

5 November 2019

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### **Alcohol Programs Team response to Liquor & Gaming NSW consultation on same-day alcohol delivery**

Thank you for the opportunity to comment on the Liquor & Gaming NSW discussion paper on enhanced regulatory measures for same day alcohol delivery. The Alcohol Programs Team at the Public Health Advocacy Institute of WA (PHAIWA), Curtin University, is committed to reducing harms from alcohol by promoting evidence-based approaches. We have been actively involved in work to reduce underage and intoxicated people's access to alcohol, including alcohol bought online and delivered to a home.

We wish to commend the NSW Government for identifying online sale and rapid delivery of alcohol as an issue that should be addressed through regulatory action. NSW is one of the first jurisdictions to consider a comprehensive response to the issue. As the NSW response may inform other state and territory approaches to regulating the online sale and home delivery of alcohol, we wanted to contribute our understanding of some of the key issues.

The discussion paper has, rightly, identified that we have seen increased growth of online sales of alcohol, including services that deliver alcohol on the same day. However, current legislation has fallen behind these developments. With the recent growth of online sales of alcohol, there is increasing concern among public health organisations about the lack of controls for alcohol bought online and subsequently, young people's and intoxicated people's access to alcohol. We believe that improvements could be made to the proposals in the discussion paper to help ensure that the NSW Government response is comprehensive and will have a meaningful impact on the risks presented through the online sale and home delivery of alcohol. These measures also provide the NSW Government with an opportunity to introduce controls on all online sales of alcohol.

PHAIWA Alcohol Programs Team works closely with a range of stakeholders working to reduce harm caused by the sale and promotion of alcohol. The Alcohol Programs Team supports the submission made by the Foundation for Alcohol Research and Education (FARE) to the current consultation and wishes to make the following comments.

## **Concerns about Retail Drinks Australia Code of Conduct (RDA Code)**

We note the statement in the discussion paper, “Any changes to the current regulatory model should complement the steps the industry has already taken to raise standards, including the self-regulatory Online Alcohol Sales and Delivery Code of Conduct launched by Retail Drinks Australia on 2 July 2019.” We believe that the RDA Code does not meaningfully restrict underage and intoxicated people’s access to alcohol products bought online and delivered to the home. In summary, our key concerns about the RDA Code as they relate to the NSW consultation are:

- Age verification procedures at purchase and during delivery of alcohol products are inadequate at preventing the sale and delivery of alcohol to underage people.
- Procedures for unattended deliveries of alcohol products are inadequate at preventing underage people’s access to alcohol.
- Procedures for acceptance of delivery do not adequately restrict intoxicated people’s access to alcohol as the Code permits another adult to accept the delivery of alcohol.
- Consumers are likely to receive targeted promotions for alcohol home delivery services and alcoholic products based on previous purchases.
- The RDA Code is voluntary, it does not include sufficient monitoring functions to ensure compliance, and there are no meaningful repercussions for breaches.

### **Age verification at purchase and during delivery of alcohol**

Age verification must be done both at the purchase stage and delivery stage to meaningfully reduce underage and intoxicated people’s access to alcohol. Examples of weak age verification procedures at the purchase stage include warnings on websites that customers must be over 18 years old, relying on the use of manual entry of date of birth or a tick box to confirm a customer is 18 years old or over, and relying on the use of credit cards to verify age (pre-paid cards can be purchased by underage young people). We believe that good age verification processes during delivery include ensuring that only the person who placed the order for alcohol products is able to accept delivery.

We encourage the NSW Government to consider and introduce measures to meaningfully prevent young people from accessing alcohol bought online through comprehensive age verification procedures during purchase and delivery of alcohol. To prevent intoxicated people from accessing alcohol, only the person who placed the order for alcohol should be able to accept the delivery.

### **Rapid delivery of alcohol**

The business model of rapid delivery of alcohol enables impulsive purchases and, in some cases, continuation of an existing drinking session when the alcohol supply has been exhausted. It is therefore a business model that enables continued intoxication. We are concerned that with the availability of rapid delivery of alcohol underage and intoxicated people may be able to order alcohol online and get it delivered in a very short amount of time, which increases the risk of continued intoxication.

To limit the risks of same day delivery of alcohol, we believe that there should be a meaningful delay between the purchase and delivery of alcohol products of at least two hours. We also believe that there should be limits on when alcohol is permitted to be delivered at night; specifically, alcohol deliveries between 10pm and 10am should be prohibited.

## **Unattended delivery of alcohol**

We have significant concerns about unattended deliveries of alcohol. In particular, there is a significant risk that underage young people are able to place an order for alcohol products and get it delivered to their doorstep the next day, all without anyone ever seeing them or their ID to check they are of legal purchase age. It is not enough to only prevent rapid unattended deliveries; the risk of underage young people accessing alcohol still exists the day after an order for alcohol is placed.

Therefore, we support the proposal to prohibit all same day deliveries from being left unattended. But, we believe that a ban on unattended deliveries should be extended to all alcohol deliveries to prevent underage access to alcohol.

## **Promotion of same day delivery services**

Children and young people's exposure to alcohol advertising, including for same day alcohol delivery services, is of concern and warrants consideration by the NSW Government. For example, a recent determination by the Alcohol Advertising Review Board, which is operated by the Alcohol Programs Team and Cancer Council WA, found that a poster for Jimmy Brings contravened the Code as it was placed where young people were likely to be exposed.<sup>1</sup> A Panel member commented that the poster was placed at a busy intersection that was likely to be frequented by young people, including schoolchildren.

The content of ads for same day alcohol delivery services is also of concern. For example, earlier this year the Alcohol Advertising Review Board upheld a complaint about an ad for BWS on-demand delivery, which included the text "Avoid disasters. Like, BBQs without beer."<sup>2</sup> The complainant believed that the ad implied that alcohol is essential to having a good time at a barbeque and that the success of a barbeque depends on alcohol being available. Other examples of similarly concerning promotions include ads for Tipple, which include the taglines, "When the glass is half empty but the house is full. We got you." and "When friends just drop in. We got you."<sup>3</sup>

We recommend that the NSW regulations specifically protect children and young people from exposure to alcohol advertising, including for same day alcohol delivery services. We also recommend that the NSW Government ensure that the content of alcohol advertising is in line with community standards.

## **Monitoring and enforcement**

For the NSW regulations to be effective, compliance with the regulations needs to be monitored and enforced. Enforcement of the NSW regulations will be a critical element in the success of their implementation. The threat of enforcement must be seen by liquor retailers and deliverers as a real

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<sup>1</sup> Alcohol Advertising Review Board. Jimmy Brings poster determination report Ref 803/19 [updated 2019 Oct 17; cited 2019 Nov 4]. Available from: <https://alcohol.phaiwa.org.au/assets/aarb-determinations/Ref-803-19-Jimmy-Brings-A4-poster-in-Perth-CBD-WA-determination-report.pdf>

<sup>2</sup> Alcohol Advertising Review Board. BWS on-demand bus stop ad in Melbourne determination report Ref 757/19 [updated 2019 Feb 21; cited 2019 Nov 4]. Available from: <https://alcohol.phaiwa.org.au/assets/aarb/Ref-757-19-BWS-On-Demand-bus-stop-ad-in-Melbourne-VIC-determination-report.pdf>

<sup>3</sup> AdNews. Tipple take One Small Step into national expansion [updated 2019 Oct 14; cited 2019 Nov 4]. Available from: <https://www.adnews.com.au/campaigns/tipple-takes-one-small-step-into-national-expansion>

possibility, therefore enforcement activity should be frequent, unpredictable, strongly publicised, and ongoing.

Thank you for the opportunity to raise these important issues with you. Should you wish to clarify any matter raised in this submission, please contact the Alcohol Programs Team at the Public Health Advocacy Institute of WA on (08) 9266 9079.

Yours sincerely,

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