



26 March 2026

Senator Leah Blythe
Chair
Legal and Constitutional Affairs References Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

via email: legcon.sen@aph.gov.au

Dear Senator Blythe

Illegal tobacco crisis in Australia

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) welcomes the opportunity to make a submission to the Senate Legal and Constitutional Affairs Committee inquiry into the illegal tobacco crisis in Australia.

Australia's illegal tobacco market is having significant, negative impacts on small business.

Not only does it take market share and impose higher operating costs on small business retailers that lawfully sell tobacco products, but it also imposes higher costs on other small business retailers operating in precincts where transnational serious and organised crime (TSOC) groups are active. The range of negative impacts include a significant reduction in lawful tobacco sales that can also reduce a retailer's non-tobacco product sales, higher insurance premiums, destruction of property, theft of stock and threats to personal safety.¹

With increased illegal tobacco sales and the related negative impacts on small business, the ASBFEO urges the Committee to consider effective measures that reduce the sale of illegal tobacco and create a safer operating environment for legitimate retailers and small businesses operating in high-risk precincts. This in turn could reduce the perceived risk of these businesses and improve the availability of affordable insurance.

More effective law enforcement

Small business stakeholders are calling for governments to enforce existing laws rather than introduce additional regulatory requirements. The enforcement priorities highlighted by small businesses include:

- ensuring effective application of regulatory tools, including imposing strong penalties on unlicensed retailers and sellers of illegal tobacco to support compliance and promote fair competition.

¹ A Kohler, 'Illegal tobacco is a deadly \$10 billion industry wiping out legitimate businesses', ABC News, 3 August 2025, accessed 13 March 2026; B Doherty, 'Earn or burn': the firebombings and underworld conflicts exposing Australia's illicit tobacco trade,' The Guardian, 22 October 2023, accessed 13 March 2026; C Kruger, 'Illegal tobacco is big business, and retail giants are feeling the burn,' *The Sydney Morning Herald*, 9 August 2025, accessed 20 March 2026.



- continuing to fund the Illicit Tobacco Compliance and Enforcement Package into 2027-28 and beyond.
- ensuring appropriate resourcing and training for enforcement officers to address the safety risks associated with the illicit tobacco market.
- enhancing coordination across jurisdictions, supported by police involvement where necessary, given the significant cross-border criminal activity linked to the illicit market
- strengthening border screening for counterfeit packaging
- increase intelligence-led enforcement against suppliers of illegal tobacco products
- ensuring penalties for possessing or distributing fake packaging are consistently applied

The WHO Protocol to Eliminate Illicit Trade in Tobacco Products provides one model of an effective track-and-trace system.²

We note that, in March 2025, the Minister for Health and Ageing announced additional Australian Government funding to address several of these priority areas³ and encourage all governments to providing funding for practical initiatives that will strengthen law enforcement.

Leasing arrangements

With regard to current legislative measures, the ASBFEO is concerned with the safety risk of requiring landlords to close or evict businesses—often linked to dangerous criminal enterprises—found to be selling illegal tobacco on their premises. For example, in Queensland, legislative reforms include a new criminal offence for commercial landlords who knowingly permit another person to use the premises for the supply or possession of illicit tobacco or illicit nicotine product as part of a business activity.⁴

In some cases, these landlords are small businesses who may operate as a retailer but also own commercial property and lease it to other businesses. There are also real estate agents who manage property on behalf of a landlord.

Landlords and property managers are not law enforcement officers and may not feel safe to evict a tenant or have the appropriate training or expertise to determine whether a tenant is engaging in illegal tobacco activity (unless advised by government or law enforcement authorities).⁵ The ASBFEO therefore urges that careful consideration be given to the safety risks of requiring private citizens to enforce such provisions and not impose unreasonable burdens on lawful business owners.

The ASBFEO also notes that any variations to the respective state-based retail leasing laws required to enable landlords to close or evict tenants, may have unintended consequences to the broader retail leasing frameworks which seek to balance the rights and obligations of smaller

² C Puljević, Mi King, I Meciar, and C Gartner, 'Smoking out Australia's growing illicit tobacco market: Current trends and future challenges,' *International Journal of Drug Policy*, 2024, accessed 19 March 2026.

³ M Butler, *Action to combat the trade of illicit tobacco* [media release], Department of Health, 12 March 2025, accessed 19 March 2026.

⁴ *Tobacco and Other Smoking Products Act 1998*, subdivision 209CE.

⁵ A Mercorella, *Submission – Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* [submission], Real Estate Institute of Queensland, 2025, accessed 17 March 2026.



businesses and commercial landlords. In particular, there is a risk that unscrupulous landlords or their property agents may seek to unreasonably and unlawfully ‘weaponise’ any eviction powers against legitimate business operators or to attempt to legitimise interfering in a small businesses’ quiet enjoyment of their leased premises where there is no involvement in the illegal tobacco trade.

Smaller retail businesses have limited access to free or low-cost legal advice to support them in assessing the legitimacy of actions by their landlords. There may be an opportunity to leverage the existing retail leasing expertise and dispute resolution services of the respective state based Small Business Commissions to support and assist small businesses.

Provide a safe operating environment for small businesses

A key focus of law enforcement and all levels of government should be to provide for a safe operating environment for lawful tobacco retailers and other businesses operating in high-risk precincts, many of whom are small businesses.

Tobacco retailers, their employees and customers, are increasingly concerned about their personal safety, property damage and livelihoods due to threats and attacks by TSOC groups. The Australian Criminal Intelligence Commission found that TSOC groups have seized and maintain control of the illicit tobacco and vape market in Australia since 2023, which has resulted in more than 200 fire bombings, at least 3 homicides (including of an innocent bystander), and multiple other non-fatal violent attacks.⁶

Businesses operating in high-risk precincts can also face the negative impacts of an unsafe operating environment, whether as direct victims of threats and attacks, or by experiencing the financial impact of reduced foot traffic resulting in decreased sales.

Therefore, approaches to law enforcement and other regulatory compliance should not only be effective in addressing the sale of illegal tobacco, but also be aimed at ensuring a safe operating environment for businesses in affected areas. This will help mitigate the broader negative impacts of the illegal tobacco trade, including the direct and indirect costs on small businesses.

Insurance impacts

One of these direct costs relates to insurance, where tobacco retailers and property owners have reported significant challenges in securing *affordable* insurance, with some unable to obtain coverage at all due to the increased safety risks associated with the illegal tobacco trade. These pressures affect both tenants and landlords, as insurance availability and cost often depend on the nature of the business and the conditions of the lease. In particular, premises leased to tobacco retailers may face higher risks making it difficult to secure or maintain property and public liability insurance.⁷

The Committee may wish to consider seeking detailed data from the insurance industry. This will allow a detailed analysis of the impact of the illegal tobacco trade on access to, and affordability,

⁶ Australian Criminal Intelligence Commission (ACIC), *Opening the Books: the impact of serious and organised crime on Australia in 2025*, ACIC, Australian Government, 2025, accessed 11 March 2026.

⁷ NSW Small Business Commissioner, ‘Consider insurance risks before entering or renewing a lease’, NSW Small Business Commissioner, 11 November 2024, accessed 18 March 2026.



of insurance for small businesses within the tobacco retailing industry or located in precincts where tobacco retailers operate (legal and illegal).

Insurance premiums for small businesses in Australia are influenced by a complex mix of underwriting practices, assessed risk profiles, government taxes and levies, and broader market conditions.

While there are some steps businesses can take to ease premium pressures, such as risk mitigation measures, the options available to small businesses operators are often limited as the cost of implementation often outweigh the potential savings. There can also be a lack of clarity regarding what the impact on premiums would be if they did undertake specific additional mitigation steps. As a result, risk mitigation alone is often not a viable strategy for small businesses already under financial strain.

Effective law enforcement and other regulatory compliance actions that address the sale of illegal tobacco and provide for a safer operating environment should reduce the risk profile of lawful tobacco retailers and businesses operating in high-risk precincts, putting downward pressure on insurance premiums. This in turn could improve the affordability of insurance for small business operators.

Please note that the ASBFEO consulted with the following organisations to inform this submission:

- State Small Business Commissions
- Australian Retail Council
- Insurance Council of Australia
- Master Grocers Independent Businesses Association
- Australian Association of Convenience Stores

This submission reflects the ASBFEO's views and we do not purport to represent the views of the above organisations.

If you require any further information, please do not hesitate to contact the Policy and Advocacy team via email at advocacy@asbfeo.gov.au.

Yours sincerely

Lynda McAlary-Smith

Australian Small Business and Family Enterprise Ombudsman