

Policy incoherence: Leadership needed to combat illicit tobacco and end tobacco oversupply

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The illicit tobacco trade has rapidly emerged as a structural threat to ongoing tobacco control success in Australia. While there is little disagreement that addressing the illicit tobacco trade is a priority, solutions must be grounded by a clear commitment to continue to drive down smoking rates across all populations. The commercial tobacco industry has long profited from addiction and continues to shape markets, including illicit ones, in ways that undermine public health. Policy responses must not only counter illicit trade of tobacco products but should also dismantle the systems that enable industry exploitation. Efforts to eliminate harms from illicit tobacco must reflect Australia's obligations under the World Health Organization's Framework Convention on Tobacco Control and the human right to health, particularly among communities disproportionately targeted by industry tactics, including Aboriginal and Torres Strait Islander peoples.

The size and scope of the illicit tobacco market

Globally, illicit trade in tobacco can be recognised as a systemic consequence of an over-supplied and under-regulated legal tobacco market, compounded by poor enforcement, industry and retailer evasion strategies and lack of coordination of responsibilities by governments. In Australia, despite strong tobacco regulations, there is little doubt that the illicit tobacco market is growing, particularly in jurisdictions that have been slow to adopt stronger enforcement approaches and tobacco licensing provisions. Tobacco industry—funded reports have a long history of overinflating the size of the illicit market and arguing that the existence of an illicit market is a valid reason to stop the adoption of tobacco control policies.¹ The

Australian Taxation Office has tracked increases in the illicit tobacco market since 2016-17, and the latest figures from 2022-23 suggest that around 18% of the total tobacco market is illicit. The lack of transparent and timely data means this figure likely underestimates the extent of current use.²

Profit-driven, illicit tobacco distributors and sellers deliberately exploit people who smoke by making harmful products cheaply and easily available, fuelling addiction and undermining efforts to help people quit smoking. The illicit tobacco products sold in Australia are first illegally imported and then distributed and sold at local community retail outlets. Retailers, particularly speciality tobacconists, are openly selling illicit cigarettes and are deliberately under-cutting public health efforts. The lure of cheap cigarettes combined with organised criminal networks and retailers who are emboldened by weak enforcement and minimal legal repercussions is fuelling the illicit market.

Taxation is a key component of tobacco control

Australia has achieved enviable reductions in population smoking prevalence by adopting and enforcing a broad range of policy and program measures over decades. Critics, including the tobacco industry, of this highly successful tobacco control program are now pushing for tobacco taxes to be lowered as the answer to the rise in illicit tobacco sales.³ This disregards the fact that tobacco taxes are at the centre of Australia's success story in bringing 2023 regular smoking rates below 10% of the population aged over 14 years.^{4,5} High tobacco prices are globally recognised, and evaluated, as essential to preventing young people from taking up smoking.⁶

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Calls to reduce tobacco tax to pre-2020 levels to compete with illicit tobacco sellers are also ill informed.⁷ Such a move would be very unlikely to address the problem of rising illicit tobacco sales as illicit products are currently being sold at much lower prices than taxed tobacco products in 2020. Countries with much lower tobacco tax rates than Australia also have issues with illicit trade.⁸ A return to 2019 tobacco tax rates could easily result in a return to 2019 smoking rates, which were 30% higher than in 2023.⁵ The primary driver of solutions to address illicit tobacco must be to enhance public health as any form of tobacco use is harmful, be it products that have been taxed or illicit products. Inherently conflicted by a profit-driven agenda, tobacco industry claimed “solutions” to illicit trade cannot influence public health policy.⁸

Adoption of best-practice tobacco sales enforcement strategies

Across Australia, there is a great deal of variation in the effectiveness and comprehensiveness of laws to control and enforce tobacco sales. Victoria and New South Wales have only recently adopted tobacco retail licensing schemes that are fully rolling out in late 2025. South Australia on the other hand has a longstanding licensing scheme that

has embraced a whole of government approach to more effectively maintain the integrity of the tobacco supply chain.⁹

Table 1 in the following outlines a detailed assessment of what laws and features should be universally in place across all Australian states and territories to successfully respond to rising illicit tobacco sales.¹⁰ This includes both important features of a tobacco licensing scheme and regulatory and enforcement powers to address illicit tobacco, vapes and non-therapeutic nicotine products. In addition to ensuring these measures are in place in each Australian state, collaboration is needed with the Australian Government to introduce a national system that enables real-time verification of excise or customs duty payment on tobacco products at any point in the supply chain. This would enhance transparency, reduce fraud and further strengthen enforcement capabilities.

Tobacco control next steps

Australia is a world leader in making smoking undesirable and socially unacceptable. In addition to taxation, this success has been achieved through measures such as graphic pack warnings, bans on advertising, well-funded mass media campaigns to drive cessation and widespread expansion of smoke-free areas.¹¹ More than seven

Features of a tobacco licensing scheme	ACT	NSW	NT	Qld	SA	Tas	Vic	WA
Positive licensing scheme	✓	✓	✓	✓	✓	✓	✓	✓
Applies to tobacco retailers	✓	✓	✓	✓	✓	✓	✓	✓
Applies to tobacco wholesalers	✓	✓	X	✓	✓	✓	✓	✓
Offence to sell tobacco products without a licence	✓	✓	✓	✓	✓	✓	✓	✓
Wholesalers selling to unlicensed retailers restricted	✓	✓	X	✓	X	X	✓	✓
Retailers purchasing from unlicensed wholesalers restricted	✓	X	X	X	X	X	✓	X
Licence conditions may be prescribed by regulation	X	✓	X	✓	✓	✓	✓	✓
Register of licensees must be public	✓	X	✓	✓	✓	X	✓	✓
Licensees required to keep/provide sales data	X	✓	✓	X	✓	✓	✓	✓
Online sales prohibited	X	X	X	X	✓	X	X	X
Regulatory tools and enforcement powers to address illicit trade	ACT	NSW	NT	Qld	SA	Tas	Vic	WA
“Illicit tobacco” defined	X	✓*	X	✓	X	X	✓	X
High penalties for commercial supply of “illicit tobacco”	X	✓	X	✓	✓	X	✓	X
High penalties for commercial possession of “illicit tobacco”	X	✓*	X	✓	✓	X	✓	X
Offence under the licensing scheme to supply “illicit vapes”	✓	X	X	✓	✓	✓	X	X
Offence under the licensing scheme to supply “illicit nicotine pouches”	X	X	X	✓	✓	X	X	X
Power to ban other products (future-proofing)	✓	✓	X	✓	✓	X	✓	X
Power to close premises (closure orders)	X	✓*	X	✓	✓	X	X	X
Information on closure orders may be made public	X	X	X	X	✓	X	X	X
Landlord may terminate lease of premises subject to a closure order	X	✓*	X	✓*	✓	X	X	X
Landlord may face penalties if leased premises used for illicit trade	X	✓*	X	✓*	X	X	X	X
Power to accept enforceable undertakings	X	X	X	X	✓	X	✓	X
Power to issue licensees with directions/orders to remedy non-compliance	✓	X	X	✓	✓	X	✓	✓
Licence can be suspended or cancelled	✓	✓	✓	✓	✓	✓	✓	✓
Power to immediately suspend a licence	X	X	X	✓	X	X	✓	X
Licensee can be disqualified/ prohibited	✓	✓	X	X	✓	X	✓	✓
Drugs, weapons, and explosives searches at licensed tobacco premises	X	X	X	X	✓	X	X	X
Use of detection dogs during searches	X	X	X	X	✓	X	X	X
Minimum physical security requirements for premises	X	X	X	X	X	X	X	X
Power to enter premises during business hours, with consent or under a warrant	✓	✓	✓	✓	✓	✓	✓	✓

ACT = Australian Capital Territory; NSW = New South Wales; NT = Northern Territory; Qld = Queensland; SA = South Australia; Tas = Tasmania; Vic = Victoria; WA = Western Australia.

✓ = measure is in place.

✓* = measure is proposed.

X = measure is not in place.

decades have passed since it was first established that smoking causes lung cancer, despite tobacco industry's attempts to deny, distract and persuade otherwise. However, cigarettes continue to be sold in all communities, all across Australia, in all types of retailers. It is long past time that Australia addresses the policy incoherence of allowing such a dangerous product, that is both highly taxed and extremely addictive, to be sold so easily and commonly. When tobacco is sold with so few guard rails, it adds to the enforcement challenge governments are currently facing. Authorities could help to ease their own enforcement load by significantly reducing the number of tobacco outlets allowed.

Australia needs to urgently progress the next step in tobacco control and prioritise the adoption of strict caps on tobacco licensing. This must include a commitment to rapidly and measurably reducing the number of tobacco retailers, especially tobacconists. Prioritising adopting measures that address the oversupply of tobacco retailers will not only aid in enforcement of tobacco laws but could also further reduce smoking across the population.¹² There is not only global momentum to disrupt how tobacco products are sold but also evidence of continued lobbying by tobacco product manufacturers to undermine these advances. In 2024, New Zealand was poised to be the world leader in reducing its tobacco retail numbers by 90% before the law was repealed under tobacco industry inference. Australia now has an opportunity to assume this leadership role, and just as smoking has changed from normal and socially acceptable to uncommon and regretful, so too could tobacco retailing. We cannot afford to take another seven decades to achieve this essential change.

Conflicts of interest

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