



Alcohol Policy Coalition

Regulation of online sale and delivery of alcohol in Victoria

The [Alcohol Policy Coalition](#) (APC) is a collaboration of health and allied agencies that share concerns about the harmful impacts of the alcohol industry and its products in Victoria. The Alcohol Policy Coalition campaigns for regulation of the alcohol industry to protect the community from the harm it causes, and to provide balance to the industry's aggressive marketing and normalisation of alcoholic products.

The members of the Alcohol Policy Coalition are:

Australasian College of Emergency Medicine	Royal Australasian College of Surgeons
Alcohol and Drug Foundation	St Vincent's Health Australia
Cancer Council Victoria	The Salvation Army
Centre for Alcohol Policy Research (CAPR), La Trobe University	Turning Point
Foundation for Alcohol Research and Education	Victorian Alcohol and Drug Association
Jewish Community Council of Victoria	Violence Prevention Group, School of Psychology, Deakin University
Public Health Association of Australia (Victoria)	Uniting Church in Australia, Synod of Victoria and Tasmania

Summary of recommendations

- 1. The APC supports a proposal for the licensing of online supply and delivery of alcohol.**
- 2. If both premises where an alcohol order is taken and where an order is appropriated are interstate, and the alcohol retailer delivers alcohol to Victorian residents on the same day as the order is received, the APC recommends that the premises from which the order is appropriated should be required to be licensed under the Liquor Control Reform Act 1998 (LCRA).**
- 3. The LCRA should be amended, or guidance issued, to clarify the circumstances in which interstate retailers require a Victorian liquor licence to advertise the online sale and delivery of alcohol to Victorians.**
- 4. (a) The LCRA should require Victorian liquor licensees to have a specific licence condition (Liquor Delivery Condition) to deliver alcohol in Victoria.**
(b) New licence applicants and existing licensees should be required to apply for a Liquor Delivery Condition to deliver alcohol in Victoria.
(c) An application for a Liquor Delivery Condition should be required to specify the local government areas in which the applicant delivers or proposes to deliver alcohol, and local councils and residents should have the right to object to applications.

- (d) Applications for a Liquor Delivery should be required to satisfy a test based on community impact and public interest, provide a Community Impact Assessment and show evidence of consultation in the communities to which they propose to deliver alcohol.**
- 5. A new offence of prohibiting alcohol delivery to a person in a state of intoxication should be introduced. This offence should apply to licensees as well as any other person delivering alcohol (including third party delivery agents and interstate alcohol retailers that are not required to have a Victorian licence).**
 - 6. When alcohol delivery is refused because the recipient is intoxicated, the LCRA should require any attempt at re-delivery to be no fewer than 24 hours after the previous attempt, or the alcohol to be returned to a collection point and not supplied to the recipient for at least 24 hours after the delivery attempt.**
 - 7. The LCRA should require that alcohol may only be delivered (or supplied at a collection point) to the person who ordered or purchased the alcohol upon signature, identification and evidence of age. Alcohol must not be left unattended at the delivery address.**
 - 8. A new RSA program should be developed for online sale and delivery of alcohol. The LCRA should require completion of the RSA program by licensees and employees, and other persons, who deliver alcohol as well as the completion of a refresher program every three years.**
 - 9. The APC recommends that the LCRA prohibit the delivery of alcohol within two hours of the sale or order of the alcohol, except for restaurant and café licences where the alcohol is being delivered with a meal.**
 - 10. The LCRA should prohibit the delivery of alcohol between 10pm and 10am.**
 - 11. The APC recommends that the LCRA require that alcohol delivered under a Victorian licence must be delivered by the licensee (including an employee) (with exceptions for restaurants and cafes, and wineries that do not offer same day deliveries).**
 - 12. The APC recommends that the Act should prohibit delivery of alcohol by a person under the age of 18 years.**
 - 13. Restaurants and cafes should only be allowed to deliver a reasonable quantity of alcohol with a meal and should not be permitted to deliver spirits.**
 - 14. The LCRA should prohibit unsolicited direct electronic marketing of online alcohol sale and alcohol delivery to Victorians.**
 - 15. The LCRA should prohibit Victorian liquor licensees from engaging in online advertising of inducements to purchase alcohol. An inducement should be defined as any offer or benefit designed to persuade a person to purchase alcohol.**
 - 16. The LCRA should also prevent the use by Victorians of ‘buy now, pay later services’ to buy alcohol online**

Background

Effective regulation of the online supply and delivery of alcohol in Victoria is needed to protect children and other vulnerable people at risk of harm. In recent years there has been an explosion in alcohol retailers aggressively promoting online sale and home delivery of alcohol in Victoria. This has made alcohol more accessible than ever in our state, exacerbating the harms caused by huge liquor stores flooding our communities with cheap alcohol, and placing children and other vulnerable people at significant risk of harm. Victorian liquor licensing legislation (the *Liquor Control Reform Act 1998*) has failed to keep pace with the changing nature of alcohol retail, and the alcohol industry has acted quickly to exploit this regulatory gap. In the past few years, major retailers have begun delivering alcohol directly to Victorians' doorsteps, and rapid delivery services have aggressively promoted delivery of alcohol in less than 30 minutes.

The increased growth of alcohol delivery, including the sharp increase in rapid delivery services and the ability of online alcohol retail to allow purchases of alcohol from anywhere and delivery of alcohol directly to people's homes, has dramatically increased the accessibility and availability of alcohol and challenges traditional regulatory approaches.

Industry forecasts have highlighted online sales as a key growth area for alcohol and predict increases at 14.1 per cent per annum over the next five years through 2018-19.¹

Greater availability of alcohol from online sales and home delivery will cause increased harm in Victorian communities. A strong body of Australian and international research shows that increases in the availability of alcohol through increases in the number of liquor outlets in a community leads to increases in violence, family violence, injury and chronic disease.² Victoria has the highest number of liquor outlets of any state or territory in Australia.³ The harms caused by the enormous number of liquor outlets pushing alcohol into Victorian communities are likely to be exacerbated by retailers selling alcohol online and further increasing the supply of alcohol.

The APC is particularly concerned about the operations of rapid delivery outlets, which pose substantial risk of harm. Providers such as Jimmy Brings advertise their services with online marketing slogans such as, "you can expect it on your doorstep in just 30 minutes, which means the party doesn't have the chance to slow down before the next round."⁴ Jimmy Brings also aggressively promotes its services by letterboxing Victorians with fridge magnets and other marketing material. Under this model, alcohol is extremely easy to access, allowing people to continue a drinking session with little interruption, compounding the risk of harm.

The potential harms caused by easy access to online sales and delivery of alcohol put the whole community as well as specific groups of vulnerable people at risk. These vulnerable people include children, people at risk of family violence and suicide, and people who use alcohol at harmful levels.

¹ This includes anticipate revenue growth of 16.5% in the current year to \$569.4 million. (IBISWorld, Online Beer, Wine and Liquor Sales-Australia Market Research Report (January 2019), < <http://www.ibisworld.com.au/industry-trends/specialised-market-research-reports/online>>.

² Livingston, M, Wilkinson, C & Room, R 2016, *Community impact of liquor licences*, Sax Institute for the Ministry of Health (NSW), <<http://www.saxinstitute.org.au/wp-content/uploads/Community-impact-of-liquor-licences-1.pdf>>.

³ Rocher & Steenson (2014) *Liquor licensing in Australia: an overview of legislative frameworks*, show Victoria with the highest number as of December 2010 18,862 as compared to. 15,193 for NSW, the next highest. Manton, E., Room, R., Giorgi, C. & Thorn, M., eds., *Stemming the Tide of Alcohol: Liquor Licensing and the Public Interest.*, pp. 9-19. Canberra: Foundation for Alcohol Research and Education.

⁴ *Jimmy Brings Melbourne*, <https://jimmybrings.com.au/melbourne/>, Website (26 September 2019).

Children

Drinking alcohol from a young age can damage the developing brain.⁵ Alcohol is an addictive psychoactive drug that diminishes responsible decision-making, leading to greater likelihood of risky behaviours, thereby magnifying the vulnerabilities of children. Alcohol consumption contributes to the three leading causes of death among adolescents: unintentional injuries, homicide and suicide.⁶

The United Nations Committee on the Convention on the Rights of the Child has commented in General Comment 15 – ‘that States, acting in the best interests of children (and fulfilling their right to health) should take measures to protect children from solvents, alcohol, tobacco and illicit substances and take appropriate measures to reduce the use of such substances among children.’⁷ Australia is a signatory to the treaty on the United Nations Convention on the Rights of the Child (CRC)⁸ and therefore is under a legal obligation to act consistently with treaty provisions (including the principle of the best interests of the child), as well as international commentaries on the CRC.

In addition, at a domestic level, under section 38 of the *Charter of Rights and Responsibilities Act* (2008) (the Charter), the Victorian Government *must* make laws, including reforms to the *Liquor Control Reform Act 1998* (LCRA), that are consistent with the obligation in section 17 of the Charter to protect human rights, in particular, the rights of families and children. This includes an obligation to include provisions in the revised LCRA that allow for the effective regulation of online supply and delivery of alcohol that protect children and young people from foreseeable harms to health and life -- directly engaging the section 9 right to life in the Charter.

People at risk of suicide: A lack of regulation of the online supply and delivery of alcohol may lead to unlimited and easy access to alcohol through unattended deliveries, which exacerbates the vulnerabilities of these vulnerable people. Acute alcohol consumption increases the risk of attempted suicide,⁹ and at a population level, greater levels of consumption are associated with increased suicide risk.¹⁰

People at risk of domestic violence: Alcohol consumption is associated with between 23 and 65 per cent of family violence incidents reported to the police (in the four Australian states that collect this data). This is more than 30,000 incidents each year.¹¹ Alcohol consumption increases the likelihood of violence occurring and the severity of harm experienced.¹²

⁵ National Health and Medical Research Council (2009), *Australian Guidelines to Reduce Health Risks from Drinking*. Commonwealth of Australia. Page 58.

⁶ Ibid.

⁷ Committee on the Rights of the Child, General Comment 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art.24), CRC/C/GC/15, 15.

⁸ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.

⁹ Borges, G., Bagge, C.L., Cherpitel, C.J., Conner, K.R., Orozco, R. & Rossow, I. (2017). A meta-analysis of acute use of alcohol and the risk of suicide attempt. *Psychological Medicine* 47, 949-957.

¹⁰ Norström, T. & Rossow, I. (2016). Alcohol consumption as a risk factor for suicidal behaviour: a systematic review of associations at the individual and population level. *Archives of Suicide Research* 20(4), 489-506.

¹⁰ Foundation for Alcohol Research and Education (FARE) (2015). National framework for the prevention of alcohol-related family violence. FARE Canberra. <<http://fare.org.au/wp-content/uploads/FARE-National-framework-to-prevent-alcohol-related-family-violence-web.pdf>>

¹¹ Foundation for Alcohol Research and Education (FARE) (2015). National framework for the prevention of alcohol-related family violence. FARE Canberra, <<http://fare.org.au/wp-content/uploads/FARE-National-framework-to-prevent-alcohol-related-family-violence-web.pdf>>.

¹² Laslett, A-M., Catalano, P., Chikritzhs, Y., Dale, C., Doran, C., Ferris, J., Jainullabudeen, T., Livingston, M, Matthews, S., Mugavin, J., Room, R., Schlotterlein, M. and Wilkinson, C. (2010). The range and magnitude of alcohol’s harm to others. Fitzroy, Victoria: AER Centre for Alcohol Policy, Research, Turning Point Alcohol and Drug Centre, Eastern Health.

Alcohol use increases the likelihood of perpetration and makes those impacted more vulnerable.¹³ There is a lasting legacy as children who witness family violence are more likely to have problems with alcohol later in life.¹⁴

People who use alcohol at harmful levels A population survey study showed that the use of online alcohol sales and home delivery services was more frequent among people with a history of using alcohol at harmful levels than among regular drinkers without such a history.¹⁵

More broadly, alcohol use in Victoria causes a range of devastating harms: it contributes to street violence, family violence, injuries, overdoses, deaths, car accidents, crime, and harm to developing fetuses and breastfed babies.¹⁶

Alcohol is a major risk factor for a wide range of diseases,¹⁷ and has been classified by the World Health Organization's International Agency for Research on Cancer as a Group 1 carcinogen. The risk of breast, mouth, throat (pharynx and larynx) and esophagus cancer is increased with any regular amount of alcohol consumption and increases with every drink.^{18 19 20}

Regulation of online sale and delivery of alcohol

Alcohol is not an ordinary commodity and should not be marketed and delivered in the same way as other products that are retailed online.

Current alcohol laws are designed to regulate bricks and mortar outlets based on their physical location and assume face to face interaction with consumers. New business models in the online sale and delivery of alcohol allow alcohol retailers to avoid the responsible service of alcohol principles in the LCRA because of the lack of direct contact between the licensee and the customer.

The Victorian *Liquor Control Reform Act 1998* (LCRA) has not kept pace with the rapid increase in online trade of alcohol. The current lack of regulation of the online sale and delivery of alcohol in Victoria undermines the primary harm minimisation object of the LCRA, which includes ensuring adequate controls over the supply and consumption of liquor to minimise harm from alcohol to the Victorian community.

It is crucial that phase two of the review of the LCRA includes reforms that are strong, proactive and focused squarely on harm minimisation in the Victorian community.

¹³ World Health Organization, 'WHO facts on: Child maltreatment and child abuse,' World Health Organization, Geneva (2006), <http://www.who.int/violence_injury_prevention/violence/world_report/factsheets/fs_child.pdf>.

¹⁴ Braaf, R, 'Elephant in the room: Responding to alcohol misuse and domestic violence,' (2012), Australian Domestic & Family Violence Clearinghouse Issues Paper no. 24. Australian Domestic and Family Violence Clearinghouse, Sydney.

¹⁵ Fletcher, LA, Nugent, SM, Ahern, SM & Willenbring, ML (1996) The use of alcohol home delivery services by male problem drinkers: a preliminary report, *Journal of Substance Abuse*, 8(2), 251-261.

¹⁶ Morrison, C, Smith, K, Gruenewald, PJ, Ponicki, WR, Lee, JP & Cameron, P 2016 'Relating off-premises alcohol outlet density to intentional and unintentional injuries', *Addiction*, vol. 111, no. 1, pp. 56-64; World Health Organization 2010, *Global strategy to reduce the harmful use of alcohol*, https://www.who.int/substance_abuse/msbalcstragegy.pdf

¹⁷ Rehm, J., & Imtiaz, S. (2016). A narrative review of alcohol consumption as a risk factor for global burden of disease. *Substance abuse treatment, prevention, and policy*, 11(1), 37. <https://doi.org/10.1186/s13011-016-0081-2>

¹⁸ World Cancer Research Fund/ American Institute for Cancer Research (2018). *Continuous Update Project Expert Report 2018: Alcoholic drinks and the risk of cancer*. Last accessed on 08/08/2019: <https://www.wcrf.org/dietandcancer/exposures/alcoholic-drinks>.

¹⁹ Bagnardi, V., Rota, M., Botteri, E., Tramacere, I, Islami, F, Fedirko, V, La Vecchia, C. (2015). [Alcohol consumption and site-specific cancer risk: a comprehensive dose-response meta-analysis](https://doi.org/10.1093/bjcn/112.5/580), *British Journal of Cancer* 112, 580-593.

²⁰ Loconte, N.K., Brewster, A.M., Kaur, J.S., Merrill, J.K. & Alberg, A.J. (2017). Alcohol and cancer: A statement of the American Society of Clinical Oncology. *Journal of Clinical Oncology* 36(1), 83-93.

Effective change in this area needs to respond effectively to the dynamic and rapidly growing market in off-site sale and delivery of alcohol and should be sufficiently flexible to adapt to further expansion and to respond to growing complexities in this area.

Recommendations

The APC made the following recommendations for changes to the LCRA to improve the regulation of online sale and home delivery of alcohol:

1. Victorian liquor licence for alcohol delivery

a) Requirement to have a Victorian licence to deliver alcohol in Victoria

The APC supports a proposal for the licensing of online supply and delivery of alcohol.

It is important that retailers that deliver alcohol to Victorians within short timeframes are subject to the Victorian liquor licensing regime to ensure they can be vetted and regulated to minimise the risk of harm consistent with the primary object of the Act.

In addition, an interstate licence recognition system like that recently introduced in South Australia could be considered. Interstate businesses delivering alcohol into Victoria could be required to register with the Commission so that they have clear picture of the number of online vendors operating in the state.

Recommendation 1: The APC supports a proposal for the licensing of online supply and delivery of alcohol.

b) Requirement to have a Victorian licence to deliver alcohol to Victorians within 24 hours

It is important that retailers that deliver alcohol to Victorians within short timeframes are subject to the Victorian liquor licensing regime to ensure they can be vetted and regulated to minimise the risk of harm consistent with the primary object of the LCRA.

The APC recommends that alcohol retailers with premises located outside of Victoria should be required to have a Victorian licence if they deliver alcohol to Victorians within 24 hours of the order or sale of the alcohol.

Therefore, if both premises where an alcohol order is taken and where an order is appropriated are interstate, and the alcohol retailer delivers alcohol to Victorian residents on the same day as the order is received, the APC recommends that the premises from which the order is appropriated should be required to be licensed under the LCRA.

In addition, an interstate licence recognition system like that recently introduced in South Australia could be considered. Interstate businesses delivering alcohol into Victoria could be required to register with the Commission so that they have clear picture of the number of online vendors operating in the state.

Recommendation 2: If an interstate retailer does not receive or appropriate orders from premises in Victoria but delivers alcohol to Victorian residents on the same day an order is received, the premises where the order is appropriated should be licensed under the *Liquor Reform Control Act 1998*.

c) Requirement to have a Victorian licence to advertise the sale and delivery of alcohol to Victorians

The APC is concerned that it is currently unclear under the LCRA to what extent interstate alcohol retailers that do not have a Victorian liquor licence may advertise the sale and delivery of alcohol in Victoria.

The APC's view is that any interstate retailer engaging in unsolicited direct marketing of the sale and delivery of alcohol products to Victorians, or any other unsolicited advertising of the sale and delivery of alcohol that specifically targets Victorian residents, should be required to have a Victorian liquor licence (with a Liquor Delivery Condition). This should include, for example, outdoor advertising in Victoria, and radio, television, print and online advertising that is directed to Victorians. (The APC recommends that the LCRA should prohibit unsolicited direct *electronic* marketing of alcohol delivery to Victorians – this is discussed below.)

However, an interstate retailer (such as a winery) that advertises alcohol delivery anywhere in Australia or to multiple states/territories including Victoria, but does not appropriate orders from premises in Victoria and does not specifically direct advertising of the sale or delivery of its products to Victorians, would not need a Victorian liquor licence. In addition, an interstate alcohol retailer, such as a winery, that engages only in *solicited* advertising of alcohol sale and delivery (e.g. a subscription wine service) to Victorians would not need a Victorian licence.

The APC recommends that the LCRA should be amended, or guidance should be issued to clarify the circumstances in which interstate retailers require a Victorian liquor licence to advertise the online sale and delivery of alcohol to Victorians.

Recommendation 3: the LCRA should be amended, or guidance should be issued, to clarify the circumstances in which interstate retailers require a Victorian liquor licence to advertise the online sale and delivery of alcohol to Victorians.

2. Alcohol delivery condition

As outlined above, the APC is concerned about the proliferation of retailers offering online sale and home delivery of alcohol and the lack of regulation in the LCRA. Currently, there are several different licence types that authorise a licensee to supply packaged liquor online. These include: packaged liquor, general, renewable limited or a producer's licence. Online sales and delivery of alcohol may be made by several providers with differing service models. These include: wineries (including interstate and overseas), major supermarket chains, restaurants and rapid delivery outlets. Businesses that wish to supply alcohol online usually choose to apply for a packaged liquor licence or a renewable limited licence. However, each provider uses differing licence categories which result in differing conditions and a lack of consistent regulation.

Only packaged liquor licensees are subject to the Victorian Commission for Gambling and Liquor Regulation's (VCGLR) Code of Conduct that contains specific provisions about the online supply of alcohol, which has led to further inconsistencies in the conditions that apply to the online sale and home delivery of alcohol in Victoria.

Further, a licensee who wishes to engage in the online sale and delivery of alcohol is not required to seek approval from the VCGLR before they commence delivering alcohol (if they are authorised to supply packaged liquor under their licence). This makes regulation and oversight of the delivery of alcohol in Victoria difficult and also undermines the harm minimisation object of the LCRA.

APC believes that introduction of a requirement for licensees delivering alcohol to have a specific licence condition permitting delivery of alcohol in Victoria is required to ensure consistency and effective regulation. It is needed to allow the VCGLR and local governments to have knowledge and oversight of retailers delivering alcohol in local communities, to enable local governments to have the right to object, and to empower the VCGLR to better control alcohol delivery, or not allow retailers to deliver alcohol where this would contribute to harm and cumulative impact and be inconsistent with the public interest and the harm minimisation object of the LCRA.

The APC recommends that a Victorian licensee should be required to have a specific licence condition (Liquor Delivery Condition) to deliver alcohol in Victoria.

a) Requirement to apply for a Licence Delivery Condition should apply to new licence applicants and existing licensees

The APC recommends that an applicant for a Victorian liquor licence who proposes to deliver alcohol in Victoria from a premise in Victoria directly to recipients must apply to the Victorian Commission for Gambling and Liquor Regulation (VCGLR) for a Liquor Delivery Condition. Existing Victorian liquor licensees who currently deliver alcohol in Victoria or who propose to deliver alcohol in Victoria should also be required to apply to the VCGLR for a Liquor Delivery Condition.

Retailers would need to have a Victorian liquor licence as well as a Liquor Delivery Condition in relation to each premises from which alcohol for delivery directly to recipients is appropriated.

b) Application for Liquor Delivery Condition must specify delivery areas

An application for a Liquor Delivery Licence Condition should be required to specify the local government areas in which the applicant delivers or proposes to deliver alcohol.

Local Governments and residents of the local government areas should have the right to object to any application for a Liquor Delivery Licence Condition in their area.

c) Application for alcohol delivery condition must satisfy Community Impact and Public Interest test and provide a Community Impact Assessment.

An application for a licence with a Liquor Delivery Licence Condition, or a Liquor Delivery Condition under an existing licence, should be required to satisfy the APC's proposed Community Impact and Public Interest test for liquor licence applications.²¹

The onus should be on the applicant to satisfy the Commission that the Liquor Delivery Condition will not detract from the safety and wellbeing of the community and is in the public interest. To satisfy this onus, the applicant should be required to provide a Community Impact Assessment.

An application for a licence with a Liquor Delivery Condition or for a Liquor Delivery Condition under an existing licence should be considered a higher risk application, and should be required to provide a higher level of detail and evidence in their Community Impact Assessment (compared with applicants for lower risk licence types). They should also be required to show evidence of consultation in the communities to which they propose to deliver alcohol.

²¹ Refer to the APC's position statement, *A new test for liquor licence applications: Community impact and public interest test*, <<https://www.alcoholpolicycoalition.org.au/downloads/position-statements/community-impact-and-public-interest-liquor-licences.pdf>>.

Recommendation 4:

- (a)** the LCRA should require Victorian liquor licensees to have a specific licence condition (Liquor Delivery Condition) to deliver alcohol in Victoria.
- (b)** New licence applicants and existing licensees should be required to apply for a Liquor Delivery Condition to deliver alcohol in Victoria.
- (c)** An application for a Liquor Delivery Condition should be required to specify the local government areas in which the applicant delivers or proposes to deliver alcohol, and local councils and residents should have the right to object to applications.
- (d)** Applications for a Liquor Delivery should be required to satisfy a test based on community impact and public interest, provide a Community Impact Assessment and show evidence of consultation in the communities to which they propose to deliver alcohol.

Alcohol delivery requirements

3. Requirements to prevent access by children and intoxicated persons

The lack of face-to-face interaction between the online supplier of alcohol and the customer and the current lack of effective regulation of alcohol delivery in Victoria creates the potential for alcohol deliveries to be accessed by children or intoxicated people, placing these population groups at risk.

Children

The gap in regulation of online purchasing and delivery of alcohol puts children's health at risk by providing easy avenues for children to access alcohol. Currently, an adult may receive an alcohol order on behalf of a child who has ordered the alcohol, and alcohol deliveries may be ordered by a child and left unattended at the delivery address.

A study has shown that online sale of alcohol and home delivery is a 'previously unidentified source of alcohol for underage drinkers that could be curtailed with effective alcohol policies.'²²

Further, evidence in overseas jurisdictions shows that ineffective regulation of online sales of alcohol and deliveries has led to more easy access to alcohol by those under 18 years. For example, a study found that almost half of online alcohol orders placed by underage drinkers in the United States were delivered. Less than 40% of orders were rejected because of age-related reasons, such as age verification, delivery driver ID check, or no-one being at home to receive the alcohol. Age verification at delivery was inconsistently conducted and, when attempted, failed about half of the time.'²³ Research undertaken in a survey involving 14-17-year old youth in Wales, found that 15% of respondents could successfully purchase alcohol online for themselves or someone else. Most found it 'easy to do so' and that age verification systems were quickly and easily bypassed.'²⁴

²² Fletcher, LA, Toomey, TL, Wagenaar, AC, Short, B & Willenbring, ML (2000) 'Alcohol home delivery services: a source of alcohol for underage drinkers,' *Journal of Studies on Alcohol and Drugs*, 61(1), 81-84.

²³ Williams, R., and Ribisl, K. (2012) 'Internet sales to minors', *Archive of Pediatrics and Adolescent Medicine*, 166(9), 808-813.

²⁴ Leyshon, 'Online alcohol Sales are Booming, but what are the implications?,' 1 August 2019 <<http://www.ias.org.uk/Blog/>>. A US study also found that almost half of online alcohol orders placed by underage drinkers in the United States were delivered. Less than 40% of orders were rejected because of age-related reasons.

More recently, an Australian survey of 528 participants aged 18 to 69 who used an online alcohol delivery service in the last month found that more than one-third of respondents aged 25 years and under did not have their ID checked when receiving their last order. A further 24 per cent did not personally receive their delivery (i.e. the delivery was left unattended at home or they had the order accepted by someone else). The results of this study indicate that young people who consume alcohol can access alcohol through an unattended delivery at their home or are able to organise for another person to collect the order. This emphasises the need for more effective regulation in relation to deliveries of alcohol that are unattended.²⁵

Intoxicated persons

The online sale and delivery of alcohol also provides avenues for people who are already intoxicated or drunk to rapidly access more alcohol without having to leave the home – through alcohol delivery directly to an intoxicated person, secondary supply by a sober person who receives an alcohol delivery on behalf of an intoxicated person who ordered the alcohol, or alcohol deliveries left unattended. Evidence shows that the more intoxicated a person is, the more likely they are to harm themselves or others. Alcohol intoxication fuels death, suicide²⁶, disease²⁷ injury²⁸, violence²⁹, domestic violence³⁰, mental illness,³¹ road accidents,³² child neglect and abuse.³³

²⁵ Mojica-Perez, Y., Callinan, S. & Livingston, M. (2019). *Alcohol home delivery services: An investigation of use and risk*. Centre for Alcohol Policy and Research, La Trobe University.

²⁶ Borges, G., Bagge, C.L., Cherpitel, C.J., Conner, K.R., Orozco, R. & Rossow, I. (2017). A meta-analysis of acute use of alcohol and the risk of suicide attempt. *Psychological Medicine* 47, 949-957; Nortsrom, T. & Rossow, I. (2016). Alcohol consumption as a risk factor for suicidal behaviour: a systematic review of associations at the individual and population level. *Archives of Suicide Research* 20(4), 489-506.

²⁷ Lensvelt, E., Gilmore, W., Liang, W., Sherk, A. and Chikritzhs, T. (2018). *Estimated alcohol-attributable deaths and hospitalisations in Australia 2004 to 2015. National Alcohol Indicators, Bulletin 16*. Perth: National Drug Research Institute, Curtin University. Retrieved 14/12/2018 from: <http://ndri.curtin.edu.au/NDRI/media/documents/naip/naip016.pdf>; Australian Institute of Health and Welfare (2018). *Impact of alcohol and illicit drug use on the burden of disease and injury in Australia: Australian Burden of Disease Study 2011*. Australian Burden of Disease Study series no. 17. Cat. no. BOD 19. Canberra: AIHW. Retrieved 09/04/2019 from: <https://www.aihw.gov.au/getmedia/34569d3a-e8f6-4c20-aa6d-e1554401ff24/aihw-bod-19.pdf.aspx?inline=true>

²⁸ Lensvelt, E., Gilmore, W., Liang, W., Sherk, A. and Chikritzhs, T. (2018). *Estimated alcohol-attributable deaths and hospitalisations in Australia 2004 to 2015. National Alcohol Indicators, Bulletin 16*. Perth: National Drug Research Institute, Curtin University. Retrieved 14/12/2018 from: <http://ndri.curtin.edu.au/NDRI/media/documents/naip/naip016.pdf>; Hobday, M., Chikritzhs, T., Liang, W. & Meulners, L. (2015). The effect of alcohol outlets, sales and trading hours on alcohol-related injuries presenting at emergency departments in Perth, Australia, from 2002 to 2010. *Addiction*, 110, 1901–1909; Australian Institute of Health and Welfare (2018). *Impact of alcohol and illicit drug use on the burden of disease and injury in Australia: Australian Burden of Disease Study 2011*. Australian Burden of Disease Study series no. 17. Cat. no. BOD 19. Canberra: AIHW. Retrieved 09/04/2019 from: <https://www.aihw.gov.au/getmedia/34569d3a-e8f6-4c20-aa6d-e1554401ff24/aihw-bod-19.pdf.aspx?inline=true>

²⁹ Briscoe, S. & Donnelly, N. (2001). Temporal and regional aspects of alcohol-related violence and disorder. *BOCSAR NSW Alcohol Studies Bulletin* 16. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.550.5929&rep=rep1&type=pdf>

³⁰ Livingston, M. (2011). A longitudinal analysis of alcohol outlet density and domestic violence. *Addiction* 106: 919–25.

³¹ Teesson, M., Hall, W., Slade, T., Mills, K., Grove, R., Mewton, L., Baillie, A. & Haber, P. (2010). Prevalence and correlates of DSM-IV alcohol abuse and dependence in Australia: findings of the 2007 National Survey of Mental Health and Wellbeing. *Addiction* 105(12), 2085–2094; Prior, K., Mills, K., Ross, J., & Teesson, M. (2017). Substance use disorders comorbid with mood and anxiety disorders in the Australian general population. *Drug and Alcohol Review* 36, 317-324; Tiet, Q.Q., Mautsach, B., (2007). Treatments for patients with dual diagnosis: a review. *Alcoholism Clinical Experimental Research* 31, 513–536; Bruce, S.E., Yonkers, K.A., Otto, M.W., Eisen, J.L., Weisberg, R.B., Pagano, M., Shea, M.T., Keller, M.B., (2005). Influence of psychiatric comorbidity on recovery and recurrence in generalized anxiety disorder, social phobia, and panic disorder: a 12-year prospective study. *American Journal of Psychiatry* 162, 1179–1187.

³² Chikritzhs, T. & Stockwell, T. (2006), 'The impact of later trading hours for hotels on levels of impaired driver road crashes and driver breath alcohol levels,' *Addiction*, 101(9):1254-64.

³³ Laslett, A.M., Mugavin, J., Jiang, H., Manton, E., Callinan, S., MacLean, S. & Room, R. (2015) *The hidden harm: Alcohol's impact on children and families*. Canberra: Foundation for Alcohol Research and Education.

Allowing alcohol deliveries to, or that can be readily accessed by, people who are intoxicated exposes these people and others to significant risk of harm and is inconsistent with Responsible Service of Alcohol principles and the primary harm minimisation object of the Act.

4. New offence – prohibiting delivery of alcohol to an intoxicated person

Currently, there is no restriction in the LCRA on the home delivery of alcohol to a person who is intoxicated or drunk. Section 108 (4) of the LCRA prohibits a licensee (or permittee) from supplying liquor to a person who is in a state of intoxication -however the LCRA does not extend this offence to a licensee or another person who *delivers* alcohol to a person in a state of intoxication.

The APC recommends that a new offence prohibiting a person from delivering alcohol to a person in a state of intoxication should be enacted in the LCRA and attract an appropriate penalty.

When alcohol delivery is refused because the recipient is intoxicated, the LCRA should require delivery to be re-attempted no fewer than 24 hours after the previous attempt, or the alcohol to be returned to a collection point and not supplied to the recipient for at least 24 hours after the delivery attempt.

This offence should apply to licensees as well as any other person delivering alcohol (including third party delivery agents and interstate alcohol retailers that are not required to have a Victorian licence).

Recommendation 5: A new offence of prohibiting alcohol delivery to a person in a state of intoxication should be introduced. The offence should apply to licensees as well as any other person delivering alcohol (including third party delivery agents and interstate alcohol retailers that are not required to have a Victorian licence).

Recommendation 6: When alcohol delivery is refused because the recipient is intoxicated, the LCRA should require any attempt at re-delivery to be no fewer than 24 hours after the previous attempt, or the alcohol to be returned to a collection point and not supplied to the recipient for at least 24 hours after the delivery attempt.

5. Alcohol must be delivered to or collected by the person who ordered the alcohol

Currently, under the LCRA, alcohol can be left unattended at the delivery address, allowing access by children or people who are already intoxicated. An alcohol delivery can also be received by an adult for secondary supply to a child, or by a sober person for supply to an intoxicated person.

To address these problems, the APC recommends that the LCRA should require that alcohol ordered or sold off-premises may only be delivered, or supplied at a collection point, to the person *who ordered or purchased the alcohol*, upon the person providing identification, evidence of age and a signature, and may not be left unattended at the delivery address. The APC also recommends that the LCRA should prohibit the supply of alcohol at a collection point to a person who is younger than 18 years of age, or to a person in a state of intoxication.

The APC proposes that the licensee is responsible (as well as the delivery driver) to ensure evidence of age (as defined in section 3(1) of the LCRA) is sought upon delivery of the alcohol purchased online. These requirements should apply to licensees as well as any other person delivering alcohol (including third party delivery agents, exempt businesses and interstate alcohol retailers that are not required to have a Victorian licence).

However, the APC does not support the proposal that there be a defence available to the licensee that they provided reasonable training for an employee who delivers alcohol.

There is no such defence available to a licensee where alcohol is supplied to a person under the age of 18 years on-premises in breach of section 119 of the Act, and it is fundamental to meeting the harm minimisation object of the Act that alcohol is not supplied to children.

If the person who ordered the alcohol is not present at the address to receive the delivery, delivery should be re-attempted or the person who placed the off-premises order for the delivery of alcohol should be required to collect the order of alcohol from a staffed post office or collection depot upon displaying identification and evidence of age and providing a signature.

Recommendation 7: The LCRA should require that alcohol may only be delivered (or supplied at a collection point) to the person who ordered or purchased the alcohol upon signature, identification and evidence of age (alcohol must not be left unattended at the delivery address).

6. Responsible Service of Alcohol Program

Currently there is no requirement in the LCRA for a staff member of a licensee, or a person that delivers alcohol who is not the licensee (or an employee) to complete a Responsible Service of Alcohol (RSA) program in relation to the delivery of alcohol.

There is a need for introduction of a requirement in the LCRA for licensees, employees and other persons that deliver alcohol to undertake a specific RSA program in relation to off-premises sale and delivery of alcohol, which is a different mode of supply of alcohol involving particular risks that are different from those associated with on-premises supply of alcohol.

The APC recommends that a new RSA program for online sale and delivery of alcohol should be developed that is tailored to address issues impacting on the health and safety of the community in relation to this mode of supply.

The LCRA should require licensees, employees who deliver alcohol, and any other person who delivers alcohol (e.g. third-party agents delivering from restaurants and cafes or wineries, and exempt businesses) to complete the RSA course, as well as a refresher program every 3 years

Recommendation 8: A new RSA program should be developed for online sale and delivery of alcohol. The LCRA should require completion of the RSA program by licensees and employees, and other persons who deliver alcohol, as well as completion of a refresher program every 3 years.

7. Time restrictions on alcohol delivery

Mandatory time restriction between purchase and home delivery of alcohol

As mentioned above, the APC is particularly concerned about online 'rapid delivery' retailers who deliver alcohol within short time intervals following the sale or supply of the alcohol.

For example, the rapid delivery retailer Jimmy Brings deliberately targets parties, offering large amounts of alcohol through 'party starter' bundles, 'weekender packs' and 'big night in' bundles with large discounts, and using phrases like "right now your cart is empty; hope your friends like water" and "Need to recharge? This quickie will do the trick".³⁴

³⁴ Jimmy Brings, Last accessed on 18 September 2019 at: < <https://jimmybrings.com.au/menu>>.

The rapid delivery business model targets young people. Young drinkers (18-34-year olds) are more likely than older drinkers (35+ year olds) to use on-demand delivery services that deliver alcohol in an hour or two such as Jimmy Brings, Tipple, Boozebud and Uber Eats.³⁵

Rapid delivery of alcohol enables impulsive purchases and promotes the continuation of an existing alcohol consumption session when the alcohol supply has been exhausted.

It is therefore a business model that enables increasing intoxication. This is also likely to lead to significant harm in relation to vulnerable people, including people at risk of suicide and people experiencing family violence.

A recent Australian survey of 528 participants aged 18 to 69 who used an online alcohol delivery service in the last month found that 28 per cent of respondents who received a rapid alcohol delivery would have otherwise had to stop drinking alcohol, and that 69 per cent drank alcohol at a risky level on that occasion. Twenty-two per cent of people who received a rapid delivery said part of the reason for using the service was because they were over the blood alcohol limit to drive. The research also shows that respondents who recently received a rapid alcohol delivery were more likely to drink alcohol at risky levels in general, compared to people who recently received a non-rapid alcohol delivery.³⁶

The APC therefore recommends that the LCRA should prohibit the delivery of alcohol within 2 hours of the order or sale of the alcohol.

An exception could be created for restaurant and café licences, subject to effective safeguards to minimise the risk of harm. These safeguards should include limiting alcohol delivery by restaurants and cafes to a reasonable quantity of alcohol with a meal and not allowing delivery of spirits, as recommended below.

Recommendation 9: The APC recommends that the LCRA prohibit the delivery of alcohol within two hours of the sale or order of the alcohol, except for restaurant and café licences where the alcohol is being delivered with a meal.

8. Hours of delivery

Time is a critical factor affecting levels of alcohol harm. Evidence shows that the increased availability of alcohol within extended hours leads to alcohol fuelled harm to the community, which include: assaults, suicides and domestic violence. Late night deliveries of alcohol also pose a significant risk as it allows people to continue to drink at home, uninterrupted and may exacerbate harms associated with packaged liquor, including family violence.

A New South Wales study showed that a restriction in pub closing times to 3.30 am from 5am in Newcastle, NSW, produced a large relative reduction in assault incidence of 37% in comparison to a control locality.³⁷

The Australian research is supported by comprehensive overseas studies examining impacts of changes to late-night on-premises trading hours.

A compelling Norwegian study has demonstrated the impact of small changes in bar closing hours on violence. The research showed that for every additional hour of trading at night, there is a 16 per

³⁵ Foundation for Alcohol Research and Education (2019). *Annual alcohol poll: Attitudes and behaviours*. Canberra: Australia. Retrieved 09/09/2019 from: <http://fare.org.au/annual-alcohol-poll-2019-attitudes-and-behaviours/>.

³⁶ Mojica-Perez, Y., Callinan, S. & Livingston, M. (2019). *Alcohol home delivery services: An investigation of use and risk*. Centre for Alcohol Policy and Research, La Trobe University.

³⁷ Kypri, Jones et al, Effects of restricting pub closing times on night-time assaults in an Australian city. *Addiction* 106, 303–310.

cent increase in assaults and conversely, for every hour of reduced trading there is a 20 per cent reduction in assaults.³⁸

Alcohol-related assaults increase substantially between 6pm and 3am (peaking between midnight and 3am), with 37 per cent of alcohol-related assaults occurring in the home, and more than half (57%) of those being domestic violence.³⁹

Acute alcohol consumption increases the risk of attempted suicide,⁴⁰ and at a population level, greater levels of consumption are associated with increased suicide risk.⁴¹ In Australia, suicides and sudden or unnatural deaths involving alcohol predominantly happen at night, in the home environment.⁴²

Alcohol is associated with between 23 and 65 per cent of family violence incidents reported to the police (in the four Australian states that collect this data). This is more than 30,000 incidents each year.⁴³ Alcohol increases the likelihood of violence occurring and the severity of harm experienced.⁴⁴ Alcohol use increases the likelihood of perpetration of alcohol fueled violence and makes those impacted more vulnerable.⁴⁵ There is a lasting legacy as children who witness family violence are more likely to have problems with alcohol later in life.⁴⁶

This research is highly relevant to the online sale and delivery of alcohol, given the relative ease of access to online sale and delivery of alcohol and its rapid availability (within 30 minutes from online sale to delivery).

Therefore, consistent with previous APC policy positions in respect of trading hours for the sale of off premises alcohol, and in light of the evidence establishing the strong connection between the increased availability of alcohol and harm,⁴⁷ the APC proposes that the delivery of alcohol should not be allowed between the hours of 10pm and 10am. This should apply to licensees as well as any other person delivering alcohol (including third party delivery agents and interstate alcohol retailers that are not required to have a Victorian licence).

Recommendation 10: The LCRA should prohibit the delivery of alcohol between 10pm and 10am.

³⁸ Rossow, I. & Norström, T. (2011). The impact of small changes in bar closing hours on violence. The Norwegian experience from 18 cities. *Addiction* 107(3), 530-537.

³⁹ Briscoe, S. & Donnelly, N. 'Temporal and regional aspects of alcohol-related violence and disorder,' (2001), *BOCSAR NSW Alcohol Studies Bulletin*, 16. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.550.5929&rep=rep1&type=pdf>

⁴⁰ Borges, G., Bagge, C.L., Cherpitel, C.J., Conner, K.R., Orozco, R. & Rossow, I. (2017). A meta-analysis of acute use of alcohol and the risk of suicide attempt. *Psychological Medicine* 47, 949-957.

⁴¹ Nortsrom, T. & Rossow, I, 'Alcohol consumption as a risk factor for suicidal behaviour: a systematic review of associations at the individual and population level,' (2016), *Archives of Suicide Research* 20(4), 489-506.

⁴² Darke, S., Duflo, J & Torok, M, 'Toxicology and circumstances of completed suicide by means other than overdose,' (2009), *Journal of Forensic Science* 54(2), 490-494; Darke, S., Duflo, J., Torok, M. & Prolov, T. (2013). Characteristics, circumstances and toxicology of sudden or unnatural deaths involving very high-range alcohol concentrations. *Addiction* 108, 1411-1417. Alcohol-related incidents were substantially more common between 6pm and 6am. Darke, S. et al (2009).

⁴³ Foundation for Alcohol Research and Education (FARE) (2015). National framework for the prevention of alcohol-related family violence. FARE Canberra, <<http://fare.org.au/wp-content/uploads/FARE-National-framework-to-prevent-alcohol-related-family-violence-web.pdf>>.

⁴⁴ Laslett, A-M., Catalano, P., Chikritzhs, Y., Dale, C., Doran, C., Ferris, J., Jainullabudeen, T., Livingston, M, Matthews, S., Mugavin, J., Room, R., Schlotterlein, M. and Wilkinson, C. (2010). The range and magnitude of alcohol's harm to others. Fitzroy, Victoria: AER Centre for Alcohol Policy, Research, Turning Point Alcohol and Drug Centre, Eastern Health.

⁴⁵ World Health Organization (2006). WHO facts on: Child maltreatment and child abuse. World Health Organization, Geneva, <http://www.who.int/violence_injury_prevention/violence/world_report/factsheets/fs_child.pdf>.

⁴⁶ Braaf, R. (2012). Elephant in the room: Responding to alcohol misuse and domestic violence. Australian Domestic & Family Violence Clearinghouse Issues Paper no.24. Australian Domestic and Family Violence Clearinghouse, Sydney.

⁴⁷ APC Position statement -Alcohol availability in Victoria, strategies to reduce harm, last accessed on 18 September 2019 at: <https://www.alcoholpolicycoalition.org.au/downloads/position-statements/physical-availability-alcohol.pdf>.

9. Other delivery requirements

Delivery must be by the licensee or employee of the licensee

To allow strict licence conditions to be imposed in relation to alcohol delivery, and to better ensure responsible delivery of alcohol by making the licensee directly subject to alcohol delivery requirements, the APC proposes that the delivery of alcohol may only be undertaken by the licensee or by an employee of the licensee.

The LCRA should include a provision that alcohol delivered under a Victorian licence must be delivered by the licensee (including an employee of the licensee with exceptions for restaurants and cafes, and wineries that do not offer same day deliveries).

An exception to this requirement could be created in relation to lower risk alcohol delivery, that is delivery by wineries (other than wineries that deliver within 24 hours of the order/sale of the alcohol) or restaurants and café licensees, which should only be allowed to deliver a reasonable quantity of alcohol with a meal and should not be allowed to deliver spirits (as set out below).

Recommendation 11: The APC recommends that the LCRA require that alcohol delivered under a Victorian licence must be delivered by the licensee (including an employee) (with exceptions for restaurants and cafes, and wineries that do not offer same day deliveries).

10. Prohibition on alcohol delivery by a minor

We recommend that the Act should prohibit delivery of alcohol by a person under the age of 18. A child younger than 18 years would be less likely than an adult to challenge a person's age or intoxication level or have the experience to judge it. They could also be put at risk by being required to withhold a delivery from an intoxicated person.

Recommendation 12: The APC recommends that the Act should prohibit delivery of alcohol by a person under the age of 18 years.

11. Restaurant and café licensees

Restaurant and café licensees selling alcohol for off-premises consumption should only be permitted to sell a reasonable quantity of alcohol with a meal and should not be permitted to sell spirits.

A meal should be defined as 'food of sufficient quantity and comprised of such courses as to be ordinarily accepted as a meal'. The LCRA or guidance materials should provide examples of food and quantities that would be considered to constitute meals.

Consideration should be given to how to define a reasonable quantity of alcohol. This should take into account drinking guidelines in the National Health and Medical Research Council's 'Australian Guidelines to Reduce Health Risks from Drinking Alcohol 2009' alcohol (NHMRC Drinking Guidelines), as well as practicalities based on standard serving sizes of packaged alcohol, for example, packaged sizes of alcohol served on aircraft.

Exempt categories

Victorian businesses that are exempt from the requirements of the Act under sections 6A-6H of the LCRA should also be prevented from delivering more than a reasonable quantity of alcohol (which should be defined taking into account the NHMRC Guidelines), and from delivering spirits.

Exempt businesses that deliver alcohol should be subject to the recommended requirements for alcohol delivery, including delivery time restrictions, RSA requirements, requirement to deliver to

the person who ordered the alcohol and not leave alcohol unattended, and the prohibition against delivering to a person who is intoxicated.

Recommendation 13: Restaurants and cafes should only be allowed to deliver a reasonable quantity of alcohol with a meal and should not be permitted to deliver spirits.

12. Advertising and promotion

The APC is concerned about online alcohol retailers engaging in direct online advertising, including through smart phone apps, and offering inducements that are likely to encourage immediate and impulsive purchases of alcohol. This type of online advertising carries particular risks of harm that are distinct from advertising of alcohol from bricks and mortar stores and that are likely to have particular impacts on vulnerable people, as it encourages people to react to promotions immediately and impulsively, and allows repeated and constant direct prompts on a person's phone. For example, the APC is aware of Jimmy Brings sending promotions of inducements to buy alcohol directly to people's phones.

The APC is also concerned about the availability of 'buy now, pay later' services to purchase alcohol online. These services also encourage impulsive purchases of alcohol, remove price barriers that might otherwise prevent people buying any or large quantities of alcohol, and pose particular risks to vulnerable people.

Recommendation 14: The LCRA should prohibit unsolicited direct electronic marketing of online alcohol sale and alcohol delivery to Victorians.

Recommendation 15: The LCRA should prohibit Victorian liquor licensees from engaging in online advertising of inducements to purchase alcohol. An inducement should be defined as any offer or benefit designed to persuade a person to purchase alcohol.

Recommendation 16: The LCRA should also prevent the use by Victorians of 'buy now, pay later services' to buy alcohol online.