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The Association of Liquor Licensees Melbourne represents bars, nightclubs and live music venues. The other two main hospitality groups, the Australian Hotels Association and Restaurant & Caterers Association represent other segments of the hospitality industry.

The association was formed in 2008 to represent the industry in fighting the 2am lockout, where more than 200 venues, representing more than 80% of the late night entertainment market became involved. This segment of the hospitality industry was not previously represented by either the Australian Hotels Association or the Restaurant and Caterers Association

Since its inception, ALLM;

- has become involved in Federal, State and Local Government issues, and provided written submissions to all government initiatives.
- was actively involved during the formation of Responsible Alcohol Victoria to get an insight into our segment of the market,
- members acted as volunteer advisers during the training of Compliance Directorate officers,
- assisted liquor regulators in the updated Responsible Serving of Alcohol (RSA) course,
- has representation on the City of Melbourne and City of Stonnington Licensees Accord Steering Committees,
- has representation on the City of Melbourne Hospitality Advisory Board,
- has had members sit on policy committees assisting Victoria Police develop strategies in relation 'drugs in licensed premises', 'theme nights' which attract large numbers of ethnic groups, and other topics,
- was instrumental in designing and distributing the successful 'No Excuses' campaign which has since been rolled out to other accords throughout Victoria,
- sought funding to promote a Patron Code of Conduct initiative to educate patrons how to be responsible on licensed premises,
- has assisted members in non licensing matters including copyright collection agencies who increased licence fees by more than 500% to remain financially viable,

- would like to assist the government and authorities in any licensing matter and have on-going dialogue with the State Government, and in particular with Minister O'Brien's office.

During the past five years, the previous Brumby Labour government introduced many legislative and regulatory changes, including the 2am lockout which negatively impacted not only the operational aspects of licensed premises but also their financial viability. In our view, these changes were not based on evidence, but public perception resulting from newspaper reports and hidden agendas.

The changes resulted in;

- a seven fold increase in license fees for most late night on-premises venues,
- a zero tolerance based approach where certain single infringements in a twelve month period will lead to a doubling of license fees the following year,
- a multiplier effect which severely impacts larger premises,
- an environment promoting double standards and an uneven playing field,
- an increase in visits by enforcement agencies.

During this period, terms such as 'alcohol fuelled violence', 'beer barns', and 'high risk venues' were also invented to push the previous government's agenda. This terminology was used widely in the media, government, police, and licensing authorities and resulted in the demonizing of the industry and created a dim view of the late night entertainment industry in the community with negative impacts on trading.

Evidence

ALLM believes assault statistics attributed to licensed premises are a good performance indicator. Assault statistics in Victoria are produced annually and reported in the Police Commissioner's annual report.

The 2010/2011 official police statistics released by the Police Commissioner dated 30 August 2011, reported 1,484 assaults with the location 'Licensed Premises' from a total of 36,962, which represents 4% of total assaults¹. Although overall assaults increased 5.3% from 2009/2010 to 2010/2011, assaults in and around Licensed Premises fell 10.2% for the same period².

¹ Figure 11, Section 3.3 Where Crime Occurred. Victoria Police Crime Statistics 2010/2011 Official Release

² Figure 12. Victoria Police Crime Statistics 2010/2011 Official Release

Assaults in and around licensed premises have remained at similar levels since 2004/2005. In 2004/2005 they were 1,487, 1,423 in 2005/2006, 1,538 in 2006/2007, 1,587 in 2007/2008 and 1,601 in 2008/09³.

During this same period, assaults rose from 28,147 in 2004/2005 to 36,962 in 2010/2011, an increase of 31.3%, however assaults in licensed premises fell marginally to 1,484 in 2010/2011 from 1,487 in 2004/05.

The above statistics do not imply that licensed premises are in fact to blame for many or most of the assaults which occur in this category – it is simply not possible for even the best managed licensed venue, shopping centre, or railway station to be incident free. The following quote from the City of Stonnington is an official confirmation of this:

“Previous attemptshave focused on existing venues in inner Melbourne, such as the 2am lockout trial. This approach, while well intended, damaged relationships between late night traders, State Government, Police and Council. While the focus was on ‘venue-hoppers’, it overlooked a now widely accepted fact that the majority of violence and anti-social behaviour occurs outside venues” (source: City of Stonnington Late Night Liquor Licence Trading in the Chapel Street precinct April 2010 page 2 - <http://www.stonnington.vic.gov.au/residents-and-services/community-health-and-safety/community-safety/late-night-liquor-licence-trading/>)

This good performance is a result of initiatives introduced over many years including the regulating and licensing of crowd controllers which effectively removed bad operators and cleaned up the industry, the introduction of comprehensive CCTV systems, the introduction of RSA courses for bar staff which has been extended to all staff, and more recently licensee courses for new entrants into the industry.

ALLM is not claiming that problems do not exist, or that nothing needs to be done, but it needs to be put into perspective and a full analysis of the other 96% of crimes which occur away from licensed premises should be undertaken to ensure late trading businesses are not discriminated against.

Supply of Alcohol

It is a commonly held view that young people drink alcohol prior to attending licensed premises. The term ‘pre-loading’ has been used to describe this activity. It was also referred to the State Government’s Liquor Control Reform Regulatory Impact Statement 2009 (RIS), which led to the introduction of the current regulations.

³ Figure 29. Assault offences recorded by type of location, 2004/2005 to 2008/2009. Victoria Police Crime Statistics 2008/2009 Official Release

If it is acknowledged that preloading takes place, what needs to be determined is the impact this supply has on alcohol related problems (and associated costs) that occur in the street which are caused by people who purchased alcohol for off-premises consumption, and to also determine the percentage of problems that are caused during the so called “high risk” time period by these same people.

The RIS document also stated that more than three quarters of alcohol sold in Australia is supplied for off-premises consumption. This is another indicator suggesting that on-premises sales of alcohol across all license categories, including hotels and restaurants, account for less than 25% of total sales.

This also indicates that the targeting of on-premise licensed premises and in particular those with late trading conditions were unfounded.

To further illustrate the bias against late trading licensed premises occurred during the introduction of the 2am lockout by the previous Director of Liquor Licensing. Whilst many on-premises licensees voluntarily abided by the new regulations, late trading packaged liquor outlets were permitted to trade past 2am, supplying unlimited quantities of alcohol at significantly cheaper prices than on-premise competition during high risk time periods. The impact of this supply has not been independently analysed, however ALLM has no doubt that much of the regulatory penalties they now face was a direct result of alcohol supplied by late trading packaged liquor outlets.

License fees

The new regulations introduced after the 2009 RIS resulted in license fees increasing seven fold for most late night on-premises businesses. These increases resulted largely from changes to the formula used to recovering licensing costs from licensees.

Prior to 2009, only the cost of running Responsible Alcohol Victoria, at a cost of \$5m per annum, was recoverable. Since then, the cost of running RAV’s Compliance Directorate and all costs incurred by Victoria Police in any activity involving licensed premises, including the cost of attending licensee’s accords and routine visits to licensed premises are included.

Where the cost of running RAV was \$5m, the addition of the Compliance Directorate and Victoria police added \$10m and \$20m respectively to the mix, increasing the recoverable costs from licensees to \$35m, or 700%.

An ALLM member reported increase in their license fees from \$3,700 in 2009 to \$28,620 in 2010. The increases have had severe impacts on the financial viability of the business.

Compliance Directorate

The Responsible Alcohol Victoria's Compliance Directorate was introduced following the 2009 RIS. This group costs \$10m per annum to operate.

According to their official statistics for the eleven months from July 2010 to May 2011, 14,550 inspections were conducted; over 2,500 venues with compliance issues were detected and over 3,950 compliance issues identified.

The most common compliance issue detected at 950 was the failure to 'Produce copy of an approved RSA register, which ALLM regards to be of an administrative, and not operational in nature. Failure to produce a red-line plan accounted for 700 breaches.

Of the 3,950 compliance issues identified, only 125 were detected at late night (on-premises) which equates to about 3.2% of the total.

ALLM does not believe a 200% increase in license fees to cover the cost of the Compliance Directorate is justified based on the very low compliance issues detected, when many of their duties are duplicated by police.

Unless these operatives are better utilized within the licensing environment where the majority of the breaches are occurring, they may be better utilized elsewhere in the public service. At the very least the cost of running this group should not be paid by licensees.

Enforcement Groups

There has been a significant increase in the number of visits to licensed premises. One licensee commented on the number of times police requested to view his red line map, even though the red line 'hadn't moved in the past ten years', and another was disappointed with repeat visits from P.O.R.T, the Public Order Response Team when nothing had occurred to justify the visit by up to 20 officers arriving in 4 wheel drives. Other licensees have complained that they are regularly visited by different enforcement authorities including Divisional Licensing Unit, Local Police, and RAZON on the same night.

ALLM is of the understanding that there are eight enforcement groups that can legally enter licensed premises. They include Victoria Police's PORT, Divisional Licensing Unit, Safe Streets Taskforce, Uniform Police, RAZON Taskforce (who report to an assistant commissioner, not to local police command), the RAV's Compliance Directorate, MFB and the Local Council.

ALLM does not have an issue with enforcement authorities visiting licensed premises but it should be done in a coordinated manner.

Double Standards and an uneven playing ground

The cost of running Victoria Police is funded by taxpayers except in the case of licensed premises. This is due to the Brumby Government decision to directly levy the cost of all police activities directly and indirectly incurred with licensed premises. These activities include 'walk throughs' and attending licensee's accord meetings. The ALLM believes no other business or industry is levied with indirect police costs under this 'user pays' system.

By way of example, if three similar crimes were committed, one in a licensed venue, one in a fast food outlet, and one on public transport, only the policing cost incurred with the licensed premises incident would be recoverable by the State. A case of discrimination against licensed premises can clearly be argued.

Large sporting venues such as Etihad Stadium and AAMI Park have hosted rock concerts during the 12 months (Eminem & Foo Fighters respectively). These events were all age fully licensed events, with no segregation between wet and dry areas (the same licensing regime occurs at Australian Tennis Open & Spring racing carnival). This means that alcohol could have easily been supplied to a minor. For the majority of licensed premises, having underage on the premises or supplying them alcohol would have major repercussions for the licensee yet other on-premises licensees, providing the similar entertainment, can seemingly operate legally and within the law. A double standard clearly exists.

ALLM is of the belief that no industry should be singled out and levied with indirect policing costs.

Amenity and Queuing outside licensed premises

ALLM is concerned that this new legislation will place further focus on on-premises licensed premises and provide enforcement groups with another set of penalties that penalizes the licensee and not the perpetrators.

ALLM has heard anecdotally that one of KPI's senior police use when assessing police for promotions is the number of infringement notices issued. ALLM believes that some police and other enforcement groups may be motivated by personal gain than would otherwise exist, and as a result, subjective measurement of some amenity behavior may be marked more harshly.

To illustrate the issue of subjectivity, a former licensee advised that he had a heated discussion with an officer from the Compliance Directorate about the sobriety of a patron due to the way he was leaning on the bar and talking to a friend. The licensee was not prepared to accept an infringement that he did not think was justified.

Some ALLM members also have complained that they received amenity breach infringements for patrons arriving and queuing for events. The footpaths were no busier than queues outside

sporting stadiums, outside Myer during their boxing day sales or their Christmas window displays, or outside theatres prior to doors and during intermission. If these businesses are not issued with infringements, or not deemed to be negatively impacting amenity, ALLM is of no doubt that a double standard exists and licensed premises are being discriminated against.

Earlier this year ALLM wrote to VCGLR to seek clarification on the new amenity regulations. When asked what would happen to licensees at 'major sporting events, in particular football and cricket' if amenity breaches were detected, the response excluded any reference to infringement notices being issued to the licensee, but rather that 'Actions Victoria Police takes to manage bad behaviour at such events are a matter for Victoria Police'.

This clearly indicates that no action will be taken against licensees and at no point did VCGLR state that all licensees will be treated the same in response to our queries.

Demerit system

Some feedback has been received from ALLM Members regarding the Demerit Points system. The positive feedback is the potential savings in license fees for good operators, but the negative feedback surrounds the single infringement criteria that would cause a loss in demerit points in any 12 month period was too harsh and this 'zero tolerance' approach should be relaxed to 3-5 infringements in a 12 month period.

Even the best operators with the best intentions operating at best practice cannot prevent isolated incidents from occurring.

Facts & Myths about Licensed Premises

Public opinion is often influenced by the media and general stereo typing born from a lack of intimate knowledge of a subject matter.

Fact 1 – Most licensed premises are small businesses, employing vast numbers of predominantly young people, many of which who are working their way through tertiary education. Owners work long hours and involve themselves with

Fact 2 – Most licensees have invested large amounts of money in their businesses and rely on their businesses to support themselves and their families.

Fact 3 – Most licensees are responsible business people, many are tertiary qualified and lead normal lives in the community. The stereo type images of night club owners are over exaggerated.

Myth 1 – That Melbourne has large numbers of beer barns.

Attached is a list of the top 20 licenses premises by capacity in Victoria, licensed to trade past 1am.

| License Number | Venue Name | Licensed Capacity | Trading Hours | Closing Time |
|----------------|---------------------------------------|-------------------|------------------------|--------------|
| 32253528 | Etihad Stadium | none listed | 7am-1am (varied) | 1am |
| 32225305 | Melbourne Park | none listed | 7am-3am | 3am |
| 31951050 | Crown Entertainment Complex | none listed | - | After 5am |
| 31917315 | Grand Hyatt Melbourne | 3,400 | 7am-3am | 3am |
| 31908722 | Hilton on the Park – Melbourne | 2,747 | At any time on any day | After 5am |
| 31821182 | The Regent Theatre and Plaza Ballroom | 2,710 | 7am - 3am | 3am |
| 31951987 | Citclub Hotel | 2,150 | Any time any day | After 5am |
| 31917250 | Intercontinental Melbourne The Rialto | 2,030 | Any time any day | After 5am |
| 32207014 | The Palace Theatre | 1,855 | Any time any day | After 5am |
| 31905198 | Esplanade Hotel | 1,696 | 7am - 3am | 3am |
| 32242365 | Forum Theatre | 1,500 | 7am-3am | 3am |
| 32296720 | Neverland Entertainment Precinct | 1,500 | 10am-5am | 5am |
| 31820322 | The Bottom End Pub.Diner. Disco. | 1,420 | at any time on any day | After 5am |
| 31917098 | Rydges Melbourne | 1,300 | 7am-4am | 5am |
| 31916204 | The Windsor | 1,123 | Any time any day | After 5am |
| 31821530 | Studio 3 at Crown | 1,100 | At any time on any day | After 5am |
| 31920033 | The Mercat Cross Hotel | 1,081 | 7am-7am | After 5am |
| 31921568 | Centrefold Lounge | 1,070 | Any time any day | After 5am |
| 31950038 | Park Hyatt Melbourne Hotel | 1,050 | 7am-3am | 3am |
| 31907687 | Killkenny Inn Hotel | 1,030 | At any time on any day | After 5am |
| 33121180 | The Sebel and Citigate Albert Park | 1,000 | Varied | 3am |

You will note making up the top 20 are seven five star hotels, two of our largest sporting venues, three prominent theatres, Crown Casino and one of their venues. The above list dispels the notion campaigned by the previous government that Melbourne was rife with ‘beer barns’ which led to the 2009 regulatory changes. Note also that Neverland has ceased trading.

Myth 2 – That the CBD is the major hotspot for crime at licensed premises.

Up until recently there were 5 police geographical regions. Region 1 included the CBD and the inner city municipalities of Port Phillip, Stonnington & Yarra, and the remaining 4 regions included both metropolitan and regional municipalities.

Region 1 had the second lowest number of assaults in licensed premises over a number of years. In 2008/09 for instance, 8,323 crimes (18.9% of the total) were recorded in Region 1 with Region 4 having the lowest at 7,040, and Region 5 having recorded the highest at 9,763.

On a linear basis, approximately 320 crimes (18.9% x 1,694) occurred at Licenses Premises in Region 1 for the entire 2008-09 year, which ALLM regards as a remarkably good result. It is also a great result considering the regularly quoted visitor numbers in CBD of between 350,000 to 400,000 every week.

This evidence dispels the myth that the CBD is the major hot spot, and if it is, licensed premises are not the major contributor.

Myth 3 – That the Central Business District has large numbers of late trading venues.

According to analysis undertaken by ALLM, the CBD has considerably less capacity in licensed premises than the often quoted visitor numbers of 350,000 to 400,000 every weekend. Our research indicates that the licensed capacity is approximately 95,000 for premises licensed to trade to 3am, 55,000 up to 5am and 40,000 after 5am.

It should be noted that these licensed capacities include 4 & 5 star hotels (mainly accommodation), restaurants & cafes, theatres, hotels & mainly drinking places and bars, night clubs and music venues. Excluding accommodation premises, restaurants & cafes and theatres from the mix, licensed capacities to 3am are approximately 57,000, 40,000 to 5am and 26,000 after 5am. Please refer to the following table below.

| Licensed Premises - City of Melbourne | Venues 1am | Capacity 1 am | Venues 3am | Capacity 3am | Venues 5am | Capacity 5am | Venues 5am + | Capacity 5am + |
|---------------------------------------|------------|---------------|------------|---------------|------------|---------------|--------------|----------------|
| 4-5 star hotel (mainly accommodation) | 17 | 16,503 | 17 | 16,503 | 8 | 8,712 | 7 | 7,412 |
| Hotel/pub/drinking place | 40 | 17,073 | 39 | 16,744 | 21 | 10,820 | 17 | 7,492 |
| Restaurant/Cafe | 62 | 14,123 | 61 | 13,339 | 14 | 5,168 | 10 | 4,619 |
| Bar/Nightclub/Music venue | 125 | 40,325 | 125 | 40,325 | 69 | 28,435 | 36 | 18,785 |
| Theatre | 3 | 4,210 | 3 | 4,210 | 0 | 0 | 0 | 0 |
| Incomplete records | 5 | 1,320 | 5 | 1,320 | 4 | 1,150 | 4 | 1,150 |
| Totals | 252 | 93,554 | 250 | 92,441 | 116 | 54,285 | 74 | 39,458 |

Note also that the above statistics do not include Crown Entertainment Complex, Etihad Stadium or Melbourne Park, which did not have any licensed capacities quoted on the RAV database.

Myth 4 – Crowd controllers are aggressors.

At a City of Port Phillip accord meeting, a representative of the Registrant Agency Board quoted that in 90% of cases, crowd controllers are victims, not perpetrators. This factual evidence once again defies the stereotypical view of crowd controllers.

Myth 5 – Drink Spiking.

Drink spiking has severe implications on businesses as it infers a lack of responsibility on behalf of the business operator safety matter. It can also leads to lower patronage if the premises are believed to be dangerous.

But according to the group, Centre Against Sexual Assault (CASA) the majority of drink spiking incidents occur in private houses, and in the majority of cases the victim and perpetrators are known to each other, and in many cases also, alcohol was the main contributor, not drugs (CASA was invited to attend a City of Port Phillip Licensees Accord meeting at the request of concerned licensees to educate them on drink spiking, and how to identify victims).

If the motivation for drink spiking is for opportunistic crimes, and assuming females are not out on their own, then logically, it would be difficult for a perpetrator to drink spike someone's drink and then attempt to take a drug affected person out of the premises in clear view of CCTV cameras, Security and the person's friends.

Summary

The evidence and information provided clearly indicates that regulatory changes in 2009 were not based on fact and as such these inequities need to be remedied.

ALLM would like;

- license fees to be reduced to pre 2009 levels by removing the costs of the Compliance Directorate and indirect Police costs,
- the zero tolerance approach to be relaxed and replaced with a 3-5 infringement trigger,
- to remove the doubling of penalty provisions as they conflict with the objectives of the demerit system,
- to have a coordinated approach to license premises inspections amongst the various police groups,
- to eliminate double standards and apply the law consistently to all licensees,
- to wind back the amenity provision and place more emphasis on the perpetrators, not on licensees,
- authorities to refrain from using terms such as 'beer barns' unless they are properly defined by the liquor authorities,
- authorities to replace the term 'high risk venues' with 'high risk time period',
- a breakdown of times crimes were committed at licensed premises (quoted above), to establish impacts in the late night environment. ALLM can offer some assistance to analyse these statistics if required.
- authorities to refrain from using the term 'alcohol fuelled violence' and replace it with 'anti social behaviour' unless it can be proven that alcohol, and not for instance drugs, sociological or psychological reasons were the reasons for the behaviour .