

## Vaping - An inquiry into reducing rates of e-cigarette use in Queensland

**Submission No:** 26  
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**Publication:**  
**Attachments:**  
**Submitter Comments:**



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27 April 2023  
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## **RE: VAPING INQUIRY**

### **INTRODUCTION**

Imperial Brands Australasia (Imperial) welcomes the opportunity to participate in the Health and Environment Committee's (the Committee) inquiry into e-cigarette use in Queensland. Imperial 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.

### **BACKGROUND**

Imperial is a trading subsidiary in the Imperial Brands PLC group of companies, an international fast-moving consumer goods business specialising in tobacco and other nicotine products. Imperial entered the Australian market in September 1999 at the request of the ACCC to ensure that competition was maintained following the global merger between British American Tobacco (BAT) and Rothmans International.

For the 2022/23 year, Imperial delivered approximately \$4.1 billion to the Federal Treasury through excise duties on tobacco products (excluding GST). We employ approximately 225 people in Australia and make further contributions to government through corporate taxation, GST, employment taxes and other revenues of approximately \$510 million annually. In totality, the tobacco industry contributes approximately \$12 billion to the Federal Treasury through excise duty.

## SUMMARY

Reducing the health impacts of tobacco requires that governments, regulators, and public health bodies play a positive role, which includes implementing a legislative framework that allows the electronic vaping product (EVP) category to develop and give adult smokers the confidence to try, and ultimately transition, to these potentially less harmful products. We support effective regulation that encourages EVP uptake by adult smokers and limits the ability of minors, and vulnerable groups, to access nicotine products.

EVPs offer adult smokers the potential to drastically reduce the health risks associated with smoking. However, the current regulatory framework has failed to provide adult smokers with an effective transition path away from combustible cigarettes. The Government has acknowledged that regulations are not achieving their intended purpose<sup>1</sup>.

It is vital that any EVP use by "never smokers", including youth, is minimised, or eliminated altogether. EVPs are for adult smokers and adult nicotine users only. The nicotine black market, which has surged in Australia, wholly disregards product quality and safety. Like illicit tobacco, which now represents nearly one in every five cigarettes consumed in Australia<sup>2</sup>, illicit vaping products have established a significant foothold. It is estimated there are over two million adult EVP users in Australia<sup>3</sup> with anecdotal evidence suggesting approximately 90% of whom are purchasing illicit product. The illicit market for nicotine e-cigarettes is estimated to be worth in excess of \$1 billion. The Government must take steps to address the illicit nicotine market to prevent the unregulated sale of illicit products.

Imperial does not market or sell any EVPs in Australia. We encourage the Government to recognise the reduced risk potential of EVPs and to develop balanced regulation and fiscal policies that support tobacco harm reduction.

The remainder of this submission will address the key topics considered by the Committee as within the scope of this consultation.

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<sup>1</sup> Department of Health and Aged Care Therapeutic Goods Administration 'Potential Reforms to the Regulation of Nicotine Vaping Products' Consultation Paper, November 2022

<sup>2</sup> KPMG Illicit Tobacco in Australia 2021 Full Year Report

<sup>3</sup> <https://www.theguardian.com/society/2022/dec/03/lives-are-at-stake-australia-returns-to-the-nicotine-frontline-with-vaping-reform>

### ***1a. Regulatory status***

While the introduction of the TGA prescription model was de facto acknowledgement of the harm reduction potential of EVPs, the restrictive process has contributed to the significant and growing illicit vape market. The current prescription model has failed to provide adult smokers with an effective transition path away from combustible cigarettes. The burgeoning illicit disposal vape market highlights the urgent need for more effective regulation which strikes a better balance, encouraging NGP uptake by adult smokers and limiting the ability of minors to access nicotine products. There is a pressing need for stronger enforcement to prevent unregulated, illicit vapes from being sold in the market.

Vaping products are consumer products and should be regulated as such. Harm reduction without consumer appeal provides little in the way of public health benefits. Restricting the availability of EVPs for adult smokers will discourage use and potentially drive consumers back to smoking or to illicit vaping products. Responsible regulation should provide adult smokers with better access to EVPs while preventing underage use.

### ***1b. Minimum quality and safety standards***

To ensure consumer safety and to raise category standards, only approved products should be permitted for sale and penalties should apply for the importation/sale of unregistered products. Assessment should be based on robust product quality, manufacturing, and safety standards to limit any risks to the user. Effective enforcement of product quality and safety standards is needed so sub-standard products cannot remain in the market. Poor quality products damage the public perception of the category and have a negative impact on the public health message regarding EVPs.

Product safety requirements should be set to ensure all EVPs sold in Australia meet robust manufacturing standards. Regulations should limit the potential for vapour products to be adulterated and abused, while driving up quality, safety, and manufacturing standards for the category. Ingredients should be regulated based on the highest toxicological standards. Robust ingredient standards and quality requirements boost consumer trust.

### ***1c. Youth access prevention***

We strongly believe that EVPs are to be used by existing adult smokers and current adult vapers only. The proliferation of unregulated, illicit vapes highlights the urgent need for responsible regulation which allows adult smokers access to e-cigarettes while preventing underage use. The black market is not concerned with product safety standards or preventing youth vaping. Recent media attention on the illicit e-cigarette market and underage vaping underscores how the regulatory framework has failed to adequately address the growing nicotine vaping category.

Products available on the illicit market are entirely unregulated, meaning that there are no product standards and they are often sold to underage consumers. Legitimate manufacturers, retailers and the Government are also deprived of what could be legitimate revenue. With more than 2 million Australian EVP users<sup>4</sup>, there is an urgent need to stamp out the nicotine black market by providing adult smokers with improved legal access to regulated EVP products supplied by legitimate manufacturers and retailers who will work with stakeholders to ensure effective youth access prevention.

### ***2a. Harm reduction potential of e-cigarettes***

Harm reduction is a well-established concept in public health that is simple and compelling: to provide a range of policies, regulations and actions directly designed to reduce health risks by encouraging less risky behaviours. Tobacco harm reduction works in the same way: its aim is to provide adult smokers, who would otherwise continue to smoke, the option to transition to potentially less harmful products that still deliver nicotine – but with fewer and substantially lower levels of toxicants than those associated with burning tobacco.

A growing number of global regulators and public health bodies have concluded that vapour products are less harmful alternatives to smoking and therefore have a role to play in reducing tobacco-related disease. The long-term health impacts of smoking tobacco are well known. For e-cigarettes specifically, the scientific evidence to-date indicates the potential long-term health risks for adult smokers transitioning to e-cigarettes, manufactured to robust quality and safety standards,

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<sup>4</sup> <https://www.anu.edu.au/>

are highly likely to be considerably lower when compared to ongoing tobacco smoking. E-cigarette aerosols contain fewer and substantially lower levels of harmful chemicals compared to tobacco smoke.

### ***2b. Accessibility to adult smokers***

Effective regulation should support EVPs being made more accessible to adult smokers. Adult smokers are less likely to transition to potentially less harmful products if they perceive them as more expensive, less appealing, or more difficult to buy and use. The option to purchase a vaping product should be available to adult smokers wherever combustible cigarettes are sold. Restricting EVP sales, or requiring smokers to obtain prescriptions, will discourage transition and further fuel growth in the illicit vaping market.

The Government must develop balanced regulation and fiscal policies that ensure EVPs are widely available and accessible to adult smokers. Australia's prohibitory approach has predictably failed to prevent the establishment and subsequent growth of the illicit vaping market which is now estimated to be worth in excess of one billion dollars. This demonstrates that, despite the current restrictive regulations for e-cigarettes in Australia, adult smokers are seeking out EVP as an alternative to combustible cigarettes.

The growing weight of independent scientific evidence strongly points in favour of providing Australian adult smokers with the choice to legally access, purchase and use potentially less harmful nicotine e-cigarettes.

### ***3. Waste management and environmental impacts of e-cigarette products***

The effective environmental management of e-cigarette waste is only possible where a balanced regulatory framework exists and EVPs are supplied by responsible manufacturers and retailers and not the criminal organisations currently operating in this illicit space.

#### **4. International experience**

A growing number of countries including the US, Canada and New Zealand which provide adult consumers with access to EVPs have experienced corresponding declines in smoking rates in recent years<sup>5</sup>. Smoking rates are declining at an accelerated rate in countries where EVPs are;

- Supported and endorsed by public health experts, regulators, and policymakers.
- Marketed responsibly and widely available to adult smokers.
- Assisted by pragmatic, risk-proportionate regulation which encourages innovation and high product standards.

Many regulators and public health bodies have concluded that EVPs are less harmful alternatives to smoking, and therefore have a positive role to play in reducing smoking-related disease. For example, Public Health England's annual smoking review consistently concludes that *"vaping poses only a small fraction of the risks of smoking and switching completely from smoking to vaping conveys substantial health benefits"* as well as acknowledging that *"e-cigarettes could be contributing to at least 20,000 successful new quits per year and possibly many more...e-cigarette use is associated with improved quit success rates over the last year and an accelerated drop in smoking rates across the country"*<sup>6</sup>.

The UK Department of Health recently announced the introduction of the 'Swap to Stop' campaign. The initiative will see around one million British smokers provided with an e-cigarette starter kit along with support to help quit smoking. The world first initiative is a stark contrast to the prohibitionist approach taken in Australia, which remains the only Western democracy requiring a prescription to legally access EVP.

#### **CONCLUSION**

In Australia, Heated Tobacco and Oral Nicotine products are banned, whilst nicotine containing e-cigarettes are only available via prescription. This prohibitory approach has led to a significant and growing illegal market, particularly in EVPs.

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<sup>5</sup>Source: Australian Tobacco Harm Reduction Association

<sup>6</sup> PHE publishes independent expert e-cigarettes evidence review, Public Health England, February 2018 <https://www.gov.uk/government/news/phe-publishes-independent-expert-e-cigarettes-evidence-review>



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Products available on the illicit market are entirely unregulated, meaning that there are no product standards and are often sold to underage consumers. Legitimate manufacturers, retailers and the Government are deprived of what could be legitimate revenue.

Considering current scientific consensus and global experience, EVPs should be made more accessible to adult smokers. Product safety requirements should be set to ensure all consumer vape products sold in Australia meet robust manufacturing standards. It is our belief that adult smokers are unlikely to transition to potentially less harmful products if they perceive them as more expensive, less appealing, or more difficult to buy and use.

**Imperial Brands Australasia**

**April 2023**