

30 April 2007

Ms Liberty Sanger
Chairperson, Liquor Control Advisory Council
c/- Consumer Policy Branch
Consumer Affairs Victoria
121 Exhibition St
MELBOURNE VIC 3000

Dear Ms Sanger

RE: Submission to the Liquor Control Advisory Council's review of the appropriateness of the regulatory regime for the sale of packaged liquor in Victoria

Thank you for the opportunity to provide a submission to the Liquor Control Advisory Council's review of the appropriateness of the regulatory regime for the sale of packaged liquor in Victoria.

I am very pleased to enclose a submission from VicHealth - the Victorian Health Promotion Foundation, for consideration by the Liquor Control Advisory Council.

For all enquiries relating to this submission, please contact Brian Vandenberg, Senior Program Advisor, Tobacco and Alcohol Control Unit at VicHealth (tel 9667 1315 or email bvandenberg@vichealth.vic.gov.au).

I look forward to the outcomes of the Liquor Control Advisory Council's review.

Yours sincerely

A handwritten signature in cursive script that reads "Harper".

Todd Harper
Chief Executive Officer

VicHealth

Submission to the Liquor Control Advisory Council's review of the appropriateness of the regulatory regime for the sale of packaged liquor in Victoria

30 April 2007

1. INTRODUCTION

The need for a public health approach

VicHealth commends the Liquor Control Advisory Council for undertaking this important and timely review of the regulatory regime for the sale of packaged liquor in Victoria. VicHealth believes that, notwithstanding the regulatory and commercial matters to be considered in the review, the issues associated with sale of packaged liquor in Victoria are, fundamentally, public health issues. VicHealth therefore strongly encourages the Council to adopt a public health perspective in its consideration of submissions to the review, in its deliberations on the research evidence, and in developing its report and recommendations to the Minister for Consumer Affairs.

Structure of this submission

To expedite consideration of this submission, it has been structured to align with the Terms of Reference of the Liquor Control Advisory Council's review of the appropriateness of the regulatory regime for the sale of packaged liquor in Victoria. As such, the submission addresses five key issues:

- Outlet Density
- Training
- Licensing Criteria
- Access of Minors to Packaged Liquor
- Promotion

VicHealth's commentary on these issues is presented in plain text, while recommendations are shown in shaded boxes and are numbered.

The health and social impacts of harmful consumption of alcohol

Of critical relevance to this review, is the research evidence pertaining to alcohol availability, patterns of harmful consumption of alcohol, and the subsequent health and social impacts, especially in the Australian and/or Victorian context. While it is not the intention of this submission to reiterate this research evidence, it is important

to note that there have been several comprehensive reviews of such evidence in recent years (e.g. Babor *et al* 2003; Loxley *et al* 2004), as well as a very recent comprehensive review of the issues and evidence in the Victorian context (see DCPC 2006). VicHealth strongly encourages the Liquor Control Advisory Council to consider these as part of the review.

VicHealth acknowledges that alcohol plays a major social, economic and culture role in the community and that many people regularly consume alcohol in a safe and responsible manner. However, like many others in public health, politics, the media, and the general community, VicHealth recognises that there is, rightfully, a growing concern about the “drinking culture” in Australia; a concern which is underpinned by the expansive availability of alcohol, increasing prevalence of harmful consumption, and the subsequent health and social impacts. In Victoria, the unsafe and unhealthy drinking culture is no less significant nor less disturbing than in other parts of Australia, and is characterised, but not limited to, at least four formidable trends:

- A high incidence of risky/high risk drinking for short term harm (i.e. intoxication or ‘binge drinking’) among the adult drinking population;
- An increasing incidence of risky/high risk drinking for short term harm among young people who drink, which is increasing particularly among those aged under 18 years and especially among females;
- Pervasive marketing, promotion, product development, and availability of alcohol with relatively little government regulation; and,
- Limited public awareness of the social, health, and economic costs of harmful consumption of alcohol.

VicHealth’s broad position is that in order to reduce the tremendous social, economic and health burden that harmful consumption of alcohol is having on the Victorian community, the drinking culture must change. The recommendations put forward by VicHealth in this submission are intended to promote and support this change.

Recommendations of the Drugs and Crime Prevention Committee Inquiry into Strategies to Reduce Harmful Alcohol Consumption

In addition to recommendations put forward by VicHealth in this submission, VicHealth also wishes to state its endorsement of several recommendations handed down last year by the Drugs and Crime Prevention Committee (DCPC) *Inquiry into Strategies to Reduce Harmful Alcohol Consumption – Final Report* (DCPC 2006). A number of these recommendations have direct relevance to the Liquor Control Advisory Council’s review of the appropriateness of the regulatory regime for the sale of packaged liquor in Victoria, and given the currency and thoroughness of the DCPC’s Inquiry, VicHealth commends these to the Council. These include, but are not limited to:

1. Investigate a mechanism whereby state wholesale alcohol purchase data could be collated and maintained in Victoria.

15. Develop and implement local strategies to ensure responsible supply and service of alcohol
21. Request Food Standards Australia and New Zealand to consider mandating a range of standard sized beverages containers to be used for the dispensing and serving of alcoholic beverages in hotels, restaurants and other licensed premises. Such containers should either be able to contain no more than one standard drink per beverage type according to National Health and Medical Research Council guidelines or have a line etched or otherwise marked on the glass or container indicating the standard measure for the beverage type.
25. Undertake research with regard to the relationship between advertising and promotion of alcohol and possible harmful alcohol consumption.
31. Amend the Liquor Control Reform Act 1998 to express harm minimisation as its primary aim and objective in all licensing matters.
32. Give greater emphasis to public health issues in the granting of licences. Consistent with the Liquor Control Reform Act's object to 'contribute to minimising harm arising from the misuse and abuse of alcohol' (section 4), the Act should be broadened to provide the Chief Drug Strategy Officer with specific rights of objection based on public health concerns.
35. Review the impact of legislation in other jurisdictions such as New South Wales, which takes a different approach to the grant and variation of both on and off-premise liquor licences.
36. Commission a research project that develops a model to determine appropriate outlet density based on combinations of local risk factors.
37. Make appropriate legislative changes to require mandatory responsible service of alcohol training for all staff (including manager) who sell or supply alcohol on licensed premises.
43. Develop a state-wide policy on responsible promotion guidelines that are applicable to on- and off- premise alcohol sales.
44. Develop a code of practice for advertising and promotion of takeaway products. Among other things, the code should restrict forms of promotion that offer a cheaper price (or provide other benefits such as a free gift or fuel subsidies at a higher rate than normal) if a greater quantity of alcohol is purchased.
53. Sales of alcohol in supermarkets, general stores and the like should continue to be restricted to specially designated areas in which only alcohol is sold. Such areas should be physically separated from the general trading areas of the store.
54. Alcohol should continue not to be sold in milk bars, convenience stores, and petrol stations.

55. Alcohol should not be permitted to be sold in video stores.
94. Review the content of 'ready-to-drink' beverages, particularly those associated with and targeted to young people, such as those colloquially known as 'alcopops'.
95. Introduce legislation enabling Victoria Police to use underage operatives for test purchases of alcohol.
96. Amend the Liquor Control Reform Act 1998 to insert a specific provision banning internet, facsimile and phone sales of liquor to minors, similar to that in Section 128 of the New South Wales Liquor Act 1982.
97. Amend the Liquor Control Reform Act 1998 to prohibit anyone other than a parent, guardian or spouse (being a person of or over the age of 18) of a minor to supply alcohol to that minor in any circumstances including a place of residence or private home without the written authorisation of that person's parent, guardian or spouse (being a person of or over the age of 18). Subject to this proviso that if a parent is present at the time the alcohol is offered and through his or her express words and/or conduct he or she can be deemed to have agreed to the minor being supplied with alcohol.
98. Inform parents and adults about their rights and obligations when providing alcohol to someone who is underage.
102. Victoria Police to conduct ongoing regular police operations that focus on enforcing the minimum age drinking laws in Victoria.
103. Victoria Police and regulatory authorities to run targeted campaigns to enforce the minimum legal age for the purchase, sale and consumption of alcohol on and from licensed premises, off-licences and the consumption of alcohol in public places.

2. OUTLET DENSITY

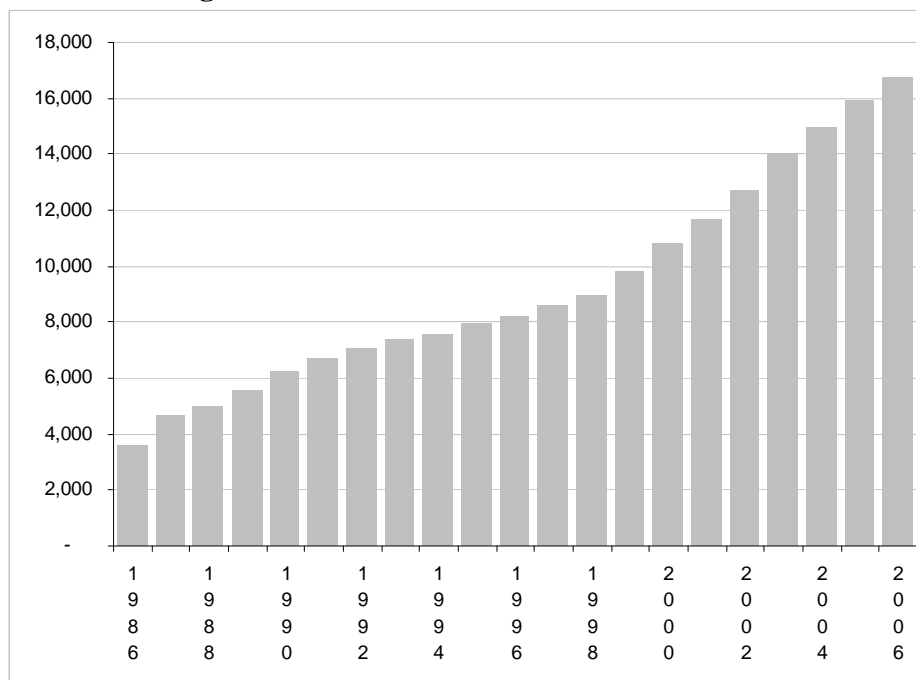
Terms of Reference

1. Any available evidence which indicates that a concentration of licences which enable the sale of packaged liquor leads to the irresponsible sale of liquor.
2. Any available evidence which indicates that a certain number of liquor licences for the sale of packaged liquor in relation to the population of an area can constitute a saturation of such licences in that area.

As no doubt many others in public health will testify, definitive answers to these two questions are not readily at hand in the Victorian context, and this points to the profound need for thorough and rigorous research to begin to answer these questions.

While VicHealth acknowledges that, at the present time, there is no research evidence for the Victorian context that shows how a concentration of packaged liquor outlets leads to the irresponsible sale of liquor and/or harmful consumption of alcohol, it is concerned about some apparent links between the growth in the number and density of outlets and an increase in the prevalence of harmful consumption of alcohol in the Victorian community. For some time now, VicHealth has been monitoring the growth in the number of alcohol outlets in Victoria, while also observing an almost parallel increase in rates of harmful consumption of alcohol.

Figure 1. Number of licensed alcohol outlets



Source: Consumer Affairs Victoria

Alcohol is widely available in Victoria today through more 16,000 licensed outlets, including on-premises liquor outlets such as pubs, bars, cafes, clubs, and restaurants,

and packaged liquor outlets such as bottle shops and bulk stores. On-premises liquor outlets account for around 75 per cent of all outlets, packaged liquor for around 15 per cent, and others such as produces account for the remaining 10 per cent. Over the past 10 years, the number of on-premises outlets has grown more than 150 per cent, and the number of packaged liquor outlets has also grown significantly, increasing by more than 50 per cent in total number (see Figure 1). However, packaged outlets vary enormously in size and so their true impact is partially disguised if only total number of outlets is considered. For instance, a large discount liquor store such as Dan Murphy's will obviously have a significantly greater potential to affect the incidence of harmful consumption of alcohol in a local community than a small local grocery store that sells packaged liquor.

VicHealth notes that the Victorian Government has recently announced its support for research to be undertaken into the issue of alcohol outlet density:

“The proximity of high numbers of licensed premises in one area can lead to unintended consequences such as assaults, violence and crime although not all types of licensed premises are associated with the same levels of alcohol-related harm. ...The Victorian Government considers further research into aspects of this issue as desirable especially if this research focuses on the inter-relationships between particular risk factors such as types of licensed premises, density of such premises, and the incidence of alcohol-related social and health harms” (Victorian Government 2006, p. 30).

VicHealth supports this view and believes that there is an urgent need for Governments and the community in Victoria to develop an understanding of which types of liquor outlets produce harm (e.g. late night bars; drive through bottle shops) and what types of harm they produce (violence; road injury; alcohol poisoning). There is also an urgent need to know which types of alcohol products produce the most harm in particular communities (e.g. ready-to-drink spirits; full strength beer; cask wine) and whether this varies between communities.

RECOMMENDATIONS FROM VICHEALTH

1. That the Victorian Government commission research that examines the relationship between liquor outlet density and alcohol-related harms in Victoria.

3. TRAINING

Terms of Reference

3. The training available to licensees and employees of licensed premises selling packaged liquor and whether it is adequate.
4. Should more flexible training programs be provided to licensees and employees of licensed premises ?

VicHealth believes that the current requirements for persons employed in the sale of alcohol in Victoria is inadequate. The main inadequacy is that training of such persons in the responsible service of alcohol is only voluntary. VicHealth supports the Drugs and Crime Prevention Committee (DCPC) *Inquiry into Strategies to Reduce Harmful Alcohol Consumption – Final Report* (DCPC 2006) recommendation that the Victorian Government make “appropriate legislative changes to require mandatory responsible service of alcohol training for all staff (including manager) who sell or supply alcohol on licensed premises” [Recommendation 37].

VicHealth believes that the need for adequate training of licensees and employees of licensed premises is but one part, albeit important, of a more rigorous system of regulation of the serving and selling of alcohol that is essential to prevent harmful consumption of alcohol. The most critical element of such regulation is **enforcement**. Clearly, the enforcement of current training requirements of licensees and employees, and indeed enforcement of the current Victorian Liquor Control Reform Act more broadly, is inadequate. This is exemplified by the reality that on virtually any given day or night in any suburb or town or suburb in Victoria, individuals can be found in an intoxicated state on licensed premises and/or purchasing packaged liquor in an intoxicated state, despite the current Victorian law prohibiting the sale of alcohol to intoxicated persons. VicHealth understands that current policing priorities in Victoria do not allow for routine enforcement of laws and regulations pertaining to the serving and sale of alcohol through licensed premises. This situation is of particular concern given that alcohol related incidents account for around 40 per cent of police work, yet clearly very little police time is allocated to preventative work such as enforcement of liquor licensing laws.

VicHealth notes the success of enforcement programs in other parts of Australia, such the Alcohol Linking Program in New South Wales, which assist police to identify and take action against licensed premises that are linked to high incidences of alcohol related harm, such as intoxicated and anti-social behaviour, violence, and property damage. VicHealth is aware of the development of a similar approach now being trialled by Victoria Police, known as the Alcohol and Drug Recorded Intelligence For Tasking project (ADRIFT). VicHealth supports the recommendation of the Drugs and Crime Prevention Committee (DCPC) *Inquiry into Strategies to Reduce Harmful Alcohol Consumption – Final Report* (DCPC 2006) that the ADRIFT project be evaluated 12 months after its inception, and VicHealth eagerly awaits the findings of this evaluation.

RECOMMENDATIONS FROM VICHEALTH

2. That responsible service of alcohol training for all staff (including manager) who sell or supply alcohol on licensed premises become a mandatory requirement in Victoria and this requirement be comprehensively enforced.
3. That enforcement of current liquor licensing laws be given an increased priority for Victoria Police.*
4. That the Alcohol and Drug Recorded Intelligence For Tasking project (ADRIFT) currently being trialled by Victoria Police be evaluate after 12 months of inception and that the results of this evaluation be widely disseminated.

* This recommendation also applies to Section 5 of this submission regarding access of minors to packaged liquor.

4. LICENSING CRITERIA

Terms of Reference

5. Should the criteria for granting licences to sell packaged liquor be amended to have regard to the location or area in which the premises are to be located or to limit access for certain vulnerable groups ?
6. Should different criteria for granting licences be applied to small and large outlets and different methods of selling packaged liquor ?
7. Is the opportunity for community involvement in the licence application process adequate and are the grounds for objection to an application for a licence for the sale of packaged liquor appropriate ?

As stated above in *Section 2 – Outlet Density* of this submission, in recent years VicHealth has been observing, with concern, the rapid growth in the number of alcohol outlets in Victoria and an almost parallel increase in rates of harmful consumption of alcohol. In this context, VicHealth is disturbed by the obstacles to community involvement posed by the current regime for the granting of liquor licences in Victoria, and the apparent failure of the decision making process to adequately consider the object of ‘harm minimisation’, despite its inclusion as primary objective in the Victorian Liquor Control Reform Act.

VicHealth therefore supports fundamental changes to the decision making process for the granting of liquor licenses in Victoria. The three major changes VicHealth calls for are: (i) onus to be placed upon the licence applicant, rather than the objector/s, to adequately demonstrate that the liquor licence being sought will not directly contribute to an increase in alcohol related harm in the local community; (ii) that public health and safety be the primary criteria in deciding whether a licence should be granted; (iii) that local planning regulations be amended to remove licenced premises as an ‘as of right use’.

VicHealth wishes to challenge the assertion in Terms of Reference No. 5 that it is only “certain vulnerable groups” who should be considered in reviewing the criteria for granting licences. VicHealth notes that harmful consumption of alcohol and subsequent alcohol related harm is widespread across the Victorian community, not only among populations who are socio-economically disadvantaged or otherwise vulnerable.

RECOMMENDATIONS FROM VICHEALTH

5. That onus is placed upon the licence applicant, rather than the objector/s, to adequately demonstrate that the liquor licence being sought will not directly contribute to an increase an increase in alcohol related harm in the local community.

6. That public health and safety be the primary criteria in deciding whether a licence should be granted.
7. That local planning regulations be amended to remove licensed premises as an 'as of right use'.
8. That decision making processes for the granting of liquor licences acknowledge that the potential for alcohol related harm for is widespread across all sections of the Victorian community.

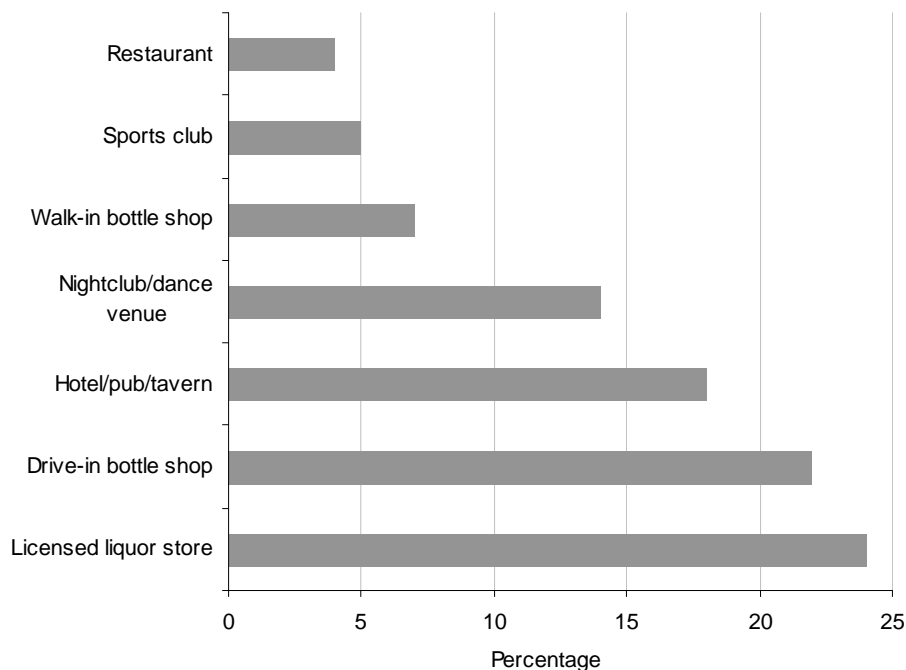
5. ACCESS OF MINORS TO PACKAGED LIQUOR

Terms of Reference

8. Are there any additional initiatives which could be introduced to minimise the access of minors to packaged liquor ?

It is VicHealth's firm view that underage drinking is a whole-of-community responsibility, and that young people should not shoulder the majority of the blame. VicHealth also acknowledges that the issue of underage drinking is a very difficult matter for parents to manage, and that parents require support and advice from Government and community agencies in relation to this issue, rather than blame and criticism. A recent survey of Victorian secondary school students revealed that the two most common retail sources of alcohol among 16-17 year old students who purchased their last alcoholic drink were both packaged liquor outlets – either licensed liquor stores or drive-in bottle shops (see Figure 2). Clearly, despite the well-known laws prohibiting the sale of alcohol to minors, the problem persists. As stated above in *Section 3 – Training* of this submission, VicHealth believes that enforcement of the current liquor licensing laws, particularly with regards to the serving of intoxicated persons and the serving of underage persons, is vastly inadequate and requires urgent attention.

Figure 2. Retail source of alcohol among 16-17 year old students who purchased their last alcoholic drink, Victoria, 2005



Source: 2005 Australian Secondary Students' Alcohol and Drug Survey

VicHealth supports a number of the recommendations made by the Drugs and Crime Prevention Committee (DCPC) *Inquiry into Strategies to Reduce Harmful Alcohol Consumption – Final Report* (DCPC 2006) to address the issue of underage drinking, particularly those calling for greater support for communities, greater enforcement of existing laws, and new regulatory approaches. These include:

- Informing parents and adults about their rights and obligations when providing alcohol to someone who is underage;
- continuing bans on the sale of alcohol in milk bars, convenience stores, petrol stations, and video stores;
- enabling Victoria Police to use underage operatives for test purchases of alcohol;
- banning internet, facsimile and phone sales of liquor to minors;
- prohibit anyone other than a parent, guardian or spouse (aged 18+ yrs) of a minor to supply alcohol to that minor in any circumstances without the written authorisation of that person’s parent, guardian or spouse; and,
- Victoria Police to conduct ongoing regular police operations that focus on enforcing the minimum age drinking laws in Victoria.

VicHealth is aware of anecdotal reports that police are reluctant to issue on the spot fines to licensees who are caught selling alcohol to minors because of the severity of the fine for a first offence - \$6,445.80 (60 penalty units @ \$107.43 per unit) - an amount which many police consider as overly punitive and are therefore reluctant to enforce. VicHealth supports a review of this situation with a view to implementing any changes necessary that would promote increased enforcement by police.

VicHealth opposes the introduction of alcohol vending machines in Victoria. The experience of cigarette vending machines has proven that these outlets are easily accessed by children.

RECOMMENDATIONS FROM VICHEALTH

9. That information and awareness programs be developed to increase parents’ and adults’ knowledge and understanding about their rights and obligations when providing alcohol to minors.
10. That bans on the sale of alcohol in milk bars, convenience stores, petrol stations, and video stores remain in place.
11. That legislation be introduced to prohibit the supply of alcohol by adults to minors without the written authorisation of their parent or guardian.
12. That existing enforcement arrangement relating to serving alcohol to minors be reviewed and changed as necessary to promote an increase in enforcement.
13. That the sale of alcohol through vending machines be prohibited within all parts of Victoria.

6. PROMOTION

Terms of Reference

9. Should controls be introduced in relation to the promotion and sale of alcohol products in premises which sell packaged liquor ?

One of the most blatant forms of marketing that promotes excessive purchasing, and therefore also the potential for harmful consumption of alcohol, is **volume discounting**. This practice is now widespread among the major retailers of packaged liquor and typically involves the discounting of packaged liquor on the condition that it is purchased in large quantities, as prescribed by the retailer. Typically, such promotions provide consumers with a cost saving if they purchase two or more quantities of a particular product rather than only a single quantity. In a recent promotion by Coles Supermarket's Liquor Land stores, consumers could purchase two 4-litre casks of wine for the discounted price of \$25.00, and thereby save \$4.49 (or 26 per cent) off the price of an individual 4-litre cask of wine. Similarly, in the same promotion by Coles, consumers could purchase two 750 ml bottles of spirits for the discounted price of \$46.00 and thereby save \$5.59 (or 20 per cent) off the price of an individual 750 ml bottle of spirits [see Appendix 1].

It is worth noting that such discounts reduce the **unit price for a standard drink** to extraordinary low levels, and this is also a major concern given the evidence which indicates that price is a major determinant of harmful consumption of alcohol. In the case of the discounted cask wine referred to above which contains 41 standard drinks per cask, the unit price for a standard drink is only 30 cents. In the case of the discounted bottles of spirits referred to above which contain 20 standard drinks per bottle, the unit price for a standard drink is only \$1.12.

VicHealth is also aware of promotion of alcohol along together with **discounted petrol**. In a recent promotion by the Coles Supermarket's Liquor Land stores, consumers could save 20 cents per litre of petrol if they purchased alcohol to the value of \$30.00 or more [see Appendix 1]. Given the relative inelasticity in demand for petrol and therefore a population-wide interest in discounted petrol, this form of alcohol marketing raises a number of questions.

Another form of inappropriate advertising in VicHealth's view is that which has been occurring in the **unlicensed areas of supermarkets**. A recent example of this has been the in-store distribution of discount alcohol vouchers at the check-outs in Safeway supermarkets [see Appendix 2]. Despite the laws which limit Safeway to selling alcohol only through the licensed area of the supermarket, alcohol discount vouchers have been made available to all customers, including those aged under 18 years, who pass through the regular, unlicensed checkout areas.

RECOMMENDATIONS FROM VICHEALTH

14. That promotions involving volume discounting of packaged liquor be prohibited in Victoria.
15. That in-store promotions of packaged liquor be prohibited outside the licensed areas of the store.

References

Babor, T., Caetano, R., Casswell, S., Edwards, G., Giesbrecht, N., Graham, K., Grube, J., Gruenewald, P., Hill, L., Holder, H., Homel, R., Osterberg, E., Rehm, J., Room, R. & Rossow, I. (2003) *Alcohol: no ordinary commodity – research and public policy*, Oxford University Press.

Drug and Crime Prevention Committee (DCPC) (2006) *Final Report – Inquiry into Strategies to Reduce Harmful Alcohol Consumption*, Parliament of Victoria, Melbourne.

Loxley, W. Toumbourou, J., Stockwell, T., Haines, B., Scott., Godfrey, C., Waters., E et al. (2004) *The prevention of substance use, risk and harm in Australia: a review of the evidence*, Commonwealth of Australia, Canberra.

Victorian Government (2006) *Victorian Government's Response to the Drugs and Crime Prevention Committee 'Inquiry into Strategies to Reduce Harmful Alcohol Consumption'*, State Government of Victoria, Melbourne.

