

Comments by Cancer Council Victoria on

KPMG LLP report, Illicit tobacco in Australia: 2016 Full Year Report; 20 March 2017

KPMG LLP. Illicit tobacco in Australia: 2016 full-year report. London 2017. Available from:

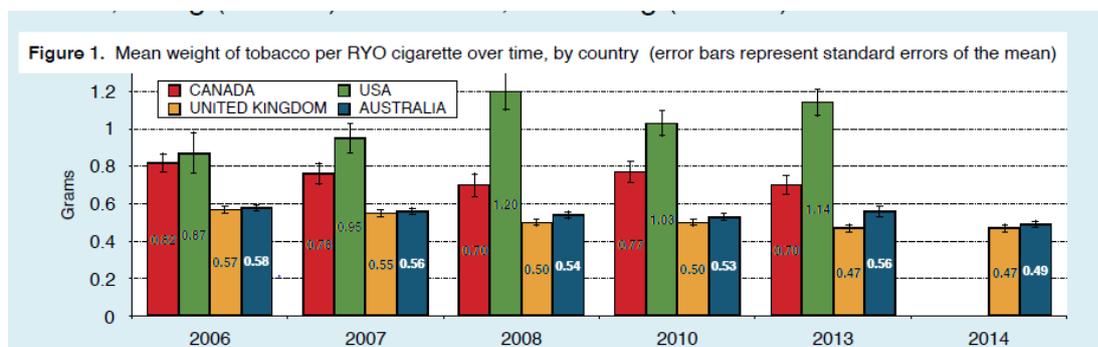
<https://home.kpmg.com/uk/en/home/insights/2017/04/illicit-tobacco-in-australia-2016.html>

This report uses virtually the same methodology as previous reports and all the same difficulties and weaknesses remain.

1. The estimated percentage of smokers using unbranded tobacco are substantially higher than those generated by independent agencies such as the Australian Institute of Health and Welfare (AIHW) – 20.8% of Australian smokers in the Roy Morgan internet survey as opposed to 3.6% in the AIHW survey. It is possible that people who do smoke illicit tobacco and are prepared to participate in the Roy Morgan survey are being recontacted and interviewed in multiple years, so that users' chance of being included in the Roy Morgan illicit tobacco survey are gradually increasing each year.
2. KPMG LLP estimates on the basis of the Roy Morgan survey provided by Australian tobacco companies that unbranded tobacco users are purchasing an average of 192 grams on average 16 times per year, resulting in an average quantity of 3,122 grams of tobacco smoked. This amount of tobacco equates to approximately 6,000 cigarettes per year or 16 cigarettes per day. The average number of cigarettes smoked per day in Australia is fewer than 14 cigarettes meaning that virtually all the smokers in the survey are using unbranded illicit tobacco almost all the time. If one looks around the streets it is patently not the case that one in every five smokers is smoking tobacco out of a plastic bag. The AIHW survey suggests that fewer than 1% of smokers smoke illicit tobacco 'half the time or more'. No information is provided from the Roy Moran survey on the distribution of responses by amount or by frequency (or the relationship between the two). It is likely that the responses to the questions about frequency and quantity are based only on responses of recent users rather than all the users in the sample.
3. Even KPMG LLP itself does not appear to believe its own estimate. Note the increasingly length of the disclaimers that appear on the front of their reports, this latest one reaching 31 lines—reproduced in full at end—which includes the para

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.

4. KPMG LLP uses an estimate of the numbers of cigarette rolling papers sold in Australia in relation to taxed sales of RYO tobacco as a check of its estimate based on the Roy Morgan survey of the amount of tobacco that is untaxed. The KPMG rolling paper analysis assumes that smokers use somewhere between 0.6 and 0.75 gms of tobacco in each rolled cigarette, however a recent survey comparing amounts used in four different countries (ITC data 2006- 2014) suggest that Australian RYO smokers use more like 0.5gms per cigarette, an amount which has declined in recent years. So, up to 50% more rolling papers than KPMG estimates could be being used for rolling cigarettes made from completely legal, taxed RYO tobacco products.



5. The survey of empty packs is conducted only in metropolitan and regional centres, not in country areas where distribution channels for illicit tobacco are likely to be much less developed.
6. The estimate of non-domestic legal consumption does not take into account consumption by smokers on long-term visitor visas such as those on temporary work permits or student visas who are likely to receive packages of their preferred products in the mail, including cases where duty is legitimately paid. Education of Asian-born students in Australia's universities is one of Australia's biggest export industries, and almost all of the cities and towns sampled include universities and/or vocational colleges with substantial numbers of international students. The amounts of declared imports are not included in the KPMG estimate.
7. The KPMG LLP reports, even at face value, provide no support for the proposition that recent tax increases have caused increasing use of illicit tobacco. Estimated amounts used are no higher in 2016 than they were in 2013 before four 12.5% tax increases (1 Dec 2013, 1 Sept 2014, 1 Sept 2015 and 1 Sept 2016).
8. Similarly the reports provide no evidence of plain packages being more easily counterfeited than fully branded cigarettes. Plain packs produced by overseas companies for which the consultants assume (but provide no evidence) that duty has not been paid (so-called illicit plains) constitute less than two-thirds of 1% of manufactured packs found in the survey. The full year 2016 report is the fifth report in a row to report no—repeat ZERO—counterfeited plain packs in the empty pack survey.

None of the counterfeit products found in the Empty Pack Survey were in plain packaging.

9. Note that BAT is no longer contributing funding to the conduct of the study or the production of the report due to KPMG's role as auditor for the RJ Reynolds Tobacco Company, and concerns about compliance with the US Security and Exchange Commission's rules for auditors since BAT has acquired the RJ Reynolds Tobacco Company in the US. While no BATA executive is quoted in the media release, the Australian office of BATA once again is providing contact details for a media spokesperson, has posted the joint company media release on the report on its website (which includes a link to the report) and is using the findings of the report to promote its business interests by calling for a 'national strategy'.

British American Tobacco Australia. National strategy needed to tackle illicit tobacco. 2017. Available from:
http://www.bata.com.au/group/sites/BAT_9RNFLH.nsf/vwPagesWebLive/DOAKQ228?opendocument

As a Party to the WHO Framework Convention on Tobacco Control (FCTC) Australia is committed to ensuring that its public health policies to reduce the human and financial costs of smoking are protected "from commercial and other vested interests of the tobacco industry in accordance with national law" (Article 5.3) . The tobacco industry has been attempting to position itself as a 'partner' of the Australian Government in addressing illicit tobacco while at the same time trying to undermine public health measures such as tobacco excise increases and plain packaging by linking them to illicit trade. The tobacco industry is not and cannot be 'a partner' to the Australian Government. In fact, guidelines to Parties of the FCTC for implementation of Article 5.3 state "Parties should not accept, support or endorse any offer for assistance or proposed tobacco control legislation or policy drafted by or in collaboration with the tobacco industry" (Recommendation 3.4).

10. KPMG LLP itself makes it clear that the Australian Government cannot rely on these industry-funded reports for an accurate assessment of the scale of illicit tobacco in Australia.

This Report has not been designed to benefit anyone except the Beneficiaries. In preparing this Report we have not taken into account the interests, needs or circumstances of anyone apart from the Beneficiaries, even though we have been aware that others might read this Report.

The Government needs an accurate estimate of the scale of use of illicit tobacco and changing patterns of use in order to design and assess the efficacy of its anti-evasion strategies. It is time for the Australian Government to commission more regular, independent monitoring of a range of appropriate indicators of illicit tobacco use to produce up-to-date estimates that it *can* rely upon.

Important notice

This presentation of key findings (the 'Report') has been prepared by KPMG LLP in the UK ('KPMG UK') for Philip Morris Limited and Imperial Tobacco Australia Limited, described together in this Important Notice and in this Report as the 'Beneficiaries', on the basis set out in a private contract dated 16 September 2016 agreed separately with the Beneficiaries.

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.

This Report has not been designed to benefit anyone except the Beneficiaries. In preparing this Report we have not taken into account the interests, needs or circumstances of anyone apart from the Beneficiaries, even though we have been aware that others might read this Report.

This Report is not suitable to be relied on by any party wishing to acquire rights or assert any claims against KPMG LLP (other than the Beneficiaries) for any purpose or in any context.

At the request of the Beneficiaries and as a matter of practical convenience, we have agreed to publish this Report on the KPMG UK website, in order to facilitate demonstration by the Beneficiaries that a study into the matters reported has been performed by KPMG UK for the Beneficiaries.

Publication of this Report does not in any way or on any basis affect or add to or extend KPMG UK's duties and responsibilities to the Beneficiaries or give rise to any duty or responsibility being accepted or assumed by or imposed on KPMG UK to any party except the Beneficiaries. To the fullest extent permitted by law, KPMG UK does not assume any responsibility and will not accept any liability in respect of this Report to anyone except the Beneficiaries.

In particular, and without limiting the general statement above, since we have prepared this Report for the Beneficiaries alone, this Report has not been prepared for the benefit of any other manufacturer of tobacco products nor for any other person or organisation who might have an interest in the matters discussed in this Report, including for example those who work in or monitor the tobacco or public health sectors or those who provide goods or services to those who operate in those sectors.