

**Submission to the Senate Legal and Constitutional Affairs References Committee**

***Inquiry into the Illegal Tobacco Crisis in Australia***

Coalition of Asia Pacific Tobacco Harm Reduction Advocates (CAPHRA)

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**Executive Summary**

We are the Coalition of Asia Pacific Tobacco Harm Reduction Advocates - a coalition of 11 consumer advocacy groups in Asia Pacific who work alongside government and public health officials towards risk proportionate regulation in our respective countries. We are all adults who formerly smoked and now use safer nicotine products to stay away from deadly combustibles. All member organisations are run by volunteers who are not paid for their advocacy in the field of tobacco harm reduction. Nor do the principals of the organisations have any vested financial interest in the industry.

We kindly ask that you accept and review our commentary below with regards to the **Inquiry into the Illegal Tobacco Crisis in Australia**. As consumers of safer nicotine products, we are keenly and intimately aware of the benefits that these products have offered us, and we view ourselves as the evidence of their effectiveness to assist adults switch off combustible smoking. We also thank you for your attention and consideration of our submission.

The member organisations of CAPHRA recognize the need for regulations, as regulations are necessary to guarantee the safety of all alternative nicotine products and to limit the accessibility to youth. However, as we noted in all of our previous commentary regarding the situation in Australia, the current policies and procedures in Australia have caused harm in the community - not only with access issues for adults who smoke and the firebombings of tobacconists, but also the prevalence of unregulated black-market products that have no regulatory controls for either contents or access to those under the age of 18.



## **The scale and character of the illegal tobacco market**

Australia's illegal tobacco market has expanded rapidly and in plain sight over the past several years. This growth has not happened in a vacuum. It has tracked closely with policy decisions that restricted or removed legal, regulated options for adult smokers while demand for nicotine remained steady. Based on CAPHRA's engagement with Australian advocates, medical professionals, and journalists, the illegal market is now highly visible, increasingly normalised, and widespread. Sales and distribution are occurring through shopfronts, temporary pop-ups, social media, encrypted messaging apps, and delivery services. Where authorities close a retail outlet, it often reopens quickly under a new name or location, or shifts entirely online. This pattern is consistent with a market dominated by organised criminal networks, not small-scale, opportunistic offending.

## **Impact on public health and government revenue**

From a public health perspective, the current situation represents a clear policy failure. Australia has constrained regulated access to lower-risk nicotine products for adults without addressing underlying demand. Predictably, adults have not stopped seeking nicotine. They have simply been pushed toward unregulated supply.

The consequences are direct and harmful. Consumers are relying more heavily on products with unknown ingredients and inconsistent quality. Adults who might otherwise have switched away from smoking are less able to do so, and smoking may persist or increase among those who are left with limited legal alternatives.

The fiscal impact is also substantial. Government revenue is undermined through lost excise and customs collections, alongside rising enforcement and policing costs. These effects are compounded by broader social costs linked to criminal activity, violence, and community harm. Taken together, these outcomes run against the stated objectives of tobacco control policy.

## **Law enforcement, intelligence, and regulatory response**

CAPHRA's position, informed by extensive real-world experience across the Asia Pacific, is that enforcement has failed and will continue to fail, regardless of how many additional resources are allocated. The same cycle repeats. Shops are shut down and reappear within weeks. Operators rebrand, relocate, or move to delivery-only models. Criminal enterprises adapt faster than regulators can respond. This points to a core conclusion: the primary problem is not enforcement capacity. It is policy design. Prohibiting a high-demand consumer product has created a market that is highly profitable, easily adaptable, and resistant to traditional enforcement methods.



### **Social and economic impacts**

The social consequences of the current approach have been severe. Australia previously had adult-only vaping retail stores operating legally, with strict age controls, clear compliance requirements, and accountability. Many of those legitimate operators were forced to close or exit under current laws.

In their absence, communities have seen illegal tobacco and vape shops operating openly, with illegal products sold alongside tobacco. Reports of violence, intimidation, and arson linked to market control have increased, placing local businesses and communities at risk. Youth exposure to nicotine products has worsened, not improved, under the current legislative framework, because uncontrolled supply is now more visible and more accessible.

### **Forecasts and future scenarios**

If current policy settings remain unchanged, CAPHRA expects Australia to follow the trajectory seen in other prohibition settings, including India and Thailand. Continued prohibition is likely to deepen and consolidate organised crime involvement, increase violence associated with market control, entrench illicit retail in communities, and further erode regulatory credibility. International experience is consistent on one point. Criminal markets retreat when legal, regulated alternatives replace them and take away the monopoly profits that prohibition creates.

### **Options for reform**

Meaningful reform must shift the market from criminal control to regulated control. That requires legalisation and sensible regulation of vaping products as a tobacco harm reduction tool, with access restricted to responsible, adult-only retail environments. It also requires clear product standards, firm enforcement of age restrictions, and practical compliance mechanisms.

CAPHRA further submits that the current model should be abandoned. It has not delivered meaningful access and has achieved less than 5 percent uptake in the medical community. A workable regulatory framework must remove organised crime's monopoly over supply by making legal access realistic for adults who would otherwise source products illegally.

The Philippines and New Zealand provide clear comparators for regulated vaping markets that have coincided with significant reductions in smoking prevalence, without the scale of criminal harm now evident in Australia. By contrast, India and Thailand illustrate the predictable outcome of prohibition, where the entire market for safer nicotine products is underground and uncontrolled, with none of the safeguards and age-access controls available under regulated frameworks such as those in New Zealand and the Philippines.



### **Conclusion**

The illegal tobacco crisis did not emerge spontaneously. It is the predictable consequence of policy choices that removed regulation and replaced it with prohibition, while ignoring clear warnings from consumers, experts, and international evidence.

We respectfully urge the Committee to consider regulatory reform grounded in the science, evidence and lived experience harm reduction for tobacco.

Submitted by:

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**on behalf of the member organisations of the**

**Coalition of Asia Pacific Tobacco Harm Reduction Advocates (CAPHRA)**

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