

## Illegal tobacco inquiry – Supplementary questions

### Lung Foundation Australia

#### 1. What evidence distinguishes respiratory health impacts attributable to increased smoking prevalence from impacts attributable to changes in smoking intensity or product type associated with illicit tobacco use?

It is important to remember that all tobacco products whether illicit or legal are harmful to health. All forms of tobacco use cause chronic disease, and two in three people who smoke will die prematurely because of their smoking.<sup>1</sup> Legal tobacco products contain more than 7,000 toxic chemicals, including carcinogens capable of causing at least 16 types of cancer, as well as substantial damage to the heart, lungs, and other organs.<sup>2-4</sup> Research studies have shown that illicit tobacco products that have been tested for chemical composition not only contain the same harmful chemicals and subsequent health risks but may also pose additional dangers. These include higher concentrations of toxins, unregulated additives, biological contaminants, and potentially higher nicotine levels due to the absence of manufacturing and storage standards.<sup>5,6</sup>

If the question is seeking evidence to distinguish respiratory health impacts arising from increased smoking prevalence compared to impacts caused by the differing use of illicit tobacco products, then differentiation is extremely challenging as they are not comparable. Illicit tobacco products are not subject to testing or regulatory oversight, meaning there is no regularly verified data on their chemical composition or on additional contaminants they may contain. As a result, it is not possible, or appropriate, to reliably compare the respiratory impacts of increased smoking prevalence with those arising from altered smoking behaviours from the use of illicit products. There is strong evidence demonstrating that even very low levels of cigarette use significantly increases disease risk and mortality. For example, research shows that smoking as few as 2–5 cigarettes per day more than doubles the risk of serious health problems and increases all-cause mortality by 60%.<sup>7</sup>

Illicit tobacco also poses a behavioural risk, as its low cost can encourage uptake among non-smokers and make quitting more difficult for existing smokers. This underscores the critical importance of strong enforcement against the illegal sale of tobacco and nicotine products, as well as broader measures that reduce the availability of all tobacco products. It is important not to lose sight of the fact that selling illicit tobacco is a serious breach of the law. Failing to enforce these laws signals that they need not be followed, which only perpetuates the illicit trade and places profit ahead of health.

To support smoking cessation, it is vital that NSW and all jurisdictions pursue policies that minimise access to all harmful tobacco products. LFA's submission to the Inquiry outlines several opportunities, including reducing the number of tobacco retail licences to the minimum necessary to serve the approximately 11% of the NSW population who smoke. It is unnecessary to have thousands of outlets selling tobacco to the roughly 900,000 people in NSW who smoke, particularly when the public health objective is to support quitting. For comparison, approximately 3,170 supermarkets service the 8.2 million people living in NSW. While 4,500 tobacco licences have been granted, around 19,500 businesses were previously registered as selling tobacco. Such widespread availability is incompatible with reducing smoking prevalence and effectively supporting cessation.

In addition, the NSW Government can further support people to quit smoking and nicotine products by expanding access to evidence-based cessation supports for all individuals who wish to quit. Jurisdictions such as Queensland and Tasmania already provide free nicotine replacement therapy (NRT) to a broad range of priority populations, recognising the strong evidence that access to affordable cessation pharmacotherapy increases quit attempts and improves quit success. Aligning NSW policy with these approaches would help reduce the significant health and economic burden associated with tobacco and nicotine dependence and ensure that people seeking to quit are not prevented from doing so due to cost or accessibility barriers.

For further information on specific tobacco products you can visit The Tobacco In Australia website <https://www.tobaccoinaustralia.org.au/chapter-12-tobacco-products> and for more information on the respiratory health impacts of tobacco products please see <https://www.tobaccoinaustralia.org.au/chapter-3-health-effects/3-2-respiratory-diseases> for in depth information.

## **2. What evidence informs Lung Foundation Australia's understanding of how smokers alter purchasing or consumption behaviour in response to the availability of illicit tobacco?**

Before the introduction of the tobacco licensing scheme, NSW had an estimated 19,500 registered tobacco retailers. Anecdotal evidence including community feedback and complaints indicate that it is common to see several tobacco outlets clustered closely together, creating highly competitive local markets.

A substantial body of research shows that high densities of tobacco retailers contribute to increased smoking initiation, sustained smoking behaviour, and lower quit success. Evidence demonstrates that greater retail availability is linked with higher smoking rates among young people, adults, and pregnant women, suggesting

that easy access increases the likelihood of smoking.<sup>8</sup> A major scoping review found an association between higher retailer density near people's homes and smoking among both adolescents and adults, emphasising that convenience and availability play a role in smoking decisions and consumption patterns.<sup>9</sup> Other studies show that young people are more likely to experiment with or begin smoking when they live or attend school in areas with many tobacco retailers.<sup>10</sup>

High concentrations of tobacco outlets are a key environmental driver of smoking behaviour, reinforcing nicotine dependence and increasing the likelihood of smoking initiation. Reducing the number of tobacco licences in NSW is a policy approach supported by the World Health Organization (WHO)<sup>11</sup> and the National Tobacco Strategy<sup>12</sup> to reduce these environmental drivers. Reducing tobacco availability helps decrease smoking rates, prevents smoking initiation, and aligns with the priorities outlined in the NSW Cancer Plan 2022–2027<sup>13</sup> and the NSW Future Health Report 2022–2032.<sup>14</sup>

**3. In the context of substantial price differentials between lawful and illicit tobacco products, what evidence demonstrates that illicit tobacco availability results in a net increase in tobacco consumption rather than substitution away from lawful products?**

Please refer to the response for question 2 above with relation to increased smoking uptake, continued smoking, and reduced quit success when smoking products become more available and accessible.

A 2024 systematic review and meta-analysis of 62 studies found positive associations between higher tobacco retail availability and increased smoking among youth, adults, and pregnant women.<sup>8</sup> The findings show that greater availability leads to higher smoking prevalence and indicates that increased availability whether illicit or legal drives higher net consumption, not just shifts in purchasing behaviour.

Illicit tobacco expands the total number of points of sale outside regulated retail environments, effectively increasing retailer density and ease of access. Research shows that higher retailer density around homes is associated with higher current smoking in both adults and adolescents, reinforcing that greater accessibility results in increased consumption.<sup>15</sup>

It is expected that many people will switch to cheaper products if they are available, which undermines the public health benefits of taxation and results in smoking prevalence being sustained or increased rather than reduced. If a product is cheaper and accessible, people will continue to purchase it unless the law is enforced. Tobacco taxes are among the most effective, evidence-based tools for reducing smoking, but their impact is being undermined by the persistent and deliberate disregard for the law by those seeking to profit from vulnerable

communities at the expense of public health. The delayed commencement of a positive tobacco licensing scheme and inadequate enforcement in NSW has enabled illicit operators to create an artificially low price for tobacco products that does not reflect the true regulatory, health, or social costs associated with tobacco use.

**4. How does Lung Foundation Australia account for the limitations of respiratory health and smoking surveillance data in detecting or attributing consumption of illicit tobacco?**

Please refer to the response provided for Question 1. The distinction between illicit and legally purchased tobacco products is immaterial, as both pose severe health risks and contribute to chronic disease and premature death. As a health organisation, our focus is on the health harms associated with these products. All tobacco products, regardless of their source, are harmful and cause significant morbidity and mortality.

**5. What evidence demonstrates that the scale of illicit tobacco use in NSW is sufficient to materially influence population-level respiratory health outcomes, as distinct from individual-level harm?**

Please refer to the responses provided for Questions 1–4. For two in three people who smoke, tobacco use will result in premature death. Tobacco-related harms cause the deaths of 66 Australians every day,<sup>16</sup> and all tobacco products whether illicit or legal pose significant risks to health. Any use of tobacco products can lead to chronic disease and early mortality. The widespread availability of tobacco products also contributes to the normalisation of smoking, which increases the likelihood that non-smokers will initiate smoking, therefore influencing population-level respiratory health outcomes, as well as creating additional barriers for people who are attempting to quit.

**6. What evidence supports an assessment of the net respiratory health impact of current tobacco control settings once illicit tobacco consumption is taken into account?**

All tobacco products are harmful, regardless of whether they are illicit or legally sold, and from a health perspective the distinction between illicit and legal products is not relevant.

Australia has achieved significant progress over several decades and is considered a world leader in tobacco control. The overarching goal of these policies is to reduce smoking prevalence, and this requires the use of multiple policy levers, including tobacco excise and pricing, plain packaging, health warnings, and controls on sale and availability.

All forms of tobacco use are harmful to health. Lower smoking rates lead directly to reductions in respiratory disease and other significant health impacts. Because smoking-related illnesses are chronic, they often take many years to develop before symptoms appear. Ongoing focus on prevention and support for smoking cessation is essential to improving respiratory and overall health outcomes.

Queensland and Tasmania provide free nicotine replacement therapy (NRT) to a broad range of priority populations, recognising the strong evidence that access to affordable cessation pharmacotherapy increases quit attempts and improves quit success. Aligning NSW policy with these approaches would help reduce the significant health and economic burden associated with tobacco and nicotine dependence and ensure that people seeking to quit are not prevented from doing so due to cost or accessibility barriers.

A comprehensive and ongoing suite of tobacco control measures remains vital to counter the addictive nature of these products and the industry's ongoing efforts to normalise them.

**7. What evidence, if any, compares current respiratory health outcomes with outcomes observed in settings where illicit tobacco availability is demonstrably lower?**

Please refer to the responses to questions 1 to 6. Both illicit and legal tobacco products cause chronic disease and premature death, therefore, distinguishing between their health impacts is not meaningful. All tobacco products cause serious respiratory and broader health harms, and all people who smoke should be supported to quit.

The harms and costs of tobacco use far outweigh the commercial interests of the tobacco industry. In 2021, tobacco addiction cost Australians \$35 billion, and was the leading contributor of addiction-related costs.<sup>17</sup> In 2023, more than \$5.7 billion in health system spending was linked to tobacco use across 39 diseases.<sup>18</sup>

All tobacco products, illicit or legal, are harmful. Two in three people who smoke will die prematurely. Legal tobacco contains more than 7,000 toxic chemicals known to cause 16 cancers and extensive organ damage. Illicit products are likely to also include higher concentrations of some toxic chemicals, additional contaminants, biological impurities, or elevated nicotine levels due to the absence of quality controls.<sup>5,6</sup> Low-cost illicit tobacco further encourages uptake and undermines quitting efforts.

This Committee can make practical, implementable recommendations to further reduce the uptake of both illicit and legal tobacco products by:

- reducing the number of licences available for the sale of tobacco products
- enforcing existing laws designed to prevent the illegal sale of tobacco products
- continuing to strengthen legislation to eliminate remaining loopholes and gaps
- supporting people to quit smoking and nicotine use by expanding access to evidence-based cessation supports for all individuals who wish to quit.
- ensure full protection of policy and regulatory decision-making from any form of influence by the tobacco industry and its related entities, including retail sectors and allied groups. This includes prohibiting political donations, lobbying activities, and other attempts to interfere, consistent with the National Tobacco Strategy and Australia's obligations under WHO FCTC Article 5.3.

The delayed commencement of the positive licensing framework and weak enforcement have enabled the illicit tobacco market to grow in NSW. Strengthened compliance and enforcement is essential and unlawful sales should not be tolerated. Key priorities include reducing tobacco licences, increasing cessation support, delivering health harm campaigns, enforcing existing laws, and increasing penalties for non-compliance, alongside broader preventive measures such as smoke-free laws. This Committee has an opportunity to advance practical, evidence-based recommendations that will deliver meaningful benefits to the people of NSW. Issues relating to tobacco excise are a matter for the Australian Government and should not detract from the immediate steps NSW can take that have been outlined in the answers above and by the many other NGO and academic submissions.

If you would like to discuss our responses to the supplementary questions, please contact myself at \_\_\_\_\_ or \_\_\_\_\_ or \_\_\_\_\_ at \_\_\_\_\_

We look forward to continuing to work with the NSW Government to strengthen tobacco control initiatives and improve the health and wellbeing of people across NSW.

Sincerely,

**Mark Brooke**  
Chief Executive Officer  
Lung Foundation Australia

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