

24 March 2022

Australian Government Department of Health
tobacco.control@health.gov.au

To whom it may concern

The Victorian Health Promotion Foundation (VicHealth) welcomes the opportunity to respond to the National Tobacco Strategy 2022-2030 (NTS).

VicHealth was established by the Victorian Parliament as part of the Tobacco Act of 1987 as the world's first health promotion foundation. This Act set the standard for international best practice by banning outdoor tobacco advertising and using cigarette taxes to fund anti-smoking campaigns and buy out the tobacco sponsorship of sport and the arts. The impact on smoking has been dramatic. Sponsorship has gone from sports and arts events; tobacco advertising cannot be found in media or around sporting fields, most workplaces and public spaces are smokefree, the legal age to purchase tobacco has increased to 18 years, the number of adult smokers has almost halved, and branding has been removed from tobacco products.

We continue to be a pioneer in health promotion – the process of enabling people to increase control over and improve their health. Our primary focus is promoting good health and preventing chronic disease, including promoting physical activity, healthy eating and mental health and wellbeing, and preventing risky alcohol consumption and tobacco use.

VicHealth commends the Department for developing a thoughtful and evidence-based draft strategy.

We strongly support Quit Victoria's submission to the draft National Tobacco Strategy and refer you to their submission for more detail. We strongly recommend and reiterate their recommendations and feedback on the strategy and would encourage the Government to adopt their feedback.

In addition to the recommendations outlined in Quit's submission, VicHealth's key recommendations are:

1. A National Tobacco Act

The government should create a single national tobacco act that unifies federal tobacco and e-cigarette legislation to streamline and centrally house legislative and regulatory obligations – this would respond to *Priority Area 6* in the draft strategy.

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This should include the unification of:

- *The Tobacco Advertising Prohibition Act 1992*
- *Tobacco Advertising Prohibition Regulation 1993*
- *Tobacco Plain Packaging Act 2011*
- *Tobacco Plain Packaging Regulations 2011*
- *Treasury Laws Amendment (Illicit Tobacco Offences) Act 2018*

A national act would have the ability to strengthen regulations for and respond quickly to novel and emerging tobacco and nicotine products. Strengthened regulation must also be accompanied by strong enforcement of existing and new regulations.

2. Inclusion of e-cigarettes as a tobacco product and industry

The draft strategy should be amended to include e-cigarettes in the definition of tobacco products and in reference to the tobacco industry throughout the strategy.

There has been a concerning increase in the use of e-cigarettes containing nicotine by non-smokers, particularly among children, and the potential for e-cigarettes to maintain nicotine addiction. Restrictions on tobacco-related advertising, promotion and sponsorship should be extended to e-cigarettes.

The e-cigarette industry also has interests that are aligned with the tobacco industry, posing greater interference in public health policy. Tobacco companies are major players in the production and marketing of e-cigarettes; however, they are not the same as e-cigarette companies.

The tobacco industry has a very small number of large companies, whereas the e-cigarette industry is made up of a high number of commercial entities involved across the manufacturing and importation of e-cigarettes. These entities range in size, sophistication and power - from global corporations (via tobacco companies) to single operators.

Not all of the e-cigarette entities have formal associations with tobacco companies (although their goals and tactics are aligned). These differences *do* matter with respect to reshaping social norms about the e-cigarette industry, specifically, and identifying and addressing commercial interference from either or both industries.

Industry interference by both tobacco and e-cigarette companies over the past several years is well-documented.¹ Explicitly naming and grouping both industries in the National Tobacco

¹ Drury A. "Selling Out: How powerful industries corrupt our democracy." Human Rights Law Centre. 2022. Melbourne, Australia. Available at: [Selling+Out+How_powerful+industries+corrupt+our+democracy_31_Jan.pdf \(squarespace.com\)](#). Last accessed: 05/03/2022

Strategy would assist the general public in understanding that these industries are but two sides of the same coin.

Similarly, there are instances where the specific inclusion of “e-cigarettes” with “tobacco products” is important, e.g. to reshape social norms about....tobacco and e-cigarette use. The narrative being driven by industry sources is that e-cigarettes and tobacco products are different, with e-cigarettes being a “better alternative”. We should be very clear that cigarettes and e-cigarettes are, in fact, very similar, and that e-cigarettes - being addictive, intrinsically harmful to health and more likely than not to lead to (re)starting tobacco product use - should be regulated in a manner similar to that of cigarettes.

3. *Minimum licensing requirements of tobacco and e-cigarette retailers*

The government should create a national minimum requirement of positive licensing for tobacco and e-cigarette retailers and wholesalers across Australia. This would create minimum standards for retailer and wholesalers to comply with to strengthen monitoring and compliance of tobacco and e-cigarette sales.

The creation of a minimum standard for licensing schemes to be adopted in every state and territory, should be an Australian government-led process. Current regulatory settings can be strengthened through the introduction of positive licensing schemes for both wholesalers and retailers of tobacco. Positive licensing requires prior approval for conducting business activities, and adherence to minimum standards.² Positive licensing schemes can impose restrictions or conditions on the tobacco/e-cigarette retailer or wholesaler.

State and territory governments would oversee the implementation, licensing requirements/conditions and enforcement in their jurisdictions. Licensing can have multiple benefits in increasing compliance and monitoring and reducing illicit tobacco sales.³ Licensing will enable effective and accurate communication between government departments and local authorities with the details of tobacco sellers. This will allow governments to provide accurate and relevant information to retailers regarding their legal obligations. Licensing has the potential to further increase the effectiveness of public health laws discouraging tobacco use. Robust retail licensing legislation is likely to strengthen existing reforms that ban the display of tobacco products by requiring retailers and sellers to meet certain criteria before granting or renewing licenses. For example, the Government could introduce a policy that ensures new

² Scollo, M, InDepth 11B: Licensing of tobacco sellers. In Greenhalgh, EM, Scollo, MM & Winstanley, MH [editors]. Tobacco in Australia: Facts and issues. Melbourne: Cancer Council Victoria; 2021. Available from <http://www.tobaccoinaustralia.org.au/chapter-11-advertising/indepth-11b-licensing-of-tobacco-sellers>

³ Scollo, M, InDepth 11B: Licensing of tobacco sellers. In Greenhalgh, EM, Scollo, MM & Winstanley, MH [editors]. Tobacco in Australia: Facts and issues. Melbourne: Cancer Council Victoria; 2021. Available from <http://www.tobaccoinaustralia.org.au/chapter-11-advertising/indepth-11b-licensing-of-tobacco-sellers>

licenses could not be issued to retailers looking to sell tobacco products in sites close to schools or facilities and venues predominately used by children and young people.

The introduction of minimum licensing requirements will also reduce the access and availability of illicit tobacco products. Licensing is also recommended as a means to reduce evasion and avoidance of excise duties on tobacco – this is recommended by the World Bank and the International Monetary Fund,^{4,5} and a major component of the International Protocol to Eliminate Illicit Trade in Tobacco Products which has been developed by Parties (including Australia) to the WHO Framework Convention on Tobacco Control.⁶ Increased monitoring and compliance achieved through licensing requirements should result in greater adherence to payment of excise duties on tobacco products, enabling governments to use funds from excise duties to fund smoking cessation and education programs and fund enforcement measures.

4. Prevention and reduction of tobacco use and nicotine addiction

The strategy should require providers of care, housing and activities or facilities for priority populations to strengthen and enforce smokefree policy and legislation. The implementation of evidence-based tobacco prevention and cessation programs must be a part of routine care across all health, social care and custodial settings.

The strategy must ensure that cessation services support people who are addicted to nicotine to quit, given the longitudinal evidence showing that e-cigarette use increases the risk of relapse to or initiation of smoking. We emphasise that it is important to coordinate the training and resources to ensure that patients receive consistent, joined-up care in primary care and health services across state and federal jurisdictions.

We also recommend that embedding evidence-based smoking cessation programs across all primary, acute, mental health, drug and alcohol and other health care settings, will be fundamental to motivating and supporting quit attempts among populations at a higher risk of harm from tobacco use and populations with a high prevalence of tobacco use.

As identified in the strategy, there must be a focus on providing equitable access to programs to help prevent and reduce the use of tobacco and nicotine-containing products in Aboriginal and Torres Strait Islander communities and in culturally and linguistically diverse communities.

⁴ Dutta S. Confronting illicit tobacco trade: a global review of country experiences. World Bank, 2019. Available from: <http://documents.worldbank.org/curated/en/677451548260528135/pdf/133959-REVISED-2-v1-WBG-Tobacco-IllicitTrade-FINAL-v3-web.pdf>


⁵ Fiscal Affairs Department. Fiscal Policy: How to design and enforce tobacco excises. How to Notes, Washington DC: International Monetary Fund, 2016. Available from: <https://www.imf.org/external/pubs/ft/howtonotes/2016/howtonote1603.pdf>.

⁶ Conference of the Parties to the WHO Framework Convention on Tobacco Control. Protocol to Eliminate Illicit Trade in Tobacco Products. World Health Organization Geneva 2015. Available from: <https://fctc.who.int/publications/i/item/9789241505246>.

These communities require culturally safe and appropriate access to cessation services and education materials. We also note that the Australian Government has just defunded the component of the Tackling Indigenous Smoking program being used by Quitline services to employ Aboriginal and Torres Strait Islander counsellors to deliver the highly accessible and culturally safe 'Aboriginal Quitline'. We emphasise that programs like Aboriginal Quitline are best placed to work in preventing and reduce tobacco use and nicotine addiction in Aboriginal and Torres Strait Islander communities.

We would welcome the opportunity to discuss our submission further. Should you wish to do so, please contact Jessica Stone, Policy Coordinator, on jstone@vichealth.vic.gov.au or 03 9667 9047.

Kind regards



Dr Sandro Demaio
Chief Executive Officer