

Submission to

Competition Policy Review

Issues Paper

Prepared by
The Australian Liquor Stores Association Inc.
(ALSA)

For Further information please contact
ALSA

Terry Mott – CEO
(02) 8335 3200 or tmott@alsa.com.au

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The Australian Liquor Stores Association Inc. (ALSA) welcomes the opportunity to make the following submission to the “*Competition Policy Review*”. ALSA provides a response to the specific focus of the review raised by the Issues Paper in relation to ‘*unwarranted regulatory impediments to competition in any sector in Australia that should be removed or altered*’.

Executive Summary

Good regulation can support the smooth functioning of business or the community. However, excessive regulation which is often poorly designed, redundant and poorly administered can place a significant burden on business and the community.

ALSA is supportive of reducing the ‘red tape’ burden which is currently hindering the success and sustainability of our members and the Australian economy overall. ALSA believes that the three levels of government in Australia (Commonwealth, State / Territory and Local Councils) often has the effect of stifling small business. We appreciate the opportunity to put forward our view, particularly if the removal of ‘red tape’ at any level of government can be achieved.

This review presents an opportunity to review red tape relating to the liquor regulatory regime that currently limits choice and convenience for consumers.

Liquor Licensing

Many sectors of the economy and workforce are subject to a range of State and Territory based legislation and regulations that have evolved and diverged over time. The control of alcohol as a substance with the potential to cause harm when it is abused has resulted in the regulation of this industry from an early stage.

Historically, the case for regulation has been to protect people from the potential harms of excessive alcohol consumption. But regulations rarely target only those who misuse alcohol while they impact on the vast majority of consumers who do so in moderation without harm to themselves or others.

Public health objectives have usually pursued this through restrictions on availability, marketing and promotion, and pricing measures.

In a global context, Australia is arguably ranked as a country that maintains the strictest forms of control on the sale and supply of alcohol. Australia has very high rates of alcohol taxation, significant limitation on places and times in which to purchase and consume alcohol, and a robust regulatory environment that governs alcohol marketing and promotion.

Under the previous National Competition Review, a number of pre-existing competitive barriers for the alcohol industry were removed.

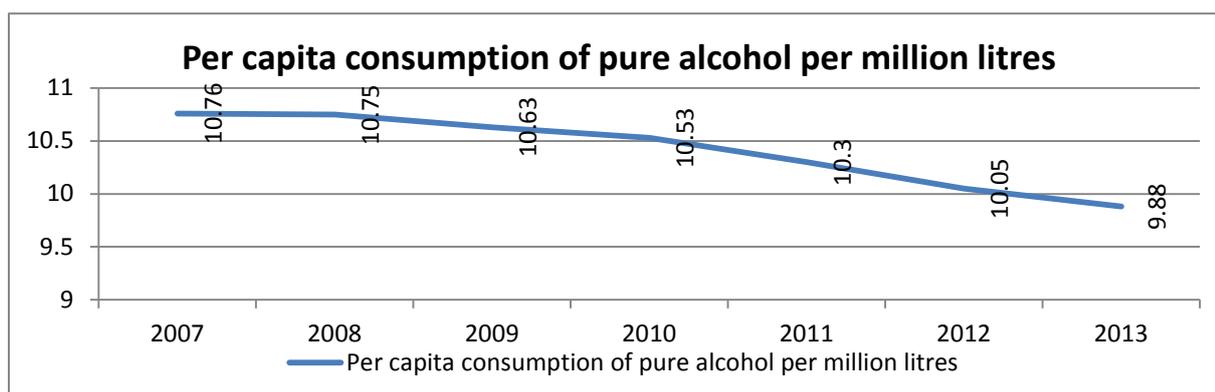
Some jurisdictions such as the ACT and Victoria undertook significant deregulation, with the ACT allowing the sale of alcohol directly within supermarkets and setting only one class of licence to cover bars, taverns, restaurants, cafes, cinemas, etc. accompanied by a very liberal regime of opening times.

At the opposite end of the spectrum, Queensland maintained that only a premise with a hotel licence was able to open a maximum of three detached bottle-shops of a specified size; and South Australia retained a Public Needs Test that requires a new licence applicant to demonstrate that the community has a “need” for an additional licence to service its requirements.

Deregulation, of some form, did occur across all States resulting in an increase in availability from 32,269 to 55,326 licences between 1997 and 2012 (71.5% increase); a reduction in the relative price of alcohol as wages have outpaced alcohol indexation; and greater competition leading to higher levels of alcohol advertising, sponsorship and promotion.

At the same time, and in direct contradiction to espoused public health objectives, Australia has seen a dramatic decline in alcohol consumption and harm.

The Australian Bureau of Statistics (ABS) media release¹ dated 4 April, 2014 confirms that despite a growing population in terms of apparent consumption of pure alcohol per capita, Australians are drinking less alcohol overall than any time in the previous 15 years. ABS reported that there were 9.9 litres / capita of pure alcohol available for consumption in 2012-13 which is the lowest level since the mid-1990s and is 24.6% down on the levels of consumption in the mid 1970's.



Numerous Government surveys including the Australian Bureau of Statistics, AIHW National Drug Strategy Household Surveys, The Australian Secondary Schools Alcohol and Drugs Survey all demonstrate that overall consumption and per capita consumption is falling, levels of risky drinking have stabilised or are falling while at the same time rates of abstinence – particularly among people below the legal drinking age and pregnant women – are increasing.

The majority of Australian adults (82.4% of Australians aged over 18 years²) consume alcohol responsibly and it is important to distinguish between the moderate consumption of alcohol, which is a normal enjoyable aspect of life for the vast majority of adults, with the misuse of alcohol by a small minority. The proportion of people abstaining rose from 17% in 2007 to 19% in 2010³ (a statistically significant difference) and the largest increase in abstainers was seen among those aged 12–17⁴.

¹ <http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/4307.0.55.001Media%20Release12012>

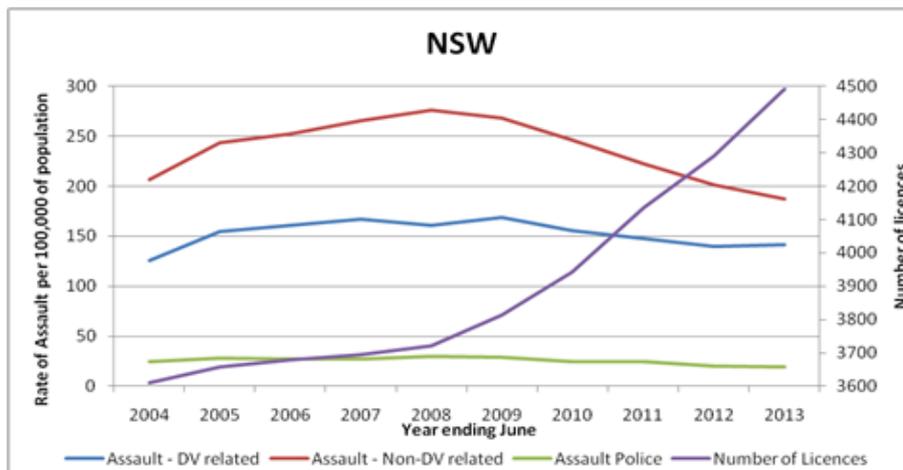
² Australian Bureau of Statistics (ABS) *Australian Health Survey 2011-2012* released 29.10.2012

³ AIHW 2010 National Drug Household Survey November 2011, Table 4.1

⁴ AIHW 2010 National Drug Household Survey November 2011, Table 4.1

The most robust data collected by the police is from the NSW Bureau of Crime Statistics and Research which demonstrate that an increase in Off-licences has no correlation with alcohol-related violence. The number of packaged (Off-licence) Liquor Licences in NSW have increased by 38% over the past five years, while at the same time alcohol-related violence has declined.

Figure 1: NSW increase in packaged liquor outlets from⁵ OLGR licence list vs. rate of alcohol-related assault per 100,000 population as per Bureau of Crime Statistics and Research (BOCSAR) data⁶



Media attention has tended to reflect community concern and has, however, painted the opposite picture about alcohol-related harm increasing in the community which has led to most States and Territories gradually reversing the gains from NCP reforms or regulators taking a hardline approach to applications and enforcement.

In light of the clear evidence that alcohol-related harms in the community have declined during a period that consumers have benefited from increased availability, lower real costs, and increased competition through exposure to alcohol marketing while, it is appropriate to review alcohol regulation through an economic lens rather than purely a public health perspective.

Consumers will ultimately benefit from another round of competition reform to liquor legislation and regulation that focuses on:

Alignment of opening hours to the needs of the community and the busy modern Australian economy

Example 1: Currently the West Australian Liquor Control Act (section 98D) does not allow packaged liquor store licences in non-metropolitan areas to trade on a Sunday. However, hotel and tavern licences are able to trade and sell exactly the same packaged liquor products on this day.

⁵ OLGR published NSW Licence List
⁶ NSW Bureau of Crime Statistics and Research, (BOCSAR) Reference :kg13-11482

Example 2: In 2010 the NSW Shop Trading Act was reinterpreted to also capture NSW packaged liquor retailers under that Act. The immediate impact of this additional requirement meant that NSW packaged liquor retailers were not permitted to trade on an additional 2 ½ days, being Easter Sunday, Boxing Day and until 1pm on Anzac Day. This costs the sector approximately \$3.5 million /day in lost trading opportunity and is also discriminatory against our retailers, their loyal customers and their employees, when hotels with bottle shops attached to their businesses continue to be permitted to sell packaged liquor, thereby artificially distorting the competitive market environments.

Example 3: In the Northern Territory a full liquor licence permits the sale of alcohol on specific licensed premises. However, additional special conditions under the current Liquor Regulations Part 2, Regulation 4 do not allow packaged liquor store licences trading with “Authority – Store” in any area of the Northern Territory to trade on a Sunday. However, hotel and tavern licences are able to trade between the hours of 10am and 10pm and sell exactly the same packaged liquor products on this day.

Streamlining classes of licences and removing barriers of entry

Example 1: Queensland hotel and detached bottle-shop restrictions whereby only a premise with a hotel licence was able to open a maximum of three detached bottle-shops of a specified size.

Example 2: Several States and many Councils require a mandatory time-consuming and expensive *Impact Statement* for the applicants (lawyers quote up to \$100,000, even more), which clearly adds to business uncertainty, adds significantly to costs and discourages individuals and smaller entities from seeking licences.

Improving regulation and licence approval processes

Nearly all States require a new licence to receive approval from both the Local Government and the State regulator. The two consent authorities sometimes duplicate each other’s work as frequently a comprehensive Impact Statement is carried out at both the town planning permit and liquor licence application levels – where neither decision-making body recognises the significant steps taken by the other. The end result for applicants is that a comprehensive social impact study is completed twice for the same application, creating greater business uncertainty and compounding costs and delays.

Improving the evidence and justification for “risk-based” licence fees

The majority of States have now introduced an annual liquor licence fee that is legislated as being representative of “risk”, but is in fact more reflective of revenue-raising objectives.

Example 1: In the ACT, ALSA members operate under a system where an Off-licence liquor store which is located near a shopping centre, and ceases trading at 9pm, is paying a licence fee that is significantly larger than a nightclub in a city entertainment precinct which trades until 4am in the morning.

In comparing store layout, customer demographics and drinking behaviours, there is no evidence to suggest the average Off-licence store can be considered higher risk than a late-trading nightclub licence holder.

Example 2: In NSW, a family owned and operated business with 18 stores spread across regional areas, with no breaches ever recorded, is required to close before 10:00pm, has a 147% higher fee than a 'high profile' Tier 1, large capacity, late night (3:00am) trading venue in the Sydney CBD Entertainment Precinct.

Remove alcohol-specific taxes

The introduction of the GST resulted in the removal of a large number of indirect taxes of which alcohol was not one. The bi-annual CPI increases to beer and spirits excise taxes and a 29% Wine Equalisation Tax (WET) now place Australia as one of the highest alcohol taxing countries in the OECD. This inhibits craft and boutique producers from entering the market and growing their business above a size in which a tax concession presently exists. Other countries with wine, beer, cider, and spirit producers choose not to tax these industries at all (or very lightly).

National RSA certification

ALSA supports the concept of promoting better regulation by the states and across the region with less burdensome and more consistent regulation across the States. A relevant example for the packaged liquor retail sector is that RSA certification is not transferrable across all states and territories. It is possible for a person to have 20 years-experience in the packaged liquor retail sector, with the necessary RSA certification for one state, and yet if that person chooses to move interstate they are required to undertake additional RSA certification to comply.

The basic principles of the RSA training, known as '*Provide responsible service of alcohol*' are common across all states and territories against a National Training Standard with participants required to have an understanding of the harm minimisation principles; the laws regarding the sale, supply and promotion of alcohol; the signs of intoxication; the health risks of alcohol and the 'at risks' groups in the community etc. These common principles do not change as one crosses the border into another state or territory, and ALSA does not comprehend why the RSA certification is not transferrable. ALSA believes that the RSA certification should be a nationally recognised qualification that is accepted by all States and Territories.

Conclusion

Representing all take-away packaged liquor retailers in Australia, ALSA supports the concept of the reduction of the 'red tape' burden on the Australian economy.

We have addressed several examples which we see repeated in similar ways across the States and Territories where there is duplication and additional time and cost burden placed on business, to demonstrate that this is indeed a broad National problem.



Terry Mott
CEO

Overview of Australian Liquor Stores Association (ALSA)

The primary purpose of ALSA is to create and promote a responsible, sustainable and diverse off-premise liquor sector across Australia by the effective and relevant engagement of all stakeholders.

ALSA is the National Association comprised of State & Territory Liquor Stores Associations, with approximately 3,000 retail liquor store members around Australia, including some of the most recognised and trusted brands in liquor retailing in Australia. These range from small family and independently owned local convenience outlets, independently owned and run outlets operating under banners such as Cellarbrations, Little Bottler, Local Liquor, Liquor Baron's, Porters and many more, through to Woolworths packaged liquor outlets including Dan Murphy's, BWS Liquor & Woolworth's Liquor and Coles Packaged Liquor outlets including First Choice, Vintage Cellars & Liquorland stores, and ALDI Licensed supermarkets.

Altogether ALSA represents employers of more than 40,000 people in the retail liquor store sector across Australia, including many trainees and apprentices who go on to make a career in retail.

ALSA believes that alcohol consumption is ultimately an issue of individual responsibility and individual behaviour. However, ALSA also fully accepts that it has a key responsibility to work with the Government and the community to minimise harm to individuals and local communities.

ALSA Self-Regulatory Initiatives

ALSA has a demonstrated commitment to the responsible supply and promotion of alcohol beverage products. To ensure the reputation of our sector and assist our members, ALSA continues to promote standards of operation for its members beyond the required standards of legal compliance, and has implemented a range of voluntary product and service control initiatives across our members' stores which are focussed on responsible supply and promotion of alcohol.

ALSA and the Retail Packaged Liquor sector take their responsible service of alcohol responsibilities seriously which is why we developed and continue to promote **ID-25** and **Don't Buy It for Them** to discourage underage attempts at purchase and to educate parents and adults about their responsibility to not purchase alcohol on behalf of minors.

The issue of refusing service, particularly to parents, when our members believe secondary supply may take place is one of the biggest challenges liquor retailers and their employees face. Refusal often results in the employee being subjected to aggressive and threatening behaviour.

Many of these initiatives, initially trialled and introduced by our larger members such as Woolworths, have subsequently been adopted by other industry participants, including:

ID-25 – a program to educate customers, dissuade attempted purchase by minors and to reinforce staff awareness and confidence to refuse service to minors with point-of-sale material. Under this program, if a customer looks under the age of 25, staff members are encouraged to ask to see proof of age ID prior to selling alcohol to that customer, under an inoffensive promotional line "if you look under 25, take it as a compliment, as we will ask for ID".

Don't Buy It For Them – a program to discourage secondary supply and to educate the community on their shared responsibility not to supply to under age and highlights the penalties for doing so. It also reinforces staff awareness and confidence to refuse service when in doubt, with back-up point-of-sale material.

In addition to these initiatives LSA NSW also worked with our National Association the Australian Liquor Stores Association (ALSA) to develop and launch the ALSA Product Ranging Guidelines

ALSA Product Ranging Guidelines – incorporate a checklist guide to assist individual operators to make sensible product ranging decisions on products that may potentially be packaged and marketed irresponsibly.

Joint Social Responsibility Campaigns

ALSA and its members have a long history of working with government and regulators to disseminate responsible drinking and standard drinks educational materials through their liquor outlets directly to consumers.

- Point-of-sale information campaigns on responsible drinking including standard drinks educational campaigns on behalf of the Commonwealth Department of Health & Ageing;
- Point-of-sale information leaflets to direct consumers to 'Get The Facts' on behalf of DrinkWise Australia;

ALSA was a founding DrinkWise board member – a not-for-profit, independent research and social change agency funded by the Australian alcohol industry, with some federal Government funding support. Through research, community based programs and social marketing campaigns, DrinkWise is dedicated to building a safer drinking culture in Australia.

Retail Liquor Development Foundation

ALSA's national retail training body – the Retail Liquor Development Foundation (RLDF), was established in 2004 to provide cost effective training to encourage responsible and professional retailing by its members. The training equips packaged liquor retailers to improve their business viability and to provide career paths for staff members who would otherwise not choose to stay in the sector.

Following the recent launch of **ALSA-TRAIN**, a comprehensive on-line training offer, it includes the option to complete nationally accredited, Certificate IV Retail Management qualifications. **ALSA Retail Insights** is the latest professional development initiative of ALSA & RLDF to enhance retail knowledge and skills while encouraging career development of young people in the sector.

ALSA is also currently working with other industry groups to pioneer additional training and accreditation standards for licensees and their staff. ALSA and its members have a demonstrated commitment to responsible supply and promotion of alcohol beverage products.