

AACS SUBMISSION:

FEDERAL DEPARTMENT OF HEALTH AND AGEING: INQUIRY INTO TOBACCO PLAIN PACKAGING

21 July 2011

Committee Secretary
Standing Committee on Health and Ageing
House of Representatives
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To whom it may concern,

The Australasian Association of Convenience Stores (AACS), the peak body for the convenience industry in Australia, makes the following submission to the Federal Department of Health and Ageing's Consultation on Plain Packaging on behalf of its many members nationally.

As the Department's Inquiry has already acknowledged, the Tobacco Plain Packaging Bill 2011 (the Bill) and by association the Trade Marks Amendment (Tobacco Plain Packaging) Bill 2011 will negatively impact the businesses of our members and the convenience sector as a whole.

Following consultation with the Department's Committee Secretary, we are advised that there are no specific terms of reference to address in this submission, so instead this will focus on the AACS's broader response to the proposed legislation.

Firstly, we wish to assert that the AACS and its members recognise the dangers of smoking and we strongly support proven measures and outcomes to reduce the incidence of smoking among Australians. We also strongly support the responsible retailing of tobacco products.

This is a serious health issue that demands attention and we encourage Government to work towards proven solutions.

Nevertheless, solutions to reduce the incidence of smoking should not jeopardise the livelihood of small business. Attempting to solve one problem by creating a new one is no solution at all.

We understand that plain packaging for tobacco was considered some years ago in Canada but was not pursued over concerns that it would be contrary to international law and doubts that it would be effective. The AACS shares these concerns.

Furthermore, there has never been any evidence that plain packaging of tobacco will reduce the incidence of smoking. No proof exists that plain packaging will reduce the number of people who

take up smoking; no proof exists that plain packaging will reduce the number of people who already smoke.

Convenience stores have already borne the financial brunt of changes in tobacco legislation to date, including systemisation changes to incorporate excise increases and implementing required changes in displays, promotion and advertising.

Then there is the issue of channel shift. As a result of the 25% tobacco excise increase last year, the volume of tobacco sales in the national convenience store channel declined by 14.3% since May 2010 (source: Aztec). Conversely, the dollar value contribution of tobacco sales increased 1.7% over the same period.

But the most pressing concern is the fact that the decline in tobacco sales volume has been felt more significantly by convenience stores compared to other competing channels, with consumers forced to change buying habits in search of greater value. The bulk buying power of supermarkets, as well as the consumer trend to buy cigarette cartons at supermarkets instead of single packs more frequently at local convenience stores, has resulted in a clear channel shift away from convenience stores in the last 12 months.

Again, this is a burden that threatens the viability of many small businesses. The only option for many is to reduce prices, placing further pressure on their margins, or risk losing further market share over the longer term. If price becomes the major differentiator if plain packaging is introduced, this again gives the major supermarkets a significant advantage over small businesses. As is currently being widely reported, retail sales are very fragile and small business is extremely vulnerable to changes in consumer buying habits.

Plain packaging on tobacco products will have the effect of reducing convenience store turnover as well as causing potential customer inconvenience through staff inability to speedily identify requested products. Convenience is an important competitive element for our members – one of very few remaining as the major grocery chains continue to tighten their grip on market share across a vast array of product categories.

Furthermore, the safety concerns resulting from staff having to turn away from customers for a greater length of time, opening them up to possible attack from criminals, cannot be discounted.

We absolutely support Government's health outcomes but it is unfair to expect small businesses to carry a disproportionate share of the financial burden.

In this submission, we make a number of suggestions which Government could pursue in order to better achieve its health outcomes where tobacco is concerned. These include a focus on education and, importantly, targeting the illicit tobacco market. We look forward to the opportunity to discuss these in more detail.

Regrettably, these Bills are not the only threat to an industry which employs so many but is recognised so seldom when legislation pertaining to the retail sector is drafted. Higher utility costs, rising costs of labour, security and penalty rates, as well as the rumoured introduction of a 'fat tax', are all negatively impacting convenience stores while the major supermarkets, with their unmatched buying power, remain immune to these effects and in some cases actually benefit from these changes.

Our members are at a critical stage in our existence as the aggressive pricing by supermarkets, the fragmented supply chain and the legislative framework limits our ability to compete with the major grocery chains further and further.

Additionally, as has been widely reported, retail trading conditions are very tough, so our sector finds itself at an impasse. We need support now more than ever, not additional cost burdens or sales-limiting initiatives that could threaten our survival.

The AACS wishes to thank the Department's consideration of our submission in compiling its report.

Jeff Rogut
Executive Director
Australasian Association of Convenience Stores



By the numbers: key statistics

- On average, tobacco products represent 30% of total convenience store sales (source: IBIS report April 2011).
- For petroleum convenience retailers, the convenience store offering (exclusive of fuel) represents 39% of total sales (source: ACCC). Tobacco represents a significant proportion of this figure.
- The convenience store industry comprises over 4000 stores nationally, employing approximately 13,000 Australians in what are usually small, family operated businesses.
- The convenience store sector is responsible for contributing over \$6.1 billion in sales to the Australian economy (source: IBIS report April 2011).
- The illicit tobacco market in Australia accounts for an estimated 15.9% of the legal tobacco market and costs the Federal Government an estimated \$1.126 billion in lost revenue annually (source: Deloitte).
- The AACS State of Industry Report 2010 indicates tobacco sales in convenience stores have declined by 10% but have risen by 8.5% in major grocery stores over the same period.

The impact of tobacco plain packaging on small businesses and their ability to compete

- Convenience store owners and operators have always supported increasing regulation surrounding the sale of tobacco and have reinvented their business model to compensate for loss of revenue as a result.
- With tobacco sales in major grocery stores increasing and the illicit trade of tobacco flourishing, measures designed to reduce the incidence of smoking cannot be labelled a success. In fact, they have succeeded only in negatively impacting one avenue of tobacco distribution – the convenience store sector.
- It is pointless and unfair to create additional burdens on small business owners while assisting major grocery chains increase their market share.
- Convenience stores do not have the buying power of the major grocery chains and they do not have the same capacity to offset the decline in tobacco sales as supermarkets do.
- While tobacco sales in supermarkets is increasing, tobacco products represent around 10% or less of total sales. In convenience stores, where customers regularly choose to buy single packs, tobacco sales may contribute up to 40% of sales.

- Inconceivably, in some states, supermarket “Fly-Buy” incentives and rewards programs actually appear to apply to tobacco products, potentially further increasing their market share at the direct expense of convenience stores: “Excludes purchases of smoking products (tobacco or herbal) in Queensland, South Australia, ACT, NSW and Northern Territory”. Source: <https://www.flybuys.com.au/flybuys/content/information/termsandcond.html>”. No mention of Vic, WA, TAS.
- The negative impact of a sharp decline in tobacco sales will be felt almost exclusively by convenience stores, the majority of which are small, family run businesses. Supermarkets will just manage shift the sales balance within their organisations and will not necessarily be adversely affected.
- The associated loss of revenue from add-on sales resulting from the introduction of this Bill is potentially crippling to convenience stores. Not only will convenience stores lose further tobacco market share to supermarkets, they will also lose ground in other product categories such as chewing gum, beverages and other impulse selling products. These add-on sales are in a way the lifeblood of many convenience stores.
- Tobacco is a legal product being able to be sold subject to restrictions, and convenience store operators have been trained and are more than capable of responsibly selling tobacco.
- Nevertheless, there have been instances where counterfeit operators have approached AACS member stores with a view to persuading them to sell illicit tobacco products. The AACS is firmly opposed to this practice.
- Worryingly, the Bill provides no solutions aimed at addressing the problem of increased trade of illicit tobacco products. Illicit trade is having an impact on convenience store tobacco sales.
- We support the Government’s health outcomes but the many small business owners, their families and their employees should not suffer as a result of changing legislation relating to a legal product.

What the Bill will mean: practical policy outcomes

Approximately 13,000 Australians are currently employed in the convenience store sector



This Bill directly threatens up to 40% of total convenience store sales



To maintain their viability, many stores will need to reduce overheads by the same percentage



Rising utility and security costs make these overheads a dead end



Inevitably, job cuts will be necessary for many small businesses to remain viable



THIS BILL COULD COST AS MANY AS 4,000 JOBS FOR AUSTRALIANS



THAT'S ONE JOB IN EVERY STORE UNDER THREAT

In recognition of the magnitude of this impact, it is tempting to suggest that financial compensation for small businesses is necessary if they are to remain viable and retain staff. However history tells us that providing protection to certain industries is dangerous practice.

The AACs believes a free market must be maintained. This Bill further neutralises the freedom of choice Australia is built on, by handing greater market share to major supermarkets which already have the market for groceries and fuel effectively sewn up. Meanwhile, small businesses will suffer and their employees face losing their jobs.

Alternate solutions must be considered.

Tackling tobacco use without crippling convenience stores

The AACCS support society's health agenda and the principles of Government's health objectives. We therefore offer the following suggestions for consideration that we believe, through careful and considered implementation, would result in a more effective reduction in the incidence of smoking without targeting the convenience store sector unfairly.

Education

There is much scientific evidence on the dangers of smoking that should be more effectively communicated, particularly to young people. Methods of innovatively communicating this message to the public should be a main focus of Government's efforts to reduce tobacco use and would prove more effective than knee-jerk reactions like altering the appearance of packaging.

As we have seen with the recent decision to ban, and then subsequently lift the ban, on live cattle export, emotional responses to serious political issues do not work. That is generally because these emotional responses are not based on sound principles that are supported by evidence.

Greater investment and emphasis on education, perhaps through more effective advertising channels, is a better way to reduce the incidence of smoking because these measures have had proven success in the past.

Targeting the illicit tobacco market

The illicit tobacco market robs legitimate businesses of sales and market share and the Government of its entitled revenue from the sale of tobacco. Efforts to crack down on the illicit trade of tobacco is perhaps the most obvious and effective measure to reduce the incidence of smoking, particularly among minors, while ensuring those who are licensed to sell a legal product are not negatively impacted.

A hotline for retailers and consumers to alert authorities to the illicit trade of tobacco could be established. This would provide a low cost avenue for any retailer or consumer approached by an individual or group to purchase illicit tobacco products to assist police and Government in targeting the criminals involved in the illicit market.

Conclusion

The AACCS advocates responsible retailing, supports society's health agenda and the principles of Government's health objectives. Our members are committed to abiding by and operating within the proper legal frameworks.

We also support consumers making informed choices and acknowledge that our members have the right to sell a legal product to consumers who have the legal right to purchase it. These are not mutually exclusive positions. As outlined above, the AACCS believes there are better and more cost effective ways to reduce the incidence and impacts of smoking that don't negatively impact small business owners.

We encourage the Federal Department of Health and Ageing to open the lines of communication with the AACCS and our members before finalising its report on plain packaging. This is a matter which has the potential to have an enormous impact on the well being and livelihood of thousands of Australian families and we welcome the opportunity to create an open dialogue with the Department for the purposes of its Inquiry.

Yours sincerely,

Jeff Rogut
Executive Director
Australasian Association of Convenience Stores

