

**Supplementary  
Submission  
No 13a**

## **PROVISION OF ALCOHOL TO MINORS**

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The Hon Bruce Notley-Smith MP  
Chair  
Legislative Assembly Social Policy Committee  
Inquiry into the Provision of Alcohol to Minors  
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Dear Mr Notley-Smith

***Re: NCETA's response to the Discussion Paper developed by the Legislative Assembly Social Policy Committee Inquiry into the Provision of Alcohol to Minors***

Thank you for the opportunity to respond to the Committee's Discussion Paper. NCETA is broadly supportive of the directions contained within the Paper. In particular we support the extent to which the Discussion Paper focusses on the responsible supervision of alcohol supply to minors.

The following is provided in response to each of the questions posed in the Paper.

**Proposed Recommendation 2 question**

*Should there be a minimum age limit for the supply of alcohol to minors by parents and guardian?  
If so what should the age be?*

NCETA would not be supportive of a blanket age limit below which alcohol should not be provided to minors. Notwithstanding the increasing body of evidence pointing to the damaging effects of alcohol on the developing brain and the relevant guidelines NHMRC guidelines, the key issue is whether the supply of alcohol is considered responsible. NCETA recommends that rather than having a specific age limit, the age of the minor should be one of the factors that is considered in determining whether alcohol supply by a parent or guardian or other adult is consistent with responsible supervision. This is already addressed in Proposed Recommendation 2.

A further minor issue in relation to Proposed Recommendation 2 is that it uses the term "drunk", whereas the *Liquor Act 2007* Section 5 uses and defines the term "intoxicated". In view of this, NCETA recommends that for consistency the term "intoxicated" be retained in place of the word "drunk". Alternatively the term "drunk" could be defined under the Act.

### **Proposed Recommendation 3 question**

*Should section 117 (4) of the Liquor Act 2007, which enables parents and guardians to supply alcohol to minors be removed or retained?*

NCETA recommends the retention of S17 (4) for the reasons given by Commissioner Mitchel, Mr Cox and Superintendent Paroz. These included that having a blanket ban on the provision of alcohol to minors would be unrealistic and difficult and resource intensive to enforce in the context of existing cultural and religious practices. In addition it would remove an opportunity for parents to educate their children about alcohol. It is noted that the key aim of the legislation is to address the most harmful patterns of alcohol supply to minors, rather than supply to minors per se.

### **Proposed Recommendation 4 questions**

*Should the defence against prosecution in Section 117(5) of the Liquor Act 2007, which enables parents to authorise other adults to supply be removed or retained?*

NCETA recommends the retention of this Section. To do otherwise would risk the criminalisation of relatives and family friends who offer alcohol to minors. The onus should be on the person supplying the alcohol to ensure that precise nature of the authorisation (quantity, type of alcohol and time period) is provided with sufficient clarity by the parent or guardian.

*Should the authorisation which forms the defence against prosecution in Section 117(5) of the Liquor Act 2007 required to be in writing? How else could the current provisions be improved?*

Whether the authorisation for the supply of alcohol to minors other than parents or guardians should be in writing is a complex issue. The primary concern is whether the adult providing the alcohol has a clear understanding of the expectations of the parents or guardian. Given the potential that exists for forgery of the authorisation, reliance on written authorisation does not appear to contribute significantly to ensuring that the alcohol provider is fully aware of the parent/guardian's wishes. In the case of forgery, the alcohol provider could argue that they reasonably believed that the document emanated from the parent/guardian.

There could be benefit in the development of a proforma, document downloadable from the Internet, which could detail each aspect of the parent's/guardian's expectations that should be addressed when providing an authorisation.

Ultimately, however, the onus should be on the alcohol provider to prove that they have been provided with a detailed authorisation about the quantities of alcohol (if any) to be supplied to the minor and the conditions under which it is to be provided. If they cannot do this, then the defence to under S117(5) should not apply.

### **Proposed Recommendation 5 question**

*What is the appropriate penalty for supplying liquor to a minor other than on licensed premises? Are the current penalties adequate or should they be increased?*

Increasing the penalties associated with the supply of alcohol to minors is unlikely to reduce the extent to which alcohol supply (on other than licensed premises) occurs and could have a number of adverse impacts. As mentioned in the Committee's discussion paper, this is likely to impact

most harshly on socially disadvantaged members of the community. In addition, it is the perception of the likelihood of detection, rather than the severity of the penalty, which is most likely to enhance compliance. As noted in NCETA's submission to the Inquiry, secondary supply is primarily an issue concerning the welfare of young people. As with other aspects of child/youth welfare, heavy fines or imprisonment of parents / guardians and those providing alcohol to minors should not be a first line measure to address this problem.

### **Proposed Recommendation 6 questions**

*Should there be provision for minors involved in secondary supply offences to attend education workshops?*

*Should the application of this penalty option be determined on a case by case basis or should it be mandatory?*

NCETA recommends that workshop attendance by minors be part of the suite of legislative responses available for minors and determined on a case by case basis.

The Committee is recommending that attendance at education workshops for adults who commit secondary offences be part of a suite of penalties under the *Liquor Act 2007*. Presumably therefore, attendance at an education workshop is not mandatory for adult offenders.

There is likely to be benefit in, at least some, minors who were recipients or providers of alcohol also attending education workshops, particularly if accompanied by parents/guardians and/or (in the case of recipients) the person who supplied them with alcohol.

Nevertheless, it appears inconsistent to have attendance at education workshops as part of a suite of penalties for adults and mandatory for minors. Having a requirement for mandatory attendance also increases the risk of net-widening for those who do not comply. In other words, if attendance is compulsory and a significant proportion do not comply, then a large number of minors will be drawn unnecessarily into the criminal justice system.

In view of this, it is recommended that this penalty option not be mandatory for all minors.

### **Proposed Recommendation 7 question**

*How could the enforcement of secondary supply laws be improved? Should the focus instead be on public education and preventing harmful underage drinking?*

Our national research has indicated that the enforcement of secondary supply laws is a difficult task. As noted in our earlier submission the value of secondary supply legislation goes beyond the deterrent effects associated with its enforcement. It also sends a strong message to the community about harmful secondary supply being unacceptable and gives parents more leverage in influencing the behaviour of minors and those who might supply them with alcohol. In other words, the legislation could have positive impacts on shaping community attitudes even if there were few successful prosecutions.

Secondary supply legislation could also form the focal point of public education programs aimed at preventing harmful underage drinking along the lines of those described in Recommendations 8, 9 and 10.

In closing, I return to the issue raised in our earlier submission of whether the *Liquor Act 2007* is the most appropriate vehicle to restrict the harmful secondary supply of alcohol to minors in settings other than licensed premises. As discussed this should be regarded as a child/youth welfare issue. Therefore it may be preferable to have this issue addressed in legislation which focuses more specifically on child/youth protection and also having mirroring provisions in summary offences legislation to expedite police intervention. For example, secondary supply provisions are contained in the *Tasmania Police Offences Act (1935)* at Section 26.

Having secondary supply offences contained in this other legislation would have two further advantages. Firstly, child welfare and summary offences legislation is significantly less complex than the *Liquor Act 2007* and is therefore more likely to be enforced. Secondly, child welfare and summary offences legislation has criminal, rather than administrative law at its basis. Since police are far more familiar with criminal, compared with administrative, law this is also likely to increase enforcement.

I trust this information assists the Committee in its deliberations.

Yours sincerely

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