AUSTRALASIANASSOCIATIONOFCONVENIENCESTORES
Established 1990

9th March 2018

Ministry of Health
16 College Road
College of Medicine Building
Singapore 169854
Attention: Director, Epidemiology and Disease Control Division
Tobacco_Control@moh.gov.sg

AACS SUBMISSION: PUBLIC CONSULTATION ON STANDARDISED PACKAGING AND ENLARGED GRAPHIC HEALTH WARNINGS FOR TOBACCO PRODUCTS

To whom it may concern,

On behalf of members of the Australasian Association of Convenience Stores (AACS), the peak body for the convenience industry in Australia, we make the following submission to the Ministry of Health in response to the Public Consultation on Standardised Packaging and Enlarged Graphic Health Warnings for Tobacco Products in Singapore.

Despite our previous submission on this topic outlining the wide-ranging implications of plain packaging in Australia, where it has been law since December 2012, it appears the Government of Singapore wishes to push ahead with this flawed policy.

Hence, we reiterate in this submission the extent to which Australian retailers have suffered as a result of plain packaging, while the market for illicit tobacco in Australia has spiralled out of control.

As at March 2018, it is nearly 5.5 years since legal tobacco products have been available for sale in Australia in plain packaging.

Nevertheless, since the introduction of plain packaging, the incidence of smoking among Australians has remained relatively steady. According to the 2016 AACS State of the Industry Report[1], volumes of tobacco sold have not diverted from the long term trend, and no reduction in smoking can be directly attributed to the plain packaging laws.

However, regulations like plain packaging and excise increases have had many flow-on impacts that demand consideration.

The rise of the illicit tobacco market is of particular concern. This costs the Australian Government billions annually in lost revenue.

[1] *State of the Industry Report*, AACS 2016

The AACS is in the unique position to detail the various impacts of increased Government regulation such as plain packaging on the illicit tobacco market in Australia.

The rise in the market for illegal tobacco has coincided directly with the increase in regulation governing the sale of legal tobacco products. Regulations like plain packaging, graphic health warnings and display bans have had major impacts on the tobacco retailing environment for small businesses in particular.

In this submission, we have included for the Ministry of Health's reference an outline on the state of the illicit tobacco market in Australia and an overview of independent research the AACS commissioned on consumer attitudes to the illicit tobacco market.

Of course, the impacts of plain packaging have been far more wide reaching. Increased customer frustration, increased labour and training costs, increased display and security costs, and a host of other negative consequences continue to impact convenience stores in Australia each day.

Most insulting of all is the fact that the improvements in health outcomes that the introduction of plain packaging were supposed to achieve have not come to fruition. Retailers of legal tobacco have paid a high price for no discernible reduction in the incidence of smoking in Australia.

Thank you for your consideration of our submission.

Jeff Rogut FAIM MAICD
Chief Executive Officer
Australasian Association of Convenience Stores Limited
ACN: 156 638 023

Mobile: 0467 873 789
Office: 03 9807 5552
email: jeff@aacs.org.au
Website: www.aacs.org.au

Mail: PO Box 2309,
Mt Waverley,
Vic. 3149
Australia

About the AACS

Established in 1990, the Australasian Association of Convenience Stores (AACS) is the peak body for the convenience industry in Australia.

Nationally, our industry employs over 40,000 people in over 6,000 stores. The majority of these stores operate as family run businesses, often under licence or franchise agreement, or independent ownership. They regularly employ family members and people from the local communities in which they operate.

The AACS represents the interests of these small businesses; their owners, staff, suppliers and customers.

The convenience industry in Australia was valued at approximately $19 billion in 2016 according to companies contributing to the *2016 AACS Annual State of the Industry Report*. This report contains the most comprehensive information available on the convenience industry in Australia and we would be happy to provide a copy.

As an Association we enjoy strong ties with our international counterparts including the convenience stores associations in the US, Canada, the UK and New Zealand. We also visit similar stores in South East Asia to keep abreast of changing or emerging trends.

Plain packaging: key impacts

- Since the introduction of plain packaging for tobacco products in Australia in December 2012, the volume of tobacco sold has remained stable.
- However convenience stores have suffered as a result of an increase in the illicit trade of tobacco, product handling errors and increased labour and inventory management costs.
- Retailers have had no option but to absorb these additional costs.
- There has been a dramatic and noticeable shift to cheaper brands by consumers in this time.
- The Australian Government refused to consult with the retail industry ahead of the introduction of plain packaging and measures to minimise the negative impacts were not explored.
- Research from leading international research company Roy Morgan entitled *The Impact of Plain Packaging on Australian Small Retailers* shows that awareness among small retailers in Australia of illicit tobacco is high and has increased since the introduction of plain packaging.
- Volumes of illegal tobacco have increased significantly following plain packaging. In fact, from 2012 to 2014, the annual consumption of illegal tobacco increased by 500,000 kilograms. This has resulted in a dramatic increase in the proportion of the Australian market that is comprised of illegal tobacco.
- In 2012, illegal tobacco stood at 11.5% of total tobacco consumption. KPMG[2] estimates just under 14% of all tobacco consumed in 2016 Australia was illegal. This adds up to billions in lost revenue to the Government.
- Retailers themselves have raised concerns directly with the AACS ranging from operational impacts, security implications and financial impacts.

Plain packaging: independent research

Research from leading international research company Roy Morgan entitled *The Impact of Plain Packaging on Australian Small Retailers*, commissioned by Philip Morris and supported by the AACS and other retail associations, details the range of impacts experienced by retailers as a result of the plain packaging laws.

In all, 150 AACS member stores participated in the Roy Morgan study. A breakdown of the key findings of the Roy Morgan research is included below:

- Two-thirds of small retailers claim plain packaging has negatively impacted their business. More than four in ten retailers perceive illicit trade to be having a negative impact on their business.
- 78% experienced an increase in the time taken to serve adult smoker customers and 62% report additional time is spent communicating with these customers about tobacco products.
- 62% of small retailers have faced increased frustration from adult smoker customers and 65% have seen an increase in the frequency of staff giving the wrong products to customers (primarily due to difficulty in recognising/distinguishing between brands).
- 34% of retailers have experienced increased frequency of attempted product returns predominantly due to customers being given a product they did not ask for.
- 44% of small retailers consider that plain packaging has negatively affected the level of service they are able to provide to their non-tobacco customers.
- 75% of small retailers find it takes more time to order stock. 45% claim it takes much more time.
- The accuracy of the ordering process has also been impacted, with 46% of small retailers facing an increase in the frequency of incorrect orders placed.

[2] *Illicit Tobacco in Australia 2016*, KPMG, May 2017

- 58% of small retailers noted an increase in the time taken to receive stock while the courier is on site (also resulting in courier frustration), and 83% now take longer to process stock once the courier has left, including 57% reporting it now takes much more time.
- While 28% of small retailers overall had increased the number of staffing hours, 63% reported their staff now have a heavier workload since the introduction of plain packaging.
- Around a third of small retailers indicated being concerned about store or staff safety issues as a result of staff members facing the storefront less since the introduction of plain packaging.
- 66% of small retailers have spent additional time training part-time, casual or transient staff as a result of the changeover to plain packaging, while 44% have faced additional costs from training staff members as a result of the changeover.
- 65% do not perceive that the Australian Government considers the needs of small businesses at all in its tobacco legislation.
- 65% of retailers reported that their feelings towards the Government are less favourable as a result of plain packaging legislation.
- 83% perceive that the Government has negatively affected the ability of small retailers to compete with larger chains.
- 43% of retailers perceive illicit trade to have a moderate or major impact on their business.
- 33% of small retailers reported having had customers enquire about purchasing illicit tobacco since the introduction of plain packaging.

The illicit tobacco market in Australia

The illicit tobacco market has an enormous impact on responsible retailers of legal tobacco. The regulatory environment in Australia has seen it become one of the world's most lucrative markets for illegal tobacco. This is having disastrous effects.

Violent robberies targeting cigarettes are happening with increasing frequency among retailers as high prices of legal tobacco, artificially imposed as a result of regulations such as plain packaging and excise increases, are endangering lives.

There are also cost burdens associated with higher insurance and additional security which must again be borne by retailers.

Illicit tobacco purchased in June 2017 from a Melbourne market open to families and children

Recent high profile seizures of illegal tobacco have reinforced the enormity of the illicit tobacco market in Australia.

Illicit tobacco robs honest retailers of legal tobacco sales. Responsible retailers of legal tobacco are bearing the brunt while the illegal tobacco market has grown significantly in recent years.

It is a disturbing trend that demonstrates the unintended consequences of poorly planned Government policy, as the criminals who supply these illegal tobacco products don't care if it ends up in the hands of minors. There are also no quality checks on what is actually in the products.

Legal tobacco remains an important product for small businesses in Australia and the more the market for illicit tobacco expands, the more these small businesses will suffer. Consider the quote

below from an actual retailer – and small business owner – on the impact of illicit tobacco on a typical convenience store:

"My conservative estimates are that illicit tobacco is costing my business at least $200 per day in tobacco and associated sales. My decline in customer count traffic commenced when the (nearby) illegal outlet opened in February this year.

"Not only is this having an adverse effect on my business profitability, but it's also costing [brand withheld] Service Stations nearly $10K per year in lost revenue and supplier rebates."

The point is clear: the illicit trade of tobacco is having a pronounced negative impact on small businesses around Australia.

The loss of revenue to the Commonwealth arising from the consumption of illicit tobacco products

Tax from legal tobacco sales is a significant contributor to Australian Government revenue.

The amount of revenue the Government is missing out on because of the huge spike in illicit tobacco trade has run into the billions of dollars annually.

KPMG[3] estimates just under 14% of all tobacco consumed in 2016 Australia was illegal. This adds up to billions in lost revenue to the Government.

Sold legally, this would have generated an extra $1.6 billion in tax revenue for the Australian Government.

The involvement of organised crime in the illicit tobacco market in Australia

Criminal gangs are proven to be very effective in filling gaps in the legal tobacco market.

According to research from leading international research company Roy Morgan entitled *The Impact of Plain Packaging on Australian Small Retailers*[4], commissioned by Philip Morris and supported by the AACS and other retail associations, a third of retailers reported having had customers enquire about purchasing illicit tobacco from their outlets.

The public is well aware of the existence of illicit tobacco in Australia and are actively seeking it out, driven in part by the high cost of legal tobacco.

The Roy Morgan research also shows that awareness among small retailers in Australia of illicit tobacco is high and has increased since the introduction of plain packaging. More than four in ten retailers perceive illicit trade to be having a negative impact on their business.

The growth of the illicit market, combined with excessive taxation increases and plain packaging legislation, has resulted in a shift in consumer purchasing habits when it comes to tobacco.

Consumers are now driven predominantly by price as brands have been diminished, and adult consumers are increasingly looking at illicit products as tax hikes on legal tobacco continue to have a dramatic impact on price.

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[3] *Illicit Tobacco in Australia 2016*, KPMG, May 2017

[4] *The Impact of Plain Packaging on Australian Small Retailers*, Roy Morgan, 2013

Of course, illicit products are much more likely to end up in the possession of minors, as these products by definition are not sold responsibly.

AACS research: public attitudes to the illicit trade of tobacco

In 2016, the AACS commissioned the Sexton Marketing Group to conduct independent research to investigate the level of public awareness, as well as attitudes and opinions, on the illicit tobacco market in Australia.

A total of 4,000 Australian consumers aged 18 years and over (and eligible to vote in State/Territory and Federal elections) were interviewed in late August / early September 2016, using a combination of online and telephone interviews.

Executive summary

- The research shows that the biggest single consumer concern regarding illicit tobacco is that *it is a revenue-earner for organised crime, who use that revenue to expand their criminal activities, including into socially damaging areas like ice production and distribution*.

- Consumer awareness of the extent of the illicit tobacco trade is generally low.

- Most consumers would be concerned if politicians turned a blind eye to this issue, or worse still, did not adequately resource Customs to stop the trade at its source.

- There is also strong support for tougher penalties for illegal tobacco trafficking and unscrupulous retailers selling illegal tobacco products.

- There is also concern that Government revenue is being lost, putting pressure on budgets for hospitals, schools, etc.

A summary of the key findings of the AACS research into public opinions on the illicit trade of tobacco is included overleaf. For a detailed briefing of the full research report, contact AACS CEO Jeff Rogut at jeff@aacs.org,au **.**

22%	• of Australian smokers have been offered illegal or illicit tobacco products
54%	• believe illicit tobacco needs Government action
77%	• of consumers are concerned that criminals use profits from illegal tobacco to expand other criminal activities including illicit drugs like ice
85%	• of consumers believe there should be much tougher penalties for illegally importing tobacco
81%	• of Australians believe there should be much tougher penalties for selling illegal tobacco products in retail shops
58%	• of consumers are extremely or very concerned about the impact of illicit tobacco on retailers of legal tobacco

Illicit tobacco recognised as serious crime with tougher penalties proposed

By Convenience World Editor on March 9, 2018 News

The federal government has proposed to introduce penalties of up to 10 years in prison for manufacturing illicit tobacco, with legislation passing the lower house and now to be reviewed by the senate.

The legislation also proposes to create penalties of up to five years in prison for possessing, buying or selling illicit tobacco.

“The Australasian Association of Convenience Stores (AACS) has commended Liberal MP Craig Kelly for formally recognising the huge impact the illicit trade of tobacco is having on the community and on small businesses,” AACS CEO Jeff Rogut said.

“For too long, illegal cigarettes with branded logos, tax free and with no quality-control standards, have been sold with impunity in the community. It’s worryingly easy for people to access these illegal products, and the lack of a proper response has seen the market spiral out of control.

“The AACS has been vocal about the need for authorities to crack down on these criminals and the legislation being progressed by the government calls for tougher penalties, which are absolutely needed.

“We thank Mr Kelly for progressing these tougher penalties in recognition of the wide-ranging impacts the black-market trade of tobacco is having in the community.”

The adds that the AACS also commends Mr Kelly for acknowledging that tougher penalties should have been introduced when tobacco excises first pushed up cigarette prices.

Mr Rogut says bipartisan support for the legislation is encouraging.

“Convenience-store owners and staff know firsthand the impact that excise increases and regulations like plain packaging have had on the market for illegal cigarettes,” he said. “The regulatory environment for legal tobacco in Australia has made us one of the world’s most lucrative markets for organised criminals involved in the illicit-tobacco trade.

“It’s encouraging that the enormity of this problem is now being acknowledged.”

Illicit tobacco accounts for nearly 14 per cent of the total tobacco market in Australia, according to KPMG estimates, and the AACS says illicit products are being sold with impunity across Australia to anyone, potentially even minors, costing the Australian government more than $1.6 billion a year in lost tax revenue.

Tobacco farms bust

Raids net $23m as crime syndicates on notice

EXCLUSIVE
TOM MINEAR

FOUR illegal tobacco farms have been shut down and weapons seized during raids in regional Victoria this week.

The *Herald Sun* can reveal tobacco with an excise value of more than $23 million was seized in joint operations carried out across the state by the Australian Taxation Office and Victoria Police.

Farmers are now being warned to watch out for organised crime syndicates approaching them to grow illegal tobacco, which is a major source of cash for gangs.

It comes after the ATO carried out 16 similar raids in the last 18 months, seizing and destroying crops worth more than $91 million.

About 12 acres of tobacco crops worth $6 million were destroyed in Dunnstown near Ballarat last Thursday, where authorities also seized illegal firearms and equipment.

Victoria Police said two men, aged 66 and 61, arrested at the scene were assisting with their investigation.

Another 20 acres of crops worth nearly $9 million were seized in Telopea Downs on the South Australian border this week, along with 16 acres worth $7 million at Mooroopna near Shepparton.

The fourth raid, in Oaklands Junctions, near Craigieburn, led to the seizure of 1.3 tonnes of dried tobacco and the destruction of freshly planted crops worth $1.3 million.

No one has been charged over the raids and investigations are continuing.

"Engaging in the illegal tobacco trade not only supports organised crime syndicates, it also robs the community by denying them of taxes that would be raised," ATO assistant commissioner Peter Vujanic said.

"The ATO is concerned that farmers in these areas may be targeted by organised criminal organisations or be at risk of unintentionally becoming involved in criminal activity.

"If you are approached about growing tobacco or think you may be unwittingly involved in growing illegal crops, you should let the ATO know as soon as practicable."

Mr Vujanic urged the community to "remain vigilant for any signs of illegal activity" to help authorities catch any illegal tobacco growers.

It comes as the Turnbull Government pushes for new laws that would increase the maximum jail term for excise offences from two to 10 years, and increase the maximum fine of $105,000 to $315,000.

"Those who deal in illicit tobacco threaten Australia's revenue base," Revenue and Financial Services Minister Kelly O'Dwyer said.

tom.minear@news.com.au

Melbourne Herald Sun 9th March 2018

Jeff Rogut FAIM MAICD
Chief Executive Officer
Australasian Association of Convenience Stores Limited
ACN: 156 638 023

Mobile: 0467 873 789
Office: 03 9807 5552
email: jeff@aacs.org.au
Website: www.aacs.org.au

Mail: PO Box 2309,
Mt Waverley,
Vic. 3149
Australia