

The Illicit tobacco crisis

legal and constitutional affairs references committee

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Terms of Reference

On 27 November 2025, the Senate referred the following matter to the Senate Legal and Constitutional Affairs References Committee for inquiry and report by 30 June 2026:

The illegal tobacco crisis in Australia, with particular reference to:

- a) 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;
- b) the impact of illegal tobacco on public health and on government revenue, including smoking rates and the loss of Commonwealth excise and customs revenue;
- c) law enforcement, intelligence and regulatory responses, including the adequacy of:
 - i. penalties and deterrence measures,
 - ii. the strategy and effectiveness of onshore and offshore disruption activities, and
 - iii. the current legislative and regulatory frameworks and the current levels of inter-government and inter-agency co-operation;
- d) (d) 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;
- e) (e) 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;
- f) (f) options for reform, including potential amendments to existing policies and to taxation, customs and/or criminal laws; and

any other related matters.



Declaration of Interest

For the purposes of this submission, I acknowledge that following my 26-year career in Australian law enforcement, I was engaged in a part-time capacity by the Australian Retailers Association (ARA) who had membership that comprises, inter alia, companies engaged in the manufacture and sale of tobacco products.

Under the banner of my own company, Rohan Pike Consulting Pty Ltd, I often make independent submissions to various international enquiries entirely free of charge. This submission falls into that category. I have not been engaged by anyone to make the following comments. The views provided herein are entirely my own.

I am not a smoker. I regard the habit as unhealthy and unfortunate. I would much prefer a society in which fewer people suffer addiction-related harm, which smoking clearly represents. After more than two decades in law enforcement, I also have a strong aversion to organised crime profiting from ineffective or poorly calibrated government policy. A core motivation for this submission is concern that current settings are actively transferring wealth from government coffers and the Australian community to organised crime groups.

Executive Summary

Australia's tobacco control policy faces a critical juncture. While designed to reduce smoking prevalence and improve public health, current settings are producing outcomes increasingly misaligned with these objectives. The illicit tobacco market now represents the overwhelming majority of consumption, criminal groups control supply chains, tobacco excise revenue has collapsed to approximately one-third of its level six years ago, smoking rates are increasing and communities across Australia are experiencing violence and intimidation linked to organised crime activity in this sector.

This submission draws on more than two decades of law enforcement experience, including direct operational responsibility for Australia's illicit tobacco response within the Australian Border Force, to examine how well-intentioned policy has produced these unintended consequences. The evidence presented suggests that current approaches, characterised by high excise rates, limited access to lower-risk alternatives, and reliance on enforcement as the primary response mechanism, are not achieving their stated aims and require fundamental recalibration.

The pathway forward requires acknowledging what the evidence demonstrates: that excise settings have exceeded behavioural and economic limits, that enforcement alone cannot overcome structural market incentives, and that Australia's resistance to harm-reduction strategies has placed it at odds with international evidence and best practice. Reform is both necessary and achievable, but it requires policy leadership willing to prioritise outcomes over ideology and to adjust course when evidence demonstrates the need to do so.

Introduction

I am grateful to be invited to participate in this inquiry. I believe that I am well qualified to provide informed perspectives as they relate to the evolution and consequences of Australia's tobacco control policies.

This inquiry presents an important opportunity to pause, reflect, and reassess Australia's approach to tobacco control in light of its real-world outcomes. The intent of current policy settings has been to reduce smoking prevalence and improve public health. These objectives are broadly supported across the community.

However, good intentions are not sufficient. Public policy must ultimately be judged by its outcomes. Where outcomes diverge materially from objectives, governments have a responsibility to re-examine assumptions and adjust course accordingly.

The evidence now emerging suggests that Australia's current tobacco policy settings are producing outcomes that are increasingly misaligned with their stated aims. Rather than reducing harm, they are contributing to the rapid expansion of a criminally controlled illicit market, increasing violence and intimidation in communities, eroding public revenue, and undermining the effectiveness of public-health interventions.

Policy Objectives and What Success Should Look Like

If the objective of tobacco policy is to reduce harm from smoking, then success must be measured by outcomes rather than activity. The measures that matter include smoking prevalence, patterns of consumption, the proportion of the market controlled by regulated versus criminal supply, and the level of violence and organised crime associated with distribution.

On these outcome measures, Australia's performance is deteriorating. Smoking rates are uncertain at best but likely rising, criminal groups control a growing share of supply, and public-health controls are increasingly bypassed.

Scale and Nature of the Illicit Tobacco Market

For many years, Australia has relied on incorrect official estimates that placed the illicit tobacco market at vastly under-estimated levels. From first-hand experience within government, there was considerable resistance to acknowledging higher estimates, particularly where those estimates risked political or organisational discomfort.

In late 2025, the Australian Taxation Office acknowledged that it would no longer attempt to estimate the illicit tobacco market and that its past estimates were unreliable. Despite this admission, subsequent reports continued to rely on those same discredited figures, including the December 2025 Illicit Tobacco Enforcement Commissioner's report that based some projections on the ATO's 2022-23 figures.

Based on operational intelligence, market behaviour, retail proliferation and enforcement experience, criminal groups now control the vast majority of Australia's tobacco and vaping market. Most retail outlets report declines in legal tobacco sales of approximately 80% over the past five years. While estimates vary, the illicit market share is likely between 70% and 80% of total tobacco consumption, and possibly higher. Now that this level has been reached, the traditional tobacco control measures have ceased to function effectively or at all.

The question of whether the illicit rate is 70%, 80% or 90% has become less relevant than the underlying reality: criminals now control the vast majority of Australia's tobacco and vape market. Consequently, tobacco policy measures such as plain packaging, health warnings, and age verification are largely redundant. The market now operates outside the government's regulatory framework.

Public Health and Community Consequences

Australia lacks reliable, current data on smoking prevalence, despite this being the central objective of tobacco control policy. Official figures continue to rely on surveys conducted before profound changes in the nature of the consumer market. Health authorities cite a smoking rate of 8.3% published by the Australian Institute of Health and Welfare in 2022/23, but the market has changed markedly since that survey was conducted.

The proliferation of illicit tobacco retail outlets across every suburb and town suggests robust sales activity. Wastewater analysis indicates increasing nicotine consumption, though this also reflects vaping trends. In 2025, the Western Australian Health Department reported an increase in smoking rates from 10% to 12%. In July 2025, Roy Morgan produced survey results showing significant increases in smoking rates, particularly among youth, though this survey was subsequently recalled under circumstances that raised questions about its independence. In September 2025, the President of the Australian Medical Association in the Australian Capital Territory, Dr Kerrie Aust, observed increased smoking rates in her area of responsibility, though these concerns were quickly downplayed by the AMA's National President.

The absence of current, reliable smoking prevalence data is extraordinary given its centrality to tobacco control policy. This absence suggests either a lack of capacity to measure the issue accurately or an unwillingness to confront evidence that might demonstrate policy failure.

The widespread availability of cheap illicit tobacco undermines harm-reduction efforts, facilitates youth access, and renders packaging, pricing, and product standards largely ineffective. Organised crime involvement has also resulted in violence, arson, extortion, and intimidation, affecting small retailers and local communities.

Revenue and Fairness Impacts

Tobacco excise revenue has fallen to approximately one-third of its level six years ago, despite repeated increases in excise rates over that period. This pattern reflects well-understood economic dynamics: when taxation pushes the legal price of a product far beyond what consumers are willing or able to pay, demand does not disappear—it shifts. In this case, it has shifted overwhelmingly toward illicit supply.

This is consistent with the principles commonly described by the Laffer Curve, where excessive taxation ultimately reduces total revenue by shrinking the compliant tax base. In the case of tobacco, the effect has been amplified by the availability of cheap, widely accessible illicit alternatives and the relatively low risk profile for criminal suppliers.

Despite this, official revenue forecasts from Treasury have continued to assume stabilisation or recovery in tobacco excise receipts. These assumptions are increasingly difficult to reconcile with observable market behaviour.

The fiscal consequences are significant. Reduced excise revenue directly constrains the government's capacity to fund public services, including health, education, and law enforcement. At the same time, governments are forced to devote increasing resources to enforcement, compliance, and downstream health impacts, further eroding the net public benefit of current policy settings.

The fairness implications are equally important. Law-abiding Australians continue to work, pay tax, and comply with regulation, while organised crime groups extract substantial profits from an illicit market that policy settings have helped to create. Small businesses that attempt to operate within the law are placed at a competitive disadvantage, while criminal enterprises face few of the costs borne by legitimate operators.

In effect, the community is hit twice: first through the loss of revenue that would otherwise support public services, and again through the social and economic harms generated by organised crime, including violence, corruption, and community insecurity. Over time, this dynamic risks undermining public confidence not only in tobacco policy, but in the broader fairness and credibility of the tax system itself.

Law Enforcement and Regulatory Response

Law enforcement plays an important and necessary role in responding to illicit tobacco, particularly where criminal activity gives rise to violence, intimidation, and broader community harm. However, enforcement alone is unlikely to resolve the problem, particularly when underlying economic and policy settings continue to make illicit trade highly profitable.

Australia's experience with illicit drugs provides a clear and instructive parallel. Despite decades of prohibition, sustained enforcement investment, international cooperation and increasingly sophisticated investigative techniques, illicit drug markets have not been eliminated. Drugs are cheaper, purer, and more widely available than ever, and wastewater analysis continues to show rising consumption. Few would characterise this as a policy success.

Yet, in relation to illicit tobacco, there remains a strong expectation that enforcement can deliver outcomes that have proven elusive in other comparable markets. Agencies tasked with addressing illicit tobacco operate with more limited powers, fewer investigative tools, and lower resourcing than those confronting drug crime. Even substantial increases in enforcement funding are unlikely to overcome the price differentials and profit incentives created by current excise and regulatory settings.

Some agencies point to record seizures as evidence of progress. Experienced investigators understand that large seizures merely reflect the scale of the market rather than meaningful disruption of supply. For organised crime groups, seizures are routinely treated as a cost of doing business and are easily absorbed within high-margin illicit operations. The key measures of success should be the illicit market share and smoking prevalence, not seizure volumes.

The response by Victoria Police following the surge in tobacco-related violence from 2023 onwards demonstrates both the strengths and the limits of enforcement. Through sustained investigations, covert capabilities, asset confiscation, and the targeting of key individuals, Victoria Police achieved real and commendable successes in reducing overt violence and disruption linked to organised crime groups operating in this space. Victoria Police have become the most knowledgeable agency on this issue in Australia.

However, despite these enforcement successes, there has been no discernible impact on the overall size or availability of the illicit tobacco market. Illicit products remain widely available, retail outlets continue to proliferate, and pricing remains well below legal alternatives. This experience reinforces a central point: even highly capable, well-resourced policing can suppress violence, but it cannot, on its own, eliminate a market that is structurally sustained by policy settings.

Various inter-agency taskforces, committees and coordination groups have been established, including the Illicit Tobacco and E-Cigarette Commissioner's office. Yet Australia still lacks a National Illicit Tobacco Strategy with clear performance measures to hold agencies accountable. There is no single piece of legislation considered best practice, and each state is currently forging its own path.

This does not diminish the importance of enforcement. Rather, it underscores the need to treat enforcement as a necessary but supporting component of a broader policy response that addresses the underlying drivers of illicit trade.

Policy Leadership and Institutional Responsibility

An important but often overlooked dimension of Australia's tobacco policy challenge relates to the question of which agencies and which policy frameworks should be leading the response.

Tobacco policy in Australia has historically been led by health portfolios, reflecting the primary objective of reducing smoking prevalence and improving population health outcomes. This focus is appropriate and necessary. However, as the illicit tobacco market has grown to dominate consumption, the nature of the policy problem has fundamentally changed. What was once primarily a public health challenge has become, in significant part, an organised crime and law enforcement challenge.

The policy settings that govern tobacco, particularly excise levels and access to alternative products, remain within the remit of the health portfolio. Yet the consequences of those settings increasingly manifest as serious crime: large-scale smuggling operations, violence, arson, extortion, and the infiltration of legitimate retail sectors by criminal networks. These are law enforcement problems, requiring law enforcement expertise, capabilities, and strategic perspectives.

There is an evident mismatch between the expertise required to manage a market dominated by organised crime and the institutional location of policy responsibility. Health agencies are not equipped, by training, mandate, or capability, to design or implement strategies to combat transnational serious and organised crime. Nor should they be expected to do so.

When policy settings create large-scale criminal markets, the policy response must draw meaningfully on law enforcement and regulatory expertise to review and alter the policy itself, not simply defer enforcement responsibilities to agencies while maintaining the same settings that created the problem.

In 2017, the Parliamentary Joint Committee on Law Enforcement's inquiry into illicit tobacco recommended that policy leadership on illicit tobacco should shift to reflect its organised crime dimensions. This recommendation has not been implemented. Policy continues to be developed primarily through a public health lens, with enforcement agencies expected to manage the dire consequences.

The result is a policy environment in which agencies tasked with enforcement are under-resourced, under-powered, and working against settings, particularly excise levels and access restrictions, that continuously regenerate the very markets they are asked to suppress. Officers working within consumer affairs, state regulatory agencies, and even border agencies do not possess the investigative tools, covert capabilities, or strategic frameworks available to police services dealing with comparable organised crime threats.

Effective reform will require not only changes to excise, regulation, and harm-reduction settings, but also a reconsideration of how policy is developed and who leads it. Where policy settings generate serious organised crime as a primary consequence, law enforcement and home affairs perspectives must be integrated into policy design from the outset, not treated as an afterthought or an implementation problem for others to solve.

This does not mean abandoning public health objectives. It means recognising that those objectives can only be achieved if policy settings account for real-world behaviour, economic incentives, and the realities of criminal markets. Public health and law enforcement expertise are not in tension; they are complementary. Both are necessary if Australia is to develop tobacco policy that achieves its stated aims rather than undermining them.

International Experience and Evidence

International experience over the past decade demonstrates that the quickest and most sustained reductions in smoking prevalence have occurred in jurisdictions that have embraced harm-reduction strategies, particularly through the regulated availability of alternative nicotine products.

Countries such as Sweden and New Zealand provide clear examples. Sweden has reduced its smoking rate to approximately five percent, the lowest in the world. While overall nicotine consumption in Sweden remains relatively high, much of that consumption occurs through significantly lower-risk products rather than combustible cigarettes. The result is substantially lower rates of smoking-related disease, including cancer, when compared with countries such as Germany, where smoking rates remain closer to 30 percent and nicotine consumption is still dominated by cigarettes.

This distinction is critical. Public health outcomes are driven not simply by nicotine consumption, but by *how* nicotine is consumed. Combustible tobacco remains by far the most dangerous delivery mechanism. Jurisdictions that have successfully reduced smoking have done so by encouraging transition away from cigarettes, not by attempting to eliminate nicotine use altogether.

Vaping products represent one such lower-risk alternative. The Australian Government's current policy approach treats vaping as being as dangerous as, or potentially more dangerous than, smoking. The prevailing international scientific consensus does not support this position. While vaping is not risk-free and should not be encouraged among non-smokers or young people, it is widely regarded as substantially less harmful than smoking combustible tobacco.

Australia's pharmacy-only vaping model operates, in practice, as a form of virtual prohibition. Consumers are required to convince a pharmacist of their need to access a product, yet very few pharmacists have chosen to stock vapes at all. Where products are available, they are typically limited in flavour range, nicotine concentration, puff count, and affordability. These products do not meet consumer demand and, in many cases, do not meet smokers' needs as an effective substitute for cigarettes.

The predictable consequence of this approach has been the emergence of an illicit vaping market estimated to exceed 95 percent of total consumption. As with illicit tobacco, regulation has not removed demand; it has simply transferred supply to criminal actors. Once again, public-health controls are bypassed, youth access is facilitated, and organised crime profits.

New Zealand, while far more successful than Australia in reducing smoking, is not immune to the dynamics of the illicit market. Its tobacco excise is high, with legal cigarettes priced at approximately three times the illicit price. As a result, illicit tobacco rates have begun to increase and are now estimated at around 27 percent. However, New Zealand's regulated vaping market provides a cheap, safer alternative for smokers, which has been instrumental in reducing their smoking rate to 6.8%, the second lowest in the world behind Sweden. This experience reinforces an important lesson: harm reduction and excise policy must be carefully balanced to avoid recreating the same illicit incentives seen in Australia.

Taken together, international evidence strongly suggests that regulated harm-reduction pathways are not optional add-ons, but essential components of effective tobacco control. Ignoring these alternatives does not eliminate nicotine use; it entrenches cigarette consumption and criminal supply.

Options for Reform

First and foremost, effective reform requires acknowledging that outcomes have diverged from policy objectives and that change is necessary.

Excise recalibration: The level of tobacco excise must be reviewed and adjusted to reflect behavioural and economic realities. The current rate has exceeded the point at which it discourages consumption and has instead created overwhelming incentives for illicit supply. The appropriate excise level should be determined through consultation with relevant experts, consumers, law enforcement, and economists, with the objective of reducing illicit market share while maintaining discouragement of smoking initiation. The immediate response that a reduction would encourage smoking ignores the reality that current settings already facilitate cheap access to cigarettes, including for children, through unregulated criminal channels.

Enforcement investment: If the government expects state and Commonwealth agencies to address the organised crime consequences of current policy settings, substantially greater investment in law enforcement capability will be required. The \$156 million announced over four years in 2024 is insufficient. Genuine impact may require investment of much higher magnitude, focused on serious organised crime disruption, asset confiscation, targeting of key individuals and the now entrenched retail networks.

Harm reduction: Countries that have achieved the most significant reductions in smoking prevalence, Sweden, New Zealand, Japan, the United Kingdom, have done so by providing regulated access to lower-risk nicotine products. Australia's approach to vaping and other alternative nicotine products operates as virtual prohibition, creating a parallel illicit market estimated at over 95%. Genuine, accessible regulation of lower-risk products is essential to drawing consumers away from both combustible cigarettes and illicit supply chains. This requires moving beyond tokenistic pharmacy models toward systems that meet consumer needs and provide effective substitutes for smoking.

Transparency and measurement: Current smoking prevalence data is outdated and unreliable. Independent, regular measurement of both smoking rates and illicit market share is essential to understanding whether policy is working and to maintaining public confidence in government decision-making.

National strategy and coordination: Australia requires a coherent National Illicit Tobacco Strategy with clear objectives, performance measures, agency accountability, and legislative consistency across jurisdictions.

Conclusion

Australia's tobacco control policy is producing outcomes that undermine its stated objectives. Rather than reducing harm, it is entrenching organised crime, increasing violence, eroding revenue, and weakening public-health controls.

When governments around the world decided to use excise rates as their primary tobacco control mechanism, it created greater opportunities for established smugglers and attracted opportunistic criminal players. The influx of organised crime groups here has caused violence in every state.

This inquiry provides a timely opportunity to reset policy on the basis of evidence, fairness, and real-world outcomes. New Zealand has achieved impressively low smoking rates without relying solely on enhanced enforcement. It has done so through science-based, progressive policy settings. Australia needs to study and follow the tobacco policies of Japan, the UK, Sweden and New Zealand to understand what it takes to lower smoking rates and prevent pouring more fuel on the crime fire.

On 8 January 2026, Prime Minister Albanese said, "*What people want in their leader is someone who will listen and adjust positions.*" Yes, we do. Hopefully those at the helm of Australia's tobacco policies can follow suit.

The views expressed in this submission are informed by my professional experience, which is outlined below, and are offered to assist the Committee in its consideration of the effectiveness and consequences of current tobacco control policy settings.

I am pleased to share my experience with the Committee both through this submission and, if necessary, in person.

Rohan Pike

19 January 2026

Annex A — Author Background and Experience

Rohan Pike joined the Australian Federal Police (AFP) in 1991 and served for more than two decades across a range of crime types and operational roles. Rohan's work included investigations into fraud, corruption, and financial crime, as well as leadership of complex, multi-agency matters. Rohan left the AFP as a highly regarded investigator, motivated by a strong understanding of and compliance with the law, and a desire to enforce Australia's legislation for the betterment of the country.

During his time with the AFP, Rohan led a multi-agency investigation into illicit tobacco and was involved in the laying of Australia's first Foreign Bribery charges. These successful operations culminated in his appointment in 2013 as the inaugural Superintendent of the Fraud and Anti-Corruption Division.

In 2015, Rohan joined the then Australian Border Protection and Customs Service, which became the Australian Border Force (ABF) on 1 July 2015. Within the ABF, Rohan established dedicated investigative and intelligence capabilities focused on illicit tobacco, which became known collectively as the Tobacco Strike Team. From that time until his departure from the ABF in November 2016, Rohan was responsible for the strategic direction and coordination of the ABF's illicit tobacco investigative and operational activities, and for Australia's international engagement with foreign customs and law-enforcement agencies on illicit tobacco matters.

Since leaving government service, Rohan have continued to work as an independent adviser on illicit trade, tobacco control, and regulatory policy. Rohan's work has included:

- 2017: Submission to the Parliamentary Joint Committee Inquiry into Illicit Tobacco (referenced 45 times in the Final Report), Submission to the Federal Tax and Revenue Committee, submission and personal briefings to the Black Economy Taskforce, advice to the Government of Timor Leste regarding illicit tobacco, submission to Singapore government regarding changes to customs regulations
- 2018/19: Working with the Papua New Guinean government to establish an Illicit Trade Taskforce/Corruption Commission
- 2019: Presented at Philippines conference regarding Illicit Tobacco with CrimeStoppers
- 2022: Submission to Victorian Government Illicit Tobacco Review
- 2023: Submission to Hong Kong Inquiry into Tobacco Control Strategies
- 2024: Submission to the Federal Parliament regarding Vaping Reform, submission and oral testimony to the Victorian Public Accounts and Estimates Committee inquiry into Vaping and Tobacco Controls



- 2025: Submission of evidence to the Public Bill Committee regarding the Tobacco and Vape Bill (HC Bill 121), submission and video evidence to the House of Lords, UK regarding proposed changes to tobacco legislation, presentations at Philippine Department of Agriculture workshop on Illicit Tobacco, presentation at Deakin University School of Criminology and joined their Advisory Board, travel to several countries to present at conferences and provide policy advice.

Rohan continues to engage with a wide range of stakeholders, including law-enforcement agencies, public-health authorities, academics, industry participants, and retail groups. He also advocates for effective changes to Australia’s tobacco policy by engaging with state and federal politicians and through media commentary, including recent appearances on 60 Minutes and ABC Four Corners.

Rohan has continued to educate himself regarding the Australian and global illicit tobacco markets and relevant tobacco policies and legislation. His sources of information include federal and state agencies, the tobacco industry, retail groups, published papers and journals, the media and his own enquiries.

Rohan is now regarded, by many, as Australia’s foremost law enforcement expert in illicit tobacco.