

23 November 2022

Dear Committee

**Inquiry: The Australia's illicit drug problem: Challenges and opportunities for law enforcement**

I wish to make a submission to the committee inquiry into The Australia's illicit drug problem: Challenges and opportunities for law enforcement.

**Proposal:** I ask that the Committee consider this submission regarding these specific Terms of Reference:

1. trends and changes relating to illicit drug markets in Australia, including the supply, trafficking, production, distribution and use of illicit drugs;
2. emerging trends and risks, such as new psychoactive substances, adulterated drugs and other new sources of threat;
3. law enforcement's ability to detect and respond to the trafficking of precursor chemicals and illicit drugs, including the adequacy of screening techniques and the impact of seizures on illicit drug availability and use;
4. the involvement of law enforcement in harm reduction strategies and in efforts to reduce supply and demand, including the effectiveness of its involvement.

Several State Governments have failed to address (despite a Parliamentary Inquiry in 2016) an issue that has resulted in approximately \$18 billion in lost revenue, negatively impacted health, all while supporting organised crime operating in Australia. The illicit cigarette/nicotine vape (e-cigarette) market in Australia. In the Australian context, illicit tobacco constitutes any tobacco products which are grown or manufactured in Australia without the required excise licencing, or products which are imported without the necessary excise payment.

A report undertaken in 2019 by Oxford Economics\* found that around \$4.9 billion in revenue was lost by the legal economy to the illicit tobacco trade. However recent reports have that figure at 18 billion dollars lost revenue to the Australian community each year. It takes vital money away from the community and places it directly in the hands of organised crime groups.

The illicit tobacco trade in Queensland (and other States) is "exploding" with industry groups and police saying there are no state laws to stop it or the organised crime running it. Police sources said they had no powers to enter and search stores selling illicit tobacco or use tools

such as covert buys they use when investigating the drug trade. Further, the *Tobacco and Other Smoking Products Act 1998 (Qld)* does not contain any provisions that permit action against illicit tobacco by Queensland Health's authorised officers.

In Australia, tobacco retailers require a positive licence in all states except New South Wales, Queensland, and Victoria.

For example, under Queensland's Tobacco and Other Smoking Products Act, it is not a criminal offence to sell illicit tobacco. Queensland Health, the sole state authority for tobacco regulation, must refer breaches to Commonwealth agencies who are responsible for illicit tobacco supply. In July 2016, the State Government accepted recommendations from a Parliamentary inquiry to establish a register that would licence tobacco distributors and combat the illicit trade. However, no legislative action has been taken. Government sources said there were moves to make selling illegal tobacco a criminal offence and establish a Queensland register of licensed distributors. To date no reforms have been made. This is astonishing as research (Oxford Economics\*) shows illicit sales accounted for about 20.4% of Australian tobacco sales by quantity in 2019.

Retailers have reported black-market traders but are shuffled between various state and federal health and law-enforcement bodies with no agency taking responsibility.

Pop up stores also sell e-cigarettes (regardless of age of the customer) containing nicotine. In Australia, it is illegal to sell, supply or possess nicotine vaping products (such as e-cigarettes or e-liquids that contain nicotine) without a doctor's prescription. However, it is very common that the illegal e-cigarettes sold contain nicotine. Nicotine is blatantly noted as an ingredient. Some of the hazardous substances found in e-cigarette liquids and in the aerosol produced by e-cigarettes are known to cause damage to human cells and DNA and can cause cancer.

On the local scene here in Southeast Queensland:

- Highschool children are regularly 'vaping' in toilets. Teachers are finding it impossible to police due to privacy laws and the vapes themselves have no lingering odour
- The illegal pop-up stores only use cash transactions (even supplying ATM in store for customers)
- Police have been known to raid pop-up stores  
confiscating stock, however the store simply reopens later that same day
- Frustrated police have resorted to searching customers when they exit a store to search and fine them for obtaining illegal cigarettes in an attempt to reduce customer base
- E-cigarettes containing high levels of nicotine/other chemicals are being sold to ignorant customers
- There is a local house ) on acreage which has 6 or 7 sea containers and white vans seen regularly entering and leaving (sometimes daily).

There is significant money to be made by organized crime networks that can establish entry points for the products to reach consumers, sold via the black market. According to Illicit Tobacco in Australia, Asian countries (predominately China) are the primary source of inflows of non-domestic manufactured products into Australia. Serious and organised crime threats affect Australia's society, institutions, markets, and economy. Whilst Australian Border Force is dedicated to disrupting the supply of illicit tobacco and dismantling the criminal syndicates that support the illicit trade, laws need to be enacted to enable police and other authorities to act. Still, State Authorities have been slow to respond.

The Queensland Government is considering a licensing scheme, if adopted, that would assist to address non-compliance by creating a conditional entry to trade, include the ability to remove licences from those that breach their obligations and include options to penalise or otherwise restrict any un-licensed trade. It is unclear if or when this would be enacted, meanwhile illegal cigarette shops continue to operate unchallenged.

Should you require any additional information I would be happy to assist in any way possible.

Sincerely

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