Massachusetts Institute of Technology (Markoff; 2005). As the internet has grown, so have the channels of online distribution of drugs. Today drugs are available through the following online mediums:

- 1) Websites on the world wide web (surface net) selling pharmaceutical drugs (with or without valid prescriptions) and selling unregulated substances.
- 2) Facebook groups dedicated to selling small quantities of drugs
- 3) Social media apps such as Snapchat and Instagram
- 4) Geo-based matching dating apps such as Tinder and Grindr
- 5) Encrypted messaging apps such as WhatsApp, Telegram and Wickr (including groups, individual discussions with people selling drugs, and drug selling bots)
- 6) Encrypted markets such as darknet markets or cryptomarkets hosted on the darkweb

Drug markets and drug supply chain processes may not fit neatly into a binary of 'online' and 'offline'. Some transactions are purely online with no face-to-face transaction (e.g. drugs purchased through the surface net or darknet and mailed to the buyer), and some transactions are initiated online and then completed in person (e.g. a buyer is connected to a seller via an app, and the exchange of money for drugs is conducted in person).

Online markets do cater for personal drug use. Technologically facilitated drug trading is arguably located in 'the last mile' of drug dealing supply chains (Dittus et al., 2018); that is, transactions between sellers and people who are purchasing for personal use. Although Australia's cryptomarket drug trade has been categorised as somewhat isolated and more expensive than other countries cryptomarket drug trade (Cunliffe et al., 2017) it is still located in 'the last mile' of drug dealing supply chains.

Decriminalisation policy and online illicit drug markets

Under decriminalisation, the sale and supply of illicit drugs is criminal behaviour. Law enforcement directs its attention to sale and supply (rather than use/personal possession). As such the focus for policing in relation to online markets is on the sellers of drugs, not the buyers of drugs.

At present, however, it seems that most arrests of online drug behaviours are of buyers (that is, end-users) of drugs. As of 2015, following both Operation Marco Polo and Operation Onymous, half of all reported cryptomarket-related arrests worldwide were of buyers. In Australia, buyers represented 75% of arrestees (GWERN, 2019). This is out of step with decriminalisation policies.

It is in law enforcement's interests to recalibrate intelligence-led policing in the online environment away from buyers and towards sellers. Here the likely impacts will be much greater – taking down a drug supplier is a much more cost-effective approach than taking down buyers. Similarly, taking down an online marketplace is consistent with targeting supply not use. Unfortunately, law enforcement actions to curb online drug markets through large scale co-operative operations resulting in publicised takedowns of prominent drug markets, have been associated with increased illicit online innovations (Shortis, Aldridge & Barratt, 2020; Horton et al., 2021), and continued growth in financial turnover, rather than diminished trade (Décary-Héту & Giommoni, 2017). Smarter policing of online markets targeted at the sellers is required.

The second implication of decriminalisation of personal use is that it is plausible to suggest that police and law enforcement resources would be better balanced towards the traditional drug markets and the sellers within that environment. This follows because: 1. the majority of drug sales

remain in the traditional (non-online) markets; and 2. online buyers are largely people who use drugs and as such are not the target of law enforcement efforts.

Australian approaches to decriminalisation of personal drug use are unlikely to have any impacts on the technological developments

Using technological means to purchase drugs is not peculiar to Australia, and these activities are best viewed as part of a global scheme of e-commerce (ACIC; 2019). Technological communications innovators are highly concentrated in the United States. All of the channels people use to purchase drugs (including the darknet) are channels which were developed as innovations in communication. These innovations and advancements in communication technologies led by individuals in the United States (concentrated in California) are highly unlikely to be influenced by Australian state and territory legislators' actions in any capacity, and as such Australian approaches to decriminalisation of personal drug use are unlikely to have any impacts on the technological developments.

Decriminalisation will not impact online availability of drugs

As noted earlier, the research evidence shows that decriminalisation of personal drug use/possession does not increase drug use. Therefore evidence-based decriminalisation will not result in demand-induced supply increases and as such, there is no implication for online availability of drugs per se.

Conclusion

We applaud the committee for considering online illicit drug markets, and how law enforcement efforts can be improved. We urge law enforcement to consider the ways that they can concentrate their efforts on drug traffickers and sellers within online markets. This approach would be consistent with community standards and expectations, and uphold the law.

The views expressed here are grounded in the best available scientific evidence. All the references referred to in our submission are available directly from us, should the Committee wish to have copies of the original research. We would be pleased to expand on any of the points raised in our submission.

References

- Australian Criminal Intelligence Commission. (2019). *Illicit drug data report*. Canberra, Australia: Australian Criminal Intelligence Commission.
- Australian Institute of Health and Welfare. (2019). *National Drug Strategy Household Survey 2019 - Australian Capital Territory Fact Sheet*. Retrieved from: <https://www.aihw.gov.au/getmedia/ecbff00a-7d71-47fb-bcd3-714eae2fc51e/aihw-phe-270-fact-sheet-ACT.pdf.aspx>
- Barratt, M.J., Lamy, F.R., Engel, L., Davies, E., Puljević, C., Ferris, J., et.al. (2021). Exploring Televend, an innovative combination of cryptomarket and messaging app technologies for trading prohibited drugs. *SocArXiv*.
- Barratt, M.J., Malins, P., Black, J., Winford, S., Volpe, I., Lane, A. & Maddox, A. (2021). Social and Global Studies Centre, the Centre for Innovative Justice, and the Blockchain Innovation Hub submission to the Parliamentary Joint Select Committee on Law Enforcement Inquiry into the impact of illicit drugs being traded online. Melbourne: RMIT University
- Clarke, S., Forell, S., & McCarron, E. (2008). Fine but not fair: Fines and disadvantage. *Justice Issues*, 3, 1-11.
- Csete, J., Kamarulzaman, A., Kazatchkine, M., Altice, F., Balicki, M., Buxton, J., . . . Beyrer, C. (2016). Public health and international drug policy. *Lancet* 387(10026), 1427-1480. doi:10.1016/S0140-6736(16)00619-X

- Cunliffe, J., Martin, J., Décary-Héту, D., & Aldridge, J. (2017). An island apart? Risks and prices in the Australian cryptomarket drug trade. *International Journal of Drug Policy*, 50, 64-73.
- Décary-Héту, D., & Giommoni, L. (2017). Do police crackdowns disrupt drug cryptomarkets? A longitudinal analysis of the effects of Operation Onymous. *Crime, Law and Social Change*, 67(1), 55-75.
- Dittus, M., Wright, J., & Graham, M. (2018, April). Platform Criminalism: The 'last-mile' geography of the darknet market supply chain. In *Proceedings of the 2018 World Wide Web Conference* (pp. 277-286).
- Eastwood, N., Fox, E., & Rosmarin, A. (2016). *A Quiet Revolution: Drug decriminalisation Across the Globe: Release drugs the law and human rights*.
- Gonçalves, R., A. Lourenço and S. N. da Silva. (2015). A social cost perspective in the wake of the Portuguese strategy for the fight against drugs. *International Journal of Drug Policy*, 26(2), 199-209.
- GWERN (2019). *A census database of all publicly-reported arrests and prosecutions connected to the Tor-Bitcoin drug darknet markets 2011-2015, and analysis of mistakes* [Dataset].
<https://www.gwern.net/DNM-arrests>
- Horton-Eddison, M., Shortis, P., Aldridge, J., & Caudevilla, F. (2021). Drug cryptomarkets in the 2020s: Policy, enforcement, harm, and resilience. *Global Drug Policy Observatory*.
- Hughes, C. E., & Stevens, A. (2010). What can we learn from the Portuguese decriminalisation of illicit drugs? *British Journal of Criminology*, 50(6), 999-1022. doi:10.1093/bjc/azq038
- Hughes, C., & Ritter, A. (2011). *Monograph No. 22: Legal thresholds for serious drug offences: Expert advice to the ACT on determining amounts for trafficable, commercial and large commercial drug offences*. Sydney: National Drug and Alcohol Research Centre.
<https://ndarc.med.unsw.edu.au/resource/22-legal-thresholds-serious-drug-offences-expert-advice-act-determining-amounts-trafficable>
- Hughes, C., Shanahan, M., Ritter, A., McDonald, D., & Gray-Weale, F. (2014). *Monograph No. 25: Evaluation of the ACT drug diversion programs*. Sydney: National Drug and Alcohol Research Centre.
- Hughes, C., Ritter, A., Chalmers, J., Lancaster, K., Barratt, M. & Moxham-Hall, V. (2016). *Decriminalisation of drug use and possession in Australia – A briefing note*. Sydney: Drug Policy Modelling Program, NDARC, UNSW Australia
- Hughes, C., Stevens, A., Hulme, S., & Cassidy, R. (2018). *Review of approaches taken in Ireland and in other jurisdictions to simple possession drug offences. A report for the Irish Department of Justice and Equality and the Department of Health: UNSW Australia and University of Kent*.
- Hughes, C., Seear, K., Ritter, A. & Mazerolle, L. (2019) Monograph No. 27: Criminal justice responses relating to personal use and possession of illicit drugs: The reach of Australian drug diversion programs and barriers and facilitators to expansion. DPMP Monograph Series. Sydney: National Drug and Alcohol Research Centre, UNSW Sydney.
- Markoff, J. (2005). *What the dormouse said: How the sixties counterculture shaped the personal computer industry*. Penguin.
- Shanahan, M., Hughes, C., & McSweeney, T. (2017). Police diversion for cannabis offences: Assessing outcomes and cost-effectiveness. *Trends and Issues in Crime and Criminal Justice*(532), 1.
- Shortis, P., Aldridge, J., & Barratt, M.J. (2020). Drug cryptomarket futures: structure, function and evolution in response to law enforcement actions. In David R Bewley-Taylor (Eds.), *Research Handbook on International Drug Police* (pp. 355-380). Edward Elgar.
- Single, E., Christie, P., & Ali, R. (2000). The Impact of Cannabis Decriminalisation in Australia and the United States. *Journal of Public Health Policy*, 21(2), 157-186. doi:10.2307/3343342
- Sutherland, R., Karlsson, A., Price, O., Uporova, J., Chandrasena, U., Swanton, R., et.al. (2021). *Australian Drug Trends 2021: Key Findings from the National Ecstasy and Related Drugs Reporting System (EDRS) Interviews*. Sydney: National Drug and Alcohol Research Centre, UNSW Sydney.