

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*)

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.

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 Associate Professor Becky Freeman from the School of Public Health at the University of Sydney. Ms Freeman, I am going to 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.

Becky FREEMAN: Thank you so much for inviting me. I hope I am familiar to most of you. I think I was one of your first guests when these hearings started off, when I appeared with Simon Chapman, so I will keep my opening remarks very brief. I just want to say that I declare that I have no conflicts of interest with the tobacco industry. I do not accept any funding or finance, direct or indirect, from anyone who manufactures or sells tobacco products. I think I was asked here primarily today as a follow-up to answer questions about tobacco licensing and just to say that tobacco licensing is a key policy priority in terms of controlling the supply of tobacco products. There are a few, obviously, Australian states that do not yet have a licensing system in place, and I view this as a key priority for tobacco control. I am happy to take any questions. Thank you.

The CHAIR: Thank you. We are going to go straight to Mr Galea.

Michael GALEA: Thank you, Chair. Thank you for joining us again, Associate Professor. You have cited Tasmania as an effective example of tobacco regulation. Given that we are – and it is really good to have you back – in this process of looking at a model for Victoria, can you please talk to me briefly about what are the key features of the Tasmanian model for regulation that make it work and, if it should be used as an example, what lessons we should take from it.

Becky FREEMAN: Great. Thank you so much. Yes, I think Tasmania has what some people would deem an expensive licensing system. The higher fee though I think reflects the fact that it requires enforcement, that it should reflect the cost of enforcing such a policy, so it is not some sort of cash grab. It is to be able to fund an effective enforcement program, so that is number one, that it is cost recovery in a real sense. The other is that it is renewed annually, so this gives an opportunity for retailers to, one, consider whether they should renew or not. It is not one of those things that they forget about for three to five years. It is an annual fee. My PhD student did a research project where for all the retailers in an area of Hobart that had their licence coming up for renewal, a health promotion officer from the cancer council went and visited them and asked them, 'Have you thought about maybe not renewing? There are some things you could sell instead. You don't have to sell tobacco products. Would you be open to that?' So it gives an opportunity for intervention as well.

Then the other thing that the licensing system does is require quite extensive reporting about where the products are sourced from, how much is sold, what is the offering, the brands, the prices they are being sold at. To me this is absolutely crucial information in terms of being able to say, 'Okay, we have these small retailers in this area, and one is reporting that they're hardly selling any tobacco products at all. But the ones right down the road from them are selling 10, 11, 12 times the volume.' That could be a really easy red flag to say, 'Are they potentially selling counterfeit cigarettes; are they selling illicit market cigarettes?' It is also a way of saying we have got these areas where we maybe need to inject more health education resources and better enforcement because the volume of tobacco sales is so much higher in those areas. Those three pillars of the Tasmanian system I think should make up the base of any licensing system. Then of course internationally you do have all kinds of other requirements you can put on a licence. But I imagine you will have more questions about that, so I can answer questions about that after.

Michael GALEA: Thank you. Just briefly, the cost factor that you mentioned with Tasmania's system – what are we talking? If you are a small business looking to sell cigarettes, what is the difference in what you pay in Tasmania with that annual fee compared to, whether it is a one-off or other fee, in other states?

Becky FREEMAN: Sure. In Tasmania – I have not checked if it has been indexed for inflation yet – it was around \$1200 the last time I looked at it, which is quite a bit more than for other states and territories.

Michael GALEA: Thank you. You talked about what your PhD student has looked at in and around the Hobart area and the effectiveness of that renewal process and then pausing to stop and reflect on 'Do we continue to sell this?' Firstly, has that been effective? Secondly, has it almost been too effective and driven the market towards illegal operators?

Becky FREEMAN: Right. This pilot study my PhD student ran was a sort of education intervention with retailers to say, 'You know what, you don't have to have a tobacco licence. You don't have to sell these products.' It was completely voluntary and education-based rather than trying to use a sort of stick method. It proved to be surprisingly effective. Now, this was just with small retailers, remember; it was not with the big grocery chains or anything like that. She has had that study published in the really respected *BMJ Tobacco Control*, and I am very happy to forward that to the committee after this so you can see what that intervention looked like.

Michael GALEA: That would be terrific. Thank you.

Becky FREEMAN: No problem.

Michael GALEA: I was going to ask, just to confirm: do the major retailers, the Woolies and Coles of the world, still retail cigarettes in Tasmania?

Becky FREEMAN: They do, yes. In fact I am sure, as you are well aware, that our major grocery chains have the highest volume of sales of tobacco products in this country, so unfortunately it is our fresh food people who are selling tobacco products.

Michael GALEA: Indeed. There is a lot more I would love to ask about this. I will give up my time in just a moment. Just quickly, though, are there any other jurisdictions within Australia that have any good lessons that we should be learning, or should all eyes be on Tasmania?

Becky FREEMAN: WA also has a key feature of their particular system that I think is worthy of mentioning. It is a public database as well, so you do not have to submit a freedom-of-information request to be able to see that information. It is a publicly accessible database so you can see where the tobacco retailers are and where they are licensed. As a researcher that is very handy, being able to do tobacco control research. But also for members of the public it can be like, 'Oh, why does it seem like there are all of a sudden 30 tobacco retailers in my neighbourhood?' You can actually look at that data and see if that is true. Having a licensing system I think is probably the biggest lesson here. It is unfortunate that our two most populous states, New South Wales and Victoria, do not yet have a licensing system. If we are going to get a handle on both managing the illicit market and also if we are going to use supply side measures – so measures that restrict how readily accessible these products are – we need to have a licensing system in place.

Michael GALEA: Thank you. Sorry, I will just ask one more question if I may.

Becky FREEMAN: Sure.

Michael GALEA: When did Tasmania's licensing system get implemented, and are you aware if there were any major challenges that were experienced politically at the time?

Becky FREEMAN: I do not know the date, I am sorry. I can certainly take that and follow up with you. I do not want to give something off the top of my head that is wrong.

Michael GALEA: No worries at all. Thank you.

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

Bev McARTHUR: Thank you, Chair. Thank you, Professor. Tell me, the Tasmanian licensing system – has it had any impact on the illicit cigarette and vaping activities?

Becky FREEMAN: Well, for vaping we will not know yet. Obviously the new vaping laws have just been passed. As you know, as of 1 July vapes can only be sold in pharmacies with a prescription, and then as of 1 October they will be behind the counter. In Tasmania you can have a licence to sell non-nicotine vapes. Obviously nicotine vapes have never been legal. It is one of the few states where we actually have data about how many retailers said they were selling e-cigarettes versus how many you could just walk down the street and see were selling illicit products. Again my PhD student – she is very productive; she is currently on leave unfortunately. This is her next study. She is analysing that data to see just how many retailers actually disclosed and had a proper licence to sell e-cigarettes. But as we know, most of the e-cigarettes being sold were illicit, because they contained nicotine. The illicit tobacco trade in Tasmania is not as significant as it is in Victoria, so I would not want to be making some sort of judgement about if that has managed the process or not. I think that would be a bit off base for me to say that.

Bev McARTHUR: What is your view on pharmacists becoming tobacconists?

Becky FREEMAN: Tobacconists? Absolutely not. I would not want to see cigarettes sold in pharmacies at all.

Bev McARTHUR: Well, vaping products?

Becky FREEMAN: Oh, vaping products. Well, vaping products do not contain tobacco, and certainly the vaping products that will be available behind the counter can be sourced from pharmaceutical companies. They do not need to be sourced from the tobacco industry, and I would find it incredibly ethically and morally distressing if pharmacists decided they wanted to partner with the likes of Philip Morris or British American Tobacco and stock their products when there are viable alternatives available.

Bev McARTHUR: Well, that is the proposal of the federal government.

Becky FREEMAN: No, it is not. The products that can be sold behind the counter do not have to be sourced from the tobacco industry. They can be sourced from pharmaceutical companies that also manufacture vaping products that will meet the quality standards.

Bev McARTHUR: But they do not – they have not met the Therapeutic Goods Administration standards.

Becky FREEMAN: Yes. You saw pharmaceutical companies appear at the Senate hearing. There are absolutely companies who are not tobacco companies who are manufacturing these products and will have them available.

Bev McARTHUR: Well, we have just heard from the pharmacy guild to say that they do not agree with the proposal of the federal government to become effectively retailers of these products.

Becky FREEMAN: Yes, and I think the Pharmaceutical Society of Australia, who represents the profession, has taken a different view. I would suggest any individual pharmacy that does not want to stock these products or sell them for whatever reason is not being forced to.

Bev McARTHUR: Is not being – sorry?

Becky FREEMAN: Is not being forced to – you are not required.

Bev McARTHUR: Yes, yes. They are not being forced to. Okay, thank you.

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

Meng Heang TAK: Thank you, Chair. Thank you. In Tasmania, who enforces the licensing scheme?

Becky FREEMAN: That is equivalent to the state health department, so the Tasmanian state health department.

Meng Heang TAK: Okay. So does the local government have any role in that?

Becky FREEMAN: The local government? No, this is a state-based licensing system. Obviously most of the licensing systems internationally actually are operated at a local government level. A lot of the examples coming out of the United States, for example, are local government initiatives, and I know that there are also some differences between states in Australia around some local governments having different smoke-free environment laws, for example. So here in my home state of New South Wales some local governments do not allow smoking in the outdoor dining or outdoor drinking areas, whereas others do. So there is absolutely scope for local governments to do licensing-type arrangements or zoning-type arrangements as well. That would fit in with their remit.

Meng Heang TAK: Thank you, Professor. Has there been any evidence of reduction in the prevalence of tobacco and vaping product use, associated harm and the illicit market since the introduction of the Tasmanian scheme?

Becky FREEMAN: Right. This is a really difficult one because the Tasmanian scheme does not have any requirement to reduce the number of retailers. So because tobacco retailing is so incredibly ubiquitous – and it still is in Tasmania as well – we have not seen a meaningful enough drop in the number of retailers selling to be able to say, ‘Aha, this has impacted on smoking rates.’

Internationally you have started to see this make a meaningful difference in terms of the density of retailers because the licensing system does not allow, for example, shops that sell tobacco products to be within a certain distance of schools, or does not allow another shop to open if the density of shops in that area has already reached a maximum. So you can get that interim outcome of saying the volume of shops has decreased to a point where it is measurable, and then of course the long-term impact of that would be decreased smoking rates. But no, I cannot point to a study that has done that yet.

In New Zealand there was a massive push to reduce the number of retailers for the entire country to 600, and that had passed. So that is only 600 retailers – I think I have about 600 retailers in my neighbourhood alone – and it had been modelled by researchers that that would have an impact on actual smoking rates. Unfortunately, when the government in the latest election in New Zealand changed over, that law was repealed and is no longer going ahead, but that was going to be our first real-world example of what can happen if you actually meaningfully and dramatically reduce the number of retailers that can sell tobacco products.

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

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

Aiv PUGLIELLI: Thank you, Chair. Good afternoon. We were speaking before about data, and you referenced the WA public database and how they are recording all that information. In your view what is the best practice approach to ensuring we are capturing data accurately as new laws come into place and as the access patterns of vapes across the community perhaps become more clear? What is your view?

Becky FREEMAN: I will put my vices on the table right now: I am a researcher, so to me data is everything. Without it, it is just stories, and while stories are great, we actually need data to know what is happening. I think data should always be open and transparent, particularly when you are selling such a deadly and addictive drug, essentially, or a deadly and addictive product. We should know where it is being sold, who it is being sold to and how much of it is being sold, and I think the nice thing about a licensing system with a fee and reporting requirements is that data can actually be tracked. But there is no point in tracking data if it is not shared or if it is not analysed or nothing meaningful is done with it. Data for data’s sake is a waste of everyone’s time. Understanding which neighbourhoods have a high concentration of retailers and which neighbourhoods are selling a lot more tobacco products than others can help us tailor not only our tobacco control initiatives but also enforcement action and make the difficult job that enforcement officers and police officers have easier by having data to back that up.

Aiv PUGLIELLI: Thank you. In terms of the interpretation of data – and we have heard a whole lot of different datasets and evidence put forward to this committee over a lengthy period.

Becky FREEMAN: I am sure you have.

Aiv PUGLIELLI: We have heard from individuals who have claimed that international jurisdictions – I think New Zealand was referenced today – where they have sought to regulate their retail vaping markets have seen a decline, in their words, of young people using vapes over, say, the last 30-day period, but then obviously in your submission concerning Canada you have stated there has been an increase. Given your sources are from the Canadian context, would you say that perhaps this is a discrepancy in terms of the interpretation of data, or what else could it be?

Becky FREEMAN: I think there are some interests at play here that try to suggest that a really loose approach to vape regulation – for example, allowing flavours to be sold alongside other consumer goods like bread, milk and cheese – somehow is of massive health benefit and that if Australia does not do that we are going to miss out on a massive health benefit. Unfortunately, in those countries like New Zealand and Canada, where vapes are a lot more loosely regulated than we have here, you see much higher rates of young people using vapes and you see much higher rates of young people using vapes on a daily basis – so a clear sign of addiction, right?

If you look at smoking rates between these three countries, so Australia, Canada and New Zealand, they are all quite similar. For vaping, even in Australia we have quite high vaping rates by my research and by the national data for a product that is illicit, but in countries like Canada and New Zealand it is even higher. The notion that you require vapes to be readily available in order to get smoking rates low is just not true. Certainly the UK is a really good example that really pushed vapes as a smoking cessation tool that should be made readily available for adults and promoted to adults to quit smoking. They have had the same impact on young people as well, with young people increasingly using these products to the point where the UK are now also considering legislation to ban disposable vapes to make sure that they are not available. Just as we have done here in Australia, disposable vapes will not be part of the over-the-counter model.

Aiv PUGLIELLI: Thank you. Thank you, Chair.

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

Mathew HILAKARI: Thank you. Professor, we heard a little bit about Tasmania and the tracking of sales earlier. I am just hoping you could outline some key elements of the Tasmanian model, but more importantly, is that the best model? Does somewhere else do it better, and if so, what are their key elements?

Becky FREEMAN: I think there are other places in the world we can look to learn from. In particular, there is a really good example from Philadelphia in the US. Obviously, as I was talking about earlier, this is more about the local-level regulation, but Philadelphia is a very big city. They are one of the few licensing systems that also introduced requirements for their retailing system. Essentially, they put restrictions on density and by location to schools, and then they looked at whether there were fewer or more or the same level of stores in place. They compared this to other cities that were comparable, and tobacco retail licensing strategies had an effect of reducing the availability of tobacco and tobacco marketing. It lessened the economic disparities of tobacco retailer density, because we know that there are more tobacco retailers in lower income neighbourhoods – that is true in Tasmania as well – and it decreased the number of tobacco outlets near schools.

What is important about those sorts of figures is that we know obviously that cigarettes being more available in lower income neighbourhoods drives their use and availability. We know that smoking rates are higher in lower income neighbourhoods. We also know that children who walk to and from school or catch buses to and from school are more likely to purchase tobacco products from those shops, so not having those shops available helps to limit the access of children to those products.

Those are some of the things you can include in a retail licensing system rather than just having a fee and having to have someone, like the owner of the store, sign the licensing agreement or renew it annually. Those are quite administrative requirements in my view, but then you can have these other requirements that are outcome based or principle driven.

The other sorts of requirements that you see for licensing systems are banning things like vending machines. I understand there are no vending machines in Tasmania, but they are not actually banned as part of the licensing system. That is something that could be included. You could also have a licensing system that promotes other economic alternatives. This was in place in San Francisco, for example: shops that decided that they did not

want to have a tobacco licence were eligible for grants and support to stock healthy fruits and vegetables. To me this seems particularly interesting for maybe rural and remote communities that do have food deserts where fresh food is not as available. It is a way of banning sales that I consider advertising and promotion, and these are well covered in Australia already, things like having mobile sellers. We do not, for example, allow cigarette girls to go into nightclubs and pubs anymore and walk around selling cigarettes, but in jurisdictions that do not have that, a licence could be that sort of thing.

Another thing South Australia do, for example, as part of their licensing is that you are not allowed to have home delivery of cigarettes. This means that when you are ordering your online groceries you cannot just say, 'Yes, I'll stick a couple of packs of cigarettes on there as well,' so home delivery is not permitted as a part of the licensing system there. Other things are having tobacco retail outlets within a minimum distance of other retail outlets – that is, density – and certain specific retail outlets cannot sell. The US has had what I would call a natural experiment, in that – and you will never believe this – pharmacies are not banned from selling cigarettes in the US. They are perfectly able to sell cigarettes. But you have had a few pharmacy chains in the US decide independently that they no longer want to sell tobacco products. Because pharmacies, just like here really, are so ubiquitous and have high density, that has had an impact on the number of retailers who sell tobacco products, keeping it to certain types of retailers.

In France, for example, cigarettes are primarily sold at tobacconists only. They are not sold in all kinds of different shops. There are obviously pros and cons to that certain approach as well. Capping the amount of tobacco allowed for purchase is something that has been raised. That has not really been implemented anywhere. Reducing the hours or days over which tobacco could be sold – so this is kind of like alcohol licensing, a very similar sort of requirement. And then reducing what types of tobacco products are available – this is in place in Australia at a national level already. For example, we do not permit oral tobacco products into this country to be sold at all, so smokeless tobacco products. Just one more area that –

Mathew HILAKARI: I might just take you to another area. I apologise, we are running out of time.

Becky FREEMAN: Sure, I understand.

Mathew HILAKARI: The sales of tobacco in Tasmania prior to and post the licensing system coming in – and I am happy if you take this one on notice – I would be interested to understand what the volume being sold was before and after and also your reflections on what that actually meant. For example, it might be a minimisation or an expansion of the black market, because the sales only reflect those ones that are legitimate sales, so I am keen to understand that and happy if you take that one on notice. Just in terms of data I absolutely agree with you around shared data and useful data; they are really important elements. Have you got examples of – and again, happy on notice – where this has been effectively deployed for harm minimisation and community health after the fact? There is always that risk of collecting data just for no particular purpose, but I am really keen to understand those places where it has been deployed, examples of places where they do it well and where they do it poorly and what lessons we might be able to learn from that.

Becky FREEMAN: Yes, if I can take those on notice just so I can give you linked examples to evidence and stuff, I am very happy to do that.

Mathew HILAKARI: That would be brilliant. Works for everyone, I think.

The CHAIR: Thank you, Mr Hilakari. Ms Freeman, thank you so much for taking the time to appear before the committee again this afternoon. 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 going to take a very short break before recommencing this hearing.

Witness withdrew.