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Submission to Joint Parliamentary Inquiry on Law Enforcement inquiry into the Impact of illicit drugs being traded online

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This submission does not reflect the Australian Strategic Policy Institute (ASPI) perspective. It is the opinion of Dr John Coyne, Head of Strategic Policing and Law Enforcement ASPI and Dr Teagan Westendorf, Analyst in the Strategic Policing & Law Enforcement Program at ASPI.

Background

On 28 October 2021, the Parliamentary Joint Committee on Law Enforcement agreed to inquire into and report on the impact of technology on illicit drug use and trading, including online availability, importation and supply chains, and law enforcement capability to disrupt the activities of organised criminal gangs. In this submission, we seek to provide evidence that addresses the following:

- trends and changes in relation to online drug availability;
- the impact of technologies, including online communications, cryptocurrency, and encryption and anonymising technologies on law enforcement responses to the online illicit drug trade;
- supply chains and sourcing online, including the role of individual suppliers and criminal organisations;
- impacts on at-risk groups, young people and their families, and the community due to the availability of illicit drugs online;
- the dangers of purchasing drugs online, including the chemical content of 'recreational' drugs; and
- the impact of legislation and policies that seek to decriminalise drug use and possession on the online availability, quality control and the capacity of law enforcement agencies to police illicit drugs;

Introduction

At the best of times, the nature and scope of illicit drug markets is opaque. The 'dark figure' of crime aptly illustrates this point when describing the volume of criminality not officially recorded. This dark figure is arguably substantially 'darker' online given the anonymising nature of the online environment, the proliferation of encryption and the scale of data that law enforcement and policymakers must search to gain meaning and context.

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It seems fair to say that the online trade in illicit goods and services via the internet, especially child exploitation material, followed shortly after the establishment of the worldwide web in 1989. And at about the same time, it was probably used as a means of communication between criminals and criminal groups. However, the integration of anonymous browsing software and bitcoin on the 'Silk Road' dark web site in 2013 has supercharged its place in technologically enabled drug sales. This withstanding, public rhetoric, media stories and pop culture references have, along with encryption, have further obfuscated our ability to understand this market.

Trends and changes in relation to online drug availability

The demand, use and unintentional deaths resulting from illicit drugs in Australia are increasing yearly.[1] Policing strategies to combat these trends are not having the desired effect on reducing or even stabilising them. Some sources to evidence this include:

- Dr John Coyne and Dr Teagan Westendorf, *'High Rollers': A study of criminal profits along Australia's heroin and methamphetamine supply chains*, ASPI, online.[2]
- Dr Teagan Westendorf, *How a 450KG heroin seizure shows Australia's drug policies aren't working*, ASPI Strategist, online.[3]
- The Penington Institute's Australia's Annual Overdose Report 2021[4]
- UNODC *World Drug Report 2021*[5]

This high and increasing demand, [6] and the refusal of governments to address the increasing demand through public health, decriminalisation and harm minimisation policies, mean Australia is a lucrative market for illicit drugs with a huge potential for further growth.

The increasing incidence of online sales on dark web platforms like Silk Road and Silk Road 2 (reportedly now defunct) could prompt organised crime actors

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[1] ACIC, 'National Wastewater Drug Monitoring Program reports', ACIC, accessed 8 Dec 2021, available from: https://www.acic.gov.au/publications/national-wastewater-drug-monitoring-program-reports
Penington Institute, 'Australia's Annual Overdose Report 2021', Penington Institute, 2021, available from: https://www.penington.org.au/publications/australias-annual-overdose-report-2021/
[2] Dr John Coyne and Dr Teagan Westendorf, *'High Rollers': A study of criminal profits along Australia's heroin and methamphetamine supply chains*, ASPI, March 2021, available from: https://s3-ap-southeast-2.amazonaws.com/ad-aspi/2021-03/High%20rollers%20v.2.pdf?VersionId=PoplJyF7vPkvN_gqzzKpWckUqnMqtk3g
[3] Teagan Westendorf, 'How a 450kg heroin seizure shows Australia's drug policies aren't working', ASPI Strategist, 11 Nov 2021, available from: https://www.aspistrategist.org.au/how-a-450-kilogram-heroin-seizure-shows-australias-drug-policies-arent-working/
[4] Penington Institute, 'Australia's Annual Overdose Report 2021', Penington Institute, 2021, available from: https://www.penington.org.au/publications/australias-annual-overdose-report-2021/
[5] *World Drug Report 2021*, (UN Office on Drugs and Crime, 2021), available from: https://www.unodc.org/unodc/en/data-and-analysis/wdr2021.html
[6] Ibid.

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to shift some parts of their established business online, or it could provide a new avenue for them to invest in growing a new market. From a transnational serious and organised crime perspective, online markets offer a perfect opportunity to maximise profits, especially in the distribution of those drugs more often used in a recreational context: MDMA, cocaine and cannabis. In simple terms, online markets allow organised crime groups the opportunity to maximise profits by removing layers of actors out of supply chains and the costs associated with such distribution networks. A model that has been used by eBay, amongst other platforms, by legal businesses on the clear web.

Understanding how the online market affects the established market is necessary to inform effective policing and public health responses to reduce demand and supply. Some preliminary indication of this market can be gleaned by examining the available data (previous four years) from the Australian Criminal Intelligence Commission (ACIC) of the annual total volume and number of shipments of different illicit drugs imported to Australia in the postal system, given online dark web sales are delivered by post.

ACIC data for FY17 to FY20 shows international post is consistently the importation stream at which the vast majority of packages are detected.

Int. post as importation stream by number of packages (% total siezures)							
	HEROIN	ATS (EX. MDI	MDMA	CANNABIS	COCAINE		
FY20	73.00	80.00	98.00	94.00	96.00		
FY19	81.00	86.00	98.00	97.00	94.00		
FY18	85.00	87.00	99.00	84.00	94.00		
FY17	88.00	91.00	99.00	99.00	94.00		
Importation stream by weight and method (% total seizures)							
	HEROIN	ATS (EX. MDI	MDMA	CANNABIS	COCAINE		International post
FY20	56.00	53.00	82.00	70.00	40.00		Sea cargo
FY19	68.00	72.00	48.00	83.00	72.00		Air cargo
FY18	68.00	64.00	72.00	58.00	76.00		
FY17	36.00	58.00	57.00	49.00	46.00		

Source: https://www.acic.gov.au/publications/illicit-drug-data-report

This data could indicate that most packages are being sent by international post instead of sea and air cargo. However, it could also reflect greater ease in detecting packages coming in by post than those coming in hidden in bulk sea and air cargo. Other sources have gathered anecdotal data from online vendors citing Australia as a destination with a significantly higher rate of border seizures for online sales sent by post, resulting in sales to Australia being much more expensive online than to other countries to insulate vendors

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from the higher incidence of product loss (which results in payment not being made, as per general online sales platform policies).[7]

The impact of technologies, including online communications, cryptocurrency, and encryption and anonymising technologies on law enforcement responses to the online illicit drug trade

Online drug sales occur on platforms made possible by anonymising browsing software and anonymous crypto transactions. While the strength of these anonymising characteristics is critical to both legitimate and illegal online markets, user trust or confidence in them is also a critical centre of gravity to market operation. Even five year's ago public trust in cryptographic software's ability to protect the user in online markets and with regard to cryptocurrencies was limited. Unsurprising, dark markets like Silk Road were far from the mainstream. However, as users have become more comfortable and trusting and more resiliently anonymous cryptocurrencies have emerged, the cultural barriers to engaging with online vendors to access illicit goods have likely reduced.

Law enforcement cannot control what happens on the dark web, both because of the activity occurring in foreign jurisdictions and because the dark web itself is not controllable. However, policing agencies and policymakers can develop strategies to disrupt supply. To do this, they need to understand the nature of the market in both technical and social terms. Disrupting trust in online markets and confidence in vendors' abilities to deliver illicit drugs could well be as critical as shutting down markets.

Operation Ironside confirmed the extent of organised crime groups conducting large-scale wholesale business on encrypted apps and the Internet of Things (IoT). Dealer to user sales are also made on social media and digital applications/devices. Anecdotal evidence suggests it has become common for street dealers to collate 'lists' of users they sell to in small quantities and then make these 'lists' available for sale to other small-time dealers. Police agencies have a new set of powers and tools available to them to interrupt this level of sales since the passing of TOLA[8] and SLAID.[9] The recent IPO[10]

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[7] Allison Schrager, 'The safe, user-friendly way to be a little drug lord: economic secrets of the dark web', Quarts, available from: https://qz.com/481037/dark-web/

[8] Telecommunications and Other Legislation Amendments (Assistance and Access) Bill 2018, Parliament of Australia, passed 6 Dec 2018, available from: https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r6195

[9] Surveillance Legislation Amendment (Identify and Disrupt) Bill 2021, Parliament of Australia, passed 25 August 2021, available from: https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r6623

[10] Telecommunications Legislation Amendment (International Production Orders) Bill 2020, Parliament of Australia, passed 24 June 2021, available from: https://www.aph.gov.au/Parliamentary_Business/Bills_LEGislation/Bills_Search_Results/Result?bId=r6511

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legislation could expand these efforts into the international, wholesale level of trafficking, with significant opportunities for bi/multi-lateral operations with partner agencies, e.g. the US.

Sales on dark web platforms require a degree of computer science knowledge even to access the sites and, presumably, an amount of time spent searching dark web forums/platforms to figure out where the sales platforms are located (because they are not indexed by search engines / rendered searchable like sites on the clear web). This could have two effects that policing strategies should consider:

- Operation Ironside evidenced how pervasive organised criminal organisations are in Australia, including significant roles of corruption in areas like law, accounting and border management play. If organised crime groups that traffic large, wholesale quantities are diversifying their business model to conduct significant amounts of trade on dark web sales platforms, they would require the expertise of computer scientists. This expertise can be self-taught given the extensive, free resources available online for the discipline.
- The technical knowledge for accessing the dark web and necessary cryptocurrency is acquirable for users with access to the necessary technology. We would hypothesise that this lends more to purchases for i) recreational use of drugs like cannabis, MDMA and cocaine, and ii) street-dealing; and less to purchases for habitual users of drugs like heroin and methamphetamines, given the effect the latter has on addicts' capacity to lead a functional life and therefore maintain access to the kind of technology and currency necessary to purchase online.

Supply chains and sourcing online, including the role of individual suppliers and criminal organisations

From a recreational user's perspective, online markets offer a degree of anonymity that avoids the need to interact with dealers. When used to access small quantities of illicit drugs, this method provides a user with a relatively safe method of delivery. For example, suppose two MDMA pills are posted to a user's residential address. In that case, they can use a fake name upon purchase and claim ignorance if the parcel is seized and do not need to engage with criminal organisations in-person to purchase products. In contrast, it is difficult to see how those addicted to substances like heroin or methamphetamine would use online services, given the effects long-term habitual use of these drugs has on addicts' ability to maintain access to the resources necessary to purchase and receive online shipments.

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Impacts on at-risk groups, young people and their families, and the community due to the availability of illicit drugs online

Given the information from international post seizures, the biggest impact of the growth of online illicit drug sales has probably been on those users of recreational drugs such as MDMA, cocaine and cannabis, and street-dealers who buy larger than user quantities but are not dealing in major, wholesale trafficking. It's likely that Australia's young people aged from early teens to late twenties are those most likely to engage with online drug vendors. Inherent digital literacy and confidence in anonymising cryptology will likely encourage their engagement with online markets. On the positive side, these markets will limit the exposure of those who use them to broader criminality.

The dangers of purchasing drugs online, including the chemical content of 'recreational' drugs

The relationship between drug vendors and users is complex and diverse offline and therefore likely online too. For every drug user who only purchases from a known dealer, another likely does not. That said, it does seem that consumer feedback in Silk Road 1 and 2, like that found on eBay, was used by consumers to make decisions, and vendors put significant effort into customer service. The anonymity of online vendors, and their ability to close accounts and open new ones, insulates them from the economic impact of selling poor quality, low purity, or dangerously cut drugs to consumers through online markets.

The impact of legislation and policies that seek to decriminalise drug use and possession on the online availability, quality control and the capacity of law enforcement agencies to police illicit drugs

Current regulatory and enforcement responses to transnational crime across the region focus on the seizure of illegal and grey-market commodities, as well as the arrest and prosecution of offenders.[11] This approach has embroiled governments across the region in a perpetual war of attrition—and it is failing miserably as high drug use in Australian communities, as measured by the Australian Criminal Intelligence Commissions wastewater monitoring program, continues at alarming levels.[12] There is no evidence

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[11] *World Drug Report 2021*, (UN Office on Drugs and Crime, 2021), available from: https://www.unodc.org/unodc/en/data-and-analysis/wdr2021.html; 'UNODC World Drug Report 2020: Global drug use rising; while COVID-19 has a far-reaching impact on global drug markets', press release, (UN Office on Drugs and Crime, 2020), available from: https://www.unodc.org/unodc/press/releases/2020/June/media-advisory---global-launch-of-the-2020-world-drug-report.html; Global Initiative Against Transnational Organized Crime, *The illicit global economy: trajectories of transnational organised crime*, (Global Initiative Against Transnational Organized Crime, 2021), available from: https://globalinitiative.net/wp-content/uploads/2021/03/The-Global-Illicit-Economy-GITOC-Low.pdf.

[12] John Coyne, 'Whac-A-Mole': Why we're losing the fight against organised crime, *The Strategist*, 02 October 2019, available from: https://www.aspistrategist.org.au/whac-a-mole-why-were-losing-the-fight-against-organised-crime/.

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suggesting that the current criminal justice approach will start yielding different results in terms of use rates, addiction, and associated crimes.

Consumption of illegal and grey-market products is increasing, and the cost of transnational crime to regional governments is rising.[13] There is little to suggest that decriminalising illicit drug use and possession would increase online availability, especially if border measures remain focussed on the seizure of imports. Arguably decriminalising drug use and personal possession would free up substantial policing resources that could focus on better disrupting supply.

Conclusion

In their deliberations, the Committee ought to consider policies focussed on undermining drug users' confidence and trust in individual illicit drug vendors and broader markets. Effort should be focussed on overt and covert measures that specifically undermine user trust in the ability of vendors to deliver products and the quality of those products. Furthermore, police-to-police cooperation should focus on cooperation that prevents transnational organised crime groups from vertically integrating their supply chains from wholesale to retail levels using online platforms.

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[13] Global Initiative Against Transnational Organized Crime, *The illicit global economy.*