

20th of April 2017

Red Tape Committee
Department of the Senate
PO Box 6100
Canberra ACT 2600

By Email: redtape.sen@aph.gov.au

RE: ALNA submission on the effect of red tape on tobacco retail

The Australian Lottery and Newsagents' Association (ALNA) is the peak national body, who along with affiliated state lottery associations, represent these small businesses in almost every rural town, regional centre, urban and metropolitan shopping centre in Australia.

Newsagents and Lottery agents are an important and trusted part of Australian communities – and approximately 2.5 million Australians shop at their local agency every day. Our members therefore make a significant contribution to the Australian economy, employing over 15,000 people and generating an estimated annual turnover of \$2.5 billion. Agencies have commercial relationships with over 25,000 other businesses, further demonstrating their valuable contribution.

We appreciate the committee undertaking this important work to inquire into the effect of restrictions and prohibitions on business (red tape) on the economy and community.

Ensuring small business efficiency/productivity is maximized through continued review and removal of unnecessary red tape, as well as assessment/review of the number of tasks a small business must undertake annually to remain compliant with Federal, State & Local government laws is essential to the health of all small businesses. Consequently, it is also essential for the overall success of the Australian economy. This is an important policy objective of ALNA, so we commend the committee on undertaking this work.

We appreciate this opportunity to provide a submission on the specific area of 'the effect of red tape on tobacco retail', as the majority of our members are small businesses who are also tobacco retailers.

Tobacco is a relatively low margin product with fairly unfavorable trading terms and not insignificant risks for most small businesses, nevertheless it still provides an important share of revenue and staff hours in many small businesses, and contributes to numerous additional sales of higher margin products.

In relation to the impacts of red tape on tobacco retailers which are substantial, it is important to remember that Tobacco retailers are operating an entirely legal business selling a legal product and employing local people. It is also important to remember that small businesses are not little big businesses, they are people running complicated and stressful small enterprises.

As such, ALNA as our member's representative body, is committed to protecting the interests and wellbeing of our members around Australia to ensure that compliance regimes (red tape) that they must deal with to sell legal products like tobacco, across the various jurisdictions that we operate in, are targeted and efficient and not more overly burdensome than they might otherwise need to be.

ALNA and our members are supportive of practical evidence-based measures to reduce the harm of smoking, however we are opposed to any impractical, or not fit for purpose initiatives that may harm our family businesses unnecessarily. Especially where those initiatives may also impact the wellbeing or employment opportunities of our staff, in order to experiment with policy platforms that may not have a suitable evidence base to demonstrate delivery of desired outcomes.

As an example, given that fifty percent (50%) of the approximately 15,000 staff members working in our small businesses are under the age of 25, initiatives that may create compliance regimes around the age of those authorised to sell certain products in our businesses, like tobacco, would have potentially very detrimental economic and employment impacts on our member small businesses.

Of particular concern to our members are also initiatives that make the day-to-day operation of their retail businesses more difficult, and that expose them and their staff to higher levels of risk than they might otherwise need to be. Tobacco is often the category where this occurs through regulatory interventions across multiple jurisdictions. These create further uncertainty and onerous difficult new obligations for our members and their staff to navigate. This increases risk for them and inequitably impacts member small businesses. Examples of this are training, transaction time and customer frustration impacts that occurred when tobacco plain packaging and display bans were introduced.

As you may be aware, our members operate in a strictly regulated and controlled environment in relation to the sale of tobacco products and they comply with a broad range of federal and state tobacco laws. They incur significant and expensive time and management burdens in their businesses already to ensure tobacco products sold are all in plain packaging, that tobacco products are kept out of sight behind closed doors, that relevant signage is posted, and, most importantly, that tobacco products are not sold to anyone under the age of 18. The trade-off for these economic burdens born by small businesses like our members should be a societal outcome that demonstrably reduces the harmful effects of smoking in our community, while not unfairly or unnecessarily impacting the health, safety and economic opportunities available to our members.

Consequently, we are always concerned about the impost of additional compliance regimes and the cost of these on our member retailers. When it comes to the increasing red tape and the impacts of the substantial increases in excise required to achieve policy outcomes when retailing tobacco, there is a strong argument for providing additional subsidies or tax concessions to small businesses involved in the sale of tobacco, as through the additional burden of this regulation our member businesses are being made less efficient.

Illicit trade and increasing tobacco regulation

Our members have witnessed a significant rise in the market for illegal tobacco. This is supported by the significant quantities being reported in illegal tobacco seizures, as well as increasing complaints we are seeing our members making to tobacco control authorities about illegal sales occurring in their communities.

The growing awareness in the community about the increasing value of tobacco products is also impacting security costs for our members, as well as increasing interest in the availability of alternative illegal tobacco products.

One of the frustrations our members have is that this has occurred following the introduction of plain packaging and the significant increases in excise and is now impacting our legal retailers with the rise of illicit tobacco in the communities our members service.

Successive governments have received substantial revenue gains from this, yet not enough of this additional revenue has been spent on better enforcement and improving inconsistent laws and conflicting jurisdictional authorities when it comes to dealing with the illicit trade in tobacco. These issues delay efforts to close down illegal sales venues when these are sometimes blatantly transacting in our community and impacting our legal retailers.

It is important that there is greater harmonisation of state and federal illicit trade laws and a national strategy to address the growth in illicit tobacco and its impact on our members. This is now urgently needed to ensure

black market sales of regulated retail products are substantially reduced. This will make sure that efforts to combat illicit trade are efficient and effective.

Red tape and electronic cigarettes

Much like the trade in illicit tobacco products, it frustrates our members that they bear the brunt of new tobacco compliance costs, yet products that are currently banned like electronic cigarettes containing nicotine are freely available online with little consequence.

Tobacco regulations are intended to improve health outcomes in our community, yet inconsistent red tape prevents our retailers from providing a harm reduced alternative to smokers and it restricts our members from making electronic cigarettes available to our customers in a regulated environment. This pushes our customers, who will access these products anyway, into unregulated environments like online instead of the regulated environment of our retail stores.

Our members report interest from customers in purchasing e-cigarettes in their retail outlets in the sections where they sell ancillary tobacco products. This experience supports consumers aligning e-cigarettes with other ancillary tobacco products. More consistent regulation of these products would provide our retailers with another viable path for some customers to cessation. Evidence of this is can be found in the, English Dept of Public Health statement that e-cigarettes *“are the most popular quitting tool in the country with more than 10 times as many people using them than using local stop smoking services”*. <https://www.gov.uk/government/news/e-cigarettes-an-emerging-public-health-consensus>.

While we are supportive of good regulation to guard against harm, we do feel that the approach to restrictions on electronic cigarettes is inconsistent with good regulation and that more available evidence should be considered regarding developing more reliable regulation of e-cigarettes. Approaches in other countries, like NZ and Canada, who are legalising nicotine e-cigarettes must also be looked at carefully and retailers should not be unfairly restricted.

Restrictive or inequitable licensing and compliance regimes

ALNA is supportive of suitable licensing regimes to both register and outline the responsibilities of tobacco retailers, such as the NSW model, which successfully achieves this while avoiding unnecessary red tape for small businesses and with no additional cost for them. ALNA is also not opposed to tobacco licence fees out of hand, where these are measured and appropriately set, and where they are equitably applied.

We do not however support unhelpfully restrictive, or inequitable licensing regimes like Tasmania’s, where the size of the increase to fees, along with the across the board flat application of the new licence fees, has become a large disincentive for smaller retailers like our members to continue selling tobacco in many instances. This has the effect of excluding particular retailers from participating and inequitably pushes the tobacco category to the major retailers.

New tobacco compliance regimes should not unreasonably impact small businesses more than the major retailers and should not unfairly restrict us from competing. Fair competition means a just, open, and equitable competition between business competitors. By way of comparison, the major retailers have considerably more resources and scale with which to incorporate new compliance costs and process structures, therefore these need to be more carefully designed so as not to have the effect of inequitably impacting small businesses more than their competitors. It would concern us if any of our retailers were unfairly excluded due to red tape, as with licence price, or certain employees being restricted, which we touched on earlier, if location or number of retailer restrictions were introduced. Again, this would unfairly benefit the majors over small businesses.

Policy initiatives to ameliorate the impacts of red tape on small business

Some important policy objectives of ALNA's (listed below) that the committee might consider, may also be helpful to further ameliorate the impacts of red tape on small business and to enable small business to have more of a say about the impacts and practicalities of red tape. We would encourage all government(s) to consider the general benefits of the following policy initiatives, that may lead to more efficient compliance regimes. This could equally be applied to all new tobacco regulation.

- Ensuring there is appropriate and genuine consultation and understanding of the impact on small business of all new legislation.
- Where state legislation is required to match Federal legislation, this should always include an opportunity for industry consultation and understanding of impacts.
- Introducing a 'Small Business Regulatory Impact Statement' (SBRIS) section to all future legislation so that Small Business impacts are well understood.
- Introduce a Small Business obligation summary for all legislation that simplifies and summarises facts small businesses should be aware of.

We appreciate the committee taking the time to listen to our comments in this submission and hope you will determine suitable advice to achieve equitable policy solutions that support legitimate regulated small businesses operating efficiently.

On behalf of ALNA members

Yours sincerely,

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Australian Newsagents' Federation T/as Australian Lottery and Newsagents Association