

Submission to proposed Queensland regulatory framework for online liquor sale and delivery

May 2023



About FARE

The Foundation for Alcohol Research and Education (FARE) is the leading not-for-profit organisation working towards an Australia free from alcohol harms.

We approach this through developing evidence-informed policy, enabling people-powered advocacy and delivering health promotion programs.

Working with local communities, values-aligned organisations, health professionals and researchers across the country, we strive to improve the health and wellbeing of everyone in Australia.

To learn more about us and our work visit www.fare.org.au.

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FARE is a registered charity, and every dollar you give helps fund projects keeping our communities healthy and safe. You can make a tax-deductible donation at: www.fare.org.au/donate.

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Executive summary

*The sale of alcohol online, and targeted digital marketing where ads are also the point of sale with 'buy now' buttons, means **every phone is now a bottle shop**.*

Everyone should have the opportunity to be healthy, safe and free from the harms that alcohol causes to families and communities. At the moment, alcohol causes harm to far too many people in Queensland, contributing to chronic disease, family violence, self-harm and suicide. Alcohol harm is exacerbated by the online sale and delivery of alcohol, which has vastly increased availability and accessibility, creating unique risks to community health and safety.

Queensland's regulatory environment for the sale of alcohol was designed for brick-and-mortar stores. The checks and balances that the Queensland community expects to be in place, such as age verification, responsible service of alcohol (RSA) and community consultation and engagement on new liquor licences, are significantly lacking when it comes to the online sale and delivery of alcohol.

Some of the measures in the Queensland Government's "*Proposed regulatory framework for online liquor sale and delivery*" paper have research evidence to support their effectiveness in reducing the risk of harm from alcohol. These include:

- effective digital age verification for online sales of alcohol,
- prohibiting harmful deliveries (under 18, intoxicated, unattended); keeping a record of refused or incomplete deliveries, supporting delivery staff with training and not financially penalising them for refusing delivery,
- offences of sale of alcohol to people under 18; not maintaining transaction records; not maintaining records of refused or incomplete deliveries; delivery of alcohol outside prescribed hours; delivery of alcohol to an intoxicated person; breaching responsible service of alcohol (RSA) requirements and breaching licence conditions,
- the delivery company taken to have participated in an offence and sharing liability, and
- exclusion of entities from participating in online sales and delivery of alcohol where there is a history of unacceptable behaviour, such as repeated compliance breaches.

However, there are also significant problems and gaps in this proposed framework that risk continuing to increase the harms from online sales and delivery of alcohol. These include:

- the limit in scope to exclude a review of current liquor licence types, and excluding a separate licence type or separate administrative approval being required for a third-party liquor delivery company,
- extending existing licence conditions to cover third-party delivery companies, instead of establishing a new licence category type for online sales and delivery, (with associated community consultation),
- having no specific requirement for ID checks upon delivery,
- 11pm as delivery cut-off time, having different requirements for same day and non-same day deliveries, and not preventing rapid delivery, and
- not including an offence specified for leaving delivery unattended, having no test purchasing, and not having delivery-specific RSA training prescribed.

It is critical that changes to the regulatory framework for the sale and delivery of alcohol prioritise the prevention of alcohol harm and acknowledge the significant gaps in the regulation of alcohol that exist when applying the current legislative framework. Regulatory changes should also aim to provide changes for online delivery that will be relevant now and into the future, which is important in area where alcohol sales have changed so significantly and legislation has not kept pace with these changes.

FARE welcomes the Queensland Government’s commitment to review regulation of online sale and delivery of alcohol. FARE thanks the Queensland Government for the opportunity to make this submission on the *“Proposed regulatory framework for online liquor sale and delivery - Consultation paper.”*

Recommendations

FARE recommends:

Section 1. Relevant liquor licences

Recommendation 1. Review existing liquor licence types for suitability for online sales and delivery of alcohol, with a view to developing new licence types for online delivery, to ensure licence types are fit for purpose within the rapidly changing online sale and delivery of alcohol environment.

Section 2. Authority of licence

Recommendation 2. FARE supports amending the Liquor Act and Liquor Regulation to incorporate appropriate language and definitions relating to the online sale and delivery of alcoholic products.

Section 3. Third-party delivery obligations

Recommendation 3. FARE does not support extending the authority of existing liquor licences for entirely different entities with significantly different business models, in the online sale and delivery of alcohol environment.

Recommendation 4. Establish a separate, specific liquor licence category for online alcohol sales and delivery, to align the administration, licence fees and conditions with the business model, entities and risks of alcohol harm associated with online alcohol sales and delivery. Require retailers, such as bottle shops and third-party delivery companies, to have this licence to sell alcohol online or to deliver alcohol. This would be in addition to, any current liquor licence categories, (eg. commercial hotels), that may also be involved in the process of online sales and delivery of alcohol.

Section 4. Online sales

Recommendation 5. Establish and prescribe in legislation the requirement for effective digital age verification for online point of sale of alcoholic products.

Recommendation 6. Specify minimum requirements for an effective digital verification of age, (eg. Australia Post Keypass ID), as ID check for online point-of-sale, to ensure that alcohol is not sold online to children.

Recommendation 7. Require alcohol companies advertising online to display on their websites at least three prescribed rotating health warning statements about the risk of alcohol use, with a link to the Australian guidelines to reduce health risks from drinking alcohol.

Section 5. Delivery

Recommendation 8. Require effective ID checks on all deliveries (same day and non-same day), to ensure that alcohol is not supplied to children or left unattended. An ID check must occur – customer instructions should not override this important measure.

Recommendation 9. FARE supports the requirement for alcohol companies to report delivery data such as refused deliveries, by geographic area to regulators (e.g., by Local Government Area), to enable monitoring of deliveries and frequency of issues.

Recommendation 10. Require retailers to report the volume of alcohol sold online and delivered by geographic area.

Section 6. Time of delivery

Recommendation 11. Limit alcohol deliveries to between 10am and 10pm, on any day, to reduce the risks of alcohol-related family violence and suicide, which peak late at night in the home.

Recommendation 12. Introduce a 2-hour safety pause between order and delivery of alcohol-only orders to stop rapid delivery of alcohol, which is found to contribute to higher risk drinking.

Section 7. Compliance and enforcement

Recommendation 13. FARE supports establishing offences for the following:

- the online sale or delivery of alcohol to people under 18,
- not maintaining online sales transaction records,
- not maintaining records of refused or incomplete deliveries,
- delivery of alcohol outside prescribed hours,
- delivery of alcohol to an intoxicated person,
- breaching Responsible Service of Alcohol (RSA) requirements, and
- breaching conditions of the relevant liquor licence.

Recommendation 14. FARE supports making delivery companies (including bottle shops and online delivery providers), share liability for delivery breaches, such as delivery to children or people who are intoxicated. Delivery companies should be taken to have participated in an offence. This forms part of establishing a separate licence category for online sales and delivery.

Recommendation 15. FARE supports including compliance history as a risk factor in a risk-based licencing system. Provide appropriate escalating consequences for repeated breaches, including fines, restricted licence conditions, and the provision for complete exclusion from participating in online sales or delivery of alcoholic products.

Recommendation 16. Establish an offence of unattended delivery for the delivery company (including bottle shops and online delivery providers), with appropriate and effective compliance monitoring.

Recommendation 17. Publish frequent reports on monitoring and enforcement activity including online sales data, and delivery data such as refused deliveries.

Recommendation 18. Expand current 'mystery shopper' program into specific test purchasing or controlled purchase operations (CPOs), for online sales and delivery of alcohol.

Recommendation 19. Support delivery staff of alcohol companies through delivery- specific Responsible Service of Alcohol (RSA) training, to ensure they are safe, and that they understand their role, rights and responsibilities in refusing delivery of alcohol.

Question 5. Allowable payment methods.

Recommendation 20. Prevent predatory marketing by alcohol companies that promotes excessive and rapid alcohol use and targets people who are most vulnerable. Prohibit online retailers from offering or promoting delayed payment to purchase alcohol online or offering incentives for a minimum spend or volume.

Question 6. New approaches by the regulator to compliance.

Recommendation 21. Increase internal capacity to carry out regulatory compliance checks on companies selling alcohol online or delivering alcohol, before considering outsourcing options.

Question 7. Cross-agency intervention and non-legislative approaches.

Recommendation 22. Extend the existing prohibited unacceptable marketing practices and promotions to also apply to the digital marketing of online sales and delivery of alcohol.

Recommendation 23. Prevent predatory digital marketing by alcohol companies by prohibiting retailers from sending direct prompts, 'buy-now' buttons, or notifications promoting alcohol to a person's device.

Supplementary questions relevant to research and advocacy groups

Recommendation 24. Implement measures that hold delivery companies (such as bottle shops and online delivery providers) accountable, rather than individuals. Address the broader factors that

increase the risk of alcohol harm, not measures that can stigmatise people experiencing alcohol dependency, and are used by industry to avoid regulation.

Recommendation 25. Do not implement use of technology to measure level of intoxication for potential customers, nor enable alcohol companies to identify people as *'problem drinkers'*. Prohibit the use of information about the level of alcohol use from being used for marketing purposes.

Recommendation 26. Implement the Strategic Priorities in the *Queensland Alcohol and Other Drugs Plan 2022–2027*.

Community impact consultation and assessment

Recommendation 27. Adopt a *community-centric* approach to liquor licensing, that prioritises the voice, expectations, needs and aspirations of the community, to minimise harm from alcohol to the community.

Recommendation 28. Prescribe an effective community impact consultation and assessment process, such as the Community Impact Statement (CIS), for all online sales and delivery licence applications.

Recommendation 29. Improve community access, information and support for engaging with licence applications. Provide resourcing for targeted and independent support for members of the public impacted by increases in liquor supply density, to genuinely navigate and engage with online sales and delivery liquor license application processes.

Recommendation 30. Engage with all relevant stakeholders to ensure the consultation process is informed by relevant expertise of alcohol harm.

Recommendation 31. Maintain an open and diverse community consultation process for all applications to ensure community consultation informs all risk assessments. Do not restrict consultation timeframes or access based on any applicant-assessed risk ratings.

Risk-based licensing

Recommendation 32. Establish a risk-based licensing (RBL) system, with license fees set for different risk levels, calculated on all relevant risk factors. Develop specific risk ratings for online sales and delivery of alcohol, to accurately reflect the increased risk of harms.

Recommendation 33. Develop and incorporate a risk factor calculation for supply density, (as an equivalent for outlet density), for online sales and delivery of alcohol in a geographic area, (eg. a cumulative impact assessment), within a risk-based licensing (RBL) system. Consult alcohol policy experts on the development, implementation and evaluation of such a risk factor. This is to more accurately reflect retail alcohol supply density and alcohol availability.

Introduction – online sale and delivery of alcohol exacerbates harms

Alcohol causes significant harm to Australians, with one person dying every 90 minutes and one person being hospitalised every 3 minutes because of alcohol.¹ Alcohol-induced deaths are at their highest rate in Australia in a decade.² The latest *Harms to Others* study shows that alcoholic products also cause harm to the broader community, with 10 million Australians harmed annually. In a 2021 survey of 2,574 adults, participants were asked about the impacts of alcohol use by people they interacted with – friends, housemates, strangers, partners, family members and colleagues.³ Nearly half (48.1 per cent) said they had experienced harm from another person’s drinking, while 7.5 per cent reported having been “*harmed substantially*”. This equates to almost 10 million adults a year harmed by others’ alcohol use and more than 1.5 million experiencing serious harm.

Preventable harm⁴



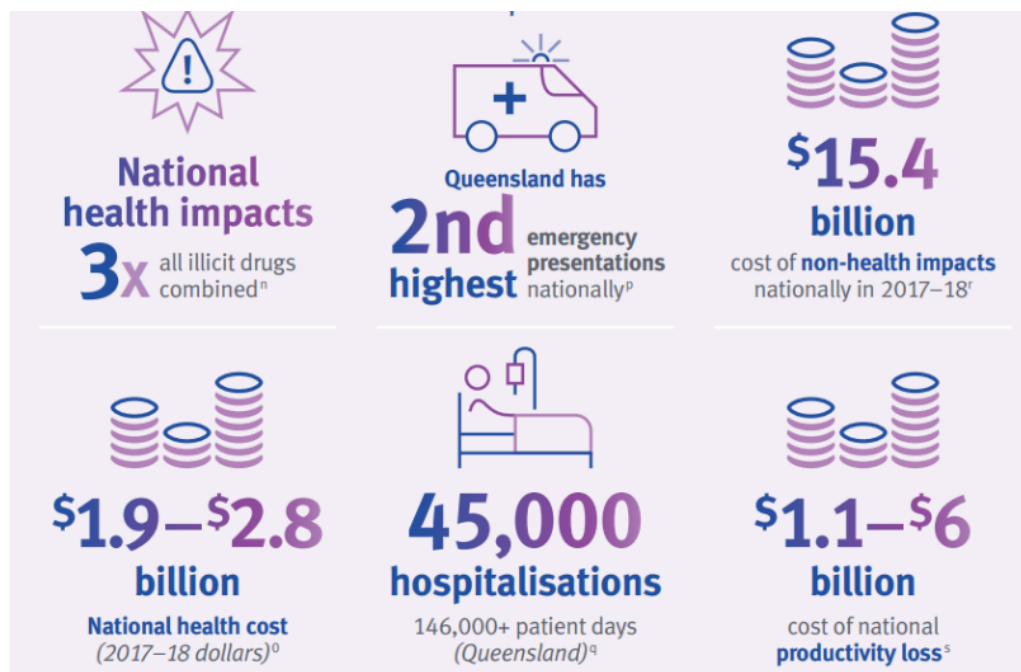
More than 1,000 people in Queensland die each year of alcohol-attributable disease and injury, and more than 45,000 Queensland hospitalisations are attributable to alcohol.^{5,6,7}

The National Drug Strategy Household Survey 2019, shows that 1 in 4 people in Queensland drank five or more standard drinks on a single occasion at least monthly. The proportion of people who reported daily alcohol use is slightly higher than the national average (6.5 per cent compared to 5.4 per cent).⁸ People in Queensland also exceeded both lifetime risk (20 per cent compared to 16.8 per cent) and single occasion risk (29 per cent compared to 25 per cent) as compared with national averages. In 2020, Queensland Health reported that those aged 18 to 29 recorded the highest levels of risky alcohol use (51 per cent), followed by those aged 30 to 44 (39 per cent), 45 to 64 (35 per cent) and those above the age of 65 (30 per cent).⁹

People in Queensland are twice as likely to be victims of alcohol-related incidents as compared to drug-related incidents (21 per cent compared to 9.2 per cent).¹⁰ This was reported for specific incidents, such as verbal abuse (17.8 per cent compared to 7.4 per cent), physical abuse (5 per cent compared to 2.2 per cent) and put in fear (10.8 per cent compared to 5.5 per cent).

Griffith University's Suicide in Queensland Annual Report 2022 shows from 2016 to 2018 over a third (38.2 per cent) of people who died from suicide used alcohol just before dying.¹¹ Alcohol use prior to suicide increased by a third (32.9 per cent) from 2015 to 2017. The Queensland Suicide Register found that alcohol was detected in the blood samples of just over a third (37.5 per cent) of people in Queensland who died from suicide from 2016 to 2018.

Costs and impacts: alcohol¹²



Rapid expansion of online sale and delivery of alcohol

The rapid expansion of online sale and delivery of alcohol is making alcoholic products more accessible, increasing the risk of harms to people in Queensland. Queensland laws have not kept pace with the changing ways that companies sell and market alcoholic products online. The increasing online sale and delivery of alcohol is part of a broader trend towards digitisation of transactions and mobility of products in society. But alcohol is no ordinary product like groceries or books. It is a drug that requires controls on how it is sold and supplied so that communities are protected from potential harm.

Historically these controls over alcohol have been exercised in a physical setting like a bottle shop, but online transactions and delivery have caused significant disruption. Alcohol companies can now advertise a product through multiple digital platforms, enable fast purchases via Apps or websites, and then deliver alcohol within 30 minutes in many areas. This means alcohol is more readily available and accessible than ever before, especially within private settings like the home.

Online alcohol retail sales have almost quadrupled from 2012 (\$539 million) to 2022 (\$2.0 billion). The revenue from online alcohol sales is forecasted to grow at an annual rate of 10.6 per cent by 2026-27. In 2020, one in 10 Australians who bought takeaway alcohol purchased it online – a threefold increase from 2019. It is estimated that one in six Australians who drink alcohol, purchased it via delivery.

Alcohol companies have ineffective processes to ensure alcohol is not sold online or delivered to people who are intoxicated or to children. Research shows that companies and retailers are delivering alcohol to people who are intoxicated and to young people without adequate identification checks.

In 2020, the Queensland Government made a commitment to review regulation of online sales and delivery of alcohol. Evidence-based policies are required to prevent harms from online sale and delivery of alcohol. This will prevent harmful practices by alcohol companies affecting the health and wellbeing of our community. There is strong community support for government action on alcohol harm. FARE's 2020 Alcohol Poll, with a representative sample of Queensland residents, found that 76 per cent of people in Queensland think more needs to be done to reduce harm caused by the sale and marketing of alcoholic products.¹³

Regulation of online sale and delivery of alcohol

Across all Australian jurisdictions, regulation of online alcohol sale and delivery has not kept pace with the rapid changes in the ways that alcohol is sold and marketed. This has led to legislative loopholes and means the sector is not regulated to the same standard as traditional 'bricks and mortar' venues, (ie. pubs, clubs, bars and bottle-shops). For example, it is a basic expectation that children, young people under 18 years old, and people who are intoxicated, are not served alcohol, but the necessary controls are not yet in place for online sales and delivery, with evidence that deliveries are often left at the door.

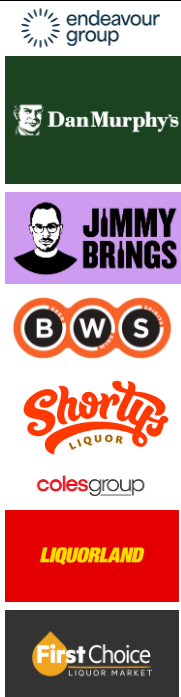





The alcohol retail industry has attempted to delay government action by creating a voluntary code of conduct for online alcohol sale and delivery, promoted by industry group Retail Drinks Australia.¹⁴ Being a voluntary code, it does not cover all retailers, and the only penalty for non-compliance is removal as a signatory to the code. With evidence that alcohol continues to be sold and delivered without ID checks,¹⁵ left unattended,¹⁶ and delivered to people who are intoxicated,¹⁷ it is clear that this self-regulation is an insufficient response to the risks to community health and safety. Actual laws are needed that are enforceable and carry proper penalties to ensure compliance.

Online sale and delivery of alcohol landscape in Queensland

In Queensland, an increasing number of companies offer alcohol delivery through different platforms. The sale and delivery of alcohol online is dominated by two companies; Endeavour Group (48.2 per cent of Australia's market share) and Coles Group (11.6 per cent of market share).¹⁸ Together, they account for 60 per cent of online alcohol revenue in Australia. Endeavour Group owns Jimmy Brings, Dan Murphy's, Shorty's Liquor and BWS. Coles Group owns Liquorland and First Choice.

Companies such as Liquoroo specialise in alcohol delivery, with specific apps. Delivery platforms, such as UberEats and Doordash, often offer alcohol delivery, with or without food. Online retail websites such as Kogan also sell alcohol with delivery options available. Specialty online wine companies such as The Wine Collective and La Valle offer subscription-based services that enable regular delivery. Finally, airlines such as Qantas and Virgin also sell alcohol online and provide flying rewards. The below Table 1 provides an overview of companies. Not included in this overview are bars and restaurants that also have been granted the ability to deliver alcohol.

Table 1. Companies that offer alcohol delivery in Queensland

Major alcohol companies	Other alcohol delivery companies	Delivery apps that offer alcohol	Online retail sites that deliver alcohol	Companies with limited products	Airlines that sell alcohol
					

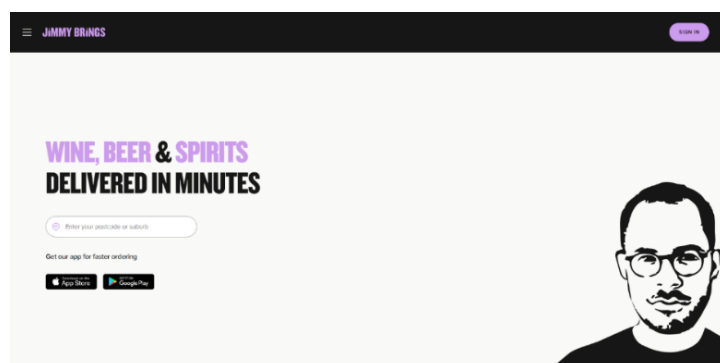
Case studies

Major alcohol delivery companies that fall under the Endeavour and Coles Groups tend to advertise that they sell and provide discounts for bulk alcohol. Companies that sell limited alcohol products provide food pairing options to increase the appeal of their alcohol products. Below are some examples that demonstrate the current lack of regulatory oversight of online sales and delivery of alcohol.

Jimmy Brings

Jimmy Brings¹⁹ is owned by the Endeavour Group and delivers alcohol to Brisbane, the Gold and Sunshine Coast and other parts of Australia. The Jimmy Brings website mentions that alcohol can be “delivered in minutes” to people’s homes. When entering the postcode for Brisbane City, the website shows that alcohol delivery will take 26 minutes.

The online store shows that Jimmy Brings is marketing to people using messages that encourage exceeding the low-risk guidelines of alcohol use, and may be intoxicated, in order to extend their drinking session: “We never want you to call it a night because your (sic) out of booze ever again.” “No more ... calling it a night because you’re over the limit.”



The advertised opening hours end later than the current permitted operating hours for takeaway bottle shops in Queensland of 10pm.

OPENING HOURS - BRISBANE CITY

Enter your postcode or suburb

Monday:	10:30am - 09:30pm
Tuesday:	10:30am - 10:30pm
Wednesday:	10:30am - 10:30pm
Thursday:	10:30am - 11:30pm
Friday:	10:30am - 11:30pm
Saturday:	10:30am - 11:30pm
Sunday:	10:30am - 10:30pm

The online alcohol store displays a promotional banner that enables people to receive free champagne with their first online order. This is followed by multiple bulk alcohol purchase options advertised at discounted prices.

The screenshot shows the Jimmy Brings website interface. At the top, there is a navigation bar with the Jimmy Brings logo, a location dropdown set to 'Brisbane City' (25 mins), a search bar, and a 'SIGN IN' button. A left-hand menu lists various categories: JIMMYS SPECIALS, NEW & EXCITING, BEER & CIDER, WINE, SPIRITS, PREMIX, ZERO ALCOHOL, COCKTAILS & BUNDLES, MIXERS & ICE, MEALS & DESSERTS, NIBBLES & ACCESSORIES, and HEALTH & WELLBEING. The main content area features a large purple promotional banner that reads 'GET A FREE BOTTLE OF BUBBLES WITH YOUR FIRST ORDER' and includes a 'USE CODE BUBBLES' button, a 'NEW CUSTOMERS ONLY' note, and a 'GET JIMMY' button. Below the banner is a 'JIMMYS SPECIALS' section with a 'SEE ALL' link. This section displays five product cards, each with a special offer: Heineken 0.0 Non Alcoholic Lager (GF WEEKEND SPECIAL, SAVE \$5.00), Heineken Lager Stubbles (GF WEEKEND SPECIAL, SAVE \$5.00), Aperol Spritz (EASTER SPECIAL, 1 FOR \$11, SAVE \$8.00), Great Northern Super Crisp (EASTER SPECIAL, 1 FOR \$13, SAVE \$5.00), and Pure Ultra Pure Blonde Ultra (EASTER SPECIAL, 1 FOR \$15, SAVE \$5.00). A 'T&C'S APPLY' note is visible in the bottom right corner of the banner area.

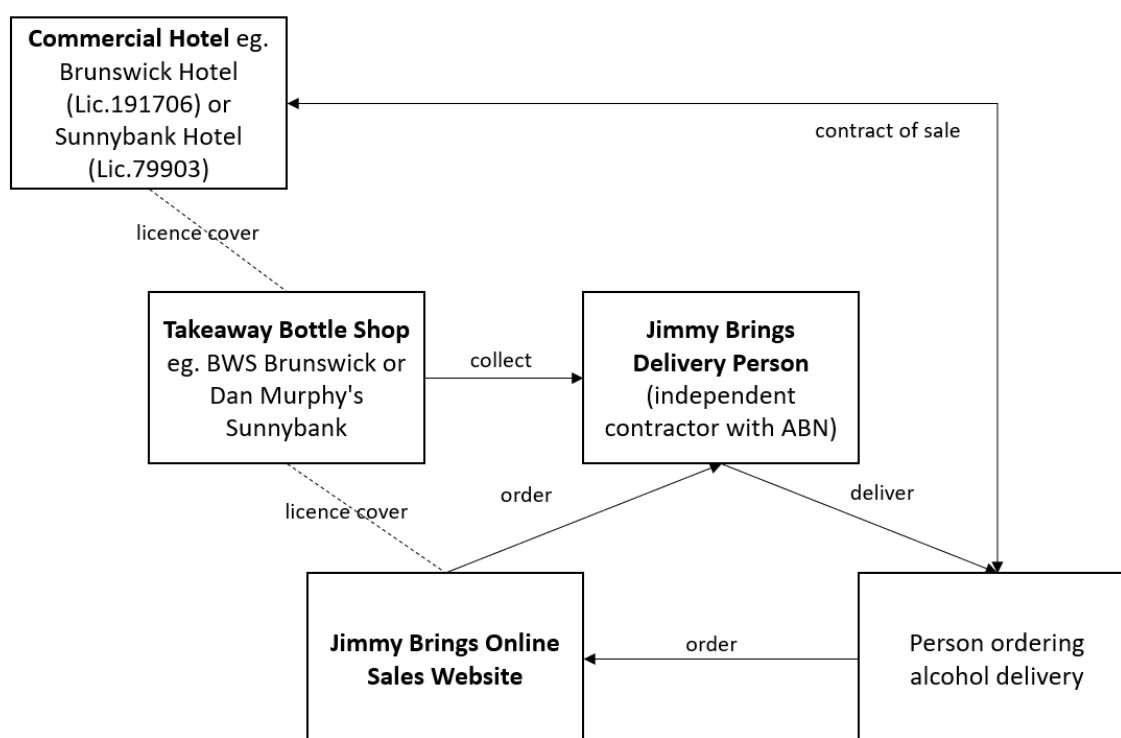
Jimmy brings operates by using the Commercial Hotel licensees of local hotels, but collect the alcohol from takeaway bottle shops operating under those licences. This is because the ability to sell alcohol by take away is only available when a licence for a premise is held. The online store states:

*“In Queensland, the sale of liquor pursuant to the agreement to sell from this platform is made at the licensed premises attached to the following licence numbers: ...; as such, **your contract of sale is with the relevant licensee at the relevant premises from which you order is accepted and fulfilled; liquor is sold from our platform on behalf of the relevant licensee; accordingly, your offer to purchase is subject to acceptance of your offer by the holder of the liquor licence, certification and evidence of you being over 18 years of age, the availability of stock and the liquor which is the subject matter of your offer being ascertained and appropriated at the above-mentioned licensed premises.**”*

Alcohol orders are collected by drivers from take away bottle shops. The Jimmy Brings website explains to its delivery agents: “Once you accept a job, you will be directed to a local BWS or Dan Murphy’s Bottle Shop to collect the order and then deliver it to the customer nearby.”

There are four different commercial entities involved in online sales and delivery of alcohol by Jimmy Brings, see below Figure 1. These include the commercial hotel (that the contract of sale is with), and takeaway bottle shop (that the alcohol is supplied from). Neither of these entities are clearly identifiable on the Jimmy Brings website, which only lists licence numbers, not business names. So, a person ordering alcohol online for delivery will not know who their contract of sale is with, or who is ultimately responsible under liquor licencing for the responsible service of alcohol.

Figure 1. Commercial actors involved in online sale and delivery of alcohol, Jimmy Brings case study



Only the commercial hotel holds a liquor licence (‘Commercial Hotel Licence’),²⁰ while the take-away bottleshop ‘piggybacks’ the coverage of the commercial hotel’s licence. None of the other commercial actors hold a licence either, and instead get ‘cover’ from ‘piggybacking’ the bottleshop’s piggyback of the ‘Commercial Hotel’ licence. This creates challenges for the effective regulation of online sales and delivery of alcohol, which is at an ‘arm’s length from an arm’s length’.

This case study demonstrates the lack of regulatory oversight of delivery companies like Jimmy Brings in the current Queensland liquor licencing system. Delivery companies do not need to hold any kind of authorisation or liquor licence themselves. This means that government does not have a clear picture of how many delivery companies are operating in the market. It also limits the ability of government to monitor and police their behaviour, as there are less avenues for penalising wrongdoing (such as loss of a licence). The current Proposed Regulatory Framework by Queensland Government does not substantially change this approach, instead introducing ‘general obligations’ for delivery companies that are not attached directly to any licence.

Knock Knock Booze There

Knock Knock Booze There (KKBT)²¹ is a Brisbane-based alcohol and food online delivery company. The website indicates that delivery for listed suburbs is between 10am to midnight, 7 days a week. It is also mentioned that deliveries roughly take 15 to 45 minutes. KKBT specifies that they offer “contactless delivery”, but visually confirm that the person has received the order. They also state that they only check a person’s ID if they look under 25 or to confirm their identity. The virtual checkout counter shows that the person purchasing the alcohol only needs to tick a box to confirm that they are above the age of 18.



About us

Alcohol and Hot Food Delivery

Brisbane's Best Since 2015

10am to Midnight - 7 Days

Delivery is usually 15 to 45 mins. May take longer during peak times, heavy traffic or late at night.

We will call, text or email you if it's going to take much longer.

Beers, Wines, Spirits, Ciders, Mixers, Tobacco
Wings, Burgers, Fries, Sides and Sauces



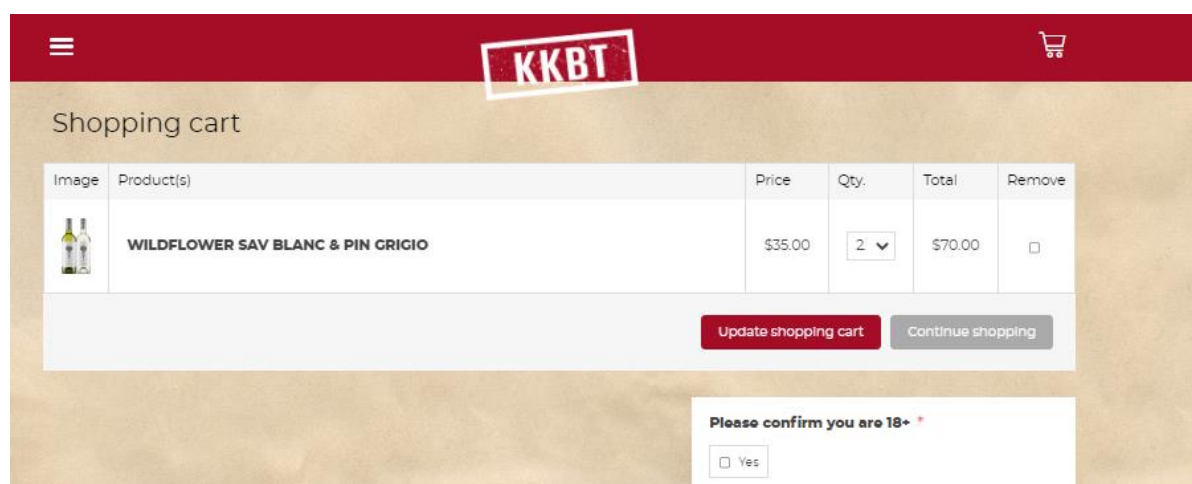
Yes we can do contactless delivery.

However we can not leave alcohol or tobacco unattended, so you must be home at the time of delivery.


We still need to visually confirm you have received the goods
(from a safe distance of course)

and will still need to check your ID if you look under 25
or if we need to confirm your identity.

Stay Safe!



Shopping cart

Image	Product(s)	Price	Qty.	Total	Remove
	WILDFLOWER SAV BLANC & PIN GRIGIO	\$35.00	2	\$70.00	<input type="checkbox"/>

[Update shopping cart](#) [Continue shopping](#)

Please confirm you are 18+ *

Yes

Liquor license categories companies use to sell alcohol online

Alcohol companies use different type of liquor licences depending on their classification:

- La Valle²² is a Queensland-based alcohol company that uses a wine merchant licence for their online store. Their website indicates that their Liquor License Number is attached to The Valley Wine Bar, Interim License to license La Costa Pty Ltd.
- Jimmy Brings is part of the Endeavour Group and lists the liquor license numbers for every jurisdiction it operates in on its website, but does not need to hold a liquor licence itself in Queensland.
- The Wine Collective is an example of an interstate alcohol company that sells alcohol online to people residing in Queensland. The Wine Collective lists their New South Wales and Victorian License numbers on their website, but offer alcohol delivery to people residing in Brisbane on their website.

Scope limitations

With such a rapidly changing environment, and the risk of increased alcohol harm to the community, it is important for Queensland to be ahead of these changes, and to get the regulatory changes right. This is a step change in the business model of alcohol supply, and it requires a step change in liquor licensing regulation to adequately minimise the risk of harm from alcohol.

Queensland Human Rights Act requirements

Recently, the Queensland State Development and Regional Industries Committee asserted that the Queensland Human Rights Act (HRA) requires public policy to address alcohol harm. This is based on the increased risk of harm from easy access to alcohol, (including from online sales and delivery):

“Alcohol remains a significant cause of family and domestic violence in Australia: the use of alcohol and other drugs accompanies around half of all family and domestic violence incidents. Legislative measures which increase accessibility to alcohol, and especially alcohol usage in private homes, may therefore limit the rights of children and families and the right to security and liberty of the person. HRA section 26 emphasises the importance of the family, imposes an obligation on the State to protect the interests of children. Easy access to alcohol threatens not only children and families of alcohol consumers, but also the mental and physical health and security of consumers themselves.”²³

The implication of this requirement is that the Queensland Government has an obligation to protect the rights of children when considering legislative changes in relation to alcohol availability. This obligation must guide the Queensland Government decision making throughout this reform process for online alcohol sale and delivery.

Review of licence types and additional measures

A limitation with the scope of the targeted consultation paper is that it omits key online sales and delivery policy issues, and then only seeks feedback on the *proposed* measures regarding support, and which measures should be *amended* or *removed*. It does not invite suggestions of *additional* measures, despite evidence supporting the need for them.

Key omitted issues include the following (each of these are expanded on in the numbered Sections below):

- New licence categories, (Sections 1 to 3)
- Effective ID checks on delivery, (Section 5)
- Preventing rapid delivery, (Section 6)
- Offence for leaving alcohol unattended, (Section 7)
- Controlled purchase operations (CPOs), (Section 7)
- Community impact consultation and assessment (Additional Section)
- Risk-based licensing (RBL) and supply density. (Additional Section)

Need for a holistic approach

It is critical that the Queensland Government implement the full suite of evidence-based regulatory measures as they interact and influence each other in preventing alcohol harm. For example:

- Requiring effective age verification on delivery of alcohol, does not just prevent delivery to children, it can also prevent leaving alcohol unattended, and help to prevent delivering alcohol to people who are intoxicated.

- There are multiple benefits of delivery-specific responsible service of alcohol (RSA) training, which can not only help to prevent delivery of alcohol to people who are intoxicated, but also support and protect delivery staff safety at work
- Having a specific licence category for online sales and delivery of alcohol, simplifies administrative processes and better targets regulatory requirements, reducing the number of exemptions and exclusions. It also helps ensure the most appropriate and effective licence fees and community consultation for that business type are applied and the specific risk factors of alcohol harm are appropriately considered.

Section 1. Relevant liquor licences

The consultation paper lists the following liquor licence types for each relevant Act:

A. Liquor Act 1992

1. Commercial hotel licence
2. Community club licence
3. Commercial special facility licence
4. Subsidiary on-premises licence (meals)
5. Subsidiary off-premises licence
6. Producer/wholesaler licence (producer)
7. Artisan producer licence

B. Wine Industry Act 1994

1. Wine producer licence
2. Wine merchant licence

The purpose of having different licence categories is to reflect different business types, and align administration processes, legal obligations and licensing fees with these different business models and specific business entities, and with the different risks of alcohol harm for each. However, the consultation paper says that *“the scope does not include a review of liquor licence types generally, nor the expansion of existing takeaway allowances under each licence or the provision of a new takeaway liquor licence type.”*²⁴

This departure from how other States and Territories are reforming their liquor acts to regulate online sales and delivery, appears to be based on Queensland already having no licence type for takeaway sales of packaged alcohol. This leads to requiring all Queensland alcohol takeaway outlets to be covered by an existing hotel or club licence.

This unique arrangement of stretching hotel and club licences over separate takeaway premises and entities has not led to Queensland experiencing any lower levels of harm from the supply of alcohol. As noted above, more than 1,000 people in Queensland continue to die each year of alcohol-attributable disease and injury, and a higher proportion of people in Queensland continue to exceed the alcohol risk guidelines, despite a general decline across Australia.^{25,26}

Before excluding the possibility of a new category of licence for online sales and delivery of alcohol, a review of the existing licence categories should be done. This can establish whether the existing model is built for purpose, and explore how new categories could be beneficial.

Recommendation 1. Review existing liquor licence types for suitability for online sales and delivery of alcohol, with a view to developing new licence types for online delivery, to ensure licence types are fit for purpose within the rapidly changing online sale and delivery of alcohol environment.

Section 2. Authority of licence

The consultation paper establishes three entity types that are relevant to regulating online sales and delivery of alcohol:

- A. *“Licensee*
- B. *Third-party delivery provider*
- C. *Third-party delivery person”*

FARE supports identifying the key participants in online sales and delivery, and updating the language in the legislation to define ‘online’, and third-party ‘delivery company’.

Recommendation 2. FARE supports amending the Liquor Act and Liquor Regulation to incorporate appropriate language and definitions relating to the online sale and delivery of alcoholic products.

Section 3. Third-party delivery obligations

The consultation paper suggests three obligations for third-party delivery of alcohol:

1. *“A third-party delivery provider facilitates the online sale (i.e., taking orders and receipting monies) and delivery of liquor for the licensee.*
2. *The third-party delivery provider must ensure that the online sale and delivery of liquor may occur only in accordance with the authority and conditions of the relevant licence.*
3. *The third-party delivery provider will have obligations in relation to the responsible service of alcohol in the online sale and delivery of liquor, including risk-based policies for unattended deliveries.”*

Stretching existing licence conditions over fundamentally different business models requires numerous exclusions and exemptions. These include simple examples such as the first requirement when applying for a liquor licence being to provide a *plan of the physical premises*.

These conditions then have to be applied to completely separate business *entities* to the licensee, often with no other ownership structure or business obligations between them, other than the agreement to supply alcohol. The most effective regulatory instruments are those that directly monitor and enforce compliance by the most relevant entities involved.

Recommendation 3. FARE does not support extending the authority of existing liquor licences for entirely different entities with significantly different business models, in the online sale and delivery of alcohol environment.

A separate, specific licence category for entities that offer delivery and online sales of alcohol

FARE recommends establishing a separate licence category for entities that deliver alcohol or sell alcohol online. This will also reduce the number of exclusions and exemptions required, more accurately calculate and apply the appropriate risk factors for fees, and corresponding conditions, and more closely target the specific entities involved. An integral part of this new licence category application process would be for it to trigger community consultation, as people in a local area where alcohol delivery is being expanded into, should be consulted.

Without this process, the Queensland Government has limited oversight of delivery companies and less enforcement options to ensure compliance.

The Victorian Commission for Gambling and Liquor Regulation has built such a licencing model for online sales and delivery of alcohol, by establishing the licence category of *‘Remote Seller’*.²⁷ This licence category applies to entities supplying alcohol to people not currently on the licenced premise, (including sales over the phone, via the internet or through an app), and delivered to customers to use off-premises. It has its own application processes and risk-based licence fees.

Recommendation 4. Establish a separate, specific liquor licence category for online alcohol sales and delivery, to align the administration, licence fees and conditions with the business model, entities and risks of alcohol harm associated with online alcohol sales and delivery. Require retailers, such as bottle shops and third-party delivery companies, to have this license to sell alcohol online or to deliver alcohol. This would be in addition to, any current liquor licence categories, (eg. commercial hotels), that may also be involved in the process of online sales and delivery of alcohol.

Section 4. Online sales

The consultation paper lists obligations for third-party delivery companies. Firstly, that they come under the authority of the licence, and then secondly, the following general obligations:

“Delivery providers selling alcohol online for delivery must:

- *not sell alcohol to minors online*
- *use an effective age verification system at the point of sale*
- *provide systems and a pathway to enable a person to self-exclude from online sales or services*
- *not violate the terms of a self-exclusion agreement*
- *keep appropriate records about online sales*
- *require employees and contractors to be appropriately trained in the RSA.”*

Every phone is now a bottle shop. In a bricks and mortar liquor store, the point of sale and the point of supply are combined in one transaction. With online sales and home delivery these two points are separated geographically and often undertaken by different companies. This creates two points at which there is risk of under 18-year-old access to alcohol rather than one.

Currently, companies that deliver alcoholic products either on the same day or at a later time do not effectively verify age at point of sale. This means there is a risk that children can buy alcohol online and have it delivered and left at the door. FARE welcomes the proposed requirement age verification at point of sale. However, this must also be for point of delivery for all deliveries, (see below in Section 5. Delivery).

FARE supports requiring effective digital age verification for online point of sale of alcohol.

Recommendation 5. Establish and prescribe in legislation the requirement for effective digital age verification for online point of sale of alcoholic products.

FARE supports the proposed elements in the framework for online sales, but does not support the current industry practices of a tick box to say you are over 18, or a manual date of birth entry for online point of sale. These are insufficient types of age checking. Both are easily circumvented by people under 18 attempting to buy alcohol.

Recommendation 6. Specify minimum requirements for an effective digital verification of age, (eg. Australia Post Keypass ID), as ID check for online point-of-sale, to ensure that alcohol is not sold online to children.

Recommendation 7. Require alcohol companies advertising online to display on their websites at least three prescribed rotating health warning statements about the risk of alcohol use, with a link to the Australian guidelines to reduce health risks from drinking alcohol.

Section 5. Delivery

In Australia, alcohol is regularly being left unattended, being delivered to people who are intoxicated, and delivered to people who appear younger than 18 without ID being checked. In this section this evidence is outlined and then FARE's response to the proposed regulatory framework.

ID check on delivery

Effective age verification should be applied to deliveries, not just sales, and not just same-day deliveries. A 2022 study showed that 50 per cent did not have to show ID to prove they were over 18.²⁸ Another 2022 study using research assistants who were over 18 years but appeared to look younger, found 24 per cent of alcohol orders were delivered without an ID check.²⁹ A 2020 analysis of the 65 most visited online alcohol retailers in Australia found even when deliveries are made in person, a third to a quarter of people under 25 report that their ID was not checked.³⁰

Any sale or delivery of alcoholic products without age verification creates a risk that alcoholic products will be accessed and consumed by a child. It makes sense that if alcohol delivery companies are required to verify age at point of sale for same-day deliveries, they could easily extend that to all deliveries. If the purchaser is not at home to receive the delivery, there are options other than leaving it unattended. Alternative delivery arrangements, such as collection at a post office or other delivery collection points are used by a number of services that ship less dangerous products (such as event tickets and mobile phones) and should apply to the delivery of alcoholic products.

Unattended delivery

Requiring effective ID checks can also be used to prevent leaving alcohol unattended. A 2022 study found that 22 per cent of people had their delivery left unattended at the door.³¹ A 2020 analysis of the 65 most visited online alcohol retailers in Australia found most (75 per cent) advertise a willingness to leave alcohol unattended at an address.³²

Delivery to intoxicated persons

A 2022 study found that a quarter of respondents had alcohol delivered while intoxicated, 75 per cent of whom were never or only sometimes refused delivery.³³ Sixty-one per cent of Victorians using rapid delivery weekly said they were regularly intoxicated when receiving their alcohol delivery (and were still given the order).³⁴

Effective methods for preventing delivery to intoxicated people would include prescribing delivery-specific RSA training (see *Section 7. Compliance and enforcement* below), and supporting delivery persons to refuse prohibited delivery by protecting them from punitive measures.

Response to proposed reforms

The consultation paper lists prohibited practices for deliveries:

1. Unattended same day delivery.
2. Delivery of liquor to public places and alcohol restricted areas.
3. A regulation may prescribe other areas where liquor may not be delivered.
4. Unattended non-same day delivery where instructions for a secure delivery location have not been provided.

It also lists the general obligations for delivery companies and delivery persons – which includes not delivery to intoxicated people and minors.

While supportive of many of the general obligations, FARE believes that ID checks should be occurring for all deliveries, not just same day – as explained above.

Recommendation 8. Require effective ID checks on all deliveries (same day and non-same day), to ensure that alcohol is not supplied to children or left unattended. An ID check must occur – customer instructions should not override this important measure.

FARE also proposes that *delivery-specific* Responsible Service of Alcohol (RSA) training be prescribed (see *Section 7. Compliance and enforcement* below).

Records

Currently, there is no requirement for alcohol delivery companies to keep a record of their deliveries or to share data with the Queensland Government. The consultation paper proposes keeping records of delivery refusals or partial deliveries. This is a step in the right direction, but this proposal should be extended to all deliveries.

Only recording non-deliveries means the added paperwork of logging a non-delivery could create a disincentive to withhold delivery. If records were kept for *all* deliveries, it would not only remove the disincentive, but also create a data source which would assist the implementation of evidence-based policy in future. Data on the delivery would include the post code, time and date of delivery, whether delivery was withheld and for what reason.

In NSW, same day delivery providers must keep records of the delivery postcode, the type of liquor delivered, (beer, cider, perry or mead, wine, or spirits), and the volume delivered. They must provide a report to the Secretary, within 21 days of the end of a reporting period reporting.³⁵

Recommendation 9. FARE supports the requirement for alcohol companies to report delivery data such as refused deliveries, by geographic area to regulators (e.g., by Local Government Area), to enable monitoring of deliveries and frequency of issues.

Recommendation 10. Require retailers to report the volume of alcohol sold online and delivered by geographic area.

Section 6. Time of delivery

The consultation paper lists separate time of delivery requirements for same day deliveries, (10am to 11pm), and for non-same day deliveries, (any time of day after 10am on next calendar day).

FARE does not support the ‘initially’ proposed delivery cut-off time of 11pm because this extends the time in which deliveries are able to be made increasing the risk of harm. Instead, FARE proposes that the cut-off be 10 pm to align with take away licenses. FARE does not support having no requirement to prevent rapid delivery, which is found to contribute to higher risk drinking. FARE does not support having different requirements for same day and non-same day deliveries, as non-same day delivery carries all of the same risks of alcohol harm as same day delivery, (except for rapid delivery). The rationale and evidence for these positions is provided below, including our recommendations.

Family violence

Alcohol is estimated to be involved in between 23 percent and 65 percent of all family violence incidents reported to police.³⁶ Alcohol use is not a primary cause of violence against women, but a significant risk factor that can increase the severity and frequency of violence. A study by Australia’s National Research Organisation for Women’s Safety (ANROWS) in association with Queensland Centre for Domestic and Family Violence Research, did find some strong correlations between alcohol use and violence against women.³⁷

The COVID-19 pandemic in Australia increased the likelihood of risky drinking, family violence and suicide in the community. A 2020 survey conducted by FARE in partnership with Women’s Safety NSW found that over half (51 per cent) of surveyed domestic violence specialists reported that there has been an increase in the involvement of alcohol in family violence situations since the COVID-19 restrictions were introduced.³⁸

Late night delivery

Currently alcohol can be sold for takeaway until 10pm, and may leave the premises up until 10:30pm. Extending these late-night hours ever further for delivery to homes in Queensland will increase the risk of alcohol harm in the home.

Alcohol-related family violence and suicide peak late at night in the home. Alcohol-related assaults increase substantially between 6pm and 3am, with 37 per cent of these assaults occurring in the home and 57 per cent of those being family violence.³⁹ Suicides and sudden or unnatural deaths involving alcohol predominantly happen at night, in the home environment.⁴⁰

Recommendation 11. Limit alcohol deliveries to between 10am and 10pm, on any day, to reduce the risks of alcohol-related family violence and suicide, which peak late at night in the home.

Rapid delivery

Rapid supply of alcoholic products is found to contribute to higher risk drinking. Rapid delivery means alcohol that is delivered within 2 hours of ordering. Orders are often fulfilled very quickly (within 30 minutes), including through the use of refrigerated vans, which are essentially mobile packaged liquor outlets stocked with common items. Alcohol is often delivered cold and ready to drink.

Rapid delivery fuels higher risk alcohol use and contributes to people ‘topping up’ with alcohol when they normally would have stopped drinking, increasing the likelihood that they will use alcohol while intoxicated. Rapid delivery and mobile packaged liquor outlets have created a step change in availability and risk that is unacceptable. Rapid delivery enables impulsive purchases and also enables continuation of an existing alcohol session when the alcohol supply has been exhausted.

A UNSW study published in 2023 found that one in five Australian adults who use popular alcohol delivery sites used a service to continue a home drinking session.⁴¹ FARE's 2020 Alcohol Poll found of people ordering rapid delivery, 38 per cent drank more than 10 standard drinks on that occasion.⁴² A VicHealth survey found 77 per cent of people who ordered rapid delivery would have stopped if it was unavailable.⁴³

A safety pause of two hours for retailers and delivery agents between order and delivery of alcohol-only orders can stop the rapid delivery of alcohol. This delay would be applied to alcohol-only orders. Deliveries of food with a small quantity of alcohol (eg. from restaurants), could be exempted from this delay, but would need to meet two requirements:

1. The food delivered meets the definition of '*takeaway meal*' as defined in the recent Queensland COVID-19 Emergency Response Permanency Bill⁴⁴
2. The quantity of alcohol does not exceed a specific limit, such as 1.5 litres as was mandated by the Queensland Government in the above Bill.⁴⁵

Recommendation 12. Introduce a 2-hour safety pause between order and delivery of alcohol-only orders to stop rapid delivery of alcohol, which is found to contribute to higher risk drinking.

Section 7. Compliance and enforcement

The consultation paper lists existing provisions to be reviewed, and new provisions being proposed.

FARE supports including offences for: the online sale or delivery of alcohol to people under 18; not maintaining online sales transaction records; not maintaining records of refused or incomplete deliveries; delivery of alcohol outside prescribed hours; delivery of alcohol to an intoxicated person; breaching (delivery-specific) Responsible Service of Alcohol (RSA) requirements; and breaching conditions of the relevant (online sales and delivery) liquor licence.

FARE supports the delivery company taken to have participated in an offence and sharing liability.

FARE supports the exclusion of entities from participating in online sales and delivery of alcohol where there is a history of unacceptable behaviour, such as repeated compliance breaches.

Recommendation 13. FARE supports establishing offences for the following:

- the online sale or delivery of alcohol to people under 18,
- not maintaining online sales transaction records,
- not maintaining records of refused or incomplete deliveries,
- delivery of alcohol outside prescribed hours,
- delivery of alcohol to an intoxicated person,
- breaching Responsible Service of Alcohol (RSA) requirements, and
- breaching conditions of the relevant liquor licence.

Recommendation 14. FARE supports making delivery companies (including bottle shops and online delivery providers), share liability for delivery breaches, such as delivery to children or people who are intoxicated. Delivery companies should be taken to have participated in an offence. This forms part of establishing a separate licence category for online sales and delivery.

Recommendation 15. FARE supports including compliance history as a risk factor in a risk-based licencing system. Provide appropriate escalating consequences for repeated breaches, including fines, restricted licence conditions, and the provision for complete exclusion from participating in online sales or delivery of alcoholic products.

As discussed above in Sections 1,2 and 3, FARE does not support alcohol delivery licence obligations being made consistent with all of the conditions of existing categories of (hotel or club) licences. This would involve multiple exclusions and exemptions, and risk omitting key safeguards specific to online sales and delivery of alcohol products.

FARE does not support having no offence specified for leaving delivery unattended and having no test purchasing, as this is the only effective way to test compliance. FARE also does not support reviewing conditioning powers within an existing licence, instead of establishing a new licence category due to the specific nature of risks associated with online delivery of alcohol.

FARE does not support using existing RSA training for alcohol delivery. The consultation paper proposes reviewing the applicability of the offence of “*breach of applicable RSA training requirements specifically for the delivery of liquor*”. However, it does not prescribe the requirements of delivery-specific RSA training, beyond stating obligations to “*ensure appropriate RSA training consistent with risk for staff/contractors providing same day deliveries*”. FARE supports the development of delivery-specific Responsible Service of Alcohol (RSA) training, (see below).

Recommendation 16. Establish an offence of unattended delivery for the delivery company (including bottle shops and online delivery providers), with appropriate and effective compliance monitoring.

Recommendation 17. Publish frequent reports on monitoring and enforcement activity including online sales data, and delivery data such as refused deliveries.

Each of the compliance and enforcement provisions above give effect to the enforcement of the regulatory measures in the previous sections. This is a key benefit of Government legislation and regulation, (over industry self-regulation), that it is enforceable with real consequences.

In addition to legislating specific regulatory offences, and reporting requirements, there are other effective compliance monitoring measures that can be adapted for online sales and delivery of alcohol. These include test purchasing and developing and prescribing delivery-specific Responsible Service of Alcohol (RSA) training.

Test purchasing

There is no reference to test purchasing or Controlled Purchasing Operations (CPOs) in the section on compliance and enforcement. Establishing and prescribing test purchasing operations can help ensure compliance with the requirements for online sales and delivery. The National Alcohol Strategy⁴⁶ includes test-purchasing as part of strong and effective compliance enforcement.

The Business Queensland website states:

“After a successful trial in 2014–15, the Office of Liquor and Gaming Regulation’s (OLGR) mystery shopper program continued in 2016 and also forms part of our ongoing compliance program. Alcohol service tests using trained actors in RSA scenarios will continue in venues across South East Queensland and in some regional venues.”⁴⁷ “The mystery shopper program is coordinated by an external contractor in collaboration with OLGR. The tests involve trained actors in RSA scenarios developed by OLGR, with input from the Queensland Police Service and the contractor.”⁴⁸

The Queensland OLGR ‘mystery shopper program’ should be expanded and adapted to also monitor compliance for online sales and delivery of alcohol.

The ACT Liquor Act⁴⁹ has detailed provisions for compliance tests that involves a young person (a purchase assistant), under the supervision of an authorised person, purchasing, or trying to purchase, liquor from a licensee. It is done to obtain evidence that may lead to the prosecution of a person for the offence of supplying liquor to child or young person. It may involve the purchase assistant and the authorised person engaging in conduct that would normally be an offence against ACT law.

An alternative model for test purchasing, is to employ young adults aged 18 to 24 years, who by consensus, appear younger than 25 years old. This was the methodology used in a recent Deakin University study of alcohol delivery, using test purchasing.⁵⁰

Recommendation 18. Expand current ‘mystery shopper’ program into specific test purchasing or controlled purchase operations (CPOs), for online sales and delivery of alcohol.

Responsible service of alcohol (RSA) training

Responsible Service of Alcohol (RSA) training is only one element of preventing alcohol supply to children or people who are intoxicated. Despite the emphasis placed on mandatory RSA training across Australia, there is little evidence that training alone reduces the likelihood of sale of alcohol to people who are intoxicated.⁵¹ It only has some effect when combined with strong regulation, compliance testing, penalties and strict enforcement.

The Australian Government’s unit of competency details for providing responsible service of alcohol training identifies delivery services as within the scope of RSA training.⁵² It notes that ‘Knowledge Evidence’ includes “*knowledge and understanding of liquor laws and regulations at a depth relevant*

*to the scope of job responsibility within licensed premises, including...” “requirements for the **remote sale and delivery of alcohol sales** generated via the telephone, fax, email or mail”.*

However, there are not specific requirements relating to the delivery of alcohol in a fundamentally different context to alcohol supply at premises. There are also no requirements currently in the Queensland Liquor Act for alcohol delivery companies to train their staff in RSA principles that are specifically designed for the delivery context.

Currently, online alcohol sales platforms target people using messages that encourage exceeding the low-risk guidelines of alcohol use, and may be intoxicated, in order to extend their drinking session. These promotions include the following: *“We never want you to call it a night because your (sic) out of booze ever again.”* or *“No more ... failing to replenish the booze supply and thus calling it a night because you’re over the limit.”*⁵³

There should be a prescribed training course for alcohol delivery companies. This is because the delivery environment is different to a licensed venue or bottle shop. Delivery employees are not inside a venue like bottle shop staff, but alone on a person’s private property without CCTV, other colleagues or security staff. Delivery-specific RSA training can help ensure that delivery people are safe, and they understand their role, rights and responsibilities in delivery of alcohol.

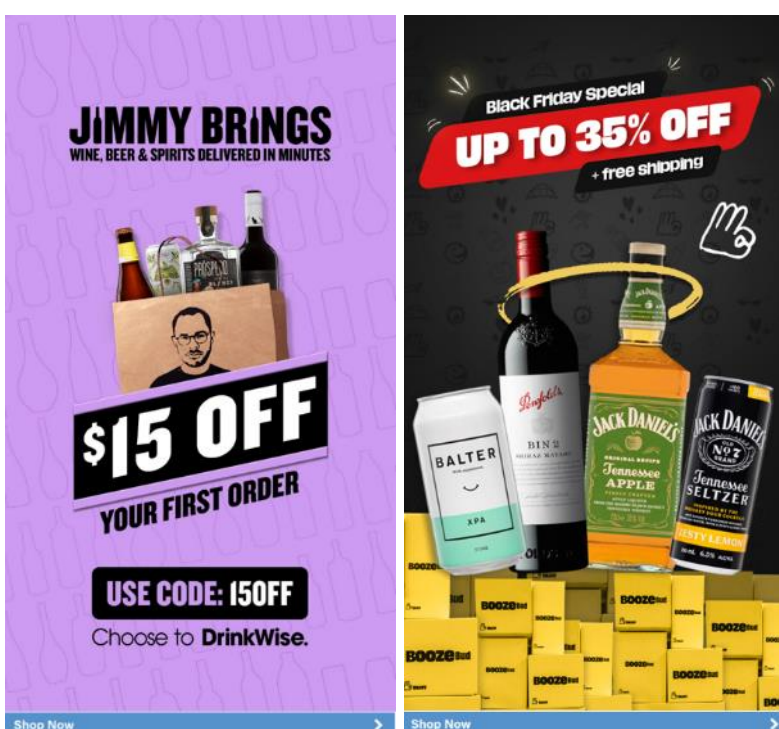
Recommendation 19. Support delivery staff of alcohol companies through delivery-specific Responsible Service of Alcohol (RSA) training, to ensure they are safe, and that they understand their role, rights and responsibilities in refusing delivery of alcohol.

Question 5. Allowable payment methods

5. Are there any alternative payment methods which should be restricted for online liquor purchases, or be subject to a regulatory approval process prior to use?

The consultation paper notes that “*payment methods have evolved from traditional currency such as cash or Electronic Funds Transfer at Point of Sale (EFTPOS)*”, and that *Buy Now Pay Later* schemes are “*particularly relevant to online purchases and require consideration as to their suitability for online liquor sales*”.

These delayed payment schemes enable predatory targeting of people experiencing vulnerability, including people on low incomes, and people experiencing alcohol dependency. They also facilitate rapid and bulk purchases of alcoholic products. Delivery companies frequently use these promotions as a way to entice customers. Retailers must be prohibited from offering or promoting delayed payment to purchase alcohol online or offering incentives for a minimum spend or volume.



Recommendation 20. Prevent predatory marketing by alcohol companies that promotes excessive and rapid alcohol use and targets people who are most vulnerable. Prohibit online retailers from offering or promoting delayed payment to purchase alcohol online or offering incentives for a minimum spend or volume.

Question 6. New approaches by the regulator to compliance

6. Please advise your view, if any, on contemporary powers and tools to effectively monitor and measure compliance with a proposed new regulatory framework.

The consultation paper states that the Office of Liquor and Gaming Regulation (OLGR) will be “*turning its attention to new ways of engaging with the sector regarding online liquor delivery to enable compliance with the new framework.*” It says that one option that could be considered is the use of third-party auditing.

Caution is needed with third-party auditing, as the quality of existing outsourced processes, (such as licence application community consultation operated by local governments), varies with the third party’s capacity. Some participants have also indicated that professional engagement processes can feel intimidating or inaccessible for community members, when it is dominated by legal professionals.⁵⁴

The Queensland Government should consider increasing internal capacity regarding regulatory compliance by online sales and delivery companies, before considering outsourcing options. The appropriate focus for improving ways of monitoring compliance and engaging with the sector should focus on effective *direct* oversight and transparency. As recommended above, expanding ‘mystery shopper’ test purchasing to online sales and delivery, is one innovation that can facilitate effective oversight.

Recommendation 21. Increase internal capacity to carry out regulatory compliance checks on companies selling alcohol online or delivering alcohol, before considering outsourcing options.

Question 7. Cross-agency intervention and non-legislative approaches

7. The views of stakeholders on these potential interventions to address certain market behaviour and achieve the desired regulatory objectives are welcome.

The consultation paper notes that Queensland Health and the Office of Fair Trading “*can deploy regulatory interventions that can also assist in meeting regulatory objectives, especially to reduce alcohol-related harm.*” The paper also notes that “*The Australian Consumer Law may also be relevant for businesses who drive purchasing by utilising non-transparent patterned processes in the operation of their online systems, particularly in the way product choice is presented to customers.*”



Harms from alcohol are driven by alcohol company advertising that’s primary objective is to achieve more people buying alcohol, more often and in greater quantities. Restrictions on advertising, via state/territory Liquor Acts and Commonwealth legislation, is an effective measure to prevent harm.

Predatory digital marketing must be prevented by prohibiting retailers from unacceptable practices and promotions. These include adapting current unacceptable practices and promotions to the digital marketing of online sales and delivery.

The Liquor Act currently prohibits the following unacceptable practices and promotions:⁵⁵

- a) a practice or promotion that may encourage the irresponsible consumption of liquor;
- b) a practice or promotion that may discourage a patron from monitoring or controlling the patron's consumption of liquor
- c) a practice or promotion likely to have a special appeal to children, for example, because of the use of designs, names, motifs or characters that are likely to be attractive to children;
- d) a practice or promotion that is indecent or offensive
- e) a practice or promotion using emotive descriptions that are likely to encourage the irresponsible consumption of liquor;
- f) a practice or promotion that involves providing free drinks, or providing drinks at discounts, in a way that encourages patrons to consume excessive amounts of liquor or consume liquor more rapidly than they would otherwise do.

Each of these above provisions needs to be made specifically applicable to the digital marketing and promotion of online sales and delivery of alcoholic products in Queensland. For example, prohibiting specific practices such as sending direct prompts, 'buy-now' buttons, or notifications promoting alcohol to a person's device. This change to the Act will also require an update of Guideline 60: '*Unacceptable liquor practices and promotions in licensed venues*',⁵⁶ (last updated in 2017), to include takeaway, online sales and delivery of alcohol.

Whenever online alcohol sales platforms promote the benefits of ordering delivery to prevent drink-driving, they are breaching the prohibition against encouraging the irresponsible consumption of liquor, by encouraging people to continue using alcohol after exceeding the recommended guidelines. For example: "*there's never an excuse for getting behind the wheel when you've had too much to drink.*" or "*No more ... calling it a night because you're over the limit.*"⁵⁷

With carriage for the Queensland Alcohol and Other Drugs Plan 2022–2027⁵⁸, Queensland Health also have a responsibility to implement evidence-based policies that address alcohol harm as it relates to the problematic use of alcohol. (See Supplementary Question 6 below).

Recommendation 22. Extend the existing prohibited unacceptable marketing practices and promotions to also apply to the digital marketing of online sales and delivery of alcohol.

Recommendation 23. Prevent predatory digital marketing by alcohol companies by prohibiting retailers from sending direct prompts, 'buy-now' buttons, or notifications promoting alcohol to a person's device.

Supplementary questions relevant to research and advocacy groups

Circulated on 17 April 2023, with the same due date as this consultation, 10 May 2023.

Question 1. What would be the cost, positive or negative, to business and the community of limiting same day delivery hours under both the Queensland Liquor Act 1992 (Liquor Act) and Wine Industry Act 1994 (Wine Industry Act) from 10am to 11pm?

Question 1 is covered above in **Section 6**. Time of delivery – under Question 4 Impact (FARE does not support late night delivery continuing until 11pm.)

Question 2. What would be the cost, positive or negative, to business and the community of limiting non-same day deliveries to 10am on the next calendar day or later under both the Liquor Act and Wine Industry Act?

Question 2 is covered above in **Section 6**. Time of delivery - under Question 4 Impact. (FARE does not support different requirements for same day and non-same day deliveries.)

Question 3. Are you aware of any online ordering systems (websites or apps) that currently attempt to verify the level of intoxication of a customer at the point of sale?

Question 3 relates to **Sections 4, 5, 6 and 7**; and **Question 7** above about ID checks, delivery-specific RSA training and preventing late night, rapid delivery and predatory marketing. Implementing the recommendations in each of those sections will help prevent online sale and delivery of alcohol to people who are intoxicated.

Companies selling alcohol should be held accountable and responsible for actions that increase the risk of alcohol harm. Measures that only focus on individuals, fail to acknowledge the significant role of companies in driving alcohol harms. The marketing practices of companies that encourage excessive use of alcohol are an example of this. A focus only on individuals promotes measures without evidence of effectiveness in reducing the risk of alcohol harm, (eg. *'drink responsibly'* slogans and self-exclusion). These measures can distract from investigating and implementing evidence-based systemic solutions. This focus on individuals also blames and stigmatises people experiencing vulnerability, such as alcohol dependency, increasing the harm experienced, whilst alcohol companies make their greatest profits from these people.

FARE would not support the use of technology that measures people's level of intoxication to then be used to decide if they can order alcohol online or not – this kind of invasive monitoring raises privacy concerns⁵⁹ and would be easily falsifiable making it ineffective.

Question 4. Are there measures that could be implemented to effectively prevent the online sale of liquor to unduly intoxicated persons?

Question 4 relates to **Sections 4, 5, 6 and 7**; and **Question 7** above about ID checks, delivery-specific RSA training and preventing late night, rapid delivery and predatory marketing. As above, implementing the recommendations in each of those sections will help prevent online sale and delivery of alcohol to people who are intoxicated.

Question 5. Are you aware of any self-exclusion agreements for online liquor services currently being used? How could they best implemented (e.g., use of cooling-off periods for reinstating access)?

As above, FARE does not support measures focused solely on individuals. Self-exclusion can be used as an accompaniment to sound policy that focuses on the role of companies, but cannot be put in place of these measures. Self-exclusion alone is not a sufficient protection for people experiencing vulnerability, including alcohol dependency.

Question 6. Can you identify any procedures or strategies which could be used to prohibit or limit online sale of liquor to persons identified by the licensee or third-party delivery provider as a potential problem drinker (e.g., a high frequency of orders)?

Question 6 relates to **Sections 4, 5, 6 and 7** about ID checks, delivery-specific RSA training and preventing late night, rapid delivery and predatory marketing. As above, implementing the recommendations in each of those sections will help prevent online sale and delivery of alcohol to people who are experiencing problematic alcohol use or alcohol dependency.

Other evidence-based interventions that can assist people experiencing problematic alcohol use or alcohol dependency include the strategic priorities identified in the *Queensland Alcohol and Other Drugs Plan 2022–2027*,⁶⁰ (which highlighted the Government’s commitment to “*consider the efficacy of introducing a regulatory framework governing online alcohol sales and home deliveries*”):

1. Prevention and early intervention
2. Enhance treatment and support systems
3. Expand diversion
4. Reduce stigma and discrimination
5. Reduce harm

FARE holds significant concerns for a proposed reform that would enable alcohol companies to be attempting to identify ‘problem drinkers’ as this would likely involve breaches of people’s privacy and would likely be inaccurate identification due to the difficulty in distinguishing between individual or household use of alcohol.

Question 7. Do you support an age verification system through an accredited service being implemented and why/why not? If not, please specify other systems that might be effective in ensuring effective age verification.

Yes, see **Section 4**. Online Sales and **Section 5**. Delivery. FARE supports effective age verification for both sales and for delivery, using accredited services such as AusPost Keypass ID.

Question 8. Is the current responsible service of alcohol (RSA) training appropriate to be applied in a same day delivery context? Is there more appropriate training required? If so, can you provide any known examples of suitable training programs.

Specific training is needed, see **Section 7** above. Current RSA training is designed for alcohol supply within premises and is not appropriate for delivery of alcohol. Delivery-specific RSA needs to be designed, prescribed, required and monitored with record-keeping of refusals and test purchasing.

Recommendation 24. Implement measures that hold delivery companies (such as bottle shops and online delivery providers) accountable, rather than individuals. Address the broader factors that increase the risk of alcohol harm, not measures that can stigmatise people experiencing alcohol dependency, and are used by industry to avoid regulation.

Recommendation 25. Do not implement use of technology to measure level of intoxication for potential customers, nor enable alcohol companies to identify people as ‘*problem drinkers*’. Prohibit the use of information about the level of alcohol use from being used for marketing purposes.

Recommendation 26. Implement the Strategic Priorities in the *Queensland Alcohol and Other Drugs Plan 2022–2027*.

Community impact consultation and assessment

Make liquor licensing ‘*community-centric*’

The Queensland Liquor Act 1992 states that one of its main purposes is to regulate the alcohol industry in a way compatible with minimising alcohol harm, “*minimising adverse effects on the health or safety of members of the public and minimising adverse effects on the amenity of the community*”.⁶¹

A key requirement for minimising adverse effects on the health or safety of members of the public and the community, is having an effective community impact consultation and assessment process. A Community Impact Statement (CIS) is a licence applicant-developed summary that describes potential harms that a liquor licence might have in a locality.⁶²

The current community impact statement requirements in the Liquor Act have significant limitations, including having multiple reasons for being waived by the commissioner. These even include a presumption that “*the grant of the licence will not adversely affect the amenity of the community*”, the identification of which is the very purpose of doing a community impact statement.

However, despite these limitations, an effective community impact statement process is an essential part of effectively regulating the supply of alcoholic products. There must be an equivalent process for the community to be heard, and for community impact to be assessed, for online sales and delivery of alcohol in the relevant geographic area in which it will be available. This means making liquor licensing ‘*community-centric*’, prioritising the voice of the community in its consultation processes. This must also implement the conditions, and approval and enforcement processes, that are evidence-based and minimise alcohol harm in the community.

The proposed regulatory framework does not include any reference to community consultation of online sales and delivery of alcohol. Liquor licence applications are the opportunity for community to be consulted regarding the potential impact of increased access and supply of alcohol. However, the proposed regulatory framework does not provide a specific licence category for online sales and delivery businesses to apply for a licence, and therefore has no associated community consultation process triggered by any such licence applications.

Recommendation 27. Adopt a *community-centric* approach to liquor licensing, that prioritises the voice, expectations, needs and aspirations of the community, to minimise harm from alcohol to the community.

Recommendation 28. Prescribe an effective community impact consultation and assessment process, such as the Community Impact Statement (CIS), for all online sales and delivery licence applications.

Improve the community consultation process with transparent and comprehensive engagement

Liquor licensing requires an effective community consultation process where all impacted members of the community have a voice on liquor license applications. Enhancing community engagement

and input in liquor licensing, serves to make policy decision-making more responsive to community concerns and expectations about alcohol harm. Community participation in licensing matters is a function of democratic governance and procedural fairness, informing impacted communities of licence applications, and supporting them to exercise their rights to object or lodge complaints.

The effectiveness of public participation in government regulatory processes relies on establishing genuine engagement processes. These should include elements from across the Public Participation Spectrum, (inform, consult, involve, collaborate and empower).⁶³ For liquor licensing, this means that engagement with community stakeholders must include early, informed, transparent, and equitable participation and decision-making.

Effective consultation enables local autonomy and informed community choice in the direction of local health, safety and amenity issues related to alcohol. For communities to effectively engage in licensing matters, they need to be appropriately informed and supported, processes need to be transparent, and the regulators need to be sufficiently resourced and act with the highest levels of objectivity and impartiality.

Case Study – Woolworths’ failure to consult with Darwin communities⁶⁴

An example of the central importance of adequate community consultation in liquor licensing, is Woolworths abandoning their plans in 2021 to build an alcohol megastore near the dry community of Bagot in Darwin. Community members, health and community organisations raised concerns with the proposal for five years. A review panel that investigated the consultation process recommended that the development should not proceed because local communities, including Aboriginal and Torres Strait Islander groups, had not been adequately consulted. The majority of people to whom the review panel spoke expressed strong concerns about the proposal. Some recommendations of the review panel’s report to Woolworths Group are relevant for all liquor licensing community engagement:⁶⁵

- **Engagement and consultation.** Take a more inclusive approach to identify, engage and listen to a wider range of stakeholders concerned with the impacts of new proposals – particularly, but not necessarily exclusively, when it comes to the sale of alcohol in communities with a strong Aboriginal and Torres Strait Islander presence. Takes steps to provide multiple direct and indirect channels for stakeholder engagement.
- **Considering harm in operational decision-making.** Revise operational decision-making processes in relation to future liquor outlet proposals to explicitly consider the social and health impacts on the at-risk groups and communities such as Aboriginal and Torres Strait Islander peoples before progressing any such new proposals.
- **Engagement with harms beyond responsible service.** Incorporate into strategies and business analysis frameworks a more comprehensive account of social and community impacts beyond the point of sale and throughout all stages of the business life cycle. This should include ongoing engagement with and listening to health experts and considering how the alcohol industry and health experts can better work together.
- **Further the evidence base.** Takes steps to improve the overall understanding and evidence base of the implications of alcohol sales and take a leadership role in supporting research to answer the question of whether new liquor outlets increase the volume of alcohol consumption in the community.

Support communities to have a genuine voice with targeted independent support for community stakeholders

Communities need sufficient support services to adequately engage in liquor licensing decisions and have their concerns heard. The purpose of community consultation is to help the Queensland

Government to understand the impact a licence will have on the local community, by ensuring that the relevant community has its voice heard and reflected in decisions.

The current process already has a power imbalance that favours business interests over community interests. Businesses have access to finances and resources to gain legal and other social planning advice and can run protracted appeals and defences. Impacted and concerned communities do not.

As mentioned above in response to Question 6, the quality of existing community consultation processes for licence applications can vary with the capacity of local governments. Some participants also indicated that professional engagement processes can feel intimidating or inaccessible for community members when it is dominated by legal professionals.⁶⁶ There is no targeted support for communities interacting with liquor licensing or planning systems.

In recognition of the substantial barriers the community face in effectively engaging with the licence application process, independent support should be available for communities who wish to engage in liquor licensing processes, and this should be adequately resourced. An advisory and central information service is needed, with staff that have appropriate skills and expertise in alcohol-related planning and licensing systems, including legal skills and an understanding of community needs and expectations. This would support individuals and communities in navigating and interacting with the liquor licensing system.

A pilot of such a service was operated in NSW as the Alcohol Community Action project (ACAP).⁶⁷ The purpose of the ACAP pilot was to assist individuals and organisations who wanted to interact with the liquor licensing and planning systems with the aim to reduce alcohol harms in their community. The project consisted of two key resources, a community adviser and a website. The ACAP successfully assisted numerous communities within NSW to lodge objections to liquor related development applications and liquor licence applications and provided advice to individuals who were not aware of their rights when dealing with licensing applications. The demand experienced by the ACAP demonstrates the need within the community for such a service.

Recommendation 29. Improve community access, information and support for engaging with licence applications. Provide resourcing for targeted and independent support for members of the public impacted by increases in liquor supply density, to genuinely navigate and engage with online sales and delivery liquor license application processes.

Recommendation 30. Engage with all relevant stakeholders to ensure the consultation process is informed by relevant expertise of alcohol harm.

Recommendation 31. Maintain an open and diverse community consultation process for all applications to ensure community consultation informs all risk assessments. Do not restrict consultation timeframes or access based on any applicant-assessed risk ratings.

Risk-based licensing

Risk ratings in a risk-based licensing system

The rapid growth of online sales and delivery of alcohol introduces new risks of alcohol harm, including increased availability, accessibility and density of alcohol supply, and rapid and unsupervised delivery. There is no reference to risk ratings in the consultation paper, or to any risk-based licensing (RBL) system.

The purpose of RBL is to align licensing fees and conditions with evidence of the risks of alcohol harm. RBL means that licensing applications are assessed, and then ratings and fees calculated, using evidence-based risk factors. In the ACT, RBL was found to contribute to a decline in the number of alcohol-related offences by 25 per cent.⁶⁸

Currently, Queensland liquor license fees are calculated based only on the risk criteria of business type, extended trading hours and compliance history.⁶⁹ The Liquor Regulation prescribes that a risk criterion fee is added to the annual base fee for a liquor licence if the licensee was convicted of an offence against the Liquor Act. An effective RBL system must incorporate all evidence-based risk factors.

Supply density and cumulative impact assessment

There is no reference to alcohol supply density or to cumulative impact ratings in the consultation paper. An equivalent for outlet density in a given geographic area needs to be developed for the delivery of alcohol, and included in the calculation of risk factors in risk-based licensing (RBL).

There is substantial evidence to demonstrate that the density of liquor outlets contributes to an increase in alcohol harm.^{70,71,72} A study by the NSW Bureau of Crime Statistics and Research (BOCSAR) found that *“the concentration of hotel licences in a [local government area], particularly at higher density levels, was strongly predictive of both intimate partner and non-intimate partner assault rates”*.⁷³ Additionally, the World Health Organization has highlighted that neighbourhoods which have higher densities of alcohol outlets (both on- and off-licence) also have greater child maltreatment problems. This situation can lead to increased stress for families and restrict development of social networks that can prevent child maltreatment.⁷⁴

A cumulative impact assessment framework can help manage the density of licensed premises and online sales and delivery of alcohol to ensure alcohol harms to the community are minimised. The use of data to inform cumulative impact assessment is needed. However, further development of the exact data sources to be used will be necessary, requiring input from alcohol policy experts to determine the most appropriate way to incorporate online sales and delivery into the assessment.

Recommendation 32. Establish a risk-based licensing (RBL) system, with license fees set for different risk levels, calculated on all relevant risk factors. Develop specific risk ratings for online sales and delivery of alcohol, to accurately reflect the increased risk of harms.

Recommendation 33. Develop and incorporate a risk factor calculation for supply density, (as an equivalent for outlet density), for online sales and delivery of alcohol in a geographic area, (eg. a cumulative impact assessment), within a risk-based licensing (RBL) system. Consult alcohol policy experts on the development, implementation and evaluation of such a risk factor. This is to more accurately reflect retail alcohol supply density and alcohol availability.

Conclusion

FARE's submission has outlined how the Queensland Government can effectively address the increased risk of alcohol harm from the rapid expansion of online sales and delivery of alcohol. This response to the *"Proposed regulatory framework for online liquor sale and delivery - Consultation paper"*, has provided evidence-based recommendations that can ensure that liquor licensing remains effective in reducing the risk of alcohol harm.

In considering changes to the Liquor Act, the Queensland Government can prioritise the health and wellbeing of the community and contribute to the prevention of the harms from alcohol. This submission provides recommendations on how the Government can do this.

The consultation paper proposes some evidence-based measures which can address the risk of harms from online sales and delivery of alcohol. These include effective ID checks for online sales, prohibiting delivery to intoxicated people and children, supporting delivery staff and enforcing compliance. These are welcomed.

However, there are significant gaps in the framework that can allow the risk of harms from online sales and delivery of alcohol to increase. These include late night delivery until 11pm, no restrictions on rapid deliveries within 2 hours, and a licencing system that lacks oversight of third-party delivery companies.

Our recommendations outline the steps that the Queensland Government can take to implement an evidence-based approach to online sales and delivery of alcohol, ensuring that it aligns with harm minimisation and community expectations. This will allow the Queensland Government to prioritise the wellbeing of communities.

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