



REVIEW OF THE LIQUOR CONTROL ACT 1988

Advertising, supply and penalties

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1. Introduction & about YACWA

The Youth Affairs Council of Western Australia ('YACWA') welcomes the opportunity to provide a submission in response to the review of the *Liquor Control Act 1988*. The following submission provides a specific analysis into how the regulation of advertising and supply of alcohol to young people has a serious impact on how young people use and abuse alcohol.

Due to the limited review period YACWA was not able to consult directly with young people as is our usual practice. YACWA hopes the parliamentary committee has ensured the views of young people have been actively sought. In addressing the review's terms of reference YACWA will provide specific focus on:

- The advertising and marketing of liquor products;
- The secondary supply of liquor products to minors; and
- The appropriateness of penalties under the act

The Youth Affairs Council of Western Australia (YACWA) is the peak non-government youth organisation in Western Australia with a membership of over 300 youth service organisations, community organisations, academics, individuals and most importantly young people themselves. Established in 1980, YACWA has worked tirelessly for 30 years to deliver high-level representation and advocacy for the Western Australian youth sector and young people.

Our role is to:

- Act as a lobbying group for the non-government youth sector and Western Australian young people aged 12-25
- Provide information and support to the non-government youth sector
- Work to promote fair and positive outcomes for young people in our community
- Promote equity, equality, access and participation for young people in Western Australia
- Advocate to all levels of government on the best interests of Western Australia's young people
- Encourage the active participation of young people in identifying and dealing with issues that are important to them
- Improve youth services by exchanging ideas, information, skills and resources

- Provide a strong, united and informed voice capable of effectively advocating for the non-government youth sector and the young people with whom they work

2. Summary and Recommendations

In addressing the reviews terms of reference YACWA provides specific focus on the current regulation of advertising and marketing of liquor products, Western Australia's deficient regulation of secondary supply of liquor products to minors and the inappropriateness of the penalties currently under the Act. Children and young people have long been identified as being particularly at risk of harm as a result of the misuse of alcohol and consequently it is incumbent upon not only the government and community sectors but also private retailers to work together to find suitable solutions to the ever-increasing problem of alcohol abuse in our communities. YACWA believes, relying on a foundation of evidence-based research, that addressing the three aforementioned concerns will go a long way to mitigating the detrimental impacts of alcohol on Western Australia children and young people.

If you wish to discuss any aspect of this submission please do not hesitate to contact me by phone on 08 9227 5440 or via email eo@yacwa.org.au

Kind regards,



Craig Comrie
CEO

25 FEBRUARY 2013

Recommendation One

Alcohol Promotion

YACWA recommends the phasing out of alcohol promotions from times and placements that have high exposure to young people aged up to 18 years. This includes, but is not limited to; advertisements during sports broadcasts; alcohol sponsorship of sport and cultural events; and advertisements shown during times of increased child viewing.

Recommendation Two

Secondary Supply

YACWA recommends the introduction of a provision in the *Liquor Control Act 1988 (WA)* that restricts the secondary supply of alcohol to minors in private settings. Such a provision will bring Western Australia into line with the rest of the country and support the important role of parents in the safe provision of alcohol in supervised environments.

Recommendation Three

Penalties and Enforcement

The penalties under the act are inappropriate to achieve the object of harm minimisation. YACWA believes enforcement should focus on institutional irresponsibility rather than ineffectively and counter-intuitively targeting individual drinkers.

3. The Advertising and Marketing of Liquor Products

3.1 Exposure of young people to alcohol promotion

Children and young people have long been identified as being particularly at risk of harm as a result of the misuse of alcohol¹. This risk is compounded by the fact that young people are particularly susceptible to the influence of alcohol advertising. While new frontiers of advertising have opened up as a by-product of the digital age, the vast majority of children and young people's exposure to alcohol advertising is through television advertisements². A 2010 study on the prevalence of alcohol advertising on Australian television found that approximately 50% of all alcohol advertisements on television appeared during children's viewing times. International studies have shown that there is a direct correlation between levels of exposure to alcohol advertising and ultimate levels of alcohol consumption³, with roughly a 1% increase in alcohol consumption for every additional advertisement viewed.

A United States study on the relationship between alcohol advertising and youth alcohol consumption revealed that continued exposure to alcohol advertising resulted in a consistent increase in unsafe drinking behavior over time. Respondents living in areas with a high concentration of alcohol advertisements were significantly more likely to engage in risky drinking behavior well into their late 20s.

In addition to well-established television advertising markets there is growing concern regarding the ubiquitous nature of alcohol advertising in social media and new digital

¹ Winter VM, Donovan RJ, Fielder LJ. Exposure of children and adolescents to alcohol advertising on television in Australia. *Journal of Studies on Alcohol and Drugs*. 2008; 69(5): 676-683

² Pettigrew S, Roberts M, Pescud M, Chapman K, Quester P, Miller C. The extent and nature of alcohol advertising on Australian television. *Drug and Alcohol Review*. 2012; 31(6):797-802.

³ SNYDER, L.B., MILLICI, F.F., SLATER, M., SUN, H., AND STRIZHAKOVA, Y. Effects of alcohol advertising exposure on drinking among youth. *Arch. Pediat. Adolesc. Med.* 160: 18-24, 2006

technologies⁴. The unfettered access of young people to largely unregulated internet-based alcohol advertisements has opened a new front for the alcohol industry to increase its saturation of an already over-exposed market. Social media marketing has become one of the favoured approaches of alcohol companies globally to, relatively cheaply, increase their exposure to a younger market⁵.

3.1.1 Alcohol Advertising Targeting Young People

The Alcohol Beverages Advertising Code (ABAC) Scheme has rules that seek to discourage any form of advertising that has '*strong or evident appeal to children or adolescents*'. However studies have revealed that a substantial amount of alcohol advertising is communicated directly to young people. A 2007 study held that 13-17 year olds were exposed to as much or more free-to-air advertising of 4 leading alcoholic beverage brands than 18-29 year olds⁶.

A 2010 study on the extent to which advertising regulations were effective at reducing the degree to which children were exposed to advertisements about alcohol revealed the current regulatory framework was largely ineffective⁷. The Western Australian study held that over three quarters of the children and young people participating were able to correctly associate the Bundaberg Rum Polar Bear with an alcohol product. This indicated that not merely was there a statistically large number of children being exposed to Bundaberg Rum advertising but the children had been exposed to the advertisements on enough occasions to correctly connect the advertising character with the product it was selling. Studies such as this raises

⁴ Australian Medical Association. Alcohol Marketing and Young People: Time for a new policy agenda. Canberra: Australian Medical Association; 2012

⁵ Diageo plc. Diageo takes multi-million dollar global partnership with Facebook® to the next level [press release]. London: Diageo plc; 2011 Sep 19; Casswell S. Current status of alcohol marketing policy—an urgent challenge for global governance. *Addiction*. 2012; 107:478–485; Schultz EJ. Should Agencies Be Worried About Heineken's New Deal With Google? [Internet]. 2011 [updated 2011 Jun 30; cited 2013 Jan 11]. Available from: <http://adage.com/article/digital/agencies-worried-heineken-s-google-deal/228522/>

⁶ Ministerial Council on Drug Strategy (MCDS), Australian Alcohol Beverage Advertising in Mainstream Australian Media 2005 to 2007: Expenditure and Exposure. 2009, Department of Health and Ageing: Canberra

⁷ Carter O, Phan T, Donovan R. Three-quarters of Australian children recognise Bundy R. Bear: alcohol advertising restrictions are not working. *Aust NZ J Public Health [Letter]*. 2010; 34(6):635-36.

serious questions about the effectiveness of the currently self-regulated or co-regulated system of alcohol advertising that operates in Australia.

3.2 Regulation of alcohol advertising

Australia has a system of co-regulation whereby both the federal government and the alcohol industry play a role in regulating the advertising of alcohol on television. Most countries have elements of voluntary or mandatory self-regulation that restricts the content and times of television alcohol advertisements. The Australian voluntary Alcohol Beverages Advertising Code, developed by the Advertising Federation of Australia, has detailed a raft of limitations that restrict the content of alcohol advertising. This is strengthened by the Commercial Television Industry Code of Practice that stipulates alcohol advertising must be limited to broadcasting between 12PM and 3PM during school terms and 830PM and 5AM during school terms and school holidays. However a glaring exception to this regulation is that advertisements are permitted for alcoholic beverages during the broadcast of any sporting event on weekdays or public holidays, irrespective of the time it is screened.

The major weaknesses of the current system of self- regulation include, but are not limited to:

- The fact that the system in place does not subject all alcohol advertisers to the code; advertisers who are not signatories to the voluntary system are for the most part unregulated;
- The Code relates to alcohol advertising in the traditional sense and does not extend to alcohol marketing in the forms of sponsorship and product placement;
- The regulation of social media and digital media is weak or non-existent;
- The review process related to complaints is slow and decisions are often made when the advertisement is no longer running;

- There is no system of penalties.

3.3 RECOMMENDATION ONE

YACWA recommends the phasing out of alcohol promotions from times and placements that have high exposure to young people aged up to 18 years. This includes, but is not limited to; advertisements during sports broadcasts; alcohol sponsorship of sport and cultural events; and advertisements shown during times of increased child viewing.

4. Secondary Supply of Liquor to Juveniles

The National Health and Medical Research Council recommendations holds that young people, under the age of 18, should avoid consuming alcohol as it has the potential to increase their likelihood of physical and mental harm, anti-social behaviour and alcohol dependence in later life.

It is well documented that many underage young people in Western Australia are provided with alcohol by their parents, friends, siblings or other adults⁸. It is illegal for underage young people to be served in licenced premises or for adults to purchase alcohol for underage young people in licenced premises however there are currently no restrictions regarding the provision of alcohol to underage young people in private residences.

Most Australia States and Territories regulate the secondary of supply to minors in private settings by holding that only a parent, or a guaradian, or an adult with formal approval of the parent can provide alcohol to a young person in a home. For example the New South Wales

⁸ Bridle R, Goggin L, Christou A. ALCOHOL TRENDS IN WESTERN AUSTRALIA: ASSAD SURVEY 2011. Brief communication no. 6 Perth: Drug and Alcohol Office; 2012.

Liquor Act 2007 makes it an offence for an adult, who is not a parent or guardian, to supply alcohol to a minor on private premises without the permission of the parent or guardian. The relevant provision states:

(4) *Supplying liquor to minors on other premises*

A person must not supply liquor to a minor on any premises other than licensed premises unless the person is a parent or guardian of the minor. Maximum penalty: 100 penalty units or 12 months imprisonment (or both).

(5) *It is a defence to a prosecution for an offence under subsection (4) if it is proved that the defendant was authorised to supply liquor to the minor by the parent or guardian of the minor.*

Furthermore, whilst limiting the supply of alcohol to minors through provisions largely similar to that stated above, Queensland and Tasmania also contain a second offence in their liquor control acts that proscribes 'irresponsible supply' of alcohol to a young person. This occurs when an adult provides an excessive amount of alcohol or does not adequately supervise that minor's consumption of alcohol to ensure their safety. YACWA also believes that any changes to the legislation need to be coupled with a public education campaign directed at not only the community as a whole but in particular parents and guardians. Ensuring parents are well informed about the potential dangers of providing alcohol to minors is an essential element of any campaign to minimise alcohol-related harm on children and young people.

YACWA believes that bringing Western Australia into line with other States and Territories would have the benefit of:

- Providing a concrete community standard regulating minors' consumption of alcohol;
- Providing legal and moral support for parents and other responsible adults who seek to discourage drinking by young people and prevent other adults from supplying their children with alcohol; and

- Discouraging adults from supplying alcohol to young people or permitting the consumption of alcohol on private premises.

4.1 RECOMMENDATION TWO

YACWA recommends the introduction of a provision in the *Liquor Control Act 1988 (WA)* that restricts the secondary supply of alcohol to minors in private settings. Such a provision will bring Western Australia into line with the rest of the country and support the important role of parents in the safe provision of alcohol in supervised environments.

5. Appropriateness of penalties under the act

The Act provides a range of enforcement options that are designed to alter the behaviour of licensees and staff by providing penalties if they do not operate safely and responsibly. It has been difficult to prove in recent years that the level of enforcement is having a demonstrable impact on the level of compliance with the provisions of the act. In fact, in recent years, anti-social behaviour and alcohol related arrests in and around licensed premises, have been increasing. Incidents in and around licensed premises that have required police attention increase by 22 percent in the five years from 2005-2010.

5.1 Penalising drinkers instead of licensees

The Western Australian Auditor-General's 2011 report into the implementation of the *Liquor Control Act* found that the "level of fines and prosecution against licensees and their staff does

not fully support improved compliance⁹. This is demonstrated by the fact that the majority of enforcement mechanisms are directed towards individual drinkers as opposed to licensees and their staff.

The Act makes it incumbent upon the licensees to be responsible for safe management of their premises and yet 93% of the fines that were issued in 2011 were to individual drinkers consuming alcohol in and around licensed premises¹⁰. In the four years from 2007 – 2011 licensees have constituted around 4% of all fines issued under the Act. This is compounded by the fact that rate of police success in prosecuting licensees for offences under the act is very low. The success rate hovers between 50 and 60 percent which significantly weakens the deterrent effect of enforcement¹¹.

It seems wholly incompatible with the objectives of harm minimisation to direct enforcement at individual drinkers rather than making licensees and staff accountable. Licensees and bar staff are uniquely placed to change the behaviour of drinkers in their premises. Rigorously regulating bar staff and licensees through enforcement will positively affect the patrons they serve.

RECOMMENDATION THREE

The penalties under the act are inappropriate to achieve the object of harm minimisation. YACWA believes enforcement should focus on institutional irresponsibility rather than ineffectively and counter-intuitively targeting individual drinkers.

⁹ Auditor General Western Australia, *Raising the Bar: Implementing key provisions of the Liquor Control Act in licensed premises*, 2011

¹⁰ Auditor General Western Australia, *Raising the Bar: Implementing key provisions of the Liquor Control Act in licensed premises*, 2011. Pg 26

¹¹ Auditor General Western Australia, *Raising the Bar: Implementing key provisions of the Liquor Control Act in licensed premises*, 2011. Pg 28