



Master Grocers Australia Ltd

Trading as:

MGA Independent Retailers &

MGA Liquor

Consultation Paper – Phase Two of the Review of the *Liquor Control Reform Act 1998*

Submission Paper

December 2019

National Support Centre - Suite 5, 1 Milton Parade, Malvern VIC 3144

P 1800 888 479 | **F** 03 9824 4022 | www.mga.asn.au | **ABN** 44 004 063 263 © Master Grocers Australia Limited

Introduction

MGA Independent Retailers (MGA) is a National Employer Industry Association representing the owners and operators of Independently owned Grocery and Liquor Supermarkets and stores in all States and Territories of Australia trading under brand names, such as; FoodWorks, Friendly Grocers, IGA, Bottlemart, Cellarbrations, Ritchies Liquor, The Bottle O and various independents. They range in size from small, to medium and large businesses.

Independently owned and operated licensed Supermarkets and stores play a major role in the retail industry and make a substantial contribution to the communities in which they trade.

In Australia MGA's 2,700 members of which over 1200 hold packaged liquor licences, independently owned branded supermarkets and liquor stores employ over 115,000 full time, part time and casual staff, representing \$14 billion in retail sales. Many MGA members are small family businesses, employing 25 or fewer staff.

In Victoria, MGA's members comprise 850 independently owned and operated branded licensed supermarkets and liquor stores employing over 27,000 full time, part time and casual staff, representing over \$5 billion in retail sales. MGA members are small family businesses, employing 25 or fewer staff.

MGA is making this submission in response to the Consultation Paper – Phase Two of the Liquor Reform Act 1998 paper (The Review) released by the Victorian Government. by the Minister for Consumer Affairs, Gaming and Liquor Regulation, the Hon Marlene Kairouz MP.

We understand that the review has been divided into two phases. The first phase resulted in the Liquor and Gambling Legislation Amendment Act 2018 (Amendment Act). The amendments included:

- the prohibition of static advertising within 150 metres of a school
- ensuring delivery drivers request evidence of age when delivering alcohol
- making it illegal for minors to be served alcohol on any licensed premises
- ensuring that if a minor is supplied alcohol in a private residence with approval from parents or guardians that it be done in a responsible manner.

As indicated in the Consultation Paper the Minister is seeking industry feedback on Phase two of the review, these phase two topics were identified in submissions received from the previous consultation back in December 2016.

MGA understands that strategies to minimise any harm associated with the misuse of alcohol is of the utmost importance and strongly supports initiatives to assist in reducing the incidents of family violence. MGA welcomes the opportunity to respond to this paper and will make suggestions to “tidy up” the Act, as well as make suggestions to help remove anomalies, unfair and outdated regulations and reduce red tape and cost burdens

MGA thanks to the Honourable Minister Marlene Kairouz MP and the Victorian Government for the opportunity to comment on the Consultation Paper – Phase Two of the Review of the Liquor Control Reform Act 1998.

Review

3. The Act, its objective and harm

3.1 Family Violence

MGA agrees with the papers proposed definition of harm, being to minimise family violence and other community-level harms through the misuse and abuse of alcohol.

Option d) talks about anti-social behaviour, including causing personal injury or property damage, would this cover abuse or injury to animals? If not, then perhaps it should be considered for inclusion.

3.2 Object of the Act

MGA believes that the Objects are applied consistently throughout the provisions of the Act and that the current objects are coherent and consistent with the aim of liquor supply regulation.

3.3 Harm and amenity

MGA agrees that terminology throughout the Act be consistent and agrees that the meaning of ‘Harm’ is clearly described in the review document.

Either ‘Risky & Harmful Drinking’ or ‘Misuse & Abuse’ could be used. MGA believes ‘Misuse & Abuse’ is more descriptive when relating to alcohol.

4. Liquor Licensing

4.1 Licence categories

MGA has always maintained that all licence categories applied and granted, should be fit for purpose and have the same regulatory compliance and conditions applied.

We note that the Phase Two Review does not address the Annual Liquor Licence Fee structures that would be applicable to the new categories. MGA's position is that the annual liquor licence fees when being reviewed, should also be consistent with the category type, including Subsidiary PLL.

Currently the annual Packaged Liquor Licence fee for normal trading hours is \$2,014.30, double that of a General Licence which pays a \$1,007.20, to also sell package liquor as well as being able to trade Good Friday and Christmas Day. This is a major anomaly that must be addressed as both licence categories sell packaged liquor which is classed as high-risk category.

MGA's position is that under no circumstances should fast food outlets with a business model and marketing that is aimed predominately towards children and mostly for take away consumption be licenced to sell alcohol.

We note that the Red Rooster fast food chain has been trialling a limited range of packaged liquor at eight of its outlets for consumption off premise. This initiative has failed, and Red Rooster will not be renewing their Temporary Renewable Licences.

4.2 Defining 'restaurants & café' & issues relating to licensing fast food outlets

MGA believes the proposed definition for restaurant and café especially the proposed condition that *'the dining area must always be set up with tables and chairs for dining and the tables must be served by staff (unless closed to the public for a private function'* will deter fast food outlets from changing and becoming "bar like outlets"

4.3 Online packaged liquor supply and delivery provision

The current Packaged Liquor Licence allows for ‘Sales by means of mail, facsimile, telephone or the internet’ current holders of these licences offer same day home delivery service for their customers, who order by those means or in person to have the goods delivered at a later time. The proposed new category of ‘Standard PLL’ means that will need to notify the commission prior to commencing any of the above sales methods. MGA submits this is another red tape and cost burden on businesses. MGA recommends that any further regulations should only apply to those Standard PLL holders who intend to develop an online platform or offer 30-minute delivery service.

The two key players who offer 30-minute delivery, ‘Tipple’ and ‘Jimmy Brings’ both have different models of operation.

Tipple has a Victorian PLL and partners with other independent PLL holders to procure stock for delivery, and Jimmy Brings holds a NSW licence and procures stock from its Victorian licenced sister stores, Dan Murphy, BWS or the Woolworths warehouse to procure stock. It would be impractical if not impossible for an online licensee to have the licenced premises where the orders are received and a separate licenced premises, where the alcohol is dispatched from, on the same licence.

MGA agrees that the proposed obligations will provide consistency, clarity and allow enforceable compliance for licensees who supply liquor online.

4.3.1 Packaged Liquor Code of Conduct

MGA agrees with the approach taken with the Packaged Liquor Code of Conduct and strongly recommends that the Code of Conduct and the requirement of a House Rules Manual be maintained as a condition of licence for all PLL categories.

5. Other Licensing issues

5.1 Licence application process

MGA agrees with separate consideration of High and Low risk licence applications and would endorse the submission of a community impact statement, licence density of similar type licences, patron capacity, trading hours and floor space also being a key consideration.

Clearly as reflected in their annual licence fee, the current packaged liquor licences are considered as High Risk so outlet density, floor space and trading hours should be a major consideration when considering applications. Bricks and mortar stores applications can be assessed using these measures, however how will the Decision-Making Guidelines on ‘Cumulative Impact’ be applied to PLL’s with online sales only?

5.1.1 Objection process at application stage

MGA supports the fast tracking of low risk liquor licence applications as long as the applicant meets all the application requirements.

5.2 Objection process at application stage

MGA considers the objection process sound.

5.3 Dry Areas

MGA agrees that this proposal is a timely measure.

5.4 Club rules in Schedule 1 of the Act

Not applicable

5.5 Prohibitions – Businesses that cannot obtain a liquor licence or permit

MGA fully supports that premises used primarily by minors remain unable to obtain a liquor licence.

No Drive-in cinemas, petrol stations, milk bars, convince stores and mixed businesses should not be able to apply for liquor licences, for all the reasons stated, such as their association with drink driving, impulse purchase and normalisation of alcohol with minors.

Other factors that should be considered to define highway service centres, as Petrol Stations would be that, the purchasing of petrol is the service centres primary business and can only be accessed by driving into them. These service centres are supported by corporate fast food outlets that predominately supply food to be taken away with limited eat in facilities.

‘Convenience Store’ is a very suitable term to use encapsulate outlets such as; convenience stores, milk bars and mixed businesses.

Objective measures should definitely be set to determine whether an ‘area is a tourist area’ and whether there are ‘adequate existing facilities’. MGA would also support the condition of withdrawal, if in the future a packaged liquor outlet or licenced supermarket opened in the area, we would however suggest that a clear distance be determined.

5.6 Extending ordinary trading hours

The circumstances for extending trading hours where the venue can demonstrate that there are limited options could include Private Functions such as Weddings, Birthdays, special occasions and should be available on specific days e.g. Friday and Saturday. MGA cannot see any adverse effect in introducing this proposal.

MGA has argued the inconsistency where a General Licence with an attached bottle shop can operate Good Friday and Christmas day, whilst a packaged liquor licence condition does not allow a packaged liquor store to trade on those days without showing extenuating circumstances, how does inhibiting one licence over another make it a balanced playing field, especially as Packaged Liquor Licences pay as mentioned previously, double the annual licence fee?

6. Concept of licences premises

6.1 Food court businesses and on-premise licensing

MGA agrees that the food court on-premise licences should be brought into line to the licence conditions of restaurants and cafe’s, and all sales of alcohol be restricted to sales with food.

The other consideration is if the alcohol is served in a stubby or it can be easily taken out of the authorised area for consumption. How will this be policed?

7. Compliance and enforcement

7.1 Advertising and promotion

MGA would prefer maintaining the examples in section 115B for promotions that may be banned. MGA does not support the banning of volume discounts such as product bundling, slab discounts or wine offers

7.2 Review of licensing decisions

MGA supports any initiative that reduces costs when doing an internal review by introducing a conference hearing and would support high risk applications be able to be referred to VCAT.

7.3 Offences not directly related to harm

MGA believes that repealing these lesser offences makes for common sense and cannot identify any unintended consequences.

7.4 Responsible Service of Alcohol (RSA)

MGA recommends that all front of house staff serving, selling or supplying alcohol should be RSA trained.

MGA supports the maintaining of the three-year refresher course as it reaffirms harm minimisation techniques, updates their knowledge of legislative changes and ensures they understand their compliance obligations.

7.5 Drunken or disorderly

MGA strongly supports the proposed option of allowing a passive intoxicated person to remain on the premises ensuring that they are not exposed to any harm by ejecting them onto the street. If adopted, 'how to handle' the situation should be incorporated into RSA training.

MGA, on behalf of its members, thanks Victorian Minister for Consumer Affairs, Gaming and Liquor Regulations, the Hon Marlene Kairouz, for the opportunity to make comments and add suggestions to the Consultation Paper – Phase Two of the *Liquor Control Reform Act 1998*.

Yours Sincerely



Jos de Bruin
CEO MGA



George Kovits
President MGA Liquor

