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Queensland
Government

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Department of
Employment, Economic
Development and Innovation

Mr D Channing
Director, Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Dear Mr Channing

I refer to the submissions received by the Australian Competition and Consumer Commission in relation to the Office of Liquor and Gaming Regulation's (OLGR) application for authorisation of a pro-forma liquor accord.

OLGR welcomes the strong level of support provided by various interested parties who have responded to its application and is grateful for the opportunity to comment on the issues raised in some submissions.

1. Harm minimisation strategies

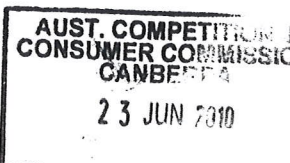
A. Pricing

The Queensland Hotels Association (QHA) submits that strategies within the accord which encourage licensees to 'offer and promote a range of non-alcoholic drinks at differential (lower) prices' and 'offer and promote low alcohol beer at differential (lower) prices compared to full strength' indicate an intention by the Queensland Government to set the actual or relative price of beverages for sale. QHA further argues that as the wholesale price of some non-alcoholic drinks such as Red Bull, V and Mother are higher than the wholesale prices of most alcoholic products, the retail price of these non-alcoholic drinks will invariably render licensees in breach of their accord obligations.

OLGR submits that the harm minimisation strategies to which QHA refers do not have the purpose of fixing or controlling the price of beverages for sale. This is evident in the fact that the strategies do not purport to specify a price or pricing formula for adoption by accord participants who remain, at all times, free to set their own prices. The intention of these strategies is not to create price uniformity but rather to suggest that a range of non-alcoholic drinks and low alcohol beer be offered and promoted at a discount.

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B. Advertising

QHA asserts that the promotion of liquor remains legal in Queensland and has questioned whether the strategy discouraging accord participants from advertising very high alcohol substances aims to make, for example, a poster display of such products in a drive-through bottle shop illegal.

The pro-forma accord does not have the force of law to make liquor advertising illegal. Participation in accords is voluntary and not all strategies in the pro-forma accord will necessarily be relevant to every accord participant. The strength of an accord lies with its local ownership. The proposed pro-forma is therefore merely a guiding document for accord bodies to implement the most appropriate solutions to address issues relevant to their locality.

2. Liquor regulation

QHA submits that OLGR's application for authorisation represents 'back door' regulation and questions why liquor accords were not the subject of consideration during the recent review of the State's liquor laws.

As part of the liquor reforms in 2008, the *Liquor Act 1992* was amended to provide certainty and support to accords by defining their nature and purpose, recognising their important role in promoting responsible service practices and minimising harm caused by alcohol misuse.

Although they have the potential to deliver many benefits to the community, an accord may be unlawful under the *Trade Practices Act 1974* (Cth) if it involves competing businesses making agreements on how they will trade. OLGR is aware that a number of accords in Queensland support the adoption of certain business practices which may be seen to be anti-competitive. Under the usual process, accords promoting such practices would be required to seek individual authorisation from the commission at a cost of \$7,500 per application.

Liquor accords rely largely on the support of members to function effectively, with many members involved in a voluntary capacity using their own time and resources. With this in mind, OLGR applied to the commission for authorisation of a pro-forma accord which incorporates some of the potentially anti-competitive strategies currently exercised by various accord bodies. The application was made on behalf of all liquor accord groups to save them the financial and administrative costs associated with making their own application for authorisation. The intention of the pro-forma accord is not to bind accord bodies to the full range of measures but to identify measures that may be deemed lawful for accord participants to implement. Key industry stakeholders were made aware, through the Liquor Reform Implementation Consultative Committee forum, of OLGR's intentions to submit a pro-forma agreement to the commission.

The Liquor Act does not make liquor accords binding nor does it impose conditions on how they should be administered. As a result, some industry stakeholders have expressed a need for further assistance in developing accords. It is hoped that a pro-forma agreement will provide the necessary framework and protection for liquor accord participants. At the very least, it will provide liquor accord bodies with a basis from which to tailor their agreements to address specific issues.

3. Terminologies

Coles Liquor and Independent Distillers have commented on the ambiguity surrounding a number of phrases used in the pro-forma accord such as 'very high alcohol substances' and 'high alcohol carbonated drinks'. OLGR has previously submitted to the commission further clarification in respect of these phrases. Without limiting the information that has already been provided, OLGR would add that the serving sizes of many alcoholic beverages are often in excess of one standard drink. The alcoholic strength of a particular beverage can therefore be determined from the number of standard drinks contained in a single serving of that beverage.

In its report on ready-to-drink alcohol beverages, the Senate Community Affairs Committee noted that many pre-mixed spirits now contain seven per cent alcohol by volume. The Senate Affairs Committee found that 'ready-to-drink alcohol beverages (RTDs) are the preferred drink of choice for many young high risk drinkers, particularly for three quarters of women in the 18 to 24 year age group, who seem to prefer them over other alcoholic drinks'.¹ Elsewhere in its report, the Senate Community Affairs Committee noted 'a number of factors have contributed to the popularity of RTDs with young drinkers including...being attractive to young drinkers who are planning to get drunk because many 'premium' premixed spirits now comprised seven per cent alcohol by volume so a bottle or can contained two standard drinks'.² To this end, the strategies outlined in the pro-forma accord encourage licensees to consider how promotions of high alcohol products may affect certain categories of consumers such as young people.

The Code of Practice for the Responsible Service, Supply and Promotion of Liquor provides a guideline for licensees and their staff in relation to the safe service and supply of liquor. The Code defines the terms 'rapid' and 'excessive' used in the pro-forma accord as follows:

- 'Rapid' – A male patron consumes 4 or more standard drinks in one hour. A female patron consumes 3 or more standard drinks in one hour.
- 'Excessive' – A male patron consumes 11 or more standard drinks on any one day. A female patron consumes 7 or more standard drinks on any one day.

4. Mandatory accords

OLGR notes the National Drug Research Institute's suggestion for liquor accords to be made mandatory. However, the Government considers accords work most effectively when they are co-regulated with the liquor industry and are entered into on a voluntary basis.

¹ Senate Standing Committee on Community Affairs, 'Ready-to-drink alcohol beverages' (June 2008), page 18.

² Senate Standing Committee on Community Affairs, 'Ready-to-drink alcohol beverages' (June 2008), page 21.

Despite their voluntary nature, liquor accords are being widely adopted across the State with numbers increasing from around 60 at the end of 2009 to 83 as at 17 June 2010. OLGR continues to work with licensees and local communities to enhance and extend voluntary participation in the development and management of accords.

5. Effectiveness of accords

In its submission, the National Drug Research Institute points to several research reviews which have concluded that accords have little impact on the actual levels of alcohol consumption and harm. Despite these findings, OLGR is aware of anecdotal reports of reductions in complaints as well as police calls for service in areas where accords operate.

Another significant benefit of accords recently acknowledged in the Preventative Health Taskforce's National Preventative Health Strategy is the improvement in communication and cooperative participation among industry stakeholders towards the resolution of alcohol-related issues.

Two specific accord initiatives that have achieved positive outcomes at the local level are the Chill Out Zone and the Inter-venue Radio Communication Network with which the Surfers Paradise Licensed Venues Association has been involved. The Chill Out Zone has been operating Thursday to Saturday nights since 1998 and offers first aid, immediate care and welfare support for patrons within the Surfers Paradise precinct. The association secured initial funding for this service, the first of its kind in the world, and was instrumental in its development to enhance community safety.

Launched in 2009, the Inter-venue Radio Communication Network connects participating licensed premises by a secure digital radio network. The network is linked to the Gold Coast City Council closed-circuit television monitoring room to enable incidents to be reported quickly to the Queensland Police Service if required. The direct communication has already assisted in the prevention of incidents and the detention of offenders. Last year, the Inter-venue Radio Communication Network received a Gold Coast City Council Community Safety Award.

The above initiatives are just two of numerous examples of the capacity of accords to:

- proactively address emerging issues
- provide a mechanism for licensees to be accountable for patron behaviour and contribute to development of practical solutions to alcohol-related problems, and
- facilitate and encourage positive relationships between key industry stakeholders.

6. Training and enforcement

The Alcohol and other Drugs Council of Australia and National Drug Research Institute have expressed concerns that accords may not operate successfully under the normal pressures of business unless they are supported by mandatory enforcement and training.

An accord often incorporates many different components from encouraging the use of safe glassware to imposing restrictions on the promotion of discounted liquor. Recent reforms to the *Liquor Act 1992* have mandated one previously voluntary aspect of the accord.

It is now a condition of a licensee's licence that the following persons have a current training course certificate in the responsible service of alcohol:

- if the licensee is an individual – the licensee, and
- a member of staff involved in the service or supply of liquor including bartenders, glass collectors, floor hostesses and room service staff.

The Responsible Service of Alcohol course is delivered by qualified trainers and is designed to increase staff knowledge and awareness about responsible service practices. Trained staff are better able to recognise and respond to signs of undue patron intoxication.

The liquor reforms also introduced mandatory training for individual licensees and managers of licensed venues on the Responsible Management of a Licensed Venue. The Responsible Management of a Licensed Venue course equips participants with a sound understanding of their legal obligations to manage licensed premises in a safe and socially responsible manner taking into consideration best practice in venue management.

7. Other matters

OLGR notes that interested parties have also raised a number of other issues including safety management plans and the regulation of the consumption of liquor on premises where gambling takes place.

OLGR considers that these matters are more appropriately addressed in another forum as they are not specifically concerned with the pro-forma accord application.

If you have any further queries in relation to the above, please contact Mr David Hart, Director, Gaming Services Branch, OLGR on telephone (07) 3872 0911.

Yours sincerely



MICHAEL SARQUIS
Executive Director

18/6/2010