
COMPETITION POLICY REVIEW PANEL
Draft Report
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ACT Policing Submission

November 2014

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Introduction

ACT Policing welcomes the opportunity to provide the Competition Policy Review Panel ('the Panel'). ACT Policing understands the purpose of the review is to examine whether Australia's competition policies, laws and institutions remain 'fit for purpose' and improve the economic welfare of Australians. ACT Policing will specifically address the policy relating to alcohol controls. ACT Policing's submission outlines its role and responsibility with key stakeholders to reduce alcohol related harms, and also addresses the Panel's recommendations to deregulate the availability of alcohol.

ACT Policing's role and responsibility with key stakeholders to reduce alcohol related harms

Drug and alcohol-related harm, and its prevalence in the community, presents as one of the most significant challenges for police across Australia and New Zealand.¹ Australian law enforcement plays a key and ongoing role in responding to and reducing alcohol-related harms as well as improving community safety. Accordingly, ACT Policing is committed to reducing alcohol-related violence and harms in the community, in partnership with ACT Government.

ACT Policing submits the following information to assist the Panel in its deliberations. This information is derived from its membership on law enforcement forums, the ACT Policing Ministerial Direction and ACT Policing's alcohol harm minimisation, prevention and enforcement initiatives.

Law Crime and Community Safety Council (LCCSC)

The LCCSC was formed by the Council of Australian Governments (COAG) to develop a national Trans-Tasman focus on fighting crime and promoting best practice in law, criminal justice and community safety. LCCSC is a Commonwealth, state and territory government Council of ministers who are responsible for law and justice, police and emergency management. Two Commonwealth ministers and the relevant minister of each Australian

¹ Australia and New Zealand Policing Map of Alcohol and Public Safety Activities, October 2013

jurisdiction and New Zealand comprise the Council's membership. The LCCSC has a number of priority issues, including simplifying individual, community organisation and business engagement with the law and justice system, inclusive of reducing regulation.

At the July 2014 meeting, ministers noted with concern the complex issues surrounding alcohol-fuelled violence and agreed that the states and territories, through the Intergovernmental Committee on Drugs (IGCD), should progress work on a National Action Plan for Alcohol. Additionally ministers noted any response to alcohol-fuelled violence should consider the broader context of alcohol misuse, and include law enforcement, health, education and regulatory elements.

ACT Policing is represented by the Chief Police Officer of the ACT in support of the ACT Minister for Police and Emergency Services and Attorney General.

Intergovernmental Committee on Drugs (IGCD)

The IGCD is a Commonwealth, state and territory government forum of senior officers who represent health and law enforcement agencies in each Australian jurisdiction and New Zealand, as well as representatives of the Australian Government Department of Education, Employment and Workplace Relations. The committee provides policy advice to relevant ministers on drug-related matters, and is responsible for implementing policies and programs under the National Drug Strategy framework. As part of the *National Drug Strategy 2010-2015*, the IGCD is committed to the development of a number of sub strategies, including alcohol, for which a Statement of Priorities and accompanying work-plan is being developed. The Priorities revolve around the key focus of preventing and reducing alcohol related harm in Australia. Further, the IGCD will convene a stakeholder meeting on alcohol related violence and harms on 19 November 2014.

ACT Policing is represented by the Deputy Chief Police Officer (Crime) who is an Executive member of the IGCD Board.

Australian New Zealand Police Advisory Agency (ANZPAA)

ANZPAA is a joint initiative of the Australian and New Zealand Police Ministers and Commissioners. ANZPAA provides strategic policy advice to Police Commissioners, all of whom sit on the ANZPAA Board, on cross-jurisdictional policing initiatives that help enhance community safety and security.

ANZPAA's *Drug and Alcohol Strategy 2012-15* supports police jurisdictions in their efforts to reduce harms and manage the risks of drug and alcohol misuse. Through this strategy, Operation Unite is the most visible activity that reinforces the need for police, health workers and the wider community to work together to reduce the impacts of alcohol-related harm. Operation Unite is a joint initiative of all Police Commissioners across Australia and New Zealand. It demonstrates the united determination of police to challenge alcohol misuse, crime, violence and anti-social behaviour and achieve significant change. The intention of the Operation is to highlight the broader implications associated with alcohol misuse in public locations, including crime and anti-social behaviour, health and injury problems and subsequent impact on policing.

ACT Policing is represented by the Chief Police Officer of the ACT.

2014 – 15 Ministerial Direction for ACT Policing

ACT Policing is committed to "*...reduc[ing] alcohol-related crime, specifically alcohol-related violence, by actively working with partner agencies to reduce the frequency and impact and harms caused by this crime type...*" as specified in the Ministerial Direction. The ACT Government expects ACT Policing to give special emphasis to actively work with partner agencies in combating the adverse effects of alcohol-related violence in public places. Current ACT Policing priorities focus on harm minimisation principles and prevention through education, awareness and enforcement strategies. These include:

- reducing the negative community effects of alcohol-related harm
- encouraging safe and responsible drinking practices
- engaging with licensees and the community to provide a greater understanding of the causes and precursors relating to alcohol related harm

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- engaging with government agencies to achieve an integrated approach to alcohol-related violence and harm.

Australian Capital Territory liquor legislation and regulation reform and review

The objective of the *Liquor Act 2010* (ACT) ('the Act') is to regulate the sale, supply, promotion and consumption of liquor:

- a) to minimise the harm associated with the consumption of liquor; and
- b) to facilitate the responsible development of the liquor and hospitality industries in a way that takes into account community safety; and
- c) in a way that encourages and supports liquor consumers to take responsibility for:
 - i. their consumption of liquor; and
 - ii. their behaviour if it is affected by the consumption of liquor.

In 2010 the ACT undertook a series of reforms to liquor legislation and regulation. As part of its reforms, harm minimisation and community safety took primacy above all other objectives of the Act. The reforms provide clear guidance to the regulator, licensees and the community about the purpose and objectives of the new laws to minimise the harm caused by the use of alcohol. The reforms in the *Liquor Act 2010* (ACT) included:

- power for the Commissioner for Fair Trading to impose and vary conditions on a license in certain circumstances
- provision for the public to comment on new liquor licence applications and change of business licence models in certain circumstances
- emergency power for ACT Policing to close a premises for up to 24 hours in certain circumstances
- power for the Minister to declare a lockout by regulation.

In 2013, ACIL Allen Consulting was engaged to undertake an independent review of the 2010 reforms ('the Review'). The Review found that the majority of stakeholders considered the reforms to have made a positive contribution to community safety, and that the adoption of a risk-based approach to licensing was also seen as a positive step. Expert commentary has indicated support for continuing the ACT's existing risk-

based approach², and the National Alliance for Action on Alcohol ranked the ACT as leading the country in alcohol policy in December 2013.³

The Review listed the following opportunities for further reform to support the objectives of the *Liquor Act 2010 (ACT)*:

- explore how to address specific problems in the City area through possible changes to operating hours and outlet density in collaboration with industry
- consider addressing concerns that licence fees may not reflect the risks associated with take-away liquor
- expand the Act to better address inappropriate promotion and harmful discounting of alcohol
- improve how the community is consulted on licence applications, including a more proactive approach to informing the community about applications.

ACT Policing has been a key stakeholder in the review of the *Liquor Act 2010 (ACT)* and continues to collaborate with ACT Government Directorates to ensure the objectives of the Act are achieved and that the impacts of alcohol-related harm on the community are addressed.

ACT Policing Initiatives

Stakeholder engagement

ACT Policing take a leadership role in efforts to reduce alcohol-related violence within the ACT community through enforcement, targeted education activities in cooperation with the Office of Regulatory Services (ORS), face-to-face community engagement to help educate young people and contribution to the *Liquor Act 2010 (ACT)* Review.

ACT Policing engages extensively with owners and patrons of licensed premises to ensure that they understand their obligations under the *Liquor Act 2010 (ACT)*, as well as having key representation on the Multi-Agency Liquor Taskforce (MALT), the Liquor Advisory Board (LAB) and

² Matthews R, Legrand, T. *Risk-Based Licensing and Alcohol-Related Offences in the ACT* Canberra: Foundation for Alcohol Research and Education, 2013.

³ National Alliance for Action on Alcohol (NAAA) *National Alcohol Policy Scorecard 2013 Results: Benchmarking Australian Governments' Progress Towards Preventing and Reducing Alcohol-Related Harm*, Melbourne, 2013.

maintaining several youth programs related to under-age drinking and alcohol related offences.

ACT Policing Regional Targeting Team (RTT)

The RTT is a proactive initiative that works closely with ORS in ensuring high levels of public safety and perceptions of safety around Canberra's entertainment precincts and venues. In 2013-14, the RTT conducted 1680 visits/inspections of licensed premises.

The focus of the RTT Education Strategy is, 'Creating a Safe Environment for staff and patrons'. This message forms the foundation of the RTTs Communication Strategy with internal and external agencies. The collaborative approach between police, ORS and the licensed premises is geared to enforcing this message.

Safe Summer Campaign

A joint initiative between ACT Government and ACT Policing is the Safe Summer campaign, a campaign about proactively educating and engaging with the ACT Community during the summer months. This campaign will now be initiated for a third year due to the successes achieved in 2012 and 2013. Significant decreases in reported alcohol-related violence and anti-social behaviour has been realised through these campaigns, as well as a reduction in criminal infringement notices.

ACT Policing Response to the Competition Policy Review Panel's draft report recommendations

The remainder of this submission focuses on the Panel's recommendations listed below:

Draft Recommendation 10 – Planning and zoning

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*
- *Reducing the cost, complexity and time taken to challenge existing regulations.*

ACT Policing is concerned about the alcohol related harm implications of removing restrictions relating to planning and zoning for alcohol outlets. To address alcohol related violence, jurisdictions around the world have restricted the granting of new licences and imposed density limitations.

In recent years, a number of Australian jurisdictions have imposed a 'temporary freeze' or moratorium on all new licence applications for late-night trading in an attempt to specifically reduce alcohol-related violence. This method of outlet density limitation, in the short-term, prevents further exacerbation of problems in a particular area, and enables long-term strategies to address alcohol-related harm to be developed and take effect.

ACT Policing acknowledges limiting the volume of venues on the basis of density alone may operate as a de-facto protection from competition for existing venues. Accordingly, the potential competition policy impacts of the imposition of outlet density limits must be closely examined to ensure

barriers to competition are not imposed without a net public benefit from restricting competition.

ACT Policing notes that, should recommendation 10 be adopted, the ACT has the appropriate safeguards in place, including effective engagement with the Australian Hotels Association and other industry stakeholders, to ensure competition policy is given due weight and is balanced accordingly against community harms.

Draft Recommendation 11 – Regulation review

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 Competition and Consumer Act 2010 (Cmth)) 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.

ACT Policing is concerned about the alcohol-related harm implications of deregulation of supermarkets, specifically the Panel's prioritisation to review restrictions preventing their sale of liquor. This recommendation, in conjunction with the deregulation of retail trading hours (recommendation 51), will likely increase access to alcohol; it's physical availability and lower retail price due to increased competition.

Draft Recommendation 51 – Retail trading hours

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.

ACT Policing is concerned about the alcohol-related harm implications of deregulation to the trading hours of on-licence and off-licence retail premises. Research and analysis, conducted nationally and internationally, shows a strong correlation between alcohol-related violence and outlet operating hours. The data consistently supports the premise that increased operating hours for licensed premises is associated with increased levels of consumption and harm. It has even been noted that relatively small changes to operating hours, such as adding or subtracting just one or two hours, can substantially impact on the levels of alcohol-related violence.⁴ For example, in a Perth study, bars permitted to trade just 1 or 2 hours extra after midnight were found to double the rate of late-night violent incidents reported to the police.⁵

⁴ Stockwell T, Commentary on Kypri et al. (2011): Fighting the good fight against alcohol-related violence: one bar or one hour at a time? *Addiction*, vol. 106, iss. 2, p. 311-12.

⁵ Chikritzhs T, Stockwell TR. 2002. The impact of later trading hours for Australian public houses (hotels) on levels of violence. *Journal of Studies on Alcohol*, vol. 63, p. 591-9.

Conclusion

ACT Policing understands the Competition Policy Review (September 2014) is currently a draft report and presents specific recommendations for the purpose of stimulating debate. ACT Policing also understands this debate will inform the Panel's Final Report to the Australian Government due by March 2015.

ACT Policing recommends the Panel, in its review, consider the broader harm implications to the community generated by the increased availability and reduced costs of alcohol.

ACT Policing acknowledges that competition policy aims to improve the economic welfare of Australians. ACT Policing recognises that the purpose of that policy is to facilitate markets that work properly to meet their needs and preferences.

ACT Policing suggests that the focus on the market should include not only potential benefits to consumers and suppliers, but that it should also consider alcohol-related harm as a major concern for Australian communities and for all Australian law enforcement agencies.

There is an evidence base, supported by health, law enforcement and academia, that alcohol's availability, pricing and promotion correlates with adversely impacts alcohol-related harm.

This harm may be increased by the Panel's recommendations of:

- removing restrictions related to planning and zoning for alcohol outlets
- deregulation retail trading hours
- reducing constraints on supermarkets being able to sell alcohol.

While aiming to improve economic welfare, the report's recommendations may in fact have the unintended consequences of increasing alcohol-related crime and anti-social behaviour.