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ACT LA
COMMITTEE OFFICE

Mrs Vicki Dunne MLA
Chair
Standing Committee on Justice
and Community Safety
ACT Legislative Assembly
London Circuit
CANBERRA ACT 2601

Review of Liquor Fees

Dear Mrs Dunne,

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

The AHA continues to play a leading role in representing the interests of its members in the licensed hospitality industry with regard to *Liquor Act 2010* and continues to assist its members with advice and advocacy. The introduction of the Act has seen change within the industry and has already yielded significant results. Licensees however, should not be held entirely responsible for the poor behaviour of people who are drinking. People must always be responsible for their own actions.

The AHA ACT has supported the move to a risk-based licensing regime, however believes that the present fee determination has placed an unfair burden on many venues causing disparity between fees paid in the ACT and other states.

<u>Lack of Sophistication</u>

The *Liquor Act 2010* includes a range of factors which comprise risk and AHA ACT 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 of permit

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iv) the nature and scale of activities being carried out at the license premises or permitted premises;
v) the occupany 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;

In our view, the present risk-based regime still lacks sophistication to reasonably distinguish between venues and is not a system based on risk but simply an extra impost on licensees. The AHA has argued that a licence category and characteristic model provides venues a mechanism to be 'clean' of another category's issues. That a stronger emphasis be placed on distinguishing licence types.

The AHA further submits that all licensees who choose to trade to either 4am or 5am should be subject to a similar fee. The nature of the licencing structure should protect those businesses who ordinarily trade late (provide exclusivity of that space) and also to recognise that nearly 80 per cent of incidents occur at premises trading to 4am or 5am.

Venue Compliance History

The AHA ACT opposes support for any provision that allows for financial penalties to be applied in areas of non-compliance. Licenesees found to be operating in breach of the Act are **already** subject to a range of penalties, including criminal and financial penalties. These are sufficient in deteterring against non-compliance and any further penalites in terms of licence fees would be excessive and unlikely to result in improved compliance.

The AHA ACT accepts a risk-based approach to licencing however opposes the severe impost placed on a small number of venues in the ACT. The AHA ACT would support however a provision as suggested by ClubsACT that could assist in reducing a venues fees where a licensee has a record of very few or no breaches of the Act.

More broadly, whilst recognising that there is a need to address anti-social behaviour as a result of excessive alcohol misuse, the AHA ACT submits that the higher level of liquor license fees should be regarded as a temporary response to the problem.

Venue Capacity

The new fee framework innappropriately addresses venue size in comparison to other jurisdictions. For example, Victoria has over 18,000 liquor licences and NSW has over 16,000 liquor licences in comparison with the ACT which has now declined to 634 licences from 640 in April 2011. With size of business only applied to the on-licence category this number further reduces to approximately 440 licences.

It is presently unreasonable to apply a four tiered size system to the on-licence structure as it provides a heavy and unreasonable impost on a number of on-licences whilst 'giving away' licences in the off-licence sector. The AHA ACT has submitted that it was reasonable to split the licences to under 150 and over 150 relative to the size of the market.

Furthermore, the AHA ACT has previously addressed the issue of discount licences which seems in complete opposition to the harm minimisation principles of the Act. The encouragement of a micro business category in the off-licence fee structure presents an unfair market advantage and erodes business from legitimate operators.

The AHA strongly supports the removal of the $500 licence.

<u>Gradual Reduction in Fees</u>

The AHA ACT submits that the ACT Government's premature factoring of the new liquor fees into the territory budget was innapproapriate and insensitve to the needs of the hospitality industry. The 2.9 million recovery cost in a market of 634 licensees is exceedingly high when compared to other states. Furthermore, it is important to recognise that the increase in the fees levied in the ACT occurs against the backdrop of Victoria deciding to reduce liquor fees.

A reduction of $300,000 would provide appropriate relief to industry and would assist in leveling the severe impost on a number of venues by the recent fee determination.

The present fee structure on a 'like for like' basis requires some ACT businesses particularly nightclubs, clubs and larger bars to pay the highest fees in Australia. The AHA ACT have argued that the current level of fees should in no way become the baseline for further fee increases. Rather, the government's objective should be to gradually reduce fees and to lessen the burden on industry as compliance improves and the number of incidents reduces.

The Acting Attorney-General's submission to this review made reference to "...positive community safety outcomes and strong compliance..." being witnessed and also included the following statement:

"ACT Policing has recorded sizeable reductions in the number of liquor related arrests, assaults and the number of people taken into protective custody over this year".

The Acting Attorney-General's submission indicated that the number of alcohol-related arrests has fallen by 18 per cent, the number of assualts has fallen by 12 per cent and the number of people taken into protective custody has fallen by 19.2 per cent.

While it would be a very useful exercise to acertain what measures or circumstances are directly responsible for this reduction, as a matter of princple, if the ACT is witnessing a sizeable reduction in incidents and a consequent reduction in the call on police resources, then the government should be investigating ways to reduce the fees levied on industry.

The ACT Government has repeatedly described the fee structure as a 'user-pays' system. It seems clear that less resources are being used and therefore the fees should be reduced accordingly.

Dual Classification of Venues

Section 4 of the Fees Determination 2011 requires the annual fee payable for an application to renew the on licence for a premises is the highest of the fees for the subclasses of the licence.

The ability of one venue to be classified as two sub-classes is simply foolish and runs counter to the principle of having separate sub-classes to distinguish between venues. Furthermore it runs in opposition to the *Liquor Act 2010* which defines a sub-class by its predominant activity. A venue is thus a nightclub, a restaurant or a club. A venue cannot be both as every venue has a predominant activity. That predominant activity determines which sub-class the venue sits in.

AHA ACT strongly supports the removal of Section 4 so that each venue has certainty over what sub-class they are in, the type of business they run and therefore the fees that they're required to pay.

Timing of Fee Determination

The ACT Government has twice now waited until shortly before the fees are due to be paid to relase each new fee structure. This has created a significant degree of uncertainty and unease amongst venues and which has been totally uneccessary.

AHA ACT supports any reasonable initiative that requires the ACT Government to release the fee structure well ahead of the licence renewal period.

I would be happy to expand on any aspect of this submission and have attached a revised model preffered by the AHA to this submission.

Yours sincerely

Gwyn Rees
General Manager

Licence Characteristics

On Licences

Under 150	*Restaurant*		*Special*		*Pub/Bar*		*General*		*Club*		*Nightclub*		***Total***	
Base Fee Paid	**$1,250.00**		**$1,750.00**		**$2,750.00**		**$2,750.00**		**$3,250.00**		***$6,750.00***		***Licences***	***Totals***
Time:		**No.**		**No.**		**No.**		**No.**		**No.**		**No.**		
Midnight	$1,250.00	216	$1,750.00	25	$2,750.00	12	$2,750.00		$3,250.00	1				$350,000.00
1am	$1,750.00		$2,750.00		$3,750.00		$3,750.00		$4,250.00		$6,750.00			$0.00
2am	$2,250.00		$3,750.00		$4,750.00		$4,750.00		$6,250.00		$8,750.00	2		$17,500.00
3am	$2,750.00		$4,750.00		$5,750.00		$5,750.00		$8,250.00		$10,750.00			$0.00
[redacted]														$12,750.00
*5am									[redacted]					$0.00
[redacted]														
Time:		**No.**		**No.**		**No.**		**No.**		**No.**		**No.**		
Midnight	$1,750.00	71	$2,250.00	9	$3,250.00	4	$3,250.00	7	$3,750.00	28				$285,250.00
1am	$2,350.00		$3,250.00		$4,250.00		$4,250.00		$5,750.00		$7,750.00			$0.00
2am	$2,750.00		$4,250.00	4	$5,250.00	6	$5,250.00	1	$7,750.00	10	$9,750.00	2		$150,750.00
3am	$3,250.00		$5,250.00		$6,250.00		$6,250.00		$10,750.00		$11,750.00			$0.00
[redacted]														$577,500.00
*5am									[redacted]					$83,750.00
		287		41		28		12		61		17	446	$1,477,500.00

[redacted]

[redacted]

Off Licences

Category	*Fixed Fee for Size*	**No.**	***Total Licences***	***Totals***
under $5,000	$1,250	25		$31,250.00
$5K-$100K	$1,750	25		$43,750.00
$100 - $499K	$4,750.00	50		$237,500.00
$500K - $1M	$6,750.00	55		$371,250.00
$1M-$3M	$10,750.00	23		$247,250.00
$3M - $7M	$17,750.00	14		$248,500.00
$7M+	$26,750.00	2		$53,500.00
		194	194	$1,233,000.00