

**Submission
No 34**

E-CIGARETTE REGULATION AND COMPLIANCE IN NEW SOUTH WALES

Name: Dr Becky Freeman

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Associate Professor Becky Freeman PhD MSc BSc

Prevention Research Collaboration
School of Public Health
Faculty of Medicine and Health

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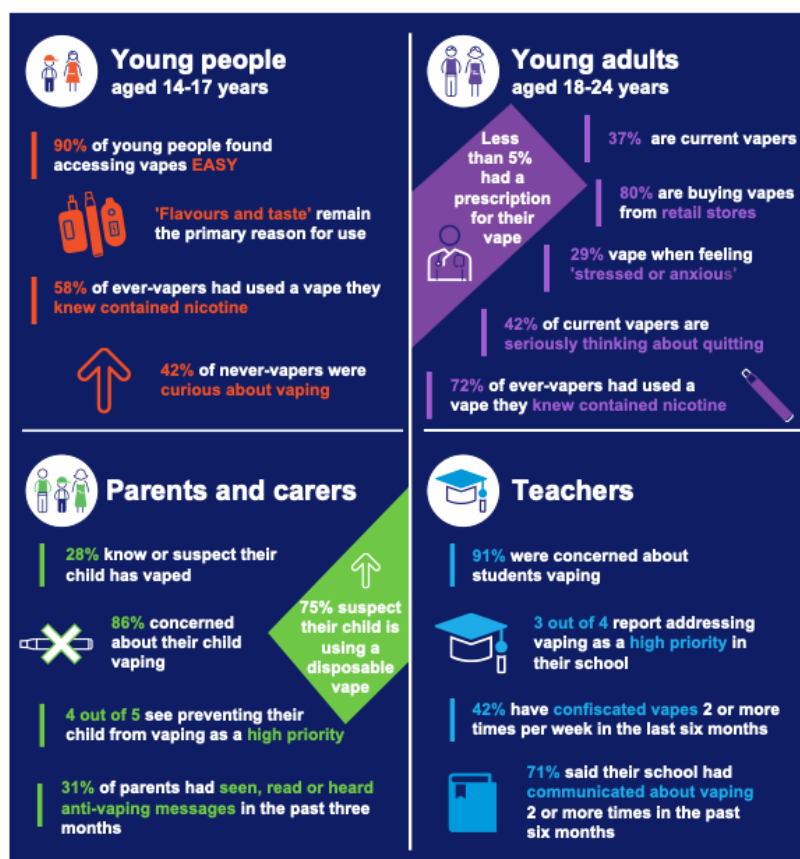
Submission to the Inquiry into E-cigarette regulation and compliance in NSW

I am an Associate Professor in the School of Public, University of Sydney and have over twenty years of experience working in the tobacco control field and am well versed in program and policy best practice. My primary research interests include tobacco control, how online and social media influence public health, and the commercial determinants of health. I am an established authority on the potential of the Internet to circumvent tobacco advertising bans and have pioneered research methods in tracking and analysing online social media content. I am the Chief Investigator of the national ***Generation Vape*** research study, which is generously funded and supported by NSW Health. At the end of my submission, I have declared my vaping and e-cigarette related interests.

Generation Vape NSW Wave 4 findings



FINDINGS SUMMARY: NSW
WAVE 4 (FEB-MAY 2023)





Vape use

Among youth, vaping is more common and increasing more rapidly than any other drug use in Australia.¹ Globally, youth vaping rates are increasing rapidly, even in countries with strong leadership in tobacco control.² Australia has seen a dramatic rise in adolescent and young adult vaping, at a speed that has caught public health researchers and policymakers off guard. **The rise in youth vaping is also a direct threat to the success of tobacco control**, as young people who vape have three times the risk of taking up smoking.³

As well as increasing smoking uptake, vaping exposes users to a range of chemicals and toxic substances that cause adverse health effects.⁴ Young people who vape rapidly experience nicotine addiction, such that it impacts on their ability to focus at school and their mental health, and makes quitting very difficult.⁵ The NHMRC CEO Statement on Electronic Cigarettes, states that, “there are no health benefits of using e-cigarettes for people who do not currently smoke.”⁶

Vaping is increasing in teens and young adults across Australia, with early evidence of compromised tobacco control. National data⁷ show relatively stable smoking prevalence in every age group, **except age 14-17**, where current tobacco smoking has increased in just four years, from 2.1% in 2018 to 6.7% in 2022. <1% of 14-17-year-olds reported vaping in 2018, but by 2022 that figure rose more than ten-fold to 11.8%, and to 14.5% in early 2023. Dual use of both e-cigarettes and tobacco has increased markedly across all age groups, but increased most steeply amongst those aged <35 years. **In 2018, 2.6% of 14-17 year olds were either smoking or vaping; this increased to 14.1% in 2022.**⁷

The vaping industry, which includes the tobacco industry as it manufactures vapes, has aggressively targeted young people with highly appealing and addictive products that are easily accessible.⁸ ⁹ Marketing campaigns, primarily on social media, have portrayed vaping as socially acceptable and fun and mislead young users about the health impacts and addictive potential.¹⁰

Access

Accessing vapes is easy, common, and happening at school, online, and through convenience retailers.¹¹ The widespread availability and retailing of vapes across Australia has gone hand in hand with the rapid rise in young people vaping. The sale of vapes from local shops, positioned near schools, and with their enticing displays of sweets lining the entrance, attract young customers. These self-claimed “responsible retailers” are addicting a new generation to nicotine.



Comprehensively addressing access and supply of vaping products is crucial to rolling back the alarming rise in young people vaping. Other jurisdictions that have taken a softer approach to vaping regulation, such as only banning flavour descriptors, or restricting some advertising, have not seen youth vaping rates significantly decline.¹²

Non-nicotine loophole

In October 2021, the Australian Government made it illegal to sell vaping products that contain nicotine at retail outlets.¹³ However, the prescription-only access model has never been implemented fully due to the glaring omission of **not capturing non-nicotine vapes**. Enforcing the non-nicotine only policy is not only time consuming, due to the rigorous seize-and-test for nicotine protocols required, but also a losing battle given the high-volume of products being imported. **I applaud NSW Health for their expectational enforcement and testing work in this despite this incredible challenge.**

Inexperienced users of vapes report being curious about nicotine effects, including head-spins, while more experienced users quickly find themselves addicted to nicotine. To be clear, non-nicotine vapes are not simply “flavoured water vapour” and often contain banned chemicals that are known to be harmful.¹⁴ The loophole that allows non-nicotine vapes to be legally sold has served only to undermine the prescription-only access model and has allowed the tobacco and vaping industry to cry foul that the system isn’t working. Closing this loophole is the solution to ending young people’s easy access to vapes.

The proliferation of vaping products has created public health regulatory challenges the world over.¹⁵ Many countries have chosen to ban e-cigarettes. Others have sought to apply demand reduction measures, such as on-pack warnings and advertising restrictions; yet there is very limited evidence of the effectiveness of these types of regulations in reducing youth vaping. This is why the Australian approach to restricting and limiting the supply of vapes is significant: *it addresses the source* and will go a long way towards keeping these products out of the hands of young people and people who do not smoke. Australia’s medical access model is intended to protect young people while providing a pathway for people who smoke to use products for smoking cessation. It strikes a balance between an outright ban and the introduction of another unregulated harmful and addictive consumer good into the supply chain.¹⁶

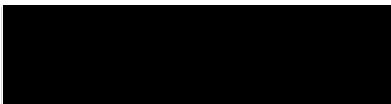


Conclusion and recommendations

- **It is crucial that the NSW Government continue to be public health leaders, and support the federal reforms and ensure that the vaping legislative and regulatory framework is comprehensive and effective.**
- **I support the specific recommendations made by the Cancer Council NSW to this inquiry's terms of references to protect young people from this predatory industry.**

I am very happy to answer any questions or provide further clarification.

Sincerely,



Becky Freeman

References

1. Australian Institute of Health and Welfare (AIHW). Alcohol, tobacco and other drugs. 2021 doi: <https://www.aihw.gov.au/reports/children-youth/alcohol-tobacco-and-other-drugs>
2. Tehrani H, Rajabi A, Ghelichi- Ghojogh M, et al. The prevalence of electronic cigarettes vaping globally: a systematic review and meta-analysis. *Archives of Public Health* 2022;80(1):240. doi: 10.1186/s13690-022-00998-w
3. Baenziger ON, Ford L, Yazidjoglou A, et al. E-cigarette use and combustible tobacco cigarette smoking uptake among non-smokers, including relapse in former smokers. *BMJ Open* 2021;11(3):e045603. doi: <https://doi.org/10.1136/bmjopen-2020-045603>
4. Banks E, Yazidjoglou A, Brown S, et al. Electronic cigarettes and health outcomes. *Med J Aust* 2023;218(6):267-75. doi: <https://doi.org/10.5694/mja2.51890>
5. Becker TD, Rice TR. Youth vaping: a review and update on global epidemiology, physical and behavioral health risks, and clinical considerations. *European Journal of Pediatrics* 2022;181(2):453-62. doi: 10.1007/s00431-021-04220-x
6. NHMRC. 2022 CEO Statement on Electronic Cigarettes. 2022 doi: <https://www.nhmrc.gov.au/health-advice/all-topics/electronic-cigarettes/ceo-statement>
7. Wakefield M, Haynes A, Tabbakh T, et al. Current vaping and current smoking in the Australian population aged 14+ years. 2023 doi: <https://www.health.gov.au/sites/default/files/2023->

[06/current-vaping-and-smoking-in-the-australian-population-aged-14-years-or-older-february-2018-to-march-2023.pdf](#)

8. Hardie L, McCool J, Freeman B. E-Cigarette Retailers' Use of Instagram in New Zealand: A Content Analysis. *International Journal of Environmental Research and Public Health* 2023;20(3):1897.
9. Jancey J, Leaver T, Wolf K, et al. Promotion of E-Cigarettes on TikTok and Regulatory Considerations. *International Journal of Environmental Research and Public Health* 2023;20(10):5761.
10. Smith MJ, Buckton C, Patterson C, et al. User-generated content and influencer marketing involving e-cigarettes on social media. *BMC Public Health* 2023;23(1):530. doi: <https://doi.org/10.1186/s12889-023-15389-1>
11. Watts C, Egger S, Dessaix A, et al. Vaping product access and use among 14–17-year-olds in New South Wales: a cross-sectional study. *Australian and New Zealand Journal of Public Health* 2022;46(6):814-20. doi: <https://doi.org/10.1111/1753-6405.13316>
12. Statistics Canada. Canadian Tobacco and Nicotine Survey, 2022 2023 [Available from: <https://www150.statcan.gc.ca/n1/daily-quotidien/230911/dq230911a-eng.htm> accessed 10 October 2023 2023.
13. Australian Government, Department of Health and Aged Care, Therapeutic Goods Administration. Nicotine vaping products hub. 2023 [Available from: <https://www.tga.gov.au/products/unapproved-therapeutic-goods/nicotine-vaping-products-hub> accessed 09 October 2023.
14. NSW Ministry of Health. NSW E-Cigarette Analysis Project Summary Report 2023 [Available from: <https://www.health.nsw.gov.au/tobacco/Publications/e-cigarette-analysis-project-summary-report.pdf> accessed 09 October 2023.
15. Ryan David K, Ayodeji A, Elaine De L, et al. Global approaches to regulating electronic cigarettes. *Tobacco Control* 2017;26(4):440. doi: 10.1136/tobaccocontrol-2016-053179
16. Freeman B, Jongenelis MI, Maddox R. Australia: reclaiming tobacco and e-cigarette control leadership. *Health Promotion International* 2023;38(4) doi: 10.1093/heapro/daad078

Declaration of Interests

- Expert member of the NHMRC Electronic Cigarettes Working Committee (2020-2022)
- Adviser to Cancer Institute NSW on vaping messaging
- Advisor to the NSW CHO e-cigarette panel
- Funded by Healthway for three research projects regarding youth e-cigarette appeal, and e-cigarette promotion on social media



- Investigator on an Ian Potter Foundation funded grant in partnership with Deakin University tracking online advertising and promotion of e-cigarettes (2022-2024)
- Received consulting payment for the preparation of e-cigarette policy review for the NSW National Heart
- Foundation and Consulting payment from the Cancer Council Australia to update evidence for position statement of e-cigarettes.
- Consulting fees received from NSW Health for e-cigarette review
- Lead the Prevention Research Collaboration University of Sydney team that prepared a discussion paper and public health expert consultation on e-cigarette regulation in Australia for the Commonwealth Department of Health.
- Attended a conference and presented on e-cigarette regulation where travel expenses were reimbursed by the Asian Center for WTO & International Health Law and Policy, National Taiwan University, College of Law.
- Presented a plenary on evidence that e-cigarettes support smoking cessation at the Oceania Tobacco Control Conference 2017, for which travel expenses (flight and registration) were reimbursed.
- Held a 2015-2019 NHMRC ECR fellowship which included an exploration of e-cigarette advertising and media.
- Provided opinion (unpaid) at Australian Parliament's Standing Committee on Health, Aged Care and Sport public hearing into the Use and Marketing of Electronic Cigarettes and Personal Vaporisers on 8 September 2017.
- Presents seminars (unpaid) on Vaping/E-Cigarettes for Local Health Districts
- Authored a number of articles about e-cigarettes and tobacco control in peer review journals and other publications.
- Comments publicly on social media and to journalists on e-cigarette topics.