

## Public Accounts and Estimates Committee: Inquiry into the Victorian Auditor-General's reports no. 99: Follow up of Regulating Gambling and Liquor (2019) and no. 213: Reducing the Harm Caused by Gambling (2021)

### Victorian Liquor Commission – Responses to Question taken on Notice (QoN) and Requests for Further Information

#### **QoN 1 asked by Mr McGowan – Monday 24 July 2023**

In relation to infringement notices issued by liquor inspectors during FY22/23, how many were issued 'on the spot' versus post visit?

#### **Response:**

In FY22/23, liquor inspectors issued 126 infringement notices for offences under the *Liquor Control Reform Act 1998* (Act).

None of the 126 infringement notices were issued 'on the spot'. In each instance, the infringement notice was issued in accordance with provisions of the *Infringements Act 2006* at some time after the relevant visit or inspection conducted by liquor inspectors. This is consistent with approved processes and the Attorney-General's *Guidelines to the Infringements Act 2006*, which ensures that liquor inspectors can confirm the accuracy and appropriateness of the infringement notice prior to its issue. These checks can include confirming the correct recipient for the infringement notice (e.g. the licensee, one or more directors, a nominee, etc.), previous compliance history of the relevant entity and meeting procedural requirements under the *Infringements Act 2006*.

Each offence under the Act is prescribed a maximum penalty by reference to penalty units, with the infringement penalty generally calculated at a rate of one-tenth of these maximum amounts. Based on the value of a penalty unit in FY22/23 (which was \$184.92) and rounded to the nearest dollar, penalties imposed by infringement notices during this period ranged from 0.5 penalty units (\$92) to 12 penalty units (\$2,219).

#### **QoN 2 asked by Mr Hilakari – Monday 24 July 2023**

What stakeholder engagement activities have the Victorian Liquor Commission conducted, particularly with stakeholders around online processes and home delivery of liquor?

#### **Response:**

Senior representatives of the Victorian Liquor Commission and executives of Liquor Control Victoria (LCV) have held key stakeholder meetings with a range of health advocates, community groups, and

industry to discuss the impacts of remote sale of liquor and better understand the risks and concerns held by those affected by this growing method of supplying liquor within Victoria.

As part of steps to support implementation of new statutory obligations regarding the delivery of liquor, LCV has held detailed engagement with a number of significant delivery agents to inform and assess compliance with regulatory obligations on entities delivering alcohol purchased online.

LCV also undertook a targeted engagement campaign following the release of a new Ministerial Order on 21 September 2022. This Order imposed reporting obligations on all licensees authorised to supply liquor via home delivery, requiring licensees to keep a record of each occasion where a delivery person refuses to deliver packaged liquor, and provide a report to the VLC on an annual basis. In support of its implementation, LCV contacted over 14,000 licensees via email or post to notify them of their new obligations and assist them with their data collection and reporting processes. This communication was further supported with the development of detailed website content and reminders in LCV's monthly newsletter.

In November 2022, LCV facilitated the transition of approximately 1,200 remote seller businesses into a dedicated licensing category with increased regulatory obligations for home delivery of liquor.

Other stakeholder engagement activities have included:

- Conduct of two Community Stakeholder Forums (September 2022 and May 2023), attended by a broad range of health, research and community organisations.
- Publication of a monthly newsletter, with a reach of over 26,000 subscribers.
- Launch of our new website on 29 March 2023 with improved content and functionality, receiving approximately 198,000 visits since its launch.

## Requests for Further Information

### **1. *Victorian liquor license application forms must be submitted to the VGCCC. How does the VLC and VGCCC work in practice to assess license applications?***

The Victorian Commission for Gambling and Casino Control Commission (VGCCC) no longer has responsibilities in relation to liquor licence applications.

Since its establishment on 1 July 2022, the Victorian Liquor Commission (VLC) is the dedicated regulator responsible for the regulation of Victoria's liquor industry, including the receipt, assessment and determination of liquor licence applications under the Act.

Liquor Control Victoria is the collective name for the VLC and dedicated staff in the Department of Justice and Community Safety that supports the VLC in the exercise of its functions.

The VLC exercises its licensing function both directly and by way of delegating powers to enable staff to effectively and efficiently process liquor licence applications. For applications determined under delegation, this process generally involves:

- the lodgement of an application into an internal database and acknowledgement to the applicant on receipt of the application;
- the conduct of an initial risk assessment against a series of risk factors and allocation to an appropriate delegate based on the outcome of that risk assessment (which can include escalation for determination by a single VLC commissioner for significant or complex applications);
- the facilitation of mandatory referrals and public notification requirements under the Act;
- the review and provision of any valid objections received with respect to the application to the applicant for comment; and
- once all relevant information has been obtained, the determination of the application by the delegate and notification of the decision to all affected parties.

A party that is not satisfied with the outcome of the initial determination can seek an internal review of the decision. The VLC, constituted by three commissioners, conducts the internal review and will undertake a fresh assessment and determination of the matter (known as a hearing *de novo*). This process can also include the conduct of a compulsory conference to promote the resolution of the issues in dispute between the applicant and any objecting parties.

In the event that a party is not satisfied with the outcome of the internal review, they can seek administrative review of that decision before the Victorian Civil and Administrative Tribunal (as another hearing *de novo*) or can appeal to the Supreme Court of Victoria on the grounds of jurisdictional review only.

**2. In respect of recommendations 1-4, 6-10, and 12-13 made by the Auditor-General in the Report on the Follow up of Regulating Gambling and Liquor (2019), please provide an update on:**

- (a) Whether each recommendation has been implemented**
- (b) If so, how each recommendation has been implemented**
- (c) The impacts of the implementation of each recommendation.**

Liquor Control Victoria was established on 1 July 2022 and includes the independent Victorian Liquor Commission (LCV) and a dedicated team in the Department of Justice and Community Safety that supports the VLC in the exercise of its statutory functions.

Prior to 1 July 2022 the liquor regulator was the Victorian Gambling and Casino Control Commission (VGCCC), and prior to 1 January 2022 the liquor regulator was the Victorian Commission for Gambling and Liquor Regulation (VCGLR).

Liquor Control Victoria is finalising the liquor regulator's strategic plan that defines our priorities over the next three years. The strategic plan reinforces our commitment to continuous improvement including in areas identified by the Auditor-General's report, for example, strengthening risk assessments, quality assurance processes, training, and partnerships.

The VCGLR reported to the Auditor-General that all liquor-related recommendations were implemented. The Auditor-General accepted those recommendations in its report titled “Responses to Performance Audit Recommendations: Annual Status Report” tabled on 23 June 2021.

Liquor Control Victoria supports the findings of the VCGLR and Auditor-General that all recommendations are implemented. For example:

- **Recommendations 1-4 & 6: Licensing industry participants**
  - Implemented through a range of activities including:
    - Implementation of a risk-based model for assessing and determining liquor applications against five risk factors that:
      - link to identified harms such as risky drinking, minors consuming alcohol, antisocial behaviour and detriments to community life; and
      - align with the objects of the Act.
    - Enhancement to licence assessment processes, licence application forms, assessment templates (including for high-volume licence types) and decision sheets to ensure assessments are mapped against statutory requirements and involve detailed consideration of suitability, amenity, harm and knowledge of the Act.
    - Strengthening of training processes and guidance material available to licensing officers on the risk-based model and supporting concepts focused on better administrative decision-making.
    - Development of an annual monitoring program of licensees’ corporate office holders, involving a targeted sampling methodology, with breaches being referred for further investigation and action.
    - Implementation of an improved reporting system and development of key dashboards for both internal and external performance measures, providing management with real-time access to data stored across multiple data-management systems.
  - The above implementation efforts have resulted in:
    - a more robust, consistent and risk-based approach to liquor licensing assessment and determination centred on the concept of harm minimisation;
    - improved compliance and accountability on current and prospective industry participants to provide relevant and accurate information to decision-makers as part of application processes and beyond; and
    - licensing staff that are well trained, informed and supported in their duties.
- **Recommendations 7-10: Assuring compliance**
  - Implemented through a range of activities including:
    - Implementation of a risk-based approach to compliance involving the collection and analysis of data from a range of internal and external sources (including Victoria Police, local councils and interstate counterparts) to build an understanding of the nature and scope of alcohol-related harm.
    - Development of an enabling framework, such as:
      - an annual compliance operational strategy to outline details of the strategic and operational focus for enforcement activities in that year

- coordination of joint and complex operations which applies a dynamic, risk-based approach to the selection, execution and reporting of high-risk compliance activities.
    - Completion of a quality assurance framework for compliance, including the review and update to all relevant Standard Operating Procedures.
    - Introduction of detailed training, guidance, tools and templates to support staff in a compliance and enforcement environment, including the design and implementation of inspector training and investigator training programs.
    - Implementation of a new reporting system incorporating data validation tests undertaken by a strategic intelligence unit, which provides management with real-time access to data.
  - The above implementation efforts have resulted in:
    - a structured and risk-based approach to compliance, enforcement and education activities which is supported by data-driven intelligence; and
    - competent and confident liquor inspectors.
- **Recommendations 12-13: Measuring performance and collaborative enforcement**
  - Implemented through a range of activities including:
    - Improvement to the qualitative nature of the liquor regulator's BP3 performance measures to provide information on compliance actions that focus on harm minimisation, including reporting on:
      - percentage of detected high harm liquor breaches that result in enforcement action
      - percentage of inspections conducted at high risk times
      - breakdowns of inspections by location (metro, regional) and category and type of breach
      - the number of operations with co-regulators to identify high harm liquor breaches.
    - Implementation of a new reporting system and development of specific reports to track progress against BP3 performance measures.
    - Development of a joint enforcement strategy between the liquor regulator and Victoria Police that provides a high-level framework for a unified approach to enforcing compliance with the Act for those involved in the liquor industry.
  - The above implementation efforts have resulted in:
    - ability to report to Government on the outcome (rather than the number) of relevant compliance activities and their impact on harm minimisation; and
    - improved coordination, collaboration and confidence with co-regulatory partners, including Victoria Police, to achieve mutually-agreed outcomes and maximise efficiencies within available resources.