

Public Accounts and Estimates Committee
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Submission to the inquiry into vaping and tobacco controls

About 360Edge

360Edge is Australia's leading specialist alcohol and other drugs consultancy. We provide a full suite of policy and practice advisory services across the spectrum of alcohol and other drug use, as well as allied areas such as mental health, justice and education, supporting governments and frontline services to improve policy and practice in line with the latest evidence. At 360Edge, our vision is for a community that provides the best public health policy and practice responses.

Our four main programs are Workforce Development, Service Improvement, Evaluation and Health Systems Modelling. 360Edge also supports the development and implementation of workplace alcohol and other drug policy through our WorkEdge program and alcohol and other drug prevention in schools through our Schools of Substance program.

CEO, Professor Nicole Lee, is an international leader in alcohol and other drug responses, with 33 years' experience in policy and practice implementation. She is also Adjunct Professor at the National Drug Research Institute, Curtin University; CEO of Hello Sunday Morning; and Board Member of The Loop Australia. She is a member of the Australian National Council on Alcohol and other Drugs (ANACAD), Australia's key expert advisory council to the Australian Government on alcohol and other drugs, which provides policy advice directly to the Health Minister and their Department.

Professor Nicole Lee has provided advice to Australian, State and Territory governments as well as international governments across South East Asia, New Zealand and the Pacific Islands. She has worked on alcohol and other drug policy with major international organisations such as the World Health Organization and the United Nations Office on Drugs and Crime.

Overview

Thank you for the opportunity to make a submission to the inquiry into vaping and tobacco controls. Our response is based on the latest evidence from Australia and internationally regarding tobacco and vaping and what works to reduce harms.

As specialists in alcohol and other drug policy in Australia, we publish a series of evidence check reports designed to assist services, governments and funders in keeping up to date with the latest evidence on alcohol, tobacco and other drug responses. We point you to our 'What Works: Tobacco Harm Reduction and Vaping' report, which we have attached as part of our submission, to access a comprehensive, high quality synthesis of the latest evidence on vaping in Australia.

In our submission, we provide an overview of the trends in vaping and tobacco use and associated impacts on the community, contributors to and outcomes of the illicit vaping and tobacco market in Victoria and ways to address this, legislative and regulatory frameworks aimed at reducing vaping and tobacco harms and current and recommended public health measures to minimise the harms of tobacco, including through vaping, an effective smoking cessation tool.

TOR (1): Trends in vaping and tobacco use and the associated financial, health, social and environmental impacts on the Victorian community

Positive trends in smoking and vaping

The latest data has some very good news on smoking and vaping trends.

Victorians consume tobacco at a similar rate to the general Australian population. In 2022–23, 8.1% of Victorians were daily smokers, declining from 10.1% in 2019.^[1] This decline of 23.6% represents the most significant decline in daily smoking rates ever recorded in the National Drug Strategy Household Survey.

In the same time period, recent vaping increased from 2.4% to 7%.^[1] In 2022, 2.4% of Victorians vaped daily, representing an increase from 0.9% in 2018–19.^[2]

Nationally, people who use e-cigarettes are overwhelmingly currently or former smokers, with only 1.1% of people who have never smoked vaping daily.^[3]

There has been no change in the proportion of people who don't smoke so increases in vaping alongside significant declines in smoking suggests that current smokers are shifting away from smoking to the safer nicotine alternative.

Health impacts of smoking

Smoking tobacco is causally linked with 41 individual diseases.^[4] Tobacco remains the leading risk factor contributing to the burden of disease and deaths in Australia, with 8.6% of the disease burden and 13% of deaths being attributable to tobacco in 2018.^[4]

Nationally, the total economic cost of tobacco was estimated to be \$136.9 billion in 2015–16, including costs associated with premature mortality, ill health, fires and litter, tobacco expenditure and workplace and healthcare costs.^[5] For Victoria specifically, it is

estimated that smoking costs approximately 4,400 lives and \$3.7 billion in direct health costs and lost productivity a year.^[6]

In Australia, smokers are significantly more likely to experience socioeconomic disadvantage, with 13.4% of daily smokers being in the most disadvantaged socioeconomic quintile, compared with 4.1% in the least.^[7]

Health impacts of vaping

Although vaping is not risk free, most experts agree that it is significantly safer than smoking tobacco, so measures to encourage smokers to switch to vaping should be a high priority public health measure.

The carcinogenic compounds found in tobacco cigarettes are either not present or found in very small amounts in nicotine vaping products. Regulated vaping products are estimated to have as low as 5% or less of the harms associated with cigarettes and less than 1% of the cancer risk.^[8-11] The most prevalent adverse effects of vaping include mouth or throat irritation, depressed mood, nausea and insomnia.^[12]

However, while vaping products remain unregulated, they are not tested for safety and quality. The lack of regulation has created a thriving black market in which products are sold without quality control, making them more dangerous than they would be if properly regulated.

TOR (2): The causes and repercussions of the illicit tobacco and e-cigarette industry in Victoria including impacts on the Victorian justice system, and effective control options

Severe restrictions have created a black market in tobacco

In general, regulating access to drugs reduces harms. We know for example that reducing availability of alcohol has significant downward impact on rates of drinking and harms.^[13, 14] But also, in general, severely restricting access to something that people still want or need tends to result in a black market. Where there is a will there is a way. For example, illicit drug use has not decreased despite enormous effort and cost that has gone into policing it; 47% of the Australian adult population have tried an illicit drug in their lifetime and a thriving black market exists.

Health and tax policies have played a significant role in driving down smoking rates in Australia, but the increasing excise taxes on tobacco products has also contributed to the development of the illicit tobacco industry.^[15, 16]

Because illicit tobacco is sold at prices well below commercially available products, smokers who are unable to quit or are priced out of commercially available tobacco with high taxes are drawn to these options.^[15, 16] Given the demand for affordable alternatives, engaging in the illicit tobacco industry is viewed as a “low risk, high profit” opportunity attracting organised crime groups.^[15]

The illicit tobacco industry in Victoria has become increasingly volatile over the past year as an outcome of an “ongoing dispute for profit” among organised crime syndicates, which has resulted in 28 arson attacks as of January this year.^[17, 18] Although no one has been physically harmed as an outcome of the dispute, police are concerned that it’s “only a matter of time before someone is killed or seriously hurt”.^[18]

We risk repeating the same mistakes with vaping products

At the same time, restrictions on vaping products, which are estimated to be 95% safer than tobacco for smokers, have meant that there is no alternative for smokers but to access either the vaping products or tobacco illegally.

As we further restrict tobacco and address the serious harms it causes, smokers need a viable alternative to quitting.

Only a small proportion (2.7%) of the Victorian population who have never smoked currently vape, while 19.2% of current smokers and 22.4% of former smokers currently vape.^[2] Among the Australian population who have used vaping products, 77.4% of people who had never smoked tried vaping out of curiosity, compared with 34.9% of current smokers and 45.6% of former smokers; people who have never smoked are unlikely to go on to continue vaping regularly.^[3]

People who currently smoke report using vaping products to help them quit smoking (40.2%) or cut down on cigarettes (38.3%), while people who formerly smoked use vaping products to help them quit smoking also (36.4%) or because they taste better than regular cigarettes (26.7%).^[3] Clearly, the illicit vape industry in Victoria is largely an outcome of people seeking to quit cigarettes.

A potential strategy to mitigate the harms and control the market of both illicit tobacco and vaping products would be to improve access to regulated vaping products. Giving smokers the option to legally access regulated vaping products as a part of smoking cessation interventions can divert them away from the illicit tobacco market, while combatting the illicit vape market. The highest proportion of smokers are in the lowest socioeconomic quintile, so it is integral that people are able to access these products without excessive costs if they are to compete with the illicit tobacco and vape market. Recommendations on how Victoria may achieve this are detailed in TOR(3).

The current option to access only through GP prescription has essentially restricted access to vaping products for smokers so much that 90% of smokers still access their vaping products illegally. GPs are already under pressure and the cost to access a prescription can be prohibitive for some people, especially considering that many people who remain smokers are socially or economically disadvantaged.

TOR (3): The adequacy of the State and Commonwealth legislation, regulatory and administrative frameworks to minimise tobacco and e-cigarette harm experienced in the community and control illicit trade compared to other Australian and international jurisdictions

Minimising tobacco and e-cigarette harm

In trying to minimise harm from any drugs, the policy focus should be on harms, rather than use or prevalence. The prevalence of use doesn't have a one to one relationship to the degree of harm a drug causes and should not be used as a proxy for harm.

Harms from tobacco far outweigh harms from e-cigarettes, for example, so an increase in prevalence of use of e-cigarettes among smokers, accompanied by a decrease in tobacco

smoking, is likely to result in a net reduction in harm. Therefore, regulatory frameworks should focus on harm as the outcome measure.

State and Commonwealth frameworks have been largely successful in driving down smoking rates and reducing the harms of tobacco through innovative regulation and policy, including advertising bans, plain packaging regulations, taxation, smoke free policies and bans on the sale of flavoured cigarettes.^[19] While the widespread availability of illicit vaping products was an unintentional outcome of minimal regulation and enforcement, it is likely a key contributor to the most significant decline in daily smoking rates in Victoria ever recorded in the National Drug Strategy Household Survey.

The concurrent decline in smoking and increase in vaping has been seen in other jurisdictions. For example, in the UK, 12.9% of people currently smoke (including occasional smokers) as of 2022, which is the lowest recorded proportion.^[20] Alongside declines in smoking, daily vaping increased marginally to 5.2% in 2022 from 4.9% in 2021. Similarly to Australia, the vast majority of vapers are current or former cigarette smokers. Vaping products in the UK are legally available subject to strict regulations and vaping is actively promoted by health authorities as an effective method to quit smoking.^[21, 22]

Conversely, the significant barriers to accessing legally available vaping products in Australia has led to the development of a thriving black market, which means that potentially harmful, unregulated vaping products are primarily used by vapers, significantly raising health risks.

New federal regulations that enforce stricter regulations on vaping products will make tobacco significantly easier to access than vaping products, further promoting the illicit tobacco industry while diverting people away from a substantially safer alternative. To continue driving down smoking rates in Victoria while addressing the harms of illicit vapes, it is essential that appropriate steps are taken to improve access to e-cigarettes for smokers, including:

- Improving access to prescriptions by either reducing costs and wait times for GPs or allowing other health professionals such as pharmacists or nurses to prescribe nicotine vaping products
- Providing widespread training and education to prescribing health professionals on therapeutic vapes and promoting the prescription of therapeutic vapes to smokers attempting to quit where appropriate
- Ensuring that a wide range of TGA compliant vaping products are available at Victorian pharmacies at an affordable and competitive price
- Ensuring that dual users receive ongoing support to permanently quit cigarettes

Controlling illicit trade

The best way to control the illicit trade in e-cigarettes, and probably in tobacco as well, is to regulate nicotine vaping products and make them more available for smokers trying to quit. Most people who use e-cigarettes say they would access them legally if they were more accessible. Giving people who want to use e-cigarettes easier access means they would not need to access illegal vapes or illegal tobacco, thereby reducing the illegal trade. We have a good model of regulation that is well tested and successful in both nicotine replacement product regulation and in tobacco product regulation.

The Australian Taxation Office reported that, in 2021–22, the highest recorded amount of illicit tobacco was seized by the Illicit Tobacco Task Force.^[23] However, it was noted this

had a minimal impact on the circulation of illicit tobacco, which increased to represent over 15% of the market and has resulted in \$2.3 billion of excise revenue lost.^[23, 24] A large proportion (43.3%) of smokers are aware of unbranded tobacco, with awareness of unbranded tobacco among smokers increasing by 27% between 2019 and 2022–23.^[7] The proportion of people smoking unbranded tobacco (9.0%) has increased significantly by 83.7% in the same time period.^[7]

Clearly, considerable law enforcement resources are currently being allocated to disrupting the illicit tobacco market both in Victoria and nationally, but the demand for and supply of affordable tobacco products remains high. Similarly, vaping products containing nicotine have not been legally available without a prescription since 2021, yet they remain widely available through the black market despite law enforcement efforts.^[25]

Taking a hard line law enforcement approach has been demonstrated to be an ineffective way to curtail the illicit sale of both tobacco and vaping products, instead creating harms by promoting the circulation of unregulated products that are accessible to youth while fuelling organised crime. Measures should be taken to improve accessibility to regulated vaping products in order to divert people from the illicit tobacco and vape market and drive down smoking rates.

TOR(4): The effectiveness of current public health measures to prevent and reduce the harm of tobacco use and vaping in Victoria and potential reforms

The public health measures outlined in TOR(3), which regulate the sale and promotion of tobacco products and ban smoking in public areas, have contributed to declining smoking rates and the associated prevention and reduction of tobacco harms in the general Victorian population. In Victoria, a number of evidence based public health measures are in place which have contributed to declining smoking rates, including mass media campaigns, interactive school based programs, workplace programs and the availability of nicotine replacement therapies and quit lines.^[26]

While there is limited Victorian specific data on smoking among priority population groups, Australian data provides some insight. Compared with daily smoking in the general population (8.3%), populations who smoke daily at higher rates include people who:^[7]

- Are unable to work (27.8%)
- Have a year 11 education or less (23.6%)
- Are single parents (21.2%)
- Live in remote or very remote areas (20.4%)
- Identify as Aboriginal or Torres Strait Islander (20.1%)
- Are unemployed (15.2%)
- Identify as gay, lesbian and bisexual (14.2%)
- Are living in the lowest socioeconomic quintile (13.4%)

To reduce inequities in smoking rates and harms, targeted approaches focused on building community and social service capacity should be developed and implemented in Victoria to integrate tobacco cessation support into routine care for these groups.^[26]



There is high certainty evidence that vaping products increase quit rates in comparison to alternative nicotine replacement therapies and that switching from smoking to vaping is associated with improved health outcomes.^[27-31]

Given their ability to reduce smoking prevalence in the community, the overall public health benefits of vaping are likely to be considerably greater than the potential harms.^[32-34] Improving access to regulated vaping products among adult smokers would be an effective approach not only to continue driving down smoking and its associated harms, but also to mitigate the harms associated with the unregulated vaping black market.

Thank you for the opportunity to make a submission to this important inquiry.

360Edge are specialists in alcohol and other drug policy and can be called upon to provide further advice if required.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Nicole Lee'.

Professor Nicole Lee, CEO

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