

**Public Health (Tobacco and Other Products) Bill 2023 – Submission from Emeritus Professor Mike Daube AO and Emeritus Professor Simon Chapman AO**

1. We write in support of the Public Health (Tobacco and Other Products) Bill 2023, and the associated Public Health (Tobacco and Other Products) (Consequential Amendments and Transitional Provisions) Bill 2023, which we believe are consistent with the approaches recommended by the World Health Organization, and will go a long way towards restoring Australia's role as a global leader in reducing smoking and its harms. Our views are consistent with those we understand are being conveyed to the Committee by Cancer Council Australia and supported by other leading health organisations.

2. We would like to place on record our appreciation for the work that has been undertaken in preparation of this important Bill.

3. The magnitude and impact of the smoking epidemic in Australia and globally are now widely recognised, as is the need for continuing action. We have known since 1950 - for nearly three quarters of a century - that cigarettes kill and cause cancer, heart disease and many other conditions when used precisely as intended. While there has been much progress in reducing smoking despite unrelenting opposition from tobacco companies, smoking is still our largest preventable cause of death and disease, responsible for more than 20,000 deaths each year and substantial social and economic costs. Even since the year 2000, smoking has caused the deaths of more than 500,000 Australians. Our society should not tolerate this level of preventable mortality, morbidity and distress to those affected and their families.

4. Australia has at times been seen as a global leader in tobacco control, albeit with action opposed at every step by the tobacco companies and their allies. A decade ago, with the passage of plain packaging legislation complemented by other measures including strong public education programs, Australia was seen by the tobacco industry as "the darkest market in the world". Since that time, however, we have seen minimal action at the national level, and a wide range of novel marketing and product development approaches from the tobacco companies and their allies designed to maintain their sales, undermine measures in place, and attract children and young people. Australia has fallen behind.

5. This Bill seeks to return Australia to its leadership role as part of a comprehensive approach. We stress the importance of a comprehensive approach, comprising regulatory measures, a commitment to adequately funded, research-based public and focused education programs, maintaining and further developing the Tackling Indigenous Smoking program, cessation support activities, and action to address concerns raised by the advent and marketing (including to children and young people) of an ever-increasing range of novel tobacco products.

6. Any delays at this stage would be deeply concerning. The need for action is urgent if we are to prevent more avoidable deaths and disease. Any delays would also inevitably be used by tobacco companies and their allies to increase their levels of marketing to all sectors of the community, including children and young people.

7. The benefits from this legislation will include:

- \* Consolidating existing legislation and enforcement responsibilities
- \* Updating health warnings, with new approaches including warnings on cigarette sticks

- \* Much more comprehensive curbs on tobacco marketing, taking account of modern and novel forms of online marketing to protect all in the community, particularly children and young people
- \* Ensuring effective controls on marketing of e-cigarettes and other novel products
- \* Enabling regulation of tobacco products, additives and product gimmicks; in this context, preventing tobacco industry efforts to make smoking more attractive to young people and others and more addictive through use of menthol
- \* Ensuring evidence-based health promotion inserts
- \* Providing access to information from tobacco companies on issues such as sales, pricing, and marketing expenditure.
- \* Ensuring continuing protection from tobacco industry influence on policy and practise in line with Article 5.3 of the FCTC.

8. These measures will be strenuously opposed by tobacco and related interests, both for their impact in Australia and because they will serve as a model for other countries. Tobacco companies and their allies have a long and consistent record of fierce direct and indirect opposition to any measures that they believe will reduce smoking. They will no doubt adopt a similar approach to this legislation.

9. We note that the Framework Convention on Tobacco Control (FCTC), to which Australia is a signatory, is explicit in identifying both in Article 5.3 and in the Guidelines, that:

“In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.”, and “There is a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policy interests”.

10. We urge the Committee to recognise that any comments, opposition, caveats and proposed amendments from tobacco companies and their allies, front groups and lobbyists will be aimed at reducing the impact of the legislation and maintaining or increasing their sales.

11. Along with their record of knowingly selling and promoting a lethal product over several decades, tobacco companies have a history of presenting false and misleading arguments in opposition to evidence-based action by governments. These include arguing that the proposed measures: will not work (and/or will not have an instant impact); will be counter-productive; cannot be properly implemented; will breach international agreements; will cause economic and other harms and will promote exactly the kind of black market that it is designed to curb.

12. Our experience from a range of measures – such as tobacco advertising bans in the late 1980s and early 1990s, through to the introduction of plain packaging in 2012 – is that all these and other arguments were brought into play to paint a picture of legislation that could not be implemented and would be counterproductive. The reality is that, in each case, legislation to restrict tobacco marketing was implemented with minimal problems as part of a comprehensive approach, was effective, caused no harms other than to tobacco industry interests – and has since been replicated in many other countries.

13. It would always be possible to suggest further courses of action. At this stage, our very strong view is that the priority is to ensure the passage of this Bill as proposed, and as part of a

comprehensive approach that includes a focus on enforcement, along with strong, evidence-based public education. Further measures can then be considered over time.

14. In strongly supporting the Bill, we also agree with and support the amendments proposed by Cancer Council Australia, which we see as strengthening the legislation and ensuring that it remains fit for purpose in the years ahead. We would in particular note that over recent years we have seen a dramatic increase not only in online marketing, but in novel platforms, novel forms of marketing, novel products, and novel means of targeting current or potential consumers. In this context, we therefore support the recommendation that the legislation include powers to prescribe further regulations as novel forms of marketing come to the fore.

15. We would be happy to assist the Committee in any way we can during the course of its deliberations.

Emeritus Professor Mike Daube AO, Faculty of Health Sciences, Curtin University

Emeritus Professor Simon Chapman AO, School of Public Health, University of Sydney

5 October 2023