

Liquor Licensing Discussion Paper

Submission by Ross Fassina

On behalf of Fassina SA Family Liquor Merchants 29/1/2016

Introduction

We have been operating in the SA liquor industry as a SA family owned business since 1975 and have a unique and valuable perspective on the South Australian Liquor landscape and the effect of various proposed changes. We strongly disagree with the suggestions of:

1. Removal of the 'needs test' for application of a Retail Liquor Merchant License
2. Allowing liquor to be sold in supermarkets in South Australia

While we agree that the Liquor Licensing Act (1997) deserves a review and many regulations & procedures can be streamlined, it is clear that the goals mentioned in the Discussion Paper are at odds with these two suggested proposal reforms. These goals include supporting SA's Premier Food & Wine Industry by encouraging diversity & competition in the liquor market and providing consumers with choice, and ensuring promotion of a safer drinking culture. This submission serves to outline why both of the proposed key changes will be significantly detrimental to the desired goals & outcomes set by the South Australian State Government.

Company Background

During the last 40 years, our family company has been involved in almost every aspect of the SA Liquor Industry, but predominately in the liquor retail sector. We currently own and operate 8 Fassina Liquor Merchant Stores around South Australia and one hotel in Mt Barker, and our main focus has and will always be promoting and selling local & boutique SA wines. We are extremely passionate about supporting local business, particularly the small to medium wineries with distinct & unique offerings. Despite the hostile environment created by the dominance of Woolworths & Coles in the liquor industry, we have continued to grow and provide our customers with a high level of quality service and choice under the current form of the act.

A) Supporting SA's Premier Wine Industry – Encouraging Competition & Consumer Choice

As stated in the vision section of the discussion paper, "we need to consider how we can improve our present liquor licensing system to support innovation, create more South Australian jobs, and provide consumers with choice." We have no doubt that removal or diminishment of the 'needs test' & allowing liquor to be sold in supermarkets would be disastrous to innovation, net job creation, and consumer choice in SA and irreversibly damage our wine industry which is already struggling due to fluctuating export demand and domestic consumer spending.

Protection of the South Australian Wine Industry affects everyone - Growers, Winemakers, Local Independent Retailers, & Consumers. As a key primary industry in SA, support is paramount for a vibrant local economy and for the consumer to have real quality of choice. Both of the suggested proposals to remove the 'needs test' and allow the sales of liquor in supermarkets would negatively affect the industry as a whole, giving the keys to Woolworths & Coles to put extreme pressure on small wine producers by increasing their commanding market share and continuing to expand their already extensive home brand wine range.

The 'Needs test' & the Damage Created by its Potential Removal or Diminishment

The 'needs test' effectively creates a barrier to entry making the SA liquor industry unique to our interstate counterparts. The argument based on modernising our regulation to be in line with New South Wales and Victoria is a heavily flawed one. It is partly because of this regulation that we have been able to partially shield our vibrant local wine industry from the effects of the Woolworths and Coles duopoly.

While the two nationals account for an enormous 70% of liquor sales in Australia, here in SA the figure sits currently at 58%. Previous liquor industry deregulation in both NSW and VIC has REDUCED overall competition, not increased it. The effect in practice will damage local independent bottle shop operators by essentially allowing the big chains to easily and rapidly add new locations, and hence increase their dominance and predatory anti-competitive behaviour. Ideals such as removing licensing barriers to promote a more competitive market are only practical when said removal will actually do so in practice, and not the opposite. Further strengthening a duopoly in conjunction with allowing entry of new multinational Aldi, will only result in supporting **their** takeover of the liquor market place in SA to the detriment of all other remaining independent bottle shops.

Another argument put forward has been that the current legislation has not kept up with the evolving expectations and demands of the local community. After thorough review of the public cases in 2014 & 2015 this argument is invalid as during that time, 14 liquor licensing applications relating to 'need' were considered by the Licensing Authorities; 12 were granted and 2 refused. This demonstrates how the courts have relaxed their interpretation of 'needs & demand' in recent times to align with current evolving requirements to serve the community. The courts have talked of a "normative judgment" now being required in assessing need and demand in context of the evolution of modern consumer habits as a consideration.

South Australia already has the most liquor licenses (or equivalent) per capita than any other State in the country, so there can be no argument made that the community interests are not already being well and truly served in regards to need.

Harm Caused to the SA Economy by Allowing Liquor to be Sold in Supermarkets

Three years ago in South Australia the State Government considered a proposal to allow SA supermarkets to sell wine, which was soon dismissed after public consultation. Attorney-General John Rau stated in August 26th of 2013 that, "After considering all submissions and seeking legal advice, I am now of the view that we cannot achieve the desired outcome without hurting independent bottle shops, our local wine industry and helping Coles and Woolworths." It is important to note that nothing has changed since then, and the decision by Attorney General John Rau & the State Government should still stand. This proposal would open the floodgates for Woolworths, Coles, Aldi to sell cheap home brand wine, beer and spirits in their aisles, as well as in all the bottle shops they already own. Consequentially, the rise in sales of high profit home brand products only further enables the chains to discount even more aggressively on real branded products and put pressure back on authentic suppliers both large and small. The increase in home brand products does not help the local economy or create more jobs overall, nor does it help promote SA as a Premium Wine producer. It also certainly does not increase the quality of choice for the consumer, especially considering the exact same wine can and has been bottled under various different labels that are designed to fool consumers into believing the product originates from a real winery. Allowing liquor in supermarkets only hurts local industry and squeezes out small and medium local wine suppliers and other craft liquor products.

Also it is worth noting that many liquor stores are currently already located either across from or next to supermarkets in SA, so the additional convenience provided to the consumer argument negligible.

B) Promoting a Safer Drinking Culture

The State Government in conjunction with the Adelaide City Council have attempted to crack down on problem drinking and alcohol-related violence and injury with the new late night trading codes recently enacted. Creating an environment where alcohol is made more readily available will only further enhanced the entrenched problem.

It has been demonstrated in several recent Australian studies including one conducted in Victoria that increasing packaged liquor outlets in a suburb or area dramatically increases the incident of alcohol-related crime and harm to the community.

Ensuring the State & National Health & Safety agenda of minimising alcohol-related harm and promotion of a safer drinking culture must absolutely be a higher priority, than making packaged alcohol more accessible to the consumer.

Conclusion

As shown, the disastrous consequences of removing or diminishing the needs test, and also allowing liquor to be sold in supermarkets would far outweigh any small gains in convenience to the consumer and would decrease competition in the marketplace and harm our local economy. Further to that, it is also clear that unnecessary proliferation of accessibility to alcohol via both more packaged liquor stores and proposed supermarkets will harm the local community and cause more alcohol related violence and illness.

As a proud South Australian, passionate about our local liquor industry, I implore attorney General John Rau and the SA State Government to consider alternate ways to achieve the goals listed in the discussion paper.

Sincerely,



Ross Fassina

Managing Director

Fassina SA Family Liquor Merchants