



Foundation for Alcohol
Research & Education

Level 1,
40 Thesiger Court
Deakin ACT 2600

PO Box 19
Deakin West ACT 2600

T 02 6122 8600
F 02 6232 4400

www.fare.org.au

ABN 91 096 854 385

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Mr Greg Partridge
Director
Department of Treasury and Finance
GPO Box 147
HOBART TAS 7000
damien.jarvis@treasury.tas.gov.au

Dear Mr Partridge

SUBMISSION TO THE DRAFT GUIDELINES TO SUPPORT CHANGES TO LIQUOR LEGISLATION - TASMANIA

The Foundation for Alcohol Research and Education (FARE) welcomes the opportunity to provide a submission to the Tasmanian Government's *Draft guidelines to support changes to liquor legislation – advertising and promotion of alcohol* (the Guidelines). This process provides an important opportunity for the Tasmanian Government to clearly articulate liquor licensees' obligations in regards to advertising and promotion of alcohol under the *Liquor Licensing Act 1990* (the Act).

The recent amendment to the Act to grant the Commissioner for Licensing with the power to prohibit or restrict irresponsible promotion or advertising practices is an important first step. However, to effectively reduce alcohol harms, a similar provision must also be included in the *Liquor Licensing Regulations 2016* (the Regulations) and the Guidelines must clearly outline liquor licensees' obligations and responsibilities under both the Act and the Regulations. It is critical that the Tasmanian Government implements mechanisms to ensure the Act is effectively enforced as enforcement of the Act is equally as important as the Act itself.¹

The Guidelines must reflect that alcohol is no ordinary commodity and has been the subject of special regulations for centuries in light of its use and misuse contributing to an array of short and long term harms to the individual and community at large. FARE's comments on the Guidelines are divided into two sections: structure and content.

Structure

The Guidelines must be structured in a clear and logical format which reinforces the need for liquor licensees to abide by the law. Given alcohol is a harmful substance, the Guidelines should not include

sections which directly or inadvertently encourage liquor licensees to engage in alcohol advertising and promotions. For this reason, the section titled “Tips for running responsible alcohol advertising and promotions” should be removed from the Guidelines.

As a minimum, the Guidelines should consist of three parts. Part 1 should explain the alcohol advertising and sponsorship law as well as the penalties associated with non-compliance. Part 2 should specify who the Guidelines apply to and the types of advertising and promotion they cover. Part 3 should outline detailed criteria, including explanations and evidence, for determining prohibited and restricted alcohol promotion or advertising. The criteria and accompanying examples must be relevant to all licence and permit types.

Content

Part 1 – What is the law?

As per the draft Guidelines, the Guidelines clearly outline section 68 of the Act relating to prohibited or restricted advertising or promotion. Part 1 should also be strengthened to include any complementary and/or underpinning sections of the Act such as section 2A(1)(a)(i) and (ii):

2A. Object of Act

- (1) The object of this Act is to regulate the sale, supply, promotion and consumption of liquor so as to
 - (a) minimise harm arising from the misuse of liquor by
 - (i) ensuring that the supply of liquor is carried out in a way that is in the best interests of the community and does not, as far as practicable, detract from public amenity; and
 - (ii) restricting undesirable liquor promotion and advertising and the supply of certain liquor products

This section should also emphasise liquor licensees’ responsibilities and obligations in regards to complying with the law and reinforce the penalties associated with non-compliance. Clearly stating the sections within the legislation that are relevant to promotional activity provides clear information on the legal responsibilities associated with promoting alcohol.

Part 2 – Application of the Guidelines

Application of the Guidelines must be comprehensive to effectively protect Tasmanians from irresponsible advertising or promotion. The Guidelines must clearly specify upfront who they apply to and the types of advertising and promotion they cover. Firstly, the Guidelines should apply to all liquor licences and permits i.e. any liquor licensee or permit holder who sells alcohol for consumption on and/or off premises. Nearly 80 per cent of alcohol consumed in Australia is sold at packaged liquor outlets, and this proportion has been steadily increasing.² As such, it is critical that the Guidelines apply to all liquor licences and permits, not just on-licences venues.

Secondly, the Guidelines must cover the range of mediums licensees use to advertise and promote liquor sales in Tasmania. In addition to more traditional forms of advertising and promotion such as via television, radio, print (e.g. newspapers) and signage (e.g. banners), the Guidelines must also cover digital promotions to remain relevant. Digital promotions utilise forms of communication such as internet and mobile phones and include advertisements via SMS, on websites and on social media. Exposure to alcohol advertising is associated with earlier initiation of alcohol consumption and higher

consumption in young people who are already drinking,^{3,4,5} it is critical that the Guidelines cover digital promotions as young people are prolific users of social media.

Part 3 – Criteria for determining prohibited and restricted alcohol promotion or advertising

FARE recommends that the section titled “What could be considered irresponsible promotion or advertising?” be strengthened and must acknowledge advertising and promotions that occur at off-licence premises. Recent research has demonstrated that price-related promotions (those that offer price reductions for multiple/bulk purchases) are most commonly offered by outlets attached to large supermarket chains, also offer the highest number of promotions per store.⁶

Each ‘principle’ needs to be explained further with evidence used to justify why this type of advertising or promotion is a problem. For example:

Principle 2: Extreme discounts – The promotion should not involve the provision of free drinks or extreme discounts (defined as 50 per cent or more off the full price of an alcohol product), or discounts for a limited duration that creates an incentive for patrons to consume liquor more rapidly than they otherwise might. Extreme discounts, including price-based liquor promotions, are very concerning as there is an inverse relationship between the price of alcoholic beverages and levels of consumption and harms.⁷ Similarly, Point of Sale (POS) promotions involving price or volume discounts are particularly effective in encouraging the purchase of increased volumes of alcohol.^{8,9}

As per the draft Guidelines, each principle must then be accompanied by examples which are relevant to all licence and permit types. FARE recommends the following inclusions and amendments to the examples included in the draft Guidelines:

- Appeals to minors: This section should also include the following example: ‘Using a name or packaging which could be confused with confectionery or a non-alcoholic drink’. Both the Alcohol Beverages Advertising Code (ABAC) Responsible Alcohol Marketing Code and the Alcohol Advertising Review Board (AARB) Content and Placement Code, consider product names and packaging to be a form of alcohol advertising and marketing.
- Extreme discounts: The current example which states that ‘Excessive periods of free drinks (e.g. \$50 entry and free drinks all night) or extended “Happy Hours” that continue for multiple hours’ should be replaced with the following two examples: ‘The provision of free drinks for consumption on and/or off the licensed premises; and “Happy Hours” or other on-licence promotions involving extreme discounts which extend for more than two hours’. This section should also include the following example: ‘Harmful discounting of alcohol e.g. bulk purchases which results in an alcohol product being sold for less than one dollar per standard drink.’
- Irresponsible, rapid or excessive consumption: The current example ‘Happy hours occurring late into the trading period which encourages patrons who have been drinking for a significant period of time to continue drinking’ should be replaced with “Happy hours” or other on-licence promotions involving extreme discounts which extend for more than two hours’. This section should also include the following example: ‘The use of non-standard glasses such as test-tubes or bowls which encourage rapid or excessive consumption’.

- Public interest: This section should also include the following examples: ‘Alcohol advertising or promotion which is placed on state or local government property’; ‘Point of sale promotional materials for liquor (e.g. “happy hours”, free gifts with purchase, prominent signage, competitions, price discounts for bulk purchases, and sale prices) from being displayed on and around licensed premises where minors are likely to be present’; and “Shopper docket” or vouchers located on supermarket shopping receipts which promote alcohol at extremely discounted prices’.

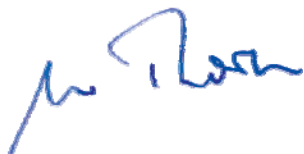
Shopper docket should also be declared a prohibited promotional activity within the Guidelines. A six-month study conducted by the NSW Office of Liquor, Gaming and Racing, concluded that shopper docket were “likely to encourage the misuse and abuse of liquor”.¹⁰ The agency consequently recommended that shopper docket promoting discounted alcohol should be banned.^a

Tips for running responsible alcohol advertising and promotions

As previously discussed, this section should not be included in the Guidelines as the Tasmanian Government should not be encouraging liquor licensees to engage in the advertising and promotion of alcohol. Included examples such as ‘Avoid running promotions at high risk times. After 10:00pm the risk of patrons becoming intoxicated increases, so run promotions at a lower risk time’ are not helpful as intoxication is dependent on a range of individual factors and can occur at any time. There is no good time to run an alcohol promotion. The Guidelines should focus on facilitating liquor licensees’ understandings of how the Guidelines will be applied, the law as it relates to alcohol advertising and promotion and how to determine prohibited and restricted alcohol advertising or promotion.

Thank you once again for the opportunity to provide comment on the *Draft guidelines to support changes to liquor legislation – advertising and promotion of alcohol*.

Yours sincerely



MICHAEL THORN
CHIEF EXECUTIVE

¹ Nicholls, R., Trifonoff, A. and Roche, AM. (2014). Liquor licensing legislation – Australian police perspectives. In Manton, E., Room, R., Giorgi, C, Thorn, M (Eds.), *Stemming the tide alcohol: liquor licensing and the public interest* (pp179-187). Canberra: Foundation for Alcohol Research and Education in collaboration with The University of Melbourne, 2014.

² Euromonitor International (2012). *Alcoholic drinks in Australia*. Euromonitor International Ltd London

³ Anderson, P., de Bruijn, A., Angus, K., Gordon, R., & Hastings, G. (2009). Impact of alcohol advertising and media exposure on adolescent alcohol use: A systematic review of longitudinal studies. *Alcohol and Alcoholism* 44(3): 229–243.

⁴ Gordon, R., MacKintosh, A.M., & Moodie, C. (2010). The impact of alcohol marketing on youth drinking behaviour: a two-stage cohort study. *Alcohol and Alcoholism* 45(5): 470–480.

⁵ Smith, L.A., & Foxcroft, D.R. (2009). The effect of alcohol advertising, marketing and portrayal on drinking behaviour in young people: Systematic review of prospective cohort studies. *BMC Public Health* 9(51).

^a Regrettably, the Director General of OLGR decided not to support his agency’s recommendations, thus allowed this harmful practice to continue.

⁶ Jones, S., Barrie, L., Robinson, L., Allsop, S., Chikritzhs, T. (2012). Point-of-sale alcohol promotions in the Perth and Sydney metropolitan areas. *Drug and Alcohol Review*, 31(6): 803-8

⁷ Wagenaar, A.C., Salois, M.J., and Komro, K.A. (2009). Effects of beverage alcohol price and tax levels on drinking: a meta-analysis of 1003 estimates from 112 studies. *Addiction* 104: 179-190.

⁸ Jones, S.C., & Smith, K.M. (2011). The effect of point of sale promotions on the alcohol purchasing behaviour of young people in metropolitan, regional and rural Australia. *Journal of Youth Studies* 14(8): 885-900.

⁹ Kuo, M., Wechsler, H., Greenberg, P., & Lee, H. (2003). The marketing of alcohol to college students: the role of low prices and special promotions. *American Journal of Preventive Medicine* 25(3): 204-211.

¹⁰ Giorgi, C. & Ferguson, A. (2014). Shopper docket: The OLGRI investigation. Retrieved from: www.drinktank.org.au