



## **Australian Hotels Association**

### **Submission to the Senate Inquiry into Restriction of Personal Choice**

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## 1 TERMS OF REFERENCE

On 25 June 2015, the Senate referred an inquiry into personal choice and community impacts to the Senate Economics References Committee for inquiry and report by 13 June 2016.

The terms of reference examine the economic and social impact of legislation, policies or Commonwealth guidelines, in regard to measures introduced to restrict personal choice 'for the individual's own good'.

This submission addresses the term of reference relating to "the sale and service of alcohol, including any impact on crime and the health, enjoyment and finances of drinkers and non-drinkers".

## 2 EXECUTIVE SUMMARY

AHA acknowledges that whilst the sale of alcohol beverages creates tremendous economic and social benefit, alcohol beverages have the potential to be misused. Where such misuse has the capacity to harm themselves or others, the restriction of personal choice is warranted.

However, for the vast majority of Australians who do not misuse alcohol beverages, policies aimed at restricting their personal choice are not warranted. The AHA strongly supports the responsible sale, service and consumption of alcohol beverages. AHA makes the following observations:

- At the same time that many Australians wish to celebrate and promote a pub culture, there are some who seek to denigrate what is a legitimate business and social activity.
- AHA supports the notion that members of society who comply with the laws of the jurisdiction should be allowed to do so in safety.
- AHA is very concerned about individuals that misuse alcohol beverages and the negative impact this behaviour has on them, their families and society. Legislation that targets the individuals or businesses that commit crime should be promoted rather than blanket measures that restrict individual freedoms
- The AHA remains committed to working with all stakeholders to combat the misuse of alcohol beverages.

The use of whole of population measures should be avoided where the misuse by specific individuals or groups can be targeted. Any policies in regard to alcohol beverages should have regard to the following factors:

- There is a need for policies to target individuals or groups that misuse (or risk misusing) alcohol beverages
- Policies are and should continue to be targeted at those that misuse alcohol beverages and not at the whole population
- The impact of any policy upon moderate and responsible consumers should be quantified
- The effectiveness of the proposed policies should be measured
- Intervention should be commensurate to the associated risk

### 3 ABOUT THE AUSTRALIAN HOTELS ASSOCIATION (AHA)

The Australian Hotels Association (AHA) is the national voice of Australia’s vibrant hotel industry. The AHA is an organisation of employers in the hospitality industry, federally registered under the *Fair Work (Registered Organisations) Act 2009*. The AHA represents more than 5,000 members across Australia with a network of branches based in every state and territory.

The majority of the AHA’s members are pubs and taverns, and a significant number are accommodation hotels. A smaller proportion of the AHA’s membership is comprised of bars, restaurants, casinos and function/conference centres. The overwhelming majority of Australian hotels are owner-operated small businesses serving their local communities, with a proportion of hotels forming part of national or international chains.

Hotels are very proud of the contribution they make to the social and economic fabric of Australia. AHA members employ over 250,000 Australians in businesses and assist over 50,000 community groups located in every city and town in every electorate in the country. We believe that the vast majority of Australians consume alcohol beverages responsibly and that the responsible consumption of alcohol beverages adds value to the Australian way of life.

### 4 ECONOMIC IMPACT

Hoteliers are real people, who create real businesses, which create real jobs, and pay real taxes. Hoteliers enable capital and human investment that underpins Australia’s hospitality and tourism industry. Hotels are not part of the share or digital economy shifting multinational profits off shore. Australian hotels create the following economic benefit:

- 270,000 jobs
- \$12,000,000,000 economic impact
- Support over 50,000 community groups

### 5 SOCIAL IMPACT

Obviously, the sale of alcohol beverages are a core part of what hotels offer – however, hotels are also more than that. Hotels provide a place for people to gather, have a drink, meet new friends, enjoy live music, find a bed when away from home, share a meal and relax and enjoy themselves in a safe environment. In 2009, PwC noted:

*“For commercial and civic reasons, hotels engage with the broader community in a number of ways. As part of the suite of services and entertainment options provided, hotels play an important role in hosting live music, trivia competitions, community group meetings and other events. In addition, hotels provide substantial sponsorship of community organisations, including sporting clubs, community groups, health and social services organisations. Through these activities, hotels play a central role in local community life.”*

By their nature, hotels are often the social hubs of their communities. They are places where alcohol beverages are legitimately and responsibly consumed. The risk to hotels and their patrons of “knock on” effects created by whole of population policy approaches to alcohol beverages should be avoided.

## 6 THE FACTS

In the 1960s, 70% of alcohol beverages were consumed in licensed venues and around 30% in domestic environments. Technological, social and legal changes have reversed that equation and today, more than 70% of alcohol beverages are consumed away from licensed premises.

The Australian Institute of Health and Welfare conducts a National Drug Strategy Household Survey. The most recent survey found that between 2010 and 2013:

- Daily drinking declined significantly from 7.2% to 6.5% and was at the lowest level seen since 1991
- The proportion of people who had never consumed a full serve of alcohol beverages increased from 12.1% to 13.8%
- The age at which 14 to 24-year-olds first tried alcohol beverages has increased since 1998 from 14.4 to 15.7 years in 2013
- The percentage of people who consumed 11 or more standard drinks on a single occasion in the previous 12 months decreased from 16.8% to 15.6%

Further:

- Per capita liquor consumption in Australia has declined by 20% over the past 30 years from more than 12 litres per person per annum to less than 10 litres per person per annum and that this trend is ongoing.
- Beer consumption in Australia is the lowest in 60 years.
- It is estimated that in most venues 40% of alcohol beverages are now served with food

This trend towards reduced per-capita liquor consumption is likely to continue.

## 7 STRATEGIES TO REDUCE MISUSE OF ALCOHOL BEVERAGES

There are two types of general strategy used to combat the misuse of alcohol beverages:

Whole of population	Targeted
<ul style="list-style-type: none"> <li>• Aims to reduce total alcohol beverages consumption over the whole population</li> <li>• Increases risk of reduction of economic impact</li> <li>• Is often dressed up as health based policy but in reality is a revenue grab by government</li> <li>• Reduces safe enjoyment and social interaction</li> </ul>	<ul style="list-style-type: none"> <li>• Aims to reduce misuse by particular individuals or groups</li> <li>• Reduces risk of negative economic impact</li> <li>• Legitimate policy aimed at those that misuse alcohol beverages</li> </ul>

AHA contends that strategies and policies relating to alcohol beverages should be targeted towards those persons or groups that misuse alcohol beverages and not have the effect of restricting the personal choice of the majority who are consuming alcohol beverages responsibly.

## 8 LEGISLATIVE FRAMEWORK

Hotel businesses are covered by extensive industry-specific legislation and regulation related to e.g. liquor, food, gambling, entertainment, and smoking. The principal legislation governing hotels are the Liquor Acts of each state and territory, and in general they set out similar objects. Generally, these objects include:

- Providing adequate controls over the supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community
- Facilitating the balanced development of the liquor industry and related industries such as the live music, entertainment, tourism and hospitality industries

Flowing from these objectives, there are specific obligations to do the following:

- Encourage a culture of responsible promotion and consumption of liquor
- Reduce risky drinking and misuse of liquor, and
- Minimise adverse effects on the amenity of the community

Hotels are the safest places for the sale and consumption of alcohol beverages. As part of their commitment to ensuring the moderate and responsible consumption of alcohol beverages, hotels are supportive of a regulated environment provided that the regulations are evidence based, target specific, valid and appropriate.

## 9 BEST PRACTICE

Hotels have worked over many years with state governments and their local liquor accords on the following key priorities:

- Ensuring there is no sale and supply to underage
- Not tolerating Intoxication and drunkenness
- Ensuring a safe environment within the hotel
- Ensuring amenity of the surrounding area

Every day, hotel staff make appropriate decisions to restrict personal choice where the misuse of alcohol beverages might cause harm to others or themselves. For example, hotel staff must have undertaken formal state approved training that requires them to:

- Ensure proof of age prior to sale
- Ensure alcohol beverages are consumed in a responsible manner
- Prohibit the rapid or excessive consumption of alcohol beverages
- Identify erratic drinking patterns and consumers at risk
- Refuse service in situations of misuse
- Provide appropriate assistance to customers when refusing service
- Serve standard drinks only

All of these measures are paid for by the respective businesses, including for example:

- Security ratios per person
- CCTV and Linked ID scanners
- Enforcement of universal Responsible of Alcohol including compulsory training and penalties
- Paying for police and public transport at large events

On top of these formal measures, hotels often have informal means of restricting personal choice where alcohol beverages might be misused:

- “Give me your car keys”
- “It’s time to go home mate”
- “Don’t drive – the courtesy bus will run you home”
- “Have a glass of water instead”

AHA believes that the frameworks in place at hotels mean that hotels are at best practice in ensuring a safe drinking culture.

## 10CRIME

It is generally arguable that parts of society are becoming less tolerant and respectful of the rights of others. Evidence shows that violent individuals commit violent crime, and are highly likely to reoffend.

- 26% of all violent offenders will be reconvicted of a violent offence within 15 years, with 21% of these new convictions occurring within 12 months.<sup>i</sup>
- Assault offenders are more likely to commit the same offence again than any other offenders, apart from those who commit traffic offences.<sup>ii</sup>
- Drug use, low levels of education and a history of juvenile criminal convictions are strongly correlated with recidivist violent criminal activity.<sup>iii</sup>
- Despite this, over 70% of common assault offences are given Section 10, Section 9 or Section 12 penalties – non-custodial ‘suspended sentences’ or good behaviour bonds.<sup>iv</sup>

Some case studies are set out below:

- July 2012 – Thomas Kelly is killed by a coward punch by Kieran Loveridge - Loveridge had a criminal record as a juvenile, as well as prior assault convictions, but was given probation and good behaviour bonds.
- December 2013 – Michael McEwen suffered serious head injuries after being by David Hona - Hona had a criminal record as a juvenile for reckless wounding and negligent driving, and was "having a big night" with friends because he was to go into custody the next day for an earlier offence of stealing a car.
- December 2013 - Daniel Christie was killed by a punch to the face by Shaun McNeil. - McNeil had an extensive history of non-domestic and domestic assault, as well as drug offences, weapons offences, and breaches of one of his four good behaviour bonds.
- December 2013 – Greg Griffin suffered head injuries after being punched by Patrick Gardner. - Gardner had an extensive criminal history, including drug offences and failing to appear in accordance with a bail undertaking, but had never received a custodial sentence.

- December 2014 – Terry Clarkson was in a coma after being assaulted by Brett McMonagle. - McMonagle was on two intensive correction orders at the time, and is facing a charge of assault occasioning actual bodily harm over a previous incident in May 2012.

Anthropologist Dr Anne Fox in her study “Understanding behaviour in the Australian and New Zealand night time economies” said:

*“If alcohol alone makes people violent, we would expect to find incidents of violence spread evenly across the full range of drinkers, from female post-menopausal librarians to young male rugby players, but we don’t. We would also expect to find an equal incidence of violence among drinkers in all societies, but we don’t. We would expect to find equal levels of violence in all drinking situations, from weddings to funerals to Saturday nights out on the town, but we don’t. The conclusion of this, and many previous studies, is that alcohol can, in certain cultures and situations, be a facilitator of aggression if aggression is there to begin with, both in the individual and in the cultural environment. It does not produce it where it doesn’t already exist.”*

AHA submits that people should be able to go out at night, free from the fear of assault and anti-social behaviour. Strategies that tackle aggressive individuals and reinforce personal responsibility and accountability coupled with measures that ensure the environment people are in is safe, whether inside venues or on the street, will assist this. AHA supports tougher consequences for those who commit acts of violence or anti-social behaviour.

## 11 HEALTH

Businesses licensed to sell alcohol beverages are the third most highly regulated industry sector after medicine and pharmaceuticals. AHA supports evidence based targeted policies directed towards individuals or groups that misuse alcohol beverages. The economic benefit created by hotels above means that whole of population “blunt” approaches to alcohol beverages policy must be avoided. AHA contends:

- Moderate alcoholic beverage consumption can be part of a healthy and enjoyable life.
- Misuse or excessive consumption of alcohol beverages must be discouraged
- The vast majority of Australians consume alcohol beverages in a moderate and responsible manner; they should not suffer from the misuse of alcohol beverages by a few.
- Whilst there can be risks from excessive alcoholic beverage consumption, moderate alcoholic beverage consumption is considered acceptable.
- Public policy aimed at mitigating the negative effects of alcohol misuse should be targeted at individuals or groups that misuse alcohol beverages, rather than whole of population “blunt” approaches.

The AHA acknowledge that some individuals and groups engage in risky drinking practices. Safe practices enforced by hotels include:

- Assessing intoxication levels of customers using a number of methods, including observing changes in behaviour, observing emotional and physical state, and monitoring noise levels and drink purchases
- Monitor emotional and physical state of customers for signs of intoxication and ill effects of illicit or other drug usage
- Identify customers to whom sale or service must be refused according to state and territory legislation, including minors, those purchasing on behalf of minors, intoxicated persons, and persons affected by the consumption of illicit and other drugs
- Developing and promoting low and mid strength alcohol beverages

Hotels are proud to be at the forefront of trying to improve drinking culture by actively supporting low risk drinking in their premises.

## 12 ENJOYMENT

There is an expectation from the community that they can buy and enjoy alcohol beverages. The sale of alcohol beverages contributes to the economic and social development of the community. The general enjoyment and personal choice of people to consume alcohol beverages responsibly should not be restricted.

Likewise, the community has an expectation that public amenity should not be impinged by persons who consume alcohol beverages irresponsibly. Hotels participate in local community accords where the impact on community amenity is discussed and local solutions for local people are developed and implemented.

## 13 FINANCES

Proponents of whole of population based measures (as opposed to measures targeted at those at risk of misuse) favour increasing overall taxation of alcohol beverages as a means of reducing overall alcohol beverages consumption. However, there is very little evidence that such taxation increases have any effect on those that misuse alcohol beverages.

Rather, such increases generally have the effect of reducing consumption by the vast majority of people who enjoy alcohol beverages on a moderate and responsible basis. Taxation from alcohol beverages raises about \$5 billion per annum.

## 14 CONCLUSION

AHA thanks the Senate Committee for the opportunity to make a submission. In summary:

- AHA acknowledges that there is a need to continue efforts to reduce the misuse of alcohol beverages
- Policies are and should continue to be targeted at those that misuse alcohol beverages and not at the whole population
- There is a legitimate expectation from the community that those who enjoy alcohol beverages responsibly and in moderation should not have their personal choice restricted



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- <sup>i</sup> Holmes, J. (2012) *Re-offending in NSW*. NSW Bureau of Crime Statistics and Research: Sydney.
- <sup>ii</sup> Holmes, J. (2012) *Re-offending in NSW*. NSW Bureau of Crime Statistics and Research: Sydney.
- <sup>iii</sup> Payne, J. (2007) *Recidivism in Australia: findings and future research*. Australian Institute of Criminology: Canberra.
- <sup>iv</sup> NSW Sentencing Council (2011) *Good Behaviour Bonds and Non-Conviction Orders*. Attorney General and Justice: Sydney.