

Alcohol Policy Coalition Position Statement

August 2009

THE PHYSICAL AVAILABILITY OF ALCOHOL

Summary

Alcohol has become increasingly available in Australia in recent years, as state governments deregulate their liquor licensing laws in response to pressure from the National Competition Commission, increasing the number of places that sell alcohol and their trading hours. These trends have been particularly strong in Victoria, with licence numbers tripling in the last two decades. Increased alcohol availability has been linked to a range of serious alcohol-related harms and requires substantial policy attention.

The Alcohol Policy Coalition calls for a reassessment of alcohol's position in the National Competition Policy, which currently treats it as simply another commodity. In Victoria, the Coalition calls for reform to the *Liquor Control Reform Act 1998*, in particular emphasising public health as the key aim of the legislation, providing broader scope for objections to new licences and broadening the role of Local Government in licensing decisions.

The issues

Alcohol Availability

The physical availability of alcohol has traditionally been regulated by governments through licensing regimes, which place limits on who can sell alcohol, when and where they can sell it and who they can sell it to. In Australia, the regulation of the sale of alcohol is the responsibility of state governments, which each have specific areas of the state bureaucracy that are responsible for liquor licensing. These liquor licensing authorities are responsible for the granting of new licences, the setting of trading conditions (e.g. hours of trade) and the imposition of penalties for breaches of licence conditions.

In recent decades there has been a general liberalisation of alcohol policy across Australia, with pressure applied on regulatory systems seen as anti-competitive and old-fashioned. These changes have, in part, been the result of pressure from the National Competition Commission¹, but have also been the result of a general emphasis on deregulation and liberal governance. This liberalisation has been particularly strong in Victoria, which has undergone two substantial reviews of liquor licensing legislation (in 1988 and 1998), both of which saw substantial broadening of licence types, relaxation of trading hours regulation and the removal of other restrictions on licence conditions.

These changes have resulted in substantial changes to the availability of alcohol in Victoria, with the number of packaged liquor outlets more than doubling in the last two decades, while the number of on-premise drinking establishments increased seven-fold. In addition, trading hours have been extended, with significant increases in the number of licensed premises (including packaged liquor outlets) with a license for 24-hour trading.

The relationship between alcohol availability and alcohol-related harm

There is a substantial research literature that has examined the impact of changes in alcohol availability on alcohol consumption and related harm². Studies examining significant changes

in the number of outlets selling alcohol (usually through the introduction or removal of alcohol from supermarket shelves) have generally found substantial impacts on alcohol consumption, with similar effects on rates of alcohol-related harm^{3,4}. Studies of more gradual changes in the number of alcohol outlets have produced less definitive findings in terms of alcohol consumption^{5,6}, but there is a growing body of literature, both internationally and from Australia that demonstrate strong links between alcohol outlet density and rates of alcohol-related problems – particularly violence¹. For example, using data for Melbourne from 1996 to 2005, Livingston¹¹ found significant positive relationships between the three major licence types (general, on-premise and packaged liquor) and rates of police-recorded assault. Broadly speaking, this study demonstrated that areas in which alcohol outlets increase generally see increases in assaults, while areas in which outlet numbers decrease generally see fewer assaults. This is a consistent finding across a significant number of studies^{12, 13}.

Similarly, there is good evidence that extending the trading hours of alcohol outlets results in increases in alcohol-related problems. In Western Australia, Chikritzhs and Stockwell^{14, 15} examined the impact of granting hotels Extended Trading Permits, and found significant increases in rates of violence and motor vehicle crashes. These studies also demonstrated that increasing the trading hours of licensed premises substantially increased the amount of alcohol consumed on these premises. These findings have been supported internationally, with studies in Brazil, Canada, Iceland and the United Kingdom finding changes in alcohol-related harm following changes to trading hours.

Liquor licensing regulation in Victoria

Liquor licensing in Victoria is governed by the *Liquor Control Reform Act 1998*, which includes minimising of alcohol-related harm as one of its primary aims. Applications for liquor licences are made to the Director of Liquor Licensing and will not be granted unless council planning permission has been obtained. Licence applications are publicised for thirty days and are provided to the local council and police for review. Objections can be raised by these bodies or by the general public, and contested licence applications are then assessed by Liquor Licensing Panels at informal hearings. These Panels then provide a recommendation to the Director of Liquor Licensing, who makes the final decision to grant or refuse a licence application. If either the applicant or an objector disagrees with the decision, they can appeal to the Victorian Civil and Administrative Tribunal (VCAT), which can review liquor licensing decisions. Decisions made by VCAT can be appealed to the Supreme Court of Victoria, but only on limited grounds (this very rarely happens).

Under the current system, the number of active liquor licences in Victoria has roughly doubled since 1998, with particularly significant increases in the number of on-premise licences granted. Similarly, the number of late-night and 24-hour trading premises has increased substantially since the introduction of the current Act (although it is worth noting that there is currently a 12 month freeze on new late-night licences in Melbourne central suburbs).

In recent years there have been serious concerns about whether the current Act was fulfilling one of its primary aims (the reduction of alcohol-related harm). The Victorian Alcohol Action Plan¹⁶ laid out a series of actions aiming to reduce the harm associated with licensed premises, particularly in entertainment precincts. These included a trial of late-hour entry restrictions (which was not extended), a one-year freeze on late-night licences and a review of Victorian Planning Provisions to incorporate issues relating to amenity, safety and security

around licensed premises in entertainment districts. This final recommendation has seen changes to Victorian Planning legislation allowing for the consideration of the cumulative impact of both existing and proposed licensed premises when considering planning permit applications. In addition, fees for liquor licences are currently undergoing a major review, with the eventual aim to be a fee structure which covers the costs of alcohol-related problems around licensed premises and that is stratified based on the level of risk associated with particular premise types and locations.

Despite these recent developments, there remain serious problems with the current liquor licensing arrangements in Victoria. Local councils, who are tasked with assessing planning permits, report that they have received very little guidance on how to assess 'cumulative impact' and that they lack the resources and capacity to undertake their own research in the area. In addition, packaged liquor outlets do not require planning permission, meaning that there is no possibility to assess their contribution to amenity or safety issues at the planning stage. Councils also report limited scope for their involvement during the liquor licensing phase, despite increasing attention paid to alcohol policy at the local government level.

The *Liquor Control Reform Act* 1998 provides very little scope for objections to liquor licences on public health grounds. Objections to applications based on the general risk of increased harm due to the addition of a new licence are not acceptable, and generally objections are disregarded unless specific problems with the particular licence under consideration can be identified. Thus, for example, the opening of a large packaged liquor outlet in an area with high rates of alcohol problems and large numbers of pre-existing outlets cannot be objected to unless it can be demonstrated that the particular licence is likely to sell alcohol irresponsibly.

Thus, despite increasing recognition of the problems associated with the proliferation of liquor licences in Victoria, the licensing system continues to contain weaknesses that ensure that it is not achieving its aim of minimising alcohol-related harm.

Public perceptions of alcohol availability

A recent study run by VicHealthⁱ has demonstrated that very few Victorians want to see the growth of alcohol outlets continuing, with just 2% of respondents feeling that there were not enough packaged liquor outlets and 6% that there were not enough bars, pubs and nightclubs. Similarly, very few Victorians were supportive of 24 hour trading, with just 9% supporting the opening of nightclubs and bars after 3a.m. and 5% supporting the opening of packaged liquor outlets after midnight.

The Coalition's Position

The Coalition recognises that alcohol is an integral and enjoyable part of Australian culture, and that licensed premises have substantial economic, social and cultural benefits. However, alcohol remains one of the major causes of preventable death and illness in Australia, and there is growing concern regarding increased availability of alcohol due to relaxations in liquor licensing policies. In particular, the links between high densities of late-trading alcohol

ⁱ The VicHealth Community Attitude Survey to Alcohol Policy was a state-wide telephone survey to a random sample of 1523 Victorians aged 16 years and over. Respondents were asked a series of questions about their views on alcohol policy. The survey was conducted between February and March 2009.

outlets and alcohol-related violence has been the focus of significant media attention and community concern.

There is increasingly well-developed Australian evidence highlighting the relationship between the availability of alcohol (over both time and space) and alcohol-related problems, including violence, motor vehicle accidents, public disturbances and binge-drinking.

The Coalition applauds recent attempts (through the introduction of risk-based licensing) to alter the licensing system in Victoria so that the growth of risky late-night alcohol outlets is slowed. However, this initiative needs to be carefully evaluated to ensure that it has the intended effects. In addition, the Coalition supports the one-year freeze on late-night licences in central Melbourne, and encourages its extension into other areas and for a longer period of time.

The Coalition considers that continued increases in alcohol availability will result in increases in the rates of these problems and substantial costs to the community. Thus, the Coalition views measures that restrict the proliferation of alcohol outlets and limit the trading hours of licensed premises (including retail outlets) as essential components of any strategies to reduce alcohol related harm. The Coalition acknowledges that further research into the best approaches to minimise alcohol-related harm through availability restrictions is required, but considers that changes to the current situation are necessary in the short-term.

The Coalition also notes the difficulties faced by local governments in the liquor licensing process and considers that revisions to liquor licensing systems are necessary to provide more accessible mechanisms to incorporate the planning and prevention policies of these governments into the licensing process.

The Coalition's recommendations

National recommendations

- The reassessment of alcohol regulation within the National Competition Policy

The National Competition Commission has been influential in the ongoing liberalisation of alcohol policy across Australia. The difficulties associated with regulating alcohol within the constraints of National Competition Policy have been widely noted, and despite some examination of the issue (with respect to packaged liquor¹⁷), the NCC has not re-evaluated its policies around alcohol. The Coalition considers that treating alcohol like an ordinary commodity and prioritising market competition is likely to increase alcohol's availability and alcohol-related problems.

- National guidelines on alcohol outlet density

There remains substantial confusion amongst liquor licensing agencies, planning departments and local government over the relationship between alcohol outlet density and alcohol-related problems and on how this relationship should inform policy. The Coalition proposes the development and introduction of national guidelines outlining how alcohol outlet density should be considered in planning and liquor licensing decisions and defining levels of risk related to outlet densities that can be used to guide state liquor licensing laws.

- Research and data collection

The Coalition calls for the development of nationally consistent and comprehensive data collection on liquor licences and associated alcohol-related harms. In addition, the Coalition supports ongoing funding for research into the effect of changes in alcohol availability on alcohol consumption and harm, with a particular focus on research that provides a better understanding of when and where alcohol availability is most associated with alcohol-related harm and that assesses how the proliferation of alcohol outlets in small areas can result in particularly high rates of harm.

Victorian recommendations

- Amendments to the *Liquor Control Reform Act 1998*

To improve the handling of issues relating to outlet density, cumulative impact and public amenity, the State Government should amend the *Liquor Control Reform Act 1998* by:

- (1) expressing harm minimisation as the Act's primary aim and objective in all licensing matters;
- (2) providing a specific right for any person to raise an objection to liquor licence applications based on public health concerns;
- (3) enhancing local governments' role in liquor licensing applications by clarifying their role to object to new liquor licenses and providing them with stronger rights to object to licences on behalf of local communities; and
- (4) amending the current inconsistency in the Act, which enables any person to object to the grant, variation or location of a packaged liquor license on the grounds that the grant, variation, or relocation would be conducive to or encourage the misuse or abuse of alcohol. There is no similar ground of objection for on-premises licenses, and a similar consideration should be available for these licences.

- Increased involvement of Local Councils in liquor licensing and planning

The National Local Government Drug and Alcohol Advisory Committee (NLGDAAC) made a submission to the Ministerial Council on Drug Strategy's National Alcohol Forum outlining the ambiguities regarding local councils' roles in planning and liquor licensing and proposing a range of policy changes to empower better local decision making. In particular, NLGDAAC proposed that local governments should be able to:

- (1) To control the approval of building permits that comply with identified alcohol management design principles;
- (2) To decide whether a premises is suitable for a license, to set conditions on noise, trading hours, and other amenity grounds;
- (3) To set limits/caps on the outlet density in local government precinct plans;
- (4) To assess licences and development approvals on grounds of public interest, harm minimisation, emergency services capacity and local amenity grounds;
- (5) To cancel licences if amenity and harm minimisation conditions are not consistently met.

The Coalition broadly supports these proposals.

About the Alcohol Policy Coalition

A new Coalition of health agencies who share a concern about the level of alcohol misuse and the health and social consequences in the community have come together to develop and promote policy responses that are evidence-based and known to be effective in preventing and reducing alcohol related problems.

Members of the new Coalition, which include the Australian Drug Foundation, the Cancer Council Victoria, Turning Point Alcohol and Drug Centre, and VicHealth, have a strong track record in tackling major health issues in the community.

The impetus for the Coalition is the need for a consolidated and coordinated approach and effort by key agencies in preventing and reducing alcohol related problems.

The Coalition believes that finding a solution to the problem of alcohol misuse requires governments, the community, individuals and the alcohol industry to all play a part.

The Coalition's long-term goal is to promote a safer drinking culture in the community.

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