



FATIMA PAYMAN
INDEPENDENT SENATOR FOR WESTERN AUSTRALIA
SUBMISSION TO INQUIRY INTO ILLEGAL TOBACCO CRISIS IN AUSTRALIA

Committee Secretary

Legal and Constitutional Affairs References Committee

Department of the Senate

PO Box 6100

Parliament House

CANBERRA ACT 2600

AUSTRALIA

I thank the committee for the opportunity to contribute to this inquiry.

The unfortunate realities of politics

Before I begin with my submission proper, I wish to place on record my disappointment with the highly political nature of the conduct that led to the reference of this matter to inquiry. This matter was referred to the committee by the Senate on 27 November 2025. On 4 September 2025, I moved a motion that was, in substance, identical to the motion that brought about this inquiry. At that time, the Senate did not support the proposal. On 27 November, a one-for-one deal was struck. The opposition got this inquiry up, while the Australian Greens got an inquiry into offshore processing and resettlement arrangements.

I believe that both of these issues are important and worthy of scrutiny, and that it is a good outcome that these inquiries have been called. I do lament, however, the fact that this committee could have begun its work on this important issue three months earlier than it has. I would invite those who kicked the can of illegal tobacco down the road to reflect on their actions.

The problem

In March, the 2025–26 federal budget allocated an additional \$156 million over two years to combat illicit tobacco. This added to the \$188 million allocated for compliance in the 2024-25 budget.

In August, the ABC reported that “[s]everal shootings at suburban Perth tobacco stores are prompting police to investigate a potential "turf war"...Police say the attacks replicate tactics used in the illicit tobacco trade, in an apparent attempt to extort legitimate Perth businesses.”¹

In October, PerthNow reported that “Police are investigating whether the deadly tobacco wars in the eastern states are linked to a brazen arson attack that caused \$500,000 worth of damage to a string of Midland businesses last week.”²

In November, the West Australian reported that “[a] tobacconist in Midland has been severely damaged following a suspected act of arson on Monday morning...The incident is the latest in a string of firebombings and shootings which have targeted tobacconists in recent months.”³

Also in November, WA Today reported that WA Police had said “a suspicious fire that started when a car drove into a building in Orelia in the early hours of Friday morning may be linked to the sale of illicit tobacco and vape products.”⁴

In December, the ABC reported that “WA Police are investigating a shooting at a shop in Ballajura which they believe was a stand-over tactic by organised crime networks involved in the sale of illegal tobacco.”⁵

Also in December, the West Australian reported that “[t]he serious and organised crime squad are investigating an arson attack on a store suspected of being linked to the illicit tobacco trade in Maddington.”⁶

Eagle-eyed committee members may be noticing a pattern. It is clear that, despite more than \$300 million being allocated to crack down on illegal tobacco, this problem will require more creative policy solutions. According to the Australian Criminal Intelligence Commission (ACIC) and the Australian Institute of Criminology (AIC), illegal tobacco cost Australians \$4 billion⁷ in forgone revenue, lost productivity and poorer health outcomes.

The tobacco excise is well-intentioned. It both discourages smoking, thus benefiting public health, while also helping to fund the services of government, including the healthcare system. The sweet spot for the excise was in 2019-20, when it raised \$16.3 billion, more than the revenue generated from taxes on land or motor vehicles that year. Once the excise is indexed to a certain point, however, it becomes an effective prohibition on tobacco, as most people are no longer able to afford tobacco products. In most cases of prohibition, particularly for things with addicting qualities, a black market is created.

Who it affects

¹ <https://www.abc.net.au/news/2025-08-11/arson-extortion-shooting-perth-cannington-ballajura-huntingdale/105636608>

² <https://www.perthnow.com.au/wa/wa-police-investigating-whether-east-coast-tobacco-wars-linked-to-midland-a-deal-tobacconist-fire--c-16591046>

³ <https://thewest.com.au/news/police/tobacco-wars-midland-tobacconist-damaged-in-suspected-arson-attack-on-great-eastern-highway-c-20774566>

⁴ <https://www.watoday.com.au/national/western-australia/wa-police-link-orelia-shop-fire-to-illegal-tobacco-vape-sales-20251128-p5njc8.html>

⁵ <https://www.abc.net.au/news/2025-12-05/ballajura-shooting-police-search-for-gunman/106106264>

⁶ <https://thewest.com.au/news/crime/tobacco-wars-gosnells-gifts-store-on-albany-highway-set-alight-amid-escalating-illicit-tobacco-feuds-c-20890520>

⁷ <https://www.abc.net.au/news/2025-11-06/black-market-cigarettes-cost-australia-4bn-in-one-year/105981786>

The rise of illegal tobacco has produced few winners and many losers. The main winners are criminal networks, mostly in Melbourne and now Perth, who have made a fortune from the black market. So profoundly out of the government's control has the problem gotten that the ABS is now planning to measure the size of the black market⁸. It is predicted that 8 billion illegal cigarettes will be sold in Australia next year⁹. The value of black-market trade is in the hundreds of millions, perhaps even billions.

The government has lost billions of dollars in revenue. The take from the tobacco excise has decreased by more than 8 billion dollars since 2019. In the 2025 MYEFO, the estimates were downgraded by 1.6 billion dollars, a fall of more than 20%. This has hurt the budget bottom line, as well as necessitating further expenditure to attempt to crack down on illegal tobacco. The government has seized 586 million cigarettes and over three million vapes have been seized at the Australian border in the first quarter of 2025-26¹⁰. While these efforts are commendable, the revenue earned by organised crime in recent years has allowed them to withstand this crackdown, for the time being.

For Australians, the ease of access to black market tobacco has had a decidedly negative impact on both public health and safety. In WA this year, smoking rates rose for the first time in 30 years¹¹, from 10% to 12%. It has been suggested by some, such as WA Premier Roger Cook, that migration is the cause of this rise in WA's smoking rates. It is plain that this is a populist distraction from a government responsible, in part, for the rise of illegal tobacco. I queried this matter with the Department of Health, Disability and Ageing at the estimates hearings held on 3 December 2025:

Senator PAYMAN: Thank you. It was interesting to hear Premier Roger Cook quoted in the West Australian on 20 October about these figures in particular when these figures were released, saying that migration was the cause of this rise. Is the department aware of any particular surge of migration that could have caused this rise?

Ms Clancy : No.

Senator PAYMAN: Is the department aware of any sort of particular migration scheme that was established which gave priority to applicants who smoked?

Ms Clancy : We are certainly not aware. If there was such a scheme and we were made aware of it, from a public health perspective, we would obviously have commented to our colleagues who set migration policy.

Senator PAYMAN: I know we're not to ask department officials for opinions, but, with your expertise and background, would you comment and say that migration has anything to do with the rise of smoking not just in WA but anywhere in the world?

⁸ <https://www.news.com.au/finance/economy/australian-economy/abs-makes-staggering-admission-on-cigarettes-as-black-market-sales-surge/news-story/584e0724aad43c90c17e8cf1ba97602a>

⁹ Ibid.

¹⁰

<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Festimate%2F29015%2F0003;query=Id%3A%22committees%2Festimate%2F29015%2F0000%22>

¹¹ <https://thewest.com.au/politics/state-politics/fruit-and-veg-left-off-the-plate-as-smoking-rates-increase-in-wa-for-the-first-time-in-30-years-c-20408187>

Ms Clancy : It's extremely hard to call that without evidence or data in front of me. There is no evidence or data that I have ever seen.

For small business owners, particularly legitimate tobacconists, not only are current excise settings damaging their bottom line by driving people towards illegal tobacco; they are also terrified of being the next victim of the tobacco wars. In an environment where running a small business is tough enough as it is, they have to worry about being firebombed, shot at or having a car driven into their premises. Given this, on 3 December 2025, I asked Senator Gallagher about what support the government was offering to small businesses (emphasis mine):

*Senator PAYMAN: In August, two Perth tobacconists were firebombed in what WA police said were incidents straight out of the playbook of organised crime. What support is the government offering to **small businesses** in WA such as these being targeted because of faulty policy settings that we're seeing?*

Senator Gallagher: I'm not sure what you're arguing for. Are you saying that we should lower the tax on tobacco? Is that the point you're making?

Senator PAYMAN: I'm saying that this policy needs to be reviewed, because there's clearly—

Senator Gallagher: The policy that we tax tobacco because we certainly want to discourage the uptake of smoking?

*Senator PAYMAN: But this is about **small business** support.*

Senator Gallagher: That hasn't changed. It seems everybody's arguing for that. The Minister for Home Affairs has stood up the Illicit Tobacco National Disruption Group. We have funded law enforcement to the order of \$156.7 million in the budget to disrupt trade in illicit tobacco and target criminal gangs, detect more illicit tobacco at the border and support compliance in partnership with states and territories. That's what we are doing in relation to—

*Senator PAYMAN: But what about for **small businesses** and the support that you'd offer for them?*

Senator Gallagher: That is the work that would directly assist small businesses if you are disrupting trade in illicit tobacco and targeting criminal gangs.

Senator PAYMAN: Not directly assisting them, because they've been firebombed. They've been attacked. They're out of business. The government's essentially saying, 'We can't do anything about it.'

Senator Gallagher: That's not what the government is saying. The government is investing hundreds of millions of dollars in order to stop the importation of illicit tobacco, and the compliance activities around that, and there is also over \$150 million to assist law enforcement, which would work with states and territories and the work that those jurisdictions do to protect businesses within state borders.

*Senator PAYMAN: But nothing for **small-business owners** in WA—that's all from me.*

Given Senator Gallagher was unable to mention one policy which directly supported small businesses, I believe that the government needs to make further efforts in this area.

The solution?

The simplest solution, at first glance, is to reduce or freeze the tobacco excise. The theory goes that, if legal tobacco was more accessible and legal tobacconists were able to better compete with illegal ones, some smokers would return to smoking legal tobacco. This comes with a few problems, however. Firstly, it is politically and fiscally difficult for the government. To do so would mean the government accepting an ongoing decrease in excise revenue, that the settings for the tobacco excise were wrong, and that they have been wrong for some time. It is not easy to admit that you are wrong. Secondly, it would benefit big tobacco. More people buying legal cigarettes means more revenue for the big tobacco companies, which is why they have been calling loudly and repeatedly for a cut to, or freeze of, the excise. Thirdly, it will make (legal) tobacco more accessible to people, which is the opposite of what the excise is supposed to do. It may damage public health as a consequence. Finally, it may not work.

According to the e61 Institute, a reduction in the excise to the levels it was at when revenue was at its peak may not arrest the rise of illegal tobacco. Organised crime has established efficient supply chains and may be entrenched, while the social stigma around buying illegal tobacco is nowhere near what it was just a few years ago. “Depending on how smokers and illicit sellers respond, we estimate the annual revenue impacts range from a \$2.1 billion decrease to a \$3.2 billion increase.”¹²

It is a difficult situation that has been created. What is clear is that the present situation is unsustainable. Small businesses in my community are under attack, and something must change. This government, with its 94 seats in the House of Representatives, has the social license to take bold steps to address the problems in Australia today. Whether it will choose to do so, however, is another question.

Recommendations

- 1. That the Australian Government consider the advantages and disadvantages of reducing or freezing the tobacco excise, as part of a holistic strategy (including, but not limited to, investment in compliance) to address the rise in black market tobacco.**
- 2. That the Australian Government implement a program of financial support for tobacconists and other legitimate small businesses who are attacked by transnational serious and organised crime (TSOC) groups.**
- 3. That the Australian Government and state and territory governments consider whether their police forces are appropriately empowered to deal with illegal tobacco.**
- 4. That the Australian Government develop sophisticated tools to measure the size and rate of growth of the tobacco black market.**

¹² <https://e61.in/chop-chop-time-to-cut-tobacco-excise-rates/>