



**BRITISH AMERICAN
TOBACCO**
AUSTRALIA

**Submission by British American Tobacco
Australia in respect of the Select Committee on
Personal Choice and Community Safety -
Legislative Council of Western Australia**

October 2018

Executive summary

British American Tobacco Australia (BATA) welcomes the opportunity to make a submission to the Select Committee on Personal Choice and Community Safety (the '**Committee**').

BATA respectfully suggests that the Committee use this opportunity to review the available evidence on potentially reduced risk alternatives to smoking (which include the e-cigarette/e-liquid and heat-not-burn categories), and advocate for a regulatory framework at a national level.

Whilst the Australian Government maintains that nicotine e-cigarettes are illegal for general consumer sale, their use is growing. The 2016 National Drug Strategy Household Survey found that approximately 120,000 Australian smokers use e-cigarettes daily.¹ Practically, the only way Australians can access these products is via the black-market. This means that they are accessing unregulated products of unknown quality and safety.

Regulatory frameworks for potentially reduced risk alternatives to smoking should be evidence-based and reflective of the relative risks of the products.

New regulations should:

- Be based on appropriate quality and safety controls which provide for:
 - Manufacturing process requirements;
 - Hardware/device requirements;
 - Product labelling, packaging and user instructions;
 - Product specifications and ingredients;
 - Product testing and disclosure;
 - An appropriate marketing framework; and
 - Retail sale requirements
- Sit under the jurisdiction of the Australian Competition and Consumer Commission (ACCC).

The opportunity exists for Western Australia to drive policy change at a national level, enabling all Australian smokers access to potentially reduced risk alternatives to smoking within an appropriate regulatory environment.

The current Australian regulatory environment

As the Committee will be aware, generally speaking products such as e-cigarettes containing nicotine are illegal for sale. Further, the legal classification of nicotine-free e-cigarettes varies across states and territories.

¹ <https://www.aihw.gov.au/reports/illicit-use-of-drugs/ndshs-2016-detailed/data#page1>

While some states and territories have introduced laws specifically addressing e-cigarettes (both nicotine containing and nicotine-free) in other states e-cigarettes are regulated by more general laws relating to poisons, therapeutic goods and tobacco control regulations.²

As the Committee will appreciate, the legal status of e-cigarettes in Australia, both federally and across the states and territories, is complex and confusing.

At the same time, there is also clear evidence of growing illegal sales of nicotine containing e-cigarettes and e-liquids.³

Accordingly, it is clear that the market-place needs a consistent, and enforceable regulatory framework to ensure that adult consumers can access potentially reduced risk alternatives to smoking safely.

An opportunity – tobacco harm reduction

Tobacco harm reduction has been largely shunned by Australian tobacco control policy-makers in favour of strategies such as tobacco plain packaging. This means that Australian smokers are denied the opportunity to choose potentially reduced risk alternatives to smoking such as e-cigarettes which have been proven to work in other countries.⁴

Whilst e-cigarettes contain nicotine, which is addictive, the harm of smoking is primarily caused by other constituents of tobacco smoke. This has generally been acknowledged by public health organisations⁵, such as Public Health England and the Royal College of Physicians.^{6,7}

Public Health England's 2018 review into e-cigarettes⁸ concluded that:

- 'Vaping poses only a small fraction of the risks of smoking and switching completely from smoking to vaping conveys substantial health benefits';
- 'E-cigarettes could be contributing to at least 20,000 successful new quits per year and possibly many more';
- 'E-cigarette use is associated with improved quit success rates over the last year and an accelerated drop in smoking rates across the [UK]';
- 'Many thousands of smokers incorrectly believe that vaping is as harmful as smoking; around 40% of smokers have not even tried an e-cigarette';

² <https://www.tga.gov.au/book-page/21-nicotine-0>

³ <http://www.abc.net.au/news/2018-06-12/not-all-e-juices-are-as-nicotine-free-as-they-claim/9857540>

⁴ <https://gsth.org/download/report/Global-State-of-Tobacco-Harm-Reduction-2018.pdf>

⁵ See, for example, statements by the [International Agency for Research on Cancer \("IARC"\)](#), the [UK National Institute for Health and Care Excellence \("NICE"\)](#), and the [Truth Initiative](#).

⁶ "[t]he harm of smoking is therefore caused not by nicotine, but by other constituents of tobacco smoke. Non-tobacco nicotine products that reproduce the nicotine delivery and behavioural characteristics of smoking, without the many other toxins in tobacco smoke, therefore have the potential to allow smokers to continue to use nicotine and avoid the significant harm to themselves and others that smoking causes."

⁷ Royal College of Physicians (2016), *Nicotine without smoke: Tobacco harm reduction* at p. 184.

⁸ <https://www.gov.uk/government/news/phe-publishes-independent-expert-e-cigarettes-evidence-review>

- ‘There is much public misunderstanding about nicotine (less than 10% of adults understand that most of the harms to health from smoking are not caused by nicotine’; and
- ‘The evidence does not support the concern that e-cigarettes are a route into smoking among young people (youth smoking rates in the UK continue to decline, regular use is rare and is almost entirely confined to those who have smoked)’.

Conclusion

Regulatory frameworks for potentially reduced risk alternatives to smoking (which include the e-cigarette/e-liquid and heat-not-burn categories) should be evidence-based and reflective of the relative risks of the products.

New regulations should:

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As such, BATA respectfully suggests that the Committee review the available evidence on potentially reduced risk alternatives to smoking, and advocate for an appropriate regulatory framework at a national level.