



Illicit tobacco in Australia

2018 Full Year Report

3 May 2019





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Nothing in this Report constitutes legal advice. Information sources, the scope of our work, and scope and source limitations, are set out in the Appendices to this Report. The scope of our review of the contraband, counterfeit and unbranded segments of the tobacco market within Australia was fixed by agreement with the Beneficiaries and is set out in the Appendices.

We have satisfied ourselves, so far as possible, that the information presented in this Report is consistent with our information sources but we have not sought to establish the reliability of the information sources by reference to other evidence.

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Glossary

ABF	Australian Border Force
ABS	Australian Bureau of Statistics
ACIC	Australian Criminal Intelligence Commission (formerly Australian Crime Commission)
ACT	Australian Capital Territory
AIHW	Australian Institute of Health and Welfare
AIT	Anti-Illicit Trade
ATO	Australian Taxation Office
AWOTE	Average Weekly Ordinary Time Earnings
AUSTRAC	Australian Transaction Reports and Analysis Centre
BATA	British American Tobacco Australia
Bn	Billion
CAGR	Compound Annual Growth Rate
CATI	Computer Aided Telephone Interview
CAWI	Computer Aided Web Interview
Contraband	Genuine manufactured cigarettes that are sold without the payment of applicable excise taxes in the market of consumption. Contraband cigarettes tend to have been bought in a low-tax country and brought into the country of consumption illegally or acquired without taxes (for export purposes) and illegally re-sold in the market of consumption. This category includes genuine products that are brought into a country in amounts exceeding the personal allowance; in Australia this limit is 25 cigarettes or 25 grams of RYO per person
Counterfeit	Manufactured cigarettes that are illegally manufactured and carry the trademark and/or branding of a legally manufactured brand without the consent of the trademark owner. Counterfeit cigarettes are also known as fake cigarettes. For the purposes of this analysis, data relating to counterfeit is not included within the definition of contraband
CPI	Consumer Price Index
DIBP	The Department of Immigration and Border Protection
Domestic cigarettes	Cigarettes that are produced for consumption in Australia
Domestic Illicit Plains	Flows of Illicit White brands that have packaging designed for the domestic Australian market
EOS	Shipment data is provided by each manufacturer to independent research agencies who process and combine it into a single set of data to reflect ex-factory shipments for all three manufacturers
EPS	Empty Pack Survey
FCTC	Framework Convention on Tobacco Control
g	Gram
GDP	Gross Domestic Product
GFIS	Global Fiscal Information Solutions
H1	First half of the year i.e. the period from January through June
H2	Second half of the year i.e. the period from July through December
Illicit Whites	Manufactured cigarettes that are usually manufactured legally in one country/market but which the evidence suggests have been smuggled across borders during their transit to Australia, where they have limited or no legal distribution and are sold without the payment of tax. These flows include Domestic Illicit Plains and Illicit Whites (non– domestic)

Glossary (cont.)

Illicit Whites (non-domestic)	Flows of Illicit White brands that do not have plain packaging designed for the domestic Australian market
Inflows	Total volume of cigarettes coming into Australia
ITA	Imperial Tobacco Australia
Kg	Kilogram
KPI	Key Performance Indicator
LDC	Legal Domestic Consumption
LDS	Legal Domestic Sales
LTM	Last Twelve Months
LTM H1	Last Twelve Months to the end of June (e.g. 1 July 2016 to 30 June 2017)
LTM H2	Last Twelve Months to the end of December (e.g. 1 January 2017 to 31 December 2017)
M	Million
MSI	MSIntelligence
ND(L)	Non-Domestic Legal is the legitimate tobacco purchased in duty free or abroad within personal allowance limits. Since 1 July 2017, consumers have a limit of 25 cigarettes or 25g of RYO
Non-domestic cigarettes	Cigarettes that are not Australian (i.e. no Australian health warning or not in English, brands not sold in Australia, packs with identifying marks from other markets such as tax stamps)
OECD	Organisation for Economic Cooperation and Development
PDI	Personal Disposable Income
PML	Philip Morris Limited
Pp	Percentage point
Project SUN	A study of the illicit cigarette market in the European Union by KPMG
Outflows	Legitimate tobacco purchased in Australia and taken abroad
RMR	Roy Morgan Research
RSP	Retail Selling Price
RYO	Roll Your Own
TSG	Tobacco Stakeholder Group. Formerly known as the Tobacco Industry Forum (TIF)
TST	Tobacco Strike Team
Tonnes	Thousand kilograms
WHO	World Health Organization
Unbranded tobacco	Illegal loose leaf tobacco upon which no duty has been paid and which carries no labelling or health warnings. It is sold and consumed either in RYO form (called Chop Chop) or inserted into empty cigarette tubes. Commonly sold in both bags or boxes
Unspecified	Unspecified market variant refers to cigarette packs that do not bear specific market labelling or duty free labelling
Y o Y	Year on Year

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1. Executive summary and key findings

1.1 Key messages

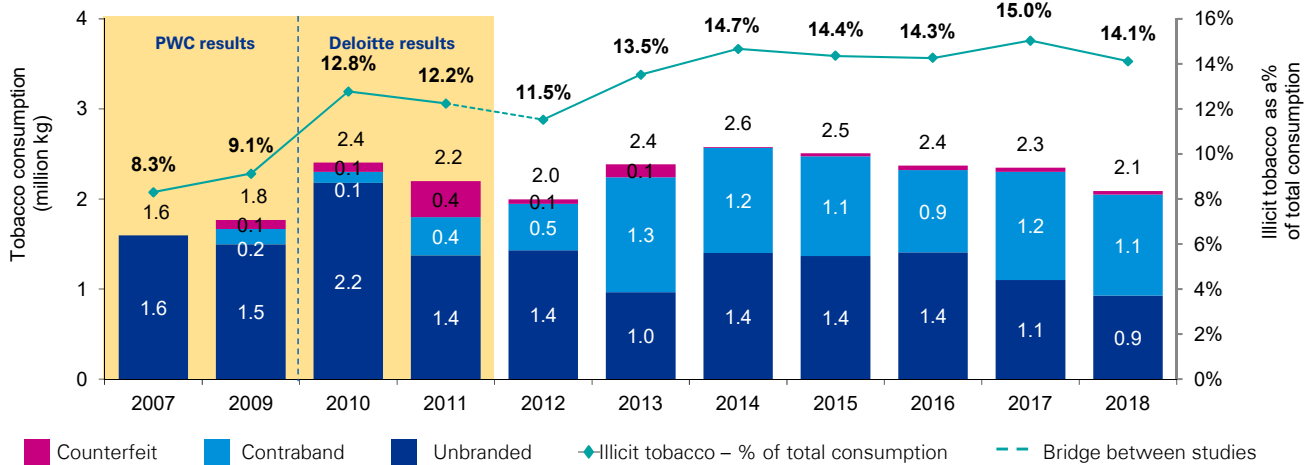
1.2 The purpose of this report

1.3 KPMG UK's anti-illicit tobacco measurement
experience

Illicit tobacco consumption declined by 0.9 percentage points to 14.1% of total consumption in 2018

1.1 Key messages

Consumption of illicit tobacco products by category and as a percentage of overall consumption, 2007 – 2018^{(1)(2)(3)(4)(a)(b)(c)}



Both legal tobacco consumption and illicit tobacco consumption decreased

- The total volume of tobacco consumption in Australia in the full year 2018 was 14.8 million kg. Compared to 2017, total volume decreased by 5.4%, as both legal and illicit consumption declined.
- Total consumption of illicit tobacco declined by 11.1%. This represents a decrease in the proportion of consumption from 15.0% in 2017 to 14.1% in 2018. This decrease is principally due to a decrease in consumption of unbranded loose tobacco.
- If this 2.1 million kg of tobacco had been consumed legally, it would have represented an estimated excise value of AUD2.02 billion.^(d)

Total Contraband volumes have decreased over the past year

- Contraband consumption accounted for the majority of total illicit tobacco consumption, increasing from 51.1% in 2017 to 53.7% of the total illicit consumption in 2018. While the proportion of contraband consumption increased, its absolute consumption has decreased from 1.20 million in 2017 to 1.12 million in 2018. Contraband comprises of non-domestic contraband as well as Domestic Illicit Plains and Illicit Whites (non-domestic).
 - In 2018, whilst there was an increase in the prevalence of non-domestic contraband (from 6.18% to 7.01% of total consumption), the incidence of Domestic Illicit Plains declined (from 1.93% to 0.75% of total manufactured cigarettes consumed).
 - Flows of Chinese, South Korean and Indonesian labelled packs were the largest non-domestic inflows accounting for 21%, 5% and 5% of the total non-domestic flows in 2018 respectively.^(e)
- Counterfeit remains a very small share of illicit tobacco consumption (0.04m kg or 1.9% of total illicit consumption).
- Whilst there was a decline in the volume of consumption of contraband cigarettes, we note that the total non-domestic incidence in Q4 2018 was the highest non-domestic incidence recorded in the past decade.

Meanwhile, consumption of unbranded tobacco decreased

- Unbranded (or ‘Chop Chop’) consumption accounts for 44.4% of total illicit consumption.
- The volume of unbranded tobacco as a proportion of total consumption decreased from 7.0% in 2017 to 6.3% in 2018, a decline of 0.7 percentage points.

Notes: (a) KPMG have not had the opportunity to validate results for 2007-2011. Sources: (1) PWC, *Illegal Tobacco: counting the cost of Australia's black market*, 2007, 2009. (2) Deloitte, *Illicit Trade of Tobacco in Australia*, 2010, 2011, 2012. (3) Industry data; see specific report sections for further detail. (4) KPMG Analysis. (b) Values below 0.1 have been removed for clarity purposes. (c) RMR implemented a new panel of respondents in Q4 2018. It is unclear how this may have impacted the results. (d) Calculated at the average excise rate for 2018. (e) Flows do not include Duty Free flows for respective countries.

KPMG UK is a leading advisor in the field of illicit tobacco consumption measurement

1.2 The purpose of this report

Imperial Tobacco Australia Limited (ITA) and Philip Morris Limited (PML) have commissioned KPMG UK to estimate the size of the consumption of illicit tobacco in Australia. Reports are produced annually. The purpose of this report is:

- 1. To provide an overview of the nature and dynamics of the legal and illicit tobacco markets in Australia, and**
- 2. To provide an independent estimate of the size of the illicit tobacco market in Australia.**

This full year 2018 report measures the consumption of illicit tobacco in Australia. It reports on events occurring during the twelve month period from January 2018 through December 2018. This 2018 report is produced using a methodology in line with previous KPMG 'Illicit Tobacco in Australia' reports.

1.3 KPMG UK's anti-illicit tobacco measurement experience

KPMG UK has significant experience in the measurement of illicit tobacco consumption across a number of markets as well as Australia. Our work has covered markets in Europe, Latin and North America, Asia and the Middle East.

Our work was pioneered in Europe where we have published an annual report on illicit cigarette consumption since 2006. In 2013, it was conducted on a pan-industry basis for the first time. In 2017, it was commissioned by the Royal United Services Institute (RUSI), funded by British American Tobacco Plc and Philip Morris International Management ('Project SUN'). The study included all 28 European Union Member States (with previous reports covering all member states at that point in time). Project SUN was conducted for the sixth time in 2018, the study also includes the non-EU markets of Norway and Switzerland.



2. Australian tobacco market

2.1 Tobacco consumption in Australia

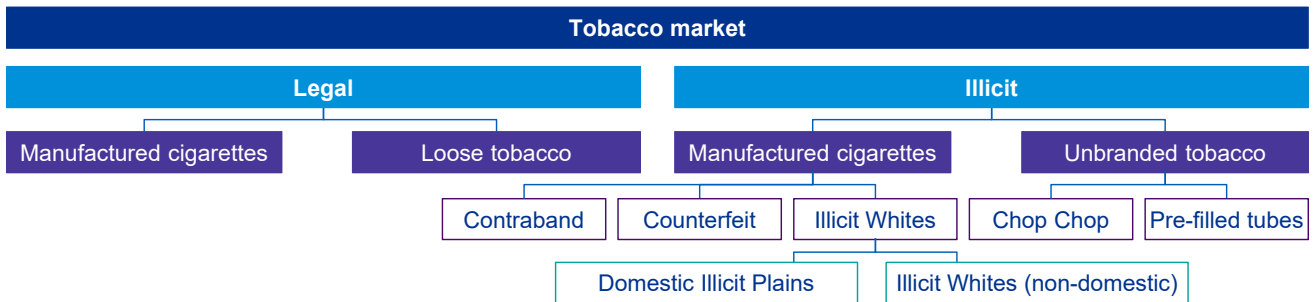
2.2 Legal tobacco market

The legal and illicit markets are made up of manufactured cigarettes and loose tobacco

2.1 Tobacco consumption in Australia

Tobacco consumption refers to total volume of consumption for all types of tobacco as mapped out in figure 2.1. This section deals with the tobacco market and related products:

Figure 2.1: Australia tobacco market map



Legal tobacco products

There are two main types of legal tobacco products considered in this report (shisha, cigars and pipe tobacco have been excluded for the purposes of this study):

Manufactured cigarettes – Made for the legal tobacco market and sold in packets.

Loose tobacco – Legal loose leaf tobacco sold in pouches and used in Roll Your Own (RYO) cigarettes, which are made using rolling papers or tubes.

As will be shown in Section 5.1, additional legal consumption is possible in the form of non-domestic legal product. The non-domestic legal product is tobacco purchased abroad by consumers and imported legally into Australia, either within personal allowance limits or by paying duty on the amount over this allowance.

Illicit tobacco products

Illicit tobacco is either grown or produced locally or procured illegally from overseas markets without the payment of customs duties. This tobacco is sold to consumers at lower prices than legal Australian cigarettes, avoiding Australian customs obligations, or is brought into the country in amounts exceeding the allowable personal limit.

Contraband

These cigarettes are manufactured legally outside of Australia but are non-compliant with Australian regulations and are smuggled into the Australian market. Contraband also includes cigarettes that are purchased legally outside Australia but exceed the personal import allowance and have no duty paid.

Contraband cigarettes are legitimately manufactured by the trademark owner but imported illegally (by third parties or consumers) to avoid Australian government regulations, quarantine inspections and local product controls.⁽¹⁾

Illicit Whites

Illicit Whites are manufactured cigarettes that are usually manufactured legally in one country/market but which the evidence suggests have been smuggled across borders during their transit to Australia, where they have limited or no legal distribution and are sold without the payment of tax. These flows include Domestic Illicit Plains and Illicit Whites (non-domestic). Domestic Illicit Plains are flows of Illicit White brands that have packaging designed for the domestic Australian market. Illicit White brand flows that do not have plain packaging designed for the domestic Australian market are Illicit Whites (non-domestic).

Illicit Whites cigarettes have been included in our analysis of contraband.

Counterfeit

These cigarettes are illegally manufactured and sold by a party other than the trademark owner. Once manufactured, they are smuggled into Australia most commonly via ports in large freight containers and other channels including airmail. According to the Tobacco Industry Stakeholder Group (TISG) they do not adhere to industry production standards and may pose additional serious health risks. They are also known as fake cigarettes.⁽²⁾

Unbranded tobacco

Unbranded tobacco is often sold as finely cut loose leaf tobacco in 250g or half kilogram amounts. Although, it has been reported by the industry that recently these products have been sold in quantities as low as 20g.

This product carries no labelling or health warnings and is made in RYO form or inserted into empty cigarette tubes that are available from legitimate tobacco retailers, often sold in the original cigarette tube boxes. The product is then sold in pre-filled tubes or loose in bags (called Chop Chop).⁽²⁾

The Australian Criminal Intelligence Commission and TSG believe that most unbranded tobacco is imported rather than grown in Australia but there have been increasing seizures of locally grown tobacco, discussed on page 37. It is believed to be sold by retailers and pop up tobacconists in the same way as counterfeit and contraband products.⁽³⁾

Sources: (1) Legal and Constitutional Affairs Legislation Committee, 23 February 2015.

(2) Tobacco Stakeholder Group (TSG).

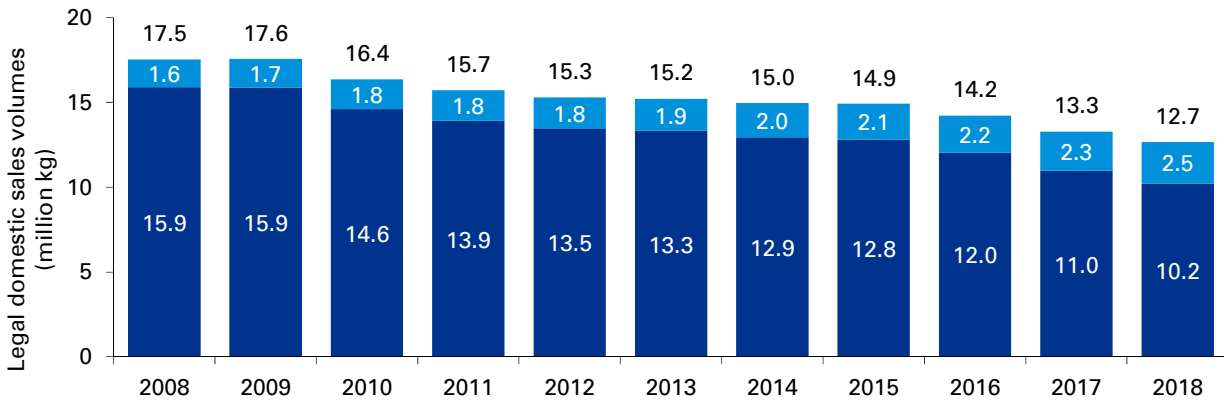
(3) Inquiry into Illicit tobacco, Submission 74, 10th February 2016.

Legal domestic sales continued to experience a decline in 2018

2.2 Legal tobacco market

2.2.1 Historic legal domestic sales

Figure 2.2.1: Legal domestic sales in Australia, 2008 – 2018^{(1)(2)(a)(b)}



CAGR (%)	2008 – 2018	2017- 2018
■ Manufactured cigarettes	(4.3)%	(6.8)%
■ Loose tobacco	4.1%	6.2%
Total market	(3.2)%	(4.6)%

Overall sales of legal domestic tobacco decreased by 4.6% between 2017 and 2018; a larger decline compared to the CAGR decline of 3.2% between 2008 and 2018.

The market has been declining steadily since 2009 driven by declining manufactured cigarette sales. Between 2017 and 2018 legal domestic sales of manufactured cigarettes experienced a decline of 6.8%, whereas loose tobacco sales increased by 6.2%. These results are again supported by industry volume data reflecting a decrease in overall sales by manufacturers in the year.⁽³⁾

Whilst manufactured cigarette sales volumes have declined at an annual rate of 4.3% since 2008, loose tobacco sales volumes have increased at an annual rate of 4.1%. Current year growth rates continue the ongoing mix shift towards loose tobacco.

Legal domestic sales for 2013 were based on an analysis of Exchange of Sales data (EOS)^(c) and Euromonitor data⁽²⁾ as discussed in previous reports. For subsequent reports, KPMG has examined a range of data sources, including industry exchange of sales and off-take data, supplied by independent research agencies.

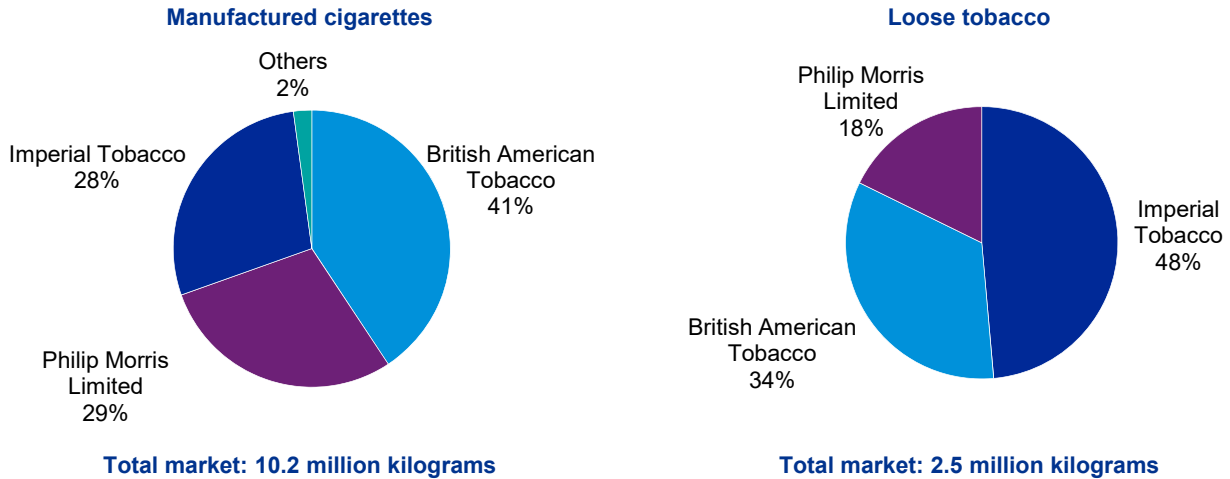
Notes: (a) Numbers in the above chart may not sum due to rounding.
 (b) Market estimates are adjusted to include sales not attributable to the three major tobacco manufacturers.
 (c) Refer to the glossary for further definition.
 Sources: (1) KPMG analysis of Aztec - IRI (scan) databases.
 (2) Euromonitor, Legal domestic sales (from trade sources and national statistics), accessed 2013, 2014, 2015.
 (3) Aztec IRI – Exchange of Sales.

Australian tobacco market

British American Tobacco has the largest market share in manufactured cigarettes whilst Imperial Tobacco has the biggest market share in loose tobacco

2.2.2 Australia legal tobacco competitive overview

Figure 2.2.2a: Market share by manufacturer, 2018^{(1)(a)}

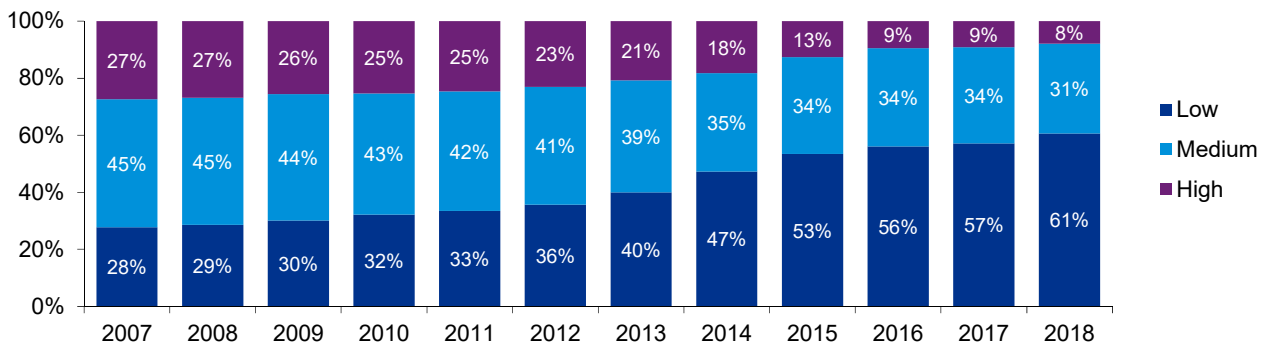


Market share

The three major tobacco manufacturers have large market shares across both the manufactured cigarette and loose tobacco market in Australia. British American Tobacco has a market share of 41% in manufactured cigarettes, which represents a 1% increase from 2017. From 2017 to 2018 the market share of Philip Morris Limited decreased from 30% to 29% while Imperial Tobacco maintained 28% share in 2018, with other manufacturers maintaining a 2% share in 2018.

Imperial Tobacco has the largest market share in loose tobacco. BAT and PML are the only other major competitors in this market.

Figure 2.2.2b: Market share of manufactured cigarettes by price category, 2007 – 2018⁽²⁾⁽³⁾



Price category

Cigarettes are subject to a specific excise duty, which is levied per cigarette and does not change with the retail price. An increase in the specific excise duty would, all other things being equal, maintain the absolute price differential between low and high priced cigarettes. Since 2007, the market share

of low priced cigarettes has increased at the expense of medium and high priced cigarettes as people are switching to cheaper cigarettes. This trend has developed further in 2018 as high and medium priced cigarettes lost further market share.

- Notes: (a) Data gathered from Aztec – IRI indicates that the three major manufacturers account for approximately 98% of the domestic market of manufactured cigarettes. However, there may be legal imports which might not have been included in this data.
 (b) The differences with the 2016 report arise since the most up to date data available from Aztec - IRI database has been used.

- Sources: (1) Aztec - IRI LDS data, 2018.
 (2) KPMG analysis of Aztec - IRI scan data.
 (3) Euromonitor, *Tobacco in Australia*, August 2018.

No tobacco is grown in Australia for legal commercial sale

2.2.3 Supply and distribution of legal manufactured tobacco in Australia

Figure 2.2.3 Supply chain for legal tobacco products in Australia



Tobacco supply chain and sales channels

All manufactured tobacco products are imported into Australia as tobacco leaf or finished products. Tobacco can only be grown in Australia (for personal or commercial use) with an excise license.⁽¹⁾ There are no current licenses for tobacco growing in Australia⁽²⁾ and therefore no tobacco is legally grown in Australia for any purpose.

Non-domestic legal consumption channel

A small amount of tobacco is imported into Australia by consumers for their own personal consumption. From 1 July 2017, consumers have had a limit of 25 or fewer cigarettes or 25 grams of tobacco products (excluding cigarettes) that can be brought into Australia without paying customs duty.⁽³⁾ This volume can be brought in from the country of origin or through duty free sales channels. This category may also include purchases by consumers who order tobacco products in other countries through the internet and have it delivered in the mail. Given this low allowance, there is evidence (see detail in Appendix A6) to suggest that non-domestic legal is a small proportion of consumption.

To precisely quantify non-domestic legal consumption, parties using internet and mail channels would need to declare all purchases / sales in excess of the allowed quantities to the ABF. Failure to declare all these purchases may result in a minor understatement of both non-domestic legal and contraband consumption. Non-domestic legal consumption is discussed further in Appendix A6 (p.76).

Sources: (1) Excise Act 1901 (Cth) s 28.
(2) Australian Taxation Office, Tobacco excise (4 January 2016) Australian Taxation Office .
(3) Customs By-law No. 1700053 (Cth) and Customs By-law No. 1700571(Cth).



3. Macroeconomic environment

- 3.1 Macroeconomic context
- 3.2 Gross Domestic Product
- 3.3 Unemployment
- 3.4 Personal Disposable Income
- 3.5 Consumer Price Index

Australia's economic growth and unemployment rate are in line with the OECD

3.1 Macroeconomic context

This section provides background on the Australian economy, as a change in GDP growth, unemployment, personal disposable income, or inflation could impact consumer behaviour and subsequently tobacco consumption.

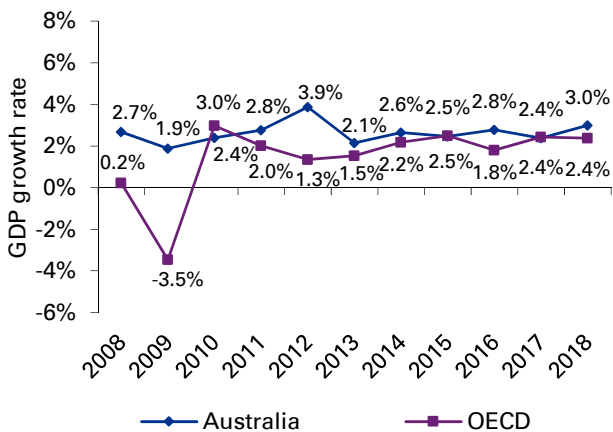
The decline in legal domestic sales since 2009 needs to be examined in the context of the affordability of tobacco products. Personal disposable income (PDI) and the consumer price index (CPI) are analysed in order to assess possible reasons for changes in consumer behaviour.

3.2 Gross Domestic Product

Historically, Australia has outperformed the OECD average for GDP growth. Between 2008 and 2018, the economy grew at a compound annual growth-rate (CAGR) of 2.6%. In 2018, GDP growth in Australia was 3.0% in comparison to OECD at 2.4%, having not been below the OECD average since 2010.

In 2018 household income per capita reached its lowest level in over 10 years suggesting a loss of wealth and lower living standards.⁽¹⁾ Elsewhere, although there has been strong growth in net exports and government spending, this may be somewhat offset by weakening of the housing sector.⁽²⁾

Figure 3.2: Year-on-year GDP Growth, 2008 – 2018^{(3)(4)(a)(b)}



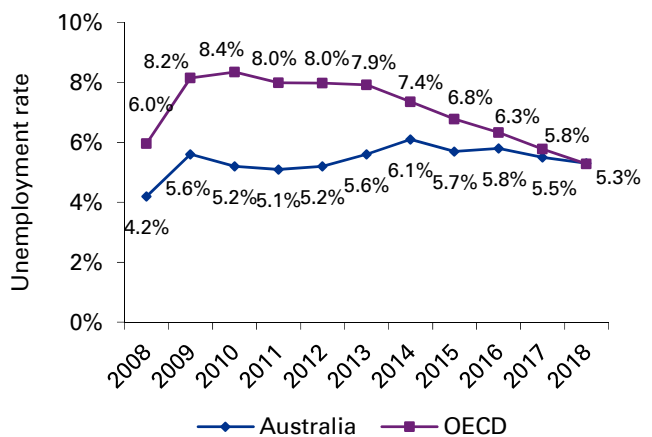
3.3 Unemployment

Unemployment in Australia has historically been below the OECD average, although from a 2.3% difference in 2013 the gap has now disappeared, primarily due to decline across the OECD. In contrast, Australia has seen marginal reductions over the same period, with slight increases in recorded unemployment in both 2014 and 2016.

The unemployment rate fell in 2018 primarily due to a fall in the underemployment and underutilisation rate and softer economic conditions, including falling property prices. Of the net increase in employment during the period, part-time roles constituted the majority compared to full time roles.⁽⁵⁾

Unemployment rates differs across Australia, with the highest found in Western Australia (6.3%) and South Australia (6.1%). Unemployment is lowest in Victoria where it sits at just 4.2%.⁽⁵⁾

Figure 3.3: Recorded unemployment, 2008 – 2018^{(6)(7)(b)}



Notes: (a) Historical numbers for GDP have been updated and have been based on data from the Economist Intelligence Unit.
(b) 2018 data is based on latest available estimates.

Sources (1) ABC, *GDP: Australia's economic growth slows rapidly to 2.8pc*, December 2018.
(2) The Economist, *Economist Intelligence Unit*, Australia (accessed January 2019).
(3) The Economist Intelligence Unit, GDP at constant prices,

accessed January 2019.
(4) OECD, GDP (expenditure approach), accessed January 2018.
(5) ABC, *Unemployment edges down to 5 pc despite a cooling economy*, December 2018.
(6) The Economic Intelligence Unit, recorded unemployment as a percentage of total labour force, assessed January 2019.
(7) OECD, harmonised unemployment rates, assessed January 2019.

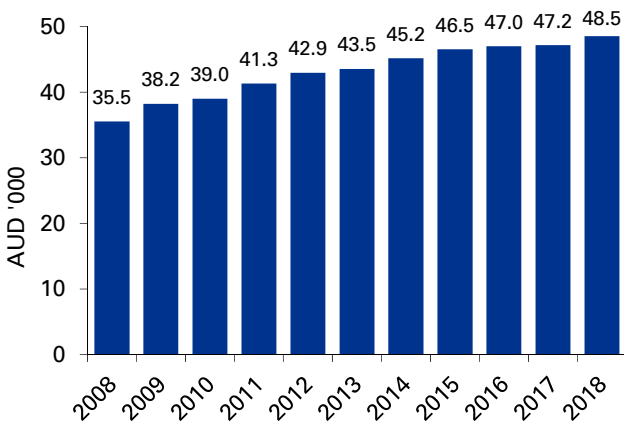
Personal disposable income in Australia has been increasing consistently each year

3.4 Personal Disposable Income

Australia has experienced a period of consistently increasing PDI over the past decade. PDI per capita increased by a CAGR of 3.2% p.a. between 2008 and 2018.

PDI per capita grew 2.9% between 2017 and 2018. This growth is natural, given falling unemployment rates, where the majority of new roles are in part-time employment.⁽¹⁾ However, the gap between the richest and the poorest population remains quite large, with the top 20% earning five times more than the bottom 20%.⁽²⁾

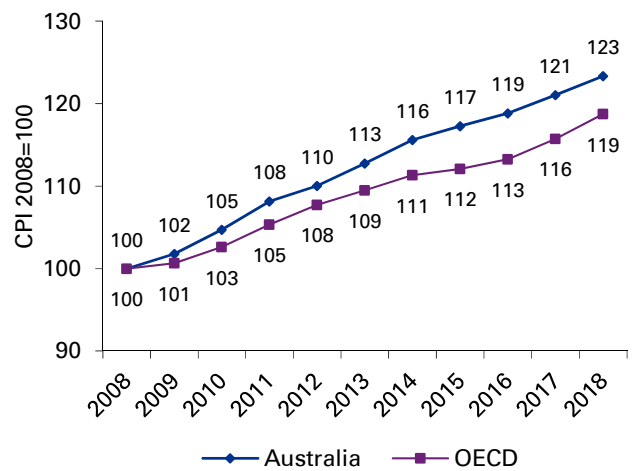
Figure 3.4: Personal Disposable Income per capita, 2008 – 2018^{(3)(a)(b)}



3.5 Consumer Price Index

Australia's CPI has grown at a slightly faster pace than the OECD average, rising consistently since 2008. The Australian Bureau of Statistics suggest that inflation growth in the last quarter of 2018 has been driven by increased prices of international holiday travel and accommodation (+4.3%), domestic holiday travel and accommodation (+2.4%), tobacco (+1.8%) and automotive fuel (+1.4%).⁽⁶⁾

Figure 3.5: Consumer Price Index, 2008 – 2018^{(4)(5)(a)}



Notes: (a) 2018 data is based on latest available estimates.
 (b) Some numbers may be marginally different from 2016 report as the same have been updated using the latest data.
 Sources: (1) ABC, *Unemployment edges down to 5 pc despite a cooling economy*, December 2018.
 (2) OECD better life index, Australia, accessed in January 2019.

(3) Euromonitor, Annual disposable income per capita, accessed January 2019.
 (4) Euromonitor, Index of consumer prices; accessed January 2019.
 (5) OECD Economics, Consumer prices, accessed January 2019, rebased to 2008.
 (6) ABS, *Consumer Price Index*, December 2018.



4. Market landscape and developments

- 4.1 Tobacco regulation in Australia
- 4.2 Enforcement landscape
- 4.3 Recent development of excise duty and tobacco affordability in Australia
- 4.4 Regional tobacco prices
- 4.5 Relative price of illicit tobacco

The tobacco market in Australia is one of the most tightly regulated in the world

4.1 Tobacco regulation in Australia

In this section, we discuss key government legislation and activities undertaken to control tobacco consumption. State and Territory legislation complements and supplements Federal legislation by prescribing and proscribing activity dealing directly with the retail sale and display of tobacco products. The combined effect of the Federal, State and Territory legislation is that all manner of tobacco product advertisement and promotion to the public is strictly and rigidly controlled.

The Intergovernmental Committee on Drugs, *National Tobacco Strategy 2012-2018* aims to reduce smoking prevalence nationally from over 15% in 2012 to 10% in 2018.⁽¹⁾ To reduce smoking prevalence, numerous tobacco control regulations have been enacted over time as demonstrated in Figure 4.1. A more detailed overview of recent legislative changes both at the Australian Commonwealth level and the State level is detailed in Appendix A5.

WHO Framework Convention on Tobacco Control

Australia became a signatory to the *WHO Framework Convention on Tobacco Control*⁽²⁾ (FCTC) on 5 December 2003. The FCTC entered into force on 27 February 2005. The Conference of the Parties has adopted detailed guidelines for effective implementation of many of the legislative, executive, administrative and other measures required under the FCTC. Together, the FCTC and its guidelines have the potential to help set the priorities of Australian governments, including Commonwealth, State and Territory, in relation to tobacco control policies and programs.

The FCTC also provides a framework for international cooperation in a number of areas of tobacco control in which Australia and other Parties cannot effectively act alone.

These include the regulation of cross-border tobacco advertising, promotion and sponsorship and the implementation of measures to address illicit trade in tobacco products. Australia has the responsibility to cooperate with other FCTC Parties to address trans-boundary tobacco control problems and to assist other Parties in meeting common challenges with effective tobacco control.

Protocol to Eliminate Illicit Trade in Tobacco Products

The Australian tobacco industry participated in a consultation around the *Protocol to Eliminate Illicit Trade in Tobacco Products* (AITP). The AITP was adopted on 12 November 2012 and opened for signature from 10 January 2013 to 9 January 2014. When the AITP was closed for signature, it had been signed by 53 countries and the European Union. However, Australia is not among the countries that have signed the AITP. By 27 June 2018, 41 parties had ratified the AITP. Accordingly, the AITP entered into force on 25 September 2018. However, the AITP only binds those parties who have ratified the AITP. As at 9 December 2018, there

are 48 parties to the AITP.⁽³⁾

National Tobacco Strategy

The *National Tobacco Strategy 2012-18* was released in January 2013. The strategy highlights nine priority areas including:

1. Protect public health policy, including tobacco control policies, from tobacco industry interference.
2. Strengthen mass media campaigns to: motivate smokers to quit and recent quitters to remain abstinent; discourage uptake of smoking; and reshape social norms about smoking.
3. Continue to reduce the affordability of tobacco products.
4. Bolster and build on existing programs and partnerships to reduce smoking rates among Aboriginal and Torres Strait Islander people.
5. Strengthen efforts to reduce smoking among populations with a high prevalence of smoking.
6. Eliminate remaining advertising, promotion and sponsorship of tobacco products.
7. Consider further regulation of the contents, product disclosure and supply of tobacco products and alternative nicotine delivery systems.
8. Reduce exceptions to smoke-free workplaces, public places and other settings.
9. Provide greater access to a range of evidence-based cessation services and support smokers to quit.

The strategy also proposes actions to combat the illicit trade of tobacco.

Tobacco advertisement regulation

In 1992, the *Tobacco Advertising Prohibition Act 1992* (Cth) banned the publication and broadcast of tobacco advertisements.

Subsequent amendments to that legislation have resulted in online tobacco retailers having to display health warnings and comply with restrictions on advertisement wording. All State and Territory laws also ban tobacco advertising.

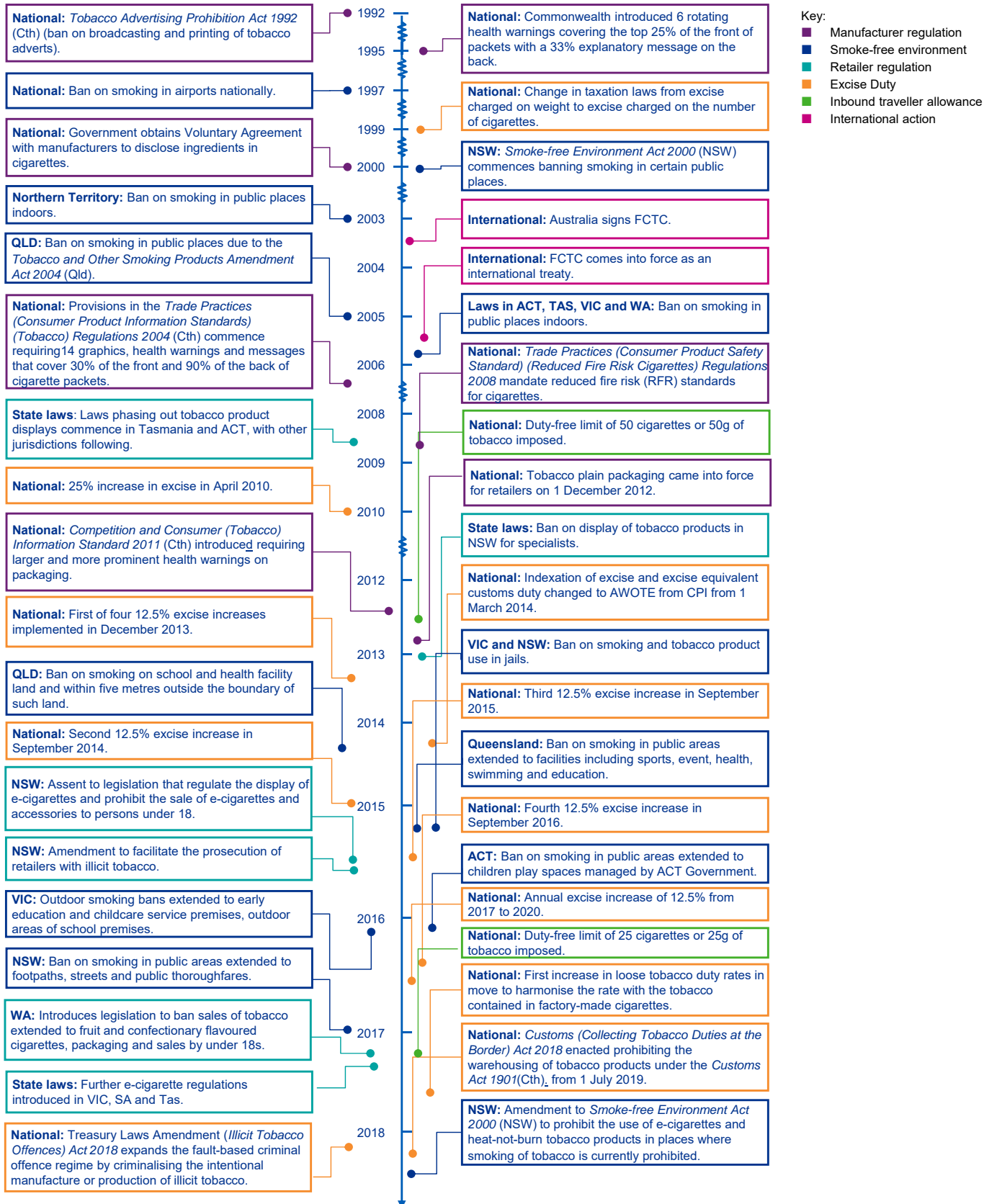
Tobacco packaging regulation

The *Tobacco Plain Packaging Act 2011* (Cth) made Australia the first country in the world to implement plain packaging of tobacco products. This Act requires that all tobacco products be packaged in the same standard colour packaging (Pantone 448C), bans all marks other than word trademarks on the packaging and only allows differentiation between packaging by the brand and variant names, all printed in Lucida Sans font.

Sources: (1) Intergovernmental Committee on Drugs, *National Tobacco Strategy 2012-2018* (2012).
(2) *WHO Framework Convention on Tobacco Control*, opened for signature 16 June 2003, 2302UNTS 166 (entered into force 27 February 2005).
(3) *Protocol to Eliminate Illicit Trade in Tobacco Products*, opened for signature 10 January 2013 (entered into force 25 September 2018).

A number of regulations have been imposed to reduce smoking in Australia

Figure 4.1: Tobacco regulation timeline in Australia, 1992 – 2018



New legislation continues to focus on the expansion of smoke-free environments

4.1 Tobacco regulation in Australia

Smoke-free environment legislation

The majority of smoke-free environment laws in Australia are determined by State and Territory parliaments and further fragmented by local council by-laws. The Australian Federal Government enacted legislation to create smoke-free environments in areas within its own jurisdiction, such as airports.⁽¹⁾ From the late 1990s, State and Territory parliaments followed the Commonwealth's lead and began enacting legislation banning smoking in those places where the States and Territories have jurisdiction over, such as indoor dining areas and bars.^(a)

This trend of regulating smoking in public spaces has continued.⁽²⁾

In South Australia, a ban on smoking in public outdoor dining areas when food is being provided came into effect on 1 July 2016.⁽³⁾ New laws in the Australian Capital Territory also commenced during 2016 enabling the Australian Capital Territory Government to make declarations of smoke-free public places or events. That Government subsequently declared with effect from 7 September 2016 that all children's play spaces managed by the Government and from 1 October 2017 certain public transport stops and stations are smoke-free public places.⁽⁴⁾

In New South Wales, the *Smoke-free Environment Regulation 2016* (NSW) made footpaths, streets and public thoroughfares smoke-free areas if within 4 metres of certain courtyards or gardens from 1 September 2016. A large number of new smoking bans also commenced on 1 September 2016 in Queensland, extending to major sports facilities, major event facilities, health facilities, school facilities, public swimming facilities, early childhood education and care facilities, residential aged care facilities, government precincts, outdoor pedestrian malls, public transport waiting points, skate parks, and sporting grounds and spectator areas during organised under-age sporting events. The

Queensland smoke-free environment amendments also banned smoking in certain parts at almost all national parks and empowered local governments to ban smoking at any outdoor public place not covered by the Queensland State laws.⁽⁵⁾

New smoke-free laws also took effect from 1 August 2017 in Victoria. These laws ban smoking in outdoor dining areas, food fairs and certain food areas at community and street festivals.⁽⁶⁾

Smoke-free environment laws have traditionally targeted the smoking of tobacco products. By 2018, the laws in New South Wales, Queensland, the Australian Capital Territory, Victoria, Tasmania and South Australia extended the concept of 'smoke' to include the use of e-cigarettes. This has the consequence of also banning the vaping of e-cigarettes in smoke-free places.^(b)

Notes: (a) *Tobacco Products Regulation Act 1997* (SA), *Health (Smoking in Enclosed "Public Places) Regulations 1999* (WA), and *Smoke-free Environment Act 2000* (NSW).

(b) *Smoke-free Environment Act 2000* (NSW), *Tobacco and Other Smoking Products Act 1998* (Qld), *Tobacco Act 1987* (Vic), *Smoke-Free Public Places Act 2003* (ACT), *Public Health Act 1997* (Tas) and *Tobacco Products Regulation (E-Cigarettes and Review) Amendment Act 2018* (SA).

Sources: (1) *Airports Act 1996* (Cth) s 174 and *Airports (Control of On-Airport Activities) Regulations 1997* (Cth) Part 6.

(2) *Smoke-free Environment Regulation 2016* (NSW), *Tobacco Amendment Act 2016* (Vic), *Tobacco and Other Smoking Products (Smoke-free Places) Amendment Act 2016* (Qld), *Smoke-Free Legislation Amendment Act 2016* (ACT) and the *Public Health Amendment (Healthy Tasmania) Act 2017* (Tas).

(3) *Tobacco Products (Smoking Bans in Public Areas – Longer Term) Variation Regulations 2015* (SA).

(4) *Smoke-Free Public Places Amendment Act 2016* (ACT) and *Smoke-Free Public Places (Play Spaces) Declaration 2016* (No 1) (ACT); *Smoke-Free Public Places (Public Transport Stops) Declaration 2017* (No 1) (ACT); *Smoke-Free Public Places (Public Transport Stations) Declaration 2017* (No 1) (ACT).

(5) *Tobacco and Other Smoking Products (Smoke Free Places) Amendment Act 2016* (Qld) and *Tobacco and Other Smoking Products Amendment Regulation (No. 1) 2016* (Qld).

(6) *Tobacco Amendment Act 2016* (Vic).

Whilst regulations governing retailers continue to be tightened, attention has shifted to legislate on the sale of e-cigarettes

4.1 Tobacco regulation in Australia (cont.)

Retailer regulations

Australian States and Territories ban the sale of tobacco products to anyone under the age of 18 years. During the 1990s, States introduced laws that imposed harsher penalties on vendors for selling tobacco products to individuals under 18 years.^(a) South Australia continued this trend with stronger penalties in 2018 by increasing its fine for supplying tobacco products to children.⁽¹⁾

Elsewhere, attention has switched to banning persons under the age of 18 from selling tobacco products. Western Australia recently enacted laws that will impose this prohibition from 18 September 2020.⁽²⁾ The Northern Territory also in 2018 introduced to its Parliament legislation with a similar ban.⁽³⁾

With the exception of Victoria and Queensland, all States and Territories require tobacco retailers to hold a licence.^(b) Licence fees vary between jurisdictions but at their highest are now up to AUD \$1132.86 per annum in Tasmania.⁽⁴⁾

States and Territories ban retailers from point of sale advertising and the display of tobacco products within stores. New South Wales, South Australia, the Australian Capital Territory, the Northern Territory, Queensland and Tasmania all have legislation in place banning point of sale displays. Victoria and Western Australia have similar bans, but grant limited exemptions for specialist outlets. However, both those jurisdictions are gradually removing these exemptions. Victoria has started this process by enacting legislation that no longer permits the issue of specialist licenses from 1 April 2014.⁽⁵⁾ In Western Australia, the only permitted displays from 18 March 2019 are those of cigars and implements to cut cigars by specialist tobacconists.⁽⁶⁾

New South Wales, Victoria and Queensland all now prohibit sales of tobacco products from temporary outlets.⁽⁷⁾ Western Australia has also recently passed legislation that bans on sales of tobacco products at sporting, cultural or other events from 18 March 2019.⁽⁸⁾

Since 2014, most states and territories have introduced legislation that extends the regulation of tobacco product sales, advertisements and displays to e-cigarettes and their accessories. Queensland, the Australian Capital Territory, New South Wales, Victoria and Tasmania all enacted this type of e-cigarette legislation between 2014 and 2017.⁽⁹⁾

In South Australia, Royal Assent was received on 6 December 2018 for equivalent regulation of e-cigarettes.⁽¹⁰⁾ The Northern Territory Parliament in 2018 also considered amendments that will extend its tobacco control legislation to e-cigarettes and their accessories.⁽¹¹⁾

Western Australia bans the sale of e-cigarettes on the basis they are designed to resemble a tobacco product.⁽¹²⁾

Notes: (a) See for example *Tobacco Control Act 1990* (WA), *Public Health Act 1991* (NSW) and *Public Health Amendment (Tobacco) Act 1996* (NSW).

(b) License terminology differs by State; for example it is referred to as a retailer identification number in New South Wales.

Sources: (1) *Tobacco Products Regulation (E-Cigarettes and Review) Amendment Act 2018* (SA)s 18.

(2) *Tobacco Products Control Amendment Act 2018* (WA)s 4.

(3) *Tobacco Control Legislation Amendment Bill 2018* (NT)cl 10.

(4) *Public Health Act 1997* (Tas) ss 74B and 74F; *Public Health (Smoking Product Licence) Regulations 2009 Reg 4* (Tas); *Fee Units Act 1997* (Tas) s 5.

(5) *Tobacco Act 1987* (Vic) s 15SA (Vic) and Victoria, *Victoria Government Gazette*, No. S81, Tuesday 18 March 2014, 1.

(6) *Tobacco Products Control Amendment Act 2018* (W/A)s 6.

(7) *Public Health (Tobacco) Act 2008* (NSW) s 11(4), *Tobacco Act 1987* (Vic) s 15L, *Tobacco and Other Smoking Products Act 1998* (Qld) s 13C.

(8) *Tobacco Products Control Amendment Act 2018* (W/A)s 10.

(9) *Health and Other Legislation Amendment Act 2014* (Old); *Public Health (Tobacco) Amendment (E-Cigarettes) Act 2015* (NSW); *Smoke-Free Legislation Amendment Act 2016* (ACT); *Tobacco Amendment Act 2016* (Vic); *Public Health Amendment (Health Tasmania) Act 2017* (Tas).

(10) *Tobacco Products Regulation (E-Cigarettes and Review) Amendment Act 2018* (SA).

(11) *Tobacco Control Legislation Amendment Bill 2018* (NT).

(12) *Tobacco Products Control Act 2006* (WA)s 106; *Van Heerden v Hawkins* [2016] WASCA 42 (10 March 2016).

Further excise increases are to be implemented

4.1 Tobacco regulation in Australia (cont.)

Customs and excise duty increases

Australian excise duty has historically risen with inflation with the exception of a 25% increase in 2010 and a series of eight 12.5% increases starting in December 2013. The 2013-14 federal budget included a change to indexation of excise duty for tobacco and tobacco products from the Consumer Price Index (CPI) to Average Weekly Ordinary Time Earnings (AWOTE).⁽¹⁾ AWOTE has historically grown 1.4 percentage points faster than CPI, therefore the indexation is likely to increase excise duty faster than the old indexation legislation.

In September 2018, an annual excise increase of 12.5% was implemented for the sixth time. This was in line with the announcement made by the Federal Government in 2013 of increasing excise and customs duty for tobacco products by an additional 12.5% annually for the next four years in addition to the switch to AWOTE.⁽²⁾ In September 2016, the Federal Parliament enacted legislation adding a further four annual 12.5% customs and excise duty increases for 2017, 2018, 2019 and 2020.⁽³⁾ As a result of these tax increases, the excise on a pack of cigarettes in Australia has increased by 115% (compounded over the last six years) above the increase of AWOTE.

During 2017, the Federal Parliament enacted legislation seeking to harmonise the duty rate between loose tobacco products and the tobacco contained in factory made cigarettes. The result of these laws is that the currently lower duty rates for loose tobacco will increase over four years so that by 1 September 2020 loose tobacco will have the same duty rate per kilogram as cigarettes containing the average tobacco content rate per stick.⁽⁴⁾ This will be achieved by calculating the per kilogram excise and excise-equivalent customs duty rates on the basis that the average tobacco content of a cigarette is 0.7 grams.⁽⁵⁾

Duty free and custom allowances

While the Federal Government has been increasing customs and excise duty, it has also been decreasing duty free and customs allowances. From 1 September 2012, the inbound traveller allowance for tobacco products was reduced from 250g or 250 cigarettes per person to 50g or 50 cigarettes.⁽⁶⁾ This further decreased to 25g of loose tobacco (excluding cigarettes) or 25 cigarettes per person from 1 July 2017.⁽⁷⁾

Offences for evading customs and excise duty before 2018

From 1901, the smuggling of tobacco products was dealt with by a general smuggling offence.⁽⁸⁾

Similarly, the *Excise Act 1901* (Cth) has always prohibited the unlawful possession of excisable goods (including tobacco products) on which excise duty has not been paid.⁽⁹⁾

In the 2018-19 budget, the Australian Government introduced a number of measures to combat the illicit tobacco trade based on amendments in the *Customs Act 1901*⁽¹⁰⁾

The legislation enabling these measures will be effective from 1 July 2019. These legislative changes include:

- 1) The import duty on tobacco products will be paid upon importation into Australia. Furthermore, the option to enter tobacco products into a licensed warehouse without the payment of import duty will be removed.
- 2) The permissions granted under section 69 of the *Customs Act 1901* which allow importers to pay duty on a monthly or a weekly basis will no longer be effective.
- 3) The existing permissions for the movement of tobacco products for duty free stores or warehouses supplying to aircraft's stores or ship's stores will cease. All such permissions will be re-issued as required.
- 4) For tobacco products that would still be in warehouses as on 1 July 2019, special arrangements would apply. Owners of these tobacco products would be required to get the imported goods released from customs control, make an import declaration and pay the outstanding duties. The outstanding duty may be paid in the next 12 months, provided a security is issued. The value of the security would be based on anticipated stock levels as on 1 July 2019.
- 5) The importers will have the option to re-sell tobacco products to duty free operators. The refund for duties and taxes paid at the border while importing will be issued by Home Affairs.

New permit system for importing tobacco products⁽¹⁰⁾

In addition to the amendments introduced in the *Customs Act 1901*, the Australian Government also introduced a prohibited control for import of tobacco products. The measure is expected to strengthen the border controls by prohibiting importation of tobacco without a permit or in contravention of permit conditions. The new permit would be applicable from 1 July 2019.

For people willing to import tobacco products in Australia can apply to Home Affairs for a permit. More information on the new permit system would be available on website of Home Affairs in the first half of 2019.

Sources: (1) Commonwealth, Budget Strategy and Outlook 2013-14, Budget Paper No.1 (2013-2014), 1-19.
(2) Chris Bowen, 'Government to increase tobacco excise' (Media Release, No. 015, 1 August 2013).
(3) *Customs Tariff Amendment (Tobacco) Act 2016* (Cth) and *Excise Tariff Amendment (Tobacco) Act 2016* (Cth).
(4) *Customs Tariff Amendment (Tobacco Duty Harmonisation) Act 2017* (Cth) and *Excise Tariff Amendment (Tobacco Duty Harmonisation) Act 2017* (Cth).

(5) *Customs Tariff Amendment (Tobacco Duty Harmonisation) Act 2017* (Cth) s 4(2); *Excise Tariff Amendment (Tobacco Duty Harmonisation) Act 2017* (Cth) s 4(2).

(6) *Customs By-law No. 1228133* (Cth).

(7) *Customs By-law No. 1700053* (Cth) and *Customs By-Law No. 1700571* (Cth).

(8) *Customs Act 1901* (Cth)s 233.

(9) *Excise Act 1901* (Cth)s 117.

(10) Department of Home Affairs notice No. 2018/35.

The Federal Government has introduced new offences for evading customs or excise duty

4.1 Tobacco regulation in Australia (cont.)

On 7 September 2000, the *Excise Amendment (Compliance Improvement) Act 2000* (Cth) commenced with amendments that were designed to combat the illicit trade in tobacco and that regulated the production, dealing, manufacturing and storage of tobacco and excisable goods.⁽¹⁾ This amending legislation created offences for possession, moving or selling tobacco products for which excise duty had not been paid.⁽²⁾ The amendments also provided offences for possession, moving, buying or selling illicit tobacco seed, leaf or plant.⁽³⁾ The offences introduced by the 2000 Amendments generally adopted a 2-tier penalty structure, with a potential 2 year prison term applying where the requisite mental element was satisfied, and a monetary penalty only if the offence was one of strict liability.⁽⁴⁾

By 2012, the pecuniary penalties imposed by the general smuggling offence were no longer considered an effective deterrent for illicit tobacco. This was because many of these penalties were not being paid when it came to tobacco smuggling.⁽⁵⁾ For these reasons, a new fault-based criminal offence specifically targeting tobacco smuggling commenced on 7 November 2012.⁽⁶⁾ The new specific tobacco smuggling offence included a penalty of up to 10 years imprisonment, with the Federal Government taking the view that this will 'provide a strong deterrent to criminals and will demonstrate the seriousness of smuggling acts'.⁽⁷⁾

The new offences introduced in 2018 for evading customs or excise duty

On 3 May 2016, the Federal Government announced in the 2016-17 Budget that it will reform the *Customs Act 1901* and *Excise Act 1901* to provide tiered offences for illicit tobacco.⁽⁸⁾ In October 2017, the Black Economy Taskforce called on the Federal Government to enact the tobacco control measures it announced in 2016⁽⁹⁾.

In 2018, the Federal Government duly responded to this call from the Black Economy Taskforce by enacting the *Treasury Laws Amendment (Illicit Tobacco Offences) Act 2018* (Cth) and the *Customs Amendment (Illicit Tobacco Offences) Act 2018* (Cth).

The Treasury Laws Amendment (Illicit Tobacco Offences) Act 2018 (Cth) commenced on 25 August 2018. It provides tiered prison terms and penalties based on the amount of tobacco involved and on whether the offence is 'fault-based' or one of 'reasonable suspicion'.

In providing these tiered punishments, the *Treasury Laws Amendment (Illicit Tobacco Offences) Act 2018* (Cth) introduced new 'reasonable suspicion' offences. These apply if it is reasonable to suspect that the accused possesses or has bought or sold illicit tobacco.⁽¹⁰⁾ Matters that satisfy this 'reasonable suspicion' requirement include the tobacco being in packaging that does not have health warnings or that is not plain packaging, and the price of the tobacco being less than the sum of duty and GST payable that would apply.⁽¹¹⁾ The intent with these 'reasonable suspicion' offences is to eliminate impediments to illicit tobacco prosecutions by removing the requirements that the prosecutor must prove the origin of the tobacco and prove that duty has not been paid.⁽¹²⁾

Sources: (1) *Explanatory Memorandum, Excise Amendment (Compliance Improvement) Bill 2000* (Cth) 1.
(2) *Excise Amendment (Compliance Improvement) Act 2000* (Cth) s 52; *Excise Act 1901* (Cth) ss 117, 117A, and 117B.
(3) *Excise Amendment (Compliance Improvement) Act 2000* (Cth) s 52; *Excise Act 1901* (Cth) ss 117C, 117D, 117E, 117F, 117G and 117H.
(4) *Excise Amendment (Compliance Improvement) Act 2000* (Cth) s 52.
(5) Explanatory Memorandum, Customs Amendment (Smuggled Tobacco) Bill 2012, [2].
(6) *Customs Amendment (Smuggled Tobacco) Act 2012* (Cth) Schedule 1 item 2; *Customs Act 1901* (Cth) s 233BABAD.
(7) Explanatory Memorandum to the Customs Amendment (Smuggled Tobacco) Bill 2012, [4].

(8) Commonwealth, *Budget 2016-17*, Budget Measures Budget Paper No. 2 (2016), 16.
(9) Commonwealth, *Black Economy Taskforce, Final Report – October 2017* (2017), 306.
(10) *Treasury Laws Amendment (Illicit Tobacco Offences) Act 2018* (Cth) s 3 Schedule 1 item 6; *Taxation Administration Act 1953* (Cth) s 3AA Schedule 1 Subdivision 308-A.
(11) *Treasury Laws Amendment (Illicit Tobacco Offences) Act 2018* (Cth) s 3 Schedule 1 item 6; *Taxation Administration Act 1953* (Cth) s 3AA Schedule 1 s 308-55.
(12) Explanatory Memorandum, *Treasury Laws Amendment (Illicit Tobacco Offences) Bill 2018*, (Cth) [1.46].

The Federal Government has also changed the point at which tobacco excise is paid

4.1 Tobacco regulation in Australia (cont.)

The *Treasury Laws Amendment (Illicit Tobacco Offences) Act 2018* (Cth) also expanded the fault-based criminal offence regime by criminalising the intentional manufacture or production of illicit tobacco in Australia.⁽¹⁾ In addition, the legislation created new offences for possessing equipment for manufacturing or producing tobacco in Australia and a civil penalty for possessing 2kg of tobacco without documentation indicating how the tobacco was obtained.⁽²⁾

The *Customs Amendment (Illicit Tobacco Offences) Act 2018* (Cth) commenced on 1 September 2018. It introduces new criminal offences for people who recklessly import, convey or possess illicit tobacco.⁽³⁾ The reason for introducing these offences is that the existing specific tobacco smuggling offence hindered effective enforcement and was not an effective deterrent because it provided a very high standard of proof.⁽⁴⁾

Moving the taxing point for tobacco product customs and excise duty

The Black Economy Taskforce also recommended that the Government tax tobacco at the time that it enters an Australian port.⁽⁵⁾

The Federal Government adopted this recommendation in 2018 with the enactment of the *Customs Amendment (Collecting Tobacco Duties at the Border) Act 2018* (Cth), the *Excise Tariff Amendment (Collecting Tobacco Duties at Manufacture) Act 2018* (Cth) and the *Treasury Laws Amendment (Black Economy Taskforce Measures No. 2) Act 2018* (Cth).

The *Customs Amendment (Collecting Tobacco Duties at the Border) Act 2018* (Cth) prohibits the warehousing of tobacco products under the *Customs Act 1901* (Cth) from 1 July 2019.⁽⁶⁾ Therefore, on and after that date, tobacco importers must pay all duties on the tobacco on its arrival into Australia.

The *Treasury Laws Amendment (Black Economy Taskforce Measures No. 2) Act 2018* (Cth) with the *Excise Tariff Amendment (Collecting Tobacco Duties at Manufacture) Act 2018* (Cth) similarly move the collection of excise duty to the time tobacco products are manufactured in Australia instead of when the products enter home consumption.⁽⁷⁾

Sources: (1) *Treasury Laws Amendment (Illicit Tobacco Offences) Act 2018* (Cth) s 3 Schedule 1 item 6; *Taxation Administration Act 1953* (Cth) s 3AA Schedule 1 Subdivision 308-B.
(2) *Treasury Laws Amendment (Illicit Tobacco Offences) Act 2018* (Cth) s 3 Schedule 1 items 4, 5 and 6; *Taxation Administration Act 1953* (Cth) s 3AA Schedule 1 Subdivisions 295-B and 308-C.
(3) *Customs Amendment (Illicit Tobacco Offences) Act 2018* (Cth) s 3 Schedule 1 part 1.
(4) Explanatory Memorandum, Customs Amendment (Illicit Tobacco Offences) Bill 2018 (Cth), 5.

(5) Commonwealth, *Black Economy Taskforce, Final Report – October 2017* (2017) 311.
(6) *Customs Amendment (Collecting Tobacco Duties at the Border) Act 2018* (Cth) ss 2 and 3 and Schedule 1 items 2, 3 and 4.
(7) *Treasury Laws Amendment (Black Economy Taskforce Measures No. 2) Act 2018* (Cth) s 3 Schedule 3 item 7.

The enforcement landscape continues to focus on facilitating trade, travel and migration while protecting Australia's border

4.2 Enforcement landscape

Overview of key enforcement agencies

For years, public authorities have targeted the reduction of illicit tobacco available within the Australian market place. Illicit tobacco remains a highly attractive market for organized crime groups in Australia despite potential imprisonment and a fine of five times the amount of duty evaded.⁽¹⁾ A recent study by the Australian Institute of Criminology suggests that the estimate of organised crime involvement in the illicit tobacco market is between a low end estimate of 57% and a high end estimate of 100%.⁽²⁾

Throughout 2018, a number of national and state organisations were involved in Australia's border protection. Their responsibilities included border control, the management of moving of people and goods across these borders, and enforcement of relevant policies. Some of the key enforcement agencies included:

- **Department of Home Affairs** – Established on 20th December 2017, the Department of Home Affairs is a central policy agency which provides coordinated strategy and policy leadership for Australia's national and transport security, federal law enforcement, criminal justice, cyber security, border, immigration, multicultural affairs, emergency management and trade related functions. It includes the entirety of the **Department of Immigration and Border Protection (DIBP)**.^{(3)(a)}
- **The Department of Immigration and Border Protection** – Responsible both for migration, citizenship and humanitarian protection, and compliance and border security control. The **Australian Border Force (ABF)** was created to be the operational arm of DIBP and is responsible, amongst other things, for "investigations, compliance and enforcement in relation to illicit goods".^{(4)(a)} On 1 July 2018, the **Illicit Tobacco Taskforce (ITTF)** which replaced the Tobacco Strike Team was established to protect Commonwealth revenue by proactively targeting, disrupting and dismantling organised crime syndicates that deal in illicit tobacco.⁽⁵⁾

- **The Australian Taxation Office (ATO)** – Continues to act in dealing with illegal tobacco in Australia, in particular illegal tobacco growing.⁽⁶⁾
- **Australian Federal Police (AFP) and state police** – Supports national and local illegal trade investigations, makes arrests, and executes search warrants.
- **Australian Transaction Reports and Analysis Centre (AUSTRAC)** – Responsible for regulating and investigating money laundering and terrorism financing.
- **The Australian Criminal Intelligence Commission (ACIC)** – Works across international borders to better understand the organised crime environment and discover new threats. This information is used "to stop criminals exploiting emerging opportunities and perceived gaps in law enforcement information".⁽⁷⁾

During 2016-2017, ACIC collaborated with numerous organisations (Maritime Border Command and the Australian Border Force, Australian Defence Force, Australian Federal Police and state agencies) on Project Baystone Askella, increasing its understanding of operations directed from offshore locations and collaboration between Malaysian and Chinese nationals. This is a wide ranging project that has resulted in numerous tobacco product seizures including approximately 10 million cigarettes smuggled into Australia without payment of excise.⁽⁸⁾

The Trident Taskforce, of which ACIC had historically been an active part of, continues to monitor the waterfront for any illicit smuggling activity of all kinds including tobacco. Whilst the Trident Taskforce is active only in Victoria, ACIC is a part of various other taskforces.

Note: (a) The duties of DIBP have been subsumed under Department of Home Affairs.

Sources: (1) Australian Border Force, ABF continues to smash tobacco syndicates in Victoria, August 2017.
(2) Estimating the cost of serious and organised crime in Australia 2016-17, Australian Institute of Criminology.

(3) homeaffairs.gov.au/

(4) <https://www.homeaffairs.gov.au/australian-border-force-abf/protecting>, accessed Feb 2018.

(5) ABF, Illicit Tobacco Task Force.

(6) ATO, *Stamping out illegal tobacco*, accessed Feb 2018.

(7) ACIC.gov.au/about-us.

(8) ACIC Annual Report, 2016-17.

The enforcement landscape continues to focus on facilitating trade, travel and migration while protecting Australia's border

4.2 Enforcement landscape (cont.)

The evolution of key enforcement agencies

The DIBP (Department of Immigration and Border Protection) became a fully integrated department effective 1 July 2015. Since 20th December 2017, after the establishment of the Department of Home Affairs, DIBP, in its entirety has been made a part of the Department of Home Affairs.^{(1)(a)} A key purpose of DIBP is to 'protect Australia's border while facilitating trade, travel and migration'.⁽²⁾ Tackling the illicit tobacco trade falls within this broader remit. The DIBP engages with both partner countries and industry to collaborate and to assist in 'managing a border continuum', specifically before, at and after the border points.^{(2)(a)}

The 2020 overarching strategic objectives for DIBP are wide ranging and include^{(3)(a)}:

Protect Australia (including identifying and managing migration and trade risks across the border)	Promote responsive migration
Advance trade and revenue	Lead border innovation (including preventing the movement of prohibited and restricted goods)

The ABF has said that continued and sophisticated attempts are made through illicit tobacco to defraud Australian taxpayers of legitimate revenue, and illicit tobacco continues to be an attractive market for organised criminal syndicates due to lucrative profits attached.⁽⁴⁾ In early 2018 it launched a national awareness campaign to encourage the public to report any suspicious activity in order to support its 6,000 officers across Australia.⁽⁵⁾

The Tobacco Strike Team (founded October 2015) is solely focused on targeting, investigating and prosecuting the serious and organised elements of illicit tobacco trade.

The ABF Strike Team received an additional funding of AUD7.7 million for 2016-2018.⁽⁶⁾ Through the year to 2017, the Strike Team detected in excess of 123m individual cigarettes and over 64 tonnes of tobacco intended to evade customs.⁽²⁾ Throughout 2017 there have also been various charges brought against individuals and syndicates across locations, notably Victoria and Melbourne, by the ABF and Strike Force.⁽⁴⁾⁽⁷⁾⁽⁸⁾ The Department of Home Affairs suggested that the success of the Tobacco Strike Team was pivotal in paving the way for establishing the Illicit Tobacco Task Force, led by ABF, in July 2018.⁽⁹⁾

Australian authorities are also furthering existing relationships with foreign enforcement agencies to tackle the trade of illicit tobacco, conducting joint border patrols, co-ordinated activities and providing aerial surveillance when requests are received from neighbors and partners.⁽²⁾ During 2017 an investigator from HMRC in the UK was deployed to work with the ABF and Australia Tax Office, in part to assist with work on illicit tobacco.⁽¹⁰⁾

Note: (a) DIBP as a department no longer exists. The duties of the department have been subsumed under Department of Home Affairs.

Sources: (1) homeaffairs.gov.au/
 (2) DIBP Annual Report, 2016-17.
 (3) DIBP Strategy 2020.
 (4) Australian Border Force, Tobacco criminal syndicate dismantled in Melbourne, 2017.
 (5) psnews, *Border Force launches awareness campaign*, February 2018.

(6) The Guardian, *Australian smokers to pay more than \$45 for a packet of cigarettes*, May 2016.

(7) Australian Border Force, Three men charged over Melbourne illicit tobacco haul, Feb 2017.

(8) Australian Border Force, ABF continues to smash tobacco syndicates in Victoria, August 2017.

(9) Department of Home Affairs Annual Report, 2017-18, Part 1.

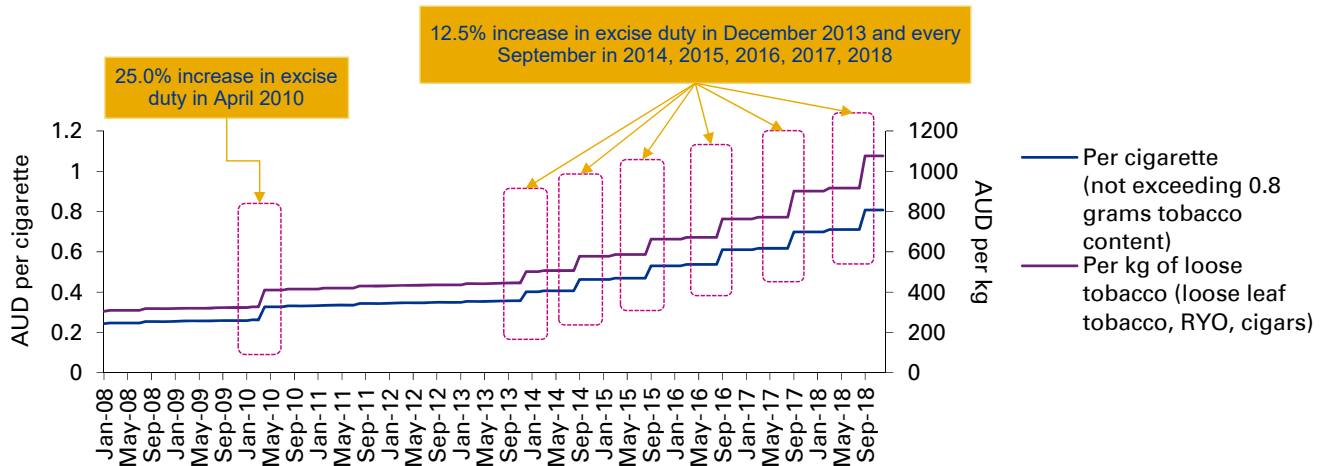
(10) ACIC Annual Report, 2016-17.

Market landscape and developments

In addition to the 12.5% annual excise increases each year to 2020, taxation of roll your own tobacco will be increased to align with taxes on manufactured cigarettes

4.3 Recent development of excise duty and tobacco affordability in Australia

Figure 4.3a: Values of tobacco excise and customs duty, Australia, January 2008 – September 2018^{(1)(a)}

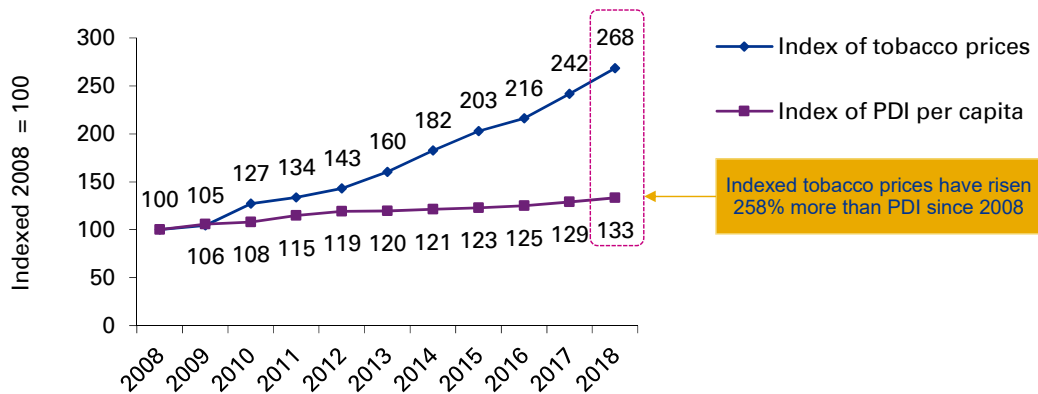


The largest excise increase was a 25% increase introduced on 30 April 2010. Annual ad hoc excise increases were applied in December 2013 and then in September each year from 2014 to 2018. Legislative amendments made in 2016 will result in further excise increases of 12.5% per annum in 2019 and 2020.

This increase is over and above the annual indexation linked to AWOTE.⁽²⁾

These factors have resulted in the excise on tobacco products increasing by 14% between December 2017 and December 2018.⁽³⁾

Figure 4.3b: Index of tobacco prices and per capita PDI, Australia, 2008 – 2018^{(4)(5)(a)(b)}



Although PDI per capita has continued to grow, the excise rate increase in 2010, combined with subsequent increases, contributed to tobacco prices increasing at a higher rate than PDI per capita.

The increases have resulted in a decline in relative affordability when compared to previous years. This decline in relative affordability is likely to continue with the future planned excise rate increases.

Notes: (a) 2015 AWOTE is based on latest available estimates, accessed February 2016.

(b) Indexed with 2008 values taken as 100.

Sources: (1) Australian Taxation Office, www.customs.gov.au.

(2) Australian Government – Australian Taxation Office, New legislation: Excise and excise-equivalent customs duty – index tobacco excise to average weekly ordinary time earnings, 25 June 2013.

(3) Australian Taxation Office, Excise rates for tobacco, February 2018.

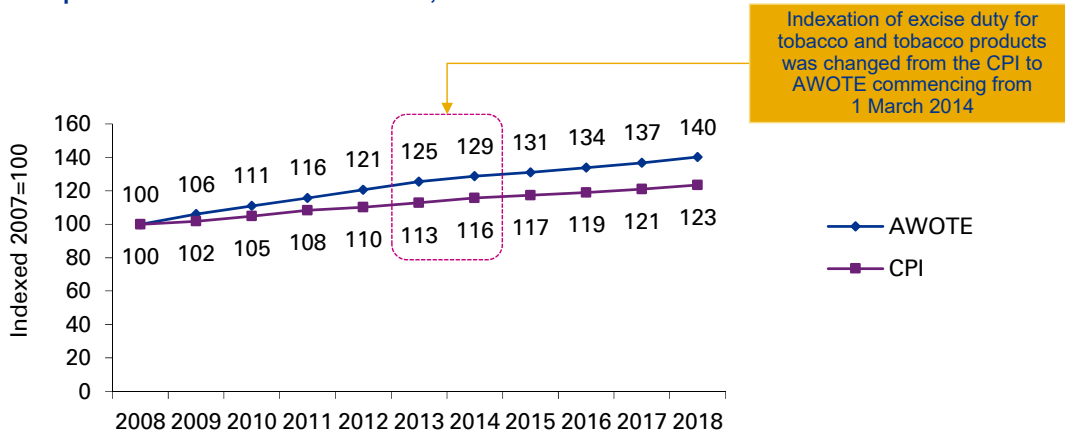
(4) Euromonitor, Index of tobacco prices, accessed January 2019.

(5) Euromonitor, Annual disposable income, accessed January 2019.

The AWOTE has continued to grow faster than CPI

4.3 Recent development of excise duty and tobacco affordability in Australia

Figure 4.3c: Comparison between AWOTE and CPI, 2008 - 2018^{(1)(2)(a)(b)(c)}



The 2013-14 federal budget included a change to indexation of excise duty for tobacco and tobacco products from the Consumer Price Index (CPI) to Average Weekly Ordinary Time Earnings (AWOTE) commencing from 1 March 2014.

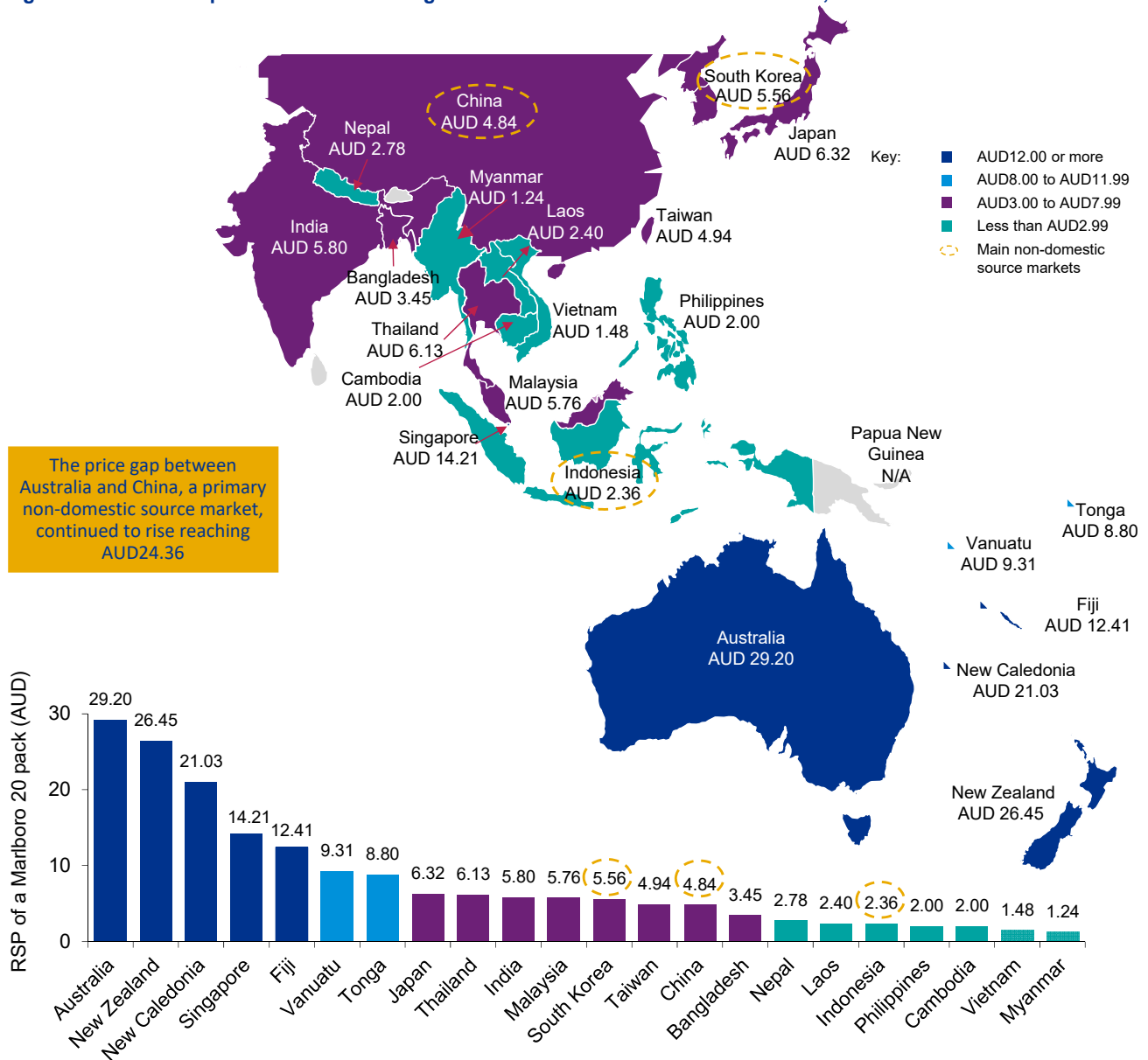
Between 2008 and 2018, AWOTE grew at a CAGR of 3.4%, whilst CPI grew at a CAGR of 2.1% during the same period. Whilst both CPI and AWOTE have been increasing, AWOTE has grown by 17 percentage points more than CPI since 2007.

Notes: (a) 2018 AWOTE is based on latest available estimates from Australian Bureau of Statistics, accessed February 2019.
 (b) Indexed with 2008 values taken as 100.
 (c) The historical numbers have been updated as Euromonitor has changed the Index of tobacco prices.
 Sources: (1) Euromonitor, Index of tobacco prices, accessed January 2019.
 (2) Australian Bureau of Statistics.

Australia has the highest cigarette prices within the Asia Pacific region

4.4 Regional tobacco prices

Figure 4.4: Price of a pack of 20 Marlboro cigarettes – Australia and selected markets, 2018^{(1)(2)(a)(b)}



Australia and New Zealand have much higher cigarette prices than surrounding markets in South East Asia. With the exception of New Zealand and New Caledonia, Australian prices are over 90% higher than any other markets within the region as shown above.

This large price differential between Australia and other nearby markets creates an economic incentive for those involved in the illicit market, although tight border controls seek to limit this (see page 37 for more details).

Notes: (a) Prices for a 20 cigarette pack of Marlboro (taxes included); where Marlboro is not available, a comparable premium brand has been used.
 (b) The prices are as of December 2018.
 Sources: (1) Industry data.
 (2) GFIS Oct 2018.

The price differentials between legal and illicit products has widened in the twelve months to December 2018

4.5 Relative price of illicit tobacco

Figure 4.5.1: Prices of illicit tobacco products and Winfield 25s, June 2013 – December 2018^{(1)(a)(b)(c)(d)(e)}

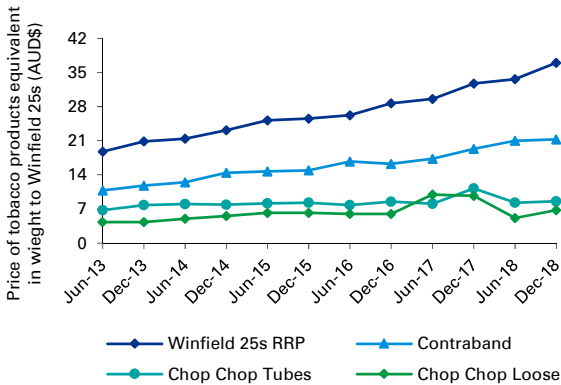
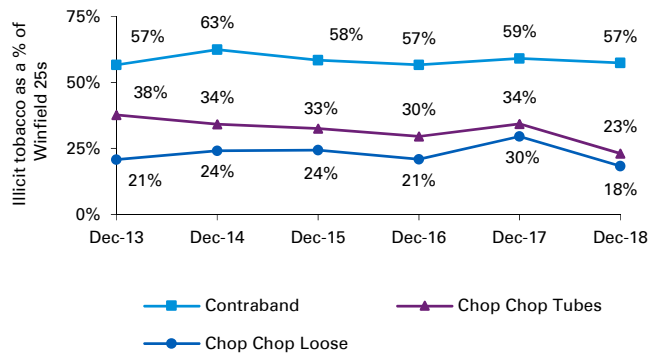


Figure 4.5.2: Illicit tobacco prices as a proportion of Winfield 25s, December 2013 – December 2018^{(1)(a)(b)(c)(d)(e)(f)}



Data provided by the industry based upon covert purchases^(b) made across Australia highlights the price difference of illicit products compared to legitimate products. While this data will be impacted by the split of random versus intelligence led purchases^(c), the data will provide some insights into the size and change in the market.

The above figure illustrates how prices have changed for a range of illicit tobacco and a legitimate pack of Winfield 25s. Over the period June 2013 to December 2018, the illicit tobacco segment which exhibited a price increase, equivalent to a Winfield 25s pack was Contraband cigarettes (97%). Chop Chop Loose and Chop Chop Tubes (unbranded tobacco sold in pre-rolled tubes) prices also rose over the period, but this increase was relatively smaller at around 27% and 57% respectively.

Increased excise rates have resulted in an increase in legitimate tobacco prices. As illicit products fail to comply with Australian legislation, the rise in illicit tobacco prices has likely fuelled higher margins for smugglers and illegal retailers.

Between December 2017 and December 2018, illicit tobacco prices as a proportion of Winfield 25s fell across Contraband and Chop Chop tobacco, resulting in an increased price differential between the products. This effect was especially marked in Chop Chop products.

Notes: (a) Contraband prices are an average of price for products found in Sydney and Melbourne. Unbranded prices have been converted to a pack of 25 cigarette equivalents.
 (b) Illicit tobacco prices are obtained through market place pricing enquiries.
 (c) Intelligence led enquiries involve gathering data and information on retail outlets suspected of dealing in illicit tobacco and using it to guide market enquiries. Random enquiries are made without suspicion that illicit tobacco products are available from the outlet.
 (d) A pack of Winfield 25s was chosen as the benchmark for changes in tobacco prices. It is an established brand with price changes likely to be representative of the broader legal tobacco market.
 (e) Data for Chop Chop loose price for December 2016 is not available.
 (f) For the purpose of this analysis Chop Chop loose price for December 2016 has been taken to be the same as that of June 2016, since the price for December 2016 was not available.

Source: (1) Industry intelligence data.



5. Size of the illicit tobacco market

5.1 Estimating the illicit tobacco market

5.2 Illicit tobacco consumption in Australia

5.3 Enforcement context

Size of the illicit tobacco market

The approach used to estimate the size of the Australian illicit tobacco market is globally consistent, methodical and robust

5.1 Estimating the illicit tobacco market

Methodology and validation

As discussed in section 2.1, KPMG divides the illicit tobacco market into unbranded tobacco and illicit manufactured cigarettes (in the form of counterfeit and contraband). These categories taken together form total illicit consumption. Therefore, it is important to take account of all consumption flows when assessing the amount of illicit tobacco consumed.

The chart below illustrates how KPMG breaks consumption into a number of categories (defined in section 2.1) and how each category requires different data sources to estimate the size of the market and validate the findings.

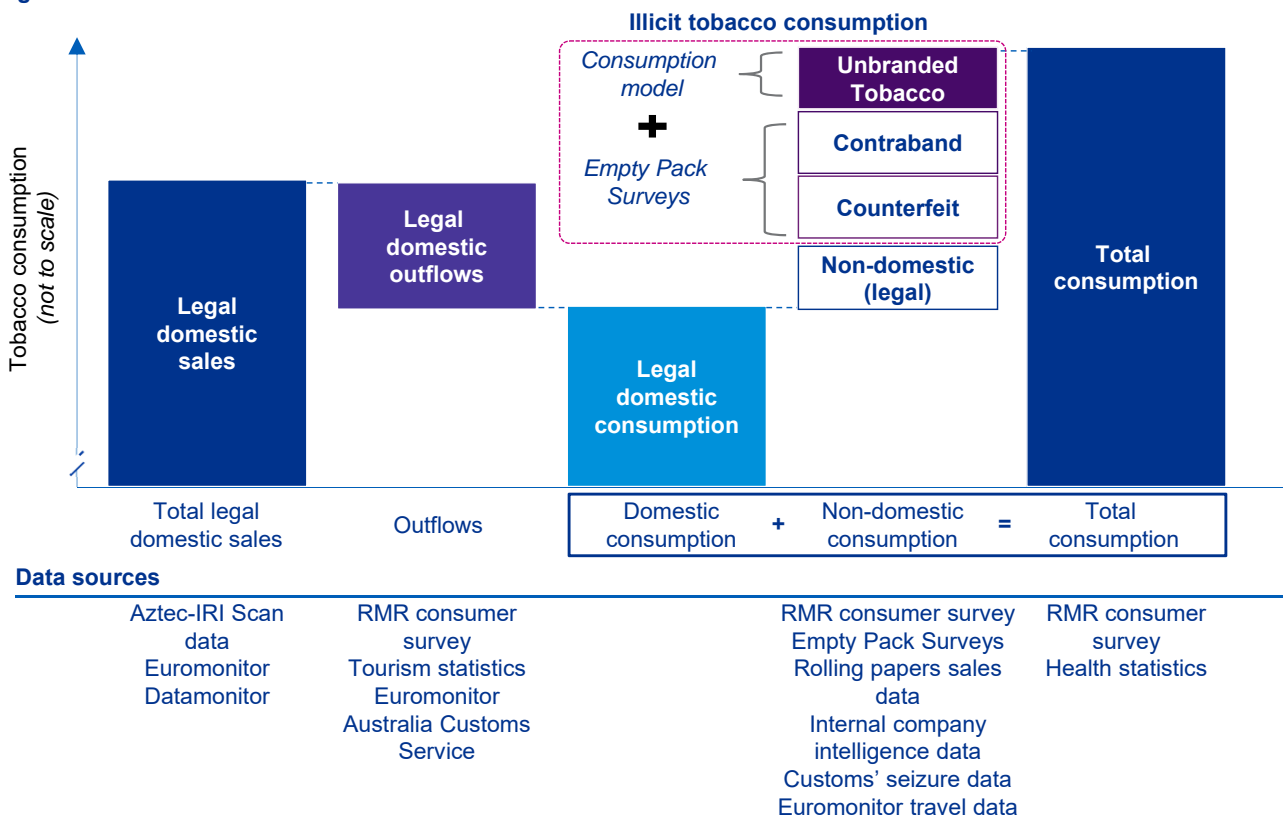
For each of these categories a separate primary approach is used in order to estimate the volume of illicit tobacco. For unbranded tobacco, a consumption model, based on results from a consumer survey is used.

The consumption model includes Chop Chop (unbranded loose tobacco sold in bags) and unbranded tobacco sold in pre-filled tubes. For illicit manufactured cigarettes an Empty Pack Survey (EPS) analysis is used, based on the collection of discarded cigarette packs across Australia.

This approach has been used consistently in each report over the past three years, which provides more reliable insights into market trends.

We believe this approach provides an estimate of the size of the illicit market in Australia that is as robust as possible within current research techniques. However, to further increase the level of confidence in this estimate, alternative approaches are used to validate the illicit tobacco volumes generated by the consumption model and the EPS analysis.

Figure 5.1a: Estimation of the illicit market^(a)



Note: (a) Definitions for the above sales categories can be found in the glossary on page 2 and page 3.

Size of the illicit tobacco market

We have used a broad range of approaches to produce an estimate for the size of the Australian illicit tobacco market

5.1 Estimating the illicit tobacco market (cont.)

The validations can be used as alternative estimations, or to support trends and changes noted in the market. In this section, each of the approaches are described before the process of estimation and validation is explained. A detailed overview of these approaches can be found in Appendices A1, A2 and A3. A detailed list of all data and information used can be found in Appendix A12.

Primary approaches

Consumption model

This approach is based on the responses of consumers to the survey conducted by Roy Morgan Research (RMR) in H1 2018 and H2 2018. The survey is commissioned by BATA, ITA and PML.

Survey participants represent the demographic, geographic and social factors that characterise the Australian population. The survey asks consumers about their consumption of both legal and illicit tobacco. These survey responses are then combined with other data sources by KPMG to arrive at an estimate for total illicit tobacco consumption. Consumers are asked about both unbranded tobacco and illicit manufactured cigarettes.

For the purpose of this report, the consumption model number for unbranded volumes in 2018 is based on the average of the H1 2018 and H2 2018 consumer survey results. Since consumers are likely to give a more accurate estimate of their purchase behaviour over a shorter time period, using an average of both surveys provides a more robust number for 2018. Detailed results of the consumer survey are discussed in section 6.

Empty Pack Survey (EPS)

An EPS is a study undertaken independently by MSI Intelligence (MSI) who collect 12,000 discarded cigarette packs per survey across 16 different population centres in Australia. The EPS is conducted every six months. The brand and country of origin of each collected pack is assessed by MSI to determine whether it is a domestic or non-domestic product. Products from different countries of origin are labelled as non-domestic. The collected packs are then sent to the participating manufacturers for analysis to determine genuine and counterfeit packs. KPMG uses the EPS results to extrapolate overall consumption in the market. The percentages of non-domestic and counterfeit packs are applied to the volume of legal domestic sales in order to establish the total consumption of manufactured cigarettes in Australia.

The EPS approach provides an objective and statistically representative estimate of the size of the illicit manufactured cigarette market. The results are not subject to respondent behaviour and are therefore less prone to sampling errors than many other alternative methodologies. The 16 population centres covered by the sample plan covers the equivalent of approximately 74.6% of Australia's population.

A small proportion of non-domestic cigarettes are likely to have been brought into Australia legally by Australians travelling overseas or by tourists and permanent settlers arriving in Australia. Travel statistics from the Australian Bureau of Statistics are reviewed by KPMG in order to estimate the likely volume.

An analysis of the amount of non-domestic legal brought into Australia by these two groups can be found in Appendix A6. Areas that are typically frequented by tourists and international students (e.g. sports stadia, tourist attractions, railway stations) are excluded from the EPS to avoid over-estimating non-domestic legal consumption and to provide a representative sample of the local population's consumption.

These non-domestic legal cigarettes are removed from the total non-domestic volume by KPMG, which leaves the total estimated illicit manufactured cigarette market, split into contraband and counterfeit cigarettes as described in section 2.

Since 2012, the empty pack surveys have been jointly commissioned by the industry (BATA, ITA and PML). Before H1 2013, the study was carried out by ACNielsen. Prior surveys were also run in 2009 and 2010 by ACNielsen (who also have experience of conducting EPS in Europe) on behalf of PML, and these have been made available to KPMG for use in this report. The methodology and sample walking routes used by MSI are consistent with those used previously by ACNielsen.

For the purpose of this report, EPS surveys have been conducted by MSI in Q2 and Q4 2018. The results from these surveys have been used to arrive at an estimate for the illicit manufactured cigarette consumption for 2018. This method is consistent with the approach used by KPMG in Project SUN to assess the level of counterfeit and contraband cigarettes across the EU Member States. It is a widely accepted method for measuring the illicit market.

Rolling papers and seizures are used to validate the results of the consumption model and EPS

5.1 Estimating the illicit tobacco market (cont.)

Means of validation

Rolling papers analysis

This analysis has been developed by KPMG and has been used with other clients to infer the volume of loose tobacco smoked from the quantum of papers sold. It compares sales of rolling papers provided by ITA⁽¹⁾ with the legal sales of loose tobacco to estimate a consumption gap between legal and illicit.

In order to use this approach several assumptions are made:

1. Grams per rolled cigarette.⁽²⁾⁽³⁾
2. Wastage rate of rolling papers.⁽²⁾⁽³⁾
3. Rolling papers used for consumption of illegal drugs.⁽⁴⁾

Data obtained in consumer surveys carried out by the industry and sales figures from rolling papers manufacturers are used in order to verify these assumptions, along with data from the National Drug and Alcohol Centre. Since a new National Drug Strategy Household Survey was conducted in Australia in 2016, we have updated the estimates of rolling papers used for consumption of illegal drugs in this report.

We have found from previous analyses that, given the number of assumptions in this approach, its main use is to provide a range of estimates for the market size to help validate other analysis.

However, recent results have highlighted a large divergence between the two approaches. Later in the report, we have analysed the continued appropriateness of this approach as a means of validation. Following this, we have concluded it is no longer appropriate and therefore this will be the last report where we use it as a means of validation.

Seizures data

Seizures data obtained from ABF 2017-18 report shows the total number of detections for illicit tobacco in the year.⁽⁵⁾ Using seizure data to size the illicit market is often unreliable since it is difficult to ascertain the proportion of total illicit product that is seized. Detections depend as much on the performance of the customs or law enforcement agency as they do on the presence of illicit activity or the ingenuity of those involved. In addition, seizure data used to intercept tobacco products coming into Australia will not pick up loose tobacco that may have been illegally grown in Australia.

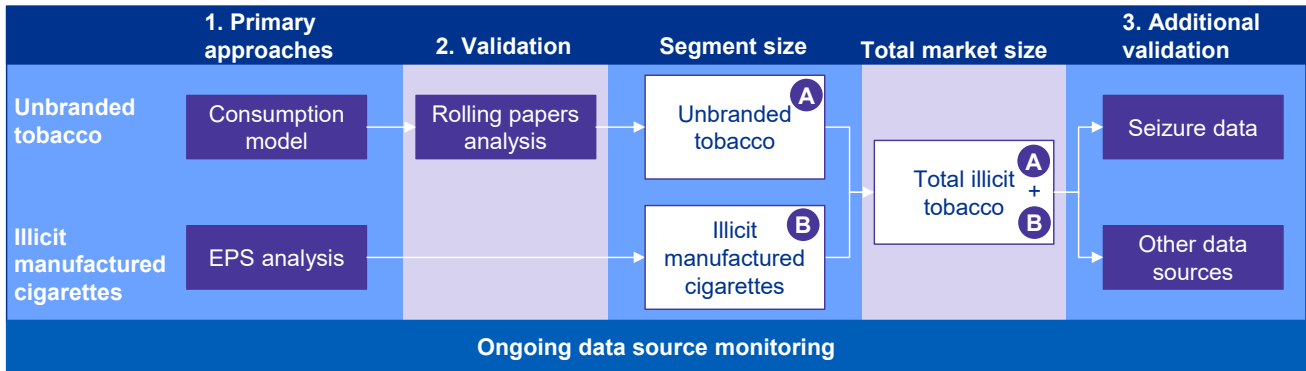
Whilst seizure data is unlikely to generate an accurate estimate for the illicit tobacco market, it can be used to indicate trends and validate any considerable changes to the illicit market. For example, an increase in manufactured cigarette flows from a country picked up in the EPS could be validated with a corresponding increase in seizures from that country or in manufactured cigarettes representing a growing percentage of seizures. We also use internal tobacco company intelligence data as a validation of trends, however, since this data is commercially sensitive we are not authorised to publish it.

Sources: (1) Aztec - IRI Scan data.
(2) Industry estimates.
(3) Roy Morgan Research, Consumer survey.
(4) Australian Institute of Health and Welfare, *The National Drug Strategy Household Survey*, 2013, 2016.
(5) Australian Government, Department of Home Affairs, Annual Report 2017-18

The validation of our measurements with additional data sources provides confidence in the results

5.1 Estimating the illicit tobacco market (cont.)

Figure 5.1b: Overview of approach to estimating illicit tobacco



The consumption model and EPS approaches are thought to be the most robust for estimating the illicit tobacco market in Australia. Figure 5.1 shows the process by which the consumption model and EPS analysis are validated through alternative analysis.

1. Primary approaches

A Unbranded tobacco: The consumption model uses data from the RMR consumer survey, external data sources such as the Australian Institute of Health and Welfare and the Australian Bureau of Statistics to estimate the results. We consider it to be the best way of sizing the unbranded tobacco market.

B Illicit manufactured cigarettes: The EPS, conducted in Australia by MSIIntelligence, is the most reliable measure of contraband and counterfeit. It also forms the foundation for Project SUN.^(a)

A + B Total illicit tobacco: The total illicit tobacco market size estimate is calculated by adding the results of the validated EPS analysis for manufactured cigarettes (i.e. contraband and counterfeit) with the output of the validated consumption model for unbranded tobacco. The results are presented in kilograms to show total consumption of both loose tobacco and manufactured cigarettes.

2. Validation

Rolling papers analysis is used in order to validate the unbranded tobacco market. Whilst assumptions relating to grams per rolled cigarette, rolling paper wastage rates, and cannabis usage are hard to verify, rolling papers analysis is helpful to determine the likely ratio between consumption of loose tobacco and illicit loose (unbranded) tobacco.

3. Additional validation

Total illicit tobacco consumption (i.e. unbranded tobacco and manufactured cigarettes together) can be validated further by seizures data.

Seizures data can be used in order to validate the likely mix of illicit tobacco consumption. If the consumption model and EPS show a large change in the mix of illicit products, seizures data should support this change.

Using this validation process enables us to understand and corroborate any significant changes to illicit tobacco consumption.

Ongoing data source monitoring

We take a forward looking approach to ensure the most appropriate data is used in the modelling process. For example, many surveys of smoking prevalence are conducted at irregular intervals whereas the actual decline is smooth over time between these periods. To avoid major future restatements that distort trends, we continuously monitor the relevance of data sources and may rebase some data based on historic and forecast trends.

To ensure comparability with our ongoing methodology, we have applied these changes retrospectively. See page 52 and 53 of Appendix A1 for details.

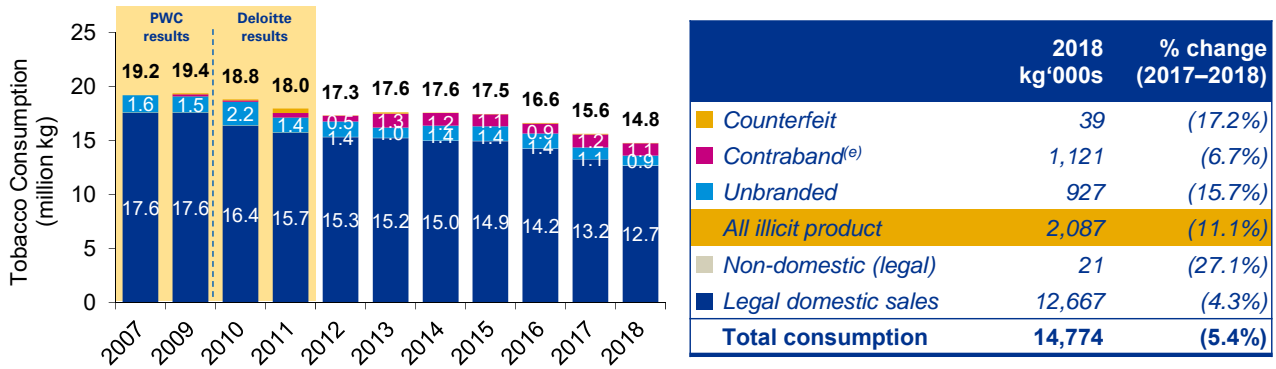
Note: (a) A study of the illicit cigarette market in the European Union by KPMG.

Size of the illicit tobacco market

Declines in both legal and illicit tobacco consumption has resulted in a decline in overall tobacco consumption

5.2 Illicit tobacco consumption in Australia

Figure 5.2a: Consumption of tobacco products by category, 2007 – 2018^{(1)(2)(a)(b)(c)(d)(e)(f)}



The total level of tobacco consumption in Australia was estimated at 14.8 million kg in 2018, of which 2.1 million kg was estimated to be illicit. Our estimate of total consumption represents a fall in volume of 5.4% from 2017, in line with the decline in consumption of illicit tobacco as a proportion of total consumption decreased from 15.0% in 2017 to 14.1% in 2018.

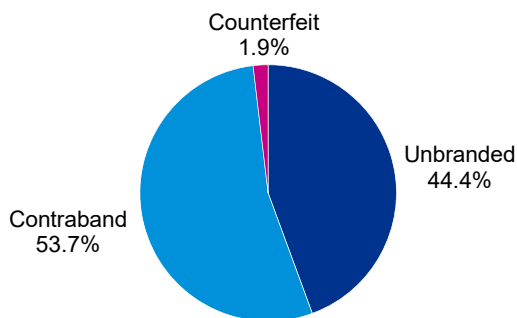
In 2018, illicit products consumed of both unbranded tobacco and manufactured cigarettes saw a decline of 15.7% and 7.1% respectively.

Whilst volume of contraband consumption has decreased by 6.7% since 2017, it is still the largest component of illicit manufactured cigarette consumption. This decrease is driven by a decrease in both domestic as well as non-domestic illicit consumption. In 2018, non-domestic contraband increased from 6.2% to 7.1% of total consumption whilst the Domestic Illicit Plains decreased from 1.93% to 0.75% of all manufactures cigarettes consumed. The volume of non-domestic (legal) product remained small.

Counterfeit continued to remain a very small component of illicit tobacco consumption (1.9%) although this volume has decreased by 17.2% from 2017 to 2018.

As a result, the decline in total consumption is due to a reduction in consumption of both legal tobacco and unbranded tobacco.

Figure 5.2b: Share of illicit tobacco consumption, 2018^{(3)(f)}



- Notes: (a) Counterfeit and contraband estimations are unavailable for 2007.
 (b) Non-domestic legal volumes are smaller than 0.1 million kg and volume labels have not been included for this category.
 (c) KPMG have not had the opportunity to validate results for 2007-2011.
 (d) Numbers in the chart do not sum due to rounding.
 (e) RMR implemented a new panel of respondents in Q4 2018. It is unclear how this may have impacted the results.
 (f) Contraband includes non-domestic contraband as well as the volumes of Illicit Whites (non-domestic) and Domestic Illicit Plains.
- Sources: (1) PriceWaterhouseCoopers, *Australia's Illegal Tobacco Market*, 2007, 2009.
 (2) Deloitte, *Illicit Trade of Tobacco in Australia*, 2010, 2011, 2012.
 (3) KPMG analysis.

Size of the illicit tobacco market

The estimate of unbranded tobacco appears to be below the amount indicated by the rolling paper analysis

5.2 Illicit tobacco consumption in Australia (cont.)

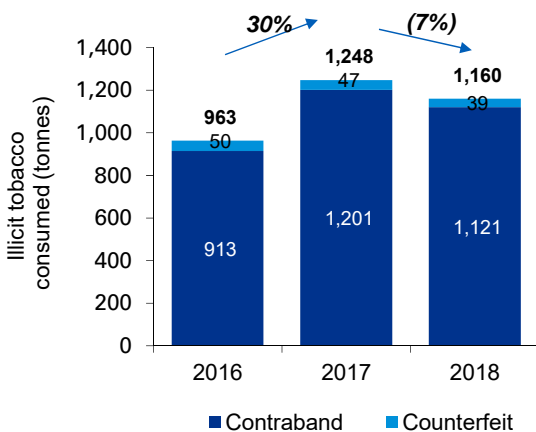
Table 5.2: Results of primary methodologies, 2017 – 2018

2017 and 2018 results (tonnes)				
		2017	2018	% Change (2017 – 2018)
1. Illicit manufactured cigarettes	Contraband ^(a)	1,201	1,121	(6.7%)
	Counterfeit	47	39	(17.2%)
	Total	1,248	1,160	(7.1%)
2. Unbranded tobacco		1,100	927	(15.7%)
3. Total illicit tobacco		2,348	2,087	(11.1%)

1. Illicit manufactured cigarettes

Based on analysis of the EPS undertaken by MSIntelligence, the 2018 estimation of the illicit manufactured cigarettes market is 1,121 tonnes for contraband and 39 tonnes for counterfeit. This equates to a decrease of around 7% in total illicit manufactured cigarettes (counterfeit and contraband) over the year from 2017.

Figure 5.2.1: KPMG estimates of illicit manufactured cigarettes, 2016 – 2018⁽¹⁾



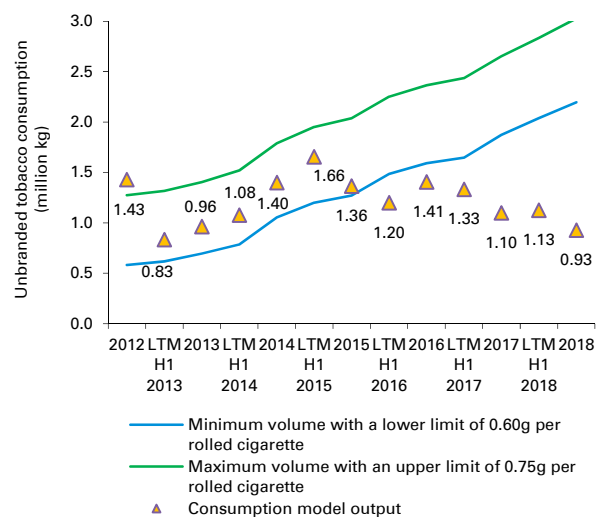
2. Unbranded tobacco

The consumption model indicates that the volume of unbranded tobacco consumed decreased by 15.7% between 2017 and 2018, from 1.10 million kg to 0.93 million kg.

The rolling papers analysis suggests that the unbranded tobacco market is likely to be between 2.20 million kg and 3.03 million kg. Our estimate of 0.93 million kg falls far below this range.

As discussed earlier, for future studies we shall not undertake rolling paper analysis as it is no longer an effective technique of validation.

Figure 5.2.2: Volume of illicit unbranded tobacco generated by the rolling papers analysis, 2012 – 2018⁽¹⁾



Notes: (a) Contraband includes non-domestic contraband as well as the volumes of Illicit Whites (non-domestic) and Domestic Illicit Plains.
Sources: (1) KPMG analysis.

ABF and other enforcement agencies made a number of seizures in 2018

5.3 Enforcement context

Evolution of points of entry

The Australian Border Force (ABF) saw a record numbers of international air and sea travellers processed in 2017-18, this included over 400 tonnes of illicit tobacco detected.⁽¹⁾

According to ACIC, the illegal tobacco trade is dominated by serious and organised criminal syndicates who are attracted by lucrative profits on offer through tax evasion.⁽²⁾

The ABF and other enforcement agencies continue to use other methods of detecting and seizing illicit tobacco. For example, detector dogs are trained and deployed in order to detect tobacco being smuggled through the border.⁽³⁾

ABF, supported by the Tobacco Strike Team, detected approximately \$350 million in revenue evasion on tobacco products in 2017-18. There were also 110,000 detections of illicit tobacco; including over 215 tonnes of loose leaf and molasses tobacco, and over 235 million cigarettes. Department of Home Affairs suggests that the success of the Tobacco Strike Team was pivotal in paving the way for establishing the Illicit Tobacco Task Force, led by ABF, in July 2018.^{(4)(a)}

Figure 5.3.1: Overall seizures, 2015 – 2018^{(1)(b)(c)}

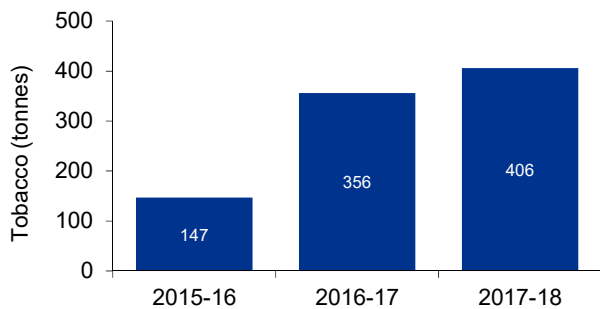
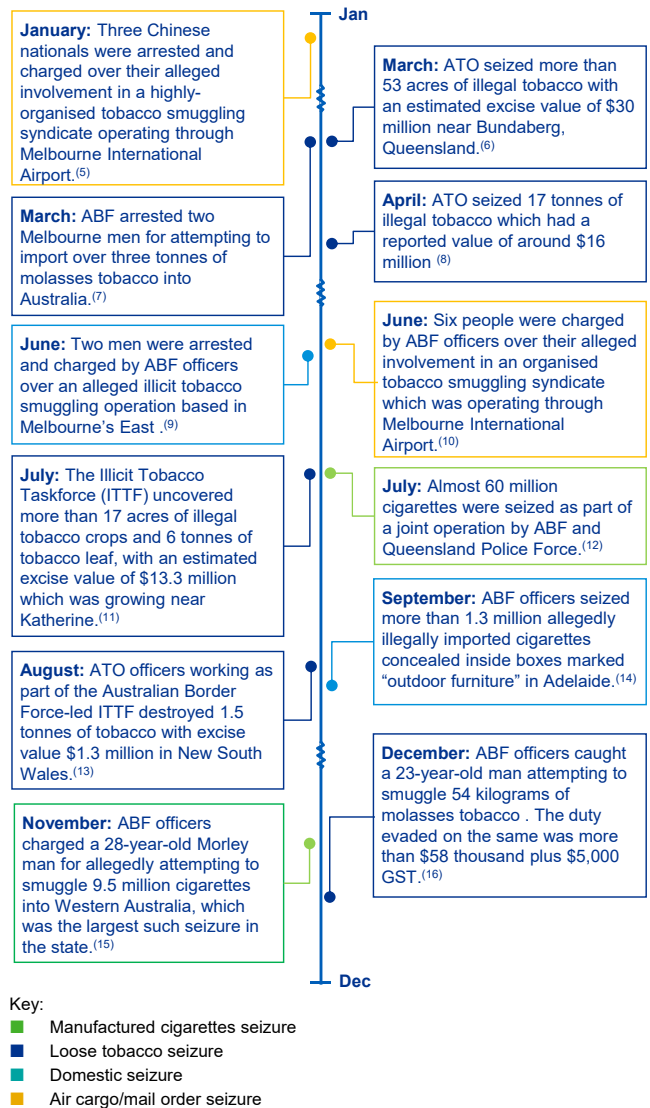


Figure 5.3.2: Key seizures in 2018



Notes: (a) On 1 July 2018, ITTF which replaces the strike team was established.
 (b) Total weight of illicit tobacco reported has been reported as stated in Department of Home Affairs Annual Report, 2017-18.
 (c) The difference in the total weight of seizures reported in 2015-16 by the Australian Taxation Office for its tobacco tax gap analysis (205 tonnes) and the numbers reported by Department of Home Affairs for 2015-16 in its Annual report 2017-18 could be attributed to difference in methodologies used.

Sources: (1) Department of Home Affairs Annual Report, 2017-18.
 (2) Australian Criminal Intelligence Commission, 57 million illegal cigarettes seized in joint operation, July 2018.
 (3) Detector Dog Program, Australian Border Forces.
 (4) Department of Home Affairs Annual Report, 2017-18, Part 1.
 (5) Australian Border Forces, Three arrested over fly-in fly-out illicit tobacco ring, January 2018.
 (6) Australian Taxation Office, Record tobacco bust in Bundaberg, Queensland March 2018.

(7) Australian Border Force, Two arrested after three tonnes of molasses tobacco seized in Victoria, March 2018.
 (8) C-Store.com, Illegal Tobacco seized in VC, April 2018.
 (9) Australian Border Forces, ABF filters our illicit tobacco, June 2018.
 (10) Australian Border Forces, Six arrested and dozens removed from Australia over illicit tobacco smuggling, June 2018.
 (11) Australian Taxation Office, First Illicit Tobacco Taskforce strike uncovers Katherine crop, July 2018.
 (12) Australian Criminal Intelligence Commission, 57 million illegal cigarettes seized in joint operation, July 2018.
 (13) Australian Taxation Office, Illicit Tobacco Taskforce strikes again, August 2018.
 (14) Adelaidenow.com. Australian Border Force officers arrest two Chinese nationals over seizure of 1.3 million allegedly illegally imported cigarettes, September 2018.
 (15) Australian Border Force, Record WA illicit cigarette seizure, November 2018.
 (16) Australian Border Force, New Zealand national refused entry for tobacco smuggling, December 2018.



6. Drivers of results

6.1 Consumer survey overview

6.2 EPS results

Roy Morgan Research sampling overview

6.1 Consumer survey overview

6.1.1 Roy Morgan Research survey overview

The consumer survey is primary research carried out to establish the size of the illicit unbranded tobacco market in Australia. The industry survey, commissioned by the industry (BATA, ITA and PML), was again carried out by Roy Morgan Research (RMR) to ensure comparability with previous years.

The survey focuses on tobacco consumption behaviour by adult smokers who smoke on a regular basis.^(a) Consumers are asked about their consumption and purchase of legal and illicit tobacco products including:

- Unbranded loose tobacco (both ‘Chop Chop’ sold loose in bags or in pre-filled tubes).
- Counterfeit and contraband manufactured cigarettes.

The consumer survey was conducted at least annually from 2009 and then biannually from 2013. There is a three week response period and the survey made use of Computer Assisted Web-based Interviewing (CAWI), previously Computer Assisted Telephone Interviewing (CATI) was used. The H1 2018 survey was carried out between 14 May and 30 May 2018 and the H2 2018 between 22 November and 12 December 2018. Respondents took on average 7 minutes to complete the survey.^{(1)(b)}

Participants in the online research were compensated with points or credits based on the length of the questionnaire. These accumulate over many studies and can then be redeemed for prizes or gift vouchers. Respondents have to complete a number of consumer surveys focusing on a range of issues in order to accumulate enough points to exchange for vouchers of a certain value.

There are state-by-state regulations that guide the implementation of rewards for such consumer surveys, and this RMR survey complies with all such regulations nationally

The Australian Institute of Health and Welfare (AIHW) has indicated that this approach is probably the “most appropriate way to measure this type of information”.⁽²⁾

6.1.2 Consumer survey sampling methodology

RMR draws its sample from an Australia-wide database (urban and rural areas) collected through its ‘Establishment Survey’. This survey is conducted throughout the year and includes information on demographics and attitudes.

The sample for the tobacco questionnaire is weighted by location, age and gender using RMR Single Source data in order to be representative of the national population. The Single Source^(c) distribution of income, occupation and work status of smokers is then used to rim weight^(d) the data. The survey only samples people over 18 years old. Non-private dwellings and institutions, occasional (<5 days per week) and non-smokers are excluded. RMR also uses a one quarter exclusion rule for respondents.^(e)

To meet target responses, RMR supplements its sample with samples from a set of qualified third-party suppliers (large reputable international suppliers of online research samples).

In order for us to reach the interview sample quota for the Q4 2018 consumer survey RMR utilised an additional panel. We have examined the outputs from the various panels used in Q4 2018. One area where the panels showed a statistically significant difference was in their awareness of illicit tobacco. The new panel showed an awareness 8 percentage points lower than the old panel.

As a result, we examined the data to test whether this may have resulted in an understatement in the calculated value for unbranded tobacco consumption. Despite there being a statistically lower awareness of unbranded tobacco, the data does not suggest it impacting the results. The key drivers of the consumption model (i.e. purchase, frequency of purchase of unbranded and volume) showed no statistically significant differences between the different panels.

Going forward we shall monitor the fluctuations in the consumption model inputs to assess how these new panels impact the results.

Founded in 1941, Roy Morgan Research (RMR) is an established Australian market research company. RMR has significant experience working with consumer surveys monitoring legal and illicit tobacco consumption and has provided the consumer research for all of the previous versions of this report.

- Notes:
- (a) For the purposes of this report, a regular smoker is a person who smokes tobacco products on at least five days in a given week.
 - (b) The Australian Market and Social Research Society’s ‘Guideline for Market and Social Research Interviews’ recommends a maximum survey length for incentivised online surveys of 20 minutes.
 - (c) Single Source is RMR’s database collected through their Establishment Survey that focuses on demographic and behavioural factors and closely matches the ABS Census. It is used to establish quotas for other surveys.
 - (d) Rim weighting uses mathematical algorithms to provide an even distribution of results across a dataset while balancing certain categories such as age to pre-determined totals. It weighs specified

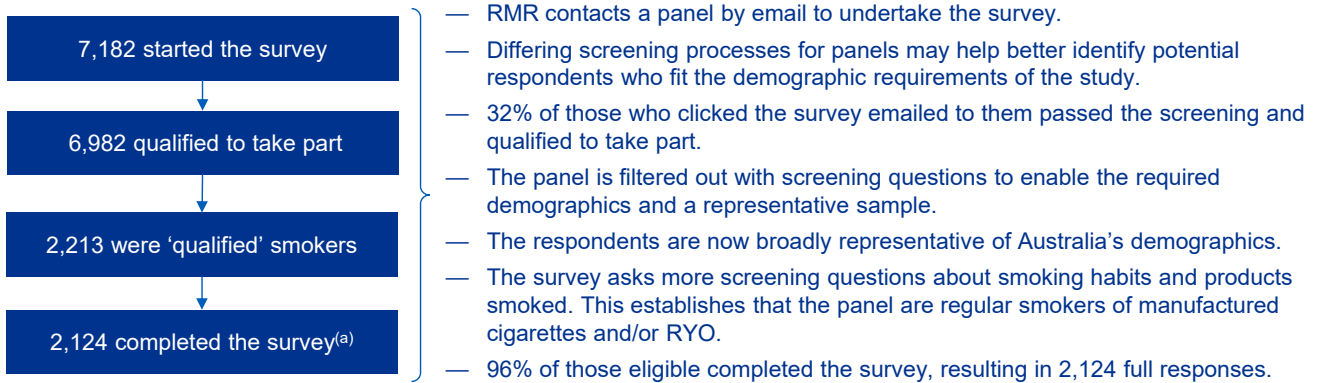
- characteristics simultaneously and disturbs each variable as little as possible.
 - (e) The respondent cannot have done the study in the most recent prior quarter.
- Sources:
- (1) Roy Morgan Research, Consumer survey Q4 2018.
 - (2) Proof Committee Hansard, Parliamentary Joint Committee on Law Enforcement, March 2016.

Roy Morgan Research sampling overview

6.1 Consumer survey overview

6.1.1 Roy Morgan Research survey overview

Figure 6.1.1: Roy Morgan Research (RMR) survey full year attrition chart⁽¹⁾



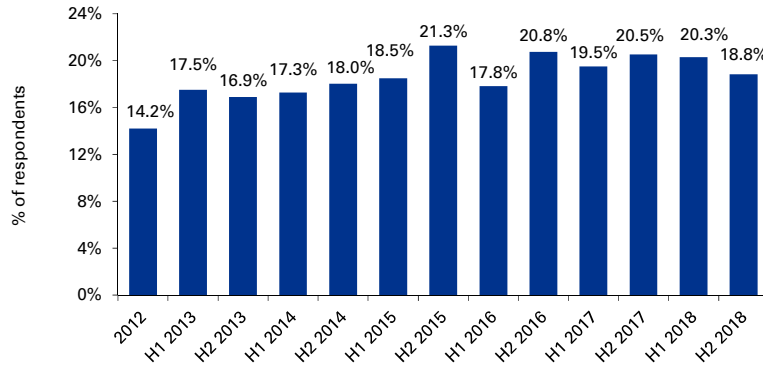
Notes: (a) To meet project timelines, the field period closed on 12 December 2018, with 2,214 completed surveys.
Source: (1) Roy Morgan Research, Consumer survey Q4 2018.

Drivers of results

The decline in unbranded tobacco consumption was driven by the fall in number of users, quantity and frequency of purchase

6.1.2 Purchasers of illicit unbranded tobacco

Figure 6.1.2a: Proportion of respondents who reported purchasing illicit unbranded tobacco, 2012 – H2 2018^{(1)(2)(a)}



The H2 2018 RMR consumer survey saw a decrease in the proportion of respondents purchasing unbranded tobacco compared to H1 2018. The respondents purchased a lower volume of unbranded tobacco per occasion. The average volume purchase per occasion decreased from 0.19 kg to 0.15 kg per occasion (below). Further, the average frequency of purchase also decreased from 13 to 10 (below). These trends resulted in the average annual volume per consumer decreasing from 2.37 kg in H1 2018 to 1.56 kg in H2 2018, a decline of 34%.

The consumption model number for total unbranded volumes is based on the average of the two consumer survey results in that twelve month period. Both average frequency of purchase and average purchase volumes were lower in 2018 than in 2017. As a result, overall unbranded volumes decreased from 1.10 million kg in 2017 to 0.92 million kg in 2018.

Figure 6.1.2b: Average frequency of purchase per annum, 2012 – H2 2018^{(1)(2)(a)}

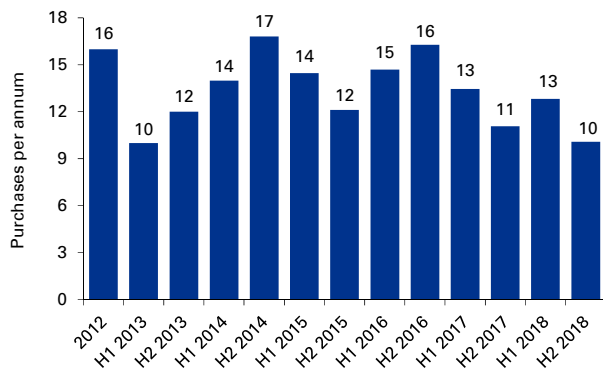
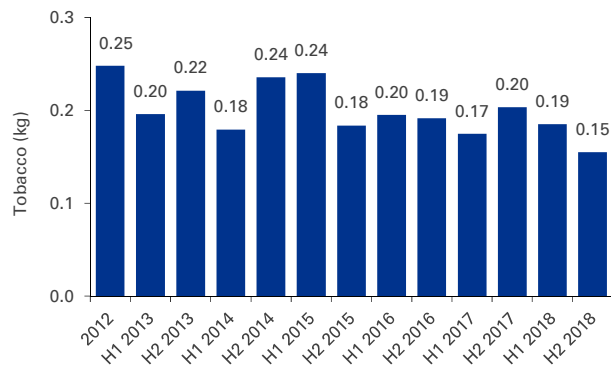


Figure 6.1.2c: Average volume purchased (kg) per occasion, 2012 – H2 2018^{(1)(2)(a)}



Note: (a) 2012, 2013, 2014, 2015, 2016, 2017 and 2018 analysis is based on CAWI / CATI consumer survey results.

Sources: (1) Deloitte, *Illicit Trade of Tobacco in Australia*, 2012.

(2) Roy Morgan Research (RMR), Consumer survey, H1 2013, H2 2013, H1 2014, H2 2014, H1 2015, H2 2015, H1 2016, H2 2016, H1 2017, H2 2017, H1 2018, H2 2018.

Drivers of results

The EPS sampling plan comprises 12,000 empty packs collected across 16 population centres in Australia twice a year

6.2 EPS results

6.2.1 Australian EPS sampling plan⁽¹⁾⁽²⁾

The EPS analyses discarded cigarette packets that have been collected from a set area. The aim is to collect a representative sample of discarded cigarette packets that can then be analysed to provide information about the nature of consumption of manufactured tobacco products.

Empty packs are collected on a proportionate basis from a number of neighbourhoods. Packs are collected from streets and easy access public bins in areas in the sampling plan.

For the purpose of this report, an EPS was carried out by an independent market research agency, MSIIntelligence (MSI) across October-November 2018. The Q2 and Q4 2018 EPS collection was based on a sampling plan consistent with the previous EPS sampling plan: 12,000 packs were collected, the same neighbourhoods were sampled and the same 16 population centres were covered. This covered approximately 74.6% of the total population as shown in Figure 6.2.1.

Packs are collected from pre-determined neighbourhoods, selected to be representative of the city being sampled. Similarly, the neighbourhoods selected are also consistent with the previous surveys. Packs are collected irrespective of their brand and country of origin. Collection routes specifically exclude sports stadia, shopping malls and stations, or any other locations where non-domestic incidence is likely to be higher as a result of a skewed population visiting these areas and may not be representative of local consumption.

To ensure the sample is representative, packs are weighted based on the proportion of each city's population after the collection is completed.

Founded in 2001, MSI is a private company with headquarters in Geneva, Switzerland specialising in market research. MSI has particular experience in the tobacco industry and has conducted over 1,000 EPS in more than 85 countries.

Table 6.2.1 Q4 2018 EPS sampling plan:

Population centres	Population (million) 2017 estimate ^{(2)(a)}	Number of sampled neighbourhoods	Sample packs	Weighted packs
Sydney	4.7	40	3,000	3,253
Melbourne	4.7	40	2,500	2,959
Brisbane	2.3	30	1,200	1,526
Perth	2.0	30	1,000	1,322
Adelaide	1.3	25	800	890
Gold Coast – Tweed Heads	0.7	13	400	412
Newcastle	0.5	13	400	292
Canberra - Queanbeyan	0.4	10	300	287
Sunshine Coast	0.3	10	300	199
Wollongong	0.3	10	300	197
Hobart	0.2	10	300	151
Geelong	0.3	10	300	125
Townsville	0.2	10	300	120
Cairns	0.2	10	300	99
Darwin	0.1	10	300	92
Toowoomba	0.1	10	300	77
Total sample	18.3	281	12,000	12,000
Total population of Australia	24.6			

Note: (a) The results are revised estimates for 2017 as on 31st August, 2018.

Sources: (1) MSIIntelligence Research, *Empty Pack Survey*, Q2 2013, Q4 2013, Q2 2014, Q4 2014, Q2 2015, Q4 2015, Q2 2016, Q4 2016, Q2 2017, Q4 2017, Q2 2018 and Q4 2018.

(2) Australian Bureau of Statistics.

Drivers of results

The growth in non-domestic incidence was driven by increases in Sydney, Melbourne and Adelaide

6.2.2 Australian EPS results – Non-domestic incidence by population centre

Figure 6.2.2a: Total non-domestic incidence by population centre, Q4 2017 – Q4 2018⁽¹⁾

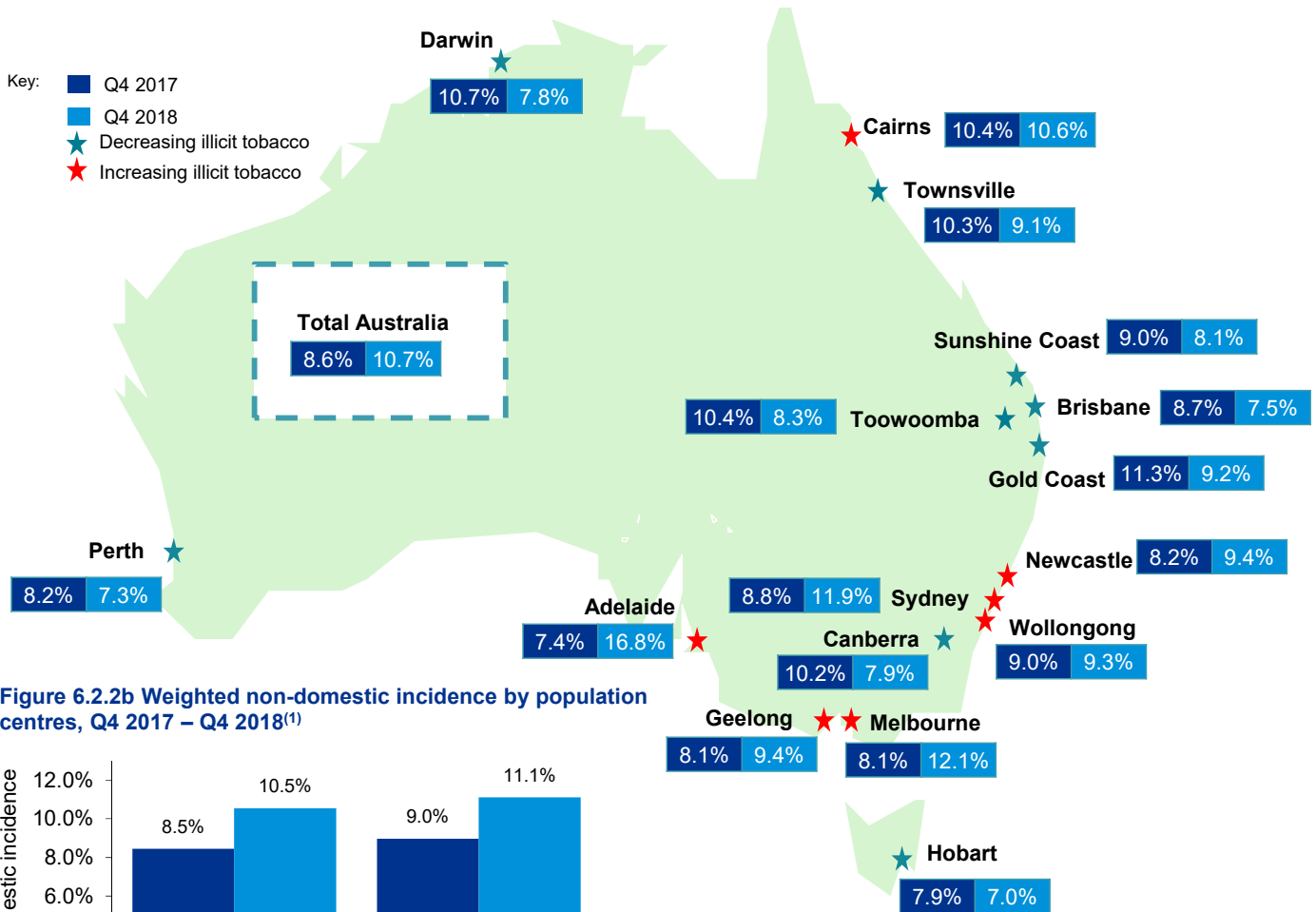
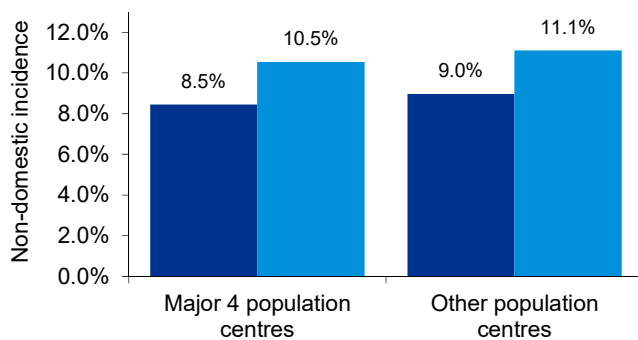


Figure 6.2.2b Weighted non-domestic incidence by population centres, Q4 2017 – Q4 2018⁽¹⁾



The Q4 2018 Empty Pack Survey found non-domestic packs in all population centres sampled.

Despite geographical variances, the trend in incidence was relatively consistent between the largest population centres and other areas sampled. In Q4 2018, weighted non-domestic incidence increased by 2 percentage points in the four largest population centres of Sydney, Melbourne, Brisbane and Perth. Similarly, weighted non-domestic incidence increased by 2 percentage points in the other population centres over the same period.

While more than 50% of the areas experienced a decline in non-domestic incidence over the period Q4 2017 – Q4 2018, the overall increase in Australia's total non-domestic incidence by 2.1% was driven by a rise in non-domestic incidence in the major population centres.

In Q4 2018, Adelaide had the highest level of non-domestic incidence, whilst in the previous two quarters (Q2 2018 and Q4 2017), non-domestic incidence had been highest in Gold Coast and Cairns respectively. Sydney's share of the total non-domestic cigarettes collected in Australia increased from 8.8% in Q4 2017 to 11.9% in Q4 2018.

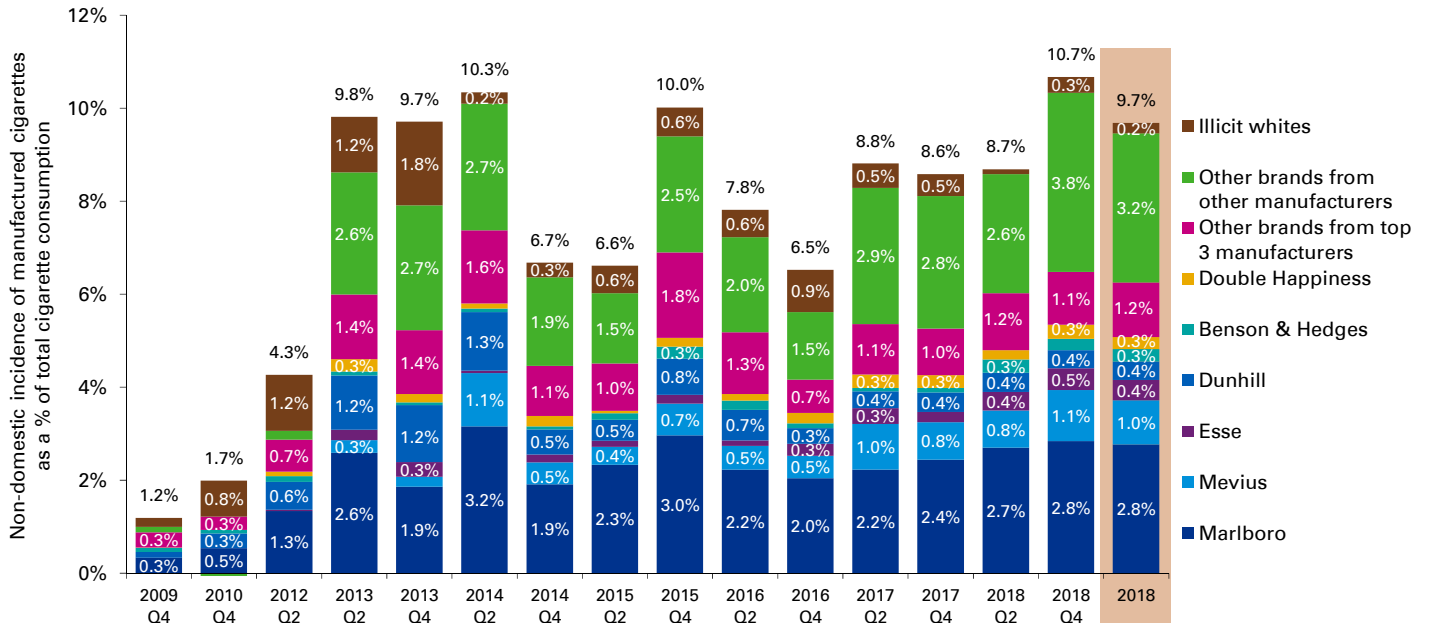
Sources: (1) MSIIntelligence Research, Empty Pack Survey, Q4 2017 and Q4 2018.

Drivers of results

Recent increases in non-domestic incidence has been due to a rise in the flows of a wide range of brands

6.2.3 Australian EPS results – Non-domestic incidence by brand flows

Figure 6.2.3: Total non-domestic incidence by brand flows as a percentage of total manufactured cigarette consumption Q4 2009 – Q4 2018^{(1)(2)(a)(b)(c)(d)}



A blended approach, assigning equal weighting to the Q2 2018 and Q4 2018 EPS, has been used to estimate the size of the illicit manufactured cigarette consumption volume for 2018. As highlighted earlier, using the blended method is consistent with the approach used by KPMG in Project SUN undertaken by KPMG to assess the level of counterfeit and contraband cigarettes across the EU Member States. A blended approach gives a more accurate view on the full year findings as each bi-annual EPS is reflective of market trends at that point in time only.

As per the EPS, non-domestic incidence has increased to 10.7% in Q4 2018 from 8.7% in Q2 2018. When both survey results are combined, it gives a total non-domestic incidence of 9.7%, an increase of 1.0 percentage points from 2017 (8.7%).

The share of Illicit Whites brands flows of non-domestic manufactured cigarettes consumption was 0.2% in 2018, representing a decline of 0.3 percentage points from the 2017 figure (0.5%). The levels of Illicit White brand flows continue to remain below the peak of 1.8% experienced in Q4 2013.

Between 2017 and 2018, the increase in non-domestic incidence is driven by flows of Marlboro, Benson & Hedges and Esse.

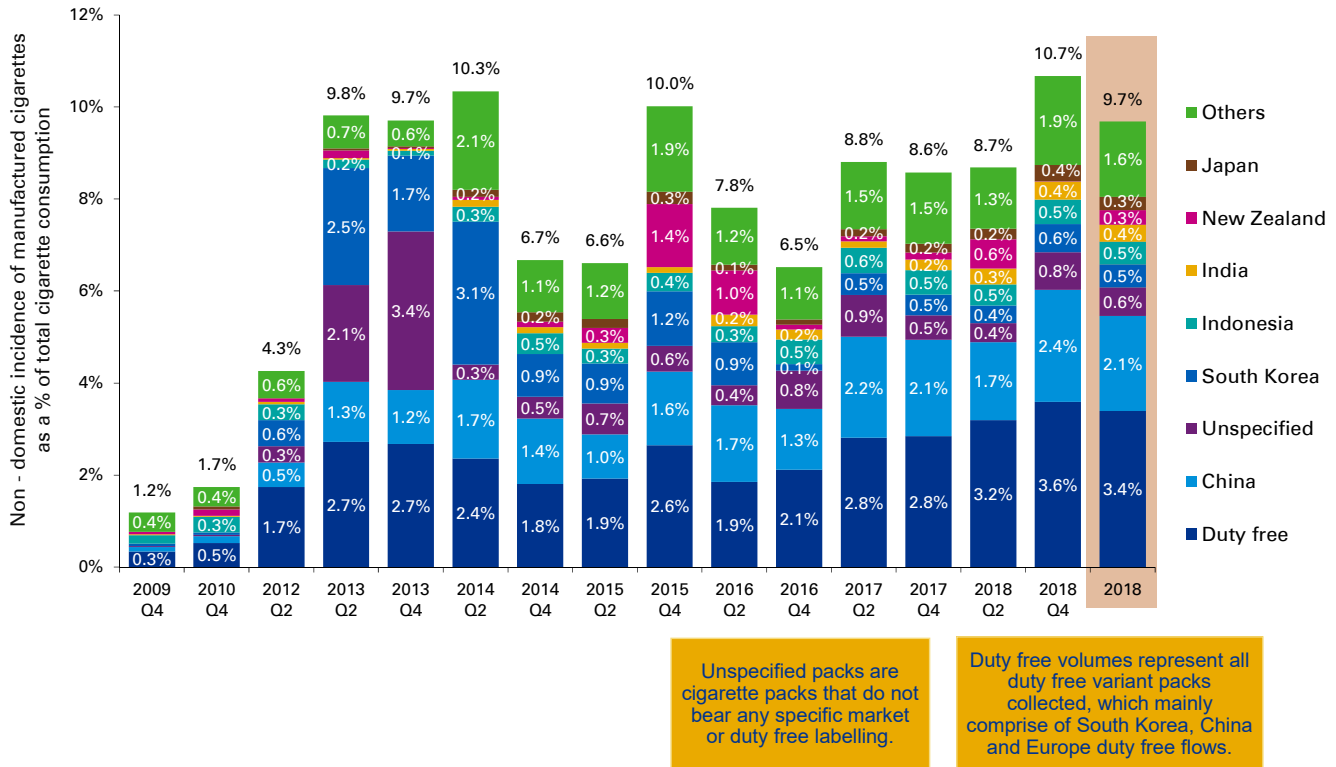
- Notes: (a) Our definition of Illicit Whites (see the glossary) was updated in 2014.
 (b) The 2018 figures are based on the blended result of the Q2 2018 and the Q4 2018 EPS using the weighted number of cigarettes.
 (c) Numbers in the above chart may not sum due to rounding.
 (d) Some of the labels with values less than 0.3% have been removed for clarity purposes.
- Sources: (1) MSI Intelligence Research, *Empty Pack Survey*, Q2 2013, Q4 2013, Q2 2014, Q4 2014, Q2 2015, Q4 2015, Q2 2016, Q4 2016, Q2 2017, Q4 2017, Q2 2018, Q4 2018.
 (2) AC Nielsen, *Empty Pack Survey*, 2009, 2010, 2012.

Drivers of results

Excluding duty free, flows of Chinese labelled products remained the largest component of non-domestic incidence in 2018

6.2.4 Australian EPS results – Non-domestic incidence by country of origin flows

Figure 6.2.4: Total non-domestic incidence by country of origin flows as a percentage of total manufactured cigarette consumption Q4 2009 – Q4 2018^{(1)(2)(a)(b)(c)}



Unspecified packs are cigarette packs that do not bear any specific market or duty free labelling.

Duty free volumes represent all duty free variant packs collected, which mainly comprise of South Korea, China and Europe duty free flows.

Asian countries were the primary source of inflows of non-domestic manufactured products into Australia, with high levels of duty free products also present. China (including China duty free) remains the largest individual source country for non-domestic manufactured cigarette flows in both the Q2 2018 EPS (accounting for over 24% of all non-domestic flows) and the Q4 2018 EPS (accounting for over 28% of all non-domestic flows). However, the share of Chinese inflows decreased marginally from 2.2% of total incidence in 2017 to 2.1% in 2018. These Chinese non-domestic flows are predominantly flows of brands trademark owned by China National.

South Korea comprises the second largest flow of products from any individual country (excluding Duty Free products), followed by flows from Indonesia. Marlboro, the largest non-domestic brand flow to enter Australia, originates from approximately 40 countries with the largest share of flows originating from Indonesia at 0.3%.^(d)

Flows of non-domestic manufactured cigarettes with unspecified labelling remained a noteworthy component of non-domestic inflows in both the Q2 and Q4 2018 EPS with an annual share of 0.6% of total incidence. This share has decreased from around 0.7% in 2017 and is down significantly from 2013 levels, with 30% of the unspecified flows accounted for within the Illicit White brand flows category.

Flows from New Zealand re-emerged as one of the top country flows in 2018 after 2016. Whilst New Zealand accounted for 0.63% of total manufactured cigarette consumption in Q2 2018, it declined to 0.1% in Q4 2018.⁽¹⁾

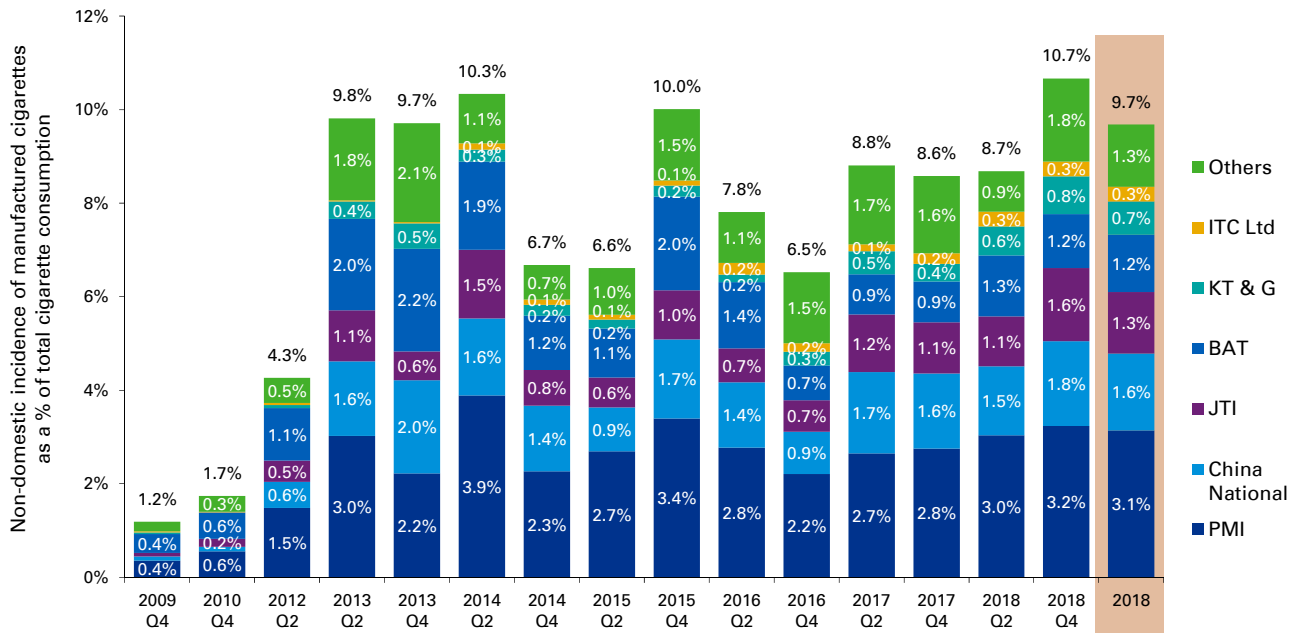
Notes: (a) The 2018 figures are based on the blended result of the Q2 2018 and the Q4 2018 EPS using the weighted number of cigarettes.
 (b) Numbers in the above chart may not sum due to rounding.
 (c) Some of the labels with value less than 0.3% have been removed for clarity.
 (d) The flows exclude the Duty Free products.
 Sources: (1) MSI Intelligence Research, *Empty Pack Survey*, Q2 2013, Q4 2013, Q2 2014, Q4 2014, Q2 2015 and Q4 2015, Q2 2016, Q4 2016, Q2 2017, Q4 2017, Q2 2018 and Q4 2018.
 (2) AC Nielsen, *Empty Pack Survey*, 2009, 2010, 2012.

Drivers of results

Flows of products trademarks owned by PMI, China National and JTI continued to be the top 3 non-domestic flows in 2018

6.2.5 Australian EPS results – Non-domestic incidence by trademark owner flows

Figure 6.2.5: Total non-domestic incidence by trademark owner flows as a percentage of total manufactured cigarette consumption Q4 2009 – Q4 2018^{(1)(2)(a)(b)(c)}



Flows from brands that the EPS suggests are trademarks owned by either Philip Morris International (PMI) or China National accounted for a little less than half (47%) of all non-domestic packs found in Australia in Q4 2018 EPS. Brands trademark owned by JTI were the third largest inflow, representing 1.6% of total incidence in Q4 2018 survey and an overall increase of 0.5 percentage points from the Q2 2018 EPS.

This growth in non-domestic incidence was primarily driven by flows of products trademark owned by PMI (0.4pp increase between 2017 and 2018), BAT (0.4pp increase) and KT&G (0.3pp increase).

Notes: (a) The 2018 figures are based on the blended result of the Q2 2018 and the Q4 2018 EPS using the weighted number of cigarettes.
(b) Numbers in the above chart may not sum due to rounding.
(c) Some of the labels with value less than 0.3% have been removed for clarity.

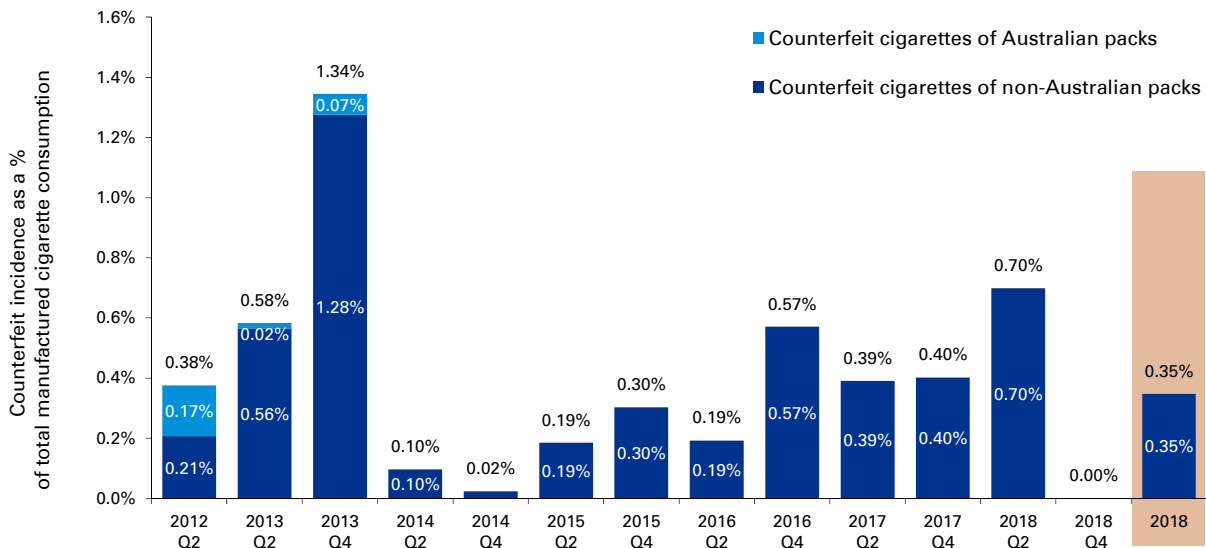
Sources: (1) MSIntelligence Research, *Empty Pack Survey*, Q2 2013, Q4 2013, Q2 2014, Q4 2014, Q2 2015 and Q4 2015, Q2 2016, Q4 2016, Q2 2017, Q4 2017, Q2 2018 and Q4 2018.
(2) AC Nielsen, *Empty Pack Survey*, 2009, 2010, 2012.

Drivers of results

Counterfeit flows incidence remains low with no counterfeit detected in Q4 2018

6.2.6 Australian EPS results – Counterfeit flows

Figure 6.2.6: Counterfeit flows incidence as a percentage of total manufactured cigarette consumption Q2 2012 – Q4 2018^{(1)(2)(a)(b)(c)(d)(e)}



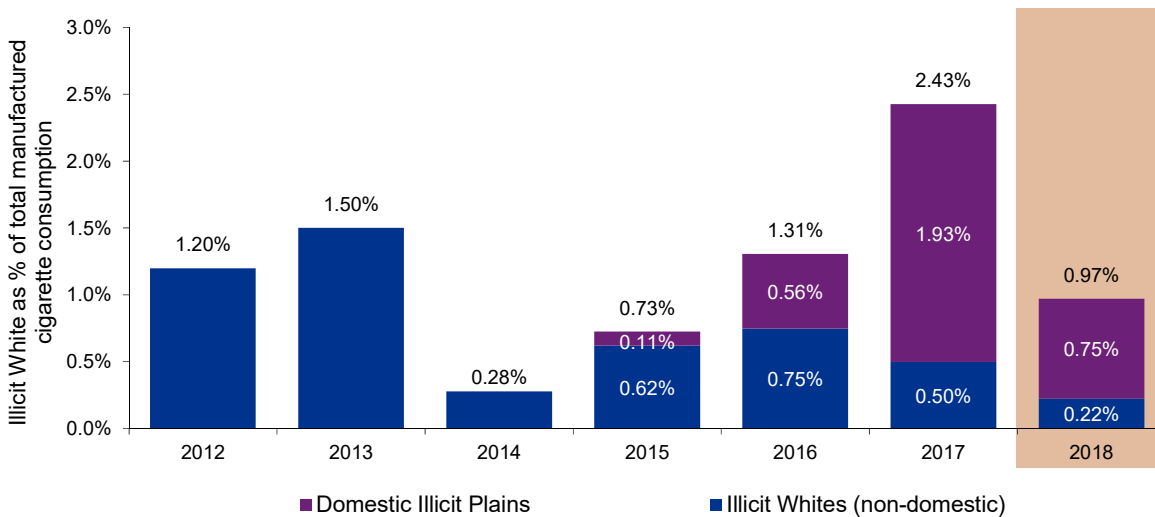
Counterfeit levels remain very low and similar to levels seen in 2017. The Q4 2018 EPS indicated that no consumption of manufactured cigarettes in Australia were counterfeit flows. Overall, the incidence of counterfeit decreased from 0.40% in 2017 to 0.35% in 2018.

- Notes:
- (a) Counterfeit incidence is not available for 2009, 2010 and 2011.
 - (b) The counterfeit volume is reported from manufacturers participating in EPS: BATA, ITA and PML. No other counterfeit is included in the volumes reported due to lack of information.
 - (c) The full year 2018 figures are based on the blended result of the Q2 2018 and Q4 2018 EPS.
 - (d) Numbers in the above chart may not sum due to rounding.
 - (e) Some of the labels with value less than 0.01% have been removed for clarity.
- Sources:
- (1) MSIntelligence Research, *Empty Pack Survey*, Q2 2013, Q4 2013, Q2 2014, Q4 2014, Q2 2015, Q4 2015, Q2 2016, Q4 2016, Q2 2017, Q4 2017, Q2 2018 and Q4 2018.
 - (2) AC Nielsen, *Empty Pack Survey*, 2012.

In 2018, there was a decrease in the flows of both Domestic Illicit Plains and Illicit Whites (non-domestic)

6.2.7 Australian EPS results – Illicit Whites brand flows

Figure 6.2.7: Consumption of Illicit White flows as a percentage of total manufactured cigarette consumption 2012 - 2018^{(1)(2)(a)(b)(c)(d)(e)(f)}



According to the 2018 EPS, 0.22% of all manufactured cigarettes consumed in Australia were Illicit Whites (non-domestic), a decrease from the 0.50% of consumption identified in the 2017 EPS. In the 2017 results, nine brands contributed to majority of Illicit White flows. This years EPS suggests that the incidence of these brands has declined substantially. This decline combined with decrease in the number of Illicit White brands resulted in the above mentioned decline.

There were no new brands identified as Domestic Illicit Plain flows in 2018, as compared to 2017.

The analysis showed that flows of Domestic Illicit Plains decreased from 1.93% of all manufactured cigarettes consumed in 2017 to 0.75% of manufactured cigarette consumption in 2018. The decrease in Domestic Illicit Plains is driven by decrease in number of Illicit Plains brands as well as a reduction in incidence of these brands.

Notes: (a) Our definition of Illicit Whites (see the glossary) was updated in 2014.
 (b) The selected Illicit Whites brand flows reported in the Q4 2017 EPS are different from the ones reported in the FY 2013 report due to the refinement of the Illicit Whites flows methodology and changes in the magnitude of brand flows over time.
 (c) The share of Illicit Whites flows is calculated based on the number of sticks, however, in the H1 2013 report the share of Illicit Whites brand flows was calculated based on weighted packs. The share of Illicit Whites flows when calculated based on weighted packs would have been: 0.3% in Q4 2009, 0.8% in Q4 2010, 1.4% in Q2 2012, 1.6% in Q2 2013, 2.3% in Q4 2013, 0.5% in Q2 2014, 0.6% in Q4 2014, 1.1% in Q2 2015, 1.4% in Q4 2015, 1.0% in Q2 2016, 2.2% in Q4 2016, 4.3% in Q2 2017, 1.5% in Q4 2017, 0.42% in Q2 2018 and 0.85% in Q4 2018.
 (d) The overall year figures are based on the blended result of the Q2 and the Q4 EPS.
 (e) Numbers in the above charts may not sum due to rounding.
 (f) This analysis was undertaken by KPMG in conjunction with the main industry participants (ITA and PML as well as BATA). From 2016, KPMG started making a distinction between Domestic Illicit Plains and Illicit Whites (non-domestic) brand flows whilst only non-domestic flows were taken into account in previous reports. Retrospectively, Domestic Illicit Plain flows in 2015 were analysed as well.

Sources: (1) MSIntelligence Research, *Empty Pack Survey*, Q2 2013, Q4 2013, Q2 2014, Q4 2014, Q2 2015, Q4 2015, Q2 2016, Q4 2016, Q2 2017, Q4 2017, Q2 2018 and Q4 2018.
 (2) AC Nielsen, *Empty Pack Survey*, 2009, 2010, 2012.



7. Conclusion

Conclusion

Both the volume of overall tobacco consumption and the proportion of illicit tobacco consumption declined between 2017 to 2018

2017 and 2018 results (kg '000)				
		2017	2018	% change (2017 – 2018)
Illicit manufactured cigarettes	<i>Contraband^(a)</i>	1201	1,120	(6.7%)
	<i>Counterfeit</i>	47	39	(17.2%)
	<i>Total</i>	1248	1,160	(7.1%)
Unbranded tobacco		1,100	927	(15.7%)
Total illicit tobacco		2,348	2,087	(11.1%)
Illicit tobacco consumption as % of total consumption		15.0%	14.1%	n/a
Equivalent excise value (AUDm)		AUD1,910	AUD2,019	5.7%

The illicit tobacco market in Australia

Our study indicates that the consumption of illicit tobacco in Australia has declined in 2018. As a proportion of total consumption, it has decreased to 14.1% from 15.0% between full year 2017 and 2018. A study by the Australian Institute of Criminology suggests a large proportion of this will be due to organised crime. It suggests organised crime involvement in the illicit tobacco market in Australia is between a low estimate of 57% and a high end estimate of 100%.⁽¹⁾

Illicit manufactured cigarette consumption decreased in 2018. China (including China duty free) continues to be the largest country of origin of non-domestic flows in 2018, accounting for over 26% of total non-domestic inflows.

Over the last twelve months, the consumption of unbranded, counterfeit and contraband tobacco have all decreased. This decrease in consumption of contraband tobacco follows from the decrease in the flows of Domestic Illicit Plains, by 63.8 % from 2017 to 2018. The share of contraband cigarettes in the total illicit tobacco consumption increased from 51% to 54% over the twelve month period.

If all of this tobacco had been consumed in the legitimate market, we estimate it would have represented an excise amount of AUD2.02 billion at the average excise rate for 2018.⁽²⁾

The legal tobacco market in Australia

Legal domestic sales in Australia declined substantially in 2018 (a 4.6% decline). Whilst the decline was driven by a 6.8% reduction in manufactured cigarette consumption, it was partially offset by a 6.2% growth in consumption of loose tobacco. This decline in legal domestic sales contributed to the overall decline in total consumption (5.4%).

The Australian market remains the most expensive market in the region. A packet of Marlboro 20s is 10.4% more expensive than in New Zealand; the second most expensive market.

Flows from China and South Korea represent the largest non-domestic inflows in 2018 and a packet of Australian Marlboro 20s is over four times the domestic price of both countries. This wide price difference creates an economic incentive for smugglers and other individuals to import and sell tobacco outside of Australian legislation.

Notes: (a) Contraband includes non-domestic contraband as well as volumes of Illicit Whites (non-domestic) and Domestic Illicit Plains.

Sources: (1) Estimating the cost of serious and organised crime in Australia 2016-17, Australian Institute of Criminology.

(2) Based upon the average excise rate over the past 12 months for both loose and manufactured cigarettes.



Appendices

- A1 Consumption model
- A2 Use of smoking prevalence data and updated results
- A3 Rolling papers analysis
- A4 EPS Analysis
- A5 Recent regulatory changes
- A6 Non-domestic legal calculation
- A7 Illicit Whites flows analysis
- A8 Notes to this report
- A9 Alternative illicit tobacco estimates
- A10 Australian Taxation Office methodology for calculating tax gap
- A11 Scope of work
- A12 Roy Morgan Research questionnaire
- A13 Bibliography

KPMG has used a consumption based approach to estimate the unbranded tobacco market in Australia

A1 Consumption model

Introduction

The primary methodology we have used to estimate the unbranded tobacco market in Australia is the consumption model approach. The approach adopted by KPMG is similar to that used in previous reports on the illicit tobacco market in Australia.

The consumption model uses the results of the Roy Morgan Research (RMR) consumer survey to determine the core inputs to the model, combined with publicly available information on the legal tobacco market and smoking population.

For the purpose of this report, the consumption model number for unbranded volumes for 2018 is based on the average of the H1 2018 and H2 2018 consumer survey results. Since consumers are likely to give a more accurate estimate of their purchase behaviour over a shorter time period, using an average of the H1 2018 and H2 2018, consumer survey results will provide a more accurate number for 2018 consumption.

The consumer survey

The consumption model was based on the responses of 2124 smokers in Australia to a CAWI web based consumer survey in H2 2018 and a further 2104 in H1 2018. Respondents are sampled from RMR existing consumer panel from both metropolitan and non-metropolitan areas. The sample for the tobacco questionnaire is weighted by location, age and gender using RMR Single Source data in order to be representative of the national population. The Single Source^(a) distribution of income, occupation, and work status of smokers is then used to rim weight^(b) the data. The sampling plan is consistent with the surveys carried out by RMR in 2013, 2014, 2015, 2016 and 2017.

The surveys were conducted in May and November-December 2018 and took on average of 7 minutes to complete.^(c) Consumers were asked about their consumption and purchase of legal and illicit tobacco products; namely Chop Chop (unbranded loose tobacco sold in bags), pre-filled unbranded tobacco, as well as counterfeit and contraband manufactured cigarette products.

The consumer survey is provided in Appendix A11. This lists the entire set of questions and is not a representation of how respondents view the online survey. Respondents are asked questions based on their answers in earlier filtering questions and their navigation through the survey is determined by programmed skip patterns.

The consumer survey is used as one tool to form a view on the loose tobacco illicit market

RMR collects and compiles the consumer survey responses and provides a consolidated data sheet for KPMG analysis. The data sheet lists question responses on an individual respondent basis and is accompanied by a question and answer reference mapping.

The consumer survey responses are used to obtain several core inputs for the consumption model process. These core inputs are based on consumer responses and include:

- How many smokers purchase the different types of illicit tobacco,
- How often these illicit purchasers purchase illicit tobacco, and
- How much illicit tobacco these illicit purchasers purchase on each purchase occasion.

These responses generate the core assumptions which are used in the consumption model and are illustrated on table A1 overleaf.

Additional assumptions

In addition to the results generated by the consumer survey, further assumptions and data-points are used:

- Total adult smoking population – we assumed that the total smoking population was 2.38 million. This assumption is based on AIHW data⁽¹⁾ updated for the decline in smoking population numbers since the last official estimate.^(d)

Notes: (a) Single Source is RMR's database collected through their Establishment Survey which focuses on demographic and behavioural factors and closely matches the ABS Census. It is used to establish quotas for other surveys.
(b) Rim weighting uses mathematical algorithms to provide an even distribution of results across a dataset while balancing certain categories such as age to pre-determined totals. It weights specified characteristics simultaneously and disturbs each variable as little as possible.
(c) The median survey completion time was 7 minutes.
(d) KPMG's estimate of the adult smoking population is based on applying a historical CAGR for AIHW prevalence estimates to the latest AIHW prevalence figure (2016) and multiplying this by the adult population per the Australian Bureau of Statistics.

Sources: (1) Australian Institute of Health and Welfare, *National Drug Strategy Household Survey*, 2016.

The consumption modelling calculation relies on the results of the Roy Morgan Research consumer survey and publicly available data

A1 Consumption model (cont.)

The core inputs from the consumer survey and publicly available information are used in the consumption model, illustrated in table A1. These core inputs are factored together to produce an estimate of the amount of illicit tobacco products consumed by the representative population sampled in the RMR consumer survey covering the steps outlined:

- a. Steps 1 and 2 are used to calculate the average annual volume of illicit consumption per consumer in step 3.
- b. The number of illicit tobacco users is calculated by multiplying the total adult smoking population in step 4 by the percentage of illicit tobacco users noted in the consumer survey in step 5.

As the consumption model uses consumer survey responses, it is not possible to accurately break down illicit consumption into loose unbranded and illicit branded loose tobacco as consumers may be unable to tell the difference in the way the tobacco is sold.

The 2018 consumption model process and relevant data sources are shown in detail overleaf.

Table A1.1 Consumption model data sources and process

Consumption model inputs		
Quantity of illicit tobacco purchased per occasion (g)	①	RMR consumer survey
Frequency of illicit tobacco purchased per annum	②	RMR consumer survey
Quantity of illicit tobacco purchased per annum (g)	③	① × ② = ③
Total adult smoking population ('000)	④	Extrapolated Australian Institute of Health and Welfare smoking prevalence data and Australian Bureau of Statistics adult population data ^(a)
Illicit tobacco users as % of Australia tobacco users	⑤	RMR consumer survey
Number of illicit tobacco users, Australia ('000)	⑥	④ × ⑤ = ⑥
Quantity of illicit tobacco purchased in Australia (tonnes)	⑦	③ × ⑥ = ⑦

Notes: (a) Please see appendix A4 for details of the estimation of the smoking population.
 (b) Annualised volume of illicit tobacco is based on average of H1 2016 and H2 2016 quantity of unbranded tobacco.

Total consumption of unbranded tobacco decreased by an estimated 16% from 2017 to 2018, with a sharp decline of 40% from Q2 to Q4 2018

A1 Consumption model (cont.)

Figure A1.2: Consumption model results, Full Year 2018^{(1)(2)(a)}

		Q2 2018	Q4 2018	Blended
① Quantity of illicit tobacco purchased per occasion (g)		185	155	
② Frequency of illicit tobacco purchased per annum		13	10	
③ Quantity of illicit tobacco purchased per annum (g)	① x ②	2,374	1,563	
④ Total adult smoking population ('000)		2,388	2,388	
⑤ Illicit tobacco users as % of Australian tobacco users		20.3%	18.8%	
⑥ Number of illicit tobacco users, Australia ('000)	④ x ⑤	485	450	
⑦ Quantity of illicit tobacco purchased in Australia (tonnes)	③ x ⑥	1,151	703	927

The consumption model is used to estimate the size of the unbranded tobacco market.

For the purpose of this report, the Full Year 2018 estimate of unbranded consumption volume is based on the average of the H1 2018 and H2 2018 consumer surveys. The net result of this approach is 927 tonnes for the Full Year 2018.

We believe that consumers are likely to give a more accurate estimate of their recent purchase behaviour rather than that of the entire last twelve months. Therefore, using an average of the H1 2018 and H2 2018 consumption model results should provide a more robust number for the Full Year 2018.

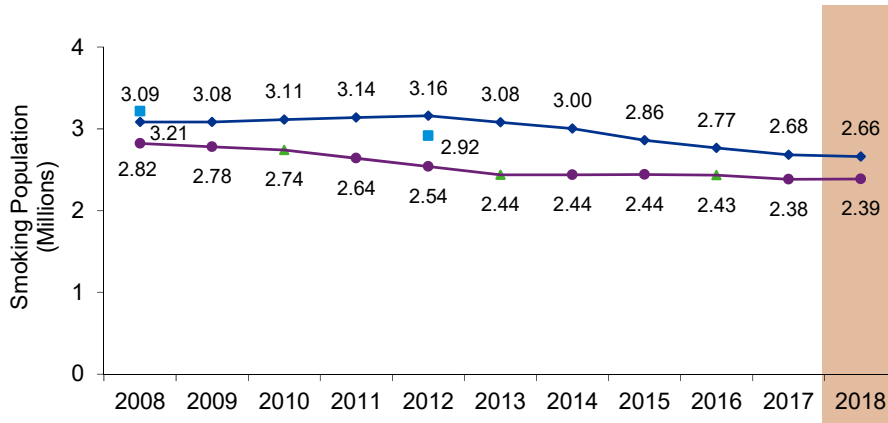
The total consumption of unbranded tobacco decreased by an estimated 16% in 2018, from approximately 1,100 tonnes in 2017 to 927 tonnes in 2018. This decrease is driven by declining number of users, average quantity and frequency of purchase.

Notes: (a) Numbers in the above table may not sum due to rounding.
Sources: (1) Roy Morgan Research, Consumer survey, H1 and H2 2018.
(2) KPMG analysis.

As with prevalence, KPMG believes it is prudent to use the lowest estimates of smoking population to calculate illicit consumption

A2 Use of smoking prevalence data and updated results

Figure A2.1: Total number of smokers, 2008-2018^{(1)(2)(a)(b)(c)(d)}



CAGR (%)	2008-12	2010-13	2013-16	2008-18
◆ Euromonitor	0.6%	(0.4)%	(3.5)%	(1.5)%
▲ Australian Institute of Health and Welfare		(3.9)%	(0.1)%	
■ Australian Bureau of Statistics	(2.4)%			
● KPMG Estimate	(2.6)%	(3.9)%	(0.1)%	(1.7)%

The number of adult daily smokers in Australia is used to extrapolate the consumer survey results up to an illicit estimate for the entire population.

For the 2014, 2015 and 2016 reports, KPMG extrapolated the prevalence figures based on the 2013 AIHW survey. However, as the 2016 data for smokers has since become

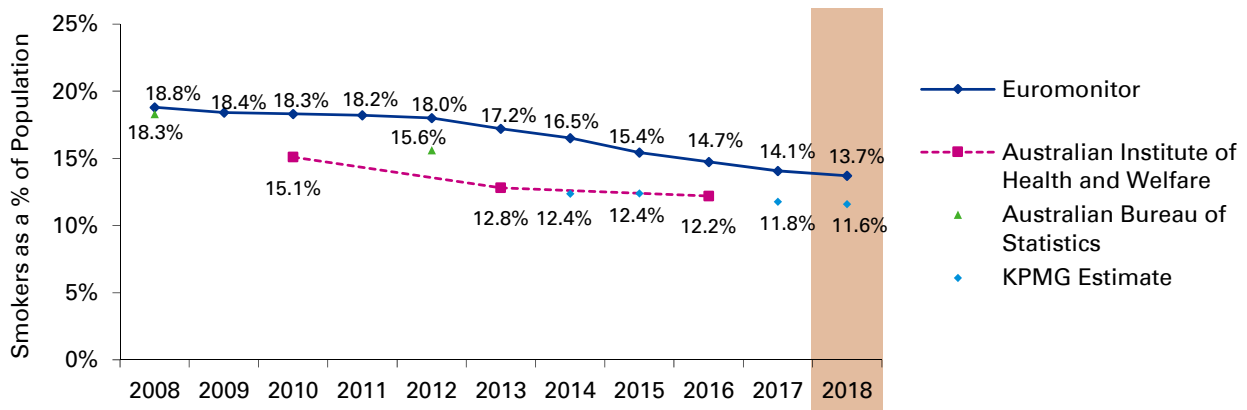
available from AIHW, KPMG restated the smoker population numbers for 2016. We have used the decline in smokers recorded in the AIHW data published in 2016 to estimate the number of smokers in 2018.

Notes: (a) The Australian Institute of Health and Welfare considers population aged 14 years or older.
 (b) Figures for the Australian Institute of Health and Welfare they are taken from the National Drug Strategy Household Survey, 2007, 2010, 2013 and 2016.
 (c) Figures for 2018 are based on full year estimates.
 (d) Historical Euromonitor estimates of smoking prevalence for 2015 and 2016 have been updated and reflected in the above estimates for total number of smokers.
 Sources: (1) Australian Institute of Health and Welfare, *National Drug Strategy Household Survey*, 2007, 2010, 2013 and 2016.
 (2) Australia Bureau of Statistics.

Several estimates of Australian smoking prevalence are publicly available, but annual data is not available from Australian government estimates

A2 Use of smoking prevalence data and updated results(cont.)

Figure A2.2: Smokers as a percentage of population, 2008 - 2018^{(1)(2)(3)(a)(b)(c)(d)(e)}



CAGR (%)	2008-12	2010-13	2013-16	2008-18
Euromonitor	(1.1)%	(2.0)%	(5.0)%	(3.1)%
Australian Institute of Health and Welfare		(5.4)%	(1.6)%	
Australian Bureau of Statistics	(3.9)%			

Official Australian Government estimates of smoking prevalence are available from both the AIHW and the Australian Bureau of Statistics (ABS). Euromonitor also provide estimates of smoking prevalence.

Each of the surveys reflects specific age groups. The AIHW and ABS estimates reflect prevalence for 14 year olds and above, whilst Euromonitor figures estimate prevalence among those aged over 18. This age prevalence in part explains the higher Euromonitor estimate.

Timing of estimates also varies. The National Drug Strategy Household Survey is conducted by the AIHW every three years and includes questions on smoking prevalence. AIHW has produced smoking prevalence estimates since 1991. The last three surveys were conducted in 2010, 2013 and 2016. On the release of updated AIHW figures the trend line is recalculated and prior period's unbranded consumption and non-domestic legal estimates restated.

ABS figures are taken from Australian Health Surveys carried out in 2008 and 2012, whilst Euromonitor compiles its estimates annually.

All smoking prevalence surveys encounter issues with respondents under reporting. The AIHW survey highlights the possibility of under-reporting as some respondents did not answer smoking related questions. Potential under-reporting was identified in the ABS report⁽³⁾, primarily due to social pressures, especially where other household members/parents were present at the interviews for respondents.

Where KPMG require prevalence data for our modelling process, we have used the AIHW results to ensure that our estimate for the number of Australian smokers is not overstated. Overstating the number of smokers would lead to an incorrectly inflated estimate of the size of the illicit trade.

Notes: (a) Euromonitor, percentage of population that are smokers refers to daily smokers > 18 years.
 (b) Australian Institute of Health and Welfare and ABS percentage of population that are smokers refers to daily smokers >14 years.
 (c) Euromonitor figures for 2018 are based on full year estimates.
 (d) Historical Euromonitor estimates of smoking prevalence for 2012,2015,2016 have been updated.
 (e) KPMG's estimate of smoking prevalence is based on applying a historical CAGR for AIHW prevalence estimates to the latest AIHW prevalence figure (2016).
 Sources: (1) Euromonitor, smoking prevalence, accessed January 2019.
 (2) Australian Institute of Health and Welfare, *National Drug Strategy Household Survey*, 2007, 2010, 2013 and 2016.
 (3) Australian Bureau of Statistics, *Profiles of Health, Australia, 2011-13 – Tobacco Smoking*, June 2013.

The illicit tobacco volumes generated by the consumption model fall outside the range provided by the rolling papers analysis

A3 Rolling papers analysis

Figure A3.1: Rolling papers calculation for unbranded tobacco

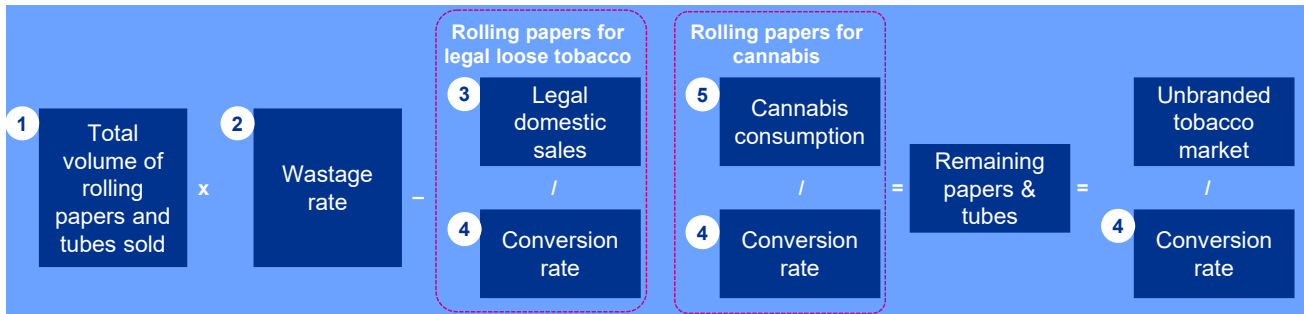
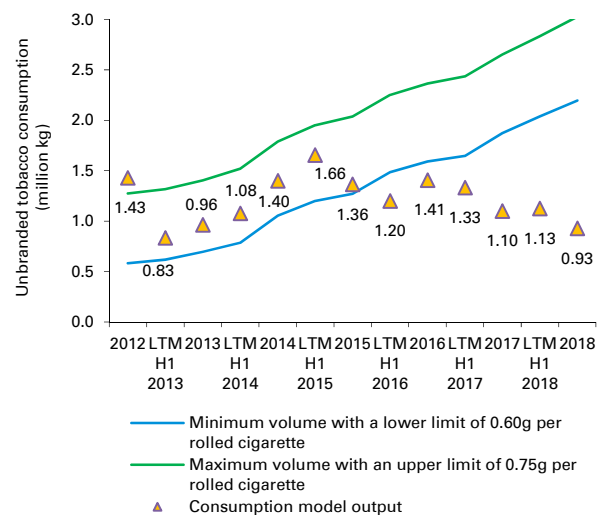


Figure A3.1 highlights our approach to the rolling papers analysis used to calculate the total volume of unbranded tobacco. Each step of the calculation involves the following assumptions and data-points:

- 1. Total volume of rolling papers and tubes** – The volume used comes from retail sales data provided by Aztec - IRI and cannot be published due to contractual obligations with the data provider.
- 2. Wastage rate** – The wastage rate is the percentage of rolling papers used and excludes any discarded or spoilt papers. This data has been sourced through consumer research undertaken by the industry and is commercially sensitive and cannot be published.
- 3. Legal domestic sales of loose tobacco** – Volumes equated to 2,453 tonnes in 2018.
- 4. Conversion rate** – It is the number of grams of tobacco used in a rolled cigarette. Consumer surveys and estimations by the industry have produced a range of values. As a sensitivity, we use an upper and lower limit of 0.75 and 0.60 respectively. We believe that a lower limit of 0.60g is reflective of the Australian market – this limit may be lower or higher than other markets.
- 5. Cannabis consumption** – Rolling papers are also used in the consumption of cannabis. The conversion rate for use of papers and tubes is assumed to be the same as the conversion rate for cigarettes. Total cannabis consumption is estimated on the basis of the Australian Department of Health and Ageing survey at a total volume of 22,500 kg⁽²⁾. We note from the recent AIHW data that the incidence of use of cannabis has increased slightly (i.e. from 10.2% to 10.4%)⁽³⁾. However, since it is not possible to calculate consumption on these figures, we have not adjusted the results.

Figure A3.2 Volume of illicit unbranded tobacco generated by the rolling papers analysis, 2012 – 2018⁽¹⁾



The chart above illustrates a sensitised range for the rolling papers analysis. The sensitivity is based around the value for the conversion rate that is the most uncertain variable in the analysis. By flexing this value between a high value of 0.75g per rolled cigarette and a low value of 0.60g per rolled cigarette, we can determine a range of potential market sizes.

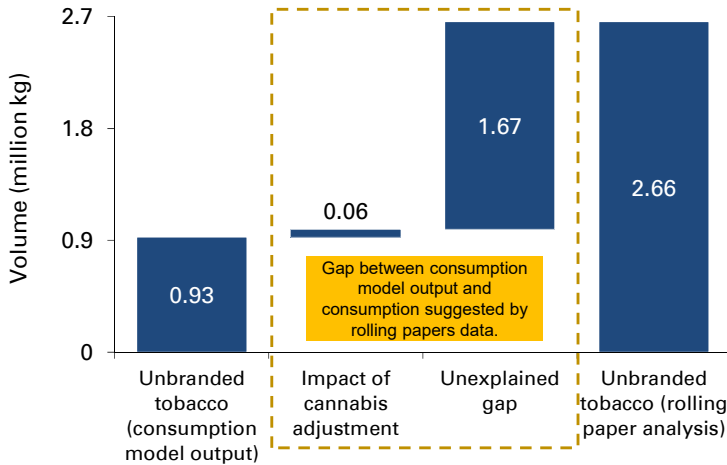
We have historically believed that this approach is appropriate to validate the unbranded tobacco market. However, the volume of illicit unbranded tobacco generated by the consumption model output is outside the range of the rolling papers analysis in 2018 for the third year in a row. We have looked in detail at the various assumptions involved in the rolling papers analysis and have come to the conclusion that this approach is no longer valid. This analysis can be found on pages 57 and 58. Consequently, this report is the last time we shall be undertaking this analysis.

Sources: (1) Size of rolling papers market obtained from the industry.
 (2) National Drug and Alcohol Centre NSW, *Cannabis in Australia*, June 2007.
 (3) AIHW, National Drug Strategy Household Survey, *Use of Illicit Drugs in Australia*, September 2017.

An analysis of the main assumptions in the rolling papers analysis suggests it is no longer a reliable means of validation

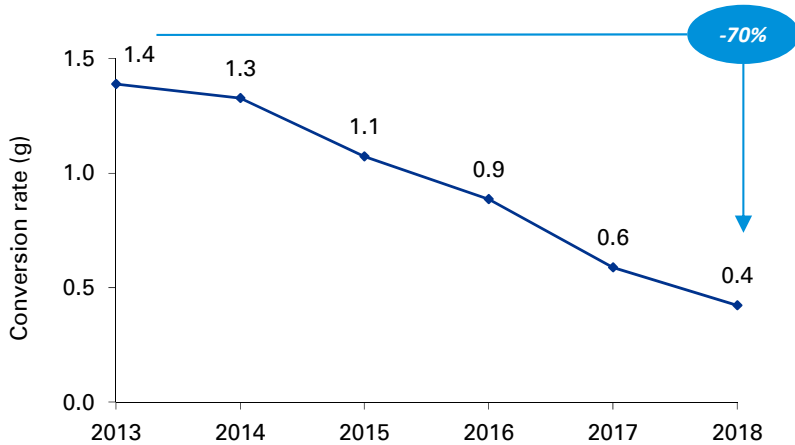
A3 Rolling papers analysis (cont.)

Figure A3.3: Unbranded tobacco consumption - Rolling papers analysis using constant and incremental cannabis consumption with consumption model output (blended number), 2018^{(1)(a)(b)}



Due to data limitations we have tended not to adjust the rolling papers analysis to account for changes in cannabis consumption. Using some high level assumptions from AIHW and ABS allows us to make an adjustment.^(a) However, as figure A3.3 highlights, comparing the output of the consumption model and adjusting for cannabis usage and then comparing to the level of unbranded tobacco consumption suggested by the rolling papers analysis still highlights a large unexplained gap. Therefore, we conclude that incremental cannabis consumption does not explain the widening divergence between the two approaches.

Figure A3.4: Conversion rate estimation using consumption model output and rolling papers analysis (constant cannabis consumption, blended number), 2013 – 2018^{(1)(2)(c)}



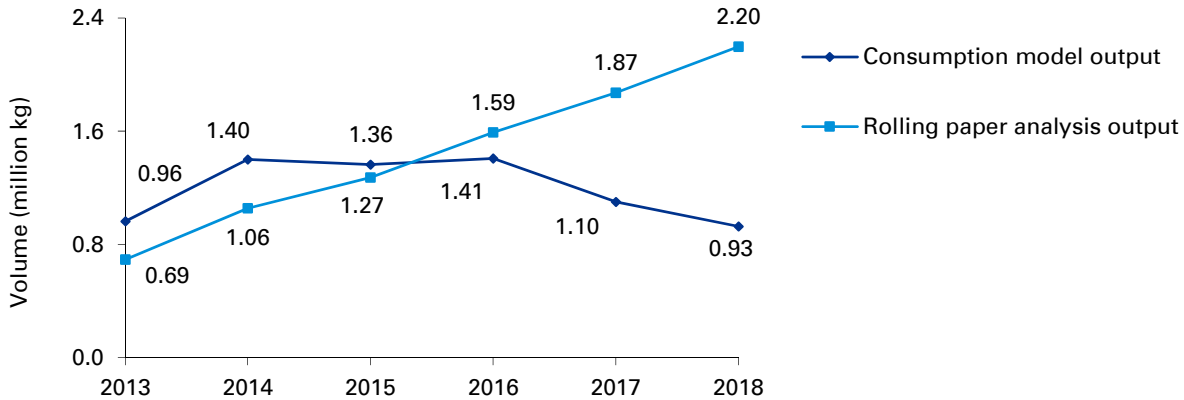
Our next step was to consider whether this gap could be explained by changes in the way unbranded tobacco is consumed. The rolling papers analysis provides a residual number of rolling papers and tubes once consumption of legal RYO tobacco and cannabis has been considered. Calculating a conversion rate over time for the consumption model outputs suggested by this residual number for unbranded tobacco can be seen in figure A3.4. This would suggest a 70% decline in the conversion rate between 2013 and 2018 which seems highly unlikely over such a short period.

Notes: (a) Incremental cannabis consumption is estimated using cannabis users and per capita cannabis consumption. The per capita consumption is as per previously reported KPMG estimates and assumed to remain constant. The prevalence of cannabis consumption (AIHW) is taken for population above 14 years (ABS).
 (b) The conversion rate used is 0.68g (average of 0.6g and 0.75g).
 (c) Inferred by dividing volume of unbranded tobacco from consumption model output with rolling papers used in unbranded tobacco.
 Source: (1) KPMG analysis.
 (2) Roy Morgan Research consumer surveys 2013, 2014, 2015, 2016, 2017 and 2018.

An analysis of the main assumptions in the rolling papers analysis suggests it is no longer a reliable means of validation

A3 Rolling papers analysis (cont.)

Figure A3.5: Unbranded tobacco consumption - Rolling papers analysis using constant cannabis consumption with consumption model output (blended number), 2013 - 2018^{(1)(2)(a)}



The amount of unbranded tobacco consumption inferred by the rolling papers data suggests continued and sustained growth. This is in stark contrast to the outputs of the consumption model which have shown volatility in consumption. Indeed, as prior reports have highlighted, the direction of growth of the % of illicit consumption due to unbranded (as calculated by the consumption model) and contraband have tended to offset each other.

Figure A3.6: Compounded annual growth rate for consumption of tobacco products by category, 2013 - 2018^{(1)(2)(a)(b)(c)}

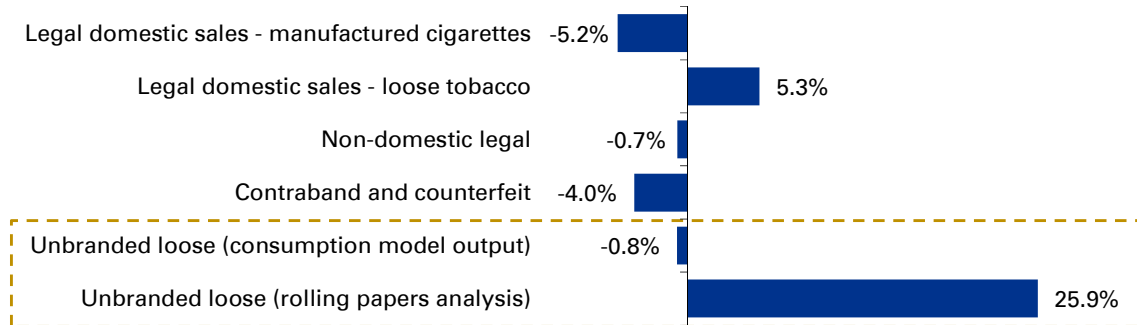
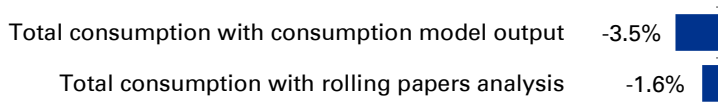


Figure A3.7: Compounded annual growth rate for total tobacco consumption, 2013 - 2018^{(1)(2)(a)(b)(c)}



Comparing the growth rates of various components of total consumption highlights the doubts emerging over using the rolling papers data as a means of validation. Whilst most categories exhibit declines in growth of between 0.5-5.2% per annum, the rolling papers data would suggest a growth rate of over 25% every year since 2013. While we recognise that legal loose tobacco has grown by 5% per annum since 2013, there is very little other evidence to suggest that this sort of growth rate is accurate. The price differential of loose chop chop to other categories has remained relatively stable over this period. The price differential of unbranded loose tobacco in tubes has experienced a widening price differential but our research suggests it remains a small part of the illicit market. The consumption model growth rate of -0.8% per annum is more in line with that seen in other categories and therefore we feel is more in line with broader consumption trend.

As a result, we no longer consider the rolling papers approach as a reliable means of validating the consumption model and will not be used in future reports.

- Notes: (a) The conversion rate used is 0.6g.
 (b) The cannabis consumption is assumed to be constant.
 (c) Contraband volume is inclusive of domestic illicit whites.

- Source: (1) KPMG analysis.
 (2) Roy Morgan Research consumer surveys 2013, 2014, 2015, 2016, 2017 and 2018.

The Q4 2018 Empty Pack Survey found that 10.7% of manufactured cigarette flows originated outside Australia

A4 EPS Analysis

Fifteen Empty Pack Surveys (EPS) have been carried out in Australia in the last ten years.

AC Nielsen carried out surveys commissioned by PML in Q4 2009 and Q4 2010. The 2009 survey consisted of 9,343 collected packs and the 2010 survey 6,000 packs. These surveys are believed to be broadly comparable to the 2012 and 2013 EPS.

AC Nielsen also carried out the 2012 Q2 survey, which was commissioned by all three industry parties; BATA, PML and ITA. The 2012 survey was conducted in May, June and July and consisted of 12,000 packs collected across 16 population centres.

In 2013, the EPS provider changed from AC Nielsen to MSIntelligence (MSI). MSI was selected after a tender process. MSI was commissioned to replicate the survey using an identical methodology to AC Nielsen. MSI has been commissioned by the industry (BATA, PML and ITA) to undertake surveys every six months. These surveys collect 12,000 packs across the same 16 population centres in Australia.

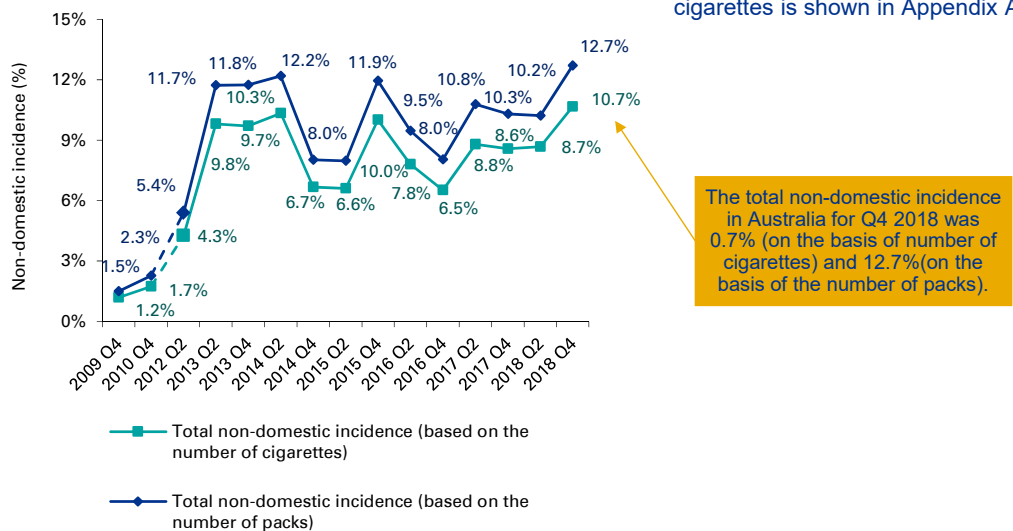
The EPS records the pack size of each pack collected. This approach enables us to report using the number of cigarettes rather than the number of packs. As there can be considerable variation in pack sizes, using a measurement based on the number of cigarettes provides a more accurate representation of consumption patterns.

MSI uses the EPS analysis in order to take the proportion of cigarettes that are not Australian (no health warnings or non-domestic health warning, brands not sold in Australia, packs with identifying marks from other markets such as tax stamps) and class these cigarettes as 'non-domestic'. The proportion of non-domestic cigarettes recorded by the EPS is called the non-domestic incidence. The non-domestic incidence of the EPS is shown in the chart, below left.

The total non-domestic incidence in Australia for Q4 2018 as 10.7% (on the basis of number of cigarettes) and 12.7% (on the basis of number of packs). The non-domestic incidence in Q4 2018 (both on the basis of number of cigarettes and packs) was the highest non-domestic incidence recorded in the past decade.

Whilst a proportion of non-domestic cigarettes will be legally brought into Australia by both inbound (foreign nationals travelling to Australia) and outbound travellers (Australians returning from abroad), this legal proportion is relatively small, with the majority of non-domestic cigarettes being illicit. A calculation of the legal volume of non-domestic cigarettes is shown in Appendix A6.

Figure A4.1 Total non-domestic incidence, Q4 2009 – Q4 2018^{(1)(2)(a)(b)}



Notes: (a) No survey was conducted in 2011, trend line is for information only.
 (b) Non-domestic incidence based on the number of packs is higher than the non-domestic incidence based on the number of sticks due to the average Australian pack of cigarettes being larger than an international pack, i.e. the most commonly sold pack size in Australia is 25 cigarettes compared to the standard 20 cigarettes packs available internationally.

Sources: (1) MSIntelligence Research, *Empty Pack Survey*, Q2 2013, Q4 2013, Q2 2014, Q4 2014, Q2 2015, Q4 2015, Q2 2016, Q4 2016, Q2 2017, Q4 2017, Q2 2018 and Q4 2018.
 (2) AC Nielsen, *Empty Pack Survey*, 2009, 2010, 2012.

EPS Methodology

A4 EPS Analysis (cont.)

Figure A4.2: EPS Methodology



Empty Pack Survey methodology

The EPS is conducted in a consistent way in each time period to provide a clear comparison of results and follow trends. It follows a four step process:

1. Population centre selection

To achieve a sample of cigarette packs that is representative of the cigarette smoking population of Australia, 16 population centres are chosen based, on parameters such as population, size and geographical location. The population centres chosen represent the 16 largest population centres in Australia and cover 75% of Australia's population. MSI inform us that this provides a margin of error of 0.89% with a confidence interval of 95%.

Each population centre is divided into five sectors (north, south, east, west and centre). Each sector is subdivided into neighborhoods of the same size (250 metre radius).

2. Pack collection

The neighbourhoods sampled include residential, commercial and industrial areas. The EPS collection routes specifically exclude tourist areas, sports stadia, shopping malls and stations, or any other locations where non-domestic incidence is likely to be higher as a result of a skewed population visiting these areas. The EPS is therefore representative of the Australian population. Each neighbourhood is assigned a number of discarded packs for collection based on the size of the overall population centre in comparison with the national population. For example, the centre of Sydney includes eight neighbourhoods representative of the population of Sydney, whilst the centre of Cairns only includes two representative neighbourhoods. In total, 281 neighbourhoods are sampled across Australia.

A minimum of 30 empty packs are collected from each neighbourhood (higher thresholds are applied in larger neighbourhoods) to fulfil statistical requirements and support reliable confidence level. These packs can be collected by any number of collectors, each of whom has no target number of packs to collect and no knowledge of the clients' names or purpose of the survey. Each neighbourhood has a specific starting point and a fixed route. The collectors accumulate as many empty packs as possible within each neighbourhood regardless of the quota requested in the sampling plan. Packs collected may be from any manufacturer regardless of whether they participate in the

survey. Indeed, collectors are unaware of the final client. Collectors revisit the neighbourhood as many times as necessary in order to achieve the required quotas.

The training of MSI collectors includes an explanation of the methodology and running of pilots prior to the collection. Each team of collectors is supervised by a team leader.

An additional 5% extra packs ('the buffer') are collected across neighbourhoods in case there are issues with the existing sample, such as spoiled packs. Any such packs are replaced by an identical 'buffer' pack collected from the same neighbourhood. If no identical pack is available, the pack is replaced randomly from the 'buffer' collected in that neighbourhood.

3. Pack processing

The empty packs are placed into bags and stored at a safe collection point. Packs are discarded if they do not meet the survey quality requirements (e.g. torn, unreadable, rotten). Each survey qualified pack is cleaned and placed in a transparent nylon bag with a zipper that carries a unique barcode label indicating the serial number attributed to the pack (corresponding to the datasheet). MSI identifies whether the packs are domestic or non-domestic. The details are then entered into the survey 'Data Sheet' provided by MSI. The packs are delivered to the participating manufacturer(s) in a way that enables easy processing and identification. Data discussed in this report refers to the information recorded on these packs.

Those brand names that are unknown are sent to the participating manufacturers to assess whether they are Illicit White flows.

4. Pack analysis

The participating manufacturers check their packs only to identify counterfeit and inform the agency, which collates and updates the data-sheets. We do not know whether packs from other manufacturers are counterfeit or not. The collected packs are weighted according to the population of each settlement with results then calculated based on the number of cigarettes per pack. Reporting is done on the basis of cigarette sticks (as opposed to packs) to provide a more accurate estimation of total consumption).

These data-sheets are finally provided to KPMG and analysed to calculate the non-domestic incidence and contraband and counterfeit volumes.

EPS Methodology (cont.)

A4 EPS Analysis (cont.)

Validation of EPS Analysis

A criticism of the EPS is that it samples discarded cigarette packs rather than household waste and therefore significantly overstates non-domestic incidence. Sampling for household waste is impractical in most countries. However, it is available in Germany. The household waste survey, known as a Yellow Bag Survey (YBS), is possible in Germany because household waste is sorted, mainly for the purposes of recycling, which makes it possible to separate cigarette packs from other waste.

The Yellow Bag Survey collects 500 packs a month from 24 waste disposal centres throughout Germany. As a result, over 120,000 weighted packs collected throughout the year, typically a larger sample than an EPS. A comparison was undertaken by KPMG between different methodologies in 2008 and 2009.

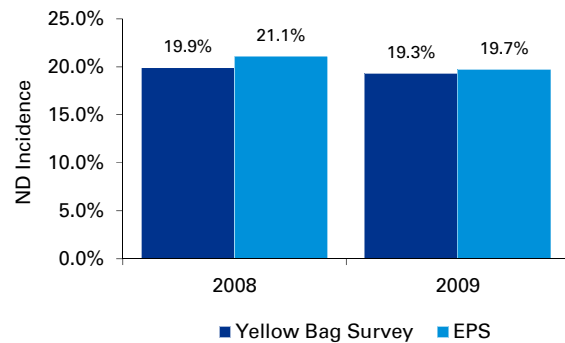
In addition to the benefits of the higher sample size, collections from waste disposal centres resulted in packs coming from both household waste and public bins, demonstrating that consumption of illicit tobacco in the home is unlikely to be significantly different than consumption in public place. This comparison helps to address a common criticism of the EPS.

This analysis enables us to compare the results of the Yellow Bag Survey with the EPS to understand differences in the amount of non-domestic product that is captured.

In 2008 and 2009, EPS were also undertaken in Germany. Four quarterly waves were undertaken in 2008 with waves undertaken in Q1 and Q3 in 2009. Each wave collected 10,000 packs. Each survey was conducted across 52 cities population centres in Germany, representing 27% of the total German population.

Figure A4.3: YBS and EPS results, Germany

2008 - 2009^{(1)(2)(a)}



The non-domestic incidence measured by the EPS was 1.2 percentage points higher in 2008 and 0.4 points higher in 2009. Whilst the EPS results are slightly higher, the overall non-domestic incidence is very close. These differences may be due to the following reasons:

- 1. Timings of EPS** – the EPS takes place at one point in time during the quarter whereas the yellow bag survey takes place monthly.
- 2. Urban/Rural differences** – the EPS covers a lower sample of the total population which excludes smaller population centres.
- 3. Number of packs** – given the number of packs collected by the yellow bag survey, it is likely to generate slightly more accurate results.

We recognise this approach is a single point of comparison in one market but it provides us with confidence that the results of EPS are a reliable measure of non-domestic incidence.

Notes: (a) The comparison between methodologies is made on a 'sticks basis' in 2008 and 2009 rather than on a packs basis reported in Project SUN.

Sources: (1) MSIIntelligence Research, *Germany Empty Pack Survey report*, Q2 2009.

(2) Ipsos, *Yellow Bag Survey*, 2008-2009.

The results of the EPS analysis indicate an illicit volume of 1.07 million kilograms of non-domestic manufactured cigarettes

A4 EPS Analysis (cont.)

We have used the non-domestic incidence obtained from the EPS as the basis of estimates for the volumes of counterfeit and non-domestic contraband consumption in Australia (excluding Domestic Illicit Plains).

The 9.7% non-domestic incidence is combined with estimates for legal domestic sales volumes from the industry to create a volume estimate for illicit manufactured cigarettes. This estimate can then be broken down into volume estimates for non-domestic legal, counterfeit, and contraband.

Figure: A4.4: Australian EPS non-domestic consumption and illicit estimate^{(1)(2)(3)(a)(b)(c)}

		2010	2011	2012	2013	2014	2015	2016	2017	2018
Legal sales of manufactured cigarettes (kg'000s)	①	14,598	13,908	13,468	13,321	12,942	12,811	12,033	10,928	10,214
EPS non-domestic incidence	②	1.7%	-	4.3%	9.8%	8.5%	8.3%	7.2%	8.7%	9.7%
Total consumption of manufactured cigarettes (kg'000s)	③ = ① / (100% - ②)	14,857	-	14,068	14,762	14,142	13,972	12,962	11,969	11,309
Non-domestic consumption (kg'000s)	④ = ③ - ①	258	-	600	1,441	1,201	1,161	928	1,041	1,095
Non-domestic (legal) volume estimate (kg'000s)	⑤	33.7	-	35.6	21.3	26.1	34.6	38.0	28.2	20.5
Illicit non-domestic consumption (kg'000s)	⑥ = ④ - ⑤	224.3	-	564	1,419	1,175	1,126	890	1,013	1,075
EPS counterfeit incidence	⑦	-	-	0.4%	1.0%	0.1%	0.2%	0.4%	0.4%	0.3%
Counterfeit consumption (kg'000s)	⑧ = ④ * (⑦ / ②)	-	-	50	143	8	34	50	47	39
Contraband consumption (kg'000s)	⑨ = ⑥ - ⑧	-	-	515	1,276	1,166	1,092	840	965	1,035

Figure A4.4 shows the calculation used to estimate the total volume of illicit manufactured cigarettes consumed in Australia. The percentage of non-domestic cigarettes is added to legal domestic consumption in order to calculate total consumption in step 3. Total illicit consumption is calculated by removing the non-domestic legal volume estimate in step 6.

The EPS also records the counterfeit incidence as a percentage in step 7. This counterfeit incidence is taken as a percentage of total non-domestic consumption and multiplied by the illicit consumption estimate in step 8, with the remainder contraband in step 9. The counterfeit volumes are reported from the manufacturers participating in the EPS (BATA, ITA and PML). No other counterfeit is included in the volumes reported due to a lack of information.

The results of the EPS analysis show non-domestic consumption has continued to increase in 2018. Further, non-domestic legal volumes have continued to decline in 2018. The combination of all these factors have translated into higher volumes of illicit consumption of manufactured cigarettes.

Volumes attributable to counterfeit manufactured remained small, whilst contraband flows accounted for over 96% of the total illicit consumption of manufactured cigarettes, as indicated by the EPS analysis.

Notes: (a) Counterfeit incidence is not available for 2009, 2010 and 2011.
 (b) Numbers in the above table may not sum due to rounding.
 (c) Contraband consumption excludes Domestic Illicit Plains. However, the volume includes Illicit Whites (non-domestic).

Sources: (1) MSI Intelligence Research, *Empty Pack Survey*, Q2 2013, Q4 2013, Q2 2014, Q4 2014, Q2 2015, Q4 2015, Q2 2016, Q4 2016, Q2 2017, Q4 2017, Q2 2018 and Q4 2018.
 (2) AC Nielsen, *Empty Pack Survey*, 2009, 2010, 2012.
 (3) KPMG analysis.

The Commonwealth government has implemented numerous tobacco control measures

A5 Recent regulatory changes

Table A5.1: Recent regulatory changes 2012/13/14/15/16/17/18

Jurisdiction	Legislation title	Regulation type	Effective date	Brief description
Australia	<i>Tobacco Plain Packaging Act 2011</i> (Cth) <i>Trade Marks Amendment (Tobacco Plain Packaging) Act 2011</i> (Cth) <i>Tobacco Plain Packaging Regulations 2011</i> (Cth)	Plain packaging	Depending on the section, 1 December 2011, 1 October 2012 and 1 December 2012 Royal Assent on 1 December 2011 (Some sections commenced on 1 October 2012)	Required plain packaging for all tobacco products sold by retail.
	<i>Competition and Consumer (Tobacco) Information Standard 2011</i> (Cth)	Health warnings	1 January 2012	Updated and expanded health warning requirements for tobacco products. Required health warnings to cover at least 75% of the front of most tobacco packaging, 90 % of the back of cigarette packaging, and 75 % of the back of most other tobacco product packaging.
	<i>Tobacco Advertising Prohibition Amendment Act 2012</i> (Cth)	Internet advertising	6 September 2012	Required that online tobacco retailers display health warnings and comply with restrictions on advertisement wording.
	<i>Customs Amendment (Smuggled Tobacco) Act 2012</i> (Cth)	Illicit tobacco	7 November 2012	Amended the <i>Customs Act 1901</i> (Cth) and imposed tougher penalties (including imprisonment) for smuggling tobacco or possessing illicit tobacco.
	<i>Customs by-law no. 1700053</i> (Cth), <i>Customs By-law No. 1700571</i> (Cth) <i>Customs Act 1901</i> (Cth), <i>Customs Tariff Act 1995</i> (Cth)	Duty free tobacco restrictions	1 July 2017	Duty-free allowance limited to 25 or less cigarettes or 25 grams of tobacco products (excluding cigarettes) per person.

The Commonwealth government has implemented numerous tobacco control measures(cont.)

A5 Recent regulatory changes (cont.)

Table A5.1: Recent regulatory changes 2012/13/14/15/16/17/18

Jurisdiction	Legislation title	Regulation type	Effective date	Brief description
Australia (cont.)	<i>Excise Tariff Amendment (Tobacco) Act 2014 (Cth) and Customs Tariff Amendment (Tobacco) Act 2014 (Cth)</i>	Customs and excise	2013, 2014, 2015, 2016, 2017, 2018, 2019 and 2020 for customs and excise duty increases 1 March 2014 AWOTE change effective 31 August 2017 for harmonisation of tobacco duty amendments	<p>Increased customs and excise duty for tobacco products by an additional 12.5% annually between 2013 and 2020 inclusive in addition to the switch to AWOTE.</p> <p>The first of these increases was implemented on 1 December 2013. The increases then occur on 1 September for each following year, with the final currently legislated increase to occur on 1 September 2020.</p> <p>The 2017 tobacco duty harmonisation amendments increase the currently lower duty rates for loose tobacco over four years so that by 1 September 2020 loose tobacco will have the same duty rate per kilogram as cigarettes containing the average tobacco content rate per stick.</p>
	<i>Customs Tariff Amendment (Tobacco) Act 2016 (Cth) and Excise Tariff Amendment (Tobacco) Act 2016 (Cth)</i>			
	<i>Customs Tariff Amendment (Tobacco Duty Harmonisation) Act 2017 (Cth) and Excise Tariff Amendment (Tobacco Duty Harmonisation) Act 2017 (Cth)</i>			
	<i>Treasury Laws Amendment (Illicit Tobacco Offences) Act 2018 (Cth)</i>	Illicit tobacco	25 August 2018	<p>Amended the Taxation Administration Act 1953 (Cth), Excise Act 1901 (Cth), and the Income Tax Assessment Act 1997 (Cth).</p> <p>Introduced new 'reasonable suspicion' criminal offences for possessing, buying or selling illicit tobacco but also retained fault-based offences. These new offences eliminate impediments to illicit tobacco prosecutions by removing the requirements that the prosecutor must prove the origin of the tobacco and prove that duty has not been paid.</p> <p>Retained the fault-based criminal offence for intentionally possessing illicit tobacco. However, also expanded the fault-based offence regime to criminalise the intentional manufacture or production of illicit tobacco in Australia. These fault-based offences still require proving that the tobacco was possessed, manufactured or produced in Australia and that duty was not paid.</p>

The Commonwealth government has implemented numerous tobacco control measures(cont.)

A5 Recent regulatory changes (cont.)

Table A5.1: Recent regulatory changes 2012/13/14/15/16/17/18

Jurisdiction	Legislation title	Regulation type	Effective date	Brief description
Australia (cont.)				<p>Provided tiered prison terms and penalties based on the amount of tobacco involved and on whether the offence is fault-based or one of reasonable suspicion.</p> <p>Created new offences for possessing equipment for manufacturing or producing tobacco in Australia.</p> <p>Introduced a civil penalty for possessing 2kg or more of tobacco without documentation indicating how the person obtained the tobacco. This civil penalty may be dealt with by way of infringement notice.</p> <p>Extended the forfeiture of illicit tobacco provisions in the Excise Act 1901 (Cth) so that they apply to persons convicted of possessing, buying, selling producing or manufacturing illicit tobacco; or convicted of possessing tobacco production or manufacturing equipment; or are liable for a civil penalty for possessing 2kg or more of tobacco without documentation showing how the person obtained the tobacco.</p> <p>Extended the investigative powers under the Excise Act 1901 (Cth) so that they apply to tobacco where the origin of production or manufacturing is unknown.</p>
	<i>Customs Amendment (Illicit Tobacco Offences) Act 2018 (Cth)</i>	Illicit tobacco	1 September 2018	<p>Introduced new criminal offences for people who recklessly import, convey or possess illicit tobacco.</p> <p>Enabled the investigation and enforcement of new illicit tobacco offences under the Treasury Laws Amendment (Illicit Tobacco Offences) Act 2018 (Cth).</p>
	<i>Tobacco Plain Packaging Amendment Act 2018 (Cth)</i>	Plain packaging	4 October 2018	<p>Widened the scope of persons who can enforce the Tobacco Plain Packaging Act 2011 (Cth) to include Commonwealth employees engaged other than under the Public Service Act 1999 (Cth), State and Territory police officers, and State, Territory and local government officials with responsibilities in relation to health matters or compliance and enforcement in tobacco control.</p>

The Commonwealth government has implemented numerous tobacco control measures(cont.)

A5 Recent regulatory changes (cont.)

Table A5.1: Recent regulatory changes 2012/13/14/15/16/17/18

Jurisdiction	Legislation title	Regulation type	Effective date	Brief description
Australia (cont.)	<i>Customs Amendment (Collecting Tobacco Duties at the Border) Act 2018 (Cth)</i>	Illicit tobacco	25 October 2018	Requires that from 1 July 2019, tobacco importers must pay all tobacco duties on arrival of the tobacco into Australia. Therefore from that date, tobacco importers may no longer enter the tobacco into a licensed warehouse to delay payment of the duties or taxes for the tobacco.
	<i>Treasury Laws Amendment (Black Economy Taskforce Measures No. 2) Act 2018 (Cth) and Excise Tariff Amendment (Collecting Tobacco Duties at Manufacture) Act 2018 (Cth)</i>	Illicit tobacco	29 November 2018	Requires that from 1 July 2019, excise duty must be collected at the time the tobacco products are manufactured in Australia instead of when the products enter home consumption. Permits the Commissioner of Taxation to refuse manufacturing licences if security is not provided by the applicant.
	<i>Tobacco Plain Packaging Amendment (Track and Trace Identifiers) Regulations 2018 (Cth)</i>	Plain packaging	8 December 2018	Facilitates European Union requirements for track and trace unique identifiers on tobacco packaging.

States introduced additional regulations to further restrict smoking

A5 Recent regulatory changes (cont.)

Table A5.1: Recent regulatory changes 2012/13/14/15/16/17/18– State specific

Jurisdiction	Legislation title	Regulation type	Effective date	Brief description
New South Wales	<i>Tobacco Legislation Amendment Act 2012</i> (NSW)	Smoke-free environment	7 January 2013	Ban on smoking in enclosed public places extended to within 10 metres of children’s play equipment, swimming pool complexes, certain public transport stops, spectator areas at sports grounds and venues, commercial outdoor dining areas (with effect from 6 July 2015) and within 4 metres of pedestrian access to a building (with effect from 6 July 2015 for licensed premises and restaurants).
	<i>Public Health (Tobacco) Act 2008</i> (NSW)	Retailer regulation	1 July 2013	Exemption for specialist tobacconists under the ban on the display of tobacco products at point-of-sale ends.
	<i>Smoke-free Environment Amendment (Signage Requirements) Regulation 2015</i> (NSW)	Smoke-free environment	27 February 2015	Required the display of signs in areas designated as not being for the consumption of food.
	<i>Crimes (Administration of Sentences) Amendment (Smoke-free Prisons) Regulation 2015</i> (NSW)	Smoke-free environment	10 August 2015	Banned smoking and use of e-cigarettes by inmates in all correctional centres in New South Wales.
	<i>Crimes (Administration of Sentences) Further Amendment (Smoke-free Prisons) Regulation 2015</i> (NSW)			
	<i>Public Health (Tobacco) Amendment (E-cigarettes) Act 2015</i> (NSW)	Retailer Regulation	1 September 2015	Amendments to regulate the sale, packaging, advertising and display of e-cigarettes and to prohibit the sale of e-cigarettes and e-cigarette accessories to persons who are under 18 years of age. The Act inserts new definitions so that the <i>Public Health (Tobacco) Act 2008</i> (NSW) applies to e-cigarettes and their accessories as it already applies to tobacco products and smoking accessories.

States introduced additional regulations to further restrict smoking (cont.)

A5 Recent regulatory changes (cont.)

Table A5.1: Recent regulatory changes 2012/13/14/15/16/17/18– State specific

Jurisdiction	Legislation title	Regulation type	Effective date	Brief description
New South Wales (cont.)	<i>Health Legislation Amendment Act 2015</i> (NSW)	Retailer (and wholesaler) regulation	1 February 2016	Addressed difficulties associated with prosecuting retailers found with illegal tobacco by creating rebuttable presumptions regarding the quantity of tobacco for sale and enabling seizure of excess quantities of tobacco not in the correct packaging. The amendments also made it a criminal offence to sell tobacco to retailers operating without a tobacco retailer notification number.
	<i>Public Health (Tobacco) Amendment (Prescribed Quantities) Regulation 2016</i> (NSW)	Retailer regulation	1 February 2016	Prescribed the quantities of tobacco product that are presumed to be for the purposes of sale.
	<i>Smoke-free Environment Regulation 2016</i> (NSW)	Smoke-free environment	1 September 2016	Made footpaths, streets and public thoroughfares smoke-free areas if within 4 metres of applicable courtyards or gardens. Prescribed signs required for display in smoke-free areas and their manner of display. Provided that smoking in a smoke-free area is a penalty notice offence carrying a \$300 penalty.
	<i>Public Health (Tobacco) Regulation 2016</i> (NSW)	Retailer regulation	1 September 2016	Introduced regulations for e-cigarettes by banning e-cigarette-advertising, imposing on e-cigarettes and their accessories the same price display restrictions that apply to tobacco products and mandating a sale to minors sign on e-cigarette vending machines. Made changes to the prescribed health warning signs. Introduced penalty notice offences for tobacco product and smoking accessory displays, sales from more than one point of sale, breaches of product display requirements for tobacco and e-cigarette vending machines, failures to conspicuously display compliant health warnings and sales to minor notices at points of sale. Increased certain penalty notice offence amounts to \$360 for individuals and \$1,800 for corporations.
	<i>Public Health (Tobacco) Amendment (E-Cigarettes) Regulation 2017</i> (NSW)	Retailer regulation	1 May 2017	Required retailers to display a notice regarding sales of e-cigarettes or their accessories to minors at the point of sale. Also restricted price displays to using one font only.

States introduced additional regulations to further restrict smoking (cont.)

A5 Recent regulatory changes (cont.)

Table A5.1: Recent regulatory changes 2012/13/14/15/16/17/18– State specific

Jurisdiction	Legislation title	Regulation type	Effective date	Brief description
New South Wales (cont.)	<i>Smoke-free Environment Amendment Act 2018</i>	Retailer regulation and smoke-free environment	1 July 2018	Required that persons notify the Ministry of Health before engaging in e-cigarette retailing. Prohibited the use of e-cigarettes and heat-not-burn tobacco products in places where tobacco smoking is banned.
Victoria	<i>Tobacco Amendment (Smoking at Patrolled Beaches) Act 2012 (Vic)</i>	Smoke-free environment	1 December 2012	Banned smoking at all of Victoria’s patrolled beaches in the area between the red-and-yellow lifesaving flags and within a 50 metre radius of a red and yellow flag.
	<i>Tobacco Amendment Act 2013 (Vic)</i>	Smoke-free environment and retailer regulation	1 April 2014	Introduced smoke-free children’s playgrounds and related recreational areas. Banned smoking outdoors within 10 meters of playgrounds and skate parks, sporting venues during under 18s events and within public swimming pool grounds. Applications for specialist tobacconist certification not permitted on and from 1 April 2014.
	<i>Tobacco Amendment Act 2014 (Vic)</i>	Smoke-free environment, retailer regulation and illicit tobacco	13 April 2015	Smoking banned in outdoor areas and in vicinity of education, school, care service, and Victorian public premises (e.g. hospitals, Courts and Government departments) as well as children’s indoor play centres and from within four metres of pedestrian access points to such areas. Required display of no smoking signs at pedestrian access points at schools, children’s indoor play centres and public premises. Fines of as much as AUD35,000 for individuals and AUD177,000 for businesses caught selling smuggled or prohibited tobacco products and tobacco products where no excise has been paid.

States introduced additional regulations to further restrict smoking (cont.)

A5 Recent regulatory changes (cont.)

Table A5.1: Recent regulatory changes 2012/13/14/15/16/17/18– State specific

Jurisdiction	Legislation title	Regulation type	Effective date	Brief description
Victoria (cont.)	<i>Corrections Amendment (Smoke-Free Prisons and Other Matters) Regulations 2014 (Vic)</i>	Smoke-free Environment	1 July 2015	Banned prisoners from smoking or using a tobacco product.
	<i>Tobacco Amendment Act 2016 (Vic)</i> <i>Tobacco Regulations 2017 (Vic)</i>	Smoke-free environment and e-cigarette regulation	1 August 2017	<p>Banned smoking at outdoor dining areas, food fairs and within 10 metres of outdoor areas at which food is provided on a commercial basis at community and street festivals.</p> <p>Banned smoking in outdoor drinking areas if any part of the outdoor drinking area is within 4 metres of an outdoor dining area and the outdoor drinking area and the outdoor dining area are not separated by a wall that is at least 2.1 metres high.</p> <p>Extended to e-cigarette products laws similar to those applying to tobacco products including an advertising prohibition; a prohibition on displays at general retailers; restrictions on displays for wholesalers, specialist tobacconists, specialist e-cigarette retailing premises and on airport duty free shops; prescribed price display rules; a prescribed e-cigarette availability notice; a ban on competitions, rewards and shopper loyalty schemes connected with the sale or promotion of e-cigarette products a ban on free samples of e-cigarette products and products advertising e-cigarette products; a prohibition on sponsorships promoting e-cigarette products; a ban on the supply of e-cigarette products to persons under the age of 18 years; a full ban on the sale of e-cigarette products from vending machines; a prohibition on mobile sales of e-cigarette products; a ban on e-cigarette product supplies at underage music/dance events; and a requirement that specialist e-cigarette retailers obtain and display certification.</p>

States introduced additional regulations to further restrict smoking (cont.)

A5 Recent regulatory changes (cont.)

Table A5.1: Recent regulatory changes 2012/13/14/15/16/17/18– State specific

Jurisdiction	Legislation title	Regulation type	Effective date	Brief description
South Australia	<i>Tobacco Products Variation Regulations 2011 (SA)</i>	Retailer regulation	1 January 2012	Regulated all tobacco product advertisements at points of sale, prohibited price displays and actual displays of fruit or confectionary flavoured cigarettes in retailers and vending machines.
	<i>Tobacco Products Regulation (Further Restrictions) Amendment Act 2012 (SA)</i>	Smoke-free environment	31 May 2012	Amendments to <i>Tobacco Products Regulation Act 1997 (SA)</i> banned smoking in certain public transport areas and near certain playground equipment, and empowered the Minister to enforce short term and long term smoking bans in public areas.
	<i>Tobacco Products (Smoking Bans in Public Areas – Longer Term) Regulations 2012 (SA)</i> <i>Tobacco Products (Smoking Bans in Public Areas – Longer Term) Variation Regulations 2014 (No. 202 of 2014) (SA)</i>	Smoke-free environment	30 August 2012 for the initial Royal Adelaide Show ban	Banned smoking at Adelaide show grounds when the Royal Adelaide Show is being held.
	<i>Tobacco Products Variation Regulations 2012 (SA)</i>	Retailer regulation	22 March 2013	Capsule cigarettes may not be displayed for retail sale (including in vending machines) and their prices must not appear on prescribed price boards, price tickets or vending machines.
	<i>Tobacco Products (Smoking Bans in Public Areas – Longer Term) Variation Regulations 2013 (SA)</i>	Smoke-free Environment	5 September 2013 for the initial Mosley Square ban	Ban on smoking in Moseley Square Glenelg.
	<i>Tobacco Products (Smoking Bans in Public Areas – Longer Term) Variation Regulations 2014 (no. 238 of 2014) (SA)</i>			
	<i>Tobacco Products (Smoking Bans in Public Areas – Longer Term) Variation Regulations 2015 (SA)</i>	Smoke-free environment	1 July 2016	Smoking banned in public outdoor dining areas when food is being provided.

States introduced additional regulations to further restrict smoking (cont.)

A5 Recent regulatory changes (cont.)

Table A5.1: Recent regulatory changes 2012/13/14/15/16/17/18– State specific

Jurisdiction	Legislation title	Regulation type	Effective date	Brief description
South Australia (cont.)	<i>Tobacco Products (Smoking Bans in Public Areas – Longer Term) Variation Regulations 2016 (SA)</i>	Smoke-free environment	12 September 2016	Banned all smoking in all public areas in Henley Square.
	<i>Tobacco Products (Fees) Variation Regulations 2017 (SA)</i>	Tobacco licensing	1 July 2017	Increase in tobacco licence fee.
	<i>Tobacco Products (Smoking Bans in Public Areas – Longer Term) Variation Regulations 2018 (SA)</i>	Smoke-free environment	5 February 2018	Banned smoking in Bowden Town Square.
	<i>Tobacco Products (Fees) Variation Regulations 2018 (SA)</i>	Tobacco licensing	1 July 2018	Increase in tobacco licence fee.
	<i>Tobacco Products (Smoking Bans in Public Areas – Longer Term) (The Parade Norwood) Variation Regulations 2018 (SA)</i>	Smoke-free environment	1 December 2018	Banned smoking in The Parade Norwood.
	<i>Tobacco Products Regulation (E-Cigarettes and Review) Amendment Act 2018 (SA)</i>	E-cigarette regulation and tobacco retailer regulation	Royal Assent on 6 December 2018	Amends the Tobacco Products Regulation Act 1997 (SA) so that e-cigarettes are treated in the same manner as tobacco products, shisha falls within the 'tobacco product' definition, the fine for selling or supplying tobacco products to children significantly increases, and otherwise adjusts penalties according to CPI.

States introduced additional regulations to further restrict smoking (cont.)

A5 Recent regulatory changes (cont.)

Table A5.1: Recent regulatory changes 2012/13/14/15/16/17/18– State specific

Jurisdiction	Legislation title	Regulation type	Effective date	Brief description
Tasmania	<i>Public Health Amendment Act 2011</i> (Tas) <i>Public Health Act 1997</i> (Tas)	Smoke-free environment	1 March 2012	Extension of smoke free areas to include public swimming pools, between flags at beaches, pedestrian malls, within 3 metres of bus shelters, within 10 meters of children’s playgrounds, outdoor dining areas and within three metres of outdoor dining areas not surrounded by a screen.
	<i>Public Health Amendment Act 2011</i> (Tas) <i>Public Health Act 1997</i> (Tas)	Retailer regulation	1 March 2012	Specialist tobacconists included in retail display ban, removing earlier exemption.
		Retailer regulation	1 March 2012	Tobacco products must not be offered as an inducement or reward in a business loyalty program.
		Tobacco licensing	1 March 2012	Licences must be obtained prior to selling tobacco products from additional venues. Licenses are not transferable to new business owners. Display of licenses is subject to the licence conditions.
		Retailer regulation	1 March 2012	Tobacco vending machines now restricted to one machine per site within licensed premises and not permitted at all in unlicensed premises.
	<i>Public Health (Smoke-free Areas) Regulations 2014</i> (Tas)	Smoke-free environment	12 February 2014	Certain public streets designated ‘pedestrian malls’ which renders them ‘smoke-free’ areas under the <i>Public Health Act 1997</i> (Tas).
	<i>Corrections Act 1997</i> (Tas) (effective through prison service standing orders)	Smoke-free environment	30 January 2015	Ban on smoking in Tasmanian jails.

States introduced additional regulations to further restrict smoking (cont.)

A5 Recent regulatory changes (cont.)

Table A5.1: Recent regulatory changes 2012/13/14/15/16/17/18– State specific

Jurisdiction	Legislation title	Regulation type	Effective date	Brief description
Tasmania (cont.)	<i>Public Health (Miscellaneous Amendments) Act 2015 (Tas)</i>	Smoke-free Environment	1 July 2015	Any area within private premises can be designated as smoke-free by the occupier. Public streets may be designated as 'smoke-free'.
		Smoke-free Environment	1 July 2015	Regulators can conditionally approve designated smoking areas at public events that have been previously declared as smoke-free.
		Retailer Regulation	1 July 2015	Permits tobacco advertising on packaging if it is in accordance with relevant prescribed guidelines.
		Retailer Regulation	1 July 2015	A tobacco seller's licence cannot be issued in connection with a public event.
	<i>Public Health (Tobacco Seller's Licence) Amendment Regulations 2016 (Tas)</i>	Tobacco licensing	1 January 2017	Increased the licence fee to AUD \$740.90 per annum for licence applications between 1 July 2017 and 31 December 2017 and to <u>AUD\$1,111.35</u> from 1 January 2018.
	<i>Public Health Amendment (Healthy Tasmania) Act 2017 (Tas)</i> <i>Guidelines for the Sale of Smoking Products 2017 (Tas)</i>	Retailer regulation and smoke-free environment	29 November 2017	Imposed on e-cigarettes and their accessories substantially the same sale, supply, promotion, physical display and price display restrictions that apply to tobacco products. Banned the sale of e-cigarettes and their accessories in specialist tobacconist stores. Also prohibited the use of e-cigarettes in smoke-free areas.
	<i>Public Health (Tobacco Seller's Licence) Amendment Regulations 2017 (Tas)</i>	Tobacco licensing	29 November 2017	Sets the licence fees for selling e-cigarettes and their accessories.
	Public Health Amendment (Prevention of Sale of Smoking Products to Underage Persons) Bill 2018 (Tas)	Retailer regulation	TBA	If passed by the Parliament, then within 3 years people who are younger than 21 may no longer lawfully buy smoking products in Tasmania.

States introduced additional regulations to further restrict smoking (cont.)

A5 Recent regulatory changes (cont.)

Table A5.1: Recent regulatory changes 2012/13/14/15/16/17/18– State specific

Jurisdiction	Legislation title	Regulation type	Effective date	Brief description
Queensland	<i>Health Legislation Amendment Act 2011 (Qld)</i>	Retailer regulation	25 November 2012	Banned the sale of fruit and confectionery flavoured cigarettes and from 25 November 2013, the sale of 'novelty items' (such as toys) that resemble smoking products.
	<i>Corrective Services Amendment Regulation (No.1) 2014 (Qld)</i>	Smoke-free environment	5 May 2014	Banned possessing or consuming smoking products in corrective services facilities.
	<i>Health Legislation Amendment Regulation (No.3) 2014 (Qld)</i>	Retailer regulation	5 September 2014	Wording of mandatory signs attached to vending machines and displayed at points of sale changed from 'Maximum Penalty \$42,000' to 'Penalties apply'.
	<i>Health and Other Legislation Amendment Act 2014 (Qld)</i>	E-cigarette regulation, retailer regulation and smoke-free environment	1 January 2015	<p>Extended the definition of 'smoking product' to personal vaporisers and personal vaporiser related products resulting in personal vaporisers having the same restrictions on their sale, supply, promotion, use and enforcement as cigarettes and other tobacco products.</p> <p>Prohibited the use of vending machines to supply personal vaporisers and related products.</p> <p>Banned smoking at health facilities and school land.</p>
	<i>Tobacco and Other Smoking Products (Smoke-free Places) Amendment Act 2016 (Qld)</i>	Smoke-free environment and retail regulation	1 September 2016	<p>Banned the sale of tobacco products at temporary retail outlets (such as pop up stores and from motor vehicles).</p> <p>Smoking bans extended to major sports facilities, major event facilities, health facilities, school facilities, public swimming facilities, early childhood education and care facilities, residential aged care facilities, government precincts, outdoor pedestrian malls, public transport waiting points, skate parks and sporting grounds and spectator areas during organised under-age sporting events.</p> <p>Enabled the Regulator to ban smoking at prescribed national parks.</p> <p>Empowered local governments to make laws banning smoking at any outdoor public places not covered by QLD's smoking laws.</p>

States introduced additional regulations to further restrict smoking (cont.)

A5 Recent regulatory changes (cont.)

Table A5.1: Recent regulatory changes 2012/13/14/15/16/17/18– State specific

Jurisdiction	Legislation title	Regulation type	Effective date	Brief description
Queensland (cont.)	<i>Tobacco and Other Smoking Products Amendment Regulation (No. 1) 2016</i> (Qld)	Smoke-free environment	Most provisions on 1 September 2016	From 1 September 2016, smoking banned at the QLD government precinct 1 William Street. Since 1 February 2017, banned smoking in most National Parks at camp sites and public facilities (such as barbeques, boat ramps, picnic tables, roofed shelters, toilets and visitor information centers).
	<i>Tobacco and Other Smoking Products (Government Precincts) Amendment Regulation 2017</i> (Qld)	Smoke-free environment	28 April 2017	Prescribed further land that is a 'government precinct' where smoking is banned.
Northern Territory	<i>Tobacco Control Amendment Regulations 2014</i> (NT)	Smoke-free environment	11 June 2014	Patrons allowed to consume meals in designated smoking areas. However, staff service from staff in or to patrons in the outdoor smoking areas is prohibited.
	<i>Correctional Services Act 2014 (NT) and Correctional Services Regulations 2014</i> (NT)	Smoke-free environment	9 September 2014	Banned prisoners (including immigration detainees) from consuming tobacco in custody, correctional facilities and immigration detention centres.
	<i>Tobacco Control Legislation Amendment Act 2014</i> (NT)	Smoke-free environment Wholesaler and retailer regulation	1 December 2014	Banned smoking in motor vehicles where children under 16 are present. Required tobacco wholesalers to comply with requests by the Chief Health Officer for information about the quantity of tobacco products sold to retailers.
	<i>Red Tape Reduction (Miscellaneous Amendments) Act 2016</i> (NT)	Tobacco licensing	1 July 2016	Required applications for the grant of a tobacco retail licence to specify a licence period of 1 year, 3 years or 5 years. The licence ends at the 'end of the licence period' (instead of the expiry of 12 months). The licence period determines the licence fee payable.
	<i>Tobacco Control Legislation Amendment Bill 2018</i> (NT)	E-cigarette regulation, smoke-free environment, and retailer regulation	Assent 27 February 2019	Proposes to regulate the sale, supply, promotion and use of e-cigarettes and their accessories by treating them as conventional tobacco products. Will prohibit persons who are under 18 from selling tobacco products or e-cigarettes. Will impose a 10-metre smoke-free (and vape-free) buffer zone from the boundaries and entry areas of community events and community facilities.

States introduced additional regulations to further restrict smoking (cont.)

A5 Recent regulatory changes (cont.)

Table A5.1: Recent regulatory changes 2012/13/14/15/16/17/18– State specific

Jurisdiction	Legislation title	Regulation type	Effective date	Brief description
Northern Territory (cont.)				Will prohibit tobacco product and e-cigarette vending machines in licensed premises that allow persons under 18 on the premises.
Western Australia	<i>Tobacco Products Control Amendment Regulations (No. 4) 2015 (WA)</i>	Illicit tobacco	26 August 2015	Persons may record, disclose, or make use of any information obtained in the administration of the <i>Tobacco Products Control Act 2006 (WA)</i> to assist investigations under Commonwealth law or enforcement of a Customs Act, Excise Act or taxation law, relating to a tobacco product.
	<i>Tobacco Products Control Act 2006 (WA) s 106</i> <i>Van Heerden v Hawkins [2016]</i> WASCA 42 (10 March 2016)	E-cigarette regulation	10 March 2016	The Supreme Court of Western Australia Court of Appeal held that the sale of e-cigarettes is illegal in Western Australia because they are designed to resemble a tobacco product.
	<i>Health Regulations Amendment (Fees and Charges) Regulations 2017 (WA)</i>	Tobacco licensing	1 July 2017	Increased tobacco licence fees.
	<i>Tobacco Products Control Amendment Act 2018_(WA)</i>	Retailer regulation	18 September 2018	<p>Most of the provisions in this legislation started on 18 March 2019.</p> <p>From that date, retailers must not sell fruit and confectionery flavoured cigarettes and packaging that enables cigarettes to be split into portions containing fewer than 20 sticks.</p> <p>Generally, specialist tobacconists will no longer be able to display tobacco products or packages. However, specialist tobacconists may continue to display cigars and implements to cut cigars if the display cannot be seen from a public place and a health warning is displayed immediately adjacent to the display</p> <p>All retailers must ensure that health warning signs are displayed in close proximity to price displays of tobacco products. Tobacco licences that have the purpose of authorizing the supply of tobacco products at sporting, cultural or other events will also no longer be permitted.</p> <p>With the exception of credit card rewards schemes, tobacco products may no longer be included in loyalty programmes.</p> <p>An additional provision starts on 18 September 2020 and bans persons who have not reached 18 years of age from selling tobacco products.</p>

States introduced additional regulations to further restrict smoking (cont.)

A5 Recent regulatory changes (cont.)

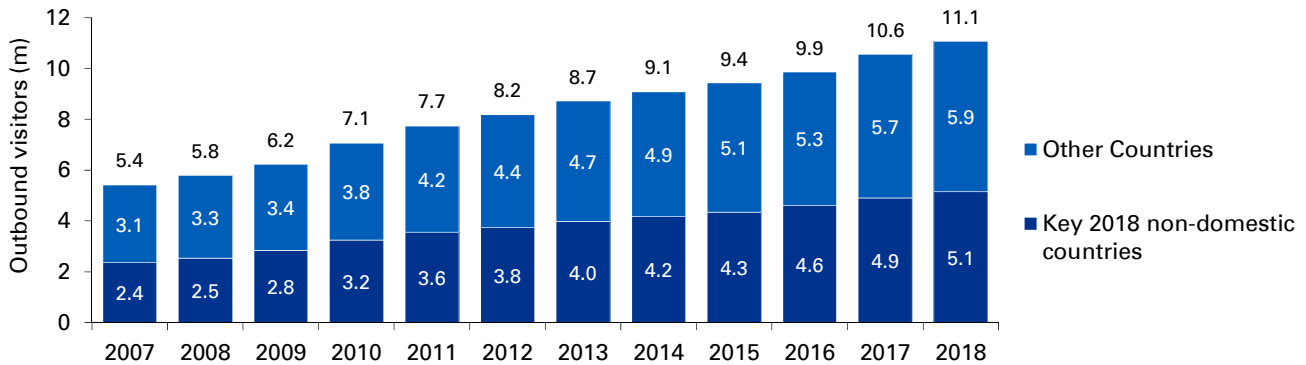
Table A5.1: Recent regulatory changes 2012/13/14/15/16/17/18– State specific

Jurisdiction	Legislation title	Regulation type	Effective date	Brief description
Australian Capital Territory	<i>Smoke-Free Public Places Amendment Act 2016 (ACT)</i>	Smoke-free Environment	18 March 2016	Enabled the Government to declare smoke-free public places or events.
	<i>Smoke-Free Legislation Amendment Act 2016 (ACT)</i>	Smoke-free environment and e-cigarette regulation	1 August 2016	Banned the vaping of e-cigarettes in smoke-free public places and cars with children travelling in them. Imposed on e-cigarettes the same sale, supply, promotion, display and price display restrictions that apply to tobacco products.
	<i>Smoke-Free Public Places (Play Spaces) Declaration 2016 (No1) (ACT)</i>	Smoke-free environment	7 September 2016	Children play spaces managed by ACT Government were declared smoke-free public places.
	<i>Smoke-Free Public Places (Public Transport Stops) Declaration 2017 (No 1) (ACT)</i>	Smoke-free environment	1 October 2017	Banned smoking and vaping at and within five metres of public transport stops and public transport waiting areas.
	<i>Smoke-Free Public Places (Public Transport Stations) Declaration 2017 (No 1) (ACT)</i>	Smoke-free environment	1 October 2017	Banned smoking and vaping at the bus stations in Cohen Street, Westfield (Belconnen), Belconnen Community, City (except between 11pm and 6am), Woden, Tuggeranong and Dickson. Smoking and vaping also not permitted at Jolimont Transit Centre and Canberra Railway Station, Kingston.

Outbound trips to non-domestic source countries continued to increase in 2018

A6 Non-domestic legal calculation

Figure A6.1 Overseas travel of Australian residents, 2008 – 2018^{(1)(a)(b)}



CAGR (%) of outbound trips	2008-2011	2011-2014	2014-2018	2017-2018
Key 2018 ND source countries	12.0%	5.5%	5.3%	4.8%
Total overseas trips	10.1%	5.5%	5.1%	4.8%

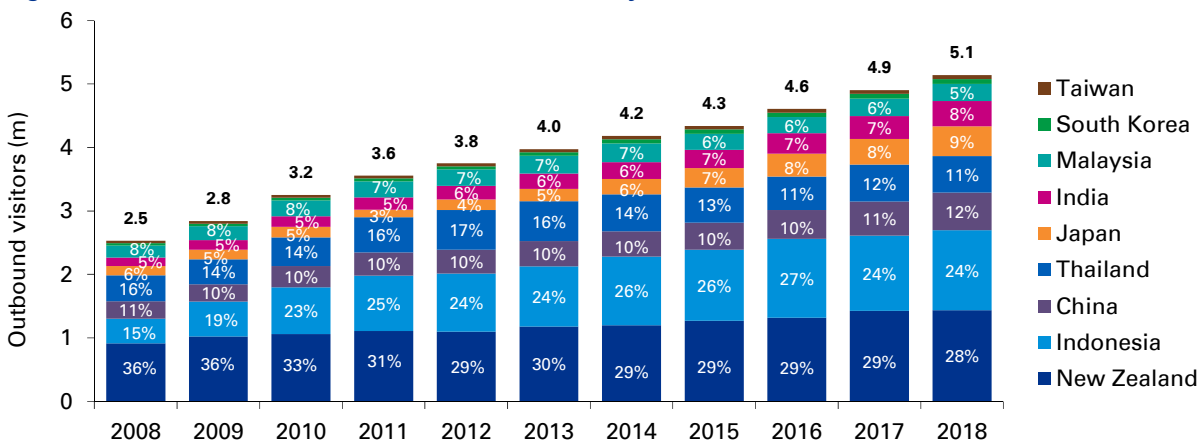
Travel trend data is used by KPMG to estimate non-domestic legal volumes, i.e. tobacco products that are brought into the country legally by consumers, such as during an overseas trip.

The 2018 EPS results showed larger inflows from Thailand. We have therefore included these flows in the non-domestic legal calculation whilst removing Vietnam as the inflows had declined in 2018.

Trips made to key non-domestic source countries of manufactured cigarettes increased at a rate equivalent to overall visits; 4.8% between 2017 and 2018.

Later in the report, this data is used to estimate legal non-domestic sales which, it will be shown, is immaterial in size. For that calculation, travel volumes for New Zealand have been capped as a share of total travel to and from the main source countries. This approach is driven by the fact that the total recorded travel to and from New Zealand is significantly greater than that which would account for New Zealand's relatively small share of non-domestic cigarette inflows. This capping is based on New Zealand's share of non-domestic packs per the 2018 EPS results.

Figure A6.2 Overseas travel of Australian residents to key 2018 non-domestic source countries, 2008 – 2018^{(1)(a)(b)(c)}



Visits to key non-domestic source countries reached a total of 5.1 million in 2018, accounting for approximately 46% of all trips made overseas by Australian residents.

However, low inbound traveller allowances will likely have tempered growth of legal non-domestic consumption and the same is examined in more detail overleaf.

Notes: (a) Key non-domestic source countries have been selected from the EPS carried out in 2018, the countries shown in the graph above accounted for over 60% of the non-domestic cigarette sticks found in Australia (excluding sticks that come from unspecified countries).
 (b) ND(L) volumes are estimated using actual travel data from January 2018 to December 2018.
 (c) Some of the labels with value less than 3% have been removed for clarity.

Sources: (1) Australian Bureau of Statistics, *Short-term movement, Resident Departures - Selected Destinations: Trend, 2014, 2015, 2016, 2017, 2018*.

Non-domestic legal volumes due to outbound trips to key source countries remain low as a proportion of total consumption

A6 Non-domestic legal calculation (cont.)

Figure A6.3 Example non-domestic legal calculation (outbound)

	Overseas visits	x	ND uplift	x	% population smokers	x	Propensity to purchase	x	Amount per trip	=	Total (tonnes)
Full year 2018	3.83m		10%		11.6%		57%		25g ^(a)		7.0

KPMG non-domestic legal calculation based on overseas departures from Australia ^{(1)(2)(3)(b)(c)(d)(e)(f)(g)}

	Source	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Overseas trips to non-domestic source countries in the year (m)	Australian Bureau of statistics	2.61	2.99	3.22	3.34	3.57	3.84	4.03	4.33	4.64	5.14
Overseas trips (with New Zealand capping) for ND(L) calculation (m) ^(a)	Australian Bureau of statistics	1.53	1.53	2.20	2.35	2.44	2.55	3.42	3.55	3.26	3.83
Non-domestic source uplift	EPS	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%
% of population that are smokers	AIHW (and extra-polated)	15.5%	15.1%	14.4%	13.6%	12.8%	12.6%	12.4%	12.2%	11.8%	11.6%
% of smokers that buy tobacco	RMR consumer survey	53%	53%	53%	53%	59%	59%	60%	58%	57%	57%
Number of smokers purchasing overseas (m)		0.14	0.13	0.18	0.19	0.20	0.21	0.28	0.28	0.24	0.28
Amount purchased (g)	Inbound traveller allowance	250	250	250	183	50	50	50	50	25/50 ^(a)	25
Total (kg)		34,565	33,673	46,046	34,054	10,124	10,497	13,953	13,831	9,079	7,027
Non-domestic legal as % of total consumption		0.2%	0.2%	0.3%	0.2%	0.1%	0.1%	0.2%	0.2%	0.2%	0.1%

Estimates of non-domestic legal flows show that total volumes account for a small proportion of total consumption.

resulted in a further decline in the estimate of non-domestic legal volume.

The change to inbound traveller allowances made in September 2012 has a considerable impact on the amount of tobacco consumers can bring back into the country legally, reducing the estimate of legal non-domestic volumes further from 2013. A further change in allowance was enforced in 2017 bringing the legal limit down to 25 grams. This has

The 2018 consumer survey suggested that 57% of smokers bought cigarettes overseas. While this proportion has remained similar to last year, it has risen slightly in recent years, possibly a result of increasing price differentials between Australia and the rest of the region.

- Notes:
- (a) The allowance limit was changed to 25g applicable from 1st July 2017.
 - (b) The figures for overseas trips have been updated due to the change in key ND countries.
 - (c) Travel volumes for New Zealand have been capped as a share of total travel to and from the main source countries. This capping is based on New Zealand's share of non-domestic packs per the blended Q2 2018 and Q4 2018 EPS.
 - (d) Respondents were asked 'Q51. Have you travelled outside of Australia in the last 6 months?'
 - (e) Respondents were then asked 'Q52. Did you buy any manufactured cigarettes or any other tobacco products to bring back to Australia on any of your trips to other countries in the past 6 months?'
 - (f) The inbound traveller allowance for 2012 has been calculated using the 250g limit for 8 months and the 50g limit for 4 months to reflect the change in inbound traveller allowances made in September 2012.
 - (g) ND(L) volumes are estimated using actual travel data from January 2018 to December 2018.
- Sources:
- (1) Roy Morgan Research, Consumer survey, H1 2013, H2 2013, H1 2014, H2 2014, H1 2015, H2 2015, H1 2016, H2 2016, H1 2017, H2 2017, H1 2018 and H2 2018.
 - (2) Australian Institute of Health and Welfare, *National Drug Strategy Household Survey, 2010, 2013, 2016*.
 - (3) Australian Bureau of Statistics, *Short-term movement, Resident Departures - Selected Destinations: Trend, 2013, 2014, 2015, 2016, 2017, 2018*.
 - (4) Australian Bureau of Statistics, *Short-term movement, Residents Returning - Selected Destinations: Trend, 2018*.

Visitors from countries indicated by the EPS also serve as contributors to non-domestic packs found in Australia

A6 Non-domestic legal calculation (cont.)

Overseas visitors arrivals from key non-domestic countries include both short term arrivals and permanent settlers. As discussed on page 79, the key source countries have been updated based on the key inflows from each market in the 2018 EPS.

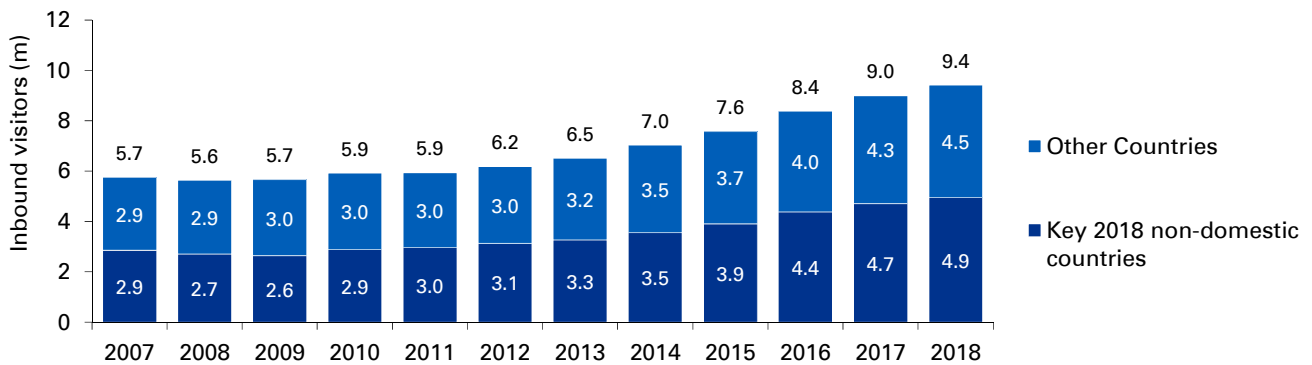
Visitors (short-term arrivals and settlers) from the key non-domestic source countries identified by the EPS have increased since 2008.

Due to changes in ABS data, a five-year average uplift has been used to calculate permanent movement settlers' numbers for January-December 2018 to ensure prudence and consistency.

For the calculation, travel volumes for New Zealand have been capped as a share of total travel to and from the main source countries. This approach is driven by the fact that the recorded travel to and from New Zealand is significantly greater than that which would account for New Zealand's relatively small share of non-domestic cigarette inflows. This capping is based on New Zealand's share of non-domestic packs as per the blended Q2 2018 and Q4 2018 EPS results.

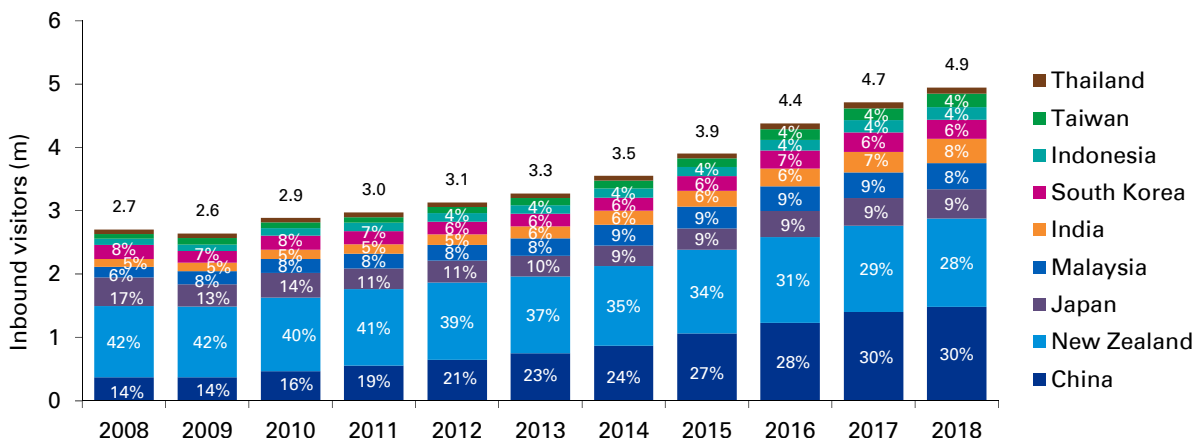
In the absence of data, KPMG has made a prudent assumption that all visitors who are calculated to be smokers bring maximum cigarettes as per the duty free limit.

Figure A6.4 Overseas visitors (short term visitors and settlers) arrivals to Australia, 2008 – 2018^{(1)(2)(a)(b)(c)}



CAGR (%) of inbound trips	2008 - 2011	2011 - 2014	2014 - 2018	2017 - 2018
Key 2018 ND source countries	3.2%	6.1%	8.6%	4.9%
Total arrivals	1.7%	5.8%	7.6%	4.8%

Figure A6.5 Overseas visitors arrivals from key 2018 non-domestic source countries, 2008 – 2018^{(1)(2)(a)(b)(c)(d)}

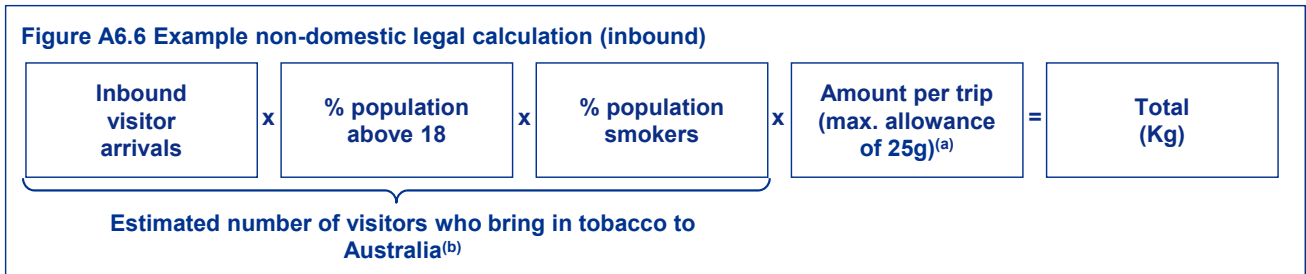


Notes: (a) Key non-domestic source countries have been selected from the EPS carried out in Q2 2018 and Q4 2018, the countries shown in the graph above accounted for over 60% of the non-domestic cigarette sticks found in Australia excluding sticks that come from unspecified countries. (b) ND(L) volumes are estimated using actual travel data from January 2018 to December 2018. (c) A five-year average uplift has been used to calculate permanent movement settlers' numbers for January-December 2018. (d) Some of the labels with value less than 3% have been removed for clarity.

Sources: (1) Australian Bureau of Statistics, *Short-term Movement, Visitor Arrivals - Selected Countries of Residence: Trend, 2013, 2014, 2015, 2016, 2017, 2018*. (2) Australian Bureau of Statistics, *Permanent Movement, Settlers - Country of Birth, Major Groups and Selected Source Countries: Original, 2013, 2014, 2015, 2016, 2017*.

Non-domestic legal estimates calculated on the basis of inbound visitor arrivals indicate that non-domestic legal remains a small proportion of total consumption

A6 Non-domestic legal calculation (cont.)



Example of KPMG non-domestic legal calculation based on overseas visitor arrivals to Australia^{(1)(2)(3)(4)(b)(c)(d)(e)(f)}

2018	Inbound visitor arrivals (m) ^(d)	% population above 18 ^(e)	% population smokers	Number of visitors bringing tobacco (m)	Amount purchased (kg)
Source	Australian Bureau of Statistics	Euromonitor	Euromonitor		
China	1.50	68%	28%	0.282	7,045
Korea	0.30	69%	20%	0.041	1,030
Indonesia	0.20	62%	36%	0.046	1,158
Thailand	0.10	67%	23%	0.015	377
Taiwan	0.21	70%	16%	0.023	567
Japan	0.47	57%	17%	0.046	1,153
India	0.39	61%	7%	0.016	395
Malaysia	0.41	64%	21%	0.056	1,399
New Zealand ^(g)	1.39 (0.12 ^(f))	62%	16%	0.012	304
Total	5.09 (3.70^(f))				13,427

Total amount brought into Australia by inbound tourists

Estimation of non-domestic legal volumes shows that total volumes account for a small proportion of total consumption.

This proportion remains insignificant even if arrivals data is included in the non-domestic legal calculation. This analysis has been shown in detail on the next page.

Notes: (a) The legal allowance limit was changed to 25 grams applicable from 1st July 2017.
 (b) KPMG has used a prudent approach and assumed that 100% of visitors arriving in Australia purchase the maximum inbound traveller allowance.
 (c) A five-year average uplift has been used to calculate permanent movement settlers' numbers for January-December 2018.
 (d) Inbound visitor arrivals to include arrivals of short term overseas visitors and permanent settlers.
 (e) Population within the age group 18-64 years.
 (f) The total of amount purchased by travelers from individual source countries may slightly differ from the total amount brought into Australia by inbound tourists due to minor differences in the six year average uplift used to calculate permanent movement settlers' numbers.
 (g) Travel volumes for New Zealand have been capped as a share of total travel to and from the main source countries. This capping is based on New Zealand's share of non-domestic packs per the blended Q2 2018 and Q4 2018 EPS. The capped inbound visitor arrivals is 0.12m.

Sources: (1) Australian Bureau of Statistics, *Short-term Movement, Visitor Arrivals - Selected Countries of Residence: Trend, 2013, 2014, 2015, 2016, 2017, 2018*.
 (2) Australian Bureau of Statistics, *Permanent Movement, Settlers - Country of Birth, Major Groups and Selected Source Countries: Original, 2013, 2014, 2015, 2016, 2017, 2018*.
 (3) Euromonitor, Population: National Estimates, accessed January 2019.
 (4) Euromonitor, Smoking Prevalence Among Total Adult Population, accessed January 2019.

Total non-domestic legal consumption represents 0.1% of total consumption in Australia

A6 Non-domestic legal calculation (cont.)

KPMG Total non-domestic legal calculation ^{(4)(5)(6)(7)(8)(a)(b)}											
	2007	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Outbound trips('000 kg)	28.6	34.6	33.7	46.0	34.1	10.1	10.5	14.0	13.8	9.1	7.0
Inbound trips('000 kg)						11.2	15.6	20.6	24.2	19.1	13.5
Total ND(L)('000 kg)	28.6	34.6	33.7	46.0	34.1	21.3	26.1	34.6	38.0	28.2	20.5
Non-domestic legal as % of total consumption	0.1%	0.2%	0.2%	0.3%	0.2%	0.1%	0.1%	0.2%	0.2%	0.2%	0.1%

The estimate of non-domestic legal volumes above comprises the legitimate flows from the main source countries as per the EPS and represents 0.1% of total consumption. If we were to assume that all travellers from the source markets indicated by the EPS purchased their allowance, we would derive an ND(L) volume of approximately 31.6 tonnes or 0.2% of total consumption.

One limitation of this methodology is that it does not include cigarettes purchased through mail order and imported legally into Australia. Given the limited financial gain associated with paying Australian excise duty on cigarettes purchased abroad, compared to those purchased in Australia, we feel that the volume consumed is unlikely to be significant.

We have tracked the trends of mail order purchase from abroad in terms of average quantity purchased per occasion and the average frequency of purchase per occasion and we are starting to see some consistency in results. The recent consumer surveys indicate a rise in mail order as a channel used to purchase tobacco a trend consistent with observations by the ABF.⁽¹⁾

Anecdotally, we understand that there are volumes of tobacco that have arrived in Australia but have not been claimed. We await official publications from the ABF for any data related to excise paid on mail order purchases.

Internet retailing continued to be a significant distribution channel, attracting customers competitive unit prices, extensive product range and convenience.⁽²⁾ Although the traditional retailing channels continue to dominate tobacco sales, the RMR consumer survey results indicated that in 2013, 1.8% of purchasers of unbranded tobacco did so via the internet, whilst this has increased to 4.5% in H2 2018 from 3.0% in 2017.⁽³⁾

- Notes:
- (a) Overseas travel data from Australian Bureau of Statistics has been extrapolated for December 2018.
 - (b) Figures for outbound trips have been restated for 2014, 2015, 2016 as we have updated the smoking prevalence numbers as per the new AIHW survey.
 - (c) These purchases are included in our measure of illicit consumption.
- Sources:
- (1) ABF 2014-15 Annual Report.
 - (2) Euromonitor, *Tobacco in Australia, August 2016, July 2017, August 2018*.
 - (3) Roy Morgan Research, Consumer survey, H1 2013, H2 2013, H1 2014, H2 2014, H1 2015, H2 2015, H1 2016, H2 2016, H1 2017, H2 2017, H1 2018, H2 2018.
 - (4) Australian Bureau of Statistics, *Short-term movement, Resident Departures - Selected Destinations: Trend, 2013, 2014, 2015, 2016, 2017, 2018*.
 - (5) Australian Bureau of Statistics, *Short-term movement, Residents Returning - Selected Destinations: Trend, 2017*.
 - (6) Australian Bureau of Statistics, *Short-term Movement, Visitor Arrivals - Selected Countries of Residence: Trend, 2013, 2014, 2015, 2016, 2017, 2018*.
 - (7) Australian Bureau of Statistics, *Permanent Movement, Settlers - Country of Birth, Major Groups and Selected Source Countries: Original, 2013, 2014, 2015, 2016, 2017*.
 - (8) KPMG Analysis.

Illicit Whites flows methodology

A7 Illicit Whites flows analysis

Illicit Whites are defined as manufactured cigarettes that are usually manufactured legally in one country/market but which the evidence suggests have been smuggled across borders during their transit to Australia, where they have limited or no legal distribution and are sold without the payment of tax.

Feedback on our approach to Illicit Whites definitions had suggested that we did not capture flows of Illicit White brands that have packaging designed for the domestic Australian market. In 2016, we adapted our approach in an attempt to assess these flows. Therefore, our analysis now includes both branded cigarette packs as well as the packs which are in plain packaging.

Domestic Illicit Plains

To identify which brands made up Domestic Illicit Plains brand flows, KPMG undertook the following analysis:

- All domestic cigarette brands in the EPS data were compiled for analysis. The list was corroborated through an analysis of Aztec - IRI scan sales data^(a) (and pack labelling as per EPS). EPS determined volumes were compared to legally reported sales of these brands to determine an estimated share of total consumption.
- Brand flows were also compared with the brand lists published in The Retail Tobacconist trade magazine⁽¹⁾, which has a comprehensive list of legitimate brands. Brands included in this publication were then eliminated.
- Consistent with our approach in Project SUN, KPMG has conservatively assumed that, where consumption implied by the EPS volumes represented > 99% of total legal consumption, the brand is considered a Domestic Illicit Plain.

Table A7a Domestic Illicit Plains identification process, Illicit Tobacco in Australia – worked example

Illicit Tobacco in Australia – Illicit Whites identification process, 2018 ⁽¹⁾⁽²⁾⁽³⁾					
	Domestic volume (bn sticks)	LDS volume (bn sticks)	ND volumes as a share of total consumption	Illicit White volumes by brand	
Brand A	0.01	-	100%	0.01	
Brand B	0.24	0.00	100%	0.24	
Brand C	0.01	-	100%	0.01	
Brand D	0.01	0.01	38%	-	

Brands A, B and C are classified as a Domestic Illicit Plain since there is no evidence of legal distribution and all flows are unspecified origin. Brand D is not classified as a Domestic Illicit Plain where the domestic volumes are 38% of the consumption.

Notes: (a) The Aztec IRI scan sales data reflect the sales made to consumers only.

Sources: (1) Australian Retail Tobacconist, Q4 2018.

(2) MSIIntelligence Research, *Empty Pack Surveys*, Q2 2013, Q4 2013, Q2 2014, Q4 2014, Q2 2015, Q4 2015, Q2 2016, Q4 2016, Q2 2017, Q4 2017, Q2 2018 and Q4 2018.

(3) Aztec - IRI monthly scan data, Jan 2018 – December 2018.

Illicit Whites flows methodology (contd.)

A7 Illicit Whites flows analysis

Illicit Whites (non-domestic)

To identify which non-domestic brands made up Illicit Whites brand flows, KPMG undertook the following analysis :

- All non-domestic labelled cigarette brands were compiled to form an initial list of brands.
- These brands were then compared with the Aztec - IRI scan data⁽¹⁾ (which records most brands being sold through most legitimate channels). Brands included in the Aztec - IRI data were then eliminated from the list.
- Remaining brand were then compared with the brand lists published in The Retail Tobacconist trade magazine.⁽²⁾ Brands included in this publication were then also eliminated.
- Further analysis was undertaken by looking at the country of origin and corroborating this with third party sources.^(a)
- Remaining brand flows were identified as Illicit Whites.

Given our identification of counterfeit product is limited to the three industry participants, we cannot assess whether or not these flows are counterfeit product.

Table A7b Illicit Whites (non-domestic) identification process for, Illicit Tobacco in Australia – worked example

Illicit Tobacco in Australia – Illicit Whites identification process ⁽¹⁾⁽²⁾⁽³⁾					
	2017 Non-domestic volume (bn sticks)	Aztec - IRI scan data?	Retail tobacconist?	Illicit White brand flow	
Brand A	0.02	Yes	Yes		✗
Brand B	0.15	No	Yes		✗
Brand C	0.06	No	No		✓
Brand D	0.01	Yes	No		✗
Brand E	0.01	Yes	Yes		✗

Only the brand flows which are not present in both the Aztec - IRI scan data and the retail tobacconist are categorised as Illicit White flows.

Notes: (a) Third party sources include Euromonitor tobacco reports which were used for further verification.

Sources: (1) Aztec - IRI monthly scan data, Jan 2018 – December 2018.

(2) Australian Retail Tobacconist, Q4 2018.

(3) MSIIntelligence Research, *Empty Pack Surveys*, Q2 2013, Q4 2013, Q2 2014, Q4 2014, Q2 2015, Q4 2015, Q2 2016, Q4 2016, Q2 2017, Q4 2017, Q2 2018 and Q4 2018.

Notes to this report

A8 Notes to this report

The measurement of illicit consumption is inherently complex as those involved seek to conceal their activities.

We believe that the approach adopted for this report, both in terms of the consumption model methodology and the key data sources, generates an estimate of illicit consumption that is as robust as possible within current research techniques. We also use alternative validation tools, such as the rolling papers analysis, to further increase the level of confidence in this estimate.

Whilst we believe this approach is currently the most appropriate method, we also recognize that we have been required to make a number of data assumptions and scope exclusions.

Further detail on key approaches and methodology limitations is provided in the table below.

Illicit tobacco in Australia	
Source	Overview
EPS	<ul style="list-style-type: none"> — The EPS approach provides an objective and statistically representative estimate of the size of the illicit manufactured cigarette market. The results are not subject to respondent behaviour and are less prone to sampling errors than many other alternative methodologies. — Whilst the EPS is designed to be representative of the overall population, it is not possible to ensure the sample is fully representative because: <ul style="list-style-type: none"> - The sample is more heavily weighted towards populous, urban areas, so in some markets the EPS may not be fully representative of consumption habits in rural areas. The impact in Australia is likely to be minimal as only 10% of the population live in rural areas.⁽¹⁾ - Homes and workplaces are not covered, though analysis of the Yellow Bag Survey results in Germany as discussed on page 61 suggests consumption outside the home is not significantly different. - Collection routes also specifically exclude sports stadia, shopping malls and stations, or any other locations where non-domestic incidence is likely to be higher as a result of a skewed population visiting these areas. — Although EPS dates are selected to minimise seasonal factors, there may be specific events that impact the results such as major national events which result in large numbers of overseas visitors. We use a blended result of Q2 and Q4 EPS data to minimise this impact. — Brand and market variant share can only be extrapolated with a degree of statistical accuracy for brands where a sufficiently large number of packs have been collected.
Non-major manufacturer (non-participating) counterfeit	<ul style="list-style-type: none"> — EPS results do not identify counterfeit packs that have been made by manufacturers other than BATA, ITA and PML as only the manufacturer / trademark owner can confirm whether their brand pack is genuine. <ul style="list-style-type: none"> - As a result, for brands which are not trademark-owned by BATA, ITA or PML, it is not possible to identify counterfeit (non-domestic variants) products. — The volume of legal domestic consumption may be overstated where domestic counterfeit variants exist, leading to corresponding understatements of illicit volumes for some brands (although the impact is likely to be minimal and would require any counterfeit pack barcodes to operate correctly and to be scanned by retailers). — Illicit White volumes may include counterfeit. However, the presence of counterfeit is unlikely to have a major impact as counterfeit volumes in 2015 only represented a small proportion (1.4%)⁽²⁾ of the total sample of the three participating manufacturers brand flows and counterfeit is typically concentrated on the most popular brands only.

Sources: (1) *Australia in 2030: The Future Demographics*, Euromonitor, May 2015.
 (2) MSIntelligence Research, *Empty Pack Surveys*, Q2 2016 and Q4 2016.

Notes to this report (cont.)

A8 Notes to this report (cont.)

Illicit tobacco in Australia	
Source	Overview
LDS	<ul style="list-style-type: none"> — There are minor variations in the LDS data provided by Aztec - IRI due to small differences in the way sales data is collected (for example, the way data is collected from tobacconists and timings of data release). For a single view of LDS, KPMG has taken data directly from Aztec - IRI, who provide retail sales data using a combination of inputs from manufacturers and retailers. — Slight timing variances may arise between the date the product was purchased and actual consumption. However, these variances are not considered significant and the 2018 LDS information we have from Aztec - IRI is considered to be a good representation of the market. In order to ensure these assumptions are reasonable, IRI data movements year-on-year were compared with Exchange of Sales data, which show a similar direction and magnitude of movement.
Consumer surveys	<ul style="list-style-type: none"> — For the purpose of our analysis, our unbranded volumes are based on the average of the last two consumer surveys as consumers are likely to give a more accurate estimate of their purchase behaviour over a short time period rather than the last twelve months. — The sample for the tobacco questionnaire is weighted by location, age and gender using RMR Single Source data in order to be representative of the national population. — There are state-by-state regulations that guide the implementation of consumer surveys in Australia and the RMR survey used in this report complies with all such regulations nationally. — RMR implemented a new panel of respondents in Q4 2018. It is unclear how this may have impacted the results. The new panel constituted about 65% of the total respondents in Q4 2018. Whilst there was a statistically significant difference in the awareness of illicit tobacco, it seems to have had no significant impact on the results of the consumption model. We shall continue to monitor these results in the future. — Although the consumer survey is designed to be nationally representative of the population, there are certain limitations associated with consumer surveys, such as: <ul style="list-style-type: none"> - Information obtained from a consumer survey is based on a sample rather than the entire population and therefore data is subject to sampling variability. — In addition, there are limitations to using a consumer survey to estimate tobacco consumption and more specifically illicit tobacco consumption: <ul style="list-style-type: none"> - Consumer surveys have historically under-reported tobacco consumption, especially in countries where it has become increasingly socially less acceptable. For example, AIHW highlights the possibility of under-reporting in smoking related questions as some respondents do not answer smoking related questions.⁽¹⁾ As such, the RMR consumer survey used in this report asks respondents about purchase behaviour rather than actual consumption habits. - Illicit tobacco consumption is likely to be under-reported to an even greater degree.⁽²⁾ — Rolling papers analysis is used in order to validate the unbranded volumes derived through the consumer survey results. There are limitations of this approach, specifically the estimate of cannabis usage and an unclear size of each rolled cigarette (in terms of total grams). <ul style="list-style-type: none"> - Over the past few years, a continued divergence of results suggests either an underestimation from the consumption model or some invalid assumptions in the rolling papers analysis. KPMG will continue to assess the ongoing validity of the underlying assumptions and work to identify alternative approaches.

Sources: (1) *National Drug Strategy Household Survey*, Australian Institute of Health and Welfare, 2013.

(2) Temporal changes of under-reporting of cigarette consumption in population-based studies, Gallus et al, 2011.

Notes to this report (cont.)

A8 Notes to this report (cont.)

Illicit tobacco in Australia	
Source	Overview
ND(L)	<ul style="list-style-type: none"> — We have used inbound and outbound travel data and inbound settler data from the Australian Bureau of Statistics to calculate the number of trips made. — Inbound settler data was available up to June 2017, after which the Australian Bureau of Statistics stopped publishing these figures. For the purpose of our analysis, we have uplifted the short term arrivals estimates by the last six years average to estimate the number of inbound settlers from January 2018 to December 2018. — We have calculated the number of cigarettes purchased by assuming smokers purchase the legal allowance. This approach may overweight ND(L) volumes as a share of total non-domestic flows. — We have not been able to accurately estimate the number of cigarettes purchased through mail order and legally imported into Australia. However, as highlighted on page 83, we feel that the volume consumed is unlikely to be material.
Outflows from Australia	<ul style="list-style-type: none"> — Illicit outflows from Australia are not considered to be material due to the high prices relative to other parts of the world.
External data sources	<ul style="list-style-type: none"> — We have used a series of external data sources to estimate illicit tobacco consumption in Australia in 2016. There are a number of limitations associated with these sources such as their infrequent updates (AIHW National Drug Strategy Household survey is updated every three years, with the latest survey conducted in 2016 whilst the Australian census is conducted by the ABS every five years, the most recent conducted in 2016). To update these numbers for the period of study, we make a series of assumptions as required that are detailed throughout the report. — There are also differences between our key data sources and other points of corroboration. For example, the RMR consumer survey focuses on those over 18 years old, whilst the AIHW survey focuses on those over 14 years old.

The Roy Morgan Research survey and the AIHW survey differ in focus and methodology, whilst limitations of consumer surveys are recognised

A9 Alternative illicit tobacco estimates

The Australian Institute of Health and Welfare’s (AIHW) National Drug Strategy Household Survey (NDSHS) is the only other major consumer survey in Australia that provides an overview on the prevalence of the use of illicit tobacco.

There are a number of differences between the RMR and AIHW survey (also conducted by RMR) including the key purpose of each, the frequency of surveys carried out, and both the size and age profile of the sample. The RMR survey is used to estimate the size of the illicit market whereas the AIHW survey is focused more on attitudes and behaviours across a wider range of health and drug related issues. The RMR surveys are now carried out biannually whilst the AIHW survey is conducted every three years.

RMR draws its sample from an Australia-wide database collected through its ‘Establishment Survey’. This survey is conducted throughout the year and includes information on demographic and attitudes.

The sample for the tobacco questionnaire is weighted by location, age and gender in order to be representative of the national population. To meet target responses, RMR then

supplements its sample with samples from a set of qualified third-party suppliers.

AIHW also adopts a sampling plan stratified by region. Weightings are then applied to address any imbalances through sample execution and different response rates.

RMR has used a web-based survey throughout, whilst AIHW moved from a combined CATI and drop-and-collect methodology to a pure drop-and-collect method from 2010.

In its data quality statement, AIHW also acknowledges that it “is known from past studies of alcohol and tobacco consumption that respondents tend to underestimate actual consumption levels”.⁽³⁾ In addition, the Australian Bureau of Statistics suggested social pressures are likely to account for such under-reporting.⁽⁴⁾ Illicit tobacco consumption is therefore likely to be under-reported to an even greater degree. These are issues we have previously highlighted.

During a hearing for the Parliamentary Committee on Law Enforcement – Illicit Tobacco, representatives of the AIHW indicated that the NDSHS is not an appropriate vehicle for measuring the percentage of illicit tobacco consumption.⁽⁵⁾

Comparison of RMR and AIHW consumer surveys ^{(1)(2)(a)(b)}		
	RMR	AIHW (conducted by RMR)
Survey focus	— Size of the illicit tobacco market	— Knowledge of and attitudes towards drugs, drug consumption histories, related behaviours
Frequency	— At least annually from 2009 and biannually from 2013	— Every three years
Response period	— Three week period (twice annually)	— 5-6 months (June-November 2016)
Key exclusions	— Non-private dwellings and institutions; non-smokers and occasional smokers	— Non-private dwellings and institutions
Contacted	— 4,426 qualified smokers	— 46,487 households
Response rates	— 95.5% (4,228 completed surveys)	— 51.1% (23,772 completed surveys)
Sample size	— 2015: 4,235 (H1: 1,852 + H2: 2,383) — 2016: 4,205 (H1: 2,105 + H2: 2,100) — 2017: 4,203 (H1: 2,102 + H2: 2,101) — 2018: 4,228 (H1: 2,104 + H2: 2,124)	— Greater than 26,000 people aged 12 years or older participated in the 2010 survey — Approximately 24,000 people aged 14 years or older participated in the 2013 and 2016 surveys
Age groups	— Smokers aged 19+	— Smokers aged 14+
Methodology	— Web-based surveys	— Drop and collect/Online survey
Language	— English only	— English only (introduction letter and FAQs in 5 other languages)
Types of tobacco addressed	— Unbranded, counterfeit cigarettes, contraband cigarettes	— Unbranded, non-plain packaged tobacco

Notes: (a) Roy Morgan Research results for 2013, 2014, 2015, 2016 and 2017 are based on CAWI responses only.

(b) Results from the 2010 AIHW survey asked questions only about unbranded loose tobacco, whereas the 2016, 2013 and 2007 surveys also asked about unbranded cigarettes.

Sources: (1) Roy Morgan Research, Consumer survey, H1 2013, H2 2013, H1 2014, H2 2014, H1 2015, H2 2015, H1 2016 and H2 2016, H1 2017, H2 2017, H1 2018 and H2 2018.

(2) Australian Institute of Health and Welfare, *The National Drug Strategy Household Survey, 2010, 2013, 2016*.

(3) National Drug Strategy Household Survey 2016 – Data Quality Statement.

(4) ‘Profiles of Health, Australia, 2011-13 – Tobacco Smoking’, Australian Bureau of Statistics, June 2013.

(5) Proof Committee Hansard, Parliamentary Joint Committee on Law Enforcement, March 2016.

The latest AIHW National Drug Strategy Household Survey results suggest reasonably similar movements in consumption

AIHW Consumer Survey approach, 2013 and 2016⁽¹⁾

The 2016 AIHW National Drug Strategy Household Survey was the first in which an online form was able to be used by participants completing the survey. For the 2013 and 2010 surveys, only a self-completion drop-and-collect method was offered. A total of 22% of questionnaires in 2016 were completed via the online method, and this may be a factor when comparisons are made over time.

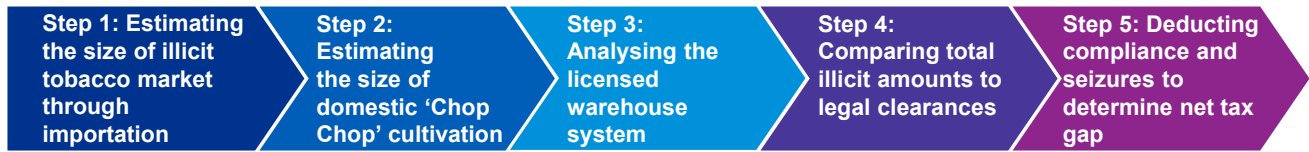
Unbranded tobacco usage, AIHW and KPMG analysis comparison, 2013-2016⁽¹⁾⁽²⁾

AIHW data estimates that approximately 16.5% of smokers have ever used unbranded tobacco. This figure remained constant for both the 2013 and 2016 surveys, indicating a relatively flat appeal of unbranded tobacco. Our survey suggested a 3.9% increase in the same metric from 2013 to 2016. Given the change in data collection methodology used by AIHW it is unclear whether this may have impacted the compatibility of its results over time.

Sources: (1) Australian Institute of Health and Welfare, *National Drug Strategy Household Survey*, 2013 and 2016.
(2) Roy Morgan Research, Consumer survey, H1 2016 and H2 2016.

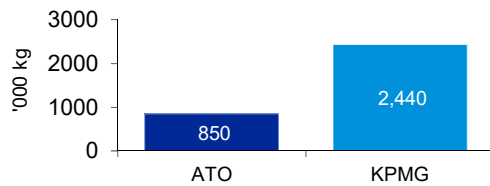
The ATO has recently produced its own calculation of illicit tobacco consumption

A10 Australian Taxation Office methodology for calculating tax gap⁽¹⁾



In 2017, the Australian Taxation Office (ATO) estimated the amount of excise on illicit tobacco lost in 2015 – 16 was AUD594m, the KPMG estimate for the same period was AUD1,492m, a 151% difference.

Estimates of Illicit volume (kg '000) by ATO and KPMG in 2015-16^{(1)(2)(a)}



Below we assess the ATO methodology in order to try and understand the difference.

Comparison of Australian Taxation Office and KPMG ⁽¹⁾⁽²⁾		
	Australian Taxation Office	KPMG comments
Step 1: Estimating the size of the illicit tobacco market through importation	<ul style="list-style-type: none"> For estimating the size of the illicit tobacco market through importation, data from non-targeted tobacco detections and non-targeted inspections at the border is used to estimate the quantity of illicit tobacco arriving through sea, air cargo and international post channels. This determines an implied uplift, or leakage rate, for illicit tobacco crossing the border, which is extrapolated across total import volumes for each channel to derive illicit tobacco from these streams. Leakage through the international passenger channel is not accounted for in this approach. 	<ul style="list-style-type: none"> ATO's methodology which takes into account an uplift factor for leakage rate is unclear on how it will evolve over time to effectively calculate the illicit tobacco from total import volumes across these streams. The method of estimating an uplift factor is unclear. ATO estimates total volume lost through international passenger channel as small, and thus has not accounted for this in its methodology. There is a price incentive for people to smuggle cigarettes into Australia in large number of vast small consignments, this process is termed as 'ant-smuggling' in Europe.⁽³⁾ This might add to the illicit volume of tobacco in the country which is not accounted for in ATO's approach.
Step 2: Estimating the size of domestic 'Chop Chop' cultivation	<ul style="list-style-type: none"> This involves estimating the size of domestic 'Chop Chop' cultivation. All tobacco grown in Australia for consumption is illicit. To create an uplift factor for cultivated tobacco that has not been detected or reported to authorities, they analyse the value of seizures, risk, and intelligence referrals for domestically cultivated tobacco. 	<ul style="list-style-type: none"> ATO's methodology which takes into account an uplift factor for undetected home grown tobacco for consumption is unclear on how it will evolve over time to effectively recalculate future levels of illicit tobacco.
Step 3: Analysing the licensed warehouse system	<ul style="list-style-type: none"> This is done to account for 'Leakages' which occur where tobacco that has entered the warehouse system exits without tobacco duty being paid as for the majority of tobacco imports the customs duty is deferred until it exits the licensed warehouse system. 	<ul style="list-style-type: none"> This type of illicit is not captured by our approach

Note: (a) ATO volume estimates exclude seizures through compliance activity calculated during step 1 (illicit tobacco market through importation) and step 2 (market through domestic Chop Chop cultivation).

Sources: (1) Australian Taxation Office, Tobacco Tax Gap.

(2) KPMG Illicit Tobacco Report for 2015.

(3) 'Cigarette smuggling in Europe: who really benefits?', Luk Joossens, Tobacco Control.

The ATO has recently produced its own calculation of illicit tobacco consumption (cont.)

A10 Australian Taxation Office methodology for calculating tax gap (cont.)⁽¹⁾

Comparison of Australian Taxation Office and KPMG ⁽¹⁾⁽²⁾		
	Australian Taxation Office	KPMG comments
Step 4: Compare total illicit amounts to legal clearances	<ul style="list-style-type: none"> — In this step the ATO sums the illicit tobacco estimates from steps 1, 2 and 3 to arrive at the gross gap of duty paid from all channels. — Estimates of legal clearances (duty paid on the inflow of legal tobacco) are added to the gross gap. — This amounts to an estimated value for the total theoretical clearances of tobacco (duty that should have been paid on the inflow of total tobacco if all products entered legally). 	<ul style="list-style-type: none"> — A mathematical calculation based on steps 1-3
Step 5: Deduct compliance and seizures to determine net gap	<ul style="list-style-type: none"> — The last step involves deducting the total seizures estimated by ATO and Home Affairs compliance activities and seizures (across all channels) from the gross gap to arrive at the net gap. 	<ul style="list-style-type: none"> — A mathematical calculation based on internal ATO and Home Affairs data

Sources: (1) Australian Taxation Office, Tobacco Tax Gap.

The description of the services set out below comprises the agreed scope of our work

A11 Scope of work

Scope

We will analyse and report on:

- The total level of legal domestic sales of tobacco products and consumption in the market.
- The estimated proportion of the Australian tobacco market accounted for by the illicit trade, across both manufactured products and the unbranded, encompassing contraband, counterfeit, and unbranded products (including 'Chop Chop').
- An overview of the nature of the illicit trade in the country, including the sources of illicit product.
- Findings on the characteristics and consumption patterns of illicit tobacco users, and how these have changed from the results of surveys previously undertaken in 2013, 2014, 2015 and 2016 based on the consumer research outputs.
- Data on how taxation has evolved over time and comment on tobacco regulation in the Australian market.

Methodology

In order to size the illicit tobacco market, we will use two principal approaches:

Consumer research approach: utilising the full year 2013, full year 2014, full year 2015, full year 2016 and full year 2017 Roy Morgan Research reports, commissioned and provided to us by BATA, PML and ITA; namely:

- Analyse consumer responses to seek to establish the proportion of illicit tobacco consumed.
- Extrapolate the proportion of illicit tobacco consumed on a national level.
- Express the findings as a proportion of total tobacco consumption.

Empty Pack Survey (EPS) approach: using EPS data commissioned and provided to us by BATA, PML and ITA; namely:

- Analyse the data output from MSI to seek to establish the proportion of market accounted for by non-domestic manufactured cigarettes.
- Extrapolate the non-domestic and counterfeit incidence estimates identified in the EPS against the level of legal domestic sales in Australia.
- Express findings on the estimates of both non-domestic consumption of manufactured cigarettes and consumption of counterfeit product as a proportion of consumption.

The overall results from the two approaches will then be compared and combined in order to build up our overall estimate of the size and composition of the illicit market as a proportion of total tobacco consumption.

These results will be compared to our analysis of rolling papers data, seizures data, and historical consumption trends to help to validate findings.

Questions asked by the consumer survey

A12 Roy Morgan Research questionnaire

Do you, or does any member of your immediate family work in any of the following companies/industry sectors?

What is your post code?

What is your gender?

Are you currently employed?

Which of the following occupational categories best suits you? (Options provided)

What is your approximate annual personal income?

What is your current age?

Which products do you currently consume? (Options provided)

What type of tobacco product do you smoke or use, even if only occasionally?

How often do you normally smoke manufactured cigarettes?

How often do you normally smoke roll your own cigarettes?

How many manufactured cigarettes do you normally smoke each day (on average)?

How many roll your own cigarettes do you normally smoke each day (on average)?

What is your regular brand of manufactured cigarettes, that is, the one you smoke more than any other brand now-a-days?

What other brands of manufactured cigarettes do you currently smoke?

What is your regular brand of roll your own cigarettes, that is, the one you smoke more than any other brand now-a-days?

What other brands of roll your own cigarettes do you currently smoke?

Are you aware that unbranded tobacco can be purchased? Unbranded tobacco is also known as 'Chop Chop.' It is loose tobacco or cigarettes in cartons or packs that are sold without a brand name. This does not include branded tobacco products that are now sold in plain packaging that are green/brown in colour with graphic health warnings and information messages.

Since you turned 18 have you ever purchased unbranded tobacco?

Throughout the survey, we're just focusing on products you buy for your own use. Do you purchase unbranded tobacco for your own use currently?

Have you purchased unbranded tobacco in the last 12 months? (we are talking about purchases for your use)

In the past 12 months, how often did you purchase unbranded tobacco?

Well, can you give me an estimate of how often you purchased unbranded tobacco in the past 12 months?

Since you turned 18, how long had you been buying unbranded tobacco?

Well, can you give an estimate of how long you had been buying unbranded tobacco since you turned 18?

When you last purchased unbranded tobacco, from which outlet or outlets did you buy it?

When you last purchased unbranded tobacco, how many grams of unbranded tobacco did you purchase?

When you last purchased unbranded tobacco, what format or formats was the unbranded tobacco in?

When you last purchased loose unbranded tobacco, how many grams did you buy? (In grams)

When you last purchased loose unbranded tobacco, how much did it cost in total?

How long ago was your most recent purchase of loose unbranded tobacco?

Well, can you give me an estimate of when your most recent purchase of loose unbranded tobacco was?

When you last purchased cartons of unbranded tobacco, how many did you buy?

When you last purchased cartons of unbranded tobacco, how much did it cost in total?

How long ago was your most recent purchase of unbranded tobacco in cartons?

Well, can you give me an estimate of when your most recent purchase of unbranded tobacco in cartons was?

When you last purchased packs of unbranded tobacco, how many did you buy?

When you last purchased packs of unbranded tobacco, how much did it cost in total?

How long ago was your most recent purchase of unbranded tobacco in packs?

Well, can you provide an estimate of when your most recent purchase of unbranded tobacco in packs was?

When you were smoking unbranded tobacco, how much of it would you say that you smoked per day?

Well, can you provide an estimate of how much unbranded tobacco you were smoking per day?

How did you usually consume unbranded tobacco?

How many suppliers did you ever purchase unbranded tobacco from, since you turned 18?

When you stopped buying unbranded tobacco did you not smoke or did you purchase duty paid tobacco products?

Why did you smoke unbranded tobacco?

Do you know the country of origin of the unbranded tobacco that you purchased?

Where does it usually come from?

Please select the reasons why you stopped purchasing unbranded tobacco? (Options provided)

How often do you purchase unbranded tobacco?

Questions asked by the consumer survey (cont.)

A12 Roy Morgan Research questionnaire (cont.)

Well, can you provide an estimate of how often you purchase unbranded tobacco?

Since you turned 18, how long have you been buying unbranded tobacco?

Well, can you provide an estimate of how long you have been buying unbranded tobacco?

From which outlets do you usually buy your unbranded tobacco?

How many grams of unbranded tobacco do you purchase for the average purchase?

What format or formats do you usually purchase unbranded tobacco in?

What is the minimum price that you have paid for loose unbranded tobacco in bags?

What is the average price that you have paid for loose unbranded tobacco in bags?

What is the maximum price that you have paid for loose unbranded tobacco in bags?

What is the minimum price that you have paid for unbranded cigarettes in cartons?

What is the average price that you have paid for unbranded cigarettes in cartons?

What is the maximum price that you have paid for unbranded cigarettes in cartons?

What is the minimum price that you have paid for unbranded cigarettes in packs?

What is the average price that you have paid for unbranded cigarettes in packs?

What is the maximum price that you have paid for unbranded cigarettes in packs?

How much would you say that you smoke per day of unbranded tobacco?

The most recent time you purchased unbranded tobacco what format or formats was it?

How much loose unbranded tobacco did you buy? (In grams)

How much did it cost in total?

How long ago was your most recent purchase of loose unbranded tobacco?

Well, can you provide an estimate of when your most recent purchase of loose unbranded tobacco was?

How many cartons of unbranded cigarettes did you buy?

How much did it cost in total?

How long ago was your most recent purchase of unbranded tobacco in cartons?

Well, can you provide an estimate of when your most recent purchase of unbranded tobacco in cartons was?

How many packs of unbranded cigarettes did you buy?

How much did it cost in total?

How long ago was your most recent purchase of unbranded tobacco in packs?

Well, can you provide an estimate of when your most recent purchase of unbranded tobacco in packs was?

How do you usually consume unbranded tobacco?

How many suppliers have you ever purchased unbranded tobacco from, since you turned 18?

Do you find unbranded tobacco easier or harder to obtain than a year ago or has there been no change?

If you cannot get unbranded tobacco do you not smoke or do you purchase duty paid tobacco products?

Why do you smoke unbranded tobacco?

Do you know the country of origin of the unbranded tobacco that you purchase?

Where does it usually come from?

Contraband cigarettes are legitimate brands of cigarettes purchased in shops without duty paid.

Are you aware that contraband cigarettes can be purchased?

How did you become aware of the availability of contraband cigarettes?

Since you turned 18, have you ever purchased contraband cigarettes?

Do you purchase contraband cigarettes for your own use currently?

Have you purchased contraband cigarettes in the last 12 months?

If you think you might have purchased contraband cigarettes, which brand(s) was it? Any others?

What would you do if contraband product were not available where you usually purchase it from? (Options provided)

How would you rate the overall quality of the contraband product(s) you purchase compared to the non-contraband version(s)?

Counterfeit cigarettes are packs of cigarettes labelled with a brand name that are not really that particular brand. They have been smuggled into the country without duty paid.

Are you aware that counterfeit cigarettes can be purchased?

How did you become aware of the availability of counterfeit cigarettes?

Since you turned 18 have you ever purchased counterfeit cigarettes?

Questions asked by the consumer survey (cont.)

A12 Roy Morgan Research questionnaire (cont.)

Do you purchase counterfeit cigarettes for your own use currently?

Have you purchased counterfeit cigarettes in the last 12 months?

If you think you might have purchased counterfeit cigarettes, which brand(s) was it? Any others?

What made you believe the cigarettes were counterfeit?

What would you do if counterfeit product were not available where you usually purchase it from?

How would you rate the overall quality of the counterfeit product(s) you purchase compared to the non-counterfeit version(s)?

You have indicated that you have bought counterfeit product. What does the availability of the brand(s) in counterfeit form make you feel? (Options provided)

You indicated that you would feel more negative towards the brand knowing that it is available in counterfeit, can you please explain why you feel this way?

What would you do if counterfeit product were not available where you usually purchase it from? (Options provided)

How would you rate the overall quality of the counterfeit product you purchase compared to the real legitimate brand?

The most recent time you purchased counterfeit cigarettes, did you buy them by weight, by packs, or by cartons?

When you bought the counterfeit cigarettes by weight, how much did you buy?

How much did it cost in total?

How long ago was your most recent purchase of counterfeit cigarettes by pack?

When you bought the counterfeit cigarettes/carton, how much did you buy?

How much did it cost in total?

How long ago was your most recent purchase of counterfeit cigarettes by carton?

Do you find counterfeit cigarettes easier or harder to obtain than a year ago or has there been no change?

Why do (or did) you smoke counterfeit cigarettes?

The most recent time you purchased contraband cigarettes, did you buy them by weight, by packs, or by cartons?

When you bought the contraband cigarettes by weight, how much did you buy?

How much did it cost in total?

How long ago was your most recent purchase of contraband cigarettes by weight?

When you bought the contraband cigarettes by pack, how much did you buy?

How much did it cost in total?

How long ago was your most recent purchase of contraband cigarettes by pack?

When you bought the contraband cigarettes by carton, how much did you buy?

How much did it cost in total?

How long ago was your most recent purchase of contraband cigarettes by carton?

Do you find contraband cigarettes easier or harder to obtain than a year ago or has there been no change?

Why do (or did) you smoke contraband cigarettes?

It is sometimes possible to purchase cigarettes for less than the normal retail price. The price of these 'cheap cigarettes' is several dollars or more below the normal retail price, (for example, a price of AUD10 or less for a pack of 25, or AUD8 or less for a pack of 20).

Before today, were you aware of packs of cheap cigarettes that can be purchased for less than the normal retail price?

Since you turned 18 have you ever purchased cheap cigarettes for your own use?

Do you purchase cheap cigarettes for your own use currently?

Have you purchased cheap cigarettes for your own use in the last 12 months?

How did you become aware of the availability of cheap cigarettes?

If you think you might have purchased cheap cigarettes, what brand(s) were they?

What would you do if cheap cigarettes were not available where you usually purchase them from?

What did you do if cheap cigarettes were not available where you usually purchased them from?

How would you rate the overall quality of the cheap cigarettes that you have purchase(d) compared to the full price product(s)?

The most recent time you purchased cheap cigarettes, did you buy them by packs, or by cartons, or both?

When you bought the cheap cigarettes by pack, how many packs did you buy?

How much did it cost in total?

How long ago was your most recent purchase of cheap cigarettes by pack?

When you bought the cheap cigarettes by carton, how many cartons did you buy?

How much did it cost in total?

How long ago was your most recent purchase of cheap cigarettes by carton?

From what outlets do/did you usually buy cheap cigarettes?

Questions asked by the consumer survey (cont.)

A12 Roy Morgan Research questionnaire (cont.)

Do you find cheap cigarettes easier or harder to obtain than a year ago or has there been no change?

Why do (or did) you smoke cheap cigarettes?

Why did you stop smoking cheap cigarettes?

You have indicated that you have purchased either contraband or counterfeit cigarettes in the past. Sometimes people refer to contraband or counterfeit cigarettes as 'cheap' cigarettes. These people may or may not know that the 'cheap' cigarettes are contraband or counterfeit.

Whilst you are familiar with the terms contraband and/or counterfeit, do you also know contraband or counterfeit cigarettes as 'cheap' cigarettes?

Do you purchase rolling papers, tubes, or both for the purpose of smoking loose tobacco?

When you purchase rolling papers for smoking loose tobacco, what is the once pack size of rolling papers you usually purchase?

What percentage of that pack of rolling papers do you use before the pack is damaged, lost or discarded? (Options provided)

In the past 12 months, how often did you purchase rolling paper?

When you last purchased rolling paper, from which outlet or outlets did you buy it?

What is your regular brand of rolling paper, that is, the one you use more than any other brand now-a-days?

When you purchase tubes for smoking loose tobacco, what is the one pack size of tubes you usually purchase?

What percentage of that pack of tubes do you use before the pack is damaged, lost or discarded? (Options provided)

In the past 12 months, how often did you purchase tubes for smoking loose tobacco?

What is your regular brand of tubes for smoking loose tobacco, that is, the one you use more than any other brand now-a-days?

When you last purchased tubes for smoking loose tobacco, from which outlet or outlets did you buy it?

Have you travelled outside of Australia in the last 6 months?

Did you bring back any manufactured cigarettes or any other tobacco products to bring back to Australia on any of your trips to other countries in the past 6 months?

How many trips in the last 6 months did you make where you purchased manufactured cigarettes or any other tobacco products to bring back to Australia?

For each type of product listed below, indicate how much you brought back into Australia on average per trip? (Options provided)

In which countries did you buy manufactured cigarettes/any other tobacco products?

Did you buy duty free manufactured cigarettes or any tobacco products at the airport or port on your return to Australia after any of your trips to other countries in the last 6 months?

How many trips did you make in the last 6 months where you purchased duty free manufactured cigarettes or any other tobacco products on your return to Australia?

For each type of product, indicate how much you purchased in duty free on average per trip.

In the last 12 months have you received or purchased any manufactured cigarettes or roll your own tobacco that was posted from abroad?

What one type of tobacco product did you receive most recently?

When did you last receive manufactured cigarettes or roll your own tobacco from abroad?

How much did you receive? (Please enter a 0 if you did not receive any of that type of product.)

From which countries were the manufactured cigarettes or roll your own tobacco posted from?

On your most recently received manufactured cigarettes or roll your own tobacco, did you declare it to customs or pay any additional taxes?

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