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Public Health (Tobacco and Other Products) Bill 2023 and the Public Health (Tobacco and Other Products) (Consequential Amendments and Transitional Provisions) Bill 2023

Supplementary submission to the Standing Committee on Community Affairs

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Purpose and scope

This supplementary submission provides data related to statements made by Professor Emily Banks to the Senate Community Affairs Legislation Committee on Monday 30th of October. We hope that this will assist the Committee in its deliberations and in producing its report.

Supporting evidence

Both legal and illicit tobacco are major threats to human health. Legislative and other reforms must ensure that they tackle both legal and illicit tobacco to the greatest extent possible.

In Professor Banks' evidence to the Committee, she noted that reductions in tobacco consumption – through reducing tobacco smoking uptake in youth and increasing smoking cessation – have a major role in tackling legal and illicit tobacco. She also stated that the impact on legal tobacco sales of overall reductions in consumption is far greater than the contributions of illicit tobacco – with 95% or more of the reductions in sales attributable to the overall contraction of the market.

The evidence for this statement comes from available data on tobacco consumption and the illicit market, noting that data are limited and that a key feature of the tabled Public Health (Tobacco and other Products) Bill 2023 is to mandate sales and other reporting by industry, which will greatly improve monitoring and accountability.

The peak year of total legal tobacco sales in Australia was 1975, at an estimated 33,090 metric tonnes, having risen from 5,710 tonnes in 1910.¹ From the most recent data available at the time of appearing before the Senate Community Affairs Legislation Committee, the Australian Taxation Office estimates were that in the year 2020-21 the illicit market was 1,234 tonnes, which comprised 10.4% of the total tobacco market.² This leads to an imputed value of the legal market of 10,631 tonnes.²

Hence, overall legal tobacco sales were an estimated 22,459 tonnes lower in the latest available year (2020-21) compared to the peak legal tobacco sales in 1975 (i.e. 33,090 - 10,631).

According to ATO data, the illicit tobacco market has grown significantly in recent years in percentage terms, from an estimated 4.9% of the market in 2015-16, to 10.4% in 2020-21.² This means that the most recent year with available data at the time of giving evidence to the hearing (2021-22) would be the year with the greatest contribution of the illicit market to reductions in sales and hence would represent a very high upper limit on this contribution. The total proportion of the reduction in legal sales for 2020-21, compared to the peak year in 1975, that could potentially be accounted for by illicit sales is 5% (1,234/22,459).

This 45-year period covers a time of much lower illicit sale activity than has been seen in recent years, so clearly the proportion of the cumulative reduction in the legal market accounted for by illicit tobacco over this whole time would be substantially less than 5% (it is difficult to calculate the exact proportion due to data limitations). Hence

more than 95% of the reduction in legal sales is attributable to the overall contraction of the tobacco market in Australia.

These calculations are designed to provide perspective on the general magnitude of the issues, and to illustrate broadly the impact of reduced tobacco consumption – the central aim of tobacco control – on legal markets, noting the data limitations. This perspective supports strong measures to tackle both legal and illicit tobacco. It highlights the importance of accelerated comprehensive tobacco supply and demand reduction measures, as outlined in the World Health Organization Framework Convention on Tobacco Control, and that efforts to tackle illicit tobacco should be in concert with and not detract from such measures. Hence this among other evidence is supportive of the urgent need to introduce the Public Health (Tobacco and other Products) Bill 2023.

References

1. Table 2.2.1 Tobacco products levied for duty for sale in Australia (total excise and customs)– cigarettes, cigars and other tobacco products, 1910 to 1998–99, (millions of kg)
<https://www.tobaccoinaustralia.org.au/chapter-2-consumption/2-2-dutiable-tobacco-products-as-an-estimate-of-to>
2. Australian Taxation Office. Tobacco tax gap: Trends and latest findings. 2022 (viewed 29th Oct 2023) and 2023 (30th Oct update). Available from: <https://www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/Tax-gap/Tobacco-tax-gap/?anchor=Trendsandlatestfindings1#Trendsandlatestfindings1>