



3rd June 2015

AACS SUBMISSION TO THE LEGISLATIVE COUNCIL GOVERNMENT ADMINISTRATION COMMITTEE

Ms Jenny Leaman
Committee Secretary
Legislative Council
Parliament House
HOBART TAS 7000
tfg@parliament.tas.gov.au

Re: response to the Public Health Amendment (Tobacco Free Generation) Bill 2014

To whom it may concern,

On behalf of members of the Australasian Association of Convenience Stores (AACCS), the peak body for the convenience industry in Australia, we make the following submission to the inquiry into the Public Health Amendment (Tobacco Free Generation) Bill 2014.

As an industry association, we are primarily interested in the recommendations with the potential to impact small business, and it is on this basis that we make the following submission.

At the crux of the proposed amendment to the Public Health Act is an idea as irresponsible as it is impractical. To outlaw, forever, the sale of legal tobacco products to any person in Tasmania born after the year 2000 represents reckless policy that will have no bearing on the health impacts of smoking, yet will play directly into the hands of criminals who sell tobacco illegally.

The Bill, if passed, would however see one section of the community - and one very important contributor to the economy - impacted extremely negatively: retailers.

When it comes to legislation governing the sale of tobacco in Australia, retailers are invariably the group that bears the most significant negative impacts. Instead of a focus on education, and cracking down on those that sell illicit tobacco products, Governments around the country apparently seem focused on reducing the incidence of smoking through increased excises and flawed policies like plain packaging.

Policies reminiscent of one of history's greatest policy failures: prohibition.

Which brings us to the concept of a tobacco free generation in Tasmania. Such a policy equates to prohibition, plain and simple, and the dangerous consequences of such a move will be felt by all Tasmanians.

However, in a scenario that's all too common, it will be felt by retailers most. This is a fact the Honourable Ivan Dean MP, who introduced the Bill in question, readily – publicly – admits.

It is unacceptable for one section of the Tasmanian community be targeted by a Bill doomed to fail.

In this submission we outline the many arguments against the Bill, emphasising the potentially disastrous consequences such a reckless policy would have on retailers Tasmania wide.

It is important at the outset to note that the AACS is not an arm of, nor does it lobby on behalf of, the tobacco industry. In this case it is the retailers – small business owners and their employees – that are our primary concern.

The AACS wishes to thank the Legislative Council Government Administration Committee for its consideration of our submission. We welcome the opportunity to be involved as the discussion of this Bill progresses.

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

1. Introduction

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 \$16.7 billion in 2014 according to companies contributing to the recently released *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.

Additionally, we are a member of the Council of Small Businesses of Australia.

2. The AACS position on the Public Health Amendment (Tobacco Free Generation) Bill 2014

The AACS opposes the implementation of the Public Health Amendment (Tobacco Free Generation) Bill 2014 on the basis that:

- There is no evidential basis for such a policy to have any positive impact on health outcomes;
- Such a policy would rob honest, responsible retailers important sales of a legal product;
- Such a policy would contribute to the already flourishing illicit tobacco market, further robbing honest, responsible retailers of important sales; and
- The AACS supports freedom of choice and believes adult consumers have the right to consume a legal product.

As was the case with the introduction of plain packaging, should this Bill become law it would be tasked with achieving an outcome – reducing smoking in Tasmania – despite there being no evidence for it having the capacity to deliver on this.

On further investigation, it is clear that such a policy is fundamentally flawed. It has no chance of delivering an improvement in health outcomes for future generations of Tasmanians.

- If tobacco is to be made illegal for retail sale to those born after 2000 in Tasmania, it will be readily available for purchase from online sources or interstate. Free trade between states is a given in Australia.

- The assumption that a reduction in supply will lead to a reduction in demand is absurd.
- While supply is reduced, demand will remain steady and those avenues through which tobacco can be purchased – both legal and illegal – will flourish.
- This will be at the expense of Tasmanian retailers, who appear to be singled out by this policy.
- The flow-on effects to Tasmanian jobs and Tasmania's economy are self-evident. The value of small businesses who sell legal tobacco products will decrease, whole businesses will go under and the job losses could run into the thousands.
- The tax payable on the sale of legal tobacco, on which Governments around the country rely so heavily, will disappear in Tasmania.
- Family and friends of those born after 2000 will easily – and legally – be able to buy tobacco and pass it on.
- The Public Health Amendment (Tobacco Free Generation) Bill 2014 represents a serious and unprecedented attack on civic freedoms, a move that would undermine Australia's claim to be a free country.

The importance of legal tobacco to convenience stores

Legal tobacco remains an important product category for small businesses in Tasmania, including convenience stores.

The recently released *AACS State of the Industry Report* reaffirmed the importance of tobacco to convenience stores, accounting for 37.34% of a typical convenience store's sales. Tobacco was a major contributor to the growth of the industry last year.

From an industry perspective, the tobacco category grew 8.9% in 2014, equating to an extra \$232 million in value, perhaps the most striking figure to dispel the claims by the health lobby that plain packaging has worked. The actual sales data suggests that, if anything, it has had the opposite effect.

Prohibition type policies have had a negligible and, in some cases, opposite effect in reducing the incidence of smoking in Australia.

This is the only available evidence of the likely impact of the Public Health Amendment (Tobacco Free Generation) Bill 2014, and the AACS therefore vehemently opposes it.

3. The illicit tobacco market in Australia

Perhaps the most dangerous consequence that would result should the Public Health Amendment (Tobacco Free Generation) Bill 2014 be passed would be the huge impact on the sale of illegal tobacco in Tasmania.

More broadly, the current regulatory environment in Australia governing the sale of tobacco, punctuated by the regular excise increases, display bans and of course plain packaging, has fuelled the growth of the black market trade of illegal tobacco in Australia to unprecedented heights.

Australia is regrettably viewed in an international sense as one of the world's most lucrative markets for illegal tobacco. Criminals are profiting more than ever and they do not care who they sell these illegal products to, including minors.

It is worthwhile to summarise the extent of the illicit trade of tobacco in Australia as the proposed Bill if passed will directly support in increase in this criminal behaviour.

- The latest independent research from KPMG into black market tobacco consumption in Australia shows that illegal tobacco represented 14.5% of total consumption in 2014, with nearly 2.6 million kilograms consumed.
- The illegal tobacco market has grown almost 30% in two years, costing the Government an estimated \$1.35 billion in lost tax revenue last year alone, according to KPMG.
- This growth is a result of increase tobacco excises and plain packaging.
- Should tobacco cease to be available for responsible retail sale in Tasmania, illegal tobacco products that are already available will quickly fill the gap, as has been the case nationally in recent years.
- The result is a supply chain with no product control, no compliance with legal packaging requirements and health warnings, distributed by criminals with no qualms in supplying tobacco to minors.
- The escalation of the unregulated black market for tobacco will make it harder for the state to control this criminal behaviour, as it will become more widespread in Tasmania.
- The Tasmania Government will still have to manage the health outcomes of nicotine addiction in the state, but with less tax revenue to subsidise this requirement.

4. Conclusion

While the AACS acknowledges the health impacts of smoking, this submission is concerned primarily with the business impacts of the proposed Bill. Our opposition to the Bill is based on the inevitable significantly negative impacts such a policy would have on retailers and small businesses in Tasmania.

Should the Bill be passed, Tasmanians born after the year 2000 will still have easy, immediate access to tobacco. This will be possible through other people purchasing tobacco and passing it on, through online channels and most concerning, via illegal sources.

Tobacco companies will still profit from the sale of tobacco to Tasmanians. Criminals will enjoy the opportunity to fill a new gap in the legal tobacco market.

Retailers stand alone as the only sector to be disadvantaged and, with no evidence to suggest the Bill will produce any improvement in health outcomes, this is unacceptable.

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