

Submission to

**Productivity Commission
*Issues Paper***

***Relative Costs of Doing Business in Australia:
Retail Trade Industry***

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(ALSA)**

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The Australian Liquor Stores Association Inc. (ALSA) welcomes the Productivity Commission draft of the *Relative Costs of Doing Business in Australia: Retail Trade* and provides a response to the specific focus of the review raised by the Issues Paper in relation to ‘*the retailer’s costs of doing business*’.

Executive Summary

ALSA welcomes the report’s focus on the impact that poorly designed regulations have on the retail sector. While the Commission highlights a number of examples involving plastic knives and trading hours, it is an unfortunate fact that there are many other regulations that should never have been introduced.

ALSA identifies the rising costs for our members of doing business are as follows:

- Different restrictions on trading hours in each State & Territory jurisdiction
- Different RSA Certification requirements in each State and Territory
- Overlapping consent authorities
- Conflicting State regulations
- Energy and utility costs
- High labour penalty rates for “normal business hours”
- Disproportionate & unnecessary information being collected via multiple collection points
- Red tape burden on small business

Restrictions on trading hours in some jurisdictions

Regulation of trading hours, particularly restrictive trading days on public holidays, is inconsistent across State jurisdictions, causing added complexity and cost and lost income for retailers, employment and training opportunities for the unemployed, and reduced government revenues.

Example 1: Currently the West Australian Liquor Control Act (section 98D) does not allow packaged liquor store licences in non-metropolitan areas to trade on a Sunday. However, hotel and tavern licences are able to trade and sell exactly the same packaged liquor products on this day through their attached bottle shops.

In addition liquor store licences permit trading between the hours of 8.00am – 10.00pm Monday to Saturday and in metropolitan areas between 10.00am – 10.00pm on Sunday whilst the trading hours for hotels / taverns to sell packaged liquor are Monday to Saturday 6.00am – 12 midnight and 10.00am – 10.00pm on Sunday.

Example 2: In 2010 the NSW Shop Trading Act was reinterpreted to also capture NSW packaged liquor retailers under that Act. The immediate impact of this additional requirement meant that NSW packaged liquor retailers were not permitted to trade on an additional 2 ½

days, being Easter Sunday, Boxing Day and prior to 1pm on Anzac Day. This costs the sector in excess of \$3.5 million /day in lost trading opportunity, artificially distorts the market and is also discriminatory against our retailers, their loyal customers and their employees, when hotels with bottle shops attached to their businesses continue to be permitted to sell packaged liquor, thereby artificially distorting the competitive market environments.

Example 3: In the Northern Territory a full liquor licence (Hotel or Tavern Licence) permits the sale of alcohol on specific licensed premises. However, additional special conditions under the current Liquor Regulations Part 2, Regulation 4 do not allow packaged liquor store licences trading with “Authority – Store” in any area of the Northern Territory to trade on a Sunday. However, hotel and tavern licences are able to open their bottle shops and trade between the hours of 10am and 10pm and sell exactly the same packaged liquor products on this day.

National RSA certification

ALSA supports the concept of promoting better regulation by the States and Territories with less burdensome and more consistent regulation. A relevant example for the packaged liquor retail sector is that RSA certification is not transferrable across all states and territories. It is possible for a person to have 20 years-experience in the packaged liquor retail sector, with the necessary RSA certification for one state, and yet if that person chooses to move interstate, or even in the case of a wine maker to conduct a tasting in another state, they are required to undertake additional RSA certification to comply in the new State.

This imposes additional unnecessary inconvenience on employees and costs on business owners. As in many instances, whether it be by an independently owned liquor retailer or by the large corporate chain companies, business owners generally pay for their prospective or existing staff to acquire RSA certification, as they see this as a necessary cost of doing business and/or a means of incentivising staff.

This leads to productivity losses as a potential employee is required to expend time and travel to undertake a certification they already have.

Some States compound this by requiring a state-sanctioned card. For example, a person having successfully completed an RSA course must make a booking with an approved Australia Post outlet to obtain a photographic ID card. For rural and remote workers, this requires a day trip into an Australia Post venue of the nearest large town sometimes several hundred kilometres away.

ALSA believes that the RSA certification should be a nationally recognised qualification that is accepted by all States and Territories. This would be consistent with mutual recognition laws and the commitment to reduce red tape for businesses.

Conflicting State regulations

Alcohol is a product that can be misused and ALSA supports its proper regulation. While we understand there may be potential social issues surrounding the supply or delivery of take away packaged alcohol to consumers after 10.00pm, the NSW Government has recently also introduced a new regulation that will disrupt packing of orders after 10:00pm including online retail orders by making it illegal in NSW to even pick and pack alcohol after 10.00pm.

These orders are picked and packed for delivery on subsequent days. That is, to be clear, the alcohol is not delivered after 10.00pm.

This regulation is only applicable in NSW therefore imposes costs on NSW workers (who will no longer have the opportunity to earn extra income by working night shifts) and retailers (who will face the additional costs created by having to transport orders over longer distances).

This regulation will discourage online retailers (which now comprise 15% of total NSW Packaged Liquor Licences) from employing staff in NSW. Instead, retailers will use “cross border” facilities in Victoria, Queensland and the ACT to fulfil NSW orders during busy periods.

The new regulation is explained in the attached Fact Sheet¹ produced by the NSW Office of Liquor Gaming and Racing (OLGR) which specifies:

“For licensees that provide liquor deliveries as part of their business model, liquor orders cannot be fulfilled (picked and/or packed) after 10pm, and liquor must not be delivered after 10pm.”

There is no possible harm to the community from packing unopened bottles of alcohol into boxes after 10.00pm. The packed alcohol is to be delivered during normal trading hours on some following day or days. The regulation means that it is now illegal for store staff to walk around a closed liquor store packing bottles into cartons for despatch the following day.

ALSA can identify no community benefits that arise from making it illegal to pack online liquor orders after 10.00pm, only inefficiencies for our members’ businesses.

Overlapping consent authorities

Nearly all States require a new liquor licence to receive approval from both the Local Government and the State regulator. The two consent authorities sometimes duplicate each other’s work as frequently a comprehensive Community Impact Statement (CIS) is carried out at both the town planning permit and liquor licence application levels – where neither decision-making body recognises the significant steps taken by the other. The end result for applicants is that a comprehensive social impact study is completed twice for the same application, creating greater business uncertainty and compounding costs and delays.

A typical list of those stakeholders who are required to be consulted as part of a community impact study includes:

- the local consent authority,
- the local police,
- Department of Health,
- Department of Community Services,
- Roads and Traffic Authority,
- the recognised leaders of the local Aboriginal community,
- the occupier of any neighbouring premises being any building situated on land within 100 metres of the premises boundary, including all residents in every building in high density residential areas,

¹ Fact Sheet - 2014 reforms for liquor regulation in NSW, NSW Government, Office of Liquor, Gaming & Racing, February 2014 v. 1405

- special interest groups or individuals in that community such as indigenous communities, young people, local schools or colleges, older Australians and socio-economically disadvantaged groups,
- community buildings or facilities that are located near the proposed liquor licence such as hospitals, places of worship, public parks, alcohol free zones etc.

These groups would typically get an opportunity to comment during both the Town Planning stage and then the Community Impact Statement.

Energy and utility costs

Energy costs were identified in the Productivity Commissions Issues paper as more significant for liquor retailers compared to all retail subdivisions.

Energy is an essential cost for our retailers due to the need for refrigeration and cool-rooms in addition to normal retail store lighting, signage and display plus air-conditioning. Whilst many of our members have accessed information and tools via the energy efficiency information project to reduce energy usage and costs, energy will continue to represent a significant cost of liquor retailing.

High labour penalty rates for “normal business hours”

The traditional labour market approach of “normal hours” being considered as 9 to 5 has resulted in a burden that significantly impairs workforce opportunities in the retail sector – particularly in retail liquor and hospitality.

What may be normal hours for a business model such as an office is quite different for a retail liquor business who employs staff to cover their peak trading times after 5:00pm Monday to Sunday and during the day on weekends.

Penalty rates developed under the traditional model have a big impact on restricting opportunity for additional staff, often contributing to sub-standard service levels in the retail environment compared to other countries.

Staff members cost more to employ when trading is conducted outside 9am – 5pm and some small businesses choose to reduce the hours of trading or the hours of employees. Many small businesses who are forced to compound compliance costs, time and complexity to pay penalty rates at a higher rate, often choose to forgo additional staff and where possible the shop owner will work themselves or only engage family members.

Disproportionate & unnecessary information being collected via multiple collection points

Businesses are increasingly required to submit information via multiple collection points that is considered disproportionate & unnecessary. A relevant example is the requirement for NSW liquor licence holders to submit a biennial return. This requirement commenced in 2009, and requires that licensees submit detailed information to NSW Office of Liquor Gaming and Racing (OLGR) about their liquor licenses including trading status; actual trading hours; awareness of license conditions; ownership details; venue size; patron capacity; liquor accord

participation; industry employment; the number of staff who have completed RSA and RCG training; and the age of that training.

ALSA is concerned with the amount of costs and time taken by the retailers to compile this data. Woolworths Liquor have estimated that collating data and entering the biennial returns for all their liquor stores takes 3 weeks of full time work across 5 people in their team. This represents a significant cost to their business, as it is extremely time consuming to provide the NSW OLGR with information they would generally be expected to have on their records. In this example

OLGR justifies the biennial return process as striking “a good balance between the need to collect up-to-date information and the need to minimise red tape faced by industry”. ALSA suggests that, in practice, filling out yet more forms in the preparation of the biennial return has created another layer of unnecessary compliance paperwork that the packaged liquor retail sector must adhere with.

Red tape burden on small business

Businesses operating in Australia are subject to a vast and complex array of laws and regulations arising from many overlapping compliance requirements across the three tiers of government being Commonwealth, State / Territory and Local Councils.

Whilst an individual piece of legislation may appear reasonable in isolation, the cumulative affect creates regulatory burden. Excessive regulation creates disincentives and can detract from companies and individuals understanding and complying with the law.

Regulatory compliance obligations most often divert management away from their core business activities and incur significant compliance costs every year such as:

- Providing management / staff time to fill in forms, assist with audits etc.
- Reallocating time or recruiting / training additional staff as required to meet additional compliance burdens,
- Purchasing and maintaining reporting and IT systems,
- Obtaining external advice such as accountants and lawyers to assist with compliance; and
- Obtaining licences and /or attending training courses to meet regulatory requirements.

ALSA supports the proposal to ease the red tape burden on small business. The NSW Chamber of Commerce estimated in 2006 that the average business in NSW spends 400 hours a year in time alone complying with regulations or meeting legal obligations². The figure is likely to be much higher now given the increase in the amount and complexity of business regulation. The growth of regulation and administrative compliance costs is a large and expensive issue for business, and therefore for Australia.

A former ALSA Board member³ recently commented that “*Many of our members feel they are in the business of compliance and do a little bit of retailing on the side. This needs to change. We have to cut red tape as a priority.*”

² 6 Regulation Taskforce 2006, Rethinking Regulation: Report of the Taskforce on Reducing Regulatory Burdens on Business, Report to the Prime Minister and Treasurer, Canberra, January 2006 (Banks Report), at p 3 www.regulationtaskforce.gov.au/finalreport

³ Jos de Bruin, National Chief Executive Officer, Master Grocers Australia, 17 March 2013

Mechanism to discourage and monitor red tape

Given this and the welter of other ill-considered, inefficient and costly regulations highlighted in the Commission's report, our Association believes that an institutional mechanism is needed to counter the costs that are continually imposed on the productive sectors of the economy.

In previous years, the system of National Competition Payments provided effective "carrots and sticks" to encourage state governments to review and improve their regulations. While not always successful, the NCP system did secure some important reform progress.

Since the competition payments ceased, reform has slowed to a stop. To its credit, Victoria has established a Red Tape Commissioner and businesses can raise poor regulations with the Commissioner for investigation and independent review.

Building on this, the appointment of a National Red Tape Commissioner or the establishment of an Inter-state Commission on Red Tape should be considered. Such bodies would provide citizens and businesses with the ability to raise bad regulations for independent review. To be effective, the Commissioner or Inter-state Commission would have to be independent and have appropriate investigative powers to ensure that it could evaluate the processes that regulators undertook in making their regulations.

The Commissioner or Commission would report regularly and independently to parliaments and use its authority to highlight poor regulations in the media.

Conclusion

ALSA is pleased to contribute to the Productivity Commission's Review of *Relative Costs of Doing Business in the Retail Trade Industry* on behalf of our members and eagerly anticipates the release of the final report which we hope will outline the measures necessary to ensure the future success of the Australian retail sector.

Terry Mott
CEO

Overview of Australian Liquor Stores Association (ALSA)

The primary purpose of ALSA is to create and promote a responsible, sustainable and diverse off-premise liquor sector across Australia by the effective and relevant engagement of all stakeholders.

ALSA is the National Association comprised of State & Territory Liquor Stores Associations, representing an estimated 85% of the market, with approximately 3,000 retail liquor store members, including some of the most recognised and trusted brands in liquor retailing around Australia. These range from small family and independently owned local convenience outlets, independently owned and run outlets operating under banners such as Cellarbrations, Little Bottler, Local Liquor, Liquor Baron's, Porters and many more, through to Woolworths packaged liquor outlets including Dan Murphy's, BWS Liquor & Woolworth's Liquor and Coles Packaged Liquor outlets including First Choice, Vintage Cellars & Liquorland stores, and ALDI Licensed supermarkets.

Altogether ALSA represents employers of more than 40,000 people in the retail liquor store sector across Australia, including many trainees and apprentices who go on to make a career in retail.

ALSA believes that alcohol consumption is ultimately an issue of individual responsibility and individual behaviour. However, ALSA also fully accepts that it has a key responsibility to work with the Government and the community to minimise harm to individuals and local communities.

ALSA Self-Regulatory Initiatives

ALSA has a demonstrated commitment to the responsible supply and promotion of alcohol beverage products. To ensure the reputation of our sector and assist our members, ALSA continues to promote standards of operation for its members beyond the required standards of legal compliance, and has implemented a range of voluntary product and service control initiatives across our members' stores which are focussed on responsible supply and promotion of alcohol.

ALSA and the Retail Packaged Liquor sector take their responsible service of alcohol responsibilities seriously which is why we developed and continue to promote **ID-25** and **Don't Buy It for Them** to discourage underage attempts at purchase and to educate parents and adults about their responsibility to not purchase alcohol on behalf of minors.

The issue of refusing service, particularly to parents, when our members believe secondary supply may take place is one of the biggest challenges liquor retailers and their employees face. Refusal often results in the employee being subjected to aggressive and threatening behaviour.

Many of these initiatives, initially trialled and introduced by our larger members such as Woolworths, have subsequently been adopted by other industry participants, including:

ID-25 – a program to educate customers, dissuade attempted purchase by minors and to reinforce staff awareness and confidence to refuse service to minors with point-of-sale material. Under this program, if a customer looks under the age of 25, staff members are encouraged to ask to see proof of age ID prior to selling alcohol to that customer, under an inoffensive promotional line "if you look under 25, take it as a compliment, as we will ask for ID".

Don't Buy It For Them – a program to discourage secondary supply and to educate the community on their shared responsibility not to supply to under age and highlights the penalties for doing so. It also reinforces staff awareness and confidence to refuse service when in doubt, with back-up point-of-sale material.

In addition to these initiatives LSA NSW also worked with our National Association the Australian Liquor Stores Association (ALSA) to develop and launch the ALSA Product Ranging Guidelines

ALSA Product Ranging Guidelines – incorporate a checklist guide to assist individual operators to make sensible product ranging decisions on products that may potentially be packaged and marketed irresponsibly.

Joint Social Responsibility Campaigns

ALSA and its members have a long history of working with government and regulators to disseminate responsible drinking and standard drinks educational materials through their liquor outlets directly to consumers.

- Point-of-sale information campaigns on responsible drinking including standard drinks educational campaigns on behalf of the Commonwealth Department of Health & Ageing;
- Point-of-sale information leaflets to direct consumers to 'Get The Facts' on behalf of DrinkWise Australia;

ALSA was a founding DrinkWise board member – a not-for-profit, independent research and social change agency funded by the Australian alcohol industry, with some federal Government funding support. Through research, community based programs and social marketing campaigns, DrinkWise is dedicated to building a safer drinking culture in Australia.

Retail Liquor Development Foundation

ALSA's national retail training body – the Retail Liquor Development Foundation (RLDF), was established in 2004 to provide cost effective training to encourage responsible and professional retailing by its members. The training equips packaged liquor retailers to improve their business viability and to provide career paths for staff members who would otherwise not choose to stay in the sector.

Following the recent launch of ***ALSA-TRAIN***, a comprehensive on-line training offer, it includes the option to complete nationally accredited, Certificate IV Retail Management qualifications. ***ALSA Retail Insights*** is the latest professional development initiative of ALSA & RLDF to enhance retail knowledge and skills while encouraging career development of young people in the sector.

ALSA is also currently working with other industry groups to pioneer additional training and accreditation standards for licensees and their staff. ALSA and its members have a demonstrated commitment to responsible supply and promotion of alcohol beverage products.