

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

WITNESS (*via videoconference*)

British American Tobacco Australia.

The CHAIR: I declare open this hearing of the Public Accounts and Estimates Committee. 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 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, and verified transcripts, presentations and handouts will be placed on the committee's website.

I welcome a representative from British American Tobacco. For those of you following the hearing via the broadcast today, please note that the representative from British American Tobacco is appearing without vision at their request for security reasons. Witness 1, I invite you to make an opening statement or presentation of no more than 5 minutes, and this will be followed by questions from the committee. Over to you.

BRITISH AMERICAN TOBACCO AUSTRALIA: Thank you, Chair, and thank you for the opportunity to present before the Public Accounts and Estimates Committee Inquiry into Vaping and Tobacco Controls. BAT Australia appreciates the committee's discretion in allowing this hearing to be held remotely and de-identified due to the security risk our employees face from the illicit tobacco and e-cigarette trade. In 2016 a former BAT Australia employee was violently attacked due to his involvement in providing intelligence on the illicit market to law enforcement. This incident underscores the precautions that as a business we must take to protect our employees' safety. While I am unable to provide specifics on my title, I would like to confirm that my role within BAT Australia is related to public policy and to specifically state I do not work directly with the coordination, gathering or law enforcement engagement relating to illicit intelligence.

BAT Australia complies with all public health measures, and we recognise the need for strict regulations on tobacco and e-cigarette products. Lawful manufacturers such as BAT Australia and our retail customers operate in direct competition with the illicit market and the criminal syndicates selling unregulated products in Victoria and across Australia. As indicated by the widely reported criminal activities, Victoria has become a flashpoint in Australia's battle against the illicit tobacco and e-cigarette trade. BAT Australia agrees with the Victorian police's assessment that limited regulatory enforcement and low penalties have made Victoria an attractive target for serious and organised crime networks. Notably, Victoria remains the only Australian jurisdiction without a tobacco licensing scheme, facilitating low barriers to entry for illicit operators.

BAT Australia's submission to the illicit tobacco review by Better Regulation Victoria in February 2022 recommended the following key measures be adopted by the Victorian government: firstly, assign responsibility for illicit tobacco enforcement to Victoria Police; secondly, introduce a tobacco licensing scheme to exclude criminal operators; thirdly, grant police broader powers to search premises suspected of dealing in illicit tobacco; and fourthly, implement on-the-spot fines and introduce criminal offences for significant seizures of illicit tobacco. Our position regarding the recommendations has not changed, and we urge the Victorian government to implement these reforms.

While acknowledging the need for greater regulatory and law enforcement action in Victoria, BAT Australia appreciates that many of the primary drivers of the illicit market in Australia are Commonwealth responsibilities – drivers such as excessive taxation on legal tobacco products, which incentivises the illegal importation, manufacture and distribution of unregulated and untaxed products; the prohibition on legal retail adult sales of nicotine vaping products, which enables criminal syndicates to supply a growing and unregulated consumer demand; and insufficient Commonwealth regulation, enforcement and border control measures, leading to minimal deterrence for illicit operators. These factors have resulted in market failure, a market failure where there are now over 50 per cent of all tobacco and e-cigarette consumers in Australia purchasing illegal products. The Australian government has lost control over the nicotine market, undermining both public health and fiscal outcomes. Nicotine incidence is growing despite the \$12.5 billion writedown on tobacco excise in the most recent Commonwealth budget. While the lawful industry will continue to comply with all legislated

public health measures set by Australian governments, without market control these measures will not achieve their desired outcomes.

I thank the committee for allowing me to make an opening statement, and I am happy to answer any questions you may have about my statement or in relation to the committee's terms of reference.

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

Bev McARTHUR: Thank you very much, Witness 1 from BAT. Is BAT still one of the three primary legal tobacco suppliers in Australia?

BRITISH AMERICAN TOBACCO AUSTRALIA: I thank the committee for their question, and yes, I can confirm we are still one of the three main legal suppliers of manufactured tobacco products.

Bev McARTHUR: Thank you. Do you manufacture tobacco products in Australia, or does BAT act as a wholesaler and importer of your parent company's tobacco brands?

BRITISH AMERICAN TOBACCO AUSTRALIA: I thank the committee for their question. BAT Australia ceased manufacturing in Australia around 2015–16 following the end of tobacco growing in 2009, so we are an importer and distributor.

Bev McARTHUR: Of your parent company's tobacco brands?

BRITISH AMERICAN TOBACCO AUSTRALIA: That is correct.

Bev McARTHUR: Thank you. What market share of the Victorian and Australian wholesale markets does your company hold?

BRITISH AMERICAN TOBACCO AUSTRALIA: I thank the committee for their question. It would be in between 30 and 40 per cent of the Australian market share.

Bev McARTHUR: Does BAT produce vaping and tobacco pouch products?

BRITISH AMERICAN TOBACCO AUSTRALIA: I thank the committee for their question. In Australia BAT Australia does not sell any nicotine vaping products for retail sale or nicotine pouches for retail sale. Outside of Australia in countries where the laws permit BAT companies to do so, we do sell those products.

Bev McARTHUR: Thank you. Experts have advised the committee that the long-term health impacts of vaping are unknown. Do you have any scientific evidence of the health impacts of vapes?

BRITISH AMERICAN TOBACCO AUSTRALIA: I thank the committee for their question, and –

Bev McARTHUR: Can I just interrupt? Do not worry about thanking us each time. We appreciate that you like us and you have thanked us. It will save a bit of time.

BRITISH AMERICAN TOBACCO AUSTRALIA: Not a problem. BAT Australia and the group are clear that vaping is not risk-free, which is why our position remains that if you do not smoke or do not vape, do not start. In terms of BAT's position around vaping, I think it is best reflected in other comparable countries. In terms of the Canadian government, they state that completely replacing cigarette smoking with vaping will reduce your exposure to harmful chemicals and that vaping is less harmful than smoking. The United Kingdom government states vaping is a fraction of the risk of smoking and at least 95 per cent less harmful and of negligible risk to bystanders, yet over half of smokers either falsely believe that vaping is as harmful as smoking or just do not know. The New Zealand government health ministry considers vaping products could disrupt inequities and contribute to a smoke-free 2025 and that the evidence on vaping products indicates they carry much less risk than smoking cigarettes. The United States government has previously stated that e-cigarettes expose users to fewer harmful chemicals than burned cigarettes.

Bev McARTHUR: So does BAT have any intention of developing vaping products if your main product goes out of market – if nobody wants to smoke a cigarette – or are you going to go out of the nicotine business?

BRITISH AMERICAN TOBACCO AUSTRALIA: We do sell vaping products in countries that permit the lawful retail sale of those products. In Australia due to Commonwealth laws and the prohibition on the retail sale of nicotine vaping products we do not sell those.

Bev McARTHUR: Okay. Do you have any evidence that shows that vaping leads to smoking cessation?

BRITISH AMERICAN TOBACCO AUSTRALIA: From a BAT Australia perspective, we do not generate such evidence. I understand the group would be looking at similar areas, but I think in terms of what can be observed – and that is smoking incidence both in Australia and in comparable countries which do have a regulated retail model for vaping products – is a decline in smoking incidence despite an increase in vaping incidence. So just even at a population data level in Australia based upon last year’s Cancer Council Victoria report into incidence for the Commonwealth government, vaping grew from 1.4 per cent in 2018 to 8.9 per cent in 2023, which is an over 500 per cent growth, whereas smoking remained relatively stable at 12.3 per cent, declining to 11.8 per cent over the same time period. These data sources are reflected in the UK, the USA and New Zealand as well, so at a population level there does not seem to be a link between the two. However, I will need to come back to the committee on further details as BAT Australia does not commission such research.

Bev McARTHUR: Okay. Thank you. BAT’s mission is ‘a better tomorrow’ that is smokeless. What is the smokeless world BAT is striving for?

BRITISH AMERICAN TOBACCO AUSTRALIA: BAT Australia is clear that combustible cigarettes pose serious health risks, and the only way to avoid these risks is to not start or to quit, yet not every smoker is willing to quit. We believe that for those smokers who are not willing to quit, satisfactory alternative sources of nicotine with lower health risks, such as vaping and other non-combustible tobacco products, should be accessible to smokers who may not otherwise want or choose to give up.

Bev McARTHUR: Okay. So what evidence does BAT have that shows vaping is healthier than smoking tobacco?

BRITISH AMERICAN TOBACCO AUSTRALIA: Again, BAT Australia supports the findings of other comparable countries, which do state publicly that vaping products are a reduced-risk product in comparison to combustible tobacco products.

Bev McARTHUR: Okay. So you are just relying on other reports and data?

BRITISH AMERICAN TOBACCO AUSTRALIA: To my knowledge, at a group level we do undertake scientific research into our products; however, I do not have those details available to me. They are publicly available on our group website, but I am happy to provide those to the committee for their consideration.

Bev McARTHUR: Thank you very much. That would be very helpful. Can you tell us what impact nicotine has on the developing brain?

BRITISH AMERICAN TOBACCO AUSTRALIA: BAT Australia is clear that nicotine is addictive, which is why we believe the sale of any nicotine product should be age restricted and strictly controlled as an adult consumer product only. In regard to other research, BAT Australia does not undertake such research, but again, I am happy to come back to the committee based upon research the group may have undertaken above market.

Bev McARTHUR: That would be very helpful. Thank you very much. You might also be able to tell us: is nicotine addictive and do you have evidence of that that you might be able to supply to the committee?

BRITISH AMERICAN TOBACCO AUSTRALIA: Yes, BAT is clear that nicotine is addictive, which again, is why we believe the sale of any nicotine product should be age-restricted and strictly controlled as an adult consumer product.

Bev McARTHUR: I will hand over to my colleague now.

The CHAIR: Thank you, Mrs McArthur. We will go to Mr Galea.

Michael GALEA: Thank you, Chair. Thank you for joining us, Witness 1. Just to begin with, how does BAT use social media and other marketing, such as different flavours, colours or designs, to market your tobacco products?

BRITISH AMERICAN TOBACCO AUSTRALIA: I thank you for your question. BAT Australia complies with all Australian laws, including the prohibitions on tobacco and e-cigarette advertising. As outlined previously, BAT Australia does not sell any nicotine vaping products within Australia at a retail level.

Michael GALEA: Thank you. You sell non-nicotine vapes, though. Is that correct?

BRITISH AMERICAN TOBACCO AUSTRALIA: No, that is not correct. After the recent legislative measures implemented by the Commonwealth government, as of 1 July – this month – we ceased the sale of all vaping products.

Michael GALEA: Thank you. And prior to that you did sell vaping products?

BRITISH AMERICAN TOBACCO AUSTRALIA: Zero-nicotine vaping products, that is correct.

Michael GALEA: Yes. Thank you. And in terms of the branding for that, would it be fair to say that they were often branded with lots of bright colours, different flavours, things like that? Is that fair to say?

BRITISH AMERICAN TOBACCO AUSTRALIA: BAT Australia's position was to use no cartoon imagery on packaging devices or pods, only to have adult-orientated flavours – for example, no candy, dessert or energy drinks – and simple flavour descriptions. As well I think when you compare them to what is currently available in the illicit market – and I have seen illegal products designed as Game Boys or, as the federal health minister has identified, with unicorns on them and cotton candy flavours – BAT Australia's products that were sold as a zero-nicotine product did not contain any of those product designs or features.

Michael GALEA: Thank you. That is good to know. And would those products have been marketed on social media?

BRITISH AMERICAN TOBACCO AUSTRALIA: I thank the committee for their question. No, BAT Australia has not marketed, in accordance with the federal prohibitions on tobacco and e-cigarette advertising.

Michael GALEA: Thank you. So was there any marketing done at all for those products or was it just through retailers?

BRITISH AMERICAN TOBACCO AUSTRALIA: There was a website, to my knowledge, which has subsequently been taken down based upon the latest prohibitions on tobacco and e-cigarette advertising, but there was no direct-to-consumer marketing outside of the retail universe.

Michael GALEA: Thank you. Just to expand on that – and you have been quite clear on the Australian side of things – is that the policy for British American Tobacco outside of Australia as well?

BRITISH AMERICAN TOBACCO AUSTRALIA: In terms of product or marketing?

Michael GALEA: In terms of both product and marketing, firstly, for nicotine vapes sold by BAT in other jurisdictions?

BRITISH AMERICAN TOBACCO AUSTRALIA: With product, seeing as the product was developed from the group standard, I would be reasonably confident to state there is no cartoon packaging or images of such on packaging of products in other markets with a similar flavour descriptor convention in use. With regard to marketing, we do have global responsible marketing principles, which are available online and are applied in markets where such activities can be legally undertaken, but as a representative for BAT Australia I am not too familiar with what those practices are in those markets.

Michael GALEA: Okay. Thank you. Are you aware of your foreign colleagues selling nicotine vapes in other markets?

BRITISH AMERICAN TOBACCO AUSTRALIA: Thank you for the question. Yes, I am aware that BAT as a group at an end-market level sells nicotine vaping products in markets where it is legally permitted to do so to adults.

Michael GALEA: Thank you. Realising that this might be a little bit more in terms of the previous regulation that you referred to, those federal government changes, how would you ensure that your products were not being accessed by or marketed to children?

BRITISH AMERICAN TOBACCO AUSTRALIA: I thank you for your question. BAT Australia supports the implementation or adoption of strict standards to regulate the packaging, labelling, ingredients and naming conventions of vaping products to reduce youth appeal. This is partly why we launched Responsible Vaping Australia in November 2022, to outline those measures needed to be implemented in Australia, particularly with reference to what products were available and are available in the illicit market. As I touched on previously, we do adhere to global responsible marketing principles, and in countries where marketing is able to be undertaken lawfully the group enforces those global principles in line with full compliance with the jurisdictional laws.

Michael GALEA: Thank you. Can you talk to me about any work that BAT does in order to track the habits or usage trends of people on social media platforms to extract any data that shows smoking, vaping or other tobacco habits and any marketing that is done in that way?

BRITISH AMERICAN TOBACCO AUSTRALIA: Thank you for your question. Again, BAT Australia does not market e-cigarette products in Australia. In terms of research, we do not undertake research on any related areas for those that are not above 18 years of age. I am not aware of any research of that nature being undertaken in BAT Australia.

Michael GALEA: Thank you. Are there any products, nicotine or otherwise, which you do market on social media?

BRITISH AMERICAN TOBACCO AUSTRALIA: In Australia, no.

Michael GALEA: No. Okay.

BRITISH AMERICAN TOBACCO AUSTRALIA: In terms of ‘nicotine or otherwise’ – forgive me – BAT Australia is a distributor of a beverage that is marketed that does not contain nicotine.

Michael GALEA: Would that be Ryde wellbeing shots?

BRITISH AMERICAN TOBACCO AUSTRALIA: That is correct.

Michael GALEA: Thank you. What is the reason why a tobacco company has invested in a wellbeing drink?

BRITISH AMERICAN TOBACCO AUSTRALIA: Thank you for the question. It is part of our diversification beyond nicotine, to my understanding. I am not closely involved with the distribution or sales of Ryde. It is another entity that to my understanding we have a distribution agreement with – the other entities within the BAT group of companies – but I do not directly work with that entity in Australia.

Michael GALEA: Thank you. If you could take any details on that on notice, I would appreciate it. And perhaps as well, in a similar vein, are any profits or any revenue from these other products, such as Ryde wellbeing shots, used in any way to support research, marketing, production or any other uses toward cigarette or nicotine production?

BRITISH AMERICAN TOBACCO AUSTRALIA: Not to my knowledge, but I can come back to the committee with further detail.

Michael GALEA: Thank you very much for that. I believe that is all I have for now. Thank you, Chair.

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

Aiv PUGLIELLI: Thank you, Chair. Just back to tobacco pouch products – given that you are British American Tobacco Australasia, with respect to the operations that you have outside Australia itself, what proportion do the pouches represent in terms of your overall sales?

BRITISH AMERICAN TOBACCO AUSTRALIA: I thank you for your question. I am a representative of BAT Australia Ltd. I understand there is another entity that sits above BAT Australia that operates over a number of markets, which I am not employed by. To my knowledge I do not believe nicotine pouches are for sale in any markets under the Australasia banner; however, I am happy to come back to the committee to confirm, as I am not absolutely confident.

Aiv PUGLIELLI: Thank you. That would be much appreciated. I would like to go to one of the questions that was just put to you earlier: could you describe what you would term an ‘adult flavour’? It would just be good to get a bit of a breakdown – what differentiates a flavour that you would deem adult from another flavour, perhaps one that is less adult, in your words?

BRITISH AMERICAN TOBACCO AUSTRALIA: I think in terms of what is currently in the illegal market and is readily available, confectionery type of flavours or dessert flavours are clearly targeted at a certain cohort which would certainly include under-age consumers, which we believe should be prohibited outright and should be enforced. In terms of adult flavours, I would draw the committee to the New Zealand government’s regulations around this area, which are factual based upon the descriptors of those flavours and the naming conventions that the New Zealand government permits for vaping products.

Aiv PUGLIELLI: You spoke about the illicit market just then. With respect to the legal market beyond Australia, would that imply that there are non-adult flavours being sold in other jurisdictions?

BRITISH AMERICAN TOBACCO AUSTRALIA: To clarify, by BAT or by other entities?

Aiv PUGLIELLI: By British American Tobacco, yes.

BRITISH AMERICAN TOBACCO AUSTRALIA: BAT views the flavour range in markets that permit legal sales as adult flavours; however, again, given that I work for BAT Australia, which does not sell any vaping products in Australia at this point in time, I am happy to come back to the committee with further details.

Aiv PUGLIELLI: Thank you. Just with regard to Responsible Vaping Australia, which you referred to earlier, I understand a year ago the *Guardian* published a piece looking into a series of meta-advertisements that were run promoting Responsible Vaping Australia. However, the claim was made that several of those advertisements did not cite that it was backed as an initiative of British American Tobacco Australia. Could I just ask: how long were those advertisements, particularly from, say, the February campaign of last year, accessible to the public?

BRITISH AMERICAN TOBACCO AUSTRALIA: Thank you for your question. Both the website and social media pages of Responsible Vaping Australia have always clearly stated that RVA is an initiative of BAT Australia. With regard to that article, if I remember correctly, Meta did publicly state that these ads were not selling vaping products but promoting social issues tied to vaping to Australians aged 18 and over. All advertising, social media pages and websites have always been targeted and restricted, including with age gates, to adults only. It was launched with the aim to end the black market trade of nicotine vaping products and ensure Australian adult consumers were able to purchase products in a responsible and regulated way.

Aiv PUGLIELLI: Sure. If possible, could you provide a breakdown of donations that you have made to political parties in Australia in the last 10 years – or from your affiliates, I should point out.

BRITISH AMERICAN TOBACCO AUSTRALIA: Yes. All this information would be publicly available on the Australian Electoral Commission disclosure website. I am happy to come back to the committee. I will pull those reports and provide them back to the committee.

Aiv PUGLIELLI: That would be great. Thank you. Just to touch on as well the ‘smokeless world’, the ‘better tomorrow’ that BAT speaks of in its mission, really we are not saying ‘smokeless’ in the broad sense, we are just saying ‘not cigarettes’, right? If you are looking at another product, then you are still smoking a

vape or you are smoking a heated tobacco product. That is in the smokeless world that you are talking about – still using those products.

BRITISH AMERICAN TOBACCO AUSTRALIA: Yes, it is focused on combustible tobacco products, which pose serious health risks, and so transitioning adult consumers away from combustible tobacco products, particularly those who are not willing to quit.

Aiv PUGLIELLI: Okay. So would you put to this committee that a heated tobacco product – or I think as you put it a non-combustible tobacco product – is not a serious health risk?

BRITISH AMERICAN TOBACCO AUSTRALIA: Thank you for your question. No, these products are not risk free, which is why BAT Australia's position is that if you do not use these products, do not start.

Aiv PUGLIELLI: Okay. I will pass back to the Chair. Thank you.

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

Meng Heang TAK: Thank you, Chair. The committee have heard from experts that if you are not smoking by the time that you are 18 or 20, it is unlikely that you are ever going to take up smoking after that. Can you tell the committee: who are your current consumers?

BRITISH AMERICAN TOBACCO AUSTRALIA: Thank you for your question. In Australia BAT Australia sells cigarettes and tobacco products, and it is based on meeting the preferences of adult smokers with products that are lawfully manufactured and sold in compliance with all Australian laws and public health measures.

Meng Heang TAK: Thank you for your answer. And who are your future consumers?

BRITISH AMERICAN TOBACCO AUSTRALIA: Again, thank you for your question. BAT Australia is based on meeting the preferences of adult smokers with products that are lawfully manufactured and sold in compliance with Australian laws and public health measures.

Meng Heang TAK: How is BAT working to ensure it has a profitable future?

BRITISH AMERICAN TOBACCO AUSTRALIA: Thank you for your question. BAT Australia meet the lawful demand from adult smokers, and we sell lawful tobacco products in compliance with all Australian laws and public health measures. As we touched on earlier with the committee, BAT Australia, through a distribution agreement, is diversifying into non-nicotine products, such as Ryde, and there are measures at a group level to look at other categories as a fast-moving consumer goods business. So that is the current position with relation to BAT Australia at this point in time.

Meng Heang TAK: Thank you. I heard your answers for the previous questions. I understand that BAT does not conduct scientific research, but does BAT fund scientific research favourable to its business interests?

BRITISH AMERICAN TOBACCO AUSTRALIA: Thank you for your question. Apologies – to clarify, BAT as a group does undertake scientific research. This research is published on our group website, and I will provide the committee with this research as well. I am happy to provide that. At a BAT Australia level, we do not undertake scientific research, but I will make sure to provide the committee with the research that has been commissioned and published by the group and that is available publicly.

Meng Heang TAK: Thank you. We will be looking forward to that research. So how much has been spent on these categories over the last financial years?

BRITISH AMERICAN TOBACCO AUSTRALIA: Thank you for your question. I am certain that our research and development investment is outlined in our annual report and is broken down. I do not have the annual report in front of me, but I will get that detail and provide it to the committee for your consideration.

Meng Heang TAK: Thank you. One final question from me, Chair: is BAT's funding of research in part or in full always publicly disclosed?

BRITISH AMERICAN TOBACCO AUSTRALIA: Thank you for your question. BAT-commissioned research would be publicly disclosed; it is publicly published. We do have a number of R and D facilities across the world. I think our largest is in Southampton in the United Kingdom, and the reports that come out of that are published publicly with full disclosure that they have been undertaken by the BAT group, and I am happy to provide that list of scientific publications that the group has undertaken.

Meng Heang TAK: Thank you for your answer. Thank you, Chair.

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

Mathew HILAKARI: Thank you, Witness 1; we appreciate your time this morning. I will start with some basic ones, just where your cigarettes are manufactured.

BRITISH AMERICAN TOBACCO AUSTRALIA: Thank you for your question. To my knowledge, and I might have to come back and confirm, they were primarily manufactured in Singapore up until recently, when the factory may have been put into care and maintenance. I think now it is potentially a split between Indonesia and South Korea, but if I could come back with the exact details as I –

Mathew HILAKARI: No, that is fine. Does BAT group own these facilities?

BRITISH AMERICAN TOBACCO AUSTRALIA: I would imagine so.

Mathew HILAKARI: If you could come back on notice on that one. Does BAT Australia audit these facilities to ensure that no tobacco products are then entering the illicit market in Australia?

BRITISH AMERICAN TOBACCO AUSTRALIA: Not BAT Australia, to my knowledge, but the BAT group certainly does have mandatory supply chain compliance procedures which, as BAT Australia, we have to abide by and all markets within the collective group of BAT companies also have to abide by. These controls include implementing the supply chain compliance procedure – know your customer and know your supplier – as well as the third-party anti-financial crime procedure to ensure where supply is going to markets it is commensurate with legitimate demand as well as having procedures for investigating, suspending and terminating dealings with customers or suppliers suspected of involvement in the illicit trade.

Mathew HILAKARI: You bring me to one of my later questions, but I will ask it now: has BAT group or BAT in Australia cancelled any of their supply relationships with any of their customers?

BRITISH AMERICAN TOBACCO AUSTRALIA: Yes, we have. To my knowledge, for example, in Victoria I understand over the last 12 months 55 retail customers had supplier agreements suspended or cancelled.

Mathew HILAKARI: Could you provide some details on what was the basis of that ceasing supply, or could you provide them to the committee on notice?

BRITISH AMERICAN TOBACCO AUSTRALIA: Of course. My understanding is that would be breaching our supply agreements with regard to the sale of illicit tobacco products, but I am happy to come back with the details.

Mathew HILAKARI: Thank you. So if BAT Australia was made aware that there was illicit tobacco on sale at the same site as a place that they had supplied, they would cease supply on that site. Is that correct?

BRITISH AMERICAN TOBACCO AUSTRALIA: If we had direct supply agreements with that site or that customer. I will not go into exact details due to the security risk, but there is a compliance program undertaken by BAT that identifies and has assurance processes in place. If that site is identified as being involved with the illicit tobacco industry, we do then commence a process which ultimately sees the termination of that supply agreement.

If I may add, for the committee's benefit as well, there was an application made to the ACCC in 2016; as the three large manufacturers have similar programs in place, it was put to the ACCC in 2016 to have authorisation so that we could act together to identify, issue warning notices to and jointly cease supply to retailers or wholesalers with illicit tobacco products in the hope that this would be a significant deterrence from the lawful

industry to retailers wanting to enter or operate within the illicit tobacco trade. That application was denied in 2017, and therefore we have to undertake our compliance program independently of the other major tobacco suppliers. Certainly that would be something that we would urge the committee to reconsider – to potentially support the ACCC in providing authorisation for the lawful industry to work together with our compliance programs and make sure illicit wholesalers or retailers of tobacco products cannot access lawful supply.

Mathew HILAKARI: Thank you. And thank you for bringing up that earlier ACCC example. In terms of the supply of your products to minors, would you take the same approach of ending supply and ceasing supply to those retailers who have been found to supply to under-age consumers?

BRITISH AMERICAN TOBACCO AUSTRALIA: Yes. If we have a supply agreement in place and they are found and convicted of supplying regulated tobacco products to under-age persons, we would cease supply with those retailers.

Mathew HILAKARI: Just because I am not familiar with this, would you be able to outline the differences between those that you have a supply agreement with versus those that have some other arrangements?

BRITISH AMERICAN TOBACCO AUSTRALIA: Of course. For example, in Victoria I understand we have supply agreements with 2000 or so suppliers. However, I think it has been in the media that there are over 1000 illicit retailers in Victoria. In those illicit retail stores there is a wholesale market which we have supply agreements with, maybe wholesaling to other retailers. I think this goes to the point of why licensing is critical – not just retail licensing but also wholesale licensing. Those product flows can be tracked, and there can be compliance mechanisms within the trade to ensure any lawfully supplied products are not going to illicit retailers and illicit retailers are shut down.

Mathew HILAKARI: In terms of that tracking and licensing – I will come back to licensing in a moment – what do you see as some important elements of a tracking regime? And are there places that you think do this well and have best practice?

BRITISH AMERICAN TOBACCO AUSTRALIA: I think, as the committee may have heard earlier this morning, we certainly see Queensland and the legislation that they introduced at the end of last year – I believe it takes effect from 1 September – as a good-practice model for the licensing framework where they do have retail and wholesale licensing. They do have effective measures in terms of noncompliance with packaging, graphic health warnings and excise avoided as well as the powers of authorised officers and infringement notices. With regard to the broader picture – and I touched on it with my opening statement – we do believe that the current market, being over half of illicit tobacco and e-cigarette products, is at a point where we need law enforcement to be the compliance and the operator. I do acknowledge that Victoria Police have outlined that they understand that their involvement should be focused around organised crime. However, it is prolific. And I think I have heard previous law enforcement statements stating that what is currently happening has taken a public health issue and turned it into a crime issue, so law enforcement would be the natural fit for that compliance. But then again, I acknowledge that South Australia have recently announced they are moving to a liquor-licensing-agency type of regulatory model, which we would certainly see as a good step forward as well in that respect.

Mathew HILAKARI: I appreciate all that, but I might just take you back to tracking. You obviously track your own products within Australia from the point of import all the way through to the distribution to your suppliers and onward sales. Do you support a stronger tracking regime that ensures that suppliers to the public can demonstrate that they are supplying only legitimate products?

BRITISH AMERICAN TOBACCO AUSTRALIA: We would certainly support supply chain tracking. I think in certain states, such as the Northern Territory, data has to be provided by manufacturers in terms of the lawful supply going into that jurisdiction. We have long called for a national supply chain approach from the Commonwealth government, which would be consistent and would be able to address cross-jurisdictional flows. However, we certainly feel and believe in the first instance with Victoria, retail compliance needs to be the number one priority, with licensing of fit and proper persons. Then once that is established there is the opportunity to build upon that and continue to address through legislative measures and enforcement measures the illicit market.

Mathew HILAKARI: I will go back to your previous answer – and thank you for outlining some of your preferred examples around Queensland. So the preferred licensing regime is a standalone compliance authority supported by Victoria Police – is that the evidence that you are putting forward?

BRITISH AMERICAN TOBACCO AUSTRALIA: Yes – a co-regulatory model where police are certainly involved as authorised officers and are undertaking that enforcement work. There are good models with liquor licensing available. South Australia seems to be heading down that pathway as well, and we would certainly urge the Victorian government to consider those.

Mathew HILAKARI: Beyond a fit and proper person test, what are some of the other elements that you see as important to the licensing regime?

BRITISH AMERICAN TOBACCO AUSTRALIA: I think it is as well the legislative framework that permits efficient enforcement – so it is making sure that there are penalties for the whole range of measures of noncompliance, whether that is plain packaging or graphic health warnings. I acknowledge that legislation is from the federal government, but having mechanisms in the state legislation to enforce that would be a very solid step forward, making sure that with the low-tax products there are measures able to address that as well and having infringement notices and the ability to shut down illegal retail sites. Queensland, for example, have introduced another Bill in their state Parliament that increases penalties, that provides authorities with the power to close illegal premises and clarifies physical locations. We are seeing the illegal market more and more so store noncompliant unregulated products in vehicles and sheds and so expanding out to not just the retail premises but to the broader supply chain. We would certainly also support measures to ensure – and I think it is something that Victoria Police have outlined previously around landlords as well – that if landlords are identified to have retail tenancy agreements with illicit stores, they should certainly be terminated. So it is looking at the whole network of how the illegal market operates and making sure that there are legislative enforcement measures there targeting everything within that universe.

Mathew HILAKARI: Thank you for that answer. I am just going to take you to some other areas quickly. Has British American Tobacco undertaken, either yourself or at a group level, any research on taxes versus black market – so the increase in taxes or decrease in taxes and costs of legitimate cigarettes versus the increase in the black market – and if so, could you provide that to the committee?

BRITISH AMERICAN TOBACCO AUSTRALIA: Yes, of course. I believe it was last year we commissioned a UK group Independent Economics, and I think formerly they were called Llewellyn economics. We did modelling in terms of the maximum revenue point, the decreasing returns from excise, so we can provide that to the committee. That was attached to our federal budget submissions. We also have the joint industry FTI report. We certainly do have modelling with regard to excise, and I am happy to provide all of that to the committee.

Mathew HILAKARI: Thank you. That is appreciated. I understand that you are not involved in the sale of these in Australia, but just a few questions on these: does British American Tobacco Australia view pouches as safe?

BRITISH AMERICAN TOBACCO AUSTRALIA: I thank the committee for the question. Again it goes back to – nicotine products are not risk free, which is why our position remains that if you do not use them, you should not start. We would view nicotine pouches in the same category as that.

Mathew HILAKARI: Okay. And would you consider the same for vapes as well?

BRITISH AMERICAN TOBACCO AUSTRALIA: That is correct.

Mathew HILAKARI: Thank you. That is my questions.

The CHAIR: Thank you, Mr Hilakari. Witness 1, thank you very much for taking the time to appear before the committee today. 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 break before recommencing the hearing at 12:30 pm. I declare this hearing adjourned.

Witness withdrew.