

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into the Victorian Auditor-General's Reports No. 99: Follow up of Regulating Gambling and Liquor (2019) and No. 213: Reducing the Harm Caused by Gambling (2021)

Melbourne – Monday 24 July 2023

MEMBERS

Sarah Connolly – Chair

Nicholas McGowan – Deputy Chair

Michael Galea

Paul Hamer

Mathew Hilakari

Lauren Kathage

Bev McArthur

Danny O'Brien

Ellen Sandell

WITNESS

Dr Claire Wilkinson, Senior Research Fellow, Drug Policy Modelling Program, University of New South Wales, and Honorary Research Fellow, Centre for Alcohol Policy Research, La Trobe University.

The CHAIR: I declare open this hearing of the Public Accounts and Estimates Committee. I ask that mobile telephones please be turned to silent.

I begin by acknowledging the traditional Aboriginal owners of the land on which we are having this meeting today. We pay our respects to them, their elders past, present and emerging, as well as elders from other communities who may be here with us today.

On behalf of the Parliament, the committee is conducting this follow-up inquiry into the Victorian Auditor-General's reports on regulation of gambling and liquor and the reduction of gambling harm here in Victoria.

I advise that all evidence taken by the committee is protected by parliamentary privilege. However, comments repeated outside of this hearing may not be protected by this privilege.

Witnesses will be provided with a proof version of the transcript to check. Verified transcripts, presentations and handouts will be placed on the committee's website.

I welcome Dr Claire Wilkinson, Senior Research Fellow with the Drug Policy Modelling Program at the University of New South Wales and Honorary Research Fellow with the Centre for Alcohol Policy Research at La Trobe University. It is wonderful to have you here, Dr Wilkinson. Thanks for coming. I am going to invite you to make an opening statement or presentation if you wish, and this will be followed by questions from the committee.

Claire WILKINSON: Thank you, Chair, and thank you to the committee for inviting me to address you today. In my statement I am going to focus on two related areas – ensuring compliance and performance reporting – because they are the areas where I think I can have the most impact. But I am happy to talk more about matters covered in my submission – assessing licence density, risk-based licensing and collaborative enforcement et cetera. I would also like to note the separation of the liquor and gambling regulators just over a year ago and that the new regulator for liquor has not yet published an annual report, so what I comment on today draws from the authority's website and also my own research and best practice in the area of liquor regulation.

In terms of ensuring compliance, compliance needs to be meaningful and appropriate. If I go back to an article I published on the enforcement of liquor licensing provisions in Victoria in 2013, I concluded that licensing provisions prohibiting sales to minors and the intoxicated – so those provisions of the licensing Act with the greatest potential to reduce alcohol-related harms – remain insufficiently enforced, and I think this conclusion remains today, 10 years later. The most recent public data from the 2020–21 financial year, the annual report of the former licensing regulator, reports only a single successful prosecution for a liquor-related offence, and it is not noted what that offence was. Inspectors and police therefore could spend a lot more time making observations of service practices in licensed premises, and in this way they would be likely to detect breaches related to the service of alcohol to the intoxicated, a licensing provision that can reduce alcohol-related harms.

As has been noted today a couple of times, since the 2019 audit, a shift in alcohol availability that had already been underway greatly accelerated during COVID, which was the expansion of home delivery and online sales. Online ordering and home delivery have provided a new avenue for access to alcohol, and I would argue that our enforcement practices need to be improved to monitor access to the under age and the intoxicated through this avenue of access. Pilot study data we have undertaken in Victoria suggested one in five deliveries were delivered to a research assistant who looked under the age of 25 – a proxy for someone who is under age – without an identification check. The 2019 VAGO audit notes that the commission is continuing to develop its standard operating procedures to support compliance work, and so it is my view that the commission needs to develop guidance for undertaking compliance and enforcement work specifically for online sales and home delivery of alcohol to ensure that sales are not made available to those who are under age. What may be more effective, although perhaps it is not in the scope of this inquiry, is regulatory change, such as allowing the regulator compliance officers, in parallel with police, to do mystery shopper exercises, where they pretend to

purchase alcohol online and see if they can get away with having it delivered when they are breaching – not having identification, for example. This type of power would improve compliance among home delivery services.

Secondly, around performance measuring for harm minimisation, it has been really interesting to hear today what has been going on in the gambling space. In 2017 the Auditor recommended the commission report publicly on its effectiveness in terms of harm minimisation, rather than activity – so number of inspections or number of infringement notices issued, for example. The VAGO 2019 follow-up audit found the commission had implemented this recommendation, noting the commission and the Department of Justice and Community Safety reviewed and improved the commission's performance measures, adopting, for example, a new measure, the number of joint operations focused on identifying licensees supplying alcohol to minors or people who are intoxicated – so the number of joint operations with police. I think there is a lot of room for improvement for the commission to both change how they report on their current activity in terms of its impact on harms but also create some new performance measures in this space. Again, going back to my 2013 article, a thing that seems still to be relevant today is compliance and enforcement data should report the nature of the breach relating to a particular enforcement action. I think we heard today the number of infringement notices that were given already this financial year, but what were the breaches that they accompany, so we can see what proportion of work is going to provisions of the licensing Act that are related to harm reduction versus provisions that are more administrative, like having the right forms available or the right signs on the doors.

Secondly, statistics showing the combined enforcement effort of the commission and the inspectors along with police should be available, because these are joint areas of power and enforcement across these two agencies. If we want to see what work is being done, we have to find that data across agencies, and it is not clear what is being covered.

Thirdly – and this is something where I think the commission could just change how they report – on their website they do provide decision documents for whether a licence is approved or not. There are statements of reasons. If you want to find out to what degree harm minimisation was considered, that is often at the very end of the document, and a summary for the decision is put on the website but with no mention of the role harm minimisation had in that decision. I think the commission could change their reporting to tell us how much harm minimisation played a part in the decision to approve, refuse or approve with conditions licence applications, and we could have a performance measure, for example, of what number are refused because they did not meet a harm minimisation test. That is all from me today, and I welcome any questions or comments.

The CHAIR: Thank you, Dr Wilkinson. I am going to throw to Mr Hamer first.

Paul HAMER: Thank you. Thank you, Dr Wilkinson, for appearing today. I just want to touch on a couple of matters raised in your submission. You mention the enforcement and some of the difficulties. I was wondering if you could maybe elaborate on some of the best practice jurisdictions or other evidence that you have come across in your research.

Claire WILKINSON: Enforcement needs to be driven by risk, in my view. We would want enforcement to be occurring in early hours of the morning at high-risk venues where alcohol is available late into the night. In order to see that alcohol has been supplied to minors or supplied to people who are intoxicated, you need to observe that practice and you would need to observe how drinking is going on. Best practice would be to have compliance officers in venues for longer, observing services. And then I think one last thing would be to have compliance data available. The regulator does provide an online licence database, but it does not tell us the liquor licensee's compliance history. Having that data available would also be best practice.

Paul HAMER: And when you are talking about this reference to liquor licensing, this would be pubs, clubs and bars, not standalone bottle shops, or would you be referring to all of them?

Claire WILKINSON: Yes, all licensees. We would need to know if bottle shops are also supplying alcohol to those who are intoxicated or those who are under-age, ensuring there are ID checks going on if a person who is under-age goes into a bottle shop so they cannot access alcohol. In terms of online sales, I think this is a whole new area where internationally there is not a lot of work done and there is not a lot of best practice. There is not a jurisdiction that is way ahead of many others – we are all looking to each other to see what we can do in this space – but I think New South Wales seems to be looking good. If you go onto their regulator's website,

they have an audit check for online and home delivery. The inspectors use that same auditing tool, but it is also available for the licensee and for members of the public to see. It is essentially a tick-box document. The inspectors there also have the ability to do this mystery shopper compliance work, which gives them greater ability to test those provisions in law for that mode of supply.

Paul HAMER: Thank you. You have obviously done quite a lot of research on outlet density, and again I am assuming this is referring to all premises that sell liquor. Going to a bit about best practice, you refer to France having some examples that we might be able to draw from. From my memory of visiting that country it seems to be fairly freely available in almost every location. I was just wondering what particular elements of that system are relevant and could be recommended in a Victorian or an Australian context? What problem would they be trying to address, and how could those measures actually address those issues?

Claire WILKINSON: The measures around outlet density are to try and prevent harms that have been shown to be associated when there is a greater number of outlets in a small area. A higher number in a small area is associated with greater harms than when the density is lower. I put the example in from France as an example of where the licensing authority has some really specific numeric examples about what number of outlets in an area is where 'saturation' is reached, which is a term just to cover this idea that there is enough alcohol available in that area, that we do not need another liquor licence. As to what the number is or if there is a number, that would need to be based on local conditions, on licence type – a bar is different to a restaurant, is different to a bottle shop. Even within bottle shops there is a difference between a big Dan Murphy's and a small boutique, off-premises outlet. So it is not that there is one number that is applicable in France that we can use here in Victoria, it is about getting some data about harms and outlet numbers, looking at what the associations are and then coming up with some guidance for the regulator to say, 'Look, perhaps if you've got this number already, you wouldn't want to approve another, or if you do approve another, why don't you put some service conditions on it?'

The guidance aims to reduce high density of alcohol outlets, but it is also to assist the regulator in making decisions about new applications. At the moment we have cumulative impact guidelines in Victoria. It is also common around the world to have guidelines that say, 'Consider a bunch of things when you make your decision' – consider harms, consider noise, consider if there have been any complaints in the area – but that is a big burden of work for the person making that decision if there is not already a database with that information and there is no guidance about how to use those numbers or that information. So what we would recommend is that there is stronger guidance provided to the regulator and some new information about alcohol outlet density for them to take into account when making decisions about applications.

If I could just say one thing: outlet numbers are limited. As I have said, one bottle shop looks very different, so you could also use measures of floor space for bottle shops so that you are accounting for much larger premises, versus smaller premises, that potentially sell a lot more alcohol.

Paul HAMER: Thank you.

The CHAIR: Thanks, Mr Hamer. We will go to Ms Sandell.

Ellen SANDELL: Thank you so much. Thank you, Dr Wilkinson, for being here. You mentioned the rise of online alcohol sales in home delivery, you mentioned New South Wales as potentially an example that is doing some things that might work and you also talked about this idea of mystery shoppers as potentially being one solution. Can you talk a bit about that versus, say, solutions that are not so much just relying on the person delivering it doing the right thing but actually preventing the harm before that. For example, my understanding is in New South Wales you need to put in your digital licence when you buy the alcohol. There have been ideas floated around cooling-off periods, so from when you purchase the alcohol, maybe you cannot get it delivered for 90 minutes or something like that. What do you think the benefits of those are, or not?

Claire WILKINSON: Yes, I think there is room for all of these things. It is not a one versus the other. There are some best practice guidelines that I can provide, by the NIAAA, our national alcohol advisory group, around online retail. But yes, things like a cooling-off period, age gating, different ways of providing identification – I am not across the benefits and options that are available. Compliance is one end, but I guess also placing restrictions on access. You can go to how much you are allowed to purchase in one go; having no buy now, pay later schemes; limiting online outlets from targeted direct messaging, so once they have got

someone's email or phone, they do not send them messages saying, 'Hey, come, your basket's got something in there, buy it,' or 'It's Mother's Day, why don't you buy champagne.' So there are other types of restrictions we can place on these businesses aside from enhancing the compliance, and I can provide the committee with some more information on that.

Ellen SANDELL: And do you have a view as to whether one is more effective or you need both? I am just thinking that compliance is important but also relies on not just the company doing the right thing but then also communicating that to, say, a driver who might have English as a second language who is just trying to do a good job but who might be under pressure to deliver for the company and does not want to lose their job. There are a whole lot of other pressures, whereas that kind of age gating or kind of stopping it at the point might be more effective. I do not know if that is true or not.

Claire WILKINSON: I cannot speak to effectiveness of one measure over the other. You can appreciate in social science it is really hard to do a study to get that specific data for that type of question, but yes, certainly you can see that something is easier to do than something else. I would say that some of the guidance is that the delivery drivers are never held to account for a lost sale, so a sale that is returned or not made because of age gating or suspected intoxication. They are never held accountable; it does come back to the provider, yes.

Ellen SANDELL: Okay, thank you.

The CHAIR: Thanks, Ms Sandell. If I can just ask a quick question, Mr O'Brien, because I know you have a burning question, but I have got something and it is a little bit unusual. It is just sort of playing on my mind. Is there any sort of research when it comes to the sale of liquor being in particular areas and the types of deals or combining of products for discounts based on the demographic and I guess the businesses knowing or trying to target on purpose the community to essentially drink more for less in cost per se?

Claire WILKINSON: I do not know of any. We were actually thinking of doing a study looking at promotion by LGA, or local government area. I will have a look, and if I find anything on that, I will come back to provide. Not that I know of.

The CHAIR: Okay.

Claire WILKINSON: The targeting, I would just say – there is research showing that online retailers do do direct targeting of messages in the sense it is direct to your phone or to your email, but we did not find that it was targeted to, for example, gender.

The CHAIR: Or age.

Claire WILKINSON: Yes, or age.

The CHAIR: Okay. Mr O'Brien, now that I have got that off my chest.

Danny O'BRIEN: Thank you. I have got, similarly, one that I want to get off my chest, and it goes to Mr Hamer's question before – it is relevant to the inquiry, but it is also a personal query – on your expertise on the issue of density. I just find it interesting that density causes more harm. If we had pineapple stores everywhere, people would not eat more pineapple, in my view. If we had more broccoli stores everywhere, I do not know that people would eat more broccoli. Do you see where I am going with this? What is the psychology of the research behind that that actually says – I mean, it is not hard to go out anywhere in Australia and get alcohol, but what is it that makes it that if there is more available, you suddenly buy more?

Claire WILKINSON: There is convenience cost – if you are exerting less effort to access alcohol, you are more likely to consume it. I remember a university lecture where they said if you are going to open an ice cream store, put it next to an existing ice cream store because it will reduce the price. It has an effect on price that those two retailers are then going to compete for the same market through all kinds of promotional work, reducing price, opt-in things. Exposure – there would be exposure to the visual messaging, subliminal –

Danny O'BRIEN: It puts it in people's minds.

Claire WILKINSON: Yes. There is a large body of evidence around alcohol and alcohol outlet density showing that in societies where the number of outlets has increased over time, in general – there are exceptions – population indicators of harm and consumption increase.

Danny O'BRIEN: And is that more so – I mean, if you put 50 pubs in town as opposed to 50 Dan Murphy's, would it be a different outcome?

Claire WILKINSON: Yes. There are different associations by different outlets. There is some research looking at which outlet type is more likely to cause assaults or domestic violence. I think off-premises is more associated with domestic violence, but I can provide research to support that.

Danny O'BRIEN: That was actually another one of the questions I had. What is the biggest risk of harm in a spatial sense? Is it at home, at licensed venues? Then likewise in a geographic sense – is it inner city, outer suburbs, small rural town, regional centre?

Claire WILKINSON: Alcohol on-premises outlets are associated with assault, violence; off-premise more with harms in the home. I do not know the research off the top of my head about how strong that association is across cities and rural areas, but it does differ. Any advice that would be given to make licensing decisions would not be a crude one measure across the whole state, it would be area by area.

Danny O'BRIEN: Obviously, we have hot spots in the city where there are issues and that sort of thing. An easy question then: what is the single best thing we could do from a regulatory perspective to reduce alcohol harm? You can do top three or top five if you prefer.

Claire WILKINSON: Within the current licensing Act, the most effective is controls on accessibility, availability – so how long alcohol is available for and how many places there are to buy it. If we are talking about within the confines of the liquor Act, then it is the provisions around service to the intoxicated and to the under-age and compliance with those provisions.

Danny O'BRIEN: Yes. The question was –

Claire WILKINSON: Go big?

Danny O'BRIEN: Yes, broadscale, whatever you could do. Let us say you are in charge for the day. What would be the single biggest thing you could do to reduce harm from alcohol?

Claire WILKINSON: I would put a minimum unit price on alcohol. I would be following what has been done in the Northern Territory – I think it is being considered in WA – so increasing the price of alcohol.

Danny O'BRIEN: Okay. That is interesting. You sort of touched on this in response to Mr Hamer, but I think it was specifically about online deliveries. Who does it best in the world in your opinion, in Australia perhaps first and then globally?

Claire WILKINSON: I do not think I have a global example. I go to international conferences every year and we are saying, 'What are you doing in your country? Do you have anything you can provide us?' It seems to be the researchers in Australia that have started to do more work in this space than other countries. To not have it available online would be at one end, which some jurisdictions do. You cannot buy it and have it home delivered, so that would be the best practice internationally. And in Australia, as far as my knowledge goes, it would be New South Wales.

Danny O'BRIEN: Yes. That is broadly. I am not just talking about online sales.

Claire WILKINSON: No, that is about the online and home delivery.

Danny O'BRIEN: Oh, no. The question was broad. Just in an alcohol regulation sense, is there a stand-out either country or jurisdiction here? In getting the balance right between availability – everyone likes to have a glass of wine but –

Claire WILKINSON: I mean, if you are letting me pick, we are going to countries that have a government-run monopoly. Government owns the sale and availability of alcohol so the levers for access are directly under

government control, and in those countries you typically find alcohol is – there is more restricted access over its availability.

Danny O'BRIEN: Okay, no worries. That is all, thanks.

Ellen SANDELL: Can I just ask a follow-up around the different types of venues. Is there research showing the difference between larger venues – I am not talking bottle shops, I am talking pubs and things – and smaller boutique venues and the different levels of harm between the two?

Claire WILKINSON: Yes, there is some research. I do not want to misquote it; I can provide it. There has been work done in Australia where the licence type is disaggregated down, so I am thinking off-premises bottle shops, large big box, smaller boutique and there is some other category.

Ellen SANDELL: I am thinking more like a beer barn, like a huge venue-like premises versus like a boutique wine bar because I am thinking that if you are looking at densities or number of premises that can be in a certain area, whether there is a difference in harm if you had several smaller venues that were all quite boutique or specific versus large nightclubs, beer barn type places.

Claire WILKINSON: I will take that on notice and come back to you. Thanks.

The CHAIR: Okay. Mr Hilakari.

Mathew HILAKARI: Certainly, and thank you so much for your time this afternoon. I have learned a few things, but I might follow Mr O'Brien's question before. Government-controlled liquor countries where it is controlled by the government particularly, what are some examples of those places?

Claire WILKINSON: The Nordic countries, so Finland, Sweden –

Mathew HILAKARI: I was hoping you would get Finland on the list.

Claire WILKINSON: Have you got a –

Mathew HILAKARI: A Finnish background, yes.

Claire WILKINSON: Okay. Yes, so the Finnish monopoly would be an example or the Swedish monopoly. Canada – as I understand it, Canada has been moving away from the government monopolies, but some provinces still have control over alcohol availability.

Mathew HILAKARI: Finland has got some pretty big harms related to alcohol as well.

Claire WILKINSON: Yes, they do. But it allows the government to control access to make beer more available or less available. You cut out all the promotion and the advertising by having it under government control, and price becomes a mechanism that you can access.

Mathew HILAKARI: Thank you. I might just go to a bit of a different topic which is related to some of your more recent research around changes in behaviour during the COVID-19 pandemic. Could you just take us through a few of those results that you have seen, particularly consumption habits?

Claire WILKINSON: Okay, so in a study we did around alcohol consumption during COVID – it was in New South Wales, which is where I am now based – we found actually a third of the population increased consumption, a third decreased and a third reported they stayed the same with their consumption. We emphasise that there was variability in the – you know, the overall average does not take account of different subgroups. Younger people tended to be in the group that had decreased, which for us made sense by the closure of on-premise outlets. And it tended to be older Australians, or older folk from New South Wales, whose consumption increased. I would be happy to provide that report to the committee. And then there were changes with purchasing online, so we also found people reporting that they were more likely to purchase alcohol online during the lockdown, during COVID.

Mathew HILAKARI: And were there particular age groups who were more inclined to purchase online? And just on younger people consuming less, is that a trend which had been happening pre COVID as well?

Claire WILKINSON: Yes, so you might have heard there is a big international trend with young people drinking less, but our study was looking really particularly at changes in consumption over four months between about January and March – pre lockdown and post lockdown – with consumption over that period.

Mathew HILAKARI: Yes, okay. In terms of local government, certainly one of the last questions we had with our previous witness was around local government and the role that they can play related to gambling. Related to liquor consumption, what are the sorts of roles that local government can play?

Claire WILKINSON: I think I put in my submission that it would be great to include local government in the enforcement response for responding to venues. I think also local government can play a big part in approval processes, so requiring the local government to make a comment on new liquor licences and incorporating any data local government have. Local government will also have a role in approving planning permits and enforcing planning permits, so there is room for overlap. I think local government is a really strong stakeholder in this space.

Mathew HILAKARI: One of the things that you mentioned earlier was just around enforcement and officers being out in a venue for a long period of time to observe the service that is going on. Is that a challenge then? I guess venues would probably take note of the people inside their venue and the service that was going on. Do you think that would change the behaviour of the venue on that occasion, or do you think it would lead to changed behaviour on an ongoing basis?

Claire WILKINSON: The compliance inspectors can do covert, so they can be in there without being visually noticeable. I guess regulatory literature would say you need to be highly visible and be very prominent that there will be sanctions if breaches are detected. I think being visible is an okay thing for changing behaviour overall in service if they know that there is the risk that the compliance officers will be there again within a couple of months, that it is not just once a year or something like that.

Mathew HILAKARI: Yes, certainly. And I guess in terms of that driving of the licensee behaviour – you know, licensees would really drive the behaviour of a particular venue – what are some your views around what would drive some of that licensee behaviour?

Claire WILKINSON: In the study we did in 2013 we did interview licensees. I think they need clear communication about what the breaches are likely to be. There could be a threat of being named and shamed. Other states have done a top 10 worst performing licensees per month, which the regulators have published on their website. I think just knowing that they are going to be held accountable for the bad behaviour and for their staff breaching licensing conditions.

Mathew HILAKARI: Where they have done that publishing, is it the same licensees appearing again and again and again or does that actually force the behaviour to change and then people start to drop off that worst licensees list?

Claire WILKINSON: I would need to check. I can come back to you.

Mathew HILAKARI: Yes. Thank you. Thank you, Chair.

The CHAIR: Thank you, Mr Hilakari. One of the questions I just wanted to ask you, Dr Wilkinson. When Mr Hilakari was quite enjoying hearing about the Finnish contribution and their leading – I do not like to say the world – in this area, one of the things that struck me was: is it difficult to compare apples for apples? Have you found in your research that there are also cultural attributes that different countries have in different areas, in different climates, with different drinking ages and with how alcohol is introduced and all of those kinds of societal, community and cultural factors that make it difficult to pinpoint who is doing it well, or are the countries that are doing it well those where the government controls the levers? Is it fair to say that, when you are not discussing the other factors that could go into why those countries perhaps have lower levels of gambling or alcohol harm?

Claire WILKINSON: In social research we are trying to capture things that research would say is likely to impact the outcome of interest and include them in our study. I do not know if I have much more to say. We would be measuring the availability of alcohol, which is found to have an effect on outcomes of consumption and harm, noting differences in culture. Where there is evidence that that might play a part in the outcome, we

are acknowledging that as either a limitation of the research or incorporating a measure of that to control for that if possible.

The CHAIR: Okay. Thank you. That is very interesting. If there are no more questions from committee members, thank you very much for appearing before us today. It is really quite interesting, the work that you do. The committee will follow up on any additional questions or questions taken notice in writing. Just to let you know, responses are required within five working days of the committee's request. The committee is going to take a very short break before recommencing the hearing. I declare this hearing adjourned.

Witness withdrew.