

**Submission
No 650**

SYDNEY'S NIGHT TIME ECONOMY

Organisation: Brown Forman

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Submission to Joint Select Committee on Sydney's Night Time Economy

2 July 2019

About us

Brown-Forman was founded in 1870 and is one of the largest global spirits and wine companies, with annual sales in excess of US\$3 billion.

For almost 150 years, Brown-Forman Corporation has enriched the experience of life by responsibly building fine quality beverage alcohol brands, including Jack Daniel's Tennessee Whiskey, Finlandia Vodka, Herradura Tequila, Sonoma-Cutrer wines and Woodford Reserve Kentucky Bourbon.

At a global level, we are a member of the International Association for Responsible Drinking (**IARD**), and a signatory to the Global Actions on Harmful Drinking commitments.

Brown-Forman in Australia and New Zealand

Brown-Forman Australia Pty Ltd (**BFA**) has its headquarters for Australia, New Zealand and the Pacific in Surry Hills, Sydney, NSW.

BFA is a member of both Spirits & Cocktails Australia (SC&A), Alcohol Beverages Australia (**ABA**) and Spirits NZ. Together with our fellow members and signatories, we are proud to co-fund the Alcohol Beverages Advertising Code (**ABAC**), a co-regulation scheme with government to assure marketing responsibility and compliance, and **Drinkwise**, the social campaigning and educational body, to help consumers better understand alcohol, and to make informed and responsible consumption decisions.

We employ approximately 150 Australians across our Sydney and interstate offices in Australia and New Zealand, and make a AUD \$250m+ annual economic contribution via excise taxes and production arrangements. We are also significant supporters of the Australian and New Zealand creative marketing and media industries via our advertising and marketing activity.



BROWN-FORMAN

Submission:

Brown Forman encourages a vibrant, interesting and safe night time space in the Sydney CBD area. Our products are enjoyed by consumers across a variety of occasions, in quiet moments, celebrations and get togethers with friends. We believe consumers should have the right to enjoy our products responsibly and in safe environments.

Brown Forman welcomes the measures implemented by the NSW government in the 2016 Liquor Law Review which included the following:

- Extended lockout and last drinks conditions to 2.00am for lockouts and 3.30am for last drinks for genuine live entertainment venues in the Sydney CBD and Kings Cross
- Extended the state-wide closing time for takeaway and home delivery alcohol sales to 11pm
- Provided automatic extended trading to 2am for small bars in the Sydney CBD and Kings Cross.

Brown Forman also welcomes the further changes introduced by the NSW Government from 1 October 2017 which included:

- Small bars in the Sydney CBD and Kings Cross precincts that trade after midnight are no longer subject to the drinks restrictions that prevent the sale of shots or spirits neat or on the rocks and cocktails not listed on a menu. They are also no longer subject to the limits on the number of drinks they can sell at any one time.
- Freeze conditions in the Sydney CBD and Kings Cross were modified to provide businesses with greater opportunity to refurbish their premises to attract customers and provide diverse and sophisticated offerings for the public.

However, it is our Brown Forman's view that such extensions do not go far enough with respect to the restrictions on service of spirits drinks after midnight¹ for the following reasons:

1. **Restrictions on spirits are not supported by scientific evidence and international research, and there is no correlation between the type of drink consumed and harm or risk** - intoxication and risk is determined by how many standard drinks have been consumed and over what time period, not by the type of alcohol consumed. A coalition of academic and research institutes worldwide, including the Centre for Alcohol Policy Research in Australia (funded by the Foundation for Alcohol Research and Education), studied the link between harm and beverage types in 19 different countries, including Australia and concluded that there is no increased correlation with harm across any specific beverage type². The research noted: "There is no general pattern which

¹ NSW Liquor Regulation section 53(F)(2)

² Centre for Alcohol Policy Research (2013) Differences in trouble per litre of different alcoholic beverages – A global comparison with the GENACIS dataset



holds across cultures of more or less trouble being associated with a particular beverage type. Clearly, the results suggest that there is nothing inherent in wine, beer or spirits which would universally result in one of these, compared with another, producing a greater rate of problems". There have been some suggestions that the rationale for spirits restrictions is around the ability to consume them rapidly. If this is indeed the case, then the CBD Plan of Management should only specifically focus on drinks designed for rapid consumption such as shots and shooters.

2. **Restrictions on spirits are complex and unworkable, and are highly discriminatory** - currently, outside those venues that hold a small bar licence, after midnight consumers can purchase a bottle of wine (eight standard drinks) or a pint (2 standard drinks) or a jug of beer (4 standard drinks), but not a neat serve of spirits (one standard drink). A premium whiskey neat or with ice is not permitted, but if a consumer adds a mixer, such as cola, the drink becomes permitted even though it contains the same amount of alcohol. However, if the whiskey and cola is pre mixed, it is once again not permitted if it is over 5% abv. 'Doubles' of spirits with or without a mixer are banned after midnight, despite containing the same amount of alcohol as a single pint of beer (two standard drinks). IPA beers, which are known for their high alcohol content of between 7% and 10% ABV (3-4 standard drinks) are permitted after midnight, but a 5.5% ABV pre mixed drink is banned.
3. **Many venues that would ordinarily be considered "small bars" by their size and cultural feel actually operate under a Primary Service Authorisation or Hotel - General Bar Licence** - accordingly, the extensions contained in both the 2016 and 2017 regulation modifications are not available to those venues and are particular only to those with a small bar licence. The Committee for Sydney, in its "Sydney as a 24 hour City" Report of 2018³, recognised the importance of pubs and bars in helping to shape the night-time economy. The Report recognised "that venues such as these are often at the forefront of combating antisocial behaviour related to alcohol consumption and play a key role in promoting responsible consumption of alcohol. In addition, pubs often play a central role and function within local communities. The Commission noted concern from a number of members regarding the number of pubs closing across Greater Sydney and the impact this could have on local culture, community and the economy." Visitors to Sydney from other areas and indeed, from other countries and world class cities should be able to order and enjoy a drink of their choice in any venue. Accordingly, we submit the exclusion of small bars from the restrictions on service of spirits drinks after midnight should (subject to the points made in paragraph 4 below) be further extended to all venues in the Sydney CBD Plan of Management Area. This can be achieved either by widening the exemption to include all venues or by simply removing all references to spirits restrictions in the regulations and focusing on vessels intended for rapid consumption.

³ March 2018, pages 30,31



4. **The current regulations are inflexible and don't reward venues for compliance and good management with respect to responsible service of alcohol** - we recommend a more flexible approach to CBD Plan of Management regulations be adopted so that 'low risk' venues/those with a proven history of good compliance can 'opt out' of restrictions, but with lockouts and related restrictions maintained on high risk venues - the current regulations apply a "one size fits all approach" to all bars and pubs in the Sydney CBD. We believe access to all types of drinks in all types of venues should be the standard unless and until a venue becomes high risk.
5. **The inflexible provisions within the CBD Plan of Management regulations hinder Sydney's opportunity to be considered a world class city** - the Committee for Sydney Report cites Melbourne's approach to the night-time economy as being worth studying. "The city has gone full circle in removing a six-month trial of lock-out style laws and embracing a 24-hour culture, including late-night transport, supported by a geographic dispersal of night-time activities. The result has seen alcohol sales in the City of Melbourne drop, but overall money spent increase, as patrons increased spending on food and entertainment. The 2015 Australian Night Time Economy Report demonstrated a 4.8% increase in food sales and a 4.7% decrease in sales of alcohol between 2009 and 2015 in the City of Melbourne. While there are differences between Melbourne and Sydney's lockouts, such as last drinks restrictions in Sydney, a major part of this change is down to the city embracing a diversity of activities that don't necessarily involve alcohol. This has included cultural events, sporting matches, extended shopping hours, later food service, whilst also increasing safety provisions and improving public transport options. This example of proactively promoting the night-time economy should be a template for Sydney."⁴
6. **The spirits restrictions provisions are confusing for bartenders who work within the CBD Plan of Management** - In NSW Treasury's 2015 and 2016 licensed premises surveys, a small number of venues identified that there have been logistical challenges in complying with some aspects of the Plan such as the drink restrictions after midnight and the 1:30am lockouts. "Survey respondents indicated that the drink restrictions posed practical challenges for venue staff, who are required to be acutely aware of the time in order to satisfy the various restrictions imposed at different times throughout the night (e.g. no shots after midnight, limits on the number of drinks per patron after midnight and 2:00am etc.). There was a perception among survey respondents that the drink restrictions were numerous and complex, and there was a significant amount of knowledge required by staff to ensure compliance. This was deemed to be problematic for the hospitality industry, as staff turnover is typically high and thus significant and ongoing staff training is required."⁵

⁴ March 2018, page 32

⁵ Evaluation of the Sydney CBD Entertainment Precinct Plan of Management, 29 August 2016, Centre for Program Evaluation, page 41.



Recommendations:

Brown Forman fully supports the submission lodged by Spirits & Cocktails Australia.

Brown Forman also recommends the following in order to promote a vibrant Sydney nightlife whilst also maintaining a safe environment for all people enjoying the Sydney CBD:

1. Introduce a more flexible approach to CBD Plan of Management regulations so that 'low risk' venues/those with a proven history of good compliance can 'opt out' of restrictions, but with lockouts and related restrictions maintained on high risk venues;
2. Amend section 53(F)(2) of the Liquor Act Regulations to remove restrictions on spirits drinks and instead focus on behaviour rather than beverage choice. This can be achieved by restricting all drinks of any type in a vessel intended for rapid consumption;
3. better enforce Responsible Service of Alcohol requirements to prevent excessive consumption across the board.

Adopting these recommendations and those within the submission lodged by Spirits & Cocktails Australia will contribute to the enhancement of Sydney's night time economy while ensuring that existing regulatory arrangements in relation to individuals, businesses and other stakeholders in Sydney remain appropriately balanced.

Thank you for the opportunity to make this submission.

Yours sincerely,

Kylie McPherson

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Brown-Forman