

Submission on Queensland Digital age verification and Record keeping requirements for Online sale and delivery of Alcohol

February 2024



About FARE

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

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

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

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Contents

| | |
|---|-----------|
| Executive summary | 4 |
| Recommendations | 5 |
| Consultation 1. Digital age verification at the online point of sale..... | 5 |
| Consultation 2. Record keeping requirements | 5 |
| Digital age verification at the online point of sale | 6 |
| Potential policy for digital age verification at the online point of sale..... | 7 |
| OPTION 1: Age-verification using accredited DVS process (NSW model) | 7 |
| OPTION 2: Age-verification using AI-based system | 7 |
| OPTION 3: Self-reporting of age with statement of willingness to produce an evidence of age document at the point of delivery | 8 |
| Regulatory environment for digital identification | 8 |
| Record keeping requirements | 9 |
| Consultation questions | 10 |
| Online sales transaction records..... | 10 |
| Self-exclusion agreement records | 11 |
| Delivery records – record of non-delivery | 11 |
| Delivery records – evidence of age on delivery..... | 12 |
| Delivery records – unattended non-same day delivery..... | 12 |
| Conclusion | 13 |
| References | 13 |

Executive summary

Alcohol harm in Queensland is exacerbated by the rapidly expanding online sale and delivery of alcohol, which has vastly increased availability and accessibility, creating unique risks to community health and safety. Research evidence demonstrates that alcohol is being left unattended, delivered to people under 18 years old, and to people who are intoxicated.^{1,2,3} It is critical that the Queensland Government ensures alcohol companies implement effective, evidence-informed changes that achieve harm reduction policy objectives.

Many of the measures put forward last year in the Queensland Government's *"Proposed regulatory framework for online liquor sale and delivery"*, have research evidence to support their effectiveness in reducing alcohol harm. These include the measures that are the focus of these consultations:

1. effective digital age verification for online sales of alcohol,
2. offences of not maintaining sales transaction records; and not maintaining records of refused or incomplete deliveries.

This submission is in response to both the *"Digital age verification at the online point of sale"*⁴ and the *"Record keeping requirements"*⁵ industry consultation papers. Our responses are structured by the questions in the two consultation papers. However, as they are *industry* consultations, the questions assessing impacts on industry stakeholders have been omitted, so some of the question-numbering is discontinuous.

Effective digital age verification is required to ensure that alcohol companies are not selling alcohol to children. Keeping, reporting and publishing records of sales volume data by area, and delivery data, (including non-deliveries), helps ensure compliance, harm minimisation and provides evidence for evaluation of policy effectiveness.

Alcohol companies have invested significantly in new digital technologies to rapidly expand online sale and delivery of alcohol.⁶ As a result, the companies have profited from exploiting these technology advances, enabling a quadrupling of online alcohol retail sales from 2012 (\$539 million) to 2022 (\$2.0 billion).⁷ Regulatory changes should aim to provide a framework for online delivery that will be relevant now and into the future. This is important in area where alcohol sales have changed so significantly and legislation has not kept pace.

It is also crucial that changes to the regulatory framework for the sale and delivery of alcohol prioritise the prevention of alcohol harm and acknowledge the significant gaps in the regulation of alcohol that exist in the current legislative framework. Regulatory changes that reduce the risk of harm from alcohol will always be a net cost benefit to governments and communities when the costs of harms are considered.

FARE welcomes the Queensland Government's commitment to continue reviewing the regulation of online sale and delivery of alcohol. FARE thanks the Queensland Government for the opportunity to make this submission in response to the *"Digital age verification"* and *"Record keeping requirements"* industry consultations.

Recommendations

FARE recommends:

Consultation 1. Digital age verification at the online point of sale

Recommendation 1. FARE supports implementing Option 1 (accredited verification), as the most effective digital age verification available, to ensure compliance with the requirement that alcohol is not sold to people under 18 years old.

Recommendation 2. FARE only supports implementing Option 2 (artificial intelligence), as an interim transitional measure, with a clear end date, as more accredited identity providers become available.

Recommendation 3. FARE does not support implementing Option 3 (manual self-reporting), as self-reporting is not a form of digital age verification.

Consultation 2. Record keeping requirements

Recommendation 4. FARE recommends that the Queensland Government establish a separate, specific liquor licence category for online alcohol sales and delivery. This will align the administration, licence fees, record-keeping and conditions with the business model, entities and risks of alcohol harm associated with online alcohol sales and delivery.

Recommendation 5. FARE supports requiring retailers to keep, and regularly report, the volume of alcohol sold online and delivered by geographic area. FARE recommends that the Queensland Government regularly publish this data to facilitate calculating effective supply density by area. This is necessary to monitor the risk of alcohol harm, and to inform liquor licencing application decisions.

Recommendation 6. FARE supports requiring retailers to keep, and regularly report, self-exclusion records to assist the government in monitoring alcohol companies to ensure their compliance with self-exclusion requirements. FARE recommends making it an offence for alcohol companies to violate a self-exclusion agreement.

Recommendation 7. FARE supports the requirement for alcohol companies to keep, and regularly report, all delivery records, including refused deliveries, by geographic area. This should include the reasons for refusals such as unattended, under 18 / no ID, or intoxicated. This reporting is to enable the monitoring of deliveries and the frequency of issues. FARE recommends that the Queensland Government regularly publish this data to facilitate research that evaluates the effectiveness of the reform measures.

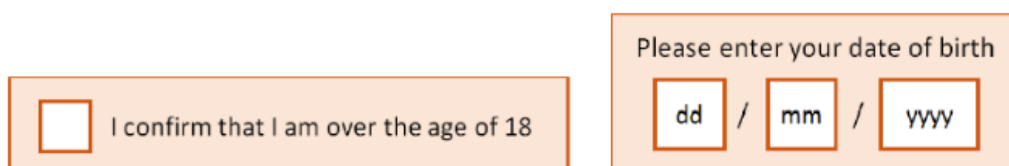
Recommendation 8. FARE supports the proposed measure of establishing offences for not maintaining online sales transaction records, and for not maintaining records of refused or incomplete deliveries.

Recommendation 9. FARE recommends making record-keeping and reporting requirements identical for non-same day delivery and same day delivery, as the risks of harm from under 18, unattended or intoxicated delivery are the same.

Digital age verification at the online point of sale

Digital age verification requirements should aim to be effective for online sales now and into the future. This is important when alcohol sales have changed so significantly and legislation to protect children from alcohol harm has not kept pace. Currently, companies that deliver alcoholic products do not effectively verify age at the point of sale. This means there is a risk that children can buy alcohol online and have it delivered and left at the door. FARE welcomed the requirements for age verification at point of sale that were proposed in the “*Proposed regulatory framework for online liquor sale and delivery*” Discussion Paper.⁸

However, evidence from multiple studies show that alcohol companies continue to rely on ineffective self-reporting. One study showed that of nine major alcohol retailer websites, none used online age verification methods, instead relying on date of birth entry or tick boxes.⁹ Another audit of 213 online alcohol company websites found only 40% required people to disclose their age at the point of sale.¹⁰ FARE does not support the ineffective industry practice of a tick box to say you are over 18, or a manual date of birth entry for online point of sale. These are insufficient types of age checking, and are easily circumvented by people under 18 attempting to buy alcohol.¹¹



The image shows two examples of ineffective age verification methods. On the left is a simple tick box with the text "I confirm that I am over the age of 18". On the right is a date of birth entry field with the prompt "Please enter your date of birth" and three input boxes labeled "dd", "mm", and "yyyy" separated by slashes.

There is strong community support for effective sales ID checks in Queensland. FARE commissioned Pure Profile to conduct a poll of Queenslanders online between 30 June and 7 July 2023. The sample comprised 1,000 people aged 18 years and over, residing in Queensland. A substantial majority of people responding to the poll were supportive of ID being verified, both when placing an alcohol order (73.3%) and at the point of delivery (78.3%).¹²

The Standing Committee on Social Policy and Legal Affairs’ “*Protecting the age of innocence*” inquiry into age verification for online wagering and online pornography concluded in February 2020. The Committee reported that, “*as a matter of principle, online sales of alcohol should be restricted to individuals whose age has been verified using an effective method*”.¹³

The Trusted Digital Identity Framework (TDIF) is an accreditation framework for Digital Identity services and underpins the Australian Government Digital ID System (AGDIS).¹⁴ It sets out strong rules around privacy, security, transparency, trust, and choice, to achieve accreditation. Any entity that participates in the AGDIS must meet the requirements set out in the TDIF. TDIF-accredited entities include Australia Post, OCR Labs Pty Ltd, ID (Mastercard), and RatifyID (as of October 2023).

There are changes coming up for the TDIF with the tabling of the Commonwealth Government’s Digital ID (Transitional and Consequential Provisions) Bill in November last year¹⁵. The Bill enables the phased expansion of the AGDIS beyond the Commonwealth. The legislation will provide Australians with greater choice in which accredited state and territory Digital ID providers they use.

The voluntary accreditation scheme for Digital ID service providers will build on the learnings from the TDIF. The current TDIF and accredited entities will need to transition to the new arrangements. An accompanying Digital ID (Transitional and Consequential Amendments) Bill, will set out the mechanism for transitioning those entities that are currently accredited into the new arrangements.

The capability, security and accessibility for effective digital identity verification will continue to evolve and improve. The Queensland Government needs to adapt the requirements for effective

online age verification to accommodate the new accreditation framework, without compromising or unnecessarily delaying effective implementation.

Potential policy for digital age verification at the online point of sale

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

The consultation paper makes the following statement to highlight why effective digital age verification at point of sale is necessary to ensure companies comply with the prohibition against selling alcohol to people under 18 years old:

“The Liquor Act prohibits the sale of alcohol to a minor. The limitation of age-verification systems that only verify a customer’s age at the point of delivery is that, potentially, the sale of alcohol to a minor would have already occurred by the time a delivery person establishes the customer is a minor. The most effective way to ensure compliance with the Liquor Act is to ensure age verification at the point an alcohol order is placed online.”¹⁶

OPTION 1: Age-verification using accredited DVS process (NSW model)

- 1. Initial verification of customer identity by TDIF-accredited identity service provider**
- 2. Subsequent authentication of customer identity by TDIF-accredited credential provider**

Q3. Do you support option 1? Please explain the reasons for your view.

Yes, FARE supports this option. This is the most effective form of age verification available currently. More digital identity providers are becoming accredited, and the federal Government’s digital ID reforms will continue to improve the available options.

Alcohol companies have already been making significant investments in new digital technologies to rapidly expand the online sale and delivery of alcohol, from which they have also generated significant sales:

“Endeavour Group, which split off from supermarket giant Woolworths and listed on the ASX in mid-2021, reached \$1 billion in digital sales for the first time in the 2022 financial year after investing \$35 million in the first half to extend its digital capabilities.”¹⁷

The companies being required to implement effective digital age verification, have also profited from exploiting the technology advances that have enabled a quadrupling of online alcohol retail sales in 10 years to 2022 (\$2.0 billion).¹⁸

OPTION 2: Age-verification using AI-based system

- 1. Initial verification of customer identity by identity service provider seeking TDIF accreditation**
- 2. Subsequent authentication of customer identity by licensee / Sale and Delivery Services**

Q10. Do you support option 2? Please explain the reasons for your view.

FARE would only support this option as a temporary measure during a transitional implementation period with a specified and enforced end date. The Identity Service Providers seeking TDIF accreditation used for the verification, will presumably become accredited, (as will other providers), so there is no reason for this to be considered a permanent solution.

OPTION 3: Self-reporting of age with statement of willingness to produce an evidence of age document at the point of delivery

- **No initial or subsequent verification of customer identity**

Q17. Do you support option 3? Please explain the reasons for your view.

No, FARE does not support this option. Self-reporting is not age verification, and it should not be considered by the Queensland Government as an option. This is no improvement on the current ineffective situation, and will not achieve the policy objective of preventing the sale of alcohol to people who are under 18 years old. Self-reporting mechanisms are easily circumvented.¹⁹

Q24. Do you consider allowing a customer to tick a box to confirm their age as being sufficient to ensure liquor is not sold to a minor online, and if so, why?

No. Self-reporting does prevent the sale of alcohol to people who are under 18 years old.

Regulatory environment for digital identification

New South Wales review of their same day delivery framework

In November 2020, the NSW Government introduced reforms for online sale and delivery of alcohol. The reforms also included a mandatory review process.

Stage 1 Report (May 2023)

The *'Review of Alcohol Delivery Reforms - Stage 1'*,²⁰ found concerning failures with the implementation of the reforms:

- 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.

With this evidence that alcohol continued to be delivered without ID checks and drivers were not being protected, further regulation and compliance enforcement is needed. To ensure that alcohol is not sold or delivered to children, people who are intoxicated or left unattended, effective age verification for sales and for delivery is required.

Stage 2 Report (December 2023)

The *'Review of Alcohol Delivery Reforms - Stage 2'*²¹ found concerning evidence about the harmful marketing of alcohol online:

1. Evidence about harmful promotions and highlights the 'buy now pay later' issue.
2. Children and 'at-risk drinkers' (including Aboriginal and Torres Strait Islander peoples), experience greater proportion of direct and social media marketing.
3. Industry acknowledged that if a person under 18 "*had previously been able to purchase alcohol online then they may receive targeted direct marketing*".

The Stage 2 Report noted that the alcohol industry is lobbying to revert back to inadequate and ineffective Point of Sale manual ID checks. It also noted that stakeholders want more regulation for non-same day deliveries, (including ID checks).

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Recommendation 2. FARE only supports implementing Option 2 (artificial intelligence), as an interim transitional measure, with a clear end date, as more accredited identity providers become available.

Recommendation 3. FARE does not support implementing Option 3 (manual self-reporting), as self-reporting is not a form of digital age verification.

Record keeping requirements

In contrast to physical outlets, both the online sale, and the delivery of alcohol into homes is mostly done in private. This is a step change in the business model of alcohol supply, and it requires a step change in liquor licensing regulation to adequately minimise the risk of harms from alcohol supplied in this way. A 2022 study found that a quarter of respondents had alcohol delivered while intoxicated, 75 per cent of whom were never or only sometimes refused delivery.²² Sixty-one per cent of Victorians using rapid delivery weekly said they were regularly intoxicated when receiving their alcohol delivery (and were still given the order).²³

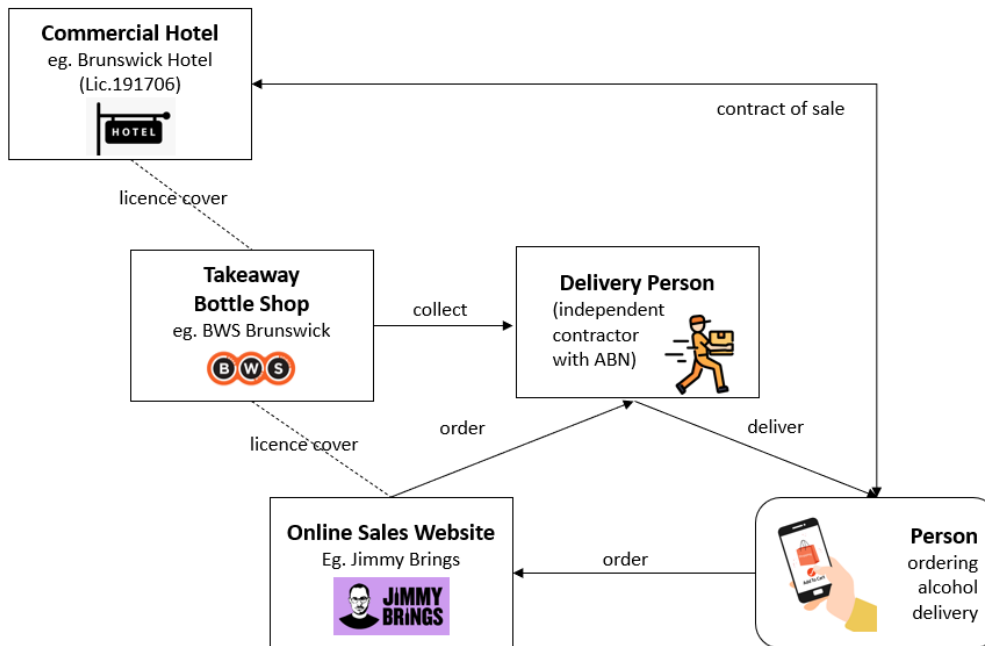
Companies offering online sales and delivery of alcohol must be required to meet the same level of alcohol harm minimisation that the community expects from any alcohol retailer. To ensure this happens, requires specific record-keeping and reporting requirements. Currently, there is no requirement for alcohol delivery companies to keep a record of their deliveries or to share data with the Queensland Government. The 2023 Queensland *“Proposed Regulatory Framework for Online Liquor Sale and Delivery”* consultation paper proposed keeping records of delivery refusals or partial deliveries. Data on the delivery would include the postcode, time and date of delivery, whether delivery was withheld and for what reason. It proposed to establish offences for not maintaining records of refused or incomplete deliveries.

Establishing offences for not maintaining online sales transaction records is also proposed. This data is critical for developing effective supply density by area. There is substantial evidence showing the density of liquor outlets increases alcohol harm.^{24,25,26} An equivalent for outlet density in a given geographic area needs to be developed for the delivery of alcohol, and included in the calculation of risk factors for licence applications. A cumulative impact assessment can help manage the density of licensed premises and online sales and delivery of alcohol.

In NSW, delivery providers must keep records of the delivery postcode, the type of liquor delivered, and the volume delivered. They must provide a report to the Secretary, within 21 days of the end of a reporting period reporting.²⁷ While industry stakeholders lobbies against the required alcohol reporting requirements in the NSW Stage 2 Report, other stakeholders suggested the required data collection can inform decision making and used to better understand alcohol-related harm.²⁸

The NSW Report also found that *“reported data may be inaccurate and incomplete”* because it is *“not possible to identify which licensees are offering alcohol delivery”*. This situation is likely to be even more challenging in Queensland where only the commercial hotel holds a liquor licence,²⁹ with the take-away bottleshop ‘piggybacking’ the coverage of the commercial hotel’s licence, and online retailers getting licence ‘coverage’ from ‘piggybacking’ the bottleshop’s piggyback of the ‘Commercial Hotel’ licence. This situation creates challenges for the effective regulation (including record-keeping and reporting), of online sales and delivery of alcohol, which is at an ‘arm’s length from an arm’s length’. FARE therefore recommends that the Queensland Government establish a separate, specific liquor licence category for online alcohol sales and delivery, as Victoria has done. This will align the administration, licence fees, record-keeping and conditions with the business model, entities and risks of alcohol harm associated with online alcohol sales and delivery.

Queensland entities involved in online sale and delivery of alcohol ('piggybacking the piggyback')



This consultation paper also reported that some industry stakeholders raised concerns that record keeping requirements posed an additional administrative burden on industry. Yet in July 2023, Retail Drinks Australia released a report that claimed it accessed “comprehensive industry sales data from nearly 9 million transactions”.³⁰ The report indicated that alcohol companies have been able to supply their lobby group with “comprehensive sales data”. This indicates detailed records of sales data by geographic area are already being kept, and made available to the lobby group to fight against further regulation, (including record-keeping requirements).

Consultation questions

Online sales transaction records

| Proposed obligation | a) Do you support the proposed record keeping obligation? Please provide details of why or why not. | c) How long should the relevant record be kept? |
|---|--|--|
| <p>1) Individual records A licensee must keep the following records of liquor sold online for consumption off its licensed premises including sale by an Sale and Delivery Services (SDS) for each transaction:</p> <p>a) date of transaction b) time of transaction c) customer name d) customer address (including postcode) e) amount of alcohol sold by type (in litres)</p> | <p>Yes. Recording the volume of alcohol sales by area, facilitates monitoring of the risk of alcohol harm. If made available, this data can facilitate calculating accurate supply density in by area, which can inform liquor licencing application decisions. It can also facilitate further research to monitor the effectiveness of the reform measures.</p> | <p>The current period of 6 years seems sufficient, however the need for alcohol retailers to keep records over time may reduce by requiring them to regularly report them to the Government to monitor and maintain.</p> |
| <p>2) Overall records. A licensee must keep the following records in relation to the total amount of liquor sold online by volume: Type of alcohol sold online expressed in litres: (low / medium / heavy beer, wine, in bottles / casks / bulk, fermented products, spirits, mixed).</p> | <p>Yes. This would be required to maintain the integrity of alcohol taxation.</p> | <p>As above, 6 years.</p> |

| Proposed obligation | a) Do you support the proposed record keeping obligation? Please provide details of why or why not. | c) How long should the relevant record be kept? |
|--|--|---|
| 3) A licensee or SDS must make a copy of online liquor sales transaction records available for inspection by an investigator | FARE supports regular reporting, rather than making records available for inspection. | As above, the need to keep records over time may reduce due to regular reporting. |

Self-exclusion agreement records

| Proposed obligation | a) Do you support the proposed record keeping obligation? Please provide details of why or why not. | c) How long should the relevant record be kept? |
|---|---|---|
| 4) A licensee or SDS must keep the following records relating to a customer's agreement to self-exclude themselves from off premises liquor retail and direct advertising services: a) name of the excluded person b) excluded person's email address c) excluded person's phone number d) date self-exclusion agreement commences e) date self-exclusion agreement ends | Yes. Keeping records of self-exclusion agreements is necessary to enforce compliance by alcohol companies to these agreements. FARE does not support measures focused solely on individuals. Self-exclusion can be used to complement sound policy that focuses on the role of companies, but cannot replace such measures. Self-exclusion alone is not a sufficient protection for people experiencing vulnerability, including alcohol dependency. FARE supports the proposed prohibition in last years' consultation paper against violating the terms of a self-exclusion agreement. FARE also recommends establishing an offence for violating a self-exclusion agreement. | As above, 6 years. |
| 5) A licensee or SDS must make a copy of self-exclusion records available for inspection by an investigator | As above, FARE supports regular reporting, rather than making records available for inspection. | As above, the need to keep records over time may reduce due to regular reporting. |

Delivery records – record of non-delivery

| Proposed obligation | a) Do you support the proposed record keeping obligation? Please provide details of why or why not. | c) How long should the relevant record be kept? |
|--|---|--|
| 6) A licensee or SDS that undertakes delivery of alcohol ordered online must keep the following records in relation to an alcohol delivery that is not completed because the delivery person held a reasonable belief that completing the delivery would constitute an offence under the Liquor Act or Wine Industry Act: a) date and time of scheduled delivery b) address where liquor was to be delivered | Yes. FARE supports keeping and reporting all delivery records, completed, incomplete and non-deliveries. This removes any 'extra paperwork' disincentive to not complete an unsafe delivery, and creates a data source which can facilitate the evaluation of policy effectiveness. | As above, 6 years. |

| Proposed obligation | a) Do you support the proposed record keeping obligation? Please provide details of why or why not. | c) How long should the relevant record be kept? |
|--|---|---|
| c) offence that may have been committed if delivery was completed | | |
| 7) A licensee or SDS must make a copy of the records of alcohol that has not been delivered to the recipient available for inspection by an investigator | As above, FARE supports regular reporting, rather than making records available for inspection. | As above, the need to keep records over time may reduce due to regular reporting. |

Delivery records – evidence of age on delivery

| Proposed obligation | a) Do you support the proposed record keeping obligation? Please provide details of why or why not. | c) How long should the relevant record be kept? |
|---|--|---|
| 8) A licensee or SDS that undertakes delivery of alcohol ordered online must keep the following records in relation to recipient's evidence of age provided at the point of delivery: a) name of person who accepts delivery b) type of evidence provided to verify identity of person accepting delivery | Yes. FARE supports keeping and reporting records of evidence of age on delivery, which is necessary to monitor compliance and minimise the risk of alcohol harm. The NSW Stage 1 report indicated that one in ten drivers were unaware of the age and ID check requirements and that 7 of the 25 covert compliance operations failed to verify Point of Delivery ID. ³¹ | As above, 6 years. |
| 9) A licensee or SDS must make a copy of records relating to evidence of age provided by the recipient of an alcohol delivery available for inspection by an investigator | As above, FARE supports regular reporting, rather than making records available for inspection. | As above, the need to keep records over time may reduce due to regular reporting. |

Delivery records – unattended non-same day delivery

| Proposed obligation | a) Do you support the proposed record keeping obligation? Please provide details of why or why not. | c) How long should the relevant record be kept? |
|--|--|---|
| 10) A licensee or SDS that undertakes delivery of alcohol ordered online must keep the following records in relation to unattended non-same day delivery: a) address of delivery b) location where delivery was left | Yes. As above, FARE supports keeping and reporting records of unattended deliveries which is necessary to monitor compliance, and minimise the risk of alcohol harm. | As above, 6 years. |
| 11) A licensee or SDS must make a copy of records relating to evidence of age provided by the recipient of an alcohol delivery available for inspection by an investigator. | As above, FARE supports regular reporting, rather than making records available for inspection. | As above, the need to keep records over time may reduce due to regular reporting. |

Recommendation 4. FARE recommends that the Queensland Government establish a separate, specific liquor licence category for online alcohol sales and delivery. This will align the administration, licence fees, record-keeping and conditions with the business model, entities and risks of alcohol harm associated with online alcohol sales and delivery.

Recommendation 5. FARE supports requiring retailers to keep, and regularly report, the volume of alcohol sold online and delivered by geographic area. FARE recommends that the Queensland Government regularly publish this data to facilitate calculating effective supply density by area. This is necessary to monitor the risk of alcohol harm, and to inform liquor licencing application decisions.

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Recommendation 7. FARE supports the requirement for alcohol companies to keep, and regularly report, all delivery records, including refused deliveries, by geographic area. This should include the reasons for refusals such as unattended, under 18 / no ID, or intoxicated. This reporting is to enable the monitoring of deliveries and the frequency of issues. FARE recommends that the Queensland Government regularly publish this data to facilitate research that evaluates the effectiveness of the reform measures.

Recommendation 8. FARE supports the proposed measure of establishing offences for not maintaining online sales transaction records, and for not maintaining records of refused or incomplete deliveries.

Recommendation 9. FARE recommends making record-keeping and reporting requirements identical for non-same day delivery and same day delivery, as the risks of harm from under 18, unattended or intoxicated delivery are the same.

Conclusion

FARE's submission on digital age verification and record-keeping requirements has outlined how the Queensland Government can continue developing an evidence-based framework to address the increased risk of alcohol harm from online sales and delivery of alcohol.

This response to the “*Digital age verification at the online point of sale*” and the “*Record keeping requirements*” industry consultation papers, provides evidence-based recommendations that can ensure liquor licensing remains effective in reducing the risk of alcohol harm. In considering changes to measures in the “*Proposed regulatory framework for online liquor sale and delivery*”, the Queensland Government can prioritise the health and wellbeing of the community and contribute to the prevention of the harms from alcohol.

Our recommendations outline the steps that the Queensland Government can take to ensure that the proposed measures continue to meet the policy objectives, aligning with harm minimisation and community expectations. This will allow the Queensland Government to prioritise the wellbeing of communities.

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