

The Senate

Economics
References Committee

Personal choice and community impacts

Interim report

May 2016

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ISBN 978-1-76010-423-8

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Printed by the Senate Printing Unit, Parliament House, Canberra.

Senate Economics References Committee

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Chapter 1

Introduction

Referral and conduct of the inquiry

1.1 On 25 June 2015, the Senate referred an inquiry into personal choice and community impacts to the Senate Economics References Committee (committee) for inquiry and report by 13 June 2016.¹

1.2 The committee's terms of reference require it to report on:

The economic and social impact of legislation, policies or Commonwealth guidelines, with particular reference to:

- a. the sale and use of tobacco, tobacco products, nicotine products, and e-cigarettes, including any impact on the health, enjoyment and finances of users and non-users;
- b. the sale and service of alcohol, including any impact on crime and the health, enjoyment and finances of drinkers and non-drinkers;
- c. the sale and use of marijuana and associated products, including any impact on the health, enjoyment and finances of users and non-users;
- d. bicycle helmet laws, including any impact on the health, enjoyment and finances of cyclists and non-cyclists;
- e. the classification of publications, films and computer games; and
- f. any other measures introduced to restrict personal choice 'for the individual's own good'.

1.3 In accordance with usual process, the committee advertised the inquiry on its website and wrote to relevant persons and organisations inviting submissions to the inquiry.

1.4 To date, the committee has received 485 public submissions and two confidential submissions. The public submissions are listed at Appendix 1.

1.5 The committee has held seven public hearings. At its first public hearing, on 11 September 2015 in Canberra, the committee heard evidence on personal choice and the theoretically underpinnings of the terms of reference. At its second public hearing, on 3 November 2015, in Parramatta, the committee heard evidence on proposed restrictions on the activities of fans of the Western Sydney Wanderers Football Club. At its third public hearing, on 16 November 2015, in Melbourne, the committee heard evidence on mandatory bicycle helmet laws, and at its fourth public hearing, on 20 November 2015, in Sydney, the committee heard evidence relating to the sale and service of alcohol, with particular reference to NSW's 'lockout' laws. A fifth public hearing in Sydney on 9 March 2016 focused on the sale and use of tobacco, nicotine and e-cigarettes. The committee's sixth public hearing considered the sale and use of

1 *Journals of the Senate*, No. 102, 25 June 2015, p. 2832.

marijuana on 11 March 2016 in Sydney. At its seventh public hearing on 22 April 2016, in Canberra, the committee heard evidence regarding the classification of publications, films and computer games.

1.6 This report focuses on the evidence in relation to the first public hearing. The witnesses who appeared at the first public hearing are listed at Appendix 2.

1.7 The committee thanks all those who have participated in the inquiry so far.

Scope of the inquiry

1.8 The committee recognises that support for or opposition to state intervention in matters of personal choice, or 'paternalism', tends to focus on particular issues and is not a position derived from first principles. The committee appreciates that the role of the state in individuals' daily lives and their decisions is a complex one, as evidenced by the nuanced views of submitters and witnesses.

1.9 The committee heard conflicting views that state intervention is excessive in some areas, appropriate in others, and lacking in still others. Given the spectrum of views, and need to focus on specific matters rather than principled support or opposition to the role of the state, the committee's intention is to examine policy areas that have the potential to restrict personal choice and have elicited strong views from submitters to the inquiry. These policy concerns are primarily reflected in the inquiry's terms of reference.

1.10 The committee's view is that governance for the good of the public as a whole is not only necessary, but a key responsibility of government. The question to be considered is where the line should be drawn when it comes to state intervention in areas governed by personal choices.

1.11 The committee is also of the view that the role of the state with regard to children and young people can easily be differentiated from that of the state with regard to adults. The committee acknowledges legislation that protects children from harm, and from engaging in unsafe behaviour, should not be conflated with arguments regarding state intervention in adult decision making. Protection of children is more appropriately considered in relation to the role of the state with respect to parents.

1.12 The committee heard that there was generally agreement regarding state intervention in certain areas of policy.² Mr Christopher Snowden, Director of Lifestyle Economics, Institute of Economic Affairs in London, told the committee:

There are genuine public health issues such as clean water, reducing environmental pollution, road safety laws and vaccinations, where you

2 Professor Michael Moore, Chief Executive Officer, Public Health Association Australia, *Committee Hansard*, 11 September 2015, p. 8.

cannot as an individual achieve the desired goal without the collective acting together.³

1.13 It was also noted by submitters and witnesses that personal responsibility was paramount to any discussion of state intervention and personal choice. Professor Michael Moore, Chief Executive Officer of the Public Health Association Australia (PHAA), said that 'there should be a balance between personal responsibility and good government stewardship'.⁴

1.14 Areas such as sanitation, vaccination, product safety and water quality are examples of these policy areas where it was recognised that the government has a responsibility to regulate. Therefore, the inquiry does not focus on these areas, which are regulated for the public benefit and which affect the safety and wellbeing of all. The committee is of the view that it is the responsibility of government to regulate these policy areas and that justifications for government intervention in these areas are more persuasive and less paternalistic.

1.15 This report focuses on the conceptual aspects of the debate surrounding paternalism.

Arguments for state intervention in personal choice matters

1.16 At the core of the debate concerning appropriate limits on personal choice is the question of state intervention, which is often referred to as 'paternalism'.

1.17 The concept of paternalism, as applied to public policy, is the subject of considerable debate but is generally taken to mean:

...the notion that those in positions of power have, just as in the relationship between parents and children, the right and the obligation to overrule the preferences of those deemed incapable of knowing their true interests.⁵

1.18 Mr Bill New, a public policy researcher, identified three essential conditions that, in his view, must be met in order for an action to be classed as paternalistic:

- there is interference in the self-regarding decision-making autonomy of one person by another person or by the state;
- the interference is made in order to further the paternalised person's interests or welfare; and
- the interference is made without the past, present or immediately forthcoming consent of the individual concerned.⁶

3 Mr Christopher Snowdon, Institute of Economics Affairs, *Committee Hansard*, 11 September 2015, p. 1. See also Mr Chris Berg, Institute of Public Affairs, *Committee Hansard*, 11 September 2015, p. 43.

4 Professor Michael Moore, *Lateline*, 11 September 2015, <http://www.abc.net.au/lateline/content/2015/s4311191.htm> (accessed 16 September 2015).

5 M. Thomas and L. Buckmaster, 'Paternalism in social policy—when is it justifiable?', *Research Paper No. 8*, 2010–11, 15 December 2010, p. 2.

6 B. New, 'Paternalism and public policy', *Economics and Philosophy*, 15, 1999, p. 65.

1.19 In media commentary on this inquiry, what political philosophers and legal theorists refer to as 'paternalism' has been widely referred to as 'nanny statism'.⁷

1.20 The term 'nanny state' has a contested history, as evidenced in submissions. The PHAA, for example, asserted the following:

It is notable that "Nanny State" is a term that was coined in 1965 by a British columnist writing in *The Spectator*...The whole concept of the "Nanny State" was to point to 'interference' by governments. It was a term usually used in a pejorative way to discourage governments from introducing legislation or regulation that might undermine the power or actions of industry or individuals. It is invariably presented as an interference with the choices of ordinary people. It is rarely if ever used to criticise action by governments to protect the community in areas such as policing and law enforcement, or to opposed public health measures ranging from safe food and water to quarantine.⁸

1.21 The Institute of Public Affairs pointed out that this is historically in error:

Opposition to government paternalism wasn't always a conservative or libertarian thing. Indeed, the use of the word 'nanny' to describe state interference in individual choices originally came from the left.

In a 1960 article in the *New Statesman*, the magazine set up by members of the Fabian Society, nanny was deployed to attack the British Board of Film Censors. 'Novels and the Press get along, not too calamitously, without this Nanny; why shouldn't films?' asked a *New Statesman* columnist William Whitebait. Nanny 'exercises a crippling drag on the growth of a serious and healthy British cinema'.

Eight years earlier, the American journalist Dorothy Thompson...was using nanny to describe British imperialism in the Middle East.

Western empires, Thompson wrote in her syndicated column, have 'filled the role of headmaster, or Nanny-governess'. The West does not treat the inhabitants of its colonies as equals. She continued:

It is an amusing notion that comes to me that, with the retreat of empire, Britons are turning Britain itself into a Nanny-state, perhaps out of a long habit in persuading or coercing natives to do what is good for them.⁹

7 See for example: James Glenday, 'Drugs, pornography and bicycle helmets under Senate microscope as David Leyonhjelm's "nanny state" inquiry begins', *ABC News Online*, 11 September 2016, <http://www.abc.net.au/news/2015-09-11/senate-nanny-state-inquiry-begins/6766740> (accessed 3 May 2016); and Jared Owens, 'War declared on nanny state', *The Australian*, 26 June 2015, p. 4.

8 Public Health Association of Australia, *Submission 172*, p. 8.

9 Institute of Public Affairs, *Submission 160*, p. 34.

1.22 It is partially true that 'Nanny Statism' and 'Paternalism' are not perfectly congruent in meaning. However, there is a significant overlap, particularly when one turns to the concept of 'hard paternalism'.

1.23 Submissions from public health and other organisations put forward arguments in support of state intervention that centred around:

- protection: the state has a responsibility to provide 'stewardship';
- promotion: promoting a healthy and safe population benefits the economy;
- correction: state intervention corrects the market failure of industry dominance; and
- superior knowledge: the argument that those responsible for interventions are better qualified to make certain choices than those subject to intervention.

1.24 The Australian Health Promotion Association (AHPA) submitted that, while personal choice decision making is important, decisions rarely impact on one person alone:

The personal freedom to make decisions is an essential requirement for individual health and wellbeing. However personal freedom is only possible within supportive environments that protect us from adverse social conditions and harmful behaviour such as violence and addiction.

Our individual actions do not occur in a vacuum. Invariably individual actions impact on others within society. Individuals do not always have all of the required resources at their disposal to weigh up all of the relevant costs, risks and benefits of decisions in order to make informed decisions.¹⁰

1.25 The Australian Medical Association (AMA) similarly noted the potential flow-on effects of personal choices:

Unfortunately, people rarely factor in the consequences of their behaviour (on themselves and on others) and all too often it is family members and Governments who are left to provide support and care for poor individual decision making. More tragically, sometimes innocent victims have to bear the consequences of poor decision making.¹¹

Stewardship

1.26 PHAA submitted that stewardship was a responsibility of government:

Just as parents, schools, professionals and businesses have a duty of care to the individuals for whom they have responsibility, governments also have a duty of care to ensure that each of the citizens within the community have the full opportunity to reach their potential and to ensure they have the healthiest life.¹²

10 Australian Health Promotion Association, *Submission 91*, p. 3.

11 Australian Medical Association, *Submission 112*, p. 2.

12 Public Health Association Australia, *Submission 172*, p. 6. See also Australian Health Promotion Association, *Submission 91*, p. 3.

1.27 According to the World Health Organisation, 'stewardship' refers to the 'careful and responsible management of the well-being of the population' and, in the most general terms as 'the very essence of good government'.¹³

1.28 A more focused definition was offered by the UK's Nuffield Council of Bioethics (NCB), which stated:

...the concept of 'stewardship' is intended to convey that liberal states have a duty to look after important needs of people individually and collectively. It emphasises the obligation of states to provide conditions that allow people to be healthy and, in particular, to take measures to reduce health inequalities.¹⁴

1.29 The NCB argued that, when it comes to 'stewardship', the 'overall aim should be to achieve the desired health outcomes while minimising restrictions on people's freedom'.¹⁵

1.30 As cited by the PHAA, 'The Nuffield stewardship model suggests a balance between 'acceptable public health goals' and 'limitations on coercion and intrusiveness'. Its list of acceptable public health goals include:

- a) reducing the risks of ill health that result from other people's actions, such as drink-driving and smoking in public places;
- b) reducing causes of ill health relating to environmental conditions, for instance provision of clean drinking water and setting housing standards;
- c) protecting and promoting the health of children and other vulnerable people;
- d) helping people to overcome addictions that are harmful to health or helping them to avoid unhealthy behaviours;
- e) ensuring that it is easy for people to lead a healthy life, for example by providing convenient and safe opportunities for exercise;
- f) ensuring that people have appropriate access to medical services; and,
- g) reducing unfair health inequalities.¹⁶

1.31 At the same time, the Nuffield model says that public health programmes should:

- a) not attempt to coerce adults to lead healthy lives;

13 P Travis, D Egger, P Davies, A Mechbal, 'Towards better stewardship: Concepts and critical issues', *World Health Organisation*, 2002, p. 1, <http://www.who.int/healthinfo/paper48.pdf> (accessed 16 December 2015).

14 *Public Health: Ethical Issues*, 2007, p. xvi.

15 NCB cited in Public Health Association of Australia, *Submission 172*.

16 *Submission 172*, p. 6.

- b) minimise the use of measures that are implemented without consulting people (either individually or using democratic procedures); and
- c) minimise measures that are very intrusive or conflict with important aspects of personal life, such as privacy.¹⁷

Correcting domination by industry/corporations through state intervention

1.32 Some submissions were concerned with the role of the public sector in protecting individuals from industry domination, for example through advertising. The committee notes this area of concern but determined that the matter of industry domination is outside the scope of the inquiry.

Economic benefits of state intervention

1.33 The PHAA argued that certain products can generate flow-on costs to the economy through loss of workforce productivity or expenditure on policing and the health system. They supported the imposition of taxes in these circumstances:

Particular products, such as alcohol or tobacco, result in externalities, which relate to the costs incurred by others beyond those considered and incurred by individuals in a transaction. Applying taxes is an efficient and effective way to correct these externalities.¹⁸

1.34 Similarly, the AMA submitted that there are economic costs attaching to alcohol and drug misuse which have an impact outside those industries. They put forward the view that, while these industries contribute to the economy, the flow-on costs should be considered:

While business and commercial interests are important considerations, the full extent of harms caused by such products is not borne by that industry or producer, more often the burden is carried by others (by the health care system, law enforcement etc).¹⁹

1.35 The AHPA put the view that health promotion, which helps people avoid illness, could be of economic benefit, as healthy and active individuals contribute to workforce productivity and lessen the strain on the healthcare system.²⁰

1.36 Nonetheless, it is important that health promotion be accurately costed. Dr Kesten Green argued in his submission that the failure to properly calculate economic benefits as well as costs in public health literature has led to a situation where it has become difficult to establish 'whether regulation can, and in practice does, improve outcomes relative to outcomes in the absence of regulation'.²¹

1.37 In policy areas where regulations have been properly costed, Dr Green went on to note that they have often proven more expensive to implement than the problem

17 Public Health Association of Australia, *Submission 172*, p. 6.

18 Public Health Association of Australia, *Submission 172*, p. 11.

19 Australian Medical Association, *Submission 112*, p. 2.

20 Australian Health Promotion Association, *Submission 91*, p. 3.

21 Dr Kesten Green, *Submission 237*, p. 2.

they were meant to solve. In one notorious instance, regulations on labelling that were intended to encourage people to reduce their calorie consumption had the opposite effect.²²

High-stakes or irreversible decisions

1.38 The committee received evidence that decisions that involve 'high stakes', where the outcome is largely irreversible, may be instances in which state intervention is warranted. Political theorist Professor Robert Goodin put forward the view that paternalism can only be justified for 'big decisions' in a person's life, particularly big decisions that cannot be reversed.²³

1.39 For example, the decision to take certain types of drugs or for a student to drop out of school would be considered a 'big decision', and if that big decision cannot be reversed because the drug is addictive or the student cannot re-enrol, then state intervention through paternalistic public policy may be justified.²⁴

1.40 Further, if a big decision could result in the individual's death, there would, similarly, be a case for paternalism, as there would be no opportunity for reversal of the decision or the opportunity to learn from the mistake.²⁵ In these cases, it may be that the state is acting to protect an individual from the outcome of a high-stakes or irreversible decision.²⁶

1.41 The Australian Drug Foundation also argued that the state has a responsibility to legislate to protect citizens from taking action or participating in behaviour that places themselves and others at risk of preventable harm, particularly when the risk of harm is 'elevated or when the individual may not fully comprehend the risk entailed'.²⁷

1.42 The Australian Psychological Society referred to the role of the state in promoting 'positive freedom', to compensate those who lack adequate resources to fully develop knowledge, skills or abilities. The point was also made in evidence that an overt focus on personal choice or the conceptualisation of public issues as individual problems risks holding disadvantaged groups responsible for situations that have 'demonstrable structural and social causes beyond their control, which could further marginalise already vulnerable people'.²⁸

22 Omri Ben-Shahar & Carl E Schneider, *More than you wanted to know: The failure of mandated disclosure*, Princeton University Press, 2014, cited in Dr Kesten Green, *Submission 237*, p. 2.

23 B. Goodin, 'In defence of the Nanny State', in A Etzioni, ed., *Rights and the Common Good: communitarian perspectives*, St Martin's Press, New York, 1995, p. 124.

24 B. Goodin, 'In defence of the Nanny State', in A Etzioni, ed., *Rights and the Common Good: communitarian perspectives*, St Martin's Press, New York, 1995, p. 124.

25 B. Goodin, 'In defence of the Nanny State', in A Etzioni, ed., *Rights and the Common Good: communitarian perspectives*, St Martin's Press, New York, 1995, p. 125.

26 The roles of protection and stewardship will be discussed below.

27 Australian Drug Foundation, *Submission 291*, p. 4.

28 Australian Psychological Society, *Submission 270*, pp 2-4.

Short term preferences in decision making detract from long term interests

1.43 Professor Goodin argued that it is necessary to question an individual's preferences when he or she makes a decision, and whether they relate to his/her present or future interests. Other researchers have also considered whether a person's present interest in an activity is weighted more heavily than his/her future interest when that person comes to make a decision.²⁹ Economists refer to this phenomenon as 'discounting'.

1.44 Professor Julian Le Grand suggested that people may make poor decisions if their short term interests outweigh their long term interests:

Failures in major long-term decision-making may result from another problem: that of myopia. Individuals may make wrong decisions about self-exclusion, because they are too short-sighted to take proper account of the future. Myopia is a common phenomenon. Individuals' time horizons are limited. They do not always consider the long-term; they plan only on the basis of current events, or on their predictions of the very immediate future. In a word, they are myopic.³⁰

1.45 Professor Goodin gave the example of smoking, noting that it may be an individual's first order preference to smoke for whatever reason (enjoyment, or fashion, for example), but their second-order preference will be to stay alive and healthy.³¹

1.46 In this scenario, the fact that smoking is unhealthy is known to the smoker, but knowledge and acceptance of this is overridden by their desire, and the choice, to continue smoking. Professor Goodin argues, however, that:

Say what they may at 16, however, we cannot help supposing that they will think differently when the pigeons eventually come home to roost...Insofar as people's preferences are not settled—insofar as they choose one option now, yet at some later time wish that they had chosen another—we have another ground for permissible paternalism.³²

1.47 The policymaker, therefore, has two choices to consider in relation to the same individual: present and future, noting that the individual in the future cannot reverse the decisions taken by their 'past' self.

1.48 Significantly, Professor Goodin's position rests on the contention that paternalism in some areas of public policy is justifiable on the basis of a person's 'deeper' or second-order preferences, such as their health and general well-being.

29 J. Le Grand, *Individual choice and social exclusion*, CASE paper 75, Centre for Analysis of Social Exclusion, London School of Economics, London, 2003, pp 7-8.

30 J. Le Grand, *Individual choice and social exclusion*, CASE paper 75, Centre for Analysis of Social Exclusion, London School of Economics, London, 2003, p. 8.

31 B. Goodin, 'In defence of the Nanny State', in A Etzioni, ed., *Rights and the Common Good: communitarian perspectives*, St Martin's Press, New York, 1995, p. 126.

32 B. Goodin, 'In defence of the Nanny State', in A Etzioni, ed., *Rights and the Common Good: communitarian perspectives*, St Martin's Press, New York, 1995, p. 126.

Almost by definition, these interests are only disclosed over the longer term: the consequences of smoking, for instance, can take a number of decades to develop.

1.49 From Professor Goodin's perspective, paternalistic policies that seek to improve a person's quality of life, especially over the longer term, are not only morally justifiable, but politically effective. Smokers who have been saved from lung cancer are better off, since their deeper interest in their own health has been realised, while society does not face the burden of dealing with high rates of smoking-related illnesses. His position comes close to equating freedom with a person's deeper and longer-term interests – consistent with Professor Berlin's discussion on 'positive liberty', some of which might be unknown to persons at earlier stages of their lives.

1.50 In opposition to Professor Goodin's equation of freedom with the realisation of deeper interests, Professor Isaiah Berlin argued that paternalistic arguments in favour of securing a person's deeper preferences, often by restricting their liberty in the present, commit a cardinal error: they assume that liberty is the equivalent of other social goods, such as health, happiness or general well-being. While Professor Berlin does not question the intrinsic importance of these social goods – since health, for example, is valuable in itself – he is highly resistant to the contention that good health is the same thing as freedom. In Berlin's judgement:

...everything is what it is: liberty is liberty, not equality or fairness or justice or culture, or human happiness or a quiet conscience.³³

1.51 For Professor Berlin, the argument that paternalism can be justified by realising a person's deeper interests confuses the notion that good health is desirable with the contention that promoting health is the equivalent of freedom. Professor Berlin suggests that there is no contradiction in assuming that a person can be healthier – possibly as a result of paternalistic public policies – while also being less free. Whether a paternalistic policy is justifiable is therefore always dependent on the underlying circumstances: there is no necessary connection between freedom and other valuable social goods.

Hard and soft paternalism

1.52 Arguments for and against paternalism are nuanced, with submitters and witnesses drawing a distinction between variants on paternalism, particularly 'soft' and 'hard' paternalism. The Institute of Public Affairs (IPA) submitted that:

...soft paternalism refers to policy interventions that attempt to inform consumers about their choices while leaving those choice sets unchanged. These can include things like labelling requirements or information campaigns about harmful activity.

Hard paternalism actively constrains choices, by regulating the circumstance in which a choice may be made, the availability of those

33 I. Berlin, 'Two Concepts of Liberty', in H. Hardy, ed., *Liberty: Incorporating Four Essays on Liberty*, Oxford University Press, Oxford, p. 5.

choices, and the legality of the choices. For instance, smoking bans and bicycle helmet requirements are examples of hard paternalism.³⁴

1.53 Similarly, Mr New further set out the distinction between soft and hard paternalism being contingent on the individual:

The distinction is based on the degree to which the individual concerned is considered to be acting voluntarily. If someone is mentally handicapped or mentally ill, under the influence of drugs, or subject to extreme forms of coercion, then those who support the harm principle will often submit that interfering in the self-regarding actions of these 'non-voluntary' individuals is justified on the basis that the decision is not really their own. The harm is exogenous to the individual. Hard or strong paternalism, on the other hand, relies on justifying an intervention even though the individual is in full control of their mental faculties, has good information relating to the decision to be made, and is not being unduly pressured or coerced in any way.³⁵

1.54 Support or opposition for paternalism in public policy, then, appears to be along more narrow lines with individuals and organisations submitting that they supported some, but not other, forms of state intervention. For example, state intervention was supported on drink driving, but not in relation to general access to alcohol.

1.55 IPA submitted that '[t]he degree to which a paternalist intervention is objectionable depends on the degree to which it restrains freedom'.³⁶

1.56 Disagreement around paternalism has tended to focus around hard paternalism, or the intervention of the state in spite of the provision of information relating to a decision.

Intrusive paternalism or state intervention

1.57 A number of submitters to the inquiry argued that successive governments had overextended their reach and that individual rights had been restricted.³⁷ These submitters emphasised the right of the individual to freedom of choice.

1.58 In his submission to the committee, Professor Philip Pettit argued that laws enacted in a democracy 'provided a. as required by a constitutional rule of law, they are the same for all' and 'b. as required by democracy, they are selected under accepted processes and criteria', don't 'themselves subject us to a public, alien will' and 'may be required in order to provide effectively for people's being able to enjoy the conditions necessary for a free, autonomous life'.³⁸

34 Institute of Public Affairs, *Submission 160*, p. 3.

35 B. New, 'Paternalism and public policy', *Economics and Philosophy*, 15, 1999, p. 16, footnote, 3.

36 Institute of Public Affairs, *Submission 160*, p. 3.

37 Mr Justin Jefferson, *Submission 3*, p. 1.

38 Dr Philip Pettit, *Submission 281*.

1.59 The IPA submitted their view that:

...individuals should be free to live their lives according to their values and their preferences. The only activities that can be legitimately constrained are those which have a direct, material impact on the rights of others.

This is the perspective which we apply to paternalist public policy, also known colloquially as 'Nanny State' public policy. These policies consist of regulatory and taxation interventions aimed at restricting or influencing individual choices that affect primarily those individuals themselves.³⁹

1.60 Mr Snowden argued that 'a movement that seeks to regulate a person's lifestyle for their own good is unethical. It is also damaging to individuals and therefore to society'. He makes the related point that using high prices to generate a form of positive liberty in the sense Professor Berlin discusses – 'helping people to follow their true preferences' – has the effect of taking a 'disproportionate share of income from the poor'.⁴⁰

1.61 Commercial Economics Consulting submitted that people require the ability to make their own decisions about their behaviour in order to feel empowered and engaged with society. They suggested that there are consequences to over-regulation:

Over-regulation creates the very real risk that we will create a society which relies on government as the source of solution for every problem, whereas, realistically, the way to deal with societies problems is through the engagement of the citizenry in a communal effort to resolve issues in the optimal manner possible. Doing so clearly requires the citizenry to be empowered and for the citizenry to realise that it is the responsibility of each individual, working together, to resolve issues. That is, to ensure that personal responsibility is the cornerstone of decision making.⁴¹

1.62 Some submitters put forward the view that if an individual is entrusted with the responsibility of voting in an election, that same individual should be trusted with other decisions regarding their lifestyle.⁴²

1.63 The IPA elaborated on this point thus:

Paternalism violates one of the core ethical constructs at the heart of our liberal democracy: the claim that we are each capable of exercising rational and self-regarding decision making, and have the right to make such decisions at the ballot box. If we believe that claim holds true for voting, why do we not believe it holds true for market choice?

39 Institute of Public Affairs, *Submission 160*, p. 1.

40 Mr Christopher Snowden, Institute of Economics Affairs, *Committee Hansard*, 11 September 2015, p. 1.

41 Commercial Economics Consulting, *Submission 75*, p. 1.

42 See for example: Mr Andrei Chalnev, *Submission 19*, p. 1; Institute of Public Affairs, *Submission 160*, p. 9; Mr Peter Robinson, *Submission 220*, p. 1.

It is important that policymakers understand the full significance of their assertion that individuals are unable to make decisions on their own behalf, and that they require the assistance of higher authorities.⁴³

1.64 Mr Abe Salt suggested that the application of government intervention was inconsistent, with some products banned while others taxed, an unfortunate example of policy inconsistency and discretion, criticised with considerable force by Professor Pettit in his scholarship on the exercise of arbitrary power. Mr Salt offered an example of tobacco products: cigarettes are taxed while e-cigarettes are banned.⁴⁴

1.65 The committee received hundreds of submissions arguing for and against state intervention in various matters of personal choice. This inquiry will explore the issues raised in a number of areas where it is argued that individual freedom to make decisions is being undermined by paternalistic state overreach.

Senator Chris Ketter
Committee Chair

43 Institute of Public Affairs, *Submission* 160, p. 4.

44 Mr Abe Salt, *Submission* 83, p. 1.

Additional Comments

Senator David Leyonhjelm – Liberal Democratic Party

1.1 While I am in broad agreement with the thrust of the committee's report, I wish to add comments on matters that came before the committee that either fell outside the inquiry's terms of reference or could not be properly addressed in a short interim report.

1.2 My comments fall under three headings: politics, advertising, and economics.

Politics

1.3 Several public health organisations made much of the concept of 'stewardship', and the Committee's report (on pages 5–6) provides an outline of its meaning.

1.4 I think it is important to note that conceptually, 'stewardship' has its origins in political philosophy, particularly the work of Professor Phillip Pettit. Professor Pettit's work was in turn a response to the scholarship of Professor Isaiah Berlin.

1.5 Pettit claimed to have developed a third conception of liberty, distinct from Berlin's negative (freedom from interference) and positive (freedom to live as one's true self) liberties: liberty as freedom from domination.

1.6 The three concepts may seem similar, but in practice they have produced vastly different systems of political order.

1.7 According to the 'negative' conception of liberty, people are free simply to the extent that their choices are not interfered with. There are many variations on this, depending on how exactly one wants to define 'interference', but they all have in common the basic intuition that to be free is, more or less, to be left alone to do whatever one chooses.

1.8 Berlin associates this idea of negative liberty with the classic English political philosophers Hobbes, Bentham, and J. S. Mill, and it is today probably the dominant conception of liberty, particularly among contemporary Anglo-American political theorists. In Mill's well-known words, 'the only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs'.

1.9 In the positive sense, a person or group is free to the extent that they exercise self-control or self-mastery. However, it is not agreed what exactly constitutes self-mastery. According to one influential account, to be 'positively free' is to be able to act on one's second-order desires.¹

1.10 For example, the addicted smoker may be free in the negative sense not to smoke - since no one actually forces him to - but he is not free in the positive sense

1 In Harry Frankfurt, 'Freedom of the Will and the Concept of a Person', in *Free Will*, Gary Watson (ed.), Oxford: Oxford University Press, 1982.

unless he can actually succeed in acting on his presumed second-order desire not to keep smoking.

1.11 There are well known and troubling implications in the positive conception of liberty. For the most part, these stem from the problem that freedom in the positive sense would seem to license fairly extensive coercion on behalf of individuals' allegedly 'real' interests—for example, coercively forcing a smoker to quit on the presumption that this is, in fact, what he really wants to do (even if he doesn't say so).

1.12 Freedom as 'non-domination', by contrast, is best defined as structural independence – as the condition of not being subject to the arbitrary or uncontrolled power of a master. Pettit—who developed this 'republican' conception of freedom—argues that a person or group enjoys freedom to the extent that no other person or group has 'the capacity to interfere in their affairs on an arbitrary basis'.² On a plausible rendering of the term 'domination' as arbitrary or uncontrolled power, freedom in what Professor Pettit calls 'the republican sense' consists in the secure enjoyment of non-domination.

1.13 These conceptions of liberty can seem similar. However, liberty as non-domination is not the same as liberty as non-interference. There is a real and substantial difference between the former's view of liberty as independence from arbitrary or uncontrolled power, and negative liberty as non-interference. On the view of negative liberty as non-interference, any sort of public law or policy intervention counts by definition as an interference and, ergo, a reduction in freedom. Being committed to the 'non-interference' view of negative liberty, liberals thus tend to be more suspicious of government intervention.

1.14 In the 'republican sense' of political liberty, or non-domination, public laws or policy interventions need not necessarily count as reductions in freedom. Provided the law or policy is adopted and implemented in an appropriately non-arbitrary manner, citizens' freedom is said to remain untouched.

1.15 Indeed, if the law or policy ameliorates dependency, or curtails the arbitrary powers that some exercise over others in the community, citizens' freedoms may be enhanced. A practical example would be anti-discrimination law, which by preventing the exercise of arbitrary employer prejudice against, say, a particular race or gender, ameliorates dependency on the welfare state (since people with jobs require little or no welfare). This leads naturally to the theory of 'stewardship' as an appropriate role for government, given that government is seen as a legitimate means by which to curtail dominance.

1.16 However, it is worth noting that 'stewardship' is not part of Professor Pettit's conception of liberty, but was developed by the UK's Nuffield Council on Bioethics (NCB), particularly in its report *Public Health: Ethical Issues* (2007), cited extensively in the PHAA submission, as outlined by the committee in its interim report.³

2 Pettit 1999, p. 165.

3 Public Health Association of Australia, *Submission 172*, p. 6.

1.17 In sum, the role of public health in the formulation of public policy is intimately linked to the governing conception of liberty in a given society. In my view, as a society we have moved too far away from negative liberty, and thus seem impaired in our ability to simply leave people alone.

Advertising

1.18 As mentioned on page 7 of the committee report, a number of submissions addressed the idea of 'industry domination', particularly through advertising. Other submissions questioned the evidence base for 'advertising-based domination', or even whether it exists. This issue fell outside the scope of the inquiry's terms of reference, but the debate is both intense and fraught and people who have taken an interest in the matters raised by the inquiry deserve some background.

1.19 The PHAA argued both in its submission and before the committee, based on the 'stewardship concept', that what may be seen as coercive or intrusive state intervention is actually the state's attempt to counter the vested interests of industry. The PHAA submitted that personal choice is already dominated by industry:

Where influence of individuals is so strongly dominated by forces around them, it is much more difficult to make well-informed, responsible choices compared to when there is a balanced view presented on a level playing field.⁴

1.20 They argued that it is the role of the state to act in the public interest, against domination by industry:

There is a constant push, especially from certain sectors of industry, to be free from government interference. This fails to recognise a government's responsibilities to protect the health and safety of the community, and to place the interests of public health ahead of those of vested interests.⁵

1.21 An example of domination by industry, as argued by PHAA, is the advertising of "junk" food aimed at children:

Domination by industry in marketing of junk food to children, for example, plays a key role in the obesity epidemic. Governments have an option of countering the domination in the market place by junk food companies and delivering a level playing field by investing the same amount of money into marketing fruit, vegetables and good nutrition messages. However, rather than spend huge amounts of taxpayers money in this manner government can achieve the same level playing field, countering the domination, by introducing regulations that restrict the extent of marketing of junk food to children.⁶

4 Public Health Association Australia, *Submission 172*, p. 7.

5 Public Health Association Australia, *Submission 172*, p. 7.

6 Public Health Association Australia, *Submission 172*, p. 7. PHAA also listed alcohol and tobacco advertising as examples of domination by industry.

Embedded within this argument are a number of claims, contested by other submitters and witnesses before the committee. First, whether advertising by industry even constitutes 'domination' as conceived in Professor Pettit's schema is an open question. There is considerable debate among political theorists and jurisprudential scholars on this point, and even Pettit has modified his views over time. Much of his scholarship has focussed on the idea of 'arbitrary power' exercised by governments, although more recently he has spoken of 'uncontrolled power'.⁷ His main focus is on the rule of law and the dangers of excessive discretion, matters of relevance to the state, not the private sector.

1.22 Second, even if, at a theoretical level, advertising by industry can be construed as a form of domination, there is the empirical question of whether it does, in fact, 'dominate' adults' personal choices. Christopher Snowdon of the UK's IEA pointed out that '[t]here is a huge amount of economic evidence showing that advertising does not increase the size of a given market and is only useful in increasing market share for a given company'.⁸ The Institute of Public Affairs also pointed out that the evidence base suggesting advertising influences subsequent behaviour is weak.⁹

1.23 Similarly, attempts to correlate media consumption with later activity in other fields—playing violent video games and subsequently committing crimes of violence, for example—have never been borne out by research.¹⁰

1.24 Finally, in considering the plausibility of dominance by industry and advertising, there was little acknowledgment of the possibility that the state can also dominate, and not just in a dictatorship. Democracies have interned entire populations (Japanese-Americans, German-Australians) in wartime, exercised extensive and coercive control of entire populations during times of peace (Australian Aborigines, LGBTI people), practised widespread censorship and surveillance, and engaged in mandatory sterilisation on the flimsiest of pretexts, including in the name of 'public health'.¹¹ There was also no serious attempt to justify the claim that state dominance is preferable to that of corporations or advertisers, or why individuals are deemed incapable of resisting the influence of either.

Economics

1.25 A number of submissions argued that certain products generate flow-on costs to the economy which are considerably in excess of the revenue obtained through taxing those products. This position is outlined by the committee in its interim report.

7 Pettit, *On the People's Terms: A Republican Theory and Model of Democracy*, 2012, p. 58.

8 Mr Christopher Snowdon, *Submission 186*, p. 1.

9 Institute of Public Affairs, *Submission 160*, p. 26.

10 See 'The Effect of Video Game Competition and Violence on Aggressive Behavior: Which Characteristic Has the Greatest Influence?' *Psychology of Violence*, 2011, Vol. 1, No. 4, 259 – 274.

11 See Thomas Leonard, *Illiberal Reformers: Race, Eugenics, and American Economics in the Progressive Era*, Princeton 2016.

1.26 While Pigouvian tax levied on markets that generate negative externalities is an accepted part of mainstream economics, it is well known that measuring externalities in such circumstances is difficult. Pigou himself noted that 'it must be confessed, however, that we seldom know enough to decide in what fields and to what extent the State, on account of [the gaps between private and public costs] could interfere with individual choice'.¹²

1.27 Mr Snowdon cited research by Dr Eric Crampton, Dr Matt Burgess, and Dr Matt Taylor arguing that the economic costs detailed in much of the literature are largely spurious, as they fail to distinguish between public (or 'social') costs and private costs, in addition to failing to appropriately weigh benefits as well as costs to the individual consumer.¹³

1.28 Crampton et al point out that weighing costs and benefits, as well as distinguishing between private and public costs, are fundamental to economics. They note:

[public health] studies typically ignore or deliberately blur the distinction between internally and externally borne costs. These studies calculate social-cost figures that generally include a large proportion of costs falling on the drinker and on other parties more typically considered to be in contract with the drinker, which economists usually identify as private and not policy-relevant.¹⁴

1.29 In short, lost productivity and early mortality are not costs to the taxpayer. These costs are private, incurred by the drinker or smoker and sometimes his employer.

1.30 Crampton et al are particularly critical of Collins and Lapsley, the headline public health study that seeks to quantify public or 'social costs'.¹⁵ They argue that Collins and Lapsley ignore the laws of economics, disregarding benefits while purporting to engage in a cost-benefit analysis. They note:

Consumer enjoyment forms the bulk of the economic benefit consumers receive from the consumption of alcohol; counting these benefits as zero allows [Collins and Lapsley] to convert private but potentially unanticipated costs of alcohol consumption into policy-relevant social costs.¹⁶

12 Pigou, A.C., (1954) *Some Aspects of the Welfare State*. Diogenes 7 (6).

13 'The Cost of Cost Studies', *Working Paper*, Department of Economics and Finance College of Business and Economics, University of Canterbury cited in Mr Christopher Snowdon, *Submission 186*, p. 2.

14 'The Cost of Cost Studies', *Working Paper*, Department of Economics and Finance College of Business and Economics, University of Canterbury cited in Mr Christopher Snowdon, *Submission 186*, p. 4.

15 Collins, D. J., & Lapsley, H. M. 2008. The costs of tobacco, alcohol and illicit drug abuse to Australian society in 2004/05. Dept. of Health and Ageing.

16 Collins, D. J., & Lapsley, H. M. 2008. The costs of tobacco, alcohol and illicit drug abuse to Australian society in 2004/05. Dept. of Health and Ageing, p. 16.

1.31 Crampton et al illustrate the difficulty of undertaking a cost-benefit analysis without considering benefits by means of an analogy:

By way of analogy, consider the case of skiing. Every skier bears risk; a very small proportion of skiers are killed. If we were to consider the net costs of those skiers involved in a serious accident, we would be right, to a first approximation, to ignore the benefits of skiing for those victims of accidents, since any benefits would be trivially small relative to the magnitude of the costs they incurred. However, it would be wrong to conclude from this examination of victims that skiing imposed massive net social costs. No estimate of any activity's value, and no policy implications, can be derived from an assessment limited to the downside risk of an activity. The benefits of alcohol consumption enjoyed by those drinkers who ex ante consumed as much alcohol must be weighed against the harms borne by those who become alcoholics or suffered another adverse consequence. Only in this way is it possible to make economically meaningful statements about net costs, whether of alcohol consumption or of any other activity.¹⁷

Senator David Leyonhjelm
Liberal Democratic Party

17 Collins, D. J., & Lapsley, H. M. 2008. The costs of tobacco, alcohol and illicit drug abuse to Australian society in 2004/05. Dept. of Health and Ageing, p. 17.

Appendix 1

Submissions received

**Submission
Number**

Submitter

- | | |
|----|--|
| 1 | Mr Geoff Curtis |
| | <ul style="list-style-type: none">• Supplementary submission |
| 2 | Mr William Matthews |
| 3 | Mr Justin Jefferson |
| 4 | Mr Colin Clarke |
| | <ul style="list-style-type: none">• Supplementary submission• Supplementary submission• Supplementary submission |
| 5 | Mr Michael Noack |
| 6 | Mr Edward |
| 7 | Dr Andrew Parker |
| 8 | Mr Ben Triefus |
| 9 | Mr Marcos Pougy |
| 10 | Mr Luke Ruskin |
| 11 | Mr Peter Mayer |
| 12 | Mr Julian Conway |
| 13 | Ms Eveliene Ward |
| 14 | Mr Edward Stratton-Smith |
| 15 | Ms Lyndall Kay |
| 16 | Mr Greg McPherson |
| 17 | Mr Henry Fields |
| 18 | Dr Andreas Schwander |
| 19 | Mr Andrei Chalnev |

- 20 Mr Mark Dwyer
- 21 Mr James Ramsey
- 22 Mr Richard Oddy
- 23 Mr Martin Wurzinger
- 24 Mr Sam Arman
- 25 Ms Philippa Vice
- 26 Mr Cameron Ljubic
- 27 Mr Shayne and Lorraine Anderson
- 28 Hats Off For Safety (HOFS)
- 29 Mr Michael Mounteney
 - Supplementary submission
- 30 Mr Simon Harvie
- 31 Mr Shane Pedler
- 32 Mr Murray Howse
- 33 Mr Joel Nitzkin
- 34 Mr James Steward
- 35 Ms Anne Warburton
- 36 Dr Lisa Parker
- 37 Mr Steven Hughes
- 38 Dr John Trueman
- 39 Mr Peter Jackson
- 40 Ms Belinda Ward
- 41 Mr Erle Edwinson
- 42 Mr Peter Callil
- 43 Mr Paul Agius
- 44 Mr Glen Paynter
- 45 Ms Mary McParland
- 46 Mr Anders Stromfeldt

47 Mr Philip Rabl
48 Mr Daniel Searson
49 Mr Cameron Murray
50 Mr David Marshall
51 Mr Matt Hodges
52 Ms Kathy Francis
53 Mr Markus Egli
54 Ms Roisin Kelly
55 Miss Isobel Todd
56 Ms Linda Carmody
57 Mr John Burton
58 Mr Charles Drinan
59 Mr William Spaul
60 Mr Chris Gillham

- Supplementary submission

61 Name Withheld
62 Name Withheld
63 Name Withheld
64 Name Withheld
65 Name Withheld
66 Name Withheld
67 Name Withheld
68 Dr David Carter
69 The Bicycle Corporation
70 Mr Al McDonald
71 Ms Kathleen Mohr
72 Australian Cycle Alliance Inc.
73 Mr Evan Blair

- 74 Mr Bernard
- 75 Commercial Economics Consulting
- 76 Mr Graeme Lean
- 77 Dr Ewa Huebner
- 78 Mr Guido Wagner
- 79 Mr Gabriel Buckley
- 80 Mr Jai Cooper
- 81 Mr Heinrich Benz
- 82 Bicycle Transport Alliance
- 83 Mr Abe Salt
- 84 Dr Jim Lemon
- 85 Mr Sergey Khantsis
- 86 Taxpayers Protection Alliance
- 87 Mr Andrew Thompson
 - Supplementary submission
- 88 Mr Peter James Young
- 89 Dr David Dolan
- 90 Cycling Tasmania
- 91 Australian Health Promotion Association
- 92 Professor Riccardo Polosa
- 93 Dr Ron Borland
- 94 Mr James Sheridan
 - Supplementary submission
 - Supplementary submission
- 95 Freestyle Cyclists Inc
 - Supplementary submission
- 96 Name Withheld
- 97 Mr Gavin Greaves

98	Mr Kevin Eadie
99	Ms Christine May
100	Mr Aaron Ball
101	Mr Ashley Reid
102	Mr Alvar Dalton
103	Australasian Association of Convenience Stores
104	Mr George Gad
105	Ms Arwen Birch
106	Mr Patrick Irwin
107	Dr Irene Moser
108	Miss Alahna Desiato
109	Mr Peter Whelan
110	Dr N Perry
111	Carlton & United Breweries
112	Australian Medical Association
113	Ms Patricia Anderson
114	Forensic Engineers Society of Australia
115	Australian Retailers Association
116	Professor Wayne Hall
	• Supplementary submission
117	Mr Shaun Bankowski
118	Ms Annie MacAlpine
119	Ms Elena Jeffreys
120	Mr Alan West
	• Supplementary submission
121	Sustainable Transport Coalition of WA
122	Mr Thomas Sulston
123	Dr Paul Martin

- 124 Ms Rebecca Ryan
- 125 Mr Peter Twigg
- 126 Ms Darlene Harrison
 - Supplementary submission
- 127 JT International SA
- 128 Mr Dan Jackson
- 129 Professor Ann McNeill
- 130 Mr Michael Lai
- 131 Ms Stephen Flood
- 132 Mr Nick Costello
- 133 Professor Chris Rissel
- 134 Ms Diana Salakas
- 135 Ms Margaret Boyd
- 136 Mr Mark Hoffman
- 137 Mr Alan Todd
- 138 Mr Paul Oborn
- 139 Mr Peter Mynors
- 140 Upright Bicycle Riders Society Of Australia
- 141 Professor Gerry Stimson
- 142 Australian Airsoft Council
- 143 Ms Jenny Stone
- 144 Ms Jessica Getty
- 145 Bribie Island Freechoice
- 146 Imperial Tobacco Australia
- 147 CTC St Clair
- 148 Our Nightlife QLD
- 149 CTC Nepean
- 150 Mr Tony Arnold

-
- 151 Arts Law Centre of Australia
- 152 Mr Paul Jorgensen
- 153 Victorian Alcohol & Drug Association (VAADA)
- 154 Mr Clive Bates, Professor Ron Borland, Professor Lynn Kozlowski and Professor David Sweanor
- 155 Cignall Mt Annan
- 156 Dr Rosemary Sharples
- 157 Cignall
- 158 Mr Labh Singh
- 159 Cyclists' Rights Action Group
- Supplementary submission
- 160 Institute of Public Affairs
- 161 Cignall Devonport
- 162 Alcohol Policy Coalition
- 163 Ms Angela Gordon
- 164 Foundation for Alcohol Research and Education
- 165 Alliance of Australian Retailers
- 166 Mr Malcolm Scoggins
- 167 Mr Mark Mildenhall
- 168 Mr Darrin Evans
- Supplementary submission
- 169 Australian Council on Children & the Media
- Supplementary submission
- 170 The Law Society of South Australia
- 171 Philip Morris Limited
- 172 Public Health Association of Australia
- 173 Australasian Paintball Association
- 174 Mr Robert Conveny

- 175 Mr Luke Bartholomew
- 176 Mr Bambang Santoso
- 177 Freechoice Parramatta
- 178 CTC Stockland Merrylands
- 179 Mr Doug Provost
- 180 Mr Thomas and Ms Pauline Stanley
- 181 Mr Nasser Barhoumeh
- 182 Ms Amanda Pascoe
- 183 Mr Elie Al Ahmar
- 184 CTC Church St Parramatta
- 185 Dr Michael Keane
 - Supplementary submission
- 186 Mr Chris Snowdon
- 187 Neurosurgical Society of Australasia
- 188 National Health and Medical Research Council
- 189 Ms Meredith Rehn
- 190 NSW ACT Alcohol Policy Alliance
- 191 Ms Sarah Smith on behalf of Ushan P.Iddamalgoda
- 192 Bathurst Freechoice Stores
- 193 Freechoice Croydon
- 194 Mr Andrew Hegh OAM
- 195 Mr Bruce Sutherland
- 196 Mr Li Zhang
- 197 Cignall Burwood
- 198 Mrs Marie Alexander
- 199 Mr Ben Giles
- 200 New Nicotine Alliance, Australia
- 201 Mr Nik Cirakovic

202	Mr David Bailey
203	ARRB Group
204	Mr Brian Bennett
205	Mr Keith Bennett
206	Mr Stephen Flood
207	Dr Samuel Douglas
208	Mr Ray Thorpe
209	Mr Paul May
210	Mr Tim Nixon
211	Mr Raymond Wu Won
212	Mr Troy Parsons
213	Mr Luke Armstrong
214	Dr Konstantinos Farsalinos
215	Cycling Geelong Inc
216	Mr Andreas Piefke
217	Mr Dale Luke
218	Ms Yvonne Poon
219	Mr Stephen Amos
220	Mr Peter Robinson
221	Brewers Association of Australia & New Zealand
222	Australian Cyclists Party
223	NeuRA Injury Prevention Research Centre
224	Australian Raw Milk Movement Inc.
225	Property Rights Alliance
226	Mr Ben Hope
227	The Centre for Independent Studies
228	Queensland Coalition for Action on Alcohol
229	Mr Guy Keulemans

- 230 Mr Kirk Yatras
- 231 Mr William Gracie
- 232 Mr Bronson Rogers
- 233 Mr Thomas Layton
- 234 Mrs Thi Hong An Le
- 235 Mr Mark Clotworthy
 - Supplementary submission
- 236 Mr Andrew Toft
- 237 Dr Kesten Green
- 238 Mr Peter Blessing
- 239 Ms Marianne Holzherr
- 240 Name Withheld
- 241 Name Withheld
- 242 Name Withheld
- 243 Name Withheld
- 244 Name Withheld
- 245 Name Withheld
- 246 Name Withheld
- 247 Name Withheld
- 248 Name Withheld
- 249 Name Withheld
- 250 Confidential
- 251 Winemakers' Federation of Australia
- 252 Mr Joe Boswell
- 253 Dr Sundance Bilson-Thompson
- 254 Mr Garry O'Toole
- 255 Mr Seppy Pour
- 256 Mr Gary Houston

-
- 257 Australasian College of Road Safety, Australian Injury Prevention Network, Royal
Australasian College of Surgeons
- 258 Mr Anthony Barnes
- 259 Mr Jeffrey Bartram
- 260 Mr Shaun McLean
- 261 Royal Australasian College of Physicians
- 262 Nicoventures
- 263 Australian Liquor Stores Association
- 264 Fontem Ventures
- 265 Headwest Brain Injury Association of WA Inc.
- 266 Medical Consumers Association
- 267 Mr Peter Teow
- 268 The George Institute for Global Health, University of Sydney
- 269 Mr Brian Davis
- 270 Australian Psychological Society
- 271 Mr Stephan Gyory
- 272 Mr Donald Sunshine
- Supplementary submission
- 273 Professor Roger Magnusson
- 274 Hövding Sverige AB
- 275 Australasian College for Emergency Medicine
- 276 Mr Goran Veljanoski
- 277 Mrs Vivienne Corney
- 278 Mr Patrick Lyons
- 279 Mr Daniel Woodall
- 280 Bendigo Aircraft Maintenance
- 281 Dr Philip Pettit
- 282 Ms Joy Mettam

- 283 Australian Health Care Reform Alliance
- 284 National Rural Health Alliance
- 285 Mr Peter Cunningham
- 286 Royal Life Saving Society - Australia
- 287 UNSW Science
- 288 Mr Stephen Humble
- 289 Mrs Susan Davis
- 290 British American Tobacco Australia
- 291 Australian Drug Foundation
- 292 Japan Tobacco International (JTI)
- 293 Mr Ross Martin
- 294 Mr Doug Disher
- 295 Mr Michael Bode
- 296 Mr Peter Gilet
- 297 Mr Adrian Wilson
- 298 Mr Mick and Ms Iorraine Doherty
- 299 Mr Robert Kaay
- 300 Mr Aussi and Ms Frances McHugh
- 301 Mr Ryan Castles
- 302 Mr Cameron MacDonald
- 303 Ms Lynette Fahey
- 304 Mr Colin Phillips
- 305 Mr Paul January
- 306 Ms Tina Tran
- 307 Mr John Hanlon
- 308 Mr Tony James
- 309 Mr Philip Tarry
- 310 Ms Lenore Radonjic

311	Dr MP Roberts
312	Mr Tim James
313	Mr John Dow
314	Mr Ernst Scholtz
315	Mr Michael Honey
316	Ms Ariel Richtman
317	Mr Victor Brown
318	Dr Geoff Edwards
319	Mr Mark Fletcher
320	Mr Julian Conrad
321	Ms Luisa Bougoukas
322	Russell Family Fetal Alcohol Disorders Association
323	Mr William Raymont
324	Mr Adam Barker
325	Mr Shaun Cassidy
326	Mr Kevin Phillips
327	Mr Chris Standen
328	Mr Henry Harris
329	Mr Ron Jacobs
330	Mr Hans Schwabe
331	Mr Ian Marks
332	Mr James Anthony
333	Ms Debbie Williams
334	Mr Paul Dobbyn
335	Mr Werner Steyer
336	Ms Lee Hunter
337	Mr David McLoughlin
338	Ms Claudia Bergs

339 Mr Stephen Williams

340 Mr Phillip Sindel

341 Mr Andy So

342 Mr Gwyllam Roberts

343 Mr Dougal Nivison

344 Dr Steven Ryan

345 Mr Nathan Southwood

346 Mr Mike Bakeman

347 Mr James Worth

348 Mr Philip Thompson

349 Mr John Fahey

- Supplementary submission

350 Mr Peter Mayer

- Supplementary submission

351 Mr Suleman Kesh

352 Ms Jessica Tate

353 Mr Thomas Heading

354 Mr Gilbert Grace

355 Mr Tim Neal

356 Mr David Borland

357 Mr Martin Cullip

358 Mr Tim Meyer

359 Mrs Jill Hardman

360 Mr Terence Contessa

361 Mr Stephen Dilks

362 Mayor Brad Pettitt

363 Mr Jean-Marc Schwob

364 Mr Wayne Gilbertson

365	Mr Daniel Kogoy
366	Mr Leo Freeman
367	Mr Trevor Ockenden
368	Mr Paul Brockbank
369	Mr Phillip Stevens
370	Mr Uwe Sinn
371	Mr Chris Younger
372	Mr David Kimmorley
373	Mr Kris Ferguson
374	Mr Tony Savage
375	Mr Mark Johns
376	Dr Warren Hankey
377	Mr Roman Lieske
378	Mr Gordon Knight
379	Mr Bob Knott
380	Mr Vincent vom Kothen
381	Mr Paul Sauer
382	Mr Matthew Banks
383	Mr John Harland
384	Dr Jeremy Lawrence
385	Mr Timothy O'Toole
386	Mr Tim Burns
387	Ms Nicole Brammy
388	Mr Callum Todd
389	Professor Piet de Jong
390	Miss Olivia Lagos
391	Mr Norman Hartigan
392	Mr Chris Wright

- 393 Mr Peter Snepvangers
- 394 Department of Infrastructure & Regional Development
- 395 Matthew Williams
- 396 Queensland University of Technology
- 397 Kidsafe
- 398 Peter Duggan
- 400 Mike Harris
- 401 Brisbane CBD Bicycle User Group
- 402 Dr Robin Sharp
- 403 Rob Bakes
- 404 Professor Karl Glazebrook
- 405 EngWah LEE
- 406 Michael Bormann
- 407 Dr Richard Bean
- 408 Professor David Balding
- 409 Dr Peter Hebbard
- 410 Mr Peter Stark
- 411 CycleSafe
- 412 Name Withheld
- 413 Name Withheld
- 414 Name Withheld
- 415 Name Withheld
- 416 Name Withheld
- 417 Name Withheld
- 418 Keep Sydney Open
- 419 Mr Evan Whitelaw
- 420 Alcohol Beverages Australia
- 421 2011 Residents' Association Inc

-
- 422 Late Night Venue Association of SA Incorporated
- 423 Australian Hotels Association
- 425 Australian Psychological Society
- 426 Mr David Jank
- 427 Ms Beth Slatyer
- 428 Name Withheld
- 429 Mr Steve Ratcliffe
- 430 Name Withheld
- 431 Name Withheld
- 432 Mr Peter Somers
- 433 Kings Cross Licensing Accord Association
- 434 The Keystone Group
- 435 Mr Robert Pestell
- 436 Mr Roger Cook
- 437 Distilled Spirits Industry Council of Australia Inc.
- 438 Mr Paul Raaff
- 439 National LGBTI Health Alliance
- 440 Name Withheld
- 441 Name Withheld
- 442 Ms Sally Pyvis
- 443 Eros Association
- Supplementary submission
 - Supplementary submission
- 444 Department of Health
- Supplementary submission
- 445 Mrs Judith Wolters
- 446 Mr Terrence O'Brien
- 447 Name Withheld

448 Free TV Australia

449 Freechoice Stores Tobacconist Canning Vale

450 Mr Terry Barnes

451 Cancer Council Victoria

452 Mr Mark Powell

453 Mr Chris Candy

454 Mr Matthew Avery

455 Mr James Howden

456 Mr Matthew Smith

457 Mr Craig Kable

458 Mr Michael Barrett

459 Mr Roy Butler

460 National LGBTI Health Alliance

461 Mr Reg Matthews

462 Mr Ken Maas

463 Mr James Fisher

465 Mr Roberto Blanco

466 Mr Chris Kearns

467 Mr Jimmi Prilis

469 Mr Alexander Harrington

470 Freechoice Parafield Gardens

471 Department of Communications and the Arts

472 Mr Shane Knight

473 Name Withheld

474 Mr Dave Taylor

475 Mr Ken Maas and Mr Bill Irwin

476 Name Withheld

477 Name Withheld

478 Ms Valerie Heath
479 Mr Luke Cutler
480 Drug Policy Australia Limited
481 NSW Women
482 Name Withheld
483 Miss Lucy Redmond
484 Mr Tony Brown
485 Mr James Fisher
486 Confidential
487 Mr Shane Knight

Appendix 2

Tabled documents

1. Video tabled by the Public Health Association of Australia at a public hearing in Canberra on 11 September 2015.

Answers to questions on notice

1. Answers to questions on notice from a public hearing held in Canberra on 11 September 2015, received from the Public Health Association of Australia on 24 September 2015.
2. Answers to questions on notice from a public hearing held in Canberra on 11 September 2015, received from the Forensic Engineering Society on 2 November 2015.

Appendix 3

Public hearings and witnesses

CANBERRA, 11 SEPTEMBER 2015

SNOWDON, Mr Christopher

MOORE, Adjunct Professor Michael Moore, Chief Executive Officer, Public Health Association of Australia

DALLA, Ms Danielle, Policy Officer, Public Health Association of Australia

PRYDON, Mr Robert, Principal, Commercial Economics Consulting

RABL, Mr Phillip

GREEN, Dr Kresten

IRWIN, Mr Patrick, Committee Member, Forensic Engineers Society of Australia

BREHENY, Mr Simon, Director, Legal Rights Project, Institute of Public Affairs

BERG, Mr Chris, Senior Fellow, Institute of Public Affairs

