

Mr Simon Corbell MLA
Attorney-General
ACT Legislative Assembly
London Circuit
CANBERRA ACT 2601

Review of Liquor Fees

Dear Minister,

Thank you for the opportunity to lodge a submission to the review of liquor fees.

The club sector has led the way in creating and maintaining safe environments for their members and guests. Whether it be requiring members and guests to sign in or ensuring all staff are taught and apply responsible service of alcohol principles, Canberra's clubs always maintain very high standards when it comes to the sale of liquor.

On behalf of its members, ClubsACT supported the move to a risk-based licensing regime. However we do not believe the current fee structure sufficiently distinguishes between different license categories in terms of the risk they pose relative to other venues.

The *Liquor Act 2010* includes a range of factors which comprise risk and ClubsACT believes that this review is an opportunity for the fees to incorporate those factors included in the legislation.

Those risk factors include:

- i) the class or subclass of a license or permit
- ii) licensed times or permitted times
- iii) the term of a license or permit
- iv) the nature and scale of activities being carried out at the license premises or permitted premises;
- v) the occupancy loading for the licensed premises or permitted premises;
- vi) the history of compliance of licensees and permitted premises with this Act;
- vii) anything else consistent with the objectives of this Act and the harm minimisation and community safety principles;

The risk factors outlined above provide some basis for making determinations regarding risk and combined with the data collected with respect to offences provide a firm basis for making determinations about risk.

In our view, a risk-based regime that does not reasonably distinguish between venues is not a system based on risk but simply an extra impost on licensees regardless of their location or type.

The current licensing regime already acknowledges the unique nature of clubs through the existence of a license specifically for clubs and it therefore seems illogical and unreasonable to ignore this difference in the licensing regime proposed in the bill.

Significantly, the legislation also includes provision for the Commissioner to waive or reduce fees. ClubsACT believes that the Commissioner should be encouraged to reduce fees where a licensee has a record of very few or no breaches of the Act.

It is important to remember that the increase in the fees levied in the ACT occurs against the backdrop of Victoria deciding to reduce liquor fees. ClubsACT believes there needs to be greater recognition by government of the impact of such fee increases.

Whilst recognising that there is clearly a need to address anti-social behaviour as a result of excessive alcohol consumption, ClubsACT submits that the higher level of liquor license fees should be regarded as a temporary response to the problem. The current level of fees should in no way become the baseline for further increases in years to come. Rather, the government's objective should be to gradually reduce fees and to lessen the burden on an industry which employs many Canberrans and generates considerable economic activity.

Licensing Regime

The licensing regime proposed in the bill is far too simplistic to adequately provide the government with a system which is genuinely 'risk-based' and 'user-pays'. ClubsACT supports the move to such a framework only when there is sufficient rigour built into the system to genuinely distinguish between venues which are high-risk and more likely to absorb resources such as policing and other municipal services.

It is simply a statement of fact that a restaurant or a licensed club, by their nature, present less risk than a night club or a bar and will therefore require fewer government resources. With respect to licensed clubs, entry is restricted to members and their guests, as is the sale of alcohol. Responsible Service of Alcohol (RSA) training has been standard practice for clubs for some time now. There is also generally a much higher-staff to patron ratio in clubs which allows for better monitoring of patrons and ability to actually apply RSA principles. This combined with the fact that if a person is clearly intoxicated, they will be refused entry in the first place, means that clubs should bear less of a fee burden than other venues in a user pays system.

A more sophisticated licensing regime is required that makes a meaningful distinction between different license categories.

The license fees should be different for each category and the opening hours for each would be set by condition of the license. There would be no loading on the license fee for venues which open beyond midnight but the basic license fee for venues which operate late and are generally more risky, such as nightclubs, would be significantly higher. There would also be a moderate increase in the fee for every category to reflect the fact that the industry as a whole needs to contribute.

ClubsACT believes this would create a simple but effective system with the burden of cost falling where it should. It would also ensure the revenue the government seeks to raise from the licensing changes would not be compromised.

The new licensing regime is based around a number of principles. The first is that the venues in the ACT that are licensed to sell alcohol are different. They are different in terms of their occupancy, opening hours, security and indeed the type of business they are. This principle is reflected in the fact that there are eight liquor license categories ranging from nightclub through to licensed club through to off-license.

The second principle upon which the fee structure is based is that different venues represent different degrees of risk in terms of the likelihood or prevalence of anti-social behaviour occurring as a result of excessive consumption of alcohol at that premises.

The third principle is user-pays. One of the major objectives of the new fee structure was to provide funding to support the creation of a task force of police officers that would be dedicated to the enforcement of the new legislation. Whilst the responsibilities of this task force is the enforcement of the law across all licensees, it is clear that in terms of reducing and responding to incidents of anti-social behaviour, certain venues will require more focus than others. Given this and the existence of different license categories, it is only reasonable that venues which are deemed to represent a greater degree of risk pay more than those who represent less risk.

While it is generally true to say, at least anecdotally, that a nightclub represents a greater degree of risk than a restaurant, there are discernable and identifiable factors which support that assumption. While many of these factors are identified in Section 229 of the Act, ClubsACT submits that the primary outcome of this review should be to incorporate those risk factors into the fee structure so that the original purpose of the new fee structure is actually reflected in the fees that are applied.

The key question is how to best differentiate between venues of different types in a licensing regime which is designed to ensure those venues which are more risky than others and therefore require more municipal resources, such as police, pay more than those venues which are less risky and require fewer resources.

I would be happy to expand on any aspect of this submission.

Yours sincerely

A handwritten signature in black ink, reading "Jeff House". The signature is written in a cursive style with a large, looping initial "J".

Jeff House
Chief Executive

27 May 2011.