



18 September 2009

Liquor Control Reform Regulations 2009 RIS
Responsible Alcohol Victoria
GPO Box 4304
MELBOURNE VIC 3001

To whom it may concern

Re: Response to the Liquor Control Reform Regulations 2009 Regulatory Impact Statement (RIS)

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The Victorian Employers' Chamber of Commerce and Industry (VECCI), the Victoria Tourism Industry Council (VTIC) and the Hotel, Motel and Accommodation Association Victoria (HMAA) welcomes the opportunity to respond to the Liquor Control Reform Regulations 2009 Regulatory Impact Statement (RIS).

VECCI is Victoria's most influential employer group, servicing over 25,000 Victorian businesses per annum. An independent, non-government body, VECCI was started by the business community to represent business. Our membership base is diverse, with involvement from all levels and sectors of industry including: business services; tourism and hospitality; manufacturing; retail; transport; building and construction; local government; health, education and community services; and emerging sectors.

VTIC is the peak policy council for the Victorian tourism industry, and represents key industry associations, operators and government agencies, providing one united industry voice.

HMAA Victoria represents hotels, motels and accommodation providers across the State, ranging from 5 star hotels and motels to Bed and Breakfasts.

VTIC and HMAA are both proactively involved in the tourism and hospitality sector in Victoria, and seek to maintain and grow Victoria's reputation as a vibrant, safe and attractive place to work and to visit. We are very supportive of measures that seek to reduce alcohol related harm associated with misuse, and improve the safety and attractiveness of Victoria. However we urge caution, to ensure that any proposed changes resulting from this review only enhance, and not diminish, the vibrancy and culture of Melbourne and Victoria which currently attracts visitors and residents alike.

We understand that the review of licence fees is one of a number of measures being put in place through Victoria's Alcohol Action Plan 2008-2013, designed to prevent and reduce harm associated with alcohol misuse in Victoria. While we support the underlying principles of the proposed risk-related fee structure, we question how effective it will be in contributing to reduced harm.

Broad issues

We believe that alcohol is a legitimate consumer product. The vast majority of the population who choose to consume it, are able to do so in a sensible and responsible manner. Alcohol contributes to activities, destinations and events across Victoria, and helps support employment and economic growth in the tourism and events sector, as well as the wider economy.

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While most people are able to enjoy it in a responsible manner, we recognise that on occasion, alcohol can contribute to negative outcomes resulting from the abuse of alcohol. We believe however that in many cases, these negative outcomes are associated with other factors including; anti-social attitudes and behaviour including a general lack of respect and personal responsibility, ingestion of drugs or other substances, poor mental health, poverty and a lack of education. While operators have a role to play in reducing alcohol related harm, many of these factors are complex, difficult to change, and are largely beyond the direct control of operators.

We acknowledge that it is appropriate to have some form of regulation over the liquor industry and that such regulation has costs associated including, administration, compliance and enforcement. However any system which seeks to reimburse costs, through the imposition of licence fees must be equitable, fair and must achieve its stated purpose.

We broadly support the proposed 'Differentiated Risk Model', in preference to the 'Flat Fee Model' and the 'Simple Risk Model'. However we do have some concerns.

Risk-based approach

The risk-based fee structure is based on the assumption that those who display high risk factors, are more likely to be associated with the greatest level of harm, and therefore should pay the highest fees. While there are operators who display high risk factors that contribute to harm, there are also others in this category that do not. The presence of risk does not automatically imply harm.

In addition, licences indicate maximum capacity and maximum operating hours. However in some areas, including smaller regional centres, maximum capacity may seldom be reached, and closure may regularly occur well before the approved closing time. Such venues include, but are not limited to, traditional pubs in regional centres. Such places in practice, pose significantly less risk than that applied through the risk factor model. An adjustment should be made to recognise this fact.

We do however applaud the decision to use a lower weighting for licence fees relating to restaurants and cafes, vigneronns and restricted clubs for example. These clearly pose a lower risk and should be treated accordingly.

Little incentive for good behaviour and proactive initiatives

We are also concerned that the proposed system offers little incentive or acknowledgement for good behaviour and proactive initiatives by industry and operators. An operator who seeks to minimise harm through education, improved design, increased security or other management processes receives no reduction in their fees despite the reduced risk. This disincentivises operator investments that may well be more effective in reducing harm.

On the other hand, the occurrence of one infringement causes a double penalty, as the operator must pay for the initial infringement at the time it occurs, and is then penalised with an additional fee over the coming year.

We recommend the use of an incentive in recognition for good behaviour over time. This may occur through the use of a credit which accumulates over a two to three year period where no infringements occur. If an infringement occurs after this time, this credit can be used to cancel out the impact of one infringement.

Opening hours and associated risk

The report prepared by Allen Consulting outlines what it believes are risk factors; that is late opening hours, patron intoxication, and where appropriate, venue size.

The proposed fee structure associates 'late opening hours' with those starting from between 11pm and 1am. However the Allen Consulting report recognises the period between 11pm and 1am as being of low to medium risk. The report also recognises a closing time of 1am or later as a medium or high risk factor. We recommend that the fees relating to the opening hours between 11pm and 1 am be further reduced to reflect this lower risk.

Cost pressures on business

Calculations provided in the RIS suggest that the new licence fees will only equate to a small proportion of business profit. While profit is a significant measure, another important consideration is cash flow. When measured in percentage terms, many operators are facing a sizeable increase in licence fees. Businesses are already facing significant pressure due to other factors such as the current economic downturn, tight competition and increasing costs in other areas, including labour costs as a result of the Federal Government Award modernisation process. Any increase in fees represents a concern to business at this time.

Inequitable use of the venue multiplier

Another concern we have is the apparent inequity in the use of the venue multiplier. While many venues will have this factor applied, those selling packaged liquor do not. To ensure a fair and equitable system, some adjustment must be made to ensure that a factor, which takes into account the number of people affected, is applied to package liquor outlets. This might include consideration of floor space as an estimate of size. This is particularly important given the growing trend of 'preloading' where alcohol is purchased at such outlets, (often because it is significantly cheaper), prior to visiting other venues.

Venue multiplier limits to increase

We believe that it is appropriate to increase the upper limit of the first band of the venue multiplier from 100 to 200. An initial band of 0 – 200, with a multiplying factor of 1 is more reflective of normal operating practices and is less likely to unintentionally impact on venues within the market that genuinely present a relatively low risk.

Restaurants, cafés, accommodation providers and others with capacity for private functions

Consideration needs to be given to businesses that operate primarily as a restaurant, café or accommodation provider, but have the capacity to provide facilities for private functions, such as conferences, business events or meetings, and wedding or other private functions. Such functions may be of a large size, but they are 'private' functions and therefore present considerably lower risk and should be recognised as such. Where an operator hosts private functions, but where this is not their primary business, we recommend the use of an exemption or other consideration to reflect the lower risk.

Events

We support efforts to reduce alcohol related harm at events and broadly support the creation of a new major event licence.

Major events are extremely important for tourism in Victoria. It is very important that we maintain Melbourne's reputation as the home of sport and entertainment. As such it is vital that conditions on promoters and event organisers do not in any way discourage the running of such events in Victoria, by making conditions less favourable than other States.

The new administration of event licences must be consistent, fair and timely, giving consideration to the complex nature of organising major events, including the need to determine costs and staffing levels well in advance. Where appropriate, consideration should be given to the specific needs and requirements of individual major events.

Review

As with any regulatory change it is important that it is subject to regular review. As such we recommend that the Liquor Control Reform Regulations 2009 be subject to ongoing review, to ensure there are no unintentional or unexpected adverse consequences resulting from the imposition of the new system.

Recommendations

- Acknowledgement is given for good behaviour and proactive initiatives through the use of a credit system.
- The weighting given to venues with opening hours between 11pm and 1am is reduced to reflect a low to medium level of risk.
- A risk factor is applied to packaged licence outlets to reflect their size and compare more equitably with other operators assessed on venue capacity.
- The initial band width of the venue multiplier is increased to 0 – 200 to more accurately reflect normal operating practices.
- An exemption, or other consideration, is given where an operator hosts private functions, which is not their primary business, to reflect the lower level of risk.
- Consideration is given to the specific needs and requirements of individual major events in Victoria.
- The regulation is subject to ongoing review.

Concluding Comments

VECCI, VTIC and HMAA broadly support the proposed 'Differentiated Risk Model' as one of the measures being put in place through Victoria's Alcohol Action Plan 2008-2013 to prevent and reduce harm associated with alcohol misuse in Victoria.

We do, however, question how effective it will be in contributing to reduced harm. We also want to raise concerns over a number of situations where operators may be unfairly or unintentionally impacted by the proposed fees, and have provided recommendations to overcome these.

Should you have any queries in relation to our submission, please do not hesitate to contact VTIC Chief Executive Officer, Anthony McIntosh, on telephone (03) 8662 5426 or email amcintosh@vecci.org.au.

Yours sincerely



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