

Mr. John Rau  
Deputy Premier  
Attorney-General  
Minister for Justice Reform

This submission primarily concerns the sale of liquor in supermarkets and the needs test.

Discussion Paper Section Where are we now “ The Needs Test ’

**Is there a need to regulate competition? If so, what regulation is appropriate and in what circumstances?**

I take umbrage in the fact that the South Australian Government feels the need to compare our Legislation with that of other states in a manner that implies we are left behind. We are the Only state to have a needs test.

Other states have allowed liquor licensing decisions to be made by local councils and community groups instead of a Liquor Commissioner and Licensing Court. The commissioner and Licensing Court would surely be the best qualified to make decisions regarding liquor.

The needs test asks is the License Necessary, (do we need to have more alcohol available in an area causing a greater chance of alcohol related harm? ) Is there already a license catering to the needs of the public? ( is there a balanced level of competition) The decision is undertaken by judicial members qualified in the area of Liquor.

If we need to compare other states, they also have a form of needs test, under different titles. Community impact statement, Public interest assessment, public interest submission. However is it wise to put liquor licensing decisions in the hands of Local Councils? When we have an experienced dedicated Liquor licensing commissioner and Licensing Court.

Liquor licenses are available under the current Liquor license act to anyone who a) purchases or b) proves that there is a ‘Need’ under section 58 (2) for another licensed premises in the relevant area to cater for public demand. Adelaide already has the highest amount of licenses per head of population. Greater availability and lowering the standard of offering does not encourage a safer drinking culture.

South Australia has lead the way in many areas of government and legislation, The Liquor Licensing Act 1997 is one of them as it takes into account the responsible development of the liquor industry by using the ‘need’ concept and the interests of the community.

The Harper Review Panel states

Recommendation 8 Regulation review

All Australian governments

Should review regulations, including local government regulations, in their jurisdictions to ensure that unnecessary restrictions on competition are removed.

Legislation (including Acts, ordinances and regulations) should be subject to a public interest test and should not restrict competition unless it can be demonstrated that the benefits of the restriction to the community as a whole outweigh the costs; and the objectives of the legislation can only be achieved by restricting competition.

Factors to consider in assessing the public interest should be determined on a case by case basis and not narrowed to a specific set of indicators.

The Australian Council for Competition Policy should publish an annual report for public scrutiny on the progress of reviews of regulatory restrictions.

In particular, given the Panel's view that the risk of harm from liquor provides a clear justification for liquor regulation, any review of liquor licensing regulations against competition principles must take proper account of the public interest in minimising this potential harm.

The Panel agrees with the many submitters who note that 'Alcohol, because of its potential to cause harms, is not like other products. It is not the same as cornflakes, nor is it similar to washing powder or orange juice'

(Foundation for Alcohol Research and Education, DR sub, page 6).

All regulations must be assessed to determine whether there are other ways to achieve the desired policy objective that do not restrict competition.

However, it is certainly not the Panel's view that the promotion of competition should always trump other legitimate public policy considerations.

The Panel does not support a change to the public interest test, and the 2005 review of packaged alcohol cited by Marsden Jacob Associates is an example of how the test can be pragmatically applied to a sensitive area of regulation

Our history of being a significant wine-growing areas with a thriving wine industry, employing considerable numbers of people has, to date, been very compatible the current needs test. Increasing numbers of liquor licenses to make, what is likely to be cheaper alcohol, more readily available does little for encouraging a vibrant state or a safer drinking culture – the stated aims of this review. It does, however, have the potential for increasing risk of alcohol-related health problems and increased social harm, costing the economy a significant amount in additional policing and health dollars.

The current needs system remains the best to balance competition and alcohol-related harm. In this, South Australia has, and continues to lead the way.

### **Should alcohol be able to be sold in supermarkets?**

Why should supermarket groups like Aldi and Foodland be allowed to get a liquor license for **free**? The moment free licenses are granted to these groups the value of any liquor merchants business drops exponentially when every license is granted. The skirting of the "need" requirement, a fundamental eligibility criterion, eliminates a level playing field.

The Big two Supermarkets in Australia, Coles and Woolworths, went through the regular channels to purchase their licenses. Will the government whom proposes these changes compensate those that suffer a dramatic loss in value of their License? Like Coles and Woolworths, retail Liquor Merchants and Hotels purchased a license for a substantial sum in a fair market. This proposal to grant licenses at no cost eliminates a fair market.

The South Australian economy is heavily reliant on the wine industry & is fostering a burgeoning beer industry.

It will be more difficult for the small local winery or brewery to access these supermarkets as it is to sell to the dominant two. The lines that are most profitable (e.g. home brands) will naturally feature heavily at the cost of the small brand.

The demands that are placed upon wineries are placed by the big Two supermarket owned chains (e.g. there has to be a certain volume of wine produced to allow the product to be stocked on their shelves). The payment of a merchandising fee to have the honour to allow it to be placed on the shelf, the slow payment under the terms of the supermarket and (as milk producers will attest), the squeeze on price so the supermarket makes more money not the Small Winery. All Supermarkets follow the same model and as more are allowed licenses less small wineries will be represented as more of their own home brands are. Aldi has a proliferation of Home Brands that are predominantly imported and will be sold as a cheap substitute and at a cost to the vibrancy of the local wine and beer industry.

The proliferation of powerful supermarket owned Liquor licensed outlets will, through sheer economic might, cause Small Liquor merchants and Hotel drive through bottle shops to go out of business. Liquor merchants are already suffering from the domination of large supermarket owned Liquor outlets. Small Merchants can not compete with Supermarket Liquor outlets that run loss leaders, (products sold at a loss to attract custom) as they don't have the economic might to sustain this business model. Liquor merchants in an effort to retain customers and already create a point of difference and increased consumer choice by currently stocking small wineries' brands. This contributes considerably to the growth and success of small wineries and breweries, increasing vibrancy, employment and economic growth in this tourism and entertainment-related section of the SA economy.

The decline of outlets that currently stock Small Winery & Beer Brands will result in very little to no exposure for this industry. Local Wineries will not be represented in the Supermarket as they will be squeezed out by cheaper more profitable large company products and home brands. The Wholesale agencies that represent small winery brands will be obsolete. Small SA wineries become Cellar door only outlets or lose their brands and become grape growers. The flow on effect for the South Australian Wine Industry will be devastating. The job losses will trickle down the chain from Liquor merchants and staff, Wine sales representatives, Warehouse managers, administration, Winemakers and winery staff, to delivery drivers and many other associated jobs reliant on the industry.

The Liquor Licensing Act 1997 has as one of its primary objectives "to ensure that the liquor industry develops in a way that is consistent with the needs and the aspirations of the community"

In a review of the Liquor Licensing Act by Mr. Anderson QC in October 1996 He stated "I am convinced from my own inspections and discussions within the industry throughout Australia that the standard of hotels and bottle shops in South Australia is the highest in Australia. I am concerned that an immediate total deregulation by removing the "need" concept and allowing the sale of liquor in supermarket's and elsewhere, may not be in the best interests of the government's economic development strategy and tourism development and the wider needs and interests of the South Australian community".

The government has sought to address excessive alcohol consumption in section 4 of its discussion paper Minimising potential adverse impacts on society. A Report published by the National Centre for Education and Training on Addiction Flinders University, Liquor Licensing Legislation in Australia states 'the increased availability of alcohol in general, especially where it is associated with cheaper prices and easier access to take away products, can exacerbate alcohol related problems in the community'

This is exactly what Supermarkets would offer

In 2013 a proposal to sell wine in supermarkets failed after months of consultation and despite the government support, proposed laws were dropped after legal hurdles, strong opposition from wine sellers and concern independents would be squeezed out of that market.

Why is John Rau putting the same thing forward again when he commented at the time “After considering all submissions and seeking legal advice, I am now of the view that we can not achieve the desired outcome without hurting independent bottle shops, our local wine industry and helping Coles and Woolworths,” Rau said on August 26, 2013.

Nothing has changed that should alter this opinion or outcome.

I urge you to seriously consider the severe consequences of placing greater power in the hand of so few. It will not only have serious personal impact on my workplace, family and livelihood but also on my fellow employees, and the industry I am involved in and in which I intend on building my career. It will do nothing to achieve the vision of this discussion paper. It will not streamline processes, promote a safer drinking culture of contribute to vibrancy – in fact it will do the opposite.

Yours in sincere concern

*Joe Feliciotto*

*Asistant Manager*

**Belair Fine Wines**

P: 08 8278 5222

F: 08 8370 2420

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