



Queensland

Liquor Amendment Regulation (No. 2) 2006

Regulatory Impact Statement for SL 2006 No. 66

made under the

Liquor Act 1992

1 TITLE

Liquor Amendment Regulation (No. 2) 2006

2 INTRODUCTION

Alcohol related disorder in the Brisbane City Council (BCC) area has recently escalated to levels where Government intervention to safeguard community welfare is considered essential. High profile assaults and disorder, especially in and around licensed premises, continue to raise significant community safety concerns and doubts about the capacity of licensed establishments to fulfil their obligations under the *Liquor Act 1992* (the Liquor Act). In response, the Queensland Government formulated the 17 point *Brisbane City Safety Action Plan* (the Action Plan) which recommends a number of legislative proposals to address incidences of public disorder arising from alcohol misuse in the BCC area.

In accordance with the Action Plan, the Government through the Liquor Licensing Division (the Division) of the Department of Tourism, Fair Trading and Wine Industry Development (DTFTWID) proposes to introduce legislative provisions in the *Liquor Regulation 2002* (the Regulation). The intention of the proposed regulatory regime is to prohibit competitions involving drinking games by imposing restrictions on certain entertainment activities, such as, “happy hours”, recognised as contributing

to excessive and rapid consumption of alcohol. The proposed regulatory provisions will be imposed on all licensed establishments that have permission to trade beyond 1am in the BCC area. Licensed premises that do not have approval to trade after 1am will not be affected by the restrictions.

Recent research suggest that the irresponsible promotion and marketing of alcohol can influence patterns of consumption, especially for “at risk” groups in the community. In addition to harm and injury and attendant anti-social behaviours, excessive alcohol consumption is also a contributing factor to a range of legal, health, psychological and social problems.¹

Due to the broad ranging and significant negative social and community impacts associated with the harmful consumption of alcohol, it is considered that a more effective system of regulation is required to ensure community perception about the role of alcohol in society is not shaped by misleading information. Practices and activities that often trivialise the harmful consequences of excessive drinking are leading to unacceptable patterns of consumption, especially among young adults. To this end, the purpose of the proposed regulatory amendment has been assessed in terms of whether:

- it provides a sustained net public benefit to the community; and
- the outcomes sought could be achieved through an alternative approach.

Under the *Statutory Instruments Act 1992* (SIA), if a proposed regulation is likely to impose appreciable costs on the community or part of the community, a Regulatory Impact Statement (RIS) must be prepared before the regulation is made. This document has been prepared to satisfy the requirements of the SIA.

1 For a discussion on current research dealing with the harmful effects of irresponsible practices leading to excessive consumption and associated harms and dysfunctional behaviour, refer to 5.1 -Current Research Findings - page 12.

3 BACKGROUND

3.1 Reasons for the Reform

The Queensland liquor industry is diverse and complex, comprising continually evolving service and marketing sectors, each with specific interests and demands. To meet these challenges and to enable the industry to continue to experience growth and contribute in a meaningful way to the broader Queensland economy, Government needs to ensure that the regulatory environment is conducive to industry growth and sustainable innovation. However this must not occur at the expense of community safety and the minimisation of harm arising from alcohol misuse. Thus, establishing a sustainable balance between the interests of the liquor industry and the community forms an integral component of the Division's role as regulator.

Recent high profile assaults have led to the perception that the inner city of Brisbane (including the Fortitude Valley and Caxton Street precincts) is unsafe. Although a number of factors underpin violent behaviour in inner-city Brisbane, alcohol, and in particular the manner in which it is being promoted, has been identified as a significant contributor to existing problems in late trading entertainment environments.

Amongst a number of determinants, drinking competitions involving activities leading to rapid and excessive consumption of liquor have raised considerable concern.

Much of the concern associated with irresponsible promotions can be related to competitive pressures to increase alcohol sales. As a consequence, licensees may actively encourage binge drinking by resorting to a wide range of promotional activities, such as, skolling games and "all you can drink" competitions. In doing so, licensees create an environment conducive to increased per capita consumption and the proliferation of alcohol-related problems in and around their establishments.

There is a large and extensive volume of literature in circulation today dealing with the consequences of alcohol-related problems and the underlying causes for over consumption. The research material examined in support of the arguments advanced in this RIS conclude that amongst the many causative factors of alcohol misuse, the effects of promotional activities have been identified as significantly contributing to high-risk consumption levels.² Notably, patterns of consumption at excessive rates occur in environments where alcohol forms an entrenched part of social occasions, including celebrations, sporting events and other recreational activities. Hotel and nightclub environments, in particular, pose a higher than average risk since they create the situational factors for over consumption by engaging in promotional activities that, ironically, are often promoted as harmless games and diversions.³

In the light of current research and recent alcohol-related incidents in the Brisbane CBD, it is considered that the problems generated by undesirable patron behaviours in the BCC area are closely related to existing promotional practices that encourage unreasonable consumption of alcohol. To counter the detrimental effects of irresponsible promotional practices giving rise to increased incidences of binge drinking, Government is committed to implementing a quality legislative framework to address the problem.

On 25 February 2005, the Premier hosted a summit of Ministers, the Lord Mayor of Brisbane, and the Lord Mayor of the Gold Coast, licensees, industry representatives, the Queensland Police Service and not-for-profit community organisations. The purpose of this summit was to discuss safety concerns and possible solutions to the problem.

On 1 March 2005, the Government released the Action Plan to address violence in and around licensed premises in the Brisbane CBD. One component of the Action Plan focuses on introducing regulatory measures for better management of promotional activities associated with the provision of liquor on licensed establishments. Strategies proposed in the

2 Georgina Roberts, (2002) *Analysis of Alcohol Promotion and Advertising*, Centre for Youth Drug Studies

3 Anne Rosenzweig (2003) *Competition Policy and Alcohol: A Dangerous Cocktail*, Alcohol and other Drugs Council of Australia (ADCA). Also refer to a report prepared by Centre for Health Research and Practice, University of Ballarat, November 2004 - *Operation Link: Be Safe Late Program. A partnership approach to responsible patron management at nightclubs to reduce the occurrence of alcohol-related crime, disorder and nuisance within the Central Business District of the City of Ballarat.*

Action Plan to address what has now emerged as a prevalent problem, include the introduction of legislative provisions in the Liquor Regulation to prohibit irresponsible promotional activities on licensed premises that trade after 1am.

Section 142AL of the *Liquor Act 1992* provides that a licensee must not conduct on the premises a competition or games in which contestants consume free or discounted liquor to win a prize or where another activity prescribed under the regulation encourages rapid or excessive consumption. A new section will be inserted into the Liquor Regulation to outline what are considered to be activities that may encourage excessive consumption. Full details of the proposed regulatory provisions are given under section 5 – Proposed Course of Action.

The new provisions will apply to venues in the BCC area with permission to trade after 1am. Basically, the imposed restrictions will prescribe the nature and scope of non permissible activities and the manner in which “happy hours” are to be conducted, including the duration of the sessions and the period during which each session can be conducted.

It is emphasised that the restricted activity and the specified time frames for conducting such activities only apply to licensees in the BCC area who have permission according to the conditions of their liquor licence to trade beyond 1:00am on their liquor licence.

4 EXISTING LEGISLATIVE FRAMEWORK

4.1 The Liquor Act

The Division administers the Liquor Act which regulates the sale and supply of liquor through the licensing of business operators and the approval of suitable premises. In addition to the regulation of the sale and supply of alcohol, a fundamental object of the Liquor Act is to regulate the liquor industry in a way compatible with minimising harm arising from alcohol abuse. Thus, the formulation of effective responses to industry needs, including community safety remains one of the key challenges for the Division. To this end, over the past decade, the Division has increasingly directed its attention towards the formulation of policies and legislation that encourage better and more responsible management of licensed establishments. A corollary to this requirement is the obligation on industry to curtail and contain alcohol-related disturbances, especially in and around high-risk licensed establishments such as hotels, bars night clubs and venues hosting major events.

In this regard, the Division's major achievements comprise the:

- Development of the *Responsible Service of Alcohol* (RSA) training package. The RSA training module has been designed to enhance industry knowledge and commitment to practices that promote the responsible service and supply of liquor.
- Development of the mandatory *Responsible Management of Licensed Venues* training course. This course, designed to enhance responsible management practices, must be undertaken by all licensees and nominees (including prospective licensees/nominees) who conduct business on licensed premises.
- Establishment of an Accord between local police and venue licensees in Surfers' Paradise on the Gold Coast. This community-based initiative has been designed to reduce violence in and around licensed venues in the central business district of the main tourist area on Queensland's Gold Coast. The Accord has been considerably successful in meeting objectives.
- Development of a *Code of Practice for the Responsible Service, Supply and Promotion of Liquor* module which provides for increased protection of both consumer and industry interests. The objective is to ensure that the sale and supply of alcohol is conducted in a responsible manner and that licensed establishments are safe environments for both patrons and staff.

The Code is based on the Australian Alcohol Guidelines published by the National Health and Medical Research Council. It also supports the Government's Queensland Alcohol Action Plan in its objectives to prevent and reduce harm associated with alcohol misuse in Queensland.

- The implementation of other recommendations of the Action Plan has seen the introduction of a 3am lockout in the BCC area and a State-wide ban on the external advertising of free or discounted liquor for on-premises consumption.

The lockout conditions are designed to improve public and patron safety by minimising the number of people moving between venues in varying stages of intoxication. The State-wide ban prohibits irresponsible external advertising of liquor for on-premises consumption.

- On the 23 November 2005, Parliament passed the *Liquor and Other Acts Amendment Bill 2005* which will implement stage two of the

Action Plan and impose statutory licence conditions on licensed venues with permission to trade after 1am in the BCC area. The amendments will increase community safety through improved standards and increased security measures by way of:

- increased number of crowd controllers,
- installation of close circuit television camera systems at entry and exit points of venues;
- mandatory RSA training of all staff engaged in the sale and supply of liquor;
- the development of a House Policy; and
- prohibition on irresponsible promotional activities.

A RIS explaining the need for the statutory licence conditions - increased number of crowd controllers, mandatory RSA training and the installation of close circuit television camera systems - was released for public consultation on 22 July 2005. It clarified the reasons for introducing the new provisions for increased safety measures, particularly drawing attention to the need to enhance the existing liquor regulatory framework and expand its capacity for accommodating the proposed security measures. The statutory licence conditions are scheduled to commence on 1 March 2006 and are seen as the most efficient and effective means of imposing uniform regulation in the BCC area.

The proposed amendments to the Liquor Regulation will support the new section 142AL of the Liquor Act which prohibits the promotion of irresponsible promotional practices. The Liquor Regulation will prescribe the type of activities, including specific time frames within which such activities are permitted. Commencement of the proposed regulatory amendments is scheduled for 1 April 2006.

Given these developments a wide range of legislative provisions are in existence to provide for sound security measures, harm minimisation and responsible server practices. These provisions guide licensees and nominees in meeting their obligations under the Liquor Act. However, it is considered that existing provisions in the Liquor Act need to be strengthened to provide for a more detailed regulatory system to address community concerns.

4.2 The Liquor Regulation

In summary, the Regulation provides:

- details of the licensing scheme, including documents which must accompany applications and licence particulars;
- acceptable and unacceptable practices and promotions for the service, supply and promotion of liquor; and
- fees payable under the Act.

5 PROPOSED COURSE OF ACTION

In March 2005, the Government endorsed an Action Plan which had been developed with the aim of curbing inappropriate behaviour associated with alcohol use in the BCC area. In accordance with recommendations of this Action Plan amendments to the Liquor Regulation are proposed which will prohibit irresponsible promotional activities that encourage the excessive and rapid consumption of alcohol, in particular specifying:

- the type of activities on which restrictions are to be imposed, including “happy hours”;
- the duration for each “happy hours” session; and
- the time frame within which each “happy hours” session is to be conducted.

The *Liquor and Other Acts Amendment Bill 2005* amended the Liquor Act to impose stricter licence conditions on venues with permission to trade after 1am in the BCC area. Section 142AL(b) provides for the regulation making power of the Act and Section 142AL(1) provides that a licensee or permittee must not conduct on the licensed premises a competition or game in which contestants are encouraged to consume liquor, or where free or discounted liquor is given as a prize for on-premises consumption. The object of the provision is to prohibit all forms of promotions that encourage the excessive and rapid consumption of alcohol. To support this provision a new section will be inserted into the Liquor Regulation outlining prescribed activities prohibited under the Liquor Act. Section 37 H of the Regulation will stipulate that:

- (1) For section 142AL(b) of the Liquor Act, the following activities are prescribed:
 - (a) an event or occasion in which a person’s membership of a group, or participation in the event or occasion, entitles the person to free or discounted liquor;

Examples—

a ‘blondes’ night’, ‘students’ night’, ‘nurses’ night’ or other theme night

- (b) a promotional or other activity that offers a person, as a reward, free or discounted liquor for consumption on the premises;

Example—

A raffle in which a person might win free or discounted liquor for a day.

- (c) a promotional or other activity that offers a person a reward, other than free or discounted liquor, if the person would need to drink more than 4 standard drinks on any day to win the reward.

Example—

A promotional activity in which a ‘drinks card’ is given to a person at a particular time, and to win a T-shirt by using the card the person would need to drink more than 4 standard drinks on any day.

- (2) Also, for section 142AL(b) of the Act, the following activities are prescribed for premises—

- (a) for the period from 7a.m. on a day to 9p.m. on the day—having a happy hour that is more than 2 hours;
- (b) for the period from 9p.m. in the trading period to 1a.m. in the period—having a happy hour that is more than 1 hour;
- (c) for the period after 1a.m. in the trading period—having a happy hour or part of a happy hour;
- (d) if the premises have more than 1 happy hour on a day—having the happy hours without at least 1 hour between the end of each happy hour and the start of the following happy hour; and
- (e) on any day—having a happy hour that starts before 9p.m. and ends after 9p.m.

- (3) In this section—

happy hour means a set period, commonly called a ‘happy hour’, during which liquor is generally available on the premises during the period for free or at a discounted price.

standard drink means the quantity of any kind of alcoholic drink that, if consumed, is equivalent to drinking 12.5mL of alcohol.’

By way of an example, consider that a venue trading beyond 1am may wish to conduct restricted activities starting from 7pm. The licensee will be permitted to run the first session until 9pm. Given the mandatory one hour restriction between sessions, the next session of “happy hours” cannot

commence before 10pm. However, since further restrictions apply after 9pm, limiting “happy hours” sessions to one hour, the licensee can only conduct a session from 10pm to 11pm followed by the mandatory one-hour break to 12midnight. A further one-hour session can be conducted till 1am, after which the conduct of happy hours is not permitted.

It is emphasised that the above provisions will only apply to licensed establishments that trade after 1am in the BCC area. To reiterate, the rationale for the imposition on these premises is due to the potential for late trading premises to pose a greater threat to community safety on account of their primary purpose and extended hours. By contrast, premises that cease to trade prior to 1am are not considered to present the same level of risk as late trading venues since the situational factors on these premises are less conducive to excessive consumption. Most close at midnight and many trade as restaurants or small clubs. Also, because the supply of liquor is an ancillary part of the business the risk potential of non-late trading venues is relatively minimal in comparison to premises that trade as hotels (with extended hours) or nightclubs.

5.1 The Rationale for Introducing Prohibitive Legislation to Curtail Irresponsible Promotional Practices

The rationale for introducing the legislation is to support the objectives outlined in the Action Plan, namely, to curtail the incidence of alcohol related disturbances in the BCC area. The promotion of activities, competitions and games involving contestants consuming unreasonable amounts of alcohol have been identified to have significant impact on consumption patterns that often lead to anti-social behaviours. A more comprehensive regulation of promotional activities is seen as a constructive step towards diminishing the likelihood of irresponsible consumption and the consequences that inevitably arise from alcohol misuse.

In developing the framework for the proposal, a number of factors were considered to ensure the new provisions comply with the policy direction and are consistent with the objects of the Liquor Act. The factors taken into account in developing the provisions that will impose restrictions on promotional activities include:

- the *Code of Practice for the Responsible Service, Supply and Promotion of Liquor* (the Code) which provides guidelines on risk levels;
- the intent of the existing legislation with respect to harm minimisation;

- the harm minimisation objectives of the Liquor Act; and
- the recommendations of the Action Plan.

The Code was developed by the Division in consultation with industry and was launched on 1 August 2005. It identifies the risks associated with the consumption of alcohol by reference to a hierarchy of risk. Basically, it illustrates the level of risk – low, medium, high – for each variant, including gender specific impacts. (A copy of the Code is provided at Attachment A). Table 1 below outlines the risk factors for consumption levels and other associated variants.

Table 1. Risk factors identified under the *Code of Practice for the Responsible Service, Supply and Promotion of Liquor*

Consumption Rate - How many standard drinks (or equivalent) are patrons encouraged to consume hourly?

	<u>Unacceptable Risk</u>	<u>High Risk</u>	<u>Medium Risk</u>	<u>Low Risk</u>
Male	More than 4	4	2 to 3	Up to 2
Female	More than 3	3	2	Up to 1

Consumption Level - How many standard drinks (or equivalent) are patrons encouraged to consume on any one day?

	<u>Unacceptable Risk</u>	<u>High Risk</u>	<u>Medium Risk</u>	<u>Low Risk</u>
Male	More than 11	11	7 to 10	Up to 6
Female	More than 7	7	5 to 6	Up to 4

Related Activity - Is the promotion or practice linked to an activity?

<u>Unacceptable Risk</u>	<u>High Risk</u>	<u>Medium Risk</u>	<u>Low Risk</u>
Skolling games	Prizes based on	Liquor prizes	No related activity
Emotive titles	volume consumed		Food/meal prizes
“Drink like a fish”			Not consumption related
“Beat the clock”			

Patron Safety - What are the risks of the promotion/practice to patron safety?

<u>High Risk</u>	<u>Medium Risk</u>	<u>Low Risk</u>
Physical injury risks	Glass injury risks	Reasonable physical activity
Sexually provocative activities	Slip/trip/fall risks	Non-threatening environment
Table/Bar dancing		RSA trained staff
Pyrotechnics/Fireworks		WH&S Plan

Table 2. identifies high risk activities leading to rapid and excessive consumption of liquor.

Table 2. Irresponsible promotional practices outlined under the Code of Practice for the Responsible Service, Supply and Promotion of Liquor

Consumption Method - How is the liquor served for consumption?

<u>Unacceptable Risk</u>	<u>High Risk</u>	<u>Medium Risk</u>	<u>Low Risk</u>
Drink stockpiling	Yard glass	Bulk pre-mix	Standard measures
Multiple shooters	Test tubes	Cocktails	Half-measures
Laybacks		Non standard measures	Low alcohol drinks
Water pistols			Non alcohol drinks
Offering trays of shooters			

Discounting - What is the promotional discount compared to the regular price on premises for the equivalent drink?

<u>Unacceptable Risk</u>	<u>High Risk</u>	<u>Medium Risk</u>	<u>Low Risk</u>
Gender based	50% or higher	25% to 49%	Less than 25% discounts

Time Frame - How long/what time is the promotion conducted for?

<u>High Risk</u>	<u>Medium Risk</u>	<u>Low Risk</u>
More than 2 hours	1 to 2 hours	Less than 1 hour
Any time after 9:00pm		

5.2 Alcohol Consumption Patterns: Harmful and Hazardous Drinking

Before assessing the costs and benefits of the proposed provisions it is appropriate to examine what constitutes harmful levels of consumption. Harmful drinking is defined as drinking which results in medical or psychological harm. Hazardous levels of consumption are understood as posing risks to the drinker or others.⁴

The Australian Drinking Guide (the Guide), published by the National Health and Medical Research Council, Commonwealth of Australia, provides a useful benchmark for assessing current drinking levels. The Guide states that to minimise health risks, men should have no more than four standard drinks a day on average, and women should have no more than two standard drinks a day on average. The indication in the Guide, however, is that alcohol across society is consumed in a risky manner as standards are generally exceeded.⁵

4 Report by Marsden Jacob Associates, (2005), *Identifying a framework for regulation in packaged liquor retailing*, NCC Occasional Series, National Competition Council.

5 Ibid.

Young people have been identified as particularly vulnerable to harmful and hazardous levels of consumption resulting in both intentional and unintentional injuries. Whilst low levels of consumption are known to confer some benefits, excessive consumption is associated with a wide variety of negative impacts.⁶

Safe drinking depends not only on how much a persons drinks, but also on the rate at which alcohol is consumed, the environment and the conditions under which drinking takes place. For example, the rate of consumption can be significantly higher in establishments:

- where the primary purpose is the sale and supply of liquor (eg. hotels and bars);
- with extended trading hours;
- where a person is encouraged to consume unreasonable amounts of liquor (eg. drinking games, competitions); or
- where meals or non-alcoholic beverages are not available.

5.3 Current Research Findings

The Division has also examined current alcohol-related research, in particular focusing on the ramifications of irresponsible measures that lead to unreasonable consumption. The findings have been conducive in assisting the Division to formulate the most appropriate legislative framework to address the issue of irresponsible promotional practices.

Recent research conducted in America on the role of environmental management and situational factors, (such as the duration of promotions/competitions and the time frame within which activities are conducted) concludes that one of the many objectives in dealing with the ramifications of irresponsible promotion and advertising of liquor is to identify ways in which environmental settings can be changed. According to the findings, an appropriate response should seek to curtail access to alcohol by eliminating irresponsible alcohol sales and marketing practices

6 Ibid.

in bars, clubs and other such high-risk establishments. It was emphasised that legislation should aim to address situational factors which can help perpetuate changes in social norms.⁷

As of January 1, 2003, 27 states in the United States (US) had legislative provisions expressly prohibiting excessive drinking practices, or “happy hour” types of promotions. In addition, many US communities have passed local ordinances prohibiting these practices. Examples of prohibited practices include but are not limited to:

- the distribution of free alcoholic beverages;
- the sale of alcoholic beverages at reduced prices during specified days or times;
- giving alcoholic beverages as prizes;
- “two for one” or other discounted multiple alcoholic beverage sales;
- fixed-price or “all you can drink” sales;
- selling alcoholic beverages at a price contingent on the amount consumed by an individual;
- reduced drink prices after 11:00 p.m.;
- drinking contests or awarding of alcoholic beverages as prizes; and
- any practice that is reasonably calculated to induce consumers to drink to excess, or that would impair the ability of the licensee to monitor or control the consumption of alcohol by their customers.⁸

To reduce irresponsible drinking and break the link between alcohol misuse and crime, the Scottish Executive introduced its *Licensing (Scotland) Bill* (The Scotland Bill) proposing, amongst other measures, to make “happy hours” illegal. The Scotland Bill was introduced to Parliament on the 28 February 2005. Stage One commenced on 1 March. The Bill was passed following the Stage three debate on 16 November 2005.

7 William De Jong and Linda M. Langford, *A Typology for Campus-Based Alcohol Prevention: Moving toward Environmental Management Strategies*, in *Journal of Studies on Alcohol*, Department of Social and Behavioral Sciences, Boston University School of Public Health, Massachusetts.

8 Texas statute §45.103. On-Premises Promotions. Quoted in U.S. Department of Transportation, National Highway Traffic Safety Administration Research Report, *Preventing Over-consumption of Alcohol – Sales to the Intoxicated and “Happy Hour” (Drink Special) Laws*, February, 2005.

The catalyst behind the Bill, amongst other things, is to crack down on “irresponsible promotional activities” in order to deal with the prevalent binge drinking culture. The reforms will ensure drinks have to be sold at the same price for at least 48 hours and there will be a ban on specific irresponsible promotions that encourage binge and speed drinking such as “two-for-ones”. It was commented that “there is no doubt irresponsible drinks promotions fuel the violence and anti-social behaviour which blight communities... It is a simple fact that some promotions encourage many people” to drink in excess, thereby contributing to alcohol-related problems.⁹

In Western Australia, the *Liquor Licensing Act 1988* places an obligation on licensees to sell and supply liquor in a responsible manner. Section 64(3)(ga) and (gb) of the Act empowers the licensing authority to impose conditions on a licence to prohibit promotional activity in which drinks are offered free or at reduced prices or to prohibit any practice that encourages the irresponsible consumption of alcohol.¹⁰

Research undertaken on alcohol-related issues suggests that advertising and promotional activities play a considerable role in stimulating increased consumption through attractive and appealing presentation of alcohol as a reward or prize for which patrons are required to compete by engaging in irresponsible consumption. The research findings also indicate that increased regulation to eliminate irresponsible alcohol sales and marketing practices by local bars, hotels, and nightclubs can diminish harmful consumptions levels.¹¹ Based on these findings, regulation of activities on licensed premises to promote responsible consumption should not be perceived as unnecessary government intervention. Rather it should be seen as a measure of commitment to convey the ‘right’ message to licensees and the community about the misuse of alcohol and its consequences.

The Queensland Government has recognised the need to reassess and change the situational environment in and around licensed premises in the BCC area by proposing to impose conditions on late trading venues that will restrict the type of activity conducted, the times at which restricted

9 BCC News, UK edition, March 2005 - <http://news.bbc.co.uk/1/hi/scotland/4306669.stm>

10 Department of Racing, Gaming & Liquor, Government of Western Australia, Policy, Responsible Promotion of Liquor (as amended on 30 April 2002)

11 National Research Council and Institute of Medicine, (2004) *Reducing Underage Drinking: A Collective Responsibility*, in Richard J. Bonnie and Mary Ellen O'Connell (eds.), Washington, DC: The National Academies Press.

activities (for example, “happy hours”) will be permitted and the duration of sessions. It is considered that the proposed provisions are necessary to minimise the negative consequences arising from promotional activities that send mixed messages about high-risk alcohol consumption. To this end, the Government has formulated the strategies outlined in the Action Plan.

6 POLICY OBJECTIVES

In view of the overall regulatory and policy framework and in line with the Government’s Priority Outcomes (for example improved community safety), the policy objective is to address the underlying causes of public disorder in and around late trading nightclubs in the BCC area.

As highlighted previously, recent high profile assaults and disorder in and around licensed premises in the inner city area of Brisbane have raised significant community safety concerns. They have also raised doubts about the capacity for licensed establishments to fulfil their obligations under the Liquor Act.

The Action Plan, as endorsed by the Government, emphasises the need for increased measures to curtail irresponsible promotional and management practices to counter the effects of harm arising from the misuse of alcohol. Policy initiatives outlined in the Action Plan will enhance the existing liquor regulatory framework and expand its capacity for accommodating the proposed on-going mechanism to prohibit practices and activities that encourage the consumption of unreasonable amounts of alcohol.

7 LEGISLATIVE INTENT

The intent of the proposed course of action is to achieve the desired policy objectives by introducing measures to ensure that licensed establishments operating after 1am in the BCC area do so in a manner consistent with responsible promotional and service practices.

In order to achieve the Government’s policy objectives, the Division will amend the Liquor Regulation to enhance the existing range of legislative provisions under the new section 142AL of the Liquor Act. It is emphasised that the proposed legislative restrictions on promotional activities and the hours within which these can be conducted do not restrict, unnecessarily, the commercial freedom of responsible licensees. Whilst the proposed regulation could generate some competitive impacts these must be viewed within the context of the public good principle. The

Division considers community interest can only be satisfied by imposing certain restrictions on existing market structures. This issue is fully addressed under section 11 – Options.

In summary, the intention behind the legislative proposal is to establish a situational environment in which the conduct of entertainment and promotional activities are of the scope and nature that creates a healthy and responsible attitude towards the supply and consumption of alcohol. Without the proposed legislative reform there is insufficient statutory basis for the prevention or better management of alcohol promotions and the consequences which have recently been witnessed in the BCC area.

Regulatory action is considered reasonable and appropriate in this instance. It will establish more effective mechanisms to help safeguard community welfare given the recent escalation of incidences of public disorder arising from alcohol misuse in the BCC area.

It is considered that the proposed reform will significantly contribute to the safety of patrons, employees of licensed establishments and the community in the BCC area.

The proposed amendments are consistent with the policy objectives of the Liquor Act.

8 CONSISTENCY WITH OTHER LEGISLATION

The proposed amendments are consistent with the policy objectives of other legislation.

9 IMPACTED STAKEHOLDERS

The proposed amendments are likely to impact on the following stakeholders:

- industry participants, ie: hotels, nightclubs, bars and late trading clubs;
- wholesalers, breweries;
- patrons;
- employees of licensed establishments; and
- government.

10 PRELIMINARY STAKEHOLDER CONSULTATION

Consultation has been undertaken by the Division to gauge licensees' views on issues relating to the potential impact of the proposal in terms of costs, possible disadvantages, restriction on competition and other contingencies that may arise as the result of the proposed prohibition of certain promotional activities.

On 24 March 2005, a letter was sent to each of the 327 licensees in the BCC area seeking information and feedback on the proposed regulatory amendment, including the proposal to impose restrictions on promotional activities. Responses were sought on a number of issues, including the justifiability for the amendments, potential costs and competition impacts on businesses.

Of the 80 responses to the survey, the majority were in favour of prohibiting all promotions that encouraged excessive drinking. Generally, consensus favoured a ban on drink cards, all you can drink and "two-for-one drink" offers, double or extreme strength cocktails and, in particular, the sale of spirits in jugs. Many perceived drink club memberships offering special discounts or free liquor to members on certain nights as a problem, and prohibition of such practices is considered justified.

A few respondents indicated that promotions where liquor was not the prize should be permitted. Almost all respondents indicated that the proposed provision to prohibit certain activities leading to excessive consumption is not unreasonable.

Following the introduction of the *Liquor and Other Acts Amendment Bill 2005* to Parliament, a number of stakeholders raised equity concerns as it relates to time specifications within which promotional activities, in particular "happy hours", are permitted. It was argued that premises which do not trade beyond 1am are not required to comply with the imposition of time limits and are at liberty to conduct "happy hours" throughout the day provided they cease trade at 1am. It should however be noted that the unrestricted conduct of happy hours by premises which do not trade beyond 1am would be inconsistent with section 148A(2) of the Liquor Act, which prohibits licensed premises from engaging in practices or promotions that may encourage rapid or excessive consumption of liquor.

In view of the concerns raised by industry, on 7 December 2005 the Division conducted a workshop to discuss the potential impact of the proposed legislation. This workshop was attended by officers from the Division and peak industry bodies, including but not limited to Queensland

Hotels Association, Clubs Queensland, Restaurant and Caterers Queensland, Brisbane City Licensees Association, Cabarets Queensland and Fosters Australia. A number of options were discussed to arrive at the most equitable position for all traders in the BCC area.

All participants agreed that the prohibition of happy hours and associated promotional activities after 1am is justifiable. Generally, discussion revolved around the duration of happy hours and that late trading venues should be permitted to conduct such activities up to 1:00am if done responsibly. All stakeholders were in consensus on this point and endorsed the proposed restrictions.

11 OPTIONS

Government's responsibility in formulating legislation extends to include a host of factors. It is required to take into account the interest of all stakeholders and must continue to provide those legislative conditions which encourage industry expansion, transparency, consumer protection, safer communities and fair competition. It also needs to ensure there is no conflict between the appropriate regulation of the sale and supply of liquor and National Competition Policy commitments.

Based on these factors the Division has examined, in consultation with key stakeholders, a wide range of options to formulate the most appropriate response to the problem. In this RIS consideration has been given to four options for achieving the desired policy objectives. These are as follows:

- Option 1 – (preferred option) Prohibition on the promotion of irresponsible practices on licensed premises trading beyond 1am with the provision that a restricted activity (“happy hours”) is not to be conducted for more than 2 hours before 9pm and not more than 1 hour after 9pm with at least 1 hour between activities. No restricted activity to be conducted after 1am;
- Option 2 – Prohibition on the promotion of irresponsible practices on licensed premises trading beyond 1am with the proviso that a restricted activity is not to be conducted for more than 2 hours a day or after 9pm in the trading period;
- Option 3 – State-wide prohibition on the promotion of irresponsible practices on licensed venues; and
- Option 4 – The Status Quo – No prohibition on promotional activities.

Options Two Three and Four have been eliminated in favour of Option One as this option is considered by the Division to be the most appropriate and effective means of achieving the desired policy objectives.

The rationale for eliminating Option Two is due to the recognition that it may give rise to anti-competitive impacts. Licensees who trade beyond 1am would only be permitted to provide one “happy hour” activity each day with the added restriction that this activity cannot be conducted after 9pm. In contrast, licensees who do not have approval to trade after 1am would be able to continue to provide less restricted activities with no limits on the number of activities per day or the duration of sessions other than currently imposed on all premises by section 148A(20) of the Liquor Act.

The RIS acknowledges that anti competitive measures could occur under Option Two. Some non-late trading venues may seek to exploit the situation by expanding the use of promotional activities in their establishments, thereby gaining an unfair advantage over late-trading venues where such activities would be restricted. Licensed establishments trading beyond 1am would thus be subject to competitive disadvantages since the hours within which they are permitted to conduct activities would be restricted in comparison to venues that cease to trade before 1am. On account of the potential inequalities that would flow from such a regulatory arrangement, the RIS did not pursue Option Two.

Option 3 – State-wide prohibition on the promotion of irresponsible practices – has been eliminated on the basis that it is proposed to address the matter through the upcoming review of the Liquor Act. One of the recommendations of the Action Plan was that the Division conduct a comprehensive review of the Liquor Act to ensure that it reflects recent community attitudes including concerns of alcohol abuse and binge drinking. It is considered that the State-wide prohibition of practices can be more specifically addressed through the review of the Liquor Act currently being undertaken.

The rationale for eliminating Option 4 – the Status Quo - is due to the recognition that existing promotional practices in and around late trading entertainment venues in the BCC area, as identified in the Action Plan, have been conducive to increased incidences of alcohol-related harm. Of particular concern is the irresponsible nature of some activities and the unlimited conduct of “happy hours” sessions throughout the trading period.

It is acknowledged that there are many responsible members of the alcohol industry who do obey the licensing laws and endeavour to establish responsible and accountable practices to safeguard their environment from harmful practices. However, as experience has shown, current alcohol

promotional practices are potential contributors to excessive and rapid consumption resulting in unruly behaviour in the BCC area.

Where irresponsible practices constitute a significant proportion of the business, as is the case with some venues under the Status Quo, the problems of intoxication and public disorder are not only retained but would escalate to the detriment of the community.

There are no benefits for industry, consumers or the Government with the Status Quo option. While industry may gain in the short-term, over time this would diminish due to loss of custom on account of the provision of activities that generate safety concerns. From a community perspective costs associated with excessive consumption and dysfunctional behaviour would escalate with detrimental consequences to personal safety, damage to both public and private property and harms to the overall community. For Government, compliance and enforcement costs would increase manifold. Attending to and resolving complaints in relation to unruly and unsafe environments would generate increased administrative costs, as well as stretching compliance resources to the limit.

Consideration of the issues generated by the Status Quo suggests that tightening existing licensing conditions or introducing new provisions to restrict irresponsible activities are appropriate mechanisms to address existing problems faced by the community and the liquor industry.

Furthermore, the nature of the problems identified in the Action Plan is too costly for the community to overcome, in particular third party effects, without some form of government intervention. Third party effects arise because inappropriate practices and activities can impact adversely on individual members of the community, the reputation of responsible service providers and the general community.

The Action Plan clearly emphasised the need for increased regulatory provisions and enhanced responsible practices to minimise alcohol related disturbances and associated violence that has escalated to a significant proportion in the BCC area. Regulation has been identified as a significant component in establishing the on-going mechanism to ensure community safety and enhance industry integrity and responsibility.

11.1 Option 1 – (preferred option) Prohibition on the promotion of irresponsible practices on licensed premises trading beyond 1am with the provision that a restricted activity (happy hour) is not to be conducted for more than 2 hours before 9pm and not more than 1 hour after 9pm with at least 1 hour between activities. No restricted activity to be conducted after 1am.

Promotional activities play a substantial persuasive role in stimulating increased alcohol consumption. Activities, competitions and contests provided on licensed premises have been shown to encourage direct patron participation in games, diversions and amusements leading to excessive and rapid consumption. In recent years, the prevailing view that alcohol consumption is a necessary constituent of social interaction and celebration has encouraged licensed establishments to offer what is now recognised as high-risk content diversions. These days promotional activities, in particular “happy hours” form a considerable component of the business of licensed establishments. It is considered that the prevalent trend of “happy hours” entertainment is, to a great extent, responsible for framing people’s attitudes and perceptions about the role of alcohol in society.

As a consequence, the Government is proposing to impose conditions on late trading venues in the BCC area which will prohibit the promotion and conduct of irresponsible activities. First and foremost, the aim is to reduce incidences of excessive and rapid consumption and associated dysfunctional behaviour. Second, to modify, albeit indirectly, the prevailing misconception about the role of alcohol in the community.

To support the provisions in the Liquor Act that prohibit irresponsible promotion, a new section will be inserted into the Liquor Regulation which will outline the requirements under the Act.

Section 37 H – Prescribed Activities – of the Regulation will stipulate that:

(1) For section 142AL(b) of the Liquor Act, the following activities are prescribed:

- (a) an event or occasion in which a person’s membership of a group, or participation in the event or occasion, entitles the person to free or discounted liquor;

Examples—

a ‘blondes’ night’, ‘students’ night’, ‘nurses’ night’ or other theme night

- (b) a promotional or other activity that offers a person, as a reward, free or discounted liquor for consumption on the premises;

Example—

A raffle in which a person might win free or discounted liquor for a day.

- (c) a promotional or other activity that offers a person a reward, other than free or discounted liquor, if the person would need to drink more than 4 standard drinks on any day to win the reward.

Example—

A promotional activity in which a ‘drinks card’ is given to a person at a particular time, and to win a T-shirt by using the card the person would need to drink more than 4 standard drinks on any day.

- (2) Also, for section 142AL(b) of the Act, the following activities are prescribed for premises—
 - (a) for the period from 7a.m. on a day to 9p.m. on the day—having a happy hour that is more than 2 hours;
 - (b) for the period from 9p.m. in the trading period to 1a.m. in the period—having a happy hour that is more than 1 hour;
 - (c) for the period after 1a.m. in the trading period—having a happy hour or part of a happy hour;
 - (d) if the premises have more than 1 happy hour on a day—having the happy hours without at least 1 hour between the end of each happy hour and the start of the following happy hour; and
 - (e) on any day—having a happy hour that starts before 9p.m. and ends after 9p.m.

- (3) In this section—

happy hour means a set period, commonly called a ‘happy hour’, during which liquor is generally available on the premises during the period for free or at a discounted price.

standard drink means the quantity of any kind of alcoholic drink that, if consumed, is equivalent to drinking 12.5mL of alcohol.’

The proposed provisions under Option One will prohibit all activities conducive to over-consumption, such as specific drinking games, “two-for-ones” or drinking more than 4 standard drinks a day to win a prize (eg. T-shirt, coasters). In addition to restricted activities, a time limit is proposed within which activities, such as “happy hours” are permitted, including the duration of the sessions. While the provisions will only apply to premises that trade beyond 1am, it is emphasised that the proposed limits are not to be understood as a whole-sale ban on competitions, games and associated activities. Licensees can continue to provide activities as long

as these are conducted responsibly and do not involve practices where the reward is alcohol or where patrons would be required to consume copious amounts of alcohol to win a prize.

11.1.1 Impact on Industry

Costs

Concern was raised about potential competitive impacts on late trading venues due to what is seen by some industry representatives as substantial intervention by Government in the market. The implication is that the proposed legislation prescribes particular conditions or practices under which late trading licensed establishments in the BCC area are to operate, thereby indirectly prohibiting certain other conditions or practices that may enhance rather than curtail market activity. Furthermore, the exemption of venues that are not permitted to trade past 1am from the proposed restrictions is viewed as inequitable and anti-competitive, since the legislation will treat this sector in the same market differently.

The RIS considers that these competitive constraints, whilst realistic to a degree, must be viewed within the context of the public good principle and of the fundamental difference between late trading premises and non-late trading premises. Some regulatory differentiation between late-trading and non-late trading premises is considered necessary on account of the high risk late-trading venues pose to consumer and community safety. The objective of the proposed legislation is to create a sustainable balance that will curtail unconstrained levels of consumption without compromising the overall competitive ability of the liquor industry. It is considered that community interest can only be satisfied by imposing certain restrictions on existing market structures. To this end, the proposed restrictions on late trading licensed premises is seen as a necessary measure to establish a balanced legislative environment whereby the interest of the community are equally protected.

It must also be emphasised that increased competition, although a necessary component of productive market management, is not about the pursuit of competition for its own sake. It is about strategies that encourage effective competition in the interest of efficient and effective market structures and maximum community benefit. However, situations may occur where competition does not achieve this outcome and in fact needs to be restricted in the interest of the community. To this end a more equitable balance must be re-established to safeguard all interests in the community. Option One has been formulated to address this issue.

With respect to potential competition impacts that may arise due to the restrictions to be imposed on late trading venues, it is considered that market forces would play a significant role in re-establishing any potential competitive imbalance. In fact, this may already be the case. Late trading venues by virtue of their extended hours already have a competitive edge over venues that are not authorised to trade beyond midnight or 1am. Licensees need to remember that extended trading hours are a privilege, not a right, and consequently, such a privilege carries with it increased obligations and responsibilities in managing licensed establishments.

So in effect, the privilege to trade late affords licensees a bigger share of the entertainment market in comparison to venues that cease trade prior to 1am. Thus, any competitive impact the restrictions may impose on late trading venues prior to 1am is balanced by the significant competitive edge late trading venues sustain with post 1am trading. The Government is of the view that on account of the extended trading privilege any pre-1am competitive impact on late trading venues would be inconsequential.

Furthermore, Option One will permit the conduct of “happy hours” and associated entertainment diversions up until 1am in line with non-late trading licensed premises in the BCC area. The only limitation on post-1am traders will be the nature of the activity and the duration of “happy hours” sessions which must not exceed two hours before 9pm and one hour after 9pm with at least a one-hour break between sessions. In the interest of community safety these restrictions are considered necessary to mitigate situational factors that otherwise would encourage on-going irresponsible practices and associated behavioural issues throughout the trading period. For example, limiting the duration of restricted activity sessions, such as “happy hours”, to two hours, with at least a one-hour period between sessions, would have a mitigating effect on patterns of consumption on licensed premises. A one-hour session between happy hour activities introduces a “break” period, as it were, in what otherwise may be a risky use of a “happy hours” period.

A further important consideration for the Division in developing Option One is that on account of their more flexible primary purpose and hours of trade, late trading venues are considered to fall within the high risk category. This makes it necessary to restrict the nature, duration and time space for activities that could encourage over consumption on premises where the service of liquor is authorised till early hours in the morning. However, the Division considers there should be no differentiation of the time situational factor between licensed premises prior to 1am. What is meant by this is that all premises should be permitted to conduct promotional activities, restricted or otherwise, on an equitable time basis,

that is, up until 1am. Hence the development of a more sustainable and equitable arrangement presented under Option One.

Some industry stakeholders have also suggested that the problems associated with irresponsible practices are largely due to the “rogue” elements infiltrating the industry and, therefore, the regulation should not be imposed on respectable operators. The suggestion is that regulatory intervention to reduce the social costs arising from alcohol misuse need only target the relatively few “rogue” operators. However, the Government considers that the potential for unreasonable consumption is a reality in all late trading premises, irrespective of the best efforts of licensees to establish responsible operational practices. By virtue of their late trading hours, primary purpose (the sale and supply of liquor), and the attendant situational factors (eg; promotional activities, diversions, entertainment and competitions), all high-risk category premises are potential contributors to excessive and rapid consumption.

It is difficult to define what constitutes a “rogue operator” where due to the pressures of competition many licensed venues do engage in practices that may not altogether be appropriate. Tighter regulatory measures can rectify or bring into line establishments inclined towards indulging in practices that could be considered too flexible. Eliminating rogue operations from the market is best accomplished by imposing regulatory restrictions. The proposed regulation is not perceived to pose a threat to responsible operators. Licensees who conduct their businesses in a responsible manner are unlikely to be affected by the proposal.

It is reasonable to conclude that irresponsible promotions damage the reputation of the industry, diminish service and quality and have no place in a well-managed licensed business. Alcohol-related violence and disturbance in or near licensed venues are bad for business. Analysis of the research in section 5.3 suggests that improving the rates of compliance with alcohol service laws is a sound strategy for reducing alcohol-related harm and violence. Careless or reckless management practices can cost the licensee money, either directly through damage to property or litigation, or indirectly as customers seek more pleasant and safer environments to drink.

Benefits

Since people are more likely to abuse someone, drink drive and cause public disturbance whilst under the influence of alcohol, eliminating those factors from the situational setting that lead to excessive consumption will reduce the likelihood of undesirable consequences for licensees, staff and

patrons who initially bear the brunt of unruly behaviour. Regulating for more responsible management of licensed establishments, such as restricting certain activities or setting time limits for the duration of activities for certain events (eg. happy hours) are sound and reasonable strategies considered to enhance rather than diminish gains.

It is emphasised that whilst the provisions are proposed to mitigate excessive consumption by restricting the type and duration of activities, there is no intention to ban 'happy hours' or other recreational and entertainment activities provided they are conducted in a responsible manner. Licensees will not be adversely affected in terms of patronage, since patrons can continue to enjoy activities and engage in constructive recreational pastimes in licensed establishments which provide them. The intention is to ban those promotions, competitions and associated activities, which are considered to encourage excessive and harmful consumption of alcohol. The proposed regulation is a mode of adjustment rather than a whole-sale ban on activities. Since this option allows for the conduct of 'happy hours' till 1am, albeit with certain provisos, sufficient scope will remain for licensees to conduct events and activities that are both profit generating and acceptable.

In many instances benefits cannot be given a monetary value, especially in terms of community welfare and safety. Generally, the proposed restrictions will generate more responsible consumption levels resulting in reduced harm and injury for individuals themselves and the community, including licensees. Although these benefits fall into the qualitative category of a cost benefit analysis, in the long term they can generate quantitative benefits, such as increased revenue for licensees through safer environments. Responsible operations are more likely to attract a diverse range of consumers than a venue where safety concerns are the order of the day. In fact, it is not unreasonable to conclude that patrons are less likely to attend establishments where they are open to harassment, or abuse by intoxicated patrons. Venues that encourage questionable practices resulting in unrestrained consumption do not provide the safe and quality environment which would attract long-term patronage.

There is no evidence to support the notion that licensed premises engaging in irresponsible practices to increase their profit margin are likely to generate more profit than those complying with the rules governing the sale and supply of liquor. Sustainable profits are the result of responsible and innovative enterprising, quality establishments and safe environments. Where such conditions are lacking, business viability can and will suffer.

The arrangement under Option One rules out the potential for anti competitive measures where they could impact unfavourably on market practices. Furthermore, as indicated by responses to the Divisional survey and more significantly by key stakeholders during the recent workshop convened to discuss these issues, the majority of industry participants are supportive of Option One. All members consulted agreed that the prohibition of promotional practices after 1am is warranted and justifiable.

11.1.2 Impact on Consumers

Costs

In recent times promotional activities have generated false messages about community acceptance of alcohol as a symbol of adulthood, trivialising the negative consequences of intoxication. From the perspective of consumers therefore, some patrons may perceive the proposed legislation as an undue restriction on their rights to participate and engage in activities to which they have become accustomed. The RIS reiterates that the proposed regulation will not restrict patrons from enjoying themselves. It is considered that even under the proposed restriction on “happy hours”, there is sufficient scope for patrons to continue with their diversions. Further, it is expected that the proposed restrictions on promotional activities will encourage the development of a more responsible and healthy view on the place of alcohol in the community.

Certain limitations must be imposed where the safety of others can be jeopardised because some patrons may be unable to restrain from engaging in practices that is not only harmful to themselves but others as well. As regulator of the liquor industry, the Division is equally obliged to protect patrons, staff and licensees from harmful practices.

Under Option One the overall negative impact on the community would be far less than is the case under the current environment.

Benefits

The major benefit associated with the proposed restriction is a greater level of protection to the community from alcohol misuse and its consequences. Introducing legislation to effect a change in the drinking culture, particularly as it relates to the vulnerable sectors of the community, can reduce excessive per capita consumption. Where exposure to irresponsible practices is diminished, patrons are less likely to indulge in excessive consumption or exhibit bravado behaviour to impress peers. The value in

changing the pattern of rapid and excessive consumption has far-reaching and immeasurable long-term benefits, such as, better quality of life and less confrontation with the law. In terms of harm minimisation these are significant benefits.

Under the Status Quo such benefits would not accrue. In the absence of adequate controls to mitigate unreasonable activities, patrons are free to engage in dysfunctional activities leading to excessive and rapid consumption and subsequent troublesome and unruly behaviour. As recent events in the BCC area demonstrate, patron behaviour does get out of control and risks to the community can increase manifold. With Option One such occurrences would be considerably mitigated.

The promotion and marketing of liquor has come to play a significant role in influencing the behaviour, choices and preferences of consumers. A prohibition on practices that encourage undesirable activities resulting in harmful consequences is a sound strategy to curtail inappropriate messages getting out to the community. Sending out the right message can deter people from engaging in irresponsible drinking practices and may even influence existing patterns of consumption. Effecting change in consumer perception by promoting a more responsible attitude towards alcohol is a significant benefit.

11.1.3 Impact on Government

Costs

Costs to Government have been identified in the area of compliance and enforcement. To ensure licensees comply with the proposed legislative requirements, the Division will be required to provide the necessary resources to enforce the proposed measures. Initial costs generated by enforcement and monitoring compliance could be substantial. Once the legislative measures are well established, cost and resource impacts are expected to diminish.

Benefits

In terms of Government Priority outcomes the benefits of the proposed regulatory measures align with protection and enhancement of community interests. The Action Plan proposal will significantly increase the capacity of the Queensland formal regulatory system to combat harm arising from irresponsible promotion of liquor and prevailing consumption patterns that are generating significant concerns in the community.

Since certain activities offered on licensed establishments, to a great extent, are responsible for framing people's attitude and perceptions about the role of alcohol in society, it is essential that Government intervenes to change such misconceptions. Regulating for practices that send a more appropriate message to the community about the role of alcohol and the need for people to change their consumption patterns, demonstrates government commitment to safeguard the health and welfare of consumers and members of the community. These are significant benefits to Government, in terms of integrity, commitment and responsible governance.

Administrative costs associated with complaint resolution can be considerably reduced when complaints about licensed establishments and patron behaviour diminish. Basically, the benefit here is that allocation of resources for regulation and enforcement can be redistributed to more productive areas, such as the better facilitation of policy, regulatory and administrative functions.

These benefits are unlikely to accrue with the Status Quo option where establishments would continue to generate complaints and the associated costs in resolving them.

12 FUNDAMENTAL LEGISLATIVE PRINCIPLES

Fundamental legislative principles have been considered. The Liquor industry is already highly regulated by statute however, as recent events in the BCC area demonstrate, increased safety measures, in the form of regulation, are necessary to safeguard the interests of the community. The proposed amendments are consistent with the existing regulatory approach which seeks to minimise the potential harm of liquor abuse and misuse on the community as a whole.

The proposed measure forms part of the Government's broader Action Plan to manage alcohol abuse, misuse and associated violence in Brisbane. Although the provisions will apply only to late trading venues, the potential for unfair competition and attendant inequalities have been adequately addressed through the adoption of measures that are acceptable to industry, the community and the Government.

13 CONCLUSION

The objective of the RIS is to demonstrate that regulatory action as proposed is considered reasonable and appropriate in this instance. Given the recent escalation of incidences of public disorder arising from alcohol

misuse in the BCC area, the modified measures to restrict certain promotional activities on licensed premises is appropriate and justified and, most importantly, is supported by industry.

The cost benefit analysis demonstrates that the Status Quo model, if retained, would exacerbate rather than diminish the on-going issues generated by inappropriate promotional practices.

Without the proposed legislative reform there is insufficient statutory basis to curtail or better manage alcohol abuse and the associated violence that has recently occurred in the BCC area. The existing regulatory framework, as the analysis demonstrates, is not broad enough to address the potential cumulative impact of alcohol misuse and its undesirable consequences. Accordingly, the imposition of increased protective measures, as proposed, is warranted.

The Action Plan's alcohol management recommendations, incorporating strategies to curtail irresponsible alcohol promotions will produce an overall public benefit by providing for increased safety to consumers and patrons, including more secure localities, reduced violence and more responsible service and consumption of alcohol. The proposed reform is a clear, methodical and transparent approach to setting the direction for a more responsible regulation of the liquor industry compatible with the minimisation of harm arising from the misuse of liquor without compromising industry interests.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Tourism, Fair Trading and Wine Industry Development.