

27 January 2023

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Dear Commissioner

RE: Liquor Licensing Act 1997 – Review of the Late Night Trading Code of Practice

I refer to your email of 5 December 2022, formally advising the Australian Hotels Association (SA Branch) (the AHA|SA) of Consumer and Business Services' review of the Late Night Trading Code of Practice (Late Night Code) under the *Liquor Licensing Act 1997*, and the opportunity to put forward our views on the Late Night Code.

It is noted that the aim of the review is to:

- assess whether the Late Night Code has successfully reduced alcohol-related harm in and around licensed venues;
- assess whether the Late Night Code has resulted in any unintended consequences; and
- provide recommendations (if any) for amendments to the Late Night Code.

The AHA|SA supports your position reported in the media that *"we need to ensure that the intent of the code is fulfilled – namely keeping the community safe, while supporting a thriving hospitality sector and vibrant night-life."*

No other jurisdiction has lockout laws. While the Victorian Liquor Commission can impose them, the power is not at present utilised. Instead, Melbourne celebrates its vibrant 24-hour economy. In regard to the Sydney laws, you would be aware that in 2019, a Liberal-chaired NSW parliamentary committee recommended that the lockout laws be "removed urgently". The restrictions were found to have had a disastrous economic and reputational impact on Sydney's night-time industries, and it was estimated that the lockouts cost the city more than \$16 billion in revenue over the seven years they were in place.

The Sydney experience is clear evidence of the fact that lockout laws are a failed and costly experiment that should be abandoned.

Ultimately, it is a question of what type of night life and vibrancy do we want in the city? We have seen that lockout laws have been an abject failure in Sydney in the vibrancy of the city, and in Adelaide we are seeing similar issues across the city, including the East End which is a much quieter precinct

than it was 10 years ago. It is vital to the future of the hospitality industry, and its recovery from the impacts of COVID 19, that Adelaide is a vibrant city.

Against this background, the AHA|SA provides the following comments in response to the specific questions raised by the review:

1. Has the Late Night Code successfully reduced alcohol related harm in and around licensed venues?

While the Late Night Code came into operation with the intent of encouraging responsible service and consumption of liquor and to reduce the level of alcohol-related harm that occurs in and around licensed venues, it is the AHA|SA's position that lockout laws take the issue of late night violence from the clubs to the streets.

It is submitted that public safety actually improves by allowing people into venues because of the presence of security staff, bound as they are by strict rules, and the extensive deployment of CCTV cameras.

The lockout laws do not add value to the late night economy and experience. Rather they are a costly administrative burden that serves no demonstrated purpose other than to create a barrier to the vibrancy that is sought – the AHA|SA is not convinced that the statistics show that there has been any significant change in behaviours. Indeed, the SA police Superintendent Craig Wall is quoted as saying the laws have “anecdotally” cut assaults, violence and other anti-social behaviour.

Lockout laws are not the panacea to all late night problems. We need to ensure that any restrictions or conditions are based on evidence and are not an over-reaction to often unrelated and random incidence of violence.

2. Has the Late Night Code resulted in any unintended consequences?

Hospitality venues are still recovering from COVID19 restrictions and various lockdowns, in addition to the ongoing restrictions imposed by lockout laws, placing an unfair burden on honest traders. Having faced the severest of closures and restrictions during the pandemic most late night traders who are predominantly CBD-based have struggled to stay afloat. Many haven't.

Current rules overwhelmingly disadvantage those doing the right thing. The lockout laws punish everyone and disproportionately punish people doing the right thing. In particular, lockout laws have a localised impact, as the only places that are able to trade after 3am are on or nearby the late night precinct of Hindley Street and North Terrace, and parts of Currie Street.

Furthermore, the requirement to use a metal detector/conduct “wanding”, in circumstances where a venue doesn't trade past 3am (but is licenced to do so) has the unintended consequence of pushing individuals illegally carrying weapons to venues that don't have to wand, or to ill-intentioned patron's “planting” knives and weapons outside of venues in pot plants and the like.

Another unintended consequence of the lockout laws is that later in the evening there is an influx of people onto Hindley St looking for taxis and rideshare services, with no queue management as is usually required outside of late night venues. It is understood that the lockout laws effectively push intoxicated patrons to North Terrace as taxis and rideshares prefer not to travel down Hindley Street. Adequate public transport needs to be provided at the time of the 3am lockout in order to clear patrons from the area.

Patrons who are locked out of venues also find themselves with no access to toilet facilities, leading to public urination and a convergence on fast food outlets to use their facilities.

It follows that the lockout laws create issues for fast food outlets in the area, resulting in aggression towards staff and physical assaults. A large number of people using fast food outlets at the same time also results in overflowing rubbish bins and litter filling the street.

Hotel Security ends up having to manage the street – in circumstances where they have no authority to do so. As outlined above, from a public safety perspective it would be far better to continue to allow people into venues to access food and toilets in an environment that is bound by strict security rules and the use of CCTV cameras.

More broadly, there is an issue of choice as well, in terms of whether citizens have the right to regulate their own behaviour to the extent that it does not impinge on the rights of other individuals.

3. Recommendations for amendments to the Late Night Code.

It is the AHA|SA's position that the lockout laws be scrapped.

Whilst we unequivocally support the well-intentioned aims of the lockout laws, and are advocates for the safety and wellbeing of city patrons, we are of the firm view that the lockout laws are not serving their purpose.

Furthermore, the new licensing fee structure introduced in 2019, in line with recommendations from the 2016 Anderson Liquor Licensing Review, really makes the government-imposed lockout redundant in any case. The new fee structure is as effective as any lockout – liquor licensing fees to trade after 3am are cost prohibitive for most venues. The dramatic increase in fees from \$6,355 to trade between 3am to 4am, rising to \$15,887 to trade between 4am to 5am, and a whopping \$31,774 to trade from 5am onwards provides an enormous financial disincentive for those few venues that may be in a position to trade at these times to actually do so.

However, should the Government determine to retain elements of the current lockout laws, the AHA|SA makes the following recommendations:

- i. The Code should not be imposed (as is done under licence conditions) on short-term licences where the licensee does not continuously trade from midnight to the “re-opening” time.

The most recent example of this is the short term licences that were granted to allow venues to open to screen the Socceroos v Argentina World Cup game. It seems unreasonable to impose a requirement on venues to have to “wand” patrons, and to have to provide polycarbonate glassware, when opening after a period of closure.

- ii. There is an argument that “wandering” should only be required when the premises intends to *actually trade* beyond 3am. It would be a very rare occasion that a licensee makes the decision to stay open, and pay huge amounts of unrostered overtime, on a whim.
- iii. The 28 day period for the maintenance of CCTV footage is often described as excessive by licensees. Licensees have advised that AHA|SA that most systems are designed to re-write after 7-10 days, and with many (often more than 20) high resolution cameras (up to 4k) the hard drives become full within that time. One would have thought 14 days was enough for SAPOL or CBS to investigate a complaint or an incident.

Please do not hesitate to contact us directly if you would like to discuss any aspect of the submission.

The AHA|SA looks forward to continuing to be involved in the review process moving forward.

Yours faithfully



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