

Victorian Tobacco Control Strategy 2008–2013 Consultation Submission

Cover sheet

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Confidential Yes No

Please indicate if you are:

- A person under the age of 18
- A representative group or organisation of businesses that sell tobacco products
- An owner or manager of a business that sells tobacco products
- An employee of a business that sells tobacco products
- A professional association or non-government organisation
- Involved in the tobacco industry in an area other than retailing
- A health group or organisation
- A health or medical professional
- A teacher, educator or youth worker
- A representative of a union
- Involved in the advertising industry
- An interested member of the public (please indicate your smoking status below)
Current smoker Ex-smoker Never smoked
- Other (please specify) _____

Additional comments included? Yes (please attach) No



Submission To The Victoria Tobacco Control Strategy 2008-2013

Master Grocers Association Australia (MGA) commends the Victorian Government for its initiative in introducing the Victorian Tobacco Control Strategy 2008- 2013 (the Strategy) and welcomes the opportunity to make comment on the contents of the document.

MGA is a National Employer Industry Association representing Independent Grocery and Liquor Supermarkets in Victoria, New South Wales, ACT, Western Australia, Tasmania, Queensland and the Northern Territory. Independent Supermarkets trade under brand names, such as IGA and FoodWorks, and they range in size from small, to medium and large businesses.

Independent Supermarkets play a major role in the retail industry and make a substantial contribution to the communities in which they trade. In Australia there are 2100 independently owned supermarkets employing over 70,000 full time, part time and casual staff, representing \$12 billion in retail sales.

In Victoria the MGA has 538 members generating approximate sales of \$3.76 billion and employing 21,700 staff.

Many MGA members are small family businesses, employing 25 or fewer staff.

MGA agrees with the Government that the public should be discouraged from smoking in the interests of health and well being and therefore supports a regulatory framework which acts as a deterrent to taking up the smoking habit. MGA also agrees that families should be protected from the harmful effects of smoking products and agrees with the principle of protecting children in particular.

However, MGA believes there are a number of issues raised in the Strategy that could adversely affect the businesses of independent supermarket retailers and we have addressed these issues in this submission. Please note that MGA has not commented on all the issues raised in the Strategy.

Once again MGA thanks the Government for delivering this initiative in Victoria and looks forward to the Strategy outcomes.

Jos de Bruin

A handwritten signature in black ink, appearing to read "Jos de Bruin". The signature is stylized and cursive, written over a horizontal line.

CEO
Master Grocers Australia
18 September 2008

Submission To The Victoria Tobacco Control Strategy 2008-2013

Part A: Reforming tobacco point – of – sale displays in retail outlets

MGA submits responses to the following questions

Which of the following options do you support and why?

- (a) A complete ban on tobacco point of sale displays.
- (b) Restricting point of sale display to 1 square meter.
- (c) How much time would Victorian businesses require to adapt to these changes?

(a) A complete ban on tobacco point of sale displays

MGA opposes a complete ban on tobacco point of sale displays. MGA believes that rather than implementing a system that would require a retailer to engage in clandestine measures which involve hiding smoking products from view it would be more beneficial for the Government to promote a high level, rigorous and open education program on the dangers associated with smoking. Alternatively, MGA believes that the Government should continue to use education as a means of assisting future generations of Australians to avoid health risks by not becoming addicted to the smoking habit.

A measure to conceal tobacco products from view is no doubt based on the premise "out of sight, out of mind," which might become a deterrent to taking up the smoking habit. Hiding products from sight will not overcome the natural curiosity of children, to seek out anything that is secreted away. Any proposal to ban tobacco products from sight will foster secrecy and suspicion of what "lies behind closed doors" and taking measures to conceal items could have the opposite effect of what they are intended to achieve.

It would be of greater value to the youth of Australia to be open and honest about the availability of any product, whether harmful or not, rather than resorting to acts of subterfuge and secrecy that are likely to accomplish very little. Therefore, MGA supports continuous promotion of the dangers of smoking in school and community programs as being much more beneficial than engaging in simply hiding tobacco products from view.

When considering the concealment of smoking products there is also a need to take into account the right of adults who have made a choice to engage in smoking. An individual has a right to make a free and open choice about the purchase of a legally saleable item, and to hide such items from view is simply making difficulties of access which are unlikely to be appreciated.

The concealment of a legally saleable item is unlikely to have the desired effect which the government is seeking to achieve. The only likely result would be to create an inconvenience for a potential purchaser and a lack of visibility is unlikely to be a deterrent in persuading a consumer not to smoke. It will also cause problems for staff who have to deal with annoyed customers and also require the retailer to implement additional staff training.

(b) Restricting the point of sale displays to one square meter.

The restriction of the point of sale displays of tobacco products to a defined area is unlikely to reduce or eliminate smoking in the community. It is questionable whether confining the point of sale of tobacco products to a lesser space is going to achieve the deterrence value that the Government is trying to achieve

Any proposed legislative amendments to create inconvenience to obtaining tobacco products would undoubtedly place greater practical difficulties on the retailer, not on the consumer. The retailer will also be faced with unprecedented practical difficulties in complying with the proposed laws.

MGA urges the Government to be mindful of the increasing service levels for staff and the need to spend more time with a customer as transactions would no longer be simple and efficient. Employees are likely to have to deal with irate customers who find themselves restricted from readily obtaining tobacco products because they are restricted from view.

(c) How much time would Victorian businesses need to adapt to these changes?

The proposed laws will place a legal responsibility on retailers to engage in hiding tobacco products and training staff on compliance requirements. MGA believes that if the Victorian Government proceeds with amendments to legislation requiring that retailers structurally alter their stores then it is placing the burden of responsibility in the wrong place. Responsibility lies with the Government to provide educational programs to deter individuals from taking up the smoking habit, rather than requiring retailers to be burdened with the additional costs that these proposed laws will inevitably impose on them.

The logistics of having to make structural alterations in a supermarket in order to comply with the laws will be problematic for independent supermarkets. There will be considerable costs involved in making changes to the front end of the stores. Existing fixtures and fittings may need to be removed, and in some cases a complete restructuring of the store's front end may be required. Such an exercise could cost thousands of dollars.

The actual time and cost of making structural alterations to a store in order to comply with new laws will depend on the size of the store. Tobacco products are usually sold at the front end of the supermarket and it is this area that will need to be redesigned in order to ensure compliance. This is likely to result in considerable disruption to the business of the store depending on the extent of the renovations. A number of factors need to be taken into account including obtaining the advice of planning and design consultants, acquiring the materials that will be required to undertake rebuilding and the availability of builders to complete the change. The time frame is difficult to estimate but renovations could take place over a number of weeks or even months.

Any structural change to a building would not be an easy or inexpensive undertaking. There will undoubtedly be loss of business and there will be a high cost to the retailer if these changes to the laws are implemented.

Part B Review of the penalties prescribed in the Tobacco Act.

MGA submits responses below to the following questions:

- (a) What aspects of legislative compliance should be prioritized when reviewing the enforcement of the Act?
- (b) Should infringement and maximum penalties be increased?
- (c) How can minors be further prevented from purchasing tobacco products?

(a) What aspects of legislative compliance should be prioritized when reviewing the enforcement of the Act?

The sale of cigarettes to children and persons under the age of 18 years is illegal but also a serious community issue which is condemned by MGA and all its members.

MGA supports the current penalties that exist for compliance with the Tobacco laws. MGA continually works with its members to ensure that there is compliance with the laws relating to the sale of tobacco products to children. The independent supermarkets throughout Australia place enormous emphasis on their local community responsibilities and they engage in a range of activities to support their customers and their children. Many retailers work with the local schools,

offering work opportunities and supporting school programs and they would welcome any opportunity to participate in any anti smoking campaign.

MGA supports the continuing education of the community and the industry in regard to the sales of tobacco products, particularly in relation the sales of tobacco products to minors. MGA has strongly promoted compliance with the Victorian laws that restrict the sale of tobacco products to under age persons and will continue to do so. MGA and its members view compliance with the laws in regard to the sale of cigarettes to children as a high priority.

(b) Should infringement and maximum penalties be increased?

MGA does not support an overall increase in penalties in the legislation.

It is questionable as to whether increasing penalties will necessarily act as a deterrent to the few recalcitrant retailers who choose to disobey the law.

The current penalties of approximately \$5500 for selling tobacco products to persons under the age of 18 years and \$2500 for purchasing smoking products for a person under the age of 18 years are stringent and effective. A person who repeatedly breaks the law by selling tobacco products to persons under age will not be able to sell tobacco products at the premises or at any new premises within a 5 k radius, for a period of 3 months. However, if a person repeatedly flouts the law MGA submits that the Government may consider disallowing a person to sell tobacco products completely, rather than disallowing sales of tobacco products for a period of 3 months.

It is noted that the Government has introduced a negative licensing system and MGA supports the continuation of this system.

MGA does not support the introduction of a formal licensing system as Supermarket retailers are already burdened by a plethora of regulations and "red tape" and a licensing system would simply add another compliance measure. Apart from the cost of a license the retailer will also be subjected to the inevitable paper work that accompanies it.

The introduction of a licensing system will simply add an additional regulatory compliance burden, which is unlikely to reduce the consumer demand for smoking products.

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