

Thank you Chair and good morning committee members. My opening statement will address the cause and extent of organised crime's involvement in illicit tobacco problem with the hope that we might learn from past mistakes. I am able to offer my thoughts on possible solutions during questioning.

The Terms of Reference for this Inquiry state that this committee should enquire into the 2022-23 Annual Reports of the Department of Health and VicHealth. I note that there is not one mention of Illicit tobacco or illicit vapes in either of those reports. This omission is an example of why we are faced with a flourishing law enforcement problem. Not only have this country's health policies been the key driver in creating the black market, but health authorities, particularly in this state, have made no attempt to fix it or even acknowledge its existence.

If it were not for the criminals bringing attention to themselves by killing each other and fire-bombing each other's shops, we would not be having this hearing. Fortunately, the existence of this crime industry and the damage being caused by it can no longer be denied or ignored.

We are here today talking about the explosion of illegal tobacco and vapes because Australia's tobacco policy has failed to change with the times. That policy is based on the World Health Organisation Tobacco Convention that Australia signed in 2003 which asks countries to consider **appropriate** tax measures as a means to reduce tobacco consumption. Since 2010, the tax measures we have taken have not been appropriate. The artificial price put on tobacco means it is tantamount to a prohibition policy.

The WHO did foresee that the growth of illicit tobacco was a likely outcome of their own Convention and so included an Article which warned countries that eliminating all forms of illicit tobacco was essential to tobacco control. Successive Federal governments have ignored that warning. In 2012, the WHO, established a further convention, this time solely focussed on illicit tobacco. This set out the global template for what countries should do to protect their citizens. Almost 100 countries have signed up to that. Australia refuses to do so. That convention outlines world's best practice and we have ignored it.

While Federal Health authorities have created this crime industry, here in Victoria, we are left with the almost impossible task of trying to mop up the mess. The difficulties in addressing this organised crime problem became obvious to me shortly after I founded the Border Force's Tobacco Strike Team in 2015. This dedicated team soon became the foremost repository of information on illicit tobacco in the country and uncovered the true nature and size of the problem. However, efforts to alert the government to this growing threat were stymied by "illicit tobacco deniers" within the bureaucracy and that type of interference continues to this day.

The size of Illicit tobacco has been significantly under-reported and, as a consequence, no urgency has been brought to the response. The result has been a free for all for organised crime.

As an example, Quit Victoria's current website states that the illicit market comprises a mere 4.9% and Victoria's Parliamentary Budget Office, quoting Cancer Council Australia figures, state in their submission to this inquiry that the illicit tobacco problem is 6.1% of the market today. Based on my own understanding of the market, I would be staggered if the true figure were not already 40% and likely to be 50% within a year. If we were to believe the Cancer Council figure of 6.1%, there would be no need for this inquiry. It's deeply concerning to see these figures still being put forward despite the obvious crime problems this multi-billion dollar industry has created.

The policy of regularly raising tobacco excise was underpinned by a key assumption - that smokers would either quit or pay the higher tax. In the early 2000's, the policy had some influence on smoking rates because those were the most accessible options available to a smoker. But context is everything. The operating environment has completely changed. The fact is that, since 2010, there has been an easily obtainable third option, illicit tobacco. It is an inconvenient truth for those who wish to stick with what they know. But those same policy settings in the current environment have fuelled a massive black-market industry run by organised crime, thereby defeating the original health and revenue objectives of getting smokers to quit or pay the higher excise.

Criminologists talk about illicit tobacco as being a low risk, high profit crime. Let me give you some examples of just how low risk it is:

- Federal Health introduced "world leading" plain packaging legislation. Health have never attempted to enforce that legislation. 10s of thousands of packs like this are sold every day without fear in the illicit tobacco industry.
- Just 2 months ago, Mr. ElKurdi fronted this states County Court for illegally importing over a tonne of tobacco. He was found guilty of avoiding paying \$1.6 million in duty. He received a good behaviour bond. What message does that send to prospective criminals?
- And of course, 2 weeks ago, Australia introduced "world leading" vape bans before making any attempt to determine who was going to enforce them, not to mention no thought given to the affect of those laws on chemists and consumers.

Domestic Illicit tobacco enforcement has been like a slippery pig that no agency has been willing to tackle or taken responsibility for. Our community is suffering from the lack of foresight Health authorities have given to the consequences of their tobacco policies.

You simply cannot put the same people who created this problem in charge of the solution. A changed operating environment requires a changed response. I am hopeful that this committee will learn from some of those past failures.