



LIQUOR STORES ASSOCIATION NEW SOUTH WALES



SUBMISSION

By the Liquor Stores Association NSW

To: NSW Department of Industry: Liquor & Gaming NSW

In response to: Review of the Liquor Promotion Guidelines

Date: August 2018

Liquor Stores Association of New South Wales Incorporated

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*Member of the
Australian Liquor
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08 August 2018

The Coordinating Officer
Liquor Promotion Guidelines review
Liquor & Gaming NSW
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SYDNEY NSW 2001

Via email: policy@liquorandgaming.nsw.gov.au

**LSA NSW SUBMISSION:
REVIEW OF THE LIQUOR PROMOTION GUIDLINES**

To Whom It May Concern,

The Liquor Stores Association NSW (LSA) welcomes the opportunity to provide a submission in response to the ***Review of the Liquor Promotion Guidelines***, which we understand the Regulator is tasked with reviewing on a regular basis to ensure they remain effective in regulating liquor promotional activities by NSW licensed venues, including takeaway liquor stores.

LSA was appreciative of the opportunity to have been closely involved in the development of the current Liquor Promotion Guidelines, undertaken in 2012-13, and believe that the changes made were a vast improvement to the former 2009 version of the Guidelines, in which we understand consultation with industry was extremely limited.

LSA's mission is to support, represent and provide leadership to its members for a responsible, sustainable, diverse, and professional retail packaged liquor industry. Integral to our role is the constructive advice, guidance and direction we provide to Governments, Agencies and other stakeholders on behalf of our members and the industry, to seek legislative outcomes that improve business viability and the regulatory environment, or at least reduce the impact of new regulation on our members' businesses.

Please find LSA's submission enclosed herewith, and I would be happy to provide any further information to support this submission, if required.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Michael Waters'.

**Michael Waters
Executive Director**



About the Liquor Stores Association (LSA)

LSA has been the consistent voice of the NSW Retail Liquor Industry since 1961, and is a united industry body representing all retail packaged liquor retailers, whether they are an independent retailer, licensed general store or supermarket, corporate chain or online-only liquor retailer.

LSA's mission is *"to support, represent and provide leadership to its members for a responsible, sustainable, diverse, and professional retail packaged liquor industry"*.

In order to achieve our mission, the LSA:

- Advocates for the interests of members and the industry;
- Effectively communicates with members and stakeholders;
- Provides members with access to commercial services;
- Maintains and elevates industry standards;
- Conducts professional development activities; and
- Develops the business of the association.

Ordinary Members include some of the most recognised and trusted companies and brands in the industry, ranging from independent family owned licensed general stores and supermarkets; independently owned and run liquor stores operating under banner groups such as Cellarbrations, Liquor Stax, Local Liquor, Liquor Legends, Porter's Liquor, Super Cellars and more; corporate chain retailers including Endeavour Drinks Group and ALDI Stores, plus a growing number of online-only liquor retailers.

Associate Members include banner groups, wholesalers, beverage manufacturers and suppliers, and other service providers.

Our sector directly employs around 17,500 people in NSW, including many trainees and apprentices who go on to make a career in liquor retailing, and is a significant contributor to the economy with an annual turnover of around \$7 billion, generating an estimated \$2 billion in alcohol taxation, over \$700 million in State Payroll and GST revenues, plus over \$2.5 million in annual licence fees.

LSA encourages a responsible approach to the service and consumption of alcohol by all stakeholders, including our retailer members and the communities they serve, and supports social and individual responsibility for all consumers.

To ensure the reputation of our sector and assist our members, LSA continues to promote standards of operation for its members well beyond the required standards of legal compliance, and has implemented a range of professional development, voluntary product and service control initiatives across our members' stores which are focussed on responsible supply and promotion of alcohol.

LSA works proactively with all stakeholders involved in the retail liquor industry – retailers, banner groups, wholesalers, beverage manufacturers and suppliers, other peak industry bodies, the many other service providers associated with the sector, as well as all applicable State Government departments and agencies concerning the retail packaged liquor sector.

LSA is a member of the [Australian Liquor Stores Association](#) – representing the national interests of the retail packaged liquor industry; the [National Retail Association](#) – Australia's largest and most representative retail industry organisation; the [National Online Retailers Association](#) – an influential business network providing a fresh outlook and a balanced, optimistic view of 'new retail' in Australia; and [Associations Forum](#) – Australia's leading organisation, assisting associations in governance, operations, membership and finances.



Retail liquor is a positive part of Australia's social fabric

The social policy debate on the role of alcohol beverages in Australian society continues to escalate and all too often leads to a distorted misrepresentation of alcohol. Too often the dialogue has been dominated and misinformed by the more extreme neo-temperance elements of the public health lobby. Such dialogue also overshadows the vibrant, diverse and competitive retail packaged liquor sector and the safe and social enjoyment of alcohol beverages by most everyday Australians.

It is amazing that while over 80% of Australians enjoy alcohol responsibly, the debate is often influenced by that small minority who are underpinned by the well-funded Temperance movement.

The retail liquor sector contributes to the fabric of Australian lifestyle by providing the opportunity for the responsible and safe consumption alcohol beverages, and is proactively committed to responsibly enabling the safe, social enjoyment of alcohol beverages, by providing a wide choice of premium beverages at competitive prices, for people to share with friends and family in the safety of their homes.

It is important that we don't lose sight of the fact that alcohol is a product which is overwhelmingly consumed in moderation by the vast majority of adult Australians and brings well-being into people's lives. Alcohol beverages are a legal product, have a legitimate place in the community and bring no harm to consumers or others around them when consumed responsibly and in moderation.

Shifting attitudes towards alcohol and health, and trends in population growth, are contributing to changes in the relationship that we as a nation have with alcohol. Facts demonstrate that communities are more educated about alcohol and we are making much better choices that we have for decades.

The potential for harm should only be associated with excessive consumption. If abused, however, they can have significant negative repercussions on both the drinker and the community. Reducing alcohol abuse and associated harm has been an ongoing commitment from industry and governments through education and enforcement strategies.

Alcohol policies should reflect society's desire to enjoy the benefits associated with moderate consumption, whilst acknowledging the need to tackle the negative consequences associated with the misuse and irresponsible consumption of alcohol amongst a minority.

Policy objectives should recognise the importance of a properly regulated liquor industry that is able to develop in a sustainable way, that is consistent with public interest, whereby the risk of and actual harm arising from the sale, supply and any excessive consumption of alcohol is minimised.

Alcohol policy changes are increasingly being influenced by sensationalist and one-sided media reporting often focused on building moral outrage rather than a proper and informed debate based on balanced evidence.

LSA is committed to working with governments and other stakeholders, to better understand, develop and implement targeted strategies to address the misuse of alcohol.

We believe a targeted, evidence-based approach to policy making, delivered in partnership with all stakeholders, will lead to the implementation of measures that can have a real effect on harm minimisation, without negatively impacting on the vast majority of individuals who enjoy alcohol beverages responsibly.



Industry self-regulatory initiatives and social responsibility

LSA believes that alcohol consumption is ultimately an issue of individual responsibility and behaviour however the Association also fully accepts that it has a key responsibility to work with governments and the community to minimise harm to individuals and communities.

LSA encourages and supports a responsible approach to the service and consumption of alcohol by all stakeholders, including our members and the communities they serve. To ensure the reputation of our sector and to assist members, LSA promotes standards of operation beyond the requirements of the law, and has implemented a range of voluntary product and service control initiatives across members' stores.

Industry self-regulatory initiatives:

ID-25 & Don't Buy It For Them – developed to reinforce and educate customers of their individual responsibility. LSA NSW and our members do not support service to underage people nor to those adults who would make secondary purchase on behalf of, or supply to underage persons.

ALSA Product Ranging Guidelines – developed to assist liquor retailers to make product ranging choices to minimise potential misuse and subsequent harm related to excessive consumption of alcohol, including a checklist of issues that retailers may consider when making product ranging decisions for their stores.

Liquor Store Plan of Management – developed to assist liquor retailers, and designed to be used as a constant reminder to all team members of their obligations, and chooses to implement best practice principles to reduce any alcohol related harms in the local community in which it operates.

Harm Minimisation Policy – designed to provide liquor store owners, staff and their customers with a clear understanding of their store's commitment to providing a safe, pleasant and welcoming environment.

High Strength Alcohol Warning Labels (HSAWL) – to minimise the potential for misuse and subsequent harm related to rapid and excessive alcohol consumption, LSA developed HSAWL, which encourages members and the broader industry to; move products +70% ABV from general display to behind counters or cabinets; and place a HSAWL on bottles, to draw attention to the product's high alcohol nature.

ID Compliance Audit – the escalating penalty regime for the offence of 'sale of alcohol to a minor on licensed premises' was introduced in 2014. As a means of providing liquor store owners with greater certainty around their store's performance against this critical requirement, LSA developed this service for members, which tests and measures the store's ID policy and performance, demonstrates due diligence to authorities, improves staff and customer awareness, and protects the future of the business.

Mystery Shopper Report – As part of LSA's annual Retail Liquor Industry Awards for Excellence Program, each member that nominates is 'mystery shopped', assessing the overall customer experience. A key criteria focuses on compliance and adherence to mandatory signage and ID checking, and LSA's self-regulatory initiatives. Each member receives a complimentary copy of their store's report (\$150 value).

Social responsibility:

LSA is supportive of appropriate penalties for licensees, employees and members of the public who do not comply with laws relating to RSA principles including sale to intoxicated persons, sale and supply of alcohol to minors, secondary supply of alcohol to minors and so on.

We are supportive of stronger enforcement action to be taken for serious breaches on a specific licence, rather than imposed as a condition across all licences in a particular licence category.



The majority of law abiding adults who enjoy and consume alcohol responsibly should not have to suffer for the actions of a few. For the minority who consume alcohol at harmful levels, this behaviour can no longer be viewed as 'an excuse' for criminal and anti-social behaviour, and a cultural, policy and policing emphasis must be placed on these individuals accepting responsibility for their actions – several States have now removed that defence from their criminal records.

There also must be a general recognition that the interrelationship between excessive alcohol consumption and criminal and anti-social behaviour is complex and multifaceted.

LSA encourages members to support government interventions, particularly where those interventions are evidence based and proven to have some real impact on reducing harms from misuse of alcohol – not simply placing more economic pressure on retailers through the regulatory environment.

Individuals in the community also need to take responsibility for their own behaviour. Likewise industry members need to take responsibility for their actions and the industry as a whole needs to have an active and passionate commitment to the future of our industry.

LSA believes that measures to address individual responsibility in the context of alcohol consumption generally fall broadly under the two following areas:

1. *Require* individuals through regulation, sanctions and policing of existing legislation to take personal responsibility for their behaviour when consuming alcohol or supplying liquor to others, and also while on or in the vicinity of licensed premises and in public places; and
2. *Promote and encourage* individuals and communities to take responsibility for alcohol consumption and behave in socially appropriate ways. This is achieved through education, harm minimisation and treatment initiatives aimed at intervening early to avoid problematic consumption and any associated harms as well as to prevent the recurrence of these behaviours;

The focus of individual and social responsibility should be on the '*promote and encourage*' area of focus above, in line with the following objectives:

- To consider and develop strategies that increase individuals' awareness of their obligations under the law and legal, social and other ramifications of non-compliance; and
- To reduce anti-social behaviour and alcohol-related violence by developing strategies that educate and encourage individuals to be accountable for their behaviour and actions.

Alcohol Beverages Advertising Code (ABAC):

While LSA acknowledges that it is not the intent of this review to examine broader issues around alcohol advertising or the related national framework, we advise that the Association supports the principles of the [ABAC Responsible Alcohol Marketing Code](#) and encourages members to both actively support and to abide by the findings of ABAC Adjudication Panel (the Panel).

- LSA encourages members to remove from all forms of media within five (5) working days any marketing communication (excluding marketing collateral or packaging) that has been the subject of an adverse decision of the Panel;
- LSA recommends that members undertake to immediately cease further orders for marketing collateral or packaging that has been the subject of an adverse decision of the Panel; and
- LSA recommends that members utilise the Alcohol Advertising Pre-vetting Service (AAPS) for their marketing communications that the ABAC Rules and Procedures require to be pre-vetted.



Background and context

Review of Liquor Promotion Guidelines 2009:

In September 2012, LSA received a letter from the NSW Office of Liquor, Gaming & Racing (Regulator) advising that a review of the existing Liquor Promotion Guidelines had been undertaken, resulting in an updated version of the Guidelines being developed.

The existing Guidelines had been in place since 2009, and the review had commenced as a result of a number of issues being raised by industry, including the LSA, about its operation, calling for changes to be made.

LSA was encouraged to provide feedback on the updated/proposed Guidelines, which was essentially a completely different document – changes to format, length and content, including the inclusion of information on each category of ‘undesirable liquor promotion’ listed in the Liquor Act 2007, including an explanation of the category and clear examples of unacceptable practices.

Additional information was provided to assist certain types of licence holders, as well as advice on mitigation measures to ensure promotions are run responsibly.

LSA's submission:

LSA's submission can be found here: www.lsansw.com.au/policies-advocacy/archived-submissions

LSA supported the general principle of the proposed Guidelines however we did have some concerns with elements of the drafted version.

Our general feedback was that while we had no issue with the objective of minimising the negative impacts of undesirable alcohol promotions, or with the seven principles outlined in the guidelines, the principles were by necessity general in nature, and their effectiveness and impact would be determined to a large extent by their interpretation and application.

LSA also advocated that clear distinctions needed to be drawn between the potential for harm of a promotion offering alcohol to be consumed immediately, and that which may be stored and consumed over a lengthy period of time subsequent to purchase, or shared with friends and family in a social setting in the home, and the proposed Guidelines as originally drafted drew no distinction between on and off premise environments despite the fact that the consumption behaviour is often very different.

The result:

Following the extensive review and consultation, the Regulator re-launched the Liquor Promotion Guidelines, which were a vast improvement to the 2009 version that was met with much criticism.

LSA supported the revised Guidelines, and commended the Regulator for their consultative approach, which significantly tightened up the definitions, providing the necessary clarification between higher and lower risk environments, and differentiation between on and off premise promotions.

All members receive a hard copy of the Guidelines in their [Liquor Retailer Handbook](#), and the LSA encourages members to be mindful of and manage the risks and responsibilities associated with running liquor promotions, which in turn assists in the development of a sustainable and responsible liquor industry by defining clear expectations for the conduct of liquor promotions.



Restrictions and bans on undesirable liquor activities and promotions

LSA refers to the figures provided in the table (page 7) in the discussion paper, and acknowledges that there has been a notable decline in the total number of identified matters and notices issued over the past four years, largely driven by a combination of (1) improved awareness among industry of the Guidelines; and (2) the Regulator adopting a more outcomes focused approach to enforcing them.

Table 1: Matters investigated by the Secretary under Sections 102 & 102A of the Liquor Act

	Total Identified	Total Decided	Notices Issued
Financial Year 2013-14	96	106	67
Financial Year 2014-15	86	106	44
Financial Year 2015-16	110	112	12
Financial Year 2016-17	31	33	5

It is pleasing that total matters identified have reduced by 68%, total matters decided have reduced by 69%, contributing to an overall reduction in total notices issued by 94%.

LSA held a stakeholder consultation meeting with the Regulator on 24 July 2018, to discuss the Liquor Promotion Guidelines review, and matters of importance.

LSA purports that matters investigated under Sections 102 & 102A would be predominantly attributed to licence types other than packaged liquor and during this meeting, LSA requested additional data from the Regulator in relation to:

- Detail about the types of matters identified, decided and notices issued; and
- Detail on the proportion of matters attributed to packaged liquor licences.

An excerpt from the Regulator's email in response to LSA's request is below:

Our Compliance unit has advised that even something relatively high level, like breaking down the notices issued by licence type, would require the manual assessment of more than 300 cases and that this would be, understandably, quite time-intensive.

As such, we won't be able to provide a break-down ahead of the deadline for submissions on the review.

Policy will, however, work with Compliance over the course of the review to better understand whether the packaged liquor licence type is a relatively minor percentage of the matters identified, decided and notices issued.

LSA looks forward to receiving this data as requested and to continuing discussions with the Regulator in this respect.

Key issues for stakeholder comment

1. Are the objectives of the Guidelines still appropriate, and do the Guidelines in their current form remain appropriate for securing those objectives?

LSA believes the current Guidelines are a vast improvement to the 2009 version, and that their objectives are considered generally appropriate, but some improvements could be made.

The Guidelines provide clarity on unacceptable liquor promotions, however could provide some examples of responsible (i.e. best practice) liquor promotions, in a similar fashion to the [Victorian Commission for Gambling & Liquor Regulation's Guidelines for responsible liquor advertising and promotions](#).

The Guidelines do provide some guidance as to what is considered by the Secretary when determining whether a liquor promotion or activity is irresponsible or undesirable, however LSA believes that the individual interpretation of 'indecent or offensive' can be highly subjective.

The Guidelines do provide some guidance on harm mitigation measures that may reduce the risk of harm associated with irresponsible or undesirable liquor promotions or activities – this is demonstrated on pages 2 and 3, and further guidance is provided within each principle.

LSA believes the Guidelines assist in the development of a sustainable and responsible liquor industry, as demonstrated in the significant reductions in matters identified, decided and notices issued since the development of the current version in 2013.

LSA believes that clear expectations for the conduct of liquor promotions could be further defined and improved by providing for a greater distinction between promotional activity in on and off premise trading environments.

2. Do the Guidelines effectively facilitate the responsible promotion of liquor at licensed venues, including takeaway liquor stores, in NSW?

The Guidelines do provide guidance to licensed venues on what would be considered an undesirable promotion, with a detailed explanation, a number of examples of unacceptable promotions, as well as additional information provided under each of the seven principles.

LSA would encourage the Regulator to consider developing a brief one-page overview of the Guidelines' key principles (i.e. a fact sheet), to accompany the detailed Guidelines, as a means of providing a quick reference for licensees, the broader industry or community stakeholders, when making decisions concerning a proposed or existing liquor promotion.

With respect to community satisfaction, the LSA would be interested to gain a deeper understanding as to community expectations, however it must be noted that we have not been approached by any member of the community or community group / representative, nor been provided with any correspondence or evidence to suggest the Guidelines are not effectively facilitating responsible liquor promotions.

In fact, it is typically the industry (members or broader industry stakeholders) that contact the LSA with concerns they may have in relation to a liquor product or promotion they believe may be potentially undesirable or in contravention to our industry's [Product Ranging Guidelines](#).

Over the years, the Association has brought a number of products or promotions to the attention of the Regulator, Minister or Secretary, and often worked proactively with all stakeholders – government,



producer, supplier or business to achieve a satisfactory outcome. JSM NOTE: some examples would be good.

3. Does the current Guideline format assist licensees in managing and addressing the risks associated with running liquor promotions?

The current format is a vast improvement to the previous 2009 version, and continues to assist licensees to manage and address the risks associated with running liquor promotions.

As previously indicated, LSA believes an improvement to the format could be to further differentiate between liquor promotions offering alcohol to be consumed immediately on a licensed premises, and promotions offering alcohol which may be stored for consumption later away from the premises (i.e. in on and off premise trading environments).

4. Do the seven principles of undesirable liquor promotions and activities remain appropriate?

The *Liquor Act 2007* details the types of promotions that may be restricted or prohibited. The Act states that the Secretary may restrict or prohibit any such activity only if the Secretary is of the opinion that:

- the promotion is likely to have a special appeal to minors because of the use of designs, names, motifs or characters in the promotion that are, or are likely to be, attractive to minors or for any other reason, or
- the promotion is indecent or offensive, or
- the promotion involves the provision of liquor in non-standard measures or the use of emotive descriptions or advertising that encourages irresponsible drinking and is likely to result in intoxication, or
- the promotion involves the provision of free drinks, or extreme discounts or discounts of a limited duration, that creates an incentive for patrons to consume liquor more rapidly than they otherwise might, or
- the promotion otherwise encourages irresponsible, rapid or excessive consumption of liquor, or
- the restriction or prohibition is otherwise in the public interest.

Principle 1: Appeal to minors

LSA is generally supportive of this principle, and believes it remains appropriate.

However, where the Guidelines state; '*venues need to be mindful of the presence of minors on licensed premises when conducting liquor promotions*'. LSA suggests that a clarifying statement in relation to acceptable practice could be warranted in this instance. The display (and responsible promotion) of liquor in the normal course of the business setting should not be constituted as appealing to minors.

Principle 2: Indecent or offensive

Under Section 102 of the *Liquor Act 2007*, the Secretary may restrict or prohibit any such activity only if the Secretary is of the opinion that...*the promotion is indecent or offensive*, which forms the basis of Principle 2 of the Guidelines.

It can be argued that people may be offended by pretty much anything. Although it's difficult and entirely subjective, LSA believes there is a need to incorporate some sense of prevailing community standards.

Principle 3: Non-standard measures

LSA is supportive of this principle, and believes it remains appropriate.



Principle 4: Emotive descriptions or advertising

LSA is supportive of this principle, however would recommend the need to differentiate between on and off premise trading environments, as the timeframes between purchase and consumption are completely different, and need to be taken into context.

For example, 'Mad Monday' or 'Round the world' style promotions may have completely different meanings in a retail liquor environment, and would not necessarily encourage irresponsible consumption.

Where it states; *'Particular care should be taken in determining whether the name of the promotion or any promotional material used contains descriptions which encourage irresponsible drinking'*, LSA advocates that promotions focusing on heritage and point of origin particularly when timed with events should not be considered as encouraging irresponsible drinking (e.g. Get into the Italian spirit, or St Patricks Day – Guinness / Irish Whiskey promotions).

With respect to the broad subject of alcohol advertising, LSA submits that policy makers should be mindful when considering further restrictions or greater government control and oversight of alcohol advertising is that it is responding to genuine community concern, and believes the current regulatory framework of alcohol advertising and marketing balances the views of the community with the needs of alcohol advertisers to promote their products in a responsible manner.

In this context, LSA encourages the Regulator and policy makers to refer to our [submission to the recent Inquiry into the Alcohol Beverages Advertising Prohibition Bill 2015](#).

Principle 5: Extreme discounts

LSA supports this principle, however believes the term 'for a limited duration' is ambiguous and would lead to misinterpretation.

The current Guidelines provide examples of promotions requiring harm minimisation measures, including:

- 'Buy one, get one free' offers promoted through discount vouchers, cards, 'shopper docket' offers without purchase limits or other suitable controls in place; and
- Promotions involving discounts of greater than 50% off the normal retail price.

'Buy one, get one free' is quite common practice in liquor retailing, particularly for wine but there is no evidence to suggest that a customer purchasing two bottles of wine will be encouraged to consume the alcohol twice as fast. In addition, selling a discounted case of beer could potentially breach this guideline if the normal retail price was calculated as the single price x 24 units.

The arbitrary inclusion of a 50% discount to define a promotion as irresponsible potentially gives rise to ambiguity and misinterpretation. It is extremely difficult to determine exactly what 'normal retail price' is, as liquor retailers sell the same products at many different retail prices.

More importantly, there is no evidence to suggest that discounts of 'greater than 50%' or promotions running for a very short period (define short) lead to excessive or rapid consumption in the context of package liquor sales. Again, this is another example where distinction can be made between on and off premises promotional activity.

Again, this principle would be improved with the addition of some clarifying statement/s. Some commentators/complainants like to focus on the lowest end priced product even when it is part of a broader promotion and isolate that product as the single cause of their complaint. What should be considered is whether a single discounted product is the primary focus of a promotion or whether it forms



part of a broader range of products on promotion across the entire value spectrum, coupled with the overall tone of the promotion.

Principle 6: Irresponsible, rapid or excessive consumption

LSA is supportive of this principle however for the reasons explained for Principle 5 above we remain concerned with the wording under 'additional information', specifically:

"Licensees should be aware of the risk where the promotion of extreme discounts may encourage irresponsible or excessive consumption of alcohol due to the increase in volume purchased, where it is likely to be consumed within a short time frame"; and

"Consideration needs to be given to how discount promotions can be responsibly managed, including purchase limits (e.g. two per customer) or other measures to reduce the risk that the promotion will encourage people to drink alcohol excessively or irresponsibly".

Every form of retail promotional activity is designed to provide potential customers with an incentive to purchase product from a particular retail outlet. The objective of the promotion is to encourage potential customers to make their purchases from one business as opposed to a competitor's business. There is no evidence to support the contention that this promotion would somehow make customers purchase a product that they would not normally consume, or that having made that purchase that customers would then consume more of the product in question than they normally would.

LSA believes there is a lack of definitive evidence to suggest a causal link between discounting and alcohol-related harm without other factors playing a significant or contributing role, and we are not sure there is sufficient evidence to inform policy makers just what the weighting is that should be given to those other factors.

Principle 7: Not in public interest

LSA believes that this principle is extremely vague and open to interpretation, and you acknowledge in your explanation that the determination of 'public interest' is subjective.

As per our industry's [Product Ranging Guidelines](#) self-regulatory initiative, LSA would interpret 'not in the public interest' to be promotions or products that:

- Appeal to minors by way of designs, motifs, cartoon characters, or other devices;
- Have an appearance that would lead to confusion with confectionary or soft drinks;
- Have an appearance which may lead to confusion about its alcoholic nature or strength;
- Draw any association with drug culture, narcotics or other illicit drugs;
- Branding associated with or mimicking anti-social or dangerous behaviour;
- Trade on its high alcohol content or intoxicating effect as a dominant theme;
- Suggest any association with dangerous, violent, aggressive or anti-social behaviour;
- Suggest consumption of the product can lead to social, sporting or sexual success or popularity;
- Suggest that any physical or mental health benefit can be obtained by excessive consumption;
- Encourage illegal or immoderate consumption (e.g. binge drinking, drunkenness or drink driving);

5. Are the examples of unacceptable promotions and harm minimisation measures included with each principle useful?

LSA believes the examples provide reasonably effective guidance for licensees to determine what would be deemed an undesirable promotion or practice for each principle.

As previously indicated, improvements could be made with respect to the type of premises the examples apply. The current Guidelines are a vast improvement to the 2009 version, but they have still been written as one 'all encompassing' document, aiming to cover principles for all licence types, however in some circumstances this could be problematic.

A possible solution may be to consider developing two distinct sections, separating principles, explanations, examples and additional information for liquor promotions as they apply in on and off premise trading environments, in a similar fashion to the WA Government's *'Responsible Promotion of Liquor – Consumption of Liquor on Licensed Premises and the Sale of Packaged Liquor'*.

With respect to specific or concrete examples of harmful practices, LSA believes the current examples are sufficient, however if there are specific matters (i.e. case law) of precedence then it may be appropriate to use these specific examples in future versions of the Guidelines.

6. Do the Guidelines effectively capture harmful liquor promotions and practices by licensed venues, including takeaway liquor stores, in NSW?

LSA believes that the Guidelines have been reasonably effective in capturing harmful liquor promotions and practices, however future versions may benefit from further differentiation between on and off premise trading environments, including specific examples of harmful liquor promotions and practices, would provide a more robust and effective Liquor Promotion Guidelines.

7. Do the Guidelines effectively capture new forms of marketing and developing technologies, including social media?

The Guidelines may benefit from some further explanation or examples (via a quick reference checklist or similar) as to the types of promotions and/or advertising mediums that may be applicable and captured under Sections 102 and 102A of the Liquor Act 2007.

In a packaged liquor trading environment (i.e. retail), depending on their location, size and competitive situation, businesses will utilise various mediums to market and differentiate their store from a competitor, including but not limited to:

- Signage (internal and external signage, promotional banners and posters, etc);
- Traditional media (i.e. print, radio and television)
- Promotional flyers and catalogues (mailed and/or available in-store);
- Online (website, social media platforms, etc); or
- Messaging to closed and open customer groups (i.e. text messaging).

Note – for independent liquor retailers, promotional catalogues are typically undertaken by their respective banner / marketing groups.

8. Have the Guidelines had any unintended positive or negative impacts on the community or industry?

LSA does not believe that industry or the community have been adversely impacted by the Guidelines, rather they have assisted the industry to develop more responsible attitudes and practices regarding the promotion and sale of alcohol.

This is evidenced by the significant reductions in the total number of identified matters and notices issued over the past four years. However it is worth considering that a single complaint from a member of the public may not warrant a response. Any review should give consideration as to the overall level of feedback received in relation to a promotion. A single complaint should not be sufficient to initiate a formal investigation.



LIQUOR STORES ASSOCIATION NEW SOUTH WALES

As the peak industry body for the packaged liquor sector in NSW and the ACT, the LSA is appreciative of being able to provide constructive advice, guidance and direction to Governments, Agencies and other stakeholders on behalf of our members and the industry, to seek legislative outcomes that improve business viability and the regulatory environment, and we remain committed to working with all stakeholders, to better understand, develop and implement targeted strategies to address alcohol misuse.

Policy objectives should recognise the importance of a properly regulated liquor industry that is able to develop in a sustainable way, that is consistent with public interest, whereby the risk of and actual harm arising from the sale, supply and any excessive consumption of alcohol is minimised.

Other consideration: comparisons with other jurisdictions

The [Victorian Commission for Gambling & Liquor Regulation's Guidelines for responsible liquor advertising and promotions](#) provides 16 individual principles, of which several overlap and in direct comparison with the NSW Liquor Promotion Guidelines, appear to be covered within one principle, for example:

NSW Liquor Promotion Guidelines	VIC Guidelines for responsible liquor advertising and promotions
Principle 1: Appeal to minors	<p>Principle 14: The advertising or promotion of liquor must not encourage under-age drinking.</p> <p>Principle 15: The advertising or promotion of liquor must not incorporate images of people who are, or who appear to look under 18 years of age, unless there is no suggestion that they have just consumed, are consuming or are about to consume liquor.</p>
Principle 2: Indecent or offensive Principle 7: Not in public interest	<p>Principle 8: The advertising or promotion of liquor must avoid sexual, degrading, sexist or gratuitously offensive images, symbols, figures and innuendo.</p> <p>Principle 9: The advertising or promotion of liquor must not be linked to sexual imagery or imply sexual success.</p> <p>Principle 10: The advertising or promotion of liquor must not suggest any association with risk taking, or with violent, aggressive, dangerous or anti-social behaviour.</p> <p>Principle 11: The advertising or promotion of liquor must not portray people or depict material in a way that discriminates against, vilifies or is demeaning to any person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief.</p> <p>Principle 12: The advertising or promotion of liquor must not suggest any association with, acceptance of, or allusion to, illicit drugs.</p> <p>Principle 13: The advertising or promotion of liquor must not encourage breaking the law.</p>
Principle 6: Irresponsible, rapid or excessive consumption	<p>Principle 1: The advertising or promotion of liquor should not provide incentives that could lead to the rapid or excessive consumption of liquor.</p> <p>Principle 2: The advertising or promotion of liquor should not encourage the stockpiling of drinks by the consumer for consumption at the licensed premises.</p> <p>Principle 4: The advertising or promotion of liquor must not condone or encourage rapid or excessive drinking, drunkenness or anti-social behaviour.</p>



The WA Department of Racing, Gaming & Liquor have [developed a similar set of guidelines](#), called the 'Responsible Promotion of Liquor – Consumption of Liquor on Licensed Premises and the Sale of Packaged Liquor'.

The Department have taken the view to specifically differentiate between on and off premise licensed environments, and the LSA is supportive of this direction.

Packaged Liquor

It is not acceptable for licensees to:

1. *Promote and advertise alcoholic drinks that suggest irresponsible or excessive consumption of liquor with emotive titles such as – “laybacks”, “shooters”, “slammers”, “test tubes”, and “blasters”.*
 2. *Promote and advertise alcoholic drinks that by virtue of their design or packaging encourages irresponsible drinking behaviour and are likely to result in rapid intoxication (for example pre-packaged shooters or tooth paste style tubes containing alcohol).*
 3. *Challenge or dare people to sample a particular alcoholic drink because of its higher alcohol content.*
 4. *Display or use promotional or branding material in promoting and advertising alcoholic drinks that by virtue of the design or packaging have a strong appeal to children or adolescents (e.g. “alcopops” or naming of the product and/or design using cartoon-like colouring and images).*
 5. *Display or use promotional, advertising or branding material, which contains children or adults under the age of 25.*
 6. *Display or use advertising material that suggests the consumption or presence of alcoholic drinks may create or contribute to a significant change in mood or environment and accordingly must not depict the consumption or presence of alcoholic drinks as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success.*
 7. *Display or use advertising material that depicts any direct association between the consumption of alcoholic drinks and the operation of a motor vehicle, boat or aircraft or the engagement in any sport (including swimming and water sports) or potentially hazardous activity and, accordingly any depiction of the consumption of alcoholic drinks in connection with the above activities must not be represented as having taken place before or during engagement of the activity in question and must in all cases portray safe practices.*
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