



## Inquiry into the Tobacco licensing arrangements in Queensland

### Summary

The Australian Retailers Association (ARA) is urging the Queensland Government not to allow the discussion options for to restrict competition amongst retailers in the Queensland to those with market power and the ability to absorb costs or trade restrictions which will inevitably grow the illegal market and cost jobs in all sizes of retail grocery and convenience.

Australia has a high rate of market concentration in the retail operating environment in the grocery, newsagent, petrol, liquor and convenience store market. Potential proposals around market restrictions, licencing fees, social licencing or restricting sales hours will seriously reduce small retail business operations in Queensland while forcing tobacco sales into major retailers, New South Wales (NSW) or the illegal market activity.

The ARA continues to advocate for greater education and harm reduction efforts from Government in relation to tobacco products, including the sale of alternative harm reduction products in pharmacies and convenience stores.

The ARA does not support greater use of non-proven market restrictions which will further harm retailers without reducing smoking rates.

A Strategy should look at less harmful and successful options in helping people quit smoking such as diversionary products which would also allow legitimate retailers to diversify product ranges to offset lost sales as illegal market share grows.

As way of background, the ARA offers support, information and representation to over 5,500 member retailers representing over 50,000 retail outlets across every state and territory making the ARA the biggest and most diverse retail industry body in Australia. The ARA has a Queensland board, office and Queensland staff working on behalf of retailers. The ARA works closely with the Government and other industry participants to ensure the long-term viability and position of the retail sector as a leading contributor to the Australian economy. The ARA delivers training, tenancy advice, consumer law advice

and employment relations advice (registered with the Fair Work Commission) in every state and territory – making the ARA the only body undertaking these activities for the retail sector Australia wide. We believe reform of regulation and reduction in tax and duties along with a reduction in compliance burden for business and consumers will see the Australian economy and Australian retailers return to their traditional strength.

## 361,711 Jobs in Queensland

<b>Total Retail Jobs - Direct and indirect</b>	<b>361,711</b>
Direct Employment	250,100
Indirect jobs supported by retail in other industry sectors	111,611
% of total for state	10.8%
Compensation of employees	\$8.5
% of total state	7.3%
Total factor income	\$11.6
% of total for state	5.2%
Number of businesses	27,749
% of total for state	6.6%



Sources: ABS Labour Force, Australia, detailed quarterly 6291.0.55.003; ABS State National Accounts, 5220.0; ABS Count of Australian Businesses, 8165.0

### Inquiry into the Tobacco licensing arrangements in Queensland

The main area of concern for convenience, mixed and other retailers is in the suggestion restricting market access could be looked at as a measure through licencing, this could significantly affect the viability of many small to medium retailers.

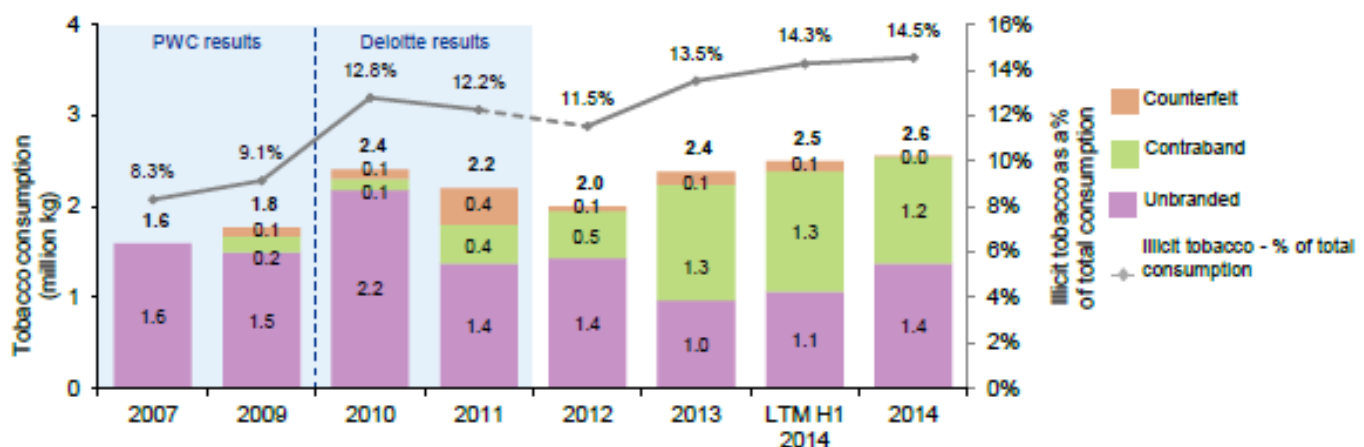
The most extreme market access outcome would be in the form of licence registration leading to restrictions limiting access to tobacco or substantial fees. This move would be anti-competitive in the context of driving all tobacco retail trade to major retail outlets with small to medium retailers not being able to afford the costs and administration around a licence application or competitive licence processes. We could foresee a monetarisation or commoditisation around tobacco market access when the market is restricted, reducing competition and creating additional growth in the black market. In addition, given there is ready access to retail outlets located in NSW, who go through a simple no cost registration process for tobacco sales, market restrictions and registration fees in Queensland would inevitably drive consumer purchases to cross border activity, with some level of organised illegal

activity likely outside the regulated Queensland system due to restrictions on sales and costs. One suggestion made in previous discussion papers on restricting hours of sale would be the most obvious driver for a trip across the NSW border. We already know where there are restrictions on hours of trade for alcohol sales customers will drive considerable distances to purchase product where it is available, even on impulse, this creates the inevitable additional driving and recreational drug use road safety problems ready retail access can help solve.

We could also see increased internet and mail purchases of product from interstate where costs are lower therefore the impetus to order a carton of lower cost product from NSW would take trade from Queensland retailers.

The ARA does not believe options around restricting sales in the market place or licencing fees would reduce smoking rates. There is no evidence that recent plain packaging moves have worked and consumers have sought illegal product instead with the loss of brand loyalty the illegal market has grown to the magnitude of 14.3% of consumption. An increased licencing fee being passed on, or trading hour restriction will drive the growth in the illegal trade with purchases already prepared to source illegal product with increased costs and restrictions on sales.

**Consumption of illicit tobacco products by category and as a percentage of overall consumption, 2007 – 2014<sup>(1)(2)(3)(4)(5)</sup>**



(KPMG Report Illicit Tobacco Trade in Australia March 2015)

ARA represents many convenience, newsagent, petrol and supermarket independent retailers. Our experience is that the turnover from these products in these businesses is significant and often drives sales across other categories. An anti-competitive measure restricting the market or licence fees will shift sales to larger chains and close smaller businesses down. Small businesses are already struggling with increased competition from larger chains as restrictions have driven trade into large

chains who can afford compliance costs, insurance costs, security, as we have seen volumes did not change and have in fact increased with plain packaging but there has been a shift to lower cost product with less margin along with rapid growth of illegal product exacerbated by high taxes. Many mixed retailers report tobacco and related products can be as high as 50% of turnover.

The ARA encourages harm reduction moves to give consumers access to less harmful product and retailers an alternative revenue stream. It has been noted by many small and large retailers the growth in e-cigarettes which can only be purchased from overseas but not from them. For a strategy to achieve a positive outcome based on global evidence retailers could stock these items reducing harm but also allowing new revenue streams. It has been noted that Public Health England in August stated “e-cigarettes are 95% less harmful and are successful in helping people quit smoking”. Prohibition and restriction doesn’t work, diversionary product and education does.

The Queensland Government should pursue proven education and diversionary schemes. Queensland should work with retailers and pharmacies to stock information and diversionary nicotine replacement products.

The form of no cost registration in NSW does allow authorities to know who is selling product while not effecting the comparative viability of those businesses through a licencing fee.

All recent evidence indicates that many measures on tobacco products are now being counterproductive and that by restricting consumption through legal suppliers the illegal market is growing with cost a key driver. Data by KPMG has shown total illegal tobacco in Australia is running at a rate of 14.3% which combined with the legal market would indicate no decline in overall tobacco consumption.

There is ample evidence that illegal unregulated untaxed branded product is being sold via multiple channels to overcome restrictions in the market. With margins so high on illegal product, serious crime has moved into selling in the market place where there is no regulation or restriction on product sales to children, health warnings or diversionary products. Recent seizures have shown product worth tens of millions of dollars is being shipped by the same organised crime syndicates who ship other illegal products.

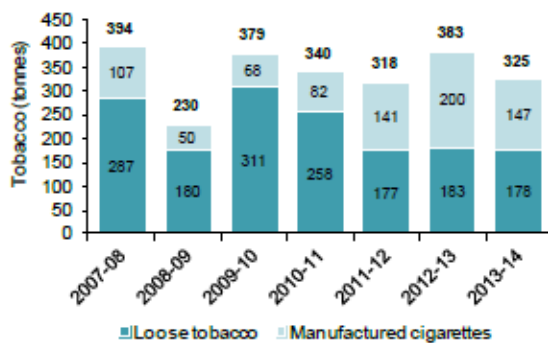
Consumers want harm reduction products such as electronic cigarettes and are purchasing them online or via multiple suppliers. There is little or no understanding around the legality of these products or safety from the source because of the lack of regulation. We believe all of these products should be



regulated and in the case of low-risk harm reduction products, encouraged as an alternative.

In regard to licencing there should never be a cap for a competitive market, it will lead to potential issues surrounding inappropriate practices to gain licences along with real distortions regulation will never be able to overcome. As examples would licenses be transferable to new sites? How would licences be supplied to new growth areas? Would small retailers find themselves subject to predatory behaviour by others wishing to gain a licence? If a business gains a licence in a growth area how will the market exclusivity be kept in balance and stop them from having a monopoly in that area?

Sea cargo seizures split by type of illicit tobacco,  
2008 – 2014<sup>(1)(a)(b)(c)</sup>



Notes: (a) Illicit tobacco detections were also made in air cargo. However, volumes are considerably smaller and have not been included in the figures above.  
(b) Tobacco seizures have been converted to cigarette equivalents based on the conversion rates used for consumption modelling.  
(c) Numbers for 2012-13 have been updated and are based on data provided by the Australian Customs and Border Protection Service.  
Sources: (1) Australian Customs and Border Protection Service, Annual Report 2014, October 2014.

(KPMG Report Illicit Tobacco Trade in Australia March 2015)

Where we have had experience in dealing with other markets and associations in those markets commercial evidence indicates that overregulation and high taxation reduces the legitimate market. Any measure on restricting the market place would drive trade directly to the illegal market with no net health benefit or consumption reduction. It would also have serious repercussions for the Queensland retail economy.

In the discussion papers we have seen many statements that a suggested measure “may reduce” or “may assist”, none of these statements are based on fact or substantiated. All of our unintended consequences through these suggested measures are already documented and are substantiated.

The ARA accepts the fact that no product is a 100 percent safe and for this reason we believe usage does need to be monitored for harmful effects, education continues, alternate products supplied and that quit programmes must continue to be used to help people stop their nicotine addiction.

If any proposal around an ill-conceived restricted market or licensing process were to be further considered the ARA and our members would like to be consulted fully moving forward and appear in Committee consultations.

**Name:** Russell Zimmerman

**Position:** Executive Director

[Redacted]  
[Redacted]