Public Health Association of Australia submission on Inquiry into the Use and Marketing of Electronic Cigarettes and Personal Vaporisers in Australia

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Introduction

The Public Health Association of Australia

The Public Health Association of Australia (PHAA) is recognised as the principal non-government organisation for public health in Australia working to promote the health and well-being of all Australians. It is the pre-eminent voice for the public’s health in Australia. The PHAA works to ensure that the public’s health is improved through sustained and determined efforts of the Board, the National Office, the State and Territory Branches, the Special Interest Groups and members.

The efforts of the PHAA are enhanced by our vision for a healthy Australia and by engaging with like-minded stakeholders in order to build coalitions of interest that influence public opinion, the media, political parties and governments.

Health is a human right, a vital resource for everyday life, and key factor in sustainability. Health equity and inequity do not exist in isolation from the conditions that underpin people’s health. The health status of all people is impacted by the social, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the unfair and unjust effects of conditions of living that cause poor health and disease. These determinants underpin the strategic direction of the Association.

All members of the Association are committed to better health outcomes based on these principles.

Vision for a healthy population

A healthy region, a healthy nation, healthy people: living in an equitable society underpinned by a well-functioning ecosystem and a healthy environment, improving and promoting health for all.

Mission for the Public Health Association of Australia

As the leading national peak body for public health representation and advocacy, to drive better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.

Preamble

PHAA welcomes the opportunity to provide input to the Committee inquiry into the use and marketing of electronic cigarettes and personal vaporisers in Australia. The reduction of social and health inequities should be an over-arching goal of national policy and recognised as a key measure of our progress as a society. The Australian Government, in collaboration with the States/Territories, should outline a comprehensive national cross-government framework on promoting a healthy ecosystem and reducing social and health inequities. All public health activities and related government policy should be directed towards reducing social and health inequity nationally and, where possible, internationally.
PHAA Response to the Inquiry Terms of Reference

1. The use and marketing of e-cigarettes and personal vapourisers to assist people to quit smoking

Australia has made great progress in curbing tobacco use and minimising the harms from it – we are considered world leaders in this area and now have one of the lowest rates of daily smoking in the OECD(1). Smoking prevalence in Australia has been falling over the past decades and is now at 12.2%. The results for young people are especially promising, with latest available data classifying 98% of Australians aged 12 – 17 as never-smokers, with the age of initiation increasing to 16.3%(2). Fewer people are smoking, fewer young people are starting to smoke. Smoking is no longer seen as a normal social behaviour, opportunities for tobacco promotion have been heavily constrained, and the tobacco industry has referred to Australia as “the darkest market in the world”. Walking through clouds of smoke on one’s way into shopping centres and large office buildings is becoming the exception rather than the norm. Progress has been made despite fierce and relentless opposition from the tobacco industry and its allies, exemplified by the opposition to plain packaging for cigarettes. Australia’s remarkable progress thus far has been based on a comprehensive approach with progressive implementation of evidence-based measures, a consensus among key health organisations and bipartisan support.

However, smoking remains Australia’s largest single preventable cause of mortality and disease(3) and rates of smoking disturbingly high in some sections of the population including Aboriginal and Torres Strait Islander communities, people with mental health issues, people of lower socio-economic background, and prisoners. There is more work to be done, and the risks from tobacco remain. Clear evidence exists on the further action required (see for example, PHAA’s tobacco control policy available at https://www.phaa.net.au/documents/item/268), and it is vital that governments continue to implement the evidence-based approaches recommended by PHAA and other key groups.

The World Health Organization has advised that “Governments should consider that if their country has already achieved a very low prevalence of smoking and that prevalence continues to decrease steadily, use of ENDS (electronic nicotine delivery systems) will not significantly decrease smoking-attributable disease and mortality even if the full theoretical risk reduction potential and ENDS were to be realized”(4).

E-cigarettes have been marketed as a tool to assist in quitting smoking. However, the available evidence does not support this, either in terms of their effectiveness as a quit-smoking tool, or that this is necessarily how they are being used. Australia’s leading health authority, the National Health and Medical Research Council, has concluded following reviews of the evidence that while “Electronic cigarettes (e-cigarettes, also known as electronic nicotine delivery systems (ENDS) or electronic non-nicotine delivery systems (ENNDS)) are often marketed as a method to assist smokers to quit, or as a ‘safe alternative’ to conventional tobacco cigarettes”, there is currently insufficient evidence to support claims that e-cigarettes are safe and further research is needed to enable the long-term safety, quality and efficacy of e-cigarettes to be assessed”. Further, the NHMRC reports that “There is currently insufficient evidence to conclude whether e-cigarettes can assist smokers to quit”(5).

There is also cause for concern that more young people are trying e-cigarettes than taking up smoking even in Australia(2), while in the United States of America there has been a dramatic increase in the use of e-cigarettes among high school students. As the US Surgeon General’s Report on E-Cigarette Use Among Youth and Young Adults, which followed extensive research and reviews of the evidence, noted, in relation to the US:

This combination of evidence strongly suggests that young people who may never have ended up as smokers are trying e-cigarettes.
“E-cigarette use among youth and young adults has become a public health concern. In 2014, current use of e-cigarettes by young adults 18–24 years of age surpassed that of adults 25 years of age and older” and “E-cigarettes are now the most commonly used tobacco product among youth, surpassing conventional cigarettes in 2014. E-cigarette use is strongly associated with the use of other tobacco products among youth and young adults, including combustible tobacco products”(6).

The available evidence strongly suggests that young people who may never have ended up as smokers are trying e-cigarettes. This conclusion is supported by evidence about the promotion and advertising of e-cigarettes. Producers and advertisers are using tactics similar to those seen for tobacco in the past, to get and retain new users while they are young – the time when most tobacco use patterns are established(6). There are now even more than 30 annual vaping conventions held in the USA. These events include vendors promoting flavours and devices, models handing out free samples, and cloud competitions with free merchandise as prizes for the largest, densest or most artistic plume(7). At a time when smoking is so clearly on the way out among children and young people in Australia, it would be devastatingly counterproductive to enable their availability and promotion as a means of renormalising smoking behaviour. In this context it should be noted that it is simply not possible to enable marketing of e-cigarettes in any way that does not expose children, young people and other non-smokers or ex-smokers to their promotion. Experience over many years illustrates that tobacco companies will use any possible loophole to enable promotion of their products to as many people as possible, including the most vulnerable groups. For these and related reasons, the NHMRC has identified young people as a group requiring special protection from e-cigarettes.

The 2016 US Surgeon General’s report sets out in detail many further concerns, including the dangers of products containing nicotine and e-cigarette aerosol, as well as the ways e-cigarettes and their various flavourings are marketed. For these and other well-documented reasons, in the introduction to this report, US Secretary for Health and Human Services Sylvia Burwell noted that “We cannot let the enormous progress we’ve made toward a tobacco-free generation be undermined by e-cigarettes and other emerging tobacco products” and Surgeon General Murthy concluded that “e-cigarettes are dangerous to youth and young adults”, “millions more children are being exposed to nicotine through e-cigarettes”, and “Given that nearly all adult tobacco users initiate tobacco use during adolescence or young adulthood, it is crucial that we address the alarming rates of use of these products by young people” (4). Australia has the opportunity to learn from the American experience.

Even since the Surgeon General’s report, there has been further compelling evidence of the role of e-cigarettes as a catalyst for smoking, for example a meta-analysis recently published in the journal JAMA Pediatrics(8).

The evidence that existing smokers are using e-cigarettes as a quit smoking tool is similarly weak from Australia as elsewhere(2). The NHMRC conclusion, cited above, that “There is currently insufficient evidence to conclude whether e-cigarettes can assist smokers to quit”, follows reviews of the evidence, as do similar conclusions reached by other authorities. Indeed, a recent systematic review and meta-analysis of evidence about the effectiveness of e-cigarettes as a quit smoking tool found that the odds of a smoker quitting were 28% lower among those using e-cigarettes than among those who did not(9). Rates of total abstinence over 24 months are similar for users of tobacco only, e-cigarettes only and dual users(10). Overall, the evidence for the efficacy of e-cigarettes for smoking cessation is at best unclear with more quality research required(11). It should also be noted that arguments about the evidence surrounding the
effectiveness of e-cigarettes in assisting smokers to quit are largely redundant if that is not how e-cigarettes are being used.

We are aware that there are many individuals who believe ardently that e-cigarettes are the best way to quit, although we are also aware that there have been widespread efforts to generate submissions to this effect, including from the tobacco industry.

We welcome any quitting, as bringing clear benefits to both smokers and those close to them. We also note, however, that there is a very long history of products and approaches presented as near-miracle means of quitting, many also with enthusiastic adherents. The reality remains, that by far the most effective means of quitting is “cold turkey”. Any smokers who feel they need help have access to various supports including their general practitioners and other health professionals, and there are significant risks in promoting the notion that external assistance or products are a crucial prerequisite to successful quitting.

2. The health impacts of the use of e-cigarettes and personal vaporisers

With more than 500 brands and nearly 8000 flavours available(12), and little in the way of regulation internationally, knowing what is in e-cigarettes is difficult, and there is much variation(13). However, it has been found that the inhaled vapour contains lead, cadmium and nickel(14), and that the e-cigarettes themselves contain formaldehyde, acetaldehyde, acroleine, propanol, acetone, o-methyl-benzaldehyde, carcinogenic nitrosamines and fine and ultrafine particulate matter(15). This is in addition to nicotine which is addictive and harmful to brain development(6). What little available evidence there is on the effects of e-cigarette smoking, shows that it may result in acute lung function responses such as an increase in impedance and peripheral airway flow restriction, and induce oxidative stress(15). Adolescent e-cigarette users have self-reported increased rates of chronic bronchitic symptoms(16). Similar to the evidence about efficacy for smoking cessation, good quality evidence about long term safety of e-cigarettes is lacking(11). Many manufacturer and retailer websites though make health claims, most commonly about modified risk compared with tobacco for the smoker and those inhaling secondhand smoke, without acknowledging the potential risks(17). While e-cigarettes may contain lower concentrations of nicotine than cigarettes, there is some evidence that users will compensate for that with more regular puffing, obtaining the same amount of nicotine, regardless of the delivery method(18).

As noted above, there is also cause for concern that using e-cigarettes may lead to using tobacco. Importantly, the nation’s well accepted authority and regulator in these areas, the Therapeutic Goods Administration has reported, again on the basis of extensive considerations and reviews that, “Unlike Nicotine Replacement Therapy (NRT) products, which have been rigorously assessed for efficacy and safety and, therefore, approved by the Therapeutic Goods Administration for use as aids in the withdrawal from smoking, no assessment of electronic cigarettes has been undertaken and, therefore, the quality and safety of electronic cigarettes is not known.(19)”

E-cigarettes and related products are relatively new and constantly changing as new products and flavours some on the market. It will take time for many of their impacts on health to show through, and for research to identify indeed whether they bring with them any new hazards, whether from current products, new products or any of the thousands of flavours being and likely to be used.
3. The appropriate regulatory framework for e-cigarettes and personal vaporisers in Australia

In considering a comprehensive harm minimisation strategy for a public health response to tobacco, there are several considerations – harm reduction, demand reduction and supply reduction. Based on principles of harm reduction, issues of concern include: whether long-term e-cigarette use results in higher overall absorption of nicotine, nicotine overdose, or some as-yet-unknown health risks associated with vapour constituents; whether e-cigarette use perpetuates smokers’ addiction to nicotine; whether the use of e-cigarettes serves as a catalyst for smoking for non-users, especially youth; and whether e-cigarettes make smoking socially acceptable again(20).

Further research on all these area is required. The emerging evidence regarding the issues of e-cigarettes as a possible catalyst to tobacco and making smoking socially acceptable again is especially concerning. With increasing rates of e-cigarette use among young people, increased tobacco susceptibility among e-cigarette users, and reasons for using e-cigarettes including curiosity, flavours, acceptability and safety there is significant cause for concern. The use of e-cigarettes in smoke free places is likely to lead to its normalisation. E-cigarettes specifically mimic the action and behaviour of smoking, so the step from normalisation of e-cigarettes to re-normalisation of tobacco cigarettes is not a large one(21).

Harm minimisation

Principles of harm minimisation may be at risk from increased uptake of e-cigarettes among the general population. The Australian Drug Strategy has long held that the minimisation of harm requires three parallel pillars. These are supply reduction, demand reduction and harm reduction. Many advocates of e-cigarettes as a harm reduction approach seem to wish to disregard the other important pillars that ensure the minimising of harm.

Supply reduction principles would support regulation of supply to limit the availability of e-cigarettes. If they are to be promoted as devices to assist in quitting smoking (assuming future evidence provides more robust support for their efficacy in this), they should be available on that basis, through the Therapeutic Goods Administration rather than as general consumable goods.

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‘chocolate’, ‘gummi bear’, ‘cola’, ‘chai latte’, ‘chocolate milkshake’, ‘mixed berries’, ‘lemon cheesecake’ and ‘fairy floss’. Current regulations in Australia mean that the flavours available on Australian sites do not contain nicotine, however, similar flavours purchased from overseas may. With these brand and flavour names, it is difficult to sustain an argument that these products are not being marketed towards children, and are primarily promoted as devices to assist in quitting smoking. Effective demand reduction would require similar regulations as exist with tobacco cigarettes in Australia – restrictions on use in public places, a requirement for government warning information, and strict restrictions on marketing, especially where that marketing links to conventional cigarettes.

Any consideration of harm reduction should be made in the context of the National Drug Strategy and include all three pillars of supply reduction, demand reduction and harm reduction.

We are aware that while the primary claims made for e-cigarettes are in relation to their potential as a cessation aid, there has been a more recent move to promoting their use as a less harmful alternative to smoking. We have noted earlier that the evidence in support of cessation efficacy is not strong. We believe that promoting e-cigarettes as reduced-harm alternatives to cigarettes would also render them appropriate for consideration by the TGA. We would also express great concern about the potential to bring a new product (in reality hundreds of products and thousands of flavours) onto the market without rigorous reviews and scrutiny. A time when smoking is in decline, when we know what is required to maintain and accelerate that decline, and smoking by children and young people is on the verge of becoming negligible, is not the time to bring onto the market a range of new, untested products which clearly do bring some risks and harms with them without such scrutiny.

A report from the US Surgeon General, with input from over 75 experts, recommends comprehensive tobacco control and prevention strategies for young people addressing all tobacco products – including e-cigarettes. The risk of undoing decades of work in reducing the harm from tobacco use is clear in their report: “It is crucial that the progress made in reducing cigarette smoking among young and young adults not be compromised by the initiation and use of e-cigarettes”(6).

4. Any other related matter

Framework Convention on Tobacco Control

PHAA notes that the Australian Government is a signatory to the World Health Organization’s Framework Convention on Tobacco Control (FCTC), which effectively sets out the comprehensive approach to be followed by governments. Article 5.3 of the FCTC specifies that “In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law”(22). We urge the Committee to ensure that the recommendations from this Inquiry are consistent with the FCTC.

Stance of the World Federation of Public Health Associations (WFPHA)

The following statement forms the introductory paragraph of the statements on E-Cigarettes by the PHAA and WFPHA:

“The World Federation of Public Health Associations (WFPHA) strongly supports the evidence-based position taken by the World Health Organization (WHO) following publication of its report on the issue of Electronic Nicotine Delivery Systems (ENDS), more commonly known as electronic cigarettes – or E-Cigarettes”1
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The Statement goes on to explain that the WFPHA:

- Endorses WHO’s call for caution and seeks the application of the precautionary principle by governments
- Calls for further evidence and research
- Emphasize that ENDS/E-Cigarettes should not be used as a means of bypassing Article 5.3 of the Framework Convention on Tobacco Control (FCTC) or re-normalizing smoking behaviour.

The WHO report rightly notes that there is a need for more research on various aspects of ENDS. These include short- and long-term harms, efficacy as a smoking cessation measure (including consideration of dual use), the overall impact of ENDS on tobacco prevalence and smoke exposure, and the impacts of ENDS promotion and use on re-normalizing smoking behaviour.

**Tobacco Industry**

The international tobacco industry has a long history of misleading the public regarding the risks associated with tobacco smoking and opposing public health measures which would negatively affect tobacco sales. A High Court judgement in the United Kingdom in 2016 dismissing a legal challenge to plain packaging legislation noted that the industry “…facilitates and furthers, quite deliberately, a health epidemic. And moreover, a health epidemic which imposes vast negative health and other costs upon the State” (23). In spite of evidence that tobacco will cause an estimated one billion deaths globally this century, tobacco companies continue to spend tens of billions of dollars each year on tobacco advertising, promotion and sponsorship, particularly in developing countries where women and young people, as the fastest growing markets, are targeted (24).

The involvement of tobacco companies in the production and marketing of e-cigarettes is therefore particularly concerning. PHAA is concerned that the tobacco industry is using issues such as e-cigarettes as a distraction from evidence-based tobacco control. We urge the Committee to place higher weight on evidence-based submissions from health experts whose motive is to improve public health than submissions from industry whose motive is to protect profits, or individual vapers who are unable to provide population-level evidence.

We also note that some organisations and individuals who have offered cautionary positions regarding e-cigarettes have been subjected to abuse and vilification which may lead some to feel unable to contribute further to public discussion.

**TGA and NHMRC**

PHAA is concerned at any suggestions that the Therapeutic Goods Administration (TGA) or National Health and Medical Research Council (NHMRC) be bypassed, or their roles in any way amended. These respected national bodies are part of the cornerstone of Australia’s health system.

While e-cigarettes are promoted as a therapeutic product to assist smokers in quitting, like any other such product, they should be subject to the processes of the TGA. Manufacturers wishing to market e-cigarettes and similar products in this way should take them to the TGA with evidence of their safety, quality and efficacy—it is then for the TGA to review the evidence and make determinations as to whether they may be sold or marketed, and if so, under what conditions (for example where sold, prescription or otherwise, marketing and promotional constraints, health warnings). The TGA is the authoritative and independent umpire, and all parties should respect its processes and determinations. We urge the Committee to recommend that the TGA processes are supported, both on this issue and in the context of setting a precedent for other products.

We also urge the Committee to similarly support the integrity and authority of the NHMRC.
Conclusion

PHAA has long been a leader in advocating for action to reduce smoking and its harms, and supports the strict regulation of e-cigarettes. We are keen to ensure that a precautionary approach is taken while robust evidence about the safety and effects of e-cigarettes emerges, in line with this submission. We are particularly keen that the following points are highlighted:

- There is a lack of robust evidence supporting the claim that e-cigarettes are a safe and effective smoking cessation aid
- With a large number of products and flavours available, there is little consistency in regulation of the products, making it difficult to obtain robust evidence
- E-cigarettes are being produced and marketed towards the young, risking a re-normalisation of smoking behaviour
- There is a strong evidence base for action that can and should be taken to reduce smoking further, and it would be cause for serious concern if discussions over e-cigarettes were to distract from such action.
- The NHMRC’s advice should be respected
- The Therapeutic Goods Administration remains the appropriate body to make independent and authoritative determinations on the safety and efficacy of e-cigarettes and related products
- Any moves to bypass the TGA would be inappropriate in this context, while also setting a risky precedent.

The PHAA appreciates the opportunity to make this submission and the opportunity to contribute to the effective regulation of e-cigarettes in Australia.

Please do not hesitate to contact us should you require additional information or have any queries in relation to this submission.

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References