



SUBMISSION TO REVIEW OF *LIQUOR CONTROL REFORM ACT 1998*

Contact

John Rogerson

Chief Executive Officer

John.rogerson@adf.org.au

23 December 2016

Level 12
607 Bourke Street
Melbourne VIC 3000

PO Box 818
North Melbourne
VIC 3051

-
T 03 9611 6100
F 03 8672 5983
adf@adf.org.au
adf.org.au

ABN 66 057 731 192

Contents

Contents	2
INTRODUCTION	3
SECTION 1	4
<i>THE ROYAL COMMISSION INTO FAMILY VIOLENCE</i>	4
<i>THE ROLE OF ALCOHOL IN FAMILY VIOLENCE</i>	4
<i>EMPIRICAL DATA</i>	5
<i>EFFECTS OF FAMILY VIOLENCE ON CHILDREN</i>	6
SECTION 2: RE QUESTIONS NOMINATED IN THE CONSULTATION PAPER	6

INTRODUCTION

Celebrating more than 50 years of service to the community, the Alcohol and Drug Foundation (ADF) is one of Australia's leading bodies committed to preventing alcohol and other drug problems in local communities around the nation. It is one of the few national, prevention-focused organisations in the alcohol and drug field.

Our focus is prevention and early intervention and our strategies include community action, health promotion, education, information, policy, advocacy and research. Our vision is an Australia that is composed of 'Healthy People, Strong Communities'.

The ADF is working towards culture change through the provision of high-quality alcohol and drug information and education services, community capacity building programs and advocacy. We reach millions of Australians through our work in the home, in the workplace and in grassroots community and professional sporting clubs. Our footprint extends across metropolitan, regional, rural and remote Australia in every State and Territory.

- The ADF is the pre-eminent national source of accurate, up-to-date, high quality information regarding alcohol and other drugs, accessible free of charge for all community members. Our telephone, fax, email and web drug information services receive over a million contacts each year. The ADF also conduct regular seminars and webinars which attract members of the general public, professionals working in the AOD field, researchers, academics and policy makers, as well as hosting other information and education events.
- We have developed alcohol harm reduction programs for workplaces (Good Hosts, ADF Inform, Workplace Consultancy Services) that have been implemented in over 40 Australian workplaces, including the Australian Defence Force, Comcare, RioTinto, St George Bank, NRMA, local government, and the tertiary education sector.
- We are active in community and professional sport. Our multi-award winning *Good Sports* program has transformed the drinking culture of thousands of community sport clubs, assisting them to become healthier, safer and more family friendly places. We have also partnered with the National Rugby League to introduce a whole-of-organisation, whole-of code approach to alcohol management and are now working to increase our partnerships with other professional sport governing bodies and elite clubs.
- We are committed to social inclusion and closing the gap in health and life expectancy between Indigenous and non-Indigenous Australians through partnerships and collaborations with Indigenous communities across the country. We have implemented *Good Sports* in remote towns in Central Australia and we are now working with the Northern Territory government to extend the program to the Tiwi Islands.

While we work to address all types of drug related harm, our main focus is on alcohol because of its major contribution to personal and social harms and overall cost to the Australian community compared to other drugs. Alcohol is second only to tobacco as a preventable cause of drug-related harm in Australia. Although risky use of alcohol has serious personal, social and economic consequences, many Australians regard alcohol as integral to the national culture.

THE ADF SUBMISSION

The ADF is pleased to respond to the Consultation Paper for the Review of the Liquor Control Reform Act 1998 issued by the Office of Liquor Gaming and Racing. In addition, the ADF is a founding member of the Alcohol Policy Coalition (APC) and is a signatory to the APC Submission to the Review. This submission is complementary to the APC submission.

SECTION 1 CONTEXT FOR THE REVIEW OF THE LIQUOR CONTROL REFORM ACT 1998

Alcohol in Victoria

The general population properly perceives excessive alcohol use as a serious problem. In 2013, alcohol was the most commonly mentioned drug that people thought caused the most deaths (34%) and excessive alcohol consumption was the drug of most serious concern to the general community (43%).¹

Due to its ability to impair judgment and coordination, excessive drinking contributes to crime, violence, anti-social behaviours and accidents. Over the longer term, harmful drinking may result in alcohol dependence and other chronic conditions, such as high blood pressure, cardiovascular diseases, cirrhosis of the liver, types of dementia, mental health problems and various cancers.²

The ADF is of the view that the level of alcohol related harm in Victoria is not acceptable and that extensive reform of the legislation governing alcohol supply and sale is required.

The ADF notes that the report in 2012 by the Auditor-General into Effectiveness of Justice Strategies in Preventing and Reducing Alcohol-Related Harm concluded that the “level of reported alcohol-related harm has increased significantly over the past 10 years” and that “[a] fundamental change in approach to strategy development, licensing and enforcement is required before any noticeable impact on reducing harm is likely”.³

Evidence of increased harm included increases in alcohol involvement in family violence, alcohol-related assaults, alcohol-related ambulance attendances, and alcohol-related treatment episodes.⁴

Specific signs of increased and increasing harm are:

- an 85% rise in family incidents involving alcohol between 2003-04 and 2012-13;⁵
- an increase in the number of alcohol-related hospital admissions of 29% between 2003 and 2012;⁶ an increase in alcohol treatment episodes in Victoria of 47% between 2004-05 to 2013-14;⁷
- and a phenomenal rise in alcohol-related ambulance attendances in metropolitan Melbourne of 221% between 2004-05 and 2013-14.⁸

As a toxic substance that is implicated in over 1200 deaths and nearly 40 000 hospital admissions in Victoria each year, the sale and supply of alcohol is deserving of robust regulation.⁹ The contribution of alcohol to family violence is emblematic of the toll alcohol takes on the health and safety of Victorians in general.

THE ROYAL COMMISSION INTO FAMILY VIOLENCE

The Review of the Liquor Act is taking place following the delivery of the Report of the Royal Commission into Family Violence (RCFV). The RCFV was initiated by the government because family violence is “the most urgent law and order emergency occurring in our state” and that “more of the same policies will only mean more of the same tragedies.”¹⁰

We note that the RCFV recommended in turn that the Review should investigate family violence measures as a priority, calling for greater attention “to the relationship between alcohol supply and family violence” and consideration of the “supply and regulation of alcohol at a statewide or community level”.¹¹

THE ROLE OF ALCOHOL IN FAMILY VIOLENCE

Alcohol is a major contributing factor to family violence in Victoria. It is widely recognised that alcohol increases both the likelihood of family violence occurring and the severity of the harms associated with violence. This association is recognised by the World Health Organization (WHO)¹² as well as by the RCFV.¹³ Extensive evidence exists that the number and density of liquor outlets, particularly of packaged liquor outlets, is associated with increased consumption and family violence.^{14 15} Of additional significance is the concentration of packaged liquor outlets in areas of socio-economic disadvantage.^{16 17}

The psychopharmacological effects of alcohol is an important trigger for alcohol-related violence.^{18 19} Alcohol has a disinhibiting effect on the individual drinker which can produce increased impulsivity, recklessness and risk-taking; a reduction in anxiety or fear regarding social or physical sanctions or danger; heightened emotionality; and narrowing of perceptual field.^{20 21} This undermines the drinker's ability to assess, avoid and resist situations they otherwise might do when not affected by alcohol and this can result in various adverse consequences. In short, acute alcohol intoxication is often predictive of aggressive responses and violence.^{22 23}

While intoxication increases the risk of violence, it is not inevitable that violence accompanies intoxication as people can be intoxicated without committing violent acts and violence is committed in the absence of intoxication.²⁴ As the RCFV noted, most family violence is perpetrated by males against females and unequal power relationships between men and women and between adults and children, disrespect for women, and rigid stereotyping of gendered roles, are fundamental causes of family violence.²⁵

Traditional forms of masculinity normalises aggression and risk-taking behaviour, regardless of the consumption of alcohol and valorizes excessive consumption of alcohol which triggers certain psychopharmacological effects, including reduced inhibition and impulsivity leading to increased risk of violence.²⁶ Liscol et al. (2015) integrated the theories of gender role stress and alcohol myopia to explain male alcohol-related domestic violence. Males who conform most closely to traditional masculine norms are more likely to experience "gender role distress", to drink more heavily, and expose themselves to the effects of alcohol. They are more likely to respond aggressively and violently to their perception of their partner's infringement of their rigid gender expectations (Liscol et al. 2015). A display of aggression allows those men to reinforce their sense of masculinity by maintaining toughness, status, and male superiority.²⁷ Thus the excessive use of alcohol by males who are predisposed to violence can have the effect of facilitating violence and increasing the severity and frequency of violent assault (Snow et al. 2016).

These are complementary analyses, rather than competing, and a number of reports are beginning to marry the psychopharmacological effect of alcohol and the effect of gender role arguments regarding family violence. For example, Wells et al. suggests traditional notions of masculinity have a direct effect via the valorisation of aggression and an indirect effect via the valorisation of excessive drinking which combine to produce a high risk of violence toward family members.²⁸ It is crucial of course that intoxication is not allowed to excuse violence or to conceal the gendered nature of violence and family violence.

While the *Liquor Control Reform Act 1998* is not an instrument to alter entrenched antisocial attitudes men have towards women, it should be utilised to contribute to reducing the risk of family violence by encouraging less aggressive forms of drinking, by males in particular, and by reducing known drivers of aggressive behaviour during drinking sessions in all locations.

EMPIRICAL DATA

Empirical evidence of the role of alcohol in family violence is provided by data of Victoria Police and is supported by an assessment of national police data regarding family violence. Victoria police data demonstrates that alcohol is involved in a high proportion of family violence incidents in Victoria. Crimes Statistics Agency data for 2014-15 found that of 121,251 reported incidents of family violence, one-fifth (21%) or 25,736 incidents, were recorded as having the 'definite' involvement of alcohol and a further 39,012 incidents, representing a further 32%, were recorded as having the 'possible' involvement of alcohol. Consequently, on that account, alcohol is partially implicated up to 53% of reported family violence incidents in Victoria, totalling 64,748 incidents.²⁹

It is noteworthy that although the RCFV recognised the contribution of alcohol to family violence, it appears to have underestimated the proportion of alcohol related incidents that is reported by police as 'relatively small'.³⁰ Research commissioned by the RCFV found that in 2012/13 the offender had definitely consumed alcohol in 20% of family violence incidents, and possibly in 17% of incidents. In 2013/14, the other party had definitely used alcohol in 19% of incidents, and possibly in 16%.³¹

This shows a consistency of effect of alcohol. Given those accounts it is reasonable to conclude that alcohol is involved in a significant proportion of incidents of family violence in Victoria.

A national study of police data on family violence involving alcohol and other drugs found that alcohol was present in 44.2% of all family and domestic violence incidents in Victoria in the period 2009-2013. Nearly one-quarter (22.6%) of family and intimate partner violence offenders had definitely used alcohol and a further 16.1% of offenders had possibly used alcohol.³² Data also indicates that alcohol is involved in a large proportion of child protection cases in Victoria. Court data shows that alcohol was involved in 33% of substantiated child abuse and neglect cases and 42% of cases involving a court protective order in 2001-2005.³³

The value in reducing the incidence of risky drinking for the protection of the risky drinkers' family members is demonstrated by the example of the 24/7 Sobriety Program in South Dakota.³⁴ This program offered recidivist drink drivers the option of staying out of gaol if they agreed to abstain from alcohol and subject themselves to twice daily breath testing to ensure they were alcohol-free. Subsequently the 24/7 Sobriety Program was found to have reduced drink driving by 12% and in addition to have lowered domestic violence by 9%. This result validates the taking of action to reduce levels of risky drinking in the community, especially among heavier drinkers, and indicates that a lower incidence of intoxication among vulnerable populations will lower family violence, as well as other adverse outcomes from excessive drinking.

EFFECTS OF FAMILY VIOLENCE ON CHILDREN

The impact of family violence on children and the role of alcohol in such violence is a powerful motivation to regulate the sale and supply of alcohol, particularly as it relates to domestic consumption. A recent government report on childrens' health, *The State of Victoria's Children*, determined that early negative experiences can compromise a child's long term neurological development, with devastating effects on learning and physical and mental health.³⁵ Family violence has long term consequences for the children who witness such violence as they are likely to experience depression, anxiety, low self-esteem and impaired cognitive functioning.

Current alcohol related family violence contributes to future domestic violence through the transmission of intergenerational trauma and the establishment of norms and expectancies in the rising generation. Children in abusive families are five times more likely than other children to exhibit behavioural or emotional problems which can compromise their psychosocial development, cognitive capacity and educational development, as measured by a lower attainment in NAPLAN testing in year 3. A child who witnesses family violence is on the highest rating of vulnerability and equal to a child who is actually abused.³⁶

SECTION 2: RE QUESTIONS NOMINATED IN THE CONSULTATION PAPER

Q1 WHAT OPPORTUNITIES ARE THERE FOR RELIEVING THE REGULATORY BURDEN?

The ADF considers robust regulation is essential to maintain control over the supply and sale of alcohol and emphasises that in recent decades successive governments have reduced the level of regulation over the liquor industry: the large increase in the number of liquor licences is testament to the ease with which individuals and businesses are able to gain a licence to sell and serve liquor: from less than 4000 licences in 1986³⁷ there are more than 21,000 in 2016.³⁸ Consequently, Victorians have an ease of access to alcohol that is unprecedented. In the light of the findings of the RCFV in particular, it is imperative that the LCRA regulate liquor sales in a robust manner so as to protect the safety and health of all Victorians.

Q2. DOES THE CURRENT LIQUOR LICENCE SYSTEM WORK? HOW COULD IT BE IMPROVED?

As part of the Alcohol Policy Coalition submission we support the following additions to the liquor licence system:

- 1) Licence categories should be revised to appropriately reflect and distinguish between the different operating conditions of different premises types.
- 2) A specific licence for online alcohol supply should be created. Under this licence, online sales and delivery should be prohibited past 10.00pm and persons delivering online alcohol orders should be subject to Responsible Service of Alcohol requirements.
- 3) Existing requirements for limited licences for sporting clubs should be retained.
- 4) Existing prohibitions against the grant of licences for petrol stations, convenience stores and milk bar should be retained.
- 5) Existing requirements for the sale of liquor to occur only in designated areas in supermarkets should be retained.

Q3. How could the liquor licence application and renewal process be improved?

A new model for liquor licence applications and renewal is outlined in the response to Q8.

Q4. Is there scope for streamlining the interaction between licensing and planning processes? What are the biggest opportunities?

The ADF supports the APC position that there is scope to redefine planning and licensing processes as long as harm minimisation continues to be a priority in licensing decisions and that harm, health amenity and social impacts of liquor are considered in planning processes.

Q5. Are there opportunities to improve the risk-based fee structure?

The ADF support the Alcohol Policy Coalition's recommendation as follows:

Recommendations

The *Liquor Control Reform Regulations 2009* should introduce a multiplier for calculation of renewal fees for licensed premises that supply liquor for off-premises consumption based on volume of sales or, if this data is not available, retail floor space.

Renewal fees for licensed premises that exceed a certain volume of sales or retail floor space should be multiplied by a factor that increases incrementally based on sales or floor space ranges.

Q6. How can the LCRA better foster diversity and support small business?

It is not obvious that there is a lack of 'diversity' within the liquor industry as Victoria has experienced an explosive growth in the number of on-premises and off-premises liquor outlets in recent decades. With the advent of 'café society', the range of drinking venues has been enlarged to include myriad small businesses which provide the service of alcohol in casual, non-traditional settings.

Q7. Could the current harm minimisation measures in the LCRA be improved? If so, how?

The ADF supports the Alcohol Policy Coalition's recommendation as follows:

Recommendation

Section 4 of the LCRA (objects) should be amended to set out a non-exhaustive list of types of harm associated with alcohol. Alternatively the LCRA should include a separate definition of harm, setting out such a list.

The types of harm should include the following:

- a) Excessive or risky consumption of alcohol.
- b) Violence, including family violence.

- c) Adverse effects on children, young people, other vulnerable people or groups, or communities.
 - d) Adverse short-term and long-term effects on health.
 - e) Anti-social behaviour.
 - f) Property damage.
 - g) Personal injury or death.
 - h) Road accidents.
 - i) Drink driving.
- j) Underage drinking.

Re On-Premises Trading Hours

Recommendations

The Act should be amended to prohibit the supply of liquor for on-premises consumption beyond ordinary trading hours after 2am without exception. This should apply to all licence categories that currently allow the supply of liquor for on-premises consumption after 1am if the Commission so determines: late night (general), late night (on-premises), restaurant and cafe, club, wine and beer producer's, and major event licences, and BYO permits.

Re Off-Premises Packaged Liquor Trading Hours

Recommendations

The Act should be amended to prohibit the sale of liquor for off-premises consumption (packaged liquor) after 10pm without exception. This should apply to all licence categories that currently allow the supply of liquor for off-premises consumption after 10pm, including packaged liquor, late night (packaged liquor), general, late night (general), club, wine and beer producer's, and limited licences. This should apply in relation to online sale of alcohol (orders and delivery).

Re Promotions and Discounting by Licensees.

Recommendations

The LCRA should directly prohibit a licensee from advertising or promoting the supply of liquor, or the conduct of licensed premises, if it may encourage irresponsible consumption of alcohol or is otherwise not in the public interest.

The LCRA should set out a non-exhaustive list of the type of advertisements and promotions that would be considered to promote irresponsible consumption of alcohol. The list should apply with equal weight to promotions **by on-premises and off-premises licences** and should include:

- price-based promotions, such as sale prices and bulk purchase discounts (e.g. which result in an alcohol product being sold for less than \$1 per standard drink)
- shopper docket promotions
- competition and game of chance promotions
- gifts with purchase
- incentives to consume alcohol rapidly or excessively, such as drinking games or competitions
- non-standard drink sizes
- happy hours.

Re supply of Alcohol to Minors:

For On-premises venues

Recommendation

The exception in section 119(5) of the LCRA allowing supply of liquor to minors in licensed premises as part of a meal if the minor is accompanied by an adult spouse, parent or guardian should be removed.

For Consumption in a Private Residence:

The ADF advocated strongly for the original secondary supply legislation so that a parent or guardian must approve drinking by a minor. The following changes are needed to ensure the Victorian legislation provides the maximum protection to young people by requiring the supply of alcohol to minors to be carried out in the most responsible circumstances.

Recommendations

The LCRA should require supply of liquor to a minor in a residence to be consistent with responsible supervision of the minor.

To achieve this, the LCRA should be amended to require supply of liquor to a minor in a residence or private setting to be consistent with responsible supervision of the minor.

The LCRA should specify factors to be considered in determining whether supply of alcohol to a minor is consistent with responsible supervision, including

- the minor's age
- whether the adult is intoxicated
- whether the minor is intoxicated
- whether the minor is consuming food with the alcohol
- whether the adult is directly and responsibly supervising the minor's consumption of the alcohol
- the quantity and type of alcohol, and the time period over which it is supplied

The Act should also include a statement that the supply of liquor to a minor who is intoxicated is not consistent with responsible supervision of the minor, similar to the statement in section 117(5A) of the *NSW Liquor Act 2007*.

Q8. How should harm be considered in the licence application process?

The ADF supports the following APC recommendations:

Recommendations

Reference to precautionary approach in objects

The APC recommends that section 4(2) of the LCRA should include a statement that harm minimisation may require a precautionary approach.

Reverse onus of proof and require applicants to satisfy harm and public interest tests

- The APC recommends that the LCRA should be amended to reverse the onus of proof in applications for the grant, variation or relocation of a licence.

The LCRA should provide that the Commission must not grant a licence application unless satisfied that the grant:

- a) will not contribute to harm in the area (harm test);
 - b) is in the public interest (public interest test); and
 - c) is consistent with the objects of the Act.
- The LCRA should include clear definitions of harm and public interest, and set out factors for assessing whether a licence application satisfies the two tests. The APC's recommended definitions of harm and public interest are discussed below

- These requirements should not apply in relation to lower risk licences, such as restaurant and café licences. However, the Government should investigate regulatory mechanisms for ensuring that restaurants and cafes are not able to change their operating conditions and effectively switch into other licence types.
- Reversing the onus of proof in licence applications and requiring licence applicants to satisfy tests based on public interest would follow the Western Australian model (under the *Liquor Control Act 1988*), and amendments proposed in the South Australian draft Liquor Licensing (Liquor Review) Amendment Bill 2016. This approach is similar to the *Gambling Regulation Act 2003* (Vic), which places the onus of proof on gaming venue operator licence applicants to demonstrate that their business will not result in a net detrimental economic and social impact on the wellbeing of the community.³⁹

Harm test

- Requiring the Commission to be satisfied that a licence will not contribute to harm would ensure that licence applicants provide evidence specifically relevant to harm, and would require VCGLR to give appropriate consideration and weight to harm minimisation in all determinations (including of uncontested applications), consistent with the primary object of the Act.
- As discussed in answer to question 7 above, the LCRA should include a definition of harm. The definition should set out a non-exhaustive list of types of harm:
 - a) Excessive or risky consumption of alcohol.
 - b) Violence, including family violence.
 - c) Adverse effects on children, young people, other vulnerable people or groups, or communities.
 - d) Adverse short-term and long-term effects on health.
 - e) Anti-social behaviour.
 - f) Property damage.
 - g) Personal injury or death.
 - h) Road accidents.
 - i) Drink driving.
 - j) Underage drinking.

Factors for assessing harm

The Act should also set out a non-exhaustive list of factors to which the Commission may have regard in assessing the likelihood that a licence application would contribute to harm.

- The factors should include features of the licence that are relevant to the likelihood of harm, such as:
 - licence type;
 - location;
 - trading hours;
 - venue capacity or retail floor space;
 - patron or customer numbers;
 - types of alcohol to be sold;
 - past and/or projected alcohol sales; and
 - in the case of applications for licence variation or relocation, compliance history of the licensee, management of the licensed premises, and any licence conditions.

The factors should also include characteristics of the area in which the premises would be situated that are relevant to the likelihood of harm, such as:

- rates or trends of alcohol-related harm in the area,
- 'at risk' groups or sub-communities in the area, such as children and young people, Aboriginal people and communities, people from remote and regional communities, families, migrant groups from non-English speaking countries, tourists and visitors,

- sensitive uses in the area, such as schools, childcare centres and educational institutions, hospitals, drug and alcohol treatment centres, recreational areas, dry areas, areas frequented by young people, and
- socio-economic and social factors, such as rates of crime, violence and family violence, unemployment, homelessness, and the socio-economic profile of the area.
- The LCRA should also set out a non-exhaustive list of evidence that will be relevant to determining whether a licence application is likely to contribute to harm. This should include research, statistics, reports or complaints in relation to alcohol-related crime, ambulance attendances, emergency presentations, hospital admissions and chronic health conditions.

Public interest

The LCRA should include a clear definition of public interest. The definition should set out non-exhaustive factors that the Commission must take into account in determining whether a licence application is in the public interest, including:

- a) the likely impact of the application on the amenity of the area; and
- b) the cumulative impact of existing licences in the area.

The LCRA should state that the Commission must not have regard to convenience for consumers, or economic impact on a licensee or the alcohol industry, in determining whether the grant of an application is in the public interest. It would be contrary to harm minimisation and the public interest if ease of buying alcohol, or commercial benefit or detriment to a licensee, were relevant factors in determining licence applications.

- Ministerial guidelines should also be issued to provide guidance on assessing whether a licence application satisfies the harm and public interest tests, and on the evidence required to support a licence application.

Cumulative impact

- The LCRA should also require the Commission to have regard to the cumulative impact of existing licences in the area in determining whether the public interest and harm tests are satisfied, and whether granting the application would be consistent with the objects of the Act.
- This would ensure that the Commission considers whether the grant of an application would support the object of harm minimisation and be in the public interest in the context of the cumulative impact of existing licences in the area. This would better allow licensing decisions to respond to the strong evidence of the relationship between outlet density and harms, including family violence

The LCRA should set out a non-exhaustive list of factors that the Commission may consider in assessing the cumulative impact of licences in an area, including the types, number, density, mix, locations, trading hours, capacity or retail floor space, patron or customer numbers, alcohol sales, compliance history and management of licensed premises in the area. These considerations are highly relevant in assessing whether an area has reached a saturation point of alcohol availability, and whether the grant of a licence application would be consistent with harm minimisation and in the public interest.

These factors should reflect the strong and consistent evidence base on how the number, distribution, type, sales and trading hours of liquor outlets at the local level drives alcohol-related harm.⁴⁰

Inclusion of reference to retail floor space or alcohol sales would be important to ensure the definition is relevant to packaged liquor licences, as evidence demonstrates that it the amount of alcohol sold via packaged outlets predicts violence rates, rather than just the density of outlets.^{41, 42,43,44}

Recent Victorian based research suggests that chain outlets contribute most substantially to injury risk. This is likely because they are larger and can sell alcohol at cheaper prices compared to independent retailers and thus reduce financial and convenience costs of purchasing alcohol.⁴⁵

This is similar to the approach under Scotland's Licensing Act, which specifically requires licensing authorities to have regard to the number and capacity of existing licences premises in the locality when determining licence applications.⁴⁶

Ministerial decision-making guidelines should provide clear guidance on how to assess and weigh the factors, and different impacts, in order to determine cumulative impact. The guidance should build on the cumulative impact guidance provided in the Department of Planning and Community Development's Practice Note 61 *Licensed Premises: Assessing Cumulative Impact* and the *Assessment of the Cumulative Impact of Licensed Premises* decision-making guidelines issued by the Minister, but should include clearer guidance on assessing a broader range of risk factors and impacts, including guidance relevant to packaged liquor licences and associated harms (such as family violence and health impacts).

Q9. How should the LCRA encourage best practice harm minimization among licensees?

Research evidence and anecdotal evidence indicates that a large number of licensees are not currently serving alcohol responsibly or engaging in best practice harm minimisation behaviour as intoxication is widespread in licensed venues in Victoria.⁴⁷ We support the APCs recommendation.

Recommendations

The offences under section 108(4) of the Act should be based on the single concept of intoxication.

To achieve this, section 108(4)(b) should be amended to make it an offence for a licensee to permit a person in a state of intoxication on licensed premises.

The definition of intoxication in section 3AB of the Act should be amended so that it extends to where there are reasonable grounds for believing that a person's intoxication is a result of the consumption of liquor or *other substances*.

The Act should be amended to provide that where a police officer or licensing inspector decides that a person is intoxicated at a particular time, in the absence of proof to the contrary, the person is taken to be intoxicated at that time (following the approach under section 3A(2) of the *Liquor Control Act 1998* (WA)).

Q 11. What opportunities are there to address family violence within the LCRA?

As our Section 1 referred to evidence that demonstrates a strong association between the state of intoxication and family violence, it follows that policies and actions that reduce the incidence and level of heavy drinking and thereby reduce the incidence and level of intoxication, should also reduce the incidence and severity of family violence. The LCRA can lower the incidence of heavy drinking, and thereby the incidence of family violence, by more thorough regulation of the availability of alcohol.

This includes reductions in trading hours, ending the practice of discounting the price of alcohol, and reducing the density of liquor outlets. This would reduce alcohol problems and harms while enabling Victorians to continue having liberal access to alcohol.

Extensive evidence exists that the number and density of liquor outlets, particularly of packaged liquor outlets, is associated with increased consumption and family violence.^{48 49} Of additional significance is the concentration of packaged liquor outlets in areas of socio-economic disadvantage.^{50 51}

Recommendation

The LCRA should introduce a Ministerial discretion to designate an area as an alcohol harm zone. The LCRA should provide that the Minister may designate an alcohol harm zone if satisfied that there is a high risk of:

- a) alcohol-related harm in the area; or
- b) negative impacts of licences on the amenity of the area.

The LCRA should set out non-exhaustive factors to which the Minister may have regard in deciding whether to designate an alcohol harm zone, including:

- a) evidence of a high level of alcohol-related harm in the area;
- b) evidence of a high level of negative amenity impacts of existing licences in the area;
- c) evidence of a high negative cumulative impact of existing licences in the area;
- d) the types, number, density, mix, locations, trading hours, capacity or retail floor space, patron or customer numbers, alcohol sales, compliance history and management of licensed premises in the area; and

- e) characteristics of the area that indicate a high risk of or vulnerability to alcohol-related harm, such as:
- i. 'at risk' groups or sub-communities in the area, such as children and young people, Aboriginal people and communities, people from remote and regional communities, families, and migrant groups from non-English speaking countries;
 - ii. sensitive uses in the area, such as schools, childcare centres and educational institutions, hospitals, drug and alcohol treatment centres, recreational areas, dry areas, areas frequented by young people;
 - iii. socio-economic and social factors, such as rates of crime, violence and family violence, unemployment, homelessness, and the socio-economic profile of the area.

Designation of an alcohol harm zone would create a presumption that applications for licences in the alcohol harm zone will be refused or subject to specified limitations or conditions (e.g. trading hours limitations), unless the applicant can demonstrate that the application will not increase the risk of alcohol-related harm or negative amenity impacts in the area.

The Minister should have discretion to make the designation in relation to particular licence types only (e.g. higher risk licence types).

The right to apply for designation of an alcohol harm zone should be open to any person (including members of the public, local councils and licensing inspectors). The applicant could be required to define the area that should be designated as an alcohol harm zone in the application based on relevant evidence.

The designation could be subject to review after a certain period, for example, two years.

Q 12. Could the current compliance and enforcement provisions in the LCRA be improved? If so, how?

A comprehensive enforcement strategy jointly developed by OLGR and Victoria Police is needed. This would include the collection and reporting of key data on alcohol related offences, a strengthening of the demerit and star rating systems to improve compliance and the introduction of a 'violent venues' scheme to identify recidivist venues and prevent reoffending.

Recommendation

The Commission and Victoria Police should develop a comprehensive and collaborative enforcement strategy.

State-wide emergency department and police data sharing should be implemented.

Mandatory 'last drinks' data should be collected by police officers attending alcohol-related events, as occurs in NSW and other states. This data should be supplemented by the Commission and Court data and compiled by the Victorian Crime Statistics agency.

Mandatory 'last drinks' data should also be collected in hospital Emergency Departments, as many alcohol-related harms are not reported to police.

The LCRA should introduce a violent venues scheme similar to New South Wales, where licensed venues identified as being associated with alcohol-related violence are subject to a strict set of licence conditions designed to reduce the risk of violence.

A list of violent venues should be regularly published in the media.

The effectiveness of this scheme should be closely monitored to ensure there are real and sustained improvements in licensee behaviour and rates of violent incidents.

Q 13. Are there other measures that could reduce harm? What would be the costs and benefits of including them?

The ADF supports the Alcohol Policy Coalition submission on this matter. Although the marketing of alcohol to children and young people age under eighteen years is agreed by all stakeholders to be unacceptable, static alcohol advertising on public transport infrastructure and close to schools promotes alcohol to young people in circumstances where they cannot avoid exposure.

A Community Defenders Office should be developed to support community members to participate fully and fairly in the licensing process and to assist with objections to applications for liquor licences. Following the model of the environmental defenders office, this measure would ensure that the interested community members have access to expert legal advice and representation on licensing matters.

A formal review of liquor accords is warranted to determine whether they might be made effective in reducing alcohol related harm in the local community. A recently published study found key stakeholders doubted the efficacy of the liquor accord of which they were a member.⁵² If liquor accords are not producing the outcomes expected of them, the resources they utilise should be directed toward effective means of reducing alcohol harm.

Recommendation

The Act should prohibit static alcohol advertising on all public transport infrastructure and within a certain radius of schools (e.g. based on evidence as to the distance Victorian children typically walk to school).

References

- ¹ Australian Institute of Health and Welfare 2013 National Drug Strategy Household Survey Report. Commonwealth of Australia Canberra 2014.
- ² AIHW 2014.
- ³ Victorian Auditor-General. Effectiveness of Justice Strategies in Preventing and Reducing Alcohol-Related Harm. Victorian Government Printer, 2012.
- ⁴ Foundation for Alcohol Research and Education. *The state of play: alcohol in Victoria*, 2014.
- ⁵ Foundation for Alcohol Research and Education. *The state of play: alcohol in Victoria*, 2014.
- ⁶ Data from aodstats (<http://www.aodstats.org.au/>) and amboad stats <http://www.amboadstats.org.au/> aodambostats, accessed 14 December 2016.
- ⁷ Data from aodstats (<http://www.aodstats.org.au/>) and amboad stats <http://www.amboadstats.org.au/> aodambostats, accessed 14 December 2016
- ⁸ Data from aodstats (<http://www.aodstats.org.au/>) and amboad stats <http://www.amboadstats.org.au/> aodambostats, accessed 14 December 2016.
- ⁹ Gao, C, Ogeil, R, & Lloyd, B 2014, *Alcohol's burden of disease in Australia*, Foundation for Alcohol Research and Education and VicHealth in collaboration with Turning Point.
- ¹⁰ State Government Victoria, 'Premier announces Royal Commission into Family Violence' (Media Release, 23 December 2014).
- ¹¹ Victoria, Royal Commission into Family Violence, *Summary and recommendations* (2016), p. 301.
- ¹² World Health Organization 2006, *Intimate partner violence and alcohol fact sheet*, <http://www.who.int/violence_injury_prevention/violence/world_report/factsheets/fs_child.pdf>.
- ¹³ Victoria, 2016.
- ¹⁴ Livingston, M 2011, 'A longitudinal analysis of alcohol outlet density and domestic violence', *Addiction*, vol. 106, no. 5, pp. 919-25
- ¹⁵ Morrison, C, Smith, K, Gruenewald, PJ, Ponicki, WR, Lee, JP & Cameron, P 2016 'Relating off-premises alcohol outlet density to intentional and unintentional injuries', *Addiction*, vol. 111, no. 1, pp. 56-64.
- ¹⁶ Livingston, M 2011, *Using geocoded liquor licensing data in Victoria: The socio-economic distribution of alcohol availability in Victoria*, Victorian Health Promotion Foundation.
- ¹⁷ Livingston, M 2012, 'The social gradient of alcohol availability in Victoria, Australia', *Australian and New Zealand Journal of Public Health*, vol. 36, no. 1, pp. 41-7.

- ¹⁸ “Graham, K., Osgood, D. W., Wells, S., & Stockwell, T. (2006). To what extent is intoxication associated with aggression in bars? A multilevel analysis, *Journal of Studies on Alcohol*, 67(3), 382-390.
- ¹⁹ Boyle S. H., Mortensen L., Grønbaek M., Barefoot J. C. Hostility, drinking pattern and mortality. *Addiction* 2008; 103: 54–9.
- ²⁰ Graham K. and Homel R. Raising the Bar: Preventing aggression in and around bars, pubs and clubs. Devon, UK. Willan Publishing. 2008.
- ²¹ Wells, S; Graham, K; Tremblay, PF, 2009, ‘Every male in there is your competition’: young men’s perceptions regarding the role of the drinking setting in male-to-male barroom aggression’, *Substance Use and Misuse*, vol. 44, no. 9-10, pp.1434-1462.
- ²² Miller, P; Tindall, J; Sonderlund, A; et al. 2012, Dealing with alcohol-related harm and the night-time economy (DANTE), National Drug Law Enforcement Research Fund.
- ²³ Wells, S., Tremblay, P. F., & Graham, K. 2013. Understanding men’s aggression in bars: Development of the Beliefs and Attitudes toward Male Alcohol Related Aggression (BAMARA) inventory. *Alcoholism: Clinical and Experimental Research*, 37 (Suppl 1), 260-270.
- ²⁴ Graham and Homel, 2008.
- ²⁵ Victoria, 2016, p. 301
- ²⁶ Wells, S; Flynn, A; Tremblay, PF; Dumas, T; Miller, P; Graham, K., 2014, ‘Linking masculinity to negative drinking consequences: the mediating roles of heavy episodic drinking and alcohol expectancies’, *Journal of Studies on Alcohol and Drugs*, vol.75,no.3, pp.510-519.
- ²⁷ Liscol, CG; RM, Leone, RM; Gallagher, KE; Parrot, DJ; 2015, ‘Demonstrating masculinity’ via intimate partner aggression: the moderating effect of heavy episodic drinking’, *Sex roles*, vol. 73, no. 1, p.73-81.
- ²⁸ Wells et al 2009.
- ²⁹ Sutherland, P, McDonald, C & Millstead, M 2016, *Family violence, alcohol consumption and the likelihood of criminal offences*, Crime Statistics Agency (Vic).
- ³⁰ Victoria, 2016, p. 31.
- ³¹ Van Tongeren, C, Millstead, M, & Petry, B 2015, *An overview of family violence in Victoria*, Crime Statistics Agency on behalf of the Royal Commission into Family Violence.
- ³² Miller, P, Cox, E, Costa, B, Mayshak, R, Walker, A, Hyder, S, & Day, A 2016, *Alcohol/drug-involved family violence in Australia*, National Drug Law Enforcement Research Fund.
- ³³ Laslett, A, Mugavin, J, Jiang, H, Manton, E, Callinan, S, MacLean, S, & Room, R 2015, *The hidden harm: alcohol’s impact on children and families*, Foundation for Alcohol Research.
- ³⁴ Kilmer B, Nocosia N, Heaton P & Midgette G. Efficacy of monitoring with swift certain and modest sanctions for violations: Insights from South Dakota’s 24/7 Sobriety project. *American Journal Public Health* 103, 1, e37-e43, 2013.
- ³⁵ Department of Education and Training. The State of Victoria’s Children Report 2015. State of Victoria, 2016.
- ³⁶ DET, 2016
- ³⁷ Preventative Health Taskforce *Australia: the healthiest country by 2020. Technical Report No 3: Preventing alcohol-related harm in Australia: a window of opportunity*, p.21, Figure 8.
- ³⁸ Victorian Commission for Gambling and Liquor Regulation, ‘Victorian Liquor Licences as at 30 Nov 2016’ (Data, 1 December 2016) <<http://assets.justice.vic.gov.au/vcglr/resources/1a1cd4fc-05e2-4cf4-997b-f944a72bb016/30+november+2016+-+vcglr+renewable+licences+historic.pdf>>.
- ³⁹ *Gambling Regulation Act 2003* (Vic), s. 3.3.7(1).
- ⁴⁰ See Livingston, M, ‘Liquor regulation: beyond the night-time economy’, in Manton, E, Room, R, Giorgi, C & Thorn, M (eds.) 2014, *Stemming the tide of alcohol: liquor licensing and the public interest*, Foundation for Alcohol Research and Education, pp. 79-86, pp. 80-1.
- ⁴¹ Livingston, M, Wilkinson, C & Room, R 2016, *Community impact of liquor licences*, Sax Institute for the Ministry of Health (NSW), <<http://www.saxinstitute.org.au/wp-content/uploads/Community-impact-of-liquor-licences-1.pdf>>.
- ⁴² Liang, W & Chikritzhs, T 2011, ‘Revealing the link between licensed outlets and violence: counting venues versus measuring alcohol availability’, *Drug and Alcohol Review*, vol. 30, no. 5, pp. 524-35.
- ⁴³ Hobday, M, Chikritzhs, T, Liang, W & Meuleners, L 2015, ‘The effect of alcohol outlets, sales and trading hours on alcohol-related injuries at emergency departments in Perth, Australia, from 2002 to 2010’, *Addiction*, vol. 110, no. 12, pp. 1901-9.

-
- ⁴⁴ Ray, JG, Moineddin, R, Bell, CM, Thiruchelvam, D, Creatore, MI, Gozdyra, P, Cusimano, M & Redelmeier, DA 2008, 'Alcohol sales and risk of serious assault', *PLoS Medicine*, vol. 5, no. 5, p. e104.
- ⁴⁵ Morrison, C, Smith, K, Gruenewald, PJ, Ponicki, WR, Lee, JP & Cameron, P 2016 'Relating off-premises alcohol outlet density to intentional and unintentional injuries', *Addiction*, vol. 111, no. 1, pp. 56-64; World Health Organization 2010, *Global strategy to reduce the harmful use of alcohol*.
- ⁴⁶ *Licensing (Scotland) Act 2005*, section 7.
- ⁴⁷ Miller et al 2012.
- ⁴⁸ Livingston, M 2011, 'A longitudinal analysis of alcohol outlet density and domestic violence', *Addiction*, vol. 106, no. 5, pp. 919-25
- ⁴⁹ Morrison, C, Smith, K, Gruenewald, PJ, Ponicki, WR, Lee, JP & Cameron, P 2016 'Relating off-premises alcohol outlet density to intentional and unintentional injuries', *Addiction*, vol. 111, no. 1, pp. 56-64.
- ⁵⁰ Livingston, M 2011, *Using geocoded liquor licensing data in Victoria: The socio-economic distribution of alcohol availability in Victoria*, Victorian Health Promotion Foundation.
- ⁵¹ Livingston, M 2012, 'The social gradient of alcohol availability in Victoria, Australia', *Australian and New Zealand Journal of Public Health*, vol. 36, no. 1, pp. 41-7.
- ⁵² Curtis A, Miller P, Droste N, McFarlane E, Martino F Palmer D., 'The ones that turn up are the ones that are responsible': Key stakeholders perspectives on liquor accords, *Drug Alcohol Review*. 35:3;273-279, 2016.