



Western Australia Legislative Assembly

Education and Health Standing Committee

**Inquiry and Consultation on the
Tobacco Products Control Amendment Bill 2008**

**Submission by Master Grocers Australia
28th January 2009**

MASTER GROCERS AUSTRALIA

Master Grocers Association Australia (MGA) is a National Employer Industry Association representing all Independent Grocery and Liquor Supermarkets in Western Australia, Victoria, New South Wales, Tasmania and the ACT. Independent supermarkets trade under brand names, such as IGA, Farmer Jacks 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 2,100 independently owned IGA, Farmer Jacks and FoodWorks supermarkets employing over 70,000 full time, part time and casual staff, representing \$12 billion in retail sales. Many MGA members are small family businesses, employing 25 or fewer staff.

MGA agrees with the Western Australian Government that the public should be discouraged from smoking in the interests of health and acknowledges both the direct and indirect consequences of smoking. We support 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, with the principle of protecting children in particular.

Despite this, MGA submits that there are a number of issues that may adversely affect retailers if the proposed legislation is passed. This submission addresses these issues and provides arguments to the proposed amendments.

MGA welcomes the opportunity to provide a submission to the Education and Health Standing Committee.

Yours sincerely



Jos de Bruin
CEO
Master Grocers Australia

January 2009



Submission to the Inquiry into the Tobacco Products Control Amendment Bill 2008

MGA provides a submission in relation to the following matters:

- A. whether we support or oppose the Bill;
- B. why we are for or against the main thrust of the Bill; and
- C. a summary of the main changes we want to the Bill and why.

A. Whether we support or oppose the Bill

MGA supports the current legislative framework and penalties that exist for compliance with tobacco laws, however, acknowledges the necessity to update this framework in light of the increasing awareness and discovery of health risks related to smoking. In addition, MGA supports the Western Australian Government introducing measures to align the legislation with other States. MGA agrees with the Government that young people should be discouraged from smoking and supports the introduction of a regulatory framework that assists in this objective.

MGA continually works with its members to ensure that there is compliance with the laws relating to the sale of tobacco products. 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.

As noted in the Explanatory Memorandum, the Bill addresses three main issues:

1. the prohibition of smoking in cars if a young person is present;
2. the prohibition of displaying tobacco products at point of sale;
3. the prohibition of smoking in al fresco areas, outdoor playing areas and safe swimming areas.

In relation to these areas, MGA supports the regulation of both smoking in cars and al fresco areas. We recognise the importance of diminishing exposure to passive smoke and acknowledge the severe health risks resulting from this to both children and adults.

In relation to the prohibition of displaying tobacco products at point of sale, it must be noted that MGA does not support the proposed amendments to the legislation. Although we are aware of the affects that advertising may have on the influence of children's responses to smoking, there is also the impact on retailers that must be taken into consideration. As such, MGA supports the current legislative framework and does not support any changes to *Tobacco Products Control Act 2006*.



B. Why we support or oppose the main thrust of the Bill

In relation to the restriction of smoking in vehicles and al fresco areas, MGA is in full support of the proposed amendments. We are aware of the grave consequences of active and passive smoking and believe that the measures outlined in the Bill are necessary alterations to the current legislative framework in order to improve the health of Western Australians.

MGA does not support the measures introduced by section 5 of the Amendment Bill. We do not agree that the proposed amendments will successfully decrease the rate of smoking by minors or decrease any potential influence that is caused by the display of smoking products. The nature of a smoking addiction is that it will not subside as a consequence of decreased advertising and will most likely only result in customers becoming annoyed by the lack of accessibility to the product they are seeking.

Retailers should not be required to deal with the additional costs that these proposed laws will inevitably impose on them. The amendments will undoubtedly place greater practical and operational difficulties on the retailer. The retailer will be faced with increased costs needed to disassemble existing fixtures and fittings and install new customer service kiosks. MGA acknowledges the strategies to improve the health of Western Australians through decreasing smoking, in particular the shift towards placing a responsibility on the retailer. However, 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. This is a more effective means of reaching children, parents and adults and enables the specific targeting of minors through the education system. The Western Australian Tobacco Action Plan specifies the objective of community education as a way to improve the health of Western Australians¹ and as such, MGA submits that this should be the priority of the Government for achieving its overall objective.

MGA believes that supermarket retailers are already burdened by a plethora of regulations and 'red tape'. The introduction of these proposed new laws will only introduce an additional regulatory compliance burden, which is unlikely to reduce the consumer demand for smoking products. Retailers already play an important role in tobacco control by ensuring their businesses operate in accordance with provisions of the Act that aim to reduce the availability of tobacco products to minors. These measures include: asking for proof of age, refusing to sell tobacco products and smoking implements to anyone under the age of 18 years and displaying required warning signs². Section 22 of the *Tobacco Products Control Act 2006* already places comprehensive restrictions on display of tobacco products in stores. MGA submits that these provisions are significant and effective enough to limit the display of tobacco products.

The proposed laws will place a legal responsibility on retailers to engage in hiding tobacco products and training staff on compliance requirements. It must be noted that the concealment of a legally saleable item may achieve some inconvenience for a potential purchase, however, a lack of visibility

¹ Department of Health W.A., 'Western Australian Tobacco Action Plan 2007-2011'

<http://www.watap.health.wa.gov.au/home/> <21 January 2009>

² Department of Health W.A., 'Sale and Supply of Tobacco Products'

<http://www.tobaccocontrol.health.wa.gov.au/saleandsupply/prohibiting.cfm> <21 January 2009>

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is unlikely to be a deterrent in persuading a consumer not to smoke. Concealing the location of smoking products will be unlikely to cause consumers to forget to purchase them or give up smoking. In addition, MGA believes that if the Western Australian Government proceeds with amendments to legislation requiring that retailers to 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. 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 advice of planning and design consultants, acquiring materials that will be required, building time and the availability of builders to complete the change. 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. Although the time frame is difficult to estimate, it is foreseeable that 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.

It should not be the responsibility of the retailer to comply with the proposed laws. It is an unnecessary burden on the store owners and staff to undertake renovations to their premises or extra training to ensure compliance. The objective of the Western Australian Government can be better executed through education. It is for these reasons that MGA does not support a change to the existing legislation.

C. A summary of the main changes suggested by MGA

MGA submits that no changes need to be made to the following sections in the *Tobacco Products Control Amendment Bill 2008*:

- Sections 1 – 4
- Sections 6 – 7

MGA submits that section 5 should be removed from the Bill. This is due to the fact that:

- The legislation that currently exists is sufficient to stem the influence of advertising
- The unreasonable expectations on retailers to comply with the new legislation
- The unlikely affect it will have on decreasing the number of tobacco product sales
- Education within the schooling system would be more effective than removing already restricted displays in stores in curbing smoking by minors.