



Submission:

**Senate Standing Committee on Legal and  
Constitutional Affairs Inquiry into the  
illegal tobacco crisis in Australia**

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## About the Heart Foundation

For more than 65 years, the Heart Foundation has been the trusted, independent, not-for-profit organisation fighting cardiovascular disease and helping to improve the heart health of people living in Australia. We work across the spectrum of cardiovascular disease research, prevention, detection, care, and support. Our work is made possible through the generosity of our donors, and is delivered in partnership with health professionals, researchers, governments, and the community.

A core part of the Heart Foundation's work over the more than four decades has been advocating for action that will reduce the prevalence of smoking in Australia and help to protect people's health. We continue this work as part of our 25-year vision for Australia's heart health, *Health for Every Heart*, by working towards healthier communities, environments and systems that can help people reduce and manage their risks of developing health conditions that could be prevented.<sup>1</sup>

The Heart Foundation acknowledges the traditional custodians of the lands on which we live and work. We pay respect to Aboriginal and Torres Strait Islander elders past and present.

## Executive Summary

**The National Heart Foundation of Australia (Heart Foundation) welcomes the opportunity to contribute to the Senate Inquiry into the illegal tobacco crisis in Australia. Our submission contributes mainly to terms of reference items (b), (c) and (d).**

The damaging health impacts of smoking are undeniable and have been well-established globally for more than 70 years.<sup>2,3,4</sup> Tobacco use, including smoking, is the leading cause of preventable death in Australia and a leading risk factor for cardiovascular disease, chronic respiratory conditions and at least a dozen types of cancer.<sup>5,6,7,8</sup> Smoking harms the person who smokes and the people around them.<sup>8</sup> With Australia's world-leading tobacco controls, smoking prevalence has been successfully driven down from over one third of Australian adults (35%) in 1980 to around 10% in 2022.<sup>9</sup> With fewer people smoking, health outcomes steadily improved across the Australian population, reducing the total burden of disease from tobacco use by over 41% in the last 20 years.<sup>5</sup>

The Heart Foundation is concerned that Australia's success in reducing the prevalence of smoking is now at risk from the rapid escalation of the illicit tobacco trade. With recent Australian Government estimates that over half of tobacco consumption in Australia is from illegal tobacco products,<sup>10</sup> there is a significant risk that smoking rates could rise. Cheap, unregulated tobacco is creating an environment that makes it easier for people to start smoking and harder for people to quit. The long lag between smoking and developing chronic disease means that the full impacts of higher smoking rates on public health, the healthcare system and the economy will last for decades.<sup>11,12,13</sup>

Recent actions to strengthen legislation, penalties and enforcement by federal and state governments have been encouraging but lack a joined-up approach. Gaps in controls and enforcement across the tobacco supply chain can be exploited to continue trading. Without coordination and investment at proportionate level to the market, Australia risks more people taking up and continuing smoking, with devastating impacts to the health of this generation and the next.

**In this submission, the Heart Foundation outlines the case to protect the health of people in Australia from the harms of tobacco, regardless of the legality of the source, and to minimise the illegal tobacco trade in Australia. We put forward recommendations for the Australian Government to invest in a national approach that addresses gaps in regulation and enforcement to disrupt all stages of the illegal tobacco supply chain, and that is informed by global best practice. Existing**

**taxes on tobacco products should be maintained, and supported by continued investment in public education campaigns and cessation support services.**

This approach aligns with the *National Tobacco Strategy 2023-2030* and with Australia's obligations under the World Health Organization's Framework Convention on Tobacco Control (WHO FCTC).<sup>14,15</sup>

## Summary of Recommendations

The Heart Foundation recommends that the Australian Government should:

**Recommendation 1:** Ensure that new and existing measures to address the illegal tobacco trade maintain focus on protecting public health, particularly for priority populations, which is consistent with national priorities established through the *National Tobacco Strategy 2023-2030*.

**Recommendation 2:** Invest in addressing current gaps in legislation, policy and enforcement to disrupt all stages of the illegal tobacco supply chain, which should be advised by the Illicit Tobacco and E-cigarettes Commissioner (ITEC) and informed by global best practice and Australian data. This approach should include:

- a. investing in resourcing for enforcement of current federal legislative controls on imports to a level proportionate to the scale of the illegal tobacco trade, as estimated by ITEC
- b. encouraging state and territory governments to adopt nationally agreed minimum standards for licensing of tobacco vendors, including strengthening penalties for non-compliance with provisions relating to sale of illicit tobacco
- c. ensuring that state and territory licensing authorities across Australia have sufficient and sustained funding for compliance monitoring, regulation and enforcement of retailers and wholesalers of tobacco products

**Recommendation 3:** Maintain the tobacco excise tax as a critical public health measure to reduce smoking and prevent an increase in chronic diseases, including cardiovascular disease.

**Recommendation 4:** Continue and expand investment in evidence-based smoking cessation services and public health education about the harms of tobacco use. This should include a focus on support for priority populations who are disproportionately affected by both smoking and chronic conditions, including cardiovascular disease.

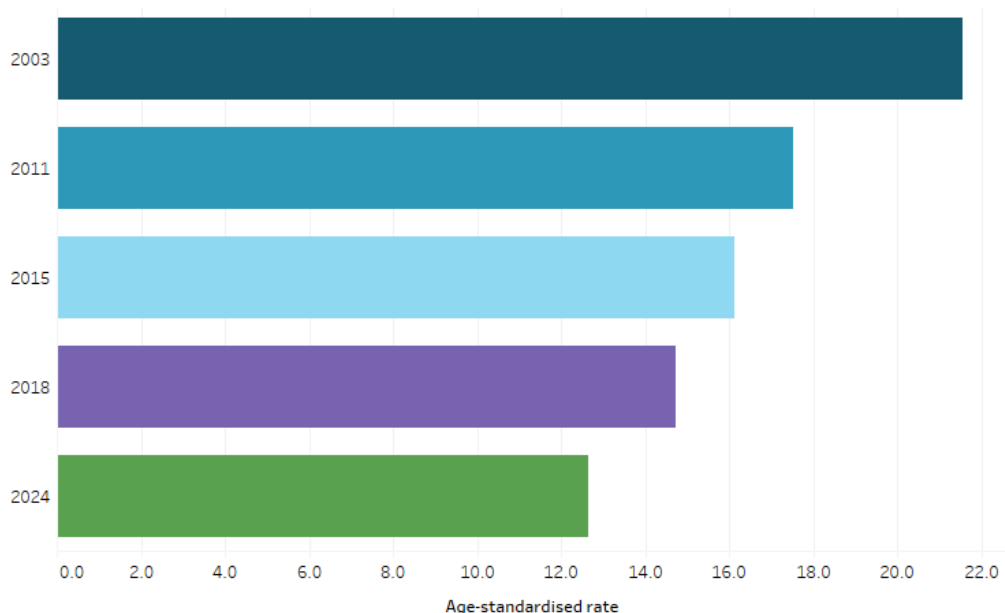
**Recommendation 5:** Uphold Australia's obligations as a signatory of the World Health Organization's Framework Convention on Tobacco Control, and as required by Article 5.3, reject the influence, funding and data of the tobacco industry in policy and enforcement discussions, including in this inquiry.

# 1 Failing to disrupt the illegal tobacco trade risks decades of decline in public health in Australia

Smoking, regardless of the source of tobacco, exposes people to toxic ingredients that cause harm to their health and shortens their lives.<sup>16,17,18</sup> Tobacco use, predominantly through smoking, increases risk of cardiovascular disease, multiple types of cancer, severe respiratory conditions and other chronic conditions.<sup>5,6,7</sup> Several landmark studies that established the link between smoking and chronic disease also established that disease caused by smoking can take a substantial period of time to develop.<sup>11,12,13</sup>

**Australia's tobacco control strategies have been highly effective in reducing smoking and improving public health over the last four decades**, including increasing life expectancy.<sup>19</sup> At the population level, the *Australian Burden of Disease Study* in 2024 estimated that disease burden attributable to tobacco has fallen by 41.3% since 2003 (Figure 1).<sup>5</sup> This is largely due to a reduction in smoking-related diseases such as cardiovascular diseases, lung cancer, chronic obstructive lung disease and other respiratory conditions.

Figure 1: Change in burden of disease attributable to tobacco use, per person, from 2003 to 2024.<sup>5</sup>



Source: AIHW, *Australian Burden of Disease Study* 2024.

**The illegal tobacco trade is providing easier access to cheap, unregulated tobacco, which risks an increase in smoking, and in turn, a decades-long decline in the health of people of Australia.** While Australia's tobacco control strategies have previously been effective in driving down the prevalence of smoking, it has taken decades to realise the positive health impacts. If there is a rise in smoking driven by wide availability of illegal tobacco, the resulting increase in chronic diseases will not appear for decades and will take decades more to address.

**Taking action to disrupt the illegal tobacco trade can help to address health inequities in Australia.** Smoking is also a major driver of health inequalities related to cardiovascular disease. People in the most disadvantaged areas of Australia are more than three times as likely to smoke daily compared to those in the least disadvantaged areas (13.4% compared with 4.1%).<sup>20</sup> These communities are also more likely to be exposed to a greater density of tobacco retail outlets.<sup>21</sup> The proportion of the adult population that smokes daily increases as remoteness increases, with the lowest prevalence among

people living in major cities (9.3%) followed by inner regional areas (14.5%), and the highest prevalence in outer regional and remote areas (17.5%).<sup>22</sup> Higher smoking prevalence contributes significantly to the higher burden of cardiovascular disease among people living in remote and very remote areas, people living in the most disadvantaged areas and First Nations peoples.<sup>23</sup>

Reducing smoking is key to making progress towards Closing the Gap health targets for First Nations peoples.<sup>24</sup> The Australian Institute of Health and Welfare's most recent estimates for First Nations peoples indicates that around two-fifths of the cancer burden (39%), cardiovascular disease burden (39%) and respiratory disease burden (42%) were attributable to smoking.<sup>25</sup>

The availability of cheap, illegal tobacco is undermining the price signals that are most effective at encouraging people who smoke to quit, compounding the harms of tobacco use and exacerbating existing health inequities experienced by these populations.<sup>26,27</sup>

**Recommendation 1:** The Australian Government should ensure that new and existing measures to address the illegal tobacco trade maintain focus on protecting public health, particularly for priority populations, which is consistent with national priorities established through the *National Tobacco Strategy 2023-2030*.

## 2 Strengthening legislation and enforcement to reduce availability of cheap, unregulated tobacco

**Measures put in place to strengthen legislative, regulatory and enforcement of tobacco imports and retailing have not been able to ebb the flow of illegal tobacco products to the Australian market.**

At the federal level, Australia's response to the rise in availability of illegal tobacco products in the last few years has been strengthening legislative controls and investing nearly \$350 million since 2024 in compliance and enforcement actions, including border screening and the disruption of domestic and international criminal networks.<sup>28,29,30</sup> At the state and territory level, all jurisdictions have introduced positive licensing frameworks for retailers and, with the exception of the Northern Territory, wholesalers of tobacco (summarised in ref 31). Several jurisdictions are taking further steps by introducing legislative reforms that will include new offences, impose stronger penalties for non-compliance and broaden investigatory and enforcement powers for licensing regulators (summarised in ref 32).

While these responses have been encouraging, illegal tobacco remains readily available in tobacconists, convenience stores and other small retailers across Australia. Recent estimates by the Illicit Tobacco and E-cigarettes Commissioner suggest that the illegal tobacco market has grown to a level such that it accounted for over half (55%) of tobacco consumption in Australia in 2024-2025.<sup>10</sup> This strongly suggests that the measures in place up to 2024 were not sufficient to curb illegal imports of tobacco and reduce supply to points of sale.

The licensing legislation at the state and territory level has been introduced in a manner without coordination across jurisdictions, which means that compliance monitoring systems, the extent of enforcement powers and the severity of penalties for non-compliance can vary greatly across Australia. Gaps in legislation, monitoring and control of illegal tobacco products can create weak points across the supply chain ecosystem even if they are in just one jurisdiction, which can then be exploited allowing ongoing importing and trading to continue across Australia.

**The need for a more coordinated approach and bringing together national capabilities for a response across all parts of the illegal tobacco ecosystem has been outlined in the Illicit Tobacco and E-cigarettes Commissioner's 2024-25 report, published in 2025.<sup>10</sup>**

The Heart Foundation supports national minimum standards for retailer licensing frameworks in state and territory jurisdictions, which have been informed by international evidence and best practice. National minimum standards for regulating tobacco retailers and wholesalers through positive licensing should be designed to disrupt the business model of illegal operators and send a clear message that this activity will not be tolerated. The Australian Government should also ensure that enforcement is resourced proportionately to curb the illegal trade. This includes investing in and resourcing enforcement of federal legislative controls and of compliance monitoring and enforcement of penalties for retailers and wholesalers in each state and territory jurisdiction.

**Recommendation 2:** Invest in addressing current gaps in legislation, policy and enforcement to disrupt all stages of the illegal tobacco supply chain, which should be advised by the Illicit Tobacco and E-cigarettes Commissioner (ITEC) and informed by global best practice and Australian data. This approach should include:

- d. investing in resourcing for enforcement of current federal legislative controls on imports to a level proportionate to the scale of the illegal tobacco trade, as estimated by ITEC
- e. encouraging state and territory governments to adopt nationally agreed minimum standards for licensing of tobacco vendors, including strengthening penalties for non-compliance with provisions relating to sale of illicit tobacco
- f. ensuring that state and territory licensing authorities across Australia have sufficient and sustained funding for compliance monitoring, regulation and enforcement of retailers and wholesalers of tobacco products

### **3 Maintaining high tobacco prices protects public health**

**High tobacco prices, achieved through regular increases in the tobacco excise tax, are a highly effective tool for reducing smoking rates to prevent death and disability from chronic diseases, including cardiovascular disease.<sup>33,34</sup>**

The World Health Organization (WHO) has identified tobacco taxation as a proven, highly cost-effective strategy to reduce tobacco consumption across global settings.<sup>33</sup> This can be particularly effective among young people and low-income groups who are most sensitive to price changes. Using tobacco price controls to reduce smoking rates is also backed by evidence from the *National Drug Strategy Household Survey* here in Australia, where cost is the most cited reason for attempting to quit smoking.<sup>20</sup> Reducing the excise on legal tobacco products would be disastrous for public health as it would likely lead to an increase in smoking, particularly among young people and low-income groups.

The narrative put forward by the tobacco industry is that high taxes on tobacco are the primary driver of the illegal tobacco trade, which has been consistently used to undermine effective public health policy.<sup>35</sup> This is a misleading narrative, as identified in independent reviews of industry behaviour.<sup>36</sup> It is also not supported by the body of international evidence, which shows other significant drivers of the illicit tobacco market such as strength of governance, presence of organised crime and the effectiveness of existing enforcement.<sup>20,26,27,33,35,36,37,38</sup> Even if the excise was

removed altogether, it would not be sufficient to resolve the price difference between legal and illegal tobacco, which is claimed to be the driver of the illicit trade.

International evidence supports maintaining strong excise policy in Australia,<sup>26,27</sup> supported by other measures to reduce availability of illegal tobacco, which have been discussed elsewhere in this submission.

**Recommendation 3:** The Australian Government should maintain the tobacco excise tax as a critical public health measure to reduce smoking and prevent an increase in chronic diseases, including cardiovascular disease.

## 4 Supporting people to quit reduces demand for tobacco

**Supporting people to quit will reduce demand for all tobacco products, including those from the illegal market.**

Cheap, unregulated tobacco is currently flooding the market and is readily available across Australia. Evidence shows that greater retail availability of tobacco is associated with a drop in both efforts to quit smoking and success in quitting smoking.<sup>39</sup> As outlined in the *National Tobacco Strategy 2023-2030*, investment in increasing the effectiveness of enforcement of tobacco trading needs to be coupled with continued investment in accessible and culturally appropriate smoking cessation services, which support people who want to quit.<sup>40</sup>

Public health campaigns should also be supported to promote cessation services and educate people about the health harms of smoking. Without sustained investment in health education, the public health messages that de-normalise smoking can fade. The *National Drug Strategy Household Survey* has shown declining recognition among adults and young people that tobacco is the drug that causes the most deaths in Australia. The proportion of people 14 years of age and over who were aware of this fact declined steadily from 36% in 2010 to less than half of that (17%) in 2022-23.<sup>20</sup>

Continuing national public health awareness campaigns, such as *Give up for Good*,<sup>41,42</sup> will continue to keep messages front of mind about the harms of smoking, how to quit and where to find support to quit. Campaigns should include accessible, culturally relevant resources and messaging specifically targeted to assist people from priority populations to quit smoking.

**Recommendation 4:** The Australian Government should continue and expand investment in evidence-based smoking cessation services and public health education about the harms of tobacco use. This should include support for priority populations who are disproportionately affected by both smoking and chronic conditions, including cardiovascular disease.

## 5 Maintaining transparency and rejecting tobacco industry influence

We ask the Committee to ensure that all interactions are transparent during the Inquiry, and that members remain aware of the tobacco industry's well-documented strategy of using concerns about the illicit trade in tobacco to undermine public health policies.<sup>35,36</sup> Australia is a co-signatory to the WHO Framework Convention on Tobacco Control and is bound by Article 5.3, which requires

governments to protect public health policies from the commercial and vested interests of the tobacco industry.<sup>15</sup>

The tobacco industry is not a credible partner in addressing the illegal tobacco trade. The tobacco industry funds and promotes research used to oppose effective control measures such as tobacco taxation and plain packaging. A recent systematic review of the industry-funded reports about illicit tobacco found this research to be methodologically flawed, lacking transparency and unreliable.<sup>36</sup>

**Recommendation 5:** Uphold Australia's obligations as a signatory of the World Health Organization's Framework Convention on Tobacco Control, and as required by Article 5.3, reject the influence, funding and data of the tobacco industry in policy and enforcement discussions, including in this inquiry.

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