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**australian  
taxpayers'  
alliance**  
fighting tax, regulation & waste

**5 October 2018**

**Select Committee on Personal Choice and Community Safety  
Western Australia Legislative Council**

**Joint Submission of the Australian Taxpayers' Alliance (ATA)  
and MyChoice (MC)**

**Background**

1. We thank the WA Legislative Council for the opportunity to provide the following comments and evidence on personal choice and community safety, including the economic and social impact of measures introduced in WA pertaining to the restriction of personal choice for the individual's 'own good'.
2. The Australian Taxpayers Alliance (ATA) is a 75,000+ member grassroots public advocacy group that stands for individual freedom, minimising government waste and rolling back burdensome regulations with perverse or negative outcomes. MyChoice is an autonomous affiliate organisation of the ATA which advocates for informed consumer choice and evidence-based public health and community safety policy.
3. Australia's regulatory state at both a state and federal government level is plagued by undue restrictions placed upon individuals exercising their own freedom of choice. While ATA and MC recognise the need for appropriate controls in the interest of protecting individuals and the community, it is submitted that this principle does not justify undue restrictions on informed adult citizens in the name of securing their 'own good'. Not only are such restrictions immoral insofar as they unduly restrict an individual's ability to exercise their

own free will and autonomy, they are also often responsible for perverse outcomes, including the undermining of the individual's personal interests, health and even community safety. For example, draconian regulations which restrict the use of e-cigarettes or 'vapes' are denying smokers access to a proven (at least) 95% less harmful alternative for satiating their nicotine addiction, thereby causing serious damage to public health and eviscerating the household budgets of poor and middle-class WA smokers through regressive tobacco taxes. It is submitted that WA should embrace international best practice of jurisdictions such as the UK by facilitating smokers' access to these products within an appropriate regulatory framework that promotes product safety standards and mitigates potential harms, including restrictions on up-take by minors and non-smokers. Similarly, draconian laws which mandate the wearing of bike helmets under the good intention of promoting individual safety, have resulted in the discouragement of individuals to engage in this healthy and carbon footprint-reducing form of transport. Meanwhile, comparable international jurisdictions benefit significantly from a more permissive approach which grants individuals the choice of wearing these helmets.

4. It is further submitted that informed individuals are best placed to make decisions on their own behalf rather than having these decisions made by bureaucrats or politicians. In many cases, the concern of policy makers for individual and community safety can result in a societal shift away from the importance of personal responsibility, and can ironically even help perpetuate undesirable social behaviours through promoting the mentality that it is the government's job to look after people and protect them from the consequences of and responsibility for their own actions. The overwhelming scientific and scholarly evidence, including comparisons to international jurisdictions, strongly supports this proposition. For example, restrictions on the sale and supply of liquor such as an unduly onerous licensing regime for licensed establishments, draconian restrictions on trading hours and some of the world's highest alcohol taxes exist in Australia. Yet the evidence shows that alcohol-fuelled violence is paradoxically rising despite falling consumption levels of alcohol, according to the University of New South Wales National Drug & Alcohol Research Centre.<sup>1</sup> Similarly, evidence from social anthropology indicates that restrictive drinking cultures such as those of Western Europe which establish a cultural link between drinking and violence and enforce restrictive laws that enforce this perception, face greater rates of irresponsible drinking and alcohol-fuelled violence than more permissive, integrated drinking cultures such as those of

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<sup>1</sup> UNSW National Drug & Alcohol Research Centre, "Alcohol-fuelled violence is on the rise despite falling consumption" Accessed: 5 October 2018. <https://ndarc.med.unsw.edu.au/blog/alcohol-fuelled-violence-rise-despite-falling-consumption>

the Mediterranean countries.<sup>2</sup> Similarly, while mandatory bike helmet laws are credited with a decline in cycling-related road fatalities, the evidence from WA outlined in the second section of this submission indicates that this decline is consistent with the long-term trend in the data preceding the introduction of helmets which showed a decline in road fatalities for all road users due to a number of other unrelated factors. Notably, the evidence concerning mandatory bike helmet laws in New Zealand shows that cycling-related injuries have actually increased in that country on a per-hours-cycled basis since the introduction of mandatory bike helmet laws. Perversely, these questionable safety benefits have come at the cost of a decline in the use of cycling as a means of transport and recreation, thereby harming community health/fitness and avoiding beneficial environmental impacts of choosing cycling over other modes of transport.

5. It is also submitted that the economic impacts of the nanny state restrictions outlined above have caused and continue to cause substantial damage to WA businesses, especially small businesses which face greater difficulty in coping with the costs and regulatory burdens imposed upon them than their larger, often multinational competitors. It is submitted that these overtly onerous and immoral regulatory burdens and costs are anti-small business, result in lost jobs and undermine employment opportunities, especially in innovative grassroots industries such as vape shops and service industries which employ a large proportion of youths including the hospitality and liquor service fields.
6. These issues are of interest to our members who include individuals and small businesspeople whose taxes support a regulatory state that undermines their personal choice without delivering worthwhile positive outcomes for community safety.
7. The following submission will argue for the repeal and/or reduction of the abovementioned laws and regulations which impose undue social and economic burdens upon WA taxpayers, businesses and individuals. It will also present evidence-backed alternative models which support community safety and mitigate harms while upholding individual choice and personal responsibility in order to ensure a safer, more responsible and prosperous society to the benefit of Western Australia.

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<sup>2</sup> Kate Fox (Social Anthropologist), BBC Viewpoint 12 October 2011 <http://www.bbc.com/news/magazine-15265317> Accessed: 5 October 2018.

**Risk-reduction products such as e-cigarettes, e-liquids, and heat-not-burn tobacco products, including any impact on the wellbeing, enjoyment and finances of users and non-users;**

8. Draconian restrictions on the use of e-cigarettes or ‘vapes’ exist in WA. In many ways, these restrictions exceed those placed upon the sale and use of tobacco cigarettes which are at least 95% more harmful and legal for sale despite the illegality of nicotine-loaded vapes. Under the *Medicines and Poisons Act 2014*, e-cigarette users can be fined up to a whopping \$45,000 for vaping nicotine despite nicotine vapes being a proven safer alternative to legal tobacco cigarettes.<sup>3</sup> This law is hence not only contrary to personal choice, but to individual and community safety as well as it encourages smokers to use more dangerous products and punishes those who make a positive decision for their health.
9. Furthermore, outdated laws in WA which make it illegal to sell a product which ‘resembles’ a tobacco cigarette, technically capture e-cigarettes,<sup>4</sup> thereby rendering even non-nicotine vapes illegal for sale in WA despite their legality elsewhere in the country, their lack of nicotine and the legality of selling products containing actual tobacco. This is a perverse law which not only carries the same negative and perverse public health outcomes as those outlined in point 8, but has also effectively eliminated any vape shop industry in WA. Vape shops are independent, small businesses whereby the economic opportunity cost of the perverse current legal paradigm is a loss of employment, a loss of tax revenue for the government through company tax and GST on product sales, and the loss of an innovative industry which exists in other Australian states.
10. Although the use of non-nicotine vapes acquired elsewhere in Australia or from overseas is not illegal in WA, it is submitted that fines and penalties levied on nicotine vaping or vapes containing nicotine liquid must be abolished in the interest of both community/individual safety and personal choice as they are a proven tobacco harm minimisation measure which aids in smoking cessation.
11. Failure to facilitate smokers’ access to vapes also connotes a significant financial burden, especially for those on lower incomes. This is because tobacco excise makes Australia home

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<sup>3</sup> Cathy O’Leary, “WA considers new vaping laws with hefty fines” *news.com.au* 20 Feb 2018. <https://www.news.com.au/national/western-australia/wa-considers-new-vaping-laws-with-hefty-fines/news-story/e4c1dc90eaf9b4f7c0d5ca330d16ae2a>

<sup>4</sup> *Ibid.*

to the world's most expensive cigarettes,<sup>5</sup> whereby these taxes are regressive as poor smokers are less likely to quit,<sup>6</sup> less sensitive to excise hikes,<sup>7</sup> and more likely to smoke due to stress or depression.<sup>8</sup> As poorer smokers are unable to satiate their nicotine cravings or reduce tobacco-related harms through transitioning to vapes, they are continually subject to tobacco excise given the addictive nature of tobacco which renders it a relatively price inelastic product. A greater chunk of their family budget is hence taken from them, whereby they are likely to sacrifice essential expenditures such as food in order to afford to satiate their cravings.<sup>9</sup>

### **Tobacco Harm Reduction**

12. The importance of abolishing these laws and improving the ability of smokers to access these safer products is supported by the public health and economic ill impacts of smoking. According to the Australian Cancer Council, two out of every three deaths in long-term smokers can be directly attributed to smoking, and that smoking is responsible for approximately 20% of Australia's cancer disease burden.<sup>10</sup> Smoking directly causes the premature deaths of 19,000 Australians every year and costs Australia an estimated \$31.5 billion a year in health, social and economic costs.<sup>11</sup> 77.2% of these costs are 'intangible' and although less than 8% of the tangible costs are borne by the public sector, this is still a considerable figure as it places a \$1.5 billion burden on Federal and State budget outlays every year.<sup>12</sup> People from low socioeconomic backgrounds, the unemployed, and those living in outer, rural and regional areas are overrepresented in smoking statistics.<sup>13</sup> Aboriginal and Torres Strait Islanders (ATSI) are also disproportionately likely to be smokers, as are

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<sup>5</sup> Paul Colgan, "It's Official: Australia is the most expensive country in the world for smokes and a few beers" *Business Insider* 24 May 2016. <https://www.businessinsider.com.au/its-official-australia-is-the-most-expensive-country-in-the-world-for-smokes-and-a-few-beers-2016-5>

<sup>6</sup> Kendzor, D. E., Businelle, M. S., Costello, T. J., Castro, Y., Reitzel, L. R., Cofta-Woerpel, L. M., ... & Greisinger, A. J. (2010). Financial strain and smoking cessation among racially/ethnically diverse smokers. *American journal of public health, 100*(4), 702-706.

<sup>7</sup> Peretti-Watel, P., and Constance, J.. "It's all we got left". Why poor smokers are less sensitive to cigarette price increases." *International journal of environmental research and public health* 6.2 (2009): 608-621.

<sup>8</sup> Remler, Dahlia K. "Poor smokers, poor quitters, and cigarette tax regressivity." *American Journal of Public Health* 94.2 (2004): 225-229.

<sup>9</sup> Hirono, K. T., & Smith, K. E. (2017). Australia's \$40 per pack cigarette tax plans: the need to consider equity. *Tobacco control*. <http://tobaccocontrol.bmj.com/content/early/2017/04/07/tobaccocontrol-2016-053608?paperoc=>

<sup>10</sup> Cancer Council Website, 'Smoking' 8 August 2017. <https://www.cancer.org.au/preventing-cancer/smoking-and-tobacco/smoking.html>

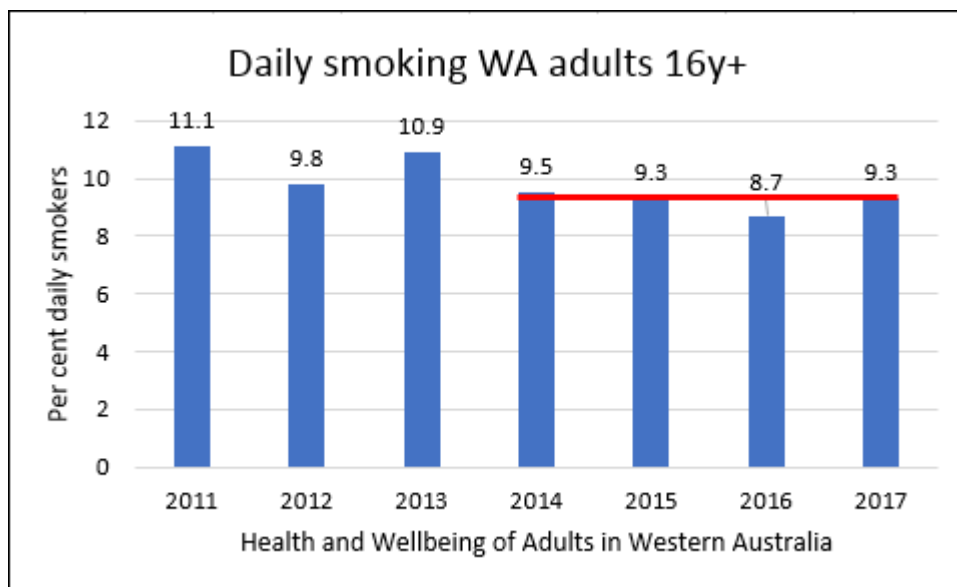
<sup>11</sup> Department of Health, (2017) Tobacco Control Key Facts and Figures. [\[link\]](#); Australian Institute of Health and Welfare 2016. Australian Burden of Disease Study: Impact and causes of illness and death in Australia 2011. Australian Burden of Disease Study series no. 3. BOD4. Canberra: AIHW. [\[link\]](#)

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

LGBTIQ+ identifying individuals.<sup>14</sup> One in three individuals suffering from mental illness are smokers and these individuals also experience lower quitting rates than the general population, with smoking identified as the major contributor to the health gap between the mentally ill and the general population.<sup>15</sup>

13. The scourge of smoking and tobacco-related harms is especially of concern to Western Australia. Adult daily smoking rates in WA have stalled over the last 4 years according to the official annual Health and Wellbeing Survey of Adult surveys (16y+).<sup>16</sup>



14. Tobacco harm reduction is the process of minimising or eliminating the harms inflicted upon smokers by tobacco. It has already been employed in other fields such as road safety and intravenous drug use. Government programs have dealt with high-risk behaviours through education, strategies and products that could facilitate change to lower-risk behaviour. While the ultimate goal of smokefree public health strategies is to encourage the complete cessation of smoking, a large preponderance of smokers are unable or unwilling to quit and remain at high risk of smoking-related fatalities or diseases. ‘Cold turkey’ is the most desirable method of smoking cessation, the method has a low success rate.<sup>17</sup> Most of those attempting to quit

<sup>14</sup> Ibid.

<sup>15</sup> Mendelsohn, Colin P., Dianne P. Kirby, and David J. Castle. "Smoking and mental illness. An update for psychiatrists." *Australasian Psychiatry* 23.1 (2015): 37-43. [\[link\]](#)

<sup>16</sup> Government of Western Australia Department of Health, Western Australia Health and Wellbeing Surveillance System, 1 October 2018. <http://ww2.health.wa.gov.au/Reports-and-publications/Population-surveys>

<sup>17</sup> Hyland, Andrew, et al. "Predictors of cessation in a cohort of current and former smokers followed over 13 years." *Nicotine & Tobacco Research* 6.Suppl 3 (2004): S363-S369. [https://www.researchgate.net/profile/Joseph\\_Bauer/publication/7935633\\_Predictors\\_of\\_cessation\\_in\\_a\\_cohort\\_of\\_current\\_and\\_former\\_smokers\\_followed\\_over\\_13\\_years](https://www.researchgate.net/profile/Joseph_Bauer/publication/7935633_Predictors_of_cessation_in_a_cohort_of_current_and_former_smokers_followed_over_13_years)

smoking completely, experience relapses and many struggle for the rest of their lives to quit despite *bona fide* intentions and persistent attempts to do so.<sup>18</sup> Tobacco control experts have understood this problem for decades, resulting in the development and approval of ‘Nicotine Replacement Therapy’ (NRT). These products (including patches and gums) provide smokers with controlled doses of nicotine and are intended to ease the smokers’ transition out of smoking by targeting their nicotine withdrawals and cravings.<sup>19</sup>

15. Tobacco harm reduction (THR) is already mandated according to Australia’s international treaty commitments and Australia’s tobacco control policies. The THR is an instrumental aspect of Articles 1(d) and 1(f) of the World Health Organisation’s Framework Convention on Tobacco Control (FCTC) treaty. Australia is a signatory to the FCTC and is thus obliged to introduce various THR strategies in addition to other tobacco control measures. The 2012-18 National Tobacco Strategy has become one of the objectives of the THR as it aims to reduce harm associated with continuing use of tobacco and nicotine products’.<sup>20</sup>
16. As noted above, these products have existed on the market for decades and are sold as consumer goods to individuals as young as 13. Some of these products are even covered under Australia’s Pharmaceutical Benefits Scheme.

### **Vaping with nicotine reduces tobacco-related harms**

17. Vapes (supported by an appropriate regulatory framework) have been significantly linked to harm reduction. A long-term, cross-sectional study recently found that transitioning from cigarettes to nicotine vapes **drastically lowers the build-up of carcinogens and tar in the bodies of smokers.**<sup>21</sup>
18. The UK Royal College of Physicians has found that vapes are less harmful than conventional smoking of combustible tobacco as they **virtually eliminate a smoker’s exposure to carcinogens found in tobacco.**<sup>22</sup> For example, the two most dangerous carcinogens in

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[ort of current and former smokers followed over 13 years/links/02bfe5113e9ae022b7000000/Predictors-of-cessation-in-a-cohort-of-current-and-former-smokers-followed-over-13-years.pdf](#)

<sup>18</sup> Ibid.

<sup>19</sup> Molyneux, A. (2004). Nicotine replacement therapy. *Bmj*, 328(7437), 454-456. [\[link\]](#)

<sup>20</sup> [http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/publishing.nsf/Content/D4E3727950BDBAE4CA257AE70003730C/\\$File/National%20Tobacco%20Strategy%202012-2018.pdf](http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/publishing.nsf/Content/D4E3727950BDBAE4CA257AE70003730C/$File/National%20Tobacco%20Strategy%202012-2018.pdf) Part 5.2, page 11

<sup>21</sup> Shahab L, Goniewicz ML, Blount BC, Brown J, McNeill A, Alwis KU, et al. Nicotine, Carcinogen, and Toxin Exposure in Long-Term E-Cigarette and Nicotine Replacement Therapy Users: A Cross-sectional Study. *Ann Intern Med*. [Epub ahead of print 7 February 2017] doi: 10.7326/M16-1107 [\[link\]](#)

<sup>22</sup> Royal College of Physicians (London), Nicotine without smoke: tobacco harm reduction. 28 April 2016. [\[link\]](#)

tobacco smoke: Acrylonitrile and 1,2-butadiene, account for more than three-quarters of the cancer risk from smoking and are not found in vapour at all.<sup>23</sup>

19. Research has also found that nicotine vaping reduces the risk of cardiovascular disease among smokers due to the far lower concentrations of potentially toxic ingredients in vaping solutions than cigarettes.<sup>24</sup>
20. The Royal College of Physicians and Public Health England not only recommend the legalisation of alternative nicotine delivery products including vapes, but advise **doctors to recommend these products to patients who wish to quit smoking**.<sup>25</sup> Nicotine vaping has been endorsed by academics and public health institutions including the UK Centre for Tobacco and Alcohol Studies<sup>26</sup> and the Canadian Institute for Substance Use Research (CISUR).<sup>27</sup>
21. A 2016 study found that **vapes helped users to moderate their nicotine intake**. This is because the use of liquid solutions available in containers with a fixed capacity makes it far easier to estimate and control intake than tobacco leaves or cigarettes.<sup>28</sup>
22. According to Dr. Colin Mendelsohn, tobacco treatment specialist and Conjoint Associate Professor of Public Health and Community Medicine at the University of New South Wales, **smokers suffering from mental illness will also be specially benefited by vapes**.<sup>29</sup> This claim is also supported by the Royal Australia and New Zealand College of Psychiatrists.<sup>30</sup>

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<sup>23</sup> Stephens WE. Comparing the cancer potencies of emissions from vapourised nicotine products with those of tobacco smoke. *Tob Control* 2017 [\[link\]](#)

<sup>24</sup> Benowitz, N. L. (2010). Nicotine addiction. *New England Journal of Medicine*, 362(24), 2295-2303. [\[link\]](#)

<sup>25</sup> UK Government policy paper, "towards a smoke-free generation" 18 July 2017 [\[link\]](#)

\*- The RCP states that vaping is unlikely to represent even 5% (1/20<sup>th</sup>) of the danger of smoking and may be a great deal less.

<sup>26</sup> Britton J, Bogdanovica I, McNeill A, Bauld L. Commentary on WHO report on electronic nicotine delivery systems and electronic non-nicotine delivery systems. UK Centre for Tobacco & Alcohol Studies. 2016.

<sup>27</sup> O'Leary R, MacDonald M, Stockwell T, Reist D. Clearing the Air: A systematic review on the harms and benefits of e-cigarettes and vapour devices. University of Victoria, BC: Centre for Addictions Research of BC. 2017.

<sup>28</sup> Dawkins LE, Kimber CF, Doig M, Feyerabend C, Corcoran O. Self-titration by experienced e-cigarette users: blood nicotine delivery and subjective effects. *Psychopharmacology*. 2016.

<sup>29</sup> [\[link\]](#)

<sup>30</sup> [\[link\]](#)



23. Similarly, WA-based GP Dr. Joe Kosterich notes that several of his patients have weaned themselves off smoking by transitioning to vapes.<sup>31</sup>
24. Unlike second-hand tobacco smoke, **passive or second-hand vaping does not carry material health risks**. This has been confirmed by multiple studies.<sup>32 33 34</sup>
25. Collins & Lapsley estimated that tobacco costs the Australian government \$65 million annually (or \$85 million annually, adjusted for inflation) due to fires.<sup>35</sup> Vapes carry far less fire risk. Legalised nicotine vapes are therefore likely to minimise tobacco-related fire damage which represents an economic cost for governments and private individuals.
26. Public health outcomes globally have substantially improved as a result of vapes. Georgetown University's Comprehensive Cancer Centre estimates a reduction of 21 percent in smoking-attributable deaths and 20 percent in life years lost as a result of use of vapes in people born in 1997 or after, compared to what would have happened if e-cigarettes were not an option.<sup>36</sup> Another study considered the public health impacts of vaping in the US over a 10-year period. It found that even under conservative estimates about the rate of uptake in vaping by smokers and relative harm, it is likely that 6.6 million Americans will avoid premature deaths with 86.7 million fewer life years lost due to vapes.<sup>37</sup> If the study's results are applied to Australia, over half a million premature deaths will be prevented should two out of three smokers here transition to vaping.<sup>38</sup>
27. The most recent evidence to date in August 2018, involved the UK parliament's conclusions that e-cigarettes are substantially less harmful than conventional cigarettes and are a proven

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<sup>31</sup> Cathy O'Leary, "WA considers new vaping laws with hefty fines" *news.com.au* 20 Feb 2018.

<https://www.news.com.au/national/western-australia/wa-considers-new-vaping-laws-with-hefty-fines/news-story/e4c1dc90eaf9b4f7c0d5ca330d16ae2a>

<sup>32</sup> Hall W, Gartner C, Forlini C. Ethical issues raised by a ban on the sale of electronic nicotine devices. *Addiction* 2015; 110:1061–7.

<sup>33</sup> Igor Burstyn, "Peering Through the Mist: Systematic Review of What the Chemistry of Contaminants in Electronic Cigarettes Tells Us About Health Risks," *BMC Public Health* 14 (January 2014).

<sup>34</sup> Royal College of Physicians (London), *Nicotine without smoke: tobacco harm reduction*. 28 April 2016 [\[link\]](#)

<sup>35</sup> Collins, David John, and Helen M. Lapsley. *The costs of tobacco, alcohol and illicit drug abuse to Australian society in 2004/05*. Canberra: Department of Health and Ageing, 2008. [\[link\]](#)

<sup>36</sup> Levy et al, The Application of a Decision-Theoretic Model to Estimate the Public Health Impact of Vaporized Nicotine Product Initiation in the United States. *Nicotine Tob Res* (2016) doi: 10.1093/ntr/ntw158 First published online: July 14, 2016.

<sup>37</sup> Levy DT. Potential deaths averted in USA by replacing cigarettes with e-cigarettes. *Tobacco Control* 2017 [\[link\]](#)

<sup>38</sup> Ibid; Dr. Colin Mendelsohn – Tobacco Treatment Specialist, 3<sup>rd</sup> October 2017 "Switching to e-cigarettes could save the lives of half a million Australian smokers" [\[link\]](#)

stop-smoking tool. The report summarising these findings recommended that ‘*Existing smokers should always be encouraged to give up all types of smoking, but if that is not possible they should switch to e-cigarettes as a considerably less harmful alternative*’.<sup>39</sup>

28. Public Health England assert that smoking and long-term use is likely to be no more than 5% of the risk of smoking. This is supported by the graphs below which show that electronic cigarettes are positioned closer to the low-risk end of the scale.<sup>40</sup>
29. Randomised controlled trials of early devices with low nicotine delivery were found to be at least as effective as NRT. Studies of more modern devices have shown them to be even more effective.<sup>41</sup>
30. For these reasons, the Royal College of Physicians notes that policy or laws that make vapes less easily accessible, less palatable or acceptable, more expensive, less consumer-friendly, less pharmacologically effective or which hinder development and innovation of new products, effectively perpetuate smoking and its harms.<sup>42</sup>

### **Vaping as a smoking cessation tool**

31. Most users vape with solutions that are flavoured, providing an appealing sensory experience that makes them a more attractive option than cigarettes and thus enhances their effectiveness as a quit smoking tool. A 2016 Consumer Advocates for Smoke-Free Alternatives Association (CASAA) survey of 27,343 e-cigarette users found that 72% of respondents “*credited tasty flavours with helping them give up tobacco.*”<sup>43</sup>
32. Similarly, a 2013 internet study by leading researcher Konstantinos Farsalinos, concluded that flavourings in e-cigarettes “*appear to contribute to both perceived pleasure and the effort to*

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<sup>39</sup> UK Parliament Commons Select Committee, “Government missing opportunity with e-cigarettes” 17 August 2018.

<https://www.parliament.uk/business/committees/committees-a-z/commons-select/science-and-technology-committee/news-parliament-2017/e-cigarettes-report-publication-17-19/>

<sup>40</sup> Nutt, David J., et al. "Estimating the harms of nicotine-containing products using the MCDA approach." *European addiction research* 20.5 (2014): 218-225.

<https://www.karger.com/Article/FullText/360220>

<sup>41</sup> Hitchman SC. Associations between e-cigarette type, frequency of use and quitting smoking. *Nicotine Tob Res* 2015. <https://academic.oup.com/ntr/article/17/10/1187/1028835>

<sup>42</sup> Royal College of Physicians (London), Nicotine without smoke: tobacco harm reduction. 28 April 2016 [\[link\]](#)

<sup>43</sup> “Large Survey Finds E-Cigarettes Do Help Smokers Quit,” *Vape Ranks* (website), January 12, 2016, [\[link\]](#)

*reduce cigarette consumption or quit smoking.*<sup>44</sup> A pleasant smelling vapour also ensures that passive vapers in the vicinity are spared exposure to far more odorous and dense tobacco smoke which, unlike vapour generated by vapes, sticks to clothes.

33. The ATA also submits that vapes are also customisable to the individual quitter's needs which facilitates individuals to transition out of smoking. Smokers who switch to vaping are able to choose from an innovative range of vapes that can be tailored to their individual preferences. For example, some consumers prefer vapes or liquids that can deliver a similar physical sensation to the throat as a cigarette. Vapes can achieve this effect without relying on carcinogenic tobacco smoke.
34. The practical advantages of vaping over conventional nicotine products such as patches and gums, is also supported by the statistics. Randomised controlled trials of early devices with low nicotine delivery were found to be at least as effective as nicotine patches and gums. Studies of more modern devices have shown them to be even more effective.<sup>45</sup> Patches and gums are unable to replicate the physical sensation of inhaling vapour. Inhalation also means that they are also less efficient in delivering nicotine to smokers in order to satiate their cravings than vapes.<sup>46</sup>
35. The effectiveness is also enhanced by the addition of nicotine. The Cochrane Collaboration, an internationally recognised independent assessor of therapeutic effectiveness, canvassed the results of multiple studies and found that e-cigarettes containing nicotine increased the odds of long-term successful smoking cessation than using e-cigarettes which do not contain nicotine.<sup>47</sup>
36. By 2014, an estimated 6 million Europeans had quit smoking by switching to ENDS since the technology was introduced,<sup>48</sup> with surveys indicating that 65% of Australians would consider quitting smoking if the e-liquids necessary to vape nicotine were legally available.<sup>49</sup> If just

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<sup>44</sup> Konstantinos E. Farsalinos, *et al.*, "Impact of Flavour Variability on Electronic Cigarette Use Experience: An Internet Survey," *International Journal of Environmental Research and Public Health* 10 (December 2013): 7272–82 [\[link\]](#)

<sup>45</sup> Hitchman SC. Associations between e-cigarette type, frequency of use and quitting smoking. *Nicotine Tob Res* 2015. <https://academic.oup.com/ntr/article/17/10/1187/1028835>

<sup>46</sup> 32 Tobacco Advisory Group to the Royal College of Physicians (UK) 2016, 'Nicotine without smoke: Tobacco harm reduction' p. 53.

<sup>47</sup> McRobbie, H., *et al.* "Can electronic cigarettes help people stop smoking or reduce the amount they smoke, and are they safe to use for this purpose." *Cochrane Database Systematic Review* 12 (2014). [\[link\]](#)

<sup>48</sup> Farsalinos KE, Poulas K, Voudris V, Le Houezec J. Electronic cigarette use in the European Union: analysis of a representative sample of 27 460 Europeans from 28 countries. *Addiction* (Abingdon, England). 2016. [\[link\]](#)

<sup>49</sup> Australia Adult Smoker Survey (2015) Factasia. [\[link\]](#)

two out of three Australian smokers switched to vaping, over 500,000 lives would be saved from premature death.<sup>50</sup>

## Evidence from overseas jurisdictions

37. Since they have been available around the world, vapes have been exclusively taken up by current smokers attempting to quit or reduce their smoking.<sup>51</sup>
38. As of 2014, over 6 million Europeans had given up smoking completely by transitioning to vapes,<sup>52</sup> and it is likely that this figure has increased substantially since then. Similarly, over 1.5 million British smokers had quit as of 2016 with the aid of vaping,<sup>53</sup> and the latest figures from Public Health England (2018) estimate that 20,000+ British smokers a year continue to quit with the aid of vaping.<sup>54</sup> Approximately 770,000 of these went on to quit both smoking and vaping completely.
39. The UK government found that while the fall in the country's smoking rate began to stall late in the last decade, smoking sharply reduced between 2012 and 2014 – a period coinciding with rapid uptake of vaping. By 2014, it had hit a record low of 17.4%.<sup>55</sup> The only significant tobacco control measure implemented by the UK government during this time were cigarette display bans which did not come into effect until 2015, towards the period's end.<sup>56</sup>
40. A similar trend is observed in the United States where adult smoking rates have fallen rapidly between 2010 and 2017 – from 19.4% to a record low of 14.4% - below Australia's smoking rate despite the prevalence of far stricter tobacco control regulations including plain packaging and the world's highest cigarette prices in Australia.<sup>57</sup>

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<sup>50</sup> Levy, D. T., Borland, R., Lindblom, E. N., Goniewicz, M. L., Meza, R., Holford, T. R. & Abrams, D. B. (2017). Potential deaths averted in USA by replacing cigarettes with e-cigarettes. *Tobacco control*, tobaccocontrol-2017. [\[link\]](#); Dr. Colin Mendelsohn – Tobacco Treatment Specialist, 3<sup>rd</sup> October 2017 "Switching to e-cigarettes could save the lives of half a million Australian smokers" [\[link\]](#)

<sup>51</sup> McNeill A, Brose LS, Calder R, Hitchman SC, Hajek P, McRobbie H. E-cigarettes: an evidence update. A report commissioned by Public Health England. PHE publications gateway number: 2015260 2015. [\[link\]](#)

<sup>52</sup> Vardavas, C. I., Filippidis, F. T., & Agaku, I. T. (2015); Determinants and prevalence of e-cigarette use throughout the European Union: a secondary analysis of 26 566 youth and adults from 27 Countries. *Tobacco control*, 24(5), 442-448. <https://tobacco.cleartheair.org.hk/wp-content/uploads/2015/08/442.full.pdf>

<sup>53</sup> ASH. Use of electronic cigarettes (vapourisers) among adults in Great Britain. Fact sheet. May 2017 [\[link\]](#)

<sup>54</sup> Evidence review of e- cigarettes and heated tobacco products 2018. A report commissioned by Public Health England [\[link\]](#)

<sup>55</sup> Office of National Statistics (UK), Adult Smoking Habits in Great Britain 1974-2014. 18 February 2016 Table 1 [\[link\]](#)

<sup>56</sup> Ibid.

<sup>57</sup> CDC, National Health Interview Survey, 2017 [\[link\]](#)

41. Smokers in the US who attempt to quit with the aid of e-cigarettes were over 73% more likely to succeed than those who do not use vapes.<sup>58</sup> Studies have found that vapes are at least as effective as other nicotine replacements to aid smoking cessation,<sup>59</sup> and are likely to reach more smokers due to their suitability as a cigarette substitute.<sup>60</sup> A UK study observed 15,532 recent smokers and found that those who use e-cigarettes daily were thrice as likely to have quit smoking by the end of the study than those who had never used e-cigarettes.<sup>61</sup>
42. Data from the United States' 2014/15 Tobacco Use Supplement-Current Population Survey (TUS-CPS) found that both quit attempts and the success rate of quit attempts were positively correlated with vape use.<sup>62</sup> A survey of over 15,000 American smokers also found that vapes are now more popular than FDA-approved medications as a tobacco cessation aid.<sup>63</sup> They are also the most popular quitting aid in the UK.<sup>64</sup>

### **Dispelling misleading claims about vaping**

43. A number of misleading comments have been made by anti-vaping advocates about vaping. The assembly should reconsider the following evidence below when forming a decision regarding the Bill.
44. Contrary to anti-vaping arguments, there is no evidence that e-cigarettes provide a 'gateway' to smoking for youths as they enter adulthood.<sup>65</sup> This claim is not supported by the evidence, which instead finds that vapourised nicotine has almost exclusively been taken up by smokers

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<sup>58</sup> Zhu S. E-cigarette use and associated changes in population smoking cessation. *BMJ* 2017 [\[link\]](#)

<sup>59</sup> Clearing the Air: a systematic review on the harms and benefits of e-cigarettes and vapour devices. University of Victoria, Centre for Addictions Research BC, Canada. January 2017 [\[link\]](#)

<sup>60</sup> Glasser AM. Overview of Electronic Nicotine Delivery Systems. *Am J Prev Med* 2017. [\[link\]](#)

<sup>61</sup> Giovenco DP. Prevalence of population smoking cessation by electronic cigarette use status in a national sample of recent smokers. *Addict Behav* 2017 [\[link\]](#)

<sup>62</sup> Levy DT. The Relationship of E-Cigarette Use to Cigarette Quit Attempts and Cessation: Insights From a Large, Nationally Representative U.S. Survey. *Nicotine Tob Res* 2017 [\[link\]](#)

<sup>63</sup> Caraballo RS. Quit Methods Used by US Adult Cigarette Smokers, 2014–2016. *Prev Chronic Dis* 2017 [\[link\]](#)

<sup>64</sup> Fidler, J. A., Shahab, L., West, O., Jarvis, M. J., McEwen, A., Stapleton, J. A & West, R. (2011). 'The smoking toolkit study': a national study of smoking and smoking cessation in England. *BMC public health*, 11(1), 479. [\[link\]](#)

<sup>65</sup> O'Leary R, MacDonald M, Stockwell T, Reist D. Clearing the Air: A systematic review on the harms and benefits of e-cigarettes and vapour devices. University of Victoria, BC: Centre for Addictions Research of BC.; 2017 [\[link\]](#); Polosa R. A critique of the U.S. SG's conclusions regarding e-cig use among youth and young adults in US. *Harm Red J* 2017 [\[link\]](#)

attempting to quit or lower their intake,<sup>66 67</sup> therefore acting as a ‘gateway’ *away* from tobacco smoking.

45. A 2014 study in the American Journal of Preventative Medicine found that the few nicotine vape users who were not smoking previously, used the product only 1-2 days a week, indicating that any residual harm from legalised nicotine vaping is minimal.<sup>68</sup>
46. Similarly, evidence from large, national cross-sectional studies also show no evidence that vaping uptake increases the ranks of future smokers in countries where nicotine vaping is legal.<sup>69</sup>
47. Nicotine patches and gums have existed and been approved for smokers as young as 12 years old for 30 years, yet no evidence of adverse effects on adolescent brain development have emerged.<sup>70</sup>
48. The presence of formaldehyde in e-cigarettes is misleading. This claim is based on a single study which produced formaldehyde from an e-cigarette by deliberately overheating it, thus engaging in unsafe use which is atypical of normal practice and akin to the dangerous effects of coffee being inferred from the consumption of an entire carton of coffee powder in a single sitting.<sup>71</sup>
49. Subsequent research has confirmed that ‘The high levels of aldehyde emissions that were reported in a previous study were caused by unrealistic use conditions that create the unpleasant taste of ‘dry puffs’ to e-cigarette users and are thus avoided.’<sup>72</sup>

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<sup>66</sup> McNeill A, Brose LS, Calder R, Hitchman SC, Hajek P, McRobbie H. E-cigarettes: an evidence update. A report commissioned by Public Health England. PHE publications gateway number: 2015260 2015. [\[link\]](#)

<sup>67</sup> Britton J, Bogdanovica I, McNeill A, Bauld L. Commentary on WHO report on electronic nicotine delivery systems and electronic non-nicotine delivery systems. UK Centre for Tobacco & Alcohol Studies. 2016. [http://www.ensh.org/docs/230-16\\_UKCTAS-response-to-WHO-ENDS-report-26.10.2016\(1\).pdf](http://www.ensh.org/docs/230-16_UKCTAS-response-to-WHO-ENDS-report-26.10.2016(1).pdf)

<sup>68</sup> Warner, K. E. (2016). Frequency of E-Cigarette Use and Cigarette Smoking by American Students in 2014. American journal of preventive medicine. <https://www.sciencedirect.com/science/article/pii/S0749379715007825>

<sup>69</sup> Kozlowski L, Warner K. Adolescents and e-cigarettes. Objects of concern may appear larger than they are. Drug Alc Depend 2017 [https://www.drugandalcoholdependence.com/article/S0376-8716\(17\)30023-6/abstract](https://www.drugandalcoholdependence.com/article/S0376-8716(17)30023-6/abstract)

<sup>70</sup> Lee PN, Fariss MW. A systematic review of possible serious adverse health effects of nicotine replacement therapy. Archives of toxicology. 2016. <https://link.springer.com/article/10.1007/s00204-016-1856-y>

<sup>71</sup> R. Paul Jensen, *et al.*, “Hidden Formaldehyde in E-Cigarette Aerosols,” *New England Journal of Medicine* **394** (January 2015): 392–4, doi: 10.1056/NEJMc1413069, [\[link\]](#)

<sup>72</sup> Farsalinos K. E-cigarettes emit very high formaldehyde levels only in conditions that are aversive to users. Food Chem Tox. 2017. <https://www.sciencedirect.com/science/article/pii/S0278691517305033>

50. Under realistic conditions, new-generation vapes emit minimal formaldehydes/g liquid at both low and high power.<sup>73</sup>

### **Recommendations**

51. In light of the abovementioned evidence, it is submitted that the fines and penalties imposed under WA's *Medicines and Poisons Act 2014* for vaping nicotine be abolished.

52. The legality of nicotine liquids for the purpose of vaping remains the subject of federal Australian law. However, it is further submitted that WA's ban on the sale of products resembling tobacco be abolished or amended to say 'products containing tobacco' as vape juices may contain nicotine extracted from a tobacco plant but do not contain tobacco matter itself and hence do not expose vapers to the toxins and tar which tobacco smokers are exposed to. The abolition or amendment of this law will also allow for the legal sale of vapes which do not contain nicotine, thereby allowing for the creation of a domestic vape shop industry with positive economic impacts such as job creation. Although the utility of vapes as a smoking cessation device are enhanced by the availability of nicotine liquids for vaping, vaping without nicotine remains a preferable alternative to tobacco smoking and also encourages smoking cessation as the product imitates the action of smoking without exposing smokers to tar and toxins released by tobacco combustion.

### **Outdoor recreation such as cycling and aquatic leisure, including any impact on the wellbeing, enjoyment and finances of users and non-users;**

53. **Mandatory bike helmet laws should be abolished:** It is submitted that the purported safety benefits of mandatory helmet laws for bike riding must be offset against the public health detriments that such laws pose in deterring bicycle use. Mandatory helmet laws ultimately change public perception of cycling whereby citizens are more likely to consider cycling as a 'sport' due to the presence of mandatory, specialised equipment, rather than a utility for everyone.<sup>74</sup> Those who cycle for sport are not likely to have altered their behaviour due to the

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<sup>73</sup> Farsalinos K. Aldehyde levels in e-cigarette aerosol. Findings from a replication study and from use of a new-generation device. *Food Chem Tox* 2017. <http://montrose-env.com/wp-content/uploads/2017/09/Aldehyde-Levels-in-E-Cigarette-Aerosol-Findings-from-a-Replication-Study-and-from-Use-of-a-New-Generation-Device-1.pdf>

<sup>74</sup> Peter Wijtizes, "My helmet probably saved my life. I still don't support helmet laws" *The Age* 26 March 2018. <https://www.theage.com.au/national/victoria/my-helmet-probably-saved-my-life-i-still-don-t-support-helmet-laws-20180323-p4z5xo.html>

mandatory laws as this demographic is already most likely to voluntarily don a bike helmet.<sup>75</sup> The evidence that mandatory bike helmet laws have been beneficial for public safety is also dubious. For example, Western Australian (WA) data, demonstrates that the long-term fall in cycling-related head injuries is primarily due to general road safety improvements. All road users saw reductions in injuries, including head injuries specifically, during the 1970s and 1980s.<sup>76</sup> This can be pinned on strategies such as driver education, enforcement of speed limits, road improvements and random breath testing, whereby benefits were seen for all road users, cyclists and non-cyclists alike.<sup>77</sup> Notably, this trend in increased safety for cyclists did not continue after mandatory bike helmet laws were introduced in 1990-1992.<sup>78</sup> Meanwhile, the proportion of Western Australians who cycle to work, a statistic which had steeply increased over the decades leading up to the 1990-92 mandatory bike helmet laws, fell sharply in the years after the laws were introduced and has not recovered since.<sup>79</sup> This hence represents a significantly detrimental public health impact and adverse impact on personal choice in exchange for dubious and questionable public safety benefits.

54. Perversely, in New Zealand where similar laws were introduced, data shows that cyclist deaths increased from 24% of pedestrian deaths before mandatory bike helmet laws (1990) to 49% in the following period (2006-09) once changes in hours cycled and walked are accounted for.<sup>80</sup> The average risk of injury per hour of cycling also increased by 20%. Meanwhile, the average hours cycled on a per-person basis fell by 51% (2006-09), whilst cycling's share as a mode of transport relative to other options steadily fell from 4% (1989) to 1% (2006).<sup>81</sup>

## Recommendations

55. On the basis of the abovementioned evidence, it is recommended that the WA government abolish mandatory bicycle helmets and instead encourage public safety and helmet wearing by integrating this principle in existing road safety campaigns. This will deliver improvements in public and community health as well as environmental welfare by encouraging more people to cycle. It will also support informed consumer choice.

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<sup>75</sup> Ibid.

<sup>76</sup> Dr. Ruth Armstrong, "Mandatory bicycle helmet laws in Australia: is it time for a change?" *Croakey* 16 March 2017. <https://croakey.org/mandatory-bicycle-helmet-laws-in-australia-is-it-time-for-a-change/>

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

<sup>80</sup> Clarke, Colin F. "Evaluation of New Zealand's bicycle helmet law." *New Zealand medical journal* 125.1349 (2012): 60-69. <http://dev.cyclist.ie/wp-content/uploads/2012/02/BikeHelmets2012NZMedJ-clarke-2012.pdf>

<sup>81</sup> Ibid.



## **Any other measures introduced to restrict personal choice for individuals as a means of preventing harm to themselves.**

56. **Alcohol regulations in WA:** Although WA has taken an active role in recent years by reforming alcohol regulations in the interest of removing burdensome and undesirable red tape, there is still significant room for improvement. The Federal Senate Committee on Red Tape undertook their Inquiry into the effect of red tape on the supply, sale and taxation of alcohol in Australia in 2017. The committee found that while several states including WA had implemented red tape reduction initiatives for alcohol at the time, there remained a universal need to streamline and simplify the number of licences/permits, to enable business to better understand licence conditions and ensure compliance; and there are more instances of 'micro-regulation' that create even greater complexity for business.<sup>82</sup> Ultimately, the burden of these regulations is not only felt by businesses which serve alcohol, but by customers who face higher taxes and greater restrictions to the exercise of their choice to drink responsibly. It is submitted that reducing red tape and promoting healthy competition within a smart and appropriate regulatory framework rather than an excessive one, will ensure that personal choice is not unduly restricted in the name of safety. Cutting red tape in liquor licensing will save WA businesses a whopping \$7.7 million AUD.<sup>83</sup> As these cost savings are likely to be passed on to consumers through more competitive prices on products and potentially to staff through more work opportunities, more work hours and higher salaries, it is recommended that the WA government enact reforms to reduce red tape in this area.

57. **Simplify and streamline license categories:** The *Liquor Control Act 1988* stipulates conditions pertaining to the production, distribution and sale of liquor, whereby the Department of Racing, Gaming and Liquor is the controlling authority. There are 10 license types with 6 sub-categories.<sup>84</sup> In this respect, WA is second only to South Australia amongst Australian states and territories by the number and complexity of different liquor licenses. A large number of categories and sub-categories connotes complexity and needless red tape and

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<sup>82</sup> Senate Select Committee on Red Tape – Effect of red tape on the sale, supply and taxation of alcohol Interim Report, March 2017. P. 28.

<sup>83</sup> Synergies Economic Consulting “Cost of Red Tape in Australia.” A Report for the Economic Regulation Authority (2014):16  
<https://www.erawa.com.au/cproot/12218/2/Synergies%20Economic%20Consulting%20Report%20-%20Red%20Tape.pdf>

<sup>84</sup> Government of Western Australia, Department of Racing, Gaming and Liquor. “License Types”  
<http://www.rgl.wa.gov.au/liquor/liquor-applications/licence>

resource waste for businesses, especially smaller businesses who are less able to weather these burdens due to the high compliance costs. For example, compliance costs are increased through the uncertainty of researching finite details in order to determine the correct license category whereby significant commercial uncertainty may exist due to the potential to make mistakes and incur sunk costs, as well as increased compliance costs due to the need to shift between similar licenses as the business evolves and grows or responds to the market. By contrast, the ACT has only 5 license categories with Queensland and NSW recognising 7 each.<sup>85</sup> It is submitted that the 10 license categories can be streamlined into 3 license categories for wholesale (Eg. Liquor shops), alcohol served on premises (eg. Bars, nightclubs) and special events (eg. Music festivals).<sup>86</sup> This will connote greater transparency and certainty for businesses, thereby contributing to lower compliance costs while providing adequate information and scope for regulatory oversight to the licensing authority and other agencies such as police. In the alternative, the Australian jurisdictional best practice of the ACT can be adopted, with 5 license categories for General, On license (subcategories: Bar, Nightclub, Restaurant and café), Off license, club and special event.<sup>87</sup> The Federal Senate committee on red tape has recommended the streamlining of license categories by state and territory governments.<sup>88</sup>

**58. Digital pilot for faster, streamlined license approvals:** In 2016, the city of Parramatta in the Sydney metropolitan area, introduced a digital pilot designed to cut red tape for new bars, cafes and restaurants. As a result, the timeframe for setting up a new business in these categories has reduced by 83% to just 3 months.<sup>89</sup> 35 new businesses had been opened since the project's launch as of September 2016 and many more have been opened since,<sup>90</sup> providing a substantial boost to the nightlife and vibrancy of the area. It is submitted that a similar model should be implemented across the state by the WA government in order to reduce red tape and foster the industry.

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<sup>85</sup> Darcy Allen, 'Liquor Licensing Red Tape on Australian Business' *Institute of Public Affairs*, January 2017, P.12-13.

<sup>86</sup> *Ibid.* p. 13.

<sup>87</sup> *Ibid.* p. 12.

<sup>88</sup> Senate Select Committee on Red Tape – Effect of red tape on the sale, supply and taxation of alcohol Interim Report, March 2017. P. 30.

<sup>89</sup> City of Parramatta "Less red tape, more red carpet for small business." Media Release, 1 June 2016 <https://www.cityofparramatta.nsw.gov.au/about-parramatta/news/media-release/less-red-tape-more-red-carpet-for-small-business>

<sup>90</sup> Colman, Elizabeth "Parramatta night-life booms as digital pilot cuts red tape for start ups." Daily Telegraph, 29 September 2016 <http://www.dailytelegraph.com.au/newslocal/parramatta/parramatta-nightlife-booms-as-digital-pilot-cuts-red-tape-for-start-ups/news-story/c04f8c99e70e16474a2b2e6c4c32bf05>

59. **Reform guidelines for Public Interest Assessments:** For new applicants for a liquor license, permit applications or transitions to a different license by an existing license holder, a Public Interest Assessment (PIA) must be provided to the Department of Racing, Gaming and Liquor. The PIA must outline the likely impact of the proposed business to the community and strategy for mitigating that impact.<sup>91</sup> However, significant uncertainty exists for applicants as the amount of information required is entirely at the applicant's discretion. It is submitted that clearer guidelines about the amount of information required and the provision of model templates for PIAs will provide greater certainty, greater transparency and the opportunity to lower time and compliance costs for these businesses.
60. **Avoid price floors for alcohol:** Public health lobbyists, backed by some politicians, have recently made calls for a floor price on alcohol for WA.<sup>92</sup> Similarly, the Department of Racing, Gaming and Liquor has previously knocked back liquor license applications on the basis that alcohol products were to be sold at a price deemed too low.<sup>93</sup>
61. These calls and concerns are misplaced as such price floors are extremely regressive and will negatively impact moderate drinkers rather than producing a positive impact for problem drinkers. Alcohol consumption rises with income as does the incidence of heavy alcohol consumption.<sup>94</sup>
62. Poorer consumers are hence more likely to consume alcohol moderately, whilst simultaneously losing a greater proportional amount of their income in purchasing the same quantity of alcohol as higher income consumers.
63. Moreover, increased alcohol prices have not been found to correlate with a reduction in alcohol-related deaths including deaths from alcoholism, accidents, homicides, suicides, diseases.<sup>95</sup>

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<sup>91</sup> Government of Western Australia "Public Interest Assessment."

<http://www.rgl.wa.gov.au/liquor/liquorapplications/licensing-process-information/public-interest-assessment>

<sup>92</sup> AAP, "Cook says WA will consider alcohol floor" *SBS News* 2 March 2018.

<https://www.sbs.com.au/news/cook-says-wa-will-consider-alcohol-floor>

<sup>93</sup> Joel Kelly "Liquor licensing board rejected Aldi's plans to sell cheap alcohol" *PerthNow*, 15 June 2016 <http://https://www.dailytelegraph.com.au/news/national/liquor-licensing-board-rejected-aldis-plans-to-sell-cheap-alcohol/news-story/579126d156f31deccb8625478757150b>

<sup>94</sup> Institute of Alcohol Studies, "Consumption levels by income earned" <http://www.ias.org.uk/Alcohol-knowledge-centre/Socioeconomic-groups/Factsheets/Consumption-levels-by-income-earned.aspx>

<sup>95</sup> Sloan, F.A., Reilly, B.A. & Schenzler, C. (1994). Effects of prices, civil and criminal sanctions, and law enforcement on alcohol-related mortality. *Journal of Studies on Alcohol*, 55, 454–465.

<http://www.isad.com/doi/abs/10.15288/jsa.1994.55.454>

64. A meta-analysis of 113 studies has found that while alcoholics could be sensitive to price increases on specific types of alcohol insofar as they are likely to substitute pricier options for cheaper options, price was found to be insignificant in altering the amount of alcohol consumed.<sup>96</sup>
65. Despite this, some studies have claimed that a price floor will be beneficial in reducing alcohol-related problems.<sup>97</sup> However, these claims are made based on faulty economic models and unreliable assumptions.<sup>98</sup> For example, A comparison to a control group must be made for the purpose of inferring a fall in alcohol consumption due to the price floor. This is an important feature for any study forwarding such a claim as alcohol consumption rates have been falling generally in Western nations for many years.<sup>99 100</sup>
66. An alcohol price floor hence creates a perverse outcome whereby the consumers of problematic amounts of alcohol are unlikely to alter their behaviour due to a price floor, whilst poorer moderate drinkers are likely to be the most severely impacted by a price floor through the loss of a greater chunk of their income for the same responsible enjoyment despite having committed no problematic behaviours which violate their own safety or that of their community.
67. Price floors prevent businesses from competing with each other to deliver positive outcomes for consumers. They ultimately create a system which favours price gouging by forcing businesses to sell at greater cost than needed without fear of reprisal from competitors who can provide the same product at a lower price. In doing so, they entrench the market share of existing large corporations at the expense of innovative businesses while delivering negative outcomes for responsible drinkers.<sup>101</sup> They do so on the basis of misguided views about

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<sup>96</sup> Wagenaar, Alexander C., Matthew J. Salois, and Kelli A. Komro. "Effects of beverage alcohol price and tax levels on drinking: a meta-analysis of 1003 estimates from 112 studies." *Addiction* 104.2 (2009): 179-190. <https://onlinelibrary.wiley.com/doi/full/10.1111/j.1360-0443.2008.02438.x>

<sup>97</sup> Stockwell, Tim, et al. "Minimum alcohol prices and outlet densities in British Columbia, Canada: estimated impacts on alcohol-attributable hospital admissions." *American journal of public health* 103.11 (2013): 2014-2020. <https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2013.301289>

<sup>98</sup> Duffy, J. C. (2012). The Minimal Evidence for Minimum Pricing The fatal flaws in the Sheffield Alcohol Policy Model. [http://www.adamsmith.org/sites/default/files/research/files/ASI\\_SAPM.pdf](http://www.adamsmith.org/sites/default/files/research/files/ASI_SAPM.pdf)

<sup>99</sup> James Morgan, "Why is alcohol consumption falling?" *BBC News* 15 February 2011. <https://www.bbc.com/news/magazine-12397254>

<sup>100</sup> Simon Evans, "Alcohol, beer consumption will keep falling until 2024" *Australian Financial Review* 10 October 2016. <https://www.afr.com/business/retail/fmcb/alcohol-beer-consumption-will-keep-falling-until-2024-20161009-gryhcl>

<sup>101</sup> Joel Kelly "Liquor licensing board rejected Aldi's plans to sell cheap alcohol" *PerthNow*, 15 June 2016 <http://https://www.dailytelegraph.com.au/news/national/liquor-licensing-board-rejected-aldis-plans-to-sell-cheap-alcohol/news-story/579126d156f31deccb8625478757150b>

human behaviour in problem drinkers which are refuted through an objective examination of the evidence.

68. **Foster competition by allowing more bottle shops/liquor stores to operate in the same area:** The Department of Racing, Gaming and Liquor (DRGL) has knocked back applications for new liquor licenses on the basis that a designated area is already serviced by an existing licensed establishment or liquor store and there is ‘no need’ for a competitor.<sup>102</sup> It is submitted that such decisions are anti-consumer and support a regulatory culture whose effects are akin to cronyism in that they favour the insulation of existing enterprises such as large, major retail chains, from competition. They also abrogate consumer choice by denying responsible drinkers their consumer choice and forcing many consumers to travel significant distances in order to obtain legal products. In doing so, the outcomes may be perverse as a consumer seeking the product is more likely to engage in behaviours such as drunken driving in order to obtain more alcohol. This hence puts both personal and community safety at risk. There is no evidence that increasing the number of liquor stores in an area to meet existing market demand results an increase in alcohol consumption or alcohol-related adverse social behaviours in the local community. Competition delivers lower prices for consumers in an area while affording them more options, supporting local employment and without impacting local demand for alcohol as the opening of a store is a supply-side mechanism. It is submitted that the DRGL’s guidelines should be amended to prevent the denial of applications on this basis. Legitimate concerns such as a potential increase in traffic from outside the area can still be exercised based on a specific, objective assessment of the effect of increased traffic and whether local infrastructure is adequate.
69. **Liberalise liquor store & licensed venue opening hours:** ATA and MyChoice believe that opening hours for liquor stores and for licensed alcohol-serving establishments should align with community needs and the wellbeing of the economy. Packaged liquor stores and packaged liquor shops attached to licensed hotels, bars, taverns etc. should be able to operate at the same time. The WA government mandates that liquor stores cannot trade on a Sunday whilst bottle shops attached to pubs, bars and taverns selling the same products are allowed to operate.<sup>103</sup> The Australian Liquor Stores Association estimates that such regulations across the country cost shop owners up to \$3.5 million in lost opportunity.<sup>104</sup> These laws unreasonably discriminate against liquor store owners, their employees and customers rather

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<sup>102</sup> Ibid.

<sup>103</sup> *West Australian Liquor Control Act 1988 (WA)* s98D

<sup>104</sup> The Australian Liquor Stores Association Inc. (ALSA), Submission to Competition & Policy Review Issues Paper, 20 June 2014, p. 5.

than addressing irresponsible alcohol consumption or any anti-social behaviour. ATA and MyChoice believe that the law in these states must be reformed or that alternatively, a national standard should be put in place which aligns packaged liquor store trading hours with those of bottle shops attached to licensed venues. This will ensure a non-distorted, competitive market for consumers as well as providing more work and employment opportunities for employees. This recommendation has also been adopted by the Federal Senate committee on red tape as part of their interim report on the effect of red tape on the supply, sale and taxation of alcohol in Australia.<sup>105</sup>

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Director – MyChoice Australia

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<sup>105</sup> Senate Select Committee on Red Tape – Effect of red tape on the sale, supply and taxation of alcohol Interim Report, March 2017. P. 30.