



17 November 2014

Competition Policy Review Secretariat  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Dear Sir or Madam

Thank you for the opportunity to provide further input into the draft report of the current Competition Policy Review.

The Queensland hotel industry welcomes the opportunity to make submissions on Queensland's competition landscape and, in particular, the opportunity to make submissions in relation to the regulatory environment around liquor products.

Please do not hesitate to contact me or the QHA Chief Executive should you require clarification or expansion on any issues raised.

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Yours sincerely

A handwritten signature in black ink, appearing to read 'Tom McGuire', is written over a horizontal line.

Tom McGuire  
President

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**QUEENSLAND HOTELS ASSOCIATION**  
**SUBMISSION ON THE**  
***DRAFT REPORT OF THE COMPETITION POLICY REVIEW***  
**NOVEMBER 2014**

**References:**

- A. *Competition Policy Review draft report dated September 2014*
- B. *Queensland Liquor Act 1992*
- C. *Liquor Regulations 2002*

**Introduction**

The Queensland Hotels Association (QHA) welcomes the opportunity to comment on the draft report of the Competition Policy Review, and supports the Commonwealth Government's overall policy goals of ensuring the most effective competition environment possible, commensurate with the requirement for appropriate regulation of those products and services which have the potential for harm or mis-use.

The Queensland hotel industry recognizes the need for appropriate regulation and enforcement in the sale and supply of liquor products, and strives to adhere to the patron care and harm minimization principles of the Queensland *Liquor Act 1992* and associated regulations and voluntary codes. The industry supports an evidence-based approach to the development of public policy, including competition policy, and makes this submission in the interests of sharing our corporate experience and knowledge.

**Purpose of Liquor Regulation**

The principal legislation governing the sale and supply of alcoholic products in Queensland is the Queensland *Liquor Act 1992* (the Act), and its attendant *Regulation*.

The main purposes of this Act are to regulate the liquor industry, and areas in the vicinity of licensed premises, in a way compatible with:

- (i) minimising harm, and the potential for harm, from alcohol abuse and misuse and associated violence;
- (ii) minimising adverse effects on the health or safety of members of the public;
- and
- (iii) minimising adverse effects on the amenity of the community.

That is, in relation to the various competing principles that govern the sale and supply of liquor in the state, successive Queensland Governments have decided and agreed that the principle objective of its liquor regulation is to minimise the actual and potential harm to the community from mis-use of this legal consumer product. In fact, as a result of the numerous reviews of this legislation since the implementation of the National Competition Policy, this purpose has been given far higher priority than it held in 1995. (See Appendix A for comparison)

The hotel industry supports this long-held view, and has consistently joined with the Queensland Government to consider and introduce a range of evidence-based measures aimed at limiting the potential for harm and mis-use attached to the sale and supply of liquor products.

### **Regulated Management of Harm Minimization**

Consistent with these harm minimization principles, successive Queensland Governments have held the view that retail sale and supply of packaged liquor requires regulated management. Queensland Governments have supported a policy which regulates the sale and supply of packaged liquor and, having regularly reviewed the need for any deregulation, have maintained the view that it is not appropriate that liquor products be sold in a supermarket or corner-store environment, or 'commoditized' through sale in mixed product retail shops.

The sale and supply of alcoholic beverages requires regulated management because the products are potentially harmful to "at-risk" groups if mis-used. In particular, alcoholic beverages are not generally permitted by law to be consumed by minors, under the age of 18 years. The packaged liquor retail system that exists in Queensland recognizes that reality, and makes it very difficult for minors to directly access primary sale/purchase of liquor products.

Queensland hotels have an excellent record of compliance in preventing the sale of packaged liquor products to minors. The bi-annual *Australian Secondary Schools Survey* consistently reports that under-age consumers of alcohol receive their liquor products from an immediate family member or friend in more than 95% of cases, rather than through direct purchase from a liquor outlet.

### **Availability and Price of Packaged Liquor Products**

Two of the most important factors with the potential to contribute to harm and mis-use associated with liquor products are ease of availability and product price.

Researchers, academics and anti-alcohol lobby groups consistently remind us that there is strong and direct linkage between the availability of liquor products and the mis-use of these products by some "at-risk groups" in the community. There is some merit in the logic that the interests of curbing alcohol-related health and anti-social behaviour issues are not best served by having a greater number of retail outlets for liquor, including in supermarket environments.

Successive Queensland Governments have determined that managing the number and nature of liquor outlets is an important element of minimising harm attributable to the mis-use of liquor products within the community.

As recently as 2009, as a consequence of a full and holistic review of the *Liquor Act 1992*, the Queensland Government imposed restrictions which further limited the trading hours for packaged liquor sales and which removed the previous approval for licensed hotels to sell alcoholic beverages between the hours of 7.00 am and 10.00 am. That is, sale of packaged and draught liquor products is generally not permitted before 10.00 am anywhere in Queensland.

There are more than 3,000 packaged liquor outlets in Queensland, which has assured strong and active competition, and historically low prices for the consumer. Such competition means that there is little demand for more liquor outlets, that the licensed industry's community service obligation for convenient availability is being well met, and that there are few complaints from consumers about the price of, access to, and availability of, packaged liquor products.

An example of equitable and competitive pricing is that the 'big' liquor chains such as *First Choice* and *Dan Murphy's* publish common on-line and printed sales brochures along the East Coast, including regional Queensland, with the same retail liquor pricing. This, together with the historically low pricing of the full range of liquor products in Queensland retail liquor sales outlets provides clear evidence that consumers are not being disadvantaged by price, range of products, or quality of service by the current retail packaged liquor sales policies in Queensland.

It is evident that the Queensland Government takes an active role in trying to balance the competing factors of price and availability with its principal objective of harm minimization.

Given this, and the draft report's acknowledgement that *"the risk of harm to individuals, families and communities from problem drinking ... provides a clear justification for regulation"* it is difficult to understand the logic where the draft report goes on to recommend that *"there is no case to exempt regulations in these areas from ongoing review to ensure that they are meeting their stated objectives at least costs to consumers"*.

From a Queensland perspective, the laws and practices governing the sale and supply of liquor products remain under constant review, a fact evidenced by the completion of three major holistic reviews into Queensland's liquor laws in the last decade alone. Indeed, in the ten-year period since 2004, there have been more than 100 new and additional regulatory and/or compliance interventions to do with the sale, supply and promotion of liquor in the state.

## **Entry to the Packaged Liquor Market**

Queensland has developed a retail sales network for packaged liquor which clearly meets its community service mandate for convenient availability, including in regional and remote communities, often in places where commercial viability of such retail outlets is marginal.

Currently, there exists a clearly defined and open path to entry to the Queensland retail packaged liquor market. Large retailers such as Woolworths and Coles have worked within the existing Queensland liquor laws in recent years to establish successful, highly-compliant, good quality, commercially competitive, and viable retail networks in association with substantial investment in the Queensland hotel industry. This path remains open to any retailer or other party who aspires to retail packaged liquor products in Queensland.

Since 2002, several hundred business operators have purchased hotel businesses in Queensland based on the existing privileges attached to those hotel licences, which includes the right to sell packaged liquor products. Any deregulation of the current laws governing packaged liquor sales would directly reduce the capital value of existing hotel businesses by hundreds of millions of dollars. Such deregulation would also directly contribute to an initial explosion in retail sales outlet numbers in Queensland. The demand for packaged liquor by consumers is finite so the development of any new type of liquor outlet/licence would only occur at the expense of sales volumes to existing outlets affecting viability with the probability of a net loss in available industry jobs.

As the large supermarket chains have clearly demonstrated, there is no barrier to become a retailer of packaged liquor products in Queensland, once the common entry conditions related to this open business opportunity are met.

## Summary

The Queensland Hotels Association contends that packaged liquor sold for consumption off licensed premises should not be considered to be just another consumer item and its sale and supply should be regulated appropriately.

Alcohol is potentially harmful if mis-used and should be unavailable to minors. This view is acknowledged and shared in the draft report of the Competition Review Panel which agrees that *“The risk of harm ...is a clear justification for regulation”*.

Given that price competition and community service standards are of a high standard, the QHA finds it difficult to reconcile or agree with the draft report’s observation that there should be ongoing reviews to ensure that the policies are meeting their stated objectives at least cost to consumers. To our highly competitive and low margin industry, this outcome is self-evident.

Queensland’s existing system of sale and supply of packaged liquor continues to support high standards of patron care and community protection from mis-use and, at the same time, ensures strong competition and competitive prices for consumers.

The existence of an established, fair and commercially-based entry path to retail liquor sales means that further deregulation is unnecessary. Existing owners and investors would suffer unfair capital loss from deregulation of packaged liquor sales as the packaged liquor market is finite and saturated, deregulation would not result in any additional sales, investment or jobs.

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## Appendix A

### ***Queensland Liquor Act*** (Current in 2014)

The main purposes of this Act are—

**(a) To regulate the liquor industry, and areas in the vicinity of licensed premises, in a way compatible with—**

**(i) minimising harm, and the potential for harm, from alcohol abuse and misuse and associated violence; and**

**Examples of harm—**

- **adverse effects on a person's health**
- **personal injury**
- **property damage**

**(ii) minimising adverse effects on the health or safety of members of the public; and**

**(iii) minimising adverse effects on the amenity of the community; and**

(b) to facilitate and regulate the optimum development of the tourist, liquor and hospitality industries of the State having regard to the welfare, needs and interests of the community and the economic implications of change; and

(c) to provide for the jurisdiction of the tribunal to hear and decide reviews of certain decisions under this Act; and

(d) to provide for a flexible, practical system for regulation of the liquor industry of the State with minimal formality, technicality or intervention consistent with the proper and efficient administration of this Act; and

**(e) to regulate the sale and supply of liquor in particular areas to minimise harm caused by alcohol abuse and misuse and associated violence; and**

(f) to regulate the provision of adult entertainment; and

(g) to provide revenue for the State to enable the attainment of this Act's main purposes and for other purposes of government.

**Queensland Liquor Act** (Current in 1995)

The objects of this Act are—

- (a) to facilitate and regulate the optimum development of the tourist, liquor and hospitality industries of the State having regard to the welfare, needs and interests of the community and the economic implications of change; and
- (b) to provide for a Liquor Appeals Tribunal with jurisdiction to hear and determine appeals authorised by this Act; and
- (c) to provide for a flexible, practical system for regulation of the liquor industry of the State with minimal formality, technicality or intervention consistent with the proper and efficient administration of this Act; and
- (d) to regulate the liquor industry in a way compatible with—**
  - (i) minimising harm arising from misuse of liquor; and**
  - (ii) the aims of the National Health Policy on Alcohol; and**
- (e) to provide revenue for the State to enable the attainment of the objects of this Act and for other purposes of government.

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