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Dear Mr Faunce,

## **STAGE 2 REVIEW OF ALCOHOL DELIVERY REFORMS**

Thank you for the opportunity to provide a written submission to the [Stage 2 Review of Alcohol Delivery Reforms](#).

The Foundation for Alcohol Research and Education (FARE) is the leading not-for-profit organisation working towards an Australia free from alcohol harms. We approach this through developing evidence-informed policy, enabling people-powered advocacy and delivering health promotion programs.

The most important thing is the health and wellbeing of our families and communities. Yet alcoholic products cause far too much harm to too many people. Each day in NSW, alcohol is responsible for 47 emergency department presentations, 119 hospitalisations and five deaths.<sup>1</sup> A quarter of all adults in NSW use alcohol at levels placing their long-term health at risk, and just under one quarter of adults drink more than four standard drinks on a single occasion, placing them at a high immediate risk of harm.<sup>2</sup>

Regulation has not kept pace with the rapidly increasing online sale and delivery of alcohol, which is creating an online environment for harm. Alcohol is no ordinary product, unlike groceries or books, it is a drug that requires controls on how it is sold and supplied, to minimise potential harm. This is increasingly difficult for people when every phone is a billboard and bottleshop.

The rapid expansion of online sale and delivery is making alcoholic products more accessible, increasing the risk of harms. Online alcohol retail sales have almost quadrupled from 2012 (\$539 million) to 2022 (\$2.0 billion).<sup>3</sup> In 2020, one in 10 Australians who bought takeaway alcohol, purchased it online – a threefold increase from 2019.<sup>4</sup> It is estimated that one in six Australians who drink alcohol, were sold it via delivery.<sup>5</sup>

FARE welcomed the NSW Government reforms in 2020 to strengthen controls on online sales and delivery. However, legislation reform has not kept pace with the changing ways that companies sell and market alcoholic products online. There have also been delays in the introduction of the age verification measures, which is resulting in children being at increased risk of harm. New research evidence shows that alcohol is being left unattended, delivered to people under 18 years old,<sup>6</sup> and to

people who are intoxicated.<sup>7</sup> Alcohol is also being delivered into homes rapidly, which enables impulsive purchases and also enables continuation of an existing alcohol session.<sup>8</sup>

FARE's response to the [Discussion Paper Questions](#) is attached and includes feedback on reporting requirements, appropriateness and sufficiency of measures, emerging trends, and non-same day issues, including direct and social media marketing.

We would be pleased to further elaborate on any aspect of our submission. If you would like to discuss any relevant issue further, please contact Dr. Catherine Earl, FARE Policy and Research Director, on [Catherine.Earl@fare.org.au](mailto:Catherine.Earl@fare.org.au).

Yours sincerely,



Caterina Giorgi  
CEO

## **Response to Alcohol Delivery Reforms Review Stage 2 Discussion Paper**

This document outlines FARE's response to the Stage 2 Discussion Paper on the New South Wales (NSW) Government's Alcohol Delivery Reforms. It addresses Questions 1, 2, 4 and 5. The headings used in this document reflect the headings in the Discussion Paper.

### **1. Implementation and operation of same day alcohol reporting requirements**

The record-keeping requirements for volume and frequency of alcohol delivery and for delivery refusals, should be retained and extended to non-same day delivery. This data, (along with test purchasing), is necessary for monitoring the compliance of refusals (under 18, intoxicated, unattended). It is also needed to facilitate a more accurate calculation of the increase in alcohol supply density due to online delivery.

It is important that this data is communicated, so that it can be used in policy translation and to improve policy settings. The NSW Government could publish this data as open access, and commission research by a reputable research institute in alcohol and other drug policy, where this data could be analysed, reported and recommendations could be made for future policy reforms.

One area where research is needed is in understanding the impact of the rapid expansion of alcohol delivery on the accessibility and availability, and how this could be considered in possible density controls that aim to reduce harms. There is substantial evidence to demonstrate that the density of liquor outlets contributes to an increase in alcohol harm.<sup>9,10,11</sup>

The rapid growth of online sales and delivery increases the density of alcohol supply. A risk factor calculation for supply density, (as an equivalent for outlet density), must be developed for the delivery of alcohol in a geographic area. Alcohol policy experts should be consulted on the development, implementation and evaluation of such a supply density risk factor, to more accurately reflect retail alcohol availability.

#### **Recommendation**

- Continue the current alcohol data collection requirements and explore opportunities to communicate and translate this data for policy development.

### **2. Validity of policy objectives regarding same day delivery & appropriateness of reforms**

The policy objectives remain valid, but the research evidence shows they are not being achieved with the current measures. The *'Review of Alcohol Delivery Reforms - Stage 1'*<sup>12</sup> reported:

- one in ten drivers were unaware of the age and ID check requirements
- seven of the 25 covert compliance operations failed to verify Point of Delivery ID
- ten per cent of delivery drivers felt unprotected from being penalised
- nearly one in ten who refused a delivery had been penalised by their employer
- a complaint was received about a non-same day delivery of alcohol to a person under 18.

As noted above, research undertaken in Western Australia, shows that alcohol is still being left unattended, delivered to people under 18 years old,<sup>13</sup> and to people who are intoxicated.<sup>14</sup> Alcohol is also being delivered into homes rapidly, which enables impulsive purchases and also enables continuation of an existing alcohol session.<sup>15</sup> As a result, further legislative measures are needed to achieve the policy objectives to minimise the harm caused by online sales and delivery.

Controls are required to ensure that alcohol is not being sold to children, that it is not being sold into homes late at night when alcohol harms are more likely to happen and that companies delivering alcohol have adequate training to support the responsible service of alcohol.

Measures to protect delivery staff, (ie. companies being liable for non-compliance and drivers not penalised for refusals), must be retained. The evidence from Stage 1 Review above showed that these are not yet being adequately enforced, as some delivery drivers felt unprotected and some who refused a delivery, had been penalised by their employer. Responsible Service of Alcohol Training (RSAT) is an important requirement for people making same day deliveries of alcohol, to ensure they are safe, and that they understand their role, rights and responsibilities in refusing delivery of alcohol. Improvements should also be made in the support provided in RSAT for communication and de-escalation, as requested by drivers in the Stage 1 Review.<sup>16</sup>

### **Recommendations**

- Limit alcohol deliveries to between 10am and 10pm to reduce the risks of alcohol-related family violence and suicide, which increase later at night in the home.
- Retain the current online ID check requirements, extend this to non-same day delivery and expediate the introduction without further delay to ensure that alcohol is not sold to children.
- Retain delivery ID check requirements and extend them to non-same day delivery of alcohol to ensure that alcohol is not supplied to children.
- Require all people who deliver alcohol to have Responsible Service of Alcohol Training, including people who make non same day deliveries.

### **4. Additional harm minimisation strategies that may be appropriate for other liquor deliveries that are not same day.**

Harm minimisation measures listed above in response to Question 2, must be applied to all deliveries of alcohol, (including non-same day). The risk of alcohol harm from unattended, late night, intoxicated and underage delivery exists for non-same day delivery, just as it does for same day delivery. The Stage 1 Review included evidence of a complaint being received of a non-same day delivery of alcohol to a person under 18.<sup>17</sup> Further harm minimisation measures are listed below under 'Other feedback' including rapid delivery, health warnings, test purchasing, a specific licence type and risk-based licencing.

### **Recommendation**

- Apply harm minimisation measures to all deliveries of alcohol, including non-same day delivery.

### **5. Direct and social media marketing and consumer data that have been used in relation to other liquor deliveries that are not same day**

The more people order alcohol, the more they will be targeted with advertising online. There is evidence that alcohol companies are uploading data about young people to feed the Meta marketing algorithm.<sup>18</sup> The data-driven marketing model is harmful *by design* – the model is the problem, with people who are most at risk being targeted more. People with high levels of alcohol use are likely to be targeted the most, including people trying to reduce their alcohol use or in recent recovery. There is also evidence that young people are targeted with this advertising.

Alcohol marketing online is also prolific. A study of alcohol advertisements by Meta found 39,820 distinct alcohol ads are placed on Facebook and Instagram each year, often combined with a button

prompting users to “shop now”. Over twelve months, 351 advertisers including Liquorland (owned by Coles), Dan Murphy’s, BWS and Jimmy Brings (owned by Endeavour Group) and multinationals Bacardi Limited, Heineken N.V. and Diageo, placed an average of 765 alcohol ads each week on the Meta platforms. Most alcohol retailer advertisements (91 per cent) used a call-to-action button directing people to find out how to buy, while 66.7 per cent used a ‘Shop Now’ button to directly sell alcoholic products within the app, including animated catalogues with looping videos highlighting sales and promotions.<sup>19</sup>

An analysis of 56,579 alcohol advertisements from alcohol retailers on the Meta platforms (eg. Facebook and Instagram), over the period of October 2021 to June 2023, found that 84 per cent of advertisements had a call-to-action button. Almost half (46.7 per cent) of the advertisements by alcohol retailers on the Meta platforms with a call-to-action button directly linked to alcohol retail.<sup>20</sup> This means that the purchase of alcohol began within one click from the advertisement.

The ‘call-to-action’ buttons make advertisements the point of sale blurring the line between marketing and the ‘shop front’. This changed environment for sales requires a new approach to regulation which considers the frictionless nature of the sale of alcohol in an online space. These forms of marketing make the sale of alcohol two clicks away with some advertisement leading to pre-loaded carts with specific alcohol products based on previous sales history.

These environments are particularly harmful to people who are trying to cut back on their drinking, as the points of reflection that would exist in a sale at a bricks and mortar store do not exist in an online environment. It is critical that the NSW Government considers this new environment and places common sense measures on licensees and the ways that they can market and sell their products, with harm minimisation at the centre of any policy measure.

### **Recommendation**

- Require the removal of direct links from advertisements to alcohol retail. These include ‘buy now’ buttons imbedded in social media platforms and push notifications sent to people’s phones prompting them to buy alcohol.

### **Other feedback - Is there any other feedback that you would like to provide?**

These further measures are critical to minimise harm caused by fast developing models and practises in the online sale and delivery of alcohol.

### **Rapid delivery**

Rapid delivery means alcohol that is delivered within 2 hours of ordering. Orders are often fulfilled very quickly (within 30 minutes), including through the use of refrigerated vans, which are essentially mobile packaged liquor outlets stocked with common items. Rapid delivery fuels higher risk alcohol use and contributes to people ‘topping up’ with alcohol when they normally would have stopped drinking, increasing the likelihood that they will use alcohol while intoxicated.

Evidence demonstrates that rapid delivery enables impulsive purchases and enables continuation of an existing alcohol session when the alcohol supply has been exhausted:

- A UNSW study published in 2023 found that one in five Australian adults who use popular alcohol delivery sites used a service to continue a home drinking session.<sup>21</sup>
- FARE’s 2020 Alcohol Poll found of people ordering rapid delivery, 38 per cent drank more than 10 standard drinks on that occasion.<sup>22</sup>

- A VicHealth survey found 77 per cent of people who ordered rapid delivery would have stopped if it was unavailable.<sup>23</sup>

Particular approaches are required to regulate rapid alcohol delivery that reflect the increased harm risk profile. This is critical to ensuring that any changes to laws reflect the changed environment for harm that alcohol delivery presents.

#### **Recommendation**

- Introduce a 2-hour safety pause between the order and delivery of alcohol-only orders.

#### **Health warnings**

Licensees are required by the NSW Liquor Regulation 2018 to display mandatory liquor signage on their websites that state that under 18s can not to be served alcohol. Whilst these warnings about the offence of supplying alcohol to people under 18 are necessary, they are not sufficient awareness education to prevent alcohol harm for people accessing online advertising. Online alcohol companies should also be required to display evidence-based health warning.

Accurate and effective guidelines and warnings need to appear alongside alcohol companies digital marketing to ensure that people targeted by alcohol marketing are accurately informed about the risk of harm from alcohol. These health warnings need to be based on, and link to the Australian guidelines to reduce health risks from drinking alcohol.<sup>24</sup>

#### **Recommendation**

- Require NSW alcohol retailers to display on their websites that target NSW localities, at least three prescribed rotating health warning statements about the risk of alcohol use, and a prescribed pregnancy warning, with a link to the Australian guidelines.

#### **Test purchasing**

Establishing and prescribing test purchasing operations for online sales and delivery helps ensure compliance with requirements. The National Alcohol Strategy<sup>25</sup> includes test-purchasing as part of strong and effective compliance enforcement. One model for test purchasing, is to employ young adults aged 18 to 24 years, who by consensus, appear younger than 25 years old. This was the methodology used in a recent Deakin University study of alcohol delivery, using test purchasing.<sup>26</sup>

The *'Review of Alcohol Delivery Reforms - Stage 1'*<sup>27</sup> demonstrated the value of test purchasing. It identified that one in ten drivers were unaware of the age and ID check requirements and seven of the 25 covert compliance operations failed to verify Point of Delivery ID.

#### **Recommendation**

- Retain test purchasing compliance checks and extend them to non-same day delivery.

#### **Specific liquor licence**

Currently, there is no licence category in the NSW Liquor Act 2007 specifically for online sales or delivery of alcohol. Establishing a separate, specific licence category for entities that deliver or sell alcohol online will more closely align administration, licence fees and conditions with the business types and risks of associated alcohol harms. This will reduce the number of exclusions and exemptions required, and more closely target the specific entities involved. Without this process, the NSW Government has limited oversight of delivery companies and less compliance enforcement options.

An integral part of a new licence category application process would be for it to trigger community consultation, as people in a local area where alcohol delivery is being expanded into, should be consulted. Without a specific online sale and delivery licence category, there is no process that triggers public consultation for online sale and delivery.

The Victorian Commission for Gambling and Liquor Regulation has developed such a licencing model for online sales and delivery of alcohol, by establishing the licence category of 'Remote Seller'.<sup>28</sup> This licence category applies to entities supplying alcohol to people not currently on the licenced premise, (including sales over the phone, via the internet or through an app), and delivered to customers to use off-premises. It has its own application processes and risk-based licence fees.

### **Recommendation**

- Establish online sale and delivery as a class of liquor license, to ensure that companies selling and delivering alcohol into homes can be adequately regulated and the community adequately consulted on licence applications.

### **Risk-based licensing**

The purpose of risk-based licencing (RBL) is to align licensing fees and conditions with evidence of the risks of alcohol harm. In the ACT, RBL was found to contribute to a decline in the number of alcohol-related offences by 25 per cent.<sup>29</sup>

A benefit of the current NSW system is that separate liquor licences and classes recognise the range of risks of harm of different venues, with different operating conditions. For example, bars are rated as higher risk than restaurants. In addition to venue type, risk of harm associated with licensed venues also relates to trading hours, patron capacity, location (density and proximity), and compliance history.

The rapid growth of online sales and delivery of alcohol introduces new risks of alcohol harm, including increased availability, accessibility and density of alcohol supply, and rapid and unsupervised delivery. These increased risks of alcohol harm should be incorporated into the NSW RBL by developing risk ratings for online sales and delivery.

### **Recommendation**

- Develop specific risk ratings for online sale and delivery, for the purposes of calculating risk-based liquor licensing fees for online alcohol delivery, to accurately reflect the increased risk of harms.

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<sup>1</sup> NSW Health (2022) *NSW Health Stats - Alcohol* <https://www.healthstats.nsw.gov.au/#/topic-overview/Alcohol>

<sup>2</sup> NSW Health (2016) *Trends in Alcohol Use and Health-Related Harms in NSW*. Report of the Chief Health Officer <https://www.health.nsw.gov.au/hsnsw/Publications/chief-health-officers-report-2016.pdf>

<sup>3</sup> IBISWorld, (2022) *Australia Specialized Industry report OD4087, Online Beer, Wine and Liquor Sales in Australia, Industry at a Glance*, February 2022.

<sup>4</sup> Roy Morgan (2021) *Online sales soar in 2020, but will this market continue to grow in a post-COVID environment?*, <https://www.roymorgan.com/findings/online-alcohol-sales-soar-in-2020-but-will-this-market-continue-to-grow-in-a-post-covid-environment>

<sup>5</sup> FARE (2020) *Annual Alcohol Poll 2020: We drink more alcohol and most often at home – even before COVID-19 lockdowns*, <https://fare.org.au/wp-content/uploads/ALCPOLL-2020.pdf>

- <sup>6</sup> Coomber K, Baldwin R, Wilson C, et al (2022) *Western Australia alcohol home delivery project: Test purchasing final report*. Deakin University. Prepared for Cancer Council Western Australia. [https://cancerwa.asn.au/wp-content/uploads/2023/03/Deakin-University\\_WA-alcohol-home-delivery-project\\_Test-purchasing\\_final-report.pdf](https://cancerwa.asn.au/wp-content/uploads/2023/03/Deakin-University_WA-alcohol-home-delivery-project_Test-purchasing_final-report.pdf)
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- <sup>10</sup> Donnelly N, Menéndez P, & Mahoney N (2014) *The effect of liquor licence concentrations in local areas on rates of assault in NSW*. NSW Bureau of Crime Statistics and Research (BOCSAR).
- <sup>11</sup> WHO (2006) *WHO facts on: Child maltreatment and child abuse*. Geneva: World Health Organization (WHO). [www.who.int/violence\\_injury\\_prevention](http://www.who.int/violence_injury_prevention)
- <sup>12</sup> NSW Government (2023) *Review of Alcohol Delivery Reforms - Stage 1* <https://www.parliament.nsw.gov.au/tp/files/84378/Review%20of%20Alcohol%20Delivery%20Reforms%20Stage%201%20Review%20-%20Supplementary%20Report.pdf>
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