



# ***HEALTH AND AMBULANCE SERVICES COMMITTEE***

**Members present:**

Ms L Linard MP (Chair)  
Ms RM Bates MP  
Mr SL Dickson MP  
Mr AD Harper MP  
Mr JP Kelly MP  
Dr CAC Rowan MP

**Staff present:**

Ms D Jeffrey (Research Director)  
Ms E Booth (Principal Research Officer)

## **PUBLIC HEARING—INQUIRY INTO TOBACCO LICENSING ARRANGEMENTS IN QUEENSLAND**

### **TRANSCRIPT OF PROCEEDINGS**

**WEDNESDAY, 24 FEBRUARY 2016**

**Brisbane**

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**Committee met at 9.05 am**

**BORDER, Ms Nicole, Manager, Policy & Advocacy, Cancer Council Queensland**

**DURHAM, Ms Alison, Advocacy Manager, Heart Foundation Queensland**

**CHAIR:** Good morning, ladies and gentlemen. I now declare this public hearing of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee's inquiry into tobacco licensing arrangements in Queensland open. I would like to acknowledge the traditional owners of the land upon which we meet today and acknowledge their elders past, present and emerging. I am Leanne Linard, the chair of the committee and the member for Nudgee. My fellow committee members are: Dr Christian Rowan, deputy chair and member for Moggill; Mr Aaron Harper, member for Thuringowa; Ms Ros Bates, member for Mudgeeraba; Mr Joe Kelly, member for Greenslopes; and Mr Steve Dickson, member for Buderim.

Thank you for your attendance here today. The committee appreciates your assistance. The purpose of this hearing is to receive additional information to assist the committee in its examination of the issues and concerns raised in submissions. We are running this hearing as a round table forum to facilitate discussion; however, only members of the committee can put questions to witnesses. If you wish to raise issues for discussion, I ask you to direct your comments through me.

The committee is a statutory committee of the Queensland parliament and as such represents the parliament. It is an all-party committee which takes a non-partisan approach to inquiries. This hearing is a formal proceeding of the parliament and is subject to the Legislative Assembly's standing rules and orders. You have previously been provided with a copy of the instructions for witnesses, so we will take those as read. Hansard will record the proceedings and you will be provided with the transcript. The hearing will also be broadcast. I remind all those in attendance at the hearing today that these proceedings are similar to parliament to the extent that the public cannot participate in the proceedings. In this regard I remind members of the public that under the standing orders the public may be admitted to, or excluded from, the hearing at the discretion of the committee. Could I also remind witnesses to speak into the microphone.

I formally welcome our two representatives today from the Cancer Council Queensland and the Heart Foundation. Would you like to make an opening statement or remarks before we open for questions?

**Ms Border:** I would, yes.

**Ms Durham:** I would too.

**Ms Border:** Thank for having us here today. I wanted to thank you for your brilliant work on the legislation that was passed last night. It is brilliant news for us and we are so excited. A lot of late-night emails went around congratulating everyone, so thank you very much for getting that through.

Also thank you for inviting me here today to speak and to be part of this important discussion. The Cancer Council strongly supports the regulation of the sale of tobacco products in Queensland under a dedicated licensing scheme. Despite being a deadly product, tobacco is widely available in our community through most supermarkets, petrol stations and convenience stores. In contrast, other harmful products such as alcohol, firearms or poisons are subjected to a wide variety of restrictions regarding where and by whom these products can be sold.

The introduction of a tobacco retail licensing scheme in Queensland would be a valuable contribution to the state's comprehensive approach to tobacco control. Specifically, a licensing scheme would strengthen compliance with, and enforcement of, existing tobacco control laws. It would provide important data on the number, type and location of tobacco retail and wholesale outlets, and it would allow for the application of further restrictions to the sale of tobacco; for example, restricting the number of licences granted, reducing the number of licences available in areas with high smoking rates, banning tobacco retailers near education facilities and childcare centres and Brisbane

controlling the types of retailers that are approved to sell tobacco. A licensing scheme would also enable targeted communication to retailers and provide a mechanism through which licences could be revoked as necessary.

Reducing the demand for tobacco products has received the majority of attention in tobacco control to date. Action to reduce the supply of tobacco is now required to accelerate declines in smoking rates. The introduction of a tobacco retail licensing scheme is in line with world's best practice in tobacco control and would support other measures in place to reduce smoking rates in Queensland.

**Ms Durham:** I too want to congratulate you and the whole parliament so much for passing those tobacco reforms late last night. It is just wonderful. Thank you for your support. We think it is going to really help Queenslanders to be more smoke free in their lives.

As you know, tobacco kills 3,700 Queenslanders each year. We heard a lot of that in parliament yesterday. It is a product that kills people. It kills two-thirds of long-term smokers. One-third of smokers die at middle age, losing nearly 20 years of life. So we see lots of families losing their breadwinners, and that is a tragic situation that we would like to avoid more. I support everything that Nicole just said. The Heart Foundation is exactly on board with the Cancer Council, and we want to see a licensing scheme brought in in Queensland. You can sell this product freely, as Nicole said, at local stores anywhere. It makes it seem like it is a normal part of life, and it is, and we need to change that. Unfortunately, in Queensland we do not have a register of retailers and wholesalers. We have an estimate of 8,000 retailers and 260 wholesalers, but there is no register. Those are estimates based on tobacco industry figures, and I do not think that is good enough for a product that kills people.

As well as having a licensing scheme we also support the idea of looking at innovative ideas about how to reduce the supply of tobacco, because that is what it is really about. It is particularly about access to children and restricting that uptake of children. The longer we can delay it, the less they are exposed to smoking over that period of time in their lives. What we are recommending is that we need a register and at the minimum a notification based licensing scheme. Without that register, how can we possibly have adequate education? How can we provide an adequate education to tobacco retailers and wholesalers, and how can Queensland Health effectively monitor without that system in place? We think that would be the bare minimum. The lack of control is in stark contrast to things like pharmaceutical goods, firearms, pesticides and chemicals. We also would like to see you lose your licence or some kind of penalty imposed for selling to children or breaking any of the other laws.

I wanted to address some of the submissions that you have received from other parties. We know that tobacco control measures have been very, very successful over the last 30 to 35 years, and to suggest otherwise in some of those submissions is a bit mischievous. It is one of the world's great health promotion success stories. More is needed to be done, however, to continue the process. We heard yesterday that 12 per cent of Queenslanders now smoke, so it is on a downward trend which is absolutely wonderful news. We see from the submissions that you have received to the inquiry that there is still resistance within the industry to further restrictions. Although we have seen such great successes with our smoke-free laws in Queensland and plain packaging laws nationally, we see the ongoing promotion of cigarettes in Third World countries which is very disappointing, to say the least.

Some of those submissions were quite alarmist, saying there will be increased illegal trade. They are quoting figures from a report by KPMG that the illegal trade is 14 per cent of the market. I would like to highlight that the government's own National Drug Strategy Household Survey on illegal sales shows that it is in fact around four per cent, so it is much less alarmist. We believe that a licensing scheme would not necessarily lead to any kind of increase in illegal sales. In fact, it should reduce the supply over time.

Other industry submissions complain that tobacco is a large proportion of their sales and profits and therefore should not be further restricted. I would argue that, given that this product kills and there is no safe level of exposure, surely it would be wise to encourage small businesses to diversify and to sell products that do not kill people. Therefore, if a tobacco licensing scheme discouraged retailers from selling cigarettes, wouldn't this be a good thing? It would ultimately reduce supply and smoking rates.

They also brought in the furphy of e-cigarettes, suggesting greater access to e-cigarettes. I am really pleased that you all know that Queensland has brought in protections for children around e-cigarettes, which we thoroughly supported. To date there is little evidence to show that e-cigarettes are helping people to quit—in fact, on the contrary. We are finding that people are using both—they

are using e-cigarettes and still smoking, and we are seeing young people moving to try vaping before they actually try cigarettes. Certainly we would not be encouraging that kind of use until it is proven to be a safe product and that it does actually help quitting. There is nicotine replacement therapy available on the market safely tested from pharmaceuticals. The Heart Foundation has made eight recommendations in our submission. We thank you for giving them consideration and again thanks for the opportunity to speak.

**CHAIR:** Thank you both very much for your opening comments. Thank you both also for the submissions that you have made to our previous inquiries, including on the legislation we debated last night. You would have heard that many of us referenced your verbal evidence and written evidence in our speeches, so thank you for that. Obviously you have made a submission with a number of recommendations. For the benefit of the committee, do you have views on the differing licensing schemes that have been used in different jurisdictions in Australia and a view on what is best and why you view that as being the most effective?

**Ms Durham:** The evidence seems to suggest that a positive licensing scheme is best practice, because it has all those components of a fee, a penalty, a registration list. From that point of view, we would support what is recommended as the best practice. Queensland currently has negative licensing where there is no requirement for a register, so we would not have that clear list that I was speaking about. We just do not think it is adequate for such a dangerous product. It seemed like the other options to me were even less efficacious.

**Ms Border:** I think if you are going to introduce a licensing scheme you may as well do the best practice. Evidence says that the positive licensing scheme that Ali spoke to is the best practice. The negative licensing scheme is weak. If you go to the trouble of setting up a licensing scheme, the positive licensing scheme is the way to go.

**CHAIR:** Alison, you mentioned the benefit of a register. From the point of view of both the Heart Foundation and the Cancer Council, is the key benefit of having such a register so you can understand the market of retailers and wholesalers more fully?

**Ms Durham:** I think the key benefit of that is that you know who they are. Therefore, when you do your education campaigns about the new legislation, you actually know who you are communicating to, rather than just having an ad hoc list that often is inaccurate and not current. That has been the experience from other jurisdictions of how do you keep it up to date if you do not have a proper register that is annually changed. I think it is about providing education to the retailers and wholesalers but equally the enforcement of the laws and being able to do correct checks and including all of the people randomly across the system. If you do not know who they are then you are not going to be able to test some of them.

**CHAIR:** Would it be fair to say that from the point of view of both the Cancer Council and the Heart Foundation the key benefit of having a licensing scheme would be to further support public health objectives?

**Ms Durham:** Yes.

**CHAIR:** It really is the key.

**Ms Durham:** Absolutely.

**Ms Border:** Tobacco is such a deadly product but we do not know how it is distributed in our community and by whom. I think having a register of all of those different organisations, knowing who they are and where they are, and having that up to date annually is incredibly important. Having transparency around that register will be very important for organisations like the Cancer Council and the Heart Foundation in terms of driving other public policy objectives or advocacy priorities as well.

**Dr ROWAN:** Thank you very much to the Cancer Council and the Heart Foundation for your submissions today and all the great work that you do in Queensland. My first question is: how should licensing and enforcement data be made publicly available and do you have any comments on benchmarking with other jurisdictions around Australia?

**Ms Durham:** From what I know, the New South Wales scheme seems to be fairly good and WA. They have online registers, so you can actually have a look and it is available to the public as well. That is my understanding. From that point of view, it would be easily accessible and transparent. I think those systems are in place and there are lots of learnings. One of my references was a WA report on what they found to be effective and what suggestions they have for changing. Queensland will have the benefit of learning from those other jurisdictions that have licences.

**Dr ROWAN:** With the register being publicly available, which is what I understand you were recommending before, are there any unintended consequences of that or is it all positive having it in the public domain?

**Ms Border:** I cannot foresee any negative consequences. I think transparency around the supply of a deadly product is really important for our community.

**Ms Durham:** I think it is just so readily available everywhere that I cannot see why it would be a problem to have retailers named and their companies on a website. I cannot see unintended consequences at this point.

**Dr ROWAN:** Apart from enforcement of licensing, from either the Cancer Council's perspective or the Heart Foundation's viewpoint, are there any other demand reduction strategies that you would like to see in Queensland in relation to cigarette smoking?

**Ms Durham:** Yes.

**CHAIR:** As it relates to a licensing scheme, which is the nature of the inquiry before the committee.

**Ms Durham:** Within the licensing scheme; is that what you are saying? I think that one of the areas that we always bring up—and you will be familiar with this one—is the banning of vending machines in pubs. Again, that is something that I think you could consider within licensing. You could stop the supply of cigarettes in pubs and clubs through vending machines. Again, I think it is a no-brainer, especially when some of the evidence I also included was about when people are drinking at pubs they often smoke more. The triggers are there and they have access to the vending machine there and then, so why have it? That would be my question.

The other one is around—I think it would be under licensing—not having young people under 18 selling cigarettes in the same way that you have liquor laws around that. Again, it would be controlling that. They are the ones who are more likely to sell cigarettes to other young people, so that would close that loophole.

**Mr KELLY:** Thanks for the ongoing work that both of your organisations do. In relation to the density of retail outlets and levels of smoking, is there any evidence that has been presented in relation to that question? Does an increase in density of sales outlets increase the level of smoking in a particular area?

**Ms Border:** There is correlational evidence that low socio-economic areas that have a higher density of tobacco retailers also have a much higher rate of smoking. It is correlational, so it is not necessarily causal yet. None of the licensing schemes in Australia yet have moved to that point of restricting the sale of tobacco—so not allowing certain outlets to sell it—to be able to measure the impact on smoking rates. But it is not too hard to understand that, if you reduce access to a product, the consumption of that product is likely to decrease. We see the opposite in Queensland in terms of increasing access to things like high-calorie dense foods and increasing consumption and obesity problems. It is reasonable to assume that, if you have more access to tobacco products, consumption will increase.

**Mr KELLY:** Is there any data around the volumes or percentages of tobacco sales by location—for example, do we know how much is being sold at a major supermarket versus an independent retailer versus a vending machine at a pub? Do we have figures around those sorts of volumes or percentages?

**Ms Durham:** My understanding is that sales data is difficult to get, so I cannot answer that directly.

**Ms Border:** I think it would possibly be accessed through tobacco companies, but we certainly do not have access to that data.

**Ms Durham:** That is one of our recommendations, that that kind of sales data be provided probably to the national government. One of our recommendations is that we need to be able to see that data, and that could then further inform that kind of policy decision.

**Mr KELLY:** One of the submissions notes some evidence from Dr Jeannette Young. The summary of the evidence is that she feels that a significant number of systems are in place already that we actually know where all the outlets that sell cigarettes are. She goes on to say—

... I am not sure that a licensing scheme would add a lot of value to what we are currently doing other than potentially nudging some people out of the industry.

What are your thoughts in relation to that?

**Ms Durham:** That was really interesting. The Chief Health Officer is a great health advocate.

**Mr KELLY:** Yes, no doubt.

**Ms Durham:** So it was really interesting to hear that she said that. My understanding still is that we do not have a register of the retailers and the wholesalers. Queensland Health, from my understanding, are working with data that is provided by BAT and they are making estimates. Queensland Health have led me to believe that that is the situation. There is not a register. Therefore, they are working on what they believe is fairly good data and that would probably lead to the Chief Health Officer making those comments. I think they believe that they are having some adequate enforcement and success. But we believe that we need this accurate data and that for such a dangerous product we should have a licence.

**Ms Border:** We do not have access to compliance and enforcement data—so we do not have access to what checks the health department does and the compliance rates to existing legislation. Data that we do hold—and Cancer Council actually hosts the data—is from the ASSAD survey, the Australian alcohol and drugs survey. That recently was reported in November. Of the young people who are currently smokers—this is school-age children who are currently smokers in Queensland—10 per cent of them purchase their own cigarettes, so that would be an illegal purchase of cigarettes. There is definitely room to enhance compliance. It is certainly not something that we are completely on top of in this state, and I think we can make certain improvements to that.

**Mr DICKSON:** Alison and Nicole, thank you so much for coming in today and for your kind words about our speeches last night. It is a real issue in Queensland. Which state do you believe has the best licensing regime in place today and who should we emulate?

**Ms Durham:** That is a difficult one.

**Ms Border:** It is difficult.

**Ms Durham:** I think WA. WA have evaluated it and put out a very good report about what they think are the benefits and 'disbenefits'. I think we should look to WA for that evidence. Again, I do not feel like I am an expert in licensing schemes. I think that is something that maybe the health department could get some more information on in terms of what is the best in the country. New South Wales is not a positive licensing scheme, but it does have a really good register and a system to keep that up to date.

**Ms Border:** I would say the Western Australian model is probably the best that we have. In fact, they have a public register as well. Certainly in the tobacco control area our experts in reducing supply of tobacco sit in Western Australia. That would probably be the model that I would suggest. If we get to that point of actually shaping up the scheme—what it looks like and what the requirements are—I think that needs to be done in consultation and we can develop that up in our own Queensland model.

**Mr DICKSON:** What I am hearing is a mixture between the Western Australian government and the New South Wales government. If we combine those two, we would have a pretty good system in place.

**Ms Durham:** Yes, although New South Wales is not a positive licensing scheme, but I think their register is very good.

**CHAIR:** The committee is actually travelling to WA to look at this scheme next week, so your comments are of interest.

**Mr HARPER:** Thank you both very much for your continued advocacy in getting a healthy Queensland. You do need the data. There is no doubt about it. That evidence based research is really going to show you which way you are going. In terms of the other states and territories, particularly the WA positive licensing scheme, do they have a marked improvement in decreasing smoking rates?

**Ms Durham:** My understanding is that it is difficult to isolate. When you look at tobacco control, there are so many measures currently in tobacco control that it is difficult to identify a particular thing as licensing and show its effect on smoking prevalence. But we can assume that it is adding to the whole picture of tobacco control and reducing that access to minors. As I was saying before, the more we delay the uptake—even if you delayed it by a couple of years—you are going to impact on people's future health and death rates. So from that point of view, I am not aware of data that shows a direct link to reduction in prevalence but I believe that it is something that we would certainly build towards.

**Mr HARPER:** Thanks very much.

**CHAIR:** I have two final things with regard to the illegal tobacco trade. Alison, you mentioned earlier in your comments that one of the submitters had submitted a figure of 14 per cent and you indicated four per cent. Could you repeat that for me? It was the national drug strategy, was it?

**Ms Durham:** Yes, it is the National Drug Strategy Household Survey.

**CHAIR:** Thank you. I have just one other question. Given the debate last night, where we were obviously talking about passive smoking and the effects, particularly on young people, and hence the House agreed that that should be limited on those innocent and vulnerable Queenslanders, what would you say to an argument that the sale of this product is not impinging on people who walk into these outlets, so why should it be restricted? Why should this be used as a tool to further restrict access to the product? I know that you are going to advocate for anything that reduces the prevalence of it, but other submitters would argue, 'It's a free choice. Adults make this choice and why should we restrict their capacity to access it?'

**Ms Durham:** I guess the sad thing is that many people take up smoking before they are adults and make that decision when they are a lot younger and become addicted and then find themselves unable to give up smoking when they are adults. So we believe that anything that you can do to restrict access to the supply of smoking, which licensing should support, would be of benefit to smokers. We know that most smokers actually want to quit. We have this great retail environment where you cannot show the cigarettes, but we would definitely advocate for making them less available, even though it is partially a personal choice.

**Ms Border:** The average age of uptake is 15 or 16. So it is still young people in their adolescence making these decisions and then becoming highly addicted to this substance. So I think, as Ali said, if you survey the majority of smokers, they are really interested in quitting. So I think that we have a responsibility to support them as much as possible in that motivation.

**CHAIR:** Thank you very much.

**Mr KELLY:** I have one more question. What are the smoking rates in Western Australia as compared to Queensland? Do you have that data?

**Ms Durham:** I do not have the exact data, but I believe that it is fairly similar. Queensland has been behind and particularly in regional areas we tend to have higher rates and that is of great concern and in our Indigenous population it is even higher. So, yes, we are lagging behind a bit, but there was that new data that the minister announced yesterday, which I have not seen. So WA would be similar. Is that your—

**Ms Border:** It would have a similar rate, yes. I think because tobacco legislation is state specific—the legislation is so different across the states—comparing smoking rates in accordance with a specific smoking control measure is not really that useful, because it is the combination of federal initiatives and state initiatives that contribute to smoking rates.

**Mr KELLY:** Just finally, there was evidence given in one of the submissions—and you responded to a lot of the things in that and that is great; thank very much—which reinforced the right of adults to choose to engage in the practice of smoking. What are your thoughts in relation to that—that we should not be moving to restrict people's freedom to smoke?

**Ms Durham:** Again, it is the concept we have in health promotion about supportive environments—environments that help people to make healthier choices. Smoking is certainly moving in that direction, which is excellent, and supporting smokers—the majority of whom want to give up smoking—by having fewer of those triggers in their face when they go to shops and when they are out in the community. Reducing where they can smoke reduces smoking. We know that. We know that smoke-free bans work and they reduce prevalence. That is a clear one. I think that supportive environments will help adults to make healthier choices.

**Mr KELLY:** Thank you.

**CHAIR:** I think we have one final question from the member for Thuringowa.

**Mr HARPER:** Yes. In regard to the departmental advice of the licensing fee of approximately \$300, do you think that is reasonable? If so, why? If not, why not?

**Ms Border:** It is my understanding that the fee charged can be only enough to cover the costs of administering the scheme. So whatever figure the government needs to land on to meet that requirement is the way that we will have to go. Whether there is opportunity to change that and increase revenue so that we can provide greater enforcement, or greater education, or to fund other initiatives, that is up to the government to decide but, of course, we would welcome that sort of initiative.

**Ms Durham:** One of the innovative uses of licensing would be if the licensing fee protocols could be changed within the legislation and you could then increase the fee that you could charge and that may be a disincentive to sell. Then that would be starting to impact on supply.

**Mr HARPER:** Thanks very much.

**CHAIR:** Thank you. Nicole and Alison, thank you very much for your written submission and for appearing before the committee today.

**Ms Durham:** Thank you very much,



**ELLIOTT, Ms Rachel, Government and Stakeholders Relations Manager, Imperial Tobacco Australia**

**GREGSON, Mr Andrew, Head of Corporate and Legal Affairs, Imperial Tobacco Australia**

**CHAIR:** Rachel and Andrew, welcome.

**Mr Gregson:** Thank you.

**CHAIR:** Thank you for appearing before the committee for our inquiry into tobacco licensing arrangements in Queensland. Would you like to make an opening statement?

**Ms Elliott:** Yes, we would, thank you. Imperial Tobacco is the third-largest tobacco company in Australia. We are the wholly owned Australian subsidiary of Imperial Brands, the world's fourth-largest tobacco company listed on the London Stock Exchange. Firstly, I would like to note that we appreciate the opportunity to appear at this hearing and, despite the short notice, recognise and appreciate the role of assisting the committee with this inquiry. That being said, the very short notice would not be easy for others, notably retailers and retail groups.

We acknowledge that this is a health committee and that its role is to consider the capacity for licensing arrangements in Queensland. We assume that you have read our submission, so I do not intend to run through all the detail of that now. We are here to talk about supply side constraints. At a top level, restricting supply does not restrict demand; it simply shifts it. There is no credible evidence to support the view that limiting the number of retail outlets would reduce the consumption of tobacco products or smoking initiation. At a more detailed level, restricting supply simply concentrates market power.

Despite what some may want to think, there are people who smoke because they want to smoke and, as an informed adult, they choose to do so. However, the harder it gets to legally access tobacco products the more likely a consumer will move to the illegal market. The illegal market already exists in Queensland to fill any gaps created by restrictive supply constraints. We hold serious concerns about the illicit tobacco market and submit that this is an opportunity for government action. New South Wales has just passed some commendable amendments in this regard.

The requirement for a licence to sell tobacco varies by state. Should Queensland introduce a licensing requirement, we submit that the New South Wales scheme is both manageable for retailers and effective for government. Furthermore, the New South Wales government convened a task force to investigate the effectiveness of its licensing rules in 2014, which it found to be appropriate. That task force also found that enforcement of the existing framework and retailer education would be considered best practice.

We recognise that it is the role of government to administer regulation and we do and will work within such regulation. However, we submit that regulations be practical and reasonable and not simply a red tape burden that will affect only retailers and have no tangible public health benefit. Thank you again for the opportunity to invite us to assist with your inquiry. Both Andrew and I are happy to take any questions that you have.

**CHAIR:** Thank you very much. In response to your comment, we have a number of representatives of retailers appearing next. So we certainly try to get a very balanced view. With regard to your comment around the value of government engaging in education and how important that is, the government is already engaging in education with retailers. Do you have any feedback or comments from retailers? Are you hearing whether that is adequate, whether that is working, or whether more is needed?

**Mr Gregson:** It is possibly a question more for retailers than for us. Obviously, we are a manufacturer and wholesaler of the product rather than a direct retailer ourselves.

**CHAIR:** I asked that comment in that you were saying that that is a more important role rather than introducing a licensing scheme—that we just educate them. We are already doing that. This is looking at what other measures we need to do.

**Ms Elliott:** They were some of the comments that were included with the New South Wales task force when they looked at licensing.

**CHAIR:** Right.

**Ms Elliott:** Part of the issues that they found in New South Wales was that retailers may be multilingual, or English may be a second language. So for them especially education plays a primary role, because with English not being their first language they might not necessarily understand the

exact requirements. They may not understand the specifications of the legislation, for instance. That is not because they do not want to; it is just because there may be other things that get in the way. So especially in that regard, education can play a key role.

Imperial Tobacco does play a role. We try to assist retailers with education on youth smoking, for instance. We have a number of initiatives where we work with the retailers to ensure that they understand the dangers of those sorts of things. We give them age calculators, for instance, to assist them to make sure that they are not selling to under-age.

**CHAIR:** Thank you. Your written submission—and also you mentioned again in your verbal comments—talks about the illegal trade and the impact that the licensing scheme can have upon the illegal trade. What would you say in response to comments we heard earlier in the hearing about the estimates of illegal trade? They are significantly different. We were quoted four per cent from the National Drug Strategy Household Survey. You are quoting much higher rates.

**Mr Gregson:** We are quoting a report from KPMG LLP—the European London based institution of KPMG. As you would be aware, that report is commissioned by the three major tobacco companies that operate in Australia, including Imperial. The OECD recognises KPMG as the foremost expert on measuring illicit trade on the planet, which is one of the reasons that we went to KPMG in the first instance. The methodology that they use to estimate the illicit trade in Australia is the same that they use in Project Sun across Europe and that is the project that is recognised by the OECD. So the work that they do is quite extensive. The methodology that they use is very well recognised, hence the results of that survey, we believe, deserve to be taken seriously.

The figures that are provided by the Australian government through the Institute of Health and Welfare are based on a survey, as I understand it, that, let us be honest, is the government asking individuals, 'Have you done anything illegal?' which in itself is going to represent a biased result. The KPMG methodology involves both survey data and also an empty pack survey, which involves going to quite a range of destinations around Australia in each of the survey operations that they undertake to collect empty packs and to measure from that number of packs those that are compliant and those that are not and then using a methodology to remove, for instance, those that may have been legitimately imported through duty-free travel channels, and to calculate what the eventual result is both for illicit white manufactured cigarettes and also loose tobacco, or, as it is more commonly known, chop-chop.

**Ms Elliott:** I also would just like to add that we included in our submission a number of quite high-profile media reports, which noted the rise in the number of illegal busts in the past 12 to 18 months. That being said, the federal customs department has named fighting illicit tobacco as one of its top six priorities—something that I am sure it would not have done if it were not a problem. Again, Minister Dutton, who is responsible for customs, has convened a task force that deliberately and intently looks at fighting illicit tobacco.

**Dr ROWAN:** Thank you, Mr Gregson and Ms Elliott, for your submission on behalf of Imperial Tobacco. Firstly, would Imperial Tobacco be willing to make its company cigarette sales data in Queensland available to government as part of a tobacco licensing scheme?

**Mr Gregson:** There are three manufacturers in Australia. Obviously we are fairly closely watched by the ACCC and other competition authorities, so we would need to consider that request in the context of competition law in Australia.

**Dr ROWAN:** Sure. Are there other jurisdictions around the world where your sales data is available to government?

**Mr Gregson:** Sales data in a variety of guises is available in Australia, as well as in other jurisdictions. Obviously, all tobacco that is sold in Australia is imported, so customs clearances are available. There are a number of private sector entities that collect and sell data in respect of sales of all sorts of fast-moving consumer goods. The important point to consider is knowing the right question to ask to interpret the data you are given. For instance, if you were to look at a particular type of data known as scan data, you need to understand how that scan data occurs and which section of the entire retail it covers. A number of retailers do not use scan, for instance. The important point to consider is, what is it you are looking for in the first instance to then understand the data that you are requesting and to make sure that you get the correct data. If what you are looking for is total volume of legal tobacco, customs clearances are probably the best data to be using.

**Dr ROWAN:** Do you have a view on how many licences there should be, in other words, the total number that should be allocated in a jurisdiction such as Queensland, from the wholesaler and retailer perspectives? If there was to be a fixed number of licences, do you have a view on how many there should be? Is there any basis for that existing in any other jurisdiction that you know of?

**Mr Gregson:** We would not support a fixed number of licences. We would view it as anti-competitive.

**Dr ROWAN:** We all know that cigarettes kill. I guess you accept that; is that the case?

**Mr Gregson:** You do not need our advice on the health implications of tobacco.

**Dr ROWAN:** One of the concerns that you raised was around some unintended consequences of an increase in the illegal tobacco trade. From your perspective, are those health concerns that could occur as part of this licensing arrangement, in other words, a licensing arrangement implemented in Queensland would lead to an increase in illicit tobacco usage and that would have further harms? Is that one of the concerns?

**Mr Gregson:** It certainly could be. Despite the nature of our product, you would appreciate that as a heavily regulated manufacturer we are subject to significant quality controls that, of course, an illicit tobacco market is not. The product that we provide, right down to the ingredients used in it, are publicly available and disclosed in Australia. Those of the illicit market obviously are not.

**Dr ROWAN:** With those quality controls that you refer to, is that things such as the levels of carbon monoxide, hydrogen cyanide and things of that sort of quality?

**Mr Gregson:** They are naturally occurring compounds within the plant material itself. I cannot give you a thorough analysis of everything that is in every illicit product available in Queensland or, indeed, across Australia, but I can tell you that the product that we manufacture is subject to quality controls and there is a disclosure of everything that is added to the product.

**Ms Elliott:** There is, I believe it is, a World Customs report that I could share, although I do not have it on me. The World Customs Organization found, when analysing tobacco products in the illicit trade market, things such as arsenic and rat poison added to those products. I think that was some of the point of your question.

**Dr ROWAN:** And those things do not exist in normal cigarettes?

**Ms Elliott:** No.

**Mr KELLY:** Thank you for your submission. Do you have any indication as to where the illegal tobacco is sourced from? Is it illegally grown in Australia or brought in from overseas?

**Mr Gregson:** The answer to your question is yes on both counts. It comes from a range of places. We know that loose tobacco is grown in Australia. We know that loose tobacco is imported. We know that some of it is coming from South-East Asia. Illicit manufactured cigarettes, we know, are coming from a variety of foreign markets. I point to one particular example: a brand by the name of Manchester is produced in the United Arab Emirates. It is not sold legally anywhere in the world, yet in Australia it achieved, I think, close to two per cent of the market as an individual brand and is asked for by brand, it is that widely available. Federal agencies have recently disrupted significantly the supply of that. There is also a significant volume of legitimately produced and legitimately purchased tobacco from other markets that is then illegitimately imported into Australia, given the cost variance between reasonably close jurisdictions in Australia.

**Mr KELLY:** On page 4 of your submission you suggest that there is no credible evidence to support the view that limiting the number of retail outlets would reduce the consumption of tobacco products for smoking. Do you have any evidence that those things are not linked? Do you have any evidence to the converse? If you say there is no evidence that they are linked, do you have any evidence or studies to suggest that they are not linked?

**Mr Gregson:** I am not aware of any, no.

**Mr KELLY:** You made the point that some people choose to smoke tobacco. Do you have any evidence regarding the number of people who choose to smoke tobacco versus the number of people who are smoking tobacco because of addiction issues?

**Mr Gregson:** Do we have any evidence? No.

**Ms BATES:** Andrew, my question is a follow-on question about the illegal tobacco trade. You mentioned where it is coming from and how it is being distributed here. Is there a particular group that is importing illegal drugs? I am talking about, for instance, outlaw motorcycle gangs that import ice into the country. What are the groups most likely to be involved? Do you have any evidence from customs, from raids that they have done?

**CHAIR:** As it relates to the introduction of a licensing scheme, do you mean? Can you just give context to how it fits within our inquiry?

**Ms BATES:** It was an add-on question from what Joe was saying. You mentioned it is coming from the United Arab Emirates.

**Mr Gregson:** One particular product.

**Ms BATES:** One particular product. In the illicit drug trade for tobacco, have certain groups been identified as more likely to be the culprits that are importing?

**Mr Gregson:** It was in our submission as a potential implication of a licensing scheme.

**CHAIR:** That is why I raise the context.

**Mr Gregson:** I am a little reticent to discuss that in great detail in a public environment, as I am sure you would appreciate. Along with retailers, we engage in a pretty extensive intelligence gathering regime, both in Australia and internationally. In fact, we provide to all retailers a data-gathering mechanism that is a third-party operated telephone hotline in which the evidence can be de-identified. We gather that evidence and pass it through to federal or sometimes state authorities for their action, rather than action it directly ourselves, given that it is their jurisdiction. It is probably a better question for those federal agencies, although I can tell you that Border Force identify that serious and organised crime are the infrastructural spine along which illicit tobacco is imported.

**Ms BATES:** Rachel, you mentioned that there were some pretty high-profile busts with customs. Without detailing ongoing investigations or anything like that, were they from organised criminal gang activities, the busts that are a matter of public record?

**Ms Elliott:** I believe some in Victoria, as a matter of public record, note that—I think it is—the Middle Eastern crime group, the police were involved in arranging those busts. Going to Andrew's comment, customs has been on the record as saying it is organised crime behind much of the supply of the illicit tobacco market. As Andrew said, I think there would be a bit of caution in discussing too much detail about—

**Ms BATES:** No, I do not want you to do that.

**CHAIR:** I am giving a bit of latitude around this. We have forayed into the illegal trade. If that is where much of the illegal trade is coming from, they are not really going to be very impacted by a licensing scheme.

**Ms Elliott:** And that was part of the point of our submission. We think that illicit trade represents an opportunity. It is a big issue. It is a serious issue. We are working with many state governments, New South Wales, for example. We work with the federal government. We see illicit trade as an opportunity. For example, a licensing scheme is not going to stop the illegal market supplying to children. They operate outside the law. A licensing scheme is not going to change that. That was one of the concerns that we had raised.

**Mr Gregson:** One of our concerns is that the distribution system for illicit tobacco is infiltrating the same distribution infrastructure as legal tobacco. I think it needs to be recognised that we are not here to oppose a licensing scheme. In fact, I do not think our submission at any stage opposed the introduction of a sensible and practical licensing scheme. But a licensing scheme allows you, potentially—well constructed—to tackle illicit trade by letting retailers know that if you are engaged in the illicit trade then your licence for legitimately selling tobacco may well be in jeopardy.

**Mr HARPER:** Thank you very much, Andrew and Rachel, for your contribution on behalf of the tobacco industry in Australia. You may want to check your notes, Rachel, but in your opening statement you talked about the red tape burden and then I did not quite catch the last couple of words after that. In the meantime, Andrew, can I get your views in terms of positive licensing and having sales near schools? What are your views on that?

**Mr Gregson:** If I may, we are not here to speak on behalf of the tobacco industry in Australia. Absolutely not. We speak on behalf of Imperial Tobacco.

We go to significant lengths to ensure that our tobacco products are only available for consumption to adults. We most certainly do not support the concept of under-age smoking, nor the retail of tobacco products to under-age users. In that respect, we view that a licensing scheme can potentially assist to identify those retailers who may be operating outside the law and therein lies the nub of this: it is already illegal to sell tobacco products to under-age smokers. If under-age smokers are obtaining tobacco products, then there is illegal activity happening somewhere in that supply chain. Therein lies the opportunity to clamp down on under-age smoking, enforcing the laws that already exist.

**Mr HARPER:** Thanks for that. I will correct that to 'representing Imperial'. What are the significant measures that you just mentioned in relation to sale to minors?

**Mr Gregson:** Under Queensland law?

**Mr HARPER:** Yes. Can you better articulate that? We know that there is a sale issue and an age limit. Are there any other measures that you are talking about?

**Mr Gregson:** In terms of supply to minors?

**Mr HARPER:** Yes.

**CHAIR:** Tell me if I am wrong in my understanding, but you mentioned before that you have significant measures in place to ensure that your product is sold only to adults.

**Mr Gregson:** Yes.

**CHAIR:** Is that what you are asking? What are those significant measures?

**Mr HARPER:** Yes.

**Mr Gregson:** Rachel was outlining them earlier. We engage in a retailer education campaign. Of course, we are not required to do that; we do that as our own initiative. It reminds them that supply to under 18s is illegal. We also provide them with age calculators to assist them in the process of determining, on the basis of date of birth, whether or not somebody is legitimately able to purchase tobacco products.

**Mr HARPER:** Rachel, could you better articulate that red tape burden?

**Ms Elliott:** The comment was that we submit that the regulations be practical and reasonable and not simply a red tape burden that will only affect retailers and have no tangible public health benefit.

**Mr HARPER:** Thank you very much.

**Mr DICKSON:** Andrew and Rachel, thank you for coming in today. My first question relates to Imperial Tobacco. In your words, chop-chop or illegal tobacco that is imported from other countries is a much more dangerous product than the product that you import or sell within Australia to distributors. Would it not be better and to the benefit of your company and other companies in Australia to have a much better licensing program to eliminate the sale of those products, even though somehow they are getting into these outlets already, as you said earlier? What if there were better policing regimes and better licensing regimes? Basically, I am saying that we need to come down a whole lot harder so that we are limiting the illegal import, I suppose, and the illegal distribution of a very toxic product, much more than the products being put on the markets by yourself.

**Mr Gregson:** I am not sure I indicated 'much more toxic'; I indicated that it is potentially more dangerous in that it is not subject to the same quality control checks as our product. Be that as it may—

**Mr DICKSON:** Forgive me if I was putting words in your mouth.

**Mr Gregson:** Thank you. As you indicated in the question, all of those products are already illegal. It is illegal to import it, particularly if you are not paying excise duty on it; it is illegal to transport it in a lot of areas given that it is a plant product and as a result potentially a biosecurity threat; and it is illegal in many jurisdictions to sell it. So enforcement of existing laws is the key to it. Rachel will probably be able to provide you with more detail on this, but as part of a recent package of measures the New South Wales government has passed some amendments to their state legislation in respect of retail of illicit tobacco, and that is potentially something that this committee might like to take notice of. So if you do not mind, Rachel can give you some more detail.

**Mr DICKSON:** Please.

**CHAIR:** Although much of that legislation does not come under the purview of this committee because it actually relates to legal reform in the area of police and the Attorney-General's area.

**Ms Elliott:** It was actually tobacco amendments. There was a specific tobacco amendment act passed last year—last November, I believe. The supporting regulations came into force, I believe, just in February. So to your point, that particular change was something that Imperial Tobacco had advocated for in New South Wales. We wanted, to your point, to see harsher penalties involved with the sale and supply of illicit tobacco. So in New South Wales the health minister passed legislation that makes it illegal to sell a tobacco product which is either not in its original packaging or does not bear the required health warning. So to the point about chop-chop, a lot of the time that is sold just in big plastic bags, so clearly not displaying the relevant health warnings. A lot of product is still branded. So again it does not have the health warnings but it is also branded, colourful packaging and does not comply with plain packaging laws. Then the government also passed seizure powers giving health inspectors the opportunity to actually seize product that they believe was intended for sale and did not comply with the relevant laws.

**Mr DICKSON:** Just to follow that up so that I am very clear, that was part of the licensing regime in New South Wales?

**Ms Elliott:** No.

**Mr DICKSON:** Is that incorporated into that program?

**Ms Elliott:** It could be.

**Mr DICKSON:** I know that you prefer the licensing regime in New South Wales compared to the one in Western Australia—I heard that clearly earlier—but does the one in Western Australia have that in their licensing regime?

**Ms Elliott:** Western Australia does not have as a licensing condition the aspect related to illicit tobacco. It does have penalty provisions related to illicit tobacco, and that is more that it is an offence to sell a product where customs duty has not been paid—so excise has not been paid—or, I believe, that does not comply with customs legislation, so they knowingly have imported it to sell illegally. That is my understanding of the Western Australian legislation.

**Mr DICKSON:** Okay; I have taken you on a circle. What I am hearing is that Western Australia probably would be a better regime to be able to counter the illegal chop-chop that is being brought into the country then if that is already in that regime.

**Ms Elliott:** Personally, I think the New South Wales amendments go slightly further. They are more related to the chop-chop sale—the fact that they are not bearing the health warnings and those sorts of things.

**Mr Gregson:** Both schemes have the capacity to take on illicit tobacco, which is a good thing. The difference between the two schemes of course is that one requires constant renewal and there is a higher level of administrative burden on retailers and one is a licence that is issued once off in the case of New South Wales with a much lower compliance burden for smaller retailers. But the capacity for both of those schemes to combat illicit trade in my view is reasonably similar.

**Mr DICKSON:** I am not going to waste any more time this morning. Thank you so much for your time.

**Mr KELLY:** There are a number of submissions that talk about competition, and you mentioned anticompetitive behaviour in one of your responses. We licence a range of other products and control how and where they are sold. Firearms spring to mind and casinos and liquor outlets. Is there anything that you are concerned about in terms of a licensing arrangement if we were to introduce one that would interfere with competition?

**Mr Gregson:** Thank you for the question, because it gets to the nub of the matter. From our perspective the anticompetitive nature is the potential of a licensing scheme, not the licensing scheme per se. If the intention of a licensing scheme is to introduce it to later be able to ratchet down the number of licences that are available, then in our view that would be anticompetitive. If the introduction of a licensing scheme is to assist in enforcing the current range of laws that Queensland and indeed other jurisdictions have, then it is to be supported in our opinion.

**Mr KELLY:** Thank you.

**Dr ROWAN:** I have one question around e-cigarettes. Does Imperial Tobacco have any general view in relation to e-cigarettes being a part of any tobacco licensing scheme?

**Mr Gregson:** Globally we do have e-cigarette products. In fact, through an acquisition in the United States we now own the largest global brand of blu e-cigarettes. At the moment we do not retail e-cigarettes in Australia and e-cigarettes in Australia face a range of challenges that they do not in other jurisdictions given that there is no legal supply of nicotine to use with e-cigarettes in Australia which makes their use to users potentially a little limited. It is our view that e-cigarettes should be properly regulated and should be available as a product.

**CHAIR:** Thank you both for your time and for the time taken to submit to the committee to assist us in this process.

**Mr Gregson:** It is our great pleasure. Thank you all.

**CHAIR:** The committee will now adjourn until 10.20 am when the Alliance of Australian Retailers, the Australian United Retailers Ltd and Master Grocers Australia will appear.

**Proceedings suspended from 10.05 am to 10.18 am**

**BROWN, Ms Marie, National Legal Counsel, Master Grocers Australia (via teleconference)**

**de BRUIN, Mr Jos, Chief Executive Officer, Master Grocers Australia (via teleconference)**

**GLASBY, Mr Craig, Spokesperson for Alliance of Australian Retailers and Proprietor of FoodWorks Kenthurst, New South Wales**

**HEATH, Mr Tim, Business Development Manager, Australian United Retailers (FoodWorks)**

**LA, Mr Luke, member of Alliance of Australian Retailers and Proprietor of newsXpress, Darra**

**LIM, Mr Chiang, General Manager, Alliance of Australian Retailers**

**CHAIR:** We are very grateful that you are here and that we can ask questions of you. Please direct your answers and questions through me as the chair. Firstly, I would like to give an opportunity to make an opening statement. You have all kindly made submissions. If you can keep those comments brief, because understandably there may be a number of people who want to make opening comments. I will firstly ask Master Grocers, because it is more difficult for you as you are appearing via teleconference, if you would like to make an opening statement.

**Ms Brown:** We thank the Queensland government and the committee for the opportunity to participate this morning. A few words firstly about MGA. We are a national employer industry association. We are a registered organisation with Fair Work Australia. We report to the Australian Securities and Investment Commission. We represent independent supermarkets and liquor stores across Australia. There are approximately 750 independent supermarkets in Queensland employing approximately 21,000 employees. Stores are generally small to medium sized. Many are family owned businesses and are traditionally very community focused. We support local fundraising initiatives and local suppliers. They work long hours. They struggle to maintain their viability in their businesses. Wages bills are high and many of them have families working in the business to reduce their costs. They deal with a massive number of compliance obligations at both the state and federal level on a daily basis, including everything from payroll, workers comp, taxation and local government, just to name a few, so there is a high reliance on having to comply with red tape regulations.

With respect to MGA's submission to this inquiry, we submit that firstly our organisation is fully supportive of the Queensland government's initiative in attempting to reduce the use of tobacco products within the community. We note there have been significant reductions in smoking in Queensland as a result of the Queensland government's initiatives, and we repeatedly state that MGA supports those objectives by the Queensland government to decrease the incidence of smoking even further in the community. However, as you will see from our submission, we have stated that we oppose the imposition of any further compliance burdens on retailers, particularly with respect to introducing licences for the sale of tobacco products. In our submission we have emphasised that, if the objectives of the state smoking reduction program have been achieved without adding a further compliance burden to retailers, then we would say that the need to introduce a licensing system is highly questionable.

There are other issues that I can address in summary from the submission. I would just focus very quickly on the fact that the independent retail industry sector struggles to subsist against a giant retail duopoly in Australia. Smaller retailers are battlers and they are willing to do whatever it takes to survive in their businesses, but every time a new law is passed that requires them to pay out more money or invest more time in complying with another regulation or requirement, it simply means further expenditure in labour and costs for them and it means another hurdle to deal with and overcome, if they can, to try and survive in what is really an inequitably balanced industry environment at the present time.

**CHAIR:** Thank you very much for your opening comments. I am sure committee members will have further questions of you. It was remiss of me, for the benefit of you coming in via teleconference and also for our other submitters here today, not to formally introduce who is on the panel here and who will be asking you questions. As I mentioned earlier, I am chair of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee which is currently conducting this inquiry into the potential to introduce tobacco licensing schemes and what that may

or may not look like in Queensland. The deputy chair of the committee is the member for Moggill, Dr Christian Rowan. We also have the member for Thuringowa, Mr Aaron Harper; the member for Mudgeeraba, Ros Bates; the member for Buderim, Mr Steve Dickson; and the member for Greenslopes, Joe Kelly, is unfortunately an apology to the current hearing. So you will get questions from different voices, just so you understand who is here and for the benefit of the other submitters. I also invite United Retailers to make a brief statement.

**Mr Heath:** Thank you for the opportunity to address the committee. I would like to support the comments that we have just heard from the MGA. With regard to FoodWorks, I will just let you know a bit of background. In Queensland we have around 220 supermarkets of which about 130 are branded FoodWorks. These stores are independently owned and operated, and they range from as small as 50 square metres up to 2,500 square metres. We see our stores as playing a very significant role in Queensland, particularly in rural communities where these stores play a very important role in anchoring and supporting the town centres, bringing in customers and bringing in the foot traffic that can help support the other retailers and service providers in those towns.

I should point out that it is a very competitive market out there for us. We face many, many challenges. We are in a period of price deflation, we have rising store costs, margins are under pressure, there is significant growth in supermarket floor space across Queensland, there is growth in online shopping which is making inroads into traditional territories of the FoodWorks stores and, on top of that, we have issues of drought and the mining downturn. Tobacco plays a very important role in our stores' viability. On average our stores, in terms of total sales, about 26 per cent of that is in tobacco, but there are a quarter of our stores where tobacco would account for about 40 per cent of sales. Not only are those sales important for our stores, but those sales bring in the customers who then purchase other products whilst they are in the store. So it is a very important component of our stores' viability. It is also one of our major competitive advantages—that is, our stores offer convenience and without having a tobacco offer and another competitor having that offer, we lose one of our few competitive advantages.

As with the MGA, we are very supportive of your endeavours to create healthier communities, and we recognise that over time our reliance on tobacco will reduce, but we see this as being a gradual change and that over time our stores will be able to adapt, but a one-off hit, if we are talking about using licences to restrict the outlets that can sell tobacco, would be quite devastating for those stores.

I guess the key points that we have raised in our submission would be that we feel that a fee based scheme that would be used to limit the number of licences would tend to affect our smaller businesses because they would not have the capacity to actually afford a scheme that is based on a pricing mechanism to restrict licences. We feel that it would actually favour some of the larger companies that would be able to afford the licence fees. We are also not convinced that reducing supply or places where tobacco can be sold would actually have the desired effect of reducing consumption or demand. We are yet to see the research that would prove that that is the case. We feel that consumers have many other avenues to purchase tobacco, if the local FoodWorks supermarket was prohibited, either online or, at worst case, through the black market.

In our submission, we believe that there are other harm minimisation strategies that the government is using and should continue to use that are more successful and probably more appropriate than affecting the supply, particularly affecting the independent supermarkets, and we feel that the existing legislation is working well. It seems to be achieving the government's harm minimisation strategies and objectives and we feel that the introduction of a licencing scheme would not further those objectives.

**CHAIR:** Thank you very much. We have three representatives from the Alliance of Australian Retailers. Would one of you like to make an opening statement?

**Mr Lim:** I am the general manager of the Alliance of Australian Retailers. The AAR represents member associations which together is approximately about 3,000-plus retailers across the entire country. I have brought along Luke La and Craig Glasby who are themselves retailers who I think might provide the committee with a much more firsthand experience and you might be able to interact with them during your questions.

I cannot resonate any further to my colleagues from FoodWorks and the MGA, plus also our submission to you. Our significant concern is the retail market at the moment, the climate across all the retailers. They are already having a significant challenges in just ensuring that their businesses are staying afloat. Those changes that are proposed may upset their own business confidence. Apart from ensuring that their own businesses are sustainable they are also responsible for the employment of their own staff.



We are concerned that there have been some comments in the past by advocates against tobacco that perhaps a reduction in the quantum of supply may be viable. We are also similarly concerned that all that does is give the competitiveness towards the larger players who can afford the licensing arrangements that you might be thinking of introducing into Queensland. Plus, also, we are not entirely convinced that this will actually bring about the objectives that you are seeking.

The AAR is also one of two retailer organisations who have just recently accepted being a member of the Department of Immigration and Border Protection's Illicit Tobacco Industry Advisory Group. Recently at a meeting our submission was actually that the illicit tobacco trade is more than alive and healthy; in actual fact, there was a KPMG report that suggested that it was 14.3 per cent of the total market consumption at the moment. We are still continuing to finish a study at the moment with our members and we have also just recently discovered that about 27 per cent are concerned that not only are they seeing this illicit tobacco thriving, they are themselves concerned for their own safety and the safety of their staff. So we are actually quite interested to engage with the committee and the Queensland parliament in terms of what licensing arrangement you might be considering to introduce into this state, but also appeal to you that the New South Wales model may be the lowest impost model that you could possibly consider which actually could achieve your goals.

**CHAIR:** I note that you have mentioned that you have two owners here as well. You are happy to answer questions rather than make a comment?

**Mr Glasby:** I will just introduce myself with my experience. I started my first business in 1992. It was in petrol convenience, a Caltex Star Mart. I had that for 12 years and then in 2004 I started my own independent service station which was called FoodWorks at Liberty Empire Bay. I had that for 10 years and I sold that in June 2014. Further, I have been a director of the Service Station Association for about 17 years. I was the president for about five years. I have been a director and Treasurer of the Motor Traders' Association as well. My experience is that in the petrol and convenience—I will just mention that briefly—in the average service station 33 per cent of their shop sales is tobacco products. The smaller the site the higher that percentage is, up to about 50 per cent. My last service station, which was also a supermarket, was very large when you compare it to the average service station. The average service station would do \$150,000 a month in shop sales, mine did \$350,000 a month. I was sitting on 28 per cent of total shop sales was tobacco products. With my current supermarket, which has only been running 12 months so we still haven't made any money, I have got \$900,000 invested in that supermarket, all secured by my house and my wife's house and my three daughters' house. I have extreme skin in the game. What I am saying is that people like me and this gentleman here, Luke, when we put up our houses for our businesses and then governments come and try and make legislation changes for the good of the community we really implore you to think very carefully about what happens to people like us.

**CHAIR:** Thank you. Can I thank everyone for their opening statements and I am sure that I convey the sentiments of my fellow members when I say that the viability of our retail sector and the health and wellbeing of the Queensland economy is, of course, of significant consideration and concern to us in any inquiry we partake in. I do have a question around the submission from Master Grocers Australia, but it is a comment that has certainly followed through in all of your submissions, and that is around that any licensing scheme would potentially, I think the wording was, place greater market power in the hands of larger retailers. Is that comment premised purely on the fact that you have a belief that they can better afford any licensing fee? Are there other factors that you would like to comment on about how that benefits those larger retailers? I will hand over to Master Grocers first.

**Mr de Bruin:** One of our retailers recently described his business; he said 'I am in the business of compliance and I do a bit of retailing on the side.' I guess we as retailers every day are faced with an enormous burden of regulations across food safety, workplace health and safety, in many states liquor, tobacco and so it goes on. The more costs that are imposed upon our members the less focus they put on their business. We are very protective of our members having to incur those burdens because the less resource, and they are the resource, the less energy they can put into their business. The more energy they have to put into red tape and cost burdens it obviously impacts on their businesses. This is less so the case in the case of the large major supermarket organisations. They have the resource, the dedicated resource, to be able to handle these things.

What we would hate to see is that because of additional costs and burdens there are less of our members who are viable and if that is the case it just transfers the sales, the power to buy, to the major supermarket organisations. That is our concern. It is not just with tobacco, it is with a number of other issues that our members are currently facing and particularly in Queensland we have a number of challenges.

**CHAIR:** Would anyone else like to add anything additional to that?

**Mr Lim:** If I may, it is not just about the actual amount of money that actually goes to paying for the licences, it is cumulative. A lot of the small business retailers already have very complex business arrangements. There are a whole bunch of suppliers and a whole different amount of legislation that they already have to comply with and they are at a tipping point. One really good example, which I actually happen to know very well, is insurances. Insurances for retailers who actually have to stock tobacco, particularly if they are in difficult environments shall I say, those insurances go up. Granted sometimes it is small, it is marginal increases, but that additional amount just says, look, it's just too hard, they are going to give it away and then when that happens the customers that normally come into their stores then go somewhere else and it just cascades in a vicious cycle of a downward spiral. This is the problem. It is not just about the financial impact, it is about the psychological impact of the additional red tape they actually have to adhere to.

**Mr Heath:** From our perspective in reading some of the background material that was provided, another concern of ours is that there is the possibility of using licensing as part of a pricing mechanism to reduce the number of licences and the number of outlets selling tobacco and we feel that our stores would be the more vulnerable and least likely to be able to afford those licences which would then push market share towards those corporations that could actually afford the licences.

**CHAIR:** Given a review of licensing schemes that exists in other jurisdictions in Australia—with fees, let us just say on average, of \$300 per annum—and given the statistics that you have provided in your written submission and also verbally about the profitability of tobacco sales to your business and the fact that it is a significant component of the revenue that you receive, do you consider that \$300 per annum is something that your retailers would not pay, or would not be able to pay? I am trying to understand the sensitivity of that.

**Mr Glasby:** If I might answer that?

**CHAIR:** Yes, thank you.

**Mr Glasby:** There is a differential between turnover and profit. The profit on tobacco in a FoodWorks store like in mine, I am running on 10 per cent gross profit on tobacco products. I think you might find that it runs down in five per cent in some of the FoodWorks stores. The average petrol and convenience would be running on, say, 24 per cent gross profit.

But the turnover of the tobacco is vitally important because of the other sales that it brings in. A \$300 cost for my particular store—unfortunately, they are not going to like me—I would pay it because I really have to pay it. I cannot afford not to have tobacco in my shop, because it is currently sitting on 20 per cent of my store sales. It is the biggest department in my shop. It is not the biggest profit maker in my shop, but it is the biggest department. The people who come and spend \$30 or \$40 on a packet of cigarettes are really good at spending money on Coca-Cola and all the other stuff that comes in that we make a high margin on. So I would pay \$300. But if you have a store that is running so close to the wire that they find that they cannot spend that \$300, it could turn them on to a downward spiral of, 'I'm not going to pay that. I'm going to just sell tobacco without having a licence' and we really do not want that.

**CHAIR:** Thank you. I have one more question, because I know that my fellow committee members have many questions also. You are already operating under strict tobacco legislation and requirements. Is it your sense that a licensing scheme—and some of you have mentioned New South Wales—adds that much additional impost? Obviously, it depends on which model, but would someone like to make a comment in response to that?

**Mr Lim:** I will use an example today that I just happened to learn about yesterday. As you will remember, New South Wales introduced a notification number to the wholesalers. So when the staff was doing the ordering, she did not know the number. These kinds of delays and misunderstandings add to the confusion. The operator, the owner had to implement and train her staff. It just adds that additional effort more on the owners to ensure that their staff are operating in the correct manner.

The difficulty with small business retailers at the moment is that it is really tight out there and they really feel the pinch. It is not symptomatic; it is almost the norm where all small business retailers have invested their homes into their businesses. So it is really tight.

**CHAIR:** Thank you. I will hand now to the deputy chair and member for Moggill.

**Dr ROWAN:** Thank you for all of the submissions today. Just to capture what was being spoken about from the question from the chair, it sounds like there are two issues. One is around the burden of regulatory compliance and the concerns in the submissions that this is another impost upon retailers. I just wanted to pick up on the flow-on implications, for want of a better word, when it comes to customers who come into the store. Obviously, you see those customers as a gateway—that they

are purchasing these products and then having additional expenditure on other products in those retailing stores. For an individual retailer, is there any sense of what sort of quantum of potential money that is? These are a subset of your overall customer set. You obviously have these customers and they are high-impact customers, for want of a better term, because for an individual retailer they seem to spend a significant amount of money at an individual store above and beyond the tobacco product that they purchase. So is there any idea of what percentage that would be of an individual retailer's overall revenue?

**Mr Glasby:** In my store, for every \$20 spent on tobacco products approximately 50 per cent more is spent on other things—so another \$10.

**Dr ROWAN:** Right. Okay.

**Mr La:** I just want to add to that. I have two stores. I have one that is across from the train station and of the customers who purchase cigarettes, there will be about 50 per cent of the time that they will buy cigarettes with something else. They do not generally come in just to buy cigarettes. The other store, which is in a shopping centre with Woolworths and Aldi, they do not buy anything. They do not buy any of the cigarettes. They go to Woolies. But what I do see is that those customers who go to Woolies, they are always buying bags full of cigarettes, because they are cheaper than what we can sell them for. So in terms of the two stores, what I find is that there is a large difference. On the convenience side, 50 per cent of the time they buy with something else and the other one, they do not even ask for them.

**Dr ROWAN:** Okay. I have a further question for the Alliance of Australian Retailers. Are there any mechanisms of flexibility or review time frames that retailers would like to see in a newly implemented tobacco licensing scheme in Queensland?

**Mr Lim:** Flexibility of?

**Dr ROWAN:** Any flexibility in a scheme or review time frames? In other words, do you have any recommendations as to when and how such a scheme should be reviewed and what engagement there should be with retailers generally? Should there be flexibility in the scheme that it can adapt over time?

**Mr Lim:** I do not think that we have an opinion on that, because we do not know what the model is. Secondly, perhaps we can suggest a trial of whatever it is that you want to implement on a very limited basis. Maybe that is an approach.

If we have to have a licensing model, then we would strongly encourage the New South Wales model, where it is a notification scheme rather than a licensing scheme. They do not have to pay any amount, but you have to register yourself into the system. Interestingly, in the ACT they have only just recently introduced a licensing scheme. We scratched our heads with that, because they already have achieved their goal of tobacco consumption to below 10 per cent and still they are still wanting to introduce a licensing scheme. Our member retailers are not understanding exactly what the point of it is if they have already achieved their goals of going below 10 per cent. Whatever model you have, we would like to understand what that model would be—if it is not what the other states are suggesting—and perhaps a trial of it first before you implement it across the entire state.

**Dr ROWAN:** That is what I was getting to—whether it should be trialled as opposed to implemented lock, stock and barrel. If it is trialled, over what period of time and what level of engagement should there be with trailers throughout such a pilot period? That is an open question to all submitters.

**Mr Lim:** Perhaps six months to a year to start off with and see how it goes. You will appreciate that our member retailers would prefer if there were no licensing scheme—the status quo. They do not need any more additional obligations beyond what they already have at the moment. We are reflecting the sentiment of our member retailers.

**Mr La:** Just adding to that, if a newsagent like me were to decide to not pay for the licensing and then move out of that category altogether, it is actually a lot of cost that we have already put into the department that we have to throw away. If the scheme does not work, or it does not succeed in the goals that it set out to achieve, to come back into it, we will not be coming back into it. So you need to look at that scenario where you are destroying a store's capacity to earn some living out of that segment only to find that later on that scheme did not work. I definitely think that you really need to think through the scheme and how that it is going to affect small retailers—the small independent retailers—because large retailers can afford it.

**CHAIR:** Thank you. Member for Thuringowa?

**Mr HARPER:** Thank you all for your submissions and being here today on behalf of retailers. There are a number of submitters who support the licensing scheme, like the Heart Foundation and the Cancer Council for a number of reasons, including but not limited to monitoring the compliance of retailers on the sale of tobacco and other smoking products and, in doing so, reduce the sale to minors and for the purpose of education and obligations with the compliance activities. These activities would be required of all retailers. I will start with FoodWorks. Would you like to comment on that? Do you have any suggestions regarding alternative ways this could be achieved?

**Mr Heath:** It is my understanding that there are currently adequate controls to monitor and fine businesses in Queensland that are contravening the current legislation. Without understanding the details of your licensing scheme proposal, this would be duplicating the current requirements.

**CHAIR:** Can I just clarify that we do not have a proposed scheme. The committee is purely collecting information. That is just to let you know. We will make a proposal, but we do not currently have one. Please continue. Master Grocers?

**Mr de Bruin:** You have to remember that our members in Australia, but particularly in Queensland, are compliant to local laws, state laws and federal laws. There are a plethora of regulations. In terms of tobacco, it is like food safety and occupational health and safety. Our members are self-trained, are guided by us, directed by FoodWorks, directed by the tobacco industry and educated every day of the week in regard to the responsible dispensing of tobacco. We will ask for ID. We will not sell to minors. We will adhere to every law and regulation and we do it unflinchingly. There have been many changes. There have been some good results in terms of the tobacco smoking rate as a consequence of those results whether they were local, state or federal initiatives.

The small, to medium, to large superintendent needs maybe 23 per cent GP to break even—22 per cent GP. Let us put that number in. You have just heard before that the GP associated with tobacco is around 10 per cent. So there is a high level of turnover required to generate an income, to generate a turnover, a cash flow. What we are trying to do desperately as an industry organisation is to simplify the lives of our retailers to reduce red tape and burden. We work very closely with the federal government—with people like Josh Frydenberg. We try to work very closely with the Queensland state government with respect to initiatives and so forth.

We are talking about just another regulatory burden that we believe does not serve a purpose in an environment that is already highly controlled and regulated. We have local government people going into our members and checking—and even checking to the point of walking in incognito and testing out our retailers in regard to the under-age sales of tobacco. So it is quite an onerous situation that we find ourselves in. As an industry sector we offer to continue to support the government's position on responsible service of tobacco for sure, but also the initiatives around the decreased usage of tobacco. I wish to support what Tim said before: particularly in the small to medium area, it is a big part of their business today. As the smoking rates decline, we need to transition into other areas of business and that will take some time, but we cannot continue to foist additional red tape and burdens on our retailers.

**Ms Brown:** Can I add something to that: there was a suggestion in our submission, for retailers to be able to assist in the reduction of smoking, to allow cessation material for smoking and nicotine replacement therapies to be available in stores and perhaps some emphasis placed on their use. That might be helpful in assisting to reduce the uptake or ceasing of smoking.

**Mr La:** I have one quick comment on that. In regards to the purpose of these schemes that you are looking at putting forward, my view is that you are looking at reducing the number of under-age smokers. At the present moment, the policies are already in place and the monitoring of it is working in Queensland. I get two officers visiting me every year to make sure that I am compliant, to make sure that I am doing the right thing in checking the age of people who we think are under age. I have looked at the reports of Queensland Health about the reductions in under-age smoking. If it is working so far, why then look at adding this extra burden on small businesses? If it is working already, if it is currently working and you are seeing progress, why add this on?

**CHAIR:** Thank you. I make the comment that the terms of reference that we have been given essentially, as I mentioned earlier, are to look at and put together a concise report to the parliament about what schemes currently exist in other jurisdictions, obviously what arrangements apply here in Queensland, and also to look at how the capacity of licensing arrangements—and, of course, we do not have a proposed model—generally can support broader public health objectives. There may have been further questions about that when I moved to the member for Buderim. I am interested in the views of the people here now. We heard earlier that licensing schemes can make a contribution to achieving broader public health objectives and comments that it does not necessarily achieve

anything. What are your views on those earlier comments from people such as those from the Cancer Council and the Heart Foundation that licensing schemes do play a part and serve a purpose, more so in understanding who in the market is selling a product like this? We do not currently have that. I am interested in your views on behalf of retailers.

**Mr Lim:** I think there was an assumption that a licensing scheme, per se, or a fee based licensing scheme, per se, would then require retailers to comply with all aspects of the law, obviously. The question then is: how come other states have been able to achieve those same objectives without one? One of the perhaps more emotive arguments that the anti-tobacco lobby is saying is about tobacco consumption in minors. If we are honest, no legitimate retailer would dare sell to minors, not just because of the law but for its own intrinsic reasons. Why would you want to sell? The question then is: if legitimate retailers are not selling to minors, how do they get it? The legislative question is: if it is not the retailers, who else should be the focus as the supplier to minors in terms of tobacco sales, rather than the pure focus being on retailers? One of the interesting comments that regularly gets discussed by small business retailers is: why is it that small business retailers are usually the ones who are regulated and the focus of all these regulations, when in actual fact the problem may be somewhere else?

Not only that, we would like to suggest that, by sheer legislation alone, the question about compliance is not dependent on a licensing arrangement. You have many other jurisdictions, not just in Australia but around the world, where requirements by law would compel the retailer to provide that information to you anyway. I think the range of legislation and the powers that you already have are quite comprehensive. Perhaps the issue is about enforcement of the existing legislation and better resourcing, rather than necessarily adding one more, which may not achieve anything better.

**Mr DICKSON:** I thank you all for your time today. I have taken on board personally the cases that you are putting forward. I come from private enterprise and I understand how difficult it can be. However, the problem we have is how difficult it is that we are spending \$6.1 billion a year on health care to look after the effects and the implications of smoking. Understand why we are trying to find the best ways to move forward. This is an investigation that we are going through at the moment. There is nothing in stone. But we need to come up with the best possible solutions, working in conjunction with the cigarette companies and yourselves. We all have certain opinions, but we are going to need as much feedback as we can get from you. I thank you for the formal documents that you have sent forward. Also, I have heard today that there is a whole lot of red tape out there. On a scale of one to 10, saving people's lives is really high for me. There may be other things that you wish to approach the government about. Madam Chair, I know I am speaking out of turn. I think maybe your organisations need to really concentrate on a lot of those issues as well, because to me this is about life and death. It is always very important and at the top of the food chain, but there may be other things that you may not consider that are quite as high that are issues of red tape. I would ask you to contact your local representatives and members of parliament to see what you can cut back on in those areas, just in case this does move forward. I will leave that as a statement. If you wish to make any statements yourselves, please do not hesitate. I am happy to listen to whatever you have to say.

**CHAIR:** Thank you. I am advised you are very time sensitive and that some of you have flights to catch. I understand the committee members have no further questions, but I have one final question. I am known for asking a million questions. With licensing schemes in other states, have you received feedback that any of those retailers have decided not to sell the product anymore because of those licensing schemes?

**Mr Lim:** Yes. In fact, recently, as I mentioned earlier, a couple of years ago in the ACT they introduced a licensing fee, I think, of \$300 or \$400, from memory. Straightaway any number of retailers said, 'That is it; that is enough', and they just gave it up.

**CHAIR:** Would you have any data other than anecdotal data that you could provide to the committee in that regard?

**Mr Lim:** I can provide that to you, sure.

**CHAIR:** Thank you. Master Grocers, this is a final opportunity for you to say something, because we will conclude the hearing thereafter.

**Mr de Bruin:** We absolutely agree that there is nothing more important than life rather than death and that regulations ought to be prioritised in that manner. However, we do wish to emphasise that that responsibility is with the consumer. We will do everything in our power as retailers to make sure that we dispense responsibly, but the consumer needs to be continually educated. I feel that that is where the habit needs to be broken.

**CHAIR:** Thank you. The time allocated for this public briefing has expired. I sincerely thank United Retailers, Alliance of Australian Retailers and Master Grocers for the time that you have taken to write to the committee and also to appear here today. I appreciate, Craig and Luke, you mentioned that you do have your own businesses and stores, so thank you very much. Thank you to all of the submitters who have come before the committee today. You have taken one matter on notice, if you are able to provide some data to the committee—

**Mr Lim:** I am happy to.

**CHAIR:** I now declare this briefing closed. Thank you.

**Committee adjourned at 11.08 am**