

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Via email: legcon.sen@aph.gov.au

13th July 2012

Dear Committee Secretary,

Re: Customs Amendment (Smuggled Tobacco) Bill 2012

Quit Victoria welcomes the opportunity to comment on the Customs Amendment (Smuggled Tobacco) Bill 2012. Quit Victoria recognises that these amendments form part of the government's suite of measures to reduce the use and influence of tobacco in Australia. These measures have consisted of:

- Increasing taxation on tobacco products by 25 %;
- Introducing plain packaging onto all tobacco products; and
- Reducing the duty free allowance on cigarettes from 250 to 50.

We support the Bill which includes the introduction of new laws and increased fines on existing laws as a further deterrent against smuggling tobacco into Australia.

The tobacco industry claims that increasing tobacco excise has already increased the use of illicit tobacco in Australia and measures such as the introduction of plain packaging of tobacco products will further increase this use.¹ In contrast to tobacco industry claims that 13.4% of the tobacco market consists of illicit tobacco, the National Drug Strategy Household Survey 2010 found that illicit trade accounted for only 2 to 3% of the total market.² Quit Victoria are concerned about studies commissioned by the tobacco industry that report highly misleading and inflated levels of illicit trade in tobacco in Australia. Critiques of these reports carried out by Cancer Council Victoria and Quit Victoria can be found at:

<http://www.cancervic.org.au/plainfacts/browse.asp?ContainerID=plainfacts-news#big-tobacco-rolls-out-latest-dodgy-data>.

¹ Deloitte. Illicit trade of tobacco in Australia: Report for 2011. Sydney: A report prepared for British American Tobacco Australia Limited, Philip Morris Limited and Imperial Tobacco Australia Limited, May 2012. Available from:

http://www.bata.com.au/group/sites/BAT_7WYKG8.nsf/vwPagesWebLive/DO8RG8JK?opendocument&SKN=1

² Quit Victoria. Illicit trade of tobacco in Australia: Report for 2011: a report prepared for British American Tobacco Australia Limited, Philip Morris Limited and Imperial Tobacco Australia Limited, May 2012. A critique by Quit Victoria, May 2012. Available from:

<http://www.cancervic.org.au/plainfacts/browse.asp?ContainerID=plainfacts-news#big-tobacco-rolls-out-latest-dodgy-data>

In her second reading speech for the Bill the Attorney General Ms Roxon remarked that:

“tobacco smuggling has not represented a major threat in Australia and Customs have been successful in intercepting hauls of illicit tobacco heading for Australia.”

Quit Victoria agrees with the Attorney General’s assessment that tobacco smuggling has not been a major threat in Australia. Nevertheless, tobacco smuggling should be treated as a serious matter. The changes in the Bill would provide Customs with greater flexibility to prosecute individuals who knowingly import tobacco, or know of other individuals who import tobacco, with an intent to avoid or lower duty liability, and increase penalties, sending a strong message about tobacco smuggling. Quit Victoria does not support health funding for tobacco control measures being diverted to increase funding for illicit trade monitoring and enforcement.

In addition we are concerned by claims from the tobacco industry that the Australian Government should be doing more to detect counterfeit tobacco products. Counterfeiting is an intellectual property issue that is primarily the responsibility of the trade mark owners, in this case the tobacco industry. Government tobacco control resources should not be used in protection of the tobacco industry’s intellectual property. Tobacco control resources allocated to illicit trade should be concerned only with public health – through the effect of the evasion of taxes and duties on tobacco use.

In supporting these amendments and the Government’s continued efforts to reduce tobacco use and its associated harms we do not believe there is evidence that further resources should be diverted to the issue of the illicit trade of tobacco in Australia at this point in time. Rather we believe that a more efficient way for the government to reduce tobacco use in Australia would be to concentrate its resources on proven tobacco control measures such as the elimination of tobacco advertising. In the immediate term we recommend that the highest priority be given to defending the plain packaging laws and ensuring that they are implemented, without change, on 1 December 2012.

Yours sincerely,

Kylie Lindorff
Manager, Tobacco Control Policy
Quit Victoria