



Public Health Association
AUSTRALIA

Senate Standing Committee on Legal and Constitutional Affairs

Inquiry into Illegal Tobacco

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Public Health Association
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The **Public Health Association of Australia** (PHAA) is Australia's peak body on public health. We advocate for the health and well-being of all individuals in Australia.

We believe that health is a human right, a vital resource for everyday life, and a key factor in sustainability. The health status of all people is impacted by the social, commercial, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the root causes of poor health and disease. These determinants underpin the strategic direction of PHAA. Our focus is not just on Australian residents and citizens, but extends to our regional neighbours. We see our well-being as connected to the global community, including those people fleeing violence and poverty, and seeking refuge and asylum in Australia.

Our mission is to promote better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.

Our vision is for a healthy population, a healthy nation and a healthy world, with all people living in an equitable society, underpinned by a well-functioning ecosystem and a healthy environment.

Traditional Custodians - we acknowledge the traditional custodians of the lands on which we live and work. We pay respect to Aboriginal and Torres Strait Islander elders past, present and emerging and extend that respect to all other Aboriginal and Torres Strait Islander people.

Declaration of Interests - Consistent with Article 5.3 of the WHO *Framework Convention on Tobacco Control*, PHAA does not accept funding or support from the commercial tobacco and nicotine industry or its affiliates.

Overview

PHAA welcomes the opportunity to provide input to the Committee's inquiry.

Organised criminal trading in illicit tobacco is common around the world, and has grown significantly in Australia in recent decades. It represents a direct challenge to upholding the law in Australia, and also to the achievement of our public health goals regarding one of our most deadly health risks.

Government policy and agency responses to the problem of organised crime tobacco activity were deficient for many years, but this underwent a significant correction from around 2022-23, and at present all national, state, and territory governments and key agencies are actively confronting the challenge.

Introducing the *Combating Illicit Tobacco Bill 2026* to Parliament on 26 March 2026, Assistant Minister for Citizenship, Customs and Multicultural Affairs Julian Hill MP presented the current situation in stark terms:

"This fight really matters. Smoking still kills on average 66 Australians every day and accounts for 20 per cent of the nation's cancer disease burden. Two out of every three long-term smokers will die of a tobacco related illness. If our society does not turn the tide on this illicit market then we risk a new generation of Australians getting hooked on tobacco—a costly public health disaster for all Australians, as billions of dollars would then get diverted in the health system to deal with the consequences. Australians are rightly sick to death of the sleazy, illegal shopfronts that now litter every high street in every city and every town. Brazen criminals must not be allowed to operate in plain sight, and the government is working with and supporting the states and territories to shut down the illegal shops and disrupt the trade."

By far the most serious aspect of this situation is the **threat of disease and death** posed by tobacco and its related nicotine-addictive products. The current estimates are that 66 Australians die every day – as many as 24,000 each year – from tobacco-related diseases. Hundreds of thousands more are enduring such diseases. Numbers in the millions are addicted to nicotine. Our national health strategy, implemented with great determination, has brought these rates of disease and death down from those faced by previous generations, and the trend remains downward for the future. But the challenge continues.

The key to continuing efforts to reduce disease and death through nicotine products will always be **reducing uptake of addiction and consumption** in the community. Australia has an excellent track record in demand reduction, but after a burst of initiatives early last decade, around a decade went by without new demand reduction initiatives. In this space vaping emerged as the nicotine industry's strategic device to create a new generation of nicotine-addicted young Australians. Again, only in the past 2-3 years have governments returned to a vigorous approach to demand control. Information and quit-encouragement campaigns, and greater resourcing of quit services, are being undertaken anew, and reinforced by all governments. A tranche of new demand reduction measures were included in the *Public Health (Tobacco and other measures) Act 2023*. Almost all state and territory jurisdictions have revised their tobacco control legislation in the past few years, with a particular focus on bringing vaping promotion and supply (now prohibited under federal law outside of smoking cessation usage) under much greater control.

The **price of tobacco products** plays a key role not only as a direct behaviour-change policy measure, but in supporting the efficacy of all other demand reduction interventions. The international *Framework Convention on Tobacco Control* – to which Australia is a party – incorporates the goal of all nations increasing tobacco prices to the level that around 75% of retail prices are taxation, and Australia has met this goal. The illicit tobacco trade, of course, evades this goal by supplying tobacco at lower prices, undermining our national policy strategy. The availability of low-cost products reduces the drivers for addicted smokers to quit, and increases the scope for young Australians to be induced into addiction.

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Supply reduction measures have been the immediate response to the challenge of an organised crime tobacco scenario. The Commonwealth and states have very significantly enhanced their legislative regimes and enforcement capabilities across Australia. Early impacts are clearly significant, although the implementation is still getting fully underway. It will always be inherently difficult for governments to fight organised criminal activity at the day-to-day tactical level, and the Australian Government and national agencies are rightly focused on strategic responses to curb international smuggling, obtain intelligence, and support state and territory agencies in various ways. Further measures to strengthen supply chain integrity, including tracking and tracing systems, also warrant consideration. Implementation should be proportionate and supported through licensing and regulatory frameworks across the supply chain.

The *National Tobacco Strategy 2023-30* envisages the progressive shrinkage of tobacco consumption in Australia. The scale of Australian tobacco **retail activity is intended to diminish over time**. It is not the purpose of government policy to support the scale and profitability of this retail sector in any way similar to how governments would support ordinary retail sectors for healthy products. There are further policy interventions to consider to manage the reduction of that retail sector and concentrate activity among actors that can meet the highest standards of legality, adherence to product standards, and staff safety.

The reduction of tobacco consumption planned for Australia will also see a progressive **reduction in taxation receipts**. Australia has a dual regime imposing matched *excise duty* on domestically manufactured tobacco products, and *customs duty* on imported products. But at present there is no legal Australian tobacco production, and illegal local production makes up only a small share of available tobacco product supply. At present the whole of tax revenue consists of customs duties on imported products, but no excise revenue.

There is presently an **influence campaign** to convince policy-makers that there is a large loss of Australian excise revenue, and that the appropriate response is to significantly cut rates of excise and customs duties. In fact, only a relatively modest amount of excise duty is being evaded by Australian illegal producers of loose-leaf tobacco. There is no prospect of legal Australian tobacco production at any significant scale coming into existence in the near term.

A significant hypothetical value of customs duty is presently being evaded by smuggling operations by organised crime. The appropriate policy response to smuggling by organised crime is to combat it and enforce the law, not to offer such illegal operations a reduced customs duty rate. It should also be noted that the currently collected customs duty is paid in large part by the three primary multinational tobacco companies, together with smaller shares by around 70 other registered importation businesses. As such, any specific reduction in the rates of legal customs duty would constitute a tax expenditure paid directly to primarily foreign-owned corporations.

It should be emphasised that despite the narrative framing that has been given to revenue issues by tobacco industry interests, often uncritically presented through mainstream media, there is no 'lost revenue' available to be secured by the Commonwealth by way of cutting the current rates of customs duty. The extent of legal importation, or legal Australian production, of tobacco products is unlikely to rise at any point in the future, and indeed national strategy prioritises demand reduction measures that aim to continuously reduce total demand. Our tax and customs agencies should provide government with their best available future estimates of revenue, noting that they will inevitably trend downward. Hypothetical comparisons with revenue collection that might have occurred had legal importation been higher are irrelevant to the current public policy considerations facing government.

Claims are made by the tobacco industry, and supported by a minority of other commentators, that cutting the customs duties will directly result in lowered legal prices for tobacco products, and that a reduced price difference with illicit products will then operate to curb the extent of organised crime activity. In fact, there is no legal architecture in Australian law to compel the importers who currently pay customs duty to pass

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on the impact of such tax expenditures down the retail supply chain to distributors, retailers, resulting in reduced consumer prices. All actors in that supply chain have powerful incentives to take profit gains rather than reduce consumer prices.

The persistent presence of tobacco industry influence is a key element of this policy landscape. The tobacco industry is unique in the world in being the subject of an international treaty to ensure robust defence of government policies against industry influence. All Australian government agencies, as well as parliaments, have a responsibility to be alert to, and prevent, industry influence campaigns. The current drive for a major cut in tobacco importer customs duty is such a campaign.

Recommendations for the Committee

In the conduct of this inquiry, the Committee should ensure that the *Framework Convention on Tobacco Control* is fully applied, by:

- Ensuring that all Senators participating in the inquiry affirm that neither they nor their political party receive any donations from tobacco industry interests (including the tobacco retail sector).
- Ensuring that all Senators participating in the inquiry record all efforts by tobacco industry interests or representatives to lobby them regarding this inquiry, and that all such lobbying is reported publicly by the Committee at the earliest opportunity, and is presented in the Committee's Report.
- Ensuring that submissions made by tobacco industry interests or representatives are identified.
- Ensuring that hearing witnesses who are associated with tobacco industry interests in any way are appropriately identified as such.
- Obtain and publish information on expenditure by tobacco industry interests on influence activity.

In its report, the Committee should:

- Recognize the major domestic and international role of the *Framework Convention on Tobacco Control*, and confirm that the Convention's requirements have been met.
- Recognize and support the longstanding, cross-government and internationally recognized Australian tobacco control policy architecture described in the *National Tobacco Strategy* and the *National Preventive Health Strategy*, and reaffirm the paramount goal of addressing the disease and death implications of tobacco and related nicotine products.
- Recommend enhanced and sustained demand (both uptake and consumption) reduction measures by all governments, acknowledging those measures and programs that are already in place.
- Recommend additional supply reduction measures, such as more robust regulation of legal retail outlets that continue to sell within the law.
- Recommend against reductions on the present rates of customs and excise duties, noting that they would amount to a large tax expenditure gifted primarily to foreign-owned corporations.
- Identify and publish the current annual customs duty amounts paid by importers, including the world's major multinational tobacco companies, so that the true impact of any cut to the rate of customs duty can be transparent to decision-makers and to the public.
- Recommend that Parliament legislate to prohibit political donations sourced from tobacco industry interests – including the tobacco retail sector – under *Commonwealth Electoral Act*.
- Recommend that the Parliament and the Australian Government implement policies, and where necessary legislate, to strengthen the regulation of lobbying at federal level, including provisions to disclose all in-house lobbying activity.

Health policy background

Current estimates are that around 66 Australians die every day – as many as 24,000 each year – from tobacco-related diseases. This death toll is equivalent to the entire residential population of major towns such as Graton (NSW), Griffith (NSW), Whyalla (SA) or the locality of Weston Creek (ACT) dying in a single calendar year. If a public health situation occurred in any of these communities which killed the entire residential population in a single year, it would rightly be regarded as a national emergency.

Hundreds of thousands more Australians are enduring diseases including cancers, respiratory disorders, and heart disorders. Numbers in the millions are addicted to nicotine.

Australia has long been a global leader in tobacco control. The proportion of people aged 14 and over who smoke daily dropped from 24% in 1991 to just 8.3% in 2022-23.¹ Between 2002 and 2017, the proportion of secondary school students who were current smokers declined significantly, from 9% to around 2%.²

Despite these reductions, tobacco remains one of the most significant causes of preventable illness and death in Australia. It contributes to 8.6% of the total national burden of disease.^{1,2} Two-thirds of people who smoke long-term are expected to die from a smoking-related disease, equating to approximately 1.8 million Australians alive today.³

Young people are particularly vulnerable to nicotine products. The tobacco industry targets price-sensitive adolescents and young adults, especially those from low-income or culturally and linguistically diverse (CALD) communities. There is also a clear overlap between illegal tobacco and vaping products, contributing to dual use and nicotine addiction.

Australia's policy response

Fortunately, our governments continue to regard the Australian death and disease toll from tobacco products as a paramount public health concern, and have responded over the years with a variety of strong policy interventions. National health policy, implemented with great determination, has brought these rates of disease and death down from those faced by previous generations, and the trend remains downward for the future. Australia is regarded internationally as a leader in the fight against the tobacco industry and the harm it causes. Our governments should maintain – indeed strengthen – policy interventions which will save the lives of countless Australians.

With this scale of death and disease among Australians uppermost in mind, the report that this Inquiry makes should first and foremost support policies which protect the lives of Australians, including most importantly the lives of children on whom the nicotine industry preys.

The Australian policy architecture on nicotine control has been among the strongest in the world for nearly five decades. Our response became significantly stronger early in the past decade, with major federal law reform in 2012. It is fair to level criticism at national and state/territory policy implementation and law enforcement in the decade that followed, including a lack of application to responding to the challenge of organised crime entering the tobacco supply landscape.

However, the process of review of the *National Tobacco Strategy* from 2021 to 2023 has again improved our national response. The current Government, and Minister for Health Mark Butler, have reenergised the tobacco control landscape in Australia. The Australian Government now shares that credit with the current state and territory governments, all of which have been significantly improving their legislative frameworks and strengthening their enforcement.

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The long-term effect of our national regime is that rates of tobacco consumption and addiction are declining towards our goal of <5% rates of daily usage by 2030, as our national strategy hopes.

It is important to note that tobacco is not a *prohibited* product in the sense of being excluded from legal consumption in Australia. Tobacco is a *partially regulated* product, and remains widely available through an estimated 40,000 retail outlets. Manufacture and importation of tobacco products outside of the legal framework in Australia is, however, appropriately prohibited by law, and is subject to significant criminal penalties, as is obviously necessary to make the national regime effective.

If an addictive product with as many scientifically established harms as tobacco were newly developed today, its introduction onto the market would be entirely prohibited by all responsible governments. However, with its sale and use becoming widespread and entrenched many years before the harms were established, the term ‘prohibition’ does not describe the current legal regime for tobacco.

Tobacco control policy in Australia, and legislation at Commonwealth and State level, has undergone a comprehensive review since endorsement of the revised *National Tobacco Strategy* in 2023. Recent revisions to Commonwealth, state and territory laws changed the way that tobacco products must be packaged and labelled, govern the manner in which they may or may not be advertised and promoted and displayed for sale, and address many other matters. But tobacco is in fact – when measured against its enormous harmful impact – an *under-regulated* product, not an *over-regulated* one.

Until recently the largest two states NSW and Victoria did not require any form of tobacco retailer licensing. This has now been corrected, although the new regimes will take time to become fully operational.

Table 1: Key primary and recent tobacco control legislation in Australia

Commonwealth	<i>Public Health (Tobacco and other products) Act 2023</i> <i>Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Act 2024</i> Taxation laws: <i>Excise Tariff Act 1921, and Excise Tariff Amendment (Tobacco) Acts (various)</i> <i>Customs Tarriff Act 1995, and Customs Tariff Amendment (Tobacco) Acts (various)</i>
New South Wales	<i>Public Health (Tobacco) Act 2008</i> <i>Tobacco Legislation (Closure Orders) Amendment Act 2025</i>
Victoria	<i>Tobacco Act 1987</i> <i>Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Act 2024</i>
Queensland	<i>Tobacco and Other Smoking Products Act 1988</i> <i>Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Act 2024</i> <i>Tobacco and Other Smoking Products and Other Legislation Amendment Regulation 2025</i>
South Australia	<i>Tobacco and E-Cigarette Products Act 1997</i> <i>Tobacco and E-Cigarettes (E-Cigarettes and Other Reforms) Amendment Act 2024</i>
Western Australia	<i>Tobacco Products Control Act 2006</i> <i>Tobacco Products Control (Amendment) Act 2026</i> <i>Medicine and Poisons Act 2014</i>
Tasmania	<i>Public Health Act 1997</i> Currently (March 2026) in state Parliament: <i>Public Health Amendment (Prohibited Tobacco and Other Products) Bill 2026</i>
ACT	<i>Tobacco and Other Smoking Products Act 1927</i> <i>Tobacco and Other Smoking Products Amendment Act 2025 (enforcement powers)</i>
Northern Territory	<i>Tobacco Control Act 2002</i>

The National Preventive Health Strategy

In 2021 the Australian Government adopted the *National Preventive Health Strategy 2021-30* (“NPHS”). The strategy was developed in close consultation with state and territory governments and with a wide range of stakeholders across the health sector, and is widely supported. In respect of tobacco, the NPHS notes that:

“The comprehensive range of tobacco control measures progressively implemented by all Australian governments has been instrumental in ensuring the long-term decline in smoking prevalence, which has seen the proportion of adults who are daily smokers decrease from 23.8% in 1995 to 13.8% in 2017-18. ... Ending the tobacco epidemic is a priority for all Australian governments and has a high level of continued public support for policy measures to reduce tobacco-related harm. Significantly reducing and eventually eliminating tobacco use in Australia would dramatically reduce illness, increase quality of life and wellbeing, and reduce health, social and economic inequalities for smokers, their families and the wider Australian community. It would prevent hundreds of thousands of premature deaths, reduce the burden of costly tobacco-attributable disease, increase workers’ economic productivity and reduce the burden on carers.”

The NPHS states two key tobacco-related targets:

- achieve a national daily smoking prevalence of less than 10% by 2025 and 5% or less for adults (≥18 years) by 2030
- reduce the daily smoking rate among Aboriginal and Torres Strait Islander people (≥15 years) to 27% or less by 2030.

The NPHS called for the implementation of several specific measures during the period to 2030:

Table 2: NPHS – specific measures to be achieved during the period to 2030

Ongoing development, implementation and funding of mass media campaigns and other communication tools have been implemented to: motivate people who use tobacco to quit and recent quitters to continue smoking abstinence; discourage uptake of tobacco use; and reshape social norms about the tobacco industry and tobacco use
Protection of public policy, including tobacco control policies, from tobacco industry interference
Increased provision and access to evidence-based cessation services and support to help people who use tobacco and other novel and emerging products, including e-cigarettes, to quit
Ongoing reduction of affordability of tobacco products including harmonisation of excise and custom duty on roll your own products compared with factory made cigarettes
Elimination of exceptions to smoke-free workplaces, public places and other settings
Reduced tobacco use among populations at a higher risk of harm from tobacco use, and populations with a high prevalence of tobacco use
Elimination of remaining tobacco-related advertising, promotion and sponsorship
Stronger regulation of the contents and product disclosures pertaining to tobacco products
The supply, availability and accessibility of tobacco products is reduced through stronger regulation
Reduced tobacco use among Aboriginal and Torres Strait Islander people, including during pregnancy, through expansion of efforts and community partnerships
Stronger regulation, monitoring and enforcement for novel and emerging products including e-cigarettes is implemented
Reduced tobacco use among disadvantaged communities and other vulnerable population groups through expansion of efforts and community partnerships
Reduced tobacco use among regional and remote Australians through targeted support.

The National Tobacco Strategy

From 2021 to 2023 all Australian national, state and territory governments joined in the development of the *National Tobacco Strategy 2023-30* (“NTS”). This document replaced a prior strategy of the same name.

“The Strategy sets out a new national policy framework for tobacco control in Australia and complements existing policies and legal frameworks at the state and territory, national and international levels. It provides an overview of the effects of tobacco use in Australia, and outlines shared goals, objectives, principles and targets for tobacco control across government and non-government agencies between 2023 and 2030. It also identifies 11 priority areas and associated actions to be implemented, together with mechanisms for monitoring and evaluation.

This Strategy builds on the success of previous national tobacco strategies and strengthens population-wide approaches that have been successful in reducing the prevalence of tobacco use over the past 4 decades. It includes new demand-side and supply-side measures and new measures to protect public health policies from all commercial and other vested interests. It also maintains a strong emphasis on reducing health and social inequalities by complementing population-wide strategies with more targeted approaches to reduce smoking among populations with a high prevalence of tobacco use.” (NTS, p3)

As with the NPHS, a key target of the NTS is that the adult national daily smoking prevalence be reduced to below 10% by 2025 (which has been achieved) and below 5% by 2030.

Table 3: NTS – 11 areas for priority action by all governments

Priority area 1:	Protect public health policy, including tobacco control policies, from all commercial and other vested interests
Priority area 2:	Develop, implement and fund evidence-based integrated public health campaigns and other communication tools to motivate people who use tobacco to quit and recent quitters to continue smoking abstinence; discourage uptake of tobacco use; and reshape social norms about the tobacco industry and tobacco use
Priority area 3:	Continue to reduce the affordability of tobacco products
Priority area 4:	Strengthen and expand efforts and partnerships to prevent and reduce tobacco use among First Nations people
Priority area 5:	Strengthen efforts to prevent and reduce tobacco use among populations at a higher risk of harm from tobacco use and populations with a high prevalence of tobacco use
Priority area 6:	Eliminate all tobacco-related advertising, promotion and sponsorship
Priority area 7:	Further regulate the contents and product disclosures pertaining to tobacco products
Priority area 8:	Strengthen regulation to reduce the supply, availability and accessibility of tobacco products
Priority area 9:	Strengthen regulations on e-cigarettes and novel and emerging products
Priority area 10:	Eliminate exceptions to smoke-free workplaces, public places and other settings
Priority area 11:	Provide greater access to evidence-based cessation services to support people to quit the use of tobacco, e-cigarettes and novel and emerging products

Demand control arrangements and options

The key to continuing efforts to reduce disease and death through nicotine addiction will always be reducing uptake of smoking and consumption of tobacco products in the community. Australia has an excellent track record in demand reduction, but after a burst of initiatives early last decade, the following decade went by without new demand reduction initiatives. In this space vaping emerged as the nicotine industry's strategic device to create a new generation of nicotine-addicted young Australians.

Only in the past 2-3 years have governments returned to a vigorous approach to demand control. Information and quit-encouragement campaigns, and greater resourcing of quit services, are being undertaken anew and reinforced by all governments. A tranche of new demand reduction measures were included in the Australian Government's *Public Health (Tobacco and other Products) Act 2023*.⁴ Almost all state and territory jurisdictions have revised their tobacco control legislation in the past few years (see Table 1 above), with a particular focus on bringing vaping promotion and supply (now prohibited under federal law outside of smoking cessation usage) under much greater control.

The price of tobacco products plays a key role not only as a direct behaviour-change policy measure, but in supporting the efficacy of all other demand reduction interventions. The international *Framework Convention on Tobacco Control* – to which Australia is a party – incorporates the goal of all nations increasing tobacco prices to the level that around 75% of retail prices are taxation, and Australia has met this goal. The illicit tobacco trade, of course, evades this goal by supplying tobacco at lower prices, undermining our national policy strategy. The availability of low-cost products reduces the drivers for addicted smokers to quit and increases the scope for young Australians to be induced into addiction.

It is important to recall that the paramount national goal is to minimise the *total* proportion of the population consuming tobacco of any sort and at any extent. International experience suggests that cutting tobacco taxes typically *increases* smoking prevalence, but does *not* act to reduce illegal trade in tobacco when a market already exists. Reducing the excise at a level required to compete with the price of illegal products (as low as ~\$10/packet) in Australia is clearly impractical. Assistant Minister for Citizenship, Customs and Multicultural Affairs Julian Hill MP made clear the Government's position on this question in his comments to the Illicit Tobacco and E-Cigarette Commissioner's policy Symposium on 19 March 2026:

*"As of now, based on the information available and advice to Government there is no reasonable level of excise reduction that would make any material difference to the ubiquitous illicit supply chains and distribution networks operated by serious and organised crime."*⁵

This is a sound analysis of the potential for excise cuts as a policy response, and the Committee should support the Government's stance on this matter.

Supply control arrangements and options

A variety of supply reduction measures have been the immediate response of all governments to the challenge of an organised crime tobacco scenario. The Commonwealth and states have very significantly enhanced their legislative regimes and enforcement capabilities across Australia. Impacts are clearly significant, although the implementation is still getting fully underway. Table 1 above sets out details of recent legislative changes.

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It will always be difficult for governments to fight organised criminal activity at the day-to-day tactical level, and the Australian Government and national agencies are rightly focussed on strategic responses to curb international smuggling, obtain intelligence, and support state and territory agencies in various ways.

The *National Tobacco Strategy*, most recently revised in the period 2021-23 by all governments, envisages the progressive shrinkage of tobacco consumption in Australia. With that goal, the scale of the regulated Australian tobacco retail sector should also diminish over time. It is specifically not the purpose of government policy to support the scale or the profitability of that retail sector in any way similar to the manner that governments would support other retail sectors selling ordinary consumer products.

There are further policy interventions to consider to manage the reduction of that retail sector and concentrate activity among actors that can meet the highest standards of regulatory compliance, adherence to product standards, and staff safety. We acknowledge the work of the Australian Council on Smoking and Health (ACOSH), which has developed proposals for enhancing the robustness of the retailer market for tobacco products in Australia.

Assistant Minister Hill has also indicated that this is an agenda worthy of the Government's consideration, in his comments to the ITEC Symposium on 19 March 2026:

"Health advocates are also doing interesting work reflecting on the ideal future licensing and retail model, asking why our society continues to permit standalone tobacconists. Australia now has around 40,000 tobacco retailers serving roughly 8% of the population who smoke, compared with about 7,000 petrol stations serving around 70% of Australians who drive.

That imbalance raises questions whether tobacco products should instead be sold only through mixed-use retail settings, subject to stricter licensing, oversight and compliance. Interesting questions for the future."

We note that most of these measures would primarily fall within state and territory competencies, but we urge the Committee to support tobacco retail regulatory improvements in its Report.

Taxation arrangements and options

The reduction of tobacco consumption planned for Australia in our national strategy will also see a progressive reduction in revenue raised through tobacco taxes. Australia has a dual regime imposing *excise duty* on domestic products, and *customs duty* on imports. But at present there is no legal Australian tobacco production, and illegal local production makes up only a small share of available tobacco product supply. At present all of the revenue raised consists of customs duties on imported products, but no excise revenue. (GST is also collected on sales of legal products).

There is presently an influence campaign in operation to convince policy-makers that there is a large loss of Australian excise revenue occurring, and that the appropriate response is to significantly cut the rates of excise and customs duties. In fact, only a modest amount of excise duty is being evaded by Australian illegal producers of loose-leaf tobacco. There is no prospect of legal domestic tobacco production at significant scale coming into existence in the near future.

A significant hypothetical value of customs duty is presently being evaded by the smuggling operations of organised crime. The appropriate response to smuggling by organised crime is to combat it and enforce the law, not to offer such actors a reduced customs duty rate.

It should also be noted that the currently collected customs duty is paid in large part by the three primary multinational tobacco companies, together with smaller shares by around 70 registered importation

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businesses. As such, any specific reduction in the rates of legal customs duty would constitute a tax expenditure paid directly to primarily foreign-owned corporations.

Against this background, despite the narrative framing given to revenue issues by tobacco industry interests, often uncritically presented through mainstream media, there is in fact no 'lost revenue' available to be secured by the Commonwealth by cutting the current rates of customs duty. The extent of legal importation, or legal Australian production, of tobacco products is unlikely to rise at any point in the future, and indeed national strategy prioritises demand reduction measures that aim to reduce total demand.

Research on the relationship between tax and illegal tobacco across countries finds little correlation between tax levels and illegal trade in tobacco.⁶ In fact, countries with higher taxes have often had lower levels of illegal trade.⁷ The clearest comparable case is Canada, which reduced its cigarette excise significantly in the 1990s, only to see total smoking rates increase, particularly among young people, and cessation (quitting) rates decline.⁸

Arguments are made by the tobacco industry, and supported by a minority of other commentators, that cutting the customs duties will directly result in lowered legal prices for tobacco products, and that this reduced-price difference with illicit products will operate to reduce the extent of organised crime activity. In fact, there is no legal architecture in Australian law to compel the importers who currently pay customs duty to pass on the impact of such tax expenditures down the retail supply chain to distributors, retailers, resulting in reduced consumer prices. All actors in that supply chain have powerful incentives to take profit gains rather than reduce consumer prices.

There is no reason to believe that any significant cut in rates of tax would trigger a chain of consequences that would actually reduce the scale of illicit trading. Such an intervention would need to see legal traders fully pass on tax reductions to customers as price reductions, and in turn see customers be able to identify a large enough shift in comparative prices between illicit and legal traders sufficient to change their purchasing behaviour. There would also need to be no reaction by illicit traders to alter their own prices downward in response. In turn, we would need to see a sufficiently large impact on the profitability of illicit trading for those suppliers to experience shrinkage of their 'market share' – which market share, it should be noted, we have no means of accurately measuring, either now or after a policy change. And finally, we would need to see a criminal sector which is demonstrably highly adaptable, determined, and defiant of all policy direction display in these circumstances absolutely no adaptability and determination to evade the implementation of such changes in tax policy. Only if all of these things 'went right' would the size of the illicit market significantly decrease, which supposed outcome we also not be able to accurately measure.

Clearly, this complex chain of hoped-for consequences could be broken at *every* link. As a public policy intervention, reducing taxes with the aim of reducing the scale of the illicit market is therefore unsupported. The far more likely result of such a change would be that the foregone public revenue would simply manifest as increased retailer profit – which some advocates of such tax changes no doubt intend. There is also no evidence that changing tax policy changes would meet our primary policy goal of reducing total tobacco consumption. Indeed, the Canadian experience warns that such a policy change would directly undermine that goal.

Our tax and customs agencies should provide government with the best available future estimates of revenue, noting that they will inevitably trend downward. But hypothetical comparisons with revenue collection that might have occurred had legal importation been at higher rates are irrelevant to the current public policy considerations facing government.

For all these reasons, the Australian Government has rightly resisted the demands of the tobacco industry for a cut in the customs duty that they currently pay to import tobacco products into Australia.

Industry influence on public debate

Tobacco industry influence on public policy and on public and commentator opinion is a key element of this policy landscape. The tobacco industry is unique in the world as the subject of an international treaty to ensure defence of government policy-making against industry influence. As part of a united international front against the industry, Australia is one of 183 nation parties to the *WHO Framework Convention on Tobacco Control* (FCTC), an international treaty that came into force in 2005. The [FCTC](#):

“...is an evidence-based treaty that reaffirms the right of all people to the highest standard of health. The WHO FCTC represents a paradigm shift in developing a regulatory strategy to address addictive substances; in contrast to previous drug control treaties, the WHO FCTC asserts the importance of demand reduction strategies as well as supply issues. The WHO FCTC was developed in response to the globalization of the tobacco epidemic. The spread of the tobacco epidemic is facilitated through a variety of complex factors with cross-border effects, including trade liberalization and direct foreign investment. Other factors such as global marketing, transnational tobacco advertising, promotion and sponsorship, and the international movement of contraband and counterfeit cigarettes have also contributed to the explosive increase in tobacco use.”

Key provisions of the Convention are set out in the Appendix.

Australia is also one of 71 parties to the *Protocol to Eliminate Illicit Trade in Tobacco Products*, an additional treaty agreed in 2012 between signatories to the FCTC. The [Protocol](#):

“...builds upon and complements Article 15 of the FCTC, which addresses means of countering illicit trade in tobacco products, a key aspect of a comprehensive tobacco control policy. The Protocol was developed in response to the growing international illicit trade in tobacco products, which poses a serious threat to public health. Illicit trade increases the accessibility and affordability of tobacco products, thus fuelling the tobacco epidemic and undermining tobacco control policies. It also causes substantial losses in government revenues, and at the same time contributes to the funding of transnational criminal activities. The objective of the Protocol is the elimination of all forms of illicit trade in tobacco products, in accordance with the terms of Article 15 of the FCTC.”

Australian governments, agencies, and parliaments all have a responsibility to be alert to, and prevent, industry influence campaigns. The current drive for a cut in tobacco importer customs duty is such a campaign. The Commonwealth *Public Health (Tobacco and Other Products) Act 2023* has been framed to meet Australia’s obligations under the FCTC.

For the purposes of this inquiry the Committee should take particular note of Article 5.3 of the Convention, which relates to the responsibilities of governments in respect of lobbying and corporate influence efforts by the tobacco industry.

“Article 5 General obligations

3. In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.”

The Commonwealth Department of Health, Disability and Ageing provides [advice](#) on compliance with the FCTC. This in turn links to [advice](#) published by the WHO on compliance with the treaty. There are even specific [guidelines for the implementation of Article 5.3](#), adopted by the treaty parties in 2008. Parties are encouraged to implement these guidelines to the extent possible in accordance with their national law.

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“The purpose of these guidelines is to ensure that efforts to protect tobacco control from commercial and other vested interests of the tobacco industry are comprehensive and effective. Parties should implement measures in all branches of government that may have an interest in, or the capacity to, affect public health policies with respect to tobacco control. The aim of these guidelines is to assist Parties in meeting their legal obligations under Article 5.3 of the Convention. The guidelines draw on the best available scientific evidence and the experience of Parties in addressing tobacco industry interference.”

A detailed description of the methodologies of the tobacco industry to influence public policy in Australia has been compiled by the Cancer Council and is published and regularly updated at [Tobacco in Australia: facts and Issues – Chapter 10 – The tobacco industry in Australian society](#).

Political donations from the tobacco industry to political parties are illegal at state level in NSW, Queensland, and Victoria, but not under federal electoral law. Major political parties in Australia, with the exception of the National Party, voluntarily decline to accept tobacco industry donations in all jurisdictions. Some other political parties accept tobacco industry donations.

Major tobacco companies engage the services of lobbyists to attempt to influence government policy. However, regulation of lobbyists at federal level is very weak. As at December 2025, client-lobbyist relationships disclosed on the Lobbyist Register maintained by the Commonwealth Attorney-General’s Department include only one entry, with JPG Advisory working for British American Tobacco. This is clearly not the whole of the industry’s lobbying activity in Australia.

The industry also provides funding to a range of entities in Australia to carry out influencing efforts which might be less effective if done in their own name. Industry-purchased ‘economic reports’ by consulting firms, often based on flawed surveys and incompletely analysis, are regularly fed into the public debate. It is generally accepted that the tobacco industry has over time provided funding to business-interest promoting ‘think tanks’ including the Institute of Public Affairs (IPA). IPA refuses to make public its financial donors. The industry has provided funding to the Australasian Association of Convenience Stores (AACS), which has in turn lobbied officials and worked to influence public opinion towards proposals to cut the rates of customs duty paid by tobacco importers.

Future agenda

The future agenda for national policy in this matter should include the following elements:

- Recognition of the extraordinary historic disease and death toll of tobacco and related nicotine products, leading to the health aspects of policy being given primacy in policy-making.
- The establishment of an independent inquiry focused on the harms caused by the commercial tobacco and nicotine industry, including examination of health, social and economic impacts, and mechanisms for accountability.
- All governments to continue to fund and deliver demand reduction efforts, including uptake-avoidance and quit campaigns, supported by practical health care interventions.
- All agencies and levels of government providing coordinated, well-resourced law enforcement responses to organised crime and illegal retail behaviour.
- Thorough application by all governments and parliaments of the FCTC requirements to prevent tobacco industry influence on public policy-making.

Conclusion

PHAA supports the directions which the Australian Government, and also the state and territory governments, have been taking to give effect to our national tobacco strategy.

We particularly commend the strength of direction of all governments in the past few years. Health Minister Mark Butler deserves particular recognition for his leadership since 2022, but it is fair to say that both before and after the renewal of the *National Tobacco Strategy* in the period 2021-23, many health ministers, premiers and leading politicians across both major parties and in other parliamentary groups have together maintained and enhanced Australia's response to tobacco harm, based predominantly on evidence and advice, and with minimal partisanship. For the sake of the wellbeing and indeed the lives of countless Australians, we urge the Committee to continue that bipartisan tradition.

Our specific recommendations for the Committee are set out above (page 3).

We are happy to appear at hearings if that would assist the Committee.

Please do not hesitate to contact us should you require additional information or have any queries in relation to this submission.



Adj/Prof Terry Slevin
Chief Executive Officer
Public Health Association of Australia

27 March 2026

APPENDIX – Key FCTC Provisions

PART II: OBJECTIVE, GUIDING PRINCIPLES AND GENERAL OBLIGATIONS

Article 5 General obligations

1. Each Party shall develop, implement, periodically update and review comprehensive multisectoral national tobacco control strategies, plans and programmes in accordance with this Convention and the protocols to which it is a Party.
2. Towards this end, each Party shall, in accordance with its capabilities:
 - (a) establish or reinforce and finance a national coordinating mechanism or focal points for tobacco control; and
 - (b) adopt and implement effective legislative, executive, administrative and/or other measures and cooperate, as appropriate, with other Parties in developing appropriate policies for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke.
3. In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law. [*3 less relevant clauses omitted*]

PART III: MEASURES RELATING TO THE REDUCTION OF DEMAND FOR TOBACCO

Article 6 Price and tax measures to reduce the demand for tobacco

1. The Parties recognize that price and tax measures are an effective and important means of reducing tobacco consumption by various segments of the population, in particular young persons.
2. Without prejudice to the sovereign right of the Parties to determine and establish their taxation policies, each Party should take account of its national health objectives concerning tobacco control and adopt or maintain, as appropriate, measures which may include:
 - (a) implementing tax policies and, where appropriate, price policies, on tobacco products so as to contribute to the health objectives aimed at reducing tobacco consumption; and
 - (b) prohibiting or restricting, as appropriate, sales to and/or importations by international travellers of tax- and duty-free tobacco products.

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3. The Parties shall provide rates of taxation for tobacco products and trends in tobacco consumption in their periodic reports to the Conference of the Parties, in accordance with Article 21.

**PART IV: MEASURES RELATING TO THE REDUCTION
OF THE SUPPLY OF TOBACCO**

Article 15

Illicit trade in tobacco products

1. The Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to subregional, regional and global agreements, are essential components of tobacco control.
2. Each Party shall adopt and implement effective legislative, executive, administrative or other measures to ensure that all unit packets and packages of tobacco products and any outside packaging of such products are marked to assist Parties in determining the origin of tobacco products, and in accordance with national law and relevant bilateral or multilateral agreements, assist Parties in determining the point of diversion and monitor, document and control the movement of tobacco products and their legal status. In addition, each Party shall:
 - (a) require that unit packets and packages of tobacco products for retail and wholesale use that are sold on its domestic market carry the statement: "Sales only allowed in (insert name of the country, subnational, regional or federal unit)" or carry any other effective marking indicating the final destination or which would assist authorities in determining whether the product is legally for sale on the domestic market; and
 - (b) consider, as appropriate, developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade.
3. Each Party shall require that the packaging information or marking specified in paragraph 2 of this Article shall be presented in legible form and/or appear in its principal language or languages.
4. With a view to eliminating illicit trade in tobacco products, each Party shall:
 - (a) monitor and collect data on cross-border trade in tobacco products, including illicit trade, and exchange information among customs, tax and other authorities, as appropriate, and in accordance with national law and relevant applicable bilateral or multilateral agreements;
 - (b) enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband cigarettes;
 - (c) take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using environmentally-friendly methods where feasible, or disposed of in accordance with national law;

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- (d) adopt and implement measures to monitor, document and control the storage and distribution of tobacco products held or moving under suspension of taxes or duties within its jurisdiction; and
 - (e) adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.
5. Information collected pursuant to subparagraphs 4(a) and 4(d) of this Article shall, as appropriate, be provided in aggregate form by the Parties in their periodic reports to the Conference of the Parties, in accordance with Article 21.
 6. The Parties shall, as appropriate and in accordance with national law, promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations as it relates to investigations, prosecutions and proceedings, with a view to eliminating illicit trade in tobacco products. Special emphasis shall be placed on cooperation at regional and subregional levels to combat illicit trade of tobacco products.
 7. Each Party shall endeavour to adopt and implement further measures including licensing, where appropriate, to control or regulate the production and distribution of tobacco products in order to prevent illicit trade.

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- 8 National Cancer Institute (United States) and World Health Organization, [*The Economics of Tobacco and Tobacco Control*](#) (Tobacco Control Monograph Series, 2016), and World Bank, *Confronting Illicit Tobacco Trade: A Global Review of Country Experiences* (2019)