

Thinking Drinking II Conference 2007 (Melbourne)

Liquor Licensing

Gino Vumbaca
Executive Officer
Australian National Council on Drugs

What is the role of Liquor Licensing Authorities?

The control and supervision of licensees and licensed premises including : License reduction/compensation;
Licensing of public houses for the sale and supply of liquor;
Registration of (and collection of revenue from) liquor licenses.

Background

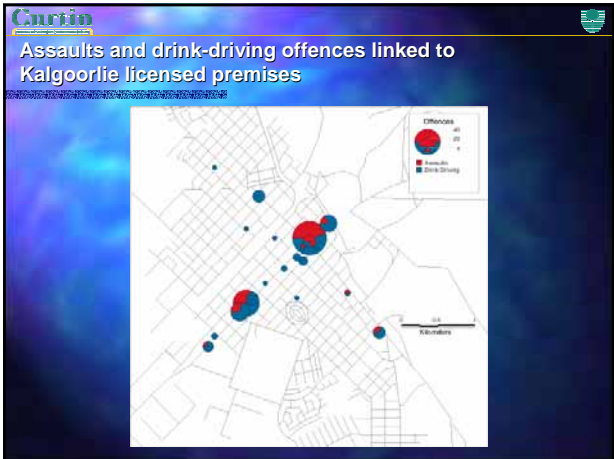
- Section 90 of the Constitution vests the Commonwealth with the exclusive power to impose duties of customs and excise.
- The States had long imposed licence fees on the right to sell liquor. When these fees were validated by the High Court in 1961, the States saw a chance to extend this mechanism to other products. Commencing in the late 1970s, the States began to impose business franchise fees on tobacco and petroleum products in addition to liquor. By 1995-96, these fees were raising \$4.9 billion, representing just over 16 per cent of total State and Territory taxation revenue.
- On 5 August 1997, the High Court of Australia brought down a combined decision in the cases of *Walter Hammond and Associates v the State of NSW and others* and *Ha and manor v the State of NSW and others*. Even though the cases heard related to the imposition of franchise fees on tobacco, the decision has effectively declared all current State business franchise fees to be constitutionally invalid.
- The Commonwealth has, as a 'stop-gap' measure, agreed to impose its own tax on the affected commodities on behalf of the States. The proceeds of these taxes will be paid to the States.

Issues

- Data Collection
- Community Engagement
- Law Enforcement
- National Competition Council
- Recommendations

Data Collection

- Accurate and timely data is vital in determining the economic, health and social impact of licensing decisions.
- There is currently no way to nationally assess per capita consumption in specific geographic areas since the collection of alcohol sales data ceased in some jurisdictions in 1997.
- Other types of potentially relevant data include alcohol related assaults, hospitalisations, license density and types of premises.
- Inconsistent and inadequate data collection inhibits the development of effective and adequate decisions.



Community Engagement

- Engaging local the community in the decision making process is a vital component of successful regulation of alcohol consumption and misuse in communities
- For example, the Queensland Government has developed a range of strategies which foster the Indigenous community's capacity to develop locally-based solutions to problems with a focus on improving the health and wellbeing of people living in Indigenous communities.
- These alcohol management plans have been developed in response to Justice Fitzgerald's Cape York Justice Study released in April 2002.

Community Engagement

Case Study - Lockhart River

- The Lockhart River is a Deed of Grant in Trust that covers 354,071 hectares and is located on the northeast coast of Cape York Peninsular (directly opposite to Weipa) and approximately 800 kilometres North of Cairns.
- Lockhart River has an approximate population of 800 people (as of June 2001), with about 86 percent being of Aboriginal or Torres Strait Islander origin.

Community Engagement

- The Lockhart River Community Justice Group, in cooperation with the Department of Aboriginal and Torres Strait Islander Policy, the Liquor Licensing Division and in consultation with the people of Lockhart River community, completed an alcohol management plan on 19 May 2003.
- On 3 October 2003, alcohol restrictions were introduced into Lockhart River. Under the regulation, no alcohol can be possessed in the Lockhart River community area, except for 3 specified areas.
- The canteen is licensed to sell beer only, which must be drunk only on the premises. No takeaways are allowed. The Lockhart River Airport is not part of the community area but is part of the declared restricted area.
- These regulations apply to anyone within the restricted area, whether a resident, visitor or tourist passing through. Heavy penalties apply.

Law Enforcement

- There appears to be some confusion on the role of licensing authorities and police over enforcement responsibilities.
- There is a perception of 'buck passing' between licensing authorities and police on the responsibility for enforcement of licensing decisions and penalties for breaches.
- How do police address premises that appear to be linked to social and health related alcohol problems, such as underage drinking, assaults and public intoxication?

National Competition Council

- The National Competition Council argues that restrictions on the granting of licenses and restrictions in licenses is inherently anti-competitive because it denies opportunities.
- There appears to be little recognition of factors other than market forces, such as health and social impacts. Although some jurisdictions, such as NSW have introduced a social impact assessment to be considered in licensing decisions.
- However, data is a key issue in determining and assessing such impacts.

Recommendations

- Implement a nationally consistent approach to the collection of alcohol wholesale sales data and/or other appropriate measures of alcohol consumption
- Develop a national approach to the collection of alcohol related offence information and best practice response procedures in collaboration with law enforcement in each jurisdiction
- Explore opportunities for data collection by hospitals and emergency departments in relation to alcohol related presentations and admissions, including place of last drink

Recommendations (cont.)

- Develop an understanding of the extent of alcohol-related harm by supporting better collection and integration of data from a range of sources
- Explore opportunities for the collection of local data related to alcohol for use in targeted local interventions
- Ensure community engagement in decisions affecting communities
- Develop partnership approach with police regarding the enforcement of licensing decisions