

Illegal tobacco crisis in Australia

Committee: Legal and Constitutional Affairs References Committee

Personal Background:

I am a physician and currently am an Emeritus Consultant, St Vincent's Hospital, Darlinghurst, NSW 2010. I was the Foundation Director of the Alcohol and Drug Service at St Vincent's Hospital in Sydney from 1982 until I retired in 2012. Together with colleagues I helped establish: Australia's first needle syringe program (in 1986 when this was pre-legal); Australia's first Medically Supervised Injecting Centre (in 1999 when this was pre-legal); the National Drug and Alcohol Research Centre (1987); the Australian Society of HIV Medicine (1989); the International Harm Reduction Association in 1996 (of which I was the Foundation President 1996–2004) and the NSW Users AIDS Association (1989). I chaired the Program Committee of the 3rd International Harm Reduction Conference in Melbourne in 1992 which invited Professor Michael Russell to speak on "is harm reduction appropriate for tobacco?" I was a Short Term Consultant for a number of UN and international organisations including the World Health Organisation, UNAIDS, GFATM (the Global Fund for AIDS, Tuberculosis and Malaria), UNODC (United Nations Office on Drugs and Crime) and the World Bank. The missions I was involved in covered HIV prevention, harm reduction, drug treatment and human rights of people who use drugs. These missions were generally in Low and Middle Income Countries (LMICs). I have been a staunch advocate for drug harm reduction since 1982. In that time, every new drug harm reduction intervention was fiercely resisted including methadone treatment, needle syringe programs, medically supervised injecting centres, pill testing and treatment with pharmaceutical grade heroin. Advocates for these interventions (including me) were initially vilified, ostracised and marginalised but over time these interventions were accepted as greatly beneficial and the initial negativity shown to drug harm reduction advocates eventually dissipated and reversed. I was awarded an Order of Australia (AM) in 2010 for my services to public health.

Financial support:

I worked for public hospitals in Australia and the United Kingdom over more than 40 years. My salary was always only paid by governments. Like everyone who has been paid by governments, including politicians, I benefited indirectly to an unknown but presumed significant extent from tobacco companies who would have contributed to my salary in various ways (cigarette excise, company tax, personal tax). I have never received funds directly from any tobacco or vaping company (although Bloomberg Narrative Followers have made this accusation repeatedly and without foundation). In 2025, I accepted an invitation from the British American Tobacco company's to visit their Innovation Centre in Southampton, UK. This Centre is a critical part of the British American Tobacco company's efforts to transform rapidly from making and selling combustible cigarettes to making and selling safer, smoke-free nicotine

products. These products accounted for 18% of the net profits of the British American Tobacco company in 2025. British American Tobacco aims for safer, smoke-free nicotine products to account for 50% of its profits and have 50 million consumers by 2035.

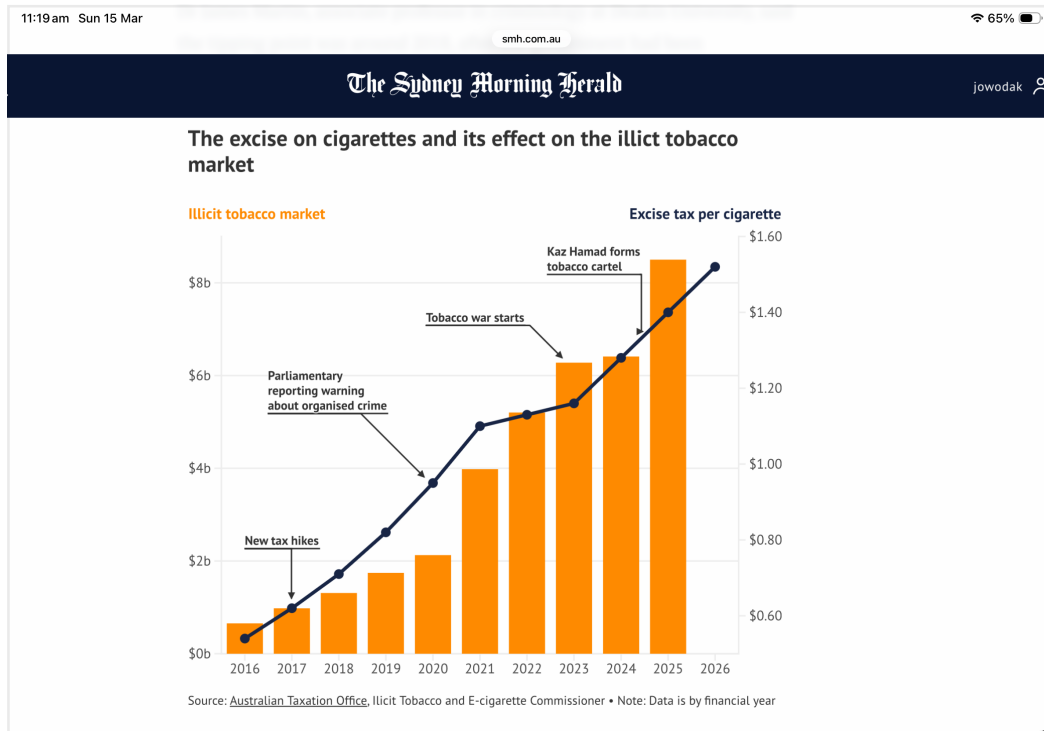
Response to Terms of Reference:

1 The scale and nature of the illegal tobacco market, including the volume and value of illicit tobacco trade; sources, distribution channels and methods of smuggling or illegal cultivation; and the involvement of transnational serious and organised crime (TSOC) groups

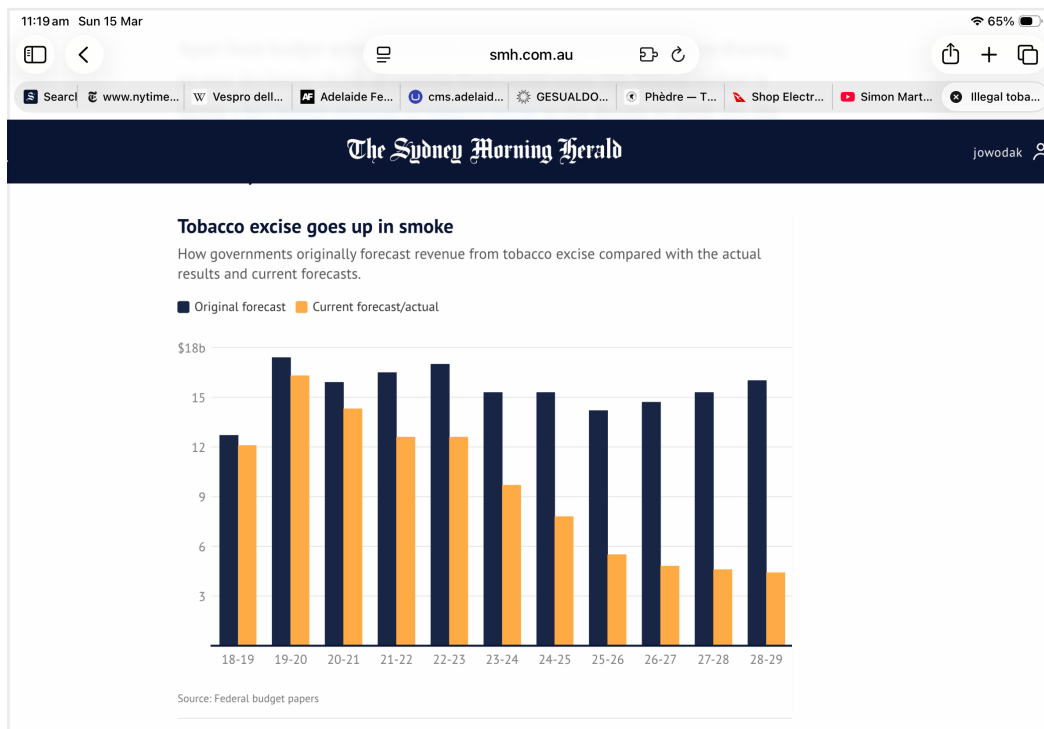
There is widespread agreement that the recent years in Australia of sky high cigarette excise and quasi prohibition of nicotine vaping (and heated tobacco products, nicotine pouches and snus) have resulted in a huge and growing black market in cigarettes, tobacco and vapes. I continue to support moderate but not sky high cigarette excise. Public health has divided into two groups in recent decades. One group supports a paramount objective of reducing smoking related deaths as rapidly as possible by reducing smoking and supports harm reduction, evidence based and human rights based policy, the involvement of people with lived/living experience in policy development and cost effective policy. The second group is focused on the dishonest, reprehensible and indefensible practices of the tobacco industry over many decades and argues that they have not changed and will never change. This group often argues that the endgame centres on eradicating use of tobacco and nicotine and closing the tobacco industry. Michael Bloomberg, the U.S. financial services billionaire, is believed to have donated over \$US 1 billion to establish and support an international network of activists who support the aims of the second group.

Even followers of the Bloomberg Narrative now admit that Australia's sky high cigarette excise and quasi prohibition of nicotine vapes has created a huge and growing black market in cigarettes, tobacco and vapes. Estimates of the size of illicit markets are inherently unreliable but there is widespread acceptance that the black market share of supply of cigarettes, tobacco and vapes has been increasing steadily in recent years and reached staggering heights. Over 90% of the supply of nicotine vapes in Australia is from the black market according to the National Drug Strategy Household Survey, 2022-2023 (<https://www.aihw.gov.au/reports/illicit-use-of-drugs/national-drug-strategy-household-survey/contents/about>). Some reputable authorities estimate that at least half of the Australian cigarette market is now supplied by illegal sources and is still increasing.

The Sunday Age ("Billions up in Smoke") and the Sydney Sun Herald published the following two graphs on Sunday 15 March, 2026. 'The excise on cigarettes and its effect on the illicit tobacco market), sourced from the Australian Taxation Office, shows an apparently liner relationship between increasing cigarette excise increasing from \$0.61 tax per cigarette in 2017 to \$1.52 tax per cigarette in 2026 and the estimated size of the illicit tobacco market.



The second graph, sourced from the Federal Budget papers, depicts original forecasts in cigarette excise revenue and actual revenue between 2018-2019 and 2028-2029 with the shortfall increasing from a few hundred million dollars in 2018-2019 to almost ten billion dollars in 2028-2029.

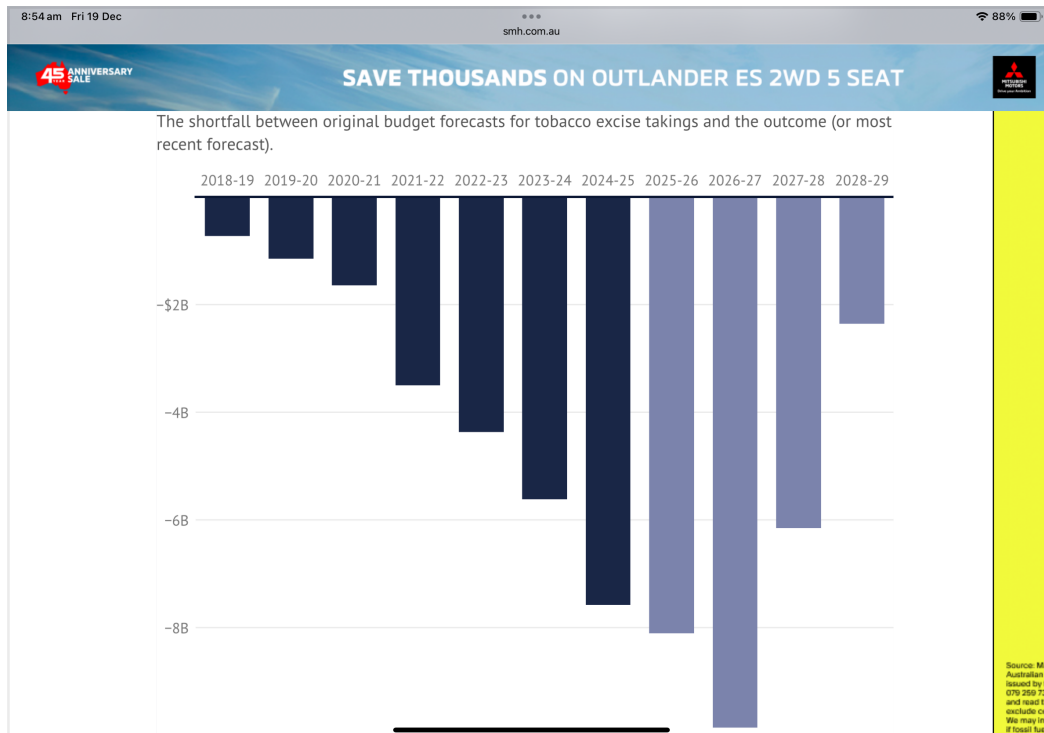


Governments have the unenviable but critical responsibility of raising sufficient revenue to pay for important services demanded by voters. Understandably, government often prefer to raise revenue from powerless, poorly connected and unpopular minorities like smokers rather than from powerful, well connected groups who are able to make their objections well known to the community. The biggest losers from the swingeing cigarette excise Australia

has imposed recently have been low income people, the disadvantaged and First Nations Australians.

2 The impact of illegal tobacco on public health and on government revenue, including smoking rates and the loss of Commonwealth excise and customs revenue;

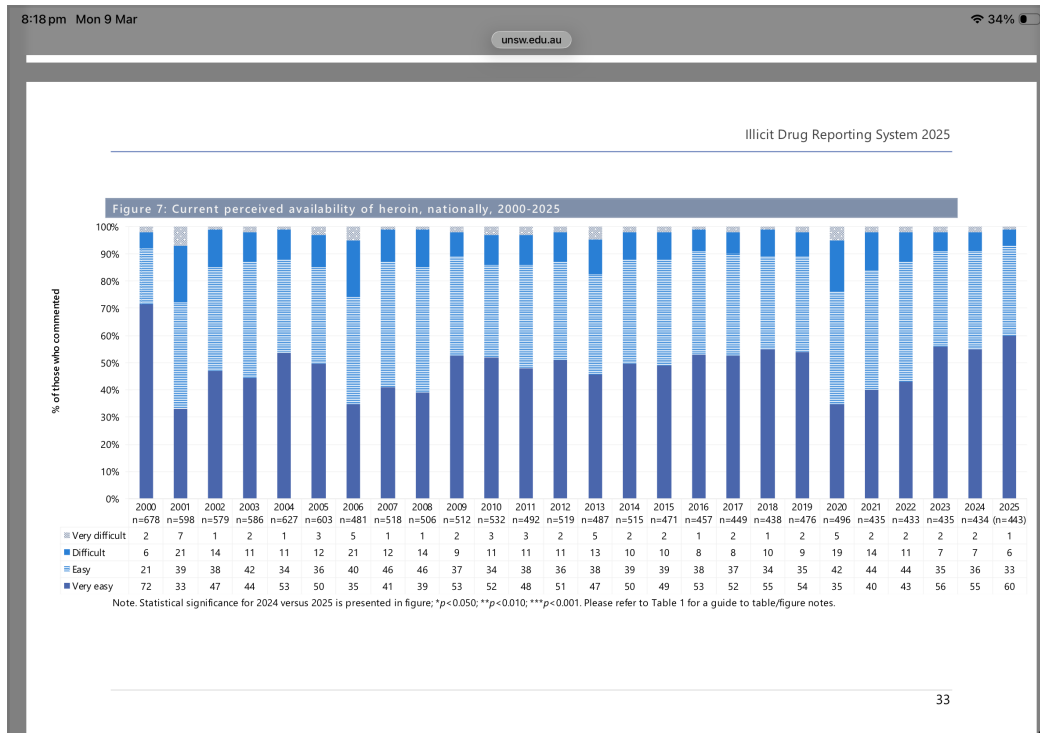
As the impact of smoking is lagged many years behind changes in smoking rates, it will be some time before changes in the incidence of smoking related deaths from causes such as lung cancer, myocardial infarction and chronic obstructive pulmonary disease can be attributed with confidence to changes in smoking rates. However, what is already clear is that the decline in smoking rates has accelerated in countries where consumption of safer, smoke-free nicotine products has increased rapidly including Sweden, Norway, Iceland, the United Kingdom, New Zealand and Japan. Four political parties in New Zealand (Labour, National, Green, New Zealand First) agreed in August 2020 to make lower risk nicotine vapes more available than higher risk combustible cigarettes. My colleagues and I published a paper in *Addiction* in 2025 (Mendelsohn C, Beaglehole R, Borland R, Hall W, Wodak A, Youdan B, Chan G. Do the differing vaping and smoking trends in Australia and New Zealand reflect different regulatory policies? *Addiction*. 2025 Jul; 120(7): 1379–1389. doi: 10.1111/add.70006. E pub 2025 Feb 9. PMID: 39924453). We found that smoking rates had declined faster in New Zealand than Australia after New Zealand increased the availability of legal nicotine vapes. Smoking rates are falling much faster among New Zealand Māori than among First Nations Australians. The shortfall between the original budget forecast for tobacco excise taking and the outcome (or most recent forecast) was estimated to almost reach \$10 billion in 2026-2027 (Sydney Morning Herald, 19 December, 2025).



3 Law enforcement, intelligence and regulatory responses, including the adequacy of:

penalties and deterrence measures, the strategy and effectiveness of onshore and offshore disruption activities, and the current legislative and regulatory frameworks and the current levels of inter-government and inter-agency co-operation;

The likely ineffectiveness, high risk of counterproductive effects and cost ineffectiveness of law enforcement responses to illicit cigarettes, tobacco and vapes can be suggested by many decades of experience of attempts to reduce the supply of illicit drugs in Australia (and other countries) by relying heavily on law enforcement. Australia prohibited heroin in 1953. Seventy two years later, i.e. in 2025, an annual, government funded survey of Australians who use illicit drugs (Illicit Drug Reporting System, National Drug and Alcohol Research Centre, 2025) reported that 93% of respondents found obtaining heroin was "easy" or "very easy" (see graph below). Only 7% reported obtaining heroin was "difficult" or "very difficult". Onshore and offshore law enforcement efforts in Australia to reduce heroin supply are well funded. Law enforcement authorities in Australia have had many decades to improve their performance. In contrast to nicotine vapes, heroin has a strong odour and is therefore not difficult for trained dogs to detect. It is likely that the effectiveness of efforts to reduce the availability of illicit cigarettes, tobacco and nicotine vapes will be comparable with the effectiveness of efforts to restrict heroin supply. Prohibition is an expensive and ineffective policy but is generally an effective political strategy. Increasing the severity of penalties or increasing funding does little to change outcomes. Drug prohibition has been accurately described as an expensive way of making bad outcomes even worse.



Illicit Drug Reporting System, National Drug and Alcohol Research Centre, 2025
<https://www.unsw.edu.au/content/dam/pdfs/medicine-health/ndarc/research-reports/2025-09-ndarc/2025-09-national-idrs-report.pdf>

4 The social and economic impacts, including on legitimate retailers, especially small businesses in regional and rural areas; the public health implications arising from the spread of unregulated tobacco products; and the safety implications for communities affected by illegal operations;

The social and economic impact of Australia's tobacco and nicotine vaping policy on retailers has recently been substantial. Extortion is reported to be rampant. Over 250 shops in Australia, mainly but not only in Victoria, are reported to have been firebombed. Several homicides by shooting in public areas have been reported. These are alleged to involve criminals from rival gangs fighting for control of the lucrative black market trade. One bystander not involved in illicit supply is also alleged to have been killed. Smoking is responsible for the deaths of up to two out of every three long-term smokers, and results in the deaths of 24,000 Australians a year. This is more than the combined number of deaths in Australia from alcohol, prescription drugs, illicit drugs, suicide, road crashes and HIV. There are about twenty times more deaths from smoking worldwide than from war (7-8 million from smoking; a few hundred thousand from war). There have been no deaths scientifically attributed to vaping nicotine anywhere in the world so far although there are now an estimated 180 million people vaping in virtually every country. Vaping started becoming popular in a number of countries in 2010. The regulation of cigarettes may slightly reduce the risks of smoking but the risks of smoking regulated cigarettes is still extraordinarily high.

5 Forecasts, modelling and plausible future scenarios concerning the potential

evolution of the illicit tobacco threat, including the prospect for increased violence and the effect of illicit tobacco on the wider TSOC threat;

We can unfortunately be confident that the current deplorable situation in Australia will continue while sky high cigarette excise is imposed and the availability of lower-risk nicotine vaping remains severely restricted. It is quite possible that the situation may even deteriorate further.

6 Options for reform, including potential amendments to existing policies and to taxation, customs and/or criminal laws; and any other related matters;

The disastrous effects of Australia's failed and futile policies could readily be ameliorated by:

- Reducing cigarette excise (and therefore cigarette prices) to levels that smokers are able and willing to pay;
- Ensuring that nicotine vapes are more available than combustible cigarettes;
- Ensuring that heated tobacco products, nicotine pouches and snus are also more available than combustible cigarettes;
- Ensuring that safer, smoke-free nicotine products in Australia are accessible, affordable, attractive and available;
- Ensuring risk proportionate regulation of all products containing nicotine.

The 1776 US Declaration of Independence states that " .. Governments are instituted among Men, depriving their just powers from the consent of the governed". Clearly the governed in Australia do not consent to sky high cigarette excise or severely restrictive availability of nicotine vapes. If they did consent to these policies, the black market for cigarettes, tobacco and vapes would likely be only minimal.

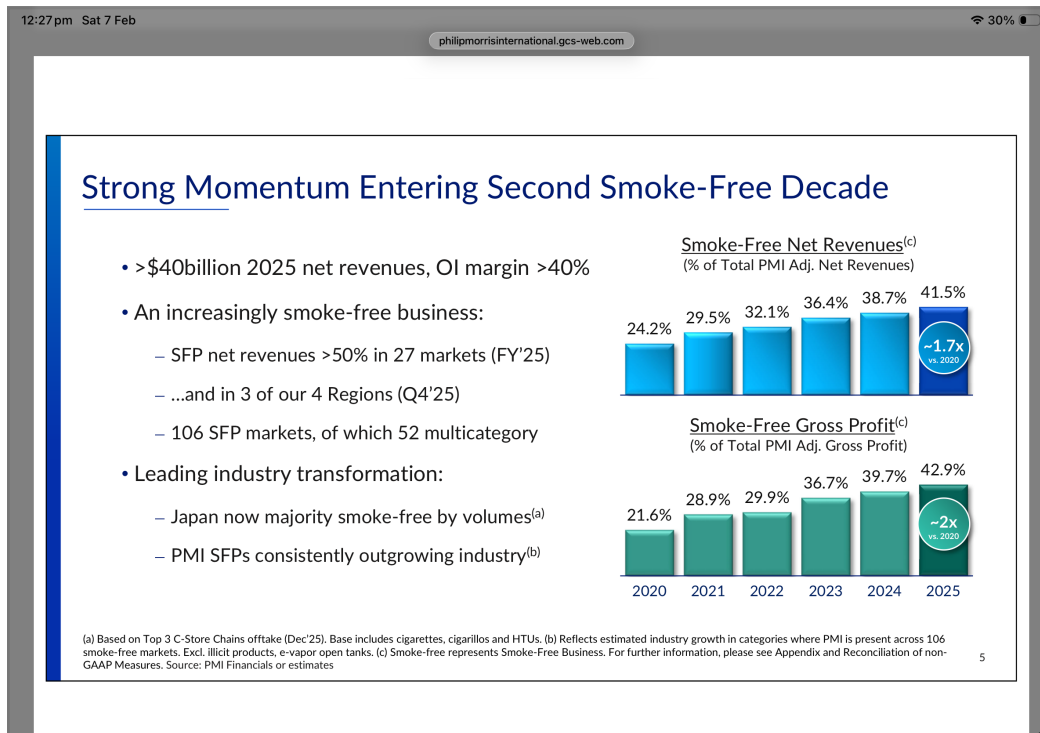
Supporters and opponents of tobacco harm reduction have been arguing their cases based on health data for at least fifteen years. There is no indication that this argument is getting any closer to resolution. However, not only are several major traded tobacco companies rapidly transforming from making and selling combustible cigarettes to making and selling safer, smoke-free nicotine products but this transformation is accelerating. These products now account for over 40% and 18% of the recent net revenue of the world's two largest traded tobacco companies, Philip Morris International and British American Tobacco (respectively; <https://philipmorrisinternational.gcs-web.com/static-files/1ee0a34e-bfcc-4485-b4f9-3ddfff59dca3>; https://www.bat.com/content/dam/batcom/global/main-nav/investors-and-reporting/results-centre/pdf/FY_2025_Presentation.pdf). The replacement of combustible cigarettes by safer, smoke-free nicotine products is an example of disruptive innovation (Wodak A. Vaping: A disruptive innovation of smoking and rapidly replacing cigarettes <https://johnmenadue.com/post/2025/11/vaping-a-disruptive-innovation-of-smoking-and-rapidly-replacing-cigarettes/>) The new technology is much preferred by consumers. Tobacco companies are well aware that thirty years ago the Kodak company was considered to be too slow in switching from

analogue to digital films and cameras and consequently the Kodak company is now only a tiny fraction of its former size. Disruptive innovations generally end up replacing the previous technology. Examples include: electric vehicles replacing vehicles powered by internal combustion engine engines; streaming audio and video replacing compact discs; and electric trains replacing diesel trains which replaced coal trains. It is ironic that a US financial services billionaire, Michael Bloomberg, has donated well over \$US1 billion to fund a secretive international campaign to try to forestall the disruptive innovation of safer, smoke-free nicotine products when very few disruptive innovations do not succeed. The replacement of obsolete combustible cigarettes by safer, smoke-free nicotine products is now inevitable and unstoppable. The combination of strong consumer demand, powerful market forces and very capable traded tobacco companies will ensure safer products replace deadly ones.

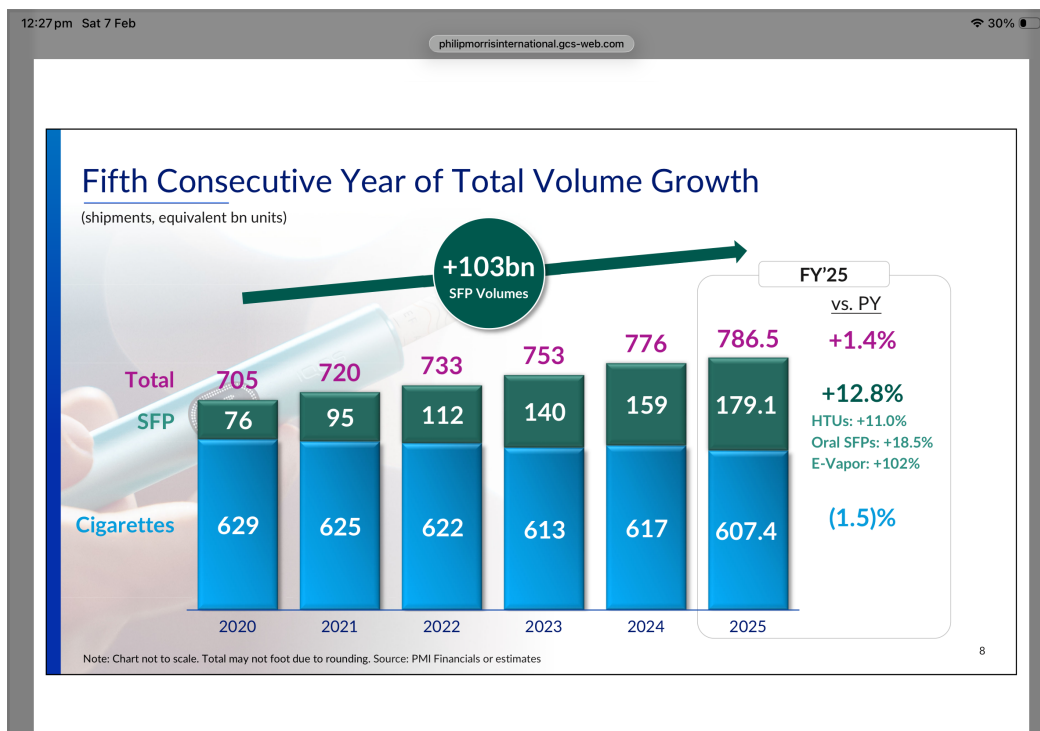
The phenomenon we are dealing with here is 'the Invisible Hand' described by Adam Smith in 1776 in his *The Wealth of Nations*. Smith argued that producers supplying demand for a wanted good or service are benefiting themselves but also benefiting consumers. Over time, their production or supply becomes more efficient. Smith argued his case using the example of a baker. Traded tobacco companies can see that the cigarette is obsolete and are transforming to new technologies to avoid financial ruin.

The future of combustible cigarettes and safer, smoke-free nicotine products is clear from the official financial reports of the major traded tobacco companies. Financial reports like these carry extremely onerous penalties for individuals and companies found to have misrepresented data.

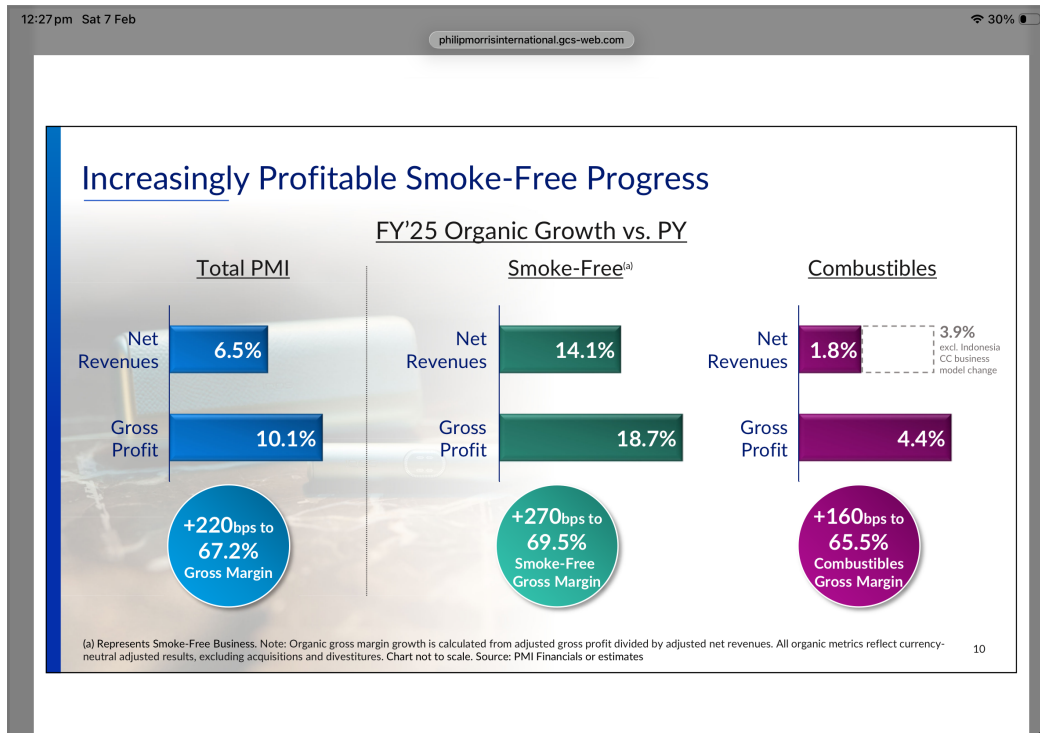
The 2025 annual report from Philip Morris International (<https://philipmorrisinternational.gcs-web.com/static-files/51345a6c-5b3f-43e9-86b6-ac8580c7c671>), the world's largest traded tobacco company with a market capitalisation of \$US 270 billion, showed (p 5) global smoke-free net revenue increasing from 24.2% of Total PMI Adjusted Net Revenue in 2020 to 41.5% in 2025 while smoke-free gross profit almost doubled from 21.6% of Total PMI Adjusted Gross Profit in 2020 to 42.9% in 2025.



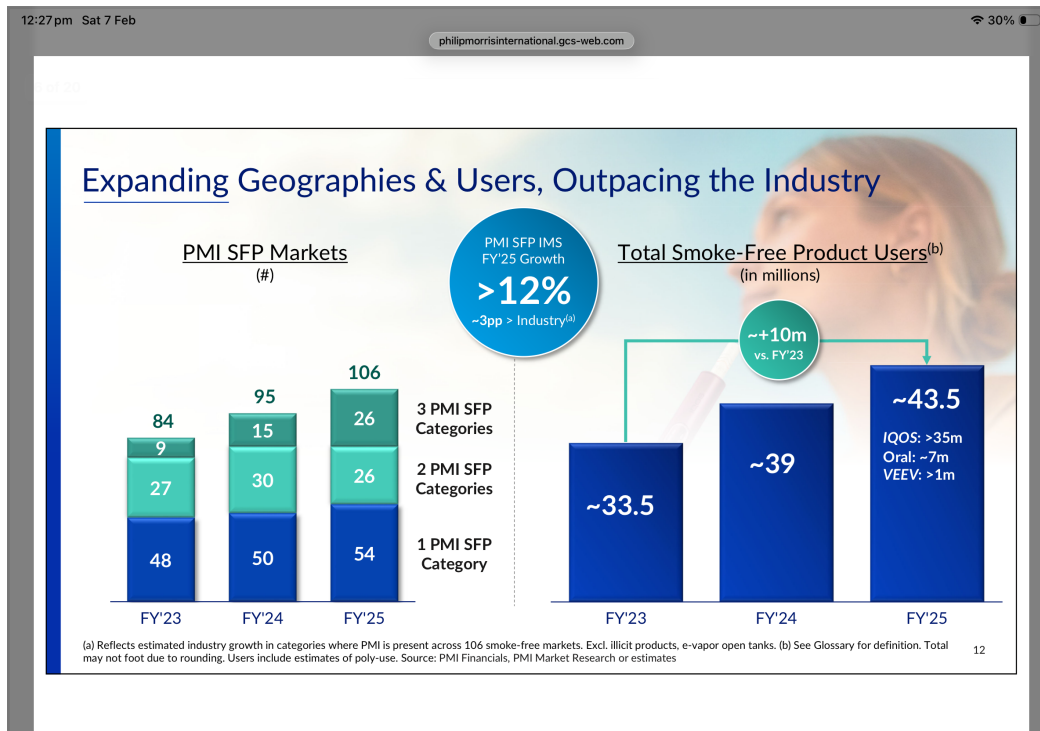
Note also that global smoke-free PMI volumes shipped (p 8) have increased impressively for the last five consecutive years from 76 billion in 2020 to 179.1 billion in 2025. In contrast, PMI cigarettes shipped declined from 629 billion in 2020 to 607.4 billion in 2025.



PMI also reported that global smoke-free products were increasingly profitable with smoke-free net revenue increasing 14.1% from Financial Year 2025 compared to the Previous Year and gross profit increasing 18.7% in the same period. However, for combustible products the net revenue only increased 1.8% and gross profit 4.4% in the same period.



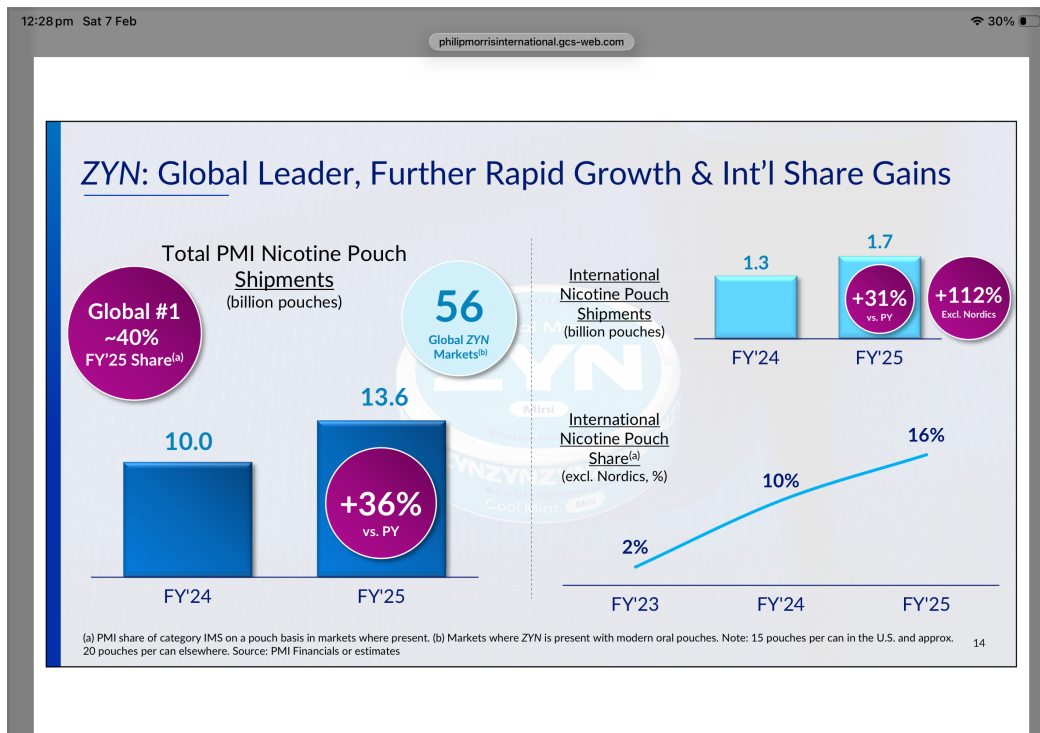
PMI has also increased the number of countries where its smoke-free products were sold while also increasing the number of categories of smoke-free products sold in these countries.



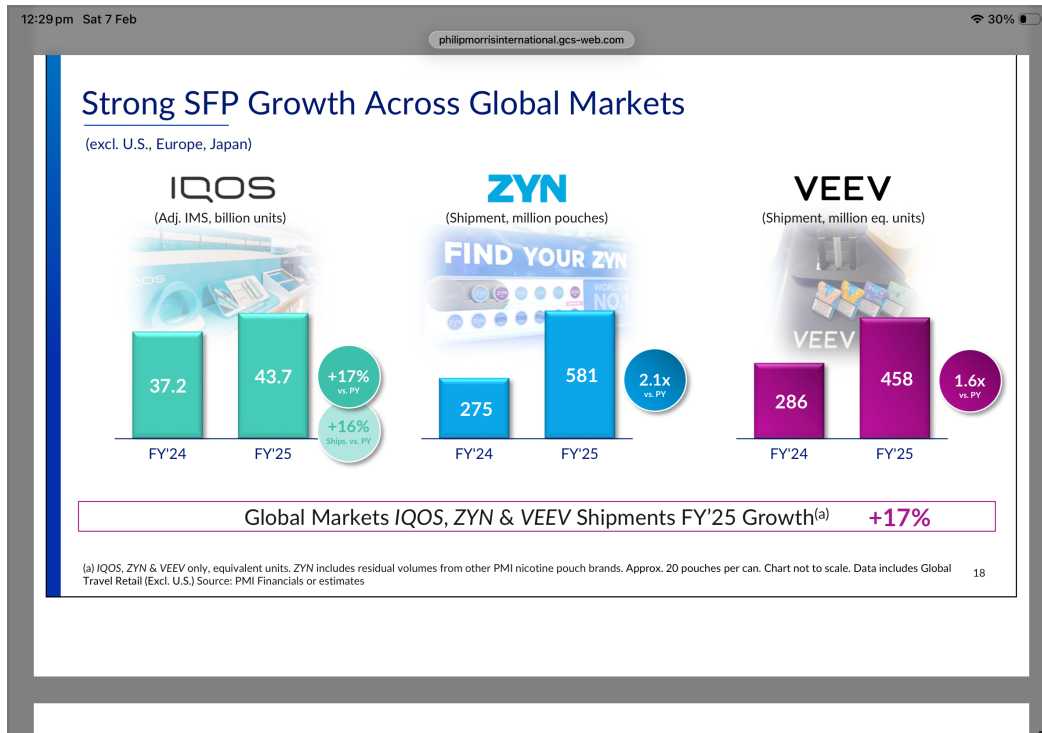
PMI sales of its Heated Tobacco Unit (trade name "IQOS") almost doubled from 76 billion units in 2020 to 151 billion units in 2025 while profitability accelerated from an indexed value of 100 in 2020 to 492 in 2025.



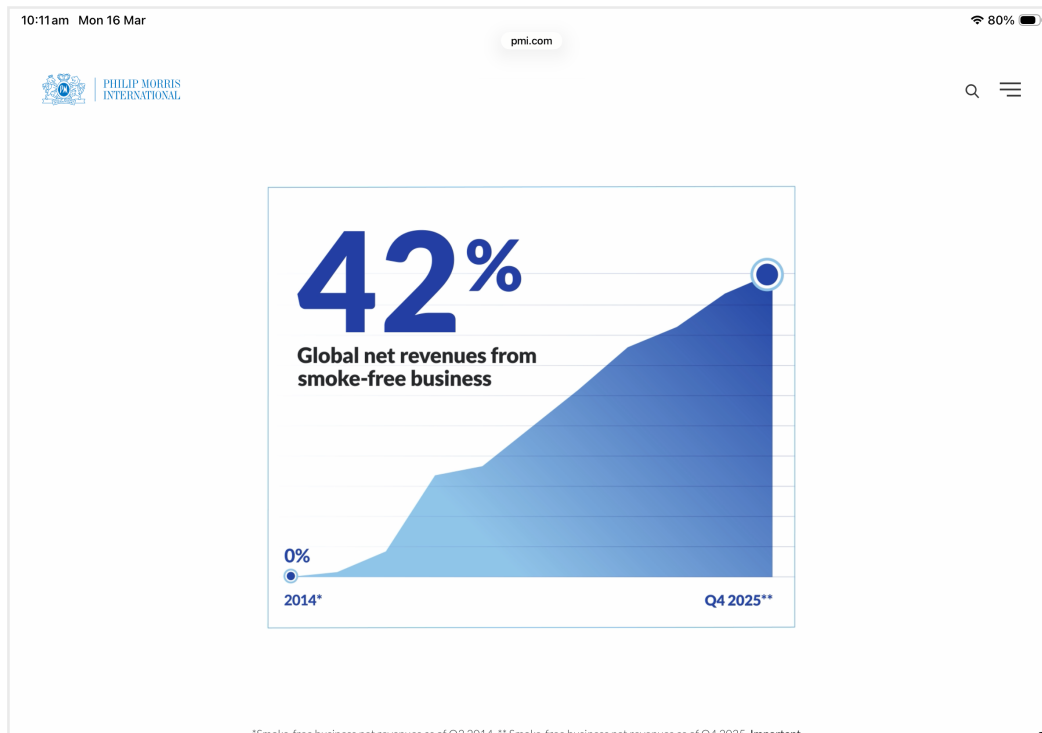
PMI shipments of their nicotine pouches (trade name Zyn) increased from 10 billion pouches in the Financial Year 2024 to 13.6 billion pouches in the Financial Year 2025.



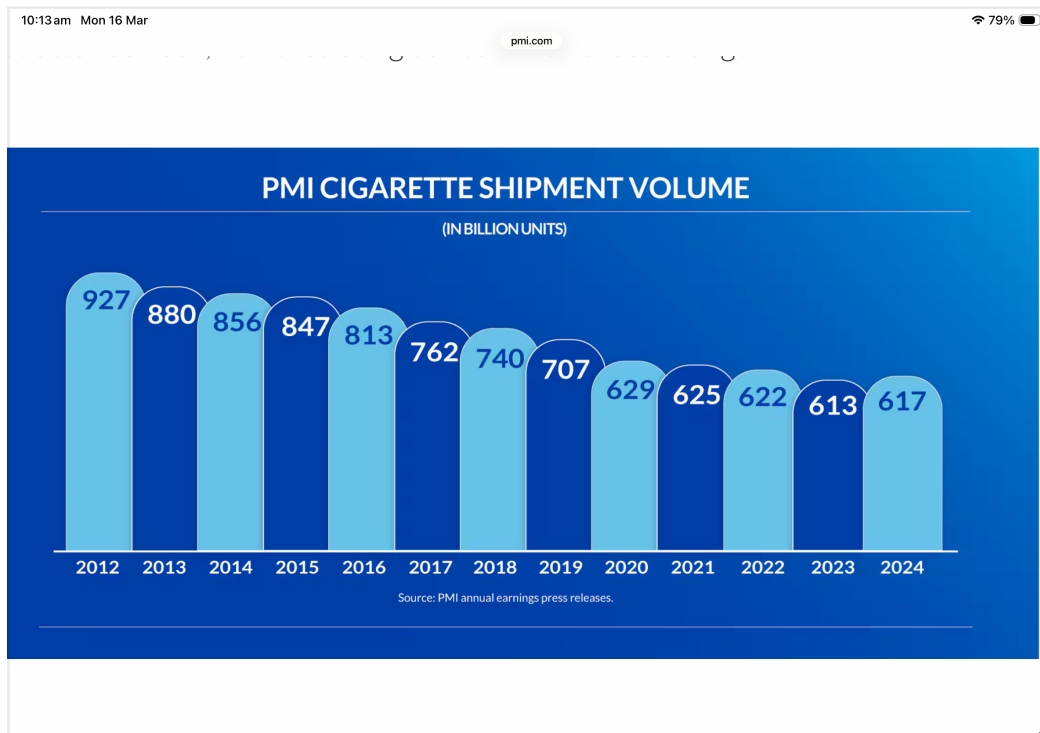
PMI reported 17% growth of their smoke-free products in Financial Year 2025 (Heated Tobacco Unit IQOS; Nicotine Pouches Zyn; Nicotine Vapes Veev)



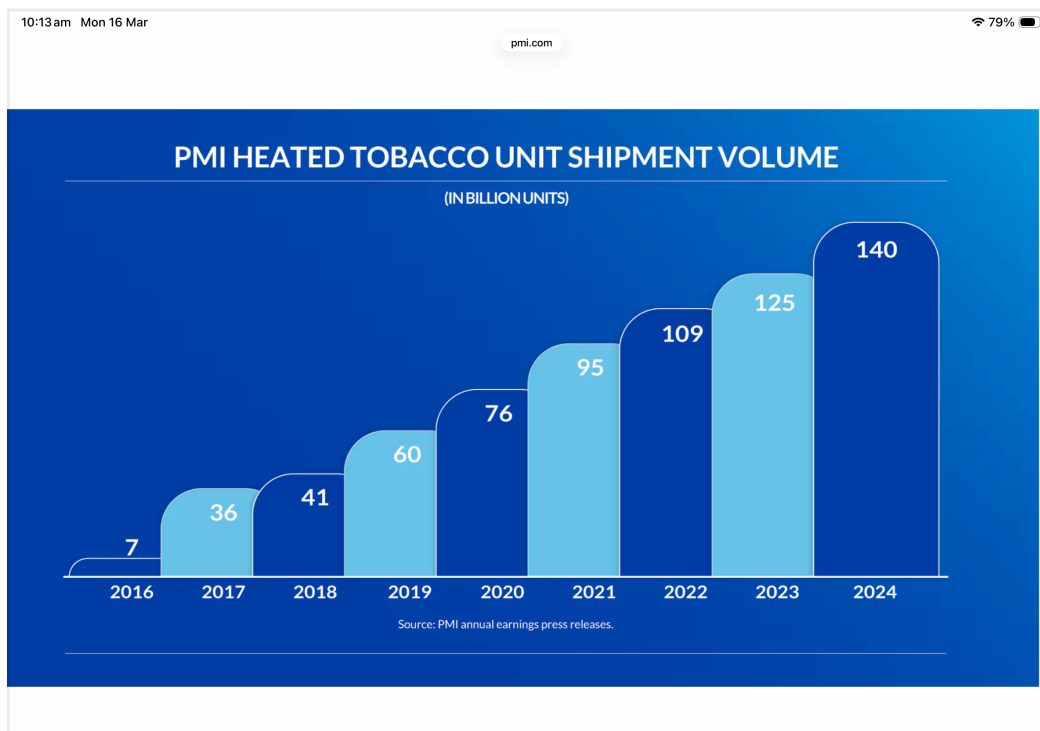
The rapid transformation of PMI from combustible cigarettes to smoke-free nicotine products is shown here with 0% net revenue from these products in 2014 but 42% in Q4 2025:



PMI global sales of combustible cigarettes declined from 927 billions in 2012 to 617 billions in 2024:



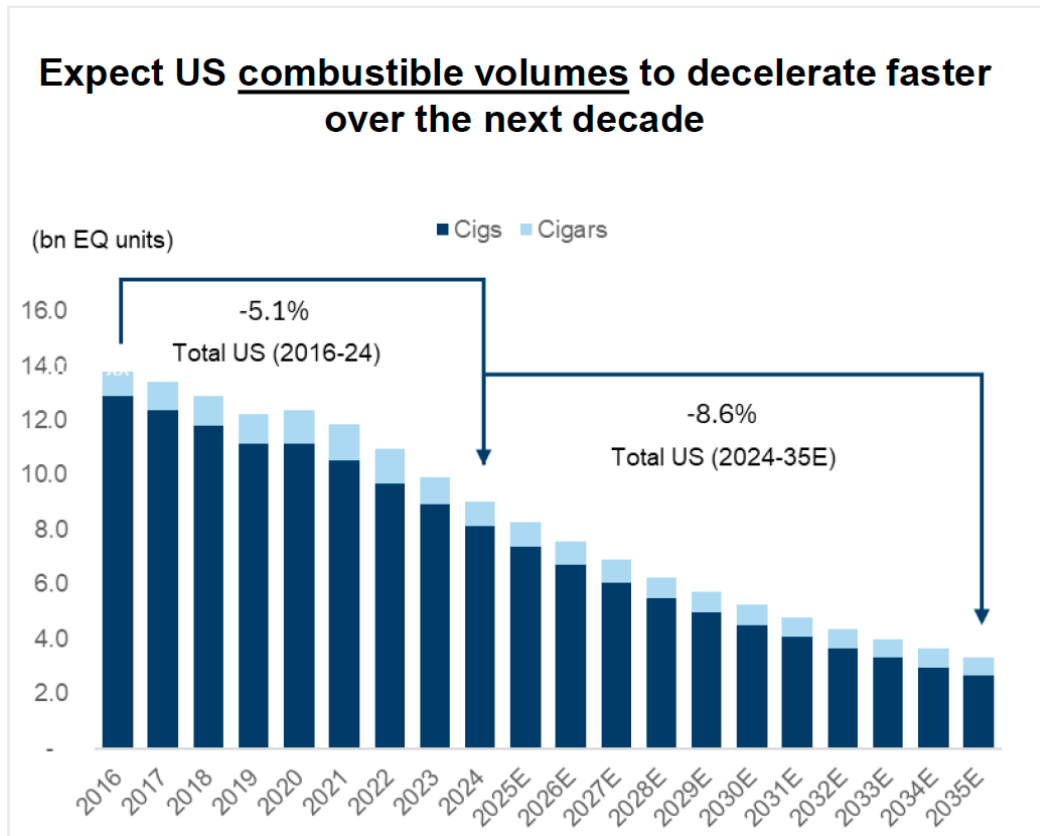
Meanwhile PMI global sales of smoke-free heated tobacco products increased from 7 billion in 2016 to 140 billion in 2024:



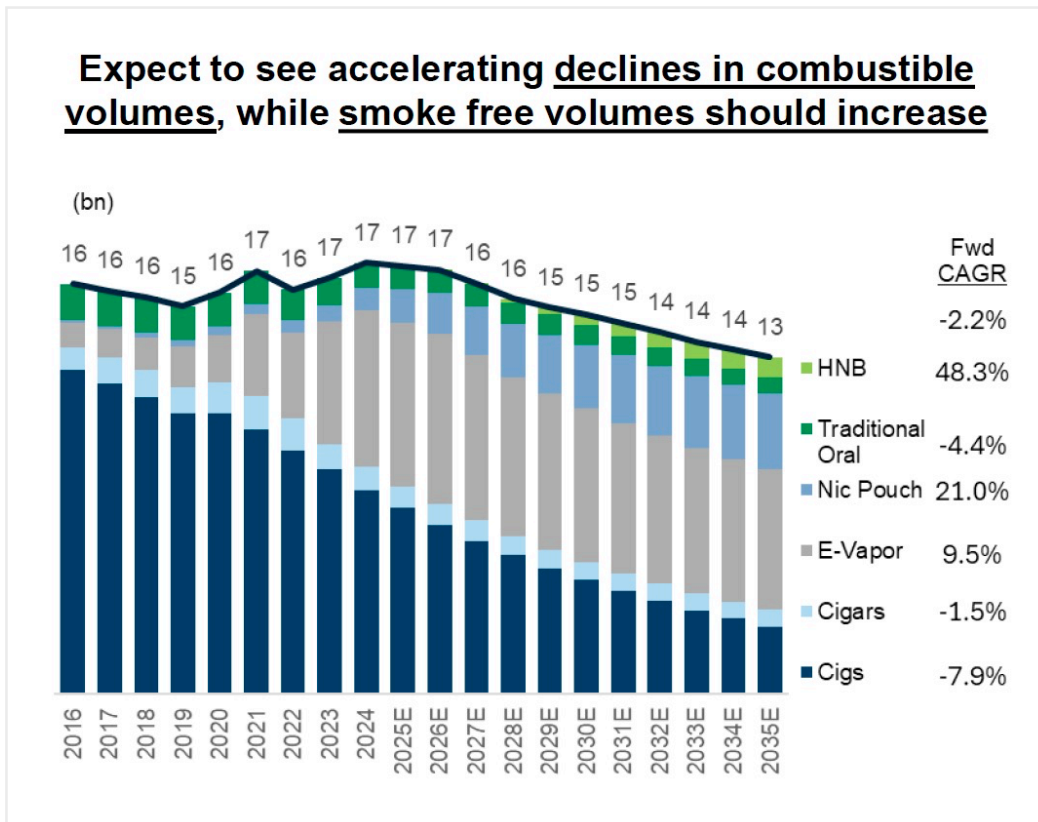
<https://www.pmi.com/our-progress/why-is-philip-morris-international-still-selling-cigarettes/>

In 2025, Bonnie Herzog, a US Goldman Sachs analyst, reported a 5.1% decline in U.S. combustible volumes between 2016 and 2024 and predicted an 8.6% compound decline between 2024 and 2035, amounting to a 63% overall decline between 2016 and 2035. Clive Bates discusses this further (<https://open.substack.com/pub/clivebates/p/the-future-like-it-or-loathe-it?>)

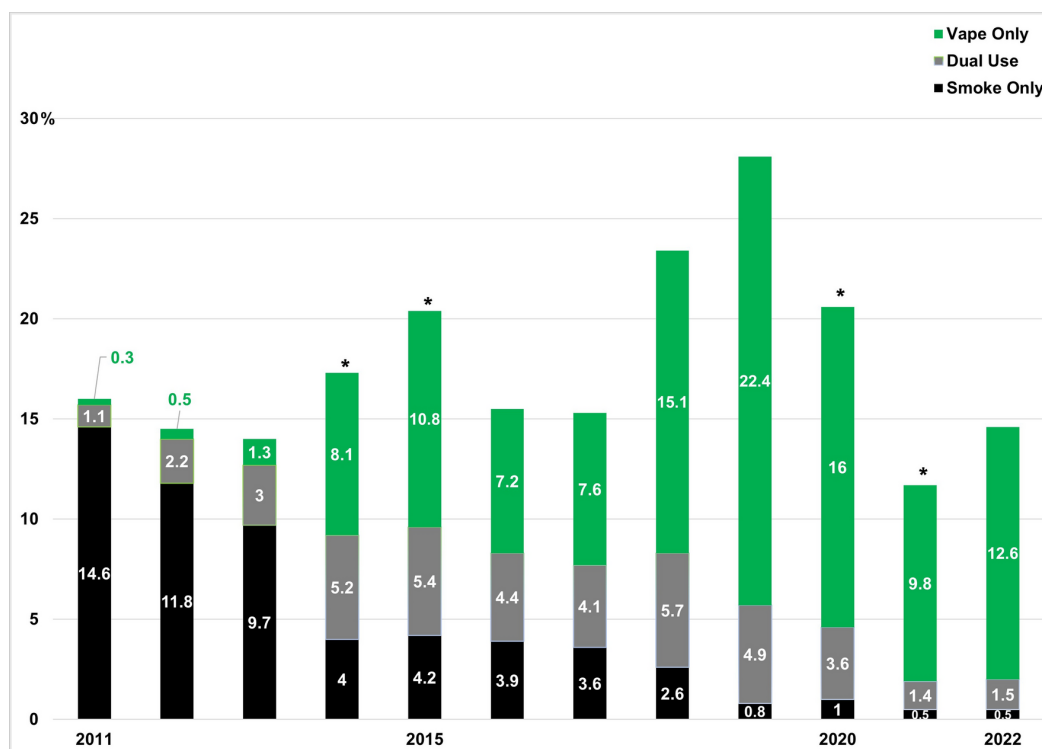
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During the period 2024-2035, she expects the relentless, inexorable replacement of combustible products by smoke-free products, already well established between 2016 to 2024, to continue with Heat not Burn (i.e. Heated Tobacco Products), traditional oral, nicotine pouches and nicotine vapes. Note especially the extraordinary Compound Annual Growth Rates (CAGR) with HnB 48.3%, traditional oral -4.4%, nicotine pouches 21%, nicotine vapes 9.5%, cigars -1.5% and cigarettes -7.9%. I checked these with ChatGPT and got similar results.



In the United States, the replacement of high risk combustible cigarettes by lower risk smoke-free nicotine products is also apparent among US high school students. Smoking rates now reached are at historic lows.

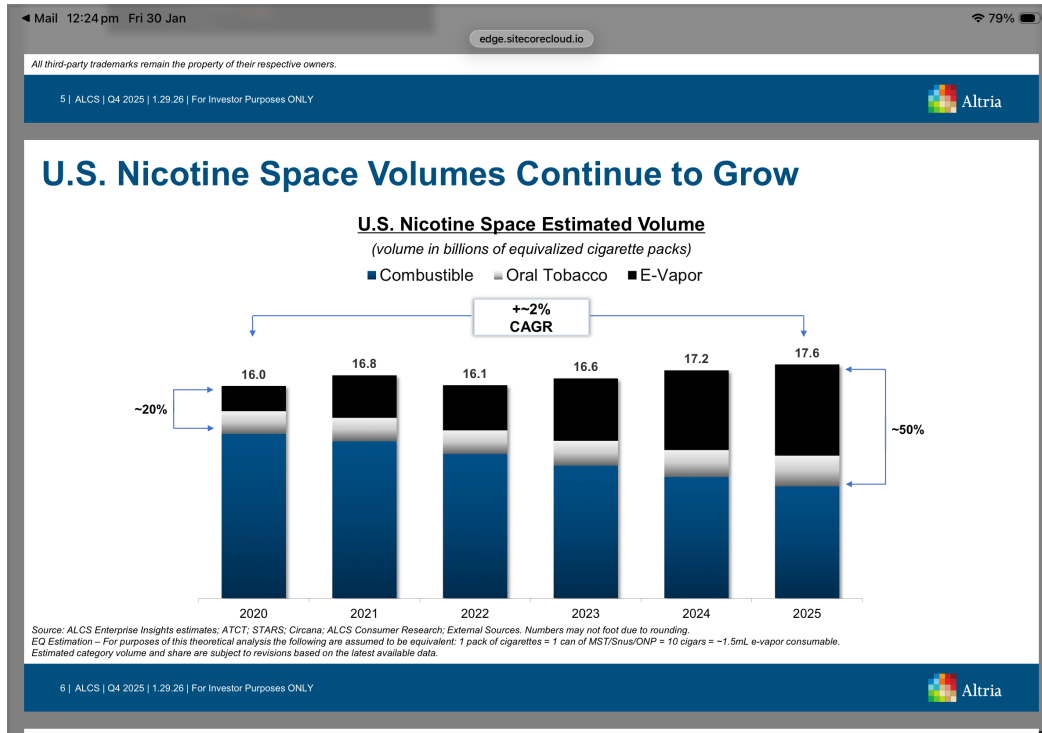


Prevalence of smoking and vaping in the past 30 days among American high school students, NYTS 2011–2022.

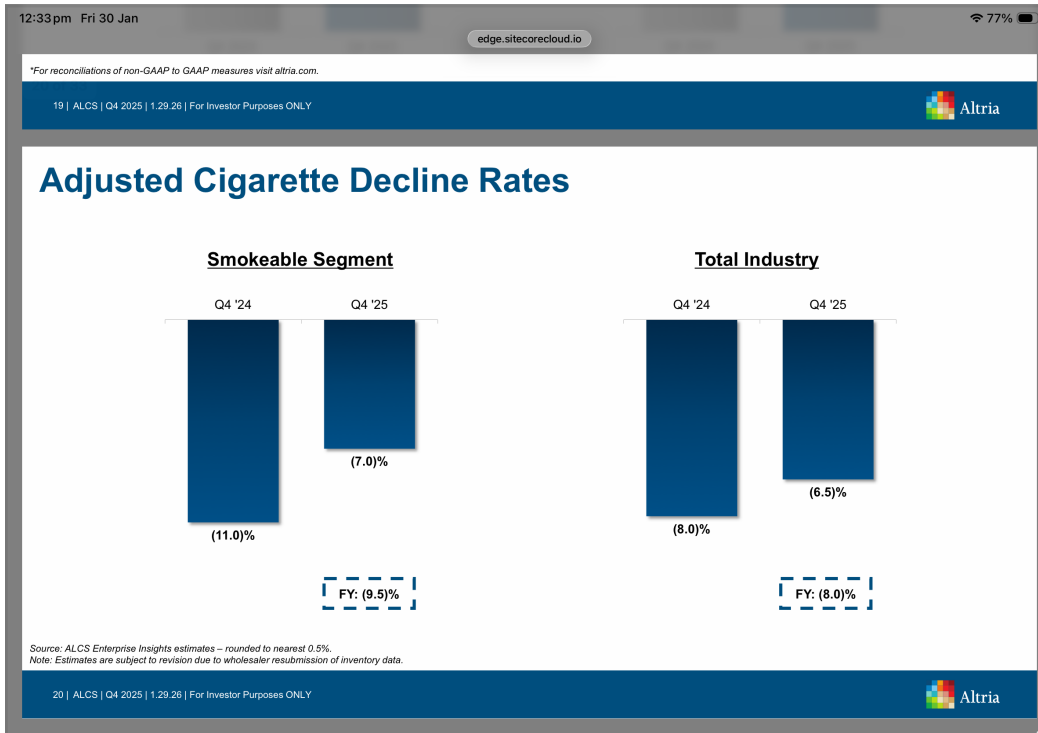
Green = Vaping, Black = smoking, Grey = dual use.

<https://link.springer.com/article/10.1186/s12954-024-01125-4>

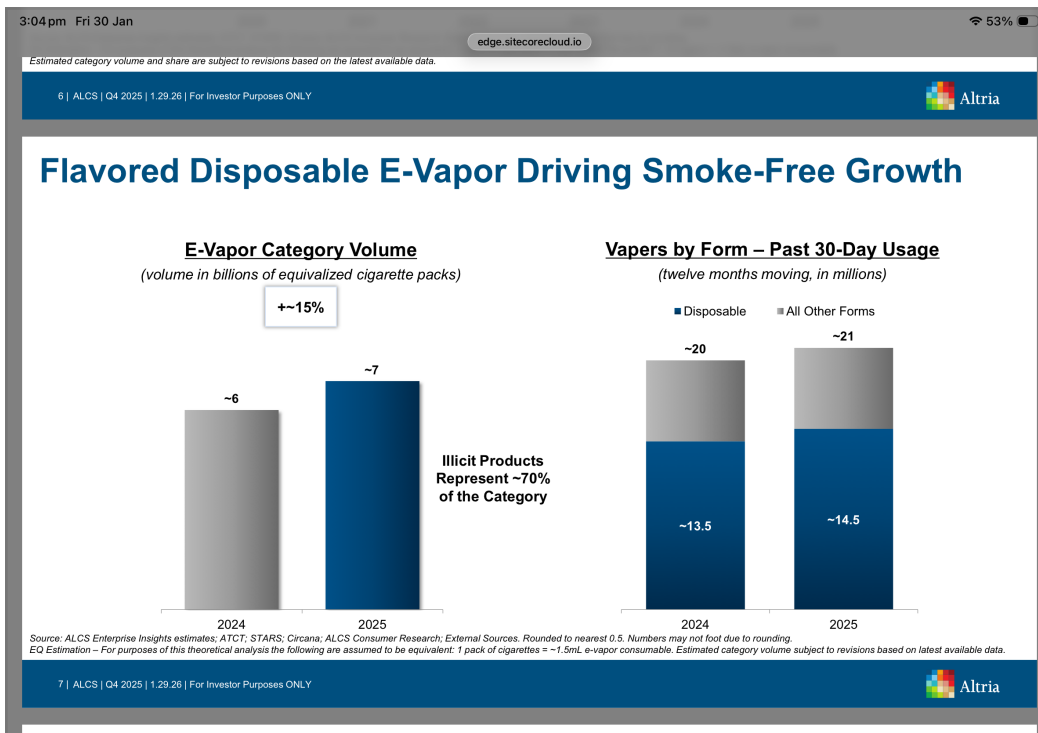
Altria, a major US tobacco company which demerged from PMI in 2012, reported for 2020-2025 increasing volumes of smoke-free nicotine vapors and oral nicotine products with declining combustible products. Note that non-combustible products increased from 20% of the market in 2020 to 50% in 2025. (https://edge.sitecorecloud.io/altriacli9c5f-altriacli2f33-prod0b41-3d12/media/Project/Altria/Altria/Investors/events-and-presentations/2026/2026-CAGNY/2026-CAGNY-Presentation.pdf?sc_lang=en)



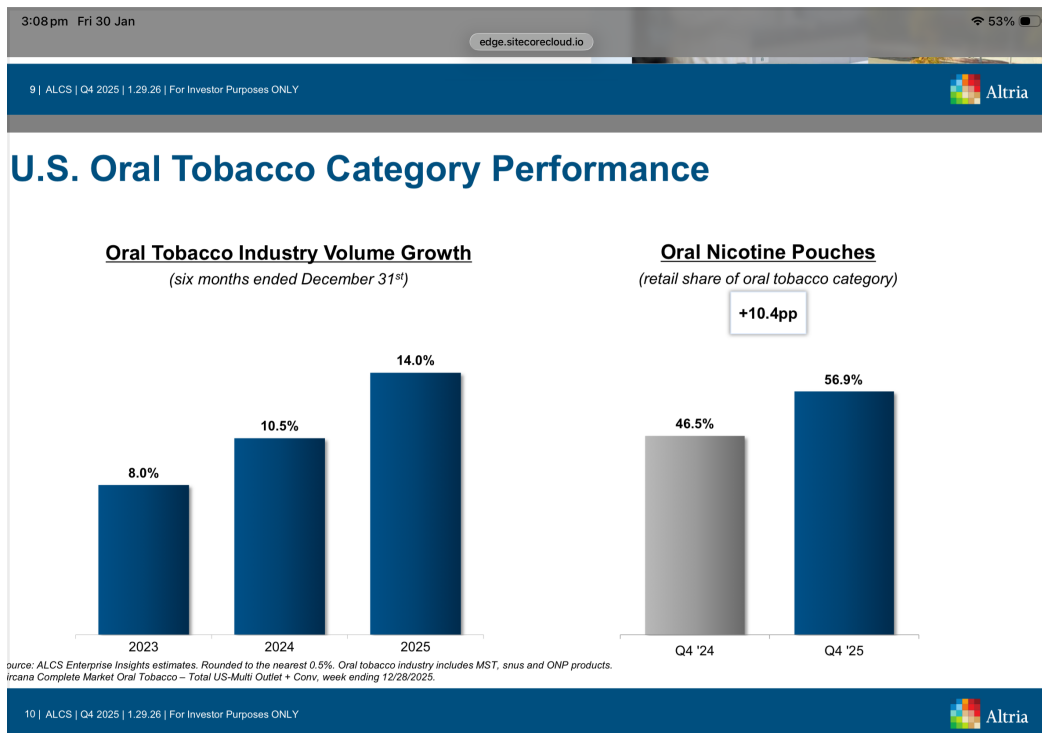
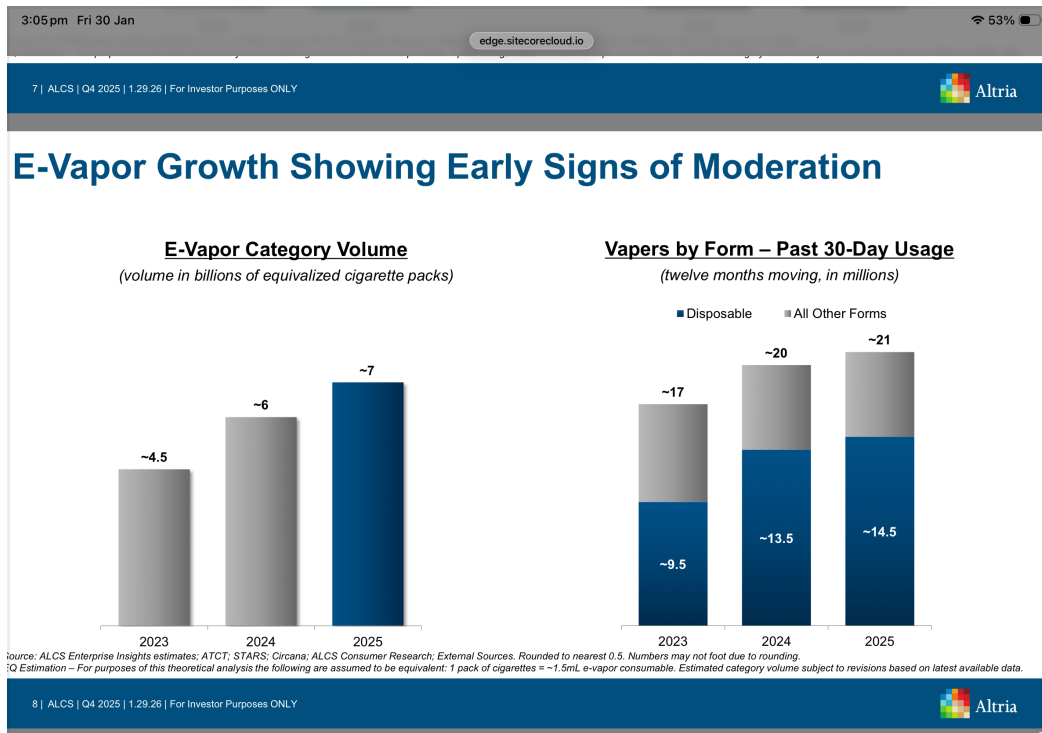
Altria reported a significant decline in cigarette sales in the US for its own products and also for the tobacco industry.



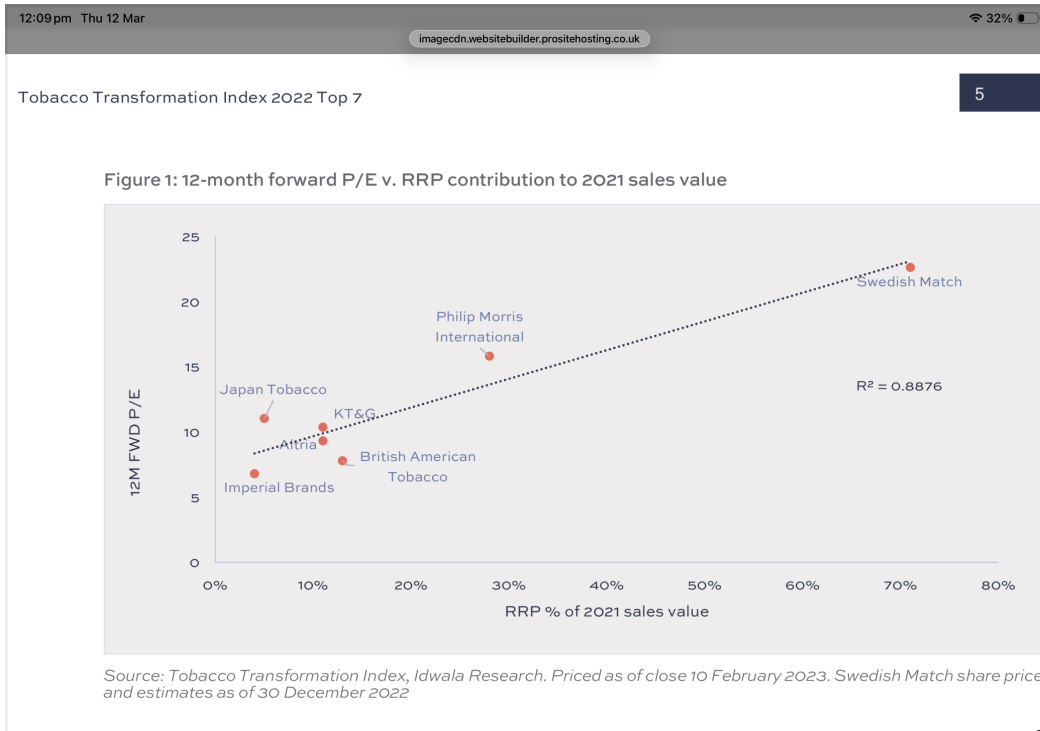
Altria reported in 2025 that flavoured disposable vapes were driving the growth in smoke-free products with legal sales reduced by illicit products.



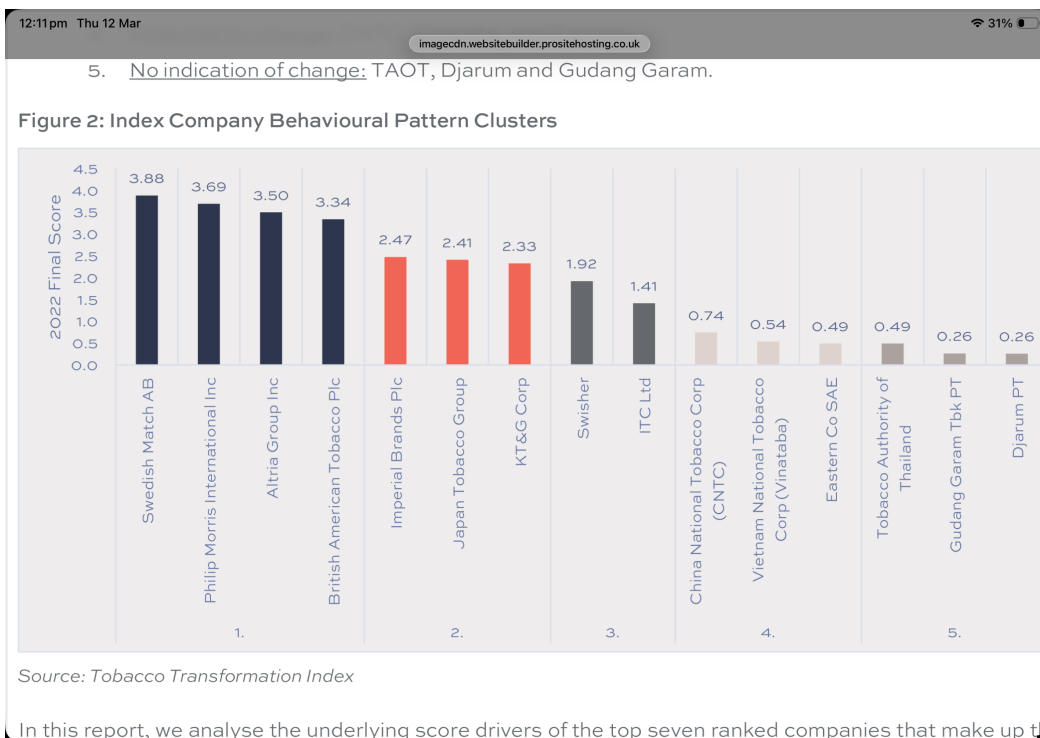
Altria reported that the growth in US sales of vapes appears to now be slowing.



The transformation of the then seven major traded tobacco companies from combustible cigarettes to safer, smoke-free nicotine products was compared in 2023 (<https://imagecdn.websitebuilder.prositehosting.co.uk/f8/55/f85552f1-4485-4d4a-b489-42561a5b89e7.pdf>)



Note the close relationship between the speed of transformation and the share price of traded tobacco companies suggesting that investors in these companies shares paid attention to their speed of transformation. Note that since this report was published, PMI bought Swedish Match. The following chart depicts the summary of the analysis of transformation of the major traded and state owned tobacco companies.



The International Monetary Fund (IMF) has recently published a report on taxing risky products, arguing that tax should align with harm to create

behaviour change incentives. Note that this advice conflicts directly with the WHO and tobacco control activists, who call for uniform taxation, regardless of risk.

Rosenberg, C., & Van Oordt, M. (2026, March). *Taxing Harmful Habits*. International Monetary Fund. IMF. <https://www.imf.org/en/publications/fandd/issues/2026/03/taxing-harmful-habits-christoph-rosenberg>

This report argues that: "Taxes on smoking, drinking and sugar should better align with the harm they cause"

The report essentially sets out the case for risk-proportionate taxation and recommends:

"Price the harm

But policymakers need to think more broadly about how to change unhealthy behavior. Ideally, the level of taxation should reflect the degree of harm a product is likely to cause while still safeguarding overall revenue.

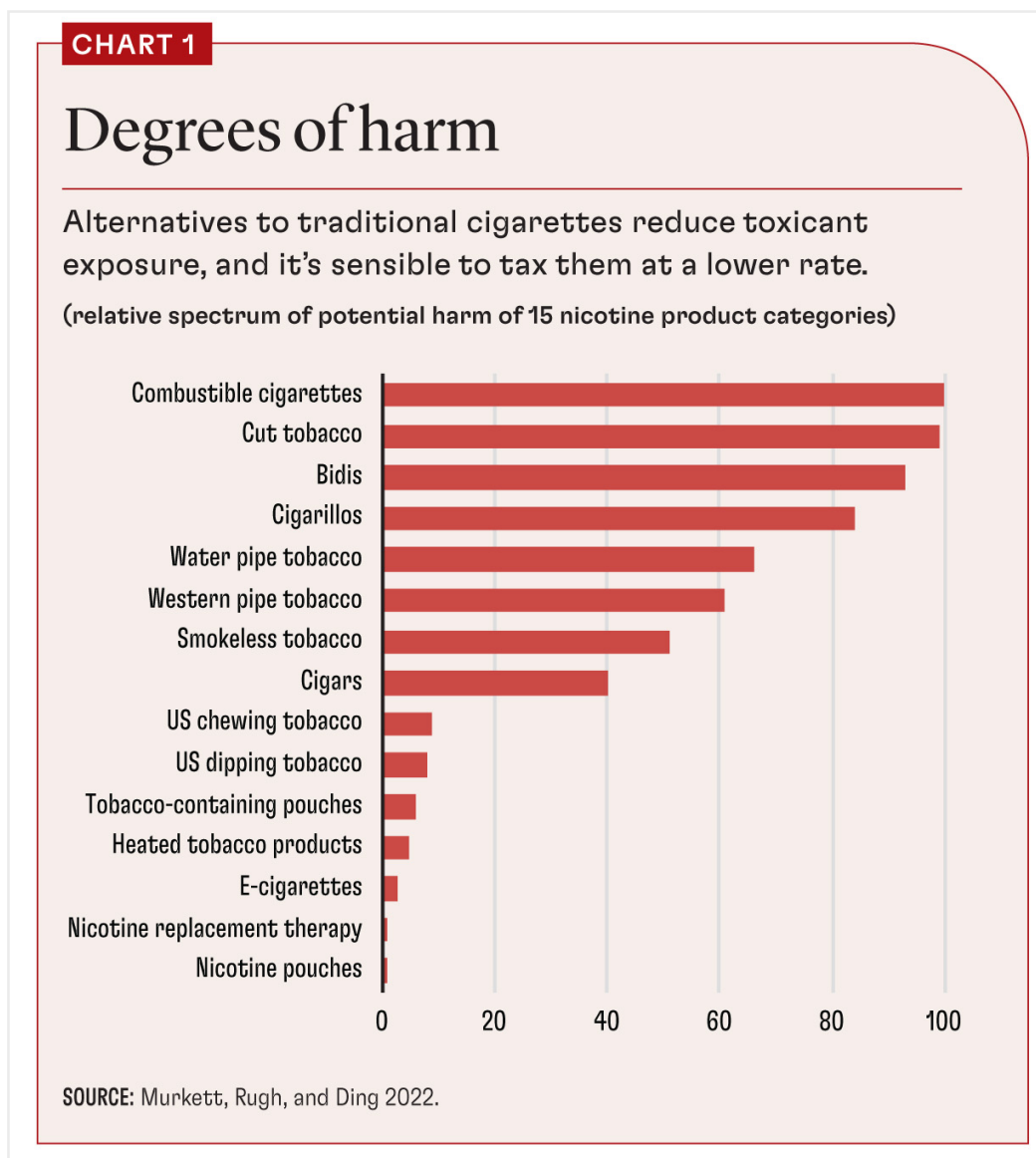
The difficulty lies in defining that harm, both directly to the consumer and indirectly to others (for example, secondhand smoke or drunk driving). The harm depends partly on what a product contains—such as ethanol in alcoholic drinks, added sugar in sweetened beverages, toxic chemicals in tobacco products—and partly on how these substances or their components are administered."

The report is supportive of tobacco harm reduction.

"Harm of smoking

Nicotine products present a particular challenge. As smoking bans take hold and preferences change, alternatives to traditional cigarettes—from e-cigarettes to heated tobacco products to nicotine pouches—cater to those who can't kick the habit. The good news is that many of these new products, while still harmful, reduce exposure to toxicants (see Chart 1). It therefore makes sense to tax them at a lower rate, which can be adjusted as research becomes available and revenue needs evolve."

The authors use the following for Chart 1 (derived from [Murkett et al. 2022](#)) to quantify relative exposure for taxation purposes.



The range of harms in this chart is so great that it would make little sense to tax the least harmful products, as the cost of tax administration would outweigh the value of revenue.

However, some companies in some countries have priced their safer, smoke-free products to enable large margins, thereby ensuring substantial profits even though taxation levels were low.

7 Penalties and deterrence measures, the strategy and effectiveness of onshore and offshore disruption activities, and the current legislative and regulatory frameworks and the current levels of inter-government and inter-agency co-operation

When the demand for goods or services is strong but no legal supply is available, other sources almost inevitably emerge. Prohibition of psychoactive drugs is rarely effective but has occasionally been effective with some drugs when demand was weak, supply was relatively difficult and the inevitable replacement drug was less hazardous than the prohibited drug. The bans on

APC and barbiturates in Australia are examples of effective prohibition. Demand was weak, manufacture of these drugs was difficult and the replacement drug, benzodiazepines, though not innocuous, was less dangerous than APC or barbiturates. Increasing penalties or increasing funding for law enforcement is politically attractive but is rarely effective. Drug traffickers respond by increasing their prices to compensate for their increased risk. The increase in prices makes drug supply more profitable and a more lucrative drug trafficking industry attracts more people willing to take the risks involved. Examples of failed prohibitions in Australia include bans of off-course gambling on horse races, prostitution and abortion. All resulted in rampant corruption among law enforcement. Eventually authorities in many cases accepted the futility of these bans and allowed legal off-course gambling on horse races, regulated sex work and legal abortion. The criminalisation of male homosexuality and the ban on marriage equality are other examples of failed prohibitions which were eventually scrapped.

The following reference is recommended:

https://www.harmreductionaustralia.org.au/wp-content/uploads/2025/07/HRA-Tobacco-Harm-Reduction-Policy-Brief_June-2025.pdf

Conclusions:

1 Over the last decade and a half, Australia has pursued extreme pricing policies for cigarettes which resulted in severe unintended and unsustainable consequences. Australia cannot arrest or imprison its way out of these failed policies. It will have to abandon this approach and revert to moderate pricing.

2 Nicotine vapes, heated tobacco products, snus and nicotine pouches are examples of both tobacco harm reduction and disruptive innovations. New drug harm reduction interventions and new disruptive innovations have a very high rate of success and acceptance.

3 Australia should follow New Zealand's effective approach to the regulation of nicotine vaping which it began operating in 2020. Australia and New Zealand have a great deal in common.

4 The inclusion of people with lived/living experience in the policy making process would be beneficial for tobacco policy as it was in Australia for HIV control.

5 Open, polite and respectful debate and discussion over tobacco and nicotine policy between supporters and critics is essential, as it is in other policy areas, to prevent governments and health authorities from falling into Groupthink errors.

6 Low income, disadvantaged and First Nations Australians have been the

biggest losers from Australia's intransigent tobacco and nicotine policy.