

INQUIRY INTO ILLEGAL TOBACCO TRADE

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Portfolio Committee No.5 – Justice and Communities Inquiry Into Illegal Tobacco Trade In New South Wales

Introduction

This submission outlines the urgent need for stronger legislative and enforcement measures to combat the illicit tobacco trade in New South Wales. Drawing on both NSW and national data, it highlights the detrimental impact on legitimate retailers, public health, and state revenue.

Impact on Retailers and the Community

Legitimate retailers and franchisees across New South Wales are increasingly unable to compete with illegal operators who sell untaxed and unregulated tobacco products at significantly reduced prices. Recent reports indicate illicit tobacco is being sold for as little as \$8 per packet, compared to \$35 for legal, tax-compliant products. These illicit stores often open in close proximity to franchised outlets, deliberately targeting their customer base and undermining lawful business operations. Many illicit stores are also operating outside of business hours or from private residences, to avoid detection from authorities.

This issue has escalated beyond economic harm into direct threats to personal safety and property. Firebombings of tobacco retailers have surged, particularly in areas where the illicit trade is entrenched. These attacks are commonly linked to organised crime groups seeking dominance in the illicit market. Legitimate retailers now face increasing levels of intimidation, harassment, and extortion—some are coerced into selling illegal products, while others are forced out of business entirely. Many are too fearful to speak publicly due to genuine fears of retaliation, highlighting a breakdown in regulatory protection and enforcement.

The consequences extend beyond personal safety. Access to insurance has become a major issue, with some insurers refusing coverage to tobacco retailers or setting premiums so high they become unaffordable. In several instances, body corporates have been unable to secure insurance for entire precincts due to the presence of a legitimate tobacco store—leading to tenancy revocation for compliant businesses.

This crisis is further compounded by recent Federal legislation restricting legal tobacco products, including the ban on menthol. While compliant retailers must absorb these restrictions, illicit operators continue selling banned products freely and without consequence. This imbalance further punishes tax-paying businesses while rewarding criminal enterprises.

Legitimate retailers in NSW are bearing the cost of inadequate enforcement—through financial loss, safety risks, and commercial disadvantages.

The Scope of the Problem

According to the University of Sydney (2 April 2025), the estimated value of illicit tobacco entering the Australian market has surged from \$980 million in 2016–17 to over \$6 billion in 2022–23. Of that, almost \$3 billion worth entered undetected.

The NSW Crime Commission has also identified tobacco as a key revenue stream for organised crime, describing it as “low risk and high reward” (Australian Criminal Intelligence Commission, 26 April 2022).

The continued expansion of the illicit tobacco trade is robbing legitimate retailers and governments of substantial income, while pushing compliant operators to the brink. Many legitimate stores have been forced to close or are contemplating closing their business.

Enforcement Challenges

Despite increased seizures of illegal tobacco, enforcement remains fragmented, reactive, and largely ineffective. Illegal stores often reopen within days of raids, and very few prosecutions occur. Retailers report a lack of follow-up on formal complaints, with known illegal operators continuing to trade openly.

Penalties for illegal sales are often inadequate and inconsistently applied, allowing offenders to treat fines as a cost of doing business. Temporary closure orders and delays in re-issuance of penalties allow swift reopening, undermining enforcement efforts.

Recommendations

We strongly support the recent introduction of a state-wide tobacco retail licensing scheme, which is a positive step toward improving transparency and accountability in the market.

However, licensing alone will not be effective unless accompanied by strong, visible enforcement and meaningful penalties. Current fines and compliance actions are insufficient to deter criminal activity. To protect public health and lawful businesses, more targeted and robust legislative reforms are urgently required.

We recommend:

- Rigorous vetting and verification for all tobacco licence applicants.
- Immediate closure powers for retailers caught selling illicit tobacco, including asset forfeiture and site penalties.
- Mandatory lease termination provisions and penalties for landlords who knowingly rent premises to illicit traders.
- Substantially increased penalties and criminal charges that reflect the scale and organised nature of the illicit trade.
- Proactive, coordinated compliance monitoring involving NSW Police, ATO, and Border Force.
- Enhanced tracking across the supply chain to prevent illegal importation and distribution.

Summary

The illicit tobacco trade in NSW is threatening the viability of small businesses, undermining public health objectives, and jeopardising community safety. Without immediate and decisive enforcement, the legal retail market—especially in regional areas—risks collapse.

We strongly urge the NSW Government to act decisively. The introduction of tougher legislative tools and stronger enforcement is critical to restore integrity to the tobacco market, support law-abiding businesses, and protect the community from the harms of illicit trade.

Kind regards,

Cignall Pty. Ltd.