

## Drug Policy Modelling Program and National Drug and Alcohol Research Centre submission to the Australian Competition Policy Review

### Introduction

We welcome the opportunity to submit to the Competition Policy Review currently being undertaken and to respond to the Panel's draft report.

The National Drug and Alcohol Research Centre (NDARC), UNSW is the premier research institute in Australia with an extensive international reputation in the conduct and dissemination of high quality research to inform policy and practice in relation to alcohol and other drugs. The Drug Policy Modelling Program (DPMP) is a dedicated research program at NDARC that seeks to improve Australian drug and alcohol policy.

We are encouraged that the Panel has recognised that the extent and severity of alcohol-related harm experienced in the community provides a clear justification for appropriate, evidence-based regulation. Alcohol, as a drug of dependence that is highly associated with violence and high-risk behaviour, cannot be treated as an ordinary commodity and any competition considerations must consider alcohol separately from other goods and services. We are concerned at the potential for a number of the Panel's recommendations to exacerbate alcohol problems in the community and have outlined our concerns in more detail below. We also comment briefly on potential impacts of the recommendations concerning Human Services for the provision of alcohol and other drug treatment in Australia.

### Alcohol availability and alcohol-related harm

There is a substantial international research literature that demonstrates consistent links between policies that increase the availability of alcohol and increased rates of alcohol problems. In the authoritative review of the alcohol policy research literature, Babor et al.<sup>1</sup> rate policies that limit hours of sale and those that restrict the density of outlets as among the most effective at reducing harm from alcohol, with stronger evidence only available for pricing policies. Our own research here at NDARC has shown that countries with more evidence based policies, and countries that more stringently enforce those policies, have lower rates of alcohol consumption<sup>2</sup>. These findings highlight the need for the cautious application of competition policy principles in regulating alcohol and require that alcohol is considered in a markedly different way to most other retail goods.

Throughout the 1990s and 2000s, many states in Australia have liberalised regulation in the liquor area in line with competition policy principles. This has led to a steady expansion of alcohol

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<sup>1</sup> Babor, T, Caetano, R, Casswell, S et al. (2010) Alcohol: No Ordinary Commodity - Research and Public Policy, 2nd edition. Oxford: Oxford University Press.

<sup>2</sup> Carragher N, Byrnes J, Doran C, Shakeshaft A. Assessing the strength of national alcohol policy frameworks: application of the TEASE-16 to the Western Pacific Region. *Bulletin of the World Health Organisation*, 92, 726–33, 2014.

availability in Australia which, while it has improved the diversity and vibrancy of the industry<sup>3</sup>, has also had a significant impact on rates of harm from alcohol.

A comprehensive series of studies by Livingston<sup>4,5,6</sup> examined the impact of changes in the density of alcohol outlets at the local level in Victoria during a period of sharp expansion in outlet numbers following reforms to Victorian legislation aimed at improving competition in the industry. These studies demonstrated that increases in the density of outlets were associated with increases in rates of assault, family violence and chronic disease. Of particular relevance to the current review were the findings that the density of packaged liquor outlets was an important predictor of harm, suggesting that promoting competition in the retail alcohol market can have significant public health costs.

### Specific recommendations in the current Draft Report

In the following sections, we briefly address some particular concerns with the recommendations in the Competition Policy Draft Report.

#### Planning and zoning

Draft recommendation #10 of the report states:

*All governments should include competition principles in the objectives of planning and zoning legislation so that they are given due weight in decision-making.*

*The principles should include:*

- *a focus on the long-term interests of consumers generally (beyond purely local concerns);*
- *ensuring arrangements do not explicitly or implicitly favour incumbent operators;*
- *internal review processes that can be triggered by new entrants to a local market; and*
- *reducing the cost, complexity and time taken to challenge existing (p32).*

This recommendation has significant implications for alcohol policy. Under the current systems in Australian jurisdictions, planning processes are a key tool for ensuring the appropriateness of potential new alcohol outlets and for developing specific local policies as required. Thus, for example, The City of Stonnington in Victoria used planning policy to restrict the growth of late night liquor licences in the Chapel Street entertainment precinct<sup>7</sup>. More broadly, the planning approval process has become a key stage in the process for local governments and communities to have input into decisions around new liquor outlets. The importance of the planning system in limiting alcohol-related harm at the local level is evident in a series of policy changes in Victoria responding to the growing evidence that the density of alcohol outlets is an important contributor to alcohol-related harm. This includes an explicit consideration of the cumulative impact of alcohol outlets in planning<sup>8</sup>. Planning policies also provide a range of other potential means to reduce problems associated with

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<sup>3</sup> E.g. Harden, M (2009) Melbourne - the making of a drinking and eating capital. Melbourne: Hardie Grant.

<sup>4</sup> Livingston, M (2011) A longitudinal analysis of alcohol outlet density and domestic violence. *Addiction* **106**, 919-925.

<sup>5</sup> Livingston, M (2011) Alcohol outlet density and harm: comparing the impacts on violence and chronic harms. *Drug and Alcohol Review* **30**, 515-523.

<sup>6</sup> Livingston, M (2008) A longitudinal analysis of alcohol outlet density and assault. *Alcoholism: Clinical and Experimental Research* **32**, 1074-1079.

<sup>7</sup> City of Stonnington Planning Scheme Amendment, C159. <http://www.stonnington.vic.gov.au/residents-and-services/planning/planning-scheme-amendments/c159---licensed-premises-saturation-provisions/c159-approved-amendment-documents/>

<sup>8</sup> Victorian Government Department of Planning and Community Development Melbourne, Practice Note 61

alcohol outlets, including via the imposition of specific operating conditions, the consideration of supporting infrastructure and the broader design of public spaces<sup>9</sup>.

For these reasons, an increasing emphasis on competition in planning and zoning systems has the potential to limit the ability of state and local governments to develop appropriate, public-health oriented policies to regulate the availability of alcohol at the local level. Any increase in the weight of competition considerations should not be applied to harmful products such as alcohol.

### Retail trading hours

Draft recommendation #51 of the report states:

*The Panel notes the generally beneficial effect for consumers of deregulation of retail trading hours to date and the growth of online competition in some retail markets. The Panel recommends that remaining restrictions on retail trading hours be removed. To the extent that jurisdictions choose to retain restrictions, these should be strictly limited to Christmas Day, Good Friday and the morning of ANZAC Day. (p67)*

This recommendation has potential impacts on alcohol policy via its application to existing restrictions on the trading hours of alcohol outlets applied via the liquor licensing regimes in Australian jurisdictions. There is overwhelming evidence that trading hours (particularly late at night) are a key policy lever that can reduce (or exacerbate) levels of alcohol-related harm in the community<sup>10</sup>. Australian evidence suggests that trading hours are important, including a series of studies showing sharp and long-lasting reductions in violence following trading hours restrictions in Newcastle<sup>11, 12</sup>. A series of severe alcohol-related assaults along with the analysis from Newcastle led to a series of interventions by governments around Australia aimed at reducing late night trading, particularly of bars and pubs, including the recent restrictions in Sydney CBD and Kings Cross and the freeze on new late night licences in inner Melbourne. While there is some international research<sup>13</sup>, there is less Australian evidence to support trading hours restrictions of packaged liquor outlets, although this is largely because of the lack of major changes in regulation at this level. The recent mandating of 10pm closing of packaged liquor outlets in Sydney will provide an opportunity for local evidence to inform future policy.

Given the existing evidence base demonstrating the capacity that policies restricting trading hours have to reduce alcohol-related harm, we recommend that any deregulation of trading hours recommended by the Competition Policy Review explicitly exclude the deregulation of trading hours for alcohol outlets.

### Restrictions on who can sell alcohol

In sections 6.3 and 8.6, the report argues for the examination of restrictions preventing supermarkets and convenience stores in some jurisdictions from selling alcohol. These are captured broadly under recommendation 11:

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<sup>9</sup> Bradley, T., Liquor Licence Density and Planning, in: Manton, Room, Giorgi, Thorn (eds), *Stemming the Tide of Alcohol: Liquor Licensing and the Public Interest*. Canberra: Foundation for Alcohol Research and Education.

<sup>10</sup> Martineau, F, Tyner, E, Lorenc, T, Petticrew, M and Lock, K (2013) Population-level interventions to reduce alcohol-related harm: An overview of systematic reviews. *Preventive Medicine* **57**, 278-296.

<sup>11</sup> Kypri, K, Jones, C, McElduff, P and Barker, D (2011) Effects of restricting pub closing times on night-time assaults in an Australian city. *Addiction* **106**, 303-310.

<sup>12</sup> Kypri, K, McElduff, P and Miller, P (2014) Restrictions in pub closing times and lockouts in Newcastle, Australia five years on. *Drug and Alcohol Review* **33**, 323-326.

<sup>13</sup> e.g. Wicki, M and Gmel, G (2011) Hospital admission rates for alcoholic intoxication after policy changes in the canton of Geneva, Switzerland *Drug and Alcohol Dependence* **118**, 209-215.

*All Australian governments, including local government, should review regulations in their jurisdictions to ensure that unnecessary restrictions on competition are removed.*

*Regulations should be subject to a public benefit test, so that any policies or rules restricting competition must demonstrate that:*

- *they are in the public interest; and*
- *the objectives of the legislation or government policy can only be achieved by restricting competition.*

*Factors to consider in assessing the public interest should be determined on a case-by-case basis and not narrowed to a specific set of indicators.*

*Jurisdictional exemptions for conduct that would normally contravene the competition laws (by virtue of subsection 51(1) of the CCA) should also be examined as part of this review, to ensure they remain necessary and appropriate in their scope. Any further exemptions should be drafted as narrowly as possible to give effect to their policy intent. The review process should be transparent, with highest priority areas for review identified in each jurisdiction, and results published along with timetables for reform. (p34)*

The removal of restrictions on the sale of alcohol by supermarkets and convenience stores are likely to contribute to increases in alcohol-related harm in a number of ways. Firstly, the expansion of the type of places that can sell alcohol will substantially increase the density of outlets selling alcohol, which is likely to lead to increased rates of harm (as outlined on page 2 of this submission). Further, the ability of supermarkets to sell alcohol has the potential to lead to loss-leading and other irresponsible pricing practices – indeed, there is evidence that the two major supermarket chains already aggressively discount alcohol products to try to attract customers<sup>14</sup>. This practice is common internationally in jurisdictions where supermarkets are able to sell alcohol, for example in the UK, leading to recent legislative change to ban the sale of alcohol below cost<sup>15</sup>.

The inconsistencies across jurisdictions in who can sell alcohol, and particularly the Queensland regulations that require anyone operating packaged liquor outlets also requires a pub licence are worthy of review. However, given the potential negative impacts of expanding the number of places able to sell alcohol, we recommend ensuring public health is given a critical place in any assessment of these issues to ensure that alcohol-related harm is not increased.

### Human Services

Alcohol and other drug treatment is a good investment. For every \$1 invested in alcohol or drug treatment, society gains \$7<sup>16</sup>. AOD treatment has been shown to:

- Reduce consumption of alcohol and other drugs
- Improve health status
- Reduce criminal behaviour
- Improve psychological wellbeing
- Improve participation in the community.

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<sup>14</sup> <http://www.smh.com.au/business/beer-backlash-hits-retailers-20110323-1c6sw.html>

<sup>15</sup> <http://www.theguardian.com/society/2014/feb/04/sale-ultra-cheap-alcohol-banned>

<sup>16</sup> Ettner, S., Huang, D., Evans, E., Ash, D., Hardy, M., Jourabchi, M., et al. (2006). Benefit-cost in the California treatment outcome project: does substance abuse treatment "pay for itself"? *Health Services Research, 41*(1), 192-213.

The savings which accrue to governments from alcohol and other drug treatment occur largely through direct savings in future health care costs, reduced demands on the criminal justice system, and productivity gains. The well-being gained for individuals and families is immense, as clients reduce the harms from alcohol or drug use and achieve personal, social, and economic goals. Investment by government in evidence-based alcohol and other drug treatment is therefore worthwhile and represents value for money.

We have conducted an extensive review of the planning and purchasing of alcohol and other drug treatment services in Australia, which was commissioned by the Commonwealth Department of Health. The final report, the property of the Commonwealth, details the issues associated with a number of purchasing models, including: competitive selection processes; individually-negotiated arrangements (often based on historical agreements); and accreditation and/or registration process. With permission from the Commonwealth Department of Health, we would be pleased to share our analysis with you.

In its considerations in Chapter 10, we would highlight for the Competition Policy Review that:

- There is an absence of 'competitive pressure' in alcohol and other drug treatment services
- Consumer choice for alcohol and other drug treatment is vitally important but these consumers are often the most marginalised and stigmatised in our society (more so than disability, mental health) – which is acknowledged in the report.
- Equity of access to alcohol and other drug treatment is essential
- The most critical issue is the insufficient number of treatment places to accommodate the need and demand for alcohol and drug treatment. Competition policy is unlikely to remedy that.

Thus, while "*user choice should be placed at the heart of service delivery*", this can only occur where there are sufficient treatment places: a situation that we are long way away from in alcohol and other drug treatment in Australia.

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