



Restaurant
& Catering

South Australia

**SUBMISSION TO THE ATTORNEY GENERAL REGARDING THE
CREATION OF A NEW LICENSE CLASS THAT WOULD ALLOW
SUPERMARKETS TO SELL BOTTLED WINE.**

**RESTAURANT & CATERING SA
FEBRUARY 2013**

Restaurant & Catering SA

Restaurant & Catering SA (R&CSA) is the peak state organisation representing the interests of restaurateurs and caterers. The Association is part of a federation with a combined membership of over 6,500 restaurant and catering businesses around the country.

Background to the Industry's relationship with the SA Wine Sector

Restaurant businesses provide a valuable support role to the wine industry by introducing smaller wine producers to the public and often offering wines to the consumer by the glass. This enables smaller producers to enjoy the support of industry and enables consumers to try a glass of a new wine before committing to purchase of a bottle or more.

The incentive for restaurants to sell uncommon wines is borne out of a belief that the large retailers often offer wines to the public at less than wholesale price, making those mainstream offerings appear expensive once a margin is applied for sale in a restaurant setting. The industry needs those less commercial wines to remain not commonly available to ensure their sell price is seen as reasonable.

The introduction of liquor distribution through supermarkets has the potential to destroy that more exclusive channel that restaurants provide. This has the potential to erode profitability to restaurants and cannibalise the positive relationship between the two industries.

Discussion Paper Points

The Government has invited responses to the following points.

- **Features of the proposed new class of License**

The "needs test" that applies to a number of licensed classes is an outdated construct long since passed over in other jurisdictions. It is a concept that is anti-competitive that protects existing licensees by preventing competitors blocking entry of rival businesses into the market without due consideration of public good or interest. The restaurant and catering industry believes that the 'needs test' should be reviewed in line with contemporary licensing arrangements in other jurisdictions.

In accordance with South Australia's National Competition Policy (NCP) obligations, an NCP review of the Act was completed in 1996. A further competition review of sections 32(7), 58 and 61 of the Act was undertaken in 2002.

The review concluded that the need test for hotel and retail liquor merchants should be abolished and replaced with a public interest/social impact test, which would allow objections to the granting of new licenses on the grounds that this would be contrary to the public interest.

South Australia's failure to implement reforms to remove the proof of need test resulted in a competition payment reduction of \$ 3 Million in 2005/06. We do not have information as to the situation since that time but would purport that any such wasted revenue is something that the state can ill afford.

The removal of the 'needs test' need not support an entirely deregulated market. It should be replaced by the public interest assessment as in other jurisdictions that more reasonably reflects the community's attitude. All retail liquor outlets ought to be subjected to the same level of rigor since they introduce the same level of risk. To create an easier entry point as is proposed makes a mockery of the high standards that existing licensees are obliged to meet.

Alcohol is not an ordinary good and should not be treated as such. It is a regulated product that has the potential to cause harm. We support the recent changes to the Liquor Code of Practice that recognised the unique status that liquor holds in the market. To stock wines in a supermarket setting creates an environment that does not truly reflect the community expectation that treats alcohol differently from milk and eggs.

The Government policy position through the General Code to introduce rigor into the sale and service of alcohol is to be commended. The alcohol related harms that are attributed to pre-loading or irresponsible attitudes to alcohol consumption cannot be understated. To increase access and availability to alcohol of any form risks normalizing the consumption of alcohol in the community and diminishes the advocacy efforts for increased responsibility around community access to alcohol.

- **Difficulties faced by SA wine producers in accessing the retail liquor market**

The rapid expansion of the wine production industry in South Australia is both an opportunity and a threat to the SA brand. It is an opportunity in terms of the growth of consumer interest in wine but a threat, as faced by every industry, in that it creates a highly competitive market. In 1996 we had 260 Producers Licenses. In 2013 we have 1257 and growing. The growth of the market may be faster than the consumer appetite can sustain.

It is well understood that the retail liquor market is

The proposed changes to the Liquor Act do not preclude those businesses from taking up this new license class so it does not guarantee in any way any exclusivity in the marketplace for the smaller supermarkets. In fact it is likely that competition from these larger retailers would continue to maintain the status quo in terms of support for those wine producers that are better able to negotiate or accept skinny margins for their stock in exchange for volume and guaranteed sales.

It is likely that their reaction to competition from independent supermarkets will further impact on smaller producers by reducing their sale price even further.

The wine industry now enjoys access to Direct Sales where they can accept mail order. The Producers License too is a very flexible license that allows for the establishment of a cellar door or restaurant as a sales and marketing outlet. The role of Government is to step in and regulate where there is market failure. We contend that this is not the case here.

The proposal does not include any requirement for the wines on sale in supermarkets to be South Australian so it fails the stated intent in that regard. There is also no clarification on what would constitute a South Australian wine; Is it where the grapes are grown locally or when the grapes are crushed here, blended, bottled or even sold from within the state.

- **Potential impacts on existing retail liquor outlets and supermarkets**

The proposal appears to create new competition for retail liquor outlets but since it is open to the large Coles and Woolworths outlets is unlikely to create competitive advantages to the consumer. The restaurant industry generally has no stake in the retail liquor sector or supermarkets but we are concerned over policy that works against the notion of competitive neutrality. The proposal treats supermarkets more favorably than existing retail liquor outlets and that cannot be supported.

- **Potential impacts on Society and the Community**

One of the primary objectives of the Liquor Licensing Act 1997 is "to ensure that the liquor industry develops in a way that is consistent with the needs and aspirations of the community".

The restaurant industry does not believe that further proliferation of outlet density and access to wine through supermarkets is in the best interests of the industry or the community.

A recently released report¹ warned that “the increased availability of alcohol in general, especially where associated with cheaper prices and easier access to takeaway products, can exacerbate alcohol-related problems in the community.”

The current regulatory environment has been established and developed over time to emphasise the special status of liquor within the marketplace and to control access to minors.

SUMMARY

The restaurant industry enjoys a symbiotic relationship with the wine industry. Small producers are the life-blood of the sector and enable small restaurant operations to form close relationships that allow for profitability from the sales.

The introduction of wine sales along with ordinary grocery lines in supermarkets has the potential to erode profitability and exclusivity for the wines, many of which are offered exclusively on premise.

To create a special license class that is not subject to the same conditions and rigor as other like operators creates an unjust and imbalanced economy in the retail sector. It also impacts the hospitality sector that is now an effective distribution channel for smaller wine producers.

The reduced rigor in the proposed license conditions is at odds with the Government’s commitment to a licensing regime that is in line with community expectations and interests.

For further discussion contact
Sally Neville
Chief Executive Officer
Restaurant & Catering SA

¹ Liquor Licensing Legislation in Australia published by the National Centre for Education and Training on Addiction