

**Submission
No 41**

E-CIGARETTE REGULATION AND COMPLIANCE IN NEW SOUTH WALES

Organisation: Imperial Brands Australasia

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Committee on Law and Safety
NSW Parliament House
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RE: E-CIGARETTE REGULATION AND COMPLIANCE IN NSW

EXECUTIVE SUMMARY

- Australia's prohibitory approach to tobacco harm reduction has predictably led to a significant and growing illicit vape market.
- Electronic Vapour Products (EVP) represent a significant public health opportunity, offering adult smokers the potential to drastically reduce the health risks associated with smoking.
- The currently proposed TGA reforms to the regulation of vapes do not support adult smokers looking to transition away from combustible cigarettes or provide a more accessible, legal pathway to smoking cessation for the approximately two million current adult vapers.
- Without a meaningful liberalisation of the regulatory framework for nicotine containing vaping products, Australia will continue to see a proliferation of the illicit vape market.
- The Government must take steps to address the illicit vape market, including more effective enforcement at the retail level and stronger border controls to prevent the unregulated importation and sale of illicit products.

INTRODUCTION

Imperial Brands Australasia ("Imperial") 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 welcomes the opportunity to participate in the Committee on Law and Safety inquiry Into E-cigarette Regulation and Compliance in NSW. 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.

We would like to affirm that we recognise the role of Governments and Public Health Authorities in the regulation of tobacco and non-tobacco nicotine products and support those measures that are reasonable, proportionate and evidence based. Of paramount importance to us is that our products are only sold to adult smokers. We support strong regulation to prohibit supply or use of nicotine products by those underaged.

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

The remainder of this submission will address the terms of reference considered by the Committee on Law and Safety as within the scope of this consultation.

(a) the current situation in NSW regarding:

i. the prevalence of e-cigarette use among children and young people

It is vital that any EVP use by youth is eliminated. EVPs are for adult smokers and adult nicotine users only. The nicotine black market, which has surged in Australia, wholly disregards product safety and criminal organisations have no concerns with selling product to under-age users. We are in favour of effective EVP regulation and support the implementation of a regulatory framework that encourages EVP uptake by adult smokers and limits the ability of minors to access nicotine products.

ii. health risks associated with e-cigarette products

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.

EVPs represent a significant public health opportunity, offering adult smokers the potential to drastically reduce the health risks associated with smoking. There is a growing international consensus that EVPs are

significantly less harmful than conventional cigarettes and lead to an accelerated decline in both youth and adult smoking rates in markets where sold.

iii. the impact of programs and services aimed at preventing uptake or continuing use of e-cigarettes,

Despite Australia's prohibitory approach to tobacco harm reduction, adult smokers continue to seek out, and transition to, potentially reduced risk products such as EVP. Federal Health Minister Mark Butler recently put the number of Australian vapers at 2 million with evidence suggesting close to 90% of whom are purchasing illicit product.

Many public health bodies and scientific organisations are clear: encouraging and assisting smokers who aren't interested or willing to quit smoking to transition to potentially harm reduced Next Generation Products (NGP) alternatives is a valid public health goal.

(b) NSW's current regulatory framework, in particular:

i. its effectiveness in reducing harm from e-cigarette use

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.

ii. its effectiveness in preventing illegal supply

Australia's prohibitory approach to tobacco harm reduction has predictably led to a significant and growing illicit vape market. The large majority of current EVP users in Australia are purchasing illicit product that has been illegally imported into the country. There are approximately two million adult EVP users in Australia, with anecdotal evidence suggesting approximately 90% of whom are purchasing illicit product. The Government

must take steps to address the illicit vape market, including more effective enforcement at the retail level and stronger border controls to prevent the unregulated importation and sale of illicit products.

iii. challenges to enforcement and compliance and ways to overcome these,

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 to pharmacies, or requiring smokers to obtain prescriptions, will discourage transition. Without improved accessibility to these products, the black-market trade will inevitably continue to flourish to the detriment of legitimate Australian businesses, the Government and the wider Australian community.

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.

(c) how NSW can work with the Federal Government to implement reforms on e-cigarette products,

The Federal Government must take steps to address the illicit vape market, including more effective enforcement at the border, to prevent the unregulated importation and sale of illicit products.

Unfortunately, the currently proposed reforms to the regulation of vapes do not support adult smokers looking to transition away from combustible cigarettes or provide a more accessible, legal pathway to smoking cessation for the approximately two million current adult EVP consumers. Without a meaningful liberalisation of the regulatory framework, Australia will continue to see a proliferation of the illicit vape market.

Imperial Brands Australasia

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