

26 April 2016

Consumer Property Law Review
Policy and Legislation Branch
Consumer Affairs Victoria
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Issues Paper: 2 – Owners Corporations

INTRODUCTION

Imperial Tobacco Australia Limited (ITA) welcomes the opportunity to participate in the Victorian Government’s consultation with respect to the Consumer Property Law Review (Issues Paper No. 2 – Owners Corporations).

Imperial Tobacco Australia (ITA) is an Australian-based wholly owned subsidiary of Imperial Tobacco Group PLC, the world’s fourth largest international tobacco company.

ITA entered the Australian market in September 1999 at the request of the ACCC to ensure that competition was maintained following the global merger between British American Tobacco (“BAT”) and Rothmans International.

ITA has a share of approximately 30% of the total tobacco market and approximately 60% of the loose (roll-your-own) market in Australia.

The tobacco industry is an entirely legal business contributing billions of dollars in revenue to Australian governments and employing hundreds of people across the country.

For the 2014/15 year, ITA delivered almost \$3 billion to the Federal Treasury through excise duties on tobacco products (excluding GST). We employ approximately 360 people in Australia and makes further contributions to government through corporate taxation, employment taxes and other revenues of approximately \$18 million annually.

We advocate for tobacco control initiatives which are proportionate, reasonable, evidence-based and practicable. We vigorously oppose regulation that is not sensible, practical and measured. We believe that adult consumers have the right to make their own choices.

ITA participates in a range of government consultations that are relevant to our business. We do this on the basis that our views will be considered in an objective manner and that the evidence and views we provide will be properly evaluated, with due regard given to relevant legal and legislative requirements and the principles of best practice regulation.

This submission is with respect to the Model Rules, specifically as it relates to smoke drift.

At the outset, we suggest that any proposal to restrict the behaviour of an individual in their own home, for an activity which is legal, such as smoking, is unnecessary, unjustified and disproportionate.

Any rule which prohibits a person from smoking in their own home has a punitive impact on smokers. We submit that concerns should be resolved through a common sense and common courtesy approach that respects the rights of both smokers and non-smokers.

We do not believe any changes to the current Model Rules is necessary, and prefer approaches that retain and respect the freedom and choice of adults.

Secondly, we believe this to be a discriminatory approach to dealing with adult users of a legal product.

Discrimination, by definition, is the treatment or consideration of, or making a distinction in favour of or against, a person based on the group, class or category to which that person belongs rather than on individual merit.

It is important to remember that tobacco is a legal product. If it is legal to use a certain product, then it should be permissible that one can engage in using that product, in their own home, without fear of being ostracised or of encroachment on other legally validated rights and freedoms.

Adults should have the freedom, in the true sense of the word, to enjoy smoking whilst being aware of the associated risks to their health. Enjoying tobacco products is a decision adults have the right to make and they should be afforded the same degree of respect for their choices as non-smokers.

8.2 Model Rules: Smoke Drift

Should there be Model Rules regarding pets and smoking? If so, should there be a choice of rules such as is allowed in NSW?

Any proposed restrictions on smoking, in an individual's private residence, is disproportionate, unnecessary and unjustified.

There is no justification for banning or regulating smoking in private homes. It is not the role of government or regulators to interfere or attempt to control the private lives of people in this way.

Any rule which prohibits a person from smoking in their own home, has a punitive impact on smokers. Any issues should be resolved through a common sense and common courtesy approach that respects the rights of both smokers and non-smokers.

We do not believe any Model Rule relating to smoking is necessary, and prefer approaches that retain an element of freedom and choice for adults. Any issue relating to an individual smoking in their home should be resolved through measures of common sense and courtesy.

Whilst we support reasonable, proportionate and evidence-based regulation, smoking restrictions in the privacy of an individual's home is disproportionate and unreasonable and the proposed restrictions/bans will have an adverse effect on smokers.

There are already heavy restrictions which limits the places adults are permitted to smoke a cigarette. It would be impractical (and dangerous), for an individual to have to leave their own home to have a cigarette and it could force them to smoke in areas where there are non-smokers, such as the footpath or car park of their property.

Smokers are adults and are entitled to make choices about whether they wish to smoke. ITA reiterates our concern that any such rule is designed to harass and stigmatise smokers who have made a choice to use a legal product. Such regulation is distinctly disproportionate to any desired outcome.

We recognise that it is the role of governments to provide the general public with clear and consistent messages about the health risks to smokers that are associated with their smoking. We do not challenge those messages.

There is no health justification for this proposal, and it will only serve to stigmatise a section of society for no quantifiable benefit. ITA believes the potential risks

associated with smoking are already well documented. De-normalisation is not a valid concept to justify this proposal, and we strongly believe that adult smokers and smoking should not be treated in this way.

Smokers and non-smokers should both be able to enjoy the privacy of their own homes. By removing the ability for smokers to enjoy a cigarette, a legal activity, you will be effectively discriminating against this group.

SUMMARY

In summary, ITA does not support the introduction of changes to Model Rules regarding smoking in private residences.

Imperial Tobacco Australia Limited (ITA) recognises that it is the role of governments to provide smokers with clear and consistent messages about the health risks associated with their smoking and we do not challenge those messages. However we believe that adults should continue to be allowed to make a choice as to whether or not to smoke in the privacy of their home.

Please feel free to contact me on (02) 9881 0771 if I can provide any clarification or additional information regarding the above points.

Yours sincerely,

Michelle Worsley
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