



Alcohol Delivery Reforms
Liquor & Gaming NSW

By email: evaluation@liquorandgaming.nsw.gov.au

To whom it may concern

Thank you for the opportunity to provide feedback to the consultation: *Alcohol delivery reforms review: Stage 2*.

The NSW Small Business Commission (the Commission) is an independent statutory office of the NSW Government. It provides strategic advice, advocacy and affordable dispute resolution services across NSW.

The Commission continues to support the shift to making takeaway and home delivery liquor sales a permanent option for businesses and consumers in NSW. The Commission supports adaptations in the regulatory system to mitigate risks while accommodating innovative business models, including same day delivery services. The Commission also welcomed the 2022 Statement of Regulatory Intent issued by Liquor and Gaming NSW which has facilitated the sale of takeaway and home-delivered liquor with meals by holders of on-premises liquor licences, as a result of the exceptional circumstances created by the COVID-19 pandemic.

Restrictions applying to new and emerging business models should be justified by clear evidence of consumer harm. The Commission welcomes efforts to ensure the regulatory framework for alcohol delivery is well-balanced to facilitate new opportunities for small businesses and expanded consumer choice.

Implementation and operation of same day alcohol reporting requirements

The Commission notes that overly cumbersome reporting requirements may represent a barrier to entry for some small businesses. While larger or existing service providers may be able to accommodate such reporting requirements into their systems, it may be costly for some new or small-scale providers to comply with (for example, if a small business liquor retailer sought to offer its own same day delivery service).

This notwithstanding, the Commission can see merit in retaining collection of reporting data to assist with ongoing monitoring of the policy in the short-to-medium term. The recording of postcodes, volume and frequency of alcohol delivered, and delivery refusals are all key indicators to assist the implementation and continued operation of this policy.

As a submission to the Queensland Government¹ identified, the additional reporting requirements in NSW will effectively create a data source which would assist the implementation of evidence-based policy in future.

¹ Foundation for Alcohol Research & Education, *Submission to proposed Queensland regulatory framework for online liquor sale and delivery*, May 2023, pg. 23, <https://fare.org.au/wp-content/uploads/FARE-Submission-on-Qld-regulatory-framework-for-online-SD-Consultation-paper.pdf>.

The Commission understands some of the main concerns with the policy to be same day delivery availability extending drinking sessions and leading to an increased risk of underage drinking. Some reports have found that same day delivery of alcohol has not contributed to these risks by indicating that 1 per cent of deliveries occurred after 11pm, as well as the age group that tends to spend more on online alcohol deliveries being those aged 36-55.²

The collection of reporting data should assist in providing confidence that regulatory settings are effective at mitigating risk and the eventual removal of certain restrictions or requirements in the future if they are found not to contribute to harm minimisation objectives.

In the longer term, the need for reporting should be reviewed and considered in the context of whether it remains a necessary feature of the regulatory system. If reporting data is not used for any meaningful purpose, then it should be wound back.

Specific requirements

It is not immediately apparent why delivery of alcohol is specifically restricted to 11pm on Sunday whereas it remains midnight for the rest of the week. In the absence of a clear rationale, the Commission contends Sunday hours should be extended to midnight.

The Commission understands the RSAT course is also designed for alcohol delivery. However, further reviews of the Responsible Supply of Alcohol Training (RSAT) course should be undertaken to determine if the specific learning outcomes from this course align with the specific circumstances relating to alcohol delivery.

The Commission observes an over-reliance on formulaic training requirements across many regulatory areas. These requirements are rarely assessed and evaluated for whether they genuinely contribute to the achievement of regulatory objectives. In this respect, they can be perceived as red tape or a superficial 'box ticking' exercise. The Commission is not opposed to appropriate training to inform those who deliver alcohol as to the risks, their obligations and other important information however, it is essential to ensure such training is both practical and effective.

The Commission is also aware the temporary age verification options are due to expire. While we are unaware of any specific challenges relating to the Trusted Digital Identify Framework, further extensions of the temporary options should be considered if implementation remains a challenge.

Impacts of alcohol delivery on small business

During the pandemic, the hospitality sector was disproportionately affected by lockdowns and other restrictions on trade. During this time, the shift to food delivery and takeaway food and beverage sales were an important source of revenue, partly compensating for lost in-restaurant dining revenue.

When undertaking the process to permanently implement the temporary COVID-19 arrangements, the Commission noted that industry bodies representing large businesses such as traditional suppliers of alcohol may oppose the uptake of online alcohol delivery due to the potential impact on their sales.

The *NSW Productivity Commission White Paper 2021*³ made observations regarding the lessons learned from COVID-19 regulatory experiments and discussed the need for reviews on liquor license restrictions to ensure smaller sellers such as convenience stores are not discriminated against. The

² Frontier Economics, *Online alcohol sales and delivery in Australia*, Retail Drinks Australia, June 2023, <https://www.retaildrinks.org.au/documents/item/1344>.

³ NSW Productivity Commission, *Productivity Commission White Paper 2021: Rebooting the economy*, 2021, pg. 122, <https://www.productivity.nsw.gov.au/sites/default/files/2022-04/Productivity-Commission-White-Paper-2021.pdf>.

rise of takeaway and delivery food and beverages post-pandemic, particularly for small business, has allowed for an additional revenue stream while also allowing businesses to innovate their product offering to better meet consumer preferences.

The Commission encourages Liquor and Gaming NSW to ensure regulatory settings are appropriate for a diversity of business models, sizes and scales. Designing a regulatory system centred around the needs of large delivery platforms may not produce good outcomes for smaller operators.

Thank you for the opportunity to make a submission. If you require further information, please contact Megan Bennett, at either megan.bennett@smallbusiness.nsw.gov.au or (02) 9372 8767.

Yours sincerely

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