

Briefing on the Prohibition of Vaping and Organised Crime

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Executive Summary

Australia's 'de facto' prohibition of vapes has helped create a thriving and highly profitable black market controlled by the same criminal networks that import illicit tobacco. These criminal gangs are engaged in an escalating turf war to gain market share, with firebombing of tobacco shops and public executions.

Research has shown that once a black market is established for a product that is in high demand it is exceedingly rare for harsh restrictions (such as large fines, intense policing, border enforcement etc.) to be successful in reducing it. Criminal control typically leads to increased product strength and further criminal activity.

The only way to significantly reduce a black market is to replace it with a legal, regulated one with products sold by licensed legal outlets.

The black market

Vaping in Australia is subject to stringent and onerous conditions. This has led to [over 90%](#) of Australia's [1.7 million](#) adult vapers rejecting the legal pathways and purchasing their vaping products from the black market. Such harsh regulation is tantamount to prohibition ("de facto" prohibition).

An estimated [120 million](#) disposable vapes are imported illegally from China into Australia each year, mostly by criminal gangs. These are often poorly labelled, high-nicotine and unregulated products. None are made by [tobacco companies](#).

The products are openly displayed and sold from a [wide network](#) of retail outlets, such as tobacconists, convenience stores, petrol stations and vape shops. They are also widely accessible on social media. Vapes are as accessible as other prohibited drugs.

"The same organized crime groups who are bringing in illicit tobacco are bringing in the vapes," says [Rohan Pike](#), former head of the Australian Border Force's (ABF) inaugural Tobacco Strike Team. They are mostly Middle Eastern and more recently Chinese organized crime groups.

The Deputy Commissioner of the Border Force, Tim Fitzgerald explained that these [organised crime groups](#) compete for market share of the lucrative vape and illicit tobacco trade, resulting in escalating criminal activity, arson and violence. In Victoria alone, [over 30 tobacco shops](#) have been firebombed over the past 12 months in a war for control between crime groups.

Tobacconists are approached and pressured to sell illicit tobacco and vapes, under an [Earn or Burn](#) threat. If the tobacconist refuses to comply, the criminal gangs employ outlaw motorcycle groups to firebomb the premises. Recently six members of the [Finks outlaw motorcycle gang](#) were charged over six firebombings in Melbourne.

Crime groups pay [young offenders](#) to carry out crimes, such as carjackings, often performed blatantly during daylight and putting the public at risk. The cars are then used to ram and destroy tobacco stores.

As the violence has escalated, a number of brazen, daytime public executions by competing gangs have occurred, for example in [South Yarra](#), [Craigieburn](#) and [Keilor](#) in Melbourne.

Illegal vapes are a highly profitable commodity. A disposable vape can be purchased from China for as little as \$3 and sold for \$35. “The margins are huge, the enforcement is low, so it’s a low-risk, high-profit business,” says [Rohan Pike](#).

Sales are usually made in cash and no tax is collected. Even if eight shipping containers out of ten are intercepted, a profit will likely be made.

Health Minister [Mark Butler](#) says the black market for vapes is “funding the criminal activities of organised crime gangs, drug trafficking, sex trafficking and the like”.

In sharp contrast to Australia, “there is no significant black market for vapes in [New Zealand](#)” according to [Ben Youdan](#), Director of New Zealand’s Action for Smokefree 2025. Vapes are legally available to adults through regulated providers.

Smaller black markets for illegal vape products are well documented in the [United States](#) and [United Kingdom](#).

Enforcement

Research has shown that black markets have only rarely been significantly disrupted by enforcement or crackdowns in Australia or overseas. This has been the case with illicit drugs, alcohol, tobacco, sex work etc.

The Australian Border Force (ABF) has been given the necessary resources to complete its core function which is to facilitate the efficient movement of freight and passengers across the border. It has not been suitably funded to stop every prohibited good from entering the country. It would be extremely unwise to place the sole responsibility of stopping illegal vape importations on the ABF.

“Law enforcement and border control efforts have minimal long term impact on the supply of drugs in the community”, according to a 2023 [report](#) on vaping by Australian health consultancy group, 360Edge.

The Australian Border Force scans just [1.4 per cent](#) of the 6.3 million containers that arrive in Australia by sea every year. “It’s impossible to stop this [illicit vapes] at the border,” according to [Rohan Pike](#). “We have a huge border and not enough resources.”

ABF Commissioner [Michael Outram](#) warned recently that banning vapes at the border won’t be enough to stamp out the rampant black market, as the ABF was already only managing to detect a quarter of illicit drugs making their way into Australia “on a good day”.

Law enforcement's victories are often celebrated in the media, but are but a [drop in the ocean](#) compared to the scale of the problem.

Thousands of illicit vape sales outlets have appeared in the last couple of years, but prosecutions are rare. For example, in NSW there are only 7 inspectors. Only [32 prosecutions](#) had been launched over the past five years.

The failure of prohibition

History has repeatedly shown that the prohibition of alcohol and psychoactive drugs doesn’t cause banned products to disappear, especially when there is a high demand for a product. Bans simply shift the market from legal retailers to criminals and unregulated black markets. Sellers always arise to meet the demand and find creative solutions, no matter how high the penalties.

For example, in the 2023 [National Illicit Drug Reporting System](#), 87% of intravenous drug users reported that accessing heroin was easy or very easy. Heroin was banned in Australia in 1953. Illicit tobacco is also widely available and is now estimated by industry sources to be [23.5% of the total tobacco market](#), representing \$4.2 billion in lost tobacco excise.

Dr [James Martin](#), senior lecturer in criminology at Deakin University, said “When there’s demand that strong there will always be supply that will emerge.”

Professor Nicole Lee from the National Drug and Research Institute (Melbourne) explained in a recent article in [The Conversation](#) that “banning drugs doesn’t stop people using them”. Instead, prohibition leads to “driving drugs underground and creating a black market or increasing harms”.

Experts from the Australian National Advisory Council on Alcohol and Other Drugs have advised that the ban on vape sales outside pharmacies would backfire. Queensland Network of Alcohol and other Drug Agencies Chief Executive [Professor Rebecca Lang](#) said the additional restrictions “will likely only make the problem worse.”

She argued that the 2021 policy which limited nicotine vaping liquids to prescription-only had inadvertently but ‘entirely predictably’ led to a bigger unregulated market with more young people accessing it.

Unintended consequences

Harsh prohibitive policies often end up doing more damage than the drug itself. According to the [Iron Law of Prohibition](#), illegal drugs become more potent and more dangerous. Under prohibition, drugs become [more costly](#) and fuel criminal networks with drug wars, further crime and corruption.

Another consequence is widespread youth access. As [Professor Lee](#) explained in [The Conversation](#), the black market “makes it easier, not harder, for teens to access them [vapes], because there are no restrictions on who can sell or buy them.”

Making vapes very difficult to access when deadly cigarettes are freely available will also increase smoking. “It undoubtedly means that some smokers will continue smoking instead of switching to the safer alternative,” according to [Dr Colin Mendelsohn](#), Founding Chairman of the Australian Tobacco Harm Reduction Association. [Professor Lee](#) was also concerned that “regulation that was ‘too severe’ could make smoking cigarettes more attractive”.

‘The success of law enforcement in maintaining high prices is also its Achilles heel, creating extraordinary opportunities for extraordinary profits, thereby attracting entrepreneurs whom the law seeks to discourage by enforcement of the very laws which created profitable markets and attracted entrepreneurs in the first place’. (Professor Steven Wisotsky, [Breaking the impasse in the war on drugs](#), 1986)

The way forward

According to [Professor Lee](#), “the way to reduce the black market is to make quality-controlled vapes and liquids more widely available, but restricted to adults. If people could access vaping products legally they wouldn’t buy them on the black market and the black market would decline.”

This means selling vapes as adult consumer products from licensed retail outlets with strict age verification, like tobacco and alcohol. Vapes should be available at reasonable prices as excessive prices will create a market for criminals. This would bring Australia into line with every other Western country.