

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into Vaping and Tobacco Controls

Melbourne – Monday 15 July 2024

MEMBERS

Sarah Connolly – Chair

Nicholas McGowan – Deputy Chair

Michael Galea

Mathew Hilakari

Lauren Kathage

Bev McArthur

Danny O'Brien

Aiv Puglielli

Meng Heang Tak

WITNESSES (*via videoconference*)

Philip Morris Limited.

The CHAIR: I declare open this hearing of the Public Accounts and Estimates Committee, and I ask that mobile telephones please be turned to silent.

On behalf of the Parliament, the committee is conducting this Inquiry into Vaping and Tobacco Controls.

I advise that all evidence taken by this committee is protected by parliamentary privilege. However, comments repeated outside of this hearing may not be protected by this privilege.

Witnesses will be provided with a proof version of the transcript to check. Verified transcripts, presentations and handouts will be placed on the committee's website.

I welcome the two representatives from Philip Morris International. For those of you following the hearings via the broadcast today, please note that the representatives from Philip Morris International are appearing without vision, at their request, for security reasons. Witnesses, I am going to invite you to make an opening statement or presentation of no more than 5 minutes, after which time the committee will ask you some questions. So I am going to hand over to you.

PHILIP MORRIS LIMITED 1: Thank you very much, Chair. This is Witness 1. Philip Morris thanks this committee for the invitation to give evidence before it today in relation to its important inquiry. We are a legal taxed and regulated participant in only legitimate tobacco products and a legal and regulated participant under the federal government's therapeutic vaping model. We have been operating within that model since 1 October 2021. We are committed globally and in Australia to youth access prevention. Minors should not use any tobacco or nicotine-containing product, and we do not market or sell products to minors. This is beyond question.

We are here today to urge the committee to take practical action against Victoria's illicit trade, which is now at dangerous levels and making our communities less safe. The illegal tobacco and vaping trade is low risk, high reward. It accounts for over 28.6 per cent of overall tobacco sales in Australia. It costs the community over \$4.8 billion in lost excise and an additional \$480 million in GST revenue. The federal government's own impact analysis into vaping reforms estimates that 90 per cent of Australia's market is illegal. There is no other legal product category and certainly no other therapeutic product where this is the case. It was reported in February this year that organised crime bosses have now snared a \$1 billion-plus windfall in three years from the illicit tobacco racket.

A full shipping container of cigarettes can cost as little as \$250,000 to import but can reap up to \$10 million in profit. This a 40-to-one profit margin. These sky-high profits are what is driving the culture of illicit tobacco criminal warfare in Victoria. Over 70 separate arson attacks, including 50 on tobacconists, have occurred in Victoria since March 2023. Warring criminal gangs are now routinely using arson and violence to intimidate, extort or coerce their rivals or law-abiding retailers. Gangs are now recruiting children as young as 14 for only \$500 to commit arson on their behalf. Illicit tobacco and vaping profits do not just make our communities less safe but criminals launder profits through more serious criminal activity. Just last week AUSTRAC assessed the illicit tobacco market as posing a medium and increasing money-laundering threat. Both illicit tobacco and vaping products are untested, unknown and unregulated. The Australian Border Force has previously detected poisons such as formaldehyde and traces of rat faeces inside illicit tobacco products. Black market vapes do not comply with any regulation over the nicotine concentration or ingredients. They contain harmful unknown and untested ingredients – being consumed in many cases by children.

We welcome recent efforts by federal and state governments to make a dent in the illicit trade, including work undertaken in Victoria by Taskforce Lunar and Taskforce VIPER, and the recent appointment of an illicit tobacco and e-cigarette commissioner at a national level. However, these efforts have been undermined by repeated policy failures. Better Regulation Victoria recommend that the Andrews government introduce a licensing scheme for illicit tobacco products and e-cigarette products in May 2022. If this recommendation had been properly implemented, perhaps our current environment of illicit tobacco-motivated violence and intimidation could have been avoided or at least reduced.

The committee may not be aware that the World Health Organization Framework Convention on Tobacco Control, article 15.3, recommends licensing as a measure to help control illicit tobacco trade. We urge this committee, the Allan government and the Parliament more broadly to urgently implement a tobacco product licensing scheme in Victoria similar to what we have implemented in Queensland from 1 September 2024. As with Queensland, retailers and wholesalers in Victoria should be required to show they are of good character and a fit and proper person test should be applied before obtaining a retail licence. Similarly, South Australia, Western Australia, the Northern Territory and Tasmania now also have licensing schemes, with efforts to tie character and fitness to the requirements to obtain and retain licences.

Beyond licensing, other states are moving further ahead in combating illicit tobacco. Queensland is in the process of strengthening its tobacco legislation to broaden supply and possession offences and activities and provide additional powers such as interim closure orders and injunctions against recidivist operators. We strongly encourage the committee to recommend similar changes to the Victorian *Tobacco Act*. South Australia recently announced that it would be transferring licensing and enforcement to its consumer services division, freeing up its health department to focus its efforts on tobacco harm reduction.

Parallel to a licensing scheme, enforcement of licensing should be transferred to a regulatory body with the appropriate expertise in this area. At the moment there is also a significant discrepancy between state and federal penalties for possessing and retailing illicit tobacco. This gap should be addressed so that criminals do not go jurisdiction shopping and take lenient penalties under state legislation.

Thank you for the opportunity again to appear before this committee today, and we welcome questions.

The CHAIR: Thank you, Witness 1. We are going to go straight to Mrs McArthur.

Bev McARTHUR: Thank you, Chair. Thank you, Witness 1 from Philip Morris. Is Philip Morris still one of the primary legal tobacco suppliers in Australia?

PHILIP MORRIS LIMITED 1: Thank you for the question. The three major tobacco suppliers in Australia are currently Imperial Brands, British American Tobacco and Philip Morris, making up roughly 98 per cent of the legal market. I think what is important to reflect on now, though, is that roughly 30 per cent of the entire market is captured by illegal operators. We are talking about significant transfers of legal revenue, and I do not mention that in the context of the impact on our business, but when you are talking about the sheer volume of funds that are being transferred across to black market operators, it is not insignificant.

I note, member, having undertaken some analysis just across local government areas in your own part of the world – obviously Western Victoria – that in Q1 2023 versus Q1 2024, sales across those local government areas have reduced by roughly \$12 million in a 12-month period. This is not down to people stopping smoking, this is down to the explosion in black market operators.

Bev McARTHUR: Thank you, Witness 1. I will go to my next question. Do you manufacture tobacco products in Australia, or does Philip Morris act as a wholesaler and importer of your parent company's tobacco products and brands?

PHILIP MORRIS LIMITED 1: Yes, that is right. We ceased manufacturing in 2015, and we are a wholesaler.

Bev McARTHUR: Okay. So what share of the wholesale market do you control?

PHILIP MORRIS LIMITED 1: Our market share is roughly in the vicinity of 30 per cent, give or take.

Bev McARTHUR: Does Philip Morris produce vaping and tobacco pouch products?

PHILIP MORRIS LIMITED 1: Philip Morris globally – and I guess I reference that I am here today as a representative of Philip Morris Limited, not to be confused with Philip Morris International, which we are an affiliate of. But yes, Philip Morris does either directly or indirectly produce vaping products, which as I referenced in my opening statement, we provide as a wholesaler into pharmacies in Australia under the therapeutic model.

In relation to nicotine pouch products, yes as well. They are products that PMI provides. What I would like to note, as obviously members of the committee may be aware, is that we have certainly seen those products, which previously would be classified as schedule 4 therapeutic products, which is how nicotine is classified under the federal government's *Therapeutic Goods Act* in the poisons standard. So they are not available per se; there are no products under that category on the Australian Register of Therapeutic Goods. However, what we are now seeing is the level of nicotine pouches starting to show up in the same retail environment where illegal vaping products are. We have also sought to get ahead of this. We engage directly with the Therapeutic Goods Administration in relation to this. We supply domains of websites that are selling these products illegally. We routinely also supply state law enforcement essentially where we believe businesses are operating with illegal product categories for action to be taken.

Bev McARTHUR: Will vapes be sold under the revised Australian pharmaceutical vaping scheme? Is that where we will find your vapes?

PHILIP MORRIS LIMITED 1: I think just for some background on the therapeutic model, nicotine vaping products have always been illegal to sell in Australia. We have never participated in the market outside of legal channels. We are, as I said, a legal taxed and regulated business. Since 1 October 2021 our products, in line with the model that existed at the time and continues to exist, albeit in a slightly different form, have been sold through that model, obviously requiring a prescription from a doctor and then obviously obtained through a licensed pharmacy. The fact and the reality is that what we have had here is an explosion in the proliferation of illegal vaping products. Certainly over the last two years I think we have seen more sophisticated illegal supply chains taking over the sale of these products at a wholesale level. Ninety per cent of vaping products, as estimated at the Commonwealth level, are being sold illegally, and obviously we are sitting around the 28.9 per cent of illicit tobacco products. What we would like to see to address this is greater enforcement at the border and obviously at the street level. I think as a legal taxed and regulated business we have a role to play in terms of utilising our resources to also provide support to governments and law enforcement to take action in relation to this, purely because of the resources we have to do that.

Bev McARTHUR: Okay. Thank you. I will hand over to my colleague.

The CHAIR: Thank you, Mrs McArthur. Mr Galea.

Michael GALEA: Thank you, Chair. Thank you for joining us, Witness 1 and Witness 2. To begin with, your website states that:

We are working towards a future without cigarettes: a future where adult smokers have access to smoke-free alternatives that are a far better choice than continued smoking.

Witness 1, experts have advised our committee that the long-term health effects of vaping are still unknown. So I would like to ask: what scientific evidence do you have of the health impacts of vapes?

PHILIP MORRIS LIMITED 1: Sure. I think what is important and what I would reiterate is that these products are never for youth. If people do not use nicotine, then they certainly should not start. If they do, then obviously we would encourage them to move away from nicotine. But what we also have is a cohort of people who would otherwise continue to smoke. So our business took a very bold decision – the only decision taken by a tobacco company – to declare that we are in the process of moving away from these products. Now, the obvious question to that is: well, why haven't you stopped selling cigarettes? The reality is that tobacco products are regulated, they are legal, and we will operate in that whilst particularly there is not a viable model to move away from that. In terms of the evidence base, I would be happy to provide that as it relates to our products to the committee on notice because it is, I think, of benefit to providing a wholesome response.

Michael GALEA: Thank you.

PHILIP MORRIS LIMITED 1: I guess what I would add at this point to that answer is that as part of the process that we are required to undertake to make our products available through the therapeutic vaping model, which is overseen by the Therapeutic Goods Administration, we are required as a business to satisfy a character test to obtain an import licence for these products. We are required to undertake a notification process through the TGA, which then essentially makes declarations around the ingredients in our products, and also to ensure that products do not have banned ingredients. But I think the reality is nicotine is –

Michael GALEA: Sorry, but specifically to the question, you said that you will be able to provide to the committee on notice those studies that you have regarding the health effects of vaping?

PHILIP MORRIS LIMITED 1: I am certainly happy to provide an evidence body. I think also reflecting on –

Michael GALEA: Does that evidence include academic studies that are peer reviewed?

PHILIP MORRIS LIMITED 1: Yes.

Michael GALEA: Yes – great. Thank you. We will look forward to seeing that. Beyond what we have just discussed in terms of vaping, are there any other alternatives to smoking that Philip Morris is developing and marketing?

PHILIP MORRIS LIMITED 1: Philip Morris provides a number of portfolio items across our smoke-free product categories. I think for brevity and for the committee to understand, non-combustible products now make up 40 per cent of Philip Morris's global revenue, so when we talk about moving away from tobacco products, this is not an academic exercise. This is happening. It has required significant investment. We have a heated tobacco product. I would hazard to use brand names for a number of reasons. We also provide nicotine pouches, which as I just mentioned to the previous member are something that obviously we are starting to see show up illegally in Australia. We are seeking to work with regulators and enforcement bodies to make sure that any nicotine product that is sold here complies with laws like our business does.

Michael GALEA: Thank you. So basically just vaping – is that correct?

PHILIP MORRIS LIMITED 1: We have liquid nicotine vaping products – so what you would traditionally understand to be a vaping product. It is a pod-based system. I think the TGA recognised pod-based systems as the most appropriate to be provided into the market rather than freebase nicotine and nicotine salts, which I believe there have been issues with in the community before. Obviously it has been the subject of various reports. We provide a heated tobacco product, which is a product that contains tobacco leaf but is activated not through combustion – so not set on fire; it is heated and produced as an aerosol – and then we also provide nicotine pouches as well, which are a product that have been around for many, many years, including snus as well, which have been around for many years in the Nordics, for example.

Michael GALEA: Thank you. And what evidence, if any, does Philip Morris have that shows that vaping can actually lead to smoking cessation? And if you do have – I will ask you again – any such studies, can you please provide them to the committee? And I ask if they are also peer reviewed.

PHILIP MORRIS LIMITED 1: Thank you. We would like to be very clear here: the Commonwealth government has stated by making vaping products a therapeutic product for smoking cessation that these are smoking cessation products and therefore provided under that regime. As I stated earlier, our products are obviously available in other markets, different regulatory environments and the like. Once again, I am happy to take it on notice and provide the body of evidence which you requested.

Michael GALEA: Thank you. I am assuming that you, amongst other industry players, will be making representations to the federal government as well about the effects that those products have on the cessation of smoking. Is that a fair assessment? Have you made those representations to government?

PHILIP MORRIS LIMITED 1: I think what is important is that we comply with regulatory and legislative frameworks within the jurisdictions we operate in here. So we obviously operate within the therapeutic framework here. We go through the processes we are required to.

Michael GALEA: Thank you again. If you can provide those studies, especially if they are peer reviewed, we look forward to seeing anything that you can provide to us to back up those claims. What proportion of vapers will become lifelong smokers according to the data you have?

PHILIP MORRIS LIMITED 1: So obviously I understand that this is data that has been produced in other forums through other researchers. Certainly that is not something – out of hand I am aware of studies produced by the ANU and I would refer you to that in terms of data that exists in the public domain.

Michael GALEA: So there is no research at all that Philip Morris has done into what proportion of vapers will become smokers? That is not something that is of interest to you?

PHILIP MORRIS LIMITED 1: I would not say that it is of interest to us but rather it is really a transition designed to move people away from cigarettes, not the other way. So I think it is quite disingenuous from various public comments from others that we are designing these products to get people hooked on cigarettes when these are products that we provide as a product for those who wish to move away from cigarettes but who may otherwise not quit nicotine.

Michael GALEA: In light of those concerns that you have just referred to, what steps do you take to ensure that vaping products are not used as a gateway to cigarette smoking?

PHILIP MORRIS LIMITED 1: Well, as I mentioned, we operate under a very rigid therapeutic framework within Australia. There are various clinical interventions that happen throughout those steps. You know, importantly, there are other nicotine replacement therapies available, but this is a decision that the Commonwealth government has made to make these products available through a therapeutic framework in Australia.

Michael GALEA: So ultimately it would be fair to say that you see that you are complying with those federal regulations and then there is no need to see any other effects, intended or unintended, is that right?

PHILIP MORRIS LIMITED 1: Therapeutic frameworks have rigid post-market surveillance requirements if products are causing issues, and obviously there are opportunities for patients to interact with their health practitioner –

Michael GALEA: Thank you, but –

PHILIP MORRIS LIMITED 1: and it may not be the appropriate intervention.

Michael GALEA: But you are not currently doing any study to look to see if that is the case?

PHILIP MORRIS LIMITED 1: Obviously, within Australia we have a post-market surveillance process so that if issues occur there is the opportunity for, obviously, as I said, patients to come back through to their doctor or their pharmacist, and then, obviously, investigations are launched.

Michael GALEA: Thank you, Witness 1. Thank you, Chair.

The CHAIR: Thank you, Mr Galea. Mr Puglielli.

Aiv PUGLIELLI: Thank you, Chair. Back on to nicotine pouches. What proportion of your overall sales do they represent in Australia, and do you expect that proportion to grow in the coming years?

PHILIP MORRIS LIMITED 1: I can answer that. Zero. Nicotine pouches are presently illegal to be sold in Australia. Obviously, they have been treated as a therapeutic product. They have not been commercialised in Australia by Philip Morris. Where products are being illegally sold, either our product or another product, as a part of our rolling investigation program we seek to identify outlets, both online and terrestrial, that are doing that and share that information with relevant authorities. As I said, we take very seriously our commitment as a legal and regulated business, and certainly there are actions we are taking.

Importantly, what we are seeing is lack of enforcement I think as a first principle. It was very welcome when the Commonwealth government's *National Tobacco Strategy 2023–2030* was implemented in the legislation last year that there was progress being made. Illicit tobacco, which previously did not feature in 300 pages of legislation, now has become one of the three or four cardinal principles of the Bill. There were successful amendments in relation to the issue of implementation and reforms to appoint an illicit tobacco and e-cigarette commissioner. These are welcome reforms. I would cite in your own community across the local government areas in north-east metro, similarly with other members that I have cited, there have been roughly, in the last 12 months, Q1 2023 to Q1 2024, transference of sales to the black market in the order of in some instances 38 per cent, within Darebin, for example. So we are looking at roughly, once again, \$22 million to \$23 million in a 12-month period just from one quarter that is now in the hands of organised crime to really undertake more nefarious purposes.

Aiv PUGLIELLI: Thank you. Are there any plans from Philip Morris to introduce the Iqos heated tobacco product in Australia?

PHILIP MORRIS LIMITED 1: No.

Aiv PUGLIELLI: Thank you. In terms of advertisements that are put out by Philip Morris, again you have indicated that you are not seeking to target children. Nonetheless, if a child is exposed to your marketing material anyway, what steps are you taking to ensure that they are protected from that material?

PHILIP MORRIS LIMITED 1: Australia has incredibly strict provisions in relation to advertising and marketing. Those communications are restricted to trade in terms of communicating anything in relation to the commercial operation of our business. Obviously we are a wholesaler. We need to be able to speak to retailers, who need to understand what products we have and we will be able to provide to them in the market. The reality is we do not advertise probably in the context of making people be aware, the way traditional advertising operates. We have very strict controls internally in relation to this in terms of global approaches. But I think as a starting point we operate within the legal and legislative frameworks of the countries that we operate in, but we do take it very, very seriously as well. I think there has been significant commentary in relation to the use of social media and obviously where people can access that. Similarly, we welcome efforts from the Commonwealth government to pull social media companies into line to ensure that inappropriate content is not going across their platforms.

Aiv PUGLIELLI: Sure, but are there steps that you are taking to ensure that your materials are not being presented to minors?

PHILIP MORRIS LIMITED 1: Mentioning a country, within Australia we simply do not market in a way that would get to children. It is information that is provided to retailers. There is an exemption that sits in what was previously referred to as the *Tobacco Advertising Prohibition Act*. There is an exemption that exists for us to be able to communicate with retailers, and there is really no other ability to do anything outside of that.

Aiv PUGLIELLI: Who are your future consumers?

PHILIP MORRIS LIMITED 1: Thanks for the question. As I mentioned, Philip Morris is really committed to a future beyond cigarettes. The business now, as I said, derives 40 per cent globally of its revenue from non-combustible products. The business in Australia operates across the pharmaceutical space. It obviously operates across the non-combustible space. The reality is that PML provides products to legal-age nicotine users who may otherwise continue to smoke were there not alternatives provided to them. I think that is the reality of it.

Aiv PUGLIELLI: What political parties have you or your affiliates donated to in the last 10 years?

PHILIP MORRIS LIMITED 1: Sorry, what was the period?

Aiv PUGLIELLI: The last 10 years.

PHILIP MORRIS LIMITED 1: I am happy to take it on notice once again to provide a wholesome response. I think as a starting point we comply with electoral commission requirements at a state and Commonwealth level. Once again, for a fulsome response I am happy to provide an answer on notice, also noting that the information is publicly available on the Australian Electoral Commission website.

Aiv PUGLIELLI: Thank you. In any way do Philip Morris or its affiliates track, or sponsor the tracking of, children across social media platforms to extract data in relation to smoking promotion, vaping or other tobacco products that are being made?

PHILIP MORRIS LIMITED 1: No.

Aiv PUGLIELLI: What confidence can you provide to the committee, given past statements that have been made by your organisation, in relation to products and their health risks posed to the community? Over time we have seen those debunked. It is now quite canvassed, as you are indicating, that we have to get away from cigarettes. What assurance can you provide to this committee that what you are telling us is factual and offered in good faith?

PHILIP MORRIS LIMITED 1: Thank you for the question. We are a legal, taxed and regulated business that operates within the legal and regulatory frameworks in the countries that we operate in. Obviously we are assessed on our performance against not breaching those confidences that exist under national laws that exist. The reality is what we have today – and yes, obviously we are here representing Philip Morris and speaking in that regard, but I think we should not also lose sight of the fact that there are violent criminals that now provide 30 per cent of tobacco products, making billions of dollars, with no regard to what is in the products, who they sell them to or how those funds are then used for other, much more nefarious purposes.

Aiv PUGLIELLI: Thank you. Thank you, Chair.

The CHAIR: Thank you, Mr Puglielli. We will go to Mr Tak.

Meng Heang TAK: Thank you, Chair. My question goes to the impact that nicotine has on the developing brain. Is nicotine addictive?

PHILIP MORRIS LIMITED 1: Thank you for the question. Once again as a starting point, nicotine products are not for youth, and they should not be used by youth. The science is clearly established that nicotine is an addictive product, but I think just to really re-emphasise, these nicotine-containing products are not appropriate for youth and we do not provide products, obviously, in that form. Once again, taking a step back, we now have 90 per cent of vaping products – the vast majority – being mislabelled, by the way. We have 30 per cent of tobacco products being sold by people that do not care who they sell products to – and that includes youth – or what is in the products. Youth vaping is the result of a black market that exists. Once again, sir, as with the other members, in terms of assessing the impact in your own local community, between Q1 2023 and Q1 2024, within those specific time bands, there has been an erosion of \$6 million in terms of transference of sales from the legal to the illegal market, making our communities less safe. That is \$6 million that is now potentially washing around your local community to be used for much worse purposes.

Meng Heang TAK: Thank you. How does Philip Morris track or sponsor the tracking of children across social media platforms to extract data that promotes smoking, vaping and other tobacco products to them?

PHILIP MORRIS LIMITED 1: As per my last answer, that is not something that occurs.

The CHAIR: Witness 1, can I just jump in. Forgive me, I am not sure that you really answered Mr Tak's previous question. Let me ask you again. I just want to have a very clear understanding of your response to it. What impact does nicotine have on the developing brain, and is nicotine addictive? I would like your answer, please.

PHILIP MORRIS LIMITED 1: Thank you, Chair. As I said, I think the science is clearly established that nicotine is addictive. In terms of the impact on developing brains, that is also something that is established. In terms of the specifics, I am not equipped to be able to answer that; I am not a doctor or a scientist. I will leave my response there.

The CHAIR: Thank you.

Meng Heang TAK: I will go back to my previous question about the tracking or sponsoring of the tracking of children – if you can answer again, please – across social media platforms to extract data that promotes smoking, vaping and other tobacco products to children.

PHILIP MORRIS LIMITED 1: Thank you for the question. Once again, obviously as a reference point I am here today representing Philip Morris Limited, the Australian business. Obviously Philip Morris International and the other affiliates around the world comply with state and national laws. I can certainly confirm that is not something that is undertaken here. I can obviously only answer on behalf of the business here, but I am confident to state that in every other jurisdiction the business complies with its very strict marketing code but also national laws and regulations. We do not conduct research on people under the legal age, just to add to that.

Meng Heang TAK: Perhaps in a similar line, experts have advised the committee that if you are not smoking by the time that you are at the age of 18 or 20, it is unlikely that you are ever going to take up smoking after that. Who are your current consumers and, if you can, who are your future consumers, please?

PHILIP MORRIS LIMITED 1: Thank you for the question. Without being aware of the full context of the commentary or whom it was made by, I will answer to the best of my ability. We do not sell our products to those who are not legal-age users, essentially. Otherwise our products are provided in a general business market. Obviously, government, as they rightfully do, have very strong tobacco control measures, significant investment in quit smoking measures, significant funding that is made available, significant advertising campaigns, some of the strictest laws in the world in terms of plain packaging, advertising bans, products not being available in front of counter. I guess what I would come back to is we comply in this model that exists for this, that is legal and regulated.

I think what we should not lose sight of is the fact that 30 per cent of tobacco products being sold do not operate in this way, so the question is: who are these people's market? Certainly they cannot give commitments that it is legal-age nicotine users, that products are regulated, that they provide excise tax to the government to fund community services and anti-smoking programs. So obviously whilst we and other peer companies operate in a legal market, the fact of the matter is 30 per cent of products being sold out there – and only growing – are being sold by people who have no regard to that. This is a real issue I think that we have all got to address.

Meng Heang TAK: All right, thank you.

The CHAIR: Thank you, Mr Tak. Mr Hilakari.

Mathew HILAKARI: Thank you, Witness 1 and Witness 2. Does Philip Morris fund scientific research favourable to its business interests?

PHILIP MORRIS LIMITED 1: Sorry, could you repeat the question?

Mathew HILAKARI: I am just wondering about the scientific research that you fund that is favourable to your business interests, and do you fund those?

PHILIP MORRIS LIMITED 1: Similarly, I will just reference the fact that I am here representing Philip Morris Limited. We are a wholesaler of products in a legal, regulated market in Australia. We do not conduct scientific research within this market. As I said, we are simply a wholesaler. Whatever scientific research Philip Morris conducts is done elsewhere. What I do know is that –

Mathew HILAKARI: Do you receive reports, in that case, from your partner companies, which demonstrate that research, and can you provide those to the committee?

PHILIP MORRIS LIMITED 1: I will have to take that on notice.

Mathew HILAKARI: Thank you. Could you also please take on notice how much has been spent on this research over the last financial year and the last five financial years?

PHILIP MORRIS LIMITED 1: I am happy to take that on notice.

Mathew HILAKARI: And when there is funding of research, particularly through partner organisations, have you been disclosing this funding?

PHILIP MORRIS LIMITED 1: Similarly, once again, that is not an exercise that we undertake.

Mathew HILAKARI: No worries. I will take us to social media. Philip Morris, have you been using, as an organisation, social media to advertise tobacco products, and can you provide examples of the type of advertising that is?

PHILIP MORRIS LIMITED 1: Certainly. Once again, from Philip Morris Limited's perspective there are very strict laws in Australia; we certainly do not undertake those activities.

Mathew HILAKARI: Do any of Philip Morris's partners do that advertising into Australian markets?

PHILIP MORRIS LIMITED 1: Not that I am aware of, no.

Mathew HILAKARI: Okay, I just want to take you to your statements around the therapeutic basis of vaping. Is your evidence that Philip Morris has developed the vaping market in response to the therapeutic basis of the federal government's actions? I am really surprised with that statement, but is that what you stand by?

PHILIP MORRIS LIMITED 1: I am happy to take a look at the Hansard when it is produced. We operate within this model. Our products existed before the implementation of this model. We have always complied with the laws that exist. There is a legal framework that allows, for products that receive notification from the Therapeutic Goods Administration, for wholesalers and distributors who receive an importation licence and then receive an importation permit to be able to provide products through the therapeutic framework.

Mathew HILAKARI: So you developed vaping in response to those announcements by the federal government and the Therapeutic Goods Administration?

PHILIP MORRIS LIMITED 1: No, and apologies if there is any confusion. Our products existed, within the global sense of our business, prior to the implementation of this model in 2021. What we did was make a decision to provide them under this framework. We previously did not provide them into the market, given the illegality in the provision of nicotine products. There are a very small number of businesses operating within this legal therapeutic pathway. As I cited earlier, the Commonwealth government assessed that 90 per cent of products are being sold illegally. We are operating within a framework that has clinicians, pharmacists; the other 90 per cent have criminals and bad actors running the show. So we hope more than anyone that efforts to clean up this black market are successful. As I said, we regularly supply law enforcement with information where we have identified that illegal activity is happening. In the case of nicotine pouches it is a matter of public record that we have provided information to the TGA in the hope that they would once again step up and continue enforcement activities. We are doing the right thing, I guess, and the reality is what we have in the illegal tobacco market and the illegal vaping market is overwhelmingly people not doing the right thing. The fact of the matter is this requires a significant step up in enforcement action to ensure that we get these products off the streets.

Mathew HILAKARI: I will come to enforcement and that regime in a moment. Just in terms of nicotine pouches, are they safe for use by consumers?

PHILIP MORRIS LIMITED 1: Nicotine pouches – I think, first of all, as a starting point – are not available legally in Australia.

Mathew HILAKARI: I understand that, but are they safe to use?

PHILIP MORRIS LIMITED 1: The starting point is: if you do not use nicotine, you should not start using it. But if you smoke and you would otherwise continue to smoke, then there are other nicotine products available, including nicotine replacement therapies. Obviously, where our products are made available, in terms of nicotine pouches, they are required to comply with local laws and regulations. So quite clearly that is an assessment that has been made by regulators within other countries. Once again, just to reiterate, we are obviously here in terms of speaking on behalf of Philip Morris Limited for the business we undertake within Australia.

Mathew HILAKARI: So are they safe?

PHILIP MORRIS LIMITED 1: Quite clearly they are products that regulators in other markets allow.

Mathew HILAKARI: Okay. And vapes – are they safe to use by consumers?

PHILIP MORRIS LIMITED 1: Once again, if people do not use nicotine, and more so in the case of youth – youth should never use nicotine. Quite clearly the Commonwealth government has made a determination here that vaping products have a role to play in moving people away from cigarettes.

Mathew HILAKARI: Okay. I will move on. In terms of your products and avoiding the use by those people who are under 18, how do you track your products to make sure that under-18-year-olds do not use them?

PHILIP MORRIS LIMITED 1: Is this in reference to vaping products or tobacco products?

Mathew HILAKARI: Both.

PHILIP MORRIS LIMITED 1: Obviously, as a legal, taxed and regulated operator within the tobacco space, we comply with various different laws. If there is a failure of retailing and it is something we become aware of, similarly that is something that there needs to be enforcement action taken on. We do not condone the sale –

Mathew HILAKARI: Have you become aware of a failure of a retailer and reported that to authorities in supplying nicotine products to an under 18-year-old?

PHILIP MORRIS LIMITED 1: Listen, I would have to take it on notice, specifically.

Mathew HILAKARI: That is okay.

PHILIP MORRIS LIMITED 1: But quite specifically, where we become aware of particularly those who operate in the illicit market – we know that people who sell illicitly are less likely to comply with laws – our trading terms are very specific and give us the powers. But I am happy to take on notice specific instances.

Mathew HILAKARI: Thank you.

PHILIP MORRIS LIMITED 1: In terms of vaping products, if you wish to access a vaping product, one of our products, quite clearly you require a prescription from a doctor and then obviously you attend a pharmacist to purchase that product. But I would once again juxtapose that with the fact that 90 per cent of people who are accessing illegal vaping products are attending a store and buying something that no-one knows what is in it. The only way we are going to deal with this is through enhanced enforcement.

Mathew HILAKARI: Thank you. I might just go there now. A licensing regime has obviously been proposed and discussed in Victoria. Do you have particular views on key elements of what that licensing regime should include?

PHILIP MORRIS LIMITED 1: If it is okay, sir, I might just hand over to Witness 2 in relation to that.

Mathew HILAKARI: Thank you.

PHILIP MORRIS LIMITED 2: Yes. Thank you very much, Witness 1, and thank you for the question. Certainly we have seen in different jurisdictions around the nation that most of them have very specific requirements in terms of licensing. What they do is they either provide a requirement for a positive fit and proper person as a character test to obtain or retain a licence, or what other jurisdictions do is, by virtue of their regulations through requiring a national police certificate, they require that persons maintain fitness and propriety to be able to retain a licence. So we think that that is especially important.

If we look at the ACT, for instance, there are requirements in there that a licence is not to be granted or renewed if an applicant is disqualified from holding a tobacco licence under a disciplinary order. As my colleague referred to earlier, Queensland introduced very strict legislation; as of 1 September 2024, for either a wholesaler or a retailer to hold and retain a tobacco licence they will need to demonstrate that they are a fit and proper person. Then if we look at other jurisdictions, such as the Northern Territory, a national police certificate again is required; in South Australia the minister may suspend or cancel a licence if the holder of the licence is no longer a fit and proper person; in Tasmania there is also a requirement that the applicant is a fit and proper person to hold a licence; and again it is the same thing in Western Australia. So what this does is it adds a checkpoint and an additional step, ensuring that if there are retailers out there who are doing the wrong thing, who are selling illegal products, the government has the power to revoke licences, and certainly with other high-risk products such as alcohol, that is the case of how it actually works.

So beyond licensing we would also encourage the committee to look at Queensland legislation that is currently under an amendment at the moment, which is the *Queensland Tobacco and Other Smoking Products Act*. It is under a parliamentary inquiry, and there are some very specific and targeted reforms that will likely be introduced as part of that. One of those is around broadening the definition of ‘illicit tobacco’ to ‘illicit nicotine’, which in a very targeted way recognises that the market is multifold. It is no longer just cigarette products. Often unscrupulous retailers are actually retailing both of those products.

That amendment legislation also broadens the type of conduct and activity which is illicit beyond just the end retail transaction. It includes penalties for commercial possession at offsite premises, new offences for employees and persons acting on behalf of another and also new offences specifically for those who supply illicit products to children outside of their business activities. There are also powers, as Witness 1 referred to in the opening statement, around the judiciary being able to have injunctions or interim closures of recidivist operators who continue to do the wrong thing. So these amendments – this is to give you a flavour that they are very targeted and precise recommendations to target the illicit market.

Mathew HILAKARI: Thank you. In terms of the enforcement process related to that licensing regime, do you see a particular body being best equipped to handle that?

PHILIP MORRIS LIMITED 2: Yes. The only comment that I would make there is that it is probably not appropriate for us to comment as to a very specific enforcement body as such, but South Australia provides a very good recent example, where the government there recently stated they are going to move licensing enforcement into their consumer and business services division, away from South Australian health, freeing up South Australian health to focus on harm reduction and community education. We also note that Victoria Police in evidence to this inquiry have also commented that their focus should really be on disruption of organised crime and that specific aspect of it and that licensing enforcement per se should therefore most likely sit within a body that has existing regulatory expertise in this area, which I am sure exists in the current Victorian government architecture.

Mathew HILAKARI: Witness 1 mentioned in evidence, I think, that 42 per cent of your product sales are vapes now. Is that correct or am I incorrect on that?

PHILIP MORRIS LIMITED 1: Sorry, that is from a global revenue perspective. Forty per cent of products are non-combustible products. ‘Combustible products’ refers obviously to traditional tobacco. The balance obviously is across the rest of the business, which is a variety of products. I have referenced heated tobacco and other non-combustible products that we have.

Mathew HILAKARI: And globally do you have figures on whether there has been an increase in the number of people using Philip Morris products or has there been a decrease – i.e. are your non-combustible products a replacement or are they just increasing your market?

PHILIP MORRIS LIMITED 1: Thank you for the question. As I mentioned, our non-combustible products really have been developed for those who would otherwise continue to smoke but may not quit nicotine altogether. We know that there have been a significant number of smokers transition to non-combustible products, which are not available in this market, and the like. I hope that answers the question.

The CHAIR: Thank you, Mr Hilakari. We are just going to back to Mr Galea briefly.

Michael GALEA: Thank you, Chair. Thank you, Witness 1 and Witness 2. You are probably aware that in recent days and weeks there has been a revelation from your Japanese sister company Philip Morris Japan that they were secretly funding a number of studies as well as life science consultancies in order to network with scientists, academics and policymakers. The documents also show that they had projected an increase in their sales targets for cigarettes at the same time that they were publicly projecting that their sales would be decreasing. I realise that they are a separate arm of the business, a separate company, but in light of the apparent deception that has come out from Philip Morris Japan, how can we as a committee and how can the Victorian people be confident in the statements that Philip Morris Limited in Australia is making both publicly and here to our committee today?

PHILIP MORRIS LIMITED 1: Thank you for the question. As I have referenced, within Australia we are a legal, taxed and regulated business. We have operated in this market for 70 years. We comply, more so than virtually any other industry, with significant Commonwealth and state legislative and regulatory requirements. We have a notification process that we have undertaken through the Therapeutic Goods Administration. We obviously operate with border force in terms of the importation of our products.

Listen, I understand the scepticism. I do. What I would flag is our actions, and I hope that is outlined by the efforts here today, by the efforts we undertake working with law enforcement across jurisdictions and the fact that we are the ones calling for stricter regulatory standards, not more lax regulatory standards. We support a

licensing model. We support obviously however the committee provides to proceed in terms of recommendations that are established. We seek to work with, as I said, the Therapeutic Goods Administration to really make sure that we can remove bad actors from operations within this market, because the reality is we have 30 per cent of tobacco products being sold with money being funnelled to organised crime to undertake very, very terrible activities. We have seen 80 firebombings. We have 90 per cent of vaping products –

Michael GALEA: Indeed, indeed. I think we are in relative accord when it comes to the illicit tobacco activity. Just to categorically state for the record, then, the Australian division of Philip Morris is not involved or has not been involved in secretly funding research in the same manner in which Philip Morris Japan has? Is that correct?

PHILIP MORRIS LIMITED 1: No.

Michael GALEA: Thank you. Thank you, Chair.

The CHAIR: Thank you, Mr Galea. Witness 1 and Witness 2, thank you very much for taking the time to appear before the committee today. The committee will follow up on any additional questions and questions taken on notice in writing, and responses are required within five working days of the committee's request.

The committee is going to take a break before recommencing this hearing at 11 am this morning. I declare this hearing adjourned.

Witnesses withdrew.