

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

Submission No: 41
Submitted by: BAT Australia
Publication:
Attachments: See attachment
Submitter Comments:



166 William Street
Woolloomooloo 2011
NSW Australia

Locked Bag 6000
Potts Point 1335
NSW Australia

Tel +61 2 9370 1500
Fax +61 2 9370 1188
www.bata.com.au

British American Tobacco Australia

Submission to the Queensland Parliamentary

Committees Enquiry Into E-Cigarettes 2023

May 2023

Background

BAT Australia (BATA) welcomes the opportunity to make a submission to the Queensland Parliament's Health and Environment Committee's inquiry into vaping in Queensland. This submission outlines the opportunities for the Queensland Government to properly address vaping in Queensland through proper legislation and regulation.

Along with our principal focus on reducing the health impact of our business, BATA retains a strong commitment to our environmental, social and governance priorities. Together, this approach helps create shared value for our consumers, society, our employees and shareholders. BATA is focused on building towards A Better Tomorrow now just for our business, but for all our stakeholders.

We believe that the Queensland government should look to international precedents of vaping regulation, such as that of the United Kingdom, New Zealand and EU, all of whom have adopted tobacco harm reduction strategies.

Policy Overview

Tobacco harm reduction is a proven public health policy which minimizes the negative health impact of conventional cigarettes by offering consumers who would otherwise continue to smoke, an alternative source of nicotine with lower risks.

Since the 2020 introduction of tobacco harm reduction legislation in New Zealand, more than 100,000 smokers have quit smoking. In the one year since e-cigarettes were regulated as adult consumer products by the New Zealand Government, the number of current smokers reduced by approximately 20% from 559,000 to 451,000.¹

Similar substantial declines in the rate of current smokers have been observed in the United Kingdom where e-cigarettes are available as an adult consumer product in line with tobacco harm reduction public health policies. The most recent United Kingdom government complete statistics show that the proportion of current smokers in the UK has fallen significantly from 20.2% in 2011 to 14.1% in 2019². Observing the significant decline in smoking rates, in 2018 Public Health England concluded that *"while caution is needed with these figures, the evidence suggests that [e-cigarettes] have contributed tens of thousands of additional quitters in England"*³.

Public Health England's 2021 evidence update for e-cigarettes⁴, found:

- Studies show that tens of thousands of smokers stopped as a result of vaping in 2017, similar to estimates in previous years.
- Compared to the 2018 review, there is stronger evidence in this year's report that nicotine vaping products are effective for smoking cessation and reduction.
- As suggested in previous evidence reviews, combining vaping products (the most popular source of support used by people making a quit attempt in the general population), with stop smoking service support (the most effective type of support), should be an option available to all people who want to quit smoking.

¹ New Zealand Health Survey, Current smokers (aged 15+ years), <https://www.health.govt.nz/publication/annual-update-key-results-2020-21-new-zealand-health-survey>

² Office for National Statistics, Adult smoking habits in the UK, <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandlifeexpectancies/bulletins/adultsmokinghabitsingreatbritain/2019>

³ Public Health England, Evidence review of e-cigarettes and heated tobacco products 2018, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684963/Evidence_review_of_e-cigarettes_and_heated_tobacco_products_2018.pdf

⁴ McNeill, A., Brose, L.S., Calder, R., Simonavicius, E. and Robson, D. (2021). Vaping in England: An evidence update including vaping for smoking cessation, February 2021: a report commissioned by Public Health England. London: Public Health England.

This position by Public Health England (PHE) is often dismissed by opponents of vaping as a tobacco harm reduction tool and attempts to discredit this stance persist in Australia. PHE, however, has consistently re-evaluated its position since its original study in 2015 and maintained the same opinion⁵.

BATA fails to understand the dynamics on why the Australian Government is accepting of many other positions taken by PHE, but so quickly dismissive of its position in considering nicotine vaping as a retail based, harm reduction option for Australian adult smokers.

As an indication of the potential public health outcomes that could be achieved through tobacco harm reduction policies, a study by Levy et al., (2018)⁶ modelled the future population impact if more smokers in the US switched to e-cigarettes. They estimated that taking into account several parameters such as cessation, initiation and relative harm, switching cigarette smokers to e-cigarette use over a 10-year period would lead to 1.6 to 6.6 million fewer premature deaths in the US under pessimistic and optimistic scenarios respectively. The authors concluded that "*a strategy of replacing cigarette by e-cigarette use can yield substantial gains, even with conservative assumptions about related risks*".

In the context of how difficult it is to get consumers to seek a sustainable pathway to reduced risk alternative nicotine products, the Government should reconsider its precautionary approach to the use of e-cigarettes. The application of the precautionary principle must be reasoned and involve an examination of the full range of alternatives, including the impact of inaction – which in this case includes denying consumers information and awareness of reduced risk products with the potential public health benefits that this carries.

Professor John Britton, the Director of the UK Centre for Tobacco and Alcohol Studies, University of Nottingham, stated: "[t]hose who cite the precautionary principle as justification to discourage or prohibit electronic cigarettes ignore the fact that for the great majority of users, the counterfactual is premature death from tobacco smoking. Smoking kills. So does denying smokers opportunities to quit."⁷

An expert report commissioned by ASH New Zealand⁸ also emphasises that the application of the precautionary principle to reduced risk products requires the assessment of the consequences of both action and inaction: "[...] *in other words, to take account of plausible harms that would arise from restricting what are likely to be far less harmful products in a market dominated by cigarettes. There is no avoiding a risk assessment based on what is known, looking not only at the risks of the product, but also risks that might arise from policies justified on supposedly precautionary grounds.*"

The danger of excessive regulation was also recognised by the Royal College of Physicians in its 2016 Report, in which it stated:

*"A risk-averse, precautionary approach to e-cigarette regulation can be proposed as a means of minimising the risk of avoidable harm, eg exposure to toxins in e-cigarette vapour, renormalisation, gateway progression to smoking, or other real or potential risks. However, if this approach also makes e-cigarettes less easily accessible, less palatable or acceptable, more expensive, less consumer friendly or pharmacologically less effective, or inhibits innovation and development of new and improved products, then it causes harm by perpetuating smoking."*⁹

If tobacco harm reduction is to be successful, adult smokers need to have regulated consumer access to products that effectively deliver nicotine and offer a satisfactory experience, but with reduced risks compared to smoking. Australia's current nicotine e-cigarette prescription model is hampering adult smokers from switching to alternative sources of nicotine with lower health risks while creating a rampant illicit trade in unregulated nicotine e-cigarettes that are available on the black market through the internet, illegal retailers, social media and even uber drivers.¹⁰

⁵ Public Health England, Vaping in England: 2021 evidence update summary, <https://www.gov.uk/government/publications/vaping-in-england-evidence-update-february-2021/vaping-in-england-2021-evidence-update-summary>

⁶ Levy DT, Borland R, Lindblom EN, et al Potential deaths averted in USA by replacing cigarettes with e-cigarettes Tobacco Control 2018; 27:18-25

⁷ John Britton: Electronic cigarettes and the precautionary principle

⁸ Bates C, Beaglehole R, Laking G, Sweanor D, Youdan B. 2019. A Surge Strategy for Smokefree Aotearoa 2025: The role and regulation of vaping and other low-risk smokefree nicotine products. Auckland: ASH New Zealand and End Smoking New Zealand.

⁹ Royal College of Physicians (2016). Nicotine without smoke – Tobacco Harm Reduction.

¹⁰ Daily Mail, Uber vapes: How ride-share drivers are brazenly cashing in on huge e-cigarette black market by making deliveries and sales to passengers from blinged-out cars, <https://www.dailymail.co.uk/news/article-10466789/Vape-Australia-Uber-drivers-making-fortune-delivering-electronic-cigarettes-theyre-banned.html>

Economic Impact

In October 2021, the former Federal Government banned the importation and public sale of nicotine vaping products by implementing a model that requires adult Australian consumers to obtain a prescription from a General Practitioner (GP) to legally purchase nicotine vaping products, commonly known as the 'prescription model'.

As such, the current prescription model has created a rampant black market, similar to that of the illicit tobacco market. Convenience Measures Australia (CMA) lead research has shown that only 12% of nicotine vaping products purchased in Australia are being done so lawfully, meaning that 88% of the market in Australia is illegal.

Research conducted by Roy Morgan in 2023 highlighted that nicotine vaping in Australia has grown by 236% in the last 4 years, with approximately 1.3 million adult Australians now using nicotine vapour products.

Independent Economics (formerly Llewellyn Consulting) published a report in October 2022 ('**Annexure 1**') where they calculated off the aforementioned statistics, that the Australian Government is losing approximately \$200 million per year on GST revenues from the illicit vapour market. Beyond GST payments being forgone, the Australian Government is further losing money from corporate tax payments on retail and wholesale outlets, as well as importation duties.

Not only is the Australian Government losing potential revenue streams from nicotine vaping products, it is expected that they will continue to be over budget in their efforts to regulate nicotine vaping products through the TGA.

In January 2023, it was reported that the TGA is expected to spend \$5.4 million in 2023 on the regulation of nicotine vapour products, more than \$335,000 over its original budget allocation. This is a 60% increase from the \$3.4 million spent on regulation in 2021-22, which again went over the budget allocation.

Further, the TGA has acknowledged that the "detection of NVPs (Nicotine Vaping Products) can be difficult at the Australian border due to the physical properties of the goods"¹¹. Any further enforcement measures to combat illegal vapour products will require a significant budget investment from the federal government including full time departmental employees, improved technologies and targeted measures beyond what is already in place.

Queensland should carefully consider the implications of tougher measures around criminalisation of NVPs on their current policing and justice system expenditure – and the impact on youth crime specifically.

Through analysis conducted by the Pennington Institute on cannabis control in Australia, similarities to the cost of enforcement and policing can be drawn between cannabis and NVPs.

It is estimated the average cost per person for police and court activities around a cannabis charge is \$1,918.

Given 92 per cent of Australia's 1.3 million NVP users currently obtain NVPs illegally via the black market, the cost of sticking with the existing regulatory model through further law enforcement would be very significant on Queensland's justice resources.

Quite simply, retaining the current model of regulation designed by the former Federal Government comes with significant fiscal costs for states like Queensland, while also not achieving the goals it set out to achieve.

¹¹ Senate Standing Committees on Community Affairs, Estimates hearings, November 2022

Conclusion

This submission proposes a clear solution: a tough, regulated retail model which considers the significance of Australians already vaping, while ensuring licensed retailers are able to sell regulated products, to adults only.

Queensland have a unique opportunity through this inquiry to propose a real solution to the Federal Government:

1. Abolish the current regulatory model, established in 2021, which has created a black market of nicotine vaping products;
2. Regulate nicotine vaping products as consumer goods, with tough regulatory restrictions like product and safety controls, age restrictions, and flavour and colour restrictions.
3. Ensure youths are not provided access to nicotine vaping products, like how tobacco is age restricted and licensed.

By dismantling the system that has created the black market, states and territories will benefit from a regulated retail model, through reduced requirements on law enforcement, assistance in keeping vaping products out of the hands of children, and through increased GST funding.

We look forward to working with you closely on sensible policy reform to ensure that youths are not able to access nicotine vaping products, whilst also ensuring products can be properly regulated like other consumer goods, providing a harm reduced alternative to adult smokers.