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**THE LEGISLATIVE COUNCIL GOVERNMENT ADMINISTRATION
COMMITTEE A MET IN COMMITTEE ROOM 1, PARLIAMENT HOUSE,
HOBART ON MONDAY 14 SEPTEMBER 2015.**

TOBACCO FREE GENERATION

Ms KATHRYN BARNESLEY, Dr ADRIAN REYNOLDS, POLICY HEAD, ROYAL AUSTRALASIAN COLLEGE OF PHYSICIANS AND Mr NEIL FRANCEY, LEGAL ADVISER, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED. HON IVAN DEAN MLC WAS CALLED AND EXAMINED.

CHAIR (Mr Farrell) - Welcome to the public hearings of Government Administration Committee A inquiring into the Tobacco Free Generation. All evidence taken at this hearing is protected by parliamentary privilege. Any comments you make outside the hearing may not be afforded such privilege. A copy of the information for witnesses is available. The evidence is being recorded and published on the committee website when it becomes available. We are seeking information relating to Public Health Amendment (Tobacco-Free Generation) Bill 2014.

When the bill went through the Legislative Council, questions were raised about how this legislation would flow on from the Legislative Council through to the lower House and work with the Government.

We have had a lot of submissions. Some submissions go back to the argument of tobacco smoking and health. Today we are looking at the process of the bill. While most of us here would probably agree smoking is not a good thing, and we would like to see no-one smoking at all for health reasons, this is not the issue we are looking at.

Mr MULDER - It is really about whether it would work if it were passed in the other place.

CHAIR - We have to give it to the other place.

Mr MULDER - During the debate, I have not had a chance to speak on the second reading yet. The issue cropping up clearly was that it is a wonderful thing to stop people smoking, but will it work? It is the workability of the legislation, not the evil of tobacco, we are here to discuss.

CHAIR - We will follow that through the process today. Members have myriad questions to ask so I will open with Mr Dean.

Mr DEAN - I introduce Neil Francey. If you could outline your background because it is very important to this committee and to this bill.

Mr FRANCEY - Well, my names Neil Francey. I graduated in law from University of Queensland far too long ago to think about. I worked in Canberra in the Consumer Protection area from 1975. I moved to Sydney in 1980. I started at the Bar there in 1981. Completed the Master of Laws degree with Honours primarily in Consumer

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Protection or Consumer Law Trade Practices for that type of area. I no sooner completed that when in 1986 I was asked to do a case involving advertisements by the Tobacco Institute of Australia at the time disputing that passive smoking was harmful. I did that for several years including a year of hearing. I won that before Justice Morling in 1991, which has prompted a lot of the [inaudible] areas that existed.

Since then I have done a number of other cases. I have also written quite extensively and in due course we might hear something about an article that I had published in the British Medical Journal in the year 2000 which I think does have some bearing and, I suppose, what you might call an evaluation of the submissions that have been received.

I probably can say this: I have read Mr Dean's second reading speech. I have read through the debate through to the point that it got to. I have read the submission from the Government, the one from the Department of Health, the one from South-East Tasmania. I have read the three from the different tobacco companies. I have read an assortment of submissions from or on behalf of retailers.

Mr DEAN – Thanks, Neil. We can move on from there. I believe the other members here are well known and their backgrounds are well known, except for Dr Reynolds and I need for you to identify the position under which you appear here today.

Dr REYNOLDS - I am appearing as the policy and advocacy lead in all matters alcohol, tobacco and other drugs for the Royal Australasian College of Physicians and the President Elect of the Chapter of Addiction Medicine, Royal Australasian College of Physicians.

Ms FORREST - There must be an acronym for that?

Dr REYNOLDS – The acronym is the Ad Chapter of Addiction Medicine.

Mr DEAN – Thanks, Adrian.

Mr Chair, if I could make a short presentation. I do have a copy of this and a copy if the committee should want that as well to read. It will be fairly quick. By way of opening remarks, I begin by saying I do not intend unnecessarily to traverse what I have previously covered in my second reading speech of Tuesday 24 March 2015, or in my written submission of Friday 11 September 2015. I believe that document has been received by the committee. It was forwarded through on Friday and I am sorry for the lateness of it, but I had needed to get my head around it and get it right.

I propose to address the specific issues raised at the conclusion of the second reading debate by the member for Elwick - is this legislation workable and practical, and can we make it effective? *Hansard* page 52.5. I also intend to address those issues by specific reference to the written submissions received by this committee and more generally within the scope of the referral by the Council to this Committee that is for further consideration and report.

Practicability and workability: these two concepts tend to overlap with each other and to some extent spill over from feasibility of implementation to effectiveness. To the extent of arguments as to feasibility applying, in my opinion, a complete answer is provided by

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the Department of Health and Human Services, submission number 26, where after an extensive analysis of the issues involved it is concluded in summary it appears feasible that DHHS could implement this bill albeit not from existing resources.

On the latter point DHHS says in its submission that any additional cost of regulation could be the subject of full cost recovery within the tobacco sellers licensing scheme, for example paragraphs 3-1 and 3.3, as is the case already in respect of other aspects of the regulation of the sale of tobacco.

The only other point raised in the DHHS submission which it is suggested could impact on practicability, workability and effectiveness is the risk raised that provisions under the Commonwealth Aids Discrimination Act, 1994 could be used to over-rule state law if the Commonwealth, or for that matter anyone, was of the view that restrictions in the sale of the TFFTFGR are unjustifiably discriminatory.

I am pleased the honourable member for Western Tiers pointed out in the second reading debate that Anti-Discrimination Commissioner Robin Banks has confirmed that the bill, if passed, would not give rise to the possibility of successful complaints of unlawful age discrimination because of exemptions found in section 24 of the Tasmanian Anti-Discrimination Act 1980 and section 39 of the federal Age Discrimination Act 2004.

Effectiveness - sundry arguments were raised in the submissions, principally by tobacco companies and tobacco retailers or those purporting to act on their behalf, that questioned the relative effectiveness of the measures proposed by the TFG Bill overlapping, as those submissions do, with the issues of practicability and workability and what is claimed to be the unjustifiable burden imposed on tobacco retailers.

That matter was specifically raised in the conclusion of the submission from the Tasmanian Government, submission 62. I will say something about that in my concluding remarks.

It is desirable, however, to put the industry submissions into context within the scope of the Council's referral of this matter to the committee for further consideration and report.

Tobacco companies submissions - Imperial Tobacco Australia (ITA), submission 39; Barber, submission 40; and Philip Morris (PM), submission 53. I refer to my observations in my second reading speech about the misleading tactics of the tobacco industry. Although at this state I will not engage in repetition, I would draw the committee's attention to part of the submission by Professor A J Berrick, submission 30. At point (4) on page 6 of his submission, Professor Berrick refers to the authoritative catalogue of industry conspiracy, corruption and deception in the book *Golden Holocaust* by Professor Robert Proctor, which Professor Berrick commended to committee members.

Professor Berrick observed that readers of that book will have no difficulty in realising that despite protestations of support for the aspirations of enhanced tobacco control, such as Imperial Tobacco's recent declaration - 'We support sensible, practical and rational regulations' - tobacco industry will be directed towards undermining any measure that threatens to be effective.

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Professor Proctor's 737-page book catalogues the tobacco industry's deceptive conduct. For current purposes, it probably suffices to draw committee members' attention to pages 544-45 in Chapter 29, 'Globalising death'. Reference is made to an exercise codenamed 'Operation Berkshire', which dates 1976, whereby leading United Kingdom and United States tobacco companies devised a defensive strategy to deal with increased regulation of the tobacco industry and the threat posed by emerging evidence of the harmful affect of passive smoking.

The summary in *Golden Holocaust* references 'Operation Berkshire: the international tobacco companies' conspiracy', *British Medical Journal*, 5 August 2000, pages 321-71. The article was co-authored by Australian barrister Neil Francey and University of Sydney Public Health Professor Simon Chapman.

That article itself references tobacco companies' own documents. I would commend this relatively short article to committee members and relevant documents as being instructive and approaching any evaluation of tobacco companies' submissions in this matter. These documents have been assembled in a bundle which I will tender to the committee.

Without going further into critical analysis of the tobacco companies' submissions before this committee, it is submitted that everything put forward by the industry regarding the practicability, workability and effectiveness of the TFG Bill must be considered against a foregoing background.

Essentially, tobacco companies will do all they can at every step to retard efforts directed towards tobacco control. For example, the Alliance of Australian Retailers was formed as a tactic to campaign against plain packaging.

Tobacco retailers submissions - a number of short points can be made about submissions made by or on behalf of tobacco retailers. First, only a small proportion of the approximately 800 licensed tobacco retailers in Tasmania have chosen to make submissions. Second, none of the major tobacco retailers, Coles and Woolworths, has, as I understand it, made submissions, unless that has recently occurred.

Third, the submission of the Alliance of Australian Retailers, submission 45, is from an organisation whose bona fides are questionable. The AAR website openly states -

The Alliance of Australian Retailers Pty Ltd was formed to fight the Federal Government's plans to introduce plain packaging of tobacco products and other proposals for tobacco regulation that aren't evidence based.

The website discloses that AAR is supported by British American Tobacco, Philip Morris and Imperial Tobacco. Those comments do not appear, of course, in its submission, but the organisation is backed and supported by Big Tobacco. The main arguments advanced by and on behalf of retailers seem to be: first, fear of loss of profits or claimed consequential reduced value of the business; second, issues of practicability and workability; and, third, asserting its effectiveness relative to other measures.

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The issues of practicability and workability are covered in the submission made by the Department of Health and Human Services. The issue of relative ineffectiveness is best determined by the committee and the Parliament in the interests of the health of Tasmanians rather than by those with a vested interest in the continued sale of tobacco products with all the attendant misery of smoking-caused disease and consequent health and medical costs. The issue of the financial impact on retailers is partially covered by the previous point, but it is worth noting that the forecast effect is itself overstated, mere assertion and not evidence-based.

Imperial Tobacco (IT) said that the business would become marginal at best and, on page 3 of its submission, that this law would devastate business immediately. British American Tobacco (BAT) submitted that this bill would completely extinguish the livelihood of all Tasmanian tobacconists. Tasmania has over 70 000 people who smoke and unless they all quit or die, this huge market will be retained into the future. The proposed bill would only affect new smokers and then only those who do not access tobacco products other than by domestic retail sale - hardly enough to send retailers broke.

Furthermore, tobacco products continue to sell despite warnings ranging from the earlier generic warnings to the more explicit warnings and the current graphic warnings. These products continue to sell despite advertising restrictions - first in the electronic and print media and subsequently in sports sponsorship, point of sale and plain packaging - the introduction of smoke-free areas and their extension, including to inside cars; and progressive increases in tax excise and licence fees.

This bill is just another incremental step towards the objective of better health which should prevail over vested financial interest. If smoking rates decline, as in recent decades - which some retailers support, I might add - there would be fewer sales over time and it would be as well to start adjusting to newer business models now.

The latter point is illustrated in the submission by Lois Ireland of Bowman and Co on Flinders Island. Ms Ireland supports the proposed tobacco-free generation bill. It is instructive to note that she appears to have been prompted to lodge a submission after she was contacted by IT to lobby the Legislative Council over its deliberations on changes to state tobacco laws.

Furthermore, claims that, if passed, the bill would lead to catastrophic results for retailers - presumably from reduced sales - are diametrically opposed to the contention that the tobacco-free generation proposal would be ineffective. This is the same as the predicted demise of the hotel industry, which did not happen, following the introduction of smoke-free areas.

Another example of hysterical industry overreaction was the demand for the resignation of the Health minister and the Director of Public Health in Tasmania during the 1990s when the display reduction provision was being developed.

I conclude by asking this simple question of this committee and the Tasmanian Government: is the health of future generations of Tasmania paramount, or will Tasmania and Tasmanians continue to be manipulated by a callous and cynical multinational tobacco industry?

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I referred to a number of documents during my speech, and I will tender them in a package for the information of the committee. I will also tender some media releases that provide the local position on tobacco over a long period. For the information of the committee I will table those documents for whatever position the committee want to make of those documents. Having said that, I am open to questions.

CHAIR - To get things rolling, what discussions have you had with the State Government or any of the ministers about this particular legislation?

Mr DEAN - I have spoken to a number of members of the Government over a long period. My first discussion was with the Minister for Health, which took place some time ago when we were putting the legislation together.

Ms FORREST - Which Minister for Health are we talking about?

Mr DEAN - Mr Ferguson.

Ms FORREST - Was that during the current Government?

Mr DEAN - Yes. I had a meeting with Mr Ferguson in his office. I have raised this legislation with other members of the Government in different circles, different places, on a number of occasions.

CHAIR - What was their feedback?

Mr DEAN - To be fair, initially they had difficulties with the legislation but that position seems to have changed over time. There seems to be a more positive position by the members I have spoken to within the government to the legislation. However, the position of workability and practicability in the legislation has always been run.

CHAIR - At the moment it is sitting in the Legislative Council. How do you envisage the bill moving from the Legislative Council and going through the lower House?

Mr DEAN - I would hope that the upper House, the Legislative Council, will support this matter moving forward. There is a lot of evidence in support of it and the support of the general populous is very strong in relation to this legislation. That is not just from people who do not smoke, but also from people who smoke.

There have been a number of surveys done. The Cancer Council had a good survey and the committee would be aware of that. There have been other surveys done by the media as well; I think the *Mercury* and *The Advocate*; I am not sure about *The Examiner*. There have also been surveys done on the mainland. That has been strongly supported by the people and the figures are similar. I would envisage that if it gets the strong support of the Legislative Council, that that will be, I would hope, overpowering for the government and that the government will support this bill through that place.

I have spoken to Greens members; I have spoken to some of the Labor members, and the team have also spoken to these people on a number of occasions including an interview that was conducted on Friday with a Labor member. Discussions with Government, the

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Opposition and the Greens has been ongoing over a fairly long period of time. It was not discussed and then dropped; it has been ongoing.

CHAIR - You are confident that you would find a member of the lower House to introduce the legislation to the lower House?

Mr DEAN - I am hoping that that is the position. I am hoping that the information and the evidence that comes out and comes through, and that this committee is able to identify with that as well, will send a very strong message to the Government that the positions of workability and practicability of this legislation will work. The Government has said, and that is what was said in the second reading speech so far, that they are the two issues they really have. If we can satisfy those two areas, I am of the view they will have no option but to support the legislation because those are the two areas they have said are of concern to them. If there are other issues, they have not raised them with me.

Mr VALENTINE - In the legislation, clause 67J, it says -

A person must not sell or offer to sell any tobacco product to a member of the tobacco-free generation ...

Something that concerns me is that e-cigarettes are not mentioned in this bill. You might have some information you can provide us with that show how that is covered already, but obviously if it is legal to buy e-cigarettes, even though you cannot sell the capsules, it seems to me that the harm is still going to be done if this is not going to capture e-cigarettes in some way. I am interested in that aspect.

Mr DEAN - This bill has deliberately - and in all of our discussions we have deliberately left that aside because we do not want to confuse the position that this amendment identifies with, and that is removing cigarettes or tobacco products from persons turning 18 after the year 2000. That is an issue, yes it is an issue, but I think that should be dealt with separately in another way, and perhaps a committee look at that. We have deliberately left it out because we do not want it to confuse and cause any implications for this bill, or this amendment coming through.

Ms BARNESLEY - The Government currently is doing a review of the issues relating to e-cigarettes. It would be very confusing if we were to attempt to legislate at this point in relation to e-cigarettes. It is likely the department's review will make some recommendations about what to do about e-cigarettes. Should this bill cross over at the time that issue could be addressed at the same time. That issue will be addressed once this bill goes to the other place.

Mr VALENTINE - One would hope in short order if that was the case. It is a window.

Dr REYNOLDS - I welcome your question. It is an important question. The context going on around the globe around e-cigarettes, as you may know, eminent persons either in support or not in support. We are concerned e-cigarettes could cut across the bow of what the tobacco-free generation is all about. It could renormalise smoking among young people. I travelled in Poland in 2012 and predicted exactly what is happening and being reported now. It is the new cool among youth in that country and is being reported elsewhere.

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As Kathryn is saying, that is being examined by the Royal Australasian College of Physicians now too. We do need to look at that. I was asked that question in Abu Dhabi in March when I presented the tobacco-free generation proposal at the World Conference on Tobacco on Health. One of the WHO representatives asked me that very question. It is on our minds.

Mr VALENTINE - The second question is: in your submission, Ivan, on page 2 you say 'If supported the tobacco-free generation, or TFG, bill would reduce these numbers', that being the number of people smoking and remove the notion that once you turn 18 tobacco is no longer a dangerous substance. Do we know it is going to reduce it? People can still buy the product across the world, the internet. Young people are probably doing that now. How do we know that bringing this in is going to achieve what you see as a desirable outcome?

Mr DEAN - There is evidence to show that the more difficult you make a product to get, the more unavailable it becomes, the greater the desire to move away from that product. There is never a clearer position - and it is later referred to in my submission - than with the chain of pharmaceutical companies in America. They were selling tobacco products in all of their stores. I think it is CVS. They removed the product. As a result of the removal of tobacco products from their chain of pharmaceutical companies, tobacco was reduced significantly across that whole area. From memory it was something like 90 million decrease in tobacco packets purchased across an area. That came from a survey and is referred to further in my submission. That evidence is also available. I can give you further information if you would like it.

Dr REYNOLDS - Once again, key to this Committee meeting, we have a substantial body of evidence demonstrating three major policy levers for reducing the consumption of both tobacco and alcohol. They are price, access, and advertising and promotion.

In tobacco we have acted on two of those three. The federal government has imposed increased taxes and excise. We have seen the impact in reducing prevalence. It has also prohibited advertising and promotion. There are some loopholes - internet and so on. We know from the evidence, it is very strong globally, those things matter. We know that if products are less accessible there will be some leakage. There will be some ways of finding that product. We know that spontaneous purchases are reduced. We do not have any direct evidence because no country or state has done this before. What we can say is that experts around the world including those from the World Health Organization and many esteemed medical and other health bodies, researchers and clinicians in Australia, have triangulated all our information about human behaviour around this issue and have concluded that this will work.

It is like plain packaging. We were the first to do that, too. Now it has been more successful in its impact on the way young people, or people in general, see smoking as less attractive. More people are interested in quitting. Our preliminary conclusion, presented at the World Conference on Tobacco Health, is that plain packaging has been more successfully than we anticipated. It is jumping ahead a bit in that we are putting a range of information together and drawing a conclusion.

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In 1975 the Kettle Brewing Group produced the document *Alcohol control policies in a public health perspective*. In 1977 the Senate Standing Committee on Social Welfare, Commonwealth of Australia, produced a report entitled *Drug problems in Australia and intoxicated society*.

Both documents contained evidence then that those three policy levers worked. When this committee asks about what evidence we have that this will work as a basis for deciding whether to legislate - we have had evidence for 40 years about what would work. The Senate report covers tobacco as well as alcohol, while the Kettle document is just about alcohol.

Our parliaments, at the three levels, decided not to act on that evidence. I made that comment in my submission. It is time for us now to act on evidence, but where we do not have evidence, because this would be the first in the world, we should also take that triangulated evidence and say 'This is so important, we are now going to act'.

Remember, there are checks and balances - there will be a review at five and 10 years to adjust as we go.

Mr VALENTINE - I asked that question because, yes, you are talking about access to people, but all the measures that have worked so far have all been about where people can smoke as opposed to who can smoke. That is the reason I asked that question.

Mr DEAN - If you reduce or prevent spontaneous buying - people walking off the street to buy a packet of cigarettes - that will reduce the take up and consumption of tobacco. That works in relation to alcohol and a lot of other issues as well.

Ms BARNESLEY - I can give you an example, Rob, to answer your question quickly. Recently several jurisdictions such as local governments - that is, areas like Huon or Hobart - in the United States raised the smoking age to 21, but neighbouring councils did not raise the smoking age. The evidence has shown the access has reduced, smoking rates have reduced. These kids could drive across to the next local council and buy cigarettes if they wanted to, but they are not doing it. It shows you it works if they raise the age.

Ms FORREST - I am fascinated by the CVS Pharmacy Group in America. People see pharmacies as a place where you go for health care. I cannot believe it was only in 2014 that CVS stopped selling cigarettes in its pharmacies. That says a lot about American pharmacies. As Ivan said, there were 90 million fewer packets of cigarettes sold across in 13 states.

We are not going to see that sort of thing here as a result of this. We do not sell cigarettes in pharmacies, thank goodness. It seems to me in some respects making that comparison is a bit of a stretch. People here go to pharmacies for health care. If you could buy cigarettes in pharmacies and we had a similar decline in spontaneous purchasing, how do you make that connection so strongly? I think we are not going to see anything like that.

Mr DEAN - With respect, I see a similar situation. We have food shops selling food and health foods also selling tobacco products.

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Ms FORREST - Selling health foods?

Mr DEAN - No, I said shops selling health foods as well as foods and so on, selling a multiple number of products to people, and at the same time selling cigarettes. If you can remove the cigarette sales to people born after 2000 - if it is made more difficult and harder for them to purchase a product - they are more likely to not want the product in the first place, and it will stop the spontaneous buying.

Mr MULDER - It really goes to this point of access. I was intrigued by your comment that if you can stop people from spontaneously walking off the street and buying a cigarette, it reduces their desire or demand for cigarettes.

Part of the major problem with tobacco is that it is addictive. How do you stop that? People who buy tobacco, who are addicted to the substance, do not buy it on impulse; they buy it because they are addicted to it. I am wondering how the scenario of the walk-in off the street, a casual observer, who now cannot buy cigarettes at the service station, changes that access.

Mr DEAN - The information and detail we have is that young persons are taking up smoking and that many of them will take up smoking on turning 18 years of age. The greater majority of people in this world will do the right thing - there are those who will not, and it is for those people we need the laws and legislations we currently have.

This will clearly identify to people that there is no safe age for tobacco consumption. It gets rid of that 18-year-old stupidity, in my view, which identifies the fact.

Impulse buying, if a person is addicted - yes, they will get their tobacco from wherever they need to get it and by whatever means, but the majority of people do the right thing and many of these young people are not addicted at the time they turn 18 years of age. It is to stop those persons freely being able to acquire tobacco products and therefore becoming addicted as they move further into their life, before they get to that period or position where they cannot give it away.

Mr MULDER - I think the research shows that most people take up cigarette smoking around about the ages of 14 to 16. You will find that is the demographic that the research and the evidence overwhelmingly says is obtaining cigarettes, and that is where they take up smoking.

The issue really is - and I have spoken to people in high schools and I am getting a slightly different perspective than the one you are presenting - that the access is available to 15- to 16-year olds in high schools now. I do not see changing that to 18, 19, 20, 21 is going to have any impact whatsoever on the 15- to 16-year olds who are already taking up smoking now. In fact, the problem with access is this may reduce access a little, but it is being completely overwhelmed by the access available through the internet, getting an adult to buy for you and those sorts of things. I am really questioning whether this legislation will have any impact on the 15- to 16-year old demographic any more than the current legislation has on that demographic.

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The objective of this bill is to stop people taking this habit up. At this stage, that is at 15 or 16 years of age. Do statistics show that when we changed the smoking age from 16 to 18 that changed the age at which people took up cigarettes?

Mrs BARNSELEY - Yes.

Mr MULDER - It changed it to -

Dr REYNOLDS - It changed it to 21, as they showed in America in that further impact study.

Mr MULDER - So the 15- and 16-year olds who were buying it in the school will not be buying it there now? They will be waiting until they go to college before they buy it?

Mrs BARNSELEY - The age tends to be two years under the so-called legal age.

Ms FORREST - Why would you then push for bringing it up to 21? Ivan spoke about the decisions of 18-year olds. Is that not a more comprehensive way to do it? If the evidence is there?

Dr REYNOLDS - Jon Berrick answered that in his submission and previously in this place. This is working on, remember, a rite-of-passage effect. I said in my submission there would be some benefits in doing what some states in the United States have done - for example, Massachusetts - increase the age.

It would still mean that smoking is an adult behaviour and it would still mean that once you turn 21, or some people have suggested 25, you suddenly are an adult now. We do know, as you say, Tony, people start early. This is like any intervention - it is a population-level effect. How are those kids getting it? They are getting it from their peers.

Once again, Professor Berrick has answered the question of how we can see that would work as the years go on. Remember too, that this is different to other matters. The public genuinely wants this. This is a really key thing not to forget. Those who have not yet taken up smoking will benefit from this. We know that the vast majority who take up it up, regret it, and the vast majority of them are continually trying to quit.

We are trying to leverage off that different culture in the community and build that culture of not wanting this. Remember, no smoking environments have prompted many people to try quitting. It is not perfect. We must not let our goal be the perfect in determining whether this is a good thing to do or not. At a population level over time, we are very confident, I am very confident, this will have a big impact.

Mr MULDER - Let me put a radical suggestion to you: if you are trying to remove the rites of passage, why do you not remove the age restriction altogether?

Dr REYNOLDS - Because that would run in the face -

Mr MULDER - I am simply saying that we remove the offence of cigarette smoking from our Public Health Act for any age.

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Dr REYNOLDS - Would you therefore have no speeding limit?

Mr MULDER - Sorry, that is a different issue. It is nice that you go down that path because it is a very interesting thing. Why do we wait until we are 16 years of age when people are reaching testosterone-charged levels and risk-taking, and we take that stage to teach them to drive. Why aren't we letting them drive at 12 or 14?

Dr REYNOLDS - Because they don't have the skills.

Mr MULDER - You don't know some of the 12 year olds I do. To get back to the point - that was a side thing - a radical proposal like that would completely remove the rites of passage because there would be nothing adult about smoking if young people were to do it.

Dr REYNOLDS - I get you.

Mr DEAN - On that point, I received a -

Mr MULDER - I will note the evidence. There is no disagreement.

Dr REYNOLDS - I do not accept the premise.

Mr DEAN - I received an email from a young lady from the member for Huon's area. A young lady who emailed me and simply said that she disliked what I was doing because I was trying to stop her from becoming an adult. I have the email and I can produce it for you.

Mr ARMSTRONG - Down the track, do you think that in 2020, if this legislation goes through, it would have a detrimental effect on our tourism industry? Has there been any thought put into that? You are going to have people coming over here for holidays, whatever it may be, and they could be further down the track - be 25 years of age - buy their cigarettes anywhere else, have a smoke, come to Tasmania, 'Got no cigarettes - oh, I can't buy cigarettes.'

Mr DEAN - My answer to that is that I have travelled extensively, as I suggest that just about every member here has. When you are going into a country, when you are travelling, when you are touring, I have never yet looked at their laws and regulations to see what I can do or what I can't do, so I cannot not see that that would be an imposition on anybody coming into this state. If you know, for instance, that you are going to Tasmania or any other state or what-have-you, and it is illegal - for instance, we had different driving laws at one stage with P-plates and different speed limits and all of that sort of thing.

When you go to another place, you accept their laws and their regulations. That is how you are supposed to behave. However, in that instance, those people could bring their own tobacco with them - that would not be an offence - they could still smoke. I suspect that if somebody is absolutely addicted in that sort of a situation, that would occur. They would know that in coming to this state because this matter would receive extremely wide publicity. There is no doubt about it. I have been to other countries -

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Mr ARMSTRONG - Some people might not realise that and come here with their packet of cigarettes and say 'I will just buy a packet when I get there.'

Ms BARNESLEY - Can I just say Jon Berrick, who is a professor of mathematics, did some calculations and worked out that 0.5 per cent of tourists coming to Tasmania after this legislation came into effect, would be smokers in that particular age limit.

Mr ARMSTRONG - Was that 0.5 per cent? As the years go by, that percentage is going to grow, is it not?

Ms BARNESLEY - Except that most tourists are from the Australian mainland where the smoking rates are much lower than here and falling very fast. That percentage will be even smaller.

Dr REYNOLDS - The other prediction we would make is that other states would follow suit, to harmonise. Then other countries in the world will follow suit. There was discussion about that at the World Conference on Tobacco Health.

Mr FRANCEY - I offer this comment in response to that. To draw a comparison to an area I know a lot about, being passive smoking and the introduction of smoke-free areas and the reaction of the industry to the impact that might have on hospitality. All it has done is improve patronage because people like the clean air. This is a different issue but on the issue of impact on tourism and hospitality: first, on Kathy's point, it is an incremental thing. It will adjust over time. As you said, it will increase. As Adrian says, the idea, if successful, will hopefully spread. It will become accepted as the norm, just as smoke-free areas have become accepted as the norm.

Mr ARMSTRONG - On the cost of implementing this legislation. You were saying that if it were passed, the cost of implementing the legislation would be passed onto the smokers. It would go on the licence costs of the retailers. If there is an increase in the licence, they will have to increase their charges to get the money back some way.

Mr DEAN - We are simply saying that is one way. There would be some increased costs, no doubt about that. However, if you then must weigh that against the savings that would occur over time in the area of health and the other areas impacted by smoking. Littering, for instance. If you look at that as well, you have to weigh that cost with those savings if you are going to look at this fairly, honestly and openly. There are massive savings down the path in relation to fewer people smoking.

Mr ARMSTRONG - Was it not said that the increase would possibly go onto the cost of the licence to the retailer?

Mr DEAN - I made the statement in my initial reading here today that it could be a way around it. The Department of Health and Human Services (DHHS) raised that in its submission about the extra costs that would be incurred against it in implementing this legislation if it were supported.

Mr ARMSTRONG - Any idea what cost that would be?

Dr REYNOLDS - We do not think it is large.

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Ms BARNSELEY - No, it would be the matter of a couple of hundred dollars extra, at the most.

Mr ARMSTRONG - To each licence?

Ms BARNSELEY - To each licensee, the 800 licensees, per year.

Mr ARMSTRONG - That's a lot of money.

Ms BARNSELEY - Per year?

Dr REYNOLDS - If I may, as a doctor: if you are going to sell a product to make a profit that is lethal to two out of three of your customers, that \$200 is very small. You can understand that I am not impressed when I hear industry say that sort of thing. This is serious business.

Mr ARMSTRONG - Whether you are impressed or not, that is another story -

Dr REYNOLDS - You understand what I am saying.

Mr ARMSTRONG - That cost would be passed onto the consumer.

Dr REYNOLDS - It is a minimal cost for the profit, I would suggest. In terms of the costs to the healthcare system, it is minuscule.

Mr ARMSTRONG - Do you know what the profit on a packet of cigarettes is for the retailers?

Dr REYNOLDS - No, what is it?

Mr ARMSTRONG - I am not sure, but it is not that huge. I had a shop so I know. You had to have separate insurance and everything, so the profit actual margin is not that huge.

Dr REYNOLDS - Why do they bother selling them?

Mr FRANCEY - Whatever the cost is, it could be recouped through increasing licence fees, just as are a number of other costs already passed on to retailers through increased licensed fees. It is part of that next step. To the extent it is necessary to quantify it, I am sure a question could be put to the Department of Health to come up with a breakdown of the various components involved. I am sure Kathy could speak to that in more detail.

Mr ARMSTRONG - I am saying that if that cost is put onto the licence for the retailer, the retailer will then increase the price of cigarettes.

Mr FRANCEY - If that is the case, that cost is not met by the retailer - it is ultimately paid for by the consumer. As Adrian makes the point, price is a disincentive for smoking. It is one of the most important levers and that is why you have excise.

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Mr DEAN - Just on profit, in some of the submissions from retailers, I think one said their profits from cigarettes was about 40 per cent of their business. I think it was over 40 per cent.

Dr REYNOLDS - One said 80.

Mr DEAN - Yes, so profits must be fairly great for retailers.

Ms FORREST - It is the specialist tobacconists that are making that claim.

Dr REYNOLDS - Almost. Maybe that 80 per cent was a tobacconist. From reading it, it was not clear to me, Ruth.

Mrs HISCUTT - Thank you very much, Mr Dean, for coming in. I think we are all agreed smoking is not good for you. When I see those tobacco companies presenting to us, it almost makes me feel ill thinking they can defend that.

To the bill, the price of cigarettes now is so high it is already starting to drive it underground. We have an email here as, all MLCs would have received, which says -

A shop selling illegal tobacco has already been operating in Launceston for the last six weeks. Apparently in Victoria there are many shops selling this illegal chop-chop.

What you are proposing here is like Prohibition. Would you like to comment on why this sort of illegal activity is not going to flourish if this bill was to be put in place?

Mr DEAN - On the Prohibition side, this should not be identified with the American situation in the late 1920s, early 1930s. This is not really comparable with what happened there. This is very partial prohibition. It is not stopping these people from buying a product they can now buy. They cannot obtain it legally until they turn 18 years of age. It would simply mean a retailer cannot sell it to them from that stage on as well.

Mrs HISCUTT - Why do you not think this sort of activity would not flourish if this bill were passed?

Mr DEAN - In relation to black markets, one would hope that situation in Launceston is now being policed. In Tasmania, about 800 to 900 Tasmanians turn 18 in any one year with our current numbers; it might be slightly more than that. Of that number, you might have around one-fifth of those people wanting to take up smoking. It could even be less than that; I am hoping it is going to be less with the price rises recently occurring. Could a black market develop further on the back of, in the first years, a number of around 150 to 200 people coming online who want to smoke and who would be stopped from purchasing through a retailer? Would a black market flourish? Would a black market grow on those figures? I would say it is highly unlikely.

When I was a police officer, there was a very minor black market in sale of alcohol, cigarettes and those sorts of thing, as the member for Rumney would know.

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Mrs HISCUTT - Have you done any homework on what is happening in Victoria? This email is not substantiated. Is it flourishing in Victoria? Has any member looked at that? Because of the price of cigarettes, has smoking been driven underground?

Mr DEAN - I am advised that, yes, there are some issues in all the states in relation to this - as there is with alcohol and a number of other products, such as where drugs have gone and all of that. These issues can be policed and Customs is working strongly on them. If you look at the Customs' results, it is doing very well in that regard. That will always be the case. It does not matter whether or not this legislation is passed. In my view, this legislation will not create or cause a black market to flourish in any way at all. The numbers for that to occur are just not there. Law enforcement bodies and Customs are keeping up with what is happening. I do not think we should in any way belittle those organisations in their enforcement of the laws that apply in this state.

Mr FRANCEY - Mrs Hiscutt, in the submissions I briefed, particularly from the tobacco companies, they attack the bill on the basis that they support measures proven to be effective and are evidence-based. That is what they are demanding. That is the standard they demand.

I have not gone through the figures relating to this issue, but I am sure they could be obtained. On my reading of the submissions, the allegations, which are quite extensive, about illegality and black market, just as the allegations about how so-called catastrophic the bill would be to retailers, are not supported by a single item of evidence.

On the point you raise, I would -

Mrs HISCUTT - This did not come from the tobacco companies.

Mr FRANCEY - I realise that. I am just making the point - exactly your point to Mr Dean about the situation and the lie of the land in Victoria. That email simply raises a smokescreen that would have people scurrying off to find out what the evidence is, which is, effectively, a reversal of the onus of proof. The same point is, in reality, made in the tobacco companies' submissions. They refer to the risk of illegal sales -

Mrs HISCUTT - Sorry, the risk to legal?

Mr FRANCEY - The risk of illegal sales. The increase of it. I would be interested to see figures on the dollar value of regular cigarettes marketed by the three major tobacco companies and have them produce evidence of what they say is currently, and would be likely be, the illegal sales caused as a result of this bill. After all the bill only provides for an incremental, year-by-year decrease in the order of magnitude that has been spoken about, which is quite low. Against the background of my knowledge and understanding of the tobacco companies, I would not place any credence on that argument at all.

Mrs HISCUTT - This did not come from a tobacco company. It is indicating there is a bit of a market now due to the cost of smokes.

Mr DEAN - For the benefit of the committee, I can say the Victorian Cancer Council has done a study on this very point. That study is available and we will obtain that paper for you. We will provide it to the committee.

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Mrs HISCUTT - That would be great.

CHAIR - Thank you. Time is against us, we are running a little behind for our next question.

Mr MULDER - I do not think we should be terribly bound by time on such an important issue.

Mr DEAN - Mr Francey has to be at the airport by 5.00 p.m. That is the only thing controlling us at the moment.

Mr MULDER - I want to pursue this thing, it should not take too long.

In your reference you referred to the example of someone going to a tobacconist or a licensed seller who knows that person is going to supply it to a juvenile, and that the licensed seller does not commit an offence. I wonder whether that is what you really intended in this legislation? I quote from your submission -

Questions have been raised regarding a retailer selling tobacco products to a person born before 2000 where he/she is told the product is for a tobacco free generation member. In my opinion this would not constitute an offence as the sale has been a legal sale as it is has been made to a person [born] before 2000.

So, I waltz into a shop and buy cigarettes for my son who is under 18, but of the tobacco-free generation in a few years' time. The retailer does not commit an offence: am I committing an offence? If I tell the tobacconist, 'I am here to buy some cigarettes for my son who is under 18', that is not an offence in your opinion?

Mr DEAN - A number of people have asked me just what the position would be in this situation. It has not happened to date; no retailer has ever been charged with selling a product to an adult where that adult has then provided that tobacco to someone under 18 years of age. It has never arisen yet. If it has arisen, there have been no charges and it has not been identified.

There is no reason to suspect that position would change. I put that in the legislation simply because it was raised with me. I could not see anybody going in to a retailer and saying, 'I want this product to give to my son who was born after 2000.'

I can never see that arising, but what I would say is that provided the retailer is happy the sale is legal to the adult, and the adult person is of the appropriate age, how is a retailer to know what is going to happen with that product? The retailer might be told this, but that might not be correct. It could be somebody who is under 18 years of age or it could be for somebody else. Because the retailer might be told that does not necessarily mean that is going to happen. That would be a legal issue in my view and would be a matter for the courts to determine, should any action ever be taken.

Mr MULDER - Can I draw a parallel identical law with alcohol, where there have been numerous prosecutions to supplying alcohol to an adult who intended to supply it to a

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child? It is not like it would be unusual, and you are actually highlighting it. I suggest your opinion here might be wrong.

Mr DEAN - I am not saying it is right; I simply said it was my opinion. I put it down as my opinion because it can be interpreted a number of ways. I think it is a matter for the courts, and I could not see it arising anyway.

CHAIR - With the number of 14- and 15-year olds smoking, it must be fairly prolific?

Ms FORREST - In your submission, you talked about the smoking rates not falling in Tasmania in terms of the younger men, particularly. A comment was made a moment ago that the other states have seen significant reductions in their smoking rates. I have a couple of a couple of questions about that.

What have other states done that we have not, that we can attribute those falls to? Are we targeting the right group here? Evidence would suggest that it is people from low socio-economic backgrounds, living in poverty and in circumstances which are not ideal, who are the ones who predominately take smoking up.

The intention behind this legislation is good; I said that in my second reading speech and I do not resile from anything I said then. However, unless we specifically target the social determinants that result in young people, particularly young men, taking smoking up, we are missing the mark. You could bring this legislation in and it would have no impact on young men, the main group of people who are taking smoking up.

Mr DEAN - Thank you. I refer at this stage to Kathryn.

Ms BARNESLEY - The first thing I would say is 'Thank you, I am so pleased you have asked this question.' That is what I am doing a PhD on. Successive governments in Tasmania did not implement tobacco-control policies in relation to mass media campaigns until 2013 - when they finally gathered sufficient money - that were evidence-based and designed to reduce smoking rates -

Ms FORREST - Smoking rates or smoking uptake? We are talking here about uptake.

Ms BARNESLEY - No, smoking rates. Mass media campaigns work very effectively on adults and they also work effectively on younger people. Tasmanian governments did not do it until 2013. The second part of your question?

Ms FORREST - Targeting. I believe this bill seeks - which I think is really important - to stop people starting.

Ms BARNESLEY - This is what this is aimed to do. The mass media campaigns and all the other work is about helping people to quit. You have to do both. In relation to the social determinants of health, you are right. We have to address things like homelessness, poverty, domestic violence, all those other social determinants.

Ms FORREST - Low educational outcomes. Poor health literacy.

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Ms BARNSELY - We know mass media campaigns, from the masses of evidence, work with low socio-economic status (SES) people, and we did not do that in Tasmania. The evidence shows it works with groups.

Ms FORREST - So we are not spending our money on that?

Ms BARNSELY - We are. From 2013, the money is now there. It would be really good if the Legislative Council ensured the Government continued to fund those campaigns. They will need to be adjusted as social media changes.

Ms FORREST - My next question is to Ivan. How will this legislation positively impact on stopping those young people taking it up? I know we have to do the publicity and promotional work; that should be happening regardless. We need to do something in schools to educate people. Until people can realise it is in their best interests not to start - until you realise you should not drink and drive because it might affect your judgment rather than the cops might get you - we are not going to change their behaviour. How does this bill change people's behaviour? Particularly from this cohort you are concerned about - it concerns me too, young men in particular. That is, those from low SES areas - the social determinants we have talked about.

Mr DEAN - My answer to that is we tend to put down too readily and easily people living in the lower socio-economic group areas.

Ms FORREST - I am not putting them down by any stretch. I would not like that to be suggested.

Mr DEAN - I made a public statement about three weeks ago when the excise was increased on tobacco products that I believed it was now getting to the stage of being a bad way to go. We have high numbers of people in the lower socio-economic group areas smoking. We need now to target those people with the proper programs and education necessary to pass the message through to them. I believe this amendment, if supported, will be another way to communicate to those people that tobacco is not a safe product. Coupled with the excise increases and the other legislative issues we currently have around tobacco, we will be getting through to at least some of those people.

I know a family who said they were no longer going to smoke. They were trying to give it away because of the excise increase, which I thought was a wonderful statement for them to make in my presence. It will have an impact. I believe this will have an impact on them as well.

Ms FORREST - The thing is we are only stopping people selling it to them. We are not stopping them smoking yet.

Mr DEAN - All the advice we have received is that we need to do this in a way the public will accept. I have accepted the evidence that a blanket statement that people will not smoke, cannot have possession of the product and will not be given the product is less likely to work and would create some big issues that we do not want at this stage.

This is a simplistic way of sharing the message. It is an end game issue where, over a long period of time, tobacco products would be erased from this state, within reason.

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Ms FORREST - It would only be erased because people will not be able to sell it. People could still buy it online, they can still smoke it, they can be born after 2000 and still smoke it.

Mr DEAN - We cannot impact on what happens outside Tasmania in relation to sales and purchases. That is not something we can interfere with. Therefore it was deemed in this circumstance we should not go down that path. That came from many people.

Ms FORREST - I am not talking about prohibition. I am talking about raising an age.

Mr DEAN - It is a good point you make. I am not being flippant in the way I am answering.

Mr MULDER - Going back to the question of the person onselling to juveniles. An adult has purchased it from the store. We have decided there is no offence, or the police cannot be bothered prosecuting, whichever it may be. That person then on sells it. Clearly that is an offence. You do not seem to have covered supplying by an adult other than a licensed tobacco seller. Is it the case that if I buy the cigarettes for the purpose of giving them to a member of the tobacco-free generation that I do not then commit an offence either? In other words, that whole chain, you have bypassed the chain of the bill, still obey the letter of the law.

You have a system whereby - I will give you an example from my electorate. A young person in high school told me, in the presence of the principal, he used to be the local cigarette supplier to the school. The way he did it was that his mother would buy the cigarettes for him. She would give him the cigarettes. He would sell them in the school ground and they would divide the profit. No one has committed an offence in that scenario. I wonder how your bill would cover that sort of access.

Ms BARNSELEY - With respect, they have committed an offence under current legislation, but there has never been a prosecution.

Mr MULDER - They have committed an offence under current legislation?

Ms BARNSELEY - Yes, because it is supplying to minors. That remains and is unaffected by this legislation.

Mr DEAN - It was seen that we should not impact on a parent or family member in that way. It was felt that was not the way to go. If any member of the committee is of the view there needs to be an amendment to make it better I would listen to that. The committee would probably have a lot of evidence I do not have.

Dr REYNOLDS - What the WHA commented, I presented the bill in Abu Dhabi, they seemed to like is that it is enforcement light. It puts it in contrast to the prohibition of alcohol in the United States in the 1920s and Russia in the 1980s. We must not get caught up in what we might call dysfunctional behaviour in some parts of the community. We know there are always some unfortunate groups or families. I manage and see them every day in my work, who struggle with everyday life, whose life opportunity is reduced and see it as a way of life to get around things. This is a population approach. We have to keep our eye on that ball. We discussed that early on in the piece. It was an issue to consider.

Mr DEAN - Can you add to that, Neil?

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Mr FRANCEY - No, my only concluding comment would be to encourage you not to read Professor Proctor's 737 page book. Certainly read my six page article in the *British Medical Journal* in 2000. Have a peruse through the relevant documents which shows how Australia, like other countries in the world, has been manipulated by countries around the world. I would hate to see it continued in Australia, in Tasmania, which seems evident from the flavour of the submissions from the tobacco companies.

CHAIR - Thank you very much. There may be a case of discussing this further with you at some stage as we gather evidence. Thank you for your time today. I am sure members are free to contact me at any time

Mr DEAN - Mr Chairman, I thank the members here today and particularly Mr Francey who has come from Queensland to give advice to us and to also present before this committee. It is very much appreciated and very much appreciated from Adrian and Kathryn and Hayden as well.

THE WITNESSES WITHDREW

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Dr MARK VEITCH, ACTING DIRECTOR OF PUBLIC HEALTH WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED

CHAIR - Thank you, Dr Veitch. This is an inquiry into the tobacco-free generation. All evidence taken at the hearing is protected by parliamentary privilege and to remind you that any comments you make outside the hearing may not be afforded such privilege. There is a copy of the information for witnesses. If you have not read it, feel free now but I can see you are involved in this.

The evidence you present is being recorded and the *Hansard* version will be published on the committee website when it becomes available. What we will do as far as procedure goes is give you an opportunity to address the committee and then we will open it up to questions pertinent to what we are looking into today. That is particularly relating to the Public Health Amendment (Tobacco-Free Generation) Bill that has got to a certain stage in the Legislative Council.

Without further ado, I will open up for you to address the committee.

Dr VEITCH - Thank you very much, Mr Chairman. I say at the outset I am overcoming a bout of the flu so if I lose my voice or cough and splutter, don't panic. Just give me a moment.

First, I would like to acknowledge that there is one or two deaths per day in Tasmania due to smoking-related diseases and there are very more illnesses and many years of life lost. It is a desperately serious matter in our state and that situation is one of the worst per capita in the country.

I would also like to acknowledge the critical importance of interventions that tackle the uptake of cigarette smoking, particularly in the later years of adolescence and early adulthood as a really critical period. As well, as we heard earlier, tackling the problem of established smokers.

I will briefly summarise and elaborate on a couple of points in a submission that I made if I may. The Director of Public Health is responsible for enforcing the Public Health Act and therefore the provisions of this proposed amendment would fall for the Director of Public Health to enforce if the bill was passed.

With that in mind, I prepared, with the support of Staff Population Health Services a submission on the bill that is soon to be introduced. In particular, I focused on the workability and the practicability of the bill; they were the terms of reference of the bill we were being focused upon. I gripped the considerations under aspects of the bill, aspects of the Public Health Act and some implementation issues. As far as the bill, the points that I picked out in relation to workability and practicability first related to the prospect of alternative supply of tobacco to people in the tobacco-free generation. That is something we have just heard quite a lengthy discussion on, on the legal aspects of it and I will not go back over that.

I will observe that we know that the most frequent source of tobacco for people in their teens, and unfortunately about 15 per cent of 16- and 17-year-olds are smokers, so they are getting cigarettes from somewhere and the most common source is family and

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friends. There is clearly a leakage to people who current legislation precludes from purchasing cigarettes or having cigarettes sold to. That is a problem.

It is likely, however, that as the tobacco-free generation expands, most people just entering it at age 18 are going to find it slightly harder to find a peer who can legally have cigarettes sold to them. The impact of the Tobacco-Free Generation Bill on that side stream supply of cigarettes to people who are otherwise ineligible is likely to be relatively small at first but may become more consequential as years go by.

The second thing I want to note, and it has been noted before, is that the internet is a very easy way of purchasing cigarettes. We do not have a good handle on how much tobacco is purchased via the internet. While that remains a legal option for an 18- or a 19-year-old to purchase tobacco products, that again is a worrying source of mitigation of the effects of the tobacco-free generation. Those aspects of alternative supply are important to consider in terms of the likely outcome in implementing a bill such as this.

The issue of the legality of the bill from the point of view of age-based discrimination is something the department did consider. They were ultimately able to conclude that the provisions of the Age Discrimination Act 1990, a Commonwealth bill, did not preclude the passage and operation of the current bill. Our understanding is that the Tobacco-Free Generation Bill could be passed and could come into operation. That is because the Commonwealth bill gives primacy to state legislation, unless the Commonwealth did choose to actually schedule the provisions of the bill. They could choose to overrule it but the default position is that the state-based age discrimination will be permissible.

Ms FORREST - Even in a state-based law, is that the way it is? The Commonwealth can override a state-based law in that regard?

Dr VEITCH - The act has a provision at section 28 which says you cannot discriminate on the basis of age. Then it has another provision in section 39(4), 'unless permitted by state and territory law'. It is a situation where primacy is given to the state law, but the next subclause actually says if the Commonwealth does choose to schedule that state act then they can overrule it.

Ms FORREST - The capacity is there if it decides to exercise it.

Dr VEITCH - Yes. The other aspect of legal or related issues that I noted in my submission was that it would be prudent to contemplate the risk of litigation by tobacco companies against this bill. While I do not say that from a point of view of legal advice, I just say that from the point of view of understanding what tobacco companies have done in plain packaging and the like. The consequences of that could be quite considerable. It would be a bad thing to embark upon implementing a bill, with all the attendant costs, then to fight a legal battle and lose, and it could be expensive to fight a legal battle and win. I think that is a contingency that probably ought to be kept in mind when considering what might happen if this bill was passed.

Another aspect of the bill is the matter of evaluation. There is an evaluation built into the bill where the director is to evaluate it in 2021 and 2025. Mr Dean kindly said the evaluation of the bill should not be onerous. I actually think the evaluation of the bill should be onerous. If this bill was passed, I think that it would be quite proper to a very

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thorough evaluation of this bill. It should not be a simple one-dimensional evaluation, it should be a thorough examination of how the bill succeeded, failed, how various aspects of other smoking-related behaviour played out during the implementation of the bill. I think that here I am not arguing against evaluation, I am arguing for the fact that it should be a very thorough evaluation. That will cost money and that needs to be taken into account. I did notice in the submission by the University of Tasmania that they are considering ways to evaluate the bill, and it is my expectation that they would be looking at a multi-dimensional evaluation of the bill, not just as simple as, for example, smoking rates by age.

There are a few aspects of the bill that I addressed in the department's submission. The next thing I want to mention just briefly is interaction with the Public Health Act. In the current Public Health Act, authorised officers are able to warn a child or require a child to provide information about where they got the tobacco. I wrote in the submission that there may be merit in extending that power to seek the source of tobacco if someone from the tobacco-free generation has possession of tobacco. I think that could be a fraught, on reflection, actually. I think it is likely that if we are trying to understand where a member of the tobacco-free generation has got their tobacco from, that is probably something that should be built into a thoughtful evaluation process, rather than being on a case-by-case basis that requires a penalty.

I have mentioned the last part of the submission relates to implementation and in implementation, I mention a number of elements, some of which will raise costs to do, such as retailer education, signage and some aspects of compliance. As was discussed earlier, most of those things can be built into fees, so there will be cost recovery for those. You do get into an interesting cycle where when you raise the cost of tobacco fees particularly, if they were raised by as much as a couple of hundred dollars, then you actually start to have people give up their tobacco licences. You run the risk of running into a rather awkward spiral where the cost of the licence escalates. You can argue that is a good thing but I am sure there is a break point where that resolves itself.

Some aspects of the implementation, however, have not been costed. The one in particular I want to draw attention to is the matter of public education to accompany such a bill. Any public education that accompanies such as bill would need to target adolescents and members of the tobacco-free generation, so it would be something that provides information to children and families in the lead-up to them joining that generation, as well as to people in the generation.

There will also need to be a separate and effectively long-term strategy to provide accessible information to visitors to the state. That would cost a considerable amount of money. Having said that, it would need to be weighed up against the cost, or the savings of reduced cigarette uptake. I have come to the end of my overview.

Another statement I think is important to make, that I mentioned briefly in my submission, was the importance of bills such as this was implemented, that the activities around implementing this bill and the monitoring of the consequences of the bill go hand in hand with existing tobacco control measures. We have a number of tobacco control measures currently in place, across the population as a whole, and tackling various vulnerable groups within the population. They are very important to maintain. In particular, as Ms Barnsley mentioned, was the importance of maintaining funding of

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effective media campaigns. We know once you reach a certain level of coverage, roughly 32 weeks of television advertising a year, you begin to see a diminution in smoking rates.

Even though there is a little bit of difference in the measures of smoking in different members of the Tasmanian public over the last five or so years, there is a sense they are continuing to trend down. It is quite possible that is attributable to finally achieving good levels of coverage with the television advertising, in particular.

To conclude, I support the intention of this bill. It is difficult not to support the intention of this bill. It is a thoughtful and rather polemic piece of legislation. I am concerned there are some insufficiently articulated or costed parts of the implementation of this program. In particular, I noted the costs around media and public education and the evaluation plan.

I conclude by talking about modelling. One of the things we have heard on a number of occasions is that this is a bit of an evidence-poor zone. We are talking about a major policy. Yet the evidence to say this is the right thing to do or this is the way it will go is very thin. That is a problem across a range of public health activities. There is a way of dealing with that. Mathematical modelling is increasingly coming to the fore as a way of assessing how public health programs might work. What is done is you construct a mathematical model. You look at the various inputs into the program.

One input may be the intent of the Tobacco-Free Generation Bill, that is to prevent the sale of cigarettes to people born after 31 December 1999. What the model could look at is, 'Okay, how well does that achieve that end?' The model could also look at other factors such as how much tobacco is diverted to people by families? How much tobacco is purchased overseas? A complex mathematical model is built up. These variables I have mentioned are considered. You can look at the most likely outcome, best guess if you like, for how each of those variables will play out; what the least good outcome for each of those variables is; what the best outcomes from each of those variables is. Then see how that plays out on smoking rates at different sectors of the population over time.

It is quite a sophisticated exercise, as it requires mathematicians as well as epidemiologists. It is a now quite widely used way of assessing policy in areas of evidence vacuum. It can sometimes be a bit disconcerting because you can see people come up with conclusions in the absence of evidence but it gives you some idea of how the parts of the system play out together.

A project like this would really benefit from the use of that sort of an approach to give us a better idea of how it might work and how various other factors might mitigate the benefits.

CHAIR - Thank you, Dr Veitch.

Mr MULDER - Thank you. On one issue, you touched on it in your submission, as a lot of people do, is that if you get the price increase, that has an effect. Is it a fact though that those sorts of effects occur when there is a savage price increase rather than an incremental rolling increase?

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Dr VEITCH - In terms of sale of?

Mr MULDER - In terms of cigarettes, for example. Consumption rates of cigarettes. The evidence that I have seen at least points to the fact that if there is a major increase, like we stick 10 or 20 per cent on the value of cigarettes, there is a very quick drop off. The price signals send a quick drop off.

Compare that to the same increase spread over five or six years. You don't get that equivalent impact. In other words, people accept, adapt to the change, rather than the short sharp hit.

Dr VEITCH - I do not have the evidence in front of me to comment on that but I have heard that argument made, and it does sound intuitive.

Mr MULDER - There are plenty of submissions we have, which say, 'We all know things,' that we have some severe questions about whether we all know or not. The point I am trying to make is that here we have the exact opposite. We have a rolling implementation of a policy position, rather than a short sharp hit.

Dr VEITCH - I am aware that there was some consideration when this was discussed in the Tobacco Control Coalition. There were some discussions, would for example, raising the age in one step to 21 be an alternative strategy to this incremental process?

Again, if I can hark back to my comment on modelling, it is plausible that you could actually look at the consequences of those alternative strategies that way. You could bring in that evidence on the impact inferred from other strategies whether it would -

Mr MULDER - From your perspective then at least, how effective have you found, or do you think the law is, creating offences is, in dealing with what are actually matters of public health and education?

Dr VEITCH - That is a huge question.

Mr MULDER - Very short.

Dr VEITCH - It is a short question with a huge answer.

Mr MULDER - It is what we are doing.

Dr VEITCH - It is the tension between an educative, facilitatory approach, versus a regulatory approach. The answer is, you need both. There are very few public health issues where you would approach it only one way. We want the management of our water supply to be free of *E.coli*, and that is a separate issue where we could argue that it is a purely regulatory approach, but still we work with our water supply systems.

Mr VALENTINE - My question is around e-cigarettes and I don't know whether you were here for the other submission, but it is whether in fact it provides a loophole if e-cigarettes are not incorporated into this bill. The government is looking at that. You might be able to tell us where that is at. I am interested to hear your opinion on this

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legislation. Whether that is going to be a major failing point, that it doesn't cover e-cigarettes?

Dr VEITCH - I am afraid I was not here in time to capture the early discussion but I take it there was the idea of incorporating e-cigarette purchasing into this.

Mr VALENTINE - I was interested to see how it could be incorporated, but I was told that the government were actually doing some work on that. I do not know whether you are free to be able to tell us where that is at.

Dr VEITCH - I can tell you there has been a call for public submissions on e-cigarettes. Those submissions closed and are being compiled.

Mr VALENTINE - So that is a work in progress.

Dr VEITCH - That is a work in progress.

Mr VALENTINE - Do you see it as a window of opportunity for people to switch across to e-cigarettes, if it is not captured here?

Dr VEITCH - I think the whole e-cigarette domain is too volatile at the moment to make a firm decision on what the right public health action is. Week by week we hear quite contradictory findings coming out on whether or not e-cigarettes are going to help you quit. Whether they will or will not act as a gateway.

Mr VALENTINE - Driven by those with an interest, no doubt.

Dr VEITCH - Whether the ability to cease smoking is made easier by e-cigarettes any better than other alternative nicotine replacement therapies. It is a complex area and a lot of different questions tend to be bundled up together. There is a - I have heard the word tsunami - and a large bombardment of information coming out about e-cigarettes. I think the right decision is to let that come out and appraise the evidence.

The other issue in my mind is that the broader social consequences of e-cigarette use is something that is probably not going to be discernable in the very short term. We need to overlay any decision we make based on relatively short term evidence with a bit of concern, and perhaps scepticism, about the risk of longer term consequences of normalising smoking.

Mr VALENTINE - Of course that is not only about nicotine. It is the products themselves that are non-nicotine based that might be causing an issue.

Dr VEITCH - I do remember when I was a child you could buy little boxes of things. They were called -

Ms FORREST - Fags.

Dr VEITCH - That is right. They had little red dots on it. You also used to think the little red dot on the end tasted different from the candy. About 20 or 30 years ago, that was deemed not a good look.

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Ms FORREST - They are called Fads now and they do not have the red tip but they are still the same thing.

Dr VEITCH - I thought that was interesting observation on social responsibility around cigarette-like devices from 30 odd years ago that possibly has some ongoing merit.

Mr VALENTINE - Thanks for that. It is interesting to hear your opinion.

Ms FORREST - A couple of things, Mark. You went through a list of potential costs associated with this. Leaving out the potential cost of a legal battle with a tobacco company, which could be anything, the rest of the costs you talked about, the cost of review, monitoring, compliance, signage, public education in the early stages of informing adolescents and those young people about to turn 18. Then the ongoing need to inform visitors to the state, to bring it up with them at that age. You did make the point in your submission about signage for cost recovery of tobacco sellers' licences, how that could, potentially, be met. I assume that is the same for all the costs? Would that be how it would be apportioned?

Dr VEITCH - They are all calculable. That is certainly the case. The costs of a campaign to introduce this legislation would not necessarily be incorporated in the tobacco seller costs. The costs that would need to be recouped in licence fees would be the change to signage, as you mentioned -

Ms FORREST - Monitoring compliance.

Dr VEITCH - Monitoring compliance, and retailer education. The other consideration is that we currently manage enforcement, which is in many instances education with 1.8 EFT tobacco control officers. I am inclined to think that because of the momentous character of a bill such as this, it would require additional human resources to be around continuously educating, particular as the tobacco-free generation expands.

Ms FORREST - You said that they are measurable costs. Have you any idea of the costs of these? There is a point where there is a cost benefit analysis that needs to be done. There will be benefits if less people take up cigarette smoking. Have you done any work on that?

Dr VEITCH - We have not done any work on that.

Ms FORREST - How difficult would that be for you to do, to provide to the committee some sort of ballpark figure? Let aside those couple of things that probably would not be recovered through a full cost recovery basis.

Dr VEITCH - I will ask Stuart. We could estimate that.

Ms FORREST - That would be appreciated if you could do that. As well getting that estimate, could you then give us some indication as to how that would fall in terms of the additional cost to the licence holders? The other point you raised in relation to that is ultimately there is a point where retailers decide not to renew their licence, rebuild their business model, and move away from the sale of cigarettes and other related tobacco

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products. Do you have any idea where that tipping point may be? This is a really difficult thing. We know if there were a smaller number of people holding licences there is actually going to be another big increase potentially for those people.

Dr VEITCH - As licences drop the cost of the licence goes up. It depends a little on how much purchases are diverted to the remaining licence holders.

Ms FORREST - Or will they go to online sales. The people will pay the additional licence costs, which I do not have a lot of sympathy for, because they are selling a product that kills people. Aside from that, there is a point here where it may become unviable for them. Then what, is it just online sales, which is completely unregulated?

Dr VEITCH - We know that when we increase tobacco fees, we see about a 10 per cent drop off in licences so they have fallen from a bit over a 1 000 about five years ago to a bit over 800.

Ms FORREST - What sort quantum increase are we talking about? Is it a 5 per cent increase, 10 per cent?

Dr VEITCH - We can certainly give you the detail of that, but Stuart tells me 20 to 30 per cent increase is in the cost of increases. There are CPI increases to the licences in any case, but on a couple of occasions the cost has been increased by 20 or 30 per cent, which has amounted to about \$80 or \$90, and that has seen a 10 per cent drop in licence holders.

Ms FORREST - It would be good if you could provide that to the committee, and any further evidence around that. The other thing you made a comment on earlier in your contribution is that you do not know how much is sold or bought online. People drop their licences and it becomes less accessible, which potentially which is a good thing, except people can readily access online. Is there any way of finding out how much is bought online in Tasmania?

Dr VEITCH - I suspect it would be shrouded commercial-in-confidence, so I do not know if there would be any way of estimating it. We can look to see if there is any data though.

Ms FORREST - It would be interesting to know whether it has increased as a number of tobacco licences in Tasmania has diminished. Are people just going online? It is an important point, because this legislation only stops retailers selling to young people born after the year 2000. It does not stop them smoking, or bringing it in on a boat or a plane.

Dr VEITCH - I agree that -

Ms FORREST - Or bring it in on the boat or on a plane.

Dr VEITCH - I agree that understanding the things that mitigate the benefits you might hope from this bill though are really important to understand.

Ms FORREST - It was interesting, being on a plane the last two days, it was noted in the safety announcements they are now mentioning e-cigarettes. They are saying that smoking is not permitted in the lavatories, including e-cigarettes.

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Mr VALENTINE - That is right, yes.

Ms FORREST - It is only a new thing that I have noticed.

Mr VALENTINE - I noticed that too, a few days ago.

Ms FORREST - They are obviously becoming more recognised as a similar but possibly separate issue.

Dr VEITCH - It think it is probably the ignition risk they are worried about with e-cigarettes.

Ms FORREST - Partly, the oxygen in the aircraft.

CHAIR - Thank you very much, Dr Veitch, it has been really informative and thank you for waiting that little bit extra.

Dr VEITCH - Pleased to do it.

CHAIR - And get better soon.

Dr VEITCH - I will, thank you.

THE WITNESS WITHDREW.