

Australian Association of Convenience Stores

**Indicative regulatory cost analysis of
proposed tobacco retail display ban
for NSW**

5 May 2009

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1 Introduction

1.1 Purpose of this report

This report has been prepared for the Australian Association of Convenience Stores to provide an indicative regulatory cost analysis of the tobacco retail display bans (RDB) in New South Wales (NSW), Western Australia and Victoria.

The objective of this exercise is to identify the likely regulatory costs associated with the introduction of a RDB on convenience stores. The focus of the measurement in this study is on the incremental, ongoing administrative burden. However, estimates are not calculated in a manner which provides statistically robust data, rather, they should be used to illustrate the scope and scale of potential costs.

This report provides the AACS with an indication of the costs associated with the draft RDB regulations released for NSW. The information contained in this report is based on targeted snap shot of convenience stores in Metropolitan Sydney based on face-to-face interviews with convenience store operators undertaken in late April 2009. The costs identified in this report relate to the one-off costs associated with compliance with and ongoing costs resulting from changes in operations that may result from the draft RDB regulations in NSW.

The initial focus of our work has been on the potential compliance cost impact on convenience store operators in NSW. The material contained in this progress report will be developed further as the analysis is extended to include Victoria and WA. One of the issues to be scoped as part of this additional work will be the additional costs that may be faced by convenience store owners who operate across several jurisdictions (i.e., differing regulations across jurisdictions and different implementation timeframes).

The impact of the proposed RDB regulations in NSW was also considered for duty free operators as part of this initial phase of the project. Due to the significant differences in the nature of business undertaken in duty free stores compared to that in convenience stores (“cash and carry”), it has been agreed with the AACS that the impact of the retail display ban and indicative estimate of costs will be considered separately from convenience stores.

1.2 Retail display ban: policy objective and proposed regulatory approach

New South Wales: Public Health (Tobacco) Act 2008

The *Public Health (Tobacco) Act 2008* (the ‘Act’) regulates the conduct of tobacco retailers and suppliers in NSW. The recently amended Act seeks to reduce the incidence of smoking and consumption of tobacco and related products particularly by young people. One method through which the Act addresses this objective is to regulate the display of tobacco products and non-tobacco smoking products in stores.

Specifically, the Act legislates that once the lead-in period has ceased, retailers stocking tobacco and tobacco related products must ensure that visual displays of these products are obscured from the view of the general public both inside and outside the premises. Further, tobacco and tobacco related products may only be sold from a single point of sale within each outlet, where ‘point-of-sale’ is defined by the presence of a single cash register. Special exemptions are granted to specialist tobacconists. The NSW Department of Health estimates that there will be approximately 400 tobacconists who will qualify for this exemption¹.

¹ New South Wales Department of Health (2009), *Public Health (Tobacco) Regulation 2009* Regulatory Impact Statement

Such legislation is already in place in many other countries such as Iceland, Thailand and several provinces in Canada. Further information on the changing global and Australian policy environment is provided in Appendix A.

Public Health (Tobacco) Regulation 2009: public consultation draft

This Regulation will be made under the *Public Health (Tobacco) Act 2008*, including sections 9 (2) (c), 14 (1), 16, 39 (2) and 58 (the general regulation-making power) and clauses 1 and 5 of Schedule 1.

Part 3 of the regulation prescribes material which may be displayed which relate to the sale of tobacco on the premises at the point of sale. Specifically, this refers to pricing boards and tickets, both of which must comply with a set of rules governing their size and appearance as outlined in the regulation. This pricing information is to be displayed along side health warning boards at the point of sale.

The Act specifies varying lead in times for different retailers. Retailers who employ more than 50 members of staff are given six months to comply with the retail display ban from July 2009. Those with less than 50 employees are given a year, while specialist tobacconists are granted a further three year grace period.

1.3 Approach

The data on compliance costs was gathered through a set of face-to-face interviews with a sample of convenience store operators in New South Wales. The sample of interviews was sourced from convenience stores ranging from small to large in size as well as from different models of ownership.

The interview format required that interviewees first estimate the costs of changing the store layout including the construction of a new storage unit for tobacco products and reconfiguration of the currently existing display space. Operational costs were also estimated, including training costs, transaction time costs, occupational health and safety costs, sales attrition costs and staffing costs.

An indicative costing of the administrative burden necessitated for retailers to comply with the changing legislation is derived in this study through the approach adopted for the Victorian Standard Cost Model (Appendix F in the *Victorian Guide to Regulation*).

The focus of the measurement in this study is on the incremental, ongoing administrative burden. The indicative cost estimates are designed to provide indications of the scale of burdens, and to develop a strong understanding of the drivers of these costs. However, estimates are not calculated in a manner which provides statistically robust data, rather, they should be used to illustrate the scope and scale of potential costs.

2 Convenience Store Sector

2.1 NSW convenience store sector

The *Public health (Tobacco) Act 2008* applies to all retailers of tobacco products. This study focuses solely on convenience stores and therefore does not represent supermarkets, specialist tobacconists, duty free stores or other vendors such as sports bars and hotels.

There are approximately 1,300 convenience stores in operation in NSW. Two thirds of these stores are from major convenience store groups, that is, Caltex, Coles Express, 7-Eleven, BP,

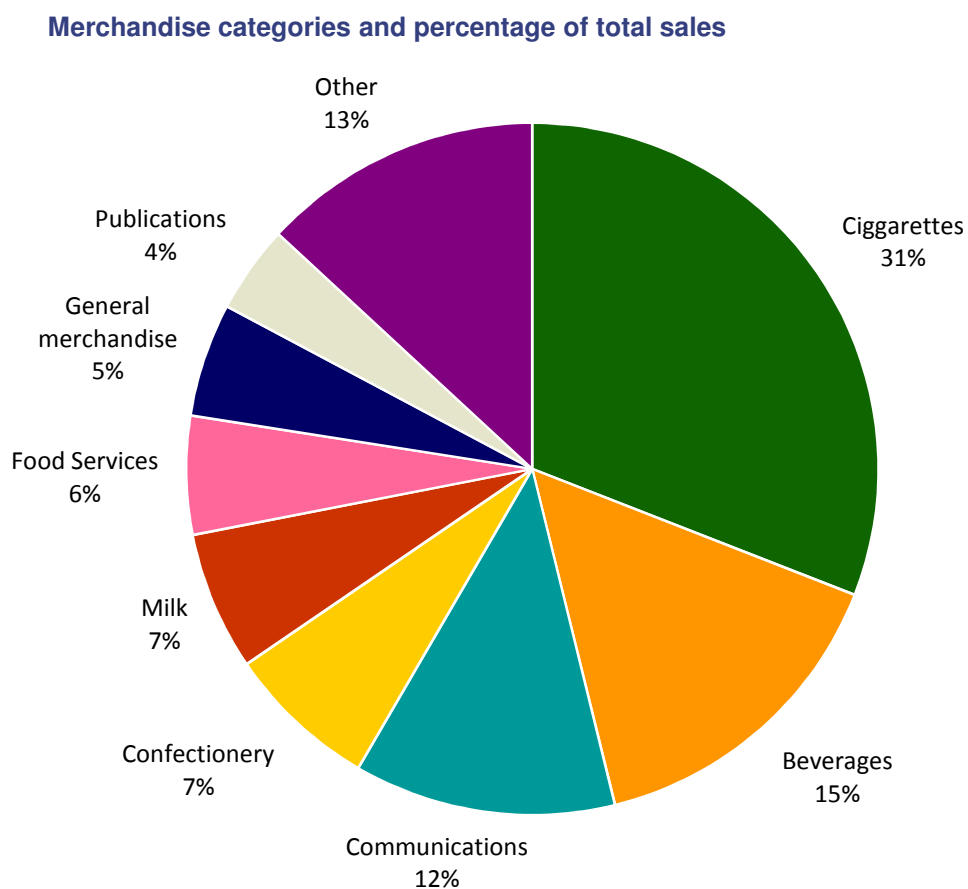
Mobil and Woolworths Petrol, many of which operate across multiple jurisdictions. The remaining one third of stores are independently owned².

The typical convenience store is defined by the following figures:

- ten staff are employed on average by each store³
- staff turnover rate per year is approximately 30%⁴
- the average wage is \$20.00 per hour
- the average number of customers per day is 830⁵.

The average composition of sales patterns is illustrated in figure 2-1. Cigarette sales comprise just over one third of total sales on average.

Figure 2-1: Merchandise categories and percentage of total sales⁶



2.1.1 Classification of convenience stores

Convenience stores can be nominally classified by their size. On advice of the AACS, the following three categories were identified for undertaking this exercise:

- Small: Occupying an area less than 300 m² with 1 to 5 employees.
- Medium: Store size is 300 m² to 600 m² with approximately 5 to 10 staff members

² Nielsen, Coal Consulting Face and Him! For AACS (2007), State of the Industry Survey Australia2007.

³ ibid

⁴ ibid

⁵ ibid

⁶ ibid

- Large: Store size is over 600 m² with 10 to 15 staff members, or potentially more.

A further categorisation was applied for the purpose of this exercise. Again, through consultation with AACS, the following three categories of ownership were identified:

- Category 1: Stand-alone convenience stores (franchised and independently owned)
- Category 2: Independently owned service stations with convenience stores
- Category 3: Convenience stores located in franchised service stations

3 Summary of data collection exercise

One of the primary challenges with any regulatory costing exercise is the collection of robust data on the likely compliance and ongoing costs associated with a new legislation. The challenge arises from the possibility that many businesses may either not be aware of the potential impact of the legislative requirements on their business. For this reason, the data on compliance costs was gathered through a set of face-to-face interviews with a sample of convenience store operators in New South Wales. A face to face discussion enables the interviewer to assist the business owner to both understand the implications of the legislation, the sources and potential scale of costs and data to help the quantification of these costs.

The snapshot was sourced from convenience stores ranging from small to large in size as well as from different models of ownership. Part of the interview process was a confirmation of the classifications identified in Section 2 of this document.

Contacts for interviewees were obtained through AACS. Seven interviews were conducted in NSW, five of which were conducted on shop floors with store owners and managers. Two interviews were carried out with key personnel from the head offices of two larger convenience store franchisers.

The format of each interview, although unscripted, followed a similar sequence of key themes. It progressed as follows:

Table 1: Interview format

Analysis	Method
Presentation of background information	1. Each interview began with a verbal briefing on the legislation and proposed regulation to maintain a consistency of understanding across participants.
One-off cost analysis	2. Interviewees were first asked to nominate possible compliance measures, for example, the installation of drawers or overheads around the point of sale for tobacco storage. 3. Participants provided estimates of the cost of refitting the point of sale area.
Annual Costs	4. Interviewees were asked to describe, in a step-by-step manner, a typical transaction involving the purchase of tobacco. Next they outlined the same transaction except as it would occur under the new legislation. A time estimate was provided under

	<p>each scenario.</p> <p>5. Interviewees outlined current restocking procedures and then new restocking procedures which would be required under the changed legislation. A time estimate was provided under each scenario.</p> <p>6. Interviewees outlined any new training which they felt would be required for employees under the new legislation. They provided a time estimate for how long such training would take.</p>
Cost which could not be quantified	<p>7. The interviewees outlined any other changes they felt would result following the inception of the new legislation. This included items such as behavioural changes in their clients, concerns about occupational health and safety and increased security risks.</p>

4 Indicative estimate of potential compliance costs

The interviews undertaken for this costing snapshot identified three broader areas of potential compliance costs:

- one-off costs
- ongoing costs which can be quantified
- other ongoing costs which are problematic to quantify.

These cost categories are outlined as follows:

4.1 One-off costs

Compliance with this new legislation will require significant reconfiguring of existing shop layouts. This includes costs associated with fitting new tobacco storage units as well as the refitting of old tobacco display units for the purpose of other displays.

Common methods of compliance suggested included the installation of overhead storage compartments or under the counter drawers/cupboards.

4.2 Ongoing costs

Increased transaction time

Compliance with the new legislation is likely to significantly increase the time taken to complete a transaction including the sale of tobacco products.

The following table outlines the steps of a tobacco sale currently, and the probable sales transaction following the implementation of the legalisation:

Table 2: Possible transaction scenarios

These time estimates do not incorporate delays to non-tobacco related purchases from

Current Sale Scenario	Possible Future Sales Scenario	Estimated change in transaction time
Customer views availability of product, asks for product	Customer inquires about availability of a brand	+ 1 to 5 seconds
	Sales assistant searches for stock	+ 5 to 10 seconds
Customer views pricing information	Customer inquires about price and quantity	+ 3 to 5 seconds
	Sales assistant provides information	+ 5 to 5 seconds
	Customer agrees to transaction	+ 1 to 5 seconds
Sales Assistant asks for identification	Sales assistant asks for identification	
Customer produces identification, it is checked	Customer produces identification, it is checked	
Sales assistant gets the product	Sales assistant gets the product	
Customer pays for the transaction.	Customer pays for transaction.	
Sales assistant enters the transaction and receipt is produced	Sales assistant enters the transaction and receipt is produced	
Total estimated increase in transaction time		+ 15 to 30 seconds

queuing or any confusion resulting from customers attempting to purchase tobacco from the incorrect point of sale.

Restocking costs

Stores reported that current restocking procedures often involved staff bringing out cartons of cigarettes, placing them on the counter and filling the stock from the carton to the storage units while simultaneously serving customers. This method of restocking means that cartons of stock and the cigarette stocking area can be left unattended for short periods of time behind the counter while the retailer tends to customers. Restocking was typically reported to occur 2 to 3 times a day.

Under the new legislation, to avoid incidental viewing of cigarettes and tobacco products, store owners thought it likely that a staff member may need to dedicate their full attention to restocking only, meaning that either restocking must occur out of store hours or when more than one staff member is present.

Training costs

Store owners reported that new operation procedures would require an increased level of 'on-the job' training, as well as a revision of existing procedural manuals. Where displays of cigarettes make the product offerings, availability of stock and location of products easy to transact, concealment of the displays will require more effort on the part of the sales assistants. Further, sales assistants must be trained on other compliance issues such as

avoiding all opportunities for incidental viewing (closing drawers and learning new restocking methods) or working solely from a single point of sale.

4.3 Costs which were not quantified

One point of sale

Section 10 of the Act requires that only one point of sale is used for tobacco related transactions. Store owners raised concerns about an incapacity to adequately signal the appropriate register to queue for and the loss of efficiency in service resulting from the division in function of a limited number of cash registers.

Shrinkage of stock

Store owners indicated that the time spent searching for and restocking products stored in a concealed location may detract from the store operator's ability to focus on the shop floor. This could potentially lead to an increase in theft from the shop floor. This was particularly a concern for 24 hour stores, where fewer staff were employed at night increasing the security risk.

Workplace safety

Some retailers described situations where some concealment methods had been trialled which involved the fitting of doors and drawers behind the point of sale. They observed that this new fit out method increased the level of work place accidents.

Change in sales

Operators were concerned that the display ban may lead to a significant channel shift in sales from their stores to the larger supermarkets and specialist tobacconists. Displays are the main method of signalling which lines a convenience store carries. In the absence of display, customers may find it easier to visit larger supermarkets which will stock their preferred product with certainty.

The following table provides indicative estimates of the economic costs associated with these predicted changes. Some costs which could not be quantified are treated as though they were zero, but are listed at the bottom of the table.

Table 3: Indicative cost estimates

	Description of cost	Indicative economic cost per store
One-off costs		
Refitting	<ul style="list-style-type: none"> new tobacco storage area allowing for a new restocking method refitting of area previously used for tobacco stock 	\$5,000 - \$10,000
Ongoing costs (annual)		
Additional transaction time	See Table 2. <ul style="list-style-type: none"> addition of approximately 13-25 seconds per transaction. 200 packets of cigarettes sold on average average staff wage is \$20.00 per hour 	\$6,000 to \$12,000
Restocking	<ul style="list-style-type: none"> staff time dedicated to restocking to avoid incidental viewing increases by 30-60 minutes per day 	\$3,500 - \$7,500
Training	<ul style="list-style-type: none"> new store procedures must be imparted to each staff member- 30-60 minutes of practical training a medium sized store will employ approximately 10 staff. Turn over is 30% (lower bound estimate) 	\$100 - \$300 in the first year with an estimated annual cost of \$30- \$60 for subsequent years
Costs not quantified		
<ul style="list-style-type: none"> additional staff time required when there is more than one point of sale (so that one may be dedicated to the sale of tobacco products) shrinkage of stock due to increase security risk work place injury due to concealed storage methods sales lost through increased transaction time- increased queuing time as a deterrent sales lost to larger supermarkets due to the inability to adequately communicate stock 		

Appendix A

Globally and nationally changing policy environment

Over the past decade a number of different jurisdictions around the world have implemented retail display bans on tobacco products including Iceland and some parts of Canada. A number of Australian states have also signalled that they too intend to introduce such bans. Legislation has already been enacted in New South Wales, Tasmanian and the Australian Capital Territory, prohibiting point-of-sale displays of tobacco products at the retail level.

International examples of tobacco retail display bans

Canada

The Canadian province of Saskatchewan banned tobacco displays in 2005. Since then, seven of the thirteen Canadian provinces have enacted such legislation. Complete bans on the retail display of tobacco products are in place in the Canadian Provinces of Nunavut, Prince Edward Island, Nova Scotia, Ontario, Quebec and, most recently, British Columbia⁷.

Understandably, much of the research pertaining to the impact of point of sale display bans is derived from Canadian data. The United Kingdom Department of Health (DH) reported that data from Saskatchewan shows a statistically significant fall in smoking amongst 15 to 19 year olds following the implementation of the ban. A report produced by the Centre for Economic and Business Research (CEBR) analysed the same dataset against the larger context of Canadian figures as a whole. Their reported results showed the decrease in youth smoking rates reported in Saskatchewan to be lower than that reported for the country as a whole across the same period.

The DH estimated that the cost of refitting a premises as a result of the display ban would cost the store owner £500 (approximately AU\$1,000). The cost was estimated on the basis of low cost compliance options such as the insertion of curtains. CEBR reported that consultations with retailers suggested the one-off payment for refitting came to £5,000 (approximately AU\$10,000) on average.

The DH does quantify some ongoing costs for Canadian retailers who are subject to the ban, suggesting that transactions times have increased by 2 seconds per transaction and that there exist real costs of labour to the maintenance of price lists. CEBR states that the figures provided by DH are ‘underestimates’, and that other costs such as labour time dedicated to restocking must be taken into account in constructing ongoing cost estimates.

Iceland

A national retail display ban was enacted in Iceland in 2001. National smoking rates dropped following the implementation of the ban⁸. There is still no evidence to suggest that this drop

⁷ Cancer Society of New Zealand (2008), Media Release, available online http://www.cancernz.org.nz/Uploads/media_release-tobaccodisplaysonthewayout3April.pdf, last accessed 28.April.2009

⁸ Education and Health Committee (WA) 2008, Inquiry into the tobacco products control amendment bill 2008, Report number 1, 38th Parliament.

was *caused* by the retail display ban, as the derivation of such a conclusion is confounded by the simultaneous presence of changes in prices of cigarettes, income levels and youth unemployment levels. More conclusive evidence would require the assessment of longitudinal data with controls in place for all of these other variables. CEBR did conduct a basic regression analysis on data pertaining to smoking prevalence among 15-19 year olds in Iceland and concluded that the model suggested the cause of decline in youth smoking prevalence had nothing to do with the display ban.

New Zealand

The New Zealand government recently confirmed that they would not be introducing a retail tobacco display ban. Health Minister Tony Ryall noted the Select Committee reported that evidence could not directly link the banning of displays with decreasing smoking rates⁹. Prime Minister John Keys stated that the coalition supports moves to reduce smoking prevalence in New Zealand but did not feel the lack of concrete evidence of the effectiveness of bans did not substantiate the large potential cost of implementing such a measure.

Tobacco retail display bans in Australian jurisdictions

Although none of the jurisdictions have formally tabled their specific regulations for the ban, it is worth noting that each jurisdiction's policy appears to have different implementation periods and will have different specific rules. Some jurisdictions have in place an exemption for specialist tobacconists which also vary between jurisdictions.

Table 1 indicates the current position of Australian states and territories and their position with respect to the introduction of a retail display ban.

Table 4: Retail Tobacco Display Ban- Australian States and Territories

Jurisdiction	Current status	Start date
NSW	New legislation has been accented. Regulations have not been tabled.	Small retailers (under 50 staff) will have 12 months to comply with new regulations and large retailers will have 6 months.
VIC	No legislation has been enacted or introduced to parliament.	1 January 2011
TAS	New legislation has been accented. Regulations have not been tabled.	2 February 2011
ACT	New legislation has been accented. Regulations have not been tabled.	1 January 2010 for retailers and 1 January 2011 for specialist tobacconists.
QLD	Has not announced (or indicated it is considering) a retail display ban.	
WA	A cross-party parliamentary committee recommended that the Western Australian Government introduce a retail display ban.	

⁹ Hon. Tony Ryall (2009), 'Tobacco display ban not on government agenda', accessed online: <http://www.national.org.nz/Article.aspx?articleId=29461> , last accessed 29.04.09

SA	Has not announced (or indicated it is considering) a retail display ban.
NT	Government has announced an intention to introduce a ban but has not set a date or timetable.

Differences between jurisdictions mean that there may be additional compliance costs for retailers who operate across multiple jurisdictions, given it appears each jurisdiction will have different regulations.