

# MEMORANDUM

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DATE: **27 January 2009**

TO: **Education and Health Standing Committee**

FROM: **Charlie Shahin, Executive Director, Peregrine Corporation**

SUBJECT: **Inquiry into the Tobacco Products Control Amendment Bill 2009**

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## Introduction

The Peregrine Group of Companies ('**Peregrine**') welcomes the opportunity to make this submission to the Education and Health Standing Committee's Inquiry into the Tobacco Products Control Amendment Bill (the '**Bill**').<sup>1</sup>

Peregrine has reviewed the Bill and makes this submission in relation to the proposed display restrictions.

## Peregrine Overview

Peregrine is a national retailer and wholesaler of tobacco products and operates under its SMOKEMART trade mark. It has over 60 specialist tobacconist stores in Western Australia, South Australia, New South Wales, Queensland, Northern Territory and Victoria.<sup>2</sup> 10 SMOKEMART stores are situated in Western Australia. 8 of these stores are also engaged in wholesale activities.

Peregrine makes these submissions based on its 20 plus year history of tobacco retailing / wholesaling and from its general knowledge about the tobacco industry.

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<sup>1</sup> Peregrine corporate website: <http://www.perecorp.com.au>

<sup>2</sup> For the purposes of this document, we consider specialist tobacconist to be any store primarily concerned with the retail and / or wholesale of tobacco products.

## Effect of Bill: Display Restrictions

Section 22 of the *Tobacco Products Control Act 2006* (WA) (the '**Act**') prohibits the display of tobacco products where the total surface area of the tobacco products exceeds 1 square metre. Putting it another way, the Act allows tobacco retailers to have tobacco displays of up to 1 square metre.

Section 23 of the Act goes further to allow:

- up to 3 square metres of tobacco products to be displayed by **50% retailers**;
- over 3 square metres of tobacco products to be displayed by **specialist retailers**.<sup>3</sup>

The Bill proposes to replace section 22 with the following:<sup>4</sup>

### 22. Display of tobacco products

- (1) A person who is the responsible person in relation to licensed premises on which tobacco products or smoking implements are sold must ensure that customers cannot see any of those products or implements from inside or outside of the licensed premises.

Penalty applicable: see section 115.

- (2) This section does not apply to:

- (a) the display of tobacco products and smoking implements to a customer at his or her specific request; or
- (b) the display of tobacco products and smoking implements by customers on licensed premises.

The Bill does not appear to affect the operation of section 23. If this is the case, we would have no objection to the Bill as proposed.

For the purposes of this submission we assume that the Bill omits reference to section 23 in error and that this will be addressed via subsequent amendment. The Explanatory Memorandum to the Bill provides that the Bill will "prohibit the display of tobacco products at point of sale".<sup>5</sup>

Accordingly we read the Bill to place a total ban on the display of tobacco products by all tobacco retailers and irrespective of whether they are 50% retailers or specialist retailers as defined by the Act.

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<sup>3</sup> s 23 (2) , 23 (4) *Tobacco Products Control Act 2006* (WA).

<sup>4</sup> s 5 *Tobacco Products Amendment Bill 2008* (WA).

<sup>5</sup> Explanatory Memorandum, *Tobacco Products Control Amendment Bill 2008* (WA) 1.

## Opposition to display restrictions

Peregrine opposes the display restrictions proposed by the Bill. We do not oppose and are in fact supportive of the rest of the Bill.

Our view is that a total ban on the display of tobacco products is excessive and will not achieve the aim of “protect[ing] children and adults from tobacco promotion”.<sup>6</sup>

That is because the Bill fundamentally fails to recognise the difference between **non-specialist** and **specialist** retailers:

i. Specialist Tobacconist

These stores are destination-driven stores with a customer base consisting almost exclusively of existing tobacco customers. These customers visit specialist tobacconists with an intention to purchase tobacco products formed prior to entry of a store. In WA, 95% of Smokemart store sales come from tobacco products.<sup>7</sup>

There is a limited exposure (if any) of tobacco products to non-tobacco customers.<sup>8</sup>

There would be no exposure of tobacco products to children. We understand that one of the main objectives of the Bill is to limit the effects of tobacco products on children.

ii. Non-Specialist Tobacconist

These include any store with a tobacco licence e.g. supermarkets. Their customer base is likely to include a significant (%) of non-tobacco customers. Customers visit the store with a primary intention to purchase other products. Purchases of tobacco-products are more likely to be made on impulse.

Accordingly, there is a significant exposure of tobacco products to non-tobacco customers, including children.

It logically follows from the above that specialist tobacconists must be considered in a separate category for the purposes of any display restrictions. Display restrictions must be lesser for specialist tobacconists on account that the exposure of tobacco products to non-tobacco customers is minimal and the effect of the displays on existing tobacco customers is questionable when considering they would be likely visiting the store to make a tobacco purchase anyway.

Accordingly we recommend that section 23 of the Act remains in operation for specialist tobacconists.

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<sup>6</sup> Education and Health Standing Committee, Parliament of Western Australia, *Media Release: 15 January 2009: Inquiry into Tobacco Product Controls Amendment Bill 2008*, 2.

<sup>7</sup> Figures quoted from internal sales records.

<sup>8</sup> Western Australia, *Parliamentary Debate*, Legislative Assembly, 26 November 2008, 519b - 521a / 1 (Dr Janet Woolard)

## Conclusion

We support all elements of the Bill other than s 5 which deals with display restrictions. We believe the Bill should be amended to allow for a lesser restriction on specialist retailers.

Yours faithfully,

**Peregrine Group of Companies**

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