

Responses to supplementary questions

Professor Becky Freeman

I note that some of the questions provided to me were very similar to the questions submitted to Emeritus Professor Simon Chapman. We have a long history of collaboration and appeared in the same session at the hearing. His replies cover some of the matters raised and I have endeavoured to provide only additional details that may be useful, rather than simply repeating his content.

I would also encourage the committee to fully engage in good faith with the ITEC commissioner and her staff to ensure the committee is fully across the latest actions on illicit tobacco and developments in market trends both in Australia and globally.

Also, I would like to remind the committee that all Australian state governments have supported and endorsed the [National Tobacco Strategy](#). The National Tobacco Strategy clearly outlines the national policy framework for government and non-government organisations to work together to improve the health of all Australians by reducing smoking rates. I draw particular attention to Priority 8 – as copied on the next page. I urge the Committee to fully endorse these actions in their report as a way of showing its strong commitment to addressing the incredible toll tobacco has on families in NSW.

There is no question that illicit tobacco is on the rise in NSW and in Australia, and that price is one factor in driving this rise. I do not take any issue with the notion that one of the reasons consumers in NSW, and broader Australia, are buying illicit tobacco is because it is less expensive. However, this is not the whole story. I hope my answers to your questions below help to make that clear and also help to support the committee in its efforts to improve public health and reduce smoking in NSW.

Priority Area 8: Strengthen regulation to reduce the supply, availability and accessibility of tobacco products

The widespread availability of tobacco is incongruent with the immense health and social burden associated with its use and is at odds with progress that has been made in other areas of tobacco control in Australia. Reducing retail availability of tobacco is an aspect of a comprehensive approach to tobacco control that requires further strengthening. Reducing the overall supply, availability and accessibility of tobacco products will significantly influence smoking prevalence and Australia's goal to achieve a tobacco-free society.

The retail availability of tobacco products is associated with an increased prevalence of tobacco use and likelihood of relapse among people attempting to quit smoking.^{166,167} Tobacco retailer density is higher in areas of low socioeconomic status, and reducing retail availability may be an effective approach to reducing tobacco use in socioeconomically disadvantaged populations.¹⁶⁸ Licensing schemes for tobacco retailers may provide additional benefit through restricting the circumstances in which a licence can be obtained and increasing costs of licences, which may deter retailers from selling tobacco products.¹⁶⁹

Other strategies that have been implemented internationally to reduce the supply, availability and accessibility of tobacco products include prohibiting the sale of tobacco products to people under 21 years.¹⁷⁰ More broadly, the widespread availability of tobacco perpetuates the normalisation of tobacco products and potentially undermines the effectiveness of other tobacco control measures.

Implementing and enforcing strong measures to control illicit tobacco trade can enhance the effectiveness of high tobacco taxes and other tobacco control policies. Additionally, strong surveillance, enforcement and fines, across all supply chains, are warranted. Other successful strategies undertaken internationally include implementing tracking and tracing systems; controlling the entire supply chain by licensing all parties involved in tobacco product manufacturing and distribution; and international cooperation in investigation and prosecution of participants in illicit trade.¹⁷¹

Significant investment has been made to prevent and minimise the illicit tobacco trade. For example, the Australian Government introduced a comprehensive suite of measures to combat illicit tobacco production and trade, including the establishment of the Illicit Tobacco Taskforce on 1 July 2018 and additional funding to detect and destroy domestically grown illicit tobacco crops. A permit regime was also introduced for the importation of most tobacco products, with importers being required to pay all duty and tax liabilities for tobacco products at the border from 1 July 2019.

In September 2019 the Australian Government enacted legislation to support regulation of tobacco products at the border by allowing for the immediate destruction of tobacco seized by the Australian Border Force (ABF). These amendments allow the ABF to target its border operation more efficiently and place a greater focus on detecting and disrupting black economy activity.

Actions for Priority Area 8

8.1 Continue to monitor and enforce all tobacco control legislation applicable at the retail level, including legislation prohibiting the sale of tobacco to minors.

Responsibility: State and territory governments.

8.2 Consider regulatory approaches to reduce or prohibit the sale of tobacco products in premises where alcohol consumption occurs, including through vending machines.

Responsibility: State and territory governments.

8.3 Consider banning or further restricting the sale of tobacco products online.

Responsibility: Australian Government, state and territory governments.

8.4 Prohibit alternative and emerging avenues for the sale of tobacco products, such as cigarette delivery services through smartphone applications.

Responsibility: Australian Government, state and territory governments.

8.5 Explore mechanisms to have a consistent licensing scheme in place covering all aspects of the tobacco supply chain in Australia, such as establishing a national framework for licensing schemes.

Responsibility: Australian Government, state and territory governments.

8.6 Explore options to further regulate where tobacco products are retailed, including regulatory approaches to control or restrict the number, type and location of tobacco outlets.

Responsibility: Australian Government, state and territory governments, NGOs.

8.7 Consider requiring tobacco wholesalers to report on the characteristics and prices of all tobacco products purchased and sold.

Responsibility: Australian Government.

8.8 Continue to engage in international cooperation relating to tobacco taxation and addressing illicit trade in tobacco products, including through the WHO FCTC.

Responsibility: Australian Government.

8.9 Continue to monitor the supply and use of illicit tobacco in Australia; continue enforcement efforts to prevent the illegal importation, supply and cultivation of tobacco; and enhance technology and staff capability to identify and respond to illicit trade in tobacco.

Responsibility: Australian Government, state and territory governments, NGOs.

8.10 Identify, mitigate and/or address any barriers to enforcing tobacco legislation at all levels of government.

Responsibility: Australian Government, state and territory governments.

8.11 Consider the feasibility of raising the minimum age of purchase of tobacco products and monitor international developments on this matter.

Responsibility: Australian Government, state and territory governments.



1. What evidentiary basis supports the attribution of harms arising from illicit tobacco to tobacco industry conduct? and 3. What data distinguishes harms arising from lawful retail activity from harms arising from organised criminal supply?

I have paired these two very similar questions together. I am unclear what harms you are referring to, or how the tobacco industry is being defined in this case? Please also refer to Professor Chapman's reply that outlines details about the global tobacco industry including the manufacturing and distribution of illicit brands and the long and complex history of transnational tobacco industry involvement in illicit tobacco. Tobacco is incredibly harmful and addictive regardless of whether it is taxed or illicit. There is no evidence to suggest taxed tobacco is in any way meaningfully less harmful.

Additionally, I note that the term "legal" tobacco is often used in juxtaposition to illicit tobacco, however as far as I am aware, no court in Australia has ever ruled, or been challenged to rule on whether tobacco is indeed a "legal product". It is more accurate to consider *tax-paid tobacco vs illicit tobacco*.

I would also like to stress that it would be a serious mistake not to consider and fully understand the global tobacco manufacturing and distribution system, including both taxed and illicit products when formulating NSW illicit tobacco policy and enforcement strategies. While I appreciate this inquiry is focused on NSW – tobacco products are not produced/manufactured/sold/marketed/imported in such geographic isolation. Cooperation at the local, state, Federal, and international level is urgently needed. Every level of government has a role to play in reducing all tobacco use.

2. What NSW-specific data links tobacco industry retail strategies to the distribution of illicit tobacco? and 5. What empirical basis supports planning - or retail-focused interventions - in a market characterised by significant illicit supply and 9. What empirical evidence links reduced visibility of lawful tobacco outlets to reduced harm where illicit supply is prevalent?

I have linked these three questions together as they are very similar. The tobacco industry relies on tobacco products being widely supplied. In NSW, tobacco is sold in every type of retailer imaginable, and even though NSW finally has a tobacco licensing system, this has not included any limits on retailer numbers or types. There have been countless studies ***published over decades*** that outline how oversupplied tobacco is, in Australia, NSW, and globally, and how meaningful limits of supply are long overdue. This oversupply helps to drive consumption, normalise tobacco sales, and provides endless opportunities for illicit tobacco to be sold openly in our community shops and shopping centres. I would also encourage the committee to request and examine NSW Health data on the number of tobacco retailers in NSW and compare this to the number of pharmacies in NSW. Whereas most people in NSW will need to fill a prescription every year, only 11% of people over age 16 in NSW smoke. A small sample of relevant supply studies are provided below (including some of my own work and that of my PhD students):

Paul CL, Mee KJ, Judd TM, Walsh RA, Tang A, Penman A, Girgis A. Anywhere, anytime: retail access to tobacco in New South Wales and its potential impact on consumption and quitting. *Social science & medicine*. 2010 Aug 1;71(4):799-806.

<https://www.sciencedirect.com/science/article/pii/S0277953610003941>

Burton S, Phillips F, Watts C, Kennington K, Scollo M, Lindorff K, Egger S. Who sells tobacco, who stops? A comparison across different tobacco retailing schemes. *Tobacco Control*. 2021 Jul 1;30(4):392-8.

<https://tobaccocontrol.bmj.com/content/30/4/392.abstract>

Watts C, Dessaix A, Brooks A, Burton S, Freeman B. Accessing the most lethal product on the market: community perceptions of tobacco accessibility in NSW, Australia. *Public Health Research and Practice*. 2020 Sep 9;30(3):e3032023.

<https://connectsci.au/pu/article/30/3/e3032023/265279/Accessing-the-most-lethal-product-on-the-market>

Lee JGL, Kong AY, Sewell KB, et al. Associations of tobacco retailer density and proximity with adult tobacco use behaviours and health outcomes: a meta-analysis. *Tobacco Control* 2022;31:e189-e200.

<https://tobaccocontrol.bmj.com/content/31/e2/e189.abstract>

Additionally, the tobacco industry invests in building strong partnerships with all types of retailers, point-of-sale saturation is essential to effective tobacco distribution, this is not new information and has been known for decades and yet it continues to be permitted.

Reimold AE, Lee JG, Ribisl KM. Tobacco company agreements with tobacco retailers for price discounts and prime placement of products and advertising: a scoping review. *Tobacco control*. 2023 Sep 1;32(5):635-44.

<https://tobaccocontrol.bmj.com/content/32/5/635.abstract>

4. What evidence was relied upon when referring to youth exposure in the context of illicit tobacco availability? and 6. What level of confidence can be placed in survey-based prevalence data under current conditions of widespread illicit tobacco availability?

I have answered 4 and 6 together. I place a high level of confidence in the independently collected data of our government health agencies. Of course, transparency in methodology and analysis must be maintained to ensure this confidence level is also maintained. There is no NSW empirical evidence, that I am aware of, to suggest that people who use illicit tobacco are likely to lie *about their smoking status*.

In the Generation Vape study I run, participants (which includes people age 14-24, young people are not solely teenagers, young people are defined by the WHO as aged 10-24) are very willing to both discuss and report on where they buy it, how much it costs, why they buy it, and what brands they use, and they are also very willing to upload images of the packs they have purchased to our online surveys.

For years the tobacco industry, and its allies, exaggerated and inflated the size of the illicit market in Australia, in an attempt to quash tobacco control reforms, while on the other hand these same companies actively fuelled the illicit market in other parts of the world. This highlights the importance of independent, reliable evidence in measuring the illicit tobacco market, we should not be relying on the tobacco industry actors for this essential data.

7. How do analytical approaches adjust for the under-reporting of illegal tobacco use in self-reported survey data?

The size and scope of the illicit market in Australia is not, and should not, be measured solely through one survey/analysis/set of data, triangulating data from multiple, transparent and trusted sources is vital.

8. How does the evidence distinguish quitting behaviour from switching to illicit tobacco products?

I am unclear on what is being asked here, but quitting behaviours are measured in terms of “quitting smoking,” if we are talking about cigarettes, and “quitting vaping” if we are talking about e-

cigarettes. There is no body of research that suggests people who smoke have “quit” if they switch to illicit tobacco, or the other way round that they have quit if they switch back to taxed tobacco. NSW does not (nor do I know of any jurisdiction globally) measure quit rates based on taxed tobacco sales – this can help to triangulate consumption patterns, but measures of smoking prevalence are focused on smoking behaviours.

10. What longitudinal evidence demonstrates that enforcement activity produces sustained reductions in smoking rather than temporary displacement of access?

I urge the committee to access and read this highly detailed, and impeccably referenced summary of the impact of accessibility of tobacco products on young people, it includes long-term studies on enforcement and sales to minors laws:

<https://www.tobaccoinustralia.org.au/chapter-5-uptake/5-11-accessibility-tobacco-products-young>

Additionally, enforcement efforts could be significantly enhanced through policy improvements. New Zealand was set to be the first country in the world to dramatically (by 90%) reduce the number of tobacco retailers. A change in government and intense interference from the tobacco industry and its allies saw this important public health policy reversed. NSW could now lead the effort to enact this policy here in Australia – I urge the committee to recommend adoption of this approach to reducing tobacco supply in its report. Please see the linked publications below for further details:

Ait Ouakrim D, Wilson T, Waa A, et al. Tobacco endgame intervention impacts on health gains and Māori:non-Māori health inequity: a simulation study of the Aotearoa/New Zealand Tobacco Action Plan. *Tobacco Control* 2024;33:e173-e184.

<https://tobaccocontrol.bmj.com/content/33/e2/e173.abstract>

Andrew A. New Zealand's world-first smokefree legislation 'goes up in smoke': A setback in ending the tobacco epidemic. *Health Policy*. 2024 Sep 1;147:105123.

<https://www.sciencedirect.com/science/article/pii/S0168851024001337>

11. What evidentiary limitations should the Committee take into account when considering the academic evidence as presented?

I am concerned that some of these questions could imply that decades of public health evidence are not at all relevant to consider, unless the studies were undertaken in the identical conditions in NSW at this present moment. This would be a very reductive way of dismissing literal decades of evolving and growing knowledge that can help to inform both new ways of reducing tobacco use and strengthening measures that have worked to decrease smoking rates.

To conclude – **the availability of illicit tobacco, the incredible ease in which it can be purchased is also a driving factor in the growth of illicit tobacco, alongside price differentials.** Other important factors, as outlined in the 2024-25ITEC report, include:

ITEC Market Drivers

Just as there is no single solution to dismantling the illicit market, there is no single market driver.

The scale, spread, and consumption of illicit tobacco and vapes are driven by a range of factors including:

Consumer demand

Increasing demand for illicit alternatives across demographics. Vaping is prevalent among younger, digitally connected Australians, whereas tobacco smoking is more common among Australians aged 40 and above.

Ease of access

Widespread access to illicit tobacco and e-cigarettes both through retail outlets and online channels facilitates accessibility of illicit products, and is not subject to age checks or other regulatory barriers.

Price differences

Avoidance of excise allows illicit tobacco to be sold significantly cheaper than excise paid tobacco. Price differences do not appear to be a driver in vape market, as the products being sold illicitly are not directly comparable with the therapeutic regulated products.

Sophistication and efficiency of illicit supply chains

Leveraging established smuggling methods used for other illicit commodities increases availability, and taps into existing criminal capability.

Lack of consumer awareness

Buyers may not understand the links to organised crime and why this is a problem. Illicit products may seem affordable, but they come at a high cost to community health and safety.

The illicit tobacco trade generates significant profits for organised crime through:

Tax evasion

Profits remain largely unaffected by typical costs such as tax or other business overheads.

Cash-based or non-conventional transactions

These make tracking more difficult, and while making it easier to launder proceeds.

Minimal business costs

Lack of adherence to tax and regulatory obligations (including workplace conditions) reduces costs.

Money laundering

Avoiding financial transaction reporting obligations and using non-traditional financial infrastructure facilitates the movement of proceeds from illicit tobacco, supporting other criminal enterprises and consolidating financial gain and power.

Insufficient deterrence

Criminal networks operate extensively in the illicit tobacco and e-cigarette markets partly because the penalties are lower compared to other illicit commodities. While they use similar methodologies for dealing in tobacco as they do for dealing in drugs, they do not face the same range of offences or similar levels of penalty that could potentially act as a deterrent. Relative to the prioritisation of finite enforcement resources, incommensurate deterrence and penalties are impediments to effective regulation and enforcement.

This paper is also Australian-specific on the illicit tobacco use, with the caveat that the illicit market is rapidly changing and more regular, and a variety of data collection methodology is urgently needed:

Cho A, Scollo M, Lim C, Puljević C, Gartner C. Trends and correlates of current use of illicitly traded tobacco in Australia: Evidence from a decade of national surveys. *Addiction*. 2025 Nov 11.

<https://onlinelibrary.wiley.com/doi/10.1111/add.70236>

Please also refer to Tobacco in Australia for further and up to date, data and analysis – it is a treasure trove of high-quality information and research:

<https://www.tobaccoinustralia.org.au/chapter-13-taxation/indepth-13a-avoidance-and-evasion-of-taxes-on-tobacco-products/13a-5-estimates-of-illicit-cigarette-trade-in-australia>