

# **SELECT COMMITTEE ON PERSONAL CHOICE AND COMMUNITY SAFETY**

**INQUIRY ON PERSONAL CHOICE AND COMMUNITY SAFETY**



**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
WEDNESDAY, 27 MARCH 2019**

**SESSION ONE**

**Members**

**Hon Aaron Stonehouse (Chairman)**

**Hon Dr Sally Talbot (Deputy Chair)**

**Hon Dr Steve Thomas**

**Hon Pierre Yang**

**Hon Rick Mazza**

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## Hearing commenced at 10.25 am

**Mr BRIAN MARLOW**

**Campaign Director, Australian Taxpayers' Alliance, sworn and examined:**

**The CHAIRMAN:** On behalf of the committee, I would like to welcome you to the hearing. Today's hearings will be broadcast. Before we go live, I would remind all parties that if they have any private documents with them, to keep them flat on the desk to avoid them being captured by the cameras.

I require you to take either the oath or the affirmation.

[Witness took the oath.]

**The CHAIRMAN:** You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

**Mr Marlow:** Yes, I have.

**The CHAIRMAN:** These proceedings are being recorded by Hansard and broadcast on the internet. Please note that this broadcast will also be available for viewing online after this hearing. Please advise the committee if you object to the broadcast being made available in this way. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record. Please be aware of the microphones and try to speak into them, and ensure that you do not cover them with papers or make noise near them.

I remind you that your transcript will be made public. If some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in private session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Until such time as the transcript of your public evidence is finalised, it should not be made public. I advise that the publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

Would you like to make an opening statement to the committee?

**Mr Marlow:** Yes, I would. My name is Brian Marlow. I am the campaign director for the Australian Taxpayers' Alliance and for Legalise Vaping Australia. Legalise Vaping Australia is our nation's largest pro-vaping advocacy group, with over 30 000 supporters across each and every state and territory. This grassroots campaign is supported by vapers and vape shop owners alike, who all want to work together towards one clear aim: legalising the sale of nicotine vaping in Australia to help the vaping community, and provide the 2.8 million existing smokers with a far-less-harmful option.

Although previous committee attendees have included health groups and multinational tobacco companies who do not represent the interests of vapers, I would like to extend a thank you to the committee for allowing me to attend today and to provide a voice on behalf of the thousands of vapers who until now have not been heard throughout this debate. They are all former smokers and credit vaping with giving them a way out of tobacco. These are people who suffered through years of addiction and finally found a product that helped them to end their deadly addiction to tobacco. Yet in this state alone, vapers could potentially face a fine of \$45 000 merely for possessing a product that our counterparts in the UK, US, Canada and New Zealand have all managed to legalise with risk-proportionate legislation.

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As a short backstory about why I got involved with this movement, I would like it to be known that I do not vape. During my first job in a mechanics workshop at the age of just 17, I took up smoking. But I am one of the lucky ones who managed to quit that awful habit after seeing the effects it had on my grandmother and my mother. My mother has been a smoker her entire adult life, and took it up when she was just a teenager. Despite going through cancer treatment that almost killed her, my mother continues to smoke. Her addiction is so bad that I have personally seen her picking out old cigarettes from the trash just to find any unburnt tobacco, place it in another cigarette paper and keep smoking. Thankfully, vaping has helped my mother reduce her smoking rates, but because of our archaic laws that force people to purchase their nicotine products online from overseas companies that may not adhere to the consumer standards that we as Australians have all come to expect, she often reverts back to smoking due to a lack of supply. I have a personal stake in this campaign and I have worked on this campaign day in, day out because of that.

[10.30 am]

I am here not just to speak about my family's addiction issues. As mentioned before, the campaign has over 30 000 supporters across Australia who all have similar stories. Our survey of over 962 vapers and supporters tells us that the vast majority of them are former smokers between the ages of 25 to 54. They are from working-class backgrounds and the majority of them have tried quitting through approved methods to no avail. They credit vaping with helping them to kick a habit they never thought they could beat. They have finally done the right thing, and have kicked tobacco products to the kerb and do not ever want to go back. Despite overseas consensus from our closest allies, health groups and regulatory bodies here in Australia continue to ignore them. In addition, it is now clear that Australia's current policies are not helping people quit and Australia's public health is suffering as a result. In this state alone, people are experiencing firsthand the consequences of Australian governments failing to meet the national tobacco strategy targets to reduce smoking rates. Despite millions of taxpayers' dollars spent on anti-smoking advertising, smoking quit rates have flatlined. In Western Australia, the daily smoking rate did not change between 2013 and 2016—at about 12 per cent—and according to the Australian Bureau of Statistics' latest national account, cigarette consumption rose in 2017.

What is clear for smokers, their children and our community is that the same old approach to public health of TV ad campaigns and 1800 numbers is not cutting it anymore. Australia needs to catch up with the rest of the world and help smokers to quit for good, not with expensive TV and print ads, but with a legislative and regulatory regime that supports the sale of nicotine vaping products. Smoke-free products such as e-cigarettes or personal vaporisers are already legal in Canada, New Zealand, the United States and the UK. The UK government's own Public Health England says e-cigarettes are 95 per cent less harmful than smoking and recommends using these products as a quit aid in its official guidance to doctors.

Finally, closer to home, a progressive research organisation, the McKell Institute, has recently published a report on the case for legalisation and risk-proportionate regulation of vaping in Australia. In it, they highlight the urgent need to regulate vaping products as a consumer good, not as a therapeutic good or a medicinal or tobacco product, which is what we and our community of supporters have been arguing in favour of for far too long. More than 60 studies show smoke-free alternatives like vaping and e-cigarettes are less harmful and can help people to quit smoking for good. These products contain far fewer harmful chemicals than cigarettes, because they do not burn tobacco and produce smoke, which is the biggest cancer risk for smokers. In the United States, the National Academies of Sciences, Engineering, and Medicine, the American Cancer Society, and the "Annual Review of Public Health" have concluded that e-cigarettes are substantially less harmful than smoking for smokers and their families and children, who might inhale second-hand smoke. In

spite of all this, these products are currently illegal in Australia. Here in Western Australia, vapers face a \$45 000 fine for trying to quit. But please do not take my commentary as an attack on our quit-smoking efforts. Both major political parties should be commended for tackling the absurdity of the status quo in which cigarettes are legal while nicotine vaping products remain illegal.

There have been some positive steps, and I am pleased to see the WA Liberal Party endorsing these products as a quit aid for smokers. The WA Parliament has also agreed to this committee, which I present at today, to further investigate this issue. However, more needs to be done. It is estimated that smoking-related illnesses cost Australia's healthcare system over \$1.8 billion every year. The UK Royal College of Physicians has warned that Australia's current do-nothing approach will only perpetuate smoking rates and could lead to worse public health outcomes. Conversely, recent modelling published in the *International Journal of Epidemiology* found that legalising vaping in New Zealand was estimated to reduce healthcare costs of up to \$3.4 billion, or \$780 per person.

I believe, our supporters believe, and the 250 000 strong vaping community believe it is time to legalise and appropriately regulate these products to help reduce smoking in Western Australia, help current vapers access better products, and benefit the growing vaping industry, which consists entirely of small to medium-sized businesses and not multinational industries peddling products that kill two in three users. The health of smokers, their family members and the wider community will be better for it.

**The CHAIRMAN:** Thank you, Mr Marlow. Hon Sally Talbot has a couple of questions.

**Hon Dr SALLY TALBOT:** Can we just be sure that we know exactly who you are representing today. Now, you said in your opening statement that you are representing Legalise Vaping Australia.

**Mr Marlow:** Yes, that is correct.

**Hon Dr SALLY TALBOT:** But your submission is on an Australian Taxpayers' Alliance letterhead.

**Mr Marlow:** That is correct.

**Hon Dr SALLY TALBOT:** So, are you both organisations or are they the same thing?

**Mr Marlow:** Yes, so if I could sort of unpack that a little bit. The Australian Taxpayers' Alliance is an advocacy organisation. Legalise Vaping Australia was a campaign that we set up initially as a petition campaign. We thought this is something that we should be behind. Taxpayers fork out a lot of money for the current stop-smoking measures, and we do not believe they are working. So we set this up as an online petition. It has, quite honestly, ramped up far beyond what even we expected.

**Hon Dr SALLY TALBOT:** So, you are here representing not the Australian Taxpayers' Alliance, but the organisation called Legalise Vaping Australia?

**Mr Marlow:** So, I'm representing the Australian Taxpayers' Alliance, who run an initiative called Legalise Vaping Australia, of which I am also the campaign director.

**Hon Dr SALLY TALBOT:** I see.

**Mr Marlow:** So, how I would explain it is, basically, the majority of my time is focused on this legalise vaping campaign, just because of how quickly it has grown and how big it has since become.

**Hon Dr SALLY TALBOT:** I do not want to pry into your private life, but are you on the payroll of the Australian Taxpayers' Alliance?

**Mr Marlow:** That is correct. Yes.

**Hon Dr SALLY TALBOT:** Okay. And so can you explain to members exactly what sort of organisation the Australian Taxpayers' Alliance is?

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**Mr Marlow:** Yes. Essentially, the ATA is a taxpayer group. We represent individuals and taxpayers who we believe have not been given a fair go by governments, and are overtaxed.

**Hon Dr SALLY TALBOT:** So is it a membership-based organisation?

**Mr Marlow:** A membership-based organisation—we subsist entirely on individual donations.

**Hon Dr SALLY TALBOT:** So people pay to join—there is a membership fee?

**Mr Marlow:** People can pay to support whatever campaigns we might be running. They can also support our organisation if they believe that the work we are doing is worth their investment. I am not sure if you have signed up to our newsletter, but if you were, you would be getting a monthly round-up, showing all the things that we are doing, from legalise vaping, to having one of our policy directors have input on taxpayer issues. And we always ask, “Well, if you like what we are doing and you really want to support this, please chip in.” So, we are not a registered charity or anything like that. Every donation that people make is because they believe in it.

**Hon Dr SALLY TALBOT:** Okay. And so you referred at the beginning of your submission to, I think, 30 000 supporters.

**Mr Marlow:** Yes.

**Hon Dr SALLY TALBOT:** I was just trying to get my head around that as well. When I saw that we had the two names associated with the submission, I did a bit of an internet search last night, and I was a bit surprised to see that you have got a number of, I suppose from what you have just described, these might be your other campaigns. So you are also MyChoice? That is on your letterhead as well.

**Mr Marlow:** Yes. The ATA talks about a lot of the taxpayer issues: payroll taxes and things like that. MyChoice, originally—and this was before my time—was set up as a way to try and communicate really complex issues to students, people in student politics, and things like that. That is the purpose of it.

**Hon Dr SALLY TALBOT:** I see. And are you also Menzies House?

**Mr Marlow:** Menzies House is well before my time, so I would not be able to comment on that. I believe it might have been a website or something that was set up.

**Hon Dr SALLY TALBOT:** Was it another campaign or another arm of the organisation?

**Mr Marlow:** I think Menzies House was almost like a blog-posting website for people who wanted to post about taxpayer issues and things like that. But, again, I have been with the ATA for about one and a half years to two years, and that is well before my time.

**Hon Dr SALLY TALBOT:** You have also got a website called Free Speech Australia.

**Mr Marlow:** Yes. So, my understanding with Free Speech Australia is—again, that was before my time—that would have been a landing page to get people to support a free speech movement. We have other campaigns. There is one called our cheap energy guarantee, which we rolled out in response to the national energy guarantee. That is essentially a website and a landing page where people can go and find out about that particular policy and support and get behind that. And if they then want to support the ATA, because the ATA is the one pushing that campaign, well, they are more than welcome to sign up.

**Hon Dr SALLY TALBOT:** So there are a number of campaigns being run under the umbrella of the Australian Taxpayers’ Alliance?

**Mr Marlow:** That is correct.

**Hon Dr SALLY TALBOT:** Can you give us a flavour of what some of those are?

**Mr Marlow:** From the Australian Taxpayers' Alliance, the majority would revolve around taxpayer issues or ways to try and reduce cost-of-living things; for example, the cheap energy guarantee campaign that the ATA is running. Now, I do not personally run that campaign myself. The majority of my time is for Legalise Vaping, but that would be an example. Previously, we have done campaigns on free speech, as you picked up. I mean, hell, we have done campaigns on overturning a ban on having someone come to speak in Australia and things like that.

[10.40 am]

**Hon Dr SALLY TALBOT:** Yes, I have got a couple of others here, and this is just by way of getting a broad picture about who you are representing.

**Mr Marlow:** Yes, sure.

**Hon Dr SALLY TALBOT:** Have you got websites or campaigns called "Abolish the Secret Carbon Tax" and "Stop the UN's refugee rip-off"?

**Mr Marlow:** Those are not separate websites; those are what is called a landing page. If someone wants to go, "What are the current campaigns that the ATA is working on?", they can see exactly a taxpayer issue like "Stop the Secret Carbon Tax", which is essentially a tax on the emissions and stuff of lawnmowers, dirt bikes and all that kind of stuff that will push the prices up on those products. We do not believe that is fair.

**Hon Dr SALLY TALBOT:** I have one quick question about your membership. You referred to 30 000 supporters. Is that specifically for legalised vaping?

**Mr Marlow:** For legalised vaping.

**Hon Dr SALLY TALBOT:** I notice that you have a couple of different numbers on your website, so at one stage you refer to 75 000 members; is that correct?

**Mr Marlow:** Yes, that is for the ATA through all the different campaigns that were run in the past. Those have filtered through and have come to about 75 000, roughly. I mean, it could be slightly more; I have not checked the latest numbers on that. Again, my main focus is legalised vaping.

**Hon Dr SALLY TALBOT:** The lowest number I found was very specific—4 107 other supporters.

**Mr Marlow:** That is actually something that a lot of people get confused about. That is if someone just goes to the ATA website and just wants to sign up to get an email from us. Four thousand people have done that, without seeing, say, a cheap energy guarantee campaign on Facebook or something like that. That is basically 4 000 people who have gone to our website and gone, "Do you know what? I just want to get updates from these guys."

**Hon Dr SALLY TALBOT:** But you would have 75 000 formal members?

**Mr Marlow:** Yes. If I was to log into my NationBuilder account and look at all of our supporters, it would be about 75 000 people for the ATA.

**Hon Dr SALLY TALBOT:** Are you funded exclusively by donations from your membership?

**Mr Marlow:** Yes, from individuals.

**Hon Dr SALLY TALBOT:** Have you got corporate sponsorship as well?

**Mr Marlow:** Kennards Self Storage I believe has sponsored us in the past and things like that.

**Hon Dr SALLY TALBOT:** This committee, as you probably know, because you have been following this inquiry, has heard from a couple of tobacco companies. They are very strongly in favour of this view—basically running the same campaign you are. Have you got any financial support from tobacco?

**Mr Marlow:** No, we are exclusively funded by vapers and people who care about the issue, and vape shop owners. We do not want their support; we do not want their funding. The reason for that, which is something I would like to get into later, is that if you go to a single vape shop in Australia, I promise you, you will not find a product that is produced by those companies. These are business owners—small and medium-sized business owners—that have helped people get away from the products that those companies produce. They do not want their products sold in the shops. So, legalised vaping is supported by the vaping industry, which consists of small and medium-sized businesses.

**The CHAIRMAN:** Let us talk about that a little bit more. In your opening statement, you said that multinational tobacco companies do not represent the interests of the 250 000-strong vaping community in Australia.

**Mr Marlow:** Yes.

**The CHAIRMAN:** Are large tobacco companies like PMI or British American Tobacco providing vape products for vapers in Australia currently?

**Mr Marlow:** Not that I am aware of. I can only base it off what I see from the vape shops that support our campaign. You can actually go to our partners page and see the vape shops that support us. As far as I am aware, I could not think of a single vape shop that would have one of those heat-not-burn cigarettes or anything like that for sale. My understanding is that because of the actual regulatory model we have at the moment, those products cannot be sold here anyway, because they contain nicotine.

**The CHAIRMAN:** In your work do you work closely with vape shops and vape vendors?

**Mr Marlow:** Yes, very closely.

**The CHAIRMAN:** In your experience, where are they sourcing their products from?

**Mr Marlow:** The majority of the products come from either juices that are produced in-house if there is no nicotine, or they produce their nicotine liquids in New Zealand. In terms of the actual mods, the vapes, the battery packs and things like that, those mainly come from China—companies like Innokin, Vaporesso and things like that. Those of the sort of big-ticket items—VOOPOO and those kinds of products.

**The CHAIRMAN:** Again, in your opening statement you spoke about your personal experience with vaping. You do not vape yourself, you do not smoke, but your mother currently smokes.

**Mr Marlow:** She currently smokes.

**The CHAIRMAN:** She has tried vaping?

**Mr Marlow:** Yes.

**The CHAIRMAN:** What exactly has stopped her from transitioning from smoking to vaping entirely?

**Mr Marlow:** It is twofold. The main issue is the supply side. I travel a lot for work. I am regularly not home, and separate to that, I actually live quite far away from my mother. She is in her early 70s and, as a result of cancer and treatment and everything like that, needs a lot of care. The issue for her is that it is very hard for her to have a consistent supply of these products coming in from overseas, and she is just addicted to smoking. She has tried every other method under the sun, including hypnosis, to try and quit, and she has not been able to do it. So, yes, she has reduced her smoking rates by having access to a vape that I got her, but even then, you will probably see later on when we hopefully go through our survey that she is of the age group that do not really interact with vaping. It is very complicated for her. She cannot go down to a local vape shop and get a proper

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education around it, because there are not that many vape shops in Australia, again, because of the regulatory framework we have.

**The CHAIRMAN:** Thank you for sharing that very personal anecdote. The vape shops that exist currently: what kind of service are they able to provide to their customers? Let me be more specific. In Western Australia, there is a prohibition on the sale of anything that resembles a cigarette, so complete vape devices are illegal. What service can a Western Australian vape store provide to somebody who is trying to quit smoking through vaping?

**Mr Marlow:** Almost little to none. It varies from state to state, but in Western Australia specifically, if I wanted to run a vape shop and sell my actual mods, the battery packs, and the liquids, I would have to have two separate ABNs and two separate physical addresses. If a vaper who bought their product online came into that vape shop and said, “Look, I do know how to use this. It’s a bit complicated. I don’t know how to put the coil in. I don’t know how to twist the tank onto the mod and put the liquid in the right way”, that vape shop owner is not allowed to show them how to do it. All they can do is either have a shop that sells the liquids and the tanks or have a shop that sells the actual vape—the mod. They cannot have the same thing in the same store. They cannot put it together for someone who does know how to do it. In other states, they have to cover up and black out not only the vaping products, but their entire shops. They are treated worse than tobacconists. We are essentially telling groups that have got away from tobacco products, which we all agree are bad and kills two in three users, “You have got to black up your windows. And if you dare to show a vaper who’s trying to make a switch how to use this product, someone coming in to do an inspection might put a fine on you.” It is absolutely ludicrous.

**The CHAIRMAN:** Where are vapers currently sourcing the liquid nicotine from?

**Mr Marlow:** Overseas, almost exclusively. How that works can be quite complicated. Most vapers would buy their products from New Zealand. The reason for that is because New Zealand products tend to meet some basic standards. They have childproof caps; they have basic labelling on them and things like that. It takes a couple of days to be shipped over. However, a lot of vapers are working-class people without a lot of money to spend, so some of them actually purchase pure nicotine through eBay or online; they bring that across and then they mix their liquids themselves to make their own concentrates of vaping liquids. There are a lot of pitfalls with that. They may not know how to calculate it properly. They may get pure nicotine on their hands, which can cause poisoning. If the packaging does not have the appropriate childproof cap on it, all things can happen. I believe in Melbourne not long ago an infant died because he got access to vaping liquid and drank it. If we had some basic standards on these products, you could prevent those sorts of things from happening, but we cannot do that unless we legislate these products.

**The CHAIRMAN:** In New Zealand, where vaping has just recently been regulated and legalised, they do have regulations around containers for liquid nicotine?

**Mr Marlow:** I am not across the entire detail of the New Zealand regulatory model—whether they have, “It must meet New Zealand standard such and such for bottle packaging”—but my understanding is that their risk-proportionate regulations that are all-encompassing to try and cover off those sorts of things. These are the things that our supporters want. They want to know what is going into their products and that the bottles they get are safe and things like that.

[10.50 am]

**The CHAIRMAN:** You provided us some survey data on your members. Hon Dr Steve Thomas, do you have some questions about this data?

**Hon Dr STEVE THOMAS:** I do. Call me a technical numbers geek —

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**Mr Marlow:** Yes, that is okay. I love talking numbers.

**Hon Dr STEVE THOMAS:** Okay. What I did not see in there was your distribution. Are we to assume that you distributed this survey to your 30 000 supporter base?

**Mr Marlow:** Yes, we sent this out to every single person that subscribes to our campaign.

**Hon Dr STEVE THOMAS:** Is that 30 000?

**Mr Marlow:** No, off the top of my head, it would be 15 000 people—newsletter subscribers that get our weekly round-ups and weekly updates. The remainder are people that share our content on social media, follow us on social media, across all our different platforms and things like that, that we consider supporters.

**Hon Dr STEVE THOMAS:** So we are suggesting that the distribution number is approximately 15 000?

**Mr Marlow:** Approximately 15 000; it goes up every day.

**Hon Dr STEVE THOMAS:** All right, so you have around about a six per cent return rate probably?

**Mr Marlow:** Yes.

**Hon Dr STEVE THOMAS:** Okay, thank you. In the breakdown on page 3—I guess it will relate to something on the first page, particularly when you do the breakdown of the habits of people currently—the second line is, “I vape and I am a former smoker.”

**Mr Marlow:** Yes.

**Hon Dr STEVE THOMAS:** Did the committee give any thought to perhaps asking about the currency of that? Have you got any information that relates to whether vaping contributed to them being a former smoker because, basically, there is just a number there that says, “I am a former smoker”, but I do not know how many of those people when I analyse this data were former smokers who quit and then took up vaping or perhaps vaping contributed. I would have thought a question along those lines might have been useful. It may not have been thought of at the time.

**Mr Marlow:** Yes, apologies. I am not a pollster, so I probably should have included that as a question to try to really lock in that data. Anecdotally, look, I have met thousands of vapers during this campaign. I have been doing this for about, I think, 18 months now. I am yet to meet, other than maybe a handful of vapers, off the top of my head, that did not smoke before switching to vaping. The reason they switched was because a friend lent them a vape and they found that they did not want cigarettes anymore or they wanted to try to get off it. There were myriad reasons. I can confidently say I think that that would be an accurate depiction of smokers going to vaping, but I take your point that we should have included that.

**Hon Dr STEVE THOMAS:** Yes, as a statistician, I would have looked at that and gone that to me was the step I would have put in there because then I have got your opinion of it, basically. But if your world is numbers, numbers are the bits that never lie or make mistakes, generally speaking.

**Mr Marlow:** I understand.

**Hon RICK MAZZA:** Just on those questions that were asked about people who were smokers of traditional cigarettes who have moved to vaping, have you done any research work or analysis around the people that have started off as vapers and then gone to traditional cigarettes—that it has actually been a gateway to them smoking traditional cigarettes?

**Mr Marlow:** I believe that one of the questions in there is about the gateway, which would have been, “I vape, but have never smoked cigarettes”, so people who have taken up vaping just because.

**Hon RICK MAZZA:** But they have never smoked cigarettes. Is there any question there about someone who has started vaping and then moved to traditional cigarettes?

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**Mr Marlow:** If you can just give me a moment to read through my notes.

**Hon RICK MAZZA:** Yes, sure.

**Mr Marlow:** I do not believe we have that in there; however, I am happy to take that on notice and try to find that out from our supporters.

**The CHAIRMAN:** Do you want to maybe tell us about the gateway effect in general, perhaps, or the evidence out there in other jurisdictions about the gateway effect?

**Mr Marlow:** Yes, sure. Just to dive into my notes here. The gateway effect is essentially the theory—it is a bit two-fold—one, that vaping might attract younger generations to take up vaping, who otherwise were not smoking and might experiment with these products. Again, of the survey that we did, a quarter of a per cent reported that they were underage vapers. Separate from that, though, the CSIRO's own review into vaping had a section that spoke about a gateway theory, and said that it is not really backed up by the evidence. In the UK alone, the Public Health England—if I can just go through my notes for just one moment.

**The CHAIRMAN:** Take your time.

**Mr Marlow:** Their latest evidence update from February 2019 says that while experimentation is increasing—that is someone trying one in the same way that someone might try a beer when they are underage or something like that—vaping amongst young people remains low. Rising experimentation is unsurprising but the crucial point is that we are not seeing a surge in regular use amongst young people, which remains low—about 1.7 per cent and mainly confined to those who already smoke. Only 0.2 per cent of those who have never smoked are regular e-cigarette users. I just want to point back to that. That says only 0.2 per cent over in the UK and our survey is saying 0.24. So it seems to be somewhat accurate.

**The CHAIRMAN:** In the United Kingdom, you mentioned in your opening statement, that the decline in smoking rates has stalled in Australia over the last few years. What has been the overall population rate of smoking in the UK? Has it continued to decline or has it stalled, like Australia?

**Mr Marlow:** It continues to decline. The last set of updates that I saw that were coming out of UK Public Health England were saying that they were crediting vaping with helping 20 000 new quits per year. They are crediting vaping with helping people quit and their smoking rates are continuing to decline. That is not to say that we have not had a good record of reducing smoking rates. It is that we are now at a point where the remaining 12, 13, 14 per cent of smokers are people like my mother that are just addicted. Quit smoking campaigns that tell them that cigarettes are bad, and plain packaging and things like that that have warnings on them to tell them that this will kill you or has a very high likelihood of killing you, is no longer working. We believe that this is an alternative to help reduce those rates even further.

**The CHAIRMAN:** Despite there being a small gateway impact of 0.2 per cent of young people trying vaping, experimenting with vaping and going onto cigarettes, the overall population impact of vaping has not seen an increase in the smoking rates in the UK?

**Mr Marlow:** Yes, that is correct; it has seen a reduction.

**The CHAIRMAN:** Okay, thank you.

**Mr Marlow:** It is the same in New Zealand, America and other countries.

**Hon PIERRE YANG:** Mr Marlow, in your closing paragraph, you said that you believe, your supporters believe and the 250 000 strong vaping community believes in the subsequent passage in the paragraph. On what basis have you formed the view that 250 000 who vape form this belief?

**Mr Marlow:** Sorry, can you explain that?

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**Hon PIERRE YANG:** In relation to how do you come to the conclusion that the 250 000 people believe in the same thing as you believe in?

**Mr Marlow:** I have obviously not met every single vaper in Australia.

**Hon PIERRE YANG:** That is not what I mean.

**Mr Marlow:** I guess am basing it on all the feedback through this campaign we have had from vapers who support us and write into us and give their own testimonials. If I could take the time I would like to read a testimonial from a vaper later. I have not met a single vaper who does not want these products legalised in Australia. There may be a couple who do not just because it benefits them more to buy it overseas at a cheaper rate and ship it in and they do not have to worry about anything and it comes straight to their door. But the vast majority of them support this. As a statistician, if someone is saying: can you say with 100 per cent degree of certainty that every vaper supports this? No.

**Hon PIERRE YANG:** If I get that correctly, you have spoken to a lot of people who are vapers, and you mentioned that you have been doing this for 18 months, so you have been speaking to quite a few people.

**Mr Marlow:** Yes.

**Hon PIERRE YANG:** Fair enough. In the subsequent part of your concluding paragraph, you said that would benefit growing vaping industry, which consists entirely of small-to-medium-sized businesses and not multinational industries peddling products at two in three users. No doubt you have followed this inquiry quite closely. You will have seen that the big tobaccos are very keen to get into this space. Would you modify your statement there?

[11.00 am]

**Mr Marlow:** That statement is based on what currently exists in Australia, which is that Australian vaping shops do not sell tobacco products and they do not want to sell tobacco products. I guarantee that if you walked in tomorrow and said to a vape shop owner, “Can I buy a heat-not-burn device?”, they’d probably tell you to get out of their shop in no uncertain terms. They do not want that product in there. I have been told, and again this is anecdotally, that there was a company called IVG overseas who produced some products and were looking at doing a merger with the tobacco industry. Vape shops in Australia said, “If that’s the case, we’re never going to sell those products.” Currently I can say without a doubt that Australian vape shops are not represented by the tobacco industry at all. To your other question of whether tobacco companies are trying to get in on vaping, the answer is yes. A couple of these companies have said that they are going to produce their own vaping products. My understanding is that they make up maybe 20 per cent of the industry worldwide. This is an industry that came outside of tobacco. It came out as a direct response to tobacco products. I believe that the person who produced the first e-cigarette was a Chinese pharmacist who wanted a way to get nicotine using a less harmful method. From my perspective it is a very reactionary approach from these big companies. We had both of the big players come here and present and get all kinds of media attention, ranting about what they are going to do to legalise their products and this, that and the other. I firmly believe that eventually legalisation is going to happen. My concern is that if the regulatory framework is so stringent that it completely annihilates these small and medium-sized businesses, then the fear that some people have is that it will just become a tobacco industry revenue stream, and that would be an issue. If you overregulate this industry and you shut down the small part-players who make up the majority of this industry in Australia, then those two that we are all concerned about will be the ones that reap all the rewards.

**Hon PIERRE YANG:** So you would agree with me that if vaping is legalised in Australia that it would also benefit big tobaccos?

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**Mr Marlow:** Yes, if vaping was legalised in Australia, tobacco companies are going to try to sell their products. Their products are not very good. I do not know if this is done under parliamentary privilege or if I can get in trouble for saying that their products suck.

**Hon PIERRE YANG:** I think you will be fine.

**The CHAIRMAN:** It does not sound defamatory so I think you are okay.

**Mr Marlow:** I do not know if you guys have ever seen a heat-not-burn device. Vapers do not want that stuff. Yes, they will probably try and sell their device to the tobacconist or something like that. A vaper is not going to buy it. They want to buy their own product that works for them.

**The CHAIRMAN:** Just on this question of regulation. You have just told us that you think a tighter or a more burdensome regulatory framework would benefit larger tobacco businesses to the detriment of these small vape shops that exist now. What would be the ideal regulatory framework in your view?

**Mr Marlow:** Risk-proportionate regulation similar to what we have over in New Zealand—regulations that allow these vape shops to exist and produce and sell their products as long as they meet basic packaging standards, as long as they come in the right containers and things like that, as long as they are not sold to people they should not be sold to and there is some basic licensing around that. That is a reasonable set of standards to have if these products were to be legalised here in Australia. An example of overregulation would be—this is a New South Wales example, but in my local vape shop he has to black out his entire shop. People walk past and it looks like a speak-easy, and he has to do that. If people come in and have never vaped before and they want to know the difference between a mouth-to-lung vape or a pod-style vape, he cannot have multiple vapes out on the table to show them how to use it. Whereas I can go to a tobacconist, buy a block of chocolate, a can of Red Bull and a pack of smokes and that is totally fine. It is all open. It is all there. The cigarettes themselves are behind a blacked-out wall or a curtain thing, but everything else is all out in the open. Meanwhile vape shops are treated far worse than tobacconists are in this country.

**The CHAIRMAN:** That is despite the products they are selling not containing any nicotine?

**Mr Marlow:** Their products do not even contain any nicotine, and that is the thing. If you went in there and said, “I want to buy some nicotine leaflets”, they would probably direct you if they have got an online website to buy nicotine from their New Zealand company that they will then ship to you. You cannot get it from that shop. The products do not even have nicotine in them. They contain a nicotine-less vaping liquid and not tobacco products and they have to black out their entire shop. Here in WA, the guy cannot even put the vape together to show someone how to use it.

**The CHAIRMAN:** It has been put to this committee that businesses wanting to sell vaping products should submit their products to the TGA for a TGA-approval process to then bring them to market, as opposed to their being regulated as a consumer product. What would you say to those statements? Do you think there is this any merit in the that?

**Mr Marlow:** No, I do not. The reason for that is that I do not believe anyone is making a therapeutic claim about these vaping products. In the same way that if I go to Coles and I want to buy—I know that food with saturated fats in them are very bad for me and I should not eat them. I can go to Coles and buy a reduced-fat alternative. Did that have to go through the TGA because it is saying that it is less harmful for me? No, it did not. We know that vaping is less harmful and we have extensive evidence from overseas. There are over 60 studies now. You will probably have a little trifold brochure that I designed and had printed about a fortnight ago. It is already out of date. It says 55 studies and we are at about 61 now. The evidence is growing to show that this is a less harmful alternative, but it is not a therapeutic claim. No-one is saying that this will cure you of your ails. No-one is saying that this is a medicine or anything like that.

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In terms of the actual logistics of that process, if small business vape shops had to send their products to the TGA to go through that process, it would cost hundreds of thousands of dollars and they cannot afford that. It would completely crush them. They would never get through that burden. The only companies that will get through that would be tobacco companies because they have billions of dollars. Firstly, it is not a therapeutic claim that is being made by anyone. I cannot think of a single advocacy organisation that would be saying that this is a medicinal product. Secondly, the actual burden involved for vape shops and small business owners that employ five or six people tops—they cannot jump through those hoops; it would destroy them.

**The CHAIRMAN:** Thank you. We are almost out of time Mr Marlow. You provided the committee with a statement by Haley, a WA vaper. Did you allude to that earlier?

**Mr Marlow:** Yes, she wants to remain anonymous partly because of the fines here but also because she is travelling overseas at the moment in a country where they have even worse regulations on vaping.

**The CHAIRMAN:** Can you tell us which country that is without revealing —

**Mr Marlow:** She has asked my not to do that. However, I will read her statement —

I am a 35 year old mother of two and I had struggled, on and off, with a cigarette habit for 13 years. It started at age 21 when my boyfriend died unexpectedly, and I was offered a cigarette to give me “calm’.

For years I tried every quit-method out there, gum, patches, sprays, hypnotherapy, Champix and Allen Carr’s books. I never had quit success of more than a week with any of these methods. At the worst of times I would be smoking around 15 cigarettes per day. In August 2017 whilst living in Europe I made an informed choice to try vaping, and for the first time in all these years I’ve not been tempted by cigarettes even for a second.

I bought my e-cigarette and nicotine e-liquid (in a vape shop where I was able to try out different flavours to find one I enjoyed and get comprehensive advice on using the product), set it up, threw away the cigarettes and never looked back. That was 19 months ago.

I’ve also helped my father and sister, both heavy smokers of two packs a day, to quit with vaping. It took them less than a week to make the full transition. They both quit cigarettes a year ago and neither have smoked since.

I’ve become a firm believer that vaping can save millions of lives. I am living proof that this is the best way to quit cigarettes without all the horrendous withdrawals all smokers are so afraid of facing. I’m so happy to finally be free of that cancerous habit.

**The CHAIRMAN:** Was there anything you wanted to add to that statement, Mr Marlow?

[11.10 am]

**Mr Marlow:** That is just one statement, and I understand that statistically it is probably anecdotal, but we have hundreds of these statement from our vapers. We have thousands of people that send messages to our Facebook page saying, “Thanks so much for doing this work. This is the only thing that helped me.”

I have just one other example. When we first launched our campaign and went out and did a lot of on-the-ground campaigning, the most memorable person I ever met was a guy who was a full-time truckie. I met him in Coffs Harbour. He smoked two packs of 40 cigarettes a day when he was on the road. He quit through vaping by accident, because a mate lent him a vape at a barbecue, he took it home with him, used it for a few days, and then found that he did not really have cravings for cigarettes, and he moved off smoking. He is a working-class guy who is not on a huge income, and he found that he was saving about \$14 000 a year by switching to vaping. It is not just that it is

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helping people to get off tobacco—it is helping them to have more money in their pocket. It helps their families. It helps them to pay rent, mortgages and all that kind of stuff, because they are not slinging out money to something that up until now they have not been able to ever get off. These other products kill people. We have an opportunity to give these people access to something that is less harmful.

We have stacks of evidence. This is just part of it. We have more than 55 studies showing that vaping is beneficial. Yes, there are concerns about certain issues—how do we prevent kids from taking it up, and all that kind of stuff—but the only way we can do that is with a proper risk–proportionate regulatory model. I would just ask that you all consider that.

**Hon PIERRE YANG:** Of the studies you have mentioned, which one is the earliest in terms of the chronological order?

**Mr Marlow:** That is a good question. Off the top of my head, I do not know.

**Hon PIERRE YANG:** What about in terms of the year it was produced?

**Mr Marlow:** I would probably say that the Public Health England report would be one of the earlier ones. I think that goes back to 2014 or something like that, off the top of my head.

**Hon PIERRE YANG:** Could you take that on notice?

**Mr Marlow:** I will take it on notice and get it across to you. I think a good example is that, yes, vaping is about 10 to 15 years old and it takes a while for these studies to come through, but they are coming through at an ever-increasing rate. When I printed this two weeks ago, there were 55 studies. We are now at about 60 or 61. Maybe, if there are more presentations on this at another sitting, there will be 70 studies. It is coming through, guys, and we have to review it.

**Hon PIERRE YANG:** Thank you, Mr Marlow.

**The CHAIRMAN:** Thank you very much for attending today. A transcript of this hearing will be forwarded to you for correction. If you believe that any corrections should be made because of typographical or transcription errors, please indicate these corrections on the transcript. Errors of fact or substance must be corrected in a formal letter to the committee. When you receive the transcript of evidence, the committee will advise you when to provide your answers to questions taken on notice. If you want to provide additional information or elaborate on particular points, you may provide supplementary evidence for the committee’s consideration when you return your corrected transcript of evidence. Thank you.

**Mr Marlow:** Thank you.

**Hearing concluded at 11.12 am**

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