

# Appendix F

## Dissenting Report by Ms Chiaka Barry MLA

### Introduction

Reducing alcohol-related harm, including domestic and family violence, is an objective I strongly support; however, I am not satisfied that the proposed measure is proportionate, evidence-based, or likely to achieve its intended outcomes.

The evidence before the Committee does not establish a clear, ACT-specific empirical basis for a universal two-hour delay. Further, the proposal risks unintended consequences for small businesses, consumers, and regulatory integrity.

While the committee didn't make any finding on the two-hour delivery period, I disagree that this provision should form part of the legislation.

### Insufficient Empirical Basis

The ACT Government, FARE, and ATODA argued that rapid delivery fuels impulsive consumption and contributes to domestic violence. These are serious concerns. However, submissions from Uber Eats, DoorDash, and Retail Drinks Australia highlighted significant evidentiary gaps.

Specifically, the evidence at the committee did not point to detailed, ACT-specific analysis demonstrating that a universal two-hour delay would materially reduce alcohol-related harm, domestic violence incidents.

Industry data indicates that express delivery under two hours accounts for only 11–14% of households, typically involving small quantities such as a bottle of wine.

Frontier Economics analysis indicates approximately 14% of online alcohol orders are delivered within two hours. If rapid delivery were unavailable, around two-thirds of consumers would instead travel to a physical liquor outlet, potentially increasing road traffic rather than reducing harm.

In practice, the proposed reform targets a relatively small proportion of transactions, without evidence that those transactions are linked to the most harmful drinking behaviours.

National data shows that 36% of alcohol is consumed by approximately 5% of drinkers. The legislation, however, applies universally to all consumers, including low-risk and moderate drinkers, raising concerns about proportionality.

While it is arguable that the lack of ACT-specific empirical evidence shouldn't preclude precautionary legislative action, particularly for serious issues like Family and domestic violence, where broad restrictions on lawful conduct are proposed, the justification threshold must be correspondingly high.

A more proportionate approach would be to strengthen targeted mechanisms, such as a formal exclusion register for abusive or high-risk users, and remove legislative or regulatory barriers to information sharing between licensed providers.

Testing and evaluating these targeted interventions would allow Government to address demonstrable risk cohorts directly, rather than imposing universal restrictions.

The proposed restrictions would impact 100% of consumers, and such broad-based limitations on lawful behaviour require substantial justification. The evidence before the Committee doesn't provide sufficient justification for these measures. Imposing restrictions on the entire community for the conduct of a small minority is neither proportionate nor fair, particularly when more targeted mechanisms exist to identify, monitor, and exclude abusive users. A staged, evidence-driven approach should be exhausted before resorting to a universal two-hour delay.

### **Concerns around the Effectiveness of the Provision**

The evidence cited in support of a two-hour delay, including findings from other jurisdictions and rapid reviews conducted during 2020, largely focuses on high-risk cohorts and extraordinary pandemic circumstances.

The proposed ACT reform would apply across the board to all consumers, without differentiation based on risk.

It is important to note that despite the ACT having the highest per-capita number of licensed outlets in Australia:

- Overall alcohol consumption has declined; and
- Alcohol-related domestic violence has reportedly fallen significantly in recent years.

This broader context weakens the argument that a delivery delay, in isolation, will materially alter harm metrics.

Historical experience also demonstrates that overly rigid alcohol controls can produce workarounds and unintended behavioural shifts, rather than achieving intended outcomes.

### ***Limited impact on broader harm metrics***

There is no ACT-specific evidence demonstrating that a two-hour delay would directly reduce drink-driving or family violence.

Industry submissions indicated that most rapid delivery orders are consumed over multiple sessions, not immediately upon arrival, and that most consumers of online delivery drink responsibly.

Without stronger empirical linkage, the measure risks symbolic regulation rather than measurable reform.

## Unintended Consequences

### *a) Impact on business viability*

Retail Drinks Australia and DoorDash submitted that the two-hour delay would significantly disrupt logistics, workforce scheduling, and customer service operations

When combined with late-night delivery restrictions, the effective evening trading window would be substantially reduced.

In practical terms, a 10:00 am–10:00 pm operating window coupled with a two-hour delay would likely require last orders by approximately 7:00 pm.

This would:

- Compress peak demand periods;
- Reduce operational flexibility; and
- Disproportionately impact small and independent retailers.

There is a real risk that smaller operators could exit the ACT market entirely, reducing competition and consumer choice.

### *b) Potential shift to unregulated markets*

Industry stakeholders warned that mandatory delays may drive consumers toward less regulated or informal supply channels.

Such a shift would undermine safeguards currently embedded in licensed delivery systems, including:

- Age verification;
- Intoxication checks;
- Self-exclusion mechanisms; and
- Responsible Service of Alcohol compliance.

If consumers migrate outside regulated platforms, the Bill may weaken rather than strengthen harm-minimisation protections.

## Recommended Alternative and Complementary Measures

I recommend that rather than a two-hour delay, the ACT Government implements a more proportionate and targeted approach which includes:

1. Explore options of implementation of a centralised scheme for self-exclusion, either in the ACT or in collaboration with other jurisdictions and test the effectiveness of this measure prior to the implementation of a two-hour exclusion.

2. Introducing risk-based regulatory enforcement by strengthening penalties and potential licence suspension for repeat non-compliance with Responsible Service of Alcohol obligations.
3. Mandatory training enhancements such as requiring family and domestic violence safety training for delivery drivers, integrated within or alongside Responsible Service of Alcohol requirements, as supported by industry submissions.
4. A two-year statutory review to assess measurable outcomes and ensure the regulatory framework remains evidence-based, proportionate, and fit-for-purpose, particularly following the introduction of cohesive control legislation, so that its interaction with this bill, and impact on, the operation of this Bill can be properly assessed.

### **Conclusion**

Reducing alcohol-related harm is a shared objective. However, public policy must be evidence-based, proportionate, targeted toward demonstrated risk, and mindful of economic and regulatory consequences.

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