

**Supplementary
Submission
No 10a**

PROVISION OF ALCOHOL TO MINORS

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Submission to the NSW Legislative Assembly Social Policy Committee on the Provision of Alcohol to Minors: Discussion Paper

CCL is a Non-Government Organisation in Special Consultative Status with the Economic and Social Council of the United Nations, by resolution 2006/221 (21 July 2006). CCL was established in 1963 and is one of Australia's leading human rights and civil liberties organisations. Our aim is to secure the equal rights of everyone in Australia and oppose any abuse or excessive power by the State against its people.

We thank the Social Policy Committee for the extension of time to make a submission to inquiry. We are grateful for the opportunity to provide comment and would appreciate the opportunity to provide further input as required.

PROPOSED RECOMMENDATION 1

That the Liquor Act 2007 be amended to provide that parents, guardians and responsible adults must supply alcohol to minors in a manner that is consistent with responsible supervision.

It is reasonable that the Liquor Act be amended to provide that any supply of alcohol to minors by parents, guardians and responsible adults must only be done in a way consistent with 'responsible supervision' provided that 'responsible supervision' is clearly defined.

PROPOSED RECOMMENDATION 2

That the Liquor Act 2007 be amended to specify factors to be considered in determining whether supply of alcohol to a minor by a parent or guardian is consistent with responsible supervision, including:

- *the minor's age*
- *whether the adult is drunk*
- *whether the minor is drunk*
- *whether the minor is consuming the alcohol with food*
- *whether the adult is responsibly supervising the minor's consumption of the alcohol*
- *the quantity and type of alcohol, and the time period over which it is supplied.*

This proposal and the factors specified are reasonable, although the proposed recommendation should be amended to refer to 'responsible adults' in addition to parents and guardians. This is so it is consistent with proposed recommendation 1 and reflecting the fact that it is lawful for adults other than parents and guardians to supply alcohol to minors under certain circumstances and should remain lawful.

PROPOSED RECOMMENDATION 2 – QUESTION

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

Minimum age limit

NSW CCL contends that there should be no statutory minimum age limit for the supply of alcohol to minors. While intuitively it seems sensible to impose a minimum age limit, doing so may have unintended consequences.

It is inappropriate to set a minimum age as it is unclear that the supply of alcohol to a minor younger than that age would always be inconsistent with responsible supervision - noting that the supply of alcohol to very young children might appear unlikely to be consistent with responsible supervision.

For example, alcohol is currently provided to children in certain religious ceremonies – including in the Christian Communion (where a child might be about 10 years old or younger), at Passover, or during the Kaddish ceremony at the end of a Shabbat service in a synagogue. Setting a statutory minimum age may inadvertently interfere with the free exercise of religion.

In addition, in setting a minimum age, it is unclear how its level would be determined. Fixing a minimum age may result in parents, guardians and responsible adults being subject to legal action if their supply of alcohol to minors was otherwise responsible. Many parents and guardians currently supply alcohol to minors in a responsible way - e.g. with meals.

The Committee's proposal that the minor's age should be taken as a factor in determining whether the supply of alcohol was consistent with responsible supervision is an appropriate way of addressing the issue.

We consider that legislating for a minimum age may result in some NSW residents thinking that serving alcohol to minors who have reached that age is acceptable even if Parliament considers that would be undesirable – and even if the supply of alcohol to that minor would otherwise be inconsistent with responsible supply. This may, paradoxically, lead to greater harms to minors than if no minimum age was set.

What should the age limit be?

The NSW CCL does not have a view about what the level of a minimum age should be should Parliament decide to create one. It is unclear about how the level of such an age should be determined.

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?

This section should be retained. Removing it would be unlikely to prevent parents and guardians supplying alcohol to minors. In addition, parents and guardians have an important role in educating their children about responsible alcohol use.

PROPOSED RECOMMENDATION 4 - QUESTION

Should the defence against prosecution in section 117(5) of the Liquor Act 2007, which enables parents and guardians to authorise other adults to supply alcohol to their child, be removed or retained?

This defence against prosecution should be retained. Removing it would criminalise the action of any family friend who passed an alcoholic drink between a parent and child at the dinner table, and a priest supplying wine to a child during Christian Communion. This is clearly untenable.

Furthermore, this provision should not be amended to specify the categories of adults who are authorised to supply alcohol to a child. This is because doing so may inadvertently exclude certain adults from being permitted to supply alcohol to children.

PROPOSED RECOMMENDATION 4 - QUESTION

If it is retained, should authorisation for supplying alcohol to a minor be required to be in writing? How else could the current provisions be improved?

We consider that requiring a written authorisation is impractical. Firstly, written authorisations could be forged, and as Mr Cox of the Office of Liquor, Gaming and Racing is recorded in the Discussion Paper as having stated, it may be difficult to prescribe all the circumstances and details of the requirements of the authorisation in legislation.

It would be overkill to require a written authorisation for each religious ceremony at which a child is supplied alcohol and at family BBQs where a relative provides a light beer to a 17 year old. Such a requirement would not have credibility in the community.

The evidence of an authorisation has (at least) two functions - informing the adult supplying alcohol of that authorisation and providing a defence against prosecution. We consider that the Committee should carefully examine what is needed for an authorisation in terms of practicality and to serve those two functions. The Committee should be wary of deciding that the solution to the problem is necessarily the blunt tool of greater regulation.

PROPOSED RECOMMENDATION 5 - QUESTION

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

As stated in our previous submission, we consider that increasing penalties may have little impact. The level of any penalty should, of course, be commensurate with the offence.

PROPOSED RECOMMENDATION 6

That attendance at education workshops for adults who commit offences relating to the supply of alcohol to minors form part of the suite of penalties under the Liquor Act 2007.

It is reasonable that education workshops for adults form part of the suite of penalties. We are not aware of any evidence about the efficacy of such workshops in terms of changing behaviour.

PROPOSED RECOMMENDATION 6 - QUESTION

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

It is reasonable that education workshops could also form part of the suite of penalties for minors for secondary supply offences.

PROPOSED RECOMMENDATION 6 - QUESTION

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

Application of this penalty option should be determined on a case-by-case basis – it may be appropriate in some cases but not other. In addition, mandatory use of this penalty option may be inappropriate if the education workshops do not achieve the desired outcomes.

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?

We do not have a view on this question.

PROPOSED RECOMMENDATION 8

That any amendments to the Liquor Act 2007 regarding supply of alcohol to minors be accompanied by a social marketing/public education campaign.

This seems reasonable.

PROPOSED RECOMMENDATION 9

That the public education campaign have a dual focus – to clearly state what is permitted under the law, and to highlight the health risks of alcohol consumption by minors, based on National Health and Medical Research Council guidelines.

The design of any marketing campaign should be informed by what has worked well in previous campaigns.

We consider that it is possible that messages about the health risks of alcohol consumption by minors might not necessarily be a highly effective strategy as people - particularly young people - may have a tendency to discount future impacts on health.

PROPOSED RECOMMENDATION 10

That, as part of a public education campaign, a website be developed to provide parents with clear, readily accessible information about their legal responsibilities in relation to supplying alcohol to minors. The website should also inform parents on how to talk to young people about the law and how to talk to other parents about the legal and health consequences of supplying alcohol to minors.

We would support any effective means of communicating to parents and guardians about their legal responsibilities. We note that websites are reactive media - and that proactive channels may also be needed.

PROPOSED RECOMMENDATION 11

That information about the legal and health consequences of supplying alcohol to minors be provided to parents attending early childhood education/information sessions when their child is of pre-school age.

This sounds reasonable.

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