



17 November 2014

Competition Policy Review Secretariat  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Dear sir / madam

### **Submission to Draft Competition Policy Review Report**

Thank you for the opportunity to make a submission to this report.

Ice Box Liquor is a wholly family owned chain of 20 liquor stores operating in regional NSW. We have small format stores and compete on the basis of providing convenience to our customers. This is primarily achieved through well placed store locations and the provision of convenient access and parking.

There are very few operators of chains of liquor stores in NSW other than the Coles and Woolworths owned brands. Most independent stores are owned by individuals or families with single store ownership. With 20 stores, our scale is dwarfed by the majors and their ability to often beat us on price limits our ability to compete with them to the factors noted above. Nonetheless we believe we can establish and maintain a viable position within selected locations.

Our ability to compete is significantly limited by the hurdles to growth created by the current NSW liquor licensing process and laws. The restrictions to the granting of new liquor licenses, the time involved, the uncertainty and lack of transparency of the process create cost and operational issues that are more damaging for small businesses.

Ice Box Liquor takes very seriously its obligations and its role in minimising harm from alcohol consumption. We recognise that some people are vulnerable to harm directly or indirectly through the consumption of alcohol. However we also recognise that the vast majority of the adult community purchases and consumes alcohol without creating harm for themselves or others.

### **NSW Restrictions on Competition in the Name of Harm Minimisation**

In this respect, we believe the current system in NSW adopts a "blunt instrument" approach whereby the perceived increased risk of harm to a relatively small number of people results in the vast majority of "safe" consumers from benefitting from increased competition. We believe the system should be focussed on minimising harm to those likely to experience it while still allowing the benefits of competition to flow to the majority.

Ideally the system would to allow competition but be focussed on harm minimisation targeted at consumers at greatest risk of harm through such practices as follows:

Ice Box Liquor Pty Ltd A.C.N 105 982 438  
Sydney: P O Box 175 Bondi Junction NSW 1355 Australia. T 02 9388 9799 F 02 9388 9177  
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- Improved educational outcomes in relation to the potential of harm from alcohol consumption
- Improved communication of support and intervention opportunities for those that suffer harm from alcohol
- Improved opportunity for self-aware consumers with addiction issues to self-exclude or self-limit alcohol purchases at specific licensed premises
- Opportunity for police and other authorities to impose exclusion or consumption limits in relation to identified problematic consumers

A central thesis adopted by the liquor licensing authority is that an increased number of license results in an increase in consumption of alcohol. However in NSW where alcohol is widely available through liquor stores, hotels, some supermarkets and other channels in nearly every town and city, it is difficult to understand how any person desirous of purchasing alcohol would currently be denied or discouraged through lack of retail accessibility except for in the most remote locations. Moreover, those people at risk of harm are probably more likely to “go the extra mile” to purchase alcohol. We do not see how increased competition and the associated consumer benefits would result in increased consumption.

We think the linking of laws and practices that reduce competition and the benefits that would flow to the whole community to the risks posed to a very small minority is counter-productive to the broader community. Moreover it is possible that better harm minimisation outcomes could be achieved with measures that are specifically targeted at higher risk consumers rather than relying upon the blunt instrument of overall restriction of supply.

### **Improved Transparency and Consistency of Liquor Licensing Application**

The current NSW regime of granting liquor licenses is based on the proper intention of minimising harm. The process adopted by the authority is to scrutinise a wide range of data often including Australian Bureau of Statistics (ABS) data and the NSW Bureau of Crime Statistics and Research (BOCSAR), as well as many other sources. These sources make available a very wide range of data, and inevitably there is some positive and some negative data that can be identified. This issue becomes the relative weighting that the authority gives to the various factors.

While it is the responsibility and proper role of the authority to assess applications for new licenses, the process is often seen as a black box with little or no opportunity for the applicant to address the concerns of the authority. As such, once an application is refused, there is little or no recourse for review or amendment. Given the work and cost of making such an application, this can be a very unproductive endeavour. Indeed it is akin to professional gambling with significant costs to the applicant and the prospect of an all or nothing outcome. In this respect it is important to note that liquor license applications are made in respect of specific premises and therefore the applicant must “control” or have tenure of the property during the full application process without the certainty of outcome and thus of being able to use the premises. This is a very costly component of the license application exercise that is effectively prohibitive for small businesses.

Such a situation discourages applications and therefore is anti-competitive. It also clearly favours the larger business (Coles and Woolworths) who can much more readily afford the cost making applications, more so of unsuccessful applications.

A superior process would involve greater transparency of the particular factors and their relative weighting that the authority will consider in assessing applications. While a formulaic approach cannot be used as the only tool, a more prescriptive and standardised risk

assessment matrix approach would allow applicants to make a preliminary assessment of the risk profile of a proposed application and therefore manage the cost and risk of it.

We would also welcome a more consultative approach by the licensing authority. There is little or no consultation with which results in applications that might otherwise be improved or modified being refused. This creates inefficiency and is again anti-competitive.

### **Basis for Comparison – NSW State Average**

The statistical approach taken by the NSW licensing authority generally assesses the community surrounding the location of the proposed licensed premises against the NSW state average. Population, demographic, economic and cultural data is used to compare against the state average.

However NSW (and we suspect every other state is too) is a state of at least two parts, and maybe more. Based on ABS data from the 2011 census available on the Quickstats website (<http://www.abs.gov.au/websitedbs/censushome.nsf/home/quickstats?opendocument&navpos=220>), the following data has been extracted:

		<b>Australia</b>	<b>NSW</b>	<b>NSW Major Urban</b>	<b>Regional NSW</b>
<b>Population</b>	Total	21,507,717	6,917,658	4,852,032	2,065,626
	Median Age	37	38	36	
	Both parents born in Australia	53.7%	51.9%	41.5%	76.3%
	One parent born in Australia	12.0%	11.4%	11.8%	10.5%
	Neither parent born in Australia	34.3%	36.7%	46.7%	13.2%
<b>ATSI Population</b>	Total	548,368	172,620	69,204	103,416
	% of Australia or NSW	2.5%	2.5%	1.4%	5.0%
<b>Education</b>	All Other	93%	93%	92%	95%
	Technical	2.2%	2.4%	2.4%	2.5%
	University	4.3%	4.4%	5.3%	2.3%
<b>Employment</b>	% in labour force	49.6%	48.2%	49.5%	45.2%
	Employed full time	59.7%	60.2%	61.5%	56.9%
	Employed part time	28.7%	28.2%	27.1%	31.0%
	Unemployed	5.6%	5.9%	5.8%	6.2%

It is quite obvious that NSW as a whole has a lot in common with Australia as a whole. What is also obvious is that NSW as a whole is greatly influenced by the Major Urban area – which

is the coastal strip including Newcastle, the Central Coast, Sydney and Wollongong. This relatively small part of NSW constitutes 4.8m of the total 6.9m people and has a very different set of characteristics from Regional NSW which is a vast area home to more than 2m people.

So assessing a regional town in NSW in demographic and cultural terms against the NSW state average will nearly certainly identify the regional town as being very different. However lower incomes, different employment profiles, higher relative ATSI populations, lower educational outcomes in regional towns may be completely “normal” when measured against all other regional towns. The blunt instrument of statistical assessment results in unsuccessful license applications causing inefficiency and reducing competition.

## **Conclusion**

The use of blunt assessment techniques, lack of transparency and consultation and the absence of review procedures impose costs that are inefficient and anti-competitive.

Minimisation of the potential for harm from alcohol consumption is a social imperative. It could be addressed more directly than through the application of a basic thesis intended to limit supply in NSW where alcohol is already widely available. Opportunities for improved and more direct harm minimisation include:

- Improved educational outcomes in relation to the potential of harm from alcohol consumption
- Improved communication of support and intervention opportunities for those that suffer harm from alcohol
- Improved opportunity for self-aware consumers with addiction issues to self-exclude or self-limit alcohol purchases at specific licensed premises
- Opportunity for police and other authorities to impose exclusion or consumption limits in relation to identified problematic consumers

We thank you for the opportunity to contribute to the review.

Yours faithfully



David Owens  
Managing Director