

**Portions of this submission, which were about the Health and Hospitals Network Bill 2011, have been deleted from the published version.**

**That Bill has not been referred to the committee.**

Sub # 3

**RECEIVED**

**26 SEP 2011**

**HEALTH AND DISABILITIES  
COMMITTEE**

11.1.2.3



**IMPERIAL TOBACCO AUSTRALIA LTD**

**SUBMISSION**

**HEALTH LEGISLATION AMENDMENT  
BILL 2011**

**SEPTEMBER 2011**

## INTRODUCTION

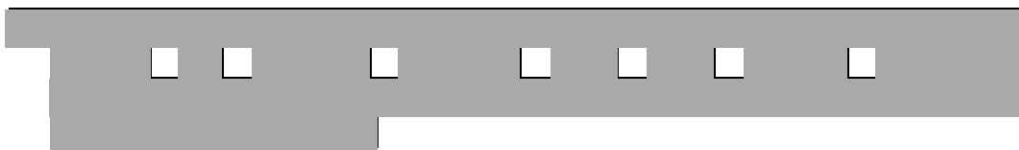
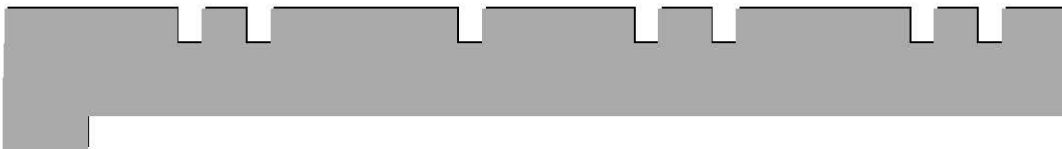
Imperial Tobacco Australia Limited ("ITA") appreciates the opportunity to contribute to this process, so that tobacco control initiatives in Queensland are proportionate, reasonable and practicable.

ITA participates in a range of government consultations that are relevant to our business. We do this on the basis that our views will be considered in an objective manner and that the evidence and views we provide will be properly evaluated, with due regard given to relevant legal and legislative requirements and the principles of best practice regulation.

ITA has specialist commercial and technical knowledge about our products and the international tobacco trade. Regulators should draw on our expertise when they are considering tobacco regulation/policies.

We are willing to work with the Queensland Government and Health on various initiatives that affect our industry and will consider all invitations to play a partnership role in forming policy and actions that may impact our industry in the future, and where possible assist the Queensland Government in achieving specific objectives.

In this instance we seek constructive dialogue on the *Health Legislation Amendment Bill 2011 ("the Bill")*, in particular the sections relating to *Amendment of Tobacco and Other Smoking Products Act 1998 ("Tobacco Act")*.



In coming sections of this document we will break down and comment on the specific measures proposed. However prior to that we would likely to broadly state our position on a number of key areas:

1. In relation to **Environmental Tobacco Smoke** ITA recognises concerns that other people's tobacco smoke may be harmful, unpleasant or annoying.

However, it is our view that the scientific evidence, taken as a whole, is insufficient to establish that other people's tobacco smoke is a cause of any disease. Therefore bans or restrictions on smoking in public places are disproportionate, unnecessary and unjustified on grounds of protecting public health.

We will continue to voice our concerns about the adverse effect that bans and restrictions have on smokers and on the venues which may wish to accommodate smoking. We believe that concerns about smoking in public places can be resolved through common sense and courtesy and by introducing practical solutions such as well ventilated smoking and no-smoking areas.

There are countries that have introduced regulations to accommodate smokers and non-smokers. While we do not believe that any legislation is necessary, we prefer approaches that retain an element of freedom and choice for adults, both smokers and non-smokers.

We will make more specific comments on this in relation to the amendments to s 26S and 26ZA of the Tobacco Act.

2. ITA is particularly concerned about **youth smoking**. We are a responsible corporation, committed to selling our products within the law and trading with retailers who are also committed to selling tobacco products within the law.

We do not direct any of our products or marketing activities to those less than 18 years of age, and we follow stringent international marketing standards and comply with our international code of conduct. Copies of both of these documents can be seen on our website <http://www.imperial-tobacco.com>

Evidence suggests that the root causes for youth smoking have nothing to do with tobacco advertising, displays or packaging. Instead, the principal causes include factors such as rebelliousness and risk taking, family structure and relationships, socioeconomic status, school connection and educational success.

We will make more specific comments on this in relation to the amendments to s 26ZS, 26ZT and S42E of the Tobacco Act.

3. 

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## HEALTH LEGISLATION AMENDMENT BILL 2011 - AMENDMENT OF TOBACCO AND OTHER SMOKING PRODUCTS ACT 1998

More detailed comments on amendments and insertions have been classified into two sections:

1. Those dealing with:
  - a. Environmental Tobacco Smoke (ETS), and specifically the changes to Designated Outdoor Smoking Areas (DOSAs) in Queensland
  - b. The issue of Youth Smoking, and finally
2. The proposed changes to Retail Display in Queensland

Following the review of amendments ITA will also address other key concerns, which are:

1. Continued dialogue and consultation on the Bill and regulations,
2. Timelines for implementation, and
3. Clear and ongoing stakeholder communication.

It has been our experience in other states and territories that these are the key ingredients in getting to workable outcomes. It also ensures that all stakeholders are aware of requirements, leading to a smooth implementation.

### **Comments on changes not related to Retail Display Bans**

In this we specifically comment on the amendments to signage, designated outdoor smoking areas and provisions relating to children.

#### **Amendment s 26S (No Smoking Sign)**

ITA's position on Environmental Tobacco Smoke (ETS) has already been stated. We believe that practical solutions accommodating the needs of smokers and non-smokers in public areas are a better outcome than continued impingement on the areas which adults may smoke .

That said we do support the reduction of complexity regarding no smoking signs for owners and managers of licensed premises. We are in favour of narrowing the focus for the Non Smoking sign to more applicable outlets such as hotels, community clubs and those licensed under the *Liquor Act 1992*. In addition the

decision to reduce the signage requirement to one sign at the public entrance to the DOSA is one of common sense and will reduce confusion for patrons.

#### **Amendment s 26ZA (Designating an outdoor smoking area)**

ITA recognises concerns that other people's tobacco smoke can be annoying to those around them. Smoking in public places can and should be resolved through common sense and courtesy by incorporating practical measures such as well ventilated smoking and non smoking areas, for instance.

The introduction of a buffer will not always be practical given the physical space constraints at a number of venues. In extreme cases it may put smokers and other patrons in danger. Furthermore, groups of smokers congregating around "buffer points" may present an occupational health and safety hazard.

While we disagree with the principle of buffers, we support the additional clarity to assist in ensuring compliance with existing regulations.

#### **Amendment s 26ZS (Supply of food or toys resembling tobacco products)**

ITA supports the Queensland Government's priority area to restrict the availability and supply of tobacco products to children.

ITA is committed to promoting and selling our products responsibly, within the regulations and requirements of Australia.

In addition our International Marketing Standards reinforce this commitment and set out clear rules and principles to ensure that our advertising and promotional activities are directed only to adult consumers of tobacco products. Where regulations and requirements are less stringent than our marketing standards, our standards take precedence unless otherwise required by law.

Based on this position we are happy to support this amendment but would ask that there is clear communication and time allowed to ensure retailers are compliant.

#### **Insertion of new s 26ZT (Confectionery or fruit flavoured cigarettes)**

It is widely recognised that overtly fruit & confectionery flavoured cigarettes are attractive to children. ITA does not market cigarettes to children and fully supports this initiative to bring Queensland into line with other States and Territories that have banned overtly fruit & confectionery flavoured cigarettes. The best way to implement this is to ensure that future regulations include a list of brands banned that are captured under the definition of "fruit & confectionery". It is our view that children should not smoke or use tobacco products and that sensible measures such as these should be implemented.

**Insertion of new s 42E (Seizures in relation to Children)**

We support the Queensland Government's desire to prevent the sale of tobacco products to children and the strict enforcement of current legislation already in place and penalties for those found to be in breach of such legislation.

ITA agrees with the Queensland Government's efforts to eliminate youth smoking and supports such measures where responsibly and reasonably executed.

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## **OTHER KEY CONSIDERATIONS**

Outside the key changes to the *Health Legislation Amendment Bill 2011 - Amendment of Tobacco and Other Smoking Products Act 1999*, there are number of other key points that need to be made to ensure a smooth implementation of any changes that result from this bill. These are set out below.

### **Consultation and Dialogue**

At all times ITA will welcome consultation and dialogue with the Queensland Government and Health. We do this on the basis that our views will be

considered in an objective manner and that the evidence and views we provide will be properly evaluated, with due regard given to relevant legal and legislative requirements and the principles of best practice regulation.

To date this has been difficult but we believe that it is necessary to ensure compliance within the required timeframes.

We are very disappointed that our recent requests to meet with relevant Ministers on this proposed legislation were declined.

[REDACTED]

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### **Communications**

Additionally, a sufficient and effective communications campaign needs to be undertaken by the Queensland Health, to provide all retailers, especially small businesses and family operated stores, with adequate information about the upcoming changes. ITA is willing to assist in this process, and will provide information to our customers regarding these changes affecting the tobacco industry. However, it is not our responsibility to communicate legislative amendments. We hope and anticipate that a strategic and well-planned communications campaign will be launched over the coming weeks to inform retailers of their new obligations.

In the past, we have found that Tobacco Retailer/Specialist Tobacconist Guides/Factsheets, issued by states, with illustrations detailing what is and is not permissible under legislation, particularly in relation to display, are helpful. The use of a tick on the picture depicting compliance and a cross on the picture depicting non-compliance are particularly useful to retailers for whom English is not their first language. Successive states have improved on previous

guidelines. We would direct you to the Victoria Health website which provides the most recent example of such guidelines.

In conclusion we would also welcome the opportunity to meet with you or accompany you to a few retailer sites to view the practical issues and various solutions being considered to comply with the point of sale aspects of the legislation.

Please feel free to contact me on (02) 9881 0914 if I can provide any clarification or additional information regarding the above points.

Yours sincerely,

**GARY DICKSON**  
Corporate Affairs & Legal Manager