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Alcohol and other Drugs Council of Australia

submission to the
Productivity Commission inquiry into

National Competition Policy Arrangements

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1. INTRODUCTION

On 23 April 2004, the Treasurer of the Commonwealth of Australia announced that the Productivity Commission would be conducting an inquiry into Australia's National Competition Policy (NCP) arrangements. The purpose of the inquiry is to inform a Council of Australian Governments (COAG) review of NCP arrangements that is due to take place by September 2005.

The Australian Government has asked the Productivity Commission to examine the impact of competition policy reforms undertaken to date and to identify areas of opportunity for significant gain through further competition reform. The scope of the inquiry includes the impact of NCP and related reforms on the Australian community and the commission has encouraged broad comment on any issues participants consider to be relevant.

In 1995, all Australian governments signed agreements to implement a range of competition reforms under the NCP framework. As part of these agreements, states and territories undertook to review their legislation and remove barriers to competition unless they could demonstrate that retaining a particular restriction was in the public interest and could not be met by other means (National Competition Council 2003). In turn, the Australian Government has been making annual payments to states/territories as a means of sharing the gains arising from the reforms as well as providing financial incentives for the states and territories to implement their agreed competition policy commitments (National Competition Council 2003b).

Liquor licensing legislation was identified for review across jurisdictions and the issues around this process in each state/territory have generated considerable public and political debate. Following the most recent review by the National Competition Council (NCC) of state/territory progress against NCP reforms, the council announced that five Australian jurisdictions had failed to address anticompetitive elements in their liquor licensing regulations. The council recommended that deductions be made to the 2003/04 competition payments from the federal government to these jurisdictions and the Treasurer accepted these recommendations. At the time of writing, as far as ADCA is aware, amended legislation addressing the NCC concerns had not been passed in any of the five affected jurisdictions.

2. THE ALCOHOL AND OTHER DRUGS COUNCIL OF AUSTRALIA

The Alcohol and other Drugs Council of Australia (ADCA) is the peak, national, non-government organisation representing the interests of the Australian alcohol and other drugs sector, providing a national voice for people working to reduce the harm caused by alcohol and other drugs.

ADCA works collaboratively with the government, non-government, business and community sectors to promote evidence-based, socially just, approaches aimed at preventing or reducing the health, economic and social harm caused by alcohol and other drugs to individuals, families, communities and the nation.

ADCA's membership includes organisations, services, agencies and individual professionals and practitioners engaged in alcohol and other drug services throughout Australia. ADCA's membership also includes: major university research centres; tertiary institutions that offer courses in addiction studies and other programs for alcohol and other drugs workers; officers of the law and criminal justice system; policy analysts; and administrators.

ADCA currently has 370 organisational, associate organisational and individual members. ADCA's member organisations employ almost 10 000 staff Australia wide, of which approximately 2 500 are specifically employed within the alcohol and other drugs sector. The work of ADCA is governed by a Board of Directors and informed by eight Reference Groups. ADCA's Reference Groups are comprised of individuals from each state and territory who are nominated and elected by ADCA members in that jurisdiction.

Further information about ADCA can be found at www.adca.org.au

3. SUMMARY

Alcohol is not just another commodity. Unlike benign or healthful products it is a drug that, when misused, is second only to tobacco use as a preventable cause of death and hospitalisation in Australia (National Expert Advisory Committee on Alcohol 2001). Research over 50 years in developed countries (Edwards, Anderson & Babor et al. 1994; Babor, Caetano & Casswell et al. 2003) has demonstrated that the cheaper and more available alcohol is in a community, the higher the consumption and the higher the harms caused by the use of alcohol. It is therefore inappropriate to treat restrictions governing its sale like those that regulate the sale of other commodities. ADCA accordingly questions the validity of applying NCP reforms to liquor licensing regulations.

Many public health advocates believe that the considerable potential for improving public health and safety through effective liquor licensing regulations has not yet been fully realised (see, for example, National Centre for Research into the Prevention of Drug Abuse 1997; Stockwell 1998). Research shows that liquor licensing regulations, particularly where well monitored and enforced, may reduce alcohol related harms by lowering the incidence of heavy alcohol consumption. Studies also indicate that alcohol related harm is strongly linked to licensed premises and that an increase in the numbers of licensed establishments – particularly high risk venues in identified hotspots – may increase levels of harm.

It is important to note, therefore, that while fiscal benefits may indeed result from greater competition between those that sell and seek to sell alcohol, an increase in the already significant levels of alcohol related harm in this country is just as likely. This in turn will have fiscal impacts of its own through increased social, health and law enforcement costs.

In the light of evidence on the effects of increased alcohol availability and high risk outlets more generally, ADCA believes that the community's public health and safety is not served by increasing competition amongst alcohol retailers. ADCA believes it is inappropriate to assess liquor licensing legislation according to its capacity to generate competition and it is therefore fundamentally opposed to NCP reforms being applied to jurisdictions' legislation in this area. ADCA calls for the removal of liquor licensing legislation from the reform agenda and the reversal of payment deductions to the affected jurisdictions.

4. BACKGROUND

4.1 Australian drinking patterns

Alcohol consumption is entrenched in Australian culture and is part of many social occasions. It remains the most widely used drug in Australia with 90.4% of the population aged 14 years and over having used alcohol at some time in their lives and 82.4% having used it in the 12 months preceding the 2001 National Drug Strategy Household Survey (Australian Institute of Health and Welfare 2002).

Research shows that there are clear gender differences in patterns of alcohol consumption with males generally beginning to consume alcohol at a younger age than females and being more likely to put themselves at risk of short-term and long-term harm. Males are also more likely to meet the criteria for alcohol abuse and for alcohol dependence than females. Although males are more likely overall than females to drink at risky levels, this pattern is reversed for adolescents (Shand et al. 2003).

The patterns of high risk drinking among young people and in some Indigenous communities are of particular concern. Binge drinking and deliberate drinking to become intoxicated are very common among adolescents (Shand et al. 2003). The data from the 2001 Household Survey showed that 11.8% of females and 9.6% of males aged 14-19 years drank at least weekly at levels that put them at risk of causing harm in the short term, such as injury. Amongst 20-29 year olds the percentage of females and males drinking at these levels were 9.3% and 14.6% respectively (Australian Institute of Health and Welfare 2002b).

While a higher proportion of Indigenous people abstain from alcohol compared to the general community, the proportion of Indigenous people who reported drinking at risky/high risk levels for long-term harm in 2001 is more than twice as high as non-Indigenous alcohol consumers (19.9% as opposed to 9.7%) (Australian Institute of Health and Welfare 2002b).

4.2 Alcohol effects and levels of harm

Alcohol slows down activity in the central nervous system and is therefore classed as a depressant. In small quantities alcohol can relax the body, produce feelings of wellbeing and lower inhibitions. In larger quantities alcohol can affect concentration and coordination, slow reactions and slur speech (Australian Drug Foundation 2003). Alcohol consumed at risky or high risk levels can cause aggression, vomiting and unconsciousness (National Health and Medical Research Council 2001).

While there are some potential health benefits linked to light intake, alcohol consumption is the second most common cause of drug related harm in Australia and its misuse places an enormous fiscal and social burden on the community. The NHMRC has formulated guidelines to assist Australians to avoid or minimise harm from alcohol consumption (National Health and Medical Research Council 2001). The guidelines emphasise managing the risks associated with certain patterns and levels of alcohol consumption. They set levels for low risk drinking and indicate

levels that are considered to be risky and high risk. They also distinguish levels of consumption that pose short-term health risks (such as injury or death from accident, assault and self harm) from those that create long-term health risks (such as liver cirrhosis).

Despite what many experts consider to be the relatively generous nature of the NHMRC guidelines, researchers estimate that over 80% of alcohol consumed in Australia in 2001 put the health and safety of drinkers at risk of acute and/or chronic harm (Chikritzhs et al. 2003). Further, contrary to a widely held perception that chronic heavy drinkers are the main contributors to alcohol related harm, research shows that occasional or weekend excessive drinking (often referred to as binge drinking) poses the greatest risk in respect of alcohol related violence, accidents and injury (Shand et al. 2003; Stockwell et al. 1996).

4.3 National Competition Policy and liquor licensing regulations

In April 1995, all Australian governments reached settlement on a national competition policy for Australia and signed a number of agreements to guide the process of review and reform of regulations that were deemed to be anticompetitive. These activities were consistent with global movements in micro-economic reform at the time.

Each year the NCC assesses jurisdictions' progress in implementing competition policy reform commitments. The NCC requires that governments review pieces of legislation that impede competition and remove restrictions that cannot be justified. Governments are not obliged to remove restrictions that benefit the public, but they must independently and objectively establish the benefits are real and cannot be achieved by other means (National Competition Council 2003b).

On the basis of the annual assessments, the council then makes recommendations to the Australian Government on competition policy payments to each state and territory. The payments are allocated on a per capita basis and function both as an incentive for jurisdictions to implement their agreed NCP commitments as well as a means of sharing the gains accrued through implementing reforms (National Competition Council 2003b).

Following the 2003 assessments, the NCC recommended a number of payment deductions and suspensions from the possible maximum funding of approximately \$765 million in 2003/04. Of the \$54.31 million that the NCC recommended in deductions, over half (more than \$27.2 million) related to liquor licensing reforms across five jurisdictions: New South Wales, Queensland, Western Australia, South Australia and the Northern Territory. The council's recommendations were subsequently accepted by the Treasurer.

The council claims that the NCP process is flexible and advises that there are cases where restrictive regulations have been able to continue where they are shown to be in the public interest. It also cites cases where regulations have been modified to maintain public benefits while reducing impacts on competition (National Competition Council 2003b). This is what the NCC refers to as the 'public interest test'. It essentially means that governments are allowed to maintain regulations that are of

net benefit to the community unless that benefit can be realised through other, less anticompetitive ways (Costello 2003).

The NCC separately addressed the issue of NCP reforms as they relate to liquor licensing regulations in a December 2003 press release. The council claimed that contrary to some media coverage of the issue, it does not require the unrestricted sale of alcohol and that public interest must come first. However, the council went on to focus its description of restrictions that are consistent with NCP to:

- maintaining minimum age of legal consumption
- requiring that retailers be suitable persons with sufficient knowledge of relevant legislation
- preventing the sale of alcohol to people who are intoxicated.

ADCA agrees that such restrictions should be an integral part of licensing legislation. However, on their own, and particularly without effective enforcement, they are inadequate.

When considering whether particular restrictions are in the public interest – or indeed whether it is appropriate to assess liquor licensing legislation on the basis of its capacity to generate competition – ADCA believes that there are a number of issues that need to be taken into account:

- alcohol is a drug; it is not just another commodity
- greater availability is linked to increased consumption and alcohol related harms
- high risk drinking and alcohol related harm are linked to licensed venues
- the enforcement of existing licenses does not appear to be effective
- increasing the types of venues that can serve alcohol may further normalise drinking in Australian society
- evidence from the Australian experience so far.

In the following section of this submission, ADCA discusses these issues in detail and provides evidence to support the view that increasing competition between those that sell and seek to sell alcohol is not likely to be of net benefit to the Australian community.

5. ISSUES AND EVIDENCE

5.1 Alcohol is not just another commodity

Alcohol is no ordinary commodity. It is a drug that has been shown to cause considerable social and physical harm especially when it is consumed in binge quantities over a short period. As noted above, while there are some potential health benefits linked to light consumption of alcohol, its misuse places an enormous impost on the Australian community. In the ten years from 1992, an estimated 31 133 deaths were caused by alcohol related disease and injury (Chikritzhs et al. 2003) and in 1998-99, alcohol misuse cost the Australian community over \$7.5 billion (Collins & Lapsley 2003).

In a recent publication of data from the National Alcohol Indicators Project (Chikritzhs et al. 2003), it was reported that of all the alcohol consumed by Australians in 2001, at least 80% was consumed in ways that put the drinker at risk of acute and/or chronic alcohol related harm. The authors attributed 40 potentially fatal conditions in whole or part to alcohol consumption including injury, liver disease, cancers and suicide and noted that between 1992 and 2001, a greater number of Australians died from the acute effects of alcohol than long term or chronic effects. Further, in terms of hospitalisations, Chikritzhs et al. (2003) reported that between 1993/94 and 2000/01, over 577 000 completed hospital episodes were estimated to have been caused by risky or high risk drinking in Australia and almost 70% of hospital episodes that were caused by alcohol use were for acute conditions, most commonly injuries caused by intoxication.

Alcohol misuse is also highly correlated with crime. For example, police assessments of incidents attended over a four week period in Eastern Sydney showed high levels of alcohol involvement across a number of offence types including street offences (77% of incidents were alcohol related), malicious damage (58%), domestic violence (40%) and noise complaints (59%) (Ireland & Thommeny 1993).

It is important to note that alcohol related harm seems to be most closely linked with those that drink, on average, moderate amounts of alcohol rather than those who are consistently heavy drinkers. For example, research has shown using 1992 Australian data that 47% of alcohol related deaths and 67% of potential years of life lost can be attributed to acute rather than chronic misuse of alcohol (National Centre for Research into the Prevention of Drug Abuse 1997). In other words, it is occasional binge drinkers, rather than habitual heavy drinkers who are at greatest risk of alcohol related harm. This is clearly a significant public health issue that has the potential to affect all Australians, not just those considered to be heavy drinkers or 'alcoholics'.

That said, higher levels of consumption are associated with increases in harm and this is discussed in more detail below. For example, in 2003, Chikritzhs et al. reported that the trend in alcohol-caused deaths followed the trend in consumption in most jurisdictions. Using liquor licensing returns, the researchers estimated that between 1991/92 and 1995/96, the NT had the highest level of alcohol consumption per capita and Victoria and Tasmania had the lowest. When looking at alcohol-related harms, they found that the NT consistently had the highest alcohol-caused

deaths and hospitalisations when compared to other jurisdictions. It should be noted, however, that these figures do not take account of differences in availability and any impact they may have on consumption.

5.2 Greater availability is linked to increased consumption and harms

Since increased consumption is linked to higher levels of harm, the factors that precipitate rises in alcohol consumption need to be identified in order to minimise harms. It has been demonstrated that increased physical availability is associated with increased sales and levels of consumption (see, for example, Gruenewald, Ponicki & Holder 1993) and certainly this trend reflects basic supply and demand economic theory.

In summarising the international evidence regarding the effects of regulating physical availability of alcohol, Babor, Caetano & Casswell et al. (2003 p. 133) report that controlling alcohol availability can help reduce alcohol problems. Specifically, they note that 'reductions in the hours and days of sale, numbers of alcohol outlets, and restrictions on access to alcohol, are associated with reductions in both alcohol use and alcohol-related problems'.

When examining the relationship between alcohol sales and assault in NSW, Stevenson, Lind & Weatherburn (1999) found a significant relationship between the overall sales of alcohol in a particular area and its incidence of assault, both in Sydney and in country NSW. The relationship remained significant after controlling for demographic and socioeconomic factors. They concluded that the results of the study were consistent with alcohol consumption as a causal factor in violent crime and cited a number of other studies, primarily in the United States, that have demonstrated a link between alcohol and violent crime.

The researchers also looked at the relationship between alcohol sales in NSW and property damage and public disorder (Stevenson, Lind & Weatherburn 1999b). They found that both property damage and public order offences occurred more frequently in areas with greater sales of alcohol and that the effect of sales was more pronounced in Sydney than it was in country NSW. The effect was significant after controlling for social, economic and demographic correlates of crime. The researchers concluded that, as with assault, the findings were consistent with alcohol consumption playing a causal role in malicious damage and offensive behaviour. They note that since aggressive behaviour is known to increase in individuals following the consumption of alcohol in laboratory situations, it is not surprising that alcohol plays a significant role in these types of offences.

These Australian findings support international evidence on the linkages between outlet density and alcohol consumption. For example, a key US study published in 1993 (Gruenewald, Ponicki & Holder) found that physical availability of alcohol was directly related to sales of spirits and wine independent of the effect of beverage prices.

Conversely, limiting the physical availability of alcohol has the potential to reduce harms. This principle underpins public health initiatives in Australia designed to minimise the effects of alcohol misuse in a number of Indigenous communities.

Strategies to limit alcohol availability include the establishment of 'dry' areas, restricting the amount of takeaway alcohol that can be purchased and limiting trading hours. To be most effective, these controls require considerable community support and limited alternative sources of supply. It should be noted that, as with general liquor licensing laws, enforcement can be problematic.

D'Abbs and Tongi (2000) reviewed the effectiveness of community-based restrictions on alcohol availability in remote and regional Australia and found that such restrictions are an effective means of reducing alcohol related harm at the local level. In reaching this conclusion they found that restrictions on availability had a significant impact on indicators of alcohol related harm, particularly violence.

5.2.1 Longer trading hours

Australian research has shown that increasing availability through longer trading hours can increase harms. A study of the effects of extended trading hours in Darwin nightclubs in the early 1990s (d'Abbs, Forner & Thomsen 1994) showed that extended trading hours contributed to higher levels of late night assaults and disorder and that levels of intoxication were high in the vicinity of clubs with extended trading hours, particularly after 4am. Such findings are supported by subsequent research using data on assault offences reported to police in Perth, Western Australia, between 1991 and 1997 (Chikritzhs & Stockwell 2002). The researchers concluded that late trading was associated with increased levels of consumption and with increased violence in and around Perth hotels during the study period. It was suggested that greater number of patrons and higher levels of intoxication contributed to the increase in violence observed in the study.

When evaluating the public health and safety impact of extended trading permits for Perth hotels and night-clubs, Chikritzhs, Stockwell & Masters (1997) reported that premises with extended trading permits were associated with double the number of assaults in their area than premises trading regular hours. They were also more often reported as the last place of drinking by a convicted drink driver with a blood alcohol level over 0.08.

5.2.2 Increased number and types of establishments

An increase in the numbers and types of establishments that can sell alcohol – a predicted consequence of relaxing liquor licensing regulations in Australia – has also been associated with increased consumption. Anecdotal evidence, some of it from licensees themselves, suggests that increased competition between licensed venues creates pressure to engage in irresponsible serving practices such as selling alcohol to underage and/or intoxicated persons. It may also lead to heavy price discounting and/or more frequent or extended 'happy hours', both of which are likely to increase consumption levels and therefore increase the risk of alcohol related harm.

Studies in Finland cited by Babor, Caetano & Casswell et al. (2003; p. 125) show marked increases in consumption and harm when, in 1969, beer with up to 4.7% alcohol was allowed to be sold by grocery stores and it became easier to get a restaurant licence. At this time, the number of off-premises sales outlets increased from 132 to approximately 17 600 and on-premises venues increased from 940 to more than 4000. Further, it appeared that the increase in outlets was associated with

an increase in overall consumption of alcohol by 46%. The change in regulations also seemed to have a marked impact on health outcomes. In the following five years hospital admissions increased by 110% for men and 130% for women and mortality from liver cirrhosis increased by 50%. In terms of arrests for public drunkenness, there was an increase in arrests by 80% for men and 160% for women.

Conversely, when looking at tightening of restrictions, Swedish research published in 2002 found that rates of motor vehicle accidents were significantly decreased when the right to sell 4.5% beer in grocery stores was removed (cited in Babor, Caetano & Casswell 2003, p. 125).

US researchers who specialise in this field have noted that there is now general agreement that outlet density is related, at least in part, to levels of alcohol consumption and alcohol-related harm (Scribner, MacKinnon & Dwyer 1994). One such study, which was conducted in the Los Angeles area, showed that each additional liquor outlet was associated with an additional 3.4 assaults per year after controlling for other factors known to be linked with violent crime, including ethnicity and poverty (Scribner, MacKinnon & Dwyer 1995). The researchers concluded 'that higher levels of alcohol-outlet density are geographically associated with higher rates of assaultive violence'. In setting the context for their study, the researchers noted that:

Data from state, county and city levels of aggregation have been used to link outlet density to a number of alcohol-consumption-related outcomes including alcohol-associated motor vehicle crashes, arrests for drunk driving and public drunkenness, cirrhosis mortality and alcoholism rates.

Again using Los Angeles data, Scribner, MacKinnon & Dwyer (1994) demonstrated that increased availability of alcohol is associated with increased alcohol-related motor vehicle crashes and that this association is maintained when various potential confounders are controlled for. In the context of the current competition issue in Australia, it is interesting to see that at the time this study was published there was a strong association between injury crashes and all types of outlets except bars. This is contrary to popular notions of problem outlets. The researchers noted the proportion of outlets that were bars in Los Angeles County had fallen markedly over the previous 20 years and that restaurants and mini-markets had replaced bars as the primary sources of alcohol.

Another study examined the relationship between homicides in New Orleans in 1994 and 1995 and two measures of outlet density: outlets per square mile and outlets per person (Scribner et al. 1999). The study found a strong geographic association between the distribution of alcohol outlets and homicide rates in New Orleans. That is, those neighbourhoods with a high density of outlets also had high rates of homicides, even after controlling for other possible confounders such as social disintegration, unemployment and race.

Clearly retail access is linked to rates of alcohol consumption and the incidence of alcohol related problems. In light of this evidence, since current liquor licensing regulations serve in some way to limit the numbers of licensed venues, it is clear that they are also reducing alcohol related harms.

5.3 High risk drinking and alcohol related harm are linked to licensed venues

As the research shows, excessive consumption of alcohol is a major cause of harm in the Australian community and is associated with significant rates of injury, illness and death. Clearly, many alcohol related harms can be prevented through a reduction in high risk drinking practices, so it makes sense to examine where high risk drinking occurs.

Researchers have shown that heavy consumption of alcohol often occurs at licensed establishments and that licensed premises are associated with a considerable proportion of alcohol-related harm. For example, Briscoe and Donnelly (2003) report that in 'areas that have numerous licensed venues, attracting a large number of patrons, the proportion of assaults occurring in or near licensed premises increases substantially.' They cite research conducted by Jochelson which involved mapping recorded assaults that occurred in inner Sydney to see which locations were most associated with violent crime. Jochelson found that licensed establishments accounted for a third of the assaults in some areas and recommended stricter enforcement of liquor licensing legislation (see New South Wales Bureau of Crime Statistics and Research 2002).

Not surprisingly, binge drinking is often linked to licensed premises. Rydon et al. (1993) studied the blood alcohol levels of patrons leaving hotels and taverns in Perth and found that the average reported alcohol consumption for both males and females met or exceeded levels defined by the NHMRC as risky for short term harm and high risk for long term harm. Of even greater concern was that 23% of the sample had consumed more than 10 drinks (male) and 6 drinks (female).

In one study, which was conducted in Eastern Sydney, police assessments of incidents attended showed that 60% of alcohol-related street offences (assault, offensive behaviour and offensive language) occurred either in or near licensed establishments (Ireland & Thommeny 1993). A more recent study showed that licensed premises were the third most common site for reported assaults to occur (Briscoe & Donnelly 2001). The data from the 2002 National Crime and Safety Survey shows that over 10% of Australians assaulted in the preceding 12 months reported that the most recent incident of assault took place in entertainment venues such as pubs and nightclubs (including carparks). This represents 76 000 assaults taking place in and around pubs and nightclubs in the year prior to the survey (Commonwealth of Australia unpublished data).

Of course not all types of licensed venues are associated with the same levels of alcohol related harm. For example, the consumption of alcohol in restaurants and social clubs doesn't generate as many alcohol related problems as the consumption of alcohol in pubs, hotels, nightclubs and bars (Stockwell, Somerford & Lang 1992; Lang et al. 1992). As such, there is a convincing argument for legislation that differentiates between various types of licences and the types of restrictions that should apply to them (Stockwell 1998).

It could be reasoned that utilising discerning legislation, a jurisdiction could reduce the numbers of high risk licences without reducing the numbers of licences overall

and still be likely to see a reduction in total alcohol related harms. In a similar vein, some public health advocates have suggested the development of a formula using the demographic and geographic characteristics of an area to calculate optimal outlet density. Outlets could then be capped according to population and type (see, for example, Stockwell 1998; Moore cited in Jacobsen 2003). Such a formula would, of course, need to reflect a balance between too many outlets and too few, as fewer venues could result in risky behaviours such as overcrowding of venues and drinkers traveling greater distances (Stockwell 1998).

5.4 Normalisation of drinking

As noted in the background section of this paper, alcohol consumption is entrenched in Australian culture and remains the most widely used drug in this country. Further, the vast majority of alcohol consumed by Australians is done so in ways that put the drinker at risk of acute and/or chronic alcohol related harm (Chikritzhs et al. 2003). Such figures have prompted some health commentators to suggest that associating alcohol with an even greater number of everyday activities by increasing the types of outlets permitted to serve alcohol could further entrench its use. Those who argue a normalisation position are concerned that this could, in turn, increase alcohol related harm.

It is hard to hypothesise about the outcomes of broadening the types of establishments that can serve alcohol. Certainly some consumers argue that alcohol has been more freely available in much of Europe for a long time without severe repercussions and that it is the culture of drinking in Australia that results in harm rather than harm being a consequence of making alcohol more freely available per se (see, for example, Newton 2003; King 2003). While there is some evidence to support this view – for example the studies discussed above that link particular types of licensed venues, such as hotels, pubs and taverns – this is an oversimplified assessment of the European situation. It certainly doesn't take account of the role that alcohol plays in different societies nor the varying cultural norms that impact on patterns of consumption.

5.5 Enforcement of current licences

Liquor licensing laws vary between jurisdictions but generally provide controls over:

- who can be served alcohol
- the opening hours of licensed premises
- the ways in which alcohol can be served (such as responsible service by licensees as well as not serving alcohol in glass containers at some events)
- security measures (such as adequate numbers of security staff and limits on crowding).

There have been concerns expressed by many public health advocates regarding the enforcement of liquor licensing laws in Australia. They generally share a view that there are 'few incentives for licensees to comply with the licensing laws and many incentives not to' (Royal Australian College of Physicians 2003).

Certainly there is evidence demonstrating that levels of compliance with current regulations – such as those prohibiting the serving of alcohol to underage or intoxicated people – is low. Briscoe and Donnelly (2003) cite numerous studies that link excessive consumption of alcohol by intoxicated persons on licensed premises with alcohol related harm and note that while liquor laws prohibit the sale of alcohol to intoxicated persons, this is not reflected in practice. One study involving a survey of 18-39 year olds in NSW who reported drinking at levels which place them at risk of acute alcohol-related harm found that over half of the cohort reported that their last incidence of at-risk drinking occurred at a licensed venue (Donnelly & Briscoe 2002). Of this group, over half said that they exhibited one or more signs of intoxication.

There is also evidence to suggest that licensees who allow staff to continue to serve intoxicated patrons are often not penalised. Findings from a NSW study showed that over a six year period less than 2% of all licensed venues in that state were prosecuted for serving alcohol to an intoxicated person or allowing an intoxicated person to remain on their premises (New South Wales Bureau of Crime Statistics and Research 2003; Briscoe & Donnelly 2003). Further, in 2001 only about 4% of infringement notices issued by police for liquor offences were against licensed venues for serving alcohol to an intoxicated person or allowing an intoxicated person to remain on their premises. These findings were considered to be surprising in light of earlier research carried out by the NSW Bureau of Crime Statistics and Research which showed that large numbers of young people are being served alcohol on licensed premises when they are plainly intoxicated (New South Wales Bureau of Crime Statistics and Research 2002b; Donnelly & Briscoe 2002).

The researchers noted that much of the enforcement activity in respect of liquor laws in NSW focuses on patrons rather than owners, managers or staff of licensed venues. Further, when action is taken against licensees/managers/secretaries, it often involves technical breaches of liquor laws rather than the serving of alcohol to someone who is intoxicated or allowing intoxicated persons to remain on the premises. On releasing the report of the study the researchers stated that stricter enforcement of liquor licensing laws is critical to reducing levels of alcohol related crime and violence.

Findlay et al. (2002) demonstrated that there are similar issues around monitoring, compliance and enforcement of liquor licensing legislation in Queensland. When surveying operational police officers from both urban and regional locations, the researchers found that 'police directed most enforcement at individual drinkers in breach of the law rather than the venue that supplied the alcohol'.

It has been suggested that effective enforcement of liquor licensing legislation is limited by a number of factors including constraints on resources, legislative complexities, competing policing priorities and a preference for self regulation by the hospitality industry (cited in National Expert Advisory Committee on Alcohol 2001b). At a national level, the enforcement of legislation in respect of sale of alcohol to minors has been identified as a particular area in which improvement is encouraged (National Expert Advisory Committee on Alcohol 2001b).

The retail liquor industry is already highly competitive and licensees are unlikely to adhere to legislation governing the responsible service of liquor if they perceive that the risk of being caught is small or the punishment trivial (Briscoe & Donnelly 2003).

In this context it would seem unlikely that levels of alcohol-related harm would improve or even remain static if there were even a small number of additional licensed premises to be monitored for compliance.

5.6 The Australian experience so far

Restrictions in some parts of Australia have been, or are in the process of being, relaxed in order to meet agreed NCP commitments. ADCA is of the belief that it is too early to assess what the effect has been on alcohol related harm of the more liberal licensing restrictions that exist in some Australian jurisdictions. To date, targeted research to measure the social and health impacts of increased numbers and types of licensed establishments has not been conducted. Further, it is not possible to compare levels of harmful drinking in jurisdictions before and after legislative changes were implemented due to the change in definition of hazardous drinking that occurred between the 1998 and 2001 National Drug Strategy Household Surveys.

That said, there is some evidence to show that an increase in the numbers and types of licensed outlets is having a negative impact on certain high risk population groups such as young people. Anecdotal evidence in the Australian Capital Territory and Victoria suggests that there have been increases in binge drinking and underage drinking in recent years (see, for example, Munro, Macken cited in Jacobsen 2003b; Midford cited in Russell 2004). This is supported by recently published evidence from the 2003 Victorian Youth Alcohol and Drug Survey which shows that there have been increases in the levels of reported alcohol use by young people between the 2002 and 2003 surveys. Of even greater concern is that significantly more young Victorians are putting themselves at risk of short term harm on a weekly basis (15% increased to 18%) and monthly basis (42% to 50%) since the 2002 survey (Premier's Drug Prevention Council 2004).

6. CONCLUSION

Competition reform has been on government agendas in Australia and internationally for many years now. The very existence of this inquiry indicates that it will probably remain a priority for quite some time. While it is indeed timely to look at the benefits that have accumulated through the implementation of Australia's NCP reforms, it is just as timely to examine areas in which reforms may have had a negative net impact on the community or are likely to do so in the future.

The NCP reform agenda may seem reasonable when considering competition reform in a broad sense. However, in the context of available evidence on alcohol related harms, it is hard to generalise its applicability to regulations that apply to the selling of alcohol. Research shows that increasing the availability of alcohol elevates consumption which in turn escalates levels of alcohol related injury, illness and death. Further, existing restrictions governing the sale of alcohol to underage or intoxicated persons appear to be inadequately enforced. Without a substantial commitment of new resources to improve enforcement capabilities and effectiveness, it is probable that an increase in outlet numbers and/or extension of trading hours will similarly multiply alcohol related harms.

In all likelihood, the benefits accrued by greater competition between those that sell and seek to sell alcohol will be more than offset by the costs associated with the consequent harms. ADCA believes that there is a clear case that enhanced competition is not in the public interest and that jurisdictions should not have to prove this on an individual basis.

In this context, ADCA believes that the capacity to generate competition is an inappropriate measure of the validity of liquor licensing regulations and is gravely concerned at amendments to legislation that are likely to result in greater numbers and types of outlets selling alcohol. ADCA therefore denounces the punitive approach that is being taken by the Australian Government towards jurisdictions with licensing regulations that serve to limit the number of outlets.

There is little doubt that liquor licensing legislation requires reform across jurisdictions. However, the basis of such reform **should not** be the enhancement of competition between alcohol retailers. Rather, liquor licensing legislation should be reformed to reflect the reduction of alcohol related harm as its primary aim. Only then may such legislation realise its public health potential and function for the benefit of the whole Australian community.

ADCA is firmly opposed to NCP reforms being applied to liquor licensing legislation and calls on the Australian government to remove such legislation from the reform agenda.

7. RECOMMENDATIONS

In light of the evidence presented in this submission, ADCA urges the Australian Government to:

- recognise alcohol's status as a drug associated with a considerable burden of health and social harm in Australia
- recognise that increased availability is linked to elevated rates of alcohol related injury, illness and death
- recognise that the capacity to generate competition is therefore an inappropriate measure to apply to liquor licensing legislation
- remove the review and reform of liquor licensing legislation from the National Competition Policy reform agenda
- reverse the deductions from 2003/04 National Competition Policy payments that relate to liquor licensing legislation to the five affected jurisdictions.

8. REFERENCES

- Australian Drug Foundation 2003, *Alcohol*, Australian Drug Foundation, Melbourne, viewed 2 May 2003.
<http://druginfo.adf.org.au/article.asp?id=2198>
- Australian Institute of Health and Welfare 2002, *2001 National Drug Strategy Household Survey: first results*, Australian Institute of Health and Welfare, Canberra.
- Australian Institute of Health and Welfare 2002b, *2001 National Drug Strategy Household Survey: detailed findings*, Australian Institute of Health and Welfare, Canberra.
- Babor T, Caetano R & Casswell S et al. 2003, *Alcohol: no ordinary commodity*, Oxford University Press, Oxford.
- Briscoe S & Donnelly N 2001, 'Temporal and regional aspects of alcohol-related violence disorder', *Alcohol Studies Bulletin*, New South Wales Bureau of Crime Statistics and Research, no.1, May.
http://www.agd.nsw.gov.au/bocsar1.nsf/pages/pub_alcohol
- Briscoe S & Donnelly N 2003, 'Liquor licensing enforcement in New South Wales', *Alcohol Studies Bulletin*, New South Wales Bureau of Crime Statistics and Research, no.4, June.
http://www.agd.nsw.gov.au/bocsar1.nsf/pages/pub_alcohol
- Chikritzhs T & Stockwell T 2002, 'The impact of later trading hours for Australian public houses (hotels) on levels of violence', *Journal of Studies on Alcohol*, vol. 63, no. 5, September, pp.591-599.
- Chikritzhs T, Stockwell T & Masters L 1997, *Evaluation of the public health and safety impact of extended trading permits for Perth hotels and night-clubs*, National Centre for Research into the Prevention of Drug Abuse, Perth.
- Chikritzhs T, Catalano P, Stockwell T, Donath S, Ngo H, Young D & Matthews S 2003, *Australian alcohol indicators 1990-2001: patterns of alcohol use and related harms for Australian states and territories*, National Drug Research Institute, Perth.
- Collins DJ & Lapsley HM 2003, *Counting the cost: estimates of the social costs of drug abuse in Australia in 1998-9*, National Drug Strategy monograph series no. 49, Commonwealth Department of Health and Ageing, Canberra.
- Commonwealth of Australia unpublished data, National Crime and Safety Survey 2002, *Assault typology of most recent incident by state or territory of usual residence*, Australian Bureau of Statistics, Melbourne.
- Costello P (Treasurer of the Commonwealth of Australia) 2003, *National Competition Policy payments to state and territories for 2003-04*, media release, Parliament House, Canberra, 8 December.
- d'Abbs P & Tongi S 2000, 'Liquor licensing and community action in regional and remote Australia: a review of recent initiatives', *Australian and New Zealand Journal of Public Health*, vol. 24, no. 1, February, pp. 45-53.
- d'Abbs P, Forner J & Thomsen P 1994, *Darwin nightclubs: a review of trading hours and related issues*, Menzies School of Health Research, Darwin.
- Donnelly N & Briscoe S 2002, 'Young adults' experience of responsible service practice in NSW', *Alcohol Studies Bulletin*, Curtin University of Technology and NSW Bureau of Crime Statistics and Research, no. 3, July.
- Edwards G, Anderson P & Babor TF et al. 1994, *Alcohol policy and the public good*, Oxford University Press, Oxford.

- Findlay RA, Sheehan MC, Davey J, Brodie H & Rynne F 2002, 'Liquor law enforcement: policy and practice in Australia', *Drugs: Education, Prevention and Policy*, vol. 9, no. 1, pp. 85-94.
- Gruenewald PJ, Ponicki WR & Holder HD 1993, 'The relationship of outlet densities to alcohol consumption: a time series cross-sectional analysis', *Alcoholism: Clinical and Experimental Research*, vol. 17, no. 1, January/February, pp. 38-47.
- Ireland CS & Thommeny JL 1993, 'The crime cocktail: licensed premises, alcohol and street offences', *Drug and Alcohol Review*, vol. 12, no. 2, pp. 143-150.
- Jacobsen G 2003, 'Liquor outlets face social test', *Sydney Morning Herald*, 12 December, p. 6.
- Jacobsen G 2003b, 'Easy alcohol lifts crime, study warns', *Sydney Morning Herald*, 11 December, p. 6.
- King M 2003, Letter to the editor, *Sydney Morning Herald*, 12 December, p. 12.
- Lang E, Stockwell T, Rydon P & Gamble C 1992, *Drinking settings, alcohol related harm and support for prevention policies*, National Centre for Research into the Prevention of Drug Abuse, Perth.
- National Centre for Research into the Prevention of Drug Abuse 1997, *Submission to the Review of the Victorian Liquor Control Act 1987*, National Centre for Research into the Prevention of Drug Abuse (now National Drug Research Institute), Perth.
- National Competition Council 2003, *NCP does not require unrestricted sale of alcohol*, press release, 9 December, National Competition Council, Melbourne.
- National Competition Council 2003b, *2003 NCP assessment outcomes*, press release, 9 December, National Competition Council, Melbourne.
- National Expert Advisory Committee on Alcohol 2001, *National Alcohol Strategy: a plan for action 2001 to 2003-04*, Commonwealth Department of Health and Aged Care, Canberra.
- National Expert Advisory Committee on Alcohol 2001b, *Alcohol in Australia: issues and strategies*, Commonwealth Department of Health and Aged Care, Canberra.
- National Health and Medical Research Council 2001, *Australian Alcohol Guidelines: health risks and benefits*, National Health and Medical Research Council, Canberra.
- New South Wales Bureau of Crime Statistics and Research 2002, *Summary - R43 Crime & place: an analysis of assaults and robberies in inner Sydney: Robert Jochelson 1997*, New South Wales Bureau of Crime Statistics and Research, Sydney, viewed 18 May 2004.
<http://www.lawlink.nsw.gov.au/bocsar1.nsf/pages/crime&placesumm>
- New South Wales Bureau of Crime Statistics and Research 2002b, *Young adults' experience of responsible serving practice in NSW*, media release, 26 July, New South Wales Bureau of Crime Statistics and Research, Sydney, viewed 1 June 2004.
<http://www.lawlink.nsw.gov.au/bocsar1.nsf/pages/media260702>
- New South Wales Bureau of Crime Statistics and Research 2003, *Liquor licensing enforcement activity in NSW*, media release, 6 August, New South Wales Bureau of Crime Statistics and Research, Sydney, viewed 6 August 2003.
<http://www.lawlink.nsw.gov.au/bocsar1.nsf/pages/media060803>
- Newton J 2003, Letter to the editor, *Sydney Morning Herald*, 12 December, p. 12.
- Premier's Drug Prevention Council 2004, *Victorian Youth Alcohol and Drug Survey 2003: alcohol findings*, Premier's Drug Prevention Council, Melbourne, viewed 8 June 2004.
<http://www.druginfo.adf.org.au/article.asp?id=3495&ContainerID=508>
- Royal Australian College of Physicians 2003, *Medical and Community Group Action Plan for the NSW Alcohol Summit 2003*, Royal Australian College of Physicians, Sydney, viewed 14 April 2004.

<http://www.racp.edu.au/hpu/policy/alcohol/index.htm>

- Russell A 2004, 'Message in a bottle', *The Age*, 7 June, p. 6.
- Rydon P, Stockwell T, Syed DA & Jenkins EM 1993, 'Blood alcohol levels of patrons leaving licensed premises in Perth, Western Australia', *Australian Journal of Public Health*, vol. 17, no. 4, December, pp. 339-345.
- Scribner RA, MacKinnon DP & Dwyer JH 1994, 'Alcohol outlet density and motor vehicle crashes in Los Angeles County cities', *Journal of Studies on Alcohol*, vol. 55, no. 4, July, pp. 447-453.
- Scribner RA, MacKinnon DP & Dwyer JH 1995, 'The risk of assaultive violence and alcohol availability in Los Angeles County', *American Journal of Public Health*, vol. 85, no. 3, March, pp. 335-340.
- Scribner R, Cohen D, Kaplan S & Allen SH 1999, 'Alcohol availability and homicide in New Orleans: conceptual considerations for small area analysis of the effect of alcohol outlet density', *Journal of Studies on Alcohol*, vol. 60, no. 3, May, pp. 310-316.
- Shand F, Gates J, Fawcett J & Mattick R 2003, *The treatment of alcohol problems: a review of the evidence*, Commonwealth Department of Health and Ageing, Canberra, viewed 30 June 2003. <http://www.health.gov.au/pubhlth/publicat/alcohol.htm>
- Stevenson RJ, Lind B & Weatherburn D 1999, 'The relationship between alcohol sales and assault in New South Wales, Australia', *Addiction*, vol. 94, no. 3, pp. 397-410.
- Stevenson RJ, Lind B & Weatherburn D 1999b, 'Property damage and public disorder: their relationship with sales of alcohol in New South Wales, Australia', *Drug and Alcohol Dependence*, vol. 54, no. 2, 1 April, pp. 163-170.
- Stockwell T 1998, *Draft submission to the National Competition Policy Review of the 1988 WA Liquor Act and 1989 Liquor Licensing Regulations*, National Centre for Research into the Prevention of Drug Abuse (now the National Drug Research Institute), Perth.
- Stockwell T, Somerford P & Lang E 1992, 'The relationship between license type and alcohol-related problems attributed to licensed premises in Perth, Western Australia', *Journal of Studies on Alcohol*, vol. 53, no. 5, September, pp. 495-498.
- Stockwell T, Hawks D, Lang E & Rydon P 1996, 'Unravelling the preventive paradox for acute alcohol problems', *Drug and Alcohol Review*, vol. 15, no.1, March, pp. 7-15.