

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into Vaping and Tobacco Controls

Melbourne – Monday 29 April 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*)

Emeritus Professor Simon Chapman, School of Public Health, and

Associate Professor Becky Freeman, School of Public Health, University of Sydney.

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

I begin by acknowledging the traditional Aboriginal owners of the land on which we are meeting. We pay our respects to them, their elders past, present and emerging as well as elders from other communities who may be here with us today.

On behalf of the Parliament, the committee is conducting this Inquiry into Vaping and Tobacco Controls. I advise that all evidence taken by the 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 Emeritus Professor Simon Chapman and Associate Professor Becky Freeman from the School of Public Health at the University of Sydney. I am going to invite Professor Simon Chapman to make an opening statement or presentation of no more than 5 minutes, to be followed by Associate Professor Becky Freeman. This will be followed by questions from the committee.

Simon CHAPMAN: Thank you very much, Chair. I have been working in this area for about 45 years. Across that time we have seen tobacco control become something of a poster child of success in [Zoom dropout] control. When I started there were something like 45 per cent of men who were smoking and about 30 per cent of women who were smoking. Today we have 8.3 per cent of adults who are smoking on a daily basis. This has been a more or less continuous fall across [Zoom dropout] and many other areas of public health look to tobacco control and say, 'Show us how it's done.'

The advent of vaping has turned into something which really threatens I think to undermine a lot of the progress. One thing we need to understand is that the vaping and tobacco companies [Zoom dropout] have already reinvested in vaping, looking down the barrel of an absolute disaster with the figures that I just quoted. They will not have customers unless they develop a new way of addicting people to nicotine, which of course determines continuation of smoking once someone has become addicted.

I want to give you a quick thought experiment here: imagine if a major chain of pharmacies around the country decided all of a sudden that what they were going to do to try and increase their profits was to actually turn their back on the law that that only people that have a prescription can be issued with and be sold prescription drugs in a chemist. You could imagine that if such a thing happened, there would be absolute outrage in the community and in government. The pharmaceutical societies would expel those people. They would probably be jailed for what they were doing, and it is unimaginable that anything like that would ever happen. But that is precisely what has been happening with the supply of vaping products right across this country. People have decided that they may as well sell these things. They are very much in demand, they are increasing right through the roof and the odds of being caught doing anything and charged and prosecuted are very, very slim indeed. So the phenomenon we are all familiar with – of walking around different parts of Melbourne or Sydney and seeing signs up in front of shops saying 'Vapes sold here' – is really an outrageous kind of across-the-board breaking of the law. All of those vapes are illegal, and yet very, very few of them have been prosecuted.

The federal government has tried to on two occasions now do something about this. The first was the Morrison government through minister Greg Hunt. It introduced a two-pronged approach to this, which was: take away the right of anyone other than pharmacists to sell these products through prescriptions and stop people being able to import them for personal use or for commercial purposes unless they are going into the pharmacy channel. Now, what happened was the backbench of the Morrison government protested that and tore up the import ban. As a result, we see the prescription model still there, but nobody, hardly, has been using it, because

why would you if you can go into a corner shop or a tobacconist or a petrol station and get your vaping things there? It is so much easier than if you had to go to a doctor and get a prescription.

But already what the Labor government have done is from 1 January they have stopped imports coming through. They have passed a law that says that they cannot come through, and the most amazing thing has happened. The data which has already been published from the Chinese government is showing what has been happening. Let us take November–December and January–February of last year and this year. What we found was that there was a massive amount of stockpiling and exports coming in from China in November and December last year, but in January and February it fell to nearly zero. The Chinese government have actually been insistent that the industries over there who have been exporting this stuff have to conform with what the destination nation's laws are. Unless we subscribe to the view that this is completely all made-up data from the Chinese government, which I do not think is a coherent sort of critique, then things are going really well indeed. We have got a stockpile of stuff that came through late last year, which is starting to sort of be sold off, and by 1 July this year we should see a situation where there will still of course be some black-market stuff coming through but not very much at all. The vaping problem will probably have been solved by this law. I will leave my presentation at that.

Becky FREEMAN: First I would like to acknowledge the Gadigal people of the Eora nation, on which the University of Sydney campuses stand. My name is Becky Freeman. I am an Associate Professor of public health, and I have been working in tobacco reform for more than 24 years now. My primary research interests include tobacco control policy, vaping policy and how online and social media influence public health. I am also the chief investigator of the Generation Vape research study.

It was really telling when we started collecting data in 2021. We collected every six months from teenagers, young adults, their parents and teachers from all across Australia. The ease of access to these products – 14-year-olds tell us that they could go out tomorrow and buy a vape; they know exactly where to get one and whom to get it from. We hear from parents that they are incredibly concerned about vaping. One of the biggest changes we have seen is at the beginning of the data collection most parents were like, 'Well, I know children are vaping, and it concerns me. But it's not my child,' and now they are saying, 'You know what? Yes, absolutely it's my child who's vaping. My child has come home with a vape in their bag. My child has got caught vaping at school,' and their concern has gotten even greater. This is a huge priority. We hear teachers calling out to us that this is one of the most distracting issues in school at the moment, and yet schools are being expected to somehow educate children. We need the [Zoom dropout], we need government at all levels to make sure that schools can do their jobs so that we do not put another burden on teachers, which includes policing vaping.

When we talk to young people in our focus groups and our studies, they tell us that they are attracted to the flavours of vapes and that, you know, vaping is not like proper smoking. It is not smelly, it is not socially unacceptable, it is not expensive. They come in these bright colours. Their peers accept it. They remain very adamantly anti-smoking, but vaping is not viewed in the same way at all, and they are attracted to the nicotine. We hear young people telling us that they are looking to get that nicotine hit from these products. Sometimes they will use a vape on a Friday night and they will inhale so much nicotine that they will actually get nauseous and nic-sick from it. It is incredible to me that we have allowed these highly consumed products that are marketed to children, come in great colours and interesting flavours like gummy bear and dessert, and some of the designs of these products – they look like little teddy bears. You know those little charms children hang off their backpacks when they go to school? That is what they look like, and they just have a little straw coming off the top with the vape.

I mentioned earlier that I also study social media and how it impacts public health. I was on Instagram just the other day scrolling through all the accounts that I follow – you can imagine my algorithm is a little bit screwy with all of the vaping accounts I follow – and British American Tobacco sponsor influencers to go to festivals. There was this young woman – she looked no older than 20, 21 maybe, and she was doing whatever to get ready on the video. She was putting on her really cool outfit to go to this festival, she was putting her make-up on and she was doing her hair, and the last thing she did was put a BAT-branded vape into her handbag as she went off to the festival. I am sorry, but to claim that these products are for adult smokers who are doing everything they can to quit – it just beggars belief that they can put out material like that and still make that claim. I think I will end it there, and I look forward to your questions. Thank you.

The CHAIR: Thank you. We will go straight to Mr O'Brien.

Danny O'BRIEN: Thank you, Chair. Thank you, professors. Can I ask the most fundamental question about this – and I think we may have had it at a previous hearing that unfortunately I was not present at: what is the risk? What are the health implications of vapes?

Simon CHAPMAN: Danny, I will start off with that one. The short and probably unsatisfactory answer for you is that we genuinely do not know. Now, if I can cast us back to the beginning of last century when cigarettes became widely available because their production became mechanised, memoirs of surgeons would say, 'Look, we've seen people using these cigarettes. We're not seeing any disease caused by them.' There was a famous account of somebody going in and then saying, 'Come and have a look at this lung cancer autopsy. You may never see another case of this again.' Well, of course the rest is history. Lung cancer by the mid-1940s, early 1950s was the leading cause of cancer death, and it still is today the leading cause of cancer death around the world.

We do not know what the long-term effects of vaping are going to be. The public will say, 'Oh, they're 95 per cent less dangerous.' That sort of number is just really pulled out of a hat. There is absolutely no substance to those numbers when you drill down into how they have been conjured. It is true that a lot of the emissions and the toxicity of the products are less, but they are also very different from smoking. We do not have, for example, flavour chemicals in cigarettes. There are one or two – menthol, which is being banned; Becky may say something about that. But with flavours there are literally thousands upon thousands of flavours which have been advertised on the internet for people to buy and experiment with. We know that the typical daily vaper takes about 560 inhalations and at point-blank range down into their lungs. We also know that when we look at medicines which are regulated by the Therapeutic Goods Administration, asthma inhalers are one of the only drugs which are inhaled. No asthma inhalers have any flavours at all because it is not a good idea to pour into your lungs anything other than air, except for necessary drugs like the salbutamol in those kinds of inhalers. So the idea that vaping – 'Oh, it's just those pretty flavours.' Most kids are probably thinking it is like a vat of mangoes being boiled up and the juice tipped into the vape – it is nothing like that at all. It is all sort of artificial chemicals which have been made up in labs and are flavouring this stuff, and we have no idea – there is no precedent for this kind of assault on the lungs at all.

Danny O'BRIEN: So what is the vape itself – the vapour?

Simon CHAPMAN: The vape is an aerosol of obviously nicotine – people do not vape non-nicotine vapes; there is no reason why you would do that – in those flavours, and then something called propylene glycol. There are also coolant chemicals which are put in there to sort of make the taste of it cool as it goes down the throat. There is no epidemiology that says, 'Well, what's happening to this stuff? What's it doing to people?' There are some early indications about inflammation of the airways being caused by this, but we really will probably not start getting a sense of whether it genuinely is a harm reduction product or whether it is going to carry with it its own unique health problems for 20, 30 or 40 years unfortunately.

Danny O'BRIEN: Okay. Professor Chapman, your commentary about China shutting down the export, therefore the imports here, is the risk simply that the industry will go elsewhere – that we will end up getting it from Thailand or Malaysia or somewhere else?

Simon CHAPMAN: Well, China of course can export to any country that allows that export to happen, and many countries do allow that, so if we start seeing massive amounts of stuff coming in, not from China but from an exporting country, we will probably think, well, that is going to, say, Thailand or Turkey or something like that, then coming over. But there is a lot of intelligence around there that the border force people have that they keep on talking about, which has seen some massive intercepts over the last few months. I was just reading them before I came on camera this morning. So I am thinking that another indicator which is of great interest – if you go into some of the online vaping shops, as I do, and look to see what is available, you see a lot more examples of 'sold out, sold out, sold out,' which suggests to me that a lot of that stockpiling is genuinely starting to go down now.

Danny O'BRIEN: And just back on the health impacts, presumably the main one is addiction to nicotine, which I assume is not healthy in itself but also potentially leads to other enticements to cigarettes and the like?

Becky FREEMAN: I have to say addiction is the number one health concern raised by young people in our survey. We have reports of people actually sleeping with a vape under their pillow at night because they wake up craving nicotine. They are being distracted in class, not being able to concentrate, and of course being exposed to nicotine before your mid-20s has profound impacts on your developing brain. So nicotine addiction is not a trivial matter. I think sometimes we are like, 'Oh, I'm addicted to sugar, oh, I'm addicted to coffee,' and making it quite trivial, but nicotine addiction can be incredibly powerful. We know that young people who vape are three times more likely to go on to try smoking as well.

Danny O'BRIEN: Excellent. Thank you, Chair.

The CHAIR: Thank you, Mr O'Brien. Mr Galea.

Michael GALEA: Thank you, Chair. Thank you both for joining us today, professors. I would like to start with you, Professor Freeman. You talked about some of the marketing tricks and methods of tobacco retailers, and honestly it feels like watching old legal dramas from 20 years ago talking about fighting the tobacco industry. It sounds very similar to what we have heard about, which for most of us is a historic thing. Can you please talk to me a little bit more about the tricks and trends that they are using? It was quite interesting, your social media example. Is it pretty much the same thing that we saw 20 to 50 years ago, or are they trying different things as well?

Becky FREEMAN: Well, 20 or 30 years ago we did not have social media, and I am sure all of us who went to high school in the 90s are very happy we did not have social media then. Of course the tobacco industry did not have social media then either. So you could say that their experience in marketing such a harmful addictive product, they can now apply that to vaping products. But they can also apply it now to these new forms of media that can hyper-target young people – that reach you on your phone, and you know, can reach all your friends. These are more effective forms of marketing. But we also see really old-school forms of marketing. I am sure some of you are Formula One fans. British American Tobacco, Philip Morris International both sponsor Formula One teams with their vaping brands now. That reaches a global audience. I do not know about you, whether you are *Drive to Survive* fans from Netflix. The number of impressions of those tobacco industry brands on that show to a global audience is staggering. They must be getting a really good bang for their marketing buck. Then of course you have, again, these influencer marketers, social media influencers, who can be anything from someone who has a few thousand followers who hyper-targets small audiences to people who have a global reach and audience.

Michael GALEA: Thank you. Particularly with regard to Formula One I would have imagined that would fall foul of advertising regulations. Is it because it is global, or is it because it is vaping specifically?

Becky FREEMAN: Yes, both of those things play into it. In some countries a vape is not considered a tobacco product because there is no tobacco in it. Even though it is addictive and has nicotine and all these harmful chemicals and it is produced by those same tobacco companies, it does not fit the definition of a tobacco product, so you can have more marketing of it by far. In Australia thankfully you would have to remove that branding from, say, the Melbourne Formula One because it would fall foul of our advertising laws. But when we watch those global events here, in those other countries, we can get exposed to that branding.

Michael GALEA: Of course there is much more prevalence, you could say, of international sport that we get to watch live here than we would have 50 years ago as well, so that would obviously feed into that as well.

Becky FREEMAN: Absolutely, the ease of access to these things. The sheer volume I think is what is quite staggering to me, what these companies pay for and how many eyeballs they attract.

Michael GALEA: Certainly, again perhaps 10, 20 years ago, in terms of things like plain packaging Australia was a world leader. We have some colourful things in the room here, examples of the products as well. Is that something that we should be looking at for these products as well, even if they are being prescribed only by pharmacists, and is there another jurisdiction in the world that is currently leading that we can be learning from?

Becky FREEMAN: Yes, I think it is really important to remember that right now we have a situation where non-nicotine vapes are not subject to enough regulation. This is why you can walk down your local high street and see numerous retailers selling supposedly non-nicotine vapes in these great packages. The laws that are

before the Senate in the same week that others are here, in the same week in the federal Senate as well – if those laws are passed, that will get rid of this non-nicotine exception and all vapes will be treated the same. So you will only be able to get vapes with a prescription from a pharmacy. Laws should enable us to enforce that. Right now that is completely unenforceable. Why would you get a script when you can go down the block and get one, right? That is really important. But once we have that prescription law enforceable – it has been in place for a long time, but once it is actually enforceable – I agree you should not be able to go to the chemist and get a Gummy Bear vape that is sold in bright pink packaging. It should look like the quit smoking medication it has always been touted to be. There are other countries – so Israel, for example, and some of the provinces in Canada have implemented plain packaging for vapes, but the big difference there is they are regulated as consumer goods. British Columbia, the province in Canada, has plain packaging on vaping liquids and vape products, but it is for the consumer good, which is not the system we have in place.

Michael GALEA: It sounds like once these laws are implemented, we will actually have a stronger system.

Becky FREEMAN: Absolutely. Right now I understand people's frustration, but we have a prescription-only system for nicotine vapes. Why isn't it working? It is really obvious – because we have not closed this key loophole that has been around for years now, and we are finally getting to the point now where that is going to be closed and it will be an enforceable law. It is fantastic. I really hope it gets through. I fully support it.

Michael GALEA: Great. Thank you very much. Thank you, Chair.

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

Bev McARTHUR: Thank you. What I am interested in is your discussion with parents on this issue. How is it that parents have not been involved in what their children are doing?

Becky FREEMAN: I am not sure I fully understand, but I am happy to talk about how we survey parents as part of the Generation Vape study. We first started surveying parents back in September of 2021. Every six months we collect data from all across Australia from a survey of parents, and we also do focus groups with parents. We have seen the level of concern rise, where we now have over 80 per cent of parents concerned about their children vaping, and we have over 80 per cent of parents who are very concerned and want something done about vaping. Almost one in five parents, so 20 per cent of parents, know for sure that their child has definitely vaped. Not all parents are that convinced. Some of them are like, 'I think they might have – maybe, possibly. It wouldn't surprise me,' but one in five know absolutely that their child has vaped. We know that the bulk of parents as well say preventing all children from vaping should be a key public health priority.

Bev McARTHUR: Sorry, say that last thing again – the bulk?

Becky FREEMAN: Sure. We know four out of five parents see preventing children from vaping as a public health priority – as a high priority.

Bev McARTHUR: So parents think it is the rest of the world's problem, not their own.

Becky FREEMAN: No, absolutely not. When you ask parents – you know, in addition to what government should do – they are also really calling out for a supportive tool on how they can talk to their children about vaping and how they can even understand what vaping is. Remember, these are parents who are really in the dark about what vapes are. They are marketed to kids, they are not marketed to parents. They had to get up to speed as quickly as governments did, who were in the dark about these things. They are relying on schools to send information. I think it is almost unfair to say, 'We're going to have a legislative environment where these products are sold on every street corner, marketed by global tobacco companies to your kids, but the onus is on you to prevent your kid from vaping.' We need to create an environment that supports parents. Parents absolutely have a role, but they cannot be expected to shoulder it alone.

Bev McARTHUR: In your surveys and whatever, where did you find children got the money from to pay for these things?

Becky FREEMAN: They are really cheap. They are not like cigarettes. You know how cigarettes can go up to \$40 a packet?

Bev McARTHUR: Yes.

Becky FREEMAN: You can get a vape for \$5. They are not expensive. Your average 14-year-old can afford to get a vape.

Bev McARTHUR: What, they get pocket money or something?

Becky FREEMAN: Yes. How else do children get money?

Bev McARTHUR: So parents give them money, and they actually do not know what they are spending it on.

Becky FREEMAN: I think that is bit unfair to say that of parents. I have a 12-year-old myself. He gets his weekly allowance that goes into his account. He might take some out to buy lollies on the way home from school, but I do not demand an accounting of where every penny goes. That is part of him growing up and learning how to manage his money.

Bev McARTHUR: Right. That is enough from me.

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

Mathew HILAKARI: That was a terrific response, and I thank you for that as well. I was going to just follow this a little bit further in terms of the critical public health measures that we can actually be putting in place to prevent vaping and to support parents. I think that is a really important point that you made. But I would love to know some of the ones, particularly with your knowledge of Victoria, and some of those things that we might be missing at the moment or could uplift further. I am really keen to hear about that.

Simon CHAPMAN: Okay. I am well aware, because I read newspapers in Victoria sometimes, about the fiscal concerns in Victoria about is this going to be a big drain on state finances – you know, implementing increased staff, checks, prosecution costs and all those sorts of things. My advice is this: what will happen with the border force closure and stopping a lot of it coming through the border – and from the very obvious fact that if you did have stock in your shop, in your business or in your online business – is you would have to let customers know, ‘Hey, I’ve got this stuff.’ So not only will your customers get a signal from you that you have got it, but anyone else like governments, health departments, the Therapeutic Goods Administration and border force can also see that here is somebody who is behaving illegally. It is like setting a mouse trap and in come the authorities, who can then start prosecuting. I think there will be some of it, as I said earlier, but it will be greatly diminished from the situation that we see at the moment. You will have people coming along to see you and saying, ‘Look, what we need to do is to set up a consumer regulation system rather than a medical regulation system for this. We want responsible retailers to sell vapes in the way that responsible retailers, for example, sell alcohol or even cigarettes.’ They are not supposed to sell them to children, but of course many do. Now, the people who are going to put those arguments to you are representing interest groups and businesses who for the last four or five years have been saying, ‘Well, we know we’re breaking the law, but we’re just going to go ahead and do it.’ It is not a good track record for people to say, ‘Well, okay, we did the wrong thing for the last five years, but now we’re going to turn the page and do the right thing.’ The obvious way of doing this is the way that the government is proposing to do it, which is via pharmacy industry regulation. I started off by saying if a pharmacist were to break the law and provide whatever prescribed drug to a customer without a prescription, they would be in serious trouble.

Mathew HILAKARI: I will come back to public health measures in a moment, and we might just go down this path for just one moment. You are very confident that the legislation will break the back of the vaping industry and imports of them. I just wonder if that confidence exists when we have got an illegal tobacco industry – it has been claimed at various points to come out of China and other places around the world, but that is a name that has been mentioned a few times. What gives you that confidence for vapes? It does not exist in reality for illegal tobacco and cigarettes, which are not receiving that taxation at the border on the way through.

Simon CHAPMAN: Okay. Well, what the tobacco industry have been claiming in their lobbying efforts for at least the last 20 years – they tend to get consultants and companies to put out reports for them that they pay for to say, ‘Oh, 15 per cent, 20 per cent,’ you know, ‘7 per cent, 8 per cent.’ Large percentages of total tobacco sales are illegal sales. But when you drill down into that and say ‘Well, how do you know that?’ or ‘What’s your database that allows you to say this?’ it is very shady. It is very, very –

Mathew HILAKARI: The ATO themselves say that from the financial year 2021–22 they are missing about 13 per cent of the excise. Is there a reason we think their numbers are far off?

Simon CHAPMAN: Look, a lot of that is undoubtedly that all the time we are seeing a diminishing in the number of people who are smoking. Every year people quit, and every year a new cohort of people do not take

Mathew HILAKARI: Sorry, the number of 13 per cent is what they missed in excise income because of illegal tobacco, and I think the experience in Victoria is that may well – I feel like it is more widely available; I see it a bit more. That is an anecdote, but the ATO are saying that they are missing about 13 per cent of excise because of the – yes, sorry?

Becky FREEMAN: I have to say I know just recently your Premier announced that there would be licensing for tobacco retailers coming to Victoria, which has been a huge missing piece, and we want to manage the tobacco supply chain to reduce the black market. Of course that means we absolutely have to have that licensing system. And we do not have licensing in New South Wales either, which is another gaping hole; it is one of the most populous states in this country, and we do not have effective licensing. I think when we are talking about the black market and taking it seriously, absolutely, but if we are not tracking it – who is wholesaling it, who has been importing it, where it is being sold – we do not have a hope cracking of down on the black market. So I really hope that that resolve to license retail tobacco falls back on retailers in Victoria as well. But just to be very clear, that does not mean I support the retailing of vaping. I think –

Mathew HILAKARI: No, I was not suggesting that at all. My concern is that there is illegal tobacco being sold. The illegal vaping I suspect will continue, because there are many illicit substances available across Australia; that is the nature of these things. I might bring you to my last question, which dovetails well with what you just brought up, which is around the legislation of licensing. What are a couple of the critical ones? I know I have only got a couple of seconds left, so if you could just highlight a couple of critical pieces of licensing regimes.

Becky FREEMAN: Examples of other places that have done licensing?

Mathew HILAKARI: What you think would be effective for Victoria.

Becky FREEMAN: High fee, absolutely. And we know this from Tasmania. I have a PhD student in Tasmania who is studying their licensing system and their supply of tobacco products. When they increased the fee – I believe it is over \$1000 now, about \$1200 per year – those little retailers who were selling lollipops, the takeaway places, just stopped selling. So you have a reduction in the number of retailers, which always makes enforcement easier as well. So it must have a high fee, it must be reviewed annually and it must have enforcement officers attached to it. Those would be my three hitting points.

Mathew HILAKARI: Thank you so much.

The CHAIR: Thank you, Mr Hilakari. Ms Kathage.

Lauren KATHAGE: Thank you, Chair. Thank you so much for your evidence. It has been very interesting. Associate Professor Freeman, I wanted to talk with you a little bit about the online space. We heard evidence earlier about who is vaping, being younger people, sometimes people with ADHD or other conditions and lower socio-economic groups et cetera. I am aware that there was a New Zealand study undertaken recently about the type of advertising, or who is seeing vape advertising in New Zealand. The advertising was seen more by people of those same categories – lower socio-economic, Pasifika, younger people; they are seeing more ads. Do you believe that the companies responsible are purposely targeting people who are more likely to vape?

Becky FREEMAN: I think they are more likely to vape because they have been targeted by the industry; I think it is a chicken-and-egg situation. I think that the industry purposely goes after vulnerable populations and purposely goes after younger populations, because if you do not start vaping or smoking before your mid-20s, you probably never will. You absolutely must go after younger people. But when you think about the sort of advertising, we know from the Gen Vape study that young people say they are exposed advertising not just online. I really want to emphasise that it is also instore. I do not know what it is like in your neighbourhood, but I live in a neighbourhood where there is a vape shop on the corner. They call themselves a vape shop, but their

whole window is full of sweets and lollies – and they are those imported ones, you know, that you cannot get in other shops. So it says they sell they sell vapes, but then they have got all these enticing products in the front window for young people – for kids – to get them to come into the store. Then they sell vapes in that store in those same lolly flavours. It is really clearly, to me, targeted marketing.

Lauren KATHAGE: And then on social media or online it is a two-way sort of conversation between you, the data that you are giving out and the advertiser, so the experience is quite individualised. How do you regulate such an algorithmic individualised situation?

Becky FREEMAN: Well, I am sure we are all aware of the headlines this week of Elon Musk saying he is just simply not going to listen to the government and enforce the law. We do have this attitude from billionaires who own social media empires that they are ungovernable, that somehow the laws do not apply to them. I would say this is absolute nonsense. I was at a meeting in Panama earlier this year for the World Health Organization's framework convention on tobacco control, and the 180 parties to that convention, of which Australia is one, all agreed that we needed better enforcement and regulation and cross-border communication and support about how tobacco and vapes are marketed online. People recognised it as a global issue that requires global cooperation. I think we need to really challenge the notion that social media companies are ungovernable. They are just as governable as newspapers, as television stations and as radio.

Lauren KATHAGE: I guess the step before that is around transparency, because to find out what actually is landing on people screens is quite difficult.

Becky FREEMAN: Yes. I know, for example, the European Union is really looking at regulating what children are exposed to in terms of marketing – all forms of marketing, not just tobacco, but all forms of marketing on social media – that children have a right to privacy online, that collecting data, often unknowingly, from children is a violation of their basic right to be on the internet. So it is about looking at this from, again, different regulatory models, not just saying 'Let's just ban these things' but 'How will we actually implement that practically?' One of these, in addition to absolutely banning vaping advertising and tobacco advertising, is to prevent social media companies from tracking children across platforms, from extracting that data so that they can promote harmful products to them.

Lauren KATHAGE: We have spoken a lot in this inquiry about the Department of Health and the Department of Education, and what we are talking about now are really technology, IT and sorts of things which are not the traditional realms that they are expert in. At a subnational level, what role do you see for state governments broadly, beyond health and education, in relation to the advertising of illegal products to children and others?

Becky FREEMAN: Well, the eSafety Commissioner obviously is a federal initiative which involves all the states – very supportive. I have had the eSafety Commissioner, in some of the work that they are doing, contact me to say that vapes were actually raised independently in their work as one of the concerns they have had online. They are being approached by people saying, 'Hey, come meet me after school in a dark alley,' and getting a message on Snapchat. So it is on the radar of the eSafety Commissioner. But I agree, it must be cross-governmental, cross-departmental. It cannot just be on the shoulders of health and education.

Simon CHAPMAN: If I can just chime in there, I was approached recently by the Inner West Council, which is a central Sydney council. They were saying, 'We want to support the government here. What do you think we can do at a local level?' We are going down the track of contacting schools, parent groups and retailers in shopping centres and so forth and saying let us work together to try and get intelligence about how kids who are going to school and living in this community are getting these messages like 'This is where you can get vapes still'. I think it is that sort of more fine-grained intelligence at a local level and engaging that, if you like, reserve army of people. As Becky says, 80 per cent of parents are very concerned about this. It may well be an interesting model for the engagement of communities in community action: reporting people – the industry would say 'dobbing in' – and actually saying, 'If you want to find out how to stop this, here are the places and sources of this problem in our local community,' and reporting it to the central authority, who can then prosecute.

Lauren KATHAGE: Thank you.

The CHAIR: Thank you, Ms Kathage. Mr Tak.

Meng Heang TAK: Thank you, Chair. Can I start off with Professor Chapman. With your four to five years in this area, is there any evidence that tobacco companies, or the industry, are intentionally targeting young people?

Simon CHAPMAN: Of course if you ask them if they are, they will put their hand on their heart and say, 'Of course not. We're terribly concerned about it ourselves.' But I was fortunate enough to get a National Cancer Institute grant about 20 years ago where I looked at millions and millions of pages of internal tobacco industry documents, and believe you me, there is an awful lot of candour in those documents about 'If we don't get children to take up our products, then the future is bleak for us'. There are lots of documents with demographics of very, very young children, sometimes as young as 10, and what their media habits were and things like that. It is impossible to think of any other industry who would not be interested – rightfully interested – in their future consumers. As Becky said earlier, if you are not smoking by the time you are 18 or 20, it is highly unlikely that you are ever going to take up smoking after that. The industry are very, very, very well aware of that but of course are strategic about how much they say publicly about it.

Meng Heang TAK: Thank you. The Victorian government has recently announced the tobacco licensing scheme. I understand that New South Wales does not have that licensing scheme at this stage. But what things can we learn from other jurisdictions that do, and are there any limitations? Basically, what can be learned from those who already have that licensing scheme?

Simon CHAPMAN: Well, I think the problem with the New South Wales one is that it is there, but it is a bit of a reverse.

Becky FREEMAN: It is just a notification scheme. You basically put your name on a list, and you are allowed to sell tobacco products in New South Wales; there is no scheme. Outside that, we do have other states, obviously. WA has a licensing scheme. Tasmania I would say has the best scheme in Australia. It is the most expensive, it is the best resourced and the fantastic thing is it is attached to data about how much product is being sold in that store as well. So you can get actual, usable data to see if we are targeting low-income neighbourhoods or there are more shops close to schools – that kind of thing.

We also have overseas jurisdictions. San Francisco, for example, has what I would call a 'sinking lid' on tobacco retailers. Essentially what they have done is they have brought in a scheme where everyone who was selling tobacco could get a licence, but as soon as that shop closes or the shop changes hands that will be one less tobacco licence. So the idea is that it will be slowly whittled down. You have other jurisdictions that do not allow a shop to have a tobacco licence within a kilometre of a school, for example. Or if they have density issues they say, 'Okay, you can have tobacco retailers in your neighbourhood, but you can't have more than one per X number of people or one per X number of city blocks.' So there are different permutations of that.

Simon CHAPMAN: One other issue I do not think we have mentioned so far is that it is critical that the penalties for breaking the law and selling these products need to be sufficiently high to act as a big deterrent to people doing it. In New South Wales I think it is still the case that the maximum fine for selling is something like \$1500. Well, that it is just petty cash to people who are bringing in, you know, huge amounts of these products from overseas and then selling them in bulk to retailers around the place. It is just a cost of doing business in the unlikely event that someone is going to be prosecuted. But if you look at other countries, Taiwan is a very interesting example. They have a maximum fine for commercial enterprises selling commercial quantities of vapes to people of US\$1.6 million. So there you are getting down to business if you start doing that. \$1600 is not going to cut it at all.

Meng Heang TAK: Thank you. Thank you, Chair.

The CHAIR: Thank you, Mr Tak. Well, Professor Freeman and Professor Chapman, thank you very much for taking the time to speak with us today. You had quite a lot of insights there, and the research you have done just sounds absolutely tremendous. The committee will follow up on any additional questions or questions taken on notice in writing, and responses are required within five working days of the committee's request. The committee is now going to take a short 5-minute break before recommencing the hearing. I declare this hearing adjourned.

Witnesses withdrew.