

# **ClubsNSW – Submission**

## **Review of the Liquor Promotion Guidelines**

ClubsNSW welcomes the opportunity to provide a submission on the Review of the Liquor Promotion Guidelines.

In summary, ClubsNSW considers that the Liquor Promotion Guidelines (the Guidelines) and broader regulatory framework regarding the advertisement and promotion of liquor to be valid, effective and well understood by the club industry and as such does not require further amendment.

In our view, the Guidelines strike the right balance between combating inappropriate promotions and maintaining clubs' ability to undertake reasonable and creative promotions.

The Guidelines have been effective due to the following properties:

- The Guidelines are clear and concise, giving clubs sufficient clarity so that they can run promotions responsibly.
- The Guidelines are principles-based, acknowledging and supplementing the judgement of club managers.
- The principles in the Guidelines are appropriately targeted, preventing promotions which could produce harmful outcomes to individuals and communities.

ClubsNSW is aware that a number of stakeholders elsewhere have recommended that the NSW Government amend the Guidelines and/or impose additional restrictions on alcohol-related advertising and promotions.

ClubsNSW does not share this view. As the Discussion Paper identifies, there has been a notable decline in the total number of 'identified matters' and notices issued over time, driven by improved awareness in the industry of the Guidelines and Liquor and Gaming NSW's risk-based compliance approach. Accordingly, in the absence of evidence of market failure or significant industry non-compliance we consider further amendment of the Guidelines to be unnecessary.

### **Regulatory system for liquor promotions**

It is important to note that the Liquor Promotion Guidelines constitute just one component of an extensive regulatory system for alcohol advertising. Promotions must also comply with the *Competition and Consumer Act 2010*, NSW liquor laws, the Commercial Radio Code of Practice, and the Outdoor Media Association Code of Ethics. Promotions must also comply with a beverage company's internal standards and codes of practice.

## **Improving alcohol-related outcomes**

### *Significant decline in alcohol-related assaults involving clubs*

Statistics from the NSW Bureau of Crime Statistics and Research (BOCSAR) demonstrate that clubs are among the safest venues in NSW and that there has been a pronounced decline in alcohol-related incidents in clubs in recent years.

- In the year ending 31 March 2018, there were 397 alcohol-related incidents involving clubs state-wide – equivalent to just 12.6% of all assaults on licensed premises and 0.3 assaults per club in NSW. It is important to acknowledge that this figure is the lowest on record.
- Alcohol-related incidents involving clubs have also been declining as a proportion of all non-domestic alcohol-related incidents (including those in public places or non-licensed venues). In the year ending 31 March 2018, alcohol-related incidents involving clubs comprised just 3.9% of all non-domestic incidents. This figure is down from 4.5% in the previous year and 5% in 2009.

These figures unambiguously demonstrate that the prevalence of alcohol-related incidents involving clubs is falling more rapidly than the general decline evident across NSW.

The significant decline in alcohol-related incidents involving clubs is due to clubs' adherence to robust standards of responsible alcohol conduct. Clubs employ a variety of measures to prevent antisocial behaviour and maintain their reputation as family-friendly venues. These measures include, but are not limited to, enforcing strict entry requirements and applying codes of conduct to members and patrons.

### *Lower overall incidence of alcohol misuse*

The 2016 National Drug Strategy Household Survey, carried out by the Australian Institute of Health and Welfare (AIHW), demonstrates that alcohol consumption outcomes continue to improve in Australia. The Survey found:

- 5.9% of Australians drank alcohol daily; a decline from 6.5% in 2013 and over 10% in 1991;
- 82% of young people aged 12-17 abstained from alcohol entirely; a significant increase from 72% in 2013 and 54% in 2004;
- 22% of people were victims of an alcohol-related incident; a decline from 26% in 2013 and 30% in 2007.

The figures on consumption and assaults demonstrate a long-term trend of improving alcohol outcomes, particularly in clubs. This evidence does not lend support to a further expansion or tightening of the regulatory system.

## **Response to Discussion Paper**

ClubsNSW submits the following responses to the questions in the June 2018 Discussion Paper.

- 1. Are the objectives of the Guidelines still appropriate, and do the Guidelines in their current form remain appropriate for securing those objectives?**
- 2. Do the Guidelines effectively facilitate the responsible promotion of liquor at licensed venues, including takeaway liquor stores, in NSW?**

ClubsNSW agrees with the fundamental premise underlying the Guidelines; that is, the activities and promotions surrounding the sale and supply of liquor affect consumption patterns. It follows from this premise that irresponsible promotions could cause misuse or abuse of liquor, which could ultimately result in individual and community harm.

ClubsNSW agrees with the four key objectives of the Guidelines listed on page 8 of the June 2018 Discussion Paper on the Review of the Liquor Promotion Guidelines.

The Guidelines adequately secure these objectives by setting out parameters for liquor promotions which cover unacceptable products and advertising which the Secretary will consider when making a decision under s 102 of the *Liquor Act 2007*.

As discussed under question 4, ClubsNSW considers that the parameters are appropriately targeted. Moreover, the Guidelines are clear and easy to understand, enabling club managers to apply the Guidelines when necessary.

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

Misuse and abuse of liquor does not just undermine community safety, but it carries significant reputational risk to the venue. Due to these undesirable consequences, club managers already have a business incentive to encourage responsible liquor consumption on and around their premises. Club managers also have the experience and judgement to recognise whether a certain promotion will produce undesirable consequences.

ClubsNSW believes that this is best achieved through a principles-based format, which preserves club managers' judgement while establishing a set of parameters. The Guidelines should give club managers an accessible framework that they can review when considering promotions.

The alternative to a principles-based approach is a prescriptive list of rules. ClubsNSW believes that specifying each type of unacceptable promotion and product would make the Guidelines long and inaccessible. Rather than encourage club managers to exercise their judgement, such an approach would simply compel managers to undertake a line by line inspection of rules prior to running any promotion. This could deter clubs from undertaking reasonable and creative promotions.

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

ClubsNSW considers that the seven principles are appropriately targeted to achieve the objectives. The Guidelines place particular emphasis on preventing rapid or excessive

consumption of alcohol. This is an appropriate emphasis since certain alcohol promotions have the potential to promote excessive consumption. For example, heavily discounted or free alcohol for an unspecified time period (such as before the first try is scored in a football game) and products which obscure the magnitude of liquor consumption could promote harmful liquor consumption.

Preventing rapid or excessive consumption is achieved through Principles 3 (Non-standard measures), 4 (Emotive descriptions or advertising), 5 (Extreme discounts) and 6 (Irresponsible, rapid or excessive consumption). The principles combine effectively to achieve the objective. For example, Principle 3 principally pertains to a product type, Principles 4 and 5 pertain to advertising characteristics and Principle 6 broadly pertains to the effect of the promotion.

ClubsNSW also supports the emphasis on community standards, underlying Principles 2 (Indecent and offensive) and 7 (Not in public interest). Clubs are community-based organisations and, as such, they are entrusted with the role of encouraging healthy and positive community standards.

ClubsNSW also supports Principle 1 (Appeal to minors) and notes that this principle is less relevant to clubs.

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

The examples provide necessary clarity to users by illustrating tangible applications of each principle. The examples also help users ascertain the meaning of certain principles if the title or explanation is ambiguous to them.

In accordance with the Guidelines' principles-based format, the examples do not include specific details. ClubsNSW supports this principles-based approach for the reasons outlined under question 3.

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

As discussed under question 4, ClubsNSW considers that the Guidelines effectively capture harmful liquor promotions in relation to clubs.

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

Due to the Guidelines' principles-based format, they are able to effectively capture all forms of marketing, including developing and future technologies. This is also assisted by some principles focusing on the effect of the advertising rather than the form or method (such as Principles 1 and 6).

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

The Guidelines facilitate clubs' ability to undertake reasonable and creative promotions due to the following properties:

- The Guidelines are clear and concise. This enables clubs to understand the Guidelines, which gives them confidence that their promotions will not attract restrictions or prohibitions under s.102 of the Liquor Act. If this were to change, and the Guidelines became less clear, it could produce the unintended consequence of clubs refraining from promotions.
- The Guidelines are principles-based. A more prescriptive format could produce the unintended consequence of preventing creativity, which could undermine the amenity offered by clubs. For example, clubs may refrain from promotions to coincide with a special sporting event. Prescriptive guidelines could also open loopholes and fail to capture emerging technologies.
- The principles in the Guidelines are appropriately targeted. By targeting the principles at excessive consumption, community standards and consumption by minors, the Guidelines effectively combat promotions which could harm individuals and communities. If the principles were to become stricter, the Guidelines risk exceeding their objectives of preventing harmful outcomes. Accordingly, a stricter set of principles would unnecessarily deter promotions that are not problematic.

Should you wish to discuss this submission further, please contact Anthony Trimarchi, Manager, Policy and Government, on (02) 9268 3072, or by email at [ATrimarchi@clubsnsw.com.au](mailto:ATrimarchi@clubsnsw.com.au).