

FARE's submission to Treasury on the Competition Policy Review Final Report



May 2015

fare



About the Foundation for Alcohol Research and Education

The Foundation for Alcohol Research and Education (FARE) is an independent, not-for-profit organisation working to stop the harm caused by alcohol.

Alcohol harm in Australia is significant. More than 5,500 lives are lost every year and more than 157,000 people are hospitalised making alcohol one of our nation's greatest preventative health challenges.

For over a decade, FARE has been working with communities, governments, health professionals and police across the country to stop alcohol harms by supporting world-leading research, raising public awareness and advocating for changes to alcohol policy.

In that time FARE has helped more than 750 communities and organisations, and backed over 1,400 projects around Australia.

FARE is guided by the World Health Organization's *Global Strategy to Reduce the Harmful Use of Alcohol** for stopping alcohol harms through population-based strategies, problem directed policies, and direct interventions.

If you would like to contribute to FARE's important work, call us on (02) 6122 8600 or email info@fare.org.au.

* World Health Organization (2010). *Global strategy to reduce the harmful use of alcohol*. Geneva: World Health Organization.

Contents

Contents.....	3
Introduction	4
Recommendations	5
Alcohol is not an ordinary commodity.....	6
Regulation of alcohol and minimising its harms.....	7
Policy implications	12
Recommendations	14
Potential for increased harms through the sale of alcohol in supermarkets	15
Policy implications	19
Recommendation.....	19
Potential impacts of Competition Policy to alcohol and drug treatment.....	20
Policy implications	21
Recommendations	22
Conclusion.....	23
Appendix 1: Objects of Australian liquor licensing.....	24
References	27

Introduction

The Foundation for Alcohol Research and Education (FARE) welcomes the opportunity to make a submission on the Competition Policy Review Final Report (Final Report). This submission addresses the application of Competition Policy in regard to alcohol policy in Australia.

FARE is pleased that the Competition Review Panel (the Panel) acknowledged in their Final Report that there is a clear justification for alcohol to be regulated due to the harm that it causes. FARE agrees with this stance and also agrees with “the many submitters who note that ‘Alcohol, because of its potential to cause harms, is not like other products’.”¹

The Final Report also acknowledged the importance of harm minimisation as an objective of Liquor Licensing Legislation in Australia and the need for state and territory governments to be able to set trading hours and planning and zoning controls respective to their needs. FARE is supportive of these recommendations.

FARE contends that harm minimisation should be the primary objective of all legislation, regulations and policies relating to alcohol, including Competition Policy and Liquor Licensing Legislation. This is the main recommendation of this submission.

Previous rounds of Competition Policy liberalisation have contributed to alcohol becoming more available and more affordable than it has been in over three decades.² As a result, alcohol harms such as deaths and hospitalisations have increased markedly over this time. The statistics are stark, 15 people die and 430 are hospitalised due to alcohol each day in Australia.³

Alcohol is not like other products such as orange juice or cornflakes, it is a product that requires special laws and restrictions. These restrictions reflect the harm that alcohol can cause and are in the public interest and for the public’s benefit.

The Competition Policy Review Panel (the Panel) was tasked with examining “...whether Australia’s Competition Policy, laws and institutions remain fit for purpose...” FARE urges the Australian Government to ensure that the regulation of alcohol is “fit for purpose” and prioritises minimising the harm caused by alcohol.

Any new Australian Competition Policy should sets its principles to reflect this situation.

Recommendations

FARE makes the following recommendations to the Australian Government about alcohol and Competition Policy.

1. FARE urges that the Australian Government acknowledge and adopts the view of the Competition Policy Review Panel as set out below:

In particular, given the Panel's view that the risk of harm from liquor provides a clear justification for liquor regulation, any review of liquor licensing regulations against competition principles must take proper account of the public interest in minimising this potential harm.... Accordingly, the Panel does not propose that the recommendation to deregulate trading hours for sellers of 'ordinary' goods and services (see Recommendation 12) should prevent policymakers from regulating trading times for alcohol retailing (or gambling) in order to achieve the public policy objective of harm minimisation. Similarly, the recommendation that competition be taken into account as an important part of the planning and zoning process (see Recommendation 9) should not be interpreted as removing any ability for governments, in dealing with planning and zoning, to take full account of harm minimisation as an objective...⁴

2. FARE urges that the Australian Government in its response to the Competition Policy Review Panel Final Report and subsequent Competition Policy legislation to ensure that for alcohol, harm minimisation is prioritised ahead of all other policy objectives, and that the public interest test for the regulation of alcohol be the effectiveness of the regulation to minimise the harm caused by alcohol, not competition in sale and access.
3. FARE urges that if the Australian Government does not recommend that harm minimisation be the primary objective of all liquor licensing legislation, then alcohol should be declared to be a special product and exempt it from Competition Policy.
4. FARE urges that Australian Government not to tie incentive payments to the application of Competition Policy to the liberalisation of liquor licensing legislation.
5. FARE urges the Australian Government to recommend that alcohol not be sold in more supermarkets across Australia as this policy would undermine efforts to reduce harmful alcohol use. This recommendation echoes that of the Competition Policy Review Panel which stated in its Final Report that "...it is certainly not the Panel's view that the promotion of competition should always trump other legitimate public policy considerations"⁵ such as harm minimisation.
6. FARE urges the Australian Government to acknowledge and address the existing issues caused by competitive funding processes on the provision of alcohol and other drug (AOD) treatment services before applying Competition Policy Principles to the sector.
7. FARE urges the Australian Government to urgently develop a resource allocation model and provide sufficient funding for AOD services that considers and recognises:
 - a. Holistic approaches, collaboration between services and encourages the development of 'wrap around' services with health and welfare agencies.
 - b. That outcome based funding or payment by results is inappropriate for AOD treatment and that this will negatively impact on client outcomes and their successful completion of treatment.
 - c. That increasingly competitive processes may exacerbate division within the sector, favour larger services and ultimately reduce consumer choice within the sector.

Alcohol is not an ordinary commodity

Alcohol, because of its potential to cause harms, is not like other products. It is not the same as cornflakes, nor is it similar to washing powder or orange juice. This was acknowledged by the Panel who noted that: “The risk of harm to individuals, families and communities from problem drinking and gambling is a clear justification for regulation.”

However, alcohol is increasingly being sold and promoted without due consideration to the harms that it causes.⁶ This change in how alcohol is perceived in society is being driven by two forces.

Firstly, it is driven by the alcohol industry who promote alcohol as a normal, everyday product by linking it to sporting events and sporting personalities, through sponsorship of cultural events and festivals, promoting alcohol as part of national celebrations such as ANZAC Day and Australia Day, and promoting the idea that alcohol should be consumed every day as a reward, as relaxation and for no reason in particular.^{7,8}

Secondly, it is driven by the increased availability of alcohol due to the application of Competition Policy Principles on alcohol regulation from 1990s onwards. After the release of the National Competition Policy report in 1993, state and territory governments across Australia reformed their liquor licensing legislation and this has resulted in unprecedented growth in the availability and affordability of alcohol in the past ten to 15 years.⁹

Alcohol is viewed by retailers as a product ‘category’ which offers ‘glimpses’ of potential revenue to be earned.¹⁰ But this revenue is generated by consumers increasing their consumption of alcohol.¹¹ It must be remembered that alcohol is a drug that:

- has a depressive effect on the central nervous system
- is an addictive substance
- is a known carcinogen
- is a known cause of birth defects
- is a known cause or component in more than 200 diseases including strokes, ischaemic heart disease, cancers, liver cirrhosis, respiratory diseases and sexually transmitted infections
- is associated with comorbidity or co-occurrence with mental health disorders¹²
- is a significant contributor to family violence and child maltreatment¹³
- is second only to tobacco as a leading preventable cause of death and hospitalisations in Australia.^{14,15}

Alongside harms to the individual drinker, alcohol also results in harms to others including acts of street violence and family violence, road traffic accidents, child maltreatment and neglect. As a result of these harm to others, more than 360 people die, 14,000 are hospitalised and close to 70,000 people are victims of alcohol-related assault due to others’ drinking per year.¹⁶ This makes alcohol a different product in contrast to the harms associated with smoking and gambling.

The World Health Organization (WHO) recognises that the consumption of alcohol is one of the main risk factors for poor health globally.¹⁷ Alcohol is not an ordinary commodity, the WHO recognises that alcohol can “ruin the lives of individuals, devastate families and damage the fabric of communities.” Its sale and access should therefore be treated with due care and consideration.

Regulation of alcohol and minimising its harms

The Panel in its Final Report acknowledged that there is a clear justification for alcohol to be regulated, stating that: “The risk of harm to individuals, families and communities from problem drinking and gambling is a clear justification for regulation.”¹⁸

The Panel went on to clarify their intentions stating:

In particular, given the Panel’s view that the risk of harm from liquor provides a clear justification for liquor regulation, any review of liquor licensing regulations against competition principles must take proper account of the public interest in minimising this potential harm. The Panel agrees with the many submitters who note that ‘Alcohol, because of its potential to cause harms, is not like other products. It is not the same as cornflakes, nor is it similar to washing powder or orange juice’ (Foundation for Alcohol Research and Education, DR sub, page 6).

Accordingly, the Panel does not propose that the recommendation to deregulate trading hours for sellers of ‘ordinary’ goods and services (see Recommendation 12)[†] should prevent policymakers from regulating trading times for alcohol retailing (or gambling) in order to achieve the public policy objective of harm minimisation. Similarly, the recommendation that competition be taken into account as an important part of the planning and zoning process (see Recommendation 9)[‡] should not be interpreted as removing any ability for governments, in dealing with planning and zoning, to take full account of harm minimisation as an objective. Rather, these recommendations mean that restrictions on opening hours, or planning and zoning rules, or liquor licensing regimes, or gaming licensing, should not be designed to benefit particular competitors or classes of competitors, but only to achieve the stated public policy benefits.¹⁹

[†] **Recommendation 12 states:**

Remaining restrictions on retail trading hours should be removed. To the extent that jurisdictions choose to retain restrictions, these should be strictly limited to Christmas Day, Good Friday and the morning of ANZAC Day, and should be applied broadly to avoid discriminating among different types of retailers. Deregulating trading hours should not prevent jurisdictions from imposing specific restrictions on trading times for alcohol retailing or gambling services in order to achieve the policy objective of harm minimisation.

[‡] **Recommendation 9 — Planning and zoning states:**

Further to Recommendation 8, state and territory governments should subject restrictions on competition in planning and zoning rules to the public interest test, such that the rules should not restrict competition unless it can be demonstrated that the benefits of the restriction to the community as a whole outweigh the costs, and the objectives of the rules can only be achieved by restricting competition.

The following competition policy considerations should be taken into account:

- *Arrangements that explicitly or implicitly favour particular operators are anti-competitive.*
- *Competition between individual businesses is not in itself a relevant planning consideration.*
- *Restrictions on the number of a particular type of retail store contained in any local area is not a relevant planning consideration.*
- *The impact on the viability of existing businesses is not a relevant planning consideration.*
- *Proximity restrictions on particular types of retail stores are not a relevant planning consideration.*
- *Business zones should be as broad as possible.*
- *Development permit processes should be simplified*
- *Planning systems should be consistent and transparent to avoid creating incentives for gaming appeals.*

An independent body, such as the Australian Council for Competition Policy (see Recommendation 43) should be tasked with reporting on the progress of state and territory governments in assessing planning and zoning rules against the public interest test.

The Panel also recognised the importance of harm minimisation in the regulation of alcohol stating that (emphasis added by FARE):

*...given the Panel's view that the risk of harm from liquor provides a clear justification for liquor regulation, **any review of liquor licensing regulations against competition principles must take proper account of the public interest in minimising this potential harm.***²⁰

The Panel also noted their lack of expertise in the area, stating that:

*The Panel has neither the expertise nor the resources to assess this evidence, nor to analyse the costs of harm compared to the costs of reduced competition. Such an investigation is beyond the scope of this Review.*²¹

It is important that the Panel has recognised the need to minimise the harm from alcohol and that particular expertise on alcohol control policies are needed in determining the appropriate legislative and regulatory frameworks for alcohol. Unfortunately, previous rounds of Competition Policy have failed to acknowledge the need for these expertise in developing the policy. The liberalisation of liquor licensing across Australia has substantially changed the liquor licensing landscape, resulting in alcohol being significantly more available and more affordable than it has been in more than three decades.²²

Often the reforms to liquor licensing, due to Competition Policy, were made under duress as evidenced by statements given at the time by state and territory leaders.

In 2003 the then New South Wales (NSW) Premier the Hon Bob Carr said in a radio interview that he was being forced to “adopt policies that encourage alcoholism, all in the name of competition” and that Competition Policy:

*...just increases pretty dramatically the number of outlets, and there would've been a consensus at our liquor summit some months ago, where we had all the stakeholders gathered in Parliament House, that you don't increase the number of outlets if you want to control teenage access to liquor, which is a major component of the problem we've got with liquor abuse.*²³

In 2004, during the second reading of the National Competition Policy Amendments (Commonwealth Financial Penalties) Bill 2004, the Hon Bob Carr also said:

Given the substantial harm associated with alcohol abuse and the clear support for tight regulation that came out of the Alcohol Summit, we strongly support the maintenance of a robust liquor regulatory regime. However, the National Competition Council continues to hold that the current needs test in the Liquor Act restricting the number and location of liquor outlets is being used by existing liquor licensees to restrict competition.

*Therefore, this bill will make changes to the Liquor Act's licensing provisions that we think will be sufficient to satisfy the Commonwealth while hopefully maintaining the integrity of our liquor licensing system.... We will not allow the Commonwealth's demands to result in a proliferation of liquor outlets across NSW.*²⁴

These views were echoed by the Queensland Treasurer, Mr Terry Mackenroth who said in a media interview in 2003 that:

*I'm standing firm, and I'll take my argument to the Commonwealth that they shouldn't penalise us when in fact what we're doing is providing for a very good and regulated system of providing alcohol.*²⁵

The implementation of these reforms were tied to the threat of (and actual) loss of Competition Policy payments. Five Australian jurisdictions, NSW, Queensland, Western Australia (WA), South Australia (SA) and the Northern Territory (NT) in 2003 had \$27.2 million in competition payments withheld for failing to reform their liquor licensing regulations.²⁶ These changes continue to have effect.

Victoria has seen the most dramatic change in the number of liquor licenses and now has the most deregulated alcohol market across Australia. This is despite reservations being expressed by members of Parliament in 2006 about the increasing liberalisation of liquor licensing in Victoria and that alcohol "... should be exempted from the NCP [National Competition Policy] for health-related reasons."²⁷

Two substantial reviews of liquor licensing took place in Victoria 1987 and in 1998. The second introduced Competition Policy Principles to liquor licensing legislation. These reviews broadened the type of licences available and relaxed trading hours. Since 1998 licensed premises have more than doubled in Victoria, from 8,965 to 19,978 in 2013.²⁸ There has also been an expansion in the number of late night trading premises, with 952 premises able to trade late at night. Of these, 495 can trade to 3am, 270 to either 4am or 7am and 136 are able to trade 24 hours a day.⁵

Consequently alcohol harms have increased in Victoria. From 2003 to 2012 there has been:

- a 28 per cent increase (10 per cent per 100,000 population) in alcohol treatment episodes
- a doubling of ambulance attendances from 3,395 to 8,349 (112 per cent increase per 100,000 population)
- an increase in alcohol-related hospital admissions by 44 per cent (33 per cent 100,000 population).²⁹

Research released in May 2015 further demonstrates these harms show a 10 per cent increase in chain outlet density (such as Dan Murphy's and BWS) is associated with a 35.3 per cent increase in intentional injuries (assaults, stabbings and shootings) and a 22 per cent increase in unintentional injuries (such as falls, crushes, or being struck by an object).³⁰

These harms result in increased community perceptions of harms, with more than half (57 per cent) of Victorians considering the city or centre of town to be unsafe on a Saturday night, and two thirds (68 per cent) having had at least one negative experience (such as property damage, having something stolen) attributable to someone else's drinking.³¹

Victorians are also concerned about alcohol-related harms and want governments to do more to address these harms. More than three quarters (77 per cent) of Victorians believe that governments should be doing more to reduce alcohol-related street violence (77 per cent), alcohol-related family violence (76 per cent), risky alcohol consumption among young people under the age of 18 (73 per cent), and Emergency Department hospital presentations from alcohol (67 per cent).³²

The increase in licensed premises is not just confined to Victoria. South Australia experienced a 60 per cent increase in liquor licenses from 1996 to 2009 and Tasmania saw a 25 per cent increase in liquor licenses from 2001 to 2010.³³ The Australian Liquor Stores Association highlighted in an industry magazine in April 2015 that packaged liquor outlets (off-licence/bottle shops) nationally

⁵ It should be noted that the number of licensed premises would be higher had the Government not introduced a freeze on new late night premises as a result of high numbers of alcohol-related violent incidences in the Melbourne CBD in 2008.⁵

increased by 20 per cent in the last six years (2008 to 2014) and in NSW this increase was 38 per cent due to regulatory changes.³⁴

As a way to mitigate these harms due to the liberalisation of licensing laws, governments have introduced harm minimisation objects into their liquor licensing laws. Prior to the introduction of Competition Policy state and territory liquor licensing legislation was concerned with “preventing, reducing or controlling annoyance or disturbance in or around premises, or, conversely, with maintaining quiet and good order in the neighbourhood.”³⁵ By 2012 all states and territories (except Tasmania) had a concept of harm minimisation as an object within their liquor licensing legislation.³⁶

Harm minimisation aims to reduce the harms associated with the sale and supply of alcohol. However there is no consistency as to the definition of ‘harm minimisation’, or how it is to be interpreted and used when assessing licensing applications.

A summary of the harm minimisation objects of Australian Liquor Licensing Acts is outlined in Table 1 below. The full details of all objects of Liquor Licensing Acts is outlined in Appendix 1: Objects of Australian Liquor Licensing Acts.

Table 1. Summary of the aims and objects of Australian Liquor Licensing Acts

State	Aims and objects
Western Australia Liquor Control Act 1988	Aims to “regulate the sale, supply and consumption of liquor; minimise harm or ill health... due to use of liquor.”
South Australia Liquor Licensing Act 1997	Aims to “regulate sale, supply and consumption of liquor... for the benefit of the community as a whole... and.... minimise the harm associated with the consumption of alcohol.”
Northern Territory Liquor Act	Aims to “regulate sale, provision, promotion and consumption... so as to minimise the harm associated with the consumption of liquor”.
Queensland Liquor Act 1992	Aims to “regulate the liquor industry, and areas in the vicinity of licensed premises, in a way compatible with... minimising harm, and the potential for harm, from alcohol abuse and misuse and associated violence.”
New South Wales Liquor Act 2007	“Each person who exercises functions under this Act (including a licensee) is required to have due regard to... the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour).
Australian Capital Territory Liquor Act 2010	Aims to “regulate the sale, supply, promotion and consumption of liquor...to minimise the harm associated with the consumption of liquor.”
Victoria Liquor Control Reform Act 1998 (amended 2009)	“The objects of the Act are... to contribute to minimising harm arising from the misuse and abuse of alcohol...”
Tasmanian Liquor Licensing Act 1990	Has no objectives.

Research into liquor licensing in Australia published in *Stemming the tide of alcohol: Liquor licensing and the public interest*,³⁷ highlights the considerations that decision makers need to make in order to adequately implement harm minimisation objectives.

This issue has been explored by the Victorian Courts through the Kordister case. This case related to Kordister Pty Ltd that managed the Exford Hotel, with an attached bottle shop in Melbourne. This bottle shop had a packaged liquor licence permitting 24 hour trading, granted under the 1987 Licensing Act. In 2009, the Director of Liquor Licensing, as part of the amended Victorian Liquor Control Reform Act, tried to reduce hotel bottle shop trading hours to an 11pm close. This application was contested by Kordister Pty Ltd and the case progressed to the Supreme Court.

The Kordister case has provided valuable guidance about the optimal application of harm minimisation in liquor licensing. In particular, the court found consideration of the risk of harm from a liquor licence depends not just on the individual conduct of the licensee but on a range of 'social and cultural' factors including:

- the character of the licensed venue, such as type of premise, patron capacity, trading hours and licence conditions
- the geographic location of the venue, such as proximity to other licensed venues, position in relation to pedestrian thoroughfare or busy road
- the occurrence of alcohol-related violence close to the venue
- the vulnerability to alcohol-related harm of persons in the vicinity of the venue, such as whether the venue is close to services for homeless people, people with drug and alcohol problems, or people with mental health problems.

The court also recognised that the risk may change over time because of shifts in the surroundings in which the licence operates or changes in patterns of alcohol consumption.³⁸

Stemming the tide of alcohol states that the Kordister case provides clarification on harm minimisation objectives in Liquor Licensing Acts and that:

*Although the character and conduct of the licensee should be considered, the focus of the harm minimisation object is broader than individual licensees, and so 'general evidence' (including population level evidence about alcohol and its harms) in combination with 'locality evidence' (about the particular circumstances in which the licence does, or would, operate) are highly significant.*³⁹

Policy implications

The application of Competition Policy Principles to alcohol must prioritise the minimisation of harm. In order to fully implement the Panel's view, harm minimisation should become the primary objective of all legislation, regulations and policies relating to alcohol across Australia.

The Australian Government's response to the Final Report should articulate this, as well as any legislation developed by the Australian Government to implement Competition Policy across Australia.

Harm minimisation in relation to alcohol should also take priority as part of the regulatory reviews which state and territory governments will undertake as part of the implementation of Competition Policy in Australia.

Each state and territory is required to assess their legislation against public interest tests which assert that legislation:

should not restrict competition unless it can be demonstrated that:

- *the benefits of the restriction to the community as a whole outweigh the costs; and*
- *the objectives of the legislation can only be achieved by restricting competition.*⁴⁰

For liquor licensing, harm minimisation should be considered ahead of the Competition Policy 'public interest' test because the application of public interest tests in liquor licensing have largely failed to serve public health interests.

Stemming the tide of alcohol found that public interest arguments have been ineffective when:

*...considering complaints against existing licensees or applications for new, or amended, liquor licenses... The [review] tribunals are extremely unlikely to actually extinguish a licence, and are even reluctant to suspend a licence for two days. This general finding means that liquor licensing in its current form is ineffective as a tool to alter the behaviour of licensees. A state licence is supposed to be granted on condition that the holder obeys certain rules, but this function of discipline and control has almost been overlooked in the day-to-day operation of the systems... For an application for a liquor licence to be denied, the best chance of success is for multiple objectors, including police, local government and health departments, to make well-argued evidence-based submissions in an environment where the necessary evidence is hard to obtain; in these cases the burden of proof of (lack of) public interest lies with the objectors. Only in Western Australia, where the burden of proof of public interest has been reversed, have new applications for liquor licenses been refused with any frequency. To achieve the public interest objective of harm minimisation, other states and territories should consider adopting Western Australia's reversal of the burden of proof. Unless such a reversal is made, the liquor licensing system as it currently operates (on the basis of the case studies), despite purporting to act in the public interest to reduce harm, is largely ineffective.*⁴¹

Public Interest was also considered by the Ministerial Council on Drug Strategy (MCDS)** which requested in 2006 that the Intergovernmental Committee on Drugs (IGCD)** develop a framework for alcohol and Competition Policy.

IGCD formed a working group, commissioned research and undertook key informant interviews on the subject. A framework for action was developed and presented to IGCD, however the report was not made public so it is unclear if the Australian Government pursued, perused or implemented any of the recommendations within the report.⁴² Treasury should seek to review this work.

If the Australian Government will not recommend that harm minimisation become the primary objective of liquor licensing legislation, then it must recommend that alcohol be exempt from Competition Policy.

This will ensure that alcohol is not considered under Competition Policy as another ordinary product, without consideration for the harms that it contributes to and community perceptions about the need for governments to address these alcohol-related harms.

Competition Policy payments should also not be linked to reforms of liquor licensing. Previous examples of the application of National Competition Policy demonstrate the enormous pressure and tensions that states and territories felt in balancing the need to comply with Competition Policy and receive payments from the Australian Government, while also considering their obligations to protect the community from harm.

These contradicting objectives, more often than not, resulted in the relaxation of alcohol controls which now contributes to the significant levels of harms that we see from alcohol in Australia today. Ultimately, these reforms have not benefited the public due to the increase in alcohol harms that has been associated with them.

** The Ministerial Council on Drug Strategy (MCDS) was the main reporting mechanism to the Council on Australian Governments on the implementation of the National Drug Strategy and National Alcohol Strategy. MCDS was comprised of Commonwealth, state and territory Ministers with responsibility for health and law enforcement. MCDS was abolished in 2011.

** The Intergovernmental Committee on Drugs (IGCD) manages the ongoing work of the National Drug Strategy. It is a committee that consists of Commonwealth, state and territory government senior officers representing health and law enforcement agencies in each Australian jurisdiction and New Zealand. IGCD is responsible for implementing policies and programs under the National Drug Strategy framework.

Recommendations

1. FARE urges that the Australian Government acknowledge and adopts the view of the Competition Policy Review Panel as set out below:

In particular, given the Panel's view that the risk of harm from liquor provides a clear justification for liquor regulation, any review of liquor licensing regulations against competition principles must take proper account of the public interest in minimising this potential harm.... Accordingly, the Panel does not propose that the recommendation to deregulate trading hours for sellers of 'ordinary' goods and services (see Recommendation 12) should prevent policymakers from regulating trading times for alcohol retailing (or gambling) in order to achieve the public policy objective of harm minimisation. Similarly, the recommendation that competition be taken into account as an important part of the planning and zoning process (see Recommendation 9) should not be interpreted as removing any ability for governments, in dealing with planning and zoning, to take full account of harm minimisation as an objective...⁴³

2. FARE urges that the Australian Government in its response to the Competition Policy Review Panel Final Report and subsequent Competition Policy legislation ensure that for alcohol, harm minimisation is prioritised ahead of all other policy objectives and that the public interest test for the regulation of alcohol be the effectiveness of the regulation to minimise the harm caused by alcohol, not competition in sale and access.
3. FARE urges that if the Australian Government does not recommend that harm minimisation be the primary objective of all liquor licensing legislation, then alcohol should be declared to be a special product and exempt it from Competition Policy.
4. FARE urges that Australian Government not to tie incentive payments to the application of Competition Policy to the liberalisation of liquor licensing legislation.

Potential for increased harms through the sale of alcohol in supermarkets

The Panel in its Final Report recognised the importance of state and territory governments being able to set their own controls in relation to planning, zoning or restrict trading hours of licensed premises in their jurisdiction. More specifically the Panel indicated that it:

...does not propose that the recommendation to deregulate trading hours for sellers of 'ordinary' goods and services (see Recommendation 12) should prevent policymakers from regulating trading times for alcohol retailing (or gambling) in order to achieve the public policy objective of harm minimisation. Similarly, the recommendation that competition be taken into account as an important part of the planning and zoning process (see Recommendation 9) should not be interpreted as removing any ability for governments, in dealing with planning and zoning, to take full account of harm minimisation as an objective.⁴⁴

However, the Panel did not recommend restrictions on the sale of alcohol in supermarkets, which raises significant concerns for public health and safety. The Panel stated instead that:

Trading hours restrictions and restrictions preventing supermarkets from selling liquor impede competition. The Panel recommends that restrictions preventing supermarkets from selling liquor be reviewed as part of a new round of regulation reviews (see Recommendation 8)^{††} and that retail trading hours be deregulated (see Recommendation 12).^{§§ 45}

Alcohol sold by the national retailers, such as Wesfamers and Woolworths, already accounts for almost 60 per cent of retail sales of alcohol in Australia.⁴⁶ Allowing supermarkets to sell alcohol has significantly increased the amount of alcohol available in the community.

†† Recommendation 8 states:

All Australian governments should review regulations, including local government regulations, in their jurisdictions to ensure that unnecessary restrictions on competition are removed. Legislation (including Acts, ordinances and regulations) should be subject to a public interest test and should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs; and*
- the objectives of the legislation can only be achieved by restricting competition.*

Factors to consider in assessing the public interest should be determined on a case-by-case basis and not narrowed to a specific set of indicators. Jurisdictional exemptions for conduct that would normally contravene the competition law (by virtue of subsection 51(1) of the CCA) should also be examined as part of this review, to ensure they remain necessary and appropriate in their scope. Any further exemptions should be drafted as narrowly as possible to give effect to their policy intent. The review process should be transparent, with highest priority areas for review identified in each jurisdiction, and results published along with timetables for reform. The review process should be overseen by the proposed Australian Council for Competition Policy (see Recommendation 43) with a focus on the outcomes achieved rather than processes undertaken. The Australian Council for Competition Policy should publish an annual report for public scrutiny on the progress of reviews of regulatory restrictions.

§§ Recommendation 12 states:

Remaining restrictions on retail trading hours should be removed. To the extent that jurisdictions choose to retain restrictions, these should be strictly limited to Christmas Day, Good Friday and the morning of ANZAC Day, and should be applied broadly to avoid discriminating among different types of retailers. Deregulating trading hours should not prevent jurisdictions from imposing specific restrictions on trading times for alcohol retailing or gambling services in order to achieve the policy objective of harm minimisation.

It has also led to retailers engaging in price wars or using alcohol as a 'loss-leader' to attract consumers into their stores. Loss-leading is a practice where goods are priced low or below cost, where the retailer makes a loss on the product, in order to attract customers who are expected to buy other goods which yield a profit. Australia has experienced this in relation to other products such as milk and fuel. However increasing the amount of milk or fuel available in the community does not result in increased social harms and deaths.

Loss-leading is already common practice by supermarkets in Australia according to research published in April 2015 which stated that: "loss-leading in alcohol may be as prevalent as it has been in the fuel sector."⁴⁷ This practice is expected to increase exponentially if supermarkets are able to sell alcohol, particularly as a report by IBIS World highlights that this is the plan for the major supermarkets anyway that:

*Woolworths and Wesfarmers are expected to engage in heavy price discounting over the next five years, as they compete for market share. This will put downward pressure on wholesalers' revenue and margins, as other retailers demand lower prices to compete with the supermarkets.*⁴⁸

Further evidence on how alcohol is used as a 'loss-leader' and of industry practices can be seen from England. Research in 2014 found that supermarkets were not fully passing on the tax increases, brought in by the government to ensure that alcohol is not sold for prices lower than the tax payable on the product. This research found that supermarkets instead chose to subsidise their cheapest alcohol products, keeping the prices 15 per cent lower than if the tax increase had been passed on in full.⁴⁹ The study co-author, Paul Dobson said:

*Subsidising cheap alcohol might be attractive to supermarkets in their efforts to increase the number and frequency of store visits that shoppers make but is socially irresponsible when it encourages excessive consumption.*⁵⁰

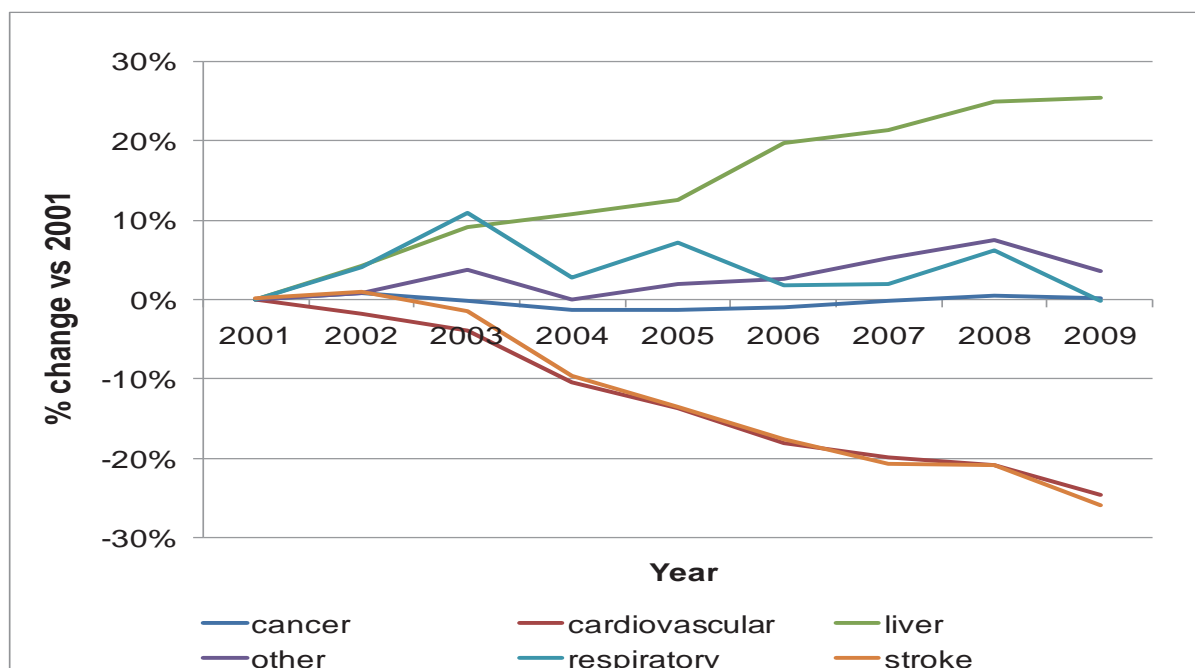
In turn, from research in Europe, this practice means that:

*...producers/retailers have to sell more volume to maintain profits. In order for producers/retailers to sell more volume, consumers have to drink more.... Whilst this scenario may be of benefit to consumers if the product in question was fresh fruit or wholemeal bread, when it comes to the sale of alcohol, an addictive, psychoactive substance, then it has potentially serious consequences for public health.*⁵¹

In England supermarkets commenced selling alcohol in the 1960s. The initial number of supermarkets selling alcohol was slow to start, but this has increased over time and since 2005 (due to changes in licensing laws) more supermarkets are able to sell alcohol 24 hours a day, seven days a week. By 31 March 2013, there were 2,082 supermarkets able to sell alcohol 24 hours per day and contributing to the highest number of licensed premises in England over the last 100 years.⁵²

This increase in alcohol's availability has resulted in alcohol consumption doubling (from 1960 and 2002) and an increase in deaths from liver disease.⁵³ Data from 2001 to 2012 shows that deaths from liver disease in England increased by 40 per cent. It is now the only major cause of death in England to increase.⁵⁴ For those aged 40-49 one in ten will die from alcohol-related liver disease.⁵⁵ These changes are demonstrated in Graph 1 Movements in Mortality, England 2001 to 2009.

Graph 1. Movements in Mortality, England 2001 to 2009.



Graph reproduced from National End of Life Care Intelligence Network and All-Party Parliamentary Hepatology Group Inquiry into Improving Outcomes in Liver Disease in 2014.

Also seen in England and in some parts of Australia is ‘aisle creep’ where alcohol was once restricted to particular aisles or areas, then becomes available across the store. In many cases where restrictions have been relaxed, often due to lobbying by alcohol industry members on the grounds of ‘convenience’.

Alcohol Concern in England noted that:

Unlike the tobacco, which is sold in a separate area of a supermarket, alcohol may be available to select from a number of normal food and drink aisles, as well as being dotted elsewhere throughout the store. The importance of dispersing alcohol displays in order to increase sales has been recognised by the drinks industry. Carlsberg brewers, for example, urge retailers to ‘create stacks of your promotional beers’ and ‘site stacks away from the beer fixture to drive impulse purchase.’⁵⁶

Having alcohol available throughout the supermarket has been described by the British Liver Trust as sending “...subliminal message to the busy worker/shopper that they might like to, and it is indeed normal to consume alcohol alongside their evening meal. ‘Go on – you’ve had a hard day – you deserve it!’”⁵⁷

Indeed alcohol is not seen by retailers as a product that requires special provisions around its access and sale, but merely as a commodity where significant revenue can be generated. This is demonstrated by the Australian Convenience Stores Association submission to the Competition Review Panel which stated that (emphasis added by FARE) “Internationally, convenience stores around the world are permitted to participate in **this category...**” and that “By restricting the convenience industry from selling alcohol, Government is preventing a significant proportion of the retail market from exposure to a **potentially crucial revenue stream...**”⁵⁸

Members of the alcohol industry are also often quick to point to European countries as examples of where there are less restrictive alcohol policies. However, most European countries have increased their restrictions on where and when alcohol can be sold, as well as the days of sale, density of outlets and types of outlets that can sell alcohol.

Since the 1950s there has been an increase in alcohol control across Europe as demonstrated by Graph 2 Changes in the strictness of alcohol policies in ECAS (European Comparative Alcohol Study) reproduced from the report *Alcohol in Europe: A public health perspective*.⁵⁹

Graph 2. Changes in strictness of alcohol policy in Europe

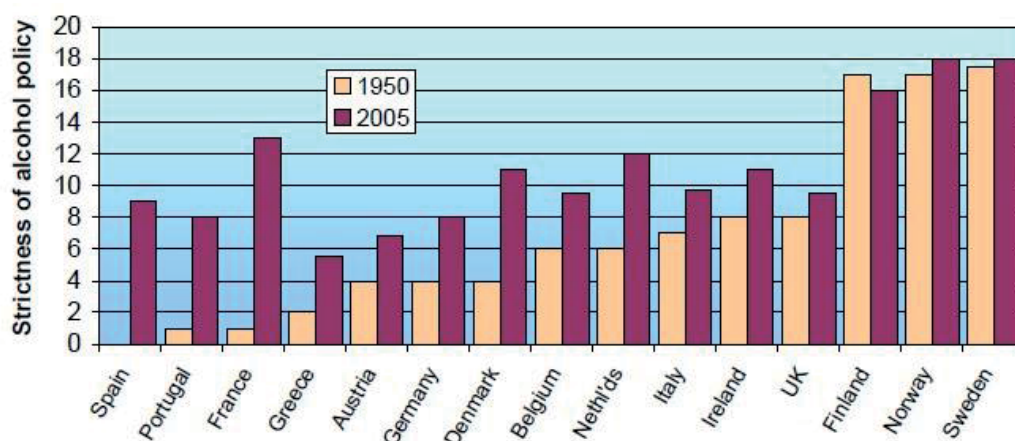


Figure 9.10 Changes in the strictness of alcohol policy in ECAS. *Source: authors' calculations using the ECAS scale (Karlsson and Österberg 2001), and data from the Global Status Report on Alcohol Policy (WHO 2004), updated by members of the Alcohol Policy Network (see Chapter 1).*

Policy implications

Taken together this evidence shows that alcohol sales in supermarkets greatly increases the physical availability of alcohol. As availability increases, supermarkets need to maintain profit margins and do so by enticing shoppers into stores by discounting alcohol, leading to lower prices, resulting in the increased affordability of alcohol. In addition, while alcohol might start being sold in only one aisle or particular area of the store this will soon be relaxed into other areas of the store and alcohol inappropriately marketed as a 'normal commodity' by being sold along with everyday products such as 'grab and go' foods.

Retailers and alcohol industry members may also advocate that they are responsible sellers of alcohol and promote industry-led schemes such as age identification at the point-of-sale known as ID25. Under this scheme all bottle shop staff are encouraged to ask customers who look under the age of 25 for identification prior to selling alcohol to that customer. However, FARE's 2015 *Annual alcohol poll* found that 42 per cent of Gen Y had never been asked for proof of age when purchasing alcohol from an off-licence premises.⁶⁰ Demonstrating that these schemes are 'honoured in the breach'.

Together these practices (increased availability through sale in supermarkets, reduction in price through loss-leading and inability to adequately implement their own responsible serving practices) increase alcohol harms and reduce the effectiveness of government interventions to reduce excessive drinking.⁶¹ It seems incomprehensible then that the Australian Government would consider undermining its own interventions to reduce harmful drinking by allowing further deregulation of alcohol sales through supermarkets. This sentiment is echoed by the Panel who stated in relation to alcohol that "... it is certainly not the Panel's view that the promotion of competition should always trump other legitimate public policy considerations."⁶²

Recommendation

5. FARE urges the Australian Government to recommend that alcohol not be sold in more supermarkets across Australia as this policy would undermine efforts to reduce harmful alcohol use. This recommendation echoes that of the Competition Policy Review Panel which stated in its Final Report that "...it is certainly not the Panel's view that the promotion of competition should always trump other legitimate public policy considerations"⁶³ such as harm minimisation.

Potential impacts of Competition Policy to alcohol and drug treatment

The Panel in its Final Report recommended that Competition Policy be applied to human services and cautioned that: “Governments commissioning human services should do so carefully, with a clear focus on outcomes.” The Panel also recognised that “...some markets will not have sufficient depth to support a number of providers — including, for example, certain services in remote and regional areas.”⁶⁴

FARE has considered this issue in terms of its potential impact on alcohol and other drug (AOD) treatment services, particularly outcomes based on funding.

In Australia, 714 AOD treatment agencies deliver over 160,000 episodes of treatment.^{***} Alcohol is consistently identified as the principal drug of concern in major cities, regional centres (both inner and outer), remote and very remote areas. Alcohol, as the principal drug of concern, has increased, from 38 per cent of treatment episodes in 2003-04 to 41 per cent of treatment episodes in 2012-13.⁶⁵

Nearly all treatment (96 per cent) is for individuals themselves and most of these (68 per cent) are for men. Just over half (56 per cent) of all treatment agencies are delivered by the non-government sector but in NSW, Queensland and South Australia, government agencies are more likely to deliver these services.⁶⁶ There are few services available in rural or remote areas of Australia with less than ten per cent of AOD treatment services delivering services in remote or very remote areas. This has implications for an individual’s choice of service.

Services are funded by state and territory health departments and the Australian Government, as well as philanthropic funding, client payment for services, Attorney General Departments, Social Services Departments and Aboriginal and Torres Strait Islander services.⁶⁷

There is already consideration of competition in AOD treatment due to limited and shrinking funding available. In 2013-14, the budget for the Department of Health’s Drug Strategy Program was \$258.8 million. For 2014-15 the budget was reduced to \$160.98 million, with further reductions forecast at approximately \$130 million for 2015-16 to 2017-18.

This has resulted in almost half a billion dollars of cuts over four years. These cuts to funding have occurred at a time when demand for AOD services has increased. This has occurred at a time when there has been a six per cent increase in the number of treatment episodes across Australia since 2011-12.⁶⁸ Waiting lists for these services are long and act as a barrier to those seeking treatment and support.⁶⁹

Adequacy of funding is an ongoing issue for the AOD sector. In 2002, the Australian National Council on Drugs (ANCD), a former expert advisory body to Prime Minister on alcohol and drugs issues (now the Australian National Council on Alcohol and Drugs [ANACAD]), undertook a mapping exercise of AOD services. This found that treatment agencies were continually opening and closing and that there was constant change in the sector. This was due to changes in funding and changes in government policy and direction that effected services.⁷⁰

^{***} Only closed treatment episodes are presented. The Australian Institute of Health and Welfare considers a treatment episode to be closed when: the treatment is completed or has ceased; there has been no contact between the client and treatment provider for 3 months and there is a change in the main treatment type, principal drug of concern or delivery setting.

ANCD undertook further research in 2008 and found little improvement, with key issues identified including:

- unreliable and unsustainable government funding
- difficulties in recruiting and retaining staff due to uncertainty in funding
- significant financial problems due to competitive funding models and funders refusing to pay for the full cost of services/projects and increasingly complex clients.⁷¹

In 2013 the National Drug and Alcohol Research Centre (NDARC) investigated the funding currently available for AOD services in Australia. This research, as well as a review of AOD services was submitted to the Commonwealth Government Department of Health in 2014, but is not yet publicly available.⁷² The preliminary research by NDARC found that:

- Competitive tendering allows for clarity of funding purposes, it reduces service quality if the main emphasis is on cost reduction and is only effective if there are enough providers available to apply.
- Open competitive processes place a high administrative burden on providers and is a barrier to small- to medium-sized providers. It also limits collaboration between services and promotes division within the sector.
- There is a lack of national strategic planning and technical planning for AOD service delivery.⁷³

These findings echo those of the 2002 ANCD report that found there was not a resource allocation formula for AOD treatment services in Australia. In fact no one at the time was able to ascertain if the extent or nature of resource allocation was appropriate. It recommended that resource allocation formulas be developed nationally and for state and territory jurisdictions, and that models of care with evidence-based commissioning guidelines be developed, alongside the development of valid indicators of need for AOD treatment planning.⁷⁴ This resource allocation formula is yet to be developed.

Policy implications

A lack of security in funding arrangements has left AOD treatment services in a poor state in Australia. Ultimately this impacts on client outcomes.⁷⁵ Rather than cuts in funding, more funding is required to meet the increasing demand in those seeking treatment.

It has been estimated by NDARC that \$2.4 billion in funding is required to adequately support AOD treatment provision in Australia.⁷⁶

Alongside security of funding, a resource allocation model for AOD service provision urgently needs to be developed in Australia. Particularly as this was an issue first recognised in 2002 but is yet to be rectified.

NDARC's research also examined models of funding available for AOD services and confirmed that outcome based funding (including payment by results; pay for performance, or payment by outcome) was inappropriate for AOD treatment. Outcome based funding (that provides funding to services only after an individual leaves AOD treatment) does not recognise the chronic, relapsing nature of alcohol and other drug issues and that "success in AOD treatment is difficult to achieve and assess" and what happens if "...despite the best efforts of workers the desired outcomes may not be met [by the individual]. Do these efforts get paid for?"⁷⁷ The report concluded that "these are fundamental problems with any outcome based funding approach" and is therefore an inappropriate funding model for AOD services in Australia and should not be introduced.

This confirms the 2008 ANCD findings that AOD funding models need to take into account the following two key considerations:

- a. That chronic disease management is the best funding model for AOD services as it recognises AOD issues as a chronic, relapsing disorder over the life-course.
- b. That funding models need to encourage holistic approaches that enable multiple agencies to collaborate and develop 'wrap around' services and programs together with health and welfare agencies.⁷⁸

Recommendations

6. FARE urges the Australian Government to acknowledge and address the existing issues caused by competitive funding processes on the provision of alcohol and other drug (AOD) treatment services before applying Competition Policy Principles to the sector.
7. FARE urges the Australian Government to urgently develop a resource allocation model and provide sufficient funding for AOD services that considers and recognises:
 - a. Holistic approaches, collaboration between services and encourages the development of 'wrap around' services with health and welfare agencies.
 - b. That outcome based funding or payment by results is inappropriate for AOD treatment and that this will negatively impact on client outcomes and their successful completion of treatment.
 - c. That increasingly competitive processes may exacerbate division within the sector, favour larger services and ultimately reduce consumer choice within the sector.

Conclusion

Alcohol is not an ordinary commodity. It is a product that contributes to substantial detrimental health and social consequences in Australia and subsequently the regulations that govern its sale and access should reflect the harm that it causes.

Previous rounds of Competition Policy have been responsible for alcohol becoming more available and more affordable than it has been in over three decades.⁷⁹ As a result, alcohol harms such as deaths and hospitalisations have increased markedly over this time, reflecting the ease with which alcohol can be obtained and the promotion of alcohol as being an everyday product by the alcohol industry. Until this situation changes alcohol will remain as one of Australia's greatest preventative health challenges and a leading cause of preventable death and disability in the country.

FARE urges the Australian Government to ensure that harm minimisation is the primary consideration of all liquor licensing decisions and this should be reflected in Competition Policy Principles. The Australian Government should also carefully consider the application of Competition Policy Principles to alcohol and other drug treatment, taking note of the issues caused by competitive funding processes and the limited funding that is currently available for AOD treatment.

Appendix 1: Objects of Australian liquor licensing

The following table lists the object of current Liquor Licensing Acts from Australian states and territories.

Objects concerning harm minimisation are highlighted in bold (emphasis added by FARE).

State	Act	Objectives
Western Australia ⁸⁰	Liquor Control Act 1988	<p>(1) The primary objects of this Act are</p> <ul style="list-style-type: none"> (a) to regulate the sale, supply and consumption of liquor; and (b) to minimise harm or ill health caused to people, or any group of people, due to the use of liquor; and (c) to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State. <p>(2) In carrying out its functions under this Act, the licensing authority shall have regard to the primary objects of this Act and also to the following secondary objects —</p> <ul style="list-style-type: none"> (a) to facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State; and (b) [(b), (c) deleted] (d) to provide adequate controls over, and over the persons directly or indirectly involved in, the sale, disposal and consumption of liquor; and (e) to provide a flexible system, with as little formality or technicality as may be practicable, for the administration of this Act. <p>(3) If, in carrying out any of its functions under this Act, the licensing authority considers that there is any inconsistency between the primary objects referred to in subsection (1) and the secondary objects referred to in subsection (2), the primary objects take precedence.</p> <p>[Section 5 amended by No. 12 of 1998 s. 7; No. 73 of 2006 s. 9.]</p>
Northern Territory ⁸¹	Liquor Act	<p>(1) The primary object of this Act is to regulate the sale, provision, promotion and consumption of liquor:</p> <ul style="list-style-type: none"> (a) so as to minimise the harm associated with the consumption of liquor; and (b) in a way that takes into account the public interest in the sale, provision, promotion and consumption of liquor. <p>(2) The further objects of this Act are:</p> <ul style="list-style-type: none"> (a) to protect and enhance community amenity, social harmony and wellbeing through the responsible sale, provision, promotion and consumption of liquor; (b) to regulate the sale of liquor in a way that contributes to the responsible development of the liquor and associated industries in the Territory; and (c) to facilitate a diversity of licensed premises and associated services for the benefit of the community. <p>(4) A person exercising a power or performing a function under this Act must have regard to the objects of this Act and must exercise the power and perform the function in a way that is consistent with those objects.</p>

State	Act	Objectives
South Australia ⁸²	Liquor Licensing Act 1997	<p>(1) The object of this Act is to regulate and control the sale, supply and consumption of liquor for the benefit of the community as a whole and, in particular—</p> <ul style="list-style-type: none"> (a) to encourage responsible attitudes towards the promotion, sale, supply, consumption and use of liquor, to develop and implement principles directed towards that end (the responsible service and consumption principles) and minimise the harm associated with the consumption of liquor; and (b) to further the interests of the liquor industry and industries with which it is closely associated—such as the live music industry, tourism and the hospitality industry—within the context of appropriate regulation and controls; and (c) to ensure that the liquor industry develops in a way that is consistent with the needs and aspirations of the community; and (d) to ensure as far as practicable that the sale and supply of liquor contributes to, and does not detract from, the amenity of community life; and (e) to ensure as far as practicable that the sale and supply of liquor contributes to, and does not detract from, the amenity of community life; and (f) to encourage a competitive market for the supply of liquor; and to ensure that the sale and supply of liquor occurs in such a manner as to minimise the risk of intoxication and associated violent or anti-social behaviour including property damage and causing personal injury. <p>(2) In deciding any matter before it under this Act, the licensing authority must have regard to the objects set out in subsection (1).</p>
Queensland ⁸³	Liquor Act 1992	<p>The main purposes of this Act are—</p> <ul style="list-style-type: none"> (a) to regulate the liquor industry, and areas in the vicinity of licensed premises, in a way compatible with— <ul style="list-style-type: none"> (i) minimising harm, and the potential for harm, from alcohol abuse and misuse and associated violence; and <p>Examples of harm —</p> <ul style="list-style-type: none"> • adverse effects on a person’s health • personal injury • property damage <ul style="list-style-type: none"> (i) minimising adverse effects on the health or safety of members of the public; and (ii) minimising adverse effects on the amenity of the community; and (b) to facilitate and regulate the optimum development of the tourist, liquor and hospitality industries of the State having regard to the welfare, needs and interests of the community and the economic implications of change; and (c) to provide for the jurisdiction of the tribunal to hear and decide reviews of certain decisions under this Act; and (d) to provide for a flexible, practical system for regulation of the liquor industry of the State with minimal formality, technicality or intervention consistent with the proper and efficient administration of this Act; and (e) to regulate the sale and supply of liquor in particular areas to minimise harm caused by alcohol abuse and misuse and associated violence; and (f) to regulate the provision of adult entertainment; and (g) to provide revenue for the State to enable the attainment of this Act’s main purposes and for other purposes of government.

State	Act	Objectives
New South Wales ⁸⁴	Liquor Act 2007	<p>(1) The objects of this Act are as follows:</p> <ul style="list-style-type: none"> (a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community, (b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality, (c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries. <p>(2) In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:</p> <ul style="list-style-type: none"> (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour), (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor, (c) (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.
Australian Capital Territory ⁸⁵	Liquor Act 2010	<p>The object of this Act is to regulate the sale, supply, promotion and consumption of liquor—</p> <ul style="list-style-type: none"> (a) to minimise the harm associated with the consumption of liquor; and (b) to facilitate the responsible development of the liquor and hospitality industries in a way that takes into account community safety; and (c) in a way that encourages and supports liquor consumers to take responsibility for— <ul style="list-style-type: none"> (i) their consumption of liquor; and (ii) their behaviour if it is affected by the consumption of liquor.
Victoria ⁸⁶	Liquor Control Reform Act 1998 (amended 2009)	<p>(1) The objects of this Act are—</p> <ul style="list-style-type: none"> (a) to contribute to minimising harm arising from the misuse and abuse of alcohol, including by— <ul style="list-style-type: none"> (i) providing adequate controls over the supply and consumption of liquor; and (ii) ensuring as far as practicable that the supply of liquor contributes to, and does not detract from, the amenity of community life; and (iii) restricting the supply of certain other alcoholic products; and (iv) encouraging a culture of responsible consumption of alcohol and reducing risky drinking of alcohol and its impact on the community; and (b) to facilitate the development of a diversity of licensed facilities reflecting community expectations; and (c) to contribute to the responsible development of the liquor, licensed hospitality and live music industries; and (d) to regulate licensed premises that provide sexually explicit entertainment. <p>(2) is the intention of Parliament that every power, authority, discretion, jurisdiction and duty conferred or imposed by this Act must be exercised and performed with due regard to harm minimisation and the risks associated with the misuse and abuse of alcohol.</p>
Tasmania ⁸⁷	Liquor Licensing Act 1990	Has no objectives.

References

- ¹ Australian Government Competition Policy Review (2015). *Competition Policy Review: Final Report*. Canberra: Commonwealth of Australia. Page 47.
- ² Marsden Jacob Associates. (2005). *Identifying a framework for regulation in packaged liquor retailing*. Report prepared for the National Competition Council as part of the NCC Occasional Series, Melbourne.
- ³ Gao, C., Ogeil, R., and Lloyd, B. (2014). *Alcohol's burden of disease in Australia*. Canberra: Foundation for Alcohol Research and Education and VicHealth in collaboration with Turning Point.
- ⁴ Australian Government Competition Policy Review (2015). *Competition Policy Review: Final Report*. Canberra: Commonwealth of Australia. Page 146.
- ⁵ Australian Government Competition Policy Review (2015). *Competition Policy Review: Final Report*. Canberra: Commonwealth of Australia. Page 47.
- ⁶ Roche, A., Bywood, P., Freeman, T., Pidd, K., Borlagdan, J. and Trifonoff, A. (2009). *The social context of alcohol use in Australia*. Adelaide: National Centre for Education and Training on Addiction.
- ⁷ Babor et al. (2010). *Alcohol: No ordinary commodity. Research and Public Policy Second Edition*. Oxford University Press.
- ⁸ Moodie, R., Daube, M., Carnell, K., Connors, C., Larkin, S., Roberts, L., Segal, L., Selvey, L. and Zimmet, P. (2009). Australia: The healthiest nation by 2020. *Technical Report 3: Preventing alcohol-related harms in Australia: A window of opportunity*. Prepared for the National Preventative Health Taskforce.
- ⁹ Marsden Jacob Associates. (2005). *Identifying a framework for regulation in packaged liquor retailing*. Report prepared for the National Competition Council as part of the NCC Occasional Series, Melbourne.
- ¹⁰ Australian Association of Convenience Stores (2014). *Submission to the Competition Policy Review*. Accessed 13 May 2015 <http://competitionpolicyreview.gov.au/files/2014/12/AACS.pdf>
- ¹¹ Scottish Health Action on Alcohol Problems (2007). *Alcohol: Price, policy and public health. Report on the findings of the expert workshop on price convened by SHAAP*. Edinburgh: Scottish Health Action on Alcohol Problems. http://ec.europa.eu/health/archive/ph_determinants/life_style/alcohol/forum/docs/alcohol_lib3_en.pdf
- ¹² World Health Organization (WHO). (2014). *Global status report on alcohol and health*. Geneva: World Health Organization. http://www.who.int/substance_abuse/publications/global_alcohol_report/en/
- ¹³ Laslett, AM., Mugavin, J., Jiang, H., Manton, E., Callinan, S., MacLean, S., and Room, R. (2015). *The hidden harm: Alcohol's impact on children and families*. Canberra: Foundation for Alcohol Research and Education.
- ¹⁴ Gao, C., Ogeil, R., and Lloyd, B. (2014). *Alcohol's burden of disease in Australia*. Canberra: Foundation for Alcohol Research and Education and VicHealth in collaboration with Turning Point.
- ¹⁵ Babor et al. (2010). *Alcohol: No ordinary commodity. Research and Public Policy Second Edition*. Oxford University Press.
- ¹⁶ Laslett, A., Catalano, P., Chikritzhs, T., Dale, C., Dora, C., Ferris, J., Jainullabudeen, T., Livingston, M., Matthews, S., Mugavin, J., Room, R., Schlotterlein, M. and Wilkinson, C. (2010). *The range and magnitude of alcohol's harm to others*. Canberra: Foundation for Alcohol Research and Education in collaboration with Turning Point, Centre for Alcohol Policy Research.
- ¹⁷ World Health Organization (WHO). (2010). *Global strategy to reduce the harmful use of alcohol*. Geneva: World Health Organization. http://www.who.int/substance_abuse/alcstratenglishfinal.pdf?ua=1
- ¹⁸ Australian Government Competition Policy Review (2015). *Competition Policy Review: Final Report*. Canberra: Commonwealth of Australia. Page 145.
- ¹⁹ Australian Government Competition Policy Review (2015). *Competition Policy Review: Final Report*. Canberra: Commonwealth of Australia. Page 146.
- ²⁰ Australian Government Competition Policy Review (2015). *Competition Policy Review: Final Report*. Canberra: Commonwealth of Australia. Page 150.

-
- ²¹ Australian Government Competition Policy Review (2015). *Competition Policy Review: Final Report*. Canberra: Commonwealth of Australia. Page 150.
- ²² Marsden Jacob Associates. (2005). *Identifying a framework for regulation in packaged liquor retailing*. Report prepared for the National Competition Council as part of the NCC Occasional Series, Melbourne.
- ²³ ABC Radio (2003). *Carr criticises Fed Govt over \$51-mil anti-competition fine*. Retrieved 9 December 2003 from <http://www.abc.net.au/am/content/2003/s1006116.htm>
- ²⁴ NSW Parliament (2004). National Competition Policy Amendments (Commonwealth Financial Penalties) Bill. Second Reading. Hansard. Retrieved 17 February 2004 from [http://www.parliament.nsw.gov.au/prod/parlment/nswbills.nsf/0/08079c797fc47ebaca256e3d001b55c0/\\$FILE/National%20Com%20Amdts.pdf](http://www.parliament.nsw.gov.au/prod/parlment/nswbills.nsf/0/08079c797fc47ebaca256e3d001b55c0/$FILE/National%20Com%20Amdts.pdf)
- ²⁵ Willis, L. (2003). *The World Today radio interview: 9 December 2003: States angry over competition policy penalties*. Australian Broadcasting Corporation (ABC). Retrieved from <http://www.abc.net.au/worldtoday/content/2003/s1006440.htm>
- ²⁶ Alcohol and other Drugs Council of Australia (2004). *Submission to the Productivity Commission inquiry into National Competition Policy Arrangements*. Retrieved from http://www.pc.gov.au/_data/assets/pdf_file/0003/46371/sub014.pdf
- ²⁷ Drugs and Crime Prevention Committee (2006). *Inquiry into strategies to reduce harmful alcohol consumption: Final report*. Parliament of Victoria. Page xxb. Retrieved from http://www.parliament.vic.gov.au/images/stories/committees/dcpc/alcoholharmreduction/DCPC-Report_Alcohol_Vol1_2006-03.pdf
- ²⁸ Victorian Commission for Gambling and Liquor Regulation (2013). *Annual Report 2012-2013*. Retrieved from http://assets.justice.vic.gov.au/vcglr/resources/c40b12bb-d1a2-4858-b458-326fe8777f1f/annualreport2012_2013.pdf
- ²⁹ Foundation for Alcohol Research and Education (2014). *The state of play: Alcohol in Victoria*. Canberra: Foundation for Alcohol Research and Education
- ³⁰ Morrison, C. and Smith, K (2015). *Disaggregating relationships between off-premise alcohol outlets and trauma*. Canberra: Monash University, Ambulance Victoria and Foundation for Alcohol Research and Education.
- ³¹ Foundation for Alcohol Research and Education. (2014). *Annual alcohol poll: Attitudes and behaviours*. Canberra: Foundation for Alcohol Research and Education
- ³² Foundation for Alcohol Research and Education (2014). *Victoria election poll: Perspectives on alcohol*. Canberra: Foundation for Alcohol Research and Education (FARE). Retrieved from <http://www.fare.org.au/wp-content/uploads/2014/10/2014-Victorian-Election-Poll-Perspectives-on-alcohol1.pdf>
- ³³ Trifonoff, A., Andrew, R., Steenson, T., Nicholas, R. and Roche, A. (2011). *Liquor licensing legislation in Australia: part 1: an overview*. Adelaide: Flinders University, National Centre for Education and Training on Addiction (NCETA).
- ³⁴ Mott, T. (2015). Innovation is essential. *National Liquor News April 2015*.
- ³⁵ Manton, E. and Zajdow, G. in eds Manton, E., Room, R., Giorgi, G. and Thorn, M. (2014). *Stemming the tide of alcohol: Liquor licensing and the public interest*. Canberra: Foundation for Alcohol Research and Education in collaboration with the University of Melbourne. Page 21
- ³⁶ Manton, E. and Zajdow, G. in eds Manton, E., Room, R., Giorgi, G. and Thorn, M. (2014). *Stemming the tide of alcohol: Liquor licensing and the public interest*. Canberra: Foundation for Alcohol Research and Education in collaboration with the University of Melbourne.
- ³⁷ Davoren, S., and O'Brien, P. in eds Manton, E., Room, R., Giorgi, G. and Thorn, M. (2014). *Stemming the tide of alcohol: Liquor licensing and the public interest*. Canberra: Foundation for Alcohol Research and Education in collaboration with the University of Melbourne.
- ³⁸ Davoren, S., and O'Brien, P. in eds Manton, E., Room, R., Giorgi, G. and Thorn, M. (2014). *Stemming the tide of alcohol: Liquor licensing and the public interest*. Canberra: Foundation for Alcohol Research and Education in collaboration with the University of Melbourne.

-
- ³⁹ Davoren, S., and O'Brien, P in eds Manton, E., Room, R., Giorgi, G. and Thorn, M. (2014). *Stemming the tide of alcohol: Liquor licensing and the public interest*. Canberra: Foundation for Alcohol Research and Education in collaboration with the University of Melbourne. Page 45
- ⁴⁰ Australian Government Competition Policy Review (2015). *Competition Policy Review: Final Report*. Canberra: Commonwealth of Australia. Page 43.
- ⁴¹ Manton, L (2014) Chapter 4: Effectiveness of public interest arguments in recent case law. In Manton, E., Room, R., Giorgi, C. and Thorn, M. eds (2014). *Stemming the tide of alcohol: Liquor licensing and the public interest*. Foundation for Alcohol Research and Education in collaboration with the University of Melbourne
- ⁴² National Drug and Alcohol Research Institute. *National Competition Policy and Liquor Regulation*. Retrieved from <http://db.ndri.curtin.edu.au/research/research.asp?resprtyid=17&typeid=2&projid=338>
- ⁴³ Australian Government Competition Policy Review (2015). *Competition Policy Review: Final Report*. Canberra: Commonwealth of Australia. Page 146.
- ⁴⁴ Australian Government Competition Policy Review (2015). *Competition Policy Review: Final Report*. Canberra: Commonwealth of Australia. Page 146.
- ⁴⁵ Australian Government Competition Policy Review (2015). *Competition Policy Review: Final Report*. Canberra: Commonwealth of Australia. Page 89.
- ⁴⁶ Lin, R. (2014). *IBISWorld Industry Report G4123: Liquor retailing in Australia*. Melbourne: IBISWorld.
- ⁴⁷ Wardle, J. and Chang, S. (2015). *Australian and New Zealand Journal of Public Health*. Vol 39 (2), pp. 124-128. Page 126.
- ⁴⁸ Lin, R. (2015). Concrete goldmines: The expansion of big-box chain stores is boosting major player's profits. *IBISWorld Industry Report G4123: Liquor Retailing in Australia*. Melbourne: IBISWorld. Page 8.
- ⁴⁹ Ally, A., Yang Meng, Y., Chakraborty, R., Dobson, P. Seaton, J. Holmes, J. Angus, C., Guo, Y., Hill-McManus, D., Brennan, A. and Mier, P. (2014). Alcohol tax pass-through across the product and price range: do retailers treat cheap alcohol products differently. *Addiction*. Vol 109, 12 pp. 1994-2002.
- ⁵⁰ Institute of Alcohol Studies (2014). *Alcohol Alert Newsletter July 2014*. London: Institute of Alcohol Studies, Page 3.
- ⁵¹ Scottish Health Action on Alcohol Problems (2007). *Alcohol: Price, policy and public health. Report on the findings of the expert workshop on price convened by SHAAP*. Edinburgh: Scottish Health Action on Alcohol Problems. Page 34. Retrieved from http://ec.europa.eu/health/archive/ph_determinants/life_style/alcohol/forum/docs/alcohol_lib3_en.pdf
- ⁵² Institute of Alcohol Studies (2013). *Factsheet: Alcohol Licences: Statistical trends*. Retrieved 4 May 2015 from <http://www.ias.org.uk/Alcohol-knowledge-centre/Availability-and-licensing/Factsheets/Alcohol-licences-Statistical-trends.aspx>
- ⁵³ Leon, D. and McCambridge, J. (2006). Liver cirrhosis mortality rates in Britain from 1950 to 2002: An analysis of routine data. *Lancet*. 367 (9504): 52-6. Retrieved from <http://www.ncbi.nlm.nih.gov/pubmed/16399153?dopt=Abstract>
- ⁵⁴ Public Health England (n.d.). *Liver Disease profiles*. Retrieved from <http://fingertips.phe.org.uk/profile/liver-disease>
- ⁵⁵ Verne, J (2012). *Deaths from liver disease: Implications for end of life care in England*. National end of life care Intelligence Network.
- ⁵⁶ Alcohol Concern (2010). *Out of the way? Alcohol sales in supermarkets*. London: Alcohol Concern. Retrieved from http://www.alcoholconcern.org.uk/wp-content/uploads/woocommerce_uploads/2015/03/Out-of-the-way.pdf
- ⁵⁷ British Liver Trust (2008). *A binge for the cost of a sandwich: a British Liver Trust report into the unit price of alcohol in retail outlets in February 2008*. Page 14. Retrieved from <http://www.ias.org.uk/uploads/pdf/News%20stories/livertrust-report-270208.pdf>
- ⁵⁸ Australian Association of Convenience Stores (2014). *Submission to the Competition Policy Review*. Page 8 Retrieved 13 May 2015 from <http://competitionpolicyreview.gov.au/files/2014/12/AACS.pdf>

-
- ⁵⁹ Anderson, P. and Baumberg, B. (2006). *Alcohol in Europe: A public health perspective*. A report for the European Commission. Page 391. Retrieved from http://ec.europa.eu/health/archive/ph_determinants/life_style/alcohol/documents/alcohol_europe_en.pdf
- ⁶⁰ Foundation for Alcohol Research and Education (2015). *Annual alcohol poll 2015: Attitudes and behaviours*. Canberra: Foundation for Alcohol Research and Education.
- ⁶¹ Wardle, J. and Chang, S. (2015). *Australian and New Zealand Journal of Public Health*. Vol 39 (2), pp. 124-128
- ⁶² Australian Government Competition Policy Review (2015). *Competition Policy Review: Final Report*. Canberra: Commonwealth of Australia. Page 47.
- ⁶³ Australian Government Competition Policy Review (2015). *Competition Policy Review: Final Report*. Canberra: Commonwealth of Australia. Page 47.
- ⁶⁴ Australian Government Competition Policy Review (2015). *Competition Policy Review: Final Report*. Canberra: Commonwealth of Australia. Page 35.
- ⁶⁵ Australian Institute of Health and Welfare (2014). *Alcohol and other drug treatment services in Australia 2012–13*. Drug treatment series 24. Cat. no. HSE 150. Australian Institute of Health and Welfare (AIHW), Canberra
- ⁶⁶ Australian Institute of Health and Welfare (2013). *Alcohol and other drug treatment services in Australia 2011-12*. Drug treatment series 21 Cat. no. HSE139. Australian Institute of Health and Welfare (AIHW), Canberra.
- ⁶⁷ Ritter, A. (2014) Presentation to the Australian Winter School Conference 2014: Alcohol and other drug treatment in Australia: state of play. <https://ndarc.med.unsw.edu.au/project/review-drug-and-alcohol-prevention-and-treatment-sector>
- ⁶⁸ Australian Institute of Health and Welfare (2014) *Alcohol and other drug treatment services in Australia 2012-13* Drug treatment series 24. Cat. no. HSE 150. Canberra: AIHW.
- ⁶⁹ Ibid.
- ⁷⁰ Siggins Miller (2005). *ANCD Research paper 10: Mapping national drug treatment capacity*. Canberra: Australian National Council on Drugs (ANCD). http://www.ncd.org.au/images/PDF/Researchpapers/rp10_mapping.pdf
- ⁷¹ Spooner, C. and Dadich, C. (2008). *ANCD Research paper 17: Non-government organisations in the alcohol and other drugs sector: Issues and options for sustainability*. Page 38. Canberra: Australian National Council on Drugs (ANCD). http://www.ncd.org.au/images/PDF/Researchpapers/rp17_non-government_orgs.pdf.
- ⁷² Commonwealth of Australia (2014). *Hansard: Senate Community Affairs Legislation Committee Estimates 3 June 2014*. Commonwealth of Australia Pages 90-91.
- ⁷³ Ritter, A. (2014) *Presentation to the Australian Winter School Conference 2014: Alcohol and other drug treatment in Australia: State of play*. Retrieved from <https://ndarc.med.unsw.edu.au/project/review-drug-and-alcohol-prevention-and-treatment-sector>
- ⁷⁴ Siggins Miller (2005). *ANCD Research paper 10: Mapping national drug treatment capacity*. Canberra: Australian National Council on Drugs (ANCD). Retrieved from http://www.ncd.org.au/images/PDF/Researchpapers/rp10_mapping.pdf
- ⁷⁵ Productivity Commission (2010), *Contribution of the not-for-profit sector*, Research p xxxvi. Canberra: Productivity Commission.
- ⁷⁶ Ritter, A. (2014) *Presentation to the Australian Winter School Conference 2014: Alcohol and other drug treatment in Australia: State of play*. Retrieved from <https://ndarc.med.unsw.edu.au/project/review-drug-and-alcohol-prevention-and-treatment-sector>
- ⁷⁷ Ritter, A., Hull, P., Berends, L. and Chalmers, J. (2014). *Approaches to purchasing alcohol and other drug treatment in Australia*. Sydney: Drug Policy Modelling Program. National Drug and Alcohol Research Centre, UNSW. Page 29

-
- ⁷⁸ Ritter, A., Hull, P., Berends, L. and Chalmers, J. (2014). Approaches to purchasing alcohol and other drug treatment in Australia. Sydney: Drug Policy Modelling Program, National Drug and Alcohol Research Centre, UNSW.
- ⁷⁹ Marsden Jacob Associates. (2005). *Identifying a framework for regulation in packaged liquor retailing*. Report prepared for the National Competition Council as part of the NCC Occasional Series, Melbourne.
- ⁸⁰ Government of Western Australia. *Liquor Control Act 1988*. Retrieved from http://www5.austlii.edu.au/au/legis/wa/consol_act/lca1988197/s5.html
- ⁸¹ Northern Territory Government. *Liquor Act*. Retrieved from http://www.austlii.edu.au/au/legis/nt/consol_act/la107/
- ⁸² Government of South Australia. *Liquor Licensing Act 1997*. Retrieved from <http://www.legislation.sa.gov.au/LZ/C/A/LIQUOR%20LICENSING%20ACT%201997/CURRENT/1997.65.UN.PDF>
- ⁸³ Queensland Government. *Liquor Act 1992*. Retrieved from <https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/L/LiquorA92.pdf>
- ⁸⁴ New South Wales Government. *Liquor Act 2007*. Retrieved from http://www.austlii.edu.au/au/legis/nsw/consol_act/la2007107/
- ⁸⁵ Australian Capital Territory Government. *Liquor Act 2010*. Retrieved from http://www.austlii.edu.au/au/legis/act/consol_act/la2010107/
- ⁸⁶ Government of Victoria. *Liquor Control Reform Act 1998*. Retrieved from http://www.austlii.edu.au/au/legis/vic/consol_act/lcra1998266/
- ⁸⁷ Tasmanian Government. *Liquor Licensing Act 1990*. Retrieved from http://www5.austlii.edu.au/au/legis/tas/consol_act/lla1990190/





Foundation for Alcohol Research & Education

PO Box 19, Deakin West ACT 2600
Level 1, 40 Thesiger Court Deakin ACT 2600
Ph 02 6122 8600
info@fare.org.au
www.fare.org.au

ISBN 978-0-0042641-6-9