

18 November 2016

Tobacco Control
Department of Health and Human Services
GPO Box 125
HOBART TAS 7001

By Email: tobaccosellersfee@dhhs.tas.gov.au

Dear Sir/Madam,

RE: Regulatory Impact Statement – Increasing the Tobacco Seller’s License Fee

Please find enclosed a submission from Quit Tasmania (part of Cancer Council Tasmania) and the Heart Foundation in regard to the impact of increasing the fee for a tobacco seller’s licence. We congratulate the Department for proposing a significant increase in the fee for a tobacco seller’s licence and welcome the opportunity to provide public comment.

Cancer Council Tasmania and the Heart Foundation favour a full cost recovery model in the first instance. We would however accept ‘Option 1 of the Regulatory Impact Statement - Increase the Tobacco Licence Fee’ as an interim measure, with a full cost recovery model implemented in 2019, if it can be demonstrated that there is a sound reason for the phase-in period. It cannot be determined from the Regulatory Impact Statement why a phased in approach is required.

Please note, Cancer Council Tasmania and the Heart Foundation do not have any tobacco industry links or vested interests, and do not require any comments made in this submission to be confidential.

We thank the Department of Health and Human Services for the opportunity to provide comment on the proposed legislation. Please do not hesitate to contact Abby Smith on 03 6169 1943 or email asmith@cancertas.org.au if you would like to clarify any matters raised in this submission.

Yours sincerely,



Penny Egan
Chief Executive Officer
Cancer Council Tasmania



Abby Smith
Director
Quit Tasmania



Graeme Lynch
Chief Executive Officer
Heart Foundation Tasmania



Submission to the Department of Health and Human Services from Cancer Council Tasmania and the Heart Foundation

Regulatory Impact Statement (RIS) – Increasing the Tobacco Seller’s License Fee

Introduction

Cancer Council Tasmania is a not-for-profit organisation working to minimise the incidence and impact of cancer on all Tasmanians through advocacy, raising awareness of cancer prevention and offering support and information for anyone affected by the disease.

Quit Tasmania is managed by Cancer Council Tasmania with funding from the Department of Health and Human Services. It aims to eliminate the harms of tobacco by preventing smoking uptake and supporting all Tasmanians who smoke to quit for good. Quit Tasmania achieves this through undertaking social marketing campaigns to educate people on the dangers of smoking and providing information and support to those who want to quit smoking through the Quitline telephone support service.

The Heart Foundation is Australia’s leading heart health charity with a purpose to reduce premature death and suffering from heart, stroke and blood vessel disease (cardiovascular disease). In Tasmania, the Heart Foundation has been very active in the area of tobacco control, given that tobacco contributes significantly to the development of cardiovascular diseases.

Smoking prevalence is high in Tasmania, with 18.9% of adults being current smokers. The Tasmanian government’s Healthy Tasmania Five Year Strategic Plan aims to reduce this rate to 10% by 2020.

Although smoking is in decline, tobacco use continues to have a major impact on public health and will continue to do so for many years to come.¹ Smoking is a leading cause of preventable death and disease in Australia. It contributes to more drug-caused deaths than alcohol and illicit drugs combined and it has been estimated to kill about two out of three persistent users.^{2,3} There is overwhelming epidemiological evidence that prolonged smoking is an important cause of chronic disease and premature mortality. There is no safe cigarette, and there is no risk free exposure to tobacco smoke.⁴

Background

Although Australia has an enviable record in tobacco control and the prevalence of smoking has reduced dramatically, measures have focussed on reducing demand for tobacco rather than addressing its supply. Tobacco products are ubiquitous in Australia and this contributes to normalisation, potentially undermining other control measures. A comprehensive tobacco strategy should therefore include measures that address supply as well as demand for

¹ Collins D. and Lapsley M. (2008) The social costs of smoking in Western Australia 2004-05 and the social benefits of public policy measures to reduce smoking prevalence: report for Cancer Council Western Australia. Perth: Cancer Council Western Australia.

² Australian Institute of Health and Welfare (2008) Canberra: AHW Catalogue No. AUS 99.

³ Banks E, Joshy G, Weber MF, et al. Tobacco smoking and all-cause mortality in a large Australian cohort study: findings from a mature epidemic with current low smoking prevalence. *BMC Med.* 2015;13:38. doi:10.1186/s12916-015-0281-z.

⁴ US Department of Health and Human Services (2010) How tobacco smoke causes disease. The biology and behavioural basis for smoking-attributable disease. Atlanta: US Department for Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.

tobacco. This is acknowledged in the World Health Organization's Framework Convention on Tobacco Control (FCTC), of which Australia is a signatory, although explicit strategies are not detailed. There is growing evidence that the availability of tobacco has an impact on the prevalence of smoking. The evidence⁵⁶ pertains to the following:

- smoking prevalence is associated with higher outlet density in residential neighbourhood in Australia and overseas;
- the proximity of tobacco outlets is an impediment to quitting attempts and attitudes towards quitting;
- retail tobacco availability has been associated with unplanned purchases and cessation relapse;
- there is a relationship between youth smoking rates and outlet density, in Australia and overseas;
- there is a greater concentration of tobacco outlets in areas of social disadvantage;
- the lack of controls on the supply of tobacco contributes to normalisation and conveys a mixed message about the harms of tobacco, undermining other tobacco control measures.

The positive tobacco licensing scheme that operates in Tasmania, as well as Western Australia, South Australia, the ACT and the Northern Territory, provides an opportunity to place controls and conditions on the supply of tobacco.

Preferred Option – Full Cost Recovery Model

As noted in the RIS, the Department of Treasury and Finance's *Costing Fees and Charges Guidelines for Use by Agencies* recommend the principle that Government should be operating on a full cost recovery model. The first option presented in the RIS proposed two staged increases in the tobacco licence fee, but would not achieve full cost recovery. We cannot identify any compelling reason why the tobacco licencing scheme should be treated differently from other licensing schemes that operate on a full cost recovery basis. As noted in the RIS, tobacco retailers are the beneficiaries of a well-regulated tobacco licensing scheme. The government should not be using taxpayers' money to subsidise a licensing scheme which enables them to sell a lethal product, should they choose to do so. The sale of tobacco is not a right and it is reasonable for retailers to carry the cost. Cancer Council Tasmania and the Heart Foundation believe this would be in line with community standards and expectations.

Cancer Council Tasmania and the Heart Foundation understand that a full cost recovery model could operate without falling foul of constitutional requirements. Such a model would ensure that the tobacco licence fee is proportionate to the actual cost of administering the scheme, including regulation, enforcement and compliance activities. This would enable the Department to achieve its objective of preventing the supply of tobacco products to children by targeting licensed tobacco sellers.

Option 1 – Increase Tobacco Licence Fee

Cancer Council Tasmania and the Heart Foundation would accept Option 1 as an interim measure, with a full cost recovery model implemented in 2019, if it can be demonstrated that there is a sound reason for the phase-in period. It cannot be determined from the Regulatory

⁵ Greenhalgh, EM. 11.9 Retail promotion and access. In Scollo, MM and Winstanley, MH [editors]. Tobacco in Australia: Facts and issues. Melbourne: Cancer Council Victoria; 2016. Available from <http://www.tobaccoinustralia.org.au/chapter-11-advertising/11-9-retail-promotion-and-access>

⁶ Shortt NK, Tisch C, Pearce J, Richardson EA, and Mitchell R. The density of tobacco retailers in home and school environments and relationship with adolescent smoking behaviours in Scotland. Tobacco Control, 2014. Available from: <http://www.ncbi.nlm.nih.gov/pubmed/25370699>

Impact Statement why a phased in approach is required. Under this model, the fee for an application for, or renewal of, a tobacco seller's licence will increase to \$731.34 from 1 January 2017, and then to approximately \$1,097 from 1 January 2018. The RIS outlines the probable benefits and costs of this approach and concludes that this represents the best balance for Tasmania. Cancer Council Tasmania and the Heart Foundation cannot ascertain from the Regulatory Impact Statement why a phased-in approach is required, but if a sound reason to this approach can be demonstrated, we would accept Option 1, with the understanding that a full cost recovery model is implemented in 2019.

Rationale

It is expected that increases in tobacco retailer licence fees will deter some applicants and result in fewer licensees, therefore reducing the availability of cigarettes. In a study by Bowden, Dono, John & Miller (2013) and published in the journal *Tobacco Control*,⁷ the authors examined the impact of a 15-fold licence fee increase on tobacco retailer licence renewals. From 1 January 2007, tobacco licence fees increased from \$12.90 to \$200 per annum. It was found that the total number of tobacco licences decreased by 23.7% in the two year period from December 2007 to December 2009. The authors concluded that a tobacco licence increase from a low base is a potentially effective method of reducing tobacco points of sale.

As discussed above in the background section, a reduction in the availability of tobacco is likely to reduce the uptake of smoking by adolescents and impulse purchasing by people who are attempting to quit. Additionally, the licence fee increase will provide the Department with additional resources to undertake monitoring and compliance activities to further reduce the sale of tobacco to children.

Monitoring Impact on Number of Tobacco Licences

The proposed increase in the tobacco licence fee provides a valuable opportunity to monitor its impact on the number of licences in Tasmania. Given that the Department already records and monitors licences in Tasmania, this research should not be onerous to undertake. Cancer Council Tasmania and the Heart Foundation encourage the Department to make the impact of the fee increase publicly known, with the accompanying statistics available on its website. This is especially important because after the tobacco seller's fee is increased, it will be significantly higher than in other Australian jurisdictions. If it is successful, there is an opportunity to share knowledge and encourage other States and Territories to also take the initiative.

Potential for Further Increases

Cancer Council Tasmania and the Heart Foundation recommend that the Department increase the licence fee at the end of 2018 to move to a full cost recovery model.

Recommendations for Retailers

It is anticipated that the proposed fee increases will cause some retailers to reconsider whether their business will apply for a tobacco seller's licence, or will renew an existing licence. Retailers may be receptive to information from the Department about whether selling tobacco is a good business decision. Those who discontinue selling tobacco should be congratulated and acknowledged publicly by the Department. Retailers should be provided with profitability information to counteract messages conveyed by the tobacco industry. A

⁷ J Bowden, J Dono, D John & C Miller, 'What happens when the price of a tobacco retailer licence increases?' *Tobacco Control* (2013) 23:178-180.

recent research report commissioned by the UK's Action on Smoking and Health (ASH),⁸ for example, highlights the following:

- “Despite the high volume of tobacco sales in convenience stores...small retailers make very little money from tobacco. The margin on tobacco products is around 6% compared to an average of 24% for the other products they sell
- Tobacco manufacturers claim that retailers do well from tobacco sales because smokers buy other products in the shop. However, smokers do not spend significantly more than people who do not buy tobacco. Everything that retailers sell drives footfall, not just tobacco
- Tobacco manufacturers encourage retailers to maintain the availability of their own brand and brand variants. Yet the cost of retailers ignoring this advice is low
- Retailers should not assume that their interests are perfectly aligned with those of tobacco manufacturers...tobacco manufacturers can squeeze retailers' margins while maxing enormous profits themselves.”

The report emphasises that tobacco products are expensive to stock and margins are low. Manufacturers will pressure retailers to maximise their investment in tobacco, even though it is a declining, low-profit market.

Conclusion

Cancer Council Tasmania and the Heart Foundation strongly support the Department's proposal to significantly increase the tobacco seller's licence fee. We favour a full cost recovery model in the first instance. We would however accept Option 1 as an interim measure, moving to a full cost recovery model in 2019. Tobacco products are currently ubiquitous, with few controls on their supply. A full cost recovery model would see a reduction in the availability of tobacco and allow for additional enforcement activities to reduce the sale of tobacco to children. The Department's proposal in Option 1 of the RIS would achieve this to a lesser degree, but would be accepted as an interim measure until a full cost recovery model was implemented in 2019.

⁸ Action on Smoking and Health (ASH), UK, 'Counter Arguments: How Important is Tobacco to Small Retailers?' October 2016. Available at: <http://ash.org.uk/information-and-resources/reports-submissions/reports/counter-arguments-how-important-is-tobacco-to-small-retailers/>