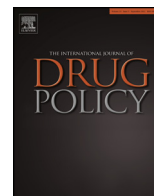




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Policy analysis

Price-based promotions of alcohol: Legislative consistencies and inconsistencies across the Australian retail, entertainment and media sectors

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ABSTRACT

Background: Excessive alcohol consumption is a major public health issue internationally, with alcohol consumption being recognised as a leading cause of preventable illness and major social burden. To help ameliorate the risks and harms associated with alcohol consumption, all levels of governments have explored various legislative and regulatory provisions to support responsible alcohol consumption, service and promotion.

Methods: In this article, using Australia as a case study, the legislative environment around responsible alcohol promotion and consumption across the Australian retail, entertainment and media sectors will be explored, with a focus on pricing and volume-based discounts.

Results: Whilst the potential harm and effect of both the licensed and non-licensed sectors appears to be widely acknowledged as similar in both scope and size of effect, legislative protections overwhelmingly focus solely on reducing the risks associated with alcohol consumption in licensed premises. This article explores the legislative provisions around preventing excessive alcohol consumption through promotional and marketing activities, and notes that whilst the licensed premises sector is facing increasing legislative restrictions, the off-premises sector remains unregulated and in some cases has even had existing restrictions removed, despite forming an increasing part of the alcohol chain in Australia.

Conclusion: There appear to be inconsistencies and regulatory gaps in relation to price-based and volume-based discount alcohol promotions. Regulatory loopholes allow the retail sector in particular to use discounted alcohol as a promotional tool, in a way that is inconsistent with the goals of public health alcohol legislation, and in a way which would be illegal in any other sector. There appears to be a compelling case for introducing new restrictions, or extending existing restrictions, on these forms of promotion across all sectors involved in alcohol promotion, and there is considerable evidence that there would be considerable public health benefit from doing so.

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Background

Excessive alcohol consumption is a major public health issue internationally, with alcohol consumption being recognised as a leading cause of preventable illness and major social burden (World Health Organization, 2007). In Australia, 8.6% of the population drank at risk levels (for both short- and long-term harm) in the previous 12 months (Australian Institute of Health and Welfare, 2010). Consumption of alcohol in Australia is high by world standards: 83% of Australians (aged 14 years and over) consume alcohol, 20% regularly drink at levels that risk short-term alcohol-related harm and 10% drink at levels which risk long-term alcohol-related harm,

and one-third of Australians drink alcohol at levels that put them at risk of harm from a single drinking occasion at least once per month (Australian Institute of Health and Welfare, 2009). To help ameliorate the risks and harms associated with alcohol consumption, all levels of governments have explored various legislative and regulatory provisions to support responsible alcohol consumption, service and promotion (Reynolds, 2011). However, even when research data suggests risks across different sectors of alcohol supply are similar, policies aimed at minimising these risks may be ineffectively, inefficiently or inconsistently applied. This can result in alcohol policies being skewed towards reducing risks associated with alcohol supply in some sectors, whilst others are largely ignored.

One factor that affects alcohol consumption significantly is price. There is considerable evidence that there exists an inverse relationship between the price of alcohol and the level of alcohol

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consumption (Wagenaar, Salois, & Komro, 2009). Price-based and volume discounts (e.g. 'two for one') influence drinkers in all age groups – including minors – but appear to be most influential and popular among younger legal age drinkers, and lead to increased consumption either in the moment or 'saved' for a later date (Jones, 2014). Epidemiological modelling also suggests that discounting restrictions, along with minimum unit pricing, appear to be the most effective way of reducing alcohol consumption in heavier drinkers (Purshouse, Meier, Brennan, Taylor, & Rafia, 2010). As such, Australian alcohol and policy experts have identified that developing regulatory and legislative provisions around alcohol pricing should be a national policy priority (Fogarty & Chapman, 2013). In Australia, there exist a number of laws designed to prevent practices that encourage excessive alcohol consumption, particularly around discounting and advertising of alcoholic products. However, there has been no formal cross-sectoral comparison of regulatory and legislative provisions related to price-based promotions.

Using Australia as a case study, this paper addresses this gap by critically comparing and contrasting the regulatory and legislative requirements for the promotion, marketing and sale of alcohol in different retail, entertainment and media settings around price and discounting in Australia, to explore whether there is consistency and coherence in approaches to the different sectors to prevent harm from alcohol consumption. This paper explores whether there are any regulatory or legislative gaps in some sectors, whether the current protection are adequate, and what areas require attention to prevent alcohol-related harms from price-based strategies. Whilst the potential harm and effect of both the on-premises and off-premises sectors appears to be widely acknowledged as similar, legislative protections overwhelmingly focus on reducing the risks associated with alcohol consumption in licensed premises. This inconsistency in application of promotional restrictions has created regulatory loopholes that have allowed the retail sector in particular to use discounted alcohol as a promotional tool, in a way that is inconsistent with the goals of public health alcohol legislation, and in a way which would be illegal in other part of the alcohol supply chain.

The current Australian policy trends in alcohol promotion legislation: a pub and club focus

In Australia most regulation of the alcohol market occurs at the state and territory rather than the federal level. Advertising, labelling and taxation are exceptions to this, but most federal provisions beyond taxation remain enforced via voluntary codes. As such, most enforced legislative provisions focus around licensing provisions for the supply of alcoholic beverages. This has led to much of the current policy focus in curbing excessive alcohol consumption and its related harms in Australia being centred on criminal and public order issues in late-night inner-city entertainment precincts (Livingston, 2013), often focusing on the effects and community concerns of alcohol-fuelled violence rather than the physiological health effects of excessive alcohol consumption on individual or public health (Australian Broadcasting Corporation, 2014). The framing of alcohol problems as one associated with young people late at night is a common and recurrent one (Lancaster, Hughes, Chalmers, & Ritter, 2012). As such, policy interventions aimed at reducing excessive alcohol consumption often focus on targeting on-premises sales or licensed venues, through initiatives such as lock-out trials, restrictions on certain practices and products (such as spirit 'shots') in late night venues and a range of policing interventions in entertainment precincts (Livingston, 2013). However, whilst the focus on alcohol-related violence in entertainment precincts is an important public health consideration, and one that usually triggers policy responses, the issue of alcohol-related violence is not unique to this environment,

with Victorian police data suggesting that alcohol-related domestic violence in the home is at least as prevalent as late night public assaults in entertainment precincts (Victorian Department of Health, 2012). Whilst the fact that licensed venues are more likely to result in 'intoxication in the moment' could be held to explain some regulatory differences between promotional activities in the on-premises and off-premises sectors, even where the risks associated with on- and off-premises consumption are similar, the clear distinction in policy between on-premises and off-premises alcohol outlets may not reflect the complex ecology of alcohol consumption. Evidence suggests, for example, that many persons use packaged alcohol products purchased at off-premises locations to complement their on-premises (i.e. pub and nightclub) consumption, largely because of the lower cost and greater accessibility, with 'pre-drinking' becoming an increasingly common method of increasing inebriety at a lower cost to enhance and extend a patron's night out (Wells, Graham, & Purcell, 2009). As such, policies that focus solely on on-premises consumption may ignore problematic alcohol consumption behaviours in private settings, and restricting on-premises consumption, without similar restrictions in off-premises settings, may serve only to transfer problematic drinking practices from licensed venues to pre-drinking environments, possibly resulting in even greater harms (Wells et al., 2009). The increasing influence of off-premises alcohol consumption, and the lack of action on policy targeting alcohol-related harms outside of the inner-city entertainment precincts, has led to calls for increased attention on the upstream factors associated with alcohol-related harm, which often occur outside licensed premises (usually in private homes) and have criticised recent policy initiatives that purport to reduce alcohol-related harm for overlooking upstream factors (Cormack, 2014; Fitzgerald, 2014).

The rise of the off-premises retail alcohol sector in Australia

At the same time as increased legislative restrictions on alcohol sales, promotion and marketing in licensed (on-premises) venues have increased, the deregulation and pro-competition agenda of increasingly neoliberal Australian governments has overseen the reduction of restrictions in the packaged (off-premises) retail alcohol retail sector (Zajdow, 2011). As the pro-competition agenda has become increasingly dominant in Australian policy development, the few restrictions on this sector – such as the Victorian government's cap of 8% of market share on any one company in the retail alcohol sector – have been deemed anti-competitive and have been removed, in spite of the public health objectives of these provisions (Livingston, 2013). The primacy of the pro-competition policy agenda has even resulted in community concerns and local government objections to new alcohol retail outlets being over-ruled to ensure compliance with competition law provisions (Livingston, 2014). Lax market restrictions have coincided, over the course of the last decade, with increasing consolidation of the retail alcohol sector as, via a series of 'creeping acquisitions' the major supermarket chains have sought to increasing their presence in the liquor retail sector (Jones, 2005). The influence of major supermarket chains in Australia is compounded by the fact that the Australian retail grocery sector is among the most concentrated in the world, with the two major supermarket chains controlling nearly 80% of the retail market (Wardle & Baranovic, 2009). Although in many states and territories the abilities of supermarkets to supply alcoholic beverages is limited or forbidden, acquisition of liquor chains by supermarket companies has meant that the two major grocery retailers now account for 70% of retail liquor sales in Australia (Lin, 2014). The major supermarket chains have publicly acknowledged alcohol sales as a major focus of their growth strategy, with aggressive competition and marketing leading to substantial growth in the number of packaged alcohol outlets (an increase

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