

Liquor & Gaming NSW
Policy and Legislation
Email: liquorpolicy@liquorandgaming.nsw.gov.au

5 August 2022

Dear Liquor and Gaming NSW,

Thank you for providing the opportunity to comment on the **Review of Alcohol Delivery Reforms – Stage 1.**

Northern Sydney Local Health District (NSLHD) Health Promotion has an active interest in measures to prevent or reduce alcohol-related harms among individuals, communities and populations. We have a history of working to reduce the potential of alcohol retailers to be a source of alcohol for minors through initiatives such as the “Online Liquor Gets Audited (OLGA) Project” where its findings were recently published in the Public Health Research and Practice Journal.

Background and Context

Since 2017, NSLHD Health Promotion has played an active advocacy role in the shaping of alcohol home delivery reforms. The abovementioned OLGA study involved an audit of all packaged liquor licences (current as of 2018) in NSW with no walk-(or online) conditions and a review of the relevant sections of the NSW Liquor Act and Liquor Regulation¹. The aim of the project was to determine the parameters in place to prevent young people from accessing alcohol online and the delivery of alcohol to intoxicated people. The OLGA Recommendations Summary Report has previously been provided to Liquor & Gaming NSW and helped to inform the proposed Same Day Delivery reforms in 2020.

In recent years, the gains made as a result of evidence-based alcohol policy in Australia (e.g. reduction in alcohol availability, violence and harms)^{2 3} are being offset or compromised by an increase in the availability and accessibility of alcohol for ‘at-home’ consumption. The number of Australians who purchase alcohol online has tripled from 2019 (3.5%) to 2021 (11.3%).⁴ According to the Foundation for Alcohol Research and Education Annual Alcohol Poll 2020, approximately one in six Australians (15%) who drank alcohol reported that they have purchased home delivery in the past 12 months and almost half of those (46%) utilised alcohol home delivery services at least monthly.⁵

The COVID-19 pandemic has contributed to a considerable growth in the ‘delivery only’ packaged liquor licence type both in Australia and internationally⁶. As a result of the continued growth of alcohol delivery, NSLHD compared the NSW Liquor & Gaming ‘delivery only’ packaged liquor licence data from March 2020 to July 2022 and found that the number of ‘delivery only’ businesses increased from 106 in March 2020 to 867 in July 2022⁷. This increase of 718% in just over two years demonstrates the dramatic growth of this business type.

With consideration of the alcohol related harms data and the growing body of evidence pertaining to alcohol home delivery, a summary of our recommendations are below:

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Recommendations:

1. All alcohol delivery providers/businesses (both those that offer same day and NON-same day delivery) should be required to verify age online using one of the three options initially stipulated as part of the 2020 alcohol delivery reforms.
2. 'Authority to leave' options should not be permitted for both same-day and non-same day delivery orders.

The July 2021 reforms did not explicitly state that 'authority to leave' should not be permitted for the delivery of alcohol. We recommend that the alcohol delivery reforms explicitly state that 'it is mandatory for ALL alcohol delivery businesses to exclude authority to leave options'.

3. Liquor and Gaming NSW to implement regular and comprehensive compliance auditing, incorporating both purchasing and delivery stages of the transaction, for ALL packaged liquor licences with alcohol delivery conditions (same day and non-same day).

The OLGA study identified that almost a third (32%) of licences were not able to be located, rendering attempts at compliance monitoring inaccurate. To ensure these licences are held to the same stringent standards as traditional licences such as bottle shops, clubs and hotels, it is strongly recommended that Liquor & Gaming NSW commit to undertaking regular random compliance audits of all online alcohol businesses, from the online store (audit mandatory signage and extreme discounting), through to sale and delivery age verification checks.

4. Liquor & Gaming NSW to:
 - a. communicate its self-audit checklist (CL1017) as part of the annual liquor licence renewal schedule;
 - b. Identify a process for how the checklist is disseminated to delivery providers on a regular basis ; and
 - c. extend its self-audit checklist to ALL alcohol delivery providers.

The current legislative requirement is for 'same-day' delivery providers to utilise the NSW Liquor & Gaming self-audit checklist. Although this is a valuable tool for same-day delivery providers to regularly use to ensure that they are aware of their legal obligations, there are limitations in relation to how this self-audit checklist is communicated to delivery providers.

5. Restrict cut-off times for alcohol deliveries to 10pm.

A recent study survey undertaken by The Centre for Alcohol Policy Research (CAPR) at La Trobe University examining online alcohol purchasing found that people who use on-demand alcohol services were high-risk drinkers, with 28% of participants consuming 11 or more standard drinks in one occasion at least weekly⁸. Interestingly, 28% of respondents indicated that they would have had to stop drinking if the delivery service was not available.

A review of the 2014 liquor licence reforms identified substantial 9% reduction in assaults across NSW, which coincided with the ban on takeaway alcohol sales after 10.00pm⁹.

6. **Require any package containing alcohol to display a standardised label stating ‘Contains Alcohol: Age Verification Required Upon Delivery’**

A person responsible for the delivery of alcohol may be absolved from supply legislation if they did not know, and could not reasonably be expected to have known, they were committing the offence. To mitigate this loophole, it is recommended that any package containing alcohol be required to display a standardised label stating “Contains alcohol: Age verification required upon delivery”. This would alert persons responsible for delivery about the contents of the parcel and advise them of their age verification responsibilities at the point of delivery.

7. **Prohibit buy now, pay-later payment options e.g. Zip Pay, AfterPay and so on**

The use of *buy-now pay-later* payment options for the sale of harmful products such as alcohol has the potential to exacerbate addictive behaviours and place vulnerable and at-risk groups (e.g. people using alcohol treatment services and young people under 18 years) further in financial debt. Buy now pay later options are an impulse enabling tool and reduce the perceived expense of alcohol products^{10 11}. This raises concerns as the evidence suggests that low cost alcohol increases consumption and subsequent harms¹².

Evidence shows that of those people who use on-demand alcohol delivery services, 18% drink 11+ standard drinks in one sitting at least weekly and highlights the at-risk nature of such user groups¹³. Furthermore, surveys indicate that 28% of these consumers would have stopped drinking had same-day/rapid home delivery services not been available to them¹⁴ It is strongly recommended that these payment options are prohibited for all online sales of alcohol.

8. **Mandate that the Responsible Supply of Alcohol Training (RSAT) is required for ALL alcohol delivery couriers, rather than only those who deliver alcohol on the ‘same day’ and undertake random audits at the point of delivery to ensure successful implementation.**

Specific Comments and Recommendations in response to some of the Stage 1 questions for stakeholder comment:

Awareness of requirements

- **What factors, if any, have affected stakeholder awareness of the respective age and identity verification requirements for same day and non-same day liquor deliveries?**

As it currently stands, an inconsistent approach to age verification between same-day and non-same day may be confusing and reduce awareness of the requirements.

Recommendation: A standard approach for same day and non-same day deliveries would ensure a consistent industry approach and clear expectations for delivery providers, increasing awareness and application of any reform.

Compliance with requirements

- **To what extent have liquor providers complied with the requirement to provide evidence of age and identity for same day alcohol deliveries?**

Compliance with this requirement has limitations as under the current reform, same day delivery providers have been provided a transition period until 1 September 2022 to verify age online at the point of sale under the Liquor Act 2007. Some providers may refer to the transition period as to why they have not 'yet' complied.

Recommendation (as listed above): Liquor and Gaming NSW to implement regular and comprehensive compliance auditing, incorporating both purchasing and delivery stages of the transaction, for ALL packaged liquor licences with alcohol delivery conditions (same day and non-same day).

Proof of age requirements for non-same day deliveries

- **Is there any risk of harm to minors for liquor deliveries that are not same-day deliveries?**

Yes, the same day delivery of alcohol presents unique regulatory challenges in regards to the supply of alcohol to intoxicated persons. However, the real and immediate risk of underage supply of alcohol continues to exist irrespective of whether delivery is on the same day a purchase is made or the following day(s). Bottle shops offering standard product lines (ie. beer, wine, spirits, mixers etc.) with non-same day delivery options should therefore be subject to the same regulatory safeguards as those applied to same-day delivery.

- **Should additional requirements to provide evidence of age be included for non-same day deliveries?**

Yes, age verification requirements should not differ between same-day and non-same day delivery of alcohol. This would ensure consistency across the home delivery model and would also assist licensees/providers with understanding their requirements. Furthermore, it is imperative that online supply of alcohol is adequately regulated as a broader licence type irrespective of when the delivery takes place.

- **If additional proof of age requirements were to be required for liquor deliveries that are not same-day deliveries, what requirements would be appropriate?**

The proof-of-age requirements should be two fold – at the point of sale/purchase and at the point of delivery. The online verification for non-same day delivery should be the same as that required for same-day delivery providers who have three options to verify age online.

Responsible Supply of Alcohol Training (RSAT)

- **To what extent are stakeholders satisfied with the RSAT course and the requirement to complete the training?**

The requirement for stakeholders to complete the RSAT course plays an important role in alcohol harm minimisation within the community and ensures there is understanding of the alcohol related harms and accountability at all levels of alcohol supply.

Overall, NSLHD Health Promotion supports alcohol delivery reforms to address same day alcohol deliveries which took effect in July 2021. These reforms addressed some of the former shortfalls that existed within the regulatory framework for online alcohol purchases with same day delivery. However, with additional regulatory amendments to address the remaining shortfalls, further harms can be prevented.

Thank you again for the opportunity to comment on the Review of Alcohol Deliver Reforms - Stage 1. Should you require any further clarification regarding our recommendations please do not hesitate to contact Melissa Palermo, NSLHD Health Promotion on 02 8797 7295 or e-mail melissa.palermo@health.nsw.gov.au

Yours sincerely,

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¹ Noyes J, Palermo M, Willman A, Harkness J, Bienenstock R, Klarenaar P. Online liquor gets audited: a review of regulatory controls and supply practices of online liquor retailers in NSW, Australia. Public Health Research and Practice. 2021. [cited 2022 July 20]. Available from: <https://doi.org/10.17061/phrp31342115>

² Kypri K, Jones C, McElduff P, Barker D. Effects of restricting pub closing times on night-time assaults in an Australian city. Addiction. 2011 Feb;106 (2):303-10. doi: 10.1111/j.1360-0443.2010.03125.x. Epub 2010 Sep 15. PMID: 20840191; PMCID: PMC3041930.

³ Menéndez P, Weatherburn D, Kypri K and Fitzgerald J. Lockouts and Last Drinks: The impact of the January 2014 liquor licence reforms on assaults in NSW, Australia. Crime and Justice Bulletin No. 183. [Cited 2022 July 20]. Available from: https://www.bocsar.nsw.gov.au/Pages/bocsar_publication/Pub_Summary/CJB/cjb183-Lockouts-and-last-drinks.aspx

⁴ Roy Morgan. Online alcohol sales soar in 2020, but will this market continue to grow in a post-COVID environment? 2021

⁵ Foundation for Alcohol Research and Education. Annual Alcohol Poll 2020: Attitudes and Behaviours. Available from: <https://fare.org.au/wp-content/uploads/ALCPOLL-2020.pdf>

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⁷ Liquor & Gaming NSW. Liquor licence data and dashboard/map. Available from <https://www.liquorandgaming.nsw.gov.au/resources/liquor-licence-data>. [Accessed on 26/07/2022]

⁸ Mojica-Perez, Y., Callinan, S., and Livingston, M., Alcohol Home Delivery Services: An Investigation of Use and Risk. Available at: <https://fare.org.au/wp-content/uploads/Alcohol-home-delivery-services.pdf> (Accessed 21 July 2022)

⁹ Menendez, P., Weatherburn, D., Kypri, K., and Fitzgerald, J., Lockouts and last drinks: The impact of the January 2014 liquor licence reforms on assaults in NSW, Australia. *Crime and Justice Bulletin*, No. 183, April 2015

¹⁰ Ah Fook L, McNeill L. Click to buy: The impact of retail credit on over-consumption in the online environment. *Sustainability*. 2020;12(18):7322.

¹¹ Rhys Ashby, Yi Li, Shahin Sharifi, and Jun Yao (2020) , "The Influence of the Short-Term Installment Payment Method on Consumer Purchase Decisions", in *NA - Advances in Consumer Research Volume 48*, eds. Jennifer Argo, Tina M. Lowrey, and Hope Jensen Schau, Duluth, MN : Association for Consumer Research, Pages: 198-199.

¹² Osterberg E. Pricing of alcohol. *Alcohol in the European Union: consumption, harm and policy approaches* Copenhagen: WHO Regional Office for Europe; 2012. p. 96-102.

¹³ VicHealth. On-demand alcohol delivery services and risky drinking 2020 [Available from: <https://bit.ly/3NskD3I>]

¹⁴ Yvette Mojica-Perez, Sarah Callinan, Michael Livingston. Alcohol home delivery services: An investigation of use and risk. Melbourne: Centre for Alcohol Policy Research; 2019.