

Responses to Supplementary Questions – David Allen

1. What unintended impacts on lawful tobacco operations were identified in the evidence as a result of current illicit tobacco enforcement settings?

The current lax enforcement and compliance of the illicit tobacco trade (especially in regional areas like mine), coupled with a huge price differential between the legal and illicit product due to a combined excise and GST tax rate of approximately 80% on legal tobacco, has created a “perfect storm” that is penalising legal businesses like mine by transferring trade to criminal actors.

Our business alone has lost 75% of our tobacco trade since COVID-19 times, and this equates to the percentage that tobacco excise has decline in this period, and also to estimates that the black market now controls an 70-80% of the tobacco market in Australia, a figure that is estimated to grow to about 90% by 2027, meaning we will no longer have a functioning legal tobacco market in this country. As also mentioned in my evidence we have seen our insurance premiums increase, firebombings and criminality in our local area, and despite paying \$1100 for an annual tobacco license, not seen any value in this, simply our legal trade continues to deteriorate.

2. Based on operational experience, what type of policy changes – if any – have been shown to reduce illicit sales without increasing compliance burdens on lawful retailers?

Modelling shown in the recent Oxford Economics study into the illicit tobacco trade in Australia estimated that if (as I stated in my evidence) excise rates reduced to 2019 levels, the illicit market would halve by 2029 and boost excise collection by \$3.1m. Unfortunately the politicians who are in favour of retaining the status quo, Anthony Albanese, Jim Chalmers, Mark Butler and Tony Burke, along with the ITEC Commissioner, Amber Shuhyta, make the rather illogical argument that there has been no academic study (yes there has been, the Oxford Economics report for instance) or real-life example of the impacts of a reduction, then ipso facto it would not work. In fact I would really question the responses given by the Ms Shuhyta to (especially) Mr Lawrence in her evidence, as alluded to by Mr Lawrence she was simply parroting Mark Butler’s talking points that a reduction in excise would have no impact, which is clearly gaslighting the Australian public, and totally at odds with what I am hearing from my customers.

Another way to look at this is to understand that before COVID-19 hit our shores we did not have the substantial illicit tobacco problem we have now, and that it

has developed not only due to rapidly increasing excise levels on legal tobacco, forcing smokers to substitute for a cheaper product, but also with the development of criminal networks, importing and distribution channels to supply this illicit product at scale to the market, due to the incentives presented by the huge price differential. Similarly, if we return the excise level to where it was circa 2019, and legal tobacco is only \$5-\$10 more expensive than the illicit product, smokers will return to the legal market! Our customers have constantly told me, that inherently they would prefer the legal brands, but now are simply refusing to consider the \$40-\$50 plus price point. In other words, the problem of illicit tobacco (and the huge number of unintended consequences it has caused to our community, from murder, fire bombings, drive-by shootings and general increases in criminality, loss of excise, GST and business taxation for government, loss of trade and increased insurance costs for legal businesses, huge increases in costs trying to police the illegal market, at importing, distributing and retail levels [even the cost of storing and destroying seized product is running into the 10's of millions], and the worst outcome of all, an increase in smoking rates in Australia for the first time in some 30 years [especially amongst young people], due to the ubiquitous availability of cheap illicit tobacco), would disappear as quickly as it emerged if the excise level was amended back to the "tipping point" of 2019.

3. What indicators at the retail level suggest that illicit tobacco availability is increasing or decreasing?

As mentioned in my evidence, apart from my own lived experience that has seen our tobacco trade drop (and continue to drop) by approximately 75% since COVID-19 (costing us some \$1000 in lost gross profit on tobacco sales, and a similar amount on ancillary sales due to lost foot traffic, weekly), pointing to the rapidly growing illicit market, there are several other credible indicators. They include the ITEC Commissioners own 2025 report stating illicit tobacco now accounts for 50-60% of the market, rising (especially youth) smoking rates as outlined in the recent Roy Morgan report on smoking trends in Australia over the last 10 years, increasing levels of nicotine detection in wastewater as per recent Crime Commission reports (and if, as Mark Butler continues to tell us, that legal smoking rates continue to decrease in Australia, the only explanation can be the growth of the illicit market), and also growing levels of seizures at the border and also on domestic distribution nodes and at the retail level, but given that the illicit market continues to grow you have to assume that the percentage that is being detected is not commensurately increasing also.